



Doctors and health-related commercial organisations: summary of submissions and decision from Council

Te Kaunihera Rata o Aotearoa | The Medical Council of New Zealand (Council) approved the final version of the *Doctors and health-related commercial organisations* statement at its meeting in February 2023.

Council was very mindful of the need for this statement to serve patients and patient safety rather than the interests of health-related commercial organisations or doctors who may have financial interests in them. The statement sets Council's expectations for when doctors make referrals to health-related commercial organisations, and to ensure informed decisions can be made by patients.

This summary paper highlights the key considerations that shaped the final version.

Background

We sought feedback on a consultation draft of the *Doctors and health-related commercial organisations* statement between 14 September 2022 and 17 October 2022 from the public, doctors, and health sector organisations.

A total of 165 submissions were received: 66 by email and 99 through Survey Monkey. Council members had full access to all submissions made.

The submissions concentrated on the following issues:

- a. When referring patients to a facility or service provider the doctor has a financial interest in (paragraphs 19 and 20 of the statement).
- b. Any fee or payment a doctor accepts from a health-related commercial organisation should be a fair reflection of the services they provide to that organisation (paragraph 13 of the statement).
- c. Our proposed definition of 'health-related commercial organisations'.

Paragraphs 19 and 20: When referring patients to a facility or service provider the doctor has a financial interest in

Paragraphs 19 and 20 generated the most feedback in the submissions. Many of the submissions expressed strongly held views, and these views were polarised. Those supportive of doctors advanced arguments that such arrangements are longstanding in New Zealand, and that there are advantages of doctors being personally invested in a private facility they refer their patients to. In contrast, there were submissions concerned about the increasing ownership of health facilities by private equity firms, and who wanted Council to ban non-arm's length referrals.

Council carefully considered these perspectives and concerns, mindful that our role as the medical regulator is to protect public health and safety through setting and promoting standards for the medical profession. It is not the role of Council to determine commercial models for health care provision.

We noted the many submissions that emphasised that private health care is a long-established provider of health services in New Zealand; that private providers co-exist with the public health system; and that many doctors work in both. The final version of the statement acknowledges that

healthcare in New Zealand is provided by a mix of public, private and non-governmental organisations, and that doctors may work for, or have interests across, entities that include health-related commercial organisations.

Many submissions stated that limiting referral options would be highly disruptive to health care provision and could significantly reduce patient access and choice.

We reworded paragraphs 19 and 20 in a way that is less restrictive than the wording in the consultation draft, while still requiring that referrals by the doctor must be made on the basis of informed patient decisions.

Paragraph 13: Document and disclose any benefit or payment for your services from a health-related commercial organisation

Several submissions which opposed paragraph 20 also opposed paragraph 13 which they interpreted in the context of paragraph 20. The original wording of paragraph 13 stated that doctors should only accept a fee or payment from a health-related commercial organisation where that reflected the services a doctor provided. This wording was unfortunately misinterpreted to infer that it would be inappropriate for doctors to receive financial reward from investments in health care facilities or service providers.

To address this particular point, we agreed to reword paragraph 13 and its subtitle to clarify that it related to disclosure of payments or fees *for services provided*.

Definition of ‘health-related commercial organisations’

Some submissions suggested that we expand our list of examples of health-related commercial organisations while others criticised the proposed definition as it appeared to group health-related commercial businesses (HRCB) with doctor owned investigation and treatment facilities.

We have revised the definition of ‘health-related commercial organisations’ so that it is broad and encompassing, and deleted the list of examples that were in the consultation draft statement.

Other issues raised

Finally, we have added a new section (paragraphs 41 and 42) that provides guidance on managing conflicts when the doctor is in a governance or leadership role in a publicly funded health organisation *and* has a financial interest in a health-related commercial organisation.

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