

23 November 2015

Pharmacy Action Plan –Submissions  
Ministry of Health  
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### **Submissions on the Ministry of Health draft Pharmacy Action Plan 2015-2020**

Thank you for the email of 13 October 2015 inviting the Health and Disability Commissioner to comment on the Draft Pharmacy Action Plan (draft Plan).

As you will be aware, the Health and Disability Commissioner is charged with promoting and protecting the rights of health and disability services consumers, as set out in the Code of Health and Disability Services Consumers' Rights (the Code). One of the Commissioner's functions under the Health and Disability Commissioner Act 1994 (the HDC Act) is to make public statements in relation to any matter affecting the rights of health or disability services consumers.

#### **Our comments**

##### *General*

The Health and Disability Commissioner has been sending a clear message to the sector of his vision for health care services in New Zealand. That vision is a consumer-centred system; a system built on the concepts of seamless services, consumer engagement, transparency, and an empowering culture.

This Office supports what the draft Plan seeks to achieve, particularly with respect to the delivery of pharmacy services as part of a highly functioning, patient-centred, fully integrated health and disability system. I commend the approach that the draft Plan has taken in this regard.

I make some specific comments about an aspect of the draft Plan below.

##### *Focus area 4: Dispensing and supply services*

*Focus area 4: Dispensing and supply services*, provides for joint lead accountability of HDC with the Pharmacy Council of New Zealand (PCNZ), in respect of the "Action" to promote "a culture of open disclosure to support continuous quality improvement and decrease the incidence of dispensing errors".

The draft Plan outlines that all "Actions" will need to be supported by sound business cases and a framework that enables the Ministry of Health to measure the benefits that they realise. The draft Plan further provides that lead accountability for actions will require co-ordinated effort across multiple organisations and stakeholders, and that success will depend on

collaborative partnerships within integrated and social care sectors. I note that this Office contacted you to further discuss what was contemplated with respect to “lead accountability”. You advised that how this is to be interpreted is yet to be determined, but indicated that it was likely that those allocated accountability would take responsibility for the Action and be involved in developing a plan of how the Action will be achieved.

HDC plays an important role in promoting a culture of open disclosure across the health and disability sector. This is achieved primarily through promoting, through education and publicity, respect for and observance of consumers’ rights, and through publishing reports on the HDC website. In a recent report which dealt with a dispensing error, former Deputy Commissioner Theo Baker observed that:<sup>1</sup>

*“... consumers have the right to know what has happened to them when an error has occurred. In my view, Mr C’s failure to disclose the error to Mr A demonstrated a serious lapse in judgement. Accordingly, for failing to disclose the error to Mr A as soon as he was aware that it had occurred, Mr C breached Right 6(1) of the Code.”<sup>2</sup>*

As noted above, HDC is charged with promoting and protecting the rights of health and disability services consumers. This is not limited to promoting open disclosure in relation to dispensing errors.

I consider that it would be appropriate for HDC’s wider role to be acknowledged in the draft Plan. However, I do not consider that it is appropriate for HDC to be accountable for specific Actions in the context of the draft Plan. Accordingly, I suggest that the reference to HDC be removed from the “Actions” section of *Focus area 4*. Instead, it may be useful for the general role of HDC in promoting and protecting the rights of health and disability services consumers’ rights to be acknowledged in the preamble to the *Focus Areas* at page 12, as follows:

*“The Health and Disability Commissioner has an important role in promoting and protecting the rights of health and disability services consumers. All health care providers, including pharmacists, need to be aware of their obligations under the Code of Health and Disability Services Consumers’ Rights.”*

Thank you again for the opportunity to comment on the draft Plan. I trust my comments are helpful.

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<sup>1</sup> See Opinion 14HDC00439, 24 June 2015, available online at [www.hdc.org.nz](http://www.hdc.org.nz). In this case, a pharmacist breached Right 6(1) of the Code by failing to disclose a dispensing error to the consumer as soon as he was aware that it had occurred. The pharmacist also breached Right 4(2) of the Code by making a serious dispensing error and by failing to report the incident at the time he identified it, and Right 4(4) of the Code for failing to take appropriate actions to mitigate the risk of serious harm to the consumer.

<sup>2</sup> Right 6(1) of the Code states: “Every consumer has the right to the information that a reasonable consumer, in that consumer’s circumstances, would expect to receive”.