



Health Practitioners Competence Assurance Bill

**Treaty of Waitangi – the Health Practitioners
Competence Assurance Bill and the New Zealand
Public Health and Disability Act 2000**

**Ministry of Health
Health Committee Report No 11
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Background

During the Health Committee's consideration of the Bill, following the completion of the hearing of submissions, the Committee has discussed the Treaty of Waitangi and asked the Ministry two specific questions:

1. Was a Crown Law office opinion sought in relation to the Treaty of Waitangi and the New Zealand Public Health and Disability Act 2000 (NZPHDA)?

and if so,

2. Is the current HPCA proposal to have no Treaty of Waitangi clause in conflict with that opinion?

Oral answers to these questions were given to the Committee at their meeting of 30 April 2003 and the Committee subsequently asked that these answers be briefly recorded in writing for the Committee.

The Ministry has answered these questions from a legal basis. Crown Law have reviewed this report.

1. Was a Crown Law office opinion sought in relation to the Treaty of Waitangi and the New Zealand Public Health and Disability Act 2000 (NZPHD Act)?

Crown Law was involved in advising on the legal implications of the policies underlying the Treaty provisions in the NZPHD Act. Crown Law advised on the Crown's and DHBS' roles under the Treaty and the NZPHD Act where needed throughout the development of the NZPHD Act. Once the final wording of the relevant clauses had been agreed Crown Law completed a final review of the entire NZPHD Bill to assess the Treaty related provisions.

Subsequent to the enactment of the NZPHD Act Crown Law has provided advice on some implementation issues. It is relevant to note that the Waitangi Tribunal in the Napier Hospital claim found that the NZPHD Act makes sufficient provision for Crown Treaty responsibilities in the health sector.

2. Is the current HPCA proposal to have no Treaty of Waitangi clause in conflict with that opinion?

The proposal that the HPCA Bill not contain a Treaty of Waitangi clause does not conflict with Crown Law advice received in relation to the NZPHD Act.

The Treaty of Waitangi provisions in the NZPHD Act convey what the Crown, itself and through its DHBS, have done, is doing, and will do under the Treaty for Maori health.

The HPCA Bill establishes a regime for the registration and discipline of health practitioners. No additional or new Treaty interests are put in issue

under the HPCA Bill. It is considered that the NZPHD Act makes sufficient provision for the Crown's Treaty obligations in the public health sector.

The registration authorities are subject to the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993, including anti discrimination provisions. Individual health practitioner providers themselves are subject to the anti-discrimination and pro-cultural sensitivity requirements under the Code of Health and Disability Services Consumers' Rights. The HPCA Bill also enables registration authorities to set cultural competency standards for health practitioners.