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Hon. Simeon Brown
Minister of Health
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New Nursing Code risks gagging nurses and undermining public trust

Good morning,

1. We write in response to the Nursing Council's release of proposed amendments to the Code of Conduct for nurses. While the Council is currently undertaking a public consultation process, which we intend to engage with in due course, we wish at this stage to raise broader concerns that the proposed changes appear to codify a troubling cultural shift within the Nursing Council, and within regulated health professions more generally.

2. Over the past five years, we have observed a significant erosion of freedom of expression within regulated health professions. Nurses have increasingly been the subject of complaints arising from online posts or comments expressing personal views. These complaints are often brought by individuals who have never been patients of, and have had no professional relationship with, the nurse concerned.

3. Such expressions are routinely characterised as bringing the profession into disrepute or as raising concerns about a nurse's fitness to practise, despite having no clear or demonstrable connection to the nurse's professional conduct or competence. Importantly, the expression now subject to potential sanction is not confined to matters of public health, such as vaccine efficacy, but extends to nurses' political views, religious beliefs, and broader social or moral commentary.

4. Our concerns are informed by direct experience supporting numerous nurses who have faced investigations and charges brought by the Nursing Council. In one such case, a Professional Conduct Committee stated that the only "*safe*" conversations were private, face-to-face discussions with likeminded individuals. The Nursing Council's proposed changes to the Code appear to codify this approach.

5. The proposed draft Code introduces several standards that significantly restrict a nurse's freedom of expression, both in their professional and personal lives:

    a. **Requires nurses to ensure that their public statements, including on social media, are not "*offensive, abusive, inflammatory or ill-informed.*" None of these terms are defined in the Code's glossary.** Terms such as "*offensive*," "*inflammatory*," and "*ill-informed*" are inherently subjective and invite arbitrary enforcement. In practice, this creates a strong incentive for self-censorship, particularly where nurses wish to express dissenting, unpopular, or minority views.

b. **Prohibits nurses from "*imposing*" political, religious, or cultural beliefs on health consumers, yet provides no guidance as to what constitutes "*imposing*."** Given the Code's broad definition of health consumers, this restriction extends beyond clinical encounters to nurses' public expression online, allowing disciplinary findings in the absence of any professional or personal relationship. It almost goes without saying this engages other rights under the New Zealand Bill of Rights Act such as the right to freedom of thought, conscience, religion, and belief the right to manifest that person's religion or belief.

c. **Introduces provisions that significantly restrict professional dissent and workplace critique by limiting nurses' ability to discuss colleagues, clinical care, or broader practice issues in public, including on social media.** Although whistleblowing protections exist, the breadth of these restrictions risks penalising nurses who raise concerns publicly when internal mechanisms fail, discouraging legitimate public-interest disclosures and reinforcing a culture of silence.

6. The Nursing Council has repeatedly ignored our concern that its approach to enforcing homogenous opinions and views within the nursing profession may be counterproductive to its stated objective of maintaining public trust in the profession. If it is public knowledge that nurses must "*toe the line*" and remain on the same page on every medical, social, and political issue, it is reasonable to question how genuine trust in professional judgment can be sustained.

7. The health system also faces far more pressing challenges. The focus of professional regulation should remain on clinical competence and professional conduct. A nurse's personal views should only be relevant to the extent that they demonstrably impair their ability to practise safely and professionally.

8. Accordingly, we invite your comments on the following:

   a. Is it appropriate for the Nursing Council to investigate and charge nurses for lawful personal expression, particularly where that expression occurs outside any clinical setting, involves no professional relationship with the complainant, and has no demonstrated connection to the nurse's competence or fitness to practise?

   b. In your view, is public trust in the nursing profession best maintained through the enforcement of ideological conformity among nurses, or through confidence in their clinical competence, integrity, and independent professional judgment?

9. We look forward to hearing your comments on the above and welcome the opportunity to meet with you to discuss our concerns with professional regulation in the health sector generally.

Yours faithfully,

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