Pae Ora (Healthy Futures) (Improving Mental Health Outcomes) Amendment Bill

Member's Bill

As reported from the Health Committee

Commentary

Recommendation

The Health Committee has examined the Pae Ora (Healthy Futures) (Improving Mental Health Outcomes) Amendment Bill and recommends that it be passed. We recommend all amendments unanimously.

Introduction

This is a Member's bill in the name of Katie Nimon. As introduced, it would amend the Pae Ora (Healthy Futures) Act 2022 to require the Minister of Health to determine a Mental Health and Wellbeing Strategy. It would also designate the Mental Health and Wellbeing Commission as a "health entity" under the Act.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

Commencement date

The bill as introduced would come into force the day after it received Royal assent. We consider that this would not provide adequate time for a mental health and wellbeing strategy to be developed. We note that the principal Act delayed commencement of the provisions that required health strategies to be prepared by 12 months. We

are advised that preparation of a Mental Health and Wellbeing Strategy would likely require a similar period.

We therefore propose amending clause 8 to insert new Part 3 into Schedule 1 of the principal Act. Our amendment would state that section 46A, pertaining to the making of a Mental Health and Wellbeing Strategy, would not take effect until 12 months after the date on which the bill came into force.

Defining the Mental Health and Wellbeing Commission as a health entity

The principal Act sets out which entities are considered "health entities". Health entities have a range of obligations under the Act, including giving effect to the Government Policy Statement.

Submitters stressed that the bill's classification of the Mental Health and Wellbeing Commission as a health entity could undermine its independence. We heard that the Commission's monitoring and oversight role would sit in tension with the requirement to deliver on government policy direction, as proposed in the bill as introduced. We acknowledge that the Mental Health and Wellbeing Commission itself does not support the proposal.

We agree with submitters about the importance of maintaining the Commission's independent status. We therefore recommend removing clause 4(1) of the bill, which would identify the Mental Health and Wellbeing Commission as a health entity.

Advice from the Mental Health and Wellbeing Commission

We note that submitters were largely in favour of the Commission being involved in the preparation of strategic documents where this would not compromise its independence. We agree that the Commission has a role to play in providing advice in this area, when it thinks fit, but that it should not be required to participate in the usual government consultation processes. We consider that the Minister should be required to have regard to any advice from the Commission when preparing the Mental Health and Wellbeing Strategy. Accordingly, we recommend inserting new section 46A(1A) to prescribe this.

As a consequence of this change, we recommend removing clause 6 of the bill, which would require the Minister to consult the Commission in the preparation of the Government Policy Statement. Our proposed new section 46A(1A) would be a broader requirement for the Minister to consider advice provided by the Commission.

Mental Health and Wellbeing Strategy

Some submitters observed a discrepancy between the focus on addiction outcomes in the provisions relating to the purpose and requirements for the strategy, and the title "Mental Health and Wellbeing Strategy". We considered whether the name of the strategy should be amended.

We were advised that the term "wellbeing" is typically used to refer to the holistic concept of wellness and the factors that can affect mental health, and is well understood across the health sector. We consider that the name for the strategy, as set

out in the bill as introduced, should be retained. We do, however, recommend some amendments to clause 7 for greater consistency. We recommend amending section 46A(2) to replace the reference to "addiction" with "wellbeing". We also recommend amendments to section 46A(3) to include reference to wellbeing outcomes, rather than addiction outcomes. However, we do not wish to preclude focus on addiction, so we also recommend specifying in section 46A(2) that minimisation of harm from addiction is included in the long-term improvement of mental health and wellbeing outcomes.

We are aware that the principal Act sets out requirements for other health strategies, including provisions requiring a focus on workforce development. We recommend amending section 46A(3)(c) to bring the Mental Health and Wellbeing Strategy in line with the other strategies. Our amendment would require that the strategy set out priorities for mental health and addiction services and health sector improvements (as they relate to mental health and wellbeing), including workforce development.

Appendix

Committee process

The Pae Ora (Healthy Futures) (Improving Mental Health Outcomes) Amendment Bill was referred to the committee on 14 February 2024. We invited the member in charge of the bill, Katie Nimon, to provide an initial briefing on the bill. She did so on 27 March 2024.

We called for submissions on the bill with a closing date of 28 March 2024. We received and considered submissions from 57 interested groups and individuals. We heard oral evidence from 19 submitters at hearings in Wellington.

Advice on the bill was provided by the Ministry of Health. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Sam Uffindell (Chairperson)

Dr Hamish Campbell

Dr Carlos Cheung

Ingrid Leary

Cameron Luxton

Hūhana Lyndon

Jenny Marcroft

Debbie Ngarewa-Packer

Hon Dr Ayesha Verrall

Katie Nimon also participated in our consideration of the bill.

Related resources

The documents received as advice and evidence are available on the Parliament website.

Key to symbols used in reprinted bill

As reported from a select committee

<u>text inserted unanimously</u>

~~text deleted unanimously~~

Katie Nimon

Pae Ora (Healthy Futures) (Improving Mental Health Outcomes) Amendment Bill

Member's Bill

Contents

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Pae Ora (Healthy Futures) (Improving Mental Health Outcomes) Amendment Act **2023**.

2 Commencement

This Act comes into force on the day after ~~the date on which it receives the~~ Royal assent.

3 Principal Act

This Act amends the Pae Ora (Healthy Futures) Act 2022.

4 Section 4 amended (Interpretation)

~~(1) In section 4, insert in its appropriate alphabetical order:~~

~~**health entity** means Health New Zealand, HQSC, the Māori Health Authority, the Mental Health and Wellbeing Commission, Pharmac, or NZBOS~~

(2) In section 4, ~~in the~~ definition of **health strategy**, after paragraph (f), insert:

(g) the Mental Health and Wellbeing Strategy

5 Section 10 amended (Overview of Minister's role)

After ~~In~~ section 10(1)(b)~~, after subparagraph~~ (vi), insert:

(vii) Mental Health and Wellbeing Strategy; and

5A Section 33 amended (Overview of important health documents)

After section 33(1)(b)(vi), insert:

(vii) Mental Health and Wellbeing Strategy:

~~6 Section 35 amended (Preparation of GPS)~~

~~Replace section 35(c) with:~~

~~(c) consult Health New Zealand, the Māori Health Authority, and the Mental Health and Wellbeing Commission and have regard to their views; and~~

7 New section 46A inserted (Mental Health and Wellbeing Strategy)

After section 46, insert:

46A Mental Health and Wellbeing Strategy

(1) The Minister must prepare and determine a Mental Health and Wellbeing Strategy.

(1A) The Minister must have regard to any advice from the Mental Health and Wellbeing Commission when preparing the Mental Health and Wellbeing Strategy.

(2) The purpose of the Mental Health and Wellbeing Strategy is to provide a framework to guide health entities for the long-term improvement of mental health and ~~addiction~~ wellbeing outcomes, including minimising the harm from addiction.

(3) The Mental Health and Wellbeing Strategy must—

(a) contain an assessment of the current state of, and the performance of the health sector in relation to, mental health and ~~addiction~~ wellbeing outcomes; and

(b) contain an assessment of the medium and long-term trends that will affect mental health and ~~addiction~~ wellbeing outcomes; and

(c) set out priorities for ~~improving mental health and addiction outcomes~~ mental health and addiction services and health sector improvements relating to mental health and wellbeing, including workforce development.

(4) **Subsection (3)** does not limit what may be included in the Mental Health and Wellbeing Strategy.

8 Schedule 1 amended

~~In Schedule 1, in clause 3(1), replace "and the Rural Health Strategy" with "the Rural Health Strategy, and Mental Health and Wellbeing Strategy".~~

In Schedule 1,—

(a) insert the Part set out in the **Schedule** of this Act as the last Part; and

(b) make all necessary consequential amendments.

Schedule
New Part 3 inserted into Schedule 1 of Pae Ora (Healthy Futures) Act 2022

s 8

Part 3
Provision relating to Pae Ora (Healthy Futures) (Improving Mental Health Outcomes) Amendment Act 2023

44 Requirement for Mental Health and Wellbeing Strategy

Section 46A (which relates to the making of the Mental Health and Wellbeing Strategy) does not take effect until 12 months after the date on which the Pae Ora (Healthy Futures) (Improving Mental Health Outcomes) Amendment Act **2023** comes into force.

Legislative history

31 August 2023	Introduction (Bill 291–1)
14 February 2024	First reading and referral to Health Committee

Wellington, New Zealand:
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