

New Zealand Public Health and Disability (Restriction on Crown Funding Agreements and Unfunded Cancer Medicines) Amendment Bill

Member's Bill

Explanatory note

General policy statement

The general policy objective of this Bill is to improve the access to public medical care for cancer patients who purchase unfunded cancer medicines that also require medical administration. Many cancer medicines that are not funded by PHARMAC cannot be administered in the public system under the current legislative framework. Unfunded cancer medicines often incur the burden of not only expensive private purchase but also the cost of subsequent day stay administration of that medicine in private fee paying facilities. The cost of administering an unfunded cancer medicine can sometimes be as much as the medicine itself which in turn affects decision making. Transport to a private facility can also be many hours drive past a closer capable public hospital further increasing the overall burden.

This Bill aims to share the burden of cost between patients and the Crown where both parties contribute to overall cancer care for unfunded cancer medicines. A principled distribution of scarce health resources approach would focus on the most vulnerable first, in the same targeted manner that other health resources are distributed, towards an overall goal of complete coverage for all. This Bill aims to prevent Crown Funding Agreements being used to prohibit DHBs making their facilities available to patients who require administration of cancer medicines that are not funded by PHARMAC.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause and provides for this Bill to come into force on the day after the date on which it receives the Royal assent.

Clause 3 identifies the New Zealand Public Health and Disability Act 2000 as the Act being amended by the Bill (the **principal Act**).

Clause 4 amends section 6 of the principal Act, which is the interpretation provision, to insert a definition of **medical practitioner**.

Clause 5 amends section 10 of the principal Act to restrict a Crown funding agreement containing any term or condition that has the affect of prohibiting a DHB from providing health services relating to the administration of a pharmaceutical to a person who has purchased that pharmaceutical privately in particular circumstances.

Dr Shane Reti

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the New Zealand Public Health and Disability (Restriction on Crown Funding Agreements and Unfunded Cancer Medicines) Amendment Act **2021**.

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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 New Zealand Public Health and Disability Act 2000 (the **principal Act**).

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4 Section 6 amended (Interpretation)

In section 6(1), insert in the appropriate alphabetical order:

**New Zealand Public Health and Disability (Restriction
on Crown Funding Agreements and Unfunded Cancer
Medicines) Amendment Bill**

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medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine

5 Section 10 amended (Crown funding agreements) 5

After section 10(2), insert:

- (2AA) Despite subsection (2), a Crown funding agreement must not contain any term or condition that has the affect of prohibiting a DHB from providing health services relating to the administration of a pharmaceutical to a person who has purchased that pharmaceutical privately, if— 10
- (a) that person has been prescribed the pharmaceutical for the treatment of cancer by a medical practitioner whose scope of practice includes the treatment of cancer; and
 - (b) the pharmaceutical is a medicine approved under the Medicines Act 1981 for the treatment of that cancer; and 15
 - (c) the cost of the pharmaceutical is not subsidised by the Crown for the supply of that pharmaceutical to the person being treated; and
 - (d) the administration of the pharmaceutical requires inpatient, outpatient, or day stay medical supervision.