

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Tuesday, 21 August 1990

NURSES AMENDMENT BILL

Proposed Amendments

Right Hon. HELEN CLARK, in Committee, to move the following amendments:

Proposed Part I: To insert, after line 7 on page 1, the following heading and clauses:

PART I

AMENDMENTS TO PRINCIPAL ACT

1A. Membership of Council—(1) Section 4 (1) of the principal Act (as substituted by section 3 (1) of the Nurses Amendment Act 1983) is hereby amended by repealing paragraph (d), and substituting the following paragraph:

“(d) One person to be appointed on the nomination of the Minister of Education.”

(2) Section 4 (1) (e) of the principal Act (as so substituted) is hereby amended by repealing subparagraph (i), and substituting the following subparagraph:

“(i) One shall be a person who is the most senior nurse employed by an area health board.”

(3) Section 4 (1) (e) of the principal Act (as so substituted) is hereby further amended by repealing subparagraph (iii), and substituting the following subparagraph:

“(iii) One shall be a person who is a nurse employed by an area health board as a public health nurse.”

1B. Functions of Council as to complaints under Social Security Act 1964—The principal Act is hereby amended by inserting, after section 42, the following section:

“42A. (1) The Council shall inquire into such complaints against persons who are registered midwives or who are conditionally registered, in connection with matters arising under Part II of the Social Security Act 1964, as may be referred to it by the Minister, and it may, if it thinks fit, but subject to the following provisions of this Act as to appeals, make recommendations to the Minister regarding any such complaint, and order the person concerned to pay any costs or expenses of and incidental to the inquiry.

“(2) If any such complaint involves professional misconduct on the part of any such midwife, that complaint may also be the basis of a charge of professional misconduct against that midwife, and the charge may be inquired into and dealt with by the Council in accordance with the provisions of this Act.”

Proposed clause 3 and Part II: To insert, after line 14 on page 1, the following clause and Part:

3. Repeal of section 58—Section 58 of the principal Act (as substituted by section 19 of the Nurses Amendment Act 1983) is hereby repealed.

PART II

AMENDMENTS TO OTHER ACTS

Amendments to Social Security Act 1964

4. Interpretation—(1) Section 88 (1) of the Social Security Act 1964 is hereby amended—

- (a) By omitting from paragraph (b) of the definition of the term “maternity benefits” the words “an approved midwife”, and substituting the words “a registered midwife”;
- (b) By inserting in paragraph (c) of that definition, after the words “medical practitioner”, the words “or a registered midwife”.

(2) Section 88 (1) of the Social Security Act 1964 is hereby further amended by omitting from the definition of the term “pharmaceutical benefits” (as substituted by section 7 (1) of the Social Security Amendment Act (No. 2) 1980) the words “or dentist in the course of his practice”, and substituting the words “, dentist, or registered midwife in the course of his or her practice”.

(3) Section 88 (1) of the Social Security Act 1964 is hereby further amended by inserting, after the definition of the term “practice nurse services” (as inserted by section 20 (1) of the Social Security Amendment Act 1986), the following definition:

“‘Registered midwife’ means a person who is registered as a midwife under the Nurses Act 1977.”

5. Rights to maternity benefits—The Social Security Act 1964 is hereby amended by repealing section 106, and substituting the following section:

“106. (1) Every woman who is entitled to the services of a medical practitioner or a registered midwife, or both, in relation to any maternity benefits, shall have the right to select the medical practitioner or registered midwife, or the medical practitioner and registered midwife, as the case may be, by whom such services shall be given.

“(2) The right of selection conferred by this subsection shall, in the case of a woman who is confined in a maternity hospital, be subject to the concurrence of the person or body for the time being having authority under section 49 of the Area Health Boards Act 1983 to control access to that hospital by medical practitioners and registered midwives.

“(3) All fees and other money payable in respect of maternity benefits shall be paid by the Department.”

6. Fixing of fees—(1) Section 111 of the Social Security Act 1964 is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) The scale of fees may be fixed by agreement between—

“(a) The Minister; and

“(b) Any person or persons having the authority of the Medical Association of New Zealand (hereinafter called the Medical Association) to enter into such an agreement; and

“(c) Any person or persons having the authority of the New Zealand College of Midwives Incorporated (hereinafter called the College) to enter into such an agreement.”

(2) Section 111 (3A) of the Social Security Act 1964 (as substituted by section 22 (1) of the Social Security Amendment Act 1986) is hereby amended by omitting the expression “2”, and substituting the expression “4”.

(3) Section 111 of the Social Security Act 1964 is hereby further amended by repealing subsection (3B) (as so substituted), and substituting the following subsection:

“(3B) The President of the tribunal shall be a barrister or solicitor of the High Court of New Zealand to be appointed by the Minister after consultation with the Medical Association and the College. One of the assessors shall be appointed on the recommendation of the Council of the Medical Association, one shall be appointed on the recommendation of the College, and the other 2 shall be selected by the Minister. A decision by any 3 members of the tribunal shall be deemed to be a decision of the tribunal.”

(4) Section 111 (3F) of the Social Security Act 1964 (as so substituted) is hereby amended by omitting the words “and representatives of the Medical Association”, and substituting the words “, representatives of the Medical Association, and representatives of the College”.

(5) Section 11 of the Social Security Amendment Act 1967 is hereby consequentially repealed.

7. Payment of fees—(1) Section 112 (1) of the Social Security Act 1964 is hereby amended—

(a) By inserting, before the words “who renders any services”, the words “and every registered midwife”:

(b) By omitting the words “in full satisfaction of his”, and substituting the words “or registered midwife in full satisfaction of his or her”.

(2) Section 112 (3) of the Social Security Act 1964 is hereby amended by inserting, after the words “medical practitioner” wherever they occur, the words “or registered midwife”.

(3) Section 112 of the Social Security Act 1964 is hereby further amended by adding the following subsection:

“(6) Where a registered midwife renders any service in respect of which fees are fixed under section 110 and also under section 111 of this Act, he or she shall be entitled to be paid fees calculated in accordance with one of those sections only.”

(4) Until a new scale of fees is fixed in accordance with section 111 of the Social Security Act 1964 (as amended by section 6 of this Act), registered midwives who render services in relation to maternity benefits shall be entitled to be paid the

appropriate fees for the time being fixed in accordance with the said section 111.

8. Miscellaneous purposes for which money may be expended by Department—Section 118 (d) of the Social Security Act 1964 is hereby amended by inserting, after the words “medical practitioners,” the words “registered midwives,”.

9. Claims for payments and refunds—Section 119 (1) of the Social Security Act 1964 is hereby amended by inserting, after the words “medical practitioner”, the words “or registered midwife”.

Amendments to Misuse of Drugs Act 1975

10. Interpretation—Section 2 (1) of the Misuse of Drugs Act 1975 is hereby amended by inserting, after the definition of the term “prohibited plant”, the following definition:

“‘Registered midwife’ means a person who is registered as a midwife under the Nurses Act 1977:”.

11. Exemptions from sections 6 and 7—(1) Section 8 (1) of the Misuse of Drugs Act 1975 is hereby amended—

(a) By inserting, after the words “veterinary surgeon,” in both places where they occur, the words “registered midwife,”:

(b) By inserting, before the words “practice or employment”, the words “or her”.

(2) Section 8 (2) of the Misuse of Drugs Act 1975 is hereby amended by inserting, after paragraph (a), the following paragraph:

“(aa) Any registered midwife may prescribe, supply, or administer the controlled drug pethidine (as described in the Second Schedule to this Act):”.

(3) Section 8 (2) of the Misuse of Drugs Act 1975 is hereby further amended by inserting, after paragraph (b), the following paragraph:

“(ba) Any pharmacist may produce, manufacture, or supply pethidine (as so described) pursuant to a prescription or order issued by a registered midwife:”.

(4) Section 8 (2) of the Misuse of Drugs Act 1975 is hereby further amended by inserting, after paragraph (d), the following paragraph:

“(da) Any person having the care of a patient for whom pethidine (as so described) is supplied by a registered midwife, or prescribed by a registered midwife and lawfully supplied, may administer that drug to that patient in accordance with the advice of the registered midwife who supplied or prescribed it:”.

12. Statements regarding drug dependent persons—Section 20 (3) of the Misuse of Drugs Act 1975 is hereby amended by inserting, after paragraph (f), the following paragraph:

“(fa) Registered midwives:”.

13. Powers of Minister to prohibit prescribing, etc.—(1) Section 23 (1) of the Misuse of Drugs Act 1975 is hereby

amended by inserting, after paragraph (a), the following paragraph:

“(aa) Prohibit any specified registered midwife from prescribing pethidine (as described in the Second Schedule to this Act):”.

(2) Section 23 (2) of the Misuse of Drugs Act 1975 is hereby amended by inserting, after paragraph (c), the following paragraph:

“(ca) In the case of a registered midwife, except on the recommendation of the Nursing Council of New Zealand; or”.

(3) Section 23 of the Misuse of Drugs Act 1975 is hereby further amended by adding the following subsection:

“(7) Without prejudice to the liability of any registered midwife under any other provision of this Act, every registered midwife who prescribes pethidine (as so described) in contravention of a notice under subsection (1) of this section commits an offence against this Act and is liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$1,000, or to both.”

14. Notification of conviction of medical practitioners, etc.—Section 33 of the Misuse of Drugs Act 1975 is hereby amended by inserting, after the word “dentist,” in both places where it occurs, the words “registered midwife,”.

15. Regulations—Section 37 (1) (g) of the Misuse of Drugs Act 1975 is hereby amended by inserting, after the word “dentists,”, the words “registered midwives,”.

Amendments to Medicines Act 1981

16. Interpretation—Section 2 of the Medicines Act 1981 is hereby amended by inserting, after the definition of the term “practitioner”, the following definition:

“ ‘Registered midwife’ means a person who is registered as a midwife under the Nurses Act 1977:”.

17. Sale of medicines by retail—Section 18 (2) of the Medicines Act 1981 is hereby amended by inserting, after the word “practitioner”, the words “, registered midwife,”.

18. Administering prescription medicines—Section 19 (1) of the Medicines Act 1981 is hereby amended by inserting, after the words “of the practitioner”, the words “or registered midwife”.

19. Exemptions for practitioners and registered midwives—Section 25 (1) of the Medicines Act 1981 is hereby amended by inserting, after the word “practitioner” wherever it occurs, the words “or registered midwife”.

20. Restrictions on possession of prescription medicines—Section 43 (2) of the Medicines Act 1981 is hereby amended by repealing paragraph (c), and substituting the following paragraph:

“(c) A person to whom the medicine has been lawfully supplied for his or her use, or for use by any other person, as a patient under the care of a practitioner or registered midwife and who does not have in his

or her possession any other supplies of a prescription medicine prescribed or supplied for the same purpose by another practitioner or registered midwife, and is necessary or incidental to such use; or”.

21. Powers of Minister to prohibit prescribing, etc.—

(1) Section 48 (1) (a) of the Medicines Act 1981 is hereby amended by inserting, after the word “practitioner”, the words “or registered midwife”.

(2) Section 48 (2) of the Medicines Act 1981 is hereby amended by inserting, after paragraph (b), the following paragraph:

“(ba) In the case of a registered midwife, except on the recommendation of the Nursing Council of New Zealand; or”.

22. Restrictions on supply to particular persons—

Section 49 (2) of the Medicines Act 1981 is hereby amended by inserting, after the words “any practitioner”, the words “or registered midwife”.

23. Regulations—Section 105 (1) (q) of the Medicines Act 1981 is hereby amended by inserting, after the word “practitioners”, the words “and registered midwives”.

Amendment to Area Health Boards Act 1983

24. Access to maternity hospitals and wards by medical practitioners and registered midwives—

(1) Section 49 (1) of the Area Health Boards Act 1983 is hereby amended by inserting, after the words “medical practitioner” wherever they occur, the words “or registered midwife”.

(2) Section 49 (2) of the Area Health Boards Act 1983 is hereby amended by inserting, after the words “medical practitioners”, the words “and registered midwives”.

Long Title: To add to the Long Title, after the expression “1977” in line 2 on page 1, the words “and certain other enactments”.

EXPLANATORY NOTE

Clause 1A amends section 4 (1) of the Nurses Act 1977 (which sets out the membership of the Nursing Council of New Zealand) as follows:

- (a) The member who is to be an employee of the Department of Education is replaced by a member who is to be appointed on the nomination of the Minister of Education:
- (b) The member who is to be the head of the nursing services of an area health board or hospital board is replaced by a member who is to be the most senior nurse employed by an area health board:
- (c) The member who is to be a public health nurse employed by the Department of Health is replaced by a member who is to be a public health nurse employed by an area health board.

Clause 1B inserts new section 42A into the Nurses Act 1977. The new section provides for the Nursing Council of New Zealand to investigate complaints against registered midwives in connection with the provision of maternity benefits or pharmaceutical benefits under Part II of the Social Security Act 1964.

New section 42A is based on section 45 of the Medical Practitioners Act 1968 and is consequential upon the amendments made by proposed clauses 4 to 9 of the Bill (as set out in this Supplementary Order Paper).

Clause 3 repeals section 58 of the Nurses Act 1977 (which relates to the functions and powers of Medical Officers of Health in relation to obstetric nursing).

Clauses 4 to 9 amend Part II of the Social Security Act 1964 to provide for maternity benefits and pharmaceutical benefits to be payable for the provision of services by registered midwives.

Clauses 10 to 15 amend the Misuse of Drugs Act 1975 to enable registered midwives to prescribe, supply, and administer pethidine. The power to do any of those things will be subject to any restrictions imposed from time to time by regulations made under that Act, and the amendment made by *clause 13* will enable the Minister of Health to prohibit any registered midwife from prescribing pethidine.

Clauses 16 to 23 amend the Medicines Act 1981 to enable registered midwives to prescribe and administer prescription medicines. The conditions governing the issue of prescriptions by registered midwives will be set out in the Medicines Regulations 1984.

Clause 24 amends section 49 of the Area Health Boards Act 1983 to provide for registered midwives to have access to any maternity hospital, maternity ward, or maternity annex under the control of an area health board on the same basis as medical practitioners.