

House of Representatives

Supplementary Order Paper

Tuesday, 18 May 2021

Health (National Cervical Screening Programme) Amendment Bill

Proposed amendment

Hon Dr Ayesha Verrall, in Committee, to move the following amendment:

Clause 6A

Replace *clause 6A* (page 4, lines 22 to 26) with:

6A Section 112ZE amended (Screening programme employees may retain, access, use, and disclose information to perform functions)

After section 112ZE(2), insert:

- (3) Despite subsection (1), an employee of the NCSP must obtain any necessary approval under the regulations before—
 - (a) disclosing any identifiable protected information to a person who is not an employee of the NCSP performing functions as an employee of the NCSP; or
 - (b) using non-identifiable protected information for the purpose of disclosing it to a person who is not an employee of the NCSP performing functions as an employee of the NCSP.
- (4) The actions that an employee of the NCSP may take without obtaining prior approval under the regulations include (without limitation)—
 - (a) accessing or using protected information on or from the NCSP register for the purposes of performing, and to the extent necessary to perform, their functions as an employee of the NCSP if that access or use does not involve the publication of protected information (for example, routine internal data analyses, data modelling, and data quality checking):

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- (b) administering automatic electronic uploads, updates, or back-ups with or between NCSP information management systems:
 - (c) administering updates of information to—
 - (i) any electronic application in existence at the commencement of this subsection that is operated by the NCSP; or
 - (ii) any electronic application approved by the National Kaitiaki Group:
 - (d) using, disclosing, or publishing non-identifiable protected information that is—
 - (i) publicly available; or
 - (ii) provided through any electronic application referred to in **paragraph (c)**.
- (5) In **subsections (3) and (4)**,—
- identifiable protected information** means information that—
- (a) is on or from the NCSP register; and
 - (b) enables the identification of the individual or individuals to whom the information relates; and
 - (c) identifies the individual or individuals as being Māori
- National Kaitiaki Group** means the group established under regulation 6 of the regulations
- non-identifiable protected information** means information that—
- (a) is on or from the NCSP register; and
 - (b) identifies the individual or individuals to whom the information relates as being Māori; but
 - (c) does not enable the identification of the individual or individuals
- regulations** means the Health (Cervical Screening (Kaitiaki)) Regulations 1995.
- (6) **Subsection (3)** is subject to section 22H (which authorises the disclosure of anonymous health information).

Explanatory note

This Supplementary Order Paper replaces clause 6A of the Health (National Cervical Screening Programme) Amendment Bill, which proposes an amendment to section 112ZE of the Health Act 1956. Section 112ZE authorises employees of the National Cervical Screening Programme (the **NCSP**) to retain, access, use, and disclose NCSP information in the course of performing their functions.

The Health Committee recommended that *new clause 6A* be inserted in the Bill to ensure that section 112ZE does not override the Health (Cervical Screening (Kaitiaki)) Regulations 1995. Regulation 3 of those regulations provides as follows:

- any disclosure by any person of information on or from the NCSP register that enables the identification of any woman, and that is made for the purpose of enabling the compilation and publication of anonymous statistics, needs the prior approval of the National Kaitiaki Group if the information identifies the individual as being Māori:
- any disclosure, use, or publication of information on or from the NCSP register that does not enable the identification of any woman, but identifies the individual as being Māori, needs the prior approval of the Group.

The regulations do not, however, affect the operation of section 22H of the Health Act 1956, which currently enables any person to supply to any other person any information that does not enable the identification of the individual to whom the information relates.

The purpose of this Supplementary Order Paper is to ensure that the regulations operate in a manner that does not—

- prevent employees of the NCSP from carrying out routine data functions and data reporting; or
- adversely affect the quality and effectiveness of the NCSP.

This Supplementary Order Paper amends the Bill to insert the following new subsections in section 112ZE of the Health Act 1956:

- *new subsection (3)*, which requires employees of the NCSP to comply with the regulations before disclosing any identifiable protected information to a person who is not an employee of the NCSP performing functions as an employee of the NCSP:
- *new subsection (4)*, which ensures that employees can carry out specified data functions that are regarded as essential to the effective operation of the NCSP:
- *new subsection (5)*, which defines—
 - identifiable protected information as being information on or from the NCSP register that enables the identification of the individuals to whom the information relates and identifies the individuals as being Māori:
 - National Kaitiaki Group as being the group established under regulation 6 of the Health (Cervical Screening (Kaitiaki)) Regulations 1995:
 - non-identifiable protected information as being information on or from the NCSP register that identifies the individuals to whom the information relates as being Māori, but does not enable the identification of the individuals:
 - regulations as being the Health (Cervical Screening (Kaitiaki)) Regulations 1995:

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- *new subsection (6)*, which provides that the prohibition in *new subsection (3)* does not override the current authority in section 22H of the Health Act 1956.

Departmental disclosure statement

The Ministry of Health considers that a departmental disclosure statement is not required to be prepared for this Supplementary Order Paper.