

21 October 2019

Committee Secretariat
Finance and Expenditure Committee
Parliament Buildings
Wellington

By email: Gunlawchanges@parliament.govt.nz

Arms Legislation Bill

Dear Sir/Madam

The New Zealand Medical Association (NZMA) wishes to provide feedback on the above Bill. The NZMA is New Zealand's largest medical organisation, with more than 5,000 members from all areas of medicine. The NZMA aims to provide leadership of the medical profession, and to promote professional unity and values, and the health of all New Zealanders. We recognise the principles of te Tiriti o Waitangi and the special obligations to Māori, particularly to ensure equity and active protection. The NZMA is committed to advocating for policies in health and the social and wider determinants of health that urgently address these disparities and contribute to equity of health outcomes. An integral part of the NZMA's leadership role is our Code of Ethics,¹ which sets out principles of ethical behaviour for the medical profession and recommendations for ethical practice. Our submission has been informed by feedback from our Board and Advisory Councils.

1. Earlier this year, we conveyed our support for the Government's swift action to ban military style semi-automatic weapons and our commitment to stand with the Government as it further strengthened gun laws.² We also commended a position statement on firearms by the Australian Medical Association.³ The NZMA is strongly supportive of the purpose of this omnibus Bill. We note that amendments in the proposed Bill are intended to improve public safety by adjusting legislative frameworks to impose tighter controls on the use and possession of arms. We welcome the insertion of a new purpose statement which includes that the possession and use of arms is a privilege that comes with a responsibility to act in the interests of personal and public safety.

¹ NZMA Code of Ethics for the New Zealand Medical Profession. 2014. Available from <http://www.nzma.org.nz/publications/code-of-ethics>

² NZMA Letter to the Prime Minister and Ministers. 22 March 2019. Available from http://www.nzma.org.nz/_data/assets/pdf_file/0003/88365/lettertoPMMarch2019.pdf

³ AMA. Firearms Position Statement 2017. Available from <https://ama.com.au/position-statement/firearms-2017>

2. We are supportive of the Bill's main provisions, including the following:
- Creation of a firearms registry
 - Strengthening licensing regimes to filter out high-risk people (though we have concerns at the reference to mental health issues – see paragraph 3)
 - Improving the tools available to the Police to enable them to function better as a regulator
 - Introducing an advisory group
 - Enabling more robust and transparent information-sharing and cost-recovery regimes
 - Strengthening regulatory oversight of the importation and sale of ammunition and blank-firing guns, advertising, and manufacturers of parts
 - Provision for a review of the Act 5 years after the Bill is fully in force
 - Introduction of new offences and penalties and strengthening existing offences and penalties
 - Enabling New Zealand to accede to the UN Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition.

3. We note that the strengthened licensing regime includes “people exhibiting significant mental health issues” among the circumstances that could indicate someone may not be a fit and proper person to possess a firearm. We are concerned that the Bill, as worded, stigmatises people with mental distress, equating them to putative criminals and as a major public threat (given the Bill is framed as a measure to prevent more attacks like the one on 15 March). Gun-related homicide by people with mental illness is rare. Most violent individuals do not have mental illness, and most mass murderers do not have identifiable severe mental illness. It is gun availability and gun ownership, not severe mental illness, which determines most gun homicides. We believe that decisions about gun ownership should be made on the basis of risk. Accordingly, instead of “people exhibiting significant mental health issues” in determining whether someone may not be a fit and proper person to hold a firearms license, we submit that the Committee reword this phrase to “people that are at risk of causing harm to themselves or others”.

4. Suicide is a relevant consideration, and there is a clear positive relationship between access to guns and suicide deaths. In New Zealand, there were 867 firearms deaths from 2000 to 2015, an average of 54 deaths per year.⁴ About 75% of firearms deaths are suicides (40 per year), making up about 8–10% of all suicides. Other firearms deaths are homicides and accidents. On average, there are about 7 firearm homicides per year.⁵ Ready access to firearms is a significant risk factor for suicide. For example, nearly 40% of suicides on farms involve firearms compared with 8% of suicides in the general population.⁶ Evidence has shown that tighter gun control leads to a reduction in suicide rate.

5. Given that some patients may pose a risk of harm to themselves or others, we are supportive of the Bill's provision for a health practitioner to consider notifying Police if they consider a patient should not be permitted to use or possess firearms. We consider this provision to be consistent with our Code of Ethics, particularly principle one which states: “*Consider the health and wellbeing of the patient to be your first priority*” and principle ten which states: “*Accept a responsibility in the protection and improvement of the health of the community*”. While protection of patient privacy is also an important ethical principle, principle five is clear

⁴ Telfar Barnard L. New Zealand firearm hospitalisation and mortality rates and costs. Personal Communication. Russell M, editor. Wellington; 2019.

⁵ Scahill C. Official Information Act Disclosure, IR-01-18-17024 <https://www.police.govt.nz/sites/default/files/publications/25-nov-2018-ir-01-18-17024.pdf> In: New Zealand Police, ed. Wellington 2018, 17 December

⁶ Beautrais AL. Farm suicides in New Zealand, 2007–2015: A review of coroners' records. Australian & New Zealand Journal of Psychiatry 2018;52:78-86

that it can be superseded if there are overriding considerations in terms of public interest or patient safety.

6. To reflect the ethical principles and responsibilities to patients and the community identified above, we suggest that it could be useful to strengthen the wording about notification from “must consider notifying the Police” to “should notify the Police”. While breaching patient privacy when there are overriding considerations can have negative implications for the doctor-patient relationship, having a legislative requirement to disclose information to the Police rather than allowing the clinician to choose to do so can be protective to the therapeutic relationship. We also suggest that it would be useful for the legislation to clarify what “as soon as practicable” means with respect to notifying the Police.

7. While the Bill states that a health practitioner is not liable to criminal, civil, or disciplinary proceedings by disclosing personal information in the course of performing any function or responsibility as long as they act in good faith, we seek clarification of the medicolegal implications for a health practitioner that fails to notify the Police of a concern regarding a firearms license holder in the event that person then goes on to harm themselves or others. We also believe there is a need to temper expectations about the role of GPs in monitoring this issue, particularly as doctors may not know if the patient in front of them has firearms. Firearms are not routinely asked about unless the patient is an acutely suicidal male. Furthermore, patients may deny they have firearms or may have illegal ones. Fear of having guns taken away may lead some patients to lie to their doctors about their mental state. Firearms data are currently not routinely included in the medical record. Consideration also needs to be given to resourcing GPs adequately for additional requirements such as notification to Police that arise as a result of this Bill.

8. With respect to firearms licensing, there is a view that the proposed penalty (permanent loss of firearms license) is too high for someone who is at risk of self-harm in a state of temporary crisis. From a combined suicide prevention and mental health recovery-focussed perspective, it may be better if the license was suspended and then reviewed at a later date. Suicide risk is not static and is usually not chronic. Furthermore, some people find recreational hunting therapeutic for their mental health. Accordingly, we suggest the Bill be amended to give Police the legislative ability to suspend licences, in addition to being able to revoke them. A period of suspension of a licence followed by a review for those at risk of self-harm is much less discriminatory than outright revocation.

9. We suggest that it may be useful for the Bill to include more detail on the storage of firearms rather than just stipulating a requirement for "secure storage". We are supportive of the criteria in clause 22G relating to disqualification from holding firearms license. We seek clarification of the rationale to exempt pistols, restricted weapons or prohibited firearms from clause 55C relating to the offence of failing to produce a firearm on demand or to permit inspection of a firearm. Finally, there is a view that close affiliation with a gang should not constitute grounds for deeming an applicant not a fit and proper person to hold a firearms license.

We hope our feedback is helpful and would like the opportunity for an oral hearing to speak to this submission.

Yours sincerely

A handwritten signature in blue ink that reads "K. Baddock". The signature is fluid and cursive, with a large initial 'K' and a long, sweeping underline.

Dr Kate Baddock
NZMA Chair