



5 March 2021

Tēnā koutou

Consultation on proposed Council fees and disciplinary levy

Executive summary

We are seeking stakeholder feedback on the Medical Council of New Zealand's (Council) proposal to gazette changes to its existing fees and disciplinary levy, to be effective from 1 July 2021. This follows an extensive review of fees, using the activity-based costing methodology first adopted by Council for fee setting in 2015. It also includes changes to the fees paid to medical colleges for advice on overseas-trained specialists applying for registration in a provisional vocational scope of practice, which have not been reviewed since 2011.

I am very pleased that we have been able to keep the overall increase to the practising certificate to a minimum (reflecting a CPI increase only). This is because the activity-based costing methodology means that fees are charged for the actual cost of the service offered, rather than the practising certificate fee subsidising other Council activities.

Your feedback is welcome and will be carefully considered by Council before a final decision is made at Council's April meeting. If you would like to provide feedback to us please do so by **5pm Tuesday 6 April 2021**.

Current proposals

- Most of Council's existing fees have been adjusted according to the re-costed value as outlined below. This ensures the Council's fee structure is fair and equitable by limiting any cross subsidisation through the practising certificate fee. Details of the specific fee changes proposed are included in Appendix 1.
- Increasing the fees Council pays to medical colleges for advice on international medical specialists applying for registration in a provisional vocational scope of practice. These fees are collected by Council and passed onto the medical colleges for the important service they provide to Council, in interviewing and assessing international medical specialist's qualification, training and experience. The fees are based on feedback from medical colleges about the costs of providing this expert advice. Details of the specific fee changes proposed are included in Appendix 1.
- A new annual retention fee of \$130.43, to be charged to non-practising doctors who choose to remain on the medical register. This reflects the costs of maintaining doctors on the register, who do retain the right to vote in Council elections, and to receive Council communications and access to other Council services.
- A reduction in the practising certificate fee by \$28.26 and an increase in the disciplinary levy of \$33.65 to accurately reflect where savings have been made and that disciplinary costs are increasing. Overall, this results in a net increase in the practising certificate fee and disciplinary levy of \$5.39 to \$773.60 (0.7%).

All figures in this document are GST exclusive unless otherwise stated.

Activity based costing review

Council's fees are based on an activity-based costing methodology. The framework was introduced in 2015, following extensive consultation with the medical profession, and is designed to ensure that there is transparency and equity across all fees charged by Council. The methodology also ensures that cross-

subsidisation amongst fees is minimised. However, the methodology and the underlying assumptions have not been substantively re-tested since its introduction.

Council abides by the good practice guidelines established by the Office of the Auditor-General and by Treasury. In doing so, Council adheres to the principles of authority, efficiency and accountability when setting fees. As recommended in s2.23 of the Office of the Auditor-General's Principles for Setting Fees, the Council has undertaken a comprehensive review of its existing fees to ensure they remain appropriate, valid and relevant.

The findings of this review shows there are several fees which are no longer fully recovering the cost of providing that service. This is a consequence of the changes in Council's cost structure over time. The result is that some cross subsidisation is occurring through the practising certificate fee, which has had higher increases relative to increases in other registration fees in recent years. As a result of this review, fees have been realigned with the cost of providing various services. Council proposes the fees outlined in Appendix 1.

Medical college advice fees

The college advice fees are set by Council, paid by the international medical graduate (IMG) applicant seeking registration in a provisional vocational scope of practice (or by their prospective employer, on their behalf) and passed through to the medical college in full on receipt of advice and an invoice. These fees have not been reconsidered since they were first gazetted in September 2011, except for annual inflationary adjustments.

In conjunction with the current activity-based costing review, Council sought feedback from the medical colleges on their costs. Having considered their feedback, Council proposes the fees outlined in Appendix 1, section C. These advice fees are incurred by applicants in addition to two other Council fees related to this vocational registration pathway for IMGs, specifically the application for provisional vocational registration and the vocational practice assessment. However we note that not every applicant will pay each fee. For example, only a small number of doctors will need to undergo a vocational practice assessment.

These related Council fees were also re-tested as part of the activity-based costing review and the cost is reflective of the significant time and resources involved in these activities. For example, the vocational practice assessment (VPA) is the final component of our assessment processes to ensure that international medical specialists are competent to practise in a vocational scope of practice. The VPA involves significant direct costs including specialist doctors who act as external assessors.

Implementing a new annual retention fee

Council proposes to introduce an annual retention fee of \$130.43 for non-practising doctors who choose to remain on the register. In introducing this fee, Council notes that 11 other regulatory authorities operating under the Health Practitioners Competence Assurance Act 2003 (the Act) charge retention fees (ranging from \$41.74 to \$226.09).

In considering this fee Council noted:

- All registered doctors remain subject to Council's disciplinary process. This provides an appropriate regulatory oversight, but importantly acts to protect the reputation of, and public confidence in, the medical profession. As a result, Council faces a potential financial costs from non-practising doctors remaining on the register; costs that are currently borne by doctors in practice. The Act specifically allows Council to charge registered doctors a disciplinary levy even if they do not hold a practising certificate. The proposed retention fee therefore includes a contribution to the disciplinary fund.
- Council incurs costs associated with retention on the register, including maintaining the register, responding to ad-hoc queries, and communicating with non-practising doctors. At present, non-practising doctors do not contribute to these costs.

- It is not uncommon for doctors to take brief breaks from practice, but with the intention of returning to practise. Under the Act, and Council policy, there are few limitations on a doctor resuming practice after a break of up to three years. However, for the period out of practice, they pay neither a practising certificate fee nor disciplinary levy. A retention fee would ensure a fair contribution to the costs outlined above.
- In addition to the costs borne by Council, and potential disciplinary costs, non-practising doctors retain other benefits. They are eligible to be appointed to Council, to nominate and vote in Council elections and are eligible for governance positions.

There are currently around 10,000 non-practising doctors on the register. From the experience of other regulatory authorities, we estimate that approximately 2,000 doctors may choose to remain on the register.

Practising certificate fee and disciplinary levy

The components making up the combined practising certificate fee and disciplinary levy are set out in the following table.

	2020/21	2021/22	\$ Change	% Change
	Current Fee	Proposed Fee		
Practising certificate fee	\$599.96	\$571.70	- \$28.26	- 4.71 %
Disciplinary levy	\$168.25	\$201.90	+ \$33.65	+ 20.00 %
Total Practising certificate fee and disciplinary levy	\$768.21	\$773.60	+ \$5.39	+ 0.70 %

The proposed practising certificate fee and disciplinary levy is based on:

- Council's strategic and business objectives as outlined in the strategic and business plans;
- Council's budgeted and projected operating costs for the 2020/2021 and 2021/22 financial years; and
- the actual general, disciplinary and examination fund reserves as at 28 February 2021.

In preparing the draft 2021/22 budget, Council is committed to operating in a cost effective manner and strives to maintain a balance between the efficient and effective discharge of its public safety obligations and practitioner affordability. The proposed reduction to the practising certificate fee reflects the findings of the activity based costing review and minimising cross-subsidisation of other activities.

Rationale for proposed changes to the disciplinary levy

The corresponding increase to the proposed disciplinary levy (in dollar terms) partly reflects the findings of the activity based costing review, as a greater proportion of overheads incurred by the general fund are now attributed to the disciplinary fund. Additionally, in setting the proposed levy, Council continues to take a prudent approach to ensure disciplinary costs are adequately recovered while remaining cognisant that specific one-off cases can result in extraordinary costs.

At the time of writing, 22 cases have been referred to a Professional Conduct Committee (PCC) this financial year, with 6 charges filed in the Tribunal and a further 4 cases set down. The 2021/22 budget anticipates the number and complexity of cases to be similar to the current financial year with 10 cases already set down in the Tribunal. By its nature these costs are difficult to budget as Council has no control over disciplinary matters and must act in the public interest at all times.

The Council is responsible for all costs associated with an investigation and prosecution of unethical conduct from any doctor. These costs may include:

- PCC investigation costs of a notification

- prosecution costs when charges are laid before the Tribunal
- appeal costs
- the risk of bad debts and collection costs for any costs awarded.

The Council actively seeks all recoveries of any awards of costs to ensure that these are not passed onto the profession. However, we continue to be frustrated by the level of costs awarded when Council is successful at Tribunal. Often these are only around 30% of the total cost and in many instances are challenging to recover from the practitioner. Given recoveries are uncertain, unpredictable and in a number of cases uncollectable, we have excluded these from the 2021/22 budget. Any recoveries collected will increase disciplinary reserves during the financial year and can be factored into future levy calculations.

Council's 2020/21 Forecast Financial Results and 2021/22 Budget

The forecast financial results for the 2020/21 financial year are reported in Appendix 2 and forecast a surplus of \$1m against a budgeted \$0.5m surplus. Council has deemed it necessary to rebuild its financial reserves in a managed way over three to five years to between 25 and 50% of its annual operating expenses. The budget forecast is based on actual results for the seven months ended 31 January and estimates for the remaining five months to June 2021, which remain subject to change.

With prudent financial management an overall surplus of ~\$0.5m is budgeted for the 2021/22 financial year as shown in Appendix 2. This reflects the ongoing operational costs for Council to continue to fulfil its statutory obligations and strategic objectives, efficiently and effectively. The budgeted surplus is reasonable and has been determined within a responsible budgeting framework and consistent with the current reserves management strategy.

Consultation proposal

Council invites all stakeholders to provide feedback on the proposed 2021/22 fee schedule to be effective from 1 July 2021 as follows:

1. Most existing fees are adjusted to the activity-based costing re-costed value as outlined below. This ensures the Council's fee structure is fair and equitable by limiting any cross subsidisation through the practising certificate fee. Details of the specific fee changes proposed are included in Appendix 1.
2. Increasing the four different fees paid to medical colleges for advice on overseas-trained specialists applying for registration in a provisional vocational scope of practice, based on feedback from medical colleges. Details of the specific fee changes proposed are included in Appendix 1.
3. Implementing a new annual retention fee of \$130.43, to be charged to non-practising doctors who choose to be retained on the register.
4. A net increase in the practising certificate fee and disciplinary levy of \$5.39 to \$773.60.

Conclusion

Feedback from the profession and stakeholders is important to us and will be carefully considered by Council before a final decision is made. If you would like to provide feedback to us, please do so by **5pm Tuesday 6 April 2021**.

Council will consider all submissions at its meeting on Tuesday 13 and Wednesday 14 April, prior to placing a notice in the New Zealand Gazette for an effective date of 1 July 2021.

Copies of this consultation document have been sent to all registered doctors, the Ministry of Health, district health boards, primary health organisations, medical colleges, and other organisations with an interest in this area. This is in keeping with Council's policy of broad stakeholder consultation on any

alteration to Council fees and levies, set under s130 and s131 of the Health Practitioners Competence Assurance Act (2003).

This document has also been published on the Council's website, with an invitation to comment. Responses should be sent to:

Fee Consultation

Medical Council of New Zealand

PO Box 10509

The Terrace

Wellington 6143

Email: feeconsultation@mcnz.org.nz

Nāku noa nā,

A handwritten signature in black ink, appearing to be 'C Walker', written in a cursive style.

Dr Curtis Walker

Chairperson

Medical Council of New Zealand

Appendix 1: Existing Fee Schedule and Proposed Fees

	Current	Proposed	\$ Change
A Practising certificate or Interim Practising certificate including Disciplinary Levy			
> Annual Practising certificate fee	768.21	773.60	5.39
> Application to vary existing Practising certificate	201.78	301.67	99.89
> Practising certificate quarterly fee (used only when bringing a doctor into their registration cycle)	192.05	193.40	1.35
B Disciplinary levy for 12 months	168.25	201.90	33.65
C Registration fees			
<i>Application for registration in a provisional general/general scope of practice:</i>			
> Provisional general registration (NZ/Australian/NZREX graduate)	201.78	301.67	99.89
> Provisional general registration (Australian General Registrant)	201.78	482.67	280.89
> Provisional general registration (competent authority)	363.22	482.67	119.45
> Provisional general registration (comparable health system)	1,008.95	1,508.35	499.40
> General registration (NZ/Australian graduate)	201.78	482.67	280.89
<i>Application for registration in a provisional vocational / vocational scope of practice:</i>			
> Vocational registration (for those registered in the General scope of practice, who have been awarded the prescribed qualification)	201.78	241.34	39.56
> Vocational registration (for those who are not registered in the General scope of practice, who have been awarded the prescribed qualification)	356.74	482.67	125.93
> Provisional vocational registration (for international medical graduates with overseas specialist qualifications)	2,675.56	3,620.04	944.48
> Vocational practice assessment	16,666.68	16,783.35	116.67
<i>College advice fees for registration in a provisional vocational scope of practice</i>			
> Assessment of documents (preliminary advice)	785.54	1,650.00 ¹	864.46
> Interview (final advice)	2,847.47	3,900.00 ¹	1,052.53
> Re-evaluation	611.12	750.00 ¹	138.88
> Advice on supervisor/employment	89.93	200.00 ¹	110.07
<i>For registration in a special purpose scope of practice:</i>			
> Special purpose postgraduate training	650.32	965.34	315.02
> Special purpose locum tenens / teleradiology / research	356.74	603.34	246.60
<i>Other registration-related fees:</i>			
> Application to change existing scope or conditions	201.78	301.67	99.89
> Restoration of registration	201.78	301.67	99.89
> Annual Retention fee (non-practising status)	-	130.43	NEW
D Certificate Signed by the Registrar			
> Certificate of professional status, Certificate of registered information, and any other document confirming registration status/standing or internship details	133.91	181.00	47.09
E New Zealand Registration Examination (NZREX Clinical)			
> Application fee	666.25	670.91*	4.66
> Examination fee	3,843.75	3,870.66*	26.91
> Review of decisions (recount)	215.16	341.33	126.17
> Appeal of decisions (impairment or exam process)	512.85	511.99	(0.86)
> Withdrawal, or transfer, prior to, or on, the cut-off date for the specified exam (6 weeks prior to exam)	185.31	341.33	156.02
> Withdrawal after the cut-off date for the specified exam (20 working days or more prior to exam)	724.98	774.13	49.15
F Screening Programmes			
> Testing administrative charge (per test)	various ²	137.66	-
> Charge per test for urine / hair / blood (recharged at cost)	at cost	at cost	-

¹ These medical college advice fees are passed through to the medical college in full on receipt of advice and an invoice.

² Three different annual administrative charges are currently gazetted based on the type of the testing however in practice these have not been charged. We now propose to apply an administrative fee for any testing undertaken as part of a screening programme.

	> Cost of breathalyser unit / re-calibration of breathalyser unit (recharged at cost)	at cost	at cost	-
		Current	Proposed	\$ Change
G	Sexual Misconduct Assessment			
	> Administrative charge only	1,746.65	1,798.03	51.38
H	Contribution to Educational Supervision Costs			
	> Administrative charge only	2,334.19	2,400.85	66.66
I	Educational – Pre-Vocational			
	Accreditation of training provider	31,504.82	31,725.35*	220.53
J	Educational - Vocational			
	> Accreditation New Zealand-only training providers			
	- Training provider with 300 or more paying members	22,000	22,154.00*	154.00
	- Training provider with fewer than 300 paying members	17,000	17,119.00*	119.00
	> Accreditation of training providers recertification programme only	10,000	10,070.00*	70.00
K	Recognition of vocational scope of practice / Assessment of a recertification programme			
	> Vocational education and advisory body application for recognition of new vocational scope of practice	7,207.63	7,258.08*	50.45
	> Application for assessment of an individual recertification programme for a vocational scope of practice	3,002.98	3,024.00*	21.02
L	Register			
	> Register for 12 months downloaded from the Council's website	310.39	309.47	(0.92)
	> Request for one copy of the Register	114.96	154.73	39.77
	> Register data requests (<i>Fee is per hour but may be adjusted depending on the nature of the query. Any disbursements will be recovered at cost</i>)	114.96	154.73	39.77

* These fees have been inflation-adjusted on the basis they were recently introduced by Council following consultation, or had been recently re-costed and therefore the existing fee is representative of the activity-based cost. The inflation adjustment made is 0.7% reflecting the CPI for the three quarters ending December 2020, recognising that the Council last adjusted all fees by the annual CPI for the year to March 2020 (ie 2.5%). (Source: <https://www.stats.govt.nz/information-releases/consumers-price-index-december-2020-quarter>)

Appendix 2: 2020/21 Forecast Financial Performance and 2021/22 Draft Budget

Financial Performance	2020/21 Budget (000's)	30 Jun 21 Forecast* (000's)	2021/22 Draft Budget (000's)
Income			
Practitioner Fees	10,668	10,766	10,462
Disciplinary Levies	2,965	2,984	3,695
Disciplinary Recoveries	390	279	-
Other Registration Income	2,663	3,109	4,187
Other Income	70	94	30
Total Income	16,756	17,232	18,374
Expenditure			
Administration and general	9,400	9,106	9,775
Council and Profession	3,192	3,171	3,961
Disciplinary	3,345	3,584	3,661
Examination	344	350	405
Total Expenditure	16,281	16,211	17,802
Net Surplus	475	1,021	572

* The forecast is based on actual results for the seven months ended 31 January and estimates for the remaining five months to June 2021, which remain subject to change.