

Proposed Health and Hygiene Bylaw and Associated Code of Practice: Submission of the Melanoma Network of New Zealand Incorporated (MelNet)

15 March 2013

Submissions: Proposed Health and Hygiene Bylaw and Code of Practice

Attn: Planning Technician

Level 10

Civic Building

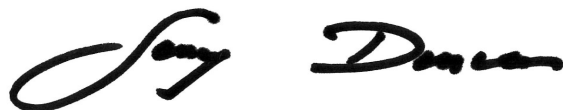
Auckland Council

Attached please find a submission from the Melanoma Network of New Zealand Incorporated (MelNet) on the Proposed Health and Hygiene Bylaw and Associated Code of Practice.

We would be pleased to provide any additional information and feedback upon request. However, we do not wish to speak at a hearing.

Thank you for your consideration of our submission.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Gary Duncan', written in a cursive style.

Gary Duncan MBChB, FRACS
Consultant Plastic Surgeon
Chair, MelNet Executive Committee
(Electronically sighted/approved)

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Submission on the Proposed Auckland Council Health and Hygiene Bylaw and Code of Practice

1. Overview

1.1 This submission on behalf of the Melanoma Network of New Zealand, Inc (MelNet) focuses upon provisions of the proposed bylaw and code of practice that apply to “commercial services that risk burning the skin”.

1.2 The submission highlights those provisions that are fully supported by MelNet. Of particular importance are:

1.2.1 Establishment of Code of Practice standards that are based upon the *Australia/New Zealand Standard AS/NZS 2635:2008 Solaria for Cosmetic Purposes*

1.2.2 The requirement that pulsed light and laser operators hold a beauty therapy diploma or higher qualification.

1.3 This submission also identifies what MelNet views as the major shortcoming of the proposal, which is that “commercial services that risk burning the skin” are not considered to be of sufficient level of risk to require a license. Without licensing, compliance with the Code of Practice and inspection of services will be dependent upon consumer complaint rather than by way of pro-active monitoring.

2. MelNet and Melanoma in New Zealand

2.1 MelNet is a national network of over 500 health professionals committed to reducing the incidence and impact of melanoma in New Zealand.¹ Many of our members are clinicians who diagnose and treat melanoma on a daily basis.

2.2 MelNet exists because melanoma is a major public health issue in New Zealand. Melanoma is now our fourth most commonly registered cancer;² along with Australia, we have the highest incidence rates in the world.³

2.3 While the risk of developing melanoma increases with age (median age at diagnosis of 56 in men and 62 in women), melanoma is still reasonably common in younger age groups with significant numbers diagnosed between 25 and 39 years of age.²

2.4 New Zealand also has high rates of non-melanoma skin cancers, estimated to cost the country \$57.1 million in healthcare costs.⁴

2.5 Not surprisingly the ever-increasing incidence of melanoma and non-melanoma skin cancers is putting a significant burden on our health system. The best avenues for reducing this burden are prevention and early detection.⁵

3. Sunbeds and Melanoma Prevention

- 3.1 Almost all skin cancers, including melanoma (the most serious and potentially life-threatening form of skin cancer), are caused by ultraviolet radiation (UVR) exposure.⁶
- 3.2 As cited in the Council proposal, there is strong evidence that exposure to UV radiation in a sunbed causes DNA damage that can lead to the development of both melanoma and non-melanoma skin cancers. Also, sunbed use is associated with increased risk of early-onset melanoma, with risk increasing with greater use, an earlier age at first use and for earlier onset disease.⁷
- 3.3 Australian researchers have found that sunbeds in that country emit significantly higher UV emissions than sunlight.⁸ We have no reason to believe that the situation in New Zealand is any different.
- 3.4 The Council proposal also acknowledges that the International Agency for Research on Cancer (IARC) of the World Health Organization has classified UV radiation from tanning beds as “carcinogenic to humans” (the most serious category of cancer-causing agents).⁹
- 3.5 As the Chair of the MelNet Executive Committee and as a plastic surgeon who sees the profound results of exposure to ultraviolet radiation (UVR) on a daily basis in my practice, I am dismayed that there are such limited controls on the use of sunbeds in New Zealand, particularly among young people.
- 3.6 Concerned about the increasing incidence of melanoma in New Zealand, the established harm of sunbed use and the significant risk of sunbed use for young people, six NGOs, including MelNet, have called for government action to regulate sunbeds. This call for regulation also has been endorsed by a number of prominent medical organisations identified in Appendix A.
- 3.7 For the reasons outlined above, MelNet congratulates the Auckland Council for taking the initiative to establish a bylaw and code of practice based upon the 2008 Solaria Standard to apply to sunbed operators across the Auckland region.

4. Pulsed Light/Laser Treatment and Melanoma Early Detection

- 4.1 There is currently a gap in existing statutory provisions that allows for the unregulated use of pulsed light and laser devices by people who lack the knowledge and training to recognise when a skin lesion should not be treated but requires an urgent referral to a doctor with expertise in melanoma.
- 4.2 A lack of training by operators can result in the inadvertent removal of melanomas or alteration of the lesion, making it more difficult to diagnose. Both risks can lead to a delay in diagnosis which ultimately can affect the likelihood of successful treatment.
- 4.3 In the past few years MelNet and the New Zealand Dermatological Society have recognised the urgent need to identify an appropriate response to this situation.

- 4.4 MelNet understands that the Ministry of Health has no jurisdiction over pulsed light and laser treatment devices as they are not intended to be used for a therapeutic purpose but rather for beautification. Devices for cosmetic purposes are not included under the Medicines Act and therefore do not come under the Ministry of Health's jurisdiction.
- 4.5 The absence of jurisdiction over such devices has been recognised by the Office of the Health and Disability Commissioner (HDC) after investigation of two consumer complaints resulting from pulsed light treatment. In its findings, HDC concluded that "IPL treatment involves a risk to the consumer, and should only be performed by those with appropriate training, expertise and experience". HDC also cited the view of The Association of Beauty Therapists NZ Ltd that training and follow-up should be mandatory.¹⁰
- 4.6 For the above reasons, MelNet representatives have met with Ministry of Health officials to explore possible regulation under existing legislation. To date no further action has been taken, other than development of a Private Member's Bill by Dr Paul Hutchison, Member for Parliament for Hunua.
- 4.7 MelNet therefore congratulates Auckland Council for proposing standards that will require pulsed light and laser operators to hold a beauty therapy diploma or higher qualification.

5. Aspects of the proposed bylaw or code with which MelNet agrees

5.1 Sunbeds

- 5.1.1 As identified in Appendix A, there is a strong consensus among leading medical organisations that the *Australia/New Zealand Standard AS/NZS 2635:2008 Solaria for Cosmetic Purposes* should be mandatory for all sunbed operators. MelNet therefore supports the Council's Inclusion of provisions of the standard within the Code of Practice.
- 5.1.2 Among the key provisions of the standard that are of importance are not allowing those with Skin Photo Type I to use a sunbed, providing a consent form, posting warning notices, requiring supervised services and making no claims about non-cosmetic health benefits from artificial tanning. All of these provisions are included in the proposed Code of Practice.
- 5.1.3 Sunbeds pose an important risk to all, but especially the young. We welcome the proposed regulation that no one under the age of 18 should be permitted to use a sunbed, regardless of parental consent.

5.2 Pulsed light and laser treatment

- 5.2.1 We endorse the requirement in the proposed minimum standards that pulsed light and laser operators hold a beauty therapy diploma or higher qualification.

5.2.2 Currently there is no requirement for non-medical personnel to undergo mandatory training in the use of these devices in New Zealand.

6. Aspects of the proposed bylaw or code with which MelNet disagrees

- 6.1 MelNet does not agree with the Council's position that "commercial services that risk burning the skin" do not pose a significant enough risk to require a license.
- 6.2 As outlined in Section 3 this submission, the risk of sunbeds is that their use can lead to a life-threatening melanoma. For this reason, the World Health Organization encourages governments to formulate and enforce effective laws governing their use.¹¹
- 6.3 MelNet's view therefore is that Option D (regulation and licensing) is the most appropriate way to regulate a commercial service that is a Class 1 carcinogen.
- 6.4 As outlined in Section 4, the use of pulsed and laser devices by people who lack the essential knowledge and training can result in a life-threatening delay in the diagnosis of melanoma.
- 6.5 MelNet's view therefore is that Option D (regulation and licensing) is the most appropriate way to regulate non-medical operators of pulsed light and laser devices.
- 6.6 MelNet's view is that reliance upon consumer complaint is an unsatisfactory approach to addressing operations that pose a significant risk to clients.

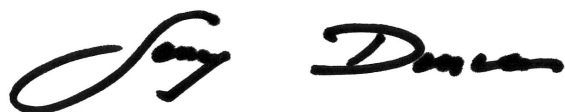
7. Further comments

On behalf of MelNet, I would like to commend and congratulate Auckland Council for being the first in New Zealand to develop Code of Practice regulations that address the risk of UV radiation from sunbeds.

Also, I would like to commend the Auckland Council for being the first Council in New Zealand to establish the requirement for pulsed light and laser treatment operators in the region to hold a beauty therapy diploma or higher qualification.

I hope that our submission will be helpful to the Council in finalising the Code of Practice regulations and, in particular, reconsidering its decision not to license the operators of sunbeds and pulsed light/laser treatment.

Yours sincerely,



Gary Duncan MBChB, FRACS
Consultant Plastic Surgeon
Chair, MelNet Executive Committee Chair
(Electronically sighted/approved)

Appendix A

Support for sunbed regulation in New Zealand

Currently there are no regulations governing sunbed use in New Zealand, unlike in Australia, the United Kingdom and many parts of Europe and other OECD countries. New Zealand has a voluntary standard for sunbed operators that includes ensuring all sunbeds are supervised and not allowing people under the age of 18 or with the fairest skin types to use them. Surveys by Consumer NZ have found that many operators do not comply with these standards.

A call for regulation was initiated in March 2011 by:

- Cancer Society of New Zealand
- Cancer Society Social and Behavioural Unit, University of Otago
- Consumer NZ
- Melanoma Foundation of New Zealand
- MelNet
- New Zealand Dermatological Society.

This call was unanimously endorsed by the 200 health professionals who participated in the national Melanoma Summit on 11 March 2011, and MelNet agreed to coordinate the efforts of all who seek such regulation.

The call for sunbed regulation is supported by other leading health organisations, including:

- The Royal New Zealand College of General Practitioners
- New Zealand Medical Association
- General Practice NZ
- New Zealand Association of Plastic Surgeons
- New Zealand College of Appearance Medicine
- New Zealand Society of Pathologists
- The Royal Australian and New Zealand College of Radiologists, including the Faculty of Radiation Oncology
- The Paediatric Society of New Zealand
- New Zealand Nurses Organisation
- New Zealand College of Public Health Medicine
- Nurse Education in the Tertiary Sector (NETS)
- Public Health Association of New Zealand Inc

8 March 2013

References

- ¹ www.melanoma.org.nz/melnet
- ² Ministry of Health. Cancer: New Registrations and Deaths 2009. Wellington: Ministry of Health, 2012.
- ³ Globocan 2008, IRAC, World Health Organization. <http://globocan.iarc.fr/>
- ⁴ O’Dea D. The Costs of Skin Cancer to New Zealand. Wellington: Cancer Society of New Zealand, 2009.
- ⁵ Sneyd MJ, Cox B. The control of melanoma in New Zealand. New Zealand Medical Journal 2006; 119: 1242.
- ⁶ Armstrong B, Kricker A. How much melanoma is caused by sun exposure? Melanoma Research 1993;3:395-401.
- ⁷ Cust AE, Armstrong BK, Goumas C, Jenkins MA, Schmid H, Hopper JL, et al. Sunbed use during adolescence and early adulthood is associated with increased risk of melanoma. Int J Cancer 2011;64:893-902.
- ⁸ Gies P, Javorniczky J, Henderson S, et al. UVR Emissions from Solaria in Australia and Implications for the Regulation Process. Photochemistry and Photobiology 2-11;87:184-190.
- ⁹ El Ghissassi F, Baan R, Straif K, Grosse Y, Secretan B, Bouvard V, et al. A review of human carcinogens – part D: radiation. Lancet Oncol 2009;10:751-2.
- ¹⁰ <http://www.hdc.org.nz/decisions--case-notes/commissioner%27s-decisions/2010/09hdc01350,-09hdc01064>
- ¹¹ World Health Organization. Sunbeds, tanning and UV exposure – Fact sheet #287. Geneva: World Health Organization, 2010. <http://www.who.int/mediacentre/factsheets/fs287/en/>