

Health (Protection) Amendment Bill: Submission of the Melanoma Network of New Zealand Incorporated (MelNet) to the Health Select Committee

11 February 2015

Attached please find a submission from the Melanoma Network of New Zealand Incorporated (MelNet) to the Health Select Committee on the Health (Protection) Amendment Bill.

A member of the MelNet Executive Committee wishes to appear before the committee to speak to our submission.

I can be contacted via:

Betsy Marshall

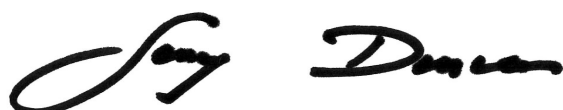
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Tel: (09) 524 5604 or 0274715931

Thank you for your consideration of our submission.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Gary Duncan". The signature is fluid and cursive, with the first name "Gary" written in a larger, more prominent script than the last name "Duncan".

Gary Duncan MBChB, FRACS
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Melanoma Network of New Zealand Incorporated (MelNet) Submission to the Health Select Committee on the Health (Protection) Amendment Bill

11 February 2015

1. Introduction

- 1.1 This submission is from the Melanoma Network of New Zealand Incorporated (MelNet), P O Box 87356, Meadowbank, Auckland 1742.
- 1.2 This submission focuses upon provisions of the amendments proposed in Part 2 of the Health (Protection) Amendment Bill (the Bill) which relates to artificial ultra-violet (UV) tanning services (known as sunbed or solarium services).
- 1.3 The MelNet Executive Committee welcomes the opportunity to discuss the submission with the Health Select Committee and to make an oral submission. We can be contacted via Betsy Marshall, MelNet Coordinator (melnet@melnet.org.nz) or 0274715931.

2.0 Key Recommendations

- 2.1 This submission supports amendments to the Health Act 1956 as proposed in Part 2 of the Bill to ban the supply of artificial tanning services to those aged under 18 years.
- 2.2 This submission also highlights the inadequacy of the amendments in addressing the dangers of UV tanning services. In addition to banning the supply of tanning services to those under the age of 18, the amendments should require:
 - 2.2.1 Mandatory compliance by all tanning services with all of the provisions of the AS/NZS 2635:2008 *Australia/New Zealand Standard AS/NZS 2635:2008 Solaria for Cosmetic Purposes* (the Standards) – not just that relating to those under 18 years;
 - 2.2.2 Mandatory licensing of all tanning services (without which, compliance with the Standards, including the banning of those under the age of 18, will be dependent upon consumer complaint rather than by way of pro-active monitoring);
 - 2.2.3 Mandatory inspections of UV tanning services.
- 2.3 Based upon the results of a recent survey of MelNet members, this submission also recommends that consideration be given to a total ban of artificial tanning services in New Zealand.
- 2.4 This submission also recommends that nation-wide regulation should be implemented for other UV emitting devices with an associated risk of burn, such as the use of pulsed light and laser devices, due to associated high risks of harm to the consumer.

3. MelNet and Melanoma in New Zealand

- 3.1 MelNet is a national network of well over 700 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.
- 3.2 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
- 3.3 While the risk of developing melanoma increases with age (median age at diagnosis of 66 years in men and 62 years in women between 2006 and 2010), melanoma is still reasonably common in younger age groups with significant numbers diagnosed between 25 and 39 years of age.⁴
- 3.4 New Zealand also has high rates of non-melanoma skin cancers. Together melanoma and non-melanoma skin cancers comprise the most common form of cancer affecting New Zealanders.
- 3.5 In 2006 the direct health-care treatment costs of skin cancer in New Zealand were conservatively estimated to cost the country \$57.1 million.⁵ Were it not for skin cancer, New Zealanders would have lived an additional 4,741 life-years in 2006 (melanoma accounted for 3,811 of the lost life-years and NMSC accounted for 930 of the lost life-years).⁵
- 3.6 Not surprisingly the ever-increasing incidence of melanoma and non-melanoma skin cancers is putting a significant burden on our health system.

4. UVR Exposure and Skin Cancer Prevention

- 4.1 Almost all skin cancers are caused by overexposure to ultraviolet radiation (UVR).⁶ Prevention and early detection are the best avenues for reducing the burden of skin cancer, including melanoma, in New Zealand.⁷
- 4.2 The *New Zealand Skin Cancer Primary Prevention and Early Detection Strategy 2014-2017*, the development of which was coordinated by MelNet with support from the Health Promotion Agency, identifies priorities for prevention interventions.⁴ Since 2001 such strategies have improved coordination and collaboration among organisations involved in skin cancer control in New Zealand, including the Health Promotion Agency, the Cancer Society of New Zealand and the Melanoma Foundation of New Zealand.
- 4.3 The current Strategy identifies reduced excessive exposure to UVR from the sun and from solarium as the two most important medium-term outcomes for improving primary prevention.⁴
- 4.4 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.⁸ 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.⁸

- 4.5 Sunbed exposure also is associated with skin burns, premature aging, corneal burns, cataracts, ocular melanoma and photodermatoses.⁹
- 4.6 In Australia it has been estimated that among those who had ever used a sunbed and were diagnosed between 18 and 29 years of age, three-quarters (76%) of melanomas were attributable to sunbed use.⁸
- 4.7 Internationally, more than 450,000 cases of non-melanoma skin cancer and more than 10,000 melanoma cases each year are considered to be attributable to indoor tanning in the United States, Europe and Australia.¹⁰
- 4.8 Australian researchers have found that sunbeds in that country emit significantly higher UV emissions than sunlight.¹¹ We have no reason to believe that the situation in New Zealand is any different.
- 4.9 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).¹²

5. Education Vs. Regulation of Sunbed Operators

- 5.1 It is well recognised that controlling the ever increasing burden of cancer requires a comprehensive and integrated approach that includes legislation and regulation.¹³ With regard to sunbeds, the World Health Organization specifically encourages governments to formulate and enforce effective laws governing the use of sunbeds.¹⁴
- 5.2 Since 2010, Consumer NZ has been carrying out surveys of sunbed operators. In 2010 and 2011 these surveys found that fewer than 20 per cent of operators met the key safety requirements.¹⁵
- 5.3 Following the 2010 Consumer NZ survey, the Commerce Commission put over 280 sunbed operators and distributors ‘on notice’ by encouraging them to improve their safety practices. Specifically, the Commerce Commission letter cautioned the sunbed industry, under the Fair Trading Act, about making false or misleading claims about the health benefits and risks of sunbed use.¹⁶ The 2011 Consumer NZ survey found little change among operators, despite this stern ‘educative’ warning from the Commission.
- 5.4 While the 2014 Consumer NZ survey showed an improvement, it found “operators who showed little concern for the safety of their clients”.¹⁵ That operators are not adhering to the standard is extremely concerning, as it means that uninformed consumers are likely to assume that sunbeds are regulated and safe to use.
- 5.5 In 2012 the Ministry of Health asked the public health unit in each district health board (DHB) to visit sunbed business operators in their area to provide guidance on safety practices. Overall, the standardised assessments for the first six months of 2014 show a slightly greater compliance with the Standard compared with 2013. In some areas, however, compliance decreased. According to the 2014 report of these visits, “There are still some operators who say that they will not change their

practices unless obliged to do so by legislation”.¹⁷

- 5.6 The results of these surveys highlight the need for stricter government controls of sunbeds through regulation rather than reliance upon education of sunbed operators.

6. Education of Consumers Vs. Regulation

- 6.1 Although sunbed-related education of consumers has been undertaken overseas, few interventions have been formally evaluated.¹⁸
- 6.2 According to Craig Sinclair, Director, Cancer Prevention Centre and Director, World Health Organization Collaborative Centre for UV Radiation, changing behaviour in terms of being SunSmart, especially among teens/young adults, is “incredibly challenging” and requires considerable resource. In his view, the cost of sunbed regulation (especially with a licensing system that pays for itself, as in Victoria) is far cheaper than trying to change behaviour through consumer education.¹⁹
- 6.3 A study reported at the 2012 annual meeting of the American Academy of Dermatology (AAD) found that most young women know that indoor tanning raises the risk of skin cancer, but two-thirds had used tanning beds in the past year, and 6% used them every week.²⁰
- 6.4 Current funding of for the prevention of skin cancer is woefully inadequate, especially in light of the burden of skin cancer in New Zealand. Significantly increased funding to promote SunSmart public policy and behaviour is needed – and even more would be needed if any consumer education about sunbeds were to be undertaken. Even if this were to happen, there is no evidence that sunbed education would lead to a change in behaviour, particularly among young adults.

7. MelNet Calls for Stricter Controls

- 7.1 Members of the MelNet Executive Committee, many of whom are doctors who see the profound results of exposure to ultraviolet radiation (UVR) on a daily basis in their practices, are dismayed that there are such limited controls on the use of sunbeds in New Zealand.
- 7.2 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 since 2011.
- 7.3 MelNet’s call for regulation involving mandatory standards and licensing for all UV tanning services has been endorsed by a number of prominent medical organisations identified in Appendix A.
- 7.4 Since 2011 MelNet has met and corresponded with Ministry of Health officials and Members of Parliament, including the former chair of the Health Select Committee, to argue for stronger controls of commercial tanning services in New Zealand.

7.5 in 2013 MelNet contributed to the development of Auckland Council's Health and Hygiene Bylaw and Code of Practice that governs commercial sunbed services. Through its written and oral submissions, MelNet had a key role in persuading the Council to adopt a bylaw that requires all operators of commercial sunbed services to obtain a licence from the council and to comply with minimum standards based upon the AS/NZS 2635:2008 *Australia/New Zealand Standard AS/NZS 2635:2008 Solaria for Cosmetic Purposes*.

7.6 MelNet recommends that the Government should introduce a nation-wide set of legislative controls comparable to the code of practice adopted by the Auckland Council. (MelNet understands that the Council, in association with health experts, introduced variations to the AS/NZS 2635:2008 *Australia/New Zealand Standard AS/NZS 2635:2008 Solaria for Cosmetic Purposes* that strengthen its provisions.

8. Growing Support for Total Ban of Sunbed Services in New Zealand

8.1 New Zealand lags behind other countries, especially Australia, in following WHO advice to formulate and enforce effective laws governing sunbeds.

8.2 Based upon the number of Australian states that either have banned, or are considering totally banning commercial solarium tanning services, it is expected that the entire country soon will have banned these services altogether.

8.3 In light of the increasing incidence of melanoma in New Zealand, the established harm of sunbed use and the firm stance adopted by most Australian states, in late January 2015 the MelNet Committee sought the views of its members on calling for a similar ban in New Zealand. To date well over 100 MelNet members have responded to the Committee's survey, with 80% of respondents supporting a total ban of commercial sunbed services in New Zealand.

8.4 The MelNet Committee also acknowledges that the Cancer Society of New Zealand, the Melanoma Foundation of New Zealand and the Palmerston North Council support a total ban of sunbed services.

8.5 In light of increasing support by both health professionals and cancer NGOs for a total ban, Government should consider a ban comparable to that adopted by most Australian states.

9. Need for Regulation of Pulsed Light/Laser Treatment

9.1 The Health (Protection) Amendment Bill provides an important opportunity to address the absence of standards or regulations around the use of other UV emitting devices with an associated risk of burn, such as the use of pulsed light and laser devices.

9.2 Currently there is 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. 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.

- 9.3 Since 2011 MelNet, the New Zealand Dermatological Society and the Beauty Therapy Association have recognised the urgent need to identify an appropriate response to this situation. Our collective efforts have included meetings and correspondence with Ministry of Health officials and Members of Parliament, including Paul Hutchison, former chair of the Health Select Committee, to argue for stronger controls of services that involve pulsed light and laser treatment. In response to our concerns, Dr Hutchison initiated the drafting the Health (Skin Cancer and Trauma Prevention) Amendment Bill.
- 9.4 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.
- 9.5 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, "IPL treatment involves a risk to the consumer, and should only be performed by those with appropriate training, expertise and experience".²¹ HDC also cited the view of The Association of Beauty Therapists NZ Ltd that training and follow-up should be mandatory.²²
- 9.6 In 2013 MelNet contributed to the development of Auckland Council's Health and Hygiene Bylaw and Code of Practice that governs UV emitting devices that have an associated risk of burn, such as the use of pulsed light and laser devices. Through its written submission and oral presentation, MelNet had a key role in persuading the Council to adopt a bylaw that requires licensing and minimum training standards for operators of these devices.

10.0 Conclusions and Recommendations

- 10.1 MelNet commends the Government for introducing legislation governing sunbeds that will ban the supply of UVR tanning services to those aged under 18 years, but which still enable a healthcare provider to administer therapeutic treatment from a UV emitting device to those aged under 18 years for the purposes of medical treatment prescribed by a medical practitioner.
- 10.2 MelNet is concerned, however, that only the standard relating to age of use has been addressed in the amended bill. While commendable, this provision on its own is unlikely to have a significant impact on the rising incidence of skin cancer, particularly life-threatening melanoma, in New Zealand. Other 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.

- 10.3 MelNet therefore recommends that Part 2 of the Health (Protection) Amendment Bill should require:
- 10.3.1 Mandatory compliance by all tanning services with all of the provisions of the AS/NZS 2635:2008 *Australia/New Zealand Standard AS/NZS 2635:2008 Solaria for Cosmetic Purposes* (the Standards) – not just that relating to those under 18 years. The Auckland Council’s Code of Practice, which includes amended standards, should be considered in further drafting of the Health (Protection) Amendment Bill;
 - 10.3.2 Mandatory licensing of all tanning services (without which, compliance with the Standards, including the banning of those under the age of 18, will be dependent upon consumer complaint rather than by way of pro-active monitoring);
 - 10.3.3 Mandatory inspections of UV tanning services.
- 10.4 Based upon the results of a recent survey of MelNet members, this submission also recommends that consideration be given to a total ban of artificial tanning services in New Zealand.
- 10.5 This submission also recommends that nation-wide regulation should be implemented for other UV emitting devices with an associated risk of burn, such as the use of pulsed light and laser devices, due to associated high risks of harm to the consumer.

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.

Some of the organisations listed above now support a total ban on sunbeds in New Zealand.

The call for sunbed regulation was 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

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