

28 November 2019

Dr Curtis Walker
Chairperson
Medical Council of New Zealand

By email: consultation@mcnz.org.nz

Proposed policy on publication of orders and directions (naming policy)

Dear Curtis,

Thank you for inviting the New Zealand Medical Association (NZMA) to provide feedback on the above consultation. As you know, 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 welcome the development of Council's policy on publication of orders and directions (otherwise known as a naming policy) and note the need for this policy results from recent amendments to the Health Practitioners Competence Assurance Act 2003 (HPCAA). We also note that the purpose of the policy, as stated in the HPCAA, is to: i) enhance public confidence in the medical profession and disciplinary procedures about its decision-making process; ii) ensure that doctors whose conduct has not met expected standards may be named where it is in the public interest to do so, and iii) improve the safety and quality of health care. While we are not convinced that naming doctors necessarily enhances public confidence in the medical profession (it may well do the opposite), we are generally comfortable with Council's proposed policy. Our responses to specific questions in the consultation are provided below.

1. Do you agree with the situations when a notice will be published? If not, what changes do you suggest and/or is there another situation you would like to see added?

We agree with the situations identified in points 1, 3 and 4. We have some concerns that point 2 seems unnecessary and has primary connotations of being punitive as opposed to being about the protection of public health and safety.

2. Do you agree with the guiding principles that Council will apply in decisions to publish a notice?

Yes. We also like the order in which these principles are set out. In particular, we welcome the first principle which states: *A doctor's privacy is important and in many cases rehabilitating a doctor requires that their privacy be maintained. The doctor's confidentiality should be preserved*

unless there are other factors which support disclosure. Central to making this determination is whether it is in the public interest to name a doctor.

3. Do you agree with the ways an order or direction may be published?

Yes. We agree with the ways an order or direction may be published.

4. Are there alternative or additional ways that you think Council should consider publishing an order?

No. We have not identified alternative or additional ways by which Council could publish an order.

5. Do you agree with the procedure and time frame for publication and submissions that Council proposes to follow?

Yes. A doctor should not be named while they are undergoing investigation and should not be named if it is not in the public interest (unless the Courts require it).

We hope our feedback is helpful.

Yours sincerely

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

Dr Kate Baddock
NZMA Chair