

11 August 2020

Office of the Privacy Commissioner

By email: [privacy.code@privacy.org.nz](mailto:privacy.code@privacy.org.nz)

## **Revocation and Replacement of the Health Information Privacy Code under the Privacy Act 2020**

Dear Sir/Madam

The New Zealand Medical Association (NZMA) wishes to provide feedback on the above consultation. 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. Our submission has been informed by feedback from our Board and Advisory Councils.

We welcome the proposed replacement Health Information Privacy Code and consider it to be a very good resource. We note that it forms part of a wider project to update the existing codes of practice issued under the Privacy Act 1993 to ensure they reflect the new Act. We note that key updates include updating clause 5 so it includes new information principle 12 relating to cross border disclosures and other amendments made to the information privacy principles in the new Act.

Our main suggestion is for the replacement Code to explicitly include Māori perspectives. The health disparities between Māori and non-Māori are well documented, and health information privacy standards based on a monocultural view of privacy may hinder efforts to address these. We draw attention to a paper in the New Zealand Medical Journal that identifies some Māori perspectives on privacy in terms of health information research.<sup>1</sup> By way of an example, community consent (in addition to individual consent) is particularly valued by Māori and is grounded in ownership of information, especially genetic information. We submit that it would be particularly important to consult with Māori in respect of disclosing health information overseas. It may also be useful to specifically mention Māori input to ethics committees where these are mentioned in the Code.

---

<sup>1</sup> Ragupathy R, Yogarajan V, Luoni C. Health information research privacy standards should include Māori perspectives on privacy. N Z Med J 2019 May 3;132(1494):64-67. <https://www.nzma.org.nz/journal-articles/health-information-research-privacy-standards-should-include-maori-perspectives-on-privacy>

Our other feedback is relatively minor and relates to clarifications on two specific points. In Rule 11, clause (2)(g)(i) refers to “the person in charge of a hospital”. We seek clarification on whether it is possible to be more specific. For example, could this apply to the Chief Medical Officer or a spokesperson, or does it only refer to the hospital CEO? With respect to Charges on page 19, clause (2)(b) is “for providing a copy of an x-ray, a video recording, an MRI scan photograph, a PET scan photograph or a CAT scan photograph”. We ask whether copies of ultrasound images should be added to this list?

We hope our feedback is helpful and look forward to publication of the finalised replacement Health Information Privacy Code.

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