

27 January 2011

Christchurch Hospital

Thank you for sending me the second draft Charter of Children's and Young People's Rights in Health Care Services in New Zealand. I commend the efforts to produce the framework for health providers to follow to care for children and young people.

In addition to the suggestions I made on 21 October 2010 regarding the Version for Young People, I make the following further comments.

Right to express views, be heard and taken seriously and Right to participate in decision-making
At page 7, there is an obligation on health service providers to give due weight to the child's/ young person's opinion in accordance with the competence of the child/young person. I agree that it is good practice to seek consent from a child for medical treatment.

However for clarity, I suggest including in the preamble a brief sentence outlining the law regarding consent, pursuant to Section 36 (3) of the Care of Children Act 2004. I anticipate that this would eliminate any need to reiterate this principle later in the text.

Right to highest attainable standard of healthcare

While I agree that this right represents an appropriate goal for providers to aspire to, I remain of the view that resource constraints may limit a health provider's ability to provide care to the highest standard.

The Code only requires a provider to act reasonably in the circumstances and I suggest that this qualification is made clearer in the explanatory notes. It is an important qualification to make, as its absence may mislead consumers into having unrealistic expectations about the degree of care they can expect to receive from a provider.

Right to nurture from and support for families/whānau

Given that there are situations where families/ whānau are no longer heavily involved in children's lives for reasons such as safety, I suggest including a provision for the individual circumstances of the child/young person.

For instance, the opening sentence could read, "Every child and young person has the right to be cared for by their parents or legal guardians in a manner consistent with the evolving capacities of the child or young person and with regard to their individual circumstances."

Right to participate in decision-making

Again, while it is good practice to seek consent from a child, this is not a legal right. However, as with the right to express views and be heard, I consider that including this point in the preamble would clarify any potential misunderstandings.