

12 August 2024.

To: [review@hdc.org.nz](mailto:review@hdc.org.nz)

From: [REDACTED]

Please find attached a response to your:

**2024 Public Consultation Review of the  
Health and Disability Commissioner Act 1994, and the  
Code of Health and Disability Services Consumers' Rights**

Yours sincerely,  
Patricia Meiring,  
RN, BA, LLB.

**1. Reduce the time for preliminary assessment and investigations.**

- Early acknowledgement that the preliminary assessment has been undertaken, reduces stress and frustration for the complainant.

**2. Recognise the power imbalance between complainants and the provider/ medical practitioner.**

The complainant is usually an amateur facing:

- A Specialist/Provider who has professional legal representation.
- Provider Administrators, backed by a legal team, who attempt to quell the complainant from the onset, thus protecting the organisation at the expense of the patient's rights.

**3. Ensure the Complaint process is equitable.**

The complainant needs to be assured that:

- **All** information related to their complaint is shared with both parties, and is provided on request under the disclosure requirements in the **Health Information Privacy Code 2020**.<sup>1 2</sup>
- A **full copy** of the provisional opinion is provided, which covers all relevant information they deem important.

4. **Initiate medical disciplinary proceedings when the complaint raises a prima facie case of a moderate or major departure from expected standards. This is particularly relevant when the consumer has suffered significant physical injury.** <sup>3</sup>

**Greater weight should be attached to the complainant's needs and rights, when there is nondisclosure of an adverse event, in which the practitioner has breached good medical practise, and not acknowledged responsibility.** <sup>4</sup>  
**This may deprive the patient of necessary treatment.**

**Failure to do so could result in the public losing confidence in the only avenue they have to address medical misadventure in New Zealand.**

- This would provide a disincentive for other medical professionals to protect a colleague at the expense of the patient's rights under the Code.

Dame Silvia Cartwright's words of warning in the Report of the Cervical Cancer Inquiry bear repeating:

*"Administrators and health professionals need to listen to their patients, communicate with them, protect them, offer them the best health care within their resources, and bravely confront colleagues if standards slip. If this does not happen, then the kind of events disclosed during this Inquiry may well happen again."* <sup>5</sup>

5. **Meet with the complainant after a provisional determination in complex cases.**

- This would make the complainant feel more human, valued, and respected; and would be particularly beneficial when their case has taken some time to properly investigate.

6. **The right to appeal HDC decisions should be statutory.**

- Decisions should be reviewed by a panel independent of HDC.

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<sup>1</sup> **Health Information Privacy Code 2020:**

**Rule 6 Access to personal health information**

- (1) An individual is entitled to receive from a health agency upon request—
  - (a) confirmation of whether the health agency holds any health information about them; and
  - (b) access to their health information.

**Clause 4. Application of code:**

- (1) This code applies to the following information or classes of information about an identifiable individual –
  - (c) information about any health services or disability services that are being provided, or have been provided, to that individual.
- (2) This code applies in relation to the following agencies or classes of agency—
  - (a) an agency which provides health or disability services;
  - (g) persons appointed or designated under the Health and Disability Commissioner Act 1994

<https://privacy.org.nz/assets/New-order/Privacy-Act-2020/Codes-of-practice/Health-information-privacy-code-2020/Health-Information-Privacy-Code-2020-website-version.pdf>

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<sup>2</sup> The Health and Disability Commission is an agency which is subject to the Health Information Privacy Code. Clause 4(2).

<sup>3</sup> Manning, J. Professor of Law, University of Auckland. *"Fair, Simple, Speedy and Efficient"? Barriers to Access Justice in the Health and Disability Commissioner Complaints Process in New Zealand*. New Zealand Law Review, 2018; n.4:p.611-656; issn:

<sup>4</sup> Good Medical Practice. Medical Council of New Zealand. November 2021  
<https://www.mcnz.org.nz/assets/standards/b3ad8bfba4/Good-Medical-Practice.pdf>.

<sup>5</sup> Paterson, R. *"The Cartwright legacy: shifting the focus of attention from the doctor to the patient."* P.10: The New Zealand Medical Journal. NZMJ 30 July 2010, Vol 123 No 1319; ISSN 1175 8716  
<https://nzmj.org.nz/media/pages/journal/vol-123-no-1319/the-cartwright-legacy-shifting-the-focus-of-attention-from-the-doctor-to-the-patient/4b3d120194-1696472211/the-cartwright-legacy-shifting-the-focus-of-attention-from-the-doctor-to-the-patient.pdf>