

16 May 2019

Kanny Ooi
Senior Policy Adviser and Researcher
Medical Council of New Zealand
PO Box 10509
Wellington 6143

By email: kooi@mcnz.org.nz

Draft revised statement on information, choice of treatment and informed consent

Dear Kanny

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. Our submission has been informed by feedback from our Board and Advisory Councils.

We welcome Council's draft revised statement on information, choice of treatment and informed consent. We note that the draft retains much of what is in the existing statement from 2011 but gives more emphasis on involving the patient's family/whānau/caregivers in discussions about the patient's care and treatment. We also note that new paragraphs have been added to provide guidance on the following:

- Instances where the doctor delegates provision of treatment to another doctor
- Time pressures and resource constraints that doctors face, and the impacts this has when giving patients information and supporting them to make a decision
- Factors to consider when the clinical presentation of an anaesthetised patient warrants further investigation or intervention which the patient has not consented for
- Obtaining the patient's consent if an observer attends the consultation
- Adherence to advance directives.

The NZMA supports the revisions that have been made in the updated statement. These revisions strengthen the draft which we consider to be a comprehensive and clear document that serves its purpose well. However, we have some suggestions relating to two aspects in the revised draft—the section on advance care directives and the scenario of family/whānau involvement when a loved one has been committed under the Mental Health Act. With respect to the new section on advance directives, we suggest that it would be useful to clarify the situation where there is no written advanced care directive but a person with Enduring Power of Attorney (EPOA) for a

patient that is no longer capable of speaking gives instructions for their advanced care. In such a scenario, the person with EPOA is often overridden if the patient has not left written advanced care directive instructions. It would be useful for the Council to address this in the updated statement if possible.

Family/whānau of mentally ill patients who are committed under the Mental Health Act are sometimes excluded from involvement in the patient's care because the patient does not give consent. We believe that while mentally ill patients may sometimes wish to cut off their family/whānau when they are unwell, it is important to recognise that the damage this can produce, if it is acted on carte blanche by healthcare professionals, can be long lasting. Families often don't return when the patient improves and recovering patients are left bewildered and alone. We suggest that it would be useful for Council to try to capture this scenario in a way that respects patient choice but also considers the importance of maintaining culturally relevant support networks.

We hope our feedback is helpful and look forward to the finalised statement.

Yours sincerely

A handwritten signature in blue ink that reads "K. Baddock". The signature is fluid and cursive, with a long, sweeping tail on the letter "k".

Dr Kate Baddock
NZMA Chair