



Health and Disability Commissioner
Te Toihau Hauora, Hauātanga

2 May 2022

Joanna Hayward
General Counsel
Office of the Privacy Commissioner Te Mana Mātāpono Matatapu

By email: privacy.code@privacy.org.nz

Dear Joanna

RE: Proposed Amendments to the Health Information Privacy Code 2020
Our ref: E22HDC00656

I write further to your Office's consultation email dated 6 April 2022 regarding the Privacy Commissioner's proposal to amend the Health Information Privacy Code 2020 (HIPC/the Code).

I have carefully reviewed the proposed changes and read the associated consultation paper. I agree that proposed amendments to the HIPC are technical in nature and are intended to align the Code with the broader structural reforms which are occurring within the health and disability sector. These reforms include the disestablishment of District Health Boards and the establishment of new entities including Health New Zealand, the Māori Health Authority and the Ministry for Disabled People.

In the discussion paper, your Office comments that you considered whether to propose amendments "to remove any doubt that the Code covers information about end-of-life services" but are of the view that such changes are unnecessary based on the HIPC's definition of "health services". Clause 3 of the HIPC defines health services to include "personal health services" and "public health services". The definition of those terms are also set out in clause 3 and are defined to mean goods, services and facilities provided to improve, promote or protect health.

Prior to the introduction of the End of Life Choice Act 2019 (EOLCA), HDC similarly considered whether the definition of "health services" in the Health and Disability Commissioner Act 1994 (HDC Act) was sufficient to capture assisted dying services. We considered that there was some doubt that services to end a person's life under the EOLCA could be considered services to promote or protect health, or prevent disease or ill health. Accordingly, in the interests of being clear "health services" under s 2 of the HDC Act was amended to include the following addition:

"services provided to a person who has requested assisted dying under the End of Life Choice Act 2019"

You may wish to consider making a similar amendment in the interests of clarity and to remove any doubt as to the scope of what is meant by health services.

I trust these comments are of assistance. Thank you for bringing this matter to my attention.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Jane King', written in a cursive style.

Jane King
Associate Commissioner, Legal