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**From:** [REDACTED]  
**Sent:** Saturday, 18 July 2020 6:42 pm  
**To:** Privacy Code  
**Subject:** Re Health Information Privacy Code  
**Attachments:** [REDACTED]; Attached Message

Good morning.

I am writing in regard to Health Information Privacy Code and [REDACTED] agency [REDACTED].

[REDACTED] we were involved in a [REDACTED] accident [REDACTED]

One of our friends [REDACTED] was killed, and the [REDACTED] media [REDACTED] were there taking photos, and publishing online within the hour.

[REDACTED] the image shown on-line was a unique vehicle [REDACTED], and because of the [REDACTED] knowledge of family and friends that we were travelling [REDACTED] it was instantly identifiable from the photo.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

I rang and spoke with one of your staff and outlined the following scenario :-

" ... imagine that you have an identifiable vehicle and you are involved in an accident with your partner. The media turn up and take photos, ask agency about the accident, who confirm one dead the other in the hospital, and the media then publish this online ..... You are in hospital and unable to contact your friends, family or children, yet they can read this online before someone knocks on the door providing the necessary support mechanism provided by the Police..."

Under the current act agency seems to be deciding it is a health agency or hospital and releasing the information to the media, when it should only be done via the Police.

**Your review of the Health Information Privacy Code needs to remove rule 11(2)(g)(ii) so that agency cannot use it.**

I corresponded with one of your staff over the issues ( ) and have attached the email and copied the text below.

In the correspondance I have highlighted the various parts of the existing code that I believe agency is using to release information.

I believe this infomration should be from NZ Police who are in a better position to ensure the necessary parties are informed before the media release it.

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**From:** [redacted]  
**Sent:** [redacted]  
**To:** [redacted]  
**Cc:** [redacted]  
**Subject:** [redacted]

[redacted]

[redacted]

I have viewed the link you kindly supplied in regard to the Health Information Privacy Code and wish to make comments regarding this code.  
I would also suggest that agency has failed to meet the code and I have outlined these below.

1. Rule 3 1(a), (b) states ...(1) Where a health agency collects health information directly from the individual concerned, or from the individual's representative, the health agency must take such steps as are, in the circumstances, reasonable to ensure that the individual concerned (and the representative if collection is from the representative)

and is aware of—(a) the fact that the information is being collected;  
(b) the purpose for which the information is being collected; and

I would argue that in this occasion **agency** did neither (a) or (b).  
I would also ask to see how they ensured that met these before their Communication Officer released the information (published by ODT on Facebook **agency**).  
This information release was before the Police had released it **agency**.

2. Rule 10 1 a (i) states  
connection with one  
purpose unless the health  
authorised by—  
unable to give his or

(1) A health agency that holds health information obtained in  
purpose must not use the information for any other  
agency believes, on reasonable grounds,—  
(a) that the use of the information for that other purpose is  
(i) the individual concerned; or  
(ii) the individual’s representative where the individual is  
her authority under this rule; or

Under this rule the patient status information was not gathered in order to provide the information to the media, and therefore without authorisation it cannot be passed on to media.  
**agency** did not obtain permission to disclose, or has not provided proof that it did have permission.

3. Rule 11 states  
**disclose the information**  
dead or is unable to  
the presence,  
hospital, on the day  
**not contrary to the**  
**representative; or**

(1) A health agency that holds health information **must not**  
**unless** the agency believes, on reasonable grounds, that—  
(b) **the disclosure is authorised** by—  
(i) the individual concerned; or  
(ii) the individual’s representative where the individual is  
give his or her authority under this rule; or  
(e) the information is information in general terms concerning  
location, and condition and progress of the patient in a  
on which the information is disclosed, **and the disclosure is**  
**express request of the individual or his or her**

Once again IMO **agency** has not obtained permission to disclose information and has not shown that the Communication Officer had checked prior to disclosure.

death and  
**authorised by a**  
(f) the information to be disclosed concerns only the fact of  
the disclosure is by a **health practitioner or by a person**  
**health agency, to a person nominated by the individual**

concerned, or the caregiver, next of reasonable in the

individual's representative, partner, spouse, principal kin, whānau, close relative, or other person whom it is circumstances to inform; or

4. Rule 11 (f) makes no mention of media, and there are questions about when the next of kin was actually informed of the death.

5. Rule 11.2 states agency believes on practicable to obtain nature of injuries of identity and the

(2) Compliance with subrule (1)(b) is not necessary if the health reasonable grounds that it is either not desirable or not authorisation from the individual concerned and that—  
(f) the information to be disclosed briefly describes only the an individual sustained in an accident and that individual's disclosure is—  
(i) by a person authorised by the person in charge of a  
(ii) to a person authorised by the person in charge of a for the purpose of publication or broadcast in activities of that news medium **and the disclosure is not express request of the individual concerned or his or**

hospital; or

news medium—

connection with the news

**contrary to the**

**her representative; or**

Once again IMO **agency** has not obtained permission to disclose information and has not shown that the Communication Officer had checked prior to disclosure.

[REDACTED]

[REDACTED]

[REDACTED]

## Review

While I appreciate the review is not extensive, I believe the Act and the changes still relate to the methods of reporting and information exchange dating to 1990 and before.

It does not do not address the 'instant media' world we live in today, so cannot protect the rights and privacy of individuals correctly.

This is demonstrated by the example outlined above, where both parties have complied with their parts, but the end result does not protect the privacy of the parties involved.

I understand that media will argue it is their duty to report that an accident has occurred and there are major delays or road closures.

While that has some validity, it doesn't need to include the details of how many deaths or injuries, which is where the breach of privacy is occurring.

Privacy and breaches have been increasing and this will not decline until the methods of storing and reasons for distributing the information is tackled.

The recent breach of Covid 19 patient information is one such example.

Just because the Health Information Privacy Code allows it, doesn't mean that it should be used. The resulting leak has reinforced this.

[Redacted]

Thanks

[Redacted]