



NEW ZEALAND
CHIROPRACTIC BOARD
TE POARI KAIKOROHITI O AOTEAROA

NAMING POLICY

Policy on Publication of Orders (“Naming Policy”)

DATE

Revision Schedule

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Two		

CONTENTS

Contents.....	2
1. Policy statement	3
Purpose	3
Commencement and Review	3
Application of the Naming Policy.....	3
Order or direction made by the Board	3
Exclusions.....	3
Order or direction by Court or Tribunal.....	4
2. Health practitioners for whom the naming policy applies	4
3. Circumstances in which a chiropractor may be named.....	4
4. General principles that will guide the Board’s naming decision.....	4
5. Criteria the Board must apply when making a naming decision	5
6. Information the Board may disclose when naming a chiropractor	6
7. Means by which a chiropractor may be named	6
8. Procedures the Board must follow when making a naming decision.....	6
9. Relevant legislation and board information	7
10. Overview of Board decision-making process on naming practitioners under s157.	8
Appendix 1: Table of orders that may trigger consideration of whether to name the practitioner .	9

1. POLICY STATEMENT

The role of Te Poari Kaikorohiti o Aotearoa | the Chiropractic Board (the Board) is to protect public safety and to oversee professional standards in the Chiropractic profession. The Board ensures chiropractors meet and maintain professional standards of education, conduct and performance, ensuring chiropractors deliver high quality healthcare to the public. The Board will hold chiropractors to account if their conduct falls short of these standards.

This naming policy enhances public confidence in the profession by allowing patients to make an informed choice about the chiropractor they engage with. This naming policy sets out the principles that will guide the Board in deciding about whether or not to name a chiropractor.

PURPOSE¹

The naming policy² is issued in compliance with section 157B of the Health Practitioners Competence Assurance (HPCA) Act 2003 (the Act), which states that the purpose of the naming policy is to:

- enhance public confidence in chiropractors by providing transparency about the Board's disciplinary procedures and decision-making processes; and
- ensure that chiropractors whose conduct has not met expected standards may be named where it is in the public interest to do so; and
- improve the safety and quality of health care.

COMMENCEMENT AND REVIEW

This policy was issued on 31 March 2020 and applies in relation to orders and directions made by the Board on or after 1 April 2020 (commencement date). This policy will be reviewed three-years after the commencement date and thereafter at three-yearly intervals.

APPLICATION OF THE NAMING POLICY³

Order or direction made by the Board

This naming policy applies to all chiropractors currently registered by the Board, and to chiropractors who have previously been registered by the Board,⁴ where the Board is considering whether to publish the name of the chiropractor who is the subject of an order or direction made by the Board.

Exclusions

For the avoidance of doubt, this naming policy applies only to cases where a chiropractor's name may be published by the Board relating to an order or direction of the Board. It does not apply to other circumstances where the Board may or is required publish or disclose the name of a chiropractor, including for example where information about a chiropractor is published in the Register under section 149⁵ of the HPCA Act or where the Board shares information about a practitioner under sections 35, 138 or 156A(2)(a) of the HPCA Act.

¹ [s.157B](#) HPCA Act 2003

² [s.157A](#) HPCA Act 2003

³ [s.157B\(3\)\(a\)](#) HPCA Act 2003

⁴ [s.157\(5\)](#) HPCA Act 2003.

⁵ [s.149](#) HPCA Act 2003

Order or direction by Court or Tribunal

This naming policy does not apply where an order or direction is made by a Court or the Health Practitioners Disciplinary Tribunal (the Tribunal) in relation to the naming of a chiropractor. In such cases, the Board will comply with all orders or directions of the Court or the Tribunal that are binding on the Board. The Board will give due consideration to any requests or recommendations of a Court or the Tribunal regarding the publication of information concerning the chiropractor.

2. HEALTH PRACTITIONERS FOR WHOM THE NAMING POLICY APPLIES

1. This naming policy applies to:
 - a. Any chiropractor registered with the Board; or
 - b. Any chiropractor who has previously held registration with the Board.
- ~~2. Chiropractors are registered health practitioners who practise within the chiropractic Scope of Practice, as prescribed by the Board under section 11 of the HPCA Act. A former chiropractor is someone who was, but is no longer, registered with the Board.~~

3. CIRCUMSTANCES IN WHICH A CHIROPRACTOR MAY BE NAMED

1. The Board may publish, in any publication, a notice setting out the name of a chiropractor who is the subject of an order or direction made by the Board under the HPCA Act, including:
 - a. the effect of any order or direction; and
 - b. a summary of any finding(s) the Board has made under the HPCA Act.
- ~~1-2.~~ A list of all orders and directions that the Board may make is set out in Appendix 1.
3. Whenever the Board makes an order or direction it will consider whether to name the chiropractor having regard to the purpose of the HPCA Act and this naming policy.
- ~~2-4.~~ Publication of a chiropractor's name shall only occur following the completion of any Board process, and not while deliberations are ongoing, except where interim orders have been made.
- ~~3-5.~~ This policy does not affect the existing requirement/s for the Board to share information about a practitioner under sections 35, 138 or 156A(2)(a) of the HPCA Act, or the requirement to comply with orders or directions of the Health Practitioners Disciplinary Tribunal or a court.⁷

4. GENERAL PRINCIPLES THAT WILL GUIDE THE BOARD'S NAMING DECISION

1. In deciding on the publication of information relating to a chiropractor, the Board will maintain a focus on protecting public safety, and will consider the purpose of the HPCA Act and the purpose of this naming policy as set out in s 157B(2) of the HPCA Act.
2. When deciding what information is published, the Board must weigh the public interest in making the information available against the consequences for the chiropractor being named, including the likely harm to the chiropractor's reputation.

⁶ s.157 HPCA Act 2003.

⁷ s.157(2)-(3) HPCA Act 2003..

5. CRITERIA THE BOARD MUST APPLY WHEN MAKING A NAMING DECISION

When assessing whether to publish the name of a chiropractor in a notice issued under section 157(1) of the HPCA Act, the Board must consider the Privacy Act 2020, natural justice rights and any other relevant matters. The Board will apply the following criteria:

1. *Public safety* - ensuring the safety and quality of health care and the competence of chiropractors. Non-disclosure in a particular case may run the risk of harm to future patients. Disclosure may elicit other complaints or concerns about a practitioner's competence.
2. *Public choice* - The right of existing and potential patients and their whānau to know the disciplinary history of a particular chiropractor to be able to make an informed choice whether to engage their services in the future.
3. *Accountability* - chiropractors are accustomed to being held to account for the standard of care or service they provide. They should expect some information may need to be disclosed if serious accountability or health and safety concerns are raised, including non-compliance with an existing order.
4. *Nature of the concerns* - does the concern raise serious safety or competence concerns, does non-disclosure raise a risk of harm to future patients and their whānau? Concerns of a serious nature will raise stronger public interest considerations in favour of disclosure.
5. *Whether the investigation is ongoing* - disclosing the details of an allegation during an ongoing investigation may unfairly suggest there is substance to the allegation.
6. *Action taken in respect of the outcome of an investigation* – the public interest in disclosure will be higher, and a chiropractor's legitimate expectation of privacy will be reduced, where a concern has been investigated and found to be substantiated. It may be in the public interest to know the remedial actions or consequences imposed on the chiropractor.
7. *Extent to which information is already in the public domain* - the chiropractor's privacy interest may be diminished by prior publication or public availability of the information. If information about the concern is already in the public domain, this may increase the public interest in disclosure of a summary about the outcome of any investigation. The purpose of such disclosure would be to demonstrate that appropriate action has been taken to investigate the concern and institute any protective measures or remedial action.
8. *Likelihood of harm to the chiropractor arising from disclosure* - there may be factors that heighten the risk of personal or professional harm arising from disclosure, for example the physical or mental health of the chiropractor, or the size of the community in which they practice.

6. INFORMATION THE BOARD MAY DISCLOSE WHEN NAMING A CHIROPRACTOR

1. Where the Board has elected to publish information about a chiropractor, it will release a summary of the information with appropriate context.
2. Publications instigated by the Board may include the name of the chiropractor, a short context of the concern and citation of the relevant section of the HPCA Act.
3. Where the order relates to the health of a chiropractor, additional consideration is needed with regards to the impact any disclosure may have on the chiropractor.

7. MEANS BY WHICH A CHIROPRACTOR MAY BE NAMED

1. Publication will be made via posting on the relevant section of the Board website; and may also be by inclusion in the Board's electronic newsletter or any other suitable media⁸.
2. In addition, the Board may be required to, or choose to, annotate the chiropractor's entry on the Register to include a reference to the order or direction.
3. Information published will be reviewed periodically at an interval of not more than two (2) years.
4. The Board may elect to share the information with other health regulators in New Zealand, or equivalent regulatory bodies overseas.

8. PROCEDURES THE BOARD MUST FOLLOW WHEN MAKING A NAMING DECISION

1. Where the Board proposes to publish information about a chiropractor, having considered the factors in section four of this policy, it will be required to make the chiropractor aware of this proposal and give them a reasonable opportunity to make submissions on the content of the publication in advance of the anticipated publication.
2. Sending the information to the chiropractor's last known email address will be sufficient for this purpose.
3. The advance notice of the proposed publication provides the chiropractor with an opportunity to:
 - a. consider the content and make any submissions to the Board within the timeframe specified by the Board; and
 - b. make their employer or any practice partners aware of the publication.
4. Where the chiropractor provides submissions to the Board, it must consider those submissions before making a final decision whether or not to make the publication and the content and scope of any publication.
5. Where a publication relates to a specific event or concern, irrespective of whether that clearly identifies a patient and their whānau, the Board must also provide the content of the proposed publication to that patient and their whānau in advance of publication.

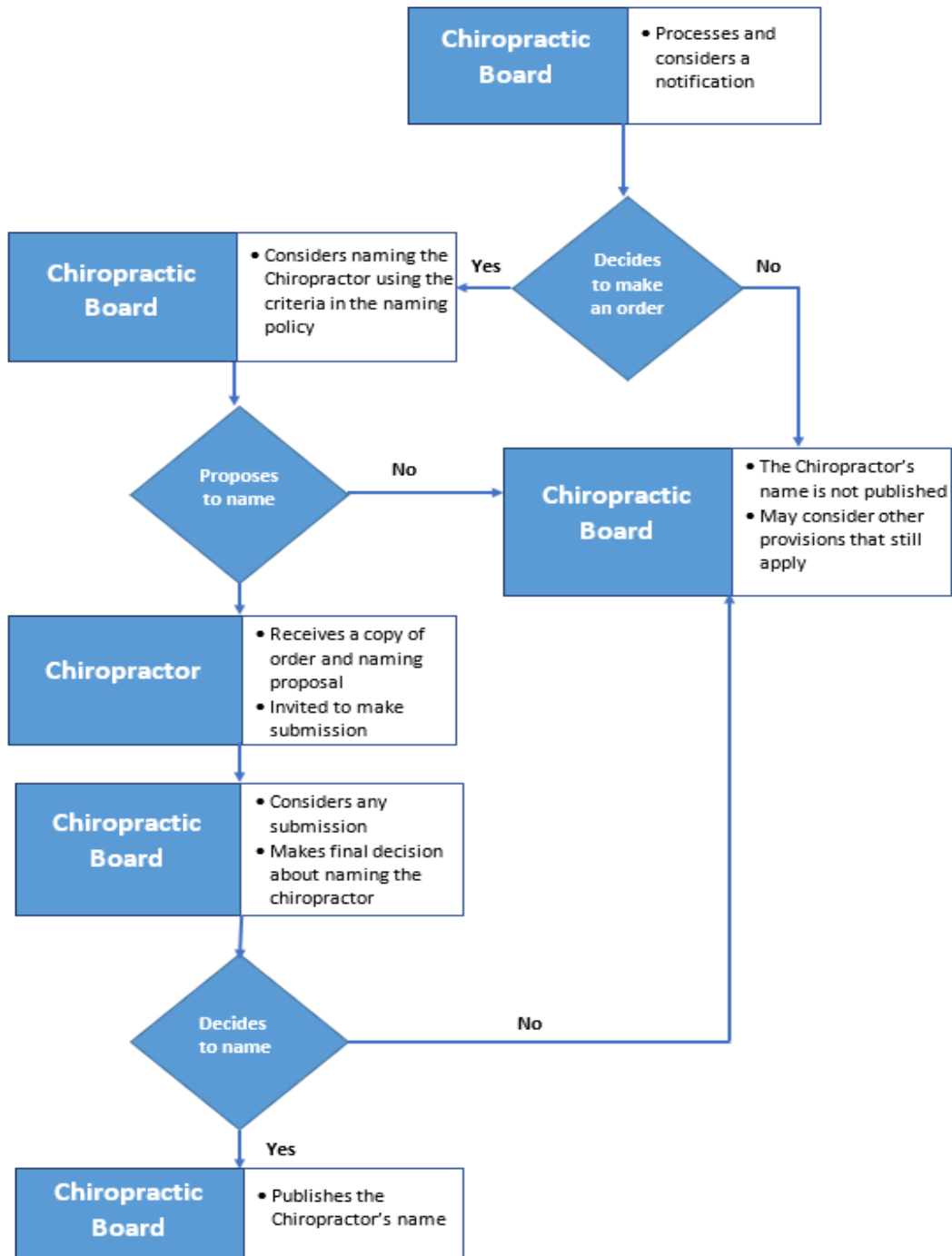
⁸ The publication naming a practitioner may be translated into another language upon request or where that is necessary to communicate the effect of the order or direction to the practitioner's client base.

6. The patient and their whānau will be given a reasonable opportunity to consider the content and make a submission to the Board within a timeframe specified by the Board if they wish to do so.

9. RELEVANT LEGISLATION AND BOARD INFORMATION

1. The following key legislation is relevant:
 - a. Health Practitioners Competence Assurance Act 2003
 - b. Privacy Act 2020
 - c. Health Information Privacy Code 2020
 - d. New Zealand Bill of Rights Act 1990
2. The following related information on the Chiropractic Board website:
 - a. Competencies for Entry to the Register
 - b. Code of Ethics

10. OVERVIEW OF BOARD DECISION-MAKING PROCESS ON NAMING PRACTITIONERS UNDER S157.



APPENDIX 1: Table of orders that may trigger consideration of whether to name the practitioner

SECTION	ORDER/DIRECTION
31(4)	Cancel interim practising certificate
38(1)	<p>Where the Authority has reason to believe the practitioner fails to meet the required standard of competence, it may order one or more of the following:</p> <ul style="list-style-type: none"> • Competence programme • Conditions • Examination or assessment • Counselling or assistance
39	Interim suspension of practising certificate or conditions pending competence review, where there are reasonable grounds for believing the practitioner poses a risk of serious harm.
43	<p>Where a practitioner does not satisfy the requirements of a competence or recertification programme, the authority may:</p> <ul style="list-style-type: none"> • Change permitted health services s43(1)(a)(i) • Include conditions s43(1)(a)(ii) • Suspend registration s43(1)(b)
48(2)	<p>Authority suspects practitioner is unable to perform required functions due to mental or physical condition:</p> <ul style="list-style-type: none"> • Interim suspension s48(2)(a) • Changing permitted health services s48(2)(b)(i) • Conditions s48(2)(b)(ii)
48(3)	Extension of s48(2) order – 20 more days.
50	<p>Authority is satisfied that the practitioner is unable to perform required functions due to physical or mental condition</p> <p>Suspension – s50(3)</p> <p>Conditions –s50(4)</p>
51	<p>Revoking suspension imposed under 39, 48, 50, – s51(1)</p> <p>Revoking conditions imposed under 39, 48, 50, 67A – s51(2)</p> <p>Order to vary conditions imposed under 39, 48, 50, 67A, 69A</p>
67A(2)	<p>Upon receipt of notice of conviction, Authority may order:</p> <ul style="list-style-type: none"> • Medical examination or treatment ((2)(b)(i)) • Psychological or psychiatric examination ((2)(b)(ii)) • Course of treatment or therapy for alcohol or drug abuse ((2)(b)(iii))
67A(6)(b)	Following 67A orders, Authority may order conditions.

69	Interim action if appropriateness of practitioner's conduct is in doubt Suspension – s 69(2)(a) Conditions – s 69(2)(b)
69(4)	Revocation of 'with notice' orders for suspension or conditions
69A	Without notice interim suspension where there is a conduct or criminal proceeding and Authority believes the practitioner poses a risk of serious harm to the public.
69A(5)	Revoking (without notice) suspension
69A(6)	Authority may include conditions when revoking without notice suspension.
142	Health Practitioner requests cancellation – Authority may direct Registrar to cancel registration.
142	Health Practitioner dies - Authority may direct Registrar to cancel registration.
144(5)	Authority may direct Registrar to cancel an entry in the Register.
146	Authority may direct Registrar to cancel registration if: <ul style="list-style-type: none"> • Practitioner gave false information - s146(1)(a) • Practitioner is not entitled to registration -s146(1)(b) Authority may direct Registrar to notify cancellation in any publications it so directs – s146(3)
147(5)	Authority may review the registration of a practitioner where their qualification is cancelled or suspended or an overseas authority removes, cancels or suspends the practitioner's registration. Authority may suspend or cancel the practitioner's registration s147(5)(b)