

09 June 2020

Anthony Jordan

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Tēnā koe Anthony

**Your Official Information Act request, reference: GOV-004588**

Thank you for your email of 17 April 2020, asking for the following information under the Official Information Act 1982 (the Act):

*1/ Please provide a copy of the complaint made by the ACC to MCNZ, including any extra comment that would identify the ACC's concerns.*

*Please Note: DO NOT provide the name of the individual or the Clinic/Agency/Company/DHB etc, ie supply a Redacted copy of ACC's complaint*

*2/ The Outcome of the ACC's complaint was a Performance Assessment (?).*

*a) what did the performance relate to*

*b) of what concern was it to the ACC whether the Psychiatrist was performing well*

*3/ Please provide a copy of all written and verbal correspondence between the ACC and MCNZ regarding the Psychiatrist complaint.*

*Including the subsequent report/follow up from MCNZ*

*Please Note: DO NOT provide the name of the individual or the Clinic/Agency/Company/DHB etc, ie supply a Redacted copy of ACC's complaint*

*4/ Please provide the ACC's intention (if any) if any ongoing concerns ie, is the ACC satisfied with the reported outcome of Performance*

*5/ What were/are the Psychiatrist's specialty/specialties in Psychiatry? ie examples of this could be Primarily PTSD, Primarily Mood/Anxiety Disorders, Primarily TBI/Post Concussion related, Primarily Pain management, etc*

**Background information about complaints regarding providers**

Before responding to your questions, we are providing you with some information about how ACC manages complaints about health care providers, including when a complaint is subsequently referred to the Medical Council of New Zealand (Medical Council).

As noted in our response of 18 May, complaints made to ACC about providers may be made through more than one channel. For example, they can be sent to (and resolved by) our Claims Management or Customer Resolutions teams. Where appropriate, complaints or concerns can be escalated to ACC's Strategic Partnerships & Performance team. From here, if we have concerns of a risk of harm to the public a notification can be made to the appropriate regulatory authority such as the Medical Council.

Once ACC has notified the regulatory authority of our risk of harm concerns the regulatory authority determines what action(s) should be taken in response to the notification.

**The complaint referred to in your request**

Prior to our notification to the Medical Council of our risk of harm concerns, a sample of anonymised client cases was reviewed by two external expert peers of the health practitioner concerned. We asked them to provide independent clinical comment of the treatment provided.

Both experts reviewed the same cases and provided ACC with a report for each case. These reports were summarised and the identified risk of harm concerns were notified to the Medical Council.

The peer reviewers examined all aspects of the health practitioner's clinical practice including: assessment; diagnoses and treatment; ongoing clinical input; goal setting; patient safety and the standard of clinical record keeping.

As the reports reviewed by the external experts are very detailed and include a significant amount of information about individual ACC clients, we are declining to provide you a copy of these reports in order to protect our clients' privacy. In doing so, we considered the public interest in making the information available but determined it did not outweigh the need to protect the privacy of our clients. This decision is made under section 9(2)(a) of the Act.

ACC's overall concerns regarding this health practitioner were identified as follows:

- assessment reports evidencing deficiencies and inadequacies in their content and composition
- management plans were inappropriate to the underlying conditions and were based on incomplete examinations and inaccurate diagnosis formulation
- diagnostic inadequacies and failure to adhere to practice guidelines
- overall pharmacological treatment of clients represented a marked departure from expected standards
- incorrect and consistent variance in opinion from radiological investigations and to the findings reported by the neuro-radiologists
- fostering of dependencies in the client to the health practitioner.

*Performance Assessment by the Medical Council*

Following the notification made to the Medical Council a Performance Assessment was conducted. Performance Assessments arranged by the Medical Council are completed by its Performance Assessment Committee. Details about what the Performance Assessment Committee examines and reports on, are available on the Medical Council's website: [www.mcnz.org.nz/our-standards/fitness-to-practise/conduct-and-competence-concerns/performance-assessment-committee/](http://www.mcnz.org.nz/our-standards/fitness-to-practise/conduct-and-competence-concerns/performance-assessment-committee/).

We were advised of the outcome of the Performance Assessment, by letter, in July 2019. We are refusing to provide a copy of the Medical Council's letter as it was provided to ACC in confidence. In doing so, we considered the public interest in making it available and determined it did not outweigh the need to withhold it. Likewise, we determined that releasing this information would likely prejudice the supply of similar information, and it is in the public interest that such information should continue to be supplied so ACC can make robust decisions. This decision is made under section 9(2)(ba)(i) of the Act.

However, we can advise that the Medical Council (following their review of the Performance Assessment Committee's report) determined that no further action was required.

**ACC's intentions regarding any ongoing concerns**

Before responding to your question about ACC's intention regarding any ongoing concerns, we would first like to refer you to the Ombudsman's guide Making official information requests. This is available on the Ombudsman's website, here: [www.ombudsman.parliament.nz/resources/making-official-information-requests-guide-requesters](http://www.ombudsman.parliament.nz/resources/making-official-information-requests-guide-requesters).

Under the Act, a distinction exists between a request for information already known and held by an agency (official information), versus a request for an agency to form an opinion or provide an explanation or comment, and thus create new information to answer a request (not official information).

This question asks ACC to provide an opinion and is therefore not considered official information under the Act. Accordingly, we are refusing to respond to it.

**Provider performance**

ACC expects providers of treatment services under the Cost of Treatment Regulations to:

- provide ACC clients with services that are goal oriented, based on evidence and clinically justified
- comply with their professional standards and ethics.

More information about ACC's expectations regarding the performance of providers working under Cost of Treatment Regulations can be found in *Working together, A handbook for providers working under the Cost of Treatment Regulations*. A copy of this handbook can be found on the resources page of ACC's website by searching *cost of treatment regulations*: [www.acc.co.nz/resources/#/](http://www.acc.co.nz/resources/#/).

**The provider's speciality**

The provider is a registered medical practitioner with the speciality of psychiatrist, who provides psychiatric services to injured clients specifically including clients with traumatic brain injuries.

**How to contact us**

If you have any questions, you can email me at [GovernmentServices@acc.co.nz](mailto:GovernmentServices@acc.co.nz).

If you are not happy with this response, you have the right to make a complaint to the Ombudsman. Information about how to do this is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or by phoning 0800 802 602.

Nāku iti noa, nā



Sasha Wood

**Manager Official Information Act Services**  
Government Engagement & Support