Registered Nurse, RN B

A Report by the

Deputy Health and Disability Commissioner

(Case 21HDC02986)

HDC

Health and Disability Commissioner

Te Toihau Hauora, Hauātanga

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Executive summary

1. This report concerns the administration of a vaccine to a school student by a public health nurse as part of a school-based vaccination programme (SBVP) funded by the Ministry of Health and delivered by the Te Whatu Ora public health nursing service (PHNS). In particular, the report discusses whether the nurse was on notice that parental consent for the vaccine had been withdrawn and whether adequate steps were taken to confirm parental consent before the vaccine was administered.

Findings

2. The Deputy Commissioner considered that the nurse was on notice that parental consent for the vaccine had been withdrawn, and did not take adequate steps to resolve the uncertainty about the consent. The Deputy Commissioner found that the nurse breached Right 7(7) of the Code in not upholding the consumer's right to withdraw consent to services.

3. The Deputy Commissioner also considered that at the point when uncertainty about parental consent was raised, this cast doubt on the validity of the consent that was held. Accordingly, the Deputy Commissioner found that in administering the vaccine without taking reasonable steps to confirm parental consent, the nurse breached Right 7(1) of the Code.

4. The Deputy Commissioner found that Te Whatu Ora did not breach the Code. However, the Deputy Commissioner was critical that the information leaflet provided to parents/ caregivers did not explain the process for withdrawing consent adequately, and that the process for informing parents/caregivers when a student misses the initial vaccination clinic was not followed. The Deputy Commissioner noted that if adequate communication had occurred at each of these junctures, the events of this complaint may have been avoided.

Recommendations

5. The Deputy Commissioner recommended that the nurse provide a written apology to Miss A and her family for the failings identified in this case, and that the nurse undertake HDC's online learning courses on the Code, informed consent, and complaints management and early resolution.

6. The Deputy Commissioner recommended that Te Whatu Ora review and amend the SBVP Policy Manual with regard to confirming parental consent and arranging "catch-up" clinics; communicate to the PHNS the expectation that the process for informing parents/caregivers when a student misses the initial vaccination be followed; and use an anonymised version of this case for wider education of the PHNS.

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Complaint and investigation

7. The Health and Disability Commissioner (HDC) received a complaint from Mrs A about the services provided to her daughter, Miss A, by registered nurse (RN) B and RN C (public health nursing service (PHNS), Te Whatu Ora (previously the District Health Board (DHB)[1]). The following issue was identified for investigation:

- *Whether RN B provided Miss A with an appropriate standard of care on 15 November 2021.*

8. This report is the opinion of Deputy Commissioner Dr Vanessa Caldwell, and is made in accordance with the power delegated to her by the Commissioner.

9. The parties directly involved in the investigation were:

Miss A	Consumer
Mrs A	Complainant/mother
RN B	Provider/nurse

10. Further information was received from:

Mr A	Father
Te Whatu Ora	Provider
RN C	Provider/nurse
Mr D	Principal at Miss A's school

11. Also mentioned in this report:

Mrs E	Office manager
Mr F	Miss A's teacher

Information gathered during investigation

Background

12. The Ministry of Health provides publicly funded human papillomavirus (HPV)[2] vaccinations to children in Year 8 of school through a school-based vaccination programme (SBVP). At the time of events, the SBVP was delivered in participating schools by the DHB's public health nursing service (PHNS). RN B and RN C were both employed as public health nurses within the PHNS.

[1] On 1 July 2022, the Pae Ora (Healthy Futures) Act 2022 came into force, resulting in all district health boards being disestablished and Te Whatu Ora|Health New Zealand being established in their place. All references to the DHB in this report now refer to Te Whatu Ora.

[2] A group of common viruses that can cause human warts, some of which are associated with the development of cervical cancer.

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13. The complainant, Mrs A (Miss A's mother), raised concerns with HDC that on 15 November 2021, RN B administered an HPV vaccine to Miss A at school without appropriate consent.

Events prior to 15 November 2021

14. On 24 February 2021, Mrs A signed a consent form for Miss A to receive an HPV vaccine at school. The consent form was returned to the school.

15. On 11 March 2021, a public health nurse spoke with Mrs A to clarify whether Miss A had had any serious reactions to previous vaccinations or any severe allergies to food or medicine. The consent form documents:

> "[Phone] call — 5 month [vaccination] had skin reaction that got infected. [Nil] reactions since to other vaccines. Allergy: [g]luten intolerant[,] dairy intolerant. [Mrs A] happy for vaccinations to go ahead [at] school."

16. The HPV vaccine is administered in two doses. On 15 April 2021, Miss A received the first dose (HPV1) at school. This was administered by RN C. Following the vaccination, Miss A was observed for 20 minutes. No adverse reactions were documented.

17. Mrs A said that following the administration of HPV1, she decided that she did not want Miss A to receive the second dose of the HPV vaccine (HPV2) at school.

18. Mrs A said that she was advised in a school newsletter that the PHNS would be attending the school on 4 November 2021 to administer HPV2. Mrs A said that she did not know how to withdraw the consent she signed on 24 February 2021, and therefore she kept Miss A home on 4 November 2021 so that she would not receive HPV2. Mrs A said she thought "that was it" and she planned to take Miss A to their general practice when she was ready to have HPV2. Mrs A said that because Miss A had reacted to the vaccines she had received at 5 months of age,[3] the family are careful to ensure that vaccines are given at a time when Miss A's immune system is not overstimulated, to prepare for the body's response to the vaccine.

19. The Principal of the school, Mr D, told HDC that Mrs A advised the school on 4 November 2021 that Miss A was being kept home due to illness, and Mrs A did not say that this was to avoid HPV2.

Vaccination — 15 November 2021

20. On 15 November 2021, public health nurses RN B and RN C attended the school for a "catch-up clinic" to administer HPV2 to the students whose parents[4] had given written consent to HPV1/HPV2 but who had not received HPV2 on 4 November 2021. Mrs A had not been advised that the nurses would be returning on 15 November 2021.

[3] In response to the provisional report, Mrs A clarified these were the vaccines Miss A received at three months of age.

[4] Or caregivers/guardians. In the interests of brevity, where reference to parents/caregivers/guardians applies, this report will refer only to "parents", as the relevant parties in this case are the consumer's parents.

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21. RN C said that she and RN B arrived at the school that morning and completed sign-in processes at the school office. RN C said that there were no messages from the office manager regarding the catch-up clinic.

22. Miss A attended school on 15 November 2021. Miss A said that her teacher, Mr F, asked her to go to the school office to receive HPV2, and she told him: "[M]um doesn't want me to have any vaccines at school." Miss A said that Mr F said that was fine, and asked her to go to the school office and tell the office manager, Mrs E. Miss A said that she went to the school office and "had the exact same [conversation] with [Mrs E] except she told [her] to go tell the nurses". In statements to HDC, Mr F and Mrs E outlined their recollection of events, and these were consistent with Miss A's recollection.

23. Miss A entered the school library, which had been designated as the vaccination site, where RN B and RN C were waiting. There are differing versions of the events that followed, as outlined below.

Miss A's recollection

24. Miss A said that she told the nurses that her mother did not want her to have the vaccine. She said that RN B spoke with Miss A's father, Mr A, on the telephone and then told Miss A that he had confirmed consent for the vaccine, after which RN B administered the vaccine to Miss A.

25. Mrs A provided HDC with copies of handwritten notes that were written by her and Miss A on 15 November 2021, to record events. In these notes, Miss A wrote:

> "I went in and told the nurse that mum [did not] want me to have any [vaccinations] at school and that she would take me to the doctors herself. The nurse ([RN C]) then said 'no, no you are fine to have it here, and you [kind of] have to [because] we have your papers.' That [is] when they tried to call mum and she [did not] answer. They then called [dad] and after [they] got off the phone they said that he said it was fine and he said yes. So I had the HPV [vaccine] …"

26. In an interview with HDC, Miss A gave a summary of events that was consistent with the above description. She also said that it was RN C whom she first advised that her mother did not want her to receive any vaccinations at school, while RN B sat with the paperwork and injections. Miss A said that it was RN B who called her parents and, following this, administered HPV2. Miss A said that neither RN B nor RN C explained to her any possible risks or side-effects of HVP2 before it was administered.

27. In Mrs A's notes dated 15 November 2021, she wrote:

> "I found out after talking to [Miss A] that the nurses were also told by her that she [was not] sick on [4 November 2021] when they came [to the school] [and] that she had been withheld from school as mum [did not] want her to have [HPV2]. [Miss A] was providing evidence to support her non consent."

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28. In response to my provisional report, RN C said that she does not recall Miss A saying that her mother intended to take her to the doctor to receive the HPV vaccine. RN C also stated: "I did not and would never speak to any student or client in the manner [Miss A] has stated" (in paragraph 25). RN C said that she is "very aware" that informed student consent is required in addition to parental consent, and that a student has "every right" to withdraw consent at any time. She said she therefore would never have indicated to a student that they were bound by their parent's consent on the consent form and it is part of her nursing practice not to put any pressure on any client.

Mr A's recollection

29. Mr A confirmed that a nurse, who is understood to be RN B, called him on 15 November 2021. Mr A recalled that he told the nurse that as far as he was aware they were not proceeding with the vaccination. Mr A said that the nurse told him that the vaccination in question was for HPV and not for COVID-19, and that he responded that he "[does not] have anything to do with it" and that the nurse should contact Mrs A about this.

RN B's recollection

30. RN B acknowledged that Miss A showed some hesitancy about the vaccine, but said that this was because she mistakenly thought that it was for COVID-19. The DHB provided RN B's recollection of events:

> "[RN B] recalls that … [Miss A] asked about [the] [COVID-19] vaccine and she was reassured that she would not be receiving a [COVID-19] vaccination. As there seemed to be some hesitancy by [Miss A] about the vaccine being for [COVID-19], [RN B] called [Mrs A] to discuss but there was no reply. [RN B] then called [Mr A] who asked her who had signed the consent form, and was informed it was signed by [Mrs A], he told [RN B] that she should speak with [Mrs A]. [RN B] told him she had tried unsuccessfully. Following this, [RN B] spoke with [Miss A] to reassure [her] it wasn't a [COVID-19] vaccination. [Miss A] seemed calm, was not distressed and she gave her verbal consent to have the vaccination."

31. In response to my provisional report, Mrs A said (with regard to the statement that Miss A seemed calm):

> "[RN B] had in front of her a child that is introverted and does not easily challenge a person holding a position of authority and while others would exhibit a fight or flight response, [Miss A] generally will always fall into the third category of this response pattern being freeze. She looks calm but internally she is not … but there are very clear signals that an observant or knowledgeable person would see."

32. In response to my provisional report, RN B said that her recollection of the telephone call with Mr A was that RN B confirmed that she was calling because she could not reach Mrs A to confirm that the vaccine to be given was not for COVID-19 but for HPV. Mr A asked RN B who had signed the consent form, and she explained that Mrs A had done so. RN B submitted that while Mr A believes he then told her that she needed to speak to Mrs A, she did not have that understanding from the telephone call. Instead, RN B submitted that Mr

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A had replied "that [RN B] should do what [Mrs A] wanted". RN B said that her understanding from this was that the decision about the HPV vaccine was a matter for Mrs A, who had signed the consent form, and that RN B "should follow that". RN B explained:

> "On the basis that we had a consent form from [Mrs A] for HPV and had no notice that consent was withdrawn, I thought the issue of which vaccine was being given had been cleared up."

33. Further, in her response to my provisional report, RN B categorically rejected any suggestion of misleading or dishonest communication on her part about whether Mr A had said that Miss A should have HPV2. RN B said that despite attempts to clarify the situation, a genuine misunderstanding had arisen.

34. In a note on the consent form dated 15 November 2021, RN B documented:

> "[Phone call] to [Mrs A] as [Miss A] thought this [vaccination] was [for COVID-19] [and] her mother [does not] want [Miss A to have the COVID-19 vaccination]. Phoned [Mr A] as no answer from [Mrs A]. He said he was unaware [and] [Mrs A] signed the consent. Reassured it [was not] [the COVID-19 vaccination] [and] was just what was consented for by [Mrs A]."

35. However, Miss A stated that she knew that the vaccination was not for COVID-19, and said that she did not mention anything about the COVID-19 vaccine prior to administration of the HPV vaccine on 15 November 2021. The statements from Mr F and Mrs E do not mention Miss A raising concerns to them about receiving the COVID-19 vaccine.

36. Mrs A's handwritten notes dated 15 November 2021 record her recollections of a discussion with Miss A in Mr D's office following the events:

> "We spoke with [Miss A] [and] she took us through events … I asked her if she was confused [and] thought [the vaccine] was something else, ie [for COVID-19] to which she bit my head off [and] told me she knew it was [for] HPV. We then asked [Miss A] to get some paper and write down what happened."

37. In response to my provisional opinion, RN B said that she would not have raised the COVID-19 vaccination or volunteered any information about the vaccine without being prompted. She also said:

> "I genuinely did not realise at the time that [Miss A] was trying to convey to me that her mother had withdrawn consent to her receiving the vaccine. I do not recall [Miss A] saying at any point that her mother did not want her to receive the HPV vaccine at school after I had explained that it was not the Covid-19 vaccination but the HPV vaccine which her mother had provided written consent for. If I had been aware of this, I would not have administered the vaccine."

RN C's recollection

38. The DHB also provided RN C's recollection of events:

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"[RN C] was present [and] confirmed [RN B's] sequence of events on 15 November 2021. She recalls that [Miss A] said that she wasn't sure if her mum wanted her to receive a vaccination although was not aware if this related to [COVID-19]. She was aware that [RN B] had tried to contact the parents to clarify. She reiterates that there were no signs of concern or distress from [Miss A]. [Miss A] gave verbal consent when asked if it was ok to proceed with the vaccination. [RN C] also confirms that the vaccination would not have been given had they noticed any concerning behaviour or hesitation from [Miss A]. Both [registered nurses] confirm that consent was not withdrawn by [Miss A]."

39. In response to my provisional report, RN C stated (original emphasis):

"I was aware that [RN B] tried to call [Miss A]'s mother. I can't recall hearing the call between [RN B] and [Miss A]'s father. [RN B] said to me that [Miss A]'s father had not said either yes or no to the vaccination during the phone call. I believe [RN B] also said this to [Miss A].

The situation was unclear. [Miss A] said she <u>wasn't sure</u> her mother wanted her to have the vaccination at school … On the other hand we had a signed consent form from her mother and there was no message left with the school office. We sought [Miss A's] views. She didn't have any concerns and said that she was happy to proceed with the HPV vaccination at school. [Miss A] appeared calm and at ease during this time."

DHB response

40. The DHB said that RN B and RN C confirmed that written consent for both HPV vaccinations was held and, in addition, as Miss A appeared "somewhat hesitant", they attempted to confirm consent by phone with Mrs A and then Mr A. The DHB stated that the nurses' impression was that consent was still current and valid, and therefore decided to proceed with the vaccination. The DHB said that the two nurses were not aware that Mrs A had told the school that Miss A would receive HPV2 at her GP practice and that Miss A had been kept home from school on 4 November 2021 to avoid receiving HPV2, and no information was provided by the school about Miss A not receiving HPV2.

41. The DHB said that at no time was RN B aware that Miss A wished to withdraw consent, and there was no indication from her behaviour or verbally that she did not want the vaccine. The DHB stated that the vaccine would not have been given if Miss A had not consented to it verbally, and the public health nursing service's process is to always check with children that they are happy to proceed with vaccinations.

Events following vaccination

42. It is agreed that following the administration of HPV2, Mrs A called RN B and expressed her surprise and dissatisfaction that HPV2 had been administered to Miss A. Mrs A then asked to speak to Miss A, and RN B gave the telephone to Miss A.

43. Mrs A wrote in her notes dated 15 November 2021 that when she spoke to Miss A on the telephone, she "knew instantly that she was not fine by her voice". Mrs A told HDC that Miss

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A's demeanour was guarded, and she appeared to be "putting on a performance to act brave". Miss A told HDC that after the vaccination she felt "a little bit upset".

44. The DHB said that once RN B was aware of the "gap in communication" that had occurred, she updated the documentation to record Mrs A's concern. In a note on the consent form dated 15 November 2021, RN B documented:

> "[Mrs A] phoned back [and was] upset that [HPV2] was given, she said she told the school she would go to the GP. Not communicated with us. Both parents came to school to discuss [and] requested a copy of the consent."

45. In a note on the consent form dated 15 November 2021, RN C documented: "Observed for 20 minutes post vaccination." The DHB said that the nurses saw no sign of an adverse reaction or effects in the 20 minutes following the vaccination.

46. Miss A said that after the vaccine was administered, she was given an information sheet that outlined the possible side-effects and symptoms to watch for following vaccination. Mrs A provided HDC with a copy of this information sheet, which lists:

> "Swelling and pain at the injection site (hard and sore to touch)
>
> Heavy arm
>
> Nausea (feeling sick)
>
> Headache, aches and pains
>
> Dizziness
>
> Rarely, your child may have a high fever (over 39 degrees)"

47. The information sheet notes, "If you have any concerns, ring your family doctor," and also provides the contact number for Healthline. There is a section for the contact number of the public health nurse, but this has not been filled in.

48. Following the administration of HPV2 to Miss A, Mr and Mrs A met with RN B at the school. In her handwritten notes dated 15 November 2021, Mrs A recorded:

> "[RN B] … just stated 'what is it you wanted to talk to me about[?]'
>
> I said I wanted to know why my daughter's voice was disrespected [and] minimised. [RN B] attempted to state my child was confused [and] [did not] know what [the vaccination] was [and] that she thought it was [for COVID-19].
>
> I said it [did not] matter as [Miss A] was still withdrawing consent [and] saying no, [RN B] was aware of this hence the call to me and then [Mr A]. Then [Mr A] said how he [did not] give consent [and] that [RN B] needed to talk to me. This was not done, [RN B] had no reply to [Mr A].

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[RN B] defaulted to [saying that] she had paperwork [and] it [did not] essentially matter that we attempted or were withdrawing consent in that moment … At the end [RN B] was rude enough to tell us [she had] done no harm."

49. In response to the provisional report, RN B acknowledged that she told Mrs A that there had been no harm to Miss A. RN B explained that she was referring to the fact that Miss A had not displayed any adverse reaction to HPV1 that had been reported to them or while she had been observed following HPV2. RN B said she explained to Mrs A that the vaccine had been administered in accordance with the Ministry of Health Guidelines, that the SBVP had the signed consent form from Mrs A for Miss A to receive the vaccination, and that there had not been a notification from anyone, including Miss A, that consent had been withdrawn. RN B acknowledged that with the benefit of hindsight, this was a very distressing conversation for Mrs A, and she regrets that her explanation was interpreted as "dismissive", as this was not her intention and she believed she was communicating factual information about the vaccination programme.

50. Mr A said that during the meeting, RN B "appeared blasé and did not have a lot of concern for what was happening". He also said that RN B accused him of giving consent to the vaccine over the telephone, which he denied.

51. Mr D wrote a "Report of the incident", a copy of which was provided to HDC. The report describes the events of 15 November 2021, including the meeting between Mrs A, Mr A and RN B, and notes:

"[Mr D] then met with [Miss A's parents] again. During this discussion they stated that they felt [RN B] was lying about [Mr A] giving consent."

52. As previously noted, in her response to my provisional report RN B categorically rejected any suggestion of dishonesty on her part.

53. The DHB did not comment on RN B's communication with Mr and Mrs A in their meeting after the administration of the vaccine.

54. In response to the provisional report, Mrs A noted that following the discussion with Mr D, Miss A was retrieved from her class so that Mr and Mrs A could check on her and speak with her about the events.

Policy and standards

55. The DHB provided copies of its PHNS SBVP Policy Manual and the Ministry of Health Professional Standards for School-based Immunisation Service Delivery (the MoH Standards).

Consent for vaccination

56. Section 5 of the MoH Standards outlines the requirements for consent to vaccination for school-based vaccination, and states:

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> "The Ministry of Education requires school-based vaccination consent from a parent/ legal guardian for any child under the age of 16 … Consent will be valid for the duration of the Programme. It will be the responsibility of parents … to notify the [SBVP] provider of any changes to the medical or consent status of their child during the Programme. Parents … will need to be told who to contact in this event."

57. The MoH Standards states that the consent form for vaccination outlines, among other things, that:

- Students aged under 16 years must have the consent of their parent to be vaccinated at school.
- Irrespective of whether the parent has consented, if the student does not want the vaccine when they present, then they will not be given it and the parent will be advised of this.
- Consent covers the complete series of vaccinations, but consent may be withdrawn by the consenting party at any stage within that period by communicating with the SBVP directly.

58. Te Whatu Ora provided a copy of the Ministry of Health "School Immunisations: Parent Consent Form" (MoH consent form) that was issued to parents at the time of events. The MoH consent form has two sections. The first section contains information about the vaccines offered as part of the SBVP. The second section is a "tear off" consent form to be completed and returned to the student's school, which appears the same as the one signed by Mrs A on 24 February 2021.

59. The MoH consent form does not outline that students aged under 16 years must have the consent of their parent to be vaccinated at school or that students will not be given the vaccination if they do not want it on the day (irrespective of whether the parent has consented).

60. Under the heading "What alternatives are there to having the immunisations at school?", the MoH consent form states:

> "If you change your mind about whether your child should get immunised at school (before or after any of the vaccines are given), please contact the public health nurse directly. Their contact details are on the back of this form."

61. On the last page of the MoH Consent form there is a blank section for insertion of the public health nurse contact details. It is not known whether this section was completed on the consent form that was provided to Miss A's parents.

62. The DHB provided HDC with a copy of an updated information leaflet that currently is provided to parents about the SBVP for HPV. The DHB highlighted that after these events, the leaflet was changed to include instructions and contact details for parents to withdraw

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consent during the programme.[5] On this basis, it appears that at the time of events, the information leaflet did not explain how parents could withdraw consent or who to contact if they wished to do so. In response to my provisional report, Te Whatu Ora acknowledged that the previous version of the information leaflet that was sent to the family "needed to be clearer" with regard to the contact details for the PHNS.

63. The SBVP Policy Manual does not provide guidance or requirements for informing parents about how to withdraw written consent during the vaccination programme.

64. In response to my provisional report, RN B said that it has been her experience that "around 30 families" decide to withdraw their consent each year. She said that withdrawal has "always" been conveyed to the public health nurses working in the SBVP either by:

- The child's parent(s)/caregiver(s) informing their child's school that they wish to withdraw consent, and the school then passing that information on;
- The child's parent(s)/caregiver(s) informing the District Health Board that they wish to withdraw consent; or
- The child's parent(s)/caregiver(s) contacting the SBVP directly using the publicly available contact information for the programme.

65. RN B confirmed that when consent is withdrawn, no vaccination is administered.

66. In her response to my provisional report, RN B also submitted that the fact that Mrs A did not know how to communicate her withdrawal of consent may be indicative of a systemic failure for which RN B cannot be held individually responsible.

Informing schools and parents of times and dates for catch-up clinics

67. The SBVP Policy Manual requires that "catch up clinics" at schools be offered to students who were not vaccinated at the initial vaccination clinic, and that every student for whom written consent has been received is followed up to ensure that an attempt has been made to vaccinate. The DHB said that the usual process was for the PHNS to liaise with schools via the secretary about timing for visits. The SBVP Policy Manual states that it is the responsibility of the SBVP vaccinator/site coordinator to notify schools and leave them with forms for children not vaccinated on the day, to arrange any catch-up clinics as required and to inform the school of the catch-up date when known. There is no guidance about how catch-up clinics are to be arranged (eg, via telephone, email or letter) or the timeframe in which this needs to be done (eg, at least one day before the proposed date of the catch-up clinic).

68. The SBVP Policy Manual contains a template form to be used for follow-up of students not vaccinated, a copy of which is included as Appendix B. The form advises parents that their child did not have the HPV vaccination that was consented, with a selection of reasons, and advises: "The vaccination will also be offered at your school on [blank space]" or,

[5] Described in paragraph 77 of this report.

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alternatively, "The vaccination can be completed at your General Practice". Contact details for the PHNS are included at the bottom of the form.

69. There is no record that this form was used to advise Mrs A of the non-vaccination of Miss A on 4 November 2021 or the proposed date for catch-up. In response to my provisional report, Te Whatu Ora acknowledged that it has no record that this form was provided to the school on 4 November 2021 when Miss A missed the initial clinic for HPV2. Mrs A confirmed that she did not receive this form.

70. In response to my provisional report, Te Whatu Ora said that the process for arranging catch-up clinics varies depending on the size of the school. It said that for larger schools, frequently the catch-up day is arranged during the initial visit, whereas for small schools, such as Miss A's school, often the catch-up clinic may be when the public health nurses expect to be in the vicinity, and usually the school is notified via telephone call or email. Te Whatu Ora said that in this case, the school was notified on 11 November 2021 that the catch-up clinic would be on 15 November 2021. Te Whatu Ora said the process is then for the school to make direct contact with parents about the catch-up clinic.

71. Mr D outlined to HDC that the school's understanding of the usual process was for school staff and parents to be informed of when the PHNS would be attending the school to administer HPV vaccines as part of the SBVP. He explained that usually the PHNS advises the school administrator of the date for the initial vaccination clinic, and this correspondence is forwarded to him and to the school's Year 8 teachers for inclusion in their weekly school newsletters to parents. Mr D also stated that the date of the vaccination clinic is published in the school calendar. Mr D said that for catch-up clinics, usually the PHNS telephones the school to advise of follow-up dates for consented students who were absent on the initial day.

72. Mr D stated that the school has no record of having received an email notifying the school of the PHNS's intended visit on 15 November 2021, and that his secretary does not recall receiving a telephone call about this. Mr D said that his recollection after speaking with his secretary and the nurses is that the nurses "had been in the area doing catch ups and popped in given it was just the one".

73. On the other hand, RN C said that she liaised with the school on 11 November 2021 to advise that the date of the catch-up clinic would be 15 November 2021. RN C stated:

> "On Thursday 11 November [2021] I phoned the school and spoke with office manager [Mrs E] regarding the planned date for the catch-up clinic — that being Monday 15th November. There did not appear to be any concerns with this date. I still have a note in my diary for Thursday 11th November reminding myself to call the schools we would be visiting on Monday 15th November. I have ticked this task off as completed in red pen. It would not be part of my practice to turn up to a rural school unannounced, particularly since [COVID-19] when arrangements need to be put in place. "

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Checking/confirming consent on day of vaccination

74. The SBVP Policy Manual sets out the process for when a student refuses vaccination. It states that the student's parents are to be contacted to discuss the situation, and either: 1) the parents are advised about the option to take the student to the GP for their vaccination, or 2) vaccination is attempted at another time, and it is arranged for the parents to attend the vaccination site to support the student through the vaccination. There is no guidance about when a student indicates that their consenting parent no longer wants them to have the vaccination, or the steps required to confirm consent.

75. The SBVP Policy Manual states in several places, in bold, red font:

> "At no time is any person involved in vaccinations to guess, presume or assume any information. The vaccinator is ultimately responsible for right child, right vaccine and right interval between vaccination events."

76. In response to my provisional report, RN B stated:

> "I have … encountered numerous situations where a signed consent form has been provided for a child, but on the day of vaccination, the child does not want to receive the vaccine. When that occurs, my standard practice is always to contact the child's parent/caregiver. I would not administer a vaccine if a child tells me they do not want it, even if there is a signed form for them."

Changes made since events

77. Te Whatu Ora said that following these events, RN B, RN C, and the PHNS reflected on the concerns raised in this complaint. As a result, the information pamphlet that is provided to parents about the SBVP has been amended to clarify the process for withdrawing prior written consent, and the person to be contacted to communicate the decision. The pamphlet now includes:

> "At any stage during the programme if you wish to withdraw consent for your child, please contact the PHN service HPV@cdhb.health.nz"

78. Te Whatu Ora also referred to the MoH consent form and advised that in future the section on the back page for the local public health nurse contact details will be stamped by Te Whatu Ora PHNS.

79. RN B said that she has reflected extensively on this experience and how to incorporate what she has learned into her practice. She stated:

> "I will be more alert to checking the position with respect to parental consent in the event there appears to be any confusion or hesitance in the future. In addition, if I encounter another situation with a parent or caregiver who is expressing concern about the care provided to their child, I will ensure that I notify them of their right to make a complaint and the channels available to them to do that."

80. RN B also confirmed that this case is discussed amongst the regional PHN teams regularly for educational purposes.

81. RN C stated:

> "As a result of this case a number of changes have been made and are being made to the service. On a personal level, I have reflected on changes that I would make to my practice. Should in future there be any doubt about parental consent, I would not proceed with a vaccination at that time."

Further information

82. Miss A and Mrs A told HDC that in the afternoon following the administration of HPV2 on 15 November 2021, Miss A experienced several reactions, which they believe were due to the vaccine, including a headache, feeling faint and dizzy, and a skin rash.

83. Mrs A also said that in the weeks and months after the administration of HPV2, Miss A experienced poor mental health as well as several symptoms that Mrs A considers were related to HPV2. Mrs A said that Miss A felt unable to return to school in 2022 and is now home-schooled.

Responses to provisional opinion

84. Mrs A was provided with the "Information gathered during investigation" section of my provisional report and was given the opportunity to comment. Her comments have been incorporated above where appropriate.

RN B

85. RN B was provided with relevant sections of my provisional report and was given the opportunity to comment. Her comments have been incorporated into this report where relevant and appropriate.

86. RN B apologised to Miss A. RN B stated:

> "I would like to further record my sincere apology to [Miss A] that there was a misunderstanding between myself, her, and her parents on the day that she received the second dose of the HPV vaccine. At this time, I believed that [Miss A] had consented to receiving the HPV vaccine and that what I had understood to be confusion over which vaccine was to be administered had been resolved. I was unaware that there were any extant concerns or issues when I administered [Miss A]'s vaccine. If I had understood that [Miss A] or her mother did not want [Miss A] to receive the second HPV vaccination, then I would not have proceeded.
>
> …
>
> I am sincerely sorry that I misunderstood that [Miss A] was withdrawing consent for the HPV vaccine. I can absolutely confirm that I would never proceed with vaccinating a child in circumstances where there was a question around the vaccination. I appreciate though with the benefit of having all of the HDC material, that there was a

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misunderstanding in my conversation with … [Miss A] and with her father and given that [Miss A] had raised concerns from her mother, that I should have stopped until I could confirm the position with her mother."

RN C

87. RN C was provided with relevant sections of my provisional report and was given the opportunity to comment. Her comments have been incorporated into this report where relevant and appropriate.

Te Whatu Ora

88. Te Whatu Ora was provided with a copy of my provisional report and given the opportunity to comment. Te Whatu Ora's comments have been incorporated into this report where relevant and appropriate.

89. Te Whatu Ora noted:

> "At the outset, we would like to explain that 2021 was an exceptionally difficult year for all those involved in health care and particularly for School Based Vaccination Programme. The effect of COVID-19 and children not attending school was significant. Various lockdowns also contributed to additional pressure on the Public Health Nursing Service which is required to carry out vaccinations within the school year. In addition, the Public Health Nursing Service was redeployed to administer COVID-19 vaccinations for a significant period of the year therefore other vaccinations were significantly behind.
>
> The impact of COVID-19 on usual timing and processes for the School Based Vaccination Programme resulted in vaccinations being condensed into a shorter period of time to complete before the end of school year."

90. In response to HDC's recommendations, Te Whatu Ora advised that the following steps have been taken or will be taken:

- The SBVP for Te Whatu Ora was updated in 2020 and currently is under review in light of the recommendations made by HDC. Consideration is being given to whether inclusion of a flow chart would assist staff to confirm consent, especially in catch-up situations.
- Education for the PHNS is planned in 2023 regarding the policy, processes and documentation for "follow-up of students not vaccinated".
- On completion of this investigation, an anonymised version of this case will be used for educational purposes within the PHNS.

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Opinion: Introduction

91. The principle of informed consent is at the heart of the Code of Health and Disability Services Consumers' Rights (the Code). Under Right 7(1) of the Code, services may be provided to a consumer only if that consumer (or a person entitled to consent on behalf of the consumer, including the parent of a child under 16 years of age)[6] makes an informed choice and gives informed consent.[7] Right 7(7) of the Code states: "Every consumer has the right to refuse services and to withdraw consent to services."

92. I acknowledge that there are times when a person under 16 years may be able to consent to treatment without the consent of their parent/guardian.[8] In this case, parental consent to HPV2 was required by the MoH Standards because it was given at a school as part of the SBVP.[9] Despite this, the MoH Standards recognised that irrespective of whether parental consent is obtained, a student's refusal of consent on the day must be respected.

93. This case did not involve Miss A refusing to have the vaccine, but, instead, she informed others of her mother's wishes in respect of the vaccine. It is thus clear that Miss A was happy for her mother to make this decision on her behalf and, accordingly, my focus in this investigation has been on how parental consent was obtained, rather than whether the providers should have sought and respected Miss A's informed choice.

94. However, I note that Miss A was a vulnerable consumer who should have been able to rely on the public health nurses and the other adults at her school to listen to her, take her concerns seriously, and keep her safe. It is disappointing and concerning that despite telling four adults on 15 November 2021 that her mother did not want her to have the vaccine, it was nevertheless administered. I take this opportunity to acknowledge the significant impact that this experience has had on Miss A and her family.

Opinion: RN B — breach

95. As the vaccinating nurse, RN B was responsible and accountable for ensuring that appropriate parental consent to HPV2 was obtained before administering the vaccine to Miss A on 15 November 2021.

96. It is not disputed that Mrs A signed the parental consent form for Miss A to receive the series of vaccinations for HPV (HPV1 and HPV2) at the school and that this consent form was held

[6] Clause 4 of the Code states: "'Consumer' means a health consumer or a disability services consumer; and, for the purposes of Rights 5, 6, 7(1), 7(7) to 7(10), and 10, includes a person entitled to give consent on behalf of that consumer."

[7] Except where any enactment, or the common law, or any other provision of the Code provides otherwise.

[8] Under Right 7(2) there is a presumption that every consumer is competent to make an informed choice and give informed consent, unless there are reasonable grounds for believing that the consumer is not competent.

[9] As per the MoH Standards discussed in paragraphs 56 and 57 of this report.

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by the PHNS. It is also not disputed that Mrs A did not advise the school or the PHNS that she wished to withdraw consent for HPV2.

97. I have considered RN B's submission in response to the provisional opinion, that the fact that Mrs A did not know how to communicate her withdrawal of consent may be indicative of a systemic failure for which RN B cannot be held responsible individually. I agree that it was not RN B's responsibility to ensure that parents of students participating in the SBVP were adequately informed of how to withdraw consent during the course of the programme. In my view, it was reasonable for RN B to have relied on her employer, Te Whatu Ora, to communicate this information to parents. However, as ultimately RN B was the registered nurse administering the vaccine, it was her responsibility to ensure that she had appropriate consent before doing so.

98. Therefore, the issues I have focused on in my investigation are: 1) whether, prior to administering HPV2 to Miss A on 15 November 2021, RN B was on notice that parental consent to the vaccine had been withdrawn, and 2) if so, whether RN B took reasonable steps to satisfy herself that parental consent had been obtained before administering the vaccine to Miss A.

Notice of withdrawal of consent

99. As outlined above, there are differing versions of events regarding what Miss A told RN B prior to the vaccination that day. RN B's recollection is that Miss A expressed hesitation about the vaccine because she thought it was for COVID-19. On the other hand, Miss A said that she knew that the vaccine was for HPV and not for COVID-19, and that she did not mention anything about the COVID-19 vaccine to the nurses that day.

100. While it is difficult to ascertain precisely what the individuals may have said at the time, I note that RN B is the only witness who recalled Miss A mentioning the COVID-19 vaccine. Before Miss A spoke to RN B, she had spoken to three other adults — Mr F, Mrs E, and RN C — about Mrs A's wish that Miss A not receive the vaccine at school. None of the statements/recollections from the three other witnesses noted that Miss A mentioned the COVID-19 vaccination. I also note that Mrs A's notes from 15 November 2021 record that in the meeting following the vaccination that day, Miss A strongly denied believing that the vaccine was for COVID-19, and confirmed that she knew that the vaccine was for HPV. Miss A also stated this firmly to HDC when interviewed.

101. On the other hand, RN B said that she would not have raised the COVID-19 vaccination or volunteered any information about the vaccine without being prompted.

102. On review of this information, I am unable to resolve the differing accounts and am therefore unable to make a finding about whether Miss A raised concerns to RN B that the vaccine was for COVID-19. I acknowledge that RN B's notes in the consent form document that Miss A thought that the vaccine was for COVID-19, and RN B's understanding in this regard is reflected in Mr A's recollection of his telephone call with RN B. On this basis, I accept that RN B appears to have believed that Miss A thought the vaccine was for COVID-19. However, I am unable to determine how she formed this impression.

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103. In any case, there is consensus that Miss A told RN B that Mrs A did not want her to receive the vaccination that she understood was to be administered that day.[10] In my view, in considering whether RN B was on notice that parental consent was no longer valid, it is immaterial whether RN B understood that Miss A told her this because she thought that the vaccine was for COVID-19. The important factor is that Miss A expressed her mother's wish for her not to receive the vaccine.

104. The Nursing Council of New Zealand *Code of Conduct for Nurses* (Nursing Council *Code of Conduct*) requires nurses to listen to health consumers, ask for and respect their views about their health, and respond to their concerns and preferences where practicable. Mrs A wrote in her notes of 15 November 2021 that she felt that RN B had disrespected and minimised Miss A's voice.

105. Noting Miss A's vulnerability as a young consumer, and that her consenting parent was not present at the time, I consider that there needed to be a low threshold for questioning whether the parental consent held was still valid. Also, I note that the SBVP Policy Manual states: "At no time is any person involved in vaccinations to guess, presume or assume any information." Even if RN B understood that Miss A and her mother's reservations were related to the COVID-19 vaccine, RN B should have been mindful of the possibility that Miss A's doubt related to the vaccine that was to be given that day (HPV2). Given the apparent confusion over which vaccine was to be given, it would have been appropriate for RN B to have satisfied herself that Miss A and her consenting parent were clear about which vaccine was to be given, and ensure that appropriate consent had been obtained.

106. In proceeding to contact Miss A's parents to check their consent, it is clear that RN B recognised that the validity of the consent was in doubt. For the reasons outlined above, I consider that on 15 November 2021, RN B was on notice that Mrs A may have withdrawn consent to HPV2.

Steps taken to re-confirm parental consent

107. It follows from the above that RN B had a responsibility to take reasonable steps to satisfy herself that parental consent had been obtained before administering HPV2 to Miss A on 15 November 2021.

108. The Nursing Council *Code of Conduct* requires nurses to work in partnership with the family/whānau of health consumers where appropriate, and be respectful of their role in the care of the consumer.

109. It is agreed that RN B first attempted to call Mrs A to discuss Miss A's hesitancy about receiving the vaccine but was unable to reach her, and RN B then called Mr A and spoke to him. In his recollection of this conversation, Mr A recalled that initially he told RN B that "as far as he was aware" they were not proceeding with the vaccination. Mr A and RN B both recalled that Mr A indicated to RN B that he was not the right person to speak to about the

[10] As per Miss A's recollections and RN B's documentation on 15 November 2021 in the consent form: "[Miss A thought this [vaccination] was [for COVID-19] [and] her mother [does not] want [Miss A to have the COVID-19 vaccination]."

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matter, and that RN B would need to speak with Mrs A. It is agreed that following this conversation, RN B did not take further steps to contact Mrs A before administering HPV2 to Miss A.

110. In response to my provisional decision, RN B submitted that her recollection of the telephone call with Mr A was that Mr A told RN B "that [RN B] should do what [Mrs A] wanted", meaning she should follow Mrs A's wishes as per the signed consent form. I note that this is a different interpretation of Mr A's response, compared to both Mr A's and RN B's initial recollections of the telephone call, in which they stated that Mr A told RN B to "contact [Mrs A]"[11]/"speak with [Mrs A]".[12]

111. I accept that there was a misunderstanding about Mr A's directions to RN B. With the benefit of hindsight, it is clear this was due to an erroneous interpretation on the part of RN B. While I consider that RN B's interpretation of the conversation goes some way to explaining why she proceeded to administer HPV2 after her conversation with Mr A, I note that by all accounts Mr A made it clear to RN B that the decision about the vaccination was to be made by Mrs A. On that basis, I do not consider that RN B's conversation with *Mr A* could have reasonably reassured RN B that she had consent from *Mrs A* to administer the vaccine.

112. I acknowledge the family's concern that RN B may have untruthfully told Miss A that Mr A had agreed to Miss A receiving HPV2, and that, consequently, Miss A ultimately agreed to have HPV2 based on false information from RN B. I note that Te Whatu Ora has not said that Mr A gave consent in his telephone conversation with RN B, and there is no evidence of this in RN B's documentation on the consent form.

113. The suggestion of dishonesty on the part of RN B in these circumstances is a serious allegation, and one that, in her response to my provisional report, RN B categorically rejected. Obviously I would be concerned if RN B told Miss A that Mr A said that she should have HPV2 if he had not in fact said this. Further, I consider that this could explain why Miss A agreed to have the vaccine after RN B spoke to Mr A. However, on review of the information available, I am unable to reconcile the differing accounts and have therefore been unable to determine whether RN B told Miss A that Mr A had consented to HPV2.

114. In any case, in my view, the primary issue is that the circumstances required RN B to speak with Mrs A and satisfy herself that she wanted the nurses to proceed with HPV2 that day. Mrs A was the consenting parent on the consent form. Miss A had told RN B that Mrs A did not want her to receive the vaccine, so it was Mrs A's consent that was in question. As outlined above, I accept that Mr A also told RN B that the decision about vaccination was to be made by Mrs A.

115. The Nursing Council *Code of Conduct* require nurses to elicit and respect the concerns of the health consumer and their family/whānau in care planning, and to take steps to minimise risk and ensure that their care does not harm the health and safety of health consumers. I am critical that despite Miss A raising concerns about her mother's consent, and Mr A

[11] As per Mr A's recollections in paragraph 29.
[12] As per RN B's recollections in paragraph 30.

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advising that RN B would need to speak with Mrs A, RN B failed to speak with Mrs A to ensure that appropriate consent had been obtained before proceeding with the vaccination. I note that in her response to my provisional report, RN B accepted that she should have confirmed consent with Mrs A before proceeding with the vaccination.

Conclusion

116. I acknowledge that RN B appears to have believed that Miss A's concerns about Mrs A's consent related to the COVID-19 vaccine rather than HPV2. I also acknowledge that RN B took what she considered to be appropriate steps to resolve these concerns by confirming with Mr A and Miss A that the vaccine was not for COVID-19 and was for HPV2 as had been consented for by Mrs A on the consent form on 24 February 2021. To be clear, I do not consider that RN B meant any harm to Miss A in administering HPV2 or that this was, in any way, an assertion of RN B's views or beliefs over those of Miss A and Mrs A.

117. However, Right 7(1) of the Code is clear that health services can be administered to a consumer only with their informed consent. It is therefore imperative that providers take appropriate steps to obtain informed consent. As outlined above, I consider that on 15 November 2021, RN B was on notice that Mrs A had withdrawn consent for Miss A to receive HPV2. Any misunderstanding about whether Miss A's concerns about Mrs A's consent related to the COVID-19 vaccine would have been resolved if RN B had taken appropriate steps to clarify whether Mrs A consented to Miss A receiving HPV2, particularly after she was told by Miss A's father that the decision about the vaccine was to be made by Mrs A. I find that in failing to take adequate steps to resolve this uncertainty by speaking with Mrs A, RN B breached Right 7(7) of the Code. Further, I am of the view that at the point when uncertainty about Mrs A's consent was raised, this cast doubt on the validity of the consent that was held. Accordingly, I also find that in administering HPV2 to Miss A without taking reasonable steps to confirm Mrs A's consent, RN B breached Right 7(1) of the Code.

Communication and complaint management — adverse comment

118. I am also concerned about RN B's response to Mr and Mrs A when they raised their concerns with her after the vaccination had been given to Miss A. Mrs A's written notes of 15 November 2021 indicate that RN B was dismissive of Mrs A's concerns that her daughter had not been listened to, stating that "it [did not] essentially matter that we attempted or were withdrawing consent in that moment" because the consent paperwork was held. Mrs A also recorded that toward the end of the conversation, RN B concluded that "[she had] done no harm". Mrs A's description of this conversation is supported by Mr A's recollection that RN B "appeared blasé and did not have a lot of concern for what was happening". Further to this, it does not appear that RN B told the family at any point of their right to make a formal complaint to the DHB or HDC.

119. When consumers raise concerns about services to health and disability services providers, it is imperative that providers acknowledge these concerns and demonstrate to the consumer that their concerns have been heard and are being taken seriously. In my view, this critical first step can determine the course of a complaint and is essential for resolution. Genuine acknowledgement of a consumer's concerns is also related to every consumer's

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right under the Code to be treated with respect[13] and to complain about a provider in any form appropriate to the consumer, including making a complaint directly to the individual who provided the services complained of.[14]

120. It is clear from the family's recollection of events that they did not feel that their concerns were acknowledged adequately. In fact, my impression is that RN B's response to their concerns further inflamed the situation and cemented their understanding that RN B had dismissed Miss A's concerns just as she was now dismissing theirs. I acknowledge RN B's submission that she did not intend to dismiss the family's concerns and she believed she was simply providing factual information about the vaccination programme. However, I consider that RN B should have taken care to acknowledge the family's concerns and advise them of their right to make a formal complaint through the appropriate channels, and I am critical that she did not. I take this opportunity to remind RN B of her obligations as a healthcare provider under the Code, including her obligation to facilitate the fair, simple, speedy and efficient resolution of complaints.[15]

Opinion: RN C — other comment

121. Miss A recorded in her notes on 15 November 2021 that she told RN C: "[M]um [does not] want me to have any [vaccinations] at school." As outlined in the DHB's response, RN C recalled that on 15 November 2021, Miss A said that she was not sure whether her mother wanted her to receive "a vaccination".

122. As RN C did not administer HPV2 to Miss A, ultimately it was not her responsibility to obtain informed consent. RN C was aware that Miss A had voiced her concerns to RN B, and that RN B was contacting Miss A's parents to clarify this. I consider that it was reasonable in these circumstances for RN C to expect that RN B would manage the matter appropriately. I am therefore not critical that RN C did not take steps herself to ensure that informed consent was obtained.

123. However, Miss A's recollection of RN C's communication with her, as recorded in her written notes of 15 November 2021, is concerning. Miss A wrote that she told RN C that her mother did not want her to have HPV2, and RN C told her: "[N]o, no you are fine to have it here, and you [kind of] have to [have HPV2] [because] we have your papers." On the other hand, RN C denied speaking to Miss A in this manner, and said that she would never speak to any student or client like that. RN C also said that she would never have indicated to a student that they were bound by their parent's consent on the consent form. On review of the

[13] Right 1(1) of the Code states: "Every consumer has the right to be treated with respect."

[14] Right 10(1) of the Code states: "Every consumer has the right to complain about a provider in any form appropriate to the consumer." Right 10(2)(a) of the Code states: "Every consumer may make a complaint to the individual or individuals who provided the services complained of."

[15] Right 10(3) of the Code states: "Every provider must facilitate the fair, simple, speedy, and efficient resolution of complaints."

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information available, I am unable to reconcile these differing accounts. However, I consider that RN C has reflected on Miss A's experience appropriately, and I am satisfied that she understands that it would not be appropriate to speak to a consumer in the manner alleged, and that she respects each student's right to withdraw consent at any time.

Opinion: DHB (now Te Whatu Ora) — adverse comment

Communication with school and parents

124. There were two instances in which I consider that the DHB could have better communicated information to the school and/or the consenting parents of students.

125. First, I note that the MoH Standards state that parents need to be told who to contact in the event that the consent status of their child changes during the SBVP, but the DHB information leaflet provided to parents at the time of events did not explain how parents could withdraw consent, or who to contact if they wished to do so. I acknowledge that the MoH consent form provided to Mrs A stated that parents should contact the public health nurse directly if they changed their mind about whether their child should be vaccinated at school. However, it is not known whether the section for the public health nurse's contact details was completed on the form provided to Mrs A. I note that on the basis of Te Whatu Ora's statement that "in future this section will be stamped by [the PHNS]", it appears that this was not the practice at the time of these events.

126. Secondly, there was no communication with Miss A's parents about the fact that she had missed the initial vaccination date and that they could expect further information about a "catch-up" date for vaccination. The SBVP Policy Manual states that the vaccinator/site coordinator should notify schools and leave them with forms for children who are not vaccinated on the scheduled day. Further, the SBVP contains a template form to use to advise parents that their child was not vaccinated, the reason(s) for this, and whether/when the vaccination will be offered again at the school. I note that there are contact details for the PHNS at the bottom of the template form. However, it appears that this form was not used after Miss A missed the vaccination on 4 November 2021, and that this information was not otherwise communicated to her parents.

127. I consider that if better communication had occurred at each of these junctures, Mrs A would have had the necessary information and opportunity to inform the PHNS of her withdrawal of consent for HPV2. I am concerned that this information was not communicated on each occasion, and consider that if it had been, the events described in this complaint may have been avoided. I acknowledge that since these events, Te Whatu Ora has amended the information sheet provided to parents to include information and contact details for withdrawing consent at any time during the SBVP, and I consider this to be appropriate.

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128. There is conflicting evidence as to whether the school was given timely notice of the PHNS's intended catch-up visit on 15 November 2021. Te Whatu Ora and RN C said that RN C called the school on 11 November 2021 and advised the school's office manager, Mrs E, that the public health nurses would be attending the school on 15 November 2021 to complete the catch-up vaccinations. On the other hand, Mr D advised that his secretary does not recall receiving a telephone call about this (it is unclear whether the secretary Mr D refers to is Mrs E or another person). On balance, I accept RN C's account that she did call the school on 11 November 2021. Accordingly, I am satisfied that the PHNS gave the school reasonable notice of the intended catch-up visit on 15 November 2021 and accept that the PHNS was not required to contact parents directly. It is unfortunate that the school appears not to have relayed this information to parents.

Recommendations

129. As recommended in the provisional opinion, RN B provided a written apology to Miss A for the failings identified in this report. The apology will be forwarded to Mrs A with this report.

130. I recommend that in addition, RN B undertake HDC's online learning courses on:

- The Code of Health and Disability Services Consumers' Rights (Module 1);
- Informed consent (Module 2); and
- Complaints management and early resolution (Module 3).

Confirmation of the completion of these courses is to be provided to HDC within two months of the date of this report.

131. I recommend that Te Whatu Ora:

a) Provide an update regarding the review of the SBVP Policy Manual and confirmation that the Policy Manual has been amended to outline:

- The expected process and timelines for advising schools of the date(s) and time(s) for catch-up vaccination clinics; and
- The expected process and obligations for when a student indicates that their consenting parent no longer wants them to have a vaccination, or raises uncertainty about this.

Evidence of this is to be provided to HDC within three months of the date of this report.

b) Communicate to its Public Health Nursing Service the expectation that public health nurses use the "Follow Up for Students Not Vaccinated" form in Appendix 22 of the SBVP Policy Manual when a consented student or students miss the scheduled date(s) for vaccination. Evidence of this is to be provided to HDC within three months of the date of this report.

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c) Use an anonymised version of this case for the wider education of its Public Health Nursing Service to highlight the importance of:

- Individual accountability for ensuring that parental/guardian consent is valid;
- Critical thinking when doubts about consent are raised, and re-confirmation of consent before any vaccination is given; and
- The importance of timely and effective communication with students, parents and schools at each stage of a school-based vaccination programme.

Confirmation of this is to be provided to HDC within three months of the date of this report.

132. I recommend that the Nursing Council of New Zealand consider whether a review of RN B's competence and conduct, with respect to the failings and concerns identified in this report, is appropriate, and whether any further recommendations are necessary to improve RN B's practice.

Follow-up actions

133. A copy of this report with details identifying the parties removed will be sent to the Nursing Council of New Zealand, and it will be advised of RN B's name.

134. A copy of this report with details identifying the parties removed will be placed on the Health and Disability Commissioner website, www.hdc.org.nz, for educational purposes.

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Appendix A: Relevant standards

The Nursing Council of New Zealand *Code of Conduct for Nurses* (June 2012) states:

"1.3 Listen to health consumers, ask for and respect their views about their health, and respond to their concerns and preferences where practicable.

1.4 Work in partnership with the family/whānau of the health consumer where appropriate and be respectful of their role in the care of the health consumer.

…

1.10 Take steps to minimise risk and ensure your care does not harm the health or safety of health consumers.

…

3.2 Respect health consumers' rights to participate in decisions about their care and involve them and their families/whānau where appropriate in planning care. The concerns, priorities and needs of the health consumer and family/whānau must be elicited and respected in care planning.

…

7.2 Protect vulnerable health consumers from exploitation and harm."

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Appendix B: SBVP Policy Manual — Follow up for students not vaccinated (Appendix 22)

DATE:

Dear Parent/Guardian

You consented to ______________________________ having the HPV vaccination at school.

The HPV vaccination was not given because:

- ☐ Student unwell
- ☐ Student refused vaccination
- ☐ Student already vaccinated
- ☐ Absent
- ☐ ....

The vaccination will also be offered at your school on____________________

Yours sincerely

Public Health Nursing Service

DATE:

Dear Parent/Guardian

You consented to ______________________________ having the HPV vaccination at school.

The HPV vaccination was not given because:

- ☐ Student unwell
- ☐ Student refused vaccination
- ☐ Student already vaccinated
- ☐ Absent
- ☐ ....

The vaccination can be completed at your General Practice.

Yours sincerely

Public Health Nursing Service

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