

1 July 2024

The Ministry of Health (by registered post and email)
133 Molesworth Street
Thorndon
Wellington 6011

Copy to:

The Minister of Health, Dr Shane Reti (by registered post and email)
The Associate Minister of Health (by registered post and email)
All members of Parliament (by email only)

Dear all

OPEN LETTER AND OFFICIAL INFORMATION REQUEST – HEART TRANSPLANT POLICY IN NEW ZEALAND

1. I am writing to you in regard to:
 - (a) the current transplant policy in New Zealand and the NZ Heart and Lung Transplant Service (“**NZHLS**”) influencing the Ministry of Health (“**MOH**”) to amend its previously stated policy that the COVID-19 vaccines were no longer mandated for a patient to be considered for a place on the heart or lung transplant list; and
 - (b) request information under the Official Information Act 1982 (“**OIA**”). For ease of reference, the requests made under the OIA are shown in blue.

INTRODUCTION

2. The underlying foundations for the consideration of a heart transplant are improving the quality and duration of life without increasing the patient’s likelihood of death. Information provided under the OIA states that heart transplants are “*extremely good with 50% 15-year survival*”, however, patients do die while on the waiting list. Consequently, it is imperative that:
 - (a) transplant patients meet certain pre-and post-transplant criteria;
 - (b) transplant patients who have a high chance of survival are prioritised;
 - (c) the pre-transplant criteria benefits patients and does not expose them to unnecessary risk; and
 - (d) the decision makers for the transplant list make decisions based on the science free from their personal bias.

3. While some heart or lung transplant candidates may have worse outcomes from COVID-19 than the general population, there are other heart and lung candidates that do not. Regardless, all people with compromised immunities are at risk of any type of infection.
4. It is well-established science that none of the COVID-19 vaccines stop transmission nor infection despite the initial 95% efficacy claim for COVID-19 vaccines such as Pfizer's claims. Those that claim that the COVID-19 vaccine prevents some serious illness and hospitalisation from COVID-19 fail to consider the risks from the vaccines. For example:
 - (a) Some vaccine induced heart issues, such as myocarditis and pericarditis are now acknowledged risks of the COVID-19 vaccines. Even the Chief Medical Officer for Moderna has publicly acknowledged that spike from mRNA vaccination sites distribute to the heart where they are the probable cause of spike-associated myocarditis. Dr. Paul Burton admitted this in an interview he did with Yahoo Finance¹. The article states:

*"Moderna's chief medical officer Dr. Paul Burton, in a separate interview Tuesday with Yahoo Finance, said the risk of myocarditis could have to do with an interaction with the spike protein — which plays a role in the basis of all Covid vaccines — and heart muscle cells. **"We know so much more about myocarditis today than we did a year ago. I do believe that it is the spike protein... that either causes a little bit of direct damage to the heart, or antibodies [against the spike protein] that are produced that react with the heart cells [that are programmed to express the spike protein],"** [emphasis added] Burton said."*

In addition, the highly respected *Journal of Immunology* published a peer-reviewed scientific paper way back in November 2021, 'Cutting Edge: Circulating Exosomes with COVID Spike Protein Are Induced by BNT162b2 (Pfizer-BioNTech) Vaccination prior to Development of Antibodies²'. The authors stated:

*"we analyzed the kinetics of induction of circulating exosomes with SARS-CoV-2 spike protein and Ab [antibodies] following vaccination of healthy individuals. **Results demonstrated induction of circulating exosomes expressing spike protein on day 14 after vaccination followed by Abs 14 d after the second dose. Exosomes with spike protein, Abs to SARS-CoV-2 spike, and T cells secreting IFN-γ and TNF-α increased following the booster dose. Transmission electron microscopy of exosomes also demonstrated spike protein Ags [antigens] on their surface. Exosomes with spike protein and Abs decreased in parallel after four months."***

In short, spike proteins from mRNA vaccines can circulate in the blood for at least four months post-inoculation.

¹ <https://finance.yahoo.com/news/m-rna-creators-studying-vaccines-heart-inflammation-risk-185318811.html>

² <https://pubmed.ncbi.nlm.nih.gov/34654691/#:~:text=Results%20demonstrated%20induction%20of%20circulating,increased%20following%20the%20booster%20dose.>

Others risks such as acceleration of existing vascular disease are yet to be formally accepted by officials. There is an irony in asking a patient that requires a heart transplant to take a vaccine that causes serious heart conditions; and

- (b) AstraZeneca has recently withdrawn its vaccine worldwide due to poor sales, due to the risk of thrombosis with thrombocytopenia (i.e., blood clots)³.
- 5. In addition, if the vaccines are the answer to preventing worse outcomes for COVID-19 why did Pharmac change the access criteria policy for vulnerable people (which expressly includes heart and lung transplant patients) for antiviral treatments⁴ for COVID-19 in September 2023? The change of policy to enable antiviral treatments for COVID-19 implies that the current narrative that the vaccine reduces the risk of hospitalisation for COVID-19 is also shifting and the vaccine is not the silver bullet which was claimed.
- 6. The NZHLS is still mandating that transplant candidates must have two doses of the vaccines to be considered for the transplant list. Neither the MOH nor the NZHLS have provided a timeframe for vaccination. Accordingly, it would seem from the correspondence to date that the transplant candidate could have had two COVID-19 vaccines three years ago and qualify to be placed on the transplant list in 2024. This policy is illogical given it is well-accepted science that the COVID-19 antibodies wane, and any protection is for a very limited period of time. Further the current bivalent vaccine is approved to provide a primary course in a single dose only.

BACKGROUND TO IRENE KARMAN'S CASE

- 7. On 1 March 2024, the NZHLS responded to a request for clarification around Irene Karman's ("Irene") eligibility for a heart transplant as she has not had any COVID-19 vaccine ("NZHLS's First Letter"). A copy of the letter is set out at **Schedule 1**.
- 8. It is important to note that Irene informs me that she had been approved to be placed on the heart transplant list prior to COVID-19.
- 9. The NZHLS advised that they would require Irene to have "*the appropriate vaccinations before she would be eligible for transplant*". It should be noted that Irene informs me that she has had all the other vaccines which were required but did not wish to take the COVID-19 vaccines due to the risk of serious injury and death. Irene also informs me that she has a blood clotting disorder which would increase her risk from the COVID-19 vaccines. Irene had COVID-19 and her antibodies were tested at the time. Irene did not require hospitalisation from the infection.
- 10. These risks have been acknowledged by governments since the serious injuries and deaths started emerging with the roll out of the vaccine. The various official inquiries currently being undertaken around the world are highlighting that the true number of serious injuries and

³ <https://www.theguardian.com/business/article/2024/may/08/astrazeneca-withdraws-covid-19-vaccine-worldwide-citing-surplus-of-newer-vaccines>

⁴ <https://pharmac.govt.nz/news-and-resources/consultations-and-decisions/2023-09-20-decision-on-covid-19-antivirals-access-criteria>

deaths from the vaccine have been skewed to favour the interests of the pharmaceutical companies.

11. As set out in full in NZHLS's First Letter, the rationale for denying a patient to be considered for placement onto the transplant list are as follows:
 - (a) the COVID-19 vaccine protects patients against the virus;
 - (b) the COVID-19 vaccine stops transmission to other patients; and
 - (c) the NZHL's policy is an internationally accepted policy.
12. Sadly, Irene's case is not isolated and there are other New Zealand families who have reached out to me, but they are too scared to speak out publicly at this point in time. Sadly, another family has informed me that their family member has taken the vaccine under coercion as they are scared that they will not get the best treatment if the family member did not comply with the current mandates.

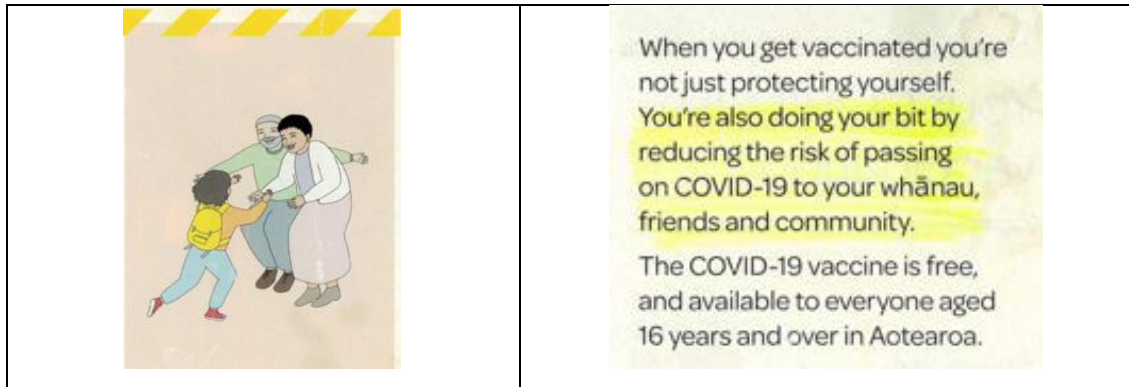
TRANSMISSION

13. NZHLS's First Letter states that the COVID-19 vaccine is required to:

"...not only to protect the patient and the donor organ but also for the immunosuppressed transplant patient with whom the patient will be in close contact during the course of the transplant journey."
14. NZHLS's rationale is based on the false premise that the COVID-19 vaccines stop transmission and the unvaccinated are a danger to the vaccinated. By way of summary:
 - (a) In August 2021, the CDC confirmed that fully vaccinated individuals could spread the virus⁵.
 - (b) On 10 September 2021, the MOH confirmed in a response to an OIA request that Pfizer had not tested the vaccine to ascertain if it reduced transmission (OIA ref: H202110912);
 - (c) A senior Pfizer official admitted under oath in the European Parliament Committee that the vaccine had not been tested to ascertain if the vaccine stopped the spread of the virus before the public rollout⁶.
15. As a side note it is scandalous that mandates, which threatened loss of income, relationships and access to society, were based on the premise that the vaccine stopped transmission of the virus. We all remember the pamphlets, that cost millions of dollars, delivered to our letterboxes that misrepresented that the vaccine would stop transmission.

⁵ https://www.realclearpolitics.com/video/2021/08/06/cdc_director_vaccines_no_longer_prevent_you_from_spreading_covid.html

⁶ <https://www.youtube.com/watch?v=5A2ZkW8pUWg>



16. Given NZHLS curious rationale, I wrote to the MOH on 8 April 2024 (“April OIA Request”) and requested information on how the vaccines prevent transmission from the unvaccinated patients to the vaccinated patients. The MOH has not provided any information to date to support NZHLS’s assertion.
17. An unvaccinated patient presents no more of a risk to other transplant patients than those transplant patients that have taken two doses or all available seven doses.

HOW MANY DOSES ARE REQUIRED

18. The NZHLS First Letter did not state how many COVID-19 vaccines were required. Consequently, I asked the question in my April OIA Request. On 6 May 2024 Health New Zealand (respectively “HNZ” and “HNZ’s 6 May OIA Response”) replied and stated that:

*“The Health New Zealand Kidney Transplant Services **do not require a patient placed or kept on the transplant list to be vaccinated against COVID** [emphasise added].*

The same applies for the Liver Transplant Service.

*For heart and lung transplant patients, it is highly **recommended for patients to receive two baseline vaccination doses or an acceptable alternative** [emphasise added]. It is also strongly encouraged to have ongoing 6 monthly boosters after heart and lung transplantation. The vaccination status of the patient does not determine if they are placed, or stay, on the heart and lung list.*

***No patients have been removed from any transplant list due to their vaccine status** [emphasise added].”*

19. A copy of HNZ’s 6 May OIA Response is set out at **Schedule 2**.
20. With Irene’s consent, I shared HNZ’s response on social media as many New Zealanders were concerned that in 2024 a woman was being denied consideration for the transplant list due to her COVID-19 vaccine status.
21. On 21 May 2024, the NZHLS wrote to Irene and referred to HNZ’s 6 May OIA Response (“NZHLS’s Second Letter”). The NZHLS stated that the information in the HNZ’s response was incorrect and that they would require Irene to have two COVID-19 vaccinations to be considered for the transplant list. A copy of the letter is set out at **Schedule 3**.

22. Strangely, the NZHLS concludes the letter with the following quote:

“TSANZ recommends that all transplant or potential transplant recipients be advised to undergo a primary course of COVID vaccinations with recommended booster doses, as per ATAGI and the NZ Ministry of Health”.

23. NZHLS’s position is strange given that TSANZ recommends two COVID-19 vaccines and a booster, where NZHLS only requires that the patient has had two COVID-19 vaccines at some point in the last three years.

24. On 7 June 2024, HNZ (“**HNZ’s 7 June OIA Response**”) wrote to me and stated that the information in the HNZ’s 6 May OIA Response was “*incorrect*” and that:

*“On behalf of Health New Zealand – Te Whatu Ora **we would like to apologise for incorrect information** [emphasis added] given in the Official Information Act request referenced HNZ00043182 – in relation to heart and lung transplants.*

***It was stated that vaccines are highly recommended, however this information is incorrect. Individuals being considered for heart or lung transplant are required to have two Covid vaccinations** [emphasis added] as part of the criteria for transplant – this could be any of the fully approved Covid vaccine used in New Zealand.”*

25. A copy of HNZ’s 7 June OIA Response is set out at **Schedule 4**.

26. **OIA Request:** I request all information from 8 April 2024 through to 7 June 2024 (inclusive) between HNZLS, HNZ and/or the MOH regarding the “*incorrect information*” referred to in HNZ’s 7 June OIA Response and the change to the policy change in relation to COVID-19 vaccinations.

27. HNZLS’s 2024 policy ignores the 2021 studies that found that two doses of the COVID-19 vaccine did not provide protection for all transplant patients. For example, the American College of Cardiology⁷ reported in August 2021 that the immune response to vaccination was significantly lower in patients with clinically or therapeutically suppressed immunity (e.g. transplant patients) and that approximately half of cardiac transplant recipients do not generate IgG antibodies following two doses of SARS-CoV-2 mRNA vaccine. Accordingly, the American College of Cardiology recommended three doses but noted that:

*“It should be kept in mind that in the recently published randomized clinical trial, even after the third dose, only 55% of the transplant recipients had an antibody level above the protective threshold of 100 U per milliliter. Thus, barrier measures should continue to be maintained, and vaccination of the relatives and contacts of these patients should be **strongly enforced in addition to the third booster** [emphasis added] consideration in cardiac transplant patients.”*

⁷ <https://www.acc.org/Latest-in-Cardiology/Articles/2021/08/13/16/21/Cardiac-Transplant-Patients-Should-Receive-a-Booster-For-COVID-19-Vaccination>

28. Two years later a study published in *The Journal of Clinical Translation Research*⁸ aimed to identify vaccine-induced immune correlates of protection against COVID-19-related hospitalizations in a highly vaccinated heart transplant (HT) cohort. The study found:

*“The study cohort comprised 59 HT recipients aged 58 (49,65) years with **breakthrough infections after three or four monovalent BNT162b2 doses** [emphasis added]; 41 (69.5%) were men. Thirty-six (61%) patients with COVID-19 were hospitalized; most cases were non-severe (58, 98%). For hospitalized (vs. non-hospitalized) COVID-19 patients, vaccine-induced neutralization titers were significantly lower against all SARS-CoV-2 variants ($p < .005$). Vaccine-induced neutralization of the wild-type virus and delta and omicron BA.1, BA.2, BA.4, and BA.5 variants was associated with a reduced risk for COVID-19-related hospitalization. The optimal neutralization titer thresholds that were predictive of COVID-19 hospitalizations were 96 (wild-type), 48 (delta), 12 (BA.1), 96 (BA.2), 96 (BA.4), and 48 (BA.5).”*

29. Another 2023 study, ‘Measures to Increase Immunogenicity of SARS-CoV-2 Vaccines in Solid Organ Transplant Recipients: A Narrative Review’⁹, also reported that:

“COVID-19 booster vaccines were given to SOTRs as a widespread practice in many transplant centers, mostly as the third and/or fourth dose in an extended vaccine series, with a significantly improved humoral response compared with the initial two-dose scheme. However, one-third of SOTRs remained unresponsive, despite these boosters.”

30. In response to the information in HNZ’s 7 June OIA Response, I requested the documentation that states that support the two vaccines policy. On 25 June 2024, Health New Zealand provided me with copies of the following three documents:

“Appendix 1 – On 28 October 2021 the Clinical Ethics Advisory Group, agreed that it was ethical to mandate COVID vaccination for potential heart transplant recipients. Redactions have been made under section 9(2)(a) of the Act to protect the privacy of natural persons.

Appendix 2 – On page 88, of The Transplantation Society of Australia and New Zealand, Clinical Guidelines, you will find a list of Major Exclusion Criteria for Heart Transplantation, and within these exclusions are non-compliance with recommended pre-transplantation vaccinations.

Appendix 3 – To be able to understand the recommended pre-transplantation vaccines, this appendix is the Immunization for adults pre/post solid organ transplantation, from the Immunization Advisory Centre.”

(separately referred to as “HNZ’s Appendix 1”, “HNZ’s Appendix 2” and “HNZ’s Appendix 3” and collectively as “HNZ’s Appendices”)

Appendix 1

31. Appendix 1 is Auckland DHB’s Clinical Ethics Advisory Group’s Letter dated 28 October 2021 and states that:

⁸ <https://onlinelibrary.wiley.com/doi/10.1111/ctr.15091>

⁹ <https://www.mdpi.com/2076-393X/11/12/1755>

“Unvaccinated patients would place other transplant recipients at increased risk of contracting COVID and worsening their outcomes even though they are vaccinated themselves.”

32. For the reasons set out above, this statement is not relevant to clinical decisions in 2024.

Appendix 2

33. HNZ referred to page 88 of Appendix which states that: ‘

“Non-compliance with recommended pre-transplantation vaccinations: the seroconversion rate after vaccinations is significantly higher in the non-immunosuppressed population compared to vaccination in immunosuppressed solid organ transplant recipients. It is therefore critical that potential transplant recipients are vaccinated before transplantation, to enable them to develop adequate immune responses to the pathogen.³¹ Rates of COVID-19 infection, severity of illness and mortality rates have been reported to be lower in the fully vaccinated transplant recipients, compared to non or partially vaccinated recipients.³²⁻³⁴ This highlights further the importance of adherence to transplant unit advice pertaining to recommended vaccination schedules.”

34. These statements, and their limited references, are unreliable and outdated given the considerable peer-reviewed evidence published which counters them. Transplant patients require more than generalised dogma. The literature base examining most patients, i.e., non-transplant recipients, shows clear failure of sterilising immunity that is temporary and declines more quickly with each dose, not to mention immune paresis concerns such as IgG4 class switching. Further, misdefinition of vaccine status contributed to an initial perception of a mortality benefit for the vaccinated.
35. Over three years ago, Johns Hopkins Medicine researcher published a study in Journal of the American Medical Association (“JAMA”) stating that the COVID-19 vaccines did not provide full protection for transplant patient. The Johns Hopkins Medicine press release stated:

“Johns Hopkins Medicine researchers have shown that although two doses of a vaccine against SARS-CoV-2 — the virus that causes COVID-19 — confers some protection for people who have received solid organ transplants, it’s still not enough to enable them to dispense with COVID safety measures.”

36. Furthermore, the Johns Hopkins Medicine press release states:

“This is a follow-up study to an earlier one published in March in JAMA, in which the researchers reported that only 17% of the participating transplant recipients produced sufficient antibodies after just one dose of a two-dose COVID-19 vaccine regimen.”

37. The Johns Hopkins Medicine researchers found that between the two studies that they conducted that the detectable antibodies to SARS-CoV-2 at 21 days after the first vaccine dose had dropped further from 17% to 15%. The researchers claimed that two doses of the COVID-19 conferred some protection to those who have received solid organ plants but that the “protection” was not enough to dispense with masks, physical distancing and other safety measure.

38. Recently at the US House Select Subcommittee on COVID-19 (“**the Subcommittee**”), Anthony Fauci (“**Fauci**”), former director of the National Institute of Allergy and Infectious Diseases, stated under oath that there was no science behind the 6 foot-rule. The Subcommittee ask whether any scientific evidence and data were analysed prior to the 6 foot-rule being implemented. Fauci stated:

“AI was not aware of studies that in fact, that would be a very difficult study to do ... Yeah. Yeah. I think it would fall under the category of empiric. Just an empiric decision that wasn't based on data or even data that could be accomplished. But I'm thinking hard as I'm talking to you.

Q. Uh huh.

A. I don't recall, like, a discussion of, "Now it's going to be" it sort of just appeared, that 6 feet is going to be the distance¹⁰”.

39. In addition, a recent study, ‘*Epidemic outcomes following government responses to COVID-19: Insights from nearly 100,000 models*’, found that the COVID-19 government responses lacked empirical support¹¹.
40. **OIA Request:** I request all scientific evidence, data and other information as defined by the OIA showing that the 2-metre rule in New Zealand was analysed by the MOH prior to implementing this ‘*health measure*’. I also request the total sum of money that was spent by the New Zealand Government on advertising, promotion (e.g. posters, stickers, signs) and the like in regard to the 2-metre rule.

Appendix 3

41. HNZ provided me with the Immunisation Advisory Centre’s (the “**IMAC**”) recommendations for “*Immunization for adults pre/post solid organ transplantation*” to support NZHLS’s two doses policy. However, as noted above the IMAC recommends three doses.

INTERNATIONAL POLICY

42. While the NZHLS claim that their two doses policy is in line with international policy, this does not appear to be the case in the past or present.
43. In October 2022, the *Kidney360*¹² reported on international practices on COVID-19 vaccine mandates for transplant candidates and noted that:

“The approach to pretransplant coronavirus disease 2019 (COVID-19) vaccination mandates is heterogeneous across different countries and international transplant centers ... Respondents (N=90) represented 27 countries on five continents. Half (51%) of responding transplant center representatives reported implementing a COVID-19 vaccine mandate, 38% did not, and 12% were unsure. Staff at centers implementing a vaccine mandate cited efficacy of pretransplant vaccination versus post-transplant vaccination, importance for public health, and minimizing exposure of other patients as rationale for the mandate. Of centers with a mandate, the majority

¹⁰ <https://oversight.house.gov/wp-content/uploads/2024/05/FINAL-Fauci-Memo.pdf>

¹¹ <https://pubmed.ncbi.nlm.nih.gov/38838157/>

¹² <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9717656/>

*(81%) of the centers mandate vaccination regardless of prior SARS-CoV-2 infection status and regardless of prevaccination spike-protein antibody titer or other markers of prior infection. Only 27% of centers with a vaccine mandate for transplant candidates also extended a vaccine requirement to living donor candidates. Centers not implementing a vaccine mandate cited concerns for undue pressure on transplant candidates, **insufficient evidence to support vaccine mandates, equity, and legal considerations** [emphasis added].”*

44. In addition, the United Kingdom’s NHS’s Blood and Transplant¹³ website states that a patient can receive a transplant regardless of the patient’s COVID-19 vaccine status.

RISK VS BENEFIT

45. In my April OIA Request I asked for a copy of any risk vs benefit information regarding the Pfizer vaccine and any other fully approved COVID-19 vaccines currently in New Zealand. HNZ’s 6 May OIA Response stated:

“On 15 April 2024, the Ministry of Health (Medsafe) accepted transfer to respond to these two questions under section 14(b)(ii) of the Act and you can expect a response from Medsafe in due course.”

46. Almost two and half months later, I have not received any response from Medsafe.
47. At the American Transplant Congress meeting¹⁴ it was noted that the impact of vaccination on rejection in transplant recipients had not been studied well. The same year, Vaccines (Basel) published a systematic review and meta-analysis of the “Solid Organ Rejection following SARS-CoV-2 Vaccination or COVID-19 Infection¹⁵” and found:

“One hundred thirty-six cases from fifty-two articles were included in the qualitative synthesis of this systematic review (56 solid organs rejected post-SARS-CoV-2 vaccination and 40 solid organs rejected following COVID-19 infection). Cornea rejection (44 cases) was the most frequent organ observed post-SARS-CoV-2 vaccination and following COVID-19 infection, followed by kidney rejection (36 cases), liver rejection (12 cases), lung rejection (2 cases), heart rejection (1 case) and pancreas rejection (1 case).”

48. In addition, The Journal of Heart and Lung Transplantation reported on the COVID-19 vaccine triggering three patients in the study to reject their lung transplants¹⁶.
49. **OIA Request:** I request all information that HNZLS provides to patients regarding the risk of the COVID-19 vaccines.

Further OIA Request

50. I request all information as defined under the OIA in regard to:

¹³ <https://www.nhsbt.nhs.uk/organ-transplantation/resources/coronavirus/>

¹⁴ <https://atcmeetingabstracts.com/abstract/effect-of-covid-19-vaccination-on-markers-of-rejection-in-heart-transplant-recipients/>

¹⁵ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9412452/>

¹⁶ [https://www.jhltonline.org/article/S1053-2498\(22\)01370-5/fulltext](https://www.jhltonline.org/article/S1053-2498(22)01370-5/fulltext)

- (a) the policy to require heart and lung transplant patients to have the COVID-19 vaccine;
- (b) the policy for other transplants and the COVID-19 vaccine (i.e., excluding those under the heart and transplant service);
- (c) the COVID-19 policy for other patients with compromised immunity e.g., those receiving chemotherapy or bone marrow transplants;
- (d) the NZHLS considering patients for the transplant list if they were issued an exemption for the COVID-19 vaccine;
- (e) the anonymised data of the number of COVID-19 vaccines and the dates of the administration of the vaccines for all the doctors, nurses and other staff working in the transplant team 2024;
- (f) relationship between the NZHLS's two dose policy and the application of the Code of Health and Disability Services Consumers' Rights including (but not limited to):
 - (i) **Right 1(3)** - Every consumer has the right to be provided with services that take into account the needs, values, and beliefs of different cultural, religious, social, and ethnic groups, including the needs, values, and beliefs of Māori;
 - (ii) **Right 2**- Every consumer has the right to **be free from discrimination, coercion, harassment, and sexual, financial or other exploitation.**
 - (iii) **Right 4(4)**- Every consumer has the right to have services provided in a manner that minimises the potential harm to, and optimises the quality of life of, that consumer.
 - (iv) **Right 6(2)** - Before making a choice or giving consent, every consumer has the right to the information that a reasonable consumer, in that consumer's circumstances, needs to make an informed choice or give informed consent.

51. In summary, it appears that the opportunistic, aggressive, inconsistent between health agencies, and rights-eroding policy to hold transplant patients to ransom lacks clear evidence of significant benefit, against the still to be fully acknowledged harms that NZHLS and HNZ seem to be ignoring. The research they rely on is clearly outdated and overly narrow. From the WHO down to its member States, it is acknowledged that covid-19 is no longer a serious threat worthy of rights-limiting legislation. Given all this,

52. I look forward to your prompt response.

Yours sincerely

Kirsten Murfitt

Kirsten Murfitt

NB: please note that:

- (a) I am writing this letter in my personal capacity as a concerned citizen of New Zealand; and
- (b) Irene has read and approved this letter.

SCHEDULE 1

NZHLS's First Letter



Auckland District Health Board
Park Road
Private Bag 92 024
Auckland 1142
Telephone +64 9 307 4949
www.adhb.govt.nz

General Clinical Letter
NZ Heart and Lung Transplant
Service

SB

Irene Minchin
Nurse Practitioner
Mapua Health
62 Aranui Road
Mapua
Nelson 7005

Date of Dictation 01/03/2024
Date of Typing 08/03/2024
ACC Number N/A
Date of Injury N/A

Copy to Patient Y

Dear Irene

Re Irene Karman
260 Hursthouse Street
R D 2
Upper Moutere 7175

NHI Number UVD7686
Minor NHI
DOB 07/07/1965
Gender Female

You wrote to us recently requesting clarification of Irene's eligibility for transplant with regard to her unvaccinated status against COVID-19. As we have previously discussed and continue to endorse, vaccinations are an integral part of our pretransplant eligibility practices. This includes vaccinating against COVID-19 which is not only protective for the patient and the donor organ but also for the immunosuppressed transplant patients with whom the patient will be in close contact during the course of their transplant journey. This remains the case both in New Zealand and internationally. We are happy to have Irene obtain COVID vaccination with any type of vaccine that she prefers i.e. Pfizer, Novavax, Johnson & Johnson etc. We require only that she has had appropriate vaccinations before she would be eligible for transplant.

Please do not hesitate to reach out with further questions or concerns.

Yours sincerely

Natasha L. Altman
Cardiologist
Green Lane Cardiology

Transplant patients will be contacted by the coordinators if they have abnormal results or require changes to their medications.

They can contact the coordinators by calling 0800HEART2 if they wish to know their results.

**Please ensure that all correspondence is copied to the
NZ Heart & Lung Transplant Service.**

This document is dictated and approved by the author

Visit www.healthpoint.co.nz
The easy and FREE way to get information about what to expect during your treatment.

Document3

SCHEDULE 2

HNZ's 6 May OIA Response

6 May 2024

Health New Zealand
Te Whatu OraKirsten Murfitt
kirsten@kmlaw.co.nz

Tēnā koe Kirsten,

Your request for official information, reference: HNZ00043182

Thank you for your email on 8 April 2024, asking Health New Zealand | Te Whatu Ora for the following under the Official Information Act 1982 (the Act):

I understand that patients are being denied organ transplants based on their COVID-19 vaccine status. Accordingly, I request the following information under the Official Information Act 1982:

(a) Provide us with the current data that illustrates how the vaccine prevents transmission from the unvaccinated to the vaccinated;

(b) How many Pfizer Vaccines, including "boosters", are required to be taken by the patient to:

- * be placed on the transplant list;*
- * kept on the transplant list;*

(c) If a patient elects to take another fully approved COVID-19 vaccine in New Zealand, how many of the fully approved COVID-19 vaccines, including "boosters", are required to be by the patient to:

- * be placed on the transplant list;*
- * be kept on the transplant list;*

(d) A copy of any risk vs benefit information that the DHB holds concerning the Pfizer vaccine and any other fully approved COVID-19 vaccine that is currently available in New Zealand;

(e) The trials that have been completed under the new formulation of the Pfizer Vaccine in the immunosuppressed population;

(f) Evidence that the government performed an up-to-date risk-benefit assessment of the latest version of the Pfizer vaccine.

Response

Provide us with the current data that illustrates how the vaccine prevents transmission from the unvaccinated to the vaccinated;

How many Pfizer Vaccines, including "boosters", are required to be taken by the patient to:

- * be placed on the transplant list;*
- * kept on the transplant list;*

If a patient elects to take another fully approved COVID-19 vaccine in New Zealand, how many of the fully approved COVID-19 vaccines, including "boosters", are required to be by the patient to:

- * be placed on the transplant list;*
- * be kept on the transplant list;*

The Health New Zealand Kidney Transplant Services do not require a patient placed or kept on the transplant list to be vaccinated against COVID.

The same applies for the Liver Transplant Service.

For heart and lung transplant patients, it is highly recommended for patients to receive two baseline vaccination doses or an acceptable alternative. It is also strongly encouraged to have ongoing 6 monthly boosters after heart and lung transplantation. The vaccination status of the patient does not determine if they are placed, or stay, on the heart and lung list.

No patients have been removed from any transplant list due to their vaccine status.

A copy of any risk vs benefit information that the DHB holds concerning the Pfizer vaccine and any other fully approved COVID-19 vaccine that is currently available in New Zealand;

On 15 April 2024, we reached out to you to clarify as there are no longer individual DHBs but one entity, Health NZ. You responded "In 2024, the DHB is deciding whether to put patients on transplant lists based on whether they have received a COVID-19 vaccine. Please provide us with the information that is held by the DHB to justify these decisions".

Any information about the "risk vs benefit" of Pfizer is either generated by Pharmac, Medsafe or IMAC. We do keep clinical updates about the vaccine and clinical risks that we need to be aware of that have been sent via email by the above agencies.

*The trials that have been completed under the new formulation of the Pfizer Vaccine in the immunosuppressed population;
Evidence that the government performed an up-to-date risk-benefit assessment of the latest version of the Pfizer vaccine.*

On 15 April 2024, the Ministry of Health (Medsafe) accepted transfer to respond to these two questions under section 14(b)(ii) of the Act and you can expect a response from Medsafe in due course.

How to get in touch

If you have any questions, you can contact us at h.nz.OIA@tewhaturora.govt.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 or by phoning 0800 802 602.

As this information may be of interest to other members of the public, Health NZ may proactively release a copy of this response on our website. All requester data, including your name and contact details, will be removed prior to release.

Nāku iti noa, nā

A handwritten signature in blue ink, appearing to read 'Danielle Coe', with a small 'pp' to its left.

Danielle Coe

Manager (OIA) – Government Services
Office of the Chief Executive

SCHEDULE 3

NZHLS's Second Letter



Health New Zealand
Te Whatu Ora

21 May 2024

Irene Karman
260 Hursthouse Street
RD2
Upper Moutere 7175

Dear Irene

I am writing to you regarding your communication to the Heart and Lung transplant team about eligibility for heart transplant without Covid vaccination. Unfortunately, the FOIA that you received from Te Whatu Ora had incorrect information.

Firstly, I would like to apologise for this incorrect information that you received. A new communication from Te Whatu Ora will be coming to your Lawyer Kirsten Murfitt. The process on how this incorrect information occurred is being followed up to ensure further events like this do not occur.

We realise this error and confusion may be upsetting for you.

The correct information is that the eligibility for both heart and lung transplantation has not changed from when previously discussed with you.

Two Covid vaccinations remain a criterion for consideration for transplant. This is along with other vaccinations that are integral to pre transplant eligibility. The Covid vaccine can be of any fully approved vaccine in New Zealand.

The Heart and Lung transplant clinical team have based this on the knowledge that this protects the patient, the donor organ and also the other immunosuppressed transplant patients that will be in close contact.

Our position is in keeping with the policy from the Transplantation Society of Australia and New Zealand (TSANZ).

"TSANZ recommends that all transplant or potential transplant recipients be advised to undergo a primary course of COVID vaccinations with recommended booster doses, as per ATAGI and the NZ Ministry of Health" February 2024.

Yours sincerely

Dr Jaime O'Loughlin
Clinical Lead Heart and Lung Transplant New Zealand
Specialist Cardiothoracic Anesthetist
Toka Tumai

TeWhatuOra.govt.nz
P O Box 92024, Auckland, 1142
Mobile: +64 21 812 530

Te Kāwanatanga o Aotearoa
New Zealand Government

SCHEDULE 4

HNZ's 7 June OIA Response

7 June 2024

Health New Zealand
Te Whatu Ora

Kirsten Murfitt
kirsten@kmlaw.co.nz

Tēnā koe Kirsten,

On behalf of Health New Zealand – Te Whatu Ora we would like to apologise for incorrect information given in the Official Information Act request referenced HNZ00043182 – in relation to heart and lung transplants.

It was stated that vaccines are highly recommended, however this information is incorrect. Individuals being considered for heart or lung transplant are required to have two Covid vaccinations as part of the criteria for transplant – this could be any of the fully approved Covid vaccine used in New Zealand.

The rest of the information in HNZ00043182 relating to other solid organ transplants was correct. Once again we apologise for this error and the confusion this has caused.

Nāku iti noa, nā



Danielle Coe
Manager (OIA) Government Services
Health New Zealand | Te Whatu Ora