

Chiropractor, Mr B

**A Report by the
Health and Disability Commissioner**

(Case 02HDC09817)



Health and Disability Commissioner
Te Toihau Hauora, Hauātanga

Parties involved

Mrs A	Consumer
Mr A	Consumer's husband
Mr B	Provider, Chiropractor
Mrs B	Provider's wife
Ms C	Mr B's receptionist

Complaint

On 23 July 2002 the Commissioner received a complaint from Mrs A about Mr B. The complaint was summarised as follows:

Mr B:

- 1. Did not provide services of an appropriate standard to Mrs A, in particular:*
 - Made inappropriate comments while providing spinal checks.*
 - Touched her inappropriately while providing spinal checks.*
 - Initiated sexual contact while in a professional relationship.*
- 2. Failed to give appropriate information, in particular:*
 - Did not advise the nature of the medication given to Mrs A and why it was provided.*
 - Did not tell Mrs A the cost of the medication or that she should pay for it.*
- 3. Financially exploited Mrs A, in particular:*
 - Required pre-payment for ten chiropractic treatments.*
 - Failed to reimburse Mrs A for three prepaid consultations that she did not wish to attend following the termination of their relationship.*
- 4. Sexually exploited Mrs A.*

An investigation was commenced on 20 August 2002.

Information reviewed

- Mrs A's letter of complaint, dated 17 July 2002
 - Letter of response from Mr B, dated 17 September 2002, including Mrs A's clinical record, ACC claim form, Natural Health Laboratories information sheet on nutrient support, record of payments, letter of support from receptionist
 - Transcripts of interviews with Mr B and Mrs A
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Information gathered during investigation

Background

Mrs A, a 49-year-old woman, met Mr B socially in January 2002 prior to receiving chiropractic treatment from him. Mrs A and Mr B were both involved in a social group that met to discuss the works of Gurdjieff, an international spiritual guide and writer, and their first meeting was at another group member's house. They met with other group members at Mr B's house on two further occasions before their first meeting alone on 26 May 2002. Mrs A said that her first chiropractic treatment was a free spinal check at Mr B's house on 26 May 2002. Mr B said that the first treatment was at his rooms on 1 June 2002.

Free spinal checks outside clinic

On 26 May Mrs A took Mr B some plants from her garden, which she had earlier promised him. Mrs A commented to Mr B that she had seen his advertisement for free spinal checks and he offered her a free check on the spot. She said that while purporting to perform a free spinal check, Mr B commented that she had a beautiful back and then ran his hands over her body, commenting that she had beautiful skin:

“... but then he was making me feel kinda nice so given me two compliments well one that I knew my back was good.”

Mrs A said she thought “hey something's going [on]” as Mr B continued to run his hands over her body, nuzzled her neck and cuddled her. Mrs A informed me that Mr B attempted to touch her breasts and also to put his hands inside her pants, both of which she resisted. She asked, “Do you seduce all your patients [Mr B]?” and Mr B told her his wife liked him to have relationships.

On 28 May Mrs A again went to Mr B's house at his invitation. Mrs A said that Mr B initiated intimate touching, including putting his mouth over her nipple, kissing her and running his hands over her body. Mrs A said Mr B told her that she was receiving free chiropractic treatment. He then advised her that she should come to his clinic for a free spinal check. Mrs A said that she wondered about this as Mr B had previously told her her back was “fine” but she was happy to go.

Mr B said that he and Mrs A became “reasonable friends and engaged in consensual touching”. Mr B said that he did not provide spinal checks at his home on 26 or 28 May:

“I do professional work, [Mrs A] was not a patient of mine when she came to my home, she was somebody who was a friend ... I do not see people in my house, I repeat I do not perform spinal checks anywhere else but in this clinic.”

Mr B stated that Mrs A told him of the difficulties in her life, that she was unhappy and had unresolved grief following a miscarriage. During an interview, Mr B said that Mrs A's allegation of free spinal checks at his home and sexual touching at the same time was “a pack of lies”. She was acting under “pressure from her husband”. Mr and Mrs A knew Mr B and his wife to be Jewish and were motivated by anti-Semitism. Mr B stated that he kept

his professional and private lives separate. He said that he did not initiate a sexual relationship and that only consensual playing occurred which, if anyone initiated, Mrs A did.

Mrs B said:

“... I am [Mr B’s] wife, okay I live with [Mr B] we share a home together, our home. [Mrs A] comes around bringing gifts, plants, eggs, volunteering to help in the garden, she comes around several times two or three times maybe of her own volition, she comes around to see my husband? No? They are having sexual relations, the woman is coming into my house to have sexual relations with my husband and then she lays a complaint? Who the hell is she to lay a complaint?”

Free spinal check at clinic

On Saturday 1 June Mrs A attended Mr B’s rooms for the spinal check. She said that following the check Mr B said she had “three vertebrae down there sticking” and she queried that because he had previously told her she had a beautiful back. Mrs A said Mr B then advised her that her back would not stay good unless she received treatment and that the fat on her tummy resulted from this problem also. Mrs A said she had faith in Mr B and trusted him to make her well as she wanted to be “physically fit and beautiful ... going into her fifties”. She described the spinal check as follows:

“a physical hands on you know manipulating you know and getting you right and everything and I thought well that’s worth it because its fifty dollars at the doctors and he doesn’t even touch you know you just look and I had to have faith also in this [Mr B] also that he was true and I was prepared to accept that I had faith even though he had done that tried to put his hands on me ...”

Payment for treatment

Mrs A said that Mr B told her the treatment would cost \$18.50 per visit and she thought this good value for money as she would also be getting hands on treatment. He also advised her that if she filled in an ACC form then she would pay \$18.50 per visit and he would collect the rest from ACC and that she should put down an injury she had sustained in order for the claim to be valid. Mr B then “signed” Mrs A up for 10 visits and asked her to pay \$185.00 in advance. Mrs A provided receipts for this payment.

Mr B said that Mrs A advised him she had hurt her back carrying gravel the previous week and that she had been feeling dizzy for six months. He said that Mrs A arranged the ACC claim with his receptionist. In response to my provisional opinion, Mrs A said that it was Mr B who advised her to fill out the ACC form and that the receptionist was “not even there”. Mr B took her to the reception area, got out a large folder and told her to write in it that she had sustained an injury to her back while gardening. Mr B noted that his sessions were priced at \$50 for the first session and \$40 for each visit thereafter. However, he encourages his patients to commit themselves to a course of healthy spinal care, and offers a discount for a course of ten treatments. This is available only on a pre-pay basis. It was on this basis that Mrs A paid the \$185.

Chiropractic treatments and sexual relations

On 4 June Mrs A had her first chiropractic appointment following the free back checks. Mrs A said that before she left, Mr B gave her a kiss, told her he “liked making her happy” and commented that he would see her that night.

Mr B said that Mrs A attended for an appointment on this day but that he did not initiate sexual contact with her during their professional relationship. He said that he would often kiss a patient on the cheek or give them a hug and that it was part of chiropractic work.

Mrs A said that she visited Mr B at home that same evening, 4 June, and that they had intimate sexual contact while Mrs B was in the next room. Mrs A said that Mr B took off his top and asked her to give him a massage. He was lying on his back on the bed and while she avoided his genitals he nevertheless became aroused and “whipped it out and said put it in your mouth”. Mrs A said she did that, and moments later Mr B ejaculated.

Following that they discussed Gurdjieff and Mrs A said that Mr B told her that years ago Gurdjieff members had relations with one another and it brought them closer together. Further, he told her that they should keep their special Tuesday meeting and not tell anyone.

Mr B denied that intimate contact occurred that evening. He said that the intimate relationship went on over two or three weeks, that Mrs A was around a lot “attacking him in his home”, and that finally she became an “upsetting client”. When he said “stop”, Mrs A then engaged in this “emotional blackmail”.

Mr B told my investigators in response to questions about the sexual nature of the relationship with Mrs A, “I really don’t think that’s the business of HDC to go into these things.” Further, Mr B asked, “Is it illegal to have sex in this country?” Mr B also maintained that his ethical standards “are absolutely fine”.

Mrs A had two further sessions with Mr B at his practice rooms on 6 and 10 June and at one session Mr B also treated Mrs A’s son. Mrs A did not go to Mr B’s house during this time but chose to carry out her Gurdjieff readings at home.

On 14 June Mrs A attended her fourth chiropractic appointment. She said that at the end of the session, Mr B straddled the bed in front of her and asked her what was wrong. He then kissed her and gave her a bottle of pills saying that they would help with her weight. Mrs A said there was a price of \$42.50 on the lid but that no money was mentioned. Mr B’s account of this consultation was that during his fifth consultation with Mrs A she complained of being overweight and he suggested nutrient support weight control then supplied her with a bottle. He said that the price was on the cap and his expectation was that she would pay at the desk as he was not “in the business of giving away \$40-50 dollar bottles of vitamins”. Further, Mr B said that he was not in the business of selling the “stuff”, rather suggesting that it may be useful and the patient should try it if they wished.

On 17 June Mr B rang Mrs A at her home and asked her to come for some “Gurdjieff”. Mr A said that Mr B had rung and asked to speak to Mrs A a few times. Mr A said that he considered Mr B to be rude and wondered what Mrs A saw in him.

Mrs A said that she went to Mr B's house on 17 June and he again initiated sexual contact. Mrs A objected to him "stripping her", saying she had not come for sex, but Mr B told her he was just "loving her body". Mrs A said that Mr B told her he knew that when he first met her he was going to "have her" and that he had not had a woman of another race before. During this time Mr B was looking after the baby and when the baby cried he told Mrs A to put her breast in the baby's mouth.

On 18 and 20 June Mrs A attended Mr B's clinic for her fifth and sixth appointments. On the evening of 25 June she visited Mr B at his house. Mrs A said that Mr B advised his wife that they would go into his room for meditation. They meditated for 15 minutes and then Mr B attempted to have sex with Mrs A. Mrs A did not wish to have penetrative sex so she masturbated Mr B. Following this episode he left the room and returned with his wife and the supper.

Mrs A said that Mr B rang her on 26 June and asked her to come to his house and meet his friend. Mrs A said that an intellectual debate developed into an argument over the question of circumcision. Mrs A said she and Mr B's friend argued against circumcision and this made Mr B very angry. Mr B told her she could not continue to be his friend if she expressed her opinions in his house. In response to my provisional opinion, Mrs A said that at this meeting both Mr B and his wife questioned her about her ethnicity. Mrs A said that she responded that she was a Kiwi, adding that although she was of a different ethnicity she preferred to call herself a Kiwi as she did not like to apply labels that might attract judgements.

On 27 June Mr B's receptionist, Ms C, rang Mrs A at Mr B's request to ascertain if she had paid for the weight control supplement. Mrs A said that Ms C asked her if she had "taken" some pills from the clinic and she replied that she had. Ms C said that she had to pay for them and Mrs A advised that she was coming in for an appointment the next day. Ms C said that Mrs A became abrasive and ended the call abruptly.

On 28 June Mrs A attended the clinic and there was an argument over payment of the pills, which resulted in Mrs A leaving without having her eighth, ninth and tenth chiropractic sessions. According to Mr B's clinical notes it was a "bad meeting ... full of venom when asked to pay for wgt control which she stole". Ms C said that Mrs A would speak only to Mr B and that she became very loud and suddenly left the room shouting something as she went. Mrs A said she told Mr B that she thought he had given them to her but that he insisted she pay or forgo the three remaining sessions in lieu of payment for the pills. Mr B said:

"[It] seems that at some stage that her [Mrs A's] mana was offended I believe it was because my ... receptionist in some way felt or communicated that she felt that [Mrs A] had stolen these weight control pills and I think that's what really upset the mana. And I think there was some confusion about the weight control ... we actually found that this was happening with a number of people. It was a style I had because it's a way in the ... and other places that if I did this there would be no question people would go out pay for it, there would be no question."

Ethics

Mr B said that he had been a chiropractor since 1984 and had worked in a number of different jurisdictions, most of which had the same Code of Ethics. He stated that his ethical standards were “absolutely fine” and that he did not blur the boundary between personal and professional life. Further, Mr B said he understood there were rules about having sex with patients but that when friends asked for help it was difficult to turn them away and tell them you could not treat them because of the possibility of blurring boundaries.

However, Mr B admitted that it was a “stupid mistake” and that he should have said no. When he did realise the mistake he ended both relationships. Mr B said he was sorry he had caused Mrs A offence and believed it was because she was Maori and he had offended her mana which, from his readings, can be breached by the “littlest things”.

Mrs A said that she believed herself to be the target of deception and that Mr B had set out to financially exploit her with “perhaps a little sex along the way”. Mrs A said that Mr B knew that she worked and her husband had a business and that they had just put in a swimming pool and for these reasons Mr B believed that he could “gain financially” from an association with her. Additionally, Mr B implied that if she did not have treatment she would develop back problems. Mrs A said that Mr B introduced the weight control pills after cuddling her at the conclusion of a session and telling her that her tummy was the cause of her back problem. She said that he introduced the sex “very subtly” as part of this process. Mrs A said her attraction to Mr B was initially his knowledge of Gurdjieff, his promise of fixing what was wrong with her back, and his ability to order people to do things. She said he had an “authoritative manner” and while she was not scared of him, he was clearly the master. Mrs A commented:

“Yeah so the attraction I can say was the Gurdjieffian and I was into Gurdjieff and I thought he had lots of knowledge and he had lots of knowledge to pass on to me, us Gurdjieff people that are interested that he was gonna give us that the other reason that I was that was hands on you know I’m not saying the sexual part but I enjoyed it. You see to me a doctor he looks at you sum you up yeah okay and that’s the end of it pay me, this was a guy who had this knowledge of Gurdjieff on one instance and he also had the ability to cure or to fix and the physical thing I just like it because I am into that which sometimes I exercise I spend a good time I enjoy this sort of thing and to me I was enjoying that it was a fact that I was gonna get some good treatment, the physical and not sexual but he was bringing that in.”

Factual basis for determining complaint

There are clearly significant discrepancies between the accounts provided by Mrs A and Mr B. Mrs A has provided me with a detailed account, including specific dates, of her interactions with Mr B, both personal and professional. Mr B, on the other hand, has been ambiguous in his responses, at times to the point of evasiveness. While he has consistently asserted that he maintained a clear distinction between his professional responsibilities and private life, he has not responded to the detail in Mrs A’s complaint with anything other than a blanket denial and claims about her motivation in making the complaint. Mr B was evasive and unhelpful in relation to the nature and timing of his relationship with Mrs A. At

one point he denied that there was any sexual relationship with Mrs A at all. Yet at the conclusion of the interview with my staff, Mr B conceded that his relationship with Mrs A was inappropriate and that it was for this reason that he ended both the professional and the personal relationships. Mr B also stated that the reason he terminated his friendship with Mrs A was due to alleged anti-Semitic remarks she made while at his house.

Mr B's version of events lacks credibility. His refusal to answer direct questions about his relationship with Mrs A, his conflicting accounts of the reasons that the friendship was terminated, and his aggressive and unsupported statements about the motives behind this complaint leads me to believe that there is little in the evidence he has given me on critical issues that can safely be relied upon.

On the other hand, Mrs A gave her account of what took place in detail, supported by exact times, dates and diary entries. The account given by Mrs A during her interview with my staff was entirely consistent with her prior detailed written version of events.

In these circumstances, I have no hesitation in accepting the evidence given by Mrs A as being reflective both of the general nature of her relationship with Mr B, and of the detail of what occurred during the course of that relationship.

Code of Health and Disability Services Consumers' Rights

The following Rights in the Code of Health and Disability Services Consumers' Rights are applicable to this complaint:

RIGHT 2

Right to Freedom from Discrimination, Coercion, Harassment, and Exploitation

Every consumer has the right to be free from discrimination, coercion, harassment, and sexual, financial or other exploitation.

RIGHT 4

Right to Services of an Appropriate Standard

2) *Every consumer has the right to have services provided that comply with legal, professional, ethical, and other relevant standards.*

RIGHT 6

Right to be Fully Informed

1) *Every consumer has the right to the information that a reasonable consumer, in that consumer's circumstances, would expect to receive, including –*

...

b) An explanation of the options available, including an assessment of the expected risks, side effects, benefits, and costs of each option; ...

Other Standards

New Zealand Chiropractic Board

Code of Ethics and Standards of Practice (Effective April 2000)

...

3.2 Sexual Misconduct

Sexual behaviour in a professional context is abusive. Sexual behaviour includes any words or actions designed or intended to arouse or gratify sexual desires. The Chiropractic Board condemns all forms of sexual misconduct in the Chiropractor/patient relationship. The consent of a patient to sexual contact does not necessarily preclude a finding of misconduct against the practitioner by the Board.

The Board will use the following guide in determining whether (and to what extent) sexual misconduct has occurred. These three headings will be used:

- sexual connection
- sexual transgression
- sexual impropriety.

3.2.1 Sexual connection means sexual activity between Chiropractor and patient, whether or not initiated by the patient, including but not exclusively:

- any form of genital or other sexual connection
- masturbation or clitoral stimulation, involving the Chiropractor and patient.

3.2.2 Sexual transgression includes *any* touching of a patient that is of a sexual nature, other than behaviour described in sexual connection, including but not exclusively:

- inappropriate touching of breasts or genitals
- inappropriate touching of other parts of the body
- propositioning a patient.

3.2.3 Sexual impropriety means any behaviour other than sexual touching such as gestures or expressions that are sexually demeaning to a patient or which demonstrate a lack of respect for the patient's privacy, including but not exclusively:

- propositioning a patient
- inappropriate disrobing or inadequate gowning practices
- inappropriate comments about, or to, the patient such as the making of sexual comments about a patient's body, or underclothing, or sexual orientation
- making inappropriate comments to a patient
- making comments about sexual performance during an examination or consultation (except where pertinent to professional issues of sexual function or dysfunction)
- requesting details of sexual history or sexual preferences not relevant to the type of consultation
- any conversation regarding the sexual problems, preferences or fantasies of the Chiropractor.

...

Opinion: Breach

Sexual exploitation

On 26 May 2002, at his home, Mr B offered Mrs A a free spinal check, after Mrs A said that she had seen his advertisement in the local newspaper. Under the guise of providing this chiropractic assessment, Mr B made physical and verbal sexual advances to Mrs A, including touching her breasts and attempting to put his hands inside her trousers. Mr B used his chiropractic skills as an excuse for physical contact with Mrs A.

To use a purported professional assessment as an opportunity to make sexual advances is to sexually exploit the consumer involved. It makes no difference that the purported professional assessment took place in Mr B's home, rather than at his clinic. Mrs A had expressed an interest in Mr B's professional services. Mr B abused his position as a chiropractor to purport to provide chiropractic treatment, but in reality to use Mrs A for his own sexual gratification. That was a callous and abusive exploitation of a woman who had shown an interest in his professional services as a chiropractor.

Financial exploitation

The sexual exploitation of Mrs A was compounded by Mr B turning the situation to his financial advantage. During their meeting at his house on 28 May 2002, Mr B again initiated intimate touching, including putting his mouth on Mrs A's breast, kissing her and running his hands over her body. During the course of this intimate contact, Mr B stated that Mrs A was receiving "free chiropractic treatment" and then suggested that she should come to his clinic for a free spinal check. That was the basis on which the professional relationship began, for which Mrs A was ultimately charged over \$200.

In my opinion Mr B's actions were financially exploitative of Mrs A. Having initiated sexual contact, Mr B used the opportunity to pretend that he was in fact providing free treatment, and that the "treatment" should be continued at his clinic.

I have little doubt that Mr B deliberately used the opportunity presented by the sexual contact to suggest that Mrs A required treatment. In my opinion it is hard to imagine a more inappropriate or exploitative manner in which to establish a formal professional relationship.

The maintenance of professional boundaries is an integral part of the provision of health services and its importance in the provider/consumer relationship cannot be emphasised strongly enough. In my opinion Mr B transgressed professional boundaries and engaged in flagrant sexual and financial exploitation of a consumer who trusted and admired his skills. In these circumstances, Mr B breached Right 2 of the Code.

I note that I do not consider that Mr B breached the Code in asking Mrs A to pre-pay for ten consultations and then refusing to refund the balance when she attended only seven consultations.

I note Mr B's explanation that the \$185 reflected a substantial discount of his usual consultation fees, and in the circumstances I do not consider that there is sufficient evidence that this amounted to an attempt to financially exploit Mrs A.

Breach of Ethical Standards

The New Zealand Chiropractic Board Code of Ethics states, under the heading "Sexual Misconduct":

"Sexual behaviour in a professional context is abusive. Sexual behaviour includes any words or actions designed or intended to arouse or gratify sexual desires."

The Code of Ethics refers to three headings of sexual misconduct as a guide in determining whether such misconduct occurred – sexual connection, sexual transgression and sexual impropriety. The evidence suggests that Mr B contravened each of these categories of misconduct over the course of his professional relationship with Mrs A.

On the first occasion that Mr B moved his relationship with Mrs A into a professional context – when he offered the free spinal check on 26 May 2002 – he inappropriately touched Mrs A and made comments about her body. On subsequent occasions, after the course of formal chiropractic treatment had commenced, the touching escalated to masturbation and oral sex. Mr B also used his chiropractic consultations with Mrs A to arrange meetings at his house, during which the sexual part of their relationship took place. I do not consider that this is a case where, over the course of a professional relationship, boundaries became blurred, resulting in a more sexualised relationship than was appropriate in the circumstances. Instead, the evidence suggests that Mr B went into the sexual and professional relationship with his eyes wide open; he first used his status as a chiropractor to initiate sexual touching, and then used further sexual touching as a basis for extending the professional (and commercial) relationship. The evidence demonstrates that Mr B either had a lack of understanding about professional boundaries, or simply chose to disrespect such boundaries.

During an interview with my staff, Mr B indicated that he eventually realised that the boundaries of his professional relationship with Mrs A were becoming blurred, and

accordingly he terminated both the professional and personal relationships. This assertion lacks credibility, as it is quite inconsistent with other statements he made. Mr B also labelled Mrs A's alleged anti-Semitism as the reason he terminated the relationship. The evidence suggests that Mr B engaged on a deliberate course of action.

For the above reasons, I consider that Mr B breached the ethical standards set out in the Chiropractic Board Code of Ethics relating to sexual misconduct, and thus also breached Right 4(2) of the Code.

Information about weight control pills

Right 6(1)(b) of the Code states that providers must give consumers information that a reasonable consumer, in that consumer's circumstances, would expect to receive, including information about the cost of a particular treatment option.

In the present case, Mr B gave Mrs A a bottle of pills, and the issue of payment for the pills was not discussed. Mrs A informed me that Mr B said, "I want you to have them." Mr B subsequently demanded payment for the pills.

In my opinion, in this respect Mr B breached Right 6(1)(b) of the Code. If Mrs A was expected to pay for the pills, that was not explained to her. In fact, based on the information she provided me, Mr B intimated that she would not be charged for the pills. Mr B, in relation to this issue, said there was an "expectation" that Mrs A would pay for the pills as she left the clinic, but there is a lack of detail in relation to what he actually did or said to create that expectation.

In such circumstances it is incumbent on the provider to make it clear if a service or product carries a particular charge. There is no evidence to suggest that Mr B did that and, accordingly, he breached Right 6(1)(b) of the Code.

Other comment

Lack of insight

Mr B informed me that he is an experienced chiropractor who has practised in a number of countries. Despite this, over the course of this investigation Mr B has displayed an alarming lack of insight into the reasons for my investigation.

Mr B told my investigators in response to questions about the sexual nature of the relationship with Mrs A, "I really don't think that's the business of HDC to go into these things." Further, Mr B asked, "Is it illegal to have sex in this country?" Mr B also maintained that his ethical standards "are absolutely fine".

I take this opportunity to state, for Mr B's benefit, that when a health care provider is alleged to have had a sexual relationship with a consumer (especially in circumstances that suggest an exploitative element) and the consumer complains to the Health and Disability Commissioner, this Office is required to investigate the nature of the provider-consumer

relationship. The fact that Mr B saw this investigation as reflective of some sort of sexual prurience in New Zealand – while still maintaining that his ethical standards were “absolutely fine” – suggests an extreme lack of insight on his part as to the nature of his inappropriate and exploitative actions in this case. Any health care provider who displays such a lack of insight is a risk to current and future clients.

ACC

It is also of concern to me that Mr B appears to have encouraged Mrs A to put incorrect information on her ACC application form. Mrs A informed me that Mr B told her she should write on her ACC form that she suffered an injury, as this would enable him to claim the balance of the consultation fee from ACC. Mr B stated that Mrs A informed him that she had hurt her back moving gravel the previous week.

I do not have to resolve this factual conflict to form my opinion on this complaint, as the issue falls outside of my jurisdiction. I do, however, note that the circumstances that Mrs A has described as giving rise to the consultations in the Clinic would tend to support her version of events in relation to this issue. If, as Mrs A has described, the formal consultations arose out of the “free treatment” initiated by Mr B at his house, and his subsequent suggestion that she should see him in his clinic, it would be surprising that Mrs A then of her own volition proffered a history of back pain caused by an injury the previous week.

Provider response

Mr B advised me that he did not accept any part of my provisional opinion, and that the report was “a travesty of fairness and justice”.

Actions

- I have referred this matter to the Director of Proceedings in accordance with section 45(f) of the Health and Disability Commissioner Act 1994 for the purpose of deciding whether any further action should be taken in relation to Mr B.
- A copy of this report has been sent to the New Zealand Chiropractic Board and to the Accident Compensation Corporation.
- A copy of this report, with identifying features removed, will be sent to the New Zealand Chiropractic Board and will be placed on the Health and Disability Commissioner website, www.hdc.org.nz, for educational purposes.

Addendum

The Director of Proceedings laid before the New Zealand Chiropractic Board a charge alleging professional misconduct and/or conduct unbecoming a registered chiropractor.

The Board issued its decision on 22 December 2003. It noted that Dr B behaved in a most reprehensible way and demeaned the status of chiropractors in his locality and generally, and stated that such abominable behaviour would not be tolerated by the chiropractic community or the public of New Zealand.

The charge in relation to a sexual relationship with a client was upheld by the Board at the level of professional misconduct, and the charge in relation to the failure to provide adequate information about the weight loss tablets Dr B supplied was upheld at the level of conduct unbecoming. The Board ordered that Dr B's name be removed from the Register of Chiropractors for a minimum of five years, and that any application for re-instatement be supported by evidence of suitable counselling and treatment, and adequate clinical competency, to the Board's satisfaction. The Board ordered payment of 50% of the costs of the hearing, and publication of the orders, including Dr B's name, in the Board's newsletter, the *New Zealand Chiropractors Association News*, and the *Australian Chiropractic Journal*. In addition, the Board ordered that the local media be given a précis of the hearing.
