

Breach of sexual boundaries with current patient (12HDC00518, 13 June 2013)

General practitioner ~ Professional relationship ~ Sexual boundaries ~ Zero tolerance ~ Rights 2, 4(2)

A woman complained that her general practitioner had behaved inappropriately toward her. The woman consulted the GP at a medical centre following a depressive episode. She had previously consulted him at another medical centre for similar issues.

During the consultation, following a discussion about her depression, the woman consented to a hug from the GP. Following that hug, the GP locked his door and closed the blinds in his office. He asked the woman to lean over a table and made inappropriate sexual gestures. The GP then stopped, opened his blinds and unlocked his door. He advised the woman that because of what had happened, there had been a breach of the professional relationship and he would need to write that up in his notes.

Later that day, the GP visited the woman at her place of work. He shut her office door, and then undid his trousers and lay down. He asked the woman to perform a sexual act on him, and offered to perform a sexual act on her.

Some time later, the woman told another GP about these events. The woman declined to take the matter further at that time; however, she lodged a complaint with HDC some time later.

The Medical Council of New Zealand has a zero-tolerance position on doctors who breach sexual boundaries with a current patient. A breach of sexual boundaries comprises any words, behaviour or actions designed to, or intended to, arouse or gratify sexual desires, and incorporates any words, actions or behaviour that could reasonably be interpreted as sexually inappropriate or unprofessional.

By making inappropriate sexual gestures during his consultation with the woman, and then later visiting her, undoing his trousers and asking her to perform sexual acts on him and offering to perform a sexual act on her, the GP breached sexual boundaries and, accordingly, breached Right 4(2). In addition, the GP harassed and sexually exploited her, breaching Right 2.

The GP was referred to the Director of Proceedings for the purpose of deciding whether any proceedings should be taken. The Director laid a charge before the Health Practitioners Disciplinary Tribunal. Professional misconduct was made out and conditions were placed on the provider's practicing certificate and name suppression was not granted to the provider. The issue of name suppression was successfully appealed to in the High Court.