

**Inappropriate relationship with patient
(07HDC11761, 30 April 2008)**

Medical officer in general practice ~ Registered nurse ~ Health Centre ~ Sexual relationship ~ Exploitation of a patient and employee ~ Rights 2, 4(2)

A community health trust complained that one of its employees, a registered nurse, had disclosed a sexual relationship with her employer, a sole practice medical practitioner who was contracted to the trust.

The nurse first met the medical officer when she consulted him for an immigration health check. He kept in contact with the woman and she took her sister to him for a prescription renewal. The following year, the nurse commenced work for the medical officer as his practice nurse. Shortly after this, they started a sexual relationship. During this time she consulted the medical officer professionally on three occasions when he took a cervical smear, and sent urine specimens for laboratory testing for her. The medical officer denied that the woman was his patient or that he had a sexual relationship with her.

It was held that the woman was vulnerable both as an employee and a patient, and that the medical officer had exploited her vulnerability and breached professional boundaries and ethical standards, breaching Rights 2 and 4(2).

The medical officer was referred to the Director of Proceedings. The Director decided to lay a charge before the Health Practitioners Disciplinary Tribunal which heard the matter in November 2008. In its decision dated 26 January 2009 the Tribunal, by a majority, held that there was a doctor/patient relationship and that a sexual relationship had been established. The charge of professional misconduct was therefore proved. The Tribunal (also by majority) imposed a period of 18 months suspension and conditions on the medical officer's practice. He was censured, fined and ordered to pay costs.

The medical officer appealed the decision to the High Court which overturned the findings of the Tribunal. The Court held that there was insufficient evidence of an ongoing doctor/patient relationship. It found that the sexual relationship developed out of the employment relationship and that the medical officer then provided medical services to someone he was intimately involved with. The Court did not consider this amounted to professional misconduct and allowed the appeal.

The Tribunal decision can be found at:

<http://www.hpdt.org.nz/Default.aspx?tabid=210>