

**Inappropriate treatment by massage therapist  
(08HDC07644, 21 November 2008)**

*Neuromuscular therapist ~ Inappropriate massage ~ Professional standards ~ Rights 4(2), 6(2), 7(1)*

A woman complained that a neuromuscular therapist massaged her breast and chest area while treating her for neck and shoulder pain. The woman saw the massage therapist on three separate occasions within 48 hours, for the same problem. The first treatment appeared to be appropriate for the patient's presentation; however, during the second and third sessions the massage therapist exposed the patient's breasts and massaged around this area.

It was held that the therapist breached Right 6(1) by failing to adequately explain to the woman what he was proposing to do, or why he considered that the area should be worked on. He also breached Right 7(1), as he provided a service without informed consent.

By failing to keep adequate documentation of his assessment and treatment, the therapist failed to comply with his professional obligation to adequately record the services he provides to consumers and, accordingly, he breached Right 4(2).

The therapist was referred to the Director of Proceedings, who filed a claim in the Human Rights Review Tribunal seeking relief, including a declaration and damages, on behalf of the consumer for the massage therapist's breaches.

Having regard to agreed facts and to the fact that other aspects of the relief initially claimed by the Director had been resolved between the parties, the Tribunal issued a declaration pursuant to s 54(1)(a) of the Act that the actions of the massage therapist were in breach of rights 4(2), 6(2) and 7(1) of the Code.