Counsellor, Ms B / A Public Hospital

Opinion – Case 99HDC01345

Complaint

Mr A complained about the standard of service his daughter Miss A received from Ms B. In particular his complaint was that:

- *Ms B referred to Miss A by an incorrect name, six times during the course of the interview despite being corrected by Miss A and her support person.*
- *Miss A expressed her concern that she did not want to have other persons contacted in relation to her situation, and that she wanted a general anaesthetic for the procedure. Her concerns were not effectively acknowledged or explored.*
- *Ms B during the interview gave two inappropriate responses to Miss A's replies to questions, which caused Miss A and her support person to feel humiliated, put down, judged and punished.*

Investigation Process

The Commissioner received the complaint on 2 February 1999 and commenced an investigation on 9 June 1999. Information was obtained from:

Mr A	Complainant / Miss A's father
Miss A	Consumer
Ms B	Provider / Counsellor
Dr C	General Practitioner
Dr D	General Practitioner
Miss E	Consumer's friend and support person

Counsellor, Ms B / A Public Hospital

Opinion – Case 99HDC01345, continued

Information Gathered During Investigation

A Public Hospital has a licence to perform first and second trimester Surgical Terminations of Pregnancy (STOP). Surgical terminations of pregnancy occur on a weekly afternoon list at the public hospital which caters for the region's women. Each week there is a maximum of eight clients.

Counselling for women considering abortions occurs in the region at a house owned by the public hospital near the city centre. There are 32 hours of counselling time allocated within surgical services. In a 'Review of Pregnancy Counselling Services in Surgical Services for the Public Hospital' (1999) it is reported:

> "*… If a woman is ambivalent about her decision the certifying consultants would like to be able to refer her to a counsellor straight away. Some certifying consultants noted that it is unusual to be able to speak directly to a counsellor, and that communication is usually by voice mail. …*
>
> *On occasions when pre-decision counselling is required urgently a client may be seen by the maternity social worker, but there is a real shortage of these appointments as well. …*
>
> *Counselling appointments for assessment and counselling are booked through surgical services administrative support on the fourth floor of* [the public hospital]. *The staff member undertaking the role has a number of other tasks that mean she will not always be at her desk to answer the phone, so messages are sometimes left on the voice mail. This can be frustrating for doctors who are booking an appointment for a client who is waiting in the surgery. …*
>
> *The major concern expressed by all the certifying consultants and their practice nurses is the delay in obtaining counselling appointments. The delays range from 2-4 weeks. …*

Continued on next page

Counsellor, Ms B / A Public Hospital

Opinion – Case 99HDC01345, continued

Information Gathered During Investigation *continued*

The certifying consultants are doctors approved by ASC to determine whether a woman is entitled to a termination of pregnancy. A woman must see two certifying consultants, one of which must be a consultant with obstetric training. The region has seven certifying consultants, all in [the region] *except for one in a* [nearby town]. …

Certifying consultants state that as well as attending to the legal approval, they also cover the risks and complications of a TOP, [termination of pregnancy] *explain the TOP procedure and give information about after care. This is all part of the informed consent for the STOP procedure. …*

In many instances the client is seen by the certifying consultants before a counsellor, due to the shortage of counsellors' appointments. Some women do not initially intend to see a counsellor but the certifying consultants explain the counsellor's role to the clients, and that it will be difficult to access a STOP appointment without seeing a pregnancy decision counsellor. This is due to the fact that the counsellors have taken on the role of organising who will be on the surgery list each week. …

The certifying consultants and their practice nurse or receptionists who organise the other appointments including counselling state that the process is working better than in the past, i.e. there is more clarity about the process of termination, what the surgeon requires and what the clients can expect to happen. The major concern is the delay in accessing counselling appointments. The wait is from two to three weeks and has been this length for a long time. For urgent appointments (women who are 11-12 weeks pregnant) one of the counsellors will see them in an 'emergency appointment' slot or another client who is less pregnant will have her appointment changed to accommodate this. There is general feeling of dissatisfaction about the delay for counselling appointments. …

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Counsellor, Ms B / A Public Hospital

Opinion – Case 99HDC01345, continued

Information Gathered During Investigation *continued*

At the time the Contraception Sterilisation & Abortion Act was introduced in 1977, the public hospital was granted a licence, and 10 hours of counselling per week were funded to meet the requirements of the Act. At that time there were 1-2 referrals per week.

By 1990 the referrals were up to 6-10 per week. Approximately 20 hours per week were being used of social work time with only 10 hours specifically funded.

…

A pregnancy counsellor was employed in 1992 to work for 16 hours. … In 1995 the main counsellor's hours were increased to 24, providing three days of counselling appointments, with the other two social workers providing emergency counselling appointments.

…

The counsellors determine who will be on the surgery list [for termination of pregnancy] *for each week depending on how many weeks pregnant the woman is and other reasons particular to each client. The main counsellor can spend a lot of time each week getting in touch with clients to check their decision, confirm a place* [on the surgery list] *and ensure there is a standby client in case one does not make it or changes her mind prior to surgery. Many clients do not have their own phone so communication can be difficult especially considering the sensitive nature of this area. At times the counsellor will be needing to talk to a client phoning in when she is already counselling another client. …*"

On 15 November 1998 Miss A, aged 14 years, consulted Dr C, general practitioner, at a surgery for a pregnancy test, which proved negative. Miss A attended on 15 December 1998 for a second pregnancy test which was positive. Miss A informed Dr C that she wanted to terminate the pregnancy. She did not consult Dr C again until 12 January 1999.

Continued on next page

Counsellor, Ms B / A Public Hospital

Opinion – Case 99HDC01345, continued

Information Gathered During Investigation *continued*

On 12 January 1999 Dr C informed Miss A of the necessary steps she would have to go through to terminate her pregnancy. An appointment was made for Miss A to see Dr D, a certifying consultant under the Contraception, Sterilisation and Abortion Act 1977 (CS&A Act) on 19 January 1999. Dr C told Miss A that she would also have to see a second certifying consultant the same day and, following that, a counsellor.

Ms B informed the Commissioner in her response to the provisional opinion, that:

> "…
>
> *The doctor visited on 15 November and 15 December was* [Dr …] *(who made the referral to me), not* [Dr C]. [Dr C] *only became involved with* [Miss A] *when* [Dr …] *went on holiday.*
>
> [Dr …] *also spoke to* [Miss A] *on 11, 12 and 13 January 1999.*
>
> …"

Dr C recorded in Miss A's notes on 12 January 1999 following her examination of Miss A on 11 January 1999:

> "*Advised to ring back if any concerns. Yesterday in a reasonable good frame of mind. NOT SUICIDAL!*"

Following a telephone call from Miss A on 13 January 1999, Dr C recorded the following, as an additional note to first consultation:

> "*Good and long talk during initial consult* [of 11 January 1999]. *Patient was coping, was advised carefully re options/implications. STRONGLY ADVISED TO GET PARENTS INVOLVED, but patient not willing to at this stage; I feel that I have to respect patient's wish for confidentiality and although I feel strongly that patient's parents should be made aware of patient's condition at this stage. I see no way of overruling patient's wish for absolute confidentiality!*"

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Counsellor, Ms B / A Public Hospital

Opinion – Case 99HDC01345, continued

Information Gathered During Investigation *continued*

Dr D informed the Commissioner that he has been a certifying consultant for five years and that he saw Miss A on 19 January 1999. Dr D said Miss A saw a second certifying consultant later on the same day and then had an appointment to see a counsellor, Ms B, at 1.00pm on 19 January 1999.

Miss A arrived thirty minutes late for the appointment with Ms B. Miss A attended the interview with her school friend, Miss E.

Ms B informed the Commissioner that she was surprised when Miss A arrived for the appointment "*for she was young to be coming for a counselling appointment unaccompanied by an adult. It is unusual for one so young to not be accompanied by an adult*".

Miss A advised the Commissioner that when she arrived in the reception area, Ms B greeted her by incorrectly referring to her by the incorrect name. Miss A stated that she corrected Ms B, who apologised for the mistake. Miss A stated that Ms B addressed her incorrectly a number of times during the interview with either Miss A or Miss E correcting Ms B. Miss E confirmed this.

Ms B informed the Commissioner that:

> "…
>
> *It is possible to get names muddled when you are required to answer phones in consulting rooms due to the unavailability of reception services. I refer to the environmental conditions described in* [the public hospital's] *Report, page 2. It is appropriate to note that on 1/6/98, during my Performance Appraisal, I expressed the need for a full time receptionist or co-ordinator.*
>
> …"

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Counsellor, Ms B / A Public Hospital

Opinion – Case 99HDC01345, continued

Information Gathered During Investigation *continued*

Ms B advised the Commissioner that it was her impression at the time of the interview that Miss A expected that the termination would be conducted immediately at a town. At the time of the interview Miss A was eight weeks' gestation and was planning to leave the town on 24 January 1999 to start school in a city. The maximum time for a first trimester termination is twelve weeks' gestation. Ms B advised the Commissioner that Miss A became distressed when she informed her that the public hospital performs eight terminations per week, and the list for that week was full. Ms B presented the alternative option of having the termination at a city medical centre. Miss A agreed to this as her prime concern was to discontinue her pregnancy because of her age and her wish not to disrupt her schooling.

Ms B stated that she contacted the city medical centre in Miss A's presence. After this phone call Ms B advised Miss A that the quickest way to arrange her termination would be by a general practitioner through the Family Planning Association. Miss A and Miss E discussed the options with guidance from Ms B.

Ms B stated that she attempted to persuade Miss A that she needed to involve her parents.

Miss A informed the Commissioner that during the interview she told Ms B that she wanted to have a general anaesthetic for the termination procedure. Miss A advised the Commissioner that she repeated this concern a number of times during the interview before Ms B addressed it. When Ms B asked Miss A to expand on her concerns, Miss A stated that she "*did not want to be awake while she was killing her baby*". Miss A and Miss E advised the Commissioner that Ms B responded by saying that later on, "[Miss A] *would feel like the baby was killing her*". Miss A advised the Commissioner that she was offended by Ms B's response and felt that Ms B was making inappropriate 'jokes' about the situation. She also advised that Ms B did not deal with the general anaesthetic issue in any detail.

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Counsellor, Ms B / A Public Hospital

Opinion – Case 99HDC01345, continued

Information Gathered During Investigation *continued*

Ms B denied making inappropriate jokes during Miss A's counselling sessions, denied saying that Miss A would feel like the baby was killing her, and advised the Commissioner that she was aware that the use of general anaesthetic and other issues would be discussed by the counsellor and certifying consultants at the city medical centre. She felt that due to the restricted time of her session with Miss A that these matters would be better left until Miss A was seen at the city medical centre.

Ms B informed the Commissioner that:

> "*It was appropriate that the city team who were going to administer the anaesthetic should explain the form of anaesthesia that* [Miss A] *and they had decided was appropriate to use in this circumstance. This was explained to* [Miss A] *by me.*
>
> [Miss A] *was a distressed 14 year old who did not wish to be in the situation in which she found herself. This may have affected how she interpreted comments.*
>
> *The statements attributed to me are contrary to the professional standards by which I practise and I do not believe I would have made them.*"

Ms B stated that she discussed contraception with Miss A and referred to the use of condoms. Ms B said she told Miss A that there are unexplained failures with oral contraceptives. Miss A's recollection of this part of the interview is that Ms B attempted another joke when discussing the use of condoms. Miss A stated that using condoms "*didn't feel nice*", to which she says Ms B responded "*so does being pregnant feel nice?*" In her response to the Commissioner Ms B stated that her usual response to the comment that condoms don't feel nice, is that "*it is easier to use condoms than to have to go through all the procedures involved in terminating a pregnancy*".

Towards the end of the interview, Ms B stated that she again attempted to persuade Miss A to confide in her mother. She said that Miss A was adamant that she wanted no parental involvement.

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Counsellor, Ms B / A Public Hospital

Opinion – Case 99HDC01345, continued

Information Gathered During Investigation *continued*

Miss A advised the Commissioner that she left the interview feeling that Ms B's approach had eroded her confidence and self esteem, and she felt humiliated and traumatised by the experience. Miss A advised the Commissioner that there was no rapport between her and Ms B, and she felt like she "*had sat there the whole hour and got nothing out of it*". Miss A stated that she saw Dr C on 19 January 1999 after her appointment with Ms B and told her that she had not been comfortable with the consultation, but did not go into detail.

Ms B informed the Commissioner that:

> "[Miss A's] *comment on her feelings and perceptions of the counselling session are not unusual with a client who does not get the result that they would like. This may well be related to misconceptions about counselling and other processes held by* [Miss A] *prior to the session, rather than to my counselling skills.*
>
> …"

Dr C, in her response to the Commissioner on 26 July 1999, stated:

> "*The consultation records do not make mention of* [Miss A's] *unhappiness with the counsellor she saw on 19 January 1999. I do recall that* [Miss A] *was not comfortable with the counsellor, but I cannot recall the details.*"

Miss E informed the Commissioner that:

> "*The counsellor* [Ms B] *smoked in the house, there were full ash trays everywhere. She made us wait for a while before seeing us, that was alright, but she forgot* [Miss A's] *name and kept calling her by another name. I think that she was uncomfortable talking to us, and tried to make jokes, but they didn't sound like jokes.*"

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Counsellor, Ms B / A Public Hospital

Opinion – Case 99HDC01345, continued

Information Gathered During Investigation *continued*

Ms B stated:

> "*I did not smoke, and have never done so. I had no ashtrays in the room and, as a non-smoker, would have found their presence distasteful. I refute and deny* [Miss E's] *statement. Such a statement places in doubt other evidence.*"

Miss E said it was a difficult situation as she was trying to help Miss A out and Miss A did not want her parents to know. Miss E said that Miss A ended up being counselled later that day by her own doctor who convinced her to tell her parents.

Ms B is a registered general and obstetric nurse and midwife. She is also a registered psychiatric nurse and has completed courses in hypnotherapy and psychodrama. Ms B is not a member of the New Zealand Association of Counsellors or the New Zealand Association of Social Workers.

Ms B informed the Commissioner that she had been working as a pregnancy counsellor for the public hospital for seven years. She said that she was originally employed because of her nursing qualifications. Ms B does not have training in the theory of counselling/social work, which is an essential skill specification for the position of a counsellor or social worker at the public hospital. The Abortion Supervisory Committee Standards of Practice for the Provision of Counselling (1998). Professional Requirements for Social Workers/Counsellors, states that; "*Social workers and counsellors should have a recognised social services qualification:*".

Ms B informed the Commissioner that:

> "[The public hospital] *employed me to undertake the requirements of a counselling position knowing my apparent lack of formal qualifications in this area. If this was an essential skill in the position specification, it is unusual that I was appointed without a development plan in place.* [The public hospital] *provided no training, mentoring or coaching to remedy this alleged formal deficit.*

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Counsellor, Ms B / A Public Hospital

Opinion – Case 99HDC01345, continued

Information Gathered During Investigation *continued*

My psychiatric nursing training did, however, have a large component of counselling skills covered in its curriculum. I believe that I have effective counselling skills as evidenced by having received no formal complaint during seven years of counselling practice."

Ms B stated in her response to the Commissioner on 19 June 1999:

> "*I really regret if it appeared that I was not supportive of* [Miss A] *or acknowledging of what she was saying. I recognise that younger woman often need more support than older woman. In this instance I was most concerned about* [Miss A] *not having family support as she did not want to tell her parents she was pregnant.*
>
> *From my perspective I would like to have established a better rapport but was unable to do so because of the time constraint, her imminent departure to the city and that the following day was my last working day that week. There was no time, given that* [Miss A] *had to get back to see her GP, to go into any depth of counselling.*"

The public hospital investigated a complaint regarding the standard of service Ms B provided to Miss A in January 1999. As a result, an appraisal of Ms B's practice was undertaken.

Ms B's clinical practice was evaluated by a Social Worker Advisor following six supervision sessions and a report on Ms B's practice was submitted to the public hospital. Ms B resigned her position as pregnancy decision counsellor with the public hospital.

A review of the public hospital's Pregnancy Counselling Services in Surgical Services was undertaken over an eight week period in May and June 1999 and a report was provided to the public hospital.

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Counsellor, Ms B / A Public Hospital

Opinion – Case 99HDC01345, continued

Information Gathered During Investigation *continued*

The public hospital's review commented on the role of the pregnancy advisory counsellor as follows:

> "*The role of the counsellor is to provide an environment where the client feels comfortable and safe, where options and feelings can be explored, where the client's emotional, cultural and spiritual needs are considered, and where she feels supported and empowered in whatever decision she makes. Issues in relation to the pregnancy need to be identified and the positive and negative aspects of all options considered. The counsellor needs to assist the woman to find ways in which to cope with the decision she makes.*
>
> *It is important that counsellors are only giving information to women that they can be accountable for. It is not their role to give information on contraception, the termination procedure or risks or complications of surgery. This information is provided by the certifying consultants and it is their role to do this.*
>
> *The main objective of pregnancy decision counselling is to enable the client to come to a decision regarding her pregnancy that is the right one for her. It is important that it is her own informed decision, for which she feels responsible. Informed decision–making relies on the appropriate information been given in such a way that the client understands the meaning and consequences of her decision.*"

The Abortion Supervisory Committee 'Standards of Practice for the Provision of Counselling' (1998) outline the qualifications and training required for social workers and counsellors counselling women considering abortions:

> "*Social workers and counsellors should have a recognised social services qualification:*
>
> *New Zealand Qualifications Authority, National Diploma in Social Services (Level 6) Strand Counselling and Social Work. This is the present industry equivalent to the New Zealand Council for Education and Training in the Social Services (NZCETSS) – B level qualification.*

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Counsellor, Ms B / A Public Hospital

Opinion – Case 99HDC01345, continued

Information Gathered During Investigation *continued*

or
[Equivalent education and training that meets these standards either from within New Zealand or overseas.]"

The Abortion Supervisory Committee 'Standards of Practice' (1998) also outlines the requirements of professional membership as follows:

> "*The social worker/counsellor has full membership of a recognised professional association that has a recognised code of ethics, established complaints procedures and preferably indemnity insurance.*
>
> *For example:*
> - *New Zealand Association of Social Workers*
> - *New Zealand Association of Counsellors*
> - *Te Whare Ki Tautoko*"

The Abortion Supervisory Committee advised the Commissioner that:

> "*The counselling services at* [the public hospital] *were not approved in accordance with section 31 of the Contraception, Sterilisation, and Abortion Act 1977. They are there under the provisions of section 21 of the Act.*
>
> *One of the purposes of the 'Standards of Practice for the Provision of Counselling' is to reflect the professional standards of social work and counselling that licence holders should aim for in the clinics and institutions that provide counselling services to women considering an abortion.*
>
> *While the Committee must be satisfied that adequate counselling services are available to women considering having an abortion in the institutions licensed to perform abortions we cannot compel those institutions to employ counsellors with professional qualifications.*
>
> *Indeed the Committee is aware that not all institutions have counsellors holding professional social service qualifications but the Committee is satisfied with the standards of counselling offered by those institutions.*"

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Counsellor, Ms B / A Public Hospital

Opinion – Case 99HDC01345, continued

Information Gathered During Investigation *continued*

The public hospital informed the Commissioner that:

> "[The public hospital's] *employment policies were silent on the requirements for the position of pregnancy decision counsellor at the time that* [Ms B] *was engaged. Therefore they did not reflect the Abortion Supervisory Committee's professional requirements for counsellors at the time that* [Ms B] *was engaged.*
>
> *The ASC's 'Guidelines for the Provision of Abortion Counselling Services' (1979) states that 'suitably trained lay counsellors may also be used where there are insufficient professional social workers' (Appendix 1). I have attached a copy of* [Ms B's] *application form in which she outlines the qualifications and experience she brought to the position.*
>
> *During her time with* [the public hospital], [Ms B] *attended one, or possibly two National Abortion Conferences, did Treaty of Waitangi training and some training in Gender Issues. Regular monthly social work training days were held for* [the public Hospital] *social workers which* [Ms B] *was eligible to attend, however a record of attendance has not been kept, and with the specific nature of the pregnancy decision counsellor's role, many would not have been appropriate. She attended monthly clinical supervision.*"

Ms B informed the Commissioner that she did not receive monthly clinical supervision.

Ms B informed the Commissioner, in response to the provisional opinion, that:

In relation to the allegation of breach 4(2):

> "*I acknowledge that I called* [Miss A] *by the incorrect name on 2 or 3 occasions which was inappropriate and a cause of concern, particularly for her, but also for me. On each occasion, I apologised as I had obviously 'fixed' the incorrect client name in my mind. I understand that this was disconcerting. I did apologise.*

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Counsellor, Ms B / A Public Hospital

Opinion – Case 99HDC01345, continued

Information Gathered During Investigation *continued*

I believe that I did address [Miss A's] *concerns within the limited timeframe available. I believe that it was with* [Miss A's] *needs in view that I spoke of contraception and parental involvement as I am encouraged, and required, to do. My role as a midwife both allows, and encourages me to give contraceptive advice.*

When [Miss A] *made me aware that she wanted a prompt termination* [her expectation was that she would have a termination before she left the region in a few days time], *I presented her with the city option. We discussed this and once she decided that was what she wanted I contacted the* [city medical centre] *whilst* [Miss A] *was still there. After the call I advised her about the quickest way to arrange for the service. Thus I was concerned about her needs and made efforts to ensure they were met.*

Also, I did discuss with her the general anaesthetic when she said that that was what she wanted during the procedure. However I felt it was appropriate to leave some of the detail on that to the [city medical centre].

I do not consider that my approach eroded [Miss A's] *confidence in any way, and I am saddened if this is her perception. I strongly refute the statement that I indicated by my statements an inability to understand how* [Miss A] *perceived her situation.*

…"

In relation to allegations of breach of 4(3):

"*In all aspects of the counselling session, with the exception of incorrect name choice, I believe that I made a professional and appropriate endeavour to provide a counselling service consistent with* [Miss A's] *stated and un-stated needs. The possibility cannot be excluded that* [Miss A's] *perception might have been distorted in the light of her unplanned pregnancy. I always endeavour to establish rapport with all clients, but it is within professional parameters and this is not always possible within the constraints of time availability and clients' multiple needs.*

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Counsellor, Ms B / A Public Hospital

Opinion – Case 99HDC01345, continued

Information Gathered During Investigation *continued*

As stated above in relation to [Miss A's] *needs for a prompt termination I had discussions with her and made the arrangements. I tried to address her concerns about the general anaesthetic as much as I was able.*

I further note that:

This opinion places considerable emphasis on my abilities to perform my role. I believe that emphasis is better placed on the counselling environment and professional support provided by [the public hospital]. [The public hospital] *did not, in my opinion, provide any adequate professional assistance, supervision and administrative assistance for me.*

…"

The public hospital informed the Commissioner that:

- "[Ms B] *was appointed to this position in 1992. At this time she met the requirements of the Abortion Supervisory Committee's* ***'Guidelines for the Provision of Abortion Counselling Services'*** *(1979) which were current at that time. We accept that she did not meet the 1998 ASC standards.*"

Counsellor, Ms B / A Public Hospital

Opinion – Case 99HDC01345, continued

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 1
Right to be Treated with Respect

1) Every consumer has the right to be treated with respect.
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 Maori.

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.
3) Every consumer has the right to have services provided in a manner consistent with his or her needs.

Counsellor, Ms B / A Public Hospital

Opinion – Case 99HDC01345, continued

Other Relevant Standards

NEW ZEALAND ASSOCIATION OF COUNSELLORS

CODE OF ETHICS

GENERAL PRINCIPLES
1. The principle of autonomy

Counsellors shall respect the dignity and worth of every individual, the integrity of families/whanau and the diversity of cultures. This implies respect for people's right to make decisions that affect their own lives, to choose whether or not to consent to anything that is done to them or on their behalf, and to maintain their privacy. Exceptions to the principle of autonomy occur when there is clear danger to the client, counsellor or public at large and when the individual's competence to make a decision is clearly limited.

THE COUNSELLING RELATIONSHIP AND CLIENT RIGHTS

Competence and Professional Development

Counsellors shall monitor and work within the limits of both their own competence and their own personal resources.

STANDARDS OF PRACTICE FOR THE PROVISION OF COUNSELLING

OTHER AREAS OF KNOWLEDGE AND COMPETENCIES

(b) Attitude

- The social worker/counsellor demonstrates:
- belief in the uniqueness of each client and her situation
- an ability to explore **all** pregnancy options free of negative or positive judgement.
- an ability to explore the client's system of beliefs about herself, her situations, her relationships and her view of the world
- respect for the client's dignity and integrity.
- an ability to accept how the client perceives her situation.

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Counsellor, Ms B / A Public Hospital

Opinion – Case 99HDC01345, continued

Other Relevant Standards ***continued***

ABORTION SUPERVISORY COMMITTEE APRIL 1998

AIMS, INTENTION AND GOALS OF COUNSELLING
Counselling is a process that:

- is founded on a purposeful working relationship with the client
- assists the client to identify thoughts and feelings about her situation
- builds on a client's abilities to act on decisions made:

PROFESSIONAL REQUIREMENTS FOR SOCIAL WORKERS/COUNSELLORS

1. Qualifications and Training
Social workers and counsellors should have a recognised social services qualification.

2. Professional membership
The social worker/counsellor has full membership of a recognised professional association that has a recognised code of ethics, established complaints procedures and preferably indemnity insurance

3. Supervision
The social worker/counsellor is engaged in regular professional supervision to ensure

- increased effectiveness
- maintenance of accountability to the client and agency
- development and maintenance of a professional identity and ethical practice.

As part of the 'Statement of Purpose' of the Abortion Supervisory Committee 'Standards of Practice for the Provision of Counselling' (1998) state that the provision of counselling requires:

- suitability qualified individuals who are informed, disciplined, skilled and committed to enabling women to make informed decisions about their pregnancy
- organisations that are committed to enabling women to make informed decisions about their pregnancy.

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Counsellor, Ms B / A Public Hospital

Opinion – Case 99HDC01345, continued

Other Relevant Standards ***continued***

APPENDIX 1
REQUIREMENTS OF THE CONTRACEPTION, STERILISATION AND ABORTION ACT 1977 REGARDING THE PROVISIONS FOR COUNSELLING

(a) Supervisory Committee

The Supervisory Committee is also required by s 31 of the Act to:

- Appoint suitably qualified persons to provide counselling services for persons considering having an abortion
- Suitably trained lay counsellors may also be used where there are insufficient professional social workers.

(b) Licensed Institutions

Abortions can only be performed at hospitals and clinics licensed by the Supervisory Committee. The form of application for a licence requires the applicant to state:

- The manner in which the counselling service is to be supervised, and by whom.

Opinion: Breach Ms B

In my opinion Ms B breached Rights 4(2) and 4(3) of the Code of Health and Disability Services Consumers' Rights.

Right 4(2)

The New Zealand Association of Counsellors 'Code of Ethics' states that counsellors "shall respect the dignity and worth of every individual". Further, the Association's 'Standard of Practice' notes that counsellors are to demonstrate:

- respect for the client's dignity and integrity; and
- an ability to accept how the client perceives her situation.

Ms B repeatedly referred to Miss A by an incorrect first name, did not address Miss A's concerns about the termination of pregnancy procedure and appeared to direct the interview to address her own issues of concern, talking about contraception and involving Miss A's parents in the decision.

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Counsellor, Ms B / A Public Hospital

Opinion – Case 99HDC01345, continued

Opinion: Breach Ms B *continued*

Ms B's approach eroded Miss A's confidence and self esteem and left her feeling humiliated and traumatised by the counselling experience.

In my opinion, Ms B's actions and statements indicated an inability to accept how Miss A perceived her own situation. Ms B did not respect Miss A's need to make a critical decision that affected her life. In my opinion, Ms B did not provide counselling services that complied with professional and ethical standards and therefore breached Right 4(2).

Right 4(3)

Miss A was referred to Ms B in accordance with the Contraception, Sterilisation and Abortion Act 1977 for pre termination of pregnancy counselling.

Miss A was a 14 year old girl about to experience a Surgical Termination of Pregnancy. She was anxious to have the termination as quickly as possible to ensure that she could start school on time and was adamant that her parents would not be informed of her pregnancy and proposed termination. Miss A required a counselling service which would provide her with the support to make a difficult decision. Miss A found Ms B's manner inappropriate and the visit 'a terrible experience', humiliating and unpleasant. Ms B acknowledges that she did not establish a good rapport with Miss A.

Ms B appeared to focus on the need to inform Miss A's parents about the pregnancy to the exclusion of addressing Miss A's voiced concerns about the termination of pregnancy procedure.

In my opinion Ms B did not provide counselling services in a manner consistent with Miss A's needs, and therefore breached Right 4(3).

Counsellor, Ms B / A Public Hospital

Opinion – Case 99HDC01345, continued

Opinion: Breach The Public Hospital

Employers may be vicariously liability under section 72 of the Health and Disability Commissioner Act for ensuring that the Code is complied with. Under section 72(5) it shall be a defence for an employing authority to prove that it took such steps as were reasonably practicable were taken to prevent the employee from doing or omitting to do the thing which breached the Code.

The public hospital had no employment policies in place in relation to the qualifications for the position of pregnancy decision counsellor which reflected the Abortion Supervisory Committee's professional requirements at the time Ms B was engaged.

In my opinion A Public Hospital did not ensure that Ms B had the appropriate qualifications for the position of pregnancy decision counsellor therefore was vicariously liable for Ms B's breaches of the Code.

Actions

I recommend that Ms B and the public hospital take the following action:

- Apologise in writing to Miss A for breaching the Code. The apology is to be forwarded to the Commissioner who will send it to Miss A.

Other Actions

A copy of this opinion will be forwarded to the Nursing Council of New Zealand. A non-identifying copy of this opinion will be sent to the New Zealand Association of Counsellors and the Abortion Supervisory Committee.