

Health NZ breaches code after a man was circumcised without his consent

21HDC02905

The Health and Disability Commissioner has found Health New Zealand | Te Whatu Ora breached the Code of Health and Disability Services Consumers' Rights (the Code) after a man was circumcised without his consent.

The man was seen by a consultant urologist, via a telehealth appointment, with regards to balanitis xerotica obliterans (BXO), a thin, white, scaly and inflammatory patch that appears on the foreskin of the penis.

In explaining the surgical procedure required to treat the condition, the consultant informed the man there was a chance that a circumcision would be required once the surgery started, which could involve a full or partial circumcision.

The man expressly stated to the doctor he would not consent to a 'full' circumcision. He was not provided with written information about the procedure, nor was he provided with a copy of the consultation documentation.

On the day of the surgery the man met with the operating surgeon who was a different person from the consultant urologist. According to the surgeon the usual treatment for BXO was a circumcision so proceeded on that basis noting this on the consent form having discussed the procedure with the man prior.

Although the man said he was confused by the terminology used, he continued to sign the consent form because he assumed the cutting/removal of the scar tissue on the frenulum was a form of partial circumcision but did not knowingly consent to a full circumcision.

The man reiterated again in the operating theatre to other clinical staff (not the operating surgeon) that he did not want a full circumcision. However, as no one raised concerns to the operating surgeon, a full circumcision was completed.

Deputy Health and Disability Commissioner Dr Vanessa Caldwell's report found that the man's understanding of the procedure differed from what was listed on the consent form and departed from the expected standard of care.

Dr Caldwell found the man was not provided with adequate information prior to his surgery; in particular, there was a lack of clarity about the extent of the procedure, he was not provided with written information, and he was not advised that a different person may be operating on him at the initial consultation.

In addition, Dr Caldwell found that consenting took place in an inappropriate place, and there was a lack of mutual understanding amongst the providers, resulting from ineffective communication processes, which contributed to the man's unexpected surgical outcome.

Since the events, Health NZ has made a number of changes, including that the Theatre Operational Leadership Team will continue regular audits of consent forms of patients presenting for elective surgery.

Dr Caldwell recommended Health NZ provide a formal written apology to the man, provide an update to HDC on its implementation of a new system that supports sharing of clinical appointment letters with its patients, and remind staff that patients should be given adequate time and opportunities to ask questions about the proposed surgery.

12 August 2024

Editor's notes

Please only use the photo provided with this media release. For any questions about the photo, please contact the communications team.

The full report of this case can be viewed on HDC's website - see HDC's '[Latest Decisions](#)'.

Names have been removed from the report to protect privacy of the individuals involved in this case.

The Commissioner will usually name providers and public hospitals found in breach of the Code unless it would not be in the public interest or would unfairly compromise the privacy interests of an individual provider or a consumer. More information for the media, including HDC's naming policy and why we don't comment on complaints, can be found on our website [here](#).

HDC promotes and protects the rights of people using health and disability services as set out in the [Code of Health and Disability Services Consumers' Rights](#) (the Code).

In 2022/23 HDC made 592 quality improvement recommendations to individual complaints and we have a high compliance rate of around 96%.

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