



**Importance of gaining informed consent and
maintaining standards of practice during massage
20HDC01152 and 20HDC02080**

Deputy Health and Disability Commissioner Rose Wall has found a massage therapist in breach of the Code of Health and Disability Services Consumers' Rights (the Code) for his actions with two female consumers.

The two women received full body massages from the massage therapist two months apart. Following their massages the women separately alleged the massage therapist had touched them inappropriately and behaved inappropriately. Both women reported finding this massage therapist's practice different to previous massages and suffered distress afterwards.

Ms Wall found the massage therapist breached Right 6(1) of the Code, for failing to provide information to both women about the intended techniques and sites that would be massaged.

Right 6(1) gives consumers the right to information that a reasonable consumer in those circumstances would expect to receive. Due to inadequate information, the consumers were unable to give informed consent to the massage, which meant the massage therapist also breached Right 7(1) of the Code.

"I consider that [the massage therapist] failed to communicate adequately with the consumers prior to their massages," Ms Wall said. "It is not sufficient to assume that a client has given informed consent because they do not object to specific actions at the time."

Additionally, Ms Wall said: "The massages did not meet accepted standards, and the standard of draping of both consumers was inadequate to maintain their privacy, comfort and dignity." Consequently, the massage therapist breached Right 1(2) of the Code which gives consumers the right to have their privacy respected.

Ms Wall noted that the massage therapist is bound by the Code, whether or not they belong to any professional association or similar body.

Ms Wall considered that by holding himself out to be a massage therapist and providing massage services for a fee, the massage therapist was required to meet the standards of a professional massage therapist, which in this case, were the ethical principles set out in the Massage New Zealand Code of Ethics.

In failing to meet the Massage New Zealand Code of Ethics and Standards of Practice, Ms Wall found the massage therapist breached Right 4(2) of the Code, which gives consumers the right to services that comply with legal, professional, ethical, and other relevant standards.

Ms Wall referred the massage therapist to the Director of Proceedings. Additionally, she recommended that the massage therapist:

- Re-join Massage New Zealand, the professional association for qualified massage therapists.
- Attend a counselling course to learn effective listening skills.
- Update his first aid certificate, within three months of the date of this report.

The case highlights the importance of massage therapists maintaining relevant codes of ethics and standards of practice at all times so that consumers feel safe and empowered to raise concerns that may arise during treatment.

12 June 2023

Editor's notes

The full report of this case will be available on HDC's [website](#). 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 2021/22 HDC made 402 recommendations for quality improvement and providers complied with 98% of those recommendations.

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