
General Practitioner

Report on Opinion - Case 98HDC19259

Complaint

The Commissioner received a verbal complaint from the consumer about the standard of service she received from the general practitioner. The complaint was that:

- *In early October 1998 the consumer attended the GP for an ACC reassessment. On arrival in the GP's room the consumer was asked to remove her top and when she looked embarrassed she was given a gown and the doctor left the room. The consumer has never before been asked to remove her top for an ACC assessment. The consumer removed all of her clothing apart from her tights and she put the gown on.*
 - *The GP returned to the room and proceeded to ask the consumer a number of questions and asked her to do a number of exercises. The GP then asked the consumer if he could examine her stomach. The consumer did not mind as the ACC papers had mentioned that she might have to have a physical examination.*
 - *The consumer lifted the gown to just under her breasts and lowered her tights to just above her pubic area. The consumer has a large scar that runs from just under her breasts to just above her lowered tights. The GP asked what the scar was from and then enquired about another small scar on the lower region of her stomach. The consumer explained that the large scar was from bowel surgery and the smaller one from tubal ligation.*
 - *The GP tapped his fingers three times on the consumer's stomach and then without warning or explanation lifted her tights with one finger, tilted his head and looked to her pubic area. This action only lasted for a second or two.*
 - *The action of the GP completely shocked the consumer and she found it completely unnecessary and distressful and there was no female present during the examination.*
-

General Practitioner

Report on Opinion - Case 98HDC19259, continued

Investigation The complaint was received on 29 October 1998 and an investigation was undertaken. Information was obtained from:

The Consumer
The General Practitioner/Provider

The matter was referred to the advocacy service on 15 April 1999 but resolution between the parties was not achieved. The Commissioner obtained a copy of the GP's ACC Independence Allowance Assessment Report.

Information Gathered During Investigation In early October 1998 the consumer attended the GP's surgery to undergo an ACC independence allowance assessment. The GP advised the Commissioner that he had been asked by ACC to assess the consumer's degree of impairment for a L5S1 disc lesion injury.

The consumer complained that her embarrassment at the GP's request to remove her top resulted in an offer of a gown, at which point the GP left the room. The consumer advised the Commissioner that while she removed all of her clothing, apart from her tights, and put the gown on, she had never been asked to remove her top for an ACC assessment before.

The GP advised the Commissioner that when a focused examination is required, his policy is to ask the consumer to change into a gown while he leaves the room. The GP stated that he did not ask the consumer to remove her undergarments for the purposes of the assessment.

The GP advised the Commissioner that he took a detailed history from the consumer and then, as part of his usual ACC independence allowance assessment, conducted a general physical examination of the consumer. The consumer's head, spine, neck, arms, chest, abdomen and legs were examined. The GP also carried out a neurological examination of the consumer's upper and lower limbs. The GP advised that "range of motion" tests were carried out on the consumer's cervical spine, shoulders, lumbar spine, hips, knees and ankles. The results of these examinations were reported in the GP's ACC Independence Allowance Assessment Report.

Continued on next page

General Practitioner

Report on Opinion - Case 98HDC19259, continued

**Information
Gathered
During
Investigation,
*continued***

The GP then asked the consumer if he could examine her stomach. The consumer said this did not concern her as she had been alerted to the possibility of a physical examination in papers sent to her by ACC. The consumer advised that she lifted her gown to just under her breasts and lowered her tights to just above her pubic area. She said the GP questioned her about the large scar on her abdomen, as well as a smaller scar on her lower right side. The consumer complained that, without warning or explanation, and having tapped his fingers on her stomach three times, the GP lifted her tights with one finger, tilted his head and looked to her pubic area. The consumer stated that, while this action was very brief, she was shocked and found it unnecessary and distressful. The consumer was concerned that no female was present during the examination.

The GP advised the Commissioner that details of scars and other external features are part of his general examination and are documented in reports to ACC. The GP stated that he also examined the consumer's abdomen because she had had major abdominal surgery, and abdominal surgery can cause back pain. The GP advised the Commissioner that he recalled having to adjust the top of the consumer's lower garments slightly in order to measure the abdominal scar. The lower end of the scar was not visible. He denied lifting the consumer's underwear in the manner described by her. The GP's ACC Independence Allowance Assessment Report noted that the consumer had a 31cm vertical scar and a 9cm vertical scar on her abdomen and that these were soft and non-tender.

The GP advised the Commissioner that he always offers female consumers the option of a chaperone during breast and cervical examinations, and any other examination where it may be desirable to the consumer. He stated that he has not previously offered a chaperone for abdominal examinations, but a female chaperone is always available if required by the consumer.

General Practitioner

Report on Opinion - Case 98HDC19259, 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 3

Right to Dignity and Independence

Every consumer has the right to have services provided in a manner that respects the dignity and independence of the individual.

RIGHT 5

Right to Effective Communication

...

- 2) *Every consumer has the right to an environment that enables both consumer and provider to communicate openly, honestly, and effectively.*

Continued on next page

General Practitioner

Report on Opinion - Case 98HDC19259, continued

**Opinion:
Breach** In my opinion the GP breached Right 3 and Right 5(2) of the Code of Health and Disability Services Consumers' Rights as follows:

Right 3 and Right 5(2)

The consumer was aware that a physical examination might be required when she reported to the GP's clinic. While she agreed to the abdominal examination requested by the GP she was not aware that her underwear would be adjusted so that the GP could view the portion of her abdominal scar that was not visible. Further, while the GP stated that the consumer had access to a chaperone if she required one, the consumer was not in a position to request the chaperone because the GP had not explained to her what his abdominal examination would involve either prior to, or during, the examination. If the GP had explained his requirements to the consumer and alerted her to the availability of a chaperone the consumer would have been in a position to request one if she so desired. Further, the GP's examination of the consumer's abdominal scar below her pubic line was an extremely distressing experience for her. In my opinion the GP had an obligation to communicate to the consumer details of his examination, including his need to adjust her underwear so he could view below her pubic line and, in not doing so, he breached Rights 3 and 5(2) of the Code of Health and Disability Services Consumers' Rights.

Actions I recommend that the GP take the following actions:

- Provides a written apology to the consumer. This letter is to be sent to the Commissioner and will be forwarded to the consumer.
 - Reads the Code of Health and Disability Services Consumers' Rights.
-

Other Actions A copy of this opinion will be sent to the Medical Council of New Zealand and ACC.
