

**Chiropractor, Mr B**

**A Report by the  
Health and Disability Commissioner**

**(Case 03HDC07831)**



Health and Disability Commissioner  
*Te Toihau Hauora, Hauātanga*



## Parties involved

Ms A      Consumer  
Mr B      Provider / Chiropractor

---

## Complaint

On 29 May 2003 the Commissioner received a complaint from Ms A about Mr B. The complaint was summarised as follows:

- *In July 2000 Mr B, chiropractor, did not provide Ms A with services that complied with professional and ethical standards. In particular, Mr B had a sexual relationship with Ms A while she was his patient.*

An investigation was commenced on 17 June 2003.

---

## Information reviewed

- Letter of complaint received from Ms A dated 23 May 2003.
  - Letter of response and clinical notes received from Mr B and dated 15 July 2003.
- 

## Information gathered during investigation

On 3 July 2000 Ms A attended Mr B's chiropractic clinic in response to his advertisement for a free spinal check. Ms A sought treatment for lower back and neck pain. Mr B examined Ms A and told her that her spine was out of alignment. He said he could help her with three treatments that would be covered under ACC. Mr B also recorded some details of Ms A's medical history and diet. Ms A said, "I felt confident that he was knowledgeable and could help me."

On 5 July at 8.30am Ms A returned for her second appointment with Mr B. She noticed that all appointments in the appointment book that followed hers had been crossed out. Mr B called Ms A into the treatment room where his first patient was still being treated. He sat Ms A in a chair and began to treat her. During the treatment Mr B mentioned Ms A's dead grandmother. Following the treatment Mr B asked Ms A if she would like to go out for breakfast. Ms A agreed as she wished to follow up his comments about her grandmother and felt unable to do this at the time as another patient was present in the room.

---

Mr B took Ms A to his house in his car. Ms A found that breakfast had been prepared and was waiting for them. At her first appointment Ms A had told Mr B that she did not eat wheat, dairy products or refined sugar and she noticed that the contents of the breakfast had been carefully selected to exclude these products. Following the breakfast Mr B suggested they go for a walk. During this time Mr B told Ms A that he had had to leave his psychotherapy course at an institute because of his opinion that “people find sexual abuse under every rock”. When they returned to the house Mr B offered to show Ms A some Tibetan yoga exercises which he claimed would help her back. The yoga was conducted on the floor in the living room and during the exercises Mr B initiated sexual contact and consequently sexual intercourse with Ms A. Ms A said that she felt confused and disgusted following the episode and felt that she did not want to see Mr B again.

When Ms A arrived home from work the following day, 6 July, she found Mr B sitting on her doorstep. Ms A had not invited him or given him her address and she assumed that he had obtained this from her file. Ms A persuaded Mr B to leave and she began to avoid going home. A few days later Mr B arrived at Ms A’s house at night while she was in the shower. Mr B got into the shower with her and again initiated sexual intercourse. Ms A subsequently asked Mr B to leave. The following day Mr B returned at 9am and took Ms A for a drive. Ms A said that he offered her marijuana, which she refused but which he smoked. Following this episode Ms A decided that the only way to avoid Mr B was to leave the town.

Ms A left a message on Mr B’s home answerphone saying that she didn’t want to see him again and left a message at his clinic cancelling her next appointment. She left town the following week. Mr B has not pursued her or tried to contact her since.

Ms A said that she had tried to forget these events as they had made her feel guilty and ashamed. Further, that it had taken her almost three years to make the complaint as she now believed that Mr B’s actions were premeditated. Ms A believed Mr B had planned to have sexual intercourse with her and had exerted his influence over her, leaving her feeling powerless.

#### *Mr B*

In response to the complaint Mr B did not deny the assertions made by Ms A. Mr B said that he did not agree that the events outlined were premeditated. He said that the appointments were scheduled to take into account his morning classes at the institute and that his attraction and respect for Ms A was that of a “natural man” and that he believed the attraction to be mutual. Mr B said that it seems he can no longer practise as a professional chiropractor and he intends to ask the Chiropractic Board to remove his name from the register.

#### *Similar fact evidence*

I note that the issues raised by this complaint are strikingly similar to another complaint I received about Mr B, in relation to which he was also found to have breached the Code. Both of the complaints allege inappropriate sexual contact at Mr B’s house during the course of allegedly therapeutic treatment, the therapeutic relationship having arisen out of Mr B’s publicised offer of a free spinal check.

The similarity of the issues raised by this previous, proven complaint are sufficiently similar in my opinion to be able to constitute similar fact evidence tending to corroborate Ms A's account in the present case. While I note that Mr B has not denied the current allegations, it is nevertheless important to note that this similar fact evidence does corroborate the complainant's version of events.

---

## **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 2*

#### *Right to Freedom from Discrimination, Coercion, Harassment, and Exploitation*

*Every consumer has the right to be free from discrimination, coercion, harassment, and sexual, financial or other exploitation.*

### *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.*
- 

## **Other Standards**

### **New Zealand Chiropractic Board**

*Code of Ethics and Standards of Practice* (effective April 2000)

...

#### **3.2 Sexual Misconduct**

Sexual behaviour in a professional context is abusive. Sexual behaviour includes any words or actions designed or intended to arouse or gratify sexual desires. The Chiropractic Board condemns all forms of sexual misconduct in the Chiropractor/patient relationship. The consent of a patient to sexual contact does not necessarily preclude a finding of misconduct against the practitioner by the Board.

The Board will use the following guide in determining whether (and to what extent) sexual misconduct has occurred. These three headings will be used:

---

- sexual connection
- sexual transgression
- sexual impropriety.

3.2.1 **Sexual connection** means sexual activity between Chiropractor and patient, whether or not initiated by the patient, including but not exclusively:

- any form of genital or other sexual connection
- masturbation or clitoral stimulation, involving the Chiropractor and patient.

3.2.2 **Sexual transgression** includes *any* touching of a patient that is of a sexual nature, other than behaviour described in sexual connection, including but not exclusively:

- inappropriate touching of breasts or genitals
- inappropriate touching of other parts of the body
- propositioning a patient.

3.2.3 **Sexual impropriety** means any behaviour other than sexual touching such as gestures or expressions that are sexually demeaning to a patient or which demonstrate a lack of respect for the patient's privacy, including but not exclusively:

- propositioning a patient
- inappropriate disrobing or inadequate gowning practices
- inappropriate comments about, or to, the patient such as the making of sexual comments about a patient's body, or underclothing, or sexual orientation
- making inappropriate comments to a patient
- making comments about sexual performance during an examination or consultation (except where pertinent to professional issues of sexual function or dysfunction)
- requesting details of sexual history or sexual preferences not relevant to the type of consultation
- any conversation regarding the sexual problems, preferences or fantasies of the Chiropractor.

...

## **Opinion: Breach – Mr B**

### *Sexual exploitation*

On 2 July 2000, Ms A sought Mr B's professional assistance for lower back and neck pain. Ms A established that she could trust Mr B's knowledge and his ability to help her. On 5 July Ms A underwent her first treatment in a room shared with another patient. During the course of her treatment Mr B alluded to a connection between Ms A's health and the death of her grandmother. Following the treatment Mr B asked Ms A to breakfast with him and Ms A saw this as an opportunity to pursue the alleged connection between herself and her grandmother. Mr B took Ms A to breakfast at his house and after breakfast offered to teach Ms A Tibetan yoga to help with her lower back problem. In the course of his instruction, Mr B initiated and had sexual intercourse with Ms A.

It is clear to me that Mr B used his position as a chiropractor to initiate social contact with Ms A, after first meeting her in a therapeutic context. It is also clear that Mr B's sexual contact with Ms A was premeditated. Mr B denies that the contact was premeditated, but in saying this Mr B has no credibility. Ms A's account demonstrates obvious planning on Mr B's part.

What is especially disturbing is that Mr B used personal information about Ms A gained in the course of a professional consultation to further his advances. This element leads me to question whether Mr B's initial consultation with Ms A had any therapeutic focus at all, or whether it was intended simply for the purpose of obtaining personal information about her which he could later use to his own ends.

Mr B established his credibility with Ms A in the context of his status as her health provider and then exploited her trust for his own sexual gratification. Mr B invited Ms A to his house and used an alleged therapeutic instruction to engage in sexual intercourse with her. Mr B's actions amounted to premeditated and abusive sexual exploitation of a woman who had invested her trust in his professional services as a chiropractor. Mr B's behaviour was offensive and unacceptable at any level and in my opinion clearly breached Right 2 of the Code. Ms A was inevitably damaged by Mr B's behaviour which made her feel guilty and ashamed.

### *Breach of ethical standards*

The New Zealand Chiropractic Board Code of Ethics states, under the heading "Sexual Misconduct":

"Sexual behaviour in a professional context is abusive. Sexual behaviour includes any words or actions designed or intended to arouse or gratify sexual desires. The Chiropractic Board condemns all forms of sexual misconduct in the Chiropractor/patient relationship. The consent of a patient to sexual contact does not necessarily preclude a finding of misconduct against the practitioner by the Board."

The Code of Ethics refers to three headings of sexual misconduct as a guide in determining whether such misconduct occurred – sexual connection, sexual transgression and sexual impropriety. By his own admission Mr B contravened the primary category of sexual connection during his professional relationship with Ms A. By engaging in a sexual relationship with Ms A when she was undergoing chiropractic treatment from him, Mr B acted unprofessionally and unethically. Whether or not the sexual connection was consensual is irrelevant.

For the above reasons, I consider that Mr B breached the ethical standards set out in the Chiropractic Board Code of Ethics relating to sexual misconduct, and thus also breached Right 4(2) of the Code.

---

## **Actions**

- I have referred this matter to the Director of Proceedings in accordance with section 45(f) of the Health and Disability Commissioner Act 1994 for the purpose of deciding whether any further action should be taken in relation to Mr B.
  - A copy of this report has been sent to the New Zealand Chiropractic Board. In this context I note my extreme concern that this is the second occasion on which I have found that Mr B has sexually exploited a current patient. (See 02HDC09817, 17 January 2003.)
  - A copy of this report, with identifying features removed, will be sent to the New Zealand Chiropractic Board and will be placed on the Health and Disability Commissioner website, [www.hdc.org.nz](http://www.hdc.org.nz), for educational purposes.
- 

## **Addendum**

The Director of Proceedings laid before the New Zealand Chiropractic Board a charge alleging professional misconduct and/or conduct unbecoming a registered chiropractor.

The Board issued its decision on 22 December 2003. It noted that Dr B behaved in a most reprehensible way and demeaned the status of chiropractors in his locality and generally, and stated that such abominable behaviour would not be tolerated by the chiropractic community or the public of New Zealand.

The charge in relation to a sexual relationship with a client was upheld by the Board at the level of professional misconduct, and it ordered that Dr B's name be removed from the Register of Chiropractors for a minimum of five years, and that any application for re-

---



instatement be supported by evidence of suitable counselling and treatment, and adequate clinical competency, to the Board's satisfaction. The Board ordered payment of 50% of the costs of the hearing, and publication of the orders, including Dr B's name, in the Board's newsletter, the *New Zealand Chiropractors Association News*, and the *Australian Chiropractic Journal*. In addition, the Board ordered that the local media be given a précis of the hearing.

---