

Inappropriate sexual relationship with a patient (06HDC01330, 18 January 2007)

General practitioner ~ Sexual relationship ~ Ethical and professional standards

A GP conducted a sexual relationship with a female patient over more than a year in the 1980s. The Health and Disability Commissioner Act allows the Commissioner to investigate matters occurring before July 1996 only when the conduct complained of would have been grounds for disciplinary proceedings at the time. The Commissioner concluded that there was a strict prohibition against doctors engaging in sexual relationships with patients at the relevant time. Accordingly, the threshold for jurisdiction was reached.

The GP treated the patient intermittently over the relevant period for general matters. The GP also provided medical services to the patient's family, including her children and husband. Neither the fact that the GP and patient also knew each other in a social context, nor that it was a small rural town, excused the breach of professional and ethical standards. The Commissioner was also critical of the GP for contacting the patient after the investigation was commenced and encouraging her not to pursue the matter.

The matter was referred to the Director of Proceedings, who decided to lay a charge before the Health Practitioners Disciplinary Tribunal. The charge comprised two particulars, the first relating to the sexual relationship and the second regarding an allegation that the doctor had deliberately attempted to subvert the Commissioner's process.

On the first particular, while the Tribunal found that the established facts amounted to malpractice and to the bringing of discredit to the profession, they did not warrant disciplinary sanction. In reaching its decision, the Tribunal noted that this was a very unusual case, and cited the following factors in reaching the decision it had: the genesis of the sexual relationship had been in social contact in the context of the parties living in a small community; the only established medical consultations were for relatively minor matters which did not place the patient in a position of being unduly vulnerable; there was serious delay in bringing the matter before the Tribunal; in response to the complaint, the doctor had stood down from obtaining a senior office within his profession; a Performance Assessment Committee Report verified that the doctor had a high awareness of the need to maintain boundaries and the potential risks associated with not doing so.

With regard to the second particular, the Tribunal was not satisfied that the allegation that there was a deliberate attempt to subvert or interfere with the HDC process had been established. Accordingly, the Tribunal dismissed the charge.

Link to Health Practitioners Disciplinary Tribunal decision:

[http://www.hpdt.org.nz/portals/0/med0765ddecdp070-substantive%20hearing\(anon\).pdf](http://www.hpdt.org.nz/portals/0/med0765ddecdp070-substantive%20hearing(anon).pdf)