

## **CASE NOTE 00HDC8647: GP providing care for a friend who was a committed patient**

*Right to services of an appropriate standard – Reasonable care and skill – Right to make an informed choice and give informed consent – General practitioner – Mental illness – Welfare guardian – Rest home – NZMA Code of Ethics – Protection of Personal and Property Rights Act 1988 – Right 4(2) – Right 7(1)*

A complaint was made by the General Manager of a rest home and hospital about the services provided to the consumer by a general practitioner. The complaint was on the basis that the general practitioner consulted with the consumer without the permission of her son, who holds a Power of Attorney, and without the approval of the regular general practitioner, and that this resulted in the consumer being advised that she is not a paranoid schizophrenic; being given a change in her medication without consultation with her regular general practitioner; and being encouraged to move to another town to receive treatment there from the general practitioner.

The facts were that the consumer had a history of paranoid schizophrenia. Her son had been appointed as her welfare guardian. The GP, who considered herself a friend of the consumer through their common ethnic background and church associations, declined a request to be the consumer's general practitioner but assisted in developing the consumer's trust in another practitioner. Subsequently the GP continued to visit the consumer as a friend but also acted in a professional capacity on at least two occasions without the prior knowledge of the other practitioner. The other practitioner found the GP's interference in the care of the consumer slightly irritating but, as the consumer was a difficult patient to care for, the GP's assistance was, on the whole, considered helpful.

The Commissioner reasoned, after receiving independent expert advice from a general practitioner, that:

- (1) the New Zealand Medical Association "Code of Ethics" requires that a doctor not interfere with another doctor's established relationship with his or her patient without compelling reasons to do so;
- (2) the GP's actions, which resulted from a degree of role confusion, were helpful, and she kept the consumer's GP informed;
- (3) the Protection of Personal and Property Rights Act 1988 emphasises the importance of promoting the independence and best interests of the individual; and
- (4) there was nothing to support the allegations that the GP encouraged the consumer to believe she was not suffering from schizophrenia, or that the GP encouraged the consumer to move, and these allegations seemed to be based on conjecture.

The Commissioner held that the general practitioner

- (1) did not breach Right 4(2) in that she did not unreasonably interfere in the agreed GP's relationship with the consumer; and
- (2) did not breach Right 7(1) as the evidence suggested that she provided care to the consumer only when acting with her full knowledge and concurrence.