



HEALTH & DISABILITY COMMISSIONER
TE TOIHAU HAUORA, HAUĀTANGA

Woman's rights breached when surgery performed without her informed consent

21HDC01573

A woman's rights to make a choice and give informed consent to a procedure were breached when her right fallopian tube was removed during a procedure to remove her left ovary and fallopian tube, said the Deputy Health and Disability Commissioner.

In a decision released today, Dr Vanessa Caldwell said under the Code of Health and Disability Services Consumers' Rights, before making a decision or giving consent, every person has the right to information that a reasonable consumer could expect to receive, and this opportunity was not provided to the woman.

The complaint centres on surgery for the removal of a suspected ovarian cyst in the woman's left fallopian tube. Written consent was provided for the removal of the woman's left ovary and fallopian tube.

On the morning of the surgery, the surgeon documented that the woman agreed to the removal of her right fallopian tube – known as a salpingectomy – the first mention of this in clinical records. He said he discussed the option of this as a preventative measure to alleviate the woman's concerns about familial cancer risk, just before the surgery. However, after the surgery, the woman said she asked about her right fallopian tube and was told it was unaffected.

While the removal of both fallopian tubes was noted in the woman's discharge summary, the woman said she was only made aware of the removal of the right tube when she was advised by an ultrasound technician a year later.

Dr Caldwell was critical of the doctor for advising the woman of the change in surgical plans, to include the right salpingectomy, in the preoperative holding bay while she was experiencing signs of acute stress relating to the procedure. "The environment in which this option was put to her was inappropriate. It affected her understanding of her surgery and the effect the procedure would have on her fertility was profound".

Dr Caldwell said the risks, benefits and options related to the procedure were not explained to the woman appropriately, particularly its potential effects on her fertility, and said the inadequate informed consent was a severe departure from accepted standards.

Dr Caldwell was also critical that the written consent form did not include the right salpingectomy, because following the change in surgical plan, the doctor did not update the written consent form.

She also made adverse comment against Health NZ for systemic issues relating to informed consent practise because, in the woman's case, a surgical safety checklist was not followed.

Dr Caldwell made a range of recommendations including that the doctor provide a formal apology to the woman and completes HDC's the online learning modules about the Code. She has recommended Health NZ perform an audit of the last 30 clinical records for compliance with its informed consent policy.

23 September 2024

Editor's notes

Please only use the photo provided with this media release. For any questions about the photo, please contact the communications team.

The full report of this case can be viewed on HDC's website - see HDC's '[Latest Decisions](#)'.

Names have been removed from the report to protect privacy of the individuals involved in this case.

The Commissioner will usually name group 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 2022/23 HDC made 592 quality improvement recommendations to individual complaints and we have a high compliance rate of around 96%.

Health and disability service users can now access an [animated video](#) to help them understand their health and disability service rights under the Code.

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