

## **Sexual misconduct by a physiotherapist (06HDC15374, 6 July 2007)**

*Physiotherapist ~ Sexual boundaries ~ Ethical and professional standards ~ Personal privacy ~ Rights 1(2), 2, 4(2)*

A woman complained that her physiotherapist inappropriately exposed her breasts while treating her for back pain. During the six months he had been treating her, initially for bilateral shin pain and subsequently for lower back pain, they had developed a good professional relationship. The incident occurred while the woman was putting her top back on following the completion of the treatment for back pain. Earlier in the treatment the physiotherapist had made a comment about a picture of a woman wearing a see-through dress in the magazine the patient was reading. While the patient was changing, the physiotherapist made a comment about the picture and then proceeded to pull down the front of her bra on two occasions.

The woman experienced considerable emotional trauma as the result of the incident, and immediately following the incident required sleeping pills to help her to sleep. She also underwent counselling.

It was held that the physiotherapist's conduct on this occasion was unethical. Inappropriately exposing the woman's breasts was clearly an abuse of the relationship of trust that had been built up. This severe departure from the acceptable standard of professional behaviour amounted to a breach of Right 4(2). The physiotherapist's actions were a clear abuse of the trust that the woman had placed in him as her physiotherapist, and amounted to exploitation, in breach of Right 2.

There was no evidence of the development of a treatment plan for either the woman's lower back injury or shin splints. It was also held that the physiotherapist's clinical documentation failed to meet professional standards, breaching Right 4(2).

He also failed to take relatively simple steps to respect the woman's right to privacy, remaining in the room while she undressed and not offering her a gown. These omissions amount to a breach of Right 1(2).

The matter was referred to the Director of Proceedings. On 21 December 2007 the Health Practitioners Disciplinary Tribunal upheld a charge of professional misconduct against the physiotherapist. The Tribunal imposed the following conditions on his practice for a period of 12 months: that a chaperone be present during consultations with female patients, that he undertake a mentoring programme, and that he ensure that his physiotherapy workload does not become excessive.

The physiotherapist was censured, fined \$5,000.00 and ordered to pay \$5,000 costs.

**Link to Health Practitioners Disciplinary Tribunal decision:**

<http://www.hpdt.org.nz/portals/0/phys0779dfindings.pdf>