

Failure to report rest home resident's fall (05HDC16647, 31 May 2006)

Rest home ~ Caregiver ~ Elder care ~ Dementia ~ Care plan ~ Fall ~ Fracture ~ Incident reporting ~ Rights 4(1), 4(3), 4(4), (4(5)

A woman complained about the care provided to her mother by a rest home. The elderly woman required full care, could not communicate with staff, and did not mobilise at all. While transferring the woman from chair to bed, a caregiver “dropped” her, which resulted in a broken arm and facial bruising. The caregiver did not report the fall, and failed to complete an accurate incident form.

Two days later, bruising and misalignment of the woman’s arm was noted, and subsequent investigation showed the fracture. The owner of the home immediately started an investigation, as it was not known how the injury had been caused. Only after a number of staff meetings and individual interviews did the caregiver admit, nearly three weeks later, to being involved in the incident resulting in the injury. The caregiver was subsequently dismissed, having refused to attend the disciplinary process.

It is unacceptable for a caregiver to drop a patient when moving her, particularly when attempting to do so without a second staff member to help as required by a care plan. In these circumstances, the caregiver failed to exercise reasonable care and skill and breached Right 4(1).

The caregiver’s failure to report the fall also resulted in delays in informing the woman’s family that their mother had suffered an injury. The woman suffered from dementia and was unable to communicate. In these circumstances, the caregiver had a duty to provide information to the family, including an explanation of the woman’s condition.

It was held that the caregiver acted in a dishonest manner by failing to report an incident, consciously and repeatedly deceiving during an investigation process, and making false claims about her lifting training. She also made an unsubstantiated statement that she had admitted her involvement in the accident under duress. By her actions, the caregiver breached Rights 4(1), 4(3) and 4(4).

The caregiver was referred to the Director of Proceedings, who issued proceedings before the Human Rights Review Tribunal. The Tribunal found that the caregiver breached Right 4(1) in that she failed to comply with the “two person lift” policy of the rest home and failed to transfer the woman safely from her chair to her bed. It also found that she breached Right 4(2) by failing to complete an adequate Incident Report when the woman fell during the transfer from her chair to the bed. The caregiver also breached Right 4(5) in that she failed to notify anyone that the woman had fallen while in her care.

In a subsequent decision on damages, the Tribunal awarded the woman’s daughter \$3,500 for injury to feelings. However, this decision was subject to the Court of Appeal decision in *Marks v The Director of Proceedings* [2009] NZCA 151, which concerned the definition of “aggrieved person” under the Act. As a result of the Court of Appeal’s decision in *Marks*, the award of damages was not enforceable because the woman’s daughter was not a consumer of health services in this case. The Tribunal’s declarations in relation to breaches of the Code stand.

Link to Human Rights Review Tribunal decision:

<http://www.nzlii.org/nz/cases/NZHRRT/2007/12.html>.