
Staff Nurse

Report on Opinion - Case 98HDC13602

Complaint • *The complaint is that in early March 1998 the staff nurse hit the consumer on the head.*

Investigation The complaint was referred to the Commissioner by the Nursing Council of New Zealand who had received notification from the transitional general manager, mental health division of a Crown Health Enterprise ("CHE"). An investigation was undertaken and information was obtained from:

The Nurse

The Director of Nursing Practice at the CHE

The Transitional General Manager, Mental Health Division of the CHE,
the Complainant

The Company Secretary of the CHE

The nurse's nursing registration details were viewed.

Information Gathered During Investigation On the night in early March 1998 the nurse was on duty in the forensic unit of a hospital. A verbal exchange took place between the nurse and a patient, the consumer. During the exchange the consumer verbally abused the nurse calling her "*a fat bitch*". The nurse responded by hitting him on the side of his head. The assault on the consumer was witnessed by another staff nurse, and was reported to the employing authority. The CHE transferred the nurse to another forensic unit while an investigation was carried out. At the conclusion of the investigation the nurse was dismissed for a breach of the CHE's Code of Conduct and the matter was reported to the Nursing Council of New Zealand.

The CHE advised that the nurse underwent an orientation program at the hospital, covering hospital policies and procedures, including the Code of Conduct.

Continued on next page

Staff Nurse

Report on Opinion - Case 98HDC13602, continued

**Information
Gathered
During
Investigation,
*continued***

The nurse advised the Commissioner that she felt provoked by the consumer's comment to her, and admitted she hit him. The nurse advised the Commissioner that she was experiencing high levels of personal stress at the time of the incident, as she had just experienced the break-up of her marriage, and had recently returned to work following a period of hospitalisation for the treatment of a mental health illness. The nurse expressed remorse for her actions towards the consumer and advised she is continuing to seek assistance in addressing her anger appropriately.

**The Code of
Health and
Disability
Services
Consumers'
Rights**

*RIGHT 4
Right to Services of an Appropriate Standard*

...

2) *Every consumer has the right to have services provided that comply with legal, professional, ethical, and other relevant standards.*

...

**Opinion:
Breach**

Right 4(2)

In my opinion the nurse breached Right 4(2) of the Code by hitting the consumer.

The Nursing Council of New Zealand's Code of Conduct, Principle Two requires a nurse to act ethically and to maintain standards of practice. Principle 2.3 states the nurse:

"[I]s accountable for practising safely within her/his scope of practice."

The term "*safety*" in the Code of Conduct is defined as meaning:

"[R]efers to nursing or midwifery action to protect from danger and/or reduce risk to patient/client/community from hazards to health and well-being ...".

By her actions in hitting a patient the nurse breached the Code Rights of the consumer and demonstrated her failure to practise nursing safely.

Continued on next page

Staff Nurse

Report on Opinion - Case 98HDC13602, continued

**Opinion
Breach
continued**

The nurse also failed to comply with the CHE's Code of Conduct. Section 4.2 of the Code of Conduct states that:

“Serious misconduct is behaviour which undermines the contractual relationship between employee and employer, and/or seriously threatens the wellbeing of the organisation, the staff, or the patients/clients”.

Serious misconduct is deemed to include *“assaulting or threatening to assault any patient/client, resident, visitor, or employee on company premises”.*

I accept that the nurse's personal circumstances and health were causing difficulties for her, and that the outcome of the incident has resulted in hardship in terms of employment. However, as a nurse, the nurse is a health professional and must either control her emotions, or discuss the issue with her employer, and remove herself from nursing in a high stress environment.

In my opinion the nurse's action was inappropriate and does not meet the ethical and professional standards required of a nurse.

Actions

I recommend that the nurse:

- Attend an anger management course and confirm to the Commissioner her attendance.
- Ensure she nurses in a low stress environment under supervision until she receives clearance from her psychiatrist confirming she is able to control her anger.

A copy of my opinion will be sent to the Chief Executive of the CHE, the complainant, the nurse's current employer, another CHE, and the Nursing Council of New Zealand.

I have decided to refer this matter to the Director of Proceedings under section 45(f) of the Health and Disability Commissioner Act 1994 for the purpose of deciding whether any actions should be taken.
