

**Mr B**

**A Report by the  
Health and Disability Commissioner**

**(Case 02HDC01167)**



Health and Disability Commissioner  
*Te Toihau Hauora, Hauātanga*

## Parties involved

Mrs A	Consumer / Complainant
Mr A	Consumer's husband
Mr B	Provider / Counsellor
Ms C	Counsellor
Mr D	Counsellor

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## Complaint

On 26 January 2002 the Commissioner received a complaint from Mrs A about counselling services she received from Mr B. The complaint was summarised as follows:

*Mr B did not provide services to Mrs A in accordance with appropriate standards. In particular:*

- *in joint therapy sessions with Mrs A and her husband, Mr B was biased towards Mrs A's husband;*
- *Mr B insisted Mrs A has repressed memory syndrome and had been abused as a child;*
- *Mr B did not conduct clinical sessions appropriately.*

An investigation was commenced on 17 April 2002.

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## Information reviewed

- Letter of complaint from Mrs A dated 26 January 2002
- Responses from Mr B dated 15 May 2002, 10 July 2002 (including counselling notes) and 26 July 2002 (including a summary of his notes and information on disassociate disorders)
- Letter from Mr D dated 29 January 2003
- Letter from Mr B dated 28 February 2003
- File note of a conversation between Ms C and investigator dated 14 May 2002
- Information provided by Ms C dated 28 May 2003, including Ms C's records
- File note of a conversation between Mrs A and investigator dated 23 June 2003
- Response to first provisional opinion on behalf of Mr B dated 11 July 2003
- Responses to second provisional opinion on behalf of Mr B dated 30 April and 10 May 2004
- New Zealand Association of Counsellors (NZAC) Code of supervision
- NZAC Code of Ethics 1990
- NZAC Code of Ethics 2002

Independent expert advice was obtained from Ms Marieke Simmonds and Ms Anita Bocchino, counsellors.

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## **Introduction**

This report raises important issues regarding the setting of boundaries and multiple/dual relationships in the counsellor/client relationship. The case is about a pastor and trained counsellor, who agreed to provide marriage counselling where he had a long-standing pastoral relationship with a couple, and an established professional counselling relationship with the husband. Because of the counsellor's background relationship with the couple, the wife felt disadvantaged during counselling sessions.

In my opinion, the counsellor's decision to provide marriage counselling to this couple was unprofessional and unethical, and amounted to a breach of the Code of Health and Disability Services Consumers' Rights. People who approach counsellors for counselling services are often vulnerable. When counsellors have prior relationships with one or both parties to a professional counselling relationship they need to take extreme care to establish the boundaries of the new relationship at the outset. If any doubt is raised about the counsellor's ability to fairly counsel the couple, a referral should be made.

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## **Information gathered during investigation**

### *Background*

Mr B is an ordained minister who commenced private practice as a counsellor in 1988. In 1993, Mr B provided counselling to Mr A in relation to his first marriage.

In March 1996, Mr B was the celebrant at the marriage of Mr and Mrs A. At that time Mr B was also counselling Mr A. Mr B states that around the time he married Mr and Mrs A he had a pastoral relationship with them. This consisted of Mr and Mrs B and Mr and Mrs A having meals together on about four occasions over 12-18 months. Mr B states that he had no professional or social relationship with Mrs A "of any substance" for at least three years prior to the start of marriage counselling in 2001.

In 2000, Mr A again saw Mr B for counselling. Later that year, in the course of the counselling, Mr A raised concerns about his marriage to Mrs A. At a session on 28 December 2000, Mr B suggested joint marriage counselling sessions. Subsequently, during his individual counselling of Mr A, Mr B reiterated his recommendation that joint marriage counselling would be beneficial.

Between March and April 2001, Mr and Mrs A attended four joint marriage counselling sessions with Mr B – on 13 March 2001, 29 March 2001, 5 April 2001 and 10 April 2001.

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During this time Mr B continued to see Mr A for individual counselling. He also saw Mrs A separately as part of the marriage counselling process. Mrs A was also seeing another counsellor, Ms C, for individual counselling. (A full summary of the various counselling appointments during this time is attached as Appendix I.)

Mr B initially advised me that he first saw Mrs A, at a joint counselling session with Mr A, on 9 January 2001. However, in response to my second provisional opinion, he provided me with a copy of his appointment book, which indicates that he did not see Mr and Mrs A together until 13 March 2001. I accept that Mr B's written appointment record is more likely to be correct than his recollection of events some months later. I accept that the first time that Mr B provided joint marriage counselling to Mr and Mrs A was 13 March 2001.

In April 2001, Ms C and Mr B met to discuss their respective roles in counselling Mrs A.

Mrs A states that, at some point during the joint counselling, she and her husband decided that they should see a different counsellor because of Mr B's confrontational manner. They saw another counsellor who Mrs A thought was very good but, as Mr A did not like him, they continued counselling with Mr B.

On 30 March and 11 April Mr B discussed his joint counselling relationship with Mr and Mrs A with his supervisor, Mr D. They discussed the difficulties involved in the counselling relationship. Joint counselling was discontinued in May on Mr D's advice.

#### *Role and professional boundaries as marriage counsellor*

One of the key issues in this case is whether Mr B adequately assessed his appropriateness as a marriage counsellor for Mr and Mrs A prior to commencing joint counselling, given his pastoral and social history with Mr and Mrs A, his professional history of counselling Mr A, and his awareness of Mrs A's "severe difficulties with issues she was attending to in individual counselling".<sup>1</sup> Concern about the extent to which Mr B clarified his role as marriage counsellor with Mrs A has also been raised. I have set out below the comments of both Mrs A and Mr B in relation to these issues.

The first joint counselling session between Mr and Mrs A and Mr B occurred on 13 March 2001. Mrs A states that, at that session, Mr B explained to her and her husband that his job was to help them resolve their problems, but if that didn't work he would help them sort out a separation agreement. She advised me that Mr B told them they would "discuss the issues and why they had happened".

Mrs A recalled that Mr B did discuss with her the separate roles that he (as marriage counsellor) and Ms C (as her personal counsellor) had in counselling her. However, Mrs A advised me that Mr B did not discuss with her the difference in his roles as marriage counsellor to Mr and Mrs A and individual counsellor to Mr A. Mrs A also advised me that Mr B did not offer to refer them to another counsellor for marriage counselling.

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<sup>1</sup> Mr B's first response to the complaint dated 15 May 2002.

In response to my second provisional opinion, Mr B advised me that at the first joint session he attempted to refer Mr and Mrs A to another marriage counsellor, but Mr and Mrs A were unable to agree on “issues of the counsellor of choice”<sup>2</sup> and they decided to continue seeing him for marriage counselling. Mr B recorded, at that session, that he sought Mr and Mrs A agreement to discuss his role as marriage counsellor with Mrs A’s individual counsellor, Ms C.

Mr B advised me that he did not insist on referring Mr and Mrs A to another counsellor because:

- Mrs A had a history of such changes in professional relationships;
- Mr A opposed further changes; and
- Mrs A already had a female therapist.

In relation to Mrs A’s disclosure (during the first joint counselling session) of her fear of Ministers and men, Mr B did not consider it inappropriate to continue to provide joint marriage counselling to Mr and Mrs A and did not refer them because:

- Mrs A had shown no signs of progressing better with a female therapist than a male;
- he was “capable of responding quite differently to a non-clinically trained priest regarding marriage counselling”;
- Mrs A “virtually insisted on seeing him on at least two occasions”; and
- given the option of not continuing therapy she chose to continue.

Mr B also noted that, after his counselling relationship with Mrs A ceased, Mrs A voluntarily went to another male counsellor.<sup>3</sup>

Mrs A advised me that as she had an individual counselling session with Mr B on 21 March (which she paid for), she believed she was his client. She also telephoned him on several occasions.

Mr B advised me that Mrs A requested individual sessions with him. The notes from Mr B’s first individual meeting with Mrs A, on 21 March, record that they agreed that they were meeting for “relationship matters” and that Ms C would deal with any “personal” counselling.

Mr B’s lawyer submitted that “the first session with [Mr and Mrs A] was on 13 March 2001 and ... the boundary issues had been clearly addressed by 21 March 2001”.

I accept that Mr B did discuss with Mrs A his role as a marriage counsellor during Mrs A’s individual counselling session on 21 March. I also accept that there was discussion and disagreement as to the counsellor of choice for marriage counselling on 13 March 2001.<sup>4</sup>

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<sup>2</sup> Clinical notes dated 13 March 2001.

<sup>3</sup> Refer Mr B’s letter dated 28 February 2003 in response to first provisional opinion dated 29 November 2002.

<sup>4</sup> Refer clinical notes dated 13 March 2001.

On 5 April Mr B met with Ms C to discuss their respective roles in counselling Mrs A. Ms C confirmed that Mr B encouraged Mrs A to continue seeing her.

Mr B informed me that he was very careful in maintaining boundaries and that Mrs A had been adamant that she was not his client. Mr B advised me that he discussed Mr and Mrs A with two other professionals on three occasions (once with Ms C on 5 April, and twice with his supervisor on 30 March and 11 April), which meant that his ratio of consultations with other professionals was better than one meeting for every two joint counselling sessions. He stated that this “surely suggests considerable care rather than neglect of boundaries”.

### *Supervision*

Mr B first raised the possibility of joint marriage counselling with Mr A on 28 December 2000. Although Mr B had supervision sessions with Mr D throughout the entire time that he was counselling Mr and Mrs A, he did not discuss the suggestion of joint counselling of Mr and Mrs A with Mr D until 30 March 2001. Between 28 December 2000 and 30 March 2001, Mr B had two joint sessions with Mr and Mrs A (13 and 29 March) and one individual session with Mrs A (21 March).

Mr B’s supervisor, Mr D, confirmed that he was Mr B’s clinical supervisor at the time of his work with Mr and Mrs A. He further confirmed that he discussed Mr and Mrs A’s case in two of his usual fortnightly sessions with Mr B. Mr D commented that this “frequency of supervision ... was within the recommended professional range of one session per fortnight”. He added that it is common for individual sessions to occur in the course of joint marital counselling. Individual sessions can be seen as a means towards strengthening the marital work, not as a form of additional individual therapy. In his view, it was especially appropriate for Mr B to have individual counselling sessions with Mrs A because of Mr B’s previous individual involvement with Mr A, which might tend to make Mrs A feel disadvantaged.<sup>5</sup>

Mr B noted that, following his second joint session with Mr and Mrs A (28 March 2001), his concerns about “the dysfunctional relationship” led him to the conclusion that he needed to raise the matter with his supervisor. Further, following his fourth joint session with Mr and Mrs A (10 April 2001), he noted the need to “review the matter again with his supervisor”.

Mr B advised me that between 28 December 2000 and 30 March 2001 he had three supervision sessions with Mr D on 24 January, 9 February and 9 March 2001.

Mr D confirmed that he and Mr B discussed Mr and Mrs A’s joint counselling on two occasions, on 30 March and 11 April. Mr D advised:

“[W]e discussed the possibility of referring [Mr and Mrs A] to another counsellor. [Mr B] said he had raised this issue with them early on, but they ([Mr and Mrs A]) could not

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<sup>5</sup> Set out in Mr B’s response to second provisional opinion dated 30 April 2004 (through his lawyer).

agree with each other about this, and chose to continue seeing [Mr B]. In agreeing to do this [Mr B] was mindful that [Mrs A] had a well-established individual relationship with a woman counsellor, [Ms C].”

On 11 April, the notes of Mr B’s supervision meeting with Mr D record “discontinue therapy with [Mrs A]”.

Mr D advised me that the frequency of the supervision was appropriate for the “brief and concentrated” counselling with Mr and Mrs A.

Mr B’s lawyer submitted:

“[Prior to Mr B’s individual session with Mrs A, on 21 March], [Mr B] had not had an opportunity to fully assess the course of the counselling, as he had not met with both parties individually and jointly ... [W]ithin little more than a week ... of having finally had his first session with [Mrs A], [Mr B] had had his first supervision session. Without having met with [Mrs A] prior to that time, [Mr B] would not be able to fully and effectively review his relationship as a counsellor to [Mr and Mrs A], with either [Mrs C] or his supervisor.”

#### *Bias*

Mrs A complained that Mr B was biased against her. She noted that she first saw Mr B for marriage counselling at Mr A’s insistence. She advised me that, at the counselling sessions, Mr B tended to reinforce everything that Mr A said, and she was never allowed an opportunity to clarify a point she made. She commented that Mr B and Mr A treated her as if she didn’t know what was happening and did not listen to what she was saying. Ms C confirmed that Mrs A told her that Mr B did not listen to her.

Mr B denied that he was biased in Mr A’s favour. However, he accepted that Mrs A may have perceived bias. In Mr B’s view, Mrs A’s “perception of bias” was her own anxiety and did not reflect his equal concern for both Mr and Mrs A. He further advised:

“It is not unusual for clients in marital counselling to fear a differentiation favour from a therapist. Both clients show signs of such fears in [my] notes. A distinctive factor in the ability of a client to trust counselling/counsellors or use processes effectively is evident in their ability to ‘engage’. [Mr A] was able to ‘engage’... [Mrs A] was not able to ‘engage’...

It is quite clear ... that [Mrs A] was treated with respect and that I took a great deal of care with her. In particular, I asked her how she wanted to handle the counselling process, I confirmed notes with her, listened very carefully to what she said, and I did not pursue matters that she was fearful of and that could be treated elsewhere.”

Mr D advised me that Mr B:

“found [Mrs A’s] paranoid fear that he might categorise her as having a mental illness to be personally challenging. [Mr B] experienced [Mrs A] as putting him in a box, seeing him as a judgmental authority figure. [Mr B] found this most uncomfortable and

very appropriately brought it to supervision, as he was concerned to establish a trusting relationship.”

Mr B has confirmed that, after the joint counselling relationship ended, Mr A resided with the Bs in mid-2001. Mr B explained that this was a situation of “refuge”, when Mr A needed a safe environment.

*Childhood abuse and Repressed Memory Syndrome (RMS)*

Mrs A states that Mr A told Mr B about abuse she had suffered in her first marriage. Mrs A believes that, on the basis of that disclosure, Mr B decided that she must have been abused as a child. In particular, Mrs A complained that Mr B insisted she had repressed memory syndrome and had been abused as a child.

Mrs A provided the following information to support her views:

- during counselling, Mr B would fit her behaviour into the “pattern” of an abused child. For example, he often described her as “very secretive”, for example in not disclosing the abuse to Mr A prior to the marriage. Mr B told her this was “normal for an abused child”. Mr B also said that Mrs A could not express herself, which was a sign of childhood abuse;
- Mr B told her that the disclosure of her marital abuse was another “recovered memory”;
- Mr A came home from a session with Mr B with literature about repressed memory syndrome;
- Mr A would tell her that “[Mr B] says your behaviour fits the pattern of an abused child” or words to that effect.

Mrs A also noted:

- during the counselling, Mr B enquired about her family history and then told her that she had a dysfunctional family. For example, Mrs A had noted that her brother-in-law tended to drink a lot. Mr B said that it was symptomatic of a dysfunctional family that her sister had married an alcoholic. Mrs A does not consider that her brother-in-law is an alcoholic and thought that her sister’s family was “alright”. Mrs A was adamant that she had a normal childhood and that her family was normal and did “normal family things”, such as having dinner together. Mrs A states that she continues to get on well with her family;
- when Mr B told her that her disclosure of marital abuse was just another “recovered memory”, she told him that she had never forgotten about that abuse. When she tried to discuss this further, Mr B moved on to another topic;
- Mr A told her that Mr B had told him that their marriage was effectively over, because of her disclosure of abuse.

Mrs A advised me that she was not abused as a child.

Mr B’s notes, from his supervision meeting on 30 March 2001, record:

- “... unlikely assertions of ‘good happy’ childhood.
- logically inconsistent that she had a good childhood and stayed in a remarkably abusive 1<sup>st</sup> marriage.”



Mr B explained:

“My notes contain some interest in [Mrs A’s] family background and memories but record no comments about ‘Repressed Memory Syndrome’. The notes do not show any preoccupation with these matters or any ‘insistence’ on my part. This area was one that had appropriately concerned her work with [Mrs C].”

In response to my second provisional opinion, Mr B’s lawyer stated:

“[Mr B] did make enquiries into both [Mr and Mrs A’s] family background matters, as these have a powerful conditioning effect on a person’s learning skills and beliefs about marriage. Questions of family background were asked of both [Mr and Mrs A], as [Mr B] viewed this information as a proper professional inquiry vital to the couple’s learned beliefs about marriage, but utterly different to any inquiry about RMS (which inquiry manifestly did not occur). [Mr B] resolutely denies any persistent questioning of [Mrs A] in relation to RMS.”

Mr B’s lawyer also noted that Mr B does not recall, and has no record of, providing Mr A with any information about RMS.

Ms C recalled that when she met with Mr B in April 2001, he told her he believed that, because Mrs A had been sexually abused as an adult, she must have been sexually abused as a child. He also told her that because Mrs A had been abused, her relationship with her husband was over and could not be revived. Mr B told Ms C that he believed what Mr A told him.

Ms C advised me that she disagrees with Mr B’s conclusions. She also commented that Mrs A had not disclosed any history of childhood sexual abuse to her.

Mr D advised me:

“I am ... surprised at the suggestion that [Mr B] might have insisted that [Mrs A] suffered from ‘repressed memory syndrome’. [Mr B] never suggested this to me, and I am sure he would find the use of such a label to be naïve and destructive to a counselling relationship ...

The Code of Ethics which was in force at the time of [Mr B’s] work with [Mr and Mrs A] provides a specific caution against the use of diagnostic labels, and I know [Mr B] was well aware of this point ...

I am sure [Mr B] did not use any prescriptive individual diagnostic category as a basis for his work.”

Having considered all of the evidence and having particular regard to the comments made by Ms C, I am satisfied that Mr B did believe Mrs A had suffered childhood abuse and might have a problem with repressed memories. It appears that Mr B considered that a

history of such abuse may have “a major impact on marriage” and pursued this in the joint marriage counselling session on 5 April 2001.<sup>6</sup>

*Dissociative Identity Disorder*

At (or shortly after) the individual session with Mrs A on 21 March, Mr B appeared to form the view that Mrs A was suffering from a Dissociative Identity Disorder (DID).

Mr B’s notes of his individual session with Mrs A, on 21 March 2001, record Mrs A as disclosing:

“C – suggesting ‘dissociative behaviour’.  
‘I understand the disorder’.  
– [Ms C] providing written report on [Mrs A] to self. Returned to client.”

The notes also record that “[Mrs A] ... does not demonstrate an understanding of the Personality Disorder”.

In responding to my investigation, Mr B summarised his notes for me. His summary reads:

“[21 March 2001] First session with [Mrs A]. [Mrs A] disclosed a diagnosis of ‘Dissociative Identity Disorder’ offered by [Mrs C] ...”

Mr B further explained:

“One can observe the clinical aspects of Dissociation Identity Disorder in [Mrs A] ... [Mrs A] becomes ‘detached’, ‘reactive’, ‘hostile’, describes [Mr A] as having a nice and nasty side as a projection of her own identity fragmentation ...

[Referring to the diagnostic criteria for DID (Amnesia) in the DSM-IV-TR] A part of [Mrs A’s] disorder causes her to fear and be at times pathologically avoiding of memory issues.”

It is accepted that Mr B formed a belief that Mrs A had a Dissociative Identity Disorder (DID). This belief was based on Mrs A’s comments, made on 21 March 2001, that Ms C had told her that she had “dissociative behavior”, Mrs A’s comment that she understood her “disorder”, and the report prepared for ACC by Ms C, a copy of which was made available to Mr B.

I accept that Mr B did not attempt to “treat” Mrs A for DID, recognising that it was outside the boundaries of his role as marriage counsellor. Nevertheless, his view of her condition should have alerted him to potential difficulties in his continuing joint marriage counselling, and may have impacted on the way in which he approached his counselling sessions with her, in particular in relation to his questions about her family background (discussed above).

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<sup>6</sup> Refer supervision notes of 30/03/01 and clinical notes of 5/4/01

## Independent advice to Commissioner

*Ms Marieke Simmonds, counsellor*

The following expert advice was obtained from Ms Marieke Simmonds, counsellor:

“I have been asked to provide an expert opinion on a complaint laid by [Ms A] against [Mr B], counsellor, of [a city].

Specifically, I have been asked the following questions.

*In your opinion, did [Mr B] comply with appropriate legal, professional and ethical standards in dealing with [Ms A]?*

*Notwithstanding legal, professional and ethical standards did [Mr B] use reasonable care and skill in providing services to [Ms A]?*

*Are there any aspects of the service provided by [Mr B] which you consider warrant either:*

- *Further exploration by the investigation officer?*
- *Additional comments?*

My opinion is offered with the understanding that it is based on two things: the letter of complaint from [Ms A], and [Mr B's] notes on 'relational development' and his summary and analysis of sessions he spent with [Mr and Ms A] as a couple, and with each of them individually. There are no clinical notes detailing processes, interventions, and therapeutic techniques used.

I will address the questions one by one.

*In your opinion, did [Mr B] comply with appropriate legal, professional and ethical standards in dealing with [Ms A]?*

I am not qualified to comment on legal standards.

Insofar as I can tell from [Mr B's] notes and explanatory summary, it is my opinion that [Mr B] did comply with appropriate professional and ethical standards in dealing with [Ms A].

Having said this, [Mr B] in my opinion would have been wise to either refer this couple to another therapist for marital counselling, or cease working with [Ms A] following the second joint session on 13/03/01, for the following reasons.

Firstly, [Mr B] had previously had social contact for almost four years with the couple after he officiated at their wedding and before [Mr A's] return to counselling in 2000.

In the New Zealand Association of Counsellors' (NZAC) Code of Ethics there are general guidelines for dealing with multiple relationships, specifically 5.1, where clauses a), b), c), and d) apply.

Clause a) states: **Counsellors assume full responsibility for setting and monitoring the boundaries between a counselling relationship with a client and any other kind of relationship with that client and for making such boundaries as clear as possible to the client.**

The NZAC Code of Ethics does not prohibit multiple relationships as it is recognised that in a country as small as New Zealand it is often difficult to avoid this situation.

[Mr B] does not state whether he made clear the boundaries between his social relationship with the couple and the therapeutic relationship.

Clause b) states: **Counsellors should consult with their supervisor(s) when dual or multiple relationships arise.**

[Mr B] appears not to have consulted with his supervisor about this couple until 30/03/01, after the third joint session.

Clause c) states: **When dealing with more than one party, counsellors should be even handed when responding to the needs, concerns and interests of each party.**

[Mr B] is correct in his statement (E, page 4) that *'it is not unusual for clients in marital counselling to fear a differentiation favour from a therapist'*. Unless clients begin to experience the therapist as neutral they will inevitably feel the therapy is not benefiting them equally, and one or both may sabotage the work. In this case [Ms A] may well have felt at a disadvantage, given that [Mr A] had an already established therapeutic relationship with [Mr B].

Clause d) states: **When counsellors agree to provide counselling to two or more persons who have a relationship, counsellors shall clarify which person or persons are clients and the nature of the relationship the counsellors will have with each person.**

[Mr B's] notes do not say how, or if, he clarified this point. In his review (E, page 5) he makes a comment which in my opinion, would point to [Ms A] as well as [Mr A] being his client, which is his statement that he *'did not dismiss her when she indicated that she did not intend to pay me'*. Furthermore, he made notes about her and read them back to her for her confirmation. These factors could reasonably lead [Ms A] to believe she was his client and, therefore to want copies of those notes.

The second reason for my opinion that [Mr B] may have been unwise to continue to provide counselling for this couple is [Ms A's] repeated statements that she was less than comfortable with ministers (9/01/01, and 13/03/01) and males (13/03/01). NZAC's Code of Ethics states under **Appropriateness/Suitability of Counsellor (5.3):**

**Counsellors shall determine, in consultation with the client, whether they are appropriate to provide the counselling. Where necessary and feasible, counsellors shall refer clients to other counsellors who would be more**

**appropriate by reason of their skills, gender or culture or for any other reason indicated by the client's needs.**

[Mr B's] notes do not indicate consultation with [Ms A] around his suitability to provide counselling with her. Given her statements, and the fact that [Mr B] knew that she had been sexually abused in the past, it may have been prudent to refer the couple to a female counsellor for marital therapy, and for [Mr B] to continue to provide counselling, on an individual basis, for [Mr A] if that was indicated.

*Notwithstanding legal, professional and ethical standards, did [Mr B] use reasonable care and skill in providing services to [Ms A]?*

This question is difficult to answer because, as [Mr B] states, his notes do not 'contain reference to any procedures, prescriptions or actions' (E, page 1).

[Mr B] does appear to have treated [Ms A] with respect and care. I can find no evidence from the notes that [Mr B] insisted that [Ms A] was suffering from Repressed Memory Syndrome.

One item I will make comment on is an apparent discrepancy in [Mr B's] own notes about the diagnosis of 'Dissociative Identity Disorder'.

In [Mr B's] summary (E, page 3, 21/03/01) he suggests that [Mrs C] offered a diagnosis of Dissociative Identity Disorder (DID). [Mr B] then proceeds under the belief that this is indeed what [Ms A] is suffering from, and he includes written material from the Diagnostic and Statistical Manual (DSM-IV).

However, in his handwritten notes (D, 21/03/01) [Mr B] has noted '[Ms C] – suggesting "dissociative behaviour"'. It is highly likely that [Ms A] was exhibiting dissociative behaviour given the sexual abuse trauma in her background, but it does not appear from [Mr B's] notes, either handwritten or typed, that she suffered from the presence of two or more distinct identities or personality states, that recurrently take control of behaviour, the essential feature of DID (DSM-IV, Criterion A).

Without knowing more about [Mr B's] training in couple counselling, sexual abuse trauma, or mental health issues, and what processes he actually used in sessions, I am unable to comment on whether or not he used reasonable skill in dealing with [Ms A].

*Are there any aspects of the service provided by [Mr B] which you consider warrant either:*

- *Further exploration by the investigating officer?*
- *Additional comment?*

There is one other minor discrepancy in [Mr B's] summary (E, page 3) in which both the joint session on 27/03/01 and the one on 5/04/01 are described as 'Third joint session', which means that [Mr B] saw the couple together on 5 occasions, not 4 as stated in his letter (E, page 2).

In conclusion, [Mr B], in my opinion, dealt in a reasonable manner with a highly conflicted couple. [Ms A] appears to have been struggling with major issues and was finding it hard to engage in the marital counselling. It may have been wise to refer the couple on for this.”

*Comment*

Although Ms Simmonds pointed out several deficiencies in Mr B’s counselling, she concluded that Mr B had “dealt in a reasonable manner with a highly conflicted couple”. Ms Simmonds’ advice was largely informed by the NZAC standards, which came into force in July 2002, subsequent to the time in which the event complained of took place. In these circumstances, I decided to obtain further independent advice.

*Ms Anita Bocchino, counsellor*

The following expert advice was obtained from Ms Anita Bocchino, counsellor.

*“In your opinion, did [Mr B] take reasonable steps to comply with the NZAC Code of Ethics and Code of Supervision, while providing services to [Ms A]?”*

The background/timeline provided to me indicates [Mr A] had a counselling session with [Mr B] on 28<sup>th</sup> December 2000. At this time [Mr B] first suggested joint counselling with [Mrs A] then his first joint session with [Mr and Mrs A] on 9<sup>th</sup> January. He received supervision on the 30<sup>th</sup> March and 11<sup>th</sup> April. There appears to be a lapse of 3 months between the time [Mr B] first counsels [Mr A] on 28<sup>th</sup> December and his first supervision session on 30<sup>th</sup> March. There is a subsequent supervision approximately a fortnight later.

The NZAC Code of Ethics, in section 9.1, indicates counsellors should receive a minimum of one hour’s supervision per fortnight. It appears there were three months during which [Mr B] received no supervision though throughout that time he was engaged in counselling [Mr and Mrs A] in both individual and joint sessions.

Further, section 5.11 of the Code of Ethics sets out guidelines concerning multiple/dual relationships specifying when dual relationships arise, counsellors should consult with their supervisors. I understand [Mr B] states he maintained relationships with [Mr and Mrs A] as Minister, marriage celebrant, counsellor to [Mr A], relationship counsellor to [Mr and Mrs A], and as well, maintained a social relationship with [Mr and Mrs A].

[Mr B], his current supervisor and solicitor comment separately, that [Mr B] should not be held accountable for the NZAC Code of Ethics of 2000, the year the counselling occurred. The information I use above is referenced from the current Code of Ethics revised this year that now speaks specifically to multiple/dual relationships. The Code of Ethics is not law but provides, only, guidelines for counsellors to maintain professional standards. The core values and ethical principals have not changed and have only ever provided a framework; it is not intended to resolve all ethical issues. One could extrapolate the same conclusion from the earlier code albeit the newer code speaks more specifically to the issues.

With the information provided me it appears [Mr B] did not meet the standards for supervision set by NZAC if he did not consult with his supervisor before offering relationship counselling, especially given the nature of his prior roles with [Mr and Mrs A]. Further, the recommended guideline for counsellors is fortnightly supervision and it appears as if a lapse of three months occurred before [Mr B] did seek supervision though throughout this time he was engaged with [Mr and Mrs A] professionally.

*Notwithstanding whether or not [Mr B] complied with ethical standards, on the basis of the information available, did [Mr B] use reasonable care and skill when providing services to [Ms A]?*

[Mr A] did not use reasonable care and skill when moving from his well-established relationship as individual counsellor to [Mr A] to his suggestion of engaging/including [Mrs A] in relationship counselling.

- *Was it appropriate for [Mr B] to provide marriage counselling services to [Mrs A], given his personal relationship with [Mr and Mrs A] and his professional relationship with [Mr A]?*

As expressed above, dual/multiple relationships in counselling are often problematic for both therapist and client therefore the standard of the profession recommends not engaging in such relationships. It was not appropriate to provide marriage-counselling services to [Mrs A] given his prior relationships with [Mr and Mrs A] and particularly his professional relationship with [Mr A].

- *On the basis of the information available did [Mr B] provide counselling services to [Mrs A] in an appropriate manner?*

As above, [Mr B] should not have engaged in relationship counselling with [Mrs A]. It was inappropriate to engage [Mrs A] in relationship counselling given his prior, well-established and long running relationship as [Mr A's] individual counsellor. Under the circumstances it would not be unexpected that [Mrs A] has complained she was being treated with bias and was unable to 'engage' in the counselling sessions as [Mr B] comments in his written review of 26 July, 2002.

*Was [Mr B] qualified to make a diagnosis of DID and/or to provide a professional opinion as to whether that diagnosis is correct?*

[Mr B's] letter of 15<sup>th</sup> May 2002 states his qualifications as B.Th., trained in Clinical Pastoral Education, and Ordained Minister. [Mr B] mentions no formal and/or informal qualifications or training in counselling or psychotherapy. There is no information available to me that [Mr B] has training qualifying him to make a diagnosis of DID or to provide a professional opinion as to whether that diagnosis is correct. I note that in the material I have available to me [Mr B] does not make a diagnosis of DID but believed [Mrs A] to be suffering a DID. In his letter of 28<sup>th</sup> February [Mr B] clearly states, 'I made **no** diagnosis and accordingly I did not "treat" [Mrs A]'.



*Was it appropriate for [Mr B] to provide counselling services to [Mrs A] on the basis that she had a DID?*

As above [Mr B] states he neither diagnosed nor treated [Mrs A] for DID, rather he engaged in relationship counselling.

It would be appropriate for a qualified, experienced and highly skilled therapist to engage in relationship counselling or other therapy with a person assessed as having a DID if, in their professional judgement, they believed the client able to engage, understand and benefit from the counselling process.

- *In your opinion, do [Mr B's] records and/or comments show that he:*
  - *had an inappropriate level of bias towards [Mr A]?*
  - *believed that [Mrs A] suffered repressed memory syndrome?*
  - *believed that [Mrs A] had suffered childhood sexual abuse?*

As Mr [A's] counsellor since 1993 it is probable that he had a level of bias towards [Mr A] in that he certainly had much more first hand knowledge of [Mr A] and [Mr A's] view of the marital relationship and the fact he believed [Mrs A] to be suffering a DID, but such a bias is not apparent in [Mr B's] records and/or comments. Further, [Mr B] states, in his letter of 28<sup>th</sup> February, that he did not insist on Repressed Memory Syndrome. His records do not show that he insisted [Mrs A] was suffering RMS however he indicates he believes that RMS may be a result of [Mrs A] having a DID and therefore may not recall such abuse. [Mr B] apparently considers it a possibility [Mrs A] suffered childhood sexual abuse but states he did not insist on this.

*Are there any aspects of the service provided by [Mr B] which you consider warrant either:*

- *Further exploration by the investigation officer?*
- *Additional comment?*

I do not believe [Mr B] met the required standard of care in these instances;

- 1) He did not seek specific supervision to review the issue of boundaries and appropriate interactions where counsellors/therapists are also Ordained Ministers and licensed celebrants
- 2) It appears three months lapsed before he sought supervision while counselling [Mr and Mrs A] both individually and jointly
- 3) He involved himself in multiple/dual relationships with [Mr and Mrs A] having seen [Mr A] for individual counselling since 1993, then, without supervision, suggested he become their relationship counsellor to the detriment of [Mrs A] who, not unexpectedly, considered he was biased.

*If in providing your advice you consider that [Mr B] did not meet the required standard of care, please indicate the severity of his departure from the required standard.*

[Mr B] did not meet the required standards of care. My concerns are moderate though if not attended to, could become problematic.



It must be noted [Mr B], in retrospect, states in his letter of 28<sup>th</sup> February, that he has initiated a review of the issues of the above boundary issues with [a college] thereby acknowledging dual/multiple relationships may be problematic.”

*Further advice*

Further advice was received from Ms Bocchino on 14 November 2003, via a telephone conversation with my investigation staff. The file note of that conversation, and the subsequent amendments made by Ms Bocchino (in italics), states:

“I asked Ms Bocchino if [Mr B] has sufficient information to form the view that [Mrs A] had a DID. She said that she had seen nothing in [Mr B’s] notes or [Mrs C’s] notes to show that either had considered that [Mrs A] had a DID. She also said that having looked at some of the tests on the file, it did not look like [Mrs A] had a DID.

I told Ms Bocchino that, based on the letter from the Privacy Commissioner it appeared that [Mr B] had formed the view that [Mrs A] had a DID. I noted that that view seemed to be based on [Mrs A’s] comments to [Mr B] that she had dissociative behavior and that she ‘understood her disorder’.

I asked Ms Bocchino, on the basis of that information, was it reasonable for [Mr B] to form the view that [Mrs A] had a DID?

Ms Bocchino stated that if [Mrs A] told [Mr B] that she had a DID, it would be reasonable for him to believe her. However, on the basis of the comments noted above only, [Mr B] should not have formed the view that [Mrs A] had a DID.

Ms Bocchino explained the difference between ‘dissociative behaviour’ and a DID. She said that everyone dissociates to some extent. In contrast, a person with a DID will usually have multiple personalities. This is an extreme form of dissociation where the person dissociates to such an extent that they do not remember their own actions.

I asked Ms Bocchino, accepting that [Mr B] believed that [Mrs A] had a DID, what should he have done. She said that he should have *taken this* to supervision. He may also have contacted [Mrs C] to discuss this further, depending on his level of experience and training. Based on the information available it does not appear that [Mr B] had the experience to deal with this situation. Ms Bocchino referred me back to her earlier advice regarding [Mr B’s] experience.

I asked Ms Bocchino if it was reasonable for [Mr B] to have extrapolated from his belief about DID to a belief that [Mrs A] had suffered childhood sexual abuse. Ms Bocchino noted an experienced counsellor may have grounds for forming such a view, as DID’s are almost always the result of serious trauma during childhood.

I asked Ms Bocchino, how should [Mr B] have provided marriage counselling in these circumstances? She said that [Mr B] should have been especially careful and treated her in a special way. I asked Ms Bocchino what special care might involve. Ms Bocchino

said that he should have undergone supervision and that he should not have taken the couple on at all *because of the dual/multiple relationships not because of the DID*.

She said that the fact that [Mr B] went through with the counselling indicated to her that he did not realise that he was dealing with a special situation. She said that [Mr B] appears to have a limited understanding of how inappropriate it was for him to provide marriage counselling *when there were dual/multiple relationships*.

Ms Bocchino said that [Mr B's] training appeared to have a minimal counselling component. She said that under the current NZAC criteria he would not have been accepted, given the level of training he does not have. *I did say this as an aside and do not believe it should carry weight in the case as [Mr B] is a full member of NZAC*.

I asked Ms Bocchino if she had any other comments to make. She said that it appears that [Mr B] needed a 'good pulling-up' and some very good supervision. She wished to reinforce her comments in her advice that the Code of Ethics is not a legal standard but states the core ethical values of the profession. She is not convinced by the argument made by [Mr B] and his supervisor that [Mr B] cannot be held to the later Code's standards. She said that while the later standards are more detailed they are only stating more specifically principles that were just as applicable under the earlier Code.

I asked Ms Bocchino to comment on the fact that [Mr B] may say that he had been going to supervision regularly during the period he was counselling [Mr and Mrs A], but that he only recorded the supervision sessions when their case was discussed. Ms Bocchino said that this would not meet the standard of supervision required. [Mr B] should have raised the issues in supervision as soon as the multiple-role relationship developed *and particularly before engaging in couples counseling with clients with whom he already had multiple roles*."

In light of Mr B's responses to my second provisional opinion, further advice was received from Ms Bocchino on 15 May 2004, via a telephone conversation with my investigation staff. The relevant part of the file note of that conversation states:

"... I explained that we had received new information to show that [Mr B] did not see [Mr and Mrs A] together until 13 March, not January as previously thought. That meant that there was a more significant time gap between [Mr B] suggesting joint counselling to [Mr A] on 28 December and the joint counselling starting on 13 March.

Ms Bocchino advised that that did not make any difference. [Mr B] should have discussed the joint counselling with his supervisor before he raised the issue with [Mr A] in December.

I noted that the new facts also meant that there was a much shorter period between the joint counselling starting on 13 March and [Mr B] first discussing this with his supervisor on 30 March.

I told Ms Bocchino that I was also interested for her views on what [Mr B] should have done, in the circumstances, given his previous pastoral and social relationship with [Mr and Mrs A] and his existing counselling relationship with [Mr A] – Ms Bocchino said ‘taken it to supervision’.

I noted Ms Bocchino’s advice that [Mr B] ‘did not use reasonable care and skill’ when moving from his established relationship as personal counsellor to marital counselling. I asked in what way did he not use reasonable care and skill? Ms Bocchino advised that he should have discussed this with his supervisor.

I noted that [Mr B] had argued that we could not criticize him for not discussing this matter at supervision without having regard to the issues he was discussing with his supervisor. I asked Ms Bocchino if she had any comments about that. She said that if he did not have time he should have scheduled more supervision.

Ms Bocchino noted that, as she had previously advised, [Mr B] did not appear to appreciate the inappropriateness of his actions.

Ms Bocchino said, that as there were no ‘laws’ and there were only guidelines about entering multiple/dual relationships, she could not say that [Mr B’s] actions were ‘more than moderate’ [in raising concern].”

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## **Code of Health and Disability Services Consumers’ Rights**

The following Rights in the Code of Health and Disability Services Consumers’ Rights are applicable to this complaint:

### *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.*

...

## Other Relevant Standards

The New Zealand Association of Counsellors Code of Ethics (1990) states (in part):

### **“The Nature of Counselling**

Counselling involves the formation of special relationships characterised by openness and trust. Counsellors seek to assist clients to increase understanding of themselves and their relationships with others and/or to develop more satisfying and resourceful ways of living and/or to bring about a change in their behaviour.

### **Impartiality**

When dealing with more than one party counsellors shall offer their service without favouritism or bias whether in word or action. Impartiality involves a commitment to aid all participants, in reaching mutually satisfactory agreements. Counsellors shall declare any previous acquaintance with a client which may prejudice their ability to remain neutral.

### **Abuse of power**

Counsellors are responsible for setting and monitoring the boundaries between a counselling relationship and any other kind of relationship and for making such boundaries as clear as possible to the client.”

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## Opinion: Breach

### *Relevant standards*

In 2001, at the time Mr B initiated joint marriage counselling with Mr and Mrs A, the relevant standard to guide counsellors as to the appropriateness of initiating and/or continuing counselling with a particular client or clients was the Code of Ethics 1990, set out above. Of particular note is the guideline that counsellors should offer their service “without favouritism or bias”, that impartiality involves “a commitment to all participants”, and that counsellors must remain alert to any previous acquaintance “which may prejudice their ability to remain neutral”. In addition, it is the responsibility of the counsellor to set and monitor the boundaries between a counselling relationship and any other kind of relationship.

In contrast to the 2002 Code of Ethics now in force – which explicitly refers to multiple/dual relationships – the 1990 Code of Ethics is more general in wording. However, in deciding what this standard meant in practice in 2001, I have been informed by the advice of my expert advisor, Ms Bocchino. In particular, I note the following:

“The NZAC Code of Ethics, like others, does not provide a handbook of ethical practices to refer to since ethical dilemmas can be complex with no right or wrong answers. There is a growing tendency in the field to discourage dual/multiple relationships as inherently problematic. The Code of Ethics does speak specifically to

the issues of dual/multiple relationships because they are often problematic and in the service of protecting the vulnerability of the client. Creating multiple relationships adds a complexity to the therapeutic relationship and creates the possibility of negative repercussions that might not have occurred without having entered into such relationships.”

Mr B submitted that his actions should not be judged against the ethical standard set out in the 2002 Code of Ethics. I agree that it would be inappropriate to find Mr B in breach of the Code of Health and Disability Services Consumers’ Rights (the Code), for failing to adhere to an ethical standard that was not in place at the time the events complained of took place.

*Appropriateness of counselling relationship*

In my opinion Mr B breached Right 4(2) of the Code by failing to provide services that complied with the professional and ethical standards that were accepted in 2001. It is ultimately for the Commissioner to determine whether, in the specific circumstances of a particular case, the actions of a provider fall below expected standards. In doing so, I take cognisance of my expert advice. As Ms Bocchino commented, “professional literature for counsellors, psychotherapists and their supervisors in the field debates and discusses the issues around multiple/dual relationships. Mr B, and particularly his supervisors, should not be unaware of the complexities, debates and the tendency in the field to avoid such relationships in most circumstances for the protection of both the counsellor and the clients.” Although professional codes of ethics are valuable guides to the relevant ethical duties, the fact that a particular ethical requirement is not explicitly recorded in a professional code of ethics does not mean that it did not exist and cannot be enforced.

*Decision to offer and provide marital counselling to Mr and Mrs A*

Mr B had a long-standing social, pastoral, and professional relationship with Mr and Mrs A. In 1993 he counselled Mr A in relation to his first marriage.

In March 1996, Mr B was the marriage celebrant at the wedding of Mr and Mrs A. At that time, he was also counselling Mr A and had a pastoral relationship with the couple, which included Mr and Mrs B and Mr and Mrs A meeting on social occasions.

In 2001, Mr A resumed counselling Mr B. In December 2001, through his individual counselling of Mr A, Mr B suggested that Mr and Mrs A attend together for joint marriage counselling sessions.

I consider that there were three significant red flags that should have alerted Mr B to the need to very carefully consider his appropriateness as marriage counsellor to Mr and Mrs A. First, his social and pastoral history with the couple; second, the established individual counselling relationship between Mr B and Mr A; and third, the fact that Mr B by his own admission was aware of Mrs A’s severe individual difficulties, which were being addressed in individual counselling.

Further, I note that Mr B himself comments “in retrospect it may have been unwise to have attempted the inclusive process after having seen [Mr A] for individual counselling”.<sup>7</sup>

I do not accept the submissions made by his lawyer that Mr B was not in a position to definitively consider this issue until after his first individual session with Mrs A. Prior to that meeting, Mr B had personal knowledge of Mrs A from his previous social and pastoral interactions with Mr and Mrs A, he had already held two joint counselling sessions with them, and he had been advised of Mrs A’s history of abuse, for which she was receiving individual counselling. In addition, Mrs A had alerted him to a long-standing fear of Ministers and men. In my opinion, Mr B was well able to assess the appropriateness of providing marital counselling to Mr and Mrs A without the need for an individual counselling session with Mrs A.

My expert advisor, Ms Bocchino, advised me that because dual/multiple relationships are often problematic for both therapist and client, “the standard of the profession recommends not engaging in such relationships”. Mr B did not use reasonable care and skill when moving from his well-established relationship as individual counsellor to Mr A to including Mrs A in relationship counselling. Ms Bocchino commented that it was not appropriate for Mr B to provide marital counselling to Mr and Mrs A, and to involve Mrs A in relationship counselling, given his prior relationship with Mr and Mrs A, and his prior well-established and long-running relationship as Mr A’s individual counsellor. Because of the complexities posed by dual/multiple relationships and, in particular, Mr B’s previous social, pastoral, and professional relationships with Mr and Mrs A, ethical and professional standards required Mr B to consult his supervisor prior to offering relationship counselling. I accept Ms Bocchino’s advice.

Mr B submitted that he cannot be criticised for failing to discuss Mr and Mrs A at supervision, without having regard to the nature of other cases that he was discussing at supervision. I am not persuaded by this argument. I accept and agree with Ms Bocchino’s advice that, if Mr B did not have enough time to discuss Mr and Mrs A at supervision, he should have arranged more supervision time.

Ms Bocchino also noted that, in her view, the fact that Mr B undertook marriage counselling indicated that he did not realise that he was dealing with a “special situation”. Mr B appeared to have a limited understanding of how inappropriate it was for him to provide marriage counselling to Mr and Mrs A given the dual/multiple relationships involved.

I find that Mr B breached Right 4(2) of the Code in failing to properly consider whether he was an appropriate marriage counsellor for Mr and Mrs A, prior to engaging in joint marriage counselling, in the face of three significant red flags. I consider Mr B should have specifically sought supervision before he offered any joint counselling to this couple. In forming my opinion, I do not accept Ms Simmonds’ advice that Mr B dealt in a reasonable manner with a highly conflicted couple and highlight her comment that “it may

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<sup>7</sup> Refer Mr B’s response to complaint dated 15 May 2002.

have been wise to refer the couple on”. In addition, I specifically reject Mr B’s lawyer’s submissions that “[Mr B] cannot be criticized for [Mr and Mrs A’s] decision to continue counselling which, viewed in hindsight ... was not to their advantage.” Mr B was the professional. He was dealing with two individuals whom he knew had significant individual and marital difficulties. It was incumbent upon him to take the lead and make the referral. He did not do so. Instead, he acquiesced in the situation, notwithstanding his concerns that referral might be appropriate. Mr B now suggests that Mr and Mrs A are the authors of their own misfortune. I do not accept this interpretation.

*Explanation of his role*

When Mr B agreed to provide joint marital counselling to Mr and Mrs A, he had a professional and ethical responsibility to clarify who his client was and the nature of the relationship he would have with Mr and Mrs A. Mr B also had a responsibility to set, monitor and explain the boundaries between his counselling relationships with Mr and Mrs A and any other relationships he had with them.

There is little evidence that, having agreed to provide marriage counselling, Mr B clarified with Mrs A prior to 21 March who he regarded as his client or the nature of the relationship he would have with Mr and Mrs A respectively. While I accept that Mr B did discuss with Mrs A the difference between his role as marital counsellor and Ms C’s role as individual counsellor, that discussion did not take place until Mrs A’s individual session with Mr B over two weeks after his first joint counselling session with the couple.

Mr B advised me that he was very careful in maintaining boundaries in this case. He discussed Mr and Mrs A with two other professionals on three occasions (once with Ms C and twice with Mr D). This meant that his ratio of consultations with other professionals was better than one meeting for every two joint counselling sessions. He commented that this “surely suggests considerable care rather than neglect of boundaries”.

While Mr B’s actions indicate a level of concern about the counselling relationship and appropriate boundaries, as explained above he failed to take the lead in initiating a referral, acquiescing and continuing counselling because “[Mr and Mrs A] made the decision to continue counselling”.

In my opinion, Mr B’s decision to provide joint marriage counselling created a special obligation to carefully set and monitor the boundaries of his relationship with Mr and Mrs A. Failing to carefully set and address boundary issues, in the face of significant red flags that the counselling relationship was inappropriate, was a breach of Mr B’s ethical and professional obligations under Right 4(2) of the Code.



**Opinion: No breach***Repressed Memory Syndrome (RMS) and childhood abuse*

Mrs A complained that Mr B insisted she had Repressed Memory Syndrome and had been abused as a child. She advised me that Mr B “continually failed to believe what I told him, including the Repressed Memory episodes”. Mrs A also advised me that Mr B told her that her disclosure about abuse in her first marriage was a “recovered memory”. She believed Mr B tried to fit her behavior into the “pattern” of an abused child. I also note Mrs A’s statement that Mr A came home from sessions with Mr B with literature about RMS and would say things like “Mr B says this fits the pattern of an abused child”.

In contrast, Mr B stated that while he noted an interest in Mrs A’s family background, he did not try to find or insist on a history of RMS. I note that, at his supervision meeting on 30 March 2001, Mr B recorded the following about Mrs A:

- ... unlikely assertions of ‘good happy’ childhood.
- logically inconsistent that she had a good childhood and stayed in a remarkably abusive 1<sup>st</sup> marriage.”

Mr B advised me that he made enquiries into both Mr and Mrs A’s family background, as it has a powerful conditioning effect on a person’s learning skills and beliefs about marriage. Mr B viewed this information as proper professional enquiry vital to the couple’s learned beliefs about marriage, but “utterly different to an enquiry about RMS”.<sup>8</sup>

Mr D confirmed that Mr B never suggested a diagnosis of RMS to him and commented that he was sure that Mr B would find such a label to be “naïve and destructive to a counselling relationship”.

Ms C stated that when she met with Mr B he told her that he believed that, because Mrs A had been raped as an adult, she must have been sexually abused as a child. He also told her that because of this abuse her relationship with Mr A was over and could not be revived.

Both my expert advisors, Ms Simmonds and Ms Bocchino, advised me that having considered Mr B’s records, there was no evidence that Mr B had insisted that Mrs A was suffering RMS.

I also note Ms Bocchino’s advice that an experienced counsellor may have grounds for linking DID to a history of abuse, as DID’s are almost always the result of serious trauma during childhood.

I accept my expert advice. Accordingly, I find no breach of the Code in relation to this aspect of Mrs A’s complaint.

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<sup>8</sup> Set out in Mr B’s response to second provisional opinion dated 30 April 2004.



## **No further action**

### *Bias*

Mrs A complained that Mr B was biased against her; in particular, that Mr B tended to reinforce everything that Mr A said, treated her as if she did not know what was happening, did not listen to what she was saying, and did not allow her an opportunity to clarify points she made. On the evidence available, I cannot conclude that Mr B showed actual bias against Mrs A; however, I make the following comments.

It is clear that, in the circumstances of this case, there was the potential for bias and for Mrs A to feel significantly disadvantaged. Mr B himself accepted that there was a possibility that Mrs A may have “feared a differentiation favour”, and that this is “not unusual for clients in marriage counselling”.

Mr B discussed with Mr and Mrs A and Mr D the possibility of a referral to another counsellor. Unfortunately, Mr and Mrs A could not agree on this and, as Mrs A already had a separate, female counsellor, Mr B agreed to provide marriage counselling to Mr and Mrs A.

Mr B’s supervisor, Mr D, considered that it was “particularly appropriate” for Mr B to have individual sessions with Mrs A because of Mr B’s previous individual involvement with Mr A, which might have “tended to make Mrs A feel disadvantaged”.

Both my experts noted concerns about Mr B’s ability to uphold the appearance and practice of impartiality. Ms Simmonds advised me that Mrs A “may well have felt at a disadvantage, given that Mr A had an already established therapeutic relationship with Mr B”. Ms Bocchino advised me that, given the background, it was not unexpected that Mrs A would consider Mr B biased. She commented that, as Mr A’s counsellor since 1993, it is “probable” that Mr B actually had a level of bias towards Mr A, as he had much more knowledge of Mr A and Mr A’s view of the marital relationship.

In my opinion, it was difficult for Mr B to provide truly impartial or unbiased counselling services to Mr and Mrs A. While I have made no finding of bias in this case, I draw Mr B’s attention to my advisors’ comments.

### *Conduct of marriage counselling sessions*

Mrs A complained that “[Mr B’s] professional skill was not sufficient and ... he caused, or at least hastened the end of our marriage”. Further, she advised me that she felt that the sessions “did not assist us and in fact caused confrontation between us”.

In response, Mr B advised me that Mrs A was treated with respect and with professional care at all times and was counselled as comprehensively and sensitively as possible.

In my opinion, Mr B did not pay sufficient attention to the individual difficulties of Mr and Mrs A, and this may have had an impact on the effectiveness of the counselling sessions he provided to them as a couple. He was acutely aware of Mr A’s own difficulties, for which he was providing individual counselling. He had been made aware by Mr A, Mrs A and Ms C (Mrs A’s counsellor) of some of Mrs A’s own difficulties, including her fears about men

and Ministers, concerns about past abuse and dissociative behaviours (potentially DID), and the escalating conflict between the couple.

Notwithstanding my concerns, and the advice of my expert advisor, Ms Bocchino, that Mr B should not have initiated relationship counselling with Mr and Mrs A at all (which gives rise to the breach of Right 4(2) of the Code noted above), there is no evidence that Mr B's professional skill during the marriage counselling sessions fell below expected standards.

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## **Recommendations**

I recommend that Mr B take the following actions:

- Apologise to Mrs A for breaching the Code. This apology is to be sent to the Commissioner and will be forwarded to Mrs A.
  - Review his practice in light of this report.
  - Discuss this report and the issue of professional boundaries with his supervisor.
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## **Follow-up actions**

- I will refer a copy of this report, with details identifying all parties other than Mr B removed, to the New Zealand Association of Counsellors (NZAC), and recommend that it consider whether a period of supervision, or other action, is appropriate. I will ask NZAC to advise me of the outcome of this referral.
- A copy of this report, with details identifying the parties removed, will be sent to the New Zealand Association of Counsellors and placed on the Health and Disability Commissioner website, [www.hdc.org.nz](http://www.hdc.org.nz), for educational purposes.

## Appendix I – Timeline

1993	Mr A sees Mr B for counselling in relation to his first marriage.
1996	Mr B officiates at the wedding of Mr and Mrs A.
Around 2000	Mr A again sees Mr B for counselling.
28 Dec 2000	Mr B suggests joint marriage counselling to Mr A.
9 Jan 2001	Mr A has an individual session with Mr B.
16 Jan	Mrs A has an individual session with Ms C.
23 Jan	Mrs A has an individual session with Ms C.
24 Jan	Mr A has an individual session with Mr B. Mr B has a supervision session with Mr D.
30 Jan	Mrs A has an individual session with Ms C.
31 Jan	Mr A has an individual session with Mr B – joint therapy encouraged.
5 Feb	Mrs A has an individual session with Ms C.
9 February	Mr B has a supervision session with Mr D.
21 Feb	Mr A has an individual session with Mr B. Following this Mrs A telephones Mr B regarding relationship issues.
1 March	Mr A has an individual session with Mr B.
7 March	Mr A has an individual session with Mr B.
8 March	Mrs A has an individual session with Ms C.
9 March	Mr B has a supervision session with Mr D.
13 March	Mr and Mrs A attend their first joint counselling session with Mr B. They discuss a referral to another counsellor for joint marriage counselling.
20 March	Mr and Mrs A have a joint session with Ms C. Mrs A telephones Mr B after the session with Ms C.
21 March	Mrs A attends Mr B for an individual session about marital issues.
22 March	Mr A has an individual session with Mr B.

- 29 March Mr and Mrs A attend a joint counselling session with Mr B.  
Mrs A has an individual session with Ms C.
- 30 March Mr B has a supervision session with Mr D during which they discuss Mr  
and Mrs A.
- 3 April Mrs A has an individual session with Ms C.
- 5 April Mr B and Ms C meet to discuss their respective roles.  
Mr and Mrs A have a joint session with Mr B.
- 10 April Mr and Mrs A attend a joint counselling session with Mr B.  
Mrs A has an individual session with Ms C.
- 11 April Mr B has a supervision session with Mr D. Mr D recommends that Mr B  
cease the marriage counselling.
- 17 April Mrs A has an individual session with Ms C.
- 23 April Mr A meets with Ms C.
- 26 April Mr A has an individual session with Mr B.  
Mrs A has an individual session with Ms C.
- 2 May Telephone conversation between Mrs A and Mr B.  
Telephone conversation between Mr A and Mr B.  
Marriage counselling is discontinued.