

Treatment of patients experiencing sexual dysfunction
(09HDC00905, 09HDC01077, 09HDC01082, 09HDC01540, 11 June 2012)

General practitioner ~ Clinic ~ Sexual dysfunction ~ Prescription medicine ~ Medication programme ~ Clinical assessment ~ Examination ~ Face-to-face consultation ~ Information ~ Complaints procedure ~ Rights 4(1), 6(1)(b), 10(3), 10(6)

This case concerns the care provided by a company specialising in the treatment of sexual dysfunction (the company) to four men between 2007 and 2009. While the company was registered and trading through a number of New Zealand based clinics, it was owned by an Australian parent company providing similar services in that country. The four cases were reported together because of the complexity and similarity of the issues raised.

In all four cases, doctors contracted by the company recommended and/or prescribed medication or a medication programme without undertaking a proper clinical assessment of the patient. The company did not have robust systems in place to ensure patients received a face-to-face consultation, were adequately examined, or were given full information about the medication and treatment options before medications were recommended and/or prescribed. The company also had a poor and ineffective complaints procedure.

Mr A

Mr A was examined by Dr E in a New Zealand clinic. Dr E did not undertake an adequate physical examination or obtain a full medical history before recommending a treatment programme for Mr A. Dr E also failed to provide Mr A with information about alternative treatment options, including costs. It was held that Dr E breached Rights 4(1) and 6(1)(b). The company was held vicariously liable for Dr E's failure to conduct an adequate physical examination and failure to provide information about treatment options because it did not take all reasonably practicable steps to prevent those failings.

Mr B

Mr B was examined by Dr F in a New Zealand clinic. Dr F inappropriately prescribed Mr B an injectable medication without first conducting an adequate physical examination to determine whether the medication was contraindicated and did not appropriately record the medication she prescribed. It was held that Dr F breached Right 4(1). Dr F was criticised for failing to tell Mr B that the medication prescribed was an "off-label" use of that medication. The company was not vicariously liable for the doctor's breaches of the Code; however, it was held to have breached Rights 10(3) and 10(6) for not having an appropriate complaints procedure.

Mr C

Mr C spoke with a doctor in Australia by telephone. The doctor recommended that Mr C undergo a 12-month treatment programme without Mr C undergoing a face-to-face consultation and proper clinical assessment with a New Zealand doctor. Mr C did not consent to the programme recommended but his credit card was charged. It was held that the company breached Right 4(1) by having deficient practices and procedures for ensuring that Mr C was seen by a doctor before being recommended a treatment

programme, and for failing to give Mr C adequate information about the treatment programme. The company also breached Rights 10(3) and 10(6) by not having an appropriate complaints procedure to facilitate the timely resolution of Mr C's complaint.

Mr D

Mr D spoke with a doctor in Australia by telephone and, following the call, was prescribed and charged for medication which was subsequently sent to his home. He did not have a face-to-face consultation and was not clinically assessed. The company breached Right 4(1) by having deficient practices and procedures for ensuring that Mr D was seen by a doctor before being prescribed (and receiving) medication. The company also breached Rights 10(3) and 10(6) for not ensuring that Mr D's complaint was appropriately handled and resolved in a timely manner.

Recommendations

It was recommended that Dr F provide a written apology to Mr B for her breaches of the Code (Dr E having already provided an apology to Mr A).

Recommendations made to the company included that it provide written apologies to the four men for its breaches of the Code, and that it review its New Zealand operating procedures and policies, particularly in regard to its, training and orientation of its contractors, policies on the provision of information to patients, procedures for assessing patients, and its complaint-handling procedures.