



Health and Disability Commissioner
Te Toihau Hauora, Hauātanga

**Surgeon breaches code for
not informing woman of results of knee surgery
20HDC01580**

A surgeon breached the Code of Health and Disability Services Consumers' Rights (the Code) after deficiencies in communication during both preoperative and postoperative consultations relating to knee surgery.

The woman, who experienced knee pain from a fall, presented to an orthopaedic surgeon for review. An MRI showed a tear in the band of cartilage in the outer side of the knee and the surgeon recommended surgery to remove any damaged tissue.

During surgery, the surgeon discovered the tear was stable and so did not remove any of the damaged tissue, but he did find and remove a small unstable tear on the inner side of the joint. He also found a moderate degree of arthritis in the knee, but neither this discovery, nor the tissue removal, were communicated to the woman after surgery.

At a postoperative consultation, the woman complained the surgery had not improved her pain and believed the surgeon dismissed her concerns without providing adequate details about the surgery.

Deputy Health and Disability Commissioner Dr Vanessa Caldwell found the surgeon did not undertake an adequate physical examination of the woman, or obtain a basic medical history from her, prior to surgery. He also failed to consider and discuss the other potential causes of the pain in the woman's knee, including the evolving osteoarthritis, as indicated by the MRI report.

Dr Caldwell found the surgeon breached Right 4(1) of the Code for failing to provide services with reasonable care and skill during the preoperative consultation. She also criticised the surgeon for failing to inform the woman adequately about any conservative treatment options and the risks and likelihoods of the surgery being successful.

Because the woman did not receive all necessary information about the surgery and her condition to enable her to make an informed decision, Dr Caldwell found the surgeon breached Right 6(1) (which gives every consumer the right to the information that a reasonable consumer would expect to receive) and Right 7(1) (which states services may be provided only if the consumer makes an informed choice and gives informed consent). She also found the surgeon breached Right 6(1)(g) of the Code as he did not adequately inform the woman of the results of the surgery.

Dr Caldwell recommended the surgeon provide a written apology to the woman for the deficiencies in care identified and reflect on the deficiencies in communication during both the preoperative and postoperative consultations. She also recommended he undertake an audit of documentation and clinical records to assess whether changes made in documentation had been followed and identify remedial actions as needed.

18 December 2023

Editor's notes

The full report of this case will be available on HDC's [website](#). Names have been removed from the report to protect privacy of the individuals involved in this case.

The Commissioner will usually name providers and public hospitals found in breach of the Code, unless it would not be in the public interest, or would unfairly compromise the privacy interests of an individual provider or a consumer.

More information for the media, including HDC's naming policy and why we don't comment on complaints, can be found on our website [here](#).

HDC promotes and protects the rights of people using health and disability services as set out in the [Code of Health and Disability Services Consumers' Rights](#) (the Code).

In 2021/22 HDC made 402 recommendations for quality improvement and providers complied with 98% of those recommendation.

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