General Practitioner, Dr A

A Report by the
Health and Disability Commissioner

(Case 18HDC01697)

Health and Disability Commissioner
Te Toihau Hauora, Hauātanga

Contents

Executive summary

1. This report relates to the care provided to a woman by a general practitioner (GP). The Commissioner highlights the importance of clear communication in establishing informed consent for intimate examinations.

2. In March 2018, the woman attended her first appointment as a new patient at a medical centre. She presented for diabetic supplies and to request a transfer to the district health board's (DHB's) diabetic service. During the consultation, the GP asked the woman whether she performed breast self-examinations. The GP proceeded to demonstrate to the woman how to perform a breast examination, which involved the GP touching the woman's left breast.

Findings

3. The Commissioner found the GP in breach of Right 6(1) of the Code for failing to provide the woman with the information that she was entitled to receive, including how the demonstration of breast self-examination would be carried out and why the examination was necessary, and that she could have a chaperone present.

4. The Commissioner further found the GP in breach of Right 7(1) of the Code, because without the information she was entitled to receive, the woman was not in a position to make an informed choice or give informed consent to the examination of her breast.

5. The Commissioner was also critical that there was no clinical indication to warrant the demonstration of a breast examination on the woman, and that the GP did not adhere to standard practice when examining the woman's breast.

Recommendations

6. The Commissioner recommended that should the GP return to practice, the Medical Council of New Zealand consider whether a review of the GP's competency is warranted. In accordance with the recommendation in the provisional opinion, the GP provided an apology letter to the woman.

Complaint and investigation

7. The Health and Disability Commissioner (HDC) received a complaint from the Medical Council of New Zealand about the services provided by Dr A to Ms B.[1] Ms B supported the complaint. The following issue was identified for investigation:

- *Whether Dr A provided Ms B with an appropriate standard of care on 21 March 2018.*

[1] The complaint about Dr A was referred to the Commissioner by the Medical Council under section 64 of the Health Practitioners Competence Assurance Act 2003.

8. The parties directly involved in the investigation were:

Dr A	General practitioner (GP)/provider
Ms B	Consumer

9. Further information was received from:

Medical centre
Medical Council of New Zealand
New Zealand Police

10. Independent expert advice was obtained from GP Dr Clare Woodward (Appendix A).

Information gathered during investigation

Background

Ms B

11. Ms B, aged in her early twenties at the time of events, has Type 1 diabetes.[2] In late February 2018, she moved to another region and signed up as a new patient at a medical centre. She intended to get the medical centre to refer her to the DHB Diabetes Service.

Dr A

12. Dr A is a vocationally registered GP. He was contracted to provide GP services at the medical centre from 2017 to 2018. He then retired from medical practice.

Appointment — 21 March 2018

13. On 21 March 2018, Ms B attended her first appointment at the medical centre. She stated that the purpose of this appointment was to pick up diabetic supplies. Specifically, she wanted a three-month prescription for insulin and testing strips. This was Ms B's first appointment at the medical centre as a new patient, and she did not know which doctor she would be seeing. She had not met Dr A previously.

14. Ms B met Dr A in the reception area of the medical centre and then followed him to his examination room. Ms B stated that as soon as they were in the room, she told Dr A that she needed diabetic supplies and to be referred to the DHB Diabetes Service. She said that he asked her what type of insulin she took and what doses. Dr A typed examination notes while Ms B was present. Ms B said that after asking about her insulin, Dr A also measured her blood pressure (which was within the normal range).

[2] A form of diabetes mellitus that usually develops during childhood or adolescence and is characterised by a severe deficiency in insulin secretion.

Breast examination

15. Ms B stated that after Dr A had measured her blood pressure:

> "He then suddenly asked me if I do regular breast examinations which I replied by saying 'no'. This comment was out of the blue and nothing about the topic had been discussed at this point. I have never before been asked about breast cancer during a check up.
>
> He said, 'Do you think you should be doing breast examinations.' I told him that there was no history of it in my family.
>
> … He told me it was important for me to do it and that he will show me how to do it. He was talking about me examining my own breasts. At this time I was not too concerned as he raised his own arms up, giving a demonstration."

16. Ms B said that Dr A told her how to look for signs in a mirror while demonstrating self-examination on himself. According to Ms B, Dr A then walked towards her and "prodded" her left breast outside of her clothing. Ms B stated that Dr A did not tell her he was going to touch her breast, and gave no information about his proposed examination of her breast. Ms B said that Dr A's hand moved down from above the height of her bra until he was touching the outside of her bra. She stated:

> "He began holding and squeezing my breast. He then realised I had a bra on and told me that it does not work as well with a bra on, he said it is not good medical practice. He was touching my left breast for about 20 seconds."

17. Ms B stated that Dr A did not touch or mention her right breast. She cannot recall whether the door to the examination room was open or closed. The examination was not carried out behind a curtain. She also stated that Dr A did not offer her the chance to have another staff member present.

18. Dr A accepted that he did touch Ms B's breast area, but categorically denied that it was inappropriate or for an improper purpose. Dr A stated:

> "I have throughout my practice as a medical practitioner adopted a proactive approach towards encouraging my female patients to undertake regular breast examinations, for the purpose of promoting their general health and wellbeing. I raised the topic with [Ms B], and she indicated she was unfamiliar with how to do so."

19. Dr A cannot recall specifically what he said to Ms B at the time, but stated that he "honestly believed [Ms B] consented" to his physical demonstration of a breast self-examination. He further stated:

> "I most certainly would not have proceeded to demonstrate how a breast examination should be undertaken without at least the genuine impression or belief on my part that [Ms B] was consenting to my doing so."

20. After recording the type and dose of insulin Ms B took, Dr A wrote the following examination notes:

> "Never used Glucagon.[3]
>
> wants to be seen @ [DHB] diabetic service — was generally annual visit to [another] Diabetic Service. Photo screening last year.
>
> BP 110/74
>
> discussed EBE (but not directly examined)."

21. Dr A told HDC that "EBE" is a typographical error. He stated: "It should have read 'SBE' (a reference to self-breast examination)." Dr A said that he wrote "not directly examined" in the clinical notes because he was "demonstrating to [Ms B] how the breast examination is to be undertaken rather than examining her breasts, as such". He further stated:

> "I did not 'examine' [Ms B] as such, but rather was endeavouring to demonstrate the self-breast examination technique to her. It is for this reason that I did not offer [Ms B] a chaperone (at least I cannot now remember doing so)."

22. Ms B said that after Dr A stopped touching her breast, he went back to his computer and asked if she was on contraception. Ms B confirmed that she was but said that she did not require any contraception that day.

23. Dr A accepted that he "may well have asked [Ms B] about contraception", and stated: "[I]t would be routine for me to do this when I was enquiring about a patient's general health."

24. Ms B said that Dr A then printed off a prescription for diabetic supplies, and asked her if she needed anything else. Ms B told him "no" and left the room.

Subsequent events

25. Ms B contacted her mother after the consultation. Copies of the electronic messages between Ms B and her mother were provided to HDC. At 9.53pm on 21 March 2018, Ms B sent a message to her mother saying: "I have had the most horrific day at the doctors. I think I need to change." Her mother responded, asking if she wanted her to call, and Ms B replied: "I'm just scared that if I report it they won't transfer me to the hospital."

26. Ms B's mother said that she then telephoned her daughter because she was worried about what had happened and about her daughter not getting her diabetes medication. Ms B's mother stated: "When she told me what happened about the doctor doing a breast examination, I told her to tell Police." Subsequently, Ms B's mother herself telephoned the Police to report what had happened. The Police decided not to lay charges against Dr A.

[3] Glucagon is a hormone that helps to regulate blood sugar.

Further information

Ms B

27. Ms B stated: "I'm not overly worried about the incident but during the appointment I felt very violated and will not be going back to the clinic."

Dr A

28. Dr A stated:

> "[I]n so far as my teaching or understanding of medical practice is concerned, I understand that self-breast examination is encouraged in the 20 to 30 year old patient group — as much as anything else to encourage patients to get into the habit of knowing or identifying when there has been tissue change. This is something I understand the Breast [Cancer] Foundation of New Zealand indeed recommends."

29. Dr A also noted to HDC his "genuine apology and regret that [Ms B] has misinterpreted his behaviour and intentions".

The medical centre

Relevant policies

30. HDC was provided with a copy of the medical centre's "Use of Chaperones in General Practice Procedure" (the Procedure) in place at the time of these events. The Procedure defines intimate examinations as including examinations involving the breasts in female patients. The Procedure further provides:

> "Before proceeding with any examination, investigation or treatment the doctor should obtain consent from the patient … Adequate information and explanation as to the necessity for the examination or investigation, and the medical equipment to be used should be provided …"

31. The Procedure also provides a checklist for consultations involving intimate examinations. The checklist includes the following steps:

> "• Establish the genuine need for an 'intimate examination' and discuss with the patient.
>
> • Explain why the examination is necessary and give the patient the opportunity to ask questions or raise concerns. Be courteous and offer reassurance.
>
> • Offer a chaperone or invite the patient to have a family member or friend present."

Responses to provisional opinion

32. Ms B and Dr A were both given the opportunity to respond to the relevant sections of my provisional opinion. Neither Ms B nor Dr A wished to provide any further comments.

Relevant standards

33. The Medical Council of New Zealand (MCNZ) publication "Sexual Boundaries in the Doctor–Patient Relationship: A resource for doctors" (October 2009) (the MCNZ Statement)[4] gave guidance on intimate examinations. The MCNZ Statement provided:

> "**The importance of open and clear communication**
>
> 27. An important aspect of any consultation is communication with the patient. You must obtain informed consent before conducting a physical examination. This is not only a right of the patient but the discussion will also help to avoid miscommunication or misunderstanding about what you are asking or doing.
>
> 28. Your actions and how you communicate them to the patient influence the patient's perceptions about what you do and the treatment he or she receives. What may be an acceptable form of physical examination may appear suspicious behaviour to a patient if he or she does not understand what is happening and why it is necessary. Explain why you are asking questions or why the physical examination is necessary and what will happen in the examination. Remember that it may be obvious to you why these questions or examinations are necessary but it may not be obvious to the patient."

Opinion: Dr A

Introduction

34. The principle of informed consent is at the heart of the Code of Health and Disability Services Consumers' Rights (the Code). Pursuant to Right 7(1) of the Code, services may be provided to a consumer only if that consumer makes an informed choice and gives informed consent. As discussed in further detail below, Dr A had an obligation to explain to Ms B how the demonstration of breast self-examination would be conducted, what it would involve, and the reason(s) why it was necessary. He also had an obligation to obtain Ms B's informed consent to the demonstration of breast self-examination.

Information and consent — breach

35. On 21 March 2018, Ms B attended her first appointment at the medical centre as a new patient. She had made the appointment to obtain a prescription for diabetic supplies and a referral to the DHB Diabetes Service. Ms B was seen by Dr A. She had not seen Dr A as a patient previously.

36. Once in the consulting room, Ms B told Dr A that she needed diabetic supplies and a referral to the DHB Diabetes Service. After taking notes about her insulin medication and taking her blood pressure, Dr A then asked Ms B if she performed breast self-

[4] The Medical Council of New Zealand (October 2009). This guidance has since been replaced by "Sexual boundaries in the doctor–patient relationship" (November 2018).

examinations. Ms B said that this question was "out of the blue". She stated that she did not raise this topic, and told Dr A that she had no family history of breast cancer.

37. After Ms B told Dr A that she did not self-examine her breasts, he then proceeded to demonstrate how to do so. First, he demonstrated on himself. Then, according to Ms B, he walked towards her and "prodded" her left breast outside her clothing. She said that he then held and squeezed her left breast for approximately 20 seconds, but did not touch or mention her right breast.

38. Dr A told HDC that he considers that he was demonstrating to Ms B how to perform a breast self-examination, rather than examining her directly. For this reason, he documented in the clinical notes: "[D]iscussed [breast self-examination] (but not directly examined)." However, Dr A accepts that he touched Ms B's breast as part of the demonstration.

39. In my view, whether or not Dr A was performing a breast examination or demonstrating on Ms B how to self-examine her breasts is irrelevant. In all the circumstances, a physical examination was involved, and Ms B had the right to be given all the information necessary to enable her to give informed consent.

40. Dr A further stated that while he cannot recall what he said to Ms B at the time, he honestly believed that Ms B consented to the breast self-examination demonstration. Ms B stated that Dr A gave no information about his proposed examination of her breast, and did not ask for her consent to touch her breast. Dr A also did not offer Ms B the presence of a chaperone.

41. Later that evening, after the consultation, Ms B contacted her mother. Ms B told her mother that she had had "the most horrific day at the doctors", and that she was scared that if she reported it, she would not be transferred to the hospital. Ms B's mother spoke with her on the telephone and then called the Police to report the incident.

42. On the evidence before me, I find that Dr A did not inform Ms B that his demonstration of the breast self-examination would involve him touching her breast.

43. Right 6(1) of the Code provides that every consumer has the right to the information that a reasonable consumer, in that consumer's circumstances, would expect to receive. Ms B was a new patient presenting for diabetic supplies, and she did not report any concerns to Dr A about her breasts or any breast symptoms, did not have a family history of breast cancer, and did not request a breast examination.

44. In my view, a reasonable consumer in Ms B's circumstances would expect to receive information about how the demonstration of breast self-examination would be conducted, including that it would involve Dr A physically touching her breast (even if only to demonstrate what she was to do herself), and the reason(s) why the examination was necessary. Dr A also had a duty to advise Ms B of her right to have a chaperone present, because of the intimate nature of the examination.

45. I also note that both the medical centre's Procedure and the MCNZ Statement require providers to discuss with consumers why an examination is necessary and what it involves. By not discussing the breast examination with Ms B, Dr A failed to comply with the MCNZ Statement and the medical centre's Procedure.

46. I find that Dr A did not provide Ms B with the information to which she was entitled. Accordingly, I find that Dr A breached Right 6(1) of the Code.

47. Further, because Ms B was not given the information she was entitled to receive, she was not in a position to make an informed choice or give informed consent to the examination of her breast. Accordingly, I also find that Dr A breached Right 7(1) of the Code.

Examination — adverse comment

Appropriateness of, and process followed for, conducting an examination

48. As noted above, Ms B said that Dr A asked her whether she performed breast self-examinations "out of the blue". She did not report any concerns about breast symptoms to Dr A, and she told him that she did not have a family history of breast cancer.

49. My expert advisor, Dr Clare Woodward, advised:

> "It is unusual to perform a breast check on a [young] female unless she has a specific problem she is worried about. … [Dr A] said that he is proactive in encouraging his female patients to undertake regular breast examinations. It is not usual practice to do this in a [young] female unless she comes in with a problem or a worry about her breasts."

50. Dr Woodward noted that breast self-examination was promoted in the past. However, she further advised that now a number of health organisations recommend that women look and feel for breast changes as part of general body awareness, but do not promote breast self-examination. She also noted that the Breast Cancer Foundation NZ provides information to consumers about how to self-examine their breasts. Dr Woodward therefore acknowledged that breast self-examination is a controversial area, but added that she believes that most of her colleagues "would not teach BSE to a patient [of this age] who has no symptoms and has not requested it".

51. I agree with Dr Woodward. I acknowledge that Dr A may have adopted a proactive approach in his practice in encouraging his female patients to examine their own breasts regularly. However, in my view, because Ms B neither reported any breast symptoms or concerns, nor requested a breast examination, nor had a family history of breast cancer, there was no clinical indication to warrant the demonstration of a breast examination on her. I also note that the medical centre's Procedure requires providers to establish a genuine need for intimate examinations. I do not consider that there was a genuine need for Dr A to examine Ms B's breast, nor did he have consent to do so; accordingly, his actions were inconsistent with the medical centre's Procedure.

Method of examination

52. Dr Woodward advised that Dr A's demonstration of breast self-examination on himself was acceptable practice. She further advised:

> "However, in regards to demonstrating on the patient it is still important to get the patient's consent, and to offer a chaperone, and not to proceed if she feels at all uncomfortable, or doesn't consent to the examination. Usual practice is to perform the technique behind a curtain for privacy and with the patient's upper body clothes removed to expose her breasts."

53. Dr A's failure to obtain Ms B's informed consent is discussed above. However, in addition, Dr A's examination was not carried out behind a curtain. He examined only Ms B's left breast while she remained fully clothed. I am therefore critical that Dr A did not adhere to standard practice when examining Ms B's breast.

54. Ms B was also entitled to be advised of her right to have a chaperone present because of the intimate nature of the examination. The medical centre's Procedure states that providers are to offer the presence of a chaperone for intimate examinations. By not offering Ms B the presence of a chaperone, Dr A also failed to comply with the medical centre's Procedure.

Recommendations

55. In accordance with the recommendation in my provisional opinion, Dr A provided a written apology to Ms B for the failures outlined in this report. This apology has been forwarded to Ms B.

56. I recommend that should Dr A apply to renew his practising certificate, the Medical Council consider whether a review of his competence is warranted, based on this report.

Follow-up actions

57. A copy of this report with details identifying the parties removed, except the expert who advised on this case, will be sent to the Medical Council of New Zealand and the Royal New Zealand College of General Practitioners, and they will be advised of Dr A's name.

58. A copy of this report with details identifying the parties removed, except the expert who advised on this case, will be placed on the Health and Disability Commissioner website, www.hdc.org.nz, for educational purposes.

Appendix A: Independent advice to the Commissioner

The following expert advice was obtained from GP Dr Clare Woodward:

"I have been asked to provide an opinion to the Health and Disability Commissioner on case number C18HDC01697. I have read the Commissioner's Guidelines for Independent Advisors, and I agree to follow them.

I graduated with MBCHB in 1990 and hold a DipPaeds, and a DipObsGynae. I am a Member of the Royal New Zealand College of GPs and have been practising as a general practitioner since my GP training in 1995. I work as a GP educator for GP registrars as well.

I have been asked for an opinion on the care provided by [Dr A] to [Ms B]. The background given to me by the Commissioner is that [Ms B] has raised concerns that she presented to [Dr A] for a review of her diabetes medications. During the consultation he queried her about breast examinations and whether she performs regular 'self-examinations'. [Dr A] then demonstrated an examination on himself before touching her left breast allegedly without her consent or the offer of a chaperone.

I have been asked to review the documentation listed below, and advise whether I consider the care provided to [Ms B] by [Dr A] was reasonable in the circumstances and why.

1. The appropriateness of performing a breast examination on [Ms B] given her medical history.
2. Best/accepted practice for GPs demonstrating self-examination of breasts.
3. Any other matter that I consider amount to a departure from accepted standards.

For each question, I have to advise:

a. What is the standard of care/accepted practice?
b. If there has been a departure from the standard of care or accepted practice, how significant a departure do I consider this to be?
c. How would it be viewed by my peers?
d. Recommendations for improvement that may help to prevent a similar occurrence in future.

The documents I have to review are:

1. Police statement from [Ms B]
2. [Dr A's] response
3. Clinical records from [the medical centre].

Brief Summary of the facts from the documents listed above.

On 21 March 2018 [Ms B] had an appointment as a new patient with [the medical centre] as she had moved to [the region]. She was a diabetic [in her twenties] and

needed more medications and a referral to the [DHB] diabetes service. [Dr A] saw her for the first time. After discussing her diabetes and taking her blood pressure [Ms B] said he asked if she does regular breast examinations and she said no. She said she told him there was no breast cancer history in her family. [Ms B] said he told her that he would show her how to do breast self-examination. She said that he raised his arms to show her how to look for signs in a mirror. She said he then approached her and 'prodded' her left breast. She didn't say she had removed any clothes, so from her notes it seemed she had her bra and outer clothes on. He didn't touch her right breast. And she said he didn't offer her to have a chaperone present. She said he didn't talk any more about breast cancer or how to examine breasts. She said he questioned her about contraception then gave her a script for her diabetes medications. And the consultation came to an end.

[Dr A's] notes show that he saw [Ms B] on 21/3/18. He wrote about her history of diabetes, and what medications she was on. He wrote that she wanted to be referred to the [DHB] diabetes service, and was up to date with retinal eye screening. He notated her blood pressure. He said 'discussed EBE (but not directly examined)'. I am not sure what he means by 'EBE'. I do not know if he meant to write 'SBE' which would indicate self breast examination.

He then wrote in the notes that she was not directly examined. There was no other note written about her breast examination. [Dr A's] response states that he raised the topic of breast self examination with [Ms B] and that he wouldn't have proceeded to demonstrate this without her agreement and consent.

Opinion on the Specific Questions asked by the Commissioner

1. a. [Ms B] was a [female in her twenties], with no obvious family history or previous history of breast disease. She came for a diabetes checkup and didn't request a breast check. It is unusual to perform a breast check on a 20 year old female unless she has a specific problem she is worried about. I do not think it was appropriate in these circumstances to perform a breast check. [Dr A] said that he is proactive in encouraging his female patients to undertake regular breast examinations. It is not usual practice to do this in a [female in her twenties] unless she comes in with a problem or a worry about her breasts.

b. I think it is a mild departure from accepted practice. Encouraging breast examination is not going to cause a harmful outcome. However standard practice is now to not necessarily encourage breast self examination, but to encourage patients to start regular screening with mammograms from the age of 45, and sometimes earlier, especially if there is a family history of breast cancer, or a history of fibroadenoma. If a patient asks about breast self examination a GP would discuss the normal screening procedure. If a patient then asked the GP to show them how to examine their breasts, the GP would in the manner below (see no. 2).

c. I think that my peers would not encourage breast examination in a [female in her twenties] with no breast problems. They would only examine a [young] patient's

breasts if she had a problem, lump, pain, or history of breast disease, or if the patient specifically asked them to show her how to perform breast self-examination.

2. a. The standard practice for demonstrating self examination of breasts would be to offer to do a breast check. A GP would always offer the patient to have a chaperone present, and would make sure the patient consents to the examination. The patient should be behind a curtain for privacy, and remove her bra and upper body clothes. She would firstly sit on the side of the bed and the GP would explain how to look for changes in the nipple, puckering, skin changes etc. And then the GP would perform an examination either with her sitting on the side of the bed, or lying on the bed, examining each breast while the same arm is raised behind her head, and explaining what we are doing at the same time.

b. I think that there was a significant departure from standard practice, in the way [Dr A] examined [Ms B's] breast. [Ms B] does not say that she gave consent to the examination. She was not offered a chaperone. She was not behind a curtain. And she still had her clothes on. He only examined her left breast in this way. However, if, as [Dr A] said in his response, [Ms B] had given consent, then it would be a lesser departure from the accepted practice, but still significant. There was no evidence from the documents available that she was offered a chaperone, or was given the privacy of a curtain. And she was examined with her clothes on, which is not best practice. It is unclear also from [Dr A's] notes written on the day. He said that he discussed EBE (is he referring to breast examination?) and then he wrote that she was not directly examined. This is contrary to what allegedly happened in the consult. This is a significant departure from accepted standards, if his notes 'EBE' stand for breast examination.

c. This would be viewed as a significant departure from recommended practice by my peers.

d. I do not have specific recommendations for improvement.

3. There is no other matter that I consider amounts to a departure from accepted standards. [Ms B] did question whether it was appropriate to ask about contraception. It was appropriate to ask, as it is important to know all the medications that a new patient is on, and this is a very common medication. This is standard practice. "

The following further advice was obtained from Dr Woodward:

"I have been asked to provide further advice to the Health and Disability Commissioner on this investigation file.

I have read the Commissioner's Guidelines for Independent Advisors, and I agree to follow them.

I graduated with MBCHB in 1990 and hold a DipPaeds, and a DipObsGynae. I am a Member of the Royal New Zealand College of GPs and have been practising as a general practitioner since my GP training in 1995. I work as a GP educator for GP registrars as well.

I have been asked to review the documentation listed below and advise whether it causes me to amend the conclusions drawn in my initial advice in my report dated 6 March 2019, or make any additional comments. Also I have been asked to advise whether I consider that the policies and procedures in place at the time were adhered to.

The documents I have to review are:

1. [Dr A's] response to the complaint dated …
2. Copies of [the medical centre's] policies and procedures in place at the time of events.
3. Copies of updated policies and procedures.

In my original report I was asked to comment on the appropriateness of performing a breast examination on [Ms B]. I still do not think that it is usual practice to perform an examination on a [female in her twenties] who has no breast symptoms and who has not asked for an examination. Breast self examination was very much promoted in the past. But in more recent times the studies have shown that there is an absence of evidence that routine systematic BSE (breast self examination) reduces the risk from breast cancer, and that it may even increase the number of unnecessary biopsies, and patient anxiety. A number of health organisations recommend women look and feel for breast changes as part of general body awareness — i.e. 'breast awareness', but they don't promote BSE. (Ref 1).

However the Breast Cancer Foundation does give information to consumers on how to examine their breasts, so it does seem to be a controversial area.

Therefore I will say that it is not a complete departure from accepted practice, but that most of my colleagues would not teach BSE to a [young] patient who has no symptoms and has not requested it.

In my original report I was asked to comment on the best practice for GPs demonstrating self-examination of breasts. I accept that [Dr A] has said that he was not examining [Ms B's] breasts, but was demonstrating SBE. Demonstrating the technique on himself is acceptable practice. However, in regards to demonstrating on the patient it is still important to get the patient's consent, and to offer a chaperone, and not to proceed if she feels at all uncomfortable, or doesn't consent to the examination. Usual practice is to perform the technique behind a curtain for privacy and with the patient's upper body clothes removed to expose her breasts.

[Dr A] says that he did obtain her consent, but said that he did not offer her a chaperone. According to her notes he then touched her left breast with her clothes on.

[Ms B] says that [Dr A] didn't obtain her consent to touch her breast, and didn't offer a chaperone.

In scenario (a) this is a mild departure from accepted practice. I accept that he honestly did believe that she had consented to being examined. I do understand that, as he says, it is less common for practitioners of his generation to offer a chaperone. However it is now accepted practice in all intimate examinations to offer a chaperone.

In scenario (b) this is a significant departure from accepted practice, if [Ms B] did not give informed consent to having her breast examined, and was not offered a chaperone.

I have read [the medical centre's] policies and procedures. In section 4.3 Use of Chaperones in General Practice Procedure, there is policy regarding the patient's right to have a chaperone present for an 'intimate' examination, which includes examination of the breast. And also it includes policy on obtaining consent for the examination, explaining why the examination is necessary, and giving the patient opportunity to ask questions or raise concerns both before and during the examination. In scenario (a) [Ms B] was not offered a chaperone to be present. And in scenario (b) [Ms B] did not give consent to having her breast examined and was not offered a chaperone. Therefore the policies were not followed in either scenario.

Yours sincerely,

Dr Clare Woodward

Reference 1: 'Information on Breast Awareness' — National Screening Unit, Cancer Society, and NZ Breast Cancer Foundation, Nov 2013"