



Health and Disability Commissioner
Te Toihau Hauora, Hauātanga

Obstetrician/gynaecologist breaches Code when removing ovarian cysts 20HDC00546

The Health and Disability Commissioner has found an obstetrician/gynaecologist breached the Code of Health and Disability Services Consumers' Rights (the Code) in relation to surgery for the removal of an ovarian cyst.

The woman underwent surgery for what she thought was the removal of a cyst on her right ovary. During surgery the specialist found a 30 cm ovarian cyst situated in the lower abdomen, but which unexpectedly arose from her left ovary. He removed part of the cyst and another senior gynaecologist removed the remaining part.

The woman became very unwell two days later. She was found to have a perforated (pierced) bowel which had caused sepsis (infection). An emergency surgical procedure was performed which included removing of part of the bowel.

The woman complained to HDC that she had only consented to the removal of a right sided cyst and not to left sided surgery, noting that because of previous surgery on her left side she was hesitant about surgery on that side.

Expert advice available to the investigation confirmed there was increased risk of bowel injury owing to the woman's previous left-sided surgery (due to scar tissue). The surgeon was also aware this meant increased complexity of surgery.

Commissioner Morag McDowell found the specialist breached Right 6 (1) of the Code for failing to advise the woman of the increased risk of injury to the bowel.

There was also a level of uncertainty prior to surgery about the origin of the cyst and given the woman's reluctance to left-sided surgery, this uncertainty should also have been advised to her.

Says Ms McDowell, "The specialist was aware of the uncertain nature of the cyst's origin, and I would have expected him to communicate that uncertainty to the woman, alongside an explanation that intraoperative findings could necessitate a deviation from the original plan. In light of the woman's hesitations about left-sided surgery due to her surgical history, I consider this to be information that a reasonable consumer in her circumstances would expect to receive."

As a result, the woman was not able to make an informed choice about proceeding with the cystectomy, so the Commissioner found the specialist breached Right 7(1) of the Code – the right to make an informed choice and give informed consent.

Ms McDowell also made an adverse comment about the consultant who saw the woman for her pre surgery appointment for not identifying discrepancies in information between his understanding of her surgical history and the information on a referral form which stated she had undergone previous surgeries. Ms McDowell also stated it was likely the consultant did not raise the risk of injury to the bowel at this consultation.

The hospital, where the operation took place, undertook its own investigation and has apologised to the woman. Ms McDowell recommended an anonymised version of her decision be used by Te Whatu Ora for educational purposes.

The breached specialist has retired from clinical practice. He has provided a written apology to the woman.

17 July 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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