

Use of canvas belt without consent and failure to ascertain competency
16HDC00720, 11 January 2018

*Rest home ~ EPOA ~ Competency ~ Restraint ~
Health and Disability Services standards ~ Rights 4(1), 7(1)*

A 65-year-old man had suffered a stroke and was admitted to hospital. After a period of rehabilitation he was assessed as requiring hospital-level care including assistance with all daily living activities, and a specialised wheelchair to mobilise.

The man was transferred to his preferred care facility. He had executed an enduring power of attorney (EPOA) for property that appointed his daughter as his attorney, and an EPOA for personal care and welfare that appointed his sister as his attorney. Despite the man being competent and neither EPOA having been activated, the rest home consulted his daughter about his personal care and welfare.

On admission to the rest home, the specialised wheelchair was not yet available, but staff instigated the use of a recliner chair in its place. The rest home's general practitioner signed the "physical restraint/enabler form", as did the man's sister who wrote on the form that she agreed to the use of "the chair". The rest home secured the man in the chair with a hand-tied canvas belt, but there is no reference to the restraint/enabler consent form in the man's notes, or any evidence that he was consulted about having the canvas belt tied around him.

Subsequently, the man was found on the floor beside the chair on two occasions. He told staff that he had slipped out of the chair and that the footrest kept sliding down. The incidents of the man slipping out of the chair were noted in incident forms, but no proactive actions were taken to identify and prevent the causes that contributed to him slipping.

Findings

By failing to verify the man's legal status and competency, the rest home failed to provide services to him with reasonable care and skill and, accordingly, breached Right 4(1).

The rest home's processes regarding restraint were unsatisfactory, and the use of the canvas belt was not in accord with the New Zealand standards or the rest home's own policy. Accordingly, the rest home breached Right 4(1).

The man's sister's consent to the use of the chair on behalf of him was not legally valid and, while he may have impliedly agreed to use a recliner chair initially, there is no evidence that he consented to the use of the canvas belt. By using the canvas belt without his consent, the rest home breached Right 7(1).

It was recommended that the rest home provide staff with further education and training on several topics, including informed consent, enduring powers of attorney, and the provisions for the use of a restraint. The rest home was asked to audit all current residents' records to ensure that informed consent had been obtained appropriately, and to apologise to the man.