

Inappropriate care, conduct, and communication (13HDC00733, 17 April 2014)

Doctor in general practice ~ Professional boundaries ~ Personal relationship ~ Test results ~ Harassment ~ Text messages ~ Rights 2, 4(1), 4(2)

A young woman had been receiving general practitioner services from a doctor for three and a half years when he gave her his personal cell phone number. The doctor said that he gave the woman his number so that she could call him or send him a text message if she thought that she needed help at any stage.

The woman had previously received support and treatment from a community mental health service. Having developed positive strategies for dealing with problems, the woman had been discharged from that service. It was clear from her discharge letter that a considered decision had been made to discontinue the telephone and text support that had been available to her, in order to support her independence.

Four months after her discharge, the doctor invited the woman to accompany him on a trip out of town, where he was attending a conference. The doctor told HDC that he thought that this would give him the opportunity to talk to the woman about his troubles as a young man, and how it was possible for her to succeed in life even though her troubles seemed overwhelming. The woman declined the invitation.

Three days later, the doctor sent the woman a text message, telling her that he was trying to find an excuse to see her again, that the results of her blood tests were “really very wonky”, and that he had bought her a gift. The doctor met the woman at a shop in town. He gave her an envelope containing a copy of the results of her blood tests and a pair of earrings. The results of her blood tests were entirely normal.

Over a period of five to six weeks, the doctor sent the woman approximately 50 text messages. He told her that he was “distracted” by her, she had “gotten under [his] skin”, and he was “overwhelmingly attracted” to her.

The woman reminded the doctor of his role as her doctor. She told him that he should treat her as he treated his other patients, and that doctors should not meet their patients in town or give them gifts. The woman repeatedly indicated to the doctor that his behaviour was unprofessional and difficult for her to deal with. When the woman suggested that she change doctors to make it easier for the doctor, he discouraged her from doing so. The following month the woman changed to a different doctor.

It was held that it was clinically inappropriate for the doctor to give the woman his personal cell phone number, as this jeopardised the work that she had undertaken with the community mental health service to develop constructive and appropriate strategies for dealing with any stressors or crises that might arise. This was a failure to provide care with reasonable care and skill and, accordingly, a breach of Right 4(1).

For inviting the woman to accompany him out of town, repeatedly accessing her cell phone number for personal reasons, sending her highly inappropriate text messages (including about his personal feelings for her), and lying to her about her test results so that she would agree to meet with him, the doctor failed to provide the woman with services in accordance with professional and ethical standards, and so breached Right

4(2). The doctor's persistent texting in the face of the woman's efforts to discourage the contact constituted harassment and, accordingly, was a breach of Right 2.

The doctor was referred to the Director of Proceedings, who decided to institute a disciplinary proceeding. The Health Practitioners Disciplinary Tribunal suspended the GP's registration for nine months, censured him, and upheld the conditions already imposed on his practising certificate by the Medical Council for three years (or until he has completed a Sexual Misconduct Assessment to the satisfaction of the Medical Council). The Tribunal also imposed 40% costs.