

Inappropriate examination of patient (13HDC00158, 18 February 2014)

Doctor in general practice ~ Chaperone ~ Informed consent ~ Documentation ~ Respect ~ Rights 1(1), 4(1), 4(2), 6(1), 7(1)

A woman, aged 34 years, had recently returned from an overseas trip and was unwell. Her symptoms were general nausea, diarrhoea and extreme tiredness. Initially the woman had had abdominal pain, but that had abated by the time she returned to New Zealand.

The woman consulted a doctor at a general practice. After asking the woman some questions, the doctor examined her abdomen, groin, and labia, and inserted a finger or fingers into her vagina. Apart from the abdominal examination, the doctor did not explain the reason for the examination or the nature of the proposed examination.

The doctor did not offer a chaperone, provide the woman with a private space to disrobe and re-dress, or provide a cover for her. The doctor made no records at the time of the consultation about the nature of the examination he conducted, the reasons for it, or his findings.

It was held that the doctor's examination of the woman (apart from the abdominal examination) was not clinically indicated in light of the woman's reported symptoms. Accordingly, the doctor did not provide services to the woman with reasonable care and skill and breached Right 4(1).

The doctor had a duty to inform the woman about the nature of the examination he proposed to undertake and the reasons for it. He also had a duty to inform her that she could have a chaperone or support person present. By failing to provide the woman with the required information, the doctor breached Right 6(1). As the woman did not receive sufficient information about the nature of and the reasons for the examination, or the option of having a chaperone present for the intimate parts of that examination, she was not in a position to make an informed choice and give informed consent to the examination. Accordingly, the doctor also breached Right 7(1).

It was also held that, by failing to make records at the time of the consultation, the doctor did not comply with professional standards, breaching Right 4(2), and did not treat the woman with respect, breaching Right 1(1).

The doctor was referred to the Director of Proceedings. The Director laid a charge before the Health Practitioners Disciplinary Tribunal. Professional misconduct was not made out. <http://www.hpdt.org.nz/Default.aspx?Tabid=423>

Adverse comment was made about the general practice for failing to update the woman regarding her complaint and for not making a written record of her account.