

Physiotherapy assessment, consent and documentation (06HDC16422, 29 February 2008)

Physiotherapist ~ Management of ankle injury ~ Inappropriate examination ~ Rights 2, 4(2), 6(2), 7

A student attending a physiotherapist at a clinic connected to a university physiotherapy school complained that during the assessment the physiotherapist examined her unnecessarily and inappropriately.

The woman attended the appointment having rolled her ankle when she slipped on wet grass. The physiotherapist examined her lumbar and thoracic region, and during this examination put his hand into her bra and cupped her breast. The physiotherapist acknowledged assessing her thoracic and lumbar regions but denied sexual impropriety. He did not document this examination or acknowledge that he should have done so.

It was held that the physiotherapist breached Rights 2 and 4(2) by failing to comply with professional and ethical standards, and sexually exploited the consumer. He also breached Rights 6(2) and 7 for failing to provide a satisfactory explanation for the examination or gain her consent to perform the examinations.

It was also held that the university took reasonable steps to prevent the acts and omissions in question, and that the acts took place without the express or implied authority of the university. The university took prompt and appropriate steps in response to the complaint, and appropriate support was provided to the woman. The university was not vicariously liable for the physiotherapist's breaches of the Code.

The matter was referred to the Director of Proceedings. On 8 July 2008 the Health Practitioners Disciplinary Tribunal upheld a charge of professional misconduct against the physiotherapist. Because he was not currently registered in New Zealand, the Tribunal was not able to cancel or suspend his registration. Should he apply for registration in New Zealand, he must, at his own cost, undertake a psychological assessment to assess what risk, if any, he poses to public safety, and complete training in ethics and professional boundaries, including personal and patient safety to the satisfaction of the Physiotherapy Board of New Zealand.

In the event that the physiotherapist meets those conditions and re-registers, he is to undertake a mentoring programme. The Tribunal recommended that the programme should include education as to professional boundaries, personal safety and patient safety.

The physiotherapist was censured and fined \$2,000.

Link to Health Practitioners Disciplinary Tribunal decision:
<http://www.hpdt.org.nz/portals/0/phys0890ddecdp070.pdf>