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## Orthopaedic Specialist

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### Report on Opinion - Case 98HDC11150

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**Complaint** The Commissioner received a complaint from the consumer concerning treatment she received from the orthopaedic specialist. The complaint is that:

- *During a consultation on a date in mid-September 1997, the consumer was very disturbed to witness the orthopaedic specialist's attitude towards his staff.*
- *The consumer was not allowed privacy during this consultation and a subsequent consultation in mid-October 1997.*
- *During the consultation in October, the consumer felt that the orthopaedic specialist did not listen, and was uninterested in her. She was also upset at the manner in which the orthopaedic specialist spoke to her.*

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**Investigation** The Commissioner received the complaint on 16 January 1998 and an investigation was undertaken. Information was obtained from:

The Consumer  
The Provider / Orthopaedic Specialist  
The Specialist's Personal Assistant

Relevant records were obtained and viewed.

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**Information Gathered During Investigation** On a date in mid-September 1997 the consumer consulted an orthopaedic specialist at the accident and medical clinic ("the clinic"). The consumer said she was very perturbed by the orthopaedic specialist's attitude and treatment of the nurse and office staff. The consumer said, "[t]he orthopaedic specialist was rude and obstinate. He was walking around like a wild boar with violent outbursts. The staff tried very hard to accommodate his commands but he was not satisfied and complained bitterly."

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### Report on Opinion Case 98HDC11150, continued

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**Information  
Gathered  
During  
Investigation,  
continued**

The orthopaedic specialist said that it was unfortunate that the consumer overheard exchanges between himself and the clinic staff. The orthopaedic specialist said that the cause of the problem was the fact that:

*“the staff had, for two weeks running, removed the proper examination couch from his consulting room and replaced it with a low bed. I had previously indicated that this was unsatisfactory. Examining patients on a low and soft surface is difficult, and may result in clinical diagnostic inaccuracy. In addition, I was at that time recovering from having spinal surgery and bending over a low couch to examine up to 20-30 patients over a consulting session was causing a lot of pain.”*

The consumer said that when she consulted the orthopaedic specialist she was not allowed privacy. She had closed the consultation room door. The orthopaedic specialist had re-opened it even though she had requested privacy.

The orthopaedic specialist denied that the consumer requested privacy. He said he would have complied with her request had she done so. He said the reason the door to the consultation room was left open was because there was no ventilation. If the door was shut the room quickly becomes hot, stuffy and unpleasant to work in. The orthopaedic specialist added, *“if a request is made for privacy and a closed door this can certainly be accommodated.”*

The orthopaedic specialist said a curtain extended across the room and closed off the doorway, therefore the consumer was private during the examination. The consumer said the orthopaedic specialist was brisk, abrupt and did not study her x-rays. The orthopaedic specialist referred her for two weeks physiotherapy and told her if she had any trouble to come back.

The orthopaedic specialist said that he was sorry the consumer had the impression that he did not adequately study her x-rays. The orthopaedic specialist said the fact the examination was done briskly in no way detracts from the accuracy of the assessment.

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### Report on Opinion Case 98HDC11150, continued

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**Information  
Gathered  
During  
Investigation,  
*continued***

In late September 1997 the consumer consulted the orthopaedic specialist again, as her knees were still very painful. After waiting thirty minutes the consumer was told that the orthopaedic specialist was away.

The orthopaedic specialist said that the organizational fault lay with the clinic who were advised some weeks previously that he would not be available on that date in late September. The orthopaedic specialist's personal assistant recorded in her diary that the appointment for September and another for early October 1997 were cancelled on later in September.

On the date in mid-October the consumer consulted the orthopaedic specialist again. The consumer said the orthopaedic specialist's behaviour at this appointment upset her, "*I was dismayed at the way he spoke to me, he did not listen to me. He had no time for me, was totally disinterested, couldn't care less. Again no privacy. He also hurt my knees and told me I had done no exercise. He became wild and blasted at the physio, he said he was useless and he would teach him a lesson. He tore off to the physio and left me. [The orthopaedic specialist] asked me why I had come as he hadn't asked me to come. Although he ordered physio he refused to write a form.*"

The orthopaedic specialist said, "*I was concerned to see that the muscle wasting in the left thigh persisted, and on interviewing you, it was evident that the physiotherapist you had been working with had not instructed you in exercises to correct this. Unfortunately, this is a common scenario and despite specific instructions for a physiotherapist to undertake muscle rehabilitation for patients affected with patellofemoral pain, many will not comply with this instruction. It was because of this that I expressed some annoyance, and suggested that we change your physiotherapist.*"

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### Report on Opinion Case 98HDC11150, continued

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**The Code of  
Health and  
Disability  
Services  
Consumers'  
Rights**

The following Rights in the Code of Health and Disability Consumers' Rights are applicable to this complaint:

*RIGHT 1*

*Right to be Treated with Respect*

- 1) *Every consumer has the right to be treated with respect.*
- 2) *Every consumer has the right to have his or her privacy respected.*

...

*RIGHT 4*

*Right to Services of an Appropriate Standard*

- 2) *Every consumer has the right to have services provided that comply with legal, professional, ethical, and other relevant standards.*

...

- 5) *Every consumer has the right to co-operation among providers to ensure quality and continuity of services.*

*RIGHT 5*

*Right to Effective Communication*

...

- 2) *Every consumer has the right to an environment that enables both consumer and provider to communicate openly, honestly, and effectively.*

...

**Clause 3 Provider Compliance**

- 1) *A provider is not in breach of this Code if the provider has taken reasonable actions in the circumstances to give effect to the rights, and comply with the duties, in this Code.*
- 2) *The onus is on the provider to prove that it took reasonable actions.*
- 3) *For the purposes of this clause, "the circumstances" means all the relevant circumstances, including the consumer's clinical circumstances and the provider's resource constraints.*

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### Report on Opinion Case 98HDC11150, continued

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**Opinion:  
Breach** In my opinion the orthopaedic specialist breached Right 1(1), Right 1(2), Right 4(2), Right 4(5) and Right 5(2) of the Code of Rights as follows:

**Right 1(1)**

In my opinion the orthopaedic specialist did not treat the consumer with respect. He was aware the consumer was seated in the waiting area and his decision to reprimand staff within the consumer's range of hearing was not professional. Matters between staff and practitioners should be dealt with in the appropriate forum where staff issues can be addressed and not in front of, or in the hearing of consumers.

**Right 1(2)**

In my opinion by opening the door of the consultation room, the orthopaedic specialist did not meet his obligation to respect the consumer's privacy. While a curtain was extended across the room, which included the doorway, the consumer had made clear her wish for complete privacy by closing the door. The obligation remained with the orthopaedic specialist to give effect to the consumer's request for privacy without her expressly stating her wishes. If ventilation was a concern then this should have been explained to the consumer. She could have been given the option of being examined in the room with the door open, or to be examined in an alternative place where there was adequate ventilation, and privacy to meet the consumer's and the provider's respective needs.

**Right 5(2)**

On two occasions the orthopaedic specialist's manner resulted in an environment where the consumer was upset, fearful and unable to communicate freely. This is not consistent with good medical practice, where open and effective communication between doctor and patient is essential to good diagnosis and care. The orthopaedic specialist's explanation for his anger and brisk manner were annoyance with staff, with the physiotherapist and the fact he was in pain. In my opinion, none of these reasons are sufficient or appropriate excuses. The orthopaedic specialist's pain should not compromise a consumer's treatment. If the orthopaedic specialist was annoyed with staff, or the physiotherapist, then he should address those persons in the appropriate way and not in the confrontational manner he has displayed in front of the consumer.

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## Orthopaedic Specialist

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### Report on Opinion Case 98HDC11150, continued

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**Opinion:  
Breach,  
*continued***

**Right 4(2)**

In my opinion by failing to show respect, ensure privacy and communicate effectively with the consumer, the orthopaedic specialist did not provide services that complied with professional standards. This compromised the overall care the consumer could expect to receive.

**Right 4(5)**

In my opinion the orthopaedic specialist also breached Right 4(5) of the Code which requires providers to co-operate. If the orthopaedic specialist was concerned about the physiotherapy services received by the consumer, he had a duty to raise such concerns directly with the physiotherapist to ensure quality services were provided. It was not appropriate for the orthopaedic specialist to express his annoyance about the physiotherapy services to the consumer. This duty to co-operate is not just to benefit the current consumer, but also to benefit future consumers.

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**Actions**

I recommend that the orthopaedic specialist takes the following actions:

- Provides a written apology to the consumer for breaching the Code. The apology is to be sent to this office and will be forwarded to the consumer.
- Refunds the consumer the cost of the consultations. Payment should be forwarded to this office and will be sent to the consumer.
- Reads the Code of Health and Disability Services Consumers' Rights and views the Commissioner's provider video to fully understand the obligations of the Code.
- Attends a professional course in communication to address the manner in which he communicates with consumers, and confirms to the Commissioner in writing of his enrolment.

A copy of this opinion will be sent to the Medical Council of New Zealand.

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