

Chiropractic management of elbow injury (07HDC17307, 6 January 2009)

Chiropractor ~ Chiropractic clinic ~ Biomechanics ~ Elbow injury ~ Treatment options ~ Information ~ Exploitation ~ Rights 4(1), 4(2), 6(1)(a), 6(3)(a)

A woman attended a chiropractic clinic for treatment of an elbow injury. The chiropractor decided to assess her spine and recommended that she undertake an intensive course of bio-mechanics treatment to her spine over a six-month period requiring an initial payment of \$3,700. After receiving one treatment session to her spine under the agreement she signed, the woman decided to withdraw from the agreement. However, the chiropractor demanded that she pay the amount in full.

It was held that the chiropractor artificially inflated the potential seriousness of the woman's condition. In addition, he failed to provide adequate information about bio-mechanics or about his qualifications when asked, or about the elbow injury, breaching Rights 6(1)(a) and 6(3)(a).

It was also held that there was no apparent clinical justification for the recommended treatment, which was a significant departure from professional standards. Accordingly, the chiropractor breached Rights 4(1) and 4(2). His documentation of the woman's care was poor and constituted a breach of Right 4(2). He also failed to adequately store her clinical records. This was one of his obligations as a health professional.

However, because the woman did not actually pay any money to the chiropractor for the course of treatment, her right to be free from financial exploitation was not breached. While the chiropractor applied pressure on the woman, his conduct did not amount to coercion, which carries with it an element of force or threat.

The clinic failed to take reasonably practicable steps to prevent the chiropractor from breaching Rights 4 and 6 of the Code, and therefore was held vicariously liable for the chiropractor's actions.

The chiropractor was referred to the Director of Proceedings. The Director decided to lay a charge of professional misconduct before the Health Practitioners Disciplinary Tribunal. The matter was heard on 24 May 2010 and proceeded by way of an agreed summary of facts. In its decision dated 15 June 2010 the Tribunal upheld all particulars and found the chiropractor guilty of professional misconduct.

The Tribunal imposed the following penalty:

- 18 months' suspension to be followed by 18 months' supervision with regular reports being provided to the Board, followed by a further 18 months of case load supervision.
- Conditions including that prior to recommencing practice he undertake training and demonstrate competency to the satisfaction of the Chiropractic Board in:
 - a. fundamental chiropractic assessments and examinations;

- b. risks associated with the routine use of X-rays and the appropriate assessments needed prior to ordering them;
 - c. informed consent ethics and the provision of information to clients;
 - d. client-centred practice;
 - e. ethical business practice for chiropractors; and
 - f. ethics generally.
- He is also to provide a mental health assessment to the Board.
 - Censure.

No fine was imposed owing to the chiropractor's financial situation; however, costs of \$5,000.00 (\$3,000 for the Director, \$2,000 for the Tribunal) were awarded.

The chiropractor was subsequently named by the Tribunal.

The Tribunal's full decision can be found at: <http://www.hpdt.org.nz/Default.aspx?tabid=266>