

**Breach of sexual boundaries following a professional relationship  
(13HDC01357, 12 December 2014)**

*Registered nurse ~ District health board ~ Sexual Relationship ~ Vulnerable consumer ~ exploitation ~ professional boundaries ~ Rights 4(2), 2*

A woman complained about the services provided to her by a registered nurse (RN) at a district health board.

The woman had major depressive disorder and associated anxiety and panic attacks. She also had a history of suicidal ideation, which increased when stressful situations arose. More recently, she had also developed alcohol related issues. The woman and the RN, who was working in the Community Mental Health Service (MHS), had intermittent social contact prior to the time the RN became directly involved in the woman's clinical care.

A few months later the woman divulged to her MHS case manager that she had had sexual intercourse with the RN. The RN had arrived at the woman's residence in a DHB car. He pulled out a bottle of wine, which he said was for her. The woman and the RN had sexual intercourse, and soon after this the RN left. The RN returned later that day and they had sexual intercourse again. The RN told the woman that he would return on Monday with more wine and he stated that he had always "fancied her".

It was held that by having sexual intercourse with the woman while knowing she was a patient of the MHS team, and after he had recently been involved in her care, the RN departed from the Nursing Council of New Zealand Guidelines: Professional Boundaries. He also failed to follow the DHB's Code of conduct. The RN failed to comply with professional and ethical standards and, accordingly, breached Right 4(2).

It was also held that, having recently been involved in her care, the RN was aware that the woman was a vulnerable consumer with several mental health issues including issues with alcohol, yet he had sexual intercourse with her on two occasions, provided her with alcohol, and offered to bring more alcohol. The RN's conduct was sexually exploitative and, therefore, he breached Right 2. The RN was referred to the Director of Proceedings. The Director filed a charge before the Health Practitioners Disciplinary Tribunal. Professional Misconduct was made out and the RN's nursing registration was cancelled.

The DHB was not held vicariously liable for the RN's breaches of the Code.