



Health and Disability Commissioner
Te Toihau Hauora, Hauātanga

Doctor directs unqualified employee to administer Botox 20HDC01927

A doctor has breached the Code of Health and Disability Services Consumers' Rights (the Code) for directing an unqualified employee to administer Botox to a woman who then suffered adverse reactions and for not ensuring that appropriate informed consent was obtained.

The employee was a member of an overseas nursing organisation, but she was not registered with the Nursing Council of New Zealand to practise as a nurse, and she did not hold a practising certificate in New Zealand. She was not entitled to perform health services, including injecting prescribed medicines.

The employee was working as the clinical practice manager at the medical centre owned by the doctor. She told HDC that, in addition to administrative tasks, she also, at the doctor's request, assisted the doctor with clinical activities when the medical centre was short-staffed.

The doctor was away on the day the employee administered Botox to the woman. The employee phoned the doctor and was advised to proceed with the treatment.

The woman signed a consent form for the doctor to provide her with Botox treatment, but the treatment was provided by the employee who signed the consent form as the "doctor".

The only risks and side effects listed on the consent form are a minor, temporary drooping of the eyebrow or eyelid, and slight swelling or bruising. No other discussion about potential risks or side-effects of the procedure occurred.

Deputy Health and Disability Commissioner, Deborah James, found the doctor breached Right 4(2) of the Code (which gives consumers the right to services that comply with legal, professional, ethical, and other relevant standards) for directing the unqualified employee to administer the woman's Botox injections.

"As the registered health practitioner, the doctor was responsible for ensuring he delegated his clinical work to appropriately qualified and trained staff. I am concerned that the doctor also asked the employee to assist with Botox treatments for other consumers, when she was not qualified to do so."

Ms James said the woman was not provided with adequate information, as part of the informed consent process, and there was not a proper discussion about the risks and side-effects before treatment was provided.

“Ultimate responsibility to ensure that the risks were discussed, and that appropriate informed consent was obtained, rested with the doctor as the medical professional who remained responsible for the treatment,” Ms James said.

Ms James also found the doctor breached Right 6(1) of the Code by failing to ensure such information was provided, and Right 7(1) for failing to ensure that the woman’s informed consent was obtained before treatment was provided.

Since the events, the medical centre has reviewed and updated its consent form and its policy and procedure on Botox. The doctor is no longer practising, and his practising certificate expired in 2020. The employee told HDC she now works in a job “which does not include any type of clinical activities or cosmetic treatments”.

Ms James recommended the doctor undertake a competence review, with the assistance of the Medical Council of New Zealand, should he return to medical practice.

She also recommended that if the medical centre decides to continue appearance medicine services, it review and update its policy to ensure that only a doctor or registered nurse can provide Botox treatment, and not a ‘physician assistant’.

Finally, Ms James recommended the employee familiarise herself with the requirements to practise as a registered nurse in New Zealand and ensure that she does not sign any documentation or consent forms as a “doctor” in future.

5 February 2024

Editor’s notes

The full report of this case will be available on HDC’s [website](#). Names have been removed from the report to protect privacy of the individuals involved in this case.

The Commissioner will usually name providers and public hospitals found in breach of the Code, unless it would not be in the public interest, or would unfairly compromise the privacy interests of an individual provider or a consumer.

More information for the media, including HDC’s naming policy and why we don’t comment on complaints, can be found on our website [here](#).

HDC promotes and protects the rights of people using health and disability services as set out in the [Code of Health and Disability Services Consumers' Rights](#) (the Code).

In 2021/22 HDC made 402 recommendations for quality improvement and providers complied with 98% of those recommendation.

Health and disability service users can now access an [animated video](#) to help them understand their health and disability service rights under the Code.