



Health and Disability Commissioner  
*Te Toihau Hauora, Hauātanga*

## **Failure to obtain informed consent for procedure during labour 21HDC01363**

Deputy Health and Disability Commissioner Rose Wall today released a report finding a registered midwife breached the Code of Health and Disability Services Consumers' Rights (the Code) for failing to obtain a woman's consent for a procedure during labour.

The woman went into labour with her first child a few days prior to her due date. Labour was progressing normally when the midwife told the woman she was going to check the progress of dilation.

At the same time as checking dilation, the midwife also did a 'stretch and sweep' procedure, claiming this would help 'ramp up contractions'. Not only did the woman report pain from the 'stretch and sweep' procedure, but it was done without her knowledge and consent.

The woman's birth plan outlined her preference for no interventions in her birth, unless medically necessary, and she did not tick the box for 'sweeping of the membrane'. She also stipulated that she would like to be given time to consider any procedure before it was done.

The woman claimed the 'stretch and sweep' procedure was, "treated more as a 'routine' part of labour that my midwife could use [at] anytime due to her position of knowledge and power."

In her report Ms Wall said: "Relevant standards for midwifery practice outline the competency required of a midwife to work in partnership with the woman/wahine/birthing person, including respecting their needs to be self-determining in promoting their own health and wellbeing. A 'stretch and sweep' is considered an invasive procedure that requires discussion with the woman/birthing person and their consent to it."

Ms Wall found the midwife breached Right 6(2) of the Code, which gives consumers the right to the information needed to make an informed choice or give informed consent. Additionally, the midwife also breached Right 7(1) for providing services without the woman's consent.

During the HDC investigation, the midwife failed to provide HDC with relevant information or a response to the woman's concerns. For failing to facilitate the fair, simple, speedy and efficient resolution of the complaint, Ms Wall found the midwife breached Right 10(3).

“I am critical of her failure to engage with the process and to provide resolution and closure of the concerns for the woman,” Ms Wall said.

Ms Wall recommended that the midwife provide a written apology to the woman and, should she return to practice, undertake training on informed consent and complaint management.

28 August 2023

***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.

Learn more: [Education](#)