

## **Inappropriate relationship with patient (07HDC19540, 29 September 2008)**

*Registered nurse ~ Care manager ~ District health board ~ Sexual relationship ~ Mental health ~ Rights 2, 4(2)*

A 27-year-old mental health service client disclosed to her care manager that she had had a sexual relationship with her previous care manager, a registered nurse. The woman complained that about nine months after the nurse became her care manager, shortly after her discharge from a public hospital following an overdose, they became sexually involved. This relationship continued after she transferred to another district health board mental health service and finished about a month later when she became aware that he had a partner.

It was held that the woman had the right to have services provided that complied with professional and ethical standards, and the right to be free from discrimination, coercion, harassment, and sexual, financial, or other exploitation. The nurse had a sexual relationship with the woman while he was her care manager, and it is clear that an inappropriate relationship continued for a number of months both before and after he ceased to have responsibility for her care. The nurse was held to have breached Rights 2 and 4(2).

It was also held that the district health board that employed the nurse provided a clear expectation of acceptable staff behaviour. The district health board did not breach the Code and was not vicariously liable for the nurse's breaches.

The nurse was referred to the Director of Proceedings. The Director considered the matter and laid a charge before the Health Practitioners Disciplinary Tribunal. The Tribunal made a finding of professional misconduct. Penalties included cancellation of registration, censure, a fine of \$500, and \$5,000 costs. Prior to re-registration he must undergo a medical and psychiatric examination to establish that he is mentally and physically fit to practise. Following re-registration he must undertake postgraduate studies in ethics and boundaries, and work for a period under supervision. The nurse was given full name suppression.

The Director decided to issue proceedings before the Human Rights Review Tribunal, but was able to settle the matter by negotiated agreement.

Link to HPDT decision:

[http://www.hpdt.org.nz/portals/0/nur08112ddecdp070\(anon\).pdf](http://www.hpdt.org.nz/portals/0/nur08112ddecdp070(anon).pdf)