



Health and Disability Commissioner  
*Te Toihau Hauora, Hauātanga*

## **Commissioner refers massage therapist to Director of Proceedings 23HDC00529**

A massage therapist has been referred to the Director of Proceedings by the Deputy Health and Disability Commissioner to assess if further legal action is required.

Dr Vanessa Caldwell found the massage therapist breached the Code of Health and Disability Services Consumers' Rights for filming clients without their consent and other behaviours which did not meet accepted professional standards. These included breaches of professional boundaries and failures to uphold the consumers' right to informed consent.

Dr Caldwell was severely critical of the man's actions. "Making these recordings was a gross breach of trust and professional boundaries, and it is clear that this violation of privacy in the context of a consumer-provider relationship has had a significant and ongoing impact on the women involved."

For making these non-consensual recordings the massage therapist was found to have sexually exploited the consumers in breach of Right 2 of the Code. The breaches centre on complaints from five separate consumers. An earlier police investigation had resulted in five convictions against the therapist for making an intimate video recording of another person, and one conviction for intentionally attempting to make an intimate video recording of another person.

Dr Caldwell said "...in my view it is in the public interest to also hold Mr A to account for the breach findings discussed in this report, which were not the subject of the criminal proceedings. These include the failure to provide information that a consumer would expect to receive to enable them to give informed consent (Right 6(1)), providing services- including massage of sensitive areas - without informed consent (Right 7(1)), and failure to provide services that complied with professional standards with respect to draping practices, communication standards and documentation standards (Right 4(2))."

Dr Caldwell noted that while the massage therapist was not a member of Massage New Zealand – a professional association for qualified massage therapists – or any other professional association, "... I remain of the view that his clients could have expected that his care would be provided in accordance with [Massage NZ] Code of Ethics."

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

### **Editor's notes**

Please only use the photo provided with this media release. For any questions about the photo, please contact the communications team.

The full report of this case can be viewed on HDC's website - see HDC's '[Latest Decisions](#)'.

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 2022/23 HDC made 592 quality improvement recommendations to individual complaints and we have a high compliance rate of around 96%.

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### **For more information contact:**

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