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Family doctor sanctioned for having affair with teen patient over 25 years ago

A recent decision of the Tribunal demonstrates that it will sanction disgraceful behaviour that occurred over 25 years ago. The decision also highlights how wide-reaching the doctor/patient relationship is.

The former Medical Practitioners Disciplinary Tribunal ruled that the behaviour of Christchurch GP, Dr C, amounted to 'disgraceful conduct in a professional respect' under the Medical Practitioners Act. As the charge was laid before the introduction of the Health Practitioners Competence Assurance Act 2003 the provisions of the Medical Practitioners Act 1995 applied.

Almost 30 years ago, Dr C was the complainant's family doctor. The complainant, Ms A, saw Dr C for medical complaints and often babysat for Dr C and his wife. At aged 16, Ms A was raped while attending a concert, but said she felt comfortable talking with Dr C about the incident, trusted him and saw him for informal counselling.

Approximately one month later, Ms A babysat for Dr C and when Dr C arrived home they consumed alcohol together. They subsequently had sexual intercourse. Ms A told the Tribunal that she felt that she had no choice because 'Dr C had been so nice to her'. The next morning Dr C gave Ms A the morning after pill from his practice, but their relationship continued.

In 2001, 20 years after the affair, Dr C and Ms A were in contact via email, in which they discussed their relationship. Ms A made a complaint to the Health & Disciplinary Commissioner in mid 2001.

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During the hearing, Dr C denied ever having sexual intercourse with Ms A, but admitted kissing her and that they had 'low grade sexual contact'. He said that he was not proud of his behaviour but argued that Ms A was never a patient.

The Tribunal admitted that proving sexual intercourse has occurred when faced with opposing testimony is difficult, 'particularly where the alleged act has occurred several years before a complaint is made'. However, the Tribunal upheld Ms A as a credible witness and accepted her evidence in all material matters, including that Dr C had sexual intercourse with her when she was 16.

The Tribunal held that while Dr C's role was not that of a formal counsellor, the principal reason why Ms A wanted to see Dr C about the rape incident was because she trusted him as the family doctor. The Tribunal held that in the absence of any clear delineations of responsibility, when a patient is registered with a general family practice they are the professional responsibility of all staff and members of that practice. Accordingly, the Tribunal found that there was a doctor/patient relationship between Dr C and Ms A before the rape incident, and following. This was in the absence of any medical records of Ms A or her family in evidence.

Accordingly, the Tribunal held that Dr C's sexual relationship with Ms A was a 'serious breach' of the Act and amounted to disgraceful conduct in a professional respect. There were a number of aggravating factors in this case including that Ms A was a teenager, she had recently

FOR MORE INFORMATION

Hayden Wilson
PARTNER | WELLINGTON

DDI 04 915 0782

hayden.wilson@kensingtonswan.com

Helen Brown
ASSOCIATE | WELLINGTON

DDI 04 498 0834

helen.brown@kensingtonswan.com

Aleyna Hall
SOLICITOR | WELLINGTON

DDI 04 498 0885

aleyna.hall@kensingtonswan.com

been raped, she was clearly emotionally distressed, she babysat Dr C's children, and he was a father figure to her. Overall, there was a power imbalance which Dr C exploited.

The Tribunal held that the breach warranted disciplinary sanction and their penalty decision is due in a week's time.

The message is clear - sexual relationships between doctors and patients are not acceptable even where the nature of the relationship is not clear.

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