

Professional Boundaries in Healthcare

Case Studies

Reading time:

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Case 1: Facebook Factual Scenario

The patient attended the clinic where the medical practitioner worked and completed a new patient registration form. The form included details such as the patient's address, phone number and email address. By signing the patient registration form, she indicated that she consented to the collection, use and disclosure of her personal health information in limited circumstances. The patient did not provide her mobile number or other contact details.

The patient attended a consultation with the practitioner, primarily to request a contraceptive implant (Implanon). During the consultation she provided a self-obtained lower vaginal swab and urine sample for testing to the practitioner. It was agreed that the practitioner would telephone the patient with the test results when available. Once the results were received, the practitioner contacted the patient by telephone and informed her that the results indicated chlamydia, and arranged an antibiotics prescription. A few days later, the patient attended a follow up consultation with the practitioner, during which the practitioner inserted the Implanon. The practitioner scheduled a review of the patient in six weeks' time.

Approximately a week later, the practitioner was using his Facebook messenger account at home and through the process of syncing data from his mobile phone, the patient's profile appeared on his Facebook messenger as a suggested connection. The practitioner clicked on the patient's name to view her profile and in doing so sent the patient a handwave emoji, starting the Facebook messenger communications. The practitioner and the patient exchanged a series of messages via Facebook messenger intermittently over the course of approximately two weeks. Some of the messages related to the care and treatment that the practitioner provided to the patient, and other messages from the practitioner were of a personal and sexual nature.

The patient subsequently made a notification to the Australian Health Practitioner Regulation Agency (Ahpra).

Issues for Consideration

Whether the practitioner's conduct amounted to 'Professional Misconduct' under the Health Practitioner Regulation National Law in any and what specific respects?

'Professional Misconduct' is defined in section 5 of the Health Practitioner Regulation National Law (WA) Act 2010 as:

Professional Misconduct, of a registered health practitioner, includes –

- Unprofessional conduct by the practitioner that amounts to conduct that is substantially below the standard reasonably expected of a registered health practitioner of an equivalent level of training or experience; and
- More than one instance of unprofessional conduct that, when considered together, amounts to conduct that is substantially below the standard reasonably expected of a registered health practitioner of an equivalent level of training or experience; and
- Conduct of the practitioner, whether occurring in connection with the practice of the health practitioner's profession or not, that is inconsistent with the practitioner being a fit and proper person to hold registration in the profession.

What outcome was proportionate?

Case 2: The physical examination

The practitioner was a specialist gynaecologist. It was alleged that during multiple consultations, he did not inform a patient about the use of a modesty sheet or other covering before he asked her to undress for physical examinations. This patient also alleged that he patted the patient's buttock following a pelvic examination. On another occasion, it was alleged that the practitioner had informed the patient she could leave the door open between the consultation room and the examination room while she undressed, and that while undressing the patient could see the practitioner and the practitioner could see her (in the mirror of the consulting room). Finally, it was alleged that the practitioner failed to maintain proper professional boundaries when he made statements to the patient including that as she got older, she would 'want to keep her slim figure', that she had a lovely figure. He allegedly ran his hands along the sides of the patient's body from just below the bust line, along her hips, around behind her buttock and across the front of her stomach and said to the patient 'See you do not even have a tummy...Every woman

is entitled to have a tummy.'

The practitioner denied any inappropriate conduct. In the practitioner's version of events, he stated that he spoke about the patient's figure and touched her to demonstrate the difference between subcutaneous and intraperitoneal fat accumulations, in circumstances of her family history of diabetes.

The patient made a complaint about the practitioner's conduct, and the Health Complaints Commission (HCCC) subsequently brought disciplinary proceedings against the practitioner in relation to this complaint alleging that he had inappropriately breached professional boundaries, in addition to several other wide ranging separate complaints relating to multiple other patients. At the time of the disciplinary proceedings, the practitioner was retired.

Issues for Consideration

Whether the conduct amounted to 'Unsatisfactory Professional Conduct' in any and what specific respects?

'Unsatisfactory Professional Conduct' is defined in section 139B(1)(l) of the Health Practitioner Regulation National Law (NSW) No 86a as:

- Unsatisfactory professional conduct of a registered health practitioner includes each of the following-

(l) Other improper or unethical conduct

Any other improper or unethical conduct relating to the practice or purported practice of the practitioner's profession.

What outcome was proportionate?

See also [Keeping within professional boundaries](#).
