

## GP reprimanded over inappropriate disclosures and failure to provide privacy for physical examination



### Key messages from the case

Medico-legal assessments can present a particular set of challenges for doctors as the patient may feel the doctor has an adversarial role. They may be particularly sensitive to perceived inappropriate comments or boundary issues, as this case illustrates.

### Details of the decision

Dr W conducted an independent medical examination of Ms A following her workplace injury and compensation claim. After reading Dr W's report, which was unfavourable to her compensation claim, Ms A made a complaint that:

- during his examination Dr W had brushed his stomach against her back and brushed her breasts with his arm several times when there was no clinical indication to do so;
- Dr W made inappropriate personal disclosures to Ms A about himself and his family; and
- he failed to provide her adequate privacy as he had not offered to leave the room when she was disrobing and had not provided her with a gown to maintain her dignity and modesty.

Dr W could not remember the consultation from 3 years prior and could only refer to his handwritten notes.

### Boundary issues – physical examination

The tribunal found Ms A to be an unreliable witness, whose versions of events varied significantly. The tribunal ultimately rejected the complaints of inappropriate touching.

Dr W also accepted he had failed to provide the patient with privacy or a gown. The tribunal rejected his

argument that it was appropriate for him to watch a patient disrobe as part of the assessment of whether her mobility was impeded. The tribunal also stated that it was not up to the patient to request a gown if she wanted one; the tribunal's view was that Dr W should have offered to leave the room, and a gown should have been readily available and offered to the patient.

Dr W accepted in hindsight that it is good practice to provide a gown in these circumstances.

### Boundary issues – inappropriate disclosures

Ms A also complained that Dr W had made inappropriate disclosures about his personal life and health issues.

Dr W agreed he had probably mentioned his recent cancer surgery and resultant abdominal scarring. The tribunal considered this unprofessional conduct in that Dr W had failed to maintain appropriate professional boundaries.

### Outcome

The doctor's failures constituted unsatisfactory professional conduct.

Dr W was cautioned in relation to inappropriate disclosures and reprimanded for failing to provide the patient appropriate privacy in a physical examination.

## Key lessons

When conducting examinations, be sensitive to patient privacy and take appropriate steps to ensure patient privacy when dressing / undressing.

Avoid making personal disclosures, particularly when conducting a physical examination on a patient. The patient may feel vulnerable and comments can easily be misinterpreted.

Be particularly careful to maintain boundaries when conducting physical examinations for the purpose of a medico-legal assessment on a person who is not a patient of the practice, for example acting as an independent assessor for a workers' compensation claim. Have a low threshold for engaging a chaperone or observer in these situations.

## References and further reading

Avant factsheet – [Boundary issues](#)

Avant factsheet – [Observers: chaperone, protect and reassure](#)

Avant article – [Examination anxiety: avoiding harassment claims](#)

Medical Board of Australia Guidelines – [Sexual boundaries in the doctor-patient relationship](#)

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