

Decision of the Medical Board of Australia

Performance and Professional Standards Panel

Jurisdiction: Victoria

Date of hearing: 8 March 2012

Date of decision: 17 May 2012

Classification of Notification:

Behaviour – Rough or painful examination or treatment

Accompanied by his mother, the patient (a minor) consulted the practitioner about a problem of oppositional behaviour. The patient raised his leg towards the practitioner and the practitioner regarded this as an attempt to kick him. The practitioner also believed that the patient attempted to hit him with his fist. The practitioner pulled the child down onto the floor and sat on him. The child's father made a complaint. The day after the incident the child complained of discomfort when he breathed and a general practitioner diagnosed bruised ribs.

Allegations

The practitioner faced allegations that he used inappropriate force with the patient in that he grabbed him on the arm and placed him on the floor and then sat on his back.

Finding

The Panel found that it was not disputed that the patient raised his leg towards the practitioner or that the practitioner regarded it as an attempt to kick him. It was also accepted that the practitioner believed the patient attempted to hit him with his fist. The Panel found that the practitioner had pulled the patient down onto the floor and sat on him. The injury, if it followed from the practitioner having sat on his back, was not major and the practitioner used as little force as was reasonably necessary.

The Panel concluded that the practitioner was very experienced and had dealt a lot with children like the patient. His actions were reasonable in the context of his concern for his physical wellbeing and it was reasonable for the practitioner to contain the situation and then ask the parent of the patient for consent. When the parent did not consent to the action taken, the practitioner released the child.

Determination

The Panel found that the practitioner had no case to answer.