

Decision of the Medical Board of Australia

Performance and Professional Standards Panel

Jurisdiction: Victoria

Date of hearing: 19 January and 29 February 2012

Date of decision: 8 March 2012

Classification of Notification:

Boundary violation – Inappropriate sexual relationship

The practitioner and the patient were friends in the early 1990s. In 2000, the patient first presented to the practitioner for muscular skeletal treatment. Eight years after the clinical relationship started, the practitioner and the patient had sexual relations twice. The practitioner ceased treating the patient in 2010.

Allegations

The practitioner faced an allegation of failing to maintain professional boundaries by engaging in a sexual relationship with a patient.

Finding

The Panel found that while the practitioner had a sexual relationship with the patient, he presented as a committed doctor and was contrite about his behaviour. The Panel took note of a previous Victorian Civil Administration Tribunal (**VCAT**) decision, in which a practitioner who engaged in a brief social and sexual relationship with a patient was found to have engaged in unprofessional conduct, rather than professional misconduct. Informed by the VCAT finding, the Panel concluded that the practitioner behaved in a way that constituted unprofessional conduct, rather than professional misconduct. It found that the professional conduct exercised by the practitioner was below the standard reasonably expected of the practitioner by the public and his peers.

Determination

The Panel determined to reprimand the practitioner for failing to maintain professional boundaries by engaging in a sexual relationship with a friend who later became a patient. It cautioned the practitioner against repeating such conduct in the future.

The Panel imposed conditions on the registration of the practitioner to complete a further education program to address the meaning of professional boundaries, the importance of observing them and the management of patients at risk, particularly of physical, mental or emotional abuse.

The practitioner was also required to complete two counselling sessions with a psychiatrist mentor addressing professional boundaries. The education program and counselling were to be carried out within six months with a progress review in 12 months.