

## Conciliation Case

### Newsletter Jan 2009 Issue No. 48

#### Treatment or Harassment?

##### THE COMPLAINT

“My friend took me to a Chinese medicine practitioner for treatment after I told her that I had been suffering from back pain for almost a week. As there was a long queue, my friend left for work. After waiting for two hours, it was my turn and I told the doctor my problem. He suggested “fire cupping (note)”. I had tried this therapy before and it worked well on me. Without hesitation, I agreed to his suggestion and followed him to another room.”

“The doctor asked me to unbutton my shirt, then he urged me to undress totally, which I refused as I didn’t think it is necessary. He suddenly kissed my face. Utterly humiliated and upset, I dressed up quickly and ran out of the office,” Liza recounted her terrifying experience in the clinic.

Note: Fire cupping - a therapy that improves blood circulation by applying acupuncture with the use of a vacuum cup on the patient's body to relieve pain.

##### WHAT THE EOC DID

The EOC investigator looked into the complaint and sought information from both parties. The Chinese medicine practitioner was willing to resolve the matter by early conciliation. Early conciliation offers an alternative means to settle cases within a shorter time frame, and could be conducted at any stage before or during the process of investigation. The complainant, who did not want the case to drag on, also welcomed this approach. After some discussions, the doctor agreed to express his apology in writing and also pay Liza an amount of money as a kind of compensation for injury to her feeling. He also promised he would not act inappropriately when providing medical treatment to his patients in future.

##### WHAT THE LAW SAYS

Inappropriate contact by a doctor is not only a violation of the personal trust placed on a medical care provider. It may be harassment, and it may be against the law. Under the Sex Discrimination Ordinance, it is unlawful for a person to sexually harass another person in the course of providing goods, facilities or services. The doctor should not have conducted any unwelcome sexual behaviour which makes his patients feel offended, humiliated or intimidated, as a reasonable person would anticipate that the victims would have such negative feelings.

## 和解案例

通訊 2009 年 1 月 第 48 期

## 治療，還是騷擾？

## 投訴內容

「我告訴朋友我的背痛已持續差不多一個星期，她於是帶我到一名中醫就診。由於當時輪候的病人很多，我的朋友急於上班便先行離去。等了兩小時，到我見醫生時，我將背痛問題告訴他。他提議以『拔罐(註)』方式治療。我早前接受過這種治療，也很有效。我毫不猶豫便同意他的建議，並隨他到另一房間。」

「醫生叫我解開襯衣上的鈕扣，然後又要求我脫去所有衣服，我認為沒有必要脫去所有衣服，所以拒絕。他卻突然吻我的臉。我感到極大屈辱，惱怒中，我馬上穿回衣服跑出診室。」莉莎講述她在診所的可怕經歷。

註：拔罐治療 - 拔罐是指在患者身體上以真空罐子作壓力療法，能促進血液循環，幫助患者減輕痛楚。

## 平機會的行動

平機會的調查員就投訴進行調查，並向雙方索取資料。該中醫願意以提早調解方式解決問題。提早調解是以較短時間促成和解的一種方案，可在調查開始前或在調查期間的任何階段進行。由於投訴人不想案件再拖延下去，她亦選擇了以較快方法解決問題。經過討論後，該中醫同意向莉莎作出書面道歉，及給予她一筆款項作為她的感情損害賠償。他又承諾日後為病人提供醫療服務時不再作出不恰當的行為。

## 法理依據

醫生不恰當地觸碰病人，不但有違作為醫療服務提供者的誠信，更屬騷擾，有可能違法。根據《性別歧視條例》，任何人如向另一人在提供貨品、設施或服務的過程中作出性騷擾行為，即屬違法。該醫生不應對病人作出不受歡迎及涉及性的行為，令他們感到被冒犯、侮辱及受威嚇，而一名合理的人會預期這樣的行為，會令受害者產生負面感覺。

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通讯 2009 年 1 月 第 48 期

## 治疗，还是骚扰？

## 投诉内容

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「医生叫我解开衬衣上的钮扣，然后又要求我脱去所有衣服，我认为没有必要脱去所有衣服，所以拒绝。他却突然吻我的脸。我感到极大屈辱，恼怒中，我马上穿回衣服跑出诊室。」莉莎讲述她在诊所的可怕经历。

注：拔罐治疗 - 拔罐是指在患者身体上以真空罐子作压力疗法，能促进血液循环，帮助患者减轻痛楚。

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平机会的调查员就投诉进行调查，并向双方索取资料。该中医愿意以提早调解方式解决问题。提早调解是以较短时间促成和解的一种方案，可在调查开始前或在调查期间的任何阶段进行。由于投诉人不想案件再拖延下去，她亦选择了以较快方法解决问题。经过讨论后，该中医同意向莉莎作出书面道歉，及给予她一笔款项作为她的感情损害赔偿。他又承诺日后为病人提供医疗服务时不再作出不恰当的行为。

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