
Dental Technician, Mr B

Opinion - Case 98OP17073

Complaint

The Commissioner received a complaint about the care and treatment provided to the consumer, Mr A, by Mr B, Dental Technician. The complaint is that:

- *In late 1997 Mr B did not provide Mr A with services of an appropriate standard when making and fitting Mr A's dentures.*
-

Investigation Process

The complaint was received by the Health and Disability Commissioner on 14 August 1998 and an investigation was commenced on 7 October 1998. Information was obtained from:

Mr A	Consumer
Mr B	Provider / Dental Technician
Mrs C	Complainant
Mr D	Registered Clinical Dental Technician
Mr E	Secretary, Dental Technicians Board
Mr F	Consultant Lawyer
Ms G	Advocate

Relevant standards from the Dental Technicians Board were obtained and reviewed by the Commissioner. The Commissioner also received advice from an independent dental technician.

The Commissioner did not receive a written response to the complaint from Mr B nor were Mr A's dental records made available, despite Mr B being contacted and invited to respond three times during the course of the investigation.

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Definitions***Clinical dental technicians***

Clinical dental technicians are permitted by law (the Dental Act 1988) to work directly with consumers. Their job includes taking impressions of the oral cavity to make and fit dentures.

Dental technicians

Dental technicians are not clinically trained and are not permitted by law to work directly with consumers.

**Information
Gathered
During
Investigation**

Mrs C telephoned Mr B, a registered dental technician, for a quote of the estimated costs to make a new set of dentures for her husband, Mr A. Mr A and Mrs C agreed to Mr B's quote of \$800.00 and made an appointment to see Mr B. Mrs C advised the Commissioner that Mr A was not a well person and he had suffered a stroke. Mrs C explained that she and her husband did not have a dentist because they had both had dentures for some time.

Mrs C advised the Commissioner that she and her husband attended an appointment with Mr B on 22 December 1997. During the appointment an impression (taking a copy of the surfaces of the mouth in which the denture will fit and be retained) was taken of Mr A's mouth. Following the appointment, Mr A and Mrs C paid for the dentures in full before leaving Mr B's rooms.

Mrs C advised the Commissioner that she and Mr A attended several appointments following this initial appointment, however she stated that she could not remember exactly how many appointments she had gone to and said it could have been between five and ten times in all. Mrs C advised the Commissioner that Mr B had made an impression of Mr A's mouth and from this a new denture was made. Mrs C explained that a day or two after Mr A had got his new teeth, they began to hurt him and he was unable to wear them for long periods of time and unable to wear them at all after a while. She stated that the more he wore the new denture the worse his gums became for him and he got ulcers in his mouth.

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**Information
Gathered
During
Investigation
*continued***

Mrs C stated that about a month to six weeks after the first impression was made, a second impression was made from Mr A's mouth due to the problems with the denture. She stated that at this time, Mr B had advised her and Mr A that the first denture he had made was not good and so he remodelled and adjusted the denture. Once Mr A had received the remodelled dentures, he found that they were also ill fitting. Further adjustments (removing denture material that may be irritating the mouth tissue; adjustments may be as small as a pinhead or as large as 2-3mm area) and relining (remodelling the fitting surface or internal surface of an upper or lower denture by means of taking an impression inside the denture and then replacing the impression material with denture material) was necessary. Despite this, Mr A continued to have ill-fitting dentures.

Mrs C advised the Commissioner that Mr B had informed them that Mr A could return to him for further adjustments. Mrs C advised that Mr B informed her and Mr A that he had done all he could do for Mr A and informed them that Mr A would just have to get used to his dentures. Mrs C stated that this occurred at the very end of the last appointment with Mr B. Mrs C advised that the top and bottom plates of the denture supplied by Mr B were loose and so Mr A had to use his old dentures.

Mrs C advised the Commissioner that Mr B agreed to refund the money for the dentures in exchange for getting back the denture that he had made.

Mr A and Mrs C then consulted Mr D, registered clinical dental technician, who advised them that Mr B was a dental technician. Mrs C advised that prior to this she had not known that there was a difference between a dental technician and a clinical dental technician.

Mrs C stated that Mr D had advised them that the denture Mr B had made appeared to have a problem with the bite. Mr D subsequently added a soft lining to Mr A's old teeth and realigned them to enable him to eat satisfactorily. Mr D advised Mr A and Mrs C that Mr B was practising as a non-clinically registered dental technician.

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Advice to the Commissioner The Commissioner obtained the following advice from an independent dental technician:

"It is my opinion that [Mr B] did not provide [Mr A] with care that complies with professional standards.

The phone call on 2nd Oct, 1998 11:15:07, by [an enquiries officer] to the Dental Technicians Board clearly establishes the fact that [Mr B] was not qualified to provide the service he gave to [Mr A]. ... [Mr B] is a Registered Dental Technician and therefore unable to carry out work in any patient's mouth.

With the absence of any record of treatment provided by [Mr B], I can only comment on information provided by [Mrs C]. To leave [Mr A] to persevere with ill-fitting dentures for 4-6 weeks before deciding to remodel or remake the dentures is an unnecessarily long period of time. This is especially true for a patient who has previously suffered a stroke and would present a challenge to the most experienced operator. Patients often have difficulty getting used to new dentures, experiencing ulcers from 'high spots' or overextensions that are not always obvious at first, but manifest themselves after one or two days. It often takes 2-3 visits to sort out these problems. The problems [Mr A] was having were obviously extreme as [Mr B] had reason to inform [Mrs C] 4-6 weeks after the initial fitting of his new dentures that they were no good and needed remodelling

It would appear that [Mr A's] treatment was not appropriate at any time as soon after adjusting and remodelling [Mr A's] dentures, they still were not able to be worn by [Mr A]. In telling [Mr A] that he had done all he could do for him and he would just have to get used to his dentures ... – [Mr B] in no way met the standards expected of a Clinical Dental Technician supplying services to patients. I fail to see how an unqualified operator could prevent the outcome that [Mr A] has been left with given [Mr A's] previous medical history – a stroke – and [Mr B's] unwillingness or inability to provide appropriate treatment for this patient.

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**Advice to the
Commissioner
continued**

It is my opinion that [Mr A] has had to endure a process that should never have started as [Mr B] is not qualified to legally undertake this work. ...

In evaluating and rating the overall performance of [Mr B] in providing services to [Mr A] I would say [Mr B] lacked judgement in taking a difficult case of a patient who had suffered a stroke, and given the outcome, displayed a lack of skill and knowledge of how to treat [Mr A] appropriately.

It is my opinion that [Mr B] should have sought help for [Mr A] from a qualified person, and by not doing so did not fulfill his responsibility as a provider, and in my opinion this is evidence of misconduct in terms of ethical responsibilities – please refer to Dental Act 1988 re definition of Dental Technicians work and Clinical Dental Technicians work. Further I would like to state my severe disapproval of the actions of [Mr B] and state that Clinical Dental Technicians as a group are trying to discourage the activities of [Mr B] and other non-qualified people in this field.

It is noted that [Mr B] has failed to supply any information directly regarding the treatment, or lack of treatment, provided to [Mr A]. [Mr B's] only contribution is a) to state his generosity in refunding [Mrs C] and b) discuss issues he has with local and national dental authorities regarding his registration as Clinical Dental Technician.”

Mr E, Secretary, Dental Technicians' Board, advised the Commissioner that there are no provisions in the Dental Act 1988 permitting a dental technician to carry out the work of a clinical dental technician other than for the purpose of taking part in an approved course of training to become a clinical dental technician. He stated:

“Under no circumstances is a Dental Technician permitted to carry out work inside the mouth. ...

The taking of an impression for the purpose of constructing dentures or any other prosthetic appliance, involves work within the oral cavity and ... a dental technician is not permitted to carry out any work inside the mouth. ... ”

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**Response to
Provisional
Opinion**

Mr F, lawyer, advised the Commissioner on behalf of Mr B in response to the provisional opinion that:

“[Mr B] is aware of those health services he is entitled to perform and will work in accordance with the Dental Act.

[Mr B] had made arrangements for peer supervision of his work.

[Mr B] has for some time been dealing with the Dental Technicians Board, as that Board had, in [Mr B's] view, been remiss in not providing or approving courses for the proper training of Dental Technicians (clinical). One such course has now been provided and another is to commence in Christchurch next year. [Mr B] will attend that course.”

**Code of
Health and
Disability
Services
Consumers'
Rights**

The following Right in the Code of Health and Disability Services Consumers' Rights is applicable to this complaint:

RIGHT 4

Right to Services of an Appropriate Standard

- 2) *Every consumer has the right to have services provided that comply with legal, professional, ethical, and other relevant standards.*
-

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Legal Standards

Dental Act 1988

The following sections of the Dental Act 1988 are relevant to this complaint:

“Section 2

...

Interpretation

‘Dental technician’s work’ means the mechanical construction or maintenance of-

- a) Artificial dentures; or*
- b) Restorative or corrective dental appliances.*

...

‘Practice of dentistry’ includes -

- a) The treatment of any condition arising from disease, abnormality or physical damage of the teeth, the jaws, or the soft tissue surrounding or supporting the teeth:*
- b) The removal of tooth tissue or the placement of materials for the purpose of either the temporary or permanent restoration of tooth structure:*
- c) The performance of any operation on the jaws or teeth, or the soft tissue surrounding or supporting the teeth:*
- d) The extraction of teeth:*
- e) The giving of any anaesthetic in connection with any operation on the teeth or jaws:*
- f) The performance of any operation on any person preparatory to, or for the purpose of, the fitting, insertion, construction, adjustment, repair, or renewal of artificial; dentures or restorative or corrective dental appliances:*
- g) The carrying out of dental technician’s work. - ...*

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**Legal
Standards
continued**

Section 4

Prohibition of practice of dentistry by unregistered persons -

- (1) Except as otherwise expressly provided in this Act, no person, unless he or she is registered as a dentist under this Act or as the holder of a provisional certificate, shall practise as a dentist or hold himself or herself out, whether directly or by implication, as practising or as being entitled to practise dentistry.*

...

Section 10

Exemption in respect of dental technician's work –

Nothing in section 4 of this Act prevents –

- (a) Any dental technician undertaking dental technician's work in accordance with the prescription of-*
- (i) A dentist; or*
 - (ii) A clinical dental technician; or*
- (b) Any person undertaking dental technician's work under the direction and supervision of –*
- i) A dentist; or*
 - ii) A clinical dental technician; or*
 - iii) A dental technician.*

...”

Dental Technician, Mr B

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**Opinion:
Breach –
Mr B**

In my opinion Mr B breached Right 4(2) of the Code of Health and Disability Services Consumers' Rights as follows:

Legal standards

As a dental technician, Mr B was not legally qualified to work on Mr A's mouth. Mr A endured treatment given by Mr B that should not have been performed.

In my opinion it is not acceptable for a health professional, who has issues with both local and national dental authorities regarding registration as a clinical dental technician, to knowingly work in a position for which he is unqualified. Although aware of the law surrounding his professional practice, Mr B began and continued to undertake work that only a registered clinical dental technician can perform. This issue is to be referred to the Dental Technicians Board as the body that has the statutory jurisdiction over the registration of clinical and dental technicians.

Professional standards

Late in 1997 Mr B made Mr A a new set of dentures. Over several subsequent appointments Mr B needed to make further adjustments to these dentures. Despite this, Mr A continued to experience problems with his new dentures, which resulted in him not being able to bear wearing the dentures as they were ill fitting. Instead Mr A chose to have his old dentures relined by a clinical dental technician.

Professional standards expected of a clinical dental technician were not met by Mr B when he advised Mr A that he had done all he could do and Mr A would have to get used to his dentures. Despite taking an impression from Mr A's mouth, Mr B was still unable to provide a service that complied with professional standards - dentures that fitted Mr A's mouth and were fit for the purpose of eating and speaking.

In failing to provide services that complied with legal and professional standards, Mr B breached Right 4(2) of the Code.

I have noted that Mr B has sent a written apology for his breaches of the Code to my Office for Mr A and Mrs C.

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Actions

I recommend that Mr B takes the following actions:

- Provides only those services he is legally entitled to perform as a registered dental technician.
 - Consults with the Dental Technicians Board for peer supervision of his professional work.
-

Other Actions

- I am concerned that Mr B has apparently been providing the services that only clinical dental technicians are authorised by the Dental Act 1988 to provide, when Mr B is registered as a dental technician. This issue is to be referred to the Dental Technicians Board as the body that has the statutory jurisdiction over the registration of clinical and dental technicians.
 - This opinion will be published and a copy sent to the Dental Technicians Board and the Dental Council of New Zealand.
 - I will also refer the matter to the Director of Proceedings in accordance with section 45(f) of the Health and Disability Commissioner Act 1994 for the purpose of deciding whether any further action should be taken.
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