

Alternative Therapist, Mrs C

**A Report by the
Deputy Health and Disability Commissioner**

(Case 08HDC00218)



Health and Disability Commissioner
Te Toihau Hauora, Hauātanga

Overview

In March 2005, Ms A (then aged 44) was diagnosed with cancer in her right breast. Instead of undergoing medical treatment (which would have included a mastectomy and chemotherapy), Ms A sought alternative treatment from Mrs C. Specifically, she received Bioptron light therapy treatment for 2½ years between May 2005 and November 2007. Over time, the condition of her right breast deteriorated. In December 2007, Ms A ceased treatment with Mrs C and returned to her doctor. For several months since December 2007, Ms A has been undergoing cancer treatment in hospital.

Parties involved

Ms A	Consumer
Mrs B	Complainant/Consumer's mother
Mrs C	Provider
Dr D	Doctor, Clinic 2
Dr E	Doctor, Clinic 2

Complaint and investigation

On 7 January 2008, the Commissioner received a complaint from Mrs B about the services Mrs C provided to her daughter, Ms A. The following issues were identified for investigation:

- *The appropriateness of the care provided to Ms A by Mrs C between 2005 and 2007.*
- *The adequacy of information provided to Ms A by Mrs C between 2005 and 2007.*
- *The adequacy of Mrs C's response to Ms A's complaints about the care Mrs C provided.*

An investigation was commenced on 7 February 2008. Investigations of this nature have been delegated to Tania Thomas, Deputy Commissioner, and this opinion has been formed in accordance with the power delegated to her by the Commissioner.

Information reviewed

Information from:

- Ms A
- Mrs B (consumer's mother)
- Mrs C
- Dr E.

Ms A's clinical records from:

- A medical clinic
 - Another medical clinic
 - The District Health Board.
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Information gathered during investigation

Diagnosis of breast cancer

On 28 February 2005, Ms A, then aged 44, consulted her GP at a medical clinic (Clinic 1) regarding some lumps in her right breast. On examination, the GP noted that one of the lumps was "the size of a lemon, hard, with nipple retraction" and "ha[d] the features of a malignancy". Ms A was referred for a mammogram and an ultrasound.

Three weeks later, the investigations on 18 March 2005 found three solid lesions in Ms A's right breast. Each measured between 1.4cm and 2.2cm in length and had appearances of "an underlying malignancy". This was confirmed by a biopsy carried out that same day, which reported that Ms A had "invasive ductal carcinoma with high grade features".

Follow-up care

Following a discussion of her results with the GP, Ms A was referred to a Breast Clinic. On 21 April 2005, she was reviewed by a breast surgeon who advised the need for a mastectomy, which was booked a fortnight later for 4 May 2005.

Sometime between the review with the breast surgeon and the date of her mastectomy, Ms A encountered Mrs C's husband. Mr C is a distant relation of Ms A, and Ms A was aware that he and his wife practised alternative therapy. Ms A informed Mr C of her diagnosis and stated that she did not want any medical treatment. Ms A enquired about alternative treatment options and Mr C informed her that his wife ran a Bioptron light therapy clinic.

At Mr C's invitation, Ms A visited him at his home to discuss the alternative therapy further. The date of this discussion is unclear and Mrs C was not involved. Mr C recalls emphasising to Ms A that it was "entirely [her] choice" as to whether she wanted to pursue alternative therapy and that while he and his wife would "help [her] as much as [they] can", they "could not guarantee [her] a cure".

On 4 May 2005, Ms A did not present for surgery, and attempts by hospital staff to contact her were unsuccessful. Later that day, the hospital telephoned Clinic 1 to report Ms A's non-attendance.

On 8 May 2005, staff from Clinic 1 telephoned Ms A to enquire why she had missed her surgery. Ms A stated that she was "seeking alternate options" but refused to clarify what "alternate" entailed. Ms A was advised to see her GP again the following week but did not do so.

Bioptron light therapy

Bioptron light therapy is a medical device manufactured by Zepter International, a global enterprise (originating from Switzerland) which produces and distributes consumer goods around the world principally through direct sales. Any person may purchase and use the Bioptron Light device — no clinical background is needed. Zepter does not monitor the use of the Bioptron light therapy device it sells, and there is no requirement for users to maintain the equipment to a certain standard.

The device works by employing "a combination of infrared and visible light wavelengths considered beneficial in the treatment of different types of problems and injuries". According to the booklet Mrs C provided to this Office about Bioptron light therapy, the light emitted from the device has "biostimulative effects" and both its "visible and infrared lights have been shown to affect different positive changes at cellular level". The booklet lists a range of areas Bioptron light therapy can be applied including surgery, rheumatology, traumatology, dermatology, home care, sports medicine and rehabilitation. The treatment of cancers was not amongst this list (discussed below). The booklet also recommends "consulting a physician before using Bioptron light therapy in order to receive professional advice as to whether this treatment is recommendable or whether other medical treatment is necessary". However, Mrs C did not highlight this to Ms A owing to Ms A's aversion to seeking medical treatment (discussed below).

Mrs C

Mrs C's training in Bioptron light therapy includes completing a Stage 1 Certificate on colour, light and its "deep healing effects", and a Stage 2 Advanced Certificate on anatomy through the New Zealand Light and Colour Therapy Institute (the Institute). She has been a member of the Institute since 7 November 2003 and is currently undertaking further courses with the Institute in order to qualify as a fully certified therapist.

Mrs C has been working with Bioptron light therapy over the past five years. During this time, she has dealt with a wide variety of medical conditions including wounds, leg ulcers, stomach problems, skin problems, and pain relief from sports injuries. According to Mrs C, there are "a lot of things that can be treated with Bioptron", and Ms A recalls Mrs C telling her that the Bioptron light was "going to be used to cure [her] cancer". However, prior to Ms A, Mrs C had never treated any patient with cancer.

Initial contact with Mrs C

Sometime in May 2005 (following the date scheduled for the mastectomy), Ms A visited Mrs C at her clinic to enquire further about Bioptron light therapy. This was Ms A's first encounter with Mrs C. Ms A informed Mrs C of her diagnosis of breast cancer and her decision against having medical treatment. Mrs C tried persuading Ms A to reconsider her decision and told her of a successful case where a breast cancer patient combined chemotherapy with Bioptron light therapy.¹ Despite this, Ms A remained "adamant" against having medical treatment.

As Mrs C considered it preferable for Ms A to have some form of treatment, she suggested that Ms A attend half-hourly Bioptron light therapy sessions three times a week. Mrs C informed Ms A that she normally charged \$20 per session but was willing to provide the therapy free of charge as Mrs C was aware that Ms A was on a benefit. Mrs C also recalls telling Ms A that Bioptron light was not harmful, and there were no known side effects from the therapy. Based on the information provided, Ms A agreed with Mrs C's suggestion of treatment. She stated that Mrs C "kind of gave [her] the impression that [she] was going to get cured" and that Mrs C appeared "confident" and "knew what she was doing". According to Ms A, Mrs C and her husband mentioned that at that stage, they were also treating two other cancer patients who were responding "well" to alternative treatment. In contrast, Mrs C recalls telling Ms A that she "had never treated anyone with cancer and could not be sure what the outcome would be". Mrs C told Ms A that "all we can do is try", and that there were no guarantees. Given Ms A's aversion to seeking medical treatment, Mrs C stated that she "did not have the heart to turn Ms A away". Mrs C documented in her notes "cannot turn [Ms A] down or she may have no treatment at all, no promises. My choice would be to work with Doctor".

Chronology of events

Ms A's first treatment with Mrs C took place on 30 May 2005 and her last visit was on 30 November 2007. Over the 2½ years, Ms A saw Mrs C regularly for full colour spectrum treatment (discussed below). Between May 2005 and January 2006, Ms A had three treatments a week, which was reduced to 2½ sessions a week from February to June 2006. Between late June 2006 and early September 2007, Ms A attended twice every week. The frequency was further reduced to once a week from mid-September 2007 until Ms A stopped treatment in December 2007. Mrs C's records show that Ms A attended a total of 159 treatments, and paid between \$20 and \$40 for most sessions. Although Ms A could not recall the total sum spent, she stated that she "ended up paying quite a good amount of money".

Mrs C acknowledged from the frequency of Ms A's visits that she was "seeking some help" but does not recall Ms A mentioning that she was seeking a cure for her cancer.² Mrs C told Ms A several times that she "could not guarantee anything". In contrast, Ms A recalls Mrs C telling her "on a number of occasions that [she] would be cured" and that Mrs C "felt excited about [this]".

¹ Mrs B disputes this. According to her, Mrs C had informed her daughter that "chemo would kill her".

² Mrs B confirmed in her response to the provisional opinion that her daughter was "seeking a cure for cancer".

Along the way, Ms A also encountered various doctors who attempted to persuade her to seek medical treatment. The following is a chronology of the events from the time Ms A started treatment with Mrs C to when she eventually sought medical treatment.

2005

During the first treatment on 30 May 2005, Mrs C examined Ms A's breasts and noted that her right breast was swollen and had a "hard lump". Mrs C thought that the lump "was breast cancer going by what the doctor said". Ms A was given Bioptron light therapy treatment which lasted approximately 30 minutes. It involved Mrs C shining Bioptron light for eight minutes on selected parts of Ms A's body including her face, armpits and breasts while she was partially undressed. Mrs C explained to Ms A that eight minutes was needed to "regenerate cells" in that area of the body and to "boost the immune system".

The same treatment was repeated over the subsequent visits Ms A attended. Occasionally, Mrs C treated Ms A with blue and purple Bioptron light if she was experiencing pain. Mrs C recalls Ms A stating that that she had "a little pain, but not a lot".

In relation to what information was provided about the therapy, Mrs C stated:

"Well, I explained to [Ms A] about the immune system, about her cells and how because the lights regenerate cells and how the immune system when it is low doesn't have the ability to fight but the T-cells do not have the ability to fight infection or disease if they're low. So I explained that to her, she seemed to understand."

In addition to seeking treatment, Ms A also confided in Mrs C. Ms A spoke extensively about her personal life, including the fact that she did not have any family members supporting her through her illness and that her relationship with her mother, Mrs B, was strained (discussed below). Mrs C stated that she and Ms A spent "a lot of time together" and they developed a close relationship in the process.

"... [Ms A] and I ... we talked about a lot of things. ... She used to tell me everything that was going on in her life and those were personal things and which just, she needed to get it off her chest and I allowed her to do that and I didn't write that down because as far as I was concerned that wasn't part of her treatment. Her treatment that I was doing for her was light therapy. And the fact that she only had me was what she told me many times ... she only had me to support her."

In contrast, Mrs B commented:

"[Ms A] had support all through her illness from myself and her 3 sisters. She herself will admit to cutting herself off at times from us because we wanted her to have conventional surgery. I supported her decision to have alternative treatment even though in my heart of hearts I was sure she had positively made the wrong decision. I tried on many occasions to change her mind and

this did cause some strain between us. She totally believed in [Mrs C], and her cure.”

In late June 2005, Mrs C suggested taking vitamin and mineral supplements “for detoxification” and recommended “CAA” tablets to Ms A. This is an “absorbable New Zealand mineral supplement” that “contains a highly effective blend of important diet minerals (and vitamins)”. Mrs C had taken the CAA tablets herself and it helped her to feel more energetic. She suggested the tablets to Ms A as she wanted Ms A to experience similar benefits. However, Mrs C did not outline the specific benefits of the CAA tablets to Ms A as she wanted Ms A to reach her own conclusions about the product. Mrs C does not recall recommending to Ms A that she consult a doctor at this point as she did not want to “push further” the issue of seeking medical treatment. Mrs C explained:

“We were sort of trying to find anything because we couldn’t get her to the doctor, we were trying to find something that might help.”

During the investigation, Mrs C supplied this Office with a leaflet (see Appendix 1) stating that CAA is based on a formula that has been refined over a 50-year period. The formula was first devised by Percy Weston, an Australian farmer whose sheep were cured of cancer and arthritis after he fed them with a powder formula containing eight minerals.³ Subsequently, Mr Weston himself developed cancer and arthritis, and was healed by taking the same mineral supplements.⁴

At Mrs C’s suggestion, Ms A purchased CAA tablets from a health shop and took CAA tablets for a “couple of years”. She also read information about CAA that Mrs C recommended. Ms A stated that at that time, she “just believed everything [Mrs C] told [her]” and that “things were going to work”. Ms A recalls Mrs C telling her that “people pick their diseases⁵ and that we can heal ourselves ... if you use your mind properly”. Consequently, Ms A “started to blame [her]self for what was going on” and believed that she “gave [her]self cancer, and that it was up to [her] to try and cure herself”. In retrospect, Ms A considered that she had been “brainwashed”.

On 6 July 2005, Clinic 1 staff telephoned Ms A to enquire how she was doing. She stated that she was “taking alternative medicine” but refused to provide any details. Ms A was asked whether she intended to consult a doctor in the near future and responded that “she didn’t want to see any medical Doctor as all they wanted to do was to take her breast off when there were different options available”. Following this discussion, Ms A transferred her care to another practice (Clinic 2).

On 8 August 2005, Ms A saw Dr D (one of the doctors at Clinic 2) as she required a doctor’s letter to support a sickness benefit application. Ms A informed Dr D that she

³ Magnesium, potassium, zinc, iron, manganese, cobalt, sulphur and sodium.

⁴ Mrs B’s perception is that Percy Weston’s testimony lent support to Mrs C’s alternative treatment, in particular that she “could cure cancer”.

⁵ Mrs B commented in her response to the provisional opinion that “cancer would be the last disease anyone would pick”.

had been taking CAA tablets and was having Biopton light therapy treatment three times a week. On examination, Dr D recorded that there was a “large hard mass about 7cm across” Ms A’s right breast with “some pulling in of the areola⁶” that “indeed does look like a carcinoma”. Dr D documented that despite “strongly” advising Ms A of the need for a mastectomy, she “[was] absolutely determined not to have the surgery” and “will not listen to any advice to the contrary”. Dr D noted that the “same process happened at [Clinic 1]”.

Over time, Mrs C saw the physical changes in Ms A’s breast although it took “a long time to change”. Several months into the Biopton light therapy treatment, Mrs C told Ms A that she “really [would like to] know what was going on” with Ms A’s right breast. The exact date of this discussion is unclear. Mrs C recommended that Ms A see a doctor but she declined. Mrs C then suggested that Ms A consult a natural healer in a nearby town. According to Mrs C, the natural healer informed Ms A that she had a cyst in her breast rather than a tumour. (From this, Ms A gathered that Mrs C “did not believe [that Ms A] had cancer”). Although Mrs C advised Ms A to verify this with a doctor, Mrs C recalls Ms A mentioning that the doctors at Clinic 2 refused to see her.⁷ Consequently, Ms A decided to “just carry on” treatment with Mrs C. In contrast, the records from Clinic 2 do not contain any entry indicating that Ms A had presented to a doctor to verify the natural healer’s view.

Ms A continued seeking treatment from Mrs C over the remainder of 2005. Her notes of September and October 2005 state that “[Ms A] seems to be doing well at this stage. Keeping positive and well.” Thereafter, Mrs C did not record any other comments for the remaining sessions Ms A attended with her that year.

2006

Ms A continued seeing Mrs C weekly throughout 2006. From February 2006, the sessions were reduced to 2½ treatments each week, and it was further reduced to twice a week from late June 2006. The reasons for reducing the sessions are unclear.

On 21 March 2006, Ms A saw another of the doctors at Clinic 2, for a medical certificate to renew her sickness benefit. The doctor documented in her notes that “patient has breast cancer, ... using Biopton lights, she feels the mass is getting smaller with the therapy, she refuses standard medical treatment”. Following this, Ms A did not see a doctor again until late July 2006 (discussed below).

In June 2006, Mrs C documented that “[Ms A] has great faith and is well”. She also stated that Ms A “looked a picture of health” all throughout her treatment. Mrs C subsequently clarified that her comments about Ms A’s wellness were made in reference to Ms A’s “whole demeanour” rather than to the state of her breasts.

In July 2006, Mrs C recorded in her notes “would be nice to work with Doctor”. She clarified during the investigation that she would have “liked ... some back-up, ...

⁶ Brownish or pink ring of tissue surrounding the nipple of the breast.

⁷ There is nothing in Clinic 2’s records that suggests that Ms A had approached them regarding the natural healer’s assessment.

some support, someone to talk to”. However, Mrs C did not contact any doctor over the duration she treated Ms A. Mrs C acknowledged:

“In hindsight, I probably should have but I just respected [Ms A’s] wishes, I didn’t want to go behind her back.”

Ms A and Mrs C have different recollections regarding Mrs C’s comments about the medical profession. According to Ms A, Mrs C considered that doctors were “medical mafias” and “butchers”, and discouraged Ms A from seeking medical treatment. In contrast, Mrs C clarified that the comment was made in the context of a book she had read about “medical mafias” but that did not reflect her personal view.

On 27 July 2006, Ms A saw Dr E at Clinic 2 for another medical certificate to renew her sickness benefit. This was Ms A’s first encounter with Dr E. He enquired about the details of her illness and learnt that she had breast cancer. On examination, Dr E recorded that Ms A’s right breast was “markedly deformed” and the right nipple was “significantly diseased”. He also noted that there was a “large hard mass occupying almost the entire [right] breast”. Dr E recorded that despite having a “LONG” discussion about “the need for surgery and chemotherapy”, and telling Ms A that “she WILL die without treatment and this will be in the near future”, Ms A was “very resistant” and remained firm in her decision “to continue with alternative medicine”. However, Ms A did not provide Dr E with any details about the alternative treatment she was receiving, and her decision “really worried” him. Dr E advised Ms A to return to see him and gave her an open door policy. Dr E also documented his plan to visit Ms A at home.

On 9 August 2006, Dr E visited Ms A at home. He was accompanied by two colleagues: a breast screening associate, and a breast cancer survivor. During their long discussion about the need for specialist care, Ms A mentioned being “very afraid regarding the possibility of treatment”. Despite assuring Ms A that she would be supported while undergoing treatment for her cancer, Ms A remained firm in her decision to continue with alternative therapy. She did not provide any details regarding her treatment with Mrs C.

Thereafter, Dr E and his breast screening associate visited Ms A at home several more times. However, during each visit, Ms A remained resistant to seeking medical treatment. Apart from the home visits, Ms A did not see Dr E again until mid-2007 (discussed below). According to Mrs C, Ms A’s “declining visits to [Clinic 2] were created by herself, caused by [personal circumstances]”.

Meanwhile, Ms A continued receiving care from Mrs C. Between September and October 2006, Mrs C documented that Ms A had “money problems” and that Mrs C gave her \$150 and \$60 on two occasions. In December 2007, Mrs C recorded that she “will still treat [Ms A] over Xmas break”.

Events in 2007

Between January and April 2007, Ms A presented at Clinic 2 several times for medical certificates to renew her sickness benefit. She was seen by locum doctors,

who noted that she had breast cancer and had decided to seek alternative therapy. They also documented her comments that the treatments were “working well”.

Throughout 2007, Ms A continued treatments with Mrs C. Her notes of February 2007 state that Ms A was “feeling good not sick”, while in April 2007, Mrs C documented that Ms A was a “fighting courageous lady, has great faith in wellness”. In May 2007, Mrs C recorded that Ms A was “still feeling well” and that Mrs C had “talked to [Ms A] about seeing [a] doctor”. However, Mrs C declined to provide any details regarding Ms A’s response.

On 28 June 2007, Ms A saw Dr E for her sickness benefit renewal. He also recorded that Ms A “ha[d] been using alternative treatment” and was “still not keen on conventional treatment”.

In July 2007, Mrs C documented that “[Ms A] believes she’s healing”. Ms A recalls Mrs C telling her several times that she “was healing”, which Ms A believed. In August 2007, Mrs C noted that Ms A experienced “little pain, not much, feels good” and gave Ms A a bottle of liver tonic. The liver tonic was concocted by a naturopath for cleaning and detoxifying the liver. According to Mrs C, Ms A had requested the liver tonic after seeing it on Mrs C’s shelf and reading about its benefits.⁸ Ms A understood that she was given the liver tonic “in relation to what was already going on” (her breast cancer). Mrs C stated that there were no known risks or side effects from taking the liver tonic. However, she does not recall telling Ms A this or outlining the option of consulting a doctor.

From September 2007, Ms A reduced the frequency of her sessions with Mrs C to once a week. Between late September and early October 2007, Mrs C recorded that Ms A “looks well not sick feels good”. During this time, Ms A’s right breast began emitting a strong odour. She was given plantain leaves⁹ by Mrs C to “dry” and “draw out the bad stuff” (discharge from the breast). Mrs C does not recall having any discussions with Ms A at this stage about consulting a doctor. In late October 2007, Mrs C documented that Ms A’s right breast was “clean & pink”. (In contrast, Ms A recalls that it was “full of rot” and that it “stunk”. Mrs B confirmed that by this stage, her daughter’s right breast had “burst open and she was discharging blood & guts which smelt to high heaven”.) Mrs C stated:

“...[W]e started her on the leaves in ... late September early October and then within a very short time stuff started coming out of [Ms A’s] breast and then, when that all started to come out, her breast started to smell better it didn’t smell so strong and she asked me if I would have a look and see what it looked like inside, so I had a look inside and that’s when it looked really clean and pink and I said to her it looks clean and pink.”

⁸ In her response to the provisional opinion, Mrs C confirmed that Ms A “was not forced to take” any of the remedies Mrs C had suggested.

⁹ Similar to banana leaves but larger and stronger.

Ms A continued seeing Mrs C weekly throughout November 2007. During one session, Ms A informed Mrs C that she had been drinking essiac tea¹⁰ and applying its sediments on her breast. Mrs C's notes include an entry stating "don't think that [essiac tea sediments] is a good idea". According to Ms A, Mrs C told her around this time (the dates are unclear) that her "[right] breast would heal and [that she] would be swimming [in] the summer of 2007".

On 27 November 2007, Ms A telephoned Dr E for another medical certificate to support her sickness benefit renewal. Dr E stated that he needed to review Ms A and an appointment was arranged for December 2007. Three days later, on 30 November 2007, Ms A attended her last session with Mrs C. However, it was only after seeking medical treatment in December 2007 that Ms A made a decision not to return to Mrs C.

During Ms A's consultation with Dr E on 10 December 2007, he recorded that she was "distraught about the state of her right breast". Dr E noted that although Ms A "ha[d] been seeing alternative healers", she was "now unhappy with this as [she] feels it is not working". On examination, Dr E documented that Ms A's right breast was "malodorous" and "almost completely disfigured". Dr E also noted that there was a "malignant ulcerated mass penetrating deep into the tissue of [the right] breast" and that Ms A's "pectoralis major muscle¹¹ [could] be seen". Ms A was referred for an urgent review with a breast surgeon at the hospital.

On 12 December 2007, Ms A was reviewed by a breast surgeon. He advised her that she had "advanced breast disease that [was] palliative" and referred her for oncology treatment.

During this period, Mrs C telephoned Ms A to enquire about the appointments scheduled in December 2007 which she had missed. Ms A stated that she had been referred to hospital for treatment of her right breast. This concerned Mrs C and she decided to visit Ms A at home.

Around this time, Mrs C received Mrs B's complaint (dated 18 December 2007) about the care that her daughter had received. (There had not been any communication between Mrs B and Mrs C during the 2½ years Mrs C treated Ms A, and the complaint was Mrs C's first encounter of Mrs B. Mrs B was prompted to complain after learning that Mrs C had apparently considered Ms A's treatments a success, and was considering "branch[ing] out and treating other cancer patients".) Mrs B alleged that Mrs C "ha[d not] been totally responsible in [her] treatment of [Ms A]" and stated that Mrs C "ha[d] no business treating cancer patients". As Mrs C was aware of the

¹⁰ Essiac tea is a blend of herbs used to make a tea believed by some and questioned by others to have cancer-treating properties.

¹¹ Large muscle over the shoulder joint.

strained relationship between Ms A and her mother,¹² Mrs C decided not to reply as she did not want to create any “additional stress” for Ms A.

Prior to Christmas 2007, Mrs C visited Ms A at home. Mrs C recalls:

“[Ms A] talked about what happened with her breast. She said to me why did I tell her to wash out her breast[?] [Well] because it smelt bad and if she didn’t wash it out it would smell terrible. Well I said the reason that I did that was because [local] water did not have a good reputation and I didn’t want her to get an infection.¹³ But anyway ... I didn’t stay very long.”

During this visit, Mrs C also informed Ms A of her mother’s complaint, and Mrs C’s decision not to reply. According to Mrs C, Ms A accepted her explanation and it did not bother Ms A that her mother would not be hearing further from Mrs C.

Shortly after the visit, Ms A informed Mrs C of her decision to cease treatments with her. Ms A also requested a refund and was given \$1,600.

In late 2007, Mrs B relayed her concerns about Mrs C to a Health and Disability advocate. A complaint was sent on Mrs B’s behalf to the Commissioner in early January 2008.

Other matters

Since December 2007, Ms A has had several cycles of chemotherapy at hospital. Over the course of the treatments, Ms A was advised that the purpose was “to control the cancer for some period of time” rather than “to cure it”. In late January 2008, a CT scan showed evidence of multiple lung metastases, which were treated with chemotherapy. In April 2008, Ms A underwent a right mastectomy followed by further courses of chemotherapy.

Responses to provisional opinion

Ms A

Ms A clarified several matters which have been incorporated into the “Information Gathered” section above. In relation to the treatments she received from Mrs C, Ms A stated:

“I believed [Mrs C] so much. I believe I was totally deceived.”

Ms A concluded:

¹² Ms A confirmed that her relationship with her mother was strained because Mrs B attempted to persuade her daughter to seek medical attention to no avail.

¹³ Ms A disputes that Mrs C had any discussion with her about her right breast during the home visit. According to Ms A, all Mrs C said was that the condition of Ms A’s right breast would worsen if “[local water got] in it”.

“I was in a fragile state and I believe I was totally taken advantage of by [Mr & Mrs C].”

Mrs B

Mrs B also clarified several matters which have been incorporated into the “Information Gathered” section above. On reflection, Mrs B commented:

“[Ms A] believed everything she heard from [Mrs C] and as a result, this has had tragic results.”

Mrs B concluded:

“... I believe [Mrs C] has failed in her duty as a carer.”

Mrs C

Mrs C acknowledged that there were deficiencies in her care of Ms A, and outlined the changes she intended to make to her practice. Mrs C stated:

“I accept the [provisional] report’s recommendations. In future I will:

1. Provide each client with a written disclaimer, outlining the fact that my therapy with Bioptron lights or other remedies do not guarantee a cure for any specific medical complaint. People are referred to me by local doctors and [the local] Hospital as well as other clients who have seen and know the benefits of what Bioptron Light can achieve.

But I appreciate that they can still misinterpret any information I give them in the light of their own expectations. I will continue to give them the written information about Bioptron.

2. Ensure that all verbal information I give to clients is totally unambiguous and factual, and not being unnecessarily influenced by the reports from the client in describing his/her own wellbeing.

I will make sure that I give regular objective progress reports to the client themselves and if necessary to other health professional[s] involved.

3. Ensure that I am not emotionally affected or involve myself with the financial, environmental or social needs of any client — thus maintaining the professional distance that ensures an objective relationship in treatment from both parties.
4. Undertake to speedily address ... an[y] complaint that involves me or my services.
5. Continue to keep up to date with my own Professional Development and product knowledge of my therapies.”

Code of Health and Disability Services Consumers' Rights

The following Rights in the Code of Health and Disability Services Consumers' Rights are 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.*

RIGHT 6

Right to be Fully Informed

- (1) *Every consumer has the right to the information that a reasonable consumer, in that consumer's circumstances, would expect to receive, including —*
- (a) *An explanation of his or her condition; and*
 - (b) *An explanation of the options available, including an assessment of the expected risks, side effects, benefits, and costs of each option;*

RIGHT 10

Right to Complain

- (1) *Every consumer has the right to complain about a provider in any form appropriate to the consumer.*

...

- (3) *Every provider must facilitate the fair, simple, speedy, and efficient resolution of complaints.*
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Other relevant standards

The New Zealand Light and Colour Therapy Institute Incorporated's Code of Ethics states:

"Members are cautioned against raising healing expectations for individual persons or making invalid claims or statements about Light or colour Therapy healing abilities. Each individual being treated is unique and results will depend on many factors including age, chronic or acute status of the complaint and any other contributing ailments."

Opinion: Breach — Mrs C

I consider Mrs C to be a health care provider under section 3(k) of the Health and Disability Commissioner Act 1994 (the Act) when providing Bioptron light therapy treatment. Mrs C held herself out as a practitioner who had the training and skills to treat a wide range of medical conditions albeit in the context of complementary therapy. Specifically, she used a device to transmit Bioptron light on selected parts of Ms A's body, including her breasts, to "regenerate [the] cells" and "to boost the immune the system". Therefore, I am satisfied that Mrs C provided "health services" in accordance with the definition in section 2 of the Act, and she is therefore obliged to comply with Code of Health and Disability Services Consumers' Rights (the Code).

Adequacy of information

Right 6(1) of the Code states that consumers have the right to receive full information about their care and treatment, including an explanation of their condition and the treatment options available. Patients are also entitled to receive an assessment of the expected risks, side effects, benefits and costs of each option. This is necessary in order for the patient to make an informed choice and/or provide informed consent about the treatment being offered.

In May 2005, Ms A visited Mrs C at her clinic to enquire about Bioptron light therapy. Ms A told Mrs C that she had been diagnosed with breast cancer, and had decided against conventional medical treatment. During the consultation, Mrs C tried to persuade Ms A to reconsider her decision, but Ms A remained adamant that she did not wish to pursue conventional cancer treatment.

Mrs C provided Ms A with information about Bioptron light therapy, and its effect on the immune system. Ms A recalls that Mrs C "kind of gave [her] the impression that [she] was going to get cured" and that Mrs C appeared "confident" and "knew what she was doing". In contrast, Mrs C recalls telling Ms A that she "had never treated anyone with cancer and could not be sure what the outcome would be". Mrs C told Ms A that "all we can do is try", and that there were no guarantees. Given Ms A's aversion to seeking medical treatment, Mrs C stated that she "did not have the heart to turn Ms A away". Mrs C documented in her notes "cannot turn [Ms A] down or she may have no treatment at all, no promises. My choice would be to work with Doctor." On the basis of the information gathered, I am satisfied that Mrs C recommended conventional treatment, gave Ms A adequate information about Bioptron light therapy, and did not give any assurances about the likely outcome of the treatment.

In late June 2005, Mrs C suggested that Ms A should take a vitamin and mineral supplement for detoxification, and recommended CAA tablets. Mrs C told Ms A that the CAA tablets had helped her feel more energetic and directed Ms A to written information about the tablets. In my view, a reasonable consumer in Ms A's circumstances would expect to receive information about the tablets that was specific to her clinical condition and circumstances. This information should include an explanation of the options available and an assessment of the risks, benefits, and costs of the CAA tablets for Ms A. Similarly, Mrs C recommended that Ms A try taking a liver tonic and applying plantain leaves to her breast, but did not provide Ms A with

sufficient information about the plantain leaves, or the liver tonic. Although I am satisfied that Mrs C did not “force” these remedies on Ms A, Ms A was also entitled to an explanation of the options available, and an assessment of the risks, benefits, and costs of the plantain leaves and the liver tonic. By failing to provide this information, Mrs C breached Right 6(1) of the Code.

Obtaining informed consent to treatment is not a one-off event. Mrs C had an ongoing obligation to provide Ms A with adequate information during the course of her treatment. In particular, a reasonable consumer, in Ms A’s circumstances, would expect Mrs C to discuss her progress and keep her informed about the risks and benefits of continuing light therapy. A reasonable consumer in Ms A’s circumstances would also expect to receive regular information about the other treatment options available. Ms A needed this information to enable her to make an informed choice about her treatment.

I accept that Mrs C suggested that Ms A consult a doctor a few months into the light therapy treatment, and again in July 2006. However, in my view, Mrs C should have presented the option of conventional medical treatment more frequently during the course of the treatment, particularly when it became apparent that the breast tissue was not responding to light therapy. Furthermore, Mrs C should have had regular discussions with Ms A about the risks and benefits of continuing the treatment.

Mrs C knew that Ms A had a life-threatening condition. In these circumstances, she should have been meticulous about giving sufficient information to enable Ms A to make an informed choice about her health care. However, as outlined above, Mrs C failed to provide Ms A with adequate information during the course of her treatment, and breached Right 6(1) of the Code. Mrs C accepts this, and has undertaken to provide future clients with clear and proper information about their treatments.

Standard of care

Under Right 4(2) of the Code, Ms A was entitled to have services provided in compliance with legal, professional, ethical and other relevant standards. Specifically, she was entitled to have Bioptron light therapy provided in compliance with the New Zealand Light and Colour Therapy Institute Incorporated’s Code of Ethics. The Code of Ethics states:

“Members are cautioned against raising healing expectations for individual persons or making invalid claims or statements about Light or colour Therapy healing abilities. Each individual being treated is unique and results will depend on many factors including age, chronic or acute status of the complaint and any other contributing ailments.”

I accept that at the outset, Mrs C and Ms A both believed there was a chance that Mrs C’s treatment would cure Ms A’s cancer, or at least have a positive effect on her clinical condition. However, an objective assessment of the information gathered shows that as time went on, Ms A’s clinical condition clearly deteriorated. In my view, Mrs C’s failure to provide Ms A with adequate information about her progress, and the various treatment options that she pursued, inappropriately raised Ms A’s

healing expectations. In this regard, Mrs C did not provide Ms A with services that complied with the New Zealand Light and Colour Therapy Institute Incorporated's Code of Ethics, and breached Right 4(2) of the Code. Mrs C has acknowledged the importance of understanding and complying with all legal, ethical and professional standards expected of her as a therapist.

Other comments

Provider's response to complaint

After learning that Ms A had been to hospital for treatment of her right breast, Mrs C decided to visit her at home. Prior to the visit, Mrs C received a letter of complaint from Mrs B alleging that Mrs C did not provide Ms A with appropriate care. Owing to the strained relationship between Ms A and her mother, Mrs C decided not to reply to Mrs B so as not to aggravate matters further. When Mrs C informed Ms A of her decision during the home visit, Ms A appeared unconcerned that her mother would not be receiving any response from Mrs C.

Although Mrs C's decision was pragmatic in some respects, it was not a good way to handle a complaint. Ideally, Mrs C should have contacted Mrs B to discuss her concerns, and perhaps offered a face-to-face meeting. At the very least, Mrs C should have acknowledged receipt of Mrs B's complaint and informed her that Mrs C did not intend to reply. Instead, Mrs B was kept in the dark about whether the complaint had been received and, if so, whether her concerns had been heeded.

In my view, Mrs C missed the opportunity for low-level resolution of Mrs B's concerns. Had Mrs C responded, it might have assisted Mrs B to understand her daughter's decision to seek alternative treatment, and to keep at it for 2½ years. I take this opportunity to remind Mrs C of her obligations under Right 10(3) of the Code, which requires a health care provider to facilitate the fair, simple, speedy, and efficient resolution of complaints. Mrs C has undertaken to address future complaints about her and her services promptly.

Communication

According to Ms A, Mrs C told her during the course of her treatment that "people pick their diseases and that we can heal ourselves ... if you use your mind properly". Consequently, Ms A began blaming herself believing that her cancer was self-inflicted, and that she had to try to cure her illness. I take this opportunity to remind Mrs C of the need to exercise caution when making potentially judgmental comments. Mrs C has acknowledged the importance of providing her clients with "totally unambiguous", "factual", and "objective" information.

Professional boundaries

I also note from Mrs C's documentation that she gave Ms A money on two occasions between September and October 2006. While I acknowledge that Mrs C demonstrated concern and tried to help Ms A with her "money problems", giving money to a consumer while he or she is under a provider's care is unwise, as the provider runs the

risk of blurring professional boundaries.¹⁴ It also creates a significant power imbalance between the provider and consumer, and puts the consumer in an awkward position should the consumer subsequently decide to cease treatment with the provider. In my view, Mrs C crossed her professional boundaries by helping Ms A financially. Mrs C accepts that this occurred, and has undertaken to maintain proper professional boundaries with future clients.

Actions taken

Mrs C has provided a written apology for her breaches of the Code. This has been forwarded to Ms A. Mrs C has also reflected on the care provided to Ms A. I acknowledge Mrs C's unreserved admission of responsibility, and the changes she has undertaken to implement in her practice.

Follow-up actions

- A copy of this report, with details identifying the parties removed, will be sent to the New Zealand Light & Colour Therapy Institute Incorporated, and will be placed on the Health and Disability Commissioner website, www.hdc.org.nz, for educational purposes.

¹⁴ The risk of blurring professional boundaries is also discussed in a case involving a general practitioner who recommended several Nutriway products to his patients over a two-year period; see case 04HDC06861 (available from www.hdc.org.nz).

Appendix 1

Heal yourself of numerous health problems by taking CAA – the only mineral-vitamin supplement specially formulated for New Zealanders

This absorbable NZ mineral supplement CAA, contains a highly effective blend of important diet minerals (and vitamins), based on a formula originally refined over a 50 year period by 100 year old Australian sheep farmer Percy Weston.

(See his book "Cancer: Cause and Cure" page 19.)

It began back in the 1930s, when after years of using superphosphate chemical fertiliser, Percy Weston's sheep began suffering from cancer on their ears, and arthritis in their back legs. He finally traced the problem to lack of minerals in the soil and too much phosphorus in the pasture.

Heals his sheep of Cancer and Arthritis

He believed this to be due to superphosphate fertiliser, which is highly acid (pH 1.5) and kills essential soil bacteria and worms, upsetting the mineral balance of the soil. After much experimenting, Percy was able to heal his sheep by providing eight minerals that were depleted in his soil.

These lacking minerals were magnesium, potassium, zinc, iron, manganese, cobalt, sulphur and sodium. He provided these minerals to his sheep in a powder form within a salt lick.

Percy cures himself of arthritis and cancer

At age 39, not long after healing his sheep, Percy himself became crippled with serious cancer and arthritis.

He became desperate when orthodox medicine could not heal him and began to take the same mineral powders that had cured his sheep. At the same time he cut down on high Phosphorus foods.

In just four months, he not only rapidly healed both his cancer and arthritis, but he lived another 60 years in vigorous health. He was still farming at age 98, and died peacefully in his sleep in 2003 at 100 years of age. His heart remained strong throughout his life.

Over the years, Percy continued to refine his blend of minerals and provided them to people who heard of the benefits and came out to his farm in rural Victoria. These minerals greatly improved the health of almost everybody who took them.

At the age of 97, Percy wrote his highly interesting "Cancer: Cause and Cure" book



Percy Weston.
Was still farming
at age 98.

about his life. See page 19.

Selenium, Boron and other minerals added to Percy Weston's mineral powder for New Zealanders

When David Coory, the NZ health researcher and author of "Stay Healthy by Supplying

What's Lacking in Your Diet" NZ's top selling health book for the past 16 years (see page 14) read Percy's book, he immediately recognised the importance of Percy Weston's findings. Especially the role of excess Phosphorus in the diet and depleted soil minerals.

So he arranged for a reputable NZ nutritional company to manufacture Percy Weston's Australian mineral formula. He also added the minerals known by years of farming experience to be lacking in New Zealand soils. Added were Selenium, Boron, Iodine, Copper, Cobalt, Silica, Chromium, Folate (Folic Acid), plus the B Vitamins, Vitamin D, Vitamin E, Vitamin C and Bioflavonoids and Antioxidants.

He specified that all ingredients were to be the finest and most absorbable available. For example the Vitamin B12 used is a newly developed form that is well absorbed by the digestive system, (unlike the common form Cyanocobalamin). However it is extremely costly – \$2500 for about half a cup.

The name chosen for the special New Zealand formulation was CAA (pronounced see ay ay) which stands for Cancer, Arthritis and Artery protection.

CAA mineral powder works extremely well

The effectiveness of CAA in NZ in the past three years has exceeded all expectations. Especially in the remission of Arthritis, Cancer, Prostate and skin problems, avoidance of Artery problems and in increased energy.

You can read just a few of these testimonials on the next page.

Researcher David Coory says, "These results confirm that we in NZ are seriously lacking trace minerals in our food. Farmers have proved this beyond all question with animal health, and we are part of the same food chain."

CAA in capsule form

The mineral-vitamin powder is supplied in capsule form for maximum absorption. Just take one capsule a day. You can take them whole, or twist the capsule open and add the powder to

your drink or food. Taking CAA with the evening meal produces the best results for most people.

Excellent reports received every day

Excellent reports continue to pour in from users of CAA. All types of arthritic pain relieved, increased mobility, cancer remission, prostate problems vanished, lower blood pressure and cholesterol, skin improved, better sleep, clearer mind, increased energy. Even more, as you can see from the testimonials on the next page.

Mental benefits from CAA are often felt within 24 hours, and physical benefits from three weeks to three months.

There have been no reports of interactions with medication.

Importance of your Phosphorus - Calcium balance

For best health protection, Percy Weston recommends that our daily Phosphorus intake from food be less than our Calcium intake.

This is important, as in most NZ diets Phosphorus intake is more than twice as high as Calcium. To help you control your Phosphorus and Calcium intake, David Coory has compiled an easy-to-follow NZ booklet listing the Phosphorus and Calcium levels of 500 NZ foods in daily servings. This

booklet is called "Phosphorus and Calcium Levels in NZ Foods" and can be obtained, post free for just \$5. See page 16.

CAA costs less than \$20 a month

The cost of CAA has been kept as reasonable as possible, under \$20 a month, and much less than this when you buy several bottles at once, or purchase our highly recommended Triple Pack, see the front page of this catalogue.

Also, by cutting down expensive, high Phosphorus foods you can more than save the entire cost of CAA each month.

Price of CAA is \$40 per bottle of 60 capsules. couriered free anywhere in NZ, (two months supply).

Or only \$35 a bottle if four or more bottles are purchased at one time.

However, if you can afford it, we strongly recommend our Triple Pack which combines a bottle of CAA, Coral C and CoQ10-Omega3 to offer you even bigger savings and even greater health benefits. See pages 6, 8 and 10.

CAA is now also available without Iron and without Sulphur. Tick your need on the order page.

Read customer testimonials of CAA on the facing page...



Contains Percy Weston's mineral formula with the addition of 16 other important minerals and vitamins for New Zealanders.