
Dentist

Report on Opinion - Case 97HDC10301

Complaint The Commissioner received a complaint from a consumer that the provider, a dentist:

- gave conflicting diagnoses about the condition of the consumer's teeth between October 1996 and August 1997
- made in excess of 20 attempts to anaesthetise a tooth, breaking at least three needles in the procedure during a consultation in September 1997
- did not inform the consumer that the consultation was for a root canal and did not give information about the procedure itself.

Investigation The complaint was received on 24 November 1997. Notification was also received from the Dental Council of New Zealand who had been sent a copy of the complaint. An investigation was undertaken and information was obtained from:

The Consumer
The Provider/Dentist

The Commissioner also received advice from a dentist who viewed the consumer's x-rays taken at time of the complaint, and his dental records.

Outcome of Investigation The provider provided the consumer with regular dental check ups and treatment for six years prior to his complaint. The consumer reported these visits were brief with a confirmation everything was fine. Furthermore, the consumer recalled he had x-rays taken two or three years prior to the x-rays taken in 1997. The provider advised the Commissioner seven minimal or surface fillings were performed during this period. The provider advised that the current accepted practice is to take a conservative approach in x-raying young people unless there are clinical indications to do so.

In late August 1997 the provider examined the consumer's teeth and took an x-ray. Later the provider contacted the consumer to express concern about the poor state of his teeth and arranged to see him in early September 1997 for further treatment. The consumer was surprised to learn his teeth had decayed considerably since his last appointment.

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**Outcome of
Investigation
*continued***

The provider discussed dietary causes of decay and advised him to eat less “junk food”. At this stage the provider did not know that root canal treatment would be necessary and there was no discussion on possible treatment options.

The dentist advising the Commissioner reported it is common for adolescents with relatively low decay rates to have x-rays taken every two or three years and that:

It is nevertheless the experience of many dentists to find, unexpectedly, an occasional deep cavity on the radiograph of a patient who had all the clinical indications of low exposure to caries and an apparently healthy mouth.

At this second appointment the consumer reported the provider used a large number of anaesthetic injections to anaesthetise the tooth, without success and that injection needles were broken in the process. The provider reported to the Commissioner that anaesthesia was difficult to obtain but that this is not uncommon with lower molar teeth as they have a thick buccal cortical plate. The provider further advised the Commissioner that the consumer was mistaken and that cartridges were broken, not the needles. In addition the dentist advising the Commissioner noted that:

An intraligamental injection... requires the anaesthetic solution to be injected with quite heavy pressure... I am sure he is referring to either the fracture of anaesthetic cartridge(s), and/or the bending of the needle(s). These occurrences are not uncommon with this technique.

The consumer reported in his complaint that he was not informed root canal treatment would be done and neither was he given information about the procedure. The provider advised that he did not know root canal procedure would be necessary until he could examine the pulp of the tooth. The dentist advising the Commissioner noted that:

It [is] not possible to tell from the radiograph beforehand whether root canal therapy would be necessary.

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**Outcome of
Investigation
*continued***

The provider advised his routine practice is that once root canal treatment is deemed necessary, he explains the procedure to his patients in order to obtain agreement to go ahead, and that this was done for the consumer. The provider advised the Commissioner he does not give out information pamphlets or obtain written consent for root canal treatments.

The provider, in describing his explanation to the consumer, said that part way through the consultation when he knew root canal treatment would be necessary, he stopped the procedure and discussed the treatment. The provider recalls when informing the consumer, he did not use the word "root canal" as he believed the consumer, like most people, would not understand the term. Instead the provider referred to the nerve which needed to be removed. The provider reported that the consumer seemed to be accepting of the treatment and gave no signs he was unhappy at the time. The provider also advised that he recommends root canal treatment for young people rather than extraction which is the only other option.

The consumer reported his filling was unable to be completed in the time allowed. The provider advised that his usual procedure is to allow time for the root canal filling to settle and to make another appointment for the crown filling to be done as was the case with the consumer two days later. The provider recalls discussing with the consumer the type of filling he preferred for his crown. The provider also considered there was nothing unusual about any of the procedures done on the consumer.

The consumer reported that after the root canal treatment was completed, the provider stated that he would need an additional six fillings. In reply, the provider said that he did not advise the consumer on the number of fillings, but told him that further work would be necessary.

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

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; ...*

**Opinion:
No Breach**

Right 4(2)

In my opinion the provider did not breach Right 4(2) of the Code of Health and Disability Services Consumers' Rights. The treatment provided by the provider met professional standards of care.

**Opinion:
Breach**

Right 6(1)(a) & 6(1)(b)

In my opinion the provider breached Right 6(1)(a) and Right 6(1)(b) of the Code of Health and Disability Services Consumers' Rights. The consumer was entitled to an explanation of the diagnosis, procedure, and cost of treatment before the procedure was undertaken and at a time when he was able to assimilate the information.

The provider did not provide the consumer with sufficient information about the diagnosis and treatment. The consumer should have been given an indication that root canal treatment might be necessary at the beginning of the consultation so that the consumer was able to prepare himself for more intensive treatment if necessary.

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**Opinion:
Breach,
*continued***

Right 6(1)(a) & 6(1)(b)

For example, he should have been informed that the x-ray indicated root canal treatment was possible and that this could only be confirmed when the decay was removed.

Furthermore the consumer should have been told the technical term “root canal” as well as the lay explanation. It was inappropriate to assume the consumer would not understand. In these cases, diagrams can easily be used to indicate the condition and explain the options with the expected risks, side effects, benefits and costs of each option.

Actions

The provider must improve his communication skills to ensure that all explanations of procedures and their costs are fully understood by his patients prior to undergoing any procedure. I recommend that the provider briefly records in patients’ notes the information he provides and also considers providing pamphlets describing root canal treatment to his patients needing this treatment.

The provider is to provide a written apology for his breach of the Code to the consumer. The apology should be sent to this Office and the Commissioner will forward it to the consumer. A copy will remain on the investigation file.

A copy of this report will be sent to the Dental Council of New Zealand.
