
Dental Technician

Report on Opinion - Case 97HDC8415

Complaint

A consumer complained to the Dental Technicians Board about the service she received from the provider, a dental technician.

The complaint was forwarded to the Commissioner by the Dental Technicians Board. The details of the complaint were as follows:

- *In treating the consumer, the provider has been practising as a clinical dental technician. He is not licensed to do so. He is not permitted to carry out clinical services to consumers or carry out work within the oral cavity of a patient.*
- *On two dates in early April 1997 the provider removed bone fragments from the inside of the consumer's mouth. This is in breach of his practising licence. Only a dentist is permitted to carry out work in a mouth in which there is unhealed tissue.*
- *The provider is not qualified to take wax impressions of teeth. During his treatment of the consumer, he took three sets of impressions. He made teeth which did not fit and then made several attempts to correct them in May and June of 1997. The dentures caused the consumer serious pain and discomfort. Her gums were raw and bleeding.*

Investigation

The Commissioner received the complaint on 3 September 1997 and an investigation was commenced. Information was obtained from the following people:

The Consumer
The Provider
The Dental Technicians Board
A Dentist
A Clinical Dental Technician

The consumer's dental records from a hospital oral dental unit were obtained and viewed by the Commissioner. The provider also supplied the Commissioner with the consumer's records.

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Details of Investigation

In late November 1996 the consumer visited the provider, a dental technician, at his practice with a view to having a set of dentures constructed for her. After a discussion about the consumer's dental history and an examination of her mouth, teeth and gums, the provider indicated that he would be able to construct a new set of dentures for her. He indicated that there might be some problem because of her dental history. The consumer had suffered recurrent, long-term dental problems including gingivitis. The provider gave the consumer a verbal estimate of the cost of the dentures.

The next day the consumer returned to have impressions taken of her teeth and gums. The provider confirmed his verbal quote with a written quote. Five days later the consumer picked up the hardened impressions and was told that work would commence once she had received a full dental clearance from the hospital oral health unit. After some delay the consumer's teeth were removed at the hospital in mid-February 1997.

The consumer's sutures were removed at the hospital eight days after surgery. Following this she telephoned the provider and made an appointment for a date in early March 1997. At this appointment, the provider examined her mouth and made a further appointment for mid-March 1997 with a request to bring the wax impression he had made in December 1996.

At the next appointment when the provider examined the consumer's gums, which had still not fully healed, the consumer raised her concerns about what she thought were sharp pieces of bone protruding from her gum and was advised that this problem would resolve without any further action. As requested the consumer gave the provider the hardened impression made in December and a further appointment was made for early April 1997.

The consumer advised that at the April appointment the provider removed a piece of bone fragment. He made the comment to the consumer that the other pieces would come out of their own accord. The provider discussed the matter with the dentist who practised in the same building. The consumer did not know the dentist's name but described him by his ethnicity. The dentist was present as the provider commenced removing the bone fragment but left before the procedure was completed. The dentist works in the same building as the provider.

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**Details of
Investigation,
*continued***

A week later the provider removed a second piece of bone fragment and took a second set of wax impression of the gums. On this occasion the dentist was not consulted nor was he present while the bone fragment was removed. A further written quote for a reduced amount was given to the consumer, by amending the quote given in December 1996.

A week after this, the consumer was shown her new teeth in an initial set of dentures. The provider commented that he was pleased with the dentures but indicated that adjustments would have to be made over a period of time once the dentures were fitted.

Five days later, the consumer returned to pick up the finished set of dentures. The provider said that it would take a period of adjustment of between six to twelve months to achieve a comfortable fit. The provider provided some poligrip powder to assist in the process and informed the consumer that she would have to work hard to achieve this. He also supplied some toothpaste and suggested that the consumer return in a couple of weeks to report on progress.

After a week, the consumer returned to see the provider as the dentures were loose fitting, and rubbing against the gums and the side of the mouth, causing discomfort and bleeding. After examination of her mouth the provider smoothed off parts of the dentures and reassured the consumer that this was expected. The provider made an appointment for the consumer for mid-May 1997.

By the time the consumer attended this consultation, she was experiencing pain and discomfort and had chosen to reduce the time she was wearing the dentures. At this consultation the provider hollowed out areas of the dentures which he thought were causing the friction.

The consumer continued to experience pain and discomfort and at a further appointment in late May the provider again hollowed out parts of the dentures. However, the situation remained unchanged with the consumer continuing to experience pain and discomfort.

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**Details of
Investigation,
*continued***

In early June 1997 the consumer reiterated her concerns about the dentures not fitting. The provider placed a substance in the dentures, both top and bottom, and placed the dentures in the consumer's mouth asking her to lie down so the substance could set. This substance caused a burning sensation to the inside of the consumer's mouth. The lining was then smoothed off and the consumer was told to come back in a month's time. The consumer said that she experienced a chemical taste in her mouth which made her feel ill and the dentures were still too loose to eat or speak with. She stopped wearing the dentures altogether.

The consumer subsequently made contact with the Dental Technicians Board who advised her to see another provider who was a registered clinical dental technician. When this registered clinical dental technician was consulted, the consumer was advised to return to the oral dental unit as she still had remaining pieces of bone which should be removed. After successful surgery at the unit, the consumer returned to see the registered clinical dental technician who constructed a new set of dentures for her. The consumer has had no problems with her new set of dentures.

The provider has refunded the cost of the dentures to the consumer.

Bone Fragments

In response to my investigation, the provider denied removing bone fragments from the inside of the consumer's mouth. The provider's solicitor advised:

"The provider as a dental technician does not extract teeth, bone, or tooth fragments. He works under the direct supervision of a dentist and should any bone or tooth fragments be present, the dentist would remove them. The consumer was seen by [a named dentist] supervising the provider."

When the dentist was asked if he had removed bone fragments from the consumer's mouth on two dates in early April 1997, he responded that he had not removed bone fragments on those two occasions nor had he supervised the provider in any such work. The dentist said that if he had been involved in any such dental work he would have recorded it, and he had no such record.

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

The following Rights in the Code of Health and Disability Services Consumers' Rights are applicable:

RIGHT 4

Right to Services of an Appropriate Standard

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

**Legal
Standards**

Dental Act 1988

The provider is registered as a dental technician and holds a current annual practising certificate.

The following sections of the Dental Act 1988 have been considered and 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:

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**Legal
Standards,
*continued***

(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,
- and the expression "to practice", in relation to dentistry, has a corresponding meaning:

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 is 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.
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Opinion: In my opinion the dental technician breached Right 4(1) and Right 4(2) of
Breach the Code of Health and Disability Services Consumers' Rights as follows:

Right 4(1)

The provider provided services to the consumer that he was neither legally entitled nor qualified to provide, namely the services of a clinical dental technician. Providing services that were not within his specific area of professional expertise and not within his specific professional registration was a breach of Right 4(1). The services the provider provided, which were within his scope of practice as a dental technician, did not meet the standard of care and skill required of that profession. This is illustrated by the fact that the dentures he constructed were structurally defective and did not fit. The fact that a registered clinical dental technician constructed a set of dentures for the consumer which have caused her no difficulties further supports the view that the dentures the provider constructed as a dental technician did not meet the requirement that services be provided with reasonable care and skill. Accordingly, in my opinion, the provider has breached Right 4(1) of the Code of Rights.

Right 4(2)

Legal Standards

The consumer complained that she had bone fragments removed from her mouth on two dates in early April 1997 by the provider. The provider advised that he did not remove bone fragments from the inside of the consumer's mouth. He also advised that the dentist who was supervising him would have removed any bone fragments present in the mouth. The dentist has stated that he did not remove the bone fragments, nor did he assist or supervise the provider in the removal of the bone fragments. There is no evidence to indicate the named dentist or any other dentist did this work.

The consumer complained that she had an impression made of her teeth and gums in late November 1996, and in early April 1997 a further impression of her gums was made. In early June 1997 the consumer complained that a lining substance was fitted to the dentures.

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**Opinion:
Breach,
continued**

In my opinion the provider contravened section 4 of the Dental Act 1988 by performing the work in the consumer's mouth when he was not entitled to do so. Both removing bone fragments and taking impressions of a patient's mouth are services that are included in section 4(f) of the Dental Act's definition of dentistry.

Additionally, the provider's actions in taking impressions and fitting a substance to the consumer's dentures and working within the consumer's mouth, contravene section 2 and section 4 of the Dental Act. The provider was providing the services of a clinical dental technician when his registration is limited to the services of a dental technician.

In my opinion, the provider's failure to comply with the legal standards prescribed by sections 2 and 4 of the Dental Act represents a breach of Right 4(2) of the Code of Health and Disability Services Consumers' Rights.

Professional Standards

In mid-April 1997 the consumer received a new set of dentures which the provider advised would take her from six to twelve months with which to become comfortable. The consumer experienced problems with these dentures that became worse despite the provider's efforts to rectify them. Specifically, the dentures were loose, rubbed against her gums and the side of her mouth causing pain, bleeding and extreme discomfort. The consumer recorded three separate occasions on which the provider tried to improve the fit by smoothing and hollowing out different areas of the dentures. Eventually the consumer could no longer cope with the discomfort and stopped wearing the dentures.

The provider's response states that adjustments needed to be made to the dentures over a period of time in order to achieve a satisfactory fit.

He stated:

"As to the fit of the dentures, it is well accepted that once teeth are removed the alveola bone shrinks, which results in any close fitting denture becoming loose and 'ill fitting'. In the normal course of events a denture will be temporarily re-fitted periodically over the first 6 to 8 months until the bone is stable enough to do a permanent re-line or re-fit. In some extreme cases the denture may need to be replaced. In [the consumer's] case, she in fact became frustrated after only 2 months and the denture was returned and a full refund given".

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**Opinion:
Breach,
*continued***

In my opinion the consumer's problems did not relate to "fine-tuning" but were structural defects in the dentures. Insofar as the provider provided the services of a dental technician in constructing the consumer's dentures, he did not comply with the professional standards of practice required of a dental technician. Further, when the provider attempted to fit the dentures by placing a substance on them, placing them in the consumer's mouth, and asking her to lie down until the substance set, not only was he providing services beyond those which he was lawfully entitled to perform, but he was unable to achieve a result of an appropriate professional standard, i.e. a set of dentures which fitted the consumer's mouth and which were functional for the purposes of eating and speaking. The provider's refund of the consumer's costs does not alter the fact that this work was not undertaken to appropriate professional standards.

In failing to provide services of an appropriate professional standard, the provider breached Right 4(2) of the Code of Rights

Record Keeping

The consumer advised the Commissioner that a total of thirteen consultations took place. The records supplied to the Commissioner by the provider show six consultations and the details of actions taken by the provider are scanty.

The provider's solicitor advised that records of appointments during construction of the dentures would be kept on the lab prescription forms. The original documents were not retained as the provider destroys these forms after one year. The provider kept full computer records of each appointment and attendance but the computer records were lost due to a power surge and subsequent computer crash.

The provider was advised and agreed to send a sworn affidavit as to the existence of the records and their contents. However this affidavit was not provided.

The standard procedure of any health professional is to record details of consultations, advice given and any actions taken. In my opinion, the absence of adequate record keeping of consultations and actions taken is a breach of the provider's obligation to meet professional standards under Right 4(2) of the Code of Rights.

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Actions

I recommend that the provider:

- Apologise in writing to the consumer for breaching the Code of Rights. This apology is to be sent to the Commissioner who will forward it to the consumer. A copy will be retained on the Commissioner's file.
- Provides only those services that are specifically within his professional registration as a dental technician and that he consult with the Dental Technicians Board to organise peer supervision of his work.

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.
