General and Plastic Surgeon

Report on Opinion - Case 97HDC9508

Complaint

A consumer complained to the Commissioner about the professional conduct of a plastic and general surgeon who performed breast reduction surgery on the consumer in late May 1997. Details of the consumer's complaint are as follows:

- *The Surgeon did not adequately inform the consumer of the risks associated with a bilateral breast reduction.*
- *The Surgeon did not conduct the consumer's post-operative care following the bilateral breast reduction with appropriate care and skill. In particular:*
  - *Three days after the surgery, the Surgeon discharged the consumer from hospital despite it being obvious that the blood supply to her breasts had been reduced and the left nipple was dusky.*
  - *Eight days after the surgery, when the Surgeon removed the consumer's sutures, he recorded that the left nipple appeared dusky. He should have realised from this symptom that there was something wrong with the blood supply to the nipple, and taken appropriate action.*
  - *Eight days after the surgery, the Surgeon failed to remove all the sutures in the consumer's wound.*
  - *The Surgeon did not completely excise the wound when it was obvious there was a significant amount of necrotic material present.*

Investigation

The complaint was received by the Commissioner on 24 October 1997. An investigation was undertaken, and information was obtained from:

The Consumer
The Provider / General and Plastic Surgeon
The Consumer's General Practitioner
A Plastic Surgeon
A General and Vascular Surgeon, ("the Surgical Consultant")

Clinical records relating to the care of the consumer in relation to the breast reduction surgery and post-operative care were obtained and reviewed. Advice was obtained by the Commissioner from an independent plastic and reconstructive surgeon.

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General and Plastic Surgeon

Report on Opinion - Case 97HDC9508, continued

Outcome of Investigation

The consumer has had a long history of problems with her right shoulder, culminating in an operation to replace her right shoulder joint, which is an unusual procedure for a person of her age. Because of dislocations and problems with the new shoulder joint, the consumer's orthopaedic surgeon suggested that she could benefit from a reduction mammoplasty (a breast reduction) which would reduce the weight on her shoulders.

In early October 1996, the consumer consulted the provider, a general, plastic and reconstructive surgeon ("the Surgeon") regarding breast reduction surgery for both breasts.

At this first visit, the Surgeon says he followed his usual routine measuring and photographing the consumer's breasts, discussing the type of treatment, the proposed scars involved and the possibility of developing folds. He told the consumer he would be using the Le Jour method and mentioned that he had had trouble with sloughs in the past but that this was unlikely with this particular technique. He also showed the consumer photographs of previous cases and outlined expected costs.

The Surgeon has been doing reduction mammoplasties since 1964, using a variety of techniques. In recent times he has used the Le Jour method which he believes superior to all the previous methods. It involves cutting a figure of eight shape in the breast and leaving the areola behind. The flap is folded on itself to raise the areola to its new position and it is attached to the chest wall of the apex of the fold. The originator of the Le Jour method claims that the blood supply to the areola is particularly reliable and the final scars are much smaller than other methods. One drawback is that the patient may be left with a skin fold under the breast going out to the side – however this can be corrected by a touch up operation later. The Surgeon claims the Le Jour method gives a nicely shaped breast which keeps its shape better. The other advantage of the Le Jour operation is that the residual breast tissue is not interfered with and retains a good blood supply.

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General and Plastic Surgeon

Report on Opinion - Case 97HDC9508, continued

Outcome of Investigation, *continued*

The consumer states that the Surgeon did not tell her of any side effects relating to the operation, apart from *"the usual warning about general anaesthesia".* When asked to elaborate, the consumer said that all the Surgeon told her and her husband was that breast reduction surgery was accompanied by a possibility of slight infection. The Surgeon said that this was no problem as antibiotics clear up infection and that the only thing the consumer might not be happy with was that she might have a bit of scarring.

The Surgeon claims that at this first consultation he had his usual pre-operative discussion with the consumer. He could not remember exactly what he had said as it was a long time ago. However, he does remember telling her that there can be trouble with the blood supply to the areola in reduction surgery, but it is not meant to happen with the Le Jour method. He also told her that she might end up with folds. The Surgeon claims that he did not discuss the dangers of anaesthesia as he had no expertise in that direction and left this to the anaesthetist.

The Surgeon states that at this point, he was worried by the consumer's medical history, as it sounded *"very bizarre".* Upon checking the consumer's medical notes at a Hospital, he found she had had many previous operations and quite a number of complications as the result of those operations. In particular, the Surgeon referred to the unsuccessful outcome of extensive treatment on the consumer's shoulder, which ultimately led to her receiving an artificial right shoulder joint. The Surgeon says he was initially not keen to operate on the consumer because of her medical history but ultimately agreed to do so.

In late February 1997 the Surgeon saw the consumer for a second time and the Surgeon states that the consumer asked him to explore her abdomen at the same time as he performed the breast reduction. However, the Surgeon declined as he thought this "foolish".

In mid-May 1997 the Surgeon saw the consumer to arrange the details of the operation. The consumer also asked the Surgeon to correct an unsightly segment of scar across her front right shoulder, which he agreed to do.

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General and Plastic Surgeon

Report on Opinion - Case 97HDC9508, continued

Outcome of Investigation, *continued*

In late May 1997 the Surgeon performed a bilateral breast reduction operation on the consumer using the Le Jour method, at a Private Hospital, and also excised her thickened shoulder scar as she had requested. The operative note indicates 800grams of breast tissue was removed from the right side and 600grams from the left side.

Following this surgery the consumer's nursing notes record that initially the left nipple areola complex looked pale whereas the right one was pink. The following day the left side was recorded as being less white and on the third day the left nipple areola complex was noted to be slightly dusky but warm with a bruised look.

The consumer believes that it was obvious that the blood supply to both breasts had been reduced. She remembers that when she woke up immediately after her operation, her right nipple was a bit crumpled but it was pink. The left nipple was a purple red colour, like a bruise and she assumed that the colour was due to bruising. The nurses checked the consumer's left breast with pins but she had no feeling in her left breast.

The Surgeon claims the consumer's progress after the operation was *"apparently normal"* and when she was discharged three days later, the areolai and nipples appeared alright *"although not as pink as I would have liked."* However, on the day of discharge, the consumer remembers there being a lot of purple around the left nipple area and when she looked at her breasts in the mirror, both of her nipples looked oddly shaped.

Eight days after the operation the consumer saw the Surgeon who removed her sutures and recorded that there were "some dusky edges". She advises that the Surgeon also put steri strips over the left nipple because it looked as though it was lifting.

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General and Plastic Surgeon

Report on Opinion - Case 97HDC9508, continued

Outcome of Investigation, *continued*

Five days later, the consumer consulted her GP because her breast was getting hard and sore particularly around the nipple. The GP's records show that the right breast wound appeared fine but he noted the wound on the left breast looked *"terrible"* and the left nipple was very dark. The GP stated that his clinical view was that the consumer had an infection in the breast and he was doubtful of the vascular supply to the left nipple. The consumer advises that her GP also removed some sutures that the Surgeon had left in. This is not noted in the GP's records and the GP cannot recall whether he removed any sutures during this consultation.

The consumer had already tried to contact the Surgeon at this stage but he was away. Therefore her GP asked the advice of a surgical specialist, who had had some dealings with the consumer. This specialist thought it was a good idea to start oral antibiotics if the GP was concerned about infection and to consider admitting the consumer for intravenous therapy if things did not settle. The specialist also commented that no-one would re-operate if they felt that the vascular supply to the nipple was impaired at this stage.

Three days after that, the consumer's left nipple fell off completely and she was admitted to the public Hospital as an emergency case and placed under the care of a surgical consultant, a General and Vascular Surgeon ("the Surgical Consultant".) A surgical registrar ("the Registrar") noted that the consumer had "tender lumps on both breasts". In addition, the left nipple was partly blackish in colour and appeared to be "sloughing off".

Two days after admission the Registrar operated on the consumer and excised two thirds of the left areola and nipple, which had been gangrenous. The Registrar's operation notes record that yellowish fluid along with some pussy material was drained out of the left breast. The blackish area of the left nipple was cut away, as well as the sloughing breast tissue beneath this, which had a large associated cavity of fluid. In addition, pussy material was drained from the right breast and sent away for culture and antibiotic sensitivity analysis. This analysis showed a light growth of staphylococcus aureus.

The next day the Surgeon visited the consumer in hospital, having learned that she had been admitted two days previously.

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General and Plastic Surgeon

Report on Opinion - Case 97HDC9508, continued

Outcome of Investigation, *continued*

After nine days the consumer was discharged from the Hospital, and she was seen by the District Nurse for regular dressings of the wound.

In early July 1997 the Surgeon saw the consumer in his rooms. At this point, the left breast had a cavity, and there was a piece of slough in the base of the wound. The right breast had developed a lateral fold.

About nine days later the consumer was readmitted to the public Hospital where she was recorded as having cellulitis of the left breast, but no underlying collection of fluid was detected on ultrasound. The consumer was given IV antibiotics and pain relief. Upon learning the consumer had been readmitted the Surgeon contacted the Surgical Consultant, who invited him to attend the planned operation on the consumer to remove the slough in the near future. The consumer was discharged after seven days.

In mid-July 1997 a health consumer service advocate saw the provider on the consumer's behalf to make some general enquiries into the consumer's health. The Surgeon explained that on the left breast side, the blood supply had failed to the nipple. There was a low incidence of this happening, perhaps two in a hundred. The Surgeon told the advocate that the lack of blood supply rather than the infection had caused the problems with the nipple. For all subsequent appointments with the Surgeon, the consumer took the advocate with her, and the advocate took notes relating to those visits.

A week after she was discharged, the consumer was readmitted to Hospital for the planned operation, and the Surgeon removed a skin flap on the right breast and further excised non-viable tissue on the left breast. However, because of the consumer's concern about ongoing infection and the amount of pain and tenderness she had experienced, she was treated with IV antibiotics. The Surgical Consultant noted that she needed a large amount of reassurance and analgesia whilst in hospital. The consumer was discharged after three days..

The Surgeon states that from then on he saw the consumer at frequent intervals often in response to a "distress call". He states that everything seemed to be settling nicely although the consumer had an intermittent discharge from the wound.

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General and Plastic Surgeon

Report on Opinion - Case 97HDC9508, continued

Outcome of Investigation, *continued*

The Surgeon saw the consumer at his rooms on five occasions in the month of August 1997. At first, the Surgeon says the consumer made excellent progress. The Surgeon's notes of the first appointment record that the wounds were "doing well". However, on the second appointment her left breast wound began to discharge clear fluid, but the Surgeon recorded that it "still looks alright". A swab on that day grew only normal skin organisms.

On the fourth appointment, the Surgeon's notes record that "the left breast looked alright" but was still weeping. He also noted a light growth of candida. The advocate's appointment notes record that the Surgeon assured the consumer that while her scar was opening at present, the hole would seal of its own accord and that it would take approximately two months to heal. The consumer requested a second opinion and the Surgeon obliged by writing a letter to a Plastic Surgeon ("the Plastic Surgeon") who had a clinic at the Hospital at the time.

At the last appointment (late August 1997) the Surgeon noted that *"both breasts were of good shape and size. The areola on the right side was a bit baggy and could be improved by a small trim operation. On the left side the nipple areola complex was small and distorted with a small sinus underneath"* which leaked fluid intermittently. The Surgeon states that at this stage the consumer was healing, although she had a tiny little hole that was being dressed twice a day which he thought might be a stitch working its way out. The advocate's notes of the consultation record that the Surgeon said he did not know why the wound was not healing but it was not a good idea to do any further surgery at that time.

A bacterial swab of the left breast wound taken on the day of this last appointment showed a heavy growth of non-groupable haemolytic streptococcus and a light growth of staphylococcus aureus.

Eight days later the consumer was again admitted to hospital due to the discharge from her left breast. She was given antibiotics and the wounds were packed. She was discharged from hospital after five days.

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General and Plastic Surgeon

Report on Opinion - Case 97HDC9508, continued

Outcome of Investigation, *continued*

Nine days after she was discharged, the consumer underwent surgery for the third time since the breast reduction in May 1997. The Registrar cut away the scar below the discharging sinus on the left breast. His operation notes record that a cavity situated deep in the sinus was opened out, and the cavity wall with related breast tissue was completely excised. The breast tissue itself was noted as having a firm consistency. The wound was closed and a drain left in. Tissue fragments were sent for analysis and the consumer was discharged the next day.

Four days later (mid-September) the laboratory report identified sinus tract granulation and acute and chronic tissue inflammation.

The consumer underwent surgery on her left breast again in early November 1997 and early December 1997. On the second occasion the left breast was excised and explored with a probe, leaving a cavity which the Surgical Consultant hoped would heal in time. The consumer was discharged in mid-December 1997.

The Surgeon states that the next time he heard about the consumer was in mid-December 1997 when he received the Commissioner's letter detailing the consumer's complaint, and which stated the consumer's problems that had occurred since he had last seen her. At this point, the Surgeon realised that the consumer was not being treated by the Plastic Surgeon. He rang the Surgical Consultant and was informed that the consumer had had several more operations and further courses of antibiotics but was no better. The Surgeon advises that he was horrified at this and *"contact[ed] the surgeon, her GP and the patient and explained that she needed expert treatment from someone who understood the Le Jour operation and was aware of the real cause of her continuing problem".* The Surgeon thought that this non-healing wound may be caused by a mammary fistula.

In mid-February 1998 the Surgical Consultant wrote to the Plastic Surgeon, referring the consumer to him and explaining her medical background. He also noted that the provider/Surgeon had offered to assist with the consumer's continuing left breast problem but she declined.

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General and Plastic Surgeon

Report on Opinion - Case 97HDC9508, continued

Outcome of Investigation, *continued*

In late February 1998 the consumer saw the Surgical Consultant again. Unfortunately, the consumer's wound (which had been healing) had begun to deteriorate. The Surgical Consultant believed this lent *"support to the fistula idea that she has a persistent problem due to loss of the nipple and duct system."*

In mid-March 1998 the consumer was admitted to hospital, and again operated on by the Surgical Consultant. The wound in the consumer's left breast was probed, and revealed chronic inflammation tissue and gritty breast tissue, which the operating surgeon noted *"suggest[ed] that there is still some nicrotic tissue present, and this was curetted out".* During this admission, the wound was repacked and changed six times under general anaesthetic. The Surgical Consultant was happy at this point that the wound was granulating and beginning to heal and the consumer was discharged from hospital in early April 1998. Unfortunately, despite daily visits from the district nurse to pack and clean the wound, it deteriorated within a short time.

In late April 1998, the consumer was re-admitted to hospital for an extended period because of a staphylococcus aureus infection. She was again operated on by the Surgical Consultant who removed more inflammatory tissue from the left breast. She was released from hospital in early July 1998, and again had dressings done by a district nurse. The consumer was very upset at this point, her marriage was under pressure and she said she now had lumps on her head due to her lymph nodes being swollen because of the constant infection.

In mid-June 1998, the consumer was advised that her claim for medical misadventure had been accepted by ACC on the basis she had suffered adverse consequences as a result of a medical mishap. ACC set out its reason as:

> *"It is considered chronic fistula infection following bilateral reduction mammoplasties is rare and severe in terms of the Act. The adverse consequence of the treatment is rare, as the probability that it would occur is less than 1% where that treatment is given. The adverse consequence of the treatment is severe, as there was significant disability lasting more than 28 days in total."*

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General and Plastic Surgeon

Report on Opinion - Case 97HDC9508, continued

Outcome of Investigation, *continued*

In mid-July 1998, the consumer was again admitted to Hospital due to the pain she was experiencing in her left breast. She was given IV antibiotics and discharged two days later.

However, in early August 1998, the consumer's GP reported to ACC that the consumer's left breast wound was still not 100% healed – *"It was about 1cm in length and still discharging*."

In August 1998 the consumer's wound finally healed with no further discharge, but her left breast and the scarred area in her left breast was very tender. The consumer states she still has problems with general tenderness along with pain when lifting, particularly on the left side. The Surgical Consultant referred the consumer to the Plastic Surgeon for an opinion and continuing management of both the chronic wound abscess on the left side, asymmetry of both breasts and severe deformity of her left breast.

In early September 1998 the consumer saw the Plastic Surgeon. He said he was going to do a graft and a build up of her left breast and was going to move the nipple on the right breast and do some liposuction so that the breasts will be even.

The Plastic Surgeon recorded that he did not think that there were any other factors involved with the consumer's poor wound healing, but he felt that this was probably a situation where following breast reduction, there had been poor vascularity to the underlying fat which has slowly necrosed and become secondarily infected, causing a chronic discharging wound.

The Plastic Surgeon has since referred the consumer to a breast surgeon.

Since the first post-operative admission in mid-June 1997, the consumer has required at least 12 admissions to hospital for surgery and antibiotic therapy with infections of the left breast, the latest admission being in late 1998.

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General and Plastic Surgeon

Report on Opinion - Case 97HDC9508, continued

Outcome of Investigation, *continued*

The provider/Surgeon believed that in the consumer's case the blood supply to the lateral fold created by the Le Jour technique, though adequate initially, became deficient over the following week. The consumer's breasts became quite swollen post-operatively, and it is possible this put too great a strain on the flap. However, the Surgeon believes the strangest aspect of this case is the fact that the cavity did not heal after the slough was removed. In his opinion, if there was any vascular tissue, it would have separated spontaneously in four months. Therefore there must be some other cause for the persistent sinus. It is the Surgeon's opinion that there is a fistula from an abnormal breast duct and this secreted fluid into the cavity, causing the infection. This fistula will be in the flap and the only sensible treatment is to explore the flap and resect it. With breast reductions, the Surgeon says it is not rare to have some trouble with vascularity on the edge of the areola. To get a chronic fistula from a breast duct is something he had not heard of and must be very rare.

Furthermore, the Surgical Consultant, (in his letter in late February 1998) states that he encouraged the consumer to seek further treatment from the provider/Surgeon, indicating that he was not critical of the Surgeon's performance.

The consumer was concerned that the Surgeon remained adamant that her problems were caused by a blocked milk duct. The consumer advises that other doctors have told her that the problem was not caused by a blocked milk duct.

Since the consumer's operation, the Surgeon has spoken to the doctor who taught him the Le Jour technique and this doctor is still happy with it. The Surgeon advises that he would use the Le Jour method again. The Surgeon said he did not know, until he received the Commissioner's letter of investigation, that the consumer was still having problems, and he noted that the Surgical Consultant was not a plastic surgeon. The Surgeon also believes that the consumer's long period of antibiotic treatment, frequent operations and consequent pain are largely the result of her transferring to surgeons who do not have the necessary expertise in this speciality.

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General and Plastic Surgeon

Report on Opinion - Case 97HDC9508, continued

Outcome of Investigation, *continued*

The consumer states that the Surgeon has not sent her an account for the breast reduction surgery. However, she has still had to pay for her stay at a private hospital and the anaesthetist's fees. The effect on the consumer of the original surgery has been serious. She went through many months of pain and discomfort, plus seven additional operations in order to clear the infection in her breast. She has been on strong antibiotics and pain killers, and is now concerned about becoming immune to the antibiotics. The consumer also fears she will become addicted to the pain relieving drugs.

Advice to Commissioner

The Commissioner's advisor notes that the Surgeon's notes show a full history was taken from the consumer over the three consultations, and that the consumer's past history was well documented. There were also details of breast examinations that he would expect to find.

The advisor notes that changes in colour to the nipples following breast reduction surgery are not unusual, especially in the technique with which he was most familiar (involving an inferior pedicle). The advisor stated that nipple colour can change from day to day and on some occasions the nipple can look quite bruised. However, if there are grave concerns about the vascularity, there is very little one can do after several days. Occasionally, removal of the sutures around the nipple can release tension and improve the blood supply. However, the advisor believed most surgeons adopt a wait-and-see policy because not infrequently the vascularity improves over a period of time.

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General and Plastic Surgeon

Report on Opinion - Case 97HDC9508, continued

Advice to Commissioner, *continued*

In the consumer's case, the advisor notes that there was no recovery of circulation to the left nipple and it proceeded to necrosis. The advisor strongly suspects that the pus-like material obtained from both breasts on the consumer's first admission to the public Hospital in mid-June 1997 was the result of a condition known as fat necrosis. This is when the fatty tissues in the breast suffer from a reduced blood supply and sometimes can produce a condition not unlike breast abscesses. Sometimes the condition can improve spontaneously but it can on occasion proceed to more necrosis, which occurred to the consumer. The advisor states:

> *"When it becomes obvious that there is a significant amount of necrotic material, complete surgical excision is required before one can expect wound healing. If complete excision is not done then the process can continue to involve previously unaffected parts and produce a chronic ongoing discharge from the breast."*

The advisor notes that if this condition occurred, one would expect to review the patient regularly and offer the appropriate treatment as required. The advisor states that complete surgical excision would not be considered unless 2 or 3 surgical attempts had already been made to fix the problem and this stage was not reached while the consumer was receiving treatment from the Surgeon.

The advisor had discussions with a surgeon who was very experienced in the Le Jour method. This surgeon indicated that he was aware of some patients having problems with blood supply to the areola and the pedicle, which resulted in situations not unlike the consumer's. However, the Commissioner's advisor had never seen any written reports in surgical journals about these. The advisor suggested that complications are more common in larger breasts where reduction of greater than 500grams is done, where there is a tightness or tension on the repair, and in patients who are smokers.

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General and Plastic Surgeon

Report on Opinion - Case 97HDC9508, continued

Advice to Commissioner, *continued*

Although tightness or tension in the repair is a risk factor for complications, the advisor has stated that there is no indication that tightness or tension occurred in this case. The operation notes record no reference to tension being present during suturing. The advisor explained that at the time of an operation it is not possible to tell how much particular tissues will swell. Correct suturing can later become tight if a body part swells more than expected. This can happen in one breast and not the other.

When the advisor looked for reasons why such a problem occurred with the consumer, he looked at a number of factors. Some of the regular medication that the consumer was taking at the time of her breast reduction included prothiaden and rivotril, provera, pethidine and other analgesics. The advisor was unaware of any of these drugs interfering with the body's blood supply. He did, however, note that the consumer is a smoker (10-15 cigarettes per day) and this certainly has a constricting effect on the small blood vessels of the body and can therefore interfere with blood supply. The possible effect of smoking was also noted by the surgical Registrar, and communicated to the consumer in September 1997. The Surgical Consultant made a similar connection in his referral letter to the Plastic Surgeon in late February 1998.

The advisor notes that the Le Jour method is one of the more recent surgical breast reduction procedures and the advantages of the method are reduced scarring and good breast shape.

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General and Plastic Surgeon

Report on Opinion - Case 97HDC9508, continued

Code of Health and Disability Services Consumers' Rights

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

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.

...

4) Every consumer has the right to have services provided in a manner that minimises the potential harm to, and optimises the quality of life of, that consumer.

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 –...

b) An explanation of the options available, including an assessment of the expected risks, side effects, benefits, and costs of each option.

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General and Plastic Surgeon

Report on Opinion - Case 97HDC9508, continued

Opinion: **Rights 4(2) and 4(4)**

No Breach In my opinion the Surgeon did not breach Rights 4(2) and 4(4) of the Code of Rights.

Surgery

The Surgeon advises that he performed the breast reduction surgery on the consumer with his usual skill and care but that he is unable to explain the failure of the blood supply to the left areola. The Commissioner's advisor noted that while every surgeon attempts to do a perfect operation on each patient, it is not always possible to get a perfect outcome and postoperative complications can occur. There appears to be no evidence that the Surgeon failed to conform with expected standards of conduct. In my opinion the Surgeon did not breach the Code of Health and Disability Services Consumers' Rights.

Post Operative Care - Failure to Act on Duskiness of Left Nipple when Removing Sutures

When the Surgeon removed the consumer's sutures in early June 1997 he noted that the left nipple had dusky edges and was beginning to lift. The consumer advises that he treated this by placing steri strips over the top of the nipple. The specialist consulted by the consumer's GP noted in mid-June 1997 that no one would re-operate at that stage if the blood supply to the nipple were impaired. My advisor noted that most surgeons adopt a "wait and see" policy if they have doubts about vascularity to the nipple following surgery. The advisor informs me that this policy is adopted because not infrequently the vascularity improves over a period of time. Nipple colour can also change from day to day and the nipple can sometimes look quite bruised. The Surgeon's decision to wait and see whether the blood supply to the nipple improved conformed with accepted professional standards. There seems to be little that he could have done to improve vascularity. In my opinion the Surgeon's actions do not amount to a breach of the Code of Health and Disability Services Consumers' Rights.

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General and Plastic Surgeon

Report on Opinion - Case 97HDC9508, continued

Opinion: No Breach, *continued*

Failure to Remove a Suture on 6 June 1997

The consumer advises that when she was seen by her GP in early June 1997 he took out some sutures that the Surgeon had not removed during the post-operative check five days earlier. The GP cannot recall whether he removed any sutures on that day and his written record of the consultation does not mention the removal of any sutures. The Commissioner's advisor states that it is not uncommon for small sutures to be missed especially if a wound is still healing. If this occurs the sutures can be removed later. In my opinion it is not clear whether the Surgeon failed to remove all of the sutures at the post-operative check. Even if he did fail to do so, in my opinion such actions do not amount to a breach of the Code of Health and Disability Services Consumers' Rights.

Failure to Completely Excise the Wound when it was Obvious there was a Significant Amount of Necrotic Material

My advisor states that when it becomes obvious that there is a significant amount of necrotic material complete surgical excision of the affected area is required. It is difficult to determine at which point this state of affairs could become "obvious", but it is unlikely that this occurred prior to late August 1997 (the time at which the consumer was no longer under the Surgeon's care). In operations performed on the consumer after that time, the Surgical Consultant notes that he and other surgeons sought to be conservative when excising the wound in the left breast in order to retain as much of the breast tissue as possible. The surgeons attending the consumer during that time appear baffled why the consumer's wounds (following these excisions) would begin to heal normally, but then suddenly deteriorate after a certain length of time. In fact, the cause of these deteriorations and infections was never medically determined, and the wound ultimately healed after a lengthy period without any significant changes in the type of treatment the consumer was being given. In my opinion the Surgeon did not breach Rights 4(2) and 4(4) of the Code in relation to this matter.

Right 6(1)(b)

In my opinion the Surgeon did not breach Right 6(1)(b) of the Code of Rights in relation to the following:

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General and Plastic Surgeon

Report on Opinion - Case 97HDC9508, continued

Opinion: No Breach, *continued*

Failure to Fully Inform of the Risks of Breast Reduction Surgery

I do not have the evidence to determine whether the Surgeon breached Right 6(1)(b) of the Code and therefore must form the opinion that there has been no breach.

The consumer states that the Surgeon failed to adequately inform her about the side effects of the breast reduction surgery, apart from "the usual warning about general anaesthesia". However, the Surgeon advises that he had his usual preoperative discussion with the consumer at her first consultation, although he cannot remember exactly what he said. Unfortunately, the Surgeon's notes of the consultation do not record whether he did so, or if he did, what was said. The Surgeon also advises that he never discussed anaesthesia with the consumer. Faced with such opposing evidence, I am unable to establish whether the Surgeon failed to adequately inform the consumer of the possible complications of breast reduction surgery.

Screening

Unfortunately, the consumer has had a painful and frustrating experience following breast reduction surgery in mid 1997, a situation that only improved in the latter part of 1998. This frustration was intensified by the inability to determine the cause of the problem. The effects of this have been lengthy and significant, and have placed a great deal of pressure on her home and family life. However, based on the evidence before me, in my opinion the Surgeon did not breach the Code of Rights.