Dentist

Report on Opinion - Case 99HDC02260

Complaint

The Commissioner received a complaint about the care and treatment provided to the consumer by the dentist. The complaint is that:

- *In mid-March 1998 the dentist provided the wrong treatment for the consumer as a tooth that should have been removed at this consultation was left in situ and instead treated with antibiotics and salt water.*

Investigation Process

The Commissioner received the complaint from the consumer on 24 February 1999 from the Dental Council of New Zealand. An investigation was commenced on 26 May 1999 and information obtained from:

The Consumer / Complainant
The Provider / Dentist
A Second Dentist

The Commissioner sought and obtained a peer review from two independent Dental Surgeons.

Information Gathered During Investigation

From Christmas 1997 the consumer had a slight toothache. In mid-March 1998 the consumer consulted the dentist complaining of pain in the upper right jaw. The consumer described his toothache as being acute. He filled out an application form as a new patient and was advised that he would be able to be seen immediately. The dentist examined his teeth, took an x-ray and documented that the pain was non-defined with an unclear history.

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Information Gathered During Investigation, *continued*

On clinical observation it appeared that a number of dental lesions required attention and the x-ray revealed that tooth 46 had a large carious lesion in it. The dentist documented that the upper right first molar (tooth 16) was slightly tender to percussion and that a test of teeth vitality on the right side revealed a positive test to cold on all teeth except tooth 16. After concluding that tooth 16 was causing the problem, the dentist carried out a localised scale around the tooth. The dentist's main concern was the consumer's immediate pain and he documented "*perio?"* (gum infection) in his notes. He prescribed 12 x 500mg *augmentin* tablets (antibiotics) for three days and advised the consumer to wash his mouth with hot salted water and to contact the dentist if there was no improvement in his pain.

Three days later the consumer returned to the dentist and was seen in between appointments. The consumer advised the dentist that he thought the tooth had improved, but was still sore. The consumer requested another course of antibiotics. However, the dentist considered this unnecessary and no follow-up appointment was made.

In early April 1998 the consumer felt that his toothache was back in full. He consulted with the second dentist at another dental surgery concerning the toothache in the lower right quadrant of his mouth. The second dentist viewed the consumer's teeth and took an x-ray. The x-ray revealed that tooth 46 had a large cavity extending to the nerve. After discussing the options with the consumer, the consumer chose to have tooth 46 extracted. The consumer was given the tooth back after the extraction and he advised the Commissioner that he saw the extent of the cavity in the tooth.

Four days after the extraction the consumer returned to the dentist's surgery and requested to see the x-ray taken in late March 1998. The dentist's staff advised the consumer that he could have his x-rays back once his account was settled.

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Information Gathered During Investigation, *continued*

In late May 1998 the consumer again presented at the dentist's surgery and advised the dentist that he was going to lay a complaint against him with the Dental Council. The consumer advised the dentist that he believed his fee was excessive on the basis that the dentist had not provided any treatment and that it was obvious which tooth had been the problem. The dentist explained that although a tooth may have a carious cavity in it does not necessarily mean it is causing the pain at the time. The dentist refunded the $10.00 the consumer had already paid for the consultation and waved the outstanding amount he owed. The dentist advised the Commissioner:

> "*One characteristic of dental pain is that initially the pain can be vague and ill-defined, but as time progresses, it generally becomes more localised.* [The consumer], *as is his right, chose to go to another dentist rather than to return to me."*

Independent Advice to Commissioner

The Commissioner sought independent advice from a dental advisor who stated:

> "[The dentist] *took a medical history, took radiographs, did appropriate diagnostic tests and made a provisional diagnosis and treated appropriately to the diagnosis he had made. From the radiographs it is obvious that the patient had advance periodontal problems in the upper right first molar had exhibited abnormal test results. It is also obvious from the radiographs that there is a large carious lesion on the lower right first molar but this tooth did not exhibit abnormal test results, nor was it in the region the patient had identified as painful. As tooth 46 did not present abnormal percussion and vitality tests and was outside the upper right side,* [the dentist] *appropriately did not treat this tooth. ...* [The dentist] *provided treatment consistent with his diagnosis of pain from periodontal disease around tooth 16. Appropriate treatment is to clean around the tooth (scale), flush the area (hot salt mouthwash) and antibiotics."*

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Independent Advice to Commissioner ***continued***

Further clarification was sought from another dental advisor ("the second advisor") who advised that in usual circumstances dentists would have in mind the possibility of upper tooth pain being diffuse and not localised, and therefore coming from somewhere else. He explained that the pain may take nine to ten days to localise and once it had done so it would be easier to diagnose. He advised that it was possible that there was referred pain from a lower tooth and therefore when the consumer saw the second dentist it would have been obvious where the pain was coming from. He advised that often dentists focus on the one problem in a patient's mouth, especially if the patient was coming in with a particular problem and they were a casual patient. If a patient complains of a specific problem and on examination a large problem was found in another tooth, my second advisor said he would inform the patient.

My second advisor agreed with the dentist's actions at the first consultation, as it takes time for the pain to localise. However the dentist should not have focused on just one tooth, considering the pain was diffuse and not considered localised pain. Further, this non-specific pain could have been referred pain. While it was reasonable to say that it may have been the lower tooth causing the problem, the dentist should have been aware of the possibility of lower tooth problem even though the patient was focusing on the upper tooth, especially when he came back for a second consultation.

My second advisor stated that at the second consultation the dentist should have been aware that something else was causing the problem. He stated that if the consumer still had the pain it would have been reasonable to look at tooth 46. Additionally, at the second consultation other problems that the consumer had in his mouth should have been pointed out, but this could have been overlooked if the consumer had been squeezed in between patients. Further it is common for patients to insist that pain is in one arch of the mouth and often the cause of the problem is in another arch. He advised that the dentist would have been better to have given the consumer medication until the pain localised but it was reasonable to not give the consumer any more antibiotics.

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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 –

...

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

In my opinion the dentist did not breach Right 4(2) of the Code of Health and Disability Services Consumers' Rights.

I accept my independent advice that the dentist's actions were appropriate at the consumer's first consultation. At that time tooth 46 did not present abnormally to tests undertaken by the dentist. Once the dentist isolated a source of pain (tooth 16) he treated the tooth appropriately and advised the consumer to come back if the pain did not improve.

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Opinion: Breach

In my opinion the dentist breached Right 6(1)(b) of the Code of Health and Disability Services Consumers' Rights.

Right 6(1)(b)
The dentist should have informed the consumer about the other cavities in his mouth, particularly the cavity in tooth 16. The consumer should have been informed that as time progressed his tooth pain could become more localised. The consumer should also have been told of the possibility that referred pain was occurring and should have been advised to return for follow-up if the pain localised. In my opinion this failure to inform the consumer was a breach of Right 6(1)(b) of the Code of Rights.

Actions

I recommend that the dentist take the following actions:

- Apologises in writing to the consumer for breaching the Code of Rights. This apology should be sent to the Commissioner who will forward it to the consumer.
- Considers the possibility of referred pain when examining a patient with non localised pain.
- Informs consumers of large cavities following an examination.

Other Actions

A copy of my opinion will be sent to the Dental Council of New Zealand.