

**CASE NOTE 01HDC07477: Internal resorption of tooth treated by apicectomy without standard root filling**

*Right to services of an appropriate standard – Reasonable care and skill – Right to be fully informed – Sufficient information – Oral and maxillofacial surgeon – Internal resorption – Apicectomy – Standard root filling – Record keeping – Code of Practice of the New Zealand Dental Association – Right 4(1) – Right 6(1)(b)*

A complaint was made that an oral and maxillofacial surgeon did not provide the appropriate standard of care. The complaint was on the basis that the provider did not: (1) properly assess the state of the consumer's tooth; (2) remove the tooth when this was appropriate; (3) properly treat the consumer's tooth; (4) properly inform the consumer of all the treatment options available to him, including the risks and benefits of those options, prior to commencing treatment; (5) properly explain to the consumer the reasons for the treatment being unsuccessful and the consequences; and (6) properly communicate with other providers involved in the consumer's care.

The facts were that the consumer was referred to an oral and maxillofacial surgeon as he had internal resorption in a tooth. An apicectomy was performed removing the apex of the tooth and the resorptive tissue, but the resorption at the crown of the tooth was not treated and the tooth subsequently required extraction. Prior to the complaint, the surgeon offered to remove the tooth at no extra cost and refund half the fee for the apicectomy, and made efforts to resolve the consumer's issues about treatment.

The Commissioner reasoned, after receiving independent expert advice from an oral and maxillofacial surgeon, that:

- (1) the apicectomy was appropriate to treat the internal resorption provided a standard root filling was subsequently completed — however, this was not completed
- (2) the provider did not address the areas of resorption in the vicinity of the crown end of the tooth, which allowed the disease to spread
- (3) it was not reasonable for the oral and maxillofacial surgeon to assume that the referring dentist would treat the resorption at the crown end of the tooth
- (4) in the decision to perform the apicectomy the provider gave too much weight to the consumer's wish to keep his tooth.

The Commissioner held that the oral and maxillofacial surgeon:

- (1) breached Right 4(1) of the Code in that he failed to complete a standard root filling following an apicectomy for internal resorption
- (2) did not breach Right 6(1)(b) of the Code because he provided the consumer with sufficient information about the apicectomy and about the failure of the treatment.

With regard to record keeping, the Commissioner reminded the provider of the obligation under the Code of Practice of the New Zealand Dental Association to keep appropriate records and arrange adequate physical security of records.

The Commissioner recommended that the provider apologise and provide a full refund of the consultation fee.