General Practitioner, Dr B

A Report by the

Health and Disability Commissioner

(Case 02HDC08299)

Health and Disability Commissioner
Te Toihau Hauora, Hauātanga

Parties involved

Mrs A	Complainant
Dr B	General Practitioner/Provider

Complaint

On 24 June 2002 the Commissioner received a complaint from Mrs A concerning the services provided to her by Dr B, General Practitioner. The complaint was summarised as follows:

On 16 October 2001 Dr B failed to respond appropriately when Mrs A raised concerns about a lump she had found on her left breast.

An investigation was commenced on 8 October 2002.

Information reviewed

- Response from Dr B, received 4 November 2002
- Notes and correspondence relating to Mrs A's care through a public breastscreening programme
- Mrs A's medical records from a Public Hospital
- Independent expert advice from Dr Tessa Turnbull, general practitioner
- Dr B's response to my provisional opinion
- Mrs A's response to the summary of facts

Information gathered during investigation

On 16 October 2001 Mrs A, aged 54 years, went to see her general practitioner, Dr B, at a private medical centre, for a routine check-up. At this consultation Mrs A told Dr B that she had a lump in her left breast which had also been noted by her husband.

Dr B recalled that he examined Mrs A in his standard and invariable way. He asked Mrs A about pain, nipple changes and nipple discharge. Mrs A told him there was none. Dr B examined Mrs A by asking her to undress from the waist up and seating her on the edge of his examination couch. He observed her breasts for asymmetry, nipple asymmetry, skin changes and any obvious lumps. Dr B said that this was repeated with Mrs A's hands placed on her hips and then raised above her head. Mrs A then lay on the couch on her

back and Dr B palpated both breasts in all segments, under the nipples and then the tail of the breasts leading to the armpits and finally the armpits to feel the lymph nodes.

In response to my provisional opinion, Mrs A advised me that Dr B did not carry out the examination in the manner he has described. She stated that after removing her top and lying down, she raised her left arm as she normally does during a breast examination. She said that Dr B told her to lower her arm and examined her while she was in that position.

Mrs A said that after Dr B's examination he advised her that "there was nothing there". Mrs A said that she indicated where the lump was and Dr B stated that "he could feel nothing" and that it was common for women of her age to have tenderness on the side of the breast. Dr B advised that he would not have said that there was "nothing there" because, without exception, he never uses such absolute statements to a patient; what he did say was that he could not feel a lump and he could not find any sinister signs of breast cancer.

Dr B said that his standard approach to breast lump concerns is to order a mammogram or to get a fine needle aspiration done on a palpable lump, or do both. Mrs A had a breastscreening mammogram appointment scheduled for 23 January 2002. Dr B advised that, since he could not feel any lumps, he believed it would be appropriate to have a mammogram performed at that time.

Mrs A told Dr B that she did not mind paying for a mammogram if it could be done sooner. She recalled that Dr B replied, "[Mrs A] there is nothing there and there is no reason for you to have it done."

Dr B recalled that on his recommendation Mrs A accepted that the January examination was appropriate. His concluding advice to Mrs A was that he would review her breast if she had any ongoing concerns or if she noticed any changes.

Dr B stated that Mrs A did not contact him again until 14 January 2002, when she had another routine check-up. During this consultation Mrs A did not express any concern about her breasts or ask him to examine them further, as her mammogram was scheduled for nine days later.

On 23 January 2002 Mrs A went to the public hospital to have a mammogram performed. Mrs A recalled that she was told by radiology staff that they were surprised she had not been sent earlier as the lump could be felt. Mrs A was diagnosed with breast cancer and underwent a full mastectomy on 28 February 2002.

Independent advice to Commissioner

The following expert advice was obtained from Dr Tessa Turnbull, an independent general practitioner working in a rural practice:

> "[Mrs A] is 55 and visited her GP, [Dr B], on 16/10/01 for a routine check. She had been a patient of [Dr B] for 10 years visiting him every 3 months for review and management of her complex medical problems.
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> She had been on HRT (premia 5) for 5 years, together with brufen, amitriptylene, famotidine, accupril, lipitar and bezalip. She was being treated for hypertension, raised cholesterol and gastro-intestinal reflux. In the past, she had had 4 x caesars, a cholecystectomy and suffered from ankylosing spondylitis.
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> [Mrs A] was enrolled in the National Breast Screening Programme. She had a normal screening mammogram in January 2000.
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> At the completion of the consultation on 16/10/01, [Mrs A] told [Dr B] that she had found a lump in her left breast.
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> [Dr B] undertook a breast examination on [Mrs A]. [Mrs A] indicated that [Dr B] was unable to feel a breast lump and assured her about this. She indicated that she was willing to pay for a private mammogram but [Dr B] felt that this was unnecessary, as her next routine screening mammogram was to be in January 2002. [Dr B's] notes indicate that a breast examination took place and that he found 'no sinister signs'.
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> [Mrs A] underwent a routine screening mammography on 23/1/02. On her prescreen data sheet she indicated the position of the breast lump she had been aware of for the preceding three to four months. The mammogram showed an obvious abnormality i.e. a large poorly defined suspicious mass. [Mrs A] was recalled by [the national breastscreening programme] on 31/1/02 and was noted to have a large palpable lump in the lower, outer quadrant of her left breast. She had a needle biopsy of this, which confirmed a malignant breast tumour.
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> She was referred for oncology counselling and surgery to [the Public Hospital] where a total mastectomy was undertaken on 28/2/02. Histology showed an infiltrating ductal carcinoma, 38mm x 35mm x 35mm in the lower outer quadrant of the left breast. 7/24 lymph nodes we infiltrated with tumour, 2 showed extranodal tumour spread. There were at least 3 separate nodules adjacent to the tumour.
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> She has subsequently undergone chemotherapy and radiotherapy to manage her left breast cancer.

Given [Mrs A's] presentation on 16/10/01, should [Dr B] have undertaken further investigation?

At the completion of her routine consultation on 16/10/01, [Mrs A] told [Dr B] that she had found a lump in her left breast. [Mrs A] seems clear that this was a definite lump, which had also been felt by her husband. At that time it was not causing any symptoms at all although tenderness developed prior to her screening mammogram.

Prior to her screening mammogram on 23/1/02 [Mrs A] indicated on her prescreen data sheet the position of this breast lump and the fact she had been aware of this for 3-4/12. [Dr B's] notes clearly indicate that [Mrs A] mentioned the possibility of a left breast lump and that he undertook a breast examination. [Dr B] has described his normal method of breast examination, which sounds thorough.

It is not clear, however, whether this procedure was carried out in this manner on 16/10/02. The breast lump was mentioned by [Mrs A] at the end of a routine consultation and was not the presenting symptom. In the often pressured world of general practice this could mean that a cursory, rather than a full examination took place. [Dr B's] consultation notes indicate that he found 'no sinister signs' during his breast examination. At that point, [Mrs A] indicated that she was willing to pay for a private mammogram in spite of [Dr B's] normal breast findings. [Dr B], however, felt that this was unnecessary, as her next routine screening mammogram was to be in January 2002.

[Mrs A's] breast cancer on 28/02/02 proved to be an infiltrating ductal carcinoma, 38mm x 35mm x 35mm in the lower outer quadrant to the left breast. 7/24 lymph nodes were infiltrated with tumour, 2 showed extranodal tumour spread. There were at least 3 separate nodules adjacent to the tumour.

[Dr B] is a senior and experienced GP with a longstanding and positive patient/doctor relationship with [Mrs A]. His clinical notes are more than adequate and he clearly undertook a breast examination in response to [Mrs A's] concerns on 16/10/01.

Some breast tumours are aggressive and rapidly growing and this breast cancer fits that category. There is an outside chance that it may have been missed in a routine breast examination because of its ill-defined edge or a deep position in the breast. However, on the size of this tumour just over 3 months after [Mrs A's] consultation, and on [Mrs A's] clear indication of the position of the lump (verified by the mammogram findings) **it does seem likely that [Dr B] should have been able to detect this breast lump.** At least he should have picked up [Mrs A's] concern as indicated by her willingness to pay for an early mammogram. It would have been wise to respond to this concern by taking up her offer at that time even in the face of apparently negative clinical findings."

Response to Provisional Opinion

Dr B made the following two points as a summary of response to my provisional opinion:

> "(i) Failure to detect the breast lump
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> In a properly conducted examination it is entirely possible for a lump to be undetected; this is recognised by all clinicians and does not necessarily reflect a fall below a reasonable practice or a lack of clinical skills.
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> (ii) Failure to respond appropriately to [Mrs A's] concerns:
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> My response validated [Mrs A's] concern, a plan for mammogram was made, and an interim reassessment was offered because my findings were inconclusive. It is my belief that this is standard practice. The timing of the mammogram was based on good faith considerations at the time of consultation."

Code of Health and Disability Services Consumers' Rights

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

RIGHT 4
Right to Services of an Appropriate Standard

1) Every consumer has the right to have services provided with reasonable care and skill.

Opinion: Breach

After reviewing Dr B's response to the complaint, Dr Turnbull advised me that the breast examination conducted by Dr B appears thorough and that Mrs A's tumour was aggressive and rapidly growing. However, given Mrs A's clear indication of the position of the lump and the size of the tumour just over three months after the consultation, Dr B should have been able to detect it.

Dr Turnbull advised me that given the level of concern, that Mrs A was willing to pay for an early mammogram, and that both Mrs A and her husband claimed to have felt the lump, it would have been prudent for Dr B to have facilitated an early mammogram even in the face of apparently negative clinical findings.

I am guided by the expert advice in this case. In my opinion, Dr B's failure to detect the breast lump and respond appropriately to Mrs A's concerns about her breast amounted to a failure to provide services with reasonable care and skill. Accordingly, Dr B breached Right 4(1) of the Code.

Actions

I recommend that Dr B:

- apologise to Mrs A for breaching the Code. This apology is to be sent to the Commissioner's Office and will be forwarded to Mrs A
- review his practice in light of this report.

Further actions

- A copy of this report will be sent to the Medical Council of New Zealand with a recommendation that the Council consider whether a review of Dr B's competence is warranted.
- A copy of this report, with all details identifying the parties removed, will be forwarded to the Royal New Zealand College of General Practitioners, Women's Health Action and Federation of Women's Health Councils Aotearoa and placed on the Health and Disability Commissioner website, www.hdc.org.nz, for educational purposes.