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## General Practitioner

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### Report on Opinion - Case 98HDC13010

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**Complaint**

The Commissioner received a complaint from a consumer about treatment she received from the provider, a general practitioner. The complaint is that:

- *The GP did not identify the risk of breast cancer and did not refer the consumer for specialised diagnosis and examination.*
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**Investigation**

The complaint was received by the Commissioner on 27 March 1998 and an investigation was undertaken. Information was obtained from:

The Consumer  
The Provider/General Practitioner  
A Breast and General Surgeon

Clinical records were requested and viewed. The Commissioner obtained advice from a General Practitioner.

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**Details of Investigation**

The consumer had a history of Hodgkins disease and had undergone extensive radiotherapy in 1977 and 1980. She was also a moderate smoker and felt this history put her in a very high risk category for breast cancer. The consumer first consulted the General Practitioner in early June 1996 with a large lump in her left breast. The consumer said that at her request the GP conducted a breast examination on her.

The GP said the consumer had attended his practice for many years and saw either himself or the other doctors at the clinic, as the need arose. On the particular day in June 1996 the GP said the consumer consulted him about the possibility and costs of cosmetic breast surgery and did not mention any lump. The GP said normally when women ask about cosmetic breast surgery he does not normally examine them. However on this occasion he did examine her because the consumer had explained that the surgery would be in relation to one breast only which was shrunken following radiation treatment. This history alerted the GP for the need for a breast examination.

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### Report on Opinion - Case 98HDC13010, continued

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**Details of  
Investigation,  
continued**

The GP stated, *"I palpated her breast for breast lumps despite the fact that she had not mentioned or complained of breast lumps. I found no breast lumps on palpation nor did she complain of tenderness."* The GP said there were no suspicious features, no large lump and his diagnosis at the time was a hypoblastic breast. The GP's consultation note for this day recorded, *"breast exam. Atrophied left breast. No discrete lumps ? radiotherapy 15 years ago for Hodgkins. Refer for breast implant."*

The consumer said the GP suggested she had scarring as a result of the radiation therapy to her breast and he made a reference to breast implant surgery. The consumer said no steps were taken by the GP to follow through on this.

In his response to the Commissioner of 10 July 1998, the GP stated, *"This is the only time I have examined [the consumer's] breast and must regard the description recorded that day as the most accurate."*

The GP said he gave the consumer three options to be referred to a Surgeon, to another doctor doing reconstructive surgery or referral to Hospital for consideration of the same.

In March 1997, the consumer said she consulted the GP again and on that occasion he recommended that a medical misadventure claim be lodged which she said she presumed was in respect of the alleged scarring. The consumer said that at that consultation she complained of changes to her breasts. The consumer said she told the GP that the lump was growing larger and that the nipple was starting to invert. The consumer said the GP took no steps to refer her elsewhere. The consumer said she was very concerned so on her own initiative arranged an appointment to see the Breast and General Surgeon at a private clinic.

The GP said that in mid-March 1997, the consumer requested that he approach ACC to see if they might fund cosmetic surgery on the grounds that the disfigurement to her breast could be deemed medical misadventure.

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#### **Details of Investigation, continued**

The consultation record of March 1997 recorded, "*see M46 (medical misadventure claim).*" In his response to the Commissioner, the GP stated that the record of March 1997, "*records my filing of an M46, i.e. the ACC application signed by [the consumer] to consider ACC funding for cosmetic surgery on the grounds that her small breast was a result of past radiotherapy. As previously mentioned [the consumer] signed the document on which was described the condition of her breast that day, there was no mention of lumps or any new symptoms.*"

The M46 form was obtained and recorded, "*disfigurement left breast as a result of radiotherapy,*" and the diagnosis is recorded as, "*disfigurement/scarring left breast (painful, deformed, shrunken). Medical Misadventure?*"

The GP said that in July 1997 he received a phone call from the consumer which he understood was in response to a request from ACC that she should be referred to a breast specialist for an opinion on her ACC claim. The GP said he informed the consumer that she should consult the Breast and General Surgeon. The GP said initially she refused for personal reasons, but the GP said he insisted she should go and she agreed and so he made the appropriate referral.

The consumer consulted with that Surgeon in or about early July 1997 and was given a mammogram and ultrasound with a core biopsy. The core biopsy revealed a large carcinoma of the left breast involving the whole breast clinically and radiologically.

In his letter to the GP of late July 1997, the Surgeon thanked him for referring the consumer to him with respect to the hypoblastic left breast, "*She had several questions, one question is whether or not this is indeed fibrocystic change or scarring of the breast secondary to radiotherapy and the second question what can be done about it to improve its shape and size when compared to the other side. On examination... the left breast is half the size, quite thickened and fibrotic with a central denseness. The nipple is inverted somewhat and there is considerable deformity.*"

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**Details of  
Investigation,  
continued**

In his letter to the GP of mid-April 1998, the Surgeon stated, *“it is our protocol at [this clinic] to examine all breasts radiologically and to core any thickened areas. Whilst the histology confirms that she had a large carcinoma of the breast that was not my clinical impression. My clinical impression was that of a fibrotic shrunken breast in keeping with past radiotherapy”* and he added *“I was absolutely dumbfounded and surprised when a core biopsy taken through a thickened area returned as carcinoma.”*

The Surgeon continued, *“when [the consumer] sought my opinion she did not seek my opinion about a mass in the breast. She sought my opinion about cosmetic surgery and wished to know how I could improve the appearance of the left breast as it had shrunken over many years following her radiotherapy. Only on detailed questioning did she state that it had become slightly harder and more scarred.”*

#### **Expert advice from a General Practitioner**

The expert comments that the GP's notes were somewhat rudimentary and that it was poor practice not to retain copies of referral letters such as the letter said to have been sent to the public Hospital after the consultation in early June 1996.

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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.*
- 3) *Every consumer has the right to have services provided in a manner consistent with his or her needs.*
- 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.*

**3**      ***Provider Compliance***

- 1) *A provider is not in breach of this Code if the provider has taken reasonable actions in the circumstances to give effect to the rights, and comply with the duties, in this Code.*
- 2) *The onus is on the provider to prove that it took reasonable actions.*
- 3) *For the purposes of this clause, "the circumstances" means all the relevant circumstances, including the consumer's clinical circumstances and the provider's resource constraints.*

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**Opinion:  
No Breach**

**Right 4(2)**

In my opinion the GP provided services to the consumer of an appropriate standard and did not breach Right 4(2) of the Code. The GP failed to detect any carcinoma when he examined the consumer's breast in early June 1996. This was the only time he examined the consumer's breast. I am unable to deal with complaints that occurred before 1 July 1996 which is the time the Code came into force.

The GP did not perform a mammogram subsequent to this breast examination as he had no clinical indication to refer the consumer as he understood her need to be a cosmetic one. While there are conflicting accounts of who initiated the referral to the Surgeon, this is not relevant as the GP's referral was cosmetic rather than clinical.

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**Opinion:**  
**No Breach,**  
**continued**

My advisor commented, *“At the time of these consultations, [the consumer] was in her mid thirties. Although breast cancer does occur in women of this age it is nowhere as common as women from fifty years on. The level of suspicion would not have been so high in considering someone of [the consumer’s] age, especially without focal symptoms. Second carcinomas are not uncommon in patients who have had previous radiotherapy or chemotherapy. This should raise the level of clinical suspicion but again without clinical indications and given that the previous radiotherapy to this area provided an adequate explanation for the hypoplasia of the breast on this side I do not feel that missing a carcinoma of this type constitutes a breach of standard.”*

Further, the Surgeon by his own account said he did not detect the carcinoma on physical examination of the consumer’s breast and was astounded when the core biopsy revealed the large carcinoma.

Given these circumstances, in my opinion the GP has demonstrated he took reasonable actions in the circumstances to provide an appropriate standard of service to the consumer and therefore did not breach the Code of Health and Disability Services Consumers’ Rights.

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**Actions**

I suggest the GP review his clinical record keeping to keep full notes and also to retain copies of referral letters. He should consult with both his professional associations and insurers if he is unsure of how this can improve.

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