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## Anaesthetist

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### Report on Opinion - Case 97HDC5953

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#### Complaint

A consumer made a complaint to the New Zealand Medical Council regarding the treatment she received from the provider, an anaesthetist at a hospital. The New Zealand Medical Council referred the complaint to the Commissioner. The consumer's complaint was as follows:

- *When her surgery was planned through her GP, it was decided that she should have a general anaesthetic. Immediately prior to surgery, in April 1997, the provider suggested she have an arm block (local anaesthetic) instead.*
- *The provider's manner when the consumer refused the arm block was "abrupt, rude, sharp, offensive and unprofessional."*
- *The provider seemed ill prepared for the consumer's operation. He did not seem familiar with her medical history or the procedure which was to be carried out.*
- *The provider made remarks regarding the cost of the anaesthetic used on the consumer and also commented after the surgery that death was a complication of anaesthesia. The consumer felt these remarks were uncalled for.*
- *In theatre, the provider injected the anaesthetic agent, Propofol, into the tissues in the consumer's left arm instead of into a vein, which caused swelling and considerable pain in her left forearm, elbow and fingers. The provider later admitted to the consumer that he had made the same mistake three times before. The consumer was concerned about the provider's competence.*

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### Report on Opinion - Case 97HDC5953, continued

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**Investigation** The complaint was received by the Commissioner on 12 May 1997. An investigation was undertaken and information obtained from:

The Consumer  
The Provider/Specialist Anaesthetist  
The Chief Medical Officer, Hospital

The consumer's medical records in respect of her surgery and anaesthetic in April 1997 were obtained and viewed. The Commissioner also received advice from an anaesthetist.

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**Outcome of  
Investigation**

*Options for anaesthesia*

The consumer was admitted to hospital at 1.30pm one day in early April 1997 for Bilateral Carpal Tunnel release. She was spoken to by a member of the nursing staff who advised her that the provider was considering doing an arm block (local anaesthetic) for her, instead of a general anaesthetic. The consumer responded to this by saying that she did not want an arm block. The consumer was subsequently seen by her surgeon, who assessed that local anaesthesia was unsuitable for her.

The provider first met the consumer in the anaesthetic room adjoining the operating theatre just prior to her surgery, at 5.30pm. The provider introduced himself to the consumer and proceeded to interview her to compile a concise medical, surgical and anaesthetic history. The consumer says that in the course of this discussion, the provider said that an arm block could be done for her, but she again responded by saying that it had been arranged that she have a general anaesthetic. The provider was informed of this. The provider advised the Commissioner that he then spoke to the consumer again and concluded that "*she wanted a general rather than local anaesthesia, that this was quite reasonable and that there was no medical, surgical or anaesthetic reason that her wish would place her at an increase in risk that I thought was unacceptable, or was not in her best interests.*"

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**Outcome of Investigation, continued**

The provider says that while he does not recall the exact details of the conversation relating to anaesthesia options, he did focus on what the medical, surgical and anaesthetic requirements were for the consumer before considering what her personal preference was. The provider advised the Commissioner that general anaesthetic was not medically contraindicated for the consumer and that he had therefore provided her with options for the induction of general anaesthesia, namely, either by the inhalation of an anaesthetic gas mixture, or intravenously. The provider told the Commissioner that the consumer advised him that she preferred the intravenous option and that he accepted this preference.

***The provider's manner in conversation***

The consumer said that while the provider agreed to a general anaesthetic for her procedure, his manner was quite sharp and abrupt. The provider's response to this aspect of the complaint, in a letter to the Commissioner dated 19 June 1997 was as follows:

*"in my opinion my manner was neither abrupt, rude, sharp, offensive or unprofessional. I have apologised unreservedly to [the consumer] for all of these unpleasant things she extracted from our meeting as I believe that despite the best intention, if offence is taken then an apology is required."*

***Preparation for the procedure***

The provider advised the Commissioner that as the consumer had arrived at the hospital at 1.30pm - the starting time for the afternoon operating list - the provider had no opportunity to conduct a pre-operative evaluation prior to 5.30pm. He further advised that it is his practice to compile a medical, surgical and anaesthetic history for every patient and view other documentation subsequent to or in conjunction with this. This includes confirming the nature and side of the surgical procedure and checking this against the patient's "Request for Surgery" form. The Commissioner was also advised that prior to the consumer's admission to hospital the provider had spoken to the consumer's surgeon, and discussed her suitability for local anaesthetic.

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### Report on Opinion - Case 97HDC5953, continued

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**Outcome of  
Investigation,  
continued**

*Injection of anaesthetic*

The consumer says that in theatre, the provider picked up her arm, tapped it, and said, "let's find a good vein". He then proceeded to inject the anaesthetic into her arm. The consumer says she was not feeling anything, and the provider said to her "I think I've put it [the anaesthetic] into the tissue of your arm". The consumer then asked the provider to "say something nice" to her before she fell asleep. The consumer says that the last words the provider said to her before the anaesthetic took effect were that "this stuff is \$10.00 a bottle".

The provider's description of the induction of the general anaesthetic is as follows:

*"... I inserted an intravenous cannula into the left forearm. The vein I was attempting to cannulate was small, and I was uncertain if the cannula had been inserted properly as there was no blood 'flashback'. The cannula was flushed with 5ml normal saline, which injected easily and as there was no visible swelling at the point in the arm where I expected the tip of the cannula to lay, I concluded that the cannula had been inserted correctly.*

*I then proceeded to inject (via the cannula) "Diprivan" (Propofol) 200mg with morphine 10mg and 1% Lignocaine 3ml added, to induce general anaesthesia. Half of this solution had been injected before I realised that no loss of consciousness was occurring and that there was visible swelling in the forearm. A second intravenous cannula was inserted and anaesthesia proceeded uneventfully."*

In the consumer's anaesthetic record, the provider has noted that the first injection of the anaesthetic was extravascular (the solution had been injected into the tissues of the arm, instead of into the intended vein). As a result of this the consumer's left forearm became progressively more painful and swollen. When she woke up her arm was swollen and stinging badly and remained that way all night. She described the pain as "excruciating". By the following morning, her fingers on the left hand were too swollen to move. The day after that, the swelling had decreased and the consumer was able to leave the hospital.

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### Report on Opinion - Case 97HDC5953, continued

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**Outcome of Investigation, continued**     *Alleged inappropriate comments*  
**During the procedure**

The provider advised the Commissioner that he did make a comment about the dollar value of the anaesthetic solution being used at the time it was administered, and that this comment was intended to provide some encouragement to the consumer that cost was not an issue to be considered in her treatment. He says *"I cannot quote myself directly, and while I am in no way challenging [the consumer's] recollection, what she has actually written in her letter [of complaint] does not sound like the sort of phrase I would use."*

**Following the procedure**

In the morning following surgery, the provider visited the consumer and apologised to her. He explained that he did not think there would be any permanent tissue damage as a result of the anaesthetic being injected into the arm tissue, but that he was going to read more about it. He returned later and again said that as a result of what he had read, he did not think there would be any permanent damage.

The day after that, the provider visited the consumer and apologised again. The consumer's letter of complaint states that she responded to the provider's apology by saying *"it was okay and I wasn't looking for anyone to blame. I did say I wanted to know what was going to happen to my arm and [the provider] said that he didn't know. He said 'we have a list of complications related to anaesthesia, one of which is death'. I said 'so you are telling me that I am lucky to be fine and it's only my arm'. [The provider] said 'well not exactly but it could have been worse.'"*

The consumer complained that this comment about death was uncalled for. The provider said that the comment was taken out of context and that he had attempted to explain that anaesthesia, like any medical treatment, is associated with a list of complications, some of which are relatively harmless and some of which are very harmful and can lead to permanent injury or death, but that the latter are "very rare."

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### Report on Opinion - Case 97HDC5953, continued

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**Outcome of  
Investigation,  
*continued***

***Competency***

The provider advised the Commissioner that it is “entirely true” that he has previously injected a drug intended as intravenous but subsequently found to be extravascular. This has occurred three times since he started training in anaesthesia in 1986. The provider advised the Commissioner that “*I have estimated the incidence of this problem to be roughly 3:9000*” (9000 being the approximate number of anaesthetics I have been involved with since 1986). *I do not consider this to be a problem of poor skill or judgement or lack of competency. This is an infrequent complication from which no serious permanent injury occurs.*”

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**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.*

***RIGHT 5***

***Right to Effective Communication***

- 1) *Every consumer has the right to effective communication in a form, language, and manner that enables the consumer to understand the information provided...*
  - 2) *Every consumer has the right to an environment that enables both consumer and provider to communicate openly, honestly, and effectively.*
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### Report on Opinion - Case 97HDC5953, continued

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**Code of  
Health and  
Disability  
Services  
Consumers'  
Rights,  
*continued***

*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;*

*RIGHT 7*

*Right to Make an Informed Choice and Give Informed Consent*

- 7) *Every consumer has the right to refuse services and to withdraw consent to services.*

**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. 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:**           **Right 6(1) and Right 7(7)**  
**No Breach**

In my opinion the provider has not breached the Code of Health and Disability Services Consumers' Rights.

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

***Options for anaesthesia***

The consumer's options for anaesthesia were either a local anaesthetic or a general anaesthetic. The provider was obliged to discuss these options with the consumer prior to the procedure being performed, and I am satisfied that he did so. The provider advised the consumer that she was a suitable candidate for a local anaesthetic. Under Right 7(7) of the Code, the consumer had the right to refuse a local anaesthetic, and I am satisfied that when she did so, this right was respected by the provider. Further, the provider advised me, and I accept, that he did not at any time apply pressure on the consumer to accept a particular mode of anaesthesia.

In forming my opinion that there was no breach of Right 6(1)(b) of the Code, I have also taken into account the fact that the provider and the consumer's surgeon had discussed the consumer's suitability for local anaesthesia prior to her admission, and that on separate occasions both the surgeon and the provider discussed this with the consumer, but discounted this option as it was clear that the consumer preferred a general anaesthetic.

As there were no contraindications suggesting that this option would be inappropriate for her, the provider provided the consumer with two further options for the induction of general anaesthetic, namely - by inhalation, or intravenously. In my opinion, once the consumer's preference for intravenous injection was made clear to the provider, he accepted it.

I am also satisfied that the manner in which the options were discussed with the consumer was reasonable in the circumstances, given the limited time available to the provider in which to speak with the consumer. There is insufficient evidence to show that the provider was abrupt or rude to the consumer.

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### Report on Opinion - Case 97HDC5953, continued

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

**Right 5(1) and Right 5(2)**

*Alleged inappropriate comments*

I note from correspondence provided to me, in a letter dated 12 May 1997 from the Chief Medical Officer of the Hospital to the provider, that the consumer had concerns “*about the communication around the time of the administration of the anaesthetic in particular.*”

Right 5 of the Code gives every consumer the right to effective communication. In my opinion, there has not been a breach of this right by the provider. I am satisfied that in the circumstances, the manner in which the provider spoke to the consumer was open and honest. His comments about the cost of the anaesthetic were intended to reassure the consumer, even though his comments were somewhat awkward. It is commendable that the provider told the consumer that he had injected the anaesthetic into her arm as soon as this happened, and was diligent in meeting with her after the procedure to speak to her about this.

Further, in my opinion, when the provider spoke to the consumer two days after surgery and explained to her some of the complications of anaesthesia, his comments about death being one of these were not intended to upset her or detract from his apology as to her pain and inconvenience. In all the circumstances, it is my opinion that the provider took considerable effort to reassure the consumer and provide her with information and an opportunity to discuss matters openly.

**Right 4(1)**

*Preparation for procedure*

The consumer was entitled to have services provided to her with reasonable care and skill. A significant aspect of the provision of services is a provider's preparation for the procedure to be carried out. In this case, I am satisfied that the provider's preparation for the consumer's procedure was reasonable in the circumstances and did not breach Right 4(1).

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### Report on Opinion - Case 97HDC5953, continued

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

In forming this opinion, I have taken into account the fact that while, due to other commitments, the provider was unable to see the consumer until immediately prior to her surgery, he had already discussed her case with her surgeon. When the provider did speak to the consumer, in the time available to him he familiarised himself with her case and her preference for general anaesthetic. There is no evidence which indicates to me that the provider was ill prepared or unfamiliar with either the consumer's case or the procedure she was to receive.

*Extravascular injection of anaesthetic*

It is not in dispute that the anaesthetic agent Propofol was injected by the provider into the tissues of the consumer's left forearm instead of a vein in that arm and that this caused the consumer considerable pain and distress.

The consumer was entitled to have anaesthetic provided with reasonable care and skill. However accidental extravascular injection of the anaesthetic agent occurs from time to time and in my opinion this does not constitute a breach of Right 4(1) in respect to the overall competence and skill of the provider as an anaesthetist.

What happened to the consumer was extremely painful and unfortunate. I do not wish to detract from the seriousness of the pain she suffered as a result. However, I am satisfied that the extravascular injection of Propofol by the provider was an infrequent complication which did not occur through negligence. I note the information provided in a letter published in *Anaesthesia and Intensive Care*, vol 21 No 5 October 1993, given to me by the provider, that "*even a large aliquot of perivenous Propofol would appear to be a benign, although embarrassing, mishap.*" This confirms that the consumer should not suffer serious or long lasting effects.

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### Report on Opinion - Case 97HDC5953, continued

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**Additional  
Comments***Follow up care*

The provider took seriously his responsibilities to the consumer. Both the provider and the hospital (through the Chief Medical Officer) were very co-operative in their responses to the consumer's complaint both at the time of her procedure and afterward.

The provider apologised "unreservedly" to the consumer on at least two occasions before her discharge from hospital. He also took the opportunity to reassess her in the hospital, to offer reassurance within the information available, and phoned her at her home three days after her discharge to enquire about her recovery. The provider discussed matters regarding ACC with the consumer, and informed her surgeon of the problem and requested his opinion. The provider also notified the consumer's GP about the problem.

I am satisfied that these efforts, and the Chief Medical Officer's and provider's meeting with the consumer at the end of May 1997, demonstrated a willingness to resolve the issues in respect of the consumer's complaint.

**Future  
Actions**

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While the provider's extravascular injection of the anaesthetic into the consumer's arm was very unpleasant for her it is not likely to have any long-term effects on the consumer.

I suggest that the provider read the available literature on accidental extravascular injection of anaesthetic and discuss with his peers the various ways of avoiding such errors.

The provider's actions and concern for the consumer after this incident discharged his obligation to apologise to her for his actions. Accordingly I do not propose to take any further action on this.

A copy of this opinion will be sent to the consumer and the Chief Executive Officer of the hospital. The Medical Council of New Zealand will be informed of the outcome.

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