
General Practitioner

Report on Opinion - Case 97HDC7679

Complaint The Commissioner received a complaint from the complainant about the care and treatment her stepfather, the consumer, received from the general practitioner. The complaint was that:

- *The general practitioner did not provide appropriate care and treatment to the consumer following a diagnosis of cellulitis in early June 1997.*
 - *The general practitioner did not admit the consumer to hospital in early June 1997 having diagnosed his cellulitis.*
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Investigation The complaint was received by the Commissioner on 24 August 1997. An investigation was undertaken and information obtained from:

The Complainant

The General Practitioner/Provider

A Consultant in Charge of a Ward at the Public Hospital

Relevant clinical records were obtained and viewed. The Commissioner obtained advice from an independent general practitioner.

Information Gathered During Investigation The consumer had been a resident of a rest home since 1995. He suffered from advanced dementia, diabetes mellitus and ischaemic heart disease. His memory was extremely poor and his speech and thoughts were confused.

In early May 1997, the consumer was assessed by a geriatric registrar, and a letter outlining the assessment, dated early June 1997, was forwarded to the general practitioner. That assessment indicated that the large arterial pulse at the back of the knee and the pulse on the dorsum of the right foot were not palpable (able to be felt).

Continued on next page

General Practitioner

Report on Opinion - Case 97HDC7679

**Information
Gathered
During
Investigation**

In early June 1997 (the same day the letter was sent) the general practitioner was asked to examine the consumer because the consumer was confused and drowsy and had been in bed for three days. The consumer's right leg was hot, red and swollen up to the knee. The general practitioner diagnosed cellulitis (an infection of the skin) and prescribed antibiotics. The complainant, the consumer's stepdaughter, was present during the examination but the general practitioner could not recall what he said to her. However, the general practitioner said it was his usual practice to discuss findings with family members, although there is no record of a discussion in his notes.

The general practitioner examined the consumer the next day and noted that his leg was better than the previous day, although the redness and swelling were ongoing. The consumer was less drowsy and was eating and drinking. During an examination three days after the first examination, the general practitioner said he found two areas on his right leg had broken down, "*necrotic ulcers probably as a result of thrombosis associated with cellulitis*". The general practitioner told the Commissioner that the pros and cons of admitting the consumer to hospital were considered by him but he ruled this out because the regular dressing of the ulcers could be carried out by the rest home staff. He said he also considered the familiar environment of the rest home was important because the consumer had confused thoughts. The general practitioner did not consider surgery a practical option because he believed the consumer would not have been able to stand a major amputation or cope as an amputee.

The general practitioner saw the consumer on four subsequent occasions in early to mid-June 1997. Rest home staff updated him on the consumer's progress by telephone. Although the consumer's general condition did not deteriorate much further, he developed more ulcers on the thigh and the right shoulder blade. The general practitioner said the ulcers were dressed regularly, kept clean and that the consumer, "*did not seem to be distressed by any pain*".

Continued on next page

General Practitioner

Report on Opinion - Case 97HDC7679, continued

**Information
Gathered
During
Investigation,
*continued***

The consumer's condition deteriorated in late June 1997. This was evidenced by the consumer's drowsiness and a copious smelly discharge from his ulcers. The rest home licensee contacted the general practitioner at 8.15pm. The general practitioner was again contacted by rest home staff at 8.45pm. The general practitioner advised the rest home staff to take the consumer to hospital if they were concerned about him. An ambulance was called at 9.30pm. The complainant was informed about the consumer's condition by the rest home licensee. The general practitioner said to the Commissioner that he decided to admit the consumer to hospital because, *"the resthome staff would not be able to cope and the possibility of amputation has to be faced"*.

Clinical notes from the public hospital's emergency department recorded, *"admitted from rest home with bilateral gangrenous leg ulcers"*. The complainant said she was told by the consultant in charge of the ward the consumer was admitted to at the hospital, that the consumer's condition was *"the worst case of neglect he had seen"* and would necessitate bilateral amputation. The consultant clarified to the Commissioner that the term *"neglect"* was not one he would use with a family member but described the consumer's condition as, *"one of the worst that he had ever seen"*. The consultant questioned the consumer's admission to hospital and said that, in his opinion, the consumer should have been left to die peacefully at the rest home.

The consultant said the family were quite clear that they did not want intervention and the consumer was allowed to die peacefully of renal failure in early July 1997.

General Practitioner

Report on Opinion - Case 97HDC7679, continued

**The Code of
Health and
Disability
Services
Consumers'
Rights**

The following Rights in the Code of Health and Disability Services Consumers' Rights apply:

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 -*
- a) An explanation of his or her condition; and*
 - b) An explanation of the options available, including an assessment of the expected risks, side effects, benefits, and costs of each option; and*

RIGHT 7

Right to Make an Informed Choice and Give Informed Consent

- ...
- 4) *Where a consumer is not competent to make an informed choice and give informed consent, and no person entitled to consent on behalf of the consumer is available, the provider may provide services where –*
- a) It is in the best interests of the consumer; and*
 - b) Reasonable steps have been taken to ascertain the views of the consumer; and*
 - c) Either, -*
 - i. If the consumer's views have been ascertained, and having regard to those views, the provider believes, on reasonable grounds, that the provision of the services is consistent with the informed choice the consumer would make if he or she were competent; or*
 - ii If the consumer's views have not been ascertained, the provider takes into account the views of other suitable persons who are interested in the welfare of the consumer and available to advise the provider*
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General Practitioner

Report on Opinion - Case 97HDC7679, continued

Opinion: In my opinion the general practitioner has breached Rights 6(1) and 7(4) of
Breach the Code as follows.

Right 6(1)

The general practitioner was not able to recall what he discussed with the complainant during the consultation in early June 1997 and he provided no evidence that he discussed his findings or treatment options with the consumer's family. As the consumer was not able to understand the information provided, the general practitioner should have explained his diagnosis and discussed the treatment options available, including the risks associated with each option, with the consumer's family.

Subsequent to the geriatric assessment forwarded to the general practitioner in early June 1997 and the inability to feel the right leg and foot pulses, my advisor states:

"... [T]his indicates quite significant vascular disease in this leg and would certainly imply a major reduction of arterial blood flow to the lower leg. It is not then surprising that [the consumer] would develop cellulitis and ischaemic ulcers in this area".

The consumer's continuing treatment plan should have been immediately discussed with his family. As the consumer's condition changed, the updated situation should have been shared with the family. When the necrotic ulcers became such that hospital admission was considered the consumer's family should have been informed immediately, and should have been advised about the extremely poor prospects, as well as whether a hospital admission was appropriate.

In my opinion, by failing to explain his diagnosis and discuss treatment options, the general practitioner breached Right 6(1) of the Code of Rights.

Continued on next page

General Practitioner

Report on Opinion - Case 97HDC7679, continued

Opinion:
Breach
continued

Right 7(4)

The consumer suffered from advanced dementia and was not competent to make an informed choice or give informed consent. The general practitioner had a responsibility to consult with interested family members before commencing treatment or admitting the consumer to hospital for further treatment.

In my opinion the general practitioner made no attempt to gain the consent of the consumer's family before he commenced treatment or arranged for the consumer's admission to the public hospital and this failing was in breach of Right 7(4)(c)(ii) of the Code of Rights.

Future
Actions

I recommend that the general practitioner:

- Apologises in writing to the complainant for not ensuring the consumer's family were fully informed. This apology should be sent to the Commissioner's office and will be forwarded to the complainant.
- Amends his practice to ensure that when he discusses his findings and proposed treatment with consumers he records these discussions in his notes.
- Reads the Code of Health and Disability Services Consumers' Rights and is familiar with his obligations under the Code.
- Views the Commissioner's video "An Introduction for Providers".

A copy of this opinion will be sent to the complainant and the Medical Council of New Zealand. A copy will also be sent to the Crown Health Enterprise and the geriatric registrar who assessed the consumer with a suggestion that assessments be delivered in a more timely way to general practitioners.
