Dermatologist

Opinion – Case 99HDC12013

Complaint

The Commissioner received a complaint from the consumer, Mrs A, about treatment received from the dermatologist, Dr B. The complaint is that:

- *On 14 December 1998 dermatologist Dr B performed a TCA face peel on the consumer, Mrs A. Although Dr B had reassured Mrs A he would provide plenty of support after the peel, Mrs A was unable to contact him or anyone else from his practice when she experienced a face rash eleven days after treatment.*
- *Dr B led Mrs A to believe the TCA face peel was a minor procedure when it is a serious procedure.*
- *Dr B did not inform Mrs A of the strength of the TCA used for the peel.*
- *Dr B made an erroneous claim to Mrs A that no treatment for sun damage would be required for five years after the peel.*

Investigation Process

The complaint was referred to the Commissioner from the Medical Council of New Zealand on 5 November 1999. An investigation was commenced on 2 December 1999. Information was obtained from:

The consumer, Mrs A
The dermatologist, Dr B

Relevant medical records were obtained and reviewed. Independent advice was obtained from a dermatologist.

Information Gathered During Investigation

The consultation

On 1 December 1998 Mrs A consulted the dermatologist, Dr B, concerning the effects of sun damage to her face. Dr B works in a group practice with other dermatologists. Mrs A said Dr B informed her that she had advanced sun damage to her facial skin and advised her that the best treatment for her would be a chemical peel using trichloroacetic acid (TCA). Mrs A said Dr B claimed that this was a quicker procedure than using Efudix (a treatment cream) and would produce a better result than burning individual areas with liquid nitrogen.

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Dermatologist

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Information Gathered During Investigation *continued*

Dr B advised me that Mrs A presented with widespread sun damage to the skin of her face, which included actinic keratoses (wartlike growths), solar lentigines (freckles) and possible squamous cell carcinomas (skin cancers). Dr B said he went through all the treatment options with Mrs A, as was his normal practice. These options included treatment with liquid nitrogen, Efudix cream, spot laser ablation of individual lesions, full face laser resurfacing and TCA chemical peeling. Dr B showed Mrs A photographs of patients immediately after a peel and when the healing process was complete.

The information handout

Dr B gave Mrs A printed information sheets about the TCA peel procedure. These sheets comprised five pages of information about the function of the peel, a description of the process, information that the peel can be painful, directions for care of the skin after the peel, and what one can expect after the peel. Included was the information that most patients take five to seven days to heal from an average TCA peel. The first page of the information sheets stated:

> "*If you decide that you are interested in a TCA peel, you will need to have a consultation with* [Dr B]*, who will examine your skin and discuss the potential benefits and risks of a PCA peel for your particular skin type and condition.*"

The information sheets concluded with the statement, "*If you have any queries during the healing phase please do not hesitate to contact one of our practice nurses.*"

There was no specific heading outlining potential risks or side effects of a peel in the information sheets Mrs A was given.

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Dermatologist

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Information Gathered During Investigation *continued*

The consultation

Mrs A said she questioned Dr B about the risks of the procedure but he did not inform her of any associated risks with the procedure. In particular, Mrs A said Dr B did not inform her of any risk of dermatitis. Mrs A could not remember what Dr B specifically said to her, but she was left with the impression that any risks were so negligible they were not worth mentioning. Mrs A said Dr B told her that having a chemical peel would take a week out of her life but would give her skin a fresh start. Mrs A said that Dr B told her she would probably not require any treatment for sun damage for up to five years. After this discussion Mrs A was left with the impression that a chemical peel was a "*relatively minor procedure*" from which she would be completely recovered in a week to ten days.

In her response to my provisional opinion, Mrs A said she did not commit herself to having the peel at the first consultation. Before her second consultation she prepared a list of questions for Dr B, including one about side effects, because she could not remember there having been any previous discussion on that subject. It was at this time that she gained the impression that any risks or side effects of the TCA peel were negligible.

Dr B informed me that as part of his standard practice prior to a peel, he discussed with Mrs A the risks and benefits associated with the peel. Dr B said the risk profile for a TCA peel is very low. The main risks are scarring, infection and changes in pigmentation. Dr B said he also told Mrs A about the minor risks associated with the peel. These are acne or skin sensitivity, with the latter including dermatitis. Dr B said he did not specifically tell Mrs A about any risk of peri-oral dermatitis as this condition is not caused by the TCA peel itself, but is a relatively common reaction to the emollients used during the healing process. Dr B said he explained to Mrs A that in most cases a TCA peel provides excellent clearance of keratoses for as long as four to five years. Dr B said, "*I certainly do not recall saying that I would guarantee clearance for four to five years, but such results are attainable.*"

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Dermatologist

Opinion – Case 99HDC12013, continued

Information Gathered During Investigation *continued*

In her response to my provisional opinion, Mrs A said Dr B did not guarantee clearance but did say that she probably would not have to have any further treatment for up to five years. Mrs A said that six months after the peel, she had some actinic keratoses and a basal cell carcinoma removed by another dermatologist.

Strength of the TCA
Mrs A complained that during the consultation Dr B did not inform her of the strength of the TCA to be used.

Dr B advised me that:

> "*With regard to informing* [Mrs A] *as to the strength of the TCA peel used, this is not my usual practice. Rather I would have informed her that this is a medium depth chemical peel and provided her with an information sheet on TCA peels. TCA does vary in strength. For medium depth peel I invariably use either 25% or 35% TCA. The depth of the peel depends somewhat on the number of coats applied. It really doesn't matter what strength you use. What you are doing as a clinician is looking for an 'endpoint'. This is a uniform whitening of the skin. I could see no point in informing* [Mrs A] *of the strength of the TCA used as this would have been essentially meaningless to her.*"

Mrs A chose to have a TCA chemical peel. She said that when discussing the date for the peel some pressure was put on her by Dr B to have it done before Christmas 1998. Mrs A had been reluctant because she feared her face might not have healed by Christmas Day.

In her letter to the Medical Council dated 31 October 1999, Mrs A stated:

> "*More than once during this discussion I was told that I would be recovered by Christmas and my plans would not be affected. I was also reassured that I would receive plenty of support and was given an after hours number to contact* [Dr B] *if necessary.*"

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Dermatologist

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Information Gathered During Investigation *continued*

The TCA peel

The TCA peel was carried out on 14 December 1998. Dr B advised me that the peel he performed on Mrs A was an uncomplicated procedure and described the process as follows:

> "*After intravenous sedation induction, her skin was cleansed with an aqueous chlorhexidine. Then a weak acid solution (Jessner's solution) was applied in two coats. This resulted in the usual light frosting. This was followed by application of 35% TCA in two coats attaining the usual whitening of the skin seen with this procedure. She was then transferred to the Recovery room.*"

After the peel Mrs A was put on Dr B's usual protocol of Zovirax (anti viral agent), Ciproxin (antibiotic) and Sporanox (anti fungal agent). Dr B advised that:

> "*My notes post operatively are minimal, but suggest that she did have not an unusual post operative complication of perioral dermatitis and that she had a somewhat slower recovery than most. The perioral dermatitis I gather, subsequently settled on cessation of her moisturisers and introduction of tetracycline antibiotics. My last note on the 16th of April simply points out that she is on Retinova* [skin cream]."

Follow-up

Dr B's consultation notes recorded that he saw Mrs A on 15 December 1998 for a post-operative check. Mrs A said that a week after the peel, her skin had still not healed and 11 days after the peel, on Christmas Day, a rash began to spread over her face. On 26 December 1998 Mrs A felt alarmed and phoned the emergency number for Dr B. A recording invited her to leave a message. Over the next two days Mrs A left several messages but was not contacted by anyone from Dr B's practice.

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Dermatologist

Opinion – Case 99HDC12013, continued

Information Gathered During Investigation *continued*

Mrs A subsequently found out that Dr B was out of the country until mid January. Mrs A said she contacted Dr B's rooms in mid January and spoke to the practice nurse, who was unable to offer any advice. On this occasion, Mrs A said the practice nurse spoke to Dr B, who was too busy to see Mrs A. She was told to wait until her routine follow-up appointment at the end of January. There was no record of any such conversation in Dr B's records. The practice nurse has since left the practice and was unavailable for comment.

Dr B advised me that, as part of his normal procedure, Mrs A was seen the day after her TCA peel and several times during her post-operative recovery. This is Dr B's usual protocol following a TCA peel. Dr B noted that he closed the office on 23 December and either he or his nurses would have seen Mrs A between 14 and 23 December. Dr B said, "*My next note isn't until the end of January, although I may have seen her or communicated with her between times.*"

When Mrs A consulted Dr B on 29 January 1999, he diagnosed perioral dermatitis and prescribed Minocycline, a tetracycline antibiotic. Mrs A said the perioral dermatitis did not settle until the end of February 1999. Dr B's notes record a consultation on 16 February 1999: "*Says she doesn't like current antibiotic. Wants to try Ciproxin.*" Dr B prescribed Mrs A a one-month supply of Ciproxin.

In her response to my provisional opinion, Mrs A said that after her first post-operative visit on 29 January 1999, she was never given a designated consultation and was "*fitted in*" for a few minutes between scheduled patients.

Mrs A said she has had several problems resulting from the peel, some of which resolved with time. Dr B stated that while he knew Mrs A had a difficult time coping with the post-operative course, he was unaware of any significant complication to her treatment.

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Dermatologist

Opinion – Case 99HDC12013, continued

Information Gathered During Investigation *continued*

In her response to my provisional opinion, Mrs A said that perioral dermatitis was a significant complication for her:

> "*It was over nine weeks from the time this condition developed until there was any appreciable improvement. During this time my normally pale face was bright scarlet.*
>
> *I did find this hard to cope with, particularly as I did not know what was happening to me for the first five weeks and was unable to get any advice or help until the end of January. I note in my diary on 2 March 1999 that the redness had lessened.*
>
> *I am sure* [Dr B] *is also aware that I have scarring to my cheeks. At my post-operative consultation* [Dr B] *examined one of these scars and asked whether I had ever had surgery. He did appear to show some concern about a scar on my jawline and gave me some Dermovate to apply to it. At the same time he made the remark that if this treatment was not successful he may inject it. I do not know and failed to ask what sort of injection this would be. It was shortly after this that I sought another professional opinion.*"

Dermatologist

Opinion – Case 99HDC12013, continued

Independent Advice to Commissioner

The following expert advice was obtained from an independent dermatologist.

"…

THE STRENGTH OF TCA

I have been asked to advise the Commissioner on whether, in my professional opinion, [Dr B] *exercised reasonable care and skill in providing services to* [Mrs A] *that comply with professional, ethical or other relevant standards and to respond to certain points.*

In my opinion, [Dr B] *provided the patient with mostly comprehensive advice regarding her procedure. The procedure was performed with careful documentation and I have no reason to consider that it was not carried out with skill and expertise.*

However, the documentation supplied to me does not indicate the risks and possible complications of the procedure were discussed prior to or at the time it was performed. It was unfortunate that it was carried out just before the Christmas vacation. [Dr B] *should have ensured there was medical backup available to his patients during his absence.*

STRENGTH OF TCA

[Dr B] *used a standard combined medium depth peel using Jessner's solution and 35% trichloroacetic acid. At the time of the procedure, a number of coats are applied to achieve a specific end point. The lower strengths of trichloroacetic acid tend to be inadequate to treat actinic keratoses and solar lentigines effectively on facial skin. Higher strengths, commonly used in the past, are no longer favoured because of the risk of unexpected deeper skin injury and consequent scarring. The combined procedure allows a more even and safer peel.* [Dr B's] *information sheet and the description he has given of the procedure is entirely according to best practice.*

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Dermatologist

Opinion – Case 99HDC12013, continued

Independent Advice to Commissioner *continued*

As [Dr B] *has commented in his letter of 2nd February, one would not normally specifically discuss the strength of trichloroacetic acid with the patient as it is the end point, ie medium depth coagulation, that is important.*

RECOVERY TIME

Most patients have peeling mostly completed by seven days. It is not infrequent that small areas will take longer to exfoliate. Peeling is delayed if there is any irritation or picking of the peeled skin. Infection also delays it; this does not appear to have occurred in [Mrs A's] *case and in any case would be unlikely in view of the three antimicrobial agents prescribed. However, the face may remain red and a little sensitive for several weeks, as is described in* [Dr B's] *information sheet.*

My personal opinion is that a face peel should be considered neither minor nor major but intermediate. Complications may arise but they are generally minor and readily controlled. On the other hand, I consider superficial peels a minor procedure. These are performed by practice nurses under supervision, using such agents as glycolic acid or Jessner's solution. Few dermatologists continue to perform deep peels such as a phenol (Baker's) because the risks of uncontrolled injury and subsequent scarring are much greater and phenol is systemically toxic, unlike trichloroacetic acid which results in local injury only.

PERIORAL DERMATITIS

Perioral dermatitis is a common facial rash. I would see several patients each month with this rash which arises on the chin, nasolabial fold and sometimes around the eyelids. It is thought to be caused by too much face cream. It is particularly likely to arise as a result of topical steroid use on facial skin but can also develop from cosmetics.

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Dermatologist

Opinion – Case 99HDC12013, continued

Independent Advice to Commissioner *continued*

Perioral dermatitis is probably not infrequent after a medium depth peel. The face is relatively sensitive and one is encouraged to apply plenty of cream during the first 10 days or so (as described in [Dr B's] *handout) to enhance healing. The dermatitis is more likely if these creams have been continued for longer periods.*

The treatment is to stop face creams where possible, using only oil free products if these must be continued. Oral antibiotics are prescribed for one to three months. Tetracyclines are the most commonly used. [Dr B] *prescribed Minocycline at first but changed this to Ciprofloxacin at* [Mrs A's] *request according to his printed notes. Minocycline is standard treatment; I have no experience or knowledge of the effects of Ciprofloxacin in this condition.*

The strength of the trichloroacetic acid is irrelevant to the complication.

FOLLOW-UP

In most cases, very little follow-up is required after a medium depth face peel as patients recover in a straightforward manner. However, one would hope that experienced medical care would be available to a patient suffering from complications, at least during normal office hours. It is also unfortunate that he failed to see her personally when her concerns were first brought to his attention.

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Dermatologist

Opinion – Case 99HDC12013, continued

Independent Advice to Commissioner *continued*

OTHER ISSUES

This procedure was an appropriate one for this patient. She had widespread actinic keratoses and lentigines. In my opinion, medium depth trichloroacetic acid peel is less effective at dealing with actinic keratoses than Efudix (5-fluorouracil cream), but is more effective at improving the general appearance because it removes lentigines effectively. Patients prefer a peel in general because they recover more quickly and the early results are satisfactory. The unsightliness due to 5-fluorouracil can last three to six weeks. Similar complications can arise. However, the majority of patients undergo cryotherapy because it is less expensive, more convenient, and healing occurs within five to 10 days. The results are not as good, however.

My main concerns are:

1. *The evidence that complications and risks of the procedure were discussed is scanty.*
2. *It appears* [Mrs A's] *concerns in late December and January did not reach* [Dr B] *or were ignored.*

1. Complications

Medium depth chemical peels can result in a number of complications including: delayed healing, persistent erythema, secondary infection with bacteria, fungi and viruses, deep injury resulting in scarring, perioral dermatitis, acne, milia, skin sensitivity, hyperpigmentation, hypopigmentation. Generally these are mild and readily treatable.

[Mrs A] *outlines the information she was given at her initial consultation on the 14 December. In all other respects this seems to have been thorough.* [Dr B's] *information sheets are comprehensive and well written from other respects.*

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Dermatologist

Opinion – Case 99HDC12013, continued

Independent Advice to Commissioner *continued*

In [Dr B's] *letter dated 21st January 2000 to the HDC his third paragraph explains 'In most cases it (TCA) provides excellent clearance of keratoses for as long as four to five years. I certainly do not recall saying that I would guarantee clearance for four to five years, but such results are obtainable'. I would agree with these comments and think it most unlikely* [Dr B] *would have indicated anything different. The severity of* [Mrs A's] *presentation would indicate she could expect further lesions to require treatment, but hopefully, fewer than prior to the procedure.*

2. Follow-up

Follow-up arrangements will vary from practitioner to practitioner and patient to patient. I offer my patients a review a couple of days after the procedure and then a week or so later. I then leave it up to them to consult me if it proves necessary. Generally a final check is arranged three months later.

…"

Dermatologist

Opinion – Case 99HDC12013, continued

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.

…

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

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; ….

Dermatologist

Opinion – Case 99HDC12013, continued

Opinion: No Breach
Dermatologist, Dr B

Right 4(1)

Dr B performed a standard combined medium depth face peel on Mrs A, using Jessner's solution and 35% TCA. My advisor said a combined procedure allows for a more even and safer peel. My advisor stated that the strength of the TCA was irrelevant to the complication (perioral dermatitis) that Mrs A developed after the peel. Perioral dermatitis is a common face rash thought to be caused by too much face cream and is probably not infrequent after a medium depth peel.

I accept that the procedure performed by Dr B was an appropriate one for Mrs A. Dr B was experienced in the face peel procedure and carried out the procedure with skill and expertise. Accordingly, in my opinion Dr B did not breach Right 4(1) of the Code when carrying out the face peel procedure.

Opinion: Breach
Dermatologist, Dr B

Right 4(3)

Mrs A had her first consultation with Dr B on 1 December 1998. During this consultation she was given patient information sheets. These sheets concluded with the advice that if there were any queries during the healing phase "*do not hesitate to contact one of our practice nurses*".

The face peel was performed on 14 December 1998. Mrs A had been concerned about the timing of the procedure, as she feared her face might not be healed by Christmas Day. She was reassured by Dr B that she would be healed by Christmas and given an after-hours number to contact him if necessary.

On Christmas Day Mrs A noticed a rash on her face. By 26 December she was alarmed and contacted Dr B. A recording invited Mrs A to leave a message. Mrs A left several messages over two days but no one from Dr B's practice contacted her.

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Dermatologist

Opinion – Case 99HDC12013, continued

Opinion: Breach Dermatologist, Dr B *continued*

Mrs A said she contacted Dr B's practice again in mid January but was told by the practice nurse that Dr B was unavailable to offer advice and she should wait until the scheduled follow-up appointment. There is no record of this conversation in Dr B's records and the practice nurse was unavailable for comment as she has since left the practice. Dr B next saw Mrs A at her scheduled follow-up appointment on 29 January 1999. At this appointment Dr B diagnosed perioral dermatitis and prescribed an antibiotic, Minocycline.

My advisor informed me that perioral dermatitis is a common facial rash thought to be caused by too much face cream. It is particularly likely to arise as a result of topical steroid use on facial skin but can also develop from cosmetics. I am advised that perioral dermatitis is probably not infrequent after a medium depth peel, as the face is relatively sensitive. Patients are encouraged to apply plenty of cream during the first ten days or so after a face peel procedure. Dermatitis is more likely if these creams have been continued for longer periods. The treatment is to stop face creams altogether. Oral antibiotics are prescribed for one to three months. My advisor commented that Dr B appropriately prescribed Minocycline (a tetracycline antibiotic) which is standard treatment for perioral dermatitis.

I accept that follow-up arrangements vary from practitioner to practitioner and patient to patient. My advisor's practice is to offer a review a couple of days after the procedure and a week or so later. The advisor then leaves it up to the patient to make contact if it proves necessary, with a final check three months after the procedure. My advisor stated that "[Dr B] *should have ensured there was medical backup available to his patients during his absence*".

When Mrs A developed symptoms 11 days after the procedure she was unable to contact Dr B. Her messages on the answerphone were not returned. I find this unacceptable. Dr B had given Mrs A a contact number to call him if she needed and the patient information sheets advised that a practice nurse would be available if needed.

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Dermatologist

Opinion – Case 99HDC12013, continued

Opinion: Breach Dermatologist, Dr B *continued*

Notwithstanding that this was the Christmas holiday season, Dr B should have arranged cover for his patients and for someone to answer his calls. I note that Dr B is in a group practice with other dermatologists and I am sure this could have been arranged. By failing to have in place any appropriate follow-up for Mrs A when she developed symptoms, Dr B did not take reasonable actions in the circumstances to provide her with services consistent with her need for follow-up advice when she developed symptoms after the peel. In my opinion Dr B did not provide services in a manner consistent with Mrs A's needs and breached Right 4(3) of the Code.

Right 6(1)(b)

Mrs A had the right to an explanation of the options available including an assessment of the expected risks and side effects of the TCA peel procedure. To be fully informed, Mrs A was entitled to the information a reasonable consumer in her circumstances would expect.

At the consultation of 1 December 1998, both Dr B and Mrs A agree that a discussion took place concerning the TCA peel procedure. Dr B said that as part of his normal practice prior to a peel, he discussed with Mrs A the main risks associated with the peel, namely scarring, infection and changes in pigmentation. Dr B said he also told Mrs A about the minor risks associated with the peel, acne or skin sensitivity (including dermatitis). However, Dr B did not specifically mention the risk of perioral dermatitis as this condition is not caused by the TCA peel itself but is a relatively common reaction to the emollients used during the healing process.

Mrs A could not recall exactly what Dr B told her at her pre-operative consultations, but said he informed her any risks were negligible and specifically did not inform her of the risk of dermatitis. Mrs A was left with the impression that the procedure was a relatively minor one and any risks were so negligible they were not worth mentioning.

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Dermatologist

Opinion – Case 99HDC12013, continued

Opinion: Breach Dermatologist, Dr B *continued*

Mrs A was given detailed patient information sheets concerning the TCA peel. My advisor considered the patient information sheets, whilst very comprehensive and well written in other respects, contained no specific reference to complications and risks associated with the procedure, for example the risks of delayed healing, secondary infection and perioral dermatitis. I am satisfied that Mrs A was not aware of these minor risks and would have wished to be aware of these risks prior to making the decision to have the TCA peel before Christmas.

Dr B confirmed that did he not inform Mrs A of the strength of the TCA used as he considered that this information would be meaningless to her. My advisor agreed that the strength of the TCA used would not normally be discussed with the patient and added that the strength of the TCA was not connected in any way to the perioral dermatitis Mrs A developed.

I am satisfied that Dr B discussed some of the risks and complications of the peel with Mrs A. However, I am not satisfied that Mrs A was fully informed of the complications that could arise from the procedure. Accordingly, in my opinion Dr B breached Right 6(1)(b) of the Code.

Actions

I recommend that Dr B:

- Provide a written apology to Mrs A for breaching the Code. The apology is to be sent to the Commissioner's Office and will be forwarded to Mrs A.
- Amend his patient information sheet on TCA peels to include specific information on possible complications, including perioral dermatitis.
- Ensure that there is always appropriate follow-up cover for his patients after any procedure.

Other Actions

A copy of this opinion will be sent to the Medical Council of New Zealand. An anonymised copy of this opinion will be sent to the New Zealand Dermatology Society, for educational purposes.