
Orthopaedic Specialist

Report on Opinion - Case 97HDC8145

Complaint

In late December 1996 the consumer fell, causing a fracture dislocation of her left ankle. She was admitted to a Hospital and on the following day, she was admitted to a different, larger Hospital. There she was attended by the provider, an orthopaedic specialist. The complaint is that:

- *The provider manipulated the consumer's ankle without prior consultation with her and without anaesthetic or painkillers, causing her extreme pain and emotional distress.*
 - *Also the provider's manner and language were inappropriate and resulted in further distress for the consumer.*
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Investigation

The complaint was received by the Commissioner on 15 August 1997 and an investigation was undertaken. Information was obtained from:

The Consumer

The Provider / Orthopaedic Specialist

The Customer Services Area Co-ordinator, Crown Health Enterprise

The consumer's clinical records were obtained and viewed. Documentation relating to the consumer's initial complaint to the Crown Health Enterprise was obtained and viewed. In addition, the Commissioner obtained advice from an orthopaedic specialist.

Outcome of Investigation

In late December 1996, the consumer slipped on gravel on a steep road and hurt her ankle. She was admitted to Hospital. A plaster back slab was applied and pain relief administered. The following morning, the consumer's ankle was x-rayed revealing a fracture of her tibia with posterior displacement of the talus.

The consumer was transferred to a larger Hospital and was admitted to Ward 1 around 4:00pm the same afternoon. She was attended by the admitting House Surgeon and nursing staff.

Continued on next page

Orthopaedic Specialist

Report on Opinion - Case 97HDC8145, continued

**Outcome of
Investigation,
*continued***

At 7:20pm the consumer received 3mg of morphine intravenously. Shortly afterwards the provider, an orthopaedic specialist, arrived at her bedside with the admitting House Surgeon and two or three nurses. The provider had viewed the consumer's x-ray and noted the trimalleolar fracture and posterior dislocation. The provider advised the Commissioner that in his experience ongoing pain and long term damage can be caused by an unreduced dislocation and for this reason he considered it important to reduce the dislocation as quickly as possible.

With very little, if any, explanation of what he was about to do and why he was doing it, the provider proceeded to reduce the consumer's dislocated ankle by manipulation. The provider advised the Commissioner that prior to reduction it is better to give a short explanation to the patient, as a long explanation often distresses the patient more.

The provider reduced the ankle by holding the consumer's toes with one hand, cupping his other hand around her heel followed by a swift application of forward pressure. Reduction was achieved easily and a subsequent x-ray confirmed a successful reduction. A plaster backslab was applied following the procedure to maintain the reduction.

While in the provider's experience reduction usually produces significant immediate pain relief, the consumer was very distressed. She was not expecting what occurred and found the reduction very painful. Entonox gas was administered and 5 minutes after the reduction a further 2 mg of morphine was given intravenously. The consumer remained upset for some time. Another 2.5 mg of morphine was given at 10.30pm and another 2.5 mg dose at 11.55pm. A further 12mg was given between 3.25am and 11.15am the following day.

While at the consumer's bedside, the provider expressed his views about pain perception to the nurses. In his view, experience of pain is heightened by expectation of pain. He mentioned pain in childbirth by way of example. During the course of his discussion he used the words "bollocks" and "bullshit". The provider subsequently advised the Commissioner that he considered such language "is not appropriate."

Continued on next page

Orthopaedic Specialist

Report on Opinion - Case 97HDC8145, continued

Outcome of Investigation, continued

There was a history of disagreement between the provider and the orthopaedic ward nurses about the amount of pain relief that should be given to patients in the orthopaedic ward. The provider had an underlying concern about the overuse of pain relief as it can mask compartment syndrome, a condition in which increased tissue pressure in a confined anatomical space causes decreased blood flow leading to ischemia and marked by pain. The provider considered that some patients had been placed in potential danger by the overuse of pain relief.

A nurse in attendance at the time of the reduction was critical of the provider's management. In her view the explanation given to the consumer prior to reduction was inadequate, as was the amount of pain relief given. In her view a hypnotic should also have been offered. The provider advised the Commissioner he considered using a hypnotic in this case but felt it was not required. He also advised that reduction in the ward is unusual and it is possible the nurses had not seen such a reduction before and were therefore not aware of the level of discomfort the procedure can cause.

On the day following the reduction, the consumer's ankle was still too swollen for internal fixation. The provider advised the Commissioner that such swelling can take some days to subside and given where the consumer lived he asked if she wished to be transferred there for further management. Transfer was agreed to both by the consumer and the Hospital in the consumer's home city, and the consumer travelled home in her partner's car.

Subsequently the consumer has been attended by a psychologist for symptoms of post traumatic stress syndrome, which she relates to her experience while at the Hospital where the provider works. The therapy is being paid for by ACC.

The consumer complained to the relevant Crown Health Enterprise about her treatment by the provider. The Chief Medical Advisor and the then Customer Services Area Co-ordinator of the Crown Health Enterprise conducted an investigation as a result of the consumer's complaint. The Crown Health Enterprise, via its Customer Services Co-ordinator, advised the Commissioner that in future the provider will give consideration to administering a sedative as well as pain relief prior to reduction. The Customer Services Co-ordinator also acknowledged the language the provider used when speaking to the nurses was inappropriate and advised this matter had been addressed with him.

Continued on next page

Orthopaedic Specialist

Report on Opinion - Case 97HDC8145, continued

Outcome of Investigation, *continued*

Independent Advice

The Commissioner obtained advice from an orthopaedic surgeon in respect of the provider's clinical management. The advisor affirmed the provider's diagnosis and treatment. In his view it was appropriate for the provider to reduce the ankle on the ward. Transfer to another department, particularly in light of the fact that it was holiday time and there would be fewer staff than usual, would have further delayed the reduction, which was most inadvisable. He said:

If the manipulation is carried out expeditiously, this is to the patient's immediate and long-term advantage.

The advisor considered the action used to effect reduction was appropriate.

The advisor, who made no criticism of the amount of pain relief given prior to reduction, advised that on occasion he has performed such a manipulation without any pain relief. He advised:

It is a general observation that once fractures and dislocations are reduced, if the patient is in severe pain, there is some other potentially very serious reason for this, and that the pain is not due to the injury itself.

Over the years I have had experience of several cases in which the administration of medications for pain relief has resulted in serious consequences, and in particular compartment syndromes have not been diagnosed - pain is one of the particular features in the early diagnosis of this condition.

Continued on next page

Orthopaedic Specialist

Report on Opinion - Case 97HDC8145, continued

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

RIGHT 1

Right to be Treated with Respect

- 1) *Every consumer has the right to be treated with respect.*

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.*

RIGHT 5

Right to Effective Communication

- ...
2) *Every consumer has the right to an environment that enables both consumer and provider to communicate openly, honestly, and effectively.*

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...*
- 2) *Before making a choice or giving consent, every consumer has the right to the information that a reasonable consumer, in that consumer's circumstances, needs to make an informed choice or give informed consent.*

RIGHT 7

Right to Make an Informed Choice and Give Informed Consent

- 1) *Services may be provided to a consumer only if that consumer makes an informed choice and gives informed consent, except where any enactment, or the common law, or any other provision of this Code provides otherwise.*

Continued on next page

Orthopaedic Specialist

Report on Opinion - Case 97HDC8145, continued

Opinion: Right 4(2)**No Breach**

In my opinion the provider has not breached Right 4(2) of the Code of Health and Disability Services Consumers' Rights in relation to the reduction and pain relief given to the consumer.

Prompt manipulation of the consumer's ankle was required, which the provider carried out using an acceptable method. Pain relief given during the period just prior to and just after the manipulation was within acceptable limits.

**Opinion:
Breach**

In my opinion the provider has breached Rights 1(1), 5(2), 6(1), 6(2) and 7(1) of the Code of Health and Disability Services Consumers' Rights, as follows:

Right 1(1)

It was inappropriate for the provider to swear in front of the consumer. In doing so, the provider did not show her the respect to which she was entitled, and breached Right 1(1) of the Code.

Right 5(2)

There was some tension between the provider and the nurses prior to his attending the consumer. This tension surfaced at the consumer's bedside and meant that the atmosphere was not conducive to effective communication between the provider and the consumer. In particular, the provider swearing was an impediment to effective communication. In my opinion, the provider did not provide an appropriate environment as required, and breached Right 5(2) of the Code of Rights.

Rights 6(1), 6(2) and 7(1)

Before the provider manipulated the consumer's ankle he was required to gain her informed consent. In order to gain informed consent, the provider needed to advise the consumer of her condition, what options for treatment were available, along with the expected risks, side effects and benefits of the treatment proposed. Only when the consumer was fully advised and then consented to the treatment was the provider entitled to manipulate her ankle.

Continued on next page

Orthopaedic Specialist

Report on Opinion - Case 97HDC8145, continued

**Opinion:
Breach,
*continued***

The provider's failure to adequately inform the consumer of the treatment he proposed and why he proposed it, and his failure to gain her consent, contributed to the consumer's difficulties in coping with the pain associated with the reduction and may have contributed to her subsequent ongoing difficulties. In my opinion, the provider breached Rights 6(1), 6(2), and 7(1) of the Code by these failures.

Actions

I recommend that the provider takes the following actions:

- Apologises in writing to the consumer for his breaches of the Code of Health and Disability Services Consumers' Rights. This apology should be sent to the Commissioner's office and will be forwarded to the consumer.
- Reads the Code of Health and Disability Services Consumers' Rights and confirms in writing to the Commissioner that he fully understands his obligations as a provider of health services.

A copy of this opinion will be sent to the New Zealand Medical Council.

A copy of this opinion, with all identifying features removed, will be sent to the Royal Australasian College of Surgeons for educational purposes.
