
Dentist

Report on Opinion - Case 98HDC11042

Complaint The Commissioner received a verbal complaint from a consumer about the services provided by a dentist. The complaint is that:

- *In early January 1998 the dentist removed two of the consumer's teeth. The dentist did not explain to her beforehand how much the procedure would cost and has not provided an itemised account.*
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Investigation The Commissioner received the complaint on 13 January 1998. Initially the Commissioner referred the complaint to the Health Advocates Trust. The advocacy service had difficulty contacting the dentist and on 26 May 1998 advised the Commissioner that the dentist refused to meet with the consumer and the matter was not resolved.

The Commissioner then commenced an investigation. Information was obtained from:

The Consumer
The Provider / Dentist
The Dental Surgery Assistant (DSA)
A Hygienist

The consumer's dental records were obtained and reviewed.

In the absence of a response from the dentist, the Commissioner issued a provisional opinion on 20 November 1998 based on the information she had received. As a consequence the dentist responded in writing providing records for the consumer.

Outcome of Investigation In mid-December 1997 the consumer attended the dentist with toothache. The dentist examined the consumer's teeth, took x-rays and told the consumer she required extensive dental treatment. The consumer asked the dentist for an implant but he said this was not an option. The dentist made an appointment for the following day.

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**Outcome of
Investigation,
*continued***

The next day, having examined the x-rays and following further assessment the dentist gave the consumer two quotes which he referred to as Option A and Option B. The consumer was unable to remember exactly what was involved with each option but was able to confirm that each opinion included extensive restoration work. Neither quote was in writing. The dentist gave the consumer a prescription for antibiotics and made another appointment for treatment. The dentist when reviewing the x-ray found a piece of root from tooth 25 in the gum.

The dentist advised that he quoted as follows:

Option A:

1. Tooth 24 (RCT) \$350.00
2. Tooth 37 restoration \$11.00
3. Tooth 25 surgery \$265.00
4. X-Rays as quoted last visit \$65.00. Total \$790.00

Option B

1. Extract 24 \$95.00
2. Tooth 37 Restoration \$110.00
3. Tooth 25 surgery \$265.00
4. X-Rays as quoted \$65.00
5. Removable partial upper acrylic denture \$250.00. Total \$785.00

In early January 1998 the consumer returned to the dentist. She was in such pain that she asked the dentist to remove both teeth. The dentist said that was Option B. The consumer said this was not Option B because she was not having a filling or denture. The dentist said that was Option B without the denture. The options were discussed at length. The consumer was in such pain that she simply agreed to the treatment. The dentist advised her about the piece of root and asked her if she wanted it removed. The consumer agreed and the dentist proceeded with the treatment. The dentist did not give the consumer a quote for the extraction of two teeth and the piece of root.

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**Outcome of
Investigation,
*continued***

A week later the consumer paid the dentist's account. She was surprised to learn that the cost was \$520.00 plus \$95.00 for a previous filling and asked the Dental Surgery Assistant for an account of the costs. The DSA said that the dentist had already explained the costs to her verbally and a written account would not be provided. The consumer asked to speak to the dentist. She met with him but he would not provide a detailed written account and continued to tell her that she had Option B as quoted.

The DSA advised the Commissioner that it is the dentist's usual practice to write each dental option on the back of his business card. The business card shows the total cost only of each option given to the patient.

The consumer confirmed that she was never given a written quote of any type and was surprised that the dentist charged \$265.00 to remove the piece of root. The consumer did not see the piece of root on x-ray and the dentist advised the Commissioner that the x-rays are lost. The dentist advised that the consumer had extensive surgery but she did not have any stitches and the extraction took about ten minutes.

The consumer had a bruise on her jaw at the site of the extractions but otherwise had no complaint about the treatment. The consumer expected to pay about \$95.00 - \$100.00 for each extraction and \$65.00 for x-rays and \$95.00 for the filling, in total about \$350.00. The consumer telephoned another dentist who advised that extraction usually cost about \$100.00 but would vary if the procedure was complicated.

The consumer has since learned that she could have had an implant.

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Report on Opinion - Case 98HDC11042, continued

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

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; ...*

- 3) *Every consumer has the right to honest and accurate answers to questions relating to services, including questions about –*
 - a) *The identity and qualifications of the provider; and*
 - b) *The recommendation of the provider; and*
 - c) *How to obtain an opinion from another provider;*

RIGHT 10

Right to Complain

- 3) *Every provider must facilitate the fair, simple, speedy, and efficient resolution of complaints.*
- 4) *Every provider must inform a consumer about progress on the consumer's complaint at intervals of not more than 1 month.*
- 5) *Every provider must comply with all the other relevant rights in this Code when dealing with complaints.*
- 6) *Every provider, unless an employee of a provider, must have a complaints procedure that ensures that -*
 - a) *The complaint is acknowledged in writing within 5 working days of receipt, unless it has been resolved to the satisfaction of the consumer within that period; and*
 - b) *The consumer is informed of any relevant internal and external complaints procedures, including the availability of -*
 - i. *Independent advocates provided under the Health and Disability Commissioner Act 1994; and*
 - ii. *The Health and Disability Commissioner; and*
 - c) *The consumer's complaint and the actions of the provider regarding that complaint are documented; and*
 - d) *The consumer receives all information held by the provider that is or may be relevant to the complaint.*

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

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- 7) *Within 10 working days of giving written acknowledgement of a complaint, the provider must, -*
- a) *Decide whether the provider -*
 - i. *Accepts that the complaint is justified; or*
 - ii. *Does not accept that the complaint is justified; or*
 - b) *If it decides that more time is needed to investigate the complaint, -*
 - i. *Determine how much additional time is needed; and*
 - ii. *If that additional time is more than 20 working days, inform the consumer of that determination and of the reasons for it.*
- 8) *As soon as practicable after a provider decides whether or not it accepts that a complaint is justified, the provider must inform the consumer of -*
- i. *The reasons for the decision; and*
 - ii. *Any actions the provider proposes to take; and*
 - iii. *Any appeal procedure the provider has in place.*
-

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**Opinion:
Breach** In my opinion the dentist breached the Code of Health and Disability Consumers' Rights as follows:

Right 6(1)(b)

The dentist gave the consumer the costs of two options but the consumer chose a third option. The dentist did not provide a quote for this option before he removed the consumer's teeth. The consumer had previously requested the cost of all options and it was reasonable for her to expect that the cost of these options would be provided.

Right 6(3)

The consumer believes that the dentist has charged her for treatment she did not receive. Both quotes included restorations which the consumer did not have. She asked the dentist for an explanation of the treatment she received and a written account of the fees she paid. The dentist failed to provide this information. He charged the consumer for extraction of a piece of root but has provided no proof of its existence.

Right 10

The consumer complained directly to the dentist about the costs, enlisted the aid of the advocacy service and asked the DSA for an account of treatment. All her efforts proved fruitless. The dentist has failed to facilitate a fair, simple and speedy resolution of the consumer's complaint.

Furthermore the dentist did not deal with the consumer's complaint in accordance with Rights 10(4), 10(6), 10(7) and 10(8). He does not have a complaints procedure that complies with the Code as follows:

- The dentist did not keep the consumer informed about how he would resolve the complaint
- The dentist did not acknowledge the consumer's verbal complaint of mid-January 1998 in writing within 5 working days.
- The dentist did not inform the consumer of any internal or external complaints procedure.
- The dentist has not advised the Commissioner whether or not he has considered the complaint.
- The dentist has failed to advise the reasons for any decision he has made.

Furthermore the dentist failed to co-operate with the Commissioner's investigation and therefore did not meet his obligations under Right 10(3) of the Code to facilitate fair, simple and speedy resolution of the complaint.

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Actions

I recommend that the dentist take the following actions:

- Provide a written apology to the consumer for his breach of the Code of Health and Disability Services Consumers' Rights. This letter is to be forwarded to my office and I will send it to the consumer. A copy of the apology will be kept on file.
- Refund \$200.00 to the consumer, being the estimated amount of his overcharging on the consumer's dental treatment. His cheque made payable to the consumer is to be forwarded to my office and I will send it to the consumer.
- Give written quotes before proceeding with any treatment and be flexible in amending the quotes to meet the consumers' request.
- Inform all his patients of their rights in accordance with the Code of Health and Disability Services Consumers' Rights.
- Introduce a procedure for dealing with consumers' complaints which complies with the Code of Health and Disability Services Consumers' Rights. The dentist is to confirm to the Commissioner that this action has been taken.

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