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## Clinical Dental Technician

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### Report on Opinion - Case 97HDC5727

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**Complaint**

The Commissioner received a complaint from a consumer about treatment he received from the provider, a clinical dental technician. The consumer complained that:

- *The consumer went to the provider to have a new set of dentures made. He went back several times for refits and remodels with no improvement.*
- *The teeth do not fit properly and the consumer can not eat with them in place.*
- *The consumer sought a second opinion and it was recommended he have a new set made as the other set, made by the provider, could not be repaired.*
- *When the consumer showed the provider the report from the independent dental surgeon, the provider became abusive and wanted to keep the letter. The consumer found the provider's behaviour threatening and unpredictable.*
- *The provider told the consumer if he wanted his teeth remodelled, he would have to pay for them.*

**Investigation**

The complaint was received by the Commissioner on 6 May 1997. An investigation was commenced and information obtained from:

The Consumer  
The Provider / Clinical Dental Technician  
A Dental Surgeon  
The Chairman, Dental Technicians Board

The Commissioner obtained independent advice from a clinical dental prosthodontist.

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### Report on Opinion - Case 97HDC5727, continued

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#### Details of Investigation

The consumer attended the provider in late November 1996. The provider made a full upper and a partial lower denture for the consumer. The consumer said the provider told him that he would remodel the dental plate around the lower two standing canines, which were loose, and that he would put callipers around them. The consumer advised that the provider encouraged him to leave the loose teeth in, as it was best to try and save them as long as he could and that they would eventually settle down.

The provider stated, *"I advised [the consumer] that his lower canines were loose and that it would be easier if they were removed. It was his decision entirely to have me construct the dental plate around the lower two standing canines and secure the loose teeth with clasps."*

I am advised of section 9(1)(b) of the Dental Act 1988 provides that a clinical dental technician's work entails *"supplying and fitting dentures to the jaws of any person who has natural teeth remaining but whose oral health is certified in writing by a dentist as being satisfactory for the fitting of dentures."*

The consumer said he returned for several subsequent visits and complained that the dentures did not fit properly. There was no anterior contact of the teeth. The upper denture was "bucked" and the consumer felt they pushed his upper lip out too far. The consumer could not eat with the dentures in place. Also, the callipers hurt the consumer's gums and caused ulcers and when the consumer returned to the provider, the provider cut one of the callipers out. Finally, the consumer extracted the two lower canines himself, as they were so loose.

The provider informs me that it is his practice to have patients return eight days after the original 2-hour appointment during which a wax impression is taken. In his fax to me of 30 October 1997, the provider states that his *"records extend only to the original appointment dates."*

In the absence of any written record of these visits, I accept the consumer's advice that he went back for several subsequent appointments and complained about the dentures, but the provider made no improvement to them, other than the replacement of the two teeth which the consumer had himself extracted. There was no improvement in fit.

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### Report on Opinion - Case 97HDC5727, continued

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**Details of  
Investigation,  
*continued***

Every time the consumer complained, the provider insisted the problem lay in the consumer's functioning with the dentures and not any fault with the dentures themselves. However, the consumer said he has had 3 sets of dentures in 15 years and has never had any problems in functioning before with new dentures.

The consumer sought a second opinion from a dental surgeon and a dental technician. In mid-February 1997, the dental surgeon provided the consumer with a written report which found, amongst other things, the consumer's following complaints valid:

- There was no anterior contact of the teeth and the upper central incisors were "bucked". There was an overjet of 10mm.
- The lower partial denture was constructed around loose teeth (33 & 43) which were now missing.

The dental surgeon commented that for it to have even been possible for the consumer to be able to remove these teeth, "*they must have been seriously compromised*" and added, "*that to set the existing front teeth back requires all teeth to be reset including the lowers.*"

In his response dated 19 June 1997, the provider agrees with the dental surgeon that to set the existing front teeth back requires all the teeth to be reset. However, the provider asserts there is no need to set the existing front teeth back as thousands of people within the community function with an overjet of 10mm. The provider states, "*[the consumer's] claim of the dentures not fitting is once again confused with his difficulty in functioning, an issue he refuses to accept.*"

The consumer informs me that he has never had bucked teeth before and in 15 years of denture wearing has never previously had a problem with functioning.

When the consumer showed the dental surgeon's report to the provider, the consumer said the provider read it and "*went crazy*".

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### Report on Opinion - Case 97HDC5727, continued

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**Details of  
Investigation,  
continued**

The provider advised, *“when [the consumer] showed me the letter from [the dental surgeon] I was somewhat surprised that he had obtained a second opinion and the terminology was contrary to accepted dental literature. I deny I “went crazy”. I suggested that I place new teeth on the lower denture and relined the denture at no cost to [the consumer] to deal with the fact that he had removed his loose teeth.”*

The consumer said the provider said he would have one more go at fixing the dentures. In early April 1997, the provider relined and remade the lower teeth. This became a full lower denture and the consumer was not charged for this. The provider told the consumer to wait for 8 days to ensure correct fit and function. The consumer said he persevered for 12 days with no improvement.

The consumer said he contacted the provider again and told him that he would have to remake the set of dentures. The consumer said the provider became threatening and abusive and pointed an instrument he was holding at the consumer's chest. The consumer said he felt scared and is too intimidated to approach the provider again.

An independent Clinical Dental Prosthetist advised the Commissioner that the overall workmanship of the dentures was satisfactory, but the front teeth were too far forward and the lower teeth sloped back forming a large gap between anterior teeth. The bite was slightly out and the patient was contacting one side before the other. The advisor states this would cause the denture to tip causing sore spots and discomfort. The remedy is to remake the dentures.

The consumer is on an invalid's benefit and is still paying off an income support loan in order to pay for the dentures. The provider has been paid for a pair of dentures that the consumer says he cannot use.

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### Report on Opinion - Case 97HDC5727, continued

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

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

*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*

- 1) Every consumer has the right to have services provided with reasonable care and skill.*
- 2) Every consumer has the right to have services provided that comply with legal, professional, ethical, and other relevant standards.*
- 3) Every consumer has the right to have services provided in a manner consistent with his or her needs.*
- 4) Every consumer has the right to have services provided in a manner that minimises the potential harm to, and optimises the quality of life of, that consumer.*

*RIGHT 10*

*Right to Complain*

- 1) Every consumer has the right to complain about a provider in any form appropriate to the consumer.*
- 5) Every provider must comply with all the other relevant rights in this Code when dealing with complaints.*

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### Report on Opinion - Case 97HDC5727, continued

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**Opinion:  
Breach** In my opinion there has been a breach of Right 4(2), Right 4(3), and Right 10(5) of the Code of Health and Disability Services Consumers' Rights.

#### **Right 4(2)**

The consumer has the right to have services provided that comply with professional standards. The consumer, the dental surgeon and my advisor all agree that the front teeth of these dentures are too far forward. My advisor commented that as the bite was out, the denture would tip causing sore spots and discomfort. The consumer cannot eat with these dentures and the remedy is to remake the dentures.

The Chairperson of the Dental Technicians Board informed me that there are not any written standards of practice or ethics which I can use as a yardstick to measure the requirements of the profession. In the absence of written professional standards, I consider that the minimum standard a consumer would expect is a functioning pair of dentures, which fit correctly and are of proper appearance. In my opinion, the provider did not meet this standard and is therefore in breach of Right 4(2) of the Code.

In my opinion, the provider is also in breach of the Code for failing to keep adequate records of his consultations. In reaching my final opinion, I requested details for the third time from the provider and was advised that sometimes he takes loose note "jottings" if there are problems with a patient. Such notes were then faxed through to me which recorded the consumer's complaint of April 1997. The provider's lawyers stated "*we are advised by our client that it is not his normal practice to take such notes. In most cases he will make no notes at all. He deviates from this normal practice if he suspects that there may be problems with a particular patient.*"

The notes produced record short details of the complaint. No notes of any of the consultations with the consumer were taken or available. The standard procedure for any health professional is to record details of consultation, advice given and actions. In my opinion, the absence of appropriate record keeping of consultations is a breach of Right 4(2) of the Code.

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### Report on Opinion - Case 97HDC5727, continued

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**Opinion:  
Breach,  
continued**

**Right 4(2), continued**

As the consumer had some natural teeth remaining, in order to comply with section 9(1)(b) of the Dental Act 1988, the provider was required to obtain certification in writing from a dentist that the consumer's teeth were satisfactory for the fitting of dentures. In my opinion the provider is in breach of Right 4(2) as no evidence was produced during the investigation that the provider obtained such certification before fitting the dental plate around the two lower standing canines.

**Right 4(3)**

Under Right 4(3), the consumer is entitled to receive services provided in a manner consistent with his needs. His needs were for a pair of dentures he could use. The consumer has paid the provider for a set of dentures and has repeatedly complained that he cannot function with these dentures. In my opinion the problem is not the consumer's failure to learn to function with these new dentures as claimed by the provider. This is evidenced by the fact that the consumer has had 3 pairs of new dentures previously and has never experienced this problem before, nor has the consumer had bucked teeth before, nor should the consumer be expected to be functioning with teeth with an overjet of 10mm.

The consumer's complaint and perseverance in trying to use these dentures show his willingness to assist and in my opinion the provider has not met the obligations of Right 4(3) to provide the consumer with dentures that meet his needs.

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**Opinion:  
Breach,  
continued**

**Right 10(5)**

The consumer has the right under Right 10(1) to complain about the dentures. Under Right 10(5), the provider had a duty to comply with all other relevant rights in the Code when dealing with the complaint. The onus is on the provider to show he took reasonable actions in the circumstances to give effect to the rights and comply with the duties in the Code.

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### Report on Opinion - Case 97HDC5727, continued

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**Opinion:  
Breach,  
continued**

Under Right 1, it was the provider's duty to treat the consumer with respect when he complained. The provider has admitted that things got a bit "toey".

While the provider undertook remedial work on the lower denture and did not charge the consumer, this did not solve the consumer's problem and the provider has refused to consider the possibility that the problem may lie with the way the dentures, in particular the upper dentures are constructed. Even though many in the community function with an overjet, the consumer has not had an overjet before and has repeatedly complained that he cannot eat with these teeth in place. In my opinion it was unreasonable for the provider to not consider that the fault may lie with the construction of these particular dentures, rather than to persist in blaming the consumer for his inability to function with the dentures. In my opinion the provider intimidated the consumer and breached Right 10(5) of the Code.

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**Actions**

I recommend the provider take the following actions:

- Provides a written apology to the consumer for his breaches of the Code. The apology is to be sent to this office and will be forwarded to the consumer. A copy of the apology will be retained on the investigation file.
- Immediately refunds the consumer the cost of the dentures. Payment should be made to this 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 and, in particular, his obligations under Right 4 and Right 10.
- Commences taking clear concise notes of all consultations with consumers, including details of actions taken, advice given and decisions made by both the consumer and himself.

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### Report on Opinion - Case 97HDC5727, continued

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**Actions,**  
*continued*

- Provides written documentation of his complaints procedure ensuring that it meets the requirements set out in Right 10 of the Code.
- Confirms to the Commissioner within 10 working days that the above actions have been taken.

A copy of this opinion will be sent to the New Zealand Dental Technicians Board and Income Support Services. This opinion will also be published by the Commissioner.

The matter will be referred to the Director of Proceedings who will decide whether or not to take any action under section 45(f) of the Health and Disability Commissioner Act 1994

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