Dr B

A Report by the

Health and Disability Commissioner

(Case 00/07870)

Health and Disability Commissioner
Te Toihau Hauora, Hauātanga

Parties involved

Information was obtained from:

Mrs A	Complainant
Dr B	Provider/General Practitioner
Mr B	Practice Manager and Receptionist
Mr C	Advocacy Services Manager
Ms D	District Nurse
Ms E	Manager, a private medical clinic

Complaint

The Commissioner received the following complaint regarding services provided to Mrs F by Dr B, general practitioner, and her medical practice:

- *On 24 June 2000, Dr B, general practitioner, failed to provide assistance to Mrs F despite several calls to her surgery from Mrs A and a district nurse.*

The complaint was received on 4 August 2000 and an investigation was commenced on 20 November 2000.

Information reviewed

- Complaint letter from Mrs A, dated 4 July 2000
- Supplementary complaint letter from Mrs A, dated 14 August 2000
- Advocacy report dated 4 September 2000
- Response from Dr B, dated 8 December 2000
- Letter from Ms D, dated 17 March 2001
- Medical records held by Dr B relevant to Mrs F's care
- District nursing records held by the medical centre relevant to Mrs F's care

Expert advice was obtained from an independent general practitioner, Dr Shane Reti.

Information gathered during investigation

Introduction
Dr B is a general practitioner in a solo medical practice, who looks after her own patients between the hours of 8.30am and 5.00pm and also provides after-hours care with four other general practitioners and a general practitioner from another town. Dr B advised me that during weekends a single general practitioner from this group provides on-call care from 5.00pm on Friday until 8.30am on Monday. Dr B reported that during the weekend the on-call doctor may see 30 to 50 patients and, due to the large geographical area covered, patients are therefore encouraged to come into the surgery for treatment. Dr B advised that her husband, Mr B, is her practice manager and also acts as receptionist when she is on call, answering the phone and arranging consultations.

Incident on 24 June 2000
On 14 June 2000 Mrs F underwent open heart surgery at the public hospital. She was discharged into the care of her daughter, Mrs A, on 21 June 2000. On the morning of Saturday 24 June 2000 Ms D, a district nurse employed by the medical centre, made a scheduled visit to the house of Mrs A. At this visit Ms D determined that Mrs F's blood pressure and pulse readings were abnormal. She rang Dr B's surgery, as she was the on-call doctor for the weekend, and spoke to Mr B. Mr B informed Ms D that Dr B was busy and that she should call the on-duty general practitioner for the out-lying area, Dr G. Ms D advised that her usual practice when making telephone calls at a home visit was to make the call from a cell-phone in her car. Ms D stated that her car was essentially a mobile office and contained all of her files and records. She advised that although she cannot remember for certain, she believes that all of her calls about Mrs F were made from her car.

Dr B stated that at the time this first call was made she was suturing a patient and had at least three or four emergency patients in her surgery. Dr B stated that she was therefore unable to take the call.

After speaking to Mr B, Ms D telephoned Dr G and was advised that Mrs F needed to be seen by Dr B, as the on-call doctor. Dr G's surgery is located a significant distance from the town.

An incident report completed by Ms D on 26 June 2000 recorded that after talking to Dr G, Ms D phoned Dr B's surgery once more and was told that she could not talk to the general practitioner for another hour and a half. Ms D attempted to leave a message for Dr B, but was told to wait and ring back.

Mr B advised me that he received the first call from Ms D at 10.30am. Mr B stated that he was not told that the matter was serious and he told Ms D that Dr B was extremely busy and suggested that she ring back in half an hour. Mr B stated that he informed Dr B of the call while she was between patients so that she would be ready to speak to the district nurse. When Ms D called back 20 minutes later, he put the call through to her.

Ms D advised me that shortly after speaking to Mr B, she tried telephoning Dr B once more and this time managed to speak to her between patients. Dr B advised me that Ms D

informed her of Mrs F's recent operation and her blood pressure, but did not say she had spoken to Dr G. Ms D recorded that she discussed Mrs F's history, diagnosis, symptoms and medication and that Dr B advised her to call the public hospital and arrange for Mrs F's admission to the Surgical Ward by ambulance.

In response to my provisional opinion, Dr B advised me that she was greatly concerned about what Ms D told her of Mrs F's state and asked the district nurse for Mrs A's telephone number. Dr B informed me that Ms D told her that she was on her way to see another patient and did not have Mrs A's telephone number with her. Dr B advised that she therefore asked Ms D to arrange the transfer and to call her back immediately if she was unable to do so. Dr B advised that she was not called back and therefore assumed that the transfer had been arranged.

Ms D advised me that she cannot recall Dr B asking her for Mrs A's telephone number and cannot state for certain that this did not occur. Ms D reported that she would have had Mrs F's file in the car with her and that this would have contained Mrs A's contact number. Ms D said she would certainly have provided the number if Dr B had asked. I also note Ms D recorded in her incident report that after speaking to Dr B, she spoke to Mrs F's family. Ms D advised that this contact was by way of a cell-phone call, indicating that she did have Mrs A's telephone number with her.

In the telephone call to Mrs A, Ms D advised her to call the public hospital and ask that her mother be admitted to the Ward. Mrs A telephoned the hospital but was advised that a general practitioner referral was required before an admission could be arranged.

At this point Mrs F's condition began to deteriorate and she was unable to stand without passing out. Mrs A telephoned Ms D, who suggested that she try calling Dr B herself. Mrs A telephoned Dr B and spoke to Mr B, who answered the telephone. Mrs A advised me that Mr B said that Dr B was busy and told her to call Dr G as per the instructions to Ms D. Mrs A said that Mr B was very abrupt with her and said that he had already told Ms D that the matter was "out of our jurisdiction and we aren't coming".

Dr B advised me that she had left the surgery by this time; her husband told Mrs A that she had given instructions to Ms D and suggested that Mrs A speak to the district nurse. Mr B stated that when Mrs A called, he advised her to contact Ms D as she had been given detailed instructions by Dr B. Mr B stated that he believed Mrs A "does not listen to instructions" and that, if she had followed his advice and called the district nurse, the matter would have been resolved without incident.

Mrs A rang Dr G, who stated that it was possible that Mrs F had a heart blockage. Dr G immediately telephoned the public hospital and arranged a transfer to the hospital by helicopter.

Independent advice to Commissioner

The following expert advice was obtained from an independent general practitioner working in a provincial/rural community, Dr Shane Reti:

> "With regard to the information forwarded to me by the office of the Health and Disability Commissioner, and in my own personal and professional opinion as a medical practitioner given the information is correct, I would make the following points:
>
> Summary of events as I understand them to be:
>
> - DN [District Nurse] calls Dr [B], advised busy, to call Dr [G]
> - DN calls Dr [G], advises to speak with Dr [B]
> - DN re-calls Dr [B] and advised to try again in 90 minutes
> - DN re-calls Dr [B] who advises the discharge ward to follow-up
> - DN advises family to call the discharge ward
> - Discharge ward declines without doctor authorisation
> - Family calls Dr [B] and advised to contact Dr [G] again
> - Family calls Dr [G] who arranges urgent transport.
>
> *1. Should Dr [B] have arranged admission on the information presented?*
>
> There are 2 parts to this question which I will address as follows:
>
> a) Should Dr [B] have arranged admission?
>
> Yes: It is a general convention that admissions to hospital be discussed by a registered medical practitioner with the admitting team. Indeed, at a later date when the family called the hospital, they were advised to have a doctor arrange the admission.
>
> b) Was admission appropriate on the information presented?
>
> Yes: As Dr [B] herself thought this was being arranged, this lady had enough information forwarded from the District Nurse to arrange further assessment, be it in person or in hospital.
>
> *2. Was the advice to Ms [D] and Mrs [A] appropriate?*
>
> 1. Advice to Ms [D]
>
> Overall No The initial advice to refer on to another doctor may be reasonable only if such agreements are understood and in place. On re-calling Dr [B], and commenting that the suggested follow-up doctor had stated that Dr [B] herself needed to advise on the patient, Ms [D] was told that there would be a 90 minute wait. Overall this is unsatisfactory on the basis that the level of urgency had been demonstrated by:

a) This was the considered opinion of a professional health provider viz: district nurse.
b) This was the 2nd phone call from the same person in a short period of time.
c) Previous advice had been followed and the suggested doctor had also recommended review by Dr [B].
d) A suggested 90 minute wait for return of call in view of all of the preceding points is too long a period of time.
e) The serious nature of the medical condition in question.

2. Advice to Mrs [A]

Overall No, on the following basis:
a) This was the 3rd or 4th call regarding this patient, now the family being asked to seek attention from a family doctor having been declined from the ward.
b) The patient's condition appeared to be deteriorating.
c) Previous advice had been followed and the suggested doctor had also recommended review by Dr [B].

3. Was the system for dealing with incoming calls appropriate?

Yes: The system here appeared to be initial triage by a non medical person who had worked in the area previously. The advice given when the doctor was not available was to refer the call to another doctor. This by itself is in my view a suitable system proviso to the following:

a) experienced triage by the initial phone answering person;
b) understood arrangements when the doctor is not available viz: between receptionist and doctor, and between doctors.

It is important to note that telephone triage is only as effective as the information the caller submits, and the receptionist elicits, and so requires both components. In this instance, it is possible that the urgency was not conveyed thoroughly, although I note initial calls by the DN and then from the family. On balance, in this situation, maybe if not at the first, but certainly at the second contact by the family, it was reasonable for this to have been given a higher priority, and discussed verbally by the receptionist with the doctor, who was on site, and by all accounts able to respond to verbal enquiries, even if suturing.

Overall this appears to me to be an error of communication and understanding that potentially arises from every phone call. There is undoubtedly greater risk in isolated rural areas. Well organised robust management policies and training are important in managing this risk."

Response to Provisional Opinion

In response to my provisional opinion Dr B advised that she has taken the following steps to prevent a recurrence of this situation in her surgery:

- She has employed a registered nurse to work with her at peak times on Saturday and Sunday when she is on call.
- She has briefed those staff who provide first contact about the importance of a timely response.

Dr B also undertook to provide further training to staff as required and advised that a restructure of the on-call system means that a hospital doctor will be available as back-up when the on-call general practitioner is busy.

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

…

2) Every consumer has the right to have services provided that comply with legal, professional, ethical, and other relevant standards.

…

5) Every consumer has the right to co-operation among providers to ensure quality and continuity of services.

…

Other relevant standards
Aiming for Excellence in General Practice: Standards for General Practice (Royal New Zealand College of General Practitioners, January 2000):

Indicator A.2.2
The practice uses a system that assists staff to identify and provide an appropriate response to urgent medical conditions

[Essential] Criteria
- There is a designated medical person available to deal with emergencies at all times.
- Reception staff have undergone training to help them recognise and respond appropriately to urgent medical conditions.

- Reception staff know how to access practice nurses or doctors if immediate attention is required for patients.

Cole's Medical Practice in New Zealand (Medical Council of New Zealand, 1999):

Chapter 1: Every doctor's duty to help in an emergency

"If asked to attend a medical emergency, a doctor must do so.

…

An 'emergency' exists if the caller says it does, and if the doctor decides otherwise without attending, the responsibility remains."

Opinion: Breach – Dr B

Rights 4(2) and 4(5)

Failure to respond appropriately
Between them, Mrs A and Ms D telephoned Dr B's surgery on four separate occasions.

The first telephone call was made by district nurse Ms D on the morning of 24 June 2000. Ms D spoke to Mr B and was advised that Dr B was busy and that she should try calling Dr G instead. My expert adviser, Dr Reti, noted that it is only appropriate to make a referral to another general practitioner in this situation when an arrangement to do so exists. No such arrangement existed between Dr B and Dr G.

Ms D phoned later that morning and again spoke to Mr B. Ms D advised him that Dr G had told her that Dr B herself needed to see Mrs F. Mr B told Ms D that Dr B was still busy and that she should try calling again in 90 minutes. I am advised by Dr Reti that this advice is unsatisfactory given that:

- In the opinion of a professional health provider Dr B needed to see the patient.
- This was the second phone call from Ms D in a short period of time.
- Previous advice had been followed and Dr G had also suggested review by Dr B.
- A suggested 90 minute wait for a return call in light of the preceding points is too long.
- The medical condition in question was serious.

Ms D tried to contact Dr B again a short time later. This time she managed to speak to Dr B between patients and advised her of Mrs F's history, symptoms, diagnosis and blood pressure. Dr B suggested that Ms D arrange Mrs F's admission to the public hospital. Dr Reti advised me that Dr B had enough information available to her at this time to realise that hospital admission was warranted and that as a general convention, it is a registered medical practitioner who is required to arrange this. As it transpired, when the district nurse

telephoned the public hospital she was advised that it required a referral from a medical practitioner before it would admit Mrs F. Dr B advised me that she wanted to arrange Mrs F's admission to the hospital but was unable to because Ms D did not provide her with Mrs A's contact telephone number. I do not accept this. Ms D advised that she would have made the telephone call to Dr B from her car and that she would have had Ms F's file with contact telephone numbers with her. Ms D informed me that she would have given Dr B Mrs A's telephone number if asked. In addition it is clear from Ms D's incident report that she telephoned Mrs A herself after the conversation with Dr B, clearly indicating that she did have Mrs A's telephone number.

Dr B also advised me that Ms D did not inform her that she had spoken to Dr G and that he had suggested a review. I note that Ms D's call was put through by Mr B, the same person who made the recommendation to call Dr G. Mr B informed me that he had briefed Dr B on the call so that she would be ready to speak to Ms D. In my view, a well trained, experienced practice manager briefing a general practitioner about a patient would have mentioned that he had referred the patient to another doctor. Although Ms D had an opportunity to advise Dr B that she had telephoned Dr G, it was reasonable for her to expect that Dr B was already aware of this.

The fourth telephone call to Dr B's surgery was made by Mrs F's daughter, Mrs A. There is dispute about what advice Mr B gave her during this conversation. Mrs A said that Mr B told her to contact Dr G. Mr B said that he told her to ring Ms D, who had been given detailed instructions by Dr B. Regardless of which version is correct, the fact remains that this advice was inappropriate for the following reasons:

- This was now the third or fourth call regarding the patient.
- The patient's condition appeared to be deteriorating.
- Previous advice had been followed and Dr G had recommended review by Dr B.

I note that in *Cole's Medical Practice in New Zealand* (Medical Council of New Zealand, 1999) it is stated that "if asked to attend a medical emergency, a doctor must do so" and that "an 'emergency' exists if the caller says it does, and if the doctor decides otherwise without attending, the responsibility remains".

Dr B, as a general practitioner in a solo practice, is responsible for the triage system used to vet telephone calls. In my opinion, Dr B's failure to respond appropriately to the increasingly urgent calls from Mrs A and Ms D amounted to a breach of her ethical duty to attend or arrange immediate assistance in an emergency. Furthermore, Dr B's failure to arrange a hospital admission for Mrs F amounted to a failure to co-operate with other providers to ensure quality and continuity of care. In these circumstances Dr B breached Rights 4(2) and 4(5) of the Code.

Right 4(2)

Role and training of reception staff
Aiming for Excellence in General Practice: Standards for General Practice (Royal New Zealand College of General Practitioners, January 2000) requires that there be a designated medical person available to deal with emergencies at all times; reception staff have undergone training to help them recognise and respond appropriately to urgent medical conditions; and reception staff know how to access practice nurses or doctors if immediate attention is required for patients.

I have seen no evidence that practice manager/receptionist Mr B had received training to help him recognise and respond appropriately to urgent medical conditions. Mrs F required immediate medical attention and yet Ms D and Mrs A were denied access to Dr B through her own failure to respond to calls and through Mr B's actions as intermediary. In my opinion, these failures by Dr B reflect a breach of the College's *Standards for General Practice* and amount to a breach of Right 4(2) of the Code.

Other Comment

I am concerned about the tone of correspondence from Mr B to my investigation staff dated 11 March 2002. This letter appears intended to intimidate the complainant, to whom the letter was copied, and did not assist the conduct of this investigation.

Actions

- A copy of this opinion will be sent to the Medical Council of New Zealand with a recommendation that a review of Dr B's competence be undertaken.

- I have decided to refer this matter to the Director of Proceedings in accordance with section 45(f) of the Health and Disability Commissioner Act 1994 for the purpose of deciding whether any further action should be taken in relation to Dr B.

- A copy of this opinion with all identifying details removed will be forwarded to the Royal New Zealand College of General Practitioners, and placed on the Health and Disability Commissioner website, www.hdc.org.nz, for educational purposes.

Addendum

The Director of Proceedings considered this matter and decided not to issue proceedings before the Medical Practitioners Disciplinary Tribunal or the Human Rights Review Tribunal.