

IN THE DENTISTS DISCIPLINARY TRIBUNAL

IN THE MATTER of the Dental Act 1988

AND

IN THE MATTER of a complaint by **The Director of Proceedings of the Health and Disability Commissioner** against **Natu Rama** of Auckland, Dentist.

TRIBUNAL Dr D D Bambery (Chair)
Dr P Coote
Ms Wendy Davis
Ms Waana Davis

LEGAL ASSESSOR Mr G Pearson

TRIBUNALS OFFICER Mrs S D' Ath

COUNSEL Mr M Heron (for the Director of Proceedings)
Ms A Fisher (for Dr Rama)

DATE OF HEARING 25 February 2003

DATE OF DECISION 25 February 2003

DECISION OF THE TRIBUNAL

CHARGE

1. Dr Rama has pleaded guilty to the amended charge that between 21 January 1999 and 28 February 1999 while Ms. X was his patient, he committed an act or omission in the course of, or associated with, the practice of dentistry that was detrimental to the welfare of Ms X.
2. The particulars of the charge, accepted by Dr Rama, are as follows:
 - A. On or about 26 January 1999 while preparing Ms. X's teeth for the placement of a bridge, he:
 - a) did not follow the root canal of tooth 15 while preparing the tooth for a post; and
 - b) over-prepared the post space; and
 - c) inserted a post in tooth 15 that was too wide.
 - B. On or about 12 February 1999 while fitting a definitive bridge in Ms. X's mouth that required remaking, he adjusted Ms. X's natural teeth in order to obtain a satisfactory bite.
 - C. On or about 12 February 1999, having fitted a bridge in Ms. X's mouth, he failed to remove excess cement under the pontic of the bridge.
 - D. On or about 12 February 1999, he failed to communicate to Ms. X:
 - a) that the bridge he had fitted in her mouth was not a permanent bridge and required remaking; and
 - b) that he had used a temporary lute to cement the bridge.
 - E. After cementing the bridge in Ms. X's mouth on 12 February 1999, he failed to arrange follow-up care for Ms. X by contacting her to ensure that further appointments were made.

SUMMARY OF FACTS

3. The following summary of facts was agreed:

“On 21 January 1999 the complainant, Ms. X, attended an appointment with Dr Rama because she had fractured her tooth. The tooth next to the fractured tooth had been missing for some years. Dr Rama gave the complainant a quote of \$1,900 for a bridge. He took an x-ray during the appointment.

On 25 January 1999 the complainant attended an appointment with Dr Rama for preparatory work for the bridge. Dr Rama took two impressions because the first was unsatisfactory. Dr Rama quoted \$110 for the extraction of a wisdom tooth. The complainant paid \$1,900 for the bridge on 25 January 1999.

On 26 January 1999 Dr Rama fitted a temporary bridge and removed the opposing wisdom tooth. The bridge was very painful and the complainant requested an early appointment as soon as the permanent bridge had arrived because of this.

The permanent bridge was scheduled to be fitted on 4 February 1999. The complainant was contacted by Dr Rama's clinic on 3 February 1999 and told that the bridge was not ready. The complainant again asked for the earliest possible appointment.

An appointment was made for 12 February 1999 to fit the permanent bridge. On 11 February 1999 the complainant was called by Dr Rama's clinic to cancel the 12 February appointment. The complainant insisted that this go ahead because of the pain. The complainant was taking pain relief.

The complainant attended Dr Rama's clinic on 12 February 1999. The complainant maintains she advised Dr Rama of the pain she was experiencing but Dr Rama denies this.

The bridge, which Dr Rama fitted, did not fit properly. He ground the complainant's bottom teeth down in an attempt to make the bridge fit. The bridge was eventually fitted but did not fit correctly and the complainant could not bite properly or close her mouth correctly. A further appointment was made for 19 February 1999.

Dr Rama maintains he advised the complainant that the bridge he fitted was a temporary one. The complainant says he did not advise her of this or of the need to have a further bridge fitted. Dr Rama did however make enquiries about obtaining a new bridge from the laboratory technician Mr Dale, who agreed to remake the bridge for no extra cost.

Dr Rama accepts that there was inadequate communication as to the status of the temporary bridge and accepts that he did not adequately convey to the complainant the need for her to come back for follow up.

While preparing tooth 15 for the post Dr Rama did not follow the path of the root canal when drilling and he over-prepared the root canal so that he had to use a short wide post. Dr Rama should have been able to control how he prepared the canal to receive the post and should not have deviated from the pain of the root canal.

Because Dr Rama had adjusted the opposing lower teeth at the time he prepared the upper teeth for the bridge and had also identified that the planned definitive bridge was unsatisfactory and required remaking, any adjustment of the lower natural teeth at the time of cementing the upper bridge was not necessary. Any adjustments to provide a stable and comfortable bite should have been made entirely and only in the upper bridge.

There was unremoved excess cement primarily under the pontic (replacement tooth) of the bridge.

It is preferable that excess cement is removed and generally this is relatively easily done, without risk of removing the bridge, particularly if done in the early stages of the cement setting. If the lute was a temporary cement, the removal of excess cement is relatively straightforward, even after the cement has set because of the reduced strength of these materials compared to permanent cements. If temporary cement is left in the mouth for too long there is a risk of it breaking down, allowing microleakage which could possibly cause an infection to develop.

Removing excess temporary cement would not have risked dislodging the planned definitive bridge cemented on 12 February 1999 unless the bridge retention was very poor. If this was the case, Dr Rama should have made a new temporary bridge.

Because Dr Rama knew the bridge provided on 1 February 1999 was ill-fitting, Dr Rama should have followed up the treatment provided to Ms. X to ensure she was not exposed to any detrimental effects, and he should have made arrangements to remake the bridge for Ms. X.

Dr Rama has previously appeared before the Dentists Disciplinary Tribunal.”

ADDITIONAL MATERIAL

4. The Tribunal also considered the following material:

- Submission on behalf of the Director of Proceedings
- Exhibits
- Brief of evidence of Dr Kathryn Fuge, Dentist
- Written statement of Dr Rama
- Bundle of documents for Dr Rama
- Bundle of testimonials for Dr Rama
- Written statement of Gertruda Janssen, Dental Hygienist
- Written statement of Marie Woonton, Dental Assistant
- Submission on penalty from the Director of Proceedings
- Submissions on penalty on behalf of Dr Rama

DECISION

5. The Tribunal accepts that the charges are established under section 54 (1) (b) of the Dental Act, and entered in the record accordingly, on the basis of Dr Rama’s plea.

PENALTY

6. The Tribunal imposes the following penalties:

- Under section 54(1)(e) Dr Rama is censured.
- Under section 54(1)(d) Dr Rama is ordered to pay a fine of \$2000.
- Under section 54(1)(c) the Tribunal orders that Dr Rama may practice only subject to the conditions set out in the following protocol:

Purpose of supervision:

The Tribunal’s intention is that the supervision be educative in nature and should therefore be regarded as part of continuing postgraduate education. The supervision requirements have been established taking into account Dr Rama’s statement through his counsel that he does 1 or 2 bridge cases each week

Supervisor:

One or more supervisors to be appointed by the Chairperson of the Dental Council of New Zealand in consultation with the Chairperson of the Tribunal. It shall be the responsibility of Dr Rama to ensure that he accepts appropriate supervision if he wishes to undertake work of the kind that requires supervision. Dr Rama shall meet the costs associated with the supervision.

Objectives:

- To ensure the practitioner is aware of, and using, techniques and treatment methods for bridgework consistent with the safety and well being of patients in relation to crown and bridge restorations.
- To ensure that the procedures followed by Dr Rama meet the standards of a competent general dental practitioner experienced in crown and bridge restorations.

Scope of Supervision:

- Bridge procedures with a complexity of, or greater than, a three unit bridge.
- Treatment planning including radiographs, study models and periodontal assessment.
- The keeping of adequate records.

Method:

- Case presentations. For the 12 month period following the appointment of the supervisor(s) in all cases of 3 unit bridges or bridges of greater complexity, Dr Rama shall forward to the supervisor prior to the preparation of the teeth the treatment plan, radiographs, study models and restoration design.
- Restorations on working models shall be approved by the supervisor prior to fitting.
- This method is to be followed in all cases for the 3 month period following the appointment of the supervisor(s) but the supervisor(s) may then vary the terms and frequency of case presentation at his or her discretion in consultation with the Chairperson of the Dental Council.

Reporting:

The supervisor will report to the Chairperson of the Dental Council of New Zealand at three monthly intervals following the appointment.

7. Ms Fisher submitted that it would be appropriate that the Tribunal further orders that Dr Rama's continued practice is conditional on his joining and maintaining membership of the New Zealand Dental Association. The Tribunal, therefore, orders that Dr Rama as a condition of his continued practice:

- On receipt of this decision immediately applies to the New Zealand Dental Association for membership.
- Fulfils any condition required by that Association for Dr Rama to join.
- Abide by the rules / by laws / constitution of that Association.
- Maintain membership of the NZDA for at least three years.
- Fulfils the Association's Continuing Education recommended requirements.

8. In the event that Dr Rama is unable to join the New Zealand Dental Association Dr Rama is in any event to fulfill the NZDA recommended requirements for continuing education for the next three years following receipt of this decision, under the supervision of the NZDA Executive who will report to the Chairperson of the Dental Council of New Zealand at 12 monthly intervals.

9. In reaching this decision on penalty the Tribunal considered the following aggravating features:

- The charge involved a number of clinical failures and communication failures.
- The treatment has had long-term and significant adverse effects on the complainant.
- Remedial work will incur significant cost even with the involvement of the ACC.

10. The Tribunal also considered the following mitigating features:

- Dr Rama has pleaded guilty to the charges, has apologised in writing to the complainant and has refunded \$1900 to her (while the payment was by cheque post-dated to the day following the hearing, Ms Fisher assured the Tribunal it should proceed on the basis that the cheque will be honoured).
- Dr Rama has enrolled in a course on crown and bridge dentistry to be held in November 2003.
- Dr Rama has made significant changes to his practice including improved communication with patients and dealing with complaints.
- Testimonials from satisfied patients.

11. As this is not the first adverse finding by the Tribunal Dr Rama is not entitled to the benefit of an unblemished record. However the current charge arose from events some years prior to the Tribunal's first adverse finding. The Tribunal has addressed this aspect of the matter by imposing conditions which it considers ensure that proper standards for the protection of the public are maintained.

COSTS

12. The Tribunal orders that Dr Rama pay 10% of the costs of and associated with this hearing and the previous decision on the application to adjourn.

OBSERVATION

13. The financial penalties imposed should not be regarded as a precedent beyond the facts of this case. The Tribunal has accepted the submission made to the effect that Dr Rama's financial circumstances impose a significant constraint. The Tribunal has taken the view that Dr Rama's limited means should primarily be directed toward remedial training, as that will best ensure that Dr Rama's patients receive the treatment they are entitled to expect. That must be accorded priority over the punitive potential of financial penalties.

APPEAL

14. Attached to, and forming part of this order, is the sheet headed "Notes", which states the Practitioner's right to appeal against the orders made, and the time within which notice of such appeal must be given.

Dexter Bambery
(Chairperson of the
Dentists Disciplinary Tribunal)