



NZNO Medico-Legal Team

Lessons on Advocacy

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NEW ZEALAND
NURSES
ORGANISATION

TŌPŪTANGA
TAPUHI
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THE PATIENT'S RIGHTS



Respect



Fair treatment



Dignity and
independence



Services of an
appropriate standard



Effective
communication



Full information



Informed
choice/consent



Support



Rights upheld in
teaching/research



Complain



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OOPHORECTOMY CASE

- Patient due to have a total abdominal hysterectomy
- Pre-surgery (while in theatre) surgeon decided that ovaries needed removed – consent sought on operating table
- HDC found breach of the patient’s rights to:



Effective
communication



Informed
choice/consent

- Adverse comment against clinicians in operating theatre for failure to advocate effectively on behalf of patient

Case link: [14HDC00307](#): Informed consent for hysterectomy

NURSING PERSPECTIVE ON DISCHARGE

- Just under 3yo child presented to ED on a Friday with cough and temperature, discharged
- Second presentation on Saturday – nurse had concerns, which she passed to the house surgeon
- Decision to discharge later made between house surgeon and consultant without nurse present – patient later died



Services of an
appropriate standard

Case link: [14HDC01187](#): Assessment and treatment of young child with fever and respiratory symptoms

NURSING PERSPECTIVE ON DISCHARGE (CONT'D)

“The team as a whole was in possession of enough information to indicate that this was a very unwell child, but there was no meeting of minds between the nursing and medical perspectives. This was a result of attitudes and opportunities. Staff were moderately busy with other patients and **medical decisions were made while the nurse was out of the room.** However an **attitude of valuing the nursing perspective would have overcome that and ensured that there was adequate communication of concerns and opinions.**”

Serious Adverse Event Review



Team
decision-making

Case link: [14HDC01187](#): Assessment and treatment of young child with fever and respiratory symptoms

NURSING PERSPECTIVE ON DISCHARGE (CONT'D)

“Any individual in the clinical team should be able to ask questions or challenge decisions at any time, and it is important that employers such as DHBs encourage such a culture. Good support systems (including **the safety net of vigilant senior nurses and readily available consultants) are also crucial.”**

HDC comment



Team
decision-making

Case link: [14HDC01187](#): Assessment and treatment of young child with fever and respiratory symptoms

DETERIORATION DURING LONG WAIT TIME

- Patient awaiting surgical procedure to re-explore free-flap bone graft from 4 days prior
- PACU nurse received adverse comment for failing to advocate for the patient and recognise that the wait was becoming prolonged
- Theatre co-ordinator received “other comment”



Effective
communication



Services of an
appropriate standard

Case link: [17HDC01248](#): Identification of deterioration and delay in opening a second operating theatre

ASSISTING MIDWIFE FAILED TO ADVOCATE FOR MONITORING

- Two core midwives called in to assist LMC
- LMC not concerned about foetal heart rate, but the core midwives were concerned following vaginal examination and hearing foetal heart decelerations with contractions
- Core midwives did not advocate for CTG monitoring in the room
- One of them spoke to a doctor. She told the doctor “she would be happier for him to assess [the patient] immediately, but also that she was “just as happy to continue”

ASSISTING MIDWIFE FAILED TO ADVOCATE FOR MONITORING

- HDC found that both core midwives had failed to advocate in the room, and the one who had the conversation with the doctor failed to advocate more strongly for an obstetric review



Services of an
appropriate standard

Failed tubal ligations

- Repeated unsuccessful tubal ligations by an obstetrician/gynaecologist in 2005-06
- Nurse consistently raised concerns about the doctor
- **Nurse praised by the HDC for advocating well for the patients**
- HDC found numerous breaches by the doctor (informed choice, full information, appropriate standard)
- DHB breached the patient's right to services of an appropriate standard by failing to have system to monitor the doctor and for failing to respond to concerns in a timely manner

Case link: [07HDC03504](#):

Lessons for advocacy

- Advocacy failures often happen at transfer/handover or referral stage
- Medical decisions should be made with reference to the nursing perspective
- Whether you speak up is based on the risk to the patient
- Be brave and speak up. It is not necessary to be confrontational, challenging or emotive but give constructive evidence based reasons for your concern
- Important to document your concerns and raise them with your manager or someone else who is supportive of you – then if nothing is done, your position is protected.
- There is a great video by the HQSC with a good pathway for how to advocate for patient safety. It shows effective escalation techniques:
<https://www.hqsc.govt.nz/our-programmes/safe-surgery-nz/publications-and-resources/publication/3845/>
- Another is at <https://www.nmc.org.uk/standards/code/code-in-action/speaking-up/>



THE SIDE EFFECTS OF SPEAKING UP

- Being aware of your obligation to advocate is easy – implementing this obligation in light of the situational challenges is hard
- Always keep the patient's situation as your focus
- NZNO support is available – including professional support, medico-legal advice, and employment advice



NZNO Member Support Centre

The easy way to contact NZNO

0800 28 38 48

8.00am to 7.00pm Monday to Friday



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FURTHER CASES TO CONSIDER

- <https://www.hdc.org.nz/decisions/search-decisions/2018/14hdc01598/> Ambulance staff failure to advocate for transfer to city hospital rather than rural hospital
- <https://www.hdc.org.nz/decisions/search-decisions/2016/14hdc00919/> Doctor failed to advocate for patient by failing to follow up respiratory referral or informing the DHB when condition deteriorated
- <https://www.hdc.org.nz/decisions/search-decisions/2016/13hdc00903/> Doctor failed to track results and expedite patient's specialist appointment or offer a private referral
- <https://www.hdc.org.nz/decisions/search-decisions/2015/13hdc00926/> Doctor failed to advocate for patient when a gastroenterology referral was made