



NZNO Medico-Legal Team

Lessons on advocacy



NEW ZEALAND
NURSES
ORGANISATION

TŌPŪTANGA
TAPUHI
KAITIAKI O AOTEAROA

THE PATIENT'S RIGHTS



Services of an appropriate standard



Effective communication



Respect



Freedom from discrimination, coercion, etc



Support



Informed choice/consent



Full information



Dignity and independence



Complain



Rights upheld in teaching/research



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OOPHRECTOMY CASE

- During surgery agreed that ovaries also needed removal – consent sought on operating table
- HDC found breach of the patient’s rights to:



Effective
communication



Informed
choice/consent

- Adverse comment against nurses present for failing to advocate for the patient

NURSING PERSPECTIVE ON DISCHARGE

- 3yo 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 – 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)

- HDC critical of culture where the nurse felt unable to escalate concerns:

“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.



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.”**



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 (RN) received adverse comment for failing to handover the patient to the PACU nurse



Effective
communication



Services of an
appropriate standard

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

RESPONDING TO A PATIENT'S ADVOCATE

- This case is about facilitating and responding to the patient's own advocate
- Vulnerable/confused patient whose mother was advocating for improved care in the face of inadequate initial assessment, long waiting times, and an inappropriate triage categorisation, which resulted in a delayed diagnosis of stroke



Support



Effective
communication

Case link: [18HDC01465](#): Care provided in an emergency department resulting in delayed diagnosis of a stroke

RESPONDING TO A PATIENT'S ADVOCATE (CONT'D)

- HDC commended the patient's mother for being a strong advocate for her daughter

“I take this opportunity to reiterate the importance of listening to families, and of ensuring that communication is clear and that consumers have access to support and advocacy if they require it.”



Support



Effective
communication

Case link: [18HDC01465](#): Care provided in an emergency department resulting in delayed diagnosis of a stroke

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

INEFFECTIVE ADVOCACY WHEN COMMUNICATING WITH GP

- Patient in rest home following a stroke was not adequately monitored and insufficient interventions
- Clinical services manager was in breach of the Code for failing to oversee nursing documentation and care planning, and did not communicate with the GP effectively by failing to advocate for the patient
- Clinical services manager referred to Nursing Council for competence review



Services of an
appropriate standard

Case link: [17HDC01225](#): Care plans and monitoring of a rest home resident

DR HASIL

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

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

THE SIDE EFFECTS OF SPEAKING UP

- Being aware of obligation to advocate is easy – implementing this obligation in light of the possible professional and personal consequences is hard
- Difficulties with job, reputation and career prospects
- NZNO support is available – including professional support, legal advice, and indemnity insurance
- 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/>