AUCKLAND WOMEN'S HEALTH COUNCIL

NEWSLETTER

DECEMBER 2013

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Forced caesarean section then baby taken into care

Following an article that appeared in the UK's *The Telegraph Group* at the beginning of December (1), newspapers around the world ran the story of a forced caesarean section on a vulnerable woman in the UK and the immediate removal of the baby in a case that has alarmed women's health advocates and resulted in feelings of outrage being expressed about such an extreme violation of a woman's autonomy and reproductive rights.

The story involves a pregnant Italian woman who came to Britain in July 2012 to attend a training course with an airline at Standsted Airport in Essex. During her visit she suffered a panic attack which her relatives believe was due to her failure to take regular medication for an existing bipolar condition.

The woman called the police, who became concerned for her well-being and took her to a hospital which she subsequently realised was a psychiatric hospital. When she wanted to return to her hotel, she was restrained and sectioned under the Mental Health Act. Essex social workers then obtained a High Court order in August 2012 for the birth "to be enforced by way of caesarean section." After five weeks the woman was forcibly sedated and when she woke up she was told that the baby had been delivered by caesarean section and taken in to care. She was not permitted to see her baby.

The baby girl is now 15 months old and is still in the care of social services which are refusing to give her back to her mother, even though she has made a full recovery.

In February 2013, the mother who had gone back home to Italy returned to Britain to request the return of her daughter. Despite the fact that she had resumed taking her medication and was now doing well, the judge ruled that the child should be placed for adoption because of the risk that the mother might suffer a relapse.

The mother who has other children is now involved a legal battle to get her daughter returned to her. Her lawyers have publicly questioned why her family in Italy was not consulted beforehand and why social services insisted on keeping the child in Britain despite an offer from the aunt of the baby's stepsister to care for her. As in New Zealand British law states that a child should be adopted by members of their wider family wherever possible. However, the Essex social services ruled that this was unacceptable because the American woman had no "blood tie" to the baby.

As Shami Chakrabarti, director of the human rights organisation, Liberty, said, forced surgery and removal of the baby from her mother who was not allowed to see her is "the stuff of nightmares."

The Telegraph has featured further commentaries on this story, including one by lawyer Christopher Booker. (2)

Several years ago a vulnerable New Zealand woman found herself in a very similar situation. The 29-year-old was pregnant with her second child, the first one having being born normally at her insistence. She was mentally unwell at the time of the first birth. During her second pregnancy

she was admitted to a mental health facility and was planning to have a natural birth when, during the course of a meeting held in the final weeks of her pregnancy following an incident in which the woman became very upset, those providing her maternity and mental health care decided she should have a caesarean section.

The woman's mother rang the Auckland Women's Health Council late one Friday afternoon very distressed at how her daughter was not being listened to, and extremely concerned with the outcome of a meeting she had attended with her daughter and the health professionals involved in her care. The AWHC immediately contacted a senior and very experienced obstetrician at the hospital who has a strong commitment to informed consent. He agreed to intervene and ensure that the mother was able to give birth the way she wanted.

Another meeting took place at which both a new midwife and a new obstetrician agreed to a new plan that was developed in consultation with the pregnant woman and her mother. The woman subsequently gave birth the way she wanted to, and she and her baby were then looked after by her mother. (3)

Both the UK and the NZ scenarios have a number of themes in common. They include the health and social services involved demonstrating their fear of people who are mentally unwell and completely overreacting to an incident in which the pregnant woman was distressed, not listening to her, and failing to respond to her with any degree of insight and compassion, thus making the situation much worse.

Overriding the woman's wishes and rights in the final weeks of her pregnancy by deciding that she would be forced to have her baby by caesarean section resulted in further traumatisation of the pregnant woman at the centre of each story.

Both women were faced with losing the right to care for their child and both women had extended families that were willing to help. Fortunately, the New Zealand woman had a strong mother who reached out to a women's health group and other agencies to overturn the decisions that had been made that she knew were not in the best interests of her daughter, the baby and the extended family.

It is deeply disturbing that women can be forced to undergo a caesarean section at a time when they are especially vulnerable due to the fact they have received or are currently receiving treatment for a mental health disorder. In one of the articles on *The Telegraph* website Lucy Scott-Moncrieff, former president of the Law Society, is reported as saying it's not unknown for women to have caesarean sections ordered by the court and it's not unknown for people to be detained under the Mental Health Act, as though this was a legal and acceptable response to the Italian woman's predicament. It was not, and hopefully the Italian mother will soon regain custody of her child.

References

1. http://www.telegraph.co.uk/news/uknews/10486452/Child-taken-from-womb-by-social-services.html
2. http://www.telegraph.co.uk/comment/columnists/christopherbooker/10485281/Operate-on-this-mother-so-that-we-can-take-her-baby.html
3. Health & Disability Commissioner. Annual Report for the year ended 30 June 2009.

JOHNSON & JOHNSON PAYS $2.2 BILLION SETTLEMENT

In November 2013 Johnson & Johnson agreed to pay more than $US2.2 billion in criminal and civil fines to resolve the cases brought against them for the illegal marketing of the schizophrenia drugs Risperdal and Invega, and the heart-failure drug Natrecor, and the payment of kickbacks to doctors and pharmacies.

The settlement which is the third-largest pharmaceutical settlement in US history and the largest in a string of recent cases, involves the marketing of anti-psychotic drugs to older dementia patients who did not have schizophrenia, and as being suitable for treating behavioural problems in other vulnerable populations that included children and the mentally disabled.

In a US Department of Justice press release dated 4 November 2013, Attorney General Eric Holder stated "The conduct at issue in this case jeopardized the health and safety of patients and damaged the public trust. This multibillion dollar resolution demonstrates the Justice Department's firm commitment to preventing and combating all forms of health care fraud. And it proves our determination to hold accountable any corporation that breaks the law and enriches its bottom line at the expense of the American people." (1)

While $US2.2 billion may seem like a huge amount of money, it is chicken feed to a drug company like Johnson & Johnson. According to the company's own filings, in 2004 one of the drugs that was part of the court case (Risperdal) bought in $3.1 billion in sales, accounting for about 5% of Johnson & Johnson's total revenue for that year. This explains why drug companies can easily afford to keep on breaking the law. The more they expand market share through off-label marketing, the more money they make.

Off-label prescribing

US Federal law forbids drug companies from marketing drugs for uses other than those specifically approved by the FDA, although doctors may prescribe drugs for such off-label uses.

In New Zealand it is also common for doctors to prescribe off-label drugs. The October issue of *North & South* magazine featured a disturbing article by Donna Chisholm on the off-label prescribing of anti-psychotic drugs, especially the use of ketamine. (2)

Erik Monasterio, an Otago University lecturer and forensic psychiatrist, has researched off-label prescribing and gave a presentation on the topic at the Preventing Overdiagnosis conference held in Hanover in September 2013. He is quoted in the *North & South* article as saying that subtle off-label promotion and prescribing is widespread in New Zealand, especially in general practice where GPs take their cues from specialists.

"In a survey of 48 Canterbury psychiatrists [Monasterio] reported in the *New Zealand Medical Journal* in 2011, 96 per cent said they prescribed so-called atypical or second generation anti-psychotic drugs off-label for conditions such as anxiety, sedation, post-traumatic stress and symptoms of dementia. The most common of these was quetiapine, commonly used as a sleeping pill and

anxiety treatment. Nearly 60 per cent of the doctors said they prescribed off-label at least once a week. And yet the US Food and Drug Administration has refused to approve quetiapine to treat anxiety and other conditions because of concerns about its long-term side effects" (2)

Apart from surveys done by doctors and researchers like Erik Monasterio, New Zealand has no information on the amount and types of off-label prescribing that is going on. Neither Medsafe, the agency responsible for the regulation of medicines in NZ and for ensuring that they "are acceptably safe," nor PHARMAC, the government's drug buying agency, collect this sort of information.

Whistle-blowers

The public is therefore dependent on whistle-blowers to alert us to drug prescribing practices such as that revealed in the *North &South* expose.

This state of affairs is unacceptable for many reasons, one being that it leaves the field wide open to ex-drug company reps like Otago University Professor Paul Glue to conduct research and experiment on vulnerable patients by prescribing drugs for conditions that the FDA has not approved the drug to be used for.

In this particular instance, the Health & Disability Commissioner rejected the original complaint about Professor Glue's prescribing of ketamine. It was only when the National Health Board (NHB) was also alerted to what was going on, during the course of their inquiry into other matters at Dunedin hospital, that some action was finally taken. The NHB formed a subcommittee to investigate the issue and then referred the matter back to the HDC for another look. (2) (3)

Whistle-blowers should not have to make repeated attempts to get someone in authority to do something, especially when the lives of patients are at stake. In a small country like New Zealand there are often very real disincentives for those wanting to sound the alarm about unsafe or illegal practices.

In the USA whistle-blowers are awarded a percentage of the settlement and they are usually former employees of the drug company concerned. In the Johnson & Johnson case there were four whistle-blowers who sued to bring the actions of the drug company to light. They will share a reward of $112 million from the federal portion of the settlement. (4)

Lack of informed consent

The other major issue here is the lack of oversight and protection of patients in NZ whose doctors prescribe off-label drugs but do not explain to their patients that they are being prescribed a drug for a condition that the drug has not been approved to be used for. In this grey area of drug prescribing doctors should be required to get written consent from their patients for all off-label prescriptions.

References

1. http://www.justice.gov/opa/pr/2013/November/13-ag-1170.html
2. Donna Chisholm. "Going off-label: Inside the Ketamine Story." *North & South*. October 2013.
3. http://www.hdc.org.nz/media/246826/11hdc01072.pdf
4. http://mobile.nytimes.com/2013/11/05/business/johnson-johnson-to-settle-risperdal-improper-marketing-case.html

CHOOSING WISELY

Choosing Wisely is an initiative of the ABIM Foundation (Advancing Medical Professionalism to Improve Health Care) which is focused on encouraging doctors, patients and others involved in healthcare to think and talk about medical tests and procedures that may be unnecessary, and in some instances can cause harm. (1)

To spark these conversations, leading specialty societies have created lists of "*Five Things Physicians and Patients Should Question*" which acknowledge the importance of doctor and patient conversations to improve care and eliminate unnecessary tests and procedures. These lists represent specific evidence-based recommend-ations that should be discussed to help make wise decisions about the most appropriate care based on a patient's individual situation. Each list provides information on when tests and procedures may be appropriate, as well as the methodology used in its creation.

Consumer Reports is developing and distributing materials to help patients begin having these conversations with their doctors and ask questions about what tests and procedures are right for them. (2)

More than 50 specialty societies have now joined the campaign, and more than 30 societies are expected to announce new lists in late 2013 and early 2014.

References

1. http://www.choosingwisely.org/
2. http://www.consumerreports.org/cro/health/index.htm

Fundraising Lunch with Dame Jenny Shipley

12 noon on Wednesday 11 December 2013

Royal NZ Yacht Squadron
101 Curran Street, Westhaven Extension, Herne Bay

The Postnatal Distress Support Network Trust invites you to this fundraising lunch.

With guest speaker Dame Jenny Shipley talking about her life before and after politics.

Seat price is $87 which includes a $30 donation to the PND Network.

RSVP to: pnd.org@xtra.co.nz

If you can't make it but see the great value that PDSN gives to the community you can donate at:
www.givealittle.co.nz/org/Postnataldistress

DHB MATERNITY QUALITY & SAFETY REPORTS

As part of the audit criteria for DHBs that are included in the *New Zealand Maternity Standards* (1), DHBs are now required to produce an annual maternity quality and safety report. The Ministry of Health has made it clear to DHBs that it expects these reports to be placed on each DHB's website.

Auckland DHB has been producing a very comprehensive maternity and gynaecology report for the past two decades or so:
nationalwomenshealth.adhb.govt.nz/health-professionals/annual-clinical-report

Waitemata DHB produced several maternity reports in the first decade of this century but hadn't produced one for several years. Their latest report is now on their website:
www.waitematadhb.govt.nz/LinkClick.aspx?fileticket=jIg6BhjVzcY%3d&tabid=65

Counties Manukau DHB attempted to produce a maternity report many years ago. Their maternity report for 2011/2012 is now on their website:
www.countiesmanukau.health.nz/About_CMDHB/Planning/MaternityCare/MQSP-AnnualReport-2012-2013.pdf

The AWHC would encourage you to check the website of your DHB and if you can't find a copy of their report – it should be under "Publications" – email the DHB and ask for a copy, and remind them that these reports need to be placed on their website.

References

1. https://www.health.govt.nz/publication/new-zealand-maternity-standards

AWHC GENERAL MEETING 28 November 2013

Detailed minutes of this meeting are available on request. Matters discussed included:

- Financial reports
- COGS grant application results
- PHARMAC submission
- Medicines NZ lobbying workshop
- Ethics committee meetings
- *Cartwright* conference in 2015

Further information on some of the topics listed above is contained in this issue of the AWHC newsletter.

AWHC NEWSLETTER SUBSCRIPTION

The newsletter of the Auckland Women's Health Council is published monthly.

COST: $30 waged/affiliated group
$20 unwaged/part waged
$45 supporting subscription

If you would prefer to have the newsletter emailed to you, email us at awhc@womenshealthcouncil.org.nz

Send your cheque to the Auckland Women's health Council, PO Box 99-614, Newmarket, Auckland 1149.

UP AND COMING EVENTS

DISTRICT HEALTH BOARD meetings for December 2013/January 2014:

Waitemata DHB (Website address: www.waitematadhb.govt.nz)
Waitemata Hospital Advisory Committee meeting starts at 11am on Wednesday 18 December 2013 and will be followed by the DHB Full Board meeting which starts at 1.30pm. Both meetings will be held in the DHB Boardroom, Level 1, 15 Shea Terrace, Takapuna.

The **combined Waitemata DHB and Auckland DHB** Community & Public Health Advisory Committee meeting starts at 2pm on Wednesday 5 February 2014.

Auckland DHB (Website address: www.adhb.govt.nz)
The Hospital Advisory Committee meeting will be held at 9.30am on Wednesday 11 December 2013 followed by the Full Board meeting at 2pm. Both meetings will be held at the A+ Trust Room in the Clinical Education Centre at Auckland City Hospital.

Counties Manukau DHB (Website address: www.cmdhb.org.nz)
The Hospital Advisory Committee meeting will be held at 9am on Tuesday 28 January 2014 and will be followed by the Community & Public Health Advisory Committee meeting at 1pm at 19 Lambie Drive, Manukau.

The Counties Manukau DHB Full Board meeting will be held at 1pm on Wednesday 5 February 2014 at 19 Lambie Drive, Manukau City.

2014 PREVENTING OVERDIAGNOSIS CONFERENCE at Oxford University, UK on 15-17 September 2014. Early bird registrations are now open with limited places for a fee currently set at **£345.** Further information is available at: www.preventingoverdiagnosis.net/

The NZ Lactation Consultants Association is running a series of three seminars on 27th and 28th February and 1st March 2014 – "***Breastfeeding: Bright Ideas for Tomorrow's Stars***" at the Waipuna conference centre in Mt Wellington, Auckland.

Further information is available at:
http://campaign.r20.constantcontact.com/render?ca=2f1df843-5ed0-4c41-8a2d-66751bd81500&c=ce5007d0-528b-11e3-a354-d4ae529a863c&ch=cef7e090-528b-11e3-a3fe-d4ae529a863c