
Midwife

Report on Opinion - Case 99HDC02048

Complaint The Commissioner received a complaint from parents about the treatment and care they received from the provider, a Midwife, during the birth of their baby in early January 1999.

The parents complained that the Midwife:

- *Did not follow the birth plan.*
- *Ruptured the uterine membrane while performing a vaginal examination on the consumer during her labour, without full informed consent being given.*
- *Gave an intramuscular injection of Vitamin K to the baby after birth, without the parents' consent.*

Investigation The Commissioner received the complaint on 15 February 1999, and an investigation was undertaken. Information was obtained from the following people:

The Consumer (the baby's mother)
The Consumer's husband (the baby's father)
The Provider/Midwife

Outcome of Investigation The consumer contracted with the Midwife to deliver her baby. The consumer is not from New Zealand, but speaks fluent English.

As part of the initial contact between the parties, a birth plan was drawn up. The Midwife stressed at the time this document was being prepared that the birth plan was not an ideal document. She told the consumer and her husband that unplanned events can occur during labour and delivery which require the birth plan to be changed in the interests of a positive birth experience for the mother, and a healthy baby.

The birth plan which was completed by the Midwife and the consumer in late July 1998 was not signed. However the consumer's wish for "no Vitamin K injection" is clearly specified on the plan. The consumer also indicated her preference for the uterine membrane to be allowed to rupture naturally.

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**Outcome of
Investigation,
*continued***

Vitamin K intra muscular injection is routinely given to newborn babies to prevent them from developing Haemorrhagic Disease of the Newborn (HDN). When the Midwife visited the consumer the day after the birth plan was finalised, she provided her with a discussion paper on Vitamin K by Sharon Cole to reinforce the discussions they had on this treatment. This paper states that some babies who have a traumatic delivery and are bruised or bleed during the first week of life are at risk of developing HDN.

The Midwife did not record on her Antenatal Visit Record for the consumer that day that the birth plan had been discussed.

The consumer went into labour in early January 1999, a week prior to the due date. During the labour the Midwife examined the consumer vaginally to determine the progress of labour by assessing cervical dilation. At that stage the Midwife assessed the consumer as 4cms and as the labour was progressing slowly, suggested to the consumer that it may be helpful to rupture the uterine membrane to assist the progress of her labour. The Midwife stated when interviewed as part of the investigation that the consumer had indicated her consent to this procedure by her '*body language*'.

The Midwife surgically ruptured the uterine membrane. The consumer did not give consent to this procedure being performed.

The consumer had a long slow delivery and delivered a baby with the cord tightly wound round its neck. This necessitated the cord being cut before delivery. The baby was born with a severely bruised face and head. At the time of delivery the Midwife explained to the consumer that it was her opinion the baby required Vitamin K because of the amount of bruising present.

The baby was given an injection of Vitamin K. The consumer did not give consent to this procedure. The Midwife stated that she had gained the impression that the consumer had indicated her consent by her '*body language*'.

The consumer and her husband did not want to resolve the matter through advocacy. They wish the Midwife to apologise for her actions.

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**Code of
Health and
Disability
Services
Consumers'
Rights**

The following Rights are applicable:

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.*

RIGHT 7

Right to Make an Informed Choice and Give Informed Consent

- 7) *Every consumer has the right to refuse services and to withdraw consent to services.*
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**Relevant
Standards**

The Code of Ethics in the *Midwives Handbook for Practice*, published by the New Zealand College of Midwives 1993, page 10, states:

"Responsibilities to clients

- a) *Midwives work in partnership with the woman.*
b) *Midwives accept the right of each woman to control her pregnancy and birthing experience.*
c) *Midwives accept that the woman is responsible for decisions which affect herself, her baby and her family/whanau."*

The New Zealand Bill of Rights Act, section 11 states

11. Right to refuse to undergo medical treatment -
Everyone has the right to refuse to undergo any medical treatment.
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Opinion: **Right 4(2) and Right 7(7)**
Breach In my opinion the Midwife breached Right 4(2) and Right 7(7) of the Code.

The consumer expressed her wish at the initial antenatal visit that she did not consent to the artificial rupture of the uterine membrane or the administration of Vitamin K to the baby following birth. These wishes were clearly documented on the birth plan.

The Midwife performed both these procedures during the consumer's labour and delivery without her consent.

In my opinion by failing to comply with the consumer's choices the Midwife breached the consumer's right to refuse services as set out in Right 7(7).

Further, in my opinion the Midwife breached the consumer's right to services that comply with professional and legal standards as set out in Right 4(2) of the Code. Both the New Zealand Bill of Rights Act and the College of Midwives' standards entitle the consumer to make her own decisions on matters regarding her birthplan.

Actions I recommend that the Midwife takes the following actions:

- Reviews her documentation to ensure all records are completed correctly.
- Apologises in writing to the consumer and her husband for performing procedures that they did not consent to during the consumer's labour and delivery.

Other Actions A copy of this opinion will be forwarded to the Nursing Council of New Zealand and the New Zealand College of Midwives.
