Midwife, Ms B

Opinion - Case 99HDC07234

Complaint

The consumer, Ms A, complained to the Commissioner concerning the treatment provided by her midwife, Ms B. The complaint is that:

- *During April 1999 Ms B told Ms A "not to worry" about her thyroid condition and excessive swelling and failed to conduct a follow-up urine test. When Ms A asked for a second opinion Ms B stated that she did not need back up and told Ms A "don't undermine me". Ms A was later admitted to Hospital and Health Services due to concerns about her swelling.*
- *Ms B denigrated the skills of Mr C, obstetrician and gynaecologist, and informed Ms A that she should consult a friend of hers, who is a herbalist, rather than Mr C for her bowel and thyroid problems.*
- *When informed by Ms A that her services were no longer required in June 1999 Ms B barged her way into the lounge at Hospital and Health Services where Ms A was resting and refused to leave when asked.*

Investigation Process

The complaint was received by the Commissioner on 28 June 1999. An investigation was commenced on 30 August 1999 and information obtained from:

Ms A	Consumer
Ms B	Provider / Midwife
Mr C	Obstetrician and Gynaecologist

Medical records relating to the treatment of Ms A and notes from an internal investigation conducted into this matter were obtained from Hospital and Health Services and reviewed. The Commissioner sought advice from an independent midwife.

Midwife, Ms B

Opinion – Case 99HDC07234, continued

Information Gathered During Investigation

On 27 November 1998 the consumer, Ms A, consulted Ms B, midwife, about her pregnancy and a care plan was developed with Ms B as the lead maternity carer.

Ms A had a history of obstetric problems. Prior to 1990 she had four miscarriages, one of these was an intermediate foetal death and the other three were first trimester miscarriages which required an evacuation of her uterus on each occasion. This was followed in 1990 by a premature delivery at 34 to 36 weeks gestation of a baby boy weighing 5lb. In 1992, following a one hour labour, a baby girl weighing 5lb was born at 37 to 38 weeks gestation. Following this Ms A had two further first trimester miscarriages requiring an evacuation of the uterus on each occasion and also one termination of pregnancy.

At age 13 Ms A was diagnosed as having hypothyroidism for which she was put on a low dose of Thyroxine. However, her thyroid function tests fluctuated from hyperthyroid to hypothyroid and for that reason the Thyroxine was stopped.

In her midwifery notes of 27 November 1998 Ms B recorded "*Discussed importance of early visit with Ob* [Obstetrician]*, will be happy to support* [Ms A] *in this pregnancy .... Ref* [referred] *to* [Mr C]. *I will attend 1st visit*."

On 22 February 1999 Ms A rang Ms B and discussed problems she was experiencing with constipation. On 23 February Ms B discussed options for treatment with Ms A. Ms B recorded "*... discussed diet, laxatives (pr) to evacuate bowel, alternative practitioners to treat problem wholistically* [sic] *and medical treatment. Left books on reflexology.*" On 26 February Ms B noted "[Ms A] *opted to see GP re bowel problem. Enema successful.* [Ms A] *says she feels more comfortable but still has bowel discomfort. Demonstrated gentle bowel massage to* [Ms A's husband]. [Ms A] *said the massage I gave her on 23/2 gave some relief and she wants to keep it going – suggested massage after meals and importance of slowing down – more rest.*"

Continued on next page

Midwife, Ms B

Opinion – Case 99HDC07234, continued

Information Gathered During Investigation *continued*

On 25 March 1999 Ms B saw Ms A and noted "*Bowels causing problems ++ still – continues with treatment ….* [Mr C] *not keen on home birth – keep open mind. No further problems.*"

On 22 April 1999 Ms B again saw Ms A and noted "[Ms A] *well – still having bowel difficulties. Will try homeopathies and naturopathies – to visit* [provider] *on 28/4 for advice and support …. Some swelling of fingers. Will commence AD until results.*"

Ms A states Ms B told her "*not to worry*" about her excessive swelling. She states she asked Ms B who to speak to for a second opinion and Ms B said "*don't undermine me*" and was dismissive about Mr C. Ms B states Ms A did not have excessive swelling and a second opinion was never requested. Further she states she did not say "*don't undermine me*" and never denigrated Mr C. Ms B states she has a good relationship with Mr C.

Blood tests conducted on 22 April 1999 state "*Inconclusive thyroid status – a repeat is recommended. Free T4 may be falsely low in late pregnancy.*" Ms B states on receipt of this result she dropped a repeat blood form to Ms A and informed her that a follow up test would be conducted and the results would be available for Mr C at the next visit.

On 4 May 1999 Ms A had a regular appointment with Mr C. In his letter to Ms B regarding this appointment Mr C stated "*She did bring up the question of homebirth with me for discussion, but I have mentioned to her that in view of her previous bad obstetric history I would very strongly advise against it and I got the impression that she would prefer a hospital birth, and if necessary she could be discharged home early.*"

On 3 June 1999 Ms B visited Ms A for a scheduled appointment. Ms A was not at home and Ms B found out "*through the grapevine*" that Ms A had been admitted to the Maternity Unit at Hospital and Health Services by her general practitioner. Ms B phoned the hospital on 4 June 1999 to verify this and then went to the maternity unit.

Continued on next page

Midwife, Ms B

Opinion – Case 99HDC07234, continued

Information Gathered During Investigation *continued*

On arrival at Hospital and Health Services Ms B found Ms A was not in her room. Ms D, midwife, advised Ms B that Ms A was resting in the dayroom and had changed lead maternity carer. In her statement to Hospital and Health Services during their internal investigation of this matter Ms D stated she advised Ms B:

> "*I saw* [Ms B] *in* [the] *corridor and went and spoke to* [Ms A] *who was in* [the] *lounge* [to see] *if she was certain of* [our] *earlier discussion. Stated she at present didn't want to see* [Ms B]. *I spoke to* [Ms B] *in* [the] *corridor and said* [Ms A] *was upset at present and would prefer not to see her and to perhaps try her in a day or two.* [Ms B] *then walked around me and into* [the] *lounge to speak* [to Ms A]. *I followed.*"

Ms A states Ms B "*barged*" through the closed doors of the lounge to see her and asked the hospital midwife to leave the room. Ms A further states she asked Ms B to leave the room four times and at this point Ms B became "*stroppy*" and wanted Ms A to sign out of the hospital. Ms A reports she asked Ms B to leave a further three times and Ms B grabbed her arm.

Ms B states:

> "[Ms D] *and I went down to see* [Ms A] *and I asked if it was OK for me to visit with her.* [Ms A] *said yes and* [Ms D] *remained in the room with us.* [Ms A] *told me that she had been told that she had raised blood pressure and had had toxaemia for months because her fingers and legs were swollen and she had had a trace of protein in her urine.* [Ms D] *nodded in agreement.*"

Continued on next page

Midwife, Ms B

Opinion – Case 99HDC07234, continued

Information Gathered During Investigation *continued*

"*My reply was that swelling and a trace of protein do not necessarily mean you have toxaemia but that it was inappropriate to launch into a discussion at this time. I just wanted to know that she and baby were well. We chatted on and I asked* [Ms D] *to leave towards the end of the visit for a few moments to just say goodbye.* [Ms D] *checked with* [Ms A] *that she was comfortable with this and left us alone for three or four minutes. I told* [Ms A] *that I was sorry that she was unhappy and that she was a special person and I hoped that she felt comfortable for me to approach her if we met up the street. She didn't seem angry or anti me. She said she thought I would be angry with her and started to cry. I leaned forward to touch her arm, but pulled back and left the room. I passed* [Ms D] *in the corridor on the way out of the building.*

… at no time was I asked to leave or refused to do so."

Ms D records:

"*When* [Ms B] *went in to* [the] *lounge* [Ms A] *became upset. The two had a conversation revolving around whether or not she thought* [Ms A] *had had toxaemia when she had seen her at last visit antenatally at home.* [Ms A] *asked me several times during this as to what I thought. I stated that on admission she did have symptoms and signs of toxaemia but that I couldn't say whether she had or didn't have toxaemia when she last saw* [Ms B].

[Ms A] *stated several times she was sorry that she had changed her LMC* [lead maternity carer] *and was told by* [Ms B] *that it wasn't a problem, that she could have who she wanted and all that was important was the safety of her and the baby.*

[Ms B] *then asked me to leave the room. After checking with* [Ms A] *it was alright I left.* [Ms A] *was upset and crying a little but said she'd be alright if I left.*

Continued on next page

Midwife, Ms B

Opinion – Case 99HDC07234, continued

Information Gathered During Investigation *continued*

After seeing [Ms B] *leaving* [the] *room I returned to* [the] *lounge to find* [Ms A] *crying and very upset. I had seen* [Ms B] *prior to her leaving and we had talked briefly. She wasn't too happy or seemed that way, but didn't look upset or look like she'd been crying.*"

Advice to Commissioner

During the course of this investigation the advice of an independent midwife was sought. My advisor reported that:

Concerns about Ms A's thyroid problem and swelling

"*The issue of* [the consumer, Ms A's] *thyroid problem seems very uncertain in that sometimes she was hypothyroid and sometimes hyperthyroid.* [Ms A] *had known this since she was 13 years old, i.e. for 17 years, and* [midwife, Ms B] *had known since she collected the booking data.* [Ms A's] *thyroid state was known to both* [Mr C] *(specialist of Hospital and Health Services) and to* [Mr E] *(specialist of* [the public women's hospital]*). Both of these specialists would have ordered further tests and/or treatment had they thought it desirable. I do not think that* [Ms B] *should have done further tests unless either of these specialists had recommended them and I think she would have been unlikely to have had the knowledge to interpret such tests had she chosen them. This is definitely specialist territory.*"

Continued on next page

Midwife, Ms B

Opinion – Case 99HDC07234, continued

Advice to Commissioner *continued*

Pre-Eclampsia

"*At what stage of her pregnancy* [Ms A] *developed pre-eclampsia I cannot determine with certainty. The classic symptoms of pre-eclampsia are hypertension, proteinuria and oedema of which oedema is the least important. For a provisional diagnosis of pre-eclampsia to be made a patient must show at least 2 of these. The definite diagnosis is made on blood tests, which would follow the LMC* [lead maternity carer] *being alerted by this [the symptoms listed above]*. [Ms A] *certainly had oedema, did not have hypertension and had just an insignificant trace of proteinuria when she first became concerned.* [Ms B] *was correct in assuring her that many pregnant women suffer from oedema and, by itself, it is of no medical significance though uncomfortable to the patient. On admission to hospital* [Ms A] *had a normal blood pressure and just a trace or a + of proteinuria.* [Mr C] *states that she had mild toxaemia. I am rather surprised that she was admitted to the ward and not monitored as an outpatient …. It is also unusual for a pregnant woman to develop pre-eclampsia for the first time when she is a multipara.*

[Ms B] *would have been wise to get pre-eclampsia blood tests done when* [Ms A] *complained of oedema but only so that she could reassure* [Ms A] *who seemed to rely heavily on the advice of family and friends and seemed unwilling to take* [Ms B's] *advice.*

In considering all of this I believe that [Ms B] *showed reasonable care and diligence in her care of* [Ms A]."

Constipation and referral to a herbalist

"*It is difficult to understand why* [Ms A] *had so much trouble with constipation. The usual progression of treatment would be:*

- *discuss diet and fluid intake and recommend more fruit and vegetables to increase the total intake of dietary fibre*
- *suggest trying prunes or raisins*
- *refer patient to dietician for her to gain further information and to reinforce previous advice*

Continued on next page

Midwife, Ms B

Opinion – Case 99HDC07234, continued

Advice to Commissioner *continued*

- *prescribe lactulose which is known to be safe in pregnancy but doesn't taste nice.*
- *introduce a bulk-forming agent such as Metamucil*
- *as a last resort only would routine use of enemata be considered.*

[Ms B's] *caution about using enemata in such a high-risk pregnancy is sensible. It was once one of the means used to attempt to induce labour.* [Ms A] *had lost a lot of pregnancies and I can understand any reluctance to use this measure. Referral to a herbalist or other alternative medicine specialist is a possibility to be considered in such a case but it did not suit the preconceived ideas of* [Ms A]. [Ms B] *was unwise to persist with it in this case. With a different patient it could have been something worth trying.*"

Other matters arising from the documentation are:

"*The apparent lack of rapport between midwife and patient.* [Ms B] *had a patient who had had much experience of medical care and of hospitals. I doubt that she realised how much this affected* [Ms A's] *beliefs. After 11 pregnancies, none of which had reached full term,* [Ms A] *was understandably apprehensive. I do not think that* [Ms B] *took this sufficiently into account.*"

Code of Health and Disability Services Consumers' Rights

The following Rights in the Code of Health and Disability Services Consumers' Rights are applicable to this complaint:

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.

…

5) Every consumer has the right to co-operation among providers to ensure quality and continuity of services.

Midwife, Ms B

Opinion – Case 99HDC07234, continued

Relevant Standards

Code of Ethics in the Midwives' Handbook for Practice contain standards relevant to this investigation.

CODE OF ETHICS

Responsibilities to Clients:

...

c) Midwives accept that the woman is responsible for decisions which affect herself, her baby and her famly/whanau.

d) Midwives uphold each woman's right to free, informed choice and consent throughout her childbirth experience.

d) Midwives respond to the social, psychological, physical, emotional, spiritual and cultural needs of women seeking Midwifery care, whatever their circumstances, and facilitate opportunities for their expression.

...

k) Midwives have a professional responsibility to refer to others when they have reached the limit of their expertise.

...

Midwife, Ms B

Opinion – Case 99HDC07234, continued

Opinion: No Breach

In my opinion midwife, Ms B, did not breach Rights 4(2) and 4(5) of the Code of Health and Disability Services Consumers' Rights as follows:

Ms B was not qualified to act on the consumer, Ms A's, concerns about her thyroid problem. Obstetrician and gynaecologist, Mr C, and Mr E were both aware of Ms A's condition and it was appropriate that decisions about treatment of her thyroid problem be left to them. This is in accordance with section k of the Code of Ethics. Further, I am informed oedema is common in pregnant women and of no medical significance in itself. Ms B acted appropriately in advising Ms A not to be concerned about her swelling, although, in light of her patient's concern, she may have been advised to request pre-eclampsia blood tests to reassure Ms A.

Ms B acted appropriately in suggesting to Ms A that she see a naturopath. I am informed that this was an appropriate suggestion in light of Ms A's symptoms and the fact that more traditional treatments had been unsuccessful.

I am further advised that it was appropriate for Ms B to propose an alternative therapy when other methods to treat Ms A's constipation had failed. However, Ms A was not receptive to this suggestion and Ms B may have been wise not to persist with the suggestion.

While Ms A states she requested a second opinion and that Ms B told her "*don't undermine me*", Ms B denies both allegations.

Ms A is also certain that Ms B "*ran down*" Mr C, Ms B states she did not and Mr C reports no difficulty in his relationship with Ms B.

Midwife, Ms B

Opinion – Case 99HDC07234, continued

Opinion: Breach

In my opinion midwife, Ms B, breached Right 4(2) of the Code of Health and Disability Services Consumers' Rights by entering the lounge against the consumer, Ms A's, wishes.

While there are differences in statements an independent witness, Ms D, states that prior to Ms B entering the lounge she informed her that Ms A did not wish to see her.

In my opinion Ms B intruded on Ms A in the lounge at Hospital and Health Services and regardless of her reasons for doing so her actions were inappropriate. Ms A was a pregnant and vulnerable woman and Ms B's actions obviously upset her. Ms B's first priority should have been for Ms A and her child and entering the lounge created conflict.

I note that Ms B's failure to act on Ms A's request did not meet her obligations under c), d) and e) of the "*Midwives Handbook for Practice*" Code of Ethics.

Actions

I recommend that midwife, Ms B, takes the following actions:

- Apologises in writing to the consumer, Ms A, for breaching the Code. This apology is to be sent to the Commissioner who will forward it to Ms A.

- Considers her clients' wishes in future.

Other Actions

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