Lessons to be learned from THE HEALTH AND DISABILITY COMMISSIONER'S FINDINGS

The Health and Disability Commissioner's findings are an educational opportunity for members. Dr Phil Jacobs, who is on the Executive of the College, and Cathy Webber, Senior Policy Analyst, reviewed the following case. Further peer discussion around this case is encouraged and any feedback gratefully received (cw@rnzcgp.org.nz).

Informed consent and minors

A teacher took a 14-year-old boy to a medical centre directly from school after an accident. The boy had sustained a laceration to the face with bruising and possible underlying bone damage. A long-term locum general practitioner assessed the injury, cleaned and closed the wound, gave some antibiotics, arranged an x-ray and recommended a tetanus toxoid booster as the most recent recorded tetanus vaccination was more than 10 years ago.

The patient's medical records indicated the boy had received all his childhood vaccinations but not his 11-year-old booster. There was no record that it had been declined or was not wanted. The reason why the vaccination was not given was queried and the boy told the doctor that his mother was 'not into that sort of thing, she's into homeopathic stuff'.

The GP wanted to contact the boy's mother but was advised that she was out of town and not contactable. He explained about the risks of tetanus after such an injury, the need for a vaccination, the fact it may hurt, that there may be some swelling and deep muscle pain for a few days, and also that the vaccination contained diphtheria vaccine. After the discussion the boy consented to the vaccination. It was given without problems.

The boy's mother complained that neither GP nor nurse obtained consent from her or her son. She was anti vaccination and was concerned about the risk of the vaccination as the boy had allergies.

Decision

The Health and Disability Commissioner found the Code was not breached. The GP had fulfilled his obligation to inform the patient and that although age 14, the boy was capable of giving informed consent. The common law concerning consent by minors to medical treatment is well established as a 'competency based' assessment (i.e. consent to treatment is not based on age alone). The obligation was rather to determine whether the boy was able to make an informed choice – in this case by assessing his ability to understand the information given to him, understanding the consequences of any decision and the relative seriousness of the situation.

Comment

It is sad that a GP who effectively treated a boy had to go through the process of a Health and Disability Commissioner's complaint. Would the mother have maintained her position if the vaccination had not been given and the child had developed tetanus and died or become seriously ill? Who would be responsible for that outcome?

It is also sad that the mother did not acknowledge the GP's competent medical management of the boy. The GP was put through an unpleasant and uncomfortable complaints process – apologies are frequently requested of GPs as an outcome of this process, so would it not have been fair for the mother to be asked to apologise to the GP in this case?

The tension between mainstream 'evidence-based' medicine and alternative medicine is an increasing issue. The ethic of 'do no harm' is paramount and in this instance the provision of a tetanus injection was necessary to ensure that no harm came to the boy. GPs must continue to be advocates for common sense and it is very refreshing to see the Health and Disability Commissioner make an appropriate ruling in this case.

Patient test results

In August 2001 the College canvassed members views through *GP Pulse* on aspects of the management of patient test results. Members' responses were incorporated into a discussion paper for the Executive to consider and provided background for a discussion between Council and the Health and Disability Commissioner in March this year. Our thanks go to the members who took part in the debate.

The issue is complex and important, and as a result the Executive Committee has recommended the Policy Unit develop an occasional paper on it. Watch this space!