



**Nationwide Health & Disability
Advocacy
Karey Meisner**



Overview

- **Health & Disability Commissioner's Act**
 - History
 - Code of Rights (10 rights)
- **Informed Consent (5,6,7)**
- **NASC**
- **Complaints**
 - Informal & Formal Steps



The Unfortunate Experiment

Do abnormal cells (carcinoma in situ) of the cervix lead to cancer?



Cartwright Inquiry



Dame Sylvia Cartwright

Cervical Cancer Inquiry contributed to:

- Change in public attitudes
- Legislation recognizing consumers' rights & need for protection



Health and Disability Commissioners Act (1994)

- **Legislation provides for:**
 - Code of Health Rights
 - Nationwide Advocacy Services (Ind)
 - Commissioner
 - Investigation
 - Prosecution



- Respect
- Fair treatment
- Dignity and Independence
- Proper Standards
- Communication
- Information
- It's Your Decision
- Support
- Teaching & Research
- Complaints

A The Code of Health Rights

- Although consumers have *rights* it is **balanced** by *duties* and obligations that providers have...



A

- It's *not* about access to or resources of services.



A Health Code of Rights

- Requires both a:
 - Consumer
 - Health Service



A

- What is a health service?
 - private or public
 - voluntary or fee based
 - alternative and traditional



A

- Yes, NASC is a health service!!



A

Informed Consent

- **Communication (Right 5)**
- **Information (Right 6)**
- **It's your Decision (Right 7)**



A Right 5

Communication

.... In a way that allows the person to understand and...



A Right 5

...in an *environment* that allows for communication that is open, honest and effective



A Right 6

...information that *any* person would expect to receive and to.....

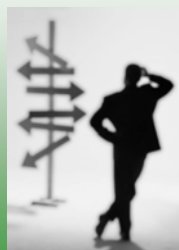


A Including about your.....

- a) medical condition
- b) options
 - a) level of risk
 - b) effects
 - c) benefits
- c) estimated time frames

A Right 7

A health service may be provided to consumer *only* if consumer makes the decision to...



A

....and it is always assumed that a person *does* have the mental ability...





....unless there are *grounds* for believing that the person doesn't...



■ What if the medical decision required is *above* the ability of the person to make it?

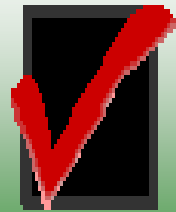


...a Welfare Guardian or Enduring Power of Attorney *can* make decision if...

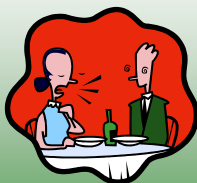


..... it is in *best interests* of person

AND.....

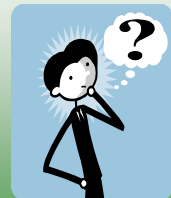


....steps have been taken to understand the persons view.



What if a person is not able make decision and

there is *no* Welfare Guardian or Enduring Power of Attorney?





the health service *can* make decision if...



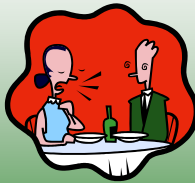
..... it is in *best interests* of consumer....



AND.....



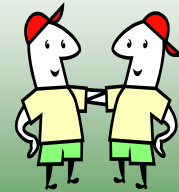
.....*reasonable steps* have been taken to understand the persons view....



AND.....



EITHER....
if gained, that the services would be consistent with the views of the person...OR



...if *not* able to get persons view, then to take into account the views of other *suitable persons*



■ Who are suitable persons?





...family, caregivers, advocates, lawyers..



What if Welfare Guardian is not available or it is emergency?



...health services can make decision at these times



Informed Consent

- What if a person is *competent* and wants to have input into decisions about their health in the future?



...two ways



Enduring Power of Attorney

- By selecting a trusted person who has your best interests in mind.....

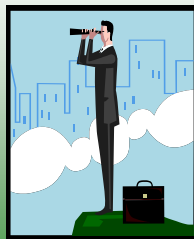


Or.....



Advanced Directive

- Or....by putting your own views forward for the future...



Advanced Directive

“Every Consumer may use an advanced directive in accordance with the common law”



A Advanced Directive

- Health service *must* take into consideration if aware of directive



A Advanced Directive

- And to discuss with General Practitioner so that aware and can help you to clarify your position



A Application to NASC

- Consultation with consumer regarding assessment and coordination process
- Capacity rather than age
- Informed consent – criteria, choice of other NASC, provider options, review/second opinion, time frames, benefits.....risks
- Questions in assessment and outcomes in coordination

A The Health & Disability Commissioner's Act (1994)



Review in 2009

- Access issues?
- Disability Commissioner & Specialist advocacy?

www.hdc.org.nz

A Complaints – Two Tiers

- Informal
 - DIY
 - Advocacy Services
- Formal
 - provider or professional
 - Professional Body
 - Health and Disability Commissioner



A

Advocate's Role:

- Work along with the consumer to achieve resolution to issues and complaints
- Free, independent and confidential





- Assistance with options also includes:
 - write letters
 - face to face meetings
 - listening to the story



- Complain to the professional health body
- Complain to Health and Disability Commissioner's Office



The Health & Disability Commissioner



The Commissioner:

- Has an impartial role unlike Advocacy which is partial to the consumer
- Once a complaint is received by the Commissioner's office, they determine the complaint course, from taking no action through to investigation

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