

**IUCD inserted without consent
(13HDC00594, 21 November 2014)**

Obstetrician/gynaecologist ~ District health board ~ Termination of pregnancy ~ Contraception ~ IUCD ~ Consent ~ Systems ~ Rights 4(1), 7(1)

A woman underwent a termination of pregnancy (TOP) at a public hospital's clinic. When the woman presented at the clinic she was seen by at least eight staff members, including an obstetrician/gynaecologist, many of whom recorded in the woman's records that she planned to use condoms for on-going contraception. The woman did not consent to having an intrauterine contraceptive device (IUCD) inserted.

The obstetrician/gynaecologist performed the TOP and then inserted an IUCD into the woman's uterus. The obstetrician/gynaecologist said that the nurse placed an IUCD on the instrument trolley and he inserted it assuming that the woman had consented for this to take place. The obstetrician/gynaecologist said that the error was caused by staff, and the systems within the clinic.

Over two years later the woman attempted to become pregnant without success. After six months of trying, she visited her GP and underwent various tests, including a smear test. Her GP identified and removed the IUCD.

The district health board told the woman that the insertion of the IUCD was a human error. A district health board staff member said that she would write an apology letter to the woman, but did not do so.

It was held that it was the obstetrician/gynaecologist's responsibility to ensure that the woman had consented to the insertion of the IUCD before he inserted it. The systems issues do not excuse this failing. By inserting an IUCD into the woman's uterus without first obtaining her informed consent, the obstetrician/gynaecologist breached Right 7(1).

The systems in existence at the clinic at the time of these events also failed the woman. Providing services with reasonable care includes the provision of the right service, at the right time, to the right patient. For a district health board, it means operating a system that ensures that patients do not receive treatment that they have elected not to receive. The woman left the clinic with no knowledge of the IUCD having been inserted, which was clearly unsatisfactory. The systems operating at the clinic for the checking of consent prior to the insertion of IUCDs were inadequate.

The district health board therefore failed to provide services to the woman with reasonable care and skill and breached Right 4(1). It also failed to take reasonable steps to prevent the obstetrician/gynaecologist's error and, accordingly, the district health board was vicariously liable for the obstetrician/gynaecologist's breach of Right 7(1).

Adverse comment was made about the manner in which the district health board dealt with the woman's complaint.