



Press Release

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WPAS Finds Hospital That Performed “Ashley Treatment” Violated Law by Not Having Court Order

Hospital Takes Full Responsibility and Implements New Safeguards

SEATTLE – An investigative report released today by the Washington Protection and Advocacy System* about the much-publicized “Ashley Treatment” finds that Children’s Hospital and Regional Medical Center, as a result of a communication breakdown, violated Washington state law in performing the hysterectomy portion of the “Ashley Treatment” on a 6-year old with a developmental disability without a court order authorizing the procedure. This resulted in violation of Ashley’s constitutional and common law rights. WPAS, under its federal authority, initiated its investigation of the “Ashley Treatment” after publication of a medical journal article describing this “treatment”.

Children’s Hospital has acknowledged that Washington law requires a court order for the sterilization of a child with a developmental disability and has entered into an agreement with the Washington Protection and Advocacy System (WPAS) to take corrective action to assure that the sterilization of a child with a development disability does not happen again without a court order. Above and beyond the corrective action, Children’s Hospital is taking steps to protect the rights of their patients with developmental disabilities including appointing someone with a disability rights perspective to the Hospital’s Ethics Committee, and requiring a court order for procedures conducted for the purpose of growth attenuation including breast bud removal, hormone treatment, and other growth-limiting medical interventions when it involves a child with a developmental disability.

In 2004, Ashley’s parents sought medical treatment that would “keep [her] small” to prevent her from growing and developing sexually. The parents requested a treatment plan that included surgically removing Ashley’s uterus and breast buds, and administering high levels of hormones. In their blog, Ashley’s parents claim that this collection of procedures would help Ashley by making her smaller and lighter, and therefore more comfortable when lying down, more easily repositioned by one person and create more opportunities to be included in family outings.

After Ashley’s parents consulted with doctors at Children’s Hospital, an ethics committee was convened at the hospital to discuss whether the treatment options suggested by her parents were in Ashley’s best interests. The committee’s opinion

supported the recommended treatments and also noted that a court review would be required.

Ashley's parents sought legal counsel to advise them on the need for court approval of the hysterectomy and were advised by their attorney that no such order was needed. Although her parents had a lawyer, no independent advocate was sought or provided to Ashley to protect her rights.

"Hospital medical staff and administration interpreted this guidance from the parents' attorney as adequate," said Dr. David Fisher, medical director at Children's Hospital. "It is clear in retrospect that a court order should have been obtained before proceeding with the surgery."

"We deeply regret that a court order was not obtained and that an independent third party was not sought to represent Ashley. We take full responsibility for the miscommunication between the ethics committee and the treating physicians," said Fisher. "We have introduced new safeguards so that procedures requiring a court order will have one obtained before they begin."

"Washington law specifically prohibits the sterilization of minors with developmental disabilities without zealous advocacy on their behalf and court approval and, in this instance, it did not happen," said Mark Stroh, Washington Protection and Advocacy System (WPAS) executive director. "That said, we are grateful to Children's Hospital for their cooperation with our investigation and their willingness to enter into an agreement that will help protect the rights of their future patients with developmental disabilities."

"Courts have also limited parental authority to consent to other types of medical treatment that are highly invasive and/or irreversible," said David Carlson, Associate Director of Legal Advocacy. "The other aspects of the 'Ashley Treatment' – surgical breast bud removal and high-dosage hormone treatments – should be subject to the same level of court review as those required for sterilization."

"The implementation of the "Ashley Treatment" also raises serious concerns about the continuing discrimination faced by people with disabilities – discrimination which is often based in stereotypes about their potential and value as individuals," said Stroh.

"The news of the 'Ashley Treatment' shocked the disability community around the world. People concerned with the rights of individuals with disabilities still have a lot of questions about why this type of invasive and irreversible procedure would be performed on a six year-old," said Curt Decker, National Disability Rights Network (NDRN) Executive Director. "We hope that the agreement between WPAS and Children's Hospital will be the first step in resolving this issue and that the long term result will be an end to the use of the "Ashley Treatment". I know the entire disability community will be carefully watching the implementation of this agreement."

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Washington Protection and Advocacy System (WPAS) is a private non-profit organization that protects the rights of people with disabilities statewide. The mission of WPAS is to advance the dignity, equality, and self-determination of people with disabilities. WPAS works to pursue justice on matters related to human and legal rights.

** As part of a national trend with protection and advocacy agencies, WPAS is changing its name to Disability Rights Washington effective June 1, 2007.*