Baby should be allowed to die, UK court rules

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legal correspondent, *BMJ*

A profoundly handicapped baby at the centre of a legal battle between her parents and doctors should be allowed to die peacefully and not be subjected to further aggressive treatment, a High Court judge ruled in London last week.

Prolonging Charlotte Wyatt's life by ventilating her if she has breathing difficulties would not be in her best interests, Mr Justice Hedley ruled, in the first dispute over a child's treatment to be heard in an open court in England.

Portsmouth Hospitals NHS Trust took the case to court after Charlotte's parents, Darren and Debbie, refused to accept doctors' conclusion that their baby, whose first birthday falls this month but who weighs only 5500 g and has failing lungs and kidneys, should not be ventilated again.

She was born three months prematurely at St Mary's Hospital, Portsmouth, weighing only 450 g and has already been ventilated five times. She has never left hospital and is profoundly brain damaged.

Doctors who gave evidence at the High Court hearing agreed that she would die within a year and would probably succumb to the first viral infection she picked up.

The judge emphasised that his ruling was only "permissive" and did not relieve the trust "of the right or responsibility for advising or giving the treatment that they and the parents think right in the light of the circumstances as they develop."

He added, "All it does is to authorise them in the event of disagreement between the parents and themselves not to send the child for artificial ventilation or similar aggressive treatment."

"Secondly, I would like to ask the treating doctors—without in any way suggesting an answer to them—to give further consideration to an elective tracheostomy on the basis of its possible contribution to Charlotte's palliative care."

Mr Justice Hedley said Charlotte should be given three things: "As much comfort as possible, as much time as possible to spend in the presence and in contact with her parents, and she should be allowed to meet her end, in the words of Mr Wyatt, with the TLC [tender loving care] of those who love her the most."

The Wyatts' solicitor, Richard Stein of Leigh, Day & Co, said that they were "extremely upset" but felt it important that the issues had been raised in public.

The judge said that the doctors were bound to take account of the BMA's guidance on withholding and withdrawing life prolonging treatment, which, although not binding on the court, was entitled to "the closest attention and deep respect."

Michael Wilks, chairman of the BMA's ethics committee, said, "The BMA is confident that Mr Justice Hedley, after having heard all relevant information, has made the right decision in the best interests of Charlotte Wyatt." □

Baby Charlotte Wyatt should not be subjected to further aggressive treatment, the High Court has ruled

Second drug firm found guilty of "switching" patients to new drugs

Zosia Kmietowicz *London*

A second drug company has been forced to abandon a programme of switching patients on GPs' lists to a new drug, after a ruling from the drug industry's regulatory body.

GlaxoSmithKline was found to be in breach of a clause of the code of conduct of the Association of British Pharmaceutical Industry for paying for a third party or practice staff to switch asthma patients who used both salmeterol (Serevent) and beclomethasone (Becotide-100) to Seretide, a dual action inhaler containing salmeterol and fluticasone (Seretide). Beclomethasone is available in generic form, while the other two products are available in the United Kingdom only as branded drugs.

Information drawn up by GlaxoSmithKline to promote the product stated that in a practice of three GPs and 4500 patients switching patients to

Seretide would result in typical savings of £9789 (\$17 600; €14 200) a year.

The authority rules that although "companies could of course promote products on the basis of cost ... the difficulty was when the company paid directly or indirectly for those changes to be made, because then the company's actions amounted to it paying to boost the prescription of a specific medicine."

Des Spence, a GP in Glasgow who reported the scheme to the association, said the practice of switching patients from an older product to a newer one with a longer patent was widespread and a means for drug companies to maintain profitability.

In June the association made a similar ruling against Wyeth for paying for "GP system specialists" to identify patients on GPs' list who would be suitable to change from Zoton (capsules

of lansoprazole) to Zoton FasTab (orodispersible tablets of lansoprazole) (*BMJ* 2004;328:1515).

Dr Spence, who heads the campaigning group No Free Lunch, said that another problem with switching was that patients were not being asked to consent.

"It is our perspective from No Free Lunch that this ruling on Seretide reinforces that the widespread practice of 'switching' breaches the ABPI [Association of British Pharmaceutical Industry] code and should stop," he said. "In general terms it is our view that most or all of the 'support' offered for general practice is in fact merely marketing by the back door. We call for more regulation and better guidance for general practice on what is acceptable industry activity."

A spokesperson for GlaxoSmithKline said: "GSK accepts that the materials used to introduce its Airways Integrated Management (AIMS) service to practices were, although unintentionally, in breach of the Code of Practice and has agreed to withdraw these materials.

However, it is important to note that the AIMS service was not found in breach of the ABPI Code of Practice and GSK remains committed to this service, which offers both potential patient and practice benefits.

"The AIMS service is designed to assist doctors in transferring patients receiving both inhaled corticosteroid (ICS) and inhaled long acting beta2-agonist bronchodilator (LABA) as separate inhalers to a therapeutically equivalent combination formulation, if, after review by the doctor, this is considered to be the most appropriate treatment for the patient. The GP identifies the profile of patients who they feel may benefit from either a therapy change or asthma review and determines whichever combination inhaler they feel is most appropriate for the patient. This offers potential clinical benefits to the patient and potential cost-saving benefits to the practice."

Dr Spence will be presenting evidence next week to the House of Commons Health Committee's inquiry into the influence of the drug industry. □