

1 Hon. Patricia Y. Cowett (Ret.)
 2 ADR SERVICES, INC.
 3 225 Broadway, Suite 1400
 4 San Diego, California 92101
 5 (619) 233-1323 PH
 6 (619) 233-1324 FAX

7 IN THE MATTER OF THE ARBITRATION BETWEEN

9
 10 Claimant,

11 v.

12
 13
 14 Respondent

)
) ADRS CASE No. 13-2801-PYC
)

) FINDINGS TO THE ARBITRATION
) AWARD
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15
 16 FINDINGS

17
 18 On January 27, 2012 Dr. _____, a primary care physician had an extended visit with a new patient
 19 Her principal complaint was an ear infection and some abdominal pain. In view
 20 of the history given and the medications the patient was taking, her symptoms were consistent with
 21 epigastric pain. _____ sat cross legged and comfortably. She was doubtful if she was pregnant
 22 since she confirmed her highly effective Mirena IUD was in place and she was having her period.
 23 She did not have right lower quadrant pain; her abdomen was not tender, with normal bowel signs,
 24 no distention, no rebound or guarding. Her lab tests were normal: normal vital signs, ketones and
 25 hemoglobin. Based on these observations, the differential diagnoses reached were reasonable and
 26 expected: abdominal cramping, possible appendicitis or gastritis. Possible pregnancy would not be
 27 an expected diagnosis and thus a urine test was not done or required to be doing to comply with the
 28 standard of care for this primary care physician. Though there was conflict in the expert testimony
 29

1 in this regard, great weight was given to the convincing testimony of Dr. . that the
2 standard of care was met.

3 In the following months, as concerns over becoming pregnant and the prospect of another
4 ectopic pregnancy being a real possibility emerged, had several discussions about birth
5 control options including permanent sterilization. Full and complete information was given.

6 asked questions, was given answers and by her level of determination and
7 responsiveness, she gave every indication of a full understanding of the options and procedures
8 discussed including the Essure permanent sterilization procedure. After election of Essure, the
9 appropriate cooling off period ensued allowing every opportunity to change her mind
10 and discuss her decision with family and physicians. At the time of the procedure she calmly and
11 firmly indicated she was ready to proceed. She gave informed consent. Later when she developed
12 persistent abdominal pain, again she made a firm and objectively reasonable choice to have a
13 hysterectomy to relieve the abdominal pain. She again did nothing to override the presumption of
14 capacity and indeed affirmatively gave informed consent.

15
16 Nothing in this arbitration decision prohibits or restricts the enrollee from discussing
17 or reporting the underlying facts, results, terms and conditions of this decision to the
18 Department of Managed Health Care.

19
20 DATE: May 13, 2014

21 Patricia Y. Cowett
22 Hon. Patricia Y. Cowett (Ret.)
23 Arbitrator
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7 IN THE MATTER OF THE ARBITRATION BETWEEN

10 Claimant

11 v.

14 Respondent

9)
 10) ADRS CASE No. 13-2801-PYC

11)
 12) **RULING ON CLAIMANT'S MOTION**
 13) **FOR NEW TRIAL/ARBITRATION**
 14)

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 16 After hearing the arguments on Claimant's Motion for New Trial on June 4, 2014 from both
 17 counsel, Esq. for Claimant and Esq. for Respondent, the
 18 arbitrator rules as follows: the Motion for new trial is denied.

19
 20 1.) There was no irregularity in the proceedings to allow both sides to present further
 21 evidence on one issue in the case, the standard of care for informed consent, and not allow both
 22 sides to present new evidence on all issues presented in the case.

23
 24 2.) In determining that the standard of care was met on the issue of conformed consent, the
 25 arbitrator did not fail to recognize and consider the opinion of Claimant's expert Dr. but in
 26 fact relied on weighing his opinion against that of the Respondent's experts Dr. and Dr.
 27 and considered all of the underlining facts upon which each of these opinions were based.

1 **Nothing in this arbitration decision prohibits or restricts the enrollee from discussing**
2 **or reporting the underlying facts, results, terms and conditions of this decision to the**
3 **Department of Managed Health Care.**

4
5 DATE: June 4, 2014

Patricia Y. Cowett

Hon. Patricia Y. Cowett (Ret.)
Arbitrator

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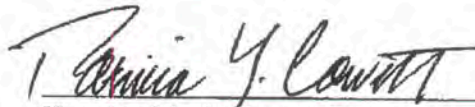
1 applicable standard of care. Dr. [redacted] opined that he reviewed all relevant portions of
2 [redacted] medical records, including his mental health records and based
3 thereon came to the above stated conclusion. Also he finds that the diagnosis of
4 schizophrenia is correct, reasonable, appropriate and complied with the standard of
5 care and that treatment therefore compiled with the standard of care.

6 2.) In opposition [redacted] submitted inadmissible hearsay documents including an
7 APA article on Informed Consent for psychiatrists that his expert does not state she
8 relied on questions and answers of parents [redacted] and [redacted], not under
9 penalty of perjury, nor in proper document form including subscription, an email
10 from himself again not in declaration form under penalty of perjury, and a 5 page
11 statement dated June 19, 2018 by [redacted] M.D., PHD, not in proper form
12 nor subscribed under penalty of perjury. Therein at no point does she state that
13 claimant's care was below the standard of care. [redacted] has failed to raise an issue of
14 law or of fact or negate [redacted] et al.'s evidence. Claimant asked for and was granted
15 an expedited arbitration and thus in opposition through the request of his "expert"
16 [redacted] he cannot request a continuance of this motion.

17
18 3.) Thus, respondents motion is granted.

19 **Nothing in this arbitration decision prohibits or restricts the enrollee from**
20 **discussing or reporting the underlying facts, results, terms and conditions of this decision**
21 **to the Department of Managed Health Care.**

22
23 DATE: July 6, 2016

24 
25 Hon. Patricia Y. Cowett (Ret.)
26 Arbitrator

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IN RE THE MATTER OF ARBITRATION BETWEEN:

) Arbitration No. 14011
Claimant,)
) ARBITRATION AWARD
v.)
)
and)
)
Respondents.)
)

This matter came on regularly for hearing before the Honorable Patricia Y. Cowett (ret.), the single neutral arbitrator, for the above-captioned matter, on June 28, 2016. The Arbitrator, having read all pleadings, having examined the proofs and exhibits offered by the respective parties and having heard argument, issued a written order on July 6, 2016, granting Respondents' Motion for Summary Judgment.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

That an arbitration award is hereby made in favor of Respondents,

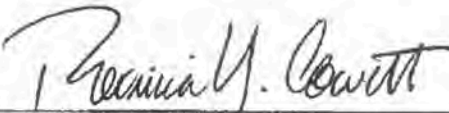
and

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1 and against Claimant, and that Claimant
2 shall take nothing in these arbitration proceedings.

3
4 **NOTHING IN THIS ARBITRATION DECISION PROHIBITS OR**
5 **RESTRICTS THE ENROLLEE FROM DISCUSSING OR**
6 **REPORTING THE UNDERLYING FACTS, RESULTS, TERMS**
7 **AND CONDITIONS OF THIS DECISION TO THE DEPARTMENT**
8 **OF MANAGED HEALTH CARE.**

9
10 Dated: July 7, 2016

11 By: 
12 Hon. Patricia Y. Cowett (ret.)
13 SINGLE NEUTRAL ARBITRATOR
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