

Doctors took a newborn baby from her parents after they refused a vitamin K shot for her. Now the couple is suing the hospital and DCFS.

By ELYSSA CHERNEY and JEFF COEN | SEP 24, 2019



Angela Bougher holds her baby daughter Glori, 1, as her older children Andrew, 11, Shine, 6, and husband Brian make pancakes at their Will County home. The Boughers refused Glori's vitamin K shot shortly after birth and were reported to the Illinois Department of Children and Family Services. Now they are suing. (Antonio Perez / Chicago Tribune)

In the moments after Angela Bougher gave birth last winter, she and her husband, a suburban Chicago pastor, were eager to hold their new baby girl.

But as Bougher was being treated in the delivery room, the couple contends, a nurse picked up the infant to administer a vitamin K shot, a common practice in maternity wards across the country to help a baby's blood-clotting ability in case of emergency.

The Boughers said they are not "anti-vaxxers" or against any procedure they believe to be medically necessary, but they didn't think the shot was in that category. They had agreed to sign a waiver confirming their wishes that the new baby — their fifth child — not receive vitamin K, based on their beliefs that God's creation isn't automatically deficient or flawed at birth.

But instead of offering them a form, the Boughers allege, the nurse announced she was reporting the couple to the Illinois Department of Children and Family Services and left the room with the newborn. It would be about 12 hours before they got the child back, the couple said.

“I honestly could not understand what was going on,” Angela Bougher said through tears in a recent interview. “I was in total shock. I’ve never not had my baby right away.”

The episode was the result of a controversial DCFS policy that classified parents’ refusal of their newborn’s vitamin K shot as medical neglect, a move that thrust the agency into a contentious debate over the rights of parents to make decisions about their children’s care. The policy was rescinded a year ago as agency leaders sought to ensure that DCFS wasn’t “overstepping the boundaries” of state law and determined the shots should not be classified as medically necessary.



Angela Bougher holds her daughter Glori, 1, as daughter Shine, 6, gives her a hug at their Will County home. At left is their brother Andrew. Glori was taken away from Angela and her husband for 12 hours after they refused a vitamin K shot for the infant. (Antonio Perez / Chicago Tribune)

“Making that kind of determination falls outside the confines of our statutory and professional mission and judgment,” Beverly “BJ” Walker, then DCFS’ acting director, wrote in an August 2018 memo rescinding the policy. Of 138 families investigated because of vitamin K refusals, officials found evidence of medical neglect in just seven cases, the memo said.

On Monday, the Boughers and several other parents filed a sweeping federal lawsuit accusing the agency, its current and former leaders, a number of doctors and three hospitals of violating their constitutional rights just after the births of their children. Hours that should have been filled with happiness and family photos were instead filled with uncertainty, they said, as children were temporarily taken into protective custody, DCFS caseworkers were called and the parents were made to feel like criminals.

The lawsuit contends DCFS and medical staff broke state and federal law by improperly seizing newborns or threatening to do so, said Richard Dvorak a lawyer for the families. It alleges that doctors continued to coerce parents, citing the inevitability of DCFS intervention, even though they knew the policy had been rescinded. The families said they were traumatized by their experiences and are seeking monetary damages and a stop to the practice once and for all.

The hospitals listed in the lawsuit are University of Chicago Medical Center, Advocate Christ Medical Center in Oak Lawn and Silver Cross Hospital in New Lenox. The hospitals each declined to comment, citing pending litigation.

A DCFS spokesman would not comment on the specific cases, citing the pending litigation. But in general, he said, DCFS continues to assess reports of medical neglect made by doctors.

“When the department receives reports to our hotline, we ask medical providers a series of questions, including whether or not a case is life threatening,” spokesman Jassen Strokosch said Monday in a statement. “There are a number of factors that then determine whether a report leads to an investigation, but if the medical professional believes a case to be life threatening, DCFS will conduct an investigation in order to protect the child.”

James Holderman III son of a former chief judge at the federal courthouse in Chicago, and his wife, Courtney, are lead plaintiffs in the lawsuit. The Holdermans contend they were subjected to a DCFS investigation in May 2018 because they declined the vitamin K shot and other optional procedures — a blood screening and eye ointment — after the birth of their second child at a west suburban hospital that is not part of the lawsuit.

The doctors didn’t take the newborn from them, but the Holdermans had to endure a five-week DCFS investigation, the lawsuit states.

“The moment they started investigating me, I knew that they were in the wrong, and I knew that the doctor was in the wrong,” Holderman told the Tribune. “I did not know that this was widespread. ... We thought it was just a one-off.”

Why vitamin K?

Vitamin K shots have been routinely administered to newborns since the early 1960s, when the American Academy of Pediatrics began recommending it. In recent years, however, the injection has drawn more scrutiny from parents who believe it is unnecessary and intrusive.

Proponents say the shot is a harmless procedure that prevents an infrequent but life-threatening condition called Vitamin K deficiency bleeding, which can occur in a baby’s brain or intestines during the first six months of life.

All babies are born with low levels of vitamin K, a nutrient needed to form clots and stop internal bleeding, according to the Centers for Disease Control and Prevention. Babies should receive it within an hour of birth, the agency recommends.

“A vitamin K shot is the best way to make sure all babies have enough vitamin K,” the CDC’s website says, adding newborns who don’t get the shot are 81 times more likely than other babies to develop severe bleeding.

Though rare, recent cases exist of babies who did not get the shot and developed severe bleeds. In 2013, a spate of cases in Tennessee garnered national attention and sounded alarm bells in the medical community. Three infants diagnosed at a Nashville hospital that year suffered brain bleeds, and a fourth had gastrointestinal bleeding, according to the CDC.

Both the Boughers and the Holdermans said the procedure conflicted with their Christian values.



Shine Bougher, 6, reads a book as her family, including brother Nathan, finishes breakfast at their Will County home. The kids' parents have sued the Department of Children and Family Services and a local hospital after they refused a vitamin K shot for the newest addition to their family, Glori, 1. (Antonio Perez / Chicago Tribune)

“Our belief is that if God created every baby with a certain amount of vitamin K, then that’s what they need at birth,” Angela Bougher said. “Now, we also believe there are certain situations in a birth, specifically birth trauma, that can happen and necessitate a need for more vitamin K. ... If there was a reason for vitamin K, we would have done it, absolutely.”

‘A very powerful incentive’

Neil Skene, who was a top DCFS administrator while the policy was in effect, said he believes it was implemented based on the philosophy that any complaint about child welfare, no matter how minor, should be probed. Skene said former DCFS Director George Sheldon, who is now deceased, implemented the policy in 2015 with the intent of protecting children as much as possible.

“The policy basically said if we get a complaint about vitamin K and the denial, we should determine the risk to the child and the culpability of the parent,” Skene said.

The policy required doctors to call DCFS if a parent declined vitamin K, triggering a full-fledged investigation.

By May 2017, a doctor who chaired a perinatal committee for the Illinois Department of Public Health was expressing concerns, the lawsuit states. At a meeting the following month, DCFS officials said they didn’t think investigating parents was “the appropriate way to solve the issue,” and they were in the process of amending it, according to minutes from the meeting.

But after the meeting, Dr. Jill Glick, a renowned child abuse pediatrician at the University of Chicago Medical Center, wrote letters expressing strong opposition to any policy change. Glick sits on several state committees that work closely with DCFS and is named as a defendant in the lawsuit.

“Preventing detrimental outcomes and protecting babies from a poor choice is achieved through education but also through the impact of child welfare interventions,” Glick wrote in a September 2017 letter to fellow pediatricians as DCFS was considering changes. “This can be a very powerful incentive for parents to not put their child a risk.”

Ultimately, the DCFS policy stayed in place for another year, and Illinois remained largely an outlier in the way it handled vitamin K disputes.

Baby taken, beliefs mocked

Well before her due date, Angela Bougher spoke with numerous officials at Silver Cross about her desire to decline the vitamin K shot, according to the lawsuit. Two midwives employed by the hospital and other medical personnel assured Bougher it would be fine if she signed a waiver stating her religious objections.



Shine Bougher 6, and sister Glori, 1, play at their family home in Will County. Their parents have filed a lawsuit after declining to give Glori a vitamin K shot after her birth. (Antonio Perez / Chicago Tribune)

Just after 6:40 a.m. Feb. 7, 2018, Angela Bougher delivered a healthy baby girl with no epidural. Doctors weighed the baby and checked her vitals. But when a nurse announced it was time for the vitamin K, Bougher protested and offered to sign the required form.

The hospital instead removed the baby for about 12 hours from the mother’s room, according to the suit. During that time, Angela Bougher said she was permitted to breastfeed just once.

When Angela and Brian Bougher begged to see their baby, a doctor tried coercing them to allow the shot and called their beliefs “stupid” and “wrong,” according to the lawsuit.

One of the doctors who talked to the family that day, identified in the lawsuit as Miroslaw Skalski, told the Tribune on Monday that he did not recall the case.

“We have many parents who refuse vitamin K ... every month or every other month,” Skalski said.

As the hours passed, the Boughers felt anxious, confused and scared they wouldn’t get their daughter back. They also feared DCFS would take custody of their other children.

“I felt a little bit like a prisoner,” Angela Bougher said. “It was like they had condemned me and I had done something wrong and atrocious, but I didn’t know what that was so I couldn’t really fix it, and no one would really talk through the issue.”

Nurses finally returned the baby to the Boughers about 8 p.m. that night, without any explanation, they said.

The next day, a DCFS investigator showed up in Angela Bougher’s hospital room to say doctors confirmed the baby was healthy and that she was going to deem the medical neglect allegation unfounded.

But to close the case, the investigator said, someone would have to visit the Boughers' home to verify their other children were unharmed. About a week later, several Joliet police officers appeared at their home, they said, furthering their ordeal. The experience left the Boughers shaken, distrustful of the medical community and fearful whenever they have to go to the hospital.

“By the end I felt like as a father and a husband, I can’t protect my family and that we were robbed of the joy of our daughter being born,” Brian Bougher said.

‘Good interests on both sides’

Though he enacted the policy, Sheldon had already left DCFS by the time the Boughers, the Holdermans and other parents were investigated by the agency. Sheldon resigned in June 2017 amid an unrelated ethics probe.

So it was Walker, the new director, who began hearing from parents angry about how DCFS mistreated them for declining vitamin K.

Skene, who left the agency after the policy was rescinded, said doctors were split on the issue. Some advocated for the strict policy; others expressed concerns that it went too far.

“You’ve got good interests on both sides. Here are doctors who believe that vitamin K is a harmless and potentially life-saving prevention tool,” Skene said. But at the same time, he continued, DCFS wanted to avoid “intervening with families that didn’t really deserve to be afflicted with the state in their lives.”

Prompted by the outcries, Walker looked at the data, determined that only a small number of parents who declined the shot were credibly accused of neglect and decided to roll back the rule. The change allowed doctors to call the hotline if they suspected medical neglect, but

they were no longer required to make a report, and DCFS could decline to investigate cases based on the circumstances.

“What we have tried to accomplish today is to ensure that our procedures ... regarding this issue are consistent with all other reporting processes that the State of Illinois assigns to DCFS,” Walker wrote in a memo rescinding the policy. “We will therefore no longer treat this issue any differently from any other allegations of abuse and neglect we receive from mandated reporters.”

Asked about the suit Monday, Walker declined to comment but referenced the memo, saying that outlined her rationale for rescinding the policy.

Policy gone, investigations continue

The lawsuit contends that unlawful attempts to seize newborns and spur DCFS investigations have continued even after Walker rescinded the policy.

In the three months that followed that change, the hotline received 25 calls about vitamin K and investigators opened 15 new cases of alleged neglect, according to the lawsuit. This April, the hotline received 10 calls, resulting in six investigations, the lawsuit said.

[The most recent confrontation cited in the lawsuit occurred in February, when Danielle Anderson gave birth to her second child at the University of Chicago Medical Center. Before the birth, an obstetrician at the hospital told Anderson she would suffer no consequences for declining the shot, according to the lawsuit.

But in the delivery room, when Anderson said no to the shot, a doctor warned the hospital “would take away her baby,” according to the lawsuit, which added that numerous doctors, nurses and hospital officials tried to convince Anderson to allow the shot for her baby girl.

When Anderson continued to decline, a doctor came into her room with hospital security, saying he was going to physically remove the baby, the lawsuit said.

“My immediate thought was I have to get physical or we’re going to have to fight, but you’re not going to touch my child,” Anderson said in a phone interview. She recalled she put on a pair of shoes in case she needed to get better footing on the hospital room’s tiled floor.

Looking for help, she called the police. Two officers arrived within 10 minutes, spoke to the doctor and told him to stop pressuring Anderson. She left the hospital later that day.

About a week later, Anderson learned she was under investigation by DCFS. An investigator twice came to Anderson’s home to check on the children and ultimately deemed the allegation unfounded, according to the lawsuit.

Dvorak said his clients — including the newborn babies — were traumatized by their experiences with the hospitals and DCFS right after the births and then later with the unwarranted home visits.

“Hopefully this lawsuit will put DCFS on notice and other pediatricians on notice that this is not the way to go about handling this issue,” Dvorak said. “They are doing it in a way that clearly violates the constitutional rights of the parents.”

The Boughers and the Holdermans agreed, saying the lawsuit is about putting the issue to rest, establishing boundaries on parental rights and ensuring no one else goes through what they did.

“We do not want this to happen again,” James Holderman said. “We are willing to put ourselves out there and share personal details of our story and our family in order to prevent this from happening to other families.”

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