Ethics in Midwifery

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- The Ethics of Choice and The Ethos of Risk
  - Pandora's box: exploring issues with informed consent
  - Uncovering tensions in the practice of informed choice
  - Elective cesarean vs. vaginal birth: challenges for midwives
  - Ethical issues in elective cesarean birth
  - Childbirth options in Quebec and BC: do women really have a choice?
  - Needs in developing countries
  - Continuity of care
  - Prenatal testing
  - Uncertainty, complexity and chaos
  - Regulation
  - Rights
Core Values of Midwifery

- **Exercise:** It is useful to take a moment to reflect on your own beliefs and ideas about midwifery practice.
- **Ask yourself, what are the ideals of midwifery or what should a good midwife be good at?**
- Divide into teams and nominate a value or values.
- Condition for acceptance: there must be either consensus among the group or at least one member must be prepared to argue in its behalf.
- Consider what would be the minimal requirements for adequacy.
- Distinguish between ends and means.
- Keep a note of your thoughts handy. You will find it helpful to refer to the list in consideration of the various cases and challenges raised in future or at least during the day.

- This exercise is developed for the Core Values in Medicine Exercise designed by Ken Kipnis and Anita Gerhard at the University of Hawaii School of Medicine.
Core Values of Midwifery - Personal

- What are the ideals of Midwifery?
- What should a good Midwife be good at?
- Today’s date: __________________________
Core Values of Midwifery - Group

- What are the ideals of Midwifery?
- What should a good Midwife be good at?
- Today’s date:
Personal values & Professional codes

- Personal values are one’s own moral code
- Sometimes (mis)taken for “common sense”
- Professional codes are usually based on the consensus of experienced persons
- Can be too vague or parochial
- May not harmonize with personal values
- This is one cause of moral dilemma:
  - How can we deal with the conflict?
The International Confederation of Midwives' Code of Ethics

- States that: "Midwives respect a woman's informed right of choice and promote the woman's acceptance of responsibility for the outcomes of her choices. Midwives work with women, supporting their right to participate actively in decisions about their care, and empowering women to speak for themselves on issues affecting the health of women and their families in their culture/society."

Consider possible sources of personal vs professional conflict:

- Midwives respect a woman's informed right of choice and promote the woman's acceptance of responsibility for the outcomes of her choices.
- Midwives work with women, supporting their right to participate actively in decisions about their care,
- and empowering women to speak for themselves on issues affecting the health of women and their families in their culture/society
Case: maternal fetal conflict?

Court cases revive old debate about rights of mothers during labor - Legal Issues
June 10, 2004 2004 JUN 10 - (NewsRx.com & NewsRx.net) -- Amber Marlowe was a seasoned pro at delivering big babies, her first six each weighed close to 12 pounds. So when she went into labor with her seventh last winter, she brushed off doctors who told her the 11 pound, 9 ounce girl could be delivered only by Caesarean section.

"All my others, I've done naturally," Marlowe recalled telling her physicians. "I know I can do it."

When she couldn't get the medical staff at Wilkes-Barre General Hospital to agree, she checked herself out and went to a different hospital, where she had a quick, natural birth she described as "a piece of cake."

What she didn't know then was that when she went looking for a new doctor, lawyers for Wilkes-Barre General had rushed to court and persuaded a judge to give the hospital legal guardianship of her unborn child, giving it the ability to force Marlowe into surgery if she returned.

Marlowe only learned about the case when her husband was told by a reporter.

"I couldn't believe it," she said. "They don't know me from anything, and they're making decisions about my body? It was terrifying."

The case is one of several in recent months that have revived an old debate about whether mothers have an absolute right to chose when, where and how they give birth, even if the health of their baby is at stake.

Officials with Wilkes-Barre General did not return calls seeking comment.

In Salt Lake City, prosecutors charged a mother with capital murder last March for delaying a Caesarean section that might have saved the life of one of her twins.

Authorities said Melissa Ann Rowland, an acknowledged cocaine addict with a history of mental health problems, resisted having the operation for about 2 weeks before acquiescing. One of the babies died in the womb during the delay. Rowland ultimately pleaded guilty to a lesser charge of child endangerment and was sentenced to probation.

Last month, prosecutors in Pittsburgh charged an unlicensed midwife with involuntary manslaughter for failing to take a laboring woman to the hospital when her baby began to be delivered feet-first. The child died 2 days after a complicated delivery.
Judith Wilson, of Portersville, said she had been trying to honor the mother's wishes to have the baby at home.

In Rochester, New York, a judge in late March ordered a homeless woman who had lost custody of several neglected children not to get pregnant again without court approval.

Some women's advocates said the cases illustrate a newfound willingness by legal officials to interfere with women's choices about their pregnancies.

"My impression is that we have a political culture right now that falsely pits fetal rights against women's rights, and that you are seeing a kind of snowballing effect," said Lynn Paltrow, of the New York-based group National Advocates for Pregnant Women. "We're at the point now where we're talking about arresting pregnant women for making choices about their own bodies, and that's not right."

Legal experts and medical ethicists said attempts to prosecute women for pregnancy choices, or force them to undergo certain procedures for the benefit of their children, may be on shaky ground.

"There are 50 years of case law and bioethical writings that say that competent people can refuse care, and that includes pregnant women as well," said Art Caplan, chairman of medical ethics at the University of Pennsylvania.

In one influential case, a federal appeals court in Washington D.C. ruled in 1990 that a judge was wrong to have granted a hospital permission to force a pregnant cancer patient to undergo a Caesarean in an attempt to save the life of her child. The mother and baby died within 2 days of the operation.

Doctors' opinions on forced care for pregnant mothers has changed too.

A 2002 survey by researchers at the University of Chicago found that only 4 percent of directors of maternal-fetal medicine fellowship programs believed that pregnant women should be required to undergo potentially lifesaving treatment for the sake of their fetuses, down from 47 percent in 1987.

Dr. Michael Grodin, director of Medical Ethics at the Boston University School of Medicine, said doctors should only seek court intervention when a mother refuses care if the patient is mentally ill.

"Women have a right to refuse treatment. Women have a right to control their bodies. It is a dangerous slope. What's next? If someone doesn't seek prenatal care, what are we going to do, lock them up?" This article was prepared by Women's Health Weekly editors from staff and other reports. Copyright 2004, Women's Health Weekly via NewsRx.com & NewsRx.net.

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Maternal-Fetal Conflict: fact or fiction?

○ Classically seen as a conflict between the needs and rights of the mother and the needs and rights of the fetus

○ Assumes that the two are not intrinsically linked

○ Is not a realistic portrayal of the experience of the woman
Bodily integrity and forced Caesarian

- Respect for bodily integrity considers the dangers and burdens of pregnancy and incorporates recognition of the individual as subject.
- The body is generally protected in law as inviolable;
  - e.g. the right to refuse to supply blood or DNA samples for police investigation;
  - the right to refuse to provide life-sustaining bone-marrow or kidney donations.
- However, this has not always been the case in pregnancy.
  - Numerous cases of forced caesarean sections, non-voluntary sterilisation (especially of disabled and poor women)
- Is it a contradiction in our culture?
- Women tend to be expected to efface their own autonomy, desires and wishes in favour of the foetus. Many do this voluntarily and gladly to protect their unborn children, but this cannot be taken for granted.
The Final Report of the Royal Commission on New Reproductive Technologies

- medical treatment never be imposed upon a pregnant woman against her wishes,
- criminal law, or any other law, never be used to confine or imprison a pregnant woman in the interest of her fetus,
- the conduct of a pregnant woman in relation to her fetus not be criminalized,
- child welfare or other legislation never be used to control a woman’s behaviour during pregnancy,
- civil liability never be imposed upon a woman for harm done to her fetus during pregnancy.

  - Flagler et al Can Med Assoc J 1997;156:1729-32
  http://www.cmaj.ca/cgi/reprint/156/12/1729
Practical options

- clarify why she is refusing treatment
- is it fear of surgery, or anaesthesia?
- is it that she doesn't understand that the baby may be seriously disabled or even die?
- is it that she doesn't believe/trust doctors?
- offer/get second opinion (another member of staff, or head of department)
- offer/get other family member or support person to help her
- do not abandon her, but continue to care for her and to communicate with her
  - Obstetrics and Gynecology Curriculum: Module 1 Consent: Maternal – Fetal Dilemmas
    http://rcpsc.medical.org/ethics/obgyn/index.php
Case: The Home VBAC Choice

- “VBAC and Choice of Birthplace” CMO
  10/2002
- “No requirement of hospital birth exists”
- Is VBAC homebirth safe?
- If not, the code creates a moral dilemma
  - Midwives must offer VBAC at home, but may perceive the risks to be too high

*Small group discussion*

*Report back*
Pros & Cons of Codes

- Just one way of resolving ethical conflict
- Standards set by thoughtful experienced professionals
- Can help define roles and professionalism
- *Can be parochial*
- *Can be limited or too vast*
- *Can create conflict with personal values*
Theories of Biomedical Ethics

- Principalism – Beauchamp & Childress
  - Autonomy
  - Beneficence
  - Non-maleficence
  - Justice
  - Utility
  - Veracity
  - Charity
  - Self-improvement

- Paternalism
  - Utilitarianism or Consequentialism
  - Deontology or duty based
  - Ethics of Care
  - Virtue Ethics
  - Rights
Paternalism

- Not strictly an ethical theory
- **Making a decision on behalf of someone else or pre-empting a decision that they are able to make on their own behalf, on the grounds that it is for their own good.**
- Paternalism is common in health care settings where caregivers are torn between their feelings of duty to be beneficent and their desire to respect the autonomy of the patient.
- Human duality of autonomy and need make it necessary to consult authorities.
- Authorities may know best what skills and information to apply, but they lack the relevant information about the individual.
- Only the individual can know this with any certainty, only they are authorities about themselves.
- Hence the authorities have limited expertise in particular cases because their expertise cannot include the patient's knowledge of herself.
Consequentialism

- Places moral emphasis on the **consequences or outcomes** of an act rather than the act itself.
- An action is morally correct, provided its consequences are beneficial.
- But beneficial to whom? It may be the good of particular individuals. However, some, namely Utilitarians, say it is to the greatest number of people; hence the motto: "the greatest good for the greatest number".
- Or the action ought to cause the least amount of harm possible.
- Consequentialism presents two major problems.
- First, it is impossible to predict which act will produce the best or least harmful outcomes. It would require clairvoyant knowledge.
- Second, it may be necessary for Consequentialism to praise or blame an act for its unforeseen and unintended outcome. So, if A intends to harm B and is successful, then A is punishable according to Consequentialism. But equally, if A intends to help B and instead accidentally causes B harm, then A is still punishable according to Consequentialism.
Deontology

- Emphasises the correctness of an action, regardless of the possible benefits or harm it might produce.
- There are particular duties that must be upheld at any cost. Kant's categorical imperatives are three such duties:
  1) Act in such a way that your actions can and ought to be universalizable.
  2) Treat persons as ends in themselves and never solely as means to an end.
  3) Act in such a way as you would have others act toward you.
- This theory is also concerned with the rational intentions of actors.
- Thus accidentally correct actions are not praiseworthy; the actor must intend to do her duty.
- The fundamental problem with Deontology is that it demands that the actor perform his or her duty regardless of the consequences.
- A second problem with Deontology is that there is no consensus regarding a list of duties, or how to respond when two or more duties clash.
Ethics of Care

- Feminist ethics, eg Carol Gilligan.
- A direct response to the inherent coldness of liberal tolerance.
- Advocates decision making in a way that best supports the good of the individual in the long run.
- Requires us to assume responsibility for those who need our help, and to do whatever it takes to further their best interests.
- Care involves compromise in order to work out the best possible solution, even if this means changing the rules.
- Accepts interference with the autonomous actions of others in order to preserve or enhance their future autonomy.
- Ethics of care is usually criticised as a disguise for paternalism.
Virtue Ethics

- Aristotelian approach based upon character and habit.
- Places value upon moral character, not acts or outcomes.
- Assumes people can learn to act in a virtuous manner through training until they acquire the habit of virtue.
- Behaving virtuously entails choosing the best approach to create happiness, or deliberating upon general principles until the best decision is reached.
- Rejects the reliance upon rules for resolving moral problems, for which it has been heavily criticised – if there are no rules to follow how do we know we are making the virtuous decision? The response is, we know because we are virtuous.
- A second criticism of virtue ethics is that there is no defined set of approved virtues, so it is never certain when one is behaving virtuously or not.
Rights

- Protect a form of behaviour that is considered valuable in its own right.
- Thus a right may be considered a special form of behaviour which needs no justification.
- Rights always need some kind of assistance in order to be upheld.
- It follows from this that rights confer duties to help the right-holder accomplish a desire or fulfil a need.
- There are two types of rights distinguished by the sort of duties they confer:
  - 1) Positive Rights: require others to actively support them. Positive rights confer active duties.
  - 2) Negative Rights: requires non-interference on the part of others. Negative rights confer passive duties and usually hold greater weight than positive rights.
- Sanctions ensure rights are properly supported.
- There is a possibility of competing rights. This occurs when more than one right is at stake and both cannot be upheld simultaneously; or when the rights of two or more individuals conflict.
- The result of the conflict is an ethical problem.
References

- Beauchamp and Childress 1983 *Principles of Biomedical Ethics*. Oxford University Press; Oxford
- Gilligan Carol 1982 *In a Different Voice*. Harvard University Press
- Mill JS *On Liberty*