



LEGAL & ETHICAL ISSUES IN MIDWIFERY PRACTICE

Monika Borah, Hemavathy V and Sathyalatha Sarathy

Masters of Science in Nursing (Obstetrics & Gynaecological Nursing) Balaji College of Nursing,
Chrompet, Chennai-600044, Tamilnadu

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ABSTRACT

Midwifery is a professional discipline which combines science, art and strong ethical values. Ethics seeks to resolve questions of human morality by defining concepts such as good and evil, right and wrong, virtue and vice, justice and crime. Ethical principle includes- Beneficence, Autonomy, Non-maleficence, Justice and Confidentiality. Many legal issues are involved in case of mother and her infant. The common causes of law suits against the nurse include: 1. Problems of medication, 2. Failure in adequate client monitoring, 3. Failure to adequately assess the client, 4. Failure to report changes in client, 5. Abortion and 6. Nursing care to the new-born. Nurses should be updated with the legal and ethical issues in midwifery nursing in order to protect themselves from lawsuits

INTRODUCTION

Legal: "legal" is an adjective and a noun used to describe anything that concerns the law or its workings.

Ethical: Ethics seeks to resolve questions of human morality by defining concepts such as good and evil, right and wrong, virtue and vice, justice and crime.

Midwife: A midwife is a person who has successfully completed a midwifery education programme that is duly recognized in the country where it is located and that is based on the ICM Global Standards of Midwifery Education, who has acquired the requisite qualifications to be registered and/or legally licensed to practice midwifery and the title 'midwife', and who demonstrates competency in the practice of midwifery.

Midwifery is a professional discipline which combines science, art and strong ethical values. (Nursing and Midwives Studies)

Principles of Ethics

1. **Beneficence:** beneficence is to act in the best interests of the patient, and to balance benefits against risks. The benefits that medicine is competent to seek for patients are the prevention and management of disease, injury, handicap and unnecessary pain and suffering and the prevention of premature or unnecessary death.

2. **Autonomy:** means to respect the right of the individual. Respect for autonomy enters the clinical practice by the informed consent. It is respect for the women's autonomy that underpins the requirement for informed consent (Evidence based midwifery). This process usually understood to have 3 elements, disclosure by the physician to the patient's condition and its management, understanding of that information by the patient and a voluntary decision by the patient to authorize or refuse treatment.
3. **Non-maleficence:** it means that health personnel should prevent causing harm and is best understood as expressing the limits of beneficence. This is commonly known as 'primum non nocere' or first to do no harm.
4. **Justice:** justice signifies to treat patients fairly and without unfair discrimination, there should be fairness in the distribution of benefits and risks. Medical needs, and benefits should be properly weighed.
5. **Confidentiality:** confidentiality is the basis of trust between health personnel and patient. By acting against this principle one destroys the patient trust.

Patients' Rights

1. The right to freedom from coercion in decision making.

*Corresponding author: **Monika Borah**

Masters of Science in Nursing (Obstetrics & Gynaecological Nursing) Balaji College of Nursing,
Chrompet, Chennai-600044, Tamilnadu

2. The right to use informed choice is care, by having access to relevant information upon which decisions are based.
3. The right to be treated with respect and dignity without reference age, marital, socio-economic, ethnic, national, political, mental, physical or religious status.
4. The right to know who will participate in her care and obtain additional consultation.
5. The right to full disclosure of financial factors involved in her care.
6. The right to accept or to refuse treatment of her choice.
7. The right to absolute privacy except where this right is pre-empted by law.
8. The right not to be abandoned neglected or discharged room care without an opportunity to find other health provider.
9. Patients or individuals who require health care services have right to make their own decision about the opinions for treatment or other related issues. The process of obtaining permission is called informed consent.

Code of Ethical Midwifery Practice

Midwives rights

1. The right to receive reasonable compensation for services rendered.
2. The right to receive honest, relevant information from patients upon which caring is based.
3. The right to discharge patients from her care, provided adequate information from patients upon which caring is based.
4. The right to refuse care to patients with whom no midwife-patient relationship has been established.

Midwives responsibilities

1. The obligation to honour the confidence of those encountered in the course of midwifery practice and to regard everything seen and heard as inviolable, remembering always that a midwife's highest loyalty is owed to her patient and not to her health care providers.
2. The obligation to serve as the guardian of normal birth, alert to possible complications, but always on guard arbitrary interference in birthing process for the sake of convenience or the desire to use human beings in scientific studies and training.
3. The obligation, when referring a patient to another health care provider, is to remain responsible for the patient until she is either she is discharged or formally transferred.
4. The obligation to provide complete, accurate and relevant information to patients so that they can make informed choices regarding their health care.
5. The responsibility to developed and utilize a safe and efficient mechanism for medical consultation, collaboration and referral.
6. The obligation never to comment on another midwife's or other health provider's cares without first contraction that practitioner personally.
7. The responsibility to assist others who wish to become midwives by honestly and accurately evaluating their potential and competence and sharing midwifery

knowledge and skill to extent possible without violating another section in this code.

8. The obligation to pursue professional development through on going evaluation of knowledge and skill and continuing education including diligent study of all subjects relevant to midwifery.
9. The obligation to accurately document the patient's history, condition, physical progress and other vital information obtained during patient care.
10. The responsibility to maintain accountability for all midwifery care delivered under her supervision. Assignment and delegation of duties to other midwives or apprentices should be proportionate to their educational preparation and demonstrated proficiency.
11. The midwife primary responsibility is to promote the well-being of the childbearing women (The journal of parental education). The obligation to know and comply with all legal requirements related to midwifery practice without the law provide for the unobstured practice of midwifery within the state

Legal and Ethical Principle in the Provision of Health Services

Informed Decision Making

Individual requires health services have right to make their own decision about the options for treatment or other related issues. The process of obtaining permission is called informed consent.

The Health care Provider Should Disclosed the following details

- The individual currently assessed health status regarding the general or reproductive health.
- Reasonable accessible medical, social and other means of response to the individual's condition including predictable success rate, side-effects and risk.
- In implication for the individual, general, sexual and reproductive health and life style decline any of the options or suggestions.

Competent delivery services

- Every individual has the rights to receive treatment by competent health care provider who knows to handle just situation quite well.

Legal Issues in Maternal and Infant Nursing

Many legal issues are involved in case of mother and her infant. The common causes of law suits against the nurse include:

1. **Problems of medication:** Nurses are authorised to administer medication. So many allegations against nurse regard to medication are their like improper patient identification, wrong medication dosages, route or time, failure to monitor side effects, e.g. nurses are involved in administration of oxytocin in augment of the labour.
2. **Failure in adequate client monitoring:** Nurse is required to monitor the client at appropriate time interval that depends upon the client condition. The delivering mother must be adequately monitor to prevent maternal complication, during prenatal period, check foetal condition during labour and continuous

observation of mother and foetus during first 24 hours after delivery.

3. **Failure to adequately assess the client:** Nurse in all speciality areas must maintain higher level of assessment skill. They are responsible for minute by minute evaluation of client progress.
4. **Failure to report changes in client:** Whenever the nurse's assessment indicates that the client condition has changed, the nurse must notify the physician.
5. **Abortion:** Nurse cannot be forced to participate in the procedure they find morally offensive. Nurse has a right to refuse to assist with abortion if it is not performed with Medical Termination of Pregnancy Act.
6. **Nursing care to the new-born:** These are certainly legal requirements in providing nursing care of new-born, such as properly identify the infant mother pair as soon as possible with figure point, foot print, and wrist band or obtaining blood samples for phenylketonuria testing when required by law. Standard of practice includes providing clear airways, clamping the umbilical cord, apply silver nitrate or antibodies to the edge and minimising stress of dying and keeping infant warm.

International Codes of Ethics for Midwives

The aim of the International Confederation of Midwives (ICM) is:

- To improve the standard of care provided to woman, babies and families throughout the world through the development, education and appropriate utilization of the professional midwife.
- In keeping with this aim, the ICM sets forth the following code to guide the education, practice and research of midwife.
- This code acknowledges women as persons with human rights, seeks justice for all people and equity in access to health care, and is based on mutual relationships of respects, trust and the dignity of all members of society.
- The code addresses the midwife's ethical mandates in keeping with the mission, the International definition of Midwife, and standards of ICM to promote the health and well-being of women and newborns within their families and communities.
- Such care may encompass the reproductive life cycle of the woman from the pre-pregnancy state right to the menopause and to the end of life. These mandates include how midwives relate to others; how they practice midwifery; how they uphold professional responsibilities and duties; and how they are to assure the integrity of the profession of midwifery.

The Code

Midwifery Relationships

1. Midwives develop a partnership with individual women in which they share relevant information that leads to informed decision-making, consent to an evolving plan of care, and acceptance of responsibility for the outcomes of their choices.
2. Midwives support the right of women/families to participate actively in decisions about their care.
3. Midwives empower women/families to speak for themselves on issues affecting the health of women and families within their culture/society.

4. Midwives, together with women, work with policy and funding agencies to define women's needs for health services and to ensure that resources are fairly allocated considering priorities and availability.
5. Midwives support and sustain each other in their professional roles, and actively nurture their own and others' sense of self-worth.
6. Midwives respectfully work with other health professionals, consulting and referring as necessary when the women's need for care exceeds the competencies of the midwife.
7. Midwives recognise the human interdependence within their field of practice and actively seek to resolve inherent conflicts.
8. Midwives have responsibilities to themselves as persons of moral worth, including duties of moral self-respect and the preservation of integrity.

Practice of midwifery

1. Midwives provide care for women and child bearing families with respect for cultural diversity while also working to eliminate harmful practices within those same cultures.
2. Midwives encourage the minimum expectation that no woman or girl should be harmed by conception or child bearing.
3. Midwives use up-to-date, evidence-based professional knowledge to maintain competence in safe midwifery practices in all environments and cultures.
4. Midwives respond to the psychological, physical, emotional and spiritual needs of women seeking health care, whatever their circumstances (non-discrimination).
5. Midwives act as effective role models of health promotion for women throughout their life cycle, for families and for other health professionals.
6. Midwives actively seek personal, intellectual and professional growth throughout their midwifery career, integrating this growth into their practice.

The professional responsibilities of midwives

1. Midwives hold in confidence client information in order to protect the right to privacy, and use judgement in sharing this information except when mandated by law.
2. Midwives are responsible for their decisions and actions, and are accountable for the related outcomes in their care of women.
3. Midwives may decide not to participate in activities for which they hold deep moral opposition; however, the emphasis on individual conscience should not deprive women of essential health services.
4. Midwives with conscientious objection to a given service request will refer the woman to another where such a service can be provided.
5. Midwives understand the adverse consequences that ethical and human rights violations have on the health of women and infants, and will work to eliminate these violations.
6. Midwives participate in the development and implementation of health policies that promote the health of all women and childbearing families.

Advancement of midwifery knowledge and practice

1. Midwives ensure that the advancement of midwifery knowledge is based on activities that protect the rights of women as persons.
2. Midwives develop and share midwifery knowledge through a variety of processes, such as peer review and research.
3. Midwives contribute to the formal education of midwifery students and ongoing education of midwives.

Standards for the Practice of Midwifery

Midwifery practice as conducted by certified nurse-midwives (CNMs) and certified midwives (CMs) is the independent management of women's health care, focusing particularly on pregnancy, childbirth, the postpartum period, care of the newborn, and the family planning and gynaecologic needs of women. The CNM and CM practice within a health care system that provides for consultation, collaborative management, or referral, as indicated by the health status of the client. CNMs and CMs practice in accord with the Standards for the Practice of Midwifery, as defined by the American College of Nurse-Midwives (ACNM). Nurses should be updated with the legal and ethical issues in midwifery nursing in order to protect themselves from lawsuits. (Journal of Science)

Standard I: Midwifery Care Is Provided By Qualified Practitioners

The midwife

1. Is certified by the ACNM designated certifying agent.
2. Shows evidence of continuing competency as required by the ACNM designated certifying agent.
3. Is in compliance with the legal requirements of the jurisdiction where the midwifery practice occurs.

Standard II: Midwifery Care Occurs In A Safe Environment Within The Context of The Family, Community And A System Of Health Care

The midwife

1. Demonstrates and utilizes federal and state regulations that apply to the practice environment and infection control.
2. Demonstrates a safe mechanism for obtaining medical consultation, collaboration and referral.
3. Uses community services as needed.
4. Demonstrates knowledge of medical, psychological, economic, cultural and family factors that affect care.
5. Demonstrates appropriate techniques for emergency management including arrangements for emergency transportation.
6. Promotes involvement of support persons in the practice setting.

Standard III: Midwifery Care Supports Individual Rights and Self-Determination within Boundaries of Safety

The midwife

1. Practices in accord with the Philosophy and the Code of Ethics of the American College of Nurse-Midwives.

2. Provides clients with a description of scope of midwifery services and information regarding the client's rights and responsibilities.
3. Provides clients with information regarding, and/or referral to, other providers and services when requested or when care required is not within the midwife's scope of practice.
4. Provides clients with information regarding health care decisions and the state of the science regarding these choices to allow for informed decision-making.

Standard IV: Midwifery Care Is Comprised of Knowledge, Skills and Judgements That Foster the Delivery of Safe, Satisfying and Culturally Competent Care

The midwife

1. Collects and assesses client care data, develops and implements an individualized plan of management and evaluates outcome of care.
2. Demonstrates the clinical skills and judgements described in the ACNM Core Competencies for Basic Midwifery Practice.
3. Practices in accord with the ACNM Standards for the Practice of Midwifery.
4. Practices in accord with service/practice guidelines that meet the requirements of the particular institution or practice setting.

Standard V: Midwifery Care Is Based Upon Knowledge, Skills and Judgements Which Are Reflected In Written Practice Guidelines and Are Used To Guide The Scope of Midwifery Care And Services Provided To Clients

The midwife:

1. Maintains written documentation of the parameters of service for independent and collaborative midwifery management and transfer of care when needed.
2. Has accessible resources to provide evidence based clinical practice for each speciality area which may include but is not limited to primary health care of women, care of the child-bearing family and newborn care.

Standard VI: Midwifery Care Is Documented In A Format That Is Accessible And Complete

The midwife

1. Uses records that facilitate communication of information to clients, consultants and institutions.
2. Provides prompt and complete documentation of evaluation, course of management and outcome of care.
3. Promotes a documentation system that provides for confidentiality and transmissibility of health records.
4. Maintains confidentiality in verbal and written communications.

Standard VII: midwifery care is evaluated according to an established program for quality management that includes a plan to identify and resolve problems

The midwife

1. Participates in a program of quality management for the evaluation of practice within the setting in which it occurs.

2. Provides for a systematic collection of practice data as part of a program of quality management.
3. Seeks consultation to review problems, including peer review of care.
4. Acts to resolve problems identified.

Standard VIII: midwifery practice may be expanded beyond the ACNM core competencies to incorporate new procedures that improve care for women and their families

The midwife

1. Identifies the need for a new procedure taking into consideration consumer demand, standards for safe practice, and availability of other qualified personnel.
2. Ensures that there are no institutional, state, or federal statutes, regulations or by laws that would constrain the midwife from incorporation of the procedure into practice.
3. Demonstrates knowledge and competency including:
 - Knowledge of risks, benefits and client selection criteria.
 - Process for acquisition of required skills.
 - Identification and management of complications.
 - Process to evaluate outcomes and maintain competency.
4. Identifies a mechanism for obtaining medical consultation, collaboration and referral related to this procedure.
5. Maintains documentation of the process used to achieve the necessary knowledge, skills and ongoing competency of the expanded or new procedures.

CONCLUSION

Legal issues can occur anytime during the service period of the nurses in the working field because of any negligence, malpractices or any violation of the code of the ethics. Standardized care is very important and also all the nurses should follow all the standards of care in order to provide competent care and avoid any kind of problems during their work period.

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So far we have seen the legal and ethical issues in midwife practices, code of ethics and standing orders to improve the standard of care provided to women, babies and families throughout the world through the development, education and appropriate utilization of the professional midwife.

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