

EDITORIAL

Dilemmas at the Beginning of Life: Medico Legal Issues with the Newborn

INTRODUCTION

Perhaps the most burdensome medical decisions, because of their solemnity, are those that involve the medical treatment of newborns at the beginning of their life, with life-threatening diseases or anomalies, because such decisions are troubled with ethical and legal dilemmas. Effective communication between the medical team and the newborn's parents is very vital in this regard.

Ethical issues in the newborn have been described since Biblical times. King Solomon's legendary wisdom was demonstrated by his resolution of the ethical dilemma presented by two women who both claimed to be the mother of the same child.¹ Today, medico legal experts are often called upon to find out truth from near-truth and obstetrician and gynecologist to act in the best interest of the newborn, while also respecting the parents' right to make medical decisions for their child. Upsetting this delicate balance can lead to explosive showdowns between parents, health care teams, and the state legislations.

Here, some of the ethical and legal dilemmas integral in newborns care, with a focus on end-of-life care will be discussed. Attention will be given on how ethical and legal issues arise when treatment is made for newborns. More importantly, special issues will be discussed on how health care providers can avoid ethical and legal confrontations in day to day practice in present day time.

LEGAL DILEMMAS

Two chief legal disputes² faced by medical professionals who treat newborns at the limits of viability, or those suffering from life-threatening or lethal syndromes or congenital anomalies are as follows:

i. The health professional must be aware about the

rules of the land, which detail when it is appropriate to remove life-sustaining treatment.

ii. The health professional should be aware of the availability of legal options should it become necessary for them to take action to protect the newborn as and when required.²

A medical professional treating a newborn that has life threatening ailments or is at the limits of viability might disagree with the medical decisions made by the parents against the favor of the newborn, but might not know which legal principles apply in their patient in that particular situation.

Although the hospital and health care team have legal options at their disposal, if they feel the parents are not making decisions in the best interest of the newborn as per the law, it is best to avoid such legal evasive actions, and to view them as a final option only after the health care team and the parents have explored all other options.

AVOIDING LEGAL CONFLICT

As yet all medical decisions that are tempered with ethical and legal thoughtfulness, avoiding legal conflicts in the treatment of newborns are ideal. To accomplish this goal, it is imperative that the health professionals and the parents communicate effectively to build up a very strong doctor patient relationship.

The model for strong doctor parent relationship depends whether identification of a life-threatening or congenital anomaly occurs prior to or after delivery. First, it is sitting upon the neonatologist to ensure that the parents have a comprehensive understanding of the existing condition. If parents cannot appreciate the implications of the existing condition, they may not process for a crucial decision.

After the existing condition is identified and the parents understand it, the bulk of the discussions will focus on the information that is known (and unknown), and its implications for the neonate (including morbidity and mortality rates or ranges).²

The health professionals should also discuss the accessibility of perinatal palliative care services, if appropriate. These discussions will enable them and the parents to develop a guideline for treatment during the peripartum period. Parents must understand that the agreed guidelines as discussed are subject to modification at any time as more information becomes available beforehand. Since the intervention and treatment guidelines are flexible, the health professionals and the parents must constantly communicate with each other so that any disagreements between them can be identified and dealt with before treatment. Thus, legal obligations can be avoided during the procedures.

An area of frequent concern is the documentation because of its tremendous legal implications. Failure to obtain informed consent, failure to perform appropriate telephone triage, inadequate staffing, improper delegation, and failure to assess the patient properly or in a timely manner as deviations that may increase doctor liability in a malpractice claim.³ The treating team has a duty to maintain a complete and accurate recording of all care they provide in accordance with acceptable standards of care. Remember that the patient treatment record is the best evidence of the care you provide.⁴

Legal issues in Newborn Screening: Implications for Public Health Practice and Policy: There are lots of legal issues in newborn screening with tremendous implications for public health practice and policy.

An estimated 4 million newborns are screened every year for one or more genetic and metabolic disorders. At the same time, the number of tests required under state law differs, and the standard of practice among health professionals can vary from community to community. State newborn screening laws vary in the nature of their newborn screening mandates, as well as in the number of tests covered, anywhere from four to 40 tests.⁵

CONCLUSIONS

End-of-life decisions when life begins are taking by the treating doctors and the parents. Treating doctors must respect the parents' right to make medical decisions for their own kids, but they should also be aware of their legal options based on the medical information available, that the parents are not making medical decisions in the best interests of the newborn as per the existing law.

At the end, conflicts surrounding the interventions and treatment of newborns occur in two situations. The first is when the doctors believe that further treatment is incompatible and unethical, but parents demand continued treatment. The second is when the doctors believe continued treatment is compatible, yet the parents demand to end to all medical interventions. The conflicts can be avoided only with a very strong doctor parent relationship which is one integral part of the treatment.

REFERENCES

1. The Holy Bible, King James Version, I Kings 3:16-28.
2. Christopher M. O'Connor, ESQ., Kevin N. Lorah. Dilemmas at the Beginning of Life: Biomedical Ethics in the Newborn. *The J of Lancaster General Hospital* 2008;3(3):102-104.
3. Juretschke LJ. Overview of legal issues in nursing. Program and abstracts of the National Association of Neonatal Nurses 23rd Annual Conference; September 26-29, 2007; San Diego, California.
4. Dunn PA, Gies ML, Peters MA. Perinatal litigation and related nursing issues. *Clin Perinatol*. 2005;32:277-290.
5. National Newborn Screening and Genetics Resource Center. U.S. national screening status report, updated 3/18/05. [cited 2005 Mar 24]. Available from: URL: <http://www.genes-r-us.uthscsa.edu/resources/newborn/reports.htm>.

Editor-in-chief
Putul Mahanta MD FIAMLE
hmlpractice2014@gmail.com
www.ijhrmlp.org