

Nine Months to Life:

A Discussion of Legal and Ethical Implications for Pregnant Women Who Use Illicit Substances

Emily Curran

University of Kansas School of Nursing

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Introduction

The health of a woman and her unborn child is of utmost importance and consideration in determining appropriate prenatal care. While in the womb, a child can gain everything he or she needs to survive such as nutrition, warmth, circulation, and nurturance. However, a pregnant woman who uses drugs can seriously injure her fetus. Intrauterine exposure to substances such as alcohol, marijuana, and cocaine, among other illicit substances, causes unfavorable conditions which very likely result in impaired, handicapped, and/or underdeveloped newborns (Belcher et al, 2005). The health care provider's goal for pregnant women who use illegal substances is to find the most just, effective, and respectful way to promote their patient's wellbeing and that of their unborn child.

The purpose of this paper is to examine whether States ought to implement mandatory screening and reporting to authorities of pregnant women who use illicit substances. This controversy is important to nursing because of nurses' contact with patients and their role as patient advocates. If all states required mandatory reporting of a pregnant woman's illicit drug use, nurses would be in the position to aid in recognizing signs of substance abuse, request a urine drug screen, and, if positive, ensure that law officials are contacted. If testing and reporting are not mandatory, it is still important for nurses to educate clients of the effects of alcohol, marijuana, cocaine, and other substances on the development of her unborn child, and to act as change agents in hopes to improve outcomes for both mother and child. Whichever the outcome, the ultimate goal is to promote the health and well-being of a pregnant woman and her unborn child.

Support for mandatory screening and reporting

Researchers (Martin, Kupper, Meyer, Qaqish & Rieger, 1997) showed that prison can actually improve birth outcomes. They examined birth outcomes for 94 women in the North Carolina Correctional Institute, a maximal security women's prison. Each woman gave birth to one baby outside of prison (the "home baby") for which no part of the pregnancy was spent in prison and another baby (the "prison baby") for which at least some part of the pregnancy was spent in prison. The researcher then documented the birth weights of the home babies and the prison babies in order to note any differences.

Birth weight values were used in this study because, along with gestational age, they are a useful indicator of a newborn's health status. According to Olds, Davidson, Ladewig & London (2004), health care providers can predict neonatal morbidity and mortality by assessing these measures. For example, small-for-gestational-age (SGA) newborns are at an increased risk for congenital anomalies, fetal distress, and hypoglycemia whereas large-for-gestational-age newborns have increased risk for birth trauma, Respiratory Distress Syndrome, and hypoglycemia.

Martin et al. (1997) documented the birth weights for the "home baby" and the "prison baby" for each of the women (n=94), and remarkably, after controlling for all possible covariates, the researchers found a significant relationship between the number of pregnancy days a woman spent in prison and her baby's birth weight. Among the females, the more days they spent incarcerated while pregnant, the higher their baby's weight at birth.

It appears that for these women, the North Carolina correctional facility environment supported the growth of their unborn children better than the environment outside of prison. There are several possible reasons for this finding. Prison provides basic life necessities to its

tenants such as shelter, three balanced meals a day, health care, a relatively safe environment (especially if prisoners are targets of physical abuse), and abstinence from alcohol and illegal substances. The prison also offers pregnant females special protein, iron, and vitamin supplements, as well as, high quality prenatal care consistent with the standards outlined by the American College of Obstetricians and Gynecologists (Martin et al., 1997). For high-risk women, without the support and resources listed above, prison can be a refuge; a place for them to eat, sleep, remain drug and alcohol free, and receive health care that is mandated by law to be made available to them. Since these are all qualities that nurture an unborn child, it appears that required screening and reporting can truly benefit these women and their newborns.

Opposition to legal involvement.

Recent articles and studies support the idea that obligatory reporting of pregnant women who use illicit substances is not the ideal option. The American College of Obstetricians and Gynecologists (2004) reported that such measures can compromise the provider-patient relationship and may even prevent women from seeking prenatal care. If women are reluctant to share their substance-use behaviors with their doctor, midwife, or nurse, or if they avoid medical treatment altogether, they increase their risk factors for an unhealthy birth outcome. Thus mandatory reporting to law officials of a pregnant woman's illicit drug use can have the opposite effect than originally intended: it can endanger the health of a woman and her fetus rather than help them.

Drug screening during prenatal exams is also controversial because of the nation-wide lack of consistent policies and practices among health care providers. Adirim and Gupta (1991) reported that since no State has a formal policy for prenatal drug testing, health care providers decide at their own discretion whom to test. Consequently, as described by Lester, Andreozzi,

and Appiah (2004) targeted testing, which over-tests certain populations but under-tests others, leads to bias in reporting and incarceration. Such bias contradicts evidence that substance abuse and addiction occur regardless of race and socio-economic status (ACOG Committee Opinion, 2005).

For pregnant women who are sent to prison, evidence shows that only a portion of them receive adequate health care and treatment. For example, as reported by Greenfeld and Snell (1999), approximately 84,000 females were confined in local and state prisons in 1998. Of these women, 6% were pregnant upon admission, but only 3% received prenatal care. Additionally, prisons lack adequate treatment options for women struggling with addiction (Woodward, 2006, personal interview). Although prison facilities do provide shelter, a place to sleep, and three meals a day, the lack of consistent prenatal care and substance abuse treatment increases the risk of poor birth outcomes for both mother and child.

As an alternative, the American College of Obstetricians and Gynecologists (2004) noted that ten years of rigorous research in addiction supports the following protocol: universal screening questions, brief intervention, and referral to treatment. They write, "Threats and incarceration have been proved to be ineffective in reducing the incidence of alcohol or drug abuse. Treatment is more effective and restrictive policies" (ACOG Committee Opinion, 2004, p.19). Universal screening would more equally assess which pregnant women need drug-use intervention and referral to treatment. While incarceration is one way to prevent pregnant women from abusing substances, it is not a long-term solution to addiction. Instead, research supports community-based, culturally appropriate, and comprehensive treatment models (Belcher et al, 2005). Overall, interventions that incorporate a holistic model to treat mother and

child, can greatly improve short-term indicators of their health, and have promise for improving long-term indicators such as family cohesiveness and abstinence from illicit substances.

Conclusion

For some women, the prison environment may improve birth outcomes as inmates receive shelter, food, a safe environment, and health care. However, critics believe that mandatory drug tests and reporting to the criminal justice system will undermine the trust between a patient and provider and prevent some women from seeking prenatal care. They support community-based models that treat drug addiction and offer thorough parent education.

Nurses are an integral part of the health care team caring for pregnant women. Although no state has enacted policy to specifically address drug use during pregnancy, nurses may one day be in the position of implementing a universal drug screen. In the meantime, we must learn to recognize signs of maternal drug use and know resources to help our patients stop their addictive behavior.

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