

Maternal Refusal

Practical Considerations

The Source of Conflict:

- Maternal Rights Versus Fetal Rights
- One Patient or Two?
- Fetal Rights: Fetus as a Separate Patient
- More Ability to Image, Test and Treat the Fetus in Utero
- State Statutes that Penalize Pregnant Mothers Who Abuse Drugs, Alcohol, etc.
- Roe v. Wade
- Any Fetal Intervention has Consequences for the Mother



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Maternal Refusal

Practical Considerations



Factors Influencing Maternal Refusal

- Language Barriers
- Cultural Differences
- Religion
- Poor Communication Between Patient and Providers
- Cost of C-sections and Other Therapy
- Pain of C-sections
- Fear

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Practical Considerations



Religious and Cultural Factors

- C-sections Perceived in Some Arab Cultures as Mutilation
- Hmong Women May Refuse for Cultural Reason/Desire for Vaginal Delivery



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Maternal Refusal

Practical Considerations



Examples of Maternal Refusal

- Bed Rest
- Amniocentesis
- Intrauterine Transfusions
- C-sections: Placenta Previa, Cephalo-Pelvic Disproportion, Fetal Distress

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Practical Considerations



Clinical Risk Factors: C-sections

- Postop Infections
- Hemorrhage
- Chronic Pelvic Pain
- Bowel Obstruction
- Ability to Conceive Again
- Surgical Complications/Injuries
- Emotional Impact of a Forced Procedure
- Death

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Maternal Refusal

Ethical Considerations

Biomedical Ethics: The 4 Principles



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Maternal Refusal

Ethical Considerations

Biomedical Ethics: Autonomy

- Focus: Decision-making in Health Care
- Personal Rule of the Self
 - Free From Controlling Interference
 - Free From Personal Limitations That Prevent Meaningful Choice
- Two Essential Conditions to Autonomy:
 - Liberty
 - Agency

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Maternal Refusal

Ethical Considerations

Biomedical Ethics: Autonomy

Interpreting Respect for Autonomy

- The Basic Paradigm
 - Express Consent
 - Informed Consent
- The Concept of Competence
- Caregiver's Duty to Disclose Information
- Caregiver's Obligation to Abstain From Controlling Influence



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**Maternal Refusal of Care
Legal Considerations**

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Maternal Refusal

Legal Considerations

- Constitutional Rights (14th Amendment)
 - Right to Bodily Integrity
 - Self-Determination
 - Privacy
- Informed Consent
 - Informed Refusal
- Roe v. Wade: A viable fetus merits state protection
- Fetal Rights Recognition Creates Conflict with Maternal Rights to Refuse Care
- 38 states Recognize the Fetus as a Legal Victim with Rights: Unborn Victims of Violence Legislation

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Maternal Refusal

Legal Considerations

Roe v. Wade is a Factor

- A fetus is not to be classed as a person under the 14th Amendment
- The right of privacy protects a woman's right to abortion in the 1st trimester
- After the first trimester, the state may regulate abortion
- When the fetus becomes viable, the state has "...an important and legitimate interest in protecting the potentiality of human life..."

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Maternal Refusal

Risk Management Considerations

- Create Birthing Plans Prior to Labor: No Surprises
- OB Explains that there may be Alterations to Birthing Plans
- OB and Staff Take the Time to Educate the Patient
- ACOG Committee Opinion #664 as a Guideline
- Persuasion, not Coercion
- A Court Order is a Last Resort and May Not be Available/Timely
- Above All, Strive to Understand the Patient's Perspective and Rationale

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Questions

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