



Midwifery Council of New Brunswick

**Conseil de l'Ordre des sages-femmes
du Nouveau-Brunswick**

Midwifery Clinical Practice Guideline: Informed Choice and Refusal of Caregiver Recommendations

The purpose of this document is to outline the Midwifery Council of New Brunswick's (MCNB) approach to providing ethical midwifery care, in congruence with the expectation of clients, professional colleagues and of the professional standards/positions outlined in the regulatory documents, in situations where a pregnant client refuses the recommendations of their caregiver for treatment or care. The MCNB Standards of Midwifery Practice ⁽¹⁾ include; the midwife works in partnership with the client (Standard 4), the midwife promotes informed choice throughout the childbearing experience (Standard 5), the midwife ensures continuity of care throughout the childbearing experience (Standard 6), and the midwife ensures that no action or omission places the client at unnecessary risk (Standard 9).

The clinical decision-making process in midwifery care is conducted within a framework that refers to the model of midwifery care, the code of ethics, the scope of practice and the principles of informed choice. The NB Midwifery Code of Ethics ⁽²⁾ states, in part, that each midwife is accountable for their practice, and, in the exercise of professional accountability, shall:

Act in a way that promotes and safeguards the physical, emotional, and spiritual well-being of clients and advocate for their interests to be heard.

Respect clients' right to informed choice and right to ongoing participation in decisions about her care and her body.

Provide care which respects individuals' needs, values and dignity, and does not discriminate on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, spiritual beliefs, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability.

The Canadian Medical Association Code of Ethics ⁽³⁾ stipulates that a physician "must respect the right of a competent patient to accept or reject any medical care recommended." The American College of Obstetricians and Gynecologists Committee Opinion 664 ⁽⁴⁾ states that "pregnancy is not an exception to the principle that a decisionally capable patient has the right to refuse treatment even treatment needed to maintain life. Therefore, a decisionally capable pregnant woman's decision to refuse recommended medical or surgical treatment should be respected". The right to decline



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any medical procedure, even if that refusal increases risk, is enshrined in professional regulatory processes, health care policy ⁵⁾ and in law. Canadian courts and other legal jurisdictions have repeatedly reaffirmed a patient's right to refuse treatment even when it is clear treatment is necessary to preserve the life or health of that patient ⁽⁶⁾.

Pregnancy is a unique health condition because of the physiological dependence of the fetus on the pregnant mother. With advanced technology and increasing specialisation in maternal fetal medicine there can be a tendency to consider the interests of the pregnant mother and the fetus separately. This perspective may create conflict between the pregnant mother and the caregiver ^(7,8). Special complexities are inherent in treatment because any therapeutic treatment of the fetus is accessed through the pregnant mother. The American Academy of Pediatrics in conjunction with the American College of Obstetrician and Gynecologists in a joint committee opinion, state that "any fetal intervention has implications for the pregnant woman's health and necessarily her bodily integrity and therefore cannot be performed without her explicit informed consent" ⁽⁹⁾. An understanding of this axiom is essential across the health care team.

Informed choice is a fundamental tenet of midwifery care and usually achieves a negotiated agreement for treatment options. Informed choice is an interactive information exchange between a midwife and her client that involves the promotion of shared responsibility; and supports client centred decision-making to achieve best clinical outcomes. ⁽¹⁰⁾.

Midwives facilitate comprehensive informed choice discussions as required during the course of care, including information about a client's clinical diagnosis or situation that is as accurate, unbiased and objective as possible. Midwives will outline the risks and benefits of treatment options including the option the client prefers, the current evidence for the recommended option, alternative treatments and the consequences of no treatment, with the aim that clients and caregivers are fully informed, and all concerns are addressed. Midwives need to be competent and transparent in providing informed choice.

Informed choice occurs within the framework of:

Fostering a relationship of trust and respect between midwife and client.

Providing relevant information in a non-authoritarian and collaborative manner.



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Considering the feeling, beliefs, values and preferences of the client.

Facilitating the ongoing exchange of current knowledge including sharing what is known and unknown about procedures, tests and medications.

Making a best effort to ensure the client fully understands all relevant information prior to making a decision.

Encouraging the client to actively seek information and to ask questions throughout the process of decision-making.

Supporting the client's decisions.

While clients commonly choose a recommended option, they will occasionally decline to follow a caregiver's recommendation, based on their beliefs and values, previous experiences, misunderstanding or mistrust of the clinical information or setting, influences of family or community and fear of the unknown.

Informed refusal of caregiver recommendations can be an emotionally charged and deeply concerning situation. Negotiating an informed refusal requires a considered response and not a reaction. Steps can be taken to diffuse intense emotions, mediate conflict and increase understanding of the client's perspective.

Midwives have a duty to not use coercion, abandonment or manipulation as an attempt to direct the client toward specific clinical management. These approaches are not only ethically abhorrent but also medically inadvisable because of the realities of prognostic uncertainty and the limitations of medical knowledge (4, 11). The rationale often given for this course of action is that to continue care is to endorse the refusal of recommendations. This is not correct and the distinction can be made explicit that continuing to provide care is fulfilling the professional and ethical duty of respecting a client's autonomy and that clients are ethically and legally responsible for their choices (11).

Continuing to provide compassionate, respectful care maintains the therapeutic relationship and will, in most situations, lead to understanding, agreement and improved well-being for the client. Clients need to understand that an informed refusal does not prejudice their ability to obtain ongoing care and that they can change their minds at any time (11).



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Midwives need to inform clients who are declining recommendations, in a non-authoritarian, compassionate manner, of the risks of refusing the advice including possible death to themselves and/or their fetus. They also need to explain that the client is legally and ethically responsible for any harm to themselves or their unborn child that arise from their rejection of their care provider's recommendation (11).

Midwives will carefully document informed choice decisions and it is advised where possible to obtain written confirmation of an informed refusal outlining the client's understanding of the risks and the treatment options. Midwives can be explicit that continuing care is not endorsing a client's choice to refuse management recommendations; rather they are respecting the client's right to choose.

The Midwifery Council of New Brunswick supports the right of pregnant clients to make their own decisions about their health care including the right to refuse recommended medical or surgical interventions. A midwife has a professional obligation to respect the pregnant client's refusal of treatment.

Summary and Recommendations

- A pregnant client's decision to refuse recommended medical or surgical interventions should be respected.
- Eliciting the client's reasoning, lived experience, and values is critically important when engaging with a pregnant woman who refuses an intervention that the caregiver judges to be medically indicated for her well-being, and the well-being, of the fetus or both. Midwifery and medical expertise is best applied when the caregiver strives to understand the context within which the client is making her decision (4).
- Midwives and other caregivers are encouraged to resolve differences by using a team approach that recognizes the client in the context of her life and beliefs.
- Preserving the client–caregiver relationship and continued respectful and compassionate communication may lead to re-evaluation and changes in the client's decision-making process.
- The Midwifery Council opposes the use of coercion, manipulation or the threat of abandonment to influence clients toward compliance. It is never acceptable for midwives, obstetrician–gynecologists or other health care providers to use pressure or threats to involve the courts or child protective services, to motivate women toward a specific clinical decision.

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- It is not ethically defensible to evoke conscience as a justification to attempt to coerce a client into accepting care that they do not desire.
- When working to reach a resolution with a client who has refused medically recommended treatment, consideration should be given to the following factors: the reliability and validity of the evidence base, the severity of the prospective outcome, the degree of burden or risk placed on the client, the extent to which the pregnant client understands the potential gravity of the situation or the risk involved, and the degree of urgency that the case presents. Ultimately, however, clients should be reassured that their wishes will be respected when treatment recommendations are refused (4).
- Midwives and other caregivers are encouraged to consider seeking advice from ethics consultants when the clinician or the client feels that this would help in conflict resolution.
- Resources and counseling should be made available to clients who experience an adverse outcome after refusing recommended treatment. Resources also should be established to support debriefing and counseling for health care professionals when adverse outcomes occur after a pregnant client's refusal of treatment.

References:

1. Midwifery Council of New Brunswick, Standards of Midwifery Practice 2016
2. Midwifery Council of New Brunswick, Code of Ethics 2016
3. Canadian Medical Association, Code of Ethics, 2004 (revised 2015; still relevant).
4. American College of Obstetricians and Gynaecologists. Refusal of medically recommended treatment during pregnancy. Committee Opinion No 664. *Obstet Gynecol* 2016; 127:e175-82
5. Canadian Medical Protective Association. Consent: A guide for Canadian physicians. Fourth edition: May 2006 / Updated June 2016. Kenneth G Evans, General Counsel.
6. Patients' Rights. Public Legal Education and Information Service of New Brunswick. Revised March 2015. ISBN 978-1-55471-414-8
7. Hollander M, Dillen JV, Janssen TL, Leeuwen EV, Duijst W, et al. (2016) Women Refusing Standard Obstetric Care: Maternal Fetal Conflict or Doctor-patient Conflict? *J Preg Child Health* 3:251. doi:10.4172/2376-127X.1000251

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8. American Academy of Pediatrics, Bioethics Resident Curriculum: Case Based Teaching Guides. Session 13. Maternal Fetal Conflict. 2017. Susan F Townsend MD, FAAP.9. American College of Obstetricians and Gynaecologists Committee on Ethics and American Academy of Pediatrics Committee on Bioethics. Maternal-Fetal Intervention and Fetal Care Centers. Committee Opinion 501, August 2011, reaffirmed 2017

10. Midwifery Council of New Brunswick. Informed choice, 2017.

11. Kotaska A. Informed consent and refusal in obstetrics: A practical guide. Birth.2017; 44: 195-199. <https://doi.org/10.1111/birt.12281>