Ethics of Perinatal Research

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The speaker has signed a disclosure form and indicated she has no significant financial interest or relationship with the companies or the manufacturer(s) of any commercial product and/or service that will be discussed as part of this presentation.

Session Summary

This session will provide a very brief review of ethical principles, followed by an in-depth discussion of balancing the rights of mothers, fetuses, and families. Participants will engage in a discussion balancing what can be done versus what should be done in the expanding field.

Session Objectives

Upon completion of this presentation, the participant will be able to:

- list what defines vulnerability in research subjects;
- discuss historical context of protection of vulnerable subjects and ways the definitions may no longer be a good fit for contemporary society;
- demonstrate understanding of 45 CFR 46.

References


**Session Outline**

See presentation handout on the following pages.
Ethics of Perinatal Research
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“If you don't know where you are going, any path will do”
-Old Yiddish Proverb

Outline
- Define vulnerability
- Discuss historical context of determination of vulnerability
- Discuss particular interests of children and incompetent/diminished subjects in research
- Define proxy consent
- Risk benefit analysis with vulnerable subjects

Elements of Informed Consent
- Study involves research
- Purposes of the research
- Expected duration
- Procedures to be followed
- Experimental procedures
- Risks or discomforts
- Disclosure of appropriate alternatives, if any
- Confidentiality of records
- Research involving more than minimal risk
- Contact information
- Contact for injuries
- Participation is voluntary
- Benefits to the subject of others
- Refusal no penalty
- Can discontinue any time

Checks and Balances
- What is “moral” is decided by members of society.
- But which members?
- Research regulations balance the power of those who form agreements with the rights of those affected by agreements

Social Contract Theory
- Explains how and why we have rules to protect us against one another
- Explains their inherent weaknesses
- Several approaches are common to structure these rules
Utilitarian Theory

- Do the most good for the most people - rights of society over individuals
- Whatever is best for the most people is what is ethical
- Most research transgressions use this defense

Rawls’ Theory of Justice

Disputes utilitarian view that fair is what benefits the most people because it does not take seriously the distinction between persons and the individual worth of EVERY person

Kant says of Autonomy

- “We ought not be treated as mere means” but as “ends in our own right”
- “We are creatures of dignity rather than price”

Tools to Succeed

- Codes of ethics
- Institutional policies
- Laws vary by state
- Federal regulations

The Problem with Codes & Regulations

Insufficient Protection  Excessive Obstacles

45 CFR 46.2

- Pregnant Women
- Human Fetuses
- Neonates
45 CFR 46.2

- Animal studies, non-pregnant human studies
- Least possible risk
- Only risk to fetus must result from possibility of direct benefit to fetus
- Knowledge not obtainable in any other way

Benefit in Non-Consenting Subjects

- Risk benefit ratio looks at BOTH
  - Magnitude of benefit
  - Likeness of benefit to risk

Grimes v Kennedy Krieger Institute

Direct Benefit

- Derived from intervention itself (King)
- Eliminates non-clinical benefits
- Control group
  - Free exams
  - Monitoring of disease progression
  - Personal gratification of solidarity (Lyons)

45 CFR 46.2

- If risk and benefit ONLY to fetus then father also needs to be consented
- Must determine neonate viability prior to involvement in research
- Consent may NOT be obtained by person determining viability

45 CFR 46.2

- For nonviable neonates, artificial support for the purpose of conducting research is not allowable
- Both parents must consent
- For placenta, dead fetus or fetal material, identifiable parents are the research subjects

45 CFR 46.4

- Children are persons under the age of legal consent
- Assent is the action of opting in to research
- Permission is parent or guardian’s agreement to ward’s participation
Classes and Subclasses

- National Commission in 1974 defined classes of people burdened by their conditions now reflected in Common Rule (Itlis)
- Limits proxy autonomy

<table>
<thead>
<tr>
<th>Research on Condition</th>
<th>Research NOT on Condition</th>
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<tbody>
<tr>
<td>Competent Adult</td>
<td>Yes</td>
</tr>
<tr>
<td>Subject Vulnerable</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>No</td>
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Kipnis’ 7 Vulnerabilities of Children

- Lack capacity to make mature decisions
- Subject to authority of others
- May mask their own underlying dissent
- Rights and interests socially undervalued
- Medical condition may not be treatable
- May lack socially distributed goods
- Acute medical conditions not consistent with informed consent

Competence in Crisis

- Obtain “short consent” indicating assent
- Proxy consenter on behalf of parents
- Retrospective consent (Brierly)

Principles Applied to Research

- Autonomy – Informed consent
- Beneficence – Risk to benefit balance
- Nonmaleficence – Protection of subjects
- Justice – Access to study participation and right to benefit after study is complete

Decisions of the Past Can Inform Decisions of the Future

- Offer key insights
- Learn from past successes
- Avoid repeating mistakes

Research Landmark Rulings

- Nuremberg Trials
  - Consent, Do No Harm, Vulnerability of Prisoners
- Declaration of Helsinki
  - Subjects have the right to continued benefit of treatment if they took the risk
- Belmont Report
  - Autonomy, Risks to Benefits Ratio, Justice
International Abuses of Research

- War Crimes
  - Nazi Experiments well known
  - In Unit 731 over 200,000 Chinese were tortured to death between 1939 and 1945

Egregious Violation

- Nonmaleficence
- Respect for Autonomy

Justification

- Utilitarian Defense – means to an end
- No Respect for Autonomy of vulnerable populations

At the Same Time: US Eugenics Program

Unethical Research Conducted in the United States

- Tuskegee Study (1932-1972)
  - 600 poor, mostly illiterate African-American men
  - Began as natural history
  - Withheld treatment to complete experiment
  - Annual review and renewed consent would have prevented this

Unethical Research Conducted in the United States

- Jewish Chronic Disease Hospital (1963)
  - Injected live cancer cells into elderly patients
  - Researchers did not obtain informed consent for research because clinical procedures were also done without consent
Unethical Research Conducted in the United States

- Did not want to tell them they were being injected with live cancer cells because it might scare them off
- The researchers minimized/rationalized risk because they believed the patients’ bodies would reject the cancer cells anyway