

Non-punitive Treatment for Pregnant and Breast-feeding Women with Substance Use Disorders

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Written by: ANA Center for Ethics and Human Rights
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Purpose

The purpose of this position statement is to support the efforts of registered nurses to encourage women to seek prenatal care and treatment for substance use disorders. This is founded on the American Nurses Association's (ANA) recognition that substance use disorders are treatable conditions. Substance use disorders are a pattern of substance use that can cause physical, mental, or social dysfunction (Schub, 2016). Substances can be illicit (e.g., cocaine, heroin, methamphetamine) or legal (e.g., alcohol, prescription or over-the-counter medications) but used inappropriately (Schub, 2016). ANA is committed to the prevention and treatment of substance use disorders in women who are pregnant or breast-feeding. The threat of criminal prosecution undermines the encouragement registered nurses offer to women who seek prenatal care and treatment for substance use disorders.

Statement of ANA Position

The American Nurses Association (ANA) recognizes substance use disorders as treatable conditions and commits to primary prevention and treatment for pregnant and breast-feeding women. This includes treatment for pregnant women who misuse substances as well as appropriate therapy for exposed infants. ANA opposes laws that may result in punitive legal actions and result in incarceration of pregnant women because of substance use disorder. Within the confines of state law, ANA directs registered nurses who work with pregnant and breast-feeding women to seek providers that offer appropriate rehabilitative therapy, rather than law enforcement or the judicial system, to obtain help for women and infants.

Recommendations

- ANA supports the fact that substance use disorders are diseases that require treatment, not incarceration. Pregnant and breast-feeding women with substance use disorder require treatment from a rehabilitation program that provides education opportunities, medication

assisted treatment, parenting skill classes, social reintegration programs, substance use disorder counsel and education, as well as services that foster restorative behavior change and personal empowerment. A limited number of alcohol and other drug abuse treatment services are presently available for pregnant or postpartum women. Inpatient treatment services should be amenable to infants residing with their mothers.

- ANA supports an increase in federal, state, and local funds for development and expansion of alcohol and other substance use treatment services tailored to meet the special needs of childbearing women and their children.
- ANA supports assessment of infants exposed to drugs and/or alcohol in utero for signs and symptoms of neonatal abstinence syndrome and receipt of pharmacologic treatment when necessary. Potential exists for the diagnosis of fetal alcohol syndrome as well. Nurses must be aware of how to identify infants with this problem. For these families, appropriate referrals are essential.
- ANA supports the nurse's role in preventive measures, such as screening and identification of substance use disorder in patients of childbearing age. Patient education and treatment before family planning and pregnancy occur can eliminate the potential of infant exposure to harmful substances (Roszel, 2015).
- ANA supports the need for research designed to improve education, treatment, and preventive measures that include innovative interventions for pregnant and breast-feeding women with substance use disorder. ANA further supports research that examines the root causes related to the health and welfare of pregnant women with substance use disorder who are incarcerated or under correctional supervision.
- ANA supports specialized education for nurses who work with pregnant and breast-feeding women with substance use disorder and exposed infants. ANA strongly encourages all nurses to inform themselves of the unique issues that encompass the life, livelihood and care of these vulnerable women and infants.

History/Previous Position Statements

ANA has historically supported nurses' advocacy for pregnant and breast-feeding women with substance use disorder. The previous position *Non-punitive Treatment of Pregnant and Breast-feeding Women and Their Exposed Children* (1991 & 2011) highlighted the nurse's role in patient advocacy for this population. In 2004, the *Scope and Standards of Addictions Nursing Practice* (2004) provided guidance on patient recovery with no mention of legal or judicial interaction. Currently, advocacy for pregnant and breast-feeding women and their exposed children is supported by the ANA *Code of Ethics for Nurses with Interpretive Statements* (2015), in interpretive statement 1.2, Relationships to Patients, which states:

"Nurses establish relationships of trust and provide nursing services according to need, setting aside any bias or prejudice. Factors such as culture, values systems, religious or spiritual beliefs, lifestyle, social support system, sexual orientation or gender expression, and primary language are to be considered when planning individual, family and population-centered care. Such considerations must promote health and wellness, address problems, and respect patients' or clients' decisions. Respect for patient decisions does not require that the nurse agree with or support all patient choices. When patient choices are risky or self-destructive, nurses have an obligation to address the behavior and to offer opportunities and resources to modify the behavior or to eradicate the risk" (p. 1).

Nurses practice with compassion and respect for the inherent dignity, worth, and unique attributes of every person, based on the understanding that substance use disorder and addiction, like other chronic health conditions, can be prevented and treated (ANA, 2015; ANA & IntNSA, 2013).

Background

Substance-related and Addictive Disorders

The 2012-2013 National Survey on Drug Use and Health in the United States found that the average current rate of illicit drug use among pregnant women ages 15-44 was 5.4 percent (SAMHSA, 2016). A *substance use disorder* is the recurrent use of alcohol and/or drugs that causes clinical and functional impairment, such as health problems, disability, and failure to meet major responsibilities at work, school or home (Substance Abuse and Mental Health Service Administration [SAMHSA], 2016). Substance use disorders include alcohol, tobacco, cannabis, stimulant, hallucinogen, and opioid use disorders (SAMHSA, 2016). The Diagnostic Science Manual V combined addictive disorders, such as substance dependence, and substance use disorders into one phrase, substance use disorder (Robinson, 2016).

Neonatal Abstinence Syndrome and Fetal Alcohol Spectrum Disorder

ANA recognizes that nurses in maternal child health services may not be fully educated on the needs of patients with substance use disorders or the special needs of infants experiencing neonatal abstinence syndrome (NAS) or fetal alcohol spectrum disorder (FASD) (Hill, 2013).

NAS is a generalized disorder characterized by central nervous system signs and symptoms that include hyperirritability, agitation, jitteriness, tremors, inconsolable crying, sleep difficulty, tachypnea, nasal flaring, and nasal stuffiness (Kocherlakota, 2014). NAS may be a result of the use of morphine, heroin, methadone buprenorphine, prescription opioid analgesics, antidepressants, anxiolytics, and/or other substances. (Artigas, 2014; Bagley, Wachman, Holland, & Brogly, 2014). Breast-feeding may reduce the incidence of NAS in opioid-exposed infants (World Health Organization, 2014).

FASD accounts for the wide range of physical features, behavioral problems, functional deficits, and cognitive conditions caused by the mother consuming alcohol while pregnant (Zoorob, Durkin, Gonzalez, & Adams, 2014). Children with any level of exposure to alcohol commonly exhibit diminished intellectual capacity, cognitive deficits, attention deficits, and problems with social interactions (Roszel, 2015). Cognitive problems due to prenatal alcohol exposure are still considered the leading preventable cause of intellectual disability (Roszel, 2015). Management of FASD is most notably achieved through a multidisciplinary approach and can include parent-child interaction therapy, behavioral interventions and pharmacotherapy, depending on the manifestations of the disorder.

Infants who experience NAS or FASD typically require a significant amount of time and nursing care (Cleveland & Bonugli, 2014). Infants need to be assessed accurately for signs and symptoms of exposure to substances, provided with comfort measures, and if indicated, offered pharmacologic management. Social services may need to be involved to ensure that the infant will be discharged into a safe and nurturing environment. Every effort should be made to keep the mother and infant together. Breast-feeding should take into account the risks and benefits compared to alternatives in each case (World Health Organization, 2014). The passing of substances via breast milk varies by substance and must be understood, and appropriate nutrition for the infant must be available.

The Effect on Nurses

It is well established that the care of pregnant or postpartum women with substance use disorder can be a source of work-related stress for nurses (Maguire, Webb, Passmore, & Cline, 2012). Nurses express concern about the woman's ability to cope with an irritable, crying infant who is often inconsolable, and question the stability of the infant's home at discharge (Maguire et al., 2012). Cleveland & Bonugli (2014) posit that

nurses may negatively judge pregnant women with substance use disorder. The result is mistrust in the nurse-patient relationship. A lack of trust could mean that the pregnant woman is significantly less likely to receive adequate prenatal care (Hill, 2013). Their research has shown that mothers with substance use disorder and mothers of infants who experience neonatal abstinence syndrome expressed feelings of: (1) guilt and shame watching their infants withdraw; (2) lack of empathy from nurses for individual substance use disorder; (3) a desire for the nurse to understand addiction as a disease; (4) the need for separation from their infant due to perceived negative judgment from nurses; and (5) a lack of trust due to nurses reporting the mother's substance use disorder to authorities. Women who struggle with addiction require patience and advocacy on the part of nurses in the care of their infants (Cardaci, 2013).

Therefore, nurses must demonstrate compassion, competence, and confidence by offering skills to the mother that focus on what she can do for her infant. This results in a greater likelihood that the mother will remain in treatment (Hill, 2013). Nurses are encouraged to seek educational programs that offer training in mental health, substance use disorders, interpersonal violence, and local or state treatment options for pregnant women with substance use disorder (Hill, 2013). As patient advocates, nurses can be a strong voice for pregnant women with substance use disorder and their unborn babies (Ferszt, Hickey, & Seleyman, 2013).

Compassion and Transparency

Some states require health care providers to report pregnant women who use certain substances (Gutmacher, 2016). ANA acknowledges this mandate and asks that this be accompanied by enrollment of the mother in alcohol and other substance use treatment services. Nurses must balance the ethical principle of beneficence, or preventing harm, with fidelity, which requires fairness, truthfulness, and advocacy (ANA, 2015). This can be a challenge for nurses who are in positions where there is a mandatory requirement to report a pregnant woman's substance use. In these situations, nurses must be compassionate, truthful, forthcoming and transparent when communicating obligations with patients. *Addictions Nursing: Scope and Standards of Practice* (ANA & IntNSA, 2013) offers guidance on how registered nurses can best communicate with and support patients in the prevention and treatment of substance use and addictive disorders. Nursing,

focuses on the prevention of disease and injury; alleviation of suffering, through the diagnosis and treatment of associated human responses; and advocacy in the care of individuals, families, communities, and populations affected by alcohol, tobacco, and other drug use and maladaptive behaviors that may become addictive disorders (ANA & IntNSA, 2013, p. 1).

The nurse uses the "therapeutic self" to establish an alliance with the patient to structure a nursing care plan and interventions that promote a behavior change that results in good health and recovery (ANA & IntNSA, 2013, p. 143-44). The nurse teaches pregnant and breast-feeding women methods that strengthen resiliency, increase coping skills, reduce risk factors, and demonstrate the effects of treatment on daily living (ANA & IntNSA, 2013, p. 145). For example, if violence or risks of an unsafe environment are part of the mother's history, counsel and appropriate assessment of home dynamics will be necessary to help the mother locate a safe place for her family (Hill, 2013). The role of the nurse is based on advocacy not only for individual patients, but also for the implementation of policies and programs that can reduce the harms associated with substance use disorders and maladaptive behaviors (ANA & IntNSA, 2013, p. 5).

Effects of Criminalization of Pregnant Women with Substance Use Disorder

Criminalization of pregnant women with substance use disorder often results in more harm than good. The threat of criminal prosecution prevents many pregnant women from seeking prenatal care and treatment for their substance problems (Schempf & Strobino, 2009). Prisons are not prepared to provide for the specialized needs of pregnant women (Cardaci, 2013; Skerker, Dickey, Schonberg, Macdonald, & Venters,

2015). Women are more likely to enter prison with histories of interpersonal violence, illicit drug and alcohol use, sexually transmitted infections, and mental illness (Clarke & Adashi, 2011; Skerker et al., 2015). Pregnant women with human immunodeficiency virus (HIV), opioid dependency or substance use disorder are often denied effective treatment (Skerker et al., 2015). Women in prison seldom have access to adequate nutrition or maternal education, such as Lamaze classes. Prisons lack support to prepare the woman for separation from her child (Ferszt et al., 2013; Van den Bergh, Gatherer, Fraser, & Moller, 2011).

Additionally, incarcerated pregnant women are sometimes held in settings that lack access to toilets, mattresses or pillows (Skerker et al., 2015). Prisons often lack resources, such as maternity clothes or a mother-baby area to encourage breast-feeding, or support services that help women cope with miscarriage or preterm labor (Ferszt, Ginette, & Clarke, 2012; Van den Bergh et al., 2011). There is a higher than normal miscarriage rate among incarcerated pregnant women secondary to inadequate prenatal care, drug withdrawal treatment, poor nutrition, loss of social support networks, and stress of incarceration (Ferszt et al., 2013).

Nurses Advocate for Treatment

ANA acknowledges that socioeconomic, class, race, and ethnicity may influence how women are cared for in the maternal child health setting. ANA advocates for fairness in drug screening, treatment, and rehabilitation services. Both mother and infant are cause for concern and care for the nurse (Cleveland & Bonugli, 2014).

Contrary to claims that prosecution and incarceration will deter pregnant women from substance use, the greater result is that fear of detection and punishment poses a significant barrier to treatment (Stone, 2015). Treatment has been found to be a more effective tool than incarceration to reduce and eliminate substance use disorder and provide a healthier perinatal environment for children (Stone, 2015). Women who are separated from loved ones, under stress and lacking adequate addiction treatment are not likely to remain in recovery, which defeats the purpose of substance use prevention. Programs with live-in services for mothers and their children, on the other hand, have reported decreased criminal activity, increased self-esteem, and improved parenting relationships (Sleed, Baradon, & Fonagy, 2013).

Although many states advocate for treatment rather than incarceration, some have determined that substance use during pregnancy is considered child abuse (Guttmacher Institute, 2016; Murphy, 2014). In 2013, the Alabama Supreme Court upheld a conviction of a mother who used drugs while pregnant, holding that such substance use constituted child endangerment (*Ex Parte Ankrom*, 2013). In 2001, the South Carolina Supreme Court upheld a woman's conviction for homicide by child abuse, after her pregnancy ended in a stillbirth attributed to her use of crack cocaine (*State v. McKnight*, 2003). In 2008, the same court reversed its ruling after discovery that the mother did not have a fair trial and recognized evidence that demonstrated that cocaine was not more harmful to a fetus than nicotine (*McKnight v. State*, 2008). In Tennessee, a law originally enacted in 2014 allowed pregnant women who took narcotics to be charged with assault possibly resulting in a 15-year prison sentence if the mother was found guilty (TN SB1391, 2014). After much debate, legislators opted not to renew this law upon its expiration in July 2016. In a national effort to address the opioid crisis, the Comprehensive Addiction and Recovery Act was enacted in July 2016 to provide funds for direct services and programs for pregnant and postpartum women with a primary diagnosis of substance use disorder (Comprehensive Addiction and Recovery Act Sec. 501).

Treatment, rather than incarceration, has been advocated by many professional and community-based organizations, including the Association of Women's Health, Obstetric and Neonatal Nurses (2015), American College of Obstetricians and Gynecologists (2014), American Medical Association (1990), American Academy of Pediatrics (1995), American Public Health Association (1990), American College of Nurse-Midwives (2013), March of Dimes (2014), National Perinatal Association (2012), American Psychiatric Association (2016), American Society of Addiction Medicine (1989) and American Psychological Association (1991).

Summary

The registered nurse has the role of identification of women and infants who need treatment for substance use disorder. The nurse is not an instrument of the judicial or legal system. The nurse, as a patient advocate, must provide competent care for the pregnant woman and her exposed child. Nurses have an obligation to educate themselves in the identification of vulnerable patients and a duty to advocate through support of evidence-informed, compassionate policies and practices at the local, state, and national level as appropriate.

Supersedes:

Position Statement: Non-punitive Alcohol and Drug Treatment for Pregnant and Breast-feeding Women and Their Exposed Children (12/7/11)

Position Statement: Opposition to Criminal Prosecution of Women for Use of Drugs While Pregnant (04/05/91)

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