When Worlds Collide
How Ethics Differ for Individuals Helping Breastfeeding Families

National WIC Association Annual Education and Networking Conference
September 11-13, 2012
Los Angeles, California
Presentation by Elizabeth C. Brooks, JD, IBCLC, FILCA
liz.brooks@yahoo.com

Faculty Disclosure
• As a lactation consultant in private practice, I charge one fee for the consult, whatever supplies are used. I have no retail operations.
• I work in private practice (doing home visits), in a large hospital with a Level III NICU (rounding on all postpartum breastfeeding mothers), and at a community-based breastfeeding clinic offering a sliding-fee scale in order to serve all mothers.
• I have written a book, and one chapter in each of two other books, about legal and ethical issues for the IBCLC. I self-published a CD-R of HIPAA privacy document templates for use by the US-based IBCLC private practitioner.
• I am the ILCA President (July 2012-14), and an elected director of the United States Breastfeeding Committee (Aug 2012-14).
• All content of this presentation is my own; my appearance is not paid by any commercial entity.

Objectives (90 minutes)
(1) Identify differences in the scopes of practice for different professions serving breastfeeding dyads
(2) Describe the difference between a professional “scope of practice” and a workplace “conflict of interest”
(3) Identify different ethical expectations for healthcare providers and volunteers serving a breastfeeding dyad

Our Different Hats
• Create the greatest tension for those of us serving BF mothers and babies
• Legal, ethical and professional ramifications

Remember your “audience”
• Tired
• Ferocious
• Protective
• Looking for The One Right Answer

“Limbic brained” moms
• “The limbic brain emerged in the first mammals. It can record memories of behaviours that produced agreeable and disagreeable experiences, so it is responsible for what we called emotions in human beings. [...] The limbic brain is the seat of the value judgments that we make, often unconsciously, that exert such a strong influence on our behaviour. Our brains have evolved in such a way that they have far more connections running from our emotional systems to our cortex (the locus of conscious control) than the other way around.”
“Millennial” mom
• “Generation X”: born 1965-1979
• Computer and phone are important social & learning network
• Want fast answers; quick to switch to another course of action

What Would People Think?
• In ethics, what matters is the “audience” perception – not your good intentions

First: easy review. What applies to everyone?
• Excellent counseling and listening skills

What applies to everyone?
• Be sensitive to cultural differences
  – Great resource: Culture Clues™
  – “Culture Clues™ are tip sheets for clinicians, designed to increase awareness about concepts and preferences of patients from the diverse cultures served by University of Washington Medical Center.”
  – Requirements for permission to re-use clearly stated
  www.depts.washington.edu/pfes/CultureClues.htm

What applies to everyone?
• Ask open-ended questions
  – Avoid “yes-no” questions
  – “Tell me about BF”
  – “What can I do to help with BF?”
• Offer information -- not advice
  – “Would you like to know what others have done?”
  – “Many mothers find that ...”
  – “Can I tell you about what the research tells us?”
What applies to everyone?

Good record- or chart-keeping

- To jog your memory
- To help you reconstruct a consult … tomorrow, next week, next year
- To meet record-keeping requirements for your institution or practice
- “Contemporaneous” is the key

Permission (Consent)

Different “Helper” Roles: Why Does It Matter?

- Your role defines whether you have:
  - Licensure (or) Certification
    - Completing a course and getting a certificate is NOT the same as earning a credential
    - Watch these words:
      - certification
      - credential
      - certificate
      - certificant
- Scope of practice
- Professional liability [malpractice] insurance
  - Usually predicated on licensure of a verifiable [allied] healthcare profession
  - Mandatory or voluntary code of ethics
  - A disciplinary system for violations
  - Recognition for reimbursement

Different “Helper” Roles: Why Does It Matter?

- Different roles have different ethical and legal ramifications
- Different roles are legal and all okay
- If practitioners know and stay within the limits of the role, they will always be practicing ethically and legally
- Worry about the ones who do NOT
It’s all about “Your Turf”

Different Roles = Turf Wars

• Grass is green

• Green means money

Licensure

Licensure-Nurses-California

Licensure for RDs and IBCLCs in CA: Not So Much
License May Also Define Scope of Practice (SOP)

- Sanctions for
  - Practice outside your license
    - The podiatrist who performs brain surgery
  - Practice outside your scope of practice
    - The podiatrist offers the anesthesia along with the ankle surgery
  - Practice negligently or maliciously
    - The podiatrist cuts off the wrong foot

Certification

- Unlike a license, is voluntary
- National (international) reach
- Issued by a non-governmental private entity
- Certification provides "quality control" info to consumers about required to earn the credential/certificate
- Certification exams are based on a scientifically-grounded occupational analysis (psychometrics)
- One can be certified in an area of health care … yet not have a license to practice. IBCLCs!

Code(s) of Ethics

- Aligned with a profession, whether licensed or certified
- May be mandatory or voluntary
  - IBLCE Code of Professional Conduct (formerly called Code of Ethics) is a "must"
  - American Nurses Assn Code of Ethics is a "must"
  - Council of Medical Specialty Societies' Code for Interactions with Companies is "voluntary"
- Many professions are "self-policing" on ethical matters

IBLCE Code of Professional Conduct (mandatory)

"This Code consists of eight principles, which require every IBCLC to:"

American Nurses Assn Code of Ethics

"It is the profession's nonnegotiable ethical standard."

Council of Medical Specialty Societies’ Code for Interactions with Companies

"Signing on to this Code is voluntary and is not a condition of continued membership in CMSS."
IBLCE Scope of Practice for IBCLCs

"IBCLCs have the duty to …"

IBLCE SOP for IBCLCs

- "The SOP encompasses the activities for which IBCLCs are educated and in which they are authorized to engage."
- "Protect the public"
- "As this is an international credential, this SOP is applicable in any country or setting where IBCLCs practice."

Scope of Practice-RN-California

WIC Program-California-BF Support


WIC peer counselors are paraprofessionals. Those without extended professional training in health, nutrition, or the clinical management of breastfeeding, who are selected from the group to be served and are trained and given ongoing supervision to provide a basic service or function. Paraprofessionals are trained within a defined scope of practice. They assist professionals, but are not licensed or credentialed as healthcare, nutrition, or lactation consultant professionals.
WIC Peer Counselors (PCs) in hospital setting (CA): well-defined scope of practice

- They are considered hospital volunteers
- Work under mentorship, guidance of WIC IBCLC (usually after working one year as PC)
- “The WIC IBCLC models what the PC is expected to do and therefore works within the scope of a PC and not as an IBCLC. If a mom needs more help she is referred to the hospital IBCLC. The WIC IBCLC also trains the peer counselors to follow the established protocols.”

LLLI or similar mother-to-mother counselor: scope of practice

LOTS of perfectly legal “other initials”

- CLC: Lactation Counselor Certificate
- CBE: Community Breastfeeding Educator
- ALC: Advanced Lactation Consultant
- ANLC: Advanced Nurse Lactation Consultant
- CLE: Certified Lactation Educator
- CLS: Certified Lactation Specialist
- CBS: Certified Breastfeeding Specialist
- "Cert-if-i-cated" Lactation Educator-Counselor
- Lactation Consultant

Alphabet Soup Confusion

- Breastfeeding.com > Breastfeeding > Directory of LCs > California
Alphabet Soup Confusion:
“Lactation Consultants Directory – California”

- “Premier Lactation Consultants” (among first 10)
  - Jane Doe, IBCLC, PT, LCCE
  - Liz Doe RN, MS, IBCLC
  - Debbie Doe, CD, CMA, LS, CBE
  - Nancy Doe, IBCLC, RLC
  - Eileen Doe, CLE, CBE (CBI), CBD (CBI)

- “Preferred Lactation Consultants” (among first 5)
  - Mary Doe, CLE, IBCLC, CIIM
  - Joan Doe, CD(DONA), CLE, HBCE
  - Sophia Doe, IBCLC, CCE, CD

The very fine print: “The Consultants in this directory may have a wide variety of experience and may or may not hold recognized certifications or credentials. Before retaining a lactation consultant you should review their credentials and experience to your satisfaction.”

Full disclosure: *my* listing is on PA page.

Breastfeeding.com > Breastfeeding > Directory of LCs > California

SOP vs. Conflict of Interest

- So you wear more than one hat …
- Scope of Practice is *defined* by the profession
- Conflicts of Interest *ignore* the profession

SOP/License and Malpractice Insurance

- Does the Breastfeeding Helper have professional liability (a.k.a. malpractice) insurance to cover his/her
  - Clinical work with mother, and
  - Paperwork associated with that clinical work?
- Does the Employer who has hired the Breastfeeding Helper (who will be in clinical contact with the mother) care if this person is eligible for insurance?

Insurance Basics

- Your insurance for a different or greater scope of practice (i.e. RN, MD, CNM, etc.) MAY also cover lactation work
- Esp. if you wear two hats: ASK your insurer or employer if your lactation work is covered by your existing policy

Let’s play with this …

Mother seeks advice on “unethical behavior”

- Who is defining “unethical?”
- We take our patients as we find them
  - Lactating mother with history of, or positive test for, drug use
  - Alcohol? (England vs. USA)
  - Smoking?
  - The obese diabetic mom who wants to use formula?
- How much can we share, given our scope of practice?
Information vs. Advice

- Ramifications of mother acting without accurate information
  - Advice from “sparkleponyunicorn77@gmail.com?”
  - “Pumped milk” brought into the NICU
    - From another mother
    - From a formula bottle
    - From an almond soy milk product
- IBCLCs don’t operate in a vacuum! Part of the healthcare team
- WIC PCs don’t operate in a vacuum! Part of a chain of command

Mom’s perception vs. breastfeeding helper’s perception

- “You said I shouldn’t nurse the baby when he was crying”
- Mothers of NICU babies in Sweden – study on “Baby Friendly” objectives

What if your Boss recommends unethical behavior?

Assume the best …

Prepare for the worst …
You messed up.
Now what?

Works Consulted
• See separate handout

Thank you!
• Questions? Comments? Corrections?

Liz Brooks, JD, IBCLC, FILCA
liz.brooks@yahoo.com

Twitter: @LizBrooksIBCLC
FB: www.facebook.com/LizBrooksIBCLC
www.lactspeak.com/speakers/lizbrooks

Image: http://tinyurl.com/8wp9bco