De aansprakelijkheid en tuchtrechtelijke verantwoordelijkheid van de vroedvrouw in België, Nederland en Frankrijk: verwaarloosbaar of stijgend in belang?
INTRODUCTION

- I. Problem statement
- II. Legal aspects of maternity care
- III. Procedural guarantees
- IV. Risks of medical liability
  - Method
  - Results
- V. Recommendations for practice
1. Problem statement

- Patient in Belgium, the Netherlands and France: right to quality (obstetric) care
- Damage cases in obstetric care
  → Civil, criminal and disciplinary law suits
- What are the risks?
  → Recommendations to avoid damage cases and medical liability
II. Legal aspects of maternity care

- EU Directive 2005/36/EG: minimal competences of the midwife
  ‘guardian of the normal obstetric care’:
  screen ↔ refer

- midwife = partner in normal obstetrics (in practice?) and subordinate of the obstetrician in pathology
III. Procedural guarantees

- Civil liability
  - Negligence, damage, causality
  - Full compensation of damage
  - or ‘loss of a chance’→ % damage

- Criminal liability
  - Penal infraction, damage, causality
  - Prison sentence (with suspension), fine and occupational ban (not in Belgium)
III. Procedural guarantees

- Disciplinary responsibility (not Belgium)
  - Breach of disciplinary code

- Sanctions
  - Warning
  - Reprimand
  - Fine (not in France)
  - Suspension
  - Dismissal
IV. Risks of medical liability

Method

- 190 cases: Belgium, the Netherlands, France
- Midwife and/or obstetrician
IV. Risks of medical liability

Results

- 64% (121/190) liability
- The Netherlands 51% (16/31)
- Belgium: 66% (35/53)
- France: 66% (70/106)
Risks

- 64% liability (121/190)

- Prenatal care
- Perinatal care
- Postpartal care

0 20 40 60 80 100 120 140 160

Liability
Analysed cases
Risks in perinatal care

- 65% liability (98/151)

- Teamwork with medical file
- Response to pathology
- Interpretation foetal monitoring
- Recognition pathology

![Diagram showing liability and analysed cases for each category]
1. Fetal monitoring

- 74% liability (32/43)
- Misinterpretation: mostly joint responsibility
- Underestimating the severity
- Poor intra- and interobserver agreement among obstetric experts?!
2. **Recognition pathology**

- 63% liability for not detecting symptoms on time (32/51)

- A. Uterine rupture (uterine scar)

- B. Placental abruption (typical)
3. Response to pathology

- 53% liability (24/45)
- A. Shoulder dystocia: complication?
  - Performance maneuvers
  - Absence of risk factors: macrosomia, gest. diabetes, maternal obesity
  - Lack of consensus?!
3. **Response to pathology**

- **B. Choice for instrumental delivery**
  - incomplete cervical dilation, too little fetal descent, feto–pelvic disproportion

- **C. Use of instrument**
  - Positioning
  - Duration
  - Tensile force
  - ‘Failed instrumental delivery’?

- **D. Fundal pressure (midwife)!!!!**
4. Teamwork with medical file

- 83% liability (10/12)
- (Lack of) communication = adverse events?
- Shared mental model: ISBAR?
- Difficulties:
  - Test results, instructions especially in pathologic labour, updating medical record
  - Being on call, accessibility
V. Recommendations for practice

“CREATE LIFE”

- Cardiotocography necessitates ‘LIFElong learning’
- REcognize pathology
- Act: right intervention
- Teamwork with medical record!
Conclusion

- Value of a child ↑
- Financial cost of health care ↑
  → Civil, criminal and disciplinary law suits ↑?

Teamwork in health care and in a law suit is gaining importance