

Pregnancy, Brain Death, and A Proposed Louisiana Bill

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INTRODUCTION

Since the moment House Bill 1274 hit Louisiana Governor Bobby Jindal's desk, it has been the subject of much debate. The bill says that if a woman is at least 20 weeks pregnant she must be kept on mechanical life support unless she has a will specifically stating that she would want support removed if she is pregnant.

Some have already started drawing parallels between the issues that this new bill creates and the Marlise Munoz case from Texas, settled not so long ago (see sources below). It seems that the law is being used as a tool to infringe on the rights that women have to bodily integrity. It sounds as if pregnant women are only being allowed to make autonomous decisions far before such an incident occurs. But what if a woman in critical condition requests that support is ended at the bedside? What if her husband or parents claim that her wishes would have been to end care, similar to what happened in the Munoz case? At the moment Bill 1274 stands as an unethical limitation on the rights of Louisiana women to make health care decisions about their bodies, decisions that in any other situation they wouldn't need a written will to make.

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ANALYSIS

Of course this proposed bill is suggesting that pregnancy is a unique case where a woman's bodily autonomy is justly limited. State Representative Austin Badon was quoted saying, "Do we really want to pull the plug of that healthy baby," during debates involving the bill. He and other supporters are focused on maternal-fetal conflict – what are the rights of the fetus and when do those rights equal or trump the rights of its mother? They hope to resolve this issue in at least one case: a mother's right to die is undermined when the fetus reaches a gestational age of 20 weeks. However, choosing to prioritize fetal life at the 20-week mark seems ill-advised considering the medical uncertainty surrounding delivering preterm infants.

Critics of the bill are comparing it to using women as incubators because the fetus can be kept in the womb until it reaches a more acceptable gestational age. However, there is limited data concerning whether the atmosphere of the womb in a mother in critical condition or brain dead should actually support a fetus, or whether it carries its own risks in the long run. In cases like the Marlise Munoz's other factors like oxygen deprivation could lead to severe fetal malformations. Should hospitals allocate so many resources to preserving brain dead pregnant mothers, and for how long should they be preserved? What about the burdens of care the state would then be placing on both the hospital staff and the family of the deceased mother?

Even with all the life support that a hospital can muster there is no way to keep a mother's body from eventually deteriorating. That point will differ in each case but premature births will be the inevitable end point. A fetus at 20 weeks is still three weeks away from being considered viable for birth (currently 23 weeks is the lowest standard of fetal viability). This is hugely important considering that survival rates for infants born preterm increase drastically with each additional week of gestational age (30% at 23 wks, 52% at 24 wks, 76% at 25wks according to a study by the National Institute of Child Health and Human Development). Gestational age also comes with an error margin of +/- 5 days. It's the physician's best estimate, not a finely calculated answer. With survival depending on the difference of 1-2 weeks a five-day discrepancy only further builds the case against the Louisiana bill.

Even successful deliveries at 23-25 weeks come with their own set of consequences. Studies show that the chances of moderate to severe disability stay at about 50% regardless of where the fetus is in the 23-25 week range. These fetuses can be affected by blindness, deafness, or cerebral palsy and many will be affected by more than one. Additionally, many fetuses will experience neonatal morbidities such as respiratory distress syndrome (causing respiratory failure or apnea), various chronic lung diseases, growth failures, and various other health issues. Someone should tell Representative Badon that there is nothing healthy about these births.

CONCLUSION

To end I want to turn back to the Munoz case again. What brought her case to the public's attention was the plight of her family. It was unfortunate enough that they lost Marlise, forcing them to wait to bury her, and refusing her last wishes just added salt to the wound. The proposed bill is only good for making other families shoulder similar burdens. Is it acceptable for Louisiana lawmakers to create such a blanket law for personal situations? Let's hope Governor Jindal stops the bill before it becomes a problem.