

Majority of US states restrict decision-making for incapacitated pregnant women

April 23 2019

Half of all U.S. states have laws on the books that invalidate a pregnant woman's advance directive if she becomes incapacitated, and a majority of states don't disclose these restrictions in advance directive forms, according to a study by physicians and bioethicists at Mayo Clinic and other institutions.

The report, published this month in the *Journal of the American Medical Association*, reviewed statutes in effect as of February in all 50 states and the District of Columbia. All states have laws regarding decision-making for individuals who can't make their own medical decisions, but the content of statutes and advance directive documents for "decisionally incapacitated" [pregnant women](#) nationwide varies widely.

An advance directive is a legal document completed by a patient that appoints a surrogate to make health care decisions if a person becomes incapacitated and unable to participate, and it indicates what the person's [health care preferences](#) would be.

Thirty-eight states have laws that identify pregnancy as a condition that affects decisions for incapacitated pregnant women. Eight of those states ask for a woman's pregnancy-specific care preferences, to make them explicit. The remaining 30 states restrict a woman's or her surrogate's choice about withholding or withdrawing life-sustaining treatment, with 25 invalidating a woman's advance directive during pregnancy.

"Advance directives were designed by lawmakers to safeguard patient

autonomy and control over medical circumstances that are difficult to anticipate but that may lead to life-and-death decisions," says Erin DeMartino, M.D., a pulmonary and critical care physician at Mayo Clinic's campus in Rochester, Minn. "It would come as a great surprise to many people that there's a medical condition in which women's control of their own health destiny is taken away by the state."

"That fact is not well-communicated in official state advance directive documents, which the patient fills out in good faith," says Dr. DeMartino, the lead author of the paper. Also participating in the study were physicians and ethicists from Mayo Clinic Health System, Loyola University Chicago Stritch School of Medicine, the University of Chicago, Beth Israel Deaconess Medical Center in Boston, Georgetown University and Massachusetts General Hospital in Boston.

Twelve of the 30 states forbidding withdrawal of life-sustaining therapies from pregnant women mandate that these therapies continue until the woman's fetus can be safely delivered, irrespective of its gestational age at the time of illness or injury. They are Alabama, Idaho, Indiana, Kansas, Michigan, Missouri, Oklahoma, South Carolina, Texas, Utah, Washington and Wisconsin.

"Ethics and health law in the U.S. prioritize patient self-determination and freedom from unwanted medical treatment," the report says. "This analysis suggests that a majority of U.S. states restrict the health care options available to decisionally incapacitated women during pregnancy, and do not disclose these restrictions in advance directive forms."

The new study makes clear how individuals need more information and states should be more transparent in informing citizens of how pregnancy affects medical decision-making, Dr. DeMartino says.

"Advance directive forms should clearly state whether there are any conditions under which they would not be followed," she says. "It's of

fundamental importance that women understand what they're signing, and that we are aware of how these types of [health](#) care decisions are being influenced by state law."

Provided by Mayo Clinic

Citation: Majority of US states restrict decision-making for incapacitated pregnant women (2019, April 23) retrieved 16 May 2024 from <https://medicalxpress.com/news/2019-04-majority-states-restrict-decision-making-incapacitated.html>

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