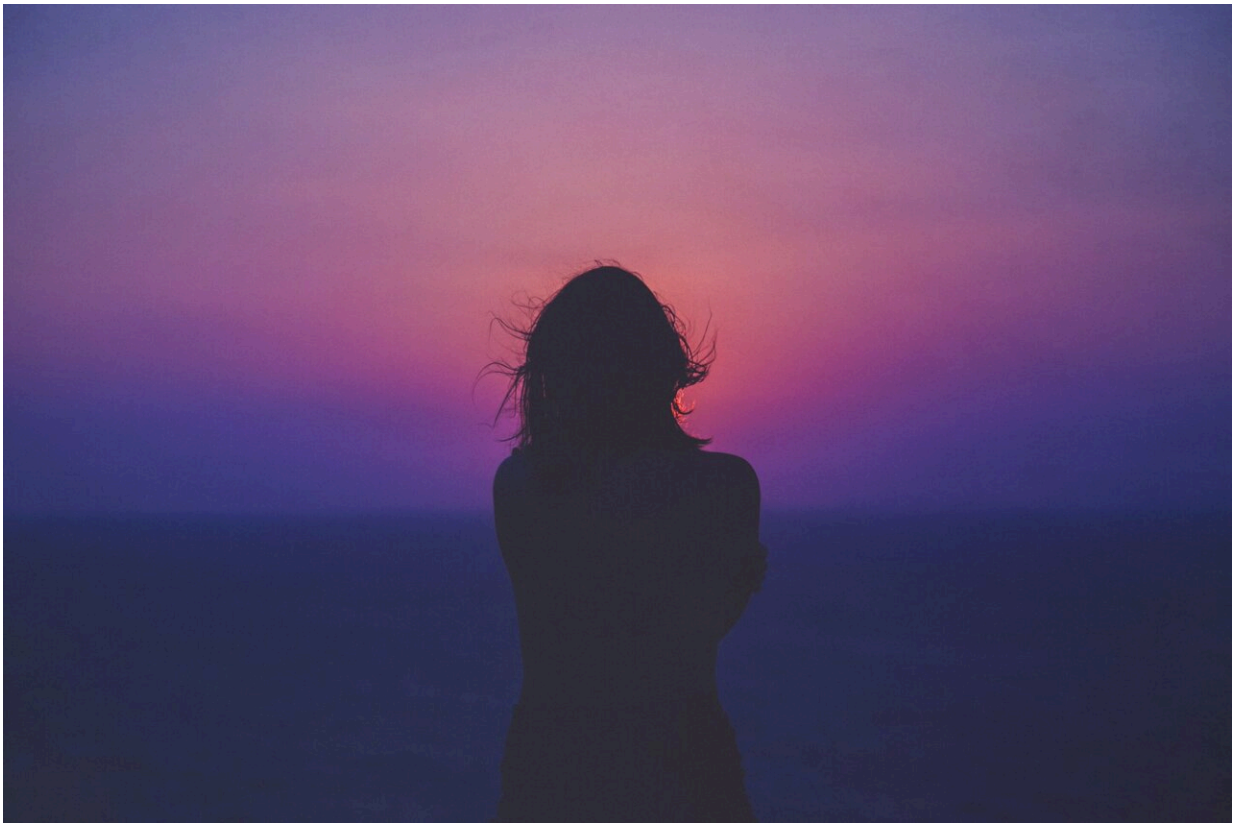


Medical exceptions to abortion bans often exclude mental health conditions

October 25 2023, by Nada Hassanein, Stateline.org



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More than a dozen states now have near-total abortion bans following the overturning of *Roe v. Wade*, with limited medical exceptions meant to protect the patient's health or life.

But among those states, only Alabama explicitly includes "[serious mental illness](#)" as an allowable exception. Meanwhile, 10 states with near-total [abortion](#) bans (Florida, Georgia, Idaho, Iowa, Kentucky, Louisiana, Ohio, Tennessee, West Virginia and Wyoming) explicitly exclude [mental health](#) conditions as legal exceptions, according to an analysis from KFF, a [health](#) policy research organization.

Abortion rights advocates and [mental health experts](#) say those laws could put [women](#)'s lives at risk. A report released last year by the federal Centers for Disease Control and Prevention analyzing [maternal deaths](#) between 2017 and 2019 found that that [pregnant women](#) and new mothers were more likely to die from mental health-related issues, including suicides and overdoses from [substance use disorders](#), than any other cause. Mental health conditions in total accounted for 23% of maternal deaths with an identified cause.

The Alabama exception, which requires a diagnosis from a psychiatrist in practice for at least three years, doesn't define "mental illness." However, it specifies a diagnosis can only be used as an exception "if there is reasonable medical judgment" that the patient might engage in something that could result in her death or loss of the pregnancy.

Florida's medical exception requires two physicians to certify an abortion is necessary to save the pregnant woman's life or avoid "serious risk" of substantial impairment to a "major bodily function of the pregnant woman other than a psychological condition."

Similarly, Tennessee's law reads, "No abortion shall be deemed authorized ... on the basis of a claim or a diagnosis that the woman will engage in conduct that would result in her death or substantial and irreversible impairment of a major bodily function or for any reason relating to her mental health."

During a special legislative session on abortion in July, Iowa Republican state Rep. Shannon Lundgren defended the exclusion of mental health exceptions during a floor debate, after Rep. Austin Baeth, a Democrat and physician, cited the maternal mental health-related death statistics, the Iowa Capital Dispatch reported.

"I would like to recognize that abortion isn't a treatment for mental illness," Lundgren said. "Obviously if we have someone whose life is in danger, a doctor should take an approach to make sure they immediately refer them to inpatient care."

The National Right to Life Committee, whose model state legislation on abortion bans explicitly exempts abortions "performed on the basis of a claim or a diagnosis that the woman will engage in conduct that would result in her death," considers mental health exceptions to be untenable because conditions such as anxiety and depression can be treated.

But policies that dismiss mental health as less important than physical health endanger patients, said Dr. Paul Appelbaum, a Columbia University psychiatrist and former president of the American Psychiatric Association and the American Academy of Psychiatry and the Law.

"You can't take into account a 90% possibility of postpartum psychosis. That clearly should be changed," Appelbaum said.

"Psychiatric disorders are as real and as treatable as any other medical disorder," he added. "And to discriminate against people with a vulnerability to disorders developing during or after the partum area is simply unacceptable and unjustifiable."

Inequities, lack of safety net

When Cindy Herrick of Phoenix became pregnant and gave birth to her

son 11 years ago, she felt crushed by intense anxiety.

Thoughts of failure plagued her. "Everyone else looks happy," she recalled thinking. Meanwhile, "I was scared to touch the baby."

Herrick suffered depression and anxiety before pregnancy, but they became worse.

"Mental illness wasn't new to me. The severity of it was new to me," she said. It took months to find a new combination of psychiatric medications to give her relief. She recalled her husband saying, "I was really worried you weren't going to make it."

One in five women suffer mental health conditions during pregnancy or postpartum, including depression, anxiety, obsessive-compulsive disorder and, although rare, postpartum psychosis, according to the Maternal Mental Health Leadership Alliance, an organization that advocates for improved mental health care.

Awareness of maternal mental health conditions as crises is critical, said Herrick, a peer support specialist certified in perinatal mental health.

"We have one child because of that," she said of her own mental health crisis. "I do not want to get pregnant again. And I'm not alone in that."

Even before the U.S. Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization* last year overturning the federal right to abortion, women with mental health problems faced disproportionate barriers to getting an abortion, said Sarah Roberts, a researcher with the University of California, San Francisco's Advancing New Standards in Reproductive Health program.

As mental health care remains elusive for many people, experts worry

those barriers will be exacerbated.

Fewer than 20 states have state-funded perinatal psychiatry access programs. Thirty-eight states and Washington, D.C., have extended Medicaid coverage for 12 months postpartum, but fewer mental health practitioners accept Medicaid or private insurance compared with other specialties, making it harder for patients to get care.

"People who reported using more substances or having more mental health conditions were more likely to report a policy-related barrier to obtaining an abortion," Roberts said. In the aftermath of Dobbs, she said, "There's no reason to believe that things would have become easier."

Low-income women are disproportionately affected by bans, making cost and travel burdens to get abortions elsewhere. Additionally, the Hyde Amendment, a federal rule renewed annually since 1976, restricts use of federal dollars, including federal Medicaid funds, for most abortions. While 17 states have state-only abortion funds, Hyde affects about 7.8 million reproductive-aged women across more than 30 states where it has effect, according to reproductive health research organization the Guttmacher Institute. Half of those affected are women of color.

Joy Burkhard, the founder and executive director of the Policy Center for Maternal Mental Health, a California-based national nonprofit and think tank where Herrick is a project manager, said the issue should be a bipartisan opportunity to "put systems in place to support women's mental health delivery."

Burkhard also stressed that an already taxed health care workforce will be further stressed as more women give birth post-Roe and need care. A report by inequities research organization Mathematica estimated untreated maternal mental health conditions cost \$14.2 billion for births

in 2017, or \$32,000 on average for every untreated mother and her child.

"Everyone's going to be waiting longer, struggling to access care—and no one's talking about that," she said.

Already, an estimated three-quarters of women with mental health conditions are untreated, according to the nonprofit advocacy group Maternal Mental Health Leadership Alliance.

"They need to be offered [mental health care] in a way that a birthing person doesn't have to scramble to find those services," said Isha Weerasinghe, a senior mental health policy analyst at the Center for Law and Social Policy, a national nonprofit based in Washington, D.C., focused on addressing poverty barriers.

She said policymakers need to define "medical necessity" for abortions more broadly, by considering what a pregnancy and birth will mean for a woman's mental health.

Many of the states with strict abortion bans have large communities of color, and Black women are three times as likely and Indigenous women twice as likely as white women to die of pregnancy-related causes.

The CDC's analysis found mental health-related conditions were the top cause of maternal deaths among Hispanic, white, and American Indian and Alaska Native mothers.

Black women also face disproportionate risk—twice as likely as white moms to suffer from a maternal mental health condition but half as likely to get treatment, according to the Maternal Mental Health Leadership Alliance.

The CDC's analysis also included a specific report on maternal deaths

for American Indian and Alaska Native people, who are more than twice as likely as white mothers to die of pregnancy-related causes but often undercounted in health data due to misclassification. More than 90% of these mothers' deaths were preventable, the CDC analysis found, with most of their total deaths due to mental health conditions, followed by hemorrhage.

Dr. Allison Kelliher, who is Koyukon Athabascan, Dena, from Nome, Alaska, is a family medicine physician and a researcher at Johns Hopkins School of Nursing and Bloomberg School of Public Health Center for Indigenous Health. She's practiced and taught medical students in North Dakota, and said the strict abortion bans ignore the disproportionate illnesses and lack of access to care Indigenous people in rural areas already face. Indian Health Service-run clinics are allowed to provide abortions only in rare circumstances, and patients are often forced to cross state lines or drive hours for care.

But, Kelliher said, many young Indigenous people may not have "the privilege of money, of a vehicle, of a provider who knows them." In addition to disproportionate poverty rates, tribal women are at higher risk of violence and assault, all of which contribute to increased risk of mental health burdens, she added.

"When you couple that with the very stressful experience of pregnancy ... you can see why we're so vulnerable during that time, when we might be suffering from increased risk of mental illness," she said.

Higher risk, opportunities for prevention

Clinicians, advocates and policy experts fear that abortion bans will cause even more pregnant women and new mothers to need mental health care.

"There's no question that there's going to be increased demand for mental health services, both during pregnancy, for women with unwanted pregnancies ... and after delivery," Applebaum, of Columbia University, said.

UC San Francisco's landmark, oft-referenced Turnaway Study, which followed women for more than a decade who were denied abortions because their pregnancies were past the gestational age limits, found these women were more likely to suffer anxiety and poverty and to stay tethered to an abusive partner.

Pregnancies as a result of rape and incest often need law enforcement involvement to allow for an abortion, and can have chronic, traumatic repercussions on a woman.

Women with previous [mental health conditions](#) are at higher risk of developing depression during pregnancy or postpartum according to the National Institutes of Health, and if a woman experienced postpartum depression previously, she's at higher risk of developing it again. While postpartum psychosis is rare, women with a history or family history of bipolar disorder or psychosis are at higher risk, but many women may develop it for the first time in their life postpartum, said Dr. Adjoa Smalls-Mantey, a psychiatrist at New York-Presbyterian Brooklyn Methodist Hospital.

Some medications to treat psychosis or bipolar disorder, particularly lithium and valproic acid, may cause severe birth defects, especially during the first trimester, she said. Women on these medications are strictly placed on contraception.

But unexpected pregnancies may still occur.

"Say you do have a pregnancy that is unexpected, and you end up having

a fetus that has a severe defect that for some may not result in a viable pregnancy, or if it does, can be extremely challenging and devastating," Smalls-Mantey said. "A lot of options are restricted, and then the child, the mom, have a lot of challenges in their life going forward."

"I just really fear for the people that don't even have the resources, what options they're turning to, and if even more women are becoming suicidal or attempting suicide as a result of this very sentinel event in their lives that they're not ready for," she said. "How desperate they could become that they would try to end their life."

2023 States Newsroom. Distributed by Tribune Content Agency, LLC.

Citation: Medical exceptions to abortion bans often exclude mental health conditions (2023, October 25) retrieved 8 May 2024 from <https://medicalxpress.com/news/2023-10-medical-exceptions-abortion-exclude-mental.html>

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