What Does Dobbs v. Jackson Mean for Oncology Patients and Providers? Current Considerations for Pregnancy and Fertility in the Oncology Setting

PRESENTED BY BRIANNA HOFFNER,[1] MSN, ANP-BC, AOCNP®, FAPO, LESLIE C. APPIAH,[2] MD, ALEXIS C. GEPPNER,[3] MLS, CTTS, MPAS, PA-C, LAXMI A. KONDAPALLI,[4] MD, MSCE, and GOVIND PERSAD,[5] JD, PhD

From [1]BroadcastMed, Farmington, Connecticut; [2]University of Colorado Anschutz Medical Campus, Aurora, Colorado; [3]The University of Texas MD Anderson Cancer Center, Houston, Texas; [4]Colorado Center for Reproductive Medicine, Lone Tree, Colorado; [5]Sturm College of Law, University of Denver, Denver, Colorado

Presenters' disclosures of conflicts of interest are found at the end of this article.

https://doi.org/10.6004/jadpro.2023.14.3.2

Abstract

The incidence of cancers such as colorectal cancer, head and neck cancer, and melanoma has increased in younger patients. The number of cancer survivors is also increasing in the US. Pairing these facts together, there are many people with cancer for whom pregnancy and fertility concerns are crucial aspects of their oncologic and survivorship care. For these patients, understanding and having access to fertility preservation options is an essential part of their care. At JADPRO Live 2022, a panel of experts from diverse professions provided perspectives on the consequences for the treatment landscape after the Dobbs v. Jackson decision.

The recent US Supreme Court decision in the Dobbs v. Jackson Women's Health Organization case, which held that the Constitution of the United States does not confer a right to abortion, could have a lasting effect on oncology providers and patients, especially those with cancer who may be faced with pregnancy and fertility concerns. During JADPRO Live 2022, panelists provided professionally diverse and expert perspectives on the full scope of ramifications from the Dobbs v. Jackson decision, including how best to mitigate detrimental effects and treatment disparities for oncology patients.

HISTORICAL PRECEDENT: ROE V. WADE

Govind Persad, JD, PhD, Assistant Professor at Sturm College of Law, University of Denver, referenced the previous landmark case of Roe v. Wade, which established a uniform national framework for regulating

J Adv Pract Oncol 2023;14(3):191–194

reproductive decision-making in the United States. Under this framework, said Dr. Persad, states were limited in the ways in which they could regulate reproductive decision-making in the first and second trimesters of pregnancy, with some regulation permitted for the health of the woman, but not for pregnancy termination prohibitions at early stages of pregnancy.

According to Dr. Persad, however, the case of Planned Parenthood v. Casey changed things slightly by switching from a trimester-based framework to an undue burden framework centered around the concept of viability. Under this framework, states were not permitted to adopt regulations that imposed an undue burden on the woman's ability to make reproductive choices before viability (around 25 weeks). After that point, however, more extensive restrictions could be adopted by states.

"The recent Dobbs v. Jackson Women's Health Organization case has changed things dramatically for medical practice by eliminating the uniform national standard that existed under Roe and Casey and replacing it with at least 50 different state standards for how all dimensions of medical care during pregnancy can be regulated by states," Dr. Persad explained. "This introduces enormous complexity for practitioners, who must now navigate a patchwork of state laws rather than relying on a single national standard."

"Some states might come very close to an absolute bar, while others like Colorado, look much more like the pre-Dobbs landscape," he added.

FERTILITY CONCERNS

Laxmi A. Kondapalli, MD, MSCE, a reproductive endocrinologist at the Colorado Center for Reproductive Medicine, noted the increasing prevalence of cancer diagnosis in pregnancy (approximately 0.1%, or 1 in 1,000). Breast cancer, cervical cancer, melanoma, and blood cancers such as leukemia and lymphoma are the most common cancers that are diagnosed.

According to Dr. Kondapalli, the detection of cancers in pregnancies is increasing because the demographics of pregnancy are changing over time as women are postponing childbearing until later ages and are thus more prone to chromosomal errors that can occur in a pregnancy. Over the past 10 years, there have been new technologies developed to detect or screen pregnancies for chromosomal errors, said Dr. Kondapalli. Noninvasive prenatal testing, or cell-free DNA screening, for example, is commonly used to screen for issues with the fetus, but can incidentally detect cancers in the mother, alerting their provider to do additional testing and diagnosis.

TREATMENT OPTIONS

Leslie C. Appiah, MD, Obstetrics and Gynecology, University of Colorado Anschutz Medical Campus, discussed the challenges and options for patients diagnosed with cancer during pregnancy, specifically focusing on the impact of the trimester of pregnancy on treatment options and fertility preservation.

"In the first trimester, options are very limited for patients, as the treatments given during that time may result in fetal malformations and an increased risk of pregnancy loss," said Dr. Appiah. "This makes it challenging for women to decide about delaying therapy vs. ending the pregnancy."

In the second trimester, said Dr. Appiah, it is safer to use chemotherapy agents, but radiation is still a concern. In the third trimester, on the other hand, the concern shifts to fetal growth.

Dr. Appiah recommended that patients wait almost a year before pursuing any fertility preservation options after receiving chemotherapy.

According to Dr. Kondapalli, "The Dobbs ruling has created a lot of anxiety for patients and providers as it has punted the decisions back to the states, creating discussion about how individual states will have abortion laws and how that may affect in vitro fertilization, or fertility treatments in general."

"Infertility is a medical diagnosis just like cancer, and is more prevalent than diabetes," Dr. Kondapalli explained. "For certain types of infertility diagnoses, in vitro fertilization is the only treatment option available for a person to have a family."

HOW HAS YOUR PRACTICE CHANGED?

Alexis C. Geppner, MLS, CTTS, MPAS, PA-C, a physician assistant at MD Anderson Cancer Center, noted that advanced practitioners are usually the first clinicians to see patients, and as such, they must be mindful of what they communicate to patients.

"There is an 'aiding and abetting' rule in Texas, which can result in fines of up to $10,000 if providers are found to have recommended patients to have an abortion or provided information on clinics," said Ms. Geppner. "It's difficult to have these conversations with patients while being legally responsible for what is said."

"We must continue to move forward with evidence-based medicine and do the best we can for our patients."

According to Dr. Appiah, in the state of Colorado, where laws have not yet affected embryo creation, providers are continuing to offer fertility preservation consultations for pediatric and adult patients, but the conversation now tends to lean more toward questions about what will happen with the frozen eggs and embryos.

"[Dobbs v. Jackson] has caused some people to question their beliefs and what they want to do with their embryos," said Dr. Appiah. "We encourage patients to pursue fertility preservation and to preserve as many oocytes and embryos as they can to increase the likelihood of success... Thankfully, we are still able to provide access to care."

INTERPRETING STATE ABORTION PROHIBITIONS

Dr. Persad highlighted the current state of confusion surrounding the interpretation of the phrase "life of the mother" or "life in danger" in state abortion prohibitions. According to Dr. Persad, with the recent ruling in Dobbs, the previously uniform national standard for reproductive decision-making has been dismantled, and each state is now able to interpret and regulate abortion laws as they see fit.

"The interpretation of the phrase 'life of the mother' or 'life in danger' will differ across states and is currently in flux in many of those states," he explained. "This creates a challenge for medical practitioners, as they must navigate these different laws and try to predict which forms of care may fall on the permissible side of 'life in danger' in court."

According to Dr. Persad, the lack of clear precedent and the lack of binding authority create uncertainty for medical practitioners and hospitals. As more and more states pass restrictive abortion laws, he said, this issue is likely to become even more prevalent and will likely continue to create confusion.

"Legal risks are inescapable in medical practice and particularly stark in the rapidly changing post-Dobbs environment," said Dr. Persad. "I would encourage providers to consider how much legal uncertainty and risk they are willing to take on and how to manage that risk for themselves and their patients."

"In some cases, ethically, providers may have an obligation to refer patients to other states or practices for procedures that they are not able to provide due to restrictive state laws," he added. "However, it remains to be seen how these interstate provision of care issues will be addressed."

THE POWER OF LEGISLATION

Dr. Appiah emphasized the importance of practitioners engaging with their state's legislature and courthouses to advocate for laws that protect the rights of cancer patients to access fertility preservation services. Dr. Appiah also mentioned the organization RESOLVE and the Colorado Building Families Act as examples of successful efforts to mandate insurance coverage for fertility preservation services.

"We really need our patients, providers, and stakeholders to be involved in these efforts to get these laws enacted," said Dr. Appiah.

RESOURCES FOR ONCOLOGY PROVIDERS AND PATIENTS

According to Dr. Persad, reproductive health organizations in the state, maternal fetal medicine, national organizations such as Kaiser Family Foundation and the Guttmacher Institute, and professional society journals and newsletters are valuable sources of information about state statutes and court decisions that can impact oncology care related to fertility and reproductive health. Dr. Persad also suggested partnering with local organizations and other specialties that may be dealing with the same challenges.

Dr. Appiah noted several resources that providers can use to stay informed and provide guidance to their patients about the effects of cancer treatment on fertility, including The Advisory Board on Cancer, Infertility and Pregnancy (ABCIP), NCCN Guidelines, the ASCO app, and the

Alliance for Fertility Preservation. Additionally, said Dr. Appiah, patients are encouraged to advocate for themselves and seek out resources such as the Oncofertility Consortium and Livestrong to learn more about the risks and options for fertility preservation.

"All patients of reproductive age who are receiving cancer-related therapies that place them at risk, or any medical therapy that places them at risk of infertility, should be offered a fertility consult," said Dr. Appiah. "International and national guidelines are clear on this, but many providers don't follow them due to biases or concerns about patients being able to afford fertility preservation."

As Dr. Appiah discussed during the panel, institutions need to mandate that these guidelines are followed, which could help address disparities in at-risk populations.

"It's important to follow the guidelines, as patients have sued providers and institutions for not providing fertility preservation counseling, and then being rendered infertile in survivorship," Dr. Appiah concluded. "Providing patients with resources so they can advocate for themselves and addressing health literacy is important to ensure that patients understand the risks of cancer therapy and the opportunities for fertility preservation." ●

Disclosure

The presenters have no relevant financial relationships to disclose.