Framework for Ethical Decisions for the US Oncology Community Where Reproductive Health Care is Limited by Law

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ASCO Ethical Guidance for the US Oncology Community Where Reproductive Health Care Is Limited by Law

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- Offers a framework for ethical reflection and action for oncologists in the United States
- Case examples highlight key ethical considerations

Case

- A state law bans abortion except in cases of serious risk of substantial and irreversible impairment of a major bodily function
- Hospital counsel interprets the narrow exception to exclude clinical situations such as terminating a pregnancy to safely initiate cancer treatment
- Violation of the law is a felony, and the doctor must affirmatively prove that the circumstance met the legal exception in a criminal prosecution

- *A 32-year-old woman and mother of a toddler who lives in a state with such a law presents with a new diagnosis of acute lymphoblastic leukemia. She is approximately 11 weeks pregnant with her second planned pregnancy. The chemotherapy needed to treat the leukemia is toxic to a developing fetus, but without such treatment, the patient is unlikely to survive.*

Patient Autonomy

- Ethical codes and law support patients in their MDM
  - including pregnant patients with cancer, even at the end of life.
- Oncologists have a critical role in upholding their patients' moral agency
  - from prognostic communication to recommending goal-concordant care throughout treatment
- Patients' personal conscience, values, and life plans inform their decisions about pregnancy
  - Some prioritize continuation of a pregnancy, despite potential delays in receiving cancer treatment and risks of disease progression and death.
  - Others want to immediately begin treatment that may not be safe for pregnancy.
- Oncologists have an ethical obligation to support patients in making an autonomous decision with clear, straightforward clinical information about the impact of a cancer diagnosis on their pregnancy options and associated consequences

Ethics-Informed Response

- In this case, the oncologist should provide the patient with complete, medically accurate information about the treatment options including the potential consequences of delayed treatment.
- If the patient decides to terminate the pregnancy, the oncologist should act as the patient's advocate and seek assistance and support with referral to a care team in another state.
- The institution should have a referral process in place.

Physician Autonomy, Conscience, and the Duty of Care

- Although oncologists are not obligated to provide certain interventions to which they personally morally object, ethical codes require that they counsel patients on all relevant options for treatment—which may include abortion for a pregnant person with cancer
- Where the oncologist's moral objection prevents discussion of or referral for abortion care, they should offer impartial guidance to patients about how to inform themselves regarding access to desired services

Conscience

- Conscience is recognized in the provision of care and in refusal

Case

- Some standard-of-care therapies can harm a developing fetus or cause spontaneous abortion.
- Doctors and patients may have to consider other less efficacious cancer treatment alternatives in places where access to abortion is limited and criminal or civil penalties for termination of pregnancy are enforced.

- *A 22-year-old woman with stage IIIB cervical cancer has an unanticipated pregnancy discovered during her pretreatment workup. Because of the early stage of the pregnancy, the radiation oncologist advises the patient that the recommended treatment is to proceed with chemoradiation.*

A Terrible Dilemma

- Criminalizing or restricting evidence-based care that some physicians believe is morally good or required places them in an ethical bind:
  - They must risk breaking the law or harming their patient by offering care that does not meet established standards

Privacy and Confidentiality

- Oncologists have an ethical obligation to preserve patient privacy and to manage medical records appropriately
- Although current national privacy laws including HIPAA protect patient information, there are exceptions—including for law enforcement
- Concerns exist that medical records could be used in criminal or civil legal action against patients who terminate their pregnancies, whether through self-managed medication abortion from out of state prescribers, or who travel to other states to receive care

Case

- *A breast medical oncologist has a long-term relationship with a patient in a state where most abortion is illegal. The patient recovers from her initial course of treatment. Years later, the oncologist diagnoses cancer recurrence early in the patient's second pregnancy. The patient travels to another state to undergo an abortion and returns home to begin cancer treatment. The patient asks the oncologist not to put the abortion in the medical record, for fear of legal repercussions.*

Ethics-Informed Response

- The oncologist considers this request, determining that in her best medical judgment, neither the pregnancy nor the abortion has an impact on the present cancer treatment plan or future oncology care.
- The oncologist decides it is clinically safe and in the best interest of the patient not to document the pregnancy in the oncology electronic health record.

Conclusion

- These are just a few of the ethical considerations and conundrums that have developed since the Dobbs decision
- Oncologists should not have to choose between their professional duties and ethical commitments to patients, obeying the law, and their individual conscience
- In some cases, care that is ethically required may be legally forbidden; oncologists will need to assess their own willingness to assume civil or criminal risk on the basis of their personal circumstances including consequences to their liberty, license, family, and other considerations
- In any case, in such situations, oncologists should vigorously advocate for policy changes that permit them to legally and concurrently perform their ethical and professional duties