

Case Study: Our Pregnant Daughter Didn't Want This...

By Tarris Rosell, PhD, DMin

Twenty-nine year old Janet and her husband Jack were driving home from her ob-gyn appointment when tragedy struck. Another driver, elderly and distracted by an incoming text message, ran a red light and T-boned Janet and Jack's Mini-Cooper. Both young people sustained severe injuries.



Jack died enroute to the hospital. Janet survives, having escaped injury except to her head; but that was unfortunately massive. Her physicians now say, a month after the accident, that the prognosis is grim. The best one could hope for—or perhaps the worst—is continuation for some time in a persistent vegetative state.

Just before leaving the doctor's office, Janet had sent a jubilant text message to her parents. "Guess what?! We're pregnant!!! "

So Janet was pregnant—and prescient. Unlike most young adults, Janet had thought about mortality in advance of this accident. She is, or was, a nurse. She had gone to continuing education workshops about end of life care and advance care planning. Janet then had completed her own advance directives some months ago, naming Jack as her primary agent and durable power of attorney for healthcare decisions. She named her parents as secondary agents.

Janet also had completed, with notarized signature, a healthcare treatment directive. Among her directives was a clear, handwritten statement about life prolongation if she were, somehow, "to end up in anything like PVS, from which I am not apt to recover." Janet had written that, in such a condition, "I do NOT want my life to be extended by means of medically assisted nutrition and hydration, ventilator, or other life support."

And then it happened.

With Jack gone, treatment decisions are left up to Janet's parents. They both are thoughtful people, healthcare professionals also, who take very seriously their difficult responsibility of acting as surrogates on Janet's behalf. After consulting her physicians, other family members, and even their priest, a decision is made to stop everything except palliative care. Janet's parents had received a copy of their daughter's advance directives, and they have determined that this is what she would have wanted, what in fact she had conveyed with such tragic prescience. Plans are made to transfer Janet to a hospice unit in another part of the hospital. It would take place the following day.

That evening, a resident physician notices in the patient's chart that Janet is pregnant. Probably about nine weeks, it appears. He wonders if this matters, legally or ethically or religiously, for his patient's transfer to hospice, especially when Janet is not imminently dying otherwise. The resident does a bit of online research and learns that in the State of Kansas, a woman's healthcare directives about "withholding or withdrawal of life-sustaining procedures in a terminal condition" may not legally be in effect while pregnant.

“The declaration of a qualified patient diagnosed as pregnant by the attending physician shall have no effect during the course of the qualified patient’s pregnancy” (KSA 65-28, 103, (4)B). A note in the patient’s medical record the next morning references this statute, with a question about how it potentially impacts the impending transfer to hospice care. When the attending physician reads the note, she calls Janet’s parents and says hesitatingly, “We have a bit of a problem here. It appears we may need some legal assistance, perhaps an ethics consultation, and must postpone Janet’s transfer of care.” The doctor explains further what her young resident colleague had discovered and questioned.

The parents had spent a sleepless night anticipating today. It would be the hardest thing they’ve ever done, and yet the right thing in keeping with their daughter’s wishes. Now they can’t believe what they’re hearing.

Postpone? Ineffective advance directives? Continued life support? Did the doctor really say that? That there may even need to be surgery for a feeding tube and a tracheostomy while this legal glitch is being discussed and gets clarified?

Almost in unison, Janet’s mother and father protest, “But, Doctor, our daughter didn’t want this!”

Questions for discussion

1. What should be done now for Janet and her parents, and on what grounds?
2. What values underlie the statute making a pregnant woman’s healthcare treatment declarations of “no effect” while pregnant?
3. Do you agree or disagree with this statute, and on what grounds?
4. What decision would you be making as Janet’s parental surrogate, and why?
5. Ought someone to be a surrogate for Janet’s fetus, or not? And why or why not?