

Defending health rights in a post-Roe world

The US Supreme Court's ruling to overturn *Roe v. Wade* will affect patients with cancer and cancer care providers across the United States. In this time of uncertainty, it is imperative to protect health rights and evidence-based care.

For the more than 100 million female US residents under the age of 49 — roughly one third of the country's population — the right to an abortion had been a life-long reality, constitutionally protected through the landmark *Roe v. Wade* 1973 decision of the US Supreme Court. This ceased to be the case on 24 June 2022, when with their ruling on *Dobbs v. Jackson Women's Health Organization*, the Supreme Court demolished this 49-year precedent and reverted the authority to legislate on abortion rights to the individual states. Sadly, this stripping of fundamental health and reproductive rights was not unexpected. *Roe v. Wade* has long been a lightning rod in the United States, its demise foreshadowed by the shifting political landscape and composition of the Supreme Court during the past few years, and spelled out with tragic inevitability a few months ago through a leaked version of the Supreme Court's recent ruling. Yet it was no less shocking when it became reality.

Even though the majority of Americans disagree with the Supreme Court's ruling and generally favor legal abortion, about half of the states are ultimately expected to enact bans or restrictions. As of this writing, ten states have already banned the procedure, and restrictions are in place in five others, but legal challenges have already started, leading to a number of temporary blocks of relevant laws. In contrast, in other states, legislators are pushing to expand protections and access to abortion. President Biden has joined these efforts by issuing an executive order to safeguard access to abortion medication and emergency contraception. This is only the beginning of the complex, state-specific legislative and legal paths the United States will now take on this issue, but the ramifications of the emerging patchwork of unequal human, health and reproductive rights across states are becoming evident. Bucking an international trend toward the liberalization of abortion, parts of the United States will now join a small number of countries in which abortion is drastically restricted or completely forbidden, often with harsh laws in place that threaten with legal repercussions both

the people who undergo the procedure and those who provide it. In the United States, people may opt to travel to another state for abortion access, but whether this will remain legal in a post-Roe world is unclear. What is clear is that women's, maternal and infant health will decline and that healthcare disparities will be exacerbated, with underserved populations and people of color, in particular Black women, being disproportionately affected.

Cancer research and oncology societies, advocacy groups and cancer institutes have been quick to condemn the Supreme Court ruling and to stress that its repercussions will be felt by patients with cancer, clinicians and cancer care providers.

Cancer during pregnancy is not a very frequent occurrence, but does affect around 1 in 1,000 pregnant women. For these patients, treatment options are more limited, as either commonly used interventions are not recommended, as in the case of radiation therapy, or their use is restricted to later stages of pregnancy, as with cytotoxic chemotherapies, to avoid harm to the fetus. Moreover, given that pregnant patients are not included in clinical trials, less is known about the safety of other types of therapies, such as targeted therapies and immunotherapies, during pregnancy. Thus, a pregnant patient with cancer needs informed and thoughtful medical advice on the treatment options that are available to them, the risks and benefits of specific treatments for the viability and health of the fetus, and the treatment limitations, delays and risks that continuing the pregnancy might impose on their own health and life. These options include the elective termination of pregnancy to permit the use of specific therapeutic interventions for the mother, a decision that should not be state controlled but should instead remain with the patient, enshrined in the privileged patient–physician relationship. In contrast, in the post-Roe United States, a pregnant patient's right and access to equitable, medically appropriate cancer care will be state controlled and in many cases curtailed, to be determined instead by where they live and whether they have the ability seek the necessary care out of state. At a time

when the cancer community is striving to address health disparities, this elimination of the constitutional right to an abortion will only heighten them, bringing more harm to the vulnerable and underserved.

This is an impossible situation not only for individual patients but also for medical professionals and healthcare providers who may find themselves in an ethical and legal quandary about how — and where — to treat patients, as they try to decipher vague legislative language and balance restrictive laws with their ethical obligation toward patients. Realistic emerging scenarios include putting the health of the mother at risk due to an inability to provide the most appropriate treatment and medical procedures; delay in treatment as patients, clinicians and healthcare providers navigate the potential legal and criminal repercussions of specific medical decisions; or hesitancy to treat if the recommended approach comes with the looming threat of legal consequences. An additional open question is whether and how the individual states' newly affirmed legislative power over reproductive rights will affect the ability of patients with cancer to preserve fertility through the generation and freezing of fertilized embryos, not all of which would ultimately be implanted and carried to term. Some of these scenarios might come across as outlandish; however, for people in countries with strict abortion bans, such as Poland, the Dominican Republic and Nicaragua, delays and unavailability of cancer treatment are a stark reality.

As the dust settles over this devastating ruling of the Supreme Court, one principle must be reaffirmed: medical decisions about the most appropriate, scientifically vetted, evidence-based treatment approaches for the individual patient should remain between that patient and their treating physician without intervention by elected politicians and appointed judges and without the threat of legal and criminal liability. The Supreme Court's decision to insert government into this decision-making process is an affront to fundamental human rights. It is also an urgent reminder that no right is ever fully protected, be it the right to health,

reproductive and bodily autonomy, or self-determination. History teaches that harmful ideas can retain or gain dangerous footholds in the public discourse and political life against

scientific evidence and social progress. As the United States enters a new, perilous phase of legal, medical and social upheaval, the scientific community must redouble its efforts to protect health rights and

advocate for evidence-based healthcare and policymaking. □

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