

U.S.

Pregnant, and Forced to Stay on Life Support

By MANNY FERNANDEZ and ERIK ECKHOLM JAN. 7, 2014

FORT WORTH — The diagnosis was crushing and irrevocable. At 33, Marlise Munoz was brain-dead after collapsing on her kitchen floor in November from what appeared to be a blood clot in her lungs.

But as her parents and her husband prepared to say their final goodbyes in the intensive care unit at John Peter Smith Hospital here and to honor her wish not to be left on life support, they were stunned when a doctor told them the hospital was not going to comply with their instructions. Mrs. Munoz was 14 weeks pregnant, the doctor said, and Texas is one of more than two dozen states that prohibit, with varying degrees of strictness, medical officials from cutting off life support to a pregnant patient.

More than a month later, Mrs. Munoz remains connected to life-support machines on the third floor of the I.C.U., where a medical team monitors the heartbeat of the fetus, now in its 20th week of development. Her case has become a strange collision of law, medicine, the ethics of end-of-life care and the issues swirling around abortion — when life begins and how it should be valued.

“It’s not a matter of pro-choice and pro-life,” said Mrs. Munoz’s mother, Lynne Machado, 60. “It’s about a matter of our daughter’s wishes not being honored by the state of Texas.”

Mrs. Munoz’s father, Ernest Machado, 60, a former police officer and an Air Force veteran, put it even more bluntly. “All she is is a host for a fetus,” he said on Tuesday. “I get angry with the state. What business did they have delving into these areas? Why are they practicing medicine up in Austin?”

Mrs. Munoz’s parents said they wanted to see the law overturned, but they have not sought any legal action against the hospital, though they have not ruled

it out either.

The hospital maintains that it is following the law, although several experts in medical ethics said they believed the hospital was misinterpreting it. A crucial issue is whether the law applies to pregnant patients who are brain-dead as opposed to those in a coma or a vegetative state. The law, first passed by the Texas Legislature in 1989 and amended in 1999, states that a person may not withdraw or withhold “life-sustaining treatment” from a pregnant patient.

Mr. and Mrs. Machado said the hospital had made it clear to them that their daughter was brain-dead, but hospital officials have declined to comment on Mrs. Munoz’s care and condition, creating uncertainty over whether the hospital has formally declared her brain-dead.

A spokeswoman for the J.P.S. Health Network, the publicly financed hospital district in Tarrant County that runs the 537-bed John Peter Smith Hospital, defended the hospital’s actions. “In all cases, J.P.S. will follow the law as it applies to health care in the state of Texas,” the spokeswoman, Jill Labbe, said. “Every day, we have patients and families who must make difficult decisions. Our position remains the same. We follow the law.”

Ms. Labbe said that neither she nor the doctors could answer questions about Mrs. Munoz’s condition because her husband had not signed the paperwork allowing them to speak to the news media about his wife’s care.

At least 31 states have adopted laws restricting the ability of doctors to end life support for terminally ill pregnant women, regardless of the wishes of the patient or the family, according to a 2012 report from the Center for Women Policy Studies in Washington. Texas is among 12 of those states with the most restrictive such laws, which require that life-support measures continue no matter how far along the pregnancy is.

Legal and ethical experts, meanwhile, said they were puzzled by the conflicting accounts of her condition. Brain death, an absence of neurological activity, can be readily determined, they said. It is legally death, even if other bodily functions can be maintained.

“If she is dead, I don’t see how she can be a patient, and I don’t see how we can be talking about treatment options for her,” said Thomas W. Mayo, an expert

on health care law and bioethics at the Southern Methodist University law school in Dallas.

Arthur L. Caplan, director of medical ethics at NYU Langone Medical Center in Manhattan, agreed. “The Texas Legislature can’t require doctors to do the impossible and try to treat someone who’s dead,” Mr. Caplan said. “I don’t think they intended this statute the way the hospital is interpreting it.”

Critics of the hospital’s actions also note that the fetus has not reached the point of viability outside the womb and that Ms. Munoz would have a constitutional right to an abortion.

The restrictive measures were largely adopted in the 1980s, with the spread of laws authorizing patients to make advance directives about end-of-life care like living wills and health care proxies, said Katherine A. Taylor, a lawyer and bioethicist at Drexel University in Philadelphia. The provisions to protect fetuses, she said, helped ease the qualms of the Roman Catholic Church and others about such directives.

“These laws essentially deny women rights that are given others to direct their health care in advance and determine how they want to die,” Ms. Taylor said. “The law can make a woman stay alive to gestate the fetus.”

In Texas, the law and the hospital’s efforts to abide by it have drawn support among opponents of abortion. “The unborn child should be recognized as a separate person,” said Joe Pojman, executive director of Texas Alliance for Life. He added, “I would say that, even if she were brain-dead, I would favor keeping treatments going to allow the child to continue to survive, with the hope the child could be delivered alive.”

Jeffrey P. Spike, professor of clinical ethics at the University of Texas medical school in Houston, said there were some known examples of fetuses having been kept alive while a terminally ill or brain-dead mother was on a respirator. But in every case he knew of, he said, those steps were in line with the family’s wishes.

Mrs. Munoz’s parents and her husband, Erick Munoz, 26, remain in limbo, even as they and other relatives help care for the Munozes’ 15-month-old son, Mateo. Mr. Munoz has returned to his job as a firefighter but continues to sit by

his wife's side at the hospital. She had been due to give birth in mid-May, but the hospital's plans for the fetus — as well as its health and viability — remain unknown. Mr. Machado said he had been told by the hospital's medical team that his daughter might have gone an hour or longer without breathing before her husband woke and discovered her, a situation he believes has seriously impaired the fetus. "We know there's a heartbeat, but that's all we know," he said.

Mrs. Machado said the doctors had told her that they would make a decision about what to do with the fetus as it reached 22 to 24 weeks, and that they had discussed whether her daughter could carry the baby to full term to allow for a cesarean-section delivery. "That's very frustrating for me, especially when we have no input in the decision-making process," Mr. Machado added. "They're prolonging our agony."

On Tuesday afternoon, in the rural community about 30 minutes outside downtown Fort Worth where they live, Mr. Machado and his wife took care of Mateo while the boy's father was at work in Crowley. As he held Mateo in his arms, Mr. Machado recalled touching his daughter's skin as she lay in the hospital.

"She felt more like a mannequin," Mr. Machado said. "That makes it very hard for me to go up and visit. I don't want to remember her as a rubber figure."

Correction: January 9, 2014

An article on Wednesday about a Texas woman kept on life support because she was pregnant misspelled the given name of a lawyer and bioethicist at Drexel University who discussed the ethics of the hospital's decision. She is Katherine A. Taylor, not Katharine.

Manny Fernandez reported from Fort Worth and Erik Eckholm from New York.

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