




Pregnant woman's involuntary hospitalization raises legal, ethical, medical questions

By Letitia Stein and Curtis Krueger, Times staff writers

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The case of a pregnant Florida woman hospitalized against her will is raising a legal, ethical and medical storm around this issue: Can a doctor's order to **QUIT SMOKING**  and rest in bed trump a woman's right to control her own body?

In a Tallahassee court ruling, the answer was yes.

Now under appeal, the highly unusual case is attracting widespread attention months after the baby in question was delivered stillborn by

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caesarean section. Samantha Burton, the mother, is appealing the judge's order that forced her to stay at Tallahassee Memorial Hospital. Her lawyer says she's not interested in money, but hopes to keep her case from setting a precedent for other women with troubled pregnancies.


"The entire experience was horrible and I am still very upset about it," Burton said through her lawyer. "I hope nobody else has to go through what I went through."

Experts in medical ethics say the case could have broad significance for personal health decisions of all kinds. Implications for the polarizing debate over when human life begins are the most controversial aspect of it.

"If a mother or father were doing something that directly endangered a child, everybody would agree that they should be stopped," said Kenneth Goodman, director of the Bioethics Program at the University of Miami and the Florida Bioethics Network. "(But) we do all sorts of things that endanger our sperm cells, our egg cells, and our fetuses."

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As abortion is legal, he said, "then the lesson drawn is, 'Back off: Women have a responsibility to control their own bodies.' "

In a **PHONE CONFERENCE**  between a Tallahassee hospital room and a judge's office, a different conclusion was reached last spring.

Judge orders woman to stay in hospital

Burton checked into the hospital in March for what appeared to be premature labor. She was 29, in her 25th week of pregnancy. A couple of days later, Burton's doctor came into her private room, along with attorneys for the hospital. One of them carried a phone. According to the lawyer Burton later retained, she soon was talking to a Leon Circuit Court judge on the other line.

Burton, who was dissatisfied with her doctor and the hospital, asked to go elsewhere for care.

But Judge John C. Cooper ordered her to stay. In the ruling, he said the state has a right "to ensure that children receive medical treatment which is necessary for the preservation of life and health."

"As both a nurse and an attorney, I was stunned,"

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said David Abrams, who heard about the case later
and is representing Burton pro bono.

"Does the state own the inside of a woman's womb,
that it can kind of intervene at will?"

He said that while Burton, who has two children, did
smoke some, she was not a heavy smoker and had
prenatal care.

According to legal precedents, Abrams said, doctors
should have determined if the fetus was "viable," or
could survive outside of the womb without medical
heroics. There also should have been a second
opinion, he said.

The doctor and the hospital referred questions to
state attorney Willie Meggs, who sought the court
order after the hospital contacted him.

"Sometimes there is not time for two doctors,"
Meggs said. "It's not time for a committee."


As it turned out, the baby was delivered stillborn a
few days after the ruling.

Professor is reminded of the Schiavo case

Dr. Catherine Lynch, an obstetrician and interim

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chairwoman for Women's Health at the University of South Florida, said she has never used such a court order. But, she said, it can be a balancing act to serve both mother and fetus.

"It's a very gray zone in terms of, at what point do you actually ... do something for the baby when it's against mom's wishes?" she said.

The American College of Obstetricians and Gynecologists frowns on such legal sanctions, as they could discourage women from seeking **HEALTH CARE** .

Mother vs. fetus cases can become "a proxy for the abortion issue," said Dr. Sharon Phelan, an obstetrician at the University of New Mexico and spokeswoman for the organization. "Does a woman's life have to be totally controlled by Big Brother, or by a third party, for what they think is best for that pregnancy without any consideration or input by the woman?"

In the legal issues involved, USF public health and medicine professor Jay Wolfson sees shades of a right-to-life court case that riveted the nation — that of Terri Schiavo, the Pinellas County woman who

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spent years on life support.

"This is a very serious case because it goes right back to *Roe vs. Wade*, Schiavo, right to life," said Wolfson, who was Schiavo's court-appointed guardian. "And whether a woman has control of dominion not only over her body, but over the fetus and child that resides within her."

For Meggs, it's more straightforward. "This is good people trying to do things in a right fashion to save lives, whether some people want them saved or not."

A three-judge panel of Florida's 1st District Court of Appeal heard oral arguments this month but has not indicated when it will rule.

Information from the Associated Press was used in this report. Letitia Stein can be reached at lstein@sptimes.com or (813) 226-3322.

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