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Idaho Law Voiding Pregnant Women's Living Wills Is Unconstitutional, Groups Say

Groups Advocating for End-of-Life Care and Women's Rights Join to File Suit to Strike Law Violating Equal Protection and Privacy Rights

(Boise, Idaho – May 30, 2018) Compassion & Choices and Legal Voice have filed a federal lawsuit on behalf of four Idaho women. The lawsuit challenges the constitutionality of an Idaho statute that invalidates a person's advance directive for end-of-life care if they have been diagnosed as pregnant.

Idaho's [Medical Consent and Natural Death Act](#) recognizes: "...the fundamental right of competent persons to control the decisions relating to the rendering of their medical care, including the decision to have life-sustaining procedures withheld or withdrawn." But the [law](#) states that if a person has "been diagnosed as pregnant, this Directive shall have no force during the course of [their] pregnancy."

This law disregards a person's wishes for the care they want or do not want to receive. As such, Compassion & Choices and Legal Voice argue that Idaho's law violates people's constitutional rights to legal equality and to direct their own medical care.

All four plaintiffs are women of childbearing age and have completed advance directives. Some of their health care directives include provisions about pregnancy and some do not, reflecting their different expectations about their medical care if they become terminally ill while pregnant.

"This law blatantly discriminates against women who are pregnant, plain and simple," said plaintiff Chelsea Gaona-Lincoln, a behavioral therapist who is pregnant with her first child and lives in **Caldwell, Idaho**. "Of course, I hope my baby's birth goes smoothly and we both are healthy after it's over. But God forbid, if I get a terminal illness during my pregnancy, I do not want the state interfering in my family's end-of-life care decisions."

The other three plaintiffs are Anna Almerico, Micaela de Loyola-Carkin and Hannah Sharp, all of whom live in **Boise, Idaho**. The lawsuit defendants are the **Idaho Secretary of State** Lawrence Denney, **Idaho Attorney General** Lawrence Wasden and the **Idaho Health and Welfare Department Director** Russell Barron.

“The State of Idaho is forcing pregnant women to receive treatment until the end of their pregnancies, regardless of their wishes in their health care directives, their physicians’ instructions or recommendations, or any other circumstances,” said [Kevin Díaz, national director of legal advocacy for Compassion & Choices](#). “It violates the right to privacy in making medical decisions and treats women of childbearing age differently than other people by eliminating the validity of their health care directives if they are pregnant.”

“People do not lose their civil rights when they become pregnant. But that’s exactly what is at stake here. Idaho’s discriminatory law purports to take away a pregnant person’s decision-making power, even when they have explicitly detailed the care they wish, or do not wish, to receive,” said **Sara L. Ainsworth, Advocacy Director of Legal Voice**. “The tragedy that families face when a pregnant loved one is in a terminally ill condition is only heightened when that loved one’s health care decisions are ignored. This lawsuit seeks to vindicate people’s rights to make their own decisions about their health care, regardless of gender.”

“Idaho’s refusal to recognize the right of all people, regardless of gender, to make decisions as to their own health care violates the due process and equal protection clauses of the United States Constitution,” says the complaint filed in the U.S. District Court for the District of Idaho by [the Boise office of Perkins Coie LLP](#). “Accordingly, Plaintiffs seek a judgment declaring unconstitutional the portion of the law that automatically invalidates a woman’s health care directive if she is diagnosed as pregnant.”

The complaint also asks the court to permanently prohibit Defendants from “nullifying otherwise valid health care directives on the basis of pregnancy” and from “stating that [health care directives] will not be enforced or otherwise considered valid during pregnancy.”

There is no medical practice of keeping terminally ill, unconscious women alive to bring their pregnancies to term. In fact, the state of Texas tried to do it in the tragic case of [Marlise Munoz](#), whom doctors had been declared to have suffered brain dead. But a court ultimately ordered the hospital to follow her family’s wish to end life-sustaining treatment, in part because there was no medical evidence that her 14-week-old fetus could actually survive to term.

The full complaint is posted at: bit.ly/IdahoPregADlaw

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Compassion & Choices is the largest and oldest nonprofit working to improve care and expand options for the end of life in the United States, with 450,000 supporters nationwide. For more information, visit: CompassionAndChoices.org.

Legal Voice is a progressive feminist organization using the power of the law to make positive change for women, girls, and LGBTQ people in the Northwest. Legal Voice uses groundbreaking litigation, legislative advocacy, and community education to fight gender oppression and injustice. More at legalvoice.org.