A Missed Opportunity to Bring Change for Women Suffering From Postpartum Depression

Susan S. Night, J.D., L.L.M.  
ssnight@central.uh.edu

When the Texas Legislature adjourned Monday, May 28, 2007 sine die concluding the 80th Regular Session, it was successful in passing legislation on a number of important health care issues. However, many were left unattended and represent missed opportunities to significantly improve the health of Texas residents. One missed opportunity in particular was the failure to pass H.B. 2964¹ and its companion piece, S.B. 1388² relating to mental health services for women with postpartum depression.

The proposed legislation sought to require mental health services for women diagnosed with postpartum depression up to one year after giving birth.³ This requirement would apply to women who are eligible for medical assistance as well as policy holders of any standard health benefit plan licensed through the Texas Department of Insurance.⁴ If a health benefit plan offered maternity benefits, they would also be required to provide coverage for postpartum depression.⁵

This legislation is of particular interest in Texas as in the last five years, four women, including Andrea Yates, have been charged with murdering their children pleading while suffering from severe postpartum depression or postpartum psychosis. Lisa Ann Diaz of Plano drowned her two daughters;⁶ Deanna Laney of Tyler fatally beat her two sons;⁷ Dena Schlosser of Plano dismembered her baby daughter;⁸ and Andrea Yates, drowned her five children.⁹ Most recently, Gilberta Estrada-Vega of Parker County hanged herself and her three daughters, one of whom survived. Although there is no documented history, she “may have been suffering from depression.”¹⁰

Postpartum depression consists of a spectrum of affective disorders experienced by women after giving birth and range in severity of onset. At one end, and the most commonly experienced, is the “baby blues” which typically lasts between seven and ten

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³ The proposed legislation defines postpartum depression as “a disorder with postpartum onset that is categorized as a mood disorder by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders”.  
⁷ Id.  
days after birth.\textsuperscript{11} If the “baby blues” persist for a period of longer than two weeks women may be diagnosed as having “severe” postpartum depression.\textsuperscript{12} It is important to identify and treat these symptoms not only for the impact on the mother’s health but also due the potential risk placed upon children. Dr. Nada Stotland testified before the Subcommittee on Health of the House Committee on Energy and Commerce that many cases of severe postpartum depression are not diagnosed because the focus is on the “care and wellness of the infant” and because “many families are uninformed about the nature and occurrence of the disorder”.\textsuperscript{13} The most severe form of postpartum depression is postpartum psychoses in which the mother may experience thought disorganization and hallucinations.\textsuperscript{14} The occurrence of “baby blues” is estimated to affect 50 percent to 80 percent of new mothers while severe postpartum depression is estimated to affect only 10 percent to 15 percent.\textsuperscript{15} Postpartum psychosis is a relatively rare form of depression occurring in only one or two of every 1,000 mothers who give birth in the United States.\textsuperscript{16} Organizations such as Postpartum Support International have endeavored to increase public awareness of the prevalence and impact of postpartum depression.\textsuperscript{17} An entire episode of The Oprah Winfrey Show, featuring actress/model Brooke Shields, was dedicated to women’s stories about postpartum depression.\textsuperscript{18}

Several states have addressed the issue of postpartum depression through the legislative process. Most notable is the state of New Jersey which passed the Postpartum Depression Screening and Education law which became effective in October 2006.\textsuperscript{19} This law requires licensed health care professionals to provide postpartum education to women and their families and screen new mothers for depression prior to discharge and in postnatal check-up visits.\textsuperscript{20} Similar legislation was passed in Minnesota, requiring hospitals and health facilities to provide new mothers and families information about postpartum depression prior to discharge.\textsuperscript{21} The state of Washington established a postpartum depression campaign and appropriated $25,000 toward the effort.\textsuperscript{22} California enacted legislation that created the Perinatal Mood and Anxiety Disorders Community Awareness Campaign that would undertake public education and provide information through and Internet Web site. Unfortunately, Governor Schwarzenegger vetoed the new law noting the program parameters and time frame “are not workable”

\begin{itemize}
  \item[12] \textit{Id}.
  \item[14] \textit{Id}.
  \item[15] Hatz and Rohm, \textit{supra} note 11.
  \item[16] \textit{Id}.
  \item[18] \textit{The Oprah Winfrey Show: When a Mother Secretly thinks About Killing Her Children} (CBS television broadcast July 11, 2005).
  \item[20] \textit{Id}.
  \item[21] MINN. STAT. § 145.906 (2006).
  \item[22] WASH. REV. CODE § 43.121.160 (2007).
\end{itemize}
and the law “lacks proper funding”. A bill introduced in Iowa would have required health insurers that provide maternity benefits to also “provide coverage for screening for and treatment of postpartum depression and postpartum psychosis”.24

There are also efforts to address the issue of postpartum depression at the federal level. In January 2007 Rep. Bobby Rush (IL) introduced the Melanie Blocker-Stokes Depression Research and Care Act that would expand research on postpartum depression and postpartum psychosis through the National Institutes of Mental Health (NIMH).25 Recently, Sen. Robert Menendez (N.J.) introduced the Mom’s Opportunity to Access Health, Education, Research and Support for Postpartum Depression Act or the MOTHERS Act.26 This legislation is modeled after the 2006 New Jersey law that provides for postpartum depression education and screening. Legislative hearings have been held on Capital Hill for both proposed bills and they continue to work their way though committee discussions.

A key policy question to raise regarding these efforts is whether the proposed or enacted legislation could have made a difference for Lisa Ann Diaz, Deanna Laney, Dena Schlosser, Andrea Yates or Gilberta Estrada-Vega. Andrea Yates and Dena Schlosser were both diagnosed with postpartum depression and received mental health services for their depression. However, Ms. Schlosser discontinued her mental health treatment when she was informed she would have to begin paying a fee for the services.27 Legislation that requires treatment for postpartum depression for individuals eligible for medical assistance could have made a difference for Ms. Schlosser in continuing her treatment. At a minimum, enhanced education and information about postpartum depression and postpartum psychosis directed toward the family members of each of these women may have made a difference in the ultimate outcome. Perhaps with better information, education and training, the staff of the battered womens shelter where Ms. Estrada-Vega sought refuge, would have been able to identify the signs of postpartum depression and seek treatment for her. The mental health system in Texas is precarious at best.28 Any additional funding or support for information, education or direct care services to address postpartum depression would be a welcome change.

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26 S. 1375, 110th Cong. (2007).
27 Emily and Horner, supra note 8.
28 Andrea Ball, Future is Uncertain for Mental Health Care, AUSTIN-AMERICAN STATESMAN, July 2, 2006, at A1.