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***The First Quadrimester of the Trump Presidency: Legal and Ethical Implications for Reproductive Health***

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**I. Overtaking of *Roe v. Wade***

- (a) The trend toward significant changes in state statutes and regulations affecting reproductive health began during President Trump's first term.
- (b) In 1973, the U.S. Supreme Court issued a pivotal decision that protected the right to abortion before viability. *Roe v. Wade*, 410 U.S. 113 (1973).
  - (i) At the time, nearly all states banned abortion and many states continued efforts to limit access to abortion over *Roe*'s nearly 50-year legacy. [Source: [Link](#)]
  - (ii) The Supreme Court revisited *Roe* in *Planned Parenthood v. Casey*, 505 U.S. 833 (1992), which challenged a Pennsylvania law.
    - (1) The PA law required a waiting period, spousal notification, and parental consent for minors before an abortion.
    - (2) The Court reaffirmed the essential holding of *Roe* and invalidated the spousal notification requirement, but upheld requirements for parental consent, informed consent, and a waiting period.
  - (iii) In June 2016, the Supreme Court once again revisited *Roe* in *Whole Woman's Health v. Hellstedt*, 579 U.S. 582, which considered the constitutionality of a Texas law.
    - (1) The TX law required abortion doctors to have admitting privileges at a local hospital and required abortion clinics to meet requirements for facilities that provide outpatient surgery.
    - (2) The Court struck down the law in its entirety.

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- (c) Supreme Court Justice Antonin Scalia died during the final year of President Obama's term, leaving a vacancy to replace the conservative justice. Republican Senators successfully blocked President Obama from selecting Justice Scalia's predecessor with the understanding that an Obama appointee would tip the ideological balance of the Court.
- (d) The Trump 2016 campaign vowed to appoint justices that would overturn *Roe* if Trump won the 2016 election.
  - (i) During his first term, President Trump selected three Supreme Court justices, tipping the court balance in favor of overturning *Roe* for the first time since the *Roe* decision was issued.
  - (ii) Source: [Link](#)
- (e) Recognizing the opportunity to overturn *Roe*, conservative state legislatures continued enacting laws that directly violated *Roe*.
  - (i) On June 24, 2022, the U.S. Supreme Court issued its decision in *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022), which overturned *Roe v. Wade*, 410 U.S. 113 (1973), a decades-old decision establishing the constitutional right to an abortion.
    - (1) *Dobbs* decision was 6-3.
    - (2) Three of the deciding votes came from Justices appointed by President Trump during his first term.
  - (ii) After *Dobbs*, states have the ability to severely limit or ban abortion and several states have enacted laws impacting abortion and other reproductive services.

## II. State Responses to the *Dobbs* Decision

- (a) Some states have responded by restricting access to abortion services, while other states have legal protections in place that protect access to abortion.
- (b) As of May 27, 2025:
  - (i) **14 states ban abortion outright (no gestational parameters).**
    - (1) 12 states completely ban abortion: AL, AR, ID, IN, KY, LA, MO, MS, ND, OK, SD, TN, TX, WV. [Source: [Link](#)]

- (2) 2 states have enacted abortion bans that are currently subject to legal challenge
  - a. ND: The ND ban is being legally challenged and cannot be enforced while the state appeals a decision that found the ban unconstitutional. [Source: [Link](#)]
  - b. MO: In Nov. 2024, voters enshrined the right to abortion in the state constitution, resulting in litigation challenging an abortion ban previously enacted by the MO legislature. Trial is expected to take place in January 2026. On May 27, 2025, the MO Supreme Court reinstated the state's near-total abortion ban after a lower court judge issued two rulings halting enforcement of the law while legal proceedings challenging the state law proceed. [Source: [Link](#)]
- (ii) **27 states ban abortion after a specific point in the pregnancy**
  - (1) 6 weeks (4): FL, GA, IA, SC
  - (2) 12 weeks (2): NE, NC
  - (3) 18 weeks (1): UT
  - (4) 22 weeks (3) : KS, OH, WI
  - (5) 24 weeks (2): NH, PA
  - (6) Viability (15): AZ, CA, CT, DE, HI, IL, ME, MA, MT, NV, NY, RI, VA, WA, WY
  - (7) Note: Montana and Wyoming legislatures enacted bans that are blocked in Courts. Montana voters enshrined abortion protections in the state Constitution in 2024, which will take effective on July 1, 2025.
- (iii) **10 states do not ban abortion at any point during pregnancy**
  - (1) AK, CO, DC, MD, MI, MN, NJ, NM, OR, VT
- (iv) Source for (ii) and (iii): [Source: [Link](#)]

### III. **Federal Response to the Dobbs Decision During the Biden Administration**

- (a) The *Dobbs* decision did not result in a federal abortion ban, but as mentioned above, led to several states banning abortion.
- (b) President Biden issued two Executive Orders (EOs) in the wake of the *Dobbs* decision that are designed to protect and expand access to abortion care and other reproductive rights.
  - (i) EO 14076 directed federal agencies to take action to protect access to reproductive health care services under the limited options available to the Administration without Congressional action. [Source: [Link](#)]
  - (ii) EO 14079 expanded on EO 14076 by directing federal agencies to consider additional ways to protect and expand reproductive health services. [Source: [Link](#)]
  - (iii) Together, EOs 14076 and 14079:
    - (1) Clarified that the Emergency Medical Treatment and Labor Act (EMTALA) requires provision of care to pregnant patients presenting in the emergency department of a hospital, including provision of abortion services in emergency situations
    - (2) Permitted use of federal funding to cover travel for patients in states with abortion bans
    - (3) Prioritized enforcement of federal law that prevents violence towards abortion providers and patients
    - (4) Expanded access to reproductive health services including medication abortion, contraception, and in vitro fertilization (IVF)
    - (5) Implemented health privacy measures related to reproductive health, specifically as it relates to mobile applications such as period trackers and subsequent rulemaking regarding application of HIPAA to reproductive health care services.
  - (iv) President Trump, during his second Administration, immediately rescinded both post-*Dobbs* Biden EOs. [Source: [Link](#)]
  - (v) President Trump also issued two EOs directly impacting access to reproductive care in the U.S.

- (1) One EO addresses the Hyde Amendment (further detail below)
- (2) The other EO addresses IVF (further detail below)

#### IV. **Hyde Amendment**

(a) Background [Source: [Link](#)]

- (i) Starting in 1977, the Hyde Amendment has banned the use of any federal funds for abortion, only allowing exceptions to pay for terminating pregnancies that endanger the life of the pregnant person, or that result from rape or incest.
- (ii) Because Congress reauthorizes the Hyde Amendment annually as an attachment to the appropriations bill for HHS, it also restricts federal abortion funding under the Indian Health Service, Medicare, and the Children's Health Insurance Program (CHIP).
- (iii) Over the years, language similar to that in the Hyde Amendment has been incorporated into a range of other federal programs that provide or pay for health services to people who could become pregnant, including TRICARE, federal prisons, the Peace Corps, and the Federal Employees Health Benefits Program.
- (iv) The Affordable Care Act (ACA) includes a provision that applies the Hyde restrictions to ACA Marketplace plans, ensuring that federal funds are only used to subsidize coverage for pregnancy terminations that endanger the life of the woman or that are a result of rape or incest.
- (v) Because Medicaid is jointly funded by the federal and state governments, states can choose to pay for abortions for Medicaid enrollees in other instances but must use their own revenues, and not federal funds, to cover the service.
- (vi) 17 states use state funds to pay for abortions for Medicaid enrollees
  - (1) AK, CA, CT, HI, IL, ME, MD, MA, MN, MT, NJ, NM, NY, OR, RI, VT, WA
  - (2) More than one of every four Medicaid and CHIP beneficiaries are females in their reproductive years [Source: [Link](#)]

(b) President Trump's [EO 14182: Enforcing the Hyde Amendment](#)

- (i) President Trump issued EO 14182, Enforcing the Hyde Amendment, on January 24, 2025.
- (ii) The EO directs the Office of Management and Budget (OMB) to promulgate guidance to prevent federal funding for elective abortion and end the use of federal taxpayer dollars to fund or promote elective abortion.
- (iii) Though the title of the EO focuses on the Hyde Amendment (as described above, an appropriations policy that limits use of federal funds related to abortion services), the EO is not limited to the Hyde Amendment and includes provisions related to reproductive health more broadly.
- (iv) The EO does not make any immediate changes to federal or state law but is a clear directive to federal agencies to take steps to implement broad changes to reproductive health care nationwide.
- (v) Though targeted towards abortion, the EO also could result in significant changes to access to contraception, IVF, and/or other reproductive health services.

## **V. In Vitro Fertilization (“IVF”) & Fetal Personhood**

### **(a) Background**

- (i) Trends indicate an increase in use and success of IVF, with IVF accounting for 2.6% of births in the U.S. in 2023. [Source: [Link](#)]
- (ii) There is a policy debate around IVF based on the concept espoused by some anti-abortion advocates that life begins at conception, leading to concerns regarding how embryos are created, discarded, or stored and whether embryos have or should have rights. [Source: [Link](#)]
- (iii) No states have banned IVF, but some states have legal standards that make IVF more difficult legally.

### **(b) Embryos as persons vs. property**

- (i) State laws vary depending on whether embryos should be treated as persons (i.e., unborn children) or property
- (ii) The Alabama Supreme Court made national news on February 16, 2024, when it issued a decision in [LePage v. Center for Reproductive Medicine](#) finding that embryos have legal rights in the state.

- (1) First-of-its-kind decision found that embryos should be afforded the same legal protection as children under the state’s Wrongful Death of a Minor Act of 1872, resulting in concern that legal action would be allowed against medical professionals performing IVF.
  - (2) To address concerns regarding actions against medical professionals performing IVF, the Alabama Legislature passed a bill to protect IVF providers from civil and criminal liability for embryo loss or damage during IVF treatments, which was signed by Gov. Kay Ivey (R) on March 7, 2024; see [Alabama 2024 - SB 159 Enrolled](#).
- (iii) More than a third of states say fetuses are people and the Alabama decision has led to many states questioning how fetal personhood laws relate to IVF embryos: [Source: [Link](#)]
- (iv) State law examples
  - (1) Louisiana
    - a. State law treats embryos as persons.
    - b. IVF embryos are recognized as judicial persons and the state prohibits the intentional destruction of embryos. ([LA Revised Statutes \(RS\) 9:129](#))
    - c. IVF patients can renounce their parental rights of embryos, which makes them available for adoption. ([LA RS 9:130](#))
  - (2) Colorado
    - a. State law takes the opposite position as Louisiana.
    - b. A fertilized egg, fetus, or embryo does not have rights under Colorado state law. ([CO House Bill 22-1279](#))
  - (3) Texas
    - a. A state court determined that frozen embryos are not considered “unborn children” under Texas law and embryos are treated as property subject to contractual agreement. ([Antoun v. Antoun, 02-22-00343-CV, Second Court of Appeals \(TX\), 07/29/2024](#)), [cert. denied by TX Supreme Court, 06/24/2025](#)

- (4) Additional states have laws introduced and/or court decisions determining who has the right to embryos in case of divorce
  - a. Arizona: statute that determines how embryo custody is awarded in the event of a divorce. ([AZ Leg. 25-318.03](#))
  - b. Missouri: In deciding custody disputes involving IVF embryos, the court is to grant custody to either the egg or sperm donor who plans to bring the embryo to birth. ([MO SB 1145](#), introduced during 2024 Regular Session, no longer active)
- (5) In recent years, there have been a number of reported errors involving IVF that have led to devastating consequences for patients and legal implications for providers, raising concerns about regulation, or lack of regulation, of the IVF industry: [Source: [Link](#)]
  - a. **Ex:** Georgia woman sues fertility clinic for implanting wrong embryo after she birthed another couple's baby, due to an embryo mix-up. She then had to give custody of the baby to his biological parents five months later.  
  
She sued the fertilization clinic alleging that she "unknowingly and unwillingly carried a child through pregnancy who was not biologically related to her."
  - b. **Ex:** In 2019, a [New York couple sued a California fertility clinic](#) alleging doctors implanted embryos that belonged to two other couples, a discovery the plaintiffs made after giving birth to twins that were not of Asian descent, indicating the babies could not be biologically related to the parents, who were of Asian descent.
  - c. **Ex:** In 2021, [two couples sued a different California clinic](#) after a mix-up there led the couples to spend several months raising each other's biological children before they swapped. The cases have since been settled. [Source: [Link](#)]
  - d. See also, [Source: [Link](#)]

(c) The Trump Administration and IVF



- (i) On February 18, 2025, President Trump issued [EO 14216: Expanding Access to In Vitro Fertilization](#)
  - (1) IVF advocates have expressed concern that IVF is cost-prohibitive, costing between \$12,000 and \$25,000 per cycle and requiring more than one cycle.
  - (2) The EO aims to ease statutory and regulatory burdens to make IVF treatment more affordable.
  - (3) The EO directs the Assistant to the President for Domestic Policy to submit a list of policy recommendations on protecting IVF access and reducing out-of-pocket and health plan costs for IVF treatment within 90 days.
    - a. As of May 28, 2025 (past the 90 day deadline), the policy recommendations have not been released.
    - b. [Source: [Link](#)]
  - (4) The EO has no immediate legal impact, but could result in expansion of coverage for IVF, particularly for individuals covered by federal government programs.

## **VI. Medicaid Access & Maternal Care**

- (a) Medicaid is the largest payer of maternity care in the U.S. [Source: [Link](#)]
- (b) More than one out of every four Medicaid and CHIP beneficiaries are females in their reproductive years, and about 41% of all births in the U.S. are financed by Medicaid. [Source: [Link](#)]
- (c) Percentage of Medicaid Births, by Maternal Race and Ethnicity (2021)
  - (i) 35.1% Hispanic/Latino
  - (ii) 22.1% Black
  - (iii) 35.3% White
  - (iv) [Source: [Link](#)]
- (d) Stark disparities by race and ethnicity regarding maternal morbidity and mortality
  - (i) Black non-Hispanic/Latino mothers: 69.9 per 100,000 live births

- (ii) White non-Hispanic/Latino mothers: 26.6 per 100,000 live births
  - (iii) Hispanic/Latino mothers: 28.0 per 100,000 live births
  - (iv) [Source: [Link](#)]
- (e) Maternal morbidity and mortality are worse in rural communities
  - (i) A higher portion of rural patients rely on Medicaid.
  - (ii) The number of hospitals providing obstetric services in rural areas has declined since 2014.
    - (1) More than half of rural counties did not have such services as of 2018
    - (2) Studies showed that closures were focused in rural counties that were sparsely populated, had a majority of Black or African American residents, and were considered low income.
    - (3) [Source: [Link](#)]

## **VII. State and Federal Privacy Laws Related to Reproductive Health**

- (a) Background on Reproductive Health Final Rule
  - (i) Issued in response to the U.S. Supreme Court’s ruling in *Dobbs* and in response to President Biden’s [Executive Order 14079](#), “[Securing Access to Reproductive and Other Healthcare Services](#).”
  - (ii) Published in April of 2024, with an effective date of June 25, 2024, and a compliance date of December 23, 2024. [Source: [Link](#)]; see also [45 CFR 164.502\(a\)\(5\)\(iii\)](#), [45 CFR 164.509](#).
  - (iii) Strengthens federal protections related to reproductive health care information by:
    - (1) Limiting the use or disclosure of PHI in connection with criminal, civil, or administrative investigations related to reproductive health care where a Covered Entity reasonably determines that such care is lawful under the circumstances in which it was provided;
    - (2) Requiring HIPAA Covered Entities to obtain a signed attestation from requestors for certain requests that are potentially related

to PHI to confirm that PHI is not being used or disclosed for a prohibited purpose;

- (3) Bolstering the standard for disclosures to law enforcement; and
  - (4) Requiring Covered Entities to update their Notice of Privacy Practices (NPP) to reflect (i) the changes to the reproductive health care privacy protections set forth in the Reproductive Health Final Rule and (ii) Part 2 changes related to the confidentiality of substance use disorder records contemplated earlier this year in a separate rulemaking (“the Part 2 SUD Rule”). [89 FR 12472 \(Feb. 16, 2024\)](#).
    - a. The compliance date for updating the NPP is February 16, 2026, to align with the compliance date for the Part 2 SUD Rule, which is the same date.
- (b) Legal Challenges to Federal Privacy Laws related to Reproductive Health & the Trump Administration’s Response
- (i) [\*Purl, M.D. et al v. United States Department of Health and Human Services et al.\*, No.2:2024cv00228 \(N.D. Tex. 2024\), filed October 21, 2024](#).
    - (1) Dr. Carmen Purl, a family medicine physician in Texas, filed suit against the U.S. Department of Health and Human Services (HHS) and the Office for Civil Rights (OCR) in Northern District of Texas federal court
    - (2) Dr. Purl alleged that HHS and OCR lacked the statutory authority to issue the Reproductive Health Final Rule and that it is arbitrary and capricious.
    - (3) Dr. Purl also alleged that the Reproductive Health Final Rule restricts her ability to comply with state law regarding child abuse reporting and state abortion restrictions and results in significant compliance costs.
    - (4) Dr. Purl requested the federal district court to issue a nationwide preliminary injunction.
      - a. Dr. Purl’s complaint stated that the Reproductive Health Final Rule “distorts a neutral patient information law to serve a political agenda: facilitating elective abortion and gender transitions on children.”

- b. The federal district court granted a preliminary injunction specific to plaintiffs, Dr. Purl and her clinic, Carmen Purl, M.D., PLLC d/b/a Dr. Purl's Fast-Care Walk-In Clinic, which meant that neither Dr. Purl individually nor her clinic had to comply with the Reproductive Health Final Rule until a final decision in the case.

(5) Trump Administration Action

- a. The Court ordered HHS to brief the Court on the status of HHS's 2024 Rule review, which the Court noted HHS reference in the *State of Texas* case (referenced below).
  - 1. HHS provided an update to the Court on May 12, 2025, stating that the Reproductive Health Final Rule remains among a number of agency actions from the Biden Administration that are under consideration at HHS.
  - 2. HHS also stated, "given other agency priorities, no imminent action on the Rule is expected."
- b. HHS has not requested a stay of proceedings and has not provided any additional information relevant to its position.

(ii) [\*State of Texas v. United States Department of Health and Human Services et al.\*, 5:24CV00204 \(N.D. Texas 2024\), filed September 4, 2024.](#)

- (1) Texas Attorney General (AG) Ken Paxton filed suit in federal district court in the Northern District of Texas against HHS and OCR challenging the validity of provisions that limit disclosure of PHI to law enforcement in both HIPAA's Privacy Rule and the Reproductive Health Final Rule. (See [Attorney General Ken Paxton Press Release, 09/02/2024](#))
- (2) The Texas AG makes four legal arguments against the two regulations, as follows:
  - a. Congress "specifically preserved State investigative authority" within the HIPAA statute, citing a provision limiting OCR's authority to limit disclosures of PHI in

connection with states' oversight of public health and safety.

- b. The HIPAA statute does not give OCR authority to promulgate rules that limit how HIPAA Covered Entities may share information with states.
- c. The State of Texas has been harmed by the regulations because they limit the state's investigative abilities, claiming the regulation has already blocked Texas law enforcement's access to reproductive health information in at least one instance.
- d. The regulations are arbitrary and capricious under the Administrative Procedure Act because HHS "failed to reasonably explain" tests and presumptions within the regulations, such as the presumption that reproductive health care was lawfully provided.

(3) The Texas AG seeks to have both the Reproductive Health Final Rule and the HIPAA Privacy Rule vacated and the enforcement of both enjoined. With regard to the HIPAA Privacy Rule, the Texas AG takes issue with limits on disclosures to State investigators (45 CFR §164.512(f)(1)(ii)(C)), but has requested the entire Rule be vacated.

(4) Trump Administration Action

- a. On January 30, 2025, HHS requested to "hold all current deadlines in abeyance to allow incoming leadership personnel at HHS additional time to evaluate their position in this case and determine how best to proceed."
- b. The federal district court granted HHS's request on January 31, 2025.
- c. Substantive filings by the Parties are expected later this summer based on an order filed on May 13, 2025, that discusses the briefing schedule.

(iii) [\*State of Tennessee et al. v. U.S. Department of Health and Human Services et al.\*, 3:25cv25 \(E.D. of Tenn. 2025\), filed January 17, 2025.](#)

(1) Tennessee Attorney General and 14 other states (Alabama, Arkansas, Georgia, Idaho, Indiana, Iowa, Louisiana, Montana,

Nebraska, North Dakota, Ohio, South Carolina, South Dakota, and West Virginia) filed a lawsuit against HHS regarding the Reproductive Health Final Rule.

- a. The states claim that the Reproductive Health Final Rule prohibits states with prohibitions on abortion from using reproductive health information to conduct a criminal, civil or administrative investigation related to reproductive health care.
  - b. The states claim the Reproductive Health Final Rule also prohibits them from imposing any criminal, civil or administrative liability against individuals or entities for the outcome of the States' investigations related to reproductive health care.
- (2) The states allege that the Reproductive Health Final Rule will hamper their ability to gather information critical to policing serious misconduct, such as Medicaid billing fraud, child and elder abuse, and insurance-related malfeasance.
- (3) The states also allege that the Reproductive Health Final Rule openly disregards HIPAA, which specifically preserves States' authority to investigate healthcare-related issues.
- (4) The lawsuit claims that HIPAA-regulated entities have refused to provide records in connection with State regulatory investigations without a signed attestation, even when presented with a subpoena, thus thwarting the States' ability to conduct health-related investigations.
- (5) The lawsuit also states that states' investigations have ground to a halt as a result of the Reproductive Health Final Rule.
  - a. Examples of investigations that the State of Tennessee claims are affected include investigations related to fraud, abuse, neglect, and other health-related violations,
  - b. This suggests that states have been unwilling to provide signed attestations (because if they were, they would be able to obtain the requested records).
- (6) Trump Administration Action

- a. HHS filed a motion to dismiss this lawsuit on March 13, 2025, and [a reply in support of its motion to dismiss on April 21, 2025](#).
  1. HHS states there is no indication in the complaint that the Final Rule is injuring the States in any cognizable way, which is a fundamental condition of Article III standing.
  2. Although the States insist the Rule’s requirements thwart their investigations and impose compliance costs, HHS argues that the states point to no specific, concrete facts that support those allegations.
- (7) On March 20, 2025, the National Partnership for Women and Families [filed an amicus brief](#) on behalf of itself and 23 reproductive health, civil rights, and social justice organizations in opposition to the State of Tennessee’s Motion for Summary Judgment and in defense of the Reproductive Health Final Rule.
- (iv) [State of Missouri v. U.S. Department of Health and Human Services et al., 4:25-cv-00077 \(E.D. of Mo. 2025\), filed January 17, 2025](#).
  - (1) The State of Missouri filed a lawsuit claiming that the Reproductive Health Final Rule is unlawful and harms its investigative authority.
  - (2) This complaint mirrors the lawsuit filed on behalf of 15 Attorney Generals in the Eastern District of Tennessee.
  - (3) Trump Administration Action
    - a. HHS [filed a motion to dismiss March 31, 2025, and a reply in support of its motion to dismiss on April 24, 2025](#)
      1. These filings substantively mirror the motions filed in the Tennessee case challenging the Reproductive Health Final Rule.
      2. Generally, HHS argues that plaintiffs have not alleged a cognizable injury, and thus lack standing.

- b. On [April 14, 2025](#), HHS [objected to a motion to intervene](#) by two Midwest cities (Columbus, Ohio and Madison, Wisconsin) and by Doctors for America, alleging that they “have not identified a direct, substantial, and legally protectable interest that could be impaired absent their intervention”
- (v) Current status of the Reproductive Health Final Rule under Trump Administration.
  - (1) To date, no court has entered a generally applicable order preventing enforcement of the Reproductive Health Final Rule (other than the motion that prohibits enforcement against Dr. Purl and the Purl Clinic)
    - a. The Rule remains in effect and is enforceable by OCR.
    - b. To date there has been no known enforcement of the HIPAA attestation requirements.
  - (2) As of June 08, 2025, OCR’s Reproductive Health website is still active, at [HIPAA and Reproductive Health | HHS.gov](#).
  - (3) HHS has not issued any other guidance or comments on its enforcement, other than its filings in the cases cited above.
- (c) State Privacy Legislation to Protect Reproductive Health
  - (i) State legislation in response to *Dobbs*
    - (1) In addition to enacting laws regarding the provision of reproductive health care (including abortion), states have sought to establish laws regarding reproductive health information.
    - (2) California’s Confidentiality of Medical Information Act (CMIA)
      - a. Considered analogous to the federal Health Insurance Portability and Accountability Act (HIPAA), which protects the confidentiality of health information.
      - b. Recent legislation was enacted that extends privacy protections to reproductive and sexual health information on mobile applications and internet websites



- c. The legislation amends the law’s definition of “medical information” to include “reproductive or sexual health application information” collected by a “reproductive or sexual health digital service.”
  - d. See [AB 254](#) and [AB 1697](#), which went into effect January 1, 2024, amending CA Civil Code section 56.05 and 56.06.
  - e. See [California Attorney General Press Release](#).
- (3) The State of Washington’s privacy legislation to protect reproductive health
- a. The law is aimed at safeguarding the rights of people seeking reproductive health care services and gender-affirming treatment.
  - b. The law also provides comprehensive protections for providers of reproductive health care services and gender-affirming treatment in Washington state, and seeks to ensure that these essential services are accessible to all individuals, regardless of their location or circumstances.
  - c. Protected healthcare services under this law encompass a wide range of medical, surgical, psychiatric, therapeutic, and preventative care related to the human reproductive system, including services such as pregnancy-related care, contraception, miscarriage management, termination of pregnancy, and gender-affirming treatment.
  - d. One of the key provisions of the law is its prohibition on complying with out-of-state legal processes concerning protected healthcare services in Washington.
    - 1. Extends to both civil and criminal processes.
    - 2. Ensures that patients and providers in Washington state are shielded from potential legal actions in other states that may threaten their access to these vital services.
  - e. See [HB1469](#), which went into effect April 27, 2023.

- f. See [State of Washington Attorney General Press Release](#).

## **VIII. State Abortion Restrictions and EMTALA Preemption**

### **(a) Background**

- (i) The Emergency Medical Treatment and Labor Act (EMTALA), [42 U.S.C. 1395dd](#), is a federal anti-dumping statute that prevents hospital emergency departments from refusing to treat patients who have emergency medical conditions (including pregnant persons in labor) based on a lack of insurance or other financial resources.
- (ii) Congress enacted EMTALA in 1986 to ensure public access to emergency services regardless of ability to pay.
- (iii) EMTALA applies to all hospitals that participate in Medicare that offer emergency services.
- (iv) EMTALA's protections apply to all patients treated at the hospitals, not just those with Medicare.

### **(b) EMTALA's relationship to abortion services**

- (i) EMTALA requires hospitals to provide stabilizing treatment for (or transfer) patients with emergency medical conditions (EMCs), which can include performing an abortion if necessary to stabilize a pregnant person experiencing a medical emergency.
- (ii) The term "emergency medical condition" means:
  - (1) a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:
    - a. placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
    - b. serious impairment to bodily functions; or
    - c. serious dysfunction of any bodily organ or part; or
  - (2) with respect to a pregnant woman who is having contractions:

- a. that there is inadequate time to affect a safe transfer to another hospital before delivery, or
- b. that transfer may pose a threat to the health or safety of the woman or the unborn child.

(3) See [42 U.S.C. § 1395d](#).

- (iii) Shortly after the *Dobbs* decision, CMS issued a memorandum on 11 July 2022 (“CMS Memo”) to state survey directors that asserted, among other things, that state laws purporting to limit abortion services more narrowly than provided under EMTALA are preempted. See CMS Memo, QSO-22-22-Hospitals, Reinforcement of EMTALA Obligations specific to Patients who are Pregnant or are Experiencing Pregnancy Loss, (11 July 2022, revised 25 Aug. 2022). [Source: [Link](#)]

(c) State Challenges of the CMS Memo: Idaho

- (i) In August 2022, the Department of Justice under the Biden Administration brought a legal challenge to Idaho’s Defense of Life Act (IDLA), a restrictive abortion law that criminalizes providing an abortion except in a few narrow circumstances, including, in relevant part, if “necessary to prevent the death of the pregnant woman), see Idaho Code Ann. § 18-622(2)(a)(i), asserting that IDLA was preempted by EMTALA. [United States v. Idaho](#), 623 F. Supp. 3d 1096 (D. Idaho 2022) (Aug. 24, 2022).
- (ii) The U.S. District Court for the District of Idaho entered a preliminary injunction in favor of the Biden Administration and barred Idaho from enforcing its law to the extent that it conflicted with EMTALA.
- (iii) The State of Idaho appealed the District Court’s decision to the U.S. Court of Appeals for the Ninth Circuit, which, sitting *en banc*, declined to stay the District Court’s injunction, *United States v. Idaho*, 82 F.4th 1296 (9th Cir. 2023), and both the State of Idaho and the Idaho legislature (led by Mike Moyle, Speaker of the Idaho House of Representatives, and Chuck Winder, President Pro Tempore of the Idaho Senate) filed an emergency application to the U.S. Supreme Court.
- (iv) On January 5, 2024, the U.S. Supreme Court issued a stay of the District Court’s injunction and agreed to hear both challenges on a consolidated basis, see *Moyle v. United States*, 144 S. Ct. 540, 217 L. Ed. 2d 287 (2024), and [held oral arguments in April 2024](#).

- (v) On June 27, 2024, however, the Supreme Court, in a *per curiam* decision, dismissed the writ of certiorari as improvidently granted and vacated its earlier stay of the preliminary injunction against Idaho's abortion law. See *Moyle v. United States*, 603 U.S. 324 (2024) (consolidated with U.S. v. Idaho).
- (vi) The case then went back to the Ninth Circuit, which heard oral arguments on December 10, 2024.
- (vii) Trump Administration Activity on the Idaho Case
  - (1) On March 4, 2025, prior to a decision by the Ninth Circuit, the Trump Administration dismissed the federal government's challenge of IDLA.
  - (2) However, litigation over IDLA and EMTALA preemption continues, as St. Luke's Health System, Idaho's largest health system, obtained a preliminary injunction from the U.S. District Court on March 20, 2025, that prevents Idaho from enforcing IDLA as applied to emergency medical care delivered by St. Luke's providers under EMTALA.
    - a. See [St. Luke's Health Sys., Ltd. v. Labrador](#), No. 1:25-CV-00015-BLW, 2025 WL 888840 (D. Idaho Mar. 20, 2025)
    - b. St. Luke's argues that EMTALA preempts IDLA.
    - c. The injunction will stay in place while the litigation proceeds. On May 7, 2025, the District Court issued a scheduling order for the parties to complete fact discovery by January 13, 2026, and file all dispositive motions by 26 February 2026.
  - (3) Another Idaho case challenged the medical exception in Idaho's abortion laws as too narrow.
    - a. See [Adkins et al. v. State of Idaho et al.](#) (4<sup>th</sup> Judicial District, Idaho): case brought by previously pregnant women who were not able to access medically necessary abortion care in Idaho, two physicians who provide OB care who stated they were prevented from providing medically appropriate abortion care, and the Idaho Academy of Family Physicians, noted in the

court's order as "a medical association concerned about implications for patient care."

- b. The lawsuit sought to clarify and expand the law's exceptions to ensure physicians can provide abortion care to preserve a pregnant person's health, including when the pregnant person has received a fatal fetal diagnosis
- c. On April 11, 2025, an Idaho state court issued a ruling broadening the medical exception under Idaho's abortion ban laws, finding as follows:
  - 1. The bans' medical exception should be interpreted broadly by doctors and could apply to numerous serious health conditions.
  - 2. Patients can access abortion care if they have a health condition or pregnancy complication that creates some risk that they may die without an abortion.
  - 3. Patients cannot access abortion care for fatal fetal conditions unless the condition also poses a risk to the mother's life.
  - 4. Patients cannot access abortion care due to mental health conditions, even if the patient is at risk of death from self-harm.

(d) State Challenges of the CMS Memo: Texas

- (i) Texas challenged the CMS Memo in the U.S. District Court for the Northern District of Texas to enjoin enforcement of the CMS Memo in Texas in light of Texas's Human Life Protection Act (THLPA). [Tex. Health & Safety Code § 170A.001 et seq.](#)
- (ii) THLPA generally prohibits abortion unless a pregnancy-related "physical condition" is "life-threatening" and "places the female at risk of death or poses a serious risk of substantial impairment of a major bodily function." [Tex. Health & Safety Code 170A.002\(b\)\(2\).](#)
- (iii) In August 2022, the District Court sided with Texas and enjoined enforcement of the CMS Memo. *Texas v. Becerra*, 623 F. Supp. 3d 696 (N.D. Tex. 2022).

- (iv) That decision was upheld by the U.S. Court of Appeals for the Fifth Circuit in January 2024, which held that “EMTALA does not mandate any specific type of medical treatment, let alone abortion.” *Texas v. Becerra*, 89 F.4th 529, 542 (5th Cir.).
- (v) Finally, in October 2024, the U.S. Supreme Court denied cert to the Biden Administration’s requested appeal, allowing the lower court’s decision to stand and enjoining enforcement of the CMS Memo in *Texas v. Becerra*, 145 S. Ct. 139 (2024).
- (vi) As of May 27, 2025, the Texas legislature passed Senate Bill (SB) 31, “[Life of the Mother Act](#)”, which, if signed by the Governor, would amend the relevant exception to THPLA so that a physician may perform an abortion if “necessary due to a medical emergency” and provides greater clarification around the circumstances under which an abortion may be performed in such an event.
  - (1) According to the [Texas Senate’s website](#), Senator Bryan Hughes (R-Mineloia) sponsored the Life of the Mother Act in response to several cases where pregnant women have been denied treatment in a medical emergency, resulting in severe medical complications and even death, due to “uncertainty” about whether THPLA allows abortion care in the event of a medical emergency.
  - (2) With regard to SB 31, Senator Hughes stated that “[b]ecause of cases like that, we all thought it important that the law be crystal clear – we don’t want to have any reason for hesitation. . . . If a mom has that condition, and the docs can see where it’s going, they don’t have to wait until the mom gets even worse before they treat her.”
- (e) Trump Administration Activity: Rescission of CMS Memo
  - (i) On May 29, 2025, the Trump Administration rescinded the CMS Memo. [Source: [Link](#)]
  - (ii) On June 3, 2025, CMS issued a press release stating the CMS Memo and the associated letter from previous HHS Secretary Becerra “do not reflect the policy of this Administration.” [Source: [Link](#)]
    - (1) CMS states it will “continue to enforce EMTALA, which protects all individuals who present to a hospital emergency department seeking examination or treatment, including for

identified emergency medical conditions that place the health of a pregnant woman or her unborn child in serious jeopardy.”

- (2) CMS states it will “work to rectify any perceived legal confusion and instability created by the former administration’s actions.”
- (iii) The Trump Administration’s rescission of the CMS Memo could signal an end to the federal government’s enforcement challenges to state laws that restrict or prohibit abortion, including those that are potentially in conflict with EMTALA.
- (iv) Actors (e.g., hospitals and other health care providers, patients) may continue to challenge state laws restricting or prohibiting abortion on the grounds that they are preempted by EMTALA.

#### **IX. Efforts to Restrict Access to the “Abortion Pill” (mifepristone), Including FDA Action or Inaction**

- (a) Background on mifepristone
  - (i) Mifepristone is a drug that blocks a hormone called progesterone which is needed for pregnancy to continue. Mifepristone, when coupled with another drug Misoprostol, is used to end an intrauterine pregnancy through ten weeks gestation. [Source: [Link](#)]
  - (ii) In 2023, the percentage of abortions carried using mifepristone in the U.S. healthcare system was approximately 63%. [Source: [Link](#)]
  - (iii) Both drugs have uses unrelated to abortion. Mifepristone is also FDA-approved for non-abortion purposes including to treat Cushing’s syndrome, a rare disease marked by excess cortisol. Misoprostol can be used to prepare patients for hysteroscopy, IUD insertion, or endometrial biopsy.
  - (iv) The drugs can also be used to manage miscarriages. [Source: [Link](#)]
- (b) History of Mifepristone Approval [Multiple Sources: [Link](#); [Link](#); [Link](#)]
  - (i) Mifepristone was approved: (1) in 2000, for medical termination of pregnancy through seven weeks gestation; (2) in 2011, under Risk Evaluation and Mitigation Strategy (“REMS”), which imposes safety restrictions; and (3) in 2016, under REMS through ten weeks gestation.

- (ii) During the COVID-19 pandemic, FDA halted enforcement of REMS in-person dispensing requirements, enabling the provision of mifepristone by telemedicine and mail order in some states.
  - (iii) A group of Hawaiian doctors and professional health care associations brought a federal lawsuit challenging FDA’s REMS for mifepristone, and in 2021, the FDA determined modification of the mifepristone REMS program was warranted.
  - (iv) In 2023, FDA approved the REMS modification, removing the “in-person dispensing requirement” and requiring that pharmacies dispensing the drug be certified.
  - (v) FDA states that the COVID flexibilities and ceasing REMS application status were not the result of the *Dobbs* decision.
- (c) Legal Challenges Regarding Mifepristone
- (i) [\*Food & Drug Admin. v. All. for Hippocratic Med.\*, 602 U.S. 367, 144 S. Ct. 1540, 219 L. Ed. 2d 121 \(2024\)](#)
    - (1) Lawsuit brought by doctors who opposed access to abortion.
    - (2) Plaintiffs argued that two revisions FDA made to its policy regarding abortion pills – one made in 2016 and one made in 2021 – were major changes not supported by the evidence as required by the FDCA and APA. Further, Plaintiffs asserted that the 2021 policy violates the Comstock Act.
    - (3) The Supreme Court unanimously concluded that plaintiffs lacked standing.
    - (4) The Supreme Court’s decision in *FDA v. All for Hippocratic Med.* left the door open to future challenges to FDA’s rules. In one challenge, [\*State of Missouri et al. v. U.S. Food & Drug Admin.\*, No. 2:22-CV-223-Z \(N.D. Tex. Oct. 11, 2024\)](#) (see below), three states – Missouri, Idaho, and Kansas – sued FDA in Texas federal district court. These states claim, in part, that:
      - a. the drug should be banned after seven weeks of pregnancy instead of ten weeks (i.e., challenging the 2016 changes),
      - b. the drug should not be administered via telehealth (i.e., challenging the 2023 changes), and



- c. the drug should not be mailed and dispensed online or at pharmacies (i.e., also challenging the 2023 changes). [Multiple Sources: [Link](#); [Link](#)]
- (ii) DOJ Dismissal of State of Missouri et al. v. U.S. Food & Drug Admin. (for sources, see: [Multiple Sources: [Link](#); [Link](#); [Link](#)])
  - (1) Action brought by Missouri, Kansas, and Idaho alleging the FDA's approval violates the APA, FDCA, and the Comstock Act.
  - (2) On May 5, 2025, the DOJ moved for dismissal of this case based purely on procedural grounds and not on the merits of the case. Specifically, the case filed in Texas is outside the jurisdiction of plaintiff states Missouri, Idaho, and Kansas.
  - (3) DOJ did not address the merits, including whether FDA acted unlawfully in making telehealth mifepristone available or whether medication abortion is safe.
  - (4) The dismissal could be an attempt to protect FDA's greater drug approval authority (i.e., the case may have been dismissed to avoid undermining FDA's review standards).
  - (5) Plaintiffs may opt to refile upon correcting these procedural flaws.
- (d) The Trump Administration's Official Statements on Mifepristone
  - (i) Since taking office, President Trump has not publicly commented on mifepristone.
  - (ii) At his [January 2025 Confirmation Hearing](#), [HHS Secretary Robert F. Kennedy Jr.](#) stated that President Trump asked him to study the safety of mifepristone. Although President Trump has not yet taken a stance on its regulation, RFK Jr. will implement those policies when the time comes. [Source: [Link](#)]
  - (iii) On April 22, 2025, FDA Commissioner Marty Makary stated he has no plans to change current policy to restrict access to mifepristone but would reconsider if there is new data suggesting a safety issue. [Source: [Link](#)]
  - (iv) At a Senate Health, Education, Labor, and Pensions (HELP) Committee hearing on May 14, 2025, RFK Jr., responding to questions posed by Senator Josh Hawley of Missouri, pledged to review the safety of mifepristone after a report from the conservative thinktank

Ethics & Public Policy Center found that approximately 10% of women who took mifepristone experienced certain adverse events.

- (e) Project 2025's Policies That May Inform the Trump Administration [Multiple Sources: [Link](#); [Link](#)]
  - (i) Project 2025 is a series of policy proposals to reinstate conservative values that was assembled by high-profile conservatives and overseen by the Heritage Foundation. Though independent from the Trump Administration, many of Trump's policy advisers and individuals with positions in his administration participated in Project 2025.
  - (ii) Project 2025 calls for FDA to "[r]everse its approval of chemical abortion drugs because the politicized approval process was illegal from the start[,] and "[a]s an interim step, the FDA should immediately restore the REMS by reinstating the in-person dispensing requirement to eliminate dangerous tele-abortion and abortion-by-mail distribution."
  - (iii) Project 2025 also states, "The FDA is statutorily charged with guaranteeing the safety and efficacy of drugs and therefore should withdraw this drug that is proven to be dangerous to women and by definition fatally unsafe for unborn children."
- (f) Potential Enforcement of the Comstock Act
  - (i) The Comstock Act is an 1873 anti-vice law banning the mailing of "obscene" materials, including pornography, contraceptives, and any article, instrument, substance, or device used to carry out an abortion.
    - (1) Has not been used for decades.
    - (2) Provisions regarding mailing birth control and information about birth control repealed in the 1970s.
    - (3) Provisions regarding abortion were never repealed, but law has not been applied in decades.
    - (4) Could be used as a mechanism to restrict abortion nationwide. [Source: [Link](#)]
  - (ii) While the Trump Administration has not yet publicly endorsed the use of the Comstock Act to limit or prohibit prescribing mifepristone, and there has been any enforcement of the Comstock Act, its use has

been outlined as a strategy in Project 2025 and may emerge as a strategy during the Trump Administration. [Multiple Sources: [Link](#); [Link](#) at 562]

- (iii) During oral argument at the Supreme Court for *FDA v. All for Hippocratic Med.*, Justices Alito and Thomas specifically asked questions regarding the applicability of the Comstock Act, signaling that they might entertain its application to the mailing of mifepristone. [Source: [Link](#)]

**X. Efforts to Restrict Access to Birth Control (e.g., Plan B), including FDA Action or Inaction**

We have not seen any activity at the state or federal level to restrict access to birth control, including Plan B.

**XI. Abortion Shield Laws & Enforcement of State Reproductive Health Laws Across State Lines**

- (a) Protections from Enforcement of Out-of-State Abortion Laws in States Where Abortion is Legal: Abortion Shield Laws

- (i) Abortion Shield Laws Generally

- (1) Abortion shield laws protect multiple classes of people – health care providers practicing in states where abortion is legal, as well as patients and people who help them access abortion – from civil and criminal actions taken by states with bans or restrictions on abortion. [Source: [Link](#)]
    - (2) The extent and type of protections offered by each state’s shield laws vary.

- (ii) Current State Landscape

- (1) 22 states and Washington, D.C. have shield law protections related to reproductive health care enacted through legislation or executive order.
      - (2) 8 state shield laws explicitly protect provision of care regardless of patient location, which includes telehealth and doctors who prescribe abortion pills through telemedicine to patients in other states (CA, CO, ME, MA, NY, RI, VT, and WA).
        - a. New York recently passed a new law that allows providers prescribing abortion medication to request

that a dispensing pharmacy print their practice's name on the prescription bottle label instead of their name (See [S.36A/A.2145A](#))

- b. New York's Governor Hochul has stated that New York will remain a "safe harbor for anyone seeking or providing reproductive health care"
- c. The new law enhances New York's shield law by offering additional protections for doctors prescribing medications used to perform abortions to patients in states where abortion is banned or limited
- d. See New York Governor's Office Press Release, ["Protecting Reproductive Freedom: Governor Hochul Signs Legislation Affirming New York's Status as a Safe Haven for Reproductive Health Care,"](#) (02/03/2025)

(3) 17 states and Washington, D.C. have shield law protections related to gender affirming care.

- a. [Source: [Link](#)]

(4) Virginia's shield law protects menstrual health data only.

- a. Search warrants, subpoenas, and court orders may not be issued for menstrual data.
- b. In April 2024, the Governor vetoed other proposed shield legislation, including a bill protecting against extradition of individuals charged with violating another state's laws criminalizing reproductive health care lawfully provided in Virginia, and a bill protecting against professional discipline for abortion care lawful in Virginia. [Multiple Sources: [Link](#); [Link](#)]

(b) Application of State Abortion Shield Laws

(i) Texas's pursuit of New York physician who prescribed mifepristone to Texas patient

- (1) On December 13, 2024, Texas AG Ken Paxton announced his office is suing a New York-based doctor, Dr. Maggie Carpenter, who is also the founder of the Abortion Coalition for Telemedicine, for allegedly prescribing mifepristone to a Texas

resident in violation of Texas's abortion ban and other Texas state laws. [Source: [Link](#)]

- (2) Texas laws prohibit a physician or medical supplier from providing any abortion-inducing drugs by courier, delivery, or mail service.
- (3) Additionally, no physician may treat patients or prescribe Texas residents medicine through telehealth services unless the doctor holds a valid Texas medical license.
- (4) The Texas AG states that Dr. Carpenter knowingly treated Texas residents despite not being a licensed Texas physician and not being authorized to practice telemedicine in Texas. Attorney General Paxton requested the court enjoin Dr. Carpenter from violating Texas law and impose civil penalties of no less than \$100,000 for each violation of the law.
- (5) A Texas state court found that the New-York based Dr. Carpenter violated Texas laws and issued a \$100,000 civil penalty in addition to a permanent injunction preventing any future violations. [\*State of Texas v. Margaret Daley Carpenter, M.D. a/k/a Maggie Carpenter, M.D.\*, 471-08943-2024 \(471<sup>st</sup> Dist. Ct. Collin County, TX\), Feb. 13, 2025](#). This is the first case in the nation to hold doctors accountable for prescribing abortion-inducing drugs in a state where they are illegal. [Texas Attorney General Press Release](#).
- (6) A New York county clerk declined to enforce Texas' civil judgement against Dr. Carpenter, citing New York shield laws. [Statement from Acting County Clerk Taylor Bruck on Filing from Texas Attorney General Ken Paxton](#).

(ii) Louisiana

- (1) Louisiana brought criminal charges against the same New York doctor that faced civil liability in Texas, Dr. Carpenter, for allegedly prescribing abortion-inducing drugs via telehealth to a Louisiana resident.
- (2) The case against Carpenter in Louisiana appears to be the first instance in which charges have been brought against a doctor accused of prescribing abortion pills to a resident of another state whether abortion is illegal.

- (3) A grand jury indicted Dr. Carpenter and her company and a third person for criminal abortion by means of abortion-inducing drugs, which is a felony. [Source: [Link](#)].
- (4) The Louisiana Governor signed an extradition warrant for Dr. Carpenter, but the New York Governor has refused to extradite her, citing New York’s Shield Law. [Source: [Link](#)].
- (5) New York is one of eight states with telemedicine shield laws that include providing reproductive health care. [Source: [Link](#)].
- (6) Louisiana is investigating Dr. Carpenter in relation to a second case allegedly involving her prescription of mifepristone to a patient in Louisiana. (Source: [Link](#))

## **XII. Other Action Related to Enforcement Across State Lines**

### **(a) Alabama**

- (i) The Alabama Attorney General explicitly threatened anyone who assisted a pregnant Alabamian with accessing legal, out-of-state abortion care with facing felony charges. [Source: [Link](#)].
- (ii) A group of healthcare providers filed a lawsuit in 2023 after the Attorney General made this threat; West Alabama Women’s Center *et al.* v. Steve Marshall, *et al.* [Source: [Link](#)].
- (iii) On April 1, 2025, a federal judge issued a ruling that prohibits state AG’s and district attorneys across Alabama from prosecuting individuals, including health care providers and reproductive health organizations for helping pregnant women seek reproductive care in states where it is legal to receive this kind of care. [Source: [Link](#)].
- (iv) The federal judge explained that the case is an example of whether a State may prevent people within its borders from going to another State, and from assisting others in going to another State, to otherwise engage in lawful conduct, in which he concluded “No, a State may not do so.” [Source: [Link](#)].

### **(b) Idaho**

- (i) Idaho passed [HB 242 \(ID Code section 18-623\)](#), which includes a law that would criminalize adults who help a minor procure or obtain an abortion by “recruiting, harboring or transporting” them without parent or guardian permission.

- (ii) An Idaho Attorney and two advocacy organizations filed a lawsuit in July of 2023 alleging the law restricts freedom of speech and the right to freely associate and that it was unconstitutionally vague. ([Matsumoto et al. v. Labrador](#), Case No. 1:23-cv-00323-DKG, D. Ct. Idaho)
  - (iii) In November of 2023, the District Court granted plaintiffs’ motion for preliminary injunction enjoining Idaho’s abortion trafficking statute, but the Ninth Circuit Court of Appeals reversed in part, allowing most of the law to take effective pending the outcome of the lawsuit. [Source: [Link](#); [Link](#)]
    - (1) The Ninth Circuit concluded that Idaho could enforce the law as it relates to harboring or transporting a minor.
    - (2) But the Ninth Circuit also upheld the injunction as it relates to that portion of the Idaho law that would purport to prosecute individuals who provide information (financial and logistical) to minors about where to seek legal abortions.
- (c) Tennessee
  - (i) Tennessee passed [HB 1895](#) (TN Code Ann. section 39-15-213), which would prohibit adults from helping minors to get a legal abortion without parental consent.
  - (ii) A TN state representative and abortion rights advocate filed a lawsuit in June of 2024 against several TN district attorneys arguing that TN’s abortion trafficking bill is unconstitutionally vague. ([Welty v. Dunaway, District Ct. TN, 3:24-CV-00768](#))
  - (iii) The District Court temporarily blocked Tennessee from enforcing the law. [Source: [Link](#)].
    - (1) The Court concluded that no defendant shall enforce the recruitment provision of the Tennessee law as it relates to obtaining an abortion that is legal in the state where performed, or self-managed abortions with lawfully obtained medications.
    - (2) The Court did not grant an injunction on the recruitment provision as it relates to obtaining or attempting to obtain an unlawful abortion.
    - (3) Defendant’s Motion for Summary Judgment is pending.

### **XIII. Enforcement of State Reproductive Health Laws Within the State**

#### **(a) Texas**

- (i) In Texas, a midwife and an associate were criminally charged for allegedly performing illegal abortions in Houston area clinics. ([State of Texas v. Maria Margarita Rojas, et al.](#))
- (ii) The midwife was charged with attempting an illegal performance of an abortion as well as practicing without a license.
- (iii) This was cited to be one of the first arrests under the near-total abortion ban enacted in 2022 in Texas.
- (iv) The abortion charge is a second-degree felony, which roughly comes up to 20 years in prison.
- (v) She was arrested along with several of her associates and given a \$10,000 bond. [Source: [Link](#)].

### **XIV. Additional Trump Administration Actions Impacting Access to Abortion Care**

#### **(a) Department of Defense (DOD)**

- (i) On January 29, 2025, DOD rescinded its previous policy that would fund travel for active duty military and their dependents stationed in regions with abortion bans to allow the individual to seek abortion care in a region where abortion care is permitted.
- (ii) [Source: [Link](#)]

#### **(b) The Freedom of Access to Clinic Entrances (FACE) Act**

- (i) The FACE Act, enacted in 1994, safeguards abortion centers, reproductive health centers, and pregnancy resource centers
  - (1) Makes it illegal to harm, threaten or interfere with an individual obtaining or providing reproductive health services
  - (2) Also makes it illegal to damage a facility because such facility provides reproductive care
- (ii) The Department of Justice (“DOJ”) issued a memo on Jan. 24, 2025, related to enforcement actions under the FACE Act.



- (1) DOJ instructs prosecutors to only enforce the law in “extraordinary circumstances” or instances where death, serious bodily harm or significant property damage result.
- (2) No new FACE Act violation prosecutions – criminal or civil – will be permitted without authorization from the Assistant Attorney General for the Civil Rights Division.
- (iii) Separately, DOJ instructed for immediate dismissal of three pending FACE Act cases – one each in Ohio, Pennsylvania, and Florida. [Source: [Link](#)]
- (iv) President Trump pardoned 23 individuals that were charged with violating the FACE Act. [Source: [Link](#)]
- (v) According to the Center for Reproductive Rights, there has been a sharp increase in violence against abortion clinics, staff, and patients since Roe v. Wade was overturned. [Source: [Link](#)]