

EMTALA Explainer: Keep Up with the Threat to Emergency Abortion Care.
Natasha Rappazzo, JD | If/When/How Reproductive Justice Fellow

What is EMTALA?

The Emergency Medical Treatment and Labor Act (EMTALA) is a nearly 40-year-old federal law that ensures people are not denied care when they enter a hospital's emergency department with an emergent health condition. If a provider determines an individual has an emergency medical condition, the provider must deliver the treatment required to stabilize the condition.

What does EMTALA say about abortion?

EMTALA says nothing about abortion. Just like EMTALA says nothing about heart attacks, strokes, or bleeding. EMTALA describes an [“emergency medical condition”](#) as one that is so severe that without immediate medical attention your health, bodily functions, or organs and body parts are in serious jeopardy. EMTALA does not specify what conditions are emergent and what treatments are proper emergency care. EMTALA lets physicians act without waiting for a specific emergency criterion to develop.

After *Dobbs*, the Biden Administration issued [guidance reminding hospitals of their existing obligation to comply with EMTALA](#). The guidance clarified that despite contradicting state abortion bans, hospitals should provide emergency abortion care. On June 3, 2025, the Trump Administration [rescinded this guidance](#). Still, the law is the same: EMTALA requires emergency abortion care.

Why are some hospitals not providing emergency abortion care, despite EMTALA?

Even though EMTALA says, provide emergency care or face penalties, state abortion bans are a strong deterrent. Denials of emergency care occurred even with the Biden era guidance in place. State bans with criminal penalties and vague medical exceptions create a chilling effect where instead of providing care, [in fear](#), hospitals and providers shield themselves from state retaliation by delaying or denying care.

What is happening in the lawsuit/s challenging EMTALA?

There are multiple lawsuits around EMTALA and emergency abortion care. Some lawsuits challenge conflicting state abortion bans ([Texas](#) and [Idaho](#)) and some respond to refusals to provide emergency abortion care ([St. Joseph Health of Northern California](#) and [Catholic Medical Association](#)). Across these various lawsuits, parties, and courts, the same issue shows up: people are suffering under abortion bans.

The lawsuit that gained the most public attention is [United States v. Idaho & Moyle](#)—a case to stop Idaho’s abortion ban due to the conflict with EMTALA. This case reached the Supreme Court in the summer of 2024, but the Court did not rule on EMTALA or clarify the constitutionality of state’s abortion ban. In March 2025, the Trump Administration dropped the lawsuit—without the U.S. as a party in [U.S. v. Idaho & Moyle](#) Idaho’s abortion ban would take effect. In April 2025, [an Idaho state court issued a ruling](#) that broadened the medical exception in Idaho’s abortion bans. For a more comprehensive breakdown, check out the [O’Neil Institute’s Health Care Litigation Tracker](#)

What is at stake?

Abortion bans [already cause](#), and will continue to cause, preventable harm and death. While decisions play out in the courts, people’s health, lives, and reproductive futures are threatened by abortion bans, including the narrow medical exceptions in bans. Exceptions to abortion bans do not make bans safer and exceptions do not make bans acceptable. Banning and criminalizing abortion leads to confusion and stress for providers and patients while simultaneously denying people control over their bodies. [All abortions are medically necessary](#) emergencies worthy of a provider’s time and care. Rather than exceptionalizing what care is “okay”, we must move toward removing all barriers to bodily autonomy and returning agency to ourselves.

What else should I know?

- EMTALA IS STILL FEDERAL LAW

EMTALA is federal law. Even though the Trump Administration rescinded the Biden Administration’s guidance [reminding hospitals of their obligation to comply with EMTALA](#), the President cannot override acts of Congress. Still, without the previous guidance, providers will likely experience heightened confusion over whether they can provide emergency abortion care given conflicting state laws or hospital guidance.

- EMTALA IS ESSENTIAL FOR EVERYONE

Emergency departments often act as health care facilities of last resort for those who face barriers to health care, including Black, Indigenous, and people of color, rural populations, immigrants, people with lower incomes, and people with disabilities. Discrimination in health care settings and culturally incompetent care further limits routine care. These practices and policies rooted in white supremacy underline the need for the emergency room. Limiting EMTALA’s scope and protections abandons these communities.

- STATE ADVOCATES ARE WORKING TO PROTECT EMERGENCY ABORTIONS

State advocates are working to protect emergency abortion care in their communities. Several states are exploring protections for emergency care, including abortions, that go beyond federal law. Even though EMTALA includes abortions, a state law codifying emergency abortion care could ease provider confusion, stress, and fear. Plainly protecting abortion care under the law—including in emergency conditions—means providers can focus on care, not the law. So far, [Illinois and Colorado have passed legislation](#) protecting emergency abortion care and several states are trying to pass similar laws.

- PREGNANCY CAN BE DANGEROUS

Pregnancy and childbirth can have severe health consequences. We have already seen the devastating outcomes from state abortion bans and denying emergency abortion care. Since *Dobbs*, [hundreds of pregnant people have been turned away](#) from emergency rooms and [other women](#) have tragically and unnecessarily lost their lives. Access to emergency health care plays an essential role in the lives of pregnant people.

- THE EMERGENCY ROOM IS SCARY ENOUGH—STOP CRIMINALIZING PATIENTS

In the year after *Dobbs*, Pregnancy Justice found at least [210 pregnant people](#) faced criminal charges for conduct associated with pregnancy, pregnancy loss, or birth. Often, pregnancy criminalization thrives on cooperation from health care providers and information obtained in medical settings. Law enforcement, ICE, and other arms of state violence [deserve no place in health care facilities](#), including the emergency room.

- LET DOCTORS DO THEIR JOBS—STOP CRIMINALIZING PROVIDERS

[Providers have long understood EMTALA requires abortion care](#) when it is the necessary stabilizing treatment. No health care provider should be forced to second-guess their best medical judgment to care for a patient out of fear that they might lose their medical license or face criminalization.

Talking Points for Providers

People should have access to abortion care without barriers or delay, including in emergency circumstances.

- There are several medical emergencies where ending a pregnancy may be necessary to save a pregnant person's life or prevent serious harm to their health. Patients need abortion care for many reasons, all of which are valid.
- When I see a patient who needs emergency abortion care, the situation is time-sensitive and requires quick action. No health care provider should be forced to second-guess their best medical judgment to care for a patient out of fear that they might lose their medical license or be criminalized.

As a physician, I rely on the latest scientific evidence, medical research, and patient needs to guide my practice, not political opinions.

- Abortion bans with medical exceptions are confusing, inaccurate, and vague, making it difficult to know what care I can provide in emergencies.

Under EMTALA, it is my duty to provide life-stabilizing treatment in emergency circumstances. Abortion bans and restrictions conflict with this requirement.

- Patients should not have to wait until an ambiguous “life-threatening threshold” is met to receive care. Abortion bans prevent me from providing the full range of emergency care that my patients need.

Talking Points for Policymakers and Partners

The goal of anti-abortion extremists has always been to ban all abortion care.

- Abortion bans are not about making care safe or protecting people who need care. Bans are always attempting to make abortion care impossible to access.
- Exceptions in abortion bans do not make abortion bans acceptable, safe, or workable. Exceptions like medical emergency requirements in abortion bans create legal risk from the chance of misinterpretation, place barriers on abortion seekers, and overlook many people harmed by bans.

Pregnant people and their families will suffer if they are excluded from EMTALA and denied emergency abortion care.

- The rates of maternal mortality and morbidity are highest among Black and Indigenous women in the U.S.—they will face disproportionate harm if pregnant people are excluded from EMTALA’s protections.
- Delaying or denying emergency care is cruel, harmful, and illegal. When pregnant people are denied care, they are more likely to experience increased maternal health complications and long-term negative health effects. This is true especially for Latinx, Black, and Indigenous people who experience intersecting levels of oppression in health systems.