ABORTION DEFENSE NETWORK

Know Your State's Abortion Laws

A Guide for Medical Professionals

ARIZONA

Since *Roe v. Wade* was overturned in June 2022, medical providers across the country have struggled to understand their state's abortion laws, which contain undefined terms and non-medical language.

Fear and confusion throughout the medical community has led some hospitals to adopt policies that are overly strict or burdensome, causing patients to be denied care in emergencies. While the law remains in flux and some questions have no clear answers, this document aims to provide clarification, where possible, of what conduct is still permitted in your state. Know what your state's law does and does not require, so you can advocate for yourself and your patients.

Last updated October 2025

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Key Takeaways

Abortion access is a fundamental right under Arizona's Constitution. Abortion is legal under Arizona law unless:

(1) Performed post-viability **and**

(2) Not under a medical exception to preserve the life, physical health, or mental health of the pregnant person

Providing medical care for ectopic pregnancies is legal.

Providing contraception, including emergency contraception, is legal.

Speech about abortion is legal. Providing information and/or resources toward helping someone obtain a lawful abortion in Arizona or another state is legal.

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Definition of Abortion & Contraception

ABORTION

Arizona law defines abortion broadly as "the use of any means to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will cause, with reasonable likelihood, the death of the unborn child. Abortion does not include birth control devices, oral contraceptives used to inhibit or prevent ovulation, conception or the implantation of a fertilized ovum in the uterus or the use of any means to save the life or preserve the health of the unborn child, to preserve the life or health of the child after a live birth, to terminate an ectopic pregnancy or to remove a dead fetus."[1]

The following are explicitly *excluded* from Arizona law's definition of abortion: (1) removing an ectopic pregnancy; (2) removing "a dead fetus;" and (3) the use of birth control, including IUDs.[2] While undefined, it is generally understood that in the context of Arizona's definition of abortion, "dead" means that there is no respiratory or cardiac activity present in the embryo or fetus.[3] This means that treatment for ectopic pregnancy (including use of methotrexate and surgical removal) and treatment for miscarriage where there is no respiratory or cardiac activity (including medications, D&C, D&E, labor induction) are *not* abortions under Arizona law and thus are not prohibited by any of the abortion restrictions.

With respect to self-managed abortion, it is legal for providers to give medical care during or after a self-managed abortion provided it is prior to viability, or if the patient is experiencing a complication that would qualify as a medical emergency (see below). There is no specific crime of "self-managed abortion" in Arizona law. In fact, the state's criminal abortion ban explicitly exempts pregnant people from liability[4] and Arizona's statute criminalizing self-managed abortion[5] was repealed in 2021.[6]

CONTRACEPTION

Contraception is not illegal in any state in the country. Arizona's legal definition of abortion explicitly states that it does not include "birth control devices, oral contraceptives used to inhibit or prevent ovulation, conception or the implantation of a fertilized ovum in the uterus."[7]

Abortion Ban

Proposition 139, which went into effect on November 25, 2024, establishes abortion as a fundamental right under the Arizona state Constitution. Abortion is available in the state prior to fetal viability[8] and after fetal viability if it is needed to save the life or preserve the health, including mental health, of the pregnant person.[9]

Arizona continues to have abortion restrictions with penalties that are criminal (jail or prison time) and civil (loss of medical license and monetary fines).

If a physician provides an abortion post-viability and not under an exception to preserve the life or health of the pregnant person, they may face a class 1 misdemeanor charge as well as civil penalties.[10]

Physicians are still required to obtain informed consent from their patient prior to providing an abortion. As part of informed consent, physicians are required to meet with the patient in-person at least 24 hours prior to the procedure to provide required information about the procedure,[11] to provide an ultrasound, and must give their patient the option of viewing the ultrasound or having the ultrasound described to them.[12] There are also numerous other informed consent requirements in Arizona, and the entire list should be consulted prior to performing a non-emergent abortion.[13] Anyone obtaining a non-emergent abortion in Arizona must certify in writing prior to the abortion that the

required informed consent has been provided.[14] Failure to obtain informed consent in this way means a physician may have their license suspended or revoked and or face a civil lawsuit.[15]

Abortion providers have filed a lawsuit in state court challenging many of the remaining abortion restrictions under the new constitutional amendment, but the court has not yet issued a ruling on their validity.[16] Until there are further legal developments regarding their validity, providers may want to continue to comply with these provisions.

Arizona's specific ban on self-managed abortion was repealed in 2021[17] and the ban on post-viability abortion specifically exempts the pregnant person from any liability for criminal conspiracy.[18]

Exceptions to Abortion Bans/Restrictions

Protect Life or Health: Arizona allows physicians to perform abortion prior to viability. For post-viability abortion, the state has a medical exception if the physician determines, in their good faith medical judgment, that the abortion was "necessary to protect the life or physical or mental health of the pregnant individual."[19]

The requirement that a physician must consult with patients at least 24 hours before an abortion to inform them of certain medical information about the procedure can be waived if a medical emergency requires the physician to perform an abortion immediately. The physician is still required to inform the patient before the abortion (if possible) of the reasons why they believe the abortion is medically necessary to prevent the patient's death or major impairment.[20]

Similarly, the requirement that a patient must undergo an ultrasound 24 hours prior to getting an abortion can also be waived if there is a medical emergency[21] that requires the procedure be performed immediately.

For unemancipated young people under 18, a physician does not need to get consent from their parent for the abortion if the young person certifies that the pregnancy resulted from incest,[22] or if the young person "has a condition that so complicates [their] medical condition as to necessitate the immediate abortion of [their] pregnancy to avert [their] death or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function."[23] For the incest exception to apply to young people under 18, the physician must make a report to law enforcement and shall report the sexual conduct with a minor to law enforcement officials and "shall preserve and forward a sample of the fetal tissue to these officials for use in a criminal investigation."[24]

Rape and Incest: Arizona does not have specific rape/incest exceptions for post-viability abortions. However, physicians can make an exception to preserve the mental health of the pregnant person, which may be broad enough to encompass rape/incest without a requirement to make a report to law enforcement.

EMTALA

A federal law called the Emergency Medical Treatment & Labor Act ("EMTALA") requires the provision of abortion care when necessary to stabilize an emergency medical condition. Specifically, EMTALA requires hospitals with emergency departments that participate in Medicare (i.e., most hospitals) to perform a medical screening exam for any individual who comes to the emergency department and requests evaluation or treatment, in order to determine whether the individual has an emergency medical condition.[25] EMTALA defines "emergency medical condition"

to include "acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—(i) 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, (ii) serious impairment to bodily functions, or (iii) serious dysfunction of any bodily organ or part."[26] Additionally, "with respect to a pregnant woman who is having contractions," an "emergency medical condition" is further defined to include when "there is inadequate time to effect a safe transfer to another hospital before delivery" or when "transfer may pose a threat to the health or safety of the woman or the unborn child."[27]

EMTALA requires stabilizing medical treatment be provided to any individual experiencing an emergency medical condition,[28] including people in labor or with emergency pregnancy complications,[29] unless the individual refuses to consent to such treatment.[30] Under the EMTALA statute, "to stabilize" means to provide medical treatment "as may be necessary" to ensure, "within reasonable medical probability, that no material deterioration of the condition is likely."[31] A person experiencing an emergency medical condition can be transferred to a different hospital only once they are stable or if certain other conditions are met, such as the medical benefits of transfer outweighing the increased risks to the person experiencing the emergency medical condition.[32] Even where a hospital is permitted to transfer such a person without first stabilizing them, the hospital still must provide "the medical treatment within its capacity which minimizes the risks to the individual's health."[33]

Where abortion, including the premature delivery of a non-viable fetus, is the medical treatment necessary to, within a reasonable probability, ensure no material deterioration of an individual's condition, EMTALA requires a covered hospital provide such care or, if the aforementioned criteria are met, an appropriate transfer. The U.S. Department of Health and Human Services ("HHS") has reaffirmed these requirements numerous times.[34]

Most recently, on June 13, 2025, HHS Secretary Robert F. Kennedy distributed a letter to health care providers reiterating that, notwithstanding the recent rescission of earlier guidance on the subject, "EMTALA continues to ensure pregnant women facing medical emergencies have access to stabilizing care."[35] The letter specifically states that EMTALA "applies equally to expectant mothers facing obstetric emergencies, including ectopic pregnancies, miscarriages, premature ruptures of membranes, trophoblastic tumors, and other similar conditions."[36] And, during a June 24, 2025, subcommittee hearing in the U.S. House of Representatives, Secretary Kennedy was asked explicitly about whether he agreed that in some circumstances abortion is the necessary stabilizing care that EMTALA requires hospitals to provide, to which he responded, "Yes, and that is what President Trump believes."[37] Further, as recently as May 2025, HHS announced that it had cited at least one hospital in Texas for violating EMTALA by failing to properly screen a patient with an ectopic pregnancy, an emergency medical condition that threatened the patient's life and future fertility.[38]

Notwithstanding EMTALA's clear requirements with respect to emergency abortion, state officials in Idaho and Texas have attempted to restrict hospitals from complying with their federal legal obligations, resulting in litigation, but with only varying degrees of success.

In January 2025, Idaho's largest hospital system, St. Luke's Health System, filed a lawsuit seeking to prevent the state of Idaho from enforcing its abortion ban, which creates criminal penalties for the provision of certain emergency abortions required under EMTALA.[39] St. Luke's was successful in obtaining a preliminary injunction that prevents the

state of Idaho from enforcing its abortion ban "against St. Luke's or any of its medical providers as applied to medical care required by [EMTALA]."[40] Litigation in that case is ongoing. St. Luke's case is related to one brought in 2022 by the Biden Administration, *United States v. Idaho*, in which the federal government sued Idaho challenging its abortion ban to the extent that it conflicted with EMTALA.[41] That case made it all the way to the U.S. Supreme Court, where the appeal was ultimately dismissed as prematurely granted in June 2024.[42] Following the change of presidential administrations, the United States dismissed that case entirely. [43]

And, in October 2024, the U.S. Supreme Court refused to review a Fifth Circuit decision that affirmed a lower court decision blocking federal enforcement of EMTALA in certain circumstances in Texas and as to other organizational plaintiffs in that case.[44] As a result, the Fifth Circuit's decision is final.[45,46]

Other Federal Laws & Professional Guidelines

In addition to EMTALA, hospitals and/or medical providers are required to abide by the following:

Conditions of Participation in Medicare and Medicaid (COP): The federal COP regulations require hospitals that participate in Medicare and Medicaid to inform patients of their rights in advance of furnishing or discontinuing care which include: the right to be informed of their health status, be involved in care planning and treatment, and participate in the development of their plan of care.[47]

Protection Against Discrimination in Employment: The federal law known as the Church Amendments prohibits hospitals that receive certain federal funds from discriminating against health care providers who participate or are willing to participate in abortion care or sterilization procedures.[48]

Medical Malpractice: While this document does not detail state-specific medical malpractice law, medical providers should be aware that they risk liability under state medical malpractice law for failing to provide pregnant patients with the standard of care.[49]

Resident Training: The Accreditation Council for Graduate Medical Education (ACGME) requires that accredited programs provide access to training in the provision of abortion.[50] The federal law known as the Coats-Snowe Amendment both protects medical professionals in learning to provide abortion, and limits the government's ability to penalize programs or institutions that fail to comply with ACGME requirements.[51]

Documentation & Reporting

Generally, state law does not require documentation of irrelevant or non-medical information in patient charts. Nor does it explicitly require reporting to law enforcement patients who receive abortions out of state or self-manage their own abortion.[52] Some hospitals may impose additional documentation requirements for abortions performed as medical emergencies, including attestations by multiple physicians and/or approvals by an ethical review board. While intended to insulate the hospital from liability, these are not legal requirements.

The only abortion-specific documentation and reporting requirements are:

Abortion Reporting: Arizona law requires physicians to provide non-identifying information about each abortion that they perform to the Department of Health Services.[53] When performing an abortion on a viable fetus under the exception, the physician is required to document in writing that

the procedure is necessary for the life or health of the pregnant person and "specifying the medical indications for and the probable health consequences of the abortion."[54] This requirement is waived if there is a medical emergency.[55] When required to document a patient case, quoting the language of EMTALA—e.g. "the patient's condition places them at risk of death or poses a serious risk of substantial impairment of a major bodily function"—may be helpful.

Complication Reporting: Providers also must report complications from abortion. The provider does not need to be the one who provided the abortion to the patient; instead, providers must report complications "resulting from having undergone an abortion or attempted abortion"[56] for any patient that they are treating or caring for. The provider must provide non-identifying information[57] on a designated form to the Department of Health Services and the hospital/facility must submit the form online within 15 days after the end of each month.

Fetal Death Reporting: Abortions are not reportable as fetal deaths[58] or stillbirths.[59] Providers[60] must report fetal deaths that 1) occur at or after 20 weeks' gestational age or 2) if the gestational age is unknown, where the fetus weighs 350 grams or more. These reports must be filed with the registrar within 7 days of the fetal death.[61] Under the current definition of fetal death, providers are not required to report, as fetal death, any induced termination of pregnancy, including self-managed abortion, except "when the induction was performed for the sole purpose of removing an already-dead fetus."[62] The county medical examiner must investigate the cause of any reported fetal death.[63] The person reporting a fetal death is required to provide all information related to the fetal death to the police.[64] These requirements are subject to restrictions outlined in the 2024 HIPAA rule as discussed in the section on Electronic Medical Records below.

Other Mandatory Reporting: All other general mandatory reporting to the Department of Health Services and local law enforcement, etc., also applies for abortion patients.[65] This includes reporting of sexual abuse of young people, child abuse, and vulnerable adult abuse.[66]

Electronic Medical Records: Many electronic medical record systems (EMRs) allow healthcare providers to securely share patient records across healthcare institutions. Hospital and other healthcare systems often use their EMR's default settings that widely share patient records.[67] Though these settings are often helpful for continuity of care, they may put abortion providers and patients (or patients obtaining other sensitive care) at risk, and many patients do not know their records are shared in this way.[68, 69]

EMRs have settings that can limit sharing of certain records and/or allow patients to choose how and when their records are shared, but because these are not the default settings, healthcare systems often must take steps to implement them.[70] For example, one EMR, Epic, has a filter that each Epic healthcare system can choose to turn on that exclusively blocks abortion care information from patients' externally-shared medical records, while allowing each patient's other medical records to be transmitted in full, in line with their authorization. We encourage you to discuss with your institution's general counsel and/or compliance or technology officers counsel alternative settings such as this that can protect abortion patient information while also complying with any other legal requirements.[71]

Counseling & Referral

Speech about abortion is legal in Arizona. In addition to establishing abortion as a constitutional

right in the state, the new constitutional amendment also prohibits the state from enforcing any law or policy that "[p]enalizes any individual or entity for aiding or assisting a pregnant individual" in accessing a legal abortion.[72]

Medication Abortion

The use of medication abortion, like surgical abortion, is similarly protected under the new constitutional amendment. Medication abortion, including induction abortion, is available prior to fetal viability. After viability, it is available based on a physician's determination that it is necessary to protect the life or health of the pregnant person.[73] The same abortion and complication reporting requirements discussed above apply. In Arizona, only qualified physicians may provide the medications.[74] The physician must also dispense the medications directly to the patient, as delivery via mail/courier is prohibited.[75] These restrictions do not apply if the medications are prescribed for a non-abortion related purpose, like miscarriage management.[76]

Disposition of Fetal Tissue Remains

Arizona does not specifically regulate the disposition of embryonic and fetal tissue remains prior to 20 weeks' gestational duration, thus, legal requirements around disposition of medical waste generally should apply. For surgical abortions, the pregnant person "has the right to determine final disposition of bodily remains and to be informed of the available options for locations and methods for disposition of bodily remains."[77]Arizona bans the use, sale, or donation of fetal tissue from abortion,[78] as well as "destructive" embryonic stem cell research.[79]

Need legal advice?

This document should not be construed as legal advice. If you need individualized legal advice, please contact the Abortion Defense Network, where you will be matched with a pro bono attorney.

The Abortion Defense Network is managed by the Lawyering Project in partnership with the American Civil Liberties Union, Center for Reproductive Rights (CRR), National Women's Law Center (NWLC), and Resources for Abortion Delivery (RAD).

ACLU

CENTER for REPRODUCTIVE RIGHTS

THE LAWYERING PROJECT

NATIONAL WOMEN'S LAW CENTER
Justice for Her. Justice for All.

RAD RESOURCES FOR ABORTION DELIVERY

References

[1] A.R.S. § 36-2151(1).
[2] *Id.*
[3] *See* A.R.S. § 36-301(14) (defining "fetal death" as "cessation of life before the complete expulsion or extraction of an unborn child from the child's mother that is evidenced by the absence of breathing, heartbeat, umbilical cord pulsation or definite voluntary muscle movement after expulsion or extraction.").
[4] A.R.S. § 36-2324(B).
[5] "A woman who solicits from any person any medicine, drug or substance whatever, and takes it, or who submits to an operation, or to the use of any means whatever, with intent thereby to procure a miscarriage, unless it is necessary to preserve her life, shall be punished by imprisonment in the state prison for not less than one nor more than five years." A.R.S. § 13-3604 (2020).
[6] *See* https://www.azleg.gov/legtext/55leg/1r/bills/sb1457c.pdf.
[7] A.R.S. § 36-2151(1).
[8] *See* A.R.S. Const. Art. II, § 8.1(B)(2) (defining fetal viability as "the point in pregnancy when, in the good faith judgment of a treating health care professional and based on the particular facts of the case, there is a significant likelihood of the fetus's sustained survival outside the uterus without the application of extraordinary medical measures.").
[9] *Id.* at (A). An Arizona statute enacted in 2022 that criminalizes abortion after 15 weeks LMP has been declared unconstitutional and permanently enjoined under Proposition 139. *Reuss v. State of Arizona*, Case No. CV2024-034624 (Maricopa Cty. Dist. Ct. March 5, 2025).
[10] Arizona law has not yet been updated to reflect penalties for a post-viability abortion. Under the previous prohibition on abortion past the state's limit on gestational age, the penalty has been a class 1 misdemeanor charge, license suspension/revocation, and civil lawsuits.
[11] *See* A.R.S. § 36-2153(A)(1) for a full list of information required to meet informed consent requirements.
[12] A.R.S. § 36-2156(A)(1), (2).
[13] A.R.S. § 36-2153.
[14] *Id.*
[15] *Id.* at (B), (C), A.R.S. § 36-2153(J), (K).
[16] *Isaacson v. Arizona*, No. CV-2025-017995 (Ariz. Super. Ct. Maricopa County 2025).
[17] *See* https://www.azleg.gov/legtext/55leg/1r/bills/sb1457c.pdf.
[18] A.R.S. § 36-2324(B).
[19] *Id.* at (A)(2).
[20] A.R.S. § 36-2153(C).
[21] A.R.S. § 36-2156(A).
[22] A.R.S. § 36-2152(H)(1).
[23] *Id.* at (H)(2).
[24] *Id.* at (H)(1).
[25] EMTALA, 42 U.S.C. § 1395dd(a).
[26] EMTALA, 42 U.S.C. § 1395dd(e)(1)(A).
[27] EMTALA, 42 U.S.C. § 1395dd(e)(1)(B).
[28] EMTALA, 42 U.S.C. § 1395dd(b)(1)(A).
[29] EMTALA, 42 U.S.C. § 1395dd(e)(1).
[30] EMTALA, 42 U.S.C. § 1395dd(b)(2).
[31] EMTALA, 42 U.S.C. § 1395dd(e)(3)(A).
[32] EMTALA, 42 U.S.C. § 1395dd(c)(2) (requiring hospital to use "qualified personnel and transportation equipment" when making a permitted transfer under EMTALA, among other requirements).
[33] EMTALA, 42 U.S.C. § 1395dd(c)(1)(B)–(c)(2)(A).
[34] For example, in 2022, the Biden Administration issued guidance reiterating past administrative statements that the treatment required by EMTALA includes abortion care when such care is necessary to stabilize a pregnant person's emergency medical condition. Ctrs. for Medicare & Medicaid Servs., *Reinforcement of EMTALA Obligations Specific to Patients who are Pregnant or are Experiencing Pregnancy Loss* (updated July 2022) ("2022 EMTALA Guidance"). While this guidance has since been rescinded, the requirements of EMTALA as outlined in it and other prior HHS statements have not changed.

Indeed, in the Trump Administration's June 3, 2025 statement rescinding the 2022 guidance, the Administration stated that "CMS will continue to enforce EMTALA . . . including for identified emergency medical conditions that place the health of a pregnant woman or unborn child in serious jeopardy." Ctrs. for Medicare & Medicaid Servs., *CMS Statement on Emergency Medical Treatment and Labor Act (EMTALA)* (June 3, 2025); *see also* Letter from Robert F. Kennedy Jr., Sec'y, U.S. Dep't of Health & Hum. Servs., to Healthcare Providers (June 13, 2025) ("Kennedy Letter"), available at https://essentialhospitals.org/wp-content/uploads/2025/06/6.13.25-EMTALA-letter-final.pdf.pdf.

[35] Kennedy Letter.

[36] Kennedy Letter.

[37] *Hearing on the Fiscal Year 2026 Dep't of Health and Hum. Servs. Budget Before the H. Comm. on Energy & Com., Subcomm. on Health,* 119th Cong. (2025) (statement of Robert F. Kennedy Jr., Sec'y of Health & Hum. Serv.).

[38] Center for Reproductive Rights, *Complaints Against Texas Hospitals for Denying Emergency Care for Ectopic Pregnancies*, (updated May 8, 2025).

[39] *St. Luke's Health System, LTD. v. Labrador*, No. 1:25-cv-00015, ECF No. 1 (D. Idaho Jan 14, 2025).

[40] *St. Luke's Health System, LTD v. Labrador*, No. 1:25-cv-00015, ECF No. 49 at 59 (D. Idaho Mar. 20, 2025).

[41] *United States v. Idaho*, 623 F. Supp. 3d 1096, 1117 (D. Idaho 2022).

[42] *Moyle v. United States*, 144 S. Ct. 2015 (June 27, 2024) (per curiam).

[43] *Idaho v. United States*, No. 1:22-cv-00329, ECF No. 182 (D. Idaho Mar. 5, 2025).

[44] *Becerra v. Texas*, No. 23-1076 (U.S. Oct. 7, 2024) (denying certiorari).

[45] *Texas v. Becerra*, 89 F.4th 529, 546 (5th Cir. 2024) (affirming permanent injunction barring HHS from enforcing the 2022 EMTALA Guidance's "interpretation that Texas abortion laws are preempted by EMTALA" and "it's interpretation of EMTALA—both as to when an abortion is required and EMTALA's effect on state laws governing abortion—within the State of Texas or against [plaintiff organizations'] members."); *see also* Ctrs. for Medicare & Medicaid Servs., *Emergency Medical Treatment & Labor Act (EMTALA)*, https://www.cms.gov/medicare/regulations-guidance/legislation/emergency-medical-treatment-labor-act (last modified Dec. 6, 2024).

[46] A separate challenge to the guidance was filed by the Catholic Medical Association in Tennessee, Compl., *Catholic Med. Ass'n v. Dep't of Health & Hum. Servs.*, No 3:25-cv-00048, ECF No. 1 (M.D. Tenn. Jan. 10, 2025), but the plaintiff voluntarily dismissed that action on June 3, 2025.

[47] 42 C.F.R. §§ 482.13(a)(1), (b)(1), (b)(2).

[48] Know Your Rights: Existing Laws May Protect Health Care Professional Who Provide or Support Abortion from Discrimination in Employment, NAT'L WOMEN'S LAW CTR. (Feb. 9, 2023), https://nwlc.org/resource/know-your-rights-existing-laws-may-protect-health-care-professionals-who-provide-or-support-abortion-from-discrimination-in-employment/.

[49] A.R.S. § 12-561(2).

[50] Accreditation Council for Graduate Med. Educ., *ACGME Program Requirements for Graduate Medical Education in Obstetrics and Gynecology* (Sept. 3, 2025).

[51] 42 U.S.C. § 238n.

[52] There is no reason to report a self-managed abortion to the police. Fact sheets from If/When/How with additional detail, including some state-specific fact sheets, are available here. If/When/How adds state-specific fact sheets to their website as they are finalized.

[53] *See* A.R.S. § 36-2161 for the full list of required information for an abortion report.

[54] A.R.S. § 36-2301.01(A)(1).

[55] *Id.* at (B).

[56] A.R.S. § 36-2162(A).

[57] *Id.* has the full list of required information for a complication report.

[58] Arizona defines fetal death as a death that occurs before the fetus is completely outside the body of the birthing person as shown by a lack of breathing, lack of a heartbeat, or lack of other voluntary muscle movement. *See* A.R.S. § 36-301(14).

[59] A.R.S. § 36-330.

[60] Providers include midwives and midwives have a separate reporting form for births that also includes fetal demise. A.R.S. § 36-329.

[61] *Id.*

[62] *See* Arizona Department of Public Health's Report, *Fetal, Perinatal and Maternal Death*s (2005), explaining that induced termination of pregnancy will be removed from the fetal death definition to avoid double counts with fetal death reporting and abortion reporting. https://pub.azdhs.gov/health-stats/report/ahs/ahs2005/pdf/text1c.pdf, page 2.

[63] A.A.C. § R9-19-306 (A).
[64] A.R.S. § 11-593 (A).
[65] Fact sheets from If/When/How with a comprehensive list of the state-specific mandatory reporting requirements that apply for all abortion procedures are available here.
[66] A.R.S. § 13-3620.
[67] For example, an EMR may employ a tool that securely shares information among healthcare institutions that use the same EMR (e.g., from one hospital system to another) and allows robust sharing among affiliated healthcare institutions (e.g., a Texas hospital treating a patient may be able to see the patient's records from an Illinois hospital within the same health system).
[68] For example, if a patient travels from a ban state to an access state for abortion care or obtains an abortion in the ban state under an exception, then later obtains any type of healthcare at a different provider that uses the same EMR, the patient's records may be automatically shared with the second provider. If the second provider believes that the care violated the state's abortion ban, they may report it to authorities.
[69] Some states have taken steps to address vulnerabilities in information sharing, specifically for abortion and gender-affirming care. For example, Maryland and California, among other states, have enacted laws that restrict disclosure of abortion-related records and require EMRs to develop tools to limit or prohibit such disclosure. *See, e.g.,* H.B. 812, 445th Leg., Reg. Sess. (Md. 2023), A.B. 352, 2023 Leg., Reg. Sess. (Cal. 2023).
While the federal government under the Biden administration created additional HIPAA protections related to the disclosure of reproductive health care records by issuing a HIPAA Reproductive Health Rule, in 2025, a federal district court vacated the rule nationwide and the requirements of the rule are no longer in effect (except for the notice of privacy practices provisions related to substance use disorder treatment records, which go into effect on February 16, 2026). HIPAA Privacy Rule to Support Reproductive Health Care Privacy, 89 Fed. Reg. 32976 (2024) (modifying 45 C.F.R. §§ 160, 164), *Purl v. U.S. Dep't of Health & Hum. Servs.*, No. 2:24-cv-228-Z (N.D. Tex. Jun 18, 2025) (vacating the majority of the rule). All HIPAA protections that were in place prior to this rule remain in place.
[70] Many of these setting options are quite broad, blocking not only a subsequent provider's access to more "sensitive" information, but also to less sensitive information that is critical to continuity of care. For this reason, many patients may not want to limit access to their records.
[71] E.g., healthcare institutions must comply with interoperability rules that penalize certain information blocking (though exceptions are available). *See* 21st Century Cures Act: Interoperability, Information Blocking and the ONC Health IT Certification Program, 85 Fed. Reg. 25642 (May 1, 2020) (amending 45 C.F.R. §§ 170, 171), 21st Century Cures Act: Establishment of Disincentives for Health Care Providers That Have Committed Information Blocking, 89 Fed. Reg. 54662 (July 1, 2024) (amending 42 C.F.R. §§ 171 414, 425, 495). *See also* Health Data, Technology, and Interoperability: Protecting Care Access, 89 Fed. Reg. 102512 (Dec. 17, 2024) (adding 45 C.F.R. § 171.206 to except information blocking practices intended to reduce potential exposure to legal action based on lawful reproductive health care provision, subject to certain conditions). Not all healthcare providers are currently subject to the disincentives included in the 2024 rule. However, the Centers for Medicare & Medicaid Services (CMS) may apply disincentives to certain hospitals and merit-based incentive payment system (MIPS) eligible clinicians.
[72] A.R.S. Const. Art. II, § 8.1(A)(3). While Arizona has a statute imposing misdemeanor criminal liability on any person who "composes or publishes an advertisement" for abortion or contraception services, A.R.S. § 13-3605, that statute is viewed to be unenforceable under both the federal and Arizona constitutions.
[73] A.R.S. Const. Art. II, § 8.1(A)(2).
[74] A.R.S. § 36-2160(A).
[75] *Id.* at B.
[76] *Id.* at C.
[77] A.R.S. § 36-2153(A)(2)(h).
[78] A.R.S. § 36-2302.
[79] A.R.S. § 36-2313.