ABORTION DEFENSE NETWORK

# Know Your State's Abortion Laws

## A Guide for Medical Professionals

GEORGIA

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 April 2025

# Key Takeaways

Providing contraception, including emergency contraception, is legal.

Providing medical care for ectopic pregnancies and pregnancies with no cardiac activity is legal.

Providing information about how to obtain a legal abortion in another state is legal.

Abortion is prohibited under Georgia law after cardiac activity is detectable (around 6 weeks LMP) unless:

(1) the patient has a "medical emergency," meaning abortion is necessary to "prevent the death" of the patient or to prevent the "substantial and irreversible physical impairment of a major bodily function,"

(2) the pregnancy is the result of rape or incest, is reported to authorities, and is 22 weeks LMP or less, or

(3) the pregnancy is "medically futile," meaning the fetus has a condition "incompatible with sustaining life after birth."

Litigation of the constitutionality of the ban is ongoing.

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## Definition of Abortion & Contraception

### ABORTION

Georgia law defines abortion to include only certain induced abortions, specifically: "'Abortion' means the act of using, prescribing, or administering any instrument, substance, device, or other means with the purpose to terminate a pregnancy with knowledge that termination will, with reasonable likelihood, cause the death of an unborn child."[1] "Unborn child" is defined as "a member of the species Homo sapiens at any stage of development who is carried in the womb."[2]

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

Miscarriage care is legal, so long as there is no cardiac activity. With respect to self-managed abortion, it is legal for providers to give medical care during or after a self-managed abortion provided there is no cardiac activity, or if the patient is experiencing a complication that would qualify as a medical emergency, the pregnancy is the result of rape or incest, or the pregnancy is medically futile (see below). There is not an explicit crime of self-managed abortion in Georgia law, and no civil law explicitly prohibiting a person from self-managing an abortion.

### CONTRACEPTION

Contraception is not illegal in any state in the country. Georgia's legal definition of abortion explicitly states that it "shall not include the prescription or use of contraceptives."[4]

## 6-Week Abortion Ban

Georgia law only allows abortions before cardiac activity is detectable. Because cardiac activity is detectable starting around 6 weeks LMP, this is sometimes referred to as a 6-week abortion ban. Before performing an abortion, a physician must make "a determination of the presence of a detectable human heartbeat . . . of an unborn child."[5] Failure to determine the presence of cardiac activity subjects a physician to criminal and civil penalties as well as loss of medical license.[6] "Detectable human heartbeat" is defined as "embryonic or fetal cardiac activity or the steady and repetitive rhythmic contraction of the heart within the gestational sac."[7]

With certain exceptions (discussed below), a physician[8] cannot perform an abortion "if an unborn child has been determined . . . to have a detectable human heartbeat."[9] A violation of the ban is punishable by imprisonment for between 1 and 10 years.[10]

In the same piece of legislation as the 6-week ban, the Georgia legislature also redefined the term "natural person" to "mean[ ] any human being including an unborn child" "at any stage of development who is carried in the womb."[11] The State has repeatedly represented in (non-binding) court filings that this definition does not have the effect of prohibiting lawful abortions that take place *before* embryonic/fetal cardiac activity.

A lawsuit challenging the constitutionality of the 6-week ban is ongoing in state court, but the law is currently in effect while litigation continues.

## Exceptions to 6-Week Abortion Ban

There are three exceptions to Georgia's 6-week abortion ban. In litigation challenging the constitutionality of the 6-week ban, attorneys from the State have made representations about the scope of these exceptions (discussed below) that, while non-binding, may provide some guidance to clinicians.

**Medical Emergency:** Georgia law allows abortions after fetal cardiac activity is detectable in cases where a physician determines in their "reasonable medical judgment" that there is a "medical emergency." It defines "medical emergency" as "a condition in which an abortion is necessary in order to prevent the death of the pregnant woman or the substantial and irreversible physical impairment of a major bodily function of the pregnant woman."[12] The only health condition that is explicitly excluded from the exception is a risk to the patient's life or health that arises from a mental or emotional condition or from self-harm (e.g. suicide).[13] While the State has not provided any binding clarification of the scope of the emergency exception, it has represented in litigation over the 6-week ban that physicians can use their reasonable medical judgment to provide abortions to patients where there is a serious threat to patient health, even if not yet immediate. The State has also stated in litigation that an abortion can be performed under the exceptions, even when embryonic/fetal cardiac activity is ongoing, in cases of "inevitable miscarriage," and specifically referred conditions like preeclampsia, placental abruptions, and preterm premature rupture of membranes ("PPROM").[14]

**Rape or Incest:** Georgia law allows abortion in cases of "rape or incest," provided that the gestational age of the pregnancy is 22 weeks LMP or less and "an official police report has been filed alleging the offense of rape or incest."[15]

**"Medically Futile" Pregnancies:** Georgia law allows abortions after fetal cardiac activity is detectable in cases where a physician determines in their "reasonable medical judgment" that "the pregnancy is medically futile."[16] Georgia law defines "medically futile" to mean that "in reasonable medical judgment, an unborn child has a profound and irremediable congenital or chromosomal anomaly that is incompatible with sustaining life after birth."[17] While the State has not provided any binding clarification of the scope of the medically futile exception, it has represented in litigation over the 6-week ban that physicians can use their reasonable medical judgment to determine when a pregnancy is unlikely to result in a child with sustained life after birth, citing trisomy 13 as one example of a medically futile condition.[18]

For the purposes of each of these exceptions, Georgia law defines "reasonable medical judgment" as "medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved."[19]

If a physician has determined that either the medical emergency exception or the medically futile exception applies, the physician does not need to comply with Georgia's requirement to determine if the pregnancy has a detectable human heartbeat.[20] Several of Georgia's other abortion restrictions also do not apply in medical emergencies. Specifically: the physician does not need to comply with Georgia's mandatory disclosure requirements and 24-hour waiting period;[21] and for young people under 18, a physician does not need to notify their parent if the young person's condition requires "an immediate abortion."[22] However, there is some variation in how "medical emergency" is defined across Georgia's abortion restrictions For instance, unlike the definition used for purposes of Georgia's 6-week ban, the medical emergency exception to Georgia's law governing informed consent for abortion says

that the patient's condition must necessitate an "immediate" abortion, but that the health risk can be "substantial *or* irreversible" (emphasis added), instead of both.[23]

## EMTALA

A federal law called the Emergency Medical Treatment & Labor Act ("EMTALA") requires emergency abortion care in some cases. EMTALA requires Medicare-participating hospitals with emergency departments (which includes most hospitals), to perform a medical screening to determine whether an emergency medical condition exists for any individual who comes to the emergency department and requests an examination or treatment.[24] Stabilizing medical treatment must be provided to individuals experiencing an emergency medical condition,[25] including people in labor or with emergency pregnancy complications.[26] 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."[27] A person experiencing an emergency medical condition can only be transferred to a different hospital once they are stable or if certain conditions are met, such as the medical benefits of transfer outweighing the increased risks to the person experiencing the emergency medical condition.[28] 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."[29] 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."[30] The stabilizing treatment required by EMTALA can include abortion care in certain circumstances.

The U.S. Department of Health and Human Services ("HHS") reaffirmed these requirements in guidance issued after *Roe v. Wade* was overturned. That guidance emphasizes that stabilizing treatment required by EMTALA could include abortion care if the examining physician or other qualified medical personnel determines that such treatment is required to stabilize a patient experiencing an emergency medical condition, including a condition that is "likely or certain to become emergent without stabilizing treatment."[31] The guidance made clear those conditions might include, but are not limited to: "ectopic pregnancy, complications of pregnancy loss, or emergent hypertensive disorders, such as preeclampsia with severe features."[32] The guidance reiterates that if EMTALA requires the provision of abortion care, then EMTALA expressly preempts any state law prohibiting or restricting access to abortion.[33] Indeed, since *Dobbs*, HHS has cited hospitals in Kansas, Missouri, and Florida for violating EMTALA by failing to provide abortion care to a patient with PPROM or other life-threatening pregnancy condition.[34]

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.

In 2022, in *United States v. Idaho*, the federal government sued Idaho and obtained a preliminary injunction ensuring that Idaho's abortion ban could not be enforced to prohibit health-saving emergency abortions required under EMTALA.[35] After temporarily staying that injunction,[36] the U.S. Supreme Court lifted the stay and restored the preliminary injunction in June 2024.[37]

Following the change of presidential administrations, the United States dismissed its case, effectively eliminating the injunction entered in that case. [38] By that time, however, a hospital system had filed a separate lawsuit and obtained a temporary restraining order effectively maintaining the status quo, meaning that Idaho still cannot enforce its abortion ban in circumstances where EMTALA would require abortion care. [39]

Meanwhile in Texas, the U.S. Supreme Court refused to review a Fifth Circuit decision that affirmed a lower court decision blocking federal enforcement of HHS' 2022 EMTALA guidance in Texas and as to other plaintiffs in that case. As a result, the Fifth Circuit's decision affirming the permanent injunction against the 2022 EMTALA guidance is final. This means HHS may not enforce the 2022 guidance in Texas or against any member of the American Association of Pro-Life OBGYNs (AAPLOG) or Christian Medical & Dental Associations (CMDA).[40, 41]

## 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.[42]

**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.[43]

**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.[44]

**Regulatory Sanctions:** While this document does not detail state-specific regulations of healthcare facilities or licensees, medical providers should be aware that the Georgia Department of Public Health and Georgia Department of Community Health issued a joint notice stating that "physicians in Georgia are expected to follow standards of care in providing treatment for pregnant women in emergent situations" and warning that "[t]he failure to act timely in critical situations may result in regulatory sanctions from the Healthcare Facility Regulation Division of the Department of Community Health or other State boards and agencies."[45]

**Resident Training:** The Accreditation Council for Graduate Medical Education (ACGME) requires that accredited programs provide access to training in the provision of abortion.[46] 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.[47]

## 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.[48] The only abortion-specific documentation and reporting requirements are:

**Documentation:** Georgia law requires that if a "detectable human heartbeat" exists, the physician must report "the probable gestational age, and the method and basis of the determination."[49] If a "detectable human heartbeat" exists and an abortion is performed under an exception to the 6-week ban, the physician must report "the basis of the determination that the pregnant woman had a medically futile pregnancy, that a medical emergency existed, or that the pregnancy was a result of rape or incest; and . . . "[t]he method used for the abortion."[50] Georgia law also requires that when a physician performs an abortion under the "medical emergency" exception for a young person under 18 and there is insufficient time to notify a parent, the physician must "certify in writing the medical indications on which this judgment was based when filing such reports as are required by law."[51]

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.

**Abortion Reporting:** Georgia law requires that the physician report induced abortions[52] including any emergency complications from the procedures to the state through the Induced Termination of Pregnancy (ITOP) reporting system.[53]

**Fetal Death Reporting:** Georgia law requires reporting "spontaneous fetal deaths," including stillborn pregnancies and medical procedures to remove pregnancy tissue following miscarriage at any gestational age, to the local registrar within 72 hours after the procedure or delivery.[54] The ITOP reporting system has a separate fetal death module where these cases should be reported.

**Other Mandatory Reporting:** All other general mandatory reporting to the Department of Family and Protective Services, local law enforcement, etc., also applies for abortion patients.[55] This includes reporting of sexual abuse of young people, child abuse, and vulnerable adult abuse.[56]

**Electronic Medical Records:** Many electronic medical record systems (EMRs) allow healthcare providers to securely share patient records across healthcare institutions.[57] While EMRs have settings that allow patients to choose how and when their records are shared, hospital systems often instead use their EMR's default settings that widely share patient records. Though often done for continuity of care purposes, these settings 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.[58]

The federal government has taken steps to address this concern by issuing a HIPAA rule that became effective on June 25, 2024.[59] The rule prohibits the use or disclosure of protected health information (PHI) if sought to conduct an investigation into or impose liability on any person solely for seeking, obtaining, providing, or facilitating lawful reproductive healthcare, or identifying any person for these purposes.[60] A provider who receives a request to disclose PHI potentially related to reproductive care must obtain an attestation from the requestor that the request is not for a prohibited purpose.[61] The attestation is required when the request is for: law enforcement purposes, disclosures to coroners and medical examiners, judicial and administrative proceedings, and health oversight activities.[62] If the abortion care – self-managed or otherwise – was provided by someone else, the rule allows a provider to assume it was provided lawfully unless 1) the patient tells them otherwise or 2) the attestation provides evidence of unlawfully provided care.[63] The rule only applies to healthcare providers who are subject to HIPAA.[64] Though several states

are challenging this rule in litigation, it currently remains in place as these cases move forward.[65]

Separate from HIPAA, interoperability rules that penalize certain information blocking may apply when a healthcare provider uses EMRs.[66] Because of this, we encourage you to discuss alternative EMR settings and information blocking exceptions that may be available with your institution's compliance officers, counsel, and/or technology officers.[67]

## Counseling & Referral

Speech about abortion is legal in Georgia. Medical professionals in Georgia can thus (1) provide accurate options counseling, including about abortion; and (2) refer patients to medical providers in states where abortion is legal.

## Medication Abortion

All of the requirements discussed in this document apply to both procedural and medication abortion. While some states have additional laws that apply specifically to medication abortion, Georgia does not have any of these laws currently in effect.

## Disposition of Fetal Tissue Remains

While Georgia law has a longstanding requirement regarding the disposition of embryonic and fetal tissue remains from both abortion and miscarriage procedures, it was never challenged in court because it has not significantly impacted medical practice. Specifically, medical facilities are required to dispose of such tissue by "cremation, interment, or other manner approved of by the commissioner of public health."[68] This requirement does not apply to vitro fertilization, medication abortion, or any process where the patient passes the pregnancy tissue outside of a medical facility, nor does it put any requirements on patients.

## 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), If/When/How: Lawyering for Reproductive Justice, National Women's Law Center (NWLC), and Resources for Abortion Delivery (RAD).

## References

[1] Ga. Code § 16-12-141(a)(1); Ga. Code § 15-11-681; Ga. Code § 31-9A-2(1).
[2] Ga. Code § 1-2-1(e)(2); Ga. Code § 31-9A-2(7).
[3] Ga. Code § 16-12-141(a)(1); *see also* Ga. Code § 15-11-681; Ga. Code § 31-9A-2(1).
[4] Ga. Code § 15-11-681; Ga. Code § 31-9A-2(1).
[5] Ga. Code § 31-9B-2(a).
[6] Ga. Code § 31-9B-2(b).
[7] Ga. Code § 16-12-141(a)(2); Ga. Code § 1-2-1(e)(2).
[8] Georgia law limits the performance of abortions to physicians, which are defined as "a person licensed to practice medicine." Ga. Code §§ 16-12-141(e)(2), 31-9A-2(3).
[9] Ga. Code § 16-12-141(b).
[10] Ga. Code § 16-12-140(b).
[11] Ga. Code § 1-2-1.
[12] Ga. Code § 16-12-141(a)(3); *see also* Ga. Code § 31-9A-2(2); Ga. Code § 15-11-686.
[13] Ga. Code § 16-12-141(a)(3): "No such greater risk shall be deemed to exist if it is based on a diagnosis or claim of a mental or emotional condition of the pregnant woman or that the pregnant woman will purposefully engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function."
[14] State's Post-Trial Br. at 22, *SisterSong Women of Color Reprod. Just. Collective v. Georgia*, No. 2022CV367796 (Ga. Super. Ct. Nov. 4, 2022); *see also* Transcript of Oral Argument at 28–29, 70, *SisterSong Women of Color Reprod. Just. Collective v. Georgia*, No. 2022CV367796, 2022 WL 16960560 (Ga. Super. Ct. Oct. 24, 2022).
[15] Ga. Code § 16-12-141(b)(2); Ga. Code § 31-9B-1(5) (explaining that Georgia law measures gestational age as post-fertilization, which is two weeks less than LMP).
[16] Ga. Code § 16-12-141(b)(3).
[17] Ga. Code § 16-12-141(a)(4).
[18] Trial Transcript Day 2 at 377, 405–07, *SisterSong Women of Color Reprod. Just. Collective v. Georgia*, No. 2022CV367796, 2022 WL 16960560 (Ga. Super. Ct. Oct. 25, 2022).
[19] Ga. Code § 31-9B-1(6).
[20] Ga. Code § 31-9B-2(a).
[21] Ga. Code 31-9A-3.
[22] Ga. Code § 15-11-686.
[23] Ga. Code § 31-9A-2(2): "'Medical emergency' means any condition which, in reasonable medical judgment, so complicates the medical condition of a pregnant female as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial or irreversible impairment of a major bodily function of the pregnant woman or death of the unborn child. No such condition shall be deemed to exist if it is based on a diagnosis or claim of a mental or emotional condition of the pregnant woman or that the pregnant woman will purposefully engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function."
[24] EMTALA, 42 U.S.C. § 1395dd(a).
[25] EMTALA, 42 U.S.C. § 1395dd(b)(1)(A).
[26] EMTALA, 42 U.S.C. § 1395dd(e)(1).
[27] EMTALA, 42 U.S.C. § 1395dd(e)(3)(A).
[28] 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).
[29] EMTALA, 42 U.S.C. § 1395dd(c)(1)(B)–(c)(2)(A).
[30] EMTALA, 42 U.S.C. § 1395dd(e)(1).
[31] Ctrs. for Medicare & Medicaid Servs., *Reinforcement of EMTALA Obligations Specific to Patients who are Pregnant or are Experiencing Pregnancy Loss* (updated July 2022).
[32] *Id.*
[33] *Id.*; *see also* EMTALA, 42 U.S.C. § 1395dd(f) ("The provisions of this section do not preempt any State or local law requirement, except to the extent that the requirement directly conflicts with a requirement of this section.").

[34] Ctrs. for Medicare & Medicaid Servs., *Freeman Health System—Freeman West, Statement of Deficiencies and Plan of Correction* (April 10, 2023); Ctrs. for Medicare & Medicaid Servs., *University of Kansas Hospital, Statement of Deficiencies and Plan of Correction* (April 10, 2023); Caroline Kitchener & Dan Diamond, *She filed a complaint after being denied an abortion. The government shut her down*, Washington Post (Jan. 19, 2024), https://www.washingtonpost.com/politics/2024/01/19/oklahoma-abortion-emtala/ ("Biden officials also confirmed one additional case that the administration had determined violated EMTALA involving a woman who presented at two hospitals in Florida with a life-threatening pregnancy condition in December 2022."); Press Release, U.S. Dep't of Health and Human Servs., *HHS Secretary Xavier Becerra Statement on EMTALA Enforcement* (May 1, 2023).

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

[36] *Idaho v. United States*, 144 S. Ct. 541 (Mem) (2022).

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

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

[39] *St. Luke's Health System, LTD v. Labrador*, No. 1:25-cv-00015, ECF No. 33 (D. Idaho Mar. 4, 2025).

[40] 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).

[41] 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 federal government has not yet responded.

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

[43] 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/.

[44] *See* Ga. Code § 51-1-27; Ga. Code § 9-3-70 et seq.

[45] Ga. Dep't of Public Health & Ga. Dep't of Community Heath, *Notice to Health Care Providers Regarding Misinformation About Abortions in Georgia* (Sept. 25, 2024), https://www.mmis.georgia.gov/portal/Portals/0/StaticContent/Public/ALL/NOTICES/Provider%20Announcement%20Sept%2025%202024%20final%20240925193207.pdf.

[46] Accreditation Council for Graduate Med. Educ., *ACGME Program Requirements for Graduate Medical Education in Obstetrics and Gynecology*, ACCREDITATION COUNCIL FOR GRADUATE MED. EDUC. (Sept. 17, 2022), https://www.acgme.org/globalassets/pfassets/programrequirements/220_obstetricsandgynecology_9-17-2022_tcc.pdf.

[47] 42 U.S.C. § 238n.

[48] 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.

[49] Ga. Code § 31-9B-3(a)(1).

[50] Ga. Code § 31-9B-3(a)(2).

[51] Ga. Code § 15-11-686.

[52] Ga. Code § 16-12-141.1(c); Ga. Code § 31-9A-6; Ga. Code. § 31-9B-3.

[53] https://gavers.dph.ga.gov/Welcome.htm The state reporting form includes a section for reporting abortion complications, but state law only explicitly requires reporting of complications that are also medical emergencies. *See* Ga. Code § 16-12-141(a)(3); Ga. Code. § 31-9B-3.

[54] Ga. Code § 31-10-18. "Spontaneous fetal death" is defined as "the expulsion or extraction of a product of human conception resulting in other than a live birth and which is not an induced termination of pregnancy." Ga. Code § 31-10-1(15;.

[55] 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.

[56] Ga. Code § 19-7-5; Ga. Code § 30-5-4.

[57] For example, one EMR, Epic, uses a tool called Care Everywhere to securely share information between healthcare institutions (e.g., from one hospital system to another) and allows robust sharing within a single institution (e.g., a Texas

hospital treating a patient may be able to see the patient's records from an Illinois hospital that within the same system).

[58] 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.

[59] Although effective on June 25, 2024, compliance with this rule was required on December 23, 2024, except for the applicable requirements for revising Notice of Policy Practices (as required by 45 CFR 164.520), which must be complied with by February 16, 2026.

[60] 42 U.S.C. § 164.502(a)(5)(iii). *See also HIPAA Privacy Rule Final Rule to Support Reproductive Health Care Privacy: Fact Sheet*, U.S. DEP'T OF HEALTH & HUM. SERVS., https://www.hhs.gov/hipaa/for-professionals/special-topics/reproductive-health/final-rule-fact-sheet/index.html (content last reviewed April 22, 2024).

[61] 42 U.S.C. § 164.509. The U.S. Department of Health & Human Services (HHS) recently released a model attestation, available here: https://www.hhs.gov/sites/default/files/model-attestation.pdf.

[62] 42 U.S.C. §§ 164.509(a), 512(d)-(g)(1).

[63] 42 U.S.C. § 164.502(a)(5)(iii).

[64] American Medical Association, *HIPAA Privacy Rule to Support Reproductive Health Care Privacy AMA Drafted Summary of Regulatory Changes in Final Rule* (April 26, 2024), https://www.ama-assn.org/system/files/summary-regulatory-changes-final-rule-reproductive-health-information.pdf (last visited June 27, 2024).

[65] Tennessee et al. v. U.S. Dept. of Health & Human Servs., et al, Case No. 3:25-cv-00025 (E.D. Tenn. Jan. 17, 2025); Texas v. U.S. Dept. of Health & Human Servs., et al, Case. No. 5:24-cv-00204-H (N.D. Tex. Sept. 4, 2024); Purl v. U.S. Dept. of Health & Human Servs., et al., Case No. 2:24-cv-00228-Z (N.D. Tex. Dec. 22, 2024) (enjoining the 2024 HIPAA Rule as to Dr. Purl only).

[66] 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). 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. HHS intends to expand disincentives to other groups of health care providers in future rulemaking.

[67] In addition to the federal government, some states have taken steps to address vulnerabilities in this information sharing, specifically for abortion and gender-affirming care. For example, in 2023, Maryland and California passed bills that restrict disclosure of abortion-related records and require EMRs to develop tools to limit or prohibit such disclosure.

[68] Ga. Code § 16-12-141.1(a)(1).