ABORTION DEFENSE NETWORK

Know Your State's Abortion Laws

A Guide for Medical Professionals

OKLAHOMA

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.

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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 Oklahoma law unless the abortion is necessary to “preserve [the] life” of the patient.

The Oklahoma Supreme Court has held that the Oklahoma Constitution protects a limited right to abortion in life-preserving situations, and clarified that clinicians may provide abortions without waiting until the patient is in an active medical emergency if the life-threatening risk is sufficiently likely.

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Definition of Abortion & Contraception

ABORTION

The word "abortion" is defined in various ways in Oklahoma law,[1] but generally, the definition applies to "the use or prescription of any instrument, medicine, drug, or any other substance or device" to terminate pregnancy.[2] Although the language defining abortion varies, the legal consensus is that it excludes the "removal" of a fetus that is "dead" (generally understood to mean there is no cardiac activity present in the embryo or fetus) and management of an ectopic pregnancy (including use of methotrexate and surgical removal).[3] This means that treatment for miscarriage where there is no cardiac activity (including medications, D&C, D&E, labor induction) is *not* an abortion under Oklahoma law and thus is not prohibited.

Although nonbinding, the Oklahoma Attorney General issued guidance on August 31, 2022 that confirms this consensus: "Oklahoma abortion prohibitions do not apply to unintentional miscarriages and miscarriage management (such as the removal of a dead child), ectopic pregnancies and treatments, in vitro fertilization (IVF) and other fertility treatments, or uses or prescription of contraception, including Plan B."[4] The Attorney General issued updated guidance with similar language on November 21, 2023.[5] On September 12, 2025, the Attorney General once again issued guidance confirming that Oklahoma abortion prohibitions do not apply to unintentional miscarriages, miscarriage management where a patient has experienced an unintentional miscarriage, ectopic pregnancy treatment, fertility treatments such as IVF, or the prescription of contraception.[6] However, the guidance states that the prohibitions do apply to selective reduction in a multifetal pregnancy.[7]

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 threat to the patient's life under the exception to Oklahoma's abortion ban described below. There is not an explicit crime of self-managed abortion in Oklahoma law, and no civil law prohibiting a person from self-managing an abortion. In fact, Oklahoma explicitly repealed its criminal prohibition on self-managed abortion after *Roe* was overturned.[8]

CONTRACEPTION

Contraception is not illegal in any state in the country, including Oklahoma.[9]

Abortion Bans

Oklahoma presently has three abortion bans in effect: (1) the pre-*Roe* ban, which is a total ban; (2) a post-viability ban; and (3) a 22-week ban.[10] Oklahoma had three other bans take effect in spring and summer 2022, but each has been struck down by the Oklahoma Supreme Court.[11] There are a number of other bans and restrictions currently subject to injunctions and therefore not in effect.[12] The only bans currently in effect are:

Pre-*Roe* Ban: The pre-*Roe* ban was originally blocked after *Roe* was decided in 1973, but it was revived by a "trigger" law when *Roe* was overturned in 2022.[13] The ban prohibits "administer[ing] to any woman . . . prescrib[ing] for any woman, or advis[ing] or procur[ing] any woman to take any medicine, drug or substance, or us[ing] or employ[ing] any instrument, or other means whatever, with intent thereby to procure the miscarriage of such woman, unless the same is necessary to preserve her life."[14] Violating the pre-*Roe* ban is a felony, and the penalty is "imprisonment in the State Penitentiary for not less than two (2) years nor more than five (5) years."[15] In March 2023,

the Oklahoma Supreme Court declared in *Oklahoma Call for Reproductive Justice v. Drummond* ("*OCRJ v. Drummond*") that the Oklahoma Constitution protects a fundamental right to an abortion to preserve a patient's life, and upheld the pre-*Roe* ban as constitutional by concluding that it adequately protected patient life under this standard (see below).[16]

Post-Viability Ban: Oklahoma also has a post-viability ban on the books, which presumes viability at 24 weeks LMP, and has an exception where "abortion is necessary to prevent the death of the pregnant woman or to prevent impairment to her health."[17] Like the pre-*Roe* ban, this exception appears to be consistent with *OCRJ v. Drummond*, meaning that physicians can provide abortions where necessary to protect patient life. There are some requirements about personnel if the fetus is beyond 24 weeks, but these are waivable in a life-threatening situation.[18]

22-Week Ban: There is a ban on abortion after 22 weeks LMP (or 20 weeks post-fertilization as described in the statute), "unless, in reasonable medical judgment, [the patient] has a condition which so complicates her medical condition as to necessitate the abortion of her pregnancy to avert her death or to avert serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions."[19] This exception also appears to be consistent with *OCRJ v. Drummond*.

Medication Abortion Ban: In 2026, Oklahoma enacted a law that makes it a felony to "traffic . . . an abortion-inducing drug." Under that law, a person who "knowingly or intentionally" "delivers or "possesses" "an abortion-inducing drug with the intent to deliver" it to "another person [who] intends to use [it] to cause an unlawful abortion" may be guilty of a felony."[20] The law is scheduled to take effect on August 13, 2026.

Exception to Abortion Bans to "Preserve [the] Life" of the Patient

The only exception to the pre-*Roe* ban is for an abortion "necessary to preserve [the] life" of the patient.[21] (The post-viability ban and 22-Week ban effectively have the same exception, see above.) Oklahoma has no exceptions for rape, incest, or fetal diagnoses unless the patient is also experiencing a threat to their life. The Oklahoma Supreme Court's decision upholding the pre-*Roe* ban as constitutional, however, established a limited constitutional right to abortion to preserve a patient's life and provided a useful definition of the scope of the "life" exception to its abortion bans.

The Court detailed that a patient "has an inherent right to choose to terminate her pregnancy if at any point in the pregnancy, the woman's physician has determined to a reasonable degree of medical certainty or probability that the continuation of the pregnancy will endanger the woman's life due to the pregnancy itself or due to a medical condition that the woman is either currently suffering from or likely to suffer from during the pregnancy." The Court clarified that "[a]bsolute certainty" about the life-threatening risk "is not required, however, mere possibility or speculation is insufficient." The Court emphasized that a patient *does not need* to be in "actual and present danger in order for her to obtain a medically necessary abortion" if the "harmful condition is known or probable to occur in the future."[22]

This language means that the exception appears to apply where:

- Pregnancy will *inevitably* result in a life-threatening risk like preterm premature rupture of membranes ("PPROM") or the treatment of a molar or partial molar pregnancy.
- A life-threatening situation is "probable": e.g.

hypertension where the physician has determined that it is probable that the patient will face a life-threatening emergency.

- The life-threatening medical condition is not caused by pregnancy, but the threat is "due to a medical condition that the woman is either currently suffering from or likely to suffer from during the pregnancy."[23] This could extend to pre-existing conditions such as hypertension, diabetes, or cancer.

The physician must be able to rely on their judgment to make a determination about a life-preserving abortion "to a reasonable degree of medical certainty or probability."[24]

Other Abortion Restrictions

While not the focus of this document, Oklahoma has many other laws[25] that restrict abortion, including: extensive mandatory biased counseling requirements, a 72-hour mandatory delay,[26] and parental notice[27] and parental consent for young people under eighteen.[28] All of these laws have "medical emergency" exceptions relating to abortions that must be provided "immediately" (excluding emergencies due to psychiatric conditions). Specifically, "medical emergency" is defined as: "the existence of any physical condition, not including any emotional, psychological, or mental condition, which a reasonably prudent physician, with knowledge of the case and treatment possibilities with respect to the medical conditions involved, would determine necessitates the immediate abortion of the pregnancy of the female to avert her death or to avert substantial and irreversible impairment of a major bodily function arising from continued pregnancy."[29] Thus, if a patient is in an active medical emergency, a physician can provide an abortion without complying with these other state restrictions. The physician must, however, inform the patient before the abortion, if possible, "of the medical indications supporting the physician's judgment that an abortion is necessary to avert her death or that a delay will create serious risk of substantial and irreversible impairment of a major bodily function."[30] The physician is also still required to comply with post-abortion documentation and reporting obligations (see below).

If the patient *is not* in an active medical emergency, but their life is endangered by probable future harm under *OCRJ v. Drummond*, a physician may need to comply with these other restrictions. If you or your institution has questions about these or other requirements, we encourage you to reach out to the Abortion Defense Network, linked at the end of this document.

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.[31] 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."[32] 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."[33]

EMTALA requires stabilizing medical treatment be provided to any individual experiencing an emergency medical condition,[34] including people in labor or with emergency pregnancy complications,[35] unless the individual refuses to consent to such treatment.[36] 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."[37] 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.[38] 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."[39]

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.[40]

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."[41] 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."[42] 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."[43] 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.[44]

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.[45] 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]."[46] 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.[47] 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.[48] Following the change of presidential administrations, the United States dismissed that

case entirely. [49]

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.[50] As a result, the Fifth Circuit's decision is final.[51,52]

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.[53]

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.[54]

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.[55]

Resident Training: The Accreditation Council for Graduate Medical Education (ACGME) requires that accredited programs provide access to training in the provision of abortion.[56] 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.[57]

Documentation & Reporting

Generally, state law does not require documentation of irrelevant or non-medical information in patient charts. Nor does it require reporting patients who receive abortions out of state or self-manage their own abortion to law enforcement.[58] The abortion-specific documentation and reporting requirements are:

Documentation:

- **24 weeks LMP or beyond:** The fetus is presumed viable under Oklahoma law, and a physician must either "certify in writing the precise medical criteria upon which he has determined that the particular unborn child is not viable before an abortion may be performed or induced" or certify in writing that in their "best medical judgment the abortion is necessary to prevent the death of the pregnant woman or to prevent an impairment to her health."[59]

  The physician must "further certify in writing the medical indications for such abortion and the probable health consequences if the abortion is not performed or induced."[60] "The physician who shall perform or induce an abortion upon a pregnant woman after such time as her unborn child has become viable shall utilize the available method or technique of abortion most likely to preserve the life and health of the unborn child, unless he shall first certify in writing that in his best medical judgment such method or technique shall present a significantly greater danger to the life or health of the pregnant woman than another available method or technique."[61]

- **Even if before 24 Weeks LMP:** Under *OCRJ v.*

Drummond, it may be advisable to document the basis for determining that an abortion is necessary to preserve the life of the patient. For example, it may be helpful to describe the patient's condition and why an abortion is "certainly" or "probably" necessary to "preserve" the patient's "life."

- **If the provider must comply with the 72-hour waiting period:** Forms and certifications from the patient must be retained in the medical record.[62] There are also medical record requirements for young people under eighteen.[63] Physicians must also document gestational age.[64] "All abortion facilities and hospitals in which abortions are performed shall also keep certifications of medical necessity, certifications of nonviability, certifications of nonavailability, abortion reports and complication reports . . . for a period of not less than seven (7) years."[65]

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: Oklahoma also requires extensive abortion reporting, including reports of each abortion,[66] special reporting for any abortions beyond 20 weeks,[67] reporting of aggregate figures for patients receiving mandatory biased counseling,[68] and special reporting for young people under eighteen.[69] Key forms can be found on the Oklahoma Department of Health website.[70]

Complication Reporting: Complications from abortion must also be reported to the state,[71] and this form is also available on the Oklahoma Department of Health website.[72] A complication report must be filed no more than 60 days following the complication. Importantly, the list of contemplated "complications" is extremely broad, including aspects that many providers would not deem to be "complications," such as "failed termination" and "incomplete termination" requiring re-evacuation.[73]

Fetal Death Reporting: Oklahoma law requires that at or after 12 weeks of gestation "fetal death certificates" be reported to the State Registrar within 3 days of delivery, either by a funeral director or the physician "or other person" in attendance at the delivery.[74] "Fetal Death" is defined as "death prior to the complete expulsion or extraction from its mother of a product of human conception after the fetus has advanced to or beyond the twelfth week of uterogestation." Abortions are not reportable as fetal deaths. [75]

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.[76] This includes reporting of sexual abuse of young people, child abuse, and vulnerable adult abuse.[77]

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.[78] 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.[79, 80]

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.[81] 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.[82]

Counseling & Referral

The First Amendment protects speech about abortion, including accurate, non-directive options counseling that includes abortion and referrals for legal abortion care. As such, medical professionals in Oklahoma have First Amendment protection for their speech (1) providing accurate options counseling, including about abortion; and (2) referring patients to medical providers in states where abortion is legal.

The Pre-*Roe* ban criminalizes certain "advising" about abortion. The Attorney General's office confirmed in guidance memos issued in 2022 and 2023 that this provision can only be applied to advising regarding an "unlawful abortion"[83] and that enforcement of Oklahoma's abortion bans must "take great care to avoid infringing on constitutional speech rights," including advocacy in favor of abortion.[84] However, the Oklahoma Attorney General has subsequently made concerning representations regarding the legality of referring patients for lawful abortions out of state in legal filings in its litigation over Title X funding.[85] Likewise, in a guidance memo from September 2025, the Attorney General states, "Oklahoma's abortion prohibition can be violated even if no abortion occurs, or if no abortion occurs within Oklahoma" because of the prohibitions on advising and inducing patients to obtain an abortion.[86] Given these inconsistent statements, the Attorney General's view of referrals remains unclear; however, any interpretation of Oklahoma law that prohibited advising regarding legal abortions would be unprecedented and very likely violative of the First Amendment. If you have questions about how the recent guidance applies to your practice or the legal risk associated with advising patients about accessing legal abortion care out of state, please consult with an attorney. If you or your institution has questions, we encourage you to reach out to the Abortion Defense Network.

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, Oklahoma does not have any of these laws currently in effect.

Disposition of Fetal Tissue Remains

Oklahoma has general provisions that apply to the disposal of human tissue.[87] There are three additional requirements that may be implicated in abortion care. First, a physician who performs an abortion on a young person who is less than fourteen at the time of an abortion "shall preserve, in accordance with rules promulgated by the Oklahoma State Bureau of Investigation, fetal tissue extracted during such abortion" and "shall submit the tissue to the Oklahoma State Bureau of Investigation."[88] Second, there is a prohibition on "sell[ing]" or "experiment[ing]" on fetal remains resulting from an abortion, but lawful autopsies are carved out.[89] Third, a "fetal death certificate" may be required after "delivery" of a fetus, which could apply to induction procedures.[90]

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).

References

[1] Oklahoma's statutes online are not updated frequently. At the Oklahoma Department of Health Website, or the Oklahoma Legislature site for the public health code, you will see statutes included that have been declared unconstitutional under the state constitution. This document contains the relevant statutes that are presently in effect.

[2] *See, e.g.*, OSA 63 § 1-730(A)(1) ("'Abortion' means the use or prescription of any instrument, medicine, drug, or any other substance or device intentionally to terminate the pregnancy of a female known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, to remove an ectopic pregnancy, or to remove a dead unborn child who died as the result of a spontaneous miscarriage, accidental trauma, or a criminal assault on the pregnant female or her unborn child."); OSA 63 § 1-745.2(1) ("'Abortion' means the use or prescription of any instrument, medicine, drug, or any other substance or device to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died as the result of natural causes in utero, accidental trauma, or a criminal assault on the pregnant woman or her unborn child, and which causes the premature termination of the pregnancy.").

[3] *See, e.g.*, OSA 63 § 1-730(A)(1).

[4] August 31, 2022 Memorandum from Oklahoma Attorney General, *Guidance for Oklahoma law enforcement following Dobbs v. Jackson Women's Health Org.*, at 1 (hereinafter, "August 31, 2022 OAG Memo")

[5] November 21, 2023 Memorandum from Oklahoma Attorney General, *Guidance for Oklahoma law enforcement following Dobbs v. Jackson Women's Health Org., OCRJ v. Drummond, and OCRJ v. Oklahoma*, at 2 (hereinafter, "November 21, 2023 OAG Memo").

[6] September 12, 2025 Memorandum from Oklahoma Attorney General, Guidance for Oklahoma physicians following Dobbs v. Jackson Women's Health Org., OCRJ v. Drummond at 2–4 (hereinafter, "September 12, 2025 OAG Memo").

[7] *Id.* at 4 n. 3.

[8] *See* OK S.B. 1555, Ch. 133, O.S.L. 2022 (repealing OSA 21 §§ 862-3). There remains a prohibition against self-managed abortion on the books, but it has no penalties attached. OSA 63 § 1-733. Further the Oklahoma Attorney General has clarified that "Oklahoma laws prohibiting abortion do not allow for the prosecution or punishment of any mother for seeking or obtaining an abortion." August 31, 2022 OAG Memo, *supra* n.4, at 1; *see also* November 21, 2023 OAG Memo, *supra* n.5, at 1 (stating Oklahoma laws prohibiting abortion "clearly do not allow" for such prosecution); AG Op. 2023-12.

[9] *See, e.g.*, OSA 63 § 1-730(B) ("Nothing contained herein shall be construed in any manner to include any contraceptive device or medication . . . .").
[10] OSA 21 § 861.
[11] *Oklahoma Call for Reproductive Justice v. Drummond*, 526 P.3d 1123, 2023 OK 24 (Okla. 2023); *Oklahoma Call for Reproductive Justice v. State*, 2023 OK 60, 2023 WL 3735829 (Okla. May 31, 2023).
[12] *See Oklahoma Call for Reproductive Justice v. O'Connor*, No. 119918 (Okla. Sup. Ct.) (temporary injunction blocking 6-week ban, total ban, OB/GYN Board Certification Requirement; medication abortion restrictions); *Tulsa Women's Reproductive Clinic v. Hunter*, No. 118292 (Okla. Sup. Ct.) (temporary injunction blocking ban on D&E abortions).
[13] June 24, 2022, Memorandum from the Oklahoma Attorney General, Certification of the Supreme Court of the United States overruling *Roe v. Wade*, 410 U.S. 113 (1973) and *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992).
[14] OSA 21 § 861.
[15] OSA 21 § 861.
[16] *Oklahoma Call for Reproductive Justice v. Drummond*, 526 P.3d at 1130, 2023 OK at ¶ 9.
[17] OSA 63 § 1-732(A)-(B).
[18] OSA 63 § 1-732(E). From 24 weeks, there must be "in attendance a physician other than the physician performing or inducing the abortion who shall take control of and provide immediate medical care for the child," but the requirement for this "second physician may be waived when in the best judgment of the attending physician a medical emergency exists and further delay would result in a serious threat to the life or physical health of the pregnant woman." If the second physician is waived, "the attending physician shall have the duty to take all reasonable steps to preserve the life and health of the child before, during and after the abortion procedure, unless such steps shall, in the best medical judgment of the physician, present a significantly greater danger to the life or health of the pregnant woman." If the second physician is waived, "the attending physician shall have the duty to take all reasonable steps to preserve the life and health of the child before, during and after the abortion procedure, unless such steps shall, in the best medical judgment of the physician, present a significantly greater danger to the life or health of the pregnant woman." It is unclear what situation involving a life-threatening risk mandating an abortion would also allow a physician to "preserve the life and health of the child."
[19] OSA 63 § 1-745.5(A).
[20] OSA 63 § 1-756.30.
[21] OSA 21 § 861.
[22] *Oklahoma Call for Reproductive Justice v. Drummond*, 526 P.3d at 1130, 2023 OK at ¶ 9.
[23] *Oklahoma Call for Reproductive Justice v. Drummond*, 526 P.3d at 1130, 2023 OK at ¶ 9.
[24] *Oklahoma Call for Reproductive Justice v. Drummond*, 526 P.3d at 1130, 2023 OK at ¶ 9.
[25] *See* Center for Reproductive Rights, *After Roe Fell Map, Oklahoma* (summarizing that laws that remain in effect).
[26] OSA 63 §§ 1-738.2-.5a, 1-738.8; OSA 63 § 1-745.4; OSA 63 §§ 1-745.12 to 1-745.19.
[27] OSA 63 §§ 1-744 to 1-744.6.
[28] OSA 63 § 1-740.1 to 1-740.6.
[29] *See, e.g.*, OSA 63 § 1-738.1A(5); OSA 63 § 1-738.2(B); OSA 63 § 1-738.7(4); OSA 63 § 1-745.13(4); OSA 63 § 1-744.1(4); OSA 63 § 1-740.2.
[30] OSA 63 § 1-738.4.
[31] EMTALA, 42 U.S.C. § 1395dd(a).
[32] EMTALA, 42 U.S.C. § 1395dd(e)(1)(A).
[33] EMTALA, 42 U.S.C. § 1395dd(e)(1)(B).
[34] EMTALA, 42 U.S.C. § 1395dd(b)(1)(A).
[35] EMTALA, 42 U.S.C. § 1395dd(e)(1).
[36] EMTALA, 42 U.S.C. § 1395dd(b)(2).
[37] EMTALA, 42 U.S.C. § 1395dd(e)(3)(A).
[38] 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).
[39] EMTALA, 42 U.S.C. § 1395dd(c)(1)(B)–(c)(2)(A).
[40] 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.

[41] Kennedy Letter.

[42] Kennedy Letter.

[43] *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.).

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

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

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

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

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

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

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

[51] *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).

[52] 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.

[53] 42 C.F.R. §§ 482.13(a)(1), (b)(1), (b)(2).

[54] 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/.

[55] OSA 76 § 17 *et seq.*

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

[57] 42 U.S.C. § 238n.

[58] 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.

[59] OSA 63 § 1-732(B).

[60] OSA 63 § 1-732(B).

[61] OSA 63 § 1-732(D).

[62] OSA 63 § 1-738.3a; OSA 63 § 1-738.8.

[63] OSA 63 § 1-740.2.

[64] OSA 63 § 1-745.4.

[65] OSA 63 § 1-739.

[66] OSA 63 § 1-738k; OAC § 310:600-13-3.
[67] OSA 63 § 1-745.6.
[68] OSA 63 § 1-738.3a; OSA 63 § 1-738.13.
[69] OSA 63 § 1-740.4a.
[70] Oklahoma State Department of Health, Center for Health Statistics, Induced Termination of Pregnancy.
[71] OSA 63 § 1-738I.
[72] Oklahoma State Department of Health, Center for Health Statistics, Induced Termination of Pregnancy.
[73] OSA 63 § 1-738I(E)(8).
[74] OSA 63 § 1-318.
[75] OSA 63 § 1-301. "The death is indicated by the fact that, after such expulsion or extraction, the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord or definite movement of voluntary muscles." *Id.* Note that in this section of Oklahoma law, the definition of "stillbirth" is the same as the definition for "fetal death."
[76] 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.
[77] OSA 10A § 1-2-101; OSA 43A §§ 10-104v1 to 10-104.v2.
[78] 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).
[79] 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.
[80] 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 went 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.
[81] 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.
[82] 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.
[83] August 31, 2022 OAG Memo, *supra* n.4, at 2; *see also* November 21, 2023 OAG Memo, *supra* n.5, at 3.
[84] *Id.*

[85] *See* Appellant Oklahoma's Reply Brief at 23, *Oklahoma v. U.S. Department of Health and Human Servs.*, No. 24-6063, Doc No. 010111052771 (10th Cir. May 20, 2024) ("At an absolute minimum, there is uncertainty about whether and to what extent abortion counseling and referrals violate Oklahoma law, such that OSDH is fully justified in avoiding them completely."); *id.* at 23-24 n.3 ("Amici overly fixate on the word 'unlawful,' but that word was merely included to reiterate Oklahoma's exception to save a mother's life.").
[86] September 12, 2025 OAG Memo, *supra* n. 6 at 2.
[87] OAC § 435:10-7-9; OAC §§ 510:5-5-2.
[88] OSA 63 § 1-749.
[89] OSA 63 § 1-735.
[90] OSA 63 § 1-318.