NATIONAL WOMEN'S LAW CENTER

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Protecting Emergency Abortion Care in the States

Abortion care—including emergency care—is under attack. Reaffirming protections in your state ensures pregnant people will receive the care they need.

Federal law requires that individuals receive emergency abortion care. These guarantees, however, have been undermined and purposefully muddied, leaving patients and providers confused and uncertain about their rights and the care they should expect to receive or provide. In the most dire circumstances, it has led to pregnant people dying or suffering severe consequences.

At least one-third of pregnancies involve emergency room visits and up to 15% of pregnancies create life-threatening conditions during the first trimester, making access to timely and proper emergency care critical for anyone who can become or is pregnant. Guarantees for emergency abortion care are particularly important in light of the United States' worsening maternal health crisis that disproportionately impacts Black and Indigenous women.

States Have Power to Strengthen Protections for Emergency Care

Pregnant people in your state should feel confident that they will receive the emergency care that will preserve their health or save their life. Providers also deserve to know they will not be punished for providing emergency care. **States hold unique power to ensure these conditions are met.**

State laws that create new emergency services language or clarify existing law are an additional layer of protection that can ensure no pregnant person will be forced to endure harm or die before receiving emergency abortion care and no provider will face consequences for simply doing their job. In addition to legislation that reaffirms existing state and federal protections for emergency care, states can also make sure that hospitals know they must comply, as well as seek enforcement actions when hospitals and providers fail to meet their obligations.

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What You Can Do

Both pregnant people and providers benefit from strengthening, reaffirming, and enforcing protections for emergency abortion care.

Consider the following when thinking about what can be done in your state:

1. **Evaluate the needs of your state:** this could take different forms, including the following:
   - Understand existing state law on emergency care and identify if your state could benefit from bolstering or reemphasizing these protections.
   - Survey hospitals, providers, medical associations, or medical boards in your state to determine whether they are in compliance with existing obligations.
   - Work with your Attorney General to gather information about how hospitals in your state provide emergency reproductive health care. For example, see efforts led by the California Attorney General, who led a statewide hospital survey to evaluate compliance with the law.

2. **Pursue legislation:** if it appears that state law is lacking or needs clarification, consider introducing state legislation. The legislation should be informed by the needs in your state. Relevant stakeholders, including state-based advocates and provider groups, should work alongside legislators to develop and pursue new legislation.
   - Reach out to the National Women's Law Center (contact information below) for a written guide on best practices in drafting state emergency care legislation.

3. **Raise awareness and educate providers:** ensure hospitals and providers are clear in their obligation to provide emergency stabilizing treatment, including abortion care, under federal and state law. The legislature could, for example, fund an information campaign or state advocates could work with the hospital or medical board in their state. Here are a few non-legislative examples from various states:
   - The Oregon Health Authority reminded hospitals of their obligations to "provide emergency obstetric services to pregnant people."
   - A group of 22 state attorneys general sent a letter to the American Hospital Association to "remind hospitals of their ongoing obligation to comply with EMTALA."
   - The governor of Massachusetts issued an Executive Order reaffirming the state's protection of abortion care, including explicitly naming Massachusetts' residents' right to "prompt life saving treatment in an emergency." Governor Healey also directed the Commissioner of Public Health to issue guidance to hospitals and providers about compliance with federal and state law, including existing protections for emergency care.

4. **Hold violating hospitals accountable:** patients are being refused emergency care, including in states where abortion care is protected. Ensure your state's residents are protected and able to access emergency abortion care when they need it. State agencies should have a clear, transparent, and streamlined way for patients to make complaints if they do not get the care they are guaranteed. Engage with your state's Attorney General to ensure enforcement is carried out when needed.
   - For example, see California's enforcement efforts against a hospital that denied at least two patients emergency abortion care.

Why Act Now?

Despite established federal law, anti-abortion politicians are attacking emergency abortion care.

Federal Law Guarantees Emergency Abortion Care

Federal law requires that any individual who arrives at almost any hospital emergency department[1] while experiencing an emergency medical condition receive necessary stabilizing treatment. This has been the law in the U.S. since 1986, when Congress enacted the landmark Emergency Medical Treatment and Labor Act (EMTALA).

In 1989, Congress amended EMTALA to clarify and explicitly extend its protections to pregnant people. As a result, EMTALA plainly requires that emergency departments stabilize pregnant patients who are experiencing:

- an emergency condition (whether it's related to labor or not);
- pregnancy loss that requires emergency treatment;
- or labor itself.

In many situations, abortion care is the only treatment to stabilize a pregnant patient undergoing an emergency.

Despite the law's requirements and a nationwide consensus around EMTALA's obligations for several decades, the Supreme Court's decision to overturn *Roe v. Wade* prompted anti-abortion politicians' efforts to erode EMTALA's guarantees. They have attempted to create confusion around the law's requirements and undermine access to emergency abortion care.

Attacks on Federal Protections for Emergency Abortion Care

Although the Supreme Court's harmful decision to overturn *Roe v. Wade* did not weaken EMTALA's guarantees, it is nevertheless in jeopardy. People are being denied emergency care and anti-abortion politicians are challenging federal obligations to provide emergency abortion care. In Texas and Idaho, lawmakers passed abortion bans that directly conflict with EMTALA, putting providers in an impossible position—either provide stabilizing abortion care and potentially face criminal prosecution or leave patients in crisis. The Idaho abortion ban is currently being challenged in court because it conflicts with EMTALA.

In June 2025, the Trump administration rescinded Biden-era EMTALA guidance that reaffirmed hospitals' obligation to provide health and life-saving abortion care to patients undergoing a medical emergency. This created widespread confusion despite Secretary of Health and Human Services Robert F. Kennedy Jr. reiterating that, "EMTALA continues to ensure pregnant women facing medical emergencies have access to stabilizing care."

Given the attacks on EMTALA, states are uniquely situated to bolster protections that ensure pregnant patients can get the care they need in emergency situations. Because of the constantly-shifting and confusing legal landscape around abortion, providers may be uncertain about their obligations or worried about the potential for being criminalized if they provide life or health-saving care to stabilize a pregnant patient. Rather than forcing providers to navigate this chaotic legal landscape to provide necessary emergency care, providers should be assured that they can follow their medical judgment, not hesitate to act in fear of potential punishment.

Reach out to the National Women's Law Center at abortionpolicy@nwlc.org if you'd like to discuss abortion access, including increasing protections for emergency abortion care, in your state.

[1] EMTALA applies to Medicare-participating hospitals. Nearly all U.S. hospitals receive Medicare funds (98%) and therefore must adhere to EMTALA.