

# United States Senate

WASHINGTON, DC 20510

June 24, 2025

The Honorable Robert F. Kennedy, Jr.  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue SW  
Washington, DC 20201

The Honorable Dr. Mehmet Oz  
Administrator  
Centers for Medicare & Medicaid Services  
200 Independence Avenue SW  
Washington, DC 20201

Dear Secretary Kennedy and Administrator Oz:

We write to express our strong disapproval of your recent rescission of guidance that reaffirmed hospitals and providers' obligations under the Emergency Medical Treatment and Labor Act (EMTALA) to provide life-saving abortion care to patients experiencing medical crises. On June 3, 2025, the U.S. Department of Health and Human Services ("HHS" or "the Department") and the Centers for Medicare & Medicaid Services ("CMS" or "the Agency") rescinded July 2022 guidance that reminds hospitals of their longstanding obligation under EMTALA and that protects pregnant women's access to emergency abortion care, regardless of where they live.<sup>1</sup> While EMTALA remains binding federal law, the rescission will create further confusion for hospitals and providers, especially in states with abortion bans, and will result in medically-necessary care being withheld from pregnant patients in crisis.

In 1986, Congress enacted EMTALA to require Medicare-participating hospitals to provide necessary stabilizing screening and treatment for any individuals—including pregnant women—experiencing emergency medical conditions. Under the law, hospitals are required to treat conditions determined by health care providers that, absent immediate medical attention, could reasonably result in placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ. EMTALA clearly requires hospitals to offer abortion care for cases in which their health care providers determine it medically necessary to prevent serious harm to their patients' health and life, including in, but not limited to, cases of ectopic pregnancy, complications of pregnancy loss, or emergent hypertensive disorders, such as preeclampsia with severe features. Since enacting EMTALA, Congress and administrations of both parties have consistently recognized that stabilizing care under the statute includes abortion.<sup>2</sup> As a result, up until a few years ago, medical providers have not had to worry

<sup>1</sup> "Reinforcement of EMTALA Obligations specific to Patients who are Pregnant or are Experiencing Pregnancy Loss" (QSO-21-22-Hospitals) (September 17, 2021) and (QSO-22-22-Hospitals) (July 11, 2022).

<sup>2</sup> 42 U.S.C. 18023; Ensuring That Department of Health and Human Services Funds Do Not Support Coercive or Discriminatory Policies or Practices in Violation of Federal Law, 45 C.F.R. pt.88 (2008); Protecting Statutory Conscience Rights in Health Care; Delegations of Authority, 45 C.F.R. pt.88 (2019).

about the government interfering with their clinical judgement to provide necessary stabilizing medical care to pregnant women in emergencies.

Following the Supreme Court's decision in *Dobbs v. Jackson Women's Health (Dobbs)* in June 2022, 22 states passed laws to ban or severely restrict access to abortion, including 6 states with no exception for the health of the pregnant person.<sup>3</sup> This has disrupted decades of certainty that hospitals are required to provide access to emergency abortion care under federal law, sowing chaos for patients and providers alike, and forcing doctors to play lawyers and lawyers to play doctors. When doctors are forced to navigate the complex legal interplay of state abortion bans and federal EMTALA protections, pregnant people experience care delays and may receive substandard care. In response to the confusion caused by these restrictive abortion bans, HHS Secretary Becerra issued guidance in July 2022 restating hospitals' legal obligation under federal law to provide stabilizing treatment, including necessary abortion care, to pregnant patients in emergency situations. Even with such guidance in place, physicians across the country report that hospitals fail to meet the challenge of supporting doctors in navigating this extraordinary legal environment and, in many cases, hospitals continue to rely on guidance developed pre-*Dobbs*.<sup>4</sup> While Republican-led states and anti-abortion groups have tried to challenge proper meaning and scope of the federal law, EMTALA has always and will continue to protect emergency abortion care and preempt all state laws to the contrary.

The Trump administration's decision to rescind this guidance will create more confusion, fear, and stress for hospitals and their staffs about what care they are legally required to provide pregnant patients whose lives are or could be in danger. Moreover, it will undermine patients' faith that their doctor will be able to act in their best interest in the event of an emergency. State abortion laws with vague medical exceptions and criminal penalties force hospitals and physicians to delay and deny emergency abortion care for pregnant patients, placing patients at higher risk for medical complications, lasting health consequences, and avoidable death.

By rescinding the guidance, HHS has needlessly put pregnant patients at severe risk of harm and preventable death. Given the threat to women's lives following the rescission of this guidance, we request information and responses to the following questions by July 3, 2025, at 5:00pm ET.

1. In your recent announcement regarding the decision to rescind the July 2022 guidance, you stated that the July 2022 guidance "d[id] not reflect the policy of this Administration" with respect to EMTALA.
  - a. What is the Administration's policy related to EMTALA for pregnant patients who are experiencing emergency medical conditions that could result in serious bodily harm or death?
  - b. When did the Administration develop this policy related to EMTALA?

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<sup>3</sup> <https://www.kff.org/womens-health-policy/dashboard/exceptions-in-state-abortion-bans-and-early-gestational-limits/>

<sup>4</sup> <https://www.finance.senate.gov/chairmans-news/wyden-investigation-highlights-dangers-of-post-dobbs-emergency-medical-care-for-pregnant-women>

- c. Which stakeholders and individuals did the Administration consult in the development of this policy?
2. In the same announcement, you stated that “CMS would continue to enforce EMTALA ... [for] all individuals who present to a hospital emergency department seeking examination or treatment.”
  - a. How will CMS enforce EMTALA, specifically for pregnant patients or patients experiencing pregnancy loss who are facing life-threatening or other serious emergency medical situations?
  - b. How will CMS and its remaining regional offices adjudicate on and refer for investigation EMTALA complaints involving delayed or denied necessary emergency abortion care?
  - c. Does CMS and the Department of Health and Human Services Office of the Inspector General (HHS-OIG) have sufficient resources and personnel to investigate violations of EMTALA? Please provide detailed information on the number of employees and federal funding that HHS has available to investigate complaints of EMTALA violations.
  - d. Please provide a list of EMTALA complaints since June 24, 2022, involving delayed or denied necessary emergency abortion care by state, hospital, incident date, nature of allegation, investigation status, recommended action by surveyors, and final action in accordance with the Privacy Act of 1974 (5 USC § 552a).
3. The announcement also stated, “CMS will work to rectify any perceived legal confusion and instability created by the former administration’s actions.”
  - a. Did CMS provide any advance notice to states – including state survey agencies – about the decision to rescind the July 2022 guidance before it was announced?
  - b. Did CMS provide any advance notice to hospitals about the decision to rescind the July 2022 guidance before it was announced?
  - c. Did CMS provide any advance notice to professional physician organizations about the decision to rescind the July 2022 guidance before it was announced?
  - d. What specific steps will CMS take to address the legal confusion of patients, hospitals, and physicians caused by state abortion bans conflicting with federal law?
  - e. Has the Administration created any materials to educate patients, hospitals, and physicians about this policy? If so, please produce them.
4. The July 2022 guidance reaffirmed the longstanding legal and professional obligation hospitals have to provide patients with emergency abortion care under EMTALA.
  - a. Will CMS issue new guidance making it clear to hospitals that they are legally required to follow EMTALA by providing stabilizing treatment for patients experiencing a medical emergency, including where that treatment is an abortion?

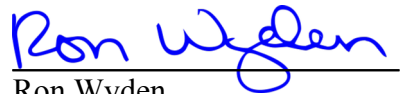
- b. Will CMS issue updates or require changes to the Medicare provider agreements for hospitals?
- c. Will CMS issue new guidance to state survey agencies related to EMTALA investigations?

This abrupt decision will further the chaos and confusion that hospitals, physicians, and patients have experienced since the *Dobbs* decision and will result in negative and deadly consequences for women and families across the United States. HHS should immediately reverse its decision to rescind the guidance.

Sincerely,



Mazie K. Hirono  
United States Senator



Ron Wyden  
United States Senator  
Ranking Member, Committee  
on Finance



Amy Klobuchar  
United States Senator



Lisa Blunt Rochester  
United States Senator



Tammy Duckworth  
United States Senator



Elizabeth Warren  
United States Senator



Angela Alsobrooks  
United States Senator




Maria Cantwell  
United States Senator



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Tina Smith  
United States Senator



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Jacky Rosen  
United States Senator