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Trump Administration Dismisses High-Profile Lawsuit On Abortion And EMTALA, Reverses Abortion Travel Benefits

[Katie Keith](#)

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Editor's Note

This article is the latest in the Health Affairs Forefront [featured topic](#), “[Health Policy at a Crossroads](#).” Articles in this topic will offer timely analysis of regulatory, legislative, and judicial developments in health policy under the Trump-Vance Administration and the 119th Congress.

President Trump campaigned on leaving the issue of abortion up to state policymakers. However, his administration has already prioritized federal policy changes that have or will impact abortion access nationwide. Several of these actions follow from President Trump's [week-one directives](#) on reproductive health care. In his first week in office, he reinstated the so-called Mexico City policy, pardoned individuals who were prosecuted for violating the Freedom of Access to Clinic Entrances (FACE) Act, revoked Biden-era executive orders on reproductive health care, and issued an executive order to reaffirm long-standing restrictions on the use of federal funding for abortion.

Agency officials have already begun implementing the President's executive order—from taking new positions in reproductive health-related litigation to reversing policies put in place to help women in the military access abortion care to deprioritizing safety and security at reproductive health care clinics. This article summarizes the latest

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forthcoming policy actions that are on the horizon.

Abandoning The EMTALA Lawsuit Against Idaho

On March 5, 2025, the Department of Justice and Idaho [agreed to dismiss <https://litigationtracker.law.georgetown.edu/wp-content/uploads/2024/01/Idaho_2025.03.05_STIPULATION-OF-DISMISSAL.pdf>](#) a lawsuit filed by the Biden administration to ensure that women in Idaho could obtain abortion care to preserve their health during a medical emergency, as required under federal law. Such a clarification was needed because Idaho's abortion ban is among the [strictest in the nation <https://www.npr.org/2024/11/17/nx-s1-5192608/idahos-abortion-ban-one-of-the-strictest-in-the-u-s-is-being-challenged-in-court>](#) and does not allow for abortion care to prevent grave harms to a woman's health.

Idaho's strict standard, the Biden administration argued, is inconsistent with federal requirements that apply to hospitals under the Emergency Medical Treatment and Active Labor Act (EMTALA). EMTALA requires Medicare-funded hospitals to offer stabilizing treatment to patients experiencing medical emergencies. The Biden administration—in guidance in [2021 <https://www.cms.gov/files/document/qso-21-22-hospital-revised.pdf>](#) and [2022 <https://www.cms.gov/medicareprovider-enrollment-and-certificationsurvey/certificationgeninfo/policy-and-memos-states-and/reinforcement-emtala-obligations-specific-patients-who-are-pregnant-or-are-experiencing-pregnancy-o>](#)—repeatedly affirmed that EMTALA preempts conflicting state laws that restrict access to abortion in emergency situations.

Consistent with this position, the Biden-era Department of Justice [sued <https://litigationtracker.law.georgetown.edu/litigation/united-states-v-state-of-idaho/>](#) Idaho in August 2022 asserting that Idaho's abortion ban was preempted in part by EMTALA. The district court agreed, issuing a preliminary injunction that enabled women in Idaho to obtain an emergency abortion when their health was in danger. After several twists and turns on appeal, the Supreme Court intervened in January 2024 and allowed Idaho's full abortion ban to go into effect—leaving women in Idaho without the full protections of EMTALA for several months—while ordering expedited consideration of the case.

In June 2024, the Supreme Court [dismissed <https://www.supremecourt.gov/opinions/23pdf/23-726_6jgm.pdf>](#) the lawsuit as “improvidently granted” (meaning the Court opted to hear the case prematurely) and reinstated the district court's injunction. Sara Rosenbaum discussed the order and

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Court's order, Idaho's abortion ban was once again preempted in part, and women in Idaho were protected by EMTALA—at least until March 2025.

The Dismissal

On March 5, the Department of Justice and Idaho Attorney General Labrador (R)—joined by leaders of the Idaho legislature who had intervened in the litigation—filed a stipulation of dismissal before the [district court <https://litigationtracker.law.georgetown.edu/wp-content/uploads/2024/01/Idaho_2025.03.05_STIPULATION-OF-DISMISSAL.pdf>](https://litigationtracker.law.georgetown.edu/wp-content/uploads/2024/01/Idaho_2025.03.05_STIPULATION-OF-DISMISSAL.pdf) and the [Ninth Circuit Court of Appeals <https://storage.courtlistener.com/recap/gov.uscourts.ca9.344312/gov.uscourts.ca9.344312.285.0.pdf>](https://storage.courtlistener.com/recap/gov.uscourts.ca9.344312/gov.uscourts.ca9.344312.285.0.pdf). Because the lawsuit was dismissed voluntarily, a court is not required to approve the change, and the district court case was terminated on March 6. Neither stipulation included any substantive reasoning for the Department's change in position. But dismissal was recommended in Project 2025, which encouraged the Department to “agree to eliminate existing injunctions against pro-life states [and] withdraw its enforcement lawsuits.”

The dismissal also dissolved the district court's preliminary injunction, although a separate temporary restraining order is currently in effect which preserves the status quo. If and when Idaho's abortion ban is once again fully in effect, women in Idaho will be unable to receive an emergency abortion except in the most dire of circumstances—leading to [delayed treatment <https://reproductiverights.org/case/emergency-exceptions-abortion-bans-idaho-tennessee-oklahoma/adkins-v-state-of-idaho/>](https://reproductiverights.org/case/emergency-exceptions-abortion-bans-idaho-tennessee-oklahoma/adkins-v-state-of-idaho/) and [more women being airlifted <https://www.nbcnews.com/news/us-news/idahos-abortion-emergency-supreme-court-airlifted-rcna148828>](https://www.nbcnews.com/news/us-news/idahos-abortion-emergency-supreme-court-airlifted-rcna148828) to other states for desperately needed care.

New Lawsuit Maintains Protections—For Now

Even though the dismissal dissolved the preliminary injunction, emergency abortion care can continue in Idaho—at least for now—because of a separate lawsuit. Concerned that the Trump administration might change its position in the ongoing EMTALA litigation, St. Luke's Health System, the largest hospital system in the state, [sued <https://litigationtracker.law.georgetown.edu/wp-content/uploads/2025/01/ST.-LUKES-HEALTH-SYSTEM_2025.01.14_Complaint.pdf>](https://litigationtracker.law.georgetown.edu/wp-content/uploads/2025/01/ST.-LUKES-HEALTH-SYSTEM_2025.01.14_Complaint.pdf) Idaho in January 2025. St. Luke's asked a federal district court to (1) conclude, once again, that Idaho's abortion ban

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from enforcing the law in those circumstances.

Citing the need to offer care for patients with pregnancy complications like severe preeclampsia and preterm premature rupture of membranes, St. Luke's described how Idaho's near-absolute ban is putting women's health and lives at risk and preventing its doctors from properly treating patients. During the months when Idaho's abortion ban was fully in effect, six St. Luke's patients had to be airlifted to neighboring states for care. And, without the injunction, St. Luke's providers fear, once again, the threat of arrest, jail time, and the loss of their medical license for providing care to preserve a woman's health.

Briefing was ongoing until St. Luke's asked for a [request for a temporary restraining order](https://litigationtracker.law.georgetown.edu/wp-content/uploads/2025/01/St-Lukes_2025.03.04_PLAINTIFFS-MOTION-FOR-A-TEMPORARY-RESTRAINING-ORDER.pdf) to maintain the injunction's protections after the Department of Justice made clear it intended to dismiss the initial lawsuit. In asking for the order, St. Luke's argued that even a short period of time without the injunction would harm patients, providers, and the broader health system. Idaho [opposed](https://litigationtracker.law.georgetown.edu/wp-content/uploads/2025/01/St.-Lukes_2025.03.04_DEFENDANTS-RESPONSE-TO-MOTION-FOR-A-TEMPORARY-RESTRAINING-ORDER.pdf) this request, arguing that St. Luke's is "attempt[ing] to declare itself above the law" and asserting that Idaho's interests in enforcing state law and protecting life would be harmed by a temporary restraining order.

The district court [issued](https://litigationtracker.law.georgetown.edu/wp-content/uploads/2025/01/St.-Lukes_2025.03.04_TEMPORARY-RESTRAINING-ORDER-.pdf) a temporary restraining order on March 4. The court's order is not limited to St. Luke's and, rather, prevents Idaho officials from enforcing Idaho's abortion ban against any provider with respect to care required under EMTALA. (Idaho [took issue](https://litigationtracker.law.georgetown.edu/wp-content/uploads/2025/01/St.-Lukes_2025.03.04_MOTION-TO-MODIFY-UNIVERSAL-TEMPORARY-RESTRAINING-ORDER.pdf) with the scope of the order and asked the court for modifications.) The court held a hearing on the preliminary injunction on March 5 and intends to issue a written decision on the preliminary injunction in the next two weeks.

What Does This Mean For EMTALA Protections Nationwide?

The Department of Justice's dismissal is limited to Idaho and has no effect on EMTALA protections in other states. The Trump administration has not (yet) rescinded or revised

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<https://www.cms.gov/medicare/provider-enrollment-and-certificationsurvey/certificationgeninfo/policy-and-memos-states-and/reinforcement-emtala-obligations-specific-patients-who-are-pregnant-or-are-experiencing-pregnancy-o> and the Biden administration's interpretation remain in effect in every state other than Texas. Even so, the Department of Justice's decision to dismiss the high-profile Idaho case—as called for in Project 2025—suggests that the Trump administration will take a different approach to EMTALA investigations and enforcement.

We should know more soon enough. The Trump administration will soon have to respond to an [EMTALA-related lawsuit](https://litigationtracker.law.georgetown.edu/litigation/catholic-medical-association-v-u-s-department-of-health-and-human-services/) [<https://litigationtracker.law.georgetown.edu/litigation/catholic-medical-association-v-u-s-department-of-health-and-human-services/>](https://litigationtracker.law.georgetown.edu/litigation/catholic-medical-association-v-u-s-department-of-health-and-human-services/) filed in Tennessee in January 2025 by the Catholic Medical Association. The plaintiffs argue that the EMTALA guidance and other Biden-era communications to health care providers violate the Administrative Procedure Act, the Religious Freedom Restoration Act, and the First Amendment. Trump administration officials will likely be weighing whether to maintain and defend the guidance, revoke it and moot the litigation, or issue revised guidance on EMTALA (as was attempted during the first Trump term and called for in Project 2025).

Other Litigation Developments

Trump administration officials will also have to be on record in other reproductive health-related litigation. In general, the Trump administration can cease defending Biden-era policies in court, ask a court to stay the proceedings to allow federal officials to newly revise challenged rules or guidance, seek to settle the litigation, or decline to appeal an adverse decision to a higher court.

Medication Abortion

In the other highest-profile reproductive health-related litigation—a [lawsuit](https://litigationtracker.law.georgetown.edu/litigation/alliance-for-hippocratic-medicine-et-al-v-u-s-food-and-drug-administration-et-al/) [<https://litigationtracker.law.georgetown.edu/litigation/alliance-for-hippocratic-medicine-et-al-v-u-s-food-and-drug-administration-et-al/>](https://litigationtracker.law.georgetown.edu/litigation/alliance-for-hippocratic-medicine-et-al-v-u-s-food-and-drug-administration-et-al/) in Texas over the Food and Drug Administration's (FDA's) regulation of mifepristone that is being pursued by Missouri, Idaho, and Kansas—the Department of Justice's reply brief (in defense of the FDA) will be due on May 5. In mid-January, the district court ruled that these three states—despite having no connection to Texas and voluntary dismissal of the lawsuit by the original plaintiffs—could keep the litigation alive. In the waning days of the Biden administration, the Department of Justice [filed](#)

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[content/uploads/2024/02/Missouri_2025.01.16_DEFENDANTS_MOTION_TO_DISMISS-AND-MEMORANDUM-IN-SUPPORT.pdf](#)> a motion to dismiss these states' amended complaint; Danco, one of the two manufacturers of mifepristone, [followed](#) [<https://litigationtracker.law.georgetown.edu/wp-content/uploads/2024/02/Missouri_2025.01.28_DANCO-LABORATORIES-LLCS-MOTION-TO-DISMISS-INTERVENOR-PLAINTIFFS-AMENDED-COMPLAINT-AND-MEMORANDUM-IN-SUPPORT.pdf>](#) soon after. Since then, the three states have responded [<https://litigationtracker.law.georgetown.edu/wp-content/uploads/2024/02/Alliance_2025.02.20_INTERVENOR-PLAINTIFFS-BRIEF-IN-RESPONSE-TO-MOTION-TO-DISMISS.pdf>](#), and GenBioPro, the other manufacturer of mifepristone, has [asked to intervene](#) [<https://litigationtracker.law.georgetown.edu/wp-content/uploads/2024/02/State-of-Missouri-et-al_2025.02.25_GENBIOPRO-INC.S-MOTION-FOR-LEAVE-TO-INTERVENE.pdf>](#) in the litigation alongside Danco.

The Department of Justice's reply brief was initially due on March 6. However, on March 3, the Department [requested](#) [<https://litigationtracker.law.georgetown.edu/wp-content/uploads/2024/02/Missouri_2025.03.03_DEFENDANTS-UNOPPOSED-MOTION-FOR-EXTENSION-OF-TIME-TO-FILE-REPLY-BRIEF-.pdf>](#) a 60-day extension, citing in part the need for the Trump administration "to familiarize themselves with the issues in this case." The district court [granted](#) [<https://litigationtracker.law.georgetown.edu/wp-content/uploads/2024/02/Missouri_2025.03.04_ORDER.pdf>](#) this request, meaning we may not know how the Trump administration intends to approach this high-profile litigation until May 5. (The Department of Justice asked for similar extensions in other mifepristone-related cases pending before district courts in [Hawaii](#) [<https://litigationtracker.law.georgetown.edu/litigation/purcell-v-becerra-et-al/>](#) and [Virginia](#) [<https://litigationtracker.law.georgetown.edu/litigation/whole-womans-health-alliance-et-al-v-u-s-food-and-drug-administration-et-al/>](#).)

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[suggested <https://www.youtube.com/watch?v=Lzvaf87hf8s>](https://www.youtube.com/watch?v=Lzvaf87hf8s) > he has concerns about current FDA rules regarding mifepristone and would not commit to maintaining them. Throughout his first confirmation hearing on March 6, he [voiced <https://www.nytimes.com/2025/03/06/health/fda-marty-makary-abortion-pill-vaccines-confirmation.html>](https://www.nytimes.com/2025/03/06/health/fda-marty-makary-abortion-pill-vaccines-confirmation.html) support for reviewing the drug’s more than 20-year safety record and committed to “build an expert coalition” to review mifepristone-related data. When pressed by Sen. Josh Hawley (R-Missouri)—whose wife, Erin Hawley, represented the Alliance for Hippocratic Medicine in the litigation noted above—Dr. Makary specifically raised concerns about the ability for providers to prescribe, and women to access, mifepristone via telehealth.

Mifepristone has been available via telehealth since 2020, a change initially made due to a district court order during the COVID-19 pandemic that was made permanent by the FDA in January 2023. Republican lawmakers and anti-abortion advocates want the FDA to revisit this policy and eliminate telehealth access by reimposing the prior in-person dispensing requirement. Such a change would significantly reduce abortion access, especially in states where abortion remains lawful.

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The Trump administration took a slightly different approach in [two lawsuits](#) over the Biden administration's rule to strengthen reproductive health privacy under the Health Insurance Portability and Accountability Act. After a brief extension (and after [opposing](#) https://litigationtracker.law.georgetown.edu/wp-content/uploads/2024/10/Purl_2025.02.07_DEFENDANTS-OPPOSITION-TO-PROPOSED-INTERVENOR-DEFENDANTS-MOTION-FOR-LEAVE-TO-INTERVENE.pdf) a [request to intervene](#) https://litigationtracker.law.georgetown.edu/wp-content/uploads/2024/10/Purl_2025.01.17_PROPOSED-INTERVENOR-DEFENDANTS-MOTION-FOR-LEAVE-TO-INTERVENE.pdf) filed by two cities and Doctors for America) in one of the lawsuits, the Department of Justice [continued](#) https://litigationtracker.law.georgetown.edu/wp-content/uploads/2024/10/Purl_2025.03.03_DEFENDANTS-OPPOSITION-TO-PLAINTIFFS-MOTION-FOR-SUMMARY-JUDGMENT.pdf) to defend the rule in court by arguing, as the Biden administration had, that the doctor who filed the lawsuit lacks standing to sue. The Trump administration made clear that it was not defending the *substance* of the rule, noting simply that “new leadership is currently reviewing the Rule, so Defendants do not further address the merits here.”

The Department made a similar statement in the other lawsuit, which was filed by the Texas Attorney General. There, federal officials [asked](#) https://litigationtracker.law.georgetown.edu/wp-content/uploads/2024/09/Texas_2025.01.30_DEFENDANTS-CONSENT-MOTION-TO-HOLD-ALL-DEADLINES-IN-ABEYANCE.pdf) the court to pause all briefing deadlines so the new administration can “evaluate their position in this case and determine how best to proceed.” The district court [granted](#) https://litigationtracker.law.georgetown.edu/wp-content/uploads/2024/09/State-of-Texas_2025.01.31_ORDER-HOLDING-DEADLINES-IN-ABEYANCE.pdf) this request, asking the parties (including the two cities and Doctors for America who asked to intervene in this lawsuit as well) to file a joint status report by May 1.

These statements suggest that the Trump administration is deciding whether to make changes or revoke the Biden-era rule on reproductive health privacy. These types of changes would require the Department of Health and Human Services (HHS) to undertake a formal rulemaking process.

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On March 4, the Trump administration asked to participate in oral argument in [Medina v. Planned Parenthood South Atlantic](#), a dispute pending before the Supreme Court over whether Medicaid beneficiaries can challenge a state's Medicaid policies in court. The Supreme Court considered a similar question in 2023 and concluded that Medicaid beneficiaries [could](#) sue states to vindicate their rights under the Federal Nursing Home Reform Act. However, the decision was relatively narrow and specific to this part of Medicaid law.

Here, Planned Parenthood sued South Carolina over the state's efforts to prevent it from providing reimbursable family planning services to Medicaid beneficiaries. Planned Parenthood argued that South Carolina's attempt to exclude it from the Medicaid program violated the Medicaid Act's "free choice of provider" provision, which gives beneficiaries the right to obtain family planning services from the qualified provider of their choice. As discussed in more detail [here](#) by Sara Rosenbaum and colleagues, the Supreme Court will address whether this provision allows beneficiaries to sue—and could open the door to allowing states to exclude qualified providers like Planned Parenthood from their Medicaid programs, which would significantly erode access to family planning care for Medicaid beneficiaries.

On March 4, the acting solicitor general [asked](#) https://www.supremecourt.gov/DocketPDF/23/23-1275/351206/20250304171219126_23-1275%20Medina.pdf to participate in oral argument in support of South Carolina, asserting that the "free choice of provider" statute does not create individual rights and thus cannot be privately enforced. She highlighted the federal government's interest in the enforcement of the Medicaid Act and cited the government's prior positions in the 2023 case and others related to the private enforceability of the Medicaid Act and other Spending Clause laws.

And, in another example of litigation activity, the Department of Justice [indicated](#) https://www.bloomberglaw.com/public/desktop/document/UnitedStatesConferenceofCatholicBishopsetalvEqualEmploymentOpport/5?doc_id=X4236TGQGJ494PP31L8ENSFKT5Q that the Equal Employment Opportunity Commission—which is currently without a quorum since President Trump fired two Democratic commissioners—intends to reconsider parts of the Biden administration's rule to implement the Pregnant Workers Fairness Act, a bipartisan law that requires employers to offer reasonable accommodations to pregnant and postpartum workers.

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President Trump’s [abortion executive order](#) reaffirmed long-standing restrictions on the use of federal funding for abortion and [revoked](#) [two](https://www.federalregister.gov/documents/2022/07/13/2022-15138/protecting-access-to-reproductive-healthcare-services) [two](https://www.federalregister.gov/documents/2022/08/11/2022-17420/securing-access-to-reproductive-and-other-healthcare-services) of President Biden’s executive orders on reproductive health care that were issued following the Supreme Court’s decision to overturn *Roe v. Wade*. The executive order also set out President Trump’s policy of ending the use of federal funds to “fund or promote elective abortion” and directed the Office of Management and Budget to issue guidance to agencies to implement the executive order. The Trump administration has already taken several actions to implement the executive order and revoke Biden-era policies that helped protect access to abortion care. And, as noted below, more regulatory action is expected soon.

Eliminating Leave And Travel Benefits For Servicemembers

In 2023, the Department of Defense [issued](#) [a policy](https://www.defense.gov/News/Releases/Release/article/3301006/dod-releases-policies-to-ensure-access-to-non-covered-reproductive-health-care/) that allowed servicemembers to take administrative leave and receive a travel allowance when needed to access certain reproductive health services. This “non-covered reproductive health care” included (1) an abortion except where the life of the woman would be endangered or the pregnancy is the result of rape or incest; and (2) lawfully available assisted reproductive technology (e.g., in vitro fertilization (IVF)).

The Department of Defense is not subject to the Hyde Amendment, a rider that limits the use of certain federal funds for abortion and that has been included in annual appropriations legislation since the 1970s. But the Department is subject to a [separate statutory provision](#) [that prohibits](https://www.law.cornell.edu/uscode/text/10/1093) the use of funds to perform abortion services unless the pregnancy would endanger a woman’s life or the pregnancy is the result of rape or incest. Consistent with this restriction—and as outlined in a [formal opinion](#) [from the Department of Justice](https://www.justice.gov/d9/2022-11/2022-10-03-dod-abortion-transportation.pdf)—the Department’s policy did not pay for the abortion care itself and was instead limited to funding for leave and travel for non-covered abortion care and assisted reproductive technology.

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<https://crsreports.congress.gov/product/pdf/IV/IV12312> was not used very frequently <https://www.military.com/daily-news/2024/03/26/pentagon-policy-paying-travel-costs-abortion-other-health-care-was-used-only-12-times-june-december.html>, but it was critical to helping servicewomen and family members travel for reproductive care when needed—especially when stationed in a state with an abortion ban. This policy was also the reason that Sen. Tommy Tuberville (R-AL) [held up](https://apnews.com/article/tuberville-military-holds-senate-officers-45c4230a8aee5222bf32b43823e29acc) <https://apnews.com/article/tuberville-military-holds-senate-officers-45c4230a8aee5222bf32b43823e29acc> hundreds of military nominations and promotions for nearly a year, resulting in concerns about military readiness, before ultimately relenting in December 2023.

On January 29, 2025, the Department of Defense, citing President Trump’s executive order, [issued](https://media.defense.gov/2025/Jan/29/2003634768/-1/-1/0/UTD_FOR_MAP_o4-25(S)_REMOVE-TRAVEL-FOR-NON-COVERED-REPRODUCTIVE-HEALTH-CARE-SERVICES.PDF) [https://media.defense.gov/2025/Jan/29/2003634768/-1/-1/0/UTD_FOR_MAP_o4-25\(S\)_REMOVE-TRAVEL-FOR-NON-COVERED-REPRODUCTIVE-HEALTH-CARE-SERVICES.PDF](https://media.defense.gov/2025/Jan/29/2003634768/-1/-1/0/UTD_FOR_MAP_o4-25(S)_REMOVE-TRAVEL-FOR-NON-COVERED-REPRODUCTIVE-HEALTH-CARE-SERVICES.PDF) a short memo eliminating this policy as was recommended in Project 2025. The original memo eliminated the entire policy, including leave and travel allowances for assisted reproductive technology. However, on February 4, the Department [issued](https://media.defense.gov/2025/Feb/05/2003637829/-1/-1/0/UTD_FOR_MAP_o8-25(I)_REESTABLISH_TRAVEL_FOR_NON-COVERED_ASSISTED_REPRODUCTIVE_TECHNOLOGY_(ART).PDF) [https://media.defense.gov/2025/Feb/05/2003637829/-1/-1/0/UTD_FOR_MAP_o8-25\(I\)_REESTABLISH_TRAVEL_FOR_NON-COVERED_ASSISTED_REPRODUCTIVE_TECHNOLOGY_\(ART\).PDF](https://media.defense.gov/2025/Feb/05/2003637829/-1/-1/0/UTD_FOR_MAP_o8-25(I)_REESTABLISH_TRAVEL_FOR_NON-COVERED_ASSISTED_REPRODUCTIVE_TECHNOLOGY_(ART).PDF) a follow-up memo re-establishing the policy for this category of care. As a result, servicemembers and their families will still be able to take leave and travel for care like IVF—but not for abortion except in limited circumstances.

Deprioritizing Safety And Security Of Abortion Providers

The FACE Act is a [federal law](https://www.justice.gov/crt/protecting-patients-and-health-care-providers) <https://www.justice.gov/crt/protecting-patients-and-health-care-providers> that was enacted in 1994 that prohibits interference with access to reproductive health services (including, but not limited to, abortion services). Specifically, the law prohibits the use of force, threats of force, or physical obstruction against anyone seeking or providing a broad range of reproductive health services. Enforcement of the FACE Act was a [stated priority](https://www.justice.gov/reproductive-rights/what-we-are-doing) <https://www.justice.gov/reproductive-rights/what-we-are-doing> for the Department of Justice under the Biden administration, which [prosecuted](https://www.justice.gov/crt/recent-cases-violence-against-reproductive-health-care) <https://www.justice.gov/crt/recent-cases-violence-against-reproductive-health-care>

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pregnancy centers under the FACE Act.

As noted above, in January 2025, President Trump issued pardons for more than 20 anti-abortion activists, including those who were prosecuted for violating the FACE Act. Following President Trump’s pardons, the Department of Justice issued [new guidance <https://www.justice.gov/media/1386461/dl>](#) directing federal law enforcement officials to deprioritize FACE Act investigations and enforcement. Under the new guidance, federal law enforcement and prosecutors should only devote resources to investigating and prosecuting FACE Act violations in “extraordinary circumstances” or if there are “significant aggravating factors” (i.e., death, serious bodily harm, or serious property damage).

The [guidance <https://www.justice.gov/media/1386461/dl>](#) also directed prosecutors to dismiss, with prejudice (meaning the cases cannot be refiled in the future), three specific FACE Act cases. In one of the cases, the Department [filed a civil lawsuit <https://www.justice.gov/archives/opa/pr/justice-department-sues-pennsylvania-man-physically-obstructing-access-reproductive-health>](#) against a man who barricaded himself inside the bathroom of a reproductive health clinic for hours, forcing the clinic to shut down for the day and to reschedule more than 40 appointments. Another case [involved <https://www.justice.gov/crt/special-litigation-section-case-summaries#zastrow>](#) physical obstruction at a clinic in Florida while the third was filed against [seven individuals and two organizations <https://www.justice.gov/crt/special-litigation-section-case-summaries#USAProlife>](#) for obstructing access to two clinics in Ohio. The directed dismissals suggest that the facts of these cases do not meet the Trump administration’s new “extraordinary circumstances” criteria.

The combination of pardons and the new guidance seems to be having an effect: At least some anti-abortion activists are reportedly planning [even more aggressive actions <https://www.politico.com/news/2025/03/02/anti-abortion-trump-doj-protests-00206784>](#) going forward. Shifts in FACE Act investigations and enforcement were recommended in Project 2025.

Separately, in February 2025, the Supreme Court [declined <https://www.supremecourt.gov/opinions/24pdf/24-57_21p3.pdf>](#) to consider a constitutional challenge to a [since-repealed local ordinance <https://www.nbcnews.com/news/us-news/supreme-court-abortion-clinic-protest-bubble-zones-rcna174343>](#) in Carbondale, Illinois that created a new “buffer zone” to limit how close protesters can come to the entrance of reproductive health clinics and individuals. Justices Thomas and Alito would have heard the case, and Justice Thomas

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that uphold a state buffer zone law. Deprioritization of federal FACE Act investigations and enforcement may lead more states and localities to adopt or bolster similar buffer zone protections.

More Action On The Horizon

The Trump administration already has other reproductive health-related actions in the works. First, the Department of Veterans Affairs (VA) [submitted](https://www.reginfo.gov/public/do/eoDetails?rrid=872014) [a draft interim final rule](https://www.reginfo.gov/public/do/eoDetails?rrid=872014) to the Office of Management and Budget. We do not yet know the contents of the new rule or the timing of its release. But [prior White House materials](https://www.whitehouse.gov/fact-sheets/2025/01/fact-sheet-president-donald-j-trump-enforces-overwhelmingly-popular-demand-to-stop-taxpayer-funding-of-abortion/) [made clear](https://www.whitehouse.gov/fact-sheets/2025/01/fact-sheet-president-donald-j-trump-enforces-overwhelmingly-popular-demand-to-stop-taxpayer-funding-of-abortion/) that the VA's Biden-era rule on abortion services for veterans and their family members would be a target under President Trump's executive order. This rule—issued first as an [interim final rule](https://www.federalregister.gov/documents/2022/09/09/2022-19239/reproductive-health-services) [in September 2022](https://www.federalregister.gov/documents/2022/09/09/2022-19239/reproductive-health-services) and then as a [final rule](https://www.federalregister.gov/documents/2024/03/04/2024-04275/reproductive-health-services) [in March 2024](https://www.federalregister.gov/documents/2024/03/04/2024-04275/reproductive-health-services)—allowed VA to offer abortion counseling and abortion care in certain circumstances (i.e., when the life or health of the woman would be endangered or the pregnancy is the result of rape or incest) to veterans and Civilian Health and Medical Program of the Department of Veterans Affairs beneficiaries. This care was available through the VA in every state, including in states with an abortion ban.

Second, HHS will [hold](https://public-inspection.federalregister.gov/2025-02938.pdf) [an administrative hearing](https://public-inspection.federalregister.gov/2025-02938.pdf) on April 2 to reconsider a request from Idaho to deny extended postpartum Medicaid coverage to women who have had an abortion. HHS previously denied this request because the statute that authorizes extended postpartum Medicaid coverage requires states to cover “the individual while pregnant and during the 12-month period that begins on the last day of the individual's pregnancy and ends on the last day of the month in which such 12-month period ends.” Other states made similar requests in the past, and it will be important to monitor whether HHS alters its interpretation of the statutory text.

Third, there are a handful of other health care regulations under review at the Office of Management and Budget focused on the Affordable Care Act and the Medicare program. It is not clear if these rules will include policies related to reproductive health care.



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