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June 24, 2025

Richard J. Pollack
President and Chief Executive Officer
American Hospital Association
800 10th Street, N.W.
Two CityCenter, Ste. 400
Washington, DC 20001-4956

Re: Hospitals' Continuing Obligations under EMTALA

Dear Mr. Pollack:

As the chief legal officers of our states, we are firmly committed to protecting access to reproductive health care and ensuring that all hospitals operating in our states comply with the law, including the Emergency Medical Treatment and Labor Act, or EMTALA. To that end, we write to remind hospitals of their ongoing obligation to comply with EMTALA. On May 29, 2025, the U.S. Centers for Medicare and Medicaid Services (CMS) rescinded guidance that it issued in 2022 "to remind hospitals of their existing obligation to comply with EMTALA."[1] CMS's rescission of this regulatory guidance does not change federal law or the obligations EMTALA imposes. Put simply, all hospitals must continue to follow EMTALA, including with respect to the provision of emergency abortion care. We therefore ask that you remind your members of their continuing obligations under EMTALA.

Since 1986, EMTALA has mandated that hospitals provide critical and necessary health care in emergency medical situations. Under EMTALA, all Medicare-participating hospitals with

[1] Letter from Dirs., Quality, Safety, & Oversight Grp. & Surv. & Operations Grp. of Dep't of Health and Hum. Servs., to State Survey Agency Dirs. (May 29, 2025), https://www.cms.gov/files/document/qso-22-22-hospitals-rescinded-05292024.pdf.; Letter from Dirs., Quality, Safety, & Oversight Grp. & Surv. and Operations Grp. of Dep't of Health and Hum. Servs., to State Survey Agency Dirs. (May 29, 2025), https://www.cms.gov/files/document/qso-21-22-hospitals-rescinded-05292025.pdf.

an emergency department must provide pregnant patients access to abortion care to prevent serious harm to the patient's health, serious impairment to bodily function, or serious dysfunction of an organ or body part. *See* 42 U.S.C. § 1395dd(e)(1)(A).[2] EMTALA requires these hospitals to provide access to abortion care if it is the treatment necessary to stabilize pregnant patients with an emergency medical condition. Emergency medical conditions can include, but are not limited to, ectopic pregnancy, traumatic placental abruption, pre-eclampsia, hemorrhaging, amniotic fluid embolism, and hypertension. Critically, the requirements of EMTALA apply regardless of whether a hospital is in a state that purports to limit or ban abortion care. *See St. Luke's Health Sys., Ltd. v. Labrador*, No. 1:25-CV-00015, 2025 WL 888840, at *1, 10-11 (D. Idaho Mar. 20, 2025); 42 U.S.C. § 1395dd(f).

For decades, the federal government has properly interpreted the requirements of EMTALA to protect access to abortion care under the statute. Across federal administrations of both parties, the U.S. Department of Health and Human Services (HHS) has enforced EMTALA against hospitals that fail to provide abortion care when necessary to provide stabilizing care for a patient experiencing an emergency medical condition. *See, e.g.*, *Burditt v. U.S. Dep't of Health & Human Servs.*, 934 F.2d 1362, 1367-76 (5th Cir. 1991).[3] And it has expressly affirmed that position on numerous occasions.[4] Following the U.S. Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*, the 2022 CMS guidance reiterated hospitals' existing obligation under EMTALA to provide abortion care if it is "the stabilizing treatment necessary to resolve" a pregnant patient's emergency medical condition—an obligation that applies no matter whether state law purports to restrict access to abortion.[5] And in 2024, when the federal government defended this position before the U.S. Supreme Court, the Court ultimately dismissed the case and did not disturb the understanding of the statute articulated in the 2022 CMS guidance. *Moyle v. United States*, 603 U.S. 324, 325 (2024).

Nothing about CMS's rescission of its 2022 guidance changes the statutory text of EMTALA, which requires abortion care in specified circumstances. Nor does the rescission of the guidance supersede numerous judicial opinions interpreting EMTALA to require the provision of

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[2] *See* Am. Coll. of Obstetricians & Gynecologists, *Facts Are Important: Abortion Is Healthcare* (n.d.), https://www.acog.org/advocacy/facts-are-important/abortion-is-healthcare#:~:text=ACOG's%20November%202017%20Statement%20of,undue%20interference%20by%20outside%20parties., (("Pregnancy complications... may be so severe that abortion is the only measure to preserve a woman's health or save her life.").

[3] *See also* HHS & Dep't of Justice, *Health Care Fraud and Abuse Control Program Annual Report for Fiscal Year 2019*, at 45 (2020), https://oig.hhs.gov/publications/docs/hcfac/FY2019-hcfac.pdf (describing enforcement action involving pregnant individual with preeclampsia); HHS, Off. Inspector Gen., *Semi-Annual Report to Congress: April 1 – September 30, 2015*, at 37 (2015), https://oig.hhs.gov/reports-and-publications/archives/semiannual/2015/sar-fall15.pdf (same, pregnant individual with abdominal and lower back pain symptoms).

[4] *See, e.g.*, 45 C.F.R. § 88 (2024).

[5] Letter from Xavier Becerra, Sec'y of Dep't of Health & Hum. Servs., to Health Care Providers (July 11, 2022), https://www.hhs.gov/sites/default/files/emergency-medical-care-letter-to-health-care-providers.pdf.

emergency abortion care. Indeed, even the Trump Administration itself has acknowledged as much. In a letter sent to health care providers on June 13, shortly after the rescission of CMS's 2022 guidance, HHS Secretary Robert F. Kennedy, Jr., made clear that "the law has not changed."[6] And while that letter needlessly attempts to sow confusion by focusing on protections for a pregnant patient's "unborn child," nothing about the rescission of the guidance changes the fact that EMTALA's requirement to provide stabilizing care is based on the medical condition of the pregnant patient, not the fetus. *See Moyle*, 144 S. Ct. at 2018-19 (Kagan, J. concurring). Hospitals in all states therefore must continue to comply with EMTALA and provide access to abortion care when it is the medical treatment necessary to stabilize a pregnant patient, whether or not they have laws purporting to prohibit or limit access to abortion care.

Continued compliance with EMTALA's requirements is critical in light of the severe harms that result from denying stabilizing abortion care to pregnant patients in emergency medical situations. Denying stabilizing abortion care can cause irreparable harms, including hysterectomy, fertility loss, kidney failure, brain injury, and limb amputation, forcing patients to live "with significant disabilities and chronic medical conditions." *United States v. Idaho*, 623 F.Supp.3d 1096, 1101 (D. Idaho 2024). Delaying such stabilizing care, meanwhile, increases "the risk that lifesaving interventions might not work and pregnant individuals could experience morbidity and mortality."[7] For example, a recent maternal morbidity study after the enactment of Texas' six-week abortion ban found the rate of serious maternal morbidity was 57% when using observation-only care, nearly double the rate that resulted when following the standard protocol of terminating the pregnancy to preserve the pregnant patient's life or health.[8]

The real-world consequences of denying or delaying stabilizing abortion care for pregnant patients with an emergency medical condition are catastrophic. After Texas's six-week abortion ban went into effect, sepsis rates rose 50% statewide and increased by 63% in hospitals that waited to provide abortions or other interventions to miscarrying patients.[9] In Texas, a young mother experiencing a miscarriage died of an infection after being forced to delay abortion care for 40 hours until doctors, fearful of prosecution under Texas's abortion ban, could no longer detect a heartbeat in her unborn child.[10] And HHS found as recently as May 2025 that a hospital violated

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[6] Letter from Robert F. Kennedy Jr., Sec'y of Dep't of Health & Hum. Servs., to Health Care Providers (June 13, 2025), https://essentialhospitals.org/wp-content/uploads/2025/06/6.13.25-EMTALA-letter-final.pdf.pdf (quoting CMS Administrator Mehmet Oz, M.D.).

[7] Andrea MacDonald et al., *The Challenge of Emergency Abortion Care Following the Dobbs Ruling*, 328 JAMA 1691 (Nov. 1, 2022) (further noting that in emergency care, "each hour of delayed care increases the patient's likelihood of dying by approximately 4%").

[8] *See* Anjali Nambiar et al., *Maternal Morbidity and Fetal Outcomes Among Pregnant Women at 22 Weeks' Gestation or Less with Complications in 2 Texas Hospitals After Legislation on Abortion*, 227 Am. J. Obstetrics & Gynecology, 648, 648-50 (July 4, 2022).

[9] Kavita Surana et al., *Why Hospital Policies Matter in States That Ban Abortion*, ProPublica (May 7, 2025), https://www.propublica.org/article/texas-abortion-ban-sepsis-rates-dallas-houston.

[10] Cassandra Jaramillo and Kavitha Surana, *A Woman Died After Being Told It Would Be a "Crime" to Intervene in Her Miscarriage at a Texas Hospital*, ProPublica (Oct. 30, 2024), https://www.propublica.org/article/josseli-barnica-death-miscarriage-texas-abortion-ban.

EMTALA when a pregnant woman nearly died after being denied abortion care for her ectopic pregnancy, resulting in permanent damage to her reproductive organs.[11]

The devastating consequences of denying medically necessary abortion care to pregnant patients are a stark reminder of the importance of EMTALA's requirements—and the importance of ensuring continued compliance with those requirements. The law is clear: Hospitals subject to EMTALA have an obligation to provide timely abortion care when necessary to stabilize a patient experiencing an emergency medical condition. In addition, many of our states have parallel requirements under state law that operate independent of EMTALA. We remain steadfast in our commitment to ensuring that every hospital continues to follow the law, and we stand ready to work together to ensure that every pregnant patient across the country receives the necessary and lifesaving health care that federal and state law require.

Sincerely,

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[11] *Complaints Against Texas Hospitals for Denying Emergency Care for Ectopic Pregnancies*, Cener for Reproductive Rights (n.d.), https://reproductiverights.org/case/texas-emtala-complaints/#:~:text=Update:%20In%20May%202025%2C%20the,experiencing%20an%20emergency%20health%20condition.

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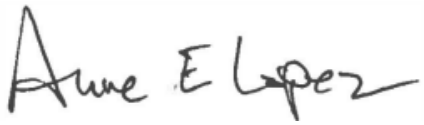

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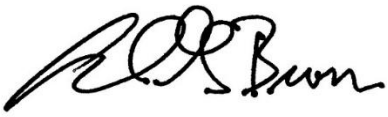

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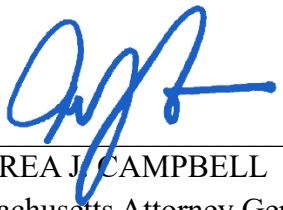

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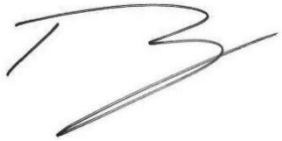

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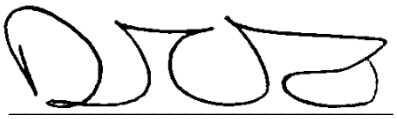

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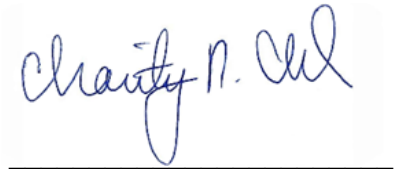

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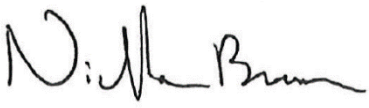

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