



## The Supreme Court May Shut Down Emergency Abortion Care

By Chelsey Davidson

Just two years ago, the Supreme Court did the unthinkable: the conservative justices stripped women, nonbinary people, and trans people of their nationwide right to abortion care by overturning *Roe v. Wade*. The *Dobbs* decision reversed nearly 50 years of precedent, and sent shockwaves through the country — further eviscerating any lingering belief that the Trump-packed Supreme Court would respect individual rights and rule of law above radical right-wing ideology.

The Supreme Court has since made clear that overturning *Roe* was not the end game: it's the launchpad for further attacks on abortion access and essential healthcare in all 50 states. And this term, the radical conservative justices seem ready to shut down emergency, stabilizing abortion care in *Moyle v. United States* and *Idaho v. United States* — consolidated cases that could radically rewrite the federal Emergency Medical Treatment And Labor Act (EMTALA).

### EMTALA is Lifesaving, Established Federal Law

EMTALA, passed in 1986, is a federal law that requires hospitals receiving Medicare funds to provide stabilizing treatment to any person who arrives at an emergency room with an emergency medical condition. It is an expansive rule that covers treatment not only for life threatening conditions, but for any condition that places a patient's health in "serious jeopardy" — defined as "serious impairment to bodily functions" or "serious dysfunction of any bodily organ or part."<sup>1</sup>

EMTALA does not enumerate specific emergency conditions or treatments; it is a blanket directive requiring emergency rooms to provide needed care to stabilize any patient that enters its doors. If an abortion is the medically appropriate stabilizing treatment, EMTALA requires hospitals to make one available.

After the *Dobbs* decision, the Biden administration promulgated [guidance](#) regarding abortion care in medical emergencies, reiterating that the duty to provide stabilizing treatment under EMTALA includes abortion care and preempts state laws, as has always been the case. Litigation in Texas and Idaho — both of which now have near-total abortion bans — immediately emerged, with right-wing lawyers and groups arguing that state abortion bans should trump federal law (an argument easily debunked in basic high school civics classes).

A federal district court temporarily blocked Idaho's abortion ban to the extent that it conflicts with EMTALA — i.e., in very narrow, specific emergency circumstances — for the duration of the litigation. This meant that pregnant people in Idaho who required stabilizing abortion care were able to receive that urgent treatment while courts decided the case. But in January 2024, the Supreme Court went out of its way to [lift that injunction](#), blocking patients' rights to emergency

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<sup>1</sup> 42 U.S.C. §1395dd(e)(1)(i-iii).



stabilizing abortion care while the litigation continues. Now, the Supreme Court will effectively decide whether EMTALA [means what it explicitly says](#), or if the court and right-wing states should be able to rewrite federal law.

#### An Adverse Decision Will Kill Pregnant People In States With Abortion Restrictions

According to the Guttmacher Institute's [interactive tracker](#), 15 states currently have total or near-total bans on abortion, and 13 more states are designated as “very restrictive” or “restrictive.” If the right-wing justices on the Supreme Court issue a decision that carves abortion out of EMTALA and denies pregnant patients the right to stabilizing care, people will die. The doctors who could save them will have to watch them die in emergency rooms or risk severe legal consequences.

Still other patients will suffer preventable, severe health consequences such as organ damage — including to their reproductive organs. We have already seen the horrific consequences of denying people emergency abortion care: a [Missouri woman](#) whose water broke at 17 weeks was turned away at two emergency rooms in two states, and was at risk of developing a serious infection or losing her uterus had she not lived close enough to Illinois to receive stabilizing care there. In Texas, a woman had to wait until she [developed sepsis](#) before physicians could provide her with a lifesaving abortion — 22 hours of rigors, tremors, and a high fever before they could terminate her non-viable pregnancy. Another Texas woman was [denied emergency room treatment for an ectopic pregnancy](#) and told to wait; she was able to get care only after it had started to rupture, endangering her life and her reproductive organs.

**A pregnant person’s right to survive pregnancy should not come down to whether they happen to reside in a red, blue, or purple state.** Anything less than a full-throated, unequivocal Supreme Court decision stating that EMTALA covers abortion for emergency room patients whose health is in serious jeopardy will cause serious physical harm and will have a chilling effect on lifesaving care in states with abortion restrictions — killing patients and forcing them to endure preventable, serious health consequences.

#### The Consequences of Eroding EMTALA Far Exceed Abortion Care

An adverse decision in *Moyle v. United States* could go well beyond abortion care. If the Supreme Court allows states to carve health-threatening pregnancy emergencies out of EMTALA, it would greenlight state legislation that could further erode EMTALA’s duty of care and discriminate against other marginalized groups. As advocates and experts warn, we could see state restrictions on emergency care related to [AIDS, severe mental illness, or gender-affirming care](#).

#### Court Expansion Remains The Only Way to Secure Abortion Access Long Term

The right-wing justices have made clear that they are anti-abortion and anti-reproductive rights. They knew when they issued *Dobbs* that they were unleashing an [untold swath of horrors across the country](#) — including condemning pregnant people to die in emergency room beds or suffer severe, preventable health consequences. They will not stop at *Dobbs*. They will not stop



at EMTALA, or medication abortion, or even contraception. They have told us exactly who they are — radicals who oppose reproductive rights and intend on imposing right-wing ideology from the bench — and we must get serious about stopping them. Only court expansion can neutralize the threat that these right-wing extremists pose to our health and safety; we must immediately add four seats to undo the Trump-packed Supreme Court's damage to reproductive rights and beyond.