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SCOTUS Lifts EMTALA Exception to Idaho's Criminal Abortion Law

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The United States Supreme Court ended the Emergency Treatment and Active Labor Act (“EMTALA”) exception to Idaho's total abortion ban for now. The net effect is that Idaho's criminal abortion ban now applies even in EMTALA cases except (1) if the abortion is necessary to save the life of the mother or (2) for cases of rape or incest if certain conditions are met.

The decision, issued by the Supreme Court in a brief unsigned order Friday afternoon, agreed to resolve whether Idaho's total abortion ban conflicts with EMTALA. The Supreme Court will hear oral argument in the case this April. A final decision could come as late as this summer.

For most of the last year, Idaho providers have been permitted to perform abortions if necessary to preserve the health of the pregnant person, not just to save their life, at least when EMTALA applies. Now that the lower court preliminary injunction providing that exception is stayed, providers must comply with the strict terms of Idaho's abortion law regardless of their legal obligations under EMTALA.

This will no doubt cause confusion for providers in the coming months. Since Idaho's criminal abortion ban went into effect, this will be the first extended period that providers will be unable to perform an abortion in an emergency if the only justification is to preserve the health of a pregnant patient. Stay tuned for further health law updates for the latest guidance.

In the meantime, for background on the EMTALA exception lawsuit, see our previous health law update: [EMTALA Exception to Idaho's Abortion Law Is in Effect for Now](#).

For more general guidance on Idaho's abortion laws, see our [Idaho Abortion Laws: Updated FAQs](#) page on our website.

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