

# HEALTH LAW CONNECTIONS

January/February 2026

## Top Ten: Health Law Forecast 2026

### Looking Ahead on Reproductive Health Care

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Abortion continues to be the central focus of reproductive health care as the post-*Dobbs*<sup>1</sup> legal framework expands and states enact dueling abortion laws increasingly focused on regulating out-of-state activity.

Uncertainty remains about the application of exceptions to abortion restrictions that protect the life or health of the mother, and states continue to enact laws clarifying their respective exceptions.<sup>2</sup> The stakes are high for providers and misinterpretation of exceptions can lead to serious legal consequences, including criminal,<sup>3</sup> civil,<sup>4</sup> and administrative<sup>5</sup> liability.

Enforcement of state abortion laws across state lines continues even as states enact additional shield laws, which protect patients and providers in states where abortion is legal from out-of-state civil, criminal, and administrative enforcement. Shield states have begun to respond to out-of-state enforcement efforts by expanding anonymity for providers, such as through eliminating the requirements that a prescriber's name or a patient's name appear on a prescription label for abortion medication.<sup>6</sup>

The interplay between state abortion restrictions and federal laws continues to also be an issue. For example, the Emergency Medical Treatment and Labor Act is the subject of ongoing litigation in Idaho.<sup>7</sup> A lawsuit<sup>8</sup> has also been filed challenging the elimination of in-person dispensing requirements under federal regulations for abortion medication Mifepristone.<sup>9</sup> This regulatory change modifies the Risk Evaluation and Mitigation Strategy (REMS) Program, allowing for telehealth prescriptions and nationwide mailing of the abortion medication, including into states with abortion restrictions.

Multiple lawsuits were filed challenging new federal funding requirements for abortion providers.<sup>10</sup> Though federal law generally prohibits federal funding of abortion, including Medicaid reimbursement, abortion providers could previously receive federal Medicaid funds for non-abortion services, such as contraception, testing for sexually transmitted infections, or cancer screenings. But in 2025, Congress in the OBBBA defunded abortion providers that meet the "prohibited entities" designation outlined in the statute by prohibiting Medicaid funding for *any services* at such entities, which could limit access for non-abortion services that those entities provide.<sup>11</sup>

Undoubtedly, 2026 is poised for continued legal developments as state and federal laws impacting reproductive health continue to evolve in the wake of *Dobbs*.

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<sup>1</sup> *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215 (2022).

<sup>2</sup> See, e.g., Ky. H.B. 90, 25th Leg., Reg. Sess. (2025); Tex. S.B. 31, 89th Leg., Reg. Sess. (2025).

<sup>3</sup> Mabel Felix, et al., *Criminal Penalties for Physicians in State Abortion Bans*, Kaiser Family Found. (Mar. 4, 2025), <https://www.kff.org/womens-health-policy/criminal-penalties-for-physicians-in-state-abortion-bans/> (last visited Oct. 29, 2025).

<sup>4</sup> For example, medical malpractice, "bounty laws." See Harris Meyer, *Abortion Laws and Medical Malpractice Lawsuits After Dobbs Ruling*, CBS News (June 23, 2023), <https://www.cbsnews.com/news/abortion-laws-medical-malpractice-lawsuits-after-dobbs-ruling/> (last visited Oct. 29, 2025). Examples of bounty laws include Okla. Stat. tit. 63, § 1-745.55 and Tex. Health & Safety Code Ann. § 171.208.

<sup>5</sup> For example, professional discipline, loss of licensure.

<sup>6</sup> See, e.g., Cal. Assemb. B. 260, 2023-2024 Leg., Reg. Sess. (Cal. 2025), Maine Legislature LD 538 (2025); New York Assemb. B. A2145 (2025); RCW 69.41.050 (Labeling requirements—Penalty).

<sup>7</sup> *Labrador Letter—Trump Admin Halts EMTALA Lawsuit Against Idaho*, Office of the Attorney General State of Idaho Raúl R. Labrador (Mar. 7, 2025), <https://www.ag.idaho.gov/newsroom/labrador-letter-trump-admin-halts-emtala-lawsuit-against-idaho/>.

<sup>8</sup> *Louisiana v. Food & Drug Admin.*, No. 6:25-cv-01491 (W.D. La. filed Oct. 2025). See also Litigation Involving Reproductive Health and Rights in the Federal Courts, Kaiser Family Found. (2025), <https://www.kff.org/womens-health-policy/litigation-involving-reproductive-health-and-rights-in-the-federal-courts/>.

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<sup>9</sup> See U.S. Food & Drug Admin., Questions and Answers on Mifepristone for Medical Termination of Pregnancy Through Ten Weeks Gestation (Jan. 2023), <https://www.fda.gov/drugs/postmarket-drug-safety-information-patients-and-providers/questions-and-answers-mifepristone-medical-termination-pregnancy-through-ten-weeks-gestation>.

<sup>10</sup> *California v. U.S. Dep't of Health & Human Servs.*, No. 1:25-cv-12118 (D.D.C. filed 2025).

<sup>11</sup> See One Big Beautiful Bill Act, § 71113, H.R. 1, 119th Cong. (2025) (enacted July 4, 2025).