

Amicus Brief Urges Supreme Court to Protect the Federal Right to Emergency Abortion Care in Idaho

News

April 24, 2024

On March 14, a Jenner & Block team filed an amicus brief in the United States Supreme Court on behalf of St. Luke's Health System, the only Idaho-based, not-for-profit, community-owned and community-led health system, asking the Court to find that Idaho's near-total ban on abortions is preempted by the Emergency Medical Treatment and Labor Act (EMTALA). Under EMTALA, Medicare-funded hospitals—like St. Luke's—are required to treat anyone who comes to the ER experiencing an emergency medical condition with stabilizing care, including in some situations, by terminating a pregnancy. Idaho has suggested that EMTALA does not apply in Idaho, which would mean that physicians can be criminally prosecuted for terminating a pregnancy even where necessary to stabilize the health of the pregnant patient.

"The stakes are immeasurably high in this case. Idaho law prohibits health care providers from doing what is medically necessary to stabilize their pregnant patients in a health emergency. This has severe consequences for Idaho's patients, their families, and physicians. We hope the Supreme Court will recognize that in the narrow set of circumstances where terminating a pregnancy is necessary to protect the health of a patient, Idaho cannot criminalize it in light of conflicting federal law." Said Partner Lindsay Harrison.

As the largest private employer in Idaho, St. Luke's physicians and nurses treat patients millions of times each year. In 2022 alone, they treated patients in over one million hospital visits, 224,000 emergency department visits, and 1.9 million clinic visits. The brief offers insight into what transpires in Idaho's emergency departments and how Idaho Code § 18-622 significantly impacts patient care.

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The brief underscored that "because Idaho Code § 18-622 creates a direct conflict with EMTALA, it places hospitals, including St. Luke's, in the precarious position of risking the criminal liability and medical licenses of their providers simply for complying with federal law."

“While § 18-622 prohibits termination except to *prevent the death* of the mother, EMTALA requires providers to offer stabilizing care even when an emergency medical condition poses severe health risks short of death,” the brief points out.

“As a result, physicians in Idaho, and the institutions in which they work, are faced with an irreconcilable conflict,” the brief concludes.

The Jenner team includes Partner Lindsay Harrison and Associate Maria LaBella.

The Supreme Court heard arguments in this case on April 24.

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