

Clinical Guidance to Assist in Medical Decision and/or Documentation of Abortion-Related Care Under Arizona Law

UPDATED **JANUARY 20, 2023**. THE LAW IS CHANGING RAPIDLY. THIS INFORMATION WILL BE REVIEWED ON A WEEKLY BASIS AND UPDATED AS NEEDED TO REFLECT ANY SIGNIFICANT CHANGES.

Understanding the Guidance

1. The guidance on the slides that follow is merely guidance; all patient care decisions are made by clinicians.
2. The material on these slides is dense. The guidance has been written with intention, to provide clarity to the extent possible. Please read and consider carefully.
3. If concerns arise regarding patient safety, as a clinician, your first priority is the care of your patient. Clinicians should continue to prioritize appropriate patient care by adhering to commonly understood Medical Standards of Care, consistent with applicable law.

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When a potentially pregnant patient presents in the hospital:
STEP 1: Is the patient pregnant?



- If the patient is **NOT** pregnant, there is **NO** criminal or civil liability for appropriate medical care.
 - There is no civil or criminal liability for miscarriage care.
 - There is no civil or criminal liability for contraceptive measures, including post-sexual assault prophylaxis.

STEP 2: What type of pregnancy?

Intrauterine Pregnancy

- **No civil or criminal liability** at **any stage of gestation** in the presence of a “**medical emergency**”: a condition that, on the basis of the physician’s good faith clinical judgment, necessitates an immediate abortion to avert the mother’s death or to avoid serious risk of substantial and irreversible impairment of a major bodily function of the mother
 - Under EMTALA, a “medical emergency” includes when (1) the mother may not have enough time for a safe transfer to another facility; or (2) the transfer might pose a threat to the safety of the mother..
- **Criminal and civil liability** for **knowingly** aborting a fetus of gestational age greater than **15 weeks** for any reason other than a medical emergency.

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STEP 2: What type of pregnancy? *(Continued)*

Ectopic Pregnancy

- No criminal or civil liability.
 - CMS has stated that under federal law, where the physician determines that an abortion is necessary stabilizing care for an ectopic pregnancy, it must be provided.

Heterotopic Pregnancy

- Medical care that **unknowingly** results in the loss of the intrauterine fetus does not give rise to criminal or civil liability.
- In the absence of a medical emergency, there may be **criminal and/or civil liability** for medical care that **knowingly** aborts the intrauterine fetus, if the physician knows that the abortion of the intrauterine fetus is sought (1) based on the sex or race of the child or the race of a parent of that child; or (2) solely because of a genetic abnormality of the child.
- In the absence of a medical emergency, there may be **criminal and/or civil liability** for medical care that **knowingly** aborts an intrauterine fetus of gestational age greater than 15 weeks.