

Clinical Guidance to Assist in Medical Decision and/or Documentation of Abortion-Related Care Under Missouri 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 or if the fetus is not alive, there is **NO** criminal or civil liability for appropriate medical care.
 - There is **NO** civil or criminal liability for miscarriage care if the fetus is not alive.
 - There is **NO** civil or criminal liability for contraceptive measures, including post-sexual assault prophylaxis.

STEP 2: What type of pregnancy?

Intrauterine Pregnancy

- **Criminal liability at *any gestational stage***, except in the case of a “medical emergency.”
 - A “medical emergency” exists if the mother has “a condition” which, in the physician’s “reasonable medical judgment,” either (1) “so complicates the medical condition of a pregnant woman” that “immediate abortion” is “necessary” to prevent her death, or (2) “for which a delay will create a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman.”
 - A medical judgment is reasonable if it “would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.” What is reasonable may depend on standards of care developed by doctors and medical professionals.
 - There is no exception from criminal liability in cases of rape or incest.
 - Provider must prepare and sign Missouri’s abortion report and submit it to the Missouri Department of Health and Senior Services within 45 days of the abortion.
- **Criminal liability** for performing a partial-birth abortion which is not necessary to save the life of a mother.
- Physician must complete and sign the Missouri abortion report for each abortion performed which complies with pre-Dobbs documentation and reporting requirements. It is advisable to also document, in the physician’s reasonable medical judgment, the existence of a “medical emergency” as described above.

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

Ectopic Pregnancy

- Missouri law does not separately address ectopic pregnancy. There is **NO** criminal liability for termination of an ectopic pregnancy if the physician determines and documents that the mother is experiencing a medical emergency, as defined above.
- CMS has stated that under EMTALA, where the physician determines that an abortion is necessary stabilizing care for an ectopic pregnancy, it must be provided.

Heterotopic Pregnancy

- There may be criminal liability for medical care that **intentionally** aborts the intrauterine fetus, except in the case of a “medical emergency.” Medical care that **unintentionally** results in loss of the intrauterine fetus does not give rise to criminal liability.