Nos. 23-35440 & 23-35450

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee,
v.
THE STATE OF IDAHO,
Defendant-Appellant.

UNITED STATES OF AMERICA,
Plaintiff-Appellee,
v.
THE STATE OF IDAHO,
Defendant
v.
MIKE MOYLE, Speaker of the Idaho House of Representatives; et al.,
Movant-Appellants.

On Appeal from the United States District Court for the District of Idaho
No. 1:22-cv-00329-BLW
Hon. B. Lynn Winmill

AMICI CURIAE BRIEF OF COUNTY OF SANTA CLARA, CALIFORNIA AND 9 ADDITIONAL CITIES AND COUNTIES IN SUPPORT OF PLAINTIFF-APPELLEE AND FOR AFFIRMANCE

Tony LoPresti
County Counsel, County of Santa Clara
Kavita Narayan
Meredith A. Johnson
*Rachel A. Neil
70 West Hedding Street
Ninth Floor, East Wing
San José, CA 95110
Phone: (408) 299-5900
**Counsel of Record*

Counsel for Amici Curiae

Complete Listing of Amici Curiae

The County of Santa Clara, California

Harris County, Texas

The County of Monterey, California

Cook County, Illinois

The County of Los Angeles, California

The City of Cincinnati, Ohio

Contra Costa County, California

The City of Saint Paul, Minnesota

The City of New York, New York

The City and County of San Francisco, California

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INTERESTS OF *AMICI CURIAE*[1]

Amici curiae are geographically diverse counties and cities across the United States that maintain public health departments, own or operate hospitals or clinics, or otherwise fund healthcare services for their residents.[2] As local governments, amici are responsible—both in practice and often by legal mandate—for protecting the health and wellbeing of their communities. Many local governments provide direct medical services focused on serving indigent and other underserved populations, including reproductive healthcare services and services to persons who have been, are, or hope to become pregnant. In addition, local governments often provide emergency medical transportation and public health services, operate law enforcement agencies and jail facilities, maintain public infrastructure, assist vulnerable children and the elderly, promote economic security, and respond to

[1] Amici file this brief pursuant to Federal Rule of Appellate Procedure 29(a)(2) and Circuit Rule 29-2(a). All parties consented to the filing of this brief. No counsel for a party authored this brief in whole or in part, and no party or counsel for a party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than amici curiae or their counsel made a monetary contribution to this brief's preparation or submission.

[2] Amici are the County of Santa Clara, California; Harris County, Texas; the County of Monterey, California; Cook County, Illinois; the County of Los Angeles, California; the City of Cincinnati, Ohio; Contra Costa County, California; the City of Saint Paul, Minnesota; the City of New York, New York; the City and County of San Francisco, California.

public emergencies. Accordingly, amici have a strong interest in ensuring public safety and welfare in the medical sphere and beyond.

Amici submit this brief to provide critical context about the harm to local governments, and the significant and dangerous consequences to the welfare of our communities, of stripping away the Emergency Medical Treatment and Labor Act's guarantee of timely emergency care for pregnant patients who are suffering from emergency medical conditions that require immediate termination of the pregnancy in order to stabilize the patient's condition.

ARGUMENT

The Emergency Medical Treatment and Labor Act (EMTALA)[3] is a pillar of the national healthcare safety net. For nearly four decades, it has protected patients and public health by ensuring that hospitals provide stabilizing care to all patients suffering from emergency medical conditions. Allowing states to exempt their hospitals from EMTALA's mandate with respect to certain pregnancy-related complications would place patients in danger, undermine public health, and upset the balance that EMTALA struck with respect to emergency medical services.

As local governments responsible for promoting the health and welfare of their communities, amici respectfully urge the Court to affirm the district court's

[3] 42 U.S.C. § 1395dd.

grant of a preliminary injunction. The district court's preliminary injunction bars the State of Idaho from enforcing the abortion restrictions set out in Idaho Code section 18-622 to the extent those limitations conflict with the requirements of EMTALA. As set forth in the Consolidated Brief for the United States, reversal of the district court's order would seriously undermine patients' ability to receive medically necessary care—specifically, medically necessary emergency abortions. This, in turn, would expose patients experiencing dangerous pregnancy complications to significant, potentially life-threatening health repercussions that would have a harmful ripple effect not only on the patients themselves, but on the broader community and local safety net systems upon which our communities rely.

As explained in the amici curiae brief filed by the American College of Obstetricians and Gynecologists, a decision that EMTALA does not require hospitals to provide medically necessary abortions, even when doing so is necessary to stabilize a patient's condition, would have grave health consequences for patients experiencing serious complications in states that restrict the availability of medically necessary abortions. These patients would be faced with devastating options: either wait for their condition to worsen or risk interstate travel while in an unstable medical condition. Neither of these outcomes serves the purposes for which EMTALA was enacted.

In addition to endangering individual patients, allowing states to block medically necessary emergency abortions would undermine EMTALA's goal of ensuring that hospitals share the responsibility for providing emergency medical care. Such a decision would force hospitals that provide comprehensive emergency services, especially safety net hospitals in states that do not obstruct medically necessary abortions, to reallocate scarce public resources to treat out-of-state patients whose conditions may have deteriorated because they were forced to travel while in an unsafe medical condition. This is exactly the situation that EMTALA was enacted to prevent. Given the significant operational and financial challenges already facing local safety net healthcare facilities—which deploy limited public resources to serve vulnerable and high-need members of the public—these providers can ill-afford to bear the cost of this so-called "patient dumping."

Finally, allowing states to prevent or delay healthcare providers from performing medically necessary emergency abortions would threaten to harm public health more broadly by undermining patients' trust that the healthcare system will be responsive to their needs or the needs of their loved ones. Building and maintaining patient trust is paramount to healthcare providers' ability to treat patients, encourage healthy behaviors, and facilitate positive health outcomes for the public. Without that trust, patients may doubt that they can obtain the care they need and may, as a result, delay or altogether forgo seeking critical care. When segments

of the population do not or cannot access adequate health care, the wellbeing of the entire community is undermined. And increases in the costs associated with delayed medical care are likely to limit local governments' ability to provide safety net healthcare services more broadly.

For the foregoing reasons, amici respectfully urge the Court to affirm the district court's preliminary injunction ruling.

I. Allowing States to Block Medically Necessary Emergency Abortions Would Undermine EMTALA's Goal of Ensuring Hospitals Share Responsibility for Emergency Medical Services.

As set forth above, amici are local governments that maintain public health departments, own or operate hospitals or clinics, or otherwise fund healthcare services for their residents. As entities that help comprise the fabric of the healthcare safety net, amici have a strong interest in preserving its safeguards. One of those safeguards is EMTALA, which requires virtually all hospitals to provide patients who are experiencing emergency medical conditions with the stabilizing care they need.[4] Indeed, EMTALA has long required emergency departments to provide

[4] *See* H.R. Rep. No. 99-241, pt. 1 at 27 (1985), *as reprinted in* 1986 U.S.C.C.A.N. 579, 605 ("All participating hospitals with emergency departments would be required to provide an appropriate medical screening examination . . . to determine whether an emergency medical condition exists" and "to stabilize the medical condition or provide treatment for the labor[.]"); *see also* W. Wesley Fields et al., *The Emergency Medical Treatment and Labor Act as a Federal Health Care Safety Net Program*, 8 Acad. Emer. Med. 1064, 1064-65 (2001) ("The U.S. emergency medical care system continues to operate on the basis of universal access to care

medically necessary emergency abortion care. Upsetting this well-settled understanding of EMTALA would weaken local safety net systems and place patients at great risk.

One of the primary reasons Congress passed EMTALA was to end so-called "patient dumping," a practice that places patients in grave danger by depriving them of critical and time-sensitive emergency care. Traditionally, patient dumping occurred when a patient sought care at a private hospital's emergency department and was either turned away or transferred to a public safety net hospital because they were unable to pay.[5] In the mid-1980s, physicians at Cook County Hospital in Chicago published two articles documenting patient dumping at their facility. Their research showed that patients who were transferred were twice as likely to die as those treated at the transferring hospital, and nearly a quarter of transferred patients

for all who seek it, and [emergency departments] play a vital role as core safety net providers in today's healthcare system. As mandated by EMTALA, emergency services are uniformly available to all . . . . [Emergency departments] have emerged as perhaps the most visible safety net facilities in the current health care environment.").

[5] *See* David U. Himmelstein et al., *Patient Transfers: Medical Practice as Social Triage*, 74 Am. J. Pub. Health 494, 495-96 (1984).

were transferred in unstable condition.[6] And Cook County was not alone—transfers had risen precipitously across the country, from New York to Texas to California.[7]

In the wake of these reports, Congress passed EMTALA. In doing so, Congress determined that hospitals owe patients a safety net in emergencies.[8] The passage of EMTALA further bolstered the healthcare safety net and protected patients by making both public and private hospitals part of the safety net for emergency care. As one senator explained, EMTALA was meant "to send a clear signal to the hospital community . . . that all Americans, regardless of wealth or status, should know that a hospital will provide what services it can when they are

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[6] *See* Joseph Zibulewsky, *The Emergency Medical Treatment and Active Labor Act (EMTALA): What It Is and What It Means for Physicians*, 14 Proc. Baylor Univ. Med. Ctr. 339, 339 (2001).

[7] *Id.*; *see also* Rachel Warby et al., *EMTALA and Patient Transfers*, StatPearls, Nov. 22, 2023.

[8] *See* 131 Cong. Rec. E5520-02 (Fortney H. (Pete) Stark)), 1985 WL 205543, 1. Though EMTALA applies specifically to hospitals that participate in Medicare, "this encompasses almost 98% of all US hospitals." *See* Zibulewsky, *supra* note 6, at 340. Medicare is a foundational funding source that accounts for approximately twenty-one percent of total national health expenditures. Centers for Medicare & Medicaid Services, *NHE Fact Sheet*, CMS (Dec. 13, 2023), https://www.cms.gov/data-research/statistics-trends-and-reports/national-health-expenditure-data/nhe-fact-sheet#:~:text=Medicare%20spending%20grew%205.9%25%20to,29%20percent%20of%20total%20NHE. Medicare funding is especially critical to ensuring public hospitals are able to offer care to vulnerable members of the community. Medicare funding also provides a tremendous benefit to the healthcare safety net more broadly.

truly in physical distress."[9] This time-sensitive emergency care is meant to be provided locally at a nearby hospital. Indeed, when an ambulance receives a patient who is experiencing a medical emergency, they are typically required to transport the patient to the nearest hospital that can provide the requisite care.

State laws permitting hospitals to deny critical emergency medical care to pregnant patients would puncture a hole in this federally mandated safety net and enable patient dumping to occur on a state-level scale. Such laws would turn back the clock on the foundational protections that Congress enacted in EMTALA, putting patients at risk and pushing the obligation to provide critical care onto the emergency departments of neighboring states' hospitals. Patients experiencing serious pregnancy complications in Idaho, or in other states that curtail access to medically necessary emergency abortions, would be forced to suffer as their health deteriorates, sometimes irreparably, while physicians delay or forgo emergency care.[10] In particular, patients with limited means—one of the key populations EMTALA was enacted to protect—would be left with no option but to wait while

[9] 131 Cong. Rec. 28568 (1985) (statement of Sen. Durenberger).

[10] *See* Amanda Seitz, *Dozens of Pregnant Women, Some Bleeding or In Labor, Are Turned Away from ERs Despite Federal Law*, AP (Aug. 14, 2024, 12:51 PM PDT), https://apnews.com/article/pregnant-women-emergency-room-ectopic-er-edd66276d2f6c412c988051b618fb8f9 (describing pregnant patients in medical distress being turned away from hospitals, including a patient in Arkansas who went into septic shock after being sent home from the emergency room).

their emergency medical condition worsens. These financially vulnerable patients may lack the money to travel out of state or to secure childcare during their absence, and they may be unable to afford to miss work for the extended period required to travel out of state for emergency care. Inevitably, these patients, whom EMTALA especially sought to protect, would be turned away from hospitals with no recourse.

Patients who are physically and financially able to seek emergency care out of state would also face significant health risks as a result of traveling in an unstabilized medical condition. And out-of-state safety net providers that receive these patients would then be forced to divert scarce resources to provide critical emergency care that should have been provided to patients in their home state *before* their conditions deteriorated further. Public safety net health systems that offer comprehensive emergency medicine, especially public hospitals operated by local jurisdictions, should not be forced to shoulder the cost of out-of-state patient dumping, which harms patients and safety net providers alike.

To provide some context, safety net facilities are "providers of last resort, providing care to all patients, regardless of their ability to pay."[11] Many public hospitals primarily serve low-income patients whose healthcare is funded by

[11] Nat'l Ass'n of Counties, Medicaid and Counties: Understanding the Program and Why It Matters to Counties 11 (2024), https://www.naco.org/resources/medicaid-and-counties-understanding-program-and-why-it-matters-counties-0.

Medicaid. For instance, in California in 2021, such Medicaid patients "accounted for nearly 60% of hospitalizations at county hospitals and nearly half" at other safety net hospitals that receive supplemental funding—compared to "about one-third at all other hospitals."[12] Consequently, public hospitals also serve a large percentage of Medicaid-covered births.

In other words, safety net providers fill critical gaps in the availability of services, support access to care in underserved communities, and provide a disproportionate share of uncompensated and undercompensated care, all while operating with razor-thin financial margins.[13] At the same time, safety net providers face unprecedented hurdles in continuing to deliver high-quality care to underserved patients. Even before the COVID-19 pandemic, acute staffing and resource shortages loomed.[14] In the pandemic's wake, margins are thinner and staff shortages

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[12] Shannon McConville and Shalini Mustala, *California's Health Care Safety Net*, Pub. Pol'y Inst. of Cal. (May 2023), https://www.ppic.org/publication/californias-health-care-safety-net/.

[13] *See* Paula Chatterjee et al., *Essential but Undefined — Reimagining How Policymakers Identify Safety-Net Hospitals*, 383 New England J. of Med. 2593, 2593-94 (2020); Janet Pagon Sutton, *Characteristics of Safety-Net Hospitals, 2014*, Healthcare Cost and Utilization Project (HCUP) Statistical Briefs (Oct. 2016).

[14] *Daily Briefing: America Deliberately Limited Its Physician Supply—Now It's Facing a Shortage*, Advisory Bd. (Mar. 18, 2023), https://www.advisory.com/daily-briefing/2022/02/16/physician-shortage; Mary Carmichael, *Primary-Care Doctor Shortage Hurts Our Health*, Newsweek (Feb. 25, 2010), https://www.newsweek.com/primary-care-doctor-shortage-hurts-our-health-75351.

more severe.[15] These challenges have hit public hospitals hardest because they serve a more vulnerable patient population and deliver more uncompensated or undercompensated care.

These limited resources will only be stretched thinner if safety net providers find themselves needing to attend to out-of-state patients who were denied medically necessary emergency abortions in their home state. Public safety net hospitals, many of which are operated by local governments, will be forced to provide resource-intensive emergency care that will often be more invasive, expensive, and complex as a result of the patient's unstabilized condition during travel and the delay in care than it would have been had the patient received care at their own local hospital.[16] For example, when patients with certain pregnancy complications cannot access

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[15] Patrice Taddonio, *Why Safety-Net Hospitals Serving Low-Income People May Be "On the Brink of a Precipice"*, PBS (May 18, 2021), https://www.pbs.org/wgbh/frontline/article/safety-net-hospitals-struggle-endangers-care-for-low-income-patients/; Assistant Sec'y for Plan. & Evaluation Off. Health Pol'y, *Impact of the COVID-19 Pandemic on the Hospital and Outpatient Clinician Workforce: Challenges and Policy Responses* 1, 3-4 (2022), https://aspe.hhs.gov/sites/default/files/documents/d00f83e424d58c535273ec21906b199e/aspe-covid-workforce-report.pdf.

[16] See Zibulewsky, *supra* note 6, at 339; *see also New Report: Costs of Caring for Sicker Patients to Drive Continued Hospital and Health System Losses Throughout 2021*, Amer. Hospital Ass'n (Sept. 21, 2021) https://www.aha.org/press-releases/2021-09-21-new-report-costs-caring-sicker-patients-drive-continued-hospital-and (explaining that patients who put off care during the pandemic became sicker and required more expensive care).

necessary emergency abortion services, their risk of sepsis increases.[17] Sepsis, which is described in greater detail *infra*, is the most expensive reason for a hospitalization: an average hospital stay for sepsis costs double the stay for another diagnosis.[18] Treating patients who have been denied care at a facility in another state, and now face major complications like sepsis, will hit public hospitals particularly hard.

For emergency services, all hospitals are supposed to share the responsibility of providing stabilizing emergency care. This care is meant to be provided locally to ensure timely intervention. Removing pregnant patients in need of emergency abortion care from this equation will return hospitals to the pre-EMTALA status quo with respect to these pregnancy-related medical circumstances. Even worse, it would allow not just select private hospitals but *entire states* to deny patients emergency care and push this responsibility onto the doorstep of neighboring states' hospitals and social safety net systems at a time when the healthcare safety net is already strained. Meanwhile, patients who lack the means to seek emergency care out of state—though intended to be among EMTALA's key beneficiaries—will find

[17] L. Lewis Wall and Awol Yemane, *Infectious Complications of Abortion*, Open Forum Infectious Diseases, Nov. 23, 2022, at 4.

[18] Jim O'Brien, *The Cost of Sepsis*, Ctr. for Disease Control and Prev. (Sept. 8, 2015), https://blogs.cdc.gov/safehealthcare/the-cost-of-sepsis/; Jessica T. Lee et al., *Trends in Post–Acute Care Use after Admissions for Sepsis*, 17 Ann. Am. Thoracic Soc'y 118, 118 (2020), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6944346/.

the protections EMTALA affords them illusory as they have no choice but to wait while their emergency condition worsens.

II. Allowing States to Prohibit or Delay Medically Necessary Emergency Abortions Threatens to Erode Public Trust in Healthcare Providers and Thereby Undermine the Public Health and Welfare.

As explained in the amici curiae brief filed by the American College of Obstetricians and Gynecologists, denying or delaying the treatment of patients with severe pregnancy complications has serious consequences at the individual level. Beyond that, it also threatens to undermine trust in the healthcare system more broadly, particularly among under-served communities, to the detriment of public health and community wellbeing. Because local governments play an essential role in promoting and protecting public health and welfare, amici have a strong interest in preventing these harms and, for this additional reason, urge the Court to uphold the district court's preliminary injunction.

A. Allowing States to Prohibit or Delay Medically Necessary Emergency Abortions Will Undermine Patient Trust.

Put simply, forcing physicians to delay or deny medically necessary abortions to patients suffering from serious health conditions would undermine patients' confidence that healthcare professionals are willing and able to help them. Research shows that patients who have negative medical experiences or feel betrayed by medical institutions are more likely to disengage from healthcare systems and less

likely to adhere to medical advice.[19] These experiences can exacerbate existing medical skepticism and further erode trust in medical practitioners and institutions—trust that is foundational to effective patient care. Furthermore, even patients who have a high degree of trust in healthcare providers and systems may find their confidence irreparably shaken if physicians withhold necessary medical care or force patients to "get sicker" and endure potentially life-threatening health complications before providing needed care.[20] For example, in response to newly effective abortion restrictions in some states, some physicians have delayed abortions for patients who presented with ruptured membranes prior to fetal viability.[21] Preterm premature rupture of the membranes of the amniotic sac is a dangerous pregnancy complication that requires urgent care.[22]

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[19] Carly Parnitzke Smith, *First, Do No Harm: Institutional Betrayal and Trust in Health Care Organizations*, 10 J. Multidisc. Healthcare 133, 137, 140-42 (2017).

[20] *See* Whitney Arey et al., *A Preview of the Dangerous Future of Abortion Bans—Texas Senate Bill 8*, 387 New England J. of Med. 388, 389 (2022) (describing a patient's anger and sadness at having to either "wait[], and … potentially get sicker," or fly to another state and risk having a medical emergency in transit).

[21] *See, e.g.*, Anne Flaherty, *Feds Say Hospital Broke the Law by Refusing to Provide Life-Saving Abortion*, ABC News (May 1, 2023, 2:32 PM), https://abcnews.go.com/Politics/feds-hospitals-broke-law-refusing-provide-life-saving/story?id=98990243; Caroline Kitchener, *Two Friends Were Denied Care After Florida Banned Abortion. One Almost Died*, Washington Post (April 10, 2023, 6:00 AM EDT), https://www.washingtonpost.com/politics/2023/04/10/pprom-florida-abortion-ban/.

[22] *See* Anjali Nambiar et al., *Maternal Morbidity and Fetal Outcomes Among Pregnant Women at 22 Weeks' Gestation or Less with Complications in 2 Texas Hospitals After Legislation on Abortion*, 227 Am. J. Obstetrics & Gynecology 648,

During a typical pregnancy, the membranes will rupture at or around full term, at which point the patient will go into labor. However, if the pregnancy is still in the early stages when the membranes rupture, the patient may not go into labor. At this point, the patient faces a serious risk of infection because the placenta and fetus remain inside the uterus, even though the pregnancy is failing. Allowing the pregnancy to continue despite the ruptured membranes puts the pregnant patient's health in grave danger. If doctors do not promptly terminate the pregnancy, the patient is at risk of developing an infection that could in turn lead to sepsis—a life-threating condition in which the body's response to infection causes inflammation and blood clotting that impairs blood flow and can damage vital organs and even lead to death.[23] Complications arising from delays in care can also cause hemorrhaging or scarring of the uterus that permanently impairs fertility. In some cases, patients may be forced to undergo a hysterectomy due to the advanced progression of the infection, preventing them from being able to get pregnant in the future. These severe, and in some cases irreversible, physical harms are

649 (2022), https://www.ajog.org/action/showPdf?pii=S0002-9378%2822%2900536-1.

[23] *See Sepsis*, Mayo Clinic (Feb. 10, 2023), https://www.mayoclinic.org/diseases-conditions/sepsis/symptoms-causes/syc-20351214; *see also Sepsis?*, Ctr. for Disease Control & Prev. (Feb. 10, 2023), https://www.cdc.gov/sepsis/about/index.html#:~:text=What%20is%20sepsis%3F-,Sepsis%20is%20the%20body's%20extreme%20response%20to%20an%20infection.,chain%20reaction%20throughout%20your%20body.

compounded with the psychological distress and trauma that patients will suffer from being forced, against their wishes and contrary to their medical providers' judgment, to carry a pregnancy that is very unlikely to result in a successful delivery but continues to cause physical suffering and threaten their long-term health and reproductive ability.[24]

The risk of such trauma and suffering is not hypothetical. In several instances, due to restrictions similar to the one at issue here, physicians have waited until a patient developed a life-threatening condition before providing care.[25] Indeed, in 2022, Missouri resident Mylissa Farmer was denied an abortion at two different hospitals—one in Missouri and one in Kansas—after experiencing a preterm premature rupture of membranes at around 18 weeks.[26] Despite advising Ms. Farmer that her pregnancy was failing and that her condition could rapidly deteriorate—

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[24] Unnecessarily delaying medically necessary abortions, to the detriment of patient health and at the risk of their lives, is contrary to medical ethics in general. *See* Am. College of Obstet. & Gyn., *Code of Professional Ethics* 2 (Dec. 2018). And delaying care is particularly egregious where the fetus's development is no longer compatible with life—including, for example, in many cases of preterm premature rupture.

[25] *See, e.g.*, Arey, *supra* note 20, at 389; Laura Santhanam, *How Abortion Bans Will Likely Lead to More Deadly Infections*, PBS NewsHour (July 27, 2022, 2:13 PM EDT), https://www.pbs.org/newshour/health/how-abortion-bans-will-likely-lead-to-more-deadly-infections (physician describing a sharp increase in the number of patients experiencing sepsis or hemorrhage during pregnancy).

[26] *See* Press Release, U.S. Dep't Health & Hum. Servs., HHS Secretary Xavier Becerra Statement on EMTALA Enforcement (May 1, 2023), https://www.hhs.gov/about/news/2023/05/01/hhs-secretary-xavier-becerra-statement-on-emtala-enforcement.html.

resulting in infection, hemorrhage, and potentially death—healthcare providers refused to provide her with an abortion because a fetal heartbeat could still be detected.[27] In Ms. Farmer's words: "It was dehumanizing. It was terrifying."[28] Ms. Farmer ultimately traveled to a *third* state to receive the abortion she needed—an option that will not be viable for every patient, whether due to limited financial means or other reasons.

Ms. Farmer's experience was not unique. In the wake of Florida's 15-week abortion ban, doctors in Florida refused to perform an abortion or induce labor for a woman whose water broke *five months* before her due date. The doctors instead sent the woman, Anya Cook, home.[29] Ms. Cook then delivered alone in a bathroom knowing her baby would not be born alive, and nearly bled to death afterwards despite being rushed to the hospital.[30]

Without the full protections of EMTALA, residents of Idaho and other states that severely curtail access to medically necessary abortions will be left with great

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[27] Anne Flaherty, *Feds Say Hospital Broke the Law by Refusing to Provide Life-Saving Abortion*, ABC News (May 1, 2023, 2:32 PM), https://abcnews.go.com/Politics/feds-hospitals-broke-law-refusing-provide-life-saving/story?id=98990243.

[28] *Id.*

[29] Caroline Kitchener, *Two Friends Were Denied Care After Florida Banned Abortion. One Almost Died*, Washington Post (April 10, 2023, 6:00 AM EDT), https://www.washingtonpost.com/politics/2023/04/10/pprom-florida-abortion-ban/.

[30] *Id.*

uncertainty about whether healthcare providers will be willing and able to help them if they find themselves rushed to the emergency room with a pregnancy complication that threatens their life or health. Many of those who are inevitably turned away and refused critical, health-preserving care will undoubtably find their trust in our healthcare system devastated.

B. Allowing States to Prohibit or Delay Medically Necessary Emergency Abortions Will Harm the Broader Public Health.

The dangerous and harmful medical encounters discussed above negatively affect public health and welfare, including by undermining the larger community's relationship with healthcare providers and the healthcare system. Not only patients, but also their loved ones, may find it difficult to trust the healthcare system in the future. Indeed, research shows that patients who feel that a relative has received poor or inadequate health care tend to report a loss of trust in their *own* healthcare providers and the healthcare system, and are more likely to avoid seeking medical care for themselves.[31] This ripple effect means that negative health repercussions of delaying or denying medically necessary abortions extend far beyond those specific incidents and threaten to harm public health by undermining broader trust in, and engagement with, the healthcare system.

[31] Nao Oguro et al., *The Impact that Family Members' Health Care Experiences Have on Patients' Trust in Physicians*, BMC Health Servs. Rsch., Oct. 19, 2021, at 2, 9-10.

The harmful consequences of this loss of trust are hard to overstate. Public trust is fundamental to healthcare professionals' ability to treat patients, encourage healthy behaviors, and facilitate positive health outcomes more broadly. Among other things, trust in healthcare professionals is associated with patients engaging in beneficial health behaviors and reporting higher satisfaction with their health care, improvement in symptoms, and better quality of life as it relates to health,[32] whereas mistrust of healthcare providers contributes to delays in seeking care, which can lead to worse healthcare outcomes.[33] Patients who distrust medical providers are also more likely to fail to follow the medical advice they are given.[34] Undermining confidence in healthcare professionals, therefore, has serious consequences for the public health.

But the impact on patients and the broader community does not end there. Worsened health outcomes negatively affect many aspects of community wellbeing beyond physical health. Delays in seeking out or receiving medical care can result in more costly and intensive medical interventions. The burden of increased medical

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[32] *See* Roman Lewandowski et al., *Restoring Patient Trust in Healthcare: Medical Information Impact Case Study in Poland*, BMC Health Serv. Rsch., Aug. 24, 2021, at 2; *see also* Johanna Birkhäuer et al., *Trust in the Health Care Professional and Health Outcomes: A Meta-Analysis*, Pub. Libr. Sci. ONE, Feb. 7, 2017, at 10.

[33] *See* Thomas A. LaVeist et al., *Mistrust of Health Care Organizations is Associated with Underutilization of Health Services*, 44 Health Servs. Rsch. 2093, 2102-03 (2009).

[34] *Id.* at 2100.

expenses, in turn, can have serious and destabilizing repercussions for families and communities. Some families struggling to pay medical expenses resort to payday lenders or sacrifice necessities like food and clothing to pay for medical care, and medical debt is a leading cause of bankruptcy in the United States.[35]

Worsened public health outcomes can also negatively affect important areas such as school attendance and participation, familial relationships and stress, career advancement, and worker productivity.[36] For example, children's frequent illness and doctor's appointments can interfere with their school attendance while simultaneously limiting their parents' ability go to work and to progress in their careers. Meanwhile, parents struggling with serious health complications may have trouble finding the time or energy to help their children complete homework or to plan family bonding activities, while also managing their own health and potentially strained finances. Each of these has cascading effects on the wellbeing of families and communities, which further underscores the importance of preserving public health and promoting trust in, and engagement with, the healthcare system.

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[35] Consumer Financial Protection Bureau, *Medical Debt Burden in the United States*, 29-30 (2022), https://files.consumerfinance.gov/f/documents/cfpb_medical-debt-burden-in-the-united-states_report_2022-03.pdf.

[36] Catherine Jane Golics et al., *The Impact of Disease on Family Members: A Critical Aspect of Medical Care*, 106 J. Royal Soc. Med. 399, 401-03 (2013), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3791092/.

Finally, declines in public health are likely to result in more complicated and expensive care—not only in states that receive patients seeking emergency abortions after being previously denied care, but also in states that limit access to this important, time-sensitive care. Increased medical costs, in turn, are likely to limit the funding available for local jurisdictions that offer safety net healthcare services to provide the preventative and primary care services that help produce better health outcomes for the public, or to provide other essential public services. As entities tasked with protecting the public health and welfare, amici urge the Court to consider how delaying medically necessary care may impair local governments' ability to effectively care for and provide safety net services to their communities.

CONCLUSION

For the reasons set forth above, amici respectfully urge the Court to affirm the district court's preliminary injunction ruling.

Dated: 10/22/2024

Respectfully submitted:

TONY LOPRESTI
County Counsel, County of Santa Clara

By: /s/ Rachel A. Neil

Rachel A. Neil
70 West Hedding Street
Ninth Floor, East Wing
San José, CA 95110

Counsel for Amici Curiae
(Additional Counsel Listed on Next Page)

Additional Counsel for Amici Curiae

CHRISTIAN D. MENEFEE
Harris County Attorney
JONATHAN G. C. FOMBONNE
Deputy County Attorney and First Assistant
TIFFANY S. BINGHAM
Managing Counsel
Harris County Attorney's Office
1019 Congress, 15th Floor
Houston, Texas 77002
Attorneys for Harris County, Texas

SUSAN K. BLITCH
County Counsel, County of Monterey
168 West Alisal Street, 3rd Floor
Salinas, CA 93901
Attorney for County of Monterey, California

JESSICA M. SCHELLER
Deputy Chief, Civil Actions Bureau
Cook County State's Attorney
500 Richard J. Daley Center Place, 5th Floor
Chicago, IL 60602
Attorney for Cook County, Illinois

DAWYN HARRISON
County Counsel, County of Los Angeles
JON SCOTT KUHN
CANDICE ROOSJEN
500 W. Temple Street
Los Angeles, CA 90012
Attorneys for the County of Los Angeles, California

EMILY SMART WOERNER
City Solicitor, City of Cincinnati
801 Plum Street, Room 214
Cincinnati, OH 45202
Attorney for the City of Cincinnati, Ohio

THOMAS L. GEIGER
County Counsel, Contra Costa County
Administration Building
1025 Escobar St., 3rd Fl.
Martinez, CA 94553
Attorney for Contra Costa County, California

LYNDSEY M. OLSON
City Attorney, City of Saint Paul
400 City Hall & Court House
15 West Kellogg Boulevard
Saint Paul, MN 55102
Attorney for the City of Saint Paul, Minnesota

MURIEL GOODE-TRUFANT
Acting Corporation Counsel, City of New York
100 Church Street
New York, New York 10007
Attorney for City of New York, New York

DAVID CHIU
City Attorney
City Hall Room 234
One Dr. Carlton B. Goodlett Pl.
San Francisco, CA 94102
Attorney for the City and County of San Francisco, California

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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