

HIPAA Protections for Abortion & Pregnancy-Related Care

Know Your Rights

In the wake of the Supreme Court's ruling eviscerating the constitutional right to abortion in *Dobbs v. Jackson Women's Health Organization*, it is more critical than ever that health care providers safeguard patients' right to medical privacy. On June 29, 2022, the U.S. Department of Health and Human Services (HHS) released [new guidance](#) emphasizing that **the Health Insurance Portability and Accountability Act (HIPAA) provides broad protection against disclosures related to abortion and other sexual and reproductive health care.**¹ Here's what you need to know:

- Most health care providers must follow HIPAA's "Privacy Rule," which protects against disclosures of protected health information (PHI). PHI includes information related to abortion, miscarriage, stillbirth, or other pregnancy outcomes.
- There are limited circumstances in which the Privacy Rule *permits, but does not require* health care providers to make disclosures without the patient's consent.
- The Privacy Rule *permits, but does not require* disclosures when such disclosures are *expressly required* by state law. **A state abortion ban, alone, does not provide a legal justification for a disclosure of PHI** in the absence of an express requirement in law that health care providers make such disclosures.
- The Privacy Rule *permits, but does not require* disclosures made in response to a court-ordered warrant, subpoena, or other legal processes under certain conditions. **The Privacy Rule prohibits disclosures to law enforcement made in the absence of a court-ordered warrant, subpoena, or other legal process.**
- Not only do most disclosures to law enforcement regarding abortion or other pregnancy outcomes violate HIPAA, they also put maternal and neonatal health at risk by deterring pregnant people from seeking necessary medical care. Such disclosures are [widely opposed by leading medical organizations](#).

If you believe a health care provider has violated your rights under HIPAA, you have a right to [file a complaint](#) to HHS's Office of Civil Rights. You do not need a lawyer to file a complaint, but if you would like to seek legal counsel, [Pregnancy Justice may be able to assist you](#).

¹ U.S. Dep't Health & Human Servs., *HIPAA Privacy Rule and Disclosures of Information Relating to Reproductive Health Care* (June 29, 2022).