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Attorney General Frosh Joins Two Multistate Briefs in Defense of Emergency Care Including Abortion

***Maryland Opposes Texas' Attempt to Exclude Abortion from Emergency
Healthcare; Challenges Idaho's Near Total Ban on Abortion***

BALTIMORE, MD (August 16, 2022) – Maryland Attorney General Brian E. Frosh today joined a multistate coalition of 21 attorneys general in filing briefs supporting the federal government in two actions in which women's rights to emergency healthcare, including abortion, are threatened.

In the first amicus [brief](#), the coalition supports the federal government's defense of the Emergency Medical Treatment and Labor Act (EMTALA) against Texas' attempt to broadly exempt abortion care from emergency healthcare. Following the U.S. Supreme Court's reversal of *Roe v. Wade*, the U.S. Department of Health and Human Services and the Centers for Medicare and Medicaid Services issued guidance reiterating EMTALA's existing obligations that require hospitals to provide stabilizing emergency treatment, including abortion. Texas filed a lawsuit, *Texas v. Becerra*, challenging EMTALA's longstanding interpretation and seeking to remove abortion care from emergency healthcare under the law.

In the second amicus [brief](#), filed in *United States of America v. Idaho*, the coalition supported the federal government's motion for preliminary injunction to stop enforcement of Idaho's near total ban on abortion. In 2020, Idaho enacted S.B. 1385, which criminalizes all abortions and imposes prison time on anyone who performs, assists, or attempts to perform an abortion – even in the context of emergency care. The U.S. Department of Justice filed a lawsuit challenging Idaho's ban.

“Texas's and Idaho's attempts to remove abortion care from emergency health services violate federal law and will put the health and safety of thousands of women at risk,” said Attorney General Frosh. “We support the federal government's efforts to ensure that emergency healthcare, including abortion, remains available women throughout our country.”

In each brief, the coalition argues that the challenges conflict with EMTALA, as well as decades of precedent, and puts at risk the lives and health of individuals with pregnancy-related emergency medical conditions. Every hospital in the nation that operates an emergency

department and participates in Medicare is subject to EMTALA – criteria that is met by virtually every hospital in the United States. Under the law, emergency rooms are required to provide all patients who have an emergency medical condition with the treatment required to stabilize the medical condition. Many patients seek emergency medical care due to pregnancy-related medical emergencies that may require abortion care, including ectopic pregnancy, hemorrhage, amniotic fluid embolism, pre-labor rupture of membranes, intrauterine fetal death, and hypertension. If immediate treatment is not provided, these medical conditions could jeopardize patients' health and even result in disability or death.

The briefs also argue that allowing Texas and Idaho to ban abortion care in medical emergencies risks significant strain on other state health systems. Emergency rooms in other states that protect abortion will be forced to absorb the resulting out-of-state patient need for emergency medical care, all while the states continue to wrestle with an ongoing global pandemic and new public health crisis.

In filing the brief, Attorney General Frosh joined the attorneys general of California, New York, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Maine, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, North Carolina, Oregon, Pennsylvania, Rhode Island, and Washington.

<https://www.marylandattorneygeneral.gov/press/2022/081622a.pdf>