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Three years post-Dobbs: The evolving landscape of abortion access

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The Buzz This Week

This week marks the third anniversary of *Dobbs v. Jackson Women's Health Organization*, the landmark Supreme Court decision that overturned *Roe v. Wade*, ending the federal constitutional right to abortion. Since that decision, 12 states have enacted total abortion bans, and 7 others have imposed restrictions based on gestational limits.

On June 3, the Trump administration rescinded Biden-era guidance from the Centers for Medicare & Medicaid Services (CMS) that directed hospitals to provide emergency abortion care under the Emergency Medical Treatment and Labor Act (EMTALA), regardless of conflicting state laws. Originally issued in 2022, the Biden administration argued that hospitals receiving Medicare funds were legally obligated to provide life-saving abortion care during emergencies, including in states with bans.

Since announcing the reversal, CMS stated it would still enforce EMTALA broadly to protect all patients seeking emergency care, including pregnant individuals; however, it acknowledged the need to "rectify any perceived legal confusion and instability created by the former administration's actions."

Advocates have shared concerns about the implications of these changes. Fatima Goss Graves, president and CEO of the National Women's Law Center warned that "stripping away federal guidance affirming what the law requires will put lives at risk." She emphasized that while hospitals' legal obligations under EMTALA technically remain, the removal of clear federal guidance "does add to the fear, confusion, and dangerous delays patients and providers have faced since the fall of *Roe v. Wade*."

At the same time, the Food and Drug Administration (FDA) Commissioner Marty Makary has initiated a review of mifepristone, despite decades of evidence affirming its safety and effectiveness. Since the *Dobbs* ruling, the use of medical abortions has grown significantly—increasing to 63% of all US abortions in 2023, up from 53% in 2020, highlighting the evolving landscape of abortion access nationwide.

This shift is related to the expanding use of telemedicine. By the end of 2024, a quarter of all abortions in the US were conducted via telehealth, marking a significant rise from 7% at the end of 2022. Notably, half of the prescriptions for medical abortions were written for patients living in states with bans.

Why It Matters

Despite abortion bans in several states, abortion rates have continued to rise, while births have only slightly increased, suggesting that most women who sought abortions were able to access care. However, research shows that these bans have worsened existing disparities in healthcare access. “Abortion bans do not reduce demand for abortion—they just exacerbate preexisting inequities in who can access abortion, where, and when,” said Alice Abernathy, MD, MSHP, Assistant Professor of Obstetrics and Gynecology at the Perelman School at the University of Pennsylvania.

A recent study found that the lack of access most significantly impacted Black and Hispanic women, those without a college degree, and unmarried women. For example, Hispanic women living 300 miles away from a clinic experienced a 3.8% increase in births, compared with 2% for white women.

As the legal landscape surrounding abortion continues to evolve, healthcare providers are finding themselves in challenging positions. Physicians, especially those in emergency care settings, report heightened stress and burnout as they strive to provide evidence-based care while navigating a complex legal environment. A 2024 Association of American Medical Colleges found that, for the second year in a row, medical residents are avoiding states with abortion bans. For example, applications to OB-GYN residency programs in those states declined by 6.7% while states where abortion is legal saw a 0.4% increase in applicants.

In response, several states have enacted shield laws to protect providers who provide abortion services across state lines. Despite these protections, the uncertainty and threat of legal repercussions and license loss remain significant concerns for medical professionals.

States like Texas and Louisiana have already filed lawsuits and criminal charges against providers. Some policymakers are concerned that, despite the administration’s public statements that abortion policy would be left to the states, the administration is pursuing a strategy aimed at implementing a nationwide abortion ban. The continued legal battles and shifting political landscape surrounding abortion pose ongoing challenges for both providers and the patients they serve. Amid ongoing legal uncertainty, providers can continue to highlight disparities, support training efforts where permitted and align with shield laws states to help safeguard care for those most at risk.

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