



# How New York's Telehealth Shield Law Protects Abortion Care

**A GUIDE FOR CLINICIANS**

A co-publication of Doctors for America and Columbia  
Law School's Science, Health & Information Clinic

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Columbia  
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# I. INTRODUCTION

In 2022 and 2023, New York State (NYS) enacted broad shield laws to protect clinicians who provide reproductive health care services. One of those laws is a telehealth shield law (“NYS Telehealth Shield Law”) that protects clinicians located and licensed in NYS who provide abortion, regardless of the patient’s location. The purpose of this guide is to help clinicians understand the NYS Telehealth Shield Law’s protections for reproductive health care provided by telehealth. While this guide was written to help clinicians decide if they want to pursue providing medication abortion via telehealth, it is intended and should be used purely for educational purposes. **Any clinician who chooses to provide this type of care should consult an attorney for individualized legal advice before doing so.**



## A. How to Use This Guide

[Part I \(“Introduction”\)](#) introduces terms and concepts that will be explored further throughout this guide. It includes a glossary, a description of interstate shield laws, an overview of the NYS Telehealth Shield Law, and reasons why abortion via telehealth is important.



[Part II \(“NYS Clinicians Providing Abortion to NYS Patients”\)](#) is for NYS clinicians considering providing telehealth abortion services to patients located in NYS. This section also describes other statutory protections for clinicians in the state (“Reproductive Health Act”).

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<sup>1</sup> S.B. 1066-B, 2023-24 Legis. Sess., (N.Y. 2023), <https://www.nysenate.gov/legislation/bills/2023/S1066/amendment/B>.

**Part III (“NYS Clinicians Providing Abortion to Out-of-State Patients”)**

is for NYS clinicians considering providing telehealth abortion services to patients located *across state lines* (outside of NYS). This section includes a section-by-section breakdown of the NYS Telehealth Shield Law, describing the protections it provides along with its potential limitations.



**Part IV (“Additional Considerations”)** flags other factors clinicians should consider before providing telehealth abortion services. This section discusses medical licensure considerations, HIPAA concerns, and other factors.



**Part V (“Next Steps”)** provides clinicians who want to pursue providing medication abortion via telehealth with practical next steps, including finding an attorney who can assist in the creation of an individualized risk assessment.

## **B. Glossary**

**“Legally Protected Health Activity”**

(1) An act taken by someone seeking reproductive health care for themselves; or (2) an act taken by a clinician or helper to facilitate someone else’s access to reproductive health care. This includes any act or omission taken to aid or encourage (or attempt to aid or encourage) a person in exercising their right to access reproductive health services, such as getting an abortion or providing insurance coverage for such care, regardless of the patient’s location.

**“Reproductive Health Services”**

As expansively defined in the NYS Telehealth Shield Law, this includes “all services, care, or products that is of medical, surgical, psychiatric, therapeutic, diagnostic, mental health,

behavioral health, preventative, rehabilitative, supportive, consultative, referral, prescribing, or dispensing nature relating to the human reproductive system,” including but not limited to abortion, miscarriage, and contraceptive care. NYS laws protect these services provided both in-person and through telehealth, so long as the services are provided in accordance with the NYS Constitution and laws and are provided from within NYS.



### “Telehealth”

The use of communications technologies to provide health care at a distance,<sup>2</sup> e.g., prescribing medication abortion pills from NYS to a patient located either within NYS or out-of-state.

## C. Who Is This Guide For?

This guide is for clinicians licensed and located in NYS who are interested in providing abortion via telehealth (for example, consulting with a pregnant patient over video call and mailing medication abortion pills to them). This practice can serve both patients located in NYS (see **Part II**) and patients located across state lines (see **Part III**).

This guide is intended to help clinicians better understand the protections afforded by the NYS Telehealth Shield Law to those who provide abortion care remotely via telehealth. Our hope is that, with the information provided in this guide, clinicians can more effectively assess for themselves whether to provide abortion via telehealth to patients outside of New York State. **This guide is not a substitute for legal advice and should not be construed as legal advice on any subject matter.** If, after reading this



<sup>2</sup> *Telehealth*, National Institute of Biomedical Imaging and Bioengineering, <https://www.nibib.nih.gov/science-education/science-topics/telehealth> (last visited April 17, 2024).

guide, a clinician is interested in providing abortion via telehealth to patients outside of New York State, they should obtain individualized legal advice from any of the resources listed in **Part V** of this guide.

This guide can also be informative for other employees who work in a clinician’s office, including administrative professionals. The NYS Telehealth Shield Law aims to protect



NYS-based “providers and *facilitators of reproductive health services*” when they provide abortion via telehealth while following all NYS laws and regulations. The law defines “services” and “providers” expansively,<sup>3</sup> which means it seeks to protect as many people and services as possible. Those who provide, assist, receive, or support access to abortion in NYS are

protected by the extradition clause—and likely other sections—of the NYS Telehealth Shield Law (see **Part III(A)**). However, anyone who works with a clinician providing telehealth abortion services to a patient outside of NYS should obtain individualized legal advice from any of the resources listed in **Part V** of this guide to discuss whether or not they are included in the protections provided by the NYS Telehealth Shield Law.

#### **D. Why Is Telehealth Abortion Important?**

Since the U.S. Supreme Court overturned *Roe v. Wade* in June 2022, almost 25% of the U.S. population lives in a state that bans or severely restricts access to abortion.<sup>4</sup> States with legal protections for abortion access, including New York, have seen huge influxes of out-of-state patients traveling to receive

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<sup>3</sup> See, e.g., N.Y. Crim. Pro. § 570.17(1)(a)

<sup>4</sup> After *Roe Fell: Abortion Laws by State*, Center for Reproductive Rights, <https://reproductiverights.org/maps/abortion-laws-by-state/> (last visited April 17, 2024).

abortion care,<sup>5</sup> which in turn puts strain on in-person appointment capacity. This strain can make it difficult for both in-state and out-of-state patients to access the care they need.

Expanding access to abortion via telehealth can help alleviate this strain and make it easier for patients to access necessary care without travel, regardless of where they live. For example, in New York, rural populations have significantly less access to preventive care than do metropolitan populations, which results in reduced access to reproductive health services.<sup>6</sup> Many rural New Yorkers must drive approximately one hour to reach their nearest abortion clinic,<sup>7</sup> and travel distance has been shown to pose a significant barrier to successfully receiving abortion care.<sup>8</sup> Abortion via telehealth is alleviating these burdens on pregnant patients and expanding access to abortion even within NYS.



Further, many pregnant people who live outside of NYS are forced to travel much further than one hour to reach their nearest abortion provider. For example, a pregnant person in the middle of Texas would need to travel for hours by car to reach the nearest abortion clinic in New Mexico. Since the overturning of *Roe*, abortion funds estimate that the cost of being forced to travel for an abortion has increased 41%, totalling well over

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<sup>5</sup> Lola Fadulla, *New York City Welcomes Growing Number of Out-of-State Abortion Patients*, N.Y. Times, April 12, 2023, at A15.

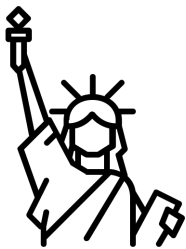
<sup>6</sup> *Rural Access to Primary Care in New York State, 2019 Report*, Primary Care Development Corporation, <https://www.pcdc.org/wp-content/uploads/Resources/Rural-Access-to-Primary-Care-in-New-York-State--2019-Report.pdf>.

<sup>7</sup> Daniel Wolfe, Tal Yellin, Priya Krishnakumar, *Visualizing the inequality of abortion access in a post-Roe America*, CNN, (June 20, 2022) <https://www.cnn.com/interactive/2022/us/abortion-laws-access-by-state/index.html>.

<sup>8</sup> Elizabeth A. Pleasants, Alice F. Cartwright & Ushma D. Upadhyay, *Association Between Distance to an Abortion Facility and Abortion or Pregnancy Outcome Among a Prospective Cohort of People Seeking Abortion Online*, JAMA Network Open, May 13, 2022, at 7.

\$1,000.<sup>9</sup> This includes the cost of transportation, accommodations, time off work, childcare, and more. When two in three Americans cannot comfortably afford a \$400 emergency expense<sup>10</sup>—much less a \$1,000 emergency expense—abortion becomes inaccessible for many pregnant people who don't have access to telehealth.

Since *Dobbs*, the use of medication abortion to end a pregnancy has increased from 53% of all abortions in 2020 to 63% in 2023.<sup>11</sup> With the subsequent passage of laws like the NYS



Telehealth Shield Law, along with other factors such as the COVID-19 pandemic, medication abortions provided via telehealth in the U.S. have also generally increased, accounting for approximately 16% of all abortions in the U.S. in September 2023.<sup>12</sup> Further, studies have shown that providing medication abortion via telehealth is just as safe and effective as providing this care in-person.<sup>13</sup>

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<sup>9</sup> Kelsey Butler, *One Year After Dobbs, Getting an Abortion Is Now Much More Expensive*, Bloomberg (June 24, 2023), <https://www.bloomberg.com/news/articles/2023-06-24/on-roe-v-wade-anniversary-abortion-patients-face-rising-costs-long-travel?embedded-checkout=true>.

<sup>10</sup> Mackenzie Hawkins, *Two in Three Americans Couldn't Cover \$400 Emergency*, Suze Orman Warns, Bloomberg (Jan. 24, 2023), <https://www.bloomberg.com/news/articles/2023-01-24/two-in-three-can-t-cover-400-emergency-in-us-suze-orman-survey>.

<sup>11</sup> *Medication Abortions Accounted for 63% of All US Abortions in 2023, an Increase from 53% in 2020*, Guttmacher Inst. (Mar. 19, 2024), <https://www.guttmacher.org/news-release/2024/medication-abortion-accounted-63-all-us-abortion-2023-increase-53-2020>.

<sup>12</sup> Soc'y of Fam. Plan., #WeCount Public Report: April 2022 to September 2023, at 5 (2024), [https://societyfp.org/wp-content/uploads/2024/02/SFPWeCountPublicReport\\_2.28.24.pdf](https://societyfp.org/wp-content/uploads/2024/02/SFPWeCountPublicReport_2.28.24.pdf).

<sup>13</sup> Ushma D. Upadhyay et al., *Effectiveness and Safety of Telehealth Medication Abortion in the USA*, *Nature Med.*, Feb. 15, 2024, at 1.

## E. What Are Interstate Shield Laws?

Interstate shield laws are laws that aim to protect clinicians and other stakeholders in the enacting state from criminal or civil investigations, lawsuits, and prosecution by other states for the provision, facilitation, and receipt of reproductive health care. They became necessary due to extreme disparities in laws regulating health care between states following *Dobbs* and the rise of anti-abortion and anti-transgender legislation at the state level. These disparities create a “patchwork” effect, where certain health care is perfectly legal in one state, but criminalized in a state right next door.



In light of these conflicts state-to-state, 17 states and the District of Columbia have enacted shield laws that create protections for clinicians from civil and criminal penalties sought by states where abortion or gender affirming care is illegal. The **NYS Telehealth Shield Law** and other NYS shield laws mitigate the threat to clinicians who provide abortion care to out-of-state patients by protecting against:

- Criminal consequences (extradition, arrest, and cooperation with any out-of-state investigations or evidentiary requests by states who try to impose disciplinary actions).<sup>14</sup>
- Professional disciplinary action (preventing NYS clinicians from disciplinary actions by NYS agencies, such

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<sup>14</sup> See N.Y. Crim. Proc. Law § 570.17(2) (protecting against extradition); N.Y. Crim. Proc. Law § 140.10(3-a) (McKinney 2024) (protecting against arrest); N.Y. Exec. Law § 837-x(2) (protecting against state or local government cooperation with out-of-state investigations or proceedings); N.Y. C.P.L.R. 3119(g)(1) (protecting against subpoena requests, notwithstanding certain exceptions); N.Y. C.P.L.R. 3102(e) (protecting against witness testimony requests, notwithstanding certain exceptions); N.Y. C.P.L.R. 4550 (ruling inadmissible any evidence related to protected health activity, notwithstanding certain exceptions).



as the NYS Office of Professional Medical Conduct (OPMC)).<sup>15</sup>

- Adverse liability insurance actions (preventing insurers from taking adverse action against abortion clinicians, such as rejecting or limiting insurance coverage, increasing premiums, refusing to renew coverage, or filing a report to any private or governmental entity).<sup>16</sup>

These and other provisions will be discussed further in **Part III** of this guide.

It is important to note that these protections are **not limited to telehealth**; they also cover care provided within NYS. (For example, if a patient were to travel from a state where abortion is illegal to receive an abortion in NYS, the hostile state could not force NYS officials to cooperate and assist in bringing criminal charges against the clinician who provided the care.)

NYS and other states can enact and enforce these laws because many aspects of the provision of health care are covered by *state authority* (rather than federal law). For example, licensing and liability insurance requirements are dictated at the state level. The intent of these laws is to protect clinicians regardless of their patient's location.

However, some anti-abortion state officials may hold a different opinion as to *where* the telehealth abortion care was provided: in the state where the clinician was located (as the NYS Telehealth Shield Law protects) or in the state where the

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<sup>15</sup> See N.Y. C.P.L.R. 4550 (finding inadmissible evidence related to protected health activity provided to persons not physically present in the state as evidence that such party has engaged in professional wrongdoing); N.Y. Educ. Law § 6531-b(2) (finding that provision of reproductive health services does not constitute professional misconduct under any public health law, rule, or regulation governing licensure, certification, or authorization of clinician).

<sup>16</sup> See N.Y. Ins. Law § 3436-a (prohibiting malpractice insurers from taking adverse action).

patient was located. This creates legal questions that may ultimately be resolved by the courts.

## II. NYS CLINICIANS PROVIDING ABORTION TO NYS PATIENTS

### Low-Risk Activity



Under NYS law, providing abortion via telehealth to NYS patients has become an activity with low risk because state public health laws offer strong protections for clinicians.<sup>17</sup> In 2019, the NY state legislature passed the NYS “Reproductive Health Act,”<sup>18</sup> which gives patients an unqualified right to abortion up to 24 weeks of pregnancy, and after 24 weeks if the patient's life is at risk or the pregnancy is nonviable.<sup>19</sup> Then, in 2023, the state enacted the NYS Telehealth Shield Law, which offers numerous protections to in-state clinicians, guaranteeing that, as long as clinicians practice within NYS, they will be safe from criminal consequences for providing any of the “protected health activities”<sup>20</sup> (falling under the ambit of reproductive health services<sup>21</sup>) listed within the act. These laws offer significant protection for clinicians located and licensed in NYS who are considering providing in-state telehealth abortion care, making this a “low-risk” activity.

<sup>17</sup> See supra notes 14–16 (detailing changes enacted by the New York shield law).

<sup>18</sup> N.Y. Pub. Health Law §2599-aa–bb.

<sup>19</sup> Id.

<sup>20</sup> See supra notes 14–16 (describing the scope and extent of the New York shield law’s added protections); see also supra Part I(B): Glossary (defining “Legally Protected Health Activity”).

<sup>21</sup> See supra Part I(B): Glossary (defining “Reproductive Health Services”).

### III. NYS CLINICIANS PROVIDING ABORTION TO PATIENTS IN HOSTILE STATES

#### Higher-Risk Activity

Providing abortion care via telehealth to patients located outside of NYS could entail risk, but the NYS Telehealth Shield Law provides numerous important protections. Those protections are outlined here, one by one.

Please Note: While this guide was written to help clinicians decide if they want to pursue providing medication abortion via telehealth, it should be used purely for educational purposes. **Any clinician who chooses to provide this type of care should consult an attorney for individualized legal advice before doing so.**

#### A. Section 1: Extradition

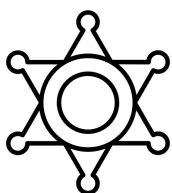
**Section 1** of the NYS Telehealth Shield Law protects against the **extradition** of clinicians who provide telehealth abortion care. Under Section 1, NYS does not recognize any request for

extradition of a person subjected to criminal liability

based on providing, assisting, receiving, or supporting a legally protected health activity (see **Part I(B)** for definition) performed in NYS. In order to qualify for protection, the clinician must be licensed and located in

#### Extradition:

*to deliver a person to another jurisdiction (state) for prosecution*



NYS during the time when they are providing services. This protection exists regardless of the patient's location.

**Caveat:** *Clinicians cannot provide abortion outside of NYS and then flee to NYS to seek protection under the NYS Telehealth Shield Law. For example, a clinician may not be physically present in Texas, provide abortion in Texas, and then flee to NYS for protection. To benefit from the shield law protections, the clinician must be physically present in NYS when they provide the abortion.*

**Caveat:** *Clinicians should also be cautious when traveling to hostile states other than the hostile state into which they provide abortion.*

*For example, say there is a **warrant** out for a clinician's arrest in Alabama because they provide telehealth abortions from NYS to Alabamans. If this clinician travels to Texas, the warrant would likely permit Texas to extradite the clinician to Alabama.*

**Warrant:**

*An order from a court authorizing law enforcement to arrest an individual*

## **B. Section 2: Criminal Procedure and the Rule Against Arrests**

**Section 2** prohibits NYS police officers from arresting clinicians for providing “any legally protected health activity.” However, it is possible that a NYS police officer without all the facts could mistakenly arrest a clinician based on an open **warrant** from another state. The clinician would need to make the officer aware of the facts.

***Caveat:*** As with all provisions of the NYS Telehealth Shield Law, this protection applies only when clinicians are licensed and located in NYS.

### C. Section 3: No Aid and Disclosure of Information

**Section 3** amends NYS’s Executive Law, which lays out the duties and rules of the Executive Branch. It protects state and local government employees and agencies from cooperating with out-of-state investigations, including disclosing information connected to “legally protected health activities.” Clinicians are not obligated to provide information to or comply with any investigations conducted by out-of-state agencies and departments regarding legally protected health activities. As long as a clinician’s activities fall within the aforementioned definition of “legally protected health activities,” the individual will be shielded from investigation and inquiry by out-of-state officials.



***Caveat:*** Section 3 does not shield against compliance with a valid court-issued subpoena or warrant that is not related to a law that seeks to criminalize or impose civil sanctions on legally protected health activities. E.g., if a clinician is held liable in an out-of-state malpractice action based on facts that would also constitute malpractice under NYS law, they will not be shielded by the NYS law.

## D. Section 4: Out-of-State Subpoenas

**Section 4** deals with out-of-state **subpoenas** regarding protected health activities. The shield law provides protection from out-of-state court and county clerk subpoenas that seek to investigate clinicians engaging in such activities. As long as the activity was conducted while the clinician was physically present in NYS, the clinician remains protected.

### **Subpoena:**

*An order from a court to provide evidence or testimony*

**Caveat:** Out-of-state subpoenas will be valid if they are brought by patients receiving reproductive health services (as defined in the act) in **an**

**actionable tort or contract**

**claim** valid under NYS law (i.e., if a valid claim is brought to court by a patient who previously received reproductive health services from a NYS clinician).

### **Actionable Tort:**

*An infringement of a person's right that leads to civil liability, e.g., medical malpractice*

## E. Section 5: Testimony Requirements

**Section 5** prohibits NYS courts from ordering clinicians licensed and located in NYS to provide testimony under an order issued in connection to the provision of a “legally protected health activity,” regardless of where the patient is located.

**Caveat:** If the out-of-state action relating to the “legally protected health activity”: (1) arises out of a **an actionable tort or contract claim**; (2) would have been actionable in NYS; and (3) is brought against the clinician by the patient

*themselves or their legal representative, the clinician may be forced to testify.*

## **F. Section 6: Admissibility of Evidence**



**Section 6** prohibits evidence of NYS clinicians providing assistance to out-of-state patients (i.e., providing them an abortion via telehealth) from being admitted as evidence of wrongdoing on the clinician's part. So long as the clinician is present in NYS, they are shielded from claims that allege wrongdoing for the provision of "legally protected health activities" to out-of-state patients.

**Caveat:** *This protection will not apply if the evidence is required in proceedings related to a valid **actionable tort or contract claim** against the clinician (permissible under NYS law). Claims have to be brought by the patient(s) or their legal representative(s).*

## **G. Section 7: Insurance Law**

**Section 7** prohibits insurers from taking adverse action (e.g., canceling a clinician's policy or doubling their premium) against clinicians solely on the basis that they are providing "legally protected health activities" to out-of-state patients. Clinicians in NYS prescribing abortion medication to out-of-state patients via telehealth services shall remain covered by their insurance providers.

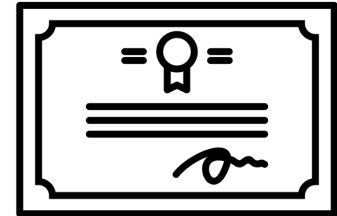


## H. Section 8: Professional Misconduct

**Section 8** specifies that providing “legally protected health activities” shall not constitute professional misconduct under any NYS law, rule, or regulation that governs licensure, certification, and authorizations.

Clinicians’ licenses are not allowed to be revoked, suspended, or annulled based on any penalty or disciplinary procedure in the NYS public health law solely based on the provision, via telehealth, of “legally protected health activities” to patients who are out-of-state.

This protection extends to clinicians who have been subject to discipline in other states, so long as the out-of-state discipline was solely for the provision of abortion and not for actual malpractice. Clinicians will remain protected from misconduct proceedings before the Office of Professional Misconduct (“OPMC”) so long as they remain in NYS when providing telehealth services for abortion to out-of-state patients.



***Caveat:*** Clinicians must note that these protections only apply to their licensure in NYS. NY’s shield laws do not—and cannot—protect clinicians from licensure consequences in other states.

## IV. ADDITIONAL CONSIDERATIONS

**Part II** and **Part III** of this guide discussed the ways in which the NYS Telehealth Shield Law and other NYS laws protect clinicians who want to provide medication abortion via telehealth. However, there are other factors clinicians should also consider before providing this care. This section covers a *non-exhaustive* list of such considerations.

### A. Medical Licensure in Other States

Licensing revocation and disciplinary processes differ by state. Section 8 of the NYS Telehealth Shield Law (see **Part III(H)**) protects clinicians licensed and located in NYS from penalties or discipline by the NYS Office of Professional Medical Conduct (OPMC) solely for providing legally protected reproductive health services to out-of-state patients.

However, if a clinician licensed and located in New York also holds a license in another state, **NYS has no authority to prohibit the medical board of that other state from disciplining or revoking that license**. There could be a risk of discipline and license revocation in a state other than New York if, e.g., that state has criminalized abortion, and the clinician provides reproductive health care to residents of that state. The NYS Telehealth Shield Law attempts to minimize this risk by prohibiting NYS agencies from providing information about the clinicians' services to out-of-state medical boards per Section 3 (see **Part III(C)**).

The NYS Telehealth Shield Law requires clinicians providing legally protected reproductive health care, including telehealth abortions, to follow the NYS Constitution and law in order to be protected.

Many clinicians who provide abortion via telehealth to patients located in hostile states choose to forgo licensure in those states.<sup>22</sup> Any clinician considering this option should consult an attorney from one of the resources listed in **Part V(B)** of this guide.

## B. HIPAA and Data Privacy Considerations

### 1. The Health Insurance Portability and Accountability Act (HIPAA)

The HIPAA Privacy Rule supports patients' access to comprehensive reproductive health care services by guarding their protected health information (PHI), including PHI related to abortion and other reproductive health care.



It is possible that clinicians providing telehealth abortion to patients in hostile states could be contacted by police from that state and asked to provide PHI on certain patients. It is important to note that HIPAA's Privacy Rule generally permits but **does not require** covered entities—such as clinicians and their practices—to disclose PHI about an individual without the individual's consent when requested by law enforcement.<sup>23</sup>

In April 2024, the HIPAA Privacy Rule was amended to add new protections for people seeking and providing reproductive health care. As amended in April 2024, the HIPAA Privacy Rule

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<sup>22</sup> See *Steps to Becoming a Shield Provider*, ACT Group, <https://www.bloomberg.com/news/articles/2023-06-24/on-roe-v-wade-anniversary-abortion-patients-face-rising-costs-long-travel?embedded-checkout=true> (last visited Apr. 18, 2024).

<sup>23</sup> *HIPAA Privacy Rule and Disclosures of Information Relating to Reproductive Health Care*, HHS, <https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/phi-reproductive-health/index.html> (last visited Apr. 18, 2024).

outright **prohibits** covered entities from disclosing PHI to law enforcement in certain circumstances.<sup>24</sup> Specifically, the HIPAA Privacy Rule now prohibits disclosure of PHI when law enforcement requests the PHI for the purpose of investigating or imposing liability on someone for seeking, obtaining, providing, or facilitating reproductive health care, or identifying someone connected with this activity, when (1) the care in question was obtained or provided in a state where such care is lawful, (2) the care was “protected, required, or expressly authorized by Federal law,” regardless of which state in which the care was provided, or (3) the HIPAA-covered entity receiving the request has no actual knowledge that the care was unlawful and the law enforcement making the request has not “demonstrate[d] a substantial factual basis” that the health care was unlawful.<sup>25</sup>

HIPAA, its Privacy Rule, and the NYS Telehealth Shield Law work together. As discussed above, the NYS Telehealth Shield Law aims to offer additional protections for clinicians, above and beyond HIPAA. The NYS Telehealth Shield Law bars NYS and local government employees from complying with out-of-state law enforcement requests, including requests for PHI from NYS clinicians related to legally protected health activities (including abortion) (see **Part III(C-D)**). The law also prohibits NYS courts from issuing such orders or authorizing such orders from out-of-state. It also prohibits NYS law enforcement from helping out-of-state law enforcement demand PHI related to protected health activities.

If a clinician is contacted by law enforcement from a hostile state, **they should seek legal advice immediately.**

## 2. Data Privacy Best Practices

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<sup>24</sup> HIPAA Privacy Rule To Support Reproductive Health Care Privacy, HHS, <https://www.federalregister.gov/documents/2024/04/26/2024-08503/hipaa-privacy-rule-to-support-reproductive-health-care-privacy> (Apr. 26, 2024).

<sup>25</sup> *Id.*

Clinicians can reduce risks to themselves and their patients by managing data carefully. A complete overview of data privacy and data security best practices is beyond the scope of this guide. We collect some resources in the following footnote.<sup>26</sup>

### C. Legal Uncertainties

In December 2024, Texas became the first state to bring charges against a NYS physician, Dr. Margaret Carpenter, for providing telehealth medication abortion care across state lines. In January 2025, Louisiana became the first state to bring criminal charges against the same physician. For now, the NYS Telehealth Shield Law is working as intended, and Dr. Carpenter has not been extradited to either of these states. New York’s governor and attorney general have said that they will work to protect Dr. Carpenter and the law. Judicial decisions in these cases have not been issued as of February 2025, but they could shape how the shield law will be enforced in the future.



For this reason, **clinicians who want to provide telehealth abortions and want to rely on shield laws’ protections should contact an attorney for up-to-date legal advice on the status of the law.**

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<sup>26</sup> See Daly Barnett, *Digital Security and Privacy Tips for Those Involved in Abortion Access*, EFF (May 4, 2022), <https://www.eff.org/deeplinks/2022/05/digital-security-and-privacy-tips-those-involved-abortion-access>; see also *Guides from Digital Defense Fund*, DDF, <https://digitaldefensefund.org/ddf-guides> (last visited Apr. 18, 2024).

## **D. Impact on Patients and Helpers**

New York State can only protect people within its borders. Therefore, the NYS Telehealth Shield Law cannot protect patients who travel to NYS for care or who receive telehealth care from an NYS clinician in another state.

One area of the NYS Telehealth Shield Law that clearly protects all those who provide, assist, receive, or support access to abortion in NYS is the extradition clause (see **Part III(A)**). This means that NYS cannot extradite clinicians, patients, helpers, and others for participating in an abortion provided by a clinician located and licensed in NYS, so long as those helpers and others did not flee from a hostile state. The protections from extradition included in the NYS shield law apply only to those located in New York State when they participated in the protected health activity.

In addition, as discussed in **Part IV(B)**, the NYS Telehealth Shield Law *does* prevent NYS courts from issuing warrants or other court orders for out-of-state law enforcement for PHI related to protected health activity (see **Part I(B)** for definition). It also bars NYS clinicians from disclosing this PHI to out-of-state law enforcement. This means, in theory, law enforcement cannot force NYS clinicians to give them PHI related to a telehealth abortion provided to a patient located in a hostile state, thus implicitly protecting that patient.

If an abortion fund or other helper has questions about their protection under the NYS Telehealth Shield Law, they should seek individualized legal advice. If a clinician is concerned about the protection of others who work in their clinic, they should speak to an attorney to better understand if their colleagues are covered by the NYS Telehealth Shield Law.

## **E. Prescription Labels**

As of February 2025, NYS law allows prescribing clinicians to list their practice name—as opposed to their personal name—on medication abortion prescription labels. This change is intended to protect both clinicians' and patients' privacy.



## V. NEXT STEPS

### A. Individualized Risk Assessment

This guide is intended to provide a better understanding of telehealth shield laws, including the NYS Telehealth Shield Law. Clinicians must decide for themselves whether the NYS Telehealth Shield Law and other factors make them feel comfortable providing abortion care via telehealth. **This guide is not a substitute for legal advice and should not be construed as legal advice on any subject matter.** If, after reading this guide in full, a clinician is interested in providing abortion via telehealth, they should reach out to an attorney at one of the resources listed in **Part V(B)** and conduct an **individualized risk assessment**.



An **individualized risk assessment** consists of working with an attorney to determine a clinician's *individual* risk tolerance and risk exposure, as related to providing telehealth abortions regardless of patient location. Some questions a clinician might ask themselves when conducting this risk assessment include:

- How frequently do I travel to states hostile to abortion?  
Do I have family or friends who live in hostile states and whom I plan on visiting frequently?
- Am I comfortable obtaining medication abortion pills and mailing them to patients in hostile states, rather than going through a pharmacy?
- In which states do I hold medical licenses? Am I willing to forgo licensure in a hostile state and still provide abortion care to patients in that state?



- Have I done everything I can to remove my name and address from public databases?

This is a non-exhaustive list of considerations. A clinician who is conducting an **individualized risk assessment** will work with their attorney to evaluate their personal risk tolerance and potential liabilities.

## **B. Resources**

Here is a non-exhaustive list of legal resources for clinicians:

### **Abortion Defense Network**

Fill out [this form](#) to be contacted by legal counsel within 24 hours

### **Lawyers for Good Government: Reproductive Health Legal Assistance Project**

This expanding [database](#) hosts webinars, memos, and other resources for abortion clinicians.

### **NYS Attorney General Letitia James' Reproductive Rights Hotline**

Call 212-899-5567 and leave a message with your phone number. An attorney will call you back and speak to you for free.

### **The Abortion Coalition for Telemedicine (ACT)**

For legal and practical advice about becoming a telehealth abortion provider, contact [info@theActGroup.org](mailto:info@theActGroup.org) for an individualized consultation.

## VI. AUTHORSHIP, ACKNOWLEDGMENTS & COPYRIGHT NOTICE

This guide was written in 2023 and 2024 by Ryeaan Chaudhary, Nora M. Franco, Xingni (Cindy) Chen, Angela Kang, and Priscilla Kim, student attorneys in Columbia Law School's Science, Health & Information Clinic. The first edition of this guide was edited by attorney and clinic director Christopher J. Morten ([cjm2002@columbia.edu](mailto:cjm2002@columbia.edu)).

This guide was last updated substantively in April 2024. Laws can and do change quickly. Readers should consult the resources in **Part V(B)** for the latest updates.

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