

Secure Access for Essential Reproductive (SAFER) Health Act

Background:

The Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization* has created new risks that patients' reproductive health information could be used to prosecute people seeking care. Just recently, an Indiana doctor who provided an abortion to a 10-year-old rape victim [sought to halt](#) a subpoena of the patient's medical charts. Such compulsory requests are likely to become more frequent now that *Roe v. Wade* is overturned and more than a dozen states have enacted abortion bans, endangering the patient-provider relationship and putting access to essential health care at risk.

While the Health Insurance Portability and Accountability Act (HIPAA) limits what personal health information can be shared, the current privacy rule allows reproductive health information to be used for legal investigations and court cases without a patient's consent. The Department of Health and Human Services (HHS) has taken important steps to clarify the current rule in the wake of *Dobbs*, but federal legislation is needed to address this specific risk to patients.

Bill Summary:

The *SAFER Health Act* would strengthen HIPAA through a provision modeled after NIH's [Certificates of Confidentiality](#) in the Public Health Service Act. Specifically, the *SAFER Health Act* would:

- Prohibit HIPAA-covered entities and their business associates from disclosing personal health information related to pregnancy termination or loss in proceedings without a valid authorization from the patient;
- Apply to federal, State, local, or Tribal proceedings, including civil, criminal, administrative, or legislative proceedings;
- Direct HHS to revise HIPAA and health information technology regulations necessary to enforce the Act; and
- Direct HHS to conduct a national campaign to educate covered entities and their business associates about the revisions.