

Reproductive Healthcare Access, Barriers, and Safeguards:

What Businesses Operating in the U.S. Need to
Know for 2026

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About This Report

This report was written by Ashley Lin and Jen Stark. Errors that remain are those of the authors. Please direct comments or questions to Ashley Lin at alin@bsr.org.

This report analyzes how changes in reproductive healthcare policy in the United States are creating new and evolving risks for businesses operating across multiple states. It is intended to support companies in understanding implications for workforce health, data privacy, and operational decision making in 2026.

The analysis is based on a review of publicly available information on federal and state policy developments, regulatory actions, and related research through 2025, informed by expert input. Given the rapidly evolving legal landscape, the findings reflect conditions at the time of publication.

The report advances the view that reproductive healthcare restrictions now function as systemic business risk, extending beyond benefits to directly affect healthcare access, existing labor markets, and data governance. It provides sensemaking of key trends from the previous year, examines federal and state developments, and concludes with issues to watch and practical considerations for business preparedness.

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Key Points

- **Reproductive healthcare has become a systemic business risk, not a single-issue question.** In 2025, abortion restrictions increasingly intersected with broader business challenges such as healthcare access, workforce readiness, data privacy, and operational disruptions, reshaping how companies assess risk and responsibility.
- **Divergent legal and enforcement approaches drive operational uncertainty.** A growing patchwork of state and federal actions, including civil enforcement mechanisms and cross-border legal conflicts, are complicating compliance, benefits delivery, and continuity planning for businesses operating across states.
- **Threats to data privacy and increased surveillance pose increasing risk for companies, workers, and consumers.** Expanded use of surveillance systems, data brokers, and digital platforms to investigate reproductive healthcare activity raises significant legal, financial, and reputational risks for companies that collect or manage sensitive employee, user, or consumer data in the course of normal operations.
- **Eroding healthcare systems are reshaping labor markets and future talent pipelines.** Healthcare center closures, medical provider migration, and growing healthcare deserts influence where people can live, work, and plan families, with long-term implications for workforce health and readiness.

Introduction

From Benefits to Systemic Risk: Looking Back to Look Ahead

Since the *Dobbs* decision brought about the fall of *Roe v. Wade* in June 2022, companies of all sizes have continued to grapple with the workforce and business implications of what has come next. Today, the U.S. landscape consists of fractured state policies and uneven access to abortion, with policy and regulatory efforts to restrict abortion also impacting access to preventative healthcare, contraception, IVF, miscarriage management, and safe pregnancy care, while also contributing to medical [brain drain](#) across specialties, making healthcare access worse for everyone in states that ban abortion.

For businesses, what began in 2022 as an urgent effort to increase benefits to bridge gaps in abortion access has evolved into something much broader and more complex. State and federal actions in 2025 made it clear that attacks on reproductive healthcare are no longer a siloed “abortion” issue, but part of a systemic restructuring of healthcare access itself.

At the same time, a patchwork of state laws and interjurisdictional conflicts makes for a confusing picture for patients, providers, and employers. Punitive abortion bans targeting patients, trusted family and friends, and providers also fuel concerns regarding data and healthcare [privacy](#), and the ways in which governments and law enforcement might use that data to surveil and prosecute those seeking or helping to access reproductive care.

Federal and Judicial Landscape: Funding, Regulation, and Cross-State Implications

2025 saw an unprecedented level of federal activity and legal challenges that touched the remaining foundations of reproductive healthcare in the U.S. Policymakers who wish to further restrict abortion access are both using and contemplating a mix of long-standing and newly invoked frameworks, including the Hyde Amendment, Medicaid funding [rules](#), the Affordable Care Act, Veterans Affairs regulations, FDA approvals on medication like [mifepristone](#), and the Comstock Act. These approaches are intended to affect patients and providers, even in states that protect abortion access through constitutional amendments and shield laws.

Federal shifts are already having impacts on businesses whose workforces rely on federal programs and publicly funded healthcare networks. Reduction and elimination of government funding streams pose serious operational challenges to healthcare centers and hospitals, especially those that serve low-income and [rural](#) communities. At the same time, communities are losing qualified healthcare providers as physicians across specialties leave states that ban abortion, and as medical [students](#) choose to pursue residencies and fellowships in states without bans. The impacts of these migrations are likely to have a long tail of impacts on workforce health, absenteeism, and overall workforce migration.

The implications for business operations go beyond the question of travel, time off, and care. Should the courts move to ban or further restrict medication abortion or related drugs, companies across numerous [industries](#) (e.g., healthcare, pharmaceuticals, biotech, logistics/freight) could face greater scrutiny around distribution and untold impacts to future R&D

pipelines. Resources that are central to how many workers access healthcare services today, such as telehealth and virtual health care, could also face new legal [constraints](#), especially when serving patients across state lines.

In the States: Patchwork of State-Level Enforcement and Interstate Conflicts

While the current administration has repeatedly framed abortion as an issue “left to the states,” 2025 clearly demonstrated that what happens in one jurisdiction rarely occurs in a vacuum—and that some policymakers are willing to get creative to ensure that abortion bans do indeed [cross state lines](#). Lawmakers in several states with abortion bans worked to advance laws designed to [test](#) shield laws in protected states, limit physician referrals, restrict people’s ability to [travel](#) for care, and increase the legal exposure to providers and to people and organizations supporting people seeking care.

Additionally, we witnessed an increase in pregnancy-related prosecutions and [investigations](#) in some ban states, not only related to abortion but also for miscarriages and stillbirths. Texas targeted actions and enforcement against those who support pregnant women, including midwives and healthcare [providers](#). At the same time, some ban states expanded civil enforcement mechanisms, often referred to as “bounty” lawsuits, while tying public programs like Medicaid to abortion restrictions, enabling private citizens to [investigate](#) and sue individuals or organizations perceived as helping someone obtain abortion care.

Layered onto this new reality, law enforcement is also expanding digital and physical surveillance, leveraging electronic apps, wearable tech, license plate [readers](#), social media chats, home security cameras, and keyword searches to try to identify people seeking care. Deep digital footprints on people’s whereabouts, conversations, and shopping habits have made it easier for authorities to closely [monitor](#) individual behaviors, putting those seeking care—and their providers—at risk. Overly broad and sometimes warrantless, demands for a company’s user data could be costly to the business and brand-damaging with its users. In states that have enabled bounty-style laws (e.g., [Texas HB7](#)), data privacy is a heightened issue.

At the same time, some states showed energy behind advancing stronger privacy protections. In Virginia, [amendments](#) to existing consumer data protection laws took effect, heightening safeguards for reproductive and sexual health information, including requirements for affirmative

consent to process such data and expanded application of core privacy protections. This evolution reinforced limits on third-party use of sensitive consumer, geolocation, and health data.

Beyond Abortion Access: Broader Impacts on Reproductive Healthcare

Restrictions on abortion are ensnaring other forms of healthcare, including contraception, miscarriage management, IVF, maternal care, and gender-affirming care. A resurgence in “pronatalist” rhetoric and fetal “personhood” [language](#) opened new pathways for criminalization. “Personhood” could impact fertility benefits, such as IVF, which could carry new liabilities, risks, and costs across the entire infrastructure.

[Research](#) continues to reaffirm that abortion bans and severe restrictions are directly correlated with higher rates of [infant](#) mortality and [maternal](#) deaths, more complicated pregnancies, and loss of access to routine care, such as cancer screenings and STI testing. These losses are even worse in existing healthcare deserts. For employers, this means higher costs for their suite of healthcare benefits, regularly revisiting leave and accommodations policies, and a potential widening of inequities in who within the workforce can safely access healthcare.

The Business Reality: Navigating Continued Risk and Uncertainty

Companies are operating in a cycle in which there is heightened risk to engaging on social issues with business impacts. However, many businesses have quietly found ways to hold their ground, including making strategic shifts in their messaging and shifting away from public-facing statements toward internal guidance and updated policies. Others have weighed in on policy where they can, including supporting legislation that would restrain government intrusion into private user data.

Throughout 2025, business leaders consistently [noted](#) that the turbulence on the issue of reproductive care has not changed the [business case](#) for taking reproductive healthcare seriously. Providing affordable, comprehensive healthcare; supporting employees through major life events and family-planning decisions; and maintaining a safe and stable operating environment is core to talent and risk mitigation strategies.

In parallel, many business leaders also shared that they are choosing to lean into coalitions and industry associations rather than act alone. This approach allows corporate leaders to engage with each other, compare notes across industries, sense-check policies and messaging tactics, hold closed-door conversations to avoid both knee-jerk reactions and paralysis, and mitigate the risk of retaliation.

Looking Ahead

Key Issues to Watch in 2026

Looking ahead, businesses should expect 2025's trends to continue and, in some instances, accelerate. While the impacts will be felt differently by sector or geographic footprint, areas to continue monitoring regardless of industry are:

- **Policy and Legal Developments:**
 - **Federal:**
 - Ongoing litigation and regulatory efforts to restrict or ban medication abortion (i.e., mifepristone), including potential use of [Comstock Act](#) to restrict shipping of medication across state lines, and/or FDA action.
 - Emergency Medical Treatment and Labor Act or “[EMATLA](#)” and related emergency care provisions will continue to be contested and reinterpreted through litigation, regulatory guidance and court decisions, directly impacting how hospitals and healthcare providers treat pregnancy-related emergencies, particularly in ban states. In some cases, these provisions can complicate, delay or stop providers from providing care all together.
 - Further attempts to leverage federal funding tools (e.g., Hyde, Medicaid, ACA) to push providers out of reproductive healthcare.
 - **State:**
 - Interjurisdictional laws continue to test how far states can target providers, employers, and those supporting patients seeking care across state lines.
 - Shield laws have been enacted in 22 [states](#) and protect providers and pharmacists in delivering abortion care from undue scrutiny, prosecution and threats. Interstate enforcement efforts and litigation are likely to

continue to test the limits of these protections and restrict access to care—or at a minimum, have a chilling effect even where protections are in place.

- Attempts in key states (e.g., Texas, South Carolina) to expand civil “bounty hunting” models. These may lead to increased pregnancy-related prosecutions of providers, patients, and helpers.
- Attempts to limit public funding to healthcare providers that also provide abortion services.
- More [ballot measures](#) to strengthen (in the case of protective states) or roll back (in the case of anti-abortion states) protections.

- **Data Privacy and Surveillance:**

- Law enforcement and private surveillance infrastructure will continue to be a contentious issue. Without data privacy protections, personal health and movement data are vulnerable to access, misuse or disclosure by law enforcement access, civil litigation, and third-party data brokers.
 - Potential for ongoing access to sensitive location, purchasing, and communications data through data brokers, often outside of traditional warrant or judicial oversight.
 - Likely increased scrutiny over social media platforms, apps, and other digital services might share or respond to law enforcement requests for user data related to healthcare.
- State-level efforts in states like [Massachusetts](#) and [New York](#) to advance comprehensive data privacy, as well as sectoral privacy (including in the health space), will continue to shape the regulatory landscape. Efforts to expand protections for sensitive consumer, geolocation, and healthcare data and to place limitations on third-party use and certain law enforcement access offer a counter-model to more punitive enforcement approaches, signaling growing legislative appetite to address data privacy risks with implications for both users and businesses.
- Likelihood of increased data privacy policy proposals, with a range of implications (depending on bill type) for business operations, regulatory compliance, and future innovation opportunities.

Practical Actions for Business Preparedness

1. Benefits/Workplace Protections

- a. **Treat reproductive health as part of your core healthcare benefits** and message it as such; abortion care belongs with contraception, IVF, miscarriage management, family planning, and gender-affirming care.
- b. **Ensure benefits are accessible to all job types and locations**, including hourly, contract, and remote roles, with plans in place to support those in restricted states. This could include travel support, healthcare navigation assistance, and paid time off for time-sensitive care.
- c. **Strengthen and communicate workplace non-discrimination protections** related to reproductive healthcare decisions. Ensure employees understand the full suite of services they have access to and that they will not be penalized for using their benefits. Highlight where employees can confidentially seek support.

2. Legal and Interjurisdictional Risk Management

- a. **Partner with legal counsel** and government affairs to map shield laws, bans, and potential cross-border enforcement to understand potential impacts to existing operations, including vendor relationships.
- b. **Clarify potential exposure regarding “aiding and abetting” theories**, including how your business might be implicated via benefits, distribution networks, user/consumer data.
- c. **Explore potential scenarios** and implications for stakeholders (e.g., current workers, prospective talent, consumers/users) to prepare for new costs, disruptions and challenges in the states as well as nationally.

3. Data Governance and Privacy Protections

- a. **Review and update data governance policies** to ensure strong data privacy and data-minimization of sensitive health and geolocation information, inclusive of reproductive health. Consider not only medical data but also location history, purchasing patterns, search history, app usage, and internal communications chats.
- b. **Establish clear procedures for responding to law enforcement and government requests**, including subpoenas, reverse-location warrants and

informal data requests. Create scenarios and response plans to establish how your organization will respond to requests to maximize employee and user protection to the greatest extent possible within the law.

- c. **Ensure alignment with key stakeholders, including vendors, by establishing expectations around data collection, retention, sharing, and location tracking**, including platforms and tools regularly used by your organization, including marketing platforms, HR and benefits systems, analytics tools and any technologies that enable location or movement tracking.
- d. **Join coalitions and business associations** that are advocating or have the potential to advocate for strong business-friendly policies (state and federal) around privacy protections and access to care.

4. Site Selection and Geographic Footprint

- a. **Incorporate healthcare and privacy considerations in site-selection frameworks** for office locations, events, and major convenings, such as:
 - i. State laws on abortion and medical emergencies,
 - ii. Local availability of providers, including hospitals that can provide care for pregnancy-related emergencies,
 - iii. Contractual flexibility where possible, allowing for cancellation or relocation if a state enacts a ban.

5. Business Coalitions and Industry Groups

- a. **Stay current on recent developments and participate in coalitions like [Don't Ban Equality](#)** and business networks that track ongoing federal, state, and judicial threats to reproductive care that can impact business operations.
- b. **Leverage peer-based business networks and off-the-record convenings to engage in closed-door conversations** and quiet diplomacy with policymakers, advocates, and other companies.
- c. **Leverage trade associations and industry groups** to take positions on behalf of the business community where individual stances may be deemed risky.
- d. **Support bipartisan efforts** that strengthen access to care and privacy protections, e.g., commercial data privacy bills, maternal health, state and federal protections that support patients and providers in selecting the care they need free from undue burdens.

BSR's [Inclusive Business](#) team works with experts in reproductive health to provide actionable guidance to business. BSR members can contact the Inclusive Business team with inquiries.

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