WRITTEN TESTIMONY OF BENJAMIN P. SISNEY[1]
Senior Counsel for Litigation and Public Policy,
American Center for Law & Justice

Re: In Opposition to Maryland S.B. 169: Hospitals – Emergency Pregnancy-Related Medical Conditions - Procedures

February 3, 2026

For the reasons set forth herein, the American Center for Law & Justice ("ACLJ"), on behalf of itself and over 641,000 of its supporters, including nearly 8,500 Maryland residents, respectfully urges this Committee to report Senate Bill 169 unfavorably. SB 169 would amend Maryland law to redefine hospital emergency care obligations in a way that erroneously assumes the federal EMTALA mandates specific procedures — including termination of pregnancy — for "emergency pregnancy-related medical conditions." But federal EMTALA law does not require abortion or any specific medical intervention, and SB 169's effort to transplant such a mandate into state law is both legally unsound and medically inappropriate.

By way of introduction, the ACLJ is a national nonprofit organization dedicated to the defense of constitutional liberties secured by law, including the defense of the sanctity of human life. Counsel for the ACLJ have presented expert testimony before state (including Maryland) and federal legislative bodies, and have presented oral argument, represented parties, and submitted amicus briefs before the Supreme Court of the United States and numerous state and federal courts around the country in cases involving a variety of issues, including the right to life. *See, e.g.*, *Pleasant Grove City v. Summum*, 555 U.S. 460 (2009); *Whole Woman's Health v. Hellerstedt*, 136 S. Ct. 2292 (2016); *June Medical Servs. v. Russo*, 140 S. Ct. 2103 (2020); and *Dobbs v. Jackson Women's Health Org.*, 142 S. Ct. 2228 (June 24, 2022).

[1] Mr. Sisney serves as Senior Counsel for Litigation and Public Policy at the ACLJ's Washington D.C. office. He also serves as the ACLJ's Director of FOIA Practice. Mr. Sisney practiced law in Oklahoma City for five years, following the conclusion of his two-year clerkship with United States District Judge Gregory K. Frizzell in Tulsa, two years with the American Center for Law & Justice in Virginia, and a Legal Fellowship with Senator James M. Inhofe in Washington, D.C. Mr. Sisney graduated from Regent University School of Law in 2007. As a law student, he interned with an Oklahoma District Attorney's office and Oklahoma's oil and gas administrative law court. Mr. Sisney's practice has focused on the areas of government affairs and accountability, international and United Nations affairs, pro-life litigation and issues, family law, First Amendment law, and religious liberty.

SUMMARY AND BACKGROUND

The ACLJ has extensive experience providing legal analysis and testimony on federal health statutes and their interplay with state law. EMTALA was enacted in 1986 to prevent discrimination in emergency care for indigent and uninsured patients — a "patient-dumping" statute designed to ensure that emergency departments in hospitals participating in the Medicare program screen and stabilize individuals presenting with emergency medical conditions. EMTALA's language speaks only to emergency medical conditions and stabilization responsibilities; it does not mention abortion or prescribe any particular medical intervention.

Under SB 169's provisions, a hospital with an emergency department must screen patients presenting with emergency pregnancy-related conditions and, importantly, allow the termination of a pregnancy via abortion in certain circumstances as part of that treatment. This provision is more than a general stabilization requirement — it attempts to mandate specific medical procedures as a matter of state statutory obligation.

Federal EMTALA, by contrast, sets only minimal structural obligations on hospitals: to conduct an appropriate medical screening examination and then stabilize an emergency medical condition before transfer or discharge. EMTALA was enacted to prevent hospitals from refusing emergency care to indigent patients, not to prescribe particular medical treatments. 42 U.S.C. § 1395dd. SB 169's language goes far beyond this framework.

EMTALA'S PURPOSE AND TEXT CONFIRM IT IS NOT AN ABORTION-ACCESS LAW

EMTALA's text is silent on abortion or any specific medical procedure. Its protections center on screening and stabilizing emergency conditions — not on *what treatments* must be provided. Even the 1989 amendment that requires stabilization of an "unborn child" does not prescribe specific interventions such as a c-section, let alone the termination of pregnancy via abortion. Instead, it simply ensures that both a pregnant woman and her unborn child are stabilized for emergency conditions. 42 U.S.C. § 1395dd(e)(1)(A)(i).

SB 169's assumption that EMTALA can be read to require — and Maryland must therefore codify — pregnancy termination via abortion as part of emergency care is unsupported by the federal statute.

EMTALA FORBIDS FEDERAL CONTROL OVER MEDICAL PRACTICE

EMTALA expressly prohibits federal officials from "exercis[ing] any supervision or control over the practice of medicine or the manner in which medical services are provided." 42 U.S.C. § 1395. This critical language bars any effort to elevate EMTALA into a federal standard of care for particular procedures (such as abortion) across all hospitals. Translating that misinterpretation into Maryland law — as SB 169 would do — conflicts with Congress's clear choice to avoid federal micromanagement of clinical practice.

FEDERAL COURTS REJECT THE NOTION THAT EMTALA MANDATES ABORTION

At least two federal appellate courts have held that EMTALA does **not** mandate abortion as part of emergency care:

- In *Texas v. Becerra*, the Fifth Circuit explained that imposing a requirement to provide abortion would be to adopt "new policy" that Congress did not enact. 89 F.4th 529, 541-46 (5th Cir. 2024).
- In *United States v. Idaho*, the Ninth Circuit held that "the purpose of EMTALA is not to impose specific standards of care — such as requiring the provision of abortion — but simply to ensure that hospitals do not refuse essential emergency care because of a patient's inability to pay." 83 F.4th 1130 (9th Cir. 2023).

Although the Ninth Circuit later vacated *Idaho*, and the Supreme Court's order in *Moyle v. United States* did not reach the merits, some of the Justices separately noted (in dissent from vacatur of a stay) that the argument that EMTALA requires abortion is "plainly unsound." 603 U.S. 324, 347 (2024).

These judicial views reinforce the conclusion that EMTALA does not contain a federal abortion requirement that SB 169 purports to codify.

FEDERAL CONSCIENCE PROTECTIONS REINFORCE THAT EMTALA DOES NOT COMPEL PARTICIPATION

Even if proponents of SB 169 assert that EMTALA can be interpreted to require termination of pregnancy via abortion in emergencies, federal conscience protections — including the Church, Weldon, and Coats Amendments — independently protect healthcare providers from being compelled to participate in abortions. At oral argument in *Moyle*, the Solicitor General conceded that EMTALA does **not override** federal conscience protections and that hospitals must honor conscience objections while maintaining emergency care staffing.

This further confirms that EMTALA was never intended to mandate specific procedures such as abortion.

SB 169 IS UNNECESSARY AND MISGUIDED

SB 169's attempt to transform EMTALA into a procedural mandate would create confusion in emergency medicine and potential conflict with both federal statutory limits and federal conscience protections. EMTALA already requires emergency screening and stabilization — and state law can and should allow clinicians to exercise professional judgment consistent with local policy and medical standards.

SB 169's pregnancy termination via abortion requirement is not a faithful reflection of EMTALA and should not be adopted into Maryland's emergency care framework.

CONCLUSION

For the foregoing reasons, we respectfully urge the Committee to report Senate Bill 169 unfavorably.

Thank you for the opportunity to submit this testimony.

/s/ Benjamin P. Sisney
Benjamin P. Sisney
American Center for Law and Justice