

Mandatory Reporting Requirements, Law Enforcement, and Patient Confidentiality in Arkansas

Note: This resource is up to date as of September 2025.

Why use this fact sheet?

Confidentiality is central to the provider-patient relationship and a core part of medical ethics. In addition, violating patient confidentiality unnecessarily may carry professional or legal penalties. This fact sheet provides an overview of some of the major mandatory reporting requirements and where they intersect with patient privacy – with a specific focus on self-managed abortion. This fact sheet does not contain legal advice, and we recommend that providers who have further questions about their reporting requirements consult an in-state attorney for more information.

Who wrote this guide and why?

If/When/How: Lawyering for Reproductive Justice is a legal advocacy organization. We created this fact sheet in part because the most common cause of the criminalization of people who self-manage their own abortion care is unnecessary reports to law enforcement by medical providers. We also frequently field questions from providers who are concerned about what they may need to report. We know providers share our concern that risk to patients may be high when a report to law enforcement is triggered. In the case of reporting self-managed abortion, the consequences to patients might include jail time, losing custody of their children, a criminal record, or fines – all of which are unjust responses by an overzealous, racially biased system and frequently violate people's rights. Failure to report when it is necessary also carries risk of liability, so we want providers to feel confident in their ability to discern when reporting is legally required, and what must be included.

Providers can also help protect their patients from unjust criminalization.

Know your mandatory reporting obligations, and where they intersect with patient privacy.

This fact sheet covers most mandatory reporting requirements in Arkansas law. Your hospital, clinic, or practice may have additional reporting requirements that you should be familiar with. Providers can help patients maintain their agency and confidentiality while fulfilling their mandatory reporting obligations by:

- Not reporting patients if not legally required,
- Not asking patients for information that is not necessary to patient care,
- Informing patients of what the provider may have to report prior to taking patient history or treating the patient, and
- Carefully considering what information is necessary to document in a medical chart.

Providers can also help protect their patients from unjust criminalization by ensuring that their hospital or clinic reporting policies do not conflict with HIPAA or state laws on medical privacy.

Major Mandatory Reporting Requirements in Arkansas¹

Crime: Self-managed abortion is not a crime for abortion seekers in Arkansas.²

Arkansas health care providers are required to report child abuse and neglect as well as abuse or neglect of endangered or impaired persons.³ Domestic violence is not a mandatory report in Arkansas unless a patient presents with specific knife, gunshot, or burn injuries discussed below.

Child and endangered or impaired person abuse:⁴ A young person or vulnerable adult self-managing an abortion is not ordinarily reportable as abuse.⁵ A young person or vulnerable adult self-managing an abortion is not ordinarily reportable as abuse.⁶

Legal requirements for child abuse reporting are fraught with bias, in particular toward families of color and families struggling to make ends meet. However, health care providers in Arkansas are mandatory reporters for suspected child maltreatment, which includes abuse, sexual abuse, neglect, sexual exploitation, and abandonment.⁷ Health care providers are also mandatory reporters for suspected abuse or neglect of endangered or impaired adults.⁸ Because suspicion naturally stems from our biases, health care providers should thoroughly examine any potential bias at play when deciding whether or not a report is required under the law. Health care providers should inform adolescent patients about what constitutes reportable child abuse prior to talking to them about care when possible.

Have more questions? Reach out to request technical assistance.

Even if a provider decides to make an abuse report, the fact that a young person or vulnerable adult self-managed their own abortion would not ordinarily need to be included in a report.

Statutory rape: If a provider needs to report a statutory rape,⁹ the fact that the patient attempted to end the pregnancy is not relevant to the investigation.

Arkansas requires all health care providers to report suspected child maltreatment, which includes sexual abuse.¹⁰ Consensual sex between young people aged 15-18 is not considered sexual abuse, nor is consensual sex between young people aged 16-20. Health care providers should inform adolescent patients about what constitutes reportable sexual abuse prior to talking to them about care where possible.

Certain reportable injuries: Self-managed abortion is not a reportable injury.

Health care providers in Arkansas must notify law enforcement if they treat or receive a patient in the hospital with a gunshot or knife wound when it appears to be intentionally inflicted. They must also report certain burn wounds that could “reasonably be connected to criminal activity.”¹¹ Though most people self-manage with medication, sometimes people without access to medication or other safe abortion care may utilize more physical methods, such as asking someone to punch them in the stomach in order to induce a miscarriage. This would not be a reportable injury unless the patient is coming in with a gunshot or knife wound. However, it is a violation of patient confidentiality to divulge the reason behind the injury – that is, the attempt to induce abortion. Health care providers should inform patients about what constitutes reportable injuries prior to talking to them about care where possible. Additionally, allowing law enforcement into a patient’s room is often a patient privacy violation, and any patient consent to police presence while suffering from a serious injury is likely not true informed consent.¹²

Overdoses and drug use during pregnancy: Arkansas requires a report if a newborn or birthing parent tests positive for an illegal, non-prescribed substance at the time of birth.¹³

Health care providers are required¹⁴ to report positive drug tests for illegal substances at the time of birth in pregnant individuals and newborns to the Arkansas Child Abuse Hotline provided the substance was “knowingly used.”¹⁵ This requirement is not triggered when the presence of the substance is the result of medical treatment for the newborn or birthing parent, so it would not include medicines like buprenorphine for opioid use disorder treatment. “Illegal substances” are those that are prohibited to be used or possessed without a prescription under the Arkansas Criminal Code.¹⁶

These provisions do not apply when someone has an abortion, as the report is only triggered “at the time of birth.”¹⁷

Self-harm: Arkansas does not require health care providers to report threats of self-harm.

Under Arkansas law, mental health providers are required to take “reasonable precautions” when a patient communicates an explicit and imminent threat to 1) seriously injure a reasonably identifiable potential victim, or 2) commit a specific violent act or destroy property under circumstances that could easily lead to serious personal injury, and 3) the patient has an apparent intent and ability to carry out the threat.¹⁸ Nothing in Arkansas law suggests that a fetus could be a “reasonably identifiable potential victim” under the statute. Regardless, the mental health provider is not required to report to law enforcement, and can instead arrange for the patient’s immediate voluntary or involuntary hospitalization.¹⁹ If a patient indicates they may engage in an unsafe method of self-managed abortion, there are clinical interventions that support patient safety without a report.²⁰

Mental health providers must make a reasonable effort to tell the custodial parent of a young person under 18 about threats to commit “suicide or serious or life-threatening bodily harm upon himself or herself.”²¹ If they cannot reach the custodial parent within a “reasonable time,” they’re required to communicate the threat to the non-custodial parent.²²

Abortion:²³ It is never necessary to report a patient’s intention to self-manage an abortion.

Arkansas law only allows performing an abortion if a patient is experiencing a life-endangering medical emergency, and its abortion-reporting requirements only apply to abortions physicians themselves perform – never to self-managed abortions.²⁴

Physicians are also required to report abortion complications that result from abortions performed by the physician personally, as well as complications that the physician treats as a result of an abortion performed by another physician at the health care facility.²⁵ The health care facility itself is also required to report each abortion complication diagnosed or treated by the healthcare facility.²⁶ These reports should be made to the Arkansas Department of Health.

Health care providers must also report each “chemical abortion” they provide to a patient within 15 days of each month’s end.²⁷ A “chemical abortion” means an abortion that involves the use, provision, prescription, or dispensation of a drug or other substance intended to terminate a pregnancy.²⁸ There is also a requirement to report any “adverse events” caused by abortion medication that a provider personally gave to a patient.²⁹

If the patient is a minor, health care providers must also report to the Department of Health whether parental consent was required and obtained, or whether a judicial waiver was obtained.³⁰

Fetal death: Providers do not have to report abortions as fetal deaths.³¹

Providers must report fetal deaths within 5 days after the delivery.³² However, state law clarifies that abortions are not considered fetal deaths for reporting purposes.³³

The State Medical Examiner or coroner must investigate the cause of death and file a report within 5 days if the fetal death occurs 1) without medical attendance at or immediately after the delivery or 2) when there is an inquiry into the fetal death by the State Crime Laboratory or county coroner authorized under Arkansas law.³⁴

Pregnancies involving clients of licensed lay midwives (“LLMs”): LLMs must report whenever a client delivers outside of a hospital without the attendance of an LLM or when there is a fetal, newborn, or maternal complication.³⁵

If there are any complications with their clients’ pregnancy that result in 1) intrauterine fetal death, or 2) the death of a mother or newborn within 48 hours of delivery, the LLM must report the complication to the Department of Health within 2 business days.³⁶

Maternal or newborn deaths of LLM clients that occur between 2 through 30 days of birth must be reported to the Department of Health within 5 business days.³⁷ Maternal or newborn hospitalizations that occur within 30 days of delivery must also be reported to the Department of Health within 5 business days.³⁸ LLMs are required to submit incident reports of unattended birth for their clients by the 10th day of the month following the unattended birth.³⁹

HIPAA:

HIPAA generally prevents health care providers and entities from disclosing patient information without patient consent, and the state reporting laws discussed in this fact sheet are exceptions to that rule.⁴⁰ This means that when a provider is legally required to make a report, HIPAA allows them to share patient information that is specifically required or permitted by the applicable state reporting law. Providing any additional patient information beyond what is specifically required or permitted by state law would likely violate HIPAA.

Accordingly, providers should carefully consider what patient information is necessary for making a report. For example, if a provider treats a minor patient for an injury that gives them cause to suspect physical abuse, the provider could share the records that are relevant to the suspected abuse, but they likely could not share the patient's *entire* medical record without violating HIPAA.

Providers with questions about medical privacy laws in relation to reproductive health care can request technical assistance from If/When/How: <https://ifwhenhow.org/learn/technical-assistance/>.

Citations

1. This fact sheet focuses on mandatory reporting requirements that involve law enforcement or an analogous health authority. It does not include mandatory reporting requirements concerning communicable diseases, childhood blood lead levels, etc. It also does not include reporting requirements specific to long-term care facilities. The fact sheet intends to cover reporting requirements for physicians, nurses, physician assistants, midwives, social workers, mental health professionals, and emergency medical technicians. If you know of a mandatory reporting requirement for these professionals in Arkansas involving or potentially involving law enforcement that is not covered on this sheet, please contact info@ifwhenhow.org.
2. Ark. Code Ann. § 5-61-304 criminalizes the provision of abortions that are not permitted under Arkansas abortion law. This applies to all abortions except those performed to save the life of a pregnant person in a medical emergency. This law exempts a pregnant person from any criminal offense "in the death of her own unborn child..." Ark. Code Ann. § 5-61-304(c)(1).
3. Ark. Code Ann. § 12-18-402; Ark. Code Ann. § 12-12-1708(a)-(b)(1).
4. "Child" means a born person under 18 years old. Ark. Code Ann. § 12-18-103(6).

Citations

5. An “endangered person” means either (A) a person 18 or older who: (i) is found to be in a situation or condition that poses a danger to the person and (ii) demonstrates a lack of capacity to comprehend the nature and consequences of remaining in that situation or condition; or (B) a long-term care facility resident or an Arkansas State Hospital resident who: (i) is found to be in a situation or condition that poses an imminent risk of death or serious bodily harm to the long-term care facility resident; and (ii) demonstrates a lack of capacity to comprehend the nature and consequences of remaining in that situation or condition. Ark. Code Ann. § 12-12-1703(6).

6. An “impaired person” is defined as a person: (i) 18 or older who, as a result of a mental or physical impairment, is unable to protect themselves from abuse, sexual abuse, neglect, or exploitation; or (ii) is a long-term care facility resident who, as a result of a mental or physical impairment, is unable to protect themselves from abuse, sexual abuse, neglect, or exploitation. Ark. Code Ann. § 12-12-1703(10).

7. Ark. Code Ann. §§ 12-18-402, -103(7).

8. Ark. Code Ann. § 12-12-1708.

9. In Arkansas, statutory rape includes sexual intercourse by forcible compulsion by a person 14 or older to a person younger than 18. Statutory rape also includes any sexual intercourse by a person 18 years or older to a person who is not their spouse and is younger than 15, or by a person 20 or older to a person who is not their spouse who is younger than 16. It also includes sexual intercourse between a caretaker and a person younger than 18. The law excludes from the definition of sexual abuse sexual intercourse that is not by force between two minors aged 15 to 17. Ark. Code Ann. § 12-18-103(20). Additionally, under Arkansas law, it is an affirmative defense to a charge of third-degree sexual assault if a minor engages in sexual intercourse with someone under 14, as long as the minor is no more than three years older than the younger person. Ark. Code Ann. § 5-14-126(a)(2). For second-degree sexual assault, a minor who engages in sexual contact with someone under 14 may raise an affirmative defense if (1) the younger person is under 12 and the minor is no more than three years older, or (2) the younger person is 12 or older and the minor is no more than four years older. Ark. Code Ann. § 5-14-125(5).

10. Ark. Code Ann. § 12-18-103(7).

11. Ark. Code Ann. § 12-12-602(a).

12. Working Group on Policing and Patient Rights, *Police in the Emergency Department: A Medical Provider Toolkit for Protecting Patient Privacy* (2021), <https://www.law.georgetown.edu/health-justice-alliance/wp-content/uploads/sites/16/2021/05/Police-in-the-ED-Medical-Provider-Toolkit.pdf> (last visited June 27, 2024).

Citations

13. Under Arkansas law, child maltreatment is defined to include “neglect,” which is further defined to include a pregnant person knowingly using an illegal substance, either 1) causing a child to be born with an illegal substance in its bodily fluids, or 2) resulting in the presence of an illegal substance in the mother’s bodily fluids at the time of birth. Ark. Code Ann. §§ 12-18-103(7), (14)(B). In both circumstances, the substance must have been “knowingly” used while pregnant. Prescription substances are excluded, so medications like buprenorphine do not require a report. When an infant is “born with and affected by: (A) A fetal alcohol spectrum disorder; (B) Maternal substance abuse resulting in prenatal drug exposure to an illegal or a legal substance; or (C) Withdrawal symptoms resulting from prenatal drug exposure to an illegal or a legal substance,” the provider is required to make a referral to the Department of Human Services. Ark. Code Ann. § 12-18-310.
14. Ark. Code Ann. § 12-18-402.
15. Ark. Code Ann. § 12-18-303; Ark. Dep’t of Hum. Servs., Div. of Child. & Fam. Servs., PUB-357, *Child Maltreatment Assessment Protocol 35* (2013), <https://perma.cc/EA7A-H6T6> (delineating that a report is only required where the substance was “knowingly used”).
16. Ark. Code Ann. § 12-18-103(14)(B)(ii).
17. Ark. Code Ann. §§ 12-18-103(7), (14)(B). Ark. Dep’t of Hum. Servs., Div. of Child. & Fam. Servs., PUB-357, *Child Maltreatment Assessment Protocol 35* (2013), <https://perma.cc/EA7A-H6T6> (explicitly refusing to take reports in the event of a stillbirth).
18. Ark. Code Ann. § 20-45-202(a)-(b).
19. Ark. Code Ann. § 12-12-107(b)(2).
20. Such clinical interventions could include informing an adult client about clinics where they can receive abortion care, or encouraging the client to call the [Repro Legal Helpline](#) if they are considering self-managing an abortion.
21. Ark. Code Ann. § 20-45-202(c)(1).
22. Ark. Code Ann. § 20-45-202(c)(2).
23. Arkansas defines an abortion as “the act of using, prescribing, administering, procuring, or selling of any instrument, medicine, drug, or any other substance, device, or means with the purpose to terminate the pregnancy of a woman, with knowledge that the termination by any of those means will with reasonable likelihood cause the death of the unborn child.” Ark. Code Ann. § 5-61-303(1)(A).
24. Arkansas is currently not enforcing Ark. Code Ann. § 20-16-1406(a), which would otherwise require a physician who performs an abortion to report non-identifying information about each abortion to the Department of Health. Instead, a physician, healthcare provider, or abortion facility must report to the Department of Health the number of abortions performed to save the life of a pregnant person. Ark. Code Ann. § 20-16-608.

Citations

25. Ark. Code Ann. § 20-16-605.
26. *Id.*
27. Ark. Code Ann. § 20-16-2504(a)(1).
28. Ark. Code Ann. § 20-16-2502(1)(A).
29. Ark. Code Ann. § 20-16-1505(a).
30. Ark. Code Ann. § 20-16-814. Note that parental consent is not required before an emergency abortion, but providers still must notify a minor's parents – or a judge if the minor intends to seek judicial bypass - after the fact. Ark. Code Ann. § 20-16-807(a-c).
31. Arkansas defines a “fetal death” as when the fetus completed 12 weeks gestation or more calculated from the date the last normal menstrual period began to the date of delivery. Ark. Code Ann. § 20-18-603(a)(1)(A)(i).
32. If the fetal death occurred in an institution that provides inpatient or outpatient medical, surgical, or diagnostic treatment or nursing, custodial, or domiciliary care, the person in charge of the institution must prepare and file the death certificate. If the death occurs outside of an institution, the physician in attendance at or immediately after delivery must prepare and file the fetal death certificate. Ark. Code Ann. § 20-18-603.
33. Ark. Code Ann. § 20-18-603(a)(1)(A)(ii).
34. Ark. Code Ann. § 20-18-603(a)(1)(D).
35. 17 Ark. Code R. § 047-505.
36. 17 Ark. Code R. § 047-505(d).
37. 17 Ark. Code R. § 047-505(e).
38. *Id.*
39. 17 Ark. Code R. § 047-502(b). LLMs are required to describe the condition identified by the LLM and the related history that led to the LLM's action as well as the outcome of the care in the report. Arkansas Department of Health, Incident Report, https://healthy.arkansas.gov/wp-content/uploads/LLM_Incident_Report.pdf (last visited Aug. 25, 2025).
40. *See, e.g.,* Dep't of Health & Hum. Servs., *My state law authorizes health care providers to report suspected child abuse to the state department of health and social services. Does the HIPAA Privacy Rule preempt this state law?* (last reviewed Dec. 28, 2022), <https://www.hhs.gov/hipaa/for-professionals/faq/406/does-hipaa-preempt-this-state-law/index.html>. “[I]f a provision of State law provided for [reporting of disease or injury, child abuse, birth, or death, or for public health surveillance, investigation, or intervention] and was contrary to the [HIPAA] Privacy Rule, the State law would prevail.” *Id.* In other words, HIPAA protects all patient information from disclosure, except for what a state reporting law either requires or permits.