

# EXHIBIT 2

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO  
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF IDAHO,

Defendant.

Case No. 1:22-cv-329-BLW

**[PROPOSED/FALL-BACK] ORDER**

Upon consideration of the United States’ Motion for a Preliminary Injunction, and the parties’ respective submissions in support thereof and in opposition thereto, the Court hereby grants the United States’ motion to the extent set forth below and otherwise denies it.

It is ORDERED that the State of Idaho, including all of its officers, employees, and agents, are preliminarily enjoined from enforcing Idaho Code § 18-622(2)-(3) to the extent, but only to the extent, that such enforcement will actually prohibit, preclude, or unduly interfere with medical treatment (i) that is provided “to stabilize” (within the meaning of the Emergency Medical Treatment and Labor Act (“EMTALA”), 42 U.S.C. § 1395dd(e)(3)(A)) and (ii) that is provided in a “hospital” (within the meaning of EMTALA, 42 U.S.C. § 1395dd(e)(5)). As used in the previous sentence, “enforcing” and “enforcement” mean and encompass only actual conduct the purpose and effect of which is to threaten or prosecute any criminal proceeding against or attempt to suspend or revoke the professional license of any medical provider or hospital based on their provision of medical treatment constituting an “abortion” (within the meaning of Idaho Code § 18-

604(1)) when, but only when, that treatment is of an “emergency medical condition” (within the meaning of EMTALA, 42 U.S.C. § 1395dd(e)(1)) and the withholding of that treatment “could reasonably be expected to result in— ... serious impairment to bodily functions or ... serious dysfunction of any bodily organ or part” of “a pregnant woman” (within the meaning of EMTALA, 42 U.S.C. § 1395dd(e)(1)(A)(ii)-(iii)).

SO ORDERED.