

Federal appeals court issues nationwide ban on telemedicine and mail access to abortion pill mifepristone

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A federal appeals court issued a sweeping ruling Friday, May 1, that effectively eliminates access to the abortion medication mifepristone by telemedicine and mail across the United States, reinstating a requirement that patients obtain the drug only through an in-person clinic visit—a restriction lifted by the Food and Drug Administration (FDA) in 2021. The ruling applies not only to states with abortion bans but to the entire country, including states where abortion remains legal, forcing women in all states to make an in-person visit to obtain the medication.

The decision by a three-judge panel of the New Orleans-based US Court of Appeals for the Fifth Circuit in *Louisiana v. US Food and Drug Administration* represents the most far-reaching attack on abortion access since the Supreme Court's 2022 *Dobbs v. Jackson Women's Health Organization* ruling eliminated the constitutional right to abortion. The panel was composed of Trump appointees Kyle Duncan, who authored the 18-page ruling, and Kurt Engelhardt, along with George W. Bush appointee Leslie Southwick.

If upheld by the US Supreme Court, the ruling will have a devastating impact on the right to abortion. Mifepristone is now used in nearly two-thirds of all abortions in the US. The Guttmacher Institute, a reproductive health research organization, reports that in 2023, the first full calendar year after the Supreme Court overturned *Roe v. Wade*, there were an estimated 1,026,700 abortions, up from 930,000 in 2021. The latest court ruling is a punitive response to the exercise of reproductive rights, designed to reverse even the limited gains that have been made since *Dobbs* through telemedicine and mail dispensing, whose use has been expanded because of the COVID-19 pandemic.

The Fifth Circuit ruling is not based on science; rather it is a political judgment that utilizes the federal judiciary to advance an anti-abortion agenda that has been promoted systematically since the 1980s and has now found its most aggressive expression under the second Trump administration.

Mifepristone was approved by the FDA in September 2000 as safe and effective for terminating pregnancies through 10 weeks of gestation. It is typically administered in combination with misoprostol, a second drug used to induce uterine contractions. More than one-fourth of all US abortions are now provided via telemedicine, according to Guttmacher Institute data.

The ruling reverses a January 2023 FDA modification to the Mifepristone Risk Evaluation and Mitigation Strategy (REMS) program that formally removed the in-person dispensing requirement and permitted certified pharmacies to fill mifepristone prescriptions. That modification had been preceded by a comprehensive review of safety data and was based on evidence from tens of thousands of patients. The FDA had also previously analyzed data showing no increase in adverse events during the COVID-19 pandemic period, when the in-person requirement was not

enforced.

Louisiana, which maintains one of the strictest abortion bans in the country, filed suit against the FDA in 2025, arguing that the agency's 2023 regulations allowing telemedicine prescribing and mail dispensing violated the Administrative Procedure Act. The state claimed the regulations had facilitated abortions in defiance of its ban and forced it to cover emergency Medicaid costs for women allegedly harmed by the drug.

Duncan's ruling adopted Louisiana's framing wholesale, writing that federal facilitation of mifepristone access "cancels Louisiana's ban on medical abortions and undermines its policy that 'every unborn child is human being from the moment of conception and is, therefore, a legal person.'"

The ruling overrode a lower court decision that had paused the case in April to allow the FDA to complete a safety review of the medication—a review widely criticized as politically motivated. Duncan dismissed concerns about parallel litigation and conflicting court orders, citing a June 2025 Supreme Court decision restricting nationwide injunctions. He wrote that the court had "now three times found that the agency's progressive relaxation of mifepristone's guardrails likely lacked a basis in data and scientific literature," and noted that FDA "could not say when that review might be complete and admitted it was still collecting data."

Trump administration's role

The FDA review cited by the court was set in motion by the Trump administration at the explicit direction of the president. HHS Secretary Robert F. Kennedy Jr. and FDA Commissioner Marty Makary wrote to 22 Republican attorneys general in September 2025 announcing the review, pledging to investigate "the circumstances under which mifepristone can be safely dispensed."

Kennedy has claimed, without providing evidence, that the Biden administration had manipulated data on the drug's safety profile. The administration's review appears to have been prompted by a self-published paper from the Ethics and Public Policy Center—a right-wing organization that describes itself as "pushing back against the extreme progressive agenda"—that distorts the drug's safety record. The paper has not been peer-reviewed or published in any medical journal and has been widely denounced by researchers.

The Society of Family Planning, a nonprofit research organization, urged the FDA in a letter to Makary to dismiss the paper entirely, writing that it "is not a methodologically rigorous, evidence-based resource, and

does not warrant consideration, particularly in scientific spaces.”

Despite this, Kennedy has repeatedly cited the paper in Senate testimony and stated that any changes to FDA mifepristone regulations would “ultimately go through the White House, through President Trump.” Administration officials told the *New York Times* that the review would not be concluded until the end of 2026—after the midterm elections.

The Trump Justice Department has nominally defended the FDA in the Louisiana litigation but has refused to state publicly whether it supports the current regulations permitting mail dispensing. On Saturday, an HHS spokesman declined to comment, citing “ongoing litigation.”

The two manufacturers of mifepristone, Danco Laboratories and GenBioPro, filed emergency applications with the Supreme Court on May 2 asking the justices to immediately restore full access to the medication.

In its filing, GenBioPro declared that the Fifth Circuit’s order “has unleashed regulatory chaos,” warning that patients who had planned to fill prescriptions at local pharmacies would no longer be able to do so regardless of which state they live in.

Danco said the ruling injects immediate confusion and upheaval into highly time-sensitive medical decisions, and requires manufacturers, providers, patients and pharmacies to guess at what is now permitted.

The high court previously declined in June 2024 to block mifepristone’s availability in a challenge brought by anti-abortion physicians, though that case had been dismissed on standing grounds rather than the merits. The Supreme Court’s current ultra-right supermajority, along with the political machinations of the Trump administration over the ongoing FDA review, leaves the fate of the ruling uncertain.

Who bears the consequences

In states which ban abortions, more than 100,000 patients per year have been receiving mifepristone through the mail, prescribed by practitioners operating under shield laws in Democratic-led states. Those shield laws, which protect providers from extradition and legal action, are themselves under challenge in the courts.

For patients in those states, now cut off from telemedicine mifepristone access, the consequences of the ruling will be severe. Traveling hundreds of miles to an in-person clinic—if one is accessible at all—is simply not possible for many working class women who lack transportation, childcare or the ability to take time off from work.

In the immediate wake of the ruling, abortion providers scrambled to develop contingency plans. Several, including the Massachusetts Medication Abortion Access Project and Planned Parenthood of Greater New York, announced they would pivot to prescribing and mailing misoprostol alone, which can be used independently to terminate early pregnancies but is considered somewhat less effective and associated with increased side effects compared to the two-drug regimen.

A political ruling, not a scientific one

The Fifth Circuit ruling is not, at its core, a legal or scientific judgment. It is a political act—one that uses the machinery of the federal judiciary to advance an anti-abortion agenda.

The ruling advances that agenda at a moment when the Democratic Party, which nominally supports abortion rights, has demonstrated its complete incapacity to defend them in practice. While cynically using the issue of abortion rights for electoral appeals, the Democrats failed to

codify abortion rights into federal law during periods they controlled the presidency and both houses of Congress, leaving millions of women exposed to the accelerating assault that has unfolded since *Dobbs*.

The 1976 Hyde Amendment, which bans federal funding for most abortions through programs like Medicaid, has had decades-long bipartisan support in Congress, with many Democrats, including Joe Biden, supporting it into the late 2010s. The policy affects about 7.8 million women aged 15-49 on Medicaid in 34 states and the District of Columbia. Restrictions on abortion rights have long been used by both the Democrats and Republicans to discipline and control the working class, especially its most vulnerable sections.

By 2019, some so-called progressive Democrats framed Hyde as discriminatory against low-income and minority women, but have failed to defend abortion rights because doing so would threaten the political and economic interests of the ruling class they serve. The 2016 and 2020 Democratic Party platforms called for its repeal, but those efforts failed in Congress. In other words, they have used Hyde as a fundraising issue in elections while making no effort to repeal it in periods when they held power.

Nancy Northup, president of the Center for Reproductive Rights, stated that the appeals court decision has nothing to do with science and everything to do with making obtaining an abortion as difficult and expensive as possible. She characterized the selective stripping of telehealth from abortion patients as a political blockade.

The FDA itself approved mifepristone more than 25 years ago, based on a thorough scientific review, and has affirmed its safety record in every subsequent evaluation. As of December 31, 2024, the agency had recorded 36 deaths associated with the drug since its 2000 approval—a mortality rate of 0.0005 percent. Studies consistently show the drug’s safety profile is comparable to common over-the-counter pain medications such as ibuprofen and acetaminophen.

The case now moves to the Supreme Court, where the fate of one of the most widely used medications in American reproductive health care will be decided by justices largely appointed by presidents who lost the popular vote and confirmed through a Senate that systematically overrepresents rural, conservative states.

The defense of abortion rights cannot be entrusted to either of the two capitalist parties, or to reactionary judges who uphold the capitalist order. This latest anti-abortion ruling reflects the broader assault on living standards and democratic rights of the working class as a whole—men included—and must be met by the independent political mobilization of the working class. The right to abortion must be seen as a key element of healthcare as a basic social right, which must be defended as part of a socialist program under a workers government.



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