

IN THE
United States Court of Appeals
FOR THE FIFTH CIRCUIT

Case No. 26-30203

STATE OF LOUISIANA, BY AND THROUGH ITS ATTORNEY GENERAL, LIZ MURRILL;
ROSALIE MARKEZICH,
Plaintiffs-Appellants,

v.

U.S. FOOD & DRUG ADMINISTRATION, *ET AL.*,
Defendants-Appellees.

v.

DANCO LABORATORIES, L.L.C.; GENBIOPRO, INCORPORATED,
Intervenors-Appellees

On Appeal from the United States District Court
for the Western District of Louisiana
Case No. 6:25-cv-01491-DCJ-DJA, Hon. David C. Joseph

**BRIEF OF REPRODUCTIVE HEALTH INITIATIVE FOR TELEHEALTH
EQUITY & SOLUTIONS (RHITES), HEY JANE, AND IGH PLLC d/b/a
ABORTION ON DEMAND, AS *AMICI CURIAE* IN OPPOSITION TO
PLAINTIFFS' MOTION FOR § 705 STAY OR INJUNCTION PENDING
APPEAL.**

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CERTIFICATE OF INTERESTED PARTIES

The undersigned counsel of record certifies that the following listed persons and entities as described in the fourth sentence of Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

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INTEREST OF *AMICI CURIAE*¹

Amici Curiae, an organization² supporting evidence-based access to telehealth reproductive healthcare, and two reproductive healthcare providers,³ are committed to ensuring access to safe, timely healthcare. This brief offers a perspective grounded in the lived experiences of Amici's telehealth abortion patients. The testimonials are taken from written statements submitted by Amici's patients.⁴ Amici submit this brief to broaden the Court's understanding of the real-world impact of access to mifepristone via telehealth, and to underscore the significant consequences of disrupting access.⁵

SUMMARY OF ARGUMENT

Telehealth is a critical and increasingly essential component of modern healthcare. For many, it is the only feasible path to timely, safe, and effective abortion care. Amici's patients' testimonials demonstrate how telehealth removes barriers delaying or preventing abortion access, especially for historically

¹ No counsel for a party authored this brief in whole or part or made a monetary contribution to the preparation or submission of this brief.

² Amicus The Reproductive Health Initiative for Telehealth Equity & Solutions (RHITES) is a fiscally sponsored project of the Hopewell Fund.

³ Amici healthcare providers are IGH PLLC *d/b/a* Abortion on Demand and Hey Jane. "Hey Jane" is a registered trademark owned by Possible Health, Inc., an entity operating a telehealth platform at www.heyjane.com, through which various professional corporations provide medical services to patients in different states using the Hey Jane brand.

⁴ Telehealth provider Amici provide abortion services for patients in 25 states supporting access. The testimonials throughout this brief are formally verified patient stories from Amici's websites and online reviews. They have not been altered except to anonymize provider identities and minimal necessary clarifications. Modifications are denoted with brackets.

⁵ Amici are grateful to Boston University School of Law student, Georgia Aguilar, for her contributions to this brief through the BU Program on Reproductive Justice.

marginalized communities. Louisiana’s proposed nationwide restrictions on mifepristone would obstruct access to a safe and widely used medication, directly conflicting with FDA’s statutory obligation not to impose undue burdens on patient access. Maintaining access to telehealth abortion care is critical to health equity, patient safety, and evidence-based medical practice.

ARGUMENT

I. Telehealth Offers an Essential Mode of Providing High-Quality, Patient-Centered Abortion Care.

Telehealth is as an effective mechanism for connecting patients with care, producing health outcomes comparable to in-person services.⁶ Approximately 76% of U.S. hospitals use telehealth, up from 35% a decade ago.⁷ Telehealth plays a particularly critical role in expanding abortion access, allowing patients to consult providers via video, phone, or secure messaging, and receive medications through pharmacies or mail delivery.

⁶ See V.C. Ezeamii et al., *Revolutionizing Healthcare: How Telemedicine Is Improving Patient Outcomes and Expanding Access to Care*, 16 *Cureus* e63881 (2024); Ushma D. Upadhyay et al., *Outcomes and Safety of History-Based Screening for Medication Abortion: A Retrospective Multicenter Cohort Study*, 6 *JAMA Network Open* e2334087 (2023).

⁷ *Telehealth: The Advantages and Disadvantages*, Harvard Health Publ., <https://www.health.harvard.edu/staying-healthy/telehealth-the-advantages-and-disadvantages>.

Today, medication abortion – primarily the mifepristone regimen⁸ – accounts for approximately 63% of abortions in the U.S.⁹ More than one-in-four are obtained via telehealth.¹⁰ Research confirms that safety and effectiveness of telehealth abortion is equivalent to in-person care in safety and effectiveness.¹¹

Across hundreds of narratives, patients praised the professionalism, clear communication, and attentiveness of telehealth care:

“During a very personal and challenging time, [Telehealth Provider] provided not only expert care but genuine compassion and support. From the first patient intake to the final follow-up, everyone made me feel seen, heard, and safe.”

Abortion access is unevenly distributed across dimensions of race, class, citizenship status, geography, and other axes.¹² For many patients, telehealth means the difference between obtaining care or not. For others, it fits their needs better than in-person care. Preserving both models is essential.

II. Telehealth Fosters Timely and Accessible Care, Especially for Rural, Low-Income, and Caregiving Patients.

⁸ Ushma D. Upadhyay et al., *Effectiveness and safety of telehealth medication abortion in the USA*, 30 NATURE MED. 1191, 1191 (FEB. 15, 2024).

⁹ GUTTMACHER INST., *Monthly Abortion Provision Study*, <https://www.guttmacher.org/monthly-abortion-provision-study> (updated Sept. 30, 2025).

¹⁰ SOCIETY OF FAMILY PLANNING, #WECOUNT REPORT, APRIL 2022 TO DECEMBER 2024 (June 23, 2025).

¹¹ Emily Harris, *Telehealth Abortions as Safe and Effective as In-Person Ones*, 331 JAMA 908 (2024).

¹² Liza Fuentes, *Inequity in U.S. Abortion Rights and Access: The End of Roe Is Deepening Existing Divides*, GUTTMACHER INST. (Jan. 2023).

Abortion is inherently time sensitive.¹³ Abortion is many times safer than continuing a pregnancy. Pregnancy itself comes with significant health risks, and these risks increase with gestation.¹⁴ The average in-clinic appointment wait time is approximately 7.6 days, while telehealth enables patients to receive medication within days.¹⁵ Patients in rural or medically underserved communities face geographic isolation, provider shortages, and limited public transportation often requiring substantial time off work, long-distance travel, and significant financial outlay.¹⁶

“I originally was looking at going to a clinic near me but appointments were only available 2-3 weeks out, where as [Telehealth Provider] had all the stuff I needed delivered to my door within 3 days!”

“Unfortunately the nearest in person clinic was more than 200 miles away. I’m not sure what I would have done without [Telehealth Provider].”

¹³ See O. Wasser et al, *Experiences of Delay-Causing Obstacles and Mental Health at the Time of Abortion Seeking*, 6 Contraception: X 100105 (2024).

¹⁴ See Lauren J. Ralph et al., *Self-reported Physical Health of Women Who Did and Did Not Terminate Pregnancy After Seeking Abortion Services: A Cohort Study*, 171 ANNALS OF INTERNAL MED. 238 (June 11, 2019) (medication abortion is 14 times safer than carrying pregnancy to term); Fiona de Londras et al., *The Impact of Mandatory Waiting Periods on Abortion-Related Outcomes: A Synthesis of Legal and Health Evidence*, 22 BMC Pub. Health 1232 (2022).

¹⁵ Rachel K. Jones & Jenna Jerman, *Time to Appointment and Delays in Accessing Care Among U.S. Abortion Patients*, GUTTMACHER INST. (Aug. 2016).

¹⁶ G. Edwards et al., *The Influence of Rurality on Women’s Decision Making and Pregnancy Choices Following an Unintended Pregnancy: A Systematic Review*, 21 Women’s Health 17455057251348986 (2025).

Telehealth also allows the 59% of abortion patients who are parents¹⁷ to access care without sacrificing employment or existing caregiving responsibilities.¹⁸

“I am a full time working mom of two small children who are still in daycare. Despite our best efforts, our birth control unfortunately failed. After a quick google search, I was able to find [Telehealth Provider] and access very fast and very discrete medical abortion care.”

“This experience helped me so much. I am a single working mother in a small town, [so] to have to get time off from work and child care to go to an appointment let alone finding help close by would have been extremely different.”

For these patients, abortion care is largely about preserving their ability to remain present, healthy, and dependable for the children who rely on them.

“This was the hardest decision of my life, and as much as I want more kids I had a really rough first pregnancy almost resulting in my death and the death of my daughter. I couldn’t go through that again, and possibly leave my daughter without her mother. [Telehealth Provider] made everything incredibly easy, and helped ease the stress I was facing. Every step was outlined perfectly and made everything easy to follow. And allowing me to be able to do this at home [versus] going out somewhere was even better. Thank you so much for giving me this option so I can be here for my baby girl.”

¹⁷ Usha Ranji et al., *Key Facts on Abortion in the United States*, KFF (Jul. 15, 2025), www.kff.org/womens-health-policy/key-facts-on-abortion-in-the-united-states/?entry=table-of-contents-who-gets-abortions.

¹⁸ See Kathleen Morrison et al., *Understanding the Use of Telehealth in the Context of the Family Nurse Partnership and Other Early Years Home Visiting Programmes: A Rapid Review*, 8 DIGITAL HEALTH 1 (2022).

“[Telehealth Provider] gave me the opportunity to make my own decision. How I chose to govern my own body was my choice, and [Telehealth Provider] gave me the opportunity to do so. I have two daughters to take care of, I am not as young as I used to be, and I am currently unemployed. I made the conscious decision to end my pregnancy, and not spread myself any thinner than I needed to be. And I am forever grateful to [Telehealth Provider] for the opportunity to do so.”

Timeliness is especially important for historically marginalized communities, who disproportionately lack economic resources, paid leave, and comprehensive health coverage¹⁹ and faced other barriers when accessing reproductive healthcare, including racial bias, stereotyping, and language differences.²⁰ These disparities directly shape timely access.

III. Telehealth Enables Private, Safe Access to Care Without Stigma, While Reducing Financial Burden.

Privacy is fundamental to healthcare, particularly abortion.²¹ Many patients describe accessing care from home as a precondition for accessing care at all.

¹⁹ Kurt Hager, et al., *Employer-Sponsored Health Insurance Premium Cost Growth and Its Association with Earnings Inequality Among US Families*, 7 JAMA NETWORK OPEN, 9 (JAN. 16, 2023) (structural inequities amplify abortion restrictions’ burdens); David C. Radley et al., *Advancing Racial Equity in U.S. Health Care: The Commonwealth Fund 2024 State Health Disparities Report* (Apr. 18, 2024), <https://www.commonwealthfund.org/publications/fund-reports/2024/apr/advancing-racial-equity-us-health-care>

²⁰ See ACOG, *Racial Bias: Statement of Policy* (Oct. 15, 2020); Pooja Chandrashekar, *The Health Care System Is Shortchanging non-english Speakers*, SCIENTIFIC AMERICAN (July 2, 2021) <https://www.scientificamerican.com/article/the-health-care-system-is-shortchanging-non-english-speakers/>.

²¹ See AM. MED. ASS’N, *Code of Medical Ethics: Patient Privacy & Confidentiality*, <https://code-medical-ethics.ama-assn.org/chapters/patient-privacy-and-confidentiality>.

“[Telehealth Provider] provided the secure, private, accessible medical and emotional care I needed, when I needed it most. They protected my physical and emotional health as well as my privacy.”

Survivors of gender-based violence, sexual violence, and human trafficking face greater risks of reproductive coercion and surveillance and may be unable to seek in-person care.²² Abortion restrictions are associated with a 7–10% increase in intimate partner violence (IPV) among women of reproductive age, resulting in at least 9,000 additional IPV incidents.²³ Evidence further demonstrates that individuals who obtain abortion care are significantly less likely to experience IPV.²⁴ Human trafficking survivors face particularly acute vulnerabilities, with nearly 70% experiencing pregnancy.²⁵ By enabling survivors to access care without detection, telehealth abortion can be not just important, but lifesaving.

Timely access also lessens financial burdens from lost wages, childcare, transportation, and lodging.²⁶ Research links abortion access to financial stability,

²² See Elizabeth Miller et al., *Recent reproductive coercion and unintended pregnancy among female family planning clients*, 89 CONTRACEPTION 122, 126–27 (Feb. 2014); Cathy Vaughan et al., *Measuring technology-facilitated gender-based violence*, U. of Melbourne, Discussion Paper (Feb. 2023).

²³ Dhaval M. Dave et al., *Abortion Restrictions and Intimate Partner Violence in the Dobbs Era*, Nat’l Bureau of Econ. Rsch., Working Paper No. 33916 (Oct. 2025).

²⁴ Sarah C.M. Roberts et al., *Risk of Violence from the Man Involved in the Pregnancy After Receiving or Being Denied an Abortion*, 12 BMC Med. 1 (2014).

²⁵ See Heidi Stöckl et al., *Human trafficking and violence: Findings from the largest global dataset of trafficking survivors*, 4 J. MIGRATION AND HEALTH 1 (Nov. 16, 2021); Laura J. Lederer & Christopher A. Wetzel, *The Health Consequences of Sex Trafficking and Their Implications for Identifying Victims in Healthcare Facilities*, 23 ANNALS HEALTH L. 61 (2014).

²⁶ Jenna Jerman & Rachel K. Jones, *Secondary Measures of Access to Abortion Services in the United States, 2011 and 2012: Gestational Age Limits, Cost, and Harassment*, 24 Women’s Health Issues 19–24 (2014).

employment, insurance coverage, and educational attainment.²⁷ This correlation means low-income and uninsured individuals are left without reproductive healthcare at disproportionate rate, as well as women of color who systematically face barriers to care.²⁸

For most abortion recipients, out-of-pocket costs exceed one-third of their monthly income.²⁹ Additional barriers fall hardest on those least able to absorb further logistical and emotional strain.³⁰ Approximately one in ten U.S. women lack health insurance, and many policies exclude abortion.³¹ Any restriction will exacerbate the disproportionate burdens on low-income, uninsured, and underinsured populations.³²

Telehealth is a meaningful structural intervention, advancing public health, mitigating disparities, and promoting equitable access to high-quality care.³³

“I was so worried when I found out I was pregnant. I didn’t want more kids, and I am not financially stable or

²⁷ Anna Bernstein & Kelly M. Jones, CTR. ON THE ECON. OF REPROD. HEALTH, *The Economic Effects of Abortion Access: A Review of the Evidence* 2–5 (2019).

²⁸ Latoya Hill et al., *Health Coverage by Race and Ethnicity, 2010–2023*, KFF (Feb. 13, 2025), <https://www.kff.org/racial-equity-and-health-policy/health-coverage-by-race-and-ethnicity/>

²⁹ Sarah C.M. Roberts et al., *Out-of-Pocket Costs and Insurance Coverage for Abortion in the United States*, 24 WOMEN’S HEALTH ISSUES e211(Apr. 2014).

³⁰ See Rachel K. Jones et al., *At What Cost? Payment for Abortion Care by U.S. Women*, 23 WOMEN’S HEALTH ISSUES 238 (2013).

³¹ KFF, *Women’s Health Insurance Coverage* (Dec. 12, 2024), <https://www.kff.org/womens-health-policy/womens-health-insurance-coverage/>.

³² See *Whole Woman’s Health v. Hellerstedt*, 579 U.S. 582, 594, 614–615 (2016) (abortion restrictions impose substantial obstacles disproportionately burdening low-income populations); *June Medical Services L.L.C v. Russo*, 591 U.S. 299, 324–26 (2020) (increased travel, clinic closures, and delays burden poor women disproportionately).

³³ Mahip Acharya et al., *Trends in Telehealth Visits During Pregnancy, 2018 to 2021*, 6 JAMA NETWORK OPEN (APR. 4, 2023).

insured. I have [a] very low income, but because of this service I was able to pay for my abortion, and I love the support I got throughout the process.”

“I love that they also had resources for financial assistance on their website, and by using those I was able to afford my abortion[.].”

Even though 25% of women have an abortion in their lifetime, abortion stigma remains a pervasive barrier.³⁴ That stigma has measurable consequences, delaying pregnancy recognition, suppressing information-seeking, and preventing individuals from asking for support.³⁵ It also increases economic instability, reflected in elevated rates of financial distress, declining credit scores, more frequent bankruptcies and evictions, and higher likelihood of poverty.³⁶ Telehealth increases patient agency and counters stigmatizing dynamics.

“Thank you for helping me go through a process I was terrified of. I felt cared for [and] supported at all times.”

“I was able to get IMMEDIATE care with zero judgment. I was able to do what was right for myself and my partner in the comfort of our home.”

³⁴ See Janet Turan and Henna Budhwani, *Restrictive Abortion Laws Exacerbate Stigma*, 111 AM. J. PUB. HEALTH 37 (Jan. 2021) <https://pmc.ncbi.nlm.nih.gov/articles/PMC7750605/>.

³⁵ See M. Antonia Biggs et al., *Unwanted Abortion Disclosure and Social Support in the Abortion Decision and Mental Health Symptoms: A Cross-Sectional Survey*, CONTRACEPTION (Oct. 2022), <https://doi.org/10.1016/j.contraception.2022.10.007>.

³⁶ Diana Greene Foster et al., *Socioeconomic Outcomes of Women Who Receive and Women Who Are Denied Wanted Abortions in the United States*, 112 AM. J. PUB. HEALTH 1290 (Sept. 2022).

Decreased access to abortion can lead to serious health consequences, emotional distress, and stigma.³⁷ Amici’s patients described telehealth services as “lifesaving” during moments of fear and vulnerability:

“I would have died if this pregnancy went through. My 3 other kids would be without a mother. Thank you for being there and not judging me.”

“You saved my life. I was scared and alone and I didn’t know what to do and I’m grateful to have these services. Without care I’m not sure what would have happened.”

IV. Louisiana’s Proposed Nationwide Restrictions Would Obstruct Access to Safe and Widely Used Medication, Causing Foreseeable Patient Harm.

Congress requires that FDA restrictions not be unduly burdensome on patient access, particularly for patients in rural and medically underserved areas.³⁸ Yet the nationwide restrictions Louisiana seeks would impose foreseeable harms, including delayed care, more complex and costly procedures, emotional distress and psychological harm, and for some, denial of care altogether – with burdens falling hardest on patients already facing systemic barriers.

³⁷ See Frank C. Worrell, *Denying Abortions Endangers Women’s Mental and Physical Health*, 113 AM. J. PUB. HEALTH 382 (2023).

³⁸ [21 U.S.C. § 355-1\(f\)\(2\)\(C\)\(ii\)](#).

CONCLUSION

Amici respectfully urge the Court to deny Louisiana's motion.

Respectfully Submitted,

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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 32 of the Federal Rules of Appellate Procedure, Meghan Matt, an attorney with Murell Law Firm, hereby certifies that according to the word count feature of the word processing program used to prepare this document, the document contains 2600 words and complies with the typeface requirements and length limits of Rule 32(a)(5)-(6) and applicable local rules.

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CERTIFICATE OF SERVICE

I hereby certify that on April 22, 2026, I presented the foregoing to the Clerk of Court by filing and uploading to the CM/ECF system, which will send notification of such filing to all parties.

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