No. 26-30203

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

State of Louisiana, by & through its Attorney General, Liz Murrill; Rosalie Markezich,

Plaintiffs-Appellants/Cross-Appellees

v.

Food & Drug Administration; Kyle Diamantas, Acting Commissioner, U.S. Food and Drug Administration; Michael Davis, in his official capacity as Acting Director, Center for Drug Evaluation & Research, U S Food & Drug Administration; United States Department of Health and Human Services; Robert F. Kennedy, Jr., Secretary, U.S. Department of Health and Human Services,

Defendants-Appellees

v.

GenBioPro, Incorporated,

Intervenor-Appellee/Cross-Appellant

v.

Danco Laboratories, L.L.C.,

Intervenor-Appellee/Cross-Appellant

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

BRIEF OF AMICUS CURIAE DISABILITY RIGHTS EDUCATION AND DEFENSE FUND AND NINE OTHER ORGANIZATIONS AND INDIVIDUALS IN SUPPORT OF DEFENDANTS-APPELLEES AND INTERVENORS-APPELLEES

(Counsel listed on inside cover)

Maria Michelle Uzeta
DISABILITY RIGHTS EDUCATION AND DEFENSE FUND
3075 Adeline Street, Suite 210
Berkeley, CA 94703
Telephone: 510-644-2555
muzeta@dredf.org

Counsel for Amici Curiae

FULL LIST OF AMICI CURIAE

1. Disability Rights Education and Defense Fund
2. American Association of People with Disabilities
3. Autistic Self Advocacy Network
4. Autistic Women and Nonbinary Network
5. New Disabled South
6. Women Enabled International
7. Robyn Powell, PhD, JD, Assistant Professor, Stetson University College of Law (in an individual capacity and not representative of the institution)
8. Ruth Colker, Distinguished University Professor and Heck Faust Memorial Chair in Constitutional Law at Moritz College of Law, Ohio State University (in an individual capacity and not representative of the institution)
9. Tony Coelho, former U.S. Congressman, Founder of The Coelho Center for Disability Law, Policy, and Innovation
10. Katherine Pérez, PhD, JD, Independent Disability Rights Scholar.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rules of Appellate Procedure 26.1 and 29 (a)(4)(A), amici through their counsel certify that they have no parent corporations nor any publicly held corporations owning 10% or more of their stock.

SUPPLEMENTAL STATEMENT OF INTERESTED PERSONS

State of Louisiana et al v. Food and Drug Administration et al., No. 26-30203

Pursuant to Fifth Circuit Rule 29.2, the undersigned counsel of record certifies that, in addition to the persons and entities listed in the briefs of the parties, the following listed persons and entities as described in the fourth sentence of Fifth Circuit 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.

Amici Curiae

1. Disability Rights Education and Defense Fund
2. American Association of People with Disabilities
3. Autistic Self Advocacy Network
4. Autistic Women and Nonbinary Network
5. New Disabled South
6. Women Enabled International
7. Robyn Powell, PhD, JD, Assistant Professor, Stetson University College of Law (in an individual capacity and not representative of the institution)
8. Ruth Colker, Distinguished University Professor and Heck Faust Memorial Chair in Constitutional Law at Moritz College of Law, Ohio State University (in an individual capacity and not representative of the institution)

9. Tony Coelho, former U.S. Congressman, Founder of The Coelho Center for Disability Law, Policy, and Innovation
10. Katherine Pérez, PhD, JD, Independent Disability Rights Scholar.

Counsel for Amicus Curiae

Maria Michelle Uzeta, Disability Rights Education and Defense Fund

Respectfully submitted,

DISABILITY RIGHTS EDUCATION
AND DEFENSE FUND

By: /s/ Maria Michelle Uzeta
Maria Michelle Uzeta
Attorney for Amici Curiae

Dated: July 16, 2026

TABLE OF CONTENTS

FULL LIST OF AMICI CURIAE iii

CORPORATE DISCLOSURE STATEMENT iv

SUPPLEMENTAL STATEMENT OF INTERESTED PERSONS v

TABLE OF AUTHORITIES ix

STATEMENT OF AUTHORITY TO FILE 1

STATEMENT OF INTERESTS 1

RULE 29 (a)(4)(E) STATEMENT 5

SUMMARY OF THE ARGUMENT 5

ARGUMENT 8

I. Reinstating The In-Person Dispensing Requirement Would Violate Federal Law By Imposing A Discriminatory Barrier To Care. 8

A. Congress Prohibited REMS That Unduly Burden Access, Especially For Patients With Functional Limitations 8

B. Federal Disability Law Independently Requires Equal Access And Reasonable Modification. 10

II. Reinstating The In-Person Dispensing Requirement Would Exclude Disabled People From Equal Access To Reproductive Health Care And Cause Immediate, Irreparable Harm. 12

A. Mail And Pharmacy Dispensing Protects Privacy And Reduces—Not Increases—Exposure To Coercion. 13

B. Mail And Pharmacy Dispensing Mitigates Pervasive Physical Barriers To In-Person Care, Including Inaccessible Facilities And Equipment. 14

C. Mail And Pharmacy Dispensing Alleviates Transportation And Logistical Barriers That Exclude Disabled People From Care. 16

D. Mail And Pharmacy Dispensing Reduces Financial Barriers That Prevent Disabled People From Accessing Care. 17

E. Mail And Pharmacy Dispensing Reduces Exposure To Discrimination And Medical Mistreatment That Deter Disabled People From Seeking Care. .18

III. Mail And Pharmacy Dispensing Of Mifepristone Is Essential, Life-Preserving Health Care For Disabled People Who Face Elevated Risks Of Complications, Including Death. 19

CONCLUSION 21

CERTIFICATE OF COMPLIANCE 23

CERTIFICATE OF SERVICE.....24

CERTIFICATE OF ELECTRONIC COMPLIANCE 25

TABLE OF AUTHORITIES

Cases

Alexander v. Choate, 469 U.S. 287 (1985) 11

Block v. Tex. Bd. of Law Exam'rs, 952 F.3d 613 (5th Cir. 2020) 11

Frame v. City of Arlington, 657 F.3d 215 (5th Cir. 2011) 11

Francois v. Our Lady of the Lake Hosp., Inc., 8 F.4th 370 (5th Cir. 2021).....11

Tennessee v. Lane, 541 U.S. 509 (2004).....11

United States v. Baylor Univ. Med. Ctr., 736 F.2d 1039 (5th Cir. 1984) 11

Statutes

5 U.S.C. § 705 5

21 U.S.C. § 355-1(f)(2)(C).....9

21 U.S.C. § 355-1(f)(2)(C)(i)–(ii) 9

21 U.S.C. § 355-1(f)(2)(C)(iii).....9

29 U.S.C. § 794 10

42 U.S.C. § 12132 10

42 U.S.C. § 12182(a).....10

Pub. L. No. 115-271, tit. III, § 3032(b) 9

Other Authorities

153 Cong. Rec. S11831 (daily ed. Sept. 20, 2007) 9

Adele C. Viguera et al., Risk of Recurrence in Women with Bipolar Disorder During Pregnancy: Prospective Study of Mood Stabilizer Discontinuation, 164 Am. J. Psychiatry 1817 (2007).....20

Am. Diabetes Ass'n, Standards of Care in Diabetes—2023 Abridged for Primary Care Providers, 41 Clinical Diabetes 4 (2022).....20

Autistic Self Advocacy Network, Access, Autonomy & Dignity: People with Disabilities and the Right to Parent (2021) 19

Bureau of Labor Statistics, U.S. Dep't of Labor, People with a Disability: Labor Force Characteristics—2025 18

Ctr. for Drug Evaluation & Research, Application Nos. 020687 & 91178 (Dec. 16, 2021), REMS Modification Rationale Review, No. 6:25-CV-01491 (W.D. La.).... 10

Ctrs. for Disease Control & Prevention, Disability Barriers to Inclusion (Apr. 3, 2025).....18

Inst. on Disability, Univ. of N.H., Annual Disability Statistics Compendium 2026 (2026) 17

Jamie Ducharme, For People With Disabilities, Losing Abortion Access Can Be a Matter of Life or Death, Time (Jan. 25, 2023) 21

Jessica L. Gleason et al., Risk of Adverse Maternal Outcomes in Pregnant Women With Disabilities, JAMA Network Open (Dec. 15, 2021) 20

Kavitha Surana, Afraid to Seek Care Amid Georgia's Abortion Ban, She Stayed at Home and Died, ProPublica (Sept. 18, 2024) 21

Kerstin Hellwig et al., Multiple Sclerosis Disease Activity and Disability Following Discontinuation of Natalizumab for Pregnancy, JAMA Network Open (Jan. 24, 2022) 20

Leah R. Koenig, The Role of Telehealth in Promoting Equitable Abortion Access in the United States: Spatial Analysis, JMIR Pub. Health & Surveillance (July 11, 2023).....17

Lisa I. Iezzoni et al., Prevalence of Current Pregnancy Among U.S. Women with and without Chronic Physical Disabilities, 51 Med. Care 555 (2013).....20

M. Antonia Biggs et al., Access to Reproductive Health Services Among People with Disabilities, 6 JAMA Network Open e2344877 (2023).....12, 14, 18

Nancy R. Mudrick et al., Change Is Slow: Acquisition of Disability Accessible Medical Diagnostic Equipment in Primary Care Offices over Time, 8 Health Equity 157 (2024).....15

Nancy R. Mudrick et al., Physical Accessibility in Primary Health Care Settings: Results from California On-Site Reviews, 5 Disability & Health J. 159 (2012) 15

Nat'l Council on Disability, Enforceable Accessible Medical Equipment Standards (2021) 15

Nat'l Council on Disability, The Current State of Health Care for People with Disabilities 56 (2009) 16

Nayoung Kim et al., Understanding Telehealth Among U.S. Adults with Disabilities: Utilization Patterns, Associated Factors, and Motivations for Utilization, 57 Am. J. Health Educ. 56 (2025).....13

Rauf Melekoglu et al., Successful Obstetric and Anaesthetic Management of a Pregnant Woman With Achondroplasia, BMJ Case Rep. (Oct. 25, 2017) 20

Sima I. Patel & Page B. Pennell, Management of Epilepsy During Pregnancy: An Update, 9 Therapeutic Advances in Neurological Disorders 118 (2016) 20

Stephen Brumbaugh, Travel Patterns of American Adults with Disabilities (U.S. Dep't of Transp., Sept. 2018).....13, 16

Susan Thaul, Cong. Rsch. Serv., RL34465, FDA Amendments Act of 2007 (2010) 8

Tara Lagu et al., "I Am Not the Doctor for You": Physicians' Attitudes About Caring for People with Disabilities, 41 Health Aff. 1387 (2022) 14, 16, 19

Tara Lagu et al., Access to Subspecialty Care for Patients with Mobility Impairment, 158 Annals Internal Med. 441 (2013).....12, 15

U.S. Gen. Acct. Off., Transportation—Disadvantaged Populations (2003) 16

Zofsha Merchant, Erin Troland & Douglas Webber, The Hidden Costs of Disability, FEDS Notes (Bd. of Governors of the Fed. Rsrv. Sys., Jan. 10, 2025) 18

Regulations

28 C.F.R. § 35.130(b)(7)(i) 11

28 C.F.R. § 36.302(a).....11

45 C.F.R. § 84.90 15

89 Fed. Reg. 40066 (May 9, 2024) 15

STATEMENT OF AUTHORITY TO FILE

All parties have consented to the filing of this brief. Amici curiae therefore file this brief pursuant to Federal Rule of Appellate Procedure 29(a)(2).

STATEMENT OF INTERESTS

Amici curiae are disability rights organizations and academics dedicated to advancing the civil and human rights of people with disabilities and to ensuring their full and equal participation in society. Many Amici are led by and comprised of people with disabilities. Through legal advocacy, education and training, legislative advocacy, public policy development, and community engagement, Amici work to dismantle structural barriers that deny people with disabilities equitable access to health care and other essential services. A full list of Amici appears above.

Amici submit this brief to provide the Court with a disability rights perspective absent from the parties' briefing. Reinstating the in-person dispensing requirement for mifepristone would violate the Food and Drug Administration Amendments Act of 2007 and Section 504 of the Rehabilitation Act, strip providers and pharmacies of their ability to meet independent obligations under the ADA, and compound the structural barriers disabled people already face in obtaining reproductive health care. For disabled people, those compounded harms are profound and irreparable.

Amici have a strong and direct interest in this appeal because the relief Plaintiffs-Appellants seek—reinstatement of an in-person dispensing requirement for mifepristone—would foreseeably discriminate against and harm people with disabilities. People with disabilities face significant risks of severe pregnancy- and childbirth-related complications, including death, as well as persistent barriers to accessing health care. For many disabled people, telemedicine prescribing with mail or pharmacy dispensing is a critical means of obtaining timely, safe, and accessible care.

The U.S. Food & Drug Administration ("FDA") action Plaintiffs-Appellants challenge—the 2023 REMS permitting mail or pharmacy dispensing of mifepristone—directly affects Amici's constituents and the communities they serve. Reinstating an in-person dispensing requirement would re-erect physical, transportation, financial, and privacy barriers that federal law has long sought to dismantle. Amici therefore have a substantial interest in ensuring that the Court considers the disability-specific consequences of the requested relief and the interaction between the FDA's regulatory authority and federal disability civil rights laws.

The individual Amici and their respective interests are set forth below:

Disability Rights Education and Defense Fund ("DREDF") is a national nonprofit law and policy organization dedicated to protecting and advancing the

civil rights of disabled people. Founded in 1979 and board- and staff-led by disabled people since its inception, DREDF pursues its mission through litigation, education, advocacy, and law reform. DREDF has a particular interest in ensuring that disabled people have full and meaningful access to mifepristone through modes of delivery—including mail and pharmacy dispensing—that address the well-documented barriers disabled people face to in-person care.

American Association of People with Disabilities ("AAPD") is a national cross-disability nonprofit dedicated to increasing the political and economic power of disabled people and advancing the rights of the more than 60 million Americans with disabilities. AAPD has a strong interest in ensuring that disabled people can access mifepristone on equal terms with others, including through mail and pharmacy dispensing—modalities that are, for many disabled people, the only practical means of overcoming the well-documented barriers to in-person care.

Autistic Self Advocacy Network ("ASAN") is a national nonprofit run by and for autistic people. ASAN advocates against stigmatization and discrimination, promotes access to health care in integrated community settings, and educates the public about the access needs of autistic people. Because autistic people often face significant sensory, logistical, and attitudinal barriers to in-person clinical settings, ASAN has a particular interest in preserving accessible modes of reproductive health care delivery—including mail and pharmacy dispensing of mifepristone.

Autistic Women & Nonbinary Network ("AWN") provides community support, resources, and advocacy for Autistic women, girls, transfeminine and transmasculine nonbinary people, trans people of all genders, Two Spirit people, and all people of marginalized genders or of no gender. AWN is committed to reproductive justice and has a strong interest in preserving mail and pharmacy dispensing of medications like mifepristone for communities who face compounded barriers to in-person care.

New Disabled South is a regional nonprofit dedicated to improving the lives of disabled people and cultivating disability rights and disability justice frameworks across the South. Disabled people in the South face some of the most severe barriers to reproductive health care in the country—including provider shortages, limited transportation, and concentrated poverty—making mail and pharmacy dispensing of mifepristone an essential lifeline. Any restriction on those modalities will cause immediate, concrete harm to the communities New Disabled South serves.

Women Enabled International ("WEI") advances human rights and justice at the intersection of gender and disability, centering the voices of women, girls, and gender-diverse disabled people globally. WEI has documented how women and gender-diverse disabled people face compounded barriers to reproductive health

care that make mail and pharmacy dispensing of mifepristone indispensable to their ability to exercise reproductive autonomy on equal terms with others.

Professors Robyn Powell and Ruth Colker, former Congressman Tony Coelho, and Independent Disability Rights Scholar Katherine Pérez participate as amici in their individual capacities, bringing decades of combined expertise in disability rights, health care law, and federal civil rights. Their scholarship and advocacy address disabled people's rights to access health care—including reproductive health care—on equal terms with others. They share a strong interest in ensuring that federal law is construed to account for the well-documented barriers disabled people face, and that mail and pharmacy dispensing of mifepristone, which for many disabled people is the only practical means of access, is preserved.

RULE 29 (a)(4)(E) STATEMENT

The undersigned certifies that no party's counsel authored this brief in whole or in part, and that no party, party's counsel, or any other person other than Amici, their members, or their counsel, contributed money that was intended to fund preparing or submitting this brief.

SUMMARY OF THE ARGUMENT

This appeal raises the question of whether Plaintiffs-Appellants are entitled to a stay of the 2023 REMS under 5 U.S.C. § 705, reinstating an in-person

dispensing requirement for mifepristone. The district court declined to enter that relief, and it was right to do so. Amici write to address the factor on which the district court denied that relief—the balance of the equities and the public interest—and to identify an independent bar that federal disability law poses to the relief Plaintiffs-Appellants seek. Amici address the disability-specific consequences of reinstating the in-person requirement.

Reinstating the in-person dispensing requirement would strip people with disabilities of accessible options for obtaining a safe and essential medication, in direct conflict with federal law, and would inflict immediate, concrete, and irreparable harm on a population Congress specifically directed federal agencies to protect. Two independent bodies of federal law forbid that result. First, the Food and Drug Administration Amendments Act of 2007 ("FDAAA") prohibits REMS requirements that are "unduly burdensome on patient access to the drug," and—since 2018—requires the FDA to consider in particular the burden on "patients with functional limitations." Reinstating a medically unnecessary in-person requirement would reimpose precisely the barrier Congress directed the Agency to avoid. Second, Section 504 of the Rehabilitation Act and the Americans with Disabilities Act ("ADA") independently require that disabled people receive equal access to health care through reasonable modification; mail and pharmacy dispensing is that modification. Together, those frameworks bar an in-person

mandate as an unlawful structural barrier—a medically unnecessary condition that forecloses access for the very patients Congress singled out to protect.

Those legal principles are decisive on the equities and the public interest. There is no public interest in reinstating a requirement that itself violates federal law and endangers disabled people—the public interest lies the other way. Plaintiffs-Appellants frame the in-person requirement as a "protection" for pregnant women and invoke the risk of coercion. For people with disabilities, an in-person requirement is the opposite of a protection: because many disabled people must rely on others to reach in-person appointments, an in-person mandate increases exposure to third-party coercion and forces disclosure of private medical decisions, while remote dispensing preserves privacy and independence.

Finally, the stakes are grave. Disabled people become pregnant at rates similar to nondisabled people yet face dramatically elevated risks of severe complications and death; they are approximately eleven times more likely to die during childbirth. For some, timely access to mifepristone is the difference between life and death. The Court should reject Plaintiffs-Appellants' request to reinstate the in-person dispensing requirement and affirm the denial of a § 705 stay.

ARGUMENT

I. Reinstating The In-Person Dispensing Requirement Would Violate Federal Law By Imposing A Discriminatory Barrier To Care.

Reinstating the in-person requirement would operate as a structural barrier to care that violates both the FDAAA's prohibition on unduly burdensome REMS and federal disability nondiscrimination law. For the substantial number of disabled people who face documented, systemic barriers to in-person clinical access—inaccessible facilities, a lack of accessible transportation, provider bias, and financial hardship—an in-person mandate does not merely inconvenience; it forecloses access to mifepristone and to the benefits it provides as a non-surgical, private option for early abortion and miscarriage management. Both statutory frameworks prohibit precisely this kind of barrier.

A. Congress Prohibited REMS That Unduly Burden Access, Especially For Patients With Functional Limitations

The REMS framework is Congress's mechanism for balancing drug safety against patient access. Congress enacted the FDAAA to strengthen the FDA's authority over prescription drugs while recognizing that expanded regulatory authority carried the risk of restricting access to necessary medications.[1]

[1] Susan Thaul, Cong. Rsch. Serv., RL34465, FDA Amendments Act of 2007, at 1–2 (2010).

The statute therefore permits the FDA to impose additional conditions on dispensing only to the extent necessary to ensure safe use, and it expressly prohibits REMS requirements that are "unduly burdensome on patient access to the drug." 21 U.S.C. § 355-1(f)(2)(C). As then-Senator Coburn emphasized before passage, restrictions on distribution "should not be imposed where less burdensome approaches are available."[2] Congress directed the FDA to consider in particular the impact of REMS on patients with serious or life-threatening conditions and patients who have difficulty accessing health care, such as those in rural or medically underserved areas.[3] In 2018, Congress strengthened these protections by requiring explicit consideration of the burden REMS impose on "patients with functional limitations"—an amendment reflecting Congress's recognition that disabled people face distinct and compounding barriers to care that regulation can exacerbate.[4]

When the FDA removed the in-person requirement in 2023, it acted squarely within this framework, concluding that the restriction was no longer necessary and

[2] 153 Cong. Rec. S11831, S11839–40 (daily ed. Sept. 20, 2007) (statement of Sen. Coburn).

[3] 21 U.S.C. § 355-1(f)(2)(C)(i)–(ii).

[4] 21 U.S.C. § 355-1(f)(2)(C)(iii), as amended by Pub. L. No. 115-271, tit. III, § 3032(b).

was actively harming patient access.[5] Reinstating that requirement—on the very population Congress directed the Agency to protect—would reimpose the precise barrier the FDAAA forbids. Where a less burdensome alternative achieves the Agency's safety objectives, as mail and pharmacy dispensing does, an in-person mandate is "unduly burdensome" within the meaning of the statute. The relief Plaintiffs-Appellants seek would place the challenged regime in conflict with the FDAAA's express command.

B. Federal Disability Law Independently Requires Equal Access And Reasonable Modification.

Two independent federal mandates converge here. Section 504 of the Rehabilitation Act applies directly to the FDA as a federal agency, prohibiting it from operating programs in ways that deny disabled people equal access to health care. 29 U.S.C. § 794. The ADA applies separately to the health care providers and pharmacies through which mifepristone reaches patients, requiring them to ensure that disabled individuals have equal opportunity to obtain the same benefit as nondisabled individuals. 42 U.S.C. §§ 12132, 12182(a).

Both statutes require covered entities to ensure that disabled individuals have an "equal opportunity to obtain the same result [or] to gain the same benefit"

[5] Ctr. for Drug Evaluation & Research, Application Nos. 020687 & 91178 (Dec. 16, 2021), REMS Modification Rationale Review 17–18, No. 6:25-CV-01491 (W.D. La.), ROA1054-1103 (removing the in-person requirement based on evidence that it was medically unnecessary and was harming patient access).

as nondisabled individuals. *Alexander v. Choate*, 469 U.S. 287, 301 (1985). To meet that standard, covered entities bear an affirmative obligation to make reasonable modifications to their programs and services unless a modification would fundamentally alter the nature of the service. *Tennessee v. Lane*, 541 U.S. 509, 533 (2004). The Fifth Circuit has enforced these obligations consistently, including in health care settings.[6] Mail and pharmacy dispensing of mifepristone is the reasonable modification through which providers and pharmacies meet their ADA obligations, and it preserves meaningful access without any fundamental alteration.

Reinstating the in-person requirement would violate both statutes at once: it would reimpose an access barrier on a population Section 504 directs federal agencies to protect, and it would strip providers and pharmacies of the very modification through which they satisfy their independent ADA duties. And it would do so needlessly. Congress recognized that disability discrimination most often results not from animus but from "thoughtlessness and indifference—of benign neglect" toward predictable burdens. *Alexander*, 469 U.S. at 295. An in-person mandate imposed without medical necessity, where a safe and less

[6] See, e.g., *United States v. Baylor Univ. Med. Ctr.*, 736 F.2d 1039, 1049 (5th Cir. 1984); *Frame v. City of Arlington*, 657 F.3d 215, 231–33 (5th Cir. 2011) (en banc); *Francois v. Our Lady of the Lake Hosp., Inc.*, 8 F.4th 370, 377 (5th Cir. 2021); *Block v. Tex. Bd. of Law Exam'rs*, 952 F.3d 613, 618 (5th Cir. 2020); see also 28 C.F.R. §§ 35.130(b)(7)(i), 36.302(a).

burdensome alternative exists, re-entrenches exactly the architectural, transportation, communication, and policy-based barriers that federal disability law forbids.

The relief Plaintiffs-Appellants seek would therefore not merely alter the method by which mifepristone is obtained. It would reimpose a structural barrier that Congress expressly instructed federal agencies and regulated entities to avoid: a medically unnecessary condition that impedes access for patients with functional limitations and denies disabled people equal access to care. Under both the FDAAA and federal disability nondiscrimination law, that barrier is unlawful—and there is no public interest in reimposing it.

II. REINSTATING THE IN-PERSON DISPENSING REQUIREMENT WOULD EXCLUDE DISABLED PEOPLE FROM EQUAL ACCESS TO REPRODUCTIVE HEALTH CARE AND CAUSE IMMEDIATE, IRREPARABLE HARM.

Telemedicine has fundamentally expanded access to health care for people with disabilities, who face significant, well-documented barriers to reproductive care.[7] A 2025 study found that 44.5% of people with disabilities used telemedicine

[7] M. Antonia Biggs et al., Access to Reproductive Health Services Among People with Disabilities, 6 JAMA Network Open e2344877 (2023) (69% of respondents with disabilities experienced barriers to accessing reproductive health care); Tara Lagu et al., Access to Subspecialty Care for Patients with Mobility Impairment, 158 Annals Internal Med. 441 (2013) (44% of surveyed gynecology practices could not accommodate a patient with a mobility disability).

in the prior year, most often for accessibility.[8] That reliance reflects necessity, not preference. The current framework—permitting certified prescribers to evaluate patients by telemedicine and authorize mail or pharmacy dispensing—directly reduces or eliminates the barriers that routinely prevent disabled people from obtaining in-person care. Reinstating the in-person requirement would dismantle those gains and functionally exclude many disabled people from the medication altogether—not because it is unavailable in the abstract, but because the only means of access that accounts for their disability-related needs would be stripped away.

A. Mail And Pharmacy Dispensing Protects Privacy And Reduces—Not Increases—Exposure To Coercion.

Plaintiffs-Appellants urge that removing the in-person requirement exposes pregnant people to coercion. For people with disabilities, the opposite is true. Because many disabled people face significant transportation and logistical barriers, they must often rely on others to attend in-person medical appointments.[9] In the context of reproductive care, an in-person requirement can force the disclosure of deeply private medical decisions and expose disabled patients to

[8] Nayoung Kim et al., Understanding Telehealth Among U.S. Adults with Disabilities: Utilization Patterns, Associated Factors, and Motivations for Utilization, 57 Am. J. Health Educ. 56 (2025).

[9] Stephen Brumbaugh, Travel Patterns of American Adults with Disabilities (U.S. Dep't of Transp., Sept. 2018).

interference, pressure, or retaliation—turning a logistical hurdle into a threat to autonomy.[10] Disabled people already experience heightened rates of reproductive coercion and intimate partner violence. Mail and pharmacy dispensing allows them to obtain care privately and independently, without disclosing their decisions to, or depending on, third parties. Reinstating the in-person requirement would strip away that protection and, for disabled people, magnify the very coercion risks Plaintiffs-Appellants invoke.

B. Mail And Pharmacy Dispensing Mitigates Pervasive Physical Barriers To In-Person Care, Including Inaccessible Facilities And Equipment.

Physical barriers to in-person health care remain pervasive despite decades of federal legal obligations. In one recent study, every physician surveyed acknowledged that their practice contained physical barriers to care, including inaccessible facilities or equipment.[11] A separate study inspecting 2,389 primary care offices found that only 53% met all exterior access criteria and just 34.3% met

[10] M. Antonia Biggs et al., supra note 7, at 10.

[11] Tara Lagu et al., "I Am Not the Doctor for You": Physicians' Attitudes About Caring for People with Disabilities, 41 Health Aff. 1387, 1389 (2022) (every surveyed physician acknowledged that their practice contained physical barriers to care).

interior office and restroom accessibility standards.[12] These barriers routinely result in denials of care and force disabled patients to delay or forgo treatment altogether.

Mail and pharmacy dispensing is important because inaccessible medical equipment is a particular barrier for people with mobility disabilities. Adjustable-height exam tables, accessible weight scales, and accessible diagnostic equipment are essential to safe and equitable care, yet they remain rare: one study found that only 8.4% of primary care offices had an adjustable-height exam table and only 3.6% had an accessible weight scale, and gynecology offices reported the highest rates of inaccessibility, driven primarily by equipment.[13] Although the Department of Health and Human Services codified standards for accessible medical diagnostic equipment in 2024, providers are not required to have even a single accessible exam table until July 2026.[14] Some physicians report sending wheelchair users to

[12] Nancy R. Mudrick et al., Physical Accessibility in Primary Health Care Settings: Results from California On-Site Reviews, 5 Disability & Health J. 159, 163–64 (2012).

[13] Id. at 164 (only 8.4% of primary care offices had an adjustable-height exam table); Lagu, Access to Subspecialty Care, supra note 7, at 444 (44% of gynecology offices reported inaccessibility, primarily due to equipment); see also Nancy R. Mudrick et al., Change Is Slow: Acquisition of Disability Accessible Medical Diagnostic Equipment in Primary Care Offices over Time, 8 Health Equity 157 (2024).

[14] 89 Fed. Reg. 40066, 40165 (May 9, 2024) (codified at 45 C.F.R. § 84.90 et seq.) (providers not required to have even a single accessible exam table until July 2026); see Nat'l Council on Disability, Enforceable Accessible Medical Equipment Standards (2021).

grocery stores, zoos, or industrial facilities simply to obtain a weight measurement.[15] These experiences are not merely degrading—they are powerfully deterrent, causing disabled people to delay or avoid care with consequences that can be catastrophic for time-sensitive reproductive decisions. Mail and pharmacy dispensing allows disabled patients to avoid these physical and equipment-related barriers entirely; reinstating the in-person requirement would force them back into medical environments that predictably prevent or deter access to this essential medication.

C. Mail And Pharmacy Dispensing Alleviates Transportation And Logistical Barriers That Exclude Disabled People From Care.

Transportation barriers prevent millions of disabled people from reaching health care. Approximately 25.5 million people have disabilities that make travel difficult, including 3.6 million who do not leave their homes at all, and nearly thirty percent of disabled people report difficulty accessing transportation.[16] Disabled people between the ages of eighteen and sixty-four are less likely to own

[15] Lagu, supra note 11, at 1389 (physicians reporting that they send wheelchair users to grocery stores, zoos, or industrial facilities to obtain a weight measurement).

[16] Brumbaugh, supra note 9, at 1 (approximately 25.5 million people have disabilities that make travel difficult, including 3.6 million who do not leave their homes at all); U.S. Gen. Acct. Off., Transportation—Disadvantaged Populations 6 (2003) (nearly 30% of disabled people report difficulty accessing transportation); see also Nat'l Council on Disability, The Current State of Health Care for People with Disabilities 56, 77 (2009).

or drive a vehicle, and more likely to depend on public transit or paratransit systems that are too often unreliable, inaccessible, or unavailable. In the context of time-sensitive reproductive care, where delay can foreclose options entirely, these barriers are not a mere inconvenience but a determinant of access. Where transportation would otherwise foreclose care, the ability to receive mifepristone by mail is a critical equalizer.[17] Reinstating the in-person requirement would reintroduce precisely these transportation and logistical barriers, undoing the access the 2023 REMS secured.

D. Mail And Pharmacy Dispensing Reduces Financial Barriers That Prevent Disabled People From Accessing Care.

People with disabilities face compounding financial barriers to health care. They are more than twice as likely to live in poverty (23.6% of working-age disabled people, compared with 9.6% of nondisabled people), far less likely to be employed (22.8%, compared with 65.2% of people without disabilities), and incur substantially higher costs of living because of disability-related expenses—hidden costs equivalent to roughly a $25,000 reduction in annual household income for a two-adult household.[18] Mail and pharmacy dispensing mitigates these burdens by

[17] Leah R. Koenig, The Role of Telehealth in Promoting Equitable Abortion Access in the United States: Spatial Analysis, JMIR Pub. Health & Surveillance (July 11, 2023).

[18] Inst. on Disability, Univ. of N.H., Annual Disability Statistics Compendium 2026, tbl. 6.1 (2026) (23.6% of working-age people with disabilities lived in poverty in 2024, compared with 9.6% of people without disabilities); Bureau of

eliminating travel costs, reducing time away from work, and avoiding the need to arrange and pay for personal assistance to attend in-person appointments. Reinstating the in-person requirement would revive those financial barriers, turning theoretical inconvenience into practical exclusion.

E. Mail And Pharmacy Dispensing Reduces Exposure To Discrimination And Medical Mistreatment That Deter Disabled People From Seeking Care.

Disabled people also face widespread discrimination and mistreatment in reproductive healthcare settings. Nearly half report mistreatment, including ridicule or humiliation by providers, dismissal of symptoms, or minimization of their health concerns; in one study, 36.5% reported medical mistreatment generally, 19.4% reported being ridiculed or humiliated, and 32.6% reported being made to feel that their symptoms were not real or important.[19] Physicians are often ill-equipped to provide disability-competent reproductive care, and some report attempting to discharge disabled patients from their practices altogether—attitudes

---

Labor Statistics, U.S. Dep't of Labor, People with a Disability: Labor Force Characteristics—2025, tbl. 1 (Mar. 2026) (22.8% of people with a disability were employed in 2025, compared with 65.2% of people without a disability); Zofsha Merchant, Erin Troland & Douglas Webber, The Hidden Costs of Disability, FEDS Notes (Bd. of Governors of the Fed. Rsrv. Sys., Jan. 10, 2025) (hidden costs equivalent to a roughly $25,000 reduction in annual household income for a two-adult household).

[19] Biggs, supra note 7, at 6 (36.5% reported medical mistreatment generally; 19.4% reported being ridiculed or humiliated; 32.6% reported being made to feel that their symptoms were not real or important); see also Ctrs. for Disease Control & Prevention, Disability Barriers to Inclusion (Apr. 3, 2025).

that translate directly into delayed, substandard, or denied care.[20] Mail and pharmacy dispensing reduces exposure to these discriminatory dynamics by allowing patients to obtain care in a setting that is more private, controlled, and less likely to subject them to bias based on visible disability. Reinstating the in-person requirement would needlessly re-expose disabled people to medical environments where discrimination remains pervasive—deterring them from seeking care at all.

III. MAIL AND PHARMACY DISPENSING OF MIFEPRISTONE IS ESSENTIAL, LIFE-PRESERVING HEALTH CARE FOR DISABLED PEOPLE WHO FACE ELEVATED RISKS OF COMPLICATIONS, INCLUDING DEATH.

Mifepristone is essential, and in many cases life-saving, health care for people with disabilities. Disabled people become pregnant at rates similar to nondisabled people, yet they face dramatically elevated risks of severe pregnancy-related complications and maternal mortality. Pregnant people with physical, intellectual, and sensory disabilities experience significantly higher rates of nearly all adverse maternal outcomes—including sepsis, thromboembolism, severe

[20] Autistic Self Advocacy Network, Access, Autonomy & Dignity: People with Disabilities and the Right to Parent 8–9 (2021); Lagu, supra note 11, at 1392–93 (providers reporting attempts to discharge disabled patients from their practices).

cardiovascular events, infection, and hemorrhage—and are approximately eleven times more likely to die during childbirth than nondisabled people.[21]

Certain disabilities, including epilepsy, diabetes, and achondroplasia, are associated with particularly elevated pregnancy risks.[22] Pregnancy may also exacerbate existing disabilities or require discontinuation of medications essential to managing conditions such as multiple sclerosis or bipolar disorder, leading to serious and avoidable health consequences.[23] These medical realities compound the systemic barriers to care that disabled people already face. For some, timely access

[21] Lisa I. Iezzoni et al., Prevalence of Current Pregnancy Among U.S. Women with and without Chronic Physical Disabilities, 51 Med. Care 555, 562 (2013) (disabled people become pregnant at similar rates as nondisabled people); Jessica L. Gleason et al., Risk of Adverse Maternal Outcomes in Pregnant Women With Disabilities, JAMA Network Open (Dec. 15, 2021), at e2138414, 2, 4–7 (elevated rates of sepsis, thromboembolism, severe cardiovascular events, infection, and hemorrhage; pregnant disabled people approximately eleven times more likely to die during childbirth).

[22] Sima I. Patel & Page B. Pennell, Management of Epilepsy During Pregnancy: An Update, 9 Therapeutic Advances in Neurological Disorders 118, 124 (2016); Am. Diabetes Ass'n, Standards of Care in Diabetes—2023 Abridged for Primary Care Providers, 41 Clinical Diabetes 4, 28 (2022); Rauf Melekoglu et al., Successful Obstetric and Anaesthetic Management of a Pregnant Woman With Achondroplasia, BMJ Case Rep. (Oct. 25, 2017).

[23] Kerstin Hellwig et al., Multiple Sclerosis Disease Activity and Disability Following Discontinuation of Natalizumab for Pregnancy, JAMA Network Open (Jan. 24, 2022); Adele C. Viguera et al., Risk of Recurrence in Women with Bipolar Disorder During Pregnancy: Prospective Study of Mood Stabilizer Discontinuation, 164 Am. J. Psychiatry 1817, 1818–21 (2007).

to mifepristone is the only medically appropriate means of preventing catastrophic harm or death.[24]

Reinstating the in-person dispensing requirement would predictably delay or prevent access to care for precisely those patients who face the greatest medical risk. The harm is concrete and irreversible: disabled people who depend on mail and pharmacy access to mifepristone face the complete loss of access if an in-person requirement is reinstated, and for some that loss carries life-threatening consequences.

CONCLUSION

The district court correctly declined to reinstate a medically unnecessary in-person dispensing requirement that perpetuated longstanding barriers to care for people with disabilities. Reinstating that requirement would force disabled people to navigate a demonstrably inaccessible system of care, increasing the risk of delayed or denied treatment and resulting complications, including death. Those harms are concrete, foreseeable, and irreparable, and they would violate the FDAAA and Section 504 while stripping providers and pharmacies of their ability to meet their ADA obligations. There is no public interest in that result. Amici

[24] Kavitha Surana, Afraid to Seek Care Amid Georgia's Abortion Ban, She Stayed at Home and Died, ProPublica (Sept. 18, 2024); Jamie Ducharme, For People With Disabilities, Losing Abortion Access Can Be a Matter of Life or Death, Time (Jan. 25, 2023).

respectfully urge the Court to reject Plaintiffs-Appellants' request to reinstate the in-person dispensing requirement and to affirm the district court's denial of a § 705 stay.

Respectfully submitted,

DISABILITY RIGHTS EDUCATION
AND DEFENSE FUND

By: /s/ Maria Michelle Uzeta
Maria Michelle Uzeta
Attorney for Amici Curiae

Dated: July 16, 2026

CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitation of Fed. R. App. P. 29(a)(5) and 32(a)(7)(B) because, excluding the parts of the brief exempted by Fed. R. App. P. 32(f), this brief contains 4576 words.

This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman font.

DISABILITY RIGHTS EDUCATION
AND DEFENSE FUND

By: /s/ Maria Michelle Uzeta
Maria Michelle Uzeta
Attorney for Amici Curiae

Dated: July 16, 2026

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of July, 2026, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Fifth Circuit using the appellate CM/ECF system. Counsel for all parties to the case are registered CM/ECF users and will be served by the appellate CM/ECF system.

DISABILITY RIGHTS EDUCATION
AND DEFENSE FUND

By: /s/ Maria Michelle Uzeta
Maria Michelle Uzeta
Attorney for Amici Curiae

Dated: July 16, 2026

CERTIFICATE OF ELECTRONIC COMPLIANCE

Counsel certifies that this brief was transmitted to the Clerk of the United States Court of Appeals for the Fifth Circuit through the Court's CM/ECF document filing system. Counsel further certifies that: (1) all required privacy redactions have been made, 5th Cir. R. 25.2.13; (2) the electronic submission is an exact copy of the paper document, 5th Cir. R. 25.2.1; and (3) the document has been scanned with the most recent version of a commercial virus-scanning program and is free of viruses.

DISABILITY RIGHTS EDUCATION
AND DEFENSE FUND

By: /s/ Maria Michelle Uzeta
Maria Michelle Uzeta
Attorney for Amici Curiae

Dated: July 16, 2026

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

July 16, 2026

Ms. Maria Michelle Uzeta
1845 10th Avenue
Monrovia, CA 91016

No. 26-30203 State of Louisiana v. FDA
USDC No. 6:25-CV-1491

Dear Ms. Uzeta,

You must submit the 6 paper copies of your brief required by 5th Cir. R. 31.1 within 5 days of the date of this notice pursuant to 5th Cir. ECF Filing Standard E.1. Failure to timely provide the appropriate number of copies may result in the dismissal of your appeal pursuant to 5th Cir. R. 42.3. Exception: As of July 2, 2018, Anders briefs only require 2 paper copies.

If your brief was insufficient and required corrections, the paper copies of your brief must **not** contain a header noting "RESTRICTED". Therefore, please be sure that you print your paper copies **from this notice of docket activity** and not the proposed sufficient brief filed event so that it will contain the proper filing header. Alternatively, you may print the sufficient brief directly from your original file without any header.

Sincerely,

LYLE W. CAYCE, Clerk

Christy Combel

By: _____
Christy M. Combel, Deputy Clerk
504-310-7651

cc:

Mr. John N. Adcock
Mr. Jorge Benjamin Aguinaga
Mr. Erik Baptist
Mr. Cody S. Barnett
Mr. Andrew Marshall Bernie
Ms. Julie Marie Blake
Mr. Brennan Tyler Brooks
Ms. Mary J. Browning
Mr. Charles Cicero III
Ms. Deborah Jane Dewart
Ms. Jessica Lynn Ellsworth
Mr. John Patrick Elwood
Ms. Carrie Yvette Flaxman
Mr. Eugene M. Gelernter
Ms. Heather Gebelin Hacker
Ms. Erin Morrow Hawley
Ms. Jillian Horowitz
Ms. Caitlin Ann Huettemann
Mr. Michael T. Johnson
Mr. Robert J. Katerberg
Mr. Noah T. Katzen
Mr. Robert Bradley Lewis
Ms. Meghan K. Matt
Ms. Gabriella McIntyre
Ms. Katherine McKay
Ms. Hilarie M. Meyers
Mr. Horatio Gabriel Mihet
Mr. Christopher Ernest Mills
Ms. Rachel N. Morrison
Mr. William Brock Most
Ms. Lisa Newman
Ms. Daphne O'Connor
Mr. Allan Edward Parker Jr.
Ms. Dana A. Raphael
Ms. Jo-Ann Tamila Sagar
Ms. Linda Boston Schlueter
Ms. Clara Simone Spera
Mr. Mathew D. Staver
Ms. Danielle Desaulniers Stempel
Ms. Olivia F. Summers
Mr. David H. Thompson
Mr. John Marc Wheat
Mrs. Hadiya Williams
Mr. Daniel Winik
Ms. Megan Marie Wold
Mr. Daniel W. Wolff