No. 26-30203

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

THE STATE OF LOUISIANA, ET AL.,
Plaintiffs-Appellants/Cross-Appellees,
v.

U.S. FOOD AND DRUG ADMINISTRATION, ET AL.,
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

BRIEF OF *AMICI CURIAE* LOCAL GOVERNMENTS AND LOCAL GOVERNMENT LEADERS IN SUPPORT OF DEFENDANTS-APPELLEES AND INTERVENOR-APPELLEES/CROSS-APPELLANTS

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SUPPLEMENTAL CERTIFICATE OF INTERESTED PARTIES

Pursuant to Fifth Circuit Rule 29.2, the undersigned counsel of record certifies that, in addition to the persons and entities listed in Intervenor-Appellees/Cross-Appellants' Certificates of Interested Persons, 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.

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STATEMENT OF INTEREST

Amici are cities, counties, and local government leaders from across the country.[1] We file this brief in support of the federal Defendants-Appellees and Intervenor-Appellees/Cross-Appellants Danco Laboratories, L.L.C. ("Danco") and GenBioPro, Inc. ("GenBioPro") and urge this Court to affirm the district court's judgment and to deny a stay of the 2023 Risk Evaluation and Mitigation Strategy ("2023 REMS") for the abortion drug mifepristone.

Amici share an interest in and are responsible for protecting the health, safety, and welfare of our residents—including those who are pregnant, may become pregnant, experience miscarriage, or seek to terminate a pregnancy in their lifetimes. Maintaining and advancing the good health of our communities requires preserving access to essential and life-saving reproductive and sexual healthcare, including access to abortion care. Many *amici* jurisdictions offer a range of healthcare services and medications, including mifepristone, which has been safely and effectively used by those seeking abortions for over two decades. Some *amici* administer public health systems directly through hospitals, clinics, and other facilities providing healthcare services and pharmaceutical services. Others serve communities in states

[1] Pursuant to Federal Rule 29(a)(4)(E), undersigned counsel affirms that no counsel for any party authored this brief in whole or in part and that no person or entity other than *amici* or *amici*'s counsel made a monetary contribution intended to fund the preparation and submission of this brief. Appendix A lists all *amici*.

where abortion is banned, but remain committed to promoting bodily autonomy and ensuring that residents receive high-quality reproductive care.

Telemedicine is essential for modern healthcare, offering improved patient access, increased convenience for healthcare providers and patients, and reduced costs with remote consultations. Telemedicine is critical to ensuring that patients—especially those limited by location, socioeconomic status, race, and/or exposure to intimate partner violence—can make meaningful, personal choices about their bodies and families. Thus, in many *amici* jurisdictions, healthcare providers prescribe abortion medication (including mifepristone) via telemedicine, and providers or pharmacies fulfill mifepristone prescriptions via mail or at a pharmacy pickup counter, as is customary for nearly all other medications.

Amici also have an interest in ensuring that reproductive freedom issues affecting their residents and voters' interests are reflected in the policies set by voters or elected officials in their respective communities. *Amici* agree that any reversal of authorization or changes of use by the Food and Drug Administration (FDA)—which will invariably affect *amici*'s residents—must rely on sound evidence-based science and data, as has been the agency's consistent mandate regarding safety and efficacy of medications, including mifepristone.

Amici know firsthand the drastic consequences that will occur in our communities if this Court yields to Louisiana's demand for a nationwide in-person

dispensing requirement, and accordingly weigh in to support Defendants-Appellees and Intervenor-Appellees/Cross-Appellants.

SUMMARY OF ARGUMENT

A reinstatement of the in-person dispensing requirement would have a devastating national impact, rendering mifepristone inaccessible via mail or pharmacy to *any* resident of the United States—regardless of the laws where they reside. This runs directly afoul of the Supreme Court's instruction in *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022), that the issue of abortion be returned "to the people's elected representatives," *id*. at 232. Relying on that decision, many *amici* passed local initiatives and laws expanding access to abortion care, including medication abortion. In jurisdictions where abortion is protected, reinstatement of the in-person dispensing requirement would eviscerate rights guaranteed to residents under state law, including rights protected by state constitutions. Prohibiting access to mifepristone by mail or pharmacy would eliminate the sole option available to many patients. This action would not serve patients or advance healthcare, and only imposes higher burdens on *amici*'s residents and jurisdictions. Lasting harms will follow, compromising the delivery of reproductive care nationwide, increasing local healthcare costs, and pushing individuals and families into poverty. Such a result irreparably harms *amici* jurisdictions and their residents.

Amici urge this Court to consider the nationwide impact and disruption to essential care across this country that would result from reinstatement of the in-person dispensing requirement, and to deny Louisiana's overbroad and wide-sweeping requested relief.

ARGUMENT

Because the public interest and the balance of equities support the federal Defendants-Appellees and Intervenor-Appellees/Cross-Appellants Danco and GenBioPro, this Court should affirm the district court's decision and deny the State of Louisiana's requested reinstatement of the in-person dispensing requirement. *See Nken v. Holder*, 556 U.S. 418, 434 (2009). Louisiana's half-page, *pro forma* analysis of the public interest, Plaintiffs-Appellants' Opening Br. at 69, exposes the State's failure to consider the impact of its unprecedented and wide-reaching requested relief on communities beyond Louisiana's borders.

I. *AMICI* JURISDICTIONS AND THE RESIDENTS *AMICI* SERVE WILL FACE IMMINENT AND IRREPARABLE HARM

If this Court grants Louisiana's requested stay, *amici* jurisdictions and the residents *amici* serve will be irreparably injured. First, the Supreme Court returned the issue of abortion to the states, prompting several *amici* jurisdictions and our elected representatives to secure abortion access through local and state-level legal protections. Reinstating the in-person dispensing requirement would impose greater

barriers to accessing mifepristone—one of the drugs used in the most common medication abortion regimen in the United States—on residents in *amici*'s jurisdictions. For *amici* located in states where access to abortion care is protected under state constitutions and statutes, the in-person dispensing requirement would violate our residents' rights. Second, if this Court grants Louisiana's requested relief and our residents lose access to mifepristone by mail or through pharmacies, *amici* jurisdictions will experience increased health care costs associated with delayed and denied abortion care. Either of these injuries are sufficient to deny Louisiana's request for relief and affirm the district court's judgment.

A. A Nationwide Restriction on Mifepristone by Mail or Pharmacy Would Irreparably Harm *Amici* Jurisdictions That Have Protected Abortion Access in Reliance on This Court's Ruling in Dobbs.

The Supreme Court "return[ed] the issue of abortion to the people's elected representatives." *Dobbs*, 597 U.S. at 232. Access to abortion via telemedicine nationwide is not a matter that should be decided by one state's policy or political inclinations. Reinstating the mifepristone in-person dispensing requirement would be directly at odds with the Supreme Court's recognition in *Dobbs* that "the people of the various States may evaluate" differently the interests at stake—and that the voters and "the people's elected representatives" should decide "how abortion should be regulated." *Id.* at 256.

Abortion care delivered via telemedicine is a critical aspect of reproductive healthcare. Nearly two-thirds of abortions are now performed with medication, including mifepristone.[2] According to recent data analysis, approximately twenty-nine percent of medication abortions in the U.S. are accomplished via telemedicine, which involves mailing medication abortion pills or picking the medication up at a pharmacy.[3] For example, in California, anywhere from approximately 1,500 to 1,800 individuals seek telehealth abortion care every month.[4] The prevalence of telemedicine abortion has increased dramatically because it breaks down barriers to healthcare access typically encountered by communities of color, rural communities, people at or below the poverty line, and those experiencing intimate partner

[2] Usha Ranji et al., *Key Facts on Abortion in the United States*, Kaiser Fam. Found. (Jan. 7, 2026), https://perma.cc/CD2E-8S3E. Data does not capture self-managed abortions, which are abortions obtained without a provider's prescription and without clinical supervision. *Id.*

[3] *#WeCount report, April 2022 to December 2025*, Soc'y Fam. Planning (June 10, 2026), https://perma.cc/UG89-3S49.

[4] *Id.*

violence.[5] In other words, telemedicine abortion reaches those who are often considered the most vulnerable in a given locality. Banning mifepristone dispensing by mail or at pharmacy locations will especially adversely affect these populations.[6]

While several states, like Louisiana, have opted to restrict or outright ban abortion care, many other jurisdictions have affirmed their residents' right to seek and access an abortion through available legal means. Indeed, in most *amici* jurisdictions, barriers to accessing abortion via telemedicine infringe upon the rights guaranteed to residents under state constitutions or other state law, whether those state rights stem from a right to privacy and equal protection in reproductive

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[5] *See* Leah R. Koenig et al., *The Role of Telehealth in Promoting Equitable Abortion Access in the United States: Spatial Analysis*, 9 JMIR Pub. Health Surveill. E45671, manuscript p. 9 (2023) (finding that "telehealth can play a key role in accessing an otherwise unobtainable or delayed abortion, especially for marginalized patient populations"); Andréa Becker et al., *"It Was So Easy in a Situation That's So Hard": Structural Stigma and Telehealth Abortion*, 67 J. Health & Soc. Behav. 120, 121, 125–26 (2025) (finding that telehealth made abortion care accessible in states where abortion is legal but where childcare obligations, work schedules, financial barriers, a lack of transportation, clinic wait times, and stigma made an in-clinic visit impossible). Louisiana may argue that in-person dispensing of mifepristone is necessary to protect victims of intimate partner violence from coercion by abusive partners, or from being surreptitiously given the drugs without consent. Reproductive coercion is a tool abusers use to control their victims, but abortion coercion is rare. Karen Trister Grace & Jocelyn C. Anderson, *Reproductive Coercion: A Systemic Review*, 19 Trauma Violence Abuse 371, manuscript p. 16 (2018). Moreover, data shows that homicide is a leading cause of death of pregnant women in the United States. Karen Addis, *New National Study Finds Homicide and Suicide is the #1 Cause of Maternal Death in the U.S.*, Soc'y Maternal-Fetal Med. (Jan. 30, 2025), https://perma.cc/S3RJ-WVAX (reviewing CDC data from 2005-2022 and finding that violence, and disproportionately homicide, was the leading cause of death in pregnancy).

[6] *See*, *e.g.*, Br. of 163 Reproductive Health, Rights, and Justice Organizations as *Amici Curiae* in Supp. of Appls. at 12–16, *Danco Lab'ys v. Louisiana*, No. 25A1207 (U.S. May 6, 2026); Br. of Am. Coll. of Obstetricians & Gynecologists and Other Medical Societies as *Amici Curiae* in Supp. of Appl. by Danco Laboratories to Stay the Fifth Circuit's Stay Pending Appeal at 20, *Danco Lab'ys v. Louisiana*, No. 25A1207 (U.S. May 6, 2026).

decisionmaking or in a freestanding right to abortion care. For example, following *Dobbs,* California voters approved Proposition 1 in November 2022, explicitly adding abortion and contraceptive rights to California's Constitution. *See* Cal. Const. Art. I, § 1.1.[7] Removing access to mifepristone via mail or pharmacy does not merely cut off access to a certain type of abortion care in *amici* jurisdictions. For *amici* located in states that protect the right to abortion, Louisiana's requested relief would also restrict our residents' fundamental state rights.

This defies the Supreme Court's directive to return the issue of abortion to the states. *See Dobbs*, 597 U.S. at 232. Instead of voters or local elected officials determining their own abortion laws and policies, our residents are now subject to the whims of anti-abortion proponents in states where they may have never set foot. This is particularly offensive to *amici* that asserted specific positions on abortion to constituents in reliance on the Supreme Court's mandate in *Dobbs*. Rather than

[7] "The state shall not deny or interfere with an individual's reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion….This section is intended to further the constitutional right to privacy… and the constitutional right not to be denied equal protection…"; *see also* N.Y. Pub. Health Law § 2599-aa (affirming that "[e]very individual who becomes pregnant has the fundamental right to choose to carry the pregnancy to term, to give birth to a child, or to have an abortion"), § 2599-bb (explicitly allowing healthcare providers to perform abortions up to 24 weeks of pregnancy); *Moe v. Sec'y of Admin. & Fin*., 417 N.E.2d 387, 397-99 (Mass. 1981) (holding that due process protections in Massachusetts' state constitution protect a right to abortion); Mass. Gen. Laws ch. 112, § 12L (protecting a person's "personal decision and ability to prevent, commence, terminate or continue their own pregnancy" and preventing state actors from restricting "the manner in which medically appropriate abortion is provided"), § 12M (explicitly allowing healthcare providers to perform abortions up to twenty-four weeks of pregnancy); Wash. Rev. Code § 9.02.100 (stating that "every pregnant individual has the fundamental right to choose or refuse to have an abortion").

relying on their localities' laws, residents now must track litigation developments, assess potential outcomes in distant jurisdictions, and understand the impact on their ability to seek healthcare ostensibly protected by state law. Such an abridgement of our residents' state constitutional rights is exactly the type of harm that should be averted by this Court. *See Mirabelli v. Bonta*, 146 S. Ct. 797, 803 (2026) (citing *Roman Catholic Diocese of Brooklyn v. Cuomo,* 592 U.S. 14, 19 (2020) (per curiam) ("The denial of plaintiffs' constitutional rights during the potentially protracted appellate process constitutes irreparable harm.")).

B. *Amici* Jurisdictions Will Experience Increased Financial and Logistical Healthcare Burdens Associated With Delayed and Denied Abortion Care.

As a basis for its standing, Louisiana alleges a financial injury related to women seeking emergency care from mifepristone complications as well as the cost of ensuing investigations against out-of-state abortion providers.[8] *Amici* local governments and their communities will, in fact, experience great economic harm due to unnecessary barriers and additional costs imposed by an in-person dispensing

[8] *See* Plaintiffs-Appellants Opening Br. at 14 (extrapolating future financial injury from $92,000 in Medicaid costs allegedly incurred from two women who sought emergency care in Louisiana after taking mailed mifepristone). Louisiana's assertion that it will suffer financial injury from the delivery of emergency care to women taking mifepristone prescribed by mail is simply incorrect. Even if Louisiana's costs were taken at face value, when abortions are denied, the state will incur the cost of additional births—a fact that Louisiana and its *amici* conveniently ignore. Medicaid funds approximately sixty-four percent of births in Louisiana, or nearly 35,000 births annually. *Births Financed by Medicaid by Metropolitan Status*, Kaiser Fam. Found. (2023), https://perma.cc/CB6J-KQA6. Medicaid expenditures do not become a financial injury just because the State of Louisiana would prefer to pay for the medical costs of continuing a pregnancy.

requirement for mifepristone. In-person-only disbursement delays time-sensitive miscarriage management and medication abortion nationwide, especially for vulnerable patients. This will lead to costlier and more invasive medical interventions as some patients face delays in care, which may force them to undergo potentially avoidable procedural abortions or miscarriage management.[9] *Amici* jurisdictions that provide healthcare and/or emergency medical services will bear costs associated with addressing these complications, and patients will needlessly suffer.[10]

As providers of safety net services, local governments are also well-aware that patients who give birth after being denied abortion care often face adverse

[9] *See* Silpa Srinivasulu et al., *Telehealth Medication Abortion in Primary Care: A Comparison to Usual in-Clinic Care*, 37 J. Am. Bd. Fam. Med. 295, 299 (2024) (finding that "patients received care more quickly when accessing [telemedicine abortion] compared with in-clinic services," and that patients who received telemedicine abortion had more than double the odds of obtaining an appointment within six days); Daniel Grossman et al., *Care Post-Roe: Documenting cases of poor quality care since the Dobbs decision* at 19, Advancing New Standards in Reproductive Health (ANSIRH) (Sept. 2024), https://perma.cc/8AE6-BK5S (showing that delayed abortion care can turn an uncomplicated medication abortion into an invasive procedural abortion, and can increase complications associated with abortion of medically complex pregnancies).

[10] *See* Isabel S. Platt et al., *Societal Costs of Total Abortion Bans in 14 US States after* Dobbs, 116 Am. J. Pub. Health 683 (2026). According to a peer-reviewed study modeling personal and external costs associated with total abortion bans, the yearly cost of a total abortion ban includes $233.2 million for pregnancies carried to term and an additional $1.7 million for pregnancies that end in miscarriage or stillbirth. *Id.* Notably, changes in abortion care delivery—including telemedicine—after *Dobbs* resulted in *savings* of $9.4 million. *Id.* The economic and labor force impacts are even more startling: The average annual economic cost of state-level restrictions on abortion access, combined with federal funding restrictions and lack of federal protections, exceeds $140 *billion*. Melissa Mahoney & Aashima Sinha, *More than $140 Billion in Lost Earnings: Abortion Restrictions Continue to Harm Women and Are a Persistent Drag on the Economy*, Inst. for Women's Pol'y Rsch. (June 16, 2026), https://perma.cc/U2AS-ZYZJ.

consequences, including an increased likelihood of poverty. Patients who give birth after seeking and being denied an abortion are nearly four times more likely to live below the federal poverty line six months after seeking care compared to those who obtained the abortion—a difference that persists for years.[11] Individuals who were denied abortion care are also over three times more likely to be unemployed and using safety net services.[12] These costs to *amici* jurisdictions and their residents greatly outweigh any alleged or hypothetical financial injury to Louisiana.

For some of the twenty-nine percent who sought telemedicine abortion care, an in-person dispensing requirement is the functional equivalent of a total ban on mifepristone. Many individuals cannot afford to travel or escape abusive situations to access care. Consequently, patients unable to obtain an abortion will be forced to give birth in a country where approximately 60,000 women annually experience life-threatening maternal morbidity[13] and the maternal mortality rate is 18 for every

[11] Diana Greene Foster et al., *Socioeconomic Outcomes of Women Who Receive and Women Who Are Denied Wanted Abortions in the United States*, 108 Am. J. Pub. Health 407, 410–11 (2018).

[12] *Id.* at 409.

[13] Am. Coll. Obstetricians & Gynecologists, *Eliminating Preventable Maternal Mortality and Morbidity* (last visited April 21, 2026), https://perma.cc/S9WF-QVPB. Maternal morbidity events are "unexpected outcomes of labor and delivery that result in significant short- or long-term consequences to someone's health." *Id.*

100,000 live births.[14] For Black women, the rate is more than doubled.[15] The risk of death associated with childbirth is many times greater than the risk of death associated with abortion.[16]

Just as there are abortion care deserts, thirty-six percent of U.S. counties are maternal care deserts, without hospitals offering obstetric services or birth centers and lacking obstetricians, gynecologists, or certified nurse midwives.[17] Reinstating a nationwide ban on dispensing mifepristone via mail or pharmacy would gravely exacerbate these serious healthcare disparities across the United States. *Amici* jurisdictions and their residents, who have no say in such a ruling, will be irreparably harmed unless this Court denies Louisiana's requested relief.

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[14] Donna L. Hoyert, *Maternal Mortality Rates in the United States, 2024*, National Center for Health Statistics Health E-Stats 1 (Mar. 2026), https://perma.cc/XYL6-GKWG. Outcomes are worse in Louisiana, which ranks next-to-last out of the forty-eight states with available maternal mortality data. *2025 March of Dimes Report Card*, March of Dimes (Feb. 2026), https://perma.cc/MF58-N8XV. Approximately forty mothers will die for every 100,000 births in Louisiana. *Id.* The state also ranks forty-sixth for infant mortality, with nearly 400 babies dying before their first birthday in 2023. *Id.* at 91.

[15] Hoyert, *supra* note 14.

[16] Br. of Am. Coll. of Obstetricians & Gynecologists and Other Medical Societies as *Amici Curiae* in Supp. of Appl. by Danco Laboratories to Stay the Fifth Circuit's Stay Pending Appeal at 20, *Danco Lab'ys v. Louisiana*, No. 25A1207 (U.S. May 6, 2026).

[17] Eli Y. Adashi, Daniel P. O'Mahony & I. Glenn Cohen, *Maternity Care Deserts: Key Drivers of the National Maternal Health Crisis*, 38 J. Am. Bd. Fam. Med. 165 (2025).

C. An In-Person Dispensing Requirement for Mifepristone Would Cause Unnecessary Confusion and Disruption of Care for Patients, Pharmacies, and Providers in *Amici* Jurisdictions.

This Court should make permanent the Supreme Court's decision and deny Louisiana's request because a permanent in-person dispensing requirement would cause unnecessary confusion and disruption of care for patients, pharmacies, and providers in our jurisdictions.

First, patients will be gravely affected by the reinstatement of the in-person dispensing requirement. The twenty-nine percent of individuals who sought abortion care via telemedicine must look elsewhere. Those previously able to access mifepristone in the privacy and comfort of their own homes and communities via telemedicine would be forced to travel long distances to receive this medication in person, running the risk of overwhelming already strained or understaffed healthcare providers. For example, some *amici* jurisdictions, like the City of Los Angeles, already experience an influx of patients traveling for abortion care. This influx will increase, overburdening providers in several of *amici*'s jurisdictions. Moreover, the United States already suffers from a nationwide provider shortage, particularly in rural areas.[18] And while *amici* care deeply about providing healthcare access to their residents, many jurisdictions are abortion care deserts, with few, if any, in-person

[18] *See Physician Workforce: Projections, 2023-2038*, Nat'l Ctr. Health Workforce Analysis (Dec. 2025), https://perma.cc/2SFU-RXSF.

clinics present.[19] Telemedicine abortion ameliorates these care deserts. It does not serve the public interest for individuals who were previously able to access healthcare in a perfectly legal manner to be forced to travel to obtain that healthcare in person—particularly when that determination is made outside of their locality and entirely beyond their control.

Second, pharmacies will experience confusion and uncertainty. As explained by Intervenor-Appellees/Cross-Appellants Danco and GenBioPro, Louisiana filed this litigation five years after the FDA suspended enforcement of the in-person dispensing requirement and nearly three years after the FDA formally lifted the requirement.[20] For now, certified pharmacies can continue to dispense mifepristone like any other FDA-approved medication. Reinstating the in-person dispensing requirement is not as simple as returning to the drug-dispensing regime that existed five years ago—in the last three years, mifepristone prescription and dispensing practices were built in reliance on the 2023 REMS. Further, mifepristone is used for

[19] According to the National Women's Law Center, nearly half of all counties in the United States are abortion care deserts, where the closest abortion care facility is over 100 miles away. Lexi Rummel & Sarah Javaid, *When Women Are Deserted* at 13, Nat'l Women's L. Ctr. (2025), https://perma.cc/8LP3-FYTT. Abortion care deserts exist throughout the South, Midwest, and in portions of states like Tennessee, Oregon, Arizona, and New Mexico. *Id.*

[20] Danco Laboratories, LLC's Principal and Resp. Br. at 69-70; Principal and Resp. Br. of Appellee/Cross-Appellant GenBioPro, Inc. at 62. In similar litigation against the FDA regarding the regulation of mifepristone, the states of Florida and Texas both agreed this year that a stay of no longer than seven months would be appropriate so that the FDA can complete its review. Plaintiffs' Consolidated Response to Government Defendants' Motion to Stay or, Alternatively, to Dismiss at 12, *State of Florida v. FDA*, No. 7:25-cv-00126 (N.D Tex. filed Apr. 24, 2026) (Dkt. No. 56).

miscarriage management, not only for abortion care.[21] It is not in the public interest to suddenly restrict access to mifepristone and further exceptionalize a drug that has been safely and effectively prescribed via telemedicine, dispensed by mail or pharmacy, and taken by patients for five years. After years of mifepristone availability via telemedicine, healthcare providers and pharmacies across the country—including in *amici*'s jurisdictions—have built practices in the best interests of patients and in reliance on the conditions of use set by the FDA. Those safe and effective practices should not be disturbed by a decision completely untethered from the complexities of drug approval and healthcare delivery.

Finally, reinstatement of the in-person dispensing requirement would throw the reproductive healthcare delivery system into chaos and confusion, disrupting a status quo that has existed for years—indeed, providers and patients witnessed such a situation before it was abated by the Supreme Court's temporary stay in this matter. Some *amici* jurisdictions operate public hospital systems offering reproductive health services, including abortion medication.[22] These systems operate alongside independent community clinics that commonly prescribe mifepristone via telemedicine. The impact of an in-person dispensing requirement will be felt even

[21] Kristyn Brandi, *What to Know About Abortion and Miscarriages With or Without Mifepristone*, Am. Coll. Obstetricians & Gynecologists (Feb. 2025), https://perma.cc/WYK2-PSBU.

[22] *See, e.g.,* Health Services Los Angeles County, *Abortion* (last visited April 21, 2026) https://perma.cc/A7PS-U6T5 (medication abortion offered by Los Angeles County's public hospital network).

more directly in certain jurisdictions where abortion is legal. This requirement increases demand for in-person appointments, thus burdening public and community systems and delaying access to care for all who seek abortions, whether in-person or online. Delay will be most severe where public hospitals, healthcare clinics, and facilities are already facing significant staffing and resource shortages. Furthermore, if the in-person dispensing requirement is reinstated, some patients will face delays in care, leading to more resource-intensive procedural abortions.

When a court's sudden ruling thwarts the timely and orderly delivery of reproductive and sexual healthcare, there are adverse consequences for both patients and public health. The impact on healthcare systems does not stop at abortion. *Amici* anticipate a ripple effect across the healthcare system in jurisdictions with abortion care protections, as reproductive and sexual healthcare providers—including providers in many of *amici*'s public hospitals and clinics—expend critical time and resources on medically unnecessary in-person appointments. Appointments, resources, and provider time are all limited, and reproductive care is time-sensitive: Eliminating mifepristone access via mail and pharmacy dispensing threatens access to other critical healthcare typically delivered in the same settings as abortion care, including birth control provision, cancer screenings, sexually transmitted infection

testing and treatment, prenatal care, ectopic pregnancy and/or miscarriage management, and beyond.[23]

Louisiana's request will harm people—including those in *amici*'s jurisdictions. The district court did not abuse its discretion in denying Louisiana's requested preliminary relief and in determining that a stay in proceedings was proper given the FDA's pending review of mifepristone.[24] *See Benisek v. Lamone*, 585 U.S. 155, 158 (2018) (assessment of the equities is subject to deferential review only for "an abuse of discretion"). The impending needless and widespread harm to the healthcare system must be averted to serve the public interest.

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[23] *See* Br. of Am. Coll. of Obstetricians & Gynecologists and Other Medical Societies as *Amici Curiae* in Supp. of Appl. by Danco Laboratories to Stay the Fifth Circuit's Stay Pending Appeal at 20-24, *Danco Lab'ys*, No. 25A1207 (U.S. May 6, 2026) (explaining that restrictions on mifepristone have negative impacts on the broader healthcare system, not just on abortion care); Julia Strasser et al., *Penalizing Abortion Providers Will Have Ripple Effects Across Pregnancy Care*, Health Affs. Forefront (May 3, 2022) (explaining that miscarriage management can require the same clinical skills, medical training, and healthcare settings as abortion care), https://perma.cc/96KG-TSE2.

[24] *Amici* do not concede that such a review of the safety or efficacy of mifepristone is necessary; as pointed out by other *amici*, it is well-established for over a quarter century of use and since FDA approval that mifepristone is a safe and effective drug. *See, e.g.*, Br. of Amici Curiae 360 Reproductive Health Researchers in Supp. of Appls. by Danco and GenBioPro to Stay or Vacate the Fifth Circuit's Stay Pending Appeal, *Danco Lab'ys*, No. 25A1207 (U.S. May 6, 2026); Br. of Am. Coll. of Obstetricians & Gynecologists and Other Medical Societies as *Amici Curiae* in Supp. of Appl. by Danco Laboratories to Stay the Fifth Circuit's Stay Pending Appeal at 7–12, *Danco Lab'ys*, No. 25A1207 (U.S. May 6, 2026); Br. as *Amici Curiae* of Former Commissioners and Acting Commissioners of the U.S. Food & Drug Administration in Supp. of Appls. by Danco and GenBioPro to Stay or Vacate the Fifth Circuit's Stay Pending Appeal 11-12, *Danco Lab'ys*, No. 25A1207 (U.S. May 5, 2026).

CONCLUSION

The Court should deny Louisiana's request for a stay of the 2023 REMS and affirm the district court.

Respectfully submitted,

Dated: July 22, 2026

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City of Alexandria, Virginia

Allegheny County, Pennsylvania

City of Austin, Texas

City of Baltimore, Maryland

City of Beaverton, Oregon

City of Boston, Massachusetts

City of Cambridge, Massachusetts

City of Chicago, Illinois

City of Cincinnati, Ohio

City of Columbus, Ohio

City and County of Denver, Colorado

City of Evanston, Illinois

King County, Washington

City of Kingston, New York

City of Los Angeles, California

County of Los Angeles, California

City of Madison, Wisconsin

County of Marin, California

City of Minneapolis, Minnesota

County of Monterey, California

Montgomery County, Maryland

Metropolitan Government of Nashville & Davidson County, Tennessee

City of New Haven, Connecticut

City of Olympia, Washington

Pierce County, Washington
City of Pittsburgh, Pennsylvania
City of Portland, Oregon
City of Providence, Rhode Island
City of Rochester, New York
City of San Diego, California
County of San Diego, California
City and County of San Francisco, California
City of San José, California
County of Santa Clara, California
City of Seattle, Washington
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CERTIFICATE OF SERVICE

I certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Fifth Circuit by using the appellate CM/ECF system. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated: July 22, 2026

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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) because it contains 4,522 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f).

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