

Surviving SCOTUS: The future of the abortion pill access amidst anti-abortion attacks

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Overview of Today's Presentation

A recent court decision threatens the national availability of Mifepristone, one of two abortion pill medications used for more than half of abortions in the US. Due to a stay issued by the Supreme Court, abortion pills are still available during judicial proceedings, but a subsequent decision from the Supreme Court could have a devastating impact on abortion access.

Even if the Supreme Court sides with abortion advocates and upholds recent FDA guidance that allows Mifepristone to be dispensed through the mail and retail pharmacies, Mifepristone access is not guaranteed due to efforts to codify abortion pill bans at the state and federal level. Regardless of actions taken by courts and Congress, abortion pills will still be available by mail in all 50 states, even in states that ban abortion care.



The Abortion Pill, Mifepristone and Misoprostol

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What is the Abortion Pill?

- The "abortion pill" is a common name for using two different medicines to end a pregnancy: mifepristone and misoprostol.
- Mifepristone and misoprostol are used in **more than half** of all abortions in the United States.
- Typically-- a patient takes mifepristone first, which blocks a hormone called progesterone, and prevents an embryo from staying implanted in the uterus.
- Misoprostol is then taken right away or 24-hours later to empty the uterus.
- The "abortion pill" is the best method to terminate a pregnancy up to 11 weeks (2 and a half months).

What is Mifepristone? Is it Safe?

- Mifepristone was first approved by the FDA more than twenty years ago in September 2000.
- Mifepristone is safer than many over-the-counter drugs such as Tylenol.
- Mifepristone has a high success rate that ranges from 95-99%.
- Mifepristone has been approved by 96 countries around the world, and some countries have approved mifepristone for use up to 12 weeks of pregnancy.
- Since 2005 mifepristone has been listed on the United Nations's essential medicines list.
- Mifepristone is also used to medically manage a miscarriage or manage late-stage pregnancies where the fetus has died before birth.



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If Mifepristone is Essential, Life-saving Care...Why is it Under Attack?

- Despite the Supreme Court's ruling *Dobbs v. Jackson's Women's Health Org* which overturned *Roe v. Wade* and **rescinded federal abortion protections**, anti-abortion activists are not satisfied.
- A group of anti-abortion activists and organizations asked the court to order the FDA to rollback a recent action to make mifepristone more accessible.
- Anti-abortion activists also asked the court to order the FDA to rescind its nearly 23-year approval of Mifepristone.
- Anti-abortion advocates have been spreading misinformation about mifepristone for years:
 - Cast doubt on the safety and efficacy of mifepristone
 - Inaccurate claims about non-physician providers
 - Suspicion of Telehealth and Pharmacy Dispensation
- Outrage over mifepristone has come to a boiling point over the FDA's decision to remove medically unnecessary restrictions, allowing mifepristone to be dispensed through the mail and retail pharmacies.



Alliance for Hippocratic Medicine v. FDA

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What are the facts of the case?

- In Nov. 2022, a group of anti-abortion activists filed a lawsuit against the FDA and the U.S. Health and Human Services (HHS).
 - **Judge Shopping Definition:** *"Judge-shopping is when someone files lawsuits with the hope that one of the lawsuits will be assigned to a judge who is favorable to their case, and they will dismiss the other lawsuits."* - LSD LAW
- On April 7, 2023, a federal district court in Texas issued a decision attempting to block the long-standing FDA approval of mifepristone.
 - This decision was appealed to the 5th Circuit Court of Appeals, and the appeals court issued a ruling that failed to block the district court's ruling.
- On April 21, the U.S. Supreme Court issued a stay that allowed the FDA's guidance to stay in place as legal proceedings played out in the courts.
- On August 16, the Fifth Circuit Court of Appeals ruled to reinstate pre-2016 restrictions on mifepristone but maintained its FDA-approval status.

5th Circuit Court Issues a Mixed Ruling on Mifepristone

- In August, the 5th Circuit Court of Appeals issued a mixed ruling on Mifepristone.
- The ruling affirmed the Food and Drug Administration's 2000 and 2019 decisions to approve Mifepristone and its generic version.
- The decision restricted access to Mifepristone by rescinding previous FDA guidance which allowed Mifepristone to be dispensed through mail or retail pharmacies.

Does the 5th Circuit Court's Ruling Affect Access to Mifepristone?

- **No, it does not change access to mifepristone (as of now).**
- The Supreme Court in April, the availability of Mifepristone will not change until judicial proceedings are over.
- If the Supreme Court takes up the case, it is unclear how the Justices will rule.
- Even if Supreme Court sides with anti-abortion advocates, people will still have access to abortion.
 - Calls into question the independence and integrity of the FDA's drug approval process.
- Misoprostol is just as safe and effective as the two-pill regimen, however, there are more side effects.



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What if the Supreme Court Sides with Abortion Advocates? Is Mife in Clear?

- **Sadly, this does not protect Mife from attacks from Congress.**
- If passed, the House FDA and Agriculture includes a provision that would reinstate person examination requirement, and prohibit access to Mifepristone through mail or retail pharmacies.
- Rep. Andy Ogles introduced a national abortion pill ban.
 - "Banning these dangerous drugs for the purpose of chemical abortion is an important step in protecting life," Rep. Ogles (R-TN)
- States have also introduced laws that restrict or ban the use "abortion-inducing drugs" past a certain gestational age.
 - These laws have created confusion and inflicted harm upon patients who a miscarriage or "spontaneous abortion".



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What Can I Do to Support People Seeking an Abortion?

Share information through social media and your informal networks about where people can find abortion pills in all 50 states

Stock up on pills. Abortion pills are still available as we wait on the Supreme Court's decision, and you can get them even if you don't have an immediate need for an abortion

Speak up and speak out. Your voice matters in the fight to protect abortion care, reach out to your local officials and urge them to pass laws that protect and expand abortion access.

Promote Charley Chatbot. Charley Chatbot is a tool that can be used to connect people with accurate and timely information about abortion access.

Support organizations advocating at national, state and local level to protect reproductive rights.



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