Nos. 25A1207 & 25A1208

IN THE

SUPREME COURT OF THE UNITED STATES

DANCO LABORATORIES, L.L.C.,

Applicant,

v.

THE STATE OF LOUISIANA, ET AL.,

Respondents.

GENBIOPRO, INC.,

Applicant,

v.

THE STATE OF LOUISIANA, ET AL.,

Respondents.

IN SUPPORT OF APPLICATIONS BY DANCO LABORATORIES, L.L.C. AND GENBIOPRO, INC. TO STAY OR VACATE THE JUDGMENT OF THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF OF *AMICI CURIAE* LOCAL GOVERNMENTS AND LOCAL GOVERNMENT LEADERS IN SUPPORT OF APPLICANTS

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Julia Strasser et al., *Penalizing Abortion Providers Will Have Ripple Effects Across Pregnancy Care*, Health Affs. Forefront (May 3, 2022) 16

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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 applications of Danco Laboratories, L.L.C. ("Danco") and GenBioPro, Inc. ("GenBioPro") to stay or vacate the Fifth Circuit's order. The Fifth Circuit's decision has immediately sown confusion and disruption into highly time-sensitive, essential healthcare across the United States, including in *amici*'s jurisdictions, without basis in law or fact.

Amici share an interest in and are responsible for protecting the health, safety, and welfare of our residents—including those who are pregnant, who may one day seek to be pregnant, who may experience miscarriage, or who may want and ultimately choose to terminate a pregnancy in their lifetimes. Maintaining and advancing the good health of our communities, in *amici*'s view, requires preserving access to essential and life-saving reproductive and sexual healthcare, which includes access to abortion care. Many *amici* jurisdictions offer a range of healthcare services and medications, including mifepristone, which has been widely and safely used for more than two decades. Some *amici* administer public health systems directly through hospitals, clinics and other facilities that provide healthcare services and pharmaceutical services. Others serve their communities in states where abortion is banned, but are nonetheless committed to promoting bodily autonomy and ensuring that residents receive high-quality reproductive care.

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[1] No counsel for a party authored this brief in whole or in part. No person other than *amici* or *amici*'s counsel made a monetary contribution to the preparation or submission of this brief. A list of all *amici* is available at Appendix A.

Amici understand that telemedicine is essential for modern healthcare, offering improved patient access, increased convenience for healthcare providers and patients, and reduced costs by allowing for remote consultations. Telemedicine is critical to ensuring that patients—especially those whose options are limited by their 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, as is customary for nearly all other medications.

Amici also have an interest in ensuring that issues of reproductive freedom that affect their residents and voters' interests are reflected in the policies set by voters or elected officials in their respective communities. Additionally, *amici* agree that any reversal of authorization or changes of use by the Food and Drug Administration (FDA)—which will invariably affect members of *amici*'s communities—must rely on sound evidence-based science and data, as has been the agency's consistent mandate in making determinations about the 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. We thus urge the Court to stay or vacate the Fifth Circuit's judgment.

SUMMARY OF ARGUMENT

Just four years ago, this Court placed the issue of abortion into the hands of states and their elected representatives. Five days ago, the Fifth Circuit wrested that control away and determined healthcare policy for the nation. In a sweeping and unprecedented decision, the court of appeals substituted its judgment, not only for the expertise of a federal agency, but also for elected officials, voters, and residents in near and faraway jurisdictions alike. As Applicants Danco and GenBioPro ably demonstrate, the Fifth Circuit erred on the law. A stay or vacatur from this Court is also warranted because, as described below, the court of appeals failed to properly consider how its decision would harm the public interest and the far-ranging, disruptive, and harmful impacts that the ruling would have across jurisdictions outside of Louisiana.

If allowed to stand, the Fifth Circuit's decision renders mifepristone inaccessible via mail or pharmacy to *any* resident of the United States—regardless of the laws where they live and work, and even if abortion is perfectly legal where they reside. This runs directly afoul of this 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. In reliance on that decision, many *amici* passed local initiatives and laws supporting and expanding access to abortion care, including medication abortion. In jurisdictions where abortion is protected, the Fifth Circuit's decision eviscerates any privacy and/or equal protection rights guaranteed to residents under state law. And for those whose only

option to access mifepristone was through mail or a pharmacy, that option will disappear. Eliminating this form of access to mifepristone does nothing to 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 across the country, increasing local healthcare costs, and pushing individuals and families into poverty. The Fifth Circuit's decision also flings healthcare providers, patients, and pharmacies in many *amici* jurisdictions into immediate uncertainty—without warning or guidance—regarding time-sensitive healthcare delivery. Such a result irreparably harms *amici* jurisdictions and the residents *amici* serve.

Amici urge this Court to stop the unnecessary confusion and disruptions to essential care impacting healthcare professionals and patients across this country. This Court should grant Danco and GenBioPro's applications to stay or vacate the judgment.

ARGUMENT

The Fifth Circuit's decision has created deeply destabilizing conditions in *amici*'s jurisdictions and inflicted unnecessary harm on our residents. Because the public interest and the balance of equities support Danco and GenBioPro, this Court should grant a stay of the Fifth Circuit's decision. *See Nken v. Holder*, 556 U.S. 418, 434 (2009).

I. *AMICI* JURISDICTIONS AND THE RESIDENTS *AMICI* SERVE WILL FACE IMMINENT AND IRREPARABLE HARM ABSENT A STAY OF THE FIFTH CIRCUIT'S ERRONEOUS DECISION

Absent a stay of the Fifth Circuit's erroneous order, *amici* jurisdictions and the residents *amici* serve will be irreparably injured. First, this 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. Residents in these jurisdictions will lose access to the most accessible form of abortion care, curtailing the rights of privacy and equal protection guaranteed to them under their respective state constitutions and statutes. Second, because many of our residents will lose access to mifepristone by mailing or through pharmacies, *amici* jurisdictions will experience increased health care costs associated with delayed and denied abortion care. Finally, the Fifth Circuit's decision has thrown patients, providers, and pharmacies in *amici* jurisdictions into unnecessary confusion. Any one of these injuries is sufficient to grant Danco and GenBioPro's applications to stay or vacate the judgment.

A. A Nationwide Restriction on the Provision of Mifepristone by Mail or Pharmacy Harms *Amici* Jurisdictions That Have Protected Abortion Access in Reliance on This Court's Ruling in *Dobbs.*

This Court "return[ed] the issue of abortion to the people's elected representatives." *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 232 (2022). Despite any protestations by Louisiana, access to abortion via telemedicine is not a matter that should be decided by one state's policy or by the political inclinations of the three states that comprise the Fifth Circuit. Even so, the Fifth Circuit granted

sweeping relief to Louisiana with the exact type of "rushed, high-stakes, low-information" decision-making this Court has warned against. *Trump v. CASA, Inc.*, 606 U.S. 831, 855–56 (2025) (quoting *Labrador v. Poe ex rel. Poe*, 144 S. Ct. 921, 927 (2024) (Gorsuch, J., concurring)). Whether a jurisdiction protects or condemns the right to abortion, we now face a reality where no clinician can provide mifepristone by mail or at a pharmacy, and no patient can receive it. This result is at odds with this Court's recognition in *Dobbs* that "the people of the various States may evaluate" differently the interests at stake—and that it is the voters and "the people's elected representatives" who should decide "how abortion should be regulated." 597 U.S. at 256. The Fifth Circuit's decision also utterly failed to analyze the impact of its decision, likely because doing so—as *amici* demonstrate below—reveals that its harmful determination cannot stand. *See* Danco App. 17a–18a; GenBioPro App. 17a–18a.

Since *Dobbs*, abortion care delivered via telemedicine has become a critical aspect of reproductive healthcare. Nearly two-thirds of abortions are now performed with medication, including mifepristone.[2] Of those medication abortions, no insignificant portion are carried out via telemedicine: According to recent studies, approximately twenty-seven percent of medication abortions in the U.S. are accomplished via telemedicine, which involves mailing medication abortion pills,

[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.*

even in states where abortion remains legal.[3] For example, in California, anywhere from approximately 1,500 to 1,700 individuals seek telehealth abortion care every month.[4] The prevalence of telemedicine abortion has increased dramatically, precisely because telemedicine breaks down barriers to healthcare access that are normally encountered by those at or below the poverty line, communities of color, rural communities, and those who are experiencing intimate partner violence.[5] In other words, telemedicine abortion reaches those who are often considered the most vulnerable populations in a given locality. The negative impact of the Fifth Circuit's determination will be particularly striking among 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

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[3] *#WeCount report, April 2022 to June 2025*, Soc'y Fam. Planning (Dec. 9, 2025), https://perma.cc/8KSX-2CVD.

[4] *Id.*

[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 (2023). Louisiana may argue that in-person dispensing of mifepristone is necessary to protect victims of intimate partner violence from being coerced into taking abortion drugs by abusive partners, or from being surreptitiously given the drugs without their consent. Reproductive coercion is a tool that abusers use to control their victims, but it is far more common for victims to experience denial of access to birth control and forced or coerced pregnancy than forced or coerced abortion. Anna Bernstein, *New Attacks on Medication Abortion Distort the Reality of Reproductive Coercion*, Guttmacher (Mar. 2016), https://perma.cc/2QXA-F296. A peer-reviewed analysis of twenty-seven published studies on reproductive coercion concluded: "Findings in this area do not support the assertion that women are frequently coerced into abortions, but rather, that they are more often coerced into continuing a pregnancy." 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 Over 100 Reproductive Health, Rights, and Justice Organizations as *Amici Curiae* in Support of Defendants at 17–19, *Louisiana v. FDA*, No. 6:25-cv-01491 (W.D. La. Apr. 7, 2026) (Dkt. No. 155-2).

and access an abortion through any legal means available. Indeed, in most *amici* jurisdictions, a resident's inability to access abortion via telemedicine restricts the rights of privacy and equal protection guaranteed to residents under state law. For example, in the wake of *Dobbs,* California voters in November 2022 approved Proposition 1, which explicitly added abortion and contraceptive rights to the California 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, the Fifth Circuit's judgment restricts our residents' fundamental rights to privacy and equal protection in their reproductive decisionmaking.

Such a result defies this Court's directive to return the issue of abortion to the states. *See Dobbs*, 597 U.S. at 232. Rather than a state or locality's elected officials or voters 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 stepped foot. This reality is particularly offensive to *amici* that asserted specific

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[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 the 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").

positions on the issue to current and potential constituents in reliance on this Court's mandate in *Dobbs*. Rather than trusting and relying on their own localities' laws, our residents now must stay apprised of litigation developments in distant jurisdictions and pay attention to how the outcome of such litigation might impact their ability to seek healthcare in a place where they believed such care was thoroughly protected. 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.[8] *Amici* local governments and their communities will, in fact, experience economic harm due to the imposition of unnecessary barriers and additional costs related to an in-person dispensing requirement for mifepristone. The in-person dispensing requirement

[8] *See* Danco App. 11a; GenBioPro App. 11a (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). The Fifth Circuit's conclusion that Louisiana will suffer financial injury from the delivery of emergency care to women who take mifepristone prescribed by mail is simply incorrect. When abortions are denied, the state will incur the cost of additional births—a fact that neither Louisiana nor the Fifth Circuit considered. 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 spend the money on different medical care.

delays access to time-sensitive miscarriage management or medication abortion across the country, especially for vulnerable patients. This, in turn, will lead to more costly and invasive medical interventions as some patients face complications due to the delay in care, and may be forced to undergo procedural abortions or miscarriage management that could have been avoided.[9] *Amici* jurisdictions that provide healthcare and/or emergency medical services will bear the cost 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 consequences, including an increased likelihood of poverty. Compared with patients who successfully access abortion care, patients who give birth after being denied abortion care are nearly four times as likely to live below the federal poverty line six months after seeking care—a difference that persists for years.[11] Individuals who were denied abortion care are also over three times more likely to be unemployed and

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[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 what could have been 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 economic 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.*

[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, 410-411 (2018).

using safety net services than patients who were able to access abortion care.[12] These costs to *amici* jurisdictions and the residents *amici* serve greatly outweigh any alleged or hypothetical financial injury to Louisiana.

For a portion of the twenty-seven percent of individuals who sought abortion care via telemedicine, the reinstatement of an in-person dispensing requirement for mifepristone has the same effect as a total ban on this essential medication. These individuals will be unable to access this care at all, being unable to afford travel or unable to get away from an abusive partner. Because the alternative to abortion is childbirth, these patients, unable to access care because of the in-person dispensing requirement, will be forced to give birth in a country where approximately 60,000 women experience life-threatening maternal morbidity[13] every year and the maternal mortality rate is 18 for every 100,000 live births.[14] For Black women, the rate is more than doubled.[15] And just as there are abortion care deserts, thirty-six percent of U.S. counties are maternal care deserts, where there are no hospitals offering obstetric services or birth centers and no obstetricians, gynecologists, or certified nurse

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[12] *Id.* at 409.

[13] *Eliminating Preventable Maternal Mortality and Morbidity*, Am. Coll. Obstetricians & Gynecologists, 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.*

[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.

midwives.[16] The Fifth Circuit's determination and the resulting nationwide ban on dispensing mifepristone via mail or pharmacy only exacerbates these serious healthcare disparities across the United States. *Amici* jurisdictions and their residents, who had no say in the Fifth Circuit's ruling, will be irreparably harmed absent this Court's intervention.

C. The Fifth Circuit's Stay Causes Unnecessary Confusion and Disruption of Care for Patients, Pharmacies, and Providers in *Amici* Jurisdictions.

First, patients will be gravely affected by the Fifth Circuit's determination. The twenty-seven percent of individuals who sought abortion care via telemedicine must look elsewhere. Those who were 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, which runs 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 visitors from out-of-state who are traveling for abortion care. That influx and over congestion will now increase, overburdening providers in several of *amici*'s jurisdictions. Moreover, the United States is already suffering from a nationwide provider shortage, particularly in rural areas.[17] And while *amici* care deeply about providing healthcare access to their residents, it is a matter of fact that many

[16] 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, 165 (2025).

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

jurisdictions are abortion care deserts, with few, if any, in-person clinics present.[18] 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 (and likely already have). As explained by Applicants Danco and GenBioPro, Louisiana did not file this litigation until more than two years after the 2023 Risk Evaluation and Mitigation Strategies ("2023 REMS") were formally adopted for mifepristone, and more than four years after the FDA suspended enforcement of the in-person dispensing requirement.[19] Prior to the stay, certified pharmacies could dispense mifepristone like any other FDA-approved medication. Staying the 2023 REMS is thus not as simple as returning to the drug-dispensing regime that existed five years ago—in the last three years, mifepristone prescription, labeling, and dispensation

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[18] 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, through the Midwest, and in portions of states like Tennessee, Oregon, Arizona, and New Mexico. *Id.*

[19] Danco Laboratories, LLC's Response in Opposition to Plaintiffs' Motion for a Stay or Injunction Pending Appeal at 23-24, *Louisiana v. FDA*, No. 26-30203 (5th Cir. Apr. 23, 2026) (Dkt. No. 76); GenBioPro, Inc.'s Opposition to Plaintiffs' Motion for Stay or Injunction Pending Appeal at 20-21, *Louisiana v. FDA*, No. 26-30203 (5th Cir. Apr. 23, 2026) (Dkt. No. 72). Indeed, in similar litigation against the FDA regarding the regulation of mifepristone, the states of Florida and Texas both agreed just last month 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).

practices have been built in reliance on the 2023 REMS. Further, mifepristone is used for miscarriage management, not only for abortion care.[20] It is not in the public interest to suddenly restrict access to mifepristone and to further exceptionalize a drug that has been safely and effectively prescribed via telemedicine, dispensed by mail or pharmacy, and taken by patients for over four years.

As stated in Danco's and GenBioPro's Applications, over the weekend, pharmacies were thrown into uncertainty after having already verified prescriptions and prepared mifepristone for pickup. *See* Danco App. at 36a, GenBioPro App. at 35a. Without a stay of the Fifth Circuit's ruling, those pharmacies may be forced to suspend dispensing a safe, effective, and FDA-approved medication with little notice, leaving staff uncertain about their obligations to patients.[21] 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, the Fifth Circuit's decision throws the reproductive healthcare delivery system into chaos and confusion, disrupting a status quo that has been in

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

[21] As highlighted by GenBioPro, suspending the 2023 REMS also creates immediate uncertainty about whether pharmacies, providers, and manufacturers of the drugs may continue "selling and dispensing existing product under their current REMS agreements; whether REMS documents and labeling must be changed; and whether already-manufactured inventory must be relabeled." GenBioPro App. at 35a.

place for years. Some *amici* jurisdictions operate public hospital systems that offer comprehensive reproductive health services, including the provision of abortion medication.[22] These public systems operate alongside independent community clinics that commonly prescribe mifepristone via telemedicine.[23] The impact of an in-person dispensing requirement will be felt even more directly in certain jurisdictions where abortion is legal. An in-person dispensing requirement increases the 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 and healthcare clinics and facilities are already facing significant staffing and resource shortages. Furthermore, if the in-person dispensation requirement is reinstated, some patients who would have otherwise obtained timely medication abortions or miscarriage management via telehealth will instead undergo more resource-intensive procedural abortions due to the delay in their ability to obtain care.

When a court's sudden ruling thwarts the timely and orderly delivery of reproductive and sexual healthcare, there are adverse consequences for patients and for public health. The impact on healthcare systems does not stop at abortion. *Amici* anticipate a ripple effect across the healthcare system in *amici* jurisdictions where

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

[23] Santa Clara's County Health System, for example, offers comprehensive reproductive health services, including medication and procedural abortion. There are also numerous community clinics in the San Francisco Bay Area. *See Find a California abortion provider*, Cal. Dep't Pub. Health, https://www.cdph.ca.gov/Programs/OHE/abortion/Pages/find-a-provider.aspx.

abortion care is protected, as reproductive and sexual healthcare providers—including providers in many of *amici*'s public hospitals—needlessly expend critical time and resources on in-person appointments that are not medically necessary. Appointment slots are limited and reproductive care is time-sensitive: Eliminating mifepristone access via telemedicine also threatens access to other critical healthcare, including birth control, sexually transmitted infection testing and treatment, complex prenatal care, ectopic pregnancy and/or miscarriage management, and beyond.[24]

This Court should remedy the Fifth Circuit's harmful determination by granting Applicants' request for a stay or vacatur of the judgment. The panel intervened unnecessarily and overreached. The district court did not abuse its discretion in determining that a stay in proceedings was proper given the FDA's pending review of mifepristone.[25] *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"). There was no basis to intervene at this stage and certainly not in this manner. The impending needless and widespread harm to the healthcare system must be averted to serve the public interest.

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[24] *See* Julia Strasser et al., *Penalizing Abortion Providers Will Have Ripple Effects Across Pregnancy Care*, Health Affs. Forefront (May 3, 2022), https://perma.cc/96KG-TSE2; *Hearing Before the U.S. Senate Committee on the Budget*, 118th Cong. 10 (2024) (prepared testimony of Caitlin Myers, Professor of Economics), https://perma.cc/TA23-8VS7; Daniel Grossman et al., *Care Post-Roe: Documenting cases of poor quality care since the* Dobbs *decision*, Advancing New Standards in Reproductive Health (ANSIRH) (Sept. 2024), https://perma.cc/8AE6-BK5S.

[25] *Amici* do not concede that such a review of the safety or efficacy of mifepristone is necessary; as pointed out by other *amici* at the district court level, it is well-established for over a quarter century of use and since FDA approval that mifepristone is a safe and effective drug.

CONCLUSION

The Fifth Circuit's decision contravenes this Court's precedents and threatens to upend access to healthcare—not in a handful of states, but across the nation. It will harm countless families and pregnant individuals in *amici*'s jurisdictions. For these reasons, and those provided by Applicants Danco and GenBioPro, *amici* Local Governments and Local Government Leaders respectfully request that the Court stay or vacate the judgment of the Fifth Circuit.

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APPENDIX A – LIST OF *AMICI CURIAE*

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City of Alexandria, Virginia

Allegheny County, Pennsylvania

City of Austin, Texas

City of Baltimore, Maryland

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

City of Pittsburgh, Pennsylvania

City of Portland, Oregon

City of Providence, Rhode Island

City of Rochester, New York

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

City of Tucson, Arizona

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County Supervisor, County of Monterey, California

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Councilmember, City of Bellingham, Washington

Valarie Bachelor
School Board Director, City of Oakland, California

Lacey Beaty
Mayor, City of Beaverton, Oregon

Celina Benitez
Mayor, City of Mount Rainier, Maryland

Lisa Brown
County Clerk, Oakland County, Michigan

Chelsea Byers
Mayor, City of West Hollywood, California

Barb Byrum
Clerk, Ingham County, Michigan

Chris Canales
Councilmember, City of El Paso, Texas

John Clark
Mayor, Town of Ridgway, Colorado

Katharine Clark
Clerk, County of Santa Fe, New Mexico

Emily Clouse
Commissioner, Thurston County, Washington

Laura Conover
County Attorney, Pima County, Arizona

Christine Corrado
Councilmember, Township of Brighton, New York

Olgy Diaz
City Councilmember, City of Tacoma, Washington

Roger Dickinson
Councilmember, City of Sacramento, California

Jilline Dobratz
City Clerk, City of West Bend, Wisconsin

Michael Dougherty
District Attorney, Boulder County, Colorado

Justin Douglas
County Commissioner, Dauphin County, Pennsylvania

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Trustee of the County Board of Education, City of San Diego, California

Marilyn Ezzy Ashcraft
Mayor, City of Alameda, California

Heather Ferbert
City Attorney, City of San Diego, California

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Vice Mayor and Councilmember, City of Culver City, California

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County Attorney, Harris County, Texas

Vanessa Fuentes
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Brenda Gadd
Councilmember, Metropolitan Nashville & Davidson County, Tennessee

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Councilmember, City of Hartford, Connecticut

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Todd Gloria
Mayor, City of San Diego, California

Lorenzo Gonzalez
Councilmember, City of San Marcos, Texas

Lynn Goya
County Clerk, Clark County, Nevada

Martha Guerrero
Mayor, City of West Sacramento, California

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School Committee Member-at-Large, City of Lawrence, Massachusetts

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County Commissioner, El Paso County, Texas

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Susan Hughes-Smith
County Legislator, Monroe County, New York

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Councilmember, City of Sacramento, California

Bryan Kennedy
Mayor, City of Glendale, Wisconsin

Marc Laredo
Mayor, Newton, Massachusetts

Jerald Lentini
Director, Town of Manchester, Connecticut

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