

Nos. 25A1207, 25A1208

Supreme Court of the United States

DANCO LABORATORIES, L.L.C., *et al.*

Applicant

v.

STATE OF LOUISIANA, *et al.*,

Respondents.

***On Application to Stay the Judgment of the United States
Court of Appeals for the Fifth Circuit and Request for an
Immediate Administrative Stay***

**BRIEF OF AMICI CURIAE TEXAS VALUES AND STATE
REPRESENTATIVE JEFF LEACH IN OPPOSITION TO THE
APPLICATION**

JONATHAN M. SAENZ
Counsel of Record
Attorney at Law
1005 Congress Ave., Suite 830
Austin, TX 78701
(512) 478-2220
jsaenz@txvalues.org

Counsel for Amici Curiae

TABLE OF CONTENTS

TABLE OF CONTENTS	ii
TABLE OF AUTHORITIES	iii
INTEREST OF AMICI CURIAE	1
SUMMARY OF ARGUMENT	2
ARGUMENT	3
I. The FDA’s Mail-Order Abortion Regime Jeopardizes Post- <i>Dobbs</i> State Protections Against Interstate Chemical-Abortion Distribution	3
A. Texas Has Developed One of the Nation’s Most Comprehensive Post- <i>Dobbs</i> Responses to Interstate Chemical-Abortion Distribution	3
B. The FDA’s Removal of In-Person Dispensing Requirements Directly Undermines State Safeguards Specifically Enacted to Detect Ectopic Pregnancies and Other Serious Medical Complications	5
II. Mail-Order Chemical Abortion Exposes Women to Coercion, Concealment, and Abuse	6
A. Mail-Order Chemical Abortion Eliminates Critical Safeguards Against Coercion and Abuse	7
B. Mail-Order Abortion Pills Facilitate Secret Abortions Involving Vulnerable Minors	8
CONCLUSION	9

TABLE OF AUTHORITIES

Cases

<i>Dobbs v. Jackson Women's Health Organization</i> , 597 U.S. 215 (2022)	2
<i>GenBioPro, Inc. v. Raynes</i> , 144 F.4th 258, 266 (4th Cir. 2025)	5
<i>Hodgson v. Minnesota</i> , 497 U.S. 417, 444 (1990).....	8

Statutes

Tex. S.B. 4, 87th Leg., Second Called Special Session (2021)	3
Tex. H.B. 7, 89th Leg., Second Called Special Session (2025)	3
Tex. S.B. 8, 87th Leg., R.S. (2021)	4
Tex. H.B. 1280, 87 th Leg. R.S. (2021)	8

Other Authorities

See Press Release: <i>Greg Abbott, Governor Abbott Signs Senate Bill 4 Into Law at Texas Values Policy Forum</i> (Sept. 17, 2021) (“We will not allow this to happen in Texas”)	6
Paul J. Weber, <i>Texas Man Sentenced to 180 Days in Jail for Drugging Wife’s Drinks to Induce an Abortion</i> , Associated Press (Feb. 8, 2024)	8

INTEREST OF AMICI CURIAE¹

Texas Values is an independent nonprofit organization and is the state family policy council (FPC) in Texas associated with Family Policy Alliance (FPA). The mission of Texas Values is to preserve and advance a culture where religious liberty flourishes, family values prosper, and every human life is valued and protected. Texas Values has also led on major pro-life legislative efforts in Texas, including advocacy related to the Texas Heartbeat Act, Senate Bill 4, and other state protections designed to safeguard women, minors, and unborn life from chemical-abortion distribution schemes and unlawful abortion practices. Through policy research, public education, grassroots mobilization, review of legislation and the provision of legal analyses, and testifying at the Texas Legislature and other governmental entities – Texas Values promotes its core values of *faith*, *family*, and *freedom*.

Texas State Representative Jeff Leach is a member of the Texas Legislature serving Texas House District 67, and is the House author of Texas House Bill 7, enacted during the 89th Legislature, Second Called Session (2025). H.B. 7 established a comprehensive private civil-enforcement mechanism and related anti-circumvention protections designed to address interstate distribution of abortion-inducing drugs and unlawful chemical-abortion schemes targeting Texas residents. Representative Leach seeks to preserve the sovereign authority of the State of Texas to safeguard women, minors, and unborn life from unlawful and harmful chemical-

¹ Pursuant to Rule 37.6, counsel for *amici curiae* authored this brief in whole, no counsel for a party authored this brief in whole or in part, and no such counsel or a party made a monetary contribution intended to fund the preparation or submission of this brief. No person or entity – other than amicus, its members, and its counsel – contributed monetarily to the preparation or submission of this brief.

abortion distribution systems operating beyond traditional state enforcement mechanisms.

SUMMARY OF ARGUMENT

Following *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022) (“*Dobbs*”), states regained primary authority to protect women and unborn life from abortion practices occurring within their borders. Texas responded by enacting some of the nation’s most comprehensive protections against anonymous and interstate chemical-abortion distribution schemes through legislative measures enacted in 2021 and 2025. The U.S. Food and Drug Administration’s (FDA) removal of in-person dispensing requirements directly undermines those sovereign state-law judgments by facilitating anonymous mail-order distribution of abortion-inducing drugs across state lines.

Texas’s protections were specifically designed to prevent interstate circumvention schemes, detect ectopic pregnancies and other serious medical complications, and protect women and minors from coercive and concealed chemical abortions.

The FDA’s mail-order abortion regime also removes critical safeguards against abuse, trafficking-related coercion, and secret abortions involving vulnerable minors. The same features proponents characterize as “private” and “convenient” also make unlawful and coercive abortions substantially more difficult for parents, physicians, and state authorities to detect and prevent.

This case therefore implicates not merely federal drug policy, but the ability of states to enforce post-*Dobbs* abortion protections against anonymous interstate distribution systems operating beyond traditional safeguards.

ARGUMENT

I. The FDA’s Mail-Order Abortion Regime Jeopardizes Post-*Dobbs* State Protections Against Interstate Chemical-Abortion Distribution

Texas has emerged as a leading example of post-*Dobbs* state efforts to prevent anonymous, unsupervised, and interstate chemical-abortion distribution. Through S.B. 4 (No Mail Order Abortion) enacted in 2021², H.B. 7 (Women and Child Protection Act) enacted in 2025³, and related protections, Texas has exercised its sovereign authority to protect women and unborn babies from mail-order chemical-abortion schemes that circumvent state law. The FDA’s mail-order regime directly destabilizes and conflicts with those sovereign state-law judgments.

A. Texas Has Developed One of the Nation’s Most Comprehensive Post-*Dobbs* Responses to Interstate Chemical-Abortion Distribution

Texas has enacted one of the nation’s most comprehensive state law responses addressing chemical-abortion distribution and interstate circumvention schemes. Through Texas Senate Bill 4, Texas prohibited mail delivery of abortion-inducing drugs, required physician involvement in the abortion process, and imposed

² Tex. S.B. 4, 87th Leg., Second Called Special Session (Effective 2021)

³ Tex. H.B. 7, 89th Leg., Second Called Special Session (Effective 2025)

safeguards designed to detect ectopic pregnancies and other serious medical complications before abortion-inducing drugs are administered.

Texas later enacted Texas House Bill 7 to address increasingly sophisticated interstate distribution systems designed to circumvent state abortion protections through out-of-state actors and shield-law jurisdictions. H.B. 7 established a detailed enforcement response that includes qui tam remedies, expanded personal-jurisdiction provisions, anti-circumvention measures, and protections against out-of-state clawback actions targeting persons who seek to enforce Texas law. That enforcement structure was modeled in substantial part on the private civil-enforcement mechanism employed in Texas Senate Bill 8⁴, the Texas Heartbeat Act, which Texas previously used to deter unlawful abortion activity through private enforcement actions rather than exclusive reliance on direct state enforcement.

These laws reflect Texas’s sovereign judgment that chemical abortion presents unique risks when abortion-inducing drugs are distributed remotely, anonymously, and outside meaningful physician supervision. Texas further determined that interstate mail-order distribution systems may be used to circumvent state protections designed to safeguard women, minors, and unborn life. As Judge Wilkinson of the Fourth Circuit recently observed, efforts to “once again federalize the issue of abortion without a clear directive from Congress, right on the heels of

⁴ Tex. S.B. 8, 87th Leg., R.S. (Effective 2021)

Dobbs, would leave us one small step short of defiance.” *GenBioPro, Inc. v. Raynes*, 144 F.4th 258, 266 (4th Cir. 2025).

The FDA’s removal of in-person dispensing requirements directly destabilizes these sovereign state-law judgments. By authorizing widespread mail-order distribution of abortion-inducing drugs, the FDA has facilitated precisely the forms of anonymous and interstate chemical-abortion distribution Texas sought to prevent through S.B. 4 and H.B. 7.

This case therefore implicates not merely federal drug policy, but the ability of states to enforce post-*Dobbs* protections against interstate chemical-abortion distribution schemes operating beyond traditional safeguards.

B. The FDA’s Removal of In-Person Dispensing Requirements Directly Undermines State Safeguards Specifically Enacted to Detect Ectopic Pregnancies and Other Serious Medical Complications

Texas’s chemical-abortion safeguards were not enacted arbitrarily. Through Texas Senate Bill 4, Texas imposed physician-involvement and examination requirements designed to detect ectopic pregnancies and other serious medical complications before abortion-inducing drugs could be dispensed. Those protections reflected the state’s judgment that chemical abortion presents unique dangers when abortion-inducing drugs are distributed remotely and outside physician supervision.

Among the most serious of those risks is ectopic pregnancy. Abortion-inducing drugs do not treat ectopic pregnancy, and delayed diagnosis may result in life-threatening complications. Texas therefore determined that physician examination

requirements serve an important protective function for pregnant women that could not be accomplished through tele-appointments or remote dispensing.

Governor Greg Abbott, when signing S.B. 4 at a Texas Values policy event in 2021, stated “[t]his year, we have witnessed the Biden Administration temporarily lift restrictions on abortion-inducing drugs and heard from those who want to permanently rollback safety protocols in place to [protect] pregnant women. We will not allow this to happen in Texas”⁵ See Press Release, Greg Abbott, Governor Abbott Signs Senate Bill 4 Into Law at Texas Values Policy Forum (Sept. 17, 2021). The FDA’s removal of in-person dispensing requirements directly undermines those state-law judgments. By facilitating widespread mail-order distribution of abortion-inducing drugs outside traditional clinical settings, the FDA’s regime reduces the opportunities for physicians to identify ectopic pregnancies and other serious medical risks.

States retain a profound sovereign interest in protecting women from preventable medical complications associated with the use of unsupervised chemical abortion pills. This interest is particularly acute where federal deregulation authorizes anonymous interstate distribution systems operating beyond meaningful physician oversight.

II. Mail-Order Chemical Abortion Exposes Women to Coercion, Concealment, and Abuse

⁵ See Press Release, Greg Abbott, Governor Abbott Signs Senate Bill 4 Into Law at Texas Values Policy Forum (Sept. 17, 2021) (“We will not allow this to happen in Texas”).

Remote dispensing and tele-appointments may be appropriate for many forms of medicine. But chemical abortion uniquely removes the few remaining safeguards capable of detecting coercion, trafficking-related abuse, and secret abortions involving vulnerable minors. The very features proponents of the FDA rule celebrate as “private” and “convenient” are the same features that make coercive and concealed chemical abortions more difficult to detect and prevent.

A. Mail-Order Chemical Abortion Eliminates Critical Safeguards Against Coercion and Abuse

The removal of in-person dispensing requirements eliminates one of the few remaining opportunities to identify coercion, trafficking-related abuse, and involuntary chemical abortions before irreversible harm occurs. Unlike professional medical treatment which is designed to heal or preserve life, chemical abortion causes harm and does so entirely outside supervised clinical settings—often administered in environments characterized by secrecy, pressure, or abuse.

A physician cannot identify coercion, trafficking, or abuse during an encounter that never occurs. When abortion-inducing drugs are distributed anonymously through mail-order channels, no physician or healthcare provider can meaningfully assess whether the woman obtaining the drugs is acting voluntarily, whether she is being pressured by an abusive partner or trafficker, or whether another person is obtaining the drugs for coercive and illicit purposes.

These dangers are not speculative. In Texas, a Houston attorney pleaded guilty after secretly placing abortion-inducing drugs into his pregnant wife’s drinks without

her knowledge in an attempt to terminate her pregnancy.⁶ As other *amici* acknowledge, proponents of mail-order abortion distribution frequently emphasize the “privacy,” “convenience,” and at-home nature of chemical abortion access. But the same features that make chemical abortion more difficult for parents, physicians, or state authorities to monitor also make coercive and concealed abortions more difficult to detect and prevent. States retain a profound sovereign interest in preventing the coercive administration of abortion-inducing drugs, particularly where anonymous distribution systems remove traditional safeguards against abuse and exploitation.

B. Mail-Order Abortion Pills Facilitate Secret Abortions Involving Minors

Texas possesses a profound sovereign interest in preventing minors from circumventing state abortion prohibitions through anonymous mail-order distribution systems. Following the *Dobbs* decision, Texas’s “trigger law,” the Texas Human Life Protection Act (H.B. 1280)⁷ prohibited nearly all elective abortions in the state. Texas law has long recognized that minors are particularly vulnerable to coercion, concealment, and exploitation in the abortion context. The Supreme Court has likewise recognized that states possess heightened authority to protect minors, “whose immaturity, inexperience, and lack of judgment may sometimes impair their ability to exercise their rights wisely.” *Hodgson v. Minnesota*, 497 U.S. 417, 444 (1990).

⁶ See Paul J. Weber, Texas Man Sentenced to 180 Days in Jail for Drugging Wife’s Drinks to Induce an Abortion, Associated Press (Feb. 8, 2024)

⁷ Tex. H.B. 1280, 87th Leg. R.S. (Effective 2021)

The FDA's mail-order abortion regime substantially undermines Texas's ability to enforce those abortion prohibitions involving minors. When abortion-inducing drugs may be obtained remotely and delivered anonymously through interstate mail-order channels, minors are able to circumvent Texas abortion laws. Minors are particularly susceptible to pressure, concealment, and manipulation in ways adults are not, which is why states have historically exercised heightened authority to protect children facing irreversible decisions.

CONCLUSION

For the foregoing reasons, the application should be denied.

Respectfully submitted,

JONATHAN M. SAENZ
Counsel of Record
Attorney at Law
1005 Congress Ave., Suite 830
Austin, TX 78701
(512) 478-2220
jsaenz@txvalues.org

Dated: May 7, 2026

Counsel for Amici Curiae