

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.

BRIEF OF *AMICI CURIAE* NATIONAL COUNCIL OF JEWISH WOMEN, RELIGIOUS COMMUNITY FOR REPRODUCTIVE CHOICE, CATHOLICS FOR CHOICE, HINDUS FOR HUMAN RIGHTS, MUSLIMS FOR PROGRESSIVE VALUES, UNITARIAN UNIVERSALIST ASSOCIATION, AND 46 OTHER FAITH-BASED ORGANIZATIONS, IN SUPPORT OF APPLICATIONS BY DANCO LABORATORIES, L.L.C. AND GENBIOPRO, INC. TO STAY OR VACATE THE FIFTH CIRCUIT'S STAY PENDING APPEAL

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INTEREST OF *AMICI CURIAE*¹

Amici curiae are organizations from a broad spectrum of religious traditions and faiths. *Amici* believe that every pregnant person should be able to decide for themselves whether to continue a pregnancy or seek an abortion, guided by the teachings of their own religious faith and consistent with their own values and conscience.

Amici are particularly concerned about the Fifth Circuit’s decision granting a stay pending appeal of the U.S. Food and Drug Administration’s (“FDA”) 2023 Risk Evaluation and Mitigation Strategies (“REMS”), which permanently removed the in-person dispensing requirement for mifepristone, permitting it to be dispensed by mail and through pharmacies (hereinafter the “Fifth Circuit’s Order”). Because the Fifth Circuit’s Order would impede the ability of many people to follow the teachings of their religious faith in making the deeply personal decision whether to seek an abortion, *amici* submit this brief supporting the applications by Danco Laboratories, L.L.C. and GenBioPro, Inc. to stay or vacate that Order.

A list of *amici* appears in the Appendix.

¹ No party or counsel for a party in this case authored this brief in whole or in part or made any monetary contribution to its preparation or submission. No monetary contributions were made to fund the preparation or submission of this brief.

SUMMARY OF ARGUMENT

Medication abortion utilizing the two-drug regimen of mifepristone and misoprostol is the most common method of medication abortion in the United States.² By 2023, medication abortions accounted for 63% of all abortions in the United States.³

Medication abortion using mifepristone is one of the safest medication regimens in medicine today, including when dispensed by mail.⁴ The risk of major complications from medication abortion is very low—approximately 0.3%.⁵ The mortality rate associated with mifepristone is less than 0.001%.⁶ For comparison,

² See KFF, *The Availability and Use of Medication Abortion* (Mar. 20, 2024, updated Mar. 10, 2025), <https://www.kff.org/womens-health-policy/the-availability-and-use-of-medication-abortion/>.

³ R.K. Jones & A. Friedrich-Karnik, *Medication Abortion Accounted for 63% of All US Abortions in 2023—An Increase from 53% in 2020*, GUTTMACHER INST. (Mar. 19, 2024), <https://www.guttmacher.org/2024/03/medication-abortion-accounted-63-all-us-abortions-2023-increase-53-2020>.

⁴ While alternative regimens exist, research suggests that they may be less effective and result in more side effects. See E. Raymond et al., *Effectiveness and safety of misoprostol-only for first-trimester medication abortion: An updated systematic review and meta-analysis*, 127 CONTRACEPTION 110 (2023), <https://pubmed.ncbi.nlm.nih.gov/37517447/>.

⁵ See FDA CTR. FOR DRUG EVAL. & RSCH., *Medical Review, Application No. 020687Orig1s020*, at 56 (Mar. 29, 2016) (hereinafter “2016 FDA Approval”), https://www.accessdata.fda.gov/drugsatfda_docs/nda/2016/020687Orig1s020MedR.pdf.

⁶ U.S. FOOD & DRUG ADMIN., *Mifepristone U.S. Post-Marketing Adverse Events Summary through 12/31/2022*, <https://www.fda.gov/media/164331/download>; see also 2016 FDA Approval, *supra* note 5, at 82–83.

the risk of death from penicillin is four times greater and the risk of death from Viagra is nearly ten times greater.⁷

Medication abortion offers unique benefits. Pregnant persons may choose medication abortion over procedural abortion for any number of reasons, including: to avoid sedation or anesthesia, to avoid a procedure involving genital contact due to prior sexual assault or trauma, or to have the abortion in the comfort of one's home surrounded by family, among many other reasons.⁸

Since 2021, the FDA has allowed mifepristone to be dispensed by mail. Following this decision and its formalization in 2023, medication abortion using mifepristone prescribed via telehealth and dispensed by mail and through pharmacies has become commonplace and proven to be as safe as when it is dispensed in a clinic.⁹ Mifepristone prescribed via telemedicine is the most accessible means for many people across the country and eliminates or reduces many secondary costs

⁷ A.I. Neugut, A.T. Ghatak & R.L. Miller, *Anaphylaxis in the United States: an investigation into its epidemiology*, 161 ARCH INTERN MED. 1, 15–21 (2001), <https://pubmed.ncbi.nlm.nih.gov/11146694/>; M. Mitka, *Some Men Who Take Viagra Die—Why?*, 283 JAMA 5, 590–93 (2000), <https://jamanetwork.com/journals/jama/article-abstract/1843222>.

⁸ See UCLA HEALTH, *Family Planning: Medical vs. Surgical Abortion*, <https://www.uclahealth.org/medical-services/obgyn/family-planning/patient-resources/medical-vs-surgical-abortion> (last visited May 3, 2026).

⁹ See J.E. Kohn et al., *Medication Abortion Provided Through Telemedicine in Four U.S. States*, 134 OBSTET GYNECOL 2, 343–50 (2019), <https://pubmed.ncbi.nlm.nih.gov/31306317/>; U. Upadhyay et al., *Effectiveness and safety of telehealth medication abortion in the USA*, 30 NATURE MED. 1191, 1197 (2024), <https://pubmed.ncbi.nlm.nih.gov/38361123/>; L.J. Ralph et al., *Comparison of No-Test Telehealth and In-Person Medication Abortion*, 332 JAMA 898, 903 (2024), <https://pubmed.ncbi.nlm.nih.gov/38913394/>.

by allowing patients to seek care without missing work, obtaining childcare, or traveling.

Many religions, including those represented by *amici*, teach that the decision to seek an abortion is a moral prerogative, and that abortion is morally permissible or even required under certain circumstances. By threatening to vastly limit access to a safe and widely used drug, the Fifth Circuit's Order impairs pregnant people's ability to follow the dictates of their conscience and the teachings of their religious faith on whether to have an abortion. Moreover, the burden of these restrictions would fall most heavily on vulnerable people from marginalized communities—people that many religions view as particularly deserving of protection.

For these reasons, *amici* urge the Court to stay or vacate the Fifth Circuit's Order.

ARGUMENT

I. RELIGIOUS TRADITIONS AFFIRM A PREGNANT PERSON'S MORAL RIGHT TO DECIDE WHETHER AND UNDER WHAT CIRCUMSTANCES TO SEEK AN ABORTION.

A. Many Religious Traditions View Abortion as Morally Acceptable.

A broad range of religious traditions recognize the moral right of each person to make their own decisions about their pregnancy in accordance with their faith and conscience—including by accessing abortion care through a safe and effective means.

While some religious traditions posit that human life begins at conception, many other faiths and denominations do not adhere to that view.¹⁰ Many religious traditions view the decision to have an abortion as morally and religiously acceptable.

Many Protestant denominations teach that the decision to seek an abortion can be consistent with Christian ethics. For example:

- The Presbyterian Church (U.S.A.) teaches that “women and pregnant people are full moral agents, created in the image of God.”¹¹ The Presbyterian Church (U.S.A.) affirms that women and pregnant people

¹⁰ See, e.g., PRESBYTERIAN CHURCH (U.S.A.), *Reproductive Rights*, <https://pcusa.org/how-we-serve/justice-peace/reproductive-rights> (last visited May 3, 2026); UNITED CHURCH OF CHRIST, *Statement on Reproductive Health and Justice* (noting the “many religious and theological perspectives on when life and personhood begin”), https://d3n8a8pro7vhmx.cloudfront.net/unitedchurchofchrist/legacy_url/455/reproductive-health-and-justice.pdf?1418423872 (last visited May 3, 2026); EVANGELICAL LUTHERAN CHURCH IN AM., *A Social Statement on: Abortion*, at 3 n.2 (1991) (explaining that embryology provides insight into the “complex mystery of God’s creative activity” but that individual interpretation of the scientific information leads to various understandings of when life begins), <https://cdn.elca.org/cdn/wp-content/uploads/AbortionSS.pdf>; P. Fletcher Stack, *Surprise! The LDS Church can be seen as more ‘pro-choice’ than ‘pro-life’ on abortion. Here’s why.*, THE SALT LAKE TRIB. (June 1, 2019, 11:01 AM, updated June 2, 2019, 7:27 PM) (noting that the Church of Jesus Christ of Latter-day Saints has never taken an official position on when a fetus acquires personhood), <https://www.sltrib.com/religion/2019/06/01/surprise-lds-church-can/>; E. Strauss, *When Does Life Begin? It’s Not So Simple.*, SLATE (Apr. 4, 2017, 5:55 AM) (explaining that, in the Jewish tradition, the creation of a human life is generally viewed as something that happens in stages, that there is a clear distinction between a full-fledged human and a fetus in the Bible, and that the Muslim tradition does not have a “universally agreed-upon moment when a fetus becomes a person”), <https://slate.com/human-interest/2017/04/when-does-life-begin-outside-the-christian-right-the-answer-is-over-time.html>; VATICAN SACRED CONGREGATION FOR THE DOCTRINE OF THE FAITH, *Declaration on Procured Abortion*, at n.19 (Nov. 18, 1974) (acknowledging the Catholic tradition’s lack of consistent teaching on when life begins), https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19741118_declaration-abortion_en.html.

¹¹ PRESBYTERIAN CHURCH (U.S.A.), *supra* note 10.

- have the “moral capacity to decide whether to continue or end any given pregnancy,” and that this decision “should not be restricted by law.”¹²
- The United Church of Christ teaches that “[e]very woman must have the freedom of choice to follow her personal religious and moral convictions concerning the completion or termination of her pregnancy.”¹³
 - The Episcopal Church of America views the decision to terminate a pregnancy as a personal “right of a woman to reach an informed decision about the termination of a pregnancy.”¹⁴ It has expressed an “unequivocal opposition to any legislative, executive, or judicial action . . . that would limit the access of a woman to a safe means of acting on her decision.”¹⁵
 - The Unitarian Universalist Association views “the personal right to choose in regard to . . . abortion” as an important aspect of the “right of individual conscience.”¹⁶

¹² *Id.*

¹³ UNITED CHURCH OF CHRIST, *General Synod Statements and Resolutions Regarding Freedom of Choice, Thirteenth General Synod*, 81-GS-60 (1981), https://d3n8a8pro7vhmx.cloudfront.net/unitedchurchofchrist/legacy_url/2038/GS-Resolutions-Freedom-of-Choice.pdf?1418425637.

¹⁴ THE ARCHIVES OF THE EPISCOPAL CHURCH, *Reaffirm General Convention Statement on Childbirth and Abortion*, J. GEN. CONVENTION OF THE EPISCOPAL CHURCH, INDIANAPOLIS 323, 323–25 (1994), https://digitalarchives.episcopalarchives.org/cgi-bin/acts/acts_generate_pdf.pl?resolution=1994-A054.

¹⁵ *Id.*; see also EPISCOPAL CHURCH, *Standing Commission on Human Affairs and Health*, Resolution #A087 (1988) (any legislation surrounding abortion “must take special care to see that individual conscience is respected”), https://www.episcopalarchives.org/e-archives/gc_reports/reports/1988/bb_1988-R016.pdf.

¹⁶ UNITARIAN UNIVERSALIST ASS’N, *General Resolution on the Right to Choose* (July 1, 1987), <https://www.uua.org/action/statements/right-choose>.

- The Evangelical Lutheran Church in America affirms that “there can be sound reasons for ending a pregnancy,” and that obtaining an abortion may be a “morally responsible” choice.¹⁷ The Lutheran Church in America opposes “laws that deny access to safe and affordable services for morally justifiable abortions.”¹⁸
- The Disciples of Christ teaches that the decision to continue or terminate a pregnancy should rest with “the individuals involved with the pregnancy . . . on the basis of ethical and moral grounds.”¹⁹

While the official stance of the Catholic Church treats abortion as impermissible,²⁰ the majority of American Catholics believe that abortion should be legal in all or most cases.²¹ Catholic patients in this country have abortions at

¹⁷ EVANGELICAL LUTHERAN CHURCH IN AM., *supra* note 10, at 6–7.

¹⁸ *Id.* at 9–10.

¹⁹ Freedom of Choice Act of 1989: Hearing on S. 1912 Before the S. Comm. on Labor and Human Resources, 101st Cong. 237 (1990) (testimony of John O. Humbert, General Minister and President, Christian Church (Disciples of Christ) in the USA and Canada) (citing General Assembly Resolutions of the Christian Church (Disciples of Christ) 8954 (1989) and 7524 (1975)).

²⁰ VATICAN CONGREGATION FOR THE DOCTRINE OF THE FAITH, *Instruction on Respect for Human Life in its Origin and on the Dignity of Procreation* (Feb. 22, 1987), https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19870222_respect-for-human-life_en.html.

²¹ J. DeRose, *6 in 10 U.S. Catholics are in favor of abortion rights, Pew Research report finds*, NPR (Apr. 12, 2024, 10:00 AM), <https://www.npr.org/2024/04/12/1244156165/abortion-catholics-pope-francis-church-pew-research>; PUB. RELIGION RSCH. INST., *Abortion Views Across All 50 States: Key Insights from PRRI’s 2024 American Values Atlas* (Apr. 1, 2025), <https://prri.org/research/abortion-views-across-all-50-states-key-insights-from-prris-2024-american-values-atlas/>.

approximately the same rate as patients of other (or no) faith traditions.²²

Foundational Jewish legal texts explicitly permit access to abortion, including medication abortion, and even *require* it when the pregnant person’s health and life are at risk.²³ The Mishnah (Ohalot 7:6) and Talmud (Sanhedrin 72b) affirm that the life, health, and wellbeing of the pregnant person supersede those of the fetus, which does not have the status of a *nefesh* (a full legal person) until birth (Exodus 21:22–23).²⁴ The Mishneh Torah allows for abortion whether “with a drug or by hand.”²⁵

The Conservative, Reform, and Reconstructionist movements (three major Jewish denominations) all adopt the view that “[w]omen are capable of making moral decisions, often in consultation with their clergy, families and physicians, on whether or not to have an abortion.”²⁶ Over 2,500 Jewish clergy have pledged their active,

²² J. Jerman et al., *Characteristics of U.S. Abortion Patients in 2014 and Changes Since 2008*, GUTTMACHER INST. (May 2016), <https://www.guttmacher.org/report/characteristics-us-abortion-patients-2014>; *see also* GUTTMACHER INST., *Fact Sheet: Induced Abortion in the United States*, at 1 (Sept. 2019), https://www.guttmacher.org/sites/default/files/factsheet/fb_induced_abortion.pdf.

²³ *See* Strauss, *supra* note 10; NAT’L COUNCIL OF JEWISH WOMEN, *Abortion and Jewish Values Toolkit*, at 16 (2020), https://www.ncjw.org/wp-content/uploads/2020/05/NCJW_ReproductiveGuide_Final.pdf.

²⁴ Rabbi D. Ruttenberg, *The Torah of Abortion Justice (Annotated Source Sheet)*, VOICES ON SEFARIA, <https://voices.sefaria.org/sheets/234926.14?lang=bi> (last visited May 3, 2026).

²⁵ Maimonides, *Mishneh Torah, Laws of Murder and Preservation of Life*, 1:9; *see* Expert Report of Rabbi D. Ruttenberg, ¶ 26, *Johnson v. Wyoming*, Case No. 18853 (Wyo. Dist. Ct. Teton Cnty. July 17, 2023), https://wyofile.com/wp-content/uploads/2023/09/2023_08_02_11_52_14-EX-E-1.pdf.

²⁶ 144 Cong. Rec. S10491 (daily ed. Sept. 17, 1998) (quoting Letter of 729 Rabbis in Support of President Clinton’s Veto of H.R. 1122 (Sept. 10, 1998)).

faith-driven support for abortion while opposing efforts to restrict access to care.²⁷ Contrary to the spirit of religious pluralism and free exercise as guaranteed by the First Amendment, barriers to reproductive freedom infringe upon the religious imperative to receive abortion care, including medication abortion using mifepristone. Restrictions that hinder this option do not simply limit medical access: they compel Jewish individuals to act contrary to the demands of their faith.

The Church of Jesus Christ of Latter-day Saints likewise “defers to [the] moral agency” of the pregnant person in making this decision.²⁸

Other major religions similarly teach that abortion is both permissible and moral under certain circumstances and embrace the ultimate authority of a pregnant person to make the decision whether to seek an abortion, consistent with their faith and values. For instance, many schools of Islamic thought permit abortion where pregnancy would “endanger the health or life of the expectant mother” or if there is

²⁷ See NAT’L COUNCIL OF JEWISH WOMEN, *2023–2024 Impact Report*, at 5, <https://heyzine.com/flip-book/b71cc86305.html>; see also Letter of Over 300 Jewish Clergy Leaders to the Senate Committee on the Judiciary (June 16, 2021), https://www.ncjw.org/wp-content/uploads/2021/07/06-16-2021_Jewish-Clergy-Leaders-WHPA-Letter-FINAL-1.pdf.

²⁸ Fletcher Stack, *supra* note 10 (citing the work of Courtney Campbell, a Mormon professor of religion and culture at Oregon State University); see also THE LATTER-DAY SAINTS TRADITION: RELIGIOUS BELIEFS AND HEALTHCARE DECISIONS 10–11 (Deborah Abbott ed., 2002) (affirming the “right of a woman to make her own decision” in the matter of whether to have an abortion), https://www.advocatehealth.com/-/media/Project/Health-System-Enterprise/AdvocateHealthCom/advocatehealth/documents/about-us/faith-at-advocate/spiritual-health/religious-beliefs-health-care-decisions/latter-day_saints_tradition.pdf?rev=58a16b9457ea47d4a4f4682204ca60ea&hash=0600998E33D831FFF5AF638207633771.

a serious congenital anomaly, at any point up to 120 days from conception, or approximately 19–20 weeks gestation.²⁹

The Buddhist Churches of America teach that “it is the woman carrying the fetus, and no one else, who must in the end make this most difficult decision.”³⁰

While there are various views within Hinduism, many Hindus believe that “each case [of abortion] requires unique consideration” and that the “final decision will be based on a long series of choices made by the woman on her lifestyle, morals[,] and values.”³¹ The majority of Hindus in the United States believe that abortion should be legal.³²

* * *

The Fifth Circuit’s Order imposes restrictions on the medical care and options of the many millions of American people whose religious faith teaches that abortion is religiously and morally acceptable—despite the overwhelming consensus of the scientific and medical communities that medication abortion using mifepristone is safe, effective, and medically necessary.

²⁹ M.A. Albar, *Induced Abortion from an Islamic Perspective: Is it Criminal or Just Elective?*, 8 J. FAM. CMTY. MED. 25, 29–32 (2001), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3439741/>; see also Strauss, *supra* note 10.

³⁰ *A Shin Buddhist Stance on Abortion*, 6 BUDDHIST PEACE FELLOWSHIP NEWSL. 3, 7 (July 1984), <https://objects.lib.uidaho.edu/bpf/turningwheel-summer1984.pdf>.

³¹ *Hindus In America Speak out on Abortion Issues*, HINDUISM TODAY (Sept. 1, 1985), <https://www.hinduismtoday.com/magazine/september-1985/1985-09-hindus-in-america-speak-out-on-abortion-issues/>.

³² PEW RSCH. CTR., *2023–24 Religious Landscape Study*, <https://www.pewresearch.org/religious-landscape-study/religious-tradition/hindu/> (select “Abortion” under “Social & political views”).

B. Restricting Access to Medication Abortion Using Mifepristone Would Undermine the Ability to Make the Moral Choices Supported By Many Religions.

As a corollary to their affirmance of abortion as a morally acceptable choice, many religious groups recognize the value and importance of medication abortion using mifepristone.

National Council of Jewish Women (“NCJW”)—an organization which has championed reproductive freedom since its founding in 1893—has stated that “[r]estricting access to mifepristone, the most common drug used for abortions and miscarriages, impede[s] our religious freedom as Jews to follow our tradition, which prioritizes the life and well-being of the pregnant person.”³³

Similarly, the Religious Community for Reproductive Choice has affirmed that mifepristone access is a vital piece of overall access to abortion. That is because mifepristone can make abortion accessible to someone who otherwise would lack access to it due to distance, transportation, time limitations, or cost considerations. The Religious Community for Reproductive Choice recognizes that access to mifepristone gives pregnant women the dignity of more options for when and how to have their abortions, including in the privacy and comfort of their own homes.

These views are shared by many faiths and denominations. For example, the Unitarian Universalist Association has a long legacy of supporting abortion access—including by medication abortion using mifepristone—as one of the key arenas of

³³ NAT’L COUNCIL OF JEWISH WOMEN, *Pledge for Medication Abortion Access*, <https://www.jewsforabortionaccess.org/actions/pledge-for-medication-abortion> (last visited May 3, 2026).

bodily autonomy. Denying women the ability to safeguard their sacred bodily autonomy and to secure access to an authorized health care provider for medication abortion violates Unitarian Universalists' deeply held beliefs.

Catholics for Choice rejects restrictions on access to mifepristone as attacks on the reproductive freedom and bodily autonomy of women and pregnant people in the United States. Catholic social justice tradition embodies caring for our most vulnerable: those struggling with economic insecurity, facing violence, living in rural and medically underserved areas, young people, and immigrants. Catholics for Choice opposes attempts to reduce access to mifepristone as they disproportionately harm the same vulnerable people that Catholic social justice protects. Restricting this medication ignores the lives of real people—including 1 in 4 abortion patients who are Catholic—that make deeply personal healthcare decisions guided by their faith and well-informed consciences. Catholics for Choice believes that reduced access to mifepristone, a medication that is backed by decades of clinical research, is a betrayal of our fundamental values, particularly on the affirmation that healthcare is a human right. Catholics for Choice calls on the justice system to listen to the science and preserve full access to this safe, widely used, and effective drug that plays such a consequential role in so many lives.

And Sadhana: Coalition of Progressive Hindus (“Sadhana”) rejects any restrictions to mifepristone access because Sadhana believes that support for abortion—including medication abortion—reflects a Hindu value that individuals

must be allowed to make well-considered choices for themselves. Conscientious decision-making is a core part of the Hindu philosophical framework.

Likewise, Hindus for Human Rights believes that practicing Hindus must be allowed to make conscientious choices about their own bodies and their reproductive health, and restrictions on mifepristone access interrupt the way Hindus are allowed to practice their faith in the United States.

II. PREGNANT PEOPLE’S ABILITY TO ACCESS ABORTION CONSISTENT WITH THE TEACHINGS OF THEIR FAITH WOULD BE IMPAIRED IF ACCESS TO MIFEPRISTONE WERE RESTRICTED.

By requiring in-person dispensing of mifepristone, the Fifth Circuit’s Order would make it difficult or impossible for many people to obtain the medication that is used in most abortions in the United States today. As a result, these restrictions would impede the ability of many pregnant people to follow the guidance of their religious faith in choosing to have an abortion.

Common reasons for utilizing telemedicine to access abortion include distance to the abortion provider, difficulty traveling due to medical conditions or disabilities, inability to take time off work, privacy, cost, and flexibility of appointment times.³⁴ If the Fifth Circuit’s Order were to take effect, it would be unreasonably difficult—if not impossible—for pregnant people in parts of the country where abortion is permitted to obtain an abortion using mifepristone. For example, in some states where there are a limited number of brick-and-mortar abortion providers, pregnant

³⁴ See F.A. Kumsa, R. Prasad & A. Shaban-Nejad, *Medication abortion via digital health in the United States: a systematic scoping review*, NPJ DIGIT. MED. 6, 128 (2023), <https://doi.org/10.1038/s41746-023-00871-2>.

people would need to drive hundreds of miles, each way, to access the most common regimen for medication abortion.³⁵

Studies show that requiring individuals to travel prevents a substantial number from reaching providers at all.³⁶ Increases in travel distances by as few as 50 miles decreased abortion rates by 16%, and increases by at least 100 miles decreased abortion rates by 28%.³⁷ And for pregnant people with certain medical conditions, disabilities, or other extenuating life circumstances (such as lack of access to child care, the inability to take time off work, not being able to travel long distances, and the need for people experiencing intimate partner violence to conceal appointments or travel), mifepristone prescribed via telemedicine is significantly more accessible than an in-person appointment.

The FDA's decision allowing mifepristone to be dispensed by mail and at pharmacies aids reproductive health. Indeed, studies show that the FDA's earlier requirement—that mifepristone could only be dispensed in person in a healthcare facility—did not make care safer, but did burden patient access.³⁸ In 2021, after

³⁵ See A. McCann & A. Schoenfeld Walker, *Where Restrictions on Abortion Pills Could Matter Most in the U.S.*, N.Y. TIMES (updated Apr. 7, 2023), <https://www.nytimes.com/interactive/2023/03/02/us/abortion-pill-lawsuit-mifepristone.html>.

³⁶ *E.g.*, J.M. Lindon et al., *How Far Is Too Far? New Evidence on Abortion Clinic Closures, Access, and Abortions*, 55 J. HUMAN RES. 4, 1137–60 (2020), <https://jhr.uwpress.org/content/55/4/1137>.

³⁷ *Id.* at 1152.

³⁸ See U.D. Upadhyay et al., *Outcomes and Safety of History-Based Screening for Medication Abortion*, 182 JAMA INTERN MED. 5, 482–91 (2022), <https://pubmed.ncbi.nlm.nih.gov/35311911/>; Mifeprex REMS Study Group et al., *Sixteen Years of Overregulation: Time to Unburden Mifeprex*, 376 N ENGL J. MED. 8,

reviewing the mifepristone REMS program, “the FDA determined that the available data and information support[ed] modification of the REMS to reduce burden on the health care delivery system and to ensure the benefits of the product outweigh[ed] the risks.”³⁹

Instead of protecting pregnant people, the Fifth Circuit’s Order would create unnecessary burdens and harm those seeking medication abortion using mifepristone. It would force patients to make medically unnecessary trips to obtain prescriptions and to receive mifepristone, and it would prevent access to reproductive healthcare for many pregnant people who live far from an abortion provider or who face other barriers to making an in-person healthcare visit.

Various religious traditions affirm a pregnant person’s right to follow their conscience and the teachings of their religious faith in deciding whether to end their pregnancy, and access to medication abortion using mifepristone can be critical to

790–94 (2017), <https://pubmed.ncbi.nlm.nih.gov/28225670/>; AM. COLL. OF OBSTETRICIANS AND GYNECOLOGISTS, *Improving Access to Mifepristone for Reproductive Health Indications*, Washington, DC: ACOG (June 2018, reaff’d Mar. 2021), <https://www.acog.org/clinical-information/policy-and-position-statements/position-statements/2018/improving-access-to-mifepristone-for-reproductive-health-indications>; A.R.A. Aiken et al., *Safety and effectiveness of self-managed medication abortion provided using online telemedicine in the United States: A population based study*, 10 LANCET REG’L HEALTH AM. 100200 (2022), [https://www.thelancet.com/journals/lanam/article/PIIS2667-193X\(22\)00017-5/fulltext](https://www.thelancet.com/journals/lanam/article/PIIS2667-193X(22)00017-5/fulltext).

³⁹ U.S. FOOD & DRUG ADMIN., *Mifeprex (mifepristone) Information: Postmarket Drug Safety Information for Patients and Providers* (Jan. 17, 2025), <https://www.fda.gov/Drugs/DrugSafety/PostmarketDrugSafetyInformationforPatientsandProviders/ucm111323.htm>.

their ability to effectuate that choice. For the reasons stated above, the Fifth Circuit’s Order would impede their ability to do so.

III. RESTRICTING ACCESS TO MIFEPRISTONE WOULD DISPROPORTIONATELY HARM PREGNANT PEOPLE FROM MARGINALIZED GROUPS.

A broad array of religions, including those represented by *amici*, embrace, as a central tenet of their faith, the importance of serving and supporting vulnerable and marginalized communities, including people of color, immigrant, and low-income communities who already face greater barriers to accessing healthcare. Decreased access to safe abortion methods would disproportionately affect these populations.

Women with incomes below the poverty line have an unintended pregnancy rate more than five times higher—and an abortion rate six times higher—than those of women with higher incomes.⁴⁰ Furthermore, people of color account for the majority of abortion patients in the United States,⁴¹ and they will be the most severely affected by restrictions on access to the most common method of medication abortion.⁴² Restrictive abortion policies may also “compound existing racial/ethnic,

⁴⁰ E.B. Harned & L. Fuentes, *Abortion Out of Reach: The Exacerbation of Wealth Disparities After Dobbs v. Jackson Women’s Health Organization*, AM. BAR ASS’N (Jan. 6, 2023), https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/wealth-disparities-in-civil-rights/abortion-out-of-reach/.

⁴¹ See R.K. Jones & J. Jerman, *Population Group Abortion Rates and Lifetime Incidence of Abortion: United States, 2008–2014*, 9 AM. J. OF PUB. HEALTH 112, 1288 (2022), <https://doi.org/10.2105/AJPH.2017.304042>; KFF, *Reported Legal Abortions by Race of Women Who Obtained Abortion by the State of Occurrence* (2022), <https://www.kff.org/womens-health-policy/state-indicator/abortions-by-race/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>.

⁴² See S.K. Redd et al., *Racial/ethnic and educational inequities in restrictive abortion policy variation and adverse birth outcomes in the United States*, 21 BMC HEALTH

socioeconomic, and intersecting racial/ethnic and socioeconomic perinatal and infant health inequalities.”⁴³ In particular, women who live farther from a medical clinic and those who identify as multiracial are more likely to use telemedicine than visit a clinic for access to abortion care.⁴⁴ A lack of access to mifepristone through the mail will impact these women.

Numerous faith traditions teach that people of faith have a moral obligation to protect and advocate on behalf of people who are poor or from marginalized communities.

For example, the United Church of Christ has adopted resolutions supporting measures to ensure that “women with limited financial means” are able to “exercise [their] legal right to the full range of reproductive health services,” and has affirmed that “[w]hat is legally available to women must be accessible to all women.”⁴⁵ And the Unitarian Universalist Association has affirmed its support for the reproductive justice movement as an extension of its core theological teachings, acknowledging the ways that an individual’s right to make reproductive choices is shaped by “social and

SERV RSCH. 1139 (2021), <https://link.springer.com/article/10.1186/s12913-021-07165-x>.

⁴³ *Id.*

⁴⁴ A.E. Fiastro et al., *Telehealth vs In-Clinic Medication Abortion Services*, 6 JAMA NETW OPEN 9 (2023), <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2809068>.

⁴⁵ UNITED CHURCH OF CHRIST, *supra* note 10; *see also* CONN. CONFERENCE OF THE UNITED CHURCH OF CHRIST, *Resolution: Freedom of Choice Concerning Abortion* (1971) (affirming that laws that “severely limit[] access to safe abortions” “have the effect of discriminating against the poor” and are therefore “neither just nor enforceable”), https://www.sneucc.org/files/tables/content/7726678/fields/files/327cad155b9c43dd8a95e03e4179fbe8/1971_freedom_of_choice.pdf.

political systems as well as by factors such as racial/cultural identity, economic status, immigration/citizenship status, relationship with the justice system, health status, and ability.”⁴⁶

Consistent with these teachings, the Unitarian Universalist Association seeks to ensure “control of personal reproductive decisions” for people of “all genders, sexual orientations, abilities, gender identities, ages, classes, and cultural and racial identities,” and “especially the most vulnerable and marginalized.”⁴⁷ It has also condemned attempts “to restrict access to birth control and abortion by overriding individual decisions of conscience,” which “often result in depriving poor women of their right to medical care.”⁴⁸

In addition, many Catholics believe that protecting the right of poor and vulnerable pregnant people to choose whether to end their pregnancies is a natural and necessary outgrowth of core principles of Catholic social justice.⁴⁹

Similarly, Jewish values—*tzedek* (justice), *kavod ha bri'ot* (dignity), and *achrayut* (social responsibility)—expressly bolster the religious obligation to remedy

⁴⁶ UNITARIAN UNIVERSALIST ASS'N, *Statement of Conscience on Reproductive Justice* (July 1, 2015), <https://www.uua.org/action/statements/reproductive-justice>.

⁴⁷ *Id.*

⁴⁸ UNITARIAN UNIVERSALIST ASS'N, *supra* note 16.

⁴⁹ See CATHOLICS FOR CHOICE, *Social Justice*, <https://www.catholicsforchoice.org/issues/social-justice/> (last visited May 3, 2026); CATHOLICS FOR CHOICE, *Reproductive Equity*, <https://www.catholicsforchoice.org/issues/reproductive-choice/> (last visited May 3, 2026); CATHOLICS FOR CHOICE, *Advocate's Bible: A Guide for Pro-Choice Catholics and Co-Conspirators*, at 37–46 (June 2022), <https://www.catholicsforchoice.org/wp-content/uploads/2022/09/AdvocatesBible.23.webreduced.pdf>.

inequity and advocate for the bodily autonomy, health care access, and religious freedom of all people, regardless of background.⁵⁰

By placing a disproportionate burden on pregnant people from marginalized communities, and by limiting their freedom to make determinations about their reproductive health and family formation in accordance with their own beliefs, the Fifth Circuit's Order would further undermine religious liberty.

CONCLUSION

For the foregoing reasons, *amici* urge this Court to grant the applications by Danco Laboratories, L.L.C. and GenBioPro, Inc. to stay or vacate the Fifth Circuit's Order.

Dated: May 6, 2026

Respectfully submitted,

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⁵⁰ See NAT'L COUNCIL OF JEWISH WOMEN, *supra* note 23, at 5, 13, 19.

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ALEPH: Alliance for Jewish Renewal

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