

APRIL 12, 2023

FACTSHEET: The Biden-Harris Administration's Record on Protecting Access to Medication Abortion

Protecting access to reproductive health care has been a priority since the beginning of the Biden-Harris Administration, made even more urgent by the Supreme Court's decision to overturn *Roe v. Wade*. The President and Vice President are focused on ensuring access to mifepristone, which the FDA first approved as safe and effective to end early pregnancy more than twenty years ago and which accounts for more than half of abortions in the United States.

Despite this decades-long safety record, a single court in Texas has taken the dangerous step of attempting to override FDA's approval of medication abortion—which is used not only for abortion but also for helping women manage miscarriages. If this decision stands, it will put women's health at risk and undermine FDA's ability to ensure patients have access to safe and effective medications when they need them.

This lawsuit is part of broader efforts to ban abortion nationwide and to prevent women from making their own decisions about their own bodies without government interference.

The Administration is fighting this ruling in the courts, and stands by FDA's scientific and evidence-based judgment that mifepristone is safe and effective. Shortly after the ruling last Friday, the Justice Department filed a notice of appeal to the Fifth Circuit and sought a stay of the injunction pending appeal. A wide range of stakeholders, including FDA scholars, leading medical organizations, and pharmaceutical companies, have expressed their support for maintaining access to this FDA-approved medication.

In addition to defending in court FDA's ability to approve safe and effective medications, the Biden-Harris Administration has taken the following steps to protect access to medication abortion:

- **Elevating Medication Abortion in the Administration's Response to the *Dobbs* Decision.** On the day of the Supreme Court's decision to overturn *Roe v. Wade* in June 2022, the President identified preserving access to medication abortion as one of two key priorities to guide the Administration's immediate response to the ruling.

President Biden directed the Secretary of the Department of Health and Human Services (HHS) to ensure that mifepristone is as widely accessible as possible in light of the FDA's determination that the drug is safe and effective. He also emphasized the need to protect access to medication abortion in the face of attacks and to stand with medical experts who have stressed that restrictions on medication abortion are not based in science. On the same day, the Attorney General made clear that states may not ban mifepristone, a drug used in medication abortion, based on disagreement with the FDA's expert judgment about its safety and efficacy.

- **Issuing an Executive Order to Protect Access to Abortion, including Medication Abortion.** In an Executive Order on Protecting Access to Reproductive Healthcare Services issued in July 2022, President Biden reiterated the importance of medication abortion and directed the Secretary of HHS to identify potential actions to protect and expand access to abortion care, including medication abortion. In response, HHS developed an action plan to protect and strengthen access to reproductive care and has made significant progress in executing this plan and protecting access to care nationwide.
- **Addressing Barriers to Accessing Care.** In his second Executive Order on Securing Access to Reproductive and Other Healthcare Services issued in August 2022, President Biden addressed the challenges that women have faced in accessing prescription medication at pharmacies in the wake of *Dobbs*, including medication abortion, which is also used to manage miscarriages. These included reports of women of reproductive age being denied prescription medication at pharmacies—including medication that is used to treat stomach ulcers, lupus, arthritis, and cancer—due to concerns that these medications, some of which can be used in medication abortion, could be used to terminate a pregnancy. To help ensure access to medication, HHS issued guidance to roughly 60,000 U.S. retail pharmacies to emphasize their obligations under federal civil rights laws to ensure access to comprehensive reproductive health care services.
- **Directing Further Efforts to Ensure Safe Access to Medication Abortion.** On what would have been the 50th anniversary of *Roe v. Wade* in January 2023, President Biden issued a Presidential Memorandum on Further Efforts to Protect Access to Reproductive Healthcare Services to further protect access to medication abortion. The Presidential Memorandum directed the Attorney General, the Secretary of the Department of Homeland Security, and the Secretary of HHS to consider new actions to protect the safety and security of patients, providers, and pharmacies who wish to legally access or provide mifepristone.

This Presidential Memorandum was issued in the face of attacks by state officials to prevent women from accessing mifepristone and discourage pharmacies from becoming certified to dispense the medication. These attacks, and the Presidential Memorandum, followed independent, evidence-based action taken by FDA to allow mifepristone to continue to be prescribed by telehealth and sent by mail as well as to enable interested pharmacies to become certified.

- **Engaging Medical Experts and Reproductive Rights Leaders to Underscore the Need for Medication Abortion.** In February 2023, Vice President Harris convened a roundtable of leading medical experts and reproductive rights advocates to discuss how a court decision to invalidate the approval of mifepristone would affect patients and providers. Participants represented Physicians for Reproductive Health, American Medical Women's Association, the Society of Family Planning, the American Academy of Family Physicians, Planned Parenthood of Metropolitan DC, the National Women's Law Center, NARAL Pro-Choice America, the Center for Reproductive Rights, the American College of Obstetricians and Gynecologists, the ACLU, and Sister Song.

###