UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MAYDAY HEALTH,

Plaintiff,

v.

MARTY J. JACKLEY, Attorney General of South Dakota, in his official capacity,

Defendants.

Case No. 1:26-cv-78

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

PRELIMINARY STATEMENT

1. This action seeks to prevent Defendant South Dakota Attorney General Marty J. Jackley from punishing Plaintiff Mayday Health for publishing truthful information about reproductive healthcare. The Attorney General—who disagrees with the lawful choices people may make with the information Mayday publishes, as well as Mayday's conviction that access to abortion is a fundamental human right—has demanded that Mayday desist from publishing this information, threatening penalties unless Mayday self-censors. But the First Amendment prohibits the Attorney General from retaliating against Mayday and restraining its speech because of hostility toward Mayday, the information Mayday publishes, and the beliefs that impel Mayday to publish it. Mayday requests declaratory and injunctive relief to prevent further violation of its constitutional rights.

2. Mayday is a 501(c)(3) non-profit public health education organization dedicated to providing accurate, evidence-based information about reproductive healthcare. Based in New York, Mayday operates a globally-accessible website (https://mayday.health) that publishes truthful information about reproductive healthcare, including the safe and effective use of FDA-approved abortion pills such as mifepristone and misoprostol. Mayday does not sell, handle, provide, offer for sale, or distribute any medications. It does not benefit from the sale of abortion

medication, and has no customers. Nor does it monetize its users' data. Mayday is a donor-funded information clearinghouse—an educational resource with links to other websites—that provides people with the information they need to make informed reproductive healthcare choices, including (if they want) to terminate pregnancies lawfully and safely despite residing in places that have burdened or outlawed abortion. To raise awareness about reproductive healthcare options in the United States, Mayday publicizes its website with signs, billboards, and/or other in-person communications to audiences who may find the information it provides and resources to which it links useful—including in states where abortion is restricted.

3. That is what happened here. After discovering Mayday had placed placards at South Dakota gas stations stating "Pregnant? Don't want to be? Learn more at www.mayday.health," South Dakota Governor Larry Rhoden directed Attorney General Jackley to shut down Mayday's New York-based website, ban Mayday from publicizing its website to audiences in South Dakota, and generally prevent Mayday from disseminating truthful noncommercial information about reproductive healthcare in the future. The campaign arose from these officials' professed animus toward Mayday and its beliefs. That animus is demonstrated by press releases the Governor and Attorney General jointly released announcing the Governor's request to prosecute Mayday under any pretext the Attorney General could devise; the Attorney General's press release announcing his threat to do so under the South Dakota Deceptive Trade Practices and Consumer Protection Act, SDCL § 37-24, even though Mayday's publications are not trade or commerce regulable by that law; the Attorney General's perfunctory sham "investigation" predictably finding no deception that would warrant enforcement; the Attorney General's resulting focus instead on statements from *third-party* websites that Mayday merely linked to and neither authored nor published; and the fact the threatened deceptive trade practices claims—as Mayday explained in a letter response to the Attorney General's demand—are so objectively frivolous that they could not possibly be asserted with any reasonable expectation of a violation.

4. The First Amendment shields Mayday from this bad-faith retaliation transparently intended to chill its speech and score political points. The Attorney General may not punish

Mayday for publishing truthful information on a public issue, *Bartnicki v. Vopper*, 532 U.S. 514, 527-28 (2001), including information about legal abortion services in jurisdictions that have made abortion illegal, *Bigelow v. Virginia*, 421 U.S. 809, 815 n.5 (1975). *Bigelow* is controlling. That case held that a Virginia statute criminalizing the dissemination of information that allegedly "encourage[d] or prompt[ed] the procuring of an abortion," *id.* 811–12, infringed a Virginia newspaper's right to report on and endorse an organization that facilitated access to abortions because the content "conveyed information of potential interest and value to a diverse audience—not only to readers possibly in need of the services offered, but also to those with a general curiosity about, or genuine interest in, the subject matter." *Id.* at 822 & n.7. Virginia had no legitimate "interest in shielding its citizens" from this information. *Id.* at 827-28. South Dakota does not either.

5. Mayday requests an order declaring the Attorney General's threatened prosecution unconstitutional; finding that Mayday's placards and website are protected by the First Amendment; and enjoining the Attorney General from future efforts to censor its expression.

PARTIES

6. Plaintiff Mayday Health is a 501(c)(3) nonprofit organization existing under the laws of Delaware, with its principal place of business in New York.

7. Defendant Marty J. Jackley is the Attorney General of the State of South Dakota. He is sued in his official capacity as he is empowered to enforce state laws and bring actions on behalf of the State, including under SDCL § 37-24.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343(a) because Plaintiff's claims arise under the United States Constitution, as well as the Civil Rights Act, 42 U.S.C. §§ 1983 and 1988.

9. This Court has authority under the Declaratory Judgment Act, 28 U.S.C. § 2201(a), to decide this dispute and award relief because it presents an actual case or controversy within the Court's jurisdiction. This Court has authority to issue the requested injunctive relief pursuant to

42 U.S.C. § 1983. And this Court has authority to award attorneys' fees and costs pursuant to 42 U.S.C. § 1988.

10. The Court has personal jurisdiction over the Attorney General under Fed. R. Civ. Proc. 4(k)(1)(A) and NY CPLR § 302 because he has engaged in specific conduct purposefully aimed at chilling and censoring the speech of a New York-based organization in the State of New York, including by transmitting by U.S. Mail censorious threats to Mayday in the Southern District of New York where Mayday is headquartered and speaks. *See, e.g.*, *Media Matters for Am. v. Paxton*, 138 F.4th 563, 577 (D.C. Cir. 2025); *Defense Distributed v. Grewal*, 971 F.3d 485, 495 & n.9 (5th Cir. 2020); *Twitter, Inc. v. Paxton*, 2021 WL 1893140, at *2 (N.D. Cal. May 11, 2021) (all holding personal jurisdiction existed over out-of-state attorneys general for this reason). Personal jurisdiction over the Attorney General also exists in this Court because the Attorney General's conduct that forms the basis for Mayday's claims occurred in New York at the Attorney General's direction. *See Grand River Six Nations, Ltd. v. Pryor*, 425 F.3d 158, 167 (2d Cir. 2005) (asserting personal jurisdiction over out-of-state attorneys general whose purposeful New York conduct formed basis for claims). The Attorney General's actions have already caused and, unless enjoined, will continue to cause Mayday irreparable injuries in New York.

11. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(1) & (2) because the injuries giving rise to this action have been and will continue to be suffered by Mayday at its headquarters and principal place of operation in New York County, New York.

FACTUAL ALLEGATIONS

A. Mayday Publishes Truthful Public Health Information on Its Website

12. Mayday is a nonprofit health education organization that operates an online clearinghouse for reproductive health resources at https://mayday.health. The website was launched in June 2022 in response to the U.S. Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022). Attached as **Exhibit A** is a page capture of Mayday's website, current as of this filing.

13. Mayday's mission is to "is to share information about abortion pills, birth control, and gender-affirming care in any state" and "empower people to make their own informed decisions about their own bodies." Ex. A.

14. Mayday's website asks the visitor what category of information they are looking for—abortion, morning-after pills, birth control, or gender-affirming care. *See* Ex. A. For each category, it then provides a series of links to third-party organizations that provide access to such medical care or other resources. For the abortion category, Mayday provides links to well-established third-party websites including Aid Access, Cambridge Reproductive Health Consultants, A Safe Choice, Abuzz, and We Take Care of Us. Mayday also links to organizations offering supporting services, including the Digital Defense Fund's privacy guide, the Miscarriage and Abortion Hotline, and the If/When/How Repro Legal Helpline.

15. Much of the information that Mayday's website links to is from clinicians, lawyers, and health experts. If medically appropriate, some of these third-party websites may provide access to abortion pills, such as mifepristone and misoprostol. The U.S. Federal Food and Drug Administration ("FDA") has repeatedly confirmed the safety of such medication, a conclusion supported by independent and rigorous scientific studies. *See, e.g.*, F.D.A. Center for Drug Evaluation & Research, App. No. 020687Orig1s020 at 12 (March 29, 2016) (confirming the "efficacy and safety" of medication abortion based on studying more than 2.5 million U.S. uses), at https://www.accessdata.fda.gov/drugsatfda_docs/nda/2016/020687Orig1s020Approv.pdf; Mifeprex REMS Study Group, *Sixteen Years of Overregulation: Time to Unburden Mifeprex,* 376 N. ENGL. J. MED. 790, 791 (2017) (same), at https://www.nejm.org/doi/full/10.1056/NEJMsb1612526; F.D.A., *Mifepristone U.S. Post-Marketing Adverse Events Summary Through Dec. 31, 2024* at 1 (2025) (zero fatalities "causally attributed to mifepristone" "with certainty"), at https://www.fda.gov/media/185245/download.

16. Mayday itself does not sell, handle or benefit from abortion pills and operates independently from organizations that do so. Nor does Mayday itself provide any medical or legal advice, charge any fee, collect any revenue related to the provision of medical or legal services, or

obtain any other valuable consideration in exchange for disseminating its message. It does not monetize its users' data.

17. Rather, Mayday simply wants people to know their options regarding reproductive healthcare. The information it publishes is provided as a donor-funded public service—free of charge to users—as an expression of Mayday's values and beliefs.

18. Through its website and advocacy, Mayday provides truthful, non-commercial information of public concern, including resources for individuals seeking to understand their reproductive healthcare options.

19. Mayday believes its work is essential to ensuring that individuals, regardless of their location, can make informed decisions about their health and well-being.

B. Mayday Health Publicizes Its Website To South Dakotans

20. On December 8, 2025, Mayday placed signs at gas stations around South Dakota. The signs read: "Pregnant? Don't want to be?" with a prompt for consumers to "Learn more" by visiting Mayday's website, as shown below.

21. In an interview with a local news station published the same day, Mayday Executive Director, Liv Raisner, explained that "everyone deserves access to accurate medical

information, and gas stations are great places to spread information."[1] Liv continued that it is Mayday's belief "that it's critical to reach people with health information at community hubs. Abortion in rural areas is a privacy issue. If there's one singular health clinic in the area, people talk. We want to make sure that people can learn their options anonymously and privately."

C. South Dakota Governor Rhoden Directs The Attorney General to Investigate and Punish Mayday by Any Means Available

22. The next day, December 9, 2025, South Dakota Governor Larry Rhoden issued a press release touting a formal letter urging the Attorney General to "investigate a new abortion ad campaign, which appears to conflict with South Dakota's proud pro-life stance."[2] The press release quotes the Attorney General as saying: "We will review these ads and determine if any laws have been broken." Attached as **Exhibit B** is a copy of the press release.

23. In his letter to the Attorney General, Governor Rhoden asked the Attorney General to "investigate" Mayday under the State's "pro-life laws, including SDCL 22-17-5.1 and 36-4-8"—which prohibit administering or providing abortions to pregnant women. The Governor accused Mayday of "advertising an illegal service in the state of South Dakota" and stated that "South Dakota has the most pro-life laws in the nation—I am proud of that fact. Our voters resoundingly supported those law with the defeat of Amendment G in the last election. This advertising campaign threatens the lives of children yet to be born in our state[.]"[3] The Governor continued that Mayday's "comments . . . make clear that they are facilitating the mailing of pills into our state, which would be illegal under the telemedicine abortion ban signed during the Noem-Rhoden Administration." Attached as **Exhibit C** is a copy of the Governor's letter.

24. The Governor's letter failed to acknowledge that Mayday does not ship, mail, or otherwise handle abortion pills. Nor did it address the fact that the signs Mayday posted in South

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[1] Gracie Terrall, Eric Mayer, *Abortion pill ads hit South Dakota gas stations*, Keloland (Dec. 8, 2025), https://tinyurl.com/2mesa2k4.
[2] South Dakota State News, Gov. Rhoden Calls Attorney General to Investigate Abortion Advertising Campaign (Dec. 9, 2025), https://tinyurl.com/6xdtmmmc.
[3] Office of the Governor Larry Rhoden, Letter to Attorney General Jackley (Dec. 9, 2025), https://tinyurl.com/2yuf9r2p.

Dakota gas stations merely asked the questions "Pregnant? Don't want to be?" and invited readers to learn more at its website.

D. The Attorney General Mails Retaliatory Threats to Mayday in New York

25. The Attorney General accepted the Governor's charge and commenced a sham investigation into Mayday. Unable to investigate Mayday under the "pro-life" laws the Governor cited because Mayday does not provide abortions, the Attorney General directed his office to investigate Mayday for possible violations of the South Dakota Deceptive Trade Practices and Consumer Protection Act, SDCL § 37-24-6. Attached as **Exhibit D** is the affidavit of Kayla Klemann, the official who conducted the investigation.

26. Klemann's "investigation" apparently involved reading Mayday's website, and reviewing some of the third-party websites to which Mayday's website links. The investigation did not find that any consumer had been misled by Mayday's website, or by the gas station signs publicizing it. *See generally* Ex. D. Klemann notes receiving only one complaint from one business, Cowboy Country Stores, that objected to the publication of Mayday's "abortion media campaign" on leased signs in front of its business—an objection to Mayday's expressed point of view, and a contractual matter for Cowboy Country Stores to take up with its media leasing agent, not actionable evidence of consumer deception or confusion that would normally warrant State intervention. *Id.* at ¶ 7.

27. The absence of any evidence of consumer harm is, of course, unsurprising: no one in South Dakota or anywhere else has been or could be deceived by the literally true public health information Mayday publishes and links to on its website, much less by its "Pregnant? Don't want to be?" placards that simply invite people to "learn more." The Attorney General's sham investigation makes plain what was obvious from the staged press releases calling for its commencement: that the task was to "put[] investigators to work" "searching the law books" "to pin some offense" on Mayday in retaliation for its speech, not to undertake a normal good faith investigation following up on any real suspicion of wrongdoing. *Morrison v. Olson*, 487 U.S. 654,

728 (1988) (Scalia, J., dissenting) (explaining that when "the prosecutor picks some person whom he dislikes or desires to embarrass, or selects some group of unpopular persons and then looks for an offense" it presents "the greatest danger of abuse") (quoting R. Jackson, The Federal Prosecutor, Address Delivered at the Second Annual Conference of United States Attorneys, April 1, 1940).

28. Despite coming up empty handed, the Attorney General pressed on. On December 10, 2025, the Attorney General sent Mayday a letter (attached as **Exhibit E)** to an address in New York (as well as by e-mail) demanding that Mayday immediately desist from publishing information that could be used to facilitate "the delivery of abortion drugs to the State of South Dakota." Failure to comply, he threatened, exposed Mayday to "felony criminal consequences or civil penalties up to $5,000 per violation." *Id.* at 2. The letter falsely accuses Mayday of "urging women not to seek medical care after taking abortion pills" and claims (*id.* at 1), among other things, that Mayday had engaged in "deceptive act[s] or practice[s]" by republishing official FDA and other medical findings that abortion pills are safe and effective. *Id.* at 2. But beyond that, the Attorney General's allegations refer almost entirely to information published by and on linked third-party websites, not Mayday.

29. Mayday responded by letter through counsel on December 19, 2025. This response is attached as **Exhibit F.** Objecting to the Attorney General's demand in its entirety, Mayday explained that it was a non-profit information resource that does not sell, handle, provide, offer for sale, or benefit from the sale of abortion medication. *Id.* at 1. It advised that Mayday accordingly does not engage in "the sale or advertisement of any merchandise" that is subject to the South Dakota deceptive trade practices law. SDCL § 37-24-6(1). *Id.* Instead, Mayday explained that it provides truthful information about healthcare options, including but not limited to abortion medications approved by the FDA for safe and effective use. It stressed that this information is not commercial speech subject to regulation under deceptive practices statutes under cases like *Lowe v. SEC*, 472 U.S. 181, 210-11 & n.58 (1985), much less the more specific kinds of advertisements that cases like *Hyde v. Franklin Am. Mortg. Co.*, 453 F. Supp. 3d 1293, 1308 (D.S.D. 2020) and *Cheval Int'l v. Smartpak Equine, LLC*, 2016 WL 1064496, at *12 (D.S.D. Mar. 15, 2016) have

found are necessary to come within the statute's ambit. Ex. F at 2. In fact, Mayday pointed out, the South Dakota deceptive practices statute includes a safe harbor that protects "publishers, broadcasters, printers, or other persons" when, like Mayday, they do not engage in any deliberately deceptive commercial advertising. SDCL § 37-24-11. Mayday made clear that the First Amendment imposed these limitations, alerting the Attorney General to *Bigelow*, 421 U.S. at 815 n.5, 822 n.7, 827-28, which affirms Mayday's speech is constitutionally protected.

30. Mayday received no further communication from the Attorney General.

E. The Attorney General Attempts to Obtain an Injunction Against Mayday in South Dakota, But Does Not Actually Commence Any Enforcement Action

31. Disregarding Mayday's response, on December 22, 2025, the Attorney General filed a motion in South Dakota state court purporting to seek an injunction against Mayday and the company that placed Mayday's signs at gas stations in South Dakota. The motion is attached as **Exhibit G**. The Attorney General did not properly serve the motion on Mayday, and indeed did not even file or serve any complaint and summons on Mayday to commence any kind of proceeding against Mayday at all. Mayday only learned about the motion from news reports and social media posts that the Attorney General and Governor Rhoden posted linking to a press release the Attorney General issued announcing the motion. Service still has not been effected, and there is still no complaint or summons on file, so there is accordingly no actual ongoing proceeding against Mayday at the time of this filing.

32. The Attorney General's inchoate motion seeks a broad and vague injunction that (like his demand letter) refers almost entirely to third-party content Mayday's website links to—not content published by Mayday itself. The injunction seeks to require Mayday to remove existing content and links from its New York-based website, and also seeks to ban Mayday from posting signs at gas stations publicizing its website to audiences in South Dakota.

33. The asserted deceptive trade practice violations cited to support the requested injunction are not just unmerited but objectively frivolous for the reasons Mayday pointed out in

its response to the Attorney General's original demand. Were the Attorney General to initiate actual proceedings to pursue these claim, his claims would be barred by the First Amendment and—to the extent they sought to punish Mayday for linking to allegedly objectionable third-party websites—Section 230 of the Communications Decency Act, 47 U.S.C. § 230(c)(1). They would also fail as a matter of state law, since Mayday has engaged in no commercial speech regulable by the South Dakota deceptive trade practices statute.

34. In fact, even if the public health information Mayday itself publishes *were* commercial and regulable, the Attorney General could not possibly or reasonably expect to prevail in any action against Mayday because the targeted statements—(1) that third-party organizations offer abortion pills; (2) that these third-parties say they will "ship to all 50 states"; (3) that the FDA has approved the pills for shipment in all 50 states; and (4) that the FDA has approved abortion pills as safe—are all literally true. Even the Attorney General *himself* issued a press release acknowledging that federal rules permit access to abortion pills by mail. *See* Office of the South Dakota Attorney General, Attorney General Jackley Confirms SCOTUS Abortion Pill Ruling Does Not Impact State Abortion Law (June 13, 2024), https://tinyurl.com/mspmuyh6.

35. The objectively frivolous nature of the Attorney General's threatened claims against Mayday, which target Mayday's publishing operations in New York, further demonstrate that his actions have no legitimate purpose and are subjectively motivated by animus.

F. Mayday Self-Censors in Response to the Attorney General's Actions

36. Mayday remains committed to its mission of providing truthful, evidence-based information to the public. But the Attorney General's actions have forced Mayday to weigh the risks and costs of defending bad faith legal actions against its desire to continue its educational efforts. Mayday seeks relief from this Court to ensure that it can continue to make its website and other informational materials available to audiences across the country.

37. Already, Mayday has unwillingly refrained from engaging in protected speech to avoid incurring future charges and legal costs defending that speech. For example, Mayday is

refraining from putting up additional signs at gas stations or other venues in South Dakota. It is also refraining from publishing already-produced content through its social media platforms—to audiences everywhere in the world—sourced from South Dakota residents describing their healthcare challenges. And in light of the Attorney General's actions, Mayday is more closely vetting press interview requests and self-censoring the statements it makes publicly—a significant injury for a non-profit whose very mission is to raise awareness through earned media like newspapers, radio, and television stations.

38. The Attorney General's actions have thus already censored Mayday, preventing its protected speech from reaching the people who may need it most.

CLAIMS FOR RELIEF

COUNT I
Section 1983 Claim for Violation of Plaintiff's First Amendment Rights (Take Down Demand)

39. Plaintiff incorporates all prior paragraphs of this Complaint.

40. The First Amendment protects the publication of truthful information that does not otherwise fall within any defined category of speech excluded from protection.

41. The First Amendment bars prior restraints of constitutionally-protected speech.

42. The First Amendment bars states from punishing speech that informs audiences about opportunities to obtain abortion services from jurisdictions where those services are legal.

43. Mayday's publication of truthful statements about reproductive health resources on its website, and its efforts to publicize that website with placards at gas stations in South Dakota, is noncommercial speech fully protected by the First Amendment, as applied to the State of South Dakota under the Fourteenth Amendment.

44. The Attorney General has violated the First Amendment by seeking to force Mayday to take down its website and gas station placards without any legitimate government justification. He has done so by subjecting Mayday to illegitimate intimidation, investigation,

threats of prosecution, and an attempted (but defective and thus not ongoing) action for injunctive relief. He has taken these actions in response to the exercise of Mayday's First Amendment rights because of his disagreement with Mayday's viewpoint, and animus toward Mayday and its principles. The Attorney General's actions also constitute an impermissible prior restraint in violation of the First Amendment.

45. The Attorney General has, by the same conduct, violated the First Amendment by retaliating against Mayday for Mayday's exercise of its First Amendment rights: Mayday's publication of truthful information about reproductive healthcare is protected speech; the Attorney General's actions have chilled that speech and would silence a person of ordinary firmness from future First Amendment activities; and is transparently in reaction to, and motivated by, the content and viewpoints expressed by Mayday's protected activities.

46. The Attorney General's actions to censor Mayday have been undertaken in demonstrable bad faith and hostility toward Mayday and its convictions. The Attorney General has no legitimate purpose other than punishing Mayday for disseminating protected information about lawful reproductive healthcare options he finds immoral or objectionable, as evidenced by the sequence of events leading to his sham investigation and objectively meritless threats.

COUNT II
Section 1983 Claim for Violation of Plaintiff's First Amendment Rights
(Threats Against Future Speech)

47. Plaintiff incorporates all prior paragraphs of this Complaint.

48. The First Amendment protects the publication of truthful information that does not otherwise fall within any defined category of speech excluded from protection.

49. The First Amendment bars prior restraints of constitutionally-protected speech.

50. The First Amendment bars states from punishing speech that informs audiences about opportunities to obtain abortion services from jurisdictions where those services are legal.

51. Mayday's publication of truthful statements about reproductive health resources on its website, and its efforts to publicize that website with placards at gas stations in South Dakota, is noncommercial speech fully protected by the First Amendment, as applied to the State of South Dakota under the Fourteenth Amendment. Mayday wishes to continue to engage in this free expression protected by the First Amendment in the future.

52. The Attorney General has violated the First Amendment by threatening to punish Mayday if it publishes truthful information about reproductive healthcare in the future, without any legitimate government justification. He has done so by threatening Mayday with future investigations and prosecutions should Mayday not desist from engaging in the protected activity the Attorney General deems objectionable. He has taken these actions in response to the exercise of Mayday's First Amendment rights because of his disagreement with Mayday's viewpoint and animus toward Mayday and its principles. The Attorney General's actions also constitute an impermissible prior restraint in violation of the First Amendment.

53. The Attorney General has, by the same conduct, violated the First Amendment by retaliating against Mayday for Mayday's exercise—and intended continued exercise—of its First Amendment rights: Mayday's publication of truthful information about reproductive healthcare is protected speech; the Attorney General's actions have chilled that speech, and would silence a person of ordinary firmness from future First Amendment activities; and is transparently in reaction to, and motivated by, the content and viewpoints expressed by Mayday's protected activities.

54. The Attorney General's actions to censor Mayday have been undertaken in demonstrable bad faith and hostility toward Mayday and its convictions. The Attorney General has no legitimate purpose other than punishing Mayday for disseminating protected information about lawful reproductive healthcare options he finds immoral or objectionable, as evidenced by the sequence of events leading to his sham investigation and objectively meritless threats.

PRAYER FOR RELIEF

Mayday respectfully requests that the Court:

1. Declare pursuant to Counts I-II that Defendant's expressed intent to prosecute Mayday under SDCL § 37-24 is unconstitutional retaliation because Defendant seeks to punish Mayday for publishing truthful information of public concern protected by the First Amendment on its website and in signs publicizing its website;

2. Declare pursuant to Count I that Defendant's expressed intent to force Mayday to take down its protected truthful speech on matters of public concern from its website and in signs publicizing its website is unconstitutional;

3. Declare pursuant to Count II that Defendant's expressed intent to prevent Mayday from publishing protected truthful speech on matters of public concern on its website and in signs publicizing its website in the future is unconstitutional;

4. Preliminarily and permanently enjoin Defendant and his agents, employees, and all persons acting under his direction or control, pursuant to Count I, from taking any action to prosecute, fine, or in any way penalize Mayday, including under § SDCL 37-24, for publishing truthful information of public concern on its website and in signs publicizing its website;

5. Preliminarily and permanently enjoin Defendant and his agents, employees, and all persons acting under his direction or control, pursuant to Count II, from taking any action to prosecute, fine, or in any way penalize Mayday, including under § SDCL 37-24, for publishing truthful information of public concern on its website and in signs publicizing its website;

6. Enter judgment in favor of Mayday;

7. Award Mayday costs and attorneys' fees under 42 U.S.C. § 1988; and

8. Award Mayday all other such relief as the Court deems just and proper.

Dated: January 6, 2026

Respectfully submitted,

/s/ Adam S. Sieff
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EXHIBIT A

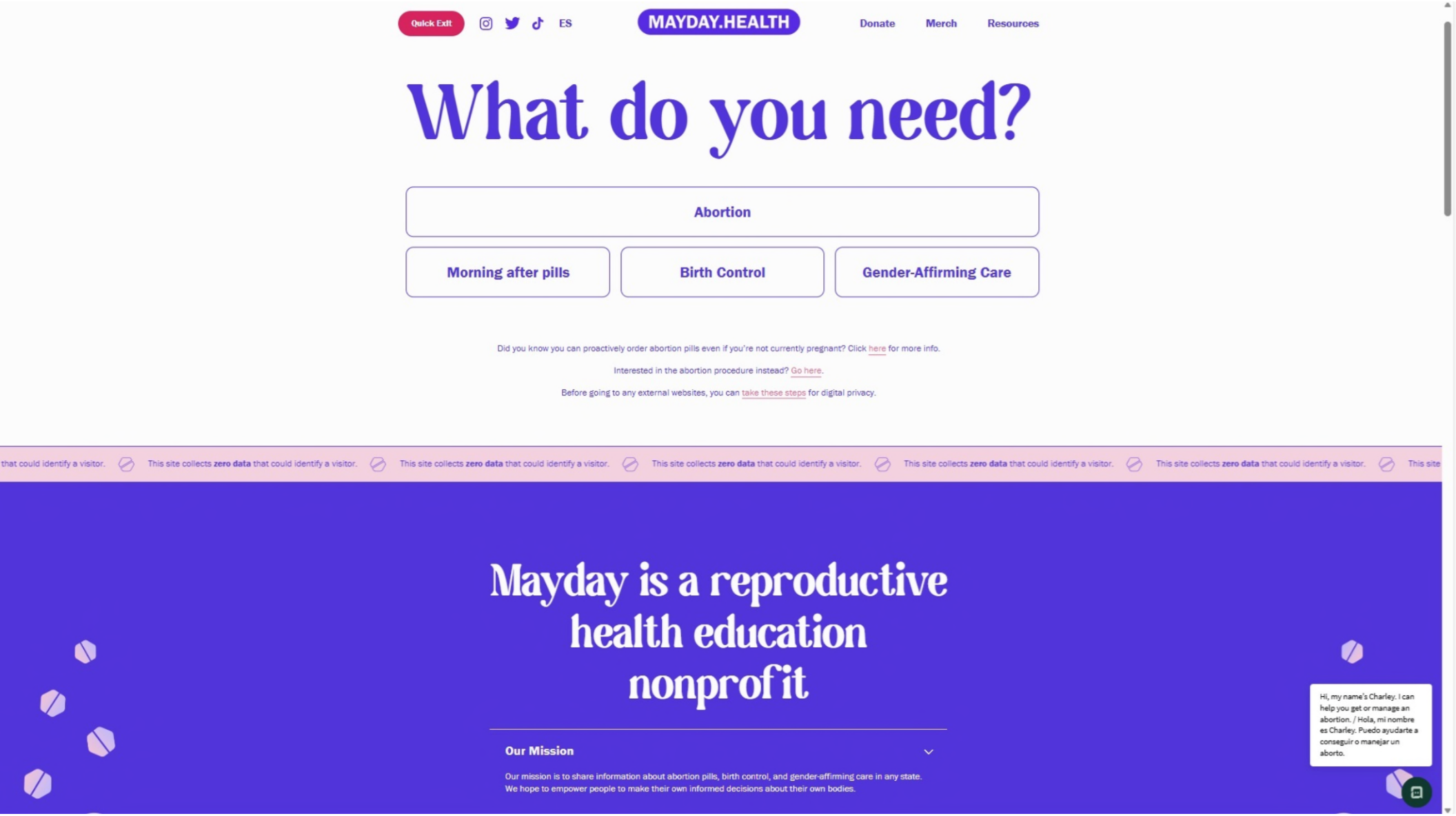
Quick Exit
ES
MAYDAY.HEALTH
Donate
Merch
Resources
What do you need?
Abortion
Morning after pills
Birth Control
Gender-Affirming Care
Did you know you can proactively order abortion pills even if you're not currently pregnant? Click here for more info.
Interested in the abortion procedure instead? Go here.
Before going to any external websites, you can take these steps for digital privacy.
that could identify a visitor. This site collects zero data that could identify a visitor. This site collects zero data that could identify a visitor. This site collects zero data that could identify a visitor. This site collects zero data that could identify a visitor. This site collects zero data that could identify a visitor. This site
Mayday is a reproductive health education nonprofit
Our Mission
Our mission is to share information about abortion pills, birth control, and gender-affirming care in any state. We hope to empower people to make their own informed decisions about their own bodies.
Hi, my name's Charley. I can help you get or manage an abortion. / Hola, mi nombre es Charley. Puedo ayudarte a conseguir o manejar un aborto.

EXHIBIT B

Gov. Rhoden Calls Attorney General to Investigate Abortion Advertising Campaign

Today, Governor Larry Rhoden urged Attorney General Marty Jackley to investigate a new abortion ad campaign, which appears to conflict with South Dakota's proud pro-life stance.

Date published: 12/09/2025

Copy Permalink

FOR IMMEDIATE RELEASE
December 9, 2025
Contact: Josie Harms

Gov. Rhoden Calls Attorney General to Investigate Abortion Advertising Campaign

PIERRE, S.D. – Today, Governor Larry Rhoden urged Attorney General Marty Jackley to investigate a new abortion ad campaign, which appears to conflict with South Dakota's proud pro-life stance. He made this request in a letter, which you can find here. The Attorney General quickly agreed to pursue the investigation.

"South Dakota has the most pro-life laws in the nation – I am proud of that fact," wrote **Governor Larry Rhoden.** "This advertising campaign threatens the lives of children yet to be born in our state, and it also threatens the health of South Dakota mothers, as chemical abortions are four times as likely to cause a mother to end up in the emergency room."

According to KELOLAND News, Mayday Health is advertising abortion pills at 30 gas stations in 20 South Dakota cities. This campaign is potentially in violation of South Dakota's pro-life laws, including SDCL 22-17-5.1 and 36-4-8, or could even be a deceptive trade practice.

"All ad campaigns, no matter what the issue, need to follow state laws and fair trade practices," said **Attorney General Marty Jackley**. "We will review these ads and determine if any laws have been broken. If laws have been broken, we will take appropriate action."

"I thank you in advance for investigating this matter and defending both South Dakota moms and their babies. My team will continue working with yours to assess whether this issue needs to be addressed with further legislation," continued **Governor Rhoden**.

The Noem-Rhoden Administration banned chemical abortions via telemedicine with HB 1318 in 2022. Abortion became illegal in South Dakota, except to save the life of a pregnant mother, following the United States Supreme Court's *Dobbs* decision in 2022, and South Dakota voters ratified that law with the defeat of Amendment G in 2024.

###

EXHIBIT C

STATE OF SOUTH DAKOTA

OFFICE OF THE GOVERNOR

LARRY RHODEN | GOVERNOR

December 9, 2025

The Honorable Marty Jackley
South Dakota Attorney General
1302 E. Hwy 14
Pierre, SD 57501

Dear General Jackley,

It has come to my attention that an out-of-state organization, Mayday Health, appears to be advertising an illegal service in the state of South Dakota. I urge you to investigate accordingly. According to *KELOLAND News*, this organization is advertising abortion pills at 30 gas stations in 20 South Dakota cities, potentially in violation of South Dakota's pro-life laws, including SDCL 22-17-5.1 and 36-4-8.

South Dakota has the most pro-life laws in the nation – I am proud of that fact. Our voters resoundingly supported those laws with the defeat of Amendment G in the last election. This advertising campaign threatens the lives of children yet to be born in our state, and it also threatens the health of South Dakota mothers, as chemical abortions are four times as likely to cause a mother to end up in the emergency room.

Mayday Health's website advertises several abortion pill providers that "Ship to all 50 states," which would presumably include South Dakota. Their own comments to *KELOLAND News* also make clear that they are facilitating the mailing of pills into our state, which would be illegal under the telemedicine abortion ban signed during the Noem-Rhoden Administration.

I thank you in advance for investigating this matter and defending both South Dakota moms and their babies. My team will continue working with yours to assess whether this issue needs to be addressed with further legislation.

Sincerely,

Larry Rhoden
Governor

EXHIBIT D

STATE OF SOUTH DAKOTA) SS: COUNTY OF HUGHES	)	IN CIRCUIT COURT SIXTH JUDICIAL CIRCUIT
STATE OF SOUTH DAKOTA, Plaintiff, v. MAYDAY MEDICINES INC. d/b/a MAYDAY HEALTH, and ALLOVER, LLC, d/b/a MOMENTARA, Defendants.	)	32 CIV-____ AFFIDAVIT OF KAYLA KLEMANN, CONSUMER PROTECTION INVESTIGATOR, SOUTH DAKOTA OFFICE OF ATTORNEY GENERAL

I, Kayla Klemann, Consumer Protection Investigator, South Dakota Office of Attorney General, having been duly sworn upon oath, states as follows:

1. I am a Consumer Protection Investigator for the Office of Attorney General.

2. I have held this position since January 7, 2023.

3. I am responsible for investigating potential consumer protection violations under SDCL Ch. 37-24.

4. I was assigned to investigate Mayday Health Inc. and Momentara regarding advertisements posted at various gas stations throughout the state. A picture of the advertisement is attached as Exhibit 1.

5. On December 8, 2025, Mayday Health issued a press release declaring that it had posted "ads" at nearly thirty gas stations across the state. *See* Exhibit 2.

6. In a follow-up press release issued on December 10, 2025, Mayday Health acknowledged that only fourteen gas stations throughout the state "will have abortion pill advertisements" and that it was "putting up ads at gas stations because we think that everyone deserves access to accurate medical information[.]" *See* Exhibit 2.

7. On December 15, 2025, the Office of the Attorney General received a complaint from Cowboy Country Stores explaining that they did not want Mayday Health's advertisements posted at their store. *See* Exhibit 5.

8. The advertisements posted by Mayday Health direct South Dakota consumers to Mayday Health's website. I learned the corporation solicits charitable donations from consumers and sells merchandise with a misleading statement regarding the availability of abortion pills "in all 50 states." *See* Exhibits 6 and 7.

9. When a consumer visits the Mayday Health website, the large headline on the main page reads, "What do you need?" There are four clickable links to choose from on the main page: abortion, morning after pills, birth control, and gender-affirming care. *See* Exhibit 8.

10. If the consumer selects "abortion," they are asked how long it has been since their last period. *See* Exhibit 9.

11. If "more than 12 weeks" is selected since the consumer's last period from the Mayday website, they are directed to a new website, ineedana.com, which ostensibly means "I need an abortion." *See* Exhibit 11.

12. Once the link is clicked, the consumer is asked what city they live in, the first day of their last period, and their age. *See* Exhibit 12.

13. No matter what combination of information is entered into these fields (e.g. South Dakota addresses, dates of last period, and age), the consumer is always given three options: driving directions to the nearest out-of-state abortion clinic that can perform a surgical abortion, a link to "order abortion pills online" to self-induce an at-home medical abortion, and the option to fly to another state that performs surgical abortions. *See* Exhibit 13.

14. Minors will see the same options as all other consumers indicated above; however, they are also shown a disclaimer that says, "You are a minor. If you decide to travel for care, you may face additional barriers as a teen. Learn more in our guide for teens." *See* Exhibit 14.

15. In the guide for teens, children are advised, "[a]bortion is safe, normal, and any reason to have one is a good reason." *See* Exhibit 15.

16. The website specifically instructs children to 1) conduct their own self-induced, at-home abortions by having abortion-inducing pills sent to their home "or to a trusted friend or family member" or 2) travel to a state that does not have parental consent laws, so [the child] can consent to [their] own abortion without [the child's] parents or a judge's permission." *See* Exhibit 16.

17. If "[l]ess than 12 weeks" is selected since the consumer's last period on the Mayday Health website, they are directed to a screen that asks if the

consumer lives in a "red state" which is detailed on a map graphic below the question. *See* Exhibit 17.

18. Once the "red state" option is selected, the consumer is directed to a page that lists five separate abortion-inducing pill providers. *See* Exhibit 18.

19. If a consumer clicks on the link for Abuzz, a consumer is told that she may perform her own at-home abortion using abortion-inducing pills if she is less than "13 weeks pregnant[,]" which is "measured from the first day of the last period." *See* Exhibit 19.

20. When a consumer starts the process to obtain abortion-inducing pills through Abuzz, they are prompted to identify the state in which they reside. *See* Exhibit 20.

21. After South Dakota is selected, an advisement is revealed that proports to provide "information about the potential legal risks of getting abortion pills by mail" in the State of South Dakota. *See* Exhibit 21.

22. If the consumer chooses to click on the information link in the advisement (consumers are not required to view the risks of getting abortion-inducing pills by mail to continue the process), they are taken to a new website, plancpills.org. *See* Exhibit 22.

23. Instead of advising consumers that it is illegal to mail abortion-inducing pills into the State of South Dakota, consumers are told that "Research shows that hundreds of thousands of people have received and used pills by mail over the past few years with no legal problems. When the question is asked "How do

people get in trouble[,]" the website advises: "they told someone about their abortion and that person reported them; they got follow-up medical care and the provider reported them (many people say they are having a miscarriage to avoid this risk, which is medically what is happening in the body); they were later in pregnancy than they thought and didn't know what to do with the fetal tissue." *See* Exhibit 23.

24. Aid Access informs consumers that they are eligible to self-induce an at-home abortion using abortion-inducing pills in the fourteenth week of their pregnancy, and that this is "very safe." *See* Exhibit 24.

25. The FDA issued warning letters to Aid Access for selling unapproved and misbranded abortion-inducing pills (Mifepristone and Misoprostol) over the internet. *See* Exhibit 25.

26. Aid Access has a South Dakota specific page that in no way advises consumers that it is illegal to mail abortion-inducing pills into the State of South Dakota. *See* Exhibit 26.

27. On Aid Access's "legal" FAQs, the website directs consumers to declarations made by the World Health Organization. *See* Exhibit 27.

28. Despite posting a disclaimer on their own website that they "do not give legal or medical advice," Mayday Health represents to consumers that their "information comes from top clinicians, lawyers and health experts[.]" *See* Exhibit 28.

29. Mayday Health provides links to several "trusted organizations" it has approved for legal and medical advice. *See* Exhibit 29.

30. Mayday Health's FAQs say that the links on their website "have the best content for a certain aspect of abortion care" and that they "only link to other trusted websites and partners." *See* Exhibit 30.

31. The Mayday Health website contains claims that "abortion pills are safe [and] effective during the first 12 weeks" and that "[i]t is safe to do your own abortion at home with abortion pills." *See* Exhibit 9.

32. the FDA advises that "[i]n about 1 out of 100 women, bleeding can be so heavy that it requires a surgical procedure (surgical aspiration or D&C)." *See* Exhibit 31 at 16.

33. The FDA issued certain warnings and precautions, as well as adverse side effects for abortion-inducing drugs. *See* Exhibit 31 at 5-8.

34. Exhibit 6 shows other pages from the website. One is a donations page that outlines how donations are meant to fund the advertising of Mayday's website in states with "abortion bans."

35. If the medical abortion treatment failed, there is a slight increase in the risk of birth defects such as deformities of the hands or feet and problems with the nerves of the fetus. To treat an ongoing pregnancy, you must repeat a medical or surgical abortion. https://aidaccess.org/en/page/459/how-do-you-know-if-you-have-abortion-complications.

36. Exposure of fetuses to Misoprostol can lead to malformations, such as defects in the skull and abnormalities in the limbs (called Mobius Syndrome). https://aidaccess.org/en/page/465/what-are-the-chances-that-the-fetus-will-be-malformed-if-you-have-an.

37. I reviewed an article from the FDA that was posted on the internet about abortion inducing medication. *See* Exhibit 10.

38. Based on the facts I learned during my investigation, I believe Mayday Health, with facilitation from Momentara, engaged in deceptive trade practices and acts in violation of SDCL 37-24-6.

39. The SD Attorney General issued a Cease and Desist letter to Mayday Health on December 10, 2025. *See* Exhibit 3.

40. On December 19, 2025, Mayday Health issued a response refusing to remove the illegal advertisements. *See* Exhibit 4.

Dated this 22nd day of December, 2025.

Kayla Klemann, Investigator
South Dakota Office of Attorney General
Consumer Protection Division

Subscribed and sworn to before me this 22 day of December, 2025, at Pierre, South Dakota.

(Seal)

MORGAN STAUDENMAIER NOTARY SEAL PUBLIC STATE OF SOUTH DAKOTA

Notary Public, State of South Dakota
My Commission expires: 03/28/2031

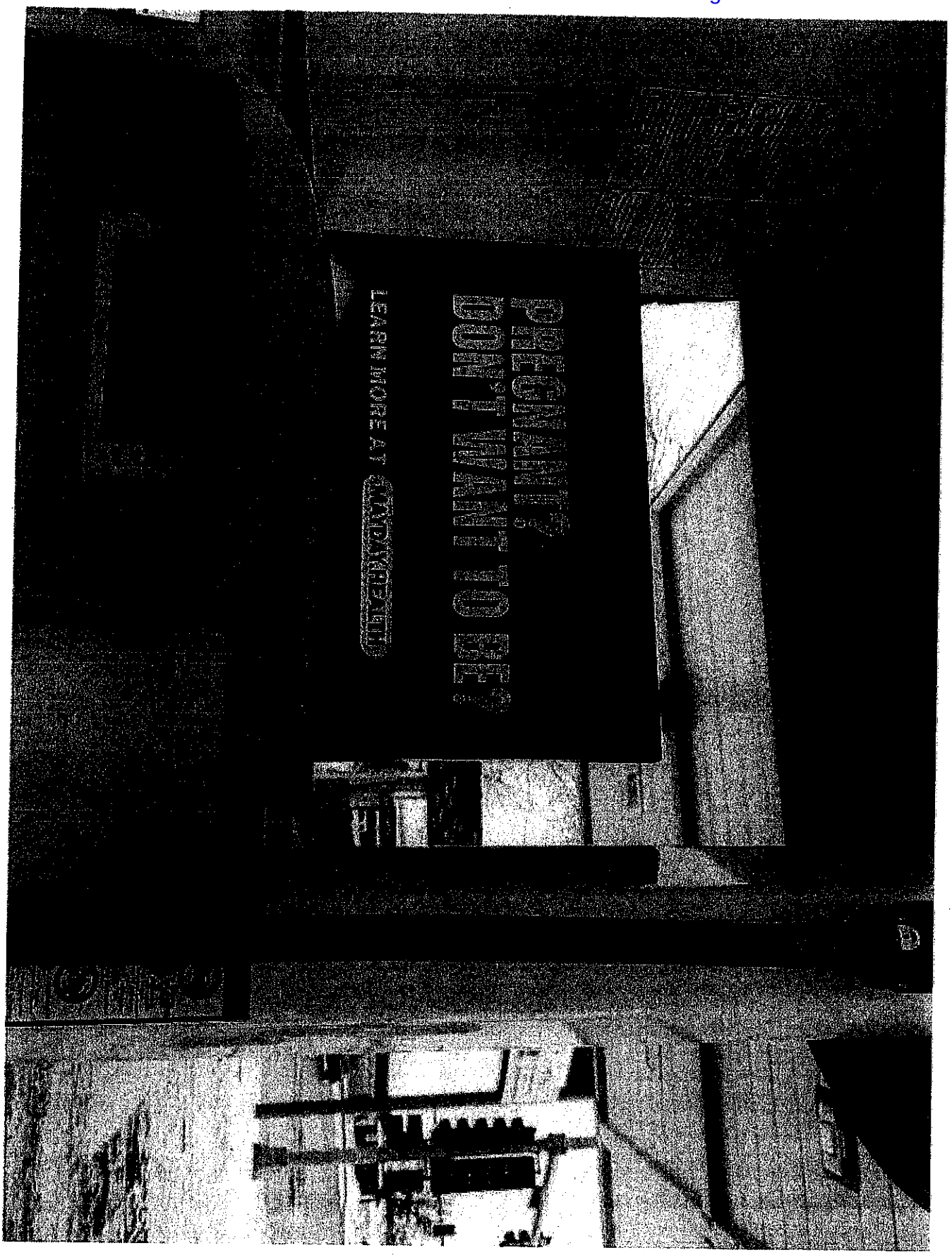

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EXHIBIT
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LIVE KELOLAND THIS MORNING KELOLAND News This Morning

KELOLAND.COM ORIGINAL

Abortion pill ads hit South Dakota gas stations

by: Gracie Terrall, Eric Mayer
Posted: Dec 8, 2025 / 05:17 PM CST
Updated: Dec 10, 2025 / 03:55 PM CST

SHARE

Updated: Mayday Health updated their list from 30 gas stations to 14.

SIOUX FALLS, S.D. (KELO) – South Dakotans may notice a new abortion campaign at gas stations around the state.

Starting Monday, Dec. 8, 14 gas stations in 11 South Dakota cities will have abortion pill advertisements as a part of Mayday Health's effort to spread information about the pills and abortion options.

Originally, a list of 30 gas stations were given to KELOLAND News on Monday. However, on Wednesday, Mayday Health sent an updated list with only 14 gas stations listed. A representative from Mayday Health told KELOLAND News on Wednesday that the list of 30 stations was "part of the planning phase, albeit not confirmed" and the list was created by a contractor before the campaign went live.

EXHIBIT tabbies 2

Kristi Noem responds to replacement rumor >

The signs, posted above gas pumps, read "Pregnant? Don't want to be?" with a link to the organization's website.

"We're putting up ads at gas stations because we think that everyone deserves access to accurate medical information, and gas stations are great places to spread information," Executive Director Liv Raisner told KELOLAND News.

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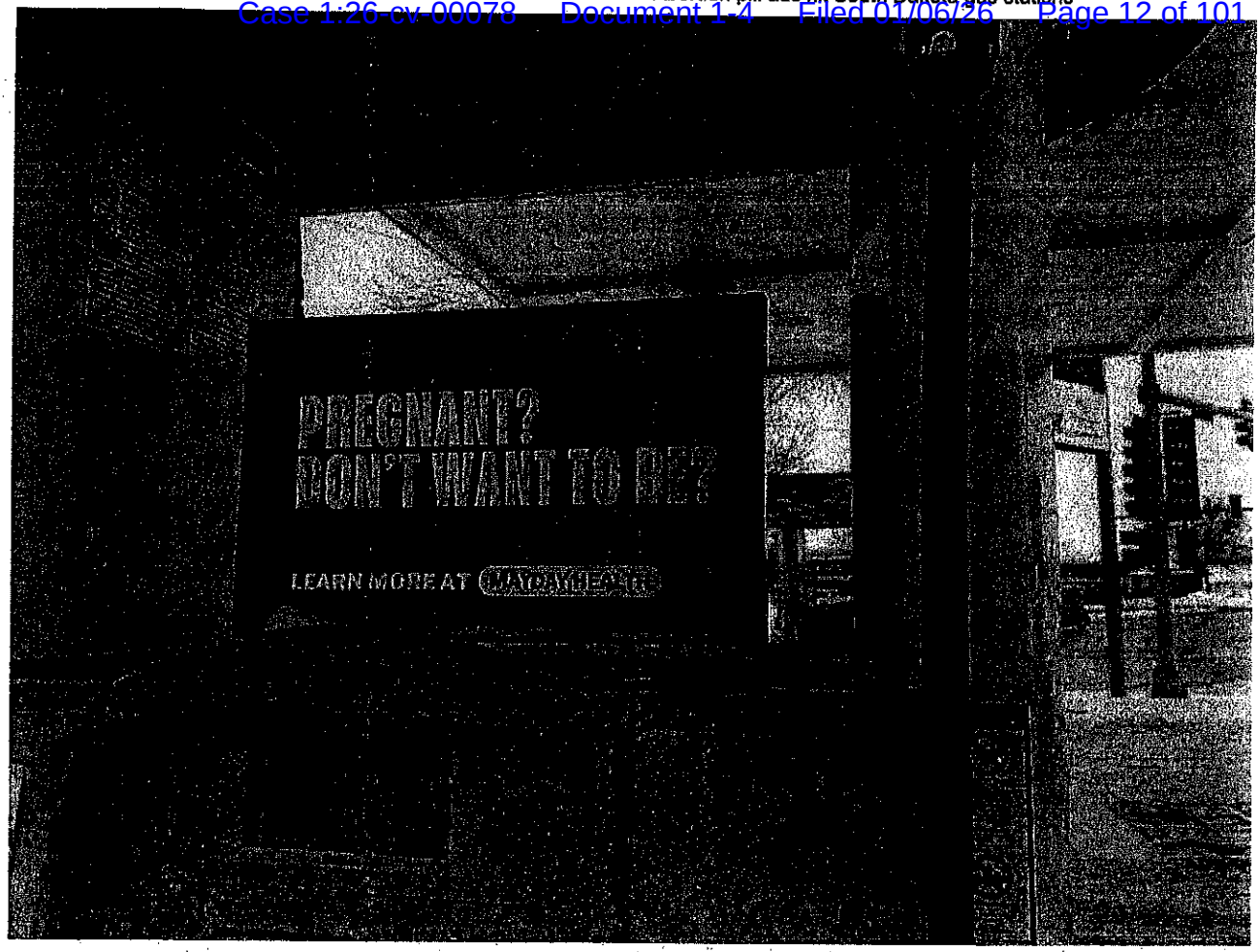

Mayday Health is a national organization with resources and information about abortion care, specifically abortion pills. They've run similar campaigns in Texas, West Virginia and Kentucky as well.

"We believe that it's critical to reach people with health information at community hubs. abortion in rural areas is a privacy issue," Raisner said. "If there's one singular health clinic in the area, people talk.. We want to make sure that people can learn their options anonymously and privately."

According to the Guttmacher Institute, medicated abortions accounted for nearly 63% of abortions in the United States in 2023.

SFPD: 900 snowbird tickets issued after first snow alert ›

Raisner said the organization chose South Dakota as their next state for the campaign due to the state's strict abortion laws, but they hope to spread the message abortion abortion pills to every state.

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Under South Dakota's 2006 trigger law, abortion is banned and considered a Class 6 felony punishable by up to two years in prison and up to a $4,000 fine. The only exception to the law is if there is "appropriate and reasonable medical judgment" that an abortion would save the mother's life. There is no exception for rape or incest.

Mayday Health does not provide or ship abortion pills, they just provide information about the options available.

"Our website just gives people the facts about abortion pills and connects them to resources without judgment," Raisner said. "We just want people to have the right information so they can make informed decisions about their own bodies."

Mayday Health also publishes digital ads on social media targeted to states with strict abortion laws and run campaigns with airplanes and boats during heavily populated events like football games, the Indy 500 and outside concerts.

"There's really nowhere we won't go to spread information about abortion pills in states where clinics are banned," Raisner added.

The signs at South Dakota gas stations will be up until January 18.

The owner of Luke Repair in Springfield confirmed that he did agree to display the signs due to the ad revenue it provided, however he said Wednesday that the signs were removed by the wind.

Benny Spies, owner of Cowboy Country Store #3 in Watertown, told KELOLAND News the Mayday Health advertisements won't be on display at his gas station.

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Sara Horning, owner of the Watertown Gas N Goodies, told KELOLAND News she did not authorize the advertisements at her business and will not be allowing them to be displayed.

Wayne Krump, owner of Gas Barrel in Sioux Falls, said he never agreed to display the signs. Gas Barrel was on the original list of 30 gas stations given, but were not included in the updated list of 14 provided on Wednesday.

"We are so pro-life. This hit us hard. We patronize God," Krump said in an interview with KELOLAND News on Wednesday.

Raisner told KELOLAND News all of the gas stations agreed to display the campaign signs. A representative from Mayday Health said they are not able to provide clarification on whether the local store owners or corporate gas stations gave the initial OK.

Gas stations with Mayday Health abortion signs:

Brookings

Classic Corner

Schoon's Pump 'n Pak

Sioux Falls

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Next story in 5

King's Liquor, Cliff Avenue

Roadway Travel Center

Local on E Marson Dr.

Volga: AG WRK Co-Op

Renner: Renner Corner Locker

Colome: Flying D

Mitchell: KWIK Phil

Rapid City: Rushmore Sinclair

Springfield: Luke Repair

Summerset: The Pit Stop

Vermillion: Pump 'n Pak

Wagner: Gus Stop

ADD AS PREFERRED SOURCE ON GOOGLE

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STATE OF SOUTH DAKOTA

OFFICE OF ATTORNEY GENERAL
1302 East SD Highway 1889, Suite 1
Pierre, South Dakota 57501-8501
Phone (605) 773-3215
Fax (605) 773-4106
http://atg.sd.gov

MARTY J. JACKLEY
ATTORNEY GENERAL

BRENT K. KEMPEMA
CHIEF DEPUTY

December 10, 2025

Olivia Raisner
Mayday Medicines Inc.
442 5th Ave 1648
New York, NY 10018

RE: CEASE AND DESIST

Dear Ms. Raisner,

The Office of the South Dakota Attorney General is the chief law enforcement officer and consumer protection advocate for the State of South Dakota. The South Dakota Attorney General is therefore empowered to investigate business practices and enforce consumer protection laws where violations exist.

Recently, the South Dakota Attorney General received information that Mayday Medicines Inc. advertises abortion resources indicating that abortion-inducing pills may be obtained in all 50 states, including South Dakota. Abortions are prohibited in South Dakota under SDCL 22-17-5.1, except for specific, extenuating circumstances. SDCL 22-17-5.1 specifically criminalizes administering to and prescribing or procuring for "any pregnant female any medicine, drug, or substance . . . to procure an abortion[.]"

Your advertisement directs South Dakota consumers to resources that insinuate abortion-inducing pills are legal in South Dakota, while also urging women not to seek medical care after taking abortion pills and to keep their abortion a secret.

For example, your advertisement directs consumers to Abuzz.[1] When the State of South Dakota is selected for state-specific resources on abortion-inducing pills, Abuzz provides "information" to South Dakota consumers through Plan C. In a section entitled—"Is this legal? Can someone get in trouble for using abortion pills?"— consumers are advised "research shows that hundreds of thousands of people have received and used pills by mail over the past few years with no legal problems." Likewise, in a section entitled—"How do people get in trouble?"— consumers are advised "the most common ways people have gotten in trouble" are when they "told someone about their abortion," they "got follow-up medical care and

1. Abuzz's mission is "to expand access to abortion by linking people to accurate information, pills by mail, and clinician support if desired."

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the provider reported them," or they "were later in pregnancy than they thought and didn't know what to do with the fetal tissue."

In South Dakota, we do not punish women who undergo abortion. *See* SDCL 22-17-5.2. The criminal liability falls on the individual who administered the abortion or prescribed or procured the abortion-inducing pills, despite the deceptive and self-protective advice provided through your advertisement.

Moreover, Mayday's website states that "[a]bortion pills are safe and effective." But a recent study found that "real-world insurance claims data for 865,727 prescribed mifepristone abortions" shows a "serious adverse event rate of 10.93 percent." Jamie Bryan Hall & Ryan T. Anderson, *The Abortion Pill Harms Women: Insurance Data Reveals One in Ten Patients Experiences a Serious Adverse Event*, Ethics and Public Policy Center (Apr. 28, 2025), https://tinyurl.com/wxhfswdf.

Based on this information, it appears that your business practices constitute a deceptive act or practice under SDCL Ch. 37-24, the South Dakota Deceptive Trade Practices and Consumer Protection Act. The Attorney General of South Dakota therefore demands that you **IMMEDIATELY CEASE AND DESIST** from conducting any advertising related to the delivery of abortion drugs to the State of South Dakota.

If you refuse to comply, the South Dakota Attorney General may bring a lawsuit against you for violations of the South Dakota Deceptive Trade Practices and Consumer Protection Act under SDCL Ch. 37-24. If successful, you may face felony criminal consequences or civil penalties up to $5,000 per violation.

To avoid further action, please notify the South Dakota Attorney General of the steps you have taken to remedy this situation by December 19, 2025. Your response should be in writing and addressed to:

Marty J. Jackley
South Dakota Attorney General
South Dakota Office of Attorney General
1302 E. S.D. Hwy 1889, Suite 1
Pierre, SD 57501

Alternatively, you may respond by email to atghelp@state.sd.us. You may also use this email address to communicate any questions or concerns about this letter.

Sincerely,

Marty J. Jackley

Marty J. Jackley,
South Dakota Attorney General

Davis Wright Tremaine LLP

Adam S. Sieff
adamsieff@dwt.com
213.633.8618

Laura R. Handman
laurahandman@dwt.com
202.973.4224

Chelsea T. Kelly
chelseakelly@dwt.com
202.973.4250

December 19, 2025

VIA EMAIL
Marty J. Jackley
South Dakota Attorney General
1302 East S.D. Highway 1889, Suite 1
Pierre, South Dakota 57501-8501
atghelp@state.sd.us

Re: "Cease and Desist" to Mayday Medicines, Inc.

Dear Mr. Jackley:

We write regarding your December 10, 2025 letter demanding that Mayday Medicines, Inc. cease and desist "any advertising related to the delivery of abortion drugs to the State of South Dakota." Mayday objects to your misguided demand in its entirety, and will not allow government intimidation to suppress its right to publish truthful non-commercial information of public concern.

As a threshold matter, there is no jurisdiction over Mayday's website in South Dakota. Mayday is a non-profit public health education organization incorporated in Delaware and headquartered in New York that operates a globally-accessible website. Nothing in your letter suggests Mayday broke any law by displaying signs at South Dakota gas stations—nor could it, as those signs pose a question ("Pregnant? Don't want to be?") and invite readers to "learn more" by visiting Mayday's website. Instead, your letter misrepresents, and takes issue with, information you claim appears on that website.[1] But Mayday's "site merely makes information available" to anyone in the world, so its availability in South Dakota "is insufficient to confer personal jurisdiction." *Johnson v. Arden*, 614 F.3d 785, 796 (8th Cir. 2010).

Nothing about Mayday's publishing activity identified in your letter, in any event, violates or is even subject to the South Dakota Deceptive Trade Practices and Consumer Protection Act (the "Act"). Mayday is a non-profit information resource. It does not sell, handle, provide, offer for sale, or benefit from the sale of abortion medication, and it has no customers. Mayday accordingly does not engage in "the sale or advertisement of any merchandise," and none of the statements at issue involve "the solicitation of contributions for charitable purposes." SDCL § 37-24-6(1). Instead, Mayday provides truthful information about healthcare options, including but not

[1] Your letter falsely asserts that Mayday's website "urg[es] women not to seek medical care after taking abortion pills." No such statement appears on Mayday's website. To the extent your letter takes issue with statements by Abuzz—a third-party organization—your complaint is misdirected, not to mention mischaracterized.

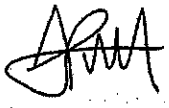
EXHIBIT 4 tabbies

limited to mifepristone and misoprostol, which are approved by the U.S. Food and Drug Administration (FDA) for safe and effective use.[2] That information is not commercial speech subject to regulation under deceptive practices statutes, *Lowe v. SEC*, 472 U.S. 181, 210-11 & n.58 (1985), much less the more specific kinds of advertisements to which the Act applies. *See Hyde v. Franklin Am. Mortg. Co.*, 453 F. Supp. 3d 1293, 1308 (D.S.D. 2020) (Act had no application to email that "was not an advertisement and [Defendant] was not selling products"); *see also Cheval Int'l v. Smartpak Equine, LLC*, 2016 WL 1064496, at *12 (D.S.D. Mar. 15, 2016) (similar). In fact, the Act contains a safe harbor that protects "publishers, broadcasters, printers, or other persons" when, like Mayday, they do not engage in any deliberately deceptive commercial advertising. SDCL § 37-24-11.

The First Amendment imposes these limitations. States may not punish people for providing information about abortion services, even in jurisdictions that have made abortion illegal. *See Bigelow v. Virginia,* 421 U.S. 809, 815 n.5 (1975) (explaining that *Bigelow* was "a First Amendment case and not an abortion case"). *Bigelow* is controlling. The case held that a Virginia statute criminalizing the dissemination of information that allegedly "encourage[d] or prompt[ed] the procuring of an abortion" infringed a Virginia newspaper's constitutionally protected speech. *Id.* at 812. The First Amendment protected the newspaper's announcement and "editorial endorsement" of an organization that facilitated access to abortions because the content "conveyed information of potential interest and value to a diverse audience—not only to readers possibly in need of the services offered, but also to those with a general curiosity about, or genuine interest in, the subject matter." *Id.* at 822 & n.7. Virginia had no constitutionally valid "interest in shielding its citizens" from this information. *Id.* at 827-28. South Dakota likewise has no power to "regulat[e] what [South Dakotans] may hear or read" about reproductive healthcare. *Id.*

Your letter baselessly threatens Mayday's protected speech in violation of Mayday's—and its readers—First Amendment rights. But Mayday will continue to make important, and truthful, public information available. Mayday reserves all rights to supplement or amend its response.

DAVIS WRIGHT TREMAINE LLP



Adam S. Sieff
Laura R. Handman
Chelsea T. Kelly

[2] The FDA has repeatedly confirmed the safety of medication abortion, a conclusion supported by independent and rigorous scientific study. *See, e.g.*, F.D.A. Center for Drug Evaluation & Research, App. No. 020687Orig1s020 at 12 (March 29, 2016) (confirming the "efficacy and safety" of medication abortion based on studying more than 2.5 million U.S. uses); Mifeprex REMS Study Group, *Sixteen Years of Overregulation: Time to Unburden Mifeprex*, 376 N. ENGL. J. MED. 790, 791 (2017) (same); F.D.A., *Mifepristone U.S. Post-Marketing Adverse Events Summary Through Dec. 31, 2024* at 1 (2025) (zero fatalities "causally attributable to mifepristone" "with certainty").

December 15, 2025

COWBOY COUNTRY STORES
312 9Th Ave SE; Ste. A
Watertown, SD 57201

FORMAL COMPLAINT AGAINST:

1. **MAYDAY HEALTH – Liv Raisner**

2. **MOMENTARA**
   16355 36th Ave. N.
   Minneapolis, MN 55446

3. **KELOLAND – Gracie Terrall**
   201 South Phillips Ave.
   Sioux Falls, SD 57104

On Tuesday December 9, 2025 it was brought to our attention, by our customers, that Cowboy Country Stores had agreed to participate in an abortion media campaign from **Mayday Health**, where abortion pill advertisements would be posted at our Cowboy 3 location, in Watertown, SD. The inaccurate, false, deceptive, lie our customers referred to came from a story titled, Abortion Pill Ads Hit South Dakota Gas Stations, posted on **KELOLAND NEWS** written by **Gracie Terrall**.

Cowboy Country Stores DID NOT agree to be involved in this campaign in any way, shape or form, period. And DID NOT post any advertisements pertaining to the abortion pill at any time.

We believe **Momentara** provided the false information to Mayday Health because it is **Momentara** that called our store asking if we would participate. We said NO, period.

Mayday Health, Liv Raisner, Momentara, KELOLAND News and **Gracie Terrall** should be held accountable for their reckless actions, which damaged our reputation.

COWBOY COUNTRY STORES

This site collects zero data that could identify a visitor.

MAYDAY.HEALTH

Donate to Mayday's healthcare education campaign today!

Choose an Amount

Your contribution will benefit Mayday Health.

One-Time Donation

Monthly Donation

$1,000 $500

$250 $100

$50 $25

$10

Choose your own amount

Hi, my name's Charley. I can help you get or manage an abortion. / Hola, mi nombre es Charley. Puedo ayudarte a conseguir o manejar un aborto.

Donate Today!

EXHIBIT 6 tabbies

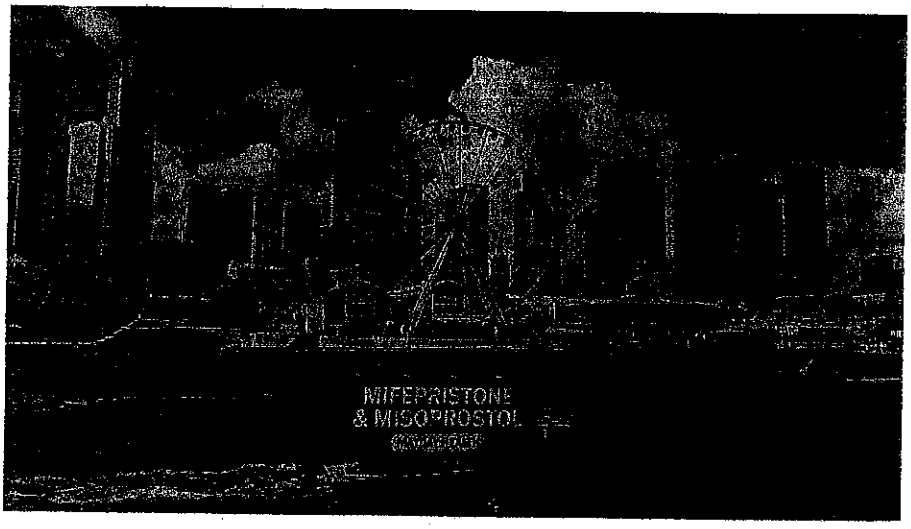
https://www.mayday.health/donate-today/

Does your employer use Benevity for corporate matching? If so, search for us there to ensure that your emplyer is supporting our work as well!

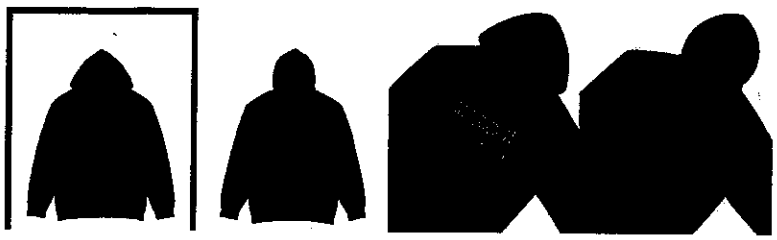
Mayday Health is a nonprofit that exists to provide information about how people can get mail-order abortion pills, birth control, emergency contraception, and gender affirming care in all 50 states, regardless of harmful state restrictions.

An investment in Mayday is an investment in those who are most harmed by abortion bans.

Your gift helps us do this crucial work. Because of you, we will now be able to reach more people with the life-saving information they need to understand every reproductive health care option available to them – regardless of where they live.



Thank you so much for your tax deductible gift to Mayday Medicines, Inc. (DBA Mayday Health).



"THEY DON'T WANT YOU TO KNOW THIS" HOODIE

$40.00

This high-quality outdoor classic is a steal! It features a double-lined hood and comes in colors for any adventure.

- 50% pre-shrunk cotton, 50% polyester
- Midweight fabric (8.0 oz)
- Regular fit

Select size **Size guide**

S	M	L	XL
2XL	3XL	4XL	5XL

1 Add to Cart

EXHIBIT 7

This site collects zero data that could identify a visitor.

MAYDAY.HEALTH

What do you need?

- Abortion
- Morning after pills
- Birth Control
- Gender-Affirming Care

Did you know you can proactively order abortion pills even if you're not currently pregnant? Click here for more info.

Interested in the abortion procedure instead? Go here.

EXHIBIT 8

This site collects zero data that could identify a visitor.

MAYDAY.HEALTH

How long has it been since your last period?

Less than 12 weeks

More than 12 weeks

I don't know

‹ ›

Just take me to the abortion pills ›

Did you know you can proactively order abortion pills even if you're not currently pregnant? Click here for more info.

Interested in the abortion procedure instead? Go here.

Abortion pills are safe, effective during the first 12 weeks, and FDA-approved to get in the mail in all 50 states. It is safe to do your own abortion at home with abortion pills. Questions about cost, legal risk, and websites we link out to are answered in our FAQ.

EXHIBIT tabbies 9

Information about Mifepristone for Medical Termination of Pregnancy Through Ten Weeks Gestation

Mifeprex (mifepristone) and its generic, Mifepristone Tablets, 200 mg (collectively mifepristone) are approved, in a regimen with misoprostol, to end an intrauterine pregnancy through ten weeks gestation (70 days or less since the first day of a patient's last menstrual period). The FDA first approved Mifeprex in 2000 and approved a generic version of Mifeprex, Mifepristone Tablets, 200 mg, in 2019.

Risk Evaluation and Mitigation Strategy (REMS) Information

Mifeprex and its generic, Mifepristone Tablets, 200 mg, are available under a single, shared system risk evaluation and mitigation strategy (REMS), known as the Mifepristone REMS Program, which sets forth the requirements that must be followed for prescribing and dispensing mifepristone for medical termination of pregnancy through ten weeks gestation.

Under the Mifepristone REMS Program, mifepristone must be prescribed by certified prescribers and must be dispensed by or under the supervision of a certified prescriber or by a certified pharmacy on a prescription issued by a certified prescriber. Under the Mifepristone REMS Program, mifepristone may be dispensed in person or by mail.

Mifeprex was first approved in 2000 with restrictions to assure its safe use. Mifeprex was deemed to have in effect an approved REMS under the Food and Drug Administration Amendments Act of 2007. In 2019, at the same time the FDA approved the generic version of Mifeprex, the agency approved the Mifepristone REMS Program, a single, shared system REMS for mifepristone products for the medical termination of intrauterine pregnancy through 70 days gestation.

In 2021, after conducting a review of the Mifepristone REMS Program, the FDA determined that the available data and information support modification of the REMS to reduce burden on the health care delivery system and to ensure the benefits of the product outweigh the risks. After reviewing supplemental applications from the applicants for Mifeprex and the approved generic, the FDA approved a modification to the Mifepristone REMS Program on January 3, 2023. As modified, the Mifepristone REMS Program includes the following requirements, among others:

- Mifepristone must be prescribed by a health care provider that meets certain qualifications and is certified under the Mifepristone REMS Program.
- In order to become certified to prescribe mifepristone, health care providers must complete a Prescriber Agreement Form.
- The Patient Agreement Form must be reviewed with and signed by the patient and the health care provider, and the risks of the mifepristone treatment regimen must be fully explained to the patient before mifepristone is prescribed.
- The patient must be provided with a copy of the Patient Agreement Form and mifepristone Medication Guide (FDA-approved information for patients).
- Mifepristone may only be dispensed by or under the supervision of a certified prescriber, or by a certified pharmacy on a prescription issued by a certified prescriber.
- To become certified to dispense mifepristone, pharmacies must complete a Pharmacy Agreement Form.
- Certified pharmacies must be able to ship mifepristone using a shipping service that provides tracking information.
- Certified pharmacies must ensure mifepristone is dispensed to the patient in a timely manner.

To learn more, please see Questions and Answers on Mifepristone for Medical Termination of Pregnancy Through Ten Weeks Gestation (/drugs/postmarket-drug-safety-information-patients-and-providers/questions-and-answers-mifepristone-medical-termination-pregnancy-through-ten-weeks-gestation).

FDA Does Not Recommend Buying Mifepristone Online

Mifepristone prescribed under the Mifepristone REMS Program will be dispensed to you by your health care provider (or someone under the supervision of your health care provider), or by a pharmacy to which your health care provider has submitted your prescription. You can ask your health care provider whether they are certified in the Mifepristone REMS Program (or working under the supervision of someone who is). The FDA does not recommend purchasing mifepristone outside of the Mifepristone REMS Program – e.g. buying it online or personally transporting it from a foreign country. If a person does so, they would be bypassing important safeguards specifically designed to protect their health. Prescription medicines that are approved for use in the United States have been reviewed for safety, effectiveness, and quality by the FDA, and are subject to FDA-regulated manufacturing controls, including inspection of manufacturing facilities. Generally, prescription medicines purchased from foreign sources are not the FDA-approved versions. The FDA does not have regulatory oversight of prescription medicines from outsi drug supply chain; therefore, the FDA cannot ensure the safety, effectiveness, or quality of those medications.

To learn more about buying drugs safely, please see BeSafeRx: Your Source for Online Pharmacy Information (/drugs/buying-using-medicine-safely/besaferx-your-source-online-pharmacy-information)

Related Information

- Questions and Answers on Mifepristone for Medical Termination of Pregnancy Through Ten Weeks Gestation (/drugs/postmarket-drug-safety-information-patients-and-providers/questions-and-answers-mifeprex)
- Previous REMS
  - REMS Approved in 2011 (/media/164648/download?attachment)
  - REMS Approved in 2016 (/media/164649/download?attachment)
  - REMS Approved in 2019 (/media/164650/download?attachment)
  - REMS Approved in 2021 (/media/164651/download?attachment)
- Historical Information on Mifepristone (marketed as Mifeprex) (http://wayback.archive-it.org/7993/20161022205309/http://www.fda.gov/Drugs/DrugSafety/PostmarketDrugSafetyInformationforPatientsandProviders/ucm111334.htm) (http://www.fda.gov/about-fda/website-policies/website-disclaimer)

Labeling and Other Important Information

Mifeprex (mifepristone)

- Mifeprex Prescribing Information (https://www.accessdata.fda.gov/drugsatfda_docs/label/2023/020687Orig1s025Lbl.pdf)
- Mifeprex Medication Guide (https://www.accessdata.fda.gov/drugsatfda_docs/label/2023/020687Orig1s025Lbl.pdf#page=16)
- Mifeprex Patient Agreement Form (https://www.accessdata.fda.gov/drugsatfda_docs/rems/Mifepristone_2023_01_03_Patient_Agreement_Form.pdf)
- Mifeprex Prescriber Agreement Form (https://www.accessdata.fda.gov/drugsatfda_docs/rems/Mifepristone_2023_03_23_Prescriber_Agreement_Form_for_Danco_Laboratories_LLC.pdf
- Mifeprex Pharmacy Agreement Form (https://www.accessdata.fda.gov/drugsatfda_docs/rems/Mifepristone_2023_01_03_Pharmacy_Agreement_Form_Danco_Laboratories.pdf)

Mifepristone Tablets, 200 mg

- Mifepristone Tablets, 200 mg Prescribing Information (/media/164653/download?attachment)
- Mifepristone Tablets, 200 mg Medication Guide (/media/164654/download?attachment)
- Mifepristone Tablets, 200 mg Patient Agreement Form (https://www.accessdata.fda.gov/drugsatfda_docs/rems/Mifepristone_2023_01_03_Patient_Agreement_Form.pdf)
- Mifepristone Tablets, 200 mg Prescriber Agreement Form (https://www.accessdata.fda.gov/drugsatfda_docs/rems/Mifepristone_2023_03_23_Prescriber_Agreement_Form_for_GenBioPro_Inc..pdf)
- Mifepristone Tablets, 200 mg Pharmacy Agreement Form (https://www.accessdata.fda.gov/drugsatfda_docs/rems/Mifepristone_2023_01_03_Pharmacy_Agreement_Form_GenBioPro_Inc.pdf)

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U.S. FOOD & DRUG ADMINISTRATION

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Fields marked with an asterisk (*) are required.

1. Which of the following best categorizes the information you were looking for on FDA.gov today?

2. Which of the following best describes the information you were looking for on FDA.gov today?

3. Did you find the information you were looking for on FDA.gov today?

4. For this visit to the FDA site, which of the following roles best describes you? If you are a consultant or an attorney, please select the role of the individual or organization that you represent.

5. How frequently do you visit FDA.gov?

6. On a scale from 0-10, based on your experience today, how likely are you to recommend this website to a friend or colleague?

7) Overall, how satisfied or dissatisfied were you with your experience on the FDA website today?

Navigation

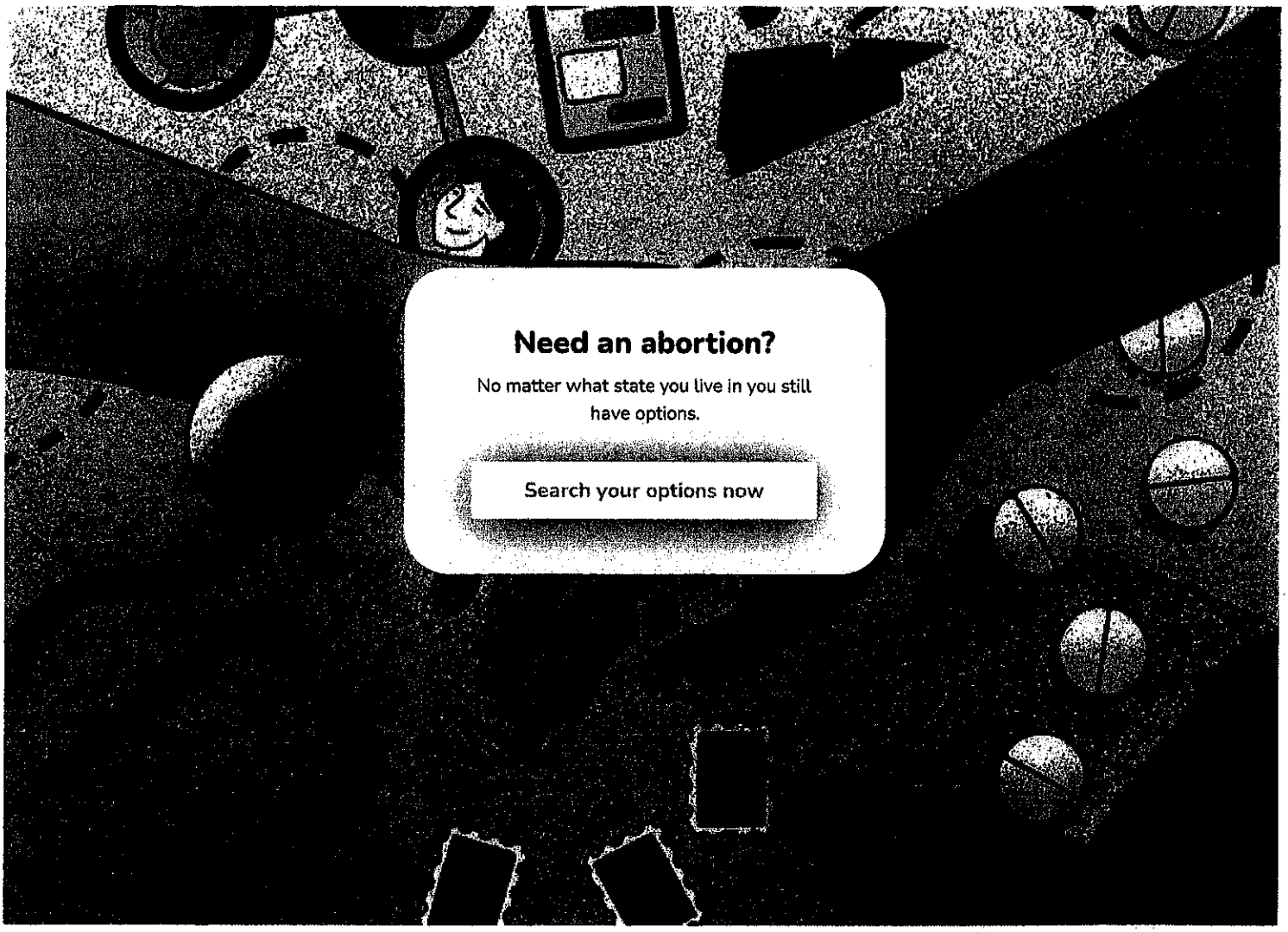
Look & Feel

Using FDA's search feature

Understandability of the content

Overall Experience

Submit



Find verified abortion clinics and abortion pills by mail safely & privately

I Need An A can help you learn about all your abortion options and find the most up to date information about abortion clinics, pills by mail, state abortion laws, and support. We've designed ineedana.com to protect your privacy by not storing anything you enter when you search your options and keeping your digital footprint small.

If you are using a shared device and trying to keep your information private, we recommend you remove this site from your browser history and in the future use "incognito" or "private" browsing to look up information.

Get more info on digital privacy

EXHIBIT
tabbies

i need an a.com

EN

Need an abortion? We're here to help.

To find your best options, we need a bit of information from you. None of what you enter will be stored or shared, ever. **Learn why we ask for this**.

Location *Required

What's your city or zipcode?

Pick first day of last period I'm not sure

mm/dd/yyyy

If you're under 18, enter your age ?

How old are you?

Search

Advanced Search

EXHIBIT 12 tabbies

i need an a.com

EN

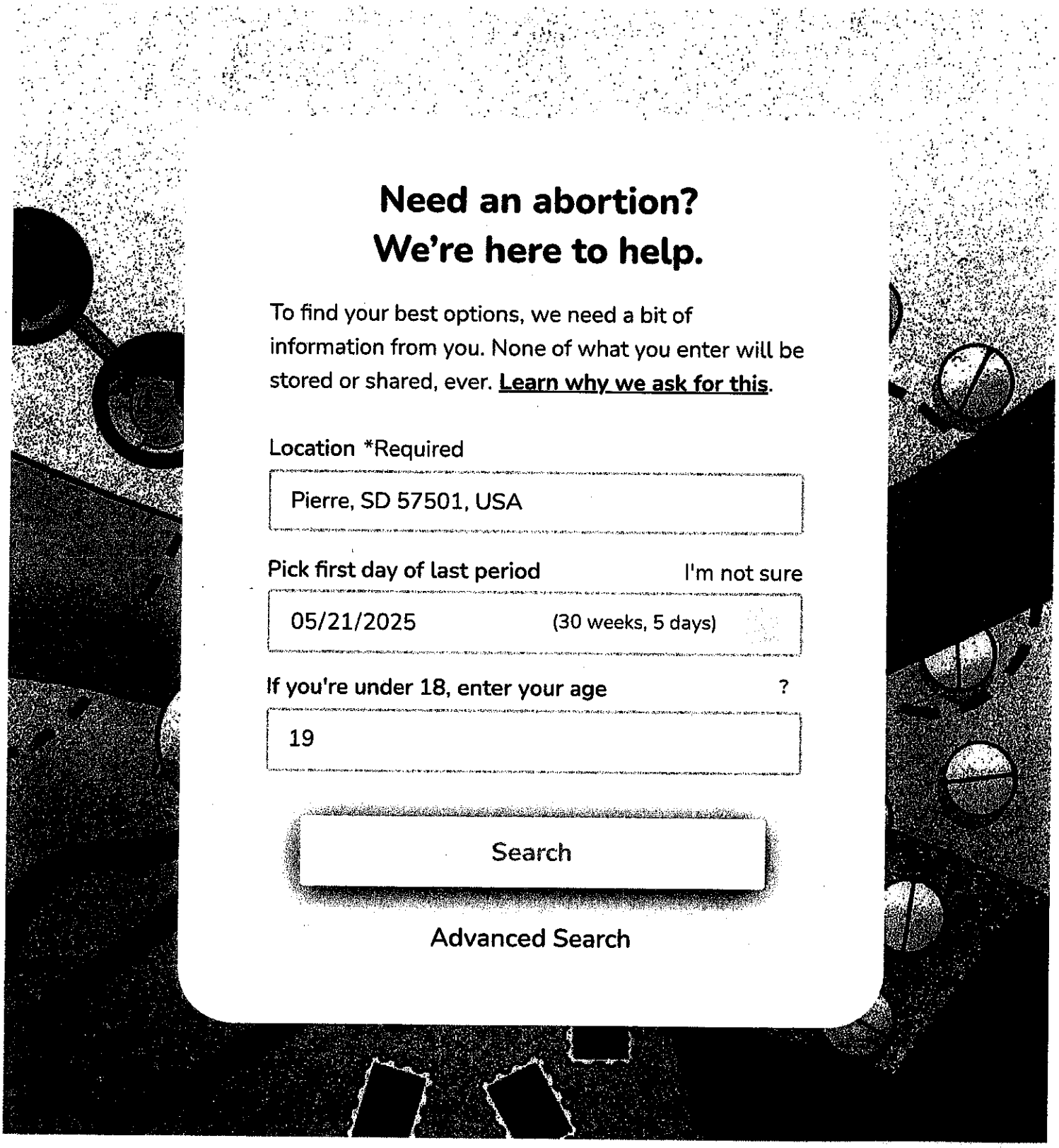


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EXHIBIT
tabbies
13

Abortion is banned in South Dakota, but you've still got options.

Open filter menu

Reset filters

Filtered by: 30 weeks or more

8 hrs 39 min drive

A Women's Choice

Aurora, Colorado

In-Clinic Procedure Abortion Pills

Go to website (303) 418-8660

More Information

Online

Community Network - Idaho Access

This service is verified and medically very safe, but it can come with legal risk in your state.

Pills By Mail

Go to website

More Information

~1 hr 40 min direct flight

Fly from Pierre, SD (PIR) to

Denver, Colorado

There is 1 clinic near Denver, Colorado that offers

In-Clinic Procedure Abortion Pills Pills By Mail

up to 33 weeks

More Information

Show more

What are your biggest questions?

How much do abortions cost in South Dakota? ›

What if I need help paying? ›

What's an in-clinic abortion like? ›

What are the abortion laws in South Dakota? ›

I need help. Who can I talk to? >

The most important thing to know: You're not alone.

People from all walks of life have abortions. These are some of their stories.

video after 15 weeks +9

Why was it so complicated for me to get an abortion.. in the...

Video length 50:00

Watch here

video written +9

Trans people build families and have abortions, too.

Video length 4:40

Watch @ WeTestify

video certain +6

Shout Your Abortion Stories Volume 3

Video length 1:41

Watch @ Shout Your Abortion

See more stories

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As such, we'll never ask you for personally identifiable information or store anything you've input.

If you are using a shared device and trying to keep your information private, we recommend you remove this site from your browser history. We can help you learn how to do that and other ways to reduce your digital footprint.

Learn more about privacy

About ineedana.com

Built by people who've had abortions for people who will, ineedana.com launched in 2016 as the first comprehensive and regularly updated resource for abortion seekers in the US. Since then, we've been called the "Quintessential Post-Roe Resource" by The Nation, appeared on John Oliver's Last Week Tonight, and, most importantly to us, have helped more than 1.4 million people learn about their options. As a small and independent non-profit project, we couldn't do it without the support of our volunteers and donors.

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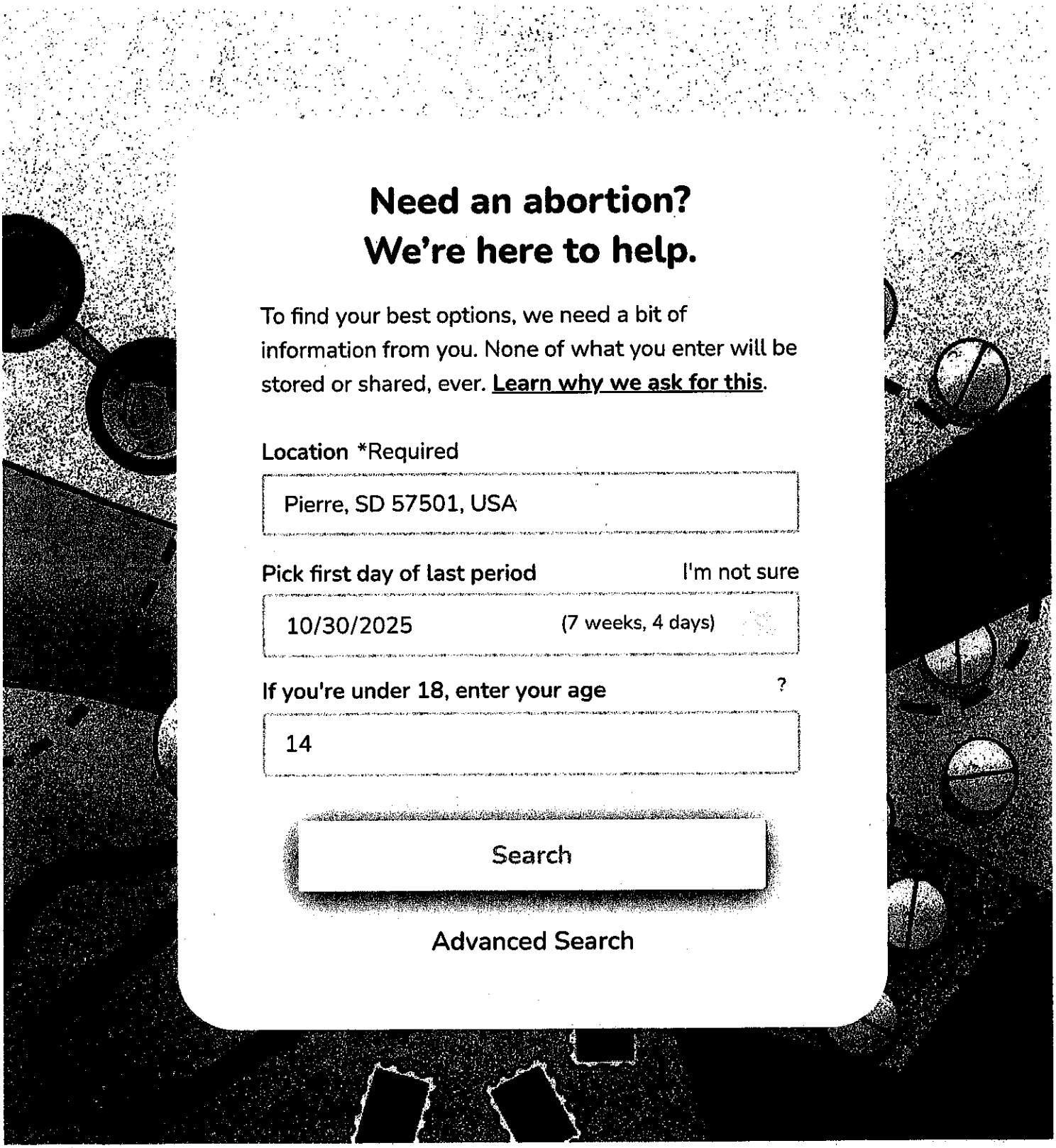
Find all your abortion options
Providers, laws, costs, and support updated daily

Search now

i need an a.com

EN



Need an abortion? We're here to help.

To find your best options, we need a bit of information from you. None of what you enter will be stored or shared, ever. **Learn why we ask for this**.

Location *Required

Pierre, SD 57501, USA

Pick first day of last period I'm not sure

10/30/2025 (7 weeks, 4 days)

If you're under 18, enter your age ?

14

Search

Advanced Search

!

EXHIBIT 14

Abortion is banned in South Dakota, but you've still got options.

You are a minor

If you decide to travel for care, you may face additional barriers as a teen.

Learn more in our guide for teens

Open filter menu

Reset filters

Filtered by: 7 weeks or more

6 hrs 6 min drive

Red River Women's Clinic

Moorhead, Minnesota

In-Clinic Procedure Abortion Pills

Go to website (218) 477-3191

More Information

Online

Aid Access via provider in a "shield law" state

This service is verified and medically very safe, but it can come with legal risk in your state.

Pills By Mail

Go to website

~1 hr 40 min direct flight

Fly from Pierre, SD (PIR) to

Denver, Colorado

There are 4 clinics near Denver, Colorado that offer

In-Clinic Procedure Abortion Pills Pills By Mail

up to 33 weeks

More Information

Show more

What are your biggest questions?

How much do abortions cost in South Dakota? ›

What if I need help paying? ›

What's an in-clinic abortion like? ›

What happens with abortion pills? ›

What are the abortion laws in South Dakota? ›

I need help. Who can I talk to? ›

The most important thing to know: You're not alone.

People from all walks of life have abortions. These are some of their stories.

video after 15 weeks +9

video written +9

Why was it so complicated for me to get an abortion.. in the...

Video length 50:00

Watch here

Trans people build families and have abortions, too.

Video length 4:40

Watch @ WeTestify

video certain +6

Shout Your Abortion Stories Volume 3

Video length 1:41

Watch @ Shout Your Abortion

See more stories

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About

Get involved

Blog

Donate

Find all your abortion options

Providers, laws, costs, and support updated daily

Search now

Blog

A Teen's Guide to Accessing Abortion

Posted July 1, 2024

Abortion is safe, normal, and any reason to have one is a good reason. Unfortunately, accessing abortion care can be challenging especially for young people. But you're not alone - we can give you an overview of everything so you can make the best decision for yourself and can connect you with trusted organizations that can help.

Let's start with parental involvement laws, what are they?

There are currently 24 states that require parental notification or consent when a minor is seeking an abortion -- these are called parental involvement laws. In most states, a legal minor is someone who is under 18 years old. **The requirements for parental involvement laws depend on your state and the clinic**. In some states it means the clinic would have to notify your parent or legal guardian. In others, it means your parent or legal guardian must be with you at the clinic to sign consent forms. If you can't find the information at Ineedana.com, calling the local abortion clinic is a great resource or contact the **Repro Legal Helpline** by calling **1-844-868-2812**.

help with the judicial bypass process. If you don't see your state or your destination state in the above table, you can call the Repro Legal Helpline at 844-868-2812 for help.

There are also two other options to consider on where to have an abortion:

1. Having medication abortion pills sent to your home (or to a trusted friend/family member) and having an abortion at home.
2. Traveling to a state that does not have parental involvement laws, so you can consent to your own abortion without your parents or a judges' permission.

   Places that don't have parental involvement laws: Alaska, California, Connecticut, Hawaii, Illinois, Maine, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Vermont, Washington, Washington D.C.

   If you are 16 years old or older, you do not need to involve your parents in **Delaware, Massachusetts, and Montana.** If you are 17 years old or older, you do not need parental consent in **South Carolina.**

   Maryland has a parental notification law but can be waived by a doctor. Talk to the clinic for more details.

EXHIBIT
16

MAYDAY.HEALTH

Do you live in a red state on the map below?

Just take me to the abortion pills ›

Interested in the abortion procedure instead? Go here.

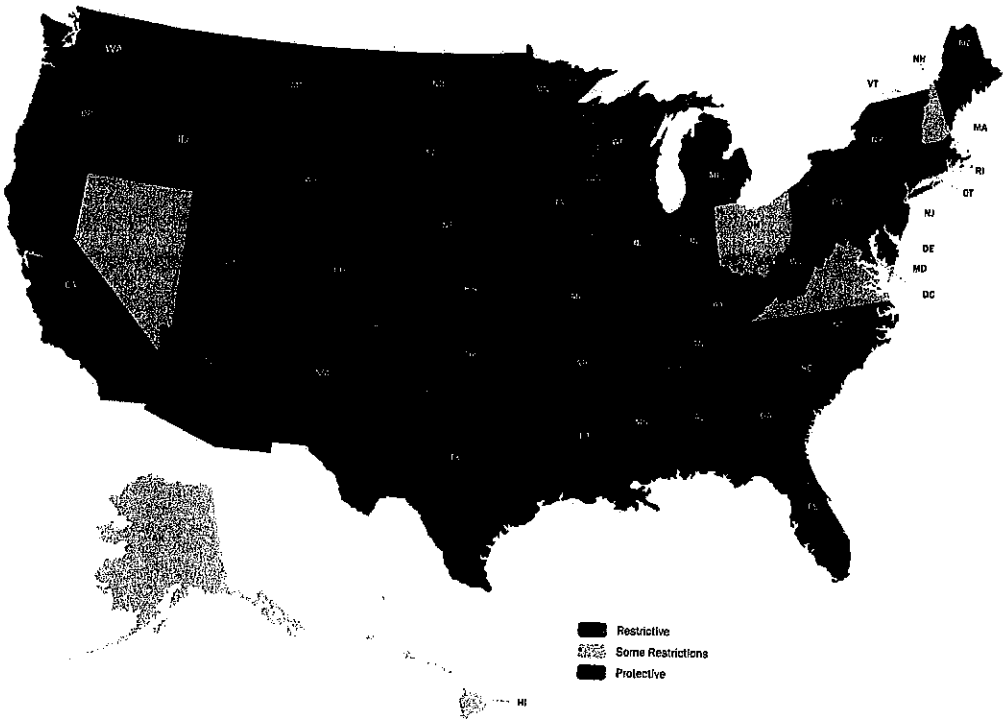
Yes

No

‹ ›

Hi, my name's Charley. I can help you get or manage an abortion. / Hola, mi nombre es Charley. Puedo ayudarte a conseguir o manejar un aborto.

EXHIBIT 17



Abortion pills are safe, effective during the first 12 weeks, and FDA- approved to get in the mail in all 50 states. It is safe to do your own abortion at home with abortion pills. Questions about cost, legal risk and websites we link out to are answered in our FAQ.

Mayday Videos

This site collects zero data that could identify a visitor.

MAYDAY.HEALTH

Before going to any external websites below, you can take these steps for digital privacy.

Order from:

Aid Access

SHIPS TO ALL 50 STATES

COST: SLIDING SCALE

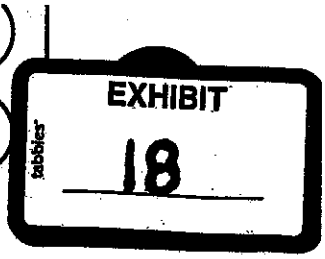
DELIVERY WITHIN 5 DAYS

Abuzz

Hi, my name's Charley. I can help you get or manage an abortion. / Hola, mi nombre es Charley. Puedo ayudarte a conseguir o manejar un aborto.

SHIPS TO SELECT STATES

COST: SLIDING SCALE



DELIVERY WITHIN 5 DAYS

The MAP

SHIPS TO ALL 50 STATES

COST: SLIDING SCALE

DELIVERY WITHIN 5 DAYS

A Safe Choice

SHIPS TO ALL STATES

COST: $150

DELIVERY WITHIN 4 DAYS

We Take Care of Us

SHIPS TO ALL 50 STATES

COST: SLIDING SCALE

DELIVERY WITHIN 3 BUSINESS DAYS

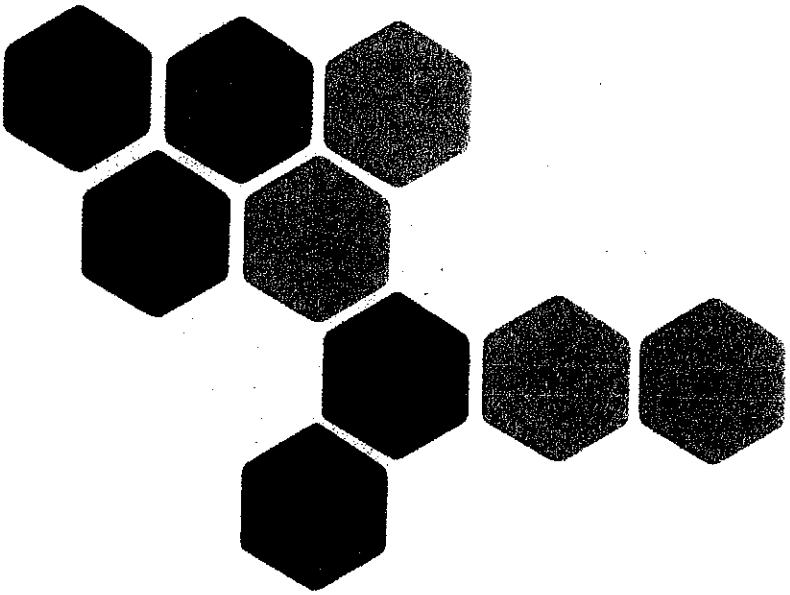
FAQs

How are health care providers able to get me pills? >

Questions about cost, legal risk, and websites we link out to? >

Want more information and other ways to get pills? >

data that could identify a visitor. This site collects **zero data** that could identify a visitor. This site cc



You're less than 13 weeks pregnant.

You must be less than 13 weeks pregnant to access abortion through Abuzz. Remember that pregnancy is measured from the first day of your last menstrual period, which is around two weeks before conception.

How do I estimate the length of my pregnancy? → (https://www.abuzzhealth.com/pregnancy-calculator/)

You're comfortable with virtual abortion care.

In most cases, providers do not require a phone call or video visit. After you fill in the form, a clinician will arrange payment with you and review your information. If you're approved to receive abortion pills by mail, your pills will be shipped out in 1-2 business days.

EXHIBIT tabbies 19

abuzz.jotform.com/231545342678057

State of South Dakota | SDLRC Codified Law... | eCourts.sd.gov | Odyssey File & Serve | PACER: Login | UJS Home | Offender Locator ... | Westlaw | Sign In - MatrixPros... | Eighth Circuit | Unit... | Dashboard - Matrix... | Drafting Assistant | All Bookma

English (US)

Please select your state.*

South Dakota

← PREVIOUS NEXT →

EXHIBIT

tabbies

20

abuzz.jotform.com/231545342678057

State of South Dakota | SDLRC Codified Law... | eCourts.sd.gov | Odyssey File & Serve | PACER: Login | UJS Home | Offender Locator ... | Westlaw | Sign in - MatrixPros... | Eighth Circuit | Unit... | Dashboard - Matrix... | Drafting Assistant

Important Information

Here is information about the potential legal risks of getting abortion pills by mail in the state you selected. You can also contact the Repro Legal Helpline for questions.

You can see other options here or **press next to continue.**

← PREVIOUS NEXT →

How people get abortion pills online in every state

Frequently asked questions about abortion pills and abortion pill access by mail.

Where people get abortion pills

Options for at-home abortion pill access will vary by location. Click below to find options by state or territory.

Location *

Search by state or territory

EXHIBIT 22

Finding abortion pills

Where can people find abortion pills?

Can people still get abortion pills by mail if their state bans abortion?

Do people need to get any medical tests?

Can people buy abortion pills in advance, to use later?

How long are abortion pills good for?

Does insurance or Medicaid cover abortion pills?

Can people buy abortion pills from Amazon?

What are online pharmacies, or websites that sell abortion pills, and how do people order from them?

What does "sliding scale" mean?

I've heard about period pills. Are they different from abortion pills?

About abortion pills

What is "abortion with pills," or a medication abortion? How do the pills work?

Do people need a prescription for abortion pills?

How far into a pregnancy can a person take abortion pills?

How much do abortion pills cost?

Is the abortion pill the same as Plan B, the morning-after pill?

Using abortion pills

Where can people find instructions for using the pills?

What can a person expect after taking abortion pills?

What is the difference between getting pills from a medical service or getting them from alternative suppliers?

What kind of real-time support is available?

Legal and safety considerations

Is this legal? Can someone get in trouble for using abortion pills?

Are abortion pills safe? What are the health risks?

What options do minors have if their state requires parental notification or consent for an abortion?

How does Plan C do research and test services?

How can someone avoid false information or abortion scams?

Want to stay updated on abortion pill news?

Sign up for our newsletter to get the latest updates and opportunities to take action, delivered straight to your inbox.

Email *

Your email

Follow @plancpills

Abortion pills

Search by state

FAQ

Pills in advance

Missed period pills

Support & resources

Abortion pill instructions

Blogs

Get involved

Community action

Stickers & flyers

Plan C road trip

Social media toolkit

Plan C merch

Partner with us

For medical professionals

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Press

Research & learning

Plan C: The documentary

2024 Annual Report

Media inquiries

Contact us

Privacy & terms

This is not legal or medical advice and does not substitute for the representation of an attorney or the advice of a doctor. No attorney client relationship has been formed by reviewing this material. In this website when we use the term "Guide," we refer to a health information resource that aggregates publicly-available services, hotlines and data.

Abortion Care Network

Where can people find instructions for using the pills?

What can a person expect after taking abortion pills?

What is the difference between getting pills from a medical service or getting them from alternative suppliers?

What kind of real-time support is available?

Legal and safety considerations

Is this legal? Can someone get in trouble for using abortion pills?

- Research shows that hundreds of thousands of people have received and used pills by mail over the past few years with no legal problems.
- But, in rare cases (less than 1%), people have gotten in legal trouble, even though most states don't have laws against doing your own abortion.
- Legal risk can depend on where someone lives, their identity and how far along they are in pregnancy. Also know that even if something isn't a crime, people can still be targeted by law enforcement.

The Repro Legal Helpline provides free, confidential information that can help people better understand legal risk:

Repro Legal Helpline

reprolegalhelpline.org

EXHIBIT 23

(844) 868-2812

Ineedana.com also has a state legal directory.

How do people get into trouble?

Research by the legal organization If/When/How suggests these are the most common ways people have gotten into trouble:

- they told someone about their abortion and that person reported them.
- they got follow-up medical care and the provider reported them (many people say they are having a miscarriage to avoid this risk, which is medically what is happening in the body).
- they were later in pregnancy than they thought and didn't know what to do with the fetal tissue (this calculator can help people understand how pregnant they are).

In the end, it is up to every individual to decide what level of legal risk they are willing to take. Read more about legal risk and find examples here.

What about online activity? Can that get someone in trouble?

People who have been criminalized for accessing or using pills have mostly been reported based on telling someone they know, or via a provider. That said, digital footprints (messages, browser history) also can be used as evidence against someone by authorities. Learn how to protect the privacy of your healthcare information and communications here.

Are abortion pills safe? What are the health risks?

What options do minors have if their state requires parental notification or consent for an abortion?

Aid Access

Get abortion and miscarriage care, wherever you are.

An abortion or miscarriage treatment can be done at home with pills or in a clinic with a medical procedure.

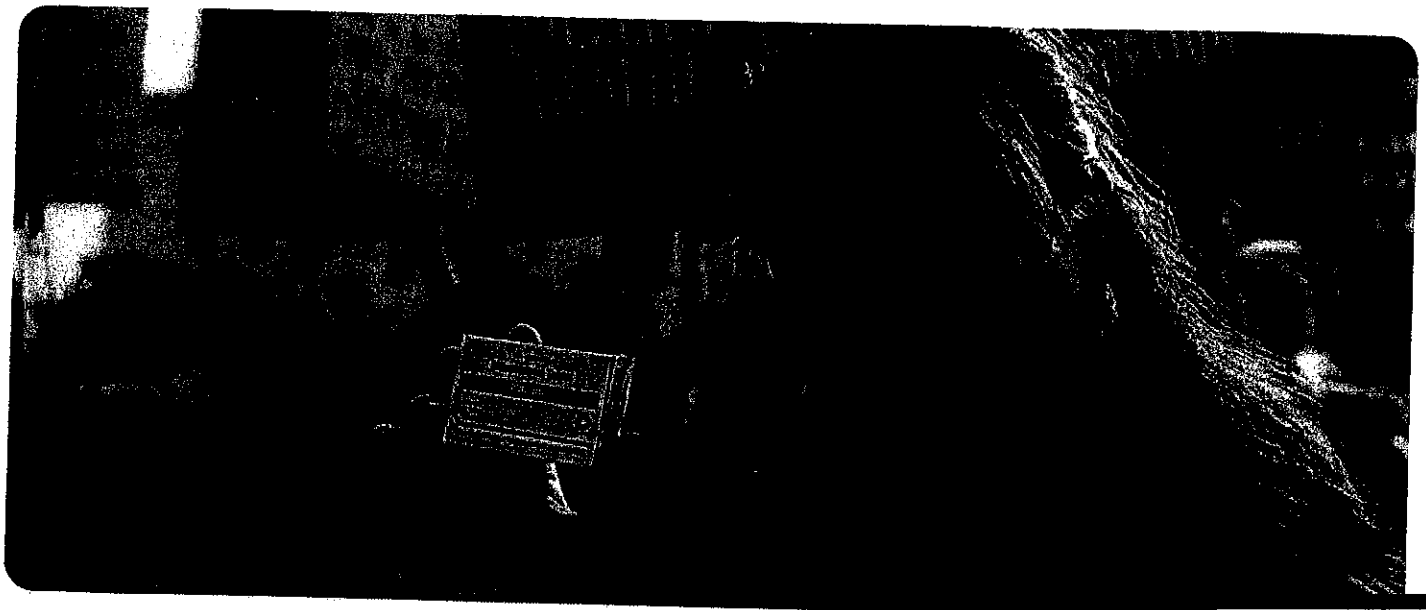
Less than 14 weeks pregnant? Get pills shipped to you. The pills are the same ones you get in a clinic. They are medically very safe. The pills are prescribed by a medical professional and packaged in a plain envelope.

Unsure how far along you are? We can help you figure it out.

Get pills

More than 14 weeks pregnant? You will need to have an abortion in a clinic.

Find a clinic



EXHIBIT
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WARNING LETTER

Aidaccess.org

MARCS-CMS 575658 — MARCH 08, 2019

More Warning Letters (/inspections-compliance-enforcement-and-criminal-investigations/compliance-actions-and-activities/warning-letters)

Product:

Drugs

Recipient:

Aidaccess.org

United States

Issuing Office:

Center for Drug Evaluation and Research

10903 New Hampshire Ave

Silver Spring, MD 20903

United States

TO: Aidaccess.org

FROM: The United States Food and Drug Administration

RE: Causing the Introduction of a Misbranded and Unapproved New Drug into Interstate Commerce

DATE: March 8, 2019

WARNING LETTER

The United States (U.S.) Food and Drug Administration (FDA) recently reviewed your website, http://www.aidaccess.org, and determined that you cause the introduction into interstate commerce of misbranded and unapproved new drugs in violation of sections 301(a), 301(d), and 505(a) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. §§ 331(a), 331(d), and 355(a)].

The sale of misbranded and unapproved new drugs poses an inherent risk to consumers who purchase those products. Unapproved new drugs do not have the same assurance of safety and effectiveness as those drugs subject to FDA oversight. Drugs that have circumvented regulatory safeguards may be contaminated; counterfeit, contain varying amounts of active ingredients, or contain different ingredients altogether.

FDA requests that you immediately cease causing the introduction of these violative drugs into U.S. commerce.

Unapproved New Drug

Aidaccess.org states on its website, "Aid Access supports women who are not able to access local services. If you are healthy and less than 9 weeks pregnant, you can do the online consultation. The abortion pills mifepristone and misoprostol will be delivered to you by mail." By facilitating the sale of unapproved mifepristone and misoprostol to consumers in the U.S., Aidaccess.org causes the introduction of unapproved new drugs into U.S. commerce in violation of the FD&C Act. These products are drugs within the meaning of section 201(g) of the FD&C Act (21 U.S.C. § 321(g)] because they are intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease and/or because they are intended to affect the structure or function of the body. These drugs are also new drugs as defined by section 201(p) of the FD&C Act (21 U.S.C. § 321(p)], because they are not generally recognized as safe and effective for their labeled use. New drugs may not be legally introduced or delivered for introduction into interstate commerce without prior approval from FDA, as described in section 505(a) of the FD&C Act (21 U.S.C. § 355(a)].

Aidaccess.org facilitates the sale to U.S. consumers of unapproved mifepristone in a regimen with unapproved misoprostol labeled for the termination of pregnancy, including "**(b)(4), (b)(6)**," a combination pack that includes both mifepristone and misoprostol tablets. The "**(b)(4), (b)(6)**" product is labeled as a "Combipack of Mifepristone Tablets IP & Misoprostol Tablets IP" and is manufactured by **(b)(4), (b)(6)**. The patient insert accompanying the product states that "**(b)(4), (b)(6)**" is "indicated for early medical abortion for up to 9 weeks." The product labeling states that "**(b)(4), (b)(6)**" is "Marketed by: **(b)(4), (b)(6)**."

No approved applications pursuant to section 505 of the FD&C Act are in effect for this product. Accordingly, its introduction or delivery for introduction into interstate commerce violates sections 301(d) (21 U.S.C. § 331(d)] and 505(a) (21 U.S.C. § 355(a)] of the FD&C Act.

There is an FDA-approved prescription mifepristone drug product that is marketed in the U.S. under the brand name "Mifeprex" and indicated in a regimen with FDA-approved misoprostol, for the termination of early pregnancy (10 weeks or less since last menstrual period began). However, there are no approved drug applications pursuant to section 505 of the FD&C Act in effect for the "**(b)(4), (b)(6)**" product manufactured by **(b)(4), (b)(6)**, caused to be introduced into U.S. commerce via Aidaccess.org.

The substitution of unapproved drugs for FDA-approved prescription drugs poses significant health risks to U.S. consumers. For example, in this case, use of the unapproved drug would not be subject to the same protections as use of the FDA approved product. Mifeprex labeling bears a boxed warning indicating that the drug carries a risk of serious or even life-threatening adverse effects, including serious and sometimes fatal infections and prolonged heavy bleeding, which may be a sign of incomplete abortion or other complications. As further noted in the Mifeprex labeling, Mifeprex is only available in the U.S. through a Risk Evaluation and Mitigation Strategy (REMS) program. The REMS program is intended to mitigate the risk of serious complications associated with Mifeprex by: requiring healthcare providers who prescribe Mifeprex to be certified in the Mifeprex REMS program; ensuring that Mifeprex is only dispensed in certain healthcare settings by or under the supervision of a certified prescriber; and informing patients about the risk of serious complications associated with Mifeprex. Consistent with the REMS, Mifeprex is not sold through retail pharmacies or over the internet. Use of the unapproved "**(b)(4), (b)(6)**" product would not be subject to these FDA-approved REMS provisions.

Misbranded Drug

A drug is misbranded under section 502(f)(l) of the FD&C Act (21 U.S.C. § 352(f)(l)) if it fails to bear adequate directions for its intended use(s). "Adequate directions for use" means directions under which a layperson can use a drug safely and for the purposes for which it is intended (21 CFR 201.5). Prescription drugs, as defined in section 503(b)(l) of the FD&C Act (21 U.S.C. § 353(b)(l)], include those that, because of their toxicity or other potentiality for harmful effect, and/or the method of their use, and/or the collateral measures necessary for their use, are not safe for use except under supervision of a practitioner licensed by law to administer them. Prescription drugs, as defined in section 503(b)(l)(A) of the FD&C Act, can only be used safely at the direction, and under the supervision, of a licensed practitioner.

Because the "**(b)(4), (b)(6)**" product contains prescription drugs intended for a condition that is not amenable to self-diagnosis and treatment by a layperson, adequate directions cannot be written such that a layperson can use the product safely for its intended use. Consequently, the labeling for "**(b)(4), (b)(6)**" fails to bear adequate directions for its intended use, causing it to be misbranded under section 502(f)(l) of the FD&C Act. In addition, because "**(b)(4), (b)(6)**" is not approved in the U.S., it is also not exempt under 21 CFR 201.115(a) from the requirements of section 502(f)(l) of the FD&C Act.

The "**(b)(4), (b)(6)**" product is also misbranded under section 502(f)(2) of the FD&C Act (21 U.S.C. § 352(f)(2)) because it fails to bear "adequate warnings against use ... where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application .... " This is particularly concerning because FDA-approved mifepristone indicated for medical termination of early pregnancy is subject to a REMS program. The REMS program for Mifeprex restricts dispensing to certain healthcare settings, specifically clinics, medical offices, and hospitals, by or under the supervision of a certified prescriber. Healthcare providers who prescribe Mifeprex must be certified in the Mifeprex REMS program. In order to be certified, the prescriber must have the ability to: assess the duration of the pregnancy accurately, diagnose ectopic pregnancies, and provide surgical intervention in cases of incomplete abortion or severe bleeding, or to have made arrangements for others to provide such care. Healthcare providers must be able to ensure that women have access to medical facilities for emergency care, and must agree to other responsibilities, including reviewin& and signing the Patient Agreement Form with the patient and providing each patient with a copy of the signed Patient Agreement Form and the Medication Guide. In addition, the REMS program contains specific requirements for distributors including, but not limited to, following processes and procedures for storage, handling, shipping, tracking package serial numbers, proof of delivery and controlled returns of Mifeprex. By facilitating the sale of the unapproved and misbranded "**(b)(4), (b)(6)**" product, Aidaccess.org is causing important safety measures that are put in place for FDA-approved mifepristone for medical termination of early pregnancy to be bypassed.

By facilitating the sale of "**(b)(4), (b)(6)**" to U.S. consumers, Aidaccess.org is causing the introduction of a misbranded drug into interstate commerce in violation of section 301(a) of the FD&C Act (21 U.S.C. § 331(a)].

***

FDA is taking this action against Aidaccess.org because of the risks posed by its conduct in causing the introduction of a misbranded and unapproved new drug into U.S. commerce. FDA's regulation and oversight of the drug approval process protects consumers by requiring rigorous scientific standards for new drug approval, labeling review for accuracy and completeness, and manufacturing procedures and testing performed under closely controlled conditions at FDA-registered and inspected facilities. Sourcing drugs from outside of the legitimate U.S. drug supply chain can pose serious risks to patients who may receive medications that are adulterated and are not shipped and/or stored properly.

This letter is not intended to identify all the ways in which your activities might be in violation of U.S. law. You should promptly cease causing the sale of unapproved new drugs and misbranded drugs to U.S. consumers and correct all other violations of the FD&C Act. Failure to correct these violations may result in FDA regulatory action, including seizure or injunction, without further notice.

Please notify this office in writing within 15 working days of receipt of this letter of any steps you have taken or will take to correct the violations set forth above and to prevent their recurrence. If the corrective action(s) cannot be completed within 15 working days, state the reason for the delay and the time within which the correction(s) will be completed. If you believe that this product is not in violation of the FD&C Act, include your reasoning and any supporting information for our consideration.

Your response and any other inquiries concerning this letter should be sent to FDA's Internet Pharmacy Task Force at FDAInternetPharmacyTaskForce-CDER@fda.hhs.gov (mailto:FDAInternetPharmacyTaskForce-CDER@fda.hhs.gov).

Sincerely,

/S/

Thomas Christi
Director
Office of Drug Security, Integrity, and Response
Office of Compliance
Center for Drug Evaluation and Research
Food and Drug Administration

Cc:
Dr. Rebecca Gomperts
(b)(4), (b)(6)

Was this page helpful?
Submit

FDA U.S. FOOD & DRUG ADMINISTRATION

FDA.gov Site Customer Feedback

Help us improve FDA.gov! We will use your responses to improve the experience for millions of people who visit FDA.gov.
Fields marked with an asterisk (*) are required.

1. Which of the following best categorizes the information you were looking for on FDA.gov today?
2. Which of the following best describes the information you were looking for on FDA.gov today?
3. Did you find the information you were looking for on FDA.gov today?
4. For this visit to the FDA site, which of the following roles best describes you? If you are a consultant or an attorney, please select the role of the individual or organization that you represent.
5. How frequently do you visit FDA.gov?
6. On a scale from 0-10, based on your experience today, how likely are you to recommend this website to a friend or colleague?
7) Overall, how satisfied or dissatisfied were you with your experience on the FDA website today?
Navigation
Look & Feel
Using FDA's search feature
Understandability of the content
Overall Experience
Submit

Get Abortion Pills in South Dakota - Order Here

You can buy an abortion pill online and get it by mail in South Dakota. The FDA has approved abortion pills by mail from U.S. based abortion providers for all 50 U.S. states including South Dakota.

Aid Access will help you order abortion pills and get mifepristone and misoprostol tablets delivered to your SD home in Sioux Falls, Rapid City, Aberdeen, Brookings, Watertown, or anywhere else in South Dakota.

South Dakota abortion pill online orders:

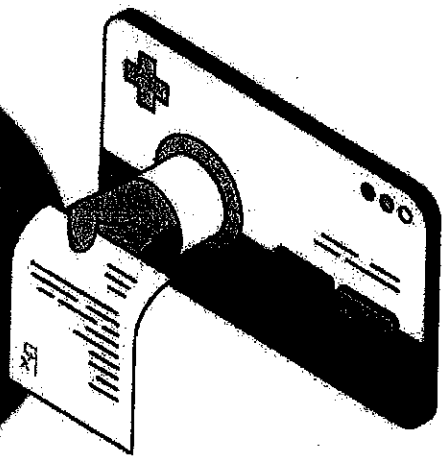
- South Dakota abortion pill online orders costs $150 USD
- Reliable abortion pill shipping to South Dakota in 1-5 days
- Tracking numbers provided when the pills are mailed
- Help desk support available in English and Spanish

How to get an abortion pill in South Dakota

Submit our online consultation form

1

We need to ask a few questions about your health & pregnancy to ensure you are eligible



Our doctors will review your order

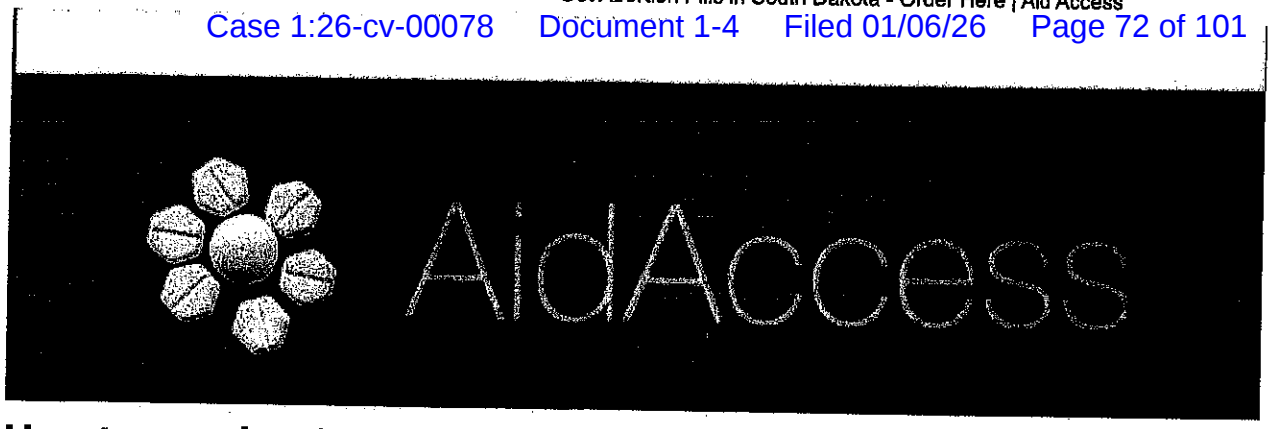
2

Our medical team will immediately review your consultation and we will email you the next steps

Receive pills by mail in 1-5 days

3

The abortion pills will be mailed to your address within 24 hours of your order being approved



How to get abortion pills by mail in South Dakota

You can get a prescription from Aid Access and have abortion pills delivered to your home in South Dakota. **Order abortion pills by mail here.** These are the steps to get abortion pills delivered to your home by mail:

Start your online consultation for abortion pills in South Dakota

Once you begin your online consultation for abortion pills in South Dakota, you will be asked some questions about your health and pregnancy to ensure you are eligible. All information you share with us is private and protected.

Our U.S. based doctors approve your online abortion pill order

Your consultation will immediately be reviewed by our medical team. Our help desk will email you the next steps, ask you to send a donation of $150 USD, and then approve your online abortion pill order within 24 hours.

Receive abortion pills by mail in SD in 1-5 days

The abortion pills will be shipped by mail to your home in SD within 24 hours of your your order being approved. You will receive a tracking number so you can follow your package as it moves through the mail.

Start now: Get the abortion pill online here

How much does the abortion pill cost in South Dakota?

As of 2024, the price of the abortion pill in South Dakota is $150. How much it costs to get abortion pills in South Dakota also changes on a sliding scale so cheaper or free abortion pill kits may be available. Ask our help desk for more info after you submit our free online health screening form.

More ways to get South Dakota abortion pill access

If Aid Access is not able to meet your reproductive health needs, there are multiple ways people get South Dakota abortion pill access. To learn about other online telehealth services that are available to you, visit the Plan C Guide to Abortion Pills: **How to Order an Abortion Pill Online in South Dakota**

South Dakota abortion clinic guides from Plan C Pills

If you determine that abortion pills will not meet your reproductive health needs, you can find information about local abortion support resources near you in the **South Dakota Abortion Clinic Guide** from Plan C Pills.

Additional guides to abortion clinics near South Dakota from Plan C Pills:

Abortion clinics near Sioux Falls, SD

Abortion laws in the State of South Dakota

For the most up to date information about abortion laws in South Dakota, visit **Guttmacher Institute**, **Center for Reproductive Rights**, or **AbortionFinder.org**.

Begin here: Order abortion pills online from Aid Access

Where to buy mifepristone and misoprostol in South Dakota?

Aid access helps people buy mifepristone and misoprostol throughout the state of South Dakota. You can order abortion pills by mail in all of these cities and everywhere in between:

Order the abortion pill in Brookings, South Dakota

If you are in Brookings, you can order the abortion pill **here**.

Get abortion pills in Aberdeen, South Dakota

If you are in Aberdeen, you can get abortion pills **here**.

Buy an abortion pill in Rapid City, South Dakota

If you are in Rapid City, you can buy an abortion pill **here**.

Buy abortion pills in Sioux Falls, South Dakota

If you are in Sioux Falls, you can buy abortion pills **here**.

Get started: Order an abortion pill online here

← Back to FAQs General Questions

Is it legal?

In the USA

People needing and having abortions in the USA are not breaking the law in any state! We realize there is a lot of confusing information out there. For legal questions or to get legal support call the Repro Legal Helpline at 844-868-2812. Or go to their website reprolegalhelpline.org.

International Situation

The World Health Organization(WHO) listed the abortion medicines mifepristone and misoprostol as essential medicines since 2005.[1]

Access to essential medicines as part of the right to the highest attainable standard of health ("the right to health") is well-founded in numerous international human rights treaties, such as:

1. The Universal Declaration of Human Rights: Article 25.1 in 1948;
2. The International Convention on the Elimination of All Forms of Racial Discrimination; Article 5 (e) (iv) in 1965;
3. The International Covenant on Economic, Social and Cultural Rights: Article 12.1 in 1966;
4. The Convention on the Elimination of All Forms of Discrimination against Women; Articles 11 (1) (f), 12 and 14 (2) (b) in 1979;
5. The 1989 Convention on the Rights of the Child; Article 24;
6. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; Articles 28, 43 (e) and 45 (c) in 1990;

7. The Convention on the Rights of Persons with Disabilities: Article 25 in 2006.

The authoritative General Comment 14 (2000) further applies the principles of accessibility, availability, appropriateness and assured quality to goods and services, which include essential medicines "as defined by the WHO Action Program on Essential Drugs."[2]

United Nations Report

In October 2011, Anand Grover, the UN Special Rapporteur on the Right to Health, submitted a report to the UN General Assembly which stated, "Criminal laws penalizing and restricting induced abortion are the paradigmatic examples of impermissible barriers to the realization of women's right to health and must be eliminated. These laws infringe women's dignity and autonomy by severely restricting decision-making by women in respect of their sexual and reproductive health."[3]

General comment No. 22 (2016) on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights) states that, "Essential medicines should also be available, including a wide range of contraceptive methods, such as condoms and emergency contraception, medicines for abortion and for post-abortion care, and medicines, including generic medicines, for the prevention and treatment of sexually transmitted infections and HIV."[4]

World Health Organization

The World Health Organization's definition of health is: "Health is a state of complete physical, mental and social well-being, and not merely the absence of disease or infirmity."[5]

On October 30, 2018, the Human rights committee stated in the General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life:

"Although States parties may adopt measures designed to regulate voluntary terminations of pregnancy, such measures must not result in violation of the right to life of a pregnant woman or girl, or her other rights under the Covenant. Thus, restrictions on the ability of women or girls to seek abortion must not, inter alia, jeopardize their lives, subject them to physical or mental pain or suffering which violates article 7, discriminate against them or arbitrarily interfere with their privacy. States parties must provide safe, legal and effective

access to abortion where the life and health of the pregnant woman or girl is at risk, and where carrying a pregnancy to term would cause the pregnant woman or girl substantial pain or suffering, most notably where the pregnancy is the result of rape or incest or is not viable. In addition, States parties may not regulate pregnancy or abortion in all other cases in a manner that runs contrary to their duty to ensure that women and girls do not have to undertake unsafe abortions, and they should revise their abortion laws accordingly. For example, they should not take measures such as criminalizing pregnancies by unmarried women or apply criminal sanctions against women and girls undergoing abortion or against medical service providers assisting them in doing so, since taking such measures compel women and girls to resort to unsafe abortion. States parties should not introduce new barriers and should remove existing barriers that deny effective access by women and girls to safe and legal abortion, including barriers caused as a result of the exercise of conscientious objection by individual medical providers. States parties should also effectively protect the lives of women and girls against the mental and physical health risks associated with unsafe abortions. In particular, they should ensure access for women and men, and, especially, girls and boys, to quality and evidence-based information and education about sexual and reproductive health and to a wide range of affordable contraceptive methods, and prevent the stigmatization of women and girls seeking abortion. States parties should ensure the availability of, and effective access to, quality prenatal and post-abortion health care for women and girls, in all circumstances, and on a confidential basis.

Citations

[1] https://apps.who.int/iris/bitstream/handle/10665/325771/WHO-MVP-EMP-IAU-2019.06-eng.pdf?sequence=1&isAllowed=y

[2] https://www.who.int/medicines/areas/human_rights/en/

[3] https://www.un.org/press/en/2011/gashc4018.doc.htm

[4] https://www.ohchr.org/en/press-releases/2009/10/statement-professor-philip-alston-un-special-rapporteur-extrajudicial?LangID=E&NewsID=9219#sthash.MfGe1y5D.XSS87v3P.dpufh

[5] https://apps.who.int/gb/bd/PDF/bd47/EN/constitution-en.pdf?ua=1

This site collects **zero data** that could identify a visitor.

This site collects **zero data** that could identify a visitor.

Mayday is a reproductive health education nonprofit

Our Mission

Our mission is to share information about abortion pills, birth control, and gender-affirming care in any state. We hope to empower people to make their own informed decisions about their own bodies.

Our information comes from top clinicians, lawyers and health experts.

Mayday does not ask for any personal info. We do not track info that could be used to identify a visitor to this website. We do not sell, handle or benefit from abortion pills. We are not affiliated with any telehealth providers. We do not give medical or legal advice.

We just want people to know their options.

EXHIBIT
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Additional Resources

Links to trusted organizations.

Before going to any external websites below, you can take these steps for digital privacy.

- **Abortion decision support** >
- **Abortion pill FAQs** >
- **What to expect** >
- **Financial support** >
- **Questions on logistics/delivery times/support while waiting** >
- **Online/phone medical support** >
- **In-person medical support** >
- **Emotional support** >
- **Legal support** >
- **Privacy support** >
- **Reproductive Justice** >

EXHIBIT 29

MAYDAY.HEALTH

Frequently Asked Questions

What if I'm concerned about the cost? ›

What is my legal risk? ›

Are abortion pills safe? ›

Why do other buttons send me to other websites? Can I trust them? ⌄

Some of our links go to other websites because they have the best content for a certain aspect of abortion care. We only link to other trusted websites and partners. You can go here to see how to best protect your digital privacy before leaving Mayday.

Hi, my name's Charley. I can help you get or manage an abortion. / Hola, mi nombre es Charley. Puedo ayudarte a conseguir o manejar un aborto.

Mayday Videos

HIGHLIGHTS OF PRESCRIBING INFORMATION

These highlights do not include all the information needed to use MIFEPREX safely and effectively. See full prescribing information for MIFEPREX.

MIFEPREX® (mifepristone) tablets, for oral use
Initial U.S. Approval: 2000

WARNING: SERIOUS AND SOMETIMES FATAL INFECTIONS OR BLEEDING

See full prescribing information for complete boxed warning.

Serious and sometimes fatal infections and bleeding occur very rarely following spontaneous, surgical, and medical abortions, including following MIFEPREX use.

- **Atypical Presentation of Infection. Patients with serious bacterial infections and sepsis can present without fever, bacteremia or significant findings on pelvic examination. A high index of suspicion is needed to rule out serious infection and sepsis. (5.1)**
- **Bleeding. Prolonged heavy bleeding may be a sign of incomplete abortion or other complications and prompt medical or surgical intervention may be needed. (5.2)**

MIFEPREX is only available through a restricted program called the Mifepristone REMS Program (5 3).

Before prescribing MIFEPREX, inform the patient about these risks. Ensure the patient knows whom to call and what to do if they experience sustained fever, severe abdominal pain, prolonged heavy bleeding, or syncope, or if they experience abdominal pain or discomfort or general malaise for more than 24 hours after taking misoprostol.

INDICATIONS AND USAGE

MIFEPREX is a progestin antagonist indicated, in a regimen with misoprostol, for the medical termination of intrauterine pregnancy through 70 days gestation. (1)

DOSAGE AND ADMINISTRATION

- 200 mg MIFEPREX on Day 1, followed 24-48 hours after MIFEPREX dosing by 800 mcg buccal misoprostol. (2.1)
- Instruct the patient what to do if significant adverse reactions occur. (2.2)
- Follow-up is needed to confirm complete termination of pregnancy. (2.3)

DOSAGE FORMS AND STRENGTHS

Tablets containing 200 mg of mifepristone each, supplied as 1 tablet on one blister card (3)

CONTRAINDICATIONS

- Confirmed/suspected ectopic pregnancy or undiagnosed adnexal mass (4)
- Chronic adrenal failure (4)
- Concurrent long-term corticosteroid therapy (4)
- History of allergy to mifepristone, misoprostol, or other prostaglandins (4)
- Hemorrhagic disorders or concurrent anticoagulant therapy (4)
- Inherited porphyria (4)
- Intrauterine device (IUD) in place (4)

WARNINGS AND PRECAUTIONS

- Ectopic pregnancy: Exclude before treatment. (5.4)
- Rhesus immunization: Prevention needed as for surgical abortion. (5.5)

ADVERSE REACTIONS

Most common adverse reactions (>15%) are nausea, weakness, fever/chills, vomiting, headache, diarrhea, and dizziness. (6)

To report SUSPECTED ADVERSE REACTIONS, contact Danco Laboratories, LLC at 1-877-432-7596 or medicaldirector@earlyoptionpill.com or FDA at 1-800-FDA-1088 or *www.fda.gov/medwatch*.

DRUG INTERACTIONS

- CYP3A4 inducers can lower mifepristone concentrations. (7.1)
- CYP3A4 inhibitors can increase mifepristone concentrations. Use with caution. (7.2)
- CYP3A4 substrate concentrations can be increased. Caution with coadministration of substrates with narrow therapeutic margin. (7.3)

USE IN SPECIFIC POPULATIONS

- Pregnancy: Risk of fetal malformations in ongoing pregnancy if not terminated is unknown. (8.1)

See 17 for PATIENT COUNSELING INFORMATION, Medication Guide.

Revised: 01/2023

FULL PRESCRIBING INFORMATION: CONTENTS*

*Sections or subsections omitted from the full prescribing information are not listed.

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Reference ID: 5146641

FULL PRESCRIBING INFORMATION

WARNING: SERIOUS AND SOMETIMES FATAL INFECTIONS OR BLEEDING

Serious and sometimes fatal infections and bleeding occur very rarely following spontaneous, surgical, and medical abortions, including following MIFEPREX use. No causal relationship between the use of MIFEPREX and misoprostol and these events has been established.

- **Atypical Presentation of Infection. Patients with serious bacterial infections (e.g., *Clostridium sordellii*) and sepsis can present without fever, bacteremia, or significant findings on pelvic examination following an abortion. Very rarely, deaths have been reported in patients who presented without fever, with or without abdominal pain, but with leukocytosis with a marked left shift, tachycardia, hemoconcentration, and general malaise. A high index of suspicion is needed to rule out serious infection and sepsis *[see Warnings and Precautions (5.1)]*.**
- **Bleeding. Prolonged heavy bleeding may be a sign of incomplete abortion or other complications and prompt medical or surgical intervention may be needed. Advise patients to seek immediate medical attention if they experience prolonged heavy vaginal bleeding *[see Warnings and Precautions (5.2)]*.**

Because of the risks of serious complications described above, MIFEPREX is available only through a restricted program under a Risk Evaluation and Mitigation Strategy (REMS) called the Mifepristone REMS Program *[see Warnings and Precautions (5.3)]*.

Before prescribing MIFEPREX, inform the patient about the risk of these serious events. Ensure that the patient knows whom to call and what to do, including going to an Emergency Room if none of the provided contacts are reachable, if they experience sustained fever, severe abdominal pain, prolonged heavy bleeding, or syncope, or if they experience abdominal pain or discomfort, or general malaise (including weakness, nausea, vomiting, or diarrhea) for more than 24 hours after taking misoprostol.

1 INDICATIONS AND USAGE

MIFEPREX is indicated, in a regimen with misoprostol, for the medical termination of intrauterine pregnancy through 70 days gestation.

2 DOSAGE AND ADMINISTRATION

2.1 Dosing Regimen

For purposes of this treatment, pregnancy is dated from the first day of the last menstrual period. The duration of pregnancy may be determined from menstrual history and clinical examination. Assess the pregnancy by ultrasonographic scan if the duration of pregnancy is uncertain or if ectopic pregnancy is suspected.

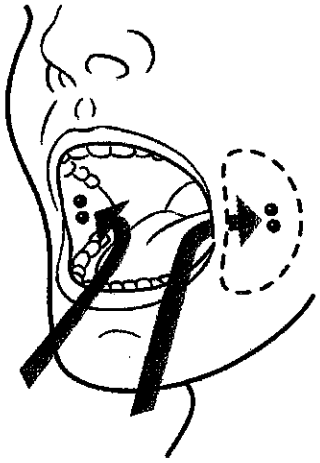
Remove any intrauterine device ("IUD") before treatment with MIFEPREX begins [*see Contraindications (4)*].

The dosing regimen for MIFEPREX and misoprostol is:

- MIFEPREX 200 mg orally + misoprostol 800 mcg buccally
  - *Day One:* MIFEPREX Administration
    One 200 mg tablet of MIFEPREX is taken in a single oral dose.
  - *Day Two or Three:* Misoprostol Administration (minimum 24-hour interval between MIFEPREX and misoprostol)
    Four 200 mcg tablets (total dose 800 mcg) of misoprostol are taken by the buccal route.

    Tell the patient to place two 200 mcg misoprostol tablets in each cheek pouch (the area between the cheek and gums) for 30 minutes and then swallow any remnants with water or another liquid (see Figure 1).

Figure 1



2 pills between cheek and gum on left side + 2 pills between cheek and gum on right side

Patients taking MIFEPREX must take misoprostol within 24 to 48 hours after taking MIFEPREX. The effectiveness of the regimen may be lower if misoprostol is administered less than 24 hours or more than 48 hours after mifepristone administration.

Because most women will expel the pregnancy within 2 to 24 hours of taking misoprostol *[see Clinical Studies (14)]*, discuss with the patient an appropriate location for them to be when taking the misoprostol, taking into account that expulsion could begin within 2 hours of administration.

2.2 Patient Management Following Misoprostol Administration

During the period immediately following the administration of misoprostol, the patient may need medication for cramps or gastrointestinal symptoms *[see Adverse Reactions (6)]*.

Give the patient:

- Instructions on what to do if significant discomfort, excessive vaginal bleeding or other adverse reactions occur
- A phone number to call if the patient has questions following the administration of the misoprostol
- The name and phone number of the healthcare provider who will be handling emergencies.

2.3 Post-treatment Assessment: Day 7 to 14

Patients should follow-up with their healthcare provider approximately 7 to 14 days after the administration of MIFEPREX. This assessment is very important to confirm that complete termination of pregnancy has occurred and to evaluate the degree of bleeding. Termination can be confirmed by medical history, clinical examination, human Chorionic Gonadotropin (hCG) testing, or ultrasonographic scan. Lack of bleeding following treatment usually indicates failure; however, prolonged or heavy bleeding is not proof of a complete abortion.

The existence of debris in the uterus (e.g., if seen on ultrasonography) following the treatment procedure will not necessarily require surgery for its removal.

Patients should expect to experience vaginal bleeding or spotting for an average of 9 to 16 days. Women report experiencing heavy bleeding for a median duration of 2 days. Up to 8% of women may experience some type of bleeding for more than 30 days. Persistence of heavy or moderate vaginal bleeding at the time of follow-up, however, could indicate an incomplete abortion.

If complete expulsion has not occurred, but the pregnancy is not ongoing, patients may be treated with another dose of misoprostol 800 mcg buccally. There have been rare reports of uterine rupture in women who took MIFEPREX and misoprostol, including women with prior uterine rupture or uterine scar and women who received multiple doses of misoprostol within 24 hours. Patients who choose to use a repeat dose of misoprostol should have a follow-up visit with their healthcare provider in approximately 7 days to assess for complete termination.

Surgical evacuation is recommended to manage ongoing pregnancies after medical abortion *[see Use in Specific Populations (8.1)]*. Advise the patient whether you will provide such care or will refer them to another provider as part of counseling prior to prescribing MIFEPREX.

2.4 Contact for Consultation

For consultation 24 hours a day, 7 days a week with an expert in mifepristone, call Danco Laboratories at 1-877-4 Early Option (1-877-432-7596).

3 DOSAGE FORMS AND STRENGTHS

Tablets containing 200 mg of mifepristone each, supplied as 1 tablet on one blister card. MIFEPREX tablets are light yellow, cylindrical, and bi-convex tablets, approximately 11 mm in diameter and imprinted on one side with "MF."

4 CONTRAINDICATIONS

- Administration of MIFEPREX and misoprostol for the termination of pregnancy (the "treatment procedure") is contraindicated in patients with any of the following conditions:
  - Confirmed or suspected ectopic pregnancy or undiagnosed adnexal mass (the treatment procedure will not be effective to terminate an ectopic pregnancy) *[see Warnings and Precautions (5.4)]*
  - Chronic adrenal failure (risk of acute adrenal insufficiency)
  - Concurrent long-term corticosteroid therapy (risk of acute adrenal insufficiency)
  - History of allergy to mifepristone, misoprostol, or other prostaglandins (allergic reactions including anaphylaxis, angioedema, rash, hives, and itching have been reported *[see Adverse Reactions (6.2)]*)
  - Hemorrhagic disorders or concurrent anticoagulant therapy (risk of heavy bleeding)

- Inherited porphyrias (risk of worsening or of precipitation of attacks)

- Use of MIFEPREX and misoprostol for termination of intrauterine pregnancy is contraindicated in patients with an intrauterine device ("IUD") in place (the IUD might interfere with pregnancy termination). If the IUD is removed, MIFEPREX may be used.

5 WARNINGS AND PRECAUTIONS

5.1 Infection and Sepsis

As with other types of abortion, cases of serious bacterial infection, including very rare cases of fatal septic shock, have been reported following the use of MIFEPREX *[see Boxed Warning]*. Healthcare providers evaluating a patient who is undergoing a medical abortion should be alert to the possibility of this rare event. A sustained (> 4 hours) fever of 100.4°F or higher, severe abdominal pain, or pelvic tenderness in the days after a medical abortion may be an indication of infection.

A high index of suspicion is needed to rule out sepsis (e.g., from *Clostridium sordellii*) if a patient reports abdominal pain or discomfort or general malaise (including weakness, nausea, vomiting, or diarrhea) more than 24 hours after taking misoprostol. Very rarely, deaths have been reported in patients who presented without fever, with or without abdominal pain, but with leukocytosis with a marked left shift, tachycardia, hemoconcentration, and general malaise. No causal relationship between MIFEPREX and misoprostol use and an increased risk of infection or death has been established. *Clostridium sordellii* infections have also been reported very rarely following childbirth (vaginal delivery and caesarian section), and in other gynecologic and non-gynecologic conditions.

5.2 Uterine Bleeding

Uterine bleeding occurs in almost all patients during a medical abortion. Prolonged heavy bleeding (soaking through two thick full-size sanitary pads per hour for two consecutive hours) may be a sign of incomplete abortion or other complications, and prompt medical or surgical intervention may be needed to prevent the development of hypovolemic shock. Counsel patients to seek immediate medical attention if they experience prolonged heavy vaginal bleeding following a medical abortion *[see Boxed Warning]*.

Women should expect to experience vaginal bleeding or spotting for an average of 9 to 16 days. Women report experiencing heavy bleeding for a median duration of 2 days. Up to 8% of all subjects may experience some type of bleeding for 30 days or more. In general, the duration of bleeding and spotting increased as the duration of the pregnancy increased.

Decreases in hemoglobin concentration, hematocrit, and red blood cell count may occur in patients who bleed heavily.

Excessive uterine bleeding usually requires treatment by uterotonics, vasoconstrictor drugs, surgical uterine evacuation, administration of saline infusions, and/or blood transfusions. Based on data from several large clinical trials, vasoconstrictor drugs were used in 4.3% of all subjects, there was a decrease in hemoglobin of more than 2 g/dL in 5.5% of subjects, and blood transfusions were administered to ≤ 0.1% of subjects. Because heavy bleeding requiring surgical uterine evacuation occurs in about 1% of patients, special care should be given to patients with hemostatic disorders, hypocoagulability, or severe anemia.

5.3 Mifepristone REMS Program

MIFEPREX is available only through a restricted program under a REMS called the Mifepristone REMS Program, because of the risks of serious complications *[see Warnings and Precautions (5.1, 5.2)]*.

Notable requirements of the Mifepristone REMS Program include the following:

- Prescribers must be certified with the program by completing the Prescriber Agreement Form.
- Patients must sign a Patient Agreement Form.
- MIFEPREX must only be dispensed to patients by or under the supervision of a certified prescriber, or by certified pharmacies on prescriptions issued by certified prescribers.

Further information is available at 1-877-4 Early Option (1-877-432-7596).

5.4 Ectopic Pregnancy

MIFEPREX is contraindicated in patients with a confirmed or suspected ectopic pregnancy because MIFEPREX is not effective for terminating ectopic pregnancies *[see Contraindications (4)]*. Healthcare providers should remain alert to the possibility that a patient who is undergoing a medical abortion could have an undiagnosed ectopic pregnancy because some of the expected symptoms experienced with a medical abortion (abdominal pain, uterine bleeding) may be similar to those of a ruptured ectopic pregnancy. The presence of an ectopic pregnancy may have been missed even if the patient underwent ultrasonography prior to being prescribed MIFEPREX.

Patients who became pregnant with an IUD in place should be assessed for ectopic pregnancy.

5.5 Rhesus Immunization

The use of MIFEPREX is assumed to require the same preventive measures as those taken prior to and during surgical abortion to prevent rhesus immunization.

6 ADVERSE REACTIONS

The following adverse reactions are described in greater detail in other sections:

- Infection and sepsis *[see Warnings and Precautions (5.1)]*
- Uterine bleeding *[see Warnings and Precautions (5.2)]*

6.1 Clinical Trials Experience

Because clinical studies are conducted under widely varying conditions, adverse reaction rates observed in the clinical studies of a drug cannot be directly compared to rates in the clinical studies of another drug and may not reflect the rates observed in practice.

Information presented on common adverse reactions relies solely on data from U.S. studies, because rates reported in non-U.S. studies were markedly lower and are not likely generalizable to the U.S. population. In three U.S. clinical studies totaling 1,248 women through 70 days gestation who used mifepristone 200 mg orally followed 24-48 hours later by misoprostol 800 mcg buccally, women reported adverse reactions in diaries and in interviews at the follow-up visit. These studies enrolled generally healthy women of reproductive age without contraindications to mifepristone or misoprostol use according to the MIFEPREX product label. Gestational age was assessed prior to study enrollment using the date of the woman's last menstrual period, clinical evaluation, and/or ultrasound examination.

About 85% of patients report at least one adverse reaction following administration of MIFEPREX and misoprostol, and many can be expected to report more than one such reaction. The most commonly reported adverse reactions (>15%) were nausea, weakness, fever/chills, vomiting, headache, diarrhea, and dizziness (see Table 1). The frequency of adverse reactions varies between studies and may be dependent on many factors, including the patient population and gestational age.

Abdominal pain/cramping is expected in all medical abortion patients and its incidence is not reported in clinical studies. Treatment with MIFEPREX and misoprostol is designed to induce uterine bleeding and cramping to cause termination of an intrauterine pregnancy. Uterine bleeding and cramping are expected consequences of the action of MIFEPREX and misoprostol as used in the treatment procedure. Most patients can expect bleeding more heavily than they do during a heavy menstrual period *[see Warnings and Precautions (5.2)]*.

Table 1 lists the adverse reactions reported in U.S. clinical studies with incidence >15% of women.

Table 1
Adverse Reactions Reported in Women Following Administration of Mifepristone (oral) and Misoprostol (buccal) in U.S. Clinical Studies

Adverse Reaction	# U.S. studies	Number of Evaluable Women	Range of frequency (%)	Upper Gestational Age of Studies Reporting Outcome
Nausea	3	1,248	51-75%	70 days
Weakness	2	630	55-58%	63 days
Fever/chills	1	414	48%	63 days
Vomiting	3	1,248	37-48%	70 days
Headache	2	630	41-44%	63 days
Diarrhea	3	1,248	18-43%	70 days
Dizziness	2	630	39-41%	63 days

One study provided gestational-age stratified adverse reaction rates for women who were 57-63 and 64-70 days; there was little difference in frequency of the reported common adverse reactions by gestational age.

Information on serious adverse reactions was reported in six U.S. and four non-U.S. clinical studies, totaling 30,966 women through 70 days gestation who used mifepristone 200 mg orally followed 24-48 hours later by misoprostol 800 mcg buccally. Serious adverse reaction rates were similar between U.S. and non-U.S. studies, so rates from both U.S. and non-U.S. studies are presented. In the U.S. studies, one studied women through 56 days gestation, four through 63 days gestation, and one through 70 days gestation, while in the non-U.S. studies, two studied women through 63 days gestation, and two through 70 days gestation. Serious adverse reactions were reported in <0.5% of women. Information from the U.S. and non-U.S. studies is presented in Table 2.

Table 2
Serious Adverse Reactions Reported in Women Following Administration of Mifepristone (oral) and Misoprostol (buccal) in U.S. and Non-U.S. Clinical Studies

Adverse Reaction	U.S.			Non-U.S.		
	# of studies	Number of Evaluable Women	Range of frequency (%)	# of studies	Number of Evaluable Women	Range of frequency (%)
Transfusion	4	17,774	0.03-0.5%	3	12,134	0-0.1%
Sepsis	1	629	0.2%	1	11,155	<0.01%*
ER visit	2	1,043	2.9-4.6%	1	95	0
Hospitalization Related to Medical Abortion	3	14,339	0.04-0.6%	3	1,286	0-0.7%
Infection without sepsis	1	216	0	1	11,155	0.2%
Hemorrhage	NR	NR	NR	1	11,155	0.1%

NR= Not reported
* This outcome represents a single patient who experienced death related to sepsis.

6.2 Postmarketing Experience

The following adverse reactions have been identified during postapproval use of MIFEPREX and misoprostol. Because these reactions are reported voluntarily from a population of uncertain size, it is not always possible to reliably estimate their frequency or establish a causal relationship to drug exposure.

Infections and infestations: post-abortal infection (including endometritis, endomyometritis, parametritis, pelvic infection, pelvic inflammatory disease, salpingitis)
Blood and the lymphatic system disorders: anemia
Immune system disorders: allergic reaction (including anaphylaxis, angioedema, hives, rash, itching)
Psychiatric disorders: anxiety
Cardiac disorders: tachycardia (including racing pulse, heart palpitations, heart pounding)
Vascular disorders: syncope, fainting, loss of consciousness, hypotension (including orthostatic), light-headedness
Respiratory, thoracic and mediastinal disorders: shortness of breath
Gastrointestinal disorders: dyspepsia
Musculoskeletal, connective tissue and bone disorders: back pain, leg pain
Reproductive system and breast disorders: uterine rupture, ruptured ectopic pregnancy, hematometra, leukorrhea
General disorders and administration site conditions: pain

7 DRUG INTERACTIONS

7.1 Drugs that May Reduce MIFEPREX Exposure (Effect of CYP 3A4 Inducers on MIFEPREX)

CYP450 3A4 is primarily responsible for the metabolism of mifepristone. CYP3A4 inducers such as rifampin, dexamethasone, St. John's Wort, and certain anticonvulsants (such as phenytoin, phenobarbital, carbamazepine) may induce mifepristone metabolism (lowering serum concentrations of mifepristone). Whether this action has an impact on the efficacy of the dose

regimen is unknown. Refer to the follow-up assessment *[see Dosage and Administration (2.3)]* to verify that treatment has been successful.

7.2 Drugs that May Increase MIFEPREX Exposure (Effect of CYP 3A4 Inhibitors on MIFEPREX)

Although specific drug or food interactions with mifepristone have not been studied, on the basis of this drug's metabolism by CYP 3A4, it is possible that ketoconazole, itraconazole, erythromycin, and grapefruit juice may inhibit its metabolism (increasing serum concentrations of mifepristone). MIFEPREX should be used with caution in patients currently or recently treated with CYP 3A4 inhibitors.

7.3 Effects of MIFEPREX on Other Drugs (Effect of MIFEPREX on CYP 3A4 Substrates)

Based on *in vitro* inhibition information, coadministration of mifepristone may lead to an increase in serum concentrations of drugs that are CYP 3A4 substrates. Due to the slow elimination of mifepristone from the body, such interaction may be observed for a prolonged period after its administration. Therefore, caution should be exercised when mifepristone is administered with drugs that are CYP 3A4 substrates and have narrow therapeutic range.

8 USE IN SPECIFIC POPULATIONS

8.1 Pregnancy

Risk Summary

MIFEPREX is indicated, in a regimen with misoprostol, for the medical termination of intrauterine pregnancy through 70 days gestation. Risks to pregnant patients are discussed throughout the labeling.

Refer to misoprostol labeling for risks to pregnant patients with the use of misoprostol.

The risk of adverse developmental outcomes with a continued pregnancy after a failed pregnancy termination with MIFEPREX in a regimen with misoprostol is unknown; however, the process of a failed pregnancy termination could disrupt normal embryo-fetal development and result in adverse developmental effects. Birth defects have been reported with a continued pregnancy after a failed pregnancy termination with MIFEPREX in a regimen with misoprostol. In animal reproduction studies, increased fetal losses were observed in mice, rats, and rabbits and skull deformities were observed in rabbits with administration of mifepristone at doses lower than the human exposure level based on body surface area.

Data

Animal Data

In teratology studies in mice, rats and rabbits at doses of 0.25 to 4.0 mg/kg (less than 1/100 to approximately 1/3 the human exposure based on body surface area), because of the antiprogestational activity of mifepristone,fetal losses were much higher than in control animals. Skull deformities were detected in rabbit studies at approximately 1/6 the human exposure, although no teratogenic effects of mifepristone have been observed to date in rats or mice. These deformities were most likely due to the mechanical effects of uterine contractions resulting from inhibition of progesterone action.

8.2 Lactation

MIFEPREX is present in human milk. Limited data demonstrate undetectable to low levels of the drug in human milk with the relative (weight-adjusted) infant dose 0.5% or less as compared to maternal dosing. There is no information on the effects of MIFEPREX in a regimen with

misoprostol in a breastfed infant or on milk production. Refer to misoprostol labeling for lactation information with the use of misoprostol. The developmental and health benefits of breast-feeding should be considered along with any potential adverse effects on the breast-fed child from MIFEPREX in a regimen with misoprostol.

8.4 Pediatric Use

Safety and efficacy of MIFEPREX have been established in pregnant females. Data from a clinical study of MIFEPREX that included a subset of 322 females under age 17 demonstrated a safety and efficacy profile similar to that observed in adults.

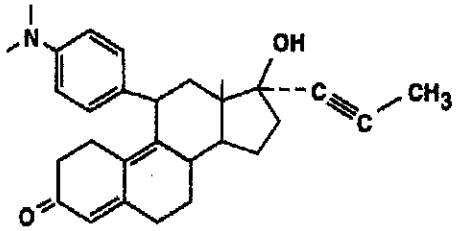
10 OVERDOSAGE

No serious adverse reactions were reported in tolerance studies in healthy non-pregnant female and healthy male subjects where mifepristone was administered in single doses greater than 1800 mg (ninefold the recommended dose for medical abortion). If a patient ingests a massive overdose, the patient should be observed closely for signs of adrenal failure.

11 DESCRIPTION

MIFEPREX tablets each contain 200 mg of mifepristone, a synthetic steroid with antiprogestational effects. The tablets are light yellow in color, cylindrical, and bi-convex, and are intended for oral administration only. The tablets include the inactive ingredients colloidal silica anhydrous, corn starch, povidone, microcrystalline cellulose, and magnesium stearate.

Mifepristone is a substituted 19-nor steroid compound chemically designated as 11ß-[*p*-(Dimethylamino)phenyl]-17ß-hydroxy-17-(1-propynyl)estra-4,9-dien-3-one. Its empirical formula is $C_{29}H_{35}NO_2$. Its structural formula is:



The compound is a yellow powder with a molecular weight of 429.6 and a melting point of 192-196°C. It is very soluble in methanol, chloroform and acetone and poorly soluble in water, hexane and isopropyl ether.

12 CLINICAL PHARMACOLOGY

12.1 Mechanism of Action

The anti-progestational activity of mifepristone results from competitive interaction with progesterone at progesterone-receptor sites. Based on studies with various oral doses in several animal species (mouse, rat, rabbit, and monkey), the compound inhibits the activity of endogenous or exogenous progesterone, resulting in effects on the uterus and cervix that, when combined with misoprostol, result in termination of an intrauterine pregnancy.

During pregnancy, the compound sensitizes the myometrium to the contraction-inducing activity

of prostaglandins.

12.2 Pharmacodynamics

Use of MIFEPREX in a regimen with misoprostol disrupts pregnancy by causing decidual necrosis, myometrial contractions, and cervical softening, leading to the expulsion of the products of conception.

Doses of 1 mg/kg or greater of mifepristone have been shown to antagonize the endometrial and myometrial effects of progesterone in women.

Antiglucocorticoid and antiandrogenic activity: Mifepristone also exhibits antiglucocorticoid and weak antiandrogenic activity. The activity of the glucocorticoid dexamethasone in rats was inhibited following doses of 10 to 25 mg/kg of mifepristone. Doses of 4.5 mg/kg or greater in human beings resulted in a compensatory elevation of adrenocorticotropic hormone (ACTH) and cortisol. Antiandrogenic activity was observed in rats following repeated administration of doses from 10 to 100 mg/kg.

12.3 Pharmacokinetics

Mifepristone is rapidly absorbed after oral ingestion with non-linear pharmacokinetics for Cmax after single oral doses of 200 mg and 600 mg in healthy subjects.

Absorption

The absolute bioavailability of a 20 mg mifepristone oral dose in females of childbearing age is 69%. Following oral administration of a single dose of 600 mg, mifepristone is rapidly absorbed, with a peak plasma concentration of 1.98 ± 1.0 mg/L occurring approximately 90 minutes after ingestion.

Following oral administration of a single dose of 200 mg in healthy men (n=8), mean Cmax was 1.77 ± 0.7 mg/L occurring approximately 45 minutes after ingestion. Mean $AUC_{0-\infty}$ was 25.8 ± 6.2 mg*hr/L.

Distribution

Mifepristone is 98% bound to plasma proteins, albumin, and α_1-acid glycoprotein. Binding to the latter protein is saturable, and the drug displays nonlinear kinetics with respect to plasma concentration and clearance.

Elimination

Following a distribution phase, elimination of mifepristone is slow at first (50% eliminated between 12 and 72 hours) and then becomes more rapid with a terminal elimination half-life of 18 hours.

Metabolism

Metabolism of mifepristone is primarily via pathways involving N-demethylation and terminal hydroxylation of the 17-propynyl chain. *In vitro* studies have shown that CYP450 3A4 is primarily responsible for the metabolism. The three major metabolites identified in humans are: (1) RU 42 633, the most widely found in plasma, is the N-monodemethylated metabolite; (2) RU 42 848, which results from the loss of two methyl groups from the 4-dimethylaminophenyl in position 11ß; and (3) RU 42 698, which results from terminal hydroxylation of the 17-propynyl chain.

Excretion

By 11 days after a 600 mg dose of tritiated compound, 83% of the drug has been accounted for by the feces and 9% by the urine. Serum concentrations are undetectable by 11 days.

Specific Populations

The effects of age, hepatic disease and renal disease on the safety, efficacy and pharmacokinetics of mifepristone have not been investigated.

13 NONCLINICAL TOXICOLOGY

13.1 Carcinogenesis, Mutagenesis, Impairment of Fertility

Carcinogenesis

No long-term studies to evaluate the carcinogenic potential of mifepristone have been performed.

Mutagenesis

Results from studies conducted *in vitro* and in animals have revealed no genotoxic potential for mifepristone. Among the tests carried out were: Ames test with and without metabolic activation; gene conversion test in *Saccharomyces cerevisiae* D4 cells; forward mutation in *Schizosaccharomyces pompe* P1 cells; induction of unscheduled DNA synthesis in cultured HeLa cells; induction of chromosome aberrations in CHO cells; *in vitro* test for gene mutation in V79 Chinese hamster lung cells; and micronucleus test in mice.

Impairment of Fertility

In rats, administration of 0.3 mg/kg mifepristone per day caused severe disruption of the estrus cycles for the three weeks of the treatment period. Following resumption of the estrus cycle, animals were mated and no effects on reproductive performance were observed.

14 CLINICAL STUDIES

Safety and efficacy data from clinical studies of mifepristone 200 mg orally followed 24-48 hours later by misoprostol 800 mcg buccally through 70 days gestation are reported below. Success was defined as the complete expulsion of the products of conception without the need for surgical intervention. The overall rates of success and failure, shown by reason for failure based on 22 worldwide clinical studies (including 7 U.S. studies) appear in Table 3.

The demographics of women who participated in the U.S. clinical studies varied depending on study location and represent the racial and ethnic variety of American females. Females of all reproductive ages were represented, including females less than 18 and more than 40 years of age; most were 27 years or younger.

Table 3
Outcome Following Treatment with Mifepristone (oral) and Misoprostol (buccal) Through 70 Days Gestation

	U.S. Trials	Non-U.S. Trials
N	16,794	18,425
Complete Medical Abortion	97.4%	96.2%
Surgical Intervention*	2.6%	3.8%
Ongoing Pregnancy**	0.7%	0.9%

* Reasons for surgical intervention include ongoing pregnancy, medical necessity, persistent or heavy bleeding after treatment, patient request, or incomplete expulsion.
** Ongoing pregnancy is a subcategory of surgical intervention, indicating the percent of women who have surgical intervention due to an ongoing pregnancy.

The results for clinical studies that reported outcomes, including failure rates for ongoing pregnancy, by gestational age are presented in Table 4.

Table 4
Outcome by Gestational Age Following Treatment with Mifepristone and Misoprostol (buccal) for U.S. and Non-U.S. Clinical Studies

	≤49 days			50-56 days			57-63 days			64-70 days		
	N	%	Number of Evaluable Studies	N	%	Number of Evaluable Studies	N	%	Number of Evaluable Studies	N	%	Number of Evaluable Studies
Complete medical abortion	12,046	98.1	10	3,941	96.8	7	2,294	94.7	9	479	92.7	4
Surgical intervention for ongoing pregnancy	10,272	0.3	6	3,788	0.8	6	2,211	2	8	453	3.1	3

One clinical study asked subjects through 70 days gestation to estimate when they expelled the pregnancy, with 70% providing data. Of these, 23-38% reported expulsion within 3 hours and over 90% within 24 hours of using misoprostol.

16 HOW SUPPLIED/STORAGE AND HANDLING

is only available through a restricted program called the Mifepristone REMS Program *[see Warnings and Precautions (5.3)]*.

MIFEPREX is supplied as light yellow, cylindrical, and bi-convex tablets imprinted on one side with "MF." Each tablet contains 200 mg of mifepristone. One tablet is individually blistered on one blister card that is packaged in an individual package (National Drug Code 64875-001-01).

Store at 25°C (77°F); excursions permitted to 15 to 30°C (59 to 86°F) [see USP Controlled Room Temperature].

17 PATIENT COUNSELING INFORMATION

Advise the patient to read the FDA-approved patient labeling (Medication Guide), included with each package of MIFEPREX. Additional copies of the Medication Guide are available by contacting Danco Laboratories at 1-877-4 Early Option (1-877-432-7596) or from www.earlyoptionpill.com.

Serious Infections and Bleeding

- Inform the patient that uterine bleeding and uterine cramping will occur [*see Warnings and Precautions (5.2)*].
- Advise the patient that serious and sometimes fatal infections and bleeding can occur very rarely [*see Warnings and Precautions (5.1, 5.2)*].
- MIFEPREX is only available through a restricted program called the Mifepristone REMS Program [*see Warnings and Precautions (5.3)*]. Under the Mifepristone REMS Program:
  - Patients must sign a Patient Agreement Form.
  - MIFEPREX is only dispensed by or under the supervision of certified prescribers or by certified pharmacies on prescriptions issued by certified prescribers.

Provider Contacts and Actions in Case of Complications

- Ensure that the patient knows whom to call and what to do, including going to an Emergency Room if none of the provided contacts are reachable, or if the patient experiences complications including prolonged heavy bleeding, severe abdominal pain, or sustained fever *[see Boxed Warning]*.
-

Compliance with Treatment Schedule and Follow-up Assessment

- Advise the patient that it is necessary to complete the treatment schedule, including a follow-up assessment approximately 7 to14 days after taking MIFEPREX *[see Dosage and Administration (2.3)]*.
- Explain that
  - prolonged heavy vaginal bleeding is not proof of a complete abortion,
  - if the treatment fails and the pregnancy continues, the risk of fetal malformation is unknown,
  - it is recommended that ongoing pregnancy be managed by surgical termination *[see Dosage and Administration (2.3)]*. Advise the patient whether you will provide such care or will refer them to another provider.

Subsequent Fertility

- Inform the patient that another pregnancy can occur following medical abortion and before resumption of normal menses.
- Inform the patient that contraception can be initiated as soon as pregnancy expulsion has been confirmed, or before resuming sexual intercourse.

MIFEPREX is a registered trademark of Danco Laboratories, LLC.

Manufactured for:
Danco Laboratories, LLC
P.O. Box 4816
New York, NY 10185
1-877-4 Early Option (1-877-432-7596)
www.earlyoptionpill.com

03/2023

MEDICATION GUIDE

Mifeprex (MIF-eh-prex) (mifepristone tablets, for oral use

Read this information carefully before taking Mifeprex and misoprostol. It will help you understand how the treatment works. This Medication Guide does not take the place of talking with your healthcare provider.

What is the most important information I should know about Mifeprex?

What symptoms should I be concerned with? Although cramping and bleeding are an expected part of ending a pregnancy, rarely, serious and potentially life-threatening bleeding, infections, or other problems can occur following a miscarriage, surgical abortion, medical abortion, or childbirth. Seeking medical attention as soon as possible is needed in these circumstances. Serious infection has resulted in death in a very small number of cases. There is no information that use of Mifeprex and misoprostol caused these deaths. If you have any questions, concerns, or problems, or if you are worried about any side effects or symptoms, you should contact your healthcare provider. You can write down your healthcare provider's telephone number here _____.

Be sure to contact your healthcare provider promptly if you have any of the following:

- **Heavy Bleeding.** Contact your healthcare provider right away if you bleed enough to soak through two thick full-size sanitary pads per hour for two consecutive hours or if you are concerned about heavy bleeding. In about 1 out of 100 women, bleeding can be so heavy that it requires a surgical procedure (surgical aspiration or D&C).
- **Abdominal Pain or "Feeling Sick."** If you have abdominal pain or discomfort, or you are "feeling sick," including weakness, nausea, vomiting, or diarrhea, with or without fever, more than 24 hours after taking misoprostol, you should contact your healthcare provider without delay. These symptoms may be a sign of a serious infection or another problem (including an ectopic pregnancy, a pregnancy outside the womb).
- **Fever.** In the days after treatment, if you have a fever of 100.4°F or higher that lasts for more than 4 hours, you should contact your healthcare provider right away. Fever may be a symptom of a serious infection or another problem.

If you cannot reach your healthcare provider, go to the nearest hospital emergency room.

What to do if you are still pregnant after Mifeprex with misoprostol treatment. If you are still pregnant, your healthcare provider will talk with you about a surgical procedure to end your pregnancy. In many cases, this surgical procedure can be done in the office/clinic. The chance of birth defects if the pregnancy is not ended is unknown.

Talk with your healthcare provider. Before you take Mifeprex, you should read this Medication Guide and you and your healthcare provider should discuss the benefits and risks of your using Mifeprex.

What is Mifeprex?

Mifeprex is used in a regimen with another prescription medicine called misoprostol, to end an early pregnancy. Early pregnancy means it is 70 days (10 weeks) or less since your last menstrual period began. Mifeprex is not approved for ending pregnancies that are further along. Mifeprex blocks a hormone needed for your pregnancy to continue. When you use Mifeprex on Day 1, you also need to take another medicine called misoprostol 24 to 48 hours after you take Mifeprex, to cause the pregnancy to be passed from your uterus.

The pregnancy is likely to be passed from your uterus within 2 to 24 hours after taking Mifeprex and misoprostol. When the pregnancy is passed from the uterus, you will have bleeding and cramping that will likely be heavier than your usual period. About 2 to 7 out of 100 women taking Mifeprex will need a surgical procedure because the pregnancy did not completely pass from the uterus or to stop bleeding.

Who should not take Mifeprex?

Some patients should not take Mifeprex. Do not take Mifeprex if you:

- Have a pregnancy that is more than 70 days (10 weeks). Your healthcare provider may do a clinical examination, an ultrasound examination, or other testing to determine how far along you are in pregnancy.
- Are using an IUD (intrauterine device or system). It must be taken out before you take Mifeprex.
- Have been told by your healthcare provider that you have a pregnancy outside the uterus (ectopic pregnancy).
- Have problems with your adrenal glands (chronic adrenal failure).
- Take a medicine to thin your blood.
- Have a bleeding problem.
- Have porphyria.
- Take certain steroid medicines.
- Are allergic to mifepristone, misoprostol, or medicines that contain misoprostol, such as Cytotec or Arthrotec.

Ask your healthcare provider if you are not sure about all your medical conditions before taking this medicine to find out if you can take Mifeprex.

What should I tell my healthcare provider before taking Mifeprex?

Before you take Mifeprex, tell your healthcare provider if you:

- cannot follow-up within approximately 7 to 14 days of your first visit
- are breastfeeding. Mifeprex can pass into your breast milk. The effect of the Mifeprex and misoprostol regimen on the breastfed infant or on milk production is unknown.
- are taking medicines, including prescription and over-the-counter medicines, vitamins, and herbal supplements.
  Mifeprex and certain other medicines may affect each other if they are used together. This can cause side effects.

How should I take Mifeprex?

- Mifeprex will be given to you by a healthcare provider or pharmacy.
- You and your healthcare provider will plan the most appropriate location for you to take the misoprostol, because it may cause bleeding, cramps, nausea, diarrhea, and other symptoms that usually begin within 2 to 24 hours after taking it.
- Most women will pass the pregnancy within 2 to 24 hours after taking the misoprostol tablets.

Follow the instruction below on how to take Mifeprex and misoprostol:

Mifeprex (1 tablet) orally + misoprostol (4 tablets) buccally

Day 1:

- Take 1 Mifeprex tablet by mouth.

24 to 48 hours after taking Mifeprex:

- Take 4 misoprostol tablets by placing 2 tablets in each cheek pouch (the area between your teeth and cheek - see Figure A) for 30 minutes and then swallow anything left over with a drink of water or another liquid.
- The medicines may not work as well if you take misoprostol sooner than 24 hours after Mifeprex or later than 48 hours after Mifeprex.
- Misoprostol often causes cramps, nausea, diarrhea, and other symptoms. Your healthcare provider may send you home with medicines for these symptoms.

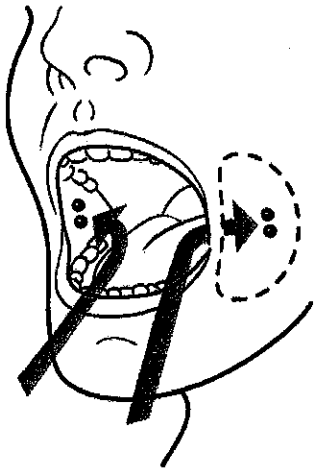


Figure A (2 tablets between your left cheek and gum and 2 tablets between your right cheek and gum).

Follow-up Assessment at Day 7 to 14:

- This follow-up assessment is very important. You must follow-up with your healthcare provider about 7 to 14 days after you have taken Mifeprex to be sure you are well and that you have had bleeding and the pregnancy has passed from your uterus.
- Your healthcare provider will assess whether your pregnancy has passed from your uterus. If your pregnancy continues, the chance that there may be birth defects is unknown. If you are still pregnant, your healthcare provider will talk with you about a surgical procedure to end your pregnancy.
- If your pregnancy has ended, but has not yet completely passed from your uterus, your provider will talk with you about other choices you have, including waiting, taking another dose of misoprostol, or having a surgical procedure to empty your uterus.

When should I begin birth control?

You can become pregnant again right after your pregnancy ends. If you do not want to become pregnant again, start using birth control as soon as your pregnancy ends or before you start having sexual intercourse again.

What should I avoid while taking Mifeprex and misoprostol?

Do not take any other prescription or over-the-counter medicines (including herbal medicines or supplements) at any time during the treatment period without first asking your healthcare provider about them because they may interfere with the treatment. Ask your healthcare provider about what medicines you can take for pain and other side effects.

What are the possible side effects of Mifeprex and misoprostol?

Mifeprex may cause serious side effects. See "What is the most important information I should know about Mifeprex?"

Cramping and bleeding. Cramping and vaginal bleeding are expected with this treatment. Usually, these symptoms mean that the treatment is working. But sometimes you can get cramping and bleeding and still be pregnant. This is why you must follow-up with your healthcare provider approximately 7 to 14 days after taking Mifeprex. See "How should I take Mifeprex?" for more information on your follow-up assessment. If you are not already bleeding after taking Mifeprex, you probably will begin to bleed once you take misoprostol, the medicine you take 24 to 48 hours after Mifeprex. Bleeding or spotting can be expected for an average of 9 to16 days and may last for up to 30 days. Your bleeding may be similar to, or greater than, a normal heavy period. You may see blood clots and tissue. This is an expected part of passing the pregnancy.

The most common side effects of Mifeprex treatment include: nausea, weakness, fever/chills, vomiting, headache, diarrhea and dizziness. Your provider will tell you how to manage any pain or other side effects. These are not all the possible side effects of Mifeprex.

Call your healthcare provider for medical advice about any side effects that bother you or do not go away. You may report side effects to FDA at 1-800-FDA-1088.

General information about the safe and effective use of Mifeprex.

Medicines are sometimes prescribed for purposes other than those listed in a Medication Guide. This Medication Guide summarizes the most important information about Mifeprex. If you would like more information, talk with your healthcare provider. You may ask your healthcare provider for information about Mifeprex that is written for healthcare professionals.

For more information about Mifeprex, go to www.earlyoptionpill.com or call 1-877-4 Early Option (1-877-432-7596).

Manufactured for: *Danco Laboratories, LLC*
P.O. Box 4816
New York, NY 10185
1-877-4 Early Option (1-877-432-7596) www.earlyoptionpill.com

This Medication Guide has been approved by the U.S. Food and Drug Administration. Approval 03/2023

Drug Databases (https://www.fda.gov/Drugs/InformationOnDrugs/default.htm)

Drugs@FDA: FDA-Approved Drugs

Home (index.cfm) | Previous Page

New Drug Application (NDA): 020687
Company: DANCO LABS LLC

EMAIL (MAILTO:?SUBJECT=DRUGS@FDA: FDA APPROVED DRUG PRODUCTS&BODY=HTTP://WWW.ACCESSDATA.FDA.GOV/SCRIPTS/CDER/DAF/INDEX.CFM?EVENT=OVERVIEW.PROCESS%26VARAPPLNO=020687)

- Medication Guide (https://www.accessdata.fda.gov/drugsatfda_docs/label/2023/020687Orig1s026lbl.pdf#page=16)
- Summary Review (http://www.accessdata.fda.gov/drugsatfda_docs/summary_review/2023/020687Orig1s025SumR.pdf)
- REMS (https://www.accessdata.fda.gov/scripts/cder/rems/index.cfm?event=RemsDetails.page&REMS=390)
- Original REMS Approved in 2011 (http://www.accessdata.fda.gov/drugsatfda_docs/rems/Mifeprex_2011-06-08_Full.pdf)
- Other Important Information from FDA (http://www.fda.gov/Drugs/DrugSafety/PostmarketDrugSafetyInformationforPatientsandProviders/ucm111323.htm)

Products on NDA 020687

CSV | Excel | Print

Drug Name	Active Ingredients	Strength	Dosage Form/Route	Marketing Status	TE Code	RLD	RS
MIFEPREX	MIFEPRISTONE	200MG	TABLET;ORAL	Prescription	AB	Yes	Yes

Showing 1 to 1 of 1 entries

Approval Date(s) and History, Letters, Labels, Reviews for NDA 020687

Labels for NDA 020687

CSV | Excel | Print

Action Date	Submission	Supplement Categories or Approval Type	Letters, Reviews, Labels, Patient Package Insert
03/23/2023	SUPPL-26	REMS - MODIFIED - D-N-A	Label (PDF) (https://www.accessdata.fda.gov/drugsatfda_docs/label/2023/020687Orig1s026
01/03/2023	SUPPL-25	REMS - MODIFIED - D-N-A	Label (PDF) (https://www.accessdata.fda.gov/drugsatfda_docs/label/2023/020687Orig1s025
04/11/2019	SUPPL-22	REMS-Modified	Label (PDF) (https://www.accessdata.fda.gov/drugsatfda_docs/label/2019/020687s022lbl.pd
03/29/2016	SUPPL-20	Efficacy-New Dosing Regimen	Label (PDF) (https://www.accessdata.fda.gov/drugsatfda_docs/label/2016/020687s020lbl.pd
06/08/2011	SUPPL-14	REMS-Proposal	Label (PDF) (https://www.accessdata.fda.gov/drugsatfda_docs/label/2011/020687s014lbl.pd
06/08/2011	SUPPL-14	Labeling	Label (PDF) (https://www.accessdata.fda.gov/drugsatfda_docs/label/2011/020687s014lbl.pd
04/24/2009	SUPPL-15	Labeling	Label (PDF) (https://www.accessdata.fda.gov/drugsatfda_docs/label/2009/020687s015lbl.pd
07/19/2005	SUPPL-13	Labeling	Label (PDF) (https://www.accessdata.fda.gov/drugsatfda_docs/label/2005/020687s013lbl.pd
11/15/2004	SUPPL-10	Labeling	Label (PDF) (https://www.accessdata.fda.gov/drugsatfda_docs/label/2004/02068 lbl.pdf)
09/28/2000	ORIG-1	Approval	Label (PDF) (https://www.accessdata.fda.gov/drugsatfda_docs/label/2000/20687

Showing 1 to 10 of 10 entries

Therapeutic Equivalents for NDA 020687

EXHIBIT E

STATE OF SOUTH DAKOTA

OFFICE OF ATTORNEY GENERAL
1302 East SD Highway 1889, Suite 1
Pierre, South Dakota 57501-8501
Phone (605) 773-3215
Fax (605) 773-4106
http://atg.sd.gov

MARTY J. JACKLEY
ATTORNEY GENERAL

BRENT K. KEMPEMA
CHIEF DEPUTY

December 10, 2025

Olivia Raisner
Mayday Medicines Inc.
442 5th Ave 1648
New York, NY 10018

RE: CEASE AND DESIST

Dear Ms. Raisner,

The Office of the South Dakota Attorney General is the chief law enforcement officer and consumer protection advocate for the State of South Dakota. The South Dakota Attorney General is therefore empowered to investigate business practices and enforce consumer protection laws where violations exist.

Recently, the South Dakota Attorney General received information that Mayday Medicines Inc. advertises abortion resources indicating that abortion-inducing pills may be obtained in all 50 states, including South Dakota. Abortions are prohibited in South Dakota under SDCL 22-17-5.1, except for specific, extenuating circumstances. SDCL 22-17-5.1 specifically criminalizes administering to and prescribing or procuring for "any pregnant female any medicine, drug, or substance . . . to procure an abortion[.]"

Your advertisement directs South Dakota consumers to resources that insinuate abortion-inducing pills are legal in South Dakota, while also urging women not to seek medical care after taking abortion pills and to keep their abortion a secret.

For example, your advertisement directs consumers to Abuzz.[1] When the State of South Dakota is selected for state-specific resources on abortion-inducing pills, Abuzz provides "information" to South Dakota consumers through Plan C. In a section entitled—"Is this legal? Can someone get in trouble for using abortion pills?"— consumers are advised "research shows that hundreds of thousands of people have received and used pills by mail over the past few years with no legal problems." Likewise, in a section entitled—"How do people get in trouble?"— consumers are advised "the most common ways people have gotten in trouble" are when they "told someone about their abortion," they "got follow-up medical care and

1. Abuzz's mission is "to expand access to abortion by linking people to accurate information, pills by mail, and clinician support if desired."

the provider reported them," or they "were later in pregnancy than they thought and didn't know what to do with the fetal tissue."

In South Dakota, we do not punish women who undergo abortion. *See* SDCL 22-17-5.2. The criminal liability falls on the individual who administered the abortion or prescribed or procured the abortion-inducing pills, despite the deceptive and self-protective advice provided through your advertisement.

Moreover, Mayday's website states that "[a]bortion pills are safe and effective." But a recent study found that "real-world insurance claims data for 865,727 prescribed mifepristone abortions" shows a "serious adverse event rate of 10.93 percent." Jamie Bryan Hall & Ryan T. Anderson, *The Abortion Pill Harms Women: Insurance Data Reveals One in Ten Patients Experiences a Serious Adverse Event*, Ethics and Public Policy Center (Apr. 28, 2025), https://tinyurl.com/wxhfswdf.

Based on this information, it appears that your business practices constitute a deceptive act or practice under SDCL Ch. 37-24, the South Dakota Deceptive Trade Practices and Consumer Protection Act. The Attorney General of South Dakota therefore demands that you **IMMEDIATELY CEASE AND DESIST** from conducting any advertising related to the delivery of abortion drugs to the State of South Dakota.

If you refuse to comply, the South Dakota Attorney General may bring a lawsuit against you for violations of the South Dakota Deceptive Trade Practices and Consumer Protection Act under SDCL Ch. 37-24. If successful, you may face felony criminal consequences or civil penalties up to $5,000 per violation.

To avoid further action, please notify the South Dakota Attorney General of the steps you have taken to remedy this situation by December 19, 2025. Your response should be in writing and addressed to:

Marty J. Jackley
South Dakota Attorney General
South Dakota Office of Attorney General
1302 E. S.D. Hwy 1889, Suite 1
Pierre, SD 57501

Alternatively, you may respond by email to atghelp@state.sd.us. You may also use this email address to communicate any questions or concerns about this letter.

Sincerely,

Marty J. Jackley,
South Dakota Attorney General

EXHIBIT F

Davis Wright Tremaine LLP

Adam S. Sieff
adamsieff@dwt.com
213.633.8618

Laura R. Handman
laurahandman@dwt.com
202.973.4224

Chelsea T. Kelly
chelseakelly@dwt.com
202.973.4250

December 19, 2025

VIA EMAIL
Marty J. Jackley
South Dakota Attorney General
1302 East S.D. Highway 1889, Suite 1
Pierre, South Dakota 57501-8501
atghelp@state.sd.us

Re: "Cease and Desist" to Mayday Medicines, Inc.

Dear Mr. Jackley:

We write regarding your December 10, 2025 letter demanding that Mayday Medicines, Inc. cease and desist "any advertising related to the delivery of abortion drugs to the State of South Dakota." Mayday objects to your misguided demand in its entirety, and will not allow government intimidation to suppress its right to publish truthful non-commercial information of public concern.

As a threshold matter, there is no jurisdiction over Mayday's website in South Dakota. Mayday is a non-profit public health education organization incorporated in Delaware and headquartered in New York that operates a globally-accessible website. Nothing in your letter suggests Mayday broke any law by displaying signs at South Dakota gas stations—nor could it, as those signs pose a question ("Pregnant? Don't want to be?") and invite readers to "learn more" by visiting Mayday's website. Instead, your letter misrepresents, and takes issue with, information you claim appears on that website.[1] But Mayday's "site merely makes information available" to anyone in the world, so its availability in South Dakota "is insufficient to confer personal jurisdiction." *Johnson v. Arden*, 614 F.3d 785, 796 (8th Cir. 2010).

Nothing about Mayday's publishing activity identified in your letter, in any event, violates or is even subject to the South Dakota Deceptive Trade Practices and Consumer Protection Act (the "Act"). Mayday is a non-profit information resource. It does not sell, handle, provide, offer for sale, or benefit from the sale of abortion medication, and it has no customers. Mayday accordingly does not engage in "the sale or advertisement of any merchandise," and none of the statements at issue involve "the solicitation of contributions for charitable purposes." SDCL § 37-24-6(1). Instead, Mayday provides truthful information about healthcare options, including but not

[1] Your letter falsely asserts that Mayday's website "urg[es] women not to seek medical care after taking abortion pills." No such statement appears on Mayday's website. To the extent your letter takes issue with statements by Abuzz—a third-party organization—your complaint is misdirected, not to mention mischaracterized.

limited to mifepristone and misoprostol, which are approved by the U.S. Food and Drug Administration (FDA) for safe and effective use.[2] That information is not commercial speech subject to regulation under deceptive practices statutes, *Lowe v. SEC*, 472 U.S. 181, 210-11 & n.58 (1985), much less the more specific kinds of advertisements to which the Act applies. *See Hyde v. Franklin Am. Mortg. Co.*, 453 F. Supp. 3d 1293, 1308 (D.S.D. 2020) (Act had no application to email that "was not an advertisement and [Defendant] was not selling products"); *see also Cheval Int'l v. Smartpak Equine, LLC*, 2016 WL 1064496, at *12 (D.S.D. Mar. 15, 2016) (similar). In fact, the Act contains a safe harbor that protects "publishers, broadcasters, printers, or other persons" when, like Mayday, they do not engage in any deliberately deceptive commercial advertising. SDCL § 37-24-11.

The First Amendment imposes these limitations. States may not punish people for providing information about abortion services, even in jurisdictions that have made abortion illegal. *See Bigelow v. Virginia,* 421 U.S. 809, 815 n.5 (1975) (explaining that *Bigelow* was "a First Amendment case and not an abortion case"). *Bigelow* is controlling. The case held that a Virginia statute criminalizing the dissemination of information that allegedly "encourage[d] or prompt[ed] the procuring of an abortion" infringed a Virginia newspaper's constitutionally protected speech. *Id.* at 812. The First Amendment protected the newspaper's announcement and "editorial endorsement" of an organization that facilitated access to abortions because the content "conveyed information of potential interest and value to a diverse audience—not only to readers possibly in need of the services offered, but also to those with a general curiosity about, or genuine interest in, the subject matter." *Id.* at 822 & n.7. Virginia had no constitutionally valid "interest in shielding its citizens" from this information. *Id.* at 827-28. South Dakota likewise has no power to "regulat[e] what [South Dakotans] may hear or read" about reproductive healthcare. *Id.*

Your letter baselessly threatens Mayday's protected speech in violation of Mayday's—and its readers—First Amendment rights. But Mayday will continue to make important, and truthful, public information available. Mayday reserves all rights to supplement or amend its response.

DAVIS WRIGHT TREMAINE LLP

Adam S. Sieff
Laura R. Handman
Chelsea T. Kelly

[2] The FDA has repeatedly confirmed the safety of medication abortion, a conclusion supported by independent and rigorous scientific study. *See, e.g.*, F.D.A. Center for Drug Evaluation & Research, App. No. 020687Orig1s020 at 12 (March 29, 2016) (confirming the "efficacy and safety" of medication abortion based on studying more than 2.5 million U.S. uses); Mifeprex REMS Study Group, *Sixteen Years of Overregulation: Time to Unburden Mifeprex*, 376 N. ENGL. J. MED. 790, 791 (2017) (same); F.D.A., *Mifepristone U.S. Post-Marketing Adverse Events Summary Through Dec. 31, 2024* at 1 (2025) (zero fatalities "causally attributable to mifepristone" "with certainty").

EXHIBIT G

STATE OF SOUTH DAKOTA) SS: COUNTY OF HUGHES	)	IN CIRCUIT COURT SIXTH JUDICIAL CIRCUIT
STATE OF SOUTH DAKOTA, Plaintiff, vs. MAYDAY MEDICINES INC. d/b/a MAYDAY HEALTH, and ALLOVER, LLC, d/b/a MOMENTARA, Defendants.	)	32 CIV -____ PLAINTIFF'S MOTION FOR A PRELIMINARY AND PERMANENT INJUNCTION PURSUANT TO SDCL 37-24-23

COMES NOW, the above-named Plaintiff, State of South Dakota, by and through the undersigned counsel, Jacob R. Dempsey, Assistant Attorney General, and hereby moves this Court for an Order granting either a preliminary or permanent injunction, pursuant to SDCL 37-24-23, enjoining Defendants Mayday Medicines Inc., d/b/a Mayday Health (Mayday Health) and AllOver Media, LLC, d/b/a Momentara (Momentara), from engaging in the deceptive advertisement of abortion-inducing pills and abortion services.

BACKGROUND

At the request of the Governor of the State of South Dakota, the South Dakota Attorney General's Office commenced an investigation into advertisements appearing at multiple gas stations throughout the state that read, in prominent letters, "PREGNANT? DON'T WANT TO BE?" *See* Affidavit of Klemann; Exhibit 1. Below the main tagline of the ad was a prompt for consumers to "LEARN MORE AT MAYDAY.HEALTH." *Id.*

On December 8, 2025, Mayday Health issued a press release declaring

that it had posted "ads" at nearly thirty gas stations across the state. *See* Affidavit of Klemann; Exhibit 2. In a follow-up press release issued on December 10, 2025, Mayday Health acknowledged that only fourteen gas stations throughout the state "will have abortion pill advertisements" and that it was "putting up ads at gas stations because we think that everyone deserves access to accurate medical information[.]" *See* Affidavit of Klemann; Exhibit 2. During the press interview, Olivia Raisner (Raisner), Executive Director of Mayday Health, further stated, "[w]e just want people to have the right information so they can make informed decisions about their own bodies." *Id.* Raisner, who oversees the New York based pro-abortion corporation, said that she specifically targeted South Dakota "due to the state's strict abortion laws." *Id.*

An investigation into Mayday Health's advertisements uncovered a plethora of deceptive acts and practices, false pretense, false promises, or misrepresentations, and the concealment, suppression, or omission of material facts in connection with the advertisement of abortion-inducing pills and abortion services; the sale of abortion related merchandise; and in the solicitation of contributions for charitable purposes, in violation of SDCL 37-24-6. *See* Affidavit of Klemann. Upon these findings, the South Dakota Attorney General issued a Cease-and-Desist Letter to Mayday Health, demanding they remove the illegal advertisements by December 19, 2025. Exhibit 3. On December 19, 2025, Mayday Health issued a response refusing to remove the illegal advertisements. Exhibit 4.

Many of the South Dakota gas stations initially targeted for Mayday Health's advertisements voluntarily removed them upon learning what they were. *See* Affidavit of Klemann; Exhibit 2. Indeed, some business owners had refused to permit the advertisements from the outset, but their wishes were not respected, and the ads were posted at their businesses without their consent. *See* Affidavit of Klemann; Exhibit 5. At the time of this writing, illegal advertisements remain at only two locations – Schoon's Pump N' Pak, 202 Main Ave. South, Brookings, SD; and Pump N' Pak, 629 Stanford Street, Vermillion, SD. *See* Affidavit of Kollars.

The State is respectfully requesting the Court to enter either a preliminary or permanent injunction, pursuant to SDCL 37-24-23, enjoining Mayday Health and Momentara from engaging in the deceptive advertising of abortion-inducing pills and abortion services in this state. Immediate and irreparable injury, loss, or damage will result to South Dakota consumers who are misled by the deceptive advertisements. *See* Affidavit of Klemann.

The injury, loss, or damage suffered by South Dakota consumers include, but are not limited to, loss of life or injury to teenage children who were instructed by the website how to surreptitiously obtain medical or surgical abortions without their parents knowledge or consent, leaving the parents unable to monitor their teenage children for adverse reactions, side effects, hemorrhaging, or infections resulting from the abortion procedure; suggesting to women that they should keep their abortions secret and not seek follow-up medical care relating to abortion procedures for fear they might "get

in trouble," thereby reducing the chances that women will seek medical care for adverse reactions, side effects, hemorrhaging, or infections; and failing to provide South Dakota consumers with accurate information about medical and surgical abortions, as well as the risks and side effects associated with medical and surgical abortion procedures. *Id.*

The South Dakota Attorney General provided notice to Mayday Health of these violations in a Cease-and-Desist letter dated December 10, 2025. Exhibit 3. Mayday Health refused to comply, resulting in the instant action. Exhibit 4. Accordingly, no additional notice should be required.

JURISDICTION AND VENUE

This Court has subject matter jurisdiction over this matter pursuant to Article V, Section 5, of the South Dakota State Constitution. This Court has personal jurisdiction over the parties pursuant to SDCL 15-7-2. The proper venue for this action is Hughes County, SD, pursuant to SDCL 37-24-25.[1]

PARTIES

Attorney General Marty Jackley is charged with enforcing the laws of the State of South Dakota. He is specifically authorized to bring this action in the public interest pursuant to SDCL 37-24-23.

Mayday Health is a pro-abortion non-profit corporation organized under the laws of Delaware and headquartered in New York, New York. Its self-proclaimed mission is "to empower people to make their own informed

[1] South Dakota agrees not to seek more than $40,000 in attorney's fees and costs in the entirety of this action.

decisions about their own bodies" and claims it "just want[s] people to know their options." Mayday Health advertises the availability of abortion pills "in all 50 states," which is inherently misleading, in addition to suction curettage abortion services. *See infra,* at 5-8. The corporation also solicits charitable donations from consumers and sells merchandise with a misleading statement regarding the availability of abortion pills "in all 50 states." *See* Affidavit of Klemann, Exhibit 6 and 7.

Momentara is a tech-enabled marketing company that "leverages situational context, allowing messages to more successfully influence customer choices and thinking." Momentara is a limited liability company organized under the laws of Minnesota, with its principal place of business in Minneapolis Minnesota and an operational facility in Katy, Texas.

FACTS

Mayday Health, along with the facilitation of Momentara, launched a targeted assault of deceptive abortion advertisements on South Dakota beginning December 8, 2025. *See* Affidavit of Klemann; Exhibit 2. The advertisements direct South Dakota consumers to Mayday Health's website. When a consumer follows the prompt to visit the Mayday Health website, the large headline on the main page reads, "What do you need?" *See* Affidavit of Klemann, Exhibit 8. There are four clickable links to choose from on the main page: abortion, morning after pills, birth control, and gender-affirming care. *Id.* If the consumer selects "abortion," they are asked how long it has been since their last period. *See* Affidavit of Klemann, Exhibit 9. This screen starts a

decision tree that leads to the suggestion of different abortion options depending on the woman's current length of pregnancy. This is likely because abortions performed over twelve weeks since the consumer's last period necessarily implicate an in-clinic physical procedure to abort the baby. *See* U.S. Food and Drug Administration, *Information about Mifepristone for Medical Termination of Pregnancy Through Ten Weeks Gestation*, https://www.fda.gov/drugs/postmarket-drug-safety-information-patients-and-providers/information-about-mifepristone-medical-termination-pregnancy-through-ten-weeks-gestation (last visited December 21, 2025); Exhibit 10. Indeed, the U.S. Food and Drug Administration (FDA), has only approved abortion-inducing pills for pregnant women "through ten weeks gestation." *Id.* The in-clinic physical abortion procedure performed on women more than ten weeks pregnant will hereinafter be referred to as a "suction curettage abortion" or "surgical abortion." The at-home abortion procedure accomplished through abortion-inducing pills for women that are ten weeks pregnant or less will hereinafter be referred to as a "medical abortion."

If "more than 12 weeks" is selected since the consumer's last period from the Mayday website, they are directed to a new website, ineedana.com, which ostensibly means "I need an abortion." *See* Affidavit of Klemann, Exhibit 11. Once a South Dakota consumer has disclosed on the website that they are more than twelve weeks pregnant, they are shown a screen that reads, "Need an Abortion? No matter what state you live in you still have options." *Id.* A clickable link follows, that prompts the consumer to, "Search your options

now." *Id.* Once the link is clicked, the consumer is asked what city they live in, the first day of their last period, and their age. *See* Affidavit of Klemann, Exhibit 12. No matter what combination of information is entered into these fields (e.g. South Dakota addresses, dates of last period, and age), the consumer is always given three options: driving directions to the nearest out-of-state abortion clinic that can perform a surgical abortion, a link to "order abortion pills online" to self-induce an at-home medical abortion, and the option to fly to another state that performs surgical abortions. *See* Affidavit of Klemann, Exhibit 13.

The only exception to the options offered to consumers, regardless of the information they enter on the website, is when a consumer identifies as a minor. The minor will see the same options as all other consumers indicated above; however, they are also shown a disclaimer that says, "You are a minor. If you decide to travel for care, you may face additional barriers as a teen. Learn more in our guide for teens." *See* Affidavit of Klemann, Exhibit 14.

The deceptive information provided to children in the guide for teens, as well as the omissions of material fact, deserve further treatment here. In the guide for teens, children are advised, "[a]bortion is safe, normal, and any reason to have one is a good reason." *See* Affidavit of Klemann, Exhibit 15. The website specifically instructs children to 1) conduct their own self-induced, at-home abortions by having abortion-inducing pills sent to their home "or to a trusted friend or family member" or 2) travel to a state that does not have parental consent laws, so [the child] can consent to [their] own abortion

without [the child's] parents or a judges' permission." *See* Affidavit of Klemann, Exhibit 16.

Navigating back to the fork of the decision tree on Mayday Health's main website for abortion services, if "[l]ess than 12 weeks" is selected since the consumer's last period, they are directed to a screen that asks if the consumer lives in a "red state" which is detailed on a map graphic below the question. *See* Affidavit of Klemann, Exhibit 17. South Dakota is identified as a "red state." *Id.* Once the "red state" option is selected, the consumer is directed to a page that lists five separate abortion-inducing pill providers. *See* Affidavit of Klemann, Exhibit 18. Four out of the five abortion-inducing pill providers specifically state that their company "SHIPS TO ALL 50 STATES." *Id.* At no point is there a large disclaimer at the top of the page, as there was for surgical abortions, that medical abortions are illegal in the State of South Dakota. *Compare* Exhibit 13 *with* Exhibit 18.

It is illegal to mail abortion-inducing pills into the State of South Dakota under SDCL 22-17-5.1, which provides that "any person who administers to any pregnant female or who prescribes or procures for any pregnant female any medicine, drug, or substance . . . to procure an abortion, unless there is appropriate and reasonable medical judgment that performance of an abortion is necessary to preserve the life of the pregnant female, is guilty of a Class 6 felony."

If a consumer clicks on a link for an abortion-inducing pill provider, even more deceptive information and omissions of material fact are uncovered. For

example, if a consumer clicks on the link for Abuzz, a consumer is told that she may perform her own at-home abortion using abortion-inducing pills if she is less than "13 weeks pregnant[,]" which is "measured from the first day of the last period." *See* Affidavit of Klemann, Exhibit 19. Or, in other words, 91 days since the first day of their last period. However, the FDA only approved the use of Mifepristone for medical abortion "through ten weeks gestation (70 days or less since the first day of a patient's last menstrual period." Exhibit 10.

When a consumer starts the process to obtain abortion-inducing pills through Abuzz, they are prompted to identify the state in which they reside. *See* Affidavit of Klemann, Exhibit 20. After South Dakota is selected, an advisement is revealed that proports to provide "information about the potential legal risks of getting abortion pills by mail" in the State of South Dakota. *See* Affidavit of Klemann, Exhibit 21. If the consumer chooses to click on the information link in the advisement (consumers are not required to view the risks of getting abortion-inducing pills by mail to continue the process), they are taken to a new website, plancpills.org. *See* Affidavit of Klemann, Exhibit 22. Once here, consumers receive more deceptive "information" on abortion issues. *Id.* For example, if a consumer navigates to the "Legal and safety considerations" portion of the website, they can click on a link stating, "Is this legal? Can someone get in trouble for using abortion pills?" *Id.* at 4. Instead of advising consumers that it is illegal to mail abortion-inducing pills into the State of South Dakota, consumers are told:

> Research shows that hundreds of thousands of people have

> received and used pills by mail over the past few years with no legal problems.

Similarly misleading, when the question is asked "How do people get in trouble[,]" the website advises:

- they told someone about their abortion and that person reported them.
- they got follow-up medical care and the provider reported them (many people say they are having a miscarriage to avoid this risk, which is medically what is happening in the body).
- they were later in pregnancy than they thought and didn't know what to do with the fetal tissue[.]

See Affidavit of Klemann, Exhibit 23.

The other abortion-inducing pill providers Mayday Health advertises make equally misleading claims regarding abortion-inducing pills and abortion services. Aid Access informs consumers that they are eligible to self-induce an at-home abortion using abortion-inducing pills in the fourteenth week of their pregnancy, and that this is "very safe." *See* Affidavit of Klemann, Exhibit 24. Again, the FDA has only approved the use of Mifepristone for medical abortion "through ten weeks gestation." Exhibit 10.

Further, the FDA has already previously issued warning letters to Aid Access for selling unapproved and misbranded abortion-inducing pills (Mifepristone and Misoprostol) over the internet. Warning Letter Issued to Aidacess.org from the United State Food and Drug Administration, Exhibit 25. However, consumers are not provided this information. Aid Access has a South Dakota specific page that in no way advises consumers that it is illegal to mail abortion-inducing pills into the State of South Dakota. *See* Affidavit of

Klemann, Exhibit 26. Instead, on their "legal" FAQs, the website directs consumers to declarations made by the World Health Organization, which is has no bearing on whether abortion-inducing pills are legal in the State of South Dakota. *See* Affidavit of Klemann, Exhibit 27.

Despite posting a disclaimer on their own website that they "do not give legal or medical advice," Mayday Health represents to consumers that their "information comes from top clinicians, lawyers and health experts[.]" *See* Affidavit of Klemann, Exhibit 28. Directly following this representation, Mayday Health provides links to several "trusted organizations" it has approved for legal and medical advice. *See* Affidavit of Klemann, Exhibit 29. This is further reiterated in Mayday Health's FAQs where it vouches that the links on their website "have the best content for a certain aspect of abortion care" and that they "only link to other trusted websites and partners." *See* Affidavit of Klemann, Exhibit 30.

As for the Mayday Health website itself, it contains claims that "abortion pills are safe [and] effective during the first 12 weeks" and that "[i]t is safe to do your own abortion at home with abortion pills." *See* Affidavit of Klemann, Exhibit 9. However, the FDA advises that "[i]n about 1 out of 100 women, bleeding can be so heavy that it requires a surgical procedure (surgical aspiration or D&C)." U.S. Food and Drug Administration, Labeling Information for Mifepristone, https://www.accessdata.fda.gov/drugsatfda_docs/label/2023/020687Orig1s025Lbl.pdf#page=16 (last visited December 21, 2025); Exhibit 31 at 16.

Moreover, FDA issued warnings and precautions regarding abortion-inducing drugs include:

- Cases of serious bacterial infection, including very rare cases of fatal septic shock;
- Uterine bleeding occurs in almost all patients during a medical abortion:
  - Prolonged heavy bleeding may be a sign of incomplete abortion or other complications, and prompt medical or surgical intervention may be needed to prevent the development of hypovolemic shock;
  - Excessive uterine bleeding usually requires treatment by uterotonics, vasoconstrictor drugs, surgical uterine evacuation, administration of saline infusions, and/or blood transfusions.
- The drug is "available only through a restricted program . . . because of the risks of serious complications."

Id. at 5-6. Abortion-inducing drugs also have the following adverse side effects reported by the FDA:

- Nausea
- Weakness
- Fever/Chills
- Vomiting
- Headache
- Diarrhea
- Dizziness
- Infections and infestations: post-abortal infection (including endometritis, endomyometritis, parametritis, pelvic infection, pelvic inflammatory disease, salpingitis)
- Blood and the lymphatic system disorders: anemia
- Immune system disorders: allergic reaction (including anaphylaxis, angioedema, hives, rash, itching)
- Psychiatric disorders: anxiety
- Cardiac disorders: tachycardia (including racing pulse, heart palpitations, heart pounding)
- Vascular disorders: syncope, fainting, loss of consciousness, hypotension (including orthostatic), light-headedness
- Respiratory, thoracic and mediastinal disorders: shortness of breath
- Gastrointestinal disorders: dyspepsia
- Musculoskeletal, connective tissue and bone disorders: back pain, leg pain
- Reproductive system and breast disorders: uterine rupture, ruptured ectopic pregnancy, hematometra, leukorrhea

- General disorders and administration site conditions: pain.

Id. at 7-8. But neither the FDA's warnings and precautions, nor the adverse effects of these drugs are contained on Mayday Health's website. A website that advertises its self-proclaimed mission is "to empower people to make their own informed decisions about their own bodies" and claims it "just want[s] people to know their options" omitted several important health advisements from the FDA.

Additional adverse events caused by abortion-inducing pills that are not contained on Mayday Health's website include:

- Ongoing Pregnancy - If the medical abortion treatment failed, there is a slight increase in the risk of birth defects such as deformities of the hands or feet and problems with the nerves of the fetus. To treat an ongoing pregnancy, you must repeat a medical or surgical abortion https://aidaccess.org/en/page/459/how-do-you-know-if-you-have-abortion-complications (last visited December 21, 2025);
- Exposure of fetuses to Misoprostol can lead to malformations, such as defects in the skull and abnormalities in the limbs (called Mobius Syndrome) https://aidaccess.org/en/page/465/what-are-the-chances-that-the-fetus-will-be-malformed-if-you-have-an (last visited December 21, 2025).

Based on these facts, it is the State's position that Mayday Health, facilitated by Momentara, has engaged in deceptive trade practices and acts in violation of SDCL 37-24-6.

ARGUMENT

Pursuant to SDCL 37-24-23, the attorney general may bring an action for injunction for violations of the state's Deceptive Trade Practices Act if he reasonably believes it would be in the public's interest. The attorney general has determined that enjoining deceptive advertisements regarding abortion-

inducing pills and abortion services is in the public interest.

"Granting or denying an injunction rests in the sound discretion of the trial court." *Halls v. White*, 2006 S.D. 47, ¶ 4, 715 N.W.2d 577, 579. The Court should consider the following factors in determining whether to grant injunctive relief:

> (1) Did the party to be enjoined cause the damage? (2) Would irreparable harm result without the injunction because of lack of an adequate and complete remedy at law? (3) Is the party to be enjoined acting in bad faith or is the injury-causing behavior an innocent mistake? (4) In balancing the equities, is the hardship to be suffered by the enjoined party . . . disproportionate to the . . . benefit to be gained by the injured party?

Duerre v. Hepler, 2017 S.D. 8, ¶ 35, 892 N.W.2d 209, 221–22. Here, all factors weigh in favor of the granting of an injunction. First, Mayday Health and Momentara caused the damage by affirmatively engaging in the deceptive advertisement of abortion-inducing pills and abortion services. It is completely within Mayday Health's control what and where they choose to advertise. It is also completely within Momentara's control as to what advertisers they desire to accept as clients.

Second, irreparable harm will result without the injunction due to the lack of an adequate and complete remedy at law. It is the attorney general's responsibility to protect South Dakota consumers and enforce the Deceptive Trade Practice Act. Mayday Health has misrepresented to South Dakota consumers that elective abortion is legal in this state and that abortion-inducing pills can be legally mailed into the state. The attorney general cannot simply sit idle while an advertiser continues to promote illegal services within

the state.

Further, South Dakota consumers face immediate and dire consequences that could result from the deceptive advertisement of abortion-inducing pills and abortion services. The injury, loss, or damage suffered by South Dakota consumers include, but are not limited to, loss of life or injury to teenage children who were instructed by the Mayday advertisement how to surreptitiously obtain medical or surgical abortions without their parents knowledge or consent, leaving the parents unable to monitor their teenage children for adverse reactions, side effects, hemorrhaging, or infections resulting from the abortion procedure; Mayday's advertisement suggesting to women that they should keep their abortions secret and not seek follow-up medical care relating to abortion procedures for fear they might "get in trouble," thereby reducing the chances that women will seek medical care for adverse reactions, side effects, hemorrhaging, or infections; and Maydays failure to provide South Dakota consumers with accurate information about medical and surgical abortions, as well as the risks and side effects associated with medical and surgical abortion procedures.

Third, Mayday Health has acted in bad faith. In a press statement Raisner, the Executive Director of Mayday Health, admitted that she specifically targeted South Dakota "due to the state's strict abortion laws." She knew that abortion-inducing pills and abortion services were illegal in South Dakota when she began running advertisements for them, and she was put on notice through the Cease and Desist letter issued by the attorney general. Yet

in a perplexing response to the letter, Mayday Health refused to stop running the illegal ads and claimed protection of the safe harbor provision, which provides:

> Nothing in this chapter shall apply to publishers, broadcasters, printers, or other persons in so far as an unlawful act or practice as defined in § 37-24-6 involves information that has been disseminated or reproduced on behalf of others *without knowledge that it is an unlawful act or practice.*

SDCL 37-24-11 (emphasis added). Mayday Health not only knew that their actions were illegal in the State of South Dakota, they specifically sought out advertising here for that very reason. Mayday Health does not have clean hands.

Finally, in a balancing the equities, the hardship suffered by Mayday Health is not disproportionate to the benefit gained by South Dakota consumers with the grant of the injunction. Mayday Health has alleged that this is an issue of free speech. However, it has long been the rule that "there can be no constitutional objection to the suppression of commercial messages that do not accurately inform the public about lawful activity." *Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm'n of New York*, 447 U.S. 557, 563, 100 S. Ct. 2343, 2350, 65 L. Ed. 2d 341 (1980). Indeed, the state "may ban forms of communication more likely to deceive the public than to inform it, or commercial speech related to illegal activity." *Id.* at 564. Mayday Health's advertisements check both of those unprotected boxes.

The advertisements are deceptive in that they 1) claim medical abortion is safe, yet link to several websites that provide abortion-inducing pills well

beyond the FDA recommended timeframe; 2) instruct children how to obtain abortion inducing pills without warning them that the pills are illegal in this state; 3) instruct children how to leave the state and obtain an abortion without their parent's knowledge or consent; 4) inform children that abortions are "safe, normal, and any reason to have one is a good reason" without warning of any of the risks associated with abortion procedures; 5) suggest to women that they should keep their abortions secret and not seek follow-up medical care relating to abortion procedures for fear they might "get in trouble," thereby reducing the chances that women will seek medical care for adverse reactions, side effects, hemorrhaging, or infections; 6) completely omit any of the FDA's warnings and precautions and adverse effects from their advertisement, while claiming that "abortion pills are safe [and] effective" and that "[i]t is safe to do your own abortion at home with abortion pills."

More importantly, the abortion-inducing pills and abortion services Mayday health is advertising in South Dakota is illegal in this state. Yet their ads and the merchandise they sell indicates that consumers "can still get abortion pills in all 50 states."

On the other hand, the benefit to be gained by the State and South Dakota consumers is boundless. Halting the deceptive advertisements protects South Dakota consumers from any potential injury or death that may result from the misleading information. For example, a teenage child could be saved who may have otherwise followed Mayday Health's instructions and surreptitiously perform an at-home medical abortion without informing their

parents and then dies of septic shock because their parents were not aware of the abortion-inducing drugs their child had ingested. The same goes for the woman encouraged not to seek follow-up medical care for fear of "getting in trouble" according to the advice given by Mayday Health's "trusted websites and partners." And finally, it benefits the state to simply shut down bad actors who are knowingly advertising illegal services.

Mayday Health's advertisements are not protected speech. They do not accurately inform the public of a lawful activity, and for the most part, they promote illegal activity within the state.

CONCLUSION

The Plaintiff respectfully requests that this Court enter an Order granting its Motion for a Preliminary or Permanent Injunction. Mayday Health intentionally inserted itself into the state to cause this damage, the damage cannot be remedied without the injunction because the deceptive advertisements have created a health and safety risk to South Dakota consumers, Mayday Health acted in bad faith by inserting itself into the state and advertising abortion-inducing pills and abortion service that it knew to be illegal along with other misinformation, and in balancing the equities, the hardship suffered by Mayday Health is slight compared to the benefit gained by the state and south Dakota consumers. Mayday Health's advertisements are not protected speech, and they create a public safety and health risk to South Dakota consumers.

Dated this 22nd day of December, 2025.

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