

**UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA**

**MAYDAY HEALTH and NANCY TURBAK  
BERRY,**

*Plaintiffs,*

v.

**LARRY R. RHODEN,** Governor for the State  
of South Dakota, and **MARTY J. JACKLEY,**  
Attorney General for the State of South Dakota,  
in their official capacities,

*Defendants.*

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4:26-cv-04096-CCT

**DEFENDANTS’ RESPONSE TO MOTION FOR PRELIMINARY INJUNCTION**

Defendants Larry R. Rhoden and Marty J. Jackley, by and through their counsel Amanda J. Miiller, Grant M. Flynn, Jacob R. Dempsey and Paul S. Swedlund hereby file this response to plaintiffs’ motion for a preliminary injunction. Mayday’s motion fails for the plain and simple reason that the First Amendment does not protect speech which solicits or facilitates an illegal abortion. Here, as in the New York litigation, not even Mayday’s own authorities support their legal arguments. Here, as in the New York litigation, Mayday supports its tenuous arguments with cherrypicked bits of *dicta* from cases whose actual holdings *harm* their case. Here, as in the New York litigation, Mayday has no likelihood of succeeding on the merits of its claims.

**INTRODUCTION**

Our federal system of government exists to respect the social and cultural differences between states. In Mayday’s home state of New York, abortion is accepted; in South Dakota it is not. As observed in *Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215, 217 (2022), “the people of the various states may evaluate [abortion] interests differently.” South Dakota is not New York.

Mayday claims simply to “help” those in search of medical information, which may be true as applied to some of its activities in states like New York where abortion is legal, but Mayday’s “help,” particularly the means it employs to “help,” is something altogether different as applied to states where abortion is illegal. In a state like South Dakota, which has laws against abortion and abortion drugs, Mayday’s “help” violates the state’s criminal laws. Which is precisely why Mayday targets its activities toward abortion-illegal states – to aid and abet women<sup>1</sup> and abortion drug merchants to skirt South Dakota’s laws.

Abortion is a divisive issue that unavoidably colors one’s views of laws which permit or prohibit it. Americans strongly disagree about abortion. But almost nobody disagrees that child pornography or sexual intercourse with children is wrong. So, to put the matter in stark perspective, if Mayday’s website were directed toward connecting pedophiles with child pornography or children in the same way it connects buyers with sellers of abortion drugs, nobody could seriously contend it had a First Amendment right to do so. *United States v. Williams*, 553 U.S. 285 (2008)(finding no First Amendment right to advertise and facilitate transfers of child pornography). Nobody could seriously contend that a state does not have the absolute right to shut down advertising that is a conduit to platforms that supply child pornography or children to pedophiles, or sex-trafficked women to pimps, or contract killers to bitter ex-husbands, or methamphetamine to addicts. Though Mayday obviously does not see it in such terms, to South Dakota and South Dakotans the state has the same interest in keeping unborn children from the hands of abortionists as it does in keeping born children from the hands of pedophiles. It is a core

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<sup>1</sup> An assumption underlies Mayday’s business model that every woman who makes abortion inquiries wants an abortion. There is abundant data that in a statistically significant number of cases, women are being pressured into abortions by male partners, family members, or economic circumstances. But it does not “help” a woman to facilitate an abortion she does not want. These dynamics in abortion decision making reveal that Mayday’s premise of “helping” all women who log onto its site is not categorically true.

social and cultural value of South Dakotans which our federal system recognizes, respects and protects.<sup>2</sup>

So, it is necessary to scrutinize the means Mayday employs to “help” South Dakota women in order to exercise informed judgment about the laws the state is enforcing here.

### **MAYDAY’S WEBSITE**

In early December 2025, Mayday posted this placard at gas stations throughout South Dakota:



KLEMANN AFFIDAVIT, Exhibit 1 at Exhibits A, B. At a press conference, Mayday crowed that it was targeting South Dakota for this advertising campaign “due to the state’s strict abortion laws.”

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<sup>2</sup> Mayday makes much of some *dicta* in Judge Failla’s *Younger* ruling to the effect that she would have ruled in Mayday’s favor on the merits if she had had jurisdiction. Judge Failla’s comments are *dicta* because a federal court’s function at the *Younger* stage is not to adjudicate the actual merits of the moving party’s First Amendment defense because the federal court does not have the evidence and record that the state court will have. A federal court’s function at a *Younger* hearing is simply to evaluate whether the state brought its enforcement action in bad faith. Bad faith exists if the state brought its enforcement action without “reasonable hope” of success. *Perez v. Ledsma*, 401 U.S. 82, 84 (1971). Because bad faith, not the merits of Mayday’s First Amendment defense, was the only issue before the court, Judge Failla’s comments are *dicta* because they were “unnecessary for a decision on the merits” of South Dakota’s bad faith defense. *State v. Moeller*, 2004 SD 110 at ¶44 n.4; *United States v. Bell*, 527 F.2d 202, 206 (defining *dicta* as an “an unnecessary extension of comments” beyond what is needed to decide a case. Moreover, Judge Failla’s comments contradict her ruling on bad faith, which necessarily found that the state had a “reasonable hope” of succeeding in defending its enforcement action against a First Amendment attack. Thus, to the extent the merits of Judge Failla’s *Younger*/bad faith ruling have any application here, it would be for the proposition that the state, not Mayday, has a “reasonable hope” of success in this case, which rules out Mayday’s request for a preliminary injunction.

KLEMAN AFFIDAVIT, Exhibit 1 at Exhibit B. Mayday's advertisements directed South Dakota consumers to its website at MAYDAY.HEALTH.

Mayday's website solicits charitable donations from consumers and sells merchandise with a misleading statement regarding the availability of abortion pills "in all 50 states." KLEMAN AFFIDAVIT, Exhibit 1 at Exhibits C, D. According to Mayday, it is "entirely funded by donations and merchandise sales." KLEMAN AFFIDAVIT, Exhibit 1 at Exhibit E.

When a woman enters the MAYDAY.HEALTH website, there is a large headline on the home page that asks "What do you need?" Below that are four clickable links to choose from: abortion, morning after pills, birth control, and gender-affirming care. KLEMAN AFFIDAVIT, Exhibit 1 at Exhibit J. If a woman selects "abortion," she is taken to a new screen that lists five separate abortion pill providers, four of whom Mayday informs the viewer "SHIP[] TO ALL 50 STATES." KLEMAN AFFIDAVIT, Exhibit 1 at Exhibit K. If a woman clicks on the links to these abortion drug merchants they are informed that they will prescribe drugs via telemedicine and send them to South Dakota. KLEMAN AFFIDAVIT, Exhibit 1 at Exhibit K. If a woman is curious if these providers can legally mail abortion drugs into her state, Mayday's FAQ page informs her that "[s]hield laws" protect doctors "in abortion friendly states who prescribe and send abortion pills to people living in other states that ban . . . abortion." KLEMAN AFFIDAVIT, Exhibit 1 at Exhibit K. This fails to inform woman in South Dakota that these "shield laws" do not change the fact that the transaction she is about to enter and the abortion she contemplates inducing are illegal under state law. This non-answer makes a woman think medicinal abortion is legal in South Dakota, which denies her the choice of whether to have an *illegal* abortion or not.

Mayday's website features a chatbot named Charley who is a font of false and misleading information and illegal advice. Charley pops on the screen asking women if they want help getting an abortion. KLEMAN AFFIDAVIT, Exhibit 1 at Exhibit J. Charley assures women that the

conversation is private and asks if she needs help with two options: 1) abortion info or 2) am I pregnant. KLEMANN AFFIDAVIT, Exhibit 1 at Exhibit L. If a woman clicks on abortion info, Charley informs her that there are two main types of abortion – pills and procedures – and assures her that both are “generally very safe and effective for ending a pregnancy.” KLEMANN AFFIDAVIT, Exhibit 1 at Exhibit M.

Charley asks a woman if she knows what type of abortion she is interested in and provides three options: 1) Get Started; 2) Pills; and 3) Procedure. KLEMANN AFFIDAVIT, Exhibit 1 at Exhibit P. Charley tells women that her “abortion options will depend on [her] location and asks her to type in her location. KLEMANN AFFIDAVIT, Exhibit 1 at Exhibit LL. If she types in Rapid City, South Dakota 57701, Charley tells her that, though “clinics aren’t allowed to do abortions in South Dakota,” a woman “still ha[s] options.” KLEMANN AFFIDAVIT, Exhibit 1 at Exhibit MM. A woman who elects to continue the conversation is then told that abortion pills are “available to [her].” KLEMANN AFFIDAVIT, Exhibit 1 at Exhibit NN. Charley will then ask if she wants “a link to a telehealth provider to get pills now” or whether she wants more information. KLEMANN AFFIDAVIT, Exhibit 1 at Exhibit Q. If she clicks on pills, Charley then tells her that “abortion pills work best for people less than 13 weeks pregnant” and asks her the date of her last period. KLEMANN AFFIDAVIT, Exhibit 1 at Exhibit R. If a woman who logged in on June 15, 2026, tells Charley that the date of her last period was April 1, 2026, Charley tells her that Aid Access, an abortion pill provider, “ships pills to people in all 50 states for \$150 or less.” KLEMANN AFFIDAVIT, Exhibit 1 at ¶ 31, Exhibit U. With no mention of the associated risks, Mayday’s website informs women that “abortion pills are safe [and] effective during the first 12 weeks of pregnancy.” KLEMANN AFFIDAVIT, Exhibit 1 at Exhibit DD. However, The FDA’s warnings concerning the use of abortion-inducing drugs caution that they

carry risks of bacterial infection, rare cases of fatal septic shock, and uterine bleeding that “[i]n about 1 out of 100 women . . . can be so heavy that it requires a surgical procedure” to stop.<sup>3</sup>

Charley does not inform a woman that it is not just “clinics [that] aren’t allowed to do abortions in South Dakota.” KLEMANN AFFIDAVIT, Exhibit 1 at Exhibit MM. Charley does not inform women that medicinal abortions also “aren’t allowed.” KLEMANN AFFIDAVIT, Exhibit 1 at Exhibit MM. Charley instead tells a woman that she “still ha[s] options” and that abortion pills are “available to [her],” again without informing her that it is illegal. KLEMANN AFFIDAVIT, Exhibit 1 at Exhibit MM, NN.

If a woman clicks on Mayday’s website link to Aid Access, she learns that Aid Access is willing to send abortion pills through the mail to South Dakota. Aid Access has a South Dakota specific page that does not inform a woman that it is illegal to mail abortion-inducing pills to South Dakota or that is illegal in South Dakota to obtain a medicinal abortion via telemedicine. KLEMANN AFFIDAVIT, Exhibit 1 at Exhibit BB. On Aid Access’ FAQs page, Aid Access’ response to the question “Is it legal?” tells a woman that “[p]eople needing and having abortions in the USA are not breaking the law in any state!” KLEMANN AFFIDAVIT, Exhibit 1 at Exhibit CC. Though it is frequently asked if mailing abortion drugs to South Dakota is legal, neither Mayday nor Aid Access (or any other Mayday affiliate) ever give a straight answer, instead they provide evasions or bald-faced lies. Aid Access informs a woman that she is able to self-induce an at-home abortion using abortion pills up to the fourteenth week of her pregnancy, and that this is “very safe.” KLEMANN AFFIDAVIT, Exhibit 1 at Exhibit Z. The FDA issued warning letters

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<sup>3</sup> U.S. Food and Drug Administration, Labeling Information for Mifepristone, [https://www.accessdata.fda.gov/drugsatfda\\_docs/label/2023/0206870orig1s025Lbl.pdf#page=16](https://www.accessdata.fda.gov/drugsatfda_docs/label/2023/0206870orig1s025Lbl.pdf#page=16) (last visited December 21, 2025). KLEMANN AFFIDAVIT, Exhibit A at Exhibit 31.

to Aid Access for selling unapproved and misbranded abortion-inducing pills (Mifepristone and Misoprostol) over the internet. KLEMANN AFFIDAVIT, Exhibit 1 at Exhibit AA.

If a woman clicks on Mayday's website link to Abuzz, she is prompted to identify the state in which she resides. KLEMANN AFFIDAVIT, Exhibit 1 at Exhibit V. If a woman selects South Dakota she is provided a link to "information about the potential legal risks of getting abortion pills by mail" in South Dakota. KLEMANN AFFIDAVIT, Exhibit 1 at Exhibit W. Abuzz does not require a woman to click on this "information" link to purchase abortion drugs, but if she does she is taken to a new website, [plancpills.org](http://plancpills.org). KLEMANN AFFIDAVIT, Exhibit 1 at Exhibit X.

Instead of advising a woman that it is illegal to mail abortion pills to South Dakota, [plancpills.org](http://plancpills.org) evasively tells her that "hundreds of thousands of people have received and used pills by mail over the past few years with no legal problems." KLEMANN AFFIDAVIT, Exhibit 1 at Exhibit Y. Under the heading "How do people get in trouble" for using abortion pills, [plancpills.org](http://plancpills.org) advises women get in trouble only if "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); [or] they were later in pregnancy than they thought and didn't know what to do with the fetal tissue." KLEMANN AFFIDAVIT, Exhibit 1 at Exhibit Y.

Mayday's dissembling "dissident" advertising campaign to supply abortion drugs "in all 50 states" regardless of state law flagrantly flouts SDCL 22-17-5.3's prohibition on advertisements for drugs for the purpose of producing an unlawful abortion in South Dakota. Mayday clearly intends for the pills its sends to South Dakota to be ingested in, and produce an abortion in, South Dakota. There would be no purpose in sending the pills to South Dakota otherwise. If a woman is having pills sent to her in South Dakota, it is not for the purpose of then traveling to an abortion-legal state to ingest the pills and induce an abortion where it is legal; the woman could just acquire

the pills herself in the abortion-legal state when she got there. The *only* purpose in sending abortion drugs to South Dakota is to produce an unlawful abortion there. Indeed, Mayday’s complaint freely admits that the intent of its “advertising” is to “help” women “terminate pregnancies safely even though they live in places like South Dakota that limit or outlaw abortion.” DOCKET 1 at ¶6.

## **ARGUMENT**

Mayday is not entitled to preliminarily enjoin a duly enacted state criminal law because it cannot demonstrate a likelihood of succeeding on the merits of its First Amendment claims. Mayday’s website and messaging simply are not, as they claim, *Bigelow*, *Matsumoto* or *James* protected under the First Amendment, or immunized by the Communications Decency Act, because they actively solicit and facilitate commercial transactions and conduct that are illegal within the borders of the State of South Dakota.

The standard governing a motion for preliminary injunction requires Mayday to demonstrate (1) a likelihood of success on the merits, (2) irreparable harm, (3) balance of equities in its favor, and (4) public interest. *Planned Parenthood Minnesota, North Dakota and South Dakota v. Rounds*, 530 F.3d 724, 730 (8<sup>th</sup> Cir. 2008)(*PPMNS*). Where, as here, the plaintiff seeks to enjoin a state criminal statute, the court must apply a more rigorous standard regarding the likelihood of success factor. The plaintiff “must demonstrate more than just a fair chance that it will succeed on the merits” and instead must meet “a more rigorous threshold showing that the movant is likely to prevail on the merits.” *PPMNS*, 530 F.3d at 730. This heightened threshold “ensures that preliminary injunctions that thwart a state’s presumptively reasonable democratic processes are pronounced only after an appropriately deferential analysis.” *PPMNS*, 530 F.3d at 733. Mayday cannot meet these rigorous standards under the circumstances of this case.

## **A. First Amendment**

Mayday first seeks shelter in the First Amendment. But the First Amendment provides no protection for Mayday's active solicitation and facilitation of illegal conduct.

### **1. Likelihood Of Success On The Merits**

Mayday is not likely to succeed on the merits of its First Amendment claims because its website is at best a mix of commercial and non-commercial speech and at worst speech integral to the commission of a crime. The former is afforded nominal First Amendment protection while the latter is afforded no protection at all. As commercial speech integral to the commission of a crime in the state of South Dakota, Mayday's website is doubly unprotected by the First Amendment.

#### **i. Speech Integral To Criminal Conduct**

Despite protections afforded First Amendment speech, even certain commercial speech, speech that proposes an illegal transaction or is in furtherance of a criminal scheme receives no protection. Thus, *Pittsburgh Press Co. v. Human Relations Comm'n*, 413 U.S. 376, 388 (1973), held that there was "no doubt that a newspaper constitutionally could be forbidden to publish a want ad . . . soliciting prostitutes." As speech in furtherance of an illegal commercial transaction in South Dakota, *i.e.* purchase of abortion pills, Mayday's speech is entirely unprotected, as Mayday's own cited cases prove.

In *Giboney v. Empire Storage & Ice Co.*, 336 U.S. 490, 495 (1949), the court examined whether picketers could be restrained from protesting outside a business with the intent to force the business to engage in an illegal restraint on trade. *Giboney* ruled that the picketers' protest was not protected speech because "placards used as an essential and inseparable part of a grave offense against an important public law cannot immunize that unlawful conduct from state control." *Giboney*, 336 U.S. at 502. The *Giboney* court saw that, if not restrained, "[t]here was clear danger, imminent and immediate, that . . . [the picketers] would succeed in making [state laws against

restraints in trade] a dead letter.” *Giboney*, 336 U.S. at 503. The right to protest, *Giboney* found, could not be extended “to speech or writing used as an integral part of conduct in violation of a valid criminal statute.” *Giboney*, 336 U.S. at 498. Thus, when the picketers’ “placards were to effectuate the purposes of an unlawful combination [in trade], and their sole, unlawful, immediate objective was to induce [the picketed business] to violate [state] law” against restraints in trade, the picketers could not expect First Amendment protection for their activities. *Giboney*, 336 U.S. at 502.

Since *Giboney*, the speech-integral-to-criminal-conduct (SITCC) exception has been extended to advertising for child pornography (*Williams*), prostitution (*Pittsburgh Press*), illegal immigration (*Hansen*), tax evasion (*White, Bell*), marijuana (*Conant, Cocroft*), and . . . illegal abortion (*Matsumoto, Welty*). Generally speaking, advertising loses First Amendment protection under the SITCC exception when it crosses the line between “mere advocacy” and “inciting or producing an imminent lawless [trans]action.” *Brandenburg v. Ohio*, 395 U.S. 444, 447-449 (1969). When exactly this line is crossed has been variously described as:

***United States v. Williams*, 553 U.S. 285, 293, 295-295, 295 (2008)(Child Pornography)**

- “collateral speech that introduces [child pornography] into the child pornography **distribution**;”
- “**recommending** purported child pornography to another person for his **acquisition**;”
- speech that “accompan[ies] or seek[s] to **induce the transfer** of child pornography from one person to another;”
- “**offers to give** or receive what is unlawful to possess;”
- “**offers to provide** or requests to obtain unlawful material, **whether as part of a commercial exchange or not**;”
- “recommend[ing] . . . a particular piece of purported child pornography with the intent of **initiating a transfer**;”

***United States v. Hansen*, 599 U.S. 762, 775, 782, 783 (2023)(Illegal Immigration)**

- “that a defendant *intend* to bring about a specific result;”
- “‘encouraging’ and ‘**inducing**’ a *violation of law*;”
- “[s]peech **intended to bring about a particular unlawful act.**”

***United States v. Al-Timimi*, 2026 WL 71062, \*7-\*9 (4<sup>th</sup> Cir.)(Terrorism)**

- “recommend[ing] . . . how or when” specific illegal acts might be performed.

***Conant v. Walters*, 309 F.3d 629 (9<sup>th</sup> Cir. 2002)(Marijuana)**

- advertising which doubles as “as a **means for obtaining** marijuana, as a prescription is used as a **means . . . to obtain** a controlled substance.”

***United States v. Arthur*, 160 F.4<sup>th</sup> 597, 608 (4<sup>th</sup> Cir. 2025)(Bomb Making)**

- “teach[ing] another to make ‘explosive[s]’ . . . while *knowing* that the recipient of that information **intends to use it** to commit a federal crime of violence”
- when “but for the proscribed communications, the other person would lack the **means to commit** their intended crime.”

According to these authorities, Mayday’s “advertising” crosses the line because – with the stated intent to procure and produce abortions “in places like South Dakota” – it:

- offers to provide abortion pills whether as part of a commercial transaction or not (*Williams*);
- accompanies its advertising with inducements to transfer of child abortion drugs from one person to another (*Williams*);
- recommends abortion drug suppliers with the intent of initiating a transfer (*Williams*);
- encourages and induces a violation of the law (*Hansen*);
- intends to bring about a particular unlawful act (*Hansen, Arthur*);
- recommends how (by mail) and when (within a certain number of weeks post-LMP) illegal abortion drug acquisition and ingestion be done (*Al-Timimi*);
- furnishes the means for obtaining illegal abortion drugs (*Conant, Arthur*).

The fact that Mayday acts as a middleman to these transactions does not remove its “advertising” from the SITCC exception, just as the fact that the newspaper in *Pittsburgh Press* was just a middleman between the women solicited and the men soliciting did not protect a want ad promoting prostitution. *Pittsburgh Press*, 413 U.S. at 388.

Mayday’s own authorities affirm that its “advertising” is unprotected per the SITCC exception. Mayday inexplicably continues to rely on *Bigelow v. Virginia*, 421 U.S. 809, 826 (1975), and *Nat’l Inst. of Family and Life Advocates v. James*, 160 F.4<sup>th</sup> 360 (2<sup>nd</sup> Cir. 2025), even though those cases do not help Mayday’s case at all. If *Bigelow* and *James* are the best Mayday can come up with, then it has effectively conceded that the First Amendment affords its “advertising” no protection whatsoever.

All that *Bigelow* says is that Virginia law enforcement could not exercise its “internal police powers” to enjoin a Virginia newspaper from advertising that abortion was legal in New York. *Bigelow*, 421 U.S. at 824-825. If Mayday’s message was simply “Abortion is legal in Minnesota and here is a list of clinics that provide it,” then *Bigelow* would be controlling. But the *Bigelow* rule only extends to an “advertiser who proposes a transaction in a state where the transaction is legal.” *Washington Mercantile Ass’n v. Williams*, 733 F.2d 687, 691 (9<sup>th</sup> Cir. 1984). Here, however, Mayday is advertising and facilitating a transaction in a state where that transaction is not legal.<sup>4</sup> *Bigelow* does not afford First Amendment protection to Mayday for proposing and facilitating a transaction that is illegal in South Dakota in furtherance of an act that is illegal in South Dakota. *Bigelow*, 421 U.S. at 828.

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<sup>4</sup> Products that are “transferred electronically, or services for delivery into South Dakota” are sales consummated within the State of South Dakota and “treated as a local transaction” for jurisdictional purposes. *South Dakota v. Wayfair*, 585 U.S. 162, 177-178 (2018); *Bates v. State Bar of Arizona*, 433 U.S. 350, 378 (1977)(putting up an advertisement is “penetrating a market”).

Likewise, *James* does not help Mayday's cause here despite some surface similarities. In *James*, the New York Attorney General had brought an enforcement action against Heartbeat International to enjoin allegedly misleading statements concerning the efficacy of so-called abortion reversal pills. *James*, 160 F.4<sup>th</sup> at 365. The National Institute of Family and Life Advocates (NIFLA) proactively brought suit to enjoin James from targeting its abortion reversal pill advocacy as it had HBI's. Like Mayday, NIFLA provided referrals to abortion reversal pill providers. The district court granted NIFLA's request for an injunction. But despite the surface similarities to this case, *James* does not support the imposition of an injunction here.

NIFLA's activities, though similar, were materially different from Mayday's activities here. For one thing – and it is a big thing – the abortion reversal pill is not illegal in New York. For another, the *James* court found that NIFLA's speech was non-commercial because “there [wa]s no evidence in the record . . . to suggest that the NIFLA plaintiffs gain other types of economic benefits by engaging in this speech, such as an increased customer base or a capital increase through fundraising.” *James*, 160 F.4<sup>th</sup> at 377. If Mayday's message was simply about a *legal* medication and it did not fundraise off its illegal advertising, then *James* might be controlling. *James*, 160 F.4<sup>th</sup> at 374 (speech that “is an advertisement, makes reference to a specific product, and the speaker has an economic motivation for the communication, is properly characterized as commercial speech”). So, to the extent *Bigelow* or *James* are controlling, they are not controlling for any proposition that helps Mayday place its messaging outside the SITCC exception.

The same is true of *Matsumoto v. Labrador*, 122 F.4<sup>th</sup> 787 (9<sup>th</sup> Cir. 2024), which, even more than *Bigelow* and *James*, strips Mayday's advertising of any pretense of legality. *Matsumoto* enjoined an Idaho statute against “recruiting” a minor to obtain an abortion. *Matsumoto*, 122 F.4<sup>th</sup> at 808. *Matsumoto* entered the injunction because Idaho's statute, in addition to in-state abortions, prohibited “procurement of abortions that are legal [in states] where they are performed.”

*Matsumoto*, 122 F.4<sup>th</sup> at 813. Idaho’s statute explicitly provided that “[i]t shall not be an affirmative defense to a prosecution . . . that the abortion provider or the abortion-inducing drug provider is located in another state,” which was intended to criminalize recruiting a minor to obtain an abortion in neighboring Oregon where abortion is legal. *Matsumoto*, 122 F.4<sup>th</sup> at 813. In other words, Idaho’s statute broadly criminalized speech which *Bigelow* expressly protects, *i.e.* speech concerning legal abortions in other states.

But for a statute like South Dakota’s, which (as discussed in connection with overbreadth below) is limited to advertisements for procuring or producing an abortion in South Dakota, *Matsumoto* endorsed Idaho’s argument that “recruiting an Idaho minor to get an illegal abortion in Idaho qualifies as speech integral to criminal conduct” and that “‘recruiting’ under [Idaho’s statute], to the extent that it induces a minor to violate [that statute] via the adult’s procurement of abortion for that minor, would be speech integral to criminal conduct.” *Matsumoto*, 122 F.4<sup>th</sup> at 813. As in *Matsumoto*, Mayday’s advertising instructing and facilitating a South Dakota woman on how “to get an illegal abortion in [South Dakota] qualifies as speech integral to criminal conduct.” *Matsumoto*, 122 F.4<sup>th</sup> at 813. Under the circumstances, *Matsumoto* helps the state defendants far more than it helps Mayday.

And contrary to Mayday’s assertion that *Welty v. Dunaway*, 791 F.Supp.3d 818, 831, 839 (M.D.Tenn. 2025), “struck down a law making it a crime to ‘intentionally recruit . . . a pregnant unemancipated minor . . . for purposes of obtaining an abortion that would be illegal in Tennessee,’” *Welty* actually says the exact opposite. *Welty* struck down the Tennessee statute because – in contravention of *Bigelow* and like *Matsumoto* – it also “bar[red] recruitment of minors to facilitate abortions ‘regardless’ of where the procedure occurs. In other words, the [Tennessee] law prohibit[ed] recruiting an out-of-state abortion that is entirely *legal* in that state.” *Welty*, 791 F.Supp.3d at 826. As discussed on connection with overbreadth below, South Dakota’s abortion

advertising ban does not – unlike Tennessee’s (or Idaho’s in *Matsumoto*) – extend to advertising the availability of abortion or abortion drugs in states where it is legal. Nor is Mayday’s advertising in South Dakota even directed at, or limited to, informing women where it is legal to purchase and ingest abortion pills or otherwise obtain an abortion. Mayday’s advertising is directed solely at initiating transactions to ship abortion pills into “places like South Dakota” for the purpose of inducing an abortion there.

Thus, *Welty*, like *Matsumoto*, holds unequivocally that a “state may constitutionally punish speech made in direct furtherance of in-state abortions.” *Welty*, 791 F.Supp.3d at 831. If, unlike Mayday, a pro-abortion group “promote[s] only legal abortions, the speech integral to crime exception does not apply and [the group’s] speech remains protected.” *Welty*, 791 F.Supp.3d at 831. But if, as here, the speech promotes illegal abortions, the SITCC exception applies and Mayday’s speech is unprotected. *Welty*, 791, F.Supp.3d at 831. Thus, *Welty* supports South Dakota’s position that advertising “to procure an illegal abortion [in South Dakota] is speech integral to criminal conduct.” *Welty*, 791 F.Supp.3d at 839.

Mayday’s own cases – *Bigelow*, *James*, *Matsumoto*, *Welty* – affirm that its “advertising” is unprotected speech integral to criminal conduct. Mayday’s advertising “further[s] a criminal scheme in [South Dakota]” in contravention of *Bigelow*. *Bigelow*, 421 U.S. at 828. Mayday is peddling an illegal drug in contravention of *James*. *James*, 160 F.4<sup>th</sup> at 377. Mayday advertises for the “procurement of abortions that are [il]legal where they are performed.” *Matsumoto*, 122 F.4<sup>th</sup> at 813. Mayday’s advertising is “in direct furtherance of in-state abortions.” *Welty*, 791 F.Supp.3d at 831. Mayday cannot possibly succeed on the merits when the very authorities it cites blast its case out of the water.

## ii. Overbreadth

Unlike in *Matsumoto* and *Welty*, Mayday is not likely to succeed in demonstrating that South Dakota's advertising ban is unconstitutionally overbroad. A court can be constrained from enjoining speech which would otherwise be unprotected under the SITCC exception if the statute prohibiting it is overbroad. *Hansen*, 599 U.S. at 770. Overbreadth occurs when, in addition to the speech it lawfully proscribes, a statute "criminalizes a substantial amount of protected expressive activity." *Arthur*, 160 F.4<sup>th</sup> at 606. This requires a comparison and balancing of a statute's "plainly legitimate sweep" with the extent to which it "prohibits a substantial amount of protected speech." *Hansen*, 599 U.S. at 770; *Matsumoto*, 122 F.4<sup>th</sup> at 806. The Idaho and Tennessee statutes in *Matsumoto* and *Welty* failed this test because those statutes were not limited to speech "recruiting" minors for illegal, in-state abortions; the Idaho and Tennessee statutes criminalized recruitment for an abortion *anywhere*, including where it was legal, which clearly violated *Bigelow*.

SDCL 22-17-5.3 does not commit this constitutional error. SDCL 22-17-5.3 is expressly limited to advertising "for the purposes of an *unlawful* abortion pursuant to § 22-17-5.1." This phrase limits the scope of the advertising ban in two ways the Idaho and Tennessee statutes did not. First, it is limited to generally to "unlawful" abortions. Second, it is limited specifically to abortions prohibited by SDCL 22-17-5.1, which is only abortion in the state of South Dakota. Unlike the Idaho and Tennessee statutes, SDCL 22-17-5.3 "reaches no further than the purposeful solicitation and facilitation of specific acts known to violate [South Dakota] law." *Hansen*, 599 U.S. at 781. Thus, "[t]o the extent [SDCL 22-17-5.3] reaches any speech, it stretches no further than speech integral to unlawful conduct" in South Dakota. *Hansen*, 599 U.S. at 783.

Unlike the word "recruit," which *Matsumoto* found "has broad contours that . . . sweep in a large swath of expressive activities – from encouragement, counseling and emotional support; to education about available medical services and reproductive healthcare," "advertise" is used in

SDCL 22-17-5.3 in a narrow, transactional sense of “present[ing] (something or oneself) to the public in a way that is intended to attract customers.” [www.merriam-webster.com/dictionary/advertise](http://www.merriam-webster.com/dictionary/advertise). As used in SDCL 22-17-5.3, “advertise” means what *Williams* found it to mean – “offers to provide or requests to obtain” illegal material and “recommending [illegal material] to another person for h[er] acquisition” in conjunction with the means for such acquisition, which Mayday certainly provides. *Williams*, 552 U.S. at 294-295.

When “advertise” is so understood, SDCL 22-17-5.3’s legitimate sweep – abortions in South Dakota – is plainly legitimate. But when it comes to showing that SDCL 22-17-5.3 “prohibits a *substantial* amount of protected speech,” Mayday’s side of the scale is empty. *Hansen*, 599 U.S. at 770. Unlike in *Bigelow*, Mayday’s advertising does not simply inform viewers where abortion is legal or where abortion drugs may legally be purchased and ingested to produce an abortion, and to the extent it does it does not fall under SDCL 22-17-5.3. Mayday is a roadmap to abortion pill acquisition in places where such acquisition is illegal. In this respect Mayday’s website is like manuals instructing readers on techniques for illegal tax evasion which courts have enjoined under the SITCC exception without thinking twice about it. *United States v. White*, 769 F.2d 511 (8<sup>th</sup> Cir. 1985); *United States v. Bell*, 414 F.3d 474 (3<sup>rd</sup> Cir. 2005). Mayday can no more instruct buyers on how to procure illegal abortion drugs in South Dakota than the defendants in *White* and *Bell* could instruct readers on how to evade taxes. Mayday’s own authorities – *Bigelow*, *Matsumoto* and *Welty* – expressly state it may not do what it is brazenly doing – promoting illegal transactions and conduct within the state where such transactions and conduct are illegal.

Mayday brags that it “exists to provide . . . mail-order abortion pills . . . in all 50 states, regardless of harmful state restrictions.” Mayday advertises abortion drugs for acquisition in “all 50 states.” South Dakota is one of these “50 states” and Mayday advertises abortion drugs for acquisition in South Dakota for the purpose of producing abortion in South Dakota “regardless”

of the state's laws against it. Mayday provides the means to procure such drugs by advertising for and linking viewers to abortion pill merchants whose stated intent is to ship abortion drugs to "all 50 states." Mayday is simply a front to advertise for abortion pill merchants what they cannot advertise for themselves in South Dakota. But the First Amendment does not allow abortion pill merchants to use Mayday to connect with women seeking abortion drugs any more than the pimps and Johns of *Pittsburgh Press* could use the newspaper to connect with women seeking to become prostitutes. *Pittsburgh Press*, 413 U.S. at 388. The First Amendment affords Mayday's brazen solicitation and facilitation of illegal abortion drug transactions no protection at all so, as in *Hansen*, its "side of the ledger [is] . . . pretty much blank." *Hansen*, 599 U.S. at 782.

Mayday comes up empty handed when it comes to showing that SDCL 22-17-5.3 prohibits *any* protected speech let alone a *substantial* amount of it. Mayday's speech is not *Bigelow*, *Matsumoto* or *Welty* protected because it is in furtherance of a transaction that is criminal within the borders of South Dakota which is well within the state's police powers to prevent. *Bigelow*, 421 U.S. at 828 (1975); *Cocroft v. Graham*, 122 F.4<sup>th</sup> 176, 182 (5<sup>th</sup> Cir. 2024)(no protection for speech advertising illegal transaction within the enforcing state). Mayday's speech is not *James* protected because the abortion reversal pills in *James* were not illegal in the state of New York and because NIFLA, unlike Mayday, had not monetized its message by fundraising off its advocacy for abortion reversal pills. *James*, 160 F.4<sup>th</sup> at 379. Accordingly, Mayday cannot demonstrate that it is likely to succeed on the merits of its claim that SDCL 22-17-5.3 is overbroad.

## **2. Irreparable Harm**

While "the loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury," *Wollschlaeger v. Farmer*, 814 F.Supp.2d 1367, 1383 (2011), this is not true of unprotected speech integral to criminal conduct. Even if speech is protected, courts have clarified that "the assertion of First Amendment rights does not

automatically require a finding of irreparable injury." *Time Warner Cable of New York City, L.P. v. City of New York*, 943 F. Supp. 1357, 1384-1385 (1996). Irreparable harm requires Mayday to "show a chilling effect on free expression." *Time Warner*, 943 F.Supp. 1357, 1384-1385 (1996). But this all presupposes a protected First Amendment interest. Abortion drugs being illegal in South Dakota, "there can be no constitutional objection to the suppression of commercial messages that do not accurately inform the public about lawful activity . . . . [A state] may ban forms of communication . . . related to illegal activity." *Central Hudson*, 447 U.S. at 563.

Mayday cannot demonstrate irreparable harm for two reasons. First, placard or website advertising of illegal transactions is not entitled to protection in the first place. Second, unlike in *James*, Mayday cannot demonstrate that its placards or website are purely vehicles for "their moral and religious beliefs, not based on any economic motivation." *James*, 160 F.4<sup>th</sup> at 375. Or, stated another way, Mayday cannot demonstrate that its speech is simply "informational, without any economic motivation." *James*, 160 F.4<sup>th</sup> at 375.

Being a non-profit corporation does not mean that Mayday runs a non-profit website. One need look no further than the DONATE page on Mayday's website to find its economic motivation for being a megaphone and platform for abortion pill providers. According to Mayday, it is "entirely funded by donations and merchandise sales" so it can "reach more people" with information on "how to access abortion pills through the mail in all 50 states." KLEMANN AFFIDAVIT, Exhibit 1at Exhibit 7. Mayday fundraises off its strident commitment to illegally export abortion to "all 50 states" regardless of state laws. Donated funds pay overhead costs and salaries of Mayday's officers and directors (which can be handsome in "non-profit" organizations) which ensures the organization's continued existence, which is a form of economically benefitting from the activities it promotes. As noted in *James*, the ability to increase exposure through fundraising is an economic motivation. *James*, 160 F.4<sup>th</sup> at 377. Likewise, per *First Resort, Inc.*

*v. Herrera*, 860 F.3d 1263, 1273 (9<sup>th</sup> Cir. 2017), Mayday’s advertisements are commercial speech because they “directly relate to [Mayday’s] ability to fundraise and, in turn, to buy more advertisements.” Such speech, even if it were not integral to criminal conduct, would not be outside the bounds of legal proscription if done in furtherance of a legitimate state interest. *Herrera*, 860 F.3d at 1273. The bottom line is that Mayday cannot claim a First Amendment interest in facilitating illegal transactions and illegal abortions so it has not suffered the irreparable loss of any expression or activity to which it has any right.

### **3. Balance Of Equities/Public Interest**

The balance of equities here clearly favors the state’s interests in the health and safety of pregnant women, the life or potential life of the unborn, and promoting respect for human life at all stages of a pregnancy. *Planned Parenthood v. Casey*, 112 S.Ct. 2791, 2817 (1992); *Gonzales v. Carhart*, 127 S.Ct. 1610, 1626, 1643 (2007). In furtherance of these interests a “state may take measures to ensure that the woman’s choice is informed” and adopt policies to encourage women “to choose childbirth over abortion.” *Casey*, 112 S.Ct. at 2821, 2825. SDCL 22-17-5.3’s advertising ban promotes the state’s interests in informing women’s abortion decisions and measures to achieve the ends of its pro-life statutes. *Abott v. Perez*, 138 S.Ct. 2305, 2324 n. 17 (2018).

However much Mayday might disagree with South Dakota’s pro-life views, equity never favors illegal communications or conduct. As Mayday admits, it is engaged in “dissident” activity . . . which is just a euphemism for *illegal* activity. As Mayday admits, it sends abortion drugs to South Dakota “regardless of harmful state restrictions” . . . which is a euphemism for *in violation of state laws*. Such advertising is entitled to no protection at all let alone any form of heightened scrutiny.

South Dakota's experience with abortion pill importation evidences that Mayday's abortion pill advertising is a threat to public health. Alpha Center in South Dakota is a non-profit, healthcare facility and clinic that provides pregnancy testing, ultrasounds, and STI testing for pregnant women who are experiencing an unplanned pregnancy. GIEBINK AFFIDAVIT, Exhibit 2 at ¶ 21. Alpha Center also provides post-abortion care for women who have complications from surgical and medicinal abortion. GIEBINK AFFIDAVIT, Exhibit 2 at ¶ 22. At-home, medically unsupervised abortion is not the risk free procedure Mayday and its affiliates portray it to be:

- One risk of medication abortion is serious and potentially fatal infections. GIEBINK AFFIDAVIT, Exhibit 2 at ¶ 10.
- Taking abortion pills can lead to excessive vaginal bleeding, which can be so severe that emergency medical treatment and blood transfusions are needed to save a woman's life. GIEBINK AFFIDAVIT, Exhibit 2 at ¶ 11.
- Additional risks include retained tissue and incomplete abortion, which causes the uterus to bleed and cramp and usually requires a surgical procedure because the cramping can cause hemorrhage. GIEBINK AFFIDAVIT, Exhibit 2 at ¶ 12. In one such case, a female who took too much misoprostol experienced extreme and life-threatening hemorrhaging and a lacerated cervix, which required an emergency hysterectomy to save the woman's life. GIEBINK AFFIDAVIT, Exhibit 2 at ¶ 13.

Therefore, risk assessments are necessary before undergoing a medication abortion because it is vital for patient safety to know blood type, rule out ectopic pregnancy, and confirm fetal age via ultrasound. GIEBINK AFFIDAVIT, Exhibit 2 at ¶ 14. Confirming fetal age is necessary because the rate of abortion medication failure or incomplete abortion reaches 38% in the second trimester. GIEBINK AFFIDAVIT, Exhibit 2 at ¶ 15. Confirming fetal age is also necessary because a fetus

is significantly larger at 14 weeks than at 10 weeks and is more difficult to expel, which increases risks associated with retained products of conception. GIEBINK AFFIDAVIT, Exhibit 2 at ¶ 16. Yet, despite these risks the abortion drug merchants whom Mayday sponsors and to whom Mayday directs women provide abortion medications to women in their second trimester with statements that they can be safely taken up to 14 weeks. GIEBINK AFFIDAVIT, Exhibit 2 at ¶ 18.

Since 2024, medication abortion incidents have become increasingly prevalent in South Dakota from women obtaining abortion pills online without appropriate risk assessments and then ingesting the pills at home without proper medical supervision. GIEBINK AFFIDAVIT, Exhibit 2 at ¶ 24. Alpha Center's experience challenges Mayday's unqualified message that medicinal abortion is safe.

- a. One case involved a male who had impregnated a patient and ordered abortion pills online. This individual slipped the pills into the patient's drink without her knowledge. The patient sought abortion pill reversal treatment after ingesting the mifepristone. GIEBINK AFFIDAVIT, Exhibit 2 at ¶ 25.a.
- b. In another case, a male ordered abortion pills online on behalf of a patient. This individual entered all the information required by the website and ordered the abortion pills, then gave them to the patient, who took them consensually. The patient sought post-abortion care at Alpha Center due to excessive blood loss. GIEBINK AFFIDAVIT, Exhibit 2 at ¶ 25.b.
- c. In another case, a patient purchased abortion pills through Aid Access, a pill merchant hosted on MAYDAY.HEALTH. The pills were sent to the patient's address in South Dakota. The patient contacted Alpha Center with questions about the pills before taking them. After consulting with Alpha Center medical staff, the patient opted not to take the pills. GIEBINK AFFIDAVIT, Exhibit 2 at ¶ 25.c.

- d. In another case, a minor patient who obtained abortion pills online without parental knowledge or consent took the pills and had to seek emergency medical care due to excessive blood loss. GIEBINK AFFIDAVIT, Exhibit 2 at ¶25.d.
- e. In another case, a patient obtained abortion pills from the MAYDAY.HEALTH-hosted provider Aid Access while 15 weeks pregnant. The FDA has not approved abortion pills for safe usage in pregnancies past 10 weeks gestation.<sup>5</sup> This patient ultimately elected to not take the abortion pills. GIEBINK AFFIDAVIT, Exhibit 2 at ¶¶ 17, 25.e.
- f. In another case, a 12-weeks pregnant patient took abortion pills acquired online and expelled the fetal tissue at home. One of the patient's relatives called with concerns about the patient's excessive blood loss. GIEBINK AFFIDAVIT, Exhibit 2 at ¶25.f.
- g. In two cases, patients were told by an abortion pill merchant to falsely report to medical staff that they were was experiencing a miscarriage if they needed emergency post-abortion medical care. GIEBINK AFFIDAVIT, Exhibit 2 at ¶25.g.
- h. In another case, a patient was given instructions by Aid Access to lie and say she was having a miscarriage in the event she sought emergency medical care after taking medicinal abortion pills. GIEBINK AFFIDAVIT, Exhibit 2 at ¶25.h.

These cases show that the number of patients seeking emergency care at the Alpha Center for adverse medical events related to abortion pills is increasing in South Dakota. GIEBINK AFFIDAVIT, Exhibit 2 at ¶26. These cases also show that abortion pills are increasingly being shipped into South Dakota via mail services, and this is made possible due in part to Mayday advertising on behalf of the pill merchants. GIEBINK AFFIDAVIT, Exhibit 2 at ¶27. Of

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<sup>5</sup> 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).

particular concern is Mayday's advice to women and teenaged girls to conceal that they have ingested the abortion pill if they need follow-up care for abortion complications. Misrepresenting to a physician that the patient is experiencing a miscarriage when in fact she is having a medical emergency secondary to abortion pill ingestion can lead to complications in treatment. GIEBINK AFFIDAVIT, Exhibit 1 at ¶25.i. In the face of these facts, Mayday cannot claim that the equities or public interest favor its misleading and life-threatening medical advice.

### **B. Commercial Decency Act**

Mayday cannot establish at this time that it is likely to succeed on the merits of its Commercial Decency Act (CDA230) defense. CDA230(c)(1) generally immunizes an "interactive computer service" (Service Provider) from third-party content published on its site. This immunity does not extend to an "internet content provider" (Content Provider). Importantly, a Service Provider can become a Content Provider, or be both, under CDA230 if it creates its own content in aid of the service it provides. *Doe 1 v. Twitter, Inc.*, 148 F.4th 635, 640 (4th Cir. 2025).

The erroneous premise of Mayday's CDA230 argument is that it is just a Service Provider. First, even if true, CDA230 only immunizes a Service Provider for the *third-party* content it hosts; it does not immunize a Service Provider for its *own* content. *Calise v. Meta Platforms*, 103 F.4th 732, 744 (9th Cir. 2024). Second, Mayday's website contains a great deal of content in aid of the service it provides to its third-party affiliates, which makes it both a Content and Service Provider. But it is not necessary at this juncture to determine if and to what extent Mayday is responsible for third-party content on its website because, as described in Kayla Klemann's affidavit, the content of Mayday's *own* website is enough to violate SDCL 22-3-3, 22-4A-1 and 22-17-5.3. KLEMANN AFFIDAVIT, Exhibit 1 at ¶¶ 15-34.

Imagine a woman approaching a real live Chatbot Charley on the corner of Mayday and Main Streets. She mentions she wants an abortion but "clinics aren't allowed to do abortions in

South Dakota.” KLEMANN AFFIDAVIT, Exhibit 1 at Exhibit MM. Chatbot Charley tells her this is not a problem, tells her she “still ha[s] options.” KLEMANN AFFIDAVIT, Exhibit 1 at Exhibit MM. Chatbot Charley tells the woman he can hook her up with a friend who provides abortion “pills to people . . . for \$150 or less.” KLEMANN AFFIDAVIT, Exhibit 1 at ¶ 31, Exhibit U. Chatbot Charley tells her that his friend will make these pills “available to [her]” and offers to introduce her to his friend so she can “get pills now.” KLEMANN AFFIDAVIT, Exhibit 1 at Exhibit NN, Q. Chatbot Charley takes the woman to his friend’s house. She walks up on the porch, knocks on the door while Chatbot Charley waits on the sidewalk. Chatbot Charley’s friend takes her money and gives her abortion drugs. Chatbot Charley never touches the drugs or the money. But if Chatbot Charley were a real live streetcorner drug pusher operating in this fashion, there would be no argument that he could be prosecuted for soliciting and facilitating a violation of SDCL 22-17-5.3. Legally, there is no distinction between the actions of the real Chatbot Charley and the virtual Chatbot Charley. So, since virtual Chatbot Charley is a figment of Mayday’s *own* content, not a third-party affiliate’s, Mayday is not likely to succeed on the merits of the we’re-just-a-Service-Provider component of its CDA230 defense. *Calise*, 103 F.4<sup>th</sup> at 744.

Moreover, there are facts which need to be developed which preclude any accurate current assessment of the likelihood of Mayday succeeding on the third-party component of its CDA230 defense. It is unknown at this time if and to what extent Mayday might collude with its affiliates and influence the content of their websites “in whole or in part,” which could render Mayday liable for the third-party content on its website. *Fair Housing Council of San Fernando Valley v. Roommates.com, LLC*, 521 F.3d 1157, 1167–1168 (9th Cir. 2008). Thus, in *National Association of the Deaf v. Harvard University*, 377 F.Supp.3d 49, 69 (D.Mass. 2019), a court denied summary judgment on Harvard’s assertion of a CDA230 defense where there were questions about whether Harvard was “not in some measures a content provider as to information on its platforms that

originate[d]” from affiliates. *Harvard University*, 377 F.Supp.3d at 69. There are other evidentiary questions raised by *Calise* and *Roommates.Com* concerning whether Mayday’s content is neutral or rather directed toward facilitating illegal preferences which may defeat the third-party component of its CDA230 defense. *Calise*, 103 F.4<sup>th</sup> at 746; *Roommates.com, LLC*, 521 F.3d at 1169. While Chatbot Charley alone suggests that it is not, as *Harvard University* found, it is “premature” at this point to assess Mayday’s likelihood of succeeding on the merits of the third-party component of its CDA230 defense. *Harvard University*, 377 F.Supp.3d at 69.

## CONCLUSION

Imagine placards in the state of South Dakota, at gas stations or grocery stores or other places in the public eye that read:

*They don't want  
you to know this:*  
**You can still get**  
**METHAMPHETAMINE**  
*in all 50 states*  
**LEARN MORE AT METHDAY.HIGH**

Then imagine that the purveyor of this advertisement’s website extolled the virtues of methamphetamine, mocked states for criminalizing it, promised to provide it regardless of its illegality, told the public who sells it and what it costs, and initiated mail-order drug transactions through links to out-of-state pushers. Would anyone seriously argue that such a racket does not illegally solicit and facilitate the sale of methamphetamine? The public, law enforcement, the courts would not sit still and allow such a racket to operate. The fact that the drug in question here is an abortion pill and not methamphetamine makes no difference; all that matters is that both drugs are illegal in South Dakota.

Mayday's "dissident" mentality has hatched a persecution complex where it believes South Dakota is "targeting" it for its beliefs on abortion. COMPLAINT, Docket 1 at ¶¶ 28, 30; INJUNCTION MEMORANDUM, Docket 4 at 3, 6, 8, 14, 18. One can look to the state's indifference toward groups who *legally* spread pro-abortion messaging in South Dakota to see that this is not true. The Justice Empowerment Network (JEN), like the advertisement in *Bigelow*, informs women where abortion is legal and even assists them with travel to states where abortion is legal. <https://www.jensd.org/>. Unlike Mayday, so far as the Attorney General is aware, JEN does not promote abortion pill usage in South Dakota or provide links to abortion pill providers to mail abortion drugs into the state or otherwise propose or facilitate any activity within South Dakota's borders that is illegal in South Dakota. The South Dakota Attorney General has taken no steps to enjoin JEN's *Bigelow*-protected activity on behalf of legal out-of-state abortions. Unlike JEN, Mayday's activity is not *Bigelow* protected.

Mayday has been "targeted" because Mayday alone solicits women and abortion drug merchants to violate SDCL 22-17-5.1 and -5.3 with the intent to disseminate, distribute and/or sell abortion drugs to produce an abortion in the state of South Dakota in violation of SDCL 22-4A-1. Mayday alone aids and abets women and abortion drug merchants in planning and committing the crimes of disseminating, distributing and/or selling abortion drugs to produce an abortion in the state of South Dakota in violation of SDCL 22-3-3. Mayday is not "targeted" because of some thoughtcrime stemming from its moral convictions, but because of its "in-your-face" solicitation and facilitation of illegal drug transactions and illegal abortions within South Dakota's borders. MS. ARTICLE, Exhibit 3. If Mayday had its way, its message would be plastered on gas pump placards, semi-tractor trailers, airplane banners, billboards and any other surface it could commandeer. MS. ARTICLE, Exhibit 3.

Mayday's motion for a preliminary injunction is bereft of any supporting authority. South Dakota's solicitation and facilitation statutes do not require that Mayday personally "sell, handle, provide, offer for sale, or distribute" abortion drugs or that it "charge money or receive valuable consideration" for doing so. As noted in *Williams*, "it would be an odd constitutional principle that permitted the government to prohibit offers to sell illegal drugs, but not offers to give them away for free." *Williams*, 553 U.S. at 299. Many crimes can be committed without the solicitor or aider and abettor getting his hands dirty. This court need only find that Mayday's "advertising" is integral to the commission of crimes in South Dakota to find that it solicits in violation of SDCL 22-4A-1 and aids and abets in violation of SDCL 22-3-3 and so is altogether unprotected. For this, this court need look no further than the Giebink affidavit to find proof of Mayday's integral role in importing abortion drugs into South Dakota. GIEBINK AFFIDAVIT, Exhibit 2 at ¶ 25.a-h. Indeed, according to the American Medical Association, Aid Access, no doubt via Mayday's website, has shipped hundreds of abortion pills into the Black Hills counties of Pennington, Lawrence, Meade, Fall River, Custer, Butte and Oglala Lakota and the east river counties of Minnehaha and Lincoln alone. *Telemedicine Under Shield Laws in the US*, JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION 2025;334;(15):1388-1390.doi:10.1001/jama.2026.11420, Exhibit 4. Mayday does not even pretend that it is not soliciting and facilitating criminal conduct, it is simply counting on the fact that it is peddling abortion drugs and not methamphetamine will procure it judicial license to skirt the laws of this state.

But Mayday's advertising, even according to its own authorities, is speech integral to illegal drug transactions and abortions. Accordingly, Mayday cannot possibly succeed on the

merits of its First Amendment or CDA claims. As applied to the facts here, Mayday's request for a preliminary injunction must be denied.

Dated this 16<sup>th</sup> day of June 2026.

**MARTY J. JACKLEY  
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UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

MAYDAY HEALTH and NANCY )  
TURBAK BERRY, )  
Plaintiffs, )  
v. )  
LARRY R. RHODEN, Governor for the )  
State of South Dakota, and MARTY J. )  
JACKLEY, Attorney General for the )  
State of South Dakota, in their official )  
capacities, )  
Defendants. )

4:24-CV-04096-CCT

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 August 9, 2017.
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 photograph of the advertisement is attached as Exhibit A.
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 of South Dakota. See Exhibit B.

6. In an updated press release issued on December 10, 2025, Mayday Health acknowledged that only fourteen gas stations throughout the state “will have abortion pill advertisements.” *See Exhibit B.*

7. The advertisements posted by Mayday Health directed South Dakota consumers to Mayday Health’s website at Mayday.Health. I accessed the Mayday Health website through the web address provided on the advertisement.

8. On the Mayday Health website, I learned the corporation solicited charitable donations from consumers and sold merchandise with a misleading statement regarding the availability of abortion pills “in all 50 states.” *See Exhibits C and D.*

9. On the Mayday Health website, it states that “[w]e are entirely funded by donations and merchandise sales[.]” *See Exhibit E.*

10. When I visited the Mayday Health website, the large headline on the main page read, “What do you need?” There were four clickable links to choose from on the main page: abortion, morning after pills, birth control, and gender-affirming care. *See Exhibit F.*

11. When I selected “abortion,” I was asked how long it had been since my last period. *See Exhibit G.*

12. When I selected “[l]ess than 12 weeks” since my last period on the Mayday Health website, I was directed to a screen that asked if I lived in a “red state” which was detailed on a map graphic below the question. *See Exhibit H.*

13. Once I selected the “red state” option, I was directed to a page that listed five separate abortion-inducing pill providers. See Exhibit I.

14. I accessed several of the direct links facilitated by the Mayday Health website to abortion pill providers, and the abortion pill providers were willing to send abortion pills through the mail to the State of South Dakota.

15. I accessed the Mayday Health website again on June 15, 2026, using the web address provided on the original Mayday Health advertisement contained in Exhibit 1.

16. In using the Mayday Health website, I noticed that a significant amount of content had been removed since the last time I had accessed the website.

17. This time when I visited the Mayday Health website, the large headline on the main page read, “What do you need?” There were four clickable links to choose from on the main page: abortion, morning after pills, birth control, and gender-affirming care. See Exhibit J.

18. When I selected “abortion,” I was taken to a new screen within the Mayday Health website that listed five separate abortion pill providers. See Exhibit J.

19. I accessed several of the direct links to abortion pill providers that were given to me by the Mayday Health website, and the abortion pill providers were willing to send abortion pills through the mail to the State of South Dakota.

20. I learned that the abortion pill providers were prescribing the abortion pills using telemedicine, which was confirmed by Mayday Health website's FAQs. *See* Exhibit K.

21. While I was using the Mayday Health website, I also noticed a chatbot stating its name was "Charley" and that it could help me get an abortion. *See* Exhibit J.

22. I engaged Charley and selected the English language. *See* Exhibit L.

23. Charley assured me our conversation was private and asked if I needed help with two options: 1) abortion info or 2) am I pregnant. *See* Exhibit L.

24. I selected abortion information, and Charley informed me there were two main types of abortion, pills and procedures, and assured me that both are "generally very safe and effective for ending a pregnancy." I clicked next. *See* Exhibit M.

25. Charley asked if I had already taken abortion pills in the past 30 days, and I responded no. *See* Exhibit O.

26. Charley asked me if I knew what type of abortion I was interested in and provided three options: 1) Get Started; 2) Pills; and 3) Procedure. I selected pills. *See* Exhibit P.

27. Next, Charley asked whether I wanted "a link to a telehealth provider to get pills now" or whether I wanted more information. I selected "Get Pills." *See* Exhibit Q.

28. Charley then told me that “abortion pills work best for people less than 13 weeks pregnant[,]” and asked about the date of my last period. I clicked “yes,” that I knew the date of my last period. *See Exhibit R.*

29. I told Charley that the date of my last period was January 1, 2026. Charley informed me that because I was “more than 13 weeks pregnant, pills may not be the best option” for me. I was given the option to get a link to find an abortion clinic, or to “go back.” *See Exhibit S.*

30. When I clicked the link to “go back[,]” I was still within the same chat session but taken back to the option where I could choose to get abortion pills again. I chose pills again. *See Exhibit T.*

31. I completed all steps again as before, but instead of entering the date of my last period as January 1, 2026; I entered the date of my last period as April 1, 2026. When I did this, I was still within the same chat session as when I had previously entered the earlier date of January 1, 2026. *See Exhibit U.*

32. Despite this obvious discrepancy, Charley referred me to Aid Access, an abortion pill provider. Charley informed me that Aid Access, an abortion pill provider, “ships pills to people in all 50 states for \$150 or less.” *See Exhibit U.*

33. My interaction with the Charley chatbot occurred all while I was on the Mayday Health Website.

34. I accessed Aid Access, the direct link facilitated by the Mayday Health website through chatbot, and Aid Access was willing to send abortion pills through the mail to the State of South Dakota.

35. Abuzz is an abortion pill provider to which Mayday Health directs consumers. See Exhibit K.

36. 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 V.

37. After South Dakota is selected, an advisement is revealed that purports to provide “information about the potential legal risks of getting abortion pills by mail” in the State of South Dakota. See Exhibit W.

38. 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](http://plancpills.org). See Exhibit X.

39. 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 Y.

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

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

42. 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 or that is illegal to use tele-medicine to complete an abortion. *See Exhibit BB.*

43. On Aid Access’s “Is it Legal” FAQs, the website directs consumers to declarations made by the World Health Organization, instead of providing accurate information – that abortion is illegal in the State of South Dakota unless medically necessary to save the life of the mother. In fact Aid Access informed that “[p]eople needing and having abortions in the USA are not breaking the law in any state.” *See Exhibit CC.*

44. The Mayday Health website contains claims that “abortion pills are safe [and] effective during the first 12 weeks of pregnancy.” *See Exhibit DD.*

45. 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 DD.*

46. 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 EE.

47. On June 16, 2026, I accessed the Mayday Health website again, using the web address provided on the original Mayday Health advertisement contained in Exhibit 1.

48. Once again, I observed a chatbot stating its name was “Charley” and that it could help me get an abortion. See Exhibit FF.

49. I engaged Charley and selected the English language. See Exhibit GG.

50. Charley assured me our conversation was private and asked if I needed help with two options: 1) abortion info or 2) am I pregnant. See Exhibit HH.

51. I selected abortion information, and Charley informed me there were two main types of abortion, pills and procedures, and assured me that both are “generally very safe and effective for ending a pregnancy.” I clicked next. See Exhibit II.

52. Charley asked if I had already taken abortion pills in the past 30 days, and I responded no. Charley next asked me if I knew what type of abortion I was interested in and provided three options: 1) Get Started; 2) Pills; and 3) Procedure. I selected “Get Started.” Charley then asked me about the first day of my last period. See Exhibit JJ.

53. I told Charley the first day of my last period was on May 1, 2026. Charley told me that, based on this date, I was likely “6 weeks and 4 days pregnant.” I was given three options to choose from next: 1) Continue; 2) Learn More; and 3) Change Answer. Changing the answer permitted me to change the date of my last period until it fell within the acceptable date range to receive abortion pills by mail. See Exhibit KK; see also Exhibits S, T, and U.

54. When I selected Continue, Charley told me “abortion options will depend on which location” I am at and asked me to type in my location. See Exhibit LL.

55. I entered that I was located in Rapid City, South Dakota. Charley told me “clinics aren’t allowed to do abortions in South Dakota[,]” but that I “still have options[.]” I was given the option to “Continue” or “Change location[.]” See Exhibit MM.


56. I chose “Continue[.]” After establishing that I wanted to use an abortion provider in a “US State Only[,]”, I was informed that abortion pills were available to me. See Exhibit NN.

57. Based on the facts I learned during my investigation, I believe Mayday Health is violating the following laws:

- a. SDCL 22-17-5.1. Procurement of abortion prohibited--Exception to preserve life of pregnant female--Felony.
- b. SDCL 22-17-5.3. Dispense or advertise abortion-inducing article--Criminal penalty.

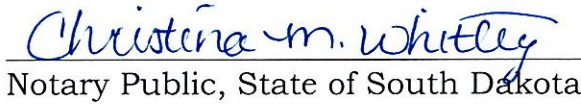
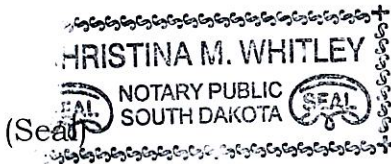
- c. SDCL 36-4-8. Practice of medicine or medical abortion--Severity of crimes.
- d. SDCL 22-3-3. Aiding, abetting or advising--Accountability as principal.
- e. SDCL 22-4A-1. Criminal solicitation--Penalty.
- f. SDCL 22-3-8. Conspiracy to commit offense--Punishment.
- g. SDCL 37-24-6. Deceptive act or practice--Penalty.

Dated this 16th day of June, 2026.



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

Subscribed and sworn to before me this 16th day of June, 2026, at Pierre, South Dakota.

  
Notary Public, State of South Dakota

My Commission expires: 11-16-2030

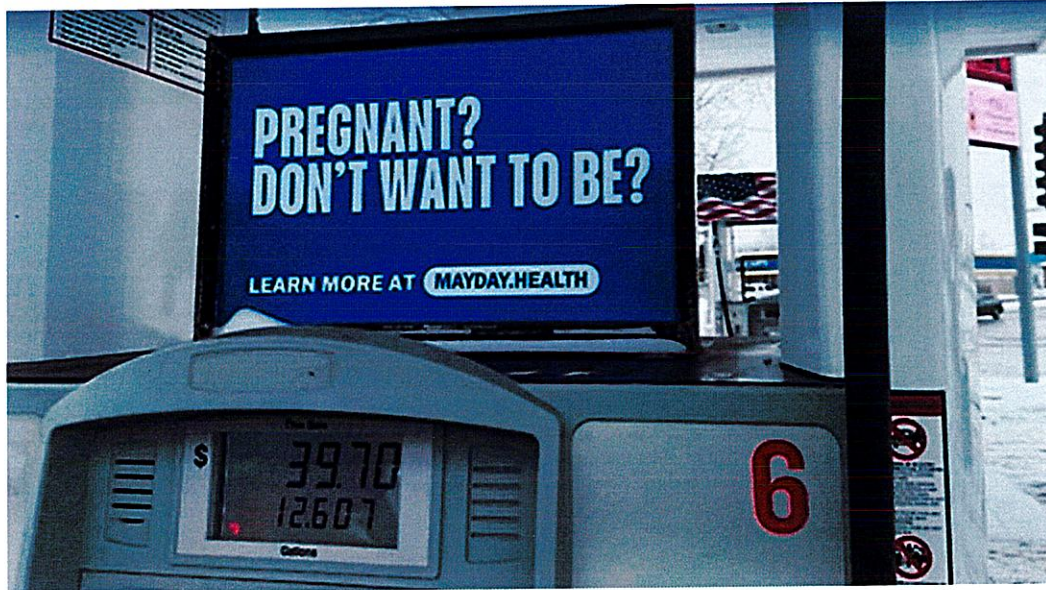


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DIVISION OF CRIMINAL INVESTIGATION  
OFFICE OF ATTORNEY GENERAL  
GEORGE S. MICKELSON CRIMINAL JUSTICE CENTER  
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Law Enforcement Training  
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20257112NR-001 - Digital Photo - 20257112  
advertisement

Printed on June 13, 2026



20257112 advertisement

Comments:  
Subjects:



**WEATHER ALERT**

Air Quality Alert: Dawes County



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

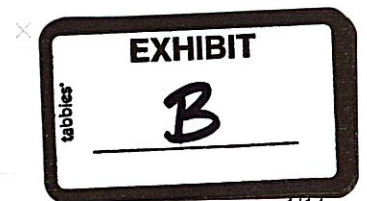
SHARE    

*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.



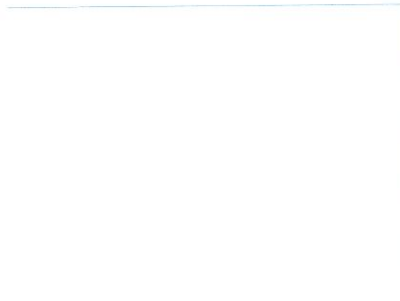


**Kristi Noem responds to replacement rumor >**

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.

ADVERTISEMENT

"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.

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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:

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**Brookings**

Classic Corner

Schoon’s Pump ‘n Pak

**Sioux Falls**

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King's Liquor, Cliff Avenue

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Local on E Marson Dr.

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**Colome:** Flying D

**Mitchell:** KWIK Phil

**Rapid City:** Rushmore Sinclair

**Springfield:** Luke Repair

**Summerset:** The Pit Stop

**Vermillion:** Pump 'n Pak

**Wagner:** Gus Stop

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**Next story in 5**

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## 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

Donate Today!

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.



Home All Products

MAYDAY.HEALTH



USD ▾



Home » Store » "They Don't Want You To Know This" Hoodie



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

\$40.00

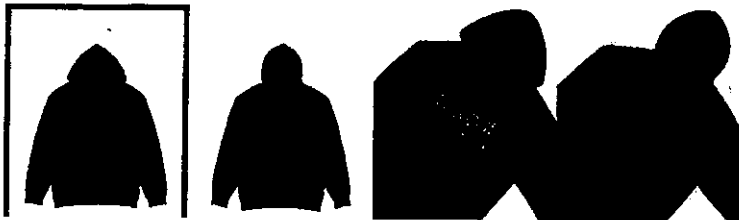
This high-quality outdoor classic is a steal! It features a double-lined hood and comes in colors for any adventure.

- 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 ▾

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MAYDAY.HEALTH



## MAYDAY IS A 501(C)(3) EDUCATION NONPROFIT.

We are entirely funded by donations and merchandise sales, so your support will help empower people with the education they need to make informed choices about their own bodies and learn how to access abortion pills through the mail in all 50 states.

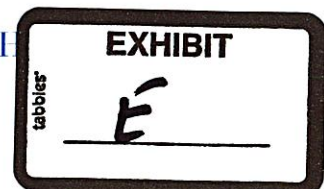
## HOODIES



"All 50 States" Map Cream Hoodie



"All 50 States" Map Black Hoodie



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# 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](#).



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**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](#).

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# 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.](#)

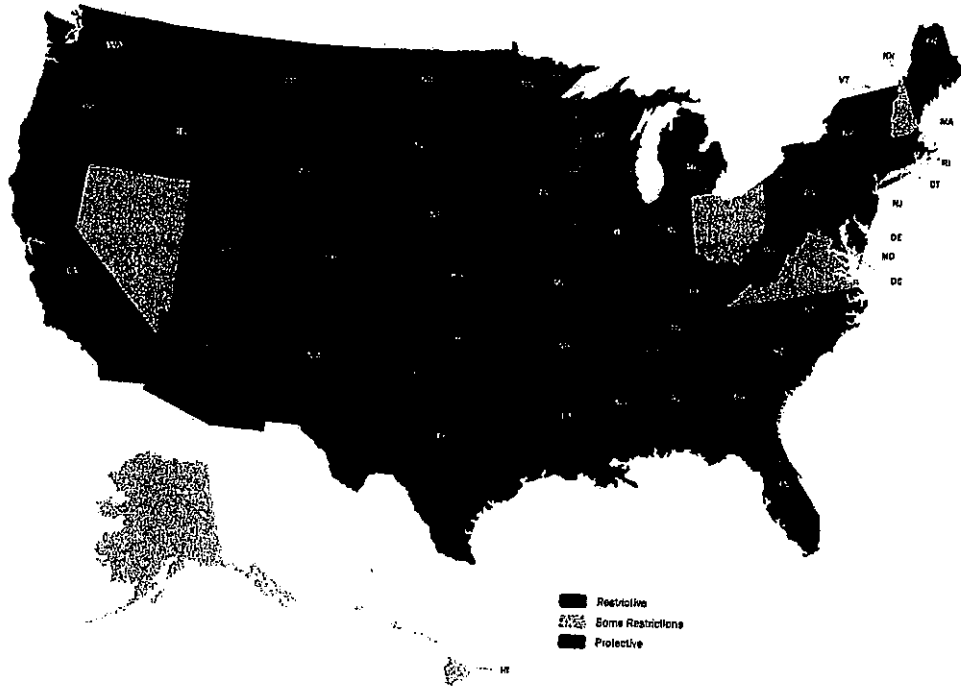
Yes

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.





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

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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?**



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# What do you need?

Abortion

Morning after pills

Birth Control

Gender-Affirming Care

Did you know you can proactively order abortion you're not currently pregnant? Click [here](#) for r

Interested in the abortion procedure instead?

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.



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# Mayday is a reproductive health education nonprofit

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**Our Mission**

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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.

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**Abortion decision support**



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**Abortion pill FAQs**



Plan C

---

**What to expect**



---

**Financial support**



---

**Questions on logistics/delivery times/support while waiting**



---

**Online/phone medical support**



---

**In-person medical support**



Will medical staff know if I've used abortion pills?

Abortion Finder

I Need an A

**Emotional support**



**Legal support**



**Privacy support**



**Reproductive Justice**



**State-by-state guide to pills**



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**MPB**  
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Mayday Medicines, Inc. 767 Broadway #1555 New York, New York 10003

For media inquiries only:  
media@mayday.health



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# Order from:

## Abuzz

SHIPS TO SELECT STATES

COST: SLIDING SCALE

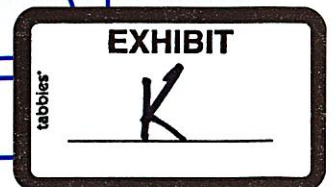
DELIVERY WITHIN 5 DAYS

## The MAP

SHIPS TO ALL 50 STATES

COST: SLIDING SCALE

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.



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

## Aid Access\*

Aid Access is experiencing longer delivery times than usual

SHIPS TO ALL 50 STATES

COST: SLIDING SCALE

DELIVERY WITHIN 5 DAYS



# FAQs

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

Shield laws offer protection for doctors, nurses and other practitioners in abortion-friendly states who prescribe and send abortion pills to people living in other states that ban or severely restrict abortion. In many states, these laws protect prescribers and patient data, helping patients in other states access abortion pills online from the prescribers. For more information on shield law prescribers, visit the [Abortion Coalition for Telemedicine](#).

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

## Want more information and other ways to get pills?

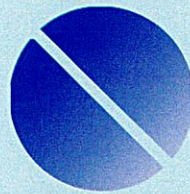
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# Info on digital privacy, legal concerns, and medical questions

**Privacy Guide**

**Medical Hotline**

**Legal Helpline**







02:53

# Mayday Videos

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# Mayday Featured

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# What do you need?

All

Morning

Birth

Gender-A

Did you know you can proa  
you're not currently preg

Interested in the abortio



Charley  
Online



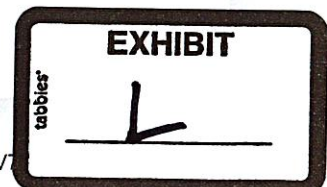
Charley

Hi, I'm Charley! Please choose a language.

¡Hola, mi nombre es Charley! Por favor  
elige un idioma.

English

Español



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# What do you need?

Am I pregnant?

Morning sickness

Birth control

Gender-affirming care

Did you know you can proa you're not currently preg

Interested in the abortio



Charley  
Online

Charley

Thanks!

🗨️ Anything you tell me here is private, secure, and anonymous. If you close this chat window, the conversation will restart from the beginning.

We can talk as much as you need, but most conversations take 15-20 minutes.

You

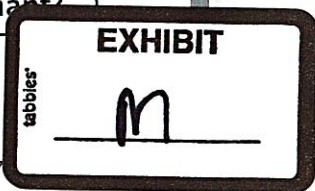
Next

Charley

What do you need help with?

Abortion info

Am I pregnant?



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# What do you need?

All

Morning

Birth

Gender-A

Did you know you can proa  
you're not currently preg  
Interested in the abortio



Charley  
Online



Next

Charley

What do you need help with?

You

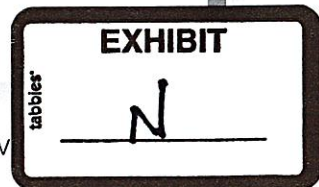
Abortion info

Charley

Okay. There are two main types of abortion: abortion pills and abortion procedures.

Both are generally very safe and effective for ending a pregnancy. I can help you choose which type of abortion and how to get care.

Next



This site collects zero data that could identify a visitor.

MAYDAY.HEALTH



# What do you need?

All

Morning

Birth

Gender-A

Did you know you can proa  
you're not currently preg  
Interested in the abortio

 **Charley**  
Online

Charley

Okay. There are two main types of abortion: abortion pills and abortion procedures.

Both are generally very safe and effective for ending a pregnancy. I can help you choose which type of abortion and how to get care.

You

Next

Charley

Or, if you have already taken abortion pills, I can give you some resources to help. Have you taken abortion pills in the past month (30 days)?

Yes No

**EXHIBIT**  
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# What do you need?

All

Morning

Birth

Gender-A

Did you know you can proa you're not currently preg

Interested in the abortio

Charley Online

Next

Charley

Or, if you have already taken abortion pills, I can give you some resources to help. Have you taken abortion pills in the past month (30 days)?

You

No

Charley

Okay. If you already know which type of abortion you're interested in, choose it below.

If you're not sure yet, click "get started".

Get started Pills Procedure



This site collects zero data that could identify a visitor.

MAYDAY.HEALTH



# What do you need?

All

Morning

Birth

Gender-A

Did you know you can proa  
you're not currently preg  
Interested in the abortio

**Charley**  
Online

abortion you're interested in, choose it below.

If you're not sure yet, click "get started".

You

Pills

Charley

Do you want a link to a telehealth provider to get pills right now?

Or would you like more information about how abortion pills work?

Which type of abortion is best for you will depend on where you live, how long you have been pregnant, and other things I can explain to help you choose.

Get Pills    More Info

EXHIBIT  
Q

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MAYDAY.HEALTH



# What do you need?

All

Morning

Birth

Gender-A

Did you know you can proa you're not currently preg

Interested in the abortio



Charley

Online



📌 Do you want a link to a telehealth provider to get pills right now?

🤔 Or would you like more information about how abortion pills work?

⚠️ Which type of abortion is best for you will depend on where you live, how long you have been pregnant, and other things I can explain to help you choose.

You

Get Pills

Charley

Okay. Abortion pills work best for people less than 13 weeks pregnant. Do you know the date of your last period?

Yes

I'm not sure

EXHIBIT

tabbies

R

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MAYDAY.HEALTH



# What do you need?

All

Morning

Birth

Gender-A

Did you know you can proa  
you're not currently preg  
Interested in the abortio



Charley  
Online



1/1/2026

Charley

Based on your answer, you're likely 23 weeks and 4 days pregnant.

If you are more than 13 weeks pregnant, pills may not be the best option for you. But you may still be able to get an abortion procedure.

Would you like a link to a website where you can find a clinic near you to talk through your options, including abortion procedures?

Or would you like to go back and learn more about the different types of abortion?

Get link

Go back

EXHIBIT

5

tabbles

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MAYDAY.HEALTH



# What do you need?

- All
- Morning
- Birth
- Gender-A

Did you know you can proa  
you're not currently preg

Interested in the abortio

**Charley**  
Online

×

Would you like a link to a website where you can find a clinic near you to talk through your options, including abortion procedures?

Or would you like to go back and learn more about the different types of abortion?

You

Go back

Charley

Okay. If you already know which type of abortion you're interested in, choose it below.

If you're not sure yet, click "get started".

Get started
Pills
Procedure

**EXHIBIT**

T

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MAYDAY.HEALTH



# What do you need?

Allergies

Morning sickness

Birth control

Gender-Affirmation

Did you know you can proa you're not currently preg

Interested in the abortio



Charley  
Online



You

4/1/2026

Charley

Based on your answer, you're likely 10 weeks and 5 days pregnant.

This result is less accurate if you have irregular periods, were recently pregnant or are breastfeeding, or have been taking birth control in the last few months.

Here's a website you can use to get abortion pills. AidAccess ships pills to people in all 50 states for \$150 or less.



EXHIBIT

tabbles

u

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MAYDAY.HEALTH



# What do you need?

All

Morning

Birth

Gender-A

Did you know you can proa you're not currently preg

Interested in the abortio



Charley

Online



AidAccess

Get FDA-approved abortion pills from licensed medical providers online now.

Visit website

There are steps you can take to protect your privacy. When using a shared computer or phone, some people who don't want others to know they looked at abortion information, remove the page from their browser history or use "incognito" or private browsing to look at abortion information. Visit [reprolegalhelpline.org/internet-safety/](https://reprolegalhelpline.org/internet-safety/) to learn more.

Got it

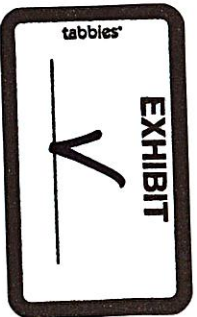
Learn more

Please select your state. \*

South Dakota ▼

← PREVIOUS

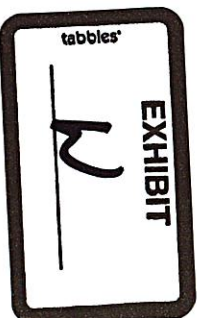
NEXT →



### 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 →



Stay safe: Read our digital privacy tips

Quick Exit



Español



# How people get abortion pills online in every state

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

[Finding abortion pills](#)

[About abortion pills](#)

[Using abortion pills](#)

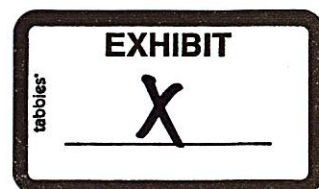
[Legal and safety considerations](#)

## 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



# 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](https://reprolegalhelpline.org)  
(844) 868-2812

Ineedana.com also has a [state legal directory](#).

## How do people get into trouble?



### 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](#).

## 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  
3

**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

Feedback

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)(1) of the FD&C Act (21 U.S.C. § 352(f)(1)) 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)(1) of the FD&C Act (21 U.S.C. § 353(b)(1)), 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)(1)(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)(1) 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)(1) 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 reviewing 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 [FDANetPharmacyTaskForce-CDER@fda.hhs.gov](mailto:FDANetPharmacyTaskForce-CDER@fda.hhs.gov) (mailto:FDANetPharmacyTaskForce-CDER@fda.hhs.gov).

Sincerely,

485

/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)

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- 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?

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## 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:

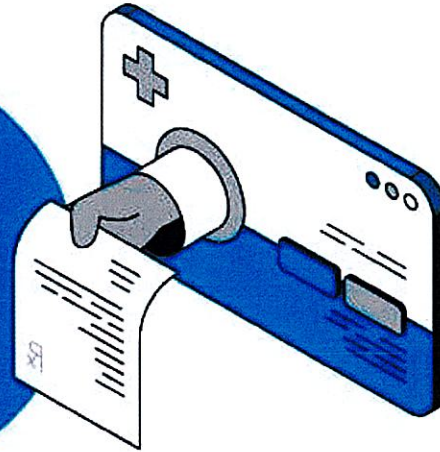
- South Dakota abortion pill online orders costs \$150 USD
- Reliable abortion pill shipping to South Dakota in 1-5 days
- Tracking numbers provided when the pills are mailed
- Help desk support available in English and Spanish



# How to get an abortion pill in South Dakota

## 1 Submit our online consultation form

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



## 2 Our doctors will review your order

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

## 3 Receive pills by mail in 1-5 days

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





AidAccess

## 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 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](http://reprolegalhelpline.org).

### International Situation

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

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."<sup>[2]</sup>

## 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."<sup>[3]</sup>

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."<sup>[4]</sup>

## 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."<sup>[5]</sup>

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/](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>

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**MAYDAY.HEALTH**



# Frequently Asked Questions

**What if I'm concerned about the cost?**



**What is my legal risk?**



**Are abortion pills safe?**



According to the World Health Organization, abortion pills are safe and effective in the first 12 weeks of pregnancy. If you are 12 weeks more pregnant we link to [inedana](#), a trusted source which has information on abortion procedures and care after 12 weeks.

**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.



# Mayday Videos



## Mayday Featured

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# MAYDAY.HEALTH

Mayday Medicines, Inc. 767 Broadway #1555 New York, New York 10003

For media inquiries only:  
[media@mayday.health](mailto:media@mayday.health)



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# 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.



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**MAYDAY.HEALTH**

# What do you need?

**Abortion**

**Morning after pills**

**Birth Control**

**Gender-Affirming Care**

Did you know you can proactively order abortion you're not currently pregnant? Click [here](#) for r

Interested in the abortion procedure instead?

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.



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# What do you need?

All

Morning

Birth

Gender-A

Did you know you can proa  
you're not currently preg

Interested in the abortio



**Charley**  
Online



Charley

Hi, I'm Charley! Please choose a language.

¡Hola, mi nombre es Charley! Por favor  
elige un idioma.

English

Español



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**MAYDAY.HEALTH**

# What do you need?

Am I pregnant?

Morning After Pills

Birth Control

Gender-Affirming Care

Did you know you can proa  
you're not currently preg

Interested in the abortio

 **Charley**  
Online



Charley

Thanks!

🗣️ Anything you tell me here is private, secure, and anonymous. If you close this chat window, the conversation will restart from the beginning.

We can talk as much as you need, but most conversations take 15-20 minutes.

You

Next

Charley

What do you need help with?

Abortion info

Am I pregnant?

**EXHIBIT**

tabbles

**HH**

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**MAYDAY.HEALTH**

# What do you need?

Abortion

Morning

Birth

Gender-A

Did you know you can proa you're not currently preg

Interested in the abortio



**Charley**  
Online



Next

Charley

What do you need help with?

You

Abortion info

Charley

Okay. There are two main types of abortion: abortion pills and abortion procedures.

Both are generally very safe and effective for ending a pregnancy. I can help you choose which type of abortion and how to get care.

Next

**EXHIBIT**

tabbies  
II

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# What do you need?

AI

Mornin

Birtl

Gender-A

Did you know you can proa  
you're not currently preg

Interested in the abortio

 **Charley**  
Online

Charley

Okay. If you already know which type of abortion you're interested in, choose it below.

If you're not sure yet, click "get started".

Charley

Alright, let's get started.

Do you know the first day of your last period?

Yes I'm not sure



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# What do you need?

AI

Mornin

Birt

Gender-A

Did you know you can proa you're not currently preg

Interested in the abortio

Charley Online

You

Yes

Charley

Select the date of the first day of your last period

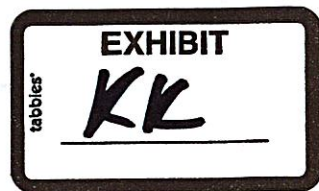
Select date

You

5/1/2026

Charley

Based on your answer, you're likely 6 weeks and 4 days pregnant.



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# What do you need?

Al


Mornin


Birt

Gender-A

Did you know you can proa you're not currently preg

Interested in the abortio





**Charley**  
Online

Based on your answer, you're likely 6 weeks and 4 days pregnant.

This result is less accurate if you have irregular periods, were recently pregnant or are breastfeeding, or have been taking birth control in the last few months.

Some states have laws that restrict abortion past a certain point in pregnancy. Knowing how far along the pregnancy is (or "gestational age") will help me understand what abortion options are available, and how soon an abortion may be needed.

If you'd like to learn more, I can explain why gestational age is important for your abortion options.

Continue
Learn more

Change answer

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# What do you need?

AI

Morning

Birth

Gender-A

Did you know you can proa you're not currently preg

Interested in the abortio

 **Charley**  
Online

abortion may be needed.

If you'd like to learn more, I can explain why gestational age is important for your abortion options.

You  
Continue

Charley

Okay, let's continue.

Your abortion options will depend on which location you're searching.

Where would you like to search? Please type in the city and state, or zip code. 🤗  
This information is private and secure.

Type your message here



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# What do you need?

Are you currently pregnant?

Where would you like to search?

What is your birth date?

What is your gender?

Did you know you can proa you're not currently preg

Interested in the abortio

 **Charley**  
Online

✕

Your abortion options will depend on which location you're searching.

Where would you like to search? Please type in the city and state, or zip code. 🤔  
This information is private and secure.

You

Rapid City, SD

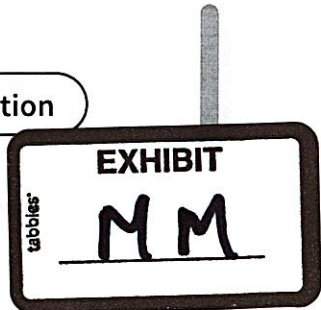
Charley

Gotcha, thanks.

Currently, clinics aren't allowed to do abortions in South Dakota. But don't worry! You may still have options, and I can help.

Continue

Change location



This site collects zero data that could identify a visitor.



# What do you need?

All

Morning

Birth

Gender-A

Did you know you can proa you're not currently preg

Interested in the abortio

Charley Online

Gotcha, thanks.

Currently, clinics aren't allowed to do abortions in South Dakota. But don't worry! You may still have options, and I can help.

You

Continue

Charley

Some states make exceptions to abortion restrictions based on medical necessity, emergencies, or some legal situations. These cases are rare, but if you think this sounds like you, I can tell you more.

This is not me

Learn more



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# What do you need?

AI

Mornin

Birt

Gender-A

Did you know you can proa you're not currently preg

Interested in the abortio

Charley Online

You

This is not me

Charley

In addition to traveling to another state, you could also travel outside the United States if you have a passport and can afford to do so. This could include Canada or Mexico. Or, if you travel to Puerto Rico, you don't need a passport.

Many people travel to these places for abortions because of cost, privacy, or ease, depending on where you live.

Would you like me to include these providers as we continue? Or do you only want to see US state-based providers?

Intl. & Puerto Rico US states only

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# What do you need?

AI

Mornin

Birt

Gender-A

Did you know you can proa you're not currently preg

Interested in the abortio

Charley Online

You

US states only

Charley

Okay, great.

There are two types of abortion care available to you.

Type 1/2:

Abortion pills:

Abortion pills can either be two pills (mifepristone and misoprostol) or misoprostol alone. You can take abortion pills on your own time at home or wherever you are comfortable to end a pregnancy. It can take anywhere from a few hours to a few days for the abortion to be complete.

Abortion pills work best in the first 13

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**MAYDAY.HEALTH**

# What do you need?



**Charley**  
Online



Abortion pills

Morning After Pills

Birth Control

Gender-Affirming Care

## Abortion pills:

Abortion pills can either be two pills (mifepristone and misoprostol) or misoprostol alone. You can take abortion pills on your own time at home or wherever you are comfortable to end a pregnancy. It can take anywhere from a few hours to a few days for the abortion to be complete.

Abortion pills work best in the first 13 weeks of pregnancy. Using pills after 13 weeks can be more painful and less effective. The risk of medical problems also goes up the longer someone is pregnant. Many providers only offer pills up to 10 or 12 weeks.

People can get abortion pills at a clinic, or they can be prescribed online and sent in the mail.

Did you know you can proa you're not currently preg

Interested in the abortio

Next

**UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA**

**MAYDAY HEALTH and NANCY TURBAK  
BERRY,**

*Plaintiffs,*

v.

**LARRY R. RHODEN, Governor for the State  
of South Dakota, and MARTY J. JACKLEY,  
Attorney General for the State of South Dakota,  
in their official capacities,**

*Defendants.*

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4:26-cv-04096-CCT

**AFFIDAVIT OF DR. PATRICIA GIEBINK**

Affiant, Dr. Patricia Giebink, Doctor of Obstetrics-Gynecology, having been duly sworn upon her oath, states as follows:

1. Affiant is a Medical Doctor specializing in Obstetrics and Gynecology in the State of South Dakota.
2. Affiant graduated with a Doctorate of Medicine from the University of South Dakota Medical School in 1987.
3. Affiant completed a medical residency at the University of Indiana Medical Center in Indianapolis in 1991.
4. Affiant became a licensed physician in 1991 specializing in Obstetrics and Gynecology.
5. Affiant has worked as an OBGYN in private medical practice, and at Sanford Mid Dakota Hospital, the Brookings Health Center, Madison Community Hospital, Sanford Chamberlain Medical Center, and other rural hospitals from 1991-2020.
6. Affiant has also worked as an OBGYN overseas.
7. Affiant worked as a Gynecologist at Planned Parenthood South Dakota from 1995-97 and performed thousands of surgical abortions in the State of South Dakota.
8. Affiant has extensive professional experience in performing risk assessments prior to abortion procedures to avoid serious and potentially fatal outcomes. Affiant also has extensive training and experience in the potentially fatal complications of abortion procedures, including medication abortion.



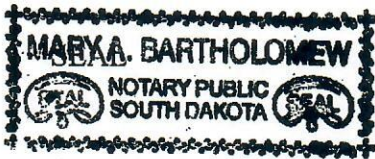
9. Medication abortion involves taking mifepristone to bind to a woman's progesterone receptors, which results in fetal death. Then misoprostol is taken to induce cramping and expel the deceased fetal tissue.
10. One risk of medication abortion is serious and potentially fatal infections.
11. Another risk of medication abortion is that taking abortion pills can lead to excessive vaginal bleeding, which can be so severe that emergency medical treatment and blood transfusions are needed to save a patient's life.
12. Further risks of medication abortion include retained tissue and incomplete abortion. This causes the uterus to bleed and cramp and usually requires a surgical procedure because the cramping can cause hemorrhage.
13. For example, in my overseas OBGYN practice, I administered emergency treatment to a patient with intrauterine fetal demise who had taken misoprostol to expel the deceased fetal tissue. Too much misoprostol had been administered and the patient's bleeding was extreme and life threatening. The patient suffered a lacerated cervix, and I had to perform an emergency hysterectomy to save the patient's life.
14. Risk assessments are necessary before medication abortion because it is vital for patient safety to know blood type, rule out ectopic pregnancy, and confirm fetal age via ultrasound.
15. Confirming fetal age is necessary because the rate of abortion medication failure, or incomplete abortion, reaches 38% in the second trimester.
16. Confirming fetal age is necessary because a fetus is significantly larger at fourteen weeks gestation than at ten weeks gestation and is more difficult to expel. This increases the risk of retained products of conception.
17. The FDA has not approved abortion medication for safe usage beyond 10 weeks gestation.
18. Affiant's review of Mayday Health's website shows its affiliate abortion pill merchants provide abortion medication in the second trimester and with statements that they can be safely taken up to fourteen weeks.
19. Affiant's review of Mayday Health's website and its affiliate providers is that they are not giving information on risk factors associated with abortion medication, screening for ectopic pregnancy, providing any type of ultrasound to confirm fetal age, confirming patient blood type, or obtaining informed consent before providing abortion pills.

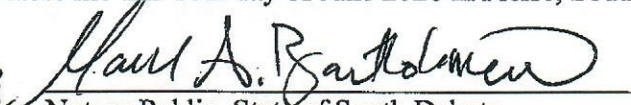
20. Affiant has served on the Board of Directors at the Alpha Center in Sioux Falls since 2011 and since the founding of Mayday Health in 2024.
21. The Alpha Center is a non-profit healthcare facility and clinic that provides pregnancy testing, ultrasounds, and STI testing for women experiencing unplanned pregnancies.
22. The Alpha Center also provides post-abortion care for women who have undergone an abortion procedure, including medication abortion.
23. The Alpha Center also provides medical information to pregnant women considering abortion, including medication abortion.
24. Since 2024, medication abortion incidents have become increasingly prevalent in Alpha Center cases, where the patient obtains the abortion medication online without appropriate risk assessments and then ingests the pills at home without medical supervision.
25. Alpha Center records document complications from such cases since 2024.
  - a. One case involved a male who had impregnated a patient and ordered abortion medication online. This individual slipped the abortion medication into the patient's drink without her knowledge. The patient sought abortion pill reversal treatment after ingesting the mifepristone.
  - b. In another case, a male ordered abortion medication online on behalf of a patient. This individual entered all the information required by the website and ordered the abortion medication, then gave it to the patient, who took the medication consensually. The patient contacted the Alpha Center concerning extreme blood loss.
  - c. In another case, a patient purchased abortion medication through Aid Access, an abortion pill merchant hosted on mayday.health. The medication was sent to the patient's address in South Dakota. The patient contacted the Alpha Center with questions about the abortion medication before taking it. After consulting with Alpha Center medical staff, the patient opted not to take the abortion medication.
  - d. In another case, a minor patient who obtained abortion medication online without parental knowledge or consent took the medication and had to seek emergency medical care due to excessive blood loss.
  - e. In another case, a patient ordered abortion medication from the mayday.health-hosted provider Aid Access while 15 weeks pregnant. This patient ultimately elected to not take the abortion medication.

- f. In another case, a 12-weeks pregnant patient took abortion pills acquired online and expelled the fetal tissue at home. One of the patient's relatives called with concerns about the patient's excessive blood loss.
  - g. In two other cases, patients who contacted the Alpha Center were told by an abortion pill provider to lie about their condition if they sought emergency abortion aftercare by claiming to be experiencing a miscarriage.
  - h. In another case, a patient was given instructions by Aid Access to lie and say she was having a miscarriage in the event she sought emergency medical care after taking abortion pills.
  - i. Misrepresenting to physicians that one is experiencing a miscarriage when in fact they are having a medical emergency from taking abortion medication that can lead to complications in treatment.
26. These cases are related to the increase in the number of patients seeking emergency assistance from the Alpha Center for adverse medical events related to abortion medication in South Dakota.
27. These cases also show that abortion medication is increasingly being shipped into South Dakota via mail services, and this is made possible in part by Mayday Health's attempts to facilitate abortion pill availability in South Dakota.

  
Dr. Patricia Giebiak

Subscribed and sworn to before me this 10th day of June 2026 in Pierre, South Dakota.

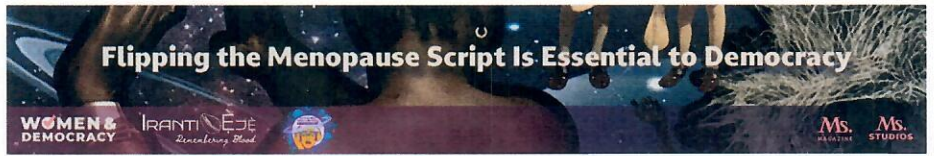


  
Notary Public, State of South Dakota  
My Commission expires: 9-5-2026

TRENDING: Abortion Texas College Epstein Birth Control  
FEMINIST 250 'Banned!' Series Masculinity



# Ms.



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HEALTH, JUSTICE & LAW, NATIONAL, POLITICS

# Billboards, Trucks, Gas Pumps, Newspapers and Even a Boat: Mayday Health Advertises How to Access Abortion Pills Across the South and Midwest

PUBLISHED 8/22/2025 by **CARRIE N. BAKER**

Boston-based [Mayday Health](#)'s in-your-face defiance of threats from red-state governors has ratcheted up in recent months. Mayday shares information on to access abortion pills in all 50 states, with the goal to "empower people to make their own informed decision about their own bodies."

Taunting Ron DeSantis and Florida Republicans, Mayday is currently sailing a boat in the Gulf of Mexico along the beaches




FEMINIST DAILY NEWS


## Public Support for Same-Sex Marriage Falls From Recent Highs

## House Rejects Bill to Advance Plans to Construct American Women



from St. Pete's to Clearwater for the month of August advertising mifepristone and misoprostol.

 **mayday.health and agirlhasnopresid...**  
Tampa Florida View profile



[View more on Instagram](#)

2,298 likes

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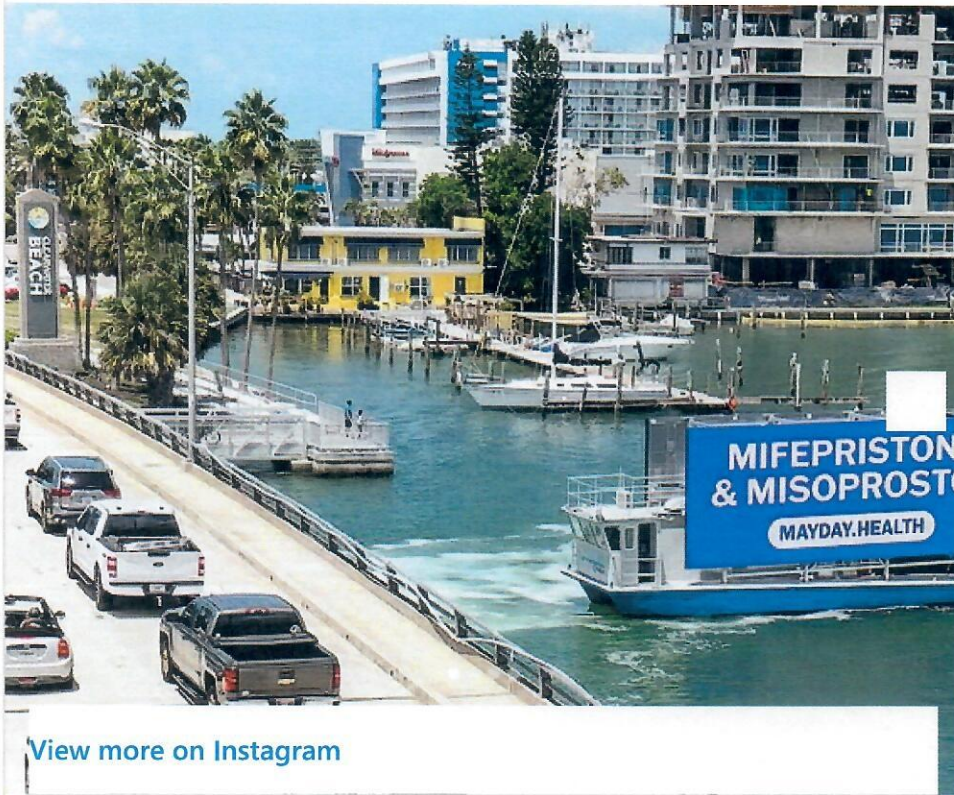
## What the PCOS-PMOS Rebrand Tells Us About the State of Women's Health Research

## What the 'Wicked' Weight-Loss Discourse Gets Wrong



 **mayday.health**  
Tampa, Florida

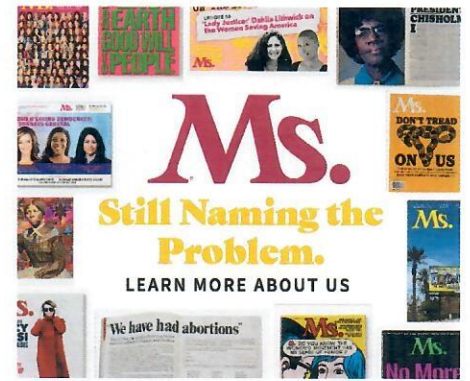
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**Get your birth control prescription ONLINE!**

AS LOW AS **\$7**/pack

Use our online doctor consults to get your customized prescription from our expert doctors.

[BUY NOW](#)

**pandia health**

FREE COODIES FREE DELIVERY EXPERT DOCTORS

In West Virginia, Kentucky and Texas, Mayday recently began running over 120 abortion pill ads at gas stations in rural communities all over these states. On Instagram, they posted: "Just touched down in WV and KY—we'll be here this week talking to folks affected by abortion bans. Shoot us a DM if you are in the area and want to meet up!"



# West Virginia Watch

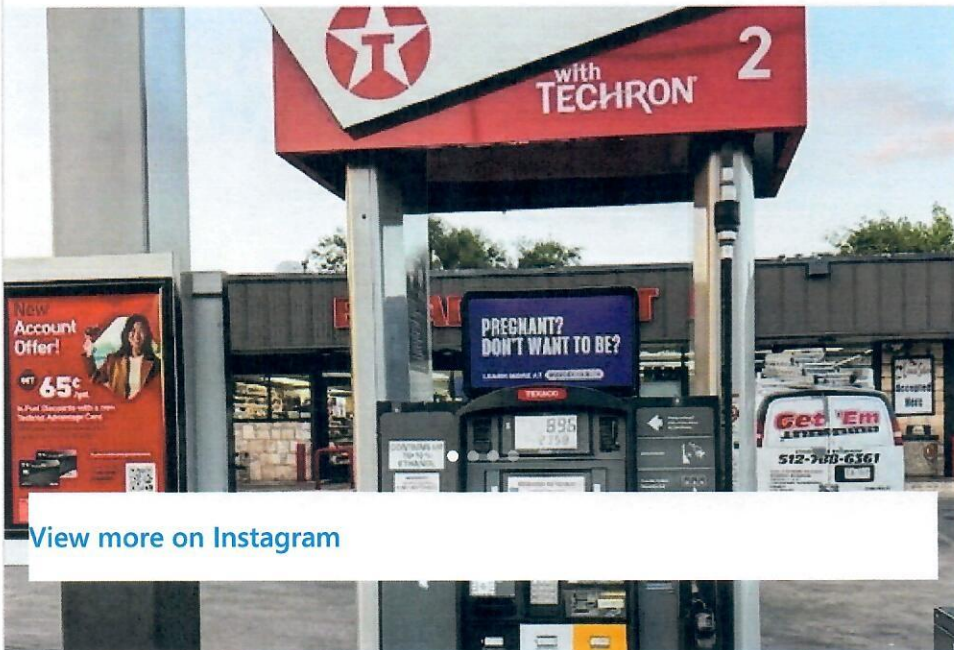
PART OF STATES NEWSROOM

ABORTION POLICY

HEALTH

## Abortion pill campaign targets rural West Virginia, Kentucky gas stations

BY: LORI KERSEY - AUGUST 18, 2025 6:00 AM



[View more on Instagram](#)

816 likes

Add a comment...

Last week, a billboard truck advertised abortion pills at the Iowa State Fair. On Instagram, one person responded, “if i saw this it could make me feel so much safer. as a teen who has her abortion at 15, thank you for still being able to give women of all ages a choice.”

In Amarillo, Texas—where federal judge Matthew Kacsmaryk tried to ban abortion pills nationwide and where politicians tried to ban people from using local roads to get abortion care—Mayday has posted billboards and invited an ER doctor who lives in Amarillo to speak out why this message is important for his patients.

“Did you know that if you don’t want to be pregnant, you still have options,” said ER physician Dr. Fred Poage on Mayday’s Instagram page. “Women’s healthcare is continuously being assaulted, and their autonomy over their own body is being stripped away from the *Dobbs* decision to attempting to outlaw even driving to a different state for appropriate medical care. However, Mayday Health is an excellent resource for accessing information regarding birth control, morning after pills, abortion care and even gender affirming care. Remember, it is still your body. It is still your choice.”



mayday.health and drjenniferlincoln

Original audio

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don't want to be pregnant,

[View more on Instagram](#)

2,501 likes

mayday.health

New billboard up in 📍 Amarillo, Texas, the same place where anti-abortion politicians tried to ban people from using local roads to get abortion care.

Amarilloans like [@dr.fredpage](#) didn't back down. Neither will we. The fight for reproductive freedom is far from over.

For more info on your reproductive options 👉 [mayday.health](#)

Ready to join the fight?

👍 @men4choice

👍 @amarillorfa

View all 46 comments

Add a comment...

They even taunted the Supreme Court judges who overturned *Roe v. Wade* by running advertisements in print newspapers in their hometowns on the anniversary of *Roe* falling. “We wanted to send them a message: abortion is more popular after *Roe* falling,” said Mayday. “Just a fraction of the American public knew that abortion pills even existed, and now well over half of the American people know that abortion pills are safe and effective.”



mayday.health  
US Supreme Court

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4,966 likes

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Near D.C., Mayday posted billboards reading, "Abortion Is More Popular Than Ever. *Thanks Guys!*" with a photo of the Supreme Court justices who voted to overturn *Roe*.



**\_comrade\_kat\_ and dear\_white\_staff...**  
USA

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Watch on Instagram

[View more on Instagram](#)

559 likes

Add a comment...

In May, at the Indy 500 in Indianapolis—the largest spectator sport in the world—Mayday flew an airplane over 4.2 million

people for three days in a row, garnering press coverage from Axios to Breitbart to the *Indy Star*.

**mayday.health**  
Indy 500

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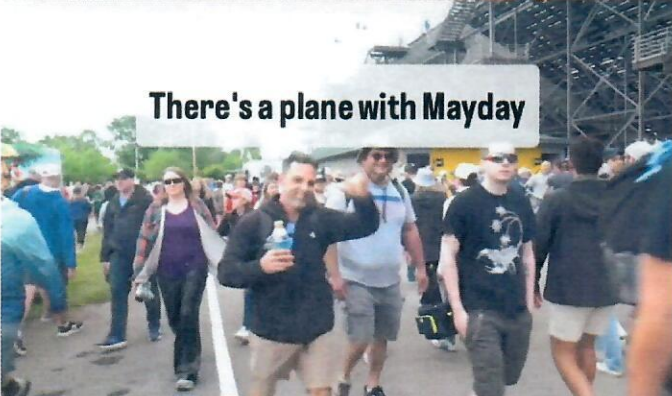
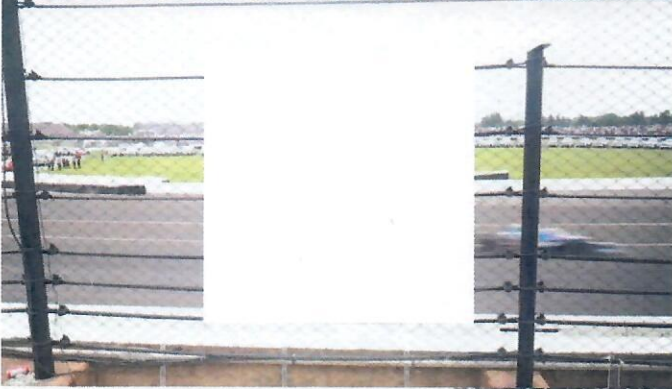
846 likes

Add a comment...



mayday.health  
Original audio

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[View more on Instagram](#)

197 likes

Add a comment...

In all these ways, Mayday Health reminded people that abortion pills are available by telehealth no matter where you live.

The Mayday website refers people to [five telehealth abortion providers](#) operating from the eight states with [telehealth provider shield laws](#) that allow clinicians to serve people across the United States: Abuzz, Aid Access, [The MAP](#), A Safe Choice and We Take Care of Us. These providers offer sliding scale fees with 3 to 5 day delivery.

Recent [research](#) reveals that between July 2023 and September 2024, Aid Access alone provided 118,338 medication abortion pill packs to residents of 2639 counties, of which 99,293 (84 percent) were in states with near-total bans or telemedicine bans. The MAP recently [reported](#) that they provided abortion pills to over 12,000 patients in the first five months of 2025.

According to the Society of Family Planning, shield state clinicians [provided](#) an average of 12,330 abortions per month in the final quarter of 2024, surging from a monthly average of 8,747 over the first quarter of 2024. By December 2024, abortions provided under shield laws totaled nearly 14,000 that month. Telehealth abortion has been a major factor in the persistent increase in the numbers of abortions in the United States since the overturning of *Roe v. Wade*.

Public information campaigns from Mayday Health and [Plan C's community road trip](#) this summer are no doubt a major reason how people are finding out about their options.

**TAGGED: ABORTION ACCESS, ABORTION PILLS, ABORTION PROVIDERS, AMY CONEY BARRETT, ANTIABORTION LAWS, FLORIDA, ROE V. WADE, SEXUAL AND REPRODUCTIVE HEALTH, SUPREME COURT, TEXAS, WE HEART**

#### **ABOUT CARRIE N. BAKER**

[Carrie N. Baker](#), J.D., Ph.D., is the Sylvia Dlugasch Bauman professor of American Studies and the chair of the [Program for the Study of Women and Gender](#) at

Smith College. She is a contributing editor at *Ms.* magazine. Read her latest book at [Abortion Pills: U.S. History and Politics \(Amherst College Press, December 2024\)](#). You can contact Dr. Baker at [cbaker@msmagazine.com](mailto:cbaker@msmagazine.com) or follow her on Bluesky [@carrienbaker.bsky.social](#).

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**FAITH FLETCHER** and **KARI WHITE**



**Keeping Score: Threats Against Abortion Clinics Doubled in 2025; Sounding the Alarm on 'Horrible Conditions' of Delaney Immigration Center; Pride Celebrations Around the U.S.**

**KATIE FLEISCHER**

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# Telemedicine Under Shield Laws in the US

[Abigail R. A. Aiken, PhD<sup>1</sup>](#); [James G. Scott, PhD<sup>2</sup>](#); [Rebecca Gomperts, PhD<sup>3</sup>](#)

**JAMA Published Online: August 11, 2025**

2025;334;(15):1388-1390. doi:10.1001/jama.2025.11420

Despite the wave of state-level abortion bans following the overturn of *Roe v Wade*, recent data suggest that abortion rates have remained steady or even increased.<sup>1</sup> One plausible contributor is the rise of online asynchronous telemedicine abortion services—particularly those operating under shield laws, which allow US-licensed clinicians to provide abortion medications to patients in ban states with protection from legal liability.<sup>2</sup> To better understand usage of this care model, we analyzed 15 months of data from Aid Access, a nonprofit asynchronous telemedicine service that provides abortion medications to patients in all 50 states and the District of Columbia. Aid Access leverages shield laws to mail abortion medications to residents in 24 states with near-total or telemedicine bans, operating without the need for such protections in states where telemedicine abortion is legally accessible.<sup>3</sup>

## Methods

During the study period, Aid Access was the only organization serving all states and offering a sliding-scale fee for patients experiencing financial hardship. Patients completed an online consultation reviewed by a US-licensed clinician, and if eligible, were provided with mifepristone and misoprostol, along with instructions and remote support.

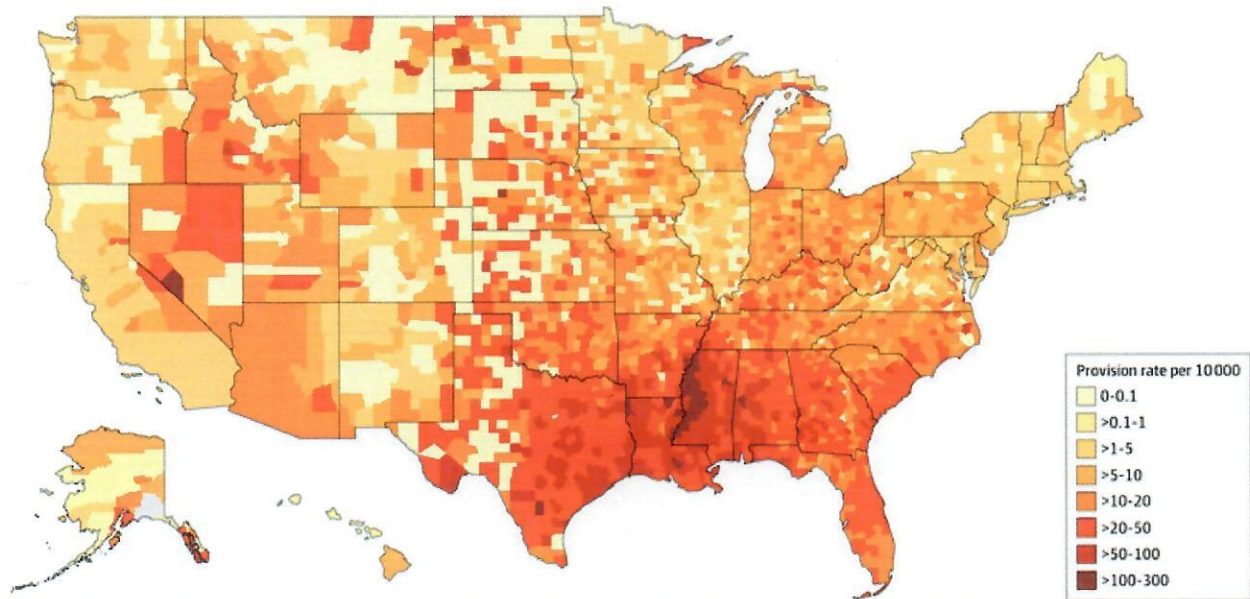
We investigated how state abortion policy, travel distance, and poverty were associated with county-level provisions. State policies were classified as protective, telemedicine ban, or near-total ban (eAppendix in [Supplement 1](#)). Travel distance was measured from the population centroid of each county to the nearest abortion clinic<sup>4</sup>; poverty was measured as the percentage of residents living below the federal poverty line.<sup>5</sup> We calculated per capita provision rates and unadjusted rate ratios for each of these structural factors. To estimate adjusted rate ratios, we fit a bayesian negative-binomial regression model with fixed effects for policy, travel distance, poverty, and broadband access; state-level random effects; and a population offset. To avoid overadjustment and interpretive ambiguity, we did not include additional aggregate demographic variables. We used R version 4.3.1. All data were fully deidentified. (Patients provided consent for the anonymized use of their data for research purposes at the time of making a request to Aid Access.) The University of Texas at Austin Institutional Review Board approved the study.



## Results

Between July 1, 2023, and September 30, 2024, Aid Access provided 118 338 medication abortion pill packs to residents of 2649 US counties, of which 99 293 (84%) were in states with near-total or telemedicine bans (Figure). Unadjusted provision rates were higher in counties with more restrictive state policies, longer travel distances, greater poverty, and lower broadband access (Table). However, these structural factors were strongly correlated at the county level. The adjusted rate ratios in the Table reflect the association of each factor with provision rates, holding the other factors constant. After adjustment, provision rates were 3.12 times higher in near-total-ban states (95% posterior credible interval [CrI], 2.16-4.47), and 2.33 times higher in telemedicine-ban states (95% posterior CrI, 1.57-3.38) relative to protective states. Compared with counties within 50 miles of a clinic, provision rates were higher for counties 100 miles to 250 miles (rate ratio, 1.18; 95% posterior CrI, 1.10-1.27) and more than 250 miles (rate ratio, 1.56; 95% posterior CrI, 1.36-1.79) from a clinic. Provision rates also rose with poverty. Compared with counties with less than 5% poverty, counties with 5% to 9% poverty had 1.47 times higher provision rates (95% posterior CrI, 1.19-1.81); those with 10% to 20% poverty, 1.63 times higher provision rates (95% posterior CrI, 1.31-2.01); and those with higher than 20% poverty, 1.94 times higher provision rates (95% posterior CrI, 1.55-2.42). Counties with 60% or higher broadband access had 19% higher provision rates (rate ratio, 1.19; 95% posterior CrI, 1.14-1.26).

**Figure. Geographic Variation in Aid Access Provision Rates of Abortion Medication via Telemedicine, July 1, 2023–September 30, 2024**



County-level telemedicine abortion provision rates—defined as the number of medication abortion pill packs provided during the study period via online asynchronous telemedicine per 10 000 female residents aged 15 to 44 years—exhibit high geographic variability. The map shows provision rates across counties in the United States and the District of Columbia during the 15-month study period; darker shades indicate higher rates, with the highest concentrations in the South and Midwest, particularly in states with near-total bans.

**Table. County-Level Provision Rates and Unadjusted and Adjusted Rate Ratios for Telemedicine Abortion Provision<sup>a</sup>**

Table. County-Level Provision Rates and Unadjusted and Adjusted Rate Ratios for Telemedicine Abortion Provision <sup>a</sup>			
Variables	Provision rate per 10 000	Rate ratio	
		Unadjusted	Adjusted (95% posterior CrI)
<b>State-level abortion policy</b>			
Protective	5.7	1 [Reference]	1 [Reference]
Telemedicine ban	20.5	3.63	2.33 (1.57-3.38)
Near-total ban	41.3	7.31	3.12 (2.16-4.47)
<b>Travel distance to nearest clinic, miles</b>			
<50	10.1	1 [Reference]	1 [Reference]
50-99	15.9	1.58	1.03 (0.97-1.09)
100-250	25.6	2.53	1.18 (1.10-1.27)
>250	57.7	5.71	1.56 (1.36-1.79)
<b>County residents living in poverty, %</b>			
<5	5.3	1 [Reference]	1 [Reference]
5-9	10.4	1.95	1.47 (1.19-1.81)
10-20	20.3	3.8	1.63 (1.31-2.01)
>20	30.8	5.77	1.94 (1.55-2.42)
<b>County households with ≥10 Mb/s broadband, %</b>			
<60	19.4	1 [Reference]	1 [Reference]
≥60	17.8	0.92	1.19 (1.14-1.26)

Abbreviation: CrI, credible interval.  
<sup>a</sup> Provision rates per 10 000 female residents aged 15 to 44 years, unadjusted rate ratios, and adjusted rate ratios were estimated from a negative binomial regression model of county-level telemedicine abortion provision, based on 118 338 abortions provided between July 1, 2023, and September 30, 2024, across 2649 US counties. The regression model includes state abortion policy, travel distance to the nearest clinic, county poverty level, broadband access, and state-level random effects, adjusting for county population via a log offset. Unadjusted rate ratios compare provision rates across categories without adjustment; adjusted rate ratios reflect associations after controlling for the other predictors in the regression model.

**Discussion**

Asynchronous online telemedicine abortion is widely used in the US. Provision under shield laws is strongly associated with structural barriers to in-clinic care—but even in states where abortion is protected and shield law protections are not required, telemedicine usage remains associated with distance and cost barriers. These findings underscore the public health importance of telemedicine, both as an alternative to the unsafe abortion methods that prevailed under abortion bans before *Roe v Wade*<sup>6</sup> and as a means of reducing access disparities.

Our analysis is limited by reliance on county-level rather than individual-level associations and by data that measure provision of abortion medications rather than completed abortions. Moreover, it does not capture the full scope of telemedicine in states without bans, where other abortion providers also operated during the study period.

## Article Information

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