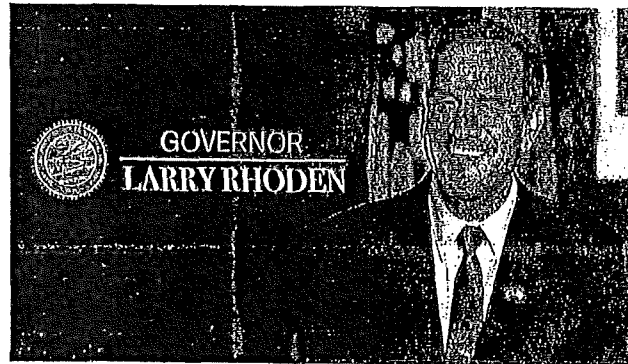


Gov. Rhoden Calls Attorney General to Investigate Abortion Advertising Campaign



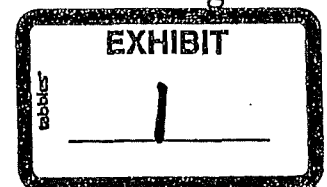
Today, Governor Larry Rhoden urged Attorney General Marty Jackley to investigate a new abortion ad campaign, which appears to conflict with South Dakota's proud pro-life stance.

Date published: 12/09/2025

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FOR IMMEDIATE RELEASE
December 9, 2025
Contact: Josie Harms

Gov. Rhoden Calls Attorney General to Investigate Abortion Advertising Campaign



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

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

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

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

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

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

###

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Gov. Rhoden Highlights Freedom to Worship on National Day of Prayer

Today, Governor Larry Rhoden highlighted his legislation to defend the freedom to worship while honoring National Day of Prayer.

[Learn More](#)

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

1302 East SD Highway 1889, Suite 1
Pierre, South Dakota 57501-8501
Phone (605) 773-3216
Fax (605) 773-4108
<http://atg.sd.gov>

MARTY J. JACKLEY
ATTORNEY GENERAL

BRENT K. KEMPEMA
CHIEF DEPUTY

December 10, 2025

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

RE: CEASE AND DESIST

Dear Ms. Raisner,

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

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

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

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

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

EXHIBIT

2

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

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

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

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

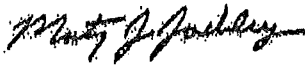
If you refuse to comply, the South Dakota Attorney General may bring a lawsuit against you for violations of the South Dakota Deceptive Trade Practices and Consumer Protection Act under SDCL Ch. 37-24. If successful, you may face felony criminal consequences or civil penalties up to \$5,000 per violation.

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

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

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

Sincerely,



Marty J. Jackley,
South Dakota Attorney General



Adam S. Sloff
adamsloff@dwf.com
213.633.8618

Laura R. Handman
laurahandman@dwf.com
202.973.4224

Chelsea T. Kelly
chelseakelly@dwf.com
202.973.4280

December 19, 2025

VIA EMAIL

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

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

Dear Mr. Jackley:

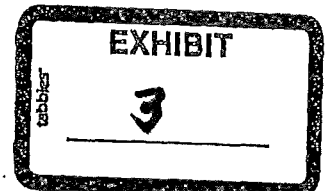
We write regarding your December 10, 2025 letter demanding that Mayday Medicines, Inc. cease and desist "any advertising related to the delivery of abortion drugs to the State of South Dakota." Mayday objects to your misguided demand in its entirety, and will not allow government intimidation to suppress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

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

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

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

DWT.COM



Mr. Marty J. Jackley
 December 19, 2025
 Page 2

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

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

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

DAVIS WRIGHT TREMAINE LLP



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

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

STATE OF SOUTH DAKOTA)
COUNTY OF HUGHES) SS:

IN CIRCUIT COURT
SIXTH JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA,)

Plaintiff,)

vs.)

MAYDAY MEDICINES INC. d/b/a)
MAYDAY HEALTH, and ALLOVER,)
LLC, d/b/a MOMENTARA,)

Defendants.)

32 CIV - ____

PLAINTIFF'S MOTION FOR A
PRELIMINARY AND PERMANENT
INJUNCTION PURSUANT TO SDCL 37-
24-23

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

BACKGROUND

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

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



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

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

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

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

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

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

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

JURISDICTION AND VENUE

This Court has subject matter jurisdiction over this matter pursuant to Article V, Section 5, of the South Dakota State Constitution. This Court has personal jurisdiction over the parties pursuant to SDCL 15-7-2. The proper venue for this action is Hughes County, SD, pursuant to SDCL 37-24-25.¹

PARTIES

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

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

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

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

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

FACTS

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

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

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

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

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

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

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

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

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

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

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

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

Research shows that hundreds of thousands of people have

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

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

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

See Affidavit of Klemann, Exhibit 23.

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

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

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

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

As for the Mayday Health website itself, it contains claims that “abortion pills are safe [and] effective during the first 12 weeks” and that “[i]t is safe to do your own abortion at home with abortion pills.” See Affidavit of Klemann, Exhibit 9. However, the FDA advises that “[i]n about 1 out of 100 women, bleeding can be so heavy that it requires a surgical procedure (surgical aspiration or D&C).” U.S. Food and Drug Administration, Labeling Information for Mifepristone, https://www.accessdata.fda.gov/drugsatfda_docs/label/2023/020687Orig1s025Lb1.pdf#page=16 (last visited December 21, 2025); Exhibit 31 at 16.

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

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

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

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

- General disorders and administration site conditions: pain.

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

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

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

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

ARGUMENT

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

inducing pills and abortion services is in the public interest.

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

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

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

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

the state.

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

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

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

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

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

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

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

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

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

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

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

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

CONCLUSION

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

Dated this 22nd day of December, 2025.

/s/ Jacob R. Dempsey

Jacob R. Dempsey

Assistant Attorney General

1302 E. S.D. Highway 1889, Suite #1

Pierre, South Dakota 57501

Telephone: (605) 773-3215

Email: jacob.dempsey@state.sd.us

STATE OF SOUTH DAKOTA)
) SS:
COUNTY OF HUGHES)

IN CIRCUIT COURT
SIXTH JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA,)
)
Plaintiff,)

32 CIV - ____

vs.)

MAYDAY MEDICINES INC. d/b/a)
MAYDAY HEALTH, and ALLOVER,)
LLC, d/b/a MOMENTARA,)
)
Defendants.)

AFFIDAVIT OF SUPERVISORY SPECIAL
AGENT JEFF KOLLARS

I, Supervisory Special Agent Jeff Kollars of the South Dakota Division of
Criminal Investigation Agent, duly sworn upon his oath, states as follows:

1. I am a Supervisory Special Agent for the South Dakota Division of
Criminal Investigation.
2. I have held this position since May 2013 and have been a sworn law
enforcement officer in South Dakota since May 2006.
3. I am aware that the Attorney General of South Dakota issued a Cease
and Desist letter to Mayday Health Inc. on December 10, 2025.
4. The Cease and Desist letter demanded that Mayday Health Inc.
immediately cease and desist displaying at gas stations an advertisement
stating "Pregnant? Don't want to be?" The advertisement also contained
information about the website mayday.health. The signs are blue in color with
white lettering.



5. The Cease and Desist Letter gave Mayday Health Inc. until December 19, 2025, to remove the advertising. The advertising promotes abortion resources indicating that abortion inducing pills may be obtained in all 50 states, including the State of South Dakota. Abortions are prohibited in South Dakota under SDCL 22-17-5.1, except for specific, extenuating circumstances. SDCL 22-17-5.1 specifically criminalizes administering to and prescribing or procuring for "any pregnant female any medicine, drug or substance... to procure an abortion[.]"

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

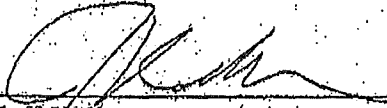
7. I was assigned to investigate whether advertisements for Mayday Health Inc. were still being displayed after December 19, 2025.

8. I coordinated efforts to verify compliance with the above-mentioned letter throughout the State of South Dakota. Two physical locations were identified as displaying the illegal advertising after the compliance date of December 19th, 2025 (close of business). The signs were observed and documented being proximately displayed to gas stations by sworn law enforcement agents, who informed me of their presence as of December 20th, 2025. The two locations, with a total of five signs visible to the public are specified below.

- a. Schoon's Pump N' Pak (202 Main Ave South Brookings, SD Brookings County, SD) Two independent signs prominently displayed above the gas pumps observed on December 20th 2025.
 - b. Pump N' Pak (629 Stanford Street Vermillion, Clay County, SD) Three independent signs prominently displayed above gas pumps observed on December 20th 2025.
9. The signs all appear to be the same description as provided above. The signs are a deceptive act or practice under SDCL 37-24 in that the advertise the delivery of abortion drugs to the State of South Dakota.
10. Fourteen other locations previously identified as displaying the signs mentioned above had removed the illegal advertising and were not displayed publicly as of December 20th 2025. The locations identified as having removed the advertising are identified below.
- a. Classic Corner (916 6th Street Brookings, SD)
 - b. Kings Liquor (3725 N Cliff Ave Sioux Falls, SD)
 - c. Roadway Travel Center (47058 271st Ave Sioux Falls, SD)
 - d. Local (2800 E Marion Dr Sioux Falls, SD)
 - e. AGWrx Volga (104 Kasan Ave Volga, SD)
 - f. Renner Corner Locker (25797 475th Ave Renner, SD)
 - g. Flying D (305 S Hwy 183 Colome, SD)
 - h. KWIK Phil (520 E Havens Ave Mitchell, SD)

- i. Rushmore Sinclair (1515 Mt. Rushmore Rd Rapid City, SD)
- j. Rushmore Sinclair (2420 Mt. Rushmore Rd Rapid City, SD)
- k. Luke Repair (901 8th Street Springfield, SD)
- l. The Pit Stop (8034 Stagesop Rd Summerset, SD)
- m. Gus Stop (413 SD 46 Wagner, SD)
- n. Gas Barrel (2500 W Madison Street Sioux Falls, SD)

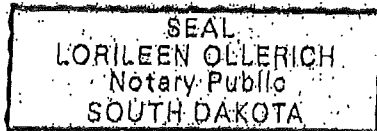
Dated this 21st day of December 2025.


Jeff Kollars
Supervisory Special Agent
Division of Criminal Investigation

Subscribed and sworn to before me this 21st day of December 2025, at
Brookings, South Dakota.

(Seal)


Notary Public, State of South Dakota
My Commission expires: 03-11-27



STATE OF SOUTH DAKOTA)
COUNTY OF HUGHES) SS:

IN CIRCUIT COURT
SIXTH JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA,
Plaintiff,

32 CIV-____

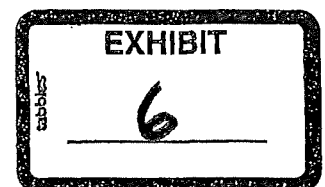
v.

MAYDAY MEDICINES INC. d/b/a
MAYDAY HEALTH, and ALLOVER,
LLC, d/b/a MOMENTARA,
Defendants.

AFFIDAVIT OF
KAYLA KLEMAN, CONSUMER
PROTECTION INVESTIGATOR,
SOUTH DAKOTA OFFICE OF
ATTORNEY GENERAL

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

1. I am a Consumer Protection Investigator for the Office of Attorney General.
2. I have held this position since January 7, 2023.
3. I am responsible for investigating potential consumer protection violations under SDCL Ch. 37-24.
4. I was assigned to investigate Mayday Health Inc. and Momentara regarding advertisements posted at various gas stations throughout the state. A picture of the advertisement is attached as Exhibit 1.
5. On December 8, 2025, Mayday Health issued a press release declaring that it had posted "ads" at nearly thirty gas stations across the state. See Exhibit 2.



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27. On Aid Access’s “legal” FAQs, the website directs consumers to declarations made by the World Health Organization. See Exhibit 27.

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

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

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

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

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

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

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

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

36. Exposure of fetuses to Misoprostol can lead to malformations, such as defects in the skull and abnormalities in the limbs (called Mobius Syndrome).
<https://aidaccess.org/en/page/465/what-are-the-chances-that-the-fetus-will-be-malformed-if-you-have-an>.
37. I reviewed an article from the FDA that was posted on the internet about abortion inducing medication. See Exhibit 10.
38. Based on the facts I learned during my investigation, I believe Mayday Health, with facilitation from Momentara, engaged in deceptive trade practices and acts in violation of SDCL 37-24-6.
39. The SD Attorney General issued a Cease and Desist letter to Mayday Health on December 10, 2025. See Exhibit 3.
40. On December 19, 2025, Mayday Health issued a response refusing to remove the illegal advertisements. See Exhibit 4.

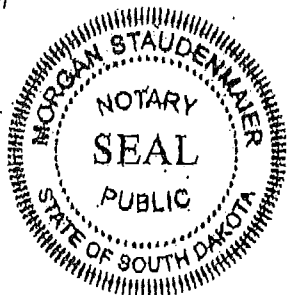
Dated this 22nd day of December, 2025.


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

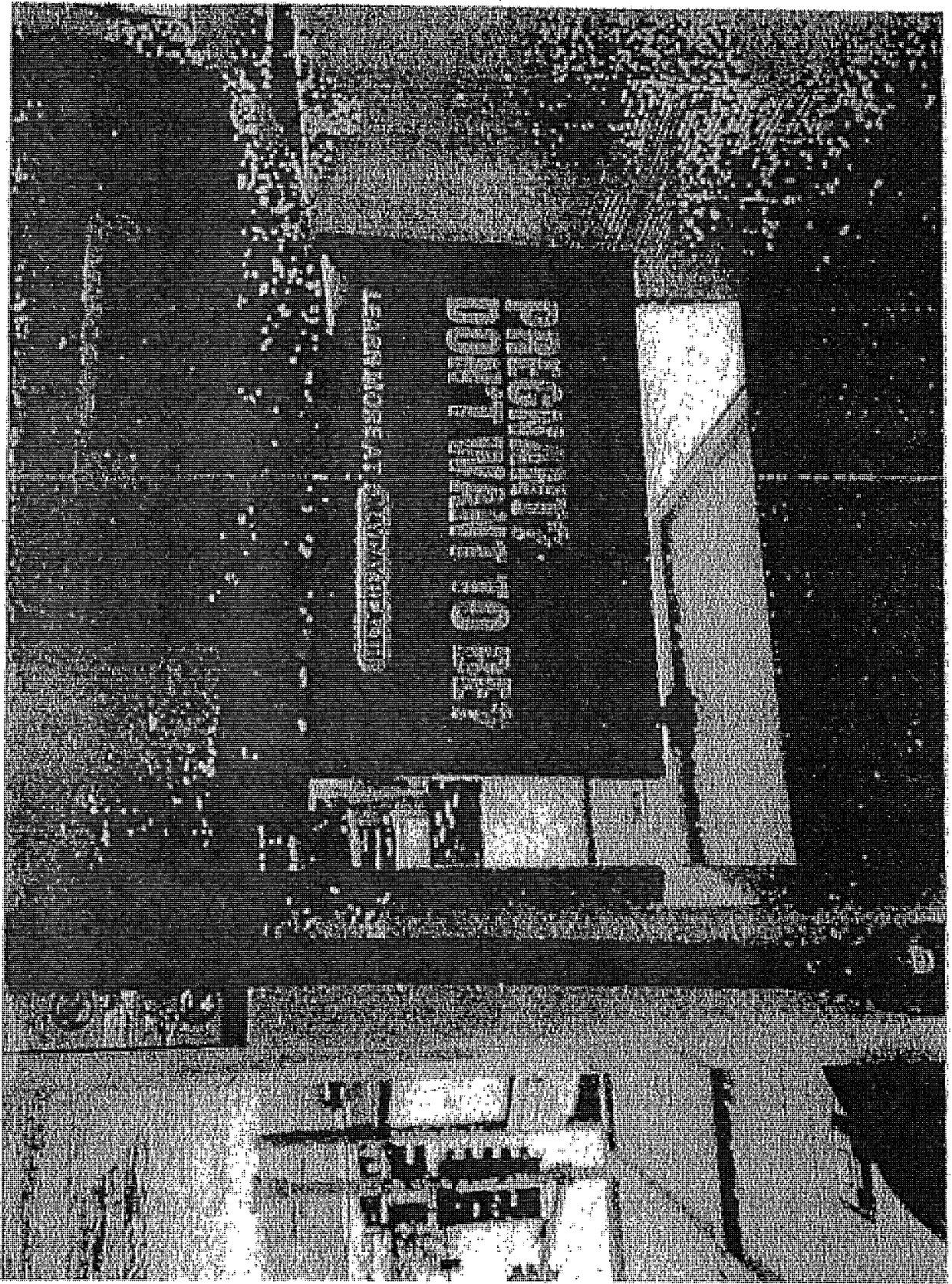
Subscribed and sworn to before me this 22 day of December, 2025, at Pierre, South Dakota.

(Seal)


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



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KELOLAND News This Morning



KELOLAND.COM ORIGINAL

Abortion pill ads hit South Dakota gas stations

by: Grace 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.



<https://www.keloland.com/keloland-com-original/abortion-pill-ads-hit-south-dakota-gas-stations/>

1/15



Kristl 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 Lij Ralsner told KELOLAND News.

ADVERTISEMENT.

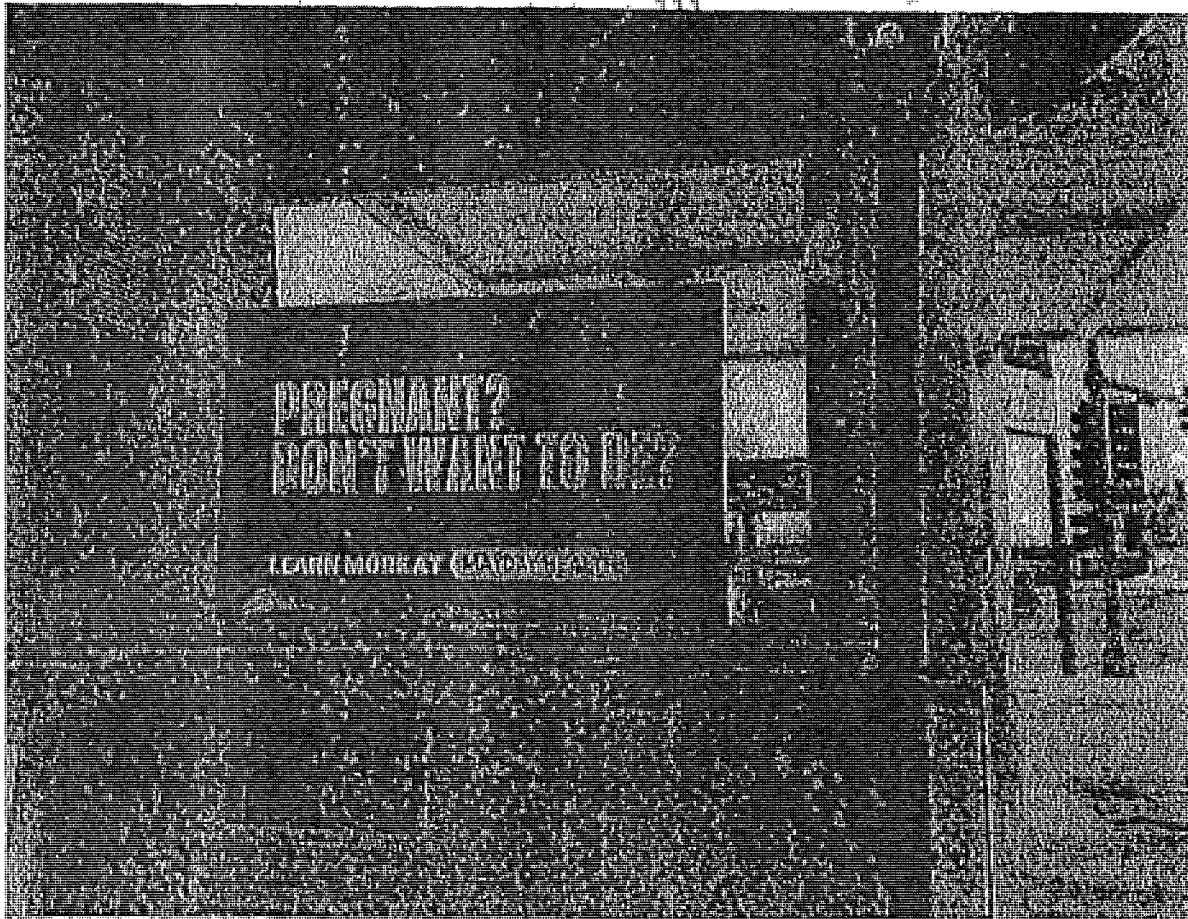
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Cancel



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," Ralsner 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.

SPD: 900 snowbird tickets issued after first snow alert

Ralsner 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 about abortion pills to every state.

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State medical board reprimands 2 M.D.s

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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," Ralsner 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," Ralsner 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 Homing, 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.

ADVERTISEMENT

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.

Ralsner 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:

ADVERTISEMENT

Brookings

Classic Corner

Schoon's Pump 'n Pak

Sioux Falls

ADVERTISEMENT

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King's Liquor, Cliff Avenue

Roadway Travel Center

Local on E Marson Dr.

Volga: AG WRK Co-Op

Renner: Renner Corner Locker

Colome: Flying D

Mitchell: KWIK Phil

Rapid City: Rushmore Sinclair

Springfield: Luke Repair

Summerset: The Pit Stop

Vermillion: Pump 'n Pak

Wagner: Gus Stop

ADD AS PREFERRED SOURCE ON GOOGLE

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\$70M revenue, H1 2025

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STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

1302 East SD Highway 1889, Suite 1
Pierre, South Dakota 57501-8501
Phone (605) 773-3216
Fax (605) 773-4106
<http://atg.sd.gov>

MARTY J. JACKLEY
ATTORNEY GENERAL

BRENT K. KEMPEN
CHIEF DEPUTY

December 10, 2025

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

RE: CEASE AND DESIST

Dear Ms. Raisner,

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

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

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

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

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

EXHIBIT

3

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

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

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

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

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

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

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

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

Sincerely,



Marty J. Jackley,
South Dakota Attorney General



Adam S. Bleff
adamebleff@dwf.com
213.633.8618

Laura R. Handman
laurahandman@dwf.com
202.973.4224

Chelsea T. Kelly
chelseakelly@dwf.com
202.973.4260

December 19, 2025

VIA EMAIL

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

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

Dear Mr. Jackley:

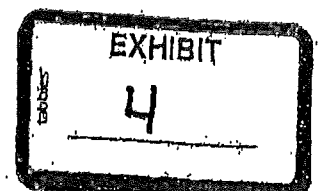
We write regarding your December 10, 2025 letter demanding that Mayday Medicines, Inc. cease and desist "any advertising related to the delivery of abortion drugs to the State of South Dakota." Mayday objects to your misguided demand in its entirety, and will not allow government intimidation to suppress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

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

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

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

DWT.COM



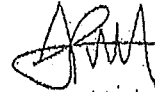
Mr. Marty J. Jackley
December 19, 2025
Page 2

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

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

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

DAVIS WRIGHT TREMAINE LLP



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

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

December 15, 2025

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

FORMAL COMPLAINT AGAINST:

1. MAYDAY HEALTH – Liv Ralsner
2. MOMENTARA
16355 36th Ave. N.
Minneapolis, MN 55446
3. KELOLAND – Gracie Terrall
201 South Phillips Ave.
Sioux Falls, SD 57104

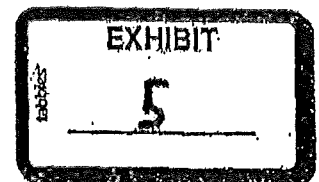
On Tuesday December 9, 2025 It was brought to our attention, by our customers, that Cowboy Country Stores had agreed to participate in an abortion media campaign from Mayday Health, where abortion pill advertisements would be posted at our Cowboy 3 location, in Watertown, SD. The inaccurate, false, deceptive,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

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

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

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

COWBOY COUNTRY STORES



This site collects zero data that could identify a visitor.

MAYDAY.HEALTH

Donate to Mayday's healthcare education campaign today!

Choose an Amount

Your contribution will benefit Mayday Health.

One-Time Donation

Monthly Donation

\$1,000

\$500

\$250

\$100

\$50

\$25

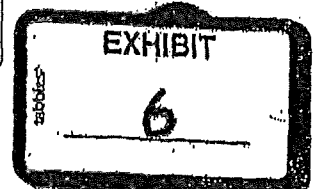
\$10

Choose your own amount

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

Donate Today!

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

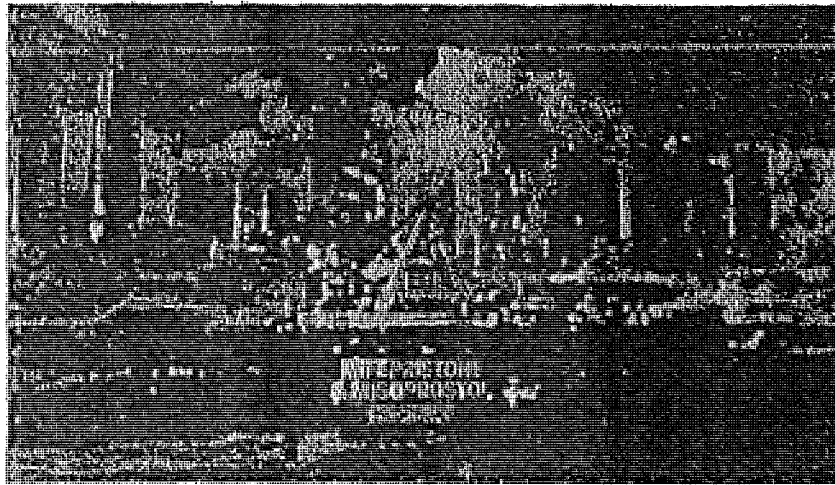


Does your employer use Benevity for corporate matching? If so, search for us there to ensure that your employer is supporting our work as well!

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

An Investment In Mayday Is an Investment In those who are most harmed by abortion bans.

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



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

Home All Products

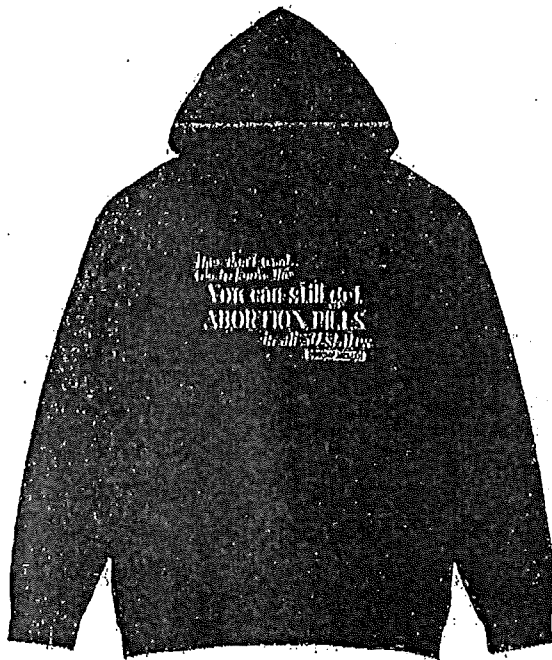
MAYDAY.HEALTH



USD ▼



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



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

\$40.00

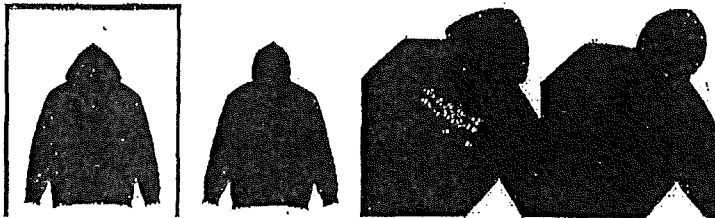
This high-quality outdoor classic is a steal! It features a double-lined hood and comes in colors for any adventure.

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

Select size [Size guide](#)

S M L XL

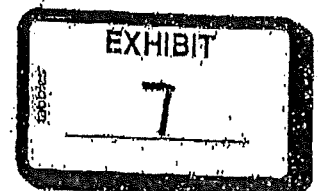
2XL 3XL 4XL 5XL



1 ▼

Add to Cart

<https://maydayhealth-shop.fourthwall.com/products/they-dont-want-you-to-know-this-hoodie>



This site collects zero data that could identify a visitor.

MAYDAY.HEALTH

What do you need?

Abortion

Morning after pills

Birth Control

Gender-Affirming Care

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

Interested in the abortion procedure instead? [Go here](#).



This site collects zero data that could identify a visitor.

MAYDAY.HEALTH

How long has it been since your last period?

Less than 12 weeks

More than 12 weeks

I don't know

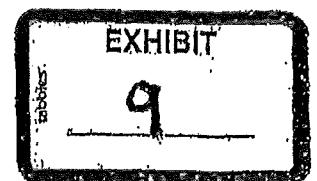
< >

Just take me to the abortion pills >

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

Interested in the abortion procedure instead? [Go here.](#)

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



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

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

Risk Evaluation and Mitigation Strategy (REMS) Information

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

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

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

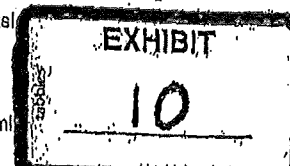
In 2021, after conducting a review of the Mifepristone REMS Program, the FDA determined that the available data and information support modification of the REMS to reduce burden on the health care delivery system and to ensure the benefits of the product outweigh the risks. After reviewing supplemental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

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

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

FDA Does Not Recommend Buying Mifepristone Online

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



To learn more about buying drugs safely, please see BeSafeRx: Your Choice for Online Pharmacy Information (drugs/buying-using-medicine-safely/be-saferx-your-choice-online-pharmacy-information).

Related Information

- [Questions and Answers on Mifepristone for Medical Termination of Pregnancy Through Ten Weeks Gestation \(drugs/postmarket-drug-safety-information/patients-and-providers/questions-and-answers-mifeprex\)](#)
- Previous REMS
 - [REMS Approved in 2011 \(/media/164648/download?attachment\)](#)
 - [REMS Approved in 2016 \(/media/164649/download?attachment\)](#)
 - [REMS Approved in 2019 \(/media/164650/download?attachment\)](#)
 - [REMS Approved in 2021 \(/media/164651/download?attachment\)](#)
- [Historical Information on Mifepristone \(marketed as Mifeprex\) \(http://wayback.archive-it.org/7989/20181022205309/http://www.fda.gov/Drugs/DrugSafety/PostmarketDrugSafety/InformationforPatientsandProviders/ucm111334.htm\) C? \(http://www.fda.gov/about-fda/website-policies/website-disclaimer\)](#)

Labeling and Other Important Information

Mifeprex (mifepristone)

- [Mifeprex Prescribing Information \(https://www.accessdata.fda.gov/drugsatfda_docs/label/2023/020687Orig1s0261.bl.pdf\)](#)
- [Mifeprex Medication Guide \(https://www.accessdata.fda.gov/drugsatfda_docs/label/2023/020687Orig1s0261.bl.pdf#page=16\)](#)
- [Mifeprex Patient Agreement Form \(https://www.accessdata.fda.gov/drugsatfda_docs/rems/Mifepristone_2023_01_03_Patient_Agreement_Form.pdf\)](#)
- [Mifeprex Prescriber Agreement Form \(https://www.accessdata.fda.gov/drugsatfda_docs/rems/Mifepristone_2023_03_23_Prescriber_Agreement_Form_for_Danco_Laboratories_LLC.pdf\)](#)
- [Mifeprex Pharmacy Agreement Form \(https://www.accessdata.fda.gov/drugsatfda_docs/rems/Mifepristone_2023_01_03_Pharmacy_Agreement_Form_Danco_Laboratories.pdf\)](#)

Mifepristone Tablets, 200 mg

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

Was this page helpful?



**U.S. FOOD & DRUG
ADMINISTRATION**

FDA.gov Site Customer Feedback

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

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

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

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

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

[Redacted]

5. How frequently do you visit FDA.gov? [Redacted]

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? [Redacted]

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

Navigation [Redacted]

Look & Feel [Redacted]

Using FDA's search feature [Redacted]

Understandability of the content [Redacted]

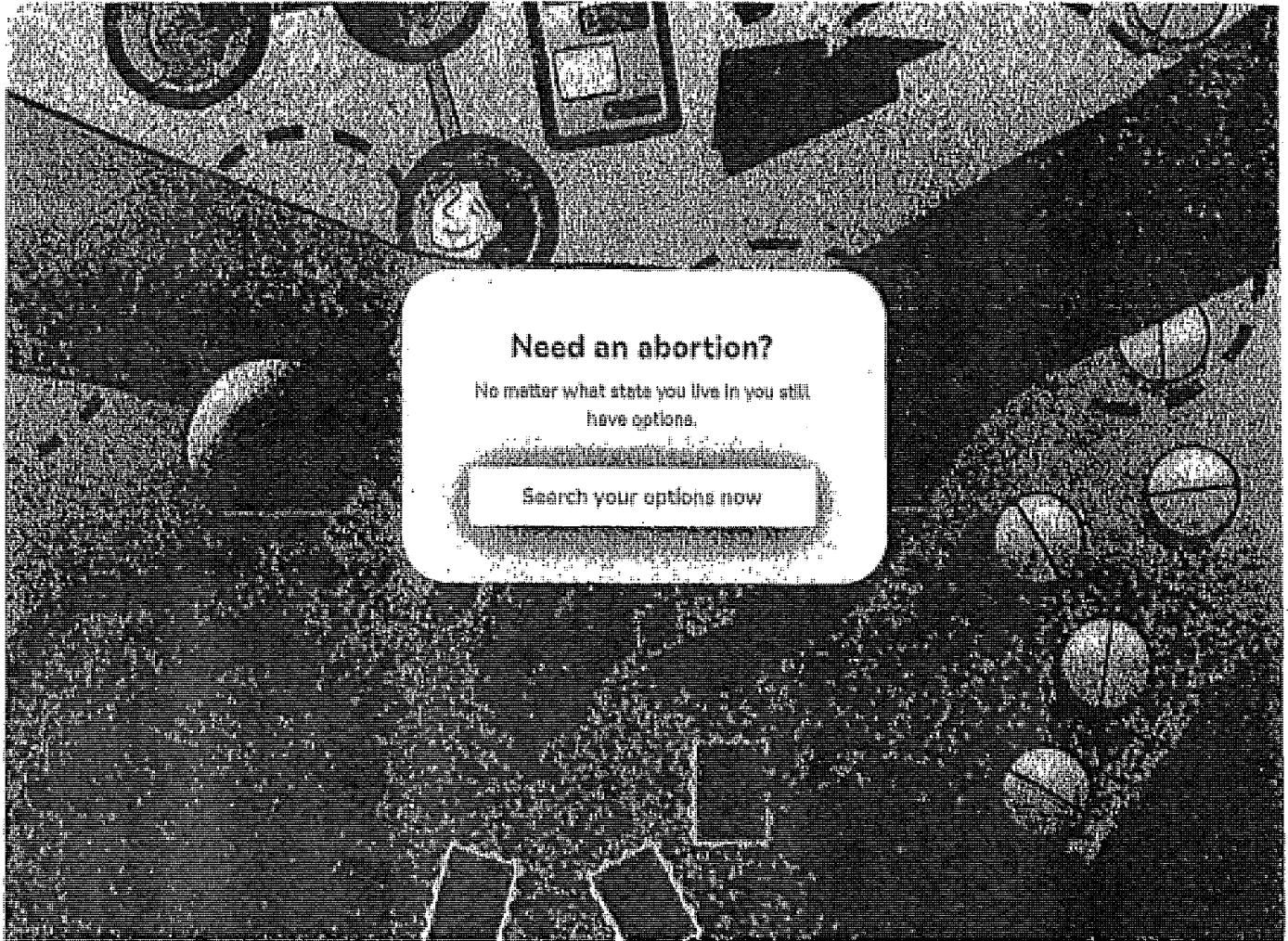
Overall Experience [Redacted]

Submit

X



EN Search your options Q



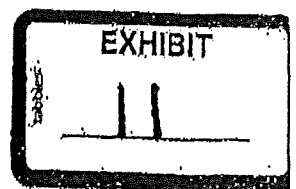
Find verified abortion clinics and abortion pills by mail safely & privately

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

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

Get more info on digital privacy

<https://www.ineedana.com>





Need an abortion? We're here to help.

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

Location *Required

What's your city or zipcode?

Pick first day of last period

I'm not sure

mm/dd/yyyy

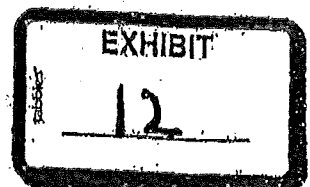
If you're under 18, enter your age

?

How old are you?

Search

Advanced Search





EN

Need an abortion? We're here to help.

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

Location *Required

Pierre, SD 57501, USA

Pick first day of last period

I'm not sure

05/21/2025

(30 weeks, 5 days)

If you're under 18, enter your age

?

19

Search

Advanced Search



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

 Open filter menu

Reset filters

Filtered by: 30 weeks or more

 8 hrs 39 min drive

A Women's Choice

Aurora, Colorado

 In-Clinic Procedure  Abortion Pills

 Go to website

 (303) 418-8660

More Information

 Online

Community Network - Idaho Access

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

 Pills By Mail

 Go to website

More Information

 ~1 hr 40 min direct flight

Fly from Pierre, SD (PIR) to
Denver, Colorado

There is 1 clinic near Denver, Colorado that offers

 In-Clinic Procedure  Abortion Pills  Pills By Mail

More Information

Show more

What are your biggest questions?



How much do abortions cost in South Dakota?



What if I need help paying?



What's an in-clinic abortion like?



What are the abortion laws in South Dakota?





I need help. Who can I talk to?



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

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

video after 15 weeks +9

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

🕒 Video length 50:00

Watch here

video certain +6

video written +9

Trans people build families and have abortions, too.

🕒 Video length 4:40

Watch @ WeTestify

Shout Your Abortion Stories Volume 3

🕒 Video length 1:41

Watch @ Shout Your Abortion

See more stories

Your safety and privacy are our top priorities

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

If you are using a shared device and trying to keep your information private, we recommend you remove this site from your browser history.

We can help you [learn how](#) to do that and other ways to reduce your digital footprint.

[Learn more about privacy](#)



About ineedana.com

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

[Learn more about us](#)

[Get involved](#)

[Donate](#)

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[Clinics](#)

[Telehealth Providers](#)

[Support Organizations](#)

[About](#)

[Get involved](#)

[Blog](#)

[Donate](#)

Find all your abortion options

Providers, laws, costs, and support updated daily

Search now 



Need an abortion? We're here to help.

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

Location *Required

Pierre, SD 57501, USA

Pick first day of last period

I'm not sure

10/30/2025

(7 weeks, 4 days)

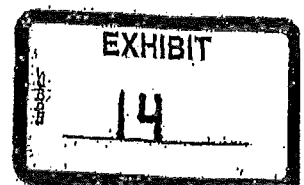
If you're under 18, enter your age

?

14

Search

Advanced Search



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

You are a minor

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

[Learn more in our guide for teens](#)

☰ Open filter menu

Reset filters

Filtered by: 7 weeks or more

 6 hrs 6 min drive

Red River Women's Clinic

Moorhead, Minnesota

 In-Clinic Procedure  Abortion Pills

 Go to website

 (218) 477-3191

More Information

 Online

Aid Access via provider in a "shield law" state

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

 Pills By Mail

 Go to website



~1 hr 40 min direct flight

Fly from Pierre, SD (PIR) to
Denver, Colorado

There are 4 clinics near Denver, Colorado that offer



In-Clinic Procedure



Abortion Pills



Pills By Mail

up to 33 weeks

More Information

Show more

What are your biggest questions?



How much do abortions cost in South
Dakota?



What if I need help paying?





What's an in-clinic abortion like? >



What happens with abortion pills? >



What are the abortion laws in South Dakota? >



I need help. Who can I talk to? >

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

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

video after 15 weeks +9

video written +9

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

Video length 50:00

Watch here

video certain +6

Trans people build families and have abortions, too.

Video length 4:40

Watch @ WeTestify

Shout Your Abortion Stories Volume 3

Video length 1:41

Watch @ Shout Your Abortion

See more stories

Your safety and privacy are our top priorities

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

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

[Learn more about privacy](#)



About ineedana.com

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

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

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Blog

A Teen's Guide to Accessing Abortion

Posted July 1, 2024

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

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

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



destination state in the above table, you can call the Repro Legal Helpline at 844-888-2812 for help.



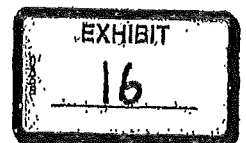
There are also two other options to consider on where to have an abortion:

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

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

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

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



This site collects zero data that could identify a visitor.

MAYDAY.HEALTH

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

Just take me to the abortion pills >

Interested In the abortion procedure Instead? [Go here.](#)

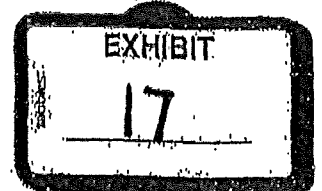
Yes

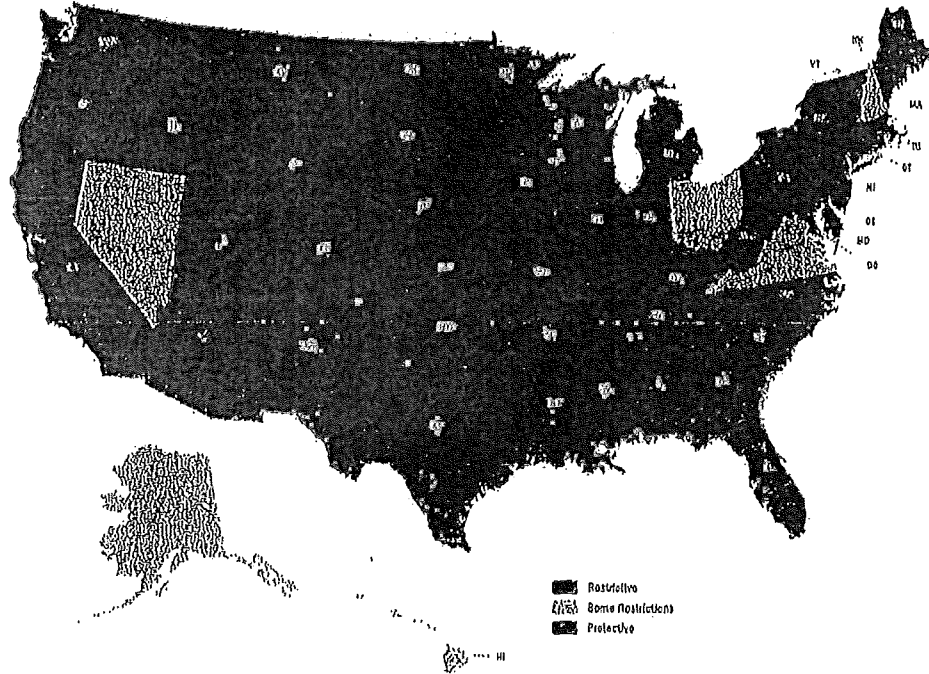
No

< >

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

<https://www.mayday.health/do-you-live-in-an-abortion-state/>





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

Mayday Videos

This site collects zero data that could identify a visitor.

MAYDAY.HEALTH

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

Order from:

Aid Access

SHIPS TO ALL 50 STATES

COST: SLIDING SCALE

DELIVERY WITHIN 5 DAYS

Abuzz

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

SHIPS TO SELECT STATES

COST: SLIDING SCALE

EXHIBIT

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<https://www.mayday.health/options-2/>

151
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

152
DELIVERY WITHIN 3 BUSINESS DAYS

FAQs

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

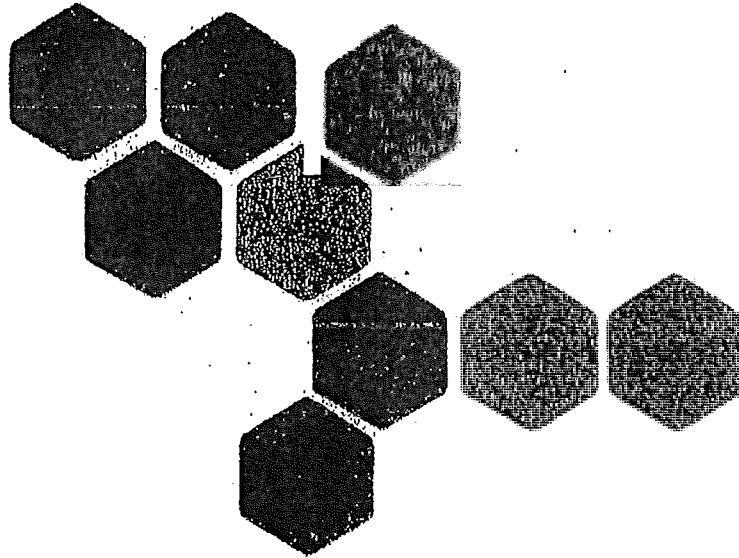
Questions about cost, legal risk, and websites we link out to? >

Want more information and other ways to get pills? >

data that could identify a visitor.

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

This site cc



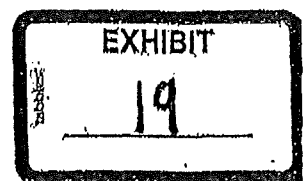
You're less than 13 weeks pregnant.

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

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

You're comfortable with virtual abortion care.

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

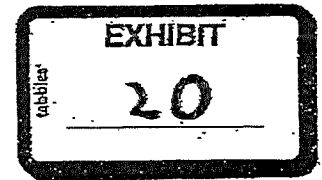


Please select your state.*

South Dakota ▼

PREVIOUS

NEXT



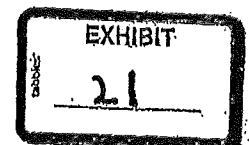
Return to Home Page | 231545342678057

State of South Dakota | SOLAC Confirmed List | eCOWS Login | Odyssey File & Send | PACER Login | US Home | Offender Locator | Weather | Sign In - MultiPro | Eighth Circuit | United States | Dashboard - Main | Drafting Assistant

Important Information

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

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



Stay safe: Read our digital privacy tips

Quick Exit

PLAN C

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](#)

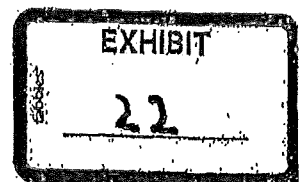
[Legal and safety considerations](#)

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



Finding abortion pills

Where can people find abortion pills?

☐

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

☐

Do people need to get any medical tests?

☐

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

☐

How long are abortion pills good for?

☐

Does insurance or Medicaid cover abortion pills?

☐

Can people buy abortion pills from Amazon?

☐

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

☐

What does "sliding scale" mean?

☐

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

☐

About abortion pills

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

☐

Do people need a prescription for abortion pills?

☐

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

☐

How much do abortion pills cost?

☐

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

☐

Using abortion pills

Where can people find instructions for using the pills?

☐

What can a person expect after taking abortion pills?

☐

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

☐

What kind of real-time support is available?

☐

Legal and safety considerations

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

☐

Are abortion pills safe? What are the health risks?

☐

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

☐

How does Plan C do research and test services?

☐

How can someone avoid false information or abortion scams?



Want to stay updated on abortion pill news?

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

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Your email

Follow @plancpills



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



Abortion Care Network

- EXHIBIT
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(844) 868-2812

Ineedana.com also has a state legal directory.

How do people get into trouble?

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

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

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

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

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

Are abortion pills safe? What are the health risks?



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



Aid Access

Get abortion and miscarriage care, wherever you are.

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

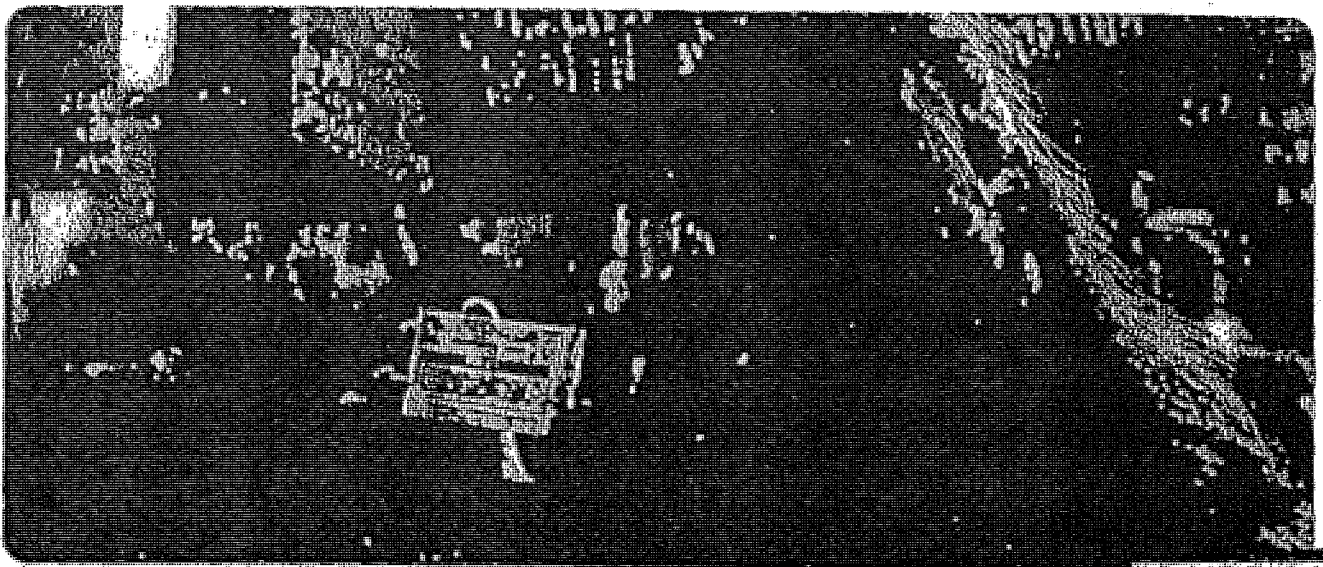
Less than 14 weeks pregnant? Get pills shipped to you. The pills are the same ones you get in a clinic. They are medically very safe. The pills are prescribed by a medical professional and packaged in a plain envelope.

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

Get pills

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

Find a clinic



EXHIBIT

24

<https://aidaccess.org/en/>

WARNING LETTER

Aidaccess.org

MARCS-CMS 575858 — 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

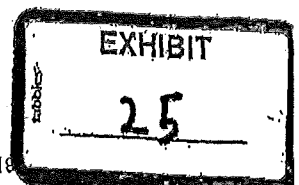
WARNING LETTER

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



Aldaccess.org states on its website, "Ald 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., Aldaccess.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)).

Aldaccess.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 Aldaccess.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 review 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, Aldaccess.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, Aldaccess.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 Aldaccess.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 FDASInternetPharmacyTaskForce-CDER@fda.hhs.gov (mailto:FDASInternetPharmacyTaskForce-CDER@fda.hhs.gov).

Sincerely,

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/S/

Thomas Christl
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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ADMINISTRATION**

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Fields marked with an asterisk (*) are required.

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2. Which of the following best describes the information you were looking for on FDA.gov today?
3. Did you find the information you were looking for on FDA.gov today?
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Using FDA's search feature

Understandability of the content

Overall Experience

Submit

X

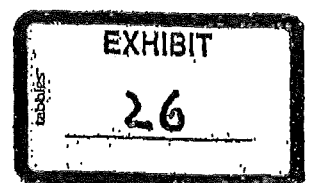
Get Abortion Pills in South Dakota - Order Here

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

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

South Dakota abortion pill online orders:

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

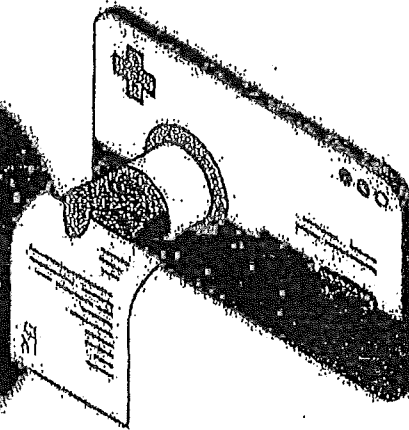


How to get an abortion pill in South Dakota

Submit our online consultation form

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

1



2

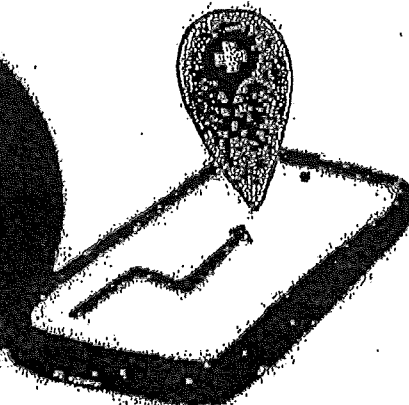
Our doctors will review your order

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

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

3





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?

1642

In the USA

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

International Situation

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

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

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

<https://aldaccess.org/en/page/543/is-it-legal>



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

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

United Nations Report

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

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

World Health Organization

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

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

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

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

Citations

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

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

[3] <https://www.un.org/press/en/2011/gashe4018.doc.htm>

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

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

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

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

Mayday is a reproductive health education nonprofit

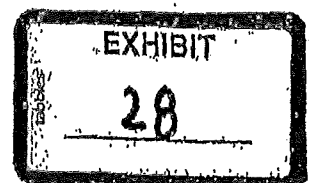
Our Mission

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

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

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

We just want people to know their options.



Additional Resources

Links to trusted organizations.

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

Abortion decision support



Abortion pill FAQs



What to expect



Financial support



Questions on logistics/delivery times/support
while waiting



Online/phone medical support



In-person medical support



Emotional support



Legal support



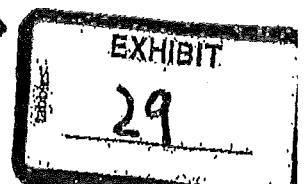
Privacy support



Reproductive Justice



<https://www.mayday.health//resources>



This site collects zero data that could identify a visitor.

MAYDAY.HEALTH

Frequently Asked Questions

What if I'm concerned about the cost? >

What is my legal risk? >

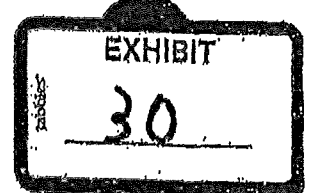
Are abortion pills safe? >

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

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

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

Mayday Videos



<https://www.mayday.health/faq/>

HIGHLIGHTS OF PRESCRIBING INFORMATION

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

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

WARNING: SERIOUS AND SOMETIMES FATAL INFECTIONS OR BLEEDING

See full prescribing information for complete boxed warning. Serious and sometimes fatal infections and bleeding occur very rarely following spontaneous, surgical, and medical abortions, including following MIFEPREX use.

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

MIFEPREX is only available through a restricted program called the Mifepristone REMS Program (5.3). Before prescribing MIFEPREX, inform the patient about these risks. Ensure the patient knows whom to call and what to do if they experience sustained fever, severe abdominal pain, prolonged heavy bleeding, or syncope, or if they experience abdominal pain or discomfort or general malaise for more than 24 hours after taking misoprostol.

INDICATIONS AND USAGE

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

DOSAGE AND ADMINISTRATION

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

DOSAGE FORMS AND STRENGTHS

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

CONTRAINDICATIONS

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

WARNINGS AND PRECAUTIONS

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

ADVERSE REACTIONS

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

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

DRUG INTERACTIONS

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

USE IN SPECIFIC POPULATIONS

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

See 17 for PATIENT COUNSELING INFORMATION, Medication Guide.

Revised: 01/2023

FULL PRESCRIBING INFORMATION: CONTENTS*

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- 2.3 Post-treatment Assessment: Day 7 to 14
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EXHIBIT

31

FULL PRESCRIBING INFORMATION

WARNING: SERIOUS AND SOMETIMES FATAL INFECTIONS OR BLEEDING

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

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

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

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

1 INDICATIONS AND USAGE

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

2 DOSAGE AND ADMINISTRATION

2.1 Dosing Regimen

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

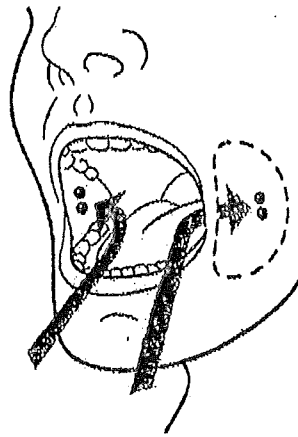
Remove any intrauterine device ("IUD") before treatment with MIFEPREX begins [see *Contraindications* (4)].

The dosing regimen for MIFEPREX and misoprostol is:

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

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

Figure 1



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

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

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

2.2 Patient Management Following Misoprostol Administration

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

Give the patient:

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

2.3 Post-treatment Assessment: Day 7 to 14

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

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

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

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

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

2.4 Contact for Consultation

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

3 DOSAGE FORMS AND STRENGTHS

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

4 CONTRAINDICATIONS

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

- Inherited porphyrias (risk of worsening or of precipitation of attacks)
- Use of MIFEPREX and misoprostol for termination of Intrauterine pregnancy is contraindicated in patients with an Intrauterine device ("IUD") in place (the IUD might interfere with pregnancy termination). If the IUD is removed, MIFEPREX may be used.

5 WARNINGS AND PRECAUTIONS

5.1 Infection and Sepsis

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

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

5.2 Uterine Bleeding

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

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

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

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

5.3 Mifepristone REMS Program

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

Notable requirements of the Mifepristone REMS Program include the following:

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

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

5.4 Ectopic Pregnancy

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

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

5.5 Rhesus Immunization

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

6 ADVERSE REACTIONS

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

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

6.1 Clinical Trials Experience

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

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

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

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

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

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

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

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

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

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

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

NR= Not reported

* This outcome represents a single patient who experienced death related to sepsis.

6.2 Postmarketing Experience

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

Infections and infestations: post-abortion infection (including endometritis, endomyometritis, parametritis, pelvic infection, pelvic inflammatory disease, salpingitis)

Blood and the lymphatic system disorders: anemia

Immune system disorders: allergic reaction (including anaphylaxis, angioedema, hives, rash, itching)

Psychiatric disorders: anxiety

Cardiac disorders: tachycardia (including racing pulse, heart palpitations, heart pounding)

Vascular disorders: syncope, fainting, loss of consciousness, hypotension (including orthostatic), light-headedness

Respiratory, thoracic and mediastinal disorders: shortness of breath

Gastrointestinal disorders: dyspepsia

Musculoskeletal, connective tissue and bone disorders: back pain, leg pain

Reproductive system and breast disorders: uterine rupture, ruptured ectopic pregnancy, hematometra, leukorrhea

General disorders and administration site conditions: pain

7 DRUG INTERACTIONS

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

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

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

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

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

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

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

8 USE IN SPECIFIC POPULATIONS

8.1 Pregnancy

Risk Summary

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

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

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

Data

Animal Data

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

8.2 Lactation

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

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

8.4 Pediatric Use

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

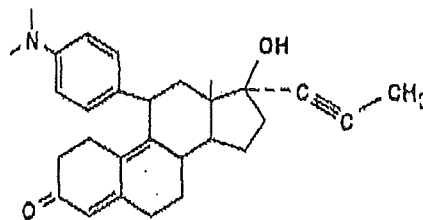
10 OVERDOSAGE

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

11 DESCRIPTION

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

Mifepristone is a substituted 19-nor steroid compound chemically designated as 11 β -[p-(Dimethylamino)phenyl]-17 β -hydroxy-17-(1-propynyl)estra-4,9-dien-3-one. Its empirical formula is $C_{28}H_{35}NO_2$. Its structural formula is:



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

12 CLINICAL PHARMACOLOGY

12.1 Mechanism of Action

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

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

of prostaglandins.

12.2 Pharmacodynamics

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

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

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

12.3 Pharmacokinetics

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

Absorption

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

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

Distribution

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

Elimination

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

Metabolism

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

Excretion

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

Specific Populations

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

13 NONCLINICAL TOXICOLOGY

13.1 Carcinogenesis, Mutagenesis, Impairment of Fertility

Carcinogenesis

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

Mutagenesis

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

Impairment of Fertility

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

14 CLINICAL STUDIES

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

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

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

	U.S. Trials	Non-U.S. Trials
N	16,794	18,425
Complete Medical Abortion	97.4%	96.2%
Surgical Intervention*	2.6%	3.8%
Ongoing Pregnancy**	0.7%	0.9%
* Reasons for surgical intervention include ongoing pregnancy, medical necessity, persistent or heavy bleeding after treatment, patient request, or incomplete expulsion.		
** Ongoing pregnancy is a subcategory of surgical intervention, indicating the percent of women who have surgical intervention due to an ongoing pregnancy.		

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

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

	≤49 days			50-56 days			57-63 days			64-70 days		
	N	%	Number of Evaluable Studies	N	%	Number of Evaluable Studies	N	%	Number of Evaluable Studies	N	%	Number of Evaluable Studies
Complete medical abortion	12,046	98.1	10	3,941	96.8	7	2,294	94.7	9	479	92.7	4
Surgical intervention for ongoing pregnancy	10,272	0.3	6	3,788	0.8	6	2,211	2	8	463	3.1	3

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

16 HOW SUPPLIED/STORAGE AND HANDLING

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

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

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

17 PATIENT COUNSELING INFORMATION

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

Serious Infections and Bleeding

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

Provider Contacts and Actions in Case of Complications

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

Compliance with Treatment Schedule and Follow-up Assessment

- Advise the patient that it is necessary to complete the treatment schedule, including a follow-up assessment approximately 7 to 14 days after taking MIFEPREX [see *Dosage and Administration* (2.3)].
- Explain that
 - prolonged heavy vaginal bleeding is not proof of a complete abortion,
 - if the treatment fails and the pregnancy continues, the risk of fetal malformation is unknown,
 - it is recommended that ongoing pregnancy be managed by surgical termination [see *Dosage and Administration* (2.3)]. Advise the patient whether you will provide such care or will refer them to another provider.

Subsequent Fertility

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

MIFEPREX is a registered trademark of Danco Laboratories, LLC.

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

03/2023

MEDICATION GUIDE
Mifeprex (MIF-eh-prex) (mifepristone tablets, for oral use)
Read this information carefully before taking Mifeprex and misoprostol. It will help you understand how the treatment works. This Medication Guide does not take the place of talking with your healthcare provider.
What is the most important information I should know about Mifeprex? What symptoms should I be concerned with? Although cramping and bleeding are an expected part of ending a pregnancy, rarely, serious and potentially life-threatening bleeding, infections, or other problems can occur following a miscarriage, surgical abortion, medical abortion, or childbirth. Seeking medical attention as soon as possible is needed in these circumstances. Serious infection has resulted in death in a very small number of cases. There is no information that use of Mifeprex and misoprostol caused these deaths. If you have any questions, concerns, or problems, or if you are worried about any side effects or symptoms, you should contact your healthcare provider. You can write down your healthcare provider's telephone number here _____.
Be sure to contact your healthcare provider promptly if you have any of the following: • Heavy Bleeding. Contact your healthcare provider right away if you bleed enough to soak through two thick full-size sanitary pads per hour for two consecutive hours or if you are concerned about heavy bleeding. In about 1 out of 100 women, bleeding can be so heavy that it requires a surgical procedure (surgical aspiration or D&C). • Abdominal Pain or "Feeling Sick." If you have abdominal pain or discomfort, or you are "feeling sick," including weakness, nausea, vomiting, or diarrhea, with or without fever, more than 24 hours after taking misoprostol, you should contact your healthcare provider without delay. These symptoms may be a sign of a serious infection or another problem (including an ectopic pregnancy, a pregnancy outside the womb). • Fever. In the days after treatment, if you have a fever of 100.4°F or higher that lasts for more than 4 hours, you should contact your healthcare provider right away. Fever may be a symptom of a serious infection or another problem.
If you cannot reach your healthcare provider, go to the nearest hospital emergency room.
What to do if you are still pregnant after Mifeprex with misoprostol treatment. If you are still pregnant, your healthcare provider will talk with you about a surgical procedure to end your pregnancy. In many cases, this surgical procedure can be done in the office/office. The chance of birth defects if the pregnancy is not ended is unknown.
Talk with your healthcare provider. Before you take Mifeprex, you should read this Medication Guide and you and your healthcare provider should discuss the benefits and risks of your using Mifeprex.

What is Mifeprex?

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

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

Who should not take Mifeprex?

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

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

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

What should I tell my healthcare provider before taking Mifeprex?

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

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

How should I take Mifeprex?

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

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

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

Day 1:

- Take 1 Mifeprex tablet by mouth.

24 to 48 hours after taking Mifeprex:

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

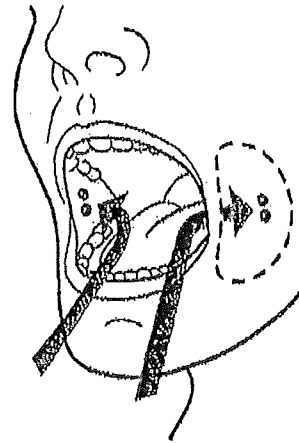


Figure A (2 tablets between your left cheek and gum and 2 tablets between your right cheek and gum).

Follow-up Assessment at Day 7 to 14:

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

When should I begin birth control?

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

What should I avoid while taking Mifeprex and misoprostol?

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

What are the possible side effects of Mifeprex and misoprostol?

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

Cramping and bleeding. Cramping and vaginal bleeding are expected with this treatment. Usually, these symptoms mean that the treatment is working. But sometimes you can get cramping and bleeding and still be pregnant. This is why you must follow-up with your healthcare provider approximately 7 to 14 days after taking Mifeprex. See "How should I take Mifeprex?" for more information on your follow-up assessment. If you are not already bleeding after taking Mifeprex, you probably will begin to bleed once you take misoprostol, the medicine you take 24 to 48 hours after Mifeprex. Bleeding or spotting can be expected for an average of 9 to 16 days and may last for up to 30 days. Your bleeding may be similar to, or greater than, a normal heavy period. You may see blood clots and tissue. This is an expected part of passing the pregnancy.

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

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

General information about the safe and effective use of Mifeprex.

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

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

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

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

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

Drugs@FDA: FDA-Approved Drugs

[Home \(Index.cfm\)](#) | [Previous Page](#)

New Drug Application (NDA): 020687

Company: DANCO LABS LLC

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

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

Products on NDA 020687

CSV Excel Print

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

Showing 1 to 1 of 1 entries

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

Labels for NDA 020687

CSV Excel Print

Action Date	Submission	Supplement Categories or Approval Type	Letters, Reviews, Labels, Patient Package Insert
03/23/2023	SUPPL-26	REMS - MODIFIED - D-N-A	Label (PDF) (https://www.accessdata.fda.gov/drugsatfda_docs/label/2023/020687Orig1s026)
01/03/2023	SUPPL-25	REMS - MODIFIED - D-N-A	Label (PDF) (https://www.accessdata.fda.gov/drugsatfda_docs/label/2023/020687Orig1s025)
04/11/2019	SUPPL-22	REMS-Modified	Label (PDF) (https://www.accessdata.fda.gov/drugsatfda_docs/label/2019/020687s022lbl.pdf)
03/29/2016	SUPPL-20	Efficacy-New Dosing Regimen	Label (PDF) (https://www.accessdata.fda.gov/drugsatfda_docs/label/2016/020687s020lbl.pdf)
06/08/2011	SUPPL-14	REMS-Proposal	Label (PDF) (https://www.accessdata.fda.gov/drugsatfda_docs/label/2011/020687s014lbl.pdf)
06/08/2011	SUPPL-14	Labeling	Label (PDF) (https://www.accessdata.fda.gov/drugsatfda_docs/label/2011/020687s014lbl.pdf)
04/24/2009	SUPPL-15	Labeling	Label (PDF) (https://www.accessdata.fda.gov/drugsatfda_docs/label/2009/020687s015lbl.pdf)
07/19/2005	SUPPL-13	Labeling	Label (PDF) (https://www.accessdata.fda.gov/drugsatfda_docs/label/2005/020687s013lbl.pdf)
11/15/2004	SUPPL-10	Labeling	Label (PDF) (https://www.accessdata.fda.gov/drugsatfda_docs/label/2004/020687s010lbl.pdf)
09/28/2000	ORIG-1	Approval	Label (PDF) (https://www.accessdata.fda.gov/drugsatfda_docs/label/2000/20687)
Showing 1 to 10 of 10 entries			
<u>Therapeutic Equivalents for NDA 020687</u>			

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MAYDAY HEALTH,

Plaintiff,

v.

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

Defendants.

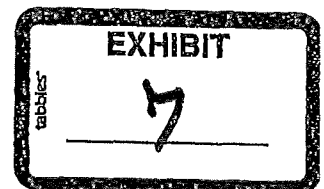
Case No. 1:26-cv-78

**COMPLAINT FOR INJUNCTIVE AND
DECLARATORY RELIEF**

PRELIMINARY STATEMENT

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

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



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

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

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

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

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

PARTIES

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

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

JURISDICTION AND VENUE

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

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

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

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

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

FACTUAL ALLEGATIONS

A. Mayday Publishes Truthful Public Health Information on Its Website

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

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

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

15. Much of the information that Mayday's website links to is from clinicians, lawyers, and health experts. If medically appropriate, some of these third-party websites may provide access to abortion pills, such as mifepristone and misoprostol. The U.S. Federal Food and Drug Administration ("FDA") has repeatedly confirmed the safety of such medication, a conclusion supported by independent and rigorous scientific studies. See, e.g., F.D.A. Center for Drug Evaluation & Research, App. No. 020687Orig1s020 at 12 (March 29, 2016) (confirming the "efficacy and safety" of medication abortion based on studying more than 2.5 million U.S. uses), at https://www.accessdata.fda.gov/drugsatfda_docs/nda/2016/020687Orig1s020Approv.pdf; Mifeprex REMS Study Group, *Sixteen Years of Overregulation: Time to Unburden Mifeprex*, 376 N. ENGL. J. MED. 790, 791 (2017) (same), at <https://www.nejm.org/doi/full/10.1056/NEJMs1612526>; F.D.A., *Mifepristone U.S. Post-Marketing Adverse Events Summary Through Dec. 31, 2024* at 1 (2025) (zero fatalities "causally attributed to mifepristone" "with certainty"), at <https://www.fda.gov/media/185245/download>.

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

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

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

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

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

B. Mayday Health Publicizes Its Website To South Dakotans

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



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

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

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

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

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

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

¹ Gracie Terrall, Eric Mayer, *Abortion pill ads hit South Dakota gas stations*, Keloland (Dec. 8, 2025), <https://tinyurl.com/2mesa2k4>.

² South Dakota State News, *Gov. Rhoden Calls Attorney General to Investigate Abortion Advertising Campaign* (Dec. 9, 2025), <https://tinyurl.com/6xdtmmmc>.

³ Office of the Governor Larry Rhoden, *Letter to Attorney General Jackley* (Dec. 9, 2025), <https://tinyurl.com/2yuf9r2p>.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CLAIMS FOR RELIEF

COUNT I

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

39. Plaintiff incorporates all prior paragraphs of this Complaint.

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

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

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

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

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

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

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

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

COUNT II

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

47. Plaintiff incorporates all prior paragraphs of this Complaint.

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

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

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

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

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

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

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

PRAYER FOR RELIEF

Mayday respectfully requests that the Court:

1. Declare pursuant to Counts I-II that Defendant's expressed intent to prosecute Mayday under SDCL § 37-24 is unconstitutional retaliation because Defendant seeks to punish Mayday for publishing truthful information of public concern protected by the First Amendment on its website and in signs publicizing its website;
2. Declare pursuant to Count I that Defendant's expressed intent to force Mayday to take down its protected truthful speech on matters of public concern from its website and in signs publicizing its website is unconstitutional;
3. Declare pursuant to Count II that Defendant's expressed intent to prevent Mayday from publishing protected truthful speech on matters of public concern on its website and in signs publicizing its website in the future is unconstitutional;
4. Preliminarily and permanently enjoin Defendant and his agents, employees, and all persons acting under his direction or control, pursuant to Count I, from taking any action to prosecute, fine, or in any way penalize Mayday, including under § SDCL 37-24, for publishing truthful information of public concern on its website and in signs publicizing its website;
5. Preliminarily and permanently enjoin Defendant and his agents, employees, and all persons acting under his direction or control, pursuant to Count II, from taking any action to prosecute, fine, or in any way penalize Mayday, including under § SDCL 37-24, for publishing truthful information of public concern on its website and in signs publicizing its website;
6. Enter judgment in favor of Mayday;
7. Award Mayday costs and attorneys' fees under 42 U.S.C. § 1988; and
8. Award Mayday all other such relief as the Court deems just and proper.

Dated: January 6, 2026

Respectfully submitted,

/s/ Adam S. Sieff
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Q1G8HEAC

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
-----X

3 MAYDAY HEALTH,

4 Plaintiff,

5 v.

26 Cv. 00078 (KPF)

6 MARTY J. JACKLEY,
7 Attorney General of South Dakota,

8 Defendant.

TRO (Remote)

-----X

9
10 January 16, 2026
2:05 p.m.

11 Before:

12 HON. KATHERINE POLK FAILLA,

13 District Judge

14 APPEARANCES

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20 Attorney General of South Dakota

21 OFFICE OF THE ATTORNEY GENERAL SOUTH DAKOTA
Attorneys for Defendant
22 BY: AMANDA MILLER



Q1G8HEAC

1 relation to those signs that exist here in South Dakota.

2 THE COURT: You just said a moment ago, sir, that you
3 engaged in a measured response by filing the civil enforcement
4 action. Is it a criminal prosecution?

5 MR. JACKLEY: Under South Dakota law, there are tools
6 available to the attorney general and there is certain conduct.
7 One option is, under our statutes, we are allowed probably the
8 most measured response of a cease and desist letter, giving the
9 opportunity for a response, an opportunity to be heard and
10 considered by the attorney general. That occurred.

11 My understanding is all but one or two of the signs
12 have been removed. Because signs still remain up in South
13 Dakota, I chose to file a preliminary injunction case, which is
14 what I have indicated to the Court will be heard on
15 February 2nd. I would advise the Court, as former United
16 States attorney and attorney general, solicitation is a
17 criminal act in South Dakota, but nothing has been filed on
18 that measure at this time.

19 THE COURT: I see. All right.

20 You mentioned the signs. These are the signs in the
21 gas stations, sir, and not just the website?

22 MR. JACKLEY: Yes. I would call them a placard. When
23 you go to a gas station, there will be a placard above the
24 pump, or as part of the pump, that contains an advertisement.
25 So those placards exist here in South Dakota.

Q1G8HEAC

1 THE COURT: You will excuse my ignorance, sir. When I
2 am at a gas station here in the East Coast, the signs that I am
3 seeing are electronic, in the sense that I have seen multiple
4 ads at once while I am waiting for my tank to fill. In South
5 Dakota, are you talking about a physical hard copy placard,
6 that's why you're using that term?

7 MR. JACKLEY: Yes.

8 THE COURT: There were some that were up and most have
9 been removed, but not all?

10 MR. JACKLEY: It is my understanding, from various
11 statements by the plaintiff, that the original or at least the
12 original count was 30. That at the time of the filing, it was
13 14. That at the time of the filing of the preliminary
14 injunction, it was two. And now it is my understanding it is
15 down to one.

16 THE COURT: Now, sir, if they were to remove the one,
17 would you continue with the civil enforcement action?

18 MR. JACKLEY: I would not, your Honor.

19 THE COURT: Just so that I am clear, it's not the
20 existence of the website per se, it's these placards that
21 you're construing as solicitation, or am I getting ahead of
22 myself?

23 MR. JACKLEY: That is our position, your Honor. You
24 are not getting ahead of yourself. That is our position.

25 THE COURT: I see. All right. I understand.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MAYDAY HEALTH,

Plaintiff,

v.

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

Defendant.

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1:26-cv-00078-KPF

DEFENDANT'S MEMORANDUM OF LAW RE: ORDER TO SHOW CAUSE

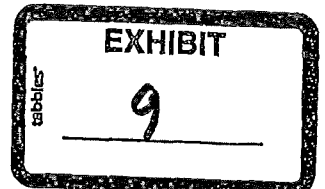
Defendant Marty J. Jackley, *pro se* and by and through his counsel Paul S. Swedlund and Amanda J. Müller, hereby files this response to this court's order to show cause.

ARGUMENT

Before reaching the question of whether Mayday is entitled to a preliminary injunction, the court must first satisfy itself that it has personal and subject-matter jurisdiction and that *Younger* does not require abstention. If there is no personal or subject matter jurisdiction, the court can dismiss without reaching the *Younger* question. If *Younger* requires abstention, the court can dismiss without reaching the preliminary injunction question. Mayday must first overcome these two hurdles before the court need even reach the preliminary injunction question. But even if it does, Mayday cannot demonstrate a "clear" and "substantial" likelihood of success on the merits because its website and messaging are not *Bigelow* or *James* protected. Nor can Mayday demonstrate irreparable harm or that equity and the public interest are in its favor.

1. Preliminary Injunction Standard

The standard governing an application for a temporary restraining order is the same as a preliminary injunction. *Murray v. Cuomo*, 460 F.Supp.3d 430, 442 (S.D.N.Y. 2020). Per these



standards, Mayday bears the burden of establishing (1) likelihood of success on the merits, (2) irreparable harm, (3) balance of equities in its favor, and (4) public interest. *Students for Fair Admissions v. United States Military Acad. at W. Point*, 709 F.Supp.3d 118 (S.D.N.Y. 2024); *Murray*, 460 F.Supp.3d at 439 (2020). Where, as here, the government is the opposing party, the final two factors in the analysis merge. *Coronel v. Decker*, 449 F.Supp.3d 274, 287 (S.D.N.Y. 2020).

Preliminary injunctive relief, including a temporary restraining order, is an "extraordinary and drastic remedy" that is "unavailable except in extraordinary circumstances." *Murray*, 460 F.Supp.3d at 442. When, as here, the moving party seeks to stay pending civil governmental proceedings in aid of its criminal laws, the relief sought is mandatory in nature and requires a heightened showing of a "clear" or "substantial" likelihood of success on the merits. *Mgmt. Technologies v. Morris*, 961 F.Supp. 640 (S.D.N.Y. 1997). Mayday cannot meet these high standards under the circumstances of this case.

2. Likelihood Of Success On The Merits

Mayday is not "clearly" or "substantially" likely to succeed on the merits because its website is at best a mix of commercial and non-commercial speech. Commercial speech is afforded less protection because it is "more objective and, hence, more verifiable than other varieties of speech" because advertisers typically possess direct knowledge about their products or services. *Friedman v. Rogers*, 440 U.S. 1, 10 (1979). Additionally, commercial speech is "more durable than other kinds" of speech. Because "advertising is the *sine qua non* of commercial profits, there is little likelihood of its being chilled by proper regulation and forgone entirely." *Virginia State Bd. of Pharmacy v. Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748, 772 n. 24 (1976).

Despite heavy protections afforded First Amendment speech – even some speech of a commercial nature – commercial 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 unprotected.

Even if Mayday’s website is a mix of commercial and non-commercial speech, a state may regulate and enjoin false, deceptive, or misleading sales advertising both civilly and criminally. *Virginia Pharmacy Board*, 425 U.S. at 771-777. In *Board of Trustees of State University of New York v. Fox*, 492 U.S. 469, 473-474 (1989), the court addressed speech that proposed commercial transactions but also touched on other subjects, rejecting the argument that such mixed speech must be classified entirely as non-commercial simply because pure speech and commercial speech are “inextricably intertwined.” The court determined that the principal type of expression controls the classification. *University of New York*, 492 U.S. at 473-474.

As discussed in the state’s *Younger* brief, Mayday’s advertising is primarily commercial because the principal object of its expression is to push abortion pill sales in South Dakota and other “red states.” *University of New York*, 492 U.S. at 474; *South Dakota v. Wayfair*, 585 U.S. 162, 177-178 (2018)(products “transferred electronically, or services for delivery into South Dakota” are sales consummated within the state and “treated as a local transaction” for jurisdictional purposes); *Bates v. State Bar of Arizona*, 433 U.S. 350, 378 (1977)(putting up an advertisement is “penetrating a market”). Unlike *James*, Mayday’s promotion of abortion pills is not without economic motivation because Mayday fundraises off its message of making abortion pills available in all 50 states and serving as a conduit for pill providers which it uses to fund its

operations and “buy more advertisements.” *James*, 160 F.4th at 377, citing *First Resort v. Herrera*, 860 F.3d 1263, 1273 (9th Cir. 2017).

Even if Mayday’s speech is “mixed,” the Supreme Court subjects such speech to only intermediate scrutiny for commercial speech regulations. *Central Hudson Gas & Elec. Corp. v. Public Service Commission of New York*, 447 U.S. 557 (1980). This four-part test requires: (i) the speech concerns lawful activity and is not misleading; (ii) the governmental interest is substantial; (iii) the regulation directly advances that interest; and (iv) the regulation is not more extensive than necessary. As detailed in defendant’s *Younger* brief, Mayday’s website flunks this test: (i) the sale of abortion pills in South Dakota is illegal and any representation of commission or omission that they are not is misleading, (ii) the state’s interest in the life, health and safety of pregnant women and their unborn children is well recognized by the United States Supreme Court, (iii) shutting down advertising for an illegal transaction and in furtherance of a scheme to supply abortion pills directly advances the state’s interest, and (iv) the regulation is not more extensive than necessary, *i.e.* is does not demand that Mayday change its website.

According to Mayday’s own authorities it is not “clearly” or “substantially” likely to prevail on its claim that its speech is non-commercial. As discussed in the defendant’s *Younger* brief, Mayday’s speech is not protected under *Bigelow* 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 v. Virginia*, 421 U.S. 809, 828 (1975); *Cocroft v. Graham*, 122 F.4th 176, 182 (5th Cir. 2024)(no protection for speech advertising illegal transaction within the enforcing state). Mayday’s speech is not protected under *Nat’l Inst. of Fam. & Life Advocs. v. James*, 160 F.4th 360, 379 (2025), because the pills at issue in *James* were not illegal in the state of New York and because NIFLA had not monetized its message by fundraising off its advocacy for abortion reversal pills. Nor can Mayday seek refuge in South Dakota’s exemption for mere publishers or

broadcasters of information because the exemption can be invoked only by those who have published/broadcast "without knowledge that it is an unlawful act or practice." SDCL 37-24-11. The state's cease-and-desist letter placed Mayday on notice that it is perpetrating unlawful acts and practices with respect to illegal pill transactions and illegally false, deceptive and misleading advertisements under South Dakota's civil and criminal laws. Accordingly, Mayday cannot make a "clear" or "substantial" showing that it is likely to succeed on the merits of its claim that its speech is protected.

3. 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), 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. The abortion pill is illegal in South Dakota. "[T]here 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.

As discussed above and in defendant's *Younger* brief, Mayday cannot demonstrate irreparable harm for two reasons. First, placards advertising illegal transactions were never 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.4th at 375. Or, stated another way, Mayday cannot demonstrate that its speech is simply "informational, without any economic motivation." *James*,

160 F.4th at 375. Mayday cannot claim a First Amendment interest in facilitating illegal transactions and illegal misrepresentations so it has not suffered the irreparable loss of any expression or activity to which it has a right.

4. Balance Of Equities/Public Interest

Where, as here, a government enforcement proceeding is the target of a temporary restraining order, the final two factors in the analysis – the balance of the equities and the public interest – merge. *Coronel*, 449 F.Supp.3d at 287. Courts in the Second Circuit and federal district courts consistently apply the principle that the government's interests are inherently aligned with the public interest. *Brown v. Maher*, 597 F.Supp.3d 541, 549 (N.D.N.Y. 2022).

Once the state produces evidence that an advertisement is false or misleading, the balance shifts dramatically in favor of the government because commercial speech that is false or misleading is "not protected by the First Amendment at all." *Gordon and Breach Science Publishers S.A. v. American Institute of Physics*, 859 F.Supp. 1521, 1537 (S.D.N.Y. 1994). Likewise, the state may restrict advertising proposing an illegal transaction – such as the purchase of abortion pills in a jurisdiction where they are illegal – without subjecting the restriction to heightened scrutiny. *Casbah, Inc. v. Thone*, 651 F.2d 551, 557 (2nd Cir. 1981).

South Dakota's experience with abortion pill importation evidences that Mayday's website is false and misleading and, as such, is a threat to public health. Alpha Center in South Dakota is a non-profit, pro-life medical care facility that provides pregnancy testing, limited ultrasounds, and STD testing for pregnant women who are experiencing an unexpected pregnancy. RIDDER AFFIDAVIT, Exhibit 1 at ¶ 6. Alpha Center also provides post-abortion care for women who have complications from surgical and medicinal abortion, as well as abortion pill reversal treatment for women who have consciously taken, or been tricked into taking, mifepristone but

wish to have their abortion halted. RIDDER AFFIDAVIT, Exhibit 1 at ¶ 7. 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. The abortion pill reversal procedure was successful and the child is alive and thriving today. RIDDER AFFIDAVIT, Exhibit 1 at ¶ 13.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. RIDDER AFFIDAVIT, Exhibit 1 at ¶ 13.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. RIDDER AFFIDAVIT, Exhibit 1 at ¶ 13.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. RIDDER AFFIDAVIT, Exhibit 1 at ¶ 13.d.
- e. In another case, a patient ordered 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. This patient ultimately elected to not take the abortion pills. RIDDER AFFIDAVIT, Exhibit 1 at ¶ 13.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. RIDDER AFFIDAVIT, Exhibit 1 at ¶ 13.f.
- g. In another case, a patient was told by an abortion pill merchant to falsely report to medical staff that she was experiencing a miscarriage if the patient needed emergency post-abortion medical care. RIDDER AFFIDAVIT, Exhibit 1 at ¶ 13.g.
- h. In another case, a patient was told by an abortion pill provider to lie about her condition if she sought emergency abortion aftercare by claiming to be experiencing a miscarriage. RIDDER AFFIDAVIT, Exhibit 1 at ¶ 13.h.
- i. 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. RIDDER AFFIDAVIT, Exhibit 1 at ¶ 13.i.

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. 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. Of 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 such as delayed surgical intervention, incorrect surgical procedures, and inadequate monitoring for potentially fatal clostridial infections associated with mifepristone. RIDDER AFFIDAVIT,

Exhibit 1 at ¶ 13.j. In the face of these facts, Mayday cannot claim that the equities or public interest favor its misleading and life-threatening medical advice.

CONCLUSION

Applying the facts detailed in the state's *Younger* brief to the standards outlined here, Mayday's request for a preliminary injunction must be denied.

Dated this 26th day of January 2026.

MARTY J. JACKLEY
ATTORNEY GENERAL

Paul S. Swedlund

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CERTIFICATE OF COMPLIANCE

The undersigned counsel for the Defendant hereby certifies that this Memorandum of Law was prepared using the Microsoft Word Version 2010 word-processing program and contains 2,394 words in compliance with the Individual Rules of Practice in Civil Cases of the Honorable Katherine Polk Failla.

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STATE OF SOUTH DAKOTA)
) SS:
COUNTY OF HUGHES)

IN CIRCUIT COURT

SIXTH JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA,)
)
Plaintiff,)

32CIV25 -339

vs.)

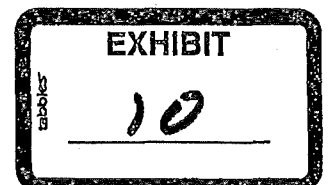
PLAINTIFF'S OPPOSITION TO
DEFENDANT'S MOTION TO LIMIT
HEARING TO JURISDICTION

MAYDAY MEDICINES INC. d/b/a)
MAYDAY HEALTH, and ALLOVER,)
LLC, d/b/a MOMENTARA,)

Defendants.)

The State of South Dakota, by and through its undersigned counsel, Jacob R. Dempsey, Assistant Attorney General, submits this Opposition to Defendant Mayday Health's Motion to Limit Hearing to Jurisdiction. Defendant Mayday Health requests this Court to limit the hearing scheduled on February 20, 2026, to arguments on jurisdiction. The State respectfully requests that the Court deny Defendant's motion for the reasons set forth herein and outlined in greater detail in the State's Pre-hearing Brief on Jurisdiction and Procedure.

This Court has jurisdiction. In its motion, Mayday offered the Court select statutory citations to support its position. It pointed out that SDCL 37-24-23 states "the attorney general may bring *an action* in the name of the state[.]" and then it used a generalized statute to define that term. See SDCL 15-2-30 (providing "*an action* is commenced as to each defendant when the summons is served on him[.]") However, Mayday failed to apply all the relevant statutory language. When looking at the surrounding words of SDCL 37-24-



23, the action is commenced “upon the giving of appropriate notice to that person. The notice shall state generally the relief sought and be served in accordance with § 37-24-16 and at least three days before any hearing in the action. . . [.]” Because the notice must only be served three days before hearing, it inherently excludes the general “summons and complaint” procedure to commence an action that necessarily allows for thirty days to respond before initiating a hearing on the merits. *Compare* SDCL 37-24-23 with SDCL 15-6-4(a). When read as a whole and in association with the surrounding words, SDCL 37-24-23 is clearly a special civil enforcement action, which has been given by the Legislature to the Attorney General alone, and is not governed by the usual rules of civil procedure regarding the commencement of an action.

If the preceding example was not clear enough, SDCL 37-24-16(3) specifically references this issue. That statute allows for service in any “manner provided in the rules of civil procedure *as if a complaint or other pleading which institutes a civil proceeding had been filed*[.]” *Id.* (emphasis added). This plainly excludes that a complaint is required to commence a SDCL 37-24-23 action.

Further, the public interest favors having this hearing in its entirety. Mayday’s advertisements are deceptive, promote illegal behavior, and are a public health emergency. The advertisements should not be allowed to remain while Mayday keeps kicking the can down the road through delays, complaints of unpreparedness, and attempts to conduct hearings on limited issues. While

it has been delaying the South Dakota proceedings, Mayday sued the Attorney General in the Southern District of New York and sought an emergency temporary restraining order. In that federal lawsuit, Mayday gave the District Court less than twenty-four hours to prepare for the hearing. The background of this cat-and-mouse tactic is Mayday continues to advertise for companies that ship illegal abortion pills into South Dakota in contravention of its laws. This has and will result in women and teenagers engaging in risky practices to take these pills beyond when it is FDA approved and in contravention of the parental consent law regarding abortion found at SDCL 34-23A-7. Rather than allow Mayday to engage in these delay tactics in South Dakota while it seeks emergency, fast-paced movement in New York federal court, this Court should require Mayday to engage all the issues at the South Dakota hearing.

For these and the reasons outlined in the State's pre-hearing brief, the State respectfully requests the Court to exercise jurisdiction and allow the hearing to proceed beyond the limited issue of jurisdiction.

Dated this 28th day of January 2026.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on January 28, 2026 a true and correct copy of the Plaintiff's Opposition to Defendant's Motion to Limit Hearing to Jurisdiction, in the above-entitled matter, was served via email, upon the following parties:

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Jacob R. Dempsey
Assistant Attorney General

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
-----x

3 MAYDAY HEALTH,

4 Plaintiff,

5 v.

26 CV 78 (KPF)

6 MARTY J. JACKLEY, Attorney
7 General of South Dakota,

Oral Argument

8 Defendant.
9 -----x

10 New York, N.Y.
11 January 29, 2026
12 4:00 p.m.

Before:

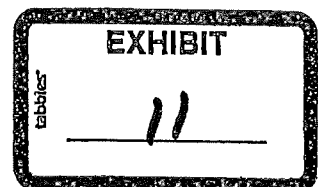
13 HON. KATHERINE POLK FAILLA,

14 District Judge

15 APPEARANCES

16 DAVIS WRIGHT TREMAINE LLP
17 Attorneys for Plaintiff
BY: ADAM SIEFF
CHELSEA KELLY

18 OFFICE OF THE ATTORNEY GENERAL SOUTH DAKOTA
19 Attorneys for Defendant
BY: MARTY J. JACKLEY
20 PAUL SWEDLUND
21
22
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1 with a variety of things. It really began, at least in my
2 mind, with a gas station complaint. They'd contacted me, I
3 said put it in writing, and that writing is in the record
4 conversation. And the concern was more, in my mind, of a
5 contract dispute than necessarily consumer dispute. It was a
6 concern that a company was indicating they were doing
7 advertising that they didn't want them to do --

8 THE COURT: They objected to the placard, sir, yes?

9 MR. JACKLEY: Yes.

10 THE COURT: Okay.

11 MR. JACKLEY: They never agreed to it. I said, put it
12 in writing and submit a consumer complaint. You have in the
13 record that there's been 657 consumer complaints. I'm not
14 standing before you saying they're all deceptive trade, you
15 know, but they're valid in the consumer's mind to make a
16 complaint to the Attorney General. And so you have a gas
17 station letter saying we don't want this, we didn't agree to
18 this, do something about it, you have 657 consumer complaints
19 at the consumer division, and you have the governor. And I
20 know there's been a discussion about the governor's intent, and
21 I would tell you under South Dakota law, the governor, he runs
22 a highway patrol, if he wanted to retaliate, he would have
23 ordered and confiscated and taken it down. It's clearly a
24 solicitation of a crime. He didn't do that. He didn't act in
25 bad faith. He did what he's supposed to do. Under

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1 Chapter 1-11, the governor can ask the Attorney General to
2 investigate something that he thinks is improper or illegal,
3 and that's exactly what happened here.

4 And it wasn't a retaliation where the Attorney General
5 then got the gas station complaint, 657 consumer complaints,
6 and a letter from the governor. The Attorney General actually
7 investigated it. The Attorney General did two things: He sent
8 out a consumer investigator and said run this down, what is
9 happening. You have an affidavit from her, Ms. Klemann.
10 Because there were criminal overtones to it, he sent a DCI
11 agent out, and he said, take a look, you've got an affidavit in
12 the record from callers.

13 I will tell you, and I told you at the hearing, I made
14 a measured decision. In my mind as a chief law enforcement
15 officer of the state, it is an absolute criminal violation. I
16 chose not to pursue it that way. I chose what I thought was
17 measured and sent a cease-and-desist letter.

18 THE COURT: You believe it's a criminal violation why,
19 sir? Because you are not accepting the plaintiff's argument
20 that this is not commercial speech?

21 MR. JACKLEY: You know, that's where I think *Williams*
22 says it best, United States Supreme Court. What the Court said
23 is, when speech moves from advocacy to, quote, speech,
24 commercial or not, that is intended to induce or commence
25 illegal activities," then it's not protected. It's exactly

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1 what Mayday is doing, in my mind, or at least there's a factual
2 dispute to it. That's exactly what they're doing.

3 They can make an argument, well, it's actually a Buzz
4 or Aid that's actually selling.

5 THE COURT: Yes.

6 MR. JACKLEY: But that's not a very good argument
7 because Aid Access or Buzz can't put a placard up in
8 South Dakota to sell these illegal drugs. So Mayday can't do
9 it for them. When you look at the law of solicitation, it's
10 indirect or direct. They fit the criminal statute.

11 So to suggest that the Attorney General is
12 retaliatory, doing something for the governor, is simply not
13 the facts of this case, period.

14 THE COURT: But I do want you to back up a moment,
15 please, sir.

16 I guess, going back to *Williams* for a moment, I don't
17 think *Williams*, then, makes it commercial speech. I thought
18 you were suggesting that *Williams* makes it no longer protected
19 speech, but does the *Williams* case actually stand for the
20 proposition that when it moves to induce criminal activities,
21 it becomes commercial?

22 MR. JACKLEY: It doesn't matter whether it's
23 commercial or noncommercial, it's inducing and commencing
24 criminal activity. It's not protected at that point.

25 THE COURT: Okay. That's what I understood - okay,

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1 not protected.

2 But I don't understand how it fits within the ambit of
3 the South Dakota statute that you're using. Would you
4 agree -- and you might not -- that the prong of the statute on
5 which you're focused, or on which this enforcement action is
6 focused, is the idea of merchandise. It's not the solicitation
7 of contributions for charitable purposes, unless you think it
8 is.

9 MR. JACKLEY: Well, sure it is, absolutely.

10 THE COURT: I see.

11 So you're arguing -- wait, you're arguing that it's
12 deceptive to maintain a website that allows for people to
13 donate.

14 MR. JACKLEY: Well, they're doing both. They fit the
15 whole statute. If you look at what they're doing, and I've
16 outlined at least five different deceptions, whether it's the
17 FDA ten weeks versus fifteen weeks, whether it's deception with
18 respect to children and not requiring parental notice and
19 consent, whether it's deceptive regarding legal in all 50
20 states, and then putting them in contact with those companies,
21 and it's charitable in the sense that they're selling their
22 merchandise, I mean, it fits that statute perfect --

23 THE COURT: But HBI sells merchandise, and that didn't
24 make it commercial speech.

25 MR. JACKLEY: You have to remember -- are you talking

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1 about the *NIFLA* case?

2 THE COURT: I am. And Heartbeat International, yes.

3 MR. JACKLEY: So a couple of things about the *NIFLA*
4 case.

5 THE COURT: Okay.

6 MR. JACKLEY: Number one, I know that there was a
7 statement about whether or not it was fundraising, that site is
8 charitable. This is the court at page 377: Moreover, there is
9 no evidence in the record at this stage of the litigation to
10 suggest that *NIFLA* plaintiffs gained other types of economic
11 benefits by engaging in the speech such as increased customer
12 base — Mayday does — or capital increase through
13 fundraising — Mayday does. That's the court speaking.

14 The other challenge when you talk about *NIFLA* and you
15 look at it, HBI was the target of the state action. So *NIFLA*
16 never had the opportunity of an ongoing state proceeding, like
17 we had here and we have here. So that's a big distinguishing
18 factor.

19 And the last huge distinguishing factor, what General
20 James was trying to do was address activity that's legal in
21 New York. That resuscitation or rehabilitation pill is legal
22 in New York. I can assure you, there's a statute in
23 South Dakota that says what they're pedaling is not legal.

24 THE COURT: I am concerned, though, with, from my
25 perspective, interpreting too broadly what it means to be

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1 so I don't know if a lot of them were written, but they have
2 some type of an understanding or agreement.

3 And it's further commercial because they are selling a
4 product. They are selling abortion pills. They're putting
5 direct links on there, and I know there's been a conversation
6 about the middleman, and I don't want to retread water, but
7 they're a direct part of the link, they're inducing it. And
8 that's an advertisement to sell those pills. And I've just
9 read you enough in the record -- it's not a question of will
10 they come to South Dakota; they've come to South Dakota.

11 THE COURT: Sure.

12 Can I go one step back with you, sir. With respect to
13 the gas station, in the contracts with the gas station, I'm not
14 sure that makes it necessarily commercial speech. If I may
15 give an example. I know in -- well, we have families, right.
16 I know when I drive to my family in New Jersey at
17 Christmastime, I pass billboards that say "Keep Christ in
18 Christmas" or billboards from the Knights of Columbus. I don't
19 think of them as a for-profit organization, I don't think of
20 language of that type telling me to remember what Christmas is
21 about, to be commercial speech. It is what they espouse, and
22 it's what they want me to think about. And if they had -- if
23 my local gas station had placards that said it's Christmastime,
24 you know, you're welcome to go back to church or, again, the
25 keep Christ in Christmas idea, it may be that they may choose,

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1 as an economical matter, not to do it because it may not have
2 the bang for the buck. But if the Knights of Columbus were
3 advertising at a gas station on a placard, is that commercial
4 speech?

5 MR. JACKLEY: But it's a different scenario because in
6 the example I was trying to convey, in the gas station example,
7 there's a contract, there's money being exchanged, and they're
8 selling a product.

9 THE COURT: Well -- okay, I'm going to put the selling
10 the product aside for a moment. Your friends at the front
11 table will tell me they're not. I haven't made that decision
12 just yet. What I'm saying is, what I heard you a moment ago to
13 say was that the genesis of all of this, really, from your
14 perspective, sir, were the gas station placards. Those gas
15 station placards were the product of contracts with some
16 organization that supplies the placards to the gas stations,
17 and I thought you were suggesting that their production, their
18 manufacture, and their placement at the gas station somehow
19 rendered the speech on it commercial. If I misunderstood your
20 argument, then forget my whole line of questioning.

21 MR. JACKLEY: I feel it does render it commercial by
22 the whole process. And when you go on there, and you purchase
23 products and -- I haven't reviewed the contracts of the gas
24 stations, in part, because I think some of them didn't have
25 any, and so that is a different consumer issue altogether. But

Q1TKMAYO

1 don't even have a further link to go to. It seems to me your
2 argument about the fundraising here works, if at all, because
3 if I click twice more, I'm going to be able to buy abortion
4 pills, and maybe for that. But I don't think I'm making this
5 decision, sir, based on the sweatshirts or whatever the swag is
6 that they offer. But what I'm saying is, I'm thinking that
7 there could be a situation in which a nonprofit organization
8 has something -- that just has something that's untethered to
9 merchandise, to wares, to goods, and I don't think that's
10 commercial speech.

11 So I think your stronger argument is that, eventually,
12 one can get to abortion pills. It's not obvious to me that
13 being a clearinghouse makes it commercial speech, but please
14 push back, sir.

15 MR. JACKLEY: Well, you get to make that decision.

16 THE COURT: Sure. But I want to do it on the right
17 basis.

18 MR. JACKLEY: I just believe when you look at what
19 Mayday is doing, it just fits perfectly on what commercial
20 speech is. They are charitable raising money -- that's a direct
21 and indirect benefit for their company. They are selling a
22 product. They are doing the things -- they were advertising,
23 they were entering into contracts with gas stations -- or maybe
24 not written contracts, but agreements -- they're just doing what
25 you would think in the commercial speech arena, and I think

Q1TKMAYO

1 cease-and-desist letter, we haven't filed a civil action,
2 they're not selling an illegal product, so I haven't even
3 looked at a DCI agent on the criminal side. Your Honor, that's
4 permissible under the First Amendment. But that's not what
5 Mayday is doing. Mayday is soliciting, inducing, commencing
6 the illegal trafficking of pills in the State of South Dakota.
7 There's hard evidence of that. There's an affidavit before
8 this Court. It's not just some Attorney General saying it
9 could happen. It's happening.

10 And they're doing other deceptive acts that I believe
11 fits within the statute that the legislature says I need to
12 enforce.

13 Now, if I'm not right on that, who better than a state
14 court judge to say I disagree, it doesn't fit the advertisement
15 prong, or it doesn't fit some level -- or the First Amendment
16 prevents you from enforcing that. But these are serious
17 deceptions and omissions, telling people to take a dangerous
18 pill fifteen weeks in when the FDA says it's ten weeks, telling
19 a young girl that you don't need to ask your parents or seek
20 judicial review. Those are serious matters. They're
21 deceptive, and they just fit within the statute.

22 THE COURT: Just one moment, please. Sorry, again, I
23 have notes in multiple locations.

24 (Pause)

25 THE COURT: Thank you very much, sir.

STATE OF SOUTH DAKOTA)
:SS
COUNTY OF HUGHES)

IN CIRCUIT COURT
SIXTH JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA,)

Plaintiff,)

vs.)

MAYDAY MEDICINES INC. d/b/a)
MAYDAY HEALTH, and ALLOVER,)
LLC, d/b/a MOMENTARA,)

Defendants.)

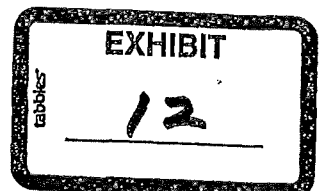
32 CIV. 25-339

COMPLAINT FOR INJUNCTIVE AND
DECLARATORY RELIEF

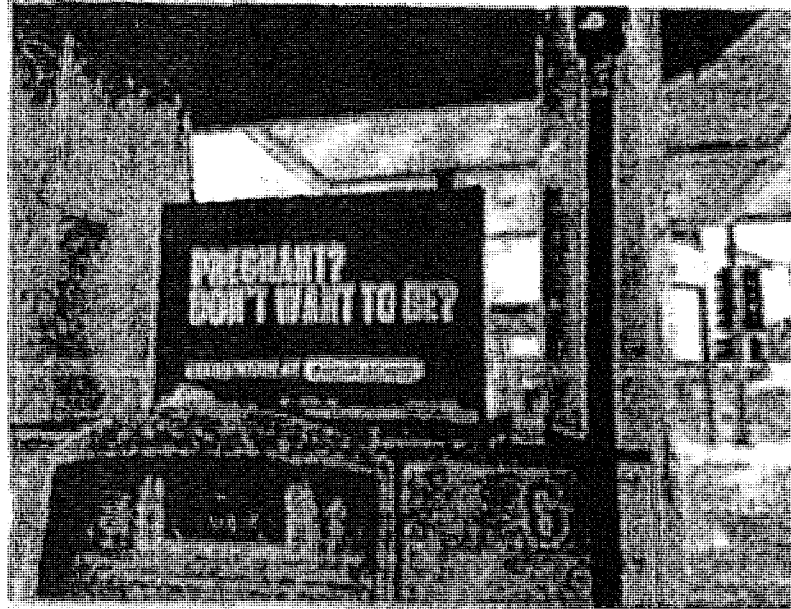
COMES NOW the Plaintiff, State of South Dakota, by and through
counsel, Amanda Miiller, Deputy Attorney General, and for its Complaint,
hereby states and alleges as follows:

STATEMENT OF THE CASE

1. This suit is brought under the provisions of SDCL chapter 37-24, the South Dakota Deceptive Trade Practices Act, to enjoin Defendants from 1) advertising and soliciting the sale illegal abortion pills within the physical borders of the State of South Dakota; 2) advertising and soliciting the sale of merchandise that contains deceptive messaging within the physical borders of the State of South Dakota; and 3) advertising and soliciting contributions for charitable purposes based on deceptive messaging within the physical borders of the State of South Dakota.
2. Defendants commenced a gas station advertising campaign in the State of South Dakota wherein they placed, or caused to be placed, physical placards



at gas pumps throughout the state directing consumers to Mayday Health's website.



3. An investigation into the advertisements and Mayday Health's website uncovered a plethora of deceptive acts and practices (including fraud, false pretense, false promises, or misrepresentations, and the concealment, suppression, or omission of material facts) in connection with the advertisement and solicitation of illegal abortion-inducing pills, merchandise, and contributions for charitable purposes.

4. Examples of deceptive acts and practices include advertising and soliciting the sale of illegal abortion pills for delivery within the state, advertising to consumers that abortion pills are "available in all 50 states" without advising them that the pills are illegal, advertising to consumers that abortion pills are FDA approved but then failing to abide by FDA guidelines on

their use, and advertising and soliciting abortions for teenaged children without the required parental notification.

5. The State respectfully requests the Court to declare that the advertisements violate the South Dakota Deceptive Trade Practices Act and enter a preliminary and permanent injunction against Defendants enjoining them from engaging in deceptive advertising within the physical borders of the State of South Dakota.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over the claims set forth in this Complaint by virtue of Article V, Section 5, of the South Dakota Constitution.

7. This Court has personal jurisdiction under SDCL 15-7-2. The State has adhered to the procedural requirements of both SDCL chapter 37-24 and SDCL chapter 15-6. Defendants have been served with notice by mail, as set forth in SDCL 37-24-23 and 37-24-16. Defendants have also been personally served with a Summons and Complaint, as set forth in SDCL chapter 15-6.

8. Venue is proper in Hughes County by virtue of SDCL 37-24-25.

PARTIES

9. The Plaintiff is the State of South Dakota, acting by and through the South Dakota Office of the Attorney General. Attorney General Marty Jackley is charged with enforcing the laws of the State of South Dakota. He is specifically authorized to bring this action in the public interest pursuant to SDCL 37-24-23.

10. Mayday Health is a pro-abortion non-profit corporation organized under the laws of Delaware and is headquartered in New York, New York.

11. Momentara is a limited liability company organized under the laws of Minnesota, with its principal place of business in Minneapolis Minnesota and an operational facility in Katy, Texas.

FACTUAL ALLEGATIONS

12. On December 8, 2025, Mayday Health issued a press release declaring that it had posted “ads” at nearly thirty gas stations across the state.

13. In a follow-up press release issued on December 10, 2025, Mayday Health acknowledged that only fourteen gas stations throughout the state “will have abortion pill advertisements.”

14. In both press releases, Mayday Health’s Executive Director Liv Raisner (Raisner) referred to the gas station advertisements as “ads.”

15. Raisner admitted that Mayday Health specifically targeted the State of South Dakota for these ads “due to the state’s strict abortion laws.”

16. Raisner provided several reasons as to why Mayday Health displayed the ads: 1) “we think that everyone deserves access to accurate medical information[;]” 2) “[w]e just want people to have the right information so they can make informed decisions about their own bodies[;]” and 3) to give “people facts about abortion pills and connect[] them to resources.”

17. The gas station ads directed consumers to its website, Mayday.Health.

18. Mayday Health’s website connects people with abortion pills providers.

19. On its website, Mayday Health asks consumers if they need an abortion.

20. If the consumer indicates that they need an abortion, Mayday Health directs them to a new screen within its website and asks them about their menstrual cycle.

21. On the screen that asks consumers about their menstrual cycles, Mayday Health represents that “[a]bortion pills are safe, effective during the first 12 weeks, and FDA-approved to get in the mail in all 50 states[,]” and that “[i]t is safe to do your own abortion at home with abortion pills.”

22. Depending on the consumer’s answer regarding their menstrual cycle, Mayday Health determines whether to redirect them to ineedana.com, or to continue soliciting information from the consumer.

23. If a consumer indicates that it has been less than twelve weeks since their last period, Mayday Health continues to solicit information from them. The consumer is taken to a new screen within Mayday Health’s website and asked whether they live in a “Red State.”

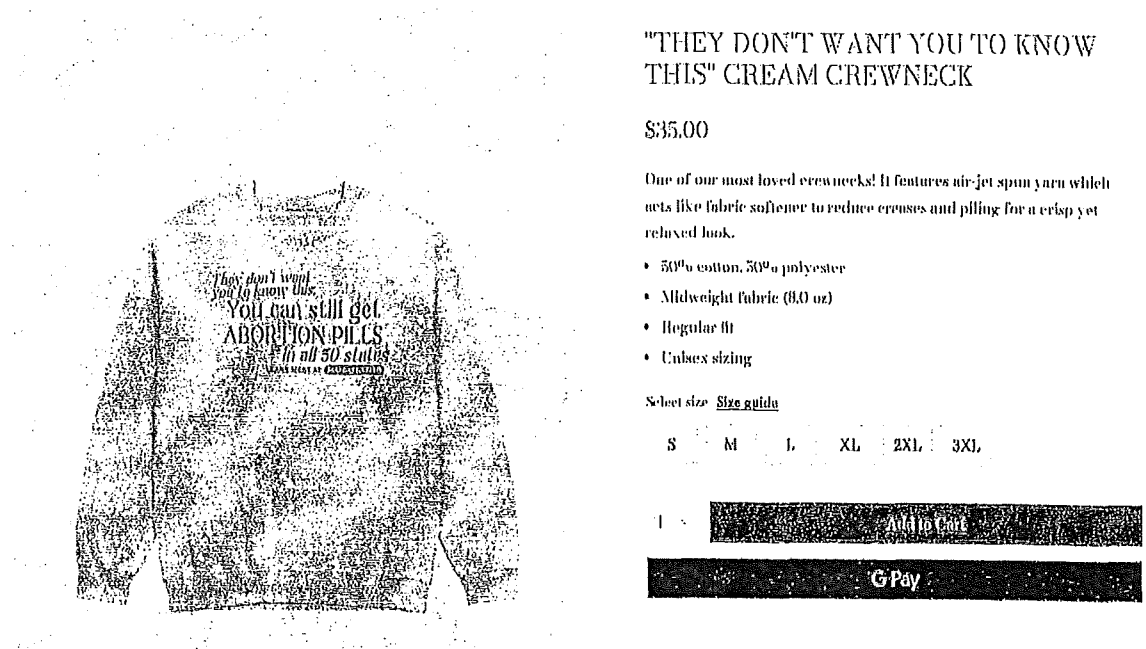
24. There is a map of the United States on the “Red State” screen wherein South Dakota is depicted as “Red State.” The key to the map indicates that South Dakota is “Restrictive” without defining that term.

25. If a consumer indicates that they live in a “Red State,” they are taken to a new screen within Mayday Health’s website where they are “connected” to abortion pill providers.

26. On the screen where Mayday Health connects consumers with abortion pill providers, there are five providers listed: Aid Access, Abuzz, The Map, A Safe Choice, and We Take Care of Us.

27. On the abortion pill provider screen that is part of Mayday Health's website, Mayday represents to consumers that 4 out of the 5 abortion pill providers "SHIPS TO ALL 50 STATES."

28. Mayday Health sells merchandise on its website with similar messaging.



29. Mayday Health solicits charitable contributions on its website to support its advertising campaigns.

30. Abortion pills are illegal in the State of South Dakota unless there is appropriate and reasonable medical judgment that performance of an abortion is necessary to preserve the life of the pregnant female.

31. Mayday Health does not advise South Dakota consumers that it is illegal to administer, prescribe, or procure for any pregnant female any medicine, drug, or substance to procure an abortion.

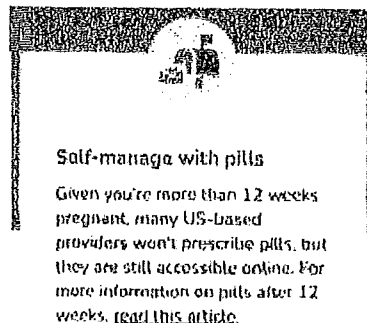
32. Mayday Health's website contains links to abortion services providers.

Mayday Health warrants to consumers that it "only link[s] to other trusted websites and partners." Mayday Health further warrants to consumers that the linked abortion service providers "have the best content for a certain aspect of abortion care."

33. A "trusted website and partner" that Mayday Health "connects" consumers with, Plan C, advises consumers that they could "get in trouble" if they "t[ell] someone about their abortion" or if they "g[et] follow-up medical care[.]"

34. Another "trusted website and partner" that Mayday Health "connects" consumers with for abortion pills, Aid Access, informs consumers that they are eligible to self-induce an at-home abortion using abortion-inducing pills in their fourteenth week of their pregnancy, and that this is "very safe."

35. In one example, Mayday Health's "trusted website and partner," Aid Access, advised that a fourteen-year-old child who is thirty weeks pregnant probably can't be prescribed abortion pills by a healthcare provider but indicated that abortion pills "are still accessible online" to them.



36. In the same example from paragraph 35, Aid Access advised that a fourteen-year-old child who is thirty weeks pregnant can circumvent parental notification laws for abortion by mailing the abortion pills to a friend and self-inducing an at-home abortion.



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

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

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

37. Mayday Health and its trusted websites and partners do not inform consumers that the FDA has only approved abortion pills through ten weeks' gestation.

38. Mayday Health and its trusted websites and partners do not inform consumers that the FDA does not recommend buying abortion pills online.

39. Mayday Health and its trusted websites and partners do not inform consumers that the FDA recommends that abortion pills should only be purchased through a qualified provider that participates in the FDA Risk Evaluation and Mitigation Strategies (REM) Program for abortion pills.

40. Mayday Health does not inform consumers of the risks associated with abortion pills.

41. Momentara placed, or caused to be placed, the gas station advertisements throughout the State of South Dakota on behalf of Mayday Health.

CLAIM FOR RELIEF

COUNT I

DECLARATORY AND INJUNCTIVE RELIEF FOR DECEPTIVE ADVERTISING

42. The State realleges and incorporates by reference herein all prior and subsequent factual allegations of this Complaint.

43. "It is a deceptive act or practice for any person to knowingly and intentionally act, use, or employ any deceptive act or practice, fraud, false pretense, false promises, or misrepresentation or to conceal, suppress, or omit any material fact in connection with the sale or advertisement of any merchandise or the solicitation of contributions for charitable purposes, regardless of whether any person has in fact been misled, deceived, or damaged thereby." SDCL 37-24-6.

44. Mayday Health advertises and solicits the sale of illegal abortion pills.

45. Mayday Health advertises and solicits the sale of merchandise with deceptive messaging that "you can still get ABORTION PILLS in all 50 states."

46. Mayday Health solicits charitable contributions on its website to support its advertising campaigns, including the advertisement and solicitation of illegal abortion pills.

47. Mayday Health's purpose in advertising in South Dakota is to "give people facts about abortion pills and connect[] them to resources."

48. Mayday Health connects people to resources that sell and deliver illegal abortion pills into the State of South Dakota.

49. Mayday Health connects people to resources, such as Plan C and Aid Access, that engage in further deceptive advertising.

50. The deceptive advertisement and sale of illegal abortion pills in the State of South Dakota creates a threat of irreparable harm to consumers that invokes the public interest.

51. Pecuniary compensation will not afford adequate relief regarding the illegal and deceptive acts.

52. An injunction is necessary to prevent further judicial proceedings regarding the advertisements and solicitation.

53. Mayday Health acted in bad faith by intentionally targeting South Dakota for its deceptive and illegal advertising campaign.

53. The advertisement and solicitation of illegal activity is not protected speech.

54. Deceptive advertising is not protected speech.

RELIEF REQUESTED

WHEREFORE, the State of South Dakota respectfully requests this Court to grant the following relief:

- A) To declare that Defendants' advertisements violate the South Dakota Deceptive Trade Practices Act.

- B) To issue a preliminary and permanent injunction requiring Defendants to from engaging in deceptive advertising within the physical borders of the State of South Dakota;
- C) To order civil penalties of not more than two thousand dollars per violation pursuant to SDCL 37-24-27;
- D) To order Defendants to pay reasonable attorney's fees and costs pursuant to SDCL 37-24-23; and
- E) For such other relief as this Court deems appropriate.

Dated this 18th day of February, 2026, at Pierre, South Dakota.

/s/ Amanda Müller
Amanda Müller
Deputy Attorney General
Office of the Attorney General
1302 East SD Highway 1889, Suite 1
Pierre, South Dakota 57501-8501
Telephone: (605) 773-3215
Email: amanda.müller@state.sd.us

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

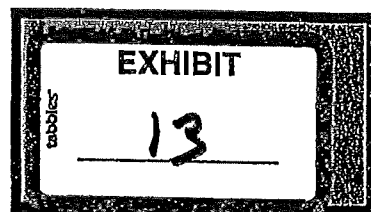
MAYDAY HEALTH, : Docket No.: 26-cv-00078
Plaintiff, :
v. :
MARTY J. JACKLEY, : New York, New York
: February 11, 2026
Defendant. :

PROCEEDINGS BEFORE
THE HONORABLE KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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Proceedings recorded by electronic sound recording;
Transcript produced by transcription service



1 expression with South Dakota laws restricting
2 abortion access. On the objective front, I cannot
3 say that Mr. Jackley has no reasonable expectation
4 of obtaining a favorable outcome in the civil
5 enforcement action.

6 Now, as I will elaborate in just a moment,
7 I do believe that the proper way to view Mayday's
8 website and the materials on it is noncommercial
9 speech subject to protection under the First
10 Amendment. But I understand that Mr. Jackley holds
11 a different view and believes that abortion pill
12 providers who cannot sell their products in
13 South Dakota are using Mayday as an end run around
14 the restrictive statutes of that state such that the
15 speech is commercial and potentially within the
16 ambit of the statute that I cited earlier, and I
17 think he should be permitted to pursue those
18 arguments in South Dakota court.

19 In light of the findings I've just made, I
20 am constrained to find that Younger abstention
21 applies and that I lack jurisdiction to consider
22 plaintiff's motion for a preliminary injunction.
23 Now, as suggested by my introductory comments to the
24 bad faith exception, federal courts have to trust
25 their state court analogs, and I trust that the

1 South Dakota court will get it right.

2 Let me just note on that point that I've
3 done my best here -- I suppose that goes without
4 saying. I've done my best to interpret Second
5 Circuit law on the Younger abstention doctrine and
6 its bad faith exception. If I've gone too far, if
7 I've misunderstood the law or where it is today, I
8 invite the Second Circuit to clarify my
9 jurisdictional obligations to clarify the bad faith
10 exception and, as appropriate, to reverse me. And I
11 say that not because I'm here tempting fate, but
12 because unless there be any doubt about this, I
13 absolutely agree that this case is the mirror image
14 of the factual situation presented in the Second
15 Circuit's late 2025 decision in *National Institute*
16 *of Family and Life Advocates v. James*, 160 F.4 360.
17 I think that the Second Circuit's analysis applies
18 equally here and that absent Younger abstention,
19 this Court would be granting plaintiff's motion for
20 injunctive relief. My read -- what the materials I
21 have before me suggest that Mayday's website
22 contains, under what I will call the NIFLA case,
23 noncommercial speech. It is speech that is based on
24 moral beliefs with no economic motivation. The
25 plaintiff does not charge the patrons of the website

1 or the service providers for referrals and the fact
2 that the website solicits donations does not
3 transform its contents into commercial speech, as
4 made clear by cases including *Connecticut Bar*
5 *Association vs. United States*, 620 F.3d 81, a Second
6 Circuit decision from 2010. That in turn focused on
7 the Supreme Court's 1988 case in *Riley v. National*
8 *Federation for the Blind*. The *NIFLA* case as well
9 made clear that if its holding were different than
10 it was, it could potentially inappropriately limit a
11 reproductive rights group in a state with abortion
12 restrictions that provides information about out of
13 state organizations that will help women obtain the
14 procedure for free. I also do not believe that the
15 website solicits or abets acts that are illegal
16 under South Dakota law. And here I'll just cite to
17 the parties *Ashcroft v. Free Speech Coalition*, 535
18 U.S. 234, and the section that I was focusing on is
19 found at pages 253 to 254.

20 And so as a result, I mean, I suspect -- or
21 let me say it this way, if I had jurisdiction, which
22 I don't believe I do, I think the South Dakota
23 statute would be subject to strict scrutiny analysis
24 and we would see whether it was narrowly tailored to
25 serve a compelling state interest under *NIFLA*, the

1 answer would probably be no. Indeed, if in fact a
2 court were to find that the statute was
3 noncommercial speech, not sure the statute cited to
4 me under South Dakota law would be applied at all.
5 But as it happens, I have to decide this issue on
6 jurisdictional grounds and given that I am deciding
7 the matter the way I am, I'm denying the motion. I
8 think the next steps for the parties would be -- and
9 I will issue an order to show cause to explain in
10 writing why I should not dismiss this matter for
11 lack of jurisdiction. I'm going to ask the parties
12 to file simultaneous letter briefs on or before
13 March 2nd, 2026. I'm going to direct the clerk of
14 court to terminate the motions that are currently
15 pending at docket entries 14 and 20. I will issue a
16 bottom line order later today that includes the
17 order to show cause language but also gives a
18 written document in case either side wishes to take
19 an appeal. And given the disposition of the motion
20 and my issuance of an order to show cause, I am
21 staying Mr. Jackley's obligation to answer, move, or
22 otherwise respond until after the order to show
23 cause is resolved.

24 Mr. Sieff, is there anything that is
25 unclear about the decision that I've just issued?

1 MR. SIEFF: No, Your Honor. I think that
2 that was an extremely helpful explanation of your
3 reasoning, and we appreciate all aspects of the
4 order, and we understand the next steps with respect
5 to responding to the order to show cause.

6 THE COURT: I appreciate that. Thank you.
7 And let me say this, Mr. Sieff, something I hadn't
8 considered, and I'll say this for both sides, is I
9 suppose if either side were to file an appeal from
10 this decision, you'd have to let me know your view
11 as to whether I had jurisdiction to do anything on
12 the order to show cause. But if you'll excuse my
13 grandmother's old expression, we'll burn that bridge
14 when we get to it.

15 Mr. Jackley, is there anything that is
16 unclear about my decision?

17 MR. JACKLEY: Your Honor, I want to be
18 completely respectful of what the Court has said and
19 noting the March 2, 2026 order to show cause filing
20 date. We have a state court hearing scheduled for
21 February 20th. Is it the Court's ruling that that
22 can proceed, or do I need to seek a continuance?

23 THE COURT: Very fair, sir. Right now, I
24 have denied the plaintiff's application for
25 injunctive relief. I don't even think I have

1 jurisdiction with this to proceed with the case that
2 is before me. I don't have the power to stop you or
3 to stop the state court from proceeding.

4 MR. JACKLEY: Thank you, Your Honor.

5 THE COURT: Of course, sir. Now, if
6 anybody were to tell me otherwise -- if the Second
7 Circuit disagrees, they'd let me know. But no one's
8 told me that yet, and I think the clock is ticking.
9 So I very much appreciate your inquiry so that I
10 could clarify my decision to the extent it was
11 unclear.

12 MR. JACKLEY: Thank you, Your Honor.

13 THE COURT: All right. I thank you all
14 very much. I know you've been working very hard on
15 very short time frames. I really do appreciate your
16 efforts. I will let you go because I know you have
17 other things to do. You have my thanks. We're
18 adjourned.

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C E R T I F I C A T E

I, Marissa Lewandowski, certify that the
foregoing transcript of proceedings in the case of
Mayday Health v. Jackley,
Docket #1:26-cv-00078-KPF, was
prepared using digital transcription software and is
a true and accurate record of the proceedings.

Signature

Marissa Lewandowski

Marissa Lewandowski

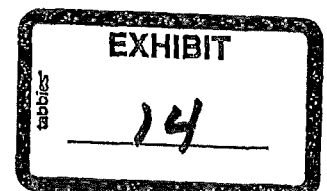
Date: February 12, 2026

LIMITED RELEASE AGREEMENT

This Limited Release Agreement (the "Agreement") is entered into this 5th day of March, 2026, between Mayday Medicines Inc., d/b/a/ Mayday Health (Mayday Health) and the State of South Dakota (South Dakota) which are collectively referred to as "Parties."

RECITALS

- A. Mayday Health is a pro-choice non-profit organization organized under the laws of Delaware and headquartered in New York, New York.
- B. Mayday Health targeted South Dakota for a campaign beginning December 8, 2025. The campaign consisted of placing placards at gas stations that read, in prominent letters, "PREGNANT? DON'T WANT TO BE?" Below the main tagline of the placard was a prompt for consumers to "LEARN MORE AT MAYDAY.HEALTH" (hereinafter, the "Gas Station Placards").
- C. MAYDAY.HEALTH (hereinafter referred to as "website") states that third parties provide abortion pills "in all 50 states" regardless of the fact that abortion pills are illegal in South Dakota.
- D. On December 10, 2025, the South Dakota Attorney General issued a cease-and-desist letter to Mayday Health, demanding that it refrain from conducting any advertising related to the delivery of abortion drugs to the State of South Dakota.
- E. Mayday Health declined to remove its Gas Station Placards in South Dakota in a letter dated December 19, 2025, on the grounds that its speech was noncommercial speech protected by the First Amendment and not regulable under state consumer protection laws.
- F. The South Dakota Attorney General filed a motion for a preliminary injunction in South Dakota State Court, File #32 Civ. 25-339, on December 22, 2025 (hereinafter, the "South Dakota Action"). In the motion, the State alleged that Mayday Health's Gas Station Placards constituted deceptive acts and practices, false pretense, false promises, or misrepresentations, and the concealment, suppression, or omission of material facts in connection with the advertisement of abortion-inducing pills and abortion services in violation of SDCL 37-24-6.
- G. Mayday Health filed a complaint for injunctive and declaratory relief in the United States District Court for the Southern District of New York, File



#1:26-cv-78, on January 2, 2026 (hereinafter, the "New York Action"). In the complaint, Mayday Health alleged the South Dakota Attorney General violated its First Amendment rights.

- H. On February 11, 2026, the New York federal court denied Mayday Health's preliminary injunction motion, but solely on the grounds that *Younger v. Harris*, 401 U.S. 37 (1971) required the court to abstain from interfering in the action in South Dakota.
- I. The Parties desire to fully and finally resolve, for valuable consideration, any and all actual and potential claims, causes of action, and disputes the Parties may have regarding the South Dakota Action and the New York Action (collectively, the "Actions").
- J. To fully resolve the Actions, the Parties reach a full and final joint limited release pursuant to the Terms and Conditions below.

TERMS AND CONDITIONS

1. Mayday Health agrees that it will ensure the removal of the Gas Station Placards and will terminate its campaign to place additional Gas Station Placards throughout South Dakota. Mayday Health also agrees that, going forward, it will not place, either directly or indirectly through third-party actions, any signs, posters, placards, billboards, or other physical media within the physical borders of South Dakota that aid, abet, or solicit illegal conduct as established by law.
2. Mayday Health and South Dakota agree to jointly dismiss the South Dakota Action and the New York Action within 24 hours of the execution of this agreement. The Parties further agree to waive any right to appeal from these matters.
3. In consideration of the obligations of Mayday Health in this Agreement, South Dakota (on behalf of itself, and its officers, agents, agencies, and departments) fully and finally releases Mayday Health (as well as its members, directors, affiliates, employees and agents) from any claims South Dakota has brought or may have brought in the South Dakota Action.
4. Mayday Health fully and finally releases South Dakota, its agencies, employees, servants, and agents from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that Mayday Health has brought or may have brought in the New York Action.
5. Notwithstanding any term of this Agreement, the following claims of South

Dakota are specifically reserved and are not released:

- a. Any criminal conduct; and
- b. Any liability based upon obligations created by this Agreement.

6. Notwithstanding any term of this Agreement, the following claims of Mayday Health are specifically reserved and are not released:

- a. Any liability based upon obligations created by this Agreement.

7. This Agreement is governed by the laws of the State of South Dakota. The Parties agree that the exclusive jurisdiction and venue for any dispute arising between and among the Parties under this Agreement is the Sixth Circuit Court in Hughes County, South Dakota.

8. All Parties consent to the disclosure of this Agreement, and information about this Agreement, to the public.

9. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

10. Mayday Health represents that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever.

11. For purposes of construction, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

12. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

13. The invalidity or unenforceability of any particular provision of this Agreement may not affect its other provisions, and this Agreement must be construed in all respects as if such invalid or unenforceable provisions were omitted.

14. Mayday Health and South Dakota signatories represent that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement.

15. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

16. This Agreement is binding on Mayday Health's successors, transferees,

heirs, and assigns.

17. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles of signatures or scanned signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the year and date first above written.

MAYDAY HEALTH



Liv Raisner

Mayday Health Authorized Agent

Executive Director

Title

March 5, 2026

Date

Adam S. Sieff

Counsel for Mayday Health

March 5, 2026

Date

STATE OF SOUTH DAKOTA

Marty J. Jackley
South Dakota Attorney General

3/5/26
Date

26,582.31

101st Legislative Session

1274



2026 South Dakota Legislature

House Bill 1274

ENROLLED

AN ACT

ENTITLED: An Act to prohibit the dispensing, distribution, sale, or advertisement of certain articles or things for purposes of an unlawful abortion and provide a criminal and civil penalty therefor.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 22-17-5.1 be AMENDED:

22-17-5.1. Any person who administers to any person or who prescribes or procures for any person any medicine, drug, or substance or uses or employs any instrument or other means with intent thereby to procure an abortion, unless there is appropriate and reasonable medical judgment that performance of an abortion is necessary to preserve the life of the pregnant female, is guilty of a Class 6 felony.

Section 2. That a NEW SECTION be added to chapter 22-17:

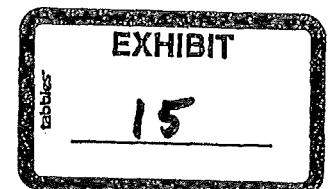
No person may knowingly dispense, distribute, sell, or advertise any of the following for purposes of an unlawful abortion pursuant to § 22-17-5.1:

- (1) An article or thing designed, adapted, or intended for producing an abortion; or
- (2) An article, instrument, substance, drug, medicine, or thing that is advertised or described in a manner calculated to lead another to use or apply it for producing an abortion.

A violation of this section is a Class 6 felony.

Section 3. That a NEW SECTION be added to chapter 22-17:

The attorney general may recover a civil penalty against a person for violating section 2 of this Act. The amount of the civil penalty may not exceed ten thousand dollars for each violation. The clerk of court shall forward any civil penalty collected under this section to the state treasurer, for deposit in the life protection subfund, as established within the extraordinary litigation fund pursuant to § 1-33-8.11.



26:582.31

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1274

The attorney general may recover attorney fees, costs, and any other award the court determines is appropriate.

Section 4. That a NEW SECTION be added to chapter 22-17:

If the attorney general has reason to believe that a person is engaging in, has engaged in, or is about to engage in a violation of section 2 of this Act, the attorney general may bring an action in the name of the state against the person to restrain the person by temporary or permanent injunction.

An action under this section may be brought in the circuit court for the county in which the alleged violator resides or has a place of business, or in the circuit court for Hughes County, South Dakota. The court may issue a temporary or permanent injunction to restrain and prevent any violation of section 2 of this Act.

The attorney general may recover attorney fees, costs, and any other award the court determines is appropriate.

26.582.31.

3

1274

An Act to prohibit the dispensing, distribution, sale, or advertisement of certain articles or things for purposes of an unlawful abortion and provide a criminal and civil penalty therefor.

I certify that the attached Act originated in the:

House as Bill No. 1274

Received at this Executive Office
this 12 day of March,
2026 at 2:20 P.M.

Patricia Miller

Chief Clerk of the House

By

Judy Davis

for the Governor

[Signature]
Speaker of the House

The attached Act is hereby
approved this 20 day of
March, A.D., 2026

Attest:

Patricia Miller

Chief Clerk of the House

[Signature]
Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

[Signature]
President of the Senate

Attest:

at 4:10 Filed March 20, 2026
o'clock PM

[Signature]
Secretary of the Senate

Monae L. Johnson
Secretary of State

House Bill No. 1274

File No.

Chapter No. 194

By

Asst. Secretary of State

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SOUTH DAKOTA HOUSE STATE AFFAIRS COMMITTEE - 2026

RE: HOUSE BILL 1274

FEBRUARY 20, 2026

CHAIR: SCOTT ODENBACH

REPRESENTATIVES: JESSICA BAHMULLER; ERIC EMERY; SPENCER
GOSCH; JON HANSEN; ERIN HEALY; LESLIE HEINEMANN; GREG JAMISON;
KARLA LEMS; LIZ MAY; MARTY OVERWEG; TIM REISCH; BRANDEI
SCHAEFBAUER



1 CHAIR ODENBACH: The last item up today is House
2 Bill 1274, restrict the delivery of an
3 abortion-inducing medicine, drug or substance into
4 this state and provide a criminal and civil penalty
5 therefor and provide a civil action for the wrongful
6 death of an unborn child.

7 Is there any proponent testimony, 12 minutes a
8 side?

9 REPRESENTATIVE HUGHES: Mr. Chair, John Hughes.

10 CHAIR ODENBACH: Welcome Representative Hughes.

11 REPRESENTATIVE HUGHES: Thank you. Members of
12 the committee, State Representative John Hughes,
13 District 13. I do have -- I am a House prime on HB
14 1274. I do have an amendment, Mr. Chair.

15 CHAIR ODENBACH: And has it been published, sir?

16 REPRESENTATIVE HUGHES: It has.

17 CHAIR ODENBACH: And what is it?

18 REPRESENTATIVE HUGHES: It is HB 1274C, Amendment
19 1274C.

20 CHAIR ODENBACH: Do I have a motion?

21 REPRESENTATIVE OVERWEG: Mr. Chair.

22 CHAIR ODENBACH: Representative Overweg.

23 REPRESENTATIVE GOSCH: I make that motion.

24 CHAIR ODENBACH: Motion by Overweg. Second by
25 Gosch to move Amendment 1274C. Any discussion on

1 that? Okay. All those in favor will please say aye.

2 (Aye.)

3 CHAIR ODENBACH: Opposed, no?

4 (No.)

5 CHAIR ODENBACH: The ayes have it. We're on
6 1274C. Please proceed.

7 REPRESENTATIVE HUGHES: Mr. Chair, State
8 Representative John Hughes, District 13. The title
9 of the bill has changed to an act to prohibit the
10 dispensing, distribution, sale or solicitation of
11 certain articles or things for purposes of an
12 unlawful abortion and to provide a criminal and civil
13 penalty therefor. The background, as you know in
14 2024, the voters rejected Amendment G, which was an
15 effort to place abortion rights in our state
16 constitution. That was the voters in our general
17 election. Since that time, as we all are aware,
18 there are bad actors that are marketing
19 abortion-inducing medicines, pills to South Dakotans.
20 You're familiar, I'm certain, with the Mayday
21 Medicine case, which our Attorney General is -- is
22 handling and which now is back in South Dakota. This
23 is reckless and dangerous conduct. I won't comment
24 on the threatened lives, health and safety of South
25 Dakotans which those medications cause and 1274C

1 criminalizes this bad behavior and provides the
2 Attorney General with enforcement tools to prosecute,
3 to obtain injunctive relief, and to collect civil
4 penalties for these bad actors.

5 And I'd like to now call on Senator Greg Blanc
6 who will provide some comments and introduce the
7 Attorney General. Thank you.

8 CHAIR ODENBACH: Thank you, Representative
9 Hughes. Further proponent testimony, Represen- -- or
10 Senator Blanc.

11 SENATOR BLANC: Good morning, Mr. Chairman,
12 respected colleagues of State Affairs. Greg Blanc,
13 Senator, District 35, Rapid City, Pennington County.
14 I join you in being grateful that South Dakota has
15 some of the most conservative and common sense
16 pro-life legislation in the country. The
17 South Dakota goal would that be that no preborn
18 babies would ever be deprived from their right to
19 live outside their mommy's womb. And with this
20 additional legislation, we can both save lives and
21 indict those out-of-state abortion pill companies who
22 mock our pro-God and pro-life ideology. Like most
23 South Dakotans, we were grateful to God when Roe was
24 rightly overturned by the Supreme Court in 2022. But
25 the joy was temporary because just a few years later

1 the dirty little secret was revealed that six out of
2 ten abortions in our nation are by these killer
3 abortion pills. You're probably familiar with this,
4 the two-step chemical abortion pill begins with
5 ingesting mifepristone. That literally starves the
6 child to death through cutting off their food
7 nutrient supply from their mother. And then a day or
8 two later the misoprostol is taken which expels the
9 lifeless body through an artificial miscarriage,
10 which usually causes significant pain to the mother.
11 Right now there are six primary U.S.-based websites
12 that refer to themselves as -- as clinics that
13 provide these dangerous drugs by mail to almost
14 anyone. And some of these clinics openly are
15 targeting girls as young as 16 years of age. Why?
16 Help me understand this. Why would the great State
17 of South Dakota not do everything in our power to
18 eliminate this kind of pain in the lives of mommies
19 and babies? Think about it. When you hear the
20 words, do-it-yourself, you think of Home Depot, you
21 think of Menards, you think of Lowe's, building a
22 shed or replacing a water faucet, yet the words
23 do-it-yourself should never be in conjunction with an
24 abortion. This is exactly what is being done through
25 these DIY mail order abortion drugs like

1 mifepristone.

2 Mr. Chair and committee members, I draw your
3 attention to the often overlooked verbiage at the top
4 of some amendments that states this bill has been
5 extensively amended. We call it hog housed. And may
6 no longer be consistent with the original intention
7 of the sponsor. Well, in this case this amendment is
8 exactly the original intent of the sponsor and the
9 original intent was to give our Attorney General
10 legislation that enables his team to prosecute the
11 provider of these killer drugs both criminally and
12 civilly. And as I invite the Attorney General to
13 come up and give the law enforcement specifics of
14 this bill, my appeal is help us stop these
15 do-it-yourself abortions in our state by thoughtfully
16 passing HB 1274. Thank you.

17 CHAIR ODENBACH: Thank you, Senator. Further
18 proponent testimony? Welcome Attorney General
19 Jackley.

20 ATTORNEY GENERAL JACKLEY: Good morning,
21 Mr. Chairman, committee members. Marty Jackley,
22 South Dakota Attorney General. When the sponsors and
23 legislators came to me regarding this bill, they
24 asked me the question, what are some options or tools
25 that law enforcement could look at to keep abortion

1 pills and other dangerous substances out of our
2 state? And it really comes down to two specific
3 areas. If you look, and -- and I would say these
4 amendments do not affect the Mayday case. We will be
5 in court at 1 o'clock today in Hughes County. This
6 is more in the nature of proactive to keep the pills
7 out, not letting them get -- get here in the first
8 place. So under existing law you'll see that in
9 order to bring a criminal action or an action, it
10 requires that these substances go to a pregnant
11 female, so that becomes an element of the offense.
12 That makes this different than other illegal or
13 controlled substances where we do controlled buys on
14 methamphetamine, on fentanyl, other substances.
15 We're not able to do that under existing law because
16 an element of the offense is it has to go to a
17 pregnant female. So if it's a narcotics agent, a DCI
18 agent, they are not a pregnant female so I'm not able
19 to do the proactive enforcement that we do in other
20 areas, again, such as methamphetamine and fentanyl.
21 So the language change was -- is key if you want
22 proactive enforcement to take out and remove the
23 element of the offense to a pregnant female. That's
24 the first suggested change.

25 The second deals with our federal partners.

1 Under Federal Law it goes back to the Comstock Act.
2 It's 18 U.S.C. 1461. It prevents certain activities.
3 The triggering language of the Comstock Act is it
4 says, basically, every paper, writing, advertisement
5 or representation that any article, instrument,
6 substance or drug may or can be used, applied, for
7 producing abortion. That's the purpose of that
8 secondary change. That will trigger, if you agree to
9 this change, that if there's a mailing, then federal
10 authorities will also have jurisdiction. It affects
11 subpoenas. It, basically, would allow for federal
12 prosecution related to the Comstock Act and illegal
13 mailing under Federal Law. The first violation of
14 that particular statute is a five-year felony. If
15 you do it repeatedly, it becomes a ten-year felony.

16 The last point that I simply would like to make
17 because, again, language is always important, you'll
18 see in Section 1, No person may knowingly dispense,
19 distribute, sell or solicit. It does not say use.
20 So it does not change other areas of existing state
21 law.

22 Mr. Chairman, I'll make myself available at the
23 appropriate time to answer any questions. Thank you.

24 CHAIR ODENBACH: Thank you, Mr. Attorney General.
25 Any other proponent testimony this morning? We're

1 about nine minutes in.

2 MR. FURY: Good morning, Mr. Chairman, members of
3 the committee. My name is Ian Fury. I'm here in my
4 capacity as unborn child advocate for Governor Larry
5 Rhoden. South Dakota is the most pro-life state in
6 America but out-of-state malicious actors are
7 skirting our laws and shipping abortion pills
8 illegally into our state. Several months ago at the
9 South Dakota Right to Life annual convention I heard
10 the horrible, unbelievable stories from the nurses
11 and the doctors working at crisis pregnancy centers
12 in South Dakota. Stories of women who had terrible
13 complications from taking abortion pills and other
14 women who were coming in seeking the miracle of
15 abortion pill reversal. I won't share those stories
16 now. You'll hear them directly in a second, but I
17 couldn't believe what I was hearing. I couldn't
18 believe the way that South Dakota moms were being
19 manipulated and lied to in pursuit of an -- of an
20 illegal agenda. Our laws were not stopping these
21 pills from coming into the state. So Leslee Unruh,
22 who has faithfully run the Alpha Center for many
23 years pulled me, pulled Speaker Hansen, and pulled
24 the Attorney General aside and implored us to fix it,
25 please. And this bill is the result of that. The

1 Governor's Office immediately got to work with the
2 Attorney General's Office, who are the prime sponsors
3 of the bill, and you have the product in front of
4 you. I promise that you would hear the stories of
5 the women impacted by those pills and so,
6 Mr. Chairman, I would ask that next that you turn to
7 online testimony for Dr. Glenn Ridder from the Alpha
8 Center. Thank you.

9 CHAIR ODENBACH: Thank you. Mr. Ridder, online,
10 can you hear me, sir? You're on mute. Take it off
11 mute, Mr. Ridder. There you go.

12 DR. RIDDER: Is that better?

13 CHAIR ODENBACH: Yep. State your name, who
14 you're with and proceed.

15 DR. RIDDER: First of all, thank you for allowing
16 me to testify in this wonderful committee. I
17 represent myself, Glenn Ridder, as a practicing
18 family physician for over 40 years dealing with the
19 living from conception to over 100 years of life and
20 as pro bono Medical Director of the Alpha Center,
21 Crisis Pregnancy Center, Pregnancy Help Center since
22 it's become a medical clinic in the mid 1990s. I am
23 testifying in favor of HB 1274 for these reasons.
24 Dealing directly with deceptive promotion of abortion
25 pills as safe and effective by out-of-state agencies

1 who, accepting no accountability for grievous ill
2 effects, allow these patients then to suffer and
3 depend on themselves to seek help elsewhere. And
4 oftentimes they're even advised not to admit that
5 they're having an abortion because it's illegal in
6 the state. So they're giving deceptive information
7 even to the physicians or care providers that offer
8 them help. We had one woman that presented with the
9 pills in hand from an out-of-state agency because
10 there was confusion on how she should actually take
11 the pills and was asking for our advice. And I was
12 sitting there in this patient conference and even as
13 a physician I couldn't tell how the instructions were
14 supposed to be followed. And they said about four
15 times the amount of the misoprostol, the second pill,
16 that is advised generally even though -- as people
17 that do use this med. She left our office and
18 leaving the pills in our hands.

19 And the next case would be -- we've had several
20 women that have shown up after taking the pills,
21 usually several weeks to a month later, with
22 persistent heavy bleeding and found to have an
23 incomplete abortion that we send directly to the
24 emergency room for treatment. The longer they have
25 this retained products of pregnancy that the pill may

1 have killed but not has discharged from the uterus
2 sets this woman up for significant problems with
3 infection that could lead her to be sterile for the
4 rest of her life.

5 Another woman with bleeding and cramping for
6 weeks post pill was sent to a local ob/gyn for
7 evaluation and found also an incomplete abortion who
8 needed a D&C to evacuate the dead products of the
9 pregnancy.

10 So for these reasons and other cases that are out
11 there I attest these are not safe prescribing or
12 informed consent ethical practices of physicians or
13 other providers anywhere in the country. So for
14 those reasons I am in favor of HB 1274 and I will be
15 available also for questions if need be.

16 CHAIR ODENBACH: Thank you.

17 DR. RIDDER: Thank you for the opportunity.

18 CHAIR ODENBACH: Thank you, Mr. Ridder. And our
19 final proponent is Michael Pauley. Can you hear us,
20 sir?

21 MR. PAULEY: Ah, yes, I can. Can you hear me?

22 CHAIR ODENBACH: We can hear you. State your
23 name, who you're with and go ahead.

24 MR. PAULEY: Thank you, Mr. Chairman, members of
25 the committee. Michael Pauley, Executive Director of

1 the South Dakota Catholic Conference. We represent
2 the Catholic bishops on public policy issues. I
3 won't repeat many of the arguments stated by others.
4 I'll just state briefly that these abortion drugs are
5 obviously lethal for unborn children, but also very
6 dangerous for their -- for the mothers and for those
7 reasons we urge you to support House Bill 1274.
8 Thank you.

9 CHAIR ODENBACH: Thank you, Mr. Pauley. And we
10 have one more -- or, nope. Okay. So we just have
11 one more proponent here in the room. It looks like
12 maybe. Maybe more than one, but we're getting...

13 MR. BARTSCHER: Good morning Mr. Chair and
14 committee members. Dale Bartscher, registered
15 lobbyist with South Dakota Right to Life. And we
16 certainly do, for obvious reasons, stand in support
17 of -- of the legislation that you have in front of
18 you. To be very clear, mail order abortion is not
19 healthcare. It is a reckless experiment that puts
20 women at risk and leaves families to deal with the
21 consequences afterwards. At South Dakota Right to
22 Life we have always advocated for the innocent human
23 life from the moment of conception until natural
24 death. We advocate for the ten brick and mortar
25 pregnancy centers across the State of South Dakota

1 and two mobile units that are doing excellent work in
2 protecting innocent human life. We need this piece
3 of legislation. Certainly we ask for your support.
4 Thank you very much.

5 CHAIR ODENBACH: Thank you, Mr. Bartscher. Is
6 there further online proponents? Oop. We have one
7 more in the room. Go ahead.

8 SENATOR CARLEY: Hi, Mr. Chair. Senator Carley,
9 District 29. I previously had actually registered to
10 oppose the original bill because it literally
11 legalized abortion. However, with the
12 newly-published amendment this morning, I withdraw my
13 opposition and I am now in support of it. Thank you
14 to Representative Hughes for bringing the amendment
15 as it is today. Thank you, I'm in support.

16 CHAIR ODENBACH: Thank you. Okay. Well, we're
17 about 16 minutes into our 12 minute deal, so the
18 Chair will be fair with the opponents, just wanting
19 to let everyone know we're running long.

20 MR. WOODS: Norman Woods, Family Voice Action,
21 just me too, we're over.

22 CHAIR ODENBACH: Thank you, Mr. Woods.

23 MR. SPEAKER: Mr. Chair.

24 CHAIR ODENBACH: Hang on one minute. We have one
25 more --

1 MR. SPEAKER: Mr. Chair.

2 CHAIR ODENBACH: One moment.

3 MS. GENNARO: Lisa Gennaro with Concerned Women
4 For America, LAC. I'm just going to have a handout
5 so it kind of condenses everything that we've talked
6 about today. Thank you.

7 CHAIR ODENBACH: Okay. Are there any other
8 proponents here in the room? Okay. Any final
9 proponents online?

10 MR. HAUGAARD: Yes, Mr. Chair. Steve Haugaard.

11 CHAIR ODENBACH: Okay. State your name, who
12 you're with and proceed with a pretty brief me too
13 testimony, please.

14 MR. HAUGAARD: Yep. Very brief. I was an
15 opponent to the original bill as it was drafted, but
16 this amendment takes care of all of the concerns and
17 so I'm in support of it. I appreciate the work that
18 the proponents have done on it to make this change
19 and the Attorney General has worked on it as well.
20 There's one -- one phrase in there that I'll discuss
21 with the Attorney General if that's needed to be
22 changed, we'll do so on the House floor if possible.
23 Thank you very much.

24 CHAIR ODENBACH: Thank you. Is there any other
25 proponent testimony? Okay. All right. 17 and a

1 half minutes. So we'll turn to opponent testimony
2 and certainly be fair. Is there any other opponent
3 testimony?

4 MR. BELL: Mr. Chairman, members of the
5 committee, my name is Justin Bell. I'm an attorney
6 from Ft. Pierre. I represent the South Dakota State
7 Medical Association. First of all, I want to
8 apologize to the prior response for the bill. It's
9 usually my goal to try to talk to the prime sponsor
10 for the bill prior to opposing it. I was not aware
11 this has been changed until yesterday late and then I
12 just saw the amendment this morning and so I did not
13 have that opportunity as relates to it. I want to
14 start off by saying that I think the Attorney General
15 is correct. And he's done an admirable job doing his
16 job representing the State. And that is that this
17 bill does not change whether or not the actions that
18 are being discussed are illegal or not. It's a Class
19 6 felony under our law to prescribe medication for an
20 illegal abortion. That will be the case whether this
21 bill passes or fails. It will be a Class 6 felony if
22 somebody other than a provider gets the drugs and
23 then gives it to somebody else. This -- this bill is
24 not about whether or not abortion should be a crime
25 or not. I would tell you that our opposition to this

1 bill relates to unintended consequences of this
2 legislation and there are many. Based off of the way
3 this is worded, I don't think those are intended, but
4 I think it does go to show why you need to be
5 extremely careful in the language that's used in
6 these in trying to draft amendments at the last
7 minute to try to deal with problems, created the
8 problems.

9 The first thing I want to state and is probably
10 the reason why some of the opponents have switched to
11 being proponents of this bill is the word solicit in
12 Section 1 of the bill. So solicitation means asked
13 for, essentially. If you look specifically at SDCL
14 22-4A, there's an entire chapter of solicitation. It
15 can mean various different things in different
16 situations, but if there's a criminal solicitation
17 which essentially states solicitation essentially is
18 asking somebody, it commands, hires, requests or
19 solicits another person to engage in specific
20 conduct. What that means is, with the amendment of
21 this bill, you've now criminalized every pregnant
22 woman who asks someone to do this. I don't think
23 that's the intent of the bill but that's what the
24 bill does. If you are pregnant -- the original bill
25 would not have done that. That was a specific

1 exception for a pregnant person or pregnant mother
2 who asks for this, but this bill would essentially do
3 what House Bill 1212 was attempting to do, which
4 would to make every pregnant mother who asks for an
5 abortion guilty of a Class 6 felony. The Attorney
6 General said it doesn't use the word uses. That's
7 true. This is even broader because the word solicit
8 means you just ask for someone to commit the crime.
9 My -- my clients stand strongly opposed to
10 criminalizing pregnant mothers who seek an abortion
11 and we would stand against this amendment for that.

12 Second, there's a lot of uses for
13 abortion-inducing drugs. That language is no longer
14 in this amendment. They're outside of an abortion.
15 The two that were referenced for mifepristone and
16 misoprostol both have significant uses in medicine
17 that are not related to an abortion. The
18 FDA-approved purpose for mifepristone is for Cushing
19 syndrome. It also is used for miscarriage
20 management. It's used to reduce the size of
21 noncancerous tumors in the uterus. It's used to
22 alleviate pelvic pain and -- associated with
23 endometritis. It's used to induce labor. And I've
24 talked to several physicians and, quite frankly,
25 there's stuff nationally that talks about this that

1 when you pass legislation like this it becomes
2 extremely difficult for medical providers to actually
3 get the stuff, to get the drugs, to get the items
4 that are needed to treat other symptoms as it relates
5 to this. Because why would you take the liability of
6 shipping the drugs to a hospital or to a physician
7 for other uses if now you're looking at felonies for
8 providing those to healthcare providers, you're
9 looking at substantial civil penalties that would
10 relate to that. And, of course, I'm sure the
11 proponents are going to say to be found guilty of
12 this crime it would have to be for the purpose of
13 doing an abortion, but people just aren't going to
14 take the risk. It doesn't matter what the statute
15 says. They're going to say, I don't know what people
16 are going to use this for. I'm not taking the
17 liability of a potential civil action. I'm not
18 taking a risk of getting convicted of a Class 6
19 felony because of it.

20 So with those reasons I -- I applaud the goals, I
21 understand why the proponents are doing this, but the
22 South Dakota State Medical Association believes that
23 there's substantial unintended consequences to this
24 and we stand against criminalizing women, pregnant
25 mothers for this and we would ask you to oppose this

1 bill as amended. Thank you.

2 CHAIR ODENBACH: Thank you, Mr. Bell. Is there
3 any other opponent testimony? We're about five
4 minutes in.

5 MS. RITER-RAPP: Good morning, Mr. Chair, members
6 of the committee. My name is Lindsey Riter-Rapp.
7 I'm a registered lobbyist for the South Dakota
8 Chapter of the American College of Obstetricians and
9 Gynecologists. We have many of the same concerns
10 that Mr. Bell expressed relative to the merits of
11 this bill. I don't think any of us are here today to
12 debate the merits of whether or not abortion-related
13 care is legal in South Dakota. It's not. What I'm
14 concerned about is the unintended consequences of
15 this bill on access to care for mothers in our state.
16 And as Mr. Bell indicated, the same drugs used
17 primarily to end an early pregnancy are also the most
18 effective drugs to medically manage miscarriages. As
19 Mr. Bell indicated, the doctors, physicians use a
20 combination of mifepristone and misoprostol for
21 medical management of a miscarriage. And so we are
22 concerned, frankly, with the chilling effect this law
23 would have on access to these and, frankly, some
24 other medications as well that are used to treat
25 women aside from abortion-related care. I can tell

1 you that OBs are already reluctant to administer
2 medications like this too early for treatment like --
3 for treatment of conditions such as ectopic
4 pregnancies for fear of running afoul of the law.
5 Now we are also adding in and the bill references
6 articles, things, instruments, other items of that
7 nature. So it not only sweeps in medications that
8 are used for other purposes, but also items of this
9 nature which are used for things such as D&Cs,
10 cervical dilations, things of that nature. And so we
11 are concerned that this bill could lead to more
12 uncertainty which could delay care for women in our
13 state and, frankly, lead to poor outcomes for them.
14 And for those reasons we do oppose this bill. Thank
15 you.

16 CHAIR ODENBACH: Thank you, Ms. Rapp. Any other
17 opponent testimony?

18 MS. CHAPMAN: Good morning, Mr. Chair, members of
19 the committee. My name is Samantha Chapman. I
20 represent the ACLU of South Dakota. We also rise in
21 opposition of this bill. Regardless of your
22 individual views on abortion, we think that this bill
23 raises serious privacy, practical and policy concerns
24 that should give you serious pause before
25 recommending a do pass. The bill invites

1 investigations into pregnancy outcomes. There's no
2 way for the state to enforce this bill without
3 invading shipping records, pharmacy data, telehealth
4 communications, and potentially digital
5 communications to determine where the medication may
6 have come from and to prove intent of the person
7 delivering the medications. The bill imposes layered
8 penalties to South Dakota's total abortion ban. We
9 already have the Class 6 felony as was discussed and
10 now we are also adding in civil penalties of up to
11 \$10,000 per dose punitive damages, attorneys' fees,
12 and injunctive relief. This cumulative structure is
13 designed to create maximum deterrence through maximum
14 liability. And in practice, to Ms. Riter-Rapp's
15 points, it will not only affect unlawful conduct, but
16 it will also chill lawful medical care particularly
17 in cases involving miscarriage management or
18 emergencies when physicians must act quickly under
19 appropriate and reasonable medical judgment. Also,
20 this bill directs the penalties that will be
21 collected through these civil lawsuits into the
22 extraordinary litigation fund. We think this is a
23 very suspect legal policy structure so when
24 enforcement actions are financially replenishing a
25 litigation fund that was created to challenge

1 constitutional precedent relating to abortion, it
2 risks creating the appearance of incentivised
3 prosecution rather than neutral law enforcement.
4 Maternal healthcare in South Dakota is already scarce
5 and perilous in some parts of our state. 53 percent
6 of our state is considered to be a healthcare desert
7 for -- for prenatal care and adding these layered
8 penalties to our statutes that target providers will
9 disincentivise doctors choosing to practice in our
10 state and exacerbate further the maternal healthcare
11 crisis that we're already facing all too real
12 especially for rural South Dakotans. And so for
13 those reasons we ask you to vote no. Thank you.

14 CHAIR ODENBACH: Thank you. Any other opponent
15 testimony? Is there any other -- is there any
16 opponents online? Nobody remaining online. Okay.
17 With that, then we will give the prime a chance for
18 rebuttal.

19 REPRESENTATIVE HUGHES: Mr. Chair, it's always a
20 little disconcerting to hear from our medical
21 community when the Hippocratic Oath is first do no
22 harm. And abortion is the -- in South Dakota, the
23 unlawful taking of a -- what we believe is a human
24 life. We have resolutions that are on record from
25 this legislature that recognizes that from conception

1 forward a human embryo, a fertilized human egg is a
2 whole independent, separate human being.

3 Now, let me tell you a story about my personal
4 experience with one of the most experienced ob/gyns
5 that this state has ever produced. I won't name him,
6 but my wife and I had four and a half years of
7 infertility. And by a miracle we had our first
8 child. My wife had placenta previa, which was very
9 severe with our second pregnancy. And we went to the
10 doctor and he said, Go to the hospital. This is
11 really bad. Do a D&C. He had the admit card. And
12 we were crushed. Now, just think of the number of
13 young couples that wouldn't have had the forethought
14 to do this. But I said, Doctor, how do we know we've
15 lost the baby? Can we do an ultrasound? Well, I
16 suppose, but this is really, really bad. Now, this
17 is probably a man that has 40, 45 appointments that
18 day and it's called this is bad, let's just get her
19 to the hospital and get this over with. Well, we did
20 the ultrasound and my wife and I were sobbing with
21 joy as our second child was swimming around in the
22 amniotic fluid. Now, if this bill causes doctors to
23 slow down a bit, I'd say more power to this body
24 because human beings are a whole different --
25 different process. We all know these abortion pills

1 could be deadly. My wife and I have been providing
2 adoption services for 35, 36 years. There are four
3 children in this state that are growing up in loving
4 homes that survived chemical abortion. One woman
5 came to me and said, I want to sue Planned
6 Parenthood. I'm not supposed to have this baby.
7 She's in her seventh month. I said, Well, in
8 South Dakota you can't sue Planned Parenthood. There
9 is no action for wrongful life. But if you would
10 like, we can help you make an adoption plan.

11 Now, let's get real about this and just center in
12 on what we're dealing with here. It's human life.
13 We spend more time with breeding cattle and horses
14 and other livestock oftentimes. We take more care
15 and we're talking about living, breathing human
16 beings. Now, if the word solicit is such a problem
17 and, basically, what it does is the opposition
18 vilifies the prosecutor -- the prosecutorial
19 discretion which is exercised in every single case,
20 we could strike solicit and you could put advertise.
21 I mean, we would be open to that and then that just
22 ends that -- that -- that issue. But I will tell you
23 that we have worked not quite around the clock but
24 with the departure of our good representative from
25 Sioux Falls starting Thursday of last week we rolled

1 up our sleeves and worked tirelessly, frankly, that's
2 why I was grumpy earlier in meeting with you guys.
3 And I apologize for that, but I've had very little
4 sleep this week.

5 CHAIR ODENBACH: Join the club.

6 REPRESENTATIVE HUGHES: Yeah. I see. I totally
7 understand that, Mr. Chair, and I'd ask your
8 indulgence on that, but this is a good bill. I'm
9 going to embarrass him, but you all know this, we
10 probably have the finest Attorney General this state
11 has ever produced and we have bad actors that in the
12 name of virtue are going to cause injury and death.
13 And, you know, how many -- how many young women are
14 going to be running around with, as the medical
15 profession says, uterine contents that are
16 unexpelled? Well, let's just send this bill to the
17 floor. But if you would like to strike solicit and
18 insert advertise, Senator Blanc and I would have
19 absolutely no problem with that. Thank you.

20 CHAIR ODENBACH: Thank you. With that, we'll
21 close the taking of public testimony and open it up
22 to questions from the committee. Representative
23 Overweg.

24 REPRESENTATIVE OVERWEG: A question for Mr. Bell,
25 please. Mr. Chair.

1 CHAIR ODENBACH: Go ahead.

2 REPRESENTATIVE OVERWEG: So part of your argument
3 was that this drug is used for more than one thing
4 and could be confused. But couldn't you say that
5 about most drugs that doctors use if it's used in the
6 wrong way could cause death?

7 MR. BELL: Mr. Chairman?

8 CHAIR ODENBACH: Mr. Bell.

9 MR. BELL: Justin Bell. I'm a registered
10 lobbyist for the South Dakota State Medical
11 Association. Ah, Representative Overweg, yes, the
12 difference is there's not specific drugs that would
13 make it a Class 6 felony to ship it into the state.
14 So when you pass the specific statute that says that
15 there's specific penalties and civil liability that
16 would arise for use of an item that would be -- could
17 be for its intent used for an abortion, individuals
18 will just -- the concern is the chilling effect will
19 happen, as also such by others that it just -- they
20 won't ship into the state anymore. They don't want
21 to risk criminal liability or civil liability.

22 REPRESENTATIVE OVERWEG: Thank you.

23 CHAIR ODENBACH: Any other questions from the
24 committee? Representative Schaeffbauer.

25 REPRESENTATIVE SCHAEFFBAUER: Can I have you just

1 clarify for everyone in the room, does this bill just
2 target mail order or does it target a medical
3 professional giving a prescription to a woman
4 in-state which she would fill at her pharmacy which
5 is located in-state?

6 CHAIR ODENBACH: Representative Hughes.

7 REPRESENTATIVE HUGHES: Thank you. The only
8 criminalization, the only civil penalty, the only
9 injunctive relief that could be sought in this case
10 is where these drugs are either mailed in or brought
11 in to South Dakota by some other means for the
12 purpose of an unlawful abortion. So it does not
13 criminalize anything that isn't already criminal,
14 which is an unlawful abortion. Thank you.

15 CHAIR ODENBACH: Okay. Any other questions from
16 the committee? Representative Schaeffbauer, any
17 follow-up?

18 REPRESENTATIVE SCHAEFBAUER: Okay. Thank you.
19 For the proponent. So in no way this will
20 criminalize any pharmacy here in our state, any
21 medical professional prescribing this to manage a --
22 a miscarriage? Correct me if I'm wrong.

23 CHAIR ODENBACH: Representative Hughes.

24 REPRESENTATIVE HUGHES: Mr. Speaker and thank you
25 for identifying me. I -- you know, John Hughes,

1 State Representative, District 13. Healthcare
2 providers cannot be prosecuted when they are doing
3 their job and abiding by their licensing and other
4 state statutes. There is no -- well, I can't imagine
5 how that could happen. I suppose if a pharmacist
6 illegally removed mifepristone and I'm probably going
7 to screw up the other one, for purposes of a
8 relative, you know, to have an abortion at home, that
9 would be an unlawful abortion and they could be
10 prosecuted for that and they should be prosecuted for
11 that, so...

12 CHAIR ODENBACH: Any other questions from the
13 committee? Representative Jamison.

14 REPRESENTATIVE JAMISON: Yeah. A question for
15 the Attorney General, please. Mr. Chair, the
16 question is asking the Attorney General the
17 opportunity to clear up some of the discrepancies
18 that we've heard just in this testimony from the
19 opponents.

20 ATTORNEY GENERAL JACKLEY: Thank you,
21 Representative, Mr. Chairman.

22 CHAIR ODENBACH: Go ahead.

23 ATTORNEY GENERAL JACKLEY: One of the questions
24 came about on the use of the word solicit. I agree
25 with the sponsor that if it's a concern for this

1 committee, perhaps you should consider the more
2 appropriate word would be advertisement. I would
3 tell you when it comes to solicitation and I'm
4 relying on the Williams line of cases, solicitation
5 means to induce, advertise, offer, make available.
6 So the general term on solicit, if you were to
7 purchase the item you're not soliciting, it's --
8 you're not inducing it, you're not advertising it,
9 you're not offering it, but if there's a concern, I
10 think a change of a word would address that concern.

11 As to the use of the mifepristone and other
12 medical devices with respect to a miscarriage
13 situation, I just -- I would key in on the language
14 that is in Section 1, line 9, for purposes of an
15 unlawful abortion. So that is the protection against
16 those concerns and I agree with Representative Hughes
17 that if you did have a situation and you do have this
18 where somebody takes a medication that can be
19 prescribed, they steal it and then they use it for
20 inappropriate reasons they would be prosecuted for
21 that. And so I think the protections are in place
22 with that language for purposes of an unlawful
23 abortion. I feel it covers it. I don't believe
24 legally you could prosecute a pregnant female for
25 solicitation, but if you believe that's a concern

1 based upon the definition of solicitation, you should
2 consider using the word advertise or advertisement.

3 CHAIR ODENBACH: Any other questions from the
4 committee? Okay. Hearing no other questions, then
5 I'll move on to committee discussion and/or action.
6 Representative Gosch?

7 REPRESENTATIVE GOSCH: Thank you, Mr. Chair. I
8 would move 1274D. It will be online here very
9 shortly.

10 CHAIR ODENBACH: Okay. We'll just take a second
11 here. Be at ease just so we can get it published,
12 let everybody look at it.

13 (A brief pause.)

14 CHAIR ODENBACH: Representative Gosch.

15 REPRESENTATIVE GOSCH: If I may. I --

16 CHAIR ODENBACH: You may.

17 REPRESENTATIVE GOSCH: I have -- I have put this
18 poor LLC staff woman through so much this -- this
19 session and want to take a moment to applaud her work
20 and her ability to do so much in such a short amount
21 of time, so...

22 CHAIR ODENBACH: I was going to say the same
23 thing. We applaud you for putting up with
24 Representative Gosch. Very, very well done. You're
25 second, Representative Reisch.

1 REPRESENTATIVE REISCH: Mr. Chair, I second that
2 motion, now that it's up.

3 CHAIR ODENBACH: Okay. Okay. So we have a
4 motion by Gosch, seconded by Overweg to move
5 Amendment 1274D. Is there any discussion on that
6 motion? Representative Gosch.

7 REPRESENTATIVE GOSCH: Thank you, Mr. Chair. And
8 -- and for many of you, obviously committee members,
9 you can see it's a single one word replacement but
10 for those of you in the room and those of you online,
11 we are going to make that solicitation language
12 change from solicit to advertisement.

13 CHAIR ODENBACH: Any other discussion on that
14 motion? Okay. This will be a voice vote. All in
15 favor of 1274D would say aye?

16 (Aye.)

17 CHAIR ODENBACH: All opposed no.

18 (No.)

19 CHAIR ODENBACH: The ayes have it.

20 We are on 1274D. Is there any further discussion
21 or action by the committee?

22 REPRESENTATIVE SCHAEFBAUER: Mr. Chair.

23 CHAIR ODENBACH: Representative Schaeffbauer.

24 REPRESENTATIVE SCHAEFBAUER: I move do pass.

25 CHAIR ODENBACH: Motion by Schaeffbauer. Seconded

1 by Gosch. Is there any -- to move do pass. Excuse
2 me. Is there any discussion on the do pass motion?
3 Go ahead, Representative Schaeffbauer.

4 REPRESENTATIVE SCHAEFFBAUER: Thank you. Just a
5 quick comment. I appreciate the sponsor and the
6 Attorney General bringing this and I really hope that
7 this clarifies stuff in state law and hopefully we
8 can cut down on the number of pills being mailed into
9 our state for the unlawful abortions that are
10 happening, so thank you for bringing this.

11 CHAIR ODENBACH: Any other discussion on the do
12 pass motion? Representative Healy.

13 REPRESENTATIVE HEALY: Thank you, Mr. Chair.
14 Well, I'm not going to discuss the merits of the bill
15 because we all know where this is going, but I do
16 want to provide some information for you guys because
17 we heard a lot of misinformation during the
18 testimony. Both mifepristone and misoprostol are
19 safe and they are -- I want to say like they're a
20 pill that has like the lowest of low for
21 complications, for risk of complications. Major
22 complications, recurring hospital care occur in about
23 .3 percent of cases. And I just want to reiterate
24 that. You know, like we heard abortion pill
25 reversal. That's not a thing. That's not real.

1 That doesn't exist. We heard that it was dangerous.
2 We heard do-it-yourself. That -- and just FYI, it's
3 FDA-approved. It's not do-it-yourself. You have to
4 have a prescription. And, again, you can't even in
5 South Dakota. We heard experimental. It's not
6 experimental. It's FDA-approved and it is used for a
7 number of things. I'm just going to repeat it again,
8 management of miscarriages, postpartum hemorrhages,
9 third trimester induction. I think I even saw
10 something about using it for stomach ulcers. And,
11 again, I know that those are proper uses of it in
12 South Dakota but it is going to have a chilling
13 effect on physicians. Physicians are there to do the
14 right thing for their patients. I had the most
15 amazing ob/gyn that delivered my baby and I trust her
16 100 percent to do what is safe for me. And when I
17 found out I was pregnant, I was very scared at the
18 age of 36 that I could potentially have a miscarriage
19 and that these pills specifically wouldn't be
20 available for me because of how politically-motivated
21 things have gone in this state. I was very
22 concerned. Luckily, that didn't happen. Would never
23 have wanted that to happen. But I -- I do feel very
24 fortunate that we have great care in South Dakota and
25 doctors who care about their patients and don't want

1 to have to use these pills, but I also don't want to
2 make it more difficult for them to use that, these
3 pills, so with that, I will be resisting the motion.

4 CHAIR ODENBACH: Thank you. Any other discussion
5 on the do pass motion? Representative Hansen?

6 REPRESENTATIVE HANSEN: Thank you. I'm going to
7 support this motion. And I do just want to say, you
8 know, there is one study in particular that says
9 based on the data available there's significant
10 evidence that the ER visitation rate due to
11 complications from induced abortion increased after
12 the FDA stopped enforcing the in-person dispensing
13 requirement for mifepristone. So there are risks
14 and, you know, we've -- we've -- if you've paid
15 attention, you've heard many stories of the risks
16 associated with distributing these pills online from
17 sources sometimes in the country, sometimes out of
18 the country. I've seen cases where a mother was
19 given basic instructions with a pile of these pills.
20 And afterwards I was talking to a medical
21 professional and I said, What would have happened --
22 you know, she'd ordered these pills online -- what
23 would have happened if she would have taken these
24 pills as prescribed to her? And the doctor looked at
25 me and he said, she probably would have bled out and

1 died. So that's not good medicine to having these
2 distributed online. If it were medicine at all,
3 which in the case of an abortion, it's not medicine.
4 It's the termination of the life of a whole separate,
5 unique, living human being in the mother's womb. So
6 I appreciate this piece of legislation and I hope
7 that our Attorney General will be able to use this as
8 a tool to protect these mothers and these unborn
9 babies in our state. Thank you.

10 CHAIR ODENBACH: Thank you, Representative. Any
11 other discussion? Okay. Hearing none, then the
12 motion is do pass on House Bill 1274 as amended. All
13 those in favor will say aye. Those opposed will say
14 no. Secretary, please call the role.

15 THE SECRETARY: Representative Bahmuller?

16 REPRESENTATIVE BAHMULLER: Aye.

17 THE SECRETARY: Emery?

18 REPRESENTATIVE EMERY: No.

19 THE SECRETARY: Gosch?

20 REPRESENTATIVE GOSCH: Aye.

21 THE SECRETARY: Hansen?

22 REPRESENTATIVE HANSEN: Aye.

23 THE SECRETARY: Healy?

24 REPRESENTATIVE HEALY: No.

25 THE SECRETARY: Heinemann excused. Jamison?

1 REPRESENTATIVE JAMISON: Aye.

2 THE SECRETARY: Lems?

3 REPRESENTATIVE LEMS: Aye.

4 THE SECRETARY: May?

5 REPRESENTATIVE MAY: Aye.

6 THE SECRETARY: Reisch?

7 REPRESENTATIVE REISCH: Aye.

8 THE SECRETARY: Schaeffbauer?

9 REPRESENTATIVE SCHAEFFBAUER: Aye.

10 THE SECRETARY: Overweg?

11 REPRESENTATIVE OVERWEG: Aye.

12 THE SECRETARY: Odenbach?

13 REPRESENTATIVE ODENBACH: Aye.

14 THE SECRETARY: Ten ayes, two nays. One excused.

15 CHAIR ODENBACH: Thank you, Madam Secretary.

16 After receiving a majority of members elect, the do
17 pass motion passes. House Bill 1274 as amended goes
18 to the floor with a do pass recommendation. That
19 being the end of our agenda for this fine morning,
20 the Chair would entertain a motion to adjourn.

21 REPRESENTATIVE OVERWEG: Motion to adjourn.

22 CHAIR ODENBACH: Motion by Overweg. Seconded by
23 Hansen. All those in favor will say aye.

24 (Aye.)

25 CHAIR ODENBACH: Opposed no.

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(No.)

CHAIR ODENBACH: We are adjourned.

1 STATE OF SOUTH DAKOTA)

2)SS.

CERTIFICATE

3 COUNTY OF PENNINGTON)

4
5 I, CAROLYN M. HARKINS, RPR, Registered Professional
6 Reporter, hereby certify that the foregoing pages 1 through 38,
7 inclusive, are a true and correct transcript of my stenotype
8 notes types from an audio recording to the best of my ability.

9 Dated at Rapid City, South Dakota, this 27th day of May,
10 2026.

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/s/Carolyn M. Harkins, RPR
Registered Professional Reporter

15 My Commission Expires: 11-24-2027

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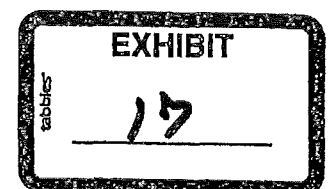
SOUTH DAKOTA HOUSE OF REPRESENTATIVES

HOUSE BILL 1274

February 24, 2026

SPEAKER: JON HANSEN

SPEAKER PRO TEMPORE: KARLA LEMS



1 MS. SPEAKER: House Bill 1274, an act to prohibit
2 the dispensing, distribution, sale or advertisement
3 of certain articles or things for purposes of an
4 unlawful abortion and provide a criminal and civil
5 penalty therefor.

6 SPEAKER PRO TEMPORE LEMS: House Bill 1274 having
7 had its second reading is up for consideration and
8 final passage. Are there any remarks?

9 REPRESENTATIVE HUGHES: Madam, Speaker.

10 SPEAKER PRO TEMPORE LEMS: Representative Hughes.

11 REPRESENTATIVE HUGHES: Thank you, Madam Speaker.
12 Well, in South Dakota abortion is unlawful unless
13 there is an appropriate and reasonable medical
14 judgment, the performance of an abortion is necessary
15 to preserve the life of the pregnant female. That's
16 the current state of the law. As we know, since 2022
17 with the Dobbs decision reversing Roe versus Wade
18 South Dakota's trigger law took effect. And in 2024,
19 the voters rejected Amendment G, which would have
20 included a right to an abortion in our State
21 Constitution. So -- well, why are we here? Well,
22 two-thirds of the abortions in the United States are
23 now chemical abortions, as I believe is the most
24 accurate description. And we've certainly seen
25 recently and our Attorney General has been faced with

1 bad actors that are shipping drugs that are used for
2 abortions into South Dakota and there have been
3 problems that have been reported with those. And we
4 can talk about the drugs if you'd like to. I've done
5 kind of an extensive workup from the Mayo Clinic, but
6 let me just tell you what the bill says. The bill
7 says that you can't advertise abortion drugs by
8 signage on a gas pump or in a restroom or on a
9 billboard or knowingly, and this is the key word,
10 dispense, distribute, sell or advertise for purposes
11 of an unlawful abortion. So right there, there is a
12 specific intent requirement, as we say in the law,
13 that one of those things has to be knowingly done for
14 the purpose of an unlawful abortion. And then the
15 language in Subsections 1 and 2 is language that is
16 part of Federal Law that actually dates back to 1873.
17 100 years before Roe versus Wade, Anthony Comstock
18 and Congress drafted the Comstock Act, which
19 prohibited abortifacients, we'll call them, things
20 used for abortion to be shipped through the U.S.
21 mail. So in meetings with the Governor's staff, the
22 Attorney General and of course the Mayday Medicine
23 case is going and it is apparently going to be tried
24 in Hughes County now because the Federal Court in
25 New York declined jurisdiction, not only are we

1 giving tools in the toolbox for the Attorney General
2 to prosecute when this -- this criminal statute is
3 violated, but we are also enlisting the assistance of
4 the U.S. Postal Inspector. And so passing HB 1274
5 will not only give our state Attorney General and
6 prosecutors the ability to prosecute violations, but
7 the Postal Inspector can actually intercept
8 potentially through the mails when these drugs are
9 sent into South Dakota for purposes, again, knowingly
10 for an unlawful abortion. There are also civil
11 penalties that are provided, which could potentially
12 be used to fund the extraordinary litigation fund.
13 The Attorney General will also can recover costs and
14 attorney fees and then there is the ability to bring
15 injunctive relief.

16 Now, I know that the narrative is that these
17 drugs used in combination are safe and effective. I
18 want to tell you that in our adoption practice there
19 are four children alive and well, amazingly, in
20 South Dakota that survived chemical abortions. And
21 one of the mothers came to me in her seventh month of
22 pregnancy and had just -- she -- she carried her
23 records from Planned Parenthood, which --

24 (Inaudible.)

25 REPRESENTATIVE HUGHES: Thank you. Which said

1 that she was no longer --

2 SPEAKER PRO TEMPORE LEMS: (Inaudible -- yields.)

3 REPRESENTATIVE HUGHES: It said uterine contents
4 empty. Well, they certainly weren't empty and she
5 was seven and a half months pregnant. So, I mean,
6 the idea that somehow, you know, these drugs can come
7 into South Dakota and be used and this was -- this
8 was a medical-supervised chemical abortion that
9 failed. We've had, again, four of those. And it's
10 not like adoptions are, you know, a huge area of --
11 of -- of common practice in South Dakota. We -- we
12 do a few adoptions a year and in my practice we have
13 four. So this is a big deal.

14 And if you look at the Mayo Clinic medical
15 guidelines, the idea that this should be done without
16 medical supervision just blows my mind, frankly,
17 because of all of the contraindications and the other
18 medical conditions and when Mayday Medicine sends
19 this stuff into South Dakota, they aren't taking an
20 accurate, physical history of the -- of the young
21 woman. In fact, they could be sending them into
22 South Dakota to be sold and resold.

23 So I'm certainly available to answer any
24 questions, would be happy to do so, but I would
25 certainly appreciate your yes vote on 1274. Thank

1 you.

2 SPEAKER PRO TEMPORE LEMS: Are there any other
3 remarks?

4 REPRESENTATIVE MORTENSON: Madam Speaker.

5 SPEAKER PRO TEMPORE LEMS: Representative
6 Mortenson.

7 REPRESENTATIVE MORTENSON: Thank you, Madam
8 Speaker. Today is the 27th legislative day and as I
9 reflect on the bills that have come through this
10 House, I'm not sure that we have one more important
11 than this one given what's at stake and what could be
12 saved. Please vote agreeing.

13 SPEAKER PRO TEMPORE LEMS: Are there any other
14 remarks? Any other remarks? Seeing no further
15 remarks, the question before the House is final
16 passage of House Bill 1274. All those in favor will
17 vote yea. Those opposed will vote nay. The clerk
18 will unlock the voting machine and the members will
19 proceed to vote.

20 THE CLERK: Roby votes aye. Roe votes aye.
21 Arlint votes aye. Kull votes aye. Madam Speaker,
22 all members have voted.

23 SPEAKER PRO TEMPORE LEMS: House Bill 1274 having
24 received the affirmative vote of the majority of the
25 members elect is hereby -- I'm sorry. The chief --

1 the chief clerk will please display the vote and
2 announce the vote total, please.

3 THE CLERK: Madam speaker, there were ayes 61,
4 nays five, excused four.

5 SPEAKER PRO TEMPORE LEMS: House Bill 1274 having
6 received the affirmative vote of the majority of the
7 members elect is hereby declared passed. Are there
8 any questions on the title? Seeing none, the title
9 is deemed correct.

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1 STATE OF SOUTH DAKOTA)

2)SS.

CERTIFICATE

3 COUNTY OF PENNINGTON)

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5 I, CAROLYN M. HARKINS, RPR, Registered Professional
6 Reporter, hereby certify that the foregoing pages 1 through 7,
7 inclusive, are a true and correct transcript of my stenotype
8 notes to the best of my ability from an audio recording.

9 Dated at Rapid City, South Dakota, this 27th day of May,
10 2026.

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/s/Carolyn M. Harkins, RPR
Registered Professional Reporter

15 My Commission Expires: 11-24-2027

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SOUTH DAKOTA SENATE STATE AFFAIRS COMMITTEE

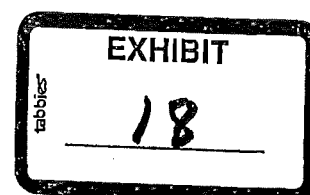
HOUSE BILL 1274

MARCH 4, 2026

CHAIR: JIM MEHLHAFF

VICE-CHAIR: CARL PERRY

SENATORS: RANDY DEIBERT, KEVIN JENSEN, CHRIS KARR, STEVE
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1 CHAIR MEHLHAFF: House Bill 1274. It's an act to
2 prohibit the dispensing, distribution, sale or
3 advertisement of certain articles or things for
4 purposes of an unlawful abor- -- abortion and provide
5 a criminal and civil penalty thereof.

6 So we will take proponent testimony on HB 1274.
7 I'm going to take a look at the time and what we have
8 left on our schedule and limit testimony on both
9 sides to twelve and a half minutes.

10 Please proceed with your testimony. Welcome,
11 Representative Hughes. And your microphone is not on
12 at this time. There you go.

13 REPRESENTATIVE HUGHES: Thank you, Mr. Chair,
14 members of the committee. John Hughes, District 13
15 Representative. I do have an amendment to offer,
16 which is 1247 G (sic), and would ask that it be
17 moved. And I can certainly explain the reason for
18 the amendment.

19 CHAIR MEHLHAFF: We have an amendment 1247 G
20 (sic).

21 SENATOR PERRY: So move.

22 SENATOR JENSEN: Second.

23 CHAIR MEHLHAFF: So we have amendment moved by
24 Senator Perry. Second by Senator Jensen. All in
25 favor say aye.

1 (Aye.)

2 CHAIR MEHLHAFF: Opposed the same? Motion
3 carries. The bill is amended. So we are talking
4 about 1274 as amended.

5 REPRESENTATIVE HUGHES: Thank you, Mr. Chair.
6 Again, this amendment is that -- purely a consistency
7 amendment to reflect the version of House Bill 1257
8 that the Governor is signing, which uses person on
9 line six and seven of our bill rather than pregnant
10 female. So it's just to make the statutes
11 consistent.

12 So, members of the committee, in South Dakota our
13 laws reflect our values that human life is sacred at
14 all stages including the pre-born. We have statutes
15 in our code that state that a human embryo is a whole
16 independent unique human being. Now, with the defeat
17 of Amendment G in 2024 and South Dakota's abortion
18 ban, which was reinstated by the Dobbs decision in
19 2022, abortion is unlawful in South Dakota unless
20 there's appropriate and reasonable medical judgment
21 that abortion is necessary to preserve the life of
22 the pregnant female. Well, in total disregard of our
23 laws and our values, bad actors are marketing and
24 distributing abortion pills in South Dakota.

25 You're likely familiar with the Mayday Medicine

1 case in which ads offering abortion pills are
2 appearing on gas pumps in South Dakota convenience
3 stores. We believe that gas stations and restrooms
4 should stick to offering condoms and not be used to
5 advertise abortion pills to be delivered to
6 South Dakotans when there's no medical supervision
7 from a competent healthcare provider and when
8 abortion is law -- is unlawful in this state. This
9 is reckless and dangerous commercial conduct for
10 profit that poses a threat to the health, safety and
11 even the lives of South Dakotans. HB 1274
12 criminalizes this conduct and gives our Attorney
13 General and State's Attorneys the tools to prosecute,
14 obtain injunctive relief, and pursue civil remedies.

15 This is really important to focus on Section 1.
16 The operative language is no person may knowingly
17 dispense, distribute, sell or advertise any of the
18 following for purposes of an unlawful abortion.
19 That's the limiting language. And you'll hear some
20 opponent testimony that somehow medical providers or
21 medical clinics can be drawn into that, but the only
22 way that can happen is if at the time they bring the
23 drugs into South Dakota they are intending to
24 knowingly use them for purposes of an unlawful
25 abortion. Now, where does this language come from?

1 Well, at the request of our Attorney General,
2 Sections 1 and 2 on lines 8 through 11 of Section 1
3 are from the Comstock Act of 1873. Ironically 100
4 years before Roe v. Wade it became unlawful in the
5 United States to use the mail to send abortifacients
6 through the Postal Service. So what this bill does
7 by adding the language in Section 1 and the powers in
8 Section 2 and 3, our state, along with the U.S.
9 Postal Inspector, can co-investigate and co-prosecute
10 violations of our state laws when abortion pills are
11 used through the mails to be sent into South Dakota.

12 Now, I want to share -- share a couple of things
13 about the drugs. And it's always a mouthful with
14 medications, but misoprostol is used under the brand
15 name Cytotec. Probably hundreds of times in
16 South Dakota in my abortion -- in my adoption
17 practice Cytotec is used to induce labor, so it has a
18 perfectly lawful use. What's interesting, though, is
19 that Cytotec is used to expel a deceased human fetus
20 following the administration of mifepristone. Now,
21 if you read through the Mayo Clinic websites on these
22 two drugs, you would shudder to think that these
23 drugs could be shipped into South Dakota for a person
24 to use without consulting a physician because both of
25 the -- the Mayo Clinic, I just printed these off,

1 there are all kinds of contraindications, without an
2 adequate health history, there's no way you could
3 know what you're getting or what's going to happen.
4 And, in addition, mifepristone, which actually ends
5 the life of a human fetus, says it's for less --
6 pregnancies less than 70 days in duration. Well, my
7 goodness, who knows when their last period is
8 typically. So there will be more said about that,
9 but I also want you to know that -- that my law
10 practice is responsible for placing four survivors of
11 chemical abortions into families in which they are
12 healthy and thriving, even though Cytotec, when used
13 to expel a human fetus, can cause birth defects.
14 Miraculously, these four children, whose mothers all
15 went to supervised Planned Parenthood clinics to have
16 a chemical abortion, it didn't -- it didn't take.
17 These little kiddos were in about the seventh or even
18 later month, the women were like, What is possibly
19 wrong? They brought medical records from Planned
20 Parenthood saying that the uterine contents were
21 empty. Well, they sure weren't. So to say that
22 these drugs are simply safe and effective to use at
23 home, you know, like -- like a condom is -- is -- is
24 an absurdity.

25 So we have lots of good people here to testify,

1 so I will leave the speaker here and turn it over to
2 my colleagues. Thank you.

3 CHAIR MEHLHAFF: Further proponent testimony for
4 House Bill 1274? Welcome, Senator.

5 SENATOR BLANC: Good morning, Mr. Chair, and good
6 morning esteemed colleagues and friends. Greg Blanc,
7 Senator, District 35, Pennington County, Rapid City.
8 I join you in being grateful that South Dakota has
9 some of the most conservative and common sense
10 pro-life legislation in the country. South Dakota
11 goal would be that no pre-born babies would ever be
12 deprived of their right to live outside their mommy's
13 womb. And with this additional legislation we can
14 both save more lives and indict these out-of-state
15 chemical abortion pill companies who mock our pro-God
16 and pro-life ideology. Like most South Dakotans we
17 are grateful to God when Roe was rightly overturned
18 by the Supreme Court in two-thousand and -- in 2022,
19 yet that joy was temporary. It was temporary because
20 a few short years later the dirty little secret was
21 revealed by the Guchmacher Institute that 63 percent
22 of the abortions in our nation, that's over six out
23 of ten abortions in our nation are by these killer
24 chemical abortion pills and the target of this bill
25 is the pill providers.

1 As the good Representative mentioned, the
2 two-step chemical abortion pill begins with ingesting
3 mifepristone that literally starves to death the
4 child through cutting off their food nutrient supply
5 from their mother and then 24 to 48 hours later the
6 misoprostol is taken which expels the lifeless body
7 through an artificial miscarriage, which usually
8 causes significant pain and often damage to the
9 mother. As of today there are six primary online
10 websites that refer to themselves as clinics that
11 provide these dangerous drugs by mail to almost
12 anyone, some even openly targeting girls as young as
13 16.

14 CHAIR MEHLHAFF: Senator, I was just going to let
15 you know that we're at eight minutes. We're going to
16 do twelve and a half in case there's others that want
17 to testify after you.

18 SENATOR BLANC: Why would the great State of
19 South Dakota not do everything in our power to
20 eliminate this kind of pain in the lives of mommies
21 and babies? I'll end with that, but this is just a
22 brief overview of HB 1274. And after me, you will
23 hear from the Attorney General, the Governor's
24 Office, South Dakota Right to Life, South Dakota
25 Family Voice, the South Dakota Catholic Conference

1 and Concerned Women for America. And I will stand by
2 for questions. Thank you.

3 CHAIR MEHLHAFF: Thank you, Senator. Welcome
4 Attorney General Jackley.

5 ATTORNEY GENERAL JACKLEY: Good morning,
6 Mr. Chairman, committee members. Marty Jackley,
7 South Dakota Attorney General. House Bill 1274 is
8 good legislation to protect the unborn as well as a
9 pregnant woman. As Attorney General from the
10 enforcement side, it does two key things. First of
11 all, by removing the requirement to be -- to any
12 pregnant female, it allows proactive law enforcement
13 operations. And what I mean by that is it's fairly
14 common when the legislature makes a controlled or
15 illegal substance that we are proactive and we do
16 controlled buys, et cetera. By the existing law, by
17 requiring it be to a pregnant female, it would
18 require the agent or the law enforcement officer to
19 be a pregnant female. By removing that, it allows
20 the tools that law enforcement uses in other
21 substances to move forward in those operations. The
22 second, and it was mentioned by Representative
23 Hughes, is with the Comstock Act. And, basically,
24 the Comstock Act is 1461 and what it provides and the
25 relevant language that's being incorporated in

1 Section 1 of the new bill is with respect to every
2 article, instrument, substance, drug, medicine or
3 thing which is advertised or prescribed in a manner
4 calculated to lead another to use and apply in
5 producing abortion. And that's the language from the
6 Federal Law. Why that's necessary and relevant stems
7 from a decision, it's the application of the Comstock
8 Act to mailing of prescription drugs that can be used
9 for abortions. It's dated December 23rd, 2022. And
10 the relevant language and why this is important for
11 you to act in the Legislature is footnote five. And
12 what it simply says is, For purposes of this opinion
13 we assume, but did not decide, that Section 1461, the
14 Comstock Act, could be constitutionally applied in
15 the mailing of drugs intended to produce abortions.
16 We also assume without deciding that state law, so
17 that's what you're putting in place, that state law,
18 as well as Federal Law, is relevant to the
19 application of Section 1461. So with these changes
20 you would allow, number one, for proactive law
21 enforcement investigations; and, number two, you
22 would be triggering Federal Law and the Comstock Act.

23 Mr. Chairman, I'll make myself available for
24 questions at the appropriate time. Thank you.

25 CHAIR MEHLHAFF: Thank you, sir. Further

1 proponent testimony? We're about eleven and a half
2 minutes.

3 MR. FURY: Mr. Chairman, members of the
4 committee, my name is Ian Fury. Unborn child
5 advocate for Governor Larry Rhoden. The Governor is
6 fully in support of this bill but I would ask you to
7 turn it to online testimony from Dr. Glenn Ridder
8 with the Alpha Center to share the stories of moms
9 who have experienced complications from these pills.

10 CHAIR MEHLHAFF: Okay. We will go to online at
11 the request of the Governor's office, is that okay
12 with the Prime?

13 THE PRIME: Yes.

14 CHAIR MEHLHAFF: Okay. We'll go to online
15 testimony. Dr. Ridder, please -- please proceed.

16 DR. RIDDER: Ah, can you hear me?

17 CHAIR MEHLHAFF: Yes. Please introduce yourself
18 and proceed.

19 DR. RIDDER: Yes. Thank you members of the
20 committee for this opportunity to testify in favor of
21 House Bill 1274. I am Dr. Glenn Ridder, family
22 practice physician with 40 years of experience. I'm
23 also representing not only myself but Alpha Center as
24 a pro bono Medical Director since it became medical
25 in the 1990s. And I've been privileged to work with

1 a lot of these women and know them face-to-face. And
2 I've never witnessed one of them in their past
3 medical history that was proud of the fact of an
4 abortion. And I find that many of these women were
5 convinced superficially the abortion was necessary
6 only to discover later, after the fact, that they
7 weren't given all of the information. They weren't
8 given the health and physical, psychological or
9 spiritual ill effects that can last a lifetime even
10 if it may shorten the woman's life. They, in fact,
11 were denied the opportunity for truly informed
12 consent and that requires the direct intervention of
13 a provider to -- Representative Hughes talked about.
14 And this informed consent is deemed legally and
15 ethically sound in the medical practice and every
16 other origin since the origin of the Hippocratic --
17 Hippocratic Oath that says, above all, do no harm.
18 In past years those -- that's been removed or watered
19 down so much since we've become a medical community
20 of concierge medicine. At Alpha Center, I have
21 witnessed women coming in with pills that did not
22 understand how to take them. After allowing her to
23 get sound medical information from her providers
24 there at the Pregnancy Help Center and the true
25 options and other medicines and the actual effects of

1 these medicines this -- these women would leave the
2 pills with us to be destroyed and decided to carry
3 the baby to term because some women live with
4 prolonged cramping and bleeding, often heavy bleeding
5 for a month or more after this self-induced or
6 self-administered abortion, and they come to us to
7 get help because wherever they got the pills gave her
8 no recourse for any -- or offered any help at all.
9 As a matter of fact, they were actually found that
10 these patients were told to falsify the story to the
11 -- if they tell the medical community anything, then
12 tell them that she was miscarrying and not having an
13 abortion. But where is she at? Don't tell anyone.
14 Don't go to the provider unless you're really
15 bleeding badly or cramping badly. So proper medical
16 care cannot be administered with falsified history
17 placing the woman in even more dangerous or be in
18 deadly ill effects. They sent them directly on to
19 primary care provider if they weren't in definite
20 discomfort, or to the emergency room for those that
21 were in big problems to evaluate this incomplete
22 abortion that can become life-threatening to the
23 woman.

24 And we've had one of them that we didn't actually
25 meet. A grandmother of the pregnancy actually called

1 us and said, Well, my daughter just told me she had a
2 medical abortion and she has the fetus. She doesn't
3 know what to do with it. And she's been holding this
4 fetus close to her for the last couple of days not
5 being able to do anything else because she has no
6 direction. In general, this committee --

7 CHAIR MEHLHAFF: Doctor?

8 DR. RIDDER: I urge this committee -- yeah, I'm
9 just about done.

10 CHAIR MEHLHAFF: Okay. Thank you.

11 DR. RIDDER: This is not the care that any human
12 being deserves. Good care requires direct contact as
13 soon as an issue presents, if there is unexpected
14 pregnancy, all parties, born and unborn best care
15 directed personally by compassionate providers.
16 Please vote in support of House Bill 1274. Thank you
17 for your time.

18 CHAIR MEHLHAFF: Thank you, Dr. Ridder. So we
19 are well over the time so I'm just going to allow me
20 too's so if you want to get on record as it being in
21 support. Go ahead.

22 MR. BARTSCHER: Good morning, Mr. Chair, and
23 committee members. Dale Bartscher, a registered
24 lobbyist with South Dakota Right to Life and we do
25 rise in support. In closing, just let me say that we

1 have a handout --

2 MR. SPEAKER: Me too.

3 MR. BARTSCHER: There's a handout here that will
4 explain the dangers of this chemical.

5 CHAIR MEHLHAFF: We're just taking me too's right
6 now. And if you would like to please -- please line
7 up so that we can conclude the me too's quickly.

8 MR. PAULEY: Good morning, Mr. Chair, members of
9 the committee. Michael Pauley with the South Dakota
10 Catholic Conference. Me too.

11 CHAIR MEHLHAFF: Thank you, Mr. Pauley.

12 MS. GENNARO: Lisa Gennaro with Concerned Women
13 For America, LAC. Me too.

14 CHAIR MEHLHAFF: Thank you.

15 MR. HAGER: Good morning. Don Hager. Registered
16 lobbyist on behalf of Family Voice this morning. Me
17 too.

18 CHAIR MEHLHAFF: Thank you. Further proponent
19 testimony? Seeing none, we will go to opponent
20 testimony and we will give you 17 minutes as that's
21 what the proponents wound up taking. Welcome,
22 Mr. Bell.

23 MR. BELL: Thank you, Mr. Chair, members of the
24 committee. My name is Justin Bell, registered
25 lobbyist for the South Dakota State Medical

1 Association. Ah, I'm an attorney from Ft. Pierre. I
2 have a couple handouts. I'll have the page take
3 those. I appreciate your time this morning and
4 appreciate the goals that are presented by the
5 proponents of this legislation. However, I think
6 this bill has a significant amount of unattended
7 consequences with it as to how it was drafted. I
8 think the fact that we were drafting it during
9 committees in both the House side on the day before
10 crossover day and now, goes to show the issues that
11 relate to this. And I think the last minute or maybe
12 I should say last second amendment that was dropped
13 has even more consequences to it than one might
14 realize by looking at it. And so -- but before I go
15 too far, I want to start with what -- what exactly
16 we're dealing with. I think it's fair that --
17 Representative Hughes said this -- that if we're here
18 talking about mifepristone and misoprostol, there are
19 significant medical uses for those drugs that do not
20 relate to abortions, a lot of them. And there's --
21 there is a physician who's going to talk about that
22 that's not me, but I could give you the list and let
23 her do that as relates to this.

24 My clients have significant concerns that this
25 bill is going to go way beyond the scope of what it

1 is trying to do. The goal of this is to prevent
2 people from shipping abortion pills directly to
3 individuals who are going to take them. Okay? I
4 understand that. Our concern is that when people
5 ship these drugs to people, they don't ask why. It's
6 an -- if you're a manufacturer of equipment or of
7 misoprostol or mifepristone, it's an FDA-approved
8 drug, they just ship it as relates to it. But with
9 this legislation now you're putting substantial
10 criminal and civil liability to anyone who ships in
11 any of these drugs for an abortion but they don't
12 ask. And so there's a real risk of people are just
13 going to stop shipping that -- those drugs into
14 South Dakota as relates to this, whether it's for
15 unlawful use of an abortion or for the use of an
16 abortion.

17 Well, there's a relatively easy fix as relates to
18 this. And I -- there's one of the handouts I have
19 that that's in red, it just says, essentially it
20 exempts shipments to healthcare facilities and
21 healthcare providers. That doesn't mean that they
22 can do an abortion, okay? Because there's a separate
23 statute that we're going to talk about in a second
24 that says that they can't do an abortion. It's 5.1
25 in that chapter. So it wouldn't authorize them to

1 use it for an abortive use. It would just say that
2 we're not going to prosecute them for this chapter
3 for receiving those medication and those procedures.
4 You know, I -- I talked to the sponsors. I said,
5 Look, if this -- on the original bill, if this gets
6 added to with our opposition as it relates to it,
7 there may be some other concerns, but this is our
8 primary concern as relates to it, that offer was
9 rejected, but we're asking that this committee
10 consider that to just make sure, to make crystal
11 clear that our healthcare providers in the state are
12 still able to get access to what are really miracle
13 drugs. If you look in the history of both of them
14 for the uses that are outside of the abortive uses
15 that were talked about.

16 Second, you know, the one thing that the Right to
17 Life group and the Medical Association have always
18 been in lockstep, you know, there's not always
19 agreement there, but we've always been in lockstep
20 about the fact we should not prosecute pregnant
21 mothers for abortion. Okay? That's been their
22 position. It was their position on House Bill 1212
23 this year. Ah, it's been their position in the past.
24 And it's always been our position, too, that we don't
25 criminalize patients for seeking medical care as

1 relates to it. I have significant concerns that this
2 bill still does that. Now, those concerns were
3 shared based off the hog house that was dropped on
4 the day before crossover day on the House side and
5 they made one change based off of that because it
6 originally explicitly included solicitation as a
7 crime, which would have made it a felony for a
8 pregnant mother to seek an abortion medication. It
9 switched it to advertise in the legislation, but even
10 with that, without making a change to the current law
11 that we have, someone could still potentially be
12 charged under -- the other handout I had, too, was
13 Chapter 22-4A, the solicitation chapter and code. It
14 specifically allows for someone to be charged for
15 solicitation if you ask someone else to commit a
16 crime. Okay? So if you're a pregnant mother, you
17 ask for -- you go to an out-of-state physician and
18 ask for the abortion medication or anyone else and it
19 gets shipped to you, that would -- by the direct
20 language of the solicitation chapter here, that would
21 be a Class 1 misdemeanor. We would be opposing -- we
22 oppose doing that. There's a relatively easy fix to
23 that. That is by amending 5 -- 22-17-5.2 to just
24 make clear that we're not going to charge people,
25 pregnant mothers, which is already in there and for

1 the current law, we're not going to charge them
2 pursuant to this act. Okay? That would solve that
3 concern. There's a relatively easy fix to that if
4 you want to fix it. I'm not sure that the proponents
5 do want to fix that as relates to this.

6 The third thing is the amendment that was just
7 added today that changes the word pregnant mother in
8 a completely different statute is the 22-17-5.1 to
9 person. The stated reason for that was because we
10 need to make it consistent with 1257. That's not
11 true. I'm not saying that that was intentionally not
12 true, but if you look at 1257, that language was not
13 changed. The bill that you passed then said pregnant
14 mother in it. It did not say person in it as relates
15 to this. But what I will tell you is that that
16 change significantly impacts the exact concerns I was
17 talking about when we testified on 1257. We no
18 longer have to be -- have a pregnancy for someone to
19 be charged with an abortion as relates to it. So
20 we've defined an abortion for anything that involves
21 -- involves nonpregnancy practices and now we've
22 changed the definition in the statute to remove it
23 being a pregnant person who is there. I think
24 there's significant impacts to birth control and
25 other medical procedures that would apply to this.

1 And maybe that's a discussion worth having. But what
2 I don't think is fair is for the Second Chamber and
3 the Second House to post an amendment during the
4 hearing that we're talking about that makes a
5 substantial -- I mean, this is maybe one of the
6 biggest changes in our abortion laws that we've had
7 in years and we're doing it without it being posted
8 originally and being done on the day of a committee
9 hearing. I also would tell you I think that the
10 title is now wrong because you have a significantly
11 different bill and it doesn't make any impacts as
12 relates to that as well.

13 With that, I mean, I'm not necessarily asking you
14 to amend all this stuff. You could fix that
15 amendment, by the way. If you want to fix that
16 change, you could go back and adopt the amendment
17 that I asked you to put on 1257 two days ago, but I
18 think the real -- the story about all this is that we
19 need more time to look at this. We've changed it
20 every step of the way at this point in time. I think
21 maybe the Attorney General's litigating this right
22 now. It's in the middle of litigation. Let's let
23 that continue and see where that ends up and then if
24 they want to bring a bill next year, they can do
25 that, but at this time we would ask you to defer to

1 the 41st day. Thank you for your time.

2 CHAIR MEHLHAFF: Thank you. At this time it's my
3 understanding that the opponents would like to go to
4 Dr. Emma Bye online. I would just let you know that
5 we're at eight and a half minutes on our way to 17.
6 So Dr. Bye, if you're ready to testify, please unmute
7 yourself and introduce yourself and proceed.

8 DR. BYE: Okay. Can you hear me?

9 CHAIR MEHLHAFF: We can hear you.

10 DR. BYE: Awesome. Thank you. Thank you for the
11 opportunity to remotely discuss and uphold House Bill
12 1274. I'm at an outreach clinic today or I would
13 have been there in person. I'm Dr. Emma Bye. I'm an
14 ob/gyn and I practice in Yankton and I do weekly
15 outreach to Indian Health Services. I'm here
16 testifying on my own behalf. The majority of my
17 patients are rural, many traveling more than an hour
18 to receive obstetric and gynecologic care in my
19 practice. I'm here taking the time while I'm in a
20 busy outreach clinic because I feel that this bill is
21 very important and will have long-lasting
22 consequences and negatively impact women's health
23 across our state further limiting our ability to care
24 for our patients. This bill was intended and written
25 to prevent the mailing and distribution of

1 mifepristone. Misotec -- or Cytotec is the common
2 name for misoprostol to South Dakota women for
3 abortion care. The hard part about this bill is that
4 the language and the terminology within the bill is
5 incredibly vague and, frankly, dangerous to current
6 obstetric and gynecologic care as a whole. When we
7 look specific at the language quoted within our bill
8 today, it literally quotes any article or thing
9 designed, adapted, intended for producing an abortion
10 or instrument, substance or drug, medicine or thing.
11 When I look at this language, I think this could
12 incorporate a multitude of medications and
13 instruments that I use on a daily basis in my ob/gyn
14 practice. All of these medications and instruments
15 are used in abortion care -- that are used in
16 abortion care are also used in essential gynecologic
17 care and procedures.

18 I kind of want to walk you through an example. I
19 want to walk you through my day just yesterday.
20 Yesterday I used every instrument and medication that
21 is used in abortion care, both medical or surgical,
22 and all of which were necessary gynecologic
23 procedures that had nothing to do with an abortion.
24 So yesterday over my noon hour I proceed -- I did a
25 procedure, I performed a lawful compassionate healing

1 procedure. I did a surgical dilation and curettage
2 for a patient that experienced another heartbreaking
3 miscarriage. That was just one example. Yesterday
4 afternoon, again, I prescribed Cytotec to two other
5 patients. This is, again, via mailed abortion
6 medication that is oftentimes used and would be
7 further restricted under this bill. These patients
8 were not having abortions. They're having upcoming
9 in-office procedures with me and this is a medication
10 we use for cervical preparation for procedures to
11 allow for more comfort and pain control during these
12 procedures. I do this frequently. Last night I
13 delivered a baby while on call and I had a postpartum
14 hemorrhage and, again, I used Cytotec to help manage
15 my postpartum hemorrhage. These are four scenarios
16 in my last 24 hours while on call in my small rural
17 obstetric and gynecologic practice. These have all
18 been lawful and necessary procedures in which I used
19 Cytotec, as just one example, and this will most
20 definitely be on this list of restricted access and
21 possible lawsuit if used.

22 Even with our current laws, I currently have
23 pharmacies in my own community denying Cytotec
24 locally for miscarriage management until I can call
25 and deliberately tell them this is for miscarriage

1 management. No patient in anywhere in our state
2 should be going through a devastating miscarriage and
3 made to feel like they are criminal or that they are
4 doing something unlawful while getting treatment for
5 a miscarriage. Unfortunately, if this bill should
6 pass, there will be even more misunderstanding and
7 misinformation. Physician, ob/g -- like the ob/gyn,
8 family practice providers across the state, our nurse
9 midwives, nurse practitioners, physician assistants,
10 pharmacists will all be scared and nervous about the
11 ramifications and the language used in this bill if
12 they prescribe or even if it's for a lawful and
13 needed procedure or management that they will be
14 wrongly accused of about to engage in a violation.
15 That is literally directly quoted from this bill
16 resulting in possible lawsuit from the Attorney
17 General. No one wants to be a victim to that
18 scrutiny or risk their personal and professional
19 lives that we have worked so hard to build and the
20 people who ultimately suffer are our patients. So
21 far my discussion has only focused on medication
22 alone. Even just Cytotec.

23 But when we look at this bill, it incorporates
24 everything. And so we are looking at potential
25 instruments that are also used for abortions and we

1 use these every day for all of our gynecologic
2 procedures and, yes, even if it's a possible abortion
3 procedure that these instruments are used, we use
4 them every day for necessary procedures. Total
5 limitations by this bill will make it increasingly
6 difficult to even access or have manufacturers be
7 willing to even ship us needed instruments and
8 medical equipment for fear of retribution. We
9 already have a women's healthcare desert across our
10 state in every corner. I'm living in one and I'm
11 filling the need, but this is getting increasingly
12 difficult to do. When we have these healthcare
13 deserts and we have these restrictive laws and we
14 further criminalize our providers, the ability to
15 recruit women's health providers in South Dakota is
16 dismal. We have not been able to recruit the
17 providers that we need. This bill further risks
18 restricting access and recruitment of qualified
19 physicians and providers to our state to provide
20 essential gynecologic and obstetrical care to our
21 women of South Dakota.

22 I urge you to please consider all of these
23 points, all of these challenges and all of the gray
24 area. Do not vote for an abortion bill just to vote
25 for another abortion bill to appease party lines

1 because there are women on the other side of this
2 that are impacted each and every day. Again, this is
3 a bill that will have devastating lifelong
4 consequences -- long-lasting consequences and
5 negatively impact women's health across our state for
6 years to come.

7 CHAIR MEHLHAFF: Okay.

8 DR. BYE: Thank you for your time.

9 CHAIR MEHLHAFF: Thank you. We are at 14 and a
10 half minutes and will continue with opponent
11 testimony. Is there any other opponent testimony on
12 House Bill 1274?

13 MS. CHAPMAN: Good morning, Mr. Chair --

14 CHAIR MEHLHAFF: Good morning.

15 MS. CHAPMAN: -- and members of the committee.
16 My name is Samantha Chapman. I represent the ACLU of
17 South Dakota. We also rise in opposition to this
18 bill for many of the same reasons previously stated
19 by other opponents. I'd just like to add a little
20 bit about the privacy piece and implications that
21 this bill carries. So this bill invites further
22 investigations in -- of both providers and patients
23 into pregnancy outcomes. Section 1 of the bill, is
24 now section 2, criminalizes advertising an item for
25 purposes of unlawful abortion or describing a product

1 in a way calculated to lead another to use it for
2 abortion. In order to prove that an individual
3 knowingly acted for abortion purposes or that a
4 product was advertised or described in a prohibitive
5 way, the State would need evidence of intent and
6 communication. That almost inevitably means
7 reviewing emails, monitoring text messages, subpoena
8 -- subpoenaing social media posts, examining website
9 metadata and search keywords and combing through
10 financial transactions. The passage of HB 1274 will
11 weaponize pregnancy outcome into law enforcing
12 access, depriving conversations and online health
13 transactions.

14 Over the past 30 years the South Dakota State
15 Legislature has introduced 88, roughly, pieces of
16 legislation targeting abortion including several
17 specifically targeting healthcare providers. The
18 State has passed laws that require medically
19 unnecessary burdens such as a 72-hour waiting period
20 that does not include weekends or holidays, extensive
21 and medically unnecessary reporting requirements --

22 CHAIR MEHLHAFF: Ms. Chapman, could you keep your
23 testimony to this bill, not a history of what the
24 Legislature has done?

25 MS. CHAPMAN: Sure. Sorry, Mr. Chair.

1 Essentially we -- we have more than 100 statutes
2 already on the books governing abortion. This adds
3 yet another one. Abortion is already nearly
4 completely banned in our state putting lifesaving
5 care out of reach for a lot of South Dakotans. And
6 this is a continue -- continuation of that political
7 trajectory, so for those reasons we ask you to vote
8 no.

9 CHAIR MEHLHAFF: Thank you. Is there any further
10 opponent testimony? We are just about to 17 minutes.
11 If there's any me too's, I would allow them. Seeing
12 none, we'll close opponent testimony and go to
13 rebuttal. And ask that you please -- please keep it
14 sharp and be respectful of the time. We still have
15 some other items to take up today.

16 REPRESENTATIVE HUGHES: Thank you, Mr. Chair,
17 members of the committee. The amendment that we made
18 supersedes HB 1257. That's the word from the Code
19 Commission Council. So when you accept this
20 amendment and you pass this bill, you're superseding
21 the definition of pregnant women, as I believe
22 Mr. Bell said. That's -- so that's kind of a red
23 herring, among many others.

24 I don't know if any of you have had a -- had
25 personally miscarriage or your spouse had a

1 miscarriage. We've had two. To have gone through
2 those experiences without medical management to me
3 would be unthinkable. I know what it's like to pass
4 a human fetus in my home. Okay? This is absurd that
5 we are putting women in this unmedically supervised
6 condition. It's -- it shocks me. My wife had
7 placenta previa late in our second pregnancy and we
8 went to the doctor, she was hemorrhaging heavily and
9 the doctor who had delivered 10,000 babies in
10 South Dakota and was a legendary ob/gyn said, This is
11 bad. Admit yourself, D&C, we're going to go in and
12 do this. And we said, Uh, can we do an ultrasound
13 first? Well, I don't know why. This is really bad.
14 It's really bad. So we basically begged him to do an
15 ultrasound. And our second son is now 36 years old
16 and a lawyer and the father of three all because of
17 this idea that medicine is sort of something where
18 you just hand out these drugs and you just remove the
19 problem. We had four and a half years of infertility
20 before that happened. Can you imagine that? Can you
21 imagine that? And then my wife didn't get RhoGAM for
22 two times.

23 I mean, we -- this idea that we have this
24 pristine, you know, medical care that is, you know,
25 heroically saving us is -- it's kind of absurd.

1 We're talking about gas stations. We're talking
2 about advertising abortion pills on gas pumps. Is
3 that what we want? Look, a truckload of lumber is
4 illegal if it's shipped into South Dakota for the
5 purpose of beating people to death. There is
6 literally anything that you can ship into
7 South Dakota that is lawful that becomes unlawful
8 when it's for a criminal purpose. You know, the same
9 is with dynamite. And so I don't understand what
10 unlawful is so difficult for the opponents of this
11 legislation to understand. When you ship these
12 medications into South Dakota for purposes of an
13 unlawful abortion at the time, it's a crime. I don't
14 know -- understand. I mean, if you want to buy into
15 red herring, straw man arguments, you've certainly
16 heard them. This is a law enforcement bill to
17 protect our women and -- and, frankly, the men, too,
18 in this state to not be victims of this reckless
19 conduct for commercial profit. This isn't
20 healthcare. This is profiteering.

21 And it's also psychologically devastating.
22 There's at least one or two studies that when women
23 use abortion pills the incidence of emergency visits
24 increases dramatically. Dr. Ridder is cleaning up
25 after the Mayday Medicine people when they send these

1 pills into South Dakota for a profit and they aren't
2 caring for the people. The good doctor from Yankton,
3 God bless you, I -- I -- I wish my daughter or -- or
4 granddaughter could have you to provide care, but the
5 idea that -- that people that are following the law
6 are chilled under threat of criminal prosecution, I
7 think that's something you should maybe see a
8 healthcare provider for because to me that's
9 paranoia. We are talking about laws, just laws, law
10 abiding people, law abiding healthcare providers have
11 nothing to fear from this bill. I urge you not to
12 buy into all of these straw man arguments and pass
13 this legislation. Thank you.

14 CHAIR MEHLHAFF: Thank you. At this time we'll
15 move to committee questions? Are there any questions
16 from members of the committee?

17 SENATOR LARSON: Mr. Chair.

18 CHAIR MEHLHAFF: Senator Larson.

19 SENATOR LARSON: Let's see. A question for
20 Dr. Emma Bye.

21 CHAIR MEHLHAFF: Are you still online, Dr. Bye?

22 DR. BYE: Yes, I am.

23 CHAIR MEHLHAFF: Okay. Proceed.

24 SENATOR LARSON: Thank you. Dr. Bye, you
25 mentioned a couple of specific scenarios that you've

1 gone through in the past couple of days where you
2 have been using these medications in question here
3 for such a wide variety of reasons. Can you describe
4 over the last couple days, were this law to go into
5 effect, how that would affect your day and the
6 different situations that you've been through?

7 DR. BYE: Yeah, I'm happy to. I think in looking
8 at how the bill is currently written, if I were going
9 to, just for example, yesterday afternoon prescribing
10 Cytotec, which is -- which, again, is used to ripen
11 the cervix, it helps to proceed -- provide anesthesia
12 for intrauterine device placement in endometrial
13 sampling. I sent it -- for both of those reasons
14 yesterday, I would not have been able to get those
15 medications for those patients. I'm already impacted
16 by local pharmacies with our current legislation in
17 getting miscarriage management completed for patients
18 when trying to prescribe Cytotec. This will be even
19 further limited if this bill passes and I will have
20 to make even more additional phone calls justifying
21 why these medications are being used when they're
22 being used in a completely lawful and evidence-based
23 manner.

24 SENATOR LARSON: Thank you. Follow-up?

25 CHAIR MEHLHAFF: Yes, go ahead.

1 SENATOR LARSON: Thank you for that. I
2 appreciate hearing that. If you -- if this -- if
3 this bill were to pass, how -- if -- if a -- if, say,
4 a minor approached you with their parents with an
5 unwanted pregnancy, would the minor be able -- I
6 mean, maybe I can also ask this to a couple other
7 people, but would -- from your understanding, would
8 the minor be potentially guilty of the Class 6
9 felony? Would the parents be guilty or possibly
10 guilty and/or would you be guilty? I'm wondering
11 what, in your mind, as a doctor you would perceive as
12 being who -- illegal or not.

13 DR. BYE: I -- I think that's the hard part with
14 this bill is that it's -- it's really vague. And I
15 think in this situation, which it's literally listed,
16 it could be even before the crime is actually
17 committed they could be, you know, accused of a
18 lawsuit from the Attorney General. I think myself I
19 could be convicted or named. I think the parents
20 could be potentially named. I think the minor might
21 be protected under state law, but, again, I would
22 have to look that up. But I would assume in this
23 situation if anything were acted on, myself and those
24 parents could potentially be wrongfully accused even
25 if there was nothing that was done to intervene in

1 that pregnancy. And that's the difficulty, it is so
2 vague.

3 SENATOR LARSON: Thank you. Question, follow-up?
4 Can I ask a question to Mr. Justin Bell from the
5 South Dakota State Medical Association? And just
6 while you're coming up here, I have the same
7 question. In the scenario of a minor who's pregnant
8 unwantedly, whether that's consensual, rape, incest
9 or whatever, if that person approaches their parents
10 and then goes into a clinic to seek a doctor, who is
11 guilty of what in that kind of a scenario?

12 MR. BELL: Mr. Chairman.

13 CHAIR MEHLHAFF: Yes. Go ahead.

14 MR. BELL: Justin Bell. I'm a registered
15 lobbyist for South Dakota State Medical Association.
16 Senator, it would -- it would kind of depend on the
17 circumstances of the situation. If a physician
18 in-state prescribes something for the purposes of an
19 abortion, the physician would be guilty of a Class 6
20 felony. If it was a physician out of state, which is
21 what the -- I think the goal of the legislation is,
22 that person would be guilty of a Class 6 felony.
23 Would -- would -- both of those currently under --
24 this bill dies, they also would be guilty of a Class
25 6 felony. This bill doesn't change that. I think

1 the Attorney General would say this maybe makes it
2 easier to prosecute, but -- but it would be a felony
3 nonetheless and that's the position he's taken in
4 several court cases and I think would -- would agree
5 with that, but you would have to ask him.

6 As relates to the -- the pregnant person -- well,
7 let's start with the parent, if the parent was
8 involved. That's a more difficult question, but this
9 language is so broad that if the parent referenced
10 that they should go do this or do that, I think
11 arguably they could be guilty of a Class 6 felony for
12 it. Certainly they would be involved -- or allowed
13 -- probably guilty of soliciting maybe, but I think
14 -- but as relates to the minor -- and that's probably
15 -- I mean, that's what I was talking about before,
16 unless you adopt an amendment to explicitly say that
17 this act is protected by the same protection that we
18 give to the Section 5.1, it's my belief that
19 technically the minor is guilty of solicitation of
20 the felony under this act and would be guilty of a
21 Class I misdemeanor, which would be charged in
22 juvenile court so it would be a delinquency petition,
23 not a criminal action, but they would be charged with
24 that. Same would be true whether or not you're a
25 minor or an adult and then there's the civil

1 penalties along with it.

2 CHAIR MEHLHAFF: Thank you. I have a question.
3 I would like the Attorney General to come and address
4 that issue. Do you need to have that scenario
5 repeated to you?

6 ATTORNEY GENERAL JACKLEY: Thank you,
7 Mr. Chairman. Marty Jackley, South Dakota Attorney
8 General. How about I answer it and if -- if there's
9 more questions, I can try to achieve those.

10 CHAIR MEHLHAFF: Perfect. Thanks.

11 ATTORNEY GENERAL JACKLEY: I respectfully
12 disagree with their criminal analysis of that for a
13 couple of reasons. One of the significant ones, if
14 you look at the proposed statute, it says, purposes
15 of an unlawful abortion. So the conversation about
16 miscarriages, the conversations about lawful
17 abortions, life of the mother, the other -- the
18 trigger, that wouldn't apply to any of that. And
19 then I think the other thing that disposes including
20 the minor example would be there's a variety of
21 reasons that wouldn't be prosecuted, but if you look
22 at the language of the bill, no person may knowingly
23 dispense. That minor is not dispensing anything.
24 The parents aren't dispensing anything. Distribute.
25 They're not doing that. Sell. They're not doing

1 that. Advertise. They're not doing that. Now, a
2 physician, if they were engaged in an unlawful
3 abortion, there's -- you know, that would be a
4 problem for them and, frankly, if it is an unlawful
5 abortion, it should be. The other thing that
6 dispenses some of these arguments is the other
7 section that says that the pregnant woman can't be
8 prosecuted. So there's a variety of reasons why
9 those prosecutions wouldn't happen. When it comes to
10 solicitation, I know that's been discussed, I don't
11 know that that was really part of that question, but
12 I would just point out that the intent under
13 solicitation, it's a -- it's a specific intent. The
14 solicitor must have the specific intent to promote or
15 facilitate the commission of the crime. That's not
16 occurring. In fact, the solicitation issue came up
17 in a courtroom in New York under Mayday where I made
18 the argument that Mayday, by this advertisements and
19 their conduct, could fit within criminal
20 solicitation. So that's Mayday that's doing the
21 advertisement, not the female or the boyfriend that's
22 ordering the pills. That's Mayday. And the Court
23 and I had a disagreement on that and it goes to that
24 specific intent. So if Mayday isn't committing
25 criminal solicitation, there's no way a viable

1 argument could be made that a pregnant female or
2 somebody else is guilty of solicitation. It simply
3 doesn't fit criminal solicitation and that's why
4 Mayday hasn't been charged with criminal
5 solicitation. It doesn't fit necessarily the
6 elements of what you'd require. So I just would
7 encourage you with respect to all of those scenarios
8 and arguments, go back and look at the definitions.
9 For an unlawful abortion, knowingly dispense,
10 distribute, sell or advertise. Now, if you inserted
11 the language use, I would give you a different legal
12 opinion on all this, but use is not in that
13 definition. And, Mr. Chairman, I'd certainly make
14 myself available for further questions at the
15 appropriate time.

16 CHAIR MEHLHAFF: Thank you. Any further
17 questions from the committee? Senator Perry.

18 SENATOR PERRY: Thank you, Mr. Chair. I think my
19 question is going to be directed to the Governor's
20 Office, Ian Fury. A statement has been made that
21 abortion pills are safe. And, you know, in this
22 hearing I would just like to have you talk to me
23 about the studies that have been out there. Is this
24 true or is this false?

25 MR. FURY: Mr. Chairman, ah, that -- that claim

1 has been made. I've heard the claim made that
2 they're safer than Tylenol. It's absolutely not
3 true. Dr. Ridder has shared stories of women coming
4 into their clinic with complications from taking
5 these pills. I'll read you one study. And this is a
6 quote. Based on the data available, there is
7 significant evidence that the ER visitation rate due
8 to complications from induced abortion increased
9 after the FDA stopped enforcing the in-person
10 dispensing requirement from mifepristone. So
11 previously the FDA had required that these pills be
12 dispensed in person under the previous
13 administration. That requirement was removed and
14 since then the ER incidents from taking mifepristone
15 has skyrocketed. Because of this, Secretary Robert
16 F. Kennedy, Junior, and the FDA under his leadership
17 are reviewing potentially reinstating that in-person
18 dispensing requirement. I hope that answers your
19 question.

20 CHAIR MEHLHAFF: Any further questions from the
21 committee? Seeing none, we'll move to committee
22 discussion and/or action.

23 SENATOR LARSON: Mr. Chair.

24 CHAIR MEHLHAFF: Senator Larson.

25 SENATOR LARSON: I would move this to the 41st

1 day.

2 CHAIR MEHLHAFF: We have a 41st day motion by
3 Senator Larson. That motion having failed to receive
4 a second, I'll -- going once, twice, has failed for
5 lack of a second.

6 SENATOR PERRY: Mr. Chair.

7 CHAIR MEHLHAFF: Senator Perry.

8 SENATOR PERRY: Instead of discussion, go to do
9 pass for this bill.

10 SENATOR PISCHKE: Second.

11 CHAIR MEHLHAFF: Do pass motion from Senator
12 Perry. Second from Senator Pischke. Any discussion
13 on that motion?

14 MR. SPEAKER: Obviously this is an issue that
15 everyone is interested in and it's very important and
16 I think that we need to move forward House Bill 1274
17 is -- is the right bill at this time.

18 MR. SPEAKER: As amended.

19 MR. SPEAKER: As amended.

20 CHAIR MEHLHAFF: Senator Larson.

21 SENATOR LARSON: Well, I'll be resisting this
22 motion. I feel like our medical community has
23 spoken. I feel like this just adds uncertainty into
24 very difficult scenarios. I know the good
25 Representative has talked about his miscarriage. I

1 can talk about my two miscarriages and when I had --
2 yes, I also had two, yes, thank you, I had them and
3 took this medicine as well. So this is a very
4 personal issue and it should be left to patients and
5 doctors and not the government. Thank you.

6 CHAIR MEHLHAFF: Further comments on the motion?
7 Seeing none, the motion is do pass by Senator Perry,
8 second by Senator Pischke. Secretary, please call
9 the roll.

10 THE SECRETARY: Senator Deibert?

11 SENATOR DEIBERT: Aye.

12 THE SECRETARY: Jensen?

13 SENATOR JENSEN: Aye.

14 THE SECRETARY: Karr?

15 SENATOR KARR: Aye.

16 THE SECRETARY: Kolbeck?

17 SENATOR KOLBECK: Aye.

18 THE SECRETARY: Larson?

19 SENATOR LARSON: No.

20 THE SECRETARY: Pischke?

21 SENATOR PISCHKE: Aye.

22 THE SECRETARY: Voight?

23 SENATOR VOIGHT: Aye.

24 THE SECRETARY: Perry?

25 SENATOR PERRY: Aye.

1 CHAIR MEHLHAFF? Aye.

2 THE SECRETARY: Mr. Chairman, we have eight ayes,
3 one nay.

4 CHAIR MEHLHAFF: House Bill 1274 as amended
5 having received the majority of the votes on the due
6 pass motion is hereby passed.

7 (Whereupon the proceedings concluded.)

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1 STATE OF SOUTH DAKOTA)

2)SS. CERTIFICATE

3 COUNTY OF PENNINGTON)

4

5 I, CAROLYN M. HARKINS, RPR, Registered Professional
6 Reporter, hereby certify that the foregoing pages 1 through 43,
7 inclusive, are a true and correct transcript of my stenotype
8 notes typed from an audio recording to the best of my ability.

9 Dated at Rapid City, South Dakota, this 27th day of May,
10 2026.

11

12

13

14 /s/Carolyn M. Harkins, RPR
Registered Professional Reporter

15 My Commission Expires: 11-24-2027

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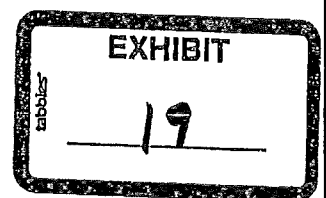
SOUTH DAKOTA SENATE

HOUSE BILL 1274

March 9, 2026

PRESIDENT: TONNIS H. VENHUIZEN

PRESIDENT PRO TEMPORE: CHRIS KARR



1 MS. SPEAKER: House Bill 1274, An act to prohibit
2 the dispensing, distribution, sale or advertisement
3 of certain articles or things for purposes of an
4 unlawful abortion and provide a criminal and civil
5 penalty therefor.

6 PRESIDENT VENHUIZEN: House Bill 1274 having had
7 its second reading is up for consideration and final
8 passage. Are there any remarks?

9 SENATOR BLANC: Mr. President.

10 PRESIDENT VENHUIZEN: Senator Blanc.

11 SENATOR BLANC: Thank you, Mr. President.
12 Esteemed colleagues, I draw your attention to the
13 fact sheet that are on your desks. HB 1274 states an
14 act to prohibit the dispensing, distribution, sale or
15 advertisement of certain articles or things for the
16 purposes of an unlawful abortion and provide a
17 criminal and civil penalty therefor.

18 Those 29 words are going to save the lives of
19 babies in South Dakota. Our State of South Dakota
20 already has some of the most conservative and common
21 sense pro-life legislation in the country. The
22 South Dakota goal would be that there would be no
23 pre-born babies would ever be deprived from their
24 right to live outside their mommy's womb. And with
25 this additional legislation we can both save more

1 lives and indict these out-of-state chemical abortion
2 pill companies who mock our pro-God and pro-life
3 ideology. Like most South Dakotans we're -- we were
4 thankful, we were thankful to God when Roe was
5 rightly overturned by the Supreme Court in 2022. Yet
6 the joy was temporary because just a few short years
7 later the dirty little secret was revealed by the
8 Guttmacher Institute report that 63 percent of
9 abortions, that's over six out of ten abortions in
10 our nation, are by these killer chemical abortion
11 pills. As you see on your handout that you've
12 received, the target legislation is against the pill
13 providers. The two-step chemical abortion pill
14 begins by ingesting the mifepristone that literally
15 starves the child to death through cutting off their
16 food nutrient supply from their mother. And then 24
17 to 48 hours later, the misoprostol is taken, which
18 expels the lifeless baby through an artificial
19 miscarriage, which according to the warning label on
20 the box usually causes adverse reactions. And the
21 FDA -- the FDA warns eight percent of women report
22 bleeding for more than 30 consecutive days. When you
23 hear the words do-it-yourself, you think of Home
24 Depot, you think of -- you think of Menards, but the
25 words do-it-yourself should never be in conjunction

1 with an abortion and that is exactly what is being
2 done through these DIY mail order abortion drugs like
3 mifepristone. Even the FDA on their website warns
4 the public not to buy this drug online. As of today,
5 there are six primary online websites that refer to
6 themselves as -- as clinics that provide these
7 harmful drugs by mail to almost anyone. Some of
8 these websites are even targeting girls as young as
9 16. This important practice is so important that the
10 Attorney General, the Governor's Office, South Dakota
11 Right to Life, South Dakota Family Voice, the
12 South Dakota Catholic Conference, Concerned Women For
13 America, the Office Center, all testified as
14 proponents of this legislation and passed almost
15 unanimously in committees.

16 I'll close with this. Why would our great State
17 of South Dakota, often proclaimed as one of the most
18 pro-life states in the nation, why would we not do
19 everything in our power to eliminate this kind of
20 pain in the lives of mommies and babies? Please join
21 me in voting yes on HB 1274.

22 PRESIDENT VENHUIZEN: Thank you. Further remarks
23 on House Bill 1274? Further remarks? Senator
24 Larson.

25 SENATOR LARSON: Thank you, Mr. President. Just

1 a couple of questions here for the Prime. First of
2 all --

3 PRESIDENT VENHUIZEN: State your questions.

4 SENATOR LARSON: Thank you. First of all, how
5 can we ensure that this bill won't have a chilling
6 effect on women's ability to get mifepristone for
7 treatment for a miscarriage?

8 PRESIDENT VENHUIZEN: Senator Blanc, do you wish
9 to respond to that question?

10 SENATOR BLANC: Yes. I thank the good Senator
11 from Minnehaha. That question has arisen. Well,
12 will people be afraid of being charged with a felony
13 or will hospitals and other healthcare providers,
14 will they not be able to get their medications that
15 they need and patients' health will suffer? Well, HB
16 1274 is crystal clear. If you look, Senator, in
17 Section 2, Line 14, it's only a felony if you're
18 distributing or selling these drugs for purposes of
19 an illegal or an unlawful abortion. So if the
20 purpose of these drugs is to help treat a miscarriage
21 or other legitimate medical purpose, such as an
22 abortion to preserve the life of the mother, then the
23 bill has no impact on those being provided to
24 healthcare professionals.

25 PRESIDENT VENHUIZEN: Senator Larson.

1 SENATOR LARSON: Additional question.

2 PRESIDENT VENHUIZEN: State your question.

3 SENATOR LARSON: So during the course of this
4 bill the terminology was changed from pregnant per-
5 -- pregnant female, excuse me, to person. And I'm
6 wondering what is the impact of that change in the
7 law?

8 PRESIDENT VENHUIZEN: Senator Blanc, do you wish
9 to answer that question?

10 SENATOR BLANC: Yes. Again, my good friend from
11 Minnehaha is asking some good questions and I have a
12 good answer. In Section 1 of the bill, why was it,
13 why was it that we deleted the words pregnant female
14 and replaced it with person? This change was
15 requested by the Attorney General to provide the
16 Division of Criminal Investigation to pursue
17 controlled buys, which is a -- it's a technique
18 that's used to gather evidence against individuals
19 who are suspected of selling illegal drugs. And the
20 Attorney General, he stated in committee by -- by
21 removing the requirement that it be to any pregnant
22 female it allows proactive law enforcement
23 operations. And to make sense of that, under the
24 existing law, by requiring that it be a pregnant
25 female, it would require the agent or the law

1 enforcement officer to be a female or to be a
2 pregnant female. So by removing that specific
3 language it provides law enforcement with the tools
4 to be able to move forward in -- in these operations.

5 PRESIDENT VENHUIZEN: Further remarks, Senator
6 Larson?

7 SENATOR LARSON: Just one more question.

8 PRESIDENT VENHUIZEN: State your question.

9 SENATOR LARSON: So in that change, what this
10 also means is that a person does not need to be
11 pregnant for this felony abortion to occur with this
12 new change, if I'm understanding it correctly. So my
13 question is, how can we or can we attempt to not
14 criminalize other types of birth control or
15 medications such as Plan B? My fear is that this is
16 leaning in that direction because the op- -- the
17 person in this case does not have to be pregnant.
18 Could you answer that for me? Thank you.

19 PRESIDENT VENHUIZEN: Senator Blanc, do you wish
20 to answer that question?

21 SENATOR BLANC: Let's see if I can go three for
22 three. You're asking some very good questions,
23 questions that I asked even of myself. You know,
24 could it be used to -- to block drugs that we use,
25 some people use every day for contraception. Again,

1 the bill is clear it applies only to drugs that are
2 used for unlawful abortions. Our current definition
3 of abortion in South Dakota is the intentional
4 termination of the life of a human being in the
5 uterus. And this definition was enacted by statute
6 in 2021 so it's been in effect for the last five
7 years and has never been interpreted to apply to
8 contraception or any other lawful medical procedures.

9 PRESIDENT VENHUIZEN: Further remarks, Senator
10 Larson? No. Further remarks, Senator Perry?

11 SENATOR PERRY: Thank you, Mr. President. I
12 think that this bill simply strengthens South Dakota
13 law by closing some of the loophill -- loopholes on
14 sale and distribution of abortion drugs and ensures
15 our existing procedures and protections for unborn
16 life are meaningfully endorsed and enforced. I think
17 voting yes on 1274 is a great decision. Thank you.

18 PRESIDENT VENHUIZEN: Thank you. Further remarks
19 on House Bill 1274? Senator Blanc, do you have
20 anything to say in closing?

21 SENATOR BLANC: Again, I'm going to say why would
22 the great State of South Dakota not do everything in
23 our power to save the lives of the most vulnerable?
24 HB 1274 simply gives the Attorney General and law
25 enforcement the tools to enforce criminal and civil

1 penalties against these out-of-state chemical
2 abortion pill providers who want to violate our
3 pro-life values. Again, I appeal to your love for
4 life and ask your yes vote on HB 1274.

5 PRESIDENT VENHUIZEN: Thank you. Seeing no
6 further remarks, the question before the Senate is
7 final passage of House Bill 1274. When your name is
8 called, those in favor vote aye, those opposed nay.
9 The Secretary will call the roll.

10 THE SECRETARY: Senators Beal excused. Blanc?

11 SENATOR BLANC: Aye.

12 THE SECRETARY: Carley?

13 SENATOR CARLEY: Aye.

14 THE SECRETARY: Crabtree?

15 SENATOR CRABTREE: Aye.

16 THE SECRETARY: Davis?

17 SENATOR DAVIS: Aye.

18 THE SECRETARY: Deibert?

19 SENATOR DEIBERT: Aye.

20 THE SECRETARY: Duhamel?

21 SENATOR DUHAMEL: Aye.

22 THE SECRETARY: Foster excused. Grove?

23 SENATOR GROVE: Aye.

24 THE SECRETARY: Hohn?

25 SENATOR HOHN: Aye.

1 THE SECRETARY: Howard?
2 SENATOR HOWARD: Aye.
3 THE SECRETARY: Hulse?
4 SENATOR HULSE: Aye.
5 THE SECRETARY: Jensen?
6 SENATOR JENSEN: Aye.
7 THE SECRETARY: Karr?
8 SENATOR KARR: Aye.
9 THE SECRETARY: Kolbeck?
10 SENATOR KOLBECK: Aye.
11 THE SECRETARY: Lapka?
12 SENATOR LAPKA: Aye.
13 THE SECRETARY: Larson?
14 SENATOR LARSON: No.
15 THE SECRETARY: Marty?
16 SENATOR MARTY: Aye.
17 THE SECRETARY: Mehlhaff?
18 SENATOR MEHLHAFF: Aye.
19 THE SECRETARY: Miskimins?
20 SENATOR MISKIMINS: Aye.
21 THE SECRETARY: Nelson?
22 SECRETARY NELSON: Aye.
23 THE SECRETARY: Otten?
24 SENATOR OTTEN: Aye.
25 THE SECRETARY: Perry?

1 SENATOR PERRY: Aye.
2 THE SECRETARY: Peterson?
3 SENATOR PETERSON: Aye.
4 THE SECRETARY: Pischke?
5 SENATOR PISCHKE: Aye.
6 THE SECRETARY: Reed?
7 SENATOR REED: Aye.
8 THE SECRETARY: Rohl?
9 SENATOR ROHL: Aye.
10 THE SECRETARY: Sauder?
11 SENATOR SAUDER: Aye.
12 THE SECRETARY: Schoenfish?
13 SENATOR SCHOENFISH: Aye.
14 THE SECRETARY: Smith?
15 SENATOR SMITH: No.
16 THE SECRETARY: Vilhauer?
17 SENATOR VILHAUER: Aye.
18 THE SECRETARY: Voight?
19 SENATOR VOIGHT: Aye.
20 THE SECRETARY: Voita?
21 SENATOR VOITA: Aye.
22 THE SECRETARY: Wipf?
23 SENATOR WIPF: Aye.
24 THE SECRETARY: Zikmund?
25 SENATOR ZIKMUND: Aye.

1 THE SECRETARY: Mr. President, we have 31 yeas,
2 two nays, two excused.

3 PRESIDENT VENHUIZEN: So House Bill 1274 having
4 received an affirmative vote of a majority of the
5 members elect, the President declares the bill
6 passed. Are there any questions on the title?
7 Seeing none, it is deemed correct.

1 STATE OF SOUTH DAKOTA)

2) SS.

CERTIFICATE

3 COUNTY OF PENNINGTON)

4

5 I, CAROLYN M. HARKINS, RPR, Registered Professional
6 Reporter, hereby certify that the foregoing pages 1 through 12,
7 inclusive, are a true and correct transcript of my stenotype
8 notes.

9 Dated at Rapid City, South Dakota, this 27th day of May,
10 2026.

11

12

13

14

/s/Carolyn M. Harkins, RPR
Registered Professional Reporter

15 My Commission Expires: 11-24-2027

16

17

18

19

20

21

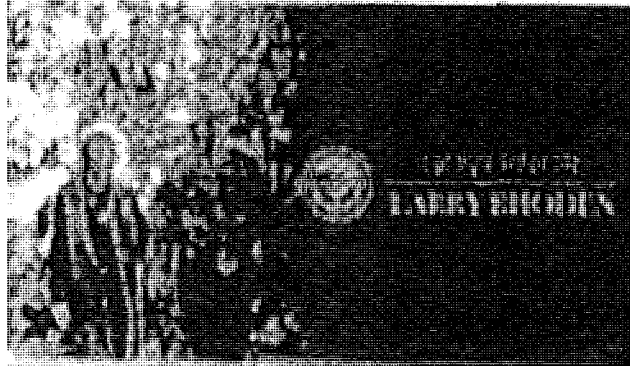
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25

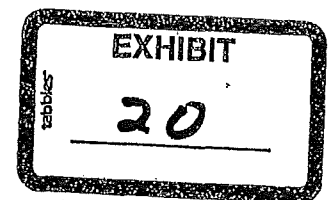
Gov. Rhoden Signs Pro-Life Bills into Law



Today, Governor Larry Rhoden signed three pro-life bills into law, including HB 1274, which stops illegal abortion pills from killing South Dakota babies and harming South Dakota moms.

Date published: 03/20/2026

[Copy Permalink](#)



FOR IMMEDIATE RELEASE

March 20, 2026

Contact: Josie Harms

Gov. Rhoden Signs Pro-Life Bills into Law

PIERRE, S.D. – Today, Governor Larry Rhoden signed three pro-life bills into law, including HB 1274, which stops illegal abortion pills from killing South Dakota babies and harming South Dakota moms. Governor Rhoden signed these bills at the Alpha Center, a crisis pregnancy center in Sioux Falls. You can find a photo from the signing [here](#).

"South Dakota is the most pro-life state in America. Our laws reflect the fact that an unborn child is a person – and that child is worthy of our protection and respect," said Governor Larry Rhoden. "By stopping illegal abortion pills from coming into South Dakota, we continue to stand for life and protect the next generation of South Dakotans."

In his State of the State Address, Governor Rhoden highlighted the fact that the biggest threat to unborn lives in South Dakota is the illegal shipment of abortion pills into the state. Governor Rhoden previously worked with Attorney General Marty Jackley to stop illegal advertisements of these pills; now HB 1274 allows the Attorney General to actually prosecute the shipment of pills for purposes of an unlawful abortion.

Governor Rhoden also signed the following two bills:

- HB 1257 amends the definition of an abortion to make clear that miscarriage management and ectopic pregnancy are not abortions; and
- HB 1313 requires education in prenatal human growth and development.

Governor Rhoden has signed 193 bills into law and vetoed one this legislative session.

###

Other Posts by this Agency

Gov. Rhoden Breaks Ground on New Men's Prison

Today, Governor Larry Rhoden broke ground on the largest single investment in public safety in state history: the new men's prison in Sioux Falls.

[Learn More](#)

Learn More

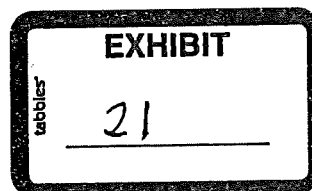


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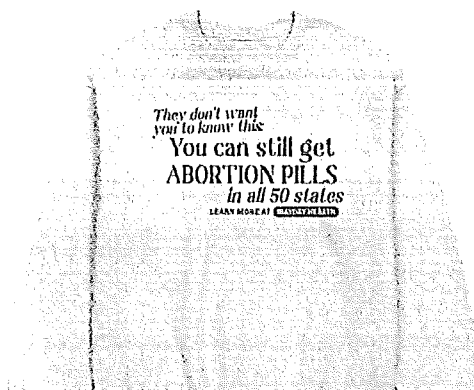
HOODIES

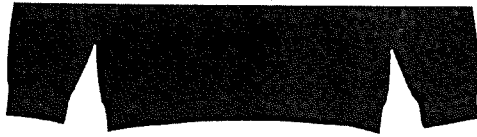


"All 50 States" Map Cream Hoodie
\$40.00



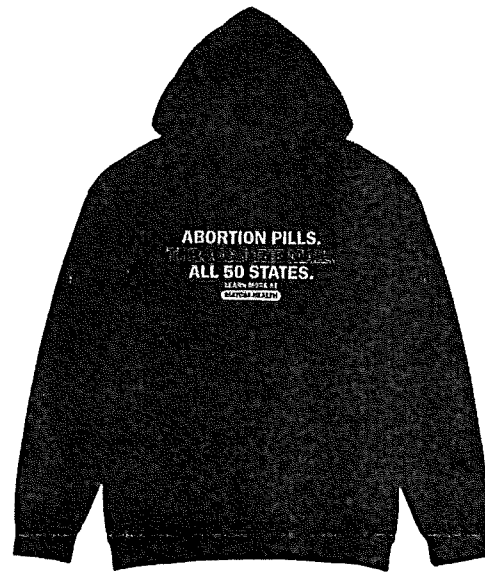
"All 50 States" Map Black Hoodie
\$40.00





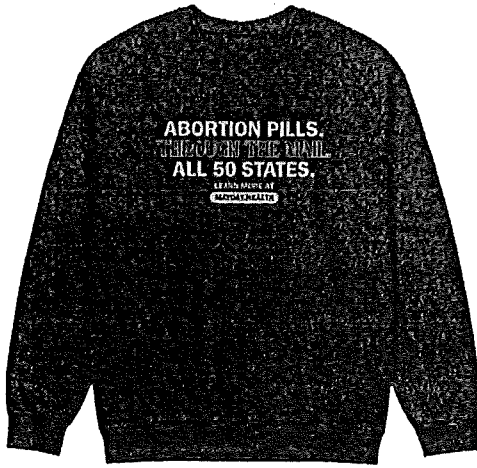
"They Don't Want You To Know This"
Hoodie
\$40.00

"They Don't Want You To Know This"
Cream Crewneck
\$35.00



"They Don't Want You To Know This"
Navy Crewneck
\$35.00

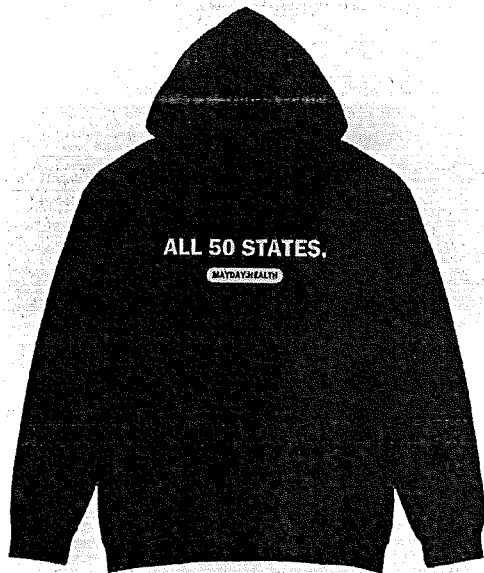
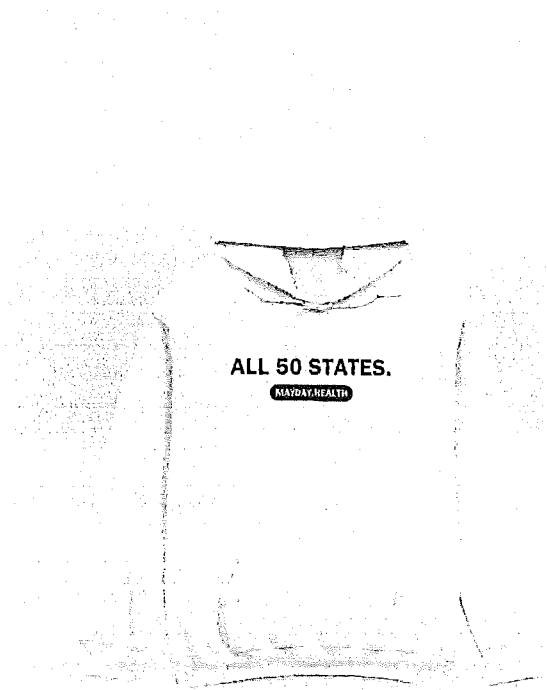
"Abortion Pills Through the Mail" Navy
Hoodie
\$40.00



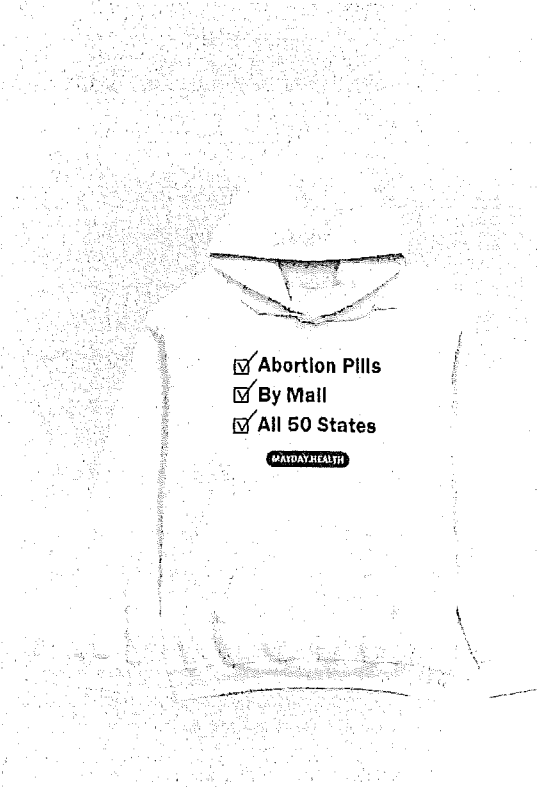
"Abortion Pills Through the Mail"
Charcoal Crewneck
\$35.00



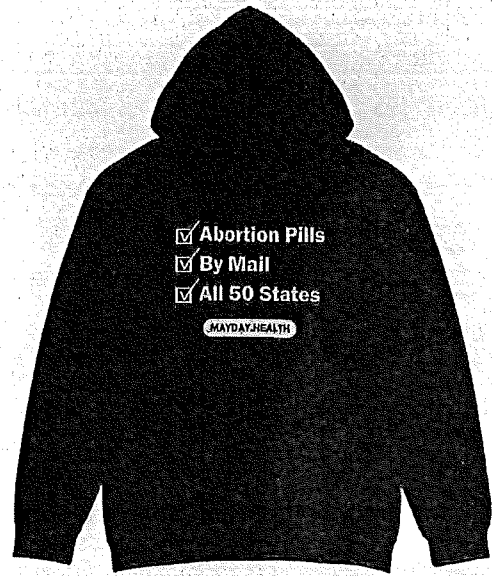
"Abortion Pills in All 50 States" Cream
Hoodie
\$40.00



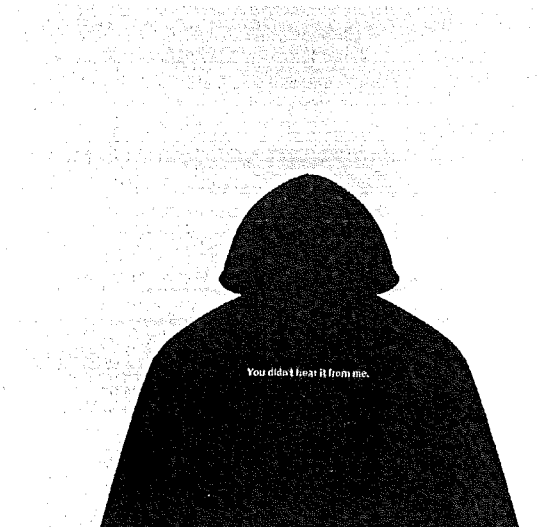
All 50 States - White
\$40.00



All 50 States - Black
\$40.00

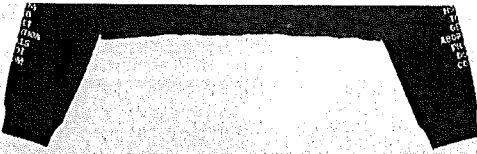


Checklist - White
\$40.00



Checklist - Black
\$40.00





Didn't Hear it From Me - Cropped Black

\$50.00



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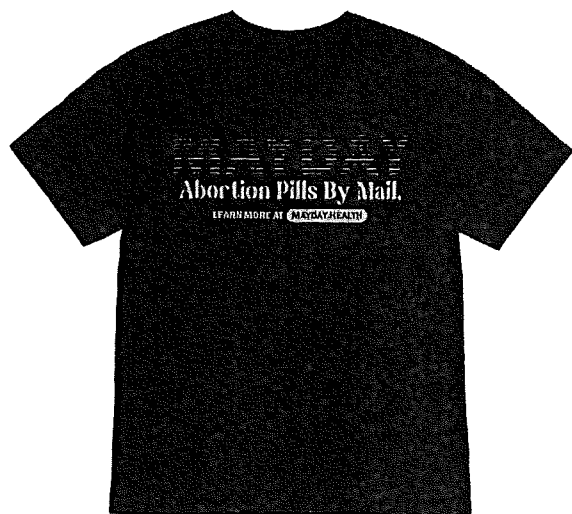
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T-SHIRTS

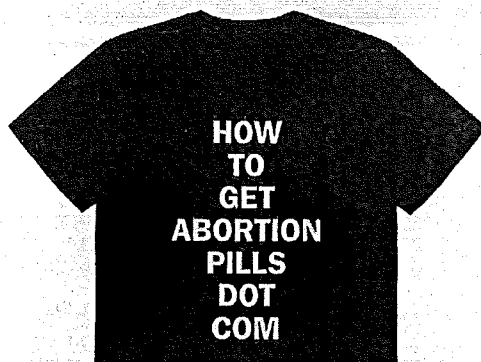


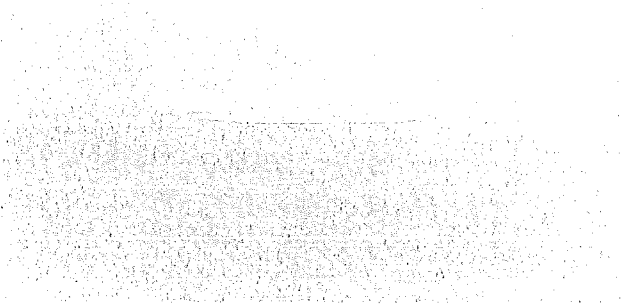
"Abortion Pills by Mail" Gradient Black Tee
\$30.00



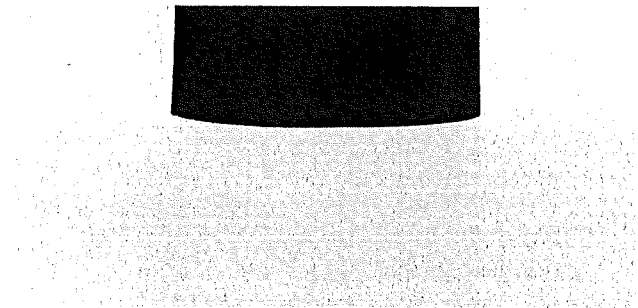
"Abortion Pills By Mail" White Tee
\$30.00

MIFE
MISO'24

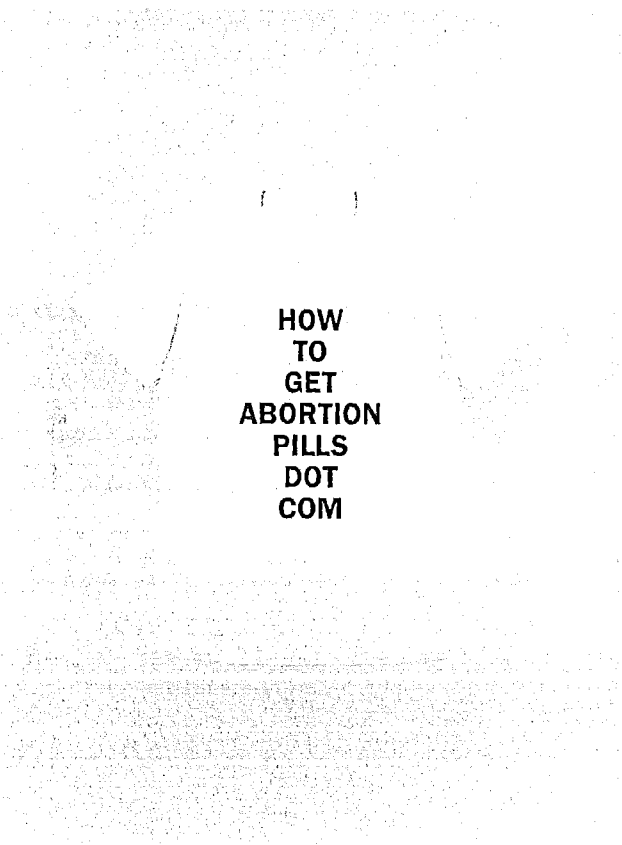




Mife Miso '24
\$30.00



How To Get Abortion Pills Dot Com Black
\$30.00



How To Get Abortion Pills Dot Com
Purple
\$30.00

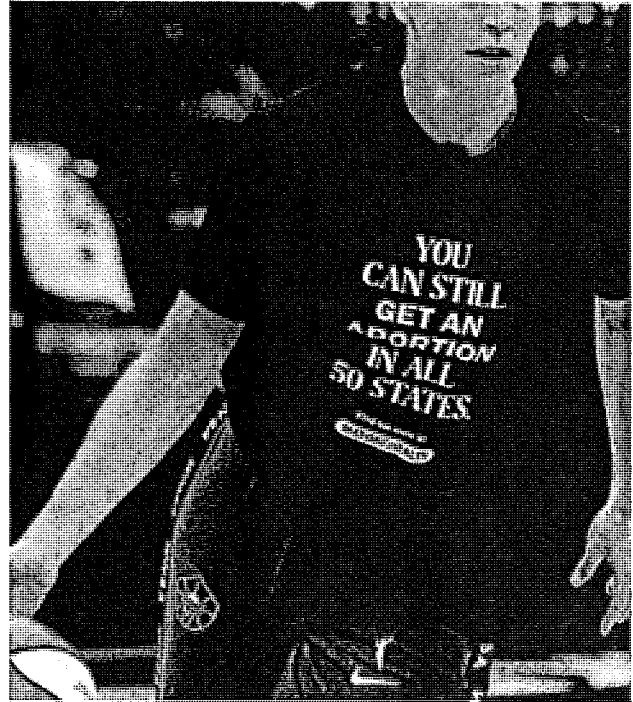


Mayday Mayday Black
\$30.00



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Mayday Mayday Purple
\$30.00



The Walking Billboard
\$30.00



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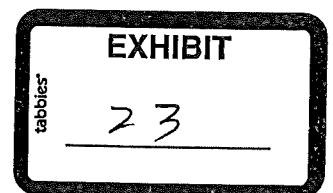
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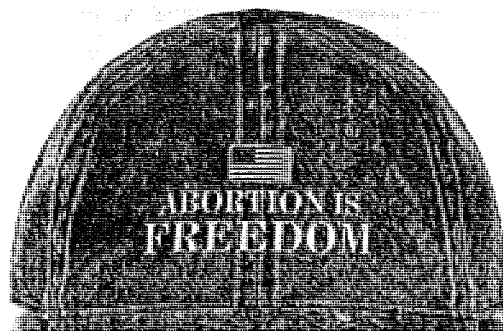
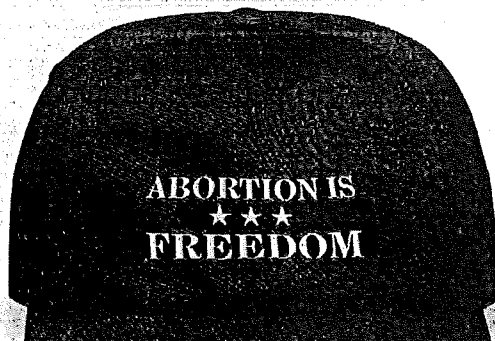
TAKING BACK PATRIOTISM DAD HATS



"Abortion Pills in the USA" Vintage Wash
Dad Hat
\$25.00

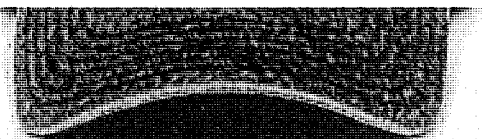


"Abortion Pills in the USA" Classic Dad
Hat
\$25.00





"Abortion is Freedom" Classic Dad Hat
\$25.00



"Abortion is Freedom" Vintage Wash Dad Hat
\$25.00



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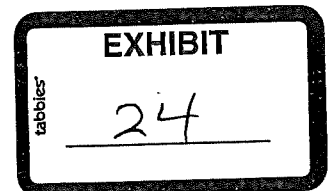
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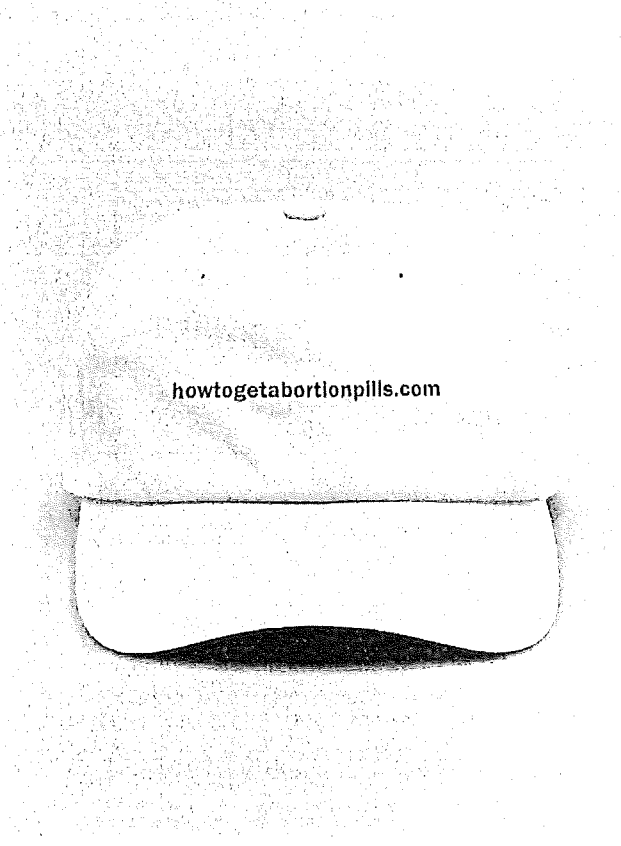
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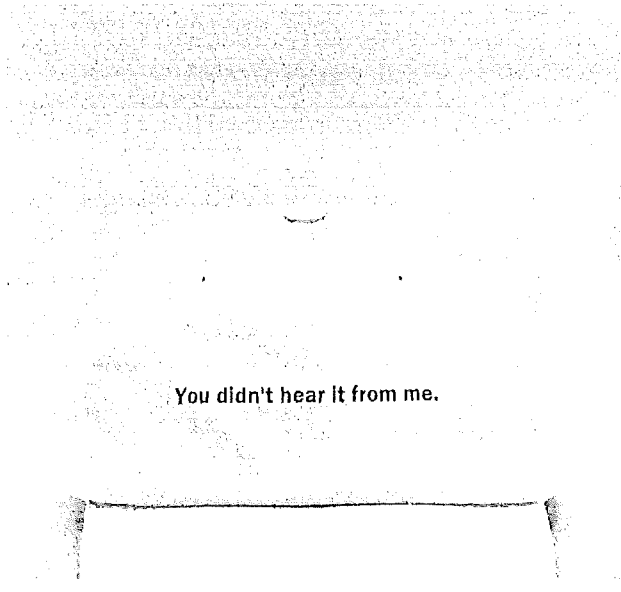
HATS

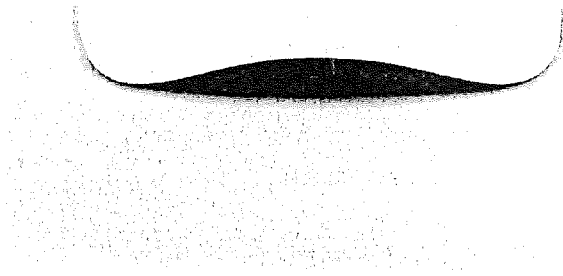


How to Dad Hat - White
\$25.00

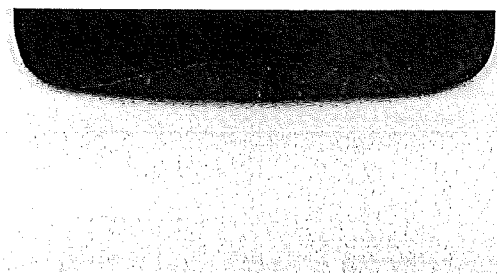


How to Dad Hat - Black
\$25.00





Didn't Hear it From Me - White
\$25.00



Didn't Hear it From Me - Black
\$25.00



How to Bucket Hat - White
\$25.00



How to Bucket Hat - Black
\$25.00



TICKET

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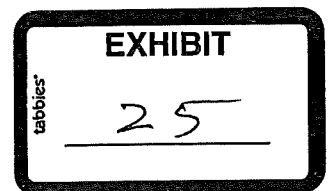


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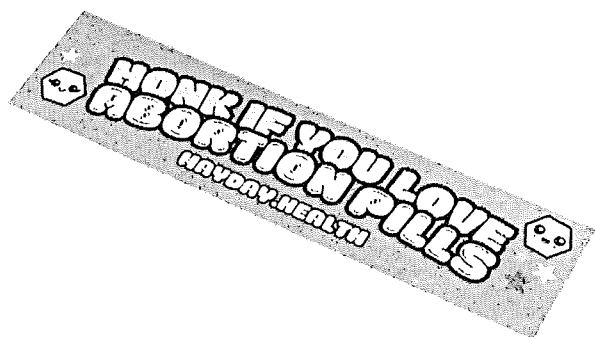
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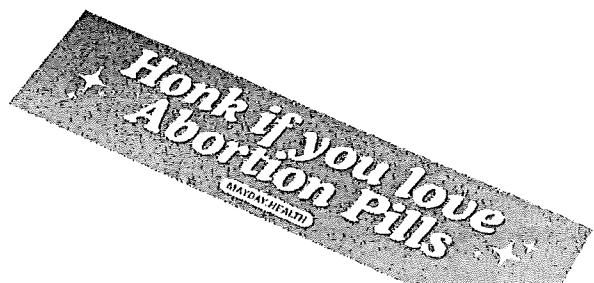
BUMPER STICKERS



"Honk if You Love Abortion Pills" Kawaii
Bumper Sticker
\$6.00



Abortion Pills Bumper Sticker
\$6.00



Honk If You Love Abortion Pills Bumper
Sticker
\$6.00

Beware! Abortion Pills Bumper Sticker
\$6.00



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CANDLES



This House Supports Abortion | scented
beeswax candle

\$0.00

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Home page
6-22-26
LR



What do you need?

Abortion

Morning after pills

Birth Control

Gender-Affirming Care

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

Interested in the abortion procedure instead? [Go here](#).

Before going to any external websites, you can [take these steps](#)
for digital privacy.

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Mayday is a reproductive health education nonprofit

Our Mission

Additional Resources

Links to trusted organizations.

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

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

This comes up when a person
clicks on "Abortion" on the
Home Page

Order from:

G-22-26
LR

Abuzz

SHIPS TO SELECT STATES

COST: SLIDING SCALE

DELIVERY WITHIN 5 DAYS

The MAP

SHIPS TO ALL 50 STATES

EXHIBIT

tabbles

28

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

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?



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



Want more information and other ways to get pills?



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This si

Info on digital privacy, legal concerns, and medical questions

Privacy Guide

Medical Hotline

Legal Helpline

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Mail Forwarding

1

Have pills sent to a safe and discreet location that are then forwarded to you.

Pills can be ordered and sent to a friend's house and then sent to you, or you can use an online option to create a mail forwarding address. *Note: New laws (called "shield laws") allow doctors from other states to prescribe and send pills to those in states with abortion bans. **Therefore, Aid Access ships to all states making mail-forwarding unnecessary.** However, if you're still concerned about having pills shipped directly to you, you can still use mail forwarding.*

A mail forwarding address is a new address in another state that you can make online using one of the below websites. You can forward any mail delivered to this address to the local address of your choice. Costs less than \$50.



When choosing a mail forwarding address, choose a state with abortion rights that providers can prescribe abortion pills to (You can find a detailed breakdown of which states telehealth providers mail pills to on step 2).

< >

PostScan (most private, most effective)



iPostal1 (may reject shipment)



AnyTime Mailbox (customer complaints, no customer service)



[Skip to Step 2: Telehealth](#)

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Mail Forwarding

2

After the mail forwarding address is approved, use the new address to ask for abortion pills from a doctor online via telehealth:

Telehealth is visiting a doctor online. Most telehealth providers ship to any address in states where they operate, including mail forwarding addresses. The delivery can then be forwarded to anywhere using the mail forwarding service. Costs \$150-375. Many telehealth providers offer discounts. Ask your provider for help if you are unable to pay the full cost.

< >

Telehealth Providers

>

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Mail Forwarding

3

Once the pills are received at the Mail Forwarding address, forward the pills to the local address of your choice.

The pills should arrive in unmarked packaging without a return address or the name of sender. This protects privacy. It is a federal crime to open someone else's mail.



Additional Resources



[Go back to the homepage](#)

Marvin Buehner, M.D.

Office: [REDACTED]

Home: [REDACTED]

Mobile: [REDACTED]

Black Hills Obstetrics and Gynecology, LLC
6015 Mt. Rushmore Road, Suite #2
Rapid City, South Dakota 57701

Education

1975-1979, Bachelor of Science, Magna cum laude, University of South Dakota
1979-1981, Bachelor of Medicine, USD School of Medicine, Vermillion, South Dakota
1981-1983, Doctor of Medicine, Baylor College of Medicine, Houston, Texas

Postgraduate Training

1983-1986, Family Practice Residency, Merrithew Memorial Hospital,
Martinez, California
1987-1990 Obstetrics & Gynecology Residency, Kaiser Hospital,
San Francisco, California

Professional Positions

1990-1993, Kaiser Permanente Medical Group, Northern California
1993-1996, Rapid City Indian Health Service Clinical Director, All Nations Health Clinic, Native
Women's Health Clinic, Sioux San Indian Health Service Hospital, Rosebud Indian Health
Service Hospital, Eagle Butte Indian Health Service Hospital
1996-2001, Marvin Buehner M.D., PC, Rapid City, South Dakota
2001-2020, Black Hills ObGyn LLP, Rapid City, South Dakota
2020-present, Black Hills ObGyn LLC, Rapid City, South Dakota

Licenses and Certifications

1993-present Unrestricted South Dakota Medical License
1984-2008 Diplomate, American Board of Family Practice
1992-present Diplomate, American Board of Obstetrics and Gynecology

Awards

Phi Beta Kappa 1979
R. Fielding Burman Scholarship 1979
Yankton Medical Clinic Scholarship 1980
Mosby Medical Scholarship Award 1981
Lulu B. Wheeler Scholarship 1981
Elected Chief Resident, Merrithew Memorial Hospital, Martinez, California, 1985-86
Hively Award, Kaiser Medical Center, San Francisco, California, 1990
Teacher of the Year, Rapid City Regional Hospital, Family Practice Residency, 1997
Included in Top 100 Ob/Gyn Doctors in America, Castle Connolly Consumer Guide, April 2002
Excellence in Medical Reporting Award, South Dakota State Medical Association 2006
Community Service Award, South Dakota State Medical Association, 2009
Courage Award, Planned Parenthood, 2009
Courage Award, Ballot Initiative Strategy Center, 2009
Distinguished Service Award, Rapid City Regional Hospital, 2009
Thelma Underberg Established Activist Award, NARAL 2013



Hospital Committee Service

Medical Executive Committee, Merrithew Memorial Hospital, 1985-1986
Medical Education Committee, Merrithew Memorial Hospital, 1985-1986
Residency Admissions Committee, Merrithew Memorial Hospital, 1983-1986
Perinatal Administration Committee, Kaiser Medical Center, 1989-1990
Medical Records Committee, Kaiser Medical Center, 1992
Quality Assurance Committee, Sioux San Indian Health Hospital, 1993-1996
Utilization Review Committee, Sioux San Indian Health Hospital, 1993-1996
Infection Control Committee, Chairman, Sioux San Indian Health Hospital, 1994-1996
Medical Education Committee, Rapid City Regional Hospital (RCRH), 1995-1998
Pharmacy and Therapeutics Committee, RCRH, 1998-2003
Medical Executive Committee, RCRH, 1998-2011, Chairman 2004-2005
Medical Staff Bylaws Committee, RCRH, 2002-2006
Medical Staff Quality Review Committee, Chairman, RCRH 2003-2011
Performance Improvement Risk Management Safety Committee, RCRH, 2003-2004
Credentials Committee, RCRH, 2003-2006
Medical Executive Planning Committee 2003-present, Chairman 2004-2005
Medical Staff Executive Council, RCRH, 2002-2006
Rapid City Regional Hospital Board of Trustees 2003-2005
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Positions Held

Clinical Professor, USD Sanford School of Medicine, 2014 -present
Clinical Assistant Professor, USD School of Medicine 1994-2002; 2009-2014
Chairman Department of Obstetrics and Gynecology, Rapid City Regional Hospital 2000-2002
Medical Staff Secretary/Treasurer, Rapid City Regional Hospital 2002-2003
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Chief of Staff, Rapid City Regional Hospital 2004-2005
Councilor, South Dakota State Medical Association Council of Physicians 2006-2013
Member, Executive Board, South Dakota Campaign for Healthy Families, 2006-2012

Professional Organizations

American Medical Association
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Publications

"The Wandering Spleen: Case Reports and Literature Review"
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"High Risk Pregnancy," On Call, South Dakota Public Television, June, 2008

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Sixteen Years of Overregulation: Time to Unburden Mifeprex

Mifeprex REMS Study Group

On March 29, 2016, the Food and Drug Administration (FDA) approved an updated label for Mifeprex (mifepristone 200-mg tablets, Danco Laboratories), the product that is commonly used in the United States in combination with misoprostol to induce a medical abortion. The changes made to the label were sweeping; they included a more effective dosing regimen containing less mifepristone and more misoprostol, expansion of the gestational limit for treatment from 49 to 70 days, omission of the recommendation for in-person follow-up, removal of language indicating that the prescriber must be a physician, and elimination of the requirement to report nonfatal adverse events. These revisions were supported by extensive data about mifepristone that have been accumulated since the FDA first approved the drug in 2000.¹⁻⁷ Professional guidelines for medical abortion had already incorporated many of the new procedures,⁸⁻¹⁰ and thus the FDA's action brought the drug label into line with current standard practice.

The new label will undoubtedly have substantial benefits. Because the label now conforms with scientific evidence, it will reduce confusion among women, providers, and policymakers about the appropriate use of the drug. Moreover, it is expected to make abortion less expensive, more convenient, and more widely available in the handful of states where legislatures have enacted laws requiring adherence to the FDA-approved Mifeprex label.¹¹

We suggest, however, that in merely updating the label, the FDA did not go far enough: the distribution of Mifeprex remains substantially and unnecessarily encumbered by a Risk Evaluation and Mitigation Strategy (REMS), which was left fundamentally unchanged.

A REMS is a set of restrictions beyond the label that the FDA may impose under the authority of the federal Food, Drug, and Cosmetic Act (FDCA) when necessary to ensure that the benefits of a drug outweigh its risks.^{12,13} REMS programs are

intended for drugs that are known or suspected to cause serious adverse effects that cannot be mitigated simply by the label instructions. The FDCA includes six factors that the FDA should consider when deciding whether to require a REMS, including the benefits and risks of the drug, the duration of treatment, the number of expected users, and the background risk of adverse events in the population (see Box). Each REMS is customized to address the specific risks of a given drug. The REMS for clozapine, which is indicated for the treatment of schizophrenia, is illustrative: because the drug can cause severe neutropenia, its REMS requires, among other measures, that pharmacists verify that each patient has had a recent neutrophil count before dispensing the drug.¹⁴ At this time, 74¹² of the approximately 1750 prescription drug and therapeutic biologic active ingredients that have been approved by FDA and marketed in the United States¹⁵ have REMS programs.

The core of the Mifeprex REMS is three provisions designated as "elements to assure safe use."¹⁶ First, the drug may be dispensed to patients only in clinics, medical offices, and hospitals by or under the supervision of a certified prescriber; it may not be sold in retail pharmacies. Second, to prescribe the drug, a health care provider must become "certified" by completing and sending a form to the drug distributor attesting that he or she can assess pregnancy duration, diagnose ectopic pregnancy, and provide surgical intervention if needed, either personally or by referral. Third, each woman taking Mifeprex must be given an FDA-approved medication guide and sign an FDA-approved patient agreement that summarizes the use instructions specified in the label and the potential risks of the drug. Whereas drug labels are generally not binding for individual clinicians¹⁷ — misoprostol, for example, is approved for the prevention of gastric ulcers but is legally and widely used off-label for gynecologic purposes,

EXHIBIT

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Excerpts from the Food, Drug, and Cosmetic Act Relevant to Risk Evaluation and Mitigation Strategies.***a. Submission of proposed strategy****1. Initial approval**

If the Secretary . . . determines that a risk evaluation and mitigation strategy is necessary to ensure that the benefits of the drug outweigh the risks of the drug, and informs the person who submits such application of such determination, then such person shall submit to the Secretary as part of such application a proposed risk evaluation and mitigation strategy. In making such a determination, the Secretary shall consider the following factors:

- A. The estimated size of the population likely to use the drug involved.
- B. The seriousness of the disease or condition that is to be treated with the drug.
- C. The expected benefit of the drug with respect to such disease or condition.
- D. The expected or actual duration of treatment with the drug.
- E. The seriousness of any known or potential adverse events that may be related to the drug and the background incidence of such events in the population likely to use the drug.
- F. Whether the drug is a new molecular entity.
- G. Assuring access and minimizing burden.

f. Providing safe access for patients to drugs with known serious risks that would otherwise be unavailable**1. Allowing safe access to drugs with known serious risks**

The Secretary . . . may require that the risk evaluation and mitigation strategy for a drug include such elements as are necessary to assure safe use of the drug, because of its inherent toxicity or potential harmfulness, if the Secretary determines that —

- A. the drug, which has been shown to be effective, but is associated with a serious adverse drug experience, can be approved only if, or would be withdrawn unless, such elements are required as part of such strategy to mitigate a specific serious risk listed in the labeling of the drug; and
- B. for a drug initially approved without elements to assure safe use, other elements . . . are not sufficient to mitigate such serious risk.

2. Assuring access and minimizing burden

Such elements to assure safe use . . . shall:

- A. be commensurate with the specific serious risk listed in the labeling of the drug;
- B. within 30 days of the date on which any element . . . is imposed, be posted publicly by the Secretary [of Health] with an explanation of how such elements will mitigate the observed safety risk;
- C. considering such risk, not be unduly burdensome on patient access to the drug, considering in particular —
 - i. patients with serious or life-threatening diseases or conditions; and
 - ii. patients who have difficulty accessing health care (such as patients in rural or medically underserved areas); and
- D. to the extent practicable, so as to minimize the burden on the health care delivery system —
 - i. conform with elements to assure safe use for other drugs with similar, serious risks; and
 - ii. be designed to be compatible with established distribution, procurement, and dispensing systems for drugs.

*Information is quoted from the Food Drug and Cosmetic Act, Section 505 I, codified at 21 U.S.C. §355 I.

such as labor induction¹⁸ — compliance with a REMS is mandatory and consequently has a nationwide effect.

When Mifeprex was first approved 16 years ago, documented experience with its use outside a research context was minimal, and the restrictions to minimize potential harm were perhaps understandable. Since then, however, its effectiveness and safety have been definitively established. To date, 19 deaths have been reported to the FDA among the more than 3 million women in the United States who have used Mifeprex (Long A, Danco Laboratories: personal communication); the estimated Mifeprex-associated mortality rate is

thus 0.00063%. In contrast, the background risk of pregnancy-related death among pregnant women in the United States who do not have abortions and instead proceed to live birth is approximately 0.009%, which is 14 times higher.¹⁹ Studies that together included more than 423,000 women around the world who had a medical abortion have reported that the rates of nonfatal serious adverse events after mifepristone use, such as hospital admission, blood transfusion, or serious infection, range from 0.01 to 0.7%, and these events are almost always treatable without permanent sequelae. Side effects such as bleeding, cramping, fever, and chills are typically minor and transient.² This reas-

surging safety record and the fact that each woman using Mifeprex receives only a single pill, which virtually eliminates the potential for substantial misuse, suggests that Mifeprex no longer fits the expected profile of a drug that requires a REMS.

Indeed, in our view, the Mifeprex REMS is inconsistent with the express requirements of the FDCA. The law states that a REMS may include the elements to assure safe use only if the “inherent toxicity or potential harmfulness” of the drug is such that no other means are available to mitigate a “specific serious risk” listed on the label. If included, the elements must be “commensurate” with this risk and must include an explanation of how the elements will mitigate this risk. In addition, the elements must not unduly burden either patient access to the drug — especially among patients with serious medical conditions and patients in medically underserved areas — or the health care system (see Box).

The Mifeprex elements do not meet these specifications. Mifepristone is not inherently toxic or harmful to the woman using it. The notion that the elements are essential to ensure that its benefits outweigh its risks has no basis in evidence; on the contrary, other countries that have not instituted regulations similar to the REMS have not encountered substantial safety problems. One or both of the two serious risks described on the Mifeprex label — atypical infection and prolonged heavy vaginal bleeding — also may occur after many other common obstetrical and gynecologic procedures, including vaginal delivery, medical and surgical management of miscarriage, and insertion of intrauterine devices. All these procedures are routinely performed without federally mandated provider certification, signed patient agreements, or venue limitations, and yet they are generally considered to be acceptably safe. In this context, a rationale for singling out Mifeprex as needing such measures to ensure safety is lacking, and the Mifeprex elements can hardly be justified as “commensurate” with the risks.

Similarly in conflict with the law, the Mifeprex REMS provides no explanation as to how the elements to assure safe use — in particular, the restriction on dispensing sites — could possibly have any effect on the risks of infection or bleeding. The new Mifeprex label permits a woman to take the drug after leaving the dispensing facility, and the pharmacologic effects do not begin for hours after ingestion. If a serious complication were to

occur, the location where the woman had obtained the tablets would be entirely irrelevant to her clinical outcome. In fact, recent research has shown that allowing each woman who has a medical abortion to take the mifepristone in the place of her choosing is safe and is preferred by many women.²⁰⁻²²

The Mifeprex elements to assure safe use plainly impede women's access to the drug.¹¹ For example, the prohibition on sale at retail pharmacies and the provider certification requirement mean that a qualified clinician who has not completed the certification process and arranged to stock the drug in his or her office cannot provide timely medical abortion care to a woman who presents unexpectedly. Consequently, treatment of such a patient would be delayed, increasing cost and inconvenience and, if the delay is substantial, possibly even medical risk. The elements also complicate the provision of medical abortion through telemedicine,²³ which has proved valuable in improving access in rural areas.²⁴ More generally, the expense and hassle of maintaining drug inventories as well as reluctance to be included on a list of certified abortion providers — understandable, given the long history of harassment and violence²⁵ — may discourage some otherwise willing clinicians from offering medical abortion at all. Considering the severe shortage of abortion providers in many parts of the United States and the long distances that many women must travel to obtain abortion services,²⁶ we contend that any barrier to access that has no demonstrated benefit is excessive.

Finally, the Mifeprex elements to assure safe use violate the statutory requirement to minimize the burden on the health care delivery system. In particular, the elements are not compatible with established drug-distribution systems; instead, the Mifeprex distributor has had to set up an onerous and costly infrastructure, used only for this one drug, to enable clinicians to submit certification forms and order supplies. This process certainly does not conform to the distribution system for other drugs with similar serious risks. Anticoagulants can cause major bleeding at numerous anatomic sites, including the vagina,²⁷⁻²⁹ and phosphodiesterase type 5 inhibitors for the treatment of erectile dysfunction are estimated to be associated with death in up to 0.004% of users,³⁰ and yet these drugs do not have REMS programs. Antibiotics, antihypertensive agents, and insulin also

can induce immediate serious or fatal reactions shortly after use, but most of these also are not restricted by REMS. In addition, the Mifeprex elements may impede the development of potentially cheaper, generic mifepristone products for abortion by requiring any generic developer either to negotiate a shared distribution system with the distributor of Mifeprex or to set up a separate, parallel system.

Given the data and experience that have been accumulated since the initial FDA approval, the Mifeprex REMS no longer makes clinical sense. The provider certification criteria can technically be met by any health care professional with the ability to read an ultrasound report and familiarity with emergency services, and thus the certification process itself — which is a self-certification without any validation component — is, in essence, an empty formality. Serious complications of mifepristone treatment are uncommon and are very familiar to clinicians who provide care to women of reproductive age; these risks should be manageable through routine labeling and standard clinical counseling. And abortion providers certainly can evaluate patients and prescribe mifepristone without having tablets physically present in their offices.

Medical abortion is a key component of women's health care because it enables effective, safe, private pregnancy termination when surgical abortion is unavailable, clinically contraindicated, or personally undesirable. Mifepristone is currently the only drug approved for medical abortion in the United States, and more than a third of women who present for abortion within the first 8 weeks of gestation now choose to use it. Some evidence suggests that access to this drug can reduce the demand for induced abortion in the second trimester.³¹ The Mifeprex REMS impedes the provision of Mifeprex without offering any demonstrated or even reasonably likely advantage. We recommend that the REMS be expeditiously withdrawn.

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ANDA 091178

Mifepristone U.S. Post-Marketing Adverse Events Summary through 12/31/2024



The following information is from United States (U.S.) post-marketing reports received by FDA of adverse events that occurred among patients who had taken mifepristone for medical termination of pregnancy. Because FDA has eliminated duplicate reports, and in some cases, reclassified the adverse event terms for individual cases after reviewing the narrative details, the numbers provided here may differ from the numbers of the reports that may be obtained through Freedom of Information Act requests. These events cannot with certainty be causally attributed to mifepristone because of information gaps about patient health status, clinical management of the patient, concurrent drug use, and other possible medical or surgical treatments and conditions. The estimated number of women who have used mifepristone in the U.S. for medical termination of pregnancy through the end of December 2024 is approximately 7.5 million women.

For informational purposes, fatal foreign cases that were reported after U.S. approval of mifepristone for medical termination of pregnancy are also included in a footnote in Table 1.

Table 1. Cumulative Post-Marketing Fatal and Ectopic Pregnancy Reports in U.S. Women Who Used Mifepristone for Medical Termination of Pregnancy	
Date range of cumulative reports	09/28/00 [†] - 12/31/24
Died [‡]	36
*Ectopic pregnancies	97
[†] U.S. approval date [‡] The fatal cases are included regardless of causal attribution to mifepristone. Deaths were associated with sepsis in 13 of the 36 reported fatalities (9 cases tested positive for <i>Clostridium sordellii</i> , 1 case tested positive for <i>Clostridium perfringens</i> , 2 cases had negative blood cultures, and 1 case did not have blood culture data). Ten of the 13 fatal sepsis cases reported vaginal misoprostol use; 2 cases reported buccal misoprostol use; 1 case did not report the route of misoprostol use. Twenty-two of the 23 remaining U.S. deaths involved 2 cases of homicide, 2 cases of combined drug intoxication/overdose, 2 cases of ruptured ectopic pregnancy, 2 cases of drug intoxication, 2 cases of suicide, and 1 case each of the following: substance abuse/drug overdose; methadone overdose; suspected homicide; delayed onset toxic shock-like syndrome; hemorrhage; bilateral pulmonary thromboemboli; unintentional overdose resulting in liver failure; probable anaphylactic medication reaction; septic shock due to necrotizing fasciitis; sepsis with multiple complications possibly secondary to toxic shock syndrome 82 days after mifepristone; sudden death of undetermined etiology despite performance of an autopsy; and a case of natural death due to severe pulmonary emphysema. In the 23 rd case, the cause of death could not be established despite performance of an autopsy; tissue samples were negative for <i>Clostridium sordellii</i> . There were 13 additional reported deaths in women in foreign countries who used mifepristone for medical termination of pregnancy. These fatal cases were associated with the following: sepsis (<i>Clostridium sordellii</i> identified in tissue samples) in a foreign clinical trial; sepsis (Group A <i>Streptococcus pyogenes</i>); a ruptured gastric ulcer; severe hemorrhage; severe hemorrhage and possible sepsis; "multivisceral failure;" thrombotic thrombocytopenic purpura leading to intracranial hemorrhage; toxic shock syndrome (<i>Clostridium sordellii</i> was identified through uterine biopsy cultures); sepsis (<i>Enterococcus faecalis</i> and <i>Escherichia coli</i> were identified in blood culture); asthma attack with cardiac arrest; thromboembolism; respiratory decompensation with secondary pulmonary infection 30 days after mifepristone in a patient on the lung transplant list with diabetes, a jejunostomy feeding tube, and severe cystic fibrosis; and a case of <i>Clostridium septicum</i> sepsis (from a published literature report). * The majority of these women are included in the hospitalized category in Table 2. Administration of mifepristone and misoprostol is contraindicated in patients with confirmed or suspected ectopic pregnancy (a pregnancy outside the uterus).	

Table 2. Post-Marketing Adverse Events in U.S. Women Who Used Mifepristone for Medical Termination of Pregnancy		
Date ranges of reports received	09/28/00 [†] - 10/31/12	11/01/12 - 12/31/24 [‡]
Cases with any adverse event	2740	1512
Hospitalized, excluding deaths	768	288
*Experienced blood loss requiring transfusions [§]	416	190
Infections (*Severe infections [¶])	308 (57)	114 (22)
[†] U.S. approval date [‡] FDA implemented the FDA Adverse Event Reporting System (FAERS) on September 10, 2012, and migrated all the data from the previous reporting system (AERS) to FAERS. Differences may exist when comparing case counts in AERS and FAERS. FDA validated and recoded product information as the AERS reports were migrated to FAERS. As a result of this change, it is not recommended to calculate a cumulative number when reviewing the data provided in Table 2. [*] The majority of these women are included in the hospitalized category in Table 2. [§] As stated in the approved labeling for Mifeprex (mifepristone) and its approved generic version, bleeding or spotting can be expected for an average of 9-16 days, and may last for up to 30 days. Excessive vaginal bleeding usually requires treatment by uterotonics, vasoconstrictor drugs, curettage, administration of saline infusions, and/or blood transfusions. This category includes endometritis (inflammation resulting from an infection involving the lining of the womb), pelvic inflammatory disease (involving the nearby reproductive organs such as the fallopian tubes or ovaries), and pelvic infections with sepsis (a serious systemic infection that has spread beyond the reproductive organs). Not included are women with reported sexually transmitted infections such as chlamydia and gonorrhea, cystitis, and toxic shock syndrome not associated with a pelvic infection. [¶] This subset of infections includes cases that were determined to be severe based on medical review of the available case details. Severe infections generally result in death or hospitalization for at least 2-3 days, require intravenous antibiotics for at least 24 hours and total antibiotic usage for at least 3 days, or have other physical or clinical findings, laboratory data, or surgery that suggest a severe infection.		