TuSalud

A Ban Won’t Stop Abortion Pill Access, Telehealth Providers Say

Combined, mifepristone and misoprostol are considered the “gold standard,” but misoprostol can also be taken alone to induce an abortion.

June 30, 2026 By Kate Wells and KFF Health News

Angel Foster had a backup plan.

It was the first weekend in May. A federal appeals court had just made it illegal to mail mifepristone, a pill that’s part of the most widely used abortion method in the U.S.

But Foster, a doctor who specializes in reproductive health, was prepared. As leader of the Massachusetts Medication Abortion Access Project, which ships abortion pills to some 3,500 patients a month nationwide, including in states with abortion bans, she told patients they had three options.

They could get a refund. They could wait to see if the legal situation changed. Or she could ship them only misoprostol — a second drug already used in most medication abortions. Combined, mifepristone and misoprostol are considered the “gold standard.” Misoprostol can be taken alone to induce an abortion, but some studies have suggested it’s less effective, Foster warned patients. Plus, it can make the process longer and more painful, with more side effects, such as nausea and vomiting.

Still, the vast majority of patients said the same thing: Just send it.

“They didn’t care,” Foster said. “Their response was: ‘Whatever can get to me the fastest.’”

Two developments often get lost in the public’s perception of the abortion wars. One is that the number of abortions in the U.S. has increased dramatically year over year since the Supreme Court overturned Roe v. Wade in 2022, according to the Society of Family Planning’s latest #WeCount report. By December, 29% of abortions were through telehealth. The second is that, because the mailing of abortion pills has become so widespread in the post-Dobbs era, abortion opponents may simply be unable to stop it.

Massive legal battles are being waged by states with abortion bans, seeking to block the shipment of mifepristone across their borders. In a suit brought by Louisiana, the U.S. Supreme Court recently restored telehealth access to mifepristone while a lower court hears the case. And

abortion opponents continue their push to get the Trump administration to crack down on the pills' availability, either through a Food and Drug Administration safety review or more drastic measures.

But many telehealth experts who help patients get abortions aren't too worried.

"We like to say the genie is out of the bottle," said Elisa Wells, who co-founded and is the access director at Plan C, which provides information about accessing abortion pills online.

"Now that people know that they can get safe, fast, effective, affordable care through the mail, there's no going back," Wells said.

If mifepristone is restricted, many telehealth groups will immediately switch to using only misoprostol instead, they say.

Misoprostol is approved by the FDA to treat ulcers and is also widely used off-label to manage miscarriages, induce labor, and end pregnancies. And while states could individually ban misoprostol, the FDA doesn't typically regulate how a drug is used off-label, according to David Cohen, a law professor at Drexel University and national expert on abortion law.

"There would have to be some finding that it is not safe or effective for ulcer treatment, something that there's no argument anyone could possibly show," Cohen said.

Some telehealth companies already used that alternative back in 2021, when the Supreme Court temporarily reinstated a requirement that mifepristone be dispensed in person. Carafem, a company that provides telehealth abortion, switched to using only misoprostol during that period "and has been prepared for this possibility ever since," said Melissa Grant, a co-founder of the company and its chief operating officer.

Other organizations are already directing patients to mifepristone from outside the U.S., through groups such as Aid Access and online pharmacies in places like India.

Even if the Trump administration tried to enforce the Comstock Act, an 1873 law that bans the mailing of obscene matter and anything intended to produce an abortion, it would be extremely difficult to stop the flow of pills, Cohen said.

"We've had the 'War on Drugs' for what, half a century, maybe longer?" he said. "And everyone, if they wanted, could find illegal drugs within minutes, and have it probably delivered to their doorstep within hours."

Abortion pills were called "the single greatest threat to unborn children in a post-Roe world" in the Project 2025 blueprint for the second Trump administration produced by the conservative Heritage Foundation, and abortion opponents are increasingly vocal about their frustration with the Trump administration over them.

“People’s patience is at an end on this point,” said Kristi Hamrick, vice president of media and policy for Students for Life of America. The group recently met with the Department of Justice to discuss priorities of the anti-abortion movement, such as enforcement of the Comstock Act.

The ability to use telehealth to circumvent state abortion bans is a key target of Louisiana’s lawsuit, which a federal appeals court is currently weighing. The suit, which has the backing of 21 other states, argues that the FDA under the Biden administration acted illegally when it allowed mifepristone to be prescribed without an in-person visit to a doctor. Without that change, “activists in New York and California could not blanket pro-life states like Louisiana with mifepristone by mail,” the suit argues.

But because medication abortion is now the most common form of abortion in the U.S., restricting mifepristone would have a wide impact even in states without abortion bans.

“Stopping the FDA’s unlawful mail-order mifepristone scheme will surely decrease the number of chemical abortions across the country,” said Gabriella McIntyre, a lawyer for Alliance Defending Freedom, which partnered with Louisiana in its suit.

And there are signs the administration may be feeling the pressure, even if it’s tempered by worries that further abortion restrictions could hurt Republicans in this fall’s midterm elections.

For one, it looks like the FDA’s safety evaluation of mifepristone — which abortion opponents have long pushed for — may be moving forward, potentially allowing the administration to restrict the drug’s use. It’s too soon to tell, said Hamrick, who refers to the long-promised evaluation as a “unicorn.”

“It feels mythical,” she said. “I look forward to seeing it. But it’s taking too long.”

And if mifepristone is restricted and providers switch to misoprostol-only regimens, abortion opponents say they’re ready to highlight the risks.

“We call it the new coat hanger,” said Hamrick. Providers will prescribe it, she said, “knowing it fails more often, knowing that the complications are worse, because they’re so committed to online distribution of pills for the purpose of abortion.”

Telehealth providers agree that patients need to be informed about what to expect with any medication abortion. “Our experience globally suggests that if you continue to give additional doses of misoprostol, you can get comparable success rates,” Foster said.

Foster said her practice didn’t have to mail patients the misoprostol-only packages that weekend in May because the Supreme Court put the lower court’s ruling on hold while the case plays out. But if needed, the pills would have gotten to patients, she said.

The group has seen a recent spike in demand, especially from patients in Louisiana. Foster thinks all the media coverage is reaching people who didn’t know they could get abortion pills online.

“Maybe this is the first time you’ve been exposed to that,” she said.

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