



**To: Chair Way MacDonald, Vice Chair Erica Layon, and the House Health, Human Services and Elderly Affairs Committee**

**Re: Testimony in Support of Senate Bill 567, directing the commissioner of the Department of Health and Human Services to compile a report on the availability of mifepristone and misoprostol**

**Date: April 10, 2024**

**Position: OUGHT TO PASS**

### Background

Reproductive Equity Now works across New England to make equitable access to the full spectrum of reproductive health care a reality for all people regardless of their gender, age, race, ethnicity, zip code, income, immigration status, disability, or sexual orientation. Advancing reproductive justice and eliminating barriers to safe, legal abortion care are central to our mission. In the twenty one months since the United States Supreme Court issued a decision in *Dobbs v. Jackson Women's Health Organization*, a case that eliminated the longstanding constitutional right to abortion guaranteed under *Roe v. Wade*, 21 states have taken action to severely restrict or entirely ban abortion.<sup>1</sup> Today, more than 25 million women of reproductive age live in a state where abortion is severely restricted or completely banned.<sup>2</sup>

However, anti-abortion extremists across the country do not plan to stop at banning or restricting abortion in these 21 states. These extremists want a national abortion ban, and are continuing to pursue national abortion restrictions through a tilted federal judiciary in cases like *Alliance for Hippocratic Medicine vs. FDA*, a politically-motivated, baseless attack on medication abortion, which threatens to severely restrict access to medication abortion across the nation. **While advocates and legislators await a Supreme Court decision about the future of mifepristone access, the first medication taken in a typical medication abortion regimen, the legislature has an opportunity to advance SB 567 to identify potential actions our state could take to protect and expand access to medication abortion.**

**It is critical for New Hampshire to understand the availability of mifepristone and misoprostol via a Department of Health and Human Services (DHHS) report that details how access can be protected and expanded, how outreach and education about these medications can be increased, and how barriers to this care can be eliminated. Furthermore, DHHS' report can help New Hampshire understand its infrastructure and ecosystem of reproductive health care, identify gaps and challenges, and bolster providers with the resources they need.**

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<sup>1</sup> *Tracking Abortion Bans Across the Country*, N.Y. TIMES, <https://www.nytimes.com/interactive/2022/us/abortion-laws-roe-v-wade.html> (Apr. 1, 2024, 6:13 PM).

<sup>2</sup> Geoff Mulvihill et al., *A Year After Fall of Roe v. Wade, 25 Million Women Live in States With Abortion Bans or Restrictions*, PBS (June 22, 2023, 8:07 PM), <https://www.pbs.org/newshour/politics/a-year-after-fall-of-roe-v-wade-25-million-women-live-in-states-with-abortion-bans-or-restrictions>.

## Medication Abortion is Safe, Effective, and Used in More than Half of Abortions Nationwide

Mifepristone, the first medication taken in a typical medication abortion regimen, is safe and effective and has been used more than 5 million times in the United States to end pregnancy since it was approved over 20 years ago.<sup>3</sup> In a typical medication abortion regimen, a patient takes mifepristone to stop the supply of progesterone (the hormone that supports early pregnancy), followed by misoprostol 24-48 hours later to expel the pregnancy tissue.<sup>4</sup> Patients typically begin to expel pregnancy tissue 2-24 hours later.<sup>5</sup>

Medication abortion has a well-documented record of safety and efficacy,<sup>6</sup> and new data indicates that medication abortion use in the U.S. formal health care system has risen from 53% in 2020 to 63% in 2023.<sup>7</sup> In New Hampshire, Planned Parenthood of Northern New England reports that approximately 70% of their patients who decide to end their pregnancy in the first 11 weeks do so via medication abortion.<sup>8</sup> Additionally, a recent study has shown that medication abortion using telehealth is just as safe as in-person abortion care.<sup>9</sup>

The FDA has imposed restrictions on the distribution of mifepristone through a Risk Evaluation and Mitigation Strategy (REMS) since it first approved mifepristone in 2000. Under current FDA authorization, mifepristone can be used through up to 10 weeks of pregnancy (some providers administer it after 10 weeks), can be prescribed via a telemedicine visit, and can be mailed to patients.<sup>10</sup> This means that the medication is not available over the counter, and it must be prescribed by a certified healthcare provider, dispensed by that provider either in-person or through the mail, or dispensed by a certified pharmacist.<sup>11</sup> Currently, 1 in 6 abortions (around 14,000 monthly) are conducted via telehealth.<sup>12</sup>

This unwarranted legal challenge to mifepristone access not only threatens the health of patients seeking abortion care but, also, patients who need treatment for miscarriage management since

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<sup>3</sup> U.S. FOOD & DRUG ADMIN., REFERENCE ID: 5180886, MIFEPRISTONE U.S. POST-MARKETING ADVERSE EVENTS SUMMARY THROUGH 12/31/2022.

<sup>4</sup> *How Do I Take The Abortion Pills?*, HEY JANE (Jan. 3, 2024), <https://www.heyjane.com/articles/how-to-take-abortion-pills-what-to-expect>.

<sup>5</sup> *Id.*

<sup>6</sup> Amy Schoenfeld Walker et al., *Are Abortion Pills Safe? Here's the Evidence.*, N.Y. TIMES (Mar. 25, 2024), <https://www.nytimes.com/interactive/2023/04/01/health/abortion-pill-safety.html>.

<sup>7</sup> *Medication Abortions Accounted for 63% of All US Abortions in 2023, an Increase from 53% in 2020*, GUTTMACHER INST. (Mar. 19, 2024), <https://www.guttmacher.org/news-release/2024/medication-abortions-accounted-63-all-us-abortions-2023-increase-53-2020>.

<sup>8</sup> *Press Memo on Alliance for Hippocratic Medicine et al., v. U.S. Food and Drug Administration*, PLANNED PARENTHOOD N.H. ACTION FUND (Feb. 9, 2023), <https://www.plannedparenthoodaction.org/planned-parenthood-new-hampshire-action-fund/press-releases/press-memo-on-alliance-for-hippocratic-medicine-et-al-v-u-s-food-and-drug-administration>.

<sup>9</sup> Ushma D. Upadhyay et al., *Effectiveness and Safety of Telehealth Medication Abortion in the USA*, NAT. MED. (2024), <https://www.nature.com/articles/s41591-024-02834-w>.

<sup>10</sup> U.S. FOOD & DRUG ADMIN., REFERENCE ID: 5146641, RISK EVALUATION AND MITIGATION STRATEGY (REMS) SINGLE SHARED SYSTEM FOR MIFEPRISTONE 200 MG (2023).

<sup>11</sup> *Id.*

<sup>12</sup> *#WeCount Public Report: April 2022 to September 2023*, SOC'Y OF FAM. PLAN. (Feb. 28, 2024), [https://societyfp.org/wp-content/uploads/2024/02/SFPWeCountPublicReport\\_2.28.24.pdf](https://societyfp.org/wp-content/uploads/2024/02/SFPWeCountPublicReport_2.28.24.pdf).

mifepristone is part of the most effective medication regimen for managing an early miscarriage.<sup>13</sup> If left untreated, miscarriages can put people at risk of severe infection, infertility, or even death. **Restricting access to mifepristone could have dire consequences for people's ability to access abortion and miscarriage care across the United States.**

#### Medication Abortion via Telehealth is Critical to Ensuring Equitable Access

Medication abortion pills can be prescribed via telehealth services and delivered directly to a patient through the mail. For many patients, this option can eliminate barriers to obtaining care, such as arranging for child care, taking time off from work, and coordinating transportation time and costs. In predominantly rural communities or those underserved by providers, medication abortion can save a patient hundreds of miles of travel.<sup>14</sup> **The option to prescribe medication abortion via telemedicine begins to address inequities in care experienced by New Hampshire's rural communities, including those in Coos, Strafford, and Sullivan Counties, who are home to no brick-and-mortar abortion providers.**

#### In a Post-Roe World and With Federal Threat to Mifepristone Looming, New Hampshire Must Invest in Reproductive Health Care Access and Education

Other New England states have taken legislative and executive action to secure and fortify access to mifepristone and medication abortion, such as expanding access to medication abortion on public college campuses and purchasing a stockpile of mifepristone to secure access to the two-drug medication abortion regimen should its FDA approval be revoked or restricted.<sup>15</sup> Without affirmative statutory protections for abortion, New Hampshire is an outlier amongst New England states despite significant support for reproductive freedom amongst New Hampshire residents.<sup>16</sup> Granite Staters' deserve autonomy and choice in their health care decisions, not out-of-state legislators and judiciaries dictating their access to care.

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<sup>13</sup> Laura Ungar, *Abortion Pill Legal Challenge Threatens Miscarriage Care*, AP NEWS (May 6, 2023, 10:37 AM), <https://apnews.com/article/miscarriage-mifepristone-abortion-pill-83166b25c71f6e62dcf2967064fdfec8>.

<sup>14</sup> Mulvihill et al., *supra* note 2.

<sup>15</sup> Massachusetts Governor Maura Healey worked with the University of Massachusetts Amherst to purchase a stockpile of mifepristone in April of 2023, following the initial challenge to the FDA approval of mifepristone, in order to protect access to medication abortion in the Commonwealth. See Press Release, Governor Healey and Lt. Governor Kim Driscoll, Governor Healey Announces Immediate Action to Protect Access to Medication Abortion in Massachusetts (Apr. 10, 2023), <https://www.mass.gov/news/governor-healey-announces-immediate-action-to-protect-access-to-medication-abortion-in-massachusetts>. Additionally, both Massachusetts and Connecticut have enacted legislation to ensure access to medication abortion on college campuses. See M.G.L. c. 15A, §§ 46-47. See also 2023 Conn. Acts. 23-41 Reg. Session.

<sup>16</sup> New Hampshire is the only state in New England without affirmative legal protections for abortion. See *After Roe Fell: Abortion Laws by State*, CTR. FOR REPROD. RTS., <https://reproductiverights.org/maps/abortion-laws-by-state/> (last visited Jan. 3, 2024).

### Conclusion

Reproductive Equity Now encourages your support for this legislation and will be pleased to work further with legislators towards its enactment. We thank you for your consideration and for the opportunity to provide testimony, and urge you to vote favorably on this proposal.

Respectfully submitted,

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