

United States Court of Appeals

for the

Fifth Circuit

Case No. 26-30203

STATE OF LOUISIANA, by & through its Attorney General,
LIZ MURRILL; ROSALIE MARKEZICH,

Plaintiffs-Appellants,

v.

FOOD & DRUG ADMINISTRATION; MARTY MAKARY, Commissioner,
U.S. Food and Drug Administration; RICHARD PAZDUR, in his official
capacity as Director, Center for Drug Evaluation & Research, U S Food & Drug
Administration; UNITED STATES DEPARTMENT OF HEALTH AND
HUMAN SERVICES; ROBERT F. KENNEDY, JR., Secretary,
U.S. Department of Health and Human Services,

Defendants-Appellees,

v.

DANCO LABORATORIES, L.L.C.; GENBIOPRO, INCORPORATED,

Intervenors-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA

BRIEF OF VET VOICE FOUNDATION AS *AMICUS CURIAE* IN SUPPORT OF APPELLEES' OPPOSITION TO APPELLANTS' MOTION FOR § 705 STAY OR INJUNCTION PENDING APPEAL

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CERTIFICATE OF INTERESTED PERSONS

State of Louisiana, et al. v. U.S. Food and Drug Administration, et al.
No. 26-30203

The undersigned counsel of record certifies that the following listed persons and entities as described in the fourth sentence of Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

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TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	ii
INTRODUCTION AND INTEREST OF AMICUS	1
ARGUMENT	2
I. Military Readiness Is Essential, and Women Are Critical To Maintaining It	2
II. Ready Access to Reproductive Healthcare, Including Abortion, Is Essential to Military Readiness.....	5
A. Limited access impedes the recruitment, retention, and deployability of servicemembers	6
B. Federal policies restrict abortion access for servicemembers and veterans	8
C. State restrictions on abortion impose additional barriers on servicemembers seeking reproductive care nationwide	10
D. Telehealth abortion mitigates access barriers and strengthens military readiness.....	13
CONCLUSION	14

TABLE OF AUTHORITIES

	Page(s)
Statutes	
10 U.S.C. § 1093(a)	8
10 U.S.C. § 1093(b)	9
Other Authorities:	
Aaron Sobczak, <i>High Attrition Rates and Increased Waivers Muddy Enlistment Numbers</i> , Responsible Statecraft (Mar. 10, 2025)	4
Alex Horton & Rachel Roubein, <i>Abortion Ruling Will Worsen Military Personnel Crisis, Pentagon Says</i> , Wash. Post (July 29, 2022, at 17:17 ET)	6
Alyssa Goldberg, <i>People Are Flocking Out-of-State for Abortion Care. Clinics Are Fighting to Keep Up</i> , USA Today (Mar. 18, 2025, at 11:59 ET)	10
Ben Kesling, <i>The Military Recruiting Crisis: Even Veterans Don't Want Their Families to Join</i> , Wall St. J. (June 30, 2023, 00:01 ET)	3, 8
Br. for Pet., <i>Struck v. Sec'y of Def.</i> , 409 U.S. 1071 (1972) (No. 72-178), 1972 WL 135840	11
Caitlin Russell et al., <i>Policy Knowledge and Abortion Access for US Active-Duty Servicewomen: A Mixed-Methods Study</i> , 71 J. Midwifery & Women's Health 46 (Nov. 5, 2025)	12
Daniel Grossman et al., <i>Care Post-Roe: Documenting Cases of Poor-Quality Care Since the Dobbs Decision</i> , Advancing New Standards in Reproductive Health (Sept. 2024)	8
Dep't of Def., Def. Travel Mgmt. Off., Memorandum, UTD for MAP 04-25(S), "Remove Travel for Non-Covered Reproductive Health Care Services" (Jan. 29, 2025)	9
Douglas Lindsay, <i>The Military Is Growing Again but Capacity, Not Recruiting, Is the Real Test</i> , Military.com (Jan. 27, 2026, at 03:00 ET)	6
Douglas Yeung et al., <i>Recruiting Policies and Practices for Women in the Military: Views from the Field</i> , RAND Corp. (2017)	5

Evan Hydock, <i>Is the Military Recruiting Crisis Over? Not Quite.</i> , Georgetown Security Studies Review (2025)	4
Exec. Order No. 14182, <i>Enforcing the Hyde Amendment</i> , 90 Fed. Reg. 8751 (Jan. 24, 2025)	9
G. James Herrera, Cong. Rsch. Serv., R46559, <i>The Fundamentals of Military Readiness</i> (Oct. 2, 2020)	2
Greg Jaffe, <i>This Program Rescued Army Recruiting</i> , N.Y. Times (Oct. 5, 2025)	3
Hugh McClean, <i>The Military’s Abortion Crisis in the Aftermath of Dobbs v. Jackson Women’s Health Organization</i> , 16 U.C. Irvine L. Rev. 1 (2026)	11
<i>Interactive Map: US Abortion Policies and Access After Roe</i> , Guttmacher Inst. (last visited Apr. 22, 2026)	10
Julianne McShane, <i>Department of Veterans Affairs Quietly Implements Abortion Ban</i> , MS Now (Dec. 23, 2025, at 11:30 ET)	10
Lisa S. Callegari & Sonya Borrero, <i>Abortion Care for Veterans—A Historic Step Forward</i> , JAMA Health Forum (Nov. 1, 2022)	12, 13
Martin E. Dempsey & Leon E. Panetta, <i>Memorandum: Elimination of the 1994 Direct Ground Combat Definition and Assignment Rule</i> (Jan. 24, 2013)	5
Secretary of War Pete Hegseth, Address to General and Flag Officers at Quantico, Virginia (Sept. 30, 2025)	3
Sen. Elizabeth Warren et al., <i>The “Defund” Disaster: How the Republican Attack on Planned Parenthood Is Hurting Patients and Raising Americans’ Health Care Costs</i> (Mar. 2026)	11
Serra Sippel & Janessa Goldbeck, <i>Army Veterans Deserve Access to Abortion. The Senate Just Denied Them.</i> , MS Now (Mar. 26, 2026, at 12:04 ET)	10
<i>Service Members’ Reproductive Health and Readiness: Hearing Before the Subcomm. on Mil. Pers. of the H. Comm. on Armed Servs.</i> , 117th Cong. (2022)	7, 12
Steve Beynon, <i>Surge of Female Enlistments Helped Drive Army Success in Reaching 2024 Recruiting Goal</i> , Military.com (Jan. 9, 2025)	4

Steve Walsh, <i>Faced With Obstacles to Abortion, Military Women Have Built Their Own Support System</i> , NPR (Oct. 30, 2024, at 05:00 ET).....	11
The Heritage Foundation, <i>2026 Index of U.S. Military Strength</i>	4
The Heritage Foundation, <i>Conclusion: U.S. Military Power</i> (Mar. 4, 2026).....	4
Trevor Hunnicutt, <i>Restrictive Abortion Laws Hurting US Military, White House Says</i> , Reuters (July 17, 2023, at 18:23 ET).....	7
U.S. Dep’t of Defense, <i>2024 Demographics: Profile of the Military Community</i>	5
U.S. Gov’t Accountability Off., GAO-20-61, <i>Female Active-Duty Personnel: Guidance and Plans Needed for Recruitment and Retention Efforts</i> (May 2020)	4, 6

INTRODUCTION AND INTEREST OF *AMICUS*¹

Amicus Vet Voice Foundation is a Washington, D.C.-based non-profit, non-partisan organization that has a continued interest in strengthening the United States military and supporting the wellbeing of current and former servicemembers.²

This case implicates military readiness—the ability of the military to recruit, retain, and sustain a force prepared for deployment. As explained in Part I of this brief, women are essential to that force. For female servicemembers, access to comprehensive reproductive healthcare, including abortion, is critical to maintaining readiness.

When access to such care is restricted, servicemembers face delays, extended absences, and structural barriers that directly impair their ability to serve. These individual burdens carry systemic consequences. They undermine recruitment, increase attrition, and disrupt unit cohesion. As discussed in Part II, these harms are compounded by the realities of military service, where personnel cannot choose their duty locations and must operate within rigid schedules and command structures. Nationwide abortion restrictions, combined with these structural demands, significantly limit servicemembers’ ability to obtain timely care and remain available for duty.

¹ This brief was not authored in whole or part by counsel for a party. No one other than *amicus* and its counsel made a monetary contribution to the preparation or submission of the brief.

² *Amicus* filed a motion for leave to submit this brief.

These are not speculative concerns. They have direct, measurable effects on unit readiness, personnel availability, and mission execution. Access to reproductive healthcare mitigates these concerns by allowing servicemembers to obtain care in a timely and efficient manner, reducing disruptions to both individual careers and unit operations. Restrictions to reproductive healthcare that increase travel, delay, and command-level burdens contribute to attrition and operational disruption. Limitations on access therefore impose predictable constraints—travel, delay, absence, attrition—that degrade military readiness.

ARGUMENT

I. Military Readiness Is Essential, and Women Are Critical To Maintaining It.

Military readiness is critical to national security. Personnel must be trained, available, and ready for deployment to respond to global threats in real time. Women are essential to meeting this standard. They fill critical roles at every level, represent a significant portion of the recruitable population, and contribute directly to force capacity. Ensuring their access to reproductive healthcare, including abortion, is therefore imperative to a mission-ready military.

“Military readiness” is the capacity to “produce, deploy, and sustain military forces that will perform successfully in combat.” G. James Herrera, Cong. Rsch.

Serv., R46559, *The Fundamentals of Military Readiness* at 1 (Oct. 2, 2020).³ This readiness is particularly urgent today, given ongoing global conflicts. The Administration has warned that this is a time of “urgency” and growing threats, and that the military “must be prepared.” Secretary of War Pete Hegseth, Address to General and Flag Officers at Quantico, Virginia (Sept. 30, 2025).⁴ Capable personnel are the foundation of military readiness. Recognizing this, the Executive Branch has prioritized recruiting personnel who can respond to threats with urgency. *See, e.g.*, Greg Jaffe, *This Program Rescued Army Recruiting*, N.Y. Times (Oct. 5, 2025).⁵ Retention is equally critical. Units with consistent personnel are more effective than those relying on fill-in soldiers. Ben Kesling, *The Military Recruiting Crisis: Even Veterans Don’t Want Their Families to Join*, Wall St. J. (June 30, 2023, 00:01 ET) (“Kesling, *The Military Recruiting Crisis*”).⁶ When servicemembers leave, units lose cohesion, institutional knowledge, and operational effectiveness. *Id.*

While the U.S. military remains among the most powerful in the world, its readiness cannot be assumed. A March 2026 Heritage Foundation study concluded that “the U.S. military is at significant risk of not being able to defend America’s vital national interests with assurance” and “is burdened by readiness levels that are

³ <https://sgp.fas.org/crs/natsec/R46559.pdf>

⁴ <https://www.war.gov/News/Transcripts/Transcript/article/4318689/secretary-of-war-pete-hegseth-addresses-general-and-flag-officers-at-quantico-v/>

⁵ <https://www.nytimes.com/2025/10/04/us/politics/army-recruiting-trump.html>

⁶ <https://www.wsj.com/politics/military-recruiting-crisis-veterans-dont-want-their-children-to-join-510e1a25>

more problematic than they should be.” The Heritage Foundation, *2026 Index of U.S. Military Strength*, at 1;⁷ The Heritage Foundation, *Conclusion: U.S. Military Power* (Mar. 4, 2026).⁸ And despite recent improvements, recruitment and retention remain persistent challenges. See Evan Hydock, *Is the Military Recruiting Crisis Over? Not Quite.*, Georgetown Security Studies Review (2025);⁹ Aaron Sobczak, *High Attrition Rates and Increased Waivers Muddy Enlistment Numbers*, Responsible Statecraft (Mar. 10, 2025).¹⁰

Given these challenges, the military benefits from recruiting and retaining women. Department of Defense leaders have long recruited female servicemembers to “maintain and improve mission readiness.” U.S. Gov’t Accountability Off., GAO-20-61, *Female Active-Duty Personnel: Guidance and Plans Needed for Recruitment and Retention Efforts* 1–2 (May 2020) (“GAO Report”).¹¹ Women represent a highly recruitable population and have significant potential for advancement. Steve Beynon, *Surge of Female Enlistments Helped Drive Army Success in Reaching 2024 Recruiting Goal*, Military.com (Jan. 9, 2025).¹²

⁷ https://static.heritage.org/2026/Military_Index/2026_IndexOfUSMilitaryStrength.pdf

⁸ <https://www.heritage.org/military-strength/assessment-us-military-power/conclusion>

⁹ <https://gssr.georgetown.edu/the-forum/topics/defense/is-the-military-recruiting-crisis-over-not-quite/>

¹⁰ <https://responsiblestatecraft.org/military-attrition-rates-high/>

¹¹ <https://www.gao.gov/assets/gao-20-61.pdf>.

¹² <https://www.military.com/daily-news/2025/01/09/surge-of-female-enlistments-helped-drive-army-success-reaching-2024-recruiting-goal.html>

Since the enactment of the Women’s Armed Services Integration Act of 1948, women have filled essential roles at all levels of the military. Douglas Yeung et al., *Recruiting Policies and Practices for Women in the Military: Views from the Field*, RAND Corp. (2017).¹³ In 2013, the federal government rescinded a combat exclusion rule, allowing women to serve in direct combat roles to help “remov[e] as many barriers as possible to joining, advancing, and succeeding in the U.S. Armed Forces.” Martin E. Dempsey & Leon E. Panetta, *Memorandum: Elimination of the 1994 Direct Ground Combat Definition and Assignment Rule 1* (Jan. 24, 2013).¹⁴ In 2024, women comprised around 17 percent of the active-duty force. U.S. Dep’t of Defense, 2024 Demographics: Profile of the Military Community 18.¹⁵ Ensuring women’s continued participation, and their access to healthcare, is critical to sustaining military readiness.

II. Ready Access to Reproductive Healthcare, Including Abortion, Is Essential to Military Readiness.

Restrictions on abortion directly impair military readiness. When servicemembers cannot access reproductive healthcare, they face extended absences, delayed treatment, and difficult choices that undermine recruitment, retention, and deployability. Telehealth access to mifepristone mitigates these harms by enabling

¹³ https://www.rand.org/pubs/research_reports/RR1538.html.

¹⁴ <https://www.womenvetsusa.org/cmsfiles/docs/rescission-of-1994-direct-ground-combat-definition-&-assignment-rule-secdef-24-jan-2013.pdf?1774215191>

¹⁵ <https://www.militaryonesource.mil/data-research-and-statistics/military-community-demographics/>

servicemembers to obtain care efficiently. The regulatory uncertainty created by this litigation threatens this access and thereby degrades military readiness.

A. Limited access impedes the recruitment, retention, and deployability of servicemembers.

Access to reproductive healthcare supports the recruitment and retention of women. Women are more likely than men to leave military service, in part due to challenges related to family planning and access to care. *See* GAO Report 2, 29; *see also* Douglas Lindsay, *The Military Is Growing Again but Capacity, Not Recruiting, Is the Real Test*, Military.com (Jan. 27, 2026, at 03:00 ET) (citing stable family support as a consideration for retention).¹⁶ Reproductive care access also affects the retention of male servicemembers. When a servicemember, their spouse, or their dependent cannot access care, the servicemember may need to take extended leave, or leave the military altogether.

Government officials have recognized that barriers to reproductive care diminish readiness. Following *Dobbs*, then-Pentagon Under Secretary of Defense for Personnel and Readiness Gilbert R. Cisneros, Jr. warned that barriers to care could drive attrition, noting that “some service members may choose to leave the military altogether” due to difficulty in obtaining care. Alex Horton & Rachel Rouben, *Abortion Ruling Will Worsen Military Personnel Crisis, Pentagon Says*,

¹⁶ <https://www.military.com/feature/2026/01/26/military-growing-again-capacity-not-recruiting-real-test.html>

Wash. Post (July 29, 2022, at 17:17 ET).¹⁷ Representative Jackie Speier similarly cautioned that restrictions on abortion “creat[e] a real incentive for women not to serve.” *Service Members’ Reproductive Health and Readiness: Hearing Before the Subcomm. on Mil. Pers. of the H. Comm. on Armed Servs.*, 117th Cong. 17 (2022) (“Hearing”).¹⁸

Servicemembers report the same impact. In 2023, active-duty servicemembers reported that barriers to reproductive access “are impacting their willingness to continue to serve in the military,” creating a “retention and morale issue.” Trevor Hunnicutt, *Restrictive Abortion Laws Hurting US Military, White House Says*, Reuters (July 17, 2023, at 18:23 ET).¹⁹ One active-duty member testified before Congress that restricted access “degrades morale” and “affects retention,” Hearing at 22 (testimony of Sharon Arana), while another servicemember testified that it could discourage new recruits from joining the military and encourage current members to leave, *id.* (testimony of Theresa Mozillo). These effects extend beyond individual servicemembers to their families, and, in turn, to the military as a whole.

¹⁷ <https://www.washingtonpost.com/national-security/2022/07/29/military-abortion-recruiting/>.

¹⁸ <https://www.congress.gov/117/chrg/CHRG-117hrg51197/CHRG-117hrg51197.pdf>

¹⁹ <https://www.reuters.com/world/us/restrictive-abortion-laws-hurting-morale-retention-us-military-w-house-2023-07-17/>.

Access to abortion also affects physical preparedness. Without telemedicine access to mifepristone, servicemembers may be required to take extended leave and travel to access abortion. *See infra* Section II.C. That disruption hinders the servicemember’s ability to serve and has ripple effects on unit operations. Military units that are not fully staffed cannot respond quickly, and units with fill-in soldiers are less effective. Kesling, *The Military Recruiting Crisis*. Delayed care can also result in serious health consequences, further disrupting unit readiness. *See* Daniel Grossman et al., *Care Post-Roe: Documenting Cases of Poor-Quality Care Since the Dobbs Decision*, *Advancing New Standards in Reproductive Health* 11-14, 19-20 (Sept. 2024).²⁰

B. Federal policies restrict abortion access for servicemembers and veterans.

Abortion access for servicemembers is already limited by federal statute and policy. These restrictions make it all the more important that servicemembers can readily access mifepristone through telemedicine.

Federal law prevents the Department of Defense from using funds to provide abortions, “except where the life of the mother would be endangered if the fetus were carried to term or in a case in which the pregnancy is the result of . . . rape or incest.” 10 U.S.C. § 1093(a). Unless those exceptions apply, no “medical treatment facility

²⁰ https://www.ansirh.org/sites/default/files/2024-09/ANSIRH%20Care%20Post-Roe%20Report%209.04.24_FINAL%20EMBARGOED_0.pdf

or other facility of the Department of Defense” may be used to provide an abortion. *Id.* § 1093(b). In practice, for non-covered abortions, female servicemembers must incur out-of-pocket expenses and travel to local, non-military facilities and providers. These restrictions already place a significant burden on servicemembers.

In January 2025, President Trump issued an Executive Order purporting to reinforce the Hyde Amendment. Exec. Order No. 14182, *Enforcing the Hyde Amendment*, 90 Fed. Reg. 8751, 8751 (Jan. 24, 2025) (“Hyde Amendment EO”). The order revoked Biden-era executive orders protecting access to abortion and directed agencies to develop guidance to enforce the Hyde Amendment. *Id.*

Federal agencies have since issued two significant policy changes affecting servicemembers and veterans. First, in early 2025, the Department of Defense rescinded regulations that authorized transportation allowance for servicemembers to travel for reproductive care. Dep’t of Def., Def. Travel Mgmt. Off., Memorandum, UTD for MAP 04-25(S), “Remove Travel for Non-Covered Reproductive Health Care Services” (Jan. 29, 2025).²¹ For the reasons explained in Section II.C., limiting or impeding such travel places an extraordinary burden on female servicemembers. Second, in December 2025, the Department of Veterans Affairs ceased providing any abortion to veterans and their dependents, including in cases of serious health

²¹ https://www.af.mil/Portals/1/documents/2025SAF/Remove_Travel_for_Non-Covered_Reproductive_Health_Care_Services.pdf

risks, rape, or incest. *See* Julianne McShane, *Department of Veterans Affairs Quietly Implements Abortion Ban*, MS Now (Dec. 23, 2025, at 11:30 ET);²² *see also* Serra Sippel & Janessa Goldbeck, *Army Veterans Deserve Access to Abortion. The Senate Just Denied Them.*, MS Now (Mar. 26, 2026, at 12:04 ET).²³

Federal law and policy thus significantly burden access to abortion for servicemembers, veterans, and their families. Additional limits on mifepristone would further encumber this critical access to care.

C. State restrictions on abortion impose additional barriers on servicemembers seeking reproductive care nationwide.

Apart from federal restrictions, servicemembers face significant obstacles in accessing reproductive care nationwide.

Since *Dobbs*, abortion access has been severely curtailed in many states. As of this writing, 25 states restrict abortions. *See Interactive Map: US Abortion Policies and Access After Roe*, Guttmacher Inst. (last visited Apr. 22, 2026).²⁴ These restrictions have compounding effects not just for women in those states, but also for women nationwide seeking reproductive care. Clinics in states where abortion remains accessible are overwhelmed with patients, including those traveling from out of state. *See* Alyssa Goldberg, *People Are Flocking Out-of-State for Abortion*

²² <https://www.ms.now/news/abortion-ban-veterans-affairs-va>

²³ <https://www.ms.now/opinion/va-abortion-access-senate-vote>

²⁴ <https://states.guttmacher.org/policies/>.

Care. Clinics Are Fighting to Keep Up, USA Today (Mar. 18, 2025, at 11:59 ET).²⁵

Clinic closures have further reduced provider availability. *See* Sen. Elizabeth Warren et al., *The “Defund” Disaster: How the Republican Attack on Planned Parenthood Is Hurting Patients and Raising Americans’ Health Care Costs* 1 (Mar. 2026).²⁶

These nationwide access challenges compound the unique burdens faced by servicemembers. *See generally* Br. for Pet. at *7-8, *Struck v. Sec’y of Def.*, 409 U.S. 1071 (1972) (No. 72-178), 1972 WL 135840. Servicemembers seeking abortion must often report their pregnancy up the chain of command, obtain commander approval to travel, and navigate unpredictable deployments, including to locations not of their own choosing. *See* Hugh McClean, *The Military’s Abortion Crisis in the Aftermath of Dobbs v. Jackson Women’s Health Organization*, 16 U.C. Irvine L. Rev. 1, 8-11 (2026); *see also* Steve Walsh, *Faced With Obstacles to Abortion, Military Women Have Built Their Own Support System*, NPR (Oct. 30, 2024, at 05:00 ET).²⁷ These procedural and logistical requirements impose substantial burdens that civilian patients do not face.

Servicemember testimony illustrates these burdens. One active-duty servicemember testified before Congress that to obtain an abortion, she drove 3.5

²⁵ <https://www.usatoday.com/story/life/health-wellness/2025/03/05/abortion-clinic-fund-travel-sustainability/80697629007/>

²⁶ https://www.warren.senate.gov/imo/media/doc/_senate_defund_report.pdf

²⁷ <https://www.npr.org/2024/10/29/nx-s1-5162443/women-in-the-military-abortion-roe-v-wade>

hours from the base where she was stationed, only to discover she was subject to a three-day mandatory delay period. Hearing at 5 (testimony of Sharon Arana). Given her training schedule, she was forced to delay her care, eventually obtaining it in another state. *Id.* at 5-6. Another active-duty servicemember testified that the idea of disclosing her pregnancy to male-dominated leadership made her feel “devastated, lost, and alone.” *Id.* at 7 (testimony of Theresa Mozzillo). She feared her military career would “fall[] apart” if she had to discuss her pregnancy with leadership. *Id.* She was ultimately able to book a Saturday appointment at an abortion clinic to avoid the “critical hurdle” of requesting time off. *Id.*

A 2025 study confirmed these experiences across a broader population. Among 178 servicemembers who obtained an abortion while on active duty, more than half took personal leave to access care, almost half traveled more than one hour, and almost a third experienced adverse professional consequences. Caitlin Russell et al., *Policy Knowledge and Abortion Access for US Active-Duty Servicewomen: A Mixed-Methods Study*, 71 J. Midwifery & Women’s Health 46, 48 (Nov. 5, 2025).²⁸

These access barriers affect veterans as well. Veterans may face chronic health conditions due to their military service, and thus face particular challenges when reproductive care is inaccessible. *See, e.g.*, Lisa S. Callegari & Sonya Borrero, *Abortion Care for Veterans—A Historic Step Forward*, JAMA Health Forum (Nov.

²⁸ <https://pmc.ncbi.nlm.nih.gov/articles/PMC12914618/>

1, 2022).²⁹ They also tend to experience pregnancy at older ages, elevating the risk of pregnancy complications. *Id.* Recent VA policy changes exacerbate these barriers, but telehealth access to mifepristone alleviates many of them.

D. Telehealth abortion mitigates access barriers and strengthens military readiness.

Telehealth access to mifepristone directly mitigates the readiness harms described above. By enabling servicemembers to obtain care remotely without extended travel or leave, telehealth preserves personnel availability, reduces the need for command-level intervention, lessens unit disruption, and allows servicemembers to continue fulfilling their duties.

Under the current regulatory framework, where state law permits, patients can undergo a telehealth evaluation and receive mifepristone by mail. Remote access to abortion is particularly important for servicemembers, allowing them to obtain care without expending significant time and resources navigating travel, leave protocols, and command approval processes.

Requiring patients to travel for mifepristone would impose substantial burdens at every level. Individual servicemembers will face medical, reputational, and professional consequences. At the unit level, absences reduce operational

²⁹ <https://jamanetwork.com/journals/jama-health-forum/fullarticle/2798138>

effectiveness. At the system level, these burdens undermine recruitment, retention, and preparedness. Together, these burdens degrade overall military readiness.

Appellants' motion heightens these concerns. This ongoing litigation, and the prospect of a judicial mandate reinstating in-person requirements for mifepristone, chills the provision of reproductive care and undermines servicemembers' ability to plan for and access such care. That uncertainty itself degrades military readiness.

CONCLUSION

For the foregoing reasons, the Court should deny Appellants' motion.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was filed electronically with the Court's CM/ECF system on April 23, 2026. Service will be effectuated by the Court's electronic notification system upon all parties and counsel of record.

Dated: April 23, 2026
New York, New York

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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 32(a) of the Federal Rules of Appellate Procedure, Clara S. Spera, hereby certifies that according to the word count feature of the word processing program used to prepare this brief, the brief contains 2,600 words excluding the parts of the brief exempted by Fed. R. App. P. 32(f), and complies with the typeface requirements and length limits of Rules 27, 29, and 32(a)(5)-(7) and the corresponding local rules.

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