Judge's challenge to abortion pill access brings swift reaction

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A Texas federal judge has issued a preliminary ruling that invalidates the

U.S. Food and Drug Administration approval in 2000 of mifepristone, the first of two drugs most commonly taken during a medical abortion.

Judge Matthew Kacsmaryk added a seven-day stay to his order, issued Friday, to give the FDA time to mount an appeal. About an hour later, Washington state federal judge Thomas Rice issued a countering decision in a case filed there, ordering a halt to "any action to remove mifepristone from the market or otherwise cause the drug to become less available."

The two opposing rulings would suggest that any final decision on the availability of mifepristone, which is typically given alongside misoprostol to cause an abortion, may end up at the Supreme Court.

The Washington state lawsuit originated with Democratic attorneys general who were challenging restrictions in place that made it difficult to obtain mifepristone. The Texas decision involves a lawsuit filed by a coalition made up of doctors and anti-abortion groups who sought an end to the use of mifepristone, claiming that the FDA decision 23 years ago to approve the drug was made hastily and without proper regard for its overall safety.

In his decision, Kacsmaryk said, "The court does not second-guess [the] FDA's decision-making lightly. But here, FDA acquiesced on its legitimate safety concerns—in violation of its statutory duty—based on plainly unsound reasoning and studies that did not support its conclusions. There is also evidence indicating FDA faced significant political pressure to forgo its proposed safety precautions to better advance the political objective of increased 'access' to chemical abortion."

The American College of Obstetricians and Gynecologists (ACOG) condemned the Texas ruling. In a joint statement, ACOG President

Iffath Abbasi Hoskins, M.D., and CEO Maureen Phipps, M.D., called the decision "a grievous legal overstep into America's well-established regulatory system."

"Mifepristone has been used safely and effectively for medication abortion for more than two decades. That safety and efficacy is backed up by robust, evidence-based, clinical data and its observed use by millions of people with support from clinicians, including obstetrician-gynecologists. Today's decision is clearly a transparent effort to make it harder for people to access medication abortion," Hoskins and Phipps said.

"It will force people to turn to other means of accessing abortion care; it will force clinicians to prescribe less safe, less effective regimens for medication abortion; and it will impose greater harm on those who already struggle to access needed reproductive health care, thus increasing health inequities."

The American Medical Association (AMA) issued a similar statement. "There is no evidence that people are harmed by having access to this safe and effective medication," AMA President Jack Resneck Jr., M.D., president of the AMA, said in the statement. "To the contrary, there is substantial evidence that the denial of needed abortion care without justification carries a psychological, physical and economic toll."

More information: More Information

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