



To: Interested Parties

From: Reproductive Freedom for All

RE: Trump & Harms Caused Without National Abortion Ban

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Despite Donald Trump and his [allies' claims](#) that they would not pass a national abortion ban, the full scope of the harm he could cause, even without signing a federal abortion ban, is clear.

The barrage of assaults on abortion access has not stopped since the U.S. Supreme Court overturned *Roe v. Wade*, and they will only escalate further with another Trump presidency. The patchwork of state bans, the weaponization of government policies, and the efforts to use a court system stacked with Trump-appointed justices to block abortion access have already caused widespread harm nationwide.

Both the mainstream media and political pundit class do a massive disservice to Americans and voters by not naming the avenues Trump and his allies can use to decimate abortion access without ever signing a single piece of federal legislation. The threat posed by Trump—even without a sympathetic Congress—is too great. The media and advocates must be unequivocal in showing that his support for a national ban is not the right litmus test for his plans to eradicate abortion access in all 50 states.

Medication Abortion Restrictions

During his presidency, Trump [stacked](#) the federal judiciary with conservative [ideologues](#) and built the anti-abortion supermajority on the Supreme Court that overturned *Roe* and ended the federal right to abortion. The Supreme Court is set to weigh in on a baseless case that could impose restrictions on [mifepristone](#), a medication commonly used for medication abortion care and miscarriage management. If the Court's conservative supermajority rules in favor of the [anti-abortion extremist group](#) that brought the case, the negative effects would ripple across every state in the country and increase barriers to abortion care—potentially impacting [64.5 million](#) women of reproductive age.

A decision restricting mifepristone would have incredibly damaging effects on the precarious ecosystem of abortion access, which has already been severely disrupted and curtailed in the wake of the Supreme Court overturning *Roe*. As abortion bans proliferated post-*Roe*, medication abortion is often the most viable option—or the only option—for some [pregnant people](#). Medication abortion accounted for [63% of all U.S. abortions in 2023](#), a substantial increase from 53% in 2020. Without

continued access to medication abortion, millions of people nationwide would have their reproductive freedom limited and their [health](#) put at [risk](#).

Regardless of the outcome of the Supreme Court case, access to medication abortion could be [severely limited](#) if Trump has another term as president. A Trump appointed Health and Human Services Secretary (HHS) could rescind Food and Drug Administration (FDA) approval of mifepristone or add burdensome, unnecessary restrictions without the consent of FDA scientists and contradictory to the evidence.

Emergency Care

The Supreme Court heard oral arguments in April 2024 for a [case](#) that will determine if states can deny pregnant people lifesaving, emergency medical care. The Emergency Medical Treatment and Labor Act (EMTALA), is a federal law that ensures patients who go to an emergency room receive the care they need, including abortion care. Idaho, a state with a near total ban on abortion, is arguing that the state should not have to provide abortion care in emergency situations because of their abortion ban, even where EMTALA — as a superseding federal law — would require them to do so.

If the Supreme Court rules in favor of Idaho, there will no longer be a guarantee that pregnant people will get the lifesaving care they need. A patient whose organs are shutting down or someone suffering from an ectopic pregnancy would have their lives and future fertility put at risk. Anti-abortion extremists are fighting to exclude pregnant people from these protections and force doctors to turn away. As the American Medical Association [underscored](#), pregnant patients could suffer and potentially die, or experience life-long complications as a result of this case.

The impact these denials of care will have on patients in the most high-risk situations is immeasurable and puts life and death decisions in the hands of judges and politicians — not health care providers. Trump and his anti-abortion allies can point to exceptions in an attempt to downplay the impact of abortion bans, but it is clear that in practice, they do not care if patients across the country have access to emergency care.

The Comstock Act

In addition to using the court system to chip away at what remains of abortion access, anti-abortion groups are now trying to force through a backdoor nationwide abortion ban by enforcing a radical and baseless interpretation of the [1873 Comstock laws](#). The Comstock Act is an antiquated, obscure law from 1873 that prohibits the mailing of anything vaguely termed “lewd,” “immoral,” “indecent,” or “vile.” By misinterpreting Comstock, extremists could make mailing abortion pills, birth

control, and even medical equipment used in abortion care illegal across all 50 states, regardless of what protections are in place in state law or the state constitution. If Trump enforced this baseless interpretation of Comstock, it could [force](#) medication abortion—the most common method of abortion—off the market.

These same anti-abortion groups that are pushing for enforcement of the Comstock Act worked [hand in hand](#) with Trump during his last administration to overturn *Roe* and decimate reproductive freedom. And that's exactly why anti-abortion groups still [support](#) Donald Trump. Trump claims he won't support a federal abortion ban, but they know it doesn't matter. He's already committed to ending abortion care through any illegitimate measure—including Comstock.

A second Trump administration could undo Biden Administration [guidance](#) from 2022 and use Comstock to push abortion care even further out of reach. The previously [issued guidance](#) from Biden's Department of Justice said that the Comstock Act should be interpreted narrowly and that the law only prohibits "unlawful" abortion. The Biden administration's interpretation meant that the federal government would follow past enforcement of case law and not consider the interstate transport of medication abortion to constitute a Comstock violation. The bottom line is that this is an outdated, 150-year-old law that is being willfully misinterpreted and it is one of the ways Trump could have a de facto national abortion ban without ever seeking a vote from Congress.

The Republican Extremist Playbook

The strategy to deploy the Comstock Act as a means to further restrict abortion is part of a broader Project 2025 [playbook](#) created by conservative groups working in tandem with Trump to prepare an extreme, anti-abortion policy agenda. Many of Project 2025's policy recommendations, especially around abortion, were created by Trump [allies](#) and officials from his first administration. If Trump were to win a second term as president, he could begin implementing this dangerous playbook on day one of his administration.

In addition to misapplying the Comstock Act, policy [documents](#) for the project also called for the reversal of life-saving care protections, which has [already been set](#) in motion. Project 2025 resources advise that the FDA should completely reverse its approval of medication abortion and put an end to "mail-order abortions" and so-called "abortion tourism—terms that grossly mischaracterize the ways people have been forced to access abortion care due to extreme bans and restrictions in their home states. The policy recommendations also include [guidance](#) for the Department of Health and Human Services (HHS) that stresses the government "should ensure that it is not promoting abortion as health care."

The project also aims to [abolish](#) the Gender Policy Council which would “eliminate central promotion of abortion,” “comprehensive sexuality education,” and “gender-affirming care.” In its place, the [guidance](#) suggests promoting “a research agenda that supports pro-life policies and explores the harms, both mental and physical, that abortion has wrought on women and girls.”

Surveillance & Criminalization

Highlighting just how extreme a second Trump administration could be, Project 2025 documents [assert](#) that “the CDC’s abortion surveillance...are woefully inadequate” and calls for broader data on “abortion survivors” and “abortion-related maternal deaths.” Even as Trump attempts to appear moderate on abortion, he and his allies have [made clear](#) that he would “let red states monitor women’s pregnancies and prosecute those who violate abortion bans.” When asked directly if he was comfortable with states monitoring pregnancies and criminalizing those in need of abortion care, Trump [said](#), “It’s irrelevant whether I’m comfortable or not. It’s totally irrelevant, because the states are going to make those decisions.” Trump clearly thinks he can skirt responsibility for what he has done and will do by deflecting all responsibility to the states.

These comments come on the heels of anti-abortion extremists and their Republican allies ramping up their efforts around abortion [data collection](#) and [tracking](#). Monitoring reproductive health and pregnancy status is a huge component of how anti-abortion groups plan to enforce their bans. Federal law currently prohibits medical providers from sharing health data, but it does not prevent social media and technology companies from selling location data or menstrual tracking information to data brokers. This is not a far-off dystopian prediction—it is already [happening](#) to patients who visited reproductive health clinics. While the Biden administration is actively seeking ways to strengthen reproductive freedom and patient privacy, a second Trump administration would only [increase](#) surveillance efforts and put abortion patients in further [danger](#) of criminalization.