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Abortion: Let Science, Not Politics, Prevail

By Robert Weiner (Page 1 of 1 pages) No comments

By Robert Weiner and Ting Cui

Since the Food and Drug Administration approved mifepristone in 2000, it has become a crucial aspect of women's healthcare, facilitating abortions and miscarriage treatments for over 5.9 million women - two-thirds of all abortions. Its importance to women, both directly and as a symbol of their autonomy, cannot be overstated.

If the Court decides to ban mifepristone, Colorado would be one of the states most severely impacted according to the Guttmacher Institute. The share of women of reproductive age living in a county with an abortion provider would drop from 82% to 56%, and the share of Colorado abortion provider counties would drop from 22% to as low as 14%.

Trump's recent statement on abortion reflects a cautious acknowledgment of the prevailing sentiment within the Supreme Court, suggesting a deference to states' rights on the issue. Despite positioning himself as having resolved the abortion issue, Trump notably refrains from ruling out the possibility of signing a national abortion ban, and neglects to mention potential executive actions that could restrict abortion access, even in states with more liberal policies.

The Court's oral arguments appeared to show a consensus that the challengers lack legal "standing". Denying standing would reinforce the case for maintaining existing regulations, allowing patients to obtain the drug via mail without requiring an in-person doctor's visit.

At the heart of this debate lies the role of the FDA, an institution designed and equipped to evaluate the safety and efficacy of medications, like mifepristone. It is the FDA's jurisdiction, not the Supreme Court's, yet, amidst the political polarization, the court seems inclined to overstep its bounds. Consider the absurdity of the situation: justices with no scientific background presuming to know what constitutes a safe medication better than the expert of the FDA. It's a dangerous precedent that could embolden the court to interfere in other regulatory decisions.

The argument that the FDA didn't adequately assess mifepristone's safety is a thinly veiled pretext to advance a political agenda at the expense of women's health and autonomy. The Court, with its Trump-appointed justices, risks not only a 10-point loss turning into a 30-point

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backlash. With the court's low public opinion approval rating of 41% (as of September 2023), they know a decision to ban the availability of a drug that the FDA proved safe would infuriate a wide swath of Americans.

If the Court continues politicizing decisions, it risks inviting congressional intervention to rebalance its composition. The court's legitimacy hinges on its perceived impartiality and adherence to legal principles, not partisan interests.

This case is also creating uproar over "judge shopping" as anti-abortion rights activists strategically filed the lawsuit in Amarillo, correctly believing they would find a sympathetic judge to rule in favor. While many experts have said the case relies on baseless medical claims, it was Judge Matthew Kacsmaryk, appointed by ex-president Trump and formerly associated with conservative activism, who sided with the plaintiffs and brought the case to the Supreme Court.

The plaintiff, the Alliance for Hippocratic Medicine, comprises 11 anti-abortion "doctors", some lacking current medical licenses or any direct engagement in prescribing mifepristone. There is doubt about their credibility as medical professionals, and skepticism regarding how they were even allowed to be official challengers.

The legal defense for the anti-abortion case is bogus, relying on the 151-year-old Comstock Act to forward a political agenda. The act, originally targeting "obscene" materials, explicitly prohibits the distribution of "any article or thing designed or intended for the prevention of conception or procuring of abortion". Medical providers who violate the law by mailing contraceptives could receive up to five years of imprisonment with hard labor and a fine of up to \$2,000.

Is the Court seriously considering rejecting scientifically proven safe medications in favor of applying a 151-year-old law to modern society?

Women's health should be prioritized in abortion debates, not politics. The bottom line is mifepristone is safe and widely used. Banning it would deprive many, especially states with more rural areas like Colorado, access to abortion. Any ruling should unequivocally consider this critical healthcare need.

Robert Weiner was a spokesman for the Clinton and George W. Bush White Houses, Chief of Staff of the House Health Subcommittee and spokesman for the House Government Operations committee. He was Senior Aide to Four-Star Gen/Drug Czar Barry McCaffrey and Reps. John Conyers, Charles Rangel, Claude Pepper, and Ed Koch. Ting Cui is a Policy Analyst at Robert Weiner Associates and Solutions for Change and student at Middlebury College.

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