

State of Alaska
DEPARTMENT OF LAW

PRESS RELEASE

Clarity on Alaska Law and Mifepristone

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(Anchorage, AK) – The Alaska Department of Law has received several inquiries from reporters and citizens on what’s become known as the mifepristone Walgreens’ letter. The following is an effort to provide clarity on what Alaska law is, what ongoing legal challenges to it there are, and why the Attorney General sent the letter.

We will address the two different subjects in the news:

- the letter to pharmacies
- the Texas court case

The letter:

Please consider that the legality of dispensing mifepristone is a distinct issue from the legality of abortion access. Abortion is legal in Alaska and is constitutionally protected. However, that does not mean it cannot be regulated, just like other forms of healthcare. The position of the Attorney General is based on the Alaska laws explained below.

Alaska law (AS 18.16.090) defines an abortion to include the use or prescription of a drug to terminate a pregnancy. According to the U.S. Food and Drug Administration (FDA), the prescription drug mifepristone, when used together with another medicine called misoprostol, is used to end a pregnancy through ten weeks of gestation.

Alaska law (AS 18.16.010(a)(1)) also provides that only licensed physicians may perform abortions. Under the terms of the superior court’s preliminary injunction in *Planned Parenthood v. State*, 3AN-19-11710CI, Advanced Practice Clinicians may also perform medication abortions.

AS 18.16.010(a)(1) has always operated to prohibit the sale of mifepristone directly to patients, whether by mail or in person.

The FDA recently indicated it will remove the in-person dispensing requirement for mifepristone. The federal government has also encouraged the U.S. Postal Service to disregard federal law prohibiting using the mail to send abortion drugs. Therefore, Attorney General Treg Taylor joined 19 other state attorneys general in letters sent to certain pharmacies advising them that using the mail to send or receive mifepristone violates state and federal law.

The AG letter has not changed the way abortion drugs are available to Alaskan women. Since 2000, Alaska women who seek an abortion have had to see a physician to receive this abortion drug. Under Alaska law, a woman in Alaska who receives a dose of mifepristone does so in a clinical setting. There are telehealth provisions, but no matter what, the pill is still administered in a clinic, where the prescribing doctor is either present or virtually present through telehealth.

There is ongoing litigation in Anchorage Superior Court concerning who may perform an abortion, *Planned Parenthood v. State*. Under the terms of the Court's preliminary injunction (a temporary order until the trial is held) another category of health care providers besides doctors called Advanced Practice Clinicians may perform medication abortions. The patient who receives a dose of mifepristone must do so in a clinic, and the prescribing provider is present either physically or virtually through telehealth. Under Alaska law, patients may not self-administer a medication abortion, and that is why the Attorney General joined the letter asking Walgreen's not to dispense mifepristone directly to patients through the mail.

While the ongoing Planned Parenthood litigation is challenging the constitutionality of AS 18.16.010(a)(1), neither the preliminary injunction nor the permanent injunction sought by Planned Parenthood would authorize the self-administration of a medication abortion by a patient. So, the direct dispensing of mifepristone to patients in Alaska would still violate Alaska law, even if Planned Parenthood's current lawsuit is successful.

Texas case:

The State of Alaska is not a party to the lawsuit in Texas challenging mifepristone's approval. Alaska joined a narrowly tailored amicus ("friend of the court") brief supporting each state's right to duly enact laws relating to abortion through the democratic process such as our State law, AS 18.16.010.

- [Read the letter to Walgreens](#) - PDF(313KB)

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The Attorney General and Department of Law staff may not provide legal advice to private citizens or organizations. Please contact an attorney if you need legal advice.

The Alaska Lawyer Referral Service or your local bar association may be able to assist you in locating a lawyer.

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