

TEXAS:

Medication Abortion Care & Telehealth At A Glance

Updated: August 2023

ABORTION CARE IN TEXAS

- ▶ *Pregnant people in Texas have no access to abortion care.* Texas has enacted a complete ban on abortion with limited exceptions.¹
- ▶ *Abortion is an essential, time sensitive health care service.* Medically unnecessary restrictions push medication abortion care, which is a non-invasive abortion option that is approved by FDA for use up to 10 weeks in pregnancy, out of reach for many.
- ▶ *Being denied care negatively impacts the health and wellbeing of pregnant people and their families.* Women who were denied a wanted abortion had four times greater odds of living below the Federal Poverty Level and were more likely to experience poorer health outcomes for years after the pregnancy.²
- ▶ *People seeking abortion already face significant barriers to receiving quality care.* Restrictions on abortion care and insurance coverage disproportionately impact people working to make ends meet, immigrants, young people, and people of color.³
- ▶ *Texans support access to abortion care.* Almost 6 in 10 [57%] of Texas residents believe that abortion should be legal in all or most cases.⁴

TELEHEALTH: A TOOL FOR EXPANDING ACCESS TO MEDICATION ABORTION CARE IN TEXAS

- ▶ *Telehealth is a tool that can expand abortion access.* Research shows that medication abortion care can safely and effectively be delivered through telehealth via a phone and/or video visit with a provider, reduces barriers to care, and can help patients access care earlier in pregnancy.⁵
- ▶ **It should be acknowledged that abortion in Texas is currently banned:** TX restricts the provision of all abortions, regardless of gestational age, except where necessary to avoid a serious risk of substantial impairment of a major bodily function for the pregnant person.⁶
 - **Impact:** Pregnant people in Texas do not have access to abortion in their state, limiting their access to time-sensitive health care and forcing individuals to find alternatives or continue pregnancies.
 - Abortion bans disproportionately affect the most marginalized communities, including but not limited to people of color⁷, people struggling to make ends meet⁸, people with disabilities⁹, LGBTQ+ individuals¹⁰, young people¹¹, and people in rural areas¹².

FOR MORE INFORMATION ON TELEHEALTH FOR MEDICATION ABORTION CARE, VISIT:

- ▶ [Telehealth for Medication Abortion Care](#)
- ▶ [Telehealth for Medication Abortion Care Process Chart](#)
- ▶ [Equity in Telehealth for Medication Abortion Care Checklist](#)

POLICY IMPACTING PROVISION OF TELEHEALTH FOR MEDICATION ABORTION CARE: Should abortion be once again made available in Texas, the below policies will continue to have an impact on equitable telehealth and medication abortion care provision.

- ▶ **Several requirements have the impact of severely limiting, or even prohibiting, telehealth for medication abortion care:** Before a physician provides an abortion-inducing drug, the physician must examine the pregnant individual in person and independently verify that a pregnancy exists.¹³ Additionally, Texas has ultrasound¹⁴ and blood testing¹⁵ requirements that require an in-person visit.¹⁶
 - **Impact:** These restrictions force patients to have medically unnecessary in-person visits and therefore serve as telehealth bans.
 - Research shows that medication abortion care can be prescribed safely and effectively via telehealth and mailed or picked up at a local pharmacy.¹⁷
 - Guidance from leading medical organizations, including the American College of Obstetricians and Gynecologists, specifically states that Rh testing and treatment should not pose barriers to people accessing medication abortion care.¹⁸ The World Health Organization (WHO) and many countries –

¹ Guttmacher Institute. [State Facts About Abortion: Texas](#). 2022

² Greene Foster, D. [The Turnaway Study: Ten Years, a Thousand Women, and the Consequences of Having—or Being Denied—an Abortion](#). June 2 2020.

³ Boonstra, H. [Abortion in the Lives of Women Struggling Financially: Why Insurance Coverage Matters](#). Guttmacher Policy Review. 2016.

⁴ PRRI. [Abortion Attitudes in a Post-Roe World: Findings From the 50-State 2022 American Values Atlas](#). February 23 2023.

⁵ Aiken, A., et al. [Effectiveness, safety and acceptability of no-test medical abortion provided via telemedicine: 16 a national cohort study](#). British Journal of Obstetrics & Gynecology. February 2021.

⁶ Tex. Health & Safety Code Ann. § 170A.002

⁷ [Inequity in US Abortion Rights and Access: The End of Roe Is Deepening Existing Divides](#) | Guttmacher Institute. January 2023.

⁸ [Inequity in US Abortion Rights and Access: The End of Roe Is Deepening Existing Divides](#) | Guttmacher Institute. January 2023.

⁹ [Inequity in US Abortion Rights and Access: The End of Roe Is Deepening Existing Divides](#) | Guttmacher Institute. January 2023.

¹⁰ [Inequity in US Abortion Rights and Access: The End of Roe Is Deepening Existing Divides](#) | Guttmacher Institute. January 2023.

¹¹ [Inequity in US Abortion Rights and Access: The End of Roe Is Deepening Existing Divides](#) | Guttmacher Institute. January 2023.

¹² [100 Days Post-Roe: At Least 66 Clinics Across 15 US States Have Stopped Offering Abortion Care](#) | Guttmacher Institute. October 2022.

¹³ [Tex. Health & Safety Code Ann. § 171.063\(c\)](#)

¹⁴ [Tex. Health & Safety Code Ann. § 171.012\(a\)\(4\)](#)

¹⁵ [Tex. Health & Safety Code Ann. § 171.063\(c\)](#)

¹⁶ [Tex. Health & Safety Code Ann. § 171.063\(f\)](#)

¹⁷ Schummers, L., et al., [Abortion Safety and 11 Use with Normally Prescribed Mifepristone in Canada](#). The New England Journal of Medicine. 9 January 2022.

¹⁸ ACOG. ["Practice Bulletin No. 225: Medication Abortion Up to 70 Days of Gestation."](#) American College of Obstetricians and Gynecologists. 8 October 2020.

including the U.K., the Netherlands, Denmark, Sweden, and Canada – do not recommend or do not require testing and treatment for Rh-negative individuals early in pregnancy.¹⁹

- State-mandated ultrasounds contradict best clinical practice. Research has shown that health care providers can accurately date a pregnancy via telehealth and there is no difference in safety or outcomes between those receiving an ultrasound and those who did not receive one before having an abortion.²⁰
- ▶ **Prohibition on Mailing Abortion Medications:** Texas law prohibits a manufacturer, supplier, physician, or any other person from providing any abortion-inducing drug by courier, delivery, or mail service.²¹
 - **Impact:** This medically unnecessary restriction forces patients to visit a clinic for a medication abortion. Research shows that medication abortion care can be prescribed safely and effectively via telehealth and mailed.²²
- ▶ **7-Week Medication Abortion Ban:** Texas law prohibits a physician from providing an abortion-inducing drug for a pregnant woman whose pregnancy is more than 49 days²³ of gestational age.²⁴
 - **Impact:** This law would prohibit people seeking medication abortion care should they discover a pregnancy at or after seven weeks. One in three people discover pregnancy at six weeks' gestation or later, and about one in five discover pregnancy past seven weeks. Almost two in three young people (ages 15-19) discover pregnancy at six weeks or later.²⁵
 - **Impact:** People of color, people living with food insecurity, people with unplanned pregnancies, and those who rely on clinic-based testing to confirm a pregnancy are also more likely to discover pregnancy past seven weeks' gestation.
- ▶ **Vigilante Law:** Texas gives any individual the right to file a lawsuit against anyone who they believe has aided or abetted an individual in obtaining an abortion in violation of this law.²⁶
 - **Impact:** This law authorizes private citizens to patrol people's health care, financially rewarding them for bringing lawsuits.²⁷ The law's approval of surveillance makes people of color more vulnerable in a legal system where they already face disproportionate punishment.²⁸
- ▶ **Limitation on Authorized Providers:** Texas restricts the provision of abortions to licensed physicians.²⁹
 - **Impact:** This medically unnecessary restriction limits the number and type of providers available to provide abortion care. As part of changes made by the FDA in 2016, non-physicians may prescribe medication abortion care.³⁰
 - ACOG and other medical associations affirm that nurse practitioners, physician assistants, and midwives can safely and effectively provide medication abortion care.³¹
 - Research shows that expanding the pool of qualified health care providers would expand the availability and accessibility of care.³²
- ▶ **Biased Counseling:** Texas requires patients seeking abortions to receive biased counseling.³³
 - **Impact:** The information presented through state-required counseling materials is often either out-of-date, biased or both. This lends credence to the charge that states' abortion counseling mandates are sometimes intended less to inform women about the abortion procedure than to discourage them from seeking abortions altogether.³⁴
- ▶ **Waiting Period:** TX patients seeking abortions to undergo a mandatory 24-hour waiting period.³⁵
 - **Impact:** This restriction delays a person's ability to obtain abortion care.
 - Patients already undergo informed consent as part of standard medical care, and this additional paperwork exacerbates inequities in accessing care, especially for people of color and those struggling to make ends meet.
 - There is no evidence that waiting periods improve medication abortion care's safety.³⁶
 - An overwhelming majority of women who choose abortion are already certain of their decision.³⁷
- ▶ **Parental notification requirements for patients under 18:** Texas requires that physicians give 48 hours notices to a minor's parents prior to an abortion or the patient must seek judicial bypass.³⁸
 - **Impact:** The majority of young people faced with an unintended pregnancy involve a parent or guardian in their decision to seek abortion care. For youth who can't, they must seek a judicial bypass or waiver, which is permission from a judge to consent to their own abortion care.
 - This additional burden often delays care by days or weeks and undermines a young person's bodily autonomy. Young people needing abortion services are also often those with fewer financial and logistical resources and may be more in need of telehealth as the most accessible option.

¹⁹ ACOG. "Practice Bulletin No. 225: Medication Abortion Up to 70 Days of Gestation." American College of Obstetricians and Gynecologists. 8 October 2020.

²⁰ Aiken, A., et al. Effectiveness, safety and acceptability of no-test medical abortion provided via telemedicine: 16 a national cohort study. British Journal of Obstetrics & Gynecology. February 2021.

²¹ [Tex. Health & Safety Code Ann. § 171.063\(b-1\)](#)

²² Schummers, L., et al. Abortion Safety and Use with Normally Prescribed Mifepristone in Canada. The New England Journal of Medicine. 9 January 2022.

²³ This timeframe is shorter than the 70-day timeframe approved by the FDA. See [Questions and Answers on Mifepristone for Medical Termination of Pregnancy Through Ten Weeks Gestation | FDA](#).

²⁴ [Tex. Health & Safety Code Ann. § 171.063\(c\)](#)

²⁵ [One in three people learn they're pregnant past six weeks' gestation | ANSIRH](#).

²⁶ [Tex. Health & Safety Code Ann. §§ 171.203\(b\) & 171.204\(a\)](#)

²⁷ [Abortion Is Not a Crime. Texas' SB8 Is Unconstitutional and Unprecedented.](#)

²⁸ [How Texas' abortion law could add to systemic racism - The 19th](#)

²⁹ [Tex. Health & Safety Code Ann. § 170A.002](#)

³⁰ KFF. [Legal Challenges to the FDA Approval of Medication Abortion Pills](#). March 13 2023.

³¹ ACOG. [Committee Opinion Number 815: Increasing Access to Abortion](#). December 2020

³² Weitz, T.A., et al. [Safety of Aspiration Abortion Performed by Nurse Practitioners, Certified Nurse Midwives, and Physician Assistants Under a 11 9 California Legal Waiver](#). American Journal of Public Health. March 2013

³³ [Tex. Health & Safety Code Ann. §§ 171.012\(a\)\(2\), \(a\)\(3\), \(c\), and \(d\)](#)

³⁴ [Misinformed Consent: The Medical Accuracy of State-Developed Abortion Counseling Materials | Guttmacher Institute](#)

³⁵ [Tex. Health & Safety Code Ann. § 171.012](#)

³⁶ National Academies of Sciences, Engineering and Medicine. [The Safety and Quality of Abortion Care in the United States](#). National Academies Press. 2018.

³⁷ Ralph, L. et al. [Measuring decisional certainty among women seeking abortion](#). Contraception. March 2017 12

³⁸ [Tex. Fam. Code Ann. §§ 33.002\(a\) and \(b\)](#).

- ▶ **Abortion Certification:** Patients and providers must complete certification forms prior to an abortion.³⁹ TX requires a provider billing Medicaid for an abortion to submit additional documentation with the claim, including a physician certification.⁴⁰
 - **Impact:** This requirement saddles providers with unnecessary administrative burdens and is not medically necessary. Reporting requirements put patients at higher greatest risk for violations of privacy and exposure.

POLICY IMPACTING COVERAGE OF TELEHEALTH FOR MEDICATION ABORTION CARE

- ▶ **Texas' Medicaid program is prohibited from covering most abortion services, including via telehealth:** For patients using private insurance, coverage is restricted to life endangerment or severe health.^{41, 42} Many payers do not cover abortion services in Texas, including for telehealth. In fact, health plans offered in the state's health exchange under the Affordable Care Act can only cover abortion in cases of life endangerment.⁴³
 - **Impact:** A lack of coverage can create insurmountable barriers for women already struggling to get affordable health care.⁴⁴
 - Studies show that severe restrictions on Medicaid coverage of abortion forces one in four poor women seeking an abortion to carry an unwanted pregnancy to term.⁴⁵
 - This forces patients to pay out of pocket for abortion care. 40% of adult Americans reported not being able to cover an unexpected \$400 expense, which is less than the cost of first trimester abortion care. ^{46, 47}
- ▶ **In Texas, reimbursement as well as coverage and payment parity differ by modality and whether the patient has private or public insurance.** As background, coverage parity requires the same services be covered via telehealth as would be covered if delivered in-person. Payment parity requires the same payment rate or amount to be reimbursed via telehealth as would be if it had been delivered in-person.⁴⁸
 - While there is payment parity for Medicaid recipients for audio-only and audio-video visits, there is no requirement that private payers cover audio-only services and there is no payment parity required for other telehealth services.
 - In fact, Texas's definition of telehealth for private payers excludes audio-only visits.⁴⁹
 - **Impact:** This disproportionately impacts people of color and those working to make ends meet, as it limits access to care for patients who are in areas with limited bandwidth or who lack devices or sufficient minutes on cellular plans to ensure a telehealth video visit can take place.
- ▶ **Coverage for translation services:** Providers participating in Texas Medicaid are required to provide translation services for Medicaid beneficiaries, including via telehealth.⁵⁰ However, there is no requirement for public or private insurance to cover the costs associated with translation.⁵¹
 - **Impact:** Providers may be less likely to offer patients with translation needs access to telehealth services, forcing unnecessary in-person visits and inequitable access to care.

MORE INFORMATION ON TELEHEALTH IN TEXAS

- ▶ [TexLa Telehealth Resource Center](#)
- ▶ [Texas State Telehealth Laws - CCHP](#)

³⁹ [Tex. Health & Safety Code Ann. §§ 171.012\(a\)\(6\) and 171.0121.](#)

⁴⁰ [Texas Medicaid Provider Manual](#)

⁴¹ [State Funding of Abortion Under Medicaid | Guttmacher Institute](#)

⁴² [Regulating Insurance Coverage of Abortion | Guttmacher Institute](#)

⁴³ [Regulating Insurance Coverage of Abortion | Guttmacher Institute](#)

⁴⁴ All* Above All. [Fact Sheet: About the Hyde Amendment, 2022.](#)

⁴⁵ 20 Henshaw, S., et al. [Restrictions on Medicaid Funding for Abortions: A Literature Review.](#) Guttmacher Institute. June 2009.

⁴⁶ Bhutta, N. & Dettling, L. [Money in the Bank? Assessing Families' Liquid Savings using the Survey of Consumer Finances.](#) U.S. Federal Reserve 13 16 Board. 2019.

⁴⁷ Upadhyay, U., et al. [Trends In Self-Pay Charges And Insurance Acceptance For Abortion In The United States, 2017-20.](#) Health Affairs. April 15 2022.

⁴⁸ [Parity Requirements for Private Payer Telehealth Services - CCHP](#)

⁴⁹ [TX Insurance Code, Section 1455.004](#)

⁵⁰ [Translation and Interpretation Services | Medicaid](#)

⁵¹ [TX Provider Procedures Manual Volumes 1&2](#)