

## *Medical Abortion, 2015*

Cross-stitched thread on Aida cloth, 11 x 14 inches

Medical abortion, also known as the Abortion Pill, consists of two different types of prescriptions taken together in sequence: Mifepristone and Misoprostol. It is a non-invasive, safe, and effective way to end an early pregnancy and can be taken up to 10-11 weeks from your last period; afterwards a surgical, i.e., in-clinic abortion, is required. It is 98% effective for people pregnant 8 weeks or less.

The Mifepristone stops the body's natural progesterone production, the pregnancy needs this hormone to grow and proceed. Misoprostol is taken immediately after the Mifepristone or up to 48 hours later. It causes cramping and bleeding, which then empties the uterus. The effect of the pills is like a heavy, crampy period. The experience is on par with an early miscarriage. The benefit of the abortion pill is that the patient can choose where they will experience the medicines' effects; most choose the safety, privacy, and comfort of their own homes. Complications from a medical abortion are incredibly rare. If a person needs to go to the ER, medical professionals cannot tell the difference between a medical abortion and a spontaneous miscarriage. In 2021, the FDA permanently allowed Mifepristone to be administered by mail with a prescription, Misoprostol is a long-standing, common prescription. Medical abortion requires a written prescription from a nurse or doctor.

### **Other important facts:**

- 1 in 4 U.S. women will have an abortion by the age of 45. (Guttmacher, 2019)
- 79% of all abortions occurred before 10 weeks' gestation. (CDC, 2019)
- 42% of all abortions used medical abortion to terminate. (CDC, 2019)
- Studies suggest medical abortion is preferred and will become more common with the FDA's mail approval, easier access by mail, greater in-clinic restrictions and barriers, and the greater privacy it provides considering the hostile environments anti-choice protesters create outside clinics.

Source:

1. Pam Belluck, "F.D.A. Will Permanently Allow Abortion Pills by Mail." New York Times. December 16, 2021.
2. Kortsmit K, Mandel MG, Reeves JA, et al. Abortion Surveillance — United States, 2019. *MMWR Surveill Summ* 2021;70(No. SS-9):1–29. CDC. DOI: <http://dx.doi.org/10.15585/mmwr.ss7009a1>
3. "The Abortion Pill," Planned Parenthood. Accessed on January 2, 2022.
4. "Fact Sheet: Induced Abortion in the United States," Guttmacher Institute, September 2019.
5. Carrie N. Baker and Juliet Schulman-Hall, "Feminists Fight Fake Abortion Clinics: "No One Should Be Lied To," Ms. Magazine, August 8, 2021.

## **Understanding Idaho's abortion laws in a post-Roe America**

After the overturning of *Roe v. Wade*, Idaho has some of the strictest anti-abortion laws in America. Abortions are banned at 6 weeks' gestation after the last menstrual period. However, an abortion can be obtained if the mother's life is threatened as a result of the pregnancy (this excludes self-harm) or from an emergency (as is protected under the Emergency Medical Treatment and Labor Act (EMTALA)). Various sources do not report that abortion is allowed if the fetus is unviable but Idaho law states, "...or, if not performed, such pregnancy would terminate in birth or delivery of a fetus unable to survive." Such abortions must be performed by a licensed physician

(with the approval of a consulting physician) in a hospital or in their office so long as it meets various legal requirements. They must report the abortion too. Due to consent laws, a patient seeking an abortion must also meet legal requirements such as submitting to a 24-hour waiting period, obtaining parental consent (if needed) or, in lieu of parental consent, attaining a judge's permission, and undergoing biased counseling (non-medical advice). Pregnant survivors of rape and incest can attain an abortion so long as they have reported the crime to authorities.

Idaho does not ban telemedicine for abortion services. It is legal to leave Idaho and get an abortion. Receiving abortion pills in the mail in Idaho falls into a gray legal area. The federal government says it is federally legal for people to receive abortion pills in the mail in states that outlaw abortion; however, receivers of the medicine are still subject to state laws. Idaho does criminalize any person who "submits to or solicits" for an abortion. Such a felony is fined at \$5,000 with one to five years imprisonment. Medical professionals who are found guilty of performing/attempting an illegal abortion are subject to two to five years in jail with at least the suspension of medical licenses. It is unclear whether those abetting abortion services are also criminally liable.

Regardless of the few abortion allowances in Idaho, additional laws have been designed to deter abortion even further. The Senate Bill 1309 makes physicians who performed legal abortions openly vulnerable to punitive, civil lawsuits. A bounty hunting style law, it allows any living relatives of the patient or the father and his relatives to sue up to four years after the procedure for a minimum of \$20,000 in rewards per case. This also includes the family of convicted rapists. SB 1309 is meant to deter local doctors from performing legal abortions.

The criminalization of self-managed abortions (i.e., ones outside medical care), method bans (laws that would outlaw procedures such as D&X and D&E), TRAP laws (laws the place unreasonable, costly, and non-medical requirements on facilities that provide abortion) are enjoined. This means these laws cannot be currently enforced.

Source:

1. Perry Stein, "Justice Dept.: Despite bans, abortion pills may be mailed to any state," Washington Post, January 4, 2023.
2. Emma Anderson , Alina Salganicoff, and Laurie Sobel, "State Restrictions on Telehealth Abortion," Kaiser Family Foundation, Accessed on February 23, 2023.
3. "After Roe Fell: Idaho," Center for Reproductive Justice, Accessed on February 23, 2023.
4. "Abortion Policies in Idaho," Guttmacher Institute, Access on February 23, 2023.
5. "Title 18: Crimes and Punishments; Chapter 6: Abortion and Contraceptives; 18-608," Idaho Legislature, Accessed on February 23, 2023.
6. "Abortion in Idaho," AbortionFinder.org, Accessed on February 23, 2023.
7. "Idaho: How to get abortion pills (1), (2)," PlanC.org, Accessed on February 23, 2023.
8. Elizabeth G. Raymond, et al., "First-trimester medical abortion with mifepristone 200 mg and misoprostol: a systematic review," Contraception: an International Reproductive Health Journal, Volume 87, Issue 1, August 14, 2012.
9. "Idaho Governor Signs Bounty-Hunting Abortion Ban," ACLU of Idaho, March 23, 2022.

## **Understanding Idaho's Anti-Abortion and Anti-Contraception Law 18-603**

After Roe, Idaho defaulted to law 18-603, which was first written in 1867. This law came 100 years before the invention of the pill, 47 years before women's right to vote, and a year before the 14<sup>th</sup> amendment passed. The 14<sup>th</sup> amendment entitles Americans to the right of privacy, life, and liberty, "*The petitioners are entitled to respect for their private lives. The State cannot demean their existence or control their destiny by making their private sexual conduct a crime.*"

This Idaho law was last amended in 1972 (a year before Roe was passed). This law states that:

*“Every person, except licensed physicians of this state and those licensed or registered health care providers..., who wilfully publishes any notice or advertisement of any medicine or means for producing or facilitating a miscarriage or abortion, or for the prevention of conception, or who offers his services by any notice, advertisement, or otherwise to assist in the accomplishment of any such purpose, is guilty of a felony.”*

However, the 1965 U.S. Supreme Court decision in *Griswold v. Connecticut* directly overturned the viability of such types of laws. Connecticut held a similar law outlawing the information and distribution of contraception to individuals. SCOTUS deemed Connecticut’s law violated married couple’s rights to privacy under the 14<sup>th</sup> amendment.

As a result of Law 18-603 and the No Public Funds for Abortion Act, last fall several colleges in Idaho reacted by warning faculty, administrators, and health clinics to not promote, discuss, or distribute such subjects or be at risk for losing their jobs and committing a felony under the state law. National outrage ensued. The University of Idaho responded by saying that their initial memo had been “misconstrued.” They insisted that contraceptive services remained the same on campus and that discussions of such topics are permissible under their academic freedom policy so long as it’s relevant to the curriculum and remains neutral.

The purpose of this exhibition and its supporting artworks is to be educational. The exhibit supports the gallery’s curriculum in accordance with the Lewis-Clark State College’s academic freedom policy:

*“Membership in the academic community imposes on administrators, faculty members, other institutional employees, and students an obligation to respect the dignity of others, to acknowledge the right of others to express differing opinions, and to foster and defend intellectual honesty, freedom of inquiry and instructions, and free expression on and off campus of an institution.”*

The gallery’s exhibitions are an academic extension of the school’s degree programs and classes to enhance students’ learning experience. The themes in Unconditional Care especially relate to LCSC’s ten plus medical field, science, and nursing programs; including areas of study relating to law, history, political science, social work, politics, education, women and gender studies, and the arts. The artworks are supported by medical facts, statistics, and historical legal contexts.

An academic gallery and museum’s additional mission is to preserve and present historical facts and culture. The artworks also function as a historical, medical archive of products that were completely legal in Idaho from at least 1973 to 2022. Despite the language in the law, birth control and emergency contraception are still legal in Idaho. It is also important to recognize that these products remain legal in most of America and are protected by the federal government. The artworks represented in Unconditional Care reflect some of the most pressing issues, items, and events in American history. The exhibition also addresses a fundamental American right to free speech. Art and the expression of ideas is protected under the first amendment.

The questions that this exhibit and its artworks may provoke is not necessarily the ethics of abortion or contraception, but whether Idaho laws like 18-603 should be allowed to supersede the

right to free speech and come at the expense of education. How ethical is such a law that aims to criminally punish academics, medical practitioners, artists, and freethinkers for just merely exploring, expressing, or communicating an idea or thing? How long until such laws spill over to the free press? If Law 18-603 gives the school justification to censor the art in the exhibit, what message and precedent is that setting about students' ability to express themselves, to push the boundaries of their own academic learning and research, and to formulate their understanding of their own freedoms as American students?

*“...a free society is based on the principle that each and every individual has the right to decide what art or entertainment he or she wants -- or does not want -- to receive or create. Once you allow the government to censor someone else, you cede to it the power to censor you, or something you like. Censorship is like poison gas: a powerful weapon that can harm you when the wind shifts...Freedom of expression for ourselves requires freedom of expression for others. It is at the very heart of our democracy.”*

- American Civil Liberties Union

Source:

1. Racine Olson, “Abortion Law in Idaho,” Racine Olson Attorneys Idaho, August 3, 2022.
2. “Freedom of Expression in the Arts and Entertainment,” ACLU, Number 14, Accessed on February 27, 2023.
3. “Griswold v. Connecticut,” Oyez, Accessed on February 27, 2023.
4. “Privacy,” Cornell Law School, Accessed on February 27, 2023.
5. Rebecca Boone, “Idaho universities disallow abortion, contraception referrals for students,” PBS, September 27, 2022.
6. Becca Savransky, “University of Idaho: Academic freedom policy, birth control access haven’t changed,” Idaho Statesman, October 5, 2022.
7. “Title 18: Crimes and Punishments; Chapter 6: Abortion and Contraceptives; 18-603,” Idaho Legislature, Accessed on February 27, 2023.
8. “Academic Freedom and Responsibility,” Lewis-Clark State College Policy and Procedures, February 2019.