

**September 8, 2020**

**ATTORNEY GENERAL RAOUL FILES SUPREME COURT BRIEF TO MAINTAIN ACCESS TO REPRODUCTIVE HEALTH CARE**

**Chicago** — Attorney General Kwame Raoul today joined a multistate coalition of 23 attorneys general in filing a brief supporting a lawsuit against the Food and Drug Administration (FDA) and the U.S. Department of Health and Human Services (HHS) over a requirement that restricts access to medication abortions. The attorneys general point out that the agencies' requirement would increase the risk that women nationwide will contract COVID-19 as they seek abortions in their state.

Raoul and the coalition filed an [amicus brief](#) in support of the plaintiffs in FDA et al. v. American College of Obstetricians and Gynecologists et al. that is pending with the U.S. Supreme Court. In the brief, Raoul and the coalition encourage the court to reject the federal government's request to halt a preliminary injunction issued by a district court in July, and thereby reinstate an FDA requirement that forces women to appear in person in a clinical setting to receive a drug known as mifepristone for an early abortion. Raoul and the coalition have argued in the past — and continue to argue in today's amicus brief — that the drug should be readily accessible via telehealth and mail delivery, so as to not potentially expose women to COVID-19 by requiring unnecessary travel.

"At a time when social distancing requirements have helped to slow the spread of COVID-19, the federal government should not require women to travel to receive vital health care when it can be provided remotely," Raoul said. "I will continue to oppose any effort to use the coronavirus pandemic as an opportunity for the government to deny women the ability to make health care decisions for themselves."

Since the widespread onset of COVID-19 across the United States in March, more than 6.1 million Americans, including more than 252,000 in Illinois, have contracted the disease, resulting in more than 187,000 deaths — more than 8,100 in Illinois alone. In response, legislators, elected officials, and agencies across the nation have been instituting various emergency measures to slow the spread of the virus. States have limited face-to-face contact and reduced in-person social gatherings, closed schools and required all nonessential employees to work from home, as limiting interpersonal contact is central to the ability of states to control the spread of the virus.

The FDA's requirements force patients to appear in person in a clinical setting to receive mifepristone and heighten the risk of contracting and transmitting COVID-19 for everyone involved, including patients and health care providers. Before the pandemic, patients seeking medication abortions represented nearly 40 percent of all abortion patients in the U.S. in 2017. Forcing these women to travel at a time when many states are urging people to limit in-person contacts to curb the spread of COVID-19 is shortsighted, not only putting women across the country and their close contacts in harm's way, but also harming the public health more generally.

In today's brief, Raoul and the coalition specifically argue that reinstating and enforcing the FDA requirements during the current public health crisis will harm patient safety and the public interest by: conditioning access to essential reproductive health care on an increased risk of virus infection and transmission, and by undermining the states' ongoing efforts to manage the crisis through measures limiting unnecessary in-person contacts, such as stay-at-home orders, stay-safe orders, and telehealth. States have already effectively utilized such measures to control the spread of the virus, and these measures remain necessary to safely reopen communities, allow for essential in-person activities, and maintain health care capacity during the upcoming flu season.

Additionally, Raoul and the coalition argue that many women will need to travel long distances in order to reach a clinic that dispenses mifepristone, especially if they reside in rural and medically underserved locations, therefore increasing the likelihood of coming into contact with an individual who has contracted COVID-19.

Raoul and the coalition assert that by using measures like telehealth to reduce unnecessary person-to-person contacts, states can decrease their infection rate even as the pandemic continues. Raoul and the coalition also highlight that their states have already taken numerous steps to expand the use of telehealth during the current public health crisis, including the suspension of existing statutes and regulations that limit the use of telehealth in order to allow the delivery of regulated services through telehealth to additional patient populations, including especially vulnerable ones. These suspension orders expand the types of practitioners who can use telehealth, the settings in which it can be provided, the modalities that can be used to deliver telehealth services, and the circumstances under which telehealth can be initiated. Further, many states have also suspended rules that prohibit telehealth in the absence of an existing patient-provider relationship so that patients can receive care from new providers.

Today's amicus brief follows two previous amicus briefs filed in this case by Raoul and a coalition of attorneys general in the U.S. District Court for the District for Maryland and the U.S. Court of Appeals for the 4th Circuit, asking the district court to issue a preliminary injunction of the FDA requirements for mifepristone, and asking the circuit court to deny the federal government's efforts to stay the preliminary injunction. The courts have continued to rule in favor of the plaintiffs and the coalition of attorneys general.

Joining Raoul in today's amicus brief are the attorneys general of California, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, and Washington.