

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1258

By: Peterson (Pam)

AS INTRODUCED

An Act relating to abortion; defining terms; establishing crime for prescribing certain drugs; providing for certain criteria; providing for exceptions; requiring compliance with certain federal laws; requiring the preparation of certain reports; providing for inspection of certain reports; providing for exceptions; providing for certain punishment; authorizing sanctions by certain licensing boards; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 864 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Federal law" means any law, rule, or regulation of the United States or any drug approval letter of the Food and Drug Administration of the United States that governs or regulates the use of RU-486 (mifepristone) for the purpose of inducing abortions;

2. "License" has the same meaning as in Section 139.1 of Title 43 of the Oklahoma Statutes;

3. "Licensing board" has the same meaning as in Section 139.1 of Title 43 of the Oklahoma Statutes;

4. "Personal identifying information" includes, but is not limited to, the following: the name, address, telephone number, drivers license, drivers license number, commercial drivers license, commercial drivers license number, state identification card, state identification card number, social security card, social security number, birth certificate, place of employment, employee

identification number, mother's maiden name, demand deposit account number, savings account number, money market account number, mutual fund account number, other financial account number, personal identification number, password, or credit card number of a living or dead individual; and

5. "Physician" means a person licensed to practice medicine and surgery under Chapter 11 of Title 59 of the Oklahoma Statutes and a person licensed to practice osteopathy under Chapter 14 of Title 59 of the Oklahoma Statutes.

B. 1. No person shall knowingly give, sell, dispense, administer, otherwise provide, or prescribe RU-486 (mifepristone) to another for the purpose of inducing an abortion in any person or enabling the other person to induce an abortion in any person, unless the following criteria are met:

- a. the person who gives, sells, dispenses, administers, or otherwise provides or prescribes the RU-486 (mifepristone) is a physician,
- b. the physician satisfies all the criteria established by federal law that a physician must satisfy in order to provide RU-486 (mifepristone) for inducing abortions, and
- c. the physician provides the RU-486 (mifepristone) to the other person for the purpose of inducing an abortion in accordance with all provisions of federal law that govern the use of RU-486 (mifepristone) for inducing abortions.

2. A person who gives, sells, dispenses, administers, otherwise provides, or prescribes RU-486 (mifepristone) to another as described in this section shall not be prosecuted based on a violation of the criteria contained in this section unless:

- a. the person knows that the person is not a physician,

- b. the person did not satisfy all the specified criteria established by federal law, or
- c. the person did not provide the RU-486 (mifepristone) in accordance with the specified provisions of federal law, whichever is applicable.

C. No physician who provides RU-486 (mifepristone) to another for the purpose of inducing an abortion as authorized under subsection B of this section shall knowingly fail to comply with the applicable requirements of any federal law that pertain to follow-up examinations or care for persons to whom or for whom RU-486 (mifepristone) is provided for the purpose of inducing an abortion.

D. 1. If a physician provides RU-486 (mifepristone) to another for the purpose of inducing an abortion as authorized under subsection B of this section and if the physician knows that the person who uses the RU-486 (mifepristone) for the purpose of inducing an abortion experiences, during or after the use an incomplete abortion, severe bleeding, or an adverse reaction to the RU-486 (mifepristone) or is hospitalized, receives a transfusion, or experiences any other serious event, the physician promptly must provide a written report of the incomplete abortion, severe bleeding, adverse reaction, hospitalization, transfusion, or serious event to the State Board of Medical Licensure and Supervision or State Board of Osteopathic Examiners. The Board shall compile and retain all reports it receives under this section. Except as otherwise provided in this section, all reports the Board receives under this section are public records open to inspection under the Oklahoma Open Records Act. In no case shall the Board release to any person the name or any other personal identifying information regarding a person who uses RU-486 (mifepristone) for the purpose of inducing an abortion and who is the subject of a report the Board receives under this section.

2. No physician who provides RU-486 (mifepristone) to another for the purpose of inducing an abortion as authorized under subsection B of this section shall knowingly fail to file a report required under this act.

E. Subsection B of this section does not apply to any of the following:

1. A pregnant woman who obtains or possesses RU-486 (mifepristone) for the purpose of inducing an abortion to terminate her own pregnancy;

2. The legal transport of RU-486 (mifepristone) by any person or entity and the legal delivery of the RU-486 (mifepristone) by any person to the recipient, provided that this division does not apply regarding any conduct related to the RU-486 (mifepristone) other than its transport and delivery to the recipient; and

3. The distribution, provision, or sale of RU-486 (mifepristone) by any legal manufacturer or distributor of RU-486 (mifepristone), provided the manufacturer or distributor made a good faith effort to comply with any applicable requirements of federal law regarding the distribution, provision, or sale.

F. Whoever violates this section is guilty of a felony of unlawful distribution of an abortion-inducing drug and upon conviction shall be punishable by imprisonment in the county jail for not more than one (1) year.

G. A second or subsequent conviction for a violation of this section or of Section 861, 862 or 863 of Title 21 of the Oklahoma Statutes, shall be a felony punishable by imprisonment in the State Penitentiary for not less than two (2) years and not more than ten (10) years per violation.

H. If the offender maintains a license, in addition to any other sanction imposed by law for the offense, the offender is subject to sanctioning as provided by law by the licensing board

that has the administrative authority to suspend or revoke the offender's license.

SECTION 2. This act shall become effective November 1, 2005.

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