

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 COMMITTEE SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 2181

6 By: McNiell

7 COMMITTEE SUBSTITUTE

8 An Act relating to abortion; defining terms;
9 prohibiting the sale or distribution of mifepristone
10 except by a physician in certain circumstances;
11 requiring compliance with certain federal laws;
12 requiring the preparation of written report in
13 certain circumstances; providing for inspection of
14 certain reports; providing for confidentiality of
15 certain persons; specifying exceptions; providing for
16 civil action; authorizing attorney fees; providing
17 for certain punishment; authorizing sanctions by
18 certain licensing boards; providing for codification;
19 and providing an effective date.

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

21 SECTION 1. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1-729 of Title 63, unless there
23 is created a duplication in numbering, reads as follows:

24 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 United States Food

1 and Drug Administration that governs or regulates the use of RU-486,
2 mifepristone, for the purpose of inducing abortions;

3 2. "Personal identifying information" means any information
4 designed, commonly used or capable of being used, alone or in
5 conjunction with any other information, to identify a person; and

6 3. "Physician" means a doctor of medicine or osteopathy legally
7 authorized to practice medicine in this state.

8 B. No person shall knowingly give, sell, dispense, administer,
9 prescribe or otherwise provide RU-486, also known as mifepristone,
10 for the purpose of inducing an abortion in a pregnant female, unless
11 the person who gives, sells, dispenses, administers, prescribes or
12 otherwise provides the RU-486, mifepristone, is a physician who
13 satisfies all the criteria established by federal law that a
14 physician must satisfy in order to provide RU-486, mifepristone, for
15 inducing abortions.

16 C. No physician who provides RU-486, mifepristone, for the
17 purpose of inducing an abortion shall knowingly fail to comply with
18 the applicable requirements of any federal law that pertain to
19 follow-up examinations or care for any female for whom RU-486,
20 mifepristone, is provided for the purpose of inducing an abortion.

21 D. 1. If a physician provides RU-486, mifepristone, for the
22 purpose of inducing an abortion and if the physician knows that the
23 female who uses the RU-486, mifepristone, for the purpose of
24 inducing an abortion experiences during or after the use of RU-486,

1 mifepristone, an incomplete abortion, severe bleeding, or an adverse
2 reaction to the RU-486, mifepristone, or is hospitalized, receives a
3 transfusion, or experiences any other serious event, the physician
4 shall promptly provide a written report of the incomplete abortion,
5 severe bleeding, adverse reaction, hospitalization, transfusion, or
6 serious event to the State Board of Medical Licensure and
7 Supervision or State Board of Osteopathic Examiners. The Board
8 shall compile and retain all reports it receives pursuant to this
9 subsection. Except as otherwise provided in this subsection, all
10 reports the Board receives under this subsection are public records
11 open to inspection pursuant to the Oklahoma Open Records Act;
12 however, the Board shall not release the name or any other personal
13 identifying information regarding a person who uses or provides RU-
14 486, mifepristone, for the purpose of inducing an abortion and who
15 is the subject of a report the Board receives under this subsection.

16 2. No physician who provides RU-486, mifepristone, to a
17 pregnant female for the purpose of inducing an abortion as
18 authorized under subsection B of this section shall knowingly fail
19 to file a report required under paragraph 1 of this subsection.

20 E. Subsection B of this section shall not apply to any of the
21 following:

22 1. A pregnant female who obtains or possesses RU-486,
23 mifepristone, for the purpose of inducing an abortion to terminate
24 her own pregnancy;

1 2. The legal transport of RU-486, mifepristone, by any person
2 or entity and the legal delivery of the RU-486, mifepristone, by any
3 person to the recipient. This paragraph shall not apply to any
4 conduct related to the RU-486, mifepristone, other than its
5 transport and delivery to the recipient; or

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

11 F. Any female upon whom an abortion has been performed without
12 this section having been complied with, the father of the unborn
13 child who was the subject of the abortion, if the father was married
14 to the woman who received the abortion at the time the abortion was
15 performed, or the maternal grandparent of the unborn child, may
16 maintain an action against the person who performed the abortion in
17 knowing or reckless violation of this section for actual and
18 punitive damages. Any female upon whom an abortion has been
19 attempted in knowing or reckless violation of this section may
20 maintain an action against the person who attempted to perform the
21 abortion for actual and punitive damages.

22 G. If judgment is rendered in favor of the plaintiff in any
23 action described in this section, the court shall also render
24 judgment for a reasonable attorney fee in favor of the plaintiff

1 against the defendant. If judgment is rendered in favor of the
2 defendant and the court finds that the plaintiff's suit was
3 frivolous and brought in bad faith, the court shall also render
4 judgment for a reasonable attorney fee in favor of the defendant
5 against the plaintiff.

6 H. Any person who violates this section, upon conviction, shall
7 be guilty of a felony. If the offender is a professionally licensed
8 health care provider, in addition to any other sanction imposed by
9 law for the offense, the offender is subject to sanctioning as
10 provided by law by the licensing board having administrative
11 authority over that professionally licensed person.

12 SECTION 2. This act shall become effective November 1, 2008.

13

14 51-2-10252 SAB 02/21/08

15

16

17

18

19

20

21

22

23

24