

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1874

By: Lamb

4
5 AS INTRODUCED

6 An Act relating to public health and safety; defining
7 terms; prohibiting the sale or distribution of
8 mifepristone except by physician in certain
9 circumstance; prohibiting a physician from knowingly
10 violating certain federal laws; requiring written
11 report in certain circumstance; directing the State
12 Board of Medical Licensure and Supervision to compile
13 and retain certain reports; allowing for public
14 inspection; prohibiting the release of personal
15 identifying information in certain circumstance;
16 prohibiting a physician from knowingly violating
17 certain reporting requirement; providing exceptions;
18 allowing certain persons to maintain an action;
19 directing compensation for attorney fees in certain
20 circumstances; providing for certain punishment;
21 authorizing sanctions by certain licensing boards;
22 providing for codification; and providing an
23 effective date.
24

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

18 SECTION 1. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1-733.1 of Title 63, unless
20 there is created a duplication in numbering, reads as follows:

21 A. As used in this section:

22 1. "Federal law" means any law, rule, or regulation of the
23 United States or any drug approval letter of the United States Food
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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 (mifepristone) for the
10 purpose of inducing an abortion in a pregnant female, unless the
11 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 pertains to
19 follow-up examinations or care for any female for whom RU-486
20 (mifepristone) is provided for the purpose of inducing her 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 her abortion experiences during or after such use of RU-486

1 (mifepristone) an incomplete abortion, severe bleeding, or an
2 adverse reaction to the RU-486 (mifepristone) or is hospitalized,
3 receives a transfusion, or experiences any other serious event, the
4 physician must promptly provide a written report of the incomplete
5 abortion, severe bleeding, adverse reaction, hospitalization,
6 transfusion, or serious event to the State Board of Medical
7 Licensure and Supervision. The Board shall compile and retain all
8 reports it receives pursuant to this subsection. Except as
9 otherwise provided in this subsection, all reports the Board
10 receives under this subsection are public records open to inspection
11 pursuant to the Oklahoma Open Records Act. In no case shall the
12 Board release to anyone the name or any other personal identifying
13 information regarding a person who uses or provides RU-486
14 (mifepristone) for the purpose of inducing an abortion and who is
15 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 this subsection.

20 E. Subsection B of this section does 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 that manufacturer or distributor made a
9 good faith effort to comply with any applicable requirements of
10 federal law regarding the distribution, provision or sale.

11 F. Any female upon whom an abortion has been performed without
12 this act having been complied with, the father of the unborn child
13 who was the subject of the abortion, if the father was married to
14 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 act for actual and punitive
18 damages. Any female upon whom an abortion has been attempted
19 without this act having been complied with may maintain an action
20 against the person who attempted to perform the abortion in knowing
21 or reckless violation of this act 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's 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's fee in favor of the defendant
5 against the plaintiff.

6 H. Whoever violates this section is guilty of a felony.

7 I. If an offender is a professionally licensed health care
8 provider, in addition to any other sanction imposed by law for the
9 offense, the offender is subject to licensing sanctions as provided
10 by law by the State Board of Medical Licensure and Supervision, the
11 State Board of Osteopathic Examiners, or other appropriate licensing
12 entity.

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

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