

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 1970

By: Grau

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5
6 AS INTRODUCED

7 An Act relating to public health and safety; amending
8 Section 1, Chapter 48, O.S.L. 2010 (63 O.S. Supp.
9 2010, Section 1-729a), which relates to RU-486 for
10 the purpose of inducing abortions; adding
11 definitions; modifying duties of certain physicians;
12 requiring physician to examine woman and document
13 gestational age prior to administering certain drugs;
14 requiring follow-up appointment to be scheduled for
15 certain patient; and providing an effective date.

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

17 SECTION 1. AMENDATORY Section 1, Chapter 48, O.S.L. 2010
18 (63 O.S. Supp. 2010, Section 1-729a), is amended to read as follows:

19 Section 1-729a. A. As used in this section:

20 1. "Abortion-inducing drug" means a medicine, drug, or any
21 other substance prescribed or dispensed with the intent of
22 terminating the clinically diagnosable pregnancy of a woman, with
23 knowledge that the termination shall with reasonable likelihood
24 cause the death of the unborn child. This includes off-label use of
drugs known to have abortion-inducing properties, which are
prescribed specifically with the intent of causing an abortion, such

1 as misoprostol (Cytotec), and methotrexate. This definition does
2 not apply to drugs that may be known to cause an abortion, but which
3 are prescribed for other medical indications, such as
4 chemotherapeutic agents or diagnostic drugs;

5 2. "Drug label" or "drug's label" means the pamphlet
6 accompanying an abortion-inducing drug which outlines the protocol
7 tested and authorized by the U.S. Food and Drug Administration (FDA)
8 and agreed upon by the drug company applying for FDA authorization
9 of that drug. Also known as "final printing labeling instructions",
10 it is the FDA document which delineates how a drug is to be used
11 according to the FDA approval;

12 3. "Federal law" means any law, rule, or regulation of the
13 United States or any drug approval letter of the U.S. Food and Drug
14 Administration that governs or regulates the use of RU-486
15 (mifepristone) or any abortion-inducing drug for the purpose of
16 inducing abortions;

17 ~~2.~~ 4. "Personal identifying information" means any information
18 designed to identify a person and any information commonly used or
19 capable of being used alone or in conjunction with any other
20 information to identify a person; and

21 ~~3.~~ 5. "Physician" means a doctor of medicine or osteopathy
22 legally authorized to practice medicine in the state.

23 B. No person shall knowingly or recklessly give, sell,
24 dispense, administer, prescribe, or otherwise provide RU-486, also

1 known as mifepristone, or any abortion-inducing drug for the purpose
2 of inducing an abortion in a pregnant female, unless the person who
3 gives, sells, dispenses, administers, prescribes, or otherwise
4 provides the RU-486 (mifepristone) or any abortion-inducing drug is
5 a physician who:

6 1. Has the ability to assess the duration of the pregnancy
7 accurately;

8 2. Has the ability to diagnose ectopic pregnancies;

9 3. Has the ability to provide surgical intervention in cases of
10 incomplete abortion or severe bleeding, or has made and documented
11 in the patient's medical record plans to provide such care through
12 other qualified physicians;

13 4. Is able to assure patient access to medical facilities
14 equipped to provide blood transfusions and resuscitation, if
15 necessary; and

16 5. Has read and understood the prescribing information for the
17 use of RU-486 (mifepristone) or any abortion-inducing drug as
18 provided by the drug manufacturer in accordance with the
19 requirements of the U.S. Food and Drug Administration.

20 C. No physician who provides RU-486 (mifepristone) or any
21 abortion-inducing drug for the purpose of inducing an abortion shall
22 knowingly or recklessly fail to:

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1 1. Provide each patient with a copy of the drug manufacturer's
2 medication guide and drug label for RU-486 (mifepristone) or any
3 abortion-inducing drug;

4 2. Fully explain the procedure to the patient, including, but
5 not limited to, explaining ~~whether the physician is using~~ that the
6 drug is being used in accordance with the protocol tested and
7 authorized by the U.S. Food and Drug Administration ~~regimen or an~~
8 ~~evidence based regimen, and, if using an evidence based regimen,~~
9 ~~specifying that the regimen differs from the U.S. Food and Drug~~
10 ~~Administration regimen and providing detailed information on the~~
11 ~~evidence based regimen being used~~ and as outlined in the drug label
12 for RU-486 (mifepristone) or any abortion-inducing drug;

13 3. Provide the female with a copy of the drug manufacturer's
14 patient agreement and obtain the patient's signature on the patient
15 agreement;

16 4. Sign the patient agreement; and

17 5. Record the drug manufacturer's package serial number in the
18 patient's medical record.

19 D. Because the failure and complications from medical abortion
20 increase with increasing gestational age, because the physical
21 symptoms of medical abortion can be identical to the symptoms of
22 ectopic pregnancy, and because RU-486 (mifepristone) or any
23 abortion-inducing drug does not treat ectopic pregnancies but rather
24 is contraindicated in ectopic pregnancies, the physician giving,

1 selling, dispensing, administering, or otherwise providing or
2 prescribing RU-486 (mifepristone) or any abortion-inducing drug
3 shall first examine the woman and document, in the woman's medical
4 chart, gestational age and intrauterine location of the pregnancy
5 prior to giving, selling, dispensing, administering, or otherwise
6 providing or prescribing RU-486 (mifepristone) or any abortion-
7 inducing drug.

8 E. When RU-486 (mifepristone) or any abortion-inducing drug is
9 used for the purpose of inducing an abortion, the drug must be
10 administered by or in the same room and in the physical presence of
11 the physician who prescribed, dispensed, or otherwise provided the
12 drug to the patient. The physician inducing the abortion, or a
13 person acting on behalf of the physician inducing the abortion,
14 shall schedule the patient for a follow-up appointment and make all
15 reasonable efforts to ensure that the patient returns twelve (12) to
16 eighteen (18) days after the administration or use of RU-486
17 (mifepristone) or any abortion-inducing drug for a follow-up visit
18 so that the physician can confirm that the pregnancy has been
19 terminated and assess the patient's medical condition. A brief
20 description of the efforts made to comply with this subsection,
21 including the date, time, and identification by name of the person
22 making such efforts, shall be included in the patient's medical
23 record.

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1 ~~E.~~ F. 1. If a physician provides RU-486 (mifepristone) or any
2 abortion-inducing drug for the purpose of inducing an abortion and
3 if the physician knows that the female who uses the RU-486
4 (mifepristone) or any abortion-inducing drug for the purpose of
5 inducing an abortion experiences within one (1) year after the use
6 of RU-486 (mifepristone) or any abortion-inducing drug an incomplete
7 abortion, severe bleeding, or an adverse reaction to the RU-486
8 (mifepristone) or any abortion-inducing drug or is hospitalized,
9 receives a transfusion, or experiences any other serious event, the
10 physician shall, as soon as is practicable, but in no case more than
11 sixty (60) days after the physician learns of the adverse reaction
12 or serious event, provide a written report of the incomplete
13 abortion, severe bleeding, adverse reaction, hospitalization,
14 transfusion, or serious event to the drug manufacturer. If the
15 physician is a doctor of medicine, the physician shall
16 simultaneously provide a copy of the report to the State Board of
17 Medical Licensure and Supervision. If the physician is a doctor of
18 osteopathy, the physician shall simultaneously provide a copy of the
19 report to the State Board of Osteopathic Examiners. The relevant
20 Board shall compile and retain all reports it receives pursuant to
21 this subsection. All reports the relevant Board receives under this
22 subsection are public records open to inspection pursuant to the
23 Oklahoma Open Records Act; however, absent an order by a court of
24 competent jurisdiction, neither the drug manufacturer nor the

1 relevant Board shall release the name or any other personal
2 identifying information regarding a person who uses or provides RU-
3 486 (mifepristone) or any abortion-inducing drug for the purpose of
4 inducing an abortion and who is the subject of a report the drug
5 manufacturer or the relevant Board receives under this subsection.

6 2. No physician who provides RU-486 (mifepristone) or any
7 abortion-inducing drug to a pregnant female for the purpose of
8 inducing an abortion shall knowingly or recklessly fail to file a
9 report required under paragraph 1 of this subsection. Knowing or
10 reckless failure to comply with this subsection shall subject the
11 physician to sanctioning by the licensing board having
12 administrative authority over such physician.

13 ~~F.~~ G. Any female upon whom an abortion has been performed, the
14 father of the unborn child who was the subject of the abortion if
15 the father was married to the woman who received the abortion at the
16 time the abortion was performed, or a maternal grandparent of the
17 unborn child, may maintain an action against the person who
18 performed the abortion in knowing or reckless violation of this
19 section for actual and punitive damages. Any female upon whom an
20 abortion has been attempted in knowing or reckless violation of this
21 section may maintain an action against the person who attempted to
22 perform the abortion for actual and punitive damages.

23 ~~G.~~ H. If a judgment is rendered in favor of the plaintiff in
24 any action described in this section, the court shall also render

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

7 ~~H.~~ I. No pregnant female who obtains or possesses RU-486
8 (mifepristone) or any abortion-inducing drug for the purpose of
9 inducing an abortion to terminate her own pregnancy shall be subject
10 to any action brought under subsection ~~F~~ G of this section.

11 SECTION 2. This act shall become effective November 1, 2011.

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13 53-1-6530 AM 01/20/11

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