

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 779

By: Daniels, Bullard, Stephens,  
David and Taylor of the  
Senate

4 and

5 Lepak of the House

7 An Act relating to abortion; creating the Oklahoma  
8 Abortion-Inducing Drug Certification Program Act;  
9 defining terms; specifying applicability of act;  
10 directing creation of certification program; limiting  
11 provision of abortion-inducing drugs to certain  
12 practitioners and procedures; authorizing certain  
13 fees and contracts; directing State Board of Pharmacy  
14 to establish certain requirements for manufacturers,  
15 distributors and physicians; providing certification  
16 systems and requirements for manufacturers,  
17 distributors and physicians; requiring physician to  
18 maintain hospital admitting privileges or enter into  
19 certain written agreement; stating conditions of  
20 agreement; requiring Board to adopt certain reporting  
21 system; stating criteria of reporting system;  
22 requiring certain reporting of physicians; providing  
23 for reporting of adverse events; providing criminal  
24 penalties; providing for certain civil remedies,  
disciplinary sanctions and injunctive relief;  
specifying certain judicial procedures; directing  
Board to develop certain enforcement scheme;  
specifying criteria of enforcement scheme; providing  
for certain restitution; directing creation of  
certain public portal; requiring portal to list  
certain names and allow for certain complaints;  
providing for disposition of complaints; providing  
for confidentiality of complaints; providing certain  
construction and intent; authorizing certain  
intervention; providing severability; amending 59  
O.S. 2011, Section 353.7, as last amended by Section  
4, Chapter 106, O.S.L. 2018 (59 O.S. Supp. 2020,  
Section 353.7), which relates to powers and duties of  
the Board; broadening allowed uses of fees; providing  
for codification; and providing an effective date.

1 AUTHORS: Add the following House Coauthors: Dills, Gann and Smith

2 AUTHOR: Add the following Senate Coauthor: Jett and Bergstrom

3 AMENDMENT NO. 1. Delete the title, enacting clause and entire bill  
4 and replace with:

5 "[ abortion - creating the Oklahoma Abortion-Inducing  
6 Drug Certification Program Act - directing the  
7 State Boards of Medical Licensure and Supervision  
8 and Osteopathic Examiners to create a certain  
9 certification program - effective date ]

10

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

12 SECTION 1. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 1-757.1 of Title 63, unless  
14 there is created a duplication in numbering, reads as follows:

15 Sections 1 through 16 of this act shall be known and may be  
16 cited as the "Oklahoma Abortion-Inducing Drug Certification Program  
17 Act".

18 SECTION 2. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 1-757.2 of Title 63, unless  
20 there is created a duplication in numbering, reads as follows:

21 As used in this act:

22 1. "Abortion" means the act of using or prescribing any  
23 instrument, medicine, drug or any other substance, device or means  
24 with the intent to terminate the pregnancy of a woman known to be

1 pregnant, with knowledge that the termination by those means will  
2 with reasonable likelihood cause the death of the unborn child.  
3 Such use, prescription or means is not an abortion if done with the  
4 intent to:

- 5 a. save the life or preserve the health of the unborn  
6 child,
- 7 b. remove a dead unborn child caused by spontaneous  
8 abortion, accidental trauma or a criminal assault on  
9 the pregnant woman or her unborn child,
- 10 c. remove an ectopic pregnancy, or
- 11 d. treat a maternal disease or illness for which the  
12 prescribed drug is indicated;

13 2. "Abortion-inducing drug" means a medicine, drug or any other  
14 substance prescribed or dispensed with the intent of terminating the  
15 pregnancy of a woman known to be pregnant, with knowledge that the  
16 termination will with reasonable likelihood cause the death of the  
17 unborn child. This includes the off-label use of drugs known to  
18 have abortion-inducing properties, which are prescribed specifically  
19 with the intent of causing an abortion, such as mifepristone  
20 (Mifeprex), misoprostol (Cytotec) and methotrexate. This definition  
21 does not apply to drugs that may be known to cause an abortion, but  
22 which are prescribed for other medical indications, such as  
23 chemotherapeutic agents and diagnostic drugs. The use of such drugs  
24

1 to induce abortion is also known as "medical", "medication", "RU-  
2 486", "chemical", "Mifeprex regimen" or "drug-induced" abortion;

3 3. "Adverse event", according to the Food and Drug  
4 Administration, means any untoward medical occurrence associated  
5 with the use of a drug in humans, whether or not considered drug-  
6 related. It does not include an adverse event or suspected adverse  
7 reaction that, had it occurred in a more severe form, might have  
8 caused death;

9 4. "Associated physician" means a person fully licensed and in  
10 good standing to practice medicine in the state including medical  
11 doctors and doctors of osteopathy, who has entered into an  
12 associated physician agreement;

13 5. "Complication" means any adverse physical or psychological  
14 condition arising from the performance of an abortion which  
15 includes, but is not limited to, uterine perforation, cervical  
16 perforation, infection, heavy or uncontrolled bleeding, hemorrhage,  
17 blood clots resulting in pulmonary embolism or deep vein thrombosis,  
18 failure to actually terminate the pregnancy, incomplete abortion  
19 (retained tissue), pelvic inflammatory disease, endometritis, missed  
20 ectopic pregnancy, cardiac arrest, respiratory arrest, renal  
21 failure, metabolic disorder, shock, embolism, coma, placenta previa  
22 in subsequent pregnancies, preterm delivery in subsequent  
23 pregnancies, free fluid in the abdomen, hemolytic reaction due to  
24 the administration of ABO-incompatible blood or blood products,

1 adverse reactions to anesthesia and other drugs, subsequent  
2 development of breast cancer, psychological complications such as  
3 depression, suicidal ideation, anxiety, sleeping disorders, death  
4 and any other adverse event as defined by the Food and Drug  
5 Administration criteria provided in the Medwatch Reporting System;

6 6. "Gestational age" means the time that has elapsed since the  
7 first day of the woman's last menstrual period, also known as "last  
8 menstrual period" or "LMP";

9 7. "Hospital" means an institution providing medical and  
10 surgical treatment and nursing care for sick or injured people, or  
11 institutions defined under Section 1-701 of Title 63 of the Oklahoma  
12 Statutes;

13 8. "Manufacturers and distributors" means individuals or  
14 entities that create, produce, supply, transport or sell drugs,  
15 which include:

- 16 a. any substances recognized by an official pharmacopoeia  
17 or formulary,
- 18 b. any substances intended for use in the diagnosis,  
19 cure, mitigation, treatment, or prevention of disease,
- 20 c. any substances other than food intended to affect the  
21 structure or any function of the body, or
- 22 d. any substances intended for use as a component of a  
23 medicine but not a device or a component, part or  
24 accessory of a device;

1 9. "Obstetrician/gynecologist", also known as OB/GYN, means a  
2 licensed physician who specializes in the care of women during  
3 pregnancy and childbirth and in the diagnosis and treatment of  
4 diseases of the female reproductive organs and specializes in other  
5 women's health issues such as menopause, hormone problems,  
6 contraception or birth control, and infertility;

7 10. "Physician" means any person fully licensed by and in good  
8 standing with the State Board of Medical Licensure and Supervision  
9 or the State Board of Osteopathic Examiners to practice medicine in  
10 this state. The term includes medical doctors and doctors of  
11 osteopathy;

12 11. "Pregnant" or "pregnancy" means that female reproductive  
13 condition of having an unborn child in the mother's uterus;

14 12. "Provide" or "provision" means, when used regarding  
15 abortion-inducing drugs, any act of giving, selling, dispensing,  
16 administering, transferring possession to or otherwise providing or  
17 prescribing an abortion-inducing drug; and

18 13. "Unborn child" means an individual organism of the species  
19 *Homo sapiens*, beginning at fertilization, until the point of being  
20 born-alive as defined in Title 1 U.S.C., Section 8(b).

21 SECTION 3. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 1-757.3 of Title 63, unless  
23 there is created a duplication in numbering, reads as follows:  
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1 This act applies to any physician, health care provider or other  
2 person who is providing abortion-inducing drugs for use within this  
3 state, or any manufacturer or distributor providing abortion-  
4 inducing drugs within this state.

5 SECTION 4. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 1-757.4 of Title 63, unless  
7 there is created a duplication in numbering, reads as follows:

8 A. The State Board of Medical Licensure and Supervision and the  
9 State Board of Osteopathic Examiners shall promulgate rules to  
10 create a certification program to oversee and regulate the provision  
11 of abortion-inducing drugs by their licensee - physicians. The  
12 drugs shall only be provided to patients by fully licensed  
13 physicians certified to do so under this program by their respective  
14 state licensing boards.

15 B. The program shall be known as the Oklahoma Abortion-Inducing  
16 Drug Certification Program.

17 C. The State Board of Medical Licensure and Supervision and the  
18 State Board of Osteopathic Examiners may assess reasonable fees on  
19 their respective licensees and enter into contracts with persons or  
20 entities to implement the Oklahoma Abortion-Inducing Drug  
21 Certification Program.

22 D. Abortion-inducing drugs shall not be provided directly to  
23 the patient through the mail, telemedicine, or otherwise outside of  
24

1 the parameters of the Oklahoma Abortion-Inducing Drug Certification  
2 Program.

3 SECTION 5. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 1-757.5 of Title 63, unless  
5 there is created a duplication in numbering, reads as follows:

6 A. The State Board of Pharmacy shall establish the following  
7 requirements for manufacturers and distributors of abortion-inducing  
8 drugs, at a minimum:

9 1. Require completion of the certification process for  
10 physicians as described in Section 7 of this act, and for  
11 manufacturers and distributors, as described in Section 6 of this  
12 act;

13 2. Abortion-inducing drugs shall be transported and provided in  
14 this state only by manufacturers or distributors certified to do so  
15 under this program;

16 3. Notify manufacturers and distributors of physicians  
17 certified under the Oklahoma Abortion-Inducing Drug Certification  
18 Program;

19 4. Develop a reporting system as specified in Section 9 of this  
20 act;

21 5. Prohibit shipment of abortion-inducing drugs to physicians  
22 who become de-certified from the Oklahoma Abortion-Inducing Drug  
23 Certification Program;

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1           6. Audit newly certified manufacturers and distributors within  
2 ninety (90) calendar days after the manufacturer or distributor is  
3 authorized, and annually thereafter, to ensure that all processes  
4 and procedures are in place and functioning to support the  
5 requirements of the Oklahoma Abortion-Inducing Drug Certification  
6 Program;

7           7. If a manufacturer or distributor is found to be  
8 noncompliant, immediately suspend manufacturer's or distributor's  
9 certification until the manufacturer or distributor demonstrates  
10 full compliance; and

11           8. Enforce compliance according to Section 12 of this act.

12           B. The State Board of Medical Licensure and Supervision and the  
13 State Board of Osteopathic Examiners shall establish the following  
14 requirements for physicians providing abortion-inducing drugs, at a  
15 minimum:

16           1. Require completion of the certification process;

17           2. Audit newly certified physicians within ninety (90) calendar  
18 days after the physician is authorized, and annually thereafter, to  
19 ensure that all required processes and procedures are in place and  
20 functioning to support the requirements of the Oklahoma Abortion-  
21 Inducing Drug Certification Program;

22           3. If a physician is found to be noncompliant, immediately  
23 suspend the physician's certification until such time that the  
24 physician demonstrates full compliance; and

1 4. Enforce compliance according to Section 12 of this act.

2 SECTION 6. NEW LAW A new section of law to be codified  
3 in the Oklahoma Statutes as Section 1-757.6 of Title 63, unless  
4 there is created a duplication in numbering, reads as follows:

5 The State Board of Pharmacy shall adopt a certification system  
6 for any manufacturer or distributor intending to provide abortion-  
7 inducing drugs in the state. To be eligible to be certified under  
8 this section, manufacturers and distributors shall:

9 1. Be licensed by the Board;

10 2. Only distribute to physicians certified under this act;

11 3. Record each serial number from pharmaceutical packages  
12 distributed to each certified physician;

13 4. Abide by all applicable standards of the Utilization Review  
14 Accreditation Commission (URAC) or National Association of Boards of  
15 Pharmacy (NABP);

16 5. For online sales or orders, hold a current ".pharmacy" or  
17 ".pharma" domain and abide by all the standards required by the NABP  
18 to maintain the domain;

19 6. Follow all other applicable state or federal laws related to  
20 the distribution or delivery of legend drugs including abortion-  
21 inducing drugs; and

22 7. Follow all acceptable processes and procedures to maintain a  
23 distribution or delivery system that is secure, confidential and  
24 follows all processes and procedures including those for storage,

1 handling, shipping, tracking package serial numbers, proof of  
2 delivery and controlled returns of abortion-inducing drugs.

3 SECTION 7. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 1-757.7 of Title 63, unless  
5 there is created a duplication in numbering, reads as follows:

6 The State Board of Medical Licensure and Supervision and the  
7 State Board of Osteopathic Examiners shall adopt a certification  
8 system for any physician intending to provide abortion-inducing  
9 drugs to patients in the state. Individuals or physicians providing  
10 abortion-inducing drugs in other states are not automatically  
11 certified in this state, and shall be fully certified under this law  
12 prior to providing any abortion-inducing drugs to any pregnant women  
13 in this state. To be eligible to be certified under this section  
14 physicians shall:

15 1. Be fully licensed by and in good standing with either the  
16 State Board of Medical Licensure and Supervision or the State Board  
17 of Osteopathic Examiners to practice medicine in the state;

18 2. Examine any patient in person prior to providing abortion-  
19 inducing drugs;

20 3. Sign an annual "Dispensing Agreement Form", to be developed  
21 and provided by the physician's state licensing board, before  
22 providing abortion-inducing drugs;

23 4. Inform the patient of gestational age-specific risks of  
24 using abortion-inducing drugs;

1           5. Assess for signs of domestic abuse, reproductive control,  
2 human trafficking and other signals of coerced abortion, per current  
3 state guidelines;

4           6. Adequately inform the patient of gestational age-specific  
5 age risks of using abortion-inducing drugs;

6           7. Inform the patient that she may see the remains of her  
7 unborn child in the process of completing the abortion;

8           8. Inform the patient that studies show that babies born  
9 following the abortion reversal process have a rate of birth defects  
10 no higher than the general population;

11          9. Inform the patient that studies show that following this  
12 reversal process or otherwise treating a woman with progesterone  
13 during pregnancy does not lead to increased mortality rates;

14          10. Refrain from knowingly supplying abortion-inducing drugs to  
15 patients who present with any of the following:

- 16           a. absence of a pregnancy,
- 17           b. being post-seventy days gestation or post-ten weeks of  
18           pregnancy, and
- 19           c. having risk factors associated with abortion-inducing  
20           drugs including, but not limited to:
  - 21               (1) ectopic pregnancies,
  - 22               (2) problems with the adrenal glands near the  
23               kidneys,

24

- (3) being treated with long-term corticosteroid therapy,
- (4) allergic reactions to abortion-inducing drugs, mifepristone, misoprostol or similar drugs,
- (5) bleeding problems or is taking anticoagulant drug products,
- (6) has inherited porphyria,
- (7) has an intrauterine device in place, or
- (8) being Rh Negative, requiring administration of Rhogam before providing abortion-inducing drugs;

11. Provide or refer for emergency surgical intervention in cases of incomplete abortion, severe bleeding or other medical complications, through maintaining hospital admitting privileges or entering into a written agreement with an associated physician as specified in Section 8 of this act;

12. Assure patient access to medical facilities equipped to provide blood transfusions and resuscitation or other necessary treatments, if necessary;

13. Sign, and ensure that the patient signs, all legally required informed consent material, providing patient with a copy showing both signatures, and placing the original in the patient's medical record;

14. Record the serial number from each package of each abortion-inducing drug given to the patient in her medical record;

1       15. Submit a written protocol of how efforts will be made to  
2 schedule with the patient the medically indicated follow-up  
3 appointment within fourteen (14) days to assure a completed  
4 abortion;

5       16. Report to the State Board of Pharmacy, the physician's  
6 state licensing board, as well as the Food and Drug Administration,  
7 any death associated with abortion-inducing drugs with the following  
8 guidelines:

9           a. the patient shall be noted by a non-identifiable  
10 reference and the serial number from each package of  
11 abortion-inducing drug given, whether or not  
12 considered drug-related,

13           b. this shall be done as soon as possible but no later  
14 than fifteen (15) calendar days from the initial  
15 receipt of the information by the physician, and

16           c. this requirement does not affect the physician's other  
17 reporting and follow-up requirements under the  
18 Oklahoma Abortion-Inducing Drug Certification Program  
19 or any additional requirements by another department  
20 that oversees the abortion industry in this state;

21       17. Submit a written protocol of how complications will be  
22 handled by the certified physician and submit a copy of a signed  
23 contract with an associated physician credentialed to handle certain  
24 complications as outlined in Section 8 of this act;

1 18. Abide by all applicable state and federal laws regarding  
2 medical records retention, confidentiality and privacy; and

3 19. Agree to follow and document compliance with all other  
4 legally required conditions for performing abortion in the state  
5 where the patient presents for her appointment including, but not  
6 limited to, waiting periods, informed consent requirements,  
7 statistical reporting, parental consent or notification, and  
8 required inspections.

9 SECTION 8. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 1-757.8 of Title 63, unless  
11 there is created a duplication in numbering, reads as follows:

12 The State Board of Medical Licensure and Supervision and the  
13 State Board of Osteopathic Examiners shall also require the  
14 following of certified physicians:

15 1. Maintaining hospital admitting privileges at one or more  
16 hospitals in the county or contiguous county where the abortion-  
17 inducing drug was provided, and informing the patient of any  
18 hospital where the physician holds admitting privileges.

19 2. Alternatively, the physician may enter into a written  
20 agreement with an associated physician in the county or contiguous  
21 county where the abortion-inducing drug was provided. The written  
22 agreement shall meet these conditions:

23 a. a physician who provides an abortion-inducing drug  
24 shall notify the patient of the location of the

1 hospital at which the associated physician has  
2 admitting privileges,

3 b. the physician shall keep, at the location of his or  
4 her practice, a copy of the written agreement,

5 c. the physician shall submit a copy of the written  
6 agreement to their state licensing board and the State  
7 Department of Health as part of any required clinic  
8 licensure,

9 d. the State Department of Health shall verify the  
10 validity of the document, and shall remove any  
11 personal identifying information of the patient from  
12 the document before releasing the document in  
13 accordance with the following:

14 (1) the State Department of Health shall annually  
15 submit a copy of the written agreement described  
16 in this paragraph to each hospital located in the  
17 county or a county that is contiguous to the  
18 county where the abortion was performed, and

19 (2) the State Department of Health shall confirm to a  
20 member of the public, upon request, that the  
21 written agreement required to be submitted under  
22 this section for an abortion clinic has been  
23 received by the Department,

24



- 1 e. the agreement shall be renewed annually, or more often  
2 as required by the physician's state licensing board,  
3 f. the agreement shall include a requirement that the  
4 physician provide to the patient and require the  
5 patient to sign all legally required informed consent  
6 material, and  
7 g. the agreement shall require the adherence to all  
8 reporting requirements from the State Department of  
9 Health, and the physician's licensing board.

10 SECTION 9. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 1-757.9 of Title 63, unless  
12 there is created a duplication in numbering, reads as follows:

13 A. The State Board of Medical Licensure and Supervision and the  
14 State Board of Osteopathic Examiners shall adopt an electronically  
15 based reporting system for certified physicians to report annually  
16 the following:

- 17 1. The number of patients served;  
18 2. Age of patients served;  
19 3. Race of patients served;  
20 4. County and state of residence of patients served;  
21 5. If the patient resides outside the United States, city and  
22 country of residence;  
23 6. County and state of service;  
24

1 7. A list of staff attending patients including licensing  
2 numbers and evidence of other qualifications;

3 8. Each medication used or provided per patient, by date;

4 9. Any known complications or adverse events, and how they were  
5 addressed, by date; and

6 10. Unresolved cases.

7 B. This reporting system shall also be used by emergency  
8 department physicians and private physicians who treat post-abortion  
9 complications.

10 C. Physicians shall protect from disclosure any personally  
11 identifiable information of the patient in accordance with  
12 applicable federal and state law.

13 D. A certified physician shall also report to their licensing  
14 board, the State Board of Pharmacy, as well as the Medwatch  
15 Reporting System of the Food and Drug Administration (FDA), any  
16 complication or adverse event as defined according to the FDA  
17 criteria given in the Medwatch Reporting System.

18 E. The State Board of Medical Licensure and Supervision and the  
19 State Board of Osteopathic Examiners shall develop a system of  
20 reporting adverse events from the use of abortion-inducing drugs for  
21 this state. The system shall require reporting of complications and  
22 adverse events including, but not limited to:

23 1. Death;

24 2. Blood loss including hemorrhage;

- 1 3. Infection including sepsis;
- 2 4. Blood transfusions;
- 3 5. Administer drug for an ectopic pregnancy; and
- 4 6. Other adverse effects requiring hospitalization or
- 5 additional medical care.

6 F. The State Board of Medical Licensure and Supervision and the  
7 State Board of Osteopathic Examiners shall require the following  
8 providers and entities to report complications and adverse events in  
9 writing:

- 10 1. Physicians certified to provide abortion-inducing drugs;
- 11 2. Emergency room physicians;
- 12 3. Any doctor licensed in this state including an
- 13 obstetrician/gynecologist who treats women with adverse events;
- 14 4. Provision of certification requires that the physician shall
- 15 also report adverse events and any patient deaths to the FDA; and
- 16 5. Other individuals or entities as determined by the State
- 17 Board of Pharmacy.

18 SECTION 10. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 1-757.10 of Title 63, unless  
20 there is created a duplication in numbering, reads as follows:

21 A. Individuals or entities not certified under the Oklahoma  
22 Abortion-Inducing Drug Certification Program that provide drugs for  
23 the purpose of inducing abortion are in violation of this act.

24

1 B. Individuals or entities that provide abortion-inducing drugs  
2 to any person or entity that is not certified, or otherwise  
3 authorized, to provide abortion-inducing drugs under the Oklahoma  
4 Abortion-Inducing Drug Certification Program are in violation of  
5 this act.

6 C. A person who intentionally, knowingly or recklessly violates  
7 any provision of this act is guilty of a misdemeanor.

8 D. A person who intentionally, knowingly or recklessly violates  
9 any provision of this act by fraudulent use of an abortion-inducing  
10 drug, with or without the knowledge of the pregnant woman, is guilty  
11 of a felony.

12 E. No civil or criminal penalty may be assessed against the  
13 pregnant woman upon whom the drug-induced abortion is attempted,  
14 induced or performed.

15 SECTION 11. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 1-757.11 of Title 63, unless  
17 there is created a duplication in numbering, reads as follows:

18 A. In addition to whatever remedies are available under the  
19 common or statutory law of this state, failure to comply with the  
20 requirements of this act shall:

21 1. Provide a basis for a civil malpractice action for actual  
22 and punitive damages;

23 2. Provide a basis for a professional disciplinary action; and  
24

1           3. Provide a basis for recovery for the woman's survivors for  
2 the wrongful death of the woman.

3           B. When requested, the court shall allow a woman to proceed  
4 using solely her initials or a pseudonym and may close any  
5 proceedings in the case and enter other protective orders to  
6 preserve the privacy of the woman upon whom the drug-induced  
7 abortion was attempted, induced or performed.

8           C. If judgment is rendered in favor of the plaintiff, the court  
9 shall also render judgment for reasonable attorney fees in favor of  
10 the plaintiff against the defendant.

11           D. If judgment is rendered in favor of the defendant and the  
12 court finds that the plaintiff's suit was frivolous and brought in  
13 bad faith, the court may render judgment for reasonable attorney  
14 fees in favor of the defendant against the plaintiff.

15           E. A cause of action for injunctive relief against a person who  
16 has provided an abortion-inducing drug in violation of this act may  
17 be maintained by:

18           1. A woman to whom such an abortion-inducing drug was provided;

19           2. A person who is the spouse, parent or guardian of, or a  
20 current or former licensed health care provider of, a woman to whom  
21 such an abortion-inducing drug was provided; or

22           3. A prosecuting attorney with appropriate jurisdiction.

23           The injunction shall prevent the defendant from providing  
24 further abortion-inducing drugs in violation of this act.

1 SECTION 12. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1-757.12 of Title 63, unless  
3 there is created a duplication in numbering, reads as follows:

4 A. The State Board of Pharmacy, the State Board of Medical  
5 Licensure and Supervision and the State Board of Osteopathic  
6 Examiners shall develop an enforcement scheme for their licensees to  
7 enforce this act, which includes:

8 1. When an individual or entity provides abortion-inducing  
9 drugs without first seeking certification under this act, the State  
10 Board of Pharmacy shall:

11 a. immediately report the illegal act to local law  
12 enforcement, or other applicable state and local  
13 agencies for investigation or other appropriate  
14 action, where appropriate, and

15 b. impose a fine of no less than Five Million Dollars  
16 (\$5,000,000.00) for manufacturers or distributors and  
17 Two Hundred Fifty Thousand Dollars (\$250,000.00) for  
18 physicians;

19 2. When a certified manufacturer, distributor or physician is  
20 determined to be in noncompliance, suspend certification until  
21 compliance is proven to the satisfaction of their licensing board;

22 3. Where a current or previously certified manufacturer or  
23 distributor is found to have intentionally or knowingly violated  
24 this act, or refuses to bring operations into compliance within

1 ninety (90) calendar days, remove certification and prohibit  
2 continued provision of abortion-inducing drugs by the manufacturer  
3 or distributor until compliance is demonstrated to the satisfaction  
4 of their licensing board;

5 4. When a certified manufacturer, distributor or physician is  
6 in noncompliance, suspend all annual recertification until  
7 compliance is demonstrated to the satisfaction of their licensing  
8 board; and

9 5. Where a current or previously certified manufacturer,  
10 distributor or physician is found to have intentionally or knowingly  
11 violated this act, or refuses to bring operations into compliance:

12 a. immediately suspend the manufacturer's, distributor's  
13 or physician's certification until full compliance is  
14 demonstrated,

15 b. for certified manufacturers or distributors, impose  
16 fines of not less than One Million Dollars  
17 (\$1,000,000.00) per offense, by the State Board of  
18 Pharmacy,

19 c. for certified physicians, impose fines of not less  
20 than One Hundred Thousand Dollars (\$100,000.00) per  
21 offense, by the physician's licensing board,

22 d. permanently revoke the certification of the offender  
23 if offender fails to demonstrate compliance with their  
24 licensing board within ninety (90) calendar days,

- e. impose remedial actions, which may include additional education, additional reporting or other actions as required by the relevant licensing board,
- f. in the case of a manufacturer or distributor, recommend sanctioning to the appropriate disciplinary committee of the State Board of Pharmacy,
- g. in the case of a physician, report the violation to the appropriate physician licensing board,
- h. publicly report any disciplinary actions, consistent with the practices of the relevant licensing board,
- i. permanently revoke the certification of the offender,
- j. in the case of a licensed manufacturer or distributor, recommend permanent revocation of licensure,
- k. in the case of a physician, recommend appropriate sanctioning to the appropriate physician licensing board, and
- l. publicly report any disciplinary actions consistent with the practices of the relevant licensing board.

B. Individuals have a Private Right of Action to seek restitution in any court of law with appropriate jurisdiction for any and all damages suffered due to a violation of this act.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-757.13 of Title 63, unless there is created a duplication in numbering, reads as follows:



1           A. The State Board of Pharmacy shall develop on its website a  
2 complaint portal for patients, pharmacy, nursing and medical  
3 professionals and the public to submit information about potential  
4 violations by nonphysicians at no charge to the parties named in  
5 this subsection.

6           B. The State Board of Medical Licensure and Supervision and the  
7 State Board of Osteopathic Examiners shall develop on their  
8 respective websites a complaint portal for patients, pharmacy,  
9 nursing and medical professionals, and the public to submit  
10 information about potential violations by physicians at no charge to  
11 the parties named in this subsection.

12           C. The portal developed by the State Board of Pharmacy shall  
13 list the names of manufacturers and distributors that are certified  
14 under the program.

15           D. The portals developed by the State Board of Medical  
16 Licensure and Supervision and the State Board of Osteopathic  
17 Examiners shall list the names of the fully licensed physicians  
18 certified under the program.

19           E. The portal shall allow the party to make a complaint  
20 anonymously.

21           F. The State Board of Pharmacy and physician licensing boards  
22 shall review each complaint and determine a disposition including  
23 referral to another appropriate state agency, within thirty (30)  
24 days of receipt of a complaint.

1 G. Confidentiality of the originator of the complaint shall be  
2 protected at all times except for intra-state referrals for  
3 investigation or if any disciplinary action is brought by a  
4 licensing board pursuant to this act.

5 SECTION 14. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 1-757.14 of Title 63, unless  
7 there is created a duplication in numbering, reads as follows:

8 A. Nothing in this act shall be construed as creating or  
9 recognizing a right to abortion.

10 B. It is not the intention of this act to make lawful an  
11 abortion that is otherwise unlawful.

12 C. Nothing in this act repeals, replaces or otherwise  
13 invalidates existing federal or state laws, regulations or policies.

14 SECTION 15. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 1-757.15 of Title 63, unless  
16 there is created a duplication in numbering, reads as follows:

17 The Legislature, by joint resolution, may appoint one or more of  
18 its members, who sponsored or cosponsored this act in his or her  
19 official capacity, to intervene as a matter of right in any case in  
20 which the constitutionality of this act is challenged.

21 SECTION 16. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 1-757.16 of Title 63, unless  
23 there is created a duplication in numbering, reads as follows:

24

1 If any one or more provisions, sections, subsections, sentences,  
2 clauses, phrases or words of this act or the application thereof to  
3 any person or circumstance is found to be unconstitutional, the same  
4 is hereby declared to be severable and the balance of this act shall  
5 remain effective notwithstanding such unconstitutionality. The  
6 Legislature hereby declares that it would have passed this act, and  
7 each provision, section, subsection, sentence, clause, phrase or  
8 word thereof, irrespective of the fact that any one or more  
9 provisions, sections, subsections, sentences, clauses, phrases or  
10 words be declared unconstitutional.

11 SECTION 17. AMENDATORY 59 O.S. 2011, Section 353.7, as  
12 last amended by Section 4, Chapter 106, O.S.L. 2018 (59 O.S. Supp.  
13 2020, Section 353.7), is amended to read as follows:

14 Section 353.7 The State Board of Pharmacy shall have the power  
15 and duty to:

- 16 1. Regulate the practice of pharmacy;
- 17 2. Regulate the sale and distribution of drugs, medicines,  
18 chemicals and poisons;
- 19 3. Regulate the dispensing of drugs and medicines in all places  
20 where drugs and medicines are compounded and/or dispensed;
- 21 4. Examine and issue appropriate certificates of licensure as  
22 Doctor of Pharmacy to all applicants whom the Board deems qualified  
23 under the provisions of the Oklahoma Pharmacy Act;

24

1           5. Issue licenses to manufacturers, repackagers, outsourcing  
2 facilities, wholesale distributors, third-party logistics providers,  
3 pharmacies, and other dispensers, medical gas suppliers, and medical  
4 gas distributors;

5           6. Issue sterile compounding and drug supplier permits for  
6 pharmacies at the fee set by the Board, with the expiration date of  
7 such permits to coincide with the pharmacy license annual expiration  
8 date;

9           7. Prescribe minimum standards with respect to floor space and  
10 other physical characteristics of pharmacies and hospital drug rooms  
11 as may be reasonably necessary for the maintenance of professional  
12 surroundings and for the protection of the safety and welfare of the  
13 public, and to refuse the issuance of new or renewal licenses for  
14 failure to comply with such standards. Minimum standards for  
15 hospital drug rooms shall be consistent with the State Department of  
16 Health, Hospital Standards, as defined in OAC 310:667;

17           8. Authorize its inspectors, compliance officers, and duly  
18 authorized representatives to enter and inspect any and all places,  
19 including premises, vehicles, equipment, contents and records, where  
20 drugs, medicines, chemicals, or poisons are stored, sold, vended,  
21 given away, compounded, dispensed, manufactured, repackaged or  
22 transported;

23           9. Employ the number of inspectors and pharmacist compliance  
24 officers necessary in the investigation of criminal activity or

1 preparation of administrative actions at an annual salary to be  
2 fixed by the Board, and to authorize necessary expenses. Any  
3 inspector certified as a peace officer by the Council of Enforcement  
4 Education and Training shall have statewide jurisdiction to perform  
5 the duties authorized by this section. In addition, the inspectors  
6 shall be considered peace officers and shall have the same powers  
7 and authority as that granted to peace officers. In addition, such  
8 inspectors or pharmacist compliance officers shall have the  
9 authority to take and copy records and the duty to confiscate all  
10 drugs, medicines, chemicals or poisons found to be stored, sold,  
11 vended, given away, compounded, dispensed or manufactured contrary  
12 to the provisions of the Oklahoma Pharmacy Act;

13 10. Investigate complaints, subpoena witnesses and records,  
14 initiate prosecution, and hold hearings;

15 11. Administer oaths in all manners pertaining to the affairs  
16 of the Board and to take evidence and compel the attendance of  
17 witnesses on questions pertaining to the enforcement of the Oklahoma  
18 Pharmacy Act;

19 12. Reprimand, place on probation, suspend, revoke permanently  
20 and levy fines not to exceed Three Thousand Dollars (\$3,000.00) for  
21 each count for which any person charged with violating the Oklahoma  
22 Pharmacy Act or Oklahoma Board of Pharmacy administrative rules has  
23 been convicted in Board hearings. The Board also may take other  
24 disciplinary action. The Board may impose as part of any

1 disciplinary action the payment of costs expended by the Board for  
2 any legal fees and costs, including, but not limited to, staff time,  
3 salary and travel expense, witness fees and attorney fees. The  
4 Board may also require additional continuing education, including  
5 attendance at a live continuing education program, and may require  
6 participation in a rehabilitation program for the impaired. The  
7 Board may take such actions singly or in combination, as the nature  
8 of the violation requires;

9 13. Adopt and establish rules of professional conduct  
10 appropriate to the establishment and maintenance of a high standard  
11 of integrity and dignity in the profession of pharmacy. Such rules  
12 shall be subject to amendment or repeal by the Board as the need may  
13 arise;

14 14. Make and publish rules such as may be necessary for  
15 carrying out and enforcing the provisions of the Oklahoma Pharmacy  
16 Act, Oklahoma drug laws and rules, federal drug laws and  
17 regulations, and make such other rules as in its discretion may be  
18 necessary to protect the health, safety, and welfare of the public;

19 15. Establish and collect appropriate fees for licenses,  
20 permits, inspections, and services provided; and such fees shall be  
21 nonrefundable. Such fees shall be promulgated to implement the  
22 provisions of the Oklahoma Pharmacy Act under the provisions of the  
23 Administrative Procedures Act and the Oklahoma Abortion-Inducing  
24 Drug Certification Program Act;

1 16. Regulate:

- 2 a. personnel working in a pharmacy, such as interns and  
3 supportive personnel, including technicians, and issue  
4 pharmacy technician permits and intern licenses,  
5 b. interns, preceptors and training areas through which  
6 the training of applicants occurs for licensure as a  
7 pharmacist, and  
8 c. such persons regarding all aspects relating to the  
9 handling of drugs, medicines, chemicals, and poisons;

10 17. Acquire by purchase, lease, gift, solicitation of gift or  
11 by any other manner, and to maintain, use and operate or to contract  
12 for the maintenance, use and operation of or lease of any and all  
13 property of any kind, real, personal or mixed or any interest  
14 therein unless otherwise provided by the Oklahoma Pharmacy Act;  
15 provided, all contracts for real property shall be subject to the  
16 provisions of Section 63 of Title 74 of the Oklahoma Statutes;

17 18. Perform other such duties, exercise other such powers and  
18 employ such personnel as the provisions and enforcement of the  
19 Oklahoma Pharmacy Act may require; and

20 19. Approve pilot projects designed to utilize new or expanded  
21 technology or processes and provide patients with better pharmacy  
22 products or provide pharmacy services in a more safe and efficient  
23 manner. Such approvals may include provisions granting exemptions  
24 to any rule adopted by the Board.

1 SECTION 18. This act shall become effective November 1, 2021."  
2 Passed the House of Representatives the 21st day of April, 2021.

3  
4  
5 \_\_\_\_\_  
6 Presiding Officer of the House of  
Representatives

7 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2021.

8  
9  
10 \_\_\_\_\_  
11 Presiding Officer of the Senate



1 ENGROSSED SENATE  
2 BILL NO. 779

By: Daniels, Bullard, Stephens,  
David and Taylor of the  
Senate

3  
4 and

Lepak of the House

5  
6  
7 An Act relating to abortion; creating the Oklahoma  
8 Abortion-Inducing Drug Certification Program Act;  
9 defining terms; specifying applicability of act;  
10 directing creation of certification program; limiting  
11 provision of abortion-inducing drugs to certain  
12 practitioners and procedures; authorizing certain  
13 fees and contracts; directing State Board of Pharmacy  
14 to establish certain requirements for manufacturers,  
15 distributors and physicians; providing certification  
16 systems and requirements for manufacturers,  
17 distributors and physicians; requiring physician to  
18 maintain hospital admitting privileges or enter into  
19 certain written agreement; stating conditions of  
20 agreement; requiring Board to adopt certain reporting  
21 system; stating criteria of reporting system;  
22 requiring certain reporting of physicians; providing  
23 for reporting of adverse events; providing criminal  
24 penalties; providing for certain civil remedies,  
disciplinary sanctions and injunctive relief;  
specifying certain judicial procedures; directing  
Board to develop certain enforcement scheme;  
specifying criteria of enforcement scheme; providing  
for certain restitution; directing creation of  
certain public portal; requiring portal to list  
certain names and allow for certain complaints;  
providing for disposition of complaints; providing  
for confidentiality of complaints; providing certain  
construction and intent; authorizing certain  
intervention; providing severability; amending 59  
O.S. 2011, Section 353.7, as last amended by Section  
4, Chapter 106, O.S.L. 2018 (59 O.S. Supp. 2020,  
Section 353.7), which relates to powers and duties of  
the Board; broadening allowed uses of fees; providing  
for codification; and providing an effective date.

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

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-757.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 16 of this act shall be known and may be cited as the "Oklahoma Abortion-Inducing Drug Certification Program Act".

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-757.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Abortion" means the act of using or prescribing any instrument, medicine, drug or any other substance, device or means with the intent to terminate the pregnancy of a woman known to be pregnant, with knowledge that the termination by those means will with reasonable likelihood cause the death of the unborn child. Such use, prescription or means is not an abortion if done with the intent to:

- a. save the life or preserve the health of the unborn child,

- 1           b.    remove a dead unborn child caused by spontaneous  
2                    abortion, accidental trauma or a criminal assault on  
3                    the pregnant woman or her unborn child,  
4           c.    remove an ectopic pregnancy, or  
5           d.    treat a maternal disease or illness for which the  
6                    prescribed drug is indicated;

7           2.    "Abortion-inducing drug" means a medicine, drug or any other  
8 substance prescribed or dispensed with the intent of terminating the  
9 pregnancy of a woman known to be pregnant, with knowledge that the  
10 termination will with reasonable likelihood cause the death of the  
11 unborn child. This includes the off-label use of drugs known to  
12 have abortion-inducing properties, which are prescribed specifically  
13 with the intent of causing an abortion, such as mifepristone  
14 (Mifeprex), misoprostol (Cytotec) and methotrexate. This definition  
15 does not apply to drugs that may be known to cause an abortion, but  
16 which are prescribed for other medical indications, such as  
17 chemotherapeutic agents and diagnostic drugs. The use of such drugs  
18 to induce abortion is also known as "medical", "medication", "RU-  
19 486", "chemical", "Mifeprex regimen" or "drug-induced" abortion;

20           3.    "Adverse Event", according to the Food and Drug  
21 Administration, means any untoward medical occurrence associated  
22 with the use of a drug in humans, whether or not considered drug-  
23 related. It does not include an adverse event or suspected adverse  
24

1 reaction that, had it occurred in a more severe form, might have  
2 caused death;

3 4. "Associated physician" means a person licensed to practice  
4 medicine in the state including medical doctors and doctors of  
5 osteopathy, that has entered into an associated physician agreement;

6 5. "Complication" means any adverse physical or psychological  
7 condition arising from the performance of an abortion which  
8 includes, but is not limited to, uterine perforation, cervical  
9 perforation, infection, heavy or uncontrolled bleeding, hemorrhage,  
10 blood clots resulting in pulmonary embolism or deep vein thrombosis,  
11 failure to actually terminate the pregnancy, incomplete abortion  
12 (retained tissue), pelvic inflammatory disease, endometritis, missed  
13 ectopic pregnancy, cardiac arrest, respiratory arrest, renal  
14 failure, metabolic disorder, shock, embolism, coma, placenta previa  
15 in subsequent pregnancies, preterm delivery in subsequent  
16 pregnancies, free fluid in the abdomen, hemolytic reaction due to  
17 the administration of ABO-incompatible blood or blood products,  
18 adverse reactions to anesthesia and other drugs, subsequent  
19 development of breast cancer, psychological complications such as  
20 depression, suicidal ideation, anxiety, sleeping disorders, death  
21 and any other adverse event as defined by the Food and Drug  
22 Administration criteria provided in the Medwatch Reporting System;

23

24

1       6. "Gestational age" means the time that has elapsed since the  
2 first day of the woman's last menstrual period, also known as "last  
3 menstrual period" or "LMP";

4       7. "Hospital" means an institution providing medical and  
5 surgical treatment and nursing care for sick or injured people, or  
6 institutions defined under Section 1-701 of Title 63 of the Oklahoma  
7 Statutes;

8       8. "Manufacturers and distributors" means individuals or  
9 entities that create, produce, supply, transport or sell drugs,  
10 which include:

- 11           a. any substances recognized by an official pharmacopoeia  
12           or formulary,
- 13           b. any substances intended for use in the diagnosis,  
14           cure, mitigation, treatment, or prevention of disease,
- 15           c. any substances other than food intended to affect the  
16           structure or any function of the body, or
- 17           d. any substances intended for use as a component of a  
18           medicine but not a device or a component, part or  
19           accessory of a device;

20       9. "Obstetrician/gynecologist", also known as OB/GYN, means a  
21 licensed physician who specializes in the care of women during  
22 pregnancy and childbirth and in the diagnosis and treatment of  
23 diseases of the female reproductive organs and specializes in other  
24

1 women's health issues such as menopause, hormone problems,  
2 contraception or birth control, and infertility;

3 10. "Physician" means any person licensed to practice medicine  
4 in this state. The term includes medical doctors and doctors of  
5 osteopathy;

6 11. "Pregnant" or "pregnancy" means that female reproductive  
7 condition of having an unborn child in the mother's uterus;

8 12. "Provide" or "provision" means, when used regarding  
9 abortion-inducing drugs, any act of giving, selling, dispensing,  
10 administering, transferring possession to or otherwise providing or  
11 prescribing an abortion-inducing drug; and

12 13. "Unborn child" means an individual organism of the species  
13 homo sapiens, beginning at fertilization, until the point of being  
14 born-alive as defined in Title 1 U.S.C., Section 8(b).

15 SECTION 21. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 1-757.3 of Title 63, unless  
17 there is created a duplication in numbering, reads as follows:

18 This act applies to any physician, health care provider or other  
19 person who is providing abortion-inducing drugs for use within this  
20 state, or any manufacturer or distributor providing abortion-  
21 inducing drugs within this state.

22 SECTION 22. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 1-757.4 of Title 63, unless  
24 there is created a duplication in numbering, reads as follows:

1       A. The State Board of Pharmacy shall promulgate rules to create  
2 a certification program to oversee and regulate the provision of  
3 abortion-inducing drugs. Abortion-inducing drugs shall be  
4 transported and provided in this state only by manufacturers or  
5 distributors certified to do so under this program. The drugs shall  
6 only be provided to patients by physicians certified to do so under  
7 this program.

8       B. The program shall be known as the Oklahoma Abortion-Inducing  
9 Drug Certification Program.

10       C. The Board may assess reasonable fees and enter into  
11 contracts with persons or entities to implement the Oklahoma  
12 Abortion-Inducing Drug Certification Program.

13       D. Abortion-inducing drugs shall not be provided directly to  
14 the patient through the mail, or otherwise outside of the parameters  
15 of the Oklahoma Abortion-Inducing Drug Certification Program.

16       SECTION 23.       NEW LAW       A new section of law to be codified  
17 in the Oklahoma Statutes as Section 1-757.5 of Title 63, unless  
18 there is created a duplication in numbering, reads as follows:

19       A. The State Board of Pharmacy shall establish the following  
20 requirements for manufacturers and distributors of abortion-inducing  
21 drugs, at a minimum:

22       1. Require completion of the certification process for  
23 physicians as described in Section 7 of this act, and for  
24

1 manufacturers and distributors, as described in Section 6 of this  
2 act;

3 2. Notify manufacturers and distributors of physicians  
4 certified under the Oklahoma Abortion-Inducing Drug Certification  
5 Program;

6 3. Develop a reporting system as specified in Section 9 of this  
7 act;

8 4. Prohibit shipment of abortion-inducing drugs to physicians  
9 who become de-certified from the Oklahoma Abortion-Inducing Drug  
10 Certification Program;

11 5. Audit newly certified manufacturers and distributors within  
12 ninety (90) calendar days after the manufacturer or distributor is  
13 authorized, and annually thereafter, to ensure that all processes  
14 and procedures are in place and functioning to support the  
15 requirements of the Oklahoma Abortion-Inducing Drug Certification  
16 Program;

17 6. If a manufacturer or distributor is found to be non-  
18 compliant, immediately suspend manufacturer's or distributor's  
19 certification until the manufacturer or distributor demonstrates  
20 full compliance; and

21 7. Enforce compliance according to Section 12 of this act.

22 B. The State Board of Pharmacy shall establish the following  
23 requirements for physicians providing abortion-inducing drugs, at a  
24 minimum:



1 1. Require completion of the certification process;

2 2. Audit newly certified physicians within ninety (90) calendar  
3 days after the physician is authorized, and annually thereafter, to  
4 ensure that all required processes and procedures are in place and  
5 functioning to support the requirements of the Oklahoma Abortion-  
6 Inducing Drug Certification Program;

7 3. If a physician is found to be non-compliant, immediately  
8 suspend the physician's certification until such time that the  
9 physician demonstrates full compliance; and

10 4. Enforce compliance according to Section 12 of this act.

11 SECTION 24. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 1-757.6 of Title 63, unless  
13 there is created a duplication in numbering, reads as follows:

14 The State Board of Pharmacy shall adopt a certification system  
15 for any manufacturer or distributor intending to provide abortion-  
16 inducing drugs in the state. To be eligible to be certified under  
17 this section, manufacturers and distributors shall:

18 1. Be licensed by the Board;

19 2. Only distribute to physicians certified under this act;

20 3. Record each serial number from pharmaceutical packages  
21 distributed to each certified physician;

22 4. Abide by all applicable standards of the Utilization Review  
23 Accreditation Commission (URAC) or National Association of Boards of  
24 Pharmacy (NABP);

1           5. For online sales or orders, hold a current ".pharmacy" or  
2 ".pharma" domain and abide by all the standards required by the NABP  
3 to maintain the domain;

4           6. Follow all other applicable state or federal laws related to  
5 the distribution or delivery of legend drugs including abortion-  
6 inducing drugs; and

7           7. Follow all acceptable processes and procedures to maintain a  
8 distribution or delivery system that is secure, confidential and  
9 follows all processes and procedures including those for storage,  
10 handling, shipping, tracking package serial numbers, proof of  
11 delivery and controlled returns of abortion-inducing drugs.

12           SECTION 25.       NEW LAW       A new section of law to be codified  
13 in the Oklahoma Statutes as Section 1-757.7 of Title 63, unless  
14 there is created a duplication in numbering, reads as follows:

15           The State Board of Pharmacy shall adopt a certification system  
16 for any physician intending to provide abortion-inducing drugs to  
17 patients in the state. Individuals or physicians providing  
18 abortion-inducing drugs in other states are not automatically  
19 certified in this state, and shall be fully certified under this law  
20 prior to providing any abortion-inducing drugs to any pregnant women  
21 in this state. To be eligible to be certified under this section  
22 physicians shall:

23           1. Be licensed to practice medicine and in good standing in the  
24 state;

- 1        2. Examine any patient in person prior to providing abortion-  
2 inducing drugs;
- 3        3. Sign an annual "Dispensing Agreement Form," to be developed  
4 and provided by the State Board of Pharmacy, before providing  
5 abortion-inducing drugs;
- 6        4. Inform the patient of gestational age-specific risks of  
7 using abortion-inducing drugs;
- 8        5. Assess for signs of domestic abuse, reproductive control,  
9 human trafficking and other signals of coerced abortion, per current  
10 state guidelines;
- 11       6. Adequately inform the patient of gestational age-specific  
12 age risks of using abortion-inducing drugs;
- 13       7. Inform the patient that she may see the remains of her  
14 unborn child in the process of completing the abortion;
- 15       8. Inform the patient that studies show that babies born  
16 following the abortion reversal process have a rate of birth defects  
17 no higher than the general population;
- 18       9. Inform the patient that studies show that following this  
19 reversal process or otherwise treating a woman with progesterone  
20 during pregnancy does not lead to increased mortality rates;
- 21       10. Refrain from knowingly supplying abortion-inducing drugs to  
22 patients who present with any of the following:
  - 23           a. absence of a pregnancy,
- 24

- 1           b.    being post-seventy days gestation or post-ten weeks of  
2                pregnancy, and
- 3           c.    having risk factors associated with abortion-inducing  
4                drugs including, but not limited to:
- 5                (1)   ectopic pregnancies,
- 6                (2)   problems with the adrenal glands near the  
7                    kidneys,
- 8                (3)   being treated with long-term corticosteroid  
9                    therapy,
- 10              (4)   allergic reactions to abortion-inducing drugs,  
11                    mifepristone, misoprostol or similar drugs,
- 12              (5)   bleeding problems or is taking anticoagulant drug  
13                    products,
- 14              (6)   has inherited porphyria,
- 15              (7)   has an intrauterine device in place, or
- 16              (8)   being Rh Negative, requiring administration of  
17                    Rhogam before providing abortion-inducing drugs;

18           11.   Provide or refer for emergency surgical intervention in  
19           cases of incomplete abortion, severe bleeding or other medical  
20           complications, through maintaining hospital admitting privileges or  
21           entering into a written agreement with an associated physician as  
22           specified in Section 8 of this act;

1       12. Assure patient access to medical facilities equipped to  
2 provide blood transfusions and resuscitation or other necessary  
3 treatments, if necessary;

4       13. Sign, and ensure that the patient signs, all legally  
5 required informed consent material, providing patient with a copy  
6 showing both signatures, and placing the original in the patient's  
7 medical record;

8       14. Record the serial number from each package of each  
9 abortion-inducing drug given to the patient in her medical record;

10       15. Submit a written protocol of how efforts will be made to  
11 schedule with the patient the medically indicated follow-up  
12 appointment within fourteen (14) days to assure a completed  
13 abortion;

14       16. Report to the State Board of Pharmacy, as well as the Food  
15 and Drug Administration, any death associated with abortion-inducing  
16 drugs with the following guidelines:

17           a. the patient shall be noted by a non-identifiable  
18               reference and the serial number from each package of  
19               abortion-inducing drug given, whether or not  
20               considered drug-related,

21           b. this shall be done as soon as possible but no later  
22               than fifteen (15) calendar days from the initial  
23               receipt of the information by the physician, and  
24

1 c. this requirement does not affect the physician's other  
2 reporting and follow-up requirements under the  
3 Oklahoma Abortion-Inducing Drug Certification Program  
4 or any additional requirements by another department  
5 that oversees the abortion industry in this state;

6 17. Submit a written protocol of how complications will be  
7 handled by the certified physician and submit a copy of a signed  
8 contract with an associated physician credentialed to handle certain  
9 complications as outlined in Section 8 of this act;

10 18. Abide by all applicable state and federal laws regarding  
11 medical records retention, confidentiality and privacy; and

12 19. Agree to follow and document compliance with all other  
13 legally required conditions for performing abortion in the state  
14 where the patient presents for her appointment including, but not  
15 limited to, waiting periods, informed consent requirements,  
16 statistical reporting, parental consent or notification, and  
17 required inspections.

18 SECTION 26. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 1-757.8 of Title 63, unless  
20 there is created a duplication in numbering, reads as follows:

21 The State Board of Pharmacy shall also require the following of  
22 certified physicians:

23 1. Maintaining hospital admitting privileges at one or more  
24 hospitals in the county or contiguous county where the abortion-

1 inducing drug was provided, and informing the patient of any  
2 hospital where the physician holds admitting privileges.

3 2. Alternatively, the physician may enter into a written  
4 agreement with an associated physician in the county or contiguous  
5 county where the abortion-inducing drug was provided. The written  
6 agreement shall meet these conditions:

7 a. a physician who provides an abortion-inducing drug  
8 shall notify the patient of the location of the  
9 hospital at which the associated physician has  
10 admitting privileges,

11 b. the physician shall keep, at the location of his or  
12 her practice, a copy of the written agreement,

13 c. the physician shall submit a copy of the written  
14 agreement to the State Department of Health as part of  
15 any required clinic licensure,

16 d. the State Department of Health shall verify the  
17 validity of the document, and shall remove any  
18 personal identifying information of the patient from  
19 the document before releasing the document in  
20 accordance with the following:

21 (1) the State Department of Health shall annually  
22 submit a copy of the written agreement described  
23 in this paragraph to each hospital located in the  
24

1 county or a county that is contiguous to the  
2 county where the abortion was performed, and

3 (2) the State Department of Health shall confirm to a  
4 member of the public, upon request, that the  
5 written agreement required to be submitted under  
6 this section for an abortion clinic has been  
7 received by the Department,

8 e. the agreement shall be renewed annually, or more often  
9 as required by the State Board of Pharmacy,

10 f. the agreement shall include a requirement that the  
11 physician provide to the patient and require the  
12 patient to sign all legally required informed consent  
13 material, and

14 g. the agreement shall require the adherence to all  
15 reporting requirements from the State Board of  
16 Pharmacy and the State Department of Health.

17 SECTION 27. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 1-757.9 of Title 63, unless  
19 there is created a duplication in numbering, reads as follows:

20 A. The State Board of Pharmacy shall adopt an electronically  
21 based reporting system for certified physicians to report annually  
22 the following:

- 23 1. The number of patients served;
- 24 2. Age of patients served;



- 1 3. Race of patients served;
- 2 4. County and state of residence of patients served;
- 3 5. If the patient resides outside the United States, city and
- 4 country of residence;
- 5 6. County and state of service;
- 6 7. A list of staff attending patients including licensing
- 7 numbers and evidence of other qualifications;
- 8 8. Each medication used or provided per patient, by date;
- 9 9. Any known complications or adverse events, and how they were
- 10 addressed, by date; and
- 11 10. Unresolved cases.

12 B. This reporting system shall also be used by emergency  
13 department physicians and private physicians who treat post-abortion  
14 complications.

15 C. Physicians shall protect from disclosure any personally  
16 identifiable information of the patient in accordance with  
17 applicable federal and state law.

18 D. A certified physician shall also report to the State Board  
19 of Pharmacy, as well as the Medwatch Reporting System of the Food  
20 and Drug Administration (FDA), any complication or adverse event as  
21 defined according to the FDA criteria given in the Medwatch  
22 Reporting System.

23 E. The State Board of Pharmacy shall develop a system of  
24 reporting adverse events from the use of abortion-inducing drugs for

1 this state. The system shall require reporting of complications and  
2 adverse events including, but not limited to:

- 3 1. Death;
- 4 2. Blood loss including hemorrhage;
- 5 3. Infection including sepsis;
- 6 4. Blood transfusions;
- 7 5. Administer drug for an ectopic pregnancy; and
- 8 6. Other adverse effects requiring hospitalization or  
9 additional medical care.

10 F. The State Board of Pharmacy shall require the following  
11 providers and entities to report complications and adverse events in  
12 writing:

- 13 1. Physicians certified to provide abortion-inducing drugs;
- 14 2. Emergency room physicians;
- 15 3. Any doctor licensed in this state including an  
16 obstetrician/gynecologist who treats women with adverse events;
- 17 4. Provision of certification requires that the physician shall  
18 also report adverse events and any patient deaths to the FDA; and
- 19 5. Other individuals or entities as determined by the State  
20 Board of Pharmacy.

21 SECTION 28. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 1-757.10 of Title 63, unless  
23 there is created a duplication in numbering, reads as follows:

24

1           A. Individuals or entities not certified under the Oklahoma  
2 Abortion-Inducing Drug Certification Program that provide drugs for  
3 the purpose of inducing abortion are in violation of this act.

4           B. Individuals or entities that provide abortion-inducing drugs  
5 to any person or entity that is not certified, or otherwise  
6 authorized, to provide abortion-inducing drugs under the Oklahoma  
7 Abortion-Inducing Drug Certification Program are in violation of  
8 this act.

9           C. A person who intentionally, knowingly or recklessly violates  
10 any provision of this act is guilty of a misdemeanor.

11           D. A person who intentionally, knowingly or recklessly violates  
12 any provision of this act by fraudulent use of an abortion-inducing  
13 drug, with or without the knowledge of the pregnant woman, is guilty  
14 of a felony.

15           E. No civil or criminal penalty may be assessed against the  
16 pregnant woman upon whom the drug-induced abortion is attempted,  
17 induced or performed.

18           SECTION 29.       NEW LAW       A new section of law to be codified  
19 in the Oklahoma Statutes as Section 1-757.11 of Title 63, unless  
20 there is created a duplication in numbering, reads as follows:

21           A. In addition to whatever remedies are available under the  
22 common or statutory law of this state, failure to comply with the  
23 requirements of this act shall:

24

1 1. Provide a basis for a civil malpractice action for actual  
2 and punitive damages;

3 2. Provide a basis for a professional disciplinary action; and

4 3. Provide a basis for recovery for the woman's survivors for  
5 the wrongful death of the woman.

6 B. When requested, the court shall allow a woman to proceed  
7 using solely her initials or a pseudonym and may close any  
8 proceedings in the case and enter other protective orders to  
9 preserve the privacy of the woman upon whom the drug-induced  
10 abortion was attempted, induced or performed.

11 C. If judgment is rendered in favor of the plaintiff, the court  
12 shall also render judgment for reasonable attorney's fees in favor  
13 of the plaintiff against the defendant.

14 D. If judgment is rendered in favor of the defendant and the  
15 court finds that the plaintiff's suit was frivolous and brought in  
16 bad faith, the court may render judgment for reasonable attorney's  
17 fees in favor of the defendant against the plaintiff.

18 E. A cause of action for injunctive relief against a person who  
19 has provided an abortion-inducing drug in violation of this act may  
20 be maintained by:

21 1. A woman to whom such an abortion-inducing drug was provided;

22 2. A person who is the spouse, parent or guardian of, or a  
23 current or former licensed health care provider of, a woman to whom  
24 such an abortion-inducing drug was provided; or

1           3. A prosecuting attorney with appropriate jurisdiction.

2           The injunction shall prevent the defendant from providing  
3 further abortion-inducing drugs in violation of this act.

4           SECTION 30.           NEW LAW           A new section of law to be codified  
5 in the Oklahoma Statutes as Section 1-757.12 of Title 63, unless  
6 there is created a duplication in numbering, reads as follows:

7           A. The State Board of Pharmacy shall develop an enforcement  
8 scheme to enforce this act, which includes:

9           1. When an individual or entity provides abortion-inducing  
10 drugs without first seeking certification under this act, the State  
11 Board of Pharmacy shall:

12           a. immediately report the illegal act to local law  
13 enforcement, or other applicable state and local  
14 agencies for investigation or other appropriate  
15 action, where appropriate,

16           b. impose a fine of no less than Five Million Dollars  
17 (\$5,000,000.00) for manufacturers or distributors and  
18 Two Hundred Fifty Thousand Dollars (\$250,000.00) for  
19 physicians;

20           2. When a certified manufacturer or distributor or physician is  
21 determined to be in non-compliance, suspend certification until  
22 compliance is proven to the satisfaction of the State Board of  
23 Pharmacy;

1           3. Where a current or previously certified manufacturer or  
2 distributor is found to have intentionally or knowingly violated  
3 this act, or refuses to bring operations into compliance within  
4 ninety (90) calendar days, remove certification and prohibit  
5 continued provision of abortion-inducing drugs by the manufacturer  
6 or distributor until compliance is demonstrated to the satisfaction  
7 of the State Board of Pharmacy;

8           4. When a certified manufacturer, distributor or physician is  
9 in non-compliance, suspend all annual recertification until  
10 compliance is demonstrated to the satisfaction of the State Board of  
11 Pharmacy; and

12           5. Where a current or previously certified manufacturer,  
13 distributor or physician is found to have intentionally or knowingly  
14 violated this act, or refuses to bring operations into compliance:

15           a. immediately suspend the manufacturer's, distributor's  
16 or physician's certification until full compliance is  
17 demonstrated,

18           b. for certified manufacturers or distributors, impose  
19 fines of not less than One Million Dollars  
20 (\$1,000,000.00) per offense,

21           c. for certified physicians, impose fines of not less  
22 than One Hundred Thousand Dollars (\$100,000.00) per  
23 offense,

- d. permanently revoke the certification of the offender if offender fails to demonstrate compliance within ninety (90) calendar days,
- e. impose remedial actions, which may include additional education, additional reporting or other actions as required by the State Board of Pharmacy,
- f. in the case of a licensed manufacturer or distributor, recommend sanctioning to the appropriate disciplinary committee of the State Board of Pharmacy,
- g. in the case of a licensed physician, report the violation to the appropriate medical licensing board,
- h. publicly report any disciplinary actions, consistent with the practices of the State Board of Pharmacy,
- i. permanently revoke the certification of the offender,
- j. in the case of a licensed manufacturer or distributor, recommend permanent revocation of licensure,
- k. in the case of a licensed physician, recommend appropriate sanctioning to the appropriate medical licensing board, and
- l. publicly report any disciplinary actions consistent with the practices of the State Board of Pharmacy.

B. Individuals have a Private Right of Action to seek restitution in any court of law with appropriate jurisdiction for any and all damages suffered due to a violation of this act.

1           SECTION 31.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1-757.13 of Title 63, unless  
3 there is created a duplication in numbering, reads as follows:

4           A.   The State Board of Pharmacy shall develop on its website a  
5 complaint portal for patients, pharmacy, nursing and medical  
6 professionals and the public to submit information about potential  
7 violations offered at no charge to the parties named in this  
8 subsection.

9           B.   The portal shall list the names of manufacturers and  
10 distributors that are certified under the program, as well as the  
11 physicians that are certified under the program.

12          C.   The portal shall allow the party to make a complaint  
13 anonymously.

14          D.   The State Board of Pharmacy shall review each complaint and  
15 determine a disposition including referral to another appropriate  
16 state agency, within thirty (30) days.

17          E.   Confidentiality of the originator of the complaint shall be  
18 protected at all times except for intra-state referrals for  
19 investigation.

20           SECTION 32.           NEW LAW           A new section of law to be codified  
21 in the Oklahoma Statutes as Section 1-757.14 of Title 63, unless  
22 there is created a duplication in numbering, reads as follows:

23          A.   Nothing in this act shall be construed as creating or  
24 recognizing a right to abortion.



1 B. It is not the intention of this act to make lawful an  
2 abortion that is otherwise unlawful.

3 C. Nothing in this act repeals, replaces or otherwise  
4 invalidates existing federal or state laws, regulations or policies.

5 SECTION 33. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 1-757.15 of Title 63, unless  
7 there is created a duplication in numbering, reads as follows:

8 The Legislature, by joint resolution, may appoint one or more of  
9 its members, who sponsored or cosponsored this act in his or her  
10 official capacity, to intervene as a matter of right in any case in  
11 which the constitutionality of this act is challenged.

12 SECTION 34. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 1-757.16 of Title 63, unless  
14 there is created a duplication in numbering, reads as follows:

15 If any one or more provisions, sections, subsections, sentences,  
16 clauses, phrases or words of this act or the application thereof to  
17 any person or circumstance is found to be unconstitutional, the same  
18 is hereby declared to be severable and the balance of this act shall  
19 remain effective notwithstanding such unconstitutionality. The  
20 Legislature hereby declares that it would have passed this act, and  
21 each provision, section, subsection, sentence, clause, phrase or  
22 word thereof, irrespective of the fact that any one or more  
23 provisions, sections, subsections, sentences, clauses, phrases or  
24 words be declared unconstitutional.

1 SECTION 35. AMENDATORY 59 O.S. 2011, Section 353.7, as  
2 last amended by Section 4, Chapter 106, O.S.L. 2018 (59 O.S. Supp.  
3 2020, Section 353.7), is amended to read as follows:

4 Section 353.7. The State Board of Pharmacy shall have the power  
5 and duty to:

6 1. Regulate the practice of pharmacy;

7 2. Regulate the sale and distribution of drugs, medicines,  
8 chemicals and poisons;

9 3. Regulate the dispensing of drugs and medicines in all places  
10 where drugs and medicines are compounded and/or dispensed;

11 4. Examine and issue appropriate certificates of licensure as  
12 Doctor of Pharmacy to all applicants whom the Board deems qualified  
13 under the provisions of the Oklahoma Pharmacy Act;

14 5. Issue licenses to manufacturers, repackagers, outsourcing  
15 facilities, wholesale distributors, third-party logistics providers,  
16 pharmacies, and other dispensers, medical gas suppliers, and medical  
17 gas distributors;

18 6. Issue sterile compounding and drug supplier permits for  
19 pharmacies at the fee set by the Board, with the expiration date of  
20 such permits to coincide with the pharmacy license annual expiration  
21 date;

22 7. Prescribe minimum standards with respect to floor space and  
23 other physical characteristics of pharmacies and hospital drug rooms  
24 as may be reasonably necessary for the maintenance of professional

1 surroundings and for the protection of the safety and welfare of the  
2 public, and to refuse the issuance of new or renewal licenses for  
3 failure to comply with such standards. Minimum standards for  
4 hospital drug rooms shall be consistent with the State Department of  
5 Health, Hospital Standards, as defined in OAC 310:667;

6 8. Authorize its inspectors, compliance officers, and duly  
7 authorized representatives to enter and inspect any and all places,  
8 including premises, vehicles, equipment, contents and records, where  
9 drugs, medicines, chemicals or poisons are stored, sold, vended,  
10 given away, compounded, dispensed, manufactured, repackaged or  
11 transported;

12 9. Employ the number of inspectors and pharmacist compliance  
13 officers necessary in the investigation of criminal activity or  
14 preparation of administrative actions at an annual salary to be  
15 fixed by the Board, and to authorize necessary expenses. Any  
16 inspector certified as a peace officer by the Council of Enforcement  
17 Education and Training shall have statewide jurisdiction to perform  
18 the duties authorized by this section. In addition, the inspectors  
19 shall be considered peace officers and shall have the same powers  
20 and authority as that granted to peace officers. In addition, such  
21 inspectors or pharmacist compliance officers shall have the  
22 authority to take and copy records and the duty to confiscate all  
23 drugs, medicines, chemicals or poisons found to be stored, sold,

24

1 vended, given away, compounded, dispensed or manufactured contrary  
2 to the provisions of the Oklahoma Pharmacy Act;

3 10. Investigate complaints, subpoena witnesses and records,  
4 initiate prosecution, and hold hearings;

5 11. Administer oaths in all manners pertaining to the affairs  
6 of the Board and to take evidence and compel the attendance of  
7 witnesses on questions pertaining to the enforcement of the Oklahoma  
8 Pharmacy Act;

9 12. Reprimand, place on probation, suspend, revoke permanently  
10 and levy fines not to exceed Three Thousand Dollars (\$3,000.00) for  
11 each count for which any person charged with violating the Oklahoma  
12 Pharmacy Act or Oklahoma Board of Pharmacy administrative rules has  
13 been convicted in Board hearings. The Board also may take other  
14 disciplinary action. The Board may impose as part of any  
15 disciplinary action the payment of costs expended by the Board for  
16 any legal fees and costs, including, but not limited to, staff time,  
17 salary and travel expense, witness fees and attorney fees. The  
18 Board may also require additional continuing education, including  
19 attendance at a live continuing education program, and may require  
20 participation in a rehabilitation program for the impaired. The  
21 Board may take such actions singly or in combination, as the nature  
22 of the violation requires;

23 13. Adopt and establish rules of professional conduct  
24 appropriate to the establishment and maintenance of a high standard

1 of integrity and dignity in the profession of pharmacy. Such rules  
2 shall be subject to amendment or repeal by the Board as the need may  
3 arise;

4 14. Make and publish rules such as may be necessary for  
5 carrying out and enforcing the provisions of the Oklahoma Pharmacy  
6 Act, Oklahoma drug laws and rules, federal drug laws and  
7 regulations, and make such other rules as in its discretion may be  
8 necessary to protect the health, safety, and welfare of the public;

9 15. Establish and collect appropriate fees for licenses,  
10 permits, inspections, and services provided; and such fees shall be  
11 nonrefundable. Such fees shall be promulgated to implement the  
12 provisions of the Oklahoma Pharmacy Act under the provisions of the  
13 Administrative Procedures Act and the Oklahoma Abortion-Inducing  
14 Drug Certification Program Act;

15 16. Regulate:

- 16 a. personnel working in a pharmacy, such as interns and  
17 supportive personnel, including technicians, and issue  
18 pharmacy technician permits and intern licenses,  
19 b. interns, preceptors and training areas through which  
20 the training of applicants occurs for licensure as a  
21 pharmacist, and  
22 c. such persons regarding all aspects relating to the  
23 handling of drugs, medicines, chemicals, and poisons;

24

1           17. Acquire by purchase, lease, gift, solicitation of gift or  
2 by any other manner, and to maintain, use and operate or to contract  
3 for the maintenance, use and operation of or lease of any and all  
4 property of any kind, real, personal or mixed or any interest  
5 therein unless otherwise provided by the Oklahoma Pharmacy Act;  
6 provided, all contracts for real property shall be subject to the  
7 provisions of Section 63 of Title 74 of the Oklahoma Statutes;

8           18. Perform other such duties, exercise other such powers and  
9 employ such personnel as the provisions and enforcement of the  
10 Oklahoma Pharmacy Act may require; and

11           19. Approve pilot projects designed to utilize new or expanded  
12 technology or processes and provide patients with better pharmacy  
13 products or provide pharmacy services in a more safe and efficient  
14 manner. Such approvals may include provisions granting exemptions  
15 to any rule adopted by the Board.

16           SECTION 36. This act shall become effective November 1, 2021.

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1 Passed the Senate the 10th day of March, 2021.

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\_\_\_\_\_  
Presiding Officer of the Senate

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5 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
6 2021.

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Presiding Officer of the House  
of Representatives

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