

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 779

By: Daniels, Bullard and
Stephens of the Senate

6 and

7 Lepak of the House

8
9 COMMITTEE SUBSTITUTE

10 An Act relating to abortion; creating the Oklahoma
11 Abortion-Inducing Drug Certification Program Act;
12 defining terms; specifying applicability of act;
13 directing creation of certification program; limiting
14 provision of abortion-inducing drugs to certain
15 practitioners and procedures; authorizing certain
16 fees and contracts; directing State Board of Pharmacy
17 to establish certain requirements for manufacturers,
18 distributors and physicians; providing certification
19 systems and requirements for manufacturers,
20 distributors and physicians; requiring physician to
21 maintain hospital admitting privileges or enter into
22 certain written agreement; stating conditions of
23 agreement; requiring Board to adopt certain reporting
24 system; stating criteria of reporting system;
requiring certain reporting of physicians; providing
for reporting of adverse events; providing criminal
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

1 O.S. 2011, Section 353.7, as last amended by Section
2 4, Chapter 106, O.S.L. 2018 (59 O.S. Supp. 2020,
3 Section 353.7), which relates to powers and duties of
4 the Board; broadening allowed uses of fees; providing
5 for codification; and providing an effective date.

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

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

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

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

16 As used in this act:

17 1. "Abortion" means the act of using or prescribing any
18 instrument, medicine, drug or any other substance, device or means
19 with the intent to terminate the pregnancy of a woman known to be
20 pregnant, with knowledge that the termination by those means will
21 with reasonable likelihood cause the death of the unborn child.

22 Such use, prescription or means is not an abortion if done with the
23 intent to:
24

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

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

3. "Adverse Event", according to the Food and Drug Administration, means any untoward medical occurrence associated with the use of a drug in humans, whether or not considered drug-

1 related. It does not include an adverse event or suspected adverse
2 reaction that, had it occurred in a more severe form, might have
3 caused death;

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

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

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 3. 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 4. 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 5. 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 6. 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 7. 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 8. 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 9. 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 10. 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 11. 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 12. 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,
24

- 1 d. permanently revoke the certification of the offender
2 if offender fails to demonstrate compliance within
3 ninety (90) calendar days,
4 e. impose remedial actions, which may include additional
5 education, additional reporting or other actions as
6 required by the State Board of Pharmacy,
7 f. in the case of a licensed manufacturer or distributor,
8 recommend sanctioning to the appropriate disciplinary
9 committee of the State Board of Pharmacy,
10 g. in the case of a licensed physician, report the
11 violation to the appropriate medical licensing board,
12 h. publicly report any disciplinary actions, consistent
13 with the practices of the State Board of Pharmacy,
14 i. permanently revoke the certification of the offender,
15 j. in the case of a licensed manufacturer or distributor,
16 recommend permanent revocation of licensure,
17 k. in the case of a licensed physician, recommend
18 appropriate sanctioning to the appropriate medical
19 licensing board, and
20 l. publicly report any disciplinary actions consistent
21 with the practices of the State Board of Pharmacy.

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

1 SECTION 13. 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 14. 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 15. 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 16. 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 17. 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,

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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;

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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 18. This act shall become effective November 1, 2021.

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