

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 ENGROSSED SENATE
5 BILL NO. 614

By: Daniels of the Senate

and

Lepak of the House

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9 An Act relating to abortion; defining terms;
10 requiring certain signage; requiring certain informed
11 consent; providing procedure in case of emergency;
12 requiring State Board of Medical Licensure and
13 Supervision to maintain certain website; providing
14 criminal and administrative penalties; providing
15 civil remedies; requiring certain protection of
16 privacy in court hearings; providing severability;
17 providing for codification; and providing an
18 effective date.

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

20 SECTION 1. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1-756 of Title 63, unless there
22 is created a duplication in numbering, reads as follows:

23 A. As used in this section:

24 1. "Abortion" means the use or prescription of any instrument,
 medicine, drug or any other substance or device:

1 (a) to intentionally kill the unborn child of a woman
2 known to be pregnant; or

3 (b) to intentionally terminate the pregnancy of a woman
4 known to be pregnant, with an intention other than to
5 remove a dead unborn child or, after viability, to
6 produce a live birth and preserve the life and health
7 of the child born alive;

8 2. "Medical emergency" means a condition which, in reasonable
9 medical judgment, so complicates the medical condition of the
10 pregnant woman as to necessitate the immediate abortion of her
11 pregnancy to avert her death or for which a delay will create
12 serious risk of substantial and irreversible physical impairment of
13 a major bodily function, not including psychological or emotional
14 conditions. No condition shall be deemed a medical emergency if
15 based on a claim or diagnosis that the woman will engage in conduct
16 which she intends to result in her death or in substantial and
17 irreversible physical impairment of a major bodily function; and

18 3. "Medication abortion" means the use or prescription of an
19 abortion-inducing drug or drugs dispensed with the intent to cause
20 the death of the unborn child.

21 B. 1. Any private office, freestanding outpatient clinic,
22 hospital or other facility or clinic in which medication abortions
23 that use mifepristone are provided shall conspicuously post a sign
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1 in a location defined in paragraph 3 of this subsection so as to be
2 clearly visible to patients, which reads:

3 "NOTICE TO PATIENTS HAVING MEDICATION ABORTIONS WHICH USE
4 MIFEPRISTONE: Mifepristone, also known as RU-486 or Mifeprex, alone
5 is not always effective in ending a pregnancy. It may be possible
6 to reverse its intended effect if the second pill or tablet has not
7 been taken or administered. If you change your mind and wish to try
8 to continue the pregnancy, you can get immediate help by calling the
9 Abortion Pill Reversal 24-hour Hotline at 877-558-0333 or going to
10 website <https://www.abortionpillreversal.com/>. Additional
11 information is available on the State Board of Medical Licensure and
12 Supervision's website, www.awomansright.org, which provides informed
13 consent materials under the Woman's Right-to-Know Act, including
14 information about the development of the unborn child and video of
15 ultrasound images of the unborn child at various stages of
16 development."

17 2. The sign required pursuant to paragraph 1 of this subsection
18 shall be printed with lettering that is legible and shall be at
19 least three-fourths (3/4) of an inch boldfaced type.

20 3. A facility in which medication abortions that use
21 mifepristone are provided that is a private office or a freestanding
22 outpatient clinic shall post the required sign in each patient
23 waiting room and patient consultation room used by patients to whom
24 such medication abortions are provided. A hospital or any other

1 facility in which medication abortions are performed that is not a
2 private office or freestanding outpatient clinic shall post the
3 required sign in each patient admission area used by patients on
4 whom abortions are performed.

5 C. 1. Except in the case of a medical emergency, a medication
6 abortion that uses mifepristone shall not be provided or induced or
7 attempted to be provided or induced without informing the female, by
8 telephone or in person, by the physician who is to dispense or
9 provide the abortion drug or drugs, by a referring physician or by
10 an agent of either physician at least seventy-two (72) hours before
11 the abortion:

12 a. that it may be possible to reverse the intended
13 effects of a medication abortion that uses
14 mifepristone if the woman changes her mind but that
15 time is of the essence, and

16 b. of information on reversing the effects of a
17 medication abortion that uses mifepristone, which is
18 available on the website of the State Board of Medical
19 Licensure and Supevision, and included in such
20 information is the Abortion Pill Reversal 24-hour
21 Hotline number: 877-558-0333 and website address:
22 <https://www.abortionpillreversal.com>.

23 2. After the first drug, mifepristone, is dispensed or provided
24 to the patient, the physician or an agent of the physician shall

1 provide written instructions to the pregnant woman which shall
2 include the statement:

3 "NOTICE TO PATIENTS HAVING MEDICATION ABORTIONS WHICH USE
4 MIFEPRISTONE: Mifepristone, also known as RU-486 or Mifeprex, alone
5 is not always effective in ending a pregnancy. It may be possible
6 to reverse its intended effect if the second pill or tablet has not
7 been taken or administered. If you change your mind and wish to try
8 to continue the pregnancy, you can get immediate help by calling the
9 Abortion Pill Reversal 24-hour Hotline at 877-558-0333 or going to
10 Abortion Pill Reversal website
11 <https://www.abortionpillreversal.com/>. Additional information is
12 available on the State Board of Medical Licensure and Supervision's
13 website, www.awomansright.org, which provides informed consent
14 materials under the Woman's Right-to-Know Act, including information
15 about the development of the unborn child and video of ultrasound
16 images of the unborn child at various stages of development."

17 D. When a medical emergency compels the performance of an
18 abortion, the physician shall inform the female, prior to the
19 abortion if possible, of the medical indications supporting the
20 physician's judgment that an abortion is necessary to avert her
21 death or that a seventy-two-hour delay will create serious risk of
22 substantial and irreversible physical impairment of a major bodily
23 function, not including psychological or emotional conditions.

1 E. Within ninety (90) days after this act is enacted, the State
2 Board of Medical Licensure and Supervision shall cause to be
3 published, in English and in each language which is the primary
4 language of two percent (2%) or more of the state's population, in
5 print and on the website required to be developed and maintained
6 under Section 1-738.11 of Title 63 of the Oklahoma Statutes,
7 comprehensible materials designed to inform the female of the
8 possibility of reversing the effects of a medication abortion that
9 uses mifepristone, also known as RU-486 or Mifeprex, and information
10 on resources that may be available to help her reverse its effects.
11 The website shall include the Abortion Pill Reversal 24-hour Hotline
12 number 877-558-0333 and the Abortion Pill Reversal website address
13 <https://www.abortionpillreversal.com>.

14 F. Any person who knowingly or recklessly provides or induces
15 or attempts to provide or induce an abortion in violation of this
16 section shall be guilty of a felony. No penalty may be assessed
17 against the female to whom the medication abortion is provided or
18 induced or attempted to be provided or induced. No penalty or civil
19 liability may be assessed for failure to comply with subsection C of
20 this section unless the State Board of Medical Licensure and
21 Supervision has made the information available on the website at the
22 time the physician or the physician's agent is required to inform
23 the female.
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1 G. Any private office, freestanding outpatient clinic or other
2 facility or clinic that fails to post a sign required in subsection
3 B of this section in knowing, reckless or negligent violation of
4 this act shall be assessed a fine of Ten Thousand Dollars
5 (\$10,000.00) by the State Board of Medical Licensure and
6 Supervision. Each day on which a medication abortion that uses
7 mifepristone, other than a medication abortion that is necessary to
8 prevent the death of the pregnant female, is provided in any private
9 office, freestanding outpatient clinic or other facility or clinic
10 during which the required sign is not posted during a portion of
11 business hours when patients or perspective patients are present is
12 a separate violation.

13 H. 1. Any person upon whom an abortion has been performed
14 without this section having been complied with, the father of the
15 unborn child who was the subject of such an abortion, or, if the
16 female had not attained the age of eighteen (18) years at the time
17 of the medication abortion or has died as a result of the medication
18 abortion, the grandparent of such an unborn child may maintain an
19 action against the person who provided the medication abortion in
20 knowing or reckless violation of this section for actual and
21 punitive damages. Any person upon whom an abortion has been
22 attempted without this section having been complied with may
23 maintain an action against the person who attempted to provide the
24 abortion in knowing or reckless violation of this section for actual

1 and punitive damages. No damages may be awarded a plaintiff if the
2 pregnancy resulted from the plaintiff's criminal conduct.

3 2. If judgment is rendered in favor of the plaintiff in any
4 action described in this subsection, the court shall also render
5 judgment for a reasonable attorney's fee in favor of the plaintiff
6 against the defendant. If judgment is rendered in favor of the
7 defendant and the court finds that the plaintiff's suit was
8 frivolous and brought in bad faith, the court shall also render
9 judgment for a reasonable attorney's fee in favor of the defendant
10 against the plaintiff.

11 I. In every civil or criminal proceeding or action brought
12 under this section, the court shall rule whether the anonymity of
13 any female to whom a medication abortion has been provided or
14 attempted shall be preserved from public disclosure if she does not
15 give her consent to such disclosure. The court, upon motion or sua
16 sponte, shall make such a ruling and, upon determining that her
17 anonymity should be preserved, shall issue orders to the parties,
18 witnesses and counsel and shall direct the sealing of the record and
19 exclusion of individuals from courtrooms or hearing rooms to the
20 extent necessary to safeguard her identity from public disclosure.
21 Each such order shall be accompanied by specific written findings
22 explaining why the anonymity of the female should be preserved from
23 public disclosure, why the order is essential to that end, how the
24 order is narrowly tailored to serve that interest and why no

1 reasonable less restrictive alternative exists. In the absence of
2 written consent of the female to whom an abortion drug or drugs has
3 been provided or attempted to be provided, anyone, other than a
4 public official, who brings an action under subsection D of this
5 section shall do so under a pseudonym. This section may not be
6 construed to conceal the identity of the plaintiff or of witnesses
7 from the defendant.

8 J. If any one or more provision, section, subsection, sentence,
9 clause, phrase or word of this act or the application thereof to any
10 person or circumstance is found to be unconstitutional, the same is
11 hereby declared to be severable and the balance of this act shall
12 remain effective notwithstanding such unconstitutionality. The
13 Legislature hereby declares that it would have passed this act, and
14 each provision, section, subsection, sentence, clause, phrase or
15 word thereof, irrespective of the fact that any one or more
16 provision, section, subsection, sentence, clause, phrase or word be
17 declared unconstitutional.

18 SECTION 2. This act shall become effective November 1, 2019.
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20 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 03/27/2019 - DO
21 PASS.
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