

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 1902

By: Lamb

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5
6 AS INTRODUCED

7 An Act relating to public health and safety; defining
8 certain terms; prohibiting the provision of RU-486
9 under certain circumstances; requiring certain
10 physicians to perform certain actions in specified
11 circumstances; requiring the administration of a
12 certain drug to be performed under specified
13 conditions; requiring certain follow-up; requiring
14 certain information to be contained in a patient's
15 medical records; requiring certain written report
16 under specified circumstances; requiring copy of
17 certain report to be sent to specified entities;
18 mandating certain reports be compiled and maintained;
19 making certain information public record; prohibiting
20 the release of certain information in specified
21 circumstances; providing for certain penalties;
22 permitting certain persons to maintain an action;
23 authorizing the provision of attorney fees in certain
24 circumstances; prohibiting certain persons to be the
subject of specified actions; repealing Section 7,
Chapter 36, O.S.L. 2008 (63 O.S. Supp. 2009, Section
1-729), which relates to regulation of RU-846;
providing for codification; and declaring an
emergency.

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

22 SECTION 1. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 1-729a of Title 63, unless there
24 is created a duplication in numbering, reads as follows:

1 A. As used in this section:

2 1. "Federal law" means any law, rule, or regulation of the
3 United States or any drug approval letter of the U.S. Food and Drug
4 Administration that governs or regulates the use of RU-486
5 (mifepristone) for the purpose of inducing abortions;

6 2. "Personal identifying information" means any information
7 designed to identify a person and any information commonly used or
8 capable of being used alone or in conjunction with any other
9 information to identify a person; and

10 3. "Physician" means a doctor of medicine or osteopathy legally
11 authorized to practice medicine in the state.

12 B. No person shall knowingly or recklessly give, sell,
13 dispense, administer, prescribe, or otherwise provide RU-486, also
14 known as mifepristone, for the purpose of inducing an abortion in a
15 pregnant female, unless the person who gives, sells, dispenses,
16 administers, prescribes, or otherwise provides the RU-486
17 (mifepristone) is a physician who:

18 1. Has the ability to assess the duration of the pregnancy
19 accurately;

20 2. Has the ability to diagnose ectopic pregnancies;

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

1 4. Is able to assure patient access to medical facilities
2 equipped to provide blood transfusions and resuscitation, if
3 necessary; and

4 5. Has read and understood the prescribing information for the
5 use of RU-486 (mifepristone) as provided by the drug manufacturer in
6 accordance with the requirements of the U.S. Food and Drug
7 Administration.

8 C. No physician who provides RU-486 (mifepristone) for the
9 purpose of inducing an abortion shall knowingly or recklessly fail
10 to:

11 1. Provide each patient with a copy of the drug manufacturer's
12 medication guide for RU-486 (mifepristone);

13 2. Fully explain the procedure to the patient, including, but
14 not limited to, explaining whether the physician is using the drug
15 in accordance with the U.S. Food and Drug Administration regimen or
16 an evidence-based regimen, and, if using an evidence-based regimen,
17 specifying that the regimen differs from the U.S. Food and Drug
18 Administration regimen and providing detailed information on the
19 evidence-based regimen being used;

20 3. Provide the female with a copy of the drug manufacturer's
21 patient agreement and obtain the patient's signature on the patient
22 agreement;

23 4. Sign the patient agreement; and
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1 5. Record the drug manufacturer's package serial number in the
2 patient's medical record.

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

17 E. 1. If a physician provides RU-486 (mifepristone) for the
18 purpose of inducing an abortion and if the physician knows that the
19 female who uses the RU-486 (mifepristone) for the purpose of
20 inducing an abortion experiences within one (1) year after the use
21 of RU-486 (mifepristone) an incomplete abortion, severe bleeding, or
22 an adverse reaction to the RU-486 (mifepristone) or is hospitalized,
23 receives a transfusion, or experiences any other serious event, the
24 physician shall, as soon as is practicable, but in no case more than

1 sixty (60) days after the physician learns of the adverse reaction
2 or serious event, provide a written report of the incomplete
3 abortion, severe bleeding, adverse reaction, hospitalization,
4 transfusion, or serious event to the drug manufacturer. If the
5 physician is a doctor of medicine, the physician shall
6 simultaneously provide a copy of the report to the State Board of
7 Medical Licensure and Supervision. If the physician is a doctor of
8 osteopathy, the physician shall simultaneously provide a copy of the
9 report to the State Board of Osteopathic Examiners. The relevant
10 Board shall compile and retain all reports it receives pursuant to
11 this subsection. All reports the relevant Board receives under this
12 subsection are public records open to inspection pursuant to the
13 Oklahoma Open Records Act; however, absent an order by a court of
14 competent jurisdiction, neither the drug manufacturer nor the
15 relevant Board shall release the name or any other personal
16 identifying information regarding a person who uses or provides RU-
17 486 (mifepristone) for the purpose of inducing an abortion and who
18 is the subject of a report the drug manufacturer or the relevant
19 Board receives under this subsection.

20 2. No physician who provides RU-486 (mifepristone) to a
21 pregnant female for the purpose of inducing an abortion shall
22 knowingly or recklessly fail to file a report required under
23 paragraph 1 of this subsection. Knowing or reckless failure to
24 comply with this subsection shall subject the physician to

1 sanctioning by the licensing board having administrative authority
2 over such physician.

3 F. Any female upon whom an abortion has been performed, the
4 father of the unborn child who was the subject of the abortion if
5 the father was married to the woman who received the abortion at the
6 time the abortion was performed, or a maternal grandparent of the
7 unborn child, may maintain an action against the person who
8 performed the abortion in knowing or reckless violation of this
9 section for actual and punitive damages. Any female upon whom an
10 abortion has been attempted in knowing or reckless violation of this
11 section may maintain an action against the person who attempted to
12 perform the abortion for actual and punitive damages.

13 G. If a judgment is rendered in favor of the plaintiff in any
14 action described in this section, the court shall also render
15 judgment for a reasonable attorney fee in favor of the plaintiff
16 against the defendant. If a judgment is rendered in favor of the
17 defendant and the court finds that the plaintiff's suit was
18 frivolous and brought in bad faith, the court shall also render
19 judgment for a reasonable attorney fee in favor of the defendant
20 against the plaintiff.

21 H. No pregnant female who obtains or possesses RU-486
22 (mifepristone) for the purpose of inducing an abortion to terminate
23 her own pregnancy shall be subject to any action brought under
24 subsection F of this section.

1 SECTION 2. REPEALER Section 7, Chapter 36, O.S.L. 2008
2 (63 O.S. Supp. 2009, Section 1-729), is hereby repealed.

3 SECTION 3. It being immediately necessary for the preservation
4 of the public peace, health and safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

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