

1 STATE OF OKLAHOMA

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

3 CONFERENCE COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL 779

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

6 and

7 Lepak, Dills, Gann and  
8 Smith of the House

9  
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to abortion; creating the Oklahoma  
12 Abortion-Inducing Drug Certification Program Act;  
13 defining terms; specifying applicability of act;  
14 directing creation of certification program;  
15 authorizing certain fees and contracts; limiting  
16 provision of abortion-inducing drugs to certain  
17 practitioners and procedures; directing promulgation  
18 of certain rules; directing establishment of certain  
19 requirements for manufacturers, distributors and  
20 physicians; providing certification systems and  
21 requirements for manufacturers, distributors and  
22 physicians; requiring physician to maintain hospital  
23 admitting privileges or enter into certain written  
24 agreement; stating conditions of agreement; requiring  
adoption of certain reporting 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 development of certain  
enforcement scheme; specifying criteria of  
enforcement scheme; providing for certain  
restitution; directing creation of certain public  
portals; requiring portals to list certain names and  
allow for certain complaints; providing for  
disposition of complaints; providing for

1 confidentiality of complaints; providing certain  
2 construction and intent; authorizing certain  
3 intervention; providing severability; amending 59  
4 O.S. 2011, Section 353.7, as last amended by Section  
5 4, Chapter 106, O.S.L. 2018 (59 O.S. Supp. 2020,  
6 Section 353.7), which relates to powers and duties of  
7 the State Board of Pharmacy; broadening allowed uses  
8 of fees; amending 59 O.S. 2011, Section 643, which  
9 relates to the State Board of Osteopathic Examiners  
10 Revolving Fund; amending 59 O.S. 2011, Section 644,  
11 as amended by Section 266, Chapter 304, O.S.L. 2012  
12 (59 O.S. Supp. 2020, Section 644), which relates to  
13 the State Board of Osteopathic Examiners Revolving  
14 Fund; broadening sources and allowed uses of monies;  
15 providing for codification; and providing an  
16 effective date.

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

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

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

24 SECTION 2. 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

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:

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 Pharmacy, the State Board of Medical  
9 Licensure and Supervision and the State Board of Osteopathic  
10 Examiners shall create a certification program for abortion-inducing  
11 drugs. The program shall be known as the Oklahoma Abortion-Inducing  
12 Drug Certification Program.

13 B. The State Board of Medical Licensure and Supervision, the  
14 State Board of Osteopathic Examiners and the State Board of Pharmacy  
15 may assess reasonable fees on their respective licensees and enter  
16 into contracts with persons or entities to implement the Oklahoma  
17 Abortion-Inducing Drug Certification Program.

18 C. Abortion-inducing drugs shall not be provided directly to  
19 the patient through the mail, telemedicine or otherwise outside of  
20 the parameters of the Oklahoma Abortion-Inducing Drug Certification  
21 Program.

22 SECTION 5. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 1-757.5 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 manufacture and  
3 distribution of abortion-inducing drugs by manufacturers and  
4 distributors licensed by the State Board of Pharmacy.

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

8       1. Require completion of the certification process for  
9 manufacturers and distributors as described in Section 6 of this  
10 act;

11       2. Require that abortion-inducing drugs be transported and  
12 provided in this state only by manufacturers or distributors  
13 certified to do so under this program;

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

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

20       5. Audit newly certified manufacturers and distributors within  
21 ninety (90) calendar days after the manufacturer or distributor is  
22 authorized, and annually thereafter, to ensure that all processes  
23 and procedures are in place and functioning to support the  
24

1 requirements of the Oklahoma Abortion-Inducing Drug Certification  
2 Program;

3 6. If a manufacturer or distributor is found to be  
4 noncompliant, immediately suspend manufacturer's or distributor's  
5 certification until the manufacturer or distributor demonstrates  
6 full compliance; and

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

8 C. 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 physicians licensed by the respective  
12 state licensing board. The drugs shall only be provided to patients  
13 by fully licensed physicians certified to do so under this program  
14 by their respective state licensing boards.

15 D. The State Board of Medical Licensure and Supervision and the  
16 State Board of Osteopathic Examiners shall establish the following  
17 requirements for physicians providing abortion-inducing drugs, at a  
18 minimum:

19 1. Require completion of the certification process for  
20 physicians as described in Section 7 of this act;

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

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

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

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

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

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

16 1. Be licensed by the Board;

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

18 3. Record each serial number from pharmaceutical packages  
19 distributed to each certified physician;

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

23

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

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

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

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

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

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

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

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

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

16 16. Report to the State Board of Pharmacy, the physician's  
17 state licensing board and the Food and Drug Administration, any  
18 death associated with abortion-inducing drugs with the following  
19 guidelines:

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

24

- 1           b.    this shall be done as soon as possible but no later  
2                    than fifteen (15) calendar days from the initial  
3                    receipt of the information by the physician, and  
4           c.    this requirement does not affect the physician's other  
5                    reporting and follow-up requirements under the  
6                    Oklahoma Abortion-Inducing Drug Certification Program  
7                    or any additional requirements by another department  
8                    that oversees the abortion industry in this state;

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

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

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

21           SECTION 8.        NEW LAW        A new section of law to be codified  
22           in the Oklahoma Statutes as Section 1-757.8 of Title 63, unless  
23           there is created a duplication in numbering, reads as follows:  
24

1 The State Board of Medical Licensure and Supervision and the  
2 State Board of Osteopathic Examiners shall also require the  
3 following of certified physicians:

4 1. Maintaining hospital admitting privileges at one or more  
5 hospitals in the county or contiguous county where the abortion-  
6 inducing drug was provided, and informing the patient of any  
7 hospital where the physician holds admitting privileges; or

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

12 a. a physician who provides an abortion-inducing drug  
13 shall notify the patient of the location of the  
14 hospital at which the associated physician has  
15 admitting privileges,

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

18 c. the physician shall submit a copy of the written  
19 agreement to their state licensing board and the State  
20 Department of Health as part of any required clinic  
21 licensure,

22 d. the State Department of Health shall verify the  
23 validity of the document, and shall remove any  
24 personal identifying information of the patient from

1 the document before releasing the document in  
2 accordance with the following:

- 3 (1) the State Department of Health shall annually  
4 submit a copy of the written agreement described  
5 in this paragraph to each hospital located in the  
6 county or a county that is contiguous to the  
7 county where the abortion was performed, and  
8 (2) the State Department of Health shall confirm to a  
9 member of the public, upon request, that the  
10 written agreement required to be submitted under  
11 this section for an abortion clinic has been  
12 received by the Department,

13 e. the agreement shall be renewed annually, or more often  
14 as required by the physician's state licensing board,

15 f. the agreement shall include a requirement that the  
16 physician provide to the patient and require the  
17 patient to sign all legally required informed consent  
18 material, and

19 g. the agreement shall require the adherence to all  
20 reporting requirements from the State Department of  
21 Health and the physician's licensing board.

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

1           A. The State Board of Medical Licensure and Supervision and the  
2 State Board of Osteopathic Examiners shall adopt an electronically  
3 based reporting system for certified physicians to report annually  
4 the following:

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

18           B. This reporting system shall also be used by emergency  
19 department physicians and private physicians who treat post-abortion  
20 complications.

21           C. Physicians shall protect from disclosure any personally  
22 identifiable information of the patient in accordance with  
23 applicable federal and state law.

24

1 D. A certified physician shall also report to their licensing  
2 board, the State Board of Pharmacy and the Medwatch Reporting System  
3 of the Food and Drug Administration (FDA), any complication or  
4 adverse event as defined according to the FDA criteria given in the  
5 Medwatch Reporting System.

6 E. The State Board of Medical Licensure and Supervision and the  
7 State Board of Osteopathic Examiners shall develop a system of  
8 reporting adverse events from the use of abortion-inducing drugs for  
9 this state. The system shall require reporting of complications and  
10 adverse events including, but not limited to:

- 11 1. Death;
- 12 2. Blood loss including hemorrhage;
- 13 3. Infection including sepsis;
- 14 4. Blood transfusions;
- 15 5. Administer drug for an ectopic pregnancy; and
- 16 6. Other adverse effects requiring hospitalization or  
17 additional medical care.

18 F. The State Board of Medical Licensure and Supervision and the  
19 State Board of Osteopathic Examiners shall require the following  
20 providers and entities to report complications and adverse events in  
21 writing:

- 22 1. Physicians certified to provide abortion-inducing drugs;
- 23 2. Emergency room physicians;

1           3. Any doctor licensed in this state including an  
2 obstetrician/gynecologist who treats women with adverse events;

3           4. Provision of certification requires that the physician shall  
4 also report adverse events and any patient deaths to the FDA; and

5           5. Other individuals or entities as determined by the State  
6 Board of Medical Licensure and Supervision or the State Board of  
7 Osteopathic Examiners.

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

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

14           B. Individuals or entities that provide abortion-inducing drugs  
15 to any person or entity that is not certified, or otherwise  
16 authorized, to provide abortion-inducing drugs under the Oklahoma  
17 Abortion-Inducing Drug Certification Program are in violation of  
18 this act.

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

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

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

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

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

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

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

13 3. Provide a basis for recovery for the woman's survivors for  
14 the wrongful death of the woman.

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

20 C. If judgment is rendered in favor of the plaintiff, the court  
21 shall also render judgment for reasonable attorney fees in favor of  
22 the plaintiff against the defendant.

23 D. If judgment is rendered in favor of the defendant and the  
24 court finds that the plaintiff's suit was frivolous and brought in

1 bad faith, the court may render judgment for reasonable attorney  
2 fees in favor of the defendant against the plaintiff.

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

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

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

10 3. A prosecuting attorney with appropriate jurisdiction.

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

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

16 A. The State Board of Pharmacy, the State Board of Medical  
17 Licensure and Supervision and the State Board of Osteopathic  
18 Examiners shall develop an enforcement scheme for their licensees to  
19 enforce this act, which includes:

20 1. When an individual or entity provides abortion-inducing  
21 drugs without first seeking certification under this act, the  
22 appropriate licensing board shall:

23 a. immediately report the illegal act to local law  
24 enforcement, or other applicable state and local

1 agencies for investigation or other appropriate  
2 action, where appropriate, and

3 b. impose a fine of no less than Five Million Dollars  
4 (\$5,000,000.00) for manufacturers or distributors and  
5 Two Hundred Fifty Thousand Dollars (\$250,000.00) for  
6 physicians;

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

10 3. Where a current or previously certified manufacturer or  
11 distributor is found to have intentionally or knowingly violated  
12 this act, or refuses to bring operations into compliance within  
13 ninety (90) calendar days, remove certification and prohibit  
14 continued provision of abortion-inducing drugs by the manufacturer  
15 or distributor until compliance is demonstrated to the satisfaction  
16 of their licensing board;

17 4. When a certified manufacturer, distributor or physician is  
18 in noncompliance, suspend all annual recertification until  
19 compliance is demonstrated to the satisfaction of their licensing  
20 board; and

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

- a. immediately suspend the manufacturer's, distributor's or physician's certification until full compliance is demonstrated,
- b. for certified manufacturers or distributors, impose fines of not less than One Million Dollars (\$1,000,000.00) per offense, by the State Board of Pharmacy,
- c. for certified physicians, impose fines of not less than One Hundred Thousand Dollars (\$100,000.00) per offense, by the physician's licensing board,
- d. permanently revoke the certification of the offender if offender fails to demonstrate compliance with their 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,

- 1           j.    in the case of a licensed manufacturer or distributor,  
2                recommend permanent revocation of licensure,  
3           k.    in the case of a physician, recommend appropriate  
4                sanctioning to the appropriate physician licensing  
5                board, and  
6           l.    publicly report any disciplinary actions consistent  
7                with the practices of the relevant licensing board.

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

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

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

19           B.   The State Board of Medical Licensure and Supervision and the  
20               State Board of Osteopathic Examiners shall develop on their  
21               respective websites a complaint portal for patients, pharmacy,  
22               nursing and medical professionals and the public to submit  
23               information about potential violations by physicians at no charge to  
24               the parties named in this subsection.

1 C. The portal developed by the State Board of Pharmacy shall  
2 list the names of manufacturers and distributors that are certified  
3 under the program.

4 D. The portals developed by the State Board of Medical  
5 Licensure and Supervision and the State Board of Osteopathic  
6 Examiners shall list the names of the fully licensed physicians  
7 certified under the program.

8 E. The portal shall allow the party to make a complaint  
9 anonymously.

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

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

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

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

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

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

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

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

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

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

23

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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 and the Oklahoma Abortion-  
13 Inducing Drug Certification Program Act under the provisions of the  
14 Administrative Procedures 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 18. AMENDATORY 59 O.S. 2011, Section 643, is  
17 amended to read as follows:

18 Section 643. The funds received pursuant to the Oklahoma  
19 Osteopathic Medicine Act or the Oklahoma Abortion-Inducing Drug  
20 Certification Program Act shall be deposited to the credit of the  
21 State Board of Osteopathic Examiners Revolving Fund and may be  
22 expended by the State Board of Osteopathic Examiners and under its  
23 direction in assisting in the enforcement of the laws of this state  
24 prohibiting the unlawful practice of osteopathic medicine, assisting

1 in the support of a peer assistance program, and for the  
2 dissemination of information to prevent the violation of such laws,  
3 and for the purchasing of supplies and such other expense as is  
4 necessary to properly carry out the provisions of the Oklahoma  
5 Osteopathic Medicine Act or the Oklahoma Abortion-Inducing Drug  
6 Certification Program Act.

7 SECTION 19. AMENDATORY 59 O.S. 2011, Section 644, as  
8 amended by Section 266, Chapter 304, O.S.L. 2012 (59 O.S. Supp.  
9 2020, Section 644), is amended to read as follows:

10 Section 644. There is hereby created in the State Treasury a  
11 revolving fund for the State Board of Osteopathic Examiners, to be  
12 designated the "State Board of Osteopathic Examiner's Revolving  
13 Fund". The fund shall be a continuing fund, not subject to fiscal  
14 year limitations, and shall consist of all monies received by the  
15 Board pursuant to the provisions of the Oklahoma Osteopathic  
16 Medicine Act or the Oklahoma Abortion-Inducing Drug Certification  
17 Program Act. All monies accruing to the credit of said fund are  
18 hereby appropriated and may be budgeted and expended by the Board  
19 for the purpose of enforcing the laws of this state which prohibit  
20 the unlawful practice of osteopathic medicine, for the dissemination  
21 of information to prevent the violation of such laws, and for the  
22 purchase of supplies and such other expense as is necessary to  
23 properly implement the provisions of the Oklahoma Osteopathic  
24 Medicine Act or the Oklahoma Abortion-Inducing Drug Certification

1 Program Act. Expenditures from said fund shall be made upon  
2 warrants issued by the State Treasurer against claims signed by an  
3 authorized employee or employees of the State Board of Osteopathic  
4 Examiners and filed as prescribed by law with the Director of the  
5 Office of Management and Enterprise Services for approval and  
6 payment.

7 SECTION 20. This act shall become effective November 1, 2021.

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