CV-2021-2072
Ogden

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IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

OKLAHOMA CALL FOR REPRODUCTIVE JUSTICE, on behalf of itself and its members; TULSA WOMEN'S REPRODUCTIVE CLINIC, LLC, on behalf of itself, its physicians, its staff, and its patients; ALAN BRAID, M.D., on behalf of himself and his patients; COMPREHENSIVE HEALTH OF PLANNED PARENTHOOD GREAT PLAINS, INC., on behalf of itself, its physicians, its staff, and its patients; and PLANNED PARENTHOOD OF ARKANSAS & EASTERN OKLAHOMA, on behalf of itself, its physicians, its staff, and its patients,

Plaintiffs,

v.

JOHN O'CONNOR, in his official capacity as Attorney General for the State of Oklahoma; DAVID PRATER, in his official capacity as District Attorney for Oklahoma County; STEVE KUNZWEILER, in his official capacity as District Attorney for Tulsa County; LYLE KELSEY, in his official capacity as Executive Director of the Oklahoma State Board of Medical Licensure and Supervision; KATIE TEMPLETON, in her official capacity as President of the Oklahoma State Board of Osteopathic Examiners; LANCE FRYE, in his official capacity as the Commissioner of the Oklahoma State Board of Health; and JUSTIN WILSON, in his official capacity as the President of the Oklahoma State Board of Pharmacy; as well as their employees, agents, and successors,

Defendants.

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

SEP - 2 2021

RICK WARREN
COURT CLERK

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CASE NO. CV-2021-2072

VERIFIED PETITION

Plaintiffs, by and through their undersigned attorneys, bring this Petition against the above-named Defendants, their employees, agents, and successors in office, and in support thereof allege the following:

I. PRELIMINARY STATEMENT

1. "Every woman in this country has a constitutionally protected right to choose whether to terminate her pregnancy before viability." *Burns v. Cline*, 2016 OK 121, ¶ 8, 387 P.3d 348, 351. Trampling on this right and other constitutional guarantees, the Oklahoma Legislature passed five bills during its 2021 legislative session that outright ban abortion or restrict it so dramatically that Oklahomans will face tremendous or insurmountable barriers to accessing care.

2. Plaintiffs bring this action under the Constitution of the State of Oklahoma challenging these five bills: House Bill 1102, 2021 Okla. Sess. Law Serv. Ch. 205, House Bill 2441, 2021 Okla. Sess. Law Serv. Ch. 219, House Bill 1904, 2021 Okla. Sess. Law Serv. Ch. 211, Senate Bill 778, 2021 Okla. Sess. Law Serv. Ch. 577, Senate Bill 779, 2021 Okla. Sess. Law Serv. Ch. 578 (collectively, the "Challenged Laws"). Copies of each of the Challenged Laws are attached hereto as Exhibits A-E. The Challenged Laws are scheduled to take effect on November 1, 2021.

3. The Challenged Laws are unconstitutional and contrary to clear Oklahoma Supreme Court precedent. In some instances, the Challenged Laws purport to reenact requirements largely *identical* to ones already struck down as unconstitutional by the Oklahoma Supreme Court.

4. H.B. 1102 (the "Total Ban") effectively bans abortion entirely by declaring that providing abortion is unprofessional conduct by physicians that carries a penalty of, at a minimum, suspension of medical licensure for one year.

5. H.B. 2441 (the "6-Week Ban") bans abortion at approximately six weeks in pregnancy, as dated from the first day of a woman's last menstrual period ("LMP"),[1] a point before many people even know they are pregnant and roughly *four months* before viability.

[1] LMP is a common measure of the gestational age of a pregnancy. Fertilization typically occurs around two weeks LMP. Pregnancy is generally considered to begin around three weeks LMP, when a fertilized egg typically implants in the uterus. Pregnancy typically lasts until forty weeks LMP.

6. H.B. 1904 (the "OB/GYN Requirement") arbitrarily disqualifies highly trained abortion providers because they are not board-certified in obstetrics and gynecology ("OB/GYN"). Six out of ten of Plaintiffs' doctors will be barred from providing care under the OB/GYN Requirement without any medical justification.

7. S.B. 778 imposes myriad medically unnecessary and burdensome requirements on the provision of medication abortion—one of the safest medication regimens prescribed in the United States, which is no riskier than Advil.[2] As just two examples of this law's many provisions, most of which bear no relation to one another—one requires that patients obtain an ultrasound at least 72 hours prior to a medication abortion—a more stringent version of a requirement that the Oklahoma Supreme Court has already declared unconstitutional—and another requires providers to file individual reports for each medication abortion.[3]

8. S.B. 779 imposes a similarly labyrinthine certification system for manufacturers, distributors, and providers of medication abortion.[4] The law includes a dizzying array of requirements, most of which bear no relation to one another. As just two examples—the bill includes a requirement that providers of medication abortion have admitting privileges at a nearby hospital or contract with a physician who does, even though similar requirements have been

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[2] National Academy of Sciences, Engineering, and Medicine, *The Safety and Quality of Abortion Care in the United States*, 163-165 (2018) ("NAS Report").

[3] *Nova Health Sys. v. Pruitt*, 2012 OK 103, ¶ 1, 292 P.3d 28 (invalidating a law that required an ultrasound one hour in advance of a procedure).

[4] S.B. 778 and S.B. 779 also mandate that physicians inform patients about so-called "medication abortion reversal," a scientifically unsupported and potentially dangerous medical treatment. S.B. 778 §§ 6(E)(6), 6(E)(8)-(10), 6(E)(11)(b), 6(E)(11)(e), 7(A), and 7(C); S.B. 779 §§ 7(8), 7(9). A similar requirement has been enjoined since October 2019. *Tulsa Women's Reproductive Clinic, LLC, et al v. Hunter, et al*, No. CV-2019-2176 (Dist. Ct. Okla. Cnty. Oct. 29, 2019). These components of S.B. 778 and S.B. 779 have been challenged on separate grounds in that case (challenging the provisions as unconstitutional restrictions on free speech, as unconstitutionally vague, and as violations of the prohibition on special laws).

deemed unconstitutional by the Oklahoma Supreme Court only five years ago and by the United States Supreme Court as recently as last year,[5] and it also limits the time period during which medication abortion can be prescribed.

9. The Challenged Laws include no legislative findings, but the State's strategy is nonetheless transparent—Oklahoma's purpose is to deprive people in Oklahoma of their constitutionally protected right to choose whether to terminate their pregnancy before viability.

10. The Challenged Laws violate the constitutional rights of Oklahomans to reproductive autonomy, bodily integrity, and health; the Oklahoma Constitution's prohibition against special laws; and the Oklahoma Constitution's single-subject rule.

11. Plaintiffs include the Oklahoma Call for Reproductive Justice, an organization that represents Oklahomans seeking abortion care, as well as abortion providers and their patients. To protect Oklahomans from this phalanx of unconstitutional abortion restrictions, and to avoid irreparable harm, Plaintiffs seek declaratory and injunctive relief to block enforcement of the Challenged Laws.

II. JURISDICTION AND VENUE

12. Jurisdiction is conferred on this Court by Okla. Const. art. VII, § 7(a).

13. Plaintiffs' claims for declaratory and injunctive relief are authorized by Okla. Stat. tit. 12, §§ 1651 and 1381 and by the general equitable powers of this Court.

14. Venue is proper under Okla. Stat. tit. 12, § 133 because Defendants O'Connor, Prater, Kelsey, Templeton, Frye, and Wilson have official residences in Oklahoma County.

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[5] *Burns v. Cline* ("*Cline III*"), 2016 OK 121, ¶ 19, 387 P.3d 348, 354; *June Med. Servs. L. L. C. v. Russo*, 140 S. Ct. 2103, 2132 (2020) (plurality); *id.* at 2134 (Roberts, C.J., concurring); *Whole Woman's Health v. Hellerstedt*, 136 S. Ct. 2292, 2313 (2016).

III. PARTIES

A. Plaintiffs

a. Oklahoma Call for Reproductive Justice ("OCRJ")

15. OCRJ is a 501(c)(4) nonprofit founded in 2010 to advance reproductive justice and protect access to reproductive healthcare, including abortion, in Oklahoma. OCRJ is dedicated entirely to this cause. OCRJ's mission is to promote reproductive justice in Oklahoma through education, empowerment, and advocacy.

16. OCRJ pursues its mission by providing education in the community. OCRJ publishes a zine, *How to Get an Abortion in Oklahoma*, which is updated regularly and provides information to Oklahomans who need to navigate the many overlapping laws restricting abortion in the State. OCRJ has also held educational campaigns, such as Faith & Abortion and Abortion is an Act of Love, to lessen the stigma attached to abortion, abortion providers, and patients.

17. OCRJ also pursues its mission by lobbying against bills that restrict abortion and other reproductive healthcare. It supports bills that help pregnant people, including legislation barring the shackling of pregnant incarcerated patients during labor. Prior to the COVID-19 pandemic, OCRJ hosted lobby days, during which it organized its members to lobby legislators around issues of reproductive justice. OCRJ holds events and speaks to the media in order to educate Oklahomans about legislation and the potential impact of such legislation on Oklahomans' access to reproductive healthcare.

18. During this most recent legislative session, OCRJ marshalled its limited resources to combat the bills challenged in this case. Should any of these bills go into effect, OCRJ will continue to support people who need to access to abortion. OCRJ would likely have to shift their educational efforts and limited resources towards educating people on the new laws and/or how to navigate barriers in other states when they need to obtain abortions outside of Oklahoma. OCRJ

may also choose to redirect its resources to help people financially as they find ways to obtain care out of state, which it does not currently offer.

19. OCRJ's members are diverse in their party affiliation, economic background, and lived experience, but all believe that pregnant Oklahomans deserve the ability to make decisions about their healthcare in line with their own values and intentions. OCRJ sues on behalf of itself and its members.

b. Tulsa Women's Reproductive Clinic ("Tulsa Women's")

20. Tulsa Women's is located in Tulsa, Oklahoma and has been offering abortion services since 1974. Until 2018, Tulsa Women's was operated by a predecessor, Nova Health Systems. Tulsa Women's provides reproductive healthcare services, including medication and procedural abortions. It is licensed as an abortion facility by the Oklahoma State Department of Health (the "Health Department") and is a member of the National Abortion Federation ("NAF"). Tulsa Women's employs, among other licensed healthcare clinicians, physicians licensed by the Oklahoma State Board of Medical Licensure and Supervision (the "Medical Board") and the Oklahoma State Board of Osteopathic Examiners (the "Osteopathic Board"). Tulsa Women's brings claims on behalf of itself, its physicians, its staff, and its patients.

21. Tulsa Women's provides medication abortion up through ten weeks, 0 days LMP and procedural abortion care. People[6] who reside throughout the state of Oklahoma, as well as people from Missouri, Kansas, Arkansas, and Texas, travel to Tulsa Women's to access high quality abortion services.

[6] This Complaint uses the term "women," but the denial of reproductive healthcare also affects individuals who may not identify as women, including transgender and gender-nonconforming individuals.

22. Six physicians, including Dr. Alan Braid, who is also a Plaintiff in this case, provide abortion care at Tulsa Women's. Five of the physicians are medical doctors licensed by the Medical Board, and one is an osteopathic physician licensed by the Osteopathic Board. Three of these physicians are board-certified family medicine physicians. The other three are board-certified OB/GYNs. Tulsa Women's generally provides abortions five days a week. Approximately 80 percent of Tulsa Women's abortion patients choose medication abortion.

c. Dr. Alan Braid

23. Plaintiff Alan Braid, M.D. is a board-certified OB/GYN and is the principal owner of Tulsa Women's. He took ownership of the clinic in 2018 after the previous owner retired to ensure that it continued to provide Oklahomans with abortion care. Dr. Braid also provides abortion care at Tulsa Women's. Dr. Braid sues on behalf of himself and his patients.

d. Comprehensive Health of Planned Parenthood Great Plains ("CHPPGP")

24. CHPPGP is a not-or-profit corporation organized under the laws of Kansas and registered to do business in Oklahoma. CHPPGP operates one health center in Oklahoma, located in Oklahoma City, which is licensed as an abortion facility by the Oklahoma State Department of Health. The Oklahoma City health center keeps pharmaceutical medication in a drug room licensed by the Oklahoma State Board of Pharmacy. CHPPGP sues on behalf of itself, its physicians, its staff, and its patients.

25. CHPPGP provides a wide variety of sexual and reproductive health care at its Oklahoma City location, including contraceptives, cancer screenings, pap smears, wellness exams, breast exams, colposcopies, and abortion care. CHPPGP's Oklahoma City location provides medication abortion, up through 11 weeks, 0 days LMP, as well as procedural abortion.

26. CHPPGP employs four physicians who each provide abortion care a few days per month at CHPPGP's Oklahoma City location. All four physicians are licensed to practice medicine in Oklahoma by the Medical Board. Three of the four physicians reside out-of-state and must travel to Oklahoma to provide care (the other physician works primarily at the Planned Parenthood facility in Tulsa described *infra* ¶ 27). Three of the four physicians are board-certified in Family Medicine, the fourth is a board-certified OB/GYN.

e. Planned Parenthood of Arkansas & Eastern Oklahoma ("PPAEO")

27. PPAEO is a not-for-profit corporation organized under the laws of Oklahoma. It operates one health center in Oklahoma, located in Tulsa, which is licensed as an abortion facility by the Oklahoma State Department of Health. The Tulsa health center keeps pharmaceutical medication in a drug room licensed by the Oklahoma State Board of Pharmacy. PPAEO sues on behalf of itself, its staff, and its patients.

28. PPAEO provides a wide variety of sexual and reproductive health care at its Tulsa location, including contraceptives, cancer screenings, pap smears, wellness exams, breast exams, colposcopies, and abortion care. PPAEO's Tulsa location provides medication abortion, up through 11 weeks, 0 days LMP, as well as procedural abortion.

29. PPAEO employs one full-time physician who provides abortion care at its Tulsa facility. This physician is licensed to practice medicine in Oklahoma by the Medical Board and is board-certified in Family Medicine.

B. Defendants

30. Defendant John O'Connor is the Attorney General of the State of Oklahoma. The Attorney General is the "chief law officer of the state," 74 O.S. § 18, whose duties include "appear[ing] in any action in which the interests of the state or the people of the state are at issue. . . ." 74 O.S. § 18b(A)(3). He is sued in his official capacity.

31. Defendant David Prater is the District Attorney for Oklahoma County. Defendant Prater is responsible for prosecuting all criminal matters occurring within Oklahoma County pursuant to Okla. Stat. tit. 19, § 215.4. *See* H.B. 2441 § (1)(D); H.B. 1904 § (1)(A); S.B. 778 § 11(A)(4)(c); S.B. 779 § 11(E)(3). He is sued in his official capacity.

32. Defendant Steve Kunzweiler is the District Attorney for Tulsa County. Defendant Kunzweiler is responsible for prosecuting all criminal matters occurring within Tulsa County pursuant to 19 O.S. § 215.4. *See* H.B. 2441 § (1)(D); H.B. 1904 § (1)(A); S.B. 778 § 11(A)(4)(c); S.B. 779 § 11(E)(3). He is sued in his official capacity.

33. Defendant Lyle Kelsey is the Executive Director of the Oklahoma Medical Board. The Medical Board, among other responsibilities, issues medical licenses and has authority to take disciplinary action against its licensees. 59 O.S. §§ 495, 503, 509, 509.1; H.B. 1102 § 1(20); S.B. 779 §12(A). He is sued in his official capacity.

34. Defendant Katie Templeton is the President of the Oklahoma Osteopathic Board. The Osteopathic Board, among other things, issues licenses to osteopathic physicians and has authority to take disciplinary action against its licensees. 59 O.S. §§ 622(A)(1), 633, 637, 637.1; H.B. 1102 § A(14); S.B. 779 § 12(A). She is sued in her official capacity.

35. Defendant Lance Frye is the Oklahoma Interim Commissioner of Health. He oversees the Oklahoma State Board of Health, which issues licenses to facilities at which abortions are performed and oversees compliance with the regulation of such facilities. 63 O.S. §§ 1-706(A), (B); O.A.C. §§ 310:600-7-3, -13-2; S.B. 778 § 4(B), (8)(A); S.B. 779 § 8(2)(c)-(d), (g). He is sued in his official capacity.

36. Defendant Justin Wilson is the President of the Oklahoma State Board of Pharmacy ("Board of Pharmacy"). The Board of Pharmacy, among other things, issues licenses and oversees

compliance with pharmacy regulations. 59 O.S. § 8-353.7(9)-(11); S.B. 779 § 12(A). He is sued in his official capacity.

IV. FACTUAL ALLEGATIONS

A. Abortion is an Extraordinarily Safe Form of Medical Care

37. Abortion is one of the safest and most common medical procedures performed in the United States.[7]

38. Nationwide, nearly one in four women will obtain an abortion by age forty-five.[8]

39. There are generally two methods of providing abortion care: medication abortion and procedural abortion. Abortion by either method is safe and effective. Complications from abortion occur less than 1% of the time, making abortion safer than carrying a pregnancy to term.[9] Nationally, the risk of death associated with childbirth is approximately 14 times higher than that associated with abortion.[10]

40. The most common form of medication abortion is a regimen of two prescription drugs, mifepristone and misoprostol, which are pills taken orally. Mifepristone, also known by its commercial name Mifeprex, was first approved by the U.S. Food and Drug Administration ("FDA") in 2000 as an effective alternative to procedural abortion in early pregnancy when used in conjunction with misoprostol. As with other prescription drugs, the combined use of mifepristone and misoprostol—collectively referred to as "medication abortion"—is regulated by

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[7] *See* NAS Report at 163-5.

[8] New Release, Guttmacher Inst., *Abortion Is a Common Experience for U.S. Women, Despite Dramatic Declines in Rates* (Oct. 19, 2017), https://www.guttmacher.org/news-release/2017/abortion-common-experience-us-women-despite-dramatic-declines-rates.

[9] *See* NAS Report at 55, 60, 163.

[10] Elizabeth Raymond & David Grimes, *The Comparative Safety of Legal Induced Abortion and Childbirth In The United States*, 119 Obstetrics & Gynecology 215-9 (2012).

the FDA. The FDA has confirmed that the regimen of mifepristone and misoprostol is extremely safe and effective in terminating pregnancy.[11]

41. Since 2000, over four million women in the United States have had a medication abortion.[12]

42. As provided by the 2016 FDA label, the protocol for the administration of medication abortion is as follows: on day 1, the patient takes 200 mg of mifepristone orally; 24 to 48 hours later, the patient takes 800 mcg of misoprostol buccally (meaning, held inside the cheek while the pills dissolve).[13] The 2016 label contemplates the use of medication abortion through seventy days, or ten weeks LMP.[14] Medical evidence also supports the use of this regimen through 77 days, or eleven weeks LMP.

43. Research consistently shows that medication abortion is comparable in safety to many common prescription medications, such as antibiotics, and even over-the-counter medications, such as Advil and Tylenol.

44. Given the robust evidence of the safety of medication abortion, the medical consensus is moving away from medically unnecessary restrictions on access to the regimen. In 2016, the FDA revised its original protocol to recommend lower dosages, longer availability, and removal of in-person follow-up requirements, reflecting the superior evidence-based protocols

[11] *Mifeprex (mifepristone) Highlights of Prescribing Information*, (Mar. 2016) ("FDA Label").

[12] Dance Laboratories, LLC, *Mifeprex Effectiveness and Advantages*, https://www.earlyoptionpill.com/is-mifeprex-right-for-me/effectiveness-advantages/.

[13] *See* FDA Label.

[14] *Id.*

employed by physicians.[15] At present, the FDA is reevaluating the remaining restrictions on medication abortion.[16]

45. According to data collected by the Health Department, the proportion of abortions by medication abortion in Oklahoma has been steadily increasing. "In 2002, non-surgical abortions made up only 4.5 percent of all abortions performed in Oklahoma, while in 2020 non-surgical abortions made up 64.0 percent of all abortions."[17]

46. Patients seeking an abortion can choose between a medication abortion and a procedural abortion up through 10 or 11 weeks LMP, depending on the provider's practice; thereafter, only procedural abortion is available.

47. Many patients prefer medication abortion because they can complete the process (that is, take the second pill) in the privacy of their homes, with the company of loved ones, and at a time of their choosing. Other patients, including rape survivors, prefer medication abortion to a procedural abortion because it can feel less invasive or more natural.

48. Medication abortion can also be medically preferred for some patients. For example, some patients have common medical conditions that make medication abortion a medically preferable option.

49. Except in narrow circumstances, abortion is illegal in Oklahoma after 22 weeks LMP. O.S. 63 § 1-745.5.

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[15] *Id.*

[16] *Chelius v. Becerra*, Joint Mot. to Stay, No. 1:17-cv-00493-JAO-RT (D. Hi. May 7, 2021).

[17] Oklahoma State Department of Health, *Abortion Surveillance in Oklahoma, 2002-2020*, Oklahoma State Department of Health (May 2020), https://oklahoma.gov/content/dam/ok/en/health/health2/aem-documents/data-and-statistics/center-for-health-statistics/2020%20AbortionReport.pdf ("OK Abortion Report 2020").

50. Procedural abortion involves gently dilating (opening) the cervix and then removing the contents of the uterus. Procedural abortion is a straightforward procedure. It is almost always performed in an outpatient setting and involves local anesthesia and sometimes conscious sedation to make the patient more comfortable.[18] Though it is sometimes referred to as "surgical" abortion, it is not what is commonly understood to be surgery. There is no incision and no need for general anesthesia or a sterile field.

51. Procedural abortion is safe and effective, with a rate of complications comparable to or lower than many other outpatient procedures such as colonoscopies and wisdom tooth extractions.

B. Oklahoma's Existing Regulatory Requirements Governing Abortion

52. For decades, Oklahoma has engaged in a persistent campaign to make abortion difficult, if not impossible, to access. Since 2008, the Oklahoma Legislature has enacted over 20 bills addressing abortion, imposing a maze of requirements. Many of these bills have been enjoined:

- *Okla. Coal. for Reprod. Just. v. Cline ("Cline IV")*, 2019 OK 33, ¶ 43, 441 P.3d 1145, 1161 (permanently enjoining a law mandating an outdated protocol for providing medication abortion);
- *Cline III*, 2016 OK 121, ¶ 19, 387 P.3d 348, 354 (permanently enjoining bill including an admitting-privileges requirement);
- *Burns v. Cline ("Cline II")*, 2016 OK 99, ¶ 10, 382 P.3d 1048, 1051 (permanently enjoining bill including amendments to minor consent for abortion);
- *Cline v. Okla. Coal. for Reprod. Just. v. Cline ("Cline I")*, 2012 OK 102, ¶ 2, 292 P.3d 27, 28 (permanently enjoining law restricting access to medication abortion);
- *Nova Health Sys. v. Pruitt*, 2012 OK 103, 292 P.3d 28 (permanently enjoining mandatory ultrasound law);

[18] *See* NAS Report at 77-78, 162-66.

- *Davis v. Edmondson*, No. CJ-2009-9154, 2010 WL 1734636 (Okla. Dist. Mar. 2, 2010) (permanently enjoining a 2009 statute imposing multiple abortion restrictions);
- *Nova Health Sys. v. Edmondson*, 2010 OK 21, 233 P.3d 380 (permanently enjoining a 2008 statute imposing multiple abortion restrictions);
- *S. Wind Women's Ctr. LLC v. Stitt*, 455 F. Supp. 3d 1219, 1232 (W.D. Okla. 2020), *appeal dismissed as moot*, 823 F. App'x 677 (10th Cir. 2020) (enjoining most of executive order banning abortions purportedly due to COVID-19);
- *Tulsa Women's Reproductive Clinic, LLC, et al v. Hunter, et al*, No. CV-2019-2176 (Dist. Ct. Okla. Cnty. Oct. 29, 2019) (preliminarily enjoining law requiring disclosure of information about "medication abortion reversal").

53. Oklahoma's administrative code outlines extensive regulations for abortion facilities governing administration, staffing, clinical services, recordkeeping, and physical plants. O.A.C. §§ 310:600-1-1; 310:600-13-3. No public facilities or hospitals may be used for abortions, and with limited exceptions, no public employees may provide abortions. 63 O.S. § 1-741.1(A). All patients seeking abortions are required to wait 72 hours after receiving state-mandated information. 63 O.S. § 1-738.2. People who rely on Medicaid can obtain coverage for abortion only if the pregnancy is life-threatening or the result of rape or incest. 63 O.S. § 1-741.1(B); Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, 128 Stat. 409, §§ 506-07.

C. Access to Abortion is Central to the Health and Wellbeing of Oklahomans

54. Access to abortion benefits the health and wellbeing of pregnant people and their families, including people who already have children. Over the past fifty years, access to abortion has been essential to facilitating women's equal participation in society, including in the economic and social life of the nation.

55. There is no typical abortion patient. People seek abortions for a variety of deeply personal and often complex reasons, including familial, medical, and financial concerns.[19] Some people have abortions because they conclude that it is not the right time in their lives to have a child or to add to their families. Some decide to end a pregnancy because they want to pursue their education. Some choose abortion because they feel they lack the necessary economic resources, level of partner support, or stability. Three-fourths of abortion patients cite responsibility to other individuals (such as children or elderly parents) as a reason; many also say they cannot afford to become a parent or to add to their families, and that having a baby would interfere with work, school, or the ability to care for dependents.[20] Some decide to have an abortion because they do not want children at all. Some decide to have an abortion because of an indication or diagnosis of a fetal medical condition. Some patients experience intimate partner violence and may face additional threats to their safety if their partner becomes aware of their pregnancy or desire for an abortion; many such patients fear that being forced to carry the pregnancy to term would further tether them to their abusers.

56. Data from the Department of Health likewise shows that, when asked their reason for seeking abortion care, patients most frequently report that having a baby would "dramatically change" their life, that it would interfere with their education or career, or that they cannot afford to have a child.[21]

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[19] Stanley K. Henshaw & Kathryn Kost, *Abortion Patients in 1994-1995: Characteristics and Contraceptive Use*, 28(4) Family Planning Perspectives 140-47, 158 (1996), https://www.guttmacher.org/sites/default/files/pdfs/pubs/journals/2814096.pdf.

[20] Lawrence B. Finer et al., *Reasons U.S. Women Have Abortions: Quantitative and Qualitative Perspectives*, 37(3) Perspectives on Sexual and Reproductive Health 110-18, 117 (Sept. 2005), https://www.guttmacher.org/sites/default/files/article_files/3711005.pdf.

[21] *See* OK Abortion Report 2020 at 24.

57. When people are denied the ability to choose an abortion, their lives are irrevocably altered—the State intrudes on their bodily autonomy and their ability to direct their own lives. Denial of care also imposes substantial medical risk, as in all instances carrying a pregnancy to term is far riskier than any method of abortion. Further, people denied access to abortion experience worse psychological, physical, and financial health outcomes than people who were able to access such care. These women are more likely to experience poverty, health difficulties, and physical violence, as are their families.

D. Abortion Patients in Oklahoma Have a Diversity of Experience and Some Communities are Particularly Harmed by Restrictions on Abortion

58. Abortion patients in Oklahoma are diverse, but the rates of abortion are highest for people of color. According to data collected by the Health Department, the overall rate of abortions is declining—but the proportion of patients of color and those with fewer resources receiving abortions has increased.[22] "Black women, women with less education and those who were unmarried had higher rates of abortions compared to other women of child-bearing age."[23] Increasingly, restrictions on abortion thus impact Black women more significantly than other populations. Indigenous patients also experience outsized harms from abortion restrictions. In particular, Indigenous patients are most likely to obtain a medication abortion,[24] and they will thus be hardest hit by restrictions on that method.

59. At the same time, these communities have a much higher rate of maternal death. In 2020, the Oklahoma Maternal Mortality Review Committee issued its inaugural report. It found

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[22] *See id.* at 7.

[23] *Id.*

[24] *Id.*

that Oklahoma is the fourth-worst state in the nation for maternal mortality.[25] And, specifically, Black women in Oklahoma were two and a half times more likely to die of complications related to birth or pregnancy than white women.[26] The report characterized this as an "alarming disparity."[27] Indigenous women were up to one and a half times more likely to die compared to white women.[28] "For every woman who dies, about 70 have life-threatening complications related to birth or pregnancy, according to data obtained from the health department."[29]

60. Black and Indigenous communities in Oklahoma face heightened challenges across the spectrum of reproductive choices. These same communities have experienced oppression for generations, dating back to horrific race- and gender-based violence—from the Tulsa Race Massacre to the forced removal of Indigenous children from their families. And, today, these same communities disproportionately experience poverty and lack of access to healthcare, education, and other services.

61. As Hannibal Johnson, historian and author who studied the Tulsa Race Massacre, has stated, there are "two main casualties of the massacre" that contribute to racial disparities and "affect everyday life—a breach in trust between Black and white communities and the inability to

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[25] Oklahoma Maternal Mortality Review Committee, *Maternal Mortality in Oklahoma 2004-2018* (2020), https://oklahoma.gov/content/dam/ok/en/health/health2/aem-documents/family-health/maternal-and-child-health/maternal-mortality/annual-mmrc-report.pdf.

[26] *Id.*

[27] *Id.*

[28] *Id.*

[29] Kassie McClung, *Most of Oklahoma's maternal deaths preventable, state review finds*, The Frontier, Aug. 10, 2020, https://www.readfrontier.org/stories/mostof-oklahomas-maternal-deaths-preventable-state-review-finds/.

transfer accumulated wealth."[30] The wealth disparities that exist today in Oklahoma ultimately stem from the "inability of Black people to accumulate wealth and transfer it intergenerationally."[31] According to the Oklahoma Policy Institute: "[n]ow we see more clearly why households of color in Oklahoma have less wealth on average than [w]hite households: some had ancestors whose wealth was destroyed during the Tulsa Race Riot in the 1920s, grandparents who were denied a college education or homeownership in the 1940s and 50s, and parents who faced employment discrimination throughout the 1970s and 80s."[32]

62. Government-inflicted traumas, including removal of land and resources, have also hindered the Indigenous communities in Oklahoma.[33] Tribes from all over the United States were relocated to reservations in what became the State of Oklahoma through the trail of tears and other removals. Devastatingly, Indigenous families repeatedly suffered the horrific crime of having their children forcibly removed from their care. Unsurprisingly, Indigenous people have the highest rate of poverty of any minority group—25.4%.[34]

63. In short, although promised as a place of freedom, the State of Oklahoma has repeatedly devastated the ability of Black and Indigenous people to form families, grow their

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[30] Randi Richardson, *Tulsa Race Massacre, 100 years later: Why it happened and why it's still relevant today*, NBC News, May 28, 2021, https://www.nbcnews.com/news/nbcblk/tulsa-race-massacre-100-years-later-why-it-happened-why-n1268877.

[31] *Id.*

[32] Kate Richey, *[Closing The Gap, Part 5] Past is future: Intergenerational wealth*, Oklahoma Policy Institute (Aug. 28, 2013), https://okpolicy.org/closing-the-gap-part-5-past-is-future-intergenerational-wealth/.

[33] Dedrick Asante Muhammad, Rogelio Tec, and Kathy Ramirez, *Racial Wealth Snapshot: American Indians/ Native Americans*, National Community Reinvestment Coalition (Nov. 18, 2019), https://ncrc.org/racial-wealth-snapshot-american-indians-native-americans/.

[34] Poverty USA, *The Population of Poverty USA (2021)*, https://www.povertyusa.org/facts.

communities, and succeed. While failing to address these persistent disparities, the State continues to pursue policies that disproportionately harm Black and Indigenous people and make it ever more challenging to direct their own lives.

64. Most people who need to access abortion are living in poverty. Nationally, approximately three-fourths of abortion patients are low income—49% living at less than the federal poverty level, and 26% living at 100-199% of the poverty level.[35]

65. There is no state funding for abortion care in Oklahoma. Thus, the people with the least means pay out of pocket for an abortion.

66. Additionally, low-income patients in Oklahoma face logistical barriers to care. Oklahoma is a rural state, with higher poverty rates in rural and small-town Oklahoma than in the major metropolitan areas.[36] Traveling in Oklahoma is challenging, especially for those without a car, since there is no meaningful public transportation in the State.

67. In Oklahoma, about two-thirds of abortion patients already have at least one child.[37] One in three Oklahomans living in poverty are in single-mother households.[38] Thus, many patients struggle to find safe and affordable childcare when they go to a clinic.

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[35] Jenna Jerman, Rachel K. Jones, & Tsuyoshi Onda, *Characteristics of U.S. Abortion Patients in 2014 and Changes Since 2008* at 7, 11 ("Jerman & Jones"), Guttmacher Inst. (May 2016), https://www.guttmacher.org/sites/default/files/report_pdf/characteristics-us-abortion-patients-2014.pdf.

[36] *See* Richey, *supra.*

[37] *See* OK Abortion Report 2020 at 21.

[38] *See* Richey, *supra.*

68. Further, according to statistics cited by the Department of Health, in Oklahoma, 49% of women have experienced intimate partner violence at some time in their lives.[39] These patients also face additional challenges accessing care, including threats to their safety and the safety of their families.

69. Women working low-wage jobs also often have no access to paid time off or sick days. According to the Institute for Women's Policy Research, 41% of working parents at or below 200% of the poverty line have no access to paid sick leave, vacation days, personal days, or any other form of compensated leave.[40] "In Oklahoma, even *unpaid* leave under the federal Family and Medical Leave Act is inaccessible for 64 percent of working people."[41]

70. Research consistently shows that access to abortion care is very sensitive to increases in these logistical burdens—even small increases in travel distance or congestion at abortion facilities due to reduced access can stop people from getting care and force them to carry an unwanted pregnancy to term.[42]

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[39] Oklahoma State Department of Health, *Intimate Partner Violence*, https://oklahoma.gov/health/prevention-and-preparedness/injury-prevention-service/intimate-partner-violence.html.

[40] Andrea Lindemann Gilliam, *An Introduction to Paid Time Off Banks*, Institute for Women's Policy Research, (June 20, 2012), http://www.iwpr.org/blog/2012/06/20/an-introduction-to-paid-time-off-banks.

[41] National Partnership for Women & Families, *Paid Leave Means a Stronger Oklahoma* (Jan. 2021), https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/paid-leave-means-a-stronger-oklahoma.pdf.

[42] Daniel Grossman, *The Use of Public Health Evidence in Whole Woman's Health v Hellerstedt*, 177(2) JAMA Intern Med. 155-56 (2017); Jason M. Lindo & Caitlin Knowles Myers & Andrea Schlosser & Scott Cunningham, *How Far Is Too Far? New Evidence on Abortion Clinic Closures, Access, and Abortions*, 55(4) Journal of Human Resources 1137-60 (2020); Troy Quast et al., *Abortion Facility Closings and Abortion Rates in Texas*, 54 Inquiry 1 (2017); Stefanie Fischer et al., *The impacts of reduced access to abortion and family planning services on abortions, births, and contraceptive purchases*, Journal of Public Economics 167 (Nov 2018); Joanna Venator and Jason Fletcher, *Undue Burden Beyond Texas: An Analysis of Abortion Clinic Closures, Births, and Abortions in Wisconsin*, NBER Working Paper 26362 (2019).

71. Being pregnant in Oklahoma thus comes with a host of challenges regardless of one's intentions for the pregnancy, and this is especially true for Black and Indigenous people and people living in poverty.

72. The Provider Plaintiffs see their patients attempt to navigate these challenges every day.

73. OCRJ and its members strive to shed light on and expose how restrictions on abortion negatively impact all Oklahomans but have particularly devasting impacts on people of color and low-income people.

V. THE CHALLENGED LAWS ARE UNCONSTITUTIONAL AND WILL IMMEASURABLY HARM THE PROVIDER PLAINTIFFS AND THEIR PATIENTS, AS WELL AS OCRJ AND ITS MEMBERS

A. The Total Ban

74. The Total Ban defines the provision of abortion care as "unprofessional conduct" by physicians. It effectively prohibits *all* abortion care except in exceedingly narrow circumstances. If permitted to take effect, the Total Ban will prevent the Provider Plaintiffs from providing abortion care, thus eliminating access to abortion in Oklahoma. Such a law is clearly unconstitutional and would impose the same harms as the ban invalidated in *Roe v. Wade*.

75. The Total Ban amends an existing statute setting forth various forms of unprofessional conduct by physicians licensed by the Medical Board—adding the "[p]erformance of an abortion" as a category of "unprofessional conduct." H.B. 1102 § 1(20) (amending 59 O.S. § 509).

76. The penalty for violation of the Total Ban includes, but is not limited to, suspension of a physician's medical license "for a period of not less than one (1) year." *Id.* The Medical Board also has available the full range of enforcement mechanisms provided for unprofessional conduct,

including permanent revocation of medical license and fines of up to $5,000 per violation. 59 O.S. § 509.1.

77. The Total Ban has an extremely narrow medical emergency exception where "in reasonable medical judgment, [the patient] has a condition that so complicates her medical condition that it necessitates" an abortion "to avert her death or to avert serious risk of substantial and irreversible physical impairment of a major bodily function." H.B. 2441 § 1(A). This exception does not apply to "psychological or emotional conditions," however—even where there is a claim or diagnosis that the patient "will engage in conduct which she intends to result in her death." *Id.*

78. The Total Ban imposes similar, corresponding penalties for osteopathic doctors licensed by the Osteopathic Board who provide abortion services. H.B. 1102 § A(14) (amending 59 O.S. § 637(14)) (categorizing performance of an abortion as cause for licensure sanctions except in extremely limited circumstances); 59 O.S. § 637.1 (authorizing revocation of license and administrative fines of up to $1,000 for each count or separate violation).

79. A total ban on pre-viability abortion will irreparably harm the Provider Plaintiffs' patients as well as members of OCRJ, as described above in Parts IV(C) and IV(D).

B. The 6-Week Ban

80. In clear violation of Oklahoma Supreme Court precedent, the 6-Week Ban prohibits abortion roughly four months prior to viability, which medical consensus concludes typically occurs around 23-24 weeks LMP. A full-term pregnancy is approximately 40 weeks LMP. No fetus is viable at approximately 6 weeks LMP.

81. According to Department of Health data, from 2002-2018, approximately 60% of abortions took place after 6 weeks LMP.[43] Thus, the 6-Week Ban will prohibit a large percentage of abortions performed in Oklahoma.

82. The 6-Week Ban turns on the detection of a "heartbeat," and prohibits performing or inducing an abortion "without first detecting whether or not [the] unborn child has a heartbeat." H.B. 2441 § 1(A)-(B). No abortion may be performed where a heartbeat is detectable. *Id.*

83. A person who violates the ban is "guilty of homicide." *Id.* § 1(D).

84. The only exception mirrors the callously limited language used in the Total Ban described *supra* ¶ 77.

85. In a typically developing embryo, cells that eventually form the basis for development of the heart later in pregnancy produce cardiac activity that is generally detectable via ultrasound beginning at approximately 6 weeks LMP.

86. The cells that produce this early cardiac activity have not yet formed a "heart." The term "heartbeat" as used in the statute is *not* a "heartbeat" in a lay sense, but more accurately, electrical impulses present before the development of the cardiovascular system.

87. Patients generally seek abortion care as soon as they are able, but the majority of abortion patients are simply not able to confirm a pregnancy and schedule and obtain an abortion before 6 weeks LMP.

88. Some individuals have fairly regular menstrual cycles (periods), with a 4-week cycle being typical; others have regular cycles of different lengths; and still others have irregular cycles or rarely have a period at all

[43] Okla. State Dept. of Health, *Detailed Induced Termination of Pregnancy Statistics*, https://www.health.state.ok.us/stats/Vital_Statistics/ITOP/Final/Statistics.shtml. The most recent Abortion Surveillance Report only reports abortions performed after 8 weeks LMP.

89. In a person with regular monthly periods, fertilization typically occurs 2 weeks LMP—that is, 2 weeks after the first day of the last menstrual period. This means an individual with a highly regular, 4-week cycle would be 4 weeks LMP at the time of the first missed period. Thus, the 6-Week Ban limits them to a mere 2 weeks after they will have missed their period to make a decision and then schedule and obtain an abortion.

90. Prior to and even after 6 weeks LMP, many individuals do not know they are pregnant—particularly people who have irregular cycles, who have certain medical conditions, who have been using contraceptives, who are breastfeeding, and who may not be getting a period at all.

91. By prohibiting a majority of abortions performed in Oklahoma, the 6-Week Ban will irreparably harm the Provider Plaintiffs' patients as well as members of OCRJ—prohibiting them from exercising their constitutional right to choose abortion and direct the course of their lives, as described above in Parts IV(C) and IV(D).

C. The OB/GYN Requirement

92. The OB/GYN Requirement arbitrarily prohibits qualified physicians from providing abortions unless they are board-certified in obstetrics and gynecology. *See* H.B. 1904 § 1 (amending O.S. § 63-1-731(A)). Providing an abortion in violation of the OB/GYN Requirement is a felony, punishable by one to three years in prison. *Id.* It may also result in the revocation, suspension, or nonrenewal of the professional license of the physician or abortion facility. O.S. §§ 59-509(9); 59-637(5).

93. If the OB/GYN Requirement is permitted to take effect, half of the physicians at Tulsa Women's, the only physician at CHPPGP, and three quarters of PPAEO's physicians will

be barred from providing abortion care, which they have done safely and effectively in Oklahoma and/or other states for years.[44] This requirement has no medical justification.

94. The OB/GYN Requirement is similar in effect to, and even more onerous than, the admitting privileges requirement deemed unconstitutional by the Oklahoma Supreme Court in *Cline III*. Like the law invalidated in *Cline III*, the OB/GYN Requirement will dramatically reduce the number of providers without medical justification.

95. Barring a significant percentage of the Provider Plaintiffs' physicians from providing abortion care would have the same kind of dramatic effect on access to abortion in this state demonstrated in Texas and Louisiana, respectively, in *Whole Woman's Health* and *June Medical*, where the United States Supreme Court invalidated state laws that curtailed access.[45]

96. The legislative history of the OB/GYN Requirement makes clear that the bill was intended to restrict abortion access in Oklahoma, not to make abortion care safer. Representative Cynthia Roe, the bill's primary sponsor, stated unequivocally that "[t]his Bill is about reducing the number of abortions done in this state." H.R., 58th Leg., 1st Reg. Sess., Day 18 (Okla. Mar. 2, 2021), Statement of Rep. Cynthia Roe. Representative Roe conceded that "complications are rare." *Id.*; *see also id.* (noting that "[b]etween 2012 and 2019 there were over 96,000 abortions performed in this state and that's 96,000+ too many"). In the Oklahoma Senate, Senator Shane Jett, also a co-sponsor, made clear that the bill would restrict abortion access, remarking that "House Bill 1904 will reduce the number of babies who are killed in the womb." Senate Chamber Session, 58th Leg. (Okla. Apr. 20, 2021), Statement of Sen. Shane Jett.

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[44] Currently, Oklahoma law only permits physicians to provide abortion care. O.S. § 63-1-731.

[45] *June Med. Servs.*, 140 S. Ct. at 2132 (plurality); *id.* at 2134 (Roberts, C.J., concurring); *Whole Woman's Health*, 136 S. Ct. at 2313.

97. There is no medical basis for the OB/GYN Requirement. Training and experience, not specialty, determines competency to provide abortion care, which is why a wide variety of clinicians can safely provide abortion services.

98. For example, abortion is well within the broad scope of practice of family medicine physicians, which includes a large array of outpatient procedures in which individual physicians may achieve competency through training and experience. Some family medicine physicians perform procedures more complex than abortion, such as colonoscopies. Some family medicine doctors provide obstetrical care including prenatal care and delivery, which is far riskier than abortion.

99. A host of clinicians, including family medicine doctors, can provide prescription medications that are comparable to or risker than medication abortion, such as antibiotics or pain medications, such as fentanyl.

100. Clinicians manage miscarriages with largely the same medications and procedures used in abortion care, but this care is not subject to any similar restriction.

101. OB/GYNs are not inherently more qualified to provide—or learn how to provide—abortion care than physicians with other specialties, such as family medicine. OB/GYNs are not required to train in abortion care. One survey of residency program directors found that "only 51% of obstetrics and gynecology residency programs offered routine abortion training."[46]

102. Thus, the fact that a physician does or does not have board certification in OB/GYN is irrelevant to the question of their training and competence to provide abortion care.

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[46] American College of Obstetricians and Gynecologists, Comm. on Health Care for Underserved Women, *Committee Opinion 612, Abortion Training and Education* 124(5) Obstetrics & Gynecology 1055-59 (Nov. 2014, reaff'd 2017), https://www.acog.org/-/media/project/acog/acogorg/clinical/files/committee-opinion/articles/2014/11/abortion-training-and-education.pdf ("ACOG Comm. Op. 612").

103. For all of these reasons, leading professional medical organizations oppose laws like the OB/GYN Requirement. For example, the American College of Obstetricians & Gynecologists ("ACOG") recognizes that clinicians in many medical specialties—including advanced practice clinicians such as a nurse practitioners—can provide safe abortion care, and that requiring board-certification in obstetrics and gynecology is "medically unnecessary" and "designed to reduce access to abortion."[47] The President of the Academy of Family Physicians has likewise said that "[t]here is no evidence that these requirements improve patient safety; they just serve to reduce patient access to care."[48] Organizations such as the National Academy of Sciences, Engineering, and Medicine have also specifically endorsed the provision of abortion care by clinicians other than board-certified OB/GYNs.[49]

104. It would be infeasible for abortion providers with other specialties to obtain OB/GYN board-certification. To become board-certified in family medicine, for example, one must apply to, be accepted to, and complete a three-year family medicine residency program, which includes rotations in various specialties. A physician must then prepare for and pass a board exam. To obtain board-certification in a new specialty such as OB/GYN, a physician would have

[47] ACOG, Comm. on Health Care for Underserved Women, *Committee Opinion No. 815, Increasing Access to Abortion* 136(6) Obstetrics & Gynecology e107-15 (Dec. 2020) (replaces Committee Opinion No. 613, Nov. 2014) ("ACOG Comm. Op. 815"), https://www.acog.org/-/media/project/acog/acogorg/clinical/files/committee-opinion/articles/2020/12/increasing-access-to-abortion.pdf.

[48] Brief of Amicus Curiae American College of Obstetricians and Gynecologists et al. in Support of Petitioners, *June Medical Services L.L.C., et al. v. Gee* (No. 18-1323).

[49] Am. Academy of Family Physicians, *Recommended Curriculum Guidelines for Family Medicine Residents: Women's Health And Gynecologic Care* 9 (Aug. 2018); see ACOG Comm. Op. 612; National Academies at 163-65.

to repeat this entire process—including applying to, being accepted to, and completing another multi-year residency program and then preparing for and passing another board exam.

105. It would be very difficult to recruit board-certified OB/GYNs to replace all of the physicians who will be disqualified by the OB/GYN Requirement. Abortion providers in Oklahoma already face myriad obstacles, including medically unjustified restrictions that single them out for heavy penalties, along with harassment and stigma, which make it more difficult for clinics to recruit and retain physicians.

106. Abortion providers in Oklahoma are regularly picketed by protestors, who harass physicians, staff, and patients. Across the United States, abortion providers are regularly subjected to harassment, threats, and acts of violence. Abortion providers have been murdered, including in a neighboring state. Anti-abortion groups have historically sought to obtain and post on the internet the home addresses of abortion providers, the names of their family members, and their personal phone numbers. This information is used to identify abortion providers and pressure them into no longer providing abortion care. The Provider Plaintiffs have personally experienced harassment as a result of anti-abortion protestors and activists.

107. Physicians who reside locally often will not provide abortions, even on a part-time basis, because it would be difficult for them to maintain an outside practice due to the stigma attached to providing abortion. For this reason, the Provider Plaintiffs have had to recruit many physicians who travel from out of state to provide care.

108. If the OB/GYN Requirement takes effect and the number of clinicians providing in the state is significantly reduced, and the pool of clinicians who are even eligible to provide is

shrunk to include only board-certified OB/GYNs,[50] people seeking abortions in Oklahoma will face tremendous barriers to care. CHPPGP and PPAEO (collectively "Planned Parenthood")—which collectively provide approximately one quarter of all abortions provided in Oklahoma—will be reduced to a single part time provider who offers care only a few days per month. PPAEO will be unable to offer abortion care at all. Tulsa Women's, which provides approximately another half of abortions in the state, would lose half of its capacity. The remaining providers will struggle to meet the need.

109. As a result, patients will be subjected to long wait times for appointments. The resulting logistical and financial obstacles will greatly harm the majority low-income patients who seek abortion care and disproportionately impact Black and Indigenous women, as described above in Parts IV(C) and IV(D).

110. Delays in accessing abortion subject patients to more complex and expensive procedures and increased medical risk. Although remaining low, the risk associated with abortion increases with gestational age. Patients who are close to the cutoff for medication abortion may be forced to have a procedural abortion instead, even if a medication abortion would be a more appropriate option. Patients may be pushed from a first-trimester procedure to a second-trimester procedure, which carries additional health risks for women and costs more. Some patients may be pushed beyond the time period within which they can access abortion in Oklahoma entirely.

[50] Oklahoma has a shortage of OB/GYNs. *See* Michelle Linn & Ryan Love, *Oklahoma OB-GYN shortage; state ranks among worst to have a baby*, Fox 23 News (Oct. 8, 2019), fox23.com/news/oklahoma-ob-gyn-shortage-state-ranks-among-worst-to-have-a-baby/995047451/.

D. S.B. 778 and S.B. 779

111. S.B. 778 and S.B. 779 (the "Medication Abortion Restrictions") impose a massive array of requirements for providers, manufacturers, and distributors of abortion-inducing drugs, including the medications that make up the medication abortion regimen.

112. Oklahoma has a long history of attempting to restrict medication abortion in medically unjustified ways. In 2011, the Legislature enacted H.B. 1970, which essentially codified an outdated FDA protocol that had long been replaced by safer and more effective evidence-based protocols. In 2012, the Oklahoma Supreme Court struck down H.B. 1970 as unconstitutional. *Oklahoma Coal. for Reprod. Just. v. Cline*, 2012 OK ¶ 2, 292 P.3d at 27.

113. In response to the Oklahoma Supreme Court's decision invalidating H.B. 1970, in 2014, the Oklahoma Legislature then enacted House Bill 2684, an even more extreme version of H.B. 1970. The State continued to litigate the case even after the FDA revised its protocol in 2016 to account for the widely used evidence-based practices. In 2019, the Oklahoma Supreme Court determined that H.B. 2684 too was unconstitutional. *Oklahoma Coal. for Reprod. Just. v. Cline*, 2019 OK ¶ 9, 441 P.3d at 1150.

114. In S.B. 778 and S.B. 779, Oklahoma has *again* attempted to legislate the medical practice of providing medication abortion in ways that limit the availability of care and are out of line with evidence-based medicine, irrelevant to the provision of safe care, and lacking in any medical or other justification.

115. As described *supra* at § IV(A), medication abortion is an extraordinarily safe regimen. Like H.B. 1970 and H.B. 2684, S.B. 778 and S.B. 779 are "so completely at odds with the standard that governs the practice of medicine" that they "serve no purpose other than to prevent women from obtaining abortions and to punish and discriminate against those who do." *Cline v. Okla. Coal. for Reprod. Just.*, 2013 OK 93, ¶ 27, 313 P.3d 253, 262 (internal citations

omitted); *Cline IV*, 2019 OK ¶ 1, 441 P.3d at 1161 (Combs, J., Gurich, C.J., Kauger, and Reif, J.J., specially concurring) ("I write to reemphasize my writing in *Oklahoma Coalition For Reproductive Justice v. Cline*, wherein I noted this Court's prior disapproval of a law's drastic interference in the role of physicians which restricted the use of abortion-inducing drugs . . . .").

116. There is no medical justification for subjecting medication abortion to enhanced regulation, much less the arbitrary and extensive schemes set out in S.B. 778 and S.B. 779. During the debate on S.B. 778 and S.B. 779, Representative Mark Lepak, a co-author of the bills admitted that he could not speak to the origins of S.B. 778 and did not know if any physicians were consulted on it. H.R., 58th Leg., 1st Reg. Sess., Day 65, Statement of Rep. Mark Lepak. However, he acknowledged that the restrictions "requested by Oklahomans for Life," *id.*, and supported by other anti-abortion organizations, H.R., 58th Leg., 1st Reg. Sess., Day 45, Statement of Rep. Mark Lepak.

117. S.B. 778 and S.B. 779 apply to medication abortion, but not to the use of the same medications when used for miscarriage management.

118. Still further, components of these schemes have already been declared unconstitutional by the Oklahoma Supreme Court or the United States Supreme Court.[51]

a. S.B. 778—the Medication Abortion Protocol Act

119. S.B. 778 spans 17 pages and includes 14 new sections of Oklahoma Law with over 100 subsections, many of which bear no relationship to one another. S.B. 778 encompasses a vast array of unrelated requirements that serve no purpose other than reducing access to abortion care.

[51] *Cline IV*, 2019 OK 33, 441 P.3d 1145; *Cline III*, 2016 OK 121, 387 P.3d 348; *Cline I*, 2012 OK 102, 292 P.3d 27; *Nova Health Sys. v. Pruitt*, 2012 OK 103, 292 P.3d 28; *June Med. Servs.*, 140 S. Ct. 2132; *Whole Woman's Health*, 136 S. Ct. 2292.

This scheme as a whole will impose irreparable harm. Many of its provisions impose tremendous obstacles on their own.

120. Given the documented safety and commonality of medication abortion, *see supra* § IV(A), S.B. 778 has no medical justification.

121. Compliance with the scheme will drastically alter the Provider Plaintiffs' provision of medication abortion, impose significant delays and other logistical burdens on patients, and reduce access to abortion in Oklahoma.

122. S.B. 778 requires an additional, medically unnecessary visit to a provider by requiring an ultrasound at least 72 hours before an abortion. S.B. 778 § 6(B),(C), (E)(1). In *Pruitt*, the Oklahoma Supreme Court invalidated an ultrasound requirement that mandated an ultrasound a mere *one hour* in advance of the procedure, much less than the 72 hours in advance required by S.B. 778.[52] This two-trip requirement is imposed only for patients seeking a medication abortion. Although patients currently must receive state-mandated information at least 72 hours prior to their procedure, they are not required to make two visits because the existing state-mandating information can be provided to patients by phone. 63 O.S. § 1-738.2.

123. The logistical and financial obstacles imposed by S.B. 778's two visit requirement will greatly harm the majority low-income patients who seek abortion care and disproportionately impact Black and Indigenous women, as described above in Part IV(C) and IV(D). Scheduling standalone ultrasound appointments 72 hours in advance for all medication abortion patients would create significant backlogs and thus delay care. Combined with the logistical difficulties patients will face in having to schedule and travel to two appointments, this will create substantial delays

[52] *Pruitt*, 2012 OK ¶ 1, 292 P.3d at 29.

for patients in receiving care. As described *supra* ¶ 110, delays in accessing abortion also subject some patients to greater medical risk and more complex and expensive procedures.

124. The Provider Plaintiffs offer ultrasounds at very reasonable cost, so it is likely that most patients will travel to a clinic twice, rather than obtain an ultrasound elsewhere. It is also likely that patients might receive unreliable ultrasounds, which the Provider Plaintiffs cannot accept—it is not uncommon for crisis pregnancy centers to misdate patients.

125. Separate and unrelated to this two visit requirement, S.B. 778 also sets forth extensive reporting obligations, which far exceed existing requirements, and require the Department of Health to publish additional data for medication abortions in a manner that compromises the confidentiality of patients and security of abortion providers and those who refer patients to them. S.B. 778 § 8.

126. S.B. 778 requires that each medication abortion be reported and that such reports include the name of the providing physician, as well as the name of any referring agency or physician. S.B. 778 § 8. This will have a substantial chilling effect on physicians and agencies who may become afraid to refer patients for abortions, even where medically indicated, for fear of being identified for harassment. Indeed, the bill seems designed to create this fear of harassment, as it deems these reports on medication abortions to be "public records." *Id.*

127. These reports will also include information about each medication abortion, including the patient's age and race; number of previous pregnancies, live births, and abortions; probable gestational age; abortion drugs used, date provided, reason for abortion; preexisting medical conditions which would complicate pregnancy; whether the patient returned for follow-up in person; whether the patient suffered from any complications; and amount billed for complications. This is in stark contrast to the State's existing practice, which publishes aggregated

reports and has never made individual patient records "public records."[53] Although S.B. 778 includes a vague disclaimer that "information or identifiers that would make it possible to identify, in any manner or under any circumstances, a woman who has obtained or seeks to obtain a chemical abortion" must not be publicized, S.B. 778 § 8(C), it raises serious risks for the confidentiality of patient information. The information contained in these reports would expose a host of information about patients. S.B. 778 § 8. This is particularly dangerous in the context of abortion, where abusive partners of pregnant women may seek to access patient information.

128. Among other separate and unrelated components, S.B. 778 also includes a bar on mailing abortion-inducing drugs, *id.* § 3; and a prohibition on the provision of medication abortion on any school facility (including a university) or state grounds, *id.* § 5.

129. S.B. 778 imposes steep criminal, civil, and licensure penalties for even minor violations. S.B. 778 § 10. The law also creates private rights of action that can be brought by patients, spouses, parents or guardians, and current or former healthcare providers of patients, for injunctive relief preventing providers from continuing to provide medication abortion in violation of the requirements of the act. S.B. 778 § 11. The Legislature has reserved a right to intervene as a matter of right in any case challenging the law, S.B. 778 § 13, and, in an implicit acknowledgment of the bill's many particularly unconstitutional provisions, has included a robust severability clause, S.B. 778 § 14.

[53] Current law even specifies that "[n]o Individual Abortion Forms or Complications of Induced Abortion Reports that have been completed and submitted to the Department by any physician" shall be made available. 63 § 1-738j(D). Indeed, the Department of Health currently suppresses "any computed statistics" in its abortion surveillance reports "when the number used in the calculation [is] less than 5" so as "[t]o address concerns regarding confidentiality of women obtaining abortions." *See* OK Abortion Report 2020.

130. Given that there is no medical or health-related justification for S.B. 778's requirements, it seems intended only to burden patients and to threaten the confidentiality and security of patients, physicians, and referring physicians/agencies.

b. S.B. 779—The Medication Abortion Certification Program

131. S.B. 779 spans 25 pages and is comprised of over 16 new sections of law with nearly 200 subsections, many of which are unrelated to each other. The bill also amends three different existing statutes, and delegates authority to four separate state agencies. Like S.B. 778, it includes a wide array of unrelated requirements—from provider qualifications to storage of medications to how medications are shipped to reporting requirements and so much more. This scheme as a whole will impose irreparable harm. Many of its provisions impose tremendous obstacles on their own.

132. S.B. 779 creates an unprecedented scheme entitled "Oklahoma Abortion-Inducing Drug Certification Program" that ensnares physicians who provide medication abortion, as well pharmaceutical manufacturers and distributors of medication abortion. Physicians are prohibited from providing medication abortion to patients for the purpose of providing abortion care in Oklahoma unless they become certified under the S.B. 779 program. S.B. 779 §§ 3, 5(C), 5(D)(1). Manufacturers and distributors are prohibited from providing abortion-inducing drugs to physicians for the purpose of providing abortion care in Oklahoma unless they become certified under the S.B. 779 program. S.B. 779 §§ 3, 5(B)(1). To be eligible for certification under the S.B. 779 program, manufacturers and distributors must, among other things, obtain a license from the Pharmacy Board and only distribute abortion-inducing drugs to physicians certified under the act. S.B. 779 § 6(1)-(2).

133. Given the documented safety and commonality of medication abortion, *see supra* § IV(A), S.B. 779 has no medical justification. Indeed, like S.B. 778, this act includes elements that have already been deemed unconstitutional for that very reason.

134. Under S.B. 779, physicians must either maintain hospital admitting privileges at a hospital in the county or contiguous county where the medication abortion is provided and inform their patients of this, or enter into a written agreement with another physician (an "associated physician") who has admitting privileges. S.B. 779 § 8, § 7(11). If a physician opts for a written agreement with an associated physician, their agreement must meet a host of other conditions, including submission to the physician's Licensing Board and the Health Department of a copy of the agreement, which will contain the associated physician's name. S.B. 779 § 8(2). The Health Department, in turn, must annually submit a copy of the agreement to *every* hospital in the county or contiguous county, including hospitals that have no association with either the medication abortion provider or the associated physician. S.B. 779 § 8(2)(d)(2). Such disclosure requirements are clearly intended to harass physicians and discourage them from being willing to act as an associated physician.

135. There is no benefit to requiring admitting privileges as a condition for providing medication abortion. As discussed *supra* in § IV(A), complications from medication abortion are exceedingly rare and, when they do arise, they generally occur after the patient has returned to her home, since the second medication is taken after the patient leaves the health center. Moreover, studies have shown that requiring admitting privileges for abortion providers does not affect the care that patients receive, including in the rare instances when complications occur.[54]

[54] Ushma D. Upadhyay, et al., *Admitting Privileges and Hospital-Based Care After Presenting for Abortion: A Retrospective Case Series*, 54(2) Health Serv. Rsch. 425-36 (2018/2019), https://onlinelibrary.wiley.com/doi/full/10.1111/1475-6773.13080.

136. Hospitals grant admitting privileges to doctors who are likely to admit patients—but abortion care is so safe that abortion patients are rarely admitted to the hospital (and even if they are, in the case of medication abortion, they would not be traveling to the hospital from the health center with their physician). Admitting privileges do not reflect any special competency in care. As in other practice areas, abortion providers are able to recognize complications and make the determination of when to treat a patient in the clinic and when to refer the patient.

137. For all of these reasons, admitting privileges requirements for abortion providers have been held unconstitutional in Oklahoma as recently as 2016, *Cline III*, 2016 OK ¶ 19, 387 P.3d at 354, and by the U.S. Supreme Court as recently as last year, *June Med. Servs.*, 140 S. Ct. at 2132 (plurality); *id.* at 2134 (Roberts, C.J., concurring); *Whole Woman's Health*, 136 S. Ct. at 2313.

138. Indeed, this admitting privileges requirement is even more irrational than those invalidated in *Cline, III*, as well as *Whole Woman's Health* and *June Medical*, because it only applies to medication abortion (which primarily takes place outside the health center) and not procedural abortion (which takes place entirely at the clinic).

139. S.B. 779 will prevent doctors from providing care because they cannot obtain privileges in the county or contiguous counties where their health centers are located. Because S.B. 779 requires that any associated physician with privileges must have their information broadcast to all local hospitals annually, it is unlikely that these Plaintiffs will be able to obtain an agreement with another physician who has such privileges in order to meet S.B. 779's requirements.

140. S.B. 779 also includes a 10-week LMP limit on the provision of abortion-inducing drugs. S.B. 779 § 7(10)(b). This is effectively a prohibition on the evidence-based provision of medication abortion beyond the gestational limit on the current FDA label. This timing limitation

will prevent patients from receiving a medication abortion between 10 and 11 weeks. As set forth *supra* at ¶ 48, medication abortion can be preferred by patients or medically indicated. Similar requirements limiting the provision of medication abortion to the FDA label rather than evidence-based practice, have been previously struck down by the Oklahoma Supreme Court.[55]

141. Like S.B. 778, S.B. 779 includes onerous reporting requirements, including reporting the names of any health center staff who "attend[] patients including licensing numbers" and evidence of other qualifications. S.B. 779 § 9(A). If this information is also to become public, health center staff, including physician assistants, nurses, and medical technicians may have their identifying information exposed, making them targets for anti-abortion threats and harassment.

142. S.B. 779 also directs the physician licensing boards to develop a "complaint portal" for patients, pharmacy, nursing and medical professions, and the public to submit information about potential violations. S.B. 779 § 13(B). Like the reporting requirements in S.B. 779 and 778 respectively, the complaint portal will make public the names of abortion providers—in this case, listing the names of the physicians certified under the S.B. 779 program—further making them targets for anti-abortion threats and harassment. S.B. 779 § 13(D).

143. Physicians, manufacturers, and distributors must comply with every element of this scheme or else their ability to provide medication abortion will be suspended immediately until they can prove compliance "to the satisfaction of their licensing board," among other steep penalties. S.B. 779 § 12(A)(2). A physician who provides medication abortion in violation of the act can be fined a minimum of $100,000 per offense; manufacturers and distributors can be fined a minimum of $1 million per offense. S.B. 779 § 12(A)(5). S.B. 779 imposes criminal and civil penalties for violations. S.B. 779 § 10. The law also creates private rights of action for patients,

[55] *Cline IV*, 2019 OK ¶ 43, 441 P.3d at 1161; *Cline I*, 2012 OK ¶ 2, 292 P.3d at 28.

spouses, parents or guardians, and current or former healthcare providers of patients who may sue for injunctive relief preventing providers from continuing to provide medication abortion in violation of the act for patients. S.B. 779 § 11. The Legislature has reserved a right to intervene as a matter of right in any case challenging the law, S.B. 779 § 15, and, in an implicit acknowledgment of the bill's many particularly unconstitutional provisions, has included a robust severability clause. S.B. 779 § 16.

144. Oklahomans have safely received medication abortions for two decades and there is no medical or health-related justification for any S.B. 779's requirements. Rather, like S.B. 778, the requirements seem intended only to burden patients and to threaten the security of health center staff by making their identities publicly available. Further, these requirements present a stark contrast to what the FDA requires even though the FDA is charged by federal law with regulating the manufacture, distribution, and provision of prescription of drugs in the U.S. Like S.B. 778, compliance with the scheme will drastically alter the Provider Plaintiffs' provision of medication abortion and impose significant delays and other logistical burdens on patients. *See supra* at § V(D)(a).

VI. IRREPARABLE HARM AND INJUNCTIVE RELIEF

145. Each of the five Challenged Laws restrict the ability of Oklahomans, including patients of the Provider Plaintiffs and members of OCRJ, to access constitutionally protected abortion care.

146. The Total Ban and the 6-Week Ban will prevent many, if not all, of Plaintiffs' patients and members from accessing abortion care in Oklahoma. The Total Ban will effectively end the provision of abortion in Oklahoma. The 6-Week Ban will force the Provider Plaintiffs to turn away many patients seeking pre-viability abortions or risk substantial criminal penalties, civil liability, and/or professional sanctions.

147. The OB/GYN Requirement will bar a large percentage of the abortion providers, including six out of ten of Provider Plaintiffs' physicians, from providing abortion care in Oklahoma or else risk professional sanctions and administrative fines. Many physicians will immediately be forced to stop providing abortion care if this law goes into effect. This would decimate access to abortion care in Oklahoma. Planned Parenthood's two clinics, which currently provide around one quarter of Oklahoma's abortions, would be reduced to a single physician providing care at one health center a few days per month, and PPAEO's Tulsa health center would have no physicians who can provide abortion care. Tulsa Women's, which provides approximately half of Oklahoma's abortions, would find lose half of its physicians.

148. S.B. 778 and S.B. 779 erect enormous if not insurmountable barriers to access to a common and effective form of abortion without providing any health or safety benefit. As just one example, S.B. 778's two visit requirement will force patients to travel to a provider for an ultrasound 72 hours ahead of their abortion and create clinic backlogs that will delay care. Similarly, S.B. 779's admitting privileges requirement will bar many abortion providers in Oklahoma from providing medication abortion. These and other requirements of S.B. 778 and 779 will create delays in access to care and obstacles to obtaining care which will irreparably harm Plaintiffs' patients and members, preventing some from being able to access the method of abortion that is best for them.

149. If the Provider Plaintiffs cannot comply with each and every component of the numerous requirements contained within the Medication Abortion Restrictions, they will have to stop providing medication abortion care altogether due to the bills' exceedingly steep civil and criminal penalties.

150. The Challenged Laws will make it extremely difficult, if not impossible, to access abortion care in Oklahoma. Patients who can do so will be forced to attempt to seek care out of state, and many others will be forced to carry a pregnancy to term against their will or seek ways to end their pregnancies without medical supervision, some of which may be unsafe.

151. If the Challenged Laws go into effect, OCRJ will have to divert time and resources to help Oklahomans access abortion care out of state or navigate the myriad restrictions imposed by the Challenged Laws. OCRJ is already spending resources on educating its members and the public about the Challenged Laws.

152. Each of these consequences constitutes irreparable harm to Plaintiffs' patients and members and a violation of their constitutional rights. Indeed, the courts have already determined irreparable harm to exist with respect to several of the Challenged Laws (or parts of them) that are similar to previously enjoined restrictions.

153. The Challenged Laws' narrow exceptions do not cure these constitutional violations.

154. Plaintiffs have no adequate remedy at law.

VII. CLAIMS FOR RELIEF

First Claim for Relief
(Substantive Due Process - the Effect of the Challenged Laws)

155. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1-154.

156. The Challenged Laws each violate women's fundamental rights to choose to terminate a pregnancy and to bodily integrity in violation of Okla. Const. art. II, § 7.

Second Claim for Relief
(Substantive Due Process - The Improper Purpose Behind the Challenged Laws)

157. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1-154.

158. The Challenged Laws were enacted with the improper purpose of burdening women's fundamental rights to choose to terminate a pregnancy and to bodily integrity in violation of Okla. Const. art. II, § 7.

Third Claim for Relief
(Substantive Due Process - Violation of the Right to Health)

159. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1-154.

160. The Challenged Laws violate the right to health in violation of Okla. Const. art. II, § 7.

Fourth Claim for Relief
(Single Subject)

161. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1-154.

162. S.B. 778 and S.B. 779 each violate the Oklahoma Constitution's rule that "[e]very act of the Legislature shall embrace but one subject, which shall be clearly expressed in its title." Okla. Const. art. V, § 57.

Fifth Claim for Relief
(Special Law)

163. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1-154.

164. The Challenged Laws each create a special law where general laws could be made applicable in violation of Okla. Const. art. V, § 59 by, among other things, singling out for special treatment physicians who provide medical treatment to patients seeking abortion care, and singling out women and a medical service women require.

Sixth Claim for Relief
(Declaratory Judgment - Unconstitutional and Void)

165. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1-154.

166. Because the Challenged Laws violate the Oklahoma Constitution, and declaratory judgment would terminate the controversy giving rise to this proceeding, Plaintiffs request a declaration from this Court stating that the Challenged Laws are unconstitutional and void. 12 O.S. § 1651.

Seventh Claim for Relief
(Temporary Injunction - Unconstitutional and Void)

167. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1-154.

168. Temporary injunctive relief is warranted because Plaintiffs, and those whose interests Plaintiffs represent, will suffer irreparable injury if the Challenged Laws are allowed to take effect.

Eighth Claim for Relief
(Permanent Injunction - Unconstitutional and Void)

169. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1-154.

170. Because the Challenged Laws violate the Oklahoma Constitution, warranting a declaratory judgment stating that the Challenged Laws are unconstitutional and void, Defendants should be permanently enjoined from enforcing them.

VIII. PRAYERS FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

1. Issue a declaratory judgment that the Challenged Laws violate the Oklahoma Constitution and are void and of no effect;
2. Issue permanent injunctive relief, without bond, restraining Defendants, their employees, agents, and successors in office from enforcing the Challenged Laws; and
3. Grant such other and further relief as the Court may deem just and proper, including reasonable attorney's fees and costs.

Dated: September 2, 2021

Respectfully Submitted,

J. Blake Patton, Oklahoma Bar No. 30673

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*Out-Of-State Attorney Applications Filed/Pending

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 2nd day of September, 2021, a true and correct copy of the foregoing was served via hand delivery to the following:

~~Michael Hunter~~ John O'Connor
Oklahoma Attorney General

Office of the Oklahoma Attorney General
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Oklahoma City, OK 73105

Steve Kunzweiler
Tulsa County District Attorney

Tulsa County Court House
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Tulsa, OK 74103

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President

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Lyle Kelsey
Executive Director

Oklahoma Board of Medical Licensure & Supervision
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Oklahoma City, OK 73105
Lance Frye
Commissioner

Oklahoma State Department of Health
1000 NE 10th Street
Oklahoma City, OK 73117

J. Blake Patton, Esq.

VERIFICATION

The undersigned Plaintiff has read the contents of the Verified Petition. The undersigned hereby verifies, under penalty of perjury, that the contents of the Verified Petition are true and correct to the best of her present knowledge.

Priya Desai

Priya Desai

Board Member

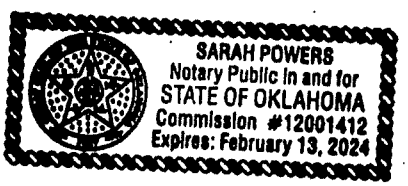
Oklahoma Call for Reproductive Justice

Sworn to me this 31st day

of August, 2021

Sarah Powers

NOTARY PUBLIC



VERIFICATION

The undersigned Plaintiff has read the contents of the Verified Petition. The undersigned hereby verifies, under penalty of perjury, that the contents of the Verified Petition are true and correct to the best of his present knowledge.

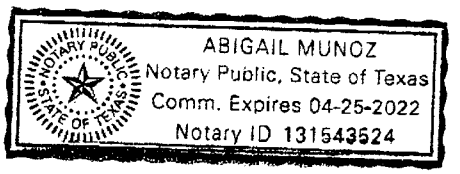
Alain Braid, M.D.

Principal Owner

Tulsa Women's Reproductive Clinic

Sworn to me this 31 day

of August, 2021



NOTARY PUBLIC

VERIFICATION

The undersigned Plaintiff has read the contents of the Verified Petition. The undersigned hereby verifies, under penalty of perjury, that the contents of the Verified Petition are true and correct to the best of her present knowledge.

Emily Wales
Interim President & CEO
Comprehensive Health of Planned Parenthood Great Plains, Inc.

Sworn to me this 31st day

of August, 2021

NOTARY PUBLIC

VERIFICATION

The undersigned Plaintiff has read the contents of the Verified Petition. The undersigned hereby verifies, under penalty of perjury, that the contents of the Verified Petition are true and correct to the best of her present knowledge.

Emily Wales
Interim President & CEO
Planned Parenthood of Arkansas & Eastern Oklahoma

Sworn to me this 31st day

of August, 2021

NOTARY PUBLIC

EXHIBIT A

An Act

ENROLLED HOUSE
BILL NO. 1102

By: Olsen, West (Rick), Hardin (David), Boles, Conley, Smith, West (Kevin), Humphrey, Russ, Stark, Crosswhite Hader, McDugle, Grego, Wolfley, Kendrix, Mize, O'Donnell, Lawson, Stearman, Gann, Dobrinski, Patzkowsky, West (Tammy), Manger, Roberts (Sean), Lepak, Dills and Steagall of the House

and

Daniels, Bullard, Allen, Bergstrom, Stephens and Jett of the Senate

An Act relating to physician licensure; amending 59 O.S. 2011, Sections 509, as last amended by Section 36, Chapter 161, O.S.L. 2020, and 637, as last amended by Section 42, Chapter 161, O.S.L. 2020 (59 O.S. Supp. 2020, Sections 509 and 637), which relate to unprofessional conduct; updating statutory term; broadening certain definitions to include certain acts; providing exceptions; providing penalties; directing Office of the Attorney General to calculate certain costs; requiring reporting of certain records; providing for enforcement and effect under certain circumstances; providing for noncodification; and providing an effective date.

SUBJECT: Physician licensure

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 509, as last amended by Section 36, Chapter 161, O.S.L. 2020 (59 O.S. Supp. 2020, Section 509), is amended to read as follows:

Section 509. The words "unprofessional conduct" as used in Sections 481 through 518.1 of this title are hereby declared to include, but shall not be limited to, the following:

1. Procuring, aiding or abetting a criminal operation;

2. The obtaining of any fee or offering to accept any fee, present or other form of remuneration whatsoever, on the assurance or promise that a manifestly incurable disease can or will be cured;

3. Willfully betraying a professional secret to the detriment of the patient;

4. Habitual intemperance or the habitual use of habit-forming drugs;

5. Conviction or confession of, or plea of guilty, nolo contendere, no contest or Alford plea to a felony or any offense involving moral turpitude;

6. All advertising of medical business in which statements are made which are grossly untrue or improbable and calculated to mislead the public;

7. Conviction or confession of, or plea of guilty, nolo contendere, no contest or Alford plea to a crime involving violation of:

a. the antinarcotic or prohibition laws and regulations of the federal government,

b. the laws of this state,

c. State ~~Board~~ Commissioner of Health rules, or

d. a determination by a judge or jury;

8. Dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public;

9. The commission of any act which is a violation of the criminal laws of any state when such act is connected with the physician's practice of medicine. A complaint, indictment or confession of a criminal violation shall not be necessary for the enforcement of this provision. Proof of the commission of the act while in the practice of medicine or under the guise of the practice of medicine shall be unprofessional conduct;

10. Failure to keep complete and accurate records of purchase and disposal of controlled drugs or of narcotic drugs;

11. The writing of false or fictitious prescriptions for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs;

12. Prescribing or administering a drug or treatment without sufficient examination and the establishment of a valid physician-patient relationship and not prescribing in a safe, medically accepted manner;

13. The violation, or attempted violation, direct or indirect, of any of the provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, either as a principal, accessory or accomplice;

14. Aiding or abetting, directly or indirectly, the practice of medicine by any person not duly authorized under the laws of this state;

15. The inability to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this section the State Board of Medical Licensure and Supervision may, upon probable cause, request a physician to submit to a mental or physical examination by physicians designated by it. If the physician refuses to submit to the examination, the Board shall issue an order requiring the physician to show cause why the physician will not submit to the examination and shall schedule a hearing on the order within thirty (30) days after notice is served on the physician, exclusive of the day of service. The physician shall be notified by either personal service or by certified mail with return receipt requested. At the hearing, the physician and the physician's attorney are entitled to present any testimony and other evidence to show why the physician should not be required to

submit to the examination. After a complete hearing, the Board shall issue an order either requiring the physician to submit to the examination or withdrawing the request for examination. The medical license of a physician ordered to submit for examination may be suspended until the results of the examination are received and reviewed by the Board;

16. a. Prescribing, dispensing or administering of controlled substances or narcotic drugs in excess of the amount considered good medical practice,

b. Prescribing, dispensing or administering controlled substances or narcotic drugs without medical need in accordance with pertinent licensing board standards, or

c. Prescribing, dispensing or administering opioid drugs in excess of the maximum limits authorized in Section 2-309I of Title 63 of the Oklahoma Statutes;

17. Engaging in physical conduct with a patient which is sexual in nature, or in any verbal behavior which is seductive or sexually demeaning to a patient;

18. Failure to maintain an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment of the patient;

19. Failure to provide necessary ongoing medical treatment when a doctor-patient relationship has been established, which relationship can be severed by either party providing a reasonable period of time is granted; ~~or~~

20. Performance of an abortion as defined by Section 1-730 of Title 63 of the Oklahoma Statutes, except for an abortion necessary to prevent the death of the mother or to prevent substantial or irreversible physical impairment of the mother that substantially increases the risk of death. The performance of an abortion on the basis of the mental or emotional health of the mother shall be a violation of this paragraph, notwithstanding a claim or diagnosis that the woman may engage in conduct which she intends to result in her death. The Board shall impose a penalty as provided in Section 509.1 of this title on a licensee who violates this paragraph. The penalty shall include, but not be limited to, suspension of the license for a period of not less than one (1) year; or

21. Failure to provide a proper and safe medical facility setting and qualified assistive personnel for a recognized medical act, including but not limited to an initial in-person patient examination, office surgery, diagnostic service or any other medical procedure or treatment. Adequate medical records to support diagnosis, procedure, treatment or prescribed medications must be produced and maintained.

SECTION 2. AMENDATORY 59 O.S. 2011, Section 637, as last amended by Section 42, Chapter 161, O.S.L. 2020 (59 O.S. Supp. 2020, Section 637), is amended to read as follows:

Section 637. A. The State Board of Osteopathic Examiners may refuse to admit a person to an examination or may refuse to issue or reinstate or may suspend or revoke any license issued or reinstated by the Board upon proof that the applicant or holder of such a license:

1. Has obtained a license, license renewal or authorization to sit for an examination, as the case may be, through fraud, deception, misrepresentation or bribery; or has been granted a license, license renewal or authorization to sit for an examination based upon a material mistake of fact;

2. Has engaged in the use or employment of dishonesty, fraud, misrepresentation, false promise, false pretense, unethical conduct or unprofessional conduct, as may be determined by the Board, in the performance of the functions or duties of an osteopathic physician, including but not limited to the following:

a. obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation; willfully and continually overcharging or overtreating patients; or charging for visits to the physician's office which did not occur or for services which were not rendered,

b. using intimidation, coercion or deception to obtain or retain a patient or discourage the use of a second opinion or consultation,

c. willfully performing inappropriate or unnecessary treatment, diagnostic tests or osteopathic medical or surgical services,

d. delegating professional responsibilities to a person who is not qualified by training, skill, competency, age, experience or licensure to perform them, noting that delegation may only occur within an appropriate doctor-patient relationship, wherein a proper patient record is maintained including, but not limited to, at the minimum, a current history and physical,

e. misrepresenting that any disease, ailment, or infirmity can be cured by a method, procedure, treatment, medicine or device,

f. acting in a manner which results in final disciplinary action by any professional society or association or hospital or medical staff of such hospital in this or any other state, whether agreed to voluntarily or not, if the action was in any way related to professional conduct, professional competence, malpractice or any other violation of the Oklahoma Osteopathic Medicine Act,

g. signing a blank prescription form; or dispensing, prescribing, administering or otherwise distributing any drug, controlled substance or other treatment without sufficient examination or the establishment of a physician-patient relationship, or for other than medically accepted therapeutic or experimental or investigational purpose duly authorized by a state or federal agency, or not in good faith to relieve pain and suffering, or not to treat an ailment, physical infirmity or disease, or violating any state or federal law on controlled dangerous substances including, but not limited to, prescribing, dispensing or administering opioid drugs in excess of the maximum limits authorized in Section 2-309I of Title 63 of the Oklahoma Statutes,

h. engaging in any sexual activity within a physician-patient relationship,

i. terminating the care of a patient without adequate notice or without making other arrangements for the continued care of the patient,

j. failing to furnish a copy of a patient's medical records upon a proper request from the patient or legal agent of the patient or another physician; or failing to comply with any other law relating to medical records,

k. failing to comply with any subpoena issued by the Board,

l. violating a probation agreement or order with this Board or any other agency, and

m. failing to keep complete and accurate records of purchase and disposal of controlled drugs or narcotic drugs;

3. Has engaged in gross negligence, gross malpractice or gross incompetence;

4. Has engaged in repeated acts of negligence, malpractice or incompetence;

5. Has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere in a criminal prosecution, for any offense reasonably related to the qualifications, functions or duties of an osteopathic physician, whether or not sentence is imposed, and regardless of the pendency of an appeal;

6. Has had the authority to engage in the activities regulated by the Board revoked, suspended, restricted, modified or limited, or has been reprimanded, warned or censured, probated or otherwise disciplined by any other state or federal agency whether or not voluntarily agreed to by the physician including, but not limited to, the denial of licensure, surrender of the license, permit or authority, allowing the license, permit or authority to expire or lapse, or discontinuing or limiting the practice of osteopathic medicine pending disposition of a complaint or completion of an investigation;

7. Has violated~~,~~ or failed to comply with provisions of any act or regulation administered by the Board;

8. Is incapable, for medical or psychiatric or any other good cause, of discharging the functions of an osteopathic physician in a manner consistent with the public's health, safety and welfare;

9. Has been guilty of advertising by means of knowingly false or deceptive statements;

10. Has been guilty of advertising, practicing, or attempting to practice under a name other than one's own;

11. Has violated or refused to comply with a lawful order of the Board;

12. Has been guilty of habitual drunkenness, or habitual addiction to the use of morphine, cocaine or other habit-forming drugs;

13. Has been guilty of personal offensive behavior, which would include, but not be limited to, obscenity, lewdness, and molestation; ~~and~~

14. Has performed an abortion as defined by Section 1-730 of Title 63 of the Oklahoma Statutes, except for an abortion necessary to prevent the death of the mother or to prevent substantial or irreversible physical impairment of the mother that substantially increases the risk of death. The performance of an abortion on the basis of the mental or emotional health of the mother shall be a violation of this paragraph, notwithstanding a claim or diagnosis that the woman may engage in conduct which she intends to result in her death. The Board shall impose a penalty as provided in this section and in Section 637.1 of this title on a licensee who violates this paragraph. The penalty shall include, but not be limited to, suspension of the license for a period of not less than one (1) year; or

15. Has been adjudicated to be insane, or incompetent, or admitted to an institution for the treatment of psychiatric disorders.

B. The State Board of Osteopathic Examiners shall neither refuse to renew, nor suspend, nor revoke any license, however, for any of these causes, unless the person accused has been given at least twenty (20) days' notice in writing of the charge against him or her and a public hearing by the Board; provided, three-fourths (3/4) of a quorum present at a meeting may vote to suspend a license in an emergency situation if the licensee affected is provided a public hearing within thirty (30) days of the emergency suspension.

C. The State Board of Osteopathic Examiners shall have the power to order or subpoena the attendance of witnesses, the inspection of records and premises and the production of relevant books and papers for the investigation of matters that may come before them. The presiding officer of the Board shall have the authority to compel the giving of testimony as is conferred on courts of justice.

D. Any osteopathic physician in the State of Oklahoma whose license to practice osteopathic medicine is revoked or suspended under this section shall have the right to seek judicial review of a ruling of the Board pursuant to the Administrative Procedures Act.

E. The Board may enact rules and regulations pursuant to the Administrative Procedures Act setting out additional acts of unprofessional conduct~~:~~, which acts shall be grounds for refusal to issue or reinstate, or for action to condition, suspend or revoke a license.

SECTION 3. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

In the event that any provision of Section 509 or 637 of Title 59 of the Oklahoma Statutes, as last amended by Section 1 or 2 of this act, is challenged in court in any action alleging violation of either the Constitution of the United States of America or the State of Oklahoma, the Office of the Attorney General shall determine the amount of state or local funds expended to defend such action. Such determination shall include the number of hours of time spent by any public employee in such defense multiplied by the rate of compensation paid to such employee, as well as the costs of any outside counsel paid for such purpose, and shall include both direct and indirect costs. The Office of the Attorney General shall report such amounts for each calendar quarter to all members of the Legislature.

SECTION 4. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

In the event that any provision of Section 509 or 637 of Title 59 of the Oklahoma Statutes, as last amended by Section 1 or 2 of this act, is ever temporarily or permanently restrained or enjoined by court order, the remaining provisions of such section shall be enforced as though the restrained or enjoined provisions had not been adopted; provided, however, if such temporary or permanent

restraining order or injunction is stayed, dissolved or otherwise ceases to have effect, such provisions shall have full force and effect.

SECTION 5. This act shall become effective November 1, 2021.

Passed the House of Representatives the 9th day of March, 2021.

_____
Presiding Officer of the House
of Representatives

Passed the Senate the 20th day of April, 2021.

_____
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

_____
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

EXHIBIT B

An Act

ENROLLED HOUSE
BILL NO. 2441

By: Russ, Crosswhite Hader, Smith, Stearman, Olsen, West (Kevin), Burns, Conley, Townley, Grego, Boles, Fetgatter, Lepak, Stark, Gann, Dills, Steagall, McDugle, Roe and Kendrix of the House

and

Daniels, Bergstrom, Stephens, Rogers and Jett of the Senate

An Act relating to abortion; prohibiting the performance of an abortion upon a woman without first determining whether there is a detectable fetal heartbeat; providing exception; limiting exception; defining terms; providing penalty; providing for codification; and providing an effective date.

SUBJECT: Abortion

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-731.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. No person shall perform or induce an abortion upon a pregnant woman without first detecting whether or not her unborn child has a heartbeat. No person shall perform or induce an abortion upon a pregnant woman after such time as her unborn child has been determined to have a detectable heartbeat except if, in reasonable medical judgment, she has a condition that so complicates her medical condition that it necessitates the abortion of her

pregnancy to avert her death or to avert serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions. No such condition may be determined to exist if it is based on a claim or diagnosis that the woman will engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function.

B. A "detectable heartbeat" shall mean embryonic or fetal cardiac activity or the steady or repetitive rhythmic contract of the heart within the gestational sac.

C. "Reasonable medical judgment" means a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

D. Any person violating subsection A of this section shall be guilty of homicide.

SECTION 2. This act shall become effective November 1, 2021.

Passed the House of Representatives the 9th day of March, 2021.

_____
Presiding Officer of the House
of Representatives

Passed the Senate the 20th day of April, 2021.

_____
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

_____
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

EXHIBIT C

An Act

ENROLLED HOUSE
BILL NO. 1904

By: Roe, Mize, Townley, Stark, Dills, Hill, Hasenbeck, Nollan, Moore, Newton, Roberts (Sean), Martinez, Miller, Boatman, Caldwell (Trey), Steagall, Wolfley, Lawson, Echols, Manger and Conley of the House

and

Garvin, Bergstrom and Jett of the Senate

An Act relating to public health; amending 63 O.S. 2011, Section 1-731, which relates to persons who may perform abortions; requiring that certain physicians specialize in certain fields; and providing an effective date.

SUBJECT: Public health

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-731, is amended to read as follows:

Section 1-731. A. No person shall perform or induce an abortion upon a pregnant woman unless that person is a physician licensed to practice medicine in the State of Oklahoma who is board-certified in obstetrics and gynecology. Any person violating this section shall be guilty of a felony punishable by imprisonment for not less than one (1) year nor more than three (3) years in the ~~State Penitentiary~~ custody of the Department of Corrections.

B. No person shall perform or induce an abortion upon a pregnant woman subsequent to the end of the first trimester of her

pregnancy, unless such abortion is performed or induced in a general hospital.

SECTION 2. This act shall become effective November 1, 2021.

Passed the House of Representatives the 2nd day of March, 2021.

_____
Presiding Officer of the House
of Representatives

Passed the Senate the 20th day of April, 2021.

_____
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

_____
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

EXHIBIT D

An Act

ENROLLED SENATE
BILL NO. 778

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

and

Lepak, Dills, Gann, Smith, Manger, Steagall, West (Kevin), Patzkowsky, Russ and Roberts (Sean) of the House

An Act relating to abortion; creating the Oklahoma Abortion-Inducing Drug Risk Protocol Act; defining terms; limiting provision of abortion-inducing drugs to certain practitioners and procedures; prohibiting provision through certain methods; requiring certain examination; stating criteria of examination; providing for complication management; requiring scheduling and certain efforts of follow-up visit; prohibiting provision of abortion-inducing drugs in certain locations; requiring informed consent within certain time period except under specified conditions; directing use of certain form; stating criteria of valid form; stating additional criteria; requiring State Board of Medical Licensure and Supervision to publish and update certain materials; requiring qualified physician to provide certain information; requiring completion and submission of certain report; stating required inclusions and exclusions of report; requiring certain reporting of adverse event; stating criteria of report; requiring Department to prepare and submit certain report; deeming reports public records; prohibiting certain actions relating to identity of woman; directing reports to be made available to certain entities; requiring Department to communicate reporting requirements; specifying additional reporting

requirements; requiring Department to create and distribute certain forms; providing criminal penalties; providing for certain civil remedies, disciplinary sanctions and injunctive relief; specifying certain judicial procedures; providing certain construction and intent; authorizing certain intervention; providing severability; providing for codification; and providing an effective date.

SUBJECT: Abortion

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-756.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Abortion-Inducing Drug Risk Protocol Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-756.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Abortion" means the use or prescription of any instrument, medicine, drug or any other substance or device intentionally to terminate the pregnancy of a female known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, to remove an ectopic pregnancy or to remove a dead unborn child who died as the result of a spontaneous miscarriage, accidental trauma or a criminal assault on the pregnant female or her unborn child;

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

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

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

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

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

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

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

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

11. "Qualified physician" means a physician licensed in this state who has the ability to:

a. identify and document a viable intrauterine pregnancy,

b. assess the gestational age of pregnancy and to inform the patient of gestational age-specific risks,

c. diagnose ectopic pregnancy,

d. determine blood type and administer RhoGAM if a woman is Rh negative,

e. assess for signs of domestic abuse, reproductive control, human trafficking and other signals of coerced abortion,

f. provide surgical intervention or has entered into a contract with another qualified physician to provide surgical intervention, and

g. supervise and bear legal responsibility for any agent, employee or contractor who is participating in any part of procedure including, but not limited to, pre-procedure evaluation and care;

12. "Reasonable medical judgment" means a medical judgment that would be made by a reasonably prudent physician knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved; and

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

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-756.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

Abortion-inducing drugs shall only be provided by a qualified physician following procedures laid out in this act. It shall be unlawful for any manufacturer, supplier, physician, qualified physician or any other person to provide any abortion-inducing drug via courier, delivery or mail service.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-756.4 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The qualified physician providing an abortion-inducing drug shall examine the woman in person, and prior to providing an abortion-inducing drug, shall:

1. Independently verify that a pregnancy exists;

2. Determine the woman's blood type, and if she is Rh negative, be able to and offer to administer RhoGAM at the time of the abortion;

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

4. Document, in the woman's medical chart, the gestational age and intrauterine location of the pregnancy, and whether she received treatment for Rh negativity, as diagnosed by the most accurate standard of medical care.

B. A qualified physician providing an abortion-inducing drug shall be credentialed and competent to handle complication management including emergency transfer, or shall have a signed contract with an associated physician who is credentialed to handle complications and be able to produce that signed contract on demand by the pregnant woman, by the State Board of Medical Licensure and Supervision or by the State Department of Health. Every pregnant woman to whom a qualified physician provides any abortion-inducing drug shall be given the name and phone number of the associated physician.

C. The qualified physician providing any abortion-inducing drug or an agent of the qualified physician shall schedule a follow-up visit for the woman at approximately seven (7) to fourteen (14) days after administration of the abortion-inducing drug to confirm that the pregnancy is completely terminated and to assess the degree of bleeding. The qualified physician shall make all reasonable efforts to ensure that the woman returns for the scheduled appointment. A brief description of the efforts made to comply with this subsection including the date, time and identification by name of the person making such efforts, shall be included in the woman's medical record.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-756.5 of Title 63, unless there is created a duplication in numbering, reads as follows:

Notwithstanding any other provision of this act or the laws of this state, abortion-inducing drugs shall not be provided in any school facility or on state grounds including, but not limited to, elementary, secondary and institutions of higher education in this state.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-756.6 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. No abortion-inducing drug shall be provided without the informed consent of the pregnant woman as described in this section to whom the abortion-inducing drug is provided.

B. Informed consent to a chemical abortion shall be obtained at least seventy-two (72) hours before the abortion-inducing drug is provided to the pregnant woman, except if in reasonable medical judgment, compliance with this subsection would pose a greater risk of:

1. The death of the pregnant woman; or

2. The substantial and irreversible physical impairment of a major bodily function not including psychological or emotional conditions, of the pregnant woman.

C. A form created by the State Department of Health shall be used by a qualified physician to obtain the consent required prior to providing an abortion-inducing drug.

D. A consent form is not valid and consent is not sufficient, unless:

1. The patient initials each entry, list, description or declaration required to be on the consent form as detailed in paragraphs 1 through 6 of subsection E of this section;

2. The patient signs the "consent statement" described in paragraph 11 of subsection E of this section; and

3. The qualified physician signs the "qualified physician declaration" described in paragraph 12 of subsection E of this section.

E. The consent form shall include, but is not limited to, the following:

1. The probable gestational age of the unborn child as determined by both patient history and by ultrasound results used to confirm gestational age;

2. A detailed description of the steps to complete the chemical abortion;

3. A detailed list of the risks related to the specific abortion-inducing drug or drugs to be used including, but not limited to, hemorrhaging, failure to remove all tissue of the unborn child which may require an additional procedure, sepsis, sterility and possible continuation of pregnancy;

4. Information about Rh incompatibility including that if she has an Rh-negative blood type, she should receive an injection of Rh immunoglobulin at the time of the abortion to prevent Rh incompatibility in future pregnancies;

5. That the risks of complications from a chemical abortion including incomplete abortion, increase with advancing gestational age;

6. That it may be possible to reverse the effects of the chemical abortion should she change her mind, but that time is of the essence;

7. That she may see the remains of her unborn child in the process of completing the abortion;

8. That initial studies suggest that children born after reversing the effects of Mifeprex/mifepristone have no greater risk of birth defects than the general population;

9. That initial studies suggest there is no increased risk of maternal mortality after reversing the effects of Mifeprex/mifepristone;

10. That information on and assistance with reversing the effects of abortion-inducing drugs are available in the state-prepared materials;

11. An "acknowledgment of risks and consent statement" which shall be signed by the patient. The statement shall include, but is not limited to, the following declarations, which shall be individually initialed by the patient:

a. that the patient understands that the abortion-inducing drug regimen or procedure is intended to end her pregnancy and will result in the death of her unborn child,

b. that the patient is not being forced to have an abortion, that she has the choice not to have the abortion and that she may withdraw her consent to the abortion-inducing drug regimen even after she has begun the abortion-inducing drug regimen,

c. that the patient understands that the chemical abortion regimen or procedure to be used has specific risks and may result in specific complications,

d. that the patient has been given the opportunity to ask questions about her pregnancy, the development of her unborn child, alternatives to abortion, the abortion-inducing drug or drugs to be used and the risks and complications inherent to the abortion-inducing drug or drugs to be used,

e. that she was specifically told that "Information on the potential ability of qualified medical professionals to reverse the effects of an abortion obtained through the use of abortion-inducing drugs is available at www.abortionpillreversal.com, or you can contact (877) 558-0333 for assistance in locating a medical professional that can aide in the reversal of an abortion.",

f. that she has been provided access to state-prepared, printed materials on informed consent for abortion and the state-prepared and maintained website on informed consent for abortion,

g. if applicable, that she has been given the name and phone number of the associated physician who has agreed to provide medical care and treatment in the event of complications associated with the abortion-inducing drug regimen or procedure,

h. that the qualified physician will schedule an in-person follow-up visit for the patient at approximately seven (7) to fourteen (14) days after providing the abortion-inducing drug or drugs to confirm that the pregnancy is completely terminated and to assess the degree of bleeding and other complications, and

i. that the patient has received or been given sufficient information to give her informed consent to the abortion-inducing drug regimen or procedure, and

j. that the patient has a private right of action to sue the qualified physician under the laws of this state if she feels that she has been coerced or misled prior to obtaining an abortion, and how to access state resources regarding her legal right to obtain relief; and

12. A "qualified physician declaration", which shall be signed by the qualified physician, stating that the qualified physician has explained the abortion-inducing drug or drugs to be used, has provided all of the information required in subsection E of this section, and has answered all of the woman's questions.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-756.7 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Medical Licensure and Supervision shall cause to be published in the state-prepared, printed materials on informed consent for abortion and the state-prepared and maintained website on informed consent for abortion the following statement:

"Information on the potential ability of qualified medical professionals to reverse the effects of an abortion obtained through the use of abortion-inducing drugs is available at www.abortionpillreversal.com, or you can contact (877) 558-0333 for assistance in locating a medical professional that can aid in the reversal of an abortion."

B. On an annual basis, the State Board of Medical Licensure and Supervision shall review and update, if necessary, the statement required in subsection A of this Section.

C. As part of the informed consent counseling required in Section 5 of this act, the qualified physician shall inform the pregnant woman about abortion pill reversal and provide her with the state-prepared materials and website link as proscribed by Section 6 of this act.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-756.8 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. For the purpose of promoting maternal health and adding to the sum of medical and public health knowledge through the compilation of relevant data, a report of each drug-induced abortion performed shall be made to the State Department of Health on forms prescribed by it. The reports shall be completed by the hospital or other licensed facility in which the abortion-inducing drug was given, sold, dispensed, administered or otherwise provided or prescribed; signed by the qualified physician who gave, sold, dispensed, administered or otherwise provided or prescribed the abortion-inducing drug; and transmitted to the Department within fifteen (15) days after each reporting month.

B. Each report shall include, at minimum, the following information:

1. Identification of the qualified physician who provided the abortion-inducing drug;

2. Whether the chemical abortion was completed at the hospital or licensed facility in which the abortion-inducing drug was provided or at an alternative location;

3. The referring physician, agency or service, if any;

4. The pregnant woman's age and race;

5. The number of previous pregnancies, number of live births and number of previous abortions of the pregnant woman;

6. The probable gestational age of the unborn child as determined by both patient history and by ultrasound results used to confirm the gestational age. The report shall include the date of the ultrasound and gestational age determined on that date;

7. The abortion-inducing drug or drugs used, the date each was provided to the pregnant woman and the reason for the abortion, if known;

8. Preexisting medical conditions of the pregnant woman which would complicate her pregnancy, if any;

9. Whether the woman returned for a follow-up examination to determine completion of the abortion procedure and to assess bleeding and the date and results of any such follow-up examination, and what reasonable efforts were made by the qualified physician to encourage that she return for a follow-up examination if she did not;

10. Whether the woman suffered any complications, and what specific complications arose and any follow-up treatment needed; and

11. The amount billed to cover the treatment for specific complications including whether the treatment was billed to Medicaid, private insurance, private pay or other method. This shall include charges for any physician, hospital, emergency room, prescription or other drugs, laboratory tests and any other costs for treatment rendered.

C. Reports required under this subsection shall not contain:

1. The name of the pregnant woman;

2. Common identifiers such as her social security number or driver license number; or

3. Other information or identifiers that would make it possible to identify, in any manner or under any circumstances, a woman who has obtained or seeks to obtain a chemical abortion.

D. If a qualified physician provides an abortion-inducing drug to a pregnant woman for the purpose of inducing an abortion as authorized in Sections 2 and 3 of this act, and if the qualified physician knows that the woman who uses the abortion-inducing drug for the purpose of inducing an abortion experiences, during or after the use of the abortion-inducing drug, an adverse event, the qualified physician shall provide a written report of the adverse event within three (3) days of the event to the Food and Drug Administration via the Medwatch Reporting System, and to the Department and to the State Board of Medical Licensure and Supervision.

E. Any physician, qualified physician, associated physician or other healthcare provider who treats a woman, either contemporaneously to or at any time after the procedure, for an adverse event or complication related to a chemical abortion shall make a report of the adverse event to the Department on forms prescribed by it. The reports shall be completed by the hospital or other facility in which the adverse event treatment was provided; signed by the physician, qualified physician or other healthcare provider who treated the adverse event; and transmitted to the Department within (15) days after each reporting month.

F. The Department shall prepare a comprehensive annual statistical report for the Legislature based upon the data gathered from reports under this section. The aggregated data shall also be made available to the public by the Department in a downloadable format.

G. The Department shall summarize aggregate data from the reports required under this act and submit the data to the Centers for Disease Control and Prevention.

H. Reports filed pursuant to this section shall be public records and shall be available to the public in accordance with the confidentiality and public records reporting laws of this state. Copies of all reports filed under this subsection shall be available to the State Board of Medical Licensure and Supervision, State Board of Pharmacy, state law enforcement offices and child protective services for use in the performance of their official duties.

I. Absent a valid court order or judicial subpoena, neither the Department, any other state department, agency or office nor any employees thereof shall compare data concerning abortions or abortion complications maintained in an electronic or other information system file with data in any other electronic or other information system with the intention of identifying, in any manner or under any circumstances, a woman obtaining or seeking to obtain a drug-induced abortion.

J. Statistical information that may reveal the identity of a woman obtaining or seeking to obtain a drug-induced abortion shall not be publicly disclosed by the Department, any other state department, agency, office or any employee or contractor thereof.

K. Copies of all reports filed under this section shall be available to the Department and the State Board of Medical Licensure and Supervision for use in the performance of its official duties.

L. The Department shall communicate the reporting requirements in this section to all medical professional organizations, licensed physicians, hospitals, emergency rooms, abortion facilities, clinics, ambulatory surgical facilities and other healthcare facilities operating in this state.

M. Any physician including emergency medical personnel, who treats a woman for complications or adverse event arising from an abortion, shall file a written report as required by this section of this act with the Department.

N. A physician filing a written report with the Department after treating a woman for complications or otherwise in an emergency capacity shall make reasonable efforts to include all of the required information that may be obtained without violating the privacy of the woman.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-756.9 of Title 63, unless there is created a duplication in numbering, reads as follows:

The State Department of Health shall create and distribute the forms required by this act within sixty (60) days after the effective date of this act. No provision of this act requiring the

reporting of information on forms published by the Department shall be applicable until ten (10) days after the requisite forms are first created and distributed or until the effective date of this act, whichever is later.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-756.10 of Title 63, unless there is created a duplication in numbering, reads as follows:

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

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

C. No criminal penalty may be assessed against the pregnant woman upon whom the drug-induced abortion is attempted, induced or performed.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-756.11 of Title 63, unless there is created a duplication in numbering, reads as follows:

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

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

2. Provide a basis for a professional disciplinary action;

3. Provide a basis for recovery for the woman's survivors for the wrongful death of the woman; and

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

a. a woman to whom such an abortion-inducing drug was provided,

b. a person who is the spouse, parent or guardian of, or a current or former licensed health care provider of, a woman to whom an abortion-producing drug was provided, or

c. a prosecuting attorney with appropriate jurisdiction.

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

B. No civil liability may be assessed against the pregnant woman upon whom the drug-induced abortion is attempted, induced or performed.

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

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

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

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-756.12 of Title 63, unless there is created a duplication in numbering, reads as follows:

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

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

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

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-756.13 of Title 63, unless there is created a duplication in numbering, reads as follows:

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

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-756.14 of Title 63, unless there is created a duplication in numbering, reads as follows:

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

SECTION 15. This act shall become effective November 1, 2021.

Passed the Senate the 19th day of May, 2021.

_____
Presiding Officer of the Senate

Passed the House of Representatives the 25th day of May, 2021.

_____
Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

_____
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20 _____, at _____ o'clock _____ M.

By: _____

EXHIBIT E

An Act

ENROLLED SENATE
BILL NO. 779

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

and

Lepak, Dills, Gann, Smith, Patzkowsky and Roberts (Sean) of the House

An Act relating to abortion; creating the Oklahoma Abortion-Inducing Drug Certification Program Act; defining terms; specifying applicability of act; directing creation of certification program; authorizing certain fees and contracts; limiting provision of abortion-inducing drugs to certain practitioners and procedures; directing promulgation of certain rules; directing establishment of certain requirements for manufacturers, distributors and physicians; providing certification systems and requirements for manufacturers, distributors and physicians; requiring physician to maintain hospital admitting privileges or enter into certain written 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 confidentiality of complaints; providing certain

construction and intent; authorizing certain intervention; providing severability; amending 59 O.S. 2011, Section 353.7, as last amended by Section 4, Chapter 106, O.S.L. 2018 (59 O.S. Supp. 2020, Section 353.7), which relates to powers and duties of the State Board of Pharmacy; broadening allowed uses of fees; amending 59 O.S. 2011, Section 643, which relates to the State Board of Osteopathic Examiners Revolving Fund; amending 59 O.S. 2011, Section 644, as amended by Section 266, Chapter 304, O.S.L. 2012 (59 O.S. Supp. 2020, Section 644), which relates to the State Board of Osteopathic Examiners Revolving Fund; broadening sources and allowed uses of monies; providing for codification; and providing an effective date.

SUBJECT: Oklahoma Abortion-Inducing Drug Certification Program Act

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

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

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

SECTION 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 pregnant, with knowledge that the termination by those means will with reasonable likelihood cause the death of the unborn child.

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

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

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

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

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

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

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

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

a. any substances recognized by an official pharmacopoeia or formulary,

b. any substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease,

c. any substances other than food intended to affect the structure or any function of the body, or

d. any substances intended for use as a component of a medicine but not a device or a component, part or accessory of a device;

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

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

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

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

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

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-757.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

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

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

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

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

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

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

A. The State Board of Pharmacy shall promulgate rules to create a certification program to oversee and regulate the manufacture and distribution of abortion-inducing drugs by manufacturers and distributors licensed by the State Board of Pharmacy.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Be licensed by the Board;

2. Only distribute to physicians certified under this act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. absence of a pregnancy,

b. being post-seventy days gestation or post-ten weeks of pregnancy, and

c. having risk factors associated with abortion-inducing drugs including, but not limited to:

(1) ectopic pregnancies,

(2) problems with the adrenal glands near the kidneys,

(3) being treated with long-term corticosteroid therapy,

(4) allergic reactions to abortion-inducing drugs, mifepristone, misoprostol or similar drugs,

(5) bleeding problems or is taking anticoagulant drug products,

(6) has inherited porphyria,

(7) has an intrauterine device in place, or

(8) being Rh Negative, requiring administration of Rhogam before providing abortion-inducing drugs;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. The number of patients served;

2. Age of patients served;

3. Race of patients served;

4. County and state of residence of patients served;

5. If the patient resides outside the United States, city and country of residence;

6. County and state of service;

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

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

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

10. Unresolved cases.

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

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

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

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

1. Death;

2. Blood loss including hemorrhage;

3. Infection including sepsis;

4. Blood transfusions;

5. Administer drug for an ectopic pregnancy; and

6. Other adverse effects requiring hospitalization or additional medical care.

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

1. Physicians certified to provide abortion-inducing drugs;

2. Emergency room physicians;

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

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

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

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

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

B. Individuals or entities that provide abortion-inducing drugs to any person or entity that is not certified, or otherwise authorized, to provide abortion-inducing drugs under the Oklahoma

Abortion-Inducing Drug Certification Program are in violation of this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. A prosecuting attorney with appropriate jurisdiction.

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

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

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

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

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

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

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

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

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

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

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,

j. in the case of a licensed manufacturer or distributor, recommend permanent revocation of licensure,

k. in the case of a physician, recommend appropriate sanctioning to the appropriate physician licensing board, and

l. publicly report any disciplinary actions consistent with the practices of the relevant licensing board.

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

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

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

B. The State Board of Medical Licensure and Supervision and the State Board of Osteopathic Examiners shall develop on their respective websites a complaint portal for patients, pharmacy, nursing and medical professionals and the public to submit

information about potential violations by physicians at no charge to the parties named in this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Regulate the practice of pharmacy;

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

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

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

5. Issue licenses to manufacturers, repackagers, outsourcing facilities, wholesale distributors, third-party logistics providers,

pharmacies~~,~~ and other dispensers, medical gas suppliers~~,~~ and medical gas distributors;

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

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

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

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

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

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

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

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

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

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

16. Regulate:

a. personnel working in a pharmacy, such as interns and supportive personnel~~,~~ including technicians, and issue pharmacy technician permits and intern licenses,

b. interns, preceptors and training areas through which the training of applicants occurs for licensure as a pharmacist, and

c. such persons regarding all aspects relating to the handling of drugs, medicines, chemicals~~,~~ and poisons;

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

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

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

SECTION 18. AMENDATORY 59 O.S. 2011, Section 643, is amended to read as follows:

Section 643. The funds received pursuant to the Oklahoma Osteopathic Medicine Act or the Oklahoma Abortion-Inducing Drug Certification Program Act shall be deposited to the credit of the State Board of Osteopathic Examiners Revolving Fund and may be expended by the State Board of Osteopathic Examiners and under its direction in assisting in the enforcement of the laws of this state prohibiting the unlawful practice of osteopathic medicine, assisting in the support of a peer assistance program, and for the dissemination of information to prevent the violation of such laws, and for the purchasing of supplies and such other expense as is

necessary to properly carry out the provisions of the Oklahoma Osteopathic Medicine Act or the Oklahoma Abortion-Inducing Drug Certification Program Act.

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

Section 644. There is hereby created in the State Treasury a revolving fund for the State Board of Osteopathic Examiners, to be designated the "State Board of Osteopathic Examiner's Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Board pursuant to the provisions of the Oklahoma Osteopathic Medicine Act or the Oklahoma Abortion-Inducing Drug Certification Program Act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Board for the purpose of enforcing the laws of this state which prohibit the unlawful practice of osteopathic medicine, for the dissemination of information to prevent the violation of such laws~~,~~ and for the purchase of supplies and such other expense as is necessary to properly implement the provisions of the Oklahoma Osteopathic Medicine Act or the Oklahoma Abortion-Inducing Drug Certification Program Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims signed by an authorized employee or employees of the State Board of Osteopathic Examiners and filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

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

Passed the Senate the 19th day of May, 2021.

_____
Presiding Officer of the Senate

Passed the House of Representatives the 25th day of May, 2021.

_____
Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

_____
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20 _____, at _____ o'clock _____ M.

By: _____