IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

TULSA WOMEN'S REPRODUCTIVE CLINIC, LLC, an Oklahoma limited liability company, on behalf of itself, its physicians, and staff; and ALAN BRAID, M.D., Plaintiffs, v. JOHN O'CONNOR, in his official capacity as Attorney General for the State of Oklahoma, 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, DENNIS CARTER, in his official capacity as President of the Oklahoma State Board of Osteopathic Examiners, and COL. LANCE FRYE, in his official capacity as Commissioner of Health for the Oklahoma State Board of Health, as well as their employees, agents, and successors, Defendants.	CASE NO. CV-2019-2176 HON. D. ANDREWS

VERIFIED AMENDED PETITION

Plaintiffs, by and through their undersigned attorneys, bring this Amended Petition[1] against the above-named Defendants, their employees, agents and successors in office, and in support thereof allege the following:

I. PRELIMINARY STATEMENT

1. This is a civil rights action challenging Oklahoma Senate Bill 614, 2019 Okla. Sess. Laws Serv. Ch. 174 ("S.B. 614") in its entirety, as well as provisions of Senate Bill 778, 2021 Okla. Ch. 577 ("S.B. 778") and Senate Bill 779, 2021 Okla. Ch. 578 ("S.B. 779") to the extent

[1] Defendants have assented to the filing of this Amended Petition.

they require disclosures regarding so-called abortion "reversal" (jointly, the "Acts"), under the Constitution of Oklahoma. The enactments of S.B. 778 and S.B. 779 are particularly egregious given that this Court temporarily enjoined S.B. 614, a copy of which is attached hereto as Exhibit A, which was scheduled to take effect on November 1, 2019 (Dkt. No. 71). A copy of the preliminary injunction is attached hereto as Exhibit B. S.B. 778 and S.B. 779 are scheduled to go into effect on November 1, 2021. Copies of S.B. 778 and S.B. 779 are attached hereto as Exhibits C and D, respectively. The Oklahoma legislature should not be permitted to evade this Court's temporary injunction of S.B. 614 by simply re-enacting substantially similar requirements in S.B. 778 and S.B. 779.

2. The Acts are unconstitutional intrusions on physicians' rights to free speech and will harm the medical profession and the patients physicians serve.

3. The Acts force physicians to tell their patients that medication abortion may be reversible, a claim wholly unsupported by reliable scientific evidence, contravening physicians' ethical and legal obligations as medical providers. S.B. 778 and S.B. 779 also require physicians to outwardly lie about and mischaracterize the science and medical literature behind, as well as the safety of, abortion "reversal." Plaintiffs object to this forced speech, which requires physicians: (i) to deliver to their patients false and misleading information unsupported by and contrary to reliable scientific evidence and with which they disagree; (ii) to repeatedly and directly refer their patients to a hotline and website that convey untruthful and misleading information about the safety and effectiveness of so-called abortion "reversal" and encourage patients to participate in experimental medical treatments that run counter to their patients' best interests; and (iii) to violate their medical ethics.

4. By compelling physician speech, S.B. 614 and the challenged provisions of S.B. 778 and S.B. 779 deprive physicians of their fundamental right to free speech. The Oklahoma Constitution is highly protective of free speech, providing that "[e]very person may freely speak, write, or publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press." Okla. Const. art. II, § 22. The Oklahoma Supreme Court has repeatedly found that the protections afforded by the Oklahoma Constitution are coextensive with, or greater than, the protections guaranteed by the federal constitution. *See In re Initiative Petition No. 366*, 2002 Okla. 21, ¶ 7, 46 P.3d 127; *Gaylord Entm't Co. v. Thompson*, 1998 OK 30 ¶ 13 n.23, 958 P.2d 128; *Gerhart v. State*, 2015 Okla. CR 12, ¶ 6, 360 P.3d, 1196. The Acts force Plaintiffs to repeatedly provide patients with false, misleading, irrelevant, and confusing government messages with which they disagree. The Acts also force Plaintiffs to direct patients to an organization that uses misinformation to induce patients to undergo experimental and potentially dangerous medical treatments. The Acts also compel physicians, including Plaintiff Dr. Braid, and staff at Plaintiff Tulsa Women's Reproductive Clinic, LLC (the "Clinic"), to *personally speak* a government-scripted message and to provide patients with government-prepared materials containing untruthful and misleading information about so-called abortion "reversal." Worse still, the Acts force the Clinic to advertise to its patients a medical service that is scientifically unsupported and potentially dangerous, and which may subject the Clinic's physicians and staff, including Dr. Braid, to ethical and legal liability.

5. Ultimately, the Acts will force Oklahoma physicians, including Dr. Braid, to violate their medical ethics and unnecessarily inflict harm on their patients.

6. To protect physicians from these constitutional violations, and to avoid irreparable harm, Plaintiffs seek declaratory and injunctive relief to prevent the enforcement of S.B. 614 and the challenged provisions of S.B. 778 and S.B. 779.

II. JURISDICTION AND VENUE

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

8. 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.

9. Venue is proper under Okla. Stat. tit. 12, § 133 (2019) because Defendants O'Connor, Kelsey, Carter, and Frye have official residences in Oklahoma County.

III. PARTIES

A. Plaintiffs

10. Plaintiff Tulsa Women's Reproductive Clinic, LLC ("the Clinic"), located in Tulsa, Oklahoma, has been in operation under its current name and ownership since August 2018. The Clinic provides a range of reproductive healthcare services to patients in Oklahoma, including medication and surgical abortions. It is licensed as an abortion facility by the Oklahoma State Department of Health. The Clinic employs, among other licensed healthcare providers, physicians licensed by the Oklahoma State Board of Medical Licensure and Supervision, and the Oklahoma State Board of Osteopathic Examiners. Every member of the Clinic's staff acts as an agent for the Clinic's physicians for various purposes, including communications with patients. The Clinic brings claims on behalf of itself, its physicians, and its staff.

11. Plaintiff Alan Braid, M.D., is a physician licensed to practice medicine in Oklahoma. He is an obstetrician and gynecologist who is board-certified by the American Board of Obstetricians and Gynecologists. Dr. Braid is the principal owner of the Clinic and provides medication and surgical abortions to the Clinic's patients.

B. Defendants

12. 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.

13. Defendant Steve Kunzweiler is the District Attorney for Tulsa County. Defendant Kunzweiler is the prosecuting attorney authorized to maintain a cause of action against a person who has performed or attempted to perform an abortion in violation of the Acts in Tulsa County. S.B. 614, § 1(F); S.B. 778, § 11(A)(4)(c); S.B. 779, § 11(E)(3). He is sued in his official capacity.

14. Defendant Lyle Kelsey is the Executive Director of the Oklahoma State Board of Medical Licensure and Supervision (the "Medical Board"). The Medical Board, among other things, issues medical licenses, publishes materials and maintains the website containing information that must be offered to patients seeking abortion, and has the authority to take disciplinary action against licensees, including the Clinic's physicians. S.B. 614, §§ 1(F), (G); S.B. 778, §§ 7(A)–(B); S.B. 779, § 12(A); 59 O.S. §§ 495, 503. He is sued in his official capacity.

15. Defendant Dennis Carter is the President of the Oklahoma State Board of Osteopathic Examiners (the "Osteopathic Board"). The Osteopathic Board, among other things, issues licenses to osteopathic physicians and has authority to take disciplinary action against licensees, including the Clinic's osteopathic physician. S.B. 779, § 12(A); 59 O.S. §§ 622(A)(1), 633, 637.

16. Defendant Lance Frye is the Oklahoma 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); Okla. Admin. Code §§ 310:600-7-3, -13-2 (1998). He is sued in his official capacity.

IV. FACTUAL ALLEGATIONS

A. Background Facts About Abortion in Oklahoma.

17. Legal abortion is among the safest, most common medical procedures American women undergo. In fact, nearly one in four women in the United States (23.7%) will have had an abortion by the time she is 45 years old.[2] Access to safe and legal abortion benefits the health and wellbeing of people and their families, including people who already have children. Over the past forty years, safe and legal abortion has been important to facilitating women's equal participation in society, including in the economic and social life of the nation.

18. Facilities providing abortion care in Oklahoma must be licensed, Okla. Admin. Code § 310:600-3-1(a), and are subject to extensive regulations governing administration, staffing, clinical services, recordkeeping, physical plant requirements, and compliance with all applicable federal, state, and local laws. Okla. Admin. Code §§ 310:600-1-1 et seq. No public facilities or hospitals may be used for abortions, and no public employees may provide abortions, except when necessary to save the patient's life or if the pregnancy was a result of rape or incest. 63 O.S. § 1-741.1(A).

19. Aside from the Clinic, there are only three other licensed abortion facilities providing abortion care in Oklahoma: two in Oklahoma City and one additional clinic in Tulsa. Two of the three facilities are about a two-hour drive from the Clinic's location in Tulsa. The Clinic provides medication abortion care up to approximately ten weeks of pregnancy, as dated

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[2] Guttmacher Institute, *Induced Abortion in the United States*, https://www.guttmacher.org/fact-sheet/induced-abortion-united-states (last visited Aug. 30, 2021); *see also The Safety and Quality of Abortion Care in the United States*, National Academy of Sciences, Engineering, Medicine (Mar. 16, 2018), http://nationalacademies.org/hmd/reports/2018/the-safety-and-quality-of-abortion-care-in-the-united-states.aspx.

from the first day of the pregnant person's last menstrual period ("LMP"),[3] and surgical abortion care. People who reside throughout the state of Oklahoma, as well as those from Missouri, Kansas, Arkansas, and Texas travel to the Clinic to access high quality abortion services, including medication abortion.

20. Several physicians, including Dr. Braid, provide abortion care at the Clinic. Some are medical doctors licensed by the Medical Board and at least one is an osteopathic physician licensed by the Osteopathic Board. In 2019, approximately 70 percent of the abortions provided at the Clinic were medication abortions; in 2020, that percentage rose to approximately 80 percent.

21. The Clinic's patients obtain abortions for a variety of reasons. Many are low income and/or already have children and do not feel they can adequately parent and support additional children. Other patients seek abortion care because the pregnancy threatens their health or safety. Regardless of their reasons for seeking abortion care, the vast majority of the Clinic's patients are firm in their decision to receive an abortion by the time they arrive at the Clinic for their procedure.

22. The most common and effective form of medication abortion is a regimen of two prescription drugs, mifepristone and misoprostol, which are pills taken orally.[4] Mifepristone, also known as "RU-486" or by its commercial name Mifeprex, was first approved by the U.S. Food and Drug Administration ("FDA"), as an effective alternative to surgical abortion in early pregnancy when used in conjunction with misoprostol, in 2000. As with other prescription drugs,

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[3] Pregnancy is commonly measured from the first day of the pregnant person's last menstrual period ("LMP"). 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.

[4] There are other types of medication abortion regimens—including methotrexate (which is used for ectopic pregnancies) and vaginal misoprostol medication abortions (which is less effective than the mifepristone and misoprostol regime)—that are not governed by S.B. 614. *See* Mayo Clinic, *Medical Abortion* (May 14, 2020), https://www.mayoclinic.org/tests-procedures/medical-abortion/about/pac-20394687.

the combined use of mifepristone and misoprostol—collectively referred to as "medication abortion"—is regulated by the FDA.

23. Mifepristone works first by binding to progesterone receptors in the body, temporarily blocking the hormone progesterone, which is necessary to maintain the pregnancy. This causes the pregnancy tissue and lining of the uterus to break down and separate from the wall of the uterus. Mifepristone has a higher affinity for progesterone receptors, which allows it to bind to them more tightly than progesterone. Mifepristone also increases the efficacy of the second drug in the regimen, misoprostol, by weakening the endometrial lining and increasing the strength and efficacy of uterine contractions. Misoprostol, which is taken 24 to 48 hours after mifepristone, causes the uterus to contract and expel its contents.

24. Since 2000, more than four million women in the United States have had a medication abortion using mifepristone.[5]

25. The FDA updated the drug label for mifepristone in 2016 to bring it up to date with the current evidence-based protocol used by medical professionals for the provision of medication abortion.[6] As provided by the 2016 label, the protocol for the administration of medication abortion is as follows: on day 1, the patient takes 200 mg of mifepristone orally; twenty-four to forty-eight hours later, the patient takes 800 mcg of misoprostol buccally (meaning, held inside the cheek while the pills dissolve).

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[5] *Mifeprex Effectiveness and Advantages*, Danco Laboratories, https://www.earlyoptionpill.com/is-mifeprex-right-for-me/effectiveness-advantages/ (last visited July 17, 2021). Data tracking the number of people who have received a medication abortion in the United States since 2000 but do not identify as women, such as men who are transgender, is not currently available.

[6] FDA Label for Mifeprex, https://www.accessdata.fda.gov/drugsatfda_docs/label/2016/020687s020lbl.pdf, (last visited July 11, 2021).

26. The 2016 label approves the use of medication abortion through seventy days, or ten weeks since LMP.

27. The FDA has confirmed that this protocol is extremely safe and effective in terminating pregnancy.[7]

28. Both surgical abortion and medication abortion will fail to terminate pregnancy in a small minority of cases. According to the FDA, the success rate for medication abortion in the United States, when administered using mifepristone and misoprostol in accordance with the 2016 label protocol, is 97.4%.[8]

29. The standard of medical care before starting any abortion procedure is for physicians to counsel their patients to be certain in their decision to terminate their pregnancies.

30. Although mifepristone on its own is not considered effective in ending a pregnancy by the FDA or by the medical community more broadly, physicians counsel their patients to be certain in their decision to terminate their pregnancies before starting the mifepristone/misoprostol regimen because mifepristone alone can cause termination of pregnancies.

B. Oklahoma's Existing Regulatory Requirements Governing Abortion.

31. Prior to enacting S.B. 614, Oklahoma had an existing scheme of speech requirements that physicians must follow during pre-abortion counseling as a precondition to providing either surgical or medication abortion. This scheme of government-mandated speech requirements is generally described in the statutes as "informed and voluntary consent," although some of the requirements are unrelated to the process of informed consent as understood in the medical profession—in which a patient receives information about the details, risks, and benefits of the procedure and its alternatives in order to provide informed consent to that medical procedure.

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[7] *Id.* at Table 3.
[8] *Id.*

32. Oklahoma law divides its government-mandated speech requirements for physicians into two categories: (1) information that physicians or their agents must orally tell their patients; and (2) printed materials written by the Medical Board that physicians or their agents must offer or display to their patients.

33. The government-mandated information that physicians and their agents must orally provide to their patients at least 72 hours before the abortion is performed includes the information necessary to obtain the patient's voluntary and informed consent, namely: (i) the medical risks associated with the particular abortion procedure to be employed; (ii) the probable gestational age of the fetus at the time of the abortion; and (iii) the medical risks associated with carrying a pregnancy to term. 63 O.S. §§ 1-738.2(B)(1)(a)(2-4).

34. The remainder of the existing government-mandated information physicians and their agents must orally tell their patients is unrelated to the process of obtaining the patient's informed consent for a particular medical procedure. For example, physicians and their agents must tell patients "that medical assistance benefits may be available for prenatal care, childbirth, and neonatal care" and "that the father is liable to assist in the support of her child." 63 O.S. §§ 1-738.2(B)(2)(a-b).

35. Oklahoma law also requires that "the State Board of Medical Licensure and Supervision shall cause to be published, in English and in Spanish, and shall update on an annual basis," printed materials that physicians and their agents must offer to their patients. 63 O.S. § 1-738.3(A). The current printed materials—not challenged here—require physicians and their agents to offer their patients information about "public and private agencies" that assist pregnant individuals and medical information for pregnant patients.

36. Before performing an abortion, the physician must receive certification in writing from the patient that the patient has been told all of the mandatory oral information by the physician or the physician's agent, and that she "has been informed of her option to review or reject" the State-created printed materials. 63 O.S. § 1-738.2(B)(3).

37. Additionally, if the pregnancy is at least eight weeks LMP, a physician may not provide an abortion unless they have informed the patient that it may be possible to hear fetal cardiac activity and asked if the patient would like to listen. If the patient answers affirmatively, the physician must project the cardiac activity on a fetal heart rate monitor for the patient to hear. 63 O.S. § 1-745.14.

38. In performing pre-abortion counseling, physicians are guided not only by their legal obligations, but also by their ethical obligations to provide candid, complete, and accurate information to their patients about their health status and all medically relevant healthcare options. As required by Oklahoma law, this discussion begins at least 72 hours before the patient's procedure, when physicians or their agents discuss with the patient—either over the phone or in person—the patient's options and alternatives (including carrying the pregnancy to term, adoption, and abortion), and the abortion procedures that are available to the patient depending on the gestational age of the pregnancy and the patient's medical history. While these discussions begin when the patient first contacts the clinic to schedule an appointment, they continue throughout the patient's interactions with the clinic, up to the time when the patient's abortion procedure begins.

39. As part of that pre-abortion counseling, physicians also perform the specific task of obtaining the patient's "informed consent" to a specific medication or surgical abortion procedure. The informed consent process includes describing the risks, benefits, and medical details associated with the specific abortion procedure to the patient so that the patient can provide

informed consent to the procedure the patient chooses. Physicians' ethical and legal obligations thus include, but are not limited to, obtaining informed consent from the patient.

40. Informed consent, as understood within the medical profession, does not follow a rigid, governmentally proscribed protocol. It is a give and take between an individual patient and an individual physician. It is based on trust and open, forthright communication, intended to further the patient's understanding of their medical care.

41. Recitation of a government-scripted message unrelated to a patient's actual medical care hinders the informed consent process, as understood within the medical profession.

42. The purpose of informed consent, as understood within the medical profession, is to further the interests of the patient—not to further political objectives.

43. The vast majority of the Clinic's patients are certain of their decision to obtain an abortion by the time they call the Clinic to schedule their abortion procedure. By the time they arrive at the Clinic for their procedure, they have already made the initial phone call to the Clinic, received the state-mandated counseling either by phone or in person, and made all of the necessary arrangements to come to the appointment, including taking time off work or school, arranging for childcare for patients who already have children, and coming up with the necessary funds to pay for their abortion care. Most of the Clinic's patients have considered their options and made up their mind several days, if not weeks, before they arrive at the Clinic to have the abortion.

44. In the extremely rare event that a patient is uncertain of their decision to have an abortion on the day of their scheduled procedure, the Clinic will not perform the abortion. Rather, a physician and/or Clinic staff will encourage the patient to take more time to consider their options, and if they wish, to reschedule their appointment.

C. The Challenged Compelled Reversal Mandates.

45. Under free speech protections, the government cannot force medical professionals to supply their patients with any government message, much less a controversial and/or ideological message, without violating the free speech rights of the physicians.

46. The Acts add additional layers onto Oklahoma's scheme of government-mandated speech requirements for physicians in ways that are inconsistent with existing Oklahoma law and with Plaintiffs' right to freedom of speech.

S.B. 614

47. S.B. 614 contains numerous restrictions on physicians' speech. First, any facility that provides medication abortions using mifepristone must post a sign in each patient waiting room and each patient consultation room used by medication abortion patients with specific language about medication abortion reversal. *See* S.B. 614, § 1(B)(3). The sign must be written in "at least three-fourths (3/4) of an inch boldfaced type," S.B. 614, § 1(B)(2), and must be "clearly visible to patients." S.B. 614, § 1(B)(1). The sign must read:

> NOTICE TO PATIENTS HAVING MEDICATION ABORTIONS WHICH USE MIFEPRISTONE: Mifepristone, also known as RU-486 or Mifeprex, alone is not always effective in ending a pregnancy. It may be possible to reverse its intended effect if the second pill or tablet has not been taken or administered. If you change your mind and wish to try to continue the pregnancy, you can get immediate help by calling the Abortion Pill Reversal 24-hour Hotline at 877-558-0333 or going to website https://www.abortionpillreversal.com/. Additional information is available on the State Board of Medical Licensure and Supervision's website, www.awomansright.org, which provides informed consent materials under the Woman's Right-to-Know Act, including information about the development of the unborn child and video of ultrasound images of the unborn child at various stages of development. S.B. 614, § (1)(B)(1).

48. Second, except in the case of a medical emergency,[9] 72 hours before a medication abortion, physicians or their agents must (1) inform the patient that "it may be possible to reverse the intended effects of a medication abortion that uses mifepristone if the woman changes her mind but that time is of the essence," and (2) inform the patient of "information on reversing the effects of a medication abortion that uses mifepristone, which is available on the website of the State Board of Medical Licensure and Supervision, and included in such information is the Abortion Pill Reversal 24-hour Hotline number: 877-558-0333 and website address: https://www.abortionpillreversal.com." S.B. 614, §1(C)(1).

49. Third, after the patient has taken mifepristone, physicians or their agents must give the patient written instructions that include the same statement about reversing medication abortion that use mifepristone and the same mandatory language directing patients to the Abortion Pill Reversal website and hotline as is required on the signs. S.B. 614, §1(C)(2).

50. Fourth, within 90 days after S.B. 614's enactment, the Medical Board must publish "comprehensive materials," "in English and in each language which is the primary language of two percent (2%) or more of the state's population," in print and on their website that are "designed to inform the female of the possibility of reversing the effects of a medication abortion that uses mifepristone, also known as RU-486 or Mifeprex, and information on resources that may be available to help her reverse its effects. The website shall include the Abortion Pill Reversal 24-

[9] "Medical emergency" means a condition which, in reasonable medical judgment, so complicates the medical condition of the pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions. No condition shall be deemed a medical emergency if 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." S.B. 614, § 1(A)(2).

hour Hotline number 877-558-0333 and the Abortion Pill Reversal website address https://www.abortionpillreversal.com." S.B. 614, §1(E).

51. S.B. 614 defines the intended effect of a medication abortion and the intended effect of the drugs used in a medication abortion as "caus[ing] the death of the unborn child." Specifically, S.B. 614 provides: "'Medication abortion' means the use or prescription of an abortion-inducing drug or drugs dispensed with the intent to cause the death of the unborn child." S.B. 614, § 1(A)(3). Further, S.B. 614 defines "Abortion" as "the use or prescription of any instrument, medicine, drug or any other substance or device" "(a) to intentionally kill the unborn child of a woman known to be pregnant" or "(b) to intentionally terminate the pregnancy of a woman known to be pregnant." S.B. 614, § 1(A)(1).

52. Any person, excluding the patient, who provides or attempts to provide an abortion in violation of S.B. 614 is guilty of a felony. S.B. 614, §1(F).

53. Any facility that fails to post the required signage will be fined $10,000 per day by the Medical Board. S.B. 614, §1(G).

54. Physicians who provide a medication abortion using mifepristone in violation of S.B. 614 are also subject to civil damages in a lawsuit brought by the patient, the "father" of the fetus or embryo, or the parents of a minor patient or a deceased patient. S.B. 614, § 1(H).

S.B. 778

55. The challenged provisions of S.B. 778 impose requirements on physicians that are substantially similar to, or more extreme than, the speech requirements in S.B. 614.

56. Under S.B. 778, an "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." S.B. 778, § 2(2). This definition specifically includes "Mifepristone (Mifeprex), misoprostol (Cytotec) and methotrexate." *Id.*

57. S.B. 778 mandates that physicians or their agents require the patient to sign a "consent form" at least 72 hours before providing abortion care. S.B. 778, § 6(B)-(E). Such "consent form" must include the following information: (i) "[t]hat it may be possible to reverse the effects of the chemical abortion should she change her mind, but that time is of the essence;" (ii) "[t]hat initial studies suggest that children born after reversing the effects of Mifeprex/mifepristone have no greater risk of birth defects than the general population;" (iii) "[t]hat initial studies suggest there is no increased risk of maternal mortality after reversing the effects of Mifeprex/mifepristone;" and (iv) "[t]hat information on and assistance with reversing the effects of abortion-inducing drugs are available in the state-prepared materials." S.B. 778, §§ 6(E)(6), (8)–(10).

58. For the state-created "consent form" to be valid and for "statutory consent" for a medication abortion to be legally sufficient under S.B. 778, the patient must sign an "acknowledgment of risks and consent statement" (the "Acknowledgment"), which must be included on the state-created "consent form." S.B. 778, § 6(E)(11). The Acknowledgement must include, and the patient must individually initial, multiple "declarations," including:

i. That the patient "understands that the abortion-inducing drug regimen or procedure is intended to end [the patient's] pregnancy and will result in the death of her unborn child," S.B. 778, § 6(E)(11)(a);

ii. That the patient may "withdraw her consent to the abortion-inducing drug regimen even after she has begun the abortion-inducing drug regimen," *id.*, § 6(E)(11)(b);

iii. That the patient "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 that she can contact (877) 558-0333 for assistance in locating a medical professional that can aide in the reversal of an abortion,'" *id.*, § 6(E)(11)(e); and

iv. That the patient "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," *id.*, § 6(E)(11)(f).[10]

59. Similarly, for the state-created "consent form" to be valid and for statutory consent for a medication abortion to be legally sufficient under S.B. 778, the physician must, at least 72 hours before providing an "abortion-inducing drug," sign a "qualified physician declaration" stating that the physician provided to the patient all of the information required to be included on the state-created consent form and in the Acknowledgement declarations. S.B. 778, § 6(b), 6(E)(12).

60. Under S.B. 778, the Medical Board is required to publish, both in "printed materials on informed consent for abortion" and on "the state-prepared and maintained website on informed consent for abortion," the statement 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 aid in the reversal of an abortion. S.B. 778, § 7(A).

[10] Such state materials must include information on abortion "reversal" as well as the Abortion Pill Reversal website address and hotline number. S.B. 778, § 7(C).

61. Any person who "intentionally, knowingly or recklessly violates any provision of [S.B. 778] is guilty of a misdemeanor," but anyone who "intentionally, knowingly or recklessly violates any provision of [S.B. 778] by fraudulent use of an abortion-inducing drug…is guilty of a felony." S.B. 778, § 10(A)–(B).

62. Failure to comply with any provision of S.B. 778 also provides a basis for: (i) a "civil malpractice action for actual and punitive damages"; (ii) "a professional disciplinary action"; and (iii) an action for injunctive relief to prevent a physician "from providing further abortion-inducing drugs." S.B. 778, § 11(A)(1)–(2), (4). Such action for injunctive relief can be brought against the physician not only by the patient, but by the patient's spouse, parent, guardian, or current or former licensed healthcare provider, or a prosecutor with the appropriate jurisdiction. S.B. 778, § 11(A)(4)(a)–(c).

S.B. 779

63. S.B. 779 orders the Oklahoma Board of Pharmacy, the Medical Board, and the Osteopathic Board to create an "Oklahoma Abortion-Inducing Drug Certification Program" (the "S.B. 779 Program") and to promulgate regulations broadly governing the provision of "abortion-inducing drugs" in Oklahoma. S.B. 779, §§ 4(A), 5(A).

64. The terms "abortion-inducing drug," "abortion," "pregnant," and "pregnancy" have the same meaning under both S.B. 778 and S.B. 779. *Compare* S.B. 778, §§ 2(1), (2), and (9) *with* S.B. 779, § 2(1), (2), and (11).

65. Physicians are prohibited from providing "abortion-inducing drugs," including mifepristone, misoprostol, and methotrexate, 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), 10(A).

66. To be eligible for certification under the S.B. 779 Program, physicians must inform patients: (i) "that *studies show* that babies born following the abortion reversal process have a rate of birth defects no higher than the general population;" and (ii) "[i]nform 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." S.B. 779 § 7(8)–(9) (emphasis added).

67. To be certified to provide medication abortion, physicians must also "sign, and ensure that the patient signs, all legally required informed consent material," S.B. 779, § 7(13), and sign an agreement with the state that they will "provide to the patient and require the patient to sign all legally required informed consent material" before providing an "abortion-inducing drug," S.B. 779, § 8(2)(f). Such "legally required informed consent materials" would include the materials mandated under the challenged provisions of S.B. 778 and S.B. 614, should those laws go into effect.

68. Any person who "intentionally, knowingly or recklessly violates any provision of [S.B. 779] is guilty of a misdemeanor," but those "who intentionally, knowingly or recklessly violate[] any provision of [S.B. 779] by fraudulent use of an abortion-inducing drug…is guilty of a felony." S.B. 779, § 10(C)–(D).

69. In addition to remedies available under common or statutory law, violating S.B. 779 also exposes physicians to potential civil malpractice actions for actual and punitive damages, professional discipline, and actions for injunctive relief. S.B. 779, § 11(A)(1)–(2), (E). Such an action for injunctive relief may be brought not only by the patient, but also by the patient's spouse, parent, guardian, or former or current licensed healthcare provider, as well as a prosecutor with appropriate jurisdiction. S.B. 779, § 11(E)(1)–(3). Injunctive relief would prevent the physician "from providing further abortion-inducing drugs in violation of this act." S.B. 779, § 11(E)(3).

70. Both the Medical Board and the Osteopathic Board must enforce against their respective licensed physicians the requirement that only physicians certified under the S.B. 779 Program may provide "abortion-inducing drugs," including mifepristone, misoprostol, and methotrexate, to patients in Oklahoma for the purpose of inducing abortion. S.B. 779, § 5(D)(1).

71. The Medical and Osteopathic Boards are required to "develop an enforcement scheme for their licensees to enforce [S.B. 779]." S.B. 779, § 12(A). This mandatory scheme must include the following enforcement actions:

1. When an individual or entity provides abortion-inducing drugs to a pregnant patient "without first seeking certification under [S.B. 779], the appropriate licensing board *shall* . . . immediately report the illegal act to local law enforcement, or other applicable state or local agencies, for investigation or other appropriate action . . ." *and* impose a $250,000 fine, S.B. 779, § 12(A)(1)(a)–(b) (emphasis added);
2. When a physician certified under the S.B. 779 Program is "in noncompliance" or "is determined to be in noncompliance," the physician's licensing board shall suspend the physician's S.B. 779 Program certification and annual recertification until the physician proves or demonstrates compliance to the board's satisfaction, S.B. 779 § 12(A)(2), (4);
3. If a physician currently or previously certified under the S.B. 779 Program intentionally or knowingly violates any provision of S.B. 779, or refuses to become compliant, the physician's licensing board shall: (i) suspend certification until "full compliance" is demonstrated; *and* (ii) fine the physician $100,000 per offense; *and* (iii) permanently revoke certification if the physician does not demonstrate compliance within 90 calendar days; *and* (iv) impose remedial action, such as

additional education or reporting; *and* (v) report the violation to the physician's licensing board; *and* (vi) publicly report any disciplinary action taken against the physician; *and* (vii) permanently revoke the physician's S.B. 779 Program certification; *and* (vii) recommend sanctions to the physician's licensing board. S.B. 779, § 12(A)(5)(a), (c)–(e), (g)–(i), (k)–(l).

72. S.B. 779 also contains a private right of action for "any and all damages suffered due to a violation of" S.B. 779. S.B. 779, § 12 (B).

D. Facts about So-Called Abortion "Reversal."

73. There is no credible evidence that a medication abortion administered via the combined mifepristone/misoprostol regimen can be "reversed."

74. There is no credible evidence that "the effects of an abortion obtained through the use of" methotrexate or misoprostol can be "reversed." Upon information and belief, no valid, scientific studies have been conducted to assess the potential to "reverse" a medication abortion obtained through the use of misoprostol or methotrexate.

75. Indeed, once an abortion has occurred, the patient is no longer pregnant; that outcome is not reversible. S.B. 614 defines the intended effect of a medication abortion with mifepristone as to "cause the death of an unborn child," S.B. 614, § 1(A)(3), and requires physicians or their agents to inform patients that "it may be possible to reverse [those] intended effects," S.B. 614, § 1(C)(1). But that intended effect is permanent and cannot be reversed.

76. Similarly, S.B. 778 requires that each patient be told "that the abortion-inducing drug regimen or procedure is intended to end her pregnancy and will result in the death of her unborn child." S.B. 778, § 6(E)(11)(a). And S.B. 778 defines "abortion-inducing drug" as drug provided "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." S.B. 778, § 2(2). Yet S.B. 778 requires that patients be told that "it may be possible to reverse the effects of the chemical abortion," S.B. 778, § 6(E)(6), and that medical professionals "can aide in the reversal of an abortion," S.B. 778, § 6(E)(11)(e). But the effects of the chemical abortion as denoted in S.B. 778—ending the pregnancy and the "death of the unborn child"—cannot be reversed.

77. Upon information and belief, the concept of "reversing" an abortion (often referred to as "medication abortion reversal" or "abortion pill reversal") is based on an experimental practice proposed by Dr. George Delgado and Dr. Mary Davenport, based in San Diego, who have alleged that they can "reverse" the effects of mifepristone prior to administration of misoprostol. Upon information and belief, a small number of other doctors around the United States have experimented with this practice, which involves either injecting or prescribing large doses of progesterone to patients who have taken mifepristone, but have not yet taken misoprostol, the second drug in the medication abortion regimen.

78. While there is no consensus on the protocol for these doses of progesterone for abortion "reversal," as stated above, a small number of doctors have experimented with weekly injections, in some cases until the end of pregnancy, as well as oral and vaginal routes of progesterone administration.

79. Although progesterone is generally considered a low-risk medication, it does carry risks. Progesterone has been associated with maternal complications such as depression, cholestatic jaundice, and hypertension. And while some data supports the general safety of progesterone in pregnancy in other contexts (such as in vitro fertilization), some studies have raised

concerns about possible associations with second trimester miscarriage, stillbirth, and certain birth defects.[11]

80. Significantly, progesterone has not been approved by the FDA for use in "reversing" the effects of mifepristone or any other abortion-inducing drug. There is no FDA-approved protocol for the administration of progesterone after mifepristone to reverse its effects, nor is there an FDA protocol for any other method of medication abortion "reversal."

81. That a small number of physicians in Oklahoma or other states are experimenting with using progesterone to counteract mifepristone does not constitute credible, medically accepted evidence that the experimental practice is effective or safe.

82. In fact, this experimental practice is opposed by the American Congress of Obstetricians and Gynecologists ("ACOG"),[12] the nation's premier professional organization of

[11] *See, e.g.*, Paul J. Meiss et al., *Prevention of Recurrent Preterm Delivery by 17 Alpha-Hydroxyprogesterone Caproate*, 348 N. Eng. J. Med. 2379, 2382 (2003); Suzan L. Carmichael et al., *Maternal Progestin Intake and Risk of Hypospadias*, 159(10) Archives of Pediatric & Adolescent Med. 957 (2005).

[12] ACOG is also known as the American College of Obstetricians and Gynecologists.

women's health providers, because its safety and efficacy have not been established.[13] ACOG "unequivocally opposed" S.B. 614.[14]

83. To date, only one clinical trial has been started for the purpose of assessing the potential risks to pregnant people who undergo abortion "reversal."[15] This randomized, controlled clinical trial was terminated early due to safety risks to the participants.[16] The trial authors concluded that "patients in early pregnancy who use only mifepristone may be at high risk of significant hemorrhage."[17]

84. Dr. Delgado published two articles regarding abortion "reversal"—one in 2012 and one in 2018.[18] The 2012 article was a case series that reported on only six patients who were treated with progesterone after taking mifepristone in an attempt to reverse their medication abortions. Four of the patients carried their pregnancies to term after taking mifepristone and receiving

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[13] Statement of the American Congress of Obstetricians and Gynecologists, *Facts Are Important: Medication Abortion "Reversal" Is Not Supported by Science*, https://www.acog.org/advocacy/facts-are-important/medication-abortion-reversal-is-not-supported-by-science; American College of Obstetricians and Gynecologists, Comm. on Practice Bulletins—Gynecology and the Society of Family Planning, Practice Bulletin No. 225, *Medication Abortion Up to 70 Days of Gestation* at e33 (Oct. 2020), https://www.acog.org/clinical/clinical-guidance/practice-bulletin/articles/2020/10/medication-abortion-up-to-70-days-of-gestation; American College of Obstetricians and Gynecologists, Comm. on Health Care for Underserved Women, Comm. Op. 815, *Increasing Access to Abortion* at e108-09 (Dec. 2020), https://www.acog.org/-/media/project/acog/acogorg/clinical/files/committee-opinion/articles/2020/12/increasing-access-to-abortion.pdf;

[14] *Stitt signs controversial abortion 'reversal' bill*, THE DAILY OKLAHOMAN, Apr. 27, 2019, e108-109 (https://www.oklahoman.com/article/5629831/stitt-signs-controversial-abortion-reversal-bill.

[15] Mitchell D. Creinin et al., *Mifepristone Antagonization With Progesterone to Prevent Medical Abortion*, 135 OBSTETRICS AND GYNECOLOGY 158, 158 (2020).

[16] See *id.*

[17] See *id.*

[18] George Delgado and Mary L. Davenport, *Progesterone Use to Reverse the Effects of Mifepristone*, Annals of Pharmacotherapy (2012); George Delgado et al., *A case series detailing the successful reversal of the effects of mifepristone using progesterone*, Issues Law Med. (Spring 2018).

progesterone.[19] The other two patients did not carry their pregnancies to term after taking mifepristone and receiving progesterone—the study stated that, for one patient, "[t]he abortion was completed soon after the progesterone injection," and for the other "[t]he abortion was completed 3 days after mifepristone ingestion."[20] A seventh patient was lost to follow-up.

85. The patients included in the 2018 case series were part of a group of people who had called an informational hotline during a four-year period (2012 to 2016), and were referred to physicians for treatment. According to the study, of the 1,668 people who called the hotline, 754 "initiated progesterone therapy." Five percent of those people (38) were then excluded because they had taken mifepristone more than 72 hours earlier, and eight percent (57) were excluded because they changed their mind and decided to complete the abortion. Fifteen percent were excluded because they were "lost to follow-up prior to 20 weeks gestation." Of the remaining 547 patients, 48% either delivered babies or kept their pregnancies for up to 20 weeks, but were then lost to follow-up.[21]

86. Dr. Delgado's articles do not demonstrate the success of abortion "reversal." The patients in the studies did not take misoprostol, the second drug in the abortion "reversal" regimen. According to ACOG, there is up to a 50 percent chance that a woman will carry her pregnancy to term if she does not take misoprostol, regardless of whether she receives progesterone.[22]

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[19] George Delgado and Mary L. Davenport, *Progesterone Use to Reverse the Effects of Mifepristone*, Annals of Pharmacotherapy (2012).
[20] *See id.*
[21] George Delgado et al., *A case series detailing the successful reversal of the effects of mifepristone using progesterone*, Issues Law Med. (Spring 2018).
[22] Carmen Forman, *Stitt signs controversial abortion 'reversal' bill*, THE DAILY OKLAHOMAN, (Apr. 27, 2019), https://oklahoman.com/article/5629831/stitt-signs-controversial-abortion-reversal-bill.

87. Further, both the 2012 and 2018 studies were observational case studies rather than clinical trials with control groups. Because of their retrospective nature, case series cannot establish causation—here, Dr. Delgado's case studies cannot establish that administering progesterone is what caused the pregnancies to continue. ACOG has noted that "case series with no control groups are among the weakest forms of medical evidence."[23] Likewise, the National Institutes of Health explains that case studies or case series are useful "to generate hypotheses about causes" but "can't prove that one thing causes another"; among the various types of studies that researchers conduct, case studies and case series are the "[l]east [e]ffective" "at showing cause and effect."[24]

88. While Dr. Delgado's "research" purported to address the impact of abortion "reversal" on birth defects, no valid, scientific studies have been conducted that specifically examine the rate of birth defects in children who are born to a patient who underwent an abortion "reversal" regimen.

89. Medication abortion is more effective when both mifepristone and misoprostol are used together because mifepristone alone will not always cause abortion. ACOG has recognized that as many as half of patients who take only mifepristone continue their pregnancies.[25] There is

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[23] Statement of the American Congress of Obstetricians and Gynecologists, *Facts Are Important: Medication Abortion "Reversal" Is Not Supported by Science*, https://www.acog.org/advocacy/facts-are-important/medication-abortion-reversal-is-not-supported-by-science.

[24] National Institutes of Health, *Why Do Researchers Do Different Kinds of Clinical Studies?* (Oct. 2016), https://www.nih.gov/about-nih/what-we-do/science-health-public-trust/perspectives/understanding-clinical-studies.

[25] Statement of the American Congress of Obstetricians and Gynecologists, *Facts Are Important: Medication Abortion "Reversal" Is Not Supported by Science*, https://www.acog.org/advocacy/facts-are-important/medication-abortion-reversal-is-not-supported-by-science.

no evidence that the abortion "reversal" regimen of progesterone increases the likelihood that patients who take mifepristone alone will continue their pregnancies. There are, however, some studies that have raised concerns about possible associations between the use of progesterone in pregnancy and certain birth defects.[26]

90. S.B. 614 and sections 6(E)(11)(e) and 7 of S.B. 778 (alone and in conjunction with S.B. 778 § 6(A), (D) and S.B. 779 §§ 7(13), 7(19), and 8(2)(f)), require physicians and/or the Clinic to repeatedly advertise and refer patients to a hotline and website run by Abortion Pill Reversal, a program that was founded by Dr. Delgado and is now run by Heartbeat International, an anti-choice organization that supports crisis pregnancy centers. The Abortion Pill Reversal hotline connects pregnant people with members of the Abortion Pill Rescue Network. According to the website, the Abortion Pill Rescue Network is a network of professional healthcare providers in the U.S. who assist pregnant people who want to reverse their medication abortions. Patients are charged directly by the providers for this service. The Abortion Pill Rescue Network does not publicly disclose the identities of these "professional healthcare providers," their qualifications, or even the details of the progesterone regimens they are allegedly administering to patients.

91. Accordingly, Heartbeat International, through the Abortion Pill Rescue Network, connects pregnant people with professional healthcare providers who purportedly provide medication abortion reversal services despite the fact that there is no credible evidence that the effects of an abortion obtained through the use of methotrexate or misoprostol can be "reversed."

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[26] *See, e.g.*, Paul J. Meiss et al., *Prevention of Recurrent Preterm Delivery by 17 Alpha-Hydroxyprogesterone Caproate*, 348 N. Eng. J. Med. 2379, 2382 (2003); Suzan L. Carmichael et al., *Maternal Progestin Intake and Risk of Hypospadias*, 159(10) Archives of Pediatric & Adolescent Med. 957 (2005).

92. Because there is no credible, scientific evidence that a medication abortion can be reversed, physicians do not and cannot tell their patients that it may be possible to reverse a medication abortion without misleading and lying to them.

93. Similarly, because (i) no reliable studies have assessed whether children born after exposure *in utero* to abortion "reversal" treatments are at greater risk of having birth defects than children born in "the general population," and (ii) no reliable studies have suggested or shown it is possible to "reverse" the effects of Mifeprex/mifepristone, physicians do not and cannot inform their patients that "initial studies" "suggest" or "show" that "children born after reversing the effects of Mifeprex/mifepristone have no greater risk of birth defects than the general population" without giving them untruthful or misleading claims.

94. Physicians also do not and cannot tell their patients that "initial studies" "suggest" or "show" that "there is no increased risk of maternal mortality after reversing the effects of Mifeprex/mifepristone" without giving them untruthful or misleading claims, because there are no scientific studies suggesting or showing this.

95. Physicians do not and cannot tell their patients that information and assistance is available to reverse a medication abortion (or any other type of abortion) or an "abortion-inducing drug," or refer them to the Abortion Pill Reversal hotline or website, without misleading their patients and/or exposing them to potential harm.

E. Legislative History

S.B. 614

96. As the Legislature considered and debated S.B. 614 in 2019, several Oklahoma representatives argued against S.B. 614 because the "reversal" theory is not rooted in science or facts. For example, Representative Cyndi Munson voiced concerns raised to her by constituent physicians, stating that "physicians have [] shared with me that they feel that [] they will be

mandated to lie to their [] patients," and asked S.B. 614 co-sponsor Representative Mark Lepak, "how would you respond to that, that we as a legislature may mandate physicians to lie to their patients with no scientific background on this medication?"[27] Representative Lepak dismissed her concern.[28] Similarly, Representative David Perryman read from an email from the Oklahoma State Medical Association in which the 4,000 physicians and medical student members urged the legislature to vote no on S.B. 614.[29]

97. Representative Merleyn Bell also urged the Legislature to take the intermediate step of convening a panel of experts to study whether medication abortions can actually be reversed, so that the Legislature could make a more informed decision about S.B. 614. Representative Lepak declined to consider this option.[30]

98. Representative Forrest Bennett criticized S.B. 614 on somewhat different grounds, noting that "[p]hysicians who believe in this can already tell their patients about [medication abortion reversal]" and that the bill "penalizes physicians for doing their job." [31]

S.B. 778 and S.B. 779

99. Though S.B. 614 has been enjoined since October 2019, in April 2021 the Oklahoma Legislature enacted new, separate sections of the Oklahoma Code containing the challenged provisions of S.B. 778 and S.B. 779.

100. Like S.B. 614, the challenged provisions of S.B. 778 and S.B. 779 impose criminal liability on physicians unless they *repeatedly* give their patients untruthful and/or misleading

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[27] Oklahoma State House of Representatives, *First Regular Session of the 57th Legislature, Day 41 Afternoon Session Debate, SB 614* (Apr. 16, 2019), http://bit.ly/2mWASj3, 10:20:55AM–10:21:13AM.
[28] *Id.* at 10:21:14AM–10:21:20AM.
[29] *Id.* at 10:45:05AM–10:45:41AM.
[30] *Id.* at 10:28:10AM–10:29:13AM.
[31] *Id.* at 11:20:50AM–11:22:06AM; 11:25:23AM–11:26:30AM.

information about abortion "reversal" that is not part of, or relevant to, the process of obtaining a patient's informed consent for a medical procedure, as recognized by the medical profession.

101. During legislative debate on S.B. 778 and S.B. 779, there were multiple references to prior abortion "reversal" laws being enacted in Oklahoma. But at no point was it acknowledged that this Court had enjoined S.B. 614, a bill with substantially similar provisions.

102. Representative Emily Virgin advised her fellow legislators that both ACOG and the American Medical Association agree that abortion "reversal" is unproven and not supported by reliable evidence.[32]

103. Representative Lepak, one of the co-authors of S.B. 778 and S.B. 779 and a self-proclaimed abortion opponent,[33] admitted that he could not "point to any trials" showing that medication abortion can be reversed.[34] He nevertheless claimed that "there is evidence" for "reversal," while acknowledging that "[i]t may not be the [] dressed up study [] that a lot of people want to hang their hat on."[35]

104. However, other states to consider abortion "reversal" have recognized the lack of reliable evidence. For example, in 2017 the Louisiana Department of Health prepared a legislative report in which it examined whether the effects of a medical abortion could be reversed. Ultimately, the Louisiana Department of Health concluded that "there is neither sufficient evidence nor a scientific basis to conclude that the effects of an abortion induced with drugs or chemicals

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[32] Oklahoma State House of Representatives, *First Regular Session of the 58th Legislature, Day 65 Morning Session Debate, SB 778* (May 25, 2021), https://www.okhouse.gov/Video/Default.aspx, 10:04:54AM–10:06:33AM.
[33] Representative Lepak declared during the debate that "[i]t's no secret that I am opposed to abortion." *Id.* at 4:32:06PM–4:33:11PM.
[34] *Id.* at 10:03:16AM–10:04:54AM.
[35] *Id.* at 10:04:54AM–10:06:33AM.

can be reversed."[36] Such finding was based in part on the unanimous agreement by a panel of experts that "there is insufficient evidence to suggest that there is a sound method to reverse a medication-induced abortion."[37]

105. Courts have also seemingly recognized this lack of evidence, as states that have attempted to pass abortion "reversal" legislation have consistently been met with injunctions. For example, as recently as June 2021, a federal court prevented an Indiana law from going into effect that would have required physicians to inform patients about abortion "reversal."[38] Abortion "reversal" laws have also been enjoined in North Dakota[39] and Tennessee.[40]

106. During debate on S.B. 778 and 779, Representative Lepak admitted that he could not speak to the bills' origins and did not know if any physicians were consulted on it.[41] However, he acknowledged that the bills were "requested by Oklahomans for Life," an anti-abortion organization.[42] Representative Lepak also noted additional anti-abortion organizations that

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[36] Daphne Robinson and Amy Zapata, Louisiana Department of Health, *Legislative Report on 2016 House Concurrent Resolution 87: Study Related to Whether the Effects of an Abortion Induced with Drugs or Chemicals Can Be Reversed* at 6 (April 12, 2017).
[37] *Id.* at 2.
[38] Christopher Rickett, *Federal judge blocks Indiana 'abortion reversal' law*, INDIANAPOLIS STAR (June 30, 2021), https://www.indystar.com/story/news/2021/06/30/indiana-abortion-clinic-reversal-law-federal-judge-eric-holcomb/7813029002/.
[39] Levi Lass, *North Dakota Can't Force Doctors to Tout Medication Abortion 'Reversal,'* COURTHOUSE NEWS SERVICE (Sept. 10, 2019), https://www.courthousenews.com/north-dakota-cant-force-doctors-to-tout-medication-abortion-reversal/.
[40] Mariah Timms, *Federal judge extends block of abortion reversal law, says it could 'mislead' patients*, NASHVILLE TENNESSEAN (Feb. 26, 2021), https://www.tennessean.com/story/news/politics/2021/02/26/tennessee-abortion-reversal-law-could-mislead-patients-federal-judge/6844426002/.
[41] Oklahoma State House of Representatives, *First Regular Session of the 58th Legislature, Day 45 Afternoon Session Debate, SB 778* (Apr. 21, 2021), https://www.okhouse.gov/Video/Default.aspx, 4:42:31PM–4:44:21PM.
[42] Oklahoma State House of Representatives, *First Regular Session of the 58th Legislature, Day 65 Morning Session Debate, SB 778* (May 25, 2021), https://www.okhouse.gov/Video/Default.aspx, 9:51:26AM–9:52:44AM.

supported S.B. 778, such as the Susan B. Anthony List, Heritage Foundation, Charlotte Lozier Institute, Americans United for Life, Students for Life, and Family Policy Alliance.[43]

F. The Impact of S.B. 614 on Physicians.

107. S.B. 614 compels physicians, unwillingly and against their best medical judgment, to convey orally to their patients content-based and viewpoint-based government-mandated messages and affirmatively direct their patients to government-created materials and referral information, with which Plaintiffs and the overwhelming consensus of the medical profession vehemently disagree.

108. S.B. 614 also compels physicians, against their best medical judgment, to endorse controversial and ideological views in their own voice and advertise to their patients an experimental practice that violates the standard of care.

109. Additionally, S.B. 614 requires the Clinic to post Oklahoma's precise notice and provide it in print to patients following administration of mifepristone. This notice requirement only applies to facilities in which medication abortion care using mifepristone is provided. The Act thus requires facilities in which abortion care is provided, and the staff and physicians providing such care, to post a government-scripted notice advertising an experimental medical procedure and referring patients to an organization promoting that procedure.

110. By compelling physicians and their agents to speak and otherwise provide their patients with information, materials, and referrals that are not medically credible or scientifically established, S.B. 614 forces physicians to violate their ethical obligations to their patients and

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[43] Oklahoma State House of Representatives, *First Regular Session of the 58th Legislature, Day 45 Afternoon Session Debate, SB 778* (Apr. 21, 2021), https://www.okhouse.gov/Video/Default.aspx, 4:44:21PM–4:45:17PM.

undermines the establishment of a relationship of trust and confidence between a patient and their physician.

111. Specifically, by forcing physicians and their agents to inform patients "that it may be possible to reverse the intended effects of a medication abortion that uses mifepristone if the woman changes her mind but that time is of the essence," and to direct their patients to the Abortion Pill Reversal hotline and website, S.B. 614 §(1)(C)(1), S.B. 614 forces physicians to provide their patients with information that is untruthful, misleading, and irrelevant to their medical decision-making. The government-mandated message required by S.B. 614 also directly contradicts the critical message physicians and their agents seek to convey to their patients: that they must be certain about terminating their pregnancy before they begin the abortion process. Indeed, S.B. 614 forces physicians and their staff to create the risk that a patient will choose to begin an abortion before they are ready to do so, under the mistaken belief that the abortion can be reversed if the patient later chooses.

112. Not only does this message threaten emotional harm to patients, but it also exposes patients to side effects such a hemorrhaging,[44] as well as potentially unknown side effects from an unverified medical procedure. The treatment contemplated by S.B. 614, by its unproven, experimental nature, also risks potential birth defects in children born to patients who might attempt abortion "reversal."

113. Further, under S.B. 614, the "intended effect" of a medication abortion is to cause the "death of the unborn child." S.B. 614, § 1(A)(3). Requiring physicians and their staff to tell

[44] Mitchell D. Creinin et al., *Mifepristone Antagonization With Progesterone to Prevent Medical Abortion*, 135 OBSTETRICS AND GYNECOLOGY 158, 158 (2020).

their patients that it is possible to "reverse" the death of an unborn child would force physicians and their staff to tell their patients a blatant lie and to give them false hope.

114. S.B. 614 thus impedes physicians' ability to provide abortions to their patients under the highest standard of care, compels physicians and their agents to lie to their patients, and potentially forces physicians to inflict harms on their patients.

115. S.B. 614 also fails to provide clear guidance to physicians and their agents regarding how to comply with long-established Oklahoma laws prohibiting licensed physicians (including osteopathic physicians) from misleading or lying to their patients and S.B. 614—which is particularly constitutionally suspect given that it threatens the exercise of physicians' constitutional rights to free speech—imposes criminal penalties, and targets abortion providers who are already especially vulnerable to arbitrary and discriminatory enforcement of the law.

116. The State Board "may suspend, revoke or order any other appropriate sanctions against the license of any physician or surgeon ... for unprofessional conduct." 59 O.S. § 503. Unprofessional conduct includes, "[d]ishonorable or immoral conduct which is likely to deceive, defraud, or harm the public." 59 O.S. § 509. The "Board [of Medical Licensure and Supervision] can also revoke or take other disciplinary action against a licensee or certificate holder for unprofessional conduct," which includes "[m]aking a false or misleading statement regarding skill or the efficacy or value of the medicine, treatment, or remedy prescribed by a physician or at a physician's direction in the treatment of any disease or other condition of the body or mind" and "[t]he use of any false, fraudulent, or deceptive statement in any document connected with the practice of medicine and surgery." Okla. Admin. Code 435:10-7-4.

117. Similarly, the "State Board of Osteopathic Examiners . . . 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" has engaged in "dishonesty, fraud, misrepresentation, false promise, false pretense" by, for example, "misrepresenting that any disease, ailment, or infirmity can be cured by a method, procedure, treatment, medicine or device." 59 O.S. § 637.

118. S.B. 614 places physicians in an impossible Catch-22 situation—a physician cannot follow one Oklahoma law without violating other laws and risking professional discipline, including loss of professional licensure. The Act simply does not provide clarity about what conduct the State of Oklahoma prohibits.

119. S.B. 614 alters the content of Plaintiffs' speech to, at best, compel Plaintiffs to speak the government's controversial messages, and at worst, lie to their patients about their options, undermine their patients' ability to consent to medical care, and harm their patients. No other healthcare providers in Oklahoma are forced to do this.

120. S.B. 614 also forces physicians and their agents, under threat of criminal penalty, to run the risk of civil liability and other repercussions, including potentially malpractice, for lying to their patients and failing to uphold their ethical duties to their patients. No other healthcare providers in Oklahoma are subject to these penalties.

121. S.B. 614 distorts and undermines the process of informed consent, dictated both by Oklahoma law and by professional medical ethics, by forcing physicians and their staff who provide medication abortion care—and only those physicians—to provide their patients with confusing, distracting, and untruthful information that is neither tailored to their specific medical situations nor related to the risks, benefits, and details of the relevant abortion procedure.

122. S.B. 614 singles out physicians providing abortion and limits their ability to practice medicine in the manner that they believe is in the best interests of their patients.

G. The Impact of the Challenged Provisions of S.B. 778 and S.B. 779 on Physicians.

123. The challenged provisions of S.B. 778 and S.B. 779 also compel physicians and their agents, unwillingly and against their best medical judgment, to convey to their patients orally, and endorse in writing, content-based and viewpoint-based government-mandated messages and affirmatively direct their patients to government-created materials and referral information, with which Plaintiffs and the overwhelming consensus of the medical profession vehemently disagree. *See, e.g.,* S.B. 778, § 6; and S.B. 779 § 6.

124. Like S.B. 614, the challenged provisions of S.B. 778 and S.B. 779 also compel physicians and their staff, against their best medical judgment, to endorse controversial and ideological views in their own voice and advertise to their patients an experimental practice that violates the standard of care. *Compare* S.B. 614 § 1(C); S.B. 778, § 6; and S.B. 779 § 6.

125. Specifically, the challenged provisions of S.B. 778 and S.B. 779 require physicians and their agents, at least 72 hours before providing any method of medication abortion, to specifically tell their patients that the Abortion Pill Reversal website provides information regarding "the potential ability of qualified medical professionals to reverse the effects of an abortion obtained through the use of an abortion-inducing drug" and that the Abortion Pill Reversal hotline provides "assistance in locating a medical professional that can aide in the reversal of an abortion." S.B. 778, §§ 6(E)(11)(e) (emphasis added). This information is objectively untrue and would require physicians and their staff to blatantly lie to their patients. For example, regardless of whether mifepristone can be reversed, there is no evidence that any medical professional can "aid in the reversal of" a surgical abortion or any medication abortion in which a patient has taken misoprostol or methotrexate (both of which are included in the definition of abortion-inducing drug).

126. Other challenged provisions of S.B. 778 prohibit physicians from providing medication abortion unless both the patient and the physician sign a state-authored "consent form" with "Acknowledgment" declarations, stating, *inter alia*, that abortion may be "reversible," and that "initial studies" have "suggested" that "reversing the effects of Mifeprex/mifepristone" poses no increased risks of birth defects or maternal mortality. *See, e.g.,* S.B. 778, §§ 6(6), (8), and (9).

127. The challenged provisions of S.B. 778 and S.B. 779 further require physicians and their agents to bestow credibility and legitimacy to the controversial and experimental abortion "reversal" theory by requiring them to inform patients that "studies" have shown or suggested that "reversal" does not increase the risk of maternal mortality and or put the fetus at increased risk of "birth defects." *See, e.g.,* S.B. 778, §§ 6(8), and (9); S.B. 779, §§ 7(8), and (9). These statements are objectively untrue and misleading to patients.

128. By compelling physicians and their staff to speak and otherwise provide their patients with information, materials, and referrals that are not medically credible or scientifically established, the challenged provisions of S.B. 778 and S.B. 779 force physicians and their staff to violate their ethical obligations to their patients and undermine the essential relationship of trust and confidence between a patient and their physician.

129. S.B. 778 requires physicians and their agents to mislead patients by delivering untruthful statements, including: "it may be possible to reverse the effects of the chemical abortion should she change her mind, but that time is of the essence," "initial studies suggest that children born after reversing the effects of Mifeprex/mifepristone have no greater risk of birth defects than the general population," and "initial studies suggest there is no increased risk of maternal mortality after reversing the effects of Mifeprex/mifepristone." S.B. 778, §§ 6(E)(6), (8)–(9), (11)(e).

130. The challenged provisions of S.B. 779 continue this pattern of forcing physicians and their staff to convey untruthful and misleading information to their patients by mandating that they inform patients that "studies show that babies born following the abortion reversal process have a rate of birth defects no higher than the general population," and "studies show that following this reversal process or otherwise treating a woman with progesterone during pregnancy does not lead to increased mortality rates." S.B. 779 §§ 7(8)–(9).

131. The government-mandated messages required by the challenged provisions of S.B. 778 and S.B. 779 also directly contradict the critical message physicians seek to convey to their patients: that they must be certain about terminating their pregnancy before they begin the abortion process. Indeed, the Acts force physicians and their agents to create the risk that a patient will choose to begin an abortion before the patient is ready to do so, under the mistaken belief that the abortion can be reversed if the patient later changes their mind.

132. As with S.B. 614, physicians could face professional discipline, including loss of licensure, for complying with the challenged provisions of S.B. 778 and S.B. 779. *See* 59 O.S. §§ 503, 509, 637.

133. Like S.B. 614, the challenged provisions of S.B. 778 and S.B. 779 alter the content of Plaintiffs' speech to, at best, compel Plaintiffs to speak the government's controversial messages, and at worst, lie to their patients about their options, undermine their patients' ability to consent to medical care, and harm their patients. No other healthcare providers in Oklahoma are forced to do this, something Representative Lepak admitted during debate on S.B. 778 and 779.[45]

[45] Oklahoma State House of Representatives, *First Regular Session of the 58th Legislature, Day 45 Afternoon Session Debate, SB 778* (Apr. 21, 2021), https://www.okhouse.gov/Video/Default.aspx, 4:18:51PM–4:19:06PM.

134. The challenged provisions of S.B. 778 and S.B. 779 also force physicians, under threat of criminal penalty, to run the risk of civil liability and other repercussions, including potential malpractice, for lying to their patients and failing to uphold their ethical duties to their patients. No other healthcare providers in Oklahoma are subject to these penalties.

135. The challenged provisions of S.B. 778 and S.B. 779 distort and undermine the process of informed consent, dictated both by Oklahoma law and by professional medical ethics, by forcing physicians who provide medication abortion care—and only those physicians—to provide their patients with confusing, distracting, and untruthful information that is neither tailored to their specific medical situations nor related to the risks, benefits, and details of the relevant abortion procedure.

136. Further, provisions of S.B. 778 are per se untruthful and misleading by requiring physicians to simultaneously inform patients both (1) that the effects of the medication-abortion drug regimen is that it "is intended to end her pregnancy and will result in the death of her unborn child" and (2) that "it may be possible to reverse the effects of the chemical abortion." S.B. 778, § 6(E)(6), (11)(a). Because it is not possible to reverse the termination of a pregnancy, these provisions of S.B. 778 require physicians and their staff to give patients untruthful and misleading information that is completely irrelevant to the informed consent process for medication abortion.

137. The challenged provisions of S.B. 778 and S.B. 779 also require physicians to use inconsistent and medically inaccurate terminology likely to cause confusion and undermine the true informed consent process. For example, S.B. 778 requires physicians and their staff to use the term "chemical abortion" interchangeably with "abortion obtained by an abortion-inducing drug," S.B. 778, §§ 6(E)(6), (11)(e), and to use the term "effects of Mifeprex/mifepristone" interchangeably with "effects of an abortion-inducing drug" and "effects of an abortion obtained

through the use of abortion-inducing drugs," S.B. 778, § 6(E)(6), (8)–(10), § 6(E)(11)(e). S.B. 778 also requires physicians to inform patients that "initial studies suggest" that abortion "reversal" does not increase the risk of birth defects or maternal mortality, whereas S.B. 779 requires physicians to say "studies show" that abortion "reversal" does not result in increased risk of birth defects or maternal mortality. S.B. 778, §§ 6(E)(8)–(9); S.B. 779 §§ (7)(8)–(9).

138. Like S.B. 614, the challenged provisions of S.B. 778 and S.B. 779 single out physicians providing abortion and limit their ability to practice medicine in the manner that they believe is in the best interests of their patients.

V. IRREPARABLE HARM AND INJUNCTIVE RELIEF

S.B. 614

139. S.B. 614 imposes an impermissible penalty and chill on physicians' speech, subjecting Plaintiffs to irreparable harm.

140. Enforcement of S.B. 614 will irreparably harm Plaintiffs by infringing on physicians' rights to free speech under the Okla. Const. art. II, § 22, and by failing to provide clarity about the conduct the law prohibits and inviting arbitrary and discriminatory enforcement, in violation of Okla. Const. art. II, § 7.

141. S.B. 614 subjects Plaintiffs to irreparable harm for which there exists no adequate remedy at law, and threatens Plaintiffs with substantial penalties for exercising their constitutional right to freedom of speech, which includes the right to refuse to speak a government-dictated message, and their constitutional right to due process, which includes the right to clarity regarding what conduct is prohibited by law and the right to be free from arbitrary and discriminatory enforcement of the law.

Challenged Provisions of S.B. 778 and S.B. 779

142. The challenged provisions of S.B. 778 are sections 6(E)(6), 6(E)(8)–(10), 6(E)(11)(b), 6(E)(11)(e), and 7. Sections 6(A) and 6(D) are also challenged here solely to the extent that they require the disclosures contained in sections 6(E)(6), 6(E)(8)–(10), 6(E)(11)(b), 6(E)(11)(e); no other disclosures required by sections 6(A) and 6(D) are challenged in this suit.

143. The challenged provisions of S.B. 779 are sections 7(8) and 7(9).

144. Sections 7(13), 7(19), and 8(2)(f) of S.B. 779 are also challenged solely to the extent that they require the disclosures contained in the challenged provisions of S.B. 614, S.B. 778, and S.B. 779; no other disclosures required by sections 7(13), 7(19), and 8(2)(f) are challenged in this suit.

145. The challenged provisions of S.B. 778 and S.B. 779 impose an impermissible penalty and chill on physicians' speech, subjecting Plaintiffs to irreparable harm.

146. Enforcement of the challenged provisions of S.B. 778 and S.B. 779—which is provided for in S.B. 778 §§ 10, 11 and S.B. 779 §§ 10, 11, and 12—will irreparably harm Plaintiffs by infringing on physicians' rights to free speech under the Okla. Const. art. II, § 22, and by failing to provide clarity about the conduct the law prohibits and inviting arbitrary and discriminatory enforcement, in violation of Okla. Const. art. II, § 7.

147. The challenged provisions of S.B. 778 and S.B. 779 subject Plaintiffs to irreparable harm for which there exists no adequate remedy at law, and threaten Plaintiffs with substantial penalties for exercising their constitutional right to freedom of speech, which includes the right to refuse to speak a government-dictated message, and their constitutional right to due process, which includes the right to clarity regarding what conduct is prohibited by law and the right to be free from arbitrary and discriminatory enforcement of the law.

VI. CLAIMS FOR RELIEF

First Claim for Relief
(S.B. 614, Free Speech)

148. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 147.

149. S.B. 614 violates Plaintiffs' rights under Okla. Const. art. 2, § 22, by compelling physicians, under the threat of criminal penalty, civil fines, and liability for civil damages, to orally speak a content-based, viewpoint-based, and/or controversial government-mandated message that they would not otherwise recite, to repeat that message in posted signs and in written instructions provided to the patient, and refer and expose their patients to government-created materials and government-sanctioned referrals about an experimental medical treatment that has not been proven safe and effective or approved by the FDA, that violates accepted ethical standards and best practices in medical care, that undermines physicians' ability to provide their patients with the highest standard of medical care, and that contradicts physicians' viewpoints.

Second Claim for Relief
(Challenged Provisions of S.B. 778, Free Speech)

150. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 147.

151. The challenged provisions of S.B. 778 violate Plaintiffs' rights under Okla. Const. art. 2, § 22, by compelling physicians, under the threat of criminal penalty, professional discipline, and liability for civil damages, to orally speak a content-based, viewpoint-based, and/or controversial government-mandated message that they would not otherwise recite; to validate that message by signing, and requiring patients to sign, a state-authored "consent" form including misleading, untruthful, medically inaccurate, ideological, and controversial information they would not otherwise sign or require their patients to sign; and to refer and expose their patients to

government-created materials and government-sanctioned referrals about an experimental medical treatment that has not been proven safe and effective or approved by the FDA, that violates accepted ethical standards and best practices in medical care, that undermines physicians' ability to provide their patients with the highest standard of medical care, and that contradicts physicians' viewpoints.

Third Claim for Relief

(Challenged Provisions of S.B. 779, Free Speech)

152. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 147.

153. The challenged provisions of S.B. 779 violate Plaintiffs' rights under Okla. Const. art. 2, § 22, by compelling physicians, under the threat of criminal penalty, civil fines, and liability for civil damages, to orally speak a content-based, viewpoint-based, and/or controversial government-mandated message that they would not otherwise recite and to validate that message by signing, and requiring patients to sign, a state-authored "consent" form including misleading, untruthful, medically inaccurate, ideological, and controversial information they would not otherwise sign or require their patients to sign.

Fourth Claim for Relief
(S.B. 614, Void for Vagueness)

154. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 147.

155. S.B. 614 does not provide Plaintiffs with clarity regarding how to comply both with their mandates to inform patients that medication abortion may be reversed and with separate Oklahoma laws that forbid physicians from lying to or misleading their patients, failing to provide

clarity about the conduct the laws prohibit and inviting arbitrary and discriminatory enforcement, in violation of Okla. Const. art. II, § 7.

Fifth Claim for Relief
(Challenged Provisions of S.B. 778, Void for Vagueness)

156. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 147.

157. The challenged provisions of S.B. 778 do not provide Plaintiffs with clarity regarding how to comply both with their mandates to inform patients that medication abortion may be reversed and with separate Oklahoma laws that forbid physicians from lying to or misleading their patients, failing to provide clarity about the conduct the laws prohibit and inviting arbitrary and discriminatory enforcement, in violation of Okla. Const. art. II, § 7.

Sixth Claim for Relief
(Challenged Provisions of S.B. 779, Void for Vagueness)

158. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 147.

159. The challenged provisions of S.B. 779 do not provide Plaintiffs with clarity regarding how to comply both with their mandates to inform patients that medication abortion may be reversed and with separate Oklahoma laws that forbid physicians from lying to or misleading their patients, failing to provide clarity about the conduct the laws prohibit and inviting arbitrary and discriminatory enforcement, in violation of Okla. Const. art. II, § 7.

Seventh Claim for Relief
(S.B. 614, Special Law)

160. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 147.

161. S.B. 614 creates 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.

Eighth Claim for Relief
(Challenged Provisions of S.B. 778, Special Law)

162. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 147.

163. The challenged provisions of S.B. 778 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.

Ninth Claim for Relief
(Challenged Provisions of S.B. 779, Special Law)

164. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 147.

165. The challenged provisions of S.B. 779 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.

Tenth Claim for Relief
(S.B. 614, Declaratory Judgment – Unconstitutional and Void)

166. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 147.

167. Because S.B. 614 violates the Oklahoma Constitution, and declaratory judgment would terminate the controversy giving rise to this proceeding, Plaintiffs request a declaration from this Court stating that S.B. 614 is unconstitutional and void. 12 O.S. § 1651.

Eleventh Claim for Relief
(Challenged Provisions of S.B. 778, Declaratory Judgment – Unconstitutional and Void)

168. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 147.

169. Because the challenged provisions of S.B. 778 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 provisions of S.B. 778 are unconstitutional and void. 12 O.S. § 1651.

Twelfth Claim for Relief
(Challenged Provisions of S.B. 779, Declaratory Judgment – Unconstitutional and Void)

170. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 147.

171. Because the challenged provisions of S.B. 779 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 provisions of S.B. 779 are unconstitutional and void. 12 O.S. § 1651.

Thirteenth Claim for Relief
(S.B. 614, Temporary Injunction – Unconstitutional and Void)

172. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 147.

173. S.B. 614 has been enjoined since October 29, 2019. Continued temporary injunctive relief is warranted because Plaintiffs, and those whose interests Plaintiffs represent, will suffer irreparable injury if S.B. 614 is allowed to take effect.

Fourteenth Claim for Relief
(Challenged Provisions of S.B. 778, Temporary Injunction – Unconstitutional and Void)

174. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 147.

175. Temporary injunctive relief is warranted because Plaintiffs, and those whose interests Plaintiffs represent, will suffer irreparable injury if the challenged provisions of S.B. 778 are allowed to take effect.

Fifteenth Claim for Relief
(Challenged Provisions of S.B. 779, Temporary Injunction – Unconstitutional and Void)

176. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 147.

177. Temporary injunctive relief is warranted because Plaintiffs, and those whose interests Plaintiffs represent, will suffer irreparable injury if the challenged provisions of S.B. 779 are allowed to take effect.

Sixteenth Claim for Relief
(S.B. 614, Permanent Injunction – Unconstitutional and Void)

178. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 147.

179. Because S.B. 614 violates the Oklahoma Constitution, warranting a declaratory judgment stating that S.B. 614 is unconstitutional and void, Defendants should be permanently enjoined from enforcing S.B. 614.

Seventeenth Claim for Relief
(Challenged Provisions of S.B. 778, Permanent Injunction – Unconstitutional and Void)

180. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 147.

181. Because the challenged provisions of S.B. 778 violate the Oklahoma Constitution, warranting a declaratory judgment stating that the challenged provisions of S.B. 778 are unconstitutional and void, Defendants should be permanently enjoined from enforcing the challenged provisions of S.B. 778.

Eighteenth Claim for Relief
(Challenged Provisions of S.B. 779, Permanent Injunction – Unconstitutional and Void)

182. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 147.

183. Because the challenged provisions of S.B. 779 violate the Oklahoma Constitution, warranting a declaratory judgment stating that the challenged provisions of S.B. 779 are unconstitutional and void, Defendants should be permanently enjoined from enforcing the challenged provisions of S.B. 779.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

1. Issue a declaratory judgment that S.B. 614 violates the Oklahoma Constitution and is void and of no effect; and
2. Issue permanent injunctive relief, without bond, restraining Defendants, their employees, agents, and successors in office from enforcing S.B. 614; and
3. Issue a declaratory judgment that sections 6(E)(6), 6(E)(8)–(10), 6(E)(11)(b), 6(E)(11)(e), and 7 of S.B. 778, as well as sections 6(A) and 6(D) to the extent that they require the disclosures contained in sections 6(E)(6), 6(E)(8)–(10),

6(E)(11)(b), 6(E)(11)(e), violate the Oklahoma Constitution and are void and of no effect; and

4. Issue permanent injunctive relief, without bond, restraining Defendants, their employees, agents, and successors in office from enforcing sections 6(E)(6), 6(E)(8)–(10), 6(E)(11)(b), 6(E)(11)(e), and 7 of S.B. 778, as well as sections 6(A) and 6(D) to the extent that they require the disclosures contained in sections 6(E)(6), 6(E)(8)–(10), 6(E)(11)(b), 6(E)(11)(e); and

5. Issue a declaratory judgment that sections 7(8)–(9) of S.B. 779, as well as sections 7(13), 7(19), and 8(2)(f) of S.B. 779 to the extent that they require the disclosures contained in S.B. 614, S.B. 778 §§ 6(E)(6), 6(E)(8)–(10), 6(E)(11)(b), 6(E)(11)(e), 7, and S.B. 779 § 7(8)-(9) violate the Oklahoma Constitution and are void and of no effect; and

6. Issue permanent injunctive relief, without bond, restraining Defendants, their employees, agents, and successors in office from enforcing sections 7(8)–(9) of S.B. 779, as well as sections 7(13), 7(19), and 8(2)(f) of S.B. 779 to the extent that they require the disclosures contained in S.B. 614, S.B. 778 §§ 6(E)(6), 6(E)(8)–(10), 6(E)(11)(b), 6(E)(11)(e), 7, and S.B. 779 § 7(8)-(9); and

7. Grant such other and further relief as the Court may deem just and proper, including reasonable attorney's fees and costs.

Dated: August 30, 2021

Respectfully Submitted,

J. Blake Patton, Oklahoma Bar No. 30673

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ATTORNEYS FOR PLAINTIFFS

VERIFICATION

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

Alan Braid, M.D.

Sworn to before me this 27 day of August, 2021.

NOTARY PUBLIC

ABIGAIL MUNOZ
Notary Public, State of Texas
Comm. Expires 04-25-2022
Notary ID 131543524

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 30th day of August, 2021, a true and correct copy of the foregoing was served via U.S. Mail to the following:

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Oklahoma Attorney General

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J. Blake Patton, Esq.

EXHIBIT A

An Act

ENROLLED SENATE
BILL NO. 614

By: Daniels of the Senate

and

Lepak and Sanders of the House

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

SUBJECT: Medication 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 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

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

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

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

2. "Medical emergency" means a condition which, in reasonable medical judgment, so complicates the medical condition of the pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions. No condition shall be deemed a medical emergency if 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; and

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

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

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

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

3. A facility in which medication abortions that use mifepristone are provided that is a private office or a freestanding outpatient clinic shall post the required sign in each patient waiting room and patient consultation room used by patients to whom such medication abortions are provided. A hospital or any other facility in which medication abortions are performed that is not a private office or freestanding outpatient clinic shall post the required sign in each patient admission area used by patients on whom abortions are performed.

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

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

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

2. After the first drug, mifepristone, is dispensed or provided to the patient, the physician or an agent of the physician shall provide written instructions to the pregnant woman which shall include the statement:

"NOTICE TO PATIENTS HAVING MEDICATION ABORTIONS WHICH USE MIFEPRISTONE: Mifepristone, also known as RU-486 or Mifeprex, alone

is not always effective in ending a pregnancy. It may be possible to reverse its intended effect if the second pill or tablet has not been taken or administered. If you change your mind and wish to try to continue the pregnancy, you can get immediate help by calling the Abortion Pill Reversal 24-hour Hotline at 877-558-0333 or going to Abortion Pill Reversal website, https://www.abortionpillreversal.com/. Additional information is available on the State Board of Medical Licensure and Supervision's website, www.awomansright.org, which provides informed consent materials under the Woman's Right-to-Know Act, including information about the development of the unborn child and video of ultrasound images of the unborn child at various stages of development."

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

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

F. Any person who knowingly or recklessly provides or induces or attempts to provide or induce an abortion in violation of this section shall be guilty of a felony. No penalty may be assessed against the female to whom the medication abortion is provided or induced or attempted to be provided or induced. No penalty or civil liability may be assessed for failure to comply with subsection C of this section unless the State Board of Medical Licensure and

Supervision has made the information available on the website at the time the physician or the physician's agent is required to inform the female.

G. Any private office, freestanding outpatient clinic or other facility or clinic that fails to post a sign required in subsection B of this section in knowing, reckless or negligent violation of this act shall be assessed a fine of Ten Thousand Dollars ($10,000.00) by the State Board of Medical Licensure and Supervision. Each day on which a medication abortion that uses mifepristone, other than a medication abortion that is necessary to prevent the death of the pregnant female, is provided in any private office, freestanding outpatient clinic or other facility or clinic during which the required sign is not posted during a portion of business hours when patients or perspective patients are present is a separate violation.

H. 1. Any person upon whom an abortion has been performed without this section having been complied with, the father of the unborn child who was the subject of such an abortion, or, if the female had not attained the age of eighteen (18) years at the time of the medication abortion or has died as a result of the medication abortion, the grandparent of such an unborn child may maintain an action against the person who provided the medication abortion in knowing or reckless violation of this section for actual and punitive damages. Any person upon whom an abortion has been attempted without this section having been complied with may maintain an action against the person who attempted to provide the abortion in knowing or reckless violation of this section for actual and punitive damages. No damages may be awarded a plaintiff if the pregnancy resulted from the plaintiff's criminal conduct.

2. If judgment is rendered in favor of the plaintiff in any action described in this subsection, the court shall also render judgment for a reasonable attorney's fee in favor of the plaintiff against the defendant. 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 shall also render judgment for a reasonable attorney's fee in favor of the defendant against the plaintiff.

I. In every civil or criminal proceeding or action brought under this section, the court shall rule whether the anonymity of any female to whom a medication abortion has been provided or attempted shall be preserved from public disclosure if she does not give her consent to such disclosure. The court, upon motion or sua sponte, shall make such a ruling and, upon determining that her anonymity should be preserved, shall issue orders to the parties, witnesses and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard her identity from public disclosure. Each such order shall be accompanied by specific written findings explaining why the anonymity of the female should be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest and why no reasonable less restrictive alternative exists. In the absence of written consent of the female to whom an abortion drug or drugs has been provided or attempted to be provided, anyone, other than a public official, who brings an action under subsection D of this section shall do so under a pseudonym. This section may not be construed to conceal the identity of the plaintiff or of witnesses from the defendant.

J. If any one or more provision, section, subsection, sentence, clause, phrase or word 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 provision, section, subsection, sentence, clause, phrase or word be declared unconstitutional.

SECTION 2. This act shall become effective November 1, 2019.

Passed the Senate the 5th day of March, 2019.

_____
Presiding Officer of the Senate

Passed the House of Representatives the 16th day of April, 2019.

_____
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 B

IN THE DISTRICT COURT FOR THE COUNTY OF OKLAHOMA
STATE OF OKLAHOMA

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

OCT 29 2019

RICK WARREN
COURT CLERK
102

TULSA WOMEN'S REPRODUCTIVE CLINIC, an Oklahoma Limited Liability Company, on behalf of itself, its physicians, and staff; and ALAN BRAID, M.D.,

Plaintiffs,

v.

MICHAEL HUNTER, in his official capacity as Attorney General for the State of Oklahoma, 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, DENNIS CARTER, in his official capacity as President of the Oklahoma State Board of Osteopathic Examiners, and GARY COX, in his official capacity as Commissioner of Health for the Oklahoma State Board of Health, as well as their employees, agents, and successors,

Defendants.

CASE NO. CV-2019-2176

JOURNAL ENTRY OF JUDGMENT

This matter came on for decision on October 23, 2019, on Plaintiffs' Motion for Temporary Injunction of Senate Bill 614, passed during the Regular Session of the 2019 Oklahoma Legislature. J. Blake Patton of Walding & Patton PLLC and Eileen Citron of Weil Gotshal & Manges LLP appeared on behalf of Plaintiffs. Bryan Cleveland from the Office of the Oklahoma Attorney General appeared on behalf of Defendants. After reviewing the briefs submitted by the parties, and considering argument from counsel, the Court finds that the motion should be and is hereby sustained.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Defendants are temporarily enjoined from enforcing Senate Bill 614, passed during the Regular Session of the 2019 Oklahoma Legislature, pending the final resolution of this matter by this Court.

Dated this 25th day of October, 2019.

DON ANDREWS
JUDGE OF THE DISTRICT COURT

Approved as to form,

J. Blake Patton, Oklahoma Bar No. 30673

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 29th day of October, 2019, a true and correct copy of the foregoing was served via U.S. Mail to the following:

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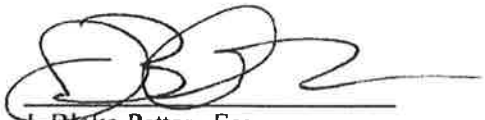

J. Blake Patton, Esq.

EXHIBIT C

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 D

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: _____