

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 28
96TH GENERAL ASSEMBLY

0337L.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapters 188 and 338, RSMo, by adding thereto two new sections relating to abortifacients, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapters 188 and 338, RSMo, are amended by adding thereto two new sections, to be known as sections 188.033 and 338.575, to read as follows:

188.033. 1. This section shall be known and may be cited as the "Abortion-inducing Drugs Safety Act".

2. No person who is not a physician shall knowingly prescribe or administer RU-486 (mifepristone) or any other drug for the purpose of inducing an abortion.

3. RU-486 (mifepristone) or any other drug prescribed for the purpose of inducing an abortion shall only be prescribed by a physician who at least twenty-four hours prior to the administration of the drug:

(1) Complies with all other legal requirements prior to an abortion being performed or induced;

(2) Physically examines the patient;

(3) Documents in the patient's medical record the gestational age and that there is not an ectopic pregnancy;

(4) Provides the patient with a copy of the United States Food and Drug Administration (FDA) approved label or labels for the drug or drugs that will be used to induce the abortion, regardless of whether the drug or drugs have been approved by the FDA or the drug manufacturer to induce an abortion; and

(5) Gives the following warning orally and in writing to the patient if the drug or drugs will be used off-label, which shall include use when the FDA or the drug

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19 manufacturer has not approved the drug for the purpose of inducing an abortion, or use
20 other than by the specific gestation, dosage, or administration protocol authorized by the
21 FDA or the drug manufacturer for an abortion:

22 **"WARNING: The drug or drugs that will be given to you to induce an abortion**
23 **HAVE NOT been approved by the United States Food and Drug Administration (FDA) or**
24 **the drug manufacturer to be used in this manner. There is risk to you and your unborn**
25 **child if you take any of these drugs. Please strongly consider other alternatives to abortion**
26 **before you take any of these drugs."**

27 **4. RU-486 (mifepristone) or any other drug administered for the purpose of**
28 **inducing an abortion, including any drug administered during a subsequent visit to**
29 **complete the abortion shall only be administered in a hospital or in an abortion facility.**
30 **The abortion facility shall also be licensed as an ambulatory surgical center under sections**
31 **197.200 to 197.240 if any second- or third-trimester abortions or five or more first-**
32 **trimester abortions per month are induced at the facility.**

33 **5. RU-486 (mifepristone) or any other drug administered for the purpose of**
34 **inducing an abortion, including any drug administered during a subsequent visit to**
35 **complete the abortion, shall only be administered by:**

36 **(1) The physician who prescribed the drug or another physician acting under the**
37 **prescribing physician's authority, and who is in the physical presence of the patient; or**

38 **(2) The patient to administer to herself, at the direction of and while in the physical**
39 **presence of the physician.**

40 **6. Due to a significant number of drug-induced abortions later requiring surgical**
41 **intervention and consistent with the provisions of section 188.080, no physician shall**
42 **prescribe or administer RU-486 (mifepristone) or any other drug administered for the**
43 **purpose of inducing an abortion unless the physician:**

44 **(1) Has clinical privileges at a hospital which offers obstetrical or gynecological**
45 **care located within thirty miles of the location at which the abortion is induced; and**

46 **(2) Such clinical privileges allow the physician to perform surgical intervention,**
47 **including but not limited to surgical abortion, at such hospital.**

48 **7. If a patient who was administered RU-486 (mifepristone) or any other drug**
49 **administered for the purpose of inducing an abortion decides to carry her unborn child to**
50 **term before the abortion is completed, the patient shall be immediately referred to another**
51 **physician who did not prescribe or administer the drug or drugs so the patient can receive**
52 **medical assistance for herself and her unborn child.**

53 **8. Due to malformations or other birth defects which can occur in a child who**
54 **survives an attempted abortion and is born alive after the administration of RU-486**

55 (mifepristone) or other drugs, and due to the cost of caring for such child throughout his
56 or her lifetime may otherwise fall on the state, any physician who prescribes or administers
57 RU-486 (mifepristone) or any other drug for the purpose of inducing an abortion shall, in
58 addition to complying with the medical malpractice requirements of section 188.043, obtain
59 a tail or occurrence-based insurance policy of at least three million dollars per occurrence
60 and nine million dollars in the aggregate per year for damages for personal injury to or
61 death of the child who is born alive.

62 **9. (1) Any person who violates the provisions of subsection 2 of this section is guilty**
63 **of a class C felony; except that, any person who prescribes or administers any drug for the**
64 **purpose of inducing an abortion on another person without the other person's knowledge**
65 **or consent is guilty of a class B felony.**

66 **(2) Any person who violates any provision of subsections 3 to 8 of this section is**
67 **guilty of a class A misdemeanor.**

338.575. 1. No licensed pharmacy in this state shall be required to perform, assist,
2 **recommend, refer to, or participate in any act or service in connection with any drug or**
3 **device that is an abortifacient, including but not limited to the RU-486 drug and emergency**
4 **contraception such as the Plan B drug.**

5 **2. No civil or criminal cause of action shall accrue against a pharmacy due to a**
6 **refusal to perform, assist, recommend, refer for, or participate in any act or service in**
7 **accordance with subsection 1 of this section.**

8 **3. No board, commission, or other agency or instrumentality of this state shall deny,**
9 **revoke, suspend, or otherwise discipline the license of a pharmacy, nor shall it impose any**
10 **other condition of operation due to a refusal to perform, assist, recommend, refer for, or**
11 **participate in any act or service in accordance with subsection 1 of this section.**

12 **4. No pharmacy shall be denied or discriminated against in eligibility for or the**
13 **receipt of any public benefit, assistance, or privilege of any kind due to a refusal to**
14 **perform, assist, recommend, refer for, or participate in any act or service in accordance**
15 **with subsection 1 of this section.**