

HCS HB 28 -- ABORTION-INDUCING DRUGS SAFETY ACT

SPONSOR: Largent (Sater)

COMMITTEE ACTION: Voted "do pass" by the Committee on Children and Families by a vote of 7 to 3.

This substitute establishes the Abortion-inducing Drugs Safety Act which places restrictions on abortion-inducing drugs. Any person who is not a physician is prohibited from knowingly prescribing or administering RU-486 or any other abortion-inducing drug. RU-486 or any other abortion-inducing drug can only be prescribed by a physician who at least 24 hours prior to the administration of the drug:

- (1) Complies with all other legal requirements;
- (2) Performs a physical examination of the patient;
- (3) Documents in the patient's medical record the gestational age of the fetus and that there is no ectopic pregnancy;
- (4) Provides the patient with a copy of the United States Food and Drug Administration (FDA) approved label for the drug or drugs used to induce the abortion; and
- (5) Gives an oral and written warning if the drug used to induce the abortion is not approved by the FDA.

RU-486 or any other abortion-inducing drug can only be administered in a hospital or abortion facility. The abortion facility must also be licensed as an ambulatory surgical center if a specified number of abortions per month are induced at the facility. The drug can only be administered by the prescribing physician or another physician acting under the prescribing physician's authority and who is in the physical presence of the patient or by the patient herself at the direction of and while in the physical presence of the physician. A physician is prohibited from prescribing or administering RU-486 or any other abortion-inducing drug unless he or she has clinical privileges which allow the physician to perform surgeries at a hospital offering obstetrical or gynecological care that is within 30 miles of the location where the abortion is being induced.

If a patient who was administered RU-486 or any other abortion-inducing drug decides to carry her unborn child to term before the abortion is completed, the patient must be immediately referred to another physician to receive medical assistance for herself and her unborn child. A physician who prescribes or administers RU-486 or any other abortion-inducing drug must

obtain in addition to all other medical malpractice requirements a tail or occurrence-based insurance policy of at least \$3 million per occurrence and \$9 million in the aggregate per year for damages for the personal injury to or death of a child who is born alive. Any person who is not a physician who prescribes or administers RU-486 or any other abortion-inducing drug will be guilty of a class C felony; except that, if prescribed or administered without the knowledge or consent of the patient, he or she will be guilty of a class B felony. A physician who violates any other provision of the act will be guilty of a class A misdemeanor.

A licensed pharmacy cannot be required to perform, assist, recommend, refer to, or participate in any act or service in connection with any drug or device that causes a pregnancy to end prematurely resulting in an abortion. The pharmacy will be immune from civil and criminal liability; cannot have its license denied, revoked, or suspended; or cannot be denied or discriminated against in eligibility for public assistance for refusing to do any of these activities.

FISCAL NOTE: Estimated Net Cost on General Revenue Fund of Less than \$200,000 in FY 2012, FY 2013, and FY 2014. No impact on Other State Funds in FY 2012, FY 2013, and FY 2014.

PROPOSERS: Supporters of the bill say that pharmacies should be allowed to stock what medications they choose, and the bill will allow a pharmacy to not stock abortifacients.

Testifying for the bill were Representative Sater; Missouri Pharmacy Association; Missouri Right to Life; Missouri Family Network; Missouri Catholic Conference; Campaign Life Missouri; Missouri Family Policy Council; Missouri Association of Osteopathic Physicians and Surgeons; and Joanne Schrader.

OPPOSERS: Those who oppose the bill say that the job of a pharmacist is to fill prescriptions and sell medications. Mississippi is the only state which has passed a similar law. A company does not have a conscience, and the bill only addresses pharmacies, it does not address pharmacists. The essence of time is crucial in rape situations, and many women have to travel great distances in order to access emergency contraception. Emergency contraception can help alleviate the trauma of being sexually assaulted. RU486 is not available in any pharmacy. A person can only get it directly from the physician.

Testifying against the bill were NARAL Pro-Choice Missouri; Missouri Coalition Against Domestic and Sexual Violence; Planned Parenthood Affiliates in Missouri; Faith Aloud; and American Civil Liberties Union - Eastern Missouri.