

Restricting Abortion: Oklahoma¹

In far too many places throughout this country, it has become extremely difficult for women to safely and legally end a pregnancy. In too many states, politicians have enacted laws that single out the provision of abortion services for restrictions that are more burdensome than those imposed on medically comparable procedures, do not significantly advance women's health or the safety of abortion services, and make abortion services more difficult to access. It's time for politicians to stop interfering with women's personal decision-making. We need a federal law that puts women's health, safety, and rights first. The Women's Health Protection Act does just that.

In Oklahoma, the following restrictions are among those that would be unlawful under the Women's Health Protection Act once enacted:

) **REQUIREMENT** that a clinic providing abortion services have a physician on-site who has admitting privileges at a hospital within thirty miles of the facility, a medically unnecessary requirement that is designed to prevent qualified, experienced physicians from providing care to their patients.²

) **RESTRICTIONS** on medication abortion that could prohibit physicians from providing individualized, patient-specific care based on their best medical judgment.³

) **BAN** on abortion after 20 weeks of pregnancy (an unconstitutional pre-viability ban) with unconstitutionally narrow exceptions for when the life or health of a woman is endangered.⁴

"The state of Oklahoma required me to listen to my fetus' heartbeat, and wait 24 hours to have the procedure post abortion counseling, as if I hadn't thought long and hard about my decision. This forced me to take multiple days off of work from my serving job resulting in income loss. Not to mention the cost of the procedure was four times my weekly pay. I know what it takes to get an abortion and believe that the Women's Health Protection Act will protect women from harmful legislation that prevents them from accessing the health care they want, need and deserve."

– Kylie Shellie, an Oklahoma resident

- J **REQUIREMENT** that providers who administer medication abortion procedures be licensed physicians,⁵ despite recommendations from the World Health Organization that other highly qualified health care providers can safely provide medication abortion.⁶
- J **BANS** the use of telemedicine to provide medication abortion, reducing the potential for access to safe, nonsurgical abortion services and eliminating an important way to expand access to many low-income and rural women.⁷
- J **REQUIREMENT** that prior to providing an abortion the provider perform an ultrasound and simultaneously place the image in the woman's line of sight and provide a verbal description of the image, irrespective of the woman's circumstances, her wishes, and the provider's medical judgment and ethical obligations.⁸
- J **REQUIREMENT** that clinics meet structural standards unrelated to patient safety.⁹
- J **BAN** on abortions based on sex selection, allowing the state to police women's reasons for ending a pregnancy and perpetuating negative stereotypes about Asian American communities that may result in the denial of health care.¹⁰
- J **REQUIREMENT** that all abortion procedures performed after the second trimester be provided only at a licensed hospital, although the procedures can be performed safely in clinics.¹¹
- J **PRE-VIABILITY BAN** on a safe and common method to end a pregnancy in the second trimester.¹²

(Endnotes)

- ¹ The restrictions highlighted herein are examples of the types of restrictions that the **Women's Health Protection Act** seeks to invalidate. This fact sheet is not intended as a comprehensive guide to abortion restrictions in Oklahoma.
- ² Okla. Stat. tit. 63, § 1-748(B), *declared unconstitutional in* Burns v. Cline, 387 P.3d 348, ¶ 1 (Okla. Sup. Ct. 2016) (citing Whole Woman's Health v. Hellerstedt, 136 S. Ct. 2292, 2310-13 (2016)).
- ³ Okla. Stat. tit. 63, § 1-729a. The Oklahoma Supreme Court blocked enforcement of this law while litigation continues. Okla. Coalition for Reprod. Justice v. Cline, 339 P.3d 887, 888 (Okla. 2014) (per curiam).
- ⁴ Okla. Stat. tit. 63, § 1-745.1 *et seq.*
- ⁵ Okla. Stat. tit. 63, § 1-731(A).
- ⁶ See World Health Org., Safe Abortion: Technical and Policy Guidance for Health Systems 65 (2nd ed. 2012), available at http://apps.who.int/iris/bitstream/10665/70914/1/9789241548434_eng.pdf?ua=1.
- ⁷ Okla. Stat. tit. 63, §1-729.1.
- ⁸ Okla. Stat. tit. 63, § 1-738.3d, *invalidated by* Nova Health Systems v. Pruitt, 292 P.3d 28 (Okla. 2012) (upholding permanent injunction).
- ⁹ Okla. Admin. Code § 310:600-11-1-2.

THE WOMEN'S HEALTH PROTECTION ACT

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¹⁰ Okla. Stat. tit. 63, § 1-731.2(B); *Replacing Myths with Facts: Sex-Selective Abortion Laws in the United States*, National Asian Pacific American Women's Forum (June 2014), available at <http://napawf.org/wp-content/uploads/2014/06/Replacing-Myths-with-Facts-final.pdf>; *Race and Sex Selective Abortion Bans: Wolves in Sheep's Clothing*, National Asian Pacific American Women's Forum (July 2013), available at http://napawf.org/wp-content/uploads/2013/11/PRENDAIssueBrief_11.26-FINAL.pdf.

¹¹ Okla. Stat. tit. 63, § 1-731(B), *invalidated by* *Akron v. Akron Center for Reproductive Health, Inc.*, 462 U.S. 416, 438-39 (internal citations omitted) (1983) (state may not require that second-trimester abortions be performed in hospitals); *Planned Parenthood v. Ashcroft*, 462 U.S. 476, 481-82. (1983) (same holding). This holding of *Akron* is unaffected by the Supreme Court's subsequent decision in *Planned Parenthood of Se. Pa. v. Casey*, 505 U.S. 833, 877 (1992), because the *Akron* Court applied a standard virtually identical to the "undue burden" standard later adopted in *Casey*. See also *Reprod. Servs. v. Keating*, 35 F. Supp. 2d 1332, 1335-36 (N.D. Okla. 1998) (enjoining requirement under *Akron*).

¹² Okla. Stat. tit. 63, § 1-737.7 – 16.