State Action on Mifeprex/RU-486

CENTER FOR POLICY ALTERNATIVES

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Legislative Summary

JUNE 2001

Medical Abortion Legislative Summary

In September 2000, the Federal Food and Drug Administration (FDA) approved the drug mifepristone (marketed as "Mifeprex") for the termination of very early pregnancies (up to seven weeks). The FDA ruling has sparked an explosion of new anti-choice legislation across the states. This year, 17 states introduced bills that would restrict the use of, and education about, medical abortions.

Mifeprex, originally known as RU-486, has been used in other countries since 1981. It is widely available in Europe, where more than 600,000 women have used the drug to terminate an early pregnancy. It is proven to be safe and highly effective. Access to Mifeprex is critical because it increases choices for reproductive health. Many doctors not willing to perform surgical abortions have said they would prescribe Mifeprex. This is significant for the 86 percent of U.S. counties that do not have an abortion provider.

Gag Rules & Prohibitions on Use

In order to restrict access to mifepristone, four states introduced legislation in 2001 to prohibit certain health care providers from distributing or counseling about medical abortions. **AL** and **WV** introduced legislation to create an office of women's health, but would prohibit the office from advocating, promoting, or otherwise advancing abortion or abortifacients, including mifepristone. Although the **AL** bill passed the House, bills in both states died at the end of the legislative session. **HI** and **OK** introduced legislation to prohibit the sale and distribution of mifepristone in the state, carrying felony penalties. Both bills will carry over to 2002, as the 2001 legislative sessions have ended.

Funding Restrictions

Six states introduced legislation to prohibit the use of public funds to provide or counsel about medical abortions. In **RI,** legislation is being considered to prohibit public facilities, public employees, and public funds from being used for the purpose of performing, assisting, encouraging, or counseling for abortion, including medical abortion. Legislation was amended in **IA** to prohibit funds appropriated to state universities from being used to provide medical abortions, including mifepristone-induced abortions, at student health centers. The bill passed the House and Senate

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but was line-item vetoed by the Governor. **KS** introduced legislation to prohibit the use of public funds to purchase mifepristone, or other medication used to induce an abortion or terminate a pregnancy. This legislation will carry over to 2002. A bill being considered in **NJ** states that a woman eligible for state medical assistance for general health care may not obtain public funds for a nonsurgical abortion through the use of abortifacients, including mifepristone, unless necessary to preserve a woman's life. In **SC,** legislation to prohibit funds appropriated to the Department of Health and Human Services from being expended to procure or offer abortion services, except in cases of rape, incest, or life endangerment passed the House and is currently in a Senate committee. **WY** introduced legislation to establish a prescription drug assistance program, but would exclude coverage for drugs that induce abortion and contraceptive drugs. It was amended to delete that exclusion.

Physician Requirements

Legislation was introduced in **AR** to severely restrict the use and dispensation of mifepristone by imposing strict physician requirements. Although the procedure is relatively simple and safe, this legislation limits the ability to prescribe mifepristone to licensed physicians who, among other requirements, are trained to perform and meet all applicable requirements to perform surgical abortion, and have admitting privileges at a hospital to which they can travel in one hour. This would restrict physicians who do not perform surgical abortions from also providing medical abortions. This bill died at the close of the legislative session.

Reporting Requirements

In **IA**, legislation was introduced in the House and the Senate to amend abortion-reporting requirements to include the gestational age of the fetus; and the procedure used for an induced abortion, including mifepristone. **MO** introduced legislation to provide for reporting requirements for both medical and surgical abortion, including the type of procedure used, drugs employed, and complications. The legislation also required that the reason women seek abortions be reported, severely infringing upon their privacy. Both bills died at the close of the legislative sessions.

Distribution to Minors/Parental Consent

HI introduced three bills regarding the distribution of mifepristone to minors. If passed, one would prohibit the sale and distribution of mifepristone to minors 18 and under without parental consent, with a felony penalty. Another would prohibit the sale and distribution to minor's under the age of 16 without parental consent with a misdemeanor penalty, but allows minors to petition the family court for a waiver of this requirement. Another would prohibit the sale and distribution of mifepristone to minors 16 and under regardless of parental consent, carrying a felony penalty. All three will carryover into the 2002 legislative session.

Waiting Periods

MO introduced an informed consent law for mifepristone, misoprostol (only when used for abortion) or any drug or drug combination intended to induce abortion. Legislation included a 24

hour waiting period before drugs are delivered to patient, pharmacy or pharmacists and requires patients to be screened for physical, psychological, or situational "at-risk factors" that would predispose them to adverse emotional or physical reactions. The bill died at the close the legislative session.

Study Bill

NH introduced a bill to establish a committee to study the prevention of unintended pregnancy. It requires the study to include mifepristone along with comprehensive sexuality education, including abstinence, and access to family planning services and emergency contraception. The bill passed the House Committee on Children and Family Law and the committee report was adopted.

Non compliance disguised as so-called Conscience Clauses

IN introduced legislation to allow a "conscience clause" or conscience exemption for any person dispensing any medical device or drug that may result in, or that is intended to result in, an abortion. The bill died at the end of the legislative session.

KY introduced a pharmacist "opt-out" bill permitting them to refuse to dispense medications or devices that may terminate a pregnancy, including but not limited to mifepristone. This bill also prohibits public or private agencies, institutions or persons from denying admission to, imposing any employment burdens on, or otherwise discriminating against any applicant or pharmacist on the basis of his or her unwillingness or refusal to dispense or distribute medications. The bill died at the close of the legislative session.

NC introduced a bill to expand its religious loophole statute to allow pharmacists and other health care providers to deny services. Current law allows a doctor or nurse to refuse to participate in abortion services on moral, ethical or religious grounds. This bill would extend the loophole to pharmacists dispensing or prescribing abortifacients. The bill died in committee.

WI introduced a bill to provide a pharmacist opt-out clause for drugs or devices that a pharmacist has reason to believe would be used to cause an abortion. The bill died in committee.

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