

[As Amended by House Committee of the Whole]

Session of 2011

House Substitute for SENATE BILL No. 36

By Committee on Federal and State Affairs

3-23

1 AN ACT concerning abortion; relating to licensure of abortion clinics.

2

3 *Be it enacted by the Legislature of the State of Kansas:*

4 Section 1. As used in sections 1 through 12, and amendments thereto:

5 (a) ~~“Abortion” has the same meaning ascribed thereto in K.S.A. 65-~~  
6 ~~6701, and amendments thereto~~ **[means the use or prescription of any**  
7 **instrument, medicine, drug or any other substance or device to**  
8 **terminate the pregnancy of a woman known to be pregnant with an**  
9 **intention other than to increase the probability of a live birth, to**  
10 **preserve the life or health of the child after live birth, or to remove a**  
11 **dead unborn child who died as the result of natural causes in utero,**  
12 **accidental trauma or a criminal assault on the pregnant woman or her**  
13 **unborn child, and which causes the premature termination of the**  
14 **pregnancy].**

15 (b) “Ambulatory surgical center” means an ambulatory surgical center  
16 as defined in K.S.A. 65-425, and amendments thereto.

17 (c) "Clinic" means any facility, other than a hospital or ambulatory  
18 surgical center, in which any second or third trimester, or five or more first  
19 trimester abortions are performed in a month.

20 (d) "Department" means the department of health and environment.

21 **[(e) "Elective abortion" means an abortion for any reason other**  
22 **than to prevent the death of the mother upon whom the abortion is**  
23 **performed; provided, that an abortion may not be deemed one to**  
24 **prevent the death of the mother based on a claim or diagnosis that she**  
25 **will engage in conduct which would result in her death.]**

26 ~~(e)[(f)] "Facility" means any clinic, hospital or ambulatory surgical~~  
27 ~~center, in which any second or third trimester, or five or more first~~  
28 ~~trimester abortions are performed in a month~~ **[means any clinic, hospital**  
29 **or ambulatory surgical center, in which any second or third trimester**  
30 **elective abortion, or five or more first trimester elective abortions are**  
31 **performed in a month, excluding any abortion performed due to a**  
32 **medical emergency as defined in this act, and amendments thereto].**

33 ~~(f)[(g)] "Gestational age" has the same meaning ascribed thereto in~~  
34 ~~K.S.A. 65-6701, and amendments thereto, and shall be determined~~  
35 ~~pursuant to K.S.A. 65-6703, and amendments thereto.~~

36 ~~(g)[(h)] "Hospital" means a hospital as defined in subsection (a) or (b)~~

1 of K.S.A. 65-425, and amendments thereto.

2 **[(i) "Medical emergency" means a condition that, in a reasonable**  
3 **medical judgment, so complicates the medical condition of the**  
4 **pregnant woman as to necessitate the immediate abortion of her**  
5 **pregnancy without first determining gestational age in order to avert**  
6 **her death, or for which a delay necessary to determine gestational age**  
7 **will create serious risk of substantial and irreversible physical**  
8 **impairment of a major bodily function. No condition shall be deemed**  
9 **a medical emergency if based on a claim or diagnosis that the woman**  
10 **will engage in conduct which would result in her death or in**  
11 **substantial and irreversible physical impairment of a major bodily**  
12 **function.]**

13 ~~(h)~~**[(i)]** "Physician" has the same meaning ascribed thereto in K.S.A.  
14 65-6701, and amendments thereto.

15 ~~(i)~~**[(j)]** "Secretary" means the secretary of the department of health  
16 and environment.

17 Sec. 2. (a) A facility shall be licensed in accordance with sections 1  
18 through 12, and amendments thereto.

19 (b) Any facility seeking licensure for the performance of abortions  
20 shall submit an application for such license to the department on forms and  
21 in the manner required by the secretary. Such application shall contain  
22 such information as the secretary may reasonably require, including  
23 affirmative evidence of the ability of the applicant to comply with such  
24 reasonable standards and rules and regulations adopted pursuant to section  
25 9, and amendments thereto.

26 (c) Upon receipt of such application and verification by the  
27 department that the applicant is in compliance with all applicable laws and  
28 rules and regulations, the secretary shall issue a license to the applicant.

29 (d) A license issued under this section shall be posted in a  
30 conspicuous place in a public area within the facility. The issuance of a  
31 license does not guarantee adequacy of individual care, treatment, personal  
32 safety, fire safety or the well-being of any occupant of such facility. A  
33 license is not assignable or transferable.

34 (e) A license shall be effective for one year following the date of  
35 issuance. A license issued under this section shall apply only to the  
36 premises described in the application and in the license issued thereon, and  
37 only one location shall be described in each license.

38 (f) At the time application for a license is made the applicant shall pay  
39 a license fee in the amount of \$500. Fees paid pursuant to this section  
40 shall not be refunded by the secretary.

41 (g) The secretary may make exceptions to the standards set forth in  
42 law or in rules and regulations when it is determined that the health and  
43 welfare of the community require the services of the hospital or

1 ambulatory surgical center and that the exceptions, as granted, will have  
2 no significant adverse impact on the health, safety or welfare of the  
3 patients of such hospital or ambulatory surgical center.

4 Sec. 3. Applicants for an annual license renewal shall file an  
5 application with the department and pay the license fee in accordance with  
6 section 2, and amendments thereto. Applicants for an annual license  
7 renewal shall also be subject to a licensing inspection in accordance with  
8 section 5, and amendments thereto.

9 Sec. 4. (a) No proposed facility shall be named, nor may any  
10 existing facility have its name changed to, the same or similar name as any  
11 other facility licensed pursuant to sections 1 through 12, and amendments  
12 thereto. If the facility is affiliated with one or more other facilities with  
13 the same or similar name, then the facility shall have the geographic area  
14 in which it is located as part of its name.

15 (b) Within 30 days after the occurrence of any of the following, a  
16 facility shall apply for an amended license by submitting such application  
17 to the department:

18 (1) A change of ownership either by purchase or lease; or

19 (2) a change in the facility's name or address.

20 Sec. 5. (a) The secretary shall make or cause to be made such  
21 inspections and investigations of each facility at least twice each calendar  
22 year and at such other times as the secretary determines necessary to  
23 protect the public health and safety and to implement and enforce the  
24 provisions of sections 1 through 12, and amendments thereto, and rules  
25 and regulations adopted pursuant to section 9, and amendments thereto. At  
26 least one inspection shall be made each calendar year without providing  
27 prior notice to the facility. For that purpose, authorized agents of the  
28 secretary shall have access to a facility during regular business hours.

29 (b) Information received by the secretary through filed reports,  
30 inspections or as otherwise authorized under sections 1 through 12, and  
31 amendments thereto, shall not be disclosed publicly in such manner as to  
32 identify individuals. Under no circumstances shall patient medical or other  
33 identifying information be made available to the public, and such  
34 information shall always be treated by the department as confidential.

35 Sec. 6. (a) When the secretary determines that a facility is in  
36 violation of any applicable law or rule and regulation relating to the  
37 operation or maintenance of such facility, the secretary, upon proper  
38 notice, may deny, suspend or revoke the license of such facility, or assess a  
39 monetary penalty after notice and an opportunity for hearing has been  
40 given to the licensee in accordance with the provisions of the Kansas  
41 administrative procedure act.

42 (b) Either before or after formal charges have been filed, the secretary  
43 and the facility may enter into a stipulation which shall be binding upon

1 the secretary and the facility entering into such stipulation, and the  
2 secretary may enter its findings of fact and enforcement order based upon  
3 such stipulation without the necessity of filing any formal charges or  
4 holding hearings in the case. An enforcement order based upon a  
5 stipulation may order any disciplinary action authorized by this section  
6 against the facility entering into such stipulation.

7 (c) The secretary may temporarily suspend or temporarily limit the  
8 license of any facility in accordance with the emergency adjudicative  
9 proceedings under the Kansas administrative procedure act if the secretary  
10 determines that there is cause to believe that grounds exist under this  
11 section for immediate action authorized by this section against the facility  
12 and that the facility's continuation in operation would constitute an  
13 imminent danger to the public health and safety.

14 (d) Violations of sections 1 through 12, and amendments thereto, or of  
15 any rules and regulations adopted thereunder shall be deemed one of the  
16 following:

17 (1) Class I violations are those that the secretary determines to present  
18 an imminent danger to the health, safety or welfare of the patients of the  
19 facility or a substantial probability that death or serious physical harm  
20 could result therefrom. A physical condition or one or more practices,  
21 means, methods or operations in use in a facility may constitute such a  
22 violation. The condition or practice constituting a class I violation shall be  
23 abated or eliminated immediately unless a fixed period of time, as  
24 stipulated by the secretary, is required for correction. Each day such  
25 violation shall exist after expiration of such time shall be considered a  
26 subsequent violation.

27 (2) Class II violations are those, other than class I violations, that the  
28 secretary determines to have a direct or immediate relationship to the  
29 health, safety or welfare of the facility's patients. The citation of a class II  
30 violation shall specify the time within which the violation is required to be  
31 corrected. Each day such violation shall exist after expiration of such time  
32 shall be considered a subsequent violation.

33 (3) Class III violations are those that are not classified as class I or II,  
34 or those that are against the best practices as interpreted by the secretary.  
35 The citation of a class III violation shall specify the time within which the  
36 violation is required to be corrected. Each day such violation shall exist  
37 after expiration of such time shall be considered a subsequent violation.

38 (e) The secretary shall consider the following factors when  
39 determining the severity of a violation:

40 (1) Specific conditions and their impact or potential impact on the  
41 health, safety or welfare of the facility's patients;

42 (2) efforts by the facility to correct the violation;

43 (3) overall conditions of the facility;

- 1 (4) the facility's history of compliance; and
- 2 (5) any other pertinent conditions that may be applicable.
- 3 (f) Any monetary penalty assessed by the secretary shall be assessed
- 4 in accordance with the following fine schedule:
- 5 (1) For class I violations the following number of violations within a
- 6 24-month period shall result in the corresponding fine amount:
- 7 (A) One violation, a fine of not less than \$200 and not more than
- 8 \$1,000;
- 9 (B) two violations, a fine of not less than \$500 and not more than
- 10 \$2,000;
- 11 (C) three violations, a fine of not less than \$1,000 and not more than
- 12 \$5,000; and
- 13 (D) four or more violations, a fine of \$5,000;
- 14 (2) for class II violations the following number of violations within a
- 15 24-month period shall result in the corresponding fine amount:
- 16 (A) One violation, a fine of not less than \$100 and not more than
- 17 \$200;
- 18 (B) two violations, a fine of not less than \$200 and not more than
- 19 \$1,000;
- 20 (C) three violations, a fine of not less than \$500 and not more than
- 21 \$2,000;
- 22 (D) four violations, a fine of not less than \$1,000 and not more than
- 23 \$5,000; and
- 24 (E) five or more violations, a fine of \$5,000;
- 25 (3) for class III violations the following number of violations within a
- 26 24-month period shall result in the corresponding fine amount:
- 27 (A) One violation, there shall be no fine;
- 28 (B) two violations, a fine of not less than \$100 and not more than
- 29 \$500;
- 30 (C) three violations, a fine of not less than \$200 and not more than
- 31 \$1,000;
- 32 (D) four violations, a fine of not less than \$500 and not more than
- 33 \$2,000;
- 34 (E) five violations, a fine of not less than \$1,000 and not more than
- 35 \$5,000; and
- 36 (F) six or more violations, a fine of \$5,000.

37 ~~Sec. 7. Except in the case of a medical emergency, as defined in~~  
38 ~~K.S.A. 65-6701, and amendments thereto, an abortion performed when the~~  
39 ~~gestational age of the unborn child is 22 weeks or more shall be performed~~  
40 ~~in a licensed hospital or ambulatory surgical center. All other abortions~~  
41 ~~shall be performed in a licensed hospital, ambulatory surgical center or~~  
42 ~~facility.]~~ **Except in the case of a medical emergency, as defined in this**  
43 **act, and amendments thereto, an abortion performed when the**

1 **gestational age of the unborn child is 22 weeks or more shall be**  
2 **performed in a hospital or ambulatory surgical center licensed**  
3 **pursuant to this act. All other abortions shall be performed in a**  
4 **hospital, ambulatory surgical center or facility licensed pursuant to**  
5 **this act. All other abortions shall be performed in a facility licensed**  
6 **pursuant to this act, except that a hospital or ambulatory surgical**  
7 **center that does not meet the definition of a facility under this act and**  
8 **that is licensed pursuant to K.S.A. 65-425 et seq., and amendments**  
9 **thereto, may perform abortions].**

10 Sec. 8. (a) It shall be unlawful to operate a facility within Kansas  
11 without possessing a valid license issued annually by the secretary  
12 pursuant to section 2, and amendments thereto, with no requirement of  
13 culpable mental state.

14 (b) It shall be unlawful for a person to perform or induce an abortion  
15 in a facility unless such person is a physician, with clinical privileges at a  
16 hospital located within 30 miles of the facility, with no requirement of  
17 culpable mental state.

18 (c) Violation of subsection (a) or (b) is a class A nonperson  
19 misdemeanor and shall constitute unprofessional conduct under K.S.A. 65-  
20 2837, and amendments thereto.

21 Sec. 9. (a) The secretary shall adopt rules and regulations for the  
22 licensure of facilities for the performance of abortions.

23 (b) The secretary shall adopt rules and regulations concerning  
24 sanitation, housekeeping, maintenance, staff qualifications, emergency  
25 equipment and procedures to provide emergency care, medical records and  
26 reporting, laboratory, procedure and recovery rooms, physical plant,  
27 quality assurance, infection control, information on and access to patient  
28 follow-up care and any other areas of medical practice necessary to carry  
29 out the purposes of sections 1 through 12, and amendments thereto, for  
30 facilities for the performance of abortions. At a minimum these rules and  
31 regulations shall prescribe standards for:

32 (1) Adequate private space that is specifically designated for  
33 interviewing, counseling and medical evaluations;

34 (2) dressing rooms for staff and patients;

35 (3) appropriate lavatory areas;

36 (4) areas for preprocedure hand washing;

37 (5) private procedure rooms;

38 (6) adequate lighting and ventilation for abortion procedures;

39 (7) surgical or gynecologic examination tables and other fixed  
40 equipment;

41 (8) postprocedure recovery rooms that are supervised, staffed and  
42 equipped to meet the patients' needs;

43 (9) emergency exits to accommodate a stretcher or gurney;

- 1 (10) areas for cleaning and sterilizing instruments; and
- 2 (11) adequate areas for the secure storage of medical records and
- 3 necessary equipment and supplies.

4 (c) The secretary shall adopt rules and regulations to prescribe facility  
5 supplies and equipment standards, including supplies and equipment, that  
6 are required to be immediately available for use or in an emergency. At a  
7 minimum these rules and regulations shall:

8 (1) Prescribe required equipment and supplies, including medications,  
9 required for the conduct, in an appropriate fashion, of any abortion  
10 procedure that the medical staff of the facility anticipates performing and  
11 for monitoring the progress of each patient throughout the procedure and  
12 recovery period;

13 (2) require that the number or amount of equipment and supplies at  
14 the facility is adequate at all times to assure sufficient quantities of clean  
15 and sterilized durable equipment and supplies to meet the needs of each  
16 patient;

17 (3) prescribe required equipment, supplies and medications that shall  
18 be available and ready for immediate use in an emergency and  
19 requirements for written protocols and procedures to be followed by staff  
20 in an emergency, such as the loss of electrical power;

21 (4) prescribe required equipment and supplies for required laboratory  
22 tests and requirements for protocols to calibrate and maintain laboratory  
23 equipment at the facility or operated by facility staff;

24 (5) require ultrasound equipment in facilities; and

25 (6) require that all equipment is safe for the patient and the staff,  
26 meets applicable federal standards and is checked annually to ensure  
27 safety and appropriate calibration.

28 (d) The secretary shall adopt rules and regulations relating to facility  
29 personnel. At a minimum these rules and regulations shall require that:

30 (1) The facility designate a medical director of the facility who is  
31 licensed to practice medicine and surgery in Kansas;

32 (2) physicians performing surgery in a facility are licensed to practice  
33 medicine and surgery in Kansas, demonstrate competence in the procedure  
34 involved and are acceptable to the medical director of the facility;

35 (3) a physician with admitting privileges at an accredited hospital  
36 located within 30 miles of the facility is available;

37 (4) another individual is present in the room during a pelvic  
38 examination or during the abortion procedure and if the physician is male  
39 then the other individual shall be female;

40 (5) a registered nurse, nurse practitioner, licensed practical nurse or  
41 physician assistant is present and remains at the facility when abortions are  
42 performed to provide postoperative monitoring and care until each patient  
43 who had an abortion that day is discharged;

1 (6) surgical assistants receive training in the specific responsibilities  
2 of the services the surgical assistants provide; and

3 (7) volunteers receive training in the specific responsibilities of the  
4 services the volunteers provide, including counseling and patient advocacy  
5 as provided in the rules and regulations adopted by the director for  
6 different types of volunteers based on their responsibilities.

7 (e) The secretary shall adopt rules and regulations relating to the  
8 medical screening and evaluation of each facility patient. At a minimum  
9 these rules and regulations shall require:

10 (1) A medical history including the following:

11 (A) Reported allergies to medications, antiseptic solutions or latex;

12 (B) obstetric and gynecologic history; and

13 (C) past surgeries;

14 (2) a physical examination including a bimanual examination  
15 estimating uterine size and palpation of the adnexa;

16 (3) the appropriate laboratory tests including:

17 (A) For an abortion in which an ultrasound examination is not  
18 performed before the abortion procedure, urine or blood tests for  
19 pregnancy performed before the abortion procedure;

20 (B) a test for anemia as indicated;

21 (C) Rh typing, unless reliable written documentation of blood type is  
22 available; and

23 (D) other tests as indicated from the physical examination;

24 (4) an ultrasound evaluation for all patients who elect to have an  
25 abortion of an unborn child. The rules shall require that if a person who is  
26 not a physician performs an ultrasound examination, that person shall have  
27 documented evidence that the person completed a course in the operation  
28 of ultrasound equipment as prescribed in rules and regulations. The  
29 physician or other health care professional shall review, at the request of  
30 the patient, the ultrasound evaluation results with the patient before the  
31 abortion procedure is performed, including the probable gestational age of  
32 the unborn child; and

33 (5) that the physician is responsible for estimating the gestational age  
34 of the unborn child based on the ultrasound examination and obstetric  
35 standards in keeping with established standards of care regarding the  
36 estimation of fetal age as defined in rules and regulations and shall verify  
37 the estimate in the patient's medical history. The physician shall keep  
38 original prints of each ultrasound examination of a patient in the patient's  
39 medical history file.

40 (f) The secretary shall adopt rules and regulations relating to the  
41 abortion procedure. At a minimum these rules and regulations shall  
42 require:

43 (1) That medical personnel is available to all patients throughout the



1 abortion procedure;

2 (2) standards for the safe conduct of abortion procedures that conform  
3 to obstetric standards in keeping with established standards of care  
4 regarding the estimation of fetal age as defined in rules and regulations;

5 (3) appropriate use of local anesthesia, analgesia and sedation if  
6 ordered by the physician;

7 (4) the use of appropriate precautions, such as the establishment of  
8 intravenous access at least for patients undergoing second or third  
9 trimester abortions; and

10 (5) the use of appropriate monitoring of the vital signs and other  
11 defined signs and markers of the patient's status throughout the abortion  
12 procedure and during the recovery period until the patient's condition is  
13 deemed to be stable in the recovery room.

14 (g) The secretary shall adopt rules and regulations that prescribe  
15 minimum recovery room standards. At a minimum these rules and  
16 regulations shall require that:

17 (1) Immediate postprocedure care consists of observation in a  
18 supervised recovery room for as long as the patient's condition warrants;

19 (2) the facility arrange hospitalization if any complication beyond the  
20 management capability of the staff occurs or is suspected;

21 (3) a licensed health professional who is trained in the management of  
22 the recovery area and is capable of providing basic cardiopulmonary  
23 resuscitation and related emergency procedures remains on the premises of  
24 the facility until all patients are discharged;

25 (4) a physician or a nurse who is advanced cardiovascular life support  
26 certified shall remain on the premises of the facility until all patients are  
27 discharged and to facilitate the transfer of emergency cases if  
28 hospitalization of the patient or viable unborn child is necessary. A  
29 physician or nurse shall be readily accessible and available until the last  
30 patient is discharged;

31 (5) a physician or trained staff member discusses Rho(d) immune  
32 globulin with each patient for whom it is indicated and assures it is offered  
33 to the patient in the immediate postoperative period or that it will be  
34 available to her within 72 hours after completion of the abortion  
35 procedure. If the patient refuses, a refusal form approved by the  
36 department shall be signed by the patient and a witness and included in the  
37 medical record;

38 (6) written instructions with regard to postabortion coitus, signs of  
39 possible problems and general aftercare are given to each patient. Each  
40 patient shall have specific instructions regarding access to medical care for  
41 complications, including a telephone number to call for medical  
42 emergencies;

43 (7) there is a specified minimum length of time that a patient remains

1 in the recovery room by type of abortion procedure and gestational age of  
2 the unborn child;

3 (8) the physician assures that a licensed health professional from the  
4 facility makes a good faith effort to contact the patient by telephone, with  
5 the patient's consent, within 24 hours after surgery to assess the patient's  
6 recovery; and

7 (9) equipment and services are located in the recovery room to  
8 provide appropriate emergency resuscitative and life support procedures  
9 pending the transfer of the patient or viable unborn child to the hospital.

10 (h) The secretary shall adopt rules and regulations that prescribe  
11 standards for follow-up visits. At a minimum these rules and regulations  
12 shall require that:

13 (1) A postabortion medical visit is offered and scheduled within four  
14 weeks after the abortion, if accepted by the patient, including a medical  
15 examination and a review of the results of all laboratory tests;

16 (2) a urine pregnancy test is obtained at the time of the follow-up visit  
17 to rule out continuing pregnancy. If a continuing pregnancy is suspected,  
18 the patient shall be evaluated and a physician who performs or induces  
19 abortions shall be consulted; and

20 (3) the physician performing or inducing the abortion, or a person  
21 acting on behalf of the physician performing or inducing the abortion,  
22 shall make all reasonable efforts to ensure that the patient returns for a  
23 subsequent examination so that the physician can assess the patient's  
24 medical condition. A brief description of the efforts made to comply with  
25 this requirements, including the date, time and identification by name of  
26 the person making such efforts, shall be included in the patient's medical  
27 record.

28 (i) The secretary shall adopt rules and regulations to prescribe  
29 minimum facility incident reporting. At a minimum these rules and  
30 regulations shall require that:

31 (1) The facility records each incident resulting in a patient's or viable  
32 unborn child's serious injury occurring at a facility and shall report them in  
33 writing to the department within 10 days after the incident. For the  
34 purposes of this paragraph, "serious injury" means an injury that occurs at  
35 a facility and that creates a serious risk of substantial impairment of a  
36 major body organ;

37 (2) if a patient's death occurs, other than an unborn child's death  
38 properly reported pursuant to law, the facility shall report such death to the  
39 department of health and environment not later than the next department  
40 business day; and

41 (3) incident reports are filed with the department of health and  
42 environment and appropriate professional regulatory boards.

43 (j) (1) The secretary shall adopt rules and regulations requiring each

1 facility to establish and maintain an internal risk management program  
2 which, at a minimum, shall consist of:

3 (A) A system for investigation and analysis of the frequency and  
4 causes of reportable incidents within the facility;

5 (B) measures to minimize the occurrence of reportable incidents and  
6 the resulting injuries within the facility; and

7 (C) a reporting system based upon the duty of all health care  
8 providers staffing the facility and all agents and employees of the facility  
9 directly involved in the delivery of health care services to report reportable  
10 incidents to the chief of the medical staff, chief administrative officer or  
11 risk manager of the facility.

12 (2) As used in this subsection, the term “reportable incident” means  
13 an act by a health care provider which:

14 (A) Is or may be below the applicable standard of care and has a  
15 reasonable probability of causing injury to a patient; or

16 (B) may be grounds for disciplinary action by the appropriate  
17 licensing agency.

18 (k) The rules and regulations adopted by the secretary pursuant to this  
19 section do not limit the ability of a physician or other health care  
20 professional to advise a patient on any health issue. The secretary  
21 periodically shall review and update current practice and technology  
22 standards under sections 1 through 12, and amendments thereto, and based  
23 on current practice or technology adopt by rules and regulations alternative  
24 practice or technology standards found by the secretary to be as effective  
25 as those enumerated in sections 1 through 12, and amendments thereto.

26 (l) The provisions of sections 1 through 12, and amendments thereto,  
27 and the rules and regulations adopted pursuant thereto shall be in addition  
28 to any other laws and rules and regulations which are applicable to  
29 facilities defined as clinics under section 1, and amendments thereto.

30 (m) In addition to any other penalty provided by law, whenever in the  
31 judgment of the secretary of health and environment any person has  
32 engaged, or is about to engage, in any acts or practices which constitute, or  
33 will constitute, a violation of this section, or any rules and regulations  
34 adopted under the provisions of this section, the secretary shall make  
35 application to any court of competent jurisdiction for an order enjoining  
36 such acts or practices, and upon a showing by the secretary that such  
37 person has engaged, or is about to engage, in any such acts or practices, an  
38 injunction, restraining order or such other order as may be appropriate  
39 shall be granted by such court without bond.

40 Sec. 10. (a) No abortion shall be performed or induced by any  
41 person other than a physician licensed to practice medicine in the state of  
42 Kansas. When RU-486 (mifepristone) or any drug is used for the purpose  
43 of inducing an abortion, the drug must be administered by or in the same

1 room and in the physical presence of the physician who prescribed,  
2 dispensed or otherwise provided the drug to the patient.

3 (b) The physician inducing the abortion, or a person acting on behalf  
4 of the physician inducing the abortion, shall make all reasonable efforts to  
5 ensure that the patient returns 12 to 18 days after the administration or use  
6 of such drug for a subsequent examination so that the physician can  
7 confirm that the pregnancy has been terminated and assess the patient's  
8 medical condition. A brief description of the efforts made to comply with  
9 this subsection, including the date, time and identification by name of the  
10 person making such efforts, shall be included in the patient's medical  
11 record.

12 (c) A violation of this section shall constitute unprofessional conduct  
13 under K.S.A. 65-2837, and amendments thereto.

14 Sec. 11. Nothing in sections 1 through 12, and amendments thereto,  
15 shall be construed as creating or recognizing a right to abortion.  
16 Notwithstanding any provision of this section, a person shall not perform  
17 an abortion that is prohibited by law.

18 Sec. 12. The provisions of sections 1 through 12, and amendments  
19 thereto, are declared to be severable, and if any provision, or the  
20 application thereof, to any person shall be held invalid, such invalidity  
21 shall not affect the validity of the remaining provisions of sections 1  
22 through 12, and amendments thereto.

23 Sec. 13. This act shall take effect and be in force from and after its  
24 publication in the statute book.