I

117TH CONGRESS
2D SESSION

H. R. 9657

To prohibit the use or declaration of a public health emergency with respect to abortion, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 21, 2022

Mr. HERN introduced the following bill; which was referred to the Committee on Energy and Commerce

---

A BILL

To prohibit the use or declaration of a public health emergency with respect to abortion, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Protecting Life from Chemical Abortions Act''.

SEC. 2. NO DECLARATION OF PUBLIC HEALTH EMERGENCY WITH RESPECT TO ABORTION.

(a) PROHIBITION.—The Secretary of Health and Human Services shall not use or declare any public health emergency under section 319 or 319F–3 of the Public

Health Service Act (42 U.S.C. 247d, 247d–6b) with respect to abortion.

(b) TERMINATION OF ANY DECLARATION IN EFFECT.—Any declaration described in subsection (a) that is in effect as of the date of enactment of this Act is hereby terminated.

SEC. 3. LIMITATIONS ON ABORTION DRUG.

(a) IN GENERAL.—The Secretary of Health and Human Services, the Commissioner of Food and Drugs, or any other official within the Department of Health and Human Services, with respect to the applicable risk evaluation and mitigation strategy under section 505–1 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355–1) relating to abortion drugs—

(1) may not exercise enforcement discretion with respect to any requirement under such strategy; and

(2) shall, effective on the date of the enactment of this Act, reinstate the requirement under such strategy that abortion drugs be dispensed in only clinics, medical offices, and hospitals by or under the supervision of a certified health care provider (commonly referred to as the ''in-person dispensing requirement'').

(b) OTHER LIMITATIONS.—With respect to the applicable risk evaluation and mitigation strategy under section 505–1 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355–1) relating to an abortion drug, the Secretary of Health and Human Services, the Commissioner of Food and Drugs, or any other official within the Department of Health and Human Services—

(1) may not reduce protections (including by means of any update) in such strategy until every State submits to the abortion surveillance system of the Centers for Disease Control and Prevention the abortion data collected in the aggregate from the States and entered into a standardized worksheet that includes questions on the variables specified in subsection (c); and

(2) may not waive the requirement under such strategy that such drugs be dispensed in only clinics, medical offices, and hospitals by or under the supervision of a certified health care provider (commonly referred to as the ''in-person dispensing requirement'').

(c) MANDATORY VARIABLES.—The mandatory variables specified in this subsection shall be treated as mandatory questions for purposes of section 1903(bb) of the

Social Security Act (42 U.S.C. 1396b(bb)) and shall include the following:

(1) Maternal age in years.

(2) Gestational age in completed weeks at the time of abortion.

(3) Maternal race.

(4) Maternal ethnicity.

(5) Maternal race by ethnicity.

(6) The abortion method type.

(7) Maternal marital status.

(8) Previous pregnancies of the mother, including the number of previous live births, the number of previous induced abortions, and the number of previous spontaneous abortions.

(9) Maternal residence (State or county).

(10) Whether the child survived the abortion.

(11) Congenital anomalies.

(d) DEFINITIONS.—In this section:

(1) The term ''abortion'' means the use or provision of any instrument, medicine, drug, or any other substance or device—

(A) to intentionally kill the unborn child of a woman known to be pregnant; or

(B) to intentionally terminate the pregnancy of a woman known to be pregnant, with an intention other than—

(i) after viability to produce a live birth that, if premature, is medically indicated, and to preserve the life and health of the child born alive;

(ii) to treat an ectopic pregnancy; or

(iii) to remove a dead unborn child.

(2) The term ''abortion drug'' means any medicine, drug, or any other substance or combination of drugs, medicine or substances used for an abortion.

(3) The term ''certified health care provider'' means a health care provider that has completed a Prescriber Agreement Form pursuant to the elements for safe use under the applicable risk evaluation and mitigation strategy under section 505–1 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355–1) relating to abortion drugs, under which the provider agrees to the following:

(A) The provider has the following qualifications:

(i) Ability to assess the duration of pregnancy accurately.

(ii) Ability to diagnose ectopic pregnancies.

(iii) Ability to provide surgical intervention in cases of incomplete abortion or severe bleeding, or to have made plans to provide such care through others, and ability to assure patient access to medical facilities equipped to provide blood transfusions and resuscitation, if necessary.

(B) The provider will follow the guidelines for use of mifepristone under the applicable risk evaluation and mitigation strategy under section 505–1 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355–1) relating to abortion drugs.

(4) The term ''unborn child'' means an individual organism of the species homo sapiens, beginning at fertilization, until the point of being born alive as defined in section 8(b) of title 18, United States Code.

○