

FIRST REGULAR SESSION

HOUSE BILL NO. 854

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FRANKLIN.

1750H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 191, RSMo, by adding thereto three new sections relating to volunteer health care services.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 191, RSMo, is amended by adding thereto three new sections, to be known as sections 191.1120, 191.1122, and 191.1124, to read as follows:

191.1120. For purposes of sections 191.1120 to 191.1124, the following terms shall mean:

(1) “Contract”, an agreement executed in compliance with sections 191.1120 to 191.1124 between a health care professional and a free or charitable health care clinic licensed by the department of health and senior services or a governmental contractor;

(2) “Department”, the department of health and senior services;

(3) “Governmental contractor”, the department, a county health department, a special purpose district with health care responsibilities, a hospital owned and operated by a governmental entity, or any other health care entity designated by the department;

(4) “Health care professional” or “professional”, as such term is defined in section 376.1350;

(5) “Health care provider” or “provider”, as such term is defined in section 376.1350;

(6) “Low-income patient”, a person eligible for MO HealthNet or a person who is without health insurance and whose annual household income does not exceed two hundred percent of the federal poverty level.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

191.1122. 1. A health care provider or health care professional that executes a contract with the department or a governmental contractor to deliver volunteer health care services to eligible low-income patients shall be considered an agent of the state for purposes of sovereign immunity while acting within the scope of duties under the contract if the contract complies with the requirements of this section and regardless of whether the individual treated is later found to be ineligible. As an agent of the state, the provider or professional under contract with the state shall not be named as a defendant in any action arising out of health care services or treatment provided under the terms of contracts entered into under this section. A contract entered into by a provider under this section shall cover all employees of the provider, and the individual employee shall not be required to enter into a contract under this section with respect to the health care services he or she delivers in connection with his or her employment.

2. The contract shall provide that:

(1) It applies only to volunteer health care services delivered by the provider or professional to low-income individuals eligible to receive such services;

(2) The provider or professional shall not be named as a defendant in any action arising out of health care services or treatment provided within the scope of the contract;

(3) In the event that a patient treated by the provider or professional under the contract is later found to be ineligible, the provider or professional shall still enjoy immunity from liability in any action arising out of health care services or treatment provided to the individual prior to a determination of ineligibility;

(4) The right of dismissal or termination of any provider or professional under the contract is retained by the department or governmental contractor;

(5) The department or governmental contractor shall have the right to terminate the contract with the provider or professional with appropriate cause. The department or governmental contractor shall provide the provider or professional with written notice of its intent to terminate the contract and reasons for such decision at least five business days in advance of the contract termination date;

(6) The department or governmental contractor has access to the records of any patient served by the provider or professional under the contract;

(7) Adverse incidents and information on treatment outcomes shall be reported by any provider or professional to the department or governmental contractor if the incidents and information pertain to a patient treated under the contract. If the incident involves a licensed professional or facility, the incident report shall also be submitted to the appropriate licensing body, which shall review the incident to determine whether it involves conduct by the licensee that is subject to disciplinary action. All patient medical

37 records and any identifying information contained in adverse incident reports and
38 treatment outcomes which are obtained by governmental entities or licensing bodies under
39 this subsection are confidential;

40 (8) Patient selection and initial referral may be made by the department,
41 governmental contractor, provider, or professional;

42 (9) If emergency care is required, the patient need not be referred before receiving
43 treatment, but shall be referred within forty-eight hours after treatment is commenced or
44 within forty-eight hours after the patient has the mental capacity to consent to treatment,
45 whichever occurs later; and

46 (10) The provider or professional is subject to supervision and regular inspection
47 by the department or governmental contractor.

48 3. A governmental contractor that is also a provider is not required to enter into
49 a contract under this section with respect to the health care services delivered by its
50 employees.

51 4. The provider or professional shall provide written notice to each patient served
52 under the contract, or the patient's legal representative, receipt of which shall be
53 acknowledged in writing, that the provider, professional, or any employee or agent thereof
54 is an agent of the state with respect to the services provided and that the exclusive remedy
55 for injury or damage suffered as the result of any act or omission of the provider,
56 professional, employee, or agent acting within the scope of duties under the contract is by
57 commencement of an action under the provisions of chapter 537. The provider or
58 professional may comply with the requirements of this subsection by posting the notice in
59 a place conspicuous to all persons visiting the provider's or professional's place of business.

60 5. Governmental contractors other than the department, providers, and
61 professionals are responsible for their own costs and attorney's fees for malpractice
62 litigation arising out of health care services delivered under a contract brought under the
63 provisions of chapter 537.

64 6. The department shall promulgate rules to administer the provisions of sections
65 191.1120 to 191.1124. Any rule or portion of a rule, as that term is defined in section
66 536.010, that is created under the authority delegated in this section shall become effective
67 only if it complies with and is subject to all of the provisions of chapter 536 and, if
68 applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of
69 the powers vested with the general assembly pursuant to chapter 536 to review, to delay
70 the effective date, or to disapprove and annul a rule are subsequently held
71 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
72 after August 28, 2017, shall be invalid and void.

2 **191.1124. 1. The department shall establish a quality assurance program to**
3 **monitor services delivered under any contract entered into under sections 191.1120 to**
4 **191.1124.**

5 **2. The department shall annually report to the general assembly, summarizing the**
6 **efficacy of access and treatment outcomes with respect to providing health care services**
7 **for low-income patients under sections 191.1120 to 191.1124. The report shall include**
8 **statistics for any and all claims pending and paid and defense and handling costs associated**
9 **with all claims brought against contract providers under sections 191.1120 to 191.1124.**
10 **The department shall provide on its website a listing of all providers volunteering with the**
11 **number of hours, number of patient visits, and the value of health-care-related goods and**
12 **services provided.**

13 **3. Health care professionals may fulfill one hour of continuing education credit by**
14 **the performance of one hour of volunteer services to eligible patients as provided in**
 sections 191.1120 to 191.1124, up to a maximum of eight credits per licensure period.

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