

HOUSE BILL NO. 1848

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES NEWMAN (Sponsor) AND MORGAN (Co-sponsor).

5496L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 191, RSMo, by adding thereto one new section relating to the disclosure of health 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 one new section, to be known as section 191.762, to read as follows:

191.762. 1. As used in this section, the following terms shall mean:

(1) "Certified nurse midwife", a registered nurse who is currently certified as a nurse midwife by the American College of Nurse Midwives, or other nationally recognized certifying body approved by the board of nursing;

(2) "Certified nurse practitioner", a registered nurse who is currently certified as a nurse practitioner by a nationally recognized certifying body approved by the board of nursing;

(3) "Department", the department of health and senior services;

(4) "Health information", any oral or written information in any form or medium that relates to:

(a) The past, present or future physical or mental health or condition of an individual;

(b) The provision of health care to an individual; or

(c) The past, present, or future payment for the provision of health care to an individual;

(5) "Medical services", includes but is not limited to prenatal sonography, pregnancy tests, and pregnancy options counseling;

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.

18 (6) "Physician", a physician licensed under chapter 334;

19 (7) "Physician assistant", a physician assistant licensed under sections 334.735 to
20 334.749;

21 (8) "Registered nurse", a person licensed under the provisions of chapter 335 to
22 engage in the practice of professional nursing.

23 2. (1) The provisions of this section applies to an entity if the primary purpose of
24 the entity is to provide pregnancy-related services and the entity advertises or solicits
25 patrons with offers to provide prenatal sonography, pregnancy tests, or pregnancy options
26 counseling.

27 (2) The provisions of this section do not apply to an entity if, at all of the entity's
28 sites that are open to the public, the entity:

29 (a) Employs one or more of the following practitioners:

30 a. Physician;

31 b. Nurse practitioner;

32 c. Physician assistant;

33 d. Registered nurse; or

34 e. Nurse midwife; and

35 (b) Has one or more of the practitioners listed in paragraph (a) of this subdivision
36 onsite whenever medical services or treatment is provided.

37 (3) An entity shall provide written notice of whether the entity provides each of the
38 following:

39 (a) Contraceptive drugs or devices that are approved by the United States Food and
40 Drug Administration;

41 (b) An onsite consultation with a practitioner listed in paragraph (a) of subdivision
42 (2) of this subsection;

43 (c) Adoption services or referral for adoption services; and

44 (d) Abortion services or referral for abortion services.

45 (4) The notice required under subdivision (3) of this subsection shall be:

46 (a) Conspicuously placed:

47 a. At all entrances to the premises at which the entity provides the services
48 described in subdivision (1) of this subsection;

49 b. In all areas where individuals wait to receive the services described in
50 subdivision (1) of this subsection;

51 c. On any website maintained by the entity that refers to the services described in
52 subdivision (1) of this subsection;

53 **d. In all advertisements promoting the services described in subdivision (1) of this**
54 **subsection or promoting the entity providing the services; and**

55 **(b) Written and provided in a manner that a reasonable person is likely to read and**
56 **understand before accepting the services described in subdivision (1) of this subsection.**

57 **(5) An entity that collects health information from a patron of the entity shall not**
58 **disclose the patron's health information to any other person without the written**
59 **authorization of the patron.**

60 **(6) Upon receipt of a written request from a patron of the entity to examine or**
61 **obtain a copy of any health information of the patron, an entity described in subdivision**
62 **(1) of this subsection shall:**

63 **(a) a. Make the health information of the patron that is in the entity's possession**
64 **or control available for examination by the patron during regular business hours; and**

65 **b. Notwithstanding any other provision of law to the contrary, provide at no charge**
66 **to the patron one copy of any health information of the patron that is in the entity's**
67 **possession or control to the patron, if requested; or**

68 **(b) Inform the patron that the entity does not have any health information of the**
69 **patron in the entity's possession or control.**

70 **3. (1) If any person who violates the provisions of this section, the department shall**
71 **serve the person with a written notice informing the person of the violation and stating that**
72 **the person may avoid an administrative penalty by curing the violation within five days of**
73 **the service of the notice.**

74 **(2) If the person fails to cure the violation within five days of the date of service of**
75 **the notice, the department shall impose an administrative penalty of at least two hundred**
76 **fifty dollars but not more than one thousand dollars.**

77 **(3) If the violation continues for more than seven days after the expiration of the**
78 **five-day period, the department may impose an additional administrative penalty of up to**
79 **five thousand dollars for the continued violation.**

80 **(4) If the violation continues for more than fourteen days after the expiration of the**
81 **five-day period, the department may impose an additional administrative penalty of up to**
82 **ten thousand dollars for each week thereafter in which the violation continues.**

83 **(5) A person is entitled, upon request submitted within a time prescribed by the**
84 **department by rule, to a contested case hearing to dispute any administrative penalty**
85 **imposed under this section. Any administrative decision shall be subject to judicial review**
86 **in accordance with chapter 536.**

87 **(6) All administrative penalties recovered under this section shall be deposited in**
88 **the state general revenue fund and shall be available for general governmental expenses.**

89 **(7) Nothing in this section shall be construed to prohibit the department from**
90 **maintaining an action in the name of the state for injunction or other process against any**
91 **person to restrain or prevent a violation of a requirement or prohibition under this section.**

92 **4. The department shall promulgate rules to implement the provisions of this**
93 **section. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
94 **created under the authority delegated in this section shall become effective only if it**
95 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
96 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**
97 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
98 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
99 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2014,**
100 **shall be invalid and void.**

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