

Senate Bill 490

Sponsored by COMMITTEE ON HEALTH CARE AND HUMAN SERVICES

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires entity advertising and providing specified health services to provide notices and disclosures about nature of services. Prohibits entity from disclosing health information about patron receiving services without written consent of patron. Requires entity to provide health information to patron upon request.

Imposes civil penalties for violations.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to disclosure of health services; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) As used in this section:**

5 (a) **"Health information" means written information described in ORS 192.556.**

6 (b) **"Medical services" includes, but is not limited to, prenatal sonography, pregnancy
7 tests and pregnancy options counseling.**

8 (c) **"Naturopath" means a naturopathic physician licensed under ORS chapter 685.**

9 (d) **"Nurse midwife" means a licensed registered nurse who is certified by the Oregon
10 State Board of Nursing as a nurse midwife nurse practitioner.**

11 (e) **"Nurse practitioner" means a nurse practitioner certified under ORS 678.375.**

12 (f) **"Physician" means a physician licensed under ORS chapter 677.**

13 (g) **"Physician assistant" means a physician assistant licensed under ORS 677.505 to
14 677.525.**

15 (h) **"Registered nurse" means a registered nurse licensed under ORS 678.050.**

16 (2)(a) **This section applies to an entity if the primary purpose of the entity is to provide
17 pregnancy-related services and the entity advertises or solicits patrons with offers to provide
18 prenatal sonography, pregnancy tests or pregnancy options counseling.**

19 (b) **This section does not apply to an entity if, at all of the entity's sites that are open
20 to the public, the entity:**

21 (A) **Employs one or more of the following practitioners:**

22 (i) **Physician;**

23 (ii) **Naturopath;**

24 (iii) **Nurse practitioner;**

25 (iv) **Physician assistant;**

26 (v) **Registered nurse; or**

27 (vi) **Nurse midwife; and**

28 (B) **Has one or more of the practitioners listed in subparagraph (A) of this paragraph
29 on-site whenever medical services or treatment is provided.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (3) An entity shall provide written notice of whether or not the entity provides each of
 2 the following:

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

5 (b) An on-site consultation with a practitioner listed in subsection (2)(b)(A) of this sec-
 6 tion;

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

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

9 (4) The notice required by subsection (3) of this section must be:

10 (a) Conspicuously placed:

11 (A) At all entrances to the premises at which the entity provides the services described
 12 in subsection (2)(a) of this section;

13 (B) In all areas where individuals wait to receive the services described in subsection
 14 (2)(a) of this section;

15 (C) On any website maintained by the entity that refers to the services described in
 16 subsection (2)(a) of this section; and

17 (D) In all advertisements promoting the services described in subsection (2)(a) of this
 18 section or promoting the entity providing the services; and

19 (b) Written and provided in a manner that a reasonable person is likely to read and un-
 20 derstand before accepting the services described in subsection (2)(a) of this section.

21 (5) An entity that collects health information from a patron of the entity may not dis-
 22 close the patron's health information to any other person without the written authorization
 23 of the patron.

24 (6) Upon receipt of a written request from a patron of the entity to examine or obtain a
 25 copy of any health information of the patron, an entity described in subsection (2)(a) of this
 26 section shall:

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

29 (B) Notwithstanding ORS 192.563, provide at no charge to the patron one copy of any
 30 health information of the patron that is in the entity's possession or control to the patron,
 31 if requested; or

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

34 **SECTION 2.** (1) If a person violates a requirement or prohibition in section 1 of this 2013
 35 Act, the Oregon Health Authority shall serve the person with a written notice, in the form
 36 and manner provided in ORS 183.415, informing the person of the violation and stating that
 37 the person may avoid a civil penalty by curing the violation within five days of the service
 38 of the notice.

39 (2) If the person fails to cure the violation within five days of the date of the service of
 40 the notice, the authority shall impose a penalty of at least \$250 and not more than \$1,000.

41 (3) If the violation continues for more than seven days after the expiration of the five-day
 42 period described in subsection (2) of this section, the authority may impose an additional civil
 43 penalty of up to \$5,000 for the continued violation.

44 (4) If the violation continues for more than 14 days after the expiration of the five-day
 45 period described in subsection (2) of this section, the authority may impose additional civil

1 penalties of up to \$10,000 for each week thereafter in which the violation continues.

2 (5) A person is entitled, upon request submitted within a time prescribed by the authority
3 by rule, to a contested case hearing under the provisions of ORS 183.413 to 183.470 to dispute
4 a civil penalty imposed under this section. Judicial review of an order made after a contested
5 case hearing shall be as provided in ORS 183.480 to 183.497 for judicial review of contested
6 cases.

7 (6) All civil penalties recovered under this section shall be paid into the State Treasury
8 and credited to the General Fund and are available for general governmental expenses.

9 (7) This section does not affect the ability of the authority to maintain an action in the
10 name of the state for injunction or other process against any person to restrain or prevent
11 a violation of a requirement or prohibition in section 1 of this 2013 Act.

12 **SECTION 3.** The Oregon Health Authority shall adopt rules to carry out the provisions
13 of sections 1 and 2 of this 2013 Act.

14 **SECTION 4.** (1) Sections 1 and 2 of this 2013 Act become operative on October 1, 2013.

15 (2) The Oregon Health Authority may take any action before the operative date specified
16 in subsection (1) of this section that is necessary to enable the authority to exercise, on and
17 after the operative date specified in subsection (1) of this section, all the duties, functions
18 and powers conferred on the authority by sections 1 and 2 of this 2013 Act.

19 **SECTION 5.** This 2013 Act being necessary for the immediate preservation of the public
20 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
21 on its passage.