

SECOND EXTRAORDINARY SESSION

HOUSE BILL NO. 10

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE NEWMAN.

2452H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 188.021, 197.200, 197.230, and 197.287, RSMo, and to enact in lieu thereof nine new sections relating to health care services, with penalty provisions.

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

Section A. Sections 188.021, 197.200, 197.230, and 197.287, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 188.021, 188.340, 188.345, 188.500, 191.762, 197.200, 197.230, 197.287, and 574.201, to read as follows:

188.021. **1.** When RU-486 (mifepristone) or any drug or chemical is used for the purpose of inducing an abortion, the initial dose of the drug or chemical shall be administered in the same room and in the physical presence of the physician who prescribed, dispensed, or otherwise provided the drug or chemical to the patient. The physician inducing the abortion, or a person acting on such physician's behalf, shall make all reasonable efforts to ensure that the patient returns after the administration or use of RU-486 or any drug or chemical for a follow-up visit unless such termination of the pregnancy has already been confirmed and the patient's medical condition has been assessed by a licensed physician prior to discharge.

2. The department of health and senior services may adopt rules, regulations, and standards governing complication plans to ensure that patients of crisis pregnancy centers have access to safe and reliable care. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and, if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held

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.

17 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
18 after the effective date of this act, shall be invalid and void.

188.340. The presence of appropriately trained medical staff shall be required for
2 any medical procedure performed in a crisis pregnancy center to the same degree as
3 required by other specialized health clinics in this state.

188.345. If any crisis pregnancy center fails to comply with the provisions of section
2 188.340, 197.287, or 574.201 or sections 197.200 to 197.240, then such crisis pregnancy
3 center shall be ineligible for any tax credits issued by this state or any public funding.

188.500. 1. The provisions of this section shall be known and may be cited as the
2 "Truth in Medicine Act".

3 2. No government health care agency nor any organization that receives
4 government health care funding shall endorse any of five specific lies about abortion:

- 5 (1) That it raises the risk of developing breast cancer;
- 6 (2) That it raises the risk of infertility;
- 7 (3) That it raises the risk of negative emotional or mental health problems;
- 8 (4) That most women regret having an abortion; or
- 9 (5) That abortion is more dangerous than the average medical procedure.

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

- 2 (1) "Certified nurse midwife", a registered nurse who is currently certified as a
3 nurse midwife by the American College of Nurse-Midwives, or other nationally recognized
4 certifying body approved by the board of nursing;
- 5 (2) "Certified nurse practitioner", a registered nurse who is currently certified as
6 a nurse practitioner by a nationally recognized certifying body approved by the board of
7 nursing;
- 8 (3) "Department", the department of health and senior services;
- 9 (4) "Health information", any oral or written information in any form or medium
10 that relates to:
 - 11 (a) The past, present, or future physical or mental health or condition of an
12 individual;
 - 13 (b) The provision of health care to an individual; or
 - 14 (c) The past, present, or future payment for the provision of health care to an
15 individual;
- 16 (5) "Medical services", includes, but is not limited to, prenatal sonography,
17 pregnancy tests, and pregnancy options counseling;
- 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 shall apply to an entity if the primary purpose
24 of 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; and

27 (2) The provisions of this section shall 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 (1) Contraceptive drugs or devices that are approved by the Food and Drug
40 Administration;

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

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

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

45 4. The notice required under subsection 3 of this section shall be:

46 (1) Conspicuously placed:

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

49 (b) In all areas where individuals wait to receive the services described in
50 subsection 2 of this section;

51 (c) On any website maintained by the entity; and

52 (d) In all advertisements promoting the services of the entity; and

53 (2) Written and provided in a manner that a reasonable person is likely to read and
54 understand before accepting the services described in subsection 2 of this section.

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

58 **6. Upon receipt of a written request from a patron of the entity to examine or**
59 **obtain a copy of any health information of the patron, an entity shall:**

60 **(1) (a) Make the health information of the patron, which is in the entity's**
61 **possession or control available for examination by the patron during regular business**
62 **hours; and**

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

66 **(2) Inform the patron that the entity does not have any health information of the**
67 **patron in the entity's possession or control.**

68 **7. (1) The department shall serve any person who violates the provisions of this**
69 **section with a written notice informing the person of the violation and stating that the**
70 **person may avoid an administrative penalty by curing the violation within five days of the**
71 **service of the notice.**

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

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

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

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

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

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

90 **8. The department shall promulgate rules to implement the provisions of this**
91 **section. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
92 **created under the authority delegated in this section shall become effective only if it**
93 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
94 **section 536.028. This section and chapter 536 are nonseverable and, if any of the powers**
95 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
96 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
97 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2017,**
98 **shall be invalid and void.**

 197.200. As used in sections 197.200 to 197.240, unless the context clearly indicates
2 otherwise, the following terms mean:

3 (1) "Ambulatory surgical center", any public or private establishment operated primarily
4 for the purpose of performing surgical procedures or primarily for the purpose of performing
5 childbirths, or any establishment operated for the purpose of performing or inducing any second
6 or third-trimester abortions or five or more first-trimester abortions per month, and which does
7 not provide services or other accommodations for patients to stay more than twenty-three hours
8 within the establishment[;] ; provided, however, that nothing in this definition shall be construed
9 to include the offices of dentists currently licensed pursuant to chapter 332. **"Ambulatory**
10 **surgical center" shall include crisis pregnancy centers;**

11 (2) "Dentist", any person currently licensed to practice dentistry pursuant to chapter 332;

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

13 (4) "Governmental unit", any city, county or other political subdivision of this state, or
14 any department, division, board or other agency of any political subdivision of this state;

15 (5) "Person", any individual, firm, partnership, corporation, company, or association and
16 the legal successors thereof;

17 (6) "Physician", any person currently licensed to practice medicine pursuant to chapter
18 334;

19 (7) "Podiatrist", any person currently licensed to practice podiatry pursuant to chapter
20 330.

 197.230. **1.** The department of health and senior services shall make, or cause to be
2 made, such inspections and investigations as it deems necessary. The department may delegate
3 its powers and duties to investigate and inspect ambulatory surgical centers **or crisis pregnancy**
4 **centers** to an official of a political subdivision having a population of at least four hundred fifty
5 thousand if such political subdivision is deemed qualified by the department to inspect and
6 investigate ambulatory surgical centers. The official so designated shall submit a written report
7 of his **or her** findings to the department and the department may accept the recommendations

8 of such official if it determines that the facility inspected meets minimum standards established
9 pursuant to sections 197.200 to 197.240.

10 **2. In the case of any crisis pregnancy center, the department shall make or cause**
11 **to be made an unannounced on-site inspection and investigation at least annually. Such**
12 **on-site inspection and investigation shall include, but not be limited to, the following areas:**

13 **(1) Compliance with all statutory and regulatory requirements for a crisis**
14 **pregnancy center, including requirements that the facility maintain adequate staffing and**
15 **equipment to respond to medical emergencies; and**

16 **(2) Compliance with the requirement in section 197.215 that continuous physician**
17 **services or registered professional nursing services be provided whenever a patient is in**
18 **the facility.**

19 **3. Inspection, investigation, and quality assurance reports shall be made available**
20 **to the public. Any portion of a report may be redacted when made publicly available if**
21 **such portion would disclose information that is not subject to disclosure under the law.**

197.287. By July 1, 2001, all hospitals and ambulatory surgical centers **and, by July 1,**
2 **2018, all crisis pregnancy centers** shall provide training programs, with measurable minimal
3 training outcomes relating to quality of patient care and patient safety, to all unlicensed staff
4 providing patient care in their facility within ninety days of the beginning date of employment.
5 Standards for such training shall be established by the department of health and senior services
6 by rule. It shall be a requirement of hospital [~~and~~] , ambulatory surgical center, **and crisis**
7 **pregnancy center** licensure pursuant to this chapter that all hospitals [~~and~~] , ambulatory surgical
8 centers, **and crisis pregnancy centers** submit documentation to the department of health and
9 senior services on the training program used.

574.201. 1. A person commits the offense of interference with medical assistance
2 **if he or she, while serving in his or her capacity as an employee of a crisis pregnancy**
3 **center:**

4 **(1) Knowingly orders or requests medical personnel to deviate from any applicable**
5 **standard of care or ordinary practice while providing medical assistance to a patient for**
6 **reasons unrelated to the patient's health or welfare; or**

7 **(2) Knowingly attempts to prevent medical personnel from providing medical**
8 **assistance to a patient in accordance with all applicable standards of care or ordinary**
9 **practice for reasons unrelated to the patient's health or welfare.**

10 **2. The offense of interference with medical assistance is a class A misdemeanor.**

11 **3. For purposes of this section, the term "medical personnel" shall include, but not**
12 **be limited to, the following:**

13 **(1) Physicians and surgeons licensed under chapter 334;**

- 14 **(2) Nurses licensed under chapter 335;**
- 15 **(3) Emergency medical services personnel as defined in section 190.600; or**
- 16 **(4) Any person operating under the supervision of such medical personnel.**

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