

SECOND EXTRAORDINARY SESSION
HOUSE BILL NO. 6

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BARNES (60).

2509H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 188.021, 188.027, 188.030, 188.039, 188.075, 192.665, 192.667, 197.150, 197.152, 197.158, 197.160, 197.162, 197.165, 197.200, 197.205, 197.215, 197.220, 197.225, 197.230, 197.235, 197.240, 197.285, 197.287, 197.289, 197.293, 197.295, and 595.027, RSMo, and to enact in lieu thereof twenty-eight new sections relating to abortion, with penalty provisions and an emergency clause.

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

Section A. Sections 188.021, 188.027, 188.030, 188.039, 188.075, 192.665, 192.667, 197.150, 197.152, 197.158, 197.160, 197.162, 197.165, 197.200, 197.205, 197.215, 197.220, 197.225, 197.230, 197.235, 197.240, 197.285, 197.287, 197.289, 197.293, 197.295, and 595.027, RSMo, are repealed and twenty-eight new sections enacted in lieu thereof, to be known as sections 188.021, 188.027, 188.030, 188.039, 188.075, 192.665, 192.667, 197.150, 197.152, 197.158, 197.160, 197.162, 197.165, 197.200, 197.205, 197.215, 197.220, 197.225, 197.230, 197.235, 197.240, 197.285, 197.287, 197.289, 197.293, 197.295, 574.200, and 595.027, 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.

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.

9 **2. The department of health and senior services may adopt rules, regulations, and**
10 **standards governing complication plans to ensure that patients undergoing abortions**
11 **induced by drugs or chemicals have access to safe and reliable care. Any rule, regulation,**
12 **or standard adopted by the department shall, at a minimum, require a follow-up visit. Any**
13 **rule or portion of a rule, as that term is defined in section 536.010 that is created under the**
14 **authority delegated in this section shall become effective only if it complies with and is**
15 **subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This**
16 **section and chapter 536 are nonseverable and if any of the powers vested with the general**
17 **assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove**
18 **and annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
19 **authority and any rule proposed or adopted after the effective date of this act, shall be**
20 **invalid and void.**

188.027. 1. Except in the case of medical emergency, no abortion shall be performed
2 or induced on a woman without her voluntary and informed consent, given freely and without
3 coercion. Consent to an abortion is voluntary and informed and given freely and without
4 coercion if, and only if, at least seventy-two hours prior to the abortion:

5 (1) The physician who is to perform or induce the abortion or a qualified professional
6 has informed the woman orally, reduced to writing, and in person, of the following:

7 (a) The name of the physician who will perform or induce the abortion;

8 (b) Medically accurate information that a reasonable patient would consider material to
9 the decision of whether or not to undergo the abortion, including:

10 a. A description of the proposed abortion method;

11 b. The immediate and long-term medical risks to the woman associated with the
12 proposed abortion method including, but not limited to, infection, hemorrhage, cervical tear or
13 uterine perforation, harm to subsequent pregnancies or the ability to carry a subsequent child to
14 term, and possible adverse psychological effects associated with the abortion; and

15 c. The immediate and long-term medical risks to the woman, in light of the anesthesia
16 and medication that is to be administered, the unborn child's gestational age, and the woman's
17 medical history and medical condition;

18 (c) Alternatives to the abortion which shall include making the woman aware that
19 information and materials shall be provided to her detailing such alternatives to the abortion;

20 (d) A statement that the physician performing or inducing the abortion is available for
21 any questions concerning the abortion, together with the telephone number that the physician
22 may be later reached to answer any questions that the woman may have;

23 (e) The location of the hospital that offers obstetrical or gynecological care located
24 within thirty miles of the location where the abortion is performed or induced and at which the

25 physician performing or inducing the abortion has clinical privileges and where the woman may
26 receive follow-up care by the physician if complications arise;

27 (f) The gestational age of the unborn child at the time the abortion is to be performed or
28 induced; and

29 (g) The anatomical and physiological characteristics of the unborn child at the time the
30 abortion is to be performed or induced;

31 (2) The physician who is to perform or induce the abortion or a qualified professional
32 has presented the woman, in person, printed materials provided by the department, which
33 describe the probable anatomical and physiological characteristics of the unborn child at
34 two-week gestational increments from conception to full term, including color photographs or
35 images of the developing unborn child at two-week gestational increments. Such descriptions
36 shall include information about brain and heart functions, the presence of external members and
37 internal organs during the applicable stages of development and information on when the unborn
38 child is viable. The printed materials shall prominently display the following statement: "The
39 life of each human being begins at conception. Abortion will terminate the life of a separate,
40 unique, living human being.";

41 (3) The physician who is to perform or induce the abortion or a qualified professional
42 has presented the woman, in person, printed materials provided by the department, which
43 describe the various surgical and drug-induced methods of abortion relevant to the stage of
44 pregnancy, as well as the immediate and long-term medical risks commonly associated with each
45 abortion method including, but not limited to, infection, hemorrhage, cervical tear or uterine
46 perforation, harm to subsequent pregnancies or the ability to carry a subsequent child to term,
47 and the possible adverse psychological effects associated with an abortion;

48 (4) The physician who is to perform or induce the abortion or a qualified professional
49 shall provide the woman with the opportunity to view at least seventy-two hours prior to the
50 abortion an active ultrasound of the unborn child and hear the heartbeat of the unborn child if
51 the heartbeat is audible. The woman shall be provided with a geographically indexed list
52 maintained by the department of health care providers, facilities, and clinics that perform
53 ultrasounds, including those that offer ultrasound services free of charge. Such materials shall
54 provide contact information for each provider, facility, or clinic including telephone numbers
55 and, if available, website addresses. Should the woman decide to obtain an ultrasound from a
56 provider, facility, or clinic other than the abortion facility, the woman shall be offered a
57 reasonable time to obtain the ultrasound examination before the date and time set for performing
58 or inducing an abortion. The person conducting the ultrasound shall ensure that the active
59 ultrasound image is of a quality consistent with standard medical practice in the community,
60 contains the dimensions of the unborn child, and accurately portrays the presence of external

61 members and internal organs, if present or viewable, of the unborn child. The auscultation of
62 fetal heart tone must also be of a quality consistent with standard medical practice in the
63 community. If the woman chooses to view the ultrasound or hear the heartbeat or both at the
64 abortion facility, the viewing or hearing or both shall be provided to her at the abortion facility
65 at least seventy-two hours prior to the abortion being performed or induced;

66 (5) Prior to an abortion being performed or induced on an unborn child of twenty-two
67 weeks gestational age or older, the physician who is to perform or induce the abortion or a
68 qualified professional has presented the woman, in person, printed materials provided by the
69 department that offer information on the possibility of the abortion causing pain to the unborn
70 child. This information shall include, but need not be limited to, the following:

71 (a) At least by twenty-two weeks of gestational age, the unborn child possesses all the
72 anatomical structures, including pain receptors, spinal cord, nerve tracts, thalamus, and cortex,
73 that are necessary in order to feel pain;

74 (b) A description of the actual steps in the abortion procedure to be performed or
75 induced, and at which steps the abortion procedure could be painful to the unborn child;

76 (c) There is evidence that by twenty-two weeks of gestational age, unborn children seek
77 to evade certain stimuli in a manner that in an infant or an adult would be interpreted as a
78 response to pain;

79 (d) Anesthesia is given to unborn children who are twenty-two weeks or more gestational
80 age who undergo prenatal surgery;

81 (e) Anesthesia is given to premature children who are twenty-two weeks or more
82 gestational age who undergo surgery;

83 (f) Anesthesia or an analgesic is available in order to minimize or alleviate the pain to
84 the unborn child;

85 (6) The physician who is to perform or induce the abortion or a qualified professional
86 has presented the woman, in person, printed materials provided by the department explaining to
87 the woman alternatives to abortion she may wish to consider. Such materials shall:

88 (a) Identify on a geographical basis public and private agencies available to assist a
89 woman in carrying her unborn child to term, and to assist her in caring for her dependent child
90 or placing her child for adoption, including agencies commonly known and generally referred
91 to as pregnancy resource centers, crisis pregnancy centers, maternity homes, and adoption
92 agencies. Such materials shall provide a comprehensive list by geographical area of the agencies,
93 a description of the services they offer, and the telephone numbers and addresses of the agencies;
94 provided that such materials shall not include any programs, services, organizations, or affiliates
95 of organizations that perform or induce, or assist in the performing or inducing of, abortions or
96 that refer for abortions;

97 (b) Explain the Missouri alternatives to abortion services program under section 188.325,
98 and any other programs and services available to pregnant women and mothers of newborn
99 children offered by public or private agencies which assist a woman in carrying her unborn child
100 to term and assist her in caring for her dependent child or placing her child for adoption,
101 including but not limited to prenatal care; maternal health care; newborn or infant care; mental
102 health services; professional counseling services; housing programs; utility assistance;
103 transportation services; food, clothing, and supplies related to pregnancy; parenting skills;
104 educational programs; job training and placement services; drug and alcohol testing and
105 treatment; and adoption assistance;

106 (c) Identify the state website for the Missouri alternatives to abortion services program
107 under section 188.325, and any toll-free number established by the state operated in conjunction
108 with the program;

109 (d) Prominently display the statement: "There are public and private agencies willing
110 and able to help you carry your child to term, and to assist you and your child after your child is
111 born, whether you choose to keep your child or place him or her for adoption. The state of
112 Missouri encourages you to contact those agencies before making a final decision about abortion.
113 State law requires that your physician or a qualified professional give you the opportunity to call
114 agencies like these before you undergo an abortion.";

115 (7) The physician who is to perform or induce the abortion or a qualified professional
116 has presented the woman, in person, printed materials provided by the department explaining that
117 the father of the unborn child is liable to assist in the support of the child, even in instances
118 where he has offered to pay for the abortion. Such materials shall include information on the
119 legal duties and support obligations of the father of a child, including, but not limited to, child
120 support payments, and the fact that paternity may be established by the father's name on a birth
121 certificate or statement of paternity, or by court action. Such printed materials shall also state
122 that more information concerning paternity establishment and child support services and
123 enforcement may be obtained by calling the family support division within the Missouri
124 department of social services; and

125 (8) The physician who is to perform or induce the abortion or a qualified professional
126 shall inform the woman that she is free to withhold or withdraw her consent to the abortion at
127 any time without affecting her right to future care or treatment and without the loss of any state
128 or federally funded benefits to which she might otherwise be entitled.

129 2. All information required to be provided to a woman considering abortion by
130 subsection 1 of this section shall be presented to the woman individually, in the physical
131 presence of the woman and in a private room, to protect her privacy, to maintain the
132 confidentiality of her decision, to ensure that the information focuses on her individual

133 circumstances, to ensure she has an adequate opportunity to ask questions, and to ensure that she
134 is not a victim of coerced abortion. Should a woman be unable to read materials provided to her,
135 they shall be read to her. Should a woman need an interpreter to understand the information
136 presented in the written materials, an interpreter shall be provided to her. Should a woman ask
137 questions concerning any of the information or materials, answers shall be provided in a
138 language she can understand.

139 3. No abortion shall be performed or induced unless and until the woman upon whom
140 the abortion is to be performed or induced certifies in writing on a checklist form provided by
141 the department that she has been presented all the information required in subsection 1 of this
142 section, that she has been provided the opportunity to view an active ultrasound image of the
143 unborn child and hear the heartbeat of the unborn child if it is audible, and that she further
144 certifies that she gives her voluntary and informed consent, freely and without coercion, to the
145 abortion procedure.

146 4. No abortion shall be performed or induced on an unborn child of twenty-two weeks
147 gestational age or older unless and until the woman upon whom the abortion is to be performed
148 or induced has been provided the opportunity to choose to have an anesthetic or analgesic
149 administered to eliminate or alleviate pain to the unborn child caused by the particular method
150 of abortion to be performed or induced. The administration of anesthesia or analgesics shall be
151 performed in a manner consistent with standard medical practice in the community.

152 5. No physician shall perform or induce an abortion unless and until the physician has
153 obtained from the woman her voluntary and informed consent given freely and without coercion.
154 If the physician has reason to believe that the woman is being coerced into having an abortion,
155 the physician or qualified professional shall inform the woman that services are available for her
156 and shall provide her with private access to a telephone and information about such services,
157 including but not limited to the following:

- 158 (1) Rape crisis centers, as defined in section 455.003;
159 (2) Shelters for victims of domestic violence, as defined in section 455.200; and
160 (3) Orders of protection, pursuant to chapter 455.

161 6. No physician shall perform or induce an abortion unless and until the physician has
162 received and signed a copy of the form prescribed in subsection 3 of this section. The physician
163 shall retain a copy of the form in the patient's medical record.

164 7. In the event of a medical emergency as provided by section 188.039, the physician
165 who performed or induced the abortion shall clearly certify in writing the nature and
166 circumstances of the medical emergency. This certification shall be signed by the physician who
167 performed or induced the abortion, and shall be maintained under section 188.060.

168 8. No person or entity shall require, obtain, or accept payment for an abortion from or
169 on behalf of a patient until at least seventy-two hours have passed since the time that the
170 information required by subsection 1 of this section has been provided to the patient. Nothing
171 in this subsection shall prohibit a person or entity from notifying the patient that payment for the
172 abortion will be required after the seventy-two-hour period has expired if she voluntarily chooses
173 to have the abortion.

174 9. The term "qualified professional" as used in this section shall **only** refer to a
175 physician~~], physician assistant, registered nurse, licensed practical nurse, psychologist, licensed~~
176 ~~professional counselor, or licensed social worker, licensed or registered under chapter 334, 335,~~
177 ~~or 337, acting under the supervision of the physician performing or inducing the abortion, and]~~
178 **who referred the woman to the physician performing or inducing the abortion or to an**
179 **advanced practice registered nurse in a collaborative practice arrangement with the**
180 **physician performing or inducing the abortion,** acting within the course and scope of his or
181 her authority provided by law. The provisions of this section shall not be construed to in any
182 way expand the authority otherwise provided by law relating to the licensure, registration, or
183 scope of practice of any such qualified professional.

184 10. By November 30, 2010, the department shall produce the written materials and forms
185 described in this section. Any written materials produced shall be printed in a typeface large
186 enough to be clearly legible. All information shall be presented in an objective, unbiased manner
187 designed to convey only accurate scientific and medical information. The department shall
188 furnish the written materials and forms at no cost and in sufficient quantity to any person who
189 performs or induces abortions, or to any hospital or facility that provides abortions. The
190 department shall make all information required by subsection 1 of this section available to the
191 public through its department website. The department shall maintain a toll-free,
192 twenty-four-hour hotline telephone number where a caller can obtain information on a regional
193 basis concerning the agencies and services described in subsection 1 of this section. No
194 identifying information regarding persons who use the website shall be collected or maintained.
195 The department shall monitor the website on a regular basis to prevent tampering and correct any
196 operational deficiencies.

197 11. In order to preserve the compelling interest of the state to ensure that the choice to
198 consent to an abortion is voluntary and informed, and given freely and without coercion, the
199 department shall use the procedures for adoption of emergency rules under section 536.025 in
200 order to promulgate all necessary rules, forms, and other necessary material to implement this
201 section by November 30, 2010.

202 12. If the provisions in subsections 1 and 8 of this section requiring a seventy-two-hour
203 waiting period for an abortion are ever temporarily or permanently restrained or enjoined by

204 judicial order, then the waiting period for an abortion shall be twenty-four hours; provided,
205 however, that if such temporary or permanent restraining order or injunction is stayed or
206 dissolved, or otherwise ceases to have effect, the waiting period for an abortion shall be
207 seventy-two hours.

188.030. 1. Except in the case of a medical emergency, no abortion of a viable unborn
2 child shall be performed or induced unless the abortion is necessary to preserve the life of the
3 pregnant woman whose life is endangered by a physical disorder, physical illness, or physical
4 injury, including a life-endangering physical condition caused by or arising from the pregnancy
5 itself, or when continuation of the pregnancy will create a serious risk of substantial and
6 irreversible physical impairment of a major bodily function of the pregnant woman. For
7 purposes of this section, "major bodily function" includes, but is not limited to, functions of the
8 immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory,
9 circulatory, endocrine, and reproductive functions.

10 2. Except in the case of a medical emergency:

11 (1) Prior to performing or inducing an abortion upon a woman, the physician shall
12 determine the gestational age of the unborn child in a manner consistent with accepted obstetrical
13 and neonatal practices and standards. In making such determination, the physician shall make
14 such inquiries of the pregnant woman and perform or cause to be performed such medical
15 examinations, imaging studies, and tests as a reasonably prudent physician, knowledgeable about
16 the medical facts and conditions of both the woman and the unborn child involved, would
17 consider necessary to perform and consider in making an accurate diagnosis with respect to
18 gestational age;

19 (2) If the physician determines that the gestational age of the unborn child is twenty
20 weeks or more, prior to performing or inducing an abortion upon the woman, the physician shall
21 determine if the unborn child is viable by using and exercising that degree of care, skill, and
22 proficiency commonly exercised by a skillful, careful, and prudent physician. In making this
23 determination of viability, the physician shall perform or cause to be performed such medical
24 examinations and tests as are necessary to make a finding of the gestational age, weight, and lung
25 maturity of the unborn child and shall enter such findings and determination of viability in the
26 medical record of the woman;

27 (3) If the physician determines that the gestational age of the unborn child is twenty
28 weeks or more, and further determines that the unborn child is not viable and performs or
29 induces an abortion upon the woman, the physician shall report such findings and determinations
30 and the reasons for such determinations to the health care facility in which the abortion is
31 performed and to the state board of registration for the healing arts, and shall enter such findings

32 and determinations in the medical records of the woman and in the individual abortion report
33 submitted to the department under section 188.052;

34 (4) (a) If the physician determines that the unborn child is viable, the physician shall not
35 perform or induce an abortion upon the woman unless the abortion is necessary to preserve the
36 life of the pregnant woman or that a continuation of the pregnancy will create a serious risk of
37 substantial and irreversible physical impairment of a major bodily function of the woman.

38 (b) Before a physician may proceed with performing or inducing an abortion upon a
39 woman when it has been determined that the unborn child is viable, the physician shall first
40 certify in writing the medical threat posed to the life of the pregnant woman, or the medical
41 reasons that continuation of the pregnancy would cause a serious risk of substantial and
42 irreversible physical impairment of a major bodily function of the pregnant woman. Upon
43 completion of the abortion, the physician shall report the reasons and determinations for the
44 abortion of a viable unborn child to the health care facility in which the abortion is performed
45 and to the state board of registration for the healing arts, and shall enter such findings and
46 determinations in the medical record of the woman and in the individual abortion report
47 submitted to the department under section 188.052.

48 (c) Before a physician may proceed with performing or inducing an abortion upon a
49 woman when it has been determined that the unborn child is viable, the physician who is to
50 perform the abortion shall obtain the agreement of a second physician with knowledge of
51 accepted obstetrical and neonatal practices and standards who shall concur that the abortion is
52 necessary to preserve the life of the pregnant woman, or that continuation of the pregnancy
53 would cause a serious risk of substantial and irreversible physical impairment of a major bodily
54 function of the pregnant woman. This second physician shall also report such reasons and
55 determinations to the health care facility in which the abortion is to be performed and to the state
56 board of registration for the healing arts, and shall enter such findings and determinations in the
57 medical record of the woman and the individual abortion report submitted to the department
58 under section 188.052. The second physician shall not have any legal or financial affiliation or
59 relationship with the physician performing or inducing the abortion, except that such prohibition
60 shall not apply to physicians whose legal or financial affiliation or relationship is a result of
61 being employed by or having staff privileges at the same hospital as the term "hospital" is
62 defined in section 197.020.

63 (d) Any physician who performs or induces an abortion upon a woman when it has been
64 determined that the unborn child is viable shall utilize the available method or technique of
65 abortion most likely to preserve the life or health of the unborn child. In cases where the method
66 or technique of abortion most likely to preserve the life or health of the unborn child would
67 present a greater risk to the life or health of the woman than another legally permitted and

68 available method or technique, the physician may utilize such other method or technique. In all
69 cases where the physician performs an abortion upon a viable unborn child, the physician shall
70 certify in writing the available method or techniques considered and the reasons for choosing the
71 method or technique employed.

72 (e) No physician shall perform or induce an abortion upon a woman when it has been
73 determined that the unborn child is viable unless there is in attendance a physician other than the
74 physician performing or inducing the abortion who shall take control of and provide immediate
75 medical care for a child born as a result of the abortion. During the performance of the abortion,
76 the physician performing it, and subsequent to the abortion, the physician required to be in
77 attendance, shall take all reasonable steps in keeping with good medical practice, consistent with
78 the procedure used, to preserve the life or health of the viable unborn child; provided that it does
79 not pose an increased risk to the life of the woman or does not pose an increased risk of
80 substantial and irreversible physical impairment of a major bodily function of the woman.

81 3. Any person who knowingly performs or induces an abortion of an unborn child in
82 violation of the provisions of this section is guilty of a class D felony, and, upon a finding of
83 guilt or plea of guilty, shall be imprisoned for a term of not less than one year, and,
84 notwithstanding the provisions of section 558.002, shall be fined not less than ten thousand nor
85 more than fifty thousand dollars.

86 4. Any physician who pleads guilty to or is found guilty of performing or inducing an
87 abortion of an unborn child in violation of this section shall be subject to suspension or
88 revocation of his or her license to practice medicine in the state of Missouri by the state board
89 of registration for the healing arts under the provisions of sections 334.100 and 334.103.

90 5. Any hospital licensed in the state of Missouri that knowingly allows an abortion of
91 an unborn child to be performed or induced in violation of this section may be subject to
92 suspension or revocation of its license under the provisions of section 197.070.

93 6. Any ~~ambulatory surgical center~~ **abortion facility** licensed in the state of Missouri
94 that knowingly allows an abortion of an unborn child to be performed or induced in violation of
95 this section may be subject to suspension or revocation of its license under the provisions of
96 section 197.220.

97 7. A woman upon whom an abortion is performed or induced in violation of this section
98 shall not be prosecuted for a conspiracy to violate the provisions of this section.

99 8. Nothing in this section shall be construed as creating or recognizing a right to
100 abortion, nor is it the intention of this section to make lawful any abortion that is currently
101 unlawful.

102 9. It is the intent of the legislature that this section be severable as noted in section 1.140.
103 In the event that any section, subsection, subdivision, paragraph, sentence, or clause of this

104 section be declared invalid under the Constitution of the United States or the Constitution of the
105 State of Missouri, it is the intent of the legislature that the remaining provisions of this section
106 remain in force and effect as far as capable of being carried into execution as intended by the
107 legislature.

108 10. The general assembly may, by concurrent resolution, appoint one or more of its
109 members who sponsored or co-sponsored this act in his or her official capacity to intervene as
110 a matter of right in any case in which the constitutionality of this law is challenged.

188.039. 1. For purposes of this section, "medical emergency" means a condition which,
2 on the basis of the physician's good faith clinical judgment, so complicates the medical condition
3 of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death
4 or for which a delay will create a serious risk of substantial and irreversible impairment of a
5 major bodily function.

6 2. Except in the case of medical emergency, no person shall perform or induce an
7 abortion unless at least seventy-two hours prior thereto the physician who is to perform or induce
8 the abortion or a qualified professional has conferred with the patient and discussed with her the
9 indicators and contraindicators, and risk factors including any physical, psychological, or
10 situational factors for the proposed procedure and the use of medications, including but not
11 limited to mifepristone, in light of her medical history and medical condition. For an abortion
12 performed or an abortion induced by a drug or drugs, such conference shall take place at least
13 seventy-two hours prior to the writing or communication of the first prescription for such drug
14 or drugs in connection with inducing an abortion. Only one such conference shall be required
15 for each abortion.

16 3. The patient shall be evaluated by the physician who is to perform or induce the
17 abortion or a qualified professional during the conference for indicators and contraindicators, risk
18 factors including any physical, psychological, or situational factors which would predispose the
19 patient to or increase the risk of experiencing one or more adverse physical, emotional, or other
20 health reactions to the proposed procedure or drug or drugs in either the short or long term as
21 compared with women who do not possess such risk factors.

22 4. At the end of the conference, and if the woman chooses to proceed with the abortion,
23 the physician who is to perform or induce the abortion or a qualified professional shall sign and
24 shall cause the patient to sign a written statement that the woman gave her informed consent
25 freely and without coercion after the physician or qualified professional had discussed with her
26 the indicators and contraindicators, and risk factors, including any physical, psychological, or
27 situational factors. All such executed statements shall be maintained as part of the patient's
28 medical file, subject to the confidentiality laws and rules of this state.

29 5. The director of the department of health and senior services shall disseminate a model
30 form that physicians or qualified professionals may use as the written statement required by this
31 section, but any lack or unavailability of such a model form shall not affect the duties of the
32 physician or qualified professional set forth in subsections 2 to 4 of this section.

33 6. As used in this section, the term "qualified professional" shall **only** refer to a
34 physician~~], physician assistant, registered nurse, licensed practical nurse, psychologist, licensed~~
35 ~~professional counselor, or licensed social worker, licensed or registered under chapter 334, 335,~~
36 ~~or 337, acting under the supervision of]~~ **who referred the woman to the physician performing**
37 **or inducing the abortion or to an advanced practice registered nurse in a collaborative**
38 **practice arrangement with** the physician performing or inducing the abortion, ~~and]~~ acting
39 within the course and scope of his or her authority provided by law. The provisions of this
40 section shall not be construed to in any way expand the authority otherwise provided by law
41 relating to the licensure, registration, or scope of practice of any such qualified professional.

42 7. If the provisions in subsection 2 of this section requiring a seventy-two-hour waiting
43 period for an abortion are ever temporarily or permanently restrained or enjoined by judicial
44 order, then the waiting period for an abortion shall be twenty-four hours; provided, however, that
45 if such temporary or permanent restraining order or injunction is stayed or dissolved, or
46 otherwise ceases to have effect, the waiting period for an abortion shall be seventy-two hours.

188.075. 1. Any person who contrary to the provisions of sections 188.010 to 188.085
2 knowingly performs, induces, or aids in the performance or inducing of any abortion or
3 knowingly fails to perform any action required by sections 188.010 to 188.085 shall be guilty of
4 a class A misdemeanor, unless a different penalty is provided for in state law, and, upon
5 conviction, shall be punished as provided by law.

6 2. It shall be an affirmative defense for any person alleged to have violated any provision
7 of this chapter that the person performed an action or did not perform an action because of a
8 medical emergency. This affirmative defense shall be available in criminal, civil, and
9 administrative actions or proceedings. The defendant shall have the burden of persuasion that
10 the defense is more probably true than not.

11 **3. The attorney general shall have concurrent original jurisdiction throughout the**
12 **state, along with each prosecuting attorney and circuit attorney within their respective**
13 **jurisdictions, to commence actions for a violation of any provision of this chapter, for a**
14 **violation of any state law on the use of public funds for an abortion, or for a violation of**
15 **any state law which regulates an abortion facility or a person who performs or induces an**
16 **abortion. The attorney general, or prosecuting attorney or circuit attorney within their**
17 **respective jurisdictions, may seek injunctive or other relief against any person who, or**
18 **entity which, is in violation of any provision of this chapter, misuses public funds for an**

19 **abortion, or violates any state law which regulates an abortion facility or a person who**
20 **performs or induces an abortion.**

192.665. As used in this section, section 192.667, and sections 197.150 to 197.165, the
2 following terms mean:

3 (1) "Charge data", information submitted by health care providers on current charges for
4 leading procedures and diagnoses;

5 (2) "Charges by payer", information submitted by hospitals on amount billed to
6 Medicare, Medicaid, other government sources and all nongovernment sources combined as one
7 data element;

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

9 (4) "Financial data", information submitted by hospitals drawn from financial statements
10 which includes the balance sheet, income statement, charity care and bad debt and charges by
11 payer, prepared in accordance with generally accepted accounting principles;

12 (5) "Health care provider", hospitals as defined in section 197.020 and ambulatory
13 surgical centers **and abortion facilities** as defined in section 197.200;

14 (6) "Nosocomial infection", as defined by the national Centers for Disease Control and
15 Prevention and applied to infections within hospitals, ambulatory surgical centers, **abortion**
16 **facilities**, and other facilities;

17 (7) "Nosocomial infection incidence rate", a risk-adjusted measurement of new cases of
18 nosocomial infections by procedure or device within a population over a given period of time,
19 with such measurements defined by rule of the department pursuant to subsection 3 of section
20 192.667 for use by all hospitals, ambulatory surgical centers, **abortion facilities**, and other
21 facilities in complying with the requirements of the Missouri nosocomial infection control act
22 of 2004;

23 (8) "Other facility", a type of facility determined to be a source of infections and
24 designated by rule of the department pursuant to subsection 11 of section 192.667;

25 (9) "Patient abstract data", data submitted by hospitals which includes but is not limited
26 to date of birth, sex, race, zip code, county of residence, admission date, discharge date, principal
27 and other diagnoses, including external causes, principal and other procedures, procedure dates,
28 total billed charges, disposition of the patient and expected source of payment with sources
29 categorized according to Medicare, Medicaid, other government, workers' compensation, all
30 commercial payors coded with a common code, self-pay, no charge and other.

192.667. 1. All health care providers shall at least annually provide to the department
2 charge data as required by the department. All hospitals shall at least annually provide patient
3 abstract data and financial data as required by the department. Hospitals as defined in section
4 197.020 shall report patient abstract data for outpatients and inpatients. Ambulatory surgical

5 centers **and abortion facilities** as defined in section 197.200 shall provide patient abstract data
6 to the department. The department shall specify by rule the types of information which shall be
7 submitted and the method of submission.

8 2. The department shall collect data on the incidence of health care-associated infections
9 from hospitals, ambulatory surgical centers, **abortion facilities**, and other facilities as necessary
10 to generate the reports required by this section. Hospitals, ambulatory surgical centers, **abortion**
11 **facilities**, and other facilities shall provide such data in compliance with this section.

12 3. The department shall promulgate rules specifying the standards and procedures for the
13 collection, analysis, risk adjustment, and reporting of the incidence of health care-associated
14 infections and the types of infections and procedures to be monitored pursuant to subsection 13
15 of this section. In promulgating such rules, the department shall:

16 (1) Use methodologies and systems for data collection established by the federal Centers
17 for Disease Control and Prevention's National Healthcare Safety Network, or its successor; and

18 (2) Consider the findings and recommendations of the infection control advisory panel
19 established pursuant to section 197.165.

20 4. By January 1, 2017, the infection control advisory panel created by section 197.165
21 shall make recommendations to the department regarding the Centers for Medicare and Medicaid
22 Services' health care-associated infection data collection, analysis, and public reporting
23 requirements for hospitals, ambulatory surgical centers, and other facilities in the federal Centers
24 for Disease Control and Prevention's National Healthcare Safety Network, or its successor, in
25 lieu of all or part of the data collection, analysis, and public reporting requirements of this
26 section. The advisory panel recommendations shall address which hospitals shall be required
27 as a condition of licensure to use the National Healthcare Safety Network for data collection; the
28 use of the National Healthcare Safety Network for risk adjustment and analysis of hospital
29 submitted data; and the use of the Centers for Medicare and Medicaid Services' Hospital
30 Compare website, or its successor, for public reporting of the incidence of health care-associated
31 infection metrics. The advisory panel shall consider the following factors in developing its
32 recommendation:

33 (1) Whether the public is afforded the same or greater access to facility-specific infection
34 control indicators and metrics;

35 (2) Whether the data provided to the public is subject to the same or greater accuracy of
36 risk adjustment;

37 (3) Whether the public is provided with the same or greater specificity of reporting of
38 infections by type of facility infections and procedures;

39 (4) Whether the data is subject to the same or greater level of confidentiality of the
40 identity of an individual patient;

41 (5) Whether the National Healthcare Safety Network, or its successor, has the capacity
42 to receive, analyze, and report the required data for all facilities;

43 (6) Whether the cost to implement the National Healthcare Safety Network infection data
44 collection and reporting system is the same or less.

45 5. After considering the recommendations of the infection control advisory panel, and
46 provided that the requirements of subsection 13 of this section can be met, the department shall
47 implement guidelines from the federal Centers for Disease Control and Prevention's National
48 Healthcare Safety Network, or its successor. It shall be a condition of licensure for hospitals that
49 meet the minimum public reporting requirements of the National Healthcare Safety Network and
50 the Centers for Medicare and Medicaid Services to participate in the National Healthcare Safety
51 Network, or its successor. Such hospitals shall permit the National Healthcare Safety Network,
52 or its successor, to disclose facility-specific infection data to the department as required under
53 this section, and as necessary to provide the public reports required by the department. It shall
54 be a condition of licensure for any ambulatory surgical center **or abortion facility** which does
55 not voluntarily participate in the National Healthcare Safety Network, or its successor, to submit
56 facility-specific data to the department as required under this section, and as necessary to provide
57 the public reports required by the department.

58 6. The department shall not require the resubmission of data which has been submitted
59 to the department of health and senior services or the department of social services under any
60 other provision of law. The department of health and senior services shall accept data submitted
61 by associations or related organizations on behalf of health care providers by entering into
62 binding agreements negotiated with such associations or related organizations to obtain data
63 required pursuant to section 192.665 and this section. A health care provider shall submit the
64 required information to the department of health and senior services:

65 (1) If the provider does not submit the required data through such associations or related
66 organizations;

67 (2) If no binding agreement has been reached within ninety days of August 28, 1992,
68 between the department of health and senior services and such associations or related
69 organizations; or

70 (3) If a binding agreement has expired for more than ninety days.

71 7. Information obtained by the department under the provisions of section 192.665 and
72 this section shall not be public information. Reports and studies prepared by the department
73 based upon such information shall be public information and may identify individual health care
74 providers. The department of health and senior services may authorize the use of the data by
75 other research organizations pursuant to the provisions of section 192.067. The department shall
76 not use or release any information provided under section 192.665 and this section which would

77 enable any person to determine any health care provider's negotiated discounts with specific
78 preferred provider organizations or other managed care organizations. The department shall not
79 release data in a form which could be used to identify a patient. Any violation of this subsection
80 is a class A misdemeanor.

81 8. The department shall undertake a reasonable number of studies and publish
82 information, including at least an annual consumer guide, in collaboration with health care
83 providers, business coalitions and consumers based upon the information obtained pursuant to
84 the provisions of section 192.665 and this section. The department shall allow all health care
85 providers and associations and related organizations who have submitted data which will be used
86 in any publication to review and comment on the publication prior to its publication or release
87 for general use. The publication shall be made available to the public for a reasonable charge.

88 9. Any health care provider which continually and substantially, as these terms are
89 defined by rule, fails to comply with the provisions of this section shall not be allowed to
90 participate in any program administered by the state or to receive any moneys from the state.

91 10. A hospital, as defined in section 197.020, aggrieved by the department's
92 determination of ineligibility for state moneys pursuant to subsection 9 of this section may appeal
93 as provided in section 197.071. An ambulatory surgical center **or abortion facility** as defined
94 in section 197.200 aggrieved by the department's determination of ineligibility for state moneys
95 pursuant to subsection 9 of this section may appeal as provided in section 197.221.

96 11. The department of health may promulgate rules providing for collection of data and
97 publication of the incidence of health care-associated infections for other types of health facilities
98 determined to be sources of infections; except that, physicians' offices shall be exempt from
99 reporting and disclosure of such infections.

100 12. By January 1, 2017, the advisory panel shall recommend and the department shall
101 adopt in regulation with an effective date of no later than January 1, 2018, the requirements for
102 the reporting of the following types of infections as specified in this subsection:

103 (1) Infections associated with a minimum of four surgical procedures for hospitals and
104 a minimum of two surgical procedures for ambulatory surgical centers that meet the following
105 criteria:

106 (a) Are usually associated with an elective surgical procedure. An "elective surgical
107 procedure" is a planned, nonemergency surgical procedure that may be either medically required
108 such as a hip replacement or optional such as breast augmentation;

109 (b) Demonstrate a high priority aspect such as affecting a large number of patients,
110 having a substantial impact for a smaller population, or being associated with substantial cost,
111 morbidity, or mortality; or

112 (c) Are infections for which reports are collected by the National Healthcare Safety
113 Network or its successor;

114 (2) Central line-related bloodstream infections;

115 (3) Health care-associated infections specified for reporting by hospitals, ambulatory
116 surgical centers, and other health care facilities by the rules of the Centers for Medicare and
117 Medicaid Services to the federal Centers for Disease Control and Prevention's National
118 Healthcare Safety Network, or its successor; and

119 (4) Other categories of infections that may be established by rule by the department.

120

121 The department, in consultation with the advisory panel, shall be authorized to collect and report
122 data on subsets of each type of infection described in this subsection.

123 13. In consultation with the infection control advisory panel established pursuant to
124 section 197.165, the department shall develop and disseminate to the public reports based on data
125 compiled for a period of twelve months. Such reports shall be updated quarterly and shall show
126 for each hospital, ambulatory surgical center, **abortion facility**, and other facility metrics on risk
127 adjusted health care-associated infections under this section.

128 14. The types of infections under subsection 12 of this section to be publicly reported
129 shall be determined by the department by rule and shall be consistent with the infections tracked
130 by the National Healthcare Safety Network, or its successor.

131 15. Reports published pursuant to subsection 13 of this section shall be published and
132 readily accessible on the department's internet website. The reports shall be distributed at least
133 annually to the governor and members of the general assembly. The department shall make such
134 reports available to the public for a period of at least two years.

135 16. The Hospital Industry Data Institute shall publish a report of Missouri hospitals'
136 ~~[and]~~ , ambulatory surgical centers', **and abortion facilities'** compliance with standardized
137 quality of care measures established by the federal Centers for Medicare and Medicaid Services
138 for prevention of infections related to surgical procedures. If the Hospital Industry Data Institute
139 fails to do so by July 31, 2008, and annually thereafter, the department shall be authorized to
140 collect information from the Centers for Medicare and Medicaid Services or from hospitals ~~[and]~~
141 , ambulatory surgical centers, **and abortion facilities** and publish such information in
142 accordance with this section.

143 17. The data collected or published pursuant to this section shall be available to the
144 department for purposes of licensing hospitals ~~[and]~~ , ambulatory surgical centers, **and abortion**
145 **facilities** pursuant to chapter 197.

146 18. The department shall promulgate rules to implement the provisions of section
147 192.131 and sections 197.150 to 197.160. Any rule or portion of a rule, as that term is defined

148 in section 536.010, that is created under the authority delegated in this section shall become
149 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if
150 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the
151 powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective
152 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
153 rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid
154 and void.

155 19. No later than August 28, 2017, each hospital, excluding mental health facilities as
156 defined in section 632.005, and each ambulatory surgical center **and abortion facility** as defined
157 in section 197.200, shall in consultation with its medical staff establish an antimicrobial
158 stewardship program for evaluating the judicious use of antimicrobials, especially antibiotics that
159 are the last line of defense against resistant infections. The hospital's stewardship program and
160 the results of the program shall be monitored and evaluated by hospital quality improvement
161 departments and shall be available upon inspection to the department. At a minimum, the
162 antimicrobial stewardship program shall be designed to evaluate that hospitalized patients
163 receive, in accordance with accepted medical standards of practice, the appropriate antimicrobial,
164 at the appropriate dose, at the appropriate time, and for the appropriate duration.

165 20. Hospitals described in subsection 19 of this section shall meet the National
166 Healthcare Safety Network requirements for reporting antimicrobial usage or resistance by using
167 the Centers for Disease Control and Prevention's Antimicrobial Use and Resistance (AUR)
168 Module when regulations concerning Stage 3 of the Medicare and Medicaid Electronic Health
169 Records Incentive Programs promulgated by the Centers for Medicare and Medicaid Services
170 that enable the electronic interface for such reporting are effective. When such antimicrobial
171 usage or resistance reporting takes effect, hospitals shall authorize the National Healthcare Safety
172 Network, or its successor, to disclose to the department facility-specific information reported to
173 the AUR Module. Facility-specific data on antibiotic usage and resistance collected under this
174 subsection shall not be disclosed to the public, but the department may release case-specific
175 information to other facilities, physicians, and the public if the department determines on a
176 case-by-case basis that the release of such information is necessary to protect persons in a public
177 health emergency.

178 21. The department shall make a report to the general assembly beginning January 1,
179 2018, and on every January first thereafter on the incidence, type, and distribution of
180 antimicrobial-resistant infections identified in the state and within regions of the state.

197.150. The department shall require that each hospital, ambulatory surgical center,
2 **abortion facility**, and other facility have in place procedures for monitoring and enforcing
3 compliance with infection control regulations and standards. Such procedures shall be

4 coordinated with administrative staff, personnel staff, and the quality improvement program.
5 Such procedures shall include, at a minimum, requirements for the facility's infection control
6 program to conduct surveillance of personnel with a portion of the surveillance to be done in
7 such manner that employees and medical staff are observed without their knowledge of such
8 observation, provided that this unobserved surveillance requirement shall not be considered to
9 be grounds for licensure enforcement action by the department until the department establishes
10 clear and verifiable criteria for determining compliance. Such surveillance also may include
11 monitoring of the rate of use of hand hygiene products.

197.152. 1. Infection control officers as defined in federal regulation and other hospital
2 ~~[and]~~ , ambulatory surgical center, **and abortion facility** employees shall be protected against
3 retaliation by the hospital ~~[or]~~ , ambulatory surgical center, **or abortion facility** for reporting
4 infection control concerns pursuant to section 197.285 and shall be entitled to the full benefits
5 of that section. Such infection control officers shall report any interference in the performance
6 of their duties by their supervisors to the hospital ~~[or]~~ , ambulatory surgical center, **or abortion**
7 **facility** compliance officer established by and empowered to act pursuant to section 197.285.

8 2. Infection control officers as defined in federal regulation shall also have the authority
9 to order the cessation of a practice that falls outside accepted practices as defined by appropriate
10 state and federal regulatory agencies, accreditation organizations, or the standards adopted by the
11 Centers for Disease Control and Prevention or the Association of Professionals in Infection
12 Control and Epidemiology. The hospital ~~[or]~~ , ambulatory surgical center, **or abortion facility**
13 may require that such a cessation order of an infection control officer be endorsed by the hospital
14 ~~[or]~~ , ambulatory surgical center, **or abortion facility** chief executive officer or his or her
15 designee before taking effect. The hospital ~~[or]~~ , ambulatory surgical center, **or abortion facility**
16 infection control committee shall convene as soon as possible to review such cessation order and
17 may overrule or sustain the directive of the infection control officer. The department shall
18 promulgate rules governing documentation of such events.

19 3. Members of the medical staff who report in good faith infection control concerns to
20 the hospital ~~[or]~~ , ambulatory surgical center, **or abortion facility** administration or medical staff
21 leadership shall not be subject to retaliation or discrimination for doing so. Nothing in this
22 section shall prevent or shield medical staff members from being subject to professional review
23 actions for substandard care or breach of standards established in hospital policy, rules, or
24 medical staff bylaws.

197.158. Every hospital ~~[and]~~ , ambulatory surgery center, **and abortion facility** shall,
2 beginning June 1, 2006, provide each patient an opportunity to submit to the hospital ~~[or]~~ ,
3 ambulatory surgical center, **or abortion facility** administration complaints, comments, and

4 suggestions related to the care they received or their personal observations related to the quality
5 of care provided. The department shall promulgate rules to implement this section.

197.160. The department of health and senior services shall have access to all data and
2 information held by hospitals, ambulatory surgical centers, **abortion facilities**, and other
3 facilities related to their infection control practices, rates, or treatments of infections. Failure to
4 provide such access shall be grounds for full or partial licensure suspension or revocation
5 pursuant to section 197.293, sections 197.010 to 197.100, or sections 197.200 to 197.240. If the
6 department determines that the hospital, ambulatory surgical center, **abortion facility**, or other
7 facility is willfully impeding access to such information, the department shall be authorized to
8 direct all state agencies to suspend all or a portion of state payments to such ~~[hospital]~~ **entity**
9 until such time as the desired information is obtained by the department.

197.162. The department shall in its licensure of hospitals ~~[and]~~ , ambulatory surgical
2 centers, **and abortion facilities** give special attention to infection control practices and shall
3 direct hospitals ~~[and]~~ , ambulatory surgical centers, **and abortion facilities** to set quantifiable
4 measures of performance for reducing the incidence of nosocomial infections in Missouri. The
5 department shall prepare an annual report on infection control standards and compliance, which
6 shall be shared with the governor and the general assembly.

197.165. 1. The department shall appoint an "Infection Control Advisory Panel" for the
2 purposes of implementing sections 192.131 and 192.667.

3 2. Members of the infection control advisory panel shall include:

4 (1) Two public members;

5 (2) Three board-certified or board-eligible physicians licensed pursuant to chapter 334
6 who are affiliated with a Missouri hospital or medical school, active members of the Society for
7 Health Care Epidemiology of America, and have demonstrated interest and expertise in health
8 facility infection control;

9 (3) One physician licensed pursuant to chapter 334 who is active in the practice of
10 medicine in Missouri and who holds medical staff privileges at a Missouri hospital;

11 (4) Four infection control practitioners certified by the certification board of infection
12 control and epidemiology, at least two of whom shall be practicing in a rural hospital or setting
13 and at least two of whom shall be registered professional nurses licensed under chapter 335;

14 (5) A medical statistician with an advanced degree in such specialty;

15 (6) A clinical microbiologist with an advanced degree in such specialty;

16 (7) Three employees of the department, representing the functions of hospital ~~[and]~~ ,
17 ambulatory surgical center, **and abortion facility** licensure, epidemiology and health data
18 analysis, who shall serve as ex officio nonvoting members of the panel.

19 3. Reasonable expenses of the panel shall be paid from private donations made
20 specifically for that purpose to the "Infection Control Advisory Panel Fund", which is hereby
21 created in the state treasury. If such donations are not received from private sources, then the
22 provisions of this act shall be implemented without the advisory panel.

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

3 (1) **"Abortion facility", any establishment operated for the purpose of performing**
4 **or inducing any second or third-trimester abortions or five or more first-trimester**
5 **abortions per month, and which does not provide services or other accommodations for**
6 **patients to stay more than twenty-three hours within the establishment;**

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

14 [~~(2)~~] (3) "Dentist", any person currently licensed to practice dentistry pursuant to chapter
15 332;

16 [~~(3)~~] (4) "Department", the department of health and senior services;

17 [(4)] (5) "Governmental unit", any city, county or other political subdivision of this state,
18 or any department, division, board or other agency of any political subdivision of this state;

19 [(5)] (6) "Person", any individual, firm, partnership, corporation, company, or association
20 and the legal successors thereof;

21 [(6)] (7) "Physician", any person currently licensed to practice medicine pursuant to
22 chapter 334;

23 [(7)] (8) "Podiatrist", any person currently licensed to practice podiatry pursuant to
24 chapter 330.

197.205. 1. No person or governmental unit acting severally or jointly with any other
2 person or governmental unit shall establish, conduct or maintain an ambulatory surgical center
3 **or abortion facility** in this state without a license under sections 197.200 to 197.240 issued by
4 the department of health and senior services.

5 2. Nothing in sections 197.200 to 197.240 shall be construed to impair or abridge the
6 authority of a governmental unit to license ambulatory surgical centers **or abortion facilities**,
7 provided that any ordinance of a governmental unit shall require compliance with all rules,

8 regulations, and standards adopted by the department to implement the provisions of sections
9 197.200 to 197.240.

197.215. 1. Upon receipt of an application for a license, the department of health and
2 senior services shall issue a license if the applicant and ambulatory surgical center facilities **or**
3 **abortion facilities** meet the requirements established under sections 197.200 to 197.240, and
4 have provided affirmative evidence that:

5 (1) Each member of the surgical staff is a physician, dentist or podiatrist currently
6 licensed to practice in Missouri, **and each person authorized to perform or induce abortions**
7 **is a physician currently licensed to practice in Missouri;**

8 (2) Surgical procedures **in ambulatory surgical centers or abortion facilities** shall be
9 performed only by physicians, dentists or podiatrists, who at the time are privileged to perform
10 surgical procedures in at least one licensed hospital in the community in which the ambulatory
11 surgical center **or abortion facility** is located, thus providing assurance to the public that
12 patients treated in the center **or facility** shall receive continuity of care should the services of a
13 hospital be required; alternatively, applicant shall submit a copy of a current working agreement
14 with at least one licensed hospital in the community in which the ambulatory surgical center **or**
15 **abortion facility** is located, guaranteeing the transfer and admittance of patients for emergency
16 treatment whenever necessary;

17 (3) Continuous physician services or registered professional nursing services are
18 provided whenever a patient is in the facility;

19 (4) Adequate medical records for each patient are to be maintained.

20 2. Upon receipt of an application for a license, or the renewal thereof, the department
21 shall issue or renew the license if the applicant and program meet the requirements established
22 under sections 197.200 to 197.240. Each license shall be issued only for the persons and
23 premises named in the application. A license, unless sooner suspended or revoked, shall be
24 issued for a period of one year.

25 3. Each license shall be issued only for the premises and persons or governmental units
26 named in the application, and shall not be transferable or assignable except with the written
27 consent of the department. Licenses shall be posted in a conspicuous place on the licensed
28 premises.

29 4. If, during the period in which an ambulatory surgical center license **or an abortion**
30 **facility license** is in effect, the license holder or operator legally transfers operational
31 responsibilities by any process to another person as defined in section 197.200, an application
32 shall be made for the issuance of a new license to become effective on the transfer date.

197.220. The department of health and senior services may deny, suspend or revoke a
2 license in any case in which the department finds that there has been a substantial failure to

3 comply with the requirements of sections 197.200 to 197.240, or in any case in which the
4 director of the department makes a finding that:

5 (1) The applicant, or if the applicant is a firm, partnership or association, any of its
6 members, or if a corporation, any of its officers or directors, or the person designated to manage
7 or supervise the facility, has been finally adjudicated and found guilty, or entered a plea of guilty
8 or nolo contendere, in a criminal prosecution under the laws of any state or of the United States,
9 for any offense reasonably related to the qualifications, functions, or duties of an ambulatory
10 surgical center **or of an abortion facility**, or for any offense an essential element of which is
11 fraud, dishonesty, or an act of violence, or for any offense involving moral turpitude, whether
12 or not sentence is imposed;

13 (2) The licensure status or record of the applicant, or if the applicant is a firm,
14 partnership or association, of any of its members, or if a corporation, of any of its officers or
15 directors, or of the person designated to manage or supervise the facility, from any other state,
16 federal district or land, territory or commonwealth of the United States, or of any foreign country
17 where the applicant has done business in a similar capacity indicates that granting a license to
18 the applicant would be detrimental to the interests of the public.

197.225. 1. The department of health and senior services may adopt such reasonable
2 rules, regulations, and standards for the types of services provided as are necessary to carry out
3 the provisions of sections 197.200 to 197.240, and to assure quality patient care and patient
4 safety, which shall include, but not be limited to:

5 (1) Construction of the facility including, but not limited to, plumbing, heating, lighting,
6 and ventilation which should insure the health, safety, comfort, and privacy of patients and
7 protection from fire hazard;

8 (2) Number, qualifications, and organization of all personnel, having responsibility for
9 any part of the care provided to the patients;

10 (3) Equipment essential to the health, welfare, and safety of the patients;

11 (4) Facilities, programs, and services to be provided in connection with the care of
12 patients in ambulatory surgical centers; and

13 (5) Procedures for peer review and for receiving and investigating complaints regarding
14 any ambulatory surgical center or any physician, dentist, podiatrist, nurse, assistant, manager,
15 supervisor, or employee practicing or working in any such facility.

16 **2. The department of health and senior services may adopt separate rules,**
17 **regulations, or standards to apply to ambulatory surgical centers and to apply to abortion**
18 **facilities. Any rule, regulation, or standard that applies to an abortion facility shall, at a**
19 **minimum, be equal to any physical requirement of an ambulatory surgical center.**

197.230. 1. The department of health and senior services shall make, or cause to be made, such inspections and investigations as it deems necessary. The department may delegate its powers and duties to investigate and inspect ambulatory surgical centers **or abortion facilities** to an official of a political subdivision having a population of at least four hundred fifty thousand if such political subdivision is deemed qualified by the department to inspect and investigate ambulatory surgical centers. The official so designated shall submit a written report of his **or her** findings to the department and the department may accept the recommendations of such official if it determines that the facility inspected meets minimum standards established pursuant to sections 197.200 to 197.240.

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

(1) **Compliance with all statutory and regulatory requirements for an abortion facility, including requirements that the facility maintain adequate staffing and equipment to respond to medical emergencies;**

(2) **Compliance with the requirement in section 188.047 that all organs or tissue removed at the time of abortion be submitted to a board certified or eligible pathologist and that the resultant organs and tissue report be made a part of the patient's permanent record;**

(3) **Review of patient records to ensure that no consent forms or other documentation authorizes any utilization of organs or tissue in violation of sections 188.036 and 194.275;**

(4) **Compliance with sections 188.205, 188.210, and 188.215 prohibiting the use of public funds, facilities, and employees to perform or to assist a prohibited abortion or to encourage or to counsel a woman to have a prohibited abortion; and**

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

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

197.235. 1. Any person operating, conducting, managing, or establishing an ambulatory surgical center **or abortion facility** without a license required by sections 197.200 to 197.240 is guilty of a class A misdemeanor and, upon conviction, shall be subject to a fine of not more than five hundred dollars. Each day of continuing violation shall constitute a separate offense.

2. The attorney general shall represent the department of health and senior services and

6 shall institute an action in the name of the state for injunctive or other relief against any person
7 or governmental unit to restrain or prevent the establishment, conduct, management, or operation
8 of an ambulatory surgical center **or abortion facility** without a license issued pursuant to the
9 provisions of sections 197.200 to 197.240.

10 3. Any person operating, conducting, managing, or establishing an ambulatory surgical
11 center **or abortion facility** who, in the course of advertising, promoting, or otherwise publicizing
12 the activities, business, location, or any other matter concerning the operations of said
13 ambulatory surgical center **or abortion facility**, uses or employs in any manner the words "State,
14 Missouri, State of Missouri, Department of Health and Senior Services, the initials 'Mo.'," or any
15 emblem of the state of Missouri or the department of health and senior services, for the purpose
16 of conveying or in any manner reasonably calculated to convey the false impression that the state
17 of Missouri or any department, agency, bureau, or instrumentality thereof is involved in the
18 business of said ambulatory surgical center **or abortion facility**, or took part in said
19 advertisement, promotion, publicity, or other statement, shall be subject to a fine of one hundred
20 dollars per day for each day during the period beginning with the day said advertisement,
21 promotion, publication, or statement first appears and ending on the day on which it is
22 withdrawn.

197.240. After September 28, 1975, no individual or group health insurance policy of
2 insurance providing coverage on an expense incurred basis, nor individual or group service or
3 indemnity type contract issued by a nonprofit corporation, nor any self-insured group health
4 benefit plan or trust, of any kind or description, shall be issued or payment accepted therefor in
5 renewal or continuation thereof unless coverage for any service performed in an ambulatory
6 surgical center **or abortion facility** is provided for therein if such service would have been
7 covered under the terms of the policy or contract as an eligible inpatient service, except as
8 provided in section 376.805. Nothing in this section shall apply to a group contract, plan or trust
9 which provides health care and surgical care directly to its members and their dependents.
10 Nothing in this section shall be construed to mandate coverage under an individual or group
11 health insurance policy of insurance providing coverage on an expense incurred basis, or an
12 individual or group service or indemnity type contract issued by a nonprofit corporation, or any
13 self-insured group health benefit plan or trust, of any kind or description, to provide health
14 insurance for services which are usually performed in a physician's office.

197.285. 1. Hospitals [~~and~~] , ambulatory surgical centers, **and abortion facilities** shall
2 establish and implement a written policy adopted by each hospital [~~and~~] , ambulatory surgical
3 center, **and abortion facility** relating to the protections for employees who disclose information
4 pursuant to subsection 2 of this section. This policy shall include a time frame for completion
5 of investigations related to complaints, not to exceed thirty days, and a method for notifying the

6 complainant of the disposition of the investigation. This policy shall be submitted to the
7 department of health and senior services to verify implementation. At a minimum, such policy
8 shall include the following provisions:

9 (1) No supervisor or individual with authority to hire or fire in a hospital [øæ] ,
10 ambulatory surgical center, **or abortion facility** shall prohibit employees from disclosing
11 information pursuant to subsection 2 of this section;

12 (2) No supervisor or individual with authority to hire or fire in a hospital [øæ] ,
13 ambulatory surgical center, **or abortion facility** shall use or threaten to use his or her supervisory
14 authority to knowingly discriminate against, dismiss, penalize or in any way retaliate against or
15 harass an employee because the employee in good faith reported or disclosed any information
16 pursuant to subsection 2 of this section, or in any way attempt to dissuade, prevent or interfere
17 with an employee who wishes to report or disclose such information;

18 (3) Establish a program to identify a compliance officer who is a designated person
19 responsible for administering the reporting and investigation process and an alternate person
20 should the primary designee be implicated in the report.

21 2. This section shall apply to information disclosed or reported in good faith by an
22 employee concerning:

23 (1) Alleged facility mismanagement or fraudulent activity;

24 (2) Alleged violations of applicable federal or state laws or administrative rules
25 concerning patient care, patient safety or facility safety; or

26 (3) The ability of employees to successfully perform their assigned duties.
27

28 All information disclosed, collected and maintained pursuant to this subsection and pursuant to
29 the written policy requirements of this section shall be accessible to the department of health and
30 senior services at all times and shall be reviewed by the department of health and senior services
31 at least annually. Complainants shall be notified of the department of health and senior services'
32 access to such information and of the complainant's right to notify the department of health and
33 senior services of any information concerning alleged violations of applicable federal or state
34 laws or administrative rules concerning patient care, patient safety or facility safety.

35 3. Prior to any disclosure to individuals or agencies other than the department of health
36 and senior services, employees wishing to make a disclosure pursuant to the provisions of this
37 section shall first report to the individual or individuals designated by the hospital [øæ] ,
38 ambulatory surgical center, **or abortion facility** pursuant to subsection 1 of this section.

39 4. If the compliance officer, compliance committee or management official discovers
40 credible evidence of misconduct from any source and, after a reasonable inquiry, has reason to
41 believe that the misconduct may violate criminal, civil or administrative law, then the hospital

42 [and] , ambulatory surgical center, **or abortion facility** shall report the existence of misconduct
43 to the appropriate governmental authority within a reasonable period, but not more than seven
44 days after determining that there is credible evidence of a violation.

45 5. Reports made to the department of health and senior services shall be subject to the
46 provisions of section 197.477, provided that the restrictions of section 197.477 shall not be
47 construed to limit the employee's ability to subpoena from the original source the information
48 reported to the department pursuant to this section.

49 6. Each written policy shall allow employees making a report who wish to remain
50 anonymous to do so, and shall include safeguards to protect the confidentiality of the employee
51 making the report, the confidentiality of patients and the integrity of data, information and
52 medical records.

53 7. Each hospital [and] , ambulatory surgical center, **and abortion facility** shall, within
54 forty-eight hours of the receipt of a report, notify the employee that his or her report has been
55 received and is being reviewed.

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

197.289. 1. All hospitals [and] , ambulatory surgical centers, **and abortion facilities**
2 shall develop and implement a methodology which ensures adequate nurse staffing that will meet
3 the needs of patients. At a minimum, there shall be on duty at all times a sufficient number of
4 licensed registered nurses to provide patient care requiring the judgment and skills of a licensed
5 registered nurse and to oversee the activities of all nursing personnel.

6 2. There shall be sufficient licensed and ancillary nursing personnel on duty on each
7 nursing unit to meet the needs of each patient in accordance with accepted standards of quality
8 patient care.

197.293. 1. In addition to the powers established in sections 197.070 and 197.220, the
2 department of health and senior services shall use the following standards for enforcing hospital
3 [and] , ambulatory surgical center, **and abortion facility** licensure regulations promulgated to
4 enforce the provisions of sections 197.010 to 197.120, sections 197.150 to 197.165, and sections
5 197.200 to 197.240:

6 (1) Upon notification of a deficiency in meeting regulatory standards, the hospital [Ø] ,
7 , ambulatory surgical center, **or abortion facility** shall develop and implement a plan of
8 correction approved by the department which includes, but is not limited to, the specific type of
9 corrective action to be taken and an estimated time to complete such action;

10 (2) If the plan as implemented does not correct the deficiency, the department may either:

11 (a) Direct the hospital [Ø] , ambulatory surgical center, **or abortion facility** to develop
12 and implement a plan of correction pursuant to subdivision (1) of this subsection; or

13 (b) Require the hospital [Ø] , ambulatory surgical center, **or abortion facility** to
14 implement a plan of correction developed by the department;

15 (3) If there is a continuing deficiency after implementation of the plan of correction
16 pursuant to subdivision (2) of this subsection and the hospital [Ø] , ambulatory surgical center,
17 **or abortion facility** has had an opportunity to correct such deficiency, the department may
18 restrict new inpatient admissions or outpatient entrants to the service or services affected by such
19 deficiency;

20 (4) If there is a continuing deficiency after the department restricts new inpatient
21 admissions or outpatient entrants to the service or services pursuant to subdivision (3) of this
22 subsection and the hospital [Ø] , ambulatory surgical center, **or abortion facility** has had an
23 opportunity to correct such deficiency, the department may suspend operations in all or part of
24 the service or services affected by such deficiency;

25 (5) If there is a continuing deficiency after suspension of operations pursuant to
26 subdivision (4) of this subsection, the department may deny, suspend or revoke the hospital's [Ø]
27 , ambulatory surgical center's, **or abortion facility's** license pursuant to section 197.070 or
28 section 197.220.

29 2. Notwithstanding the provisions of subsection 1 of this section to the contrary, if a
30 deficiency in meeting licensure standards presents an immediate and serious threat to the
31 patients' health and safety, the department may, based on the scope and severity of the deficiency,
32 restrict access to the service or services affected by the deficiency until the hospital [Ø] ,
33 ambulatory surgical center, **or abortion facility** has developed and implemented an approved
34 plan of correction. Decisions as to whether a deficiency constitutes an immediate and serious
35 threat to the patients' health and safety shall be made in accordance with guidelines established
36 pursuant to regulation of the department of health and senior services and such decisions shall
37 be approved by the bureau of health facility licensing in the department of health and senior
38 services, or its successor agency, or by a person authorized by the regulations to approve such
39 decisions in the absence of the director.

197.295. 1. A hospital [Ø] , ambulatory surgical center, **or abortion facility** aggrieved
2 by a decision of the department pursuant to the provisions of paragraph (b) of subdivision (2) and

3 subdivisions (3), (4) and (5) of subsection 1 of section 197.293 may appeal such decision to the
4 administrative hearing commission pursuant to section 197.071 or section 197.221, and seek
5 judicial review pursuant to section 621.145. An appeal of an action to restrict new inpatient
6 admissions or outpatient entrants, suspend operations or revoke a license shall be heard on an
7 expedited basis by the administrative hearing commission. The hospital [ø] , ambulatory
8 surgical center, **or abortion facility** may apply to the administrative hearing commission for an
9 order to stay or suspend any such departmental action pending the commission's findings and
10 ruling as authorized by section 621.035.

11 2. If both the department and the hospital [ø] , ambulatory surgical center, **or abortion**
12 **facility** agree to do so, prior to an appeal to the administrative hearing commission pursuant to
13 section 197.071 or section 197.221, an official action of the department made pursuant to
14 sections 197.010 to 197.120 or sections 197.200 to 197.240 may be appealed to a departmental
15 hearing officer. The department of health and senior services shall promulgate rules specifying
16 the qualifications of such a hearing officer, establish procedures to ensure impartial decisions and
17 provide for comparable appeal remedies when a departmental hearing officer is unavailable.

**574.200. 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 an abortion facility, as
3 such term is defined in section 197.200:**

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.**

17 **595.027. 1. Upon request by the department for verification of injuries of victims,**
2 **medical providers shall submit the information requested by the department within twenty**
3 **working days of the request at no cost to the fund.**

4 **2. For purposes of this section, "medical providers" means physicians, dentists, clinical**
5 **psychologists, optometrists, podiatrists, registered nurses, physician's assistants, chiropractors,**

6 physical therapists, hospitals, ambulatory surgical centers, **abortion facilities**, and nursing
7 homes.

8 3. Failure to submit the information as required by this section shall be an infraction.

Section B. Because of the immediate need to protect the right to life of persons in this
2 state, section A of this act is deemed necessary for the immediate preservation of the public
3 health, welfare, peace, and safety, and is hereby declared to be an emergency act within the
4 meaning of the constitution, and section A of this act shall be in full force and effect upon its
5 passage and approval.

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