

Senate Bill 769

Sponsored by COMMITTEE ON GENERAL GOVERNMENT, CONSUMER AND SMALL BUSINESS PROTECTION

SUMMARY

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

Requires person advertising or providing certain health services to post notices and provide certain disclosures about nature of services.

Prohibits person providing certain health services from disclosing health information without written consent of service recipient and requires person providing services to provide health information to service recipients.

Imposes civil penalties for violation.

Declares emergency, effective on passage.

A BILL FOR AN ACT

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

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

SECTION 1. As used in sections 1 to 5 of this 2011 Act:

4 (1) **"Comprehensive birth control services" means a combination of all of the following:**

5 (a) **Nondirective counseling on the methods and efficacy of contraception;**

6 (b) **Prescription or provision of contraceptive drugs or devices; and**

7 (c) **Medical diagnosis and care related to the prescription or provision of contraceptive**
8 **drugs or devices.**

9 (2) **"Naturopath" means a naturopathic physician licensed under ORS chapter 685.**

10 (3) **"Nurse practitioner" means a nurse practitioner certified under ORS 678.375.**

11 (4) **"Physician" means a physician licensed under ORS chapter 677.**

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

14 (6) **"Registered nurse" means a registered nurse licensed under ORS 678.050.**

15 **SECTION 2. (1) A person that advertises or provides pregnancy tests or prenatal**
16 **sonography and that advertises or provides information about adoption or termination of**
17 **pregnancy shall provide notice as required by subsection (2) of this section that discloses**
18 **whether the person provides each of the following:**

19 (a) **Comprehensive birth control services;**

20 (b) **Access to a physician, physician assistant, nurse practitioner or naturopath;**

21 (c) **Prenatal medical care; and**

22 (d) **Abortion services or referral for abortion services.**

23 (2) **The notice required by subsection (1) of this section must be:**

24 (a) **Conspicuously placed:**

25 (A) **At all entrances to the premises at which the person provides the services described**
26 **in subsection (1) of this section;**

27 (B) **In all areas where individuals wait to receive the services described in subsection (1)**
28

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

1 of this section;

2 (C) On any website maintained by the person providing the services described in sub-
3 section (1) of this section; and

4 (D) In all advertisements promoting the services described in subsection (1) of this sec-
5 tion or promoting the person providing the services;

6 (b) Provided directly to a individual seeking the services described in subsection (1) of
7 this section; and

8 (c) Written and provided in a manner that a reasonable person is likely to read and un-
9 derstand before accepting the services described in subsection (1) of this section.

10 **SECTION 3.** (1) As used in this section, “health information” has the meaning given that
11 term in ORS 192.519.

12 (2) A person that provides pregnancy tests or prenatal sonography and that provides in-
13 formation about adoption or termination of pregnancy and collects health information from
14 an individual seeking or receiving the services may not disclose the health information to
15 any other person without the written authorization of the service recipient.

16 (3) Upon receipt of a written request from a service recipient to examine or copy health
17 information of the service recipient, a person that provides the services described in sub-
18 section (2) of this section shall:

19 (a)(A) Make any health information of the service recipient in the person’s possession
20 or control available for examination by the service recipient during regular business hours;
21 and

22 (B) Notwithstanding ORS 192.521, provide a free copy of any health information of the
23 service recipient in the person’s possession or control to the service recipient, if requested;
24 or

25 (b) Inform the service recipient that the person does not have any health information
26 of the service recipient in the person’s possession or control.

27 **SECTION 4.** Sections 1 to 5 of this 2011 Act do not apply to:

28 (1) A physician, physician assistant, nurse practitioner or naturopath, who is treating the
29 service recipient and provides pregnancy tests or prenatal sonography and who provides in-
30 formation about adoption or termination of pregnancy.

31 (2) A facility employing a supervising physician and where a physician, physician assist-
32 ant, nurse practitioner, registered nurse or naturopath employed by the facility is on the
33 premises when the facility is open to the public.

34 **SECTION 5.** (1) If a person violates section 2 of this 2011 Act, the Oregon Health Au-
35 thority shall provide the person with written notice informing the person of the violation and
36 stating that the person may avoid a civil penalty by curing the violation within five days of
37 the date of the notice.

38 (2) In addition to any other sanctions authorized by law:

39 (a) If the person fails to cure the violation within five days of the date of the notice, the
40 Oregon Health Authority shall impose a civil penalty of at least \$250 and not more than
41 \$1,000.

42 (b) If the violation continues for more than one week after the five-day curing period
43 expires, the authority may impose an additional civil penalty of up to \$5,000 for the second
44 week of violation.

45 (c) If the violation continues for more than two weeks after the five-day curing period

1 expires, the authority may impose additional civil penalties of up to \$10,000 for the third and
2 each subsequent week during which the violation continues.

3 **SECTION 6.** The Oregon Health Authority shall adopt rules to carry out the provisions
4 of sections 1 to 5 of this 2011 Act.

5 **SECTION 7.** (1) Sections 1 to 5 of this 2011 Act become operative on October 1, 2011.

6 (2) The Oregon Health Authority may take any action before the operative date specified
7 in subsection (1) of this section that is necessary to enable the authority to exercise, on and
8 after the operative date specified in subsection (1) of this section, all the duties, functions
9 and powers conferred on the authority by sections 1 to 5 of this 2011 Act.

10 **SECTION 8.** This 2011 Act being necessary for the immediate preservation of the public
11 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
12 on its passage.

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