

D R A F T

SUMMARY

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

Imposes civil penalties for violations.

Declares emergency, effective on passage.

A BILL FOR AN ACT

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

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

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

5 (a) **“Health information” means written information described in**
6 **ORS 192.556.**

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

9 (c) **“Naturopath” means a naturopathic physician licensed under**
10 **ORS chapter 685.**

11 (d) **“Nurse midwife” means a licensed registered nurse who is cer-**
12 **tified by the Oregon State Board of Nursing as a nurse midwife nurse**
13 **practitioner.**

14 (e) **“Nurse practitioner” means a nurse practitioner certified under**
15 **ORS 678.375.**

16 (f) **“Physician” means a physician licensed under ORS chapter 677.**

17 (g) **“Physician assistant” means a physician assistant licensed un-**
18 **der ORS 677.505 to 677.525.**

1 (h) “Registered nurse” means a registered nurse licensed under ORS
2 678.050.

3 (2)(a) This section applies to an entity if the primary purpose of the
4 entity is to provide pregnancy-related services and the entity adver-
5 tises or solicits patrons with offers to provide prenatal sonography,
6 pregnancy tests or pregnancy options counseling.

7 (b) This section does not apply to an entity if, at all of the entity’s
8 sites that are open to the public, the entity:

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

10 (i) Physician;

11 (ii) Naturopath;

12 (iii) Nurse practitioner;

13 (iv) Physician assistant;

14 (v) Registered nurse; or

15 (vi) Nurse midwife; and

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

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

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

23 (b) An on-site consultation with a practitioner listed in subsection
24 (2)(b)(A) of this section;

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

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

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

28 (a) Conspicuously placed:

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

31 (B) In all areas where individuals wait to receive the services de-

1 scribed in subsection (2)(a) of this section;

2 (C) On any website maintained by the entity that refers to the ser-
3 vices described in subsection (2)(a) of this section; and

4 (D) In all advertisements promoting the services described in sub-
5 section (2)(a) of this section or promoting the entity providing the
6 services; and

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

10 (5) An entity that collects health information from a patron of the
11 entity may not disclose the patron's health information to any other
12 person without the written authorization of the patron.

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

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

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

22 (b) Inform the patron that the entity does not have any health in-
23 formation of the patron in the entity's possession or control.

24 **SECTION 2.** (1) If a person violates a requirement or prohibition in
25 section 1 of this 2013 Act, the Oregon Health Authority shall serve the
26 person with a written notice, in the form and manner provided in ORS
27 183.415, informing the person of the violation and stating that the
28 person may avoid a civil penalty by curing the violation within five
29 days of the service of the notice.

30 (2) If the person fails to cure the violation within five days of the
31 date of the service of the notice, the authority shall impose a penalty

1 of at least \$250 and not more than \$1,000.

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

6 (4) If the violation continues for more than 14 days after the expi-
7 ration of the five-day period described in subsection (2) of this section,
8 the authority may impose additional civil penalties of up to \$10,000 for
9 each week thereafter in which the violation continues.

10 (5) A person is entitled, upon request submitted within a time pre-
11 scribed by the authority by rule, to a contested case hearing under the
12 provisions of ORS 183.413 to 183.470 to dispute a civil penalty imposed
13 under this section. Judicial review of an order made after a contested
14 case hearing shall be as provided in ORS 183.480 to 183.497 for judicial
15 review of contested cases.

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

19 (7) This section does not affect the ability of the authority to
20 maintain an action in the name of the state for injunction or other
21 process against any person to restrain or prevent a violation of a re-
22 quirement or prohibition in section 1 of this 2013 Act.

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

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

27 (2) The Oregon Health Authority may take any action before the
28 operative date specified in subsection (1) of this section that is neces-
29 sary to enable the authority to exercise, on and after the operative
30 date specified in subsection (1) of this section, all the duties, functions
31 and powers conferred on the authority by sections 1 and 2 of this 2013

1 **Act.**

2 **SECTION 5. This 2013 Act being necessary for the immediate pres-**
3 **ervation of the public peace, health and safety, an emergency is de-**
4 **clared to exist, and this 2013 Act takes effect on its passage.**

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