

FIRST REGULAR SESSION

HOUSE BILL NO. 891

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SMITH.

Read 1st time February 28, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

2131L.011

AN ACT

To amend chapter 191, RSMo, by adding thereto one new section relating to disclosure of health information, with a penalty provision and an effective date.

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

Section A. Chapter 191, RSMo, is amended by adding thereto one new section, to be
2 known as section 191.940, to read as follows:

2 **191.940. 1. Any person who, in the ordinary course of business, practice of a**
3 **profession or rendering of a service, creates, stores, receives or furnishes individually**
4 **identifiable health information shall not disclose by any means of communication such**
5 **individually identifiable health information except pursuant to written authorization of the**
6 **person to whom such information pertains or such person's authorized representative. The**
7 **requirements of this section shall not apply to:**

7 (1) Statistical data compiled without reference to the identity of an individual;

8 (2) Health research conducted in accordance with the provisions of the federal rules
9 protecting rights and welfare of research participants, 45 CFR 46 and 21 CFR 50 and 56,
10 or to health research using medical archives or databases in which the identity of
11 individuals is protected from disclosure by coding or encryption, or by removing all
12 identities;

13 (3) The release of such information as required by statute, regulation or legal
14 process;

15 (4) The release of such information in emergency circumstances when the
16 disclosure is necessary to protect the safety of the individual to whom such information
17 pertains from serious, imminent harm;

18 (5) The release of such information for body identification;

19 **(6) The release of such information as is necessary in connection with the provision**
20 **of physical or mental health care services to the person to whom such information pertains;**
21 **or**

22 **(7) The release of such information by a licensee for the performance of the**
23 **following insurance functions by or on behalf of the licensee: claims administration; claims**
24 **adjustment and management; detection, investigation or reporting of actual or potential**
25 **fraud, misrepresentation or criminal activity; underwriting; policy placement or issuance;**
26 **loss control; ratemaking and guaranty fund functions; reinsurance and excess loss**
27 **insurance; risk management; case management; disease management; quality assurance;**
28 **quality improvement; performance evaluation; provider credentialing verification;**
29 **utilization review; peer review activities; actuarial, scientific, medical or public policy**
30 **research; grievance procedures; internal administration of compliance, managerial, and**
31 **information systems; policyholder service functions; auditing; reporting; database**
32 **security; administration of consumer disputes and inquiries; external accreditation**
33 **standards; the replacement of a group benefit plan or workers compensation policy or**
34 **program; activities in connection with a sale, merger, transfer or exchange of all or part**
35 **of a business or operating unit; any activity that permits disclosure without authorization**
36 **pursuant to the federal Health Insurance Portability and Accountability Act privacy rules**
37 **promulgated by the United States Department of Health and Human Services; disclosure**
38 **that is required, or is one of the lawful or appropriate methods, to enforce the licensee's**
39 **rights or the rights of other persons engaged in carrying out a transaction or providing a**
40 **product or service that a consumer requests or authorizes.**

41 **2. For the purposes of this section the following terms mean:**

42 **(1) "Individually identifiable health information", any information including,**
43 **demographic information collected from an individual that:**

44 **(a) Is created or received by a person subject to the requirements of subsection 1**
45 **of this section; and**

46 **(b) Relates to the past, present or future physical or mental health or condition of**
47 **an individual, the provision of health care to an individual, or the past, present, or future**
48 **payment for the provision of health care to an individual; and**

49 **(c) Identifies the individual; or**

50 **(d) With respect to which there is a reasonable basis to believe that the information**
51 **can be used to identify the individual;**

52 **(2) "Licensee", all licensed insurers, producers and other persons licensed or**
53 **required to be licensed, or authorized or required to be authorized, or registered or**
54 **required to be registered pursuant to this chapter, a health maintenance organization**

55 **holding or required to hold, a certificate authority pursuant to chapter 354, RSMo, or any**
56 **other entity or person subject to the supervision and regulation of the department of**
57 **insurance.**

58 **(3) "Person", without limitation, an individual, a foreign or domestic corporation**
59 **whether not-for-profit, a partnership, a limited liability company, an unincorporated**
60 **society or association, two or more persons having a joint or common interest, or any other**
61 **entity.**

62 **3. Any person who violates the provisions of this section shall be fined not more**
63 **than five hundred dollars for each violation of this section and may be liable in a civil**
64 **action for damages or equitable relief.**

65 **4. The director of the department of insurance shall enforce this section with**
66 **respect to licensees including, without limitation, treating violations of this section as unfair**
67 **trade practices pursuant to sections 375.930 to 375.948, RSMo.**

Section B. Section A of this act shall become effective January 1, 2002.