



House of Representatives

General Assembly

File No. 753

January Session, 2019

Substitute House Bill No. 7070

House of Representatives, April 18, 2019

The Committee on Public Health reported through REP. STEINBERG of the 136th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING DECEPTIVE ADVERTISING PRACTICES OF LIMITED SERVICES PREGNANCY CENTERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2019*) As used in this section and
2 sections 2 and 3 of this act:

3 (1) "Abortion" means the termination of a pregnancy for purposes
4 other than producing a live birth. "Abortion" includes, but is not
5 limited to, a termination of a pregnancy using pharmacological agents;

6 (2) "Client" means an individual who is inquiring about or seeking
7 services at a pregnancy services center;

8 (3) "Clinical laboratory services" means the microbiological,
9 serological, chemical, hematological, biophysical, cytological or
10 pathological examination of materials derived from the human body
11 for the purpose of obtaining information for the diagnosis, prevention
12 or treatment of disease or the assessment of a health condition;

13 (4) "Emergency contraception" means one or more prescription
14 drugs (A) used separately or in combination for the purpose of
15 preventing pregnancy, (B) administered to or self-administered by a
16 patient within a medically recommended amount of time after sexual
17 intercourse, (C) dispensed for such purpose in accordance with
18 professional standards of practice, and (D) determined by the United
19 States Food and Drug Administration to be safe for such purpose;

20 (5) "Health information" means any oral or written information in
21 any form or medium that relates to health insurance or the past,
22 present or future physical or mental health or condition of a client;

23 (6) "Licensed health care provider" means a person licensed under
24 the provisions of federal or state law to provide health care or other
25 medical services;

26 (7) "Limited services pregnancy center" means a pregnancy services
27 center that does not provide referrals to clients for abortions or
28 emergency contraception;

29 (8) "Pregnancy-related service" means any medical or health
30 counseling service related to pregnancy or pregnancy prevention,
31 including, but not limited to, contraception and contraceptive
32 counseling, pregnancy testing, pregnancy diagnosis, pregnancy
33 options counseling, obstetric ultrasound, obstetric sonogram and
34 prenatal care;

35 (9) "Pregnancy services center" means a facility, including a mobile
36 facility, the primary purpose of which is to provide services to clients
37 who are or may be pregnant and that either (A) offers obstetric
38 ultrasounds, obstetric sonograms, pregnancy testing or diagnosis or
39 prenatal care to pregnant clients, or (B) has the appearance of a
40 medical facility by virtue of having two or more of the following
41 factors present: (i) Staff or volunteers who wear medical attire and
42 uniforms; (ii) one or more examination tables; (iii) a private or
43 semiprivate room or area containing medical supplies or medical
44 instruments; (iv) staff or volunteers who collect health information

45 from clients; or (v) the facility is located on the same premises as a
46 licensed health care facility or licensed health care provider or shares
47 facility space with a licensed health care provider;

48 (10) "Premises" means land and improvements or appurtenances or
49 any part thereof; and

50 (11) "Prenatal care" means services consisting of a physical
51 examination, pelvic examination or clinical laboratory services
52 provided to a client during pregnancy.

53 Sec. 2. (NEW) (*Effective July 1, 2019*) No limited services pregnancy
54 center shall make or disseminate, or cause to be made or disseminated,
55 in any newspaper or other publication, through any advertising
56 device, or in any other manner, including, but not limited to, through
57 use of the Internet, any statement concerning any pregnancy-related
58 service or the provision of any pregnancy-related service (1) that is
59 explicitly or implicitly false, misleading or deceptive or that a limited
60 services pregnancy center reasonably should know to be explicitly or
61 implicitly false, misleading or deceptive, or (2) with the intent not to
62 perform such pregnancy-related service as explicitly or implicitly
63 advertised.

64 Sec. 3. (NEW) (*Effective July 1, 2019*) (a) The Attorney General may
65 apply to any court of competent jurisdiction for injunctive relief to
66 compel compliance with the provisions of section 2 of this act and
67 correct the effects of the false, misleading or deceptive advertising,
68 provided the Attorney General gives written notice to the limited
69 services pregnancy center in accordance with subsection (b) of this
70 section. Any injunctive relief ordered by the court under this section
71 may require a limited services pregnancy center to take whatever
72 remedial steps the court deems necessary to correct the effects of the
73 false, misleading or deceptive advertising and to prevent further harm
74 from occurring. Such steps may include requiring the limited service
75 pregnancy center to:

76 (1) Pay for and disseminate appropriate corrective advertising in the

77 same form and using the same advertising device as used in the false,
78 misleading, or deceptive advertising;

79 (2) Post a remedial notice that corrects the effects of the false,
80 misleading or deceptive advertising for clients entering the facility that
81 may have seen the original false, misleading or deceptive
82 advertisements, but have not seen any subsequent court-ordered
83 corrective advertisements required under subdivision (1) of this
84 subsection; or

85 (3) Provide such other relief as the court deems necessary to remedy
86 the adverse effects of the false, misleading or deceptive advertising on
87 any clients seeking pregnancy-related services.

88 (b) Prior to commencing an action pursuant to subsection (a) of this
89 section, the Attorney General shall give written notice to the limited
90 services pregnancy center of the violation of section 2 of this act and
91 allow the limited services pregnancy center to cure such violation not
92 later than ten days after receipt of the written notice. The Attorney
93 General may file an action pursuant to subsection (a) of this section
94 after such ten-day period if the limited services pregnancy center does
95 not respond to the written notice or refuses to cure the violation of
96 section 2 of this act.

97 (c) Upon a finding by the court that a limited services pregnancy
98 center has violated any provision of section 2 of this act, the state shall
99 be entitled to recover (1) civil penalties of not less than fifty dollars and
100 not more than five hundred dollars per violation, and (2) reasonable
101 attorney's fees and costs.

102 (d) Nothing in this section shall be construed as a limitation upon
103 the power or authority of the state or any political subdivision thereof
104 to seek any administrative, legal or equitable relief permitted by law.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2019	New section

Sec. 2	July 1, 2019	New section
Sec. 3	July 1, 2019	New section

Statement of Legislative Commissioners:

In Section 1, the phrase "the following terms shall have the following meanings" was deleted to eliminate redundant language.

PH *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 20 \$	FY 21 \$
Attorney General	GF - Potential Revenue Gain	Up to 10,000	Up to 10,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill prohibits deceptive advertising by pregnancy centers under certain conditions. It allows the Attorney General (AG) to apply to court for injunctive relief, if written notice is given to the center first and it did not cure the violation within ten days.¹ If the court finds that the center violated the deceptive advertising practices, the pregnancy center also must pay civil penalties of \$50 to \$500 per violation and reasonable attorney’s fees.

This could result in a revenue gain to the extent violations of the bill’s provisions occur; it is estimated that there are approximately 30 pregnancy centers that meet the bill’s definitions. As such, the bill could result in a revenue gain up to \$10,000 annually.

The Out Years

¹ Injunctive relief is a court-ordered act or prohibition against an act or condition which has been requested, and sometimes granted, in a petition to the court for an injunction. Such an act is the use of judicial (court) authority to handle a problem and is not a judgment for money. Whether the relief will be granted is usually argued by both sides in a hearing rather than in a full-scale trial, although sometimes it is part of a lawsuit for damages and/or contract performance.

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of violations that occur.

OLR Bill Analysis**sHB 7070*****AN ACT CONCERNING DECEPTIVE ADVERTISING PRACTICES OF LIMITED SERVICES PREGNANCY CENTERS.*****SUMMARY**

This bill prohibits deceptive advertising by limited services pregnancy centers, which it defines as pregnancy services centers (see below) that do not provide referrals for abortions or emergency contraception. Specifically, it prohibits these centers from making or otherwise disseminating any statement about a pregnancy-related service or the provision of any such service:

1. that is explicitly or implicitly false, misleading, or deceptive, or that the center reasonably should know to be so, or
2. with the intent not to perform the service as explicitly or implicitly advertised.

This prohibition applies (1) whether the centers make these statements themselves or cause others to do so and (2) to statements or advertisements made in any manner, including online or through print publications.

The bill allows the attorney general to apply to court for related injunctive relief, if he first gave written notice to the center and it did not cure the violation within 10 days. Among other things, the court can order the center to pay for and disseminate appropriate corrective advertising. If the court finds that the center violated the above prohibition, the center also must pay civil penalties (\$50 to \$500 per violation) and reasonable attorney's fees.

The bill specifies that it does not limit the authority of the state or its

political subdivisions from seeking any administrative, legal, or equitable relief permitted by law.

EFFECTIVE DATE: July 1, 2019

DEFINITIONS

Under the bill, a “limited services pregnancy center” is a pregnancy services center that does not provide referrals for abortions or emergency contraception. A “pregnancy services center” is a facility, including a mobile facility, whose primary purpose is to provide services to clients who are or may be pregnant, and that either (1) offers obstetric ultrasounds or sonograms, pregnancy testing or diagnosis, or prenatal care, or (2) has the appearance of a medical facility by having at least two of five specified factors present. These factors are as follows:

1. staff or volunteers who wear medical attire and uniforms;
2. one or more examination tables;
3. a private or semiprivate room or area with medical supplies or instruments;
4. staff or volunteers who collect health information from clients; or
5. the facility (a) is on the same premises as a licensed health care facility or licensed health care provider or (b) shares facility space with a licensed provider.

The bill applies to statements about a “pregnancy-related service,” which is any medical or health counseling service related to pregnancy or pregnancy prevention, including contraception and contraceptive counseling, pregnancy testing or diagnosis, pregnancy options counseling, obstetric ultrasound or sonogram, and prenatal care.

ATTORNEY GENERAL ENFORCEMENT AND COURT AUTHORITY

Under the bill, before the attorney general may apply to court for injunctive relief in response to such false, misleading, or deceptive

advertising, he must give written notice of the violation to the limited services pregnancy center. The center has 10 days after receiving the notice to cure the violation. If the center does not respond or refuses to correct the advertising within this 10-day period, the attorney general may apply to court for injunctive relief to compel compliance and correct the effects of the advertising.

The court may order the center to take whatever remedial steps the court deems necessary to correct the effects of the false, misleading, or deceptive advertising and to prevent further harm. These steps may include requiring the center to:

1. pay for and disseminate appropriate corrective advertising in the same form and using the same advertising device as the prohibited advertising;
2. post a remedial notice that corrects the effects of the prohibited advertising for clients entering the facility who may have seen the original advertisements, but have not seen any subsequent court-ordered corrective advertisements; or
3. provide other relief as the court deems necessary to remedy the prohibited advertising's adverse effects on any clients seeking pregnancy-related services.

If the court finds that a center violated the bill's prohibition, it also must order the center to pay to the state (1) civil penalties of \$50 to \$500 per violation and (2) reasonable attorney's fees and costs.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 14 Nay 11 (03/29/2019)