



General Assembly

Substitute Bill No. 7070

January Session, 2019



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	<i>July 1, 2019</i>	New section
Sec. 2	<i>July 1, 2019</i>	New section
Sec. 3	<i>July 1, 2019</i>	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.*