

JAN 20 2017

A BILL FOR AN ACT

RELATING TO HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that all Hawaii women,
2 regardless of income, should have meaningful access to effective
3 reproductive health services. Public programs providing
4 insurance coverage and direct services for reproductive health
5 care and counseling to eligible, low-income women are currently
6 available through the department of health and department of
7 human services.

8 Thousands of Hawaii women are in need of publicly-funded
9 family planning services, contraception services and education,
10 abortion services, prenatal care, and birth-related services. In
11 2010, sixteen thousand Hawaii women experienced an unintended
12 pregnancy, which can carry enormous social and economic costs to
13 both individual families and to the State at large. Yet, many
14 women in Hawaii remain unaware of the public programs available
15 to provide them with contraception, health education and
16 counseling, family planning, prenatal care, abortion, and birth-
17 related services.



1 Because family planning decisions are time sensitive and
2 care early in pregnancy is important, Hawaii must make every
3 possible effort to advise women of all available reproductive
4 health programs. In Hawaii, low-income women can receive
5 immediate access to free or low-cost comprehensive family
6 planning services and pregnancy-related care through Med-QUEST
7 and the department of health's family planning program. However,
8 only providers who contract with these programs are able to
9 immediately enroll patients in these programs at the time of a
10 health center visit.

11 Requiring facilities that provide pregnancy- or family
12 planning-related services but that are unable to directly enroll
13 individuals in Med-QUEST coverage or department of health
14 programs to provide accurate health information and to inform
15 clients of the availability of and enrollment procedures for
16 reproductive health programs will help ensure that all women in
17 the State can quickly obtain the information and services that
18 they need to make and implement informed, timely, and personally
19 appropriate reproductive health decisions.

20 The purpose of this Act is to ensure that Hawaii women are
21 able to make personal reproductive health decisions with full



1 and accurate information regarding their rights to access the
2 full range of health care services that are available to them.

3 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
4 amended by adding two new sections to be appropriately
5 designated and to read as follows:

6 "§321-A Limited service pregnancy centers. (a) For
7 purposes of this section:

8 "Limited service pregnancy center" or "center" means a
9 facility that:

- 10 (1) Is not a contracted provider with the department or
11 with the Med-QUEST division;
- 12 (2) Advertises or solicits clients or patients with offers
13 to provide prenatal sonography, pregnancy tests, or
14 pregnancy options counseling;
- 15 (3) Collects health information from clients or patients;
16 and
- 17 (4) Provides family planning or pregnancy-related
18 services, including but not limited to obstetric
19 ultrasound, obstetric sonogram, pregnancy testing,
20 pregnancy diagnosis, reproductive health counseling,
21 or prenatal care.



1 (b) Every limited service pregnancy center in the State
2 shall disseminate on-site to clients or patients the following
3 written notice in English and in other languages as required by
4 section 321C-3:

5 "Hawaii has public programs that provide immediate free or
6 low-cost access to comprehensive family planning services
7 including all FDA-approved methods of contraception, prenatal
8 care, and abortion for eligible women. To determine whether you
9 qualify, contact the appropriate Med-QUEST division eligibility
10 office."

11 The notice shall contain the internet address for online
12 medical assistance applications, the statewide phone number for
13 medical assistance applications, and the physical address,
14 mailing address, telephone number, and fax number for the
15 appropriate Med-QUEST division eligibility office for the
16 geographic area in which the center is located.

17 (c) The information required by subsection (b) shall be
18 disclosed in at least one of the following ways:

19 (1) A public notice on a sign sized at least eight and
20 one-half inches by eleven inches, written in no less
21 than twenty-two point type, and posted in a clear and



1 conspicuous place within the center's waiting area so
2 that it may be easily read by individuals seeking
3 services from the center; or

4 (2) A printed or digital notice written or rendered in no
5 less than 14-point type that is distributed
6 individually to each patient or client at the time of
7 check-in for services; provided that a printed notice
8 shall be available to all individuals who cannot or do
9 not wish to receive the notice in a digital format.

10 (d) No limited service pregnancy center that collects
11 health information from any individual seeking or receiving its
12 services shall disclose any individually identifiable health
13 information to any other person, entity, or organization without
14 express written authorization from the subject individual. Any
15 disclosure made under this section shall be limited by the
16 express terms of the written authorization and all applicable
17 state and federal laws and regulations, including the federal
18 Health Insurance Portability and Accountability Act of 1996 and
19 45 Code of Federal Regulations Part 164.

20 (e) A limited service pregnancy center that provides or
21 assists in the provision of pregnancy testing shall provide the



1 individual tested with a free written statement of the results
2 of the pregnancy test, in English and in any other language
3 required by section 321C-3, immediately after the test is
4 completed.

5 (f) Upon receipt of a written request from an individual
6 to examine or copy all or part of the individual's recorded
7 health information or other information retained by a limited
8 service pregnancy center, the center shall, promptly as required
9 under the circumstances but in no case later than fifteen
10 working days after receiving the request:

11 (1) Make the information available for examination by the
12 individual during regular business hours;

13 (2) Provide a free copy to the individual, if requested;

14 (3) Inform the individual if the information does not
15 exist or cannot be found; and

16 (4) If the center does not maintain the record or
17 information, inform the individual of that fact and
18 provide the name and address of the entity that
19 maintains the record or information.

20 §321-B Limited service pregnancy centers; enforcement;

21 private right of action. (a) A limited service pregnancy



1 center that violates section 321-A shall be liable for a civil
2 penalty of \$500 for a first offense and \$1,000 for each
3 subsequent offense. The attorney general may bring an action in
4 the district court of the district in which the center is
5 located to enforce this section; provided that:

6 (1) The center is provided with reasonable notice of
7 noncompliance, which informs the center that it is
8 subject to a civil penalty if it does not correct the
9 violation within thirty days from the date the notice
10 is sent to the center; and

11 (2) The violation is not corrected as of the expiration of
12 the thirty-day notice period.

13 A civil penalty imposed pursuant to this subsection shall
14 be deposited to the credit of the general fund.

15 (b) Any person who is aggrieved by a limited service
16 pregnancy center's violation of section 321-A may bring a civil
17 action against the limited service pregnancy center in the
18 district court of the district in which the center is located to
19 enjoin further violations and to recover actual damages
20 sustained together with the costs of the suit including
21 reasonable attorneys' fees. The court may, in its discretion,



1 increase the award of damages to an amount not to exceed three
2 times the actual damages sustained. If damages are awarded
3 pursuant to this subsection, the court may, in its discretion,
4 impose on a liable center a civil fine of not more than \$1,000
5 to be paid to the plaintiff.

6 A party seeking civil damages under this subsection may
7 recover upon proof of a violation by a preponderance of the
8 evidence.

9 For the purposes of this subsection, "person" includes a
10 natural or legal person.

11 (c) The enforcement procedure and remedies provided by
12 this section shall be in addition to any other procedure or
13 remedy that may be available at law to the State or a person
14 aggrieved by a violation of this chapter."

15 SECTION 3. In codifying the new sections added by section
16 2 of this Act, the revisor of statutes shall substitute
17 appropriate section numbers for the letters used in designating
18 the new sections in this Act.

19 SECTION 4. If any provision of this Act, or the
20 application thereof to any person or circumstance, is held
21 invalid, the invalidity does not affect other provisions or



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1 applications of the Act that can be given effect without the
 2 invalid provision or application, and to this end the provisions
 3 of this Act are severable.

4 SECTION 5. New statutory material is underscored.

5 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: Jessie L. George

Rosely de Beck

Amee Mercado K.

Kal Nhoak

Jim

~~Don~~ A.C. Kirch Agave

Matt K

Allen Gish

Michelle D. Kudani

John M

Steve S
Glenn Paul

Mel N. M.

Will Egan

Joe Alton Jr



S.B. NO. 501

Report Title:

Limited Service Pregnancy Centers; Disclosures; Privacy; Remedy

Description:

Requires all limited service pregnancy centers to disclose the availability of and enrollment information for reproductive health services. Establishes privacy and disclosure requirements for individual records and information. Authorizes civil penalties and civil actions for enforcement and remedy.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

