
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 women in Hawaii,
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 women in Hawaii are in need of publicly-funded
9 family planning services, contraception services and education,
10 abortion services, prenatal care, and birth-related services.
11 In 2010, sixteen thousand women in Hawaii experienced an
12 unintended pregnancy, which can carry enormous social and
13 economic costs to both individual families and to the State.
14 Many women in Hawaii, however, remain unaware of the public
15 programs available to provide them with contraception, health
16 education and counseling, family planning, prenatal care,
17 abortion, and birth-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.
8 However, only providers who contract with these programs are
9 able to immediately enroll patients in these programs at the
10 time of a 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 women in Hawaii
21 are able to make personal reproductive health decisions with



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

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; notice of
7 reproductive health services. (a) For purposes of this
8 section, "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 or a medicaid health plan;
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 "This clinic does not provide abortion services or abortion
6 referrals. Only ultrasounds performed by qualified healthcare
7 professionals and read by licensed clinicians should be
8 considered medically accurate. Hawaii has public programs that
9 provide immediate free or low-cost access to comprehensive
10 family planning services including all FDA-approved methods of
11 contraception, prenatal care, and abortion for eligible women.
12 To apply for medical insurance coverage that will cover the full
13 range of family planning and prenatal care services, apply on-
14 line at mybenefits.hawaii.gov."

15 The notice shall contain the internet address for online
16 medical assistance applications and the statewide phone number
17 for medical assistance applications.

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

20 (1) A public notice on a sign sized at least eight and
21 one-half inches by eleven inches, written in no less



1 than twenty-two point type, and posted in a clear and
2 conspicuous place within the center's waiting area so
3 that it may be easily read by individuals seeking
4 services from the center; or

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

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



1 (e) A limited service pregnancy center that provides or
2 assists in the provision of pregnancy testing shall provide the
3 individual tested with a free written statement of the results
4 of the pregnancy test, in English and in any other language
5 required by section 321C-3, immediately after the test is
6 completed.

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

- 13 (1) Make the information available for examination by the
14 individual during regular business hours;
15 (2) Provide a free copy to the individual, if requested;
16 (3) Inform the individual if the information does not
17 exist or cannot be found; and
18 (4) If the center does not maintain the record or
19 information, inform the individual of that fact and
20 provide the name and address of the entity that
21 maintains the record or information.



1 §321-B Limited service pregnancy centers; enforcement;
2 private right of action. (a) A limited service pregnancy
3 center that violates section 321-A shall be liable for a civil
4 penalty of \$500 for a first offense and \$1,000 for each
5 subsequent offense. If the center is provided with reasonable
6 notice of noncompliance, which informs the center that it is
7 subject to a civil penalty if it does not correct the violation
8 within thirty days from the date the notice is sent to the
9 center, and the violation is not corrected as of the expiration
10 of the thirty-day notice period, the attorney general may bring
11 an action in the district court of the district in which the
12 center is located to enforce this section.

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 to the State or a person aggrieved
14 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



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.

6



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.
(SD1)

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