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HOUSE BILL 291

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

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AN ACT

RELATING TO HEALTH CARE; REQUIRING NOTICE OF PROVISION OF LIMITED SCOPE OF SERVICES, INCLUDING LACK OF COMPREHENSIVE BIRTH CONTROL SERVICES, REFERRALS OR DIRECT SERVICES BY MEDICAL PROFESSIONALS; ENACTING THE LIMITED SCOPE PREGNANCY SERVICES CENTER ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. ~~[NEW MATERIAL]~~ SHORT TITLE.--Sections 1 through 6 of this act may be cited as the "Limited Scope Pregnancy Services Center Act".

SECTION 2. ~~[NEW MATERIAL]~~ DEFINITIONS.--As used in the Limited Scope Pregnancy Services Center Act:

A. "comprehensive birth control services" means the provision of objective counseling on methods and efficacy of contraception, the prescription of contraceptive drugs or

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1 devices, the provision of contraceptive drugs or devices and
2 medical diagnosis and care related to the prescription or
3 provision of contraception drugs or devices;

4 B. "limited scope pregnancy services center" means
5 a facility operated by an organization that advertises, offers
6 or provides pregnancy tests or ultrasounds and information
7 about adoption or abortion, whether for a fee or as a free
8 service, that may or may not have medical professionals
9 attending patients and that does not provide prenatal medical
10 care, comprehensive birth control services, abortions or
11 referrals for abortions; "limited scope pregnancy services
12 center" does not include a health facility licensed pursuant to
13 Section 24-1-5 NMSA 1978 or a facility that provides family
14 planning services and receives federal Title 10 funds;

15 C. "medically and factually accurate" means
16 verified or supported by the weight of research conducted in
17 compliance with accepted scientific methods and standards,
18 published in peer-reviewed journals and recognized as accurate
19 and objective by leading professional organizations and
20 agencies with relevant expertise in the field of obstetrics and
21 gynecology, such as the American college of obstetricians and
22 gynecologists;

23 D. "reproductive health information" means
24 information about:

25 (1) the medical risks of pregnancy, abortion,

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1 miscarriage and sexually transmitted infections; and

2 (2) methods of prevention of pregnancy and
3 sexually transmitted infections; and

4 E. "service recipient" means a person who seeks or
5 receives services at a limited scope pregnancy services center.

6 SECTION 3. [NEW MATERIAL] NOTICES REQUIRED.--

7 A. A limited scope pregnancy services center shall
8 provide the following notices to a person seeking services:

9 (1) the center does not provide abortions or
10 comprehensive birth control services;

11 (2) the center does not provide referrals to
12 individuals or organizations that provide abortions or
13 comprehensive birth control services;

14 (3) the center does not provide medical care
15 for pregnant women; and

16 (4) the center is not required to comply with
17 patient privacy laws.

18 B. A limited scope pregnancy services center shall
19 post the hours that the center has licensed health care
20 providers on duty, not including ultrasound technicians.

21 C. The notices required by this section shall be
22 provided as follows:

23 (1) verbally, in such a manner as to be
24 reasonably understandable to a service recipient, upon first
25 communication or first contact with the service recipient,

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1 whether by telephone, electronic communication or in person;
2 and

3 (2) in writing, as follows:

4 (a) in English and in Spanish, in
5 thirty-point font size or larger on eight-and-one-half inch by
6 eleven-inch paper or larger, posted: 1) on the main entry door
7 of the limited scope pregnancy services center; and 2) inside
8 the building housing the limited scope pregnancy services
9 center in such a manner as to be clearly visible from the area
10 at which the limited scope pregnancy services center conducts
11 intakes;

12 (b) in English and in Spanish, clearly
13 visible on the home page of the web site of the limited scope
14 pregnancy services center and in the primary font size used on
15 the web site; and

16 (c) in any advertisement or notice
17 promoting the limited scope pregnancy services center's
18 services.

19 C. A limited scope pregnancy services center shall,
20 before providing a pregnancy test that uses an over-the-counter
21 product to perform the pregnancy test, inform the service
22 recipient seeking to be tested that the pregnancy test is an
23 over-the-counter product and shall give the test kit to the
24 service recipient seeking to be tested to self-administer.

25 SECTION 4. [NEW MATERIAL] INFORMATION PROVIDED--LICENSED

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1 HEALTH CARE PROVIDERS.--

2 A. All reproductive health information provided by
3 a limited scope pregnancy services center, whether provided
4 verbally or in writing, shall be objective and medically and
5 factually accurate.

6 B. A limited scope pregnancy services center
7 remains subject to the provisions of the Limited Scope
8 Pregnancy Services Center Act, notwithstanding the presence of
9 a licensed health care provider in the governance of, on the
10 staff of or acting as a volunteer with the limited scope
11 pregnancy services center.

12 SECTION 5. [NEW MATERIAL] REQUIRED DISCLOSURE.--

13 A. A limited scope pregnancy services center that
14 provides or assists in the provision of pregnancy testing,
15 whether for a fee or without charge and whether those tests are
16 over-the-counter tests or laboratory tests, shall provide the
17 service recipient tested with a free written statement of the
18 results of the pregnancy test immediately after the test is
19 completed. If the results of the test are positive, the
20 limited scope pregnancy services center shall provide
21 information and documents so that the service recipient may
22 apply for medicaid.

23 B. Upon receipt of a written request from a service
24 recipient to examine or copy all or part of the service
25 recipient's recorded health care information, a limited scope

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1 pregnancy services center, as promptly as required under the
2 circumstances but no later than fifteen working days after
3 receiving the request, shall:

4 (1) make the service recipient's recorded
5 health care information available for examination by the
6 service recipient during regular business hours and provide a
7 free copy to the service recipient, if requested;

8 (2) inform the service recipient if the
9 information does not exist or cannot be found; and

10 (3) if the limited scope pregnancy services
11 center does not maintain a record of the information, inform
12 the service recipient and provide the name and address, if
13 known, of the entity that maintains the record and how the
14 service recipient may gain access to the record.

15 SECTION 6. [NEW MATERIAL] VIOLATIONS.--

16 A. The following violations of the Limited Scope
17 Pregnancy Services Center Act are violations of the Unfair
18 Practices Act:

19 (1) failure to disclose information required
20 to be disclosed by the Limited Scope Pregnancy Services Center
21 Act;

22 (2) failure to post the notices required to be
23 posted by the Limited Scope Pregnancy Services Center Act;

24 (3) failure to inform a service recipient in a
25 timely manner that she is pregnant; and

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1 (4) failure to provide a service recipient
2 with the documentation necessary to enable her as a pregnant
3 woman to obtain medicaid benefits.

4 B. Remedies and causes of action provided by the
5 Unfair Practices Act are cumulative and not exclusive.

6 SECTION 7. A new section of the Unfair Practices Act is
7 enacted to read:

8 "[NEW MATERIAL] VIOLATIONS OF THE LIMITED SCOPE PREGNANCY
9 SERVICES CENTER ACT.--

10 A. The following violations of the Limited Scope
11 Pregnancy Services Center Act are violations of the Unfair
12 Practices Act:

13 (1) failure to disclose information required
14 to be disclosed by the Limited Scope Pregnancy Services Center
15 Act;

16 (2) failure to post the notices required to be
17 posted by the Limited Scope Pregnancy Services Center Act;

18 (3) failure to inform a service recipient
19 pursuant to the Limited Scope Pregnancy Services Center Act in
20 a timely manner that she is pregnant; and

21 (4) failure to provide a service recipient
22 pursuant to the Limited Scope Pregnancy Services Center Act
23 with the documentation necessary to enable her as a pregnant
24 woman to obtain medicaid benefits.

25 B. Remedies and causes of action provided by the

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1 Unfair Practices Act are cumulative and not exclusive. Each
2 day in which a violation of the Limited Scope Pregnancy
3 Services Center Act occurs is a separate violation.

4 C. The attorney general shall investigate
5 allegations of violations of the Limited Scope Pregnancy
6 Services Center Act.

7 D. A violation of the Limited Scope Pregnancy
8 Services Center Act is a misdemeanor, and upon conviction, the
9 organization operating the limited scope pregnancy services
10 center and any individuals found guilty of violating the
11 Limited Scope Pregnancy Services Center Act shall be sentenced
12 pursuant to Section 31-19-1 NMSA 1978."