
OLR Bill Analysis

SB 835

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 directly provide, or provide referrals for, abortions or emergency contraception. Specifically, it prohibits them, with intent to perform a pregnancy-related service, from publicly making or disseminating a deceptive statement about the provision of these services or the services themselves that the center knows or reasonably should know is deceptive.

This prohibition includes public statements made in advertisements, print publications, online, or any other manner and it applies regardless of whether the (1) centers make these statements themselves or cause others to do so and (2) statement itself is deceptive or is deceptive by omission.

The bill requires the attorney general, before bringing a court action against a center for violating the bill's provisions, to notify the center and allow up to 10 days for them to comply. If the center does not respond or cure the violation, the attorney general may apply to court for related injunctive relief. 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 state is entitled to civil penalties and reasonable attorney's fees.

The bill specifies that it does not prohibit the state or municipalities from seeking any administrative, legal, or equitable relief permitted by law, including relief allowed under the unfair trade practices act (see

BACKGROUND).

EFFECTIVE DATE: July 1, 2021

DEFINITIONS

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

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 deceptive advertising, he must notify the limited services pregnancy center in writing of the violation. If the center does not respond or refuses to correct the advertising

within 10 days, the attorney general may apply to court for injunctive relief to compel compliance and correct the advertising's effects.

The court may order the center to:

1. pay for and disseminate appropriate corrective advertising in the same form and using the same advertising device as the deceptive advertising;
2. post a remedial notice that corrects the effects of the deceptive advertising; or
3. provide other narrowly-tailored relief as the court deems necessary to remedy the deceptive advertising's adverse effects on any clients seeking pregnancy-related services.

If the court finds that a center violated the bill's prohibition, the state is entitled to recover from the center (1) civil penalties of \$50 to \$500 per violation and (2) reasonable attorney's fees and costs.

BACKGROUND

Connecticut Unfair Trade Practices Act (CUTPA)

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the consumer protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$10,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for a violation of a restraining order.

COMMITTEE ACTION

Public Health Committee

Joint Favorable

Yea 20 Nay 13 (02/22/2021)