



2011 ASSEMBLY BILL 434

December 20, 2011 – Introduced by Representatives E. COGGS, YOUNG, BERCEAU, GRIGSBY and KESSLER, cosponsored by Senator TAYLOR. Referred to Committee on Health.

- 1 **AN ACT to amend** 20.455 (1) (gh); and **to create** 253.083 of the statutes; **relating**
2 **to:** false advertising by limited services pregnancy centers, providing a penalty,
3 and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill prohibits a limited services pregnancy center from making or distributing an advertisement that contains an untrue or misleading statement related to the services the pregnancy center offers to clients or from making or distributing a misleading or untrue statement concerning the services the pregnancy center offers as part of plan not to perform those services. This bill defines a limited services pregnancy center as a pregnancy services center that does not directly provide or make referrals for abortions or emergency contraception to individuals seeking services at the pregnancy services center.

Under this bill, if a court finds that a limited services pregnancy center made or distributed an advertisement that contains an untrue or misleading statement or made or distributed a misleading or untrue statement concerning the services it offers as part of plan not to perform those services, the court may assess a forfeiture on the limited services pregnancy center, require the limited services pregnancy center to reimburse the attorney general or district attorney for the expenses of the investigation and prosecution, and issue an injunction that requires any of the following:

1. That the limited services pregnancy center pay for and distribute corrective advertising.

ASSEMBLY BILL 434

2. That the limited services pregnancy center post a notice that is readily visible to clients that states whether there is a licensed physician on staff at the center and whether the center offers abortions, emergency contraception, or referrals for abortions or emergency contraception.

3. Other relief that the court considers necessary to remedy the adverse effects on women seeking pregnancy-related services.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.455 (1) (gh) of the statutes is amended to read:

2 20.455 (1) (gh) *Investigation and prosecution.* Moneys received under ss. 23.22
3 (9) (c), 49.49 (6), 100.263, 133.16, 253.083 (3) (e), 281.98 (2), 283.91 (5), 289.96 (3) (b),
4 291.97 (3), 292.99 (2), 293.87 (4) (b), 295.19 (3) (b) 2., and 299.97 (2), for the expenses
5 of investigation and prosecution of violations, including attorney fees.

6 **SECTION 2.** 253.083 of the statutes is created to read:

7 **253.083 Limited services pregnancy centers; false advertising.** (1) In
8 this section:

9 (a) “Abortion” has the meaning given in s. 253.10 (2) (a).

10 (b) “Client” means an individual who is inquiring about or seeking services at
11 a pregnancy services center.

12 (c) “Emergency contraception” has the meaning given in s. 50.375 (1) (a).

13 (d) “Health information” means any oral or written information in any form or
14 medium that relates to the physical or mental health or condition of a client and any
15 information in any form that relates to a client’s health insurance.

16 (e) “Licensed health care provider” means a physician licensed under subch. II
17 of ch. 448.

ASSEMBLY BILL 434

1 (f) "Limited services pregnancy center" means a pregnancy services center that
2 does not directly provide abortions or emergency contraception to clients or provide
3 referrals to clients for abortions or emergency contraception.

4 (g) "Pregnancy services center" means a facility, including a mobile facility, the
5 primary purpose of which is to provide services to women who are or may be pregnant
6 and that offers obstetric ultrasounds, obstetric sonograms, or prenatal care to
7 pregnant women or has the appearance of a medical facility. A pregnancy services
8 center has the appearance of a medical facility if at least 2 of the following apply:

9 1. The facility offers pregnancy testing or pregnancy diagnosis.

10 2. The facility has staff or volunteers who wear medical attire or uniforms.

11 3. The facility contains one or more examination tables.

12 4. The facility contains a private or semi-private room or area containing
13 medical supplies or medical instruments.

14 5. The facility has staff or volunteers who collect health information from
15 clients.

16 6. The facility shares space with a licensed health care provider or is located
17 on the same premises as a state-licensed medical facility or a licensed health care
18 provider.

19 (h) "Prenatal care" means a physical examination, pelvic examination, or
20 clinical laboratory service that is provided to a woman during pregnancy.

21 **(2)** (a) A limited services pregnancy center that offers or intends to offer
22 pregnancy-related services, directly or indirectly, may not make or disseminate or
23 cause to be made or disseminated any advertisement in any medium, including in
24 a newspaper, magazine, pamphlet, or the Internet, that contains a statement or an
25 omission of material fact related to the services it offers or intends to offer to clients

ASSEMBLY BILL 434**SECTION 2**

1 that is untrue or misleading and that the limited services pregnancy center knew or
2 should have known was untrue or misleading when the advertisement was created,
3 published, or republished.

4 (b) A limited services pregnancy center that offers or intends to offer
5 pregnancy-related services, directly or indirectly, may not make or disseminate, or
6 cause to be made or disseminated a misleading or untrue statement concerning the
7 services it offers or intends to offer to clients as part of a plan not to perform services
8 that the limited services pregnancy center advertises that it offers, explicitly or by
9 implication.

10 **(3)** (a) Subject to par. (b), if the attorney general or a district attorney has
11 reason to believe that a limited services pregnancy center has violated sub. (2), the
12 attorney general or district attorney may bring an action in the name of the state
13 against the limited services pregnancy center for injunctive relief to restrain the
14 violation.

15 (b) Before an action may be commenced under par. (a), the attorney general or
16 district attorney shall notify the limited services pregnancy center, in writing, of the
17 violation. The notice shall specifically identify the violation, including a description
18 of the untrue information or omission of material fact, and provide the limited
19 services pregnancy center 10 days in which to cure the violation. If the limited
20 services pregnancy center fails to cure the violation within 10 days, as determined
21 by the attorney general or district attorney, the attorney general or district attorney
22 may commence an action under par. (a).

23 (c) If a court finds that a limited services pregnancy center violated this section,
24 the court may issue an injunction that requires any of the following:

