

1 H.634

2 Introduced by Representative Till of Jericho

3 Referred to Committee on

4 Date:

5 Subject: Consumer protection; unfair or deceptive acts or practice; pregnancy
6 centers

7 Statement of purpose of bill as introduced: This bill proposes to prohibit a
8 limited services pregnancy center from disseminating any advertising about the
9 services or proposed services performed at that center if the management of the
10 center knows or, by the exercise of reasonable care, ought to know it is untrue
11 or clearly designed to mislead the public about the nature of services provided.
12 A violation would be considered an unfair or deceptive act or practice in
13 commerce and subject to the enforcement actions authorized for such under
14 current law.

15 An act relating to pregnancy center fraud

16 It is hereby enacted by the General Assembly of the State of Vermont:

17 Sec. 1. 9 V.S.A. chapter 63, subchapter 11 is added to read:

18 Subchapter 11. Pregnancy Center Fraud

19 § 2491. LEGISLATIVE FINDINGS

20 The General Assembly finds that:

1 (1) In recent years, facilities that seek to prohibit or discourage clients
2 from having an abortion have become common. These facilities are often
3 referred to as crisis pregnancy centers (CPCs). Although some CPCs are
4 licensed or have a health care provider on staff, most CPCs are not licensed
5 medical clinics and do not employ health care providers for the pregnant
6 individuals who come to their facility.

7 (2) Some CPCs openly acknowledge in their advertising and their
8 facilities that they do not provide abortions or refer clients to other providers of
9 such services. Many CPCs, however, seek to mislead patients contemplating
10 abortion into believing that their facilities offer health care, including abortion
11 services and unbiased counseling.

12 (3) Because of the time-sensitive and constitutionally protected nature of
13 the decision to terminate a pregnancy, false and misleading advertising about
14 the services offered by CPCs is of special concern. CPCs have the
15 constitutional right to say whatever they want against abortion, but it is an
16 entirely different matter to defraud individuals about the services they offer.

17 (4) After carefully balancing the constitutionally protected right of a
18 patient to choose to terminate her pregnancy, the right of individuals to express
19 their religious and ethical beliefs about abortion, the harm to patients caused by
20 even slight delays that are a result of false advertising for pregnancy or
21 abortion services, and the cost to the government that can accrue from such

1 delay, it is clear that there exists a need to regulate false and misleading
2 advertising by pregnancy facilities offering limited services.

3 § 2492. DEFINITIONS

4 As used in this subchapter:

5 (1) “Abortion” means any medical treatment intended to induce the
6 termination of a pregnancy except for the purpose of producing a live birth.

7 (2) “Client” means an individual who is inquiring about or seeking
8 services at a pregnancy services center.

9 (3) “Emergency contraception” means any drug or device approved by
10 the U.S. Food and Drug Administration that prevents pregnancy after sexual
11 intercourse.

12 (4) “Health information” means any oral or written information in any
13 form or medium that relates to health insurance or the past, present, or future
14 physical or mental health or condition of a client.

15 (5) “Limited services pregnancy center” means a pregnancy services
16 center that does not directly provide, or provide referrals to clients, for
17 abortions or emergency contraception.

18 (6) “Pregnancy services center” means a facility, including a mobile
19 facility, where the primary purpose is to provide services to individuals who
20 are or may be pregnant and that either offers obstetric ultrasounds, obstetric
21 sonograms, or prenatal care to pregnant individuals or has the appearance of a

1 medical facility. A pregnancy service center has the appearance of a medical
2 facility if two or more of the following factors are present:

3 (A) the facility offers pregnancy testing or pregnancy diagnosis, or
4 both;

5 (B) the facility has staff or volunteers who wear medical attire or
6 uniforms;

7 (C) the facility contains one or more examination tables;

8 (D) the facility contains a private or semiprivate room or area
9 containing medical supplies or medical instruments;

10 (E) the facility has staff or volunteers who collect health information
11 from clients; or

12 (F) the facility is located on the same premises as a State-licensed
13 medical facility or provider or shares facility space with a State-licensed
14 medical provider.

15 (7) "Premises" means land and improvements or appurtenances or any
16 part thereof.

17 § 2493. UNFAIR AND DECEPTIVE ACT

18 (a) It is an unfair and deceptive act and practice in commerce and a
19 violation of section 2453 of this title for any limited services pregnancy center
20 to disseminate or cause to be disseminated to the public any advertising about
21 the services or proposed services performed at that center if the management of

1 the center knows or, by the exercise of reasonable care, ought to know it is
2 untrue or clearly designed to mislead the public about the nature of services
3 provided. Advertising includes representations made directly to consumers;
4 marketing practices; communication in any print medium, such as newspapers,
5 magazines, mailers, or handouts; and any broadcast medium, such as television
6 or radio, telephone marketing, or advertising over the Internet such as through
7 websites and web ads.

8 (b) The Attorney General or State's Attorney has the same authority to
9 make rules, conduct civil investigations, and bring civil actions with respect to
10 violations of subsection (a) of this section as provided under subchapter 1 of
11 this chapter.

12 Sec. 2. EFFECTIVE DATE

13 This act shall take effect on July 1, 2022.