

Right to Dignified Care Act

Summary: The Right to Dignified Care Act prohibits an Unregulated Pregnancy Clinic from asking improper and intrusive questions as a condition of receiving products or services.

[NOTE: This could be a budget amendment in a state that funds UPCs.]

SECTION 1. SHORT TITLE

This Act shall be called the “Right to Dignified Care Act.”

SECTION 2. FINDINGS

The legislature finds that:

1. Unregulated Pregnancy Clinics (UPCs) [or whatever name your state uses], also known as “crisis pregnancy centers,” are facilities that represent themselves as offering unbiased reproductive health care information and services but are primarily intended to prevent clients from seeking or accessing abortions.
2. UPCs commonly ask clients to fill out a form, designed to look like a medical intake form, prior to receiving any products or services. As one UPC explains on its website, “We will give you an intake form similar to what you might fill out at a doctor’s office.”¹⁷³
3. But a UPC is not a traditional doctor’s office. For that reason, it is improper and unreasonably intrusive for UPCs to ask certain questions on an intake form.
4. UPCs primarily seek out or advertise to attract clients who are young and unfamiliar with health care standards, have lower incomes, and are in vulnerable situations, so these clients may be unaware that some questions are only reasonable if asked by a licensed medical provider and others are unreasonable for a medical intake form under any circumstances.
5. UPCs are not required to follow the privacy, confidentiality and records security requirements of the Health Insurance Portability and Accountability Act (HIPAA). Nevertheless, many UPCs give clients a sense of security by falsely claiming that they are subject to HIPAA or “HIPAA compliant.”¹⁷⁴
6. There is a strong need for legislation. Every one of the topics listed in Section (3)(B) is actually asked on intake forms at some UPCs.

SECTION 3. RESTRICTIONS ON HEALTH CARE INTAKE FORMS

After section XXX, the following new section XXX shall be inserted:

(A) DEFINITIONS—In this section:

1. “Chief medical officer” means a physician licensed under [cite code], a physician assistant under [cite code], or an advanced practice nurse under [cite code], who oversees the daily medical operations of a medical facility and is practicing within the provider’s scope of practice.
2. “Unregulated Pregnancy Clinic” means a facility primarily offering determination of pregnancy and pregnancy counseling that does not have one or more chief medical officers on staff or under contract who provide or directly supervise, in person, the provision of all of the services provided at the facility. [NOTE: Many states have laws or regulations that define “direct supervision.” Ask your in-state advocates and bill drafters to ensure that the legislation uses language that fits your state.]

(B) PROHIBITED INTAKE QUESTIONS

1. An Unregulated Pregnancy Clinic shall not make it a condition of service, or make it reasonably appear to be a condition of service, that a client must disclose any of the following information:
 - (a) A list of the prescription drugs the client takes;
 - (b) A list of the client’s current or past illnesses;
 - (c) A list of the client’s medical conditions that are not directly relevant to a determination of pregnancy;
 - (d) The name or age of the potential baby’s father;
 - (e) Whether the client is living with a man to whom they are not married;
 - (f) The client’s age when she first became sexually active;
 - (g) Whether the client is currently sexually active with one or more than one partner;
 - (h) Whether the client engages in same-sex relationships; or

(i) For a site that does not bill insurance or is an official Medicaid or WIC enrollment site, the client's income, employer, or eligibility for public assistance.

2. The Attorney General may promulgate regulations to clarify which intake questions are overly intrusive and whether a facility is making answers to overly intrusive questions a condition of service, or it reasonably appears to make them a condition of service.

(C) ENFORCEMENT

1. Whenever the Attorney General or a district attorney [if applicable: a city attorney, a county counsel] has reasonable cause to believe that an Unregulated Pregnancy Clinic has violated this section, the Attorney General may issue a civil investigative demand pursuant to [cite code].

2. The Attorney General may commence an action in any court of competent jurisdiction for injunctive relief to compel compliance with the provisions of this section, and for civil penalties for violations.

3. Prior to commencing an action in court, the Attorney General shall give written notice to the Unregulated Pregnancy Clinic to cure such violations not later than 10 business days after receipt of the written notice.

4. Upon a finding by the court that an Unregulated Pregnancy Clinic has violated this section, the state shall be entitled to recover:

(a) civil penalties of up to three thousand dollars for a first violation;

(b) civil penalties of up to ten thousand dollars for a second or subsequent violation; and

(c) reasonable attorneys' fees and costs.

5. In determining the overall amount of civil penalties to assess against an Unregulated Pregnancy Clinic, the court shall include, but not be limited to the following in its consideration:

(a) the nature and severity of the violation;

(b) the size, scope, and type of the offending organization; and

(c) the good faith cooperation of the offending organization with any investigations conducted by the Attorney General pursuant to this section.

SECTION 4. EFFECTIVE DATE

This law shall become effective on July 1, 20XX.