

AMENDED IN ASSEMBLY MAY 4, 2015

AMENDED IN ASSEMBLY APRIL 16, 2015

AMENDED IN ASSEMBLY APRIL 8, 2015

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CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 775

**Introduced by Assembly Members Chiu and Burke
(Coauthors: Assembly Members Atkins, Rendon, and Wood)**

February 25, 2015

An act to add Article 2.7 (commencing with Section 123470) to Chapter 2 of Part 2 of Division 106 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 775, as amended, Chiu. Reproductive FACT Act.

Existing law, the Reproductive Privacy Act, provides that every individual possesses a fundamental right of privacy with respect to reproductive decisions. Existing law provides that the state shall not deny or interfere with a woman's right to choose or obtain an abortion prior to viability of the fetus, as defined, or when necessary to protect her life or health. Existing law specifies the circumstances under which the performance of an abortion is deemed unauthorized.

This bill would enact the Reproductive FACT (Freedom, Accountability, Comprehensive Care, and Transparency) Act, which would require a licensed covered facility, as defined, to disseminate a notice to all clients, as specified, stating, among other things, that California has public programs that provide immediate free or low-cost

access to comprehensive family planning services, prenatal care, and abortion, for eligible women. The bill would also require an unlicensed covered facility, as defined, to disseminate a notice to all clients, as specified, stating, among other things, that the facility is not licensed as a medical facility by the State of California.

The bill would authorize the Attorney General, city attorney, or county counsel to bring an action to impose a specified civil penalty against covered facilities that fail to comply with these requirements. ~~The bill would also require the Attorney General to post on the Department of Justice’s Internet Web site a list of the covered facilities upon which a civil penalty has been imposed.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares that:
- 2 (a) All California women, regardless of income, should have
- 3 access to reproductive health services. The state provides insurance
- 4 coverage of reproductive health care and counseling to eligible,
- 5 low-income women. Some of these programs have been recently
- 6 established or expanded as a result of the federal Patient Protection
- 7 and Affordable Care Act.
- 8 (b) Millions of California women are in need of publicly funded
- 9 family planning services, contraception services and education,
- 10 abortion services, and prenatal care and delivery. In 2012, more
- 11 than 2.6 million California women were in need of publicly funded
- 12 family planning services. More than 700,000 California women
- 13 become pregnant every year and one-half of these pregnancies are
- 14 unintended. In 2010, 64.3 percent of unplanned births in California
- 15 were publicly funded. Yet, at the moment they learn that they are
- 16 pregnant, thousands of women remain unaware of the public
- 17 programs available to provide them with contraception, health
- 18 education and counseling, family planning, prenatal care, abortion,
- 19 or delivery.
- 20 (c) Because pregnancy decisions are time sensitive, and care
- 21 early in pregnancy is important, California must supplement its
- 22 own efforts to advise women of its reproductive health programs.
- 23 In California, low-income women can receive immediate access
- 24 to free or low-cost comprehensive family planning services and

1 pregnancy-related care through the Medi-Cal and the Family PACT
2 programs. However, only Medi-Cal providers who are enrolled in
3 the Family PACT program are authorized to enroll patients
4 immediately at their health centers.

5 (d) The most effective way to ensure that women quickly obtain
6 the information and services they need to make and implement
7 timely reproductive decisions is to require licensed health care
8 facilities that are unable to immediately enroll patients into the
9 Family PACT or Presumptive Eligibility for Pregnant Women
10 Medi-Cal programs to advise each patient at the time of her visit
11 of the various publicly funded family planning and
12 pregnancy-related resources available in California, and the manner
13 in which to directly and efficiently access those resources.

14 (e) It is also vital that pregnant women in California know when
15 they are getting medical care from licensed professionals.
16 Unlicensed facilities that advertise and provide pregnancy testing
17 and care must advise clients, at the time they are seeking or
18 obtaining care, that these facilities are not licensed to provide
19 medical care.

20 SEC. 2. The purpose of this act is to ensure that California
21 residents make their personal reproductive health care decisions
22 knowing their rights and the health care services available to them.

23 SEC. 3. Article 2.7 (commencing with Section 123470) is
24 added to Chapter 2 of Part 2 of Division 106 of the Health and
25 Safety Code, to read:

26
27 Article 2.7. Reproductive FACT Act
28

29 123470. This article shall be known and may be cited as the
30 Reproductive FACT (Freedom, Accountability, Comprehensive
31 Care, and Transparency) Act or Reproductive FACT Act.

32 123471. (a) For purposes of this article, and except as provided
33 in subdivision (c), “licensed covered facility” means a facility
34 licensed under Section 1204 or an intermittent clinic operating
35 under a primary care clinic pursuant to subdivision (h) of Section
36 1206, whose primary purpose is providing family planning or
37 pregnancy-related services, and that satisfies two or more of the
38 following:

39 (1) The facility offers obstetric ultrasounds, obstetric sonograms,
40 or prenatal care to pregnant women.

1 (2) The facility provides, or offers counseling about,
2 contraception or contraceptive methods.

3 (3) The facility offers pregnancy testing or pregnancy diagnosis.

4 (4) The facility advertises or solicits patrons with offers to
5 provide prenatal sonography, pregnancy tests, or pregnancy options
6 counseling.

7 (5) *The facility offers abortion services.*

8 ~~(5)~~

9 (6) The facility has staff or volunteers who collect health
10 information from clients.

11 (b) For purposes of this article, subject to subdivision (c),
12 “unlicensed covered facility” is a facility that is not licensed by
13 the State of California and does not have a licensed medical
14 provider on staff or under contract who provides or directly
15 supervises the provision of all of the services, whose primary
16 purpose is providing pregnancy-related services, and that satisfies
17 two or more of the following:

18 (1) The facility offers obstetric ultrasounds, obstetric sonograms,
19 or prenatal care to pregnant women.

20 (2) The facility offers pregnancy testing or pregnancy diagnosis.

21 (3) The facility advertises or solicits patrons with offers to
22 provide prenatal sonography, pregnancy tests, or pregnancy options
23 counseling.

24 (4) The facility has staff or volunteers who collect health
25 information from clients.

26 (c) This article shall not apply to either of the following:

27 (1) A clinic directly conducted, maintained, or operated by the
28 United States or any of its departments, officers, or agencies.

29 (2) A licensed primary care clinic that is enrolled as a Medi-Cal
30 provider and a provider in the Family Planning, Access, Care, and
31 Treatment Program.

32 123472. (a) A licensed covered facility shall disseminate to
33 clients on site the following notice in English and in the primary
34 threshold languages for Medi-Cal beneficiaries as determined by
35 the State Department of Health Care Services for the county in
36 which the facility is located.

37 (1) The notice shall state:

38

39 “California has public programs that provide immediate free or
40 low-cost access to comprehensive family planning services

1 (including all FDA-approved methods of contraception), prenatal
2 care, and abortion for eligible women. To determine whether you
3 qualify, contact the county social services office at [insert the
4 telephone number].”

5

6 (2) The information shall be disclosed in one of the following
7 ways:

8 (A) A public notice posted in a conspicuous place where
9 individuals wait that may be easily read by those seeking services
10 from the facility. The notice shall be at least 8.5 inches by 11 inches
11 and written in no less than 22-point type.

12 (B) A printed notice distributed to all clients in no less than
13 14-point type.

14 (C) A digital notice distributed to all clients that can be read at
15 the time of check-in or arrival, in the same point type as other
16 digital disclosures. A printed notice as described in subparagraph
17 (B) shall be available for all clients who cannot or do not wish to
18 receive the information in a digital format.

19 (3) The notice may be combined with other mandated
20 disclosures.

21 (b) An unlicensed covered facility shall disseminate to clients
22 on site and in any print and digital advertising materials including
23 Internet Web sites, the following notice in English and in the
24 primary threshold languages for Medi-Cal beneficiaries as
25 determined by the State Department of Health Care Services for
26 the county in which the facility is located.

27 (1) The notice shall state: “This facility is not licensed as a
28 medical facility by the State of California and has no licensed
29 medical provider who provides or directly supervises the provision
30 of services.”

31 (2) The onsite notice shall be a sign at least 8.5 inches by 11
32 inches and written in no less than 48-point type, and shall be posted
33 conspicuously in the entrance of the facility and at least one
34 additional area where clients wait to receive services.

35 (3) The notice in the advertising material shall be ~~the same point~~
36 ~~type as other information in the advertisement.~~ *clear and*
37 *conspicuous. “Clear and conspicuous” means in larger point type*
38 *than the surrounding text, or in contrasting type, font, or color to*
39 *the surrounding text of the same size, or set off from the*

1 *surrounding text of the same size by symbols or other marks that*
2 *call attention to the language.*

3 123473. (a) Covered facilities that fail to comply with the
4 requirements of this article are liable for a civil penalty of five
5 hundred dollars (\$500) for a first offense and one thousand dollars
6 (\$1,000) for each subsequent offense. The Attorney General, city
7 attorney, or county counsel may bring an action to impose a civil
8 penalty pursuant to this section after doing both of the following:

9 (1) Providing the covered facility with reasonable notice of
10 noncompliance, which informs the facility that it is subject to a
11 civil penalty if it does not correct the violation within 30 days from
12 the date the notice is sent to the facility.

13 (2) Verifying that the violation was not corrected within the
14 30-day period described in paragraph (1).

15 (b) The civil penalty shall be deposited into the General Fund
16 if the action is brought by the Attorney General. If the action is
17 brought by a city attorney, the civil penalty shall be paid to the
18 treasurer of the city in which the judgment is entered. If the action
19 is brought by a county counsel, the civil penalty shall be paid to
20 the treasurer of the county in which the judgment is entered.

21 ~~123474. The Attorney General shall post and maintain on the~~
22 ~~Department of Justice’s Internet Web site a list of the covered~~
23 ~~facilities upon which a penalty has been imposed for~~
24 ~~noncompliance with the requirements of this article.~~

25 SEC. 4. The provisions of this act are severable. If any
26 provision of this act or its application is held invalid, that invalidity
27 shall not affect other provisions or applications that can be given
28 effect without the invalid provision or application.