

ORDINANCE NO.

FILE OF CITY COUNCIL

BILL NO. 61 - 2022

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AUGUST 3, 2022

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AN ORDINANCE

Amending the City of Allentown Code, Part II, General Legislation, by adding Chapter 474, Regulating Rights and Actions, § 474-2 **Regulation of Deceptive Advertising by Limited Services Pregnancy Centers.**

**WHEREAS**, the Supreme Court of the United States issued an Opinion in *Dobbs v. Jackson Women's Health Organization* (2022) that overturned its prior decision in *Roe v. Wade* (1973), leaving the decision of abortion rights to the States; and

**WHEREAS**, after the issuance of this Opinion, neighboring states of the Commonwealth of Pennsylvania have introduced legislation to severely restrict or ban abortion services that would otherwise be legal within the Commonwealth; and

**WHEREAS**, pregnant persons in states that severely restrict or ban abortions have traveled across state boundaries seeking abortion services for various reasons including, but not limited to, protecting their physical and mental health.

**WHEREAS**, it is imperative that pregnant persons who seek abortion services receive timely and accurate information so they may choose the best services for them at their time of need;

**WHEREAS**, if pregnant persons do not receive timely and accurate information, subsequent decisions could lead to further complications and unnecessary medical procedures, which could be costly for both patients and providers; and

**WHEREAS**, the City has a legitimate government interest in protecting the public health of residents and nonresidents within its jurisdiction by promoting the safety and security of patients, providers, and clinics within the City through ensuring access to accurate information.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF ALLENTOWN ORDAINS AS FOLLOWS:**

**SECTION ONE:** That the following be added to Part II, General Legislation as **§474-2 Regulation of Deceptive Advertising by Limited Services Pregnancy Centers.**

**§474-2 Regulation of Deceptive Advertising by Limited Services Pregnancy Centers.**

## **A. DEFINITIONS.**

**For the purposes of this section, the following definitions shall apply:**

1. "Abortion" means the termination of a pregnancy for purposes other than producing a live birth, including a procedure, or using pharmacological agents.
2. "Agency" means a department or entity designated by the Office of the Mayor.
3. "Client" means an individual who is inquiring about or seeking services at a pregnancy services center.
4. "Clinical laboratory services" means the microbiological, serological, chemical, hematological, biophysical, cytological, or pathological examination of materials derived from the human body.
5. "Deceptive advertising" means:
  - a. Disparaging the goods, services, or business of another by false or misleading representation of facts; or
  - b. Advertising goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity; or
  - c. Advertising goods or services with intent not to provide or offer them as advertised.
6. "Emergency contraception" means one or more prescription drugs used to prevent pregnancy after sexual intercourse.
7. "Health information" means any oral or written information in any form or medium that relates to health insurance or the past, present or future physical or mental health or condition of a client.
8. "Licensed health care provider" means a person licensed under the provisions of federal or state law to provide health care or other medical services.
9. "Limited services pregnancy center" means a pregnancy services center that does not directly provide, or provide referrals for, abortions or emergency contraception.
10. "Pregnancy-related service" means any medical or health counseling service related to pregnancy or pregnancy prevention, including, but not limited to, contraception and contraceptive counseling, pregnancy testing, pregnancy diagnosis, pregnancy options counseling, obstetric ultrasound, obstetric sonogram, and prenatal care.
11. "Pregnancy services center" means a facility, including a mobile facility, the primary purpose of which is to provide services to clients who are or have reason to believe they may be pregnant and that either:
  - a. Offers obstetric ultrasounds, obstetric sonograms, pregnancy testing or diagnosis or prenatal care to pregnant clients, or

b. Has the appearance of a medical facility by virtue of having two or more of the following factors present:

i. Staff or volunteers who wear medical attire and uniforms;

ii. One or more examination tables;

iii. A private or semiprivate room or area containing medical supplies or medical instruments;

iv. Staff or volunteers who collect health information from clients;

v. The facility is located on the same premises as a licensed health care facility or licensed health care provider or shares facility space with a licensed health care provider;

12. "Premises" means land and improvements or appurtenances or any part thereof.

13. "Prenatal care" means services consisting of a physical examination, pelvic examination, or clinical laboratory services, including pregnancy testing, provided to a client during pregnancy.

14. "Reproductive health care services" means all medical, surgical, counseling, or referral services relating to the human reproductive system, including but not limited to services relating to pregnancy, contraception, miscarriage, or the termination of a pregnancy.

## **B. DECEPTIVE PRACTICES.**

No limited services pregnancy center, with the intent to perform a pregnancy-related service, shall make or disseminate before the public, or cause to be made or disseminated before the public, in any newspaper or other publication, through any advertising device, or in any other manner, including, but not limited to, through use of the Internet, any statement concerning any pregnancy-related service or the provision of any pregnancy-related service that is deceptive, whether by statement or omission, and that a limited services pregnancy center knows or reasonably should know to be deceptive.

Nothing in this Chapter shall deprioritize, interfere with, or impair the enforcement of laws relating to the safety of providers of reproductive health care services or the safety of patients receiving these reproductive health care services.

## **C. ENFORCEMENT.**

1. *Complaint procedure.* The Agency shall provide a complaint form on the official City website. Any individual or organization may file a complaint with the Agency for any violation of this section.

2. *Review and investigation.* The Agency shall review and investigate the complaint and shall make a finding of compliance or noncompliance within sixty (60) days of the complaint being filed.

3. *Finding of noncompliance.* If at any time the Agency, upon investigation of a complaint or upon independent investigation, finds that a violation of this section has occurred, it shall issue a finding of noncompliance. The finding of noncompliance shall specify the areas of noncompliance,

4. *Referral for criminal investigation.* If at any time the Agency determines that a criminal violation may have occurred, the Agency shall refer the matter to the District Attorney and/or other appropriate entities for criminal investigation.

a. Any person convicted of violating this Ordinance shall be subject to the maximum penalties allowable by law, including, without limitation, penalties prescribed under the Pennsylvania Unfair Trade Practices and Consumer Protection Law.

**SECTION TWO:** That the following § **474-5 Severability** be added as a provision for this section and chapter:

**§ 474-5 Severability.**

The provisions of this Chapter are severable. If any portion of this Chapter is held invalid, unenforceable, or unconstitutional by any court of competent jurisdiction, it shall not affect the validity of the remaining portions of this Chapter, which shall be given and remains in full force and effect.

**SECTION THREE:** That this Ordinance will take effect ten (10) days after final passage.

**SECTION FOUR:** That all Ordinances inconsistent with the above provisions are repealed to the extent of their inconsistency.