

131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 1137

H.P. 723

House of Representatives, March 13, 2023

An Act to Prohibit Deceptive Advertising in Limited Pregnancy Services Centers

Reference to the Committee on Health and Human Services suggested and ordered printed.

ROBERT B. HUNT Clerk

R(+ B. Hunt

Presented by Representative GRAMLICH of Old Orchard Beach.

Cosponsored by Senator BRENNER of Cumberland and

Representatives: KUHN of Falmouth, LOOKNER of Portland, MOONEN of Portland,

MORIARTY of Cumberland, O'NEIL of Saco, RECKITT of South Portland, SHEEHAN of

Biddeford, Senator: CARNEY of Cumberland.

1	Be it enacted by the People of the State of Maine as follows:
2	Sec. 1. 22 MRSA §1902, sub-§2-A is enacted to read:
3 4 5	2-A. Emergency contraceptive supplies. "Emergency contraceptive supplies" means any medically approved drug designed to prevent pregnancy when administered after sexual intercourse.
6	Sec. 2. 22 MRSA §1902, sub-§5-B is enacted to read:
7 8 9	5-B. Limited pregnancy services center. "Limited pregnancy services center" means a pregnancy services center that does not directly provide, or provide referrals for, abortions or emergency contraceptive supplies.
10	Sec. 3. 22 MRSA §1902, sub-§7 is enacted to read:
11	7. Pregnancy services center. "Pregnancy services center" means a facility that:
12 13	A. Provides medical or health counseling services related to pregnancy or pregnancy prevention; or
14 15	B. Appears to provide medical or health counseling services related to pregnancy or pregnancy prevention and has at least 2 of the following:
16	(1) Staff or volunteers who wear medical attire or uniforms;
17	(2) One or more examination tables;
18 19	(3) A private or semiprivate area where medical supplies or medical instruments are located;
20 21	(4) Staff or volunteers who collect health information from persons seeking medical or health counseling services; or
22 23	(5) A location connected to, or sharing a space with, a licensed health care facility or health care provider.
24 25 26 27	Services related to pregnancy or pregnancy prevention include, but are not limited to, contraceptive procedures, emergency contraceptive supplies, contraceptive supplies, contraceptive counseling, abortion, pregnancy testing, pregnancy diagnosis, pregnancy options counseling, obstetric ultrasound, obstetric sonogram and prenatal care.
28	Sec. 4. 22 MRSA §1912 is enacted to read:
29	§1912. Deceptive advertising; limited pregnancy services centers
30 31 32 33 34 35 36	1. Dissemination prohibited. A limited pregnancy services center may not, in connection with providing a medical or health counseling service related to pregnancy or pregnancy prevention, provide, disseminate or cause the dissemination of information, or provide only partial information, about pregnancy, pregnancy prevention or abortion that it knows or reasonably should know is deceptive or misleading. The prohibition in this subsection includes, but is not limited to, verbal statements and written statements in a newspaper, journal, pamphlet, publication or other written, recorded or electronic medium.
37 38 39	2. Notice. If the Attorney General has reason to believe that a limited pregnancy services center has violated subsection 1, the Attorney General shall provide written notice of the violation to the limited pregnancy services center.

- 3. Enforcement. If a limited pregnancy services center that received written notice under subsection 2 fails to respond to the notice or comply with the requirements under subsection 1 within 10 days of receiving the written notice, the Attorney General may bring an action in the name of the State against the limited pregnancy services center to compel compliance with the requirements of subsection 1 by temporary or permanent injunction. In any action pursuant to which a temporary or permanent injunction is issued under this section, the court may, in addition to any other remedy within its authority, order the defendant to complete any combination of the following requirements:

 A. Disseminate, or pay for the dissemination of, information that corrects the information identified to be deceptive or misleading;

 B. Post, in locations determined by the court, a remedial notice that corrects the effects of the information identified to be deceptive or misleading; or
 - C. Take any other action the court determines necessary to remedy adverse effects that the information identified to be deceptive or misleading had on a person who was seeking medical or health counseling services related to pregnancy or pregnancy prevention from the limited pregnancy services center.
 - Nothing in this section may be construed to prohibit the State or a political subdivision of the State from pursuing other administrative or legal action authorized by law including, but not limited to, any action that may be available under Title 5, chapter 10.
 - **4. Penalties.** In any action pursuant to which a temporary or permanent injunction is issued under this section, the court shall issue a civil penalty of not less than \$50 and not more than \$500 for each violation identified in the action. If the Attorney General prevails in an action under this section, the Attorney General is entitled to recover the reasonable costs and reasonable attorney's fees of pursuing that action.
 - 5. Rulemaking. The Attorney General shall adopt rules necessary to implement this section. Rules adopted by the Attorney General must include, but are not limited to, the following:
 - A. The process through which a person can notify the Attorney General of a facility that the person believes has engaged in the dissemination of deceptive or misleading information prohibited under subsection 1;
 - B. The process and timeline that the Attorney General will follow in responding to a person who submitted notification under paragraph A; and
 - C. Examples of the dissemination of deceptive or misleading information provided by limited pregnancy services centers prohibited under subsection 1.
- The processes required under paragraphs A and B, and the examples required under paragraph C, must be available to access on the Attorney General's publicly accessible website.

38 SUMMARY

This bill defines the terms "pregnancy services center," "limited pregnancy services center" and "emergency contraceptive supplies," prohibits a limited pregnancy services center from disseminating information about pregnancy, pregnancy prevention or abortion

that is deceptive or misleading and establishes a process for notice and enforcement of that prohibition.