



Legislation Text

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Clerk 06/29/2017

A RULE AND REGULATION relating to disclosure of information by limited service pregnancy centers; adding a new Title 4A to the BOH Code; enacted pursuant to RCW 70.05.060, including the latest amendments or revisions thereto.

BE IT ADOPTED BY THE KING COUNTY BOARD OF HEALTH:

SECTION 1. Findings:

A. The King County Board of Health finds that the Board of Health has a compelling interest in ensuring that women who might be pregnant are notified about whether or not the limited service pregnancy centers they visit for ultrasound, pregnancy testing or pregnancy diagnosis or pregnancy options counseling are health care facilities. Lack of such a notification presents a threat to the public health because it might delay women from having the necessary information to seek comprehensive family planning and reproductive health care services or obstetric health care available elsewhere, including information enabling them to seek free or low-cost avenues of receiving those services.

B. All women in King County, regardless of income, should have access to comprehensive family planning and reproductive health care services. Further, all pregnant women in King County, who might wish to continue their pregnancies, should have access to obstetric health care. Ensuring access to those services has been shown to be critical for saving lives and reducing ill-health for both women and their children. For women who might be pregnant, particularly if their pregnancies were unintended, access to those services might be even more critical.

C. Research has shown that investments in comprehensive sexual and reproductive health result in benefits such as: preventing unintended pregnancies, which can improve birth spacing and outcomes; improving maternal health; increasing prevention or early diagnosis of breast or cervical cancer; and preventing, diagnosing and treating sexually transmitted infections, including those that could be transmitted during gestation or birth.

D. Health care facilities providing health care to women who might be pregnant either:

1. Provide important information for women on how to access comprehensive family planning and reproductive health care services and obstetric health care, including information to help pregnant women find health insurance, local doctors or midwives and other community resources to support healthy pregnancies; or
2. Provide those services themselves.

E. Conversely, some limited service pregnancy centers have been reported to provide little or no information on the availability of free, low-cost or full-cost comprehensive family planning and reproductive health care services to women. Also, those limited service pregnancy centers do not provide comprehensive family planning and reproductive health care services or obstetric health care for women. Beyond potential misunderstanding as to whether women are receiving care from health care facilities because of a lack of disclosure from the facilities that the women are not receiving that care, some limited service pregnancy centers have been reported to misinform women about their health and their health care options. That misinformation can delay access to comprehensive family planning and reproductive health care services and obstetric health care and can lead to more risky reproductive decisions, such as later-term and expensive abortions. Thus, lack of information, namely failure to notify the women who might be pregnant and visit these limited service pregnancy centers for ultrasounds, pregnancy testing and diagnosis, or pregnancy options counseling, that the facilities are not health care facilities, is a threat to the public health.

F. In 2014, an estimated 429,910 women in Washington were in need of publicly funded contraceptive services and supplies. That year, Public Health - Seattle & King County served 9,534 family planning clients.

It is estimated that 288 unintended pregnancies are prevented per every 1,000 users of publicly funded contraceptive services. In 2014 Public Health - Seattle & King County is estimated to have prevented nearly 2,120 unintended pregnancies, which are estimated to translate to 1,060 fewer births from unintended pregnancies, 720 fewer abortions and 340 fewer miscarriages.

G. While every year thousands of women in King County are in need of publicly funded comprehensive family planning, reproductive health care services and obstetric health care, many, including women who learn they are pregnant, remain unaware of the programs available to provide them with these services free or at low cost. For women facing unwanted or otherwise crisis pregnancies, the public health risks of lacking access to information on where and how they can obtain free or low-cost comprehensive family planning and reproductive health care services and obstetric health care, are even more dangerous.

H. In addition to the time-sensitive nature of the decision about whether or not to continue a pregnancy, for women who face additional challenges such as intimate partner violence, behavioral health issues or medical diagnoses that can lead to complications during pregnancy, having information enabling them to more quickly access obstetric health care, comprehensive family planning and reproductive health care services might prove life-altering for their health and for the health of their future children, if they decide to and are able to continue the pregnancies.

I. Further, pregnancy itself has been identified as a time of high risk for women. The prevalence of both antenatal and postnatal psychological distress has been studied, with some studies finding that socioeconomic deprivation and psychological distress tend to occur. Research suggests that there is a positive association between antenatal distress and birth outcomes. There is also research on the impact of maternal mental health, which is known to have lasting implications on child and adolescent behavior. Consequently, timely access for pregnant women to health care facilities, which have the tools to assess for and address those needs, is imperative for the short-term and long-term public health.

J. It is vital that pregnant women in King County know when they are receiving care from health care

facilities, as delay in accessing that care resulting from lack of information or misinformation could permanently alter the reproductive decisions available to them and the adequacy of their prenatal care. Ensuring that limited service pregnancy centers notify that they are not health care facilities is an effective way to help women determine whether the facilities have the requisite staff to either assist or hinder the women's efforts to make timely reproductive and prenatal care decisions. Therefore, King County has a public health interest in supplementing its efforts to ensure that women who might be pregnant know who is providing their pregnancy-related care.

SECTION 2. There is hereby created a new Title 4A in the Board of Health Code, to be named Information Disclosure for Care Other Than Health Care.

SECTION 3. Sections 4, 5, 6 and 7 of this rule should constitute a new chapter in the new Title of the Board of Health Code created in section 2 of this rule.

NEW SECTION. SECTION 4. Purpose - liberal construction - scope - intent.

A. This chapter is enacted as an exercise of the Board of Health powers of King County to protect and preserve the public health, safety and welfare. Its provisions shall be liberally construed for the accomplishment of these purposes.

B. It is the intent of this chapter to place the obligation of complying with its requirements upon limited service pregnancy centers designated by this chapter within its scope, and any provision of or term used in this chapter is not intended to impose any duty whatsoever upon Public Health - Seattle & King County or any of its officers or employees, for whom the implementation or enforcement of this chapter shall be discretionary and not mandatory.

NEW SECTION. SECTION 5. Definitions. For the purposes of this chapter:

A. "Clear and conspicuous" means:

1. Larger point type than the surrounding text;
2. In contrasting type, font or color to the surrounding text of the same size; and

3. Set off from the surrounding text of the same size by symbols or other marks that call attention to the language.

B. "Health care facility" means a hospital, clinic, nursing home, laboratory, office, or similar place where a licensed, certified, registered, or otherwise authorized health care provider conducts functions that make it governed by chapter 70.02 RCW.

C. "Health information" means any oral or written information in any form or medium that relates to the past, present or future physical or mental health or condition of a client.

D. "Limited service pregnancy center" means a facility that is not a health care facility and whose primary purpose is to provide either pregnancy options counseling or pregnancy tests, or both, for a fee or as a free or low-cost service; and that satisfies two or more of the following:

1. The facility offers obstetric ultrasounds;
2. The facility offers pregnancy testing;
3. The facility advertises or solicits patrons with offers to provide prenatal sonography, pregnancy

tests or pregnancy options counseling; and

4. The facility has staff or volunteers who collect health information from clients.

NEW SECTION. SECTION 6. Disclosure - required - manner.

A. A limited service pregnancy center shall disseminate to clients on site and in any print and digital advertising materials including Internet web sites, the following notice in English, Spanish, Vietnamese, Russian, Somali, Chinese, Korean, Ukrainian, Amharic and Punjabi: "This facility is not a health care facility."

B. The on-site notice shall be on a sign at least A3 size paper and written in at least forty-eight-point type, and shall be posted conspicuously, in a manner that it is easily read, at the entrance of the facility and at least one additional area where persons wait to receive services. The notice shall not contain other statements or markings.

C. The notice in the advertising materials shall be clear and conspicuous.

D. The director of Public Health - Seattle & King County shall make available a downloadable on-site notice on the Public Health - Seattle & King County Internet web site.

NEW SECTION. SECTION 7. Enforcement - penalties.

A. The director of Public Health - Seattle & King County may utilize BOH chapter 1.08 to enforce the requirements of this chapter, consistent with subsection B. of this section.

B. An entity violating this chapter is subject to a civil penalty of up to one hundred dollars. Each day upon which a violation occurs or is permitted to continue constitutes a separate violation.

SECTION 8. Severability. If any provision of this rule or its application to any person or circumstance is held invalid, the remainder of the rule or the application of the provision to other persons or circumstances is not affected.