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AB-1720 Clinics: prenatal screening. (2023-2024)

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Assembly Bill No. 1720

CHAPTER 259

An act to add Sections 123621 and 123622 to the Health and Safety Code, relating to clinics.

[Approved by Governor September 27, 2023. Filed with Secretary of State September 27, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1720, Bauer-Kahan. Clinics: prenatal screening.

Existing law requires the State Department of Public Health to license and regulate clinics and health facilities. Existing law generally makes a violation of those licensing provisions a crime. Existing law requires a person or facility that offers a fetal ultrasound, or a similar procedure, for keepsake or entertainment purposes, to disclose to a client prior to performing the procedure, in writing, a specified statement.

This bill would specify the settings in which an ultrasound or similar medical imaging device procedure may be offered. The bill would exempt a practice of a licensed midwife, or a practice of a certified nurse-midwife. The bill would impose a civil penalty for the violation of this provision in the amount of \$2,500 for a first offense and \$5,000 for each subsequent offense, defined as each ultrasound conducted outside of the specified settings. The bill would authorize the Attorney General, a district attorney, a city attorney, or a county counsel to bring an action to impose the civil penalty. The bill would specify how the civil penalty funds and related costs are to be paid.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 123621 is added to the Health and Safety Code, to read:

123621. (a) An ultrasound, or a similar medical imaging device or procedure used for a medical, counseling, or diagnostic service or purpose, shall only be offered in the following settings:

- (1) A licensed clinic, as described in Chapter 1 (commencing with Section 1200) of Division 2.
- (2) An outpatient setting, as described in Chapter 1.3 (commencing with Section 1248) of Division 2.
- (3) A licensed health facility, as described in Chapter 2 (commencing with Section 1250) of Division 2.
- (4) A practice of a licensed physician or surgeon, a medical group practice, including a professional medical corporation, as defined in Section 2406 of the Business and Professions Code, another form of corporation controlled by physicians and surgeons, a medical partnership, a medical foundation exempt from licensure, or another lawfully organized group of physicians and surgeons that provides health care services.

(5) A practice of a licensed chiropractor, as described in Chapter 2 (commencing with Section 1000) of Division 2 of the Business and Professions Code, or a lawfully organized group of licensed chiropractors that provides health care services.

(6) A practice of a licensed physical therapist, as described in Chapter 5.7 (commencing with Section 2600) of Division 2 of the Business and Professions Code, or a lawfully organized group of licensed physical therapists that provides health care services.

(7) A facility affiliated with those settings.

(8) An exempt entity as described in Section 1206.

(b) This section does not apply to a practice of a licensed midwife providing care pursuant to Article 24 (commencing with Section 2505) of Chapter 5 of Division 2 of the Business and Professions Code, or a practice of a certified nurse-midwife providing care pursuant to Article 2.5 (commencing with Section 2746) of Chapter 6 of Division 2 of the Business and Professions Code.

SEC. 2. Section 123622 is added to the Health and Safety Code, to read:

123622. (a) Any person or entity that fails to comply with the requirements of Section 123621 is liable for a civil penalty of two thousand five hundred dollars (\$2,500) for a first offense and five thousand dollars (\$5,000) for each subsequent offense. The Attorney General, a district attorney, a city attorney, or a county counsel may bring an action to impose a civil penalty pursuant to this section. For purposes of this subdivision, an offense is each ultrasound conducted in violation of Section 123621.

(b) Any person or entity that violates this section is liable for any costs, fees, and civil penalties. Costs, fees, and civil penalties collected pursuant to this section shall be paid to the office that brought the action as follows:

(1) To the Office of the Attorney General.

(2) To the treasurer of the city for the city attorney.

(3) To the treasurer of the county for the district attorney.

(4) To the treasurer of the county for the county counsel.