

Due to a stay issued by the United States Court of Appeals, DCA is cancelling the Public Hearing on the Proposed Rules to Require Pregnancy Services Centers to Make Certain Disclosures.

Department of Consumer Affairs

Notice of Cancellation of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? Section 2 of Local Law 17 of 2011 added a new subchapter 17 to Chapter 5 of Title 20 of the Administrative Code of the City of New York to require pregnancy services centers to make certain disclosures. In particular, section 20-816(b) of the Administrative Code provides that “[a] pregnancy services center shall disclose if it does or does not have a licensed medical provider on staff who provides or directly supervises the provision of all of the services at such pregnancy services center.” Section 20-816(f) of the Administrative Code requires the Commissioner of Consumer Affairs to publish rules that specify the manner in which a pregnancy services center must provide that disclosure on signs posted at the pregnancy services center and in advertisements promoting the services of the pregnancy services center. The Department of Consumer Affairs proposes to add a new subchapter P to Chapter 5 of Title 6 of the Rules of the City of New York to publish the rules required by section 20-816(f) of the Code requiring pregnancy services centers to make such disclosure.

When and where is the Hearing? The Department of Consumer Affairs will hold a public hearing on the proposed rule. The public hearing will take place at 10 a.m. on April 17, 2014. The hearing will be in Department of Consumer Affairs hearing room at 66 John Street, 11th Floor, New York, New York.

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the Department of Consumer Affairs through the NYC rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to Rulecomments@dca.nyc.gov
- **Mail.** You can mail written comments to Ricky Wong, Assistant Commissioner for Community and Governmental Relations, Department of Consumer Affairs, 42 Broadway, 8th Floor, New York, NY 10004
- **Fax.** You can fax written comments to the Department of Consumer Affairs, (646) 500-5962.
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling 212-436-0180. You can also sign up in the hearing room before the hearing begins on April 17, 2014. You can speak for up to three minutes.

Is there a deadline to submit written comments? Written comments may be submitted on or before 5 p.m. on April 17, 2014.

Do you need assistance to participate in the Hearing? You must tell the Office of Legal Affairs if you need a reasonable accommodation of a disability at the Hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at 212-436-0155. You must tell us by April 16, 2014.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available between the hours of 9 a.m. and 5 p.m. to the public at the office Ricky Wong, Assistant Commissioner for Community and Governmental Relations, Department of Consumer Affairs, 42 Broadway, 8th Floor, New York, NY 10004

What authorizes the Department of Consumer Affairs to make this rule? Sections 1043 and 2203 of the City Charter and sections 20-104(b) and 20-816(f) of the Administrative Code of the City of New York authorize the Department of Consumer Affairs to make this proposed rule. This proposed rule was not included in the Department of Consumer Affairs's regulatory agenda for this Fiscal Year because it was not contemplated when the Department of Consumer Affairs published the agenda.

Where can I find the Department of Consumer Affairs rules? The Department of Consumer Affairs's rules are in title 6 of the Rules of the City of New York.

What rules govern the rulemaking process? The Department of Consumer Affairs must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.

Statement of Basis and Purpose of Proposed Rule

Section 20-816(b) of the Administrative Code, enacted as part of section 2 to Local Law 17 of 2011, provides that a pregnancy services center "shall disclose if it does or does not have a licensed medical provider on staff who provides or directly supervises the provision of all of the services at such pregnancy services center." Section 20-816(f) of the Administrative Code requires that the disclosure must be made "(1) in writing, in English and Spanish in a size and style as determined in accordance with rules promulgated by the commissioner on (i) at least one sign conspicuously posted in the entrance of the pregnancy services center; (ii) at least one additional sign posted in any area where clients wait to receive services; and (iii) in any advertisement promoting the services of such pregnancy services center in clear and prominent letter type and in a size and style to be determined in accordance with rules promulgated by the commissioner". The proposed rules set forth the size, color and location of the disclosure signs

required to be posted at the pregnancy services center and in advertisements promoting the services of the pregnancy services center.

Proposed section 5-266 of Title 6 of the Rules of the City of New York would require a pregnancy services center to post a sign stating whether it has a licensed medical provider on staff who provides or directly supervises the provision of all services at such pregnancy services center. Under the rule, the Department will provide the signage on its web site for the Pregnancy Services Center to download. The sign will measure eleven (11) inches by seventeen (17) inches and the lettering will be one-inch high. The required statement will be in both English and Spanish. The proposed rule would require the pregnancy services center to post the sign at the public entrance to the pregnancy services center and in waiting areas, and specifies the locations where the pregnancy services center must post the signs.

Proposed section 5-267 provides a non-inclusive list of print and electronic visual representations that the term “advertisement promoting the services of a pregnancy services center” comprises. It would require that the required disclosure on printed materials be clear, legible, in the same color and darkness, and in type size at least one-third as high and one-third as broad as the largest print in the advertisement. The rule would require that the disclosure in internet advertisements is clear, legible and in close proximity to the description of services provided at the pregnancy services center.

New material is underlined.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Proposed Rule Amendment

Section 1. Chapter 5 of Title 6 of the Rules of the City of New York is amended by adding a new subchapter P to read as follows:

SUBCHAPTER P

PREGNANCY SERVICES CENTERS

§ 5-266. Display of Sign for Required Disclosure.

(a) Every pregnancy services center must display at its facility a sign provided by the Department stating in English and Spanish that it does or does not have a licensed medical provider on staff who provides or directly supervises the provision of all services at such pregnancy services center, as the case may be. The Department will provide both signs on its website for downloading by pregnancy services centers. The sign will measure eleven (11) inches by seventeen (17) inches and the lettering will be one inch high.

(b) Every pregnancy services center must post the appropriate sign at the public entrance. If the pregnancy services center is located in an office building or other structure

containing two or more independent units, the sign must be posted at the door used exclusively for entry to the pregnancy services center. The sign must be posted so that the distance from the top of the sign to the floor is between sixty-six (66) and seventy (70) inches and the distance between the frame of the door and the closest edge of the sign is not more than twelve (12) inches.

(c) Every pregnancy services center must post at least one sign in every area where clients wait to receive services. If the waiting area contains a reception desk, the sign must be posted on the reception desk or on a wall at a location not greater than 12 inches from the reception desk. If the sign is posted on a wall, it must be posted so that the distance from the top of the sign to the floor is between sixty-six (66) and seventy (70) inches.

(d) Every pregnancy services center must also post the disclosure on its website accurately stating in English and Spanish whether it does or does not have a licensed medical provider on staff who provides or directly supervises the provision of all services at such pregnancy services center. The lettering of such statement must be clear, legible, in the same color and darkness, and in a type size at least one-third as high and one-third as broad, as the largest print on the website. The statement on the website must be in close proximity to the description of services provided such pregnancy services center.

§ 5-267. Disclosures in Advertising.

(a) "Advertisement promoting the services of a pregnancy services center" includes all promotional materials, statements, visual descriptions, or other visual representations of any kind disseminated in print or electronically, including, but not limited to, mailings, postcards, signs, business cards, flyers, hand-outs, brochures, banners, billboards, subway or bus signs, window signs, store-front signs, newspaper print advertisements and listings, telephone directory listings, television advertisements and internet advertisements.

(b) Every advertisement promoting the services of a pregnancy services center must accurately state in English and Spanish whether it does or does not have a licensed medical provider on staff who provides or directly supervises the provision of all services at such pregnancy services center. The lettering of such statements in printed materials must be clear, legible, and in the same color and darkness, and in a type size at least one-third as high and one-third as broad, as the largest print in the advertisement. The lettering of such statement in television and internet advertisements must be clear and legible and in close proximity to the description of services provided at the pregnancy services center.

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Disclosure by Pregnancy Services Centers

REFERENCE NUMBER: 2014 RG 009

RULEMAKING AGENCY: Department of Consumer Affairs

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: March 3, 2014

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Disclosure by Pregnancy Services Centers

REFERENCE NUMBER: DCA-16

RULEMAKING AGENCY: Department of Consumer Affairs

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Jee Kwon
Mayor's Office of Operations

March 3, 2014
Date