

ORDINANCE NO. 2004-049

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF SEP 7 2004

**AN ORDINANCE REPEALING AND REENACTING
CHAPTER 12.96 OF THE SACRAMENTO CITY CODE,
RELATING TO ACCESS TO HEALTH CARE FACILITIES**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Chapter 12.96 of the Sacramento City Code, relating to access to health care facilities, is hereby repealed.

SECTION 2.

Chapter 12.96 is added to the Sacramento City Code to read as follows:

CHAPTER 12.96. ACCESS TO HEALTH CARE FACILITIES

12.96.010 Findings.

The City Council finds that every person in the City of Sacramento has a basic and fundamental right to privacy protected by the United States Constitution and explicitly guaranteed in California's Constitution, Article 1, Section 1, including the right to seek and obtain all health care services permitted under the laws of this State. Access to these services is a matter of critical importance not only to the individual, but also to the health and welfare of all citizens of the City. Intentional efforts to harass an individual in order to deter or prevent the individual from exercising his or her right to seek and obtain health care services are contrary to the interests of the people of Sacramento, and can be injurious to the patient's health, even if the patient is not physically barred from entry. Other persons may be sufficiently intimidated to put off necessary or timely medical treatment entirely. The City Council further finds that protests at the entrance to health

FOR CITY CLERK USE ONLY

ORDINANCE NO. 2004-049

DATE ADOPTED: SEP 7 2004

care facilities in the City of Sacramento have often disrupted the operation of the facilities, as well as the ability of individuals to seek and obtain services within the facilities.

In adopting this legislation, the City Council recognizes the fundamental constitutional right to assemble peaceably and express opinions on matters of public concern, as well as the right to seek and obtain health care. The City Council finds that law enforcement officers often have difficulty determining when the exercise of the right to protest violates the competing right of those seeking access to health care facilities. The City Council further finds that the provisions of this ordinance promote the full exercise of these rights and strike an appropriate accommodation between them. The failure of the City Council to take steps to accommodate these competing interests may jeopardize the exercise of both privacy and First Amendment rights.

12.96.020 Approaching Without Consent Within One Hundred Feet From Entrance Door to Health Care Facility.

No person shall knowingly approach another person within eight feet of such other person; unless such other person consents, for the purpose of passing a leaflet or handbill to, displaying a sign to, or engaging in oral protest, education, or counseling with such other person in the public way or sidewalk area within a radius of one hundred feet from any entrance door to a health care facility. Any person who violates this section is guilty of a misdemeanor.

Distance between persons under this section shall be measured from that part of the approaching person's body that is nearest to the closest part of the approached person's body. For purposes of the preceding sentence, the term "body" shall include any extension thereof including, but not limited to, an outstretched arm or an outstretched hand-held sign.

12.96.030 Health Care Facility.

For the purpose of this chapter, the term "health care facility" shall mean any facility licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code, any health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, or any facility where medical care is regularly provided to individuals by persons licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, the Osteopathic Initiative Act, or the Chiropractic Initiative Act.

FOR CITY CLERK USE ONLY

ORDINANCE NO. 2004-049
DATE ADOPTED: SEP 7 2004

12.96.040 Private right of action.

A. Any person who is seeking to or intends to seek access to a health care facility and is aggrieved by an act prohibited by Section 12.96.020 may bring an action for damages, injunctive and/or declaratory relief, as appropriate, in a court of competent jurisdiction against any person who has violated or conspired to violate its provisions.

B. Any person who prevails in such an action shall be entitled to recover from the violator those damages, costs, attorney's fees and such other relief as determined by the court. In addition to all other damages, the court may award to the aggrieved person a civil penalty of up to one thousand dollars for each violation.

C. The remedies provided by this section are in addition to any other legal or equitable remedies and are not intended to be exclusive.

12.96.050 Severability.

If any part or provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of this chapter, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this chapter are severable.

DATE PASSED FOR PUBLICATION: **AUG 31 2004**

DATE ENACTED:

DATE EFFECTIVE:

SEP 7 2004
OCT 7 2004

HEATHER FARGO

MAYOR

ATTEST:

SHIRLEY CONCOLINO

CITY CLERK

FOR CITY CLERK USE ONLY

ORDINANCE NO. **2004-049**

DATE ADOPTED: **SEP 7 2004**