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**Testimony Opposing Raised Senate Bill No. 835
“AN ACT CONCERNING DECEPTIVE ADVERTISING PRACTICES OF LIMITED
SERVICES PREGNANCY CENTERS.”**

Thank you Senator Abrams, Representative Steinberg, and honored members of the Public Health Committee for accepting my testimony. My name is Stephen Lyon, from Willimantic, CT, and I am providing testimony in opposition to Senate Bill 835, “An Act Concerning Deceptive Advertising Practices of Limited Services Pregnancy Centers,” because it is unnecessary based on current protections in the law, risks infringing on and/or chilling the free speech rights of Limited Services Pregnancy Centers, contains vague definitions, and ultimately does nothing but attempt sate the appetites of extremist groups who oppose those who believe that abortion is not the only answer to crisis pregnancies.

The first reason that I oppose SB 835 is that it is superfluous. There are already laws on the books against false advertising by all businesses and not-for-profit organizations. I can find no reason to single out one specific type of organization for this type of regulation other than to push a specific ideological agenda. To my knowledge there is no verified evidence of any deceptive advertising practices by any pregnancy centers in CT, and therefore there is no need for any additional regulations other than those currently enacted (The only complaints have been from organizations which perform abortions; there have been no direct client complaints and no reports to the Department of Consumer Protection. The only allegations are from political opponents of these centers.). At any time this type of legislation is irresponsible, but specifically during a time where we are dealing with an actual public health crisis in the form of the COVID-19 pandemic, along with the economic crisis which has resulted from it, I find it highly reproachable that the legislature is wasting its time and resources on a political hit piece. This committee should stick to issues that are actively impacting the people of this state, instead of angling for brownie points from ideologues.

The second reason I oppose this bill is risk of chilling the free speech of pregnancy centers and the employees of such centers. First, this legislation does not stand up to constitutional muster on its face, as is not content neutral legislation; it treats clinics with one perspective different from all others, not only in technical regulation, but in the enforcement mechanism. Further, the vagueness of the definitions regarding deceptive practices, make it nearly impossible for these organizations to be sure that they are following the law, and primarily works to stop them from helping people all together, at risk of being sued; by moving enforcement to the Attorney General’s Office (unlike any other clinic), instead of the Office of Consumer Protection, puts an untenable financial burden on these not-for-profit clinics, as even if they are able to vindicate themselves in court, the legal costs could be ruinous. Additionally, the remedy in this statute is compelled speech, which is inherently dangerous, and may again result in centers shutting their doors instead of taking the risk that they’ll have to engage in speech that they find to be dishonest or morally repugnant.

Third, this legislation completely disregards the Supreme Court of the United States' holding in *National Institute of Family and Life Advocates v. Becerra*, 585 U.S.__(2018). In this case the court held as unconstitutional a law requiring centers to post visible notices about other options for pregnancy, like abortion, were available from state-sponsored clinics, as it was a content based regulation. In its decision, the court noted that lesser protections for professional speech exist in two situations – requirements to disclose “factual, noncontroversial information” in their commercial speech, and regulations which incidentally implicated speech.^{1,2} In all other such cases, strict scrutiny applied to professional speech regulations which were not content neutral. Neither of these exceptions apply to the proposed SB 835 either. The proposed legislation is obviously not incidental to speech, and the fact that we're debating what is meant by terms like “deceptive,” shows that such information is not “non-controversial.” However, even if a presumption is given that it is “factual, non-controversial information,” the *NIFLA* case held that California would have had to show that the disclosure requirements addressed a “potentially real, and not simply hypothetical harm.” Any “harm” being addressed with SB 835 is hypothetical harm, and therefore would not stand up to the constitutional test.

If the members of this committee were to honestly evaluate this bill in the context of the current political climate, and any actual issues regarding inaccurate medical advice, I believe they would have to come to the conclusion that the purpose of this bill is not truly to stop inaccurate medical information from being disseminated, but primarily to inhibit the speech and actions of those who oppose abortion (if this bill was truly about protecting women, there should be no objection to amending the proposed bill to include all clinics/centers which provide care to pregnant women, not just those which do not offer abortions). While the right to an abortion securely affixed in our laws and precedent, there is nothing which disallows for individuals to advocate for an opposing viewpoint, or provide alternative options as long as they are not impeding individuals from asserting their rights. There is no evidence that these centers have been impeding on individual's rights. Reasonable individuals can disagree on serious issues like this without using the force of the state to chill opposing speech, or compel supporting speech.

For the forgoing reasons I respectfully request that the members of this committee vote against Senate Bill 835.

Sincerely,

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¹ <https://www.oyez.org/cases/2017/16-1140> (Case brief)

² https://www.supremecourt.gov/opinions/17pdf/16-1140_5368.pdf (Full Opinion)