



Legislative Testimony  
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## **Written Testimony Supporting Senate Bill 835, An Act Concerning Deceptive Advertising Practices of Limited Services Pregnancy Centers**

Senator Abrams, Representative Steinberg, Ranking Members Hwang and Somers, Ranking Member Petit, and distinguished members of the Public Health Committee:

My name is Kelly McConney Moore, and I am the interim senior policy counsel for the American Civil Liberties Union of Connecticut (ACLU-CT). I am submitting this testimony in support of Senate Bill 835, An Act Concerning Deceptive Advertising Practices of Limited Services Pregnancy Centers.

This bill addresses a problem that arises when limited service pregnancy centers (commonly referred to as crisis pregnancy centers or CPCs) do not offer medical services, complete information, or referral to healthcare providers who offer a range of medical services, but advertise in such a way that potential clients would think that the CPC does offer some or all of those services. As an organization that defends the right to engage in free speech and the right to reproductive freedom and autonomy, the ACLU-CT considers legislation very carefully when proposed legislation potentially pits these fundamental rights against one another.

Fortunately, Senate Bill 835 does not present this kind of challenge, because the only speech it limits is unprotected speech. Deceptive commercial speech is not constitutionally protected under the First Amendment.<sup>1</sup> The Supreme Court of the United States has held that “there can be no constitutional objection to the suppression of commercial messages that do not accurately inform the public about lawful activity. The government may ban forms of communication more likely to deceive the public than to inform it.”<sup>2</sup> When

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<sup>1</sup> See, e.g., *Central Hudson Gas & Electric Corp. v. Public Service Commission of N.Y.*, 447 U.S. 557, 562-64 (1980).

<sup>2</sup> *Id.* at 563.

considering a municipal ordinance very similar to this bill, the Ninth Circuit reiterated this principle of law and held that the ordinance only regulated “false or misleading commercial speech – a category of speech afforded no constitutional protection.”<sup>3</sup> It made no difference, the Ninth Circuit held, that the services offered were free, since offering the services was tied intrinsically to the plaintiff CPC’s funding.<sup>4</sup> There simply is no intrinsic right to engage in deceptive advertising.<sup>5</sup>

Accordingly, this bill only addresses one fundamental right – the right to access a full spectrum of reproductive healthcare without burdens or barriers. When CPCs advertise their services in a deceptive manner, it creates unnecessary barriers to a person’s right to access reproductive healthcare. People who are or may be pregnant and who need information and medical care should be able to figure out whether a facility offers that information and medical care, or instead does not provide complete information, services, or referrals. Delays that may result from a person seeking care at a CPC under false pretenses can increase both the complexity and costs of later reproductive care. Ensuring that such delays do not occur is an important way to protect a person’s right to access all reproductive healthcare, including abortion.

We are very mindful that protecting the opportunity to engage in advocacy and share viewpoints about abortion is protected speech, critical to the First Amendment. That kind of speech is not limited by Senate Bill 835. Instead, the bill only prohibits a certain category of unprotected speech – deceptive commercial speech. Because that is the case, restricting that speech is constitutionally permissible and doing so here helps protect another fundamental right: the right to abortion. Given the narrow scope of this bill and the important interests it advances, the ACLU-CT supports Senate Bill 835 and urges this Committee to do the same.

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<sup>3</sup> *First Resort, Inc. v. Herrera*, 860 F.3d 1263, 1274 (9th Cir. 2017).

<sup>4</sup> *See id.*

<sup>5</sup> *See id.*