

Deanna Wallace, Esq.

## Testimony In Opposition to SB 835

My name is Deanna Wallace, I am an attorney and I am here in opposition to SB 835. In my practice as an attorney I have had the honor of helping to represent the pregnancy centers and prolife medical professionals in litigation regarding their free speech rights in state courts, at the Fourth Circuit Court of Appeals, and at the United States Supreme Court.

There are more than 2,300 Pregnancy Care Centers across America that provide vital care to mothers and their children. These Centers offer women pregnancy testing, ultrasounds, peer counseling, and access to physical resources that allow them to better care for themselves and their children. These services have been estimated to save our communities upwards of \$100 million a year. Contrary to smears by pro-abortion groups such as NARAL, Pregnancy Care Centers operate under high ethical standards, and treat each woman they encounter with kindness and compassion.

This bill is yet another example of a recent effort by the abortion industry to silence those who are committed to giving women facing an unplanned pregnancy access to options other than abortion. The courts in general have not looked favorably on these attempts, and I have every confidence that the Supreme Court will once again step in to protect the free speech rights of pro-life advocates.

In *NIFLA v Becerra* the California case, the Supreme Court made it clear that targeting the free speech of pregnancy centers would not be allowed. As a result, the State of California had to pay these pregnancy centers over \$2 million dollars in legal fees.

Similarly, the City of Baltimore paid over \$1 million dollars in legal fees after their anti-pregnancy center ordinance was overturned by the Fourth Circuit. Given the Supreme Court's clear ruling on the free speech rights of the prolife pregnancy centers it is not only unconstitutional but it is fiscally irresponsible.

There are two main reasons that SB 835 is unconstitutional, first it impermissibly targets a single viewpoint. This Bill is undeniable content based viewpoint discrimination on its face. It is specifically limited only to centers that are prolife and therefore will not and cannot do to their belief refer for abortion. By limiting the application of this Bill to only centers that do not provide or refer for abortions, the effect is to single out a particular viewpoint on abortion. This type of under-inclusiveness was directly mentioned by Justices Roberts, Alito, Kennedy and Gorsuch in the NIFLA case as raising serious concerns of viewpoint discrimination. The language alone would likely be enough to trigger the Supreme Court strict scrutiny test but the testimony today guarantees it.

As with years past, those speaking in favor of this Bill clearly meant the legislation is meant to target one viewpoint, the prolife viewpoint. Any court that reviews this legislative testimony while considering the constitutionality of the bill is going to have clear evidence that this is viewpoint discrimination.

Secondly it is impermissively vague and overbroad. We've talked a lot about what is deception and because there is no clear definition of "misleading" this bill stifles and chills the speech of every single pregnancy center in this State because they don't know if what they believe is truthful is going to fall under the Attorney General's description of truthful. They don't know whether or not a "Pregnant - Need Help" sign is going to be deceptive under this nonexistent standard. They don't know how far up the list their website can show up in Google results before they get taken to court.

It's not the government's place to decide what counts under advertising, it is classified as deceptive in the context of a highly controversial, highly debatable subject as abortion. Reasonable people can and do disagree on important matter like this and it would not be reasonable for the government to punish pregnancy centers for providing information simply because the government doesn't agree with it.

"[A]s a general matter, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content." *Ashcroft v. American Civil Liberties Union*.<sup>1</sup> As a result, the Constitution "demands that content-based restrictions on speech be presumed invalid . . . and that the Government bear the burden of showing their constitutionality."<sup>2</sup>

For these reasons, I urge the Council to reconsider implementing any ordinance that would unconstitutionally target the free speech rights of Pregnancy Care Centers. Not only can Connecticut not afford the expensive litigation that will likely result, but the women of Connecticut cannot afford to lose the support, care, and options that Pregnancy Care Centers represent. The women of Connecticut, and their unborn children, deserve better. Thank you and I welcome any questions the Council may have for me.

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<sup>1</sup> 35 U.S. 564, 573 (2002) (internal quotation marks omitted).

<sup>2</sup> *Id.*, at 660.