



www.RightToLifeLeague.org
(626) 398-6100

July 6, 2023

Senate Judiciary Committee, Senator Thomas J. Umberg, Chair
1021 O Street, Room 3240
Sacramento, CA 95814

Re: Oppose AB 1720 unless Amended

Dear Chairman Umberg and Members of the Senate Judiciary Committee,

On behalf of the Right to Life League and our supporters, we urge you to REJECT AB 1720 unless amended. AB 1720 is a hasty and unnecessary “gut and amend” bill that purports to restrict ultrasound procedures to a licensed clinic; an outpatient setting; a licensed health facility; a county medical facility; or, a professional medical corporation or medical partnership. Failure to comply results in an action for civil penalties beginning at \$2,500, enforceable by the California Attorney General, city attorney or county counsel.

The bill’s author is calling for ultrasound reform, stating “[r]equiring a licensed provider or clinic to be involved with ultrasound care is **common sense reform** that aligns with the vast majority of ultrasound procedures, while preventing fraud and unlicensed use.” (emphasis added). Yet, **existing state law already requires an entity to be appropriately licensed by the state to offer ultrasound services, and must offer the service in accordance with existing state law.**¹

Pursuant to existing California Health and Safety Code, the California Department of Public Health already regulates primary care clinics, requiring an application, a list of documentation and a lengthy approval process. Moreover, existing state law prohibits fraudulent advertising of business services.² Cal. Bus. & Prof Code Section 17200 *et seq.*

¹ Cal. Health and Safety Code Section § 1264; See also Cal. Health and Safety Code § 1265.

² Cal. Bus. & Prof. Code Section 17200 *et seq.*

The author's fundamental misperception of existing state licensing requirements is understandable given the untrue statement in the comments section of the democratic analysis of AB 1720 (emphasis added):

Pregnancy resource centers and crisis pregnancy centers (CPCs). This bill is related to prenatal **ultrasounds, which are sometimes used in non-medical settings, such as pregnancy resource centers or CPCs.**

This statement cites no supporting source and is misleading, suggesting that unlicensed facilities in California are using ultrasounds. Such false assumptions should not serve to be the basis of new law.

AB 1720's regulation of ultrasound settings invites arbitrary state enforcement threatening the constitutionally protected professional speech pro-life pregnancy centers that do not offer ultrasounds, but refer to licensed physicians who provide ultrasounds as sole proprietors on-site.

AB 1720 overlooks licensed medical doctors as sole proprietors in its list of permitted settings. A handful of California pregnancy centers operate with licensed sole proprietor physicians on-site performing the ultrasounds. These centers appropriately refer to the on-site physician. To avoid confusion, AB 1720 could easily be amended to include these licensed physicians in sole proprietorships along with medical corporations and partnerships.

Laws must be sufficiently clear so that one can know whether or not he is in violation of the law. Vague laws violate constitutional rights to Due Process.³ Section 1 of the Fourteenth Amendment to the U.S. Constitution states:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

In *Rabe v. Washington*,⁴ the U.S. Supreme Court ruled that state law violates the due process clause of the 14th Amendment when its language fails to explain exactly what conduct is prohibited.

AB 1720 may chill constitutionally protected pro-life professional speech. In an effort to avoid crushing statutory penalties starting at \$2,500 per violation, small pro-life centers across California may alter the

³ Library of Congress. (n.d.). *AMDT14.S1.7.3 void for vagueness - constitution.congress.gov*. Constitution Annotated. Retrieved February 10, 2023, from https://constitution.congress.gov/browse/essay/amdt14-S1-7-3/ALDE_00000261/.

⁴ 405 U.S. 313 (1972)



Right to Life League

Page 3

Letter in Opposition: AB 1720

way in which they advertise and provide their on-site ultrasound referral services to abortion-minded women in fear of targeted prosecution under AB 1720.

For these reasons, these committees should vote NO on AB 1720 or AMEND AB 1720 to include licensed sole proprietors in its list of permitted ultrasound settings.

Very Truly Yours,



Susan Swift, Esq.

Vice President of Legal Affairs

Right to Life League

