

No. 24-539

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IN THE  
**Supreme Court of the United States**

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KALEY CHILES,

*Petitioner,*

*v.*

PATTY SALAZAR, IN HER OFFICIAL CAPACITY AS EXECUTIVE  
DIRECTOR OF THE COLORADO DEPARTMENT OF  
REGULATORY AGENCIES, ET AL.,

*Respondents.*

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ON PETITION FOR A WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT

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**BRIEF OF *AMICUS CURIAE* HEARTBEAT  
INTERNATIONAL IN SUPPORT OF PETITIONER**

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**TABLE OF CONTENTS**

TABLE OF AUTHORITIES..... ii

INTEREST OF *AMICUS CURIAE* ..... 1

INTRODUCTION AND  
SUMMARY OF THE ARGUMENT..... 2

ARGUMENT ..... 4

    I. Allowing states to restrict disfavored speech  
    by recasting it as conduct will have a dispropor-  
    tionate effect on pregnancy resource cen-  
    ters ..... 4

        A. *NIFLA* rejects attempts to regulate  
        speech under the guise of regulating con-  
        duct ..... 5

        B. Laws restricting what speech profession-  
        als can and cannot say will especially  
        burden pregnancy centers..... 7

    II. There is a troubling trend of weaponizing  
    laws against pregnancy resource centers..... 9

        A. Pregnancy resource centers face increas-  
        ing political attacks and unwarranted  
        scrutiny from lawmakers ..... 10

        B. Pregnancy resource centers also increas-  
        ingly face threats of violence and violent  
        attacks ..... 17

CONCLUSION ..... 20

## TABLE OF AUTHORITIES

### Cases

<i>Dobbs v. Jackson Women's Health Org.</i> , 597 U.S. 215 (2022).....	3, 10, 17
<i>Greater Balt. Ctr. for Pregnancy Concerns, Inc. v. Mayor &amp; City Council of Balt.</i> , 879 F.3d 101 (4th Cir. 2018).....	19
<i>Holder v. Humanitarian L. Project</i> , 561 U.S. 1 (2010).....	4, 5
<i>NAACP v. Button</i> , 371 U.S. 415 (1963).....	4, 5
<i>Nat'l Inst. of Fam. and Life Advocs. v. Becerra</i> , 585 U.S. 755 (2018).....	1, 4-6, 8, 9, 19
<i>Tingley v. Ferguson</i> , 47 F.4th 1055 (9th Cir. 2020).....	2, 6
<i>Tingley v. Ferguson</i> , 57 F.4th 1072 (9th Cir. 2023) .....	5, 6
<i>United States v. O'Brien</i> , 391 U.S. 367 (1968).....	4

### Constitutional Provisions

U.S. Const. amend. I .....	2, 4-6, 14, 16, 19
U.S. Const. amend XIV .....	16

### Statutes, Rules and Regulations

18 U.S.C. § 248 .....	19
Colo. Rev. Stat. § 12-245-202(3.5)(a) .....	6
S. Ct. Rule 37.6.....	1

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- Stephanie Buffamonte, *Decapitated, Mutilated, Animals Left at Florida Pro-life Pregnancy Center,* Fox35 (May 12, 2023), [perma.cc/9V99-Z2K4](https://perma.cc/9V99-Z2K4) ..... 18
- Micaela Burrow, *New York Law Lets Pro-Abortion Activists Investigate Crisis Pregnancy Centers,* Pregnancy Help News (Jun. 14, 2022), [bit.ly/41ako4W](https://bit.ly/41ako4W) ..... 14, 15
- Jessica Chasmar, *Google to Crack Down on Search Results for Crisis Pregnancy Centers After Dem Pressure,* Fox Business (Aug. 25, 2022), [bit.ly/40niaPn](https://bit.ly/40niaPn)..... 11
- Dana DiFilippo, *Deceptive Marketing by Crisis Pregnancy Centers Prompts Bills, Consumer Alert,* New Jersey Monitor (Jan. 17, 2023), [bit.ly/3MNihzB](https://bit.ly/3MNihzB)..... 13
- Adam Edelman, *Democrats Eye a New Approach to Rein in Crisis Pregnancy Centers,* NBC News (May 18, 2023), [perma.cc/N8HU-MYBQ?type=image](https://perma.cc/N8HU-MYBQ?type=image) ..... 13
- Nancy Flanders, *Pregnancy Center in North Carolina Vandalized Over Labor Day Weekend,* Live Action (Sept. 4, 2024), [perma.cc/LP9V-HEYF](https://perma.cc/LP9V-HEYF)..... 18

Moira Gaul, <i>Fact Sheet: Pregnancy Centers—Serving Women and Saving Lives</i> , Charlotte Lozier Inst. (July 2021), <a href="https://bit.ly/3V0haig">bit.ly/3V0haig</a> .....	17
Jor-El Godsey, <i>By Accusing Pregnancy Centers Of False Advertising, Pro-Abortion Politicians Prove They Can't Handle The Truth</i> , <i>The Federalist</i> (Feb. 20, 2023), <a href="https://bit.ly/3KS4161">bit.ly/3KS4161</a> .....	3, 16, 17
Heartbeat Int'l, <i>About Us</i> , <a href="https://bit.ly/41Lx8it">bit.ly/41Lx8it</a> .....	7
Heartbeat Int'l, <i>The People of the State of California v. Heartbeat International &amp; RealOptions</i> , <a href="https://perma.cc/KK4D-BEPX">perma.cc/KK4D-BEPX</a> .....	16
Jeff Jacoby, <i>Attacks on Pregnancy Centers, Like Attacks on Abortion Clinics, Should Be Intolerable</i> , <i>Boston Globe</i> (July 17, 2022), <a href="https://perma.cc/S78B-656D">perma.cc/S78B-656D</a> .....	17, 18
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Patty Knap, <i>A New Low: Pregnancy Center Board Member's Home Vandalized</i> , <i>Pregnancy Help News</i> (Feb. 27, 2023), <a href="https://bit.ly/3KhROsi">bit.ly/3KhROsi</a> .....	19
Alison Kuznitz, <i>U.S. Sen. Elizabeth Warren Wants to Crack Down on 'Deceptive' Crisis Pregnancy Centers in Massachusetts, Across the Country</i> , <i>MassLive</i> (Jun. 29, 2022) <a href="https://bit.ly/3oCyQ7f">bit.ly/3oCyQ7f</a> .....	10-11
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Letter from Seven United States Senators to Heartbeat Int'l (Sep. 19, 2022) .....	11

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Press Release: After ADF sues, WA Attorney General Ends Illegal Campaign Against Pro-life Pregnancy Centers, ADF (May 28, 2024), <a href="https://bit.ly/3ZgjrIv">bit.ly/3ZgjrIv</a> .....	15, 16
Press Release: Attorney General James Sues Anti-Abortion Group and 11 New York Crisis Pregnancy Centers for Promoting Unproven Abortion Reversal Treatment, Office of N.Y. Att’y Gen. (May 6, 2024), <a href="https://perma.cc/NZM8-NKKD">perma.cc/NZM8-NKKD</a> .....	16

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**INTEREST OF *AMICUS CURIAE***<sup>1</sup>

Heartbeat International, Inc. is a §501(c)(3) non-profit, interdenominational Christian organization whose mission is to support the pro-life cause through an effective network of affiliated pregnancy resource centers. Heartbeat serves approximately 3,030 pro-life centers, maternity homes, and non-profit adoption agencies in over 79 countries, including more than 1,857 in the United States—making Heartbeat the world’s largest such affiliate network.

Heartbeat is concerned with recent state efforts—like the one here—to restrict professional speech merely because it is adjacent to medical practice. If states are allowed to relabel speech as professional conduct and restrict it on that basis, states will predictably aim similar laws at pregnancy resource centers. Such laws are likely to force pregnancy resource centers to dilute their life-affirming message, or otherwise “alter[] the content of [their] speech.” *Nat’l Inst. of Fam. and Life Advocs. v. Becerra*, 585 U.S. 755, 766 (2018) (cleaned up). Heartbeat thus has an interest in this important case.

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<sup>1</sup> Pursuant to this Court’s Rule 37.6, counsel for *amicus curiae* certifies that this brief was not authored in whole or in part by counsel for any party and that no person or entity other than *amicus curiae* or its counsel has made a monetary contribution to the preparation or submission of this brief. Parties received timely notice of the intent to file this brief.



## INTRODUCTION AND SUMMARY OF THE ARGUMENT

This Court has made clear that states “cannot choose the protection that speech receives under the First Amendment.” *Nat’l Inst. of Fam. and Life Advocs. v. Becerra (NIFLA)*, 585 U.S. 755, 773 (2018). Yet that is precisely what the state of Colorado has done here. Colorado enacted a law banning licensed counselors from performing so-called “conversion therapy” on minors. This ban bars professional counselors like Petitioner Kay Chiles from engaging in talk therapy with her clients if she does not provide the “gender-affirming” perspective the state requires.

To get around the First Amendment and this Court’s decision in *NIFLA*, Colorado law re-classifies Chiles’s speech as conduct and regulates it as such. Thus the law regulates—in fact, bans altogether—an activity that consists of nothing more than conversation. And it does so simply by “treat[ing] speech as conduct.” App. 87a (Hartz, J., dissenting). Notwithstanding *NIFLA* and the First Amendment, however, the court below held that the state had equal power to regulate treatments “implemented through speech” and “through scalpel.” App. 51a (quoting *Tingley v. Ferguson*, 47 F.4th 1055, 1064 (9th Cir. 2020)).

If allowed to stand, that decision will undermine *NIFLA*’s rejection of states’ attempt to censor speech “under the guise of” regulating professional conduct. *NIFLA*, 585 U.S. at 769. And the speech of pregnancy resource centers—frequent targets of anti-speech regulations—will be burdened most.

Pregnancy resource centers like Heartbeat International’s affiliates offer pregnant women critical resources. Heartbeat believes that no woman should feel so alone or hopeless that she turns to abortion in the mistaken belief that it is her only choice. Heartbeat seeks to empower pregnant women with such support and resources that they can thrive while also giving life to their unborn children. Indeed, Heartbeat’s vision is a world where every new life is welcomed and children are nurtured within strong families, according to God’s Plan, so that abortion is unthinkable. Heartbeat’s entire ministry is built on the ability to speak to pregnant women in need. And laws (like the one here) that restrict what speech professionals can and cannot utter threaten the ability to carry out that important ministry.

Upholding laws that recast speech as conduct—like the law at issue here—is especially concerning at a time when states are weaponizing laws against disfavored parties. Following this Court’s opinion in *Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215 (2022), pro-abortion extremists have targeted pregnancy resource centers with threats and acts of violence. And politicians across the country are introducing laws that “harass caring people that simply want to help women make a different choice than abortion.” Jor-El Godsey, *By Accusing Pregnancy Centers Of False Advertising, Pro-Abortion Politicians Prove They Can’t Handle The Truth*, *The Federalist* (Feb. 20, 2023), [bit.ly/3KS4161](https://bit.ly/3KS4161). If this Court allows states to re-label speech as conduct merely because it takes place in a professional setting, states will continue to

weaponize those laws against pregnancy resource centers.

The Court should grant the petition and reverse the decision below.

## ARGUMENT

### **I. Allowing states to restrict disfavored speech by recasting it as conduct will have a disproportionate effect on pregnancy resource centers.**

The decision below disregards the principle that states “cannot choose the protection that speech receives under the First Amendment.” *NIFLA*, 585 U.S. at 773. If they could, it “would give [states] a powerful tool to impose ‘invidious discrimination of disfavored subjects.’” *Id.* Moreover, while regulation of *actual* conduct may evade strict scrutiny under the First Amendment, *see United States v. O’Brien*, 391 U.S. 367, 376 (1968), states cannot restrict disfavored speech even if they categorize such speech as conduct, *see Holder v. Humanitarian L. Project*, 561 U.S. 1, 27-28 (2010). Yet by upholding—under rational-basis review—a Colorado state law that re-classifies as conduct the speech of a medical professional (unrelated to any other procedure) and regulates it as such, the decision below disregards this principle, too.

If allowed to stand, the decision below will undermine *NIFLA*’s rejection of states’ attempt to regulate speech “under the guise of” regulating professional conduct. *NIFLA*, 585 U.S. at 769; *NAACP v. Button*, 371 U.S. 415, 439 (1963). And the speech of pregnancy

resource centers—frequent targets of anti-speech regulations—will be burdened most.

**A. *NIFLA* rejects attempts to regulate speech under the guise of regulating conduct.**

States cannot evade the First Amendment by regulating speech “under the guise” of regulating conduct. *Button*, 371 U.S. at 439. This Court recently reaffirmed this principle in *NIFLA*. 585 U.S. at 769. And *NIFLA* governs here.

While *NIFLA* recognized that speech and conduct are distinct, this Court definitively rejected re-classifying speech as professional conduct because it takes place in a professional context. *Id.* at 767 (“Speech is not unprotected merely because it is uttered by ‘professionals.’”); see also *Humanitarian L. Project*, 561 U.S. at 27-28; *Button*, 371 U.S. at 438-39. Instead, regulations that burden speech in a professional context can only avoid strict scrutiny if the “restrictions” are “directed at commerce or conduct” and the burden on speech remains “incidental.” *NIFLA*, 585 U.S. at 769.

Thus in the medical-professional context, “the First Amendment recognizes the obvious difference” between “‘treatments ... implemented through speech’ and those implemented ‘through scalpel.’” *Tingley v. Ferguson*, 57 F.4th 1072, 1075 (9th Cir. 2023) (O’Scannlain, J., respecting the denial of rehearing en banc). It “protects *therapeutic speech* in a way it does not protect *physical medical procedures*.” *Id.* For example, *NIFLA* explained that an informed-consent requirement is permissible in the medical context because it “regulate[s] speech only ‘as part of the *practice*

of medicine,” and because such a requirement is “firmly entrenched in American tort law” as a condition of an “operation” (i.e., non-speech conduct) that would otherwise be “an assault.” 585 U.S. at 770

By contrast, laws regulating a medical professional’s speech “regardless of whether a medical procedure is ever sought, offered, or performed” receive full First Amendment scrutiny. *Id.* Such laws are “not tied to a procedure at all.” *Id.* Instead, they “regulat[e] speech as speech.” *Id.* In other words, “[e]specially after *NIFLA*, ... simply labeling therapeutic speech as ‘treatment’ cannot turn [speech] into non-speech conduct.” *Tingley*, 57 F.4th at 1077 (O’Scannlain, J.).

Here, even though the state targets and regulates “speech as speech,” the Tenth Circuit upheld the law. *NIFLA*, 585 U.S. at 770. Colorado bans licensed mental health care providers from performing so-called “conversion therapy” on minors. *See* App. 10; Colo. Rev. Stat. §12-245-202(3.5)(a). This ban bars professional counselors like Petitioner from providing “conversion therapy” even wholly through speech—i.e., without prescribing drugs, performing surgeries, or providing other interventions. The law prohibits an activity that consists of nothing more than conversation. And it does so through labelling speech as “a therapeutic modality—carried out through the use of verbal language.” App. 46. Notwithstanding *NIFLA* and the First Amendment, the court below held that the state had equal power to regulate “treatments ... implemented through speech” and “through scalpel.” App. 51a (quoting *Tingley*, 47 F.4th at 1064).

**B. Laws restricting what speech professionals can and cannot say will especially burden pregnancy centers.**

Pregnancy resource centers offer pregnant women critical resources. Heartbeat International believes that no woman should feel so alone or hopeless that she turns to abortion, believing it to be her only choice. Its affiliates share resources on parental education, maternity homes, and adoption; they offer pregnant women resources like baby formula, diapers, clothing; and they provide other life-affirming services. Some affiliates also provide ultrasounds and STD/STI testing and/or treatment. Heartbeat affiliates share these resources by informing women of their options regarding their pregnancy.

In so doing, Heartbeat promotes its own life-saving mission: to “reach and rescue as many lives as possible, around the world, through an effective network of life-affirming pregnancy help.” *About Us*, Heartbeat Int’l, [bit.ly/41Lx8it](https://bit.ly/41Lx8it). Ultimately, Heartbeat seeks to empower pregnant women with such support and resources that they can thrive while also giving life to their unborn children. Heartbeat’s vision is a “world where every new life is welcomed and children are nurtured within strong families, according to God’s Plan, so that abortion is unthinkable.” *Id.* Indeed, Heartbeat’s entire ministry is built on the ability to speak to pregnant women in need. This is plainly speech. And laws (like the one here) that restrict what speech professionals can and cannot say threaten the ability to carry out that important ministry.

The state cannot limit this speech just because it is adjacent to what the state deems to be medical practice. *See NIFLA*, 585 U.S. at 769-74. If states may re-label speech as professional conduct and restrict it on that basis, they will not stop at restricting “conversion therapy.” Instead, states will predictably aim similar laws at pregnancy resource centers. *See, e.g., id.* at 761-65 (recounting extensive history of California laws targeting centers that offer free pregnancy options, counseling, and other services).

Such laws will likely force pregnancy resource centers to dilute their life-affirming message, or otherwise “alter[] the content of [their] speech.” *Id.* at 766. Take a law aimed at forcing pregnancy resource center workers, as part of an ethical or professional code, to provide both life-affirming advice and resources on abortions or risk professional discipline by a state regulatory board. In effect, this type of professional code of conduct would operate like the notice requirement did in *NIFLA*, altering the content of the pregnancy resource center’s speech by compelling workers to discuss pro-abortion policies they oppose. *See id.* at 766-76. Yet based on the decision below, the Tenth Circuit would characterize this regulation as one of “professional conduct” only requiring rational basis review. App. 40, 59a.

Or consider a law aimed at forcing pregnancy resource centers, as a part of an ethical or professional code, to refrain from speaking about life-affirming services and instead only allow pregnancy resource centers to provide resources that support abortion. This

too seems clearly unconstitutional. Yet under the decision below, this law would stand so long as the state labeled conversations about life-affirming services as professional conduct. But again, *NIFLA* prevents a state from regulating pregnancy resource centers in this way because it would force them to alter their message and speak in favor of abortion, which they vehemently oppose. *See* 585 U.S. at 766-67.

Finally, consider a law prohibiting pregnancy resource centers, as part of an ethical or professional code, from speaking about any services whatsoever, whether life-affirming or abortion-related. Like the previous two examples, this law would stand under the decision below as a regulation of professional conduct, but fail under *NIFLA*.

As these examples show, the decision below gives states a free hand to regulate the message of pregnancy resource centers to the women they serve simply by labeling their speech as conduct. Under that decision, any burden on speech can be waved away (with only rational-basis review) as a burden “‘incidental’ to the regulation of that field,” even though there is no other conduct involved besides speech itself. App. 88a (Hartz, J.). Shielded from proper scrutiny, such laws would chill the free speech of Heartbeat affiliates and countless other pregnancy resource centers.

## **II. There is a troubling trend of weaponizing laws against pregnancy resource centers.**

Heartbeat affiliates, like other pregnancy resource centers, play a vital role in the lives of millions of



women and children every year. Heartbeat’s mission is to ensure that every woman feels loved and supported during her pregnancy. And Heartbeat affiliates work to ensure that pregnant mothers are equipped with support, resources, and education.

Despite providing this critical function, pregnancy resource centers across the country are under attack. Following this Court’s opinion in *Dobbs*, pregnancy resource centers have increasingly been the target of acts of violence, unwarranted scrutiny, and onerous regulations. Upholding laws that recast speech as conduct—like the law at issue here—is especially concerning at a time when laws are being weaponized against disfavored viewpoints.

**A. Pregnancy resource centers face increasing political attacks and unwarranted scrutiny from lawmakers.**

Pregnancy resource centers across the country have increasingly faced political attacks and unwarranted scrutiny from lawmakers. These attacks mark a growing desire to enact new laws and weaponize existing laws to burden pregnancy centers, including by employing privacy laws, deceptive trade practices and truth-in-advertising laws, and licensing and inspection requirements. Although the legal framework may vary, the goal is consistent: use onerous regulation to regulate pregnancy resource centers out of existence.

Start with congressional efforts to silence resource centers. Recently, a United States senator called for Congress to “move more aggressively” in regulating pregnancy resource centers. Alison Kuznitz, *U.S. Sen. Elizabeth Warren Wants to Crack Down on ‘Deceptive’*

*Crisis Pregnancy Centers in Massachusetts, Across the Country*, MassLive, (Jun. 29, 2022) [bit.ly/3oCyQ7f](https://bit.ly/3oCyQ7f). The same senator then accused life-affirming pregnancy resource centers of “torturing” pregnant women and called on the federal government to “shut them down all around the country.” Jessica Chasmar, *Google to Crack Down on Search Results for Crisis Pregnancy Centers After Dem Pressure*, Fox Business, (Aug. 25, 2022), [bit.ly/40niaPn](https://bit.ly/40niaPn). Nearly two dozen members of Congress even pressured Google to “crack down on *search results* for crisis pregnancy centers.” *Id.* (emphasis added). And earlier this year, Representatives Jamie Raskin and Maxwell Frost sent a letter to the Government Accountability Office, calling on them to investigate Heartbeat International and other crisis pregnancy center’s funding. Nathaniel Weixel, *House Democrats Call for Investigation into Crisis Pregnancy Center Funding*, The Hill (July 11, 2024), [bit.ly/3AS4nsC](https://bit.ly/3AS4nsC).

Politicians have resorted to using privacy concerns as a pretext for targeting pregnancy centers too. Recently, for example, a group of pro-abortion United States senators baselessly accused Heartbeat of failing to maintain secure data for the women who seek out the network’s services and resources. *See* Letter from Seven United States Senators to Heartbeat Int’l (Sep. 19, 2022) (on file with counsel). As Heartbeat responded through its counsel, that letter appeared simply “to be an unwarranted effort to investigate a private organization which holds to a religious and ideological opinion with which [those federal officials] disagree.” Letter from Heartbeat Int’l to Sen. Elizabeth Warren, et al. (Oct. 1, 2022) (on file with counsel).

Indeed, political hostility towards pregnancy resource centers and groundless accusations against their operators are at an all-time high.

Federal lawmakers have also targeted pregnancy centers with “deceptive practices” legislation. In June 2022, after accusing (without evidence) pregnancy centers of using “deceptive or misleading advertisements about abortion services,” a group of congressmen introduced the “Stop Anti-Abortion Disinformation Act” (SAD Act), which would weaponize the Federal Trade Commission to crack down on entities that discuss pregnancy from a life-affirming viewpoint. *See* Nick Popli & Vera Bergengruen, *Lawmakers Scramble to Reform Digital Privacy After Roe Reversal*, Time (Jul. 1, 2022), [bit.ly/3L0HFR1](https://bit.ly/3L0HFR1).

There have been similar efforts at the state level. State attorneys general have threatened and leveraged enforcement actions against facilities that hold life-affirming views. In June 2022, for example, California Attorney General Rob Bonta issued a consumer alert targeting pregnancy centers, calling them “fake clinics” and accusing them of employing “deceptive” tactics to get women to choose life. Paul Sisson, *In San Diego, Attorney General Puts Anti-Abortion Clinics on Notice*, San Diego Union-Tribune, (Jun. 1, 2022), [bit.ly/3KYFRIs](https://bit.ly/3KYFRIs). That same month, Massachusetts Attorney General Maura Healey issued a similar consumer advisory warning. David L. Ryan, *Maura Healey Issues Warning About ‘Crisis Pregnancy Centers’ in Mass.*, Boston.com (Jul. 6, 2022), [bit.ly/3L3pH0A](https://bit.ly/3L3pH0A).

Healey accused pregnancy centers of offering “misleading information” about their services and falsely claimed that they are not required to keep medical information private or to follow professional medical ethics. *Id.* She encouraged women to file complaints against pregnancy centers. *Id.* As governor, Healey later launched a \$1 million media campaign targeting crisis pregnancy centers across social media, radio, billboards and public transit. Press Release: Healey-Driscoll Administration Launches First-in-the-Nation Public Education Campaign on the Dangers of Anti-Abortion Centers, Mass. Exec. Off. of Health & Human Servs. (Jun 10, 2024), [bit.ly/4g7xVkJ](https://bit.ly/4g7xVkJ).

In the last few years, state lawmakers have “introduced or advanced at least 26 bills” targeting life-affirming pregnancy centers for offering alternatives to abortion. Adam Edelman, *Democrats Eye a New Approach to Rein in Crisis Pregnancy Centers*, NBC News (May 18, 2023), [perma.cc/N8HU-MYBQ?type=image](https://perma.cc/N8HU-MYBQ?type=image). In early 2023, Colorado and New Jersey lawmakers introduced bills describing pro-life pregnancy centers as “fake clinics” that “use deceptive advertising to draw in vulnerable people seeking care to harass them with biased and inaccurate information about abortion and contraceptives.” See Dana DiFilippo, *Deceptive Marketing by Crisis Pregnancy Centers Prompts Bills, Consumer Alert*, New Jersey Monitor, (Jan. 17, 2023), [bit.ly/3MNihzB](https://bit.ly/3MNihzB); Brandon Richard, *Opponents Respond to Bill Targeting Anti-Abortion Pregnancy Centers in Colorado*, Denver7 News, (Mar. 18, 2023), [bit.ly/3KCRwex](https://bit.ly/3KCRwex). The Illinois

Senate passed a similar bill targeting pro-life pregnancy resource centers. *See* Andrew Adams & Nika Schoonover, *Illinois Senate Approves Measure to Crack Down on ‘Crisis Pregnancy Centers,’* Rockford Register Star (Apr. 3, 2023), [bit.ly/3AqVrXl](https://bit.ly/3AqVrXl). A federal district court later preliminarily enjoined the law, calling it “both stupid and very likely unconstitutional.” *See* Hannah Meisel, *Federal Judge Temporarily Blocks Illinois Law Subjecting ‘Crisis Pregnancy Centers’ to Civil Liability,* Capitol News (Aug. 4, 2023), [perma.cc/J4AL-KWQK](https://perma.cc/J4AL-KWQK). And in May 2021, the Connecticut legislature passed a law banning “deceptive advertising” by pregnancy centers. *See* Matthew McDonald, *Connecticut Crisis-Pregnancy Center Withdraws Lawsuit Against ‘Deceptive Advertising’ Ban,* National Catholic Register (Jan. 21, 2023), [bit.ly/3A2jNWU](https://bit.ly/3A2jNWU). But after the law was challenged on First Amendment grounds, Attorney General William Tong conceded in the litigation that he was unaware of any women who had ever been deceived by pregnancy centers. *Id.*

Opponents of pro-life pregnancy centers have also sought to impose overly strict licensing and inspection requirements to make it harder for pregnancy resource centers to operate. New York recently created a task force to investigate only those centers holding a pro-life viewpoint. Micaela Burrow, *New York Law Lets Pro-Abortion Activists Investigate Crisis Pregnancy Centers,* Pregnancy Help News, (Jun. 14, 2022), [bit.ly/41ako4W](https://bit.ly/41ako4W). A co-sponsor of the bill, New York state Senator Brad Holyman, said that the task force

would report on “unlicensed, often misleading facilities that offer pregnancy-related services but don’t provide or refer for comprehensive reproductive healthcare” including abortion. *Id.* Legislators in Arizona, Indiana, Kentucky, Minnesota, and New Jersey have also recently introduced legislation that would impose unnecessary and burdensome licensing requirements on pregnancy resource centers. Laura Morel, *Kentucky Lawmaker Pushes to Regulate Anti-Abortion Pregnancy Centers After Reveal Investigation*, Reveal News, (Mar. 27, 2023), [bit.ly/418JpO0](https://bit.ly/418JpO0).

State attorneys general have also attempted to crack down on pregnancy resource centers by demanding they turn over sensitive records and private donor information. In November 2023, New Jersey Attorney General Matthew Platkin subpoenaed a pregnancy center “to turn over much of its internal communications as well as communications with patients and donors, some of which would reveal donors’ private information.” Peter Pinedo, *Nat’l Cath. Reg.* (May 15, 2024), [perma.cc/TM29-KUHA](https://perma.cc/TM29-KUHA). A year earlier, Washington Attorney Bob Ferguson launched an investigation into the “sensitive records and materials” of two pro-life pregnancy centers, demanding confidential documents for no apparent reason other than the groups’ pro-life views. *Press Release: After ADF sues, WA Attorney General Ends Illegal Campaign Against Pro-life Pregnancy Centers, ADF* (May 28, 2024), [bit.ly/3ZgjrIv](https://bit.ly/3ZgjrIv). Ferguson only dropped the investigation this year when a center sued, alleging that the

investigation “caused it to lose insurance coverage and to pay seven times more for replacement coverage.” *Id.*

Heartbeat has been a focus of these attacks. In September 2023, California Attorney General Rob Bonta sued Heartbeat, attempting to censor it from offering lifesaving information about abortion pill reversal. See *The People of the State of California v. Heartbeat International & RealOptions*, Heartbeat Int’l, [perma.cc/KK4D-BEPX](https://perma.cc/KK4D-BEPX). And earlier this year, New York Attorney General Letitia James brought a similar suit against Heartbeat. See Press Release: Attorney General James Sues Anti-Abortion Group and 11 New York Crisis Pregnancy Centers for Promoting Unproven Abortion Reversal Treatment, Office of N.Y. Att’y Gen. (May 6, 2024), [perma.cc/NZM8-NKKD](https://perma.cc/NZM8-NKKD). Heartbeat filed its own suit against James for violating its speech rights under the First and Fourteenth Amendments and obtained a preliminary injunction blocking James from “from silencing the constitutionally protected speech of these pro-life ministries while their lawsuit moves forward.” Press Release: Federal Judge Blocks NY Attorney General Letitia James from Censoring Pregnancy Help Ministries, Thomas More Society (Sept. 25, 2024), [perma.cc/XN5U-2ZJH](https://perma.cc/XN5U-2ZJH). Both these cases are ongoing.

At bottom, states are “leveraging their [] taxpayer pockets by creating new laws with vague investigative powers often coupled with enforcement mechanisms designed to harass caring people that simply want to help women make a different choice than abortion.” Godsey, *supra*. But pregnancy resource centers “set

the standard for true compassion and support for women.” *Id.* Indeed, “far from deceptively holding themselves out as providers of abortion, crisis pregnancy centers hold themselves out as providers of an alternative to abortion.” Jacoby, *supra*. And women “who find and utilize these pregnancy help services overwhelmingly give pregnancy centers 99 percent satisfaction ratings for the care they receive because it helps them through difficult times and puts them on a path toward success as parents.” Godsey, *supra*.; see Moira Gaul, *Fact Sheet: Pregnancy Centers—Serving Women and Saving Lives*, Charlotte Lozier Inst. (July 2021), [bit.ly/3V0haig](https://bit.ly/3V0haig).

**B. Pregnancy resource centers also increasingly face threats of violence and violent attacks.**

Because of this political hostility, pregnancy resource centers have increasingly faced threats and violent attacks too. This trend has only intensified following the *Dobbs* decision.

After the *Dobbs* leak, “a wave of vandalism and violence [was] unleashed against crisis pregnancy centers around the country.” Jeff Jacoby, *Attacks on Pregnancy Centers, Like Attacks on Abortion Clinics, Should Be Intolerable*, Boston Globe (July 17, 2022), [perma.cc/S78B-656D](https://perma.cc/S78B-656D). “In one attack, arsonists fire-bombed CompassCare, a Christian pregnancy center in Buffalo, N.Y., shattering its windows and destroying much of its interior.” *Id.* In Longmont, Colorado, activists set the local pregnancy resource center on fire. *Id.* In Anchorage, Alaska, vandals smashed the door of the Community Pregnancy Center and covered



its parking lot with nails. *Id.* In Orlando, Florida, activists “decapitated, mutilated, and dumped” three animals in front of a pro-life pregnancy center. Stephanie Buffamonte, *Decapitated, Mutilated, Animals Left at Florida Pro-life Pregnancy Center*, Fox35 (May 12, 2023), [perma.cc/9V99-Z2K4](https://perma.cc/9V99-Z2K4). And a group of pro-abortion extremists operating as “Jane’s Revenge” has declared “open season” on pregnancy resource centers across the country, promising to enact “revenge” against the centers, causing significant property damage, and spray-painting threatening graffiti slogans such as “If abortions aren’t safe neither are you.” Jacoby, *supra*.

These attacks have continued throughout 2024. After this year’s Democratic National Convention, vandals splattered “red paint resembling blood” across a Chicago pregnancy center, cemented the doors shut, and spray painted “the dead babies are in Gaza” on the building. Michael New, *A Pro-Life Pregnancy Help Center in Chicago is Vandalized*, Nat’l Rev. (Aug. 24, 2024), [bit.ly/413TiPB](https://bit.ly/413TiPB). Over Labor Day weekend, perpetrators vandalized a North Carolina pregnancy center, plastering “Go to Planned Parenthood” across the center’s sign. Nancy Flanders, *Pregnancy Center in North Carolina Vandalized Over Labor Day Weekend*, Live Action (Sept. 4, 2024), [perma.cc/LP9V-HEYF](https://perma.cc/LP9V-HEYF). And just last month, activists painted ten swastikas on an Alaska pregnancy center and spread nails across the parking lot. Chris Klint, *FBI Seeks Suspect Who Painted Swastikas on Wasilla Pregnancy Center*, Alaska Public Media (Nov. 8, 2024), [perma.cc/RF3X-GC5A](https://perma.cc/RF3X-GC5A).

These examples are just the beginning. Indeed, centers have faced more than 100 attacks since the Dobb’s leak in May 2022. *See* Patty Knap, *A New Low: Pregnancy Center Board Member’s Home Vandalized*, Pregnancy Help News, (Feb. 27, 2023), [bit.ly/3KhROsi](https://bit.ly/3KhROsi); *see also*, New, *supra*. Activists have even targeted the private homes of those merely *associated* with crisis pregnancy centers. *Id.* (noting that activists vandalized the home of a pregnancy resource center board member). And even though these actions clearly violate the Federal Access to Clinics Entrances Act, 18 U.S.C. §248, they have largely gone unprosecuted by the Department of Justice and uncondemned by pro-abortion officials.

At bottom, Heartbeat and other pregnancy resource centers are increasingly the target of violent and unjustified attacks to silence them.

\* \* \*

Laws like Colorado’s ban on “conversion therapy” are one of many that represent the increasing “[w]eaponiz[ation] ... of government against ideological foes.” *Greater Balt. Ctr. for Pregnancy Concerns, Inc. v. Mayor & City Council of Balt.*, 879 F.3d 101, 113 (4th Cir. 2018). If this Court, like the Tenth Circuit, allows states to relabel speech as conduct merely because it takes place in a professional setting, that weaponization will know no end. The decision below skirts this Court’s decision in *NIFLA*, and the First Amendment’s promises of free speech. The Court should not let it stand.

**CONCLUSION**

For these reasons, the Court should grant the petition and reverse the decision below.

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