

16-1140 NIFLA V. BECERRA

DECISION BELOW: 839 F.3d 823

LOWER COURT CASE NUMBER: 16-55249

QUESTION PRESENTED:

The State of California enacted a law called the "Reproductive FACT Act." The State admits its purpose is targeting "crisis pregnancy centers" based on their viewpoint that "discourag[es]" abortion. The Act forces pro-life religious licensed centers to post notices that encourage women to contact the State to receive information on free or low cost abortions. The Act also burdens pro-life religious unlicensed centers' speech by requiring them to place extensive disclaimers in large fonts and in as many as 13 languages in their ads, which significantly burdens their ability to advertise. But the Act exempts most other licensed medical and unlicensed non-medical facilities, such as abortion providers, hospitals, and other healthcare facilities, as well as federal health care providers. The Ninth Circuit candidly admits that it upheld the Act amidst a "circuit split" with decisions by the Second and Fourth Circuits over how to scrutinize regulations of speech by medical professionals on controversial health issues. The ruling also conflicts with a recent decision by the Eleventh Circuit. The question presented is:

Whether the Free Speech Clause or the Free Exercise Clause of the First Amendment prohibits California from compelling licensed pro-life centers to post information on how to obtain a state-funded abortion and from compelling unlicensed pro-life centers to disseminate a disclaimer to clients on site and in any print and digital advertising.

GRANTED LIMITED TO THE FOLLOWING QUESTION: WHETHER THE DISCLOSURES REQUIRED BY THE CALIFORNIA REPRODUCTIVE FACT ACT VIOLATE THE PROTECTIONS SET FORTH IN THE FREE SPEECH CLAUSE OF THE FIRST AMENDMENT, APPLICABLE TO THE STATES THROUGH THE FOURTEENTH AMENDMENT.

CERT. GRANTED 11/13/2017