



## PLEASE VOTE “NO” ON A SPEECH RESTRAINT AT HEALTH CARE FACILITIES

A proposed Chicago ordinance would regulate public ways near health care facilities in two ways. *See* Municipal Code of Chicago § 8-4-010(k) (substitute ordinance introduced Sept. 30, 2009). The ACLU supports one of these regulations, and opposes the other. We thus oppose the ordinance as a whole.

### **The ACLU supports the ban on force, threats, and obstruction**

- The ordinance would prohibit, by force or threat or physical obstruction, intentionally injuring, intimidating, or interfering (or attempting to do so) with anyone entering or leaving a health care facility.
- Chicago has a substantial interest in promoting the health and safety of people seeking treatment in health care facilities, including women entering facilities to obtain an abortion.
- This part of the proposed ordinance properly balances the fundamental right to free speech (including the right to protest against abortion on sidewalks near facilities providing such services) and the fundamental right to reproductive health care.
- This proposed ban is closely modeled on the federal Freedom of Access to Clinic Entrances (“FACE”) Act of 1994 (18 U.S.C. § 248), which has been upheld in court. The proposed Chicago ordinance would improve upon the federal FACE Act, by giving enforcement power to municipal officials.

### **The ACLU opposes the proposed 8-foot floating buffer zone**

- The ordinance would prohibit knowingly approaching within eight feet of another person, without consent, for the purpose of certain communications, within fifty feet of the entry to a health care facility.
- In *Hill v. Colorado*, 530 U.S. 703 (2000), the U.S. Supreme Court upheld a similar statute. Nonetheless, the ACLU opposes this provision on public policy grounds. Our society should tolerate the widest amount of free speech in public ways. We should draw the line at specific instances of unlawful conduct (like violence, unwanted touching, or blocking freedom of movement) or unlawful speech (like true threats).
- This provision will substantially burden leafleting, a time-honored and unintrusive form of speech. Leafleting will often be impossible from a distance of eight feet, as mandated by this provision. Leafleting near health care facilities might address many subjects, including labor relations, public hospital downsizing, or private hospital expansion. For example, a leaflet might protest a hospital’s refusal to provide certain reproductive health care services, such as a post-delivery tubal ligation.
- This provision is unnecessary. Robust municipal enforcement of a ban on force, threats, and obstruction will fully ensure the right to access to reproductive health care facilities.

**For further information, please call:  
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