



# Center FOR Christian Virtue

Public Policy. Engagement. Education.

February 24<sup>th</sup> 2021

Dear Toledo City Manager and Toledo City Council Members,

My name is Aaron Baer, and I am the President of Center for Christian Virtue. I am writing to inform you that the so-called “Patient Safety Ordinance” violates the First Amendment by restraining speech in a traditional public forum. If the Council passes this ordinance, legal action will be taken to protect free speech and to save lives.

While an Ohio political subdivision may impose some time, place, and manner restrictions on speech, this ordinance exceeds the bounds of constitutional authority established by the U.S. Supreme Court in *McCullen v. Coakley*, 573 U.S. 464. This ordinance does what Chief Justice Roberts in *McCullen* calls, “silencing speech for mere convenience and as the path of least resistance.” *Id.* at 486. Convenience, of course, is not a legitimate government interest, particularly when juxtaposed against the serious burden a buffer zone imposes on free speech.

The ordinance may claim that patient safety is the government’s interest, however, closing off a public walkway fails to create a sterile accessway free of signs, displays, or protests. The buffer zone only creates an unwarranted burden on ordinary conversation. As in *McCullen*, the people outside abortion clinics affected by the ordinance are not protestors but counselors seeking to have “personal, caring, consensual conversations.” As case law states, “It is no answer to say that [counselors] can still be ‘seen and heard’ by women within the buffer zones. If all that the women can see and hear are the vociferous opponents of abortions, then the buffer zones have effectively stifled [the counselors’] message.” *Id.* at 490.

Put another way, the ordinance sets up almost identically the law held unconstitutional in *McCullen*. The Council, if it passes this ordinance, will cause the very problem the U.S. Supreme Court recently solved. Stifled speech is not free speech: this ordinance violates the First Amendment and restricts the distribution of life saving education in the form of leaflets and literature.

Therefore, my request of the Council is simple: do not pass this unconstitutional ordinance. If the Council insists, nevertheless, on proceeding forward, it is not without notice of the ordinance’s obvious First Amendment defects, and that Center for Christian Virtue will always fight for the constitutional rights of Ohioans.

Regards,

Aaron Baer  
President  
Center for Christian Virtue  
*Formerly Citizens for Community Values*