

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Ron DeSantis
Governor

Joseph A. Ladapo, MD, PhD
State Surgeon General

Vision: To be the Healthiest State in the Nation

October 3, 2024

Mark Higgins
WFLA-TV
P.O. Box 1410
Tampa, FL 33601
mhiggins@wfla.com

Dear Mr. Higgins:

The Florida Department of Health has been notified that your company is disseminating a political advertisement claiming that current Florida law does not allow physicians to perform abortions necessary to preserve the lives and health of pregnant women.¹

This claim is categorically false. Florida's Heartbeat Protection Act does not prohibit abortion if a physician determines the gestational age of the fetus is less than 6 weeks. § 390.0111(1), Fla. Stat. After 6 weeks, an abortion may be performed if "[t]wo physicians certify in writing that, in reasonable medical judgment, the termination of the pregnancy is necessary to save the pregnant woman's life or avert a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman other than a psychological condition." § 390.0111(1)(a), Fla. Stat. The two-physician requirement is waived in the case of an emergency medical procedure. § 390.0111(1)(b), Fla. Stat. And while physicians must exercise professional skill, care, and diligence to preserve the life and health of a fetus in the third trimester, "if preserving the life and health of the fetus conflicts with preserving the life and health of the pregnant woman, the physician must consider preserving the woman's life and health the overriding and superior concern." § 390.0111(4), Fla. Stat.

The advertisement is not only false; it is dangerous. Women faced with pregnancy complications posing a serious risk of death or substantial and irreversible physical impairment may and should seek medical treatment in Florida. However, if they are led to believe that such treatment is unavailable under Florida law, such women could foreseeably travel out of state to seek emergency medical care, seek emergency medical care from unlicensed providers in Florida, or not seek emergency medical care at all. Such actions would threaten or impair the health and lives of these women.

Under section 386.01, Florida Statutes, "the commission of any act, by an individual, municipality, organization, or corporation . . . by which the health or life of an individual, or the health or lives of individuals, may be threatened or impaired" constitutes a "sanitary nuisance." The Department of Health, upon determining the existence of such nuisance, must notify the person or persons committing the

¹ The advertisement is displayed on the home page of the Amendment sponsor's website under the title "Caroline." See <https://floridiansprotectingfreedom.com/>. The woman featured in the advertisement states: "The doctors knew if I did not end my pregnancy, I would lose my baby, I would lose my life, and my daughter would lose her mom. Florida has now banned abortion even in cases like mine."

Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin A-02 • Tallahassee, FL 32399-1701
PHONE: 850/245-4444 • FAX: 850/245-4790
FloridaHealth.gov



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**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

nuisance “to remove or cause to be removed the same within 24 hours.” § 386.03(1), Fla. Stat. If the nuisance is not removed within the time prescribed, the Department is authorized to institute legal proceedings under section 381.0012, Florida Statutes, to obtain an injunction. § 386.03(2)(c), Fla. Stat. The Department is further authorized to “[i]nstitute criminal proceedings in the county court in the jurisdiction of which the condition exists against all persons failing to comply with notices to correct sanitary nuisance conditions.” § 386.03(2)(b), Fla. Stat. Creating, keeping, or maintaining a nuisance injurious to health is a second-degree misdemeanor. § 386.051, Fla. Stat.

While your company enjoys the right to broadcast political advertisements under the First Amendment of the United States Constitution and Article I, section 4 of the Florida Constitution, that right does not include free rein to disseminate false advertisements which, if believed, would likely have a detrimental effect on the lives and health of pregnant women in Florida.

/s/ John Wilson
John Wilson
General Counsel
Florida Department of Health