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**Testimony of Tyler Smith
Chamber of Progress**

**South Carolina State Senate
Senate Committee on Medical Affairs
S. 1373 (Abortion)**

Good afternoon Mr. Chairman,

I'm here today on behalf of Chamber of Progress, a center-left tech industry association that works to ensure that all Americans benefit from technological leaps. Our corporate partners include a number of large and small technology companies, but our partners don't have a vote or veto over our positions.

One of our organization's top priorities is promoting safe and healthy online communities. We understand that abortion is a topic that evokes strong feelings on all sides, but this S. 1373 would threaten women's health by making it more difficult to access factual information online about safe reproductive health services. This legislation would further set a dangerous precedent of giving South Carolina's government the authority to police speech in every corner of the internet.

Many women depend on the Internet to find accurate information regarding reproductive health care. Unfortunately, Section 44-41-860 of this bill holds online services criminally liable for:

"hosting or maintaining an internet website, providing access to an internet website, or providing an internet service purposefully directed to a pregnant woman who is a resident of this State that provides information on how to obtain an abortion, knowing that the information will be used, or is reasonably likely to be used for an abortion"

S. 1373 Censors Information About Safe, Legal Reproductive Care

Because of the borderless nature of the Internet and the way this provision is drafted, we believe it would apply broadly to online services and women seeking reproductive

health information, even beyond South Carolina.

As drafted, this provision would:

- Require online services and broadband providers to censor the websites of national organizations that provide information on safe, legal reproductive health services;
- Require online services to censor tweets, blogs, and even social media posts from someone in a state where abortion remains legal;
- Require online services to police and censor direct messages between friends, family members – or between patients and caregivers – about how to obtain safe care;
- Require online services to block or censor telemedicine counseling services in which medical professionals advise women of their reproductive health options;
- Require online services to censor or block emails seeking medical advice and care from parents of underage pregnant girls

Because this legislation imposes strict criminal liability on online services for publishing information, the net effect of these prohibitions will likely be that services self-censor widely and aggressively in order to avoid liability. This is likely to cause over-censorship and make it even harder for women in need to find safe, reliable health information online – creating an unsafe underground black market of reproductive health information and community.

S. 1373 Hurts Communities of Color and Low Income Women

Restricting access to factual information about abortion access would also pose unique harm to communities of color and to low-income women. These communities already struggle with unequal access to healthcare.¹ Restricting access to reproductive health information will push poor women and women of color toward less safe options.

Online searches for information about abortion are most common in states with the strictest abortion laws.² Unfortunately, those searches are also more likely to turn up dangerous misinformation—leading women to fake clinics, linking abortions to breast

¹[https://scholars.unh.edu/cgi/viewcontent.cgi?article=1120&context=perspectives#:~:text=Race%20is%20a%20prevalent%20factor,%2DCh%C3%A9nier%20and%20Mueller%202018\).](https://scholars.unh.edu/cgi/viewcontent.cgi?article=1120&context=perspectives#:~:text=Race%20is%20a%20prevalent%20factor,%2DCh%C3%A9nier%20and%20Mueller%202018).)

² <https://infodemiology.jmir.org/2022/1/e33184>

cancer and infertility,³ and promoting the use of unsafe, ineffective herbal remedies.⁴ By blocking doctors and other reliable sources from posting factual information online, this bill would allow that dangerous information to spread unchecked. According to Jenna Sherman, a public health researcher at Meedan, a non-profit that targets misinformation:

“Just as people of color and poor people are more likely to be negatively impacted by the overturn of *Roe* and a lack of abortion access, they’re also most likely to be negatively impacted by the mis- and disinformation online because in states that have the highest restrictions, that’s where people have the highest searches for that content.”⁵

S. 1373 Turns South Carolina into the Online Speech Police; Violates the First Amendment

The bill attempts to make South Carolina the nation's online speech police – giving the state authority to censor a wide array of information online. As a result, it is a clear First Amendment violation.

As even noted by prominent conservative law scholar Eugene Volokh, the State of South Carolina cannot bar what state residents read online.

Under this bill, online conversations between spouses would suddenly become the purview of state law enforcement, inserting the government into private family conversations about healthcare options. Doctors would be restricted from sharing information online about how to self-manage medication abortions. Friends who posted their stories about abortion care could face criminal charges. And WebMD or Wikipedia could be held liable for facilitating abortion if women in South Carolina accessed the information on the site before seeking care. All of these scenarios represent a clear violation of individuals' and online services' own First Amendment rights.

South Carolina also can't bar what non-state residents see online. In 1975, the Supreme Court in *Bigelow V. Virginia* explicitly held that a state could not bar citizens of another state “from disseminating information about an activity that is legal in that state”⁶. Because access to medication abortion is still protected at the federal level, and because

³ <https://www.rand.org/blog/2022/07/combating-abortion-misinformation-in-the-post-roe-environment.html>

⁴ <https://www.cnn.com/2022/07/13/health/abortion-misinformation-social-media/index.html>

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<https://www.grid.news/story/misinformation/2022/07/01/old-abortion-misinformation-and-post-roe-tactics-weaponizing-tiktok-and-social-media-with-medical-lies/>

⁶ <https://www.mtsu.edu/first-amendment/article/194/bigelow-v-virginia>

women still have the right to travel across state lines to receive care, states cannot limit speech about accessing those legal services.

In conclusion, we urge you to reject S. 1373 because this legislation will make it harder for women to find safe, reliable reproductive health care information online; because it would particularly impact women of color and low-income women; and because it would make the state of South Carolina the online speech police in a way that clearly violates the U.S. Constitution.

Thank you.