

Worksession

MEMORANDUM

January 21, 2010

TO: Health and Human Services Committee

FROM: Amanda Mihill, Legislative Analyst *AMH*

SUBJECT: **Worksession:** Resolution to adopt Board of Health regulation requiring a disclaimer for certain pregnancy resource centers

A resolution to adopt a Board of Health regulation requiring a disclaimer for certain pregnancy resource centers, sponsored by Councilmembers Trachtenberg, Navarro, Floreen, Elrich, Leventhal, and Berliner, was introduced on November 10, 2009; a public hearing was held on December 1 at which several speakers testified in support and opposition to the resolution.

Background

As introduced, the Board of Health regulation would require a limited service pregnancy resource center (LSPRC) to provide a client or potential client with a disclaimer that the information the center provides is not intended to be medical advice or to establish a doctor-patient relationship, and that the client should consult with a health care provider before proceeding on a course of action regarding the client's pregnancy. A LSPRC would be defined as a center that:

- has a primary purpose to provide pregnancy-related services that do not constitute the practice of medicine;
- provides information about pregnancy-related services, for a fee or as a free service; and
- does not provide or refer clients for abortions or nondirective and comprehensive contraceptive services.

The regulation would take effect on the date the Council adopts it.

What public health concerns does the proposed regulation address? The Council is primarily concerned with ensuring that a pregnant woman is not led to mistakenly believing that an LSRPC is staffed by professionals licensed to give medical advice to patients. Women who believe they are receiving advice from medical professionals may not take important steps, including consulting appropriate medical professionals, which would protect their health or prevent adverse consequences during the pregnancy.

In July 2006, the U.S. House of Representatives Committee on Government Reform – Minority Staff Special Investigations Division issued a report entitled *False and Misleading Health Information Provided by Federally Funded Pregnancy Resource Centers* (©6-23). This report found that approximately 87% of federally funded pregnancy resource centers provided false and misleading medical information to clients about the health effects of abortion, including information about a link between abortion and breast cancer, the effect of abortion on future fertility, and the mental health effects of abortion.

In January 2008, NARAL Pro-Choice Maryland Fund issued a report entitled *The Truth Revealed: Maryland Crisis Pregnancy Center Investigations* (©24-32). According to this report, NARAL Pro-Choice Maryland Fund staff members visited LSPRC in 11 counties, including 4 in Montgomery County, and found that every center they visited provided false or misleading information, including “false information about abortion risks, misleading data on birth control, and emotionally manipulative counseling.” Correspondence from the NARAL investigators identifying the false or misleading information received begins on ©27. Testimony provided by NARAL volunteers indicated that County LSPRCs provided the following medical misinformation to potential clients:

- abortion can affect future fertility;
- abortion raises the risk of breast cancer; and
- abortion can lead to self-destructive tendencies and “Post Abortion Stress”.

Although there may be isolated studies on to the contrary, the broader medical community states the following about these risks of abortion:

- first trimester abortions pose virtually no risk of future infertility (©66);
- abortion does not raise the risk of breast cancer (©63); and
- there are no reputable studies sufficient to support the claim that an observed association between abortion history and mental health was caused by the abortion per se, as opposed to other factors (©67-71).

Although volunteers at an LSPRC can cite alternate studies to their clients, withholding important and relevant medical information derived from the broader medical community is problematic, particularly when non-licensed volunteers are providing guidance and information related to a medical condition – pregnancy – and its health implications.

The Council received correspondence from many individuals emphasizing that abortion carries certain risks. However, the issue is not about whether abortion carries risks – any medical procedure does and licensed medical professionals are required to inform their patients about those risks. The issue the proposed regulation is designed to address is that some LSPRCs provide their clients with misinformation/incomplete information about their pregnancy options which can negatively affect a woman’s decision regarding her pregnancy and health.

Prenatal care by licensed medical professionals as early as possible is recommended by the U.S. Department of Health and Human Services. Just as the delay of an abortion can increase the risks associated with the procedure (©65-66), getting prenatal care as early as possible is associated with positive health results. In its frequently asked questions, the U.S. DHHS Office of Women’s health recommends pregnant women get early and regular prenatal care. According

to the Office, “babies of mothers who do not get prenatal care are three times more likely to have a low birth weight and five times more likely to die than those born to mothers who do get care” and “early treatment can cure many problems and prevent others” (©72). The proposed regulation would address this health concern by ensuring that clients of LSPRCs understand that the information they are receiving is not necessarily from licensed medical professionals.

What have other jurisdictions done in this area? The General Assembly considered, but did not enact, similar legislation during the 2008 session. House Bill 1146, Limited Service Pregnancy Centers – Disclaimers¹, crossfiled with Senate Bill 690,² would have required a limited service pregnancy center (defined nearly identical to the proposed Board of Health regulation) to provide a client or potential client with a disclaimer that:

- the information provided by the Center is not intended to be medical advice or to establish a doctor-patient relationship;
- the client should consult with a health care provider prior to proceeding on any course of action regarding the pregnancy of the client; and
- the Center is not required to provide factually accurate information to clients (©34).

According to the General Assembly website, the House Health and Government Operations Committee held a hearing on HB 1146 on March 14, 2008 and the Senate Finance Committee held a hearing on SB 690 on March 3. No further action was taken on these bills.

Baltimore City recently passed, and the Mayor signed, legislation that requires an LSPRC (defined nearly identical to the proposed Board of Health Regulation) to post at least 1 sign in the Center’s waiting room indicating that the Center does not provide or make referrals for abortion or birth-control services (©36).

How are medical clinics regulated? An important consideration in the context of the proposed regulation is to understand how medical clinics are regulated. As a primary matter, except in certain cases such as hospitals, medical clinics are not required to be licensed by the state (the authority of a clinic to provide medical services is derived from the medical professional that has a state license to practice medicine). However, there are standards and regulations that medical clinics must adhere to if the clinic receives state and/or federal funding and those regulations are tied to the receipt of funds.

While a medical clinic in and of itself is not necessarily licensed by the state, if a medical clinic offers or performs laboratory tests or examinations, the clinic laboratory must be licensed by the State³ as well as obtain a certificate under the federal Clinical Laboratory Improvement Amendments (CLIA).⁴ There are certain exceptions in both laws that are implicated by the proposed regulation. A laboratory is not required to obtain a state license, but can get a “letter of exception” from the Secretary of Health and Mental Hygiene if the laboratory performs only

¹ Sponsored by Delegates Manno, Bobo, Bronrott, Dumais, Feldman, Frick, Frush, Gilchrist, Gutierrez, Hubbard, Hucker, Kaiser, Kramer, Lee, McHale, McIntosh, Montgomery, Nathan-Pulliam, Pena-Melnyk, Pendergrass, Rosenberg, Ross, Tarrant, and Waldstreicher.

² Sponsored by Senators Madaleno, Forehand, and Raskin.

³ Maryland Code, Health – General Article, §17-205.

⁴ 42 U.S.C. 263a.

certain limited tests and exams, including a urine pregnancy test.⁵ Similarly, under the CLIA, a laboratory may obtain a certificate of waiver if the exams/procedures the laboratory conducts are those that the Food and Drug Administration has approved for home use or that are simple laboratory exams/procedures that have an insignificant risk of erroneous result, which includes urine pregnancy tests.⁶

Although they discuss issues related to medical conditions (i.e., pregnancy), LSPRCs remain unregulated unless they have a licensed medical professional on staff or they perform laboratory services.

Issues for Committee Discussion

Does the proposed regulation violate the U.S. Constitution? Some speakers argued that the proposed regulation violates the First and Fourteenth Amendment to the U.S. Constitution (see ©55-60). In reviewing this issue, Council staff concludes that as introduced the regulation could violate the First Amendment’s prohibition against viewpoint discrimination because it singles out for regulation only those LSPRCs that have a particular view of abortion. To address the concerns raised, Councilmembers Leventhal and Trachtenberg propose an amendment (©77-79) to the regulation that would require all LSPRCs – regardless of their view on abortion – that do not have a licensed medical professional on staff to post at least 1 sign in the Center’s waiting room (or another area where individuals await service) indicating that

- the Center does not have a licensed medical professional on staff; and
- the Montgomery County Health Officer encourages women who may be pregnant to consult with a licensed health care provider.

The amendment would define “licensed medical professional on staff” as one or more individuals who:

- are licensed in Maryland as a nurse, physician, or physician assistant;
- provide medical-related services at the Center by either providing medical services to clients at least 20 hours per week or directly oversees medical services at the Center; and
- are employed or offer their services at the Center.

The amendment would apply to any pregnancy center that:

- has a primary purpose to provide pregnancy-related services;
- does not have a medical professional on staff; and
- provides information about pregnancy-related services, for a fee or as a free service.

The attached amendment does not violate the First Amendment and **Council staff recommends** the Committee adopt this amendment. The amendment would also address the due process issues raised at the hearing (see ©55-60).

⁵ Maryland Code, Health – General Article, §17-205(b).

⁶ 42 U.S.C. 263a(d)(2).

Are the enforcement provisions in the proposed regulation appropriate? As with all recent Board of Health regulations, the proposed regulation contains the following enforcement provisions:

- Any violation of this regulation is a Class A civil violation. Each day a violation exists is a separate offense.
- The County Attorney or any affected party may file an action in a court with jurisdiction to enjoin repeated violations of this regulation.
- The Department of Health and Human Services must investigate each complaint alleging a violation of this regulation and take appropriate action, including issuing a civil citation when compliance cannot be obtained otherwise.

The Council heard from a few speakers at the hearing who expressed concern that the provision authorizing “any affected party to file an action in court to enjoin repeated violations” of the regulation would subject LSPRCs to “limitless lawsuits”. Council staff notes that the threat of “harassment” is considerably less if the regulation calls for a sign rather than an oral and written disclaimer. The amendment proposed by Councilmembers Leventhal and Trachtenberg further addresses this concern by requiring the County Department of Health and Human Services, when it learns that a LSPRC has violated the regulation, to issue a written notice ordering the Center to correct the violation before issuing a citation. The amendment would further remove the provision allowing an affected party to file suit to enjoin repeated violations (©78-79, lines 48-60). **Council staff recommends** the Committee adopt this amendment.

What other less-substantive amendments are necessary? The amendment proposed by Councilmembers Leventhal and Trachtenberg would also make the following changes:

- add a section in the background resolution specifying the public health reasons to adopt this Board of Health regulation (©77, lines 3-7);
- amend the definition of limited service pregnancy resource center to ensure that an individual that operates a center is covered under the regulation (©77, lines 18-19);

Council staff recommends the Committee adopt these amendments.

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Resolution No.: _____
Introduced: _____
Adopted: _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE MONTGOMERY COUNTY BOARD OF HEALTH

By: Councilmembers Trachtenberg, Navarro, Floreen, Elrich, Leventhal, and Berliner

Subject: **Board of Health Regulation requiring a disclaimer for certain pregnancy resource centers.**

Background

1. County Code §2-65, as amended effective August 10, 2000, provides that the County Council is, and may act as, the County Board of Health, and in that capacity may adopt any regulation which a local Board of Health is authorized to adopt under state law.
2. Maryland Code Health-General Article §3-202(d) authorizes the County Board of Health to adopt rules and regulations regarding any nuisance or cause of disease in the County.
3. On {date} the County Council held a public hearing on this regulation. As required by law, each municipality in the County and the public were properly notified of this hearing.
4. The County Council, sitting as the Board of Health, finds after hearing the testimony and other evidence in the record of the public hearing that requiring a disclaimer for certain pregnancy resource centers is necessary to protect the health of County residents.

Action

The County Council for Montgomery County, Maryland, sitting as the County Board of Health, approves the following regulation:

Required Disclaimers for Certain Pregnancy Resource Centers**(a) Definitions.**

- (1) “*Client*” means a client or potential client.
- (2) “*Limited Service Pregnancy Resource Center*” means an organization or center that:
 - (A) has a primary purpose to provide pregnancy-related services that do not constitute the practice of medicine;
 - (B) provides information about pregnancy-related services, for a fee or as a free service; and
 - (C) does not provide or refer clients for:
 - (i) abortions; or
 - (ii) nondirective and comprehensive contraceptive services.

(b) Disclaimer required.

- (1) A limited service pregnancy resource center must provide a client with the disclaimer required in Section (c):
 - (a) by the staff assisting the client;
 - (b) during the first communication or first contact with a client; and
 - (c) in a written statement or oral communication that the client reasonably understands.
- (2) Any written disclaimer must be provided in English and Spanish.

(c) Contents of disclaimer. The disclaimer must state that:

- (1) the information that the limited service pregnancy resource center provides is not intended to be medical advice or to establish a doctor-patient relationship; and
- (2) the client should consult with a health care provider before proceeding on a course of action regarding the client’s pregnancy.

(d) Enforcement.

- (1) Any violation of this regulation is a Class A civil violation. Each day a violation exists is a separate offense.
- (2) The County Attorney or any affected party may file an action in a court with jurisdiction to enjoin repeated violations of this regulation.

31 (3) The Department of Health and Human Services must investigate each complaint
32 alleging a violation of this regulation and take appropriate action, including
33 issuing a civil citation when compliance cannot be obtained otherwise.

34 (e) **Applicability.** This regulation applies Countywide.

35 (f) **Severability.** If the application of this regulation or any part of it to any facts or
36 circumstances is held invalid, the rest of the regulation and its application to all other
37 facts and circumstances is intended to remain in effect.

38 (g) **Effective Date.** This regulation takes effect on the date on which it is adopted.

39 This is a correct copy of Council action.

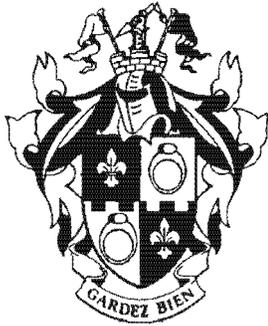
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Linda M. Lauer, Clerk of the Council



Montgomery County Council

From the Office of Councilmember Duchy Trachtenberg November 6, 2009

CONTACT: Pat Brennan 240-777-7829

Councilmember Trachtenberg to Introduce Resolution Requiring 'Pregnancy Centers' To Disclose Actual Scope of Their Services

*Measure Would Have Centers Tell Clients Up Front
That They Do Not Provide Medical Advice or
Establish Doctor-Patient Relationships*

ROCKVILLE, Md., November 6, 2009—Montgomery County Councilmember Duchy Trachtenberg (D-At Large) on Tuesday, Nov. 10, will introduce a resolution for the Council, acting as the County's Board of Health, that would require Limited Service Pregnancy Centers, which are also known as Crisis Pregnancy Centers (CPCs), to notify clients that the center will not be providing medical advice or establishing a doctor-patient relationship. The resolution also would require the CPCs to recommend to the client that she should seek out a qualified health care professional.

Councilmembers Valerie Ervin, Marc Elrich, Nancy Floreen, George Leventhal and Nancy Navarro are cosponsors of the resolution. If the County's Board of Health approves the measure, Montgomery County would be the first local jurisdiction in the nation to have such an action approved by its board of health.

Currently, there are three family planning clinics in Montgomery County that receive partial public funding. There are four Crisis Pregnancy Centers in the County, none of which receive public funding.

A public hearing on the resolution is tentatively scheduled for Dec. 1.

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“The Montgomery County Council, sitting as the Board of Health, has an obligation to protect the public’s health,” said Councilmember Trachtenberg, who is a member of the Council’s Health and Human Services Committee. “Nothing is more important than the protection of the health and well-being of women in Montgomery County. Requiring full disclosure of crisis pregnancy centers is critical, given that there are more CPCs in the County than there are publicly-funded comprehensive family planning clinics.”

Councilmember Trachtenberg said that the legislation is needed because CPCs often provide false and misleading information to women. She said that CPCs often tell clients that abortions make future pregnancy impossible; that abortions and oral contraceptives cause breast cancer; and that condoms are ineffective in preventing pregnancy and STDs. Overall, she said that CPCs often discourage women from seeking contraception or abortion.

“Women seeking medical attention shouldn’t have to guess whether a ‘pregnancy’ clinic provides full-service care, including contraceptive services—this information should be made readily available to them,” said Councilmember Navarro.

The proposed regulation would not force any CPCs to close. CPCs would still be allowed to counsel and provide accurate information to women who choose to carry their pregnancies to term. However, the regulation would make sure women are given accurate information about the CPC from the start of their visits. The regulation also requires that the information be made available in English and Spanish.

“Pregnancy can be a time of great joy and also of tremendous confusion,” said Councilmember Floreen. “As women face some of the most complicated and meaningful decisions of their lives, we owe it to them to make sure they receive thorough and medically sound information.”

A 2006 report by Congressman Henry Waxman of California entitled, “False and Misleading Health Information Provided by Federally Funded Pregnancy Resource Centers,” stated that during an investigation of 23 CPCs that received federal grants, “20 of the 23 centers (87 percent) provided false or misleading information about the health effects of abortion.”

Pregnancy resource centers received approximately \$1 million through the Compassion Capital Fund, created in 2002 as a component of the Bush Administration’s faith-based initiative, according to the report. The report also said that CPCs received more than \$24 million in Community-Based Abstinence Education funds between 2001 and 2005, and at least \$6 million from abstinence funding provided to states.

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UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENT REFORM — MINORITY STAFF
SPECIAL INVESTIGATIONS DIVISION
JULY 2006

**FALSE AND MISLEADING HEALTH INFORMATION
PROVIDED BY FEDERALLY FUNDED
PREGNANCY RESOURCE CENTERS**

PREPARED FOR
REP. HENRY A. WAXMAN

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EXECUTIVE SUMMARY

In December 2004, Rep. Henry A. Waxman released a report analyzing the scientific accuracy of the curricula taught by federally funded abstinence-only education programs. That report found that the abstinence curricula often contained false or distorted information that misled teens about sex and reproductive health.

At the request of Rep. Waxman, this report examines the scientific accuracy of the information provided by another Bush Administration priority: federally funded "pregnancy resource centers." These organizations, which are also called "crisis pregnancy centers," provide counseling to pregnant teenagers and women. Since 2001, pregnancy resource centers have received over \$30 million in federal funding. Most of this money has come from federal programs for abstinence-only education. Additional funding has been distributed as "capacity-building" grants to 25 pregnancy resource centers in 15 states as part of the new \$150 million Compassion Capital Fund. Individual centers have also been the beneficiaries of earmarks in appropriations bills.

For this report, female investigators telephoned the 25 pregnancy resource centers that have received grants from the Compassion Capital Fund, requesting information and advice regarding an unintended pregnancy. Twenty-three of the centers were successfully contacted. In each call, the investigator posed as a pregnant 17-year-old trying to decide whether to have an abortion.

During the investigation, 20 of the 23 centers (87%) provided false or misleading information about the health effects of abortion. Often these federally funded centers grossly misrepresented the medical risks of abortion, telling the callers that having an abortion could increase the risk of

breast cancer, result in sterility, and lead to suicide and "post-abortion stress disorder."

Specifically, the report finds:

- **The centers provided false and misleading information about a link between abortion and breast cancer.** There is a medical consensus that induced abortion does not cause an increased risk of breast cancer. Despite this consensus, eight centers told the caller that having an abortion would in fact increase her risk. One center said that "all abortion causes an increased risk of breast cancer in later years." Another claimed that research shows a "far greater risk" of breast cancer after an abortion, telling the caller that an abortion would "affect the milk developing in her breasts" and that the risk of breast cancer increased by as much as 80% following an abortion.
- **The centers provided false and misleading information about the effect of abortion on future fertility.** Abortions in the first trimester, using the most common abortion procedure, do not pose an increased risk for future fertility. However, seven centers told the caller that having an abortion could hurt her chances of having children in the future. One center said that damage from abortion could lead to "many miscarriages" or to "permanent damage" so "you wouldn't be able to carry," telling the caller that this is "common" and happens "a lot." Another center said, "In the future you could have trouble conceiving another baby" because of scar tissue, a side effect of abortion that happens to "a lot of women."
- **The centers provided false and misleading information about the mental health effects of abortion.** Research shows that significant

psychological stress after an abortion is no more common than after birth. However, thirteen centers told the caller that the psychological effects of abortion are severe, long-lasting, and common. One center said that the suicide rate in the year after an abortion "goes up by seven times." Another center said that post-abortion stress suffered by women having abortions is "much like" that seen in soldiers returning from Vietnam and "is something that anyone who's had an abortion is sure to suffer from." Other centers said that abortion can cause "guilt, ... sexual problems, ... suicidal ideas, ... drug use, eating disorders," and "a downward spiral

where they lose friends and family members."

The individuals who contact federally funded pregnancy resource centers are often vulnerable teenagers, who are susceptible to being misled and need medically accurate information to help them make a fully informed decision. The vast majority of pregnancy resource centers contacted for this report, however, provided false or misleading information about the health risks of an abortion. This may advance the mission of the pregnancy resource centers, which are typically pro-life organizations dedicated to preventing abortion, but it is an inappropriate public health practice.

I. BACKGROUND

A. Pregnancy Resource Centers

“Pregnancy resource centers” are virtually always pro-life organizations whose goal is to persuade teenagers and women with unplanned pregnancies to choose motherhood or adoption. They do not offer abortions or referrals to abortion providers. In addition to initial counseling for pregnant teens and women, some centers may provide support services or referrals to prenatal care.

Many pregnancy resource centers, including all the centers contacted in this investigation, are affiliated with one or more national umbrella organizations. Two such networks are Heartbeat International and Care Net.¹ Heartbeat International describes itself as the “first pro-life network of pregnancy resource centers in the U.S. and the largest in the world, supporting, strengthening and starting nearly 1,000 pregnancy centers to provide alternatives to abortion.”² Care Net describes itself as “a Christian ministry assisting and promoting the evangelistic, pro-life work of pregnancy centers in North America.”³

Many pregnancy resource centers used to describe themselves as “crisis pregnancy centers.” One organization explained the change in terminology as follows: “God’s truth never varies, but new methods of communicating it continue to emerge, including a departure from the term ‘crisis pregnancy’ itself. Many centers now favor a more neutral, solution-oriented name, such as ‘pregnancy resource center.’”⁴

Pregnancy resource centers often mask their pro-life mission in order to attract “abortion-vulnerable clients.”⁵ This can take the form of advertising under “abortion services” in the yellow pages or obscuring the fact that the center does not provide referrals to abortions in the text of an advertisement.⁶ Some centers purchase advertising on internet

¹ Heartbeat International, *Worldwide Directory of Pregnancy Help* (online at www.heartbeatinternational.org/worldwide_directory.asp); Care Net, “Option Line” (online at www.care-net.org).

² Heartbeat International, *Pro-life Pregnancy Center Support* (online at: <http://www.heartbeatinternational.org/>).

³ Care Net, *Our Mission* (online at: <http://www.care-net.org/aboutus/mission.html>).

⁴ Focus on the Family, *What is a Pregnancy Resource Center?* (online at <http://web.archive.org/web/20040616173837/www.family.org/pregnancy/articles/A0030278.cfm>).

⁵ See Kurt Entsminger, *Building a Successful Internet Advertising Campaign for Your Pregnancy Center* (2006) (online at <http://www.care-net.org/publications/cot/internetadvertising.pdf>).

⁶ Deceptive advertising has been addressed in some court cases and state actions. For example, in 2002, the New York Attorney General issued subpoenas to several centers across the state regarding misleading advertising; a subsequent consent decree with one center required it to adhere to certain standards of disclosure and practice. Office of New York State Attorney General Eliot Spitzer, *Spitzer Reaches Agreement With Upstate Crisis Pregnancy Center* (Feb. 28, 2002) (online at www.oag.state.ny.us/press/2002/feb/feb28c_02.html).

search engines under keywords that include "abortion" or "abortion clinics."⁷ Other advertisements represent that the center will provide pregnant teenagers and women with an understanding of all of their options. For example, "Option Line," a joint venture of Heartbeat International and Care Net, is a 24-hour telephone hotline that connects pregnant teenagers and women with pregnancy resource centers in their communities. The main page of Option Line's website states at the top, "Pregnant? Need Help? You Have Options," but does not reveal that both Heartbeat International and Care Net represent only pro-life centers or that only non-abortion options will be counseled.⁸

B. Federal Funding of Pregnancy Resource Centers

President Bush has declared that supporting pregnancy resource centers is a central component of his Administration's pro-life and faith-based agenda. In his acceptance speech at the 2000 Republican convention, Mr. Bush told the delegates:

Big government is not the answer, but the alternative to bureaucracy is not indifference. It is to put conservative values and conservative ideas into the thick of the fight for justice and opportunity. This is what I mean by compassionate conservatism, and on this ground, we will lead our nation. ... In the next bold step of welfare reform, we will support the heroic work of homeless shelters and hospices, food pantry and crisis pregnancy centers, people reclaiming their communities block by block and heart by heart.⁹

The President has reiterated this theme in multiple speeches and proclamations:

- "My Administration encourages adoption and supports abstinence education, crisis pregnancy programs, parental notification laws, and other measures to help us continue to build a culture of life."¹⁰
- "A generous society values all human life and that is why my administration opposes partial-birth abortion and public funding for abortion; why we support teen abstinence and crisis pregnancy programs; adoption and parental notification laws; and why we are against all forms of human cloning."¹¹

⁷ Kurt Entsminger, *Building a Successful Internet Advertising Campaign for Your Pregnancy Center* (2006) (online at www.care-net.org/publications/cot/internetadvertising.pdf).

⁸ Option Line (online at www.optionline.org).

⁹ George W. Bush, *Remarks at the Republican National Convention* (Aug. 3, 2000).

¹⁰ The White House, *A Proclamation: National Sanctity of Human Life Day* (Jan. 16, 2004) (online at <http://www.whitehouse.gov/news/releases/2004/01/20040116-2.html>).

¹¹ The White House, *President's Phone Call to March for Life Participants* (Jan. 22, 2002) (online at <http://www.whitehouse.gov/news/releases/2002/01/20020122-10.html>).

- “We will also continue our support for crisis pregnancy centers, incentives for adoption and parental notification laws. I propose to double federal funding for abstinence programs in schools and community-based programs.”¹²

Prior to the Bush Administration, only a few pregnancy resource centers received federal funding. Beginning in 2001, however, federal funding of pregnancy resource centers increased sharply. In total, over \$30 million in federal funds went to more than 50 pregnancy resource centers between 2001 through 2005.¹³

One major source of federal funds tapped by pregnancy resource centers is funding for abstinence-only education. Centers teach abstinence-until-marriage either on site or at other locations in the community, including public schools. At a 2005 conference, Care Net, the national umbrella organization, described the advantages of abstinence funding for pregnancy resource centers:

[D]efending and promoting a culture of life is not just about saving babies of those women that walk into the center that are pregnant and thinking about abortion You’re defending and promoting a culture of life through teaching them about their own sexuality, their own bodies, and in that, they begin to understand the creation process, and they begin to understand that an unborn child really is valuable. ...

Now obviously when you go into public schools you can’t start talking about Jesus dying on the cross, or you may not get invited back very quickly. But ... you’re opening the door to a lot more people that may not normally know of your center, you’re building credibility for your pregnancy center, you’re helping people begin to trust in your pregnancy center, so that if those girls that may have heard your story and didn’t quite take it to heart and end up coming to your pregnancy center, or they have friends or family members that come, that trust is already built, and then you’ve already earned the right to be heard. So people that come into your center that have already heard you, you get the chance to share the Gospel with them, which is the ultimate thing of what we’re doing.¹⁴

At least 29 pregnancy resource centers received a total of over \$24 million in Community-Based Abstinence Education (CBAE) funds from 2001 through 2005.¹⁵

¹² The White House, *President’s Remarks Via Satellite to the Southern Baptist Convention* (June 15, 2004) (online at <http://www.whitehouse.gov/news/releases/2004/06/20040615-9.html>).

¹³ *Grants Flow to Bush Allies on Social Issues*, Washington Post (Mar. 22, 2006).

¹⁴ Abstinence Liaison, Care Net, *She’s Having a Baby: Abstinence and CPCs* (Presentation at the National Abstinence Leadership Conference) (Aug. 8, 2005).

¹⁵ Department of Health and Human Services, *Tracking Accountability in Government Grants System (TAGGS)* (online at <http://taggs.hhs.gov>). Rebecca E. Fox, *SIECUS State Profiles: A Portrait of Sexuality Education and Abstinence-Only-Until-Marriage Programs in the States, Fiscal Year 2003 Edition* (New York: Sexuality Information and Education Council of the United States, 2004); Rebecca E. Fox, *SIECUS State Profiles: A Portrait of Sexuality Education and Abstinence-Only-Until-Marriage Programs in the States, Fiscal Year 2004 Edition* (New York: Sexuality Information and Education Council of the United States, 2005); Rebecca E. Fox, *SIECUS State Profiles: A Portrait of*

Other pregnancy resource centers have received a total of at least \$6 million in abstinence funding provided to the states under section 510 of Title V.¹⁶ The actual total may be higher because centralized information on these grants is not available. For many pregnancy resource centers receiving federal abstinence funding, the grants represented a major increase in their annual budget, in some cases expanding their budgets by seven-fold.¹⁷

In other cases, pregnancy resource centers have received funding through specific congressional earmarks, including for "counseling and pregnancy support services."¹⁸

Pregnancy resource centers have also received approximately \$1 million through the "Compassion Capital Fund," a component of the Bush Administration's faith-based initiative. Created in 2002 and managed by the Administration for Children and Families at the Department of Health and Human Services, the Compassion Capital Fund was designed to bolster faith- and community-based organizations by providing technical assistance and "capacity building" grants. These grants allow recipients to "increase their effectiveness, enhance their ability to provide social services to serve those most in need, expand their organizations, diversify their funding sources, and create collaborations."¹⁹

For many pregnancy resource centers receiving federal abstinence funding, the grants represented a major increase in their annual budget, in some cases expanding their budgets by seven-fold.

The Compassion Capital Fund, which has received \$150 million in federal funds, provides two types of financial support. "Demonstration grants" are given to intermediary organizations that provide technical assistance and subgrants to smaller faith-based and community groups.²⁰ The fund also makes "mini grants," one-time capacity-building awards of up to \$50,000 for faith-based and community organizations "to increase their capacity to serve targeted social service priority areas."²¹

Sexuality Education and Abstinence-Only-Until-Marriage Programs in the States, Fiscal Year 2005 Edition (New York: Sexuality Information and Education Council of the United States, 2006).

¹⁶ See SIECUS, *State Profiles 2004* (online at www.siecus.org/policy/states/index.html).

¹⁷ *Grants Flow to Bush Allies on Social Issues*, Washington Post (Mar. 22, 2006).

¹⁸ For example, in fiscal year 2005 appropriations, \$150,000 was earmarked for Real Alternatives of Harrisburg, Pennsylvania, for "counseling and pregnancy support services; and \$80,000 was earmarked for the Pregnancy Crisis Center in Wichita, Kansas, for "facilities and equipment." P.L. 108-447, *The Fiscal Year 2005 Consolidated Appropriations Act*. Overall, Congress has earmarked over \$1.3 million for pregnancy resource centers since 2001.

¹⁹ Administration for Children and Families, Department of Health and Human Services, *About the Compassion Capital Fund* (online at www.acf.hhs.gov/programs/ccf/about_ccf/index.html).

²⁰ Between 2002 and 2005, the Compassion Capital Fund made demonstration grants totaling more than \$125 million to 65 separate intermediary organizations. See Administration for Children and Families, *Compassion Capital Fund Intermediary Organization Grantees* (online at www.acf.hhs.gov/programs/ccf/existing_grantees/io_grantees.html).

²¹ Between 2003 and 2005, the Compassion Capital Fund made mini-grants totaling more than \$22.5 million to 463 organizations. Administration for Children and Families, *Mini-Grants: Targeted*

To date, 25 pregnancy resource centers in 15 states have received grants through the Compassion Capital Fund. Twenty-two of these centers received an estimated total of \$650,000 in subgrants from the Institute for Youth Development (IYD), an intermediary organization which focuses its subgrants on helping smaller organizations “build capacity to identify federal grant opportunities and to prepare highly competitive applications for federal assistance.”²² Most of the IYD’s subgrants to pregnancy resource centers have gone to recipients that are in the process of pursuing a “medical model” of service delivery, including those intending to pursue Medicaid reimbursement for their services.²³

Of the pregnancy resource centers that have received IYD subgrants, three applied for and received direct mini-grants from the Compassion Capital Fund. Three additional centers received mini-grants only.²⁴ These six mini-grants totaled \$293,000.²⁵

Two centers that received grants through the Compassion Capital Fund also received federal abstinence-only education funding worth \$1.9 million.²⁶

Capacity-Building Program, (online at www.acf.hhs.gov/programs/ccf/about_ccf/prgm_target_cap.html).

²² Institute for Youth Development, *Description of Compassion Capital Fund Initiative* (online at www.youthdevelopment.org/articles/pr120203.htm). Data on total subgrant amounts are approximate. Fifteen centers received about \$425,000 in subgrants in 2003 and 2004, according to data provided by HHS. Seven more centers received subgrants in 2005, but data on the amounts of those grants was not available. In addition, two organizations received \$50,000 subgrants through IYD’s “Pregnancy Resource Center Service Delivery and Medical Model” program. One of the organizations, Heartbeat International, is an umbrella organization that supports pregnancy resource centers. Institute for Youth Development, *IYD Sub-Awards* (online at <http://www.youthdevelopment.org/articles/subawards.htm>).

²³ The IYD provided funds to 15 pregnancy resource centers under its “Pregnancy Resource Center Service Delivery and Medical Model.” Under this program, the center must be engaged in at least one of the following: establishing or expanding a medical model demonstration program to provide an array of prenatal health care services for at-risk or disadvantaged pregnant women; building partnerships and coalitions with other local pregnancy resource centers, existing medical industry entities, and medical service providers to create a cost-effective system to deliver prenatal health care services to at-risk or disadvantaged pregnant women; designing and implementing strategies to recruit medical professionals and staff positions for such a medical model; designing a medical service delivery system that will allow existing pregnancy resource centers to pursue Medicaid reimbursements and other funding activities; demonstrating an exemplary medical practices model to other entities that desire to establish or expand their own models; or assisting other entities to establish or expand their own medical models. Institute for Youth Development, *RFP/IYD 05-302, Pregnancy Resource Center Service Delivery and Medical Model Program* (Announcement Date Jan. 1, 2005).

²⁴ Administration for Children and Families, *2003-2005 Funding for Targeted Capacity-Building Program Grantees, a.k.a. Mini-Grantees* (online at www.acf.hhs.gov/programs/ccf/about_ccf/ccf_pdf/2005fundingmg.pdf).

²⁵ *Id.*

²⁶ Department of Health and Human Services, *Tracking Accountability in Government Grants System (TAGGS)* (online at <http://taggs.hhs.gov>).

II. PURPOSE AND METHODOLOGY

In December 2004, Rep. Waxman released a report by the Special Investigations Division that evaluated the scientific accuracy of the curricula used in federally funded abstinence-only education programs. The report found that nearly all of the curricula contained false, misleading, or distorted information about reproductive health. The curricula included inaccurate information about disease and pregnancy prevention; erroneous effectiveness rates for condoms; the presentation of religious belief as fact; and the teaching of stereotypes about boys and girls as science.²⁷

In this report, Rep. Waxman asked the Special Investigations Division to undertake a similar evaluation of federally funded pregnancy resource centers. Rep. Waxman requested that the investigation examine the medical accuracy of the information that these centers provide to pregnant teenagers seeking advice about whether to have an abortion. Rep. Waxman did not ask the Special Investigations Division to assess the merits of using federal funds to support organizations that provide pro-life counseling to pregnant teenagers and women, and this report does not address this issue.

In response to Rep. Waxman's request, the Special Investigation Division identified the 25 pregnancy resource centers that have received grants through the Compassion Capital Fund. For this report, female investigators telephoned the 25 pregnancy resource centers that have received grants from the Compassion Capital Fund, posing as a 17-year-old trying to decide whether to have an abortion, and requesting information and advice. The caller stated that she was pregnant and thought she wanted an abortion. If asked for more information, the caller told center staff that:

- she was 17;
- she had taken a home pregnancy test and it was positive;
- she had never been pregnant before;
- her last menstrual period had fallen two months earlier; and
- she wanted to receive as much information as possible on the phone because she didn't think she could come in to the center.²⁸

Calls were made to all 25 centers. A counselor was reached at 23 of the 25. Attempts made to reach the remaining two were unsuccessful.

Of the 25 centers, 20 maintain public websites. The Special Investigations Division also reviewed the medical accuracy of the information presented on these websites.

²⁷ U.S. House of Representatives, Committee on Government Reform, Minority Staff, *The Content of Federally-Funded Abstinence-Only Education Programs* (Dec. 2004) (online at www.democrats.reform.house.gov/Documents/20041201102153-50247.pdf).

²⁸ The majority of CPCs attempted to persuade the caller to visit the center in person.

III. FINDINGS

The vast majority of the federally funded pregnancy resource centers contacted during the investigation provided information about the risks of abortion that was false or misleading. In many cases, this information was grossly inaccurate or distorted. A pregnant teenager who relied on the information from these federally funded centers would make her decision about whether to give birth or terminate her pregnancy based on erroneous facts and misinformation.

In total, 87% of the centers reached (20 of 23 centers) provided false or misleading information to the callers. The three major areas of misinformation involved (1) the purported relationship between abortion and breast cancer; (2) the purported relationship between abortion and infertility; and (3) the purported relationship between abortion and mental illness.

A. Pregnancy Resource Centers Provided False and Misleading Information About Abortion and Breast Cancer

There is a medical consensus that there is no causal relationship between abortion and breast cancer. This consensus emerged after several well-designed studies, the largest of which was published in the *New England Journal of Medicine* in 1997, found no indication of increased risk of breast cancer following an induced abortion.²⁹ In 2002, the Bush Administration edited a National Cancer Institute website to suggest that there was still an open scientific question about whether having an abortion might lead to breast cancer.³⁰ After Rep. Waxman and other members of Congress protested the change, the National Cancer Institute convened a three-day conference of experts on abortion and breast cancer.³¹ Participants reviewed all existing population-based, clinical, and animal data available. Their conclusion was that "[i]nduced abortion is not

²⁹ Mads Melbye et al., *Induced Abortion and the Risk of Breast Cancer*, 336 *New Eng. J. Med.* 81, 84 (1997).

³⁰ As revised by the Bush Administration, the website stated: "the possible relationship between abortion and breast cancer has been examined in over thirty published studies since 1957. Some studies have reported statistically significant evidence of an increased risk of breast cancer in women who have had abortions, while others have merely suggested an increased risk. Other studies have found no increase in risk among women who had an interrupted pregnancy." National Cancer Inst., *Early Reproductive Events and Breast Cancer* (Nov. 25, 2002) (online at www.cancer.gov/cancer_information/doc.aspx?viewid=8cf78b34-fc6a-4fc7-9a63-6b16590af277), *Abortion and Breast Cancer*, *New York Times* (Jan. 6, 2003).

³¹ Letter from Rep. Henry A. Waxman et al. to Tommy G. Thompson, Secretary, U.S. Department of Health and Human Services. (Dec. 18, 2002) (online at www.democrats.reform.house.gov/Documents/20040817143143-53989.pdf).

associated with an increase in breast cancer risk.” The panel ranked this conclusion as “[w]ell-established.”³²

Despite this medical consensus, eight centers warned the caller that having an abortion would increase her risk of breast cancer. For example, one center told the caller that “all abortion causes an increased risk of breast cancer in later years.”³³ Another center said that research shows a “far greater risk” of breast cancer after an abortion.³⁴

A few centers provided a misleading explanation for the purported elevated risk. One told the caller that women who have abortions “are now finding out that they have breast cancer” because the development of hormones and glands in the breast tissue is abruptly stopped.³⁵ Another center said that there is an increased risk of breast cancer because breast tissue is still developing when an abortion takes place.³⁶ A third stated that terminating a pregnancy can “affect the milk forming in your breasts” and “some women are finding out that they’re having breast cancer later on.”³⁷

Several centers quantified the claimed risk. One center told the caller that there is an “extremely high, increased risk of breast cancer” that “can be as much as an 80% increase depending upon how the risk factors fall into place.”³⁸ A second center stated that abortion increases the risk of breast cancer by 50%.³⁹ A third center asserted that an abortion elevates the average lifetime risk of breast cancer by 50% and that more abortions increase the risk even more.⁴⁰

Despite medical consensus that there is no causal link between abortion and breast cancer, eight centers warned of such a link. One center claimed that the risk would be “extremely high,” increasing by as much as 80%.

The theme of abortion causing breast cancer is reflected in many of the centers’ websites. One website reports an “[i]ncreased risk of breast cancer, particularly risky for those who abort their first pregnancy.”⁴¹ It further states that “[w]hile study results vary, most demonstrate a 50% or greater increased risk.”⁴² Another center website states: “For women aborting a first pregnancy, the risk of breast cancer almost doubles after a first-

³² National Cancer Inst., *Summary Report: Early Reproductive Events and Breast Cancer* (Mar. 4, 2003) (online at www.cancer.gov/cancerinfo/ere-workshop-report).

³³ Center T.

³⁴ Center N.

³⁵ Center K.

³⁶ Center S.

³⁷ Center X.

³⁸ Center O.

³⁹ Center U.

⁴⁰ Center W.

⁴¹ CareNet Pregnancy Center of Albuquerque, *Abortion* (online at www.carenetabq.org/abortion.shtml) (accessed June 9, 2006).

⁴² *Id.*

trimester abortion and is multiplied with two or more abortions. This risk is especially great for women who do not have children. Some recent studies have refuted this finding, but the majority of studies support a connection.”⁴³

B. Pregnancy Resource Centers Provided False and Misleading Information About the Effect of Abortion on Future Fertility

Vacuum aspiration, the method most commonly used for abortions during the first trimester, does not pose an increased risk of infertility or other fertility problems. According to one authority:

Researchers have reviewed the world literature, including studies from 21 countries, and have concluded that women who have their first pregnancy terminated by vacuum aspiration are at no increased risk of subsequent infertility or ectopic pregnancy when compared with women who carry their first pregnancy to term. They also concluded that a single induced abortion performed by vacuum aspiration does not increase the risk of complications during future pregnancies, the risk of having a low birthweight baby, or the risk of having a pregnancy result in a miscarriage, stillbirth, infant death or congenital malformations.⁴⁴

During the investigation, the caller informed the pregnancy resource center that her last period had been approximately two months earlier and that this was a first pregnancy. These facts placed the caller in the category with no increased risk of infertility from vacuum aspiration. Nonetheless, seven pregnancy resource centers informed the caller that she would be at increased risk of fertility problems from abortion.

Several centers described the risk of abortion-induced infertility as common or high. One told the caller that damage from abortion could lead to “many miscarriages” or to “permanent damage” so “you wouldn’t be able to carry.”⁴⁵ This center stated that this is “common” and happens “a lot.”⁴⁶

⁴³ Westside Pregnancy Resource Center, *Physical Health Risks of Abortion* (online at www.wprc.org/21.45.0.0.1.0.phtml) (accessed June 9, 2006).

⁴⁴ Atrash and Hogue, *The Effect of Pregnancy Termination on Future Reproduction*, Baillière's Clinical Obstetrics and Gynecology 391-405 (June 1990). A leading obstetrics textbook states that other than the “small risk” of infection, “Fertility is not altered by an elective abortion.” F. Gary Cunningham et al., *Williams Obstetrics 21st Edition*, 877 (2001).

⁴⁵ Center E.

⁴⁶ *Id.*

One center told the caller that abortion “could destroy your chances of ever having children again” and that infertility “happens more often than the media reports.”

Another center said, “In the future you could have trouble conceiving another baby”⁴⁷ because of scar tissue. When the caller asked if that happens to a lot of women, the center said, “A lot of women, yeah.”⁴⁸ Another told the caller that if she did not need to have an abortion, she should not have one because “the risks of abortion are so great,” involving damage to the cervix which could prevent pregnancy.⁴⁹ A fourth center told the caller that abortion “could destroy your chances of ever having children again” and that infertility “happens more often than the media reports.”⁵⁰

Other centers provided similarly misleading information:

- One center said that there are “possibilities of miscarriage later on in life when you’re wanting to get pregnant.”⁵¹ When the caller asked if that happens a lot, the center responded, “I don’t know what the full statistics are” but “it’s just one of the possible risks.”⁵²
- Another center could not say “exactly how likely it is,” but “a lot of the women we see here who’ve had abortions in the past” are not able to get pregnant.⁵³
- Another center said that if the cervix is damaged, “it won’t stay closed in future pregnancies, and it can open prematurely and you can have miscarriages.”⁵⁴ The center told the caller that these physical risks may not happen as often as the emotional risks of abortion, but “it is a very real possibility.”⁵⁵

Several of the centers’ websites contained the same type of misinformation. For example, one states that abortion brings an “[i]ncreased risk of infertility,” claiming that 2% to 5% of abortions result in sterility.⁵⁶ Another notes: “Infertility and sterility mean that a woman cannot get pregnant. Abortion causes sterility in 2-5% of the women who have an abortion.”⁵⁷

⁴⁷ Center W.

⁴⁸ *Id.*

⁴⁹ Center G.

⁵⁰ Center H.

⁵¹ Center I.

⁵² *Id.*

⁵³ Center L.

⁵⁴ Center B.

⁵⁵ *Id.*

⁵⁶ CareNet Pregnancy Center of Albuquerque, *Abortion* (online at www.carenetabq.org/abortion.shtml) (accessed June 9, 2006).

⁵⁷ Pregnancy Resources, Inc., *Abortion Risks* (online at www.pregnancyresourcesinc.com/abortion_risks.htm) (accessed June 9, 2006).

C. Pregnancy Resource Centers Provided False and Misleading Information About the Mental Health Effects of Abortion

Pro-life advocates assert the existence of a condition called “Post-Abortion Syndrome,” characterized as severe long-term emotional harm caused by abortion, and claim that this condition occurs frequently. Neither the American Psychological Association nor the American Psychiatric Association recognizes this syndrome, however. In fact, there is considerable scientific consensus that having an abortion rarely causes significant psychological harm. An expert panel of the American Psychological Association convened to “review the best scientific studies of abortion outcome” found:

The best studies available on psychological responses to unwanted pregnancy terminated by abortion in the United States suggest that severe negative reactions are rare, and they parallel those following other normal life stresses. Despite methodological shortcomings of individual studies, the fact that studies using diverse samples, different measures of postabortion response, and different times of assessment come to very similar conclusions is persuasive evidence that abortion is usually psychologically benign.⁵⁸

Other studies have reached similar results. A subsequent analysis based on a longitudinal study of women one hour before, one hour after, one month after, and two years after abortion found: “Reports support prior conclusions that severe psychological distress after an abortion is rare.”⁵⁹ A study based on data from the National Longitudinal Survey of Youth, with respondents initially aged 14 to 21, found: “Although women may experience some distress immediately after having an abortion, the experience has no independent effect on their psychological well-being over time.”⁶⁰ Similarly, a review of multiple studies of teens and abortion reported: “data do not suggest that legal minors are at heightened risk of serious adverse psychological responses compared with adult abortion patients or with peers who have not undergone abortion.”⁶¹ Yet another longitudinal study followed 13,000 women in Britain over a period of 11 years and found that women who continued the pregnancy and gave birth experienced the same rate of need for psychological treatment as women who had abortions.⁶²

⁵⁸ N.E. Adler et al., *Psychological Factors in Abortion: A Review*, *American Psychologist*, 1194–1204, 1202 (Oct. 1992).

⁵⁹ B. Major et al., *Psychological Responses of Women After First-Trimester Abortion*, *Archives of General Psychiatry*, vol. 57, no. 8 (Aug. 2000).

⁶⁰ S. Edwards, *Abortion Study Finds No Long-Term Ill Effects on Emotional Well-Being*, *Family Planning Perspectives*, 193–94 (July–Aug. 1997). The study used data from the National Longitudinal Survey of Youth, with respondents aged 14 to 21 at the start of research. Data was from 1979 through 1987.

⁶¹ N. Adler et al., *Abortion Among Adolescents*, *American Psychologist* (March 2003).

⁶² Anne C. Gilchrist et al., *Termination of Pregnancy and Psychiatric Morbidity*, *British Journal of Psychiatry* (1995) 243–48. Pro-life advocates point to certain studies that report correlations between a history of abortion and a range of psychological problems. These studies have been criticized for methodological shortcomings, such as the failure to control for factors such as mental

Despite the scientific evidence that abortion does not cause significant long-term psychological harm, thirteen pregnancy resource centers told callers the exact opposite, asserting that having an abortion would cause a wide range of damaging and long-lasting psychological impacts.

According to one center, "the rate of suicide in the year following an abortion goes up by seven times."⁶³ Other centers described lengthy lists of emotional harm that could result from an abortion:

- One center said that abortion can bring "huge" emotional complications. The center said that emotions experienced by women following an abortion can be: "guilt, numbness, dreams and nightmares, changes in relationships, ... difficulty with making friends, sexual problems, preoccupation with abortion date or due date, ... sadness, anxiety, suicidal ideas, sedatives, alcohol, drug use, eating disorders, sense of loss, inability to relax, fear of failure, crying spells, regret, anger, helplessness, headaches, loneliness, panic, ... signs of marital stress."⁶⁴
- Another warned of "sadness, long-term grief, anger, sexual dysfunction, guilt, flashbacks, memory repression, anniversary reaction, suicidal thoughts, increased use of alcohol or drugs, or difficulty maintaining close relationships."⁶⁵
- A third center described flashbacks and a "downward spiral where they lose friends and family members."⁶⁶

Another center told the caller that "the side effects of abortion are pretty awful," including guilt or shame, depression, isolation, anxiety, anger, sadness, preoccupation with getting pregnant again, eating disorders, drugs or alcohol abuse, difficulty with intimate relationships, and suicidal thoughts, and "there is more after that."⁶⁷ This center said that after an abortion, 80% of women seek psychiatric help "in relation to their

illness or childhood abuse that may explain both the unintended pregnancy and the mental health problem. Guttmacher Institute, *Abortion in Women's Lives* (2006) at 24; Patricia Dietz *et al.*, *Unintended Pregnancy Among Adult Women Exposed to Abuse of Household Dysfunction During Their Childhood*, *Journal of the American Medical Association* (Oct. 13, 1999).

⁶³ Center Q.

⁶⁴ Center P.

⁶⁵ Center M.

⁶⁶ Center S. Other centers referred to "depression, anxiety, a whole bunch of different emotional risks" that can follow from abortion (Center K); "usually some nervousness, trouble sleeping, insomnia, or nightmares, sometimes it can lead then into maybe eating disorders or other psychological effects" (Center N); and depression and guilt "that may be at the root cause of other problems" such as eating disorders and suicidal tendencies (Center B).

⁶⁷ Center O.

One center compared the effects of having an abortion to the experience of soldiers returning from Vietnam, and said that post-abortion stress "is something that anyone who's had an abortion is sure to suffer from."

abortion,” often years later.⁶⁸ In contrast, the center asserted that only 3% of women who have full-term pregnancies seek psychiatric care for short-lived post-partum depression, explaining:

Having a baby is a normal process and what it does is fulfills a woman. It is fulfilling one of the roles that she has. Abortion is the exact opposite; she is doing something totally contrary to what her role is. That’s why it has such an emotional impact on women.⁶⁹

One center compared the experience of having an abortion to the experience of going to war, analogizing the post-traumatic stress experienced after an abortion to that seen in soldiers after Vietnam, and said that it “is something that anyone who’s had an abortion is sure to suffer from.”⁷⁰

The pregnancy resource centers indicated that these emotional effects are extremely common, telling the caller: over 75% of women experience mild to severe post-abortion stress syndrome⁷¹; “[j]ust about over 90% of women have some type of emotional or psychological effects of abortion”⁷²; post-abortion syndrome and other problems happen to everyone “in varying degrees”⁷³; and the “majority” of women who choose abortion have post abortion syndrome in “various degrees.”⁷⁴ The center that asserted that suicide rates increase seven times following an abortion also said that “60-70% of women have emotional complications from an abortion.”⁷⁵

The idea that abortion is likely to lead to long-term psychological harm was also present on many of the centers’ websites. For example, the following descriptions appeared on these websites:

- **“What is Post Abortion Syndrome?** Nine out of every ten women who have undergone an abortion suffer deep seated anxiety and regret called post-abortion syndrome. Sometimes it appears many years later.”⁷⁶
- **“Psychological/Emotional Trauma:** 50% of post-abortive women report experiencing emotional and psychological disturbances lasting for months or years. This includes acute feeling of grief, depression, anger, fear of disclosure, preoccupation with babies or getting pregnant again, nightmares, sexual

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ Center R.

⁷¹ Center V.

⁷² Center X.

⁷³ Center U.

⁷⁴ Center J.

⁷⁵ Center Q.

⁷⁶ Women’s Care Center *Facts You Should Know About Abortion* (online at www.womenscarecenter.org/faq_abortion.html) (accessed June 9, 2006).

dysfunction, termination of relationships, emotional coldness, increased alcohol and drug abuse, eating disorders, anxiety, flashbacks, anniversary syndrome, repeat abortions, and suicide."⁷⁷

CONCLUSION

Pregnant teenagers and women turn to federally funded pregnancy resource centers for advice and counseling at a difficult time in their lives. These centers, however, frequently fail to provide medically accurate information. The vast majority of pregnancy centers contacted in this investigation misrepresented the medical consequences of abortion, often grossly exaggerating the risks. This tactic may be effective in frightening pregnant teenagers and women and discouraging abortion. But it denies the teenagers and women vital health information, prevents them from making an informed decision, and is not an accepted public health practice.

⁷⁷ A Woman's Concern Pregnancy Resource Clinic, *Considering Abortion?* (online at www.awomansconcern.com/considering_abortion.htm) (accessed June 9, 2006).

The Truth Revealed

Maryland Crisis Pregnancy Center Investigations

Prepared by Melissa Kleder, MA and
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January 14, 2008

A Report by
NARAL Pro-Choice Maryland Fund

Introduction

Fifty percent of all pregnancies nationwide are unplanned.¹ In Maryland, 42 percent of pregnancies that end in birth are unintended² For women and their partners, an unintended pregnancy can cause feelings of fear, shock, shame, and regret. Many women are confused and discuss their options with a third party: family members, friends, and in some cases a trained counselor. A woman seeking professional help is likely to find herself in a Crisis Pregnancy Center that has offered to assist her by providing information on adoption, abortion and parenting. What these women may not know is that the vast majority of these centers are run by non-professionals and provide false and misleading information to deter women from considering an abortion.

Crisis Pregnancy Centers (CPCs) have expanded their presence throughout the United States, as well as in Maryland. Some states, including Texas and Pennsylvania, have adopted policies that allow these centers to receive state funding. After hearing accounts from numerous women about unfair and deceptive practices at CPCs, the NARAL Pro-Choice Maryland Fund initiated an investigation into Maryland CPCs. The purpose of the investigation was to determine whether Maryland CPCs were engaging in a systematic pattern and practice of deception and manipulation in an effort to dissuade pregnant women from exercising their right to choose.

Crisis Pregnancy Centers— A National Perspective

What are Crisis Pregnancy Centers?

CPCs began to appear in the U.S. in the 1960s as state legislatures started to repeal laws outlawing abortion. Currently, there are approximately 2,500–4,000 CPCs in the United States,³ the vast majority of which are anti-abortion organizations. The primary goal of these centers is to prevent women from choosing abortion. Most CPCs are part of national networks, such as CareNet and Heartbeat International,⁴ self-described pro-life, evangelical Christian organizations.^{5,6} Heartbeat International alone lists 56 associated CPCs in the state of Maryland.⁷

Misleading Information Regarding Women's Health

Importantly, CPCs are not medical clinics and are staffed primarily by volunteers who have no medical training.⁸ Services advertised by these centers include pregnancy testing and counseling, adoption information, parenting classes, financial assistance for baby clothes and supplies, and occasionally, sonograms and sexually transmitted infection (STI) testing.

Reports by Congressional committee staff and the National Abortion Federation found that CPCs provide false or misleading health information in the hope of convincing women not to have abortions. Volunteer staff members at these centers provide deceptive antiabortion messages to women, including that abortion is painful and life-threatening, has long-lasting physical and mental health consequences, increases a woman's risk of breast cancer, and can lead to sterility or death.⁹

For example:

- CPC staff routinely tell young women that abortions increase a woman's risk of contracting breast cancer by as much as 80 percent. The medical community has firmly established that no link exists between abortion and the development of breast cancer.¹⁰ The National Cancer Institute confirmed these findings at a three-day conference in 2003 involving more than 100 abortion and breast cancer experts.¹¹
- Despite abundant scientific evidence to the contrary, many CPCs continue to cite problems with future fertility and potential multiple miscarriages as a common risk of abortion.
- Another consequence of abortion about which many CPCs warn is a psychological condition they call "Post Abortion Stress Syndrome." This "syndrome" is not recognized by the American Medical Association, the American Psychological Association, or the American Psychiatric Association. Multiple studies in the United States and abroad have found that having an abortion does not affect the psychological well-being of women over time.¹² Yet many CPCs distribute pamphlets that state at least 19 percent of women who have chosen abortion demonstrate diagnosable

post-traumatic stress disorder after having an abortion.¹³ This harmful and false information is often repeated on CPC websites and in educational brochures distributed to women who visit these centers.

While providing false and misleading information about abortion, CPCs rarely supply information on contraception, and will not give referrals to clinics or physicians that offer comprehensive reproductive health care (which includes contraception and abortion). Family Planning clinics, of which there are 80 in Maryland, receive some of their funds through the US Department of Health and Human Services Office of Population Affairs.¹⁴ Programs that receive Title X funds are required to provide a full range of options counseling, including information on adoption, continuing a pregnancy, and terminating a pregnancy. Additionally, Title X grantees must meet professional standards of care and counseling, must protect patient privacy, and provide medically accurate information to patients.

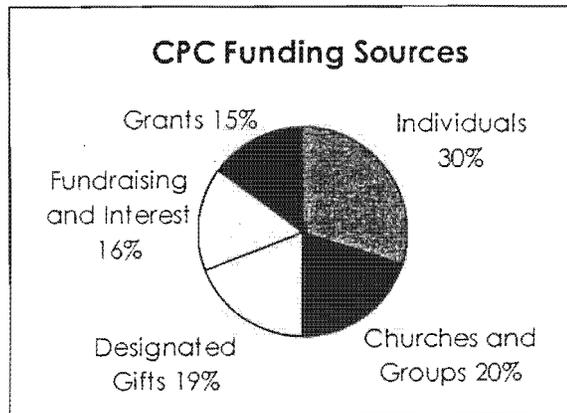
Maryland family planning clinics that receive federal and state funds through the Maryland Department of Health and Mental Hygiene provide comprehensive reproductive health services which include:

- Preconception health care
- Teen pregnancy prevention
- Reproductive health
- Birth control methods including emergency contraception
- Sexually transmitted infection (STI) screening and treatment
- HIV testing and referral to care
- Pregnancy testing
- Pap smears

How Crisis Pregnancy Centers are Funded

Crisis Pregnancy Centers receive funds from a variety of sources, depending on the state in which they operate. They are financed primarily by religious organizations, individual churches, and individual donors. According to a Maryland CPC annual report, 2005 revenue came from the following sources: 30 percent Individuals; 20 percent Churches and Groups; 19 percent Designated Gifts; 16 percent Fundraising and Interest; and 15 percent Grants.¹⁵ In many states,

including Maryland, CPCs also receive funds through "Choose Life" license plates.¹⁶



Who goes to Crisis Pregnancy Centers?

One of the most unsettling aspects of CPCs is their effective targeting of the most vulnerable: young, poor, and minority women. According to a 2006 CPC newsletter, 69 percent of their clients were under the age of 24.¹⁷ CPCs often advertise in high school and college newspapers. For example,

"They also often target minority populations and exploit specific vulnerabilities in order to dissuade women from choosing abortion"

our campus activist group at the University of Maryland, College Park reports that a nearby CPC advertises regularly in the school paper, *The Diamondback*. CPC advertisements can also be found in the school newspaper at Montgomery Blair High School in Montgomery County. CPCs appeal to low-income women by offering free services, some of which can be costly in the private sector, such as ultrasounds. They also often target minority populations and exploit specific vulnerabilities in order to dissuade women from choosing abortion. One investigator, who posed as a Latina immigrant, was told, falsely, that it would be "very, very difficult" for her to obtain an abortion if she was not a legal resident of the U.S.

Maryland Investigations

Process

Throughout 2007, the NARAL Pro-Choice Maryland Fund sent staff and trained volunteers into Crisis Pregnancy Centers to determine exactly what information and services Maryland CPCs were providing women. Our investigation included personal visits to CPCs in Montgomery,¹⁸ Prince George's,¹⁹ Harford,²⁰ and Baltimore counties,²¹ as well as Baltimore City.²² We visited eleven centers in total, and visited one center on two separate occasions. The investigators always visited the centers in pairs. After each appointment, the investigators completed a CPC Report Form to record a detailed written description of their visit and met with a NARAL Pro-Choice Maryland Fund staff member to share their experience verbally. In addition, NARAL Pro-Choice Maryland Fund staff analyzed the accuracy of CPC websites and of pamphlets provided to investigators by the CPCs.

Investigation Results

NARAL Pro-Choice Maryland Fund investigators found that *every* CPC visited provided misleading or, in some cases completely false, information. This misinformation was distributed in several ways, including verbally, in written materials, and on websites. Our analysis found that CPCs across Maryland use a common set of tactics to limit women's reproductive health options. These include false information about abortion risks, misleading data on birth control, and emotionally manipulative counseling. We also found that

although there is a growing trend for CPCs to offer more medical services, very few of the centers employ medical professionals or are required to adhere to medical regulations. Overall, the research shows a systematic pattern of deception intended to prevent women from making informed decisions about their reproductive health.

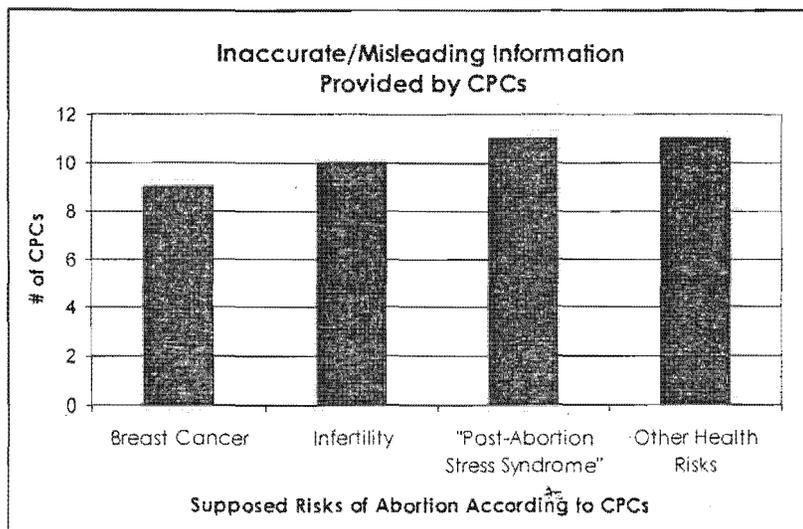
False and Misleading Information

Abortion Risks

Abortion is a very safe procedure. Less than one percent of women who have abortions experience a complication serious enough to require hospitalization.²³ Moreover, studies have repeatedly shown that abortion does not cause future infertility, an increased risk of breast cancer, or mental health problems.²⁴

In one form or another, every single center visited misrepresented the risks associated with abortion. Our analysis shows that 54 percent of the centers provided misinformation verbally, 63 percent of websites posted false or misleading risk factors, and 81 percent distributed pamphlets that contained inaccurate information about risks. Some of the most egregious statements include the following:

- An investigator reported that at one CPC, "the counselor said that I did not want to get an abortion and kill my baby. She stated that abortions were dangerous, had many side effects, and many women bleed to death on the table. She later commented that many women commit suicide after having an abortion."



- Another counselor stated if “they” do not take out all the “body parts” an infection can occur. She also listed cancer and future infertility as risks.
- One brochure states that “if you have a family history of breast cancer and have an early abortion at a young age, your chances of getting breast cancer before the age 45 are increased by 800 percent!”²⁵
- One counselor stated that if a woman with breast cancer in her family has an abortion, then she will definitely get breast cancer, which will kill her. This counselor also said that abortion is very dangerous and causes infertility and emotional problems.
- In explaining so-called Post Abortion Stress Syndrome, one counselor stated “Now that abortion has been legal for so long, they are finding that 10–15 years later women are drinking and depressed because it is not natural. It can ruin your life.”

In addition to providing false information on abortion risks, CPCs often encourage women considering abortion to wait before making a decision. One counselor stated: “Don’t panic. Abortion is legal through all nine months of pregnancy, so you have plenty of time to make a decision.” However, Maryland does not have a single provider who will perform an abortion after viability.²⁶ Furthermore, the use of misleading information and other delay tactics (to be

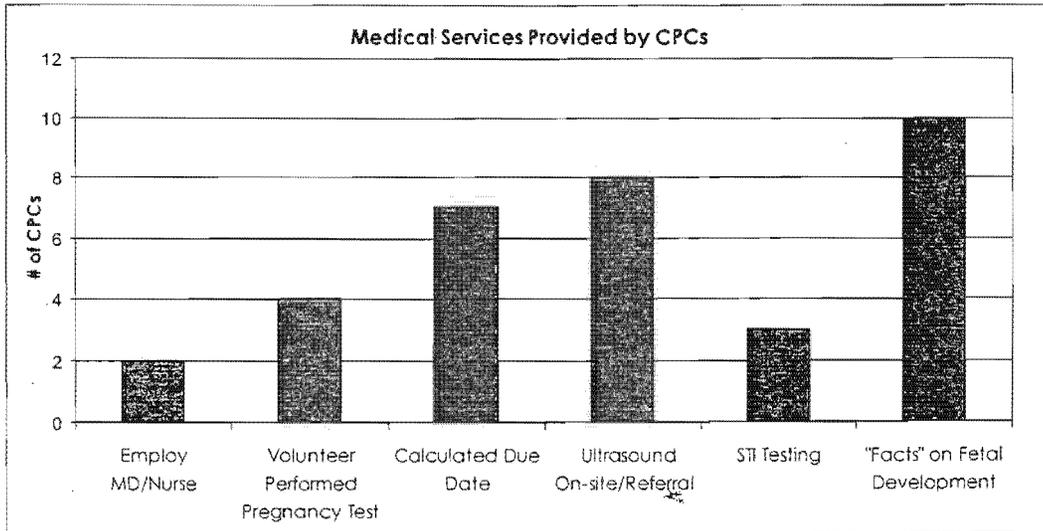
discussed in more detail later in the document) threaten the health of women who decide to have an abortion. Numerous studies have shown that it is safest to have an abortion within the first trimester.²⁷

Contraception and STIs

In addition to providing false information, many CPCs also failed to furnish basic and important reproductive health information to a woman potentially facing an unintended pregnancy. For example, despite the fact that access to contraception has been proven to be the most effective way to decrease the need for abortion, nine out of 11 CPCs visited did not discuss birth control, and not a single center provided a referral for birth control.²⁸ The two centers that did mentioned birth control provided false information, stating that condoms have a 35 percent failure rate²⁹ and that birth control pills will cause infertility and cancer. When one investigator specifically requested a referral for birth control, the CPC volunteer stated she could not help because birth control is “next to aborting your baby.” Furthermore, 81 percent of the CPCs failed to discuss sexually transmitted infections. Ninety percent of the centers promoted abstinence only and/or “natural family planning,” rather than a comprehensive approach to birth control.

Aura of Medical Authority

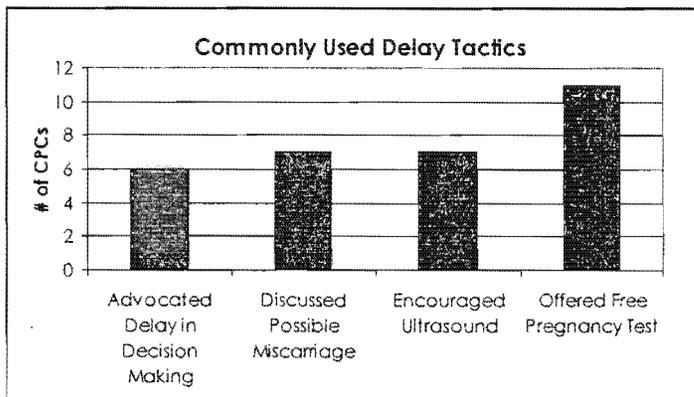
The provision of certain medical procedures at CPCs aggravates the harm caused by the misinformation they distribute by giving largely amateur-run centers an aura of medical authority.



While 45 percent of the centers offered on-site sonograms, only 18 percent of them actually employed medical staff. Administering medical procedures lends increased credence to the CPC volunteers' discussion of medical facts such as abortion risks and fetal development.

Delay Tactics Through the Use of Medical Services

In addition to pregnancy tests and counseling, a growing number of CPCs in Maryland are offering more medical services, such as sonograms and STI testing. While providing such services may appear helpful at first glance, they prove to be another dangerous tactic used to delay women from making a decision about an unintended pregnancy.



Pregnancy Testing

Our investigators found that medical services were often used to lure women into the centers or to delay abortion services. All 11 centers visited offered free pregnancy testing. This is a principal strategy used to entice women into the centers. Unfortunately, CPCs used this seemingly benign service as an opportunity to dissuade women from abortion. When contacted for an abortion referral, seven out of eleven centers encouraged callers to come in for a pregnancy test and stated that they could provide information on abortion. When pressed for an actual referral, all seven centers refused while continuing to encourage the caller to come into the center for counseling. By persuading women to visit the center, CPCs effectively push their anti-abortion agenda while delaying access to abortion services. By delaying access to abortion services these centers make abortion more costly, dangerous, and difficult or impossible to obtain.

STI Testing

Our investigators found that several CPCs in Maryland have recently added free STI testing to their list of services. One investigator contacted a CPC for an STI test and was informed that she would have to take a pregnancy test before the STI test could be performed. The caller was told that if she was pregnant, the STI test would not be performed because it would require a "swab sample from the inside of the vagina and the doctor would not perform the test on a pregnant woman." There is no medical basis for this statement. In fact, the Centers for Disease Control and Prevention (CDC) recommends that pregnant women be screened for STIs on their first prenatal visit in order to protect a woman and her fetus's health.

Sonograms

Sonograms are an effective method used by CPCs to provide deceptive information and delay abortion services. CPCs often manipulate women into having sonograms by using misleading statistics to exaggerate the risk of miscarriage in early pregnancy.³⁰ In order to ensure that seeing the fetus will have the desired effect, many CPCs purposefully schedule sonogram appointments two–three weeks after the initial appointment to ensure that there will be a heartbeat and that the pregnancy is larger than a grain of rice. This tactic

was summed up by one CPC volunteer who said to an investigator: "Thirty percent of women naturally miscarry, so there was no point in rushing to get an abortion. ... and you need to come meet your baby before deciding what to do."

Inadequate Counseling

CPCs often cite counseling as one of their most used and valuable services. Advertisements for the centers often claim to provide information on all pregnancy options that will allow women to make an informed decision. However, our investigators found the counseling services to be inadequate, biased, and in some cases, unethical.

Our research shows that problems with CPC volunteers range from ignorance of fundamental reproductive health information and poor communications skills to overt manipulation through scare tactics and emotional exploitation.

In some cases, it appeared that the volunteers wanted to help women but were insufficiently trained on how to interact with an emotionally distressed individual. For example, at one center, every time the investigator asked a question the volunteer simply responded by stating, "We have a pamphlet for that." At a different center, one CPC volunteer became flustered when she felt she could not communicate adequately with a Spanish-speaking investigator and her translator. The woman began calling multiple CPCs in search of a Spanish-speaking volunteer. Throughout this effort, the volunteer repeatedly broke previously assured confidentiality by disclosing the investigator's first and last name and that she was pregnant and considering abortion.

In addition, most centers failed to maintain the professional neutrality that is a commonly accepted tenet of counseling. Every center that investigators visited used some type of emotionally manipulative tactic, such as offering congratulations for a positive pregnancy test, referring to the pregnancy as a baby, and giving the investigator hand-knitted baby booties. One volunteer disclosed that she had adopted two children herself and strongly

The operator yelled at her for making a "terrible decision" for herself and her baby by opting to follow her parents' advice and see her own doctor instead of returning to the CPC.

encouraged adoption. At two separate centers, the counselors disclosed that they themselves were pregnant. Another CPC provided an investigator with a model of a 12-week-old fetus (even though they had estimated her gestation to be six weeks), and was told to "show this to your boyfriend when discussing options."

While most of the CPCs used a friendly approach to communicate their anti-abortion message, four of the eleven CPCs were hostile, domineering, and unethical. In one case, the initial attitude of the staff was relatively positive, but it quickly changed when the investigator called to cancel an ultrasound appointment. The phone operator

became very aggressive when the caller stated that she was still undecided about the pregnancy. The operator yelled at her for making a "terrible decision" for herself and her baby by opting to follow her parents' advice and see her own doctor instead of returning to the CPC. At another center, the male counselor locked the door once the investigators entered the room. Although there was a female counselor present, the male dominated the session in a very controlling and intimidating manner. The man separated the investigators by insisting that the "pregnant" investigator sit directly across from him and proceeded to state that abortion was dangerous and caused breast cancer and infertility.

Our investigators found that while many CPC volunteers emphasized the purported long-term effects of abortion, very few discussed the practicalities of adoption or parenting. All of the centers mentioned adoption as an option and two counselors even shared personal stories of positive adoption experiences, but none of the centers provided concrete information on the adoption process or explored the different types of adoption. Only one center offered a referral to an adoption agency.

All eleven CPCs offered assistance to women who decided to parent, but the assistance was typically limited to six months to one year after the child was born. In addition, many volunteers failed to acknowledge realistic considerations like childcare, employment, housing or education. In one case, an investigator expressed concern about being able to pursue her education if she continued the pregnancy. The volunteer told the investigator that she was early enough in the pregnancy to finish out the semester and that later the investigator's mother could provide childcare. The investigator stated that her mother was not an option for childcare because she worked full time. The volunteer offered no other solutions for childcare or information on programs that assist young parents in college, stating instead: "Even so, having a baby isn't that hard. I'm sure you can handle it."

Conclusion

What We Found

Our investigation of 11 Crisis Pregnancy Centers in Maryland found consistent use of false and

misleading information, biased and manipulative counseling, and delay tactics to deter and prevent women from exercising their right to choose. The centers we investigated also consistently refused to provide information or referrals for affordable birth control services, despite targeting their services to sexually active low-income and young women. Maryland Crisis Pregnancy Centers attract clients with their advertisements offering

They are given wildly inaccurate information about the physical and mental health risks associated with abortion, and informed only about the joys of parenting and adoption.

free pregnancy tests and “pregnancy options counseling.” This is a very appealing offer for women in a vulnerable time in their lives. After providing free urine pregnancy tests (the kind available at any drug store), women are counseled with only negative information about the option of abortion. They are given wildly inaccurate information about the physical and mental health risks associated with abortion, and informed only about the joys of parenting and adoption. If a client continues to consider abortion, she is given false information about abortion service availability and encouraged to delay her decision. CPCs that offer ultrasounds and STI testing are able to delay clients further through appointment wait times, while also gaining a sense of authority and credibility in their client’s eyes as a medical service provider. However, CPCs are not medical centers. They are operated by volunteers who are, in general, poorly trained in women’s reproductive health issues and well trained in anti-choice propaganda.

What Can Be Done?

NARAL Pro-Choice Maryland Fund believes that women facing unplanned pregnancies are entitled to accurate, unbiased, and comprehensive medical information about their full range of options. Right now, this is not the case in Maryland. The problems uncovered by NARAL Pro-Choice Maryland Fund investigators are not isolated to one center or one provider entity. They were

systematic and reflect trends documented across the country. Women in Maryland need protection from the unfair and deceptive practices perpetrated by the numerous CPCs throughout the state.

Positive Remedies:

- The government should support only legitimate family planning clinics and full-service pregnancy aid centers that provide unbiased counseling, birth control information and referrals for abortion services. The government should not fund the proposed Pregnant Women Support Act (also called the Real Alternatives Program), which would allocate state funding for the Crisis Pregnancy Centers we investigated.
- Church groups and individuals who support services for pregnant women should look closely at the programs and materials they are funding. They should insure that the organizations they support provide volunteers and clients with scientifically accurate and honest information about reproductive options. If they do not, the donors should redirect their donations to a legitimate pregnancy options counseling center or other services for mothers.
- Local Health Departments and school systems should not provide referrals to Crisis Pregnancy Centers. They should not allow CPCs to provide sexuality education curriculum content or support them with federally funded abstinence-only grants.
- High school and university newspapers should refuse to print misleading ads for CPCs. If an advertisement offers “pregnancy options counseling” and does not clearly state a position on abortion and birth control students should call to investigate. If the advertisers refuse to provide a referral for abortion services; they are likely a CPC using misleading advertising. Students should ask the newspaper to demand honesty from its advertisers.

By taking these steps, Marylanders can begin to mitigate the harm caused by CPCs’ systemic pattern of unfair and deceptive practices and ensure pregnant women receive honest, comprehensive support when considering their full range of options.

This research is the result of generous support from The Marjorie Cook Foundation, The Educational Foundation of America, and NARAL Pro-Choice Maryland Fund's individual donors.

NARAL Pro-Choice Maryland would like to thank Anabella Aspiras, Laura Berger, Ellie Dayhoff-Brannigan, Karol Espejo, Claire Goldstene, Kirsten Hiera, Samantha Lewis, Diana Onken, Laurie Chin (layout designer), and our anonymous volunteer investigators for their work on this project.v

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- 3 Lin, V. and Daillard, C. "Crisis Pregnancy Centers Seek to Increase Political Clout, Secure Government Subsidy," *The Guttmacher Report on Public Policy*, 2002.
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- 17 *Foot Notes Newsletter*, Pregnancy Clinic Bowie Crofton, Spring 2006.
- 18 Rockville Pregnancy Center, Shady Grove Pregnancy Center, Centro Tepeyac, and Wheaton Birthright.
- 19 Laurel Pregnancy Center and Bowie Crofton Pregnancy Center.
- 20 Bel Air Birthright.
- 21 Alpha Pregnancy Center, Pregnancy Center North, and Pregnancy Center West.
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- 23 "Facts in Brief: Induced Abortion," The Alan Guttmacher Institute, http://www.guttmacher.org/pubs/fb_induced_abortion.html, 2006.
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- 25 The Breast Cancer/Abortion Connection Heritage House, 76, 1998.
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- 28 Sedgh, Gilda et al. "Induced Abortion: Estimated Trends Worldwide," *The Lancet*, 2007.
- 29 A recent study by the National Institutes of Health concluded that condoms have a 3 percent failure rate when used correctly and a 14 percent failure rate with average usage.
- 30 CPC volunteers often tell women that 30 percent of all pregnancies end in miscarriage. This statement is misleading. According to the CDC, 15 percent of known pregnancies end in miscarriage. See "Understanding Miscarriage," <http://www.cnn.com/HEALTH/library/PR/00097.html>, 2006. The number of all pregnancies that end in miscarriage is higher because many women miscarry before they even know they are pregnant.

HOUSE BILL 1146

J1, J3

8lr2323
CF SB 690

By: Delegates Manno, Bobo, Bronrott, Dumais, Feldman, Frick, Frush,
Gilchrist, Gutierrez, Hubbard, Hucker, Kaiser, Kramer, Lee, McHale,
McIntosh, Montgomery, Nathan-Pulliam, Pena-Melnyk, Pendergrass,
Rosenberg, Ross, Tarrant, and Waldstreicher

Introduced and read first time: February 7, 2008

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Limited Service Pregnancy Centers - Disclaimers**

3 FOR the purpose of requiring that limited service pregnancy centers make certain
4 disclaimers to clients and potential clients; requiring that certain disclaimers be
5 given by certain staff under certain circumstances and in a certain manner;
6 defining a certain term; and generally relating to disclaimers to clients by
7 limited service pregnancy centers.

8 BY adding to

9 Article - Health - General

10 Section 20-215

11 Annotated Code of Maryland

12 (2005 Replacement Volume and 2007 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

Article - Health - General

16 **20-215.**

17 (A) IN THIS SECTION, "LIMITED SERVICE PREGNANCY CENTER" MEANS
18 AN ORGANIZATION OR CENTER THAT:

19 (1) HAS A PRIMARY PURPOSE TO PROVIDE PREGNANCY-RELATED
20 SERVICES;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) FOR A FEE OR AS A FREE SERVICE, PROVIDES INFORMATION
2 ABOUT PREGNANCY-RELATED SERVICES; AND

3 (3) DOES NOT PROVIDE OR REFER FOR:

4 (I) ABORTIONS; OR

5 (II) NONDIRECTIVE AND COMPREHENSIVE CONTRACEPTIVE
6 SERVICES.

7 (B) A LIMITED SERVICE PREGNANCY CENTER SHALL PROVIDE A
8 DISCLAIMER TO A CLIENT OR POTENTIAL CLIENT THAT STATES:

9 (1) THE INFORMATION PROVIDED BY THE CENTER IS NOT
10 INTENDED TO BE MEDICAL ADVICE OR TO ESTABLISH A DOCTOR-PATIENT
11 RELATIONSHIP;

12 (2) THE CLIENT OR POTENTIAL CLIENT SHOULD CONSULT WITH A
13 HEALTH CARE PROVIDER PRIOR TO PROCEEDING ON ANY COURSE OF ACTION
14 REGARDING THE PREGNANCY OF THE CLIENT OR POTENTIAL CLIENT; AND

15 (3) THE CENTER IS NOT REQUIRED TO PROVIDE FACTUALLY
16 ACCURATE INFORMATION TO CLIENTS.

17 (C) THE DISCLAIMER REQUIRED UNDER SUBSECTION (B) OF THIS
18 SECTION SHALL BE GIVEN:

19 (1) BY THE STAFF ASSISTING THE CLIENT OR POTENTIAL CLIENT;

20 (2) DURING THE FIRST COMMUNICATION OR FIRST CONTACT
21 WITH THE CLIENT OR POTENTIAL CLIENT; AND

22 (3) IN A WRITTEN STATEMENT OR ORAL COMMUNICATION THAT IS
23 REASONABLY UNDERSTANDABLE TO THE CLIENT.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2008.

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 09-0406

Introduced by: President Rawlings-Blake, Councilmembers Clarke, Middleton, D'Adamo, Cole,
Henry, Spector, Conaway, Curran, Branch, Holton
Introduced and read first time: October 5, 2009
Assigned to: Judiciary and Legislative Investigations Committee
Committee Report: Favorable with amendments
Council action: Adopted
Read second time: November 16, 2009

AN ORDINANCE CONCERNING

Limited-Service Pregnancy Centers – Disclaimers

FOR the purpose of requiring limited-service pregnancy centers to provide a certain disclaimer to clients and potential clients; defining a certain term; imposing certain penalties; and generally relating to required disclaimers by limited-service pregnancy centers.

By adding

Article - Health
Section(s) 3-501 through 3-506, to be under the new subtitle designation,
“Subtitle 5. Limited-Service Pregnancy Centers
Baltimore City Revised Code
(Edition 2000)

By adding

Article 1 - Mayor, City Council, and Municipal Agencies
Section(s) 40-14(e)(7)(Title 3, Subtitle 5) and 41-14(6)(Title 3, Subtitle 5)
Baltimore City Code
(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Revised Code

Article – Health

Title 3. Health Facilities

SUBTITLE 5. LIMITED-SERVICE PREGNANCY CENTERS

§ 3-501. “LIMITED-SERVICE PREGNANCY CENTER” DEFINED.

IN THIS SUBTITLE, “LIMITED-SERVICE PREGNANCY CENTER” MEANS ANY PERSON:

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

Council Bill 09-0406

1 (1) WHOSE PRIMARY PURPOSE IS TO PROVIDE PREGNANCY-RELATED SERVICES; AND

2 (2) WHO:

3 (i) FOR A FEE OR AS A FREE SERVICE, PROVIDES INFORMATION ABOUT
4 PREGNANCY-RELATED SERVICES; BUT

5 (ii) DOES NOT PROVIDE OR REFER FOR:

6 (A) ABORTIONS; OR

7 (B) NONDIRECTIVE AND COMPREHENSIVE BIRTH-CONTROL SERVICES.

8 **§ 3-502. DISCLAIMER REQUIRED.**

9 (A) *IN GENERAL.*

10 A LIMITED-SERVICE PREGNANCY CENTER MUST PROVIDE ITS CLIENTS AND POTENTIAL
11 CLIENTS WITH A DISCLAIMER SUBSTANTIALLY TO THE EFFECT THAT THE CENTER DOES NOT
12 PROVIDE OR MAKE REFERRAL FOR ABORTION OR BIRTH-CONTROL SERVICES.

13 (B) *HOW GIVEN.*

14 THE DISCLAIMER REQUIRED BY THIS SECTION MUST BE GIVEN THROUGH 1 OR MORE SIGNS
15 THAT ARE:

16 (1) WRITTEN IN ENGLISH AND SPANISH;

17 (2) EASILY READABLE; AND

18 (3) CONSPICUOUSLY POSTED IN THE CENTER'S WAITING ROOM OR OTHER AREA WHERE
19 INDIVIDUALS AWAIT SERVICE.

20 **§ 3-503. VIOLATION NOTICE.**

21 IF THE HEALTH COMMISSIONER LEARNS THAT A PREGNANCY CENTER IS IN VIOLATION OF THIS
22 SUBTITLE, THE COMMISSIONER SHALL ISSUE A WRITTEN NOTICE ORDERING THE CENTER TO
23 CORRECT THE VIOLATION WITHIN 10 DAYS OF THE NOTICE OR WITHIN ANY LONGER PERIOD
24 THAT THE COMMISSIONER SPECIFIES IN THE NOTICE.

25 **§§ 3-503 3-504 TO 3-505. {RESERVED}**

26 **§ 3-506. PENALTIES: \$500.**

27 (A) *IN GENERAL.*

28 ANY PERSON WHO VIOLATES A PROVISION OF THIS SUBTITLE OR OF A RULE OR
29 REGULATION ADOPTED UNDER THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND, ON
30 CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN \$500 FOR EACH OFFENSE.

Council Bill 09-0406

1 ~~(B) EACH DAY A SEPARATE OFFENSE.~~

2 ~~EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE OFFENSE.~~

3 **§ 3-506. ENFORCEMENT BY CITATION.**

4 (A) IN GENERAL.

5 THE FAILURE TO COMPLY WITH AN ORDER ISSUED UNDER § 3-503 {"VIOLATION NOTICE"}
6 OF THIS SUBTITLE MAY BE ENFORCED BY ISSUANCE OF:

7 (1) AN ENVIRONMENTAL CITATION UNDER CITY CODE ARTICLE 1, SUBTITLE 40
8 {"ENVIRONMENTAL CONTROL BOARD"}; OR

9 (2) A CIVIL CITATION UNDER CITY CODE ARTICLE 1, SUBTITLE 41 {"CIVIL
10 CITATIONS"}.

11 (B) PROCESS NOT EXCLUSIVE.

12 THE ISSUANCE OF A CITATION TO ENFORCE THIS SUBTITLE DOES NOT PRECLUDE PURSUING
13 ANY OTHER CIVIL OR CRIMINAL REMEDY OR ENFORCEMENT ACTION AUTHORIZED BY LAW.

14 **Baltimore City Code**

15 **Article 1. Mayor, City Council, and Municipal Agencies**

16 **Subtitle 40. Environmental Control Board**

17 **§ 40-14. Violations to which subtitle applies.**

18 (e) Provisions and penalties enumerated.

19 (7) **Health Code**

20 TITLE 3. HEALTH FACILITIES

21 SUBTITLE 5. LIMITED-SERVICE PREGNANCY CENTERS \$150

22 **Subtitle 41. Civil Citations**

23 **§ 41-14. Offenses to which subtitle applies – Listing.**

24 (6) **Health Code**

25 TITLE 3. HEALTH FACILITIES

26 SUBTITLE 5. LIMITED-SERVICE PREGNANCY CENTERS \$150

Council Bill 09-0406

1 SECTION 2. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance
2 are not law and may not be considered to have been enacted as a part of this or any prior
3 Ordinance.

4 SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 30th day
5 after the date it is enacted.

Certified as duly passed this ____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,
this ____ day of _____, 20__

Chief Clerk

Approved this ____ day of _____, 20__

Mayor, Baltimore City



COMMISSION FOR WOMEN

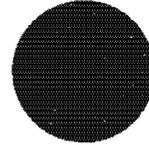
Isiah Leggett
County Executive

Judith Vaughan-Prather
Director

December 1, 2009

The Honorable Nancy Floreen, President
Montgomery County Council
Council Office Building
100 Maryland Avenue
Rockville, MD 20850

052946



Re: SUPPORT Board of Health Regulation requiring a disclaimer for certain pregnancy resource centers

Dear President Floreen and Members of the County Council

Councilmember Duchy Trachtenberg has introduced to the Montgomery County Council, sitting as the County's Board of Health, a resolution requiring "Crisis Pregnancy Centers" (CPCs) to disclose the limited scope of their services. The Commission for Women believes that women facing unplanned pregnancies deserve to receive thorough, medically sound information about all of their options, and we urge your support for this resolution.

The Commission for Women is a fifteen member advisory board, appointed by the County Executive, with confirmation by the County Council. The Commission is charged by law with the responsibility of advising the county, state and federal governments on issues of concern to women. It is to fulfill this mandate that the Commission urges you to support this bill. *(The opinions expressed in this letter are those of the Commission for Women and not necessarily those of the County Executive or the County Council.)*

CPCs advertise services to women facing unplanned pregnancies, but they do not provide medical advice. A woman or girl facing a "crisis pregnancy" needs unbiased, comprehensive, and medically accurate information about all of her legal and medical options. She cannot make sound decisions in her own best interest if the counseling she receives is steering her toward a pre-determined outcome, with critical information withheld.

This legislation would require CPCs in Montgomery County to simply disclose that they do not provide comprehensive birth control services or termination of pregnancy procedures, nor will they provide information or referrals for those services. This would enable women to know immediately whether the facility suits their needs.

Thank you for your consideration.


Jaclyn Lichter Vincent
President

cc: Montgomery County Council

2009 DEC -2 AM 10:47

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Nellie Beckett

Testimony for the Montgomery County Council Dec. 1 Hearing on Crisis Pregnancy Centers

My name is Nellie Beckett. I live in Silver Spring in District 5 and am a senior at Montgomery Blair High School. During the summer of 2008, I volunteered at NARAL Pro-Choice Maryland where I helped research crisis pregnancy centers in Maryland. Based on this experience, and my own experience as a high school student in our community, I believe that the proposed regulation is a good idea.

As a part of the research, I talked to two Montgomery County CPCs: Centro Tepeyac and Birthright. Both of these centers are located in Silver Spring. When I contacted the centers, I first asked what kind of services they provided. The volunteer at Centro Tepeyac replied that they provided free sonograms, pregnancy tests and counseling on the consequences of abortion, but repeatedly emphasized that it would be "better if [I] could come in." The woman who spoke to me offered information that seemed medical, such as miscarriages happen "a lot of time", abortion can affect future fertility, with vaginal abortions, "the doctor can't see what they're doing, so mistakes might happen," and that "birth controls are...dangerous. They're hormones that you put in your body and you're young. Imagine how that's going to be in 20 years." Only when specifically asked for a referral did the volunteer inform me that they did not refer for abortion care. Despite giving medical advice over the phone, it was only after several direct questions that the woman admitted "we're not doctors" and suggested I contact a gynecologist.

My experience with the Birthright in Silver Spring yielded similar results. The staff member refused to tell me anything about their services, except that they were "pro-life." Although I made it clear that I was seeking information on abortion services, the volunteer continuously pressured me to make an appointment at their center. When asked directly for a referral for abortion services, the staff member refused and told me I was "better off keeping my baby." They only told me that they were not a medical facility as a reason they could not help me get birth control. When I asked if they could help me find medical care, she snapped "no, but we have a phone book."

As a teenage girl in Montgomery County, CPCs directly affect my friends and my community. I don't want my peers receiving faulty or incomplete information from places that don't immediately clarify that they are not medical facilities. I truly feel that if I had not asked such specific questions, the truth about the limitations of their services would not have been disclosed. Unsubstantiated, one-sided information disseminated by pro-life organizations to women looking for the facts is unacceptable. Councilmembers, I urge you to support this regulation and require these centers to disclose when they are not medical facilities. Thank you.

Testimony in support of the Board of Health regulation December 1, 2009

Good evening council members. My name is Amy Peyrot. Thank you for having me here to testify in support of the Required Disclaimers for Certain Pregnancy Resource Centers Regulation.

I am a recent graduate of Johns Hopkins University and a volunteer intern at NARAL Pro-Choice Maryland. I have visited 3 crisis pregnancy centers in Montgomery County, including two that were not medical facilities. I will focus my testimony on centers that were not medical facilities and that would be affected by this regulation.

The first center I visited was Birthright in Wheaton. My visit to this center made me very uncomfortable, especially when my friend and I were falsely told that condoms were not safe and that the only way to be safe was to be abstinent. Their literature was also disturbing – one brochure falsely claimed that abortion raises the risk of breast cancer and endangers future fertility. Another brochure said that condoms break 15.1% of the time, another untrue statement. The counselors at Birthright did say that the center was not a medical facility. However, they only admitted this when we inquired about contraceptives and when we asked over the phone before the visit if we would meet with a doctor or nurse.

The second center I visited was the Shady Grove Pregnancy Center. It had a reception window, waiting room, and hallways that looked very similar to a doctor's office. Like Birthright, I was only told about the center not being a medical facility only when I asked directly who I would meet with and when I inquired about birth control. Although the non-medical center could not give me information about birth control, I was given (and the website displayed) an "Abortion Checklist." It listed some risks of abortion like increased potential for breast cancer, effects on future pregnancies, and suicidal thoughts and self-destructive tendencies. None of these risks are accurate.

I think that a woman could think that either of these facilities were medical facilities. She could be fooled by the appearance of the centers, the queries for personal information, and even by the websites. Of the two centers I visited, neither had clear indication on their website that they aren't medical facilities.

It disturbs me that these centers readily admitted that they are not medical facilities when it allowed them to avoid discussing birth control, but not when they discussed abortion, condoms, or pregnancy. The centers seemed to use this fact more as an excuse to not discuss or refer for birth control, or in response to a direct question about their personnel, rather than a real disclaimer or clarification to clients.

The disclaimer that would be required by the proposed legislation would help women consider the source of *all* the information they are being given, about birth control *and* pregnancy options. It would indicate when a facility is not a medical facility and that the center does not give medical advice. It would help women understand the services that are being offered and decide if these facilities are the right place to visit. I urge you to pass this regulation in order to protect and empower women in Montgomery County. Thank you for your time.

Dear Members of the Montgomery County Council,

Thank you for giving me an opportunity to write in support of the Required Disclaimers for Certain Pregnancy Resource Centers bill. My name is Eleanor Dayhoff-Brannigan and I am currently a third year student law at the University of Baltimore. I grew up in Montgomery County, living here since 1988, and although I currently attend school in Baltimore, I intend to reside in Montgomery County later in life as well. I believe the proposed disclaimer regulation is a good policy and will benefit women. As a longtime resident of Montgomery County, I have had several experiences with Montgomery County Crisis Pregnancy Centers and none of them were positive.

My first encounter with a CPC was in 2000. I was a sophomore at Bethesda-Chevy Chase High School, taking a summer health class offered at Walt Whitman High School, when a representative from the Rockville Pregnancy Center gave a sex education presentation. However, the presentation was full of misinformation and judgment. For example, we were told that condoms were ineffective, pregnancy was unavoidable, and that having sex would makes us bad and dirty. The instructor demonstrated the "dirtyness" of having sex to sharing previously chewed gum in a demonstration where students chewed gum and passed it to another student. I felt particularly traumatized by this presentation, because, although I was not sexually active at the time, her presentation served as an accusation to the moral character of any person who might not intend to wait until marriage to become sexually active, and while my intent was to wait until I was emotionally, physically, financially, and socially well-prepared, I did not see marriage as a necessity. We were also encouraged to come to the center for pregnancy tests or birth control information. I offer this as part of my testimony to underscore my negative experience with this pregnancy center. This negative experience contributed to my desire to work with for organizations such as NARAL later in my life. My eager participation in the NARAL investigation is in part motivated by my haunting memories of this presenter and how terrible she made me feel. I cannot imagine being a pregnant teenager sitting in this "counselor's" office being lectured about purity, morality, and cleanliness. I can only imagine this being worse if that same teenager had gone to the center mistakenly seeking medical advice.

While I was in high school, the Rockville Pregnancy Center, as well as other centers, ran advertisements in the Bethesda Chevy-Chase school newspaper, "The Tattler." The centers advertised pregnancy tests and options counseling in a safe, confidential environment. I always assumed that these centers served as a safe place for girls my age to go if facing an unintended pregnancy. I knew that they offered pregnancy testing and assumed that they served a purpose in our community similar to Planned Parenthood of providing accurate medical information to teenagers in need. I found out while doing research for a school project that these centers did not provide any birth control information, and were in fact, not medical facilities at all.

In 2007, I visited Centro Tepeyac Pregnancy Center in Silver Spring as a volunteer investigator for part of the NARAL Pro-Choice Maryland CPC investigation. In addition to personal questions about my life and relationship, a volunteer also asked me a series of medical questions,

including whether I was experiencing any pregnancy symptoms, the date of my last menstrual cycle, and whether I was using any form of birth control. When I told her that I used oral contraceptives, she responded, "well, then you probably aren't pregnant, but you shouldn't be using those." This struck me as very contradictory advice for a young woman who had already expressed a desire to NOT become pregnant.

The conversation with the volunteer became even more disturbing from there. In a rush of misinformation, the volunteer told me that I would become sterile from using the birth control pills, and that my sterility would inevitably lead to cancer. Although she spoke with authority that birth control pills would lead to sterility and cancer, when questioned further about it she said she didn't know exactly how it worked. The volunteer explained to me that my inevitable sterility from using birth control pills, coupled with a lack of available children to adopt (because of the prevalence of abortion) would lead to my needing to try IVF and hormonal therapy to become pregnant later in life. She then stated that the hormones from IVF and birth control would probably lead to cancer.

The volunteer then began to encourage me to use natural family planning. However, when I asked her for details of natural family planning, she was unable to give me anything more than a vague description of abstaining from sex at certain times during the month. She did not offer basic information like how long a woman's menstrual cycle lasts, or at what point during that cycle she is the most fertile. Furthermore, she also gave no detailed information about how to chart the cycle, whether it was advisable to take one's temperature, and did not offer me any additional information or encourage me to see a doctor or do any research for further information.

After hearing about these proclaimed side effects of hormonal birth control, I asked her about using condoms as an alternative. She told me condoms were unreliable, unlikely to work, and were much less reliable than natural family planning. I pressed further and asked whether I should use condoms and natural family planning, and she reassured me that natural family planning would be fine and implied that condoms were so unreliable that I shouldn't bother using them at all.

We also discussed what I would want to do if I was pregnant. When I brought up abortion, I was told, "Oh, you're too young to have an abortion!", as if it were a scientific fact. After this conversation, I took the pregnancy test, which was negative. After that, I was sent on our way, with a hug from the volunteer, but with absolutely no further information about birth control for the future, except to be encouraged to try abstinence or natural family planning.

Some pregnancy centers can be a wonderful resource for women who intend to carry their pregnancies to term. However, there is a problem when a center deliberately gives the appearance of a medical facility to add validity to the misinformation they provide. Asking CPCs to disclose that they are not medical facilities will help avoid confusion for women who are seeking information on reproductive health care avoid confusing situations. This disclosure will not affect their ability or mission to help women in need of financial or emotional support when carrying a wanted pregnancy to term. Furthermore, this legislation will also ensure that

women who visit these centers understand that any information provided about birth control or abortion is not being given to them by medical professionals. I urge you to support this commonsense legislation.

Sincerely,

Eleanor Dayhoff-Brannigan

elliedb@gmail.com

My name is Laura Berger and I am an undergraduate at Tufts University. I am submitting written testimony in support of the proposed regulation for limited service pregnancy centers in Montgomery County. This regulation would require such centers to disclose if they are not a medical facility. I believe this legislation is needed based on my personal experience as a volunteer investigator for NARAL Pro-Choice Maryland.

In the summer of 2007, I visited four limited service pregnancy centers, two of which are in Montgomery County. The information I received at these centers was inaccurate, manipulative, and downright scary. Although staff members at both Montgomery County centers provided misinformation, my testimony focuses primarily on my experience at Wheaton Birthright (now known as Silver Spring Birthright), which would be affected by the proposed legislation. At this facility, I was told that abortions were dangerous and have many serious side effects and risks including infertility, ruined mammary glands, cancer, suicide, and "bleeding out on the table."

The medically inaccurate information I was given did not only refer to abortion. I was told that the only way to avoid pregnancy was abstinence. The person at Wheaton Birthright told me that many women can only conceive once in their lives and to "give this pregnancy a chance [because it] may be the only... opportunity." Also, although I was promised confidentiality, the volunteer called another center and gave all of the identifying information I had written down, including name, age, country of origin and immigration status. I was also told that there are "two options, keeping the baby or giving it up for adoption."

At no time was I informed that this center was volunteer-run and not a medical facility. Based on the medical information and services being provided, I think it is easy for a woman or teen to misinterpret this center as a medical facility.

At all four limited service pregnancy centers, I felt scared and judged even though I was there as a volunteer investigator and knew what they were saying was not true. I cannot imagine what it would feel like to be there, pregnant and scared, not realizing that information given out was ideologically biased. The pregnancy centers appear to be a place to get a free pregnancy test and confidential, unbiased advice and support. These centers exploit women in vulnerable circumstances to further their own religious and political agendas.

These centers should be required to be honest about the services they provide. Additionally, these centers absolutely should not be allowed to provide inaccurate medical information. Using false information and scare tactics takes away women's ability to make informed decisions about their own bodies and lives.

Members of the Council, I urge you to support this critical, common sense legislation.

Sincerely,
Laura Berger
Laura_A.Berger@tufts.edu

Good evening Council Members:

Dec. 1, 2009

My name is Gail Tierney, founder and executive director of the Rockville Pregnancy Center for the past 22 years. I have a Masters Degree from Trinity College in Washington DC in Counseling Psychology with an emphasis on Health Education.

I am opposed to this legislation which challenges our status as a medical clinic. We have been a licensed medical clinic for over a decade. We have licensed obstetrician/gynecologists, nurse practitioners, nurses, and sonographers. Their medical licenses are included in this packet.

Their medical duties are providing sonograms, testing and treating sexually-transmitted diseases, and providing Pap smears. Our medical personnel provide medical advice in a doctor-patient relationship, and we are the medical provider clients go to when deciding what to do in an unplanned pregnancy. This resolution would require us to make false statements to our clients.

I will also submit our CLIA license. CLIA is Clinical Laboratory Improvement Amendments which every medical clinic has to have. It is issued ONLY to medical clinics.

We refer women for prenatal care and delivery. If she chooses abortion, we provide her with information that she can take with her to the provider of her choice.

We do not have a vested *financial* interest in her decision, whether she parents, aborts, or places for adoption. We will always welcome her back for our services, regardless of what choice she makes.

We have a longtime partnership with the Montgomery County Health Department by verifying the pregnancy of the hundreds of women they refer to us each year. We have a partnership with the Dennis Ave. STD clinic since 2001, as they supply the tests to us. Since 2001 we have had a working relationship with the Maryland State Labs. who test our cultures.

The Rockville Pregnancy Center provides valuable service to your constituents and has for 22 years. We have seen over 40,000 families for services, which include: pregnancy testing and counseling, sonograms, prenatal vitamins, STD testing, Pap smears, prenatal classes in our Healthy Moms, Healthy Babies program, post abortion counseling, lifestyle counseling, baby clothing and accessories from the Baby Boutique, classes from our Life Skills program, and referrals. If the county had to fund what we do, it would cost the County hundreds of thousands of dollars.

We are completely privately funded. We accept no government funding. We are a non-profit, medical clinic whose activities this resolution attempts to restrict.

The abortion lobby has tried to discredit pregnancy centers for years and it has never worked. Are you aware of the manual called *the Unmasking of Fake Clinics, distributed by NARAL?*

The NARAL handbook provides a step-by-step guide and attack plan for discrediting prolife pregnancy centers. This is a waste of tax dollars in fruitless actions of urging state and local legislators to take official action against prolife pregnancy centers to further their own cause.

Finally, actual clients not fake clients, love pregnancy centers and we have never had a legitimate complaint from a real client in our 22-year history. There is a 99% satisfaction rate among our clients who fill out an exit interview.

The Better Business Bureau has never had a complaint lodged against us in our 22 year history. I have not heard of any complaints made to this Council by an actual client either.

This is simply another attempt to discriminate against faith based agencies serving our community by those who profit from abortion.

Again, I submit my opposition to passage of this resolution.

Montgomery County Council
“Limited Service Pregnancy Centers – Disclaimers”
 Statement by
 Jacqueline M. Stippich, LCSW-C
 Executive Director of Shady Grove Pregnancy Center

This statement is in opposition to the regulation.

I am a licensed clinical social worker with 29 years of experience in women’s reproductive health -- five (5) years with Planned Parenthood, four (4) years with a national adoption agency, and 20 years with pregnancy centers. For the past 12 years, I have been the executive director of the Shady Grove Pregnancy Center, which has operated in Gaithersburg, MD for 26 years.

The Shady Grove Pregnancy Center is a private, non-profit, charity. Our mission is to support women who find themselves in distress due to an unplanned pregnancy. Our goal is to provide accurate information so women can make informed decisions about their pregnancies. We are for life and support the well being of women and their children. We have five client-based programs to achieve our goals. All our services are free. (See the attached flier on our programs.)

Of the women we assist, thirty-nine (39%) percent are referred to us by family members or friends that have used our services. Eighteen (18%) percent are referred by state social service agencies, hospitals, schools, and churches. The remaining forty-three (43%) percent located us through advertisements. In the telephone book, we are listed under “Abortion Alternatives.” (See the attached yellow-page advertisement.)

Since opening in 1983, we have helped over 30, 000 women and their families without ever receiving a formal complaint for giving inaccurate information or misrepresenting our services. We have never had a lawsuit filed against us. (Read for yourself what some of our clients are saying.)

I believe the reason for our good standing in the community is the level of professional training our Center receives on a national and local level. There are three national organizations, Care Net, Heartbeat International and the National Institute of Family and Life Advocates that offer comprehensive training to board members, executive directors, staff and volunteers. These national organizations provide on-site training at pregnancy centers and off-site training through yearly conferences.

Our Center provides a minimum of four (4) months training before a volunteer pregnancy counselor can assist a client on their own. Professionals from the community come in and teach on topics such as: fetal development, adoption, abortion, parenting, sexually transmitted infections, and abstinence. Training in communications and counseling skills is also provided. The goal of training is to: (1) make sure the

information provided is accurate, and (2) that it is given in a non-judgmental way. (Attached is the Do's and Don'ts of Counseling" from our training manual).

Many of our staff and volunteers are trained professionals in their own fields. They are nurses, doctors, health and mental providers, social workers, educators, human resource personnel, lawyers, accountants to name a few. They expect us to operate on a professional level where honesty, truth and integrity are promoted.

A board of directors, selected from the local community, governs the Shady Grove Pregnancy Center. The board provides oversight for the Center's programs and services for our clients. They seek ways to improve our policies and procedures. Some of the measures taken are: (1) four disclaimers on our website in which one states, "we are not an abortion provider," (2) our client intake sheet states that we are "not a medical facility . . . and a positive test result should be verified by a physician's examination," (3) when queried over the telephone about abortion, we state "we are not an abortion provider, we are a pregnancy center." (Attached is *Our Commitment of Care*, which we follow.)

As a licensed clinical social worker, I can professionally attest to the fact that the Shady Grove Pregnancy Center upholds the highest level of professional standards in providing care to our clients. The information we provide is factual, accurate and reliable.

On a more personal note, when I was involved with Planned Parenthood for five (5) years, volunteering as pregnancy counselor in Prince Georges and Montgomery County, I thought as others do – that anyone approaching a "a woman in a crisis pregnancy" differently than Planned Parenthood's way -- has something wrong with them.

The truth is, I was wrong. There can be another approach that is just as effective in helping women. Pregnancy centers are professional organizations. They have a high standard of care for their clients. The information provided is accurate. Women leave pregnancy centers unharmed.

After investing 5 years with Planned Parenthood and 20 years with pregnancy centers, I can say with confidence, the regulation before this Council is not necessary. No one is being misled. No one is being harmed. I ask the Council to vote no on this regulation.

Our Commitment of Care

- 1. Clients are served without regard to age, race, income, nationality, religious affiliation, disability or other arbitrary circumstances.*
- 2. Clients are treated with kindness, compassion and in a caring manner.*
- 3. Clients always receive honest and open answers.*
- 4. Client pregnancy tests are distributed and administered in accordance with all applicable laws.*
- 5. Client information is held in strict and absolute confidence. Client information is only disclosed as required by law and when necessary to protect the client or others against imminent harm.*
- 6. Clients receive accurate information about pregnancy, fetal development, lifestyle issues, and related concerns.*
- 7. We do not offer, recommend or refer for abortions or abortifacients, but we are committed to offering accurate information about abortion procedures and risks.*
- 8. All of our advertising and communications are truthful and honest and accurately describe the services we offer.*
- 9. All of our staff and volunteers receive proper training to uphold these standards.*

A Member Of



December 1st, 2009

Comments against proposed pregnancy center disclaimers

Good evening, my name is Mariana Vera I am the Executive Director of Centro Tepeyac. Next year we are celebrating our 20th anniversary of service to this community. We are a nonprofit Catholic agency assisting and supporting women and men, one on one by reaching and recognizing their emotional, spiritual and physical needs. The center was founded to provide assistance primarily to Hispanic women and their families.

We have come to know the needs of the poor in this urban setting ; anyone who comes to our doors will be welcomed without considerations of sex, color, religion, family, economical status or nationality. This issues will play no role in how they will be treated and received in our center.

The center also serves Africans, African Americans, and other minority and immigrant groups . We recruit and train staff and volunteers who relate to these populations and we are fully bilingual so we can better serve this type of groups.

Tepeyac has grown from a small center seeing 30 women a year to our current level where we see over 2,000 participants a year.

Our primary service is the free self-administered pregnancy test. Last year 517 women came to our center to perform such a test. At least half of these women were referred to us from the public clinics in Montgomery County. The rest are referred by word of mouth. The majority being Hispanic.

For our negative test participants we have a program called Sexual Integrity TM that presents a life transforming vision for those who are sexually active . It envisions a new life in the participants promoting sexual health and personal growth. We are able to do this by referring them to their local clinics for std testing and annual pap smears and setting goals by decision- making mentoring so in the process we help them improve their self-esteem.

What we do, is watch and listen with open hearts. They bring their concerns, curiosities, longings, needs and we are here to offer them material assistance, referrals for medical care, social services, ongoing pregnancy support services and mentoring. Parenting, educational and leadership classes and a post abortion Recovery program.

Consenting to play an active, positive, participatory role in our society we work in partnership with Montgomery County Health Centers . Many women who come to Tepeyac are referred by County offices because we offer free pregnancy testing on days when they are not able to provide this service. So assisting the County is our task. Because many of our participants do not speak English we help them by translating their documents so they understand the requirements they need to bring to the county office in order to apply for Prenatal care and make the process easier, so they dont get "Lost in Translation"

In this Our Nation "Conceived in liberty and dedicated to the proposition that all men are created equal" Class, race, religion, national origin or culture all disappear or become dim when bathed in the light of natural rights, which give us common interests and makes us truly brothers and sisters. We have the same natural rights to life, liberty and the pursuit of happiness. This is our mission. This proposed regulation would add an unnecessary and burdensome requirement to our services.

1315 Apple Avenue
Silver Spring, MD 20910
Ph. 301 587-9516 ♦ Fax 301 587-8065
www.centrotepeyac.org

Centro Tepeyac
Silver Spring Women's Center
1315 Apple Avenue
Silver Spring, MD 20910
Tel. 301 587-9516
Fax. 301 587-8065

Pregnancy Test Form

A urine **MAINLINE CONFIRMS** HCG pregnancy test was run on a specimen supplied by

_____ On _____
Name of Participant Date

The above Participant stated that the first day of her last menstrual period was on/about _____
Date

Therefore her estimated due date is _____

TEST RESULTS: Positive: _____ Negative: _____

On _____ I read the results of my pregnancy test.
Date

Signature of Participant

Centro Tepeyac Staff/Volunteer

****! FOR PRENATAL CARE ONLY! ****

.....
Information regarding pregnancy tests

The result of your pregnancy test is the result of a test only. It is not a diagnosis. The person to make a diagnosis is your physician. We recommend that you contact your doctor as soon as possible. If you need help in location a physician, your Centro Tepeyac staff/volunteer would be happy to assist you.

Información con respecto a pruebas de embarazo

El resultado de su prueba de embarazo es el resultado de una prueba solamente. No es una diagnosis. La persona para hacer una diagnosis es su médico. Le recomendamos que usted haga una cita con su doctor en cuanto antes. Si usted necesita ayuda en la localización de un médico, aqui en el Centro Tepeyac le podemos ayudar.

A STATEMENT URGING REJECTION OF COUNCIL RESOLUTION AFFECTING
CRISIS PREGNANCY CENTERS

By Carole Buchanan, Birthright
12/01/09

My name is Carole Buchanan and I am the Executive Director of Birthright. We are located at 12247 Georgia Avenue in Silver Spring, Md. We have been an active crisis pregnancy center, an incorporated 501©(3) charity, in the Washington DC area since 1970...39 years. 39 years without a client complaint. In the past ten years alone, our statistics show that our charity has helped over 37,000 women.

We are a crisis pregnancy center. We offer support and compassion to pregnant women in crisis. A woman or her boyfriend calling to ask about abortion is immediately told..."we are not a medical facility nor do we refer for abortions". The caller either hangs up or makes an appointment to come in to discuss options. We help her by listening to her fears and concerns and we tell her what we can offer her. We never give medical advice. We know that no one can force a woman to give birth to her child. The ultimate decision is totally hers.

We advertise in the yellow pages under "abortion alternatives". This is our mission. We do not offer medical services and not one client that walks through our doors expects to receive medical advice. Our clients are most often young and poor, many with limited education or English skills, and limited family support; and they know we are not a medical facility. For the sponsors or the originators of this resolution to imply otherwise betrays, not a desire to help women, but another agenda altogether, a desire to limit our charity to reach out to women in need.

All services to our clients are free of charge. Our clients seek free pregnancy tests, referrals for housing and health insurance. We offer them maternity clothing, layettes and toddler clothes and diapers. Last year we helped over 3000 clients, gave out 100 newborn layettes and had them self-administer 1000 pregnancy tests. Our volunteers gave 1450 hours of service. This was all accomplished at no cost to the taxpayer. Birthright is a charity and our services depend strictly on private donations. We receive no public funding. We receive an abundance of thanks and appreciation and tears of joy.

The Council and sponsors of this resolution sitting in the capacity of and acting as County Board of Health seeks to adopt rules and regulations "regarding any nuisance or cause of disease in the County." Section 3-202(d) Maryland Code. This is from your background statement dated 9 November 2009. This, it seems, is the justification for the resolution.

"Nuisance" as described by Webster's New World Dictionary..."an act, condition, thing, or person causing trouble, annoyance or inconvenience, a condition causing

danger.” Do the Members think that this charitable work that Birthright does is a “nuisance”?...is Birthright a cause of disease? Is assisting a poor woman to continue her pregnancy, a pregnancy that she desires, a disease that demands protection by the Members of the MC Council?

Why would the members of the MC County Council accept that as justification for this resolution and require this disclaimer? My assumption is that the Members really don't know what we do at Birthright. I have called our District 5 office, Council member Ervin and left a message asking for an appointment or better yet a site visit, before this hearing. I have left messages with 2 at-large members inviting them to come to our offices; I emailed all Council members requesting appointments to discuss the resolution. Of 12 initiated contacts to my elected MC representatives, I received one response saying, “...we owed our clients medically sound information”. Would any of you come to 12247 Georgia Ave, you would see for yourselves that we do not give “medical” information.

This proposed resolution, if passed, would serve to intimidate our clients and infringe on their right to receive the free and voluntary services that we offer. Clients who come to us are frightened, lonely and confused. This directive requiring us to read a prepared disclaimer in English and Spanish ‘at initial contact’ interferes with our right to receive our clients with love, patience and compassion. Why is it necessary to inject a layer of complication and red tape between a distraught woman and a counselor who only wants to listen? Can anyone tell me just exactly how this disclaimer would help us provide better service to our clients?

I would again invite you to visit us in Silver Spring at your convenience and meet our clients so that you can see for yourselves the valuable services that we provide. Passage of this resolution will inhibit thousands of women and families, your constituents, from receiving these free services, which they so vitally need.

I urge the Council Members to reject this resolution

Statement on Board of Health Resolution No: _____
“Required Disclaimers for Certain Pregnancy Resource Centers”
Presented to the County Council for Montgomery County, Maryland
Tuesday, December 1, 2009

By
Jeanneane Maxon, Esquire
General Counsel, Care Net
Biography and credentials available at: <http://www.care-net.org/aboutus/bio.php?id=11>.

This statement is **in opposition to the proposed regulation entitled: “Required Disclaimers for Certain Pregnancy Resource Centers.”**

Thousands of Montgomery County citizens—women, men, and children—have been assisted by pregnancy resource centers during their greatest time of need. Pregnancy resource centers provide pregnancy support and have promoted healthy sexual choices in adolescents, parenting classes, and support groups for post-abortive women. Pregnancy centers offer these services at no cost to their clients. After today, I am confident you will understand the great work done by pregnancy resource centers in Montgomery County and that the proposed legislation needlessly and unfairly attacks the integrity of these worthy institutions. I also am confident that you will see the numerous constitutional and legal concerns which very likely will subject the proposed legislation to costly legal challenge.

A. Constitutional Violations

1. First Amendment Viewpoint Discrimination

The proposed regulation raises clear Constitutional concerns. If successfully challenged in a court of law, the ordinance would result in the unnecessary waste of public resources and funds. The proposed regulation would mandate heightened regulation of only those pregnancy centers that do not provide abortions, compelling such centers to deliver a government-crafted message regarding the nature of their services.

Such compelled speech triggers the First Amendment’s strict scrutiny test, under which courts will find a law unconstitutional unless it is narrowly tailored to serve a compelling state interest. The right not to speak includes not only “compelled statements of opinion” but also “compelled statements of ‘fact,’” such that “either form of compulsion burdens free speech.” *Riley v. National Federation of the Blind*, 487 U.S. 781, 798 (1988); *see also Miami Herald Publishing Co. v. Tornillo*, 418 U.S. 241, 256 (1974) (statute compelling speech held unconstitutional). While licensed organizations can be the subject of regulation, “the government, even with the purest of motives, may not substitute its judgment as to how best to speak for that of speakers and listeners; free and robust debate cannot thrive if directed by the government.” *Riley*, 487 U.S. at 791, 799 (1988). In this context, government action restricting speech must meet the highest standard of scrutiny: it must be narrowly tailored to serve a compelling state interest. *See*,

e.g., *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652, 655 (1990); *Shelton v. Tucker*, 364 U.S. 479 (1960). There is an additional concern that the proposed legislation would force pregnancy centers that use medical professionals to provide medical services to provide misinformation related to the patient-client privilege. For more detailed explanation of this issue, please refer to the testimony of Attorney Anne O'Connor.

The proposed legislation is not viewpoint neutral. Specifically, the proposed legislation regulates only those pregnancy centers that do “not provide or refer for (i) abortions; or (ii) nondirective and comprehensive contraceptive services.” In other words, it would not matter how professional, honest, forthright, and/or legally compliant the pregnancy center is; the proposed legislation would still apply only because the pregnancy center holds a pro-life viewpoint. Courts have found that “viewpoint discrimination” is an egregious form of content discrimination and that the government must, accordingly, abstain from regulating speech when a specific motivating ideology or opinion of the speaker is the rationale for the restriction. *See Rosenberger v. Rector and Visitors of University of Virginia*, 515 U.S. 819, 115 S. Ct. 2510, 132 L. Ed. 2d 700, 101 Ed. Law Rep. 552 (1995). Because this proposed legislation regulates only pregnancy centers that oppose abortion, the proposed regulation constitutes unconstitutional viewpoint discrimination.

2. Equal Protection Violation and Lack of Compelling Interest

Along the same vein, the proposed legislation violates the rights of pro-life pregnancy centers provided under Equal Protection Clause of the Fourteenth Amendment of the Constitution by failing to regulate similar organizations and organizations with differing ideologies, such as abortion clinics or family planning organizations. Such organizations are not required to provide similar disclaimers concerning services they do not provide. Likewise, there are many companies and organizations that discuss medical issues with customers and clients that are not required to instruct customers/clients to seek medical advice, such as GNC stores, pharmacies, and Weight Watchers. Such regulatory underinclusiveness is a strong indication that the proposed legislation’s purpose is merely to subject pregnancy centers that oppose abortion to heightened regulation. *See Carey v. Brown*, 447 U.S. 455, 465 (1980) (underinclusiveness of a picketing statute undermined state’s claim of interest); *Florida Star v. B.J.F.*, 491 U.S. 524, 542 (1989) (Scalia, J., concurring in part and in the judgment) (content-discriminatory law unconstitutional because it was underinclusive). The fact that the proposed legislation regulates only those pregnancy centers that oppose abortion also “suggests that the government itself does not see the interest as compelling enough to justify a broader statute.” Eugene Volokh, *Freedom of Speech, Permissible Tailoring and Transcending Strict Scrutiny*, 144 U. Pennsylvania L. Rev. 2417 (1997); *see also City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 493 (1989); *City of Cleburne v. Cleburne Living Center*, 473 U.S. 432, 450 (1985) (law’s underinclusiveness indicated that its true purpose was something else).

3. Due Process Violations

The proposed legislation also presents serious due process concerns. The language of the proposed legislation is vague and ambiguous, yet it would subject the workers of pro-life pregnancy centers to action by the Attorney General which could result in sanctions for violations. In order to be constitutional, statutes challenged as vague must give a person of ordinary intelligence a reasonable opportunity to know what is prohibited and provide explicit standards for those who apply the statute in order to avoid arbitrary and discriminatory enforcement. *See Upton vs. S.E.C.*, 75 F.3d 92, Fed. Sec. L. Rep. (CCH) ¶99011 (2d Cir. 1996); *U.S. v. Wunsch*, 84 F.3d 1110 (9th Cir. 1996); *Smith v. Avino*, 91 F.3d 105 (11th Cir. 1996). Important language in the proposed regulation is undefined and utterly subjective, such as the requirement to provide a “communication that the client reasonably understands.” A client’s internal ability to understand a disclaimer is so dependent on such personal and subjective factors that a pregnancy center would be left with no objective measures by which it may determine whether or not it is violating the regulation. Likewise, the proposed regulation does not define what constitutes the “practice of medicine.” This is problematic because many pregnancy centers provide limited medical services, such as ultrasounds, under the license of a medical professional and are left not knowing whether the proposed legislation applies to them. The proposed legislation also fails to specify exactly who would be subject to an action by the Attorney General for failure to issue a disclaimer—would it be the organization, its board, administrator, the receptionist? The potential for mass criminal prosecution due to vagueness appears limitless.

B. The Proposed Legislation Unfairly Subjects Pregnancy Centers To Limitless Civil Actions

The Enforcement provision of the proposed legislation allows *any* person claiming to be “affected” to file a civil action against the pregnancy center. The Enforcement provision of the proposed regulation states:

- (d) Enforcement.
- (1) Any violation of this regulation is a Class A civil violation. Each day a violation exists is a separate offense.
- (2) The County Attorney **or any affected party** may file an action in a court with jurisdiction to enjoin repeated violations of this regulation. (emphasis added).

Allowing *anyone* to bring a lawsuit against a pregnancy center is dangerously broad and could subject center and its staff to limitless lawsuits brought in bad-faith by individuals opposed to the pregnancy center’s ideology. The County would be providing pro-abortion advocates a special right to sue pregnancy centers only because pregnancy centers are pro-life. This is a real threat. As shown in today’s testimony, pro-abortion groups are entering pregnancy centers under false pretenses with a specific agenda to discredit them because they hold a pro-life viewpoint. The proposed legislation not only gives such groups the ability to further harass pregnancy centers, but also allows them to misuse the court system and further the harassment in a court-of-law.

C. The Proposed Legislation Improperly Infringes on Federal and Maryland Rights of Conscience Protections

The proposed legislation improperly infringes upon rights of conscience protections provided by Federal and Maryland law by subjecting pregnancy centers and staff who oppose abortion to regulation involving criminal and civil discipline. Maryland Health-General Code 20-214(a)(1) &(2) provides:

A person may not be required to perform or participate in, or refer to any source for, any medical procedure that results in artificial insemination, sterilization, or termination of pregnancy. **The refusal of a person to perform or participate in, or refer to a source for, these medical procedures may not be a basis for: (i) Civil liability to another person; or (ii) Disciplinary or other recriminatory action against the person.** Md. HEALTH-GENERAL Code Ann. § 20-214(a) (2009) (emphasis added).

The proposed regulation, however, specifically regulates:

[A]n organization or center that: (A) has a primary purpose to provide pregnancy-related services that do not constitute the practice of medicine...and (C) does not provide or refer clients for: (i) abortions; or (ii) nondirective and comprehensive contraceptive services.

The proposed regulation subjects pregnancy centers to regulation and the potential for sanctions and limitless civil actions merely because they hold religious and moral conscience beliefs about abortion. A pregnancy center that does not provide abortion referrals would be required to issue disclaimers that other pregnancy service organizations do not have to issue, and only because they are pro-life. Additionally, individual workers at the pregnancy center would be subject to sanctions for failure to abide by the regulation. The proposed regulation also seeks to compel pro-life pregnancy centers and their staff to refer to physicians who will perform abortions by requiring pregnancy centers to tell clients that they should “consult with a health care provider before proceeding on a course of action regarding the client’s pregnancy,” which course of action would include the abortion option. Such a regulation is clearly outside the spirit of Maryland protections and may be grounds for a challenge under Maryland law.

D. The Proposed Legislation Is Ideologically Driven By Politically Charged Individuals’ Misuse Of A Government Actor and Outside the Jurisdiction of Montgomery County.

Pro-abortions advocates, such as NARAL Maryland and Planned Parenthood of Maryland have been the primary proponents of this legislation. The abortion debate is better suited for the public square without abortion advocates enlisting a government actor to needlessly harass pro-life charities. This is a misuse of the resources of

Montgomery County and is outside its jurisdiction and proper functions. Neither pro-abortion proponents nor Montgomery County have demonstrated a need for the proposed legislation. Rather, the proposed legislation is designed to emphasize an ideological complaint that pro-abortion advocates have with regard to pregnancy centers. Likewise, this area of regulation falls outside of the jurisdiction of Montgomery County and is preempted by state law.

Planned Parenthood of Maryland has stated, “Nobody should have medical information withheld from them. The last thing pregnant women need is misinformation about their birth control options and comprehensive information withheld from them.” See http://www.ppaction.org/campaign/LSPC_Bill?rk=vdSHjIMqPPRAE (accessed on October 22, 2009). If there truly is a legitimate concern for full disclosure and full information provided to women facing pregnancy-related decisions, and if Montgomery County is intent on regulating outside of its jurisdictions, then the proposed legislation should also require facilities that provide abortions and abortion referrals to list the numerous malpractice claims that have been asserted against their medical professionals by clients.

E. The Proposed Legislation Unnecessarily and Unfairly Targets Centers For Regulation

The regulation unnecessarily regulates pregnancy centers which already voluntarily operate under high standards of professionalism. Two (2) of the Montgomery County pregnancy centers are also members of Care Net. Care Net is a national affiliation organization for pregnancy centers with over 1150 members in the United States and Canada. Care Net centers note that they do not offer, recommend, or refer for abortions or abortifacients in client in-take forms or signage posted on center walls. Care Net centers are provided with a legal updates, legal manuals, policy and procedure manuals, medical services manuals, and other materials reviewed and approved by legal and medical professionals. Overall, the legal department at Care Net devotes about eighty percent (80%) of its time and resources to conducting legal audits, and to educating centers on legal issues and best practice standards.

Care Net is not alone in these efforts. Other affiliation organizations such as the National Institute for Family and Life Advocates (NIFLA) and Heartbeat International also maintain legal departments and provide centers with legal education and other services. The legal education and other services offered by these groups are designed to ensure that centers are operating in compliance with state and federal laws and providing only truthful and accurate information.

Pregnancy resource centers are credible institutions held to high standards set by professionals in the industry. Centers comply with laws and offer a tremendous service to their communities—services that often cannot be found in any other institution. The proposed regulation seeks only to unfairly discredit these worthy organizations.

For these reasons, I urge Montgomery County to vote against the proposed regulation entitled: "Required Disclaimers for Certain Pregnancy Resource Centers."

Statement on Resolution "Requiring Disclaimers for Certain Pregnancy Resource Centers"
of the County Council for Montgomery County, Maryland
Sitting as the Montgomery County Board of Health
Presented on December 1, 2009

by
Anne J. O'Connor, Esq.
General Counsel
National Institute of Family and Life Advocates

This statement is in **opposition** to the Resolution.

The National Institute of Family and Life Advocates (NIFLA) is a national public interest law firm serving more than 1,100 Pregnancy Resource Centers across the country with more than 20 members in the State of Maryland, several in Montgomery County. Approximately 700 of our members are medical facilities providing pregnancy testing and limited obstetrical ultrasound to their patients under the supervision of licensed physicians. Several of these medical facilities are in Maryland and at least one is in Montgomery County.

This Resolution is blatantly unconstitutional.

First, this Resolution will unlawfully apply to Pregnancy Resource Centers that provide medical services. The Resolution states that it applies to any Pregnancy Resource Center whose **primary** purpose is to provide pregnancy related services that do not constitute the practice of medicine. What exactly does "primary purpose" and "constitute the practice of medicine" mean?

Pregnancy Resource Centers that are medical facilities are multifaceted. They do more than just provide pregnancy testing and limited obstetrical ultrasound. They empower women by treating them holistically: providing counseling, support groups, material assistance, and education in addition to the medical services. What constitutes "primary purpose" and "practice of medicine" is vague and therefore will be inappropriately applied to Pregnancy Resource Centers that provide medical services if it is determined that it is not their "primary" purpose or their medical services are too limited to be considered the practice of medicine. If the medical services are deemed secondary, does that mean they are not practicing medicine? Clearly not. Without a clear definition of what "constitutes the practice of medicine" or "primary purpose" it is simply unknown who would be required to comply with this Resolution.

Second, this Resolution will require medical professionals at Pregnancy Resource Centers to lie to their patients. If it is determined that the medical services are not the primary purpose at the Center, the medical professional whether it be a nurse, sonographer, or physician, will be required to state to their patient that "their advice is not intended to be medical advice or to establish a doctor-patient relationship." That is absurd. It is untrue and compelled false speech, which clearly violates the First Amendment.

Furthermore, the Resolution would force a medical professional on staff at such a Pregnancy Resource Center to tell a patient that she should seek advice from another medical professional. That raises serious First Amendment issues.

Finally, these Pregnancy Resource Centers are professional non-profit organizations that faithfully and legally serve women in need. Most of them are members of national organizations such as NIFLA, Carenet and Heartbeat International and adhere to the highest standards of practice. Legal reviews are performed annually on their operations. They are held to best practices in all aspects of their business. They are credible institutions held to the highest standards set by professionals in the industry. Not one disgruntled patient or client has risen up to inspire or support this Resolution. Do you know why? Because they do not exist. Women go to Pregnancy Resource Centers because there they are empowered to make informed choices. Isn't that what we all want? This Resolution unfairly and unconstitutionally discredits these worthy charities.

For these reasons I urge you to vote against the Resolution.

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Abortion, Miscarriage, and Breast Cancer Risk

Introduction

A woman's hormone levels normally change throughout her life for a variety of reasons, and these hormonal changes can lead to changes in her breasts. Many such hormonal changes occur during pregnancy, changes that may influence a woman's chances of developing breast cancer later in life. As a result, over several decades a considerable amount of research has been and continues to be conducted to determine whether having an induced abortion, or a miscarriage (also known as spontaneous abortion), influences a woman's chances of developing breast cancer later in life.

Current Knowledge

In February 2003, the [National Cancer Institute](#) (NCI) convened a workshop of over 100 of the world's leading experts who study pregnancy and breast cancer risk. Workshop participants reviewed existing population-based, [clinical](#), and animal studies on the relationship between pregnancy and breast cancer risk, including studies of induced and spontaneous abortions. They concluded that having an abortion or miscarriage does not increase a woman's subsequent risk of developing breast cancer. A summary of their findings, titled *Summary Report. Early Reproductive Events and Breast Cancer Workshop*, can be found at <http://www.cancer.gov/cancerinfo/ere-workshop-report>.

Related NCI Materials

- [National Cancer Institute Fact Sheet 3.77. Pregnancy and Breast Cancer Risk](#) <http://www.cancer.gov/cancertopics/factsheet/Risk/pregnancy>
- [What You Need To Know About™ Breast Cancer](#) <http://www.cancer.gov/cancerinfo/wyntk/breast>

Background

The relationship between induced and spontaneous abortion and breast cancer risk has been the subject of extensive research beginning in the late 1950s. Until the mid-1990s, the evidence was inconsistent. Findings from some studies suggested there was no increase in risk of breast cancer among women who had had an abortion, while findings from other studies suggested there was an increased risk. Most of these studies, however, were flawed in a number of ways that can lead to unreliable results. Only a small number of women were included in many of these studies, and for most, the data were collected only after breast cancer had been diagnosed, and women's histories of miscarriage and abortion were based on their "self-report" rather than on their medical records. Since then, better-designed studies have been conducted. These newer studies examined large numbers of women, collected data before breast cancer was found, and gathered medical history information from medical records rather than simply from self-reports, thereby generating more reliable findings. The newer studies consistently showed no association between induced and spontaneous abortions and breast cancer risk.

Ongoing Research Supported by the National Cancer Institute

Basic, clinical, and population research will continue to be supported which investigate the relationship and the mechanisms of how [hormones](#) in general and during pregnancy influence the development of breast cancer.

Important Information About Breast Cancer Risk Factors

At present, the factors known to increase a woman's chance of developing breast cancer include age (a woman's chances of getting breast cancer increase as she gets older), a [family history](#) of breast cancer, an early age at first menstrual period, a late age at [menopause](#), a late age at the time of birth of her first full-term baby, and certain breast conditions. Obesity is also a risk factor for breast cancer in [postmenopausal](#) women. More information about breast cancer risk factors is found in NCI's publication [What You Need To](#)

Know About™ Breast Cancer.

Important Information About Identifying Breast Cancer

NCI recommends that, beginning in their 40s, women receive mammography screening every year or two. Women who have a higher than average risk of breast cancer (for example, women with a family history of breast cancer) should seek expert medical advice about whether they should be screened before age 40, and how frequently they should be screened.

###

Sources of National Cancer Institute Information

Cancer Information Service

Toll-free: 1-800-4-CANCER (1-800-422-6237)

TTY (for deaf and hard of hearing callers): 1-800-332-8615

NCI Online

Internet

Use <http://www.cancer.gov> to reach NCI's Web site.

LiveHelp

Cancer Information Specialists offer online assistance through the [LiveHelp](#) link on the NCI's Web site.

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Facts on Induced Abortion In the United States

INCIDENCE OF ABORTION

- Nearly half of pregnancies among American women are unintended, and four in 10 of these are terminated by abortion. Twenty-two percent of all pregnancies (excluding miscarriages) end in abortion.
- Forty percent of pregnancies among white women, 69% among blacks and 54% among Hispanics are unintended.
- In 2005, 1.21 million abortions were performed, down from 1.31 million in 2000. From 1973 through 2005, more than 45 million legal abortions occurred.
- Each year, about two percent of women aged 15–44 have an abortion; 47% have had at least one previous abortion.
- At least half of American women will experience an unintended pregnancy by age 45, and, at current rates, about one-third will have had an abortion.

WHO HAS ABORTIONS

- Fifty percent of U.S. women obtaining abortions are younger than 25: Women aged 20–24 obtain 33% of all abortions, and teenagers obtain 17%.

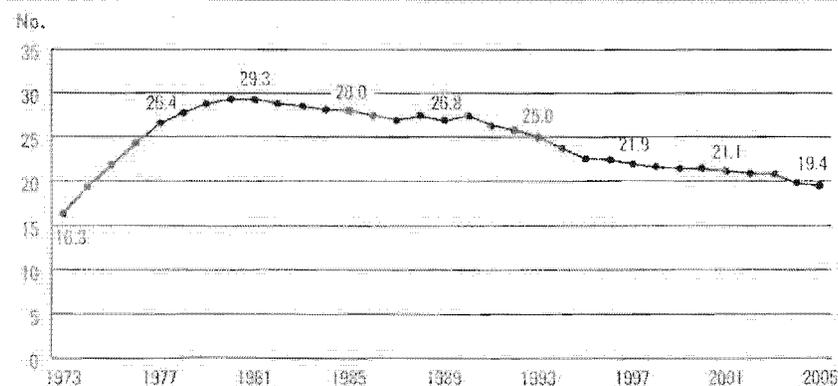
- Thirty-seven percent of abortions occur to black women, 34% to non-Hispanic white women, 22% to Hispanic women and 8% to women of other races.¹
- Forty-three percent of women obtaining abortions identify themselves as Protestant, and 27% as Catholic.
- Women who have never married obtain two-thirds of all abortions.
- About 60% of abortions are obtained by women who have one or more children.
- The abortion rate among women living below the federal poverty level (\$9,570 for a single woman with no children) is more than four times that of women above 300% of the poverty level (44 vs. 10 abortions per 1,000 women). This is partly because the rate of unintended pregnancies among poor women (below 100% of poverty) is nearly four times that of women above 200% of poverty* (112 vs. 29 per 1,000 women).
- The reasons women give for having an abortion underscore their understanding of the responsibilities of parenthood and family life. Three-fourths of women cite

concern for or responsibility to other individuals; three-fourths say they cannot afford a child; three-fourths say that having a baby would interfere with work, school or the ability to care for dependents; and half say they do not want to be a single parent or are having problems with their husband or partner.

CONTRACEPTIVE USE

- Fifty-four percent of women who have abortions had used a contraceptive method (usually the condom or the pill) during the month they became pregnant. Among those women, 76% of pill users and 49% of condom users report having used their method inconsistently, while 13% of pill users and 14% of condom users report correct use.
- Forty-six percent of women who have abortions had not used a contraceptive method during the month they became pregnant. Of these women, 33% had perceived themselves to be at low risk for pregnancy, 32% had had concerns about contraceptive methods, 26% had had unexpected sex and 1% had been forced to have sex.
- Eight percent of women who have abortions have never used a method of birth control; nonuse is greatest among those who are young, poor, black, Hispanic or less educated.
- About half of unintended pregnancies occur among the 11% of women who are at risk but are not using contraceptives. Most of these women have practiced contraception in the past.

Number of abortions per 1,000 women aged 15–44, by year



*Poverty guidelines are updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 USC 9902(2).

†These numbers add to 101% because of a small overlap between the Hispanic, black and other categories.

PROVIDERS AND SERVICES

- The number of U.S. abortion providers declined by 2% from 2000 to 2005 (from 1,819 to 1,787). Eighty-seven percent of all U.S. counties lacked an abortion provider in 2005; 35% of women live in those counties.
- Forty percent of providers offer very early abortions (even before the first missed period) and 96% offer abortion at eight weeks from the last menstrual period. Sixty-seven percent of providers offer at least some second-trimester abortion services (13 weeks or later), and 20% offer abortion after 20 weeks. Only 8% of all abortion providers offer abortions at 24 weeks.
- The proportion of providers offering abortion at four or fewer weeks' gestation increased from 7% in 1993 to 40% in 2005.
- In 2005, the cost of a nonhospital abortion with local anesthesia at 10 weeks' gestation ranged from \$90 to \$1,800; the average amount paid was \$413.

MEDICATION ABORTION

- In September 2000, the U.S. Food and Drug Administration approved the abortion drug mifepristone to be marketed in the United States as an alternative to surgical abortion.
- In 2005, 57% of abortion providers, or 1,026 facilities,

provided one or more medication abortions, a 70% increase from the first half of 2001. At least 10% of nonhospital abortion providers offer only medication abortion services.

- Medication abortion accounted for 13% of all abortions, and 22% of abortions before nine weeks' gestation, in 2005.

SAFETY OF ABORTION

- The risk of abortion complications is minimal: Fewer than 0.3% of abortion patients experience a complication that requires hospitalization.
- Abortions performed in the first trimester pose virtually no long-term risk of such problems as infertility, ectopic pregnancy, spontaneous abortion (miscarriage) or birth defect, and little or no risk of preterm or low-birth-weight deliveries.
- Exhaustive reviews by panels convened by the U.S. and British governments have concluded that there is no association between abortion and breast cancer. There is also no indication that abortion is a risk factor for other cancers.
- In repeated studies since the early 1980s, leading experts have concluded that abortion does not pose a hazard to women's mental health.
- The risk of death associated

with abortion increases with the length of pregnancy, from one death for every one million abortions at or before eight weeks to one per 29,000 at 16–20 weeks—and one per 11,000 at 21 or more weeks.

- Fifty-eight percent of abortion patients say they would have liked to have had their abortion earlier. Nearly 60% of women who experienced a delay in obtaining an abortion cite the time it took to make arrangements and raise money.
- Teens are more likely than older women to delay having an abortion until after 15 weeks of pregnancy, when the medical risks associated with abortion are significantly higher.

LAW AND POLICY

- In the 1973 *Roe v. Wade* decision, the Supreme Court ruled that women, in consultation with their physician, have a constitutionally protected right to have an abortion in the early stages of pregnancy—that is, before viability—free from government interference.
- In 1992, the Court reaffirmed the right to abortion in *Planned Parenthood v. Casey*. However, the ruling significantly weakened the legal protections previously afforded women and physicians by giving states the right to enact restrictions that do not create an "undue burden" for women seeking abortion.
- Thirty-five states currently enforce parental consent or notification laws for minors seeking an abortion. The Supreme Court ruled that minors must have an alternative to parental involvement, such as the ability to seek a court order authorizing the procedure.
- Even without specific parental involvement laws, six

in 10 minors who have an abortion report that at least one parent knew about it.

- Congress has barred the use of federal Medicaid funds to pay for abortions, except when the woman's life would be endangered by a full-term pregnancy or in cases of rape or incest.
- Seventeen states use public funds to pay for abortions for some poor women, but only four do so voluntarily; the rest do so under a court order. About 13% of all abortions in the United States are paid for with public funds (virtually all from state governments).
- Family planning clinics funded under Title X of the federal Public Health Service Act have helped women prevent 20 million unintended pregnancies during the last 20 years. An estimated nine million of these pregnancies would have ended in abortion.

The data in this fact sheet are the most current available. Most are from research conducted by the Guttmacher Institute and/or published in its peer-reviewed journals. An additional source is the Centers for Disease Control and Prevention.



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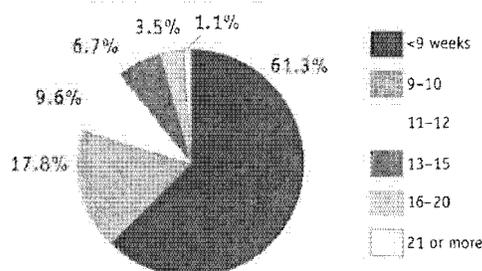
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www.guttmacher.org July/2008

When women have abortions*

Eighty-nine percent of abortions occur in the first 12 weeks of pregnancy, 2004.



*In weeks from the last menstrual period.

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Report of the APA Task Force on

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Mental Health and Abortion

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Date of this Report: 8/13/2008

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14 *APA Task Force on Mental Health and Abortion*

15 Brenda Major, PhD, Chair

16 Mark Appelbaum, PhD

17 Linda Beckman, PhD

18 Mary Ann Dutton, PhD

19 Nancy Felipe Russo, PhD

20 Carolyn West, PhD

21

22 *The Task Force on Mental Health and Abortion is charged with collecting, examining, and*

23 *summarizing the scientific research addressing the mental health factors associated with*

24 *abortion, including the psychological responses following abortion, and producing a report*

25 *based upon a review of the most current research.*

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REPORT OF THE APA TASK FORCE ON MENTAL HEALTH AND ABORTION

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Executive Summary

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126

5-07-08

127 The Council of Representatives of the American Psychological
128 Association charged the Task Force on Mental Health and Abortion (TFMHA)
129 with "collecting, examining, and summarizing the scientific research addressing
130 the mental health factors associated with abortion, including the psychological
131 responses following abortion, and producing a report based upon a review of the
132 most current research." In considering the psychological implications of abortion,
133 the TFMHA recognized that abortion encompasses a diversity of experiences.
134 Women obtain abortions for different reasons; at different times of gestation; via
135 differing medical procedures; and within different personal, social, economic, and
136 cultural contexts. All of these may lead to variability in women's psychological
137 reactions following abortion. Consequently, global statements about the
138 psychological impact of abortion on women can be misleading.

139
140 The TFMHA evaluated all empirical studies published in English in peer-
141 reviewed journals post-1989 that compared the mental health of women who had
142 an induced abortion to the mental health of comparison groups of women ($N=50$)
143 or that examined factors that predict mental health among women who have had
144 an elective abortion in the United States ($N=23$). This literature was reviewed and
145 evaluated with respect to its ability to address four primary questions: (1) Does
146 abortion *cause* harm to women's mental health? (2) How prevalent are mental
147 health problems among women in the United States who have had an abortion?
148 (3) What is the relative risk of mental health problems associated with abortion
149 compared to its alternatives (other courses of action that might be taken by a
150 pregnant woman in similar circumstances)? And, (4) What predicts individual
151 variation in women's psychological experiences following abortion?

152
153 A critical evaluation of the published literature revealed that the majority of
154 studies suffered from methodological problems, often severe in nature. Given the
155 state of the literature, a simple calculation of effect sizes or count of the number
156 of studies that showed an effect in one direction versus another was considered
157 inappropriate. The quality of the evidence that produced those effects must be
158 considered to avoid misleading conclusions. Accordingly, the TFMHA
159 emphasized the studies it judged to be most methodologically rigorous to arrive
160 at its conclusions.

161
162 The best scientific evidence published indicates that among adult women
163 who have an *unplanned pregnancy* the relative risk of mental health problems is

164 no greater if they have a single elective first-trimester abortion than if they deliver
165 that pregnancy. The evidence regarding the relative mental health risks
166 associated with multiple abortions is more equivocal. Positive associations
167 observed between multiple abortions and poorer mental health may be linked to
168 co-occurring risks that predispose a woman to both multiple unwanted
169 pregnancies and mental health problems.

170
171 The few published studies that examined women's responses following an
172 induced abortion due to fetal abnormality suggest that terminating a wanted
173 pregnancy late in pregnancy due to fetal abnormality appears to be associated
174 with negative psychological reactions equivalent to those experienced by women
175 who miscarry a wanted pregnancy or who experience a stillbirth or death of a
176 newborn, but less than those who deliver a child with life-threatening
177 abnormalities.

178
179 The differing patterns of psychological experiences observed among
180 women who terminate an unplanned pregnancy versus those who terminate a
181 planned and wanted pregnancy highlight the importance of taking pregnancy
182 intendedness and wantedness into account when seeking to understand
183 psychological reactions to abortion.

184
185 None of the literature reviewed adequately addressed the prevalence of
186 mental health problems among women in the United States who have had an
187 abortion. In general, however, the prevalence of mental health problems
188 observed among women in the United States who had a single, legal, first-
189 trimester abortion for nontherapeutic reasons was consistent with normative
190 rates of comparable mental health problems in the general population of women
191 in the United States.

192
193 Nonetheless, it is clear that some women do experience sadness, grief,
194 and feelings of loss following termination of a pregnancy, and some experience
195 clinically significant disorders, including depression and anxiety. However, the
196 TFMHA reviewed no evidence sufficient to support the claim that an observed
197 association between abortion history and mental health was caused by the
198 abortion *per se*, as opposed to other factors.

199
200 This review identified several factors that are predictive of more negative
201 psychological responses following first-trimester abortion among women in the
202 United States. Those factors included perceptions of stigma, need for secrecy,
203 and low or anticipated social support for the abortion decision; a prior history of
204 mental health problems; personality factors such as low self-esteem and use of
205 avoidance and denial coping strategies; and characteristics of the particular
206 pregnancy, including the extent to which the woman wanted and felt committed
207 to it. Across studies, prior mental health emerged as the strongest predictor of
208 postabortion mental health. Many of these same factors also predict negative
209 psychological reactions to other types of stressful life events, including childbirth,

210 and, hence, are not uniquely predictive of psychological responses following
211 abortion.

212

213 Well-designed, rigorously conducted scientific research would help
214 disentangle confounding factors and establish relative risks of abortion compared
215 to its alternatives, as well as factors associated with variation among women in
216 their responses following abortion. Even so, there is unlikely to be a single
217 definitive research study that will determine the mental health implications of
218 abortion "once and for all" given the diversity and complexity of women and their
219 circumstances.

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221

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223



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Prenatal Care

Q: What is prenatal care?

A: Prenatal care is the health care you get while you are pregnant. Take care of yourself and your baby by:

- Getting **early** prenatal care. If you know you're pregnant, or think you might be, call your doctor to schedule a visit.
- Getting **regular** prenatal care. Your doctor will schedule you for many checkups over the course of your pregnancy. Don't miss any — they are all important.
- Following your doctor's advice.

Did you know?

Several types of health care professionals can help pregnant women and deliver babies. They include obstetricians, family physicians, midwives, and nurse-midwives. This fact sheet calls all health care professionals "doctor" only to keep the information as easy to read as possible.

Q: Why do I need prenatal care?

A: Prenatal care can help keep you and your baby healthy. Babies of mothers who do not get prenatal care are three times more likely to have a low birth weight and five times more likely to die than those born to mothers who do get care.

Doctors can spot health problems early when they see mothers regularly. This allows doctors to treat them early. Early treatment can cure many problems and

prevent others. Doctors also can talk to pregnant women about things they can do to give their unborn babies a healthy start to life.

Q: I am thinking about getting pregnant. How can I take care of myself?

A: You should start taking care of yourself before you start trying to get pregnant. This is called preconception health. It means knowing how health conditions and risk factors could affect you or your unborn baby if you become pregnant. For example, some foods, habits, and medicines can harm your baby — even before he or she is conceived. Some health problems also can affect pregnancy.

Talk to your doctor before pregnancy to learn what you can do to prepare your body. Women should prepare for pregnancy before becoming sexually active. Ideally, women should give themselves at least 3 months to prepare before getting pregnant.

The five most important things you can do before becoming pregnant are:

1. Take 400 micrograms (400 mcg or 0.4 mg) of folic acid every day for at least 3 months before getting pregnant to lower your risk of some birth defects of the brain and spine. You can get folic acid from some foods. But it's hard to get all the folic acid you need from foods alone. Taking a vitamin with folic acid is the best and easiest way to be sure you're getting enough.
2. Stop smoking and drinking alcohol. Ask your doctor for help.
3. If you have a medical condition, be sure it is under control. Some con-

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ditions include asthma, diabetes, depression, high blood pressure, obesity, thyroid disease, or epilepsy. Be sure your vaccinations are up to date.

4. Talk to your doctor about any over-the-counter and prescription medicines you are using. These include dietary or herbal supplements. Some medicines are not safe during pregnancy. At the same time, stopping medicines you need also can be harmful.
5. Avoid contact with toxic substances or materials at work and at home that could be harmful. Stay away from chemicals and cat or rodent feces.

Q: I'm pregnant. What should I do — or not do — to take care of myself and my unborn baby?

A: Follow these dos and don'ts to take care of yourself and the precious life growing inside you:

Health Care Dos and Don'ts

- Get early and regular prenatal care. Whether this is your first pregnancy or third, health care is extremely important. Your doctor will check to make sure you and the baby are healthy at each visit. If there are any problems, early action will help you and the baby.
- Take a multivitamin or prenatal vitamin with 400 micrograms (mcg or 0.4 mg) of folic acid every day.
- Ask your doctor before stopping any medicines or starting any new medicines. Some medicines are not safe during pregnancy. Keep in mind that even over-the-counter medi-

cines and herbal products may cause side effects or other problems. But not using medicines you need could also be harmful.

- Avoid x-rays. If you must have dental work or diagnostic tests, tell your dentist or doctor that you are pregnant so that extra care can be taken.
- Get a flu shot if your baby's due date is between March and July. Pregnant women can get very sick from the flu and may need hospital care.

Food Dos and Don'ts

- Eat a variety of healthy foods. Choose fruits, vegetables, whole grains, calcium-rich foods, and foods low in saturated fat. Also, make sure to drink plenty of fluids, especially water.
- Get all the nutrients you need each day, including iron. Getting enough iron prevents you from getting anemia, which is linked to preterm birth and low birth weight. Eating a variety of healthy foods will help you get the nutrients your baby needs. But ask your doctor if you need to take a daily prenatal vitamin or iron supplement to be sure you are getting enough.
- Protect yourself and your baby from food-borne illnesses, including toxoplasmosis (TOK-soh-plaz-MOH-suhss) and listeria (lih-STEER-ce-uh). Wash fruits and vegetables before eating. Don't eat uncooked or undercooked meats or fish. Always handle, clean, cook, eat, and store foods properly.
- Don't eat fish with lots of mercury, including swordfish, king mackerel, shark, and tilefish.



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Lifestyle Dos and Don'ts

- Gain a healthy amount of weight. Your doctor can tell you how much weight gain you should aim for during pregnancy.
- Don't smoke, drink alcohol, or use drugs. These can cause long-term harm or death to your baby. Ask your doctor for help quitting.
- Unless your doctor tells you not to, try to get at least 2 hours and 30 minutes of moderate-intensity aerobic activity a week. It's best to spread out your workouts throughout the week. If you worked out regularly before pregnancy, you can keep up your activity level as long as your health doesn't change and you talk to your doctor about your activity level throughout your pregnancy. Learn more about how to have a fit pregnancy.
- Don't take very hot baths or use hot tubs or saunas.
- Get plenty of sleep and find ways to control stress.
- Get informed. Read books, watch videos, go to a childbirth class, and talk with moms you know.
- Ask your doctor about childbirth education classes for you and your partner. Classes can help you prepare for the birth of your baby.

Environmental Dos and Don'ts

- Stay away from chemicals like insecticides, solvents (like some cleaners or paint thinners), lead, mercury, and paint (including paint fumes). Not all products have pregnancy warnings on their labels. If you're unsure if a product is safe, ask your doctor before using it. Talk to your

doctor if you are worried that chemicals used in your workplace might be harmful.

- If you have a cat, ask your doctor about toxoplasmosis. This infection is caused by a parasite sometimes found in cat feces. If not treated toxoplasmosis can cause birth defects. You can lower your risk of by avoiding cat litter and wearing gloves when gardening.
- Avoid contact with rodents, including pet rodents, and with their urine, droppings, or nesting material. Rodents can carry a virus that can be harmful or even deadly to your unborn baby.
- Take steps to avoid illness, such as washing hands frequently.
- Stay away from secondhand smoke.

Q: I don't want to get pregnant right now. But should I still take folic acid every day?

A: All sexually active women should get 400 micrograms (mcg or 0.4 mg) of folic acid every day. Even women with a small chance of getting pregnant should get their daily dose of folic acid. This is because many pregnancies are not planned. Often women don't know they are pregnant for a number of weeks. And some birth defects happen in the very first weeks of pregnancy.

Taking 400 mcg of folic acid every day will lower the risk of some birth defects that happen in early pregnancy. If a woman doesn't start taking vitamins until the second or third month of pregnancy, it may be too late to prevent birth defects. Folic acid may also have other health benefits for women.



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Q: How often should I see my doctor during pregnancy?

A: Your doctor will give you a schedule of all the doctor's visits you should have while pregnant. Most experts suggest you see your doctor:

- about once each month for weeks 4 through 28
- twice a month for weeks 28 through 36
- weekly for weeks 36 to birth

If you are older than 35 or your pregnancy is high risk, you'll probably see your doctor more often.

Q: What happens during prenatal visits?

During the first prenatal visit, you can expect your doctor to:

- ask about your health history including diseases, operations, or prior pregnancies
- ask about your family's health history
- do a complete physical exam, including a pelvic exam and Pap test
- take your blood and urine for lab work
- check your blood pressure, height, and weight
- calculate your due date
- answer your questions

At the first visit, you should ask questions and discuss any issues related to your pregnancy. Find out all you can about how to stay healthy.

Later prenatal visits will probably be shorter. Your doctor will check on your health and make sure the baby is growing as expected. Most prenatal visits will include:

- checking your blood pressure
- measuring your weight gain
- measuring your abdomen to check your baby's growth (once you begin to show)
- checking the baby's heart rate

While you're pregnant, you also will have some routine tests. Some tests are suggested for all women, such as blood work to check for anemia, your blood type, HIV, and other factors. Other tests might be offered based on your age, personal or family health history, your ethnic background, or the results of routine tests you have had. Visit the Healthy Pregnancy section of our web site for more details on prenatal care and tests.

Q: I am in my late 30s and I want to get pregnant. Should I do anything special?

A: As you age, you have an increasing chance of having a baby born with a birth defect. Yet most women in their late 30s and early 40s have healthy babies. See your doctor regularly before you even start trying to get pregnant. She will be able to help you prepare your body for pregnancy. She will also be able to tell you about how age can affect pregnancy.

During your pregnancy, seeing your doctor regularly is very important. Because of your age, your doctor will probably suggest some extra tests to check on your baby's health.

More and more women are waiting until they are in their 30s and 40s to have children. While many women of this age have no problems getting pregnant, fertility does decline with age.

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Women over 40 who don't get pregnant after six months of trying should see their doctors for a fertility evaluation.

Experts define infertility as the inability to become pregnant after trying for one year. If a woman keeps having miscarriages, it's also called infertility. If you think you or your partner may be infertile, talk to your doctor. Doctors are able to help many infertile couples go on to have healthy babies.

Q: Where can I go to get free or reduced-cost prenatal care?

A: Women in every state can get help to pay for medical care during their pregnancies. This prenatal care can help you

have a healthy baby. Every state in the United States has a program to help. Programs give medical care, information, advice, and other services important for a healthy pregnancy.

To find out about the program in your state:

- Call **1-800-311-BABY** (1-800-311-2229). This toll-free telephone number will connect you to the Health Department in your area code.
- For information in **Spanish**, call **1-800-504-7081**.
- Contact your local Health Department. ■

For more information

You can find out more about prenatal care by contacting [womenshealth.gov](http://www.womenshealth.gov) at 1-800-994-9662 or the following organizations:

Centers for Disease Control and Prevention

National Center on Birth Defects and Developmental Disabilities

Phone number: (888) 232-4636
Internet Address: <http://www.cdc.gov/ncbddd/>

Eunice Kennedy Shriver National Institute of Child Health and Human Development

Phone number: (800) 370-2943
Internet address: <http://www.nichd.nih.gov/>

March of Dimes

Phone number: (888) 663-4637
Internet address: <http://www.modimes.org/>

American College of Obstetricians and Gynecologists

Phone number: (800) 762-2264 (for publications requests only)
Internet address: <http://www.acog.org/>

American Pregnancy Association

Phone number: (972) 550-0140
Internet address: <http://www.american-pregnancy.org/>

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Content last updated March 6, 2009.

AMENDMENT

To Board of Health Regulation requiring a disclaimer for certain pregnancy resource centers.

BY COUNCILMEMBERS LEVENTHAL AND TRACHTENBERG

PURPOSE: To require a limited service pregnancy resource center that does not have a licensed medical professional on staff to post a sign indicating that the center does not have such staff.

Beginning on page 1, amend paragraph 4 to read:

1 The County Council, sitting as the Board of Health, finds after hearing the testimony and other
2 evidence in the record of the public hearing that requiring a disclaimer for certain pregnancy
3 resource centers is necessary to protect the health of County residents. The Board of Health's
4 concern is that clients may be misled into believing that a Center is providing medical services
5 when it is not. Clients could therefore neglect to take action (such as consulting a doctor) that
6 would protect their health or prevent adverse consequences, including disease, to the client or the
7 pregnancy.

Beginning on page 2, lines 2-38, change paragraphs a-g to read:

- 8 (a) **Definitions.**
- 9 (1) “*Client*” means a client or potential client.
- 10 (2) “Licensed medical professional on staff” means one or more individuals who:
- 11 (A) are licensed by the appropriate State agency under Title 8,¹ 14,² or 15³ of
12 the Health Occupations Article of the Maryland Code;
- 13 (B) provide medical-related services at the Center by either:
- 14 (i) providing medical services to clients at the Center at least 20 hours
15 per week; or
- 16 (ii) directly oversees medical services provided at the Center; and
- 17 (C) are employed by or offer their services at the Center.
- 18 (3) “*Limited Service Pregnancy Resource Center*” or “Center” means an
19 organization, ~~[[or]] center, or individual~~ that:

¹ Nurses.

² Physicians.

³ Physician Assistants.

- 20 (A) has a primary purpose to provide pregnancy-related services [[that do not
21 constitute the practice of medicine]];
- 22 (B) does not have a licensed medical professional on staff; and
- 23 (C) provides information about pregnancy-related services, for a fee or as a
24 free service[[]; and]];
- 25 [[(C) does not provide or refer clients for:
- 26 (i) abortions; or
- 27 (ii) nondirective and comprehensive contraceptive services.]]

28 (b) **Disclaimer required.**

- 29 (1) A limited service pregnancy resource center must [[provide a client with the
30 disclaimer required in Section (c):
- 31 (a) by the staff assisting the client;
- 32 (b) during the first communication or first contact with a client; and
- 33 (c) in a written statement or oral communication that the client reasonably
34 understands.]] post at least 1 sign in the Center indicating that:
- 35 (a) the Center does not have a licensed medical professional on staff; and
- 36 (b) the Montgomery County Health Officer encourages women who may be
37 pregnant to consult with a licensed health care provider.
- 38 (2) [[Any written disclaimer]] The sign required in paragraph (b)(1) must be:
- 39 (a) [[provided]] written in English and Spanish;
- 40 (b) easily readable; and
- 41 (c) conspicuously posted in the Center's waiting room or other area where
42 individuals await service.

43 [[(c)] **Contents of disclaimer.** The disclaimer must state that:

- 44 (1) the information that the limited service pregnancy resource center provides is not
45 intended to be medical advice or to establish a doctor-patient relationship; and
- 46 (2) the client should consult with a health care provider before proceeding on a
47 course of action regarding the client's pregnancy.]]

48 [[(d)]] (c) **Enforcement.**

- 49 (1) Any violation of this regulation is a Class A civil violation. [[Each day a
50 violation exists is a separate offense.]]

51 (2) The County Attorney [[or any affected party]] may file an action in a court with
52 jurisdiction to enjoin repeated violations of this regulation.

53 (3) The Department of Health and Human Services must investigate each complaint
54 alleging a violation of this regulation and take appropriate action, including
55 issuing a civil citation when compliance cannot be obtained otherwise. If the
56 Department learns that a limited service pregnancy resource center is in violation
57 of this regulation, the Department must, before issuing a citation, issue a written
58 notice ordering the Center to correct the violation within either:

59 (a) 10 days of the notice; or

60 (b) a longer period that the Department specifies in the notice.

61 ~~[(e)]~~ (d) **Applicability.** * * *

62 ~~[(f)]~~ (e) **Severability.** * * *

63 ~~[(g)]~~ (f) **Effective Date.** * * *

ADDENDUM
HHS ITEM #2
January 25, 2010

Worksession

MEMORANDUM

January 25, 2010

TO: Health and Human Services Committee

FROM: Amanda Mihill, Legislative Analyst *A. Mihill*

SUBJECT: **Worksession:** Resolution to adopt Board of Health regulation requiring a disclaimer for certain pregnancy resource centers

At today's Health and Human Services Committee worksession, the Committee is scheduled to discuss a resolution to adopt a Board of Health regulation requiring a disclaimer for certain pregnancy resource centers. The Council received the attached letter from the Archdiocese of Washington after the packet went to print. The Archdiocese urges the Council not to adopt the proposed regulation or the amendment proposed by Councilmembers Leventhal and Trachtenberg. Council staff addresses each of the comments below.

Does the amendment proposed by Councilmembers Leventhal and Trachtenberg violate the First Amendment?

1. Viewpoint Discrimination

The Archdiocese continues to believe that the amendment proposed by Councilmembers Leventhal and Trachtenberg would violate the First Amendment. As noted in the staff packet for this item, Council staff disagrees. The Archdiocese argues that the regulation's "disparate impact" is "stark" because the regulation would apply to all the County's pro-life centers and none of the County's pro-choice centers and therefore is an impermissible view-point based regulation. This argument fails for 2 reasons.

First, the purpose of the proposed amendment is to ensure that pregnant women in the County receive appropriate medical care early in their pregnancy, which is clearly a viewpoint-neutral objective. Second, this purpose is apparent given that the amendment would not, as the Archdiocese claims, govern all the County's pro-life centers. In fact, of the County's "pro-life" centers, at least 1 would not have to comply. Any "pro-choice" center that is currently in operation or begins operating after the regulation is effective would have to comply with the regulation as well if they do not have a licensed medical professional on staff.

Finally, the Archdiocese argues that the proposed amendment would not pass a strict scrutiny test which states that a content-based law burdening free speech must be narrowly tailored to serve a compelling state interest. Council staff disagrees that the proposed amendment would fail this test. First, the County's interest in this case – ensuring that pregnant women receive appropriate medical care to prevent adverse outcomes during the course of the pregnancy – is certainly a compelling interest. Second, the regulation is narrowly tailored because it merely requires a sign in all centers that do not have licensed medical professionals on staff and does not burden the speech of unintended parties.

2. Compelled Speech

Finally, the Archdiocese argues that the proposed amendment would violate the First Amendment's right against compelled speech. Case law shows that the County can require disclosures provided that they are truthful and factual. The proposed disclosure would require centers that do not have medical professionals on staff to post a sign indicating that they do not and that the County Health Officer encourages pregnant women to seek medical advice. This disclosure is truthful, factual, and non-misleading and is therefore permissible.

Does the amendment violate the Due Process Clause

The Archdiocese argues that the proposed amendment is too vague for the average person to understand. Council staff disagrees. Any pregnancy center, regardless of their view of abortion, that has a primary purpose to provide pregnancy-related services; does not have a licensed medical professional on staff; and provides information about pregnancy-related services, for a fee or as a free service would have to comply with the regulation.

The Archdiocese questioned the application of the regulation to an "individual" (see line 19 of the amendment). This addition is intended to ensure that an individual who runs a pregnancy resource center would be covered by the regulation.

Is the amendment outside the scope of the Board of Health's authority?

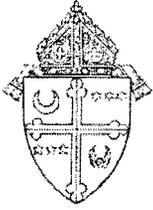
The Archdiocese argues that the proposed regulation violates the Board of Health's authority to adopt and enforce rules and regulations on any nuisance or cause of disease in the County. Pages 1-3 of the Council staff packet show that the proposed regulation is clearly within the authority granted to the Board of Health.

This packet contains:

Comment by Archdiocese of Washington

Circle #

1



ARCHDIOCESE OF WASHINGTON

Archdiocesan Pastoral Center: 5001 Eastern Avenue, Hyattsville, MD 20782-3447
Mailing Address: Post Office Box 29260, Washington, DC 20017-0260
301-853-4500 TDD 301-853-5300

Office of the Chancellor
Phone: 301-853-4520
Fax: 301-853-5346

Legal Analysis of the Effects of the Leventhal-Trachtenberg Amendment on the Proposed Regulation to Impose Disclaimer Requirements on Pregnancy Resource Centers in Montgomery County

Councilmembers Leventhal and Trachtenberg have proposed an amendment to a resolution that would impose disclaimer requirements on certain pregnancy resource centers in Montgomery County. Although the amendment's apparent intent is to address the original resolution's legal deficiencies, the regulation of "limited service pregnancy resource centers" ("LSPRCs") would still be subject to challenge in court on several bases even if the proposed amendment is adopted. The amendment fails to correct the original resolution's infringements of the U.S. Constitution's First Amendment and Due Process Clause. Additionally, the resolution would still violate the boundaries of the Board's own limited authority, particularly in light of evidence on the record of any problem with LSPRCs in Montgomery County that requires legislative remediation.

I. The First Amendment's Right to Free Speech

The proposed regulation would violate the First Amendment's protection of free speech. To compel speech burdens free speech. *Wooley v. Maynard*, 430 U.S. 705, 714 (1977). This principle applies to compelled statements of fact as well as opinion. *Riley v. National Federation of the Blind*, 487 U.S. 781, 798 (1988).

Although the amendment corrects a fatal defect in the original resolution by eliminating its most explicitly viewpoint-based provisions, this regulation is still viewpoint-based and therefore unconstitutional. A viewpoint-based speech restriction occurs when "the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction." *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995). The First Amendment prohibits viewpoint-based speech restrictions. *Pleasant Grove City v. Summum*, 129 S. Ct. 1125, 1132; see *Carey v. Brown*, 447 U.S. 455, 463 (1980). The rationale need not be spelled out on the face of the regulation; disparate impact may serve as evidence of legislative intent. *Arlington Heights v. Metropolitan Housing Corp.* 429 U.S. 252, 266 (1977).

At first glance the amendment appears to promote a fair and even application of the regulation by expanding the definition of LSPRCs to potentially cover centers that refer clients for abortions. Instead of pro-life versus pro-choice, the key distinction in the new definition is the exclusion of centers that have a licensed medical professional on staff and the inclusion of those that do not. Although this provision is facially neutral regarding a center's viewpoint on abortion, in its application the regulation will still only govern pro-life centers: there are simply no pro-choice pregnancy resource centers that do not employ medical personnel in Montgomery County. By applying to *all* pro-life LSPRCs in the County and *no* LSPRCs that provide or refer for abortions—because they do not exist—the regulation's disparate impact is so "stark" that it may be considered determinative of discriminatory intent. *Id.*

Laws imposing time, place, and manner restrictions on speech that are explicitly motivated by the (alleged) conduct of partisans on a particular side of a debate are typically held to be constitutionally viewpoint- and content-neutral because they apply equally to all speakers regardless of viewpoint and make no reference to the content of the speech, respectively. In contrast, the proposed regulation applies only to pregnancy centers that hold a pro-life viewpoint and proscribes specific speech. Cf. *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989), *Hill v. Colorado*, 530 U.S. 703, 719 (2000), *Frisby v. Schultz*, 487 U.S. 474 (1998). Because this regulation does not fall into the few narrow exceptions for permissible viewpoint-based speech restrictions, it is unconstitutional.¹²

Even if this regulation is not held to be viewpoint-based, it imposes compelled speech, which is inherently content-based. Content-based speech restrictions must pass strict scrutiny. *Riley*, 487 U.S. at 782.³ The strict scrutiny standard of review, as applied in its current form to speech restrictions, requires that the regulation burdening free speech must be (i) *narrowly tailored* to serve a (ii) *compelling state interest*. See *Hersh v. United States*, 553 F.3d. 743, 765 (5th Cir.) (2008).

The first prong to apply is the “compelling state interest” test. The preamble to the proposed amendment purports to explain the alleged state interest: it is to prevent clients at LSPRCs from the health risks of failing to seek medical attention for their pregnancies because the centers misled them.

However, the language of the amendment is telling: it states that “[c]lients *could* neglect to take action (such as consulting a doctor)....” (emphasis added). It does not claim that clients *do* neglect to take action, or suffer any of the resulting harms, because there is no reliable evidence that this happens to clients at the LSPRCs to be regulated. Not a single relevant complaint against the pro-life LSPRCs has ever been filed. The record contains no reliable evidence whatsoever to show that there is any need for increased regulation of Montgomery County’s pro-life LSPRCs.

With no evidence to demonstrate any actual or imminent harm, the state interest to be advanced by this regulation cannot be considered compelling. Nor is there any *a priori* reason to equate the pro-life mission with misleading practices. Furthermore, all four centers *already* provide disclaimers stating they are not medical facilities, further diminishing whatever conceivable state interest remains.

The second prong of the test is whether the regulation is narrowly tailored to the state interest. Even if the state interest were somehow compelling, the regulation would burden the free speech

¹ See, e.g. *Chaplinsky v. N.H.*, 315 U.S. 568, 571-572 (1942) (“There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or ‘fighting’ words – those which by their very utterance inflict injury or tend to incite an immediate breach of the peace.”).

² One need not even engage in statutory analysis to see that the proposed resolution is viewpoint-based—simply look at the pattern of similar proposals introduced before legislatures across the country and consider the politically motivated, self-interested lobbying groups behind them.

³ Although *Planned Parenthood v. Casey*, 505 U.S. 833 (1992) might be read to apply a lesser standard of review to speech restrictions imposed in the regulation of the practice of medicine, note that the regulation here explicitly applies only to entities that do *not* practice medicine.

of parties it is not intended to govern – principally, organizations and individuals that have no religious or moral objections to abortion but do not provide or refer for them because their activities do not relate directly to the decision to carry a child to term. If the state interest is to regulate LSPRCs shown to mislead clients, the unintended parties would include all LSPRCs for whom such evidence does not exist (namely, all of them). A regulation that burdens more free speech than is necessary for the achievement of the state interest is not narrowly tailored. *Madsen v. Women's Health Ctr.*, 512 U.S. 753, 772 (1994).

Furthermore, the addition of “individuals” to the definition of LSPRCs opens a constitutional can of worms for this resolution. The scope of the original regulation needed to be narrowed to apply only to parties the Board has at least attempted to demonstrate an interest in regulating. Instead, this addition expands the regulation to cover “individual[s]...[that have] a primary purpose to provide pregnancy-related services...[and] do not have a licensed medical professional on staff,” which could conceivably include a pregnant woman’s husband.

II. The Due Process Clause’s Void-for-Vagueness Doctrine

A law violates the Due Process Clause if it is too vague for the average person to understand what conduct is prohibited or if it does not provide explicit standards for who the law applies to. *See Upton v. S.E.C.*, 75 F.3d 92 (2d Cir. 1996), *Connally v. General Constr. Co.*, 269 U.S. 385 (1926).

As implied further above, organizations whose services are non-medical and pregnancy-related, yet do not implicate the question of abortion or contraception, would not know whether to observe the letter of law or the common-sense interpretation that they are not meant to be the target of this regulation. In a similar result, centers may in good faith believe themselves to be exempt from the law yet be found liable under it.

Moreover, the concept of an “individual” as a LSPRC is so nebulous that a pregnancy-related business’ non-medical employees, such as receptionists or sales clerks, might be individually subject to this regulation. Nor would any individual who considered him- or herself to be subject to the regulation have any idea how to comply—does he or she *personally* have to post a sign in the waiting room? If the individual’s pregnancy-related services are not performed in a place where a sign could be posted, must he or she carry a sign stating the contents of the disclaimer?

III. Violation of the Board’s Authority

The Montgomery County Charter, Section 101, vests the County Council with the “power to legislate for the peace, good government, health, safety or welfare of the County.” The Maryland Code’s Health-General Article, Section 3-202(d) states that “each county board of health may adopt and enforce rules and regulations on any nuisance or cause of disease in the county.” No doubt conscious of this grant of authority, the proposed amendment aims to “prevent adverse consequences, including disease....”

However, the Board has offered no public testimony or evidence on the record that the health, safety, or welfare of County residents needs protection or that there is any actual or imminent nuisance or disease that this regulation seeks to prevent or correct. As such, the factual findings of the Board are grossly insufficient to bring the LSPRCs within the scope of its regulatory authority.

There are many legal problems with this resolution, but the biggest is that there was never any need for it in the first place: there is *no* legitimate evidence supporting any of the alleged concerns with Montgomery County's pro-life LSPRCs. For these reasons, we believe the proposed regulation should be rejected outright.