

# Supporting Documents

## 10/8/15 Judiciary Hearing on Planned Parenthood



**Enclosed are the following supporting documents:**

**Exhibit A:** Planned Parenthood by the Numbers – how Planned Parenthood uses funds

**Exhibit B:** Planned Parenthood Myths Exposed – quick bullet point response to Planned Parenthood’s supporters’ common talking points and themes

**Exhibit C:** Planned Parenthood’s Expenditures on Fundraising, FY 2014

**Exhibit D:** Cecile Richards’ August 27 letter to Congress (w/ highlighted portions)

**Exhibit E:** The CBO’s Report on Defunding Planned Parenthood (w/ highlighted portions)

**Exhibit F:** Chart comparing services of Federally-Qualified Health Centers and PP clinics

**Exhibit G:** National and state maps comparing FQHC and Rural Health Clinic locations to PP locations

**Exhibit H:** A national map highlighting that no Planned Parenthood facility in the nation offers mammography services

**Exhibit I:** ADF’s 2015 report on Planned Parenthood’s failure to report child sexual abuse

**Exhibit J:** ADF’s 2015 Audit Report exposing Planned Parenthood’s Medicaid fraud

**Exhibit K:** A One-Pager explaining [www.getyourcare.org](http://www.getyourcare.org)

**Exhibit L:** OpEd, Press Release, and filed Complaint re: Sue Thayer’s case vs. PP in Iowa

If you would like more information, please feel free to contact us. We stand ready to help you in any way we can.

**Casey Mattox**

(730) 969-6801

440 First Street NW, Suite 600

Washington, DC 20001

# Exhibit

A

# Planned Parenthood by the Numbers



## Planned Parenthood Doesn't Care if Women Lose Access to Care

Despite **reporting hundreds of millions in profit** over the past 10 years, and spending millions each year on lobbying and directly supporting Democrat candidates, Planned Parenthood has **allowed 108 clinics to close** over the same period (net).

- **\$536 million:** Average tax dollars to PPFA over last 4 years, according to their annual reports
- **\$765.7 million:** Excess Revenue reported by Planned Parenthood from 2005 - 2014<sup>1</sup>
- **\$127 million:** Excess revenue reported by PPFA in 2014 alone
- **\$9 million:** PPFA's 2014 expenditures on lobbying, IE, and direct campaign contributions.<sup>2</sup>
- **\$390 million:** Taxpayer dollars given to PPFA annually through the Medicaid Program<sup>3</sup>
- **\$35 dollars:** Amount PPFA bills the federal government for **\$3** contraceptives<sup>4</sup>
- **108 clinics closed** since 2005, despite reporting over \$600 million in profit over the same period<sup>5</sup>

## The Only 'Healthcare' Planned Parenthood Promotes is Abortions

Planned Parenthood clinics charge \$800 or more to perform an abortion.<sup>6</sup> Adoption referrals, of course, don't bring them a single dime. Cancer screenings and breast exams don't pay the bills. Unsurprisingly, Planned Parenthood has focused its business model around performing abortions. In 2004, PPFA performed one in five abortions. **In 2011, PP performed one in three abortions in the U.S.**<sup>7</sup> Over the same time period, the **number of cancer screenings and non-abortion pre-natal services they've performed has dramatically decreased.**

- **80% reduction in prenatal services** since 2004<sup>8</sup>
- **57% reduction in Cancer Screenings & Prevention Services** since 2006<sup>9</sup>
- **45% reduction in Breast Exams and Breast Care** since 2006<sup>10</sup>
- **175 – 1 ratio of abortions-to-adoptions** in 2014<sup>11</sup>
- **13% reduction in clients** served since 2005<sup>12</sup>
- **12% increase in abortions** performed since 2004<sup>13</sup>

<sup>1</sup> See chart on following page, using financial data taken from Planned Parenthood's own annual reports

<sup>2</sup> <https://www.opensecrets.org/orgs/summary.php?id=D000000591>

<sup>3</sup> <https://www.cbo.gov/publication/50825>

<sup>4</sup> See Complaint in *Thayer v. Planned Parenthood of the Heartland, Inc.* (<http://www.adfmedia.org/files/ThayerComplaint.pdf>)

<sup>5</sup> <http://www.lifenews.com/2012/03/15/report-number-of-planned-parenthood-clinics-declines-again/>; see also PPFA's Annual Reports since 2005

<sup>6</sup> <http://www.plannedparenthood.org/learn/abortion/the-abortion-pill>; the pill costs \$800, and surgical abortions cost more

<sup>7</sup> See Planned Parenthood's annual reports since 2004-2005. Information centralized by Americans United for Life at <http://www.aul.org/new-leviathan/>.

<sup>8</sup> PPFA reported 17,610 clients receiving prenatal services in 2003, and only 3,000 in 2013.

<sup>9</sup> PPFA reported 2,007,371 clients receiving cancer screening and prevention services in 2006, and only 935,573 in 2013.

<sup>10</sup> PPFA reported 882,961 clients receiving breast exams/breast care in 2006, and only 487,024 in 2013.

<sup>11</sup> PPFA reported 1,880 adoption referrals in 2014, and 327,653 abortion procedures in 2014

<sup>12</sup> PPFA reported 3,051,144 clients in 2005, and 2,700,000 clients in 2014.

<sup>13</sup> PPFA reported performing 255,015 abortions in 2004, and 327,653 in 2013.

**Fact Sheet: Planned Parenthood Income over Expense  
Affiliates and National Office Combined, 2005-2014**

| Year                     | Income    | Expense   | Net<br>Income,<br>millions | Source  |
|--------------------------|-----------|-----------|----------------------------|---|
| 2013-14                  | \$1,303.4 | \$1,176.3 | \$127.1<br>million         | <a href="http://www.plannedparenthood.org/files/6714/1996/2641/2013-2014_Annual_Report_FINAL_WEB_VERSION.pdf">www.plannedparenthood.org/files/6714/1996/2641/2013-2014_Annual_Report_FINAL_WEB_VERSION.pdf</a> <sup>1</sup>   |
| 2012-13                  | \$1,210.4 | \$1,152.2 | \$58.2                     | <a href="http://www.plannedparenthood.org/files/7413/9620/1089/AR-FY13_111213_vF_rev3_ISSUU.pdf">www.plannedparenthood.org/files/7413/9620/1089/AR-FY13_111213_vF_rev3_ISSUU.pdf</a> <sup>2</sup>   |
| 2011-12                  | \$1,199.1 | \$1,111.7 | \$87.4                     | <a href="http://issuu.com/actionfund/docs/ppfa_ar_2012_121812_vf/3">issuu.com/actionfund/docs/ppfa_ar_2012_121812_vf/3</a> <sup>3</sup>   |
| 2010-11                  | \$1,219.0 | \$1,063.5 | \$155.5                    | <a href="http://issuu.com/actionfund/docs/ppfa_ar_2011_110112_vf?e=1994783/1441599">issuu.com/actionfund/docs/ppfa_ar_2011_110112_vf?e=1994783/1441599</a> <sup>4</sup>   |
| 2009-10                  | \$1,048.2 | \$1,029.7 | \$18.5                     | <a href="http://liveaction.org/research/wp-content/uploads/2011/06/2009-2010-Planned-Parenthood-Annual-Report.pdf">http://liveaction.org/research/wp-content/uploads/2011/06/2009-2010-Planned-Parenthood-Annual-Report.pdf</a> <sup>5</sup>  |
| 2008-09                  |           |           | \$63.4 <sup>6</sup>        | <a href="http://www.politifact.com/florida/statements/2011/jun/07/marjorie-dannenfelser/abortion-opponents-claim-planned-parenthood-had-30/">http://www.politifact.com/florida/statements/2011/jun/07/marjorie-dannenfelser/abortion-opponents-claim-planned-parenthood-had-30/</a> |
| 2007-08                  |           |           | \$85 <sup>7</sup>          | <a href="http://www.politifact.com/florida/statements/2011/jun/07/marjorie-dannenfelser/abortion-opponents-claim-planned-parenthood-had-30/">http://www.politifact.com/florida/statements/2011/jun/07/marjorie-dannenfelser/abortion-opponents-claim-planned-parenthood-had-30/</a> |
| 2006-07                  |           |           | \$114.8                    | <a href="http://www.politifact.com/florida/statements/2011/jun/07/marjorie-dannenfelser/abortion-opponents-claim-planned-parenthood-had-30/">http://www.politifact.com/florida/statements/2011/jun/07/marjorie-dannenfelser/abortion-opponents-claim-planned-parenthood-had-30/</a> |
| 2005-06                  |           |           | \$55.8                     | <a href="http://www.politifact.com/florida/statements/2011/jun/07/marjorie-dannenfelser/abortion-opponents-claim-planned-parenthood-had-30/">http://www.politifact.com/florida/statements/2011/jun/07/marjorie-dannenfelser/abortion-opponents-claim-planned-parenthood-had-30/</a> |
| <b>TOTAL NET REVENUE</b> |           |           | <b>\$765.7</b>             |   |

<sup>1</sup> Does not include "other changes in net assets" of \$4.2 million.

<sup>2</sup> Does not include "other changes in net assets" of \$27.5 million.

<sup>3</sup> Does not include "other changes in net assets" of -\$2.3 million.

<sup>4</sup> Does not include "other changes in net assets" of -\$5.4 million.

<sup>5</sup> Does not include "other changes in net assets" of -\$3.6 million.

<sup>6</sup> Figure does not include investment losses for the year.

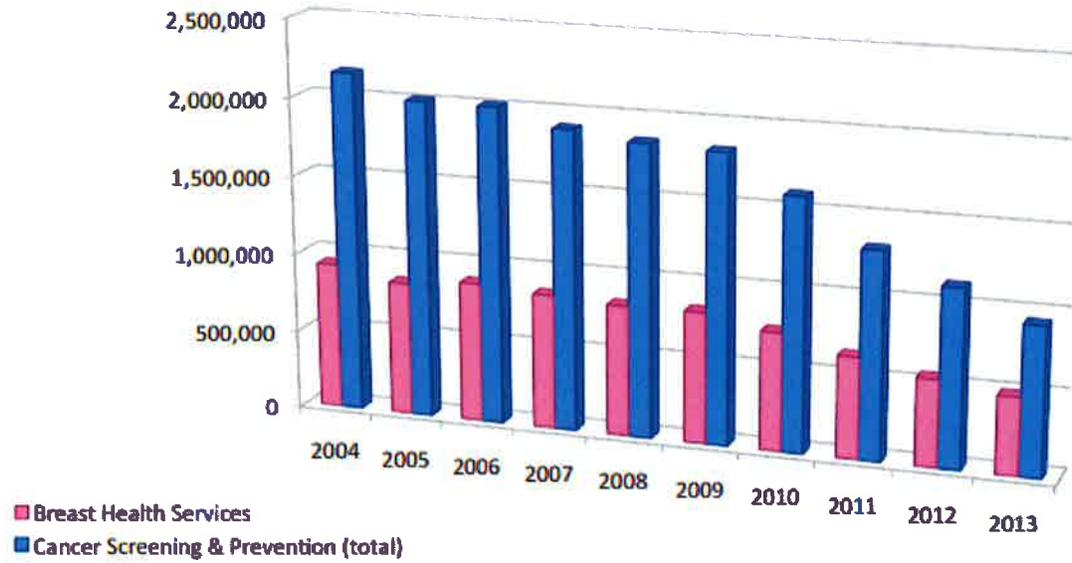
<sup>7</sup> Figures includes but annual report does not tally investment gains for the year.

# Planned Parenthood's Declining Services

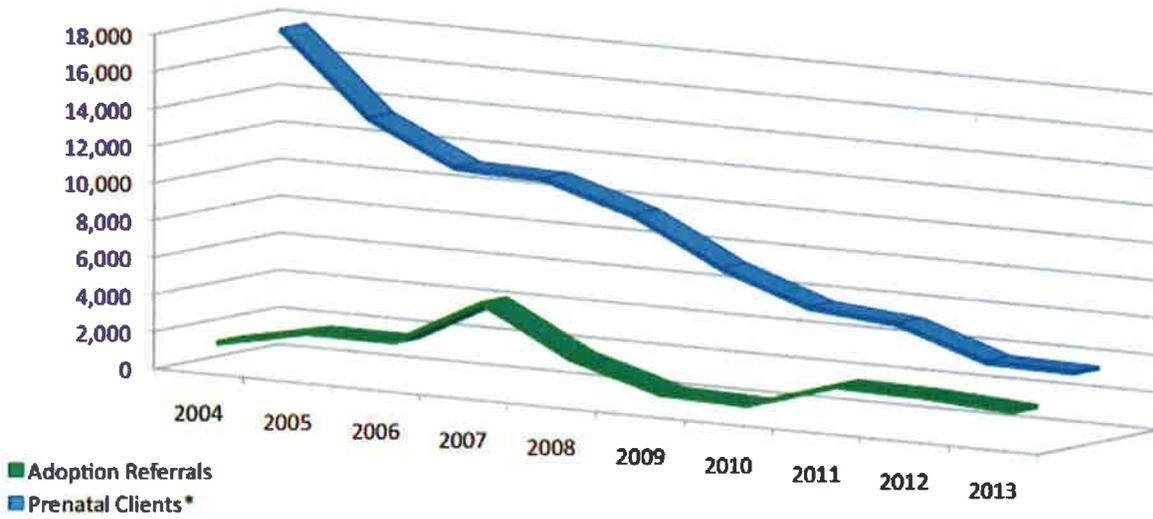
Graphs Produced by Americans United for Life

<http://www.aul.org/new-leviathan/>

## Planned Parenthood Slashes Cancer Screenings by Over 50%

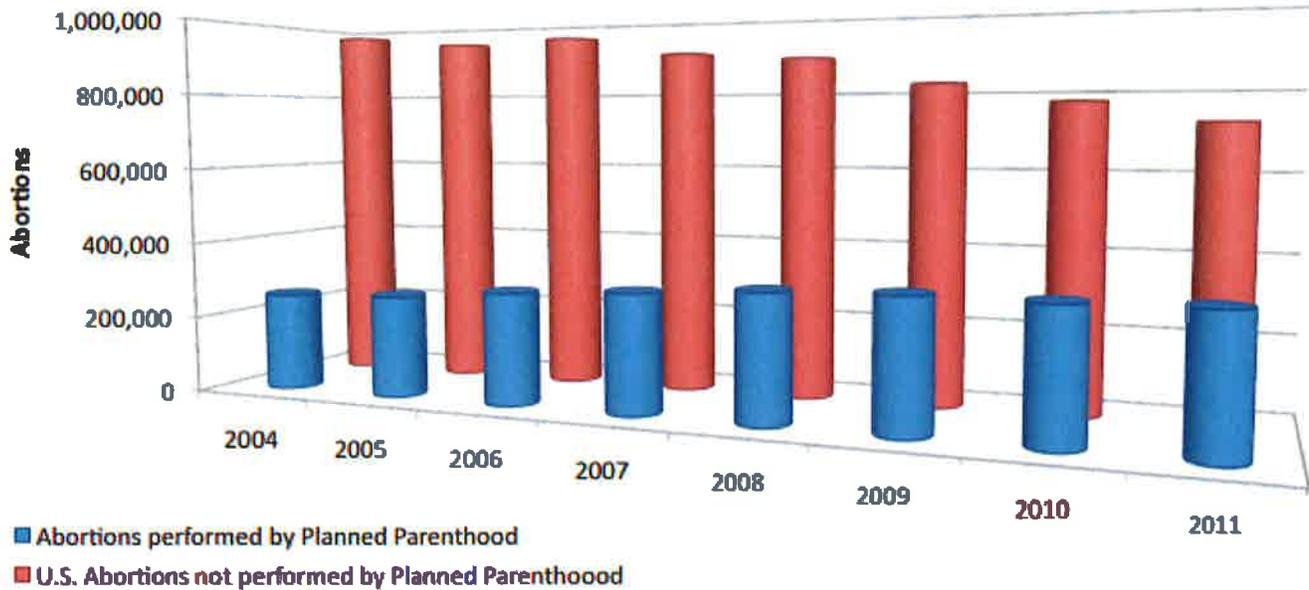


## Planned Parenthood Non-Abortion Pregnancy Services Plummet

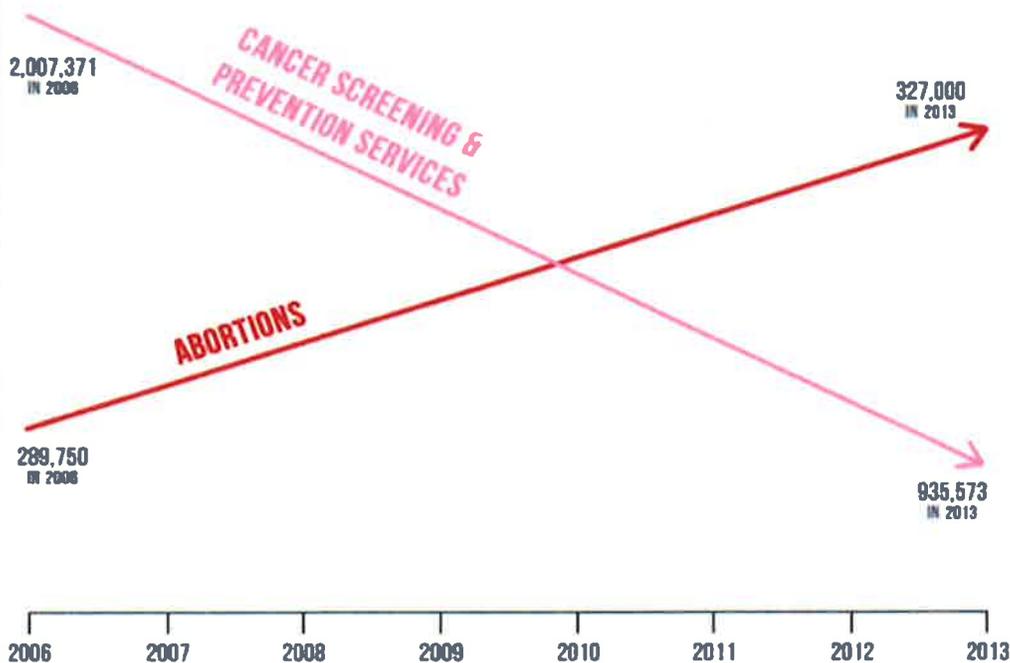


\*2010-2013 estimates based on reported prenatal "services"

## Planned Parenthood's Increasing Share of the Abortion Market



## PLANNED PARENTHOOD FEDERATION OF AMERICA: ABORTIONS UP – LIFE-SAVING PROCEDURES DOWN



SOURCE: AMERICANS UNITED FOR LIFE

# Exhibit

# B



## Planned Parenthood Myths Exposed

### The Videos

**Myth #1: The Center for Medical Progress (CMP) videos have been deceptively edited.**

#### **The Truth:**

- Planned Parenthood commissioned a report by Fusion GPS examining the authenticity of the videos. The conclusion of the report: The analysis did not reveal widespread evidence of “substantive video manipulation” and it “shows no evidence of audio manipulation.”<sup>i</sup>
- Full transcripts of the videos – with which the Fusion GPS report took no issue – are available on the CMP website.
- Full versions of the videos are available on the CMP website and the CMP YouTube channel. ***The only parts that have been edited out are: 1) bathroom breaks, and 2) breaks where no conversations took place.***

**Myth #2: But Planned Parenthood says that Video 1/2/3/4 is problematic.**

[Breakdown of each video.]<sup>ii</sup>

#### **The Truth:**

- *Video 1:* (1) 5 minute bathroom break, and (1) 3 minute bathroom break.
- *Video 2:* Nothing is edited out; both actors are wearing cameras, so when one actor leaves to go use the restroom, the video switches to the other actor’s camera.
- *Video 3:* features (2) 30 minute breaks; the first was a lunch break, during which all conversation with Dr. Savita Ginde ceased. The second break begins when Dr. Ginde left the actors in a waiting room.
- *Video 4:* 30 minutes of missing material left out by human error. The 30 minutes actually contains key admissions by Melissa Farrell, PP Gulf Coast’s Director of Research, about the arbitrary budgeting practices for tissue collection charges and willingness to modify abortion procedures to get more intact specimens. The missing clip has since been provided in its entirety on the CMP website.
  - In *Video 4*, there is a 4 minute break in the video, during which it is clear—from the surrounding dialogue—that one actor uses the restroom and Melissa Farrell leaves to go grab documents off the printer
  - In *Video 4*, there is a 52 minute break in video, when conversation stops and PP’s Farrell leads actors to a break room. During this time the actors swap out recording equipment batteries and discuss logistics until Farrell returns to take the actors to a lab, and the video resumes.



### **Myth #3: The undercover, investigative method CMP used is disreputable.**

#### **The Truth:**

- There are countless examples of inhumane and abusive practices against humans and animals that have been exposed by investigative journalism.
- Examples:
  - In 2015, Mercy for Animals exposed Tyson Foods and McDonald's via undercover investigative work that showed chicken farmers impaling birds with makeshift spiked clubs and stepping on birds' heads while pulling their wings or bodies to break their necks.<sup>iii</sup>
  - In 2014, a BBC correspondent went undercover in a Chinese tech factory making Apple products, posing as an employee and taking video of sham safety inspections and inhumane working conditions.<sup>iv</sup>
  - In 2013, CBS News correspondents went undercover in Bangladesh to expose child labor and unsafe working conditions. CBS contacted Asics, Walmart, and Wrangler directly to inform them about this factory supplier they were using. As a result, Wrangler fired their inspector, and Walmart promised to investigate and bar the factory permanently if it found child labor.<sup>v</sup>

### **Myth #4: David Daleiden is a liar, bad person, and has broken the law.**

#### **The Truth:**

- **Dishonest 501(c)(3) application? No.** The description David used for his 501(c)(3) is perfectly accurate: "develops special educational projects to raise awareness about the medical ethics implicated in medical advances, such as stem cell research, and other bioethical issues. These projects are frequently journalistic and multi-media in format."
- **False identity to get into Planned Parenthood facilities and conferences? Yes.** But this is what undercover investigators do, all the time. One does not go into a den of thieves dressed like a cop if they hope to gain their confidence and learn their nefarious schemes.
- **Broke wiretapping laws? No.** What wires did he tap? And no charges have been filed against him for recording public conversations.
- **Stole high school feminist club president Brianna Allen's identity for a credit card? No.** Visa gift cards can be purchased and personalized in any way. Ask Brianna Allen first if there are any unexplained charges on any of cards.



## **Abortion**

### **Myth #5: Fetal tissue research is saving lives.**

#### **The Truth:**

- It is well-known that fetal tissue transplantation is a nightmare, *i.e.*, “Frankenstein” results. For example, one patient who received a transplant of fetal brain tissue died subsequently, and the autopsy found him to have hair, cartilage, and other non-brain tissues growing in his brain.<sup>vi</sup>
- **Fetal tissue is rarely used in the manufacturing of vaccines, and new types of tissue are much more effective.**
  - **Polio:** most manufacturers of polio vaccine now use other types of cells like monkey cells.
  - **Other Vaccines:** CDC and other leading medical authorities noted that “no new fetal tissue is needed to produce cell lines to make these vaccines, now or in the future.”
  - **New Ebola Vaccine:** was not made using any fetal tissue or fetal cell lines; used a monkey cell line.
  - **General biology research** – current, progressive alternatives like ‘induced pluripotent stem cells’ provide an unlimited source of cells – which can be produced from the tissue of any human being, without harm to the individual donor.

### **Myth #6: Get over it, abortion is legal. This is just about overturning *Roe v. Wade*.**

#### **The Truth:**

- This discussion is not about legal abortion. It is about Planned Parenthood’s violations of federal and state laws.
- Where it concerns abortion is in regards to the use of **illegal abortion procedures** to maximize the profit from the sale of baby body parts.

### **Myth #7: Defunding Planned Parenthood would actually increase abortion.**

#### **The Truth:**

- Texas ended taxpayer funding of Planned Parenthood in 2012. In 2012,<sup>vii</sup> there were 65,574 abortions in Texas. In 2013,<sup>viii</sup> there were 61,513. That’s 6.6% *fewer* abortions after Planned Parenthood lost this funding. Notably, during this time, the pregnancy rate also dropped, going from 82.2 pregnancies for every 1000 women in 2012 to 81.1 pregnancies for every 1000 women in 2013.<sup>ix</sup>

### **Myth #8: Planned Parenthood wants to reduce abortion.**

#### **The Truth:**

- In 2006, Planned Parenthood did about 290,000 abortions; in 2013, 327,000.<sup>x</sup>
- From 2006 to 2013, the number of abortions in America decreased; however, Planned Parenthood went from committing 20% of all abortions to 32% of all



abortions – that’s 12 percentage points, for a total 60% increase in market share in seven years. <sup>xi</sup>

**Myth #9: Only 3% of Planned Parenthood’s services are abortions.**

**The Truth:**

- Planned Parenthood claims<sup>xii</sup> that of its 2.7 million customers<sup>xiii</sup> last year, nearly 328,000 got abortions. That’s over 12% right there.
- Of the Pregnant women who stick with Planned Parenthood through to “conclusion of services,” 94 percent of them get abortions.<sup>xiv</sup>
- Planned Parenthood receives about a third of its clinic income from abortion.
- If a woman goes to Planned Parenthood for an abortion, Planned Parenthood may also give her an STI test, a pap test, birth control, and pain medication. Each one counts as a service. So even if the pregnant woman came to Planned Parenthood specifically for an abortion, the actual abortion would only count for 20% of “services.” The 3% number was crafted to deceive people about the true nature of Planned Parenthood’s business –which is abortion.<sup>xv</sup>

**Planned Parenthood is Necessary**

**Myth #10: Planned Parenthood is a necessary, comprehensive healthcare provider for women, particularly those women in rural and underserved areas.**

**The Truth:**

- In addition to over 187,000 Medicaid providers, federally-qualified health clinics outnumber <sup>xvi</sup> Planned Parenthood nationwide 20:1, and are, on average, less than five miles away from Planned Parenthood locations. These clinics can be found at [GetYourCare.Org](http://GetYourCare.Org).<sup>xvii</sup>
- PP’s healthcare “services” lack even basic primary care services, including mammograms, immunizations, diabetes and glaucoma screenings, bone mass measurement, cardiovascular blood tests, that community health clinics are required by law to provide.<sup>xviii</sup>
- Planned Parenthood is concentrated in large cities and metro areas, and continues to close more and more rural facilities, while community health clinics and rural clinics are designed to serve women and families in rural and underserved areas.<sup>xix</sup>

**Myth #11: If Planned Parenthood loses funding, other clinics will be overwhelmed with new patients.**

**The Truth:**

- Planned Parenthood’s own numbers state that barely 2 percent of women ever step into one of their facilities during the year which equals about 2.7 million people a year. Thus, if women went to one of the 13,000 other low-cost clinics that offer more services and better care than Planned Parenthood, that would equal about one extra patient for each clinic every other day.<sup>xx</sup>



- There are more than 13,000 community health clinics, eligible for federal funds, that offer low-cost primary and preventive care clinics in America that are eligible for federal funds. Women can find one of these clinics at [GetYourCare.Org](http://GetYourCare.Org).<sup>xxi</sup>
- Planned Parenthood won't shut down if they lose federal tax dollars. They reported profits of 127 million in excess revenue in their 2013-2014 Annual Report.<sup>xxii</sup>

**Myth #12: 2.7 million women and men choose PP. Who are you to tell them to choose differently?**

**The Truth:**

- None of us would blink an eye terminating the Medicaid contract of a gynecologist under investigation for the sexual abuse of his female patients.
- We are simply making women aware that Planned Parenthood has a consistent record of NOT prioritizing women's health and safety: history of not reporting sexual abuse of minor girls, failing to comply with health and safety regulations, failure to follow informed consent laws, allowing women to die instead of properly obtaining necessary medical attention, aiding and abetting sex traffickers, altering abortion methods to harvest fetal tissue, etc.<sup>xxiii</sup>

**Myth #13: Planned Parenthood is "relentless" about screening for breast cancer.**

**The Truth:**

- Between 2006 and 2013, Planned Parenthood cut breast cancer screenings in half.
- During that same period, Planned Parenthood's revenues grew 28 percent and taxpayer funding increased by 57 percent.<sup>xxiv</sup>
- Planned Parenthood performs zero<sup>xxv</sup> mammograms, even though they receive \$127 million in excess, which could be used to purchase mammogram machines and license clinics to perform mammograms. Alliance Defending Freedom filed a Freedom of Information Act (FOIA) request with the Department of Health & Human Services and found that not one Planned Parenthood facility is licensed to perform mammograms.<sup>xxvi</sup>

**Myth #14: Planned Parenthood is needed to prevent the spread of STIs.**

**The Truth:**

- With more than 187,000 Medicaid providers, as well as thousands of community health clinics, that provide STI testing, there is simply no evidence that Planned Parenthood is essential to the prevention of STIs, or that STIs would spread if Planned Parenthood lost its taxpayer dollars. Those individuals have many other options for STI testing.



## **Defunding Planned Parenthood**

**Myth #15: If Congress terminates Planned Parenthood as a Medicaid provider because of the videos, it will be using a “guilty till proven innocent standard” and denying due process.**

### **The Truth:**

- By law, a Medicaid provider terminated for good cause must seek remedy from the administrative agency, and not the court. They have a full and fair opportunity to be heard by an administrative agency.
- The 9<sup>th</sup> Circuit upheld the termination of a Medicaid provider simply on the grounds that the provider was under investigation for fraud and abuse. *See Guzman v. Shewry*, 552 F.3d 941, 949 (9th Cir. 2009).

**Myth #16: According to the Congressional Budget Office (CBO), if Congress cuts federal funding to Planned Parenthood, it will cost the country \$130 million over 10 years.**

### **The Truth:**

- What the CBO actually said: defunding Planned Parenthood would be an immediate savings over the next year. Any cost to the federal government over a 10 year period is speculative, and relies on an assumption that women will not have access elsewhere to contraceptives they currently get from Planned Parenthood. [See page 3 of linked report.]<sup>xxvii</sup>
- We know that there are over 13,000 federally qualified health centers<sup>xxviii</sup> and rural health clinics in America, and at least 160,000 other Medicaid providers.<sup>xxix</sup> GetYourCare.Org<sup>xxx</sup> lists clinics where women can access contraceptive services and many other health services. These clinics outnumber Planned Parenthood 20:1 nationwide.

---

<sup>i</sup> See <http://ppfa.pr-optout.com/ViewAttachment.aspx?EID=mr9WXYw4u2IxYnni1dBRVk3HDyuhhkPMnFMCvK5fVC8%3d> (last visited Sept. 28, 2015).

<sup>ii</sup> See <http://www.centerformedicalprogress.org/2015/08/deconstructing-planned-parenthoods-failed-forensic-analysis-report/> (last visited Sept. 28, 2015).

<sup>iii</sup> See <http://www.mercyforanimals.org/investigations> (last visited Sept. 28, 2015).

<sup>iv</sup> See [http://www.huffingtonpost.com/2014/12/19/undercover-video-apple\\_n\\_6355182.html](http://www.huffingtonpost.com/2014/12/19/undercover-video-apple_n_6355182.html) (last visited Sept. 28, 2015).

<sup>v</sup> See <http://www.cbsnews.com/news/cbs-news-goes-undercover-in-a-bangladesh-clothing-factory/> (last visited Sept. 28, 2015).

<sup>vi</sup> See <https://www.lozierinstitute.org/history-of-fetal-tissue-research-and-transplants/> (last visited Sept. 28, 2015).

<sup>vii</sup> See <http://www.dshs.state.tx.us/chs/vstat/vs12/t14a.shtm> (last visited Sept. 28, 2015).



- 
- viii See <http://www.dshs.state.tx.us/chs/vstat/vs13/t14a.aspx> (last visited Sept. 28, 2015).
- ix See <http://dailysignal.com/2015/08/17/planned-parenthood-loses-government-funding-heres-map-health-clinics-take-place/> (last visited Sept. 28, 2015).
- x See <http://www.aul.org/wp-content/uploads/2015/01/Abortion-Inc.pdf> (last visited Sept. 28, 2015).
- xi See <http://www.aul.org/wp-content/uploads/2015/06/mega-center-release-graphic.jpg> (last visited Sept. 28, 2015).
- xii See <http://www.aul.org/wp-content/uploads/2015/01/Abortion-Inc.pdf> (last visited Sept. 28, 2015).
- xiii See <http://www.plannedparenthood.org/about-us/annual-report> (last visited Sept. 28, 2015).
- xiv See <http://www.aul.org/wp-content/uploads/2015/01/Abortion-Inc.pdf> (last visited Sept. 28, 2015).
- xv See <http://www.aul.org/wp-content/uploads/2015/01/Abortion-Inc.pdf> (last visited Sept. 28, 2015).
- xvi See <https://adflegal.blob.core.windows.net/web-content-dev/site-assets/final-national-map-1.png?sfvrsn=8> (last visited Sept. 28, 2015).
- xvii See <http://getyourcare.org/> (last visited Sept. 28, 2015).
- xviii See <https://adflegal.blob.core.windows.net/web-content-dev/site-assets/health-services-offered-by-fqhcs.jpg?sfvrsn=2> (last visited Sept. 28, 2015).
- xix See <https://www.plannedparenthood.org/health-center/> (last visited Sept. 28, 2015).
- xx See <https://www.plannedparenthood.org/about-us/who-we-are/planned-parenthood-at-a-glance> (last visited Sept. 28, 2015).
- xxi See <http://getyourcare.org/> (last visited Sept. 28, 2015).
- xxii See [http://issuu.com/actionfund/docs/annual\\_report\\_final\\_proof\\_12.16.14\\_/0](http://issuu.com/actionfund/docs/annual_report_final_proof_12.16.14_/0) (last visited Sept. 28, 2015).
- xxiii See <http://www.adfmedia.org/files/PlannedParenthoodSexAbuseSummary.pdf> (last visited Sept. 28, 2015).
- xxiv See <http://www.aul.org/wp-content/uploads/2015/01/Abortion-Inc.pdf> (last visited Sept. 28, 2015).
- xxv See <https://adflegal.blob.core.windows.net/web-content-dev/site-assets/pp-map.jpg?sfvrsn=2> (last visited Sept. 28, 2015).
- xxvi See <http://www.adfmedia.org/files/DOC702.pdf> (last visited Sept. 28, 2015).
- xxvii See <https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/costestimate/ltrpermanentdefundplannedparenthood.pdf> (last visited Sept. 28, 2015).
- xxviii See <https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/mlnProducts/Downloads/rhclistbyprovidername.pdf> (last visited Sept. 28, 2015).
- xxix See <https://www.cms.gov/Regulations-and-guidance/legislation/EHRIncentivePrograms/DataAndReports.html> (last visited Sept. 28, 2015).
- xxx See <http://getyourcare.org/> (last visited Sept. 28, 2015).

# Exhibit

# C

## Planned Parenthood Expenditures on Fundraising, by Affiliate (FY2014)

(Information gathered by viewing affiliates' 990s)



| Planned Parenthood Affiliate:   | Total Fundraising Expenses (FY 2014) |
|---|--------------------------------------|
| Planned Parenthood Federation of America  | \$ 23,939,978.00                     |
| Planned Parenthood Southeast  | \$ 409,926.00                        |
| Planned Parenthood of the Great Northwest   |                                      |
| Planned Parenthood Arizona  | \$ 450,435.00                        |
| Planned Parenthood of the Heartland   |                                      |
| Planned Parenthood of Greater Memphis Region                                      | \$ 206,059.00                        |
| State Public Affairs Office: Planned Parenthood Affiliates of California          |                                      |
| Planned Parenthood Los Angeles  | \$ 1,558,685.00                      |
| Planned Parenthood Mar Monte  |                                      |
| Planned Parenthood of Orange & San Bernardino Counties, Inc.                      | \$ 729,736.00                        |
| Planned Parenthood Pasadena and San Gabriel Valley, Inc.                          | \$ 328,877.00                        |
| Planned Parenthood of the Pacific Southwest                                       |                                      |
| Planned Parenthood of Santa Barbara, Ventura & San Luis Obispo Counties, Inc.     | \$ 501,799.00                        |
| Planned Parenthood Shasta Pacific   | COULDN'T FIND 990                    |
| Six Rivers Planned Parenthood   | \$ 142,472.00                        |
| Planned Parenthood of the Rocky Mountains   |                                      |
| Planned Parenthood of Southern New England, Inc.                                  | \$ 1,415,672.00                      |
| Planned Parenthood of Delaware  | \$ 222,521.00                        |
| Planned Parenthood of Metropolitan Washington, D.C., Inc.                         |                                      |
| State Public Affairs Office: Florida Association of Planned Parenthood Affiliates |                                      |
| Planned Parenthood of Collier County  | \$ 243,608.00                        |
| Planned Parenthood of Greater Orlando   |                                      |
| Planned Parenthood of North Florida   |                                      |
| Planned Parenthood of South Florida and the Treasure Coast, Inc.                  |                                      |
| Planned Parenthood of Southwest and Central Florida, Inc.                         |                                      |
| Planned Parenthood of Greater Washington and North Idaho                          |                                      |
| Planned Parenthood of Illinois  | \$ 1,364,566.00                      |
| Planned Parenthood of the St. Louis Region  | \$ 720,347.00                        |
| Planned Parenthood of Indiana and Kentucky, Inc.                                  | \$ 520,093.00                        |
| State Public Affairs Office: Iowa Planned Parenthood Affiliate League             |                                      |
| Planned Parenthood of the Heartland, Inc.   |                                      |
| Planned Parenthood of Kansas and Mid-Missouri                                     |                                      |
| Planned Parenthood Southwest Ohio Region  | \$ 422,256.00                        |
| Planned Parenthood Gulf Coast, Inc.   | \$ 724,761.00                        |
| Planned Parenthood of Northern New England  |                                      |
| Planned Parenthood of Maryland, Inc.  |                                      |
| State Public Affairs Office: Planned Parenthood Affiliates of Michigan            |                                      |

|   |                         |
|---|-------------------------|
| Planned Parenthood of West and Northern Michigan  |                         |
| Planned Parenthood Mid and South Michigan   | \$ 579,612.00           |
| Planned Parenthood of Minnesota, North Dakota, South Dakota   |                         |
| Planned Parenthood of Montana, Inc. (as appears on website. 990 says "Intermountain of Planned Parenthood") | \$ 395,533.00           |
| State Public Affairs Office: Planned Parenthood Affiliates of New Jersey                                    |                         |
| Planned Parenthood Association of the Mercer Area   |                         |
| Planned Parenthood of Central and Greater Northern New Jersey, Inc.   |                         |
| Planned Parenthood of Metropolitan New Jersey   |                         |
| Planned Parenthood of Southern New Jersey   |                         |
| State Public Affairs Office: Family Planning Advocates of New York State                                    |                         |
| Planned Parenthood of Central and Western New York  |                         |
| Planned Parenthood Hudson Peconic, Inc.   |                         |
| Planned Parenthood of New York City   |                         |
| Planned Parenthood of the North Country New York, Inc.  | \$ 185,799.00           |
| Planned Parenthood of the Southern Finger Lakes   |                         |
| Upper Hudson Planned Parenthood, Inc.   |                         |
| Planned Parenthood South Atlantic   | \$ 1,214,654.00         |
| State Public Affairs Office: Planned Parenthood Affiliates of Ohio  |                         |
| Planned Parenthood of Greater Ohio  |                         |
| State Public Affairs Office: Planned Parenthood Advocates of Oregon   |                         |
| Planned Parenthood of Southwestern Oregon   |                         |
| Planned Parenthood Of The Columbia Willamette Inc   | \$ 713,352.00           |
| State Public Affairs Office: Planned Parenthood Pennsylvania Advocates                                      |                         |
| Planned Parenthood Keystone   |                         |
| Planned Parenthood of Western Pennsylvania  |                         |
| Planned Parenthood of Southeastern Pennsylvania   | \$ 682,740.00           |
| Planned Parenthood of Southern New England  | \$ 1,415,672.00         |
| Planned Parenthood Greater Memphis Region   | \$ 206,059.00           |
| Planned Parenthood of Middle and East Tennessee, Inc.   | \$ 126,621.00           |
| State Public Affairs Office: Texas Association of Planned Parenthood Affiliates                             |                         |
| Planned Parenthood Cameron County   |                         |
| Planned Parenthood of Greater Texas   |                         |
| Planned Parenthood South Texas  |                         |
| Planned Parenthood Association of Utah  | \$ 125,265.00           |
| State Public Affairs Office: Planned Parenthood Advocates of Virginia                                       |                         |
| Virginia League for Planned Parenthood  | \$ 192,807.00           |
| State Public Affairs Office: Planned Parenthood Public Policy Network of Washington                         |                         |
| Mt. Baker Planned Parenthood  |                         |
| Planned Parenthood of Wisconsin, Inc.   |                         |
| <b>Totals:</b>  | <b>\$ 39,739,905.00</b> |

# Exhibit

# D

Planned Parenthood Federation of America

August 27, 2015

The Honorable John A. Boehner  
Speaker  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Mitch McConnell  
Majority Leader  
U.S. Senate  
Washington, DC 20510

The Honorable Nancy Pelosi  
Minority Leader  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Harry Reid  
Minority Leader  
U.S. Senate  
Washington, DC 20510

Dear Speaker Boehner, Leader McConnell, Leader Pelosi, and Leader Reid:

In the last month, Planned Parenthood has been the focus of extensive discussion and scrutiny for our role in fetal tissue research.

Four committees in the Senate and House are currently investigating allegations against Planned Parenthood. The Senate has already held a vote on an effort to strip federal funding from Planned Parenthood, and the House of Representatives may hold a similar vote in September. Several Senators and House members, as well as some Republican Presidential candidates, are advocating shutting down the federal government unless Planned Parenthood is defunded.

We obviously take this matter very seriously. We also agree with Speaker Boehner's view that Congress should get the "facts first" because "the more we learn, the more it will educate our decisions."<sup>1</sup>

I am writing today because we are doing as much as we can to collect the facts and share them with you. We are also cooperating with the House and Senate committees that have requested relevant information from us.

In this letter, I will provide background on the bipartisan 1993 law on fetal tissue research, Planned Parenthood's role in this research, and what we are doing in response to questions that have been raised over the last month. I will also share what we know about anti-abortion extremist David Daleiden and the organizations that spent nearly three years infiltrating our affiliates and trying to entrap our staff into potentially illegal conduct, including the results of a forensic analysis of the doctored videos.

---

<sup>1</sup> "Boehner Wants 'Facts First' Before Defunding Planned Parenthood," The Hill (July 23, 2015).

While I am providing a lot of information in this letter, it is especially important to highlight three points.

First, Planned Parenthood adheres to the highest standards and follows all laws.

Second, Planned Parenthood is proud to have a role in fetal tissue research. Overwhelming bipartisan majorities in both the House and Senate recognized the value of this medical research when Congress passed the NIH Revitalization Act of 1993, and it has led to life-saving discoveries that are helping millions of Americans.

Third, our affiliates' involvement in fetal tissue research is a miniscule part of the work of Planned Parenthood. Despite a deliberate and systematic effort to distort our role, only two of 59 Planned Parenthood affiliates are currently involved with fetal tissue research.

Our affiliates operate health centers, which is where we provide health services to millions of women and men every year. Of the hundreds of health centers that are part of the Planned Parenthood network, just 1% are involved with fetal tissue research.

The attacks on us have the intended purpose of making it appear that fetal tissue research is an enormous focus of Planned Parenthood. But the simple fact is that 99% of our health centers have no involvement in this work. Women who visit our affiliates regularly express a desire to donate tissue from their abortion. But whether because researchers have not requested tissue from the local affiliate or because the local affiliate has chosen not to participate, very few of our health centers offer women this opportunity.

For the few centers that are involved with fetal tissue research, there is absolutely no indication they have deviated from the law or done anything inappropriate. In fact, despite Mr. Daleiden's three-year effort to entrap Planned Parenthood, he failed to succeed in convincing even a single affiliate to enter into a procurement contract with his fake company.

Even though our work involving fetal tissue research is a small part of what Planned Parenthood does, we are committed to continual improvement and meeting the highest medical and ethical standards in all we do, including facilitating tissue donations. I have asked our senior medical leadership to conduct a review of the policies and practices that guide the affiliates that offer tissue donation services and our oversight of these activities. If this review identifies ways we can improve our practices while staying true to our core mission, we will promptly implement them. Furthermore, because the current debate has been marked by considerable confusion over what fetal tissue research is and what rules apply or should apply, I have written to the Director of the National Institutes of Health to suggest that he consider convening an expert panel on fetal tissue research.<sup>2</sup>

---

<sup>2</sup> Letter from Cecile Richards, President of Planned Parenthood Federation of America, to Francis Collins, Director of the National Institutes of Health (July 29, 2015).

## Federal Law on Fetal Tissue Research

The federal law on fetal tissue research was shaped by a blue-ribbon panel created in 1988 under the Reagan Administration. Arlin Adams, a retired federal judge opposed to abortion, chaired the panel, which was called the Human Fetal Tissue Transplantation Research Panel. Although the panel's charge – to evaluate the ethics of research involving fetal tissue – was controversial, Judge Adams led the panel to a broad consensus. Its final report stated: “a decisive majority of the panel found that it was acceptable public policy to support transplant research with fetal tissue.”<sup>3</sup>

The panel separated the question of the ethics of abortion, about which the panel members had differing views, from the question of the ethics of using fetal tissue from legal elective abortions for medical research. The panel supported fetal tissue research for two primary reasons: (1) “abortion is legal” and “would occur regardless” of the use of fetal tissue in research and (2) “the research in question is intended to achieve significant medical goals.”<sup>4</sup> The panel then made a series of recommendations to ensure that any research followed appropriate guidelines.

The panel recommended that “the decision and consent to abort must precede discussion of the possible use of fetal tissue” so that “a woman's abortion decision would be insulated from inducements to abort to provide tissue for transplant research and therapy.”<sup>5</sup> The panel recommended prohibiting “payments ... associated with the procurement of fetal tissue ... except payment for reasonable expenses” so that there would be “no offer of financial incentives or personal gain to encourage abortion or donation of fetal tissue.”<sup>6</sup> And the panel recommended that “no abortion should be put off to a later date nor should any abortion be performed by an alternate method entailing greater risk to the pregnant woman in order to supply more useful fetal materials for research.”<sup>7</sup>

The panel's work won broad bipartisan support. In 1993, Congress overwhelmingly passed the NIH Health Revitalization Act, which codified the key recommendations of the panel into law. As you know, three of you – Senate Majority Leader McConnell, Senate Minority Leader Reid, and House Minority Leader Pelosi – all voted for the legislation. The final vote was 93 to 4 in the Senate and 290 to 130 in the House.

The law has two main provisions. One section (42 U.S.C. 289g-1) addresses federally funded research on “the transplantation of human fetal tissue for therapeutic purposes.” Under this section, the medical researcher must obtain a statement from the attending physician declaring that the consent of the woman for the abortion was obtained prior to the consent for the fetal tissue donation and that there was no alteration of the timing, method, or abortion procedure solely for purposes of obtaining the tissue.

---

<sup>3</sup> Report of the Human Fetal Tissue Research Panel, p. 2 (December 1988).

<sup>4</sup> Report of the Human Fetal Tissue Research Panel, pp. 1-2 (December 1988).

<sup>5</sup> Report of the Human Fetal Tissue Research Panel, pp. 2-3 (December 1988).

<sup>6</sup> Report of the Human Fetal Tissue Research Panel, p. 2 (December 1988).

<sup>7</sup> Report of the Human Fetal Tissue Research Panel, p. 14 (December 1988).

The other provision (42 U.S.C. 289g-2) prohibits the acceptance of any payment for a fetal tissue donation other than “reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue.”

Under both laws, “human fetal tissue” is defined narrowly to mean “tissue or cells obtained from a dead human embryo or fetus” after an abortion or stillbirth.

### **Planned Parenthood’s Limited Involvement in Fetal Tissue Research**

Planned Parenthood is the nation’s leading provider of reproductive health care services for women. We are also an important provider of primary and preventive health care for men and young people. Each year, our health centers provide high quality, affordable birth control, lifesaving cancer screenings, testing and treatment for sexually transmitted infections, and other essential care to 2.7 million patients. One in five women in the United States has visited a Planned Parenthood health center at least once in her life.

We are also a trusted provider of education and information on reproductive health. Every year, 1.5 million youth and adults participate in our educational programs. We currently average 6 million visits a month on our web sites where health care information is readily available in English and Spanish.

Planned Parenthood uses an affiliate structure. **The national organization, Planned Parenthood Federation of America, establishes policies and accreditation standards for our 59 legally independent affiliates.** The affiliates operate nearly 700 health centers across the country, which provide our health care services.

Planned Parenthood **distinguishes between two types of services.** Core services are those that every affiliate is required to provide. They include birth control, breast exams, pregnancy testing, abortions, identifying and treating sexually transmitted infections, and other essential health services. Optional services are those that affiliates can elect to provide. **Offering women the opportunity to donate post-abortion tissue for research is an optional service.**

In fact, not only are affiliates not required to be involved with tissue research, very few are. Our doctors report that women regularly ask whether they can donate their tissue for medical research. But the vast majority of our affiliates do not offer this service. In some instances, this may reflect the affiliate’s considered decision. In many others, local research institutions simply have not requested tissue donations.

Our few participating affiliates can offer tissue donation services in two ways: through tissue procurement organizations (TPOs) which have been the focus of the recent public debate, or as partners or participants in research studies being conducted by major research programs connected to some of our nation’s most prestigious universities, medical schools, and research laboratories.

Today, only one affiliate (in California) is involved with fetal tissue research working through a TPO. That affiliate also has a separate relationship with the University of California.

A second affiliate is involved with fetal tissue research working with the University of Washington. Altogether, the health centers at the affiliates involved with fetal tissue research represent 1% of our centers. Stated the other way, 99% of our health centers do not offer women the opportunity to be involved with fetal tissue research.<sup>8</sup>

When Mr. Daleiden released the first doctored video on July 14, four additional affiliates in California were involved with fetal tissue research. For varying reasons, these affiliates are not doing so presently. One affiliate suspended its program after receiving security threats prompted by Mr. Daleiden's video. Two others had their contracts with a TPO featured in Mr. Daleiden's videos cancelled because of the controversy. The fourth affiliate was working with a research laboratory that had been undergoing renovations and has postponed restarting until the renovations are complete.

At this point, we are aware of no additional affiliates beyond those described above that are involved with fetal tissue research over the last five years.<sup>9</sup> We will continue to make our best efforts to make sure our current understanding is comprehensive.

### Compliance with Federal Requirements

As mentioned above, federal law restricts the reimbursement that Planned Parenthood can receive when it facilitates a fetal tissue donation. Our guidance to our affiliates reflects this requirement, stating:

Federal law prohibits the payment or receipt of money or any other form of valuable consideration for fetal tissue, regardless of whether the program to which the tissue is being provided is federally funded or not. There are limited exceptions that allow reimbursement for actual expenses (e.g. storage, processing, transportation, etc.) of the tissue. If an affiliate chooses to accept reimbursement for allowable expenses, it must be able to demonstrate the reimbursement represents its actual costs.<sup>10</sup>

Our affiliates involved with fetal tissue research comply with this requirement. The California affiliate receives a modest reimbursement of \$60 per tissue specimen from the TPO, and the Washington affiliate receives no reimbursement. The four other affiliates whose programs ended after the release of the videos received lesser but comparable amounts. The affiliate working with the research laboratory received no reimbursement. The others received reimbursements from TPOs ranging from \$45 to \$55 per tissue specimen. In every case, the

---

<sup>8</sup>We have one affiliate, located in Oregon, that has a relationship with researchers at the Oregon Health & Sciences University who are studying placental tissue, not fetal tissue. The affiliate provides OHSU with post-abortion tissue from which the researchers extract the placental tissue they are studying. We did not count this affiliate as one that is involved with fetal tissue research because the OHSU researchers are not engaged in fetal tissue research. If we count this affiliate, that does not change the fact that just 1% of our centers are currently involved with this research.

<sup>9</sup> We are aware of four additional affiliates that at some time over the past five years provided donations of post-abortion tissue to support medical research. These include an affiliate in Texas and the affiliate in Colorado that have been included in videos released by Mr. Daleiden. All of these affiliates had arrangements with research universities, not with TPOs, where the research focused on placental or decidual tissue, not fetal tissue.

<sup>10</sup> Planned Parenthood, Programs for Donation of Blood and/or Aborted Pregnancy Tissue for Medical Research (May 2015).

affiliates report that these amounts were intended to recover only their costs, as allowed under the federal law and our guidance.

The other provision of federal law applicable to fetal tissue research has a narrow scope: it applies only to research funded by the Department of Health and Human Services into “the transplantation of human fetal tissue for therapeutic purposes.”<sup>11</sup> This month, the Department stated in a letter to Congress that the Department “has not funded or conducted this specific type of research involving fetal tissue in recent years.”<sup>12</sup> The federal rules relating to consent and timing and method of abortion when the donated tissue is used for federally funded fetal transplantation research are therefore not applicable to any recent fetal tissue donations in the United States.

While the federal consent, timing, and method requirements apply only to federally funded fetal transplantation research, which no longer occurs, Planned Parenthood has voluntarily included the substance of the federal requirements in our guidance. Specifically, our guidance provides that there be “no substantive alteration in the timing of terminating the pregnancy or of the method used was made for the purpose of obtaining the blood and/or tissue.”<sup>13</sup> Moreover, we apply this guidance not only to fetal tissue donations, but to donations of any post-abortion tissue, including placental and decidual tissue. We have taken these steps because we are committed to following the highest medical and ethical standards.

It is important to clarify our guidance on this point. There are only a few methods of abortion: (1) for early abortions, generally, the methods are medication abortion or surgical abortion involving mechanical or manual aspiration and (2) for abortions occurring from approximately 13 weeks gestation, the methods are dilation and extraction (D&E), induction of labor, or in very rare instances hysterotomy. At Planned Parenthood health centers, neither inductions nor hysterotomies are available. A decision about the method to be used is made by the physician in consultation with the woman, taking into account the relevant variables that would bear on that decision.

In performing the selected method, a physician may need to make multiple adjustments to the method as the surgery proceeds. These adjustments are clinical judgments – not a change of method – made by the physician as the abortion proceeds and are always intended to achieve the woman’s desired result as safely as possible. The key point, as the 1988 blue-ribbon commission recognized, is that there be no change that would impact the safety or well-being of the patient. The same principle applies in deliveries, where physicians will often make adjustments to facilitate the collection of cord blood if the patient wants to retain or donate this blood. Our understanding, however, is that even adjustments that facilitate fetal tissue donations rarely occur at our few clinics that offer women this service.

---

<sup>11</sup> 42 U.S.C. 289g-1.

<sup>12</sup> Letter from Jim Esquea, Assistant Secretary for Legislation at the Department of Health and Human Services, to Senators Joni Ernst and Roy Blunt (August 14, 2015).

<sup>13</sup> Planned Parenthood, Programs for Donation of Blood and/or Aborted Pregnancy Tissue for Medical Research (May 2015).

What is essential is that in every instance, the physician's focus is on the woman's health because our patients' health is our paramount concern.

### **The Activities of David Daleiden**

Finally, I want to share information with you about the outrageous activities of anti-abortion activist David Daleiden. Mr. Daleiden and his associates have sought to infiltrate Planned Parenthood affiliates and unsuccessfully to entrap Planned Parenthood physicians and staff for nearly three years. It is clear they acted fraudulently and unethically – and perhaps illegally. Yet it is Planned Parenthood, not Mr. Daleiden, that is currently subject to four separate congressional investigations.

Mr. Daleiden's efforts began nearly three years ago with the creation of a fictitious tissue procurement company called Biomax Procurement Services and subsequently a nonprofit called the Center for Medical Progress. According to media reports and analyses by nonprofit organizations, Mr. Daleiden and his associates may have violated many laws, including federal tax laws by misrepresenting the Center for Medical Progress as a biomedicine or bioengineering organization in its application for nonprofit status;<sup>14</sup> California criminal laws that prohibit forgery, fraud, and perjury by creating fake driver licenses or obtaining official licenses fraudulently;<sup>15</sup> California's Invasion of Privacy Act by recording individuals without consent;<sup>16</sup> and California's penal code by making false charitable solicitations.<sup>17</sup> One group says there is also evidence that they may have violated California's law against impersonation and federal and California laws against credit card fraud by stealing the identity of the president of the feminist club at Mr. Daleiden's high school.<sup>18</sup> Indeed, just last week, Mr. Daleiden's attorneys advised a federal district court that he intends to invoke his Fifth Amendment right to refrain from self-incrimination in response to discovery sought by the National Abortion Federation in its lawsuit alleging that Mr. Daleiden and his co-conspirators violated federal and state laws.<sup>19</sup>

We know that the videos Mr. Daleiden has released were deceptively edited to smear Planned Parenthood. They omit exculpatory passages and splice excerpts together to create false impressions. The videos have been denounced as "a total crock,"<sup>20</sup> "distorted ... and unfair,"<sup>21</sup> "dishonest,"<sup>22</sup> "grossly misleading and politically irresponsible,"<sup>23</sup> and "swift boating"<sup>24</sup> in editorials across the country.

---

<sup>14</sup> "Group Behind Planned Parenthood Sting Video May Have Tricked IRS, Donors," Huffington Post (July 17, 2015).

<sup>15</sup> "The Faces and Fake Names of People Behind Planned Parenthood Attack Videos," RH Reality Check (July 28, 2015).

<sup>16</sup> "Does the Planned Parenthood Video Violate State Recording Laws," MSNBC (July 16, 2015).

<sup>17</sup> Letter from Brad Woodhouse, President of American Democracy Legal Fund, to Kamala Harris, California Attorney General (July 21, 2015).

<sup>18</sup> "The Faces and Fake Names of People Behind Planned Parenthood Attack Videos," RH Reality Check (July 28, 2015).

<sup>19</sup> Civil Minutes, National Abortion Federation v. Center for Medical Progress (case no. 15-cv-03522-WHO) (August 21, 2015) (available online at <http://prochoice.org/wp-content/uploads/2015-08-21-78-Civil-Minutes.pdf>).

<sup>20</sup> "Undercover Sting of Planned Parenthood is Off Base, As Usual," Los Angeles Times (July 16, 2015).

<sup>21</sup> "Stop the Vendetta Against Planned Parenthood," Washington Post (July 31, 2015).

<sup>22</sup> "The Campaign of Deception Against Planned Parenthood," New York Times (July 22, 2015).

Our analysis of the videos released by Mr. Daleiden documents numerous instances where the videos have been heavily edited to change the meaning of what Planned Parenthood staff said and deceive the public. The first five short videos he released have at least 47 splices where content is edited out but the conversation appears seamless. Critical context is omitted, including Planned Parenthood staff members repeatedly saying that there is no “profit” from tissue donation and should not be, that tissue donation programs must follow the law, and that substantial changes to medical procedures would not occur. Quotes are attributed to Planned Parenthood staff members with no audio evidence that the quote was actually made at the time it appears in the video. Among these is one discredited, provocative quote that the Washington Post used in an editorial and about which it later issued a correction.

The first video received the most attention. We know from the longer version of the video that Dr. Deborah Nucatola at least ten times explained that Planned Parenthood affiliates do not profit from fetal tissue donation, making statements such as: “affiliates are not looking to make money by doing this. They’re looking to serve their patients and just make it not impact their bottom line.” Yet none of the highly relevant and exculpatory passages were included in the edited video excerpt that Mr. Daleiden initially released to national media.

The other videos are similarly distorted. Dr. Savita Ginde of our Colorado affiliate repeatedly told the Biomax representative that legal counsel would have to review any contract with Biomax. These references were consistently deleted from the video excerpt Mr. Daleiden released. **Indeed, legal counsel did in fact review the proposed Biomax contract and objected to its terms because they did not comply with federal law.**

Because of these significant distortions and omissions, we contracted with a research firm which engaged the services of a video forensics expert, a television producer, and an independent transcription agency. These experts concluded that the videos – even the alleged “full footage” videos – do not present a complete or accurate record of the events they purport to depict.<sup>23</sup> Their review revealed that Mr. Daleiden edited content out of the alleged “full footage” videos, heavily edited the short videos so as to misrepresent statements made by Planned Parenthood representatives, and produced transcripts with substantive omissions or edits.

Forensic video analysis revealed that each of the four “full footage” videos contained intentional edits that removed content from the middle of the videos, including approximately 30 minutes of missing footage from the recordings featuring staff at our Colorado and Texas affiliates. Analysis of the transcripts released by Mr. Daleiden revealed that one transcript includes over 4,000 words that do not appear in the video or the independent transcript.

With respect to the short videos, the forensic review confirmed dozens of misleading edits, cuts, and splices designed to alter the meaning of the underlying dialogue.

---

<sup>23</sup> “Videos About Planned Parenthood are Grossly Misleading,” San Jose Mercury News (July 27, 2015).

<sup>24</sup> “The Truth About Planned Parenthood,” Michigan Public Radio (July 28, 2015).

<sup>25</sup> Fusion GPS CMP Analysis (August 25, 2015).

This review ultimately concluded that the manipulation of the videos and the transcripts means they have no evidentiary value in a legal context and cannot be relied upon for any official inquiries unless supplemented by the original video in unaltered form. I have enclosed the report of the forensic analysis with this letter.

While the edited videos are replete with distortions and selective editing, it is what is missing from the videos that is most important: any credible evidence that Planned Parenthood has done anything wrong. All of Mr. Daleiden's efforts to entrap our affiliates into potentially illegal contracts failed. In fact, there is no evidence in any of the videos that our affiliates have ever received anything more than reimbursement for their reasonable costs, as the law permits.

Fifteen years ago, a congressional committee launched a similar investigation into allegations that Planned Parenthood centers sold fetal tissue. Like the current investigations, this investigation was prompted by video from a hidden camera and statements from an anti-abortion extremist claiming to have witnessed large-scale violations of federal law. At the congressional hearing, questioning revealed multiple contradictions in the testimony of the star witness. When the witness recanted his most inflammatory claims, a Republican committee member stated, "I found there to be so many inconsistencies in your testimony ... your credibility, as far as this member is concerned, is shot."<sup>26</sup> Roll Call reported in an article entitled "Fetal Tissue Hearing Thrown into Chaos" that the members were "left pointing fingers over who was to blame for [the] botched hearing ... after the panel's star witness left with his credibility in tatters."<sup>27</sup>

Already five states – South Dakota, Georgia, Indiana, Massachusetts, and Pennsylvania – have conducted investigations and cleared Planned Parenthood of any wrongdoing.<sup>28</sup> We are confident that as additional states complete their investigations and as the congressional committees carry out their oversight activities, the facts will once again fully vindicate Planned Parenthood and indict those who are seeking to distort the facts and smear our reputation.

### Conclusion

I respectfully ask that you put yourselves in our place. Imagine if a group of individuals tried for several years to secretly film your offices, obtaining fraudulent identification to gain access to restricted areas, creating a fictitious company to deceive your staff, and misleading the IRS in an application for nonprofit status. Imagine if they released selectively edited videos of excerpted and manipulated conversations involving your staff aimed at creating the worst impression possible. And imagine if they edited the videos so context was lost, exculpatory statements were omitted, and statements were stitched together out of sequence to create a fraudulent impression.

---

<sup>26</sup> Hearing before the Subcommittee on Health and Environment, Committee on Commerce, U.S. House of Representatives, "Fetal Tissue: Is it Being Sold In Violation of Federal Law?" 106<sup>th</sup> Congress (March 9, 2000).

<sup>27</sup> "Fetal Tissue Hearing Thrown into Chaos," Roll Call (March 13, 2000).

<sup>28</sup> "Indiana Clears Planned Parenthood of Wrongdoing After Videos," Associated Press (July 30, 2015); "Health Department: No Evidence of Fetal Tissue Sale in State," KDLT News (August. 12, 2015); "Planned Parenthood 'fully compliant with law, Healy says,'" The Boston Globe (July 29, 2015); ); "Georgia Abortion Clinics Follow Law on Fetal Remains, State Says," Atlanta Journal Constitution (August. 12, 2015); "PA Inquiry Clears Planned Parenthood," Philadelphia Inquirer (August. 22, 2015).

That's exactly what has happened to Planned Parenthood. And in our case, four congressional committees have launched investigations into our conduct – and none are investigating the person behind this fraud.

We are also facing votes to defund our entire organization even though 99% of our health centers do not participate in tissue donations and all of them comply with all laws and provide essential health services to women and men.

While our involvement with fetal tissue research is a small component of Planned Parenthood, it offers the potential of life-saving research. Earlier this month, the Department of Health and Human Services wrote Congress that “fetal tissue continues to be a critical resource for important efforts such as research on degenerative eye disease, human development disorders such as Down syndrome, and infectious diseases, among a host of other diseases.”<sup>29</sup> We stand behind our affiliates that contribute to these efforts to discover medical breakthroughs.

As I wrote to NIH Director Collins, if changes to the nation's fetal tissue laws are to be considered, they should be guided by the deliberations of a new blue ribbon panel. The sensationalistic atmosphere the doctored videos seek to create is exactly the opposite of the reasoned and deliberate process President Reagan set in motion with the Human Fetal Tissue Transplantation Research Panel. The videos mislead rather than inform the public debate.

I hope this letter will help put us on a different path by clarifying the facts and demonstrating our commitment to providing the highest level of compassionate care to the millions of women and men we serve.

Sincerely,

*Cecile Richards*

Cecile Richards  
President  
Planned Parenthood Federation of America

CC:  
The Honorable Charles E. Grassley, Chairman  
Senate Judiciary Committee

The Honorable Patrick J. Leahy, Ranking Member  
Senate Judiciary Committee

---

<sup>29</sup> Letter from Jim Esquea, Assistant Secretary for Legislation at the Department of Health and Human Services, to Senators Joni Ernst and Roy Blunt (August 14, 2015).

The Honorable Robert W. Goodlatte, Chairman  
House Judiciary Committee

The Honorable John Conyers Jr., Ranking Member  
House Judiciary Committee

The Honorable Fred Upton, Chairman  
House Energy and Commerce Committee

The Honorable Frank Pallone, Jr., Ranking Member  
House Energy and Commerce Committee

The Honorable Tim Murphy, Chairman  
Subcommittee on Oversight and Investigations

The Honorable Diana DeGette, Ranking Member  
Subcommittee on Oversight and Investigations

The Honorable Jason Chaffetz, Chairman  
House Oversight and Government Reform Committee

The Honorable Elijah E. Cummings, Ranking Member  
House Oversight and Government Reform Committee

# Exhibit

**E**



September 22, 2015

Honorable Kevin McCarthy  
Majority Leader  
U.S. House of Representatives  
Washington, DC 20515

*Re: Budgetary Effects of Legislation That Would Permanently Prohibit the Availability of Federal Funds to Planned Parenthood*

Dear Mr. Leader:

On September 16, 2015, CBO transmitted a cost estimate for H.R. 3134, the Defund Planned Parenthood Act of 2015, as introduced on July 21, 2015. H.R. 3134 would prohibit federal funding from being made available to Planned Parenthood Federation of America or any of its affiliates or clinics for a one-year period following enactment, unless such entities certify that the affiliates or clinics will not perform, and will not provide any funds to any other entity that performs, an abortion during such period. CBO estimates that enacting H.R. 3134 would reduce direct spending by \$235 million over the 2016-2025 period.

At the request of your staff, CBO has estimated the effect on direct spending of legislation that would *permanently* prohibit Planned Parenthood from receiving federal funds. CBO estimates that implementing such a bill would increase direct spending by \$130 million over the 2016-2025 period. The difference in the estimated costs reflects the different time periods over which use of federal funds would be prohibited.

Under both policies the effects of the legislation on federal spending are highly uncertain and would depend largely on the extent to which individuals who otherwise would obtain Medicaid-funded services from Planned Parenthood would either:

- Continue to obtain services from Planned Parenthood without Medicaid reimbursement;
- Obtain services from other health clinics and medical practitioners that receive Medicaid reimbursement; or,
- No longer obtain such services.

**Estimated Cost to the Federal Government of Permanently Prohibiting Federal Funding for Planned Parenthood**

The estimated budgetary impact of permanently prohibiting federal funding for Planned Parenthood is shown in the following table. For this estimate, CBO assumed that such legislation will be enacted near the end of calendar year 2015.

|                                   | By Fiscal Year, in Millions of Dollars |      |      |      |      |      |      |      |      |      | 2016- | 2016- |
|-----------------------------------|--|------|------|------|------|------|------|------|------|------|-------|-------|
|                                   | 2016                                   | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2020  | 2025  |
| <b>CHANGES IN DIRECT SPENDING</b> |  |      |      |      |      |      |      |      |      |      |       |       |
| Estimated Budget Authority        | -235                                   | 10   | 65   | 50   | 40   | 40   | 40   | 40   | 40   | 40   | -70   | 130   |
| Estimated Outlays                 | -235                                   | 10   | 65   | 50   | 40   | 40   | 40   | 40   | 40   | 40   | -70   | 130   |

Based on information from a variety of government and private sources, CBO estimates that Planned Parenthood receives approximately \$450 million annually in federal funds. Of that amount, roughly \$390 million is provided through the Medicaid program and less than \$1 million is provided through the Children’s Health Insurance Program and the Medicare program combined. The remaining amount, approximately \$60 million, is provided through the National Family Planning Program, which operates under Title X of the Public Health Service Act (commonly referred to as Title X). Funding for that latter program is subject to appropriation.

**Direct Spending**

The budgetary effects of a bill that would permanently prohibit federal funding from being made available to Planned Parenthood depend mostly on whether Planned Parenthood would continue providing services without Medicaid reimbursement and if so for how many years it would continue to do so. CBO estimates that federal funds accounted for about one-third of Planned Parenthood’s total revenues in 2013. The extent to which federal funding would be replaced by nonfederal resources under a permanent prohibition is highly uncertain. The amount replaced and the length of time such funds would be used to provide services would depend on actions taken by Planned Parenthood and by others, including state and local governments.

If none of the federal funds were replaced, CBO expects that some of the Medicaid beneficiaries who would obtain services from Planned Parenthood under current law would not obtain services at all, leading to lower Medicaid spending. Other people would

continue to receive services—from providers that are eligible for Medicaid reimbursement. For those people, CBO estimates that there would be little change in Medicaid spending.

If almost all federal funds were replaced, over the 2016-2025 period, CBO expects that most Medicaid beneficiaries currently served by Planned Parenthood would continue to obtain services from Planned Parenthood, but at no cost to Medicaid. Under that circumstance, there would be little change in the services provided by Planned Parenthood and a large reduction in Medicaid spending for those services.

CBO has no clear basis for assessing the extent to which Planned Parenthood would be able to replace Medicaid funding. Therefore, for this estimate, CBO assumed that in the first year in which federal funds would not be available to Planned Parenthood, approximately half of the federal funds Planned Parenthood would otherwise receive from Medicaid would be replaced, the center of a wide range of possible outcomes. CBO expects that any amount of funds replaced by Planned Parenthood would decline over time and eventually most beneficiaries would instead receive services from other providers that receive Medicaid reimbursement. The combination of those effects would reduce direct spending by \$235 million in 2016 and by \$520 million over the 2016-2025 period, CBO estimates. Those savings would be offset by increased spending for other Medicaid services as discussed below.

To the extent that there would be reductions in access to care under such legislation, they would affect services that help women avert pregnancies. The people most likely to experience reduced access to care would probably reside in areas without access to other health care clinics or medical practitioners who serve low-income populations. However, how many Medicaid beneficiaries served by Planned Parenthood live in such areas is uncertain. On the basis of an analysis of Essential Community Providers that offer family planning services compiled by the Health Resources and Services Administration, CBO estimates that as little as 5 percent or as much as 25 percent of the estimated 2.6 million clients served by Planned Parenthood would face reduced access to care. For this estimate CBO projects that 15 percent of those people would lose access to care in the first year following enactment of the bill, the center of the distribution of possible outcomes. CBO also expects access to care for those individuals would improve as other health care providers expanded or newly offered services, but the timing of that improvement is also uncertain. By 2020, CBO estimates that that only about 2 percent of the clients served by Planned Parenthood would continue to face reduced access to care.

The government would incur some costs for Medicaid beneficiaries currently served by Planned Parenthood who would not receive services that help women avert pregnancies if a bill that permanently prohibits federal funding from being made available to Planned

Honorable Kevin McCarthy  
Page 4

Parenthood were enacted. Because the costs of about 45 percent of all births are paid for by the Medicaid program, CBO estimates that additional births that would result from enacting such a bill would add to federal spending for Medicaid. In addition, some of those children would themselves qualify for Medicaid and possibly for other federal programs. In the first few years in which federal funds for Planned Parenthood would be prohibited under the bill, CBO estimates the number of births in the Medicaid program would increase by several thousand per year. CBO expects that the number of additional births would decline over time as beneficiaries found other health care providers from which to receive family planning services. Nevertheless, the bill would increase the number of births in each year over the 2016-2025 period. CBO estimates, in total, the bill would increase direct spending for Medicaid by \$20 million in 2016, by \$130 million in 2017, and by \$650 million over the 2016-2025 period. Most of the increased spending for the pregnancies that occur in 2016 will take place in 2017.

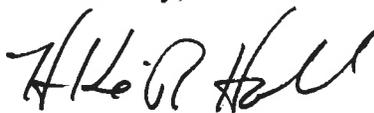
Netting those costs against the savings estimated above, CBO estimates that implementing the bill would increase direct spending by \$130 million over the 2016-2025 period.

#### **Spending Subject to Appropriation**

In 2013, Planned Parenthood received approximately \$60 million under Title X. Services funded by Title X include contraceptive education and counseling; pregnancy diagnosis and counseling; cervical and breast cancer screening; and education, testing, and referral services associated with sexually transmitted diseases. CBO estimates that the bill would not affect spending subject to appropriations because any discretionary grants, such as those made under Title X, that might otherwise have gone to Planned Parenthood would be awarded to other health clinics or medical practitioners.

I hope this information is helpful to you.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith Hall".

Keith Hall  
Director

cc: Honorable Nancy Pelosi  
Democratic Leader

# Exhibit

# F

## What's the difference between

## Planned Parenthood and Federally Qualified Health Centers?

| Healthcare Service Provided           | Planned Parenthood** | Federally Qualified Health Centers* |
|---------------------------------------|----------------------|-------------------------------------|
| EMERGENCY FIRST RESPONDER CARE        |                      | ✓                                   |
| MAMMOGRAMS                            |                      | ✓                                   |
| IMMUNIZATIONS                         |                      | ✓                                   |
| DIABETES AND GLAUCOMA SCREENINGS      |                      | ✓                                   |
| CHOLESTEROL SCREENINGS                |                      | ✓                                   |
| PEDIATRIC EYE, EAR, DENTAL SCREENINGS |                      | ✓                                   |
| WELL-CHILD SERVICES                   |                      | ✓                                   |
| RADIOLOGICAL SERVICES                 |                      | ✓                                   |
| CARDIOVASCULAR BLOOD TESTS            |                      | ✓                                   |
| BONE MASS MEASUREMENT                 |                      | ✓                                   |
| NURSE ON STAFF                        |                      | ✓                                   |
| BIRTH CONTROL                         | ✓                    | ✓                                   |
| MANUAL BREAST EXAMS                   | ✓                    | ✓                                   |
| STD TESTING                           | ✓                    | ✓                                   |
| PAP/HPV TESTING                       | ✓                    | ✓                                   |
| PELVIC EXAMS                          | ✓                    | ✓                                   |

\*Source: Medicare Benefit Policy Manual

<https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/bp102c13.pdf>

While every FQHC provides these services, not every FQHC delivery site offers every service listed

\*\*Source: Planned Parenthood Federation of America

<http://www.plannedparenthood.org/>

**There are better options for women.**

**Let's fund them instead.**



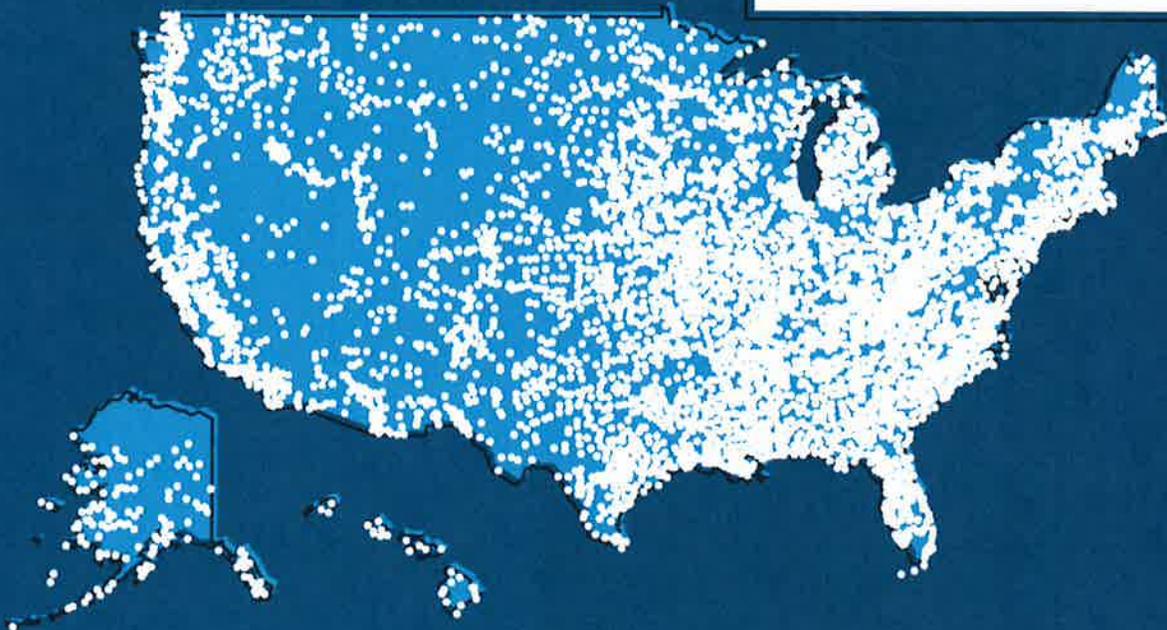
# Exhibit

# G

# WOMEN HAVE REAL CHOICES

There are 20 community health clinics for every Planned Parenthood.

**13,540** FQHCs AND RURAL HEALTH CLINICS\*



**665** PLANNED PARENTHOOD LOCATIONS



CHARLOTTE  
**LOZIER**  
INSTITUTE

Learn more at [ADFLegal.org/DefundPP](http://ADFLegal.org/DefundPP)

\* Data based on information provided by <https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/mlnProducts/Downloads/fhclsbyprovidername.pdf> (last visited Sept. 3, 2015) and <http://datawarehouse.hrsa.gov/Data/datadownload/fcc/Download.aspx> (last visited Sept. 1, 2015). Federally Qualified Health Clinics ("FQHC") and "Look Alikes" provide primary and preventive medical care and enabling services. Rural Health Clinics also offer primary and preventive medical services. Note: this map does not include the thousands of additional private health providers who accept Medicaid for women's health needs.

# STATE-BY-STATE NUMBERS

#DefundPP



Learn more at [ADFLegal.org/DefundPP](https://ADFLegal.org/DefundPP)

## LEGEND

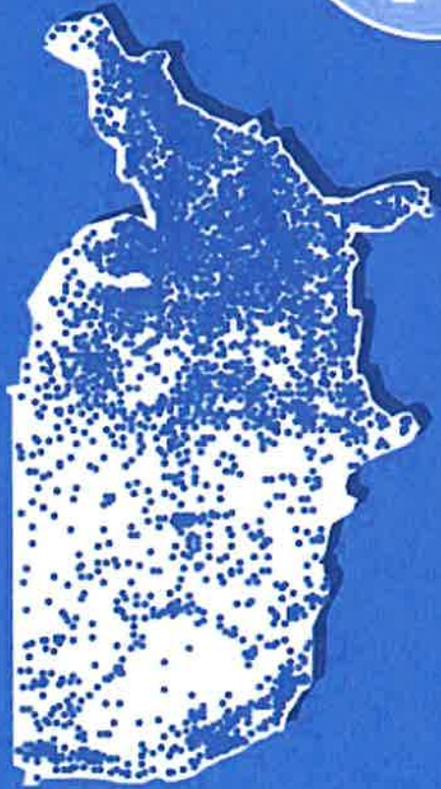
PLANNED PARENTHOOD CLINICS

FEDERALLY QUALIFIED HEALTH CLINICS AND RURAL HEALTH CLINICS

# Exhibit

# H

**PLANNED PARENTHOOD SAYS WOMEN WILL NOT BE  
ABLE TO GET MAMMOGRAMS IF IT IS DEFUNDED**



**VS**



**8000+ LICENSED MAMMOGRAM  
FACILITIES IN AMERICA**

**ALL PLANNED PARENTHOOD  
LICENSED MAMMOGRAM FACILITIES**

*Planned Parenthood isn't Necessary*

Sources: 1. FDA list of all licensed mammography facilities updated 7/27/2015.

2. FDA response to ADF Freedom of Information Act request confirming no Planned Parenthood facility has a license to perform mammograms.

# Exhibit

I



September 3, 2015

**HOW PLANNED PARENTHOOD “CARES” FOR  
CHILD VICTIMS OF SEXUAL ABUSE:  
A Summary of Planned Parenthood Failing to Report Sexual Abuse**

Sexual abuse of children is a very real problem across the United States. All 50 states, as well as the District of Columbia and all U.S. territories, have laws requiring reporting of suspected neglect or abuse of children.<sup>1</sup> These reporting laws typically include statutory rape. The two primary objectives behind them are: (1) ensuring the health, safety, and well-being of children, including the prevention of further harm, and (2) conducting a prompt investigation to determine whether or not the conduct is criminal and, if so, holding criminal perpetrators accountable.<sup>2</sup> Prompt investigation of allegations of abuse benefits everyone involved and society as a whole.

Medical professionals are almost always specifically included in statutory lists of mandatory reporters of suspected abuse or neglect of children.<sup>3</sup> Those designated as mandatory reporters are often uniquely positioned to be the first to observe the signs of abuse or neglect of children.<sup>4</sup> For example, the Colorado Department of Human Services Mandatory Reporter training for health care providers specifically advises that a child getting pregnant under the age

---

<sup>1</sup> *Mandatory Reporting of Child Abuse and Neglect State Statute Overview*, National Conference of State Legislatures (Dec. 9, 2011), <http://www.ncsl.org/research/human-services/child-abuse-and-neglect-reporting-statutes.aspx>; see also *Mandatory Reporting of Child Abuse and Neglect 2013 Introduced State Legislation*, National Conference of State Legislatures (Sept. 23, 2014), <http://www.ncsl.org/research/human-services/redirect-mandatory-rprtng-of-child-abuse-and-neglect-2013.aspx>.

<sup>2</sup>The Lewin Group, *Statutory Rape: A Guide to State Laws and Reporting Requirements*, prepared for the Office of the Assistant Secretary for Planning & Evaluation, Dep’t of Health & Human Servs., Dec. 15, 2004, at 14.

<sup>3</sup> According to Children’s Bureau, the laws in 48 states, in addition to U.S. territories, list groups of individuals who are required to report include health-care providers; New Jersey and Wyoming do not provide a specific list of professionals required to report. Children’s Bureau, Administration for Children & Families, U.S. Dep’t of Health & Human Servs., *Mandatory Reporters of Child Abuse and Neglect 1* (Nov. 2013), [https://www.childwelfare.gov/systemwide/laws\\_policies/statutes/manda.pdf](https://www.childwelfare.gov/systemwide/laws_policies/statutes/manda.pdf).

<sup>4</sup> Colorado’s Mandatory Training for medical professionals specifically discusses this unique position held by mandatory reporters. The training is currently available at: *Mandatory Reporter Training*, Colo. Office of Children, Youth & Families, Div. of Child Welfare, Child Welfare Training System, <http://www.coloradocwts.com/community-training> (last visited Sept. 11, 2015).

Greenwood Corporate Plaza, Building No. 3  
7951 E. Maplewood Avenue, Suite 100  
Greenwood Village, CO 80111  
720-689-2410

of 14 is a sign of sexual abuse.<sup>5</sup> This is consistent with studies indicating young girls who become pregnant are frequently victims of sexual abuse, and the fathers of their children are often older men.<sup>6</sup> According to the pro-abortion Guttmacher Institute, less than 2% of adolescents have had sex before their 12<sup>th</sup> birthday, and only 16% have had sex by the time they are 15.<sup>7</sup> Consequently, young pregnant girls visiting Planned Parenthood should raise red flags for medical providers and should generally be reported to the proper authorities.

Not surprisingly, child victims of sexual predators are frequently brought to abortion facilities like Planned Parenthood by the abuser in an effort to hide criminal sexual abuse. Legal proceedings and undercover investigations demonstrate Planned Parenthood facilities often disregard mandatory sex abuse reporting laws. With the evidence of their crimes covered up, predators are free to continue abusing their child victims.

Planned Parenthood has been directly sued for failure to report sexual abuse or to notify parents of minor children seeking abortions. Criminal proceedings also indicate Planned Parenthood failed to report sexual abuse it should have known about. Because no report was immediately made to the proper authorities, the abuse is permitted to continue. A dozen of these examples are summarized in Exhibit 1, along with some of the supporting court documents.

Recently, documents from the Alabama Department of Public Health revealed that a Planned Parenthood affiliate in Mobile failed to properly report the suspected sexual abuse of a 14-year-old girl. According to the Statement of Deficiencies, the 14-year-old *mother of two* visited Planned Parenthood on April 9, 2014, for an abortion, and then again on August 18, 2014 *for another abortion*.<sup>8</sup> Yet Planned Parenthood apparently saw no red flags and made no report to authorities.<sup>9</sup> This is consistent with numerous cases across the country.

---

<sup>5</sup> *Id.* The training clearly advises, consistent with the laws of Colorado and most other states, that: (1) doctors and nurses are mandatory reporters, (2) mandatory reporters are often the first to see “signs of child abuse,” (3) mandatory reporters are “integral to the protection of children,” and (3) the reports are important for protecting the victim and other children in the home, preventing harm to other children or future harm, providing services and promoting positive change. The training also discusses the confidentiality of reports made and advises, “Without your call, the abuse... may continue.”

<sup>6</sup> See, e.g., Mike Males & Kenneth S.Y. Chew, *The Ages of Fathers in California Adolescent Births, 1993*, 86 Am. J. of Pub. Health 565, 565-68 (1996), <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1380562/pdf/amjph00515-0103.pdf>; David J. Landry & Jacqueline Darroch Forrest, *How Old are U.S. Fathers?*, 27 Family Planning Perspective 159,161 (1995), <http://www.guttmacher.org/pubs/journals/2715995.pdf>; Debra Boyer & David Fine, *Sexual Abuse as a Factor in Adolescent Pregnancy and Maltreatment*, 24 Family Planning Perspective 4, 4-11 (1992).

<sup>7</sup> *Fact Sheet: American Teens' Sexual and Reproductive Health*, Guttmacher Institute (May 2014), <http://www.guttmacher.org/pubs/FB-ATSRH.html>.

<sup>8</sup> Ala. Dep't of Public Health, *Statement of Deficiencies and Plan of Correction 5* (Nov. 21, 2014), <http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0CB8QFjAAahUKEwj9vPb67OHAhWHl4gKHRc7ABg&url=http%3A%2F%2Fadph1.adph.state.al.us%2FDeficienciesReports%2Fplanned%2520parenthood%2520mobile%252011-21-2014.pdf&usq=AFQjCNGt3sSX5itXvT7uXJtgf8j63CIHJw>.

This form relates to the Planned Parenthood of Alabama, Inc. affiliate located at 717 W. Downtower Loop, Mobile, AL 36609.

<sup>9</sup> *Id.*

## ALLIANCE DEFENDING FREEDOM

Last year, a Planned Parenthood facility in Tempe, Arizona was investigated for failing to report the alleged rape of a minor.<sup>10</sup> Previously, two different Planned Parenthood facilities in Arizona were caught on tape failing to report statutory rape.<sup>11</sup> Another Planned Parenthood facility some years before failed to report the rape of a 13-year-old girl by her 23-year-old foster brother until after she was brought in by the abuser and a *second* abortion was committed just six months after Planned Parenthood performed the first.<sup>12</sup>

In Ohio, a Planned Parenthood facility permitted a soccer coach who had impregnated a 14-year-old to sign off on her abortion without her parents' knowledge or consent.<sup>13</sup> In another case, Planned Parenthood performed an abortion on a girl who was being sexually abused by her father and failed to report the abuse despite the young girl telling Planned Parenthood employees she was being forced to do things she didn't want to do.<sup>14</sup> And in yet another Ohio case, a young girl was sexually abused by her mother's boyfriend.<sup>15</sup> During the extended period of abuse, the girl was brought to Planned Parenthood for an abortion.<sup>16</sup> Apparently no report was made to law enforcement by Planned Parenthood as the abuse continued for years after the abortion.<sup>17</sup>

In Colorado, a civil lawsuit alleged a Planned Parenthood facility failed to inquire about or report the suspected sexual abuse of a 13-year-old child by her stepfather.<sup>18</sup> The abuse began when she was only six years old.<sup>19</sup> When it resulted in the child becoming pregnant at age *thirteen*, the abuser took her to Planned Parenthood in Denver.<sup>20</sup> An abortion was performed without her mother's knowledge or consent, even though parental notice is required by Colorado law.<sup>21</sup> According to the lawsuit, not a single Planned Parenthood employee asked about potential abuse despite knowing that the child was only 13 years old and that sex abuse was evident.<sup>22</sup> After the abortion, the Planned Parenthood facility reportedly sent the child back home where she continued to be abused by this same predator for months.<sup>23</sup> Publicly available court documents filed in that case reveal that Planned Parenthood has a "Don't Ask, Don't Tell" policy

---

<sup>10</sup> *Planned Parenthood Under Investigation*, Fox News (Aug. 13, 2014), <http://www.foxnews.com/transcript/2014/08/14/planned-parenthood-under-investigation/>.

<sup>11</sup> *Phoenix, AZ | Planned Parenthood*, Live Action, <http://www.liveaction.org/monalisa/phoenix-az/> (last visited Sept. 11, 2015).

<sup>12</sup> Amended Complaint, *Doe v. Planned Parenthood of Central and Northern Arizona, et al.*, Maricopa Cnty. Super. Ct., Case No. CV 2001-014876, <http://www.adfmedia.org/files/DoePPCNA-AmendedComplaint.pdf>.

<sup>13</sup> *Roe v. Planned Parenthood Southwest Ohio Region*, 878 N.E.2d 1061 (2007), <http://www.adfmedia.org/files/RoeOhioAppellateCourtDecision.pdf>.

<sup>14</sup> *Fairbanks v. Planned Parenthood Southwest Ohio Region*, Ct. of Common Pleas, Civil Div., Hamilton Cnty., Ohio, Case No. A0901484.

<sup>15</sup> *Ohio v. Coles*, Case No. CR-478823, 2008 WL 4436872 (Ohio Ct. App. Oct. 2, 2008).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> Third Amended Complaint, *Cary Smith (Sisk) v. Planned Parenthood of the Rocky Mountains*, Case No. 2014CV31778, Denver Dist. Ct., <http://www.adfmedia.org/files/SiskThirdAmendedComplaint.pdf>.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> Deborah Myers, *Planned Parenthood Sued for Doing Abortion on Raped 13-Year-Old, Returning Her to Rapist*, LifeNews.com (July 11, 2014, 10:40 am), <http://www.lifenews.com/2014/07/11/planned-parenthood-sued-for-doing-abortion-on-raped-13-year-old-returning-her-to-rapist/>.

with regard to children and pregnancies caused by sexual partners/predators.<sup>24</sup> In sworn testimony, one of the Planned Parenthood employees said that being 13-years-old and pregnant was not a “red flag,” while another employee testified that she thought there was *nothing they could have “done better.”*<sup>25</sup> Planned Parenthood settled the case.<sup>26</sup>

There are other shocking, high-profile examples of Planned Parenthood’s failure to report the sexual abuse of minors in California and Connecticut. In one California case, a well-known swimming coach, Andrew King, impregnated a 14-year-old girl who then received an abortion at Planned Parenthood.<sup>27</sup> King went on to sexually molest and abuse at least 20 other girls.<sup>28</sup> In Connecticut, Adam Gault kept a 14-year-old in his home for approximately a year, during which time he impregnated her.<sup>29</sup> She was then taken to Planned Parenthood for an abortion using a fictitious name.<sup>30</sup>

In addition to these real case examples, undercover stings demonstrate Planned Parenthood affiliates repeatedly ignore laws designed to protect children.<sup>31</sup> Live Action has caught Planned Parenthood employees ignoring age disparities between young girls and the men who impregnate them.<sup>32</sup> They also advise the girls not to tell Planned Parenthood the age of the men and teach them how to circumvent parental notification laws.<sup>33</sup> Several years ago, Life Dynamics also conducted undercover calls to National Abortion Federation and Planned Parenthood affiliates with similar disturbing results.<sup>34</sup>

These are just a few examples of Planned Parenthood’s failure to report the sexual abuse of minors. Given the difficulty in overseeing Planned Parenthood and obtaining evidence that

---

<sup>24</sup> See Motion to Amend (re: Punitive Damages), *Cary Smith (Sisk) v. Planned Parenthood of the Rocky Mountains*, Denver Dist. Ct., Case No. 2014 CV 21778, <http://www.adfmedia.org/files/SiskMtnToAmendRePunitives.pdf>; Order Granting Motion to Amend, *Cary Smith (Sisk) v. Planned Parenthood of the Rocky Mountains, et al.*, Denver Dist. Ct., Case No. 2014 CV 21778; various deposition transcripts, see, e.g., Deposition of Jamie Skarvan, Dec. 11, 2014, *Cary Smith (Sisk) v. Planned Parenthood of the Rocky Mountains*, <http://www.adfmedia.org/files/SiskSkarvanTranscriptPages.pdf>.

<sup>25</sup> Deposition of Jamie Skarvan, Dec. 11, 2014, *Cary Smith (Sisk) v. Planned Parenthood of the Rocky Mountains*, <http://www.adfmedia.org/files/SiskSkarvanTranscriptPages.pdf>.

<sup>26</sup> <http://www.adfmedia.org/News/PRDetail/9717>.

<sup>27</sup> Prosecution’s Statement in Aggravation at 10, *People of the State of California v. Andrew King*, Santa Clara Cnty. Super. Ct., Case Nos. CC942933, CC939000, <http://www.adfmedia.org/files/KingSentencingStatement.pdf>.

<sup>28</sup> *Id.*

<sup>29</sup> Affidavit in support of Arrest Warrant at 5, *State of Connecticut v. Adam Gault*, Hartford, Case No. HHD-CR007-0612969-T, <http://www.adfmedia.org/files/GaultAffidavit.pdf>.

<sup>30</sup> *Id.* at 6.

<sup>31</sup> See, e.g., *Phoenix, AZ | Planned Parenthood*, Live Action, <http://www.liveaction.org/monalisa/phoenix-az/> (last visited Sept. 11, 2015).

<sup>32</sup> *Id.*

<sup>33</sup> Ben Johnson, *Vindicated: Live Action busted Indy Planned Parenthood for covering up statutory rape in 2008*, LifeSiteNews.com (Nov. 26, 2013), <http://www.lifesitenews.com/news/vindicated-live-action-busted-indy-planned-parenthood-for-covering-up-statu>. Several videos of these undercover operations can be viewed at: *Sexual Abuse Coverup at Planned Parenthood*, Live Action, <http://www.liveaction.org/monalisa/> (last visited Sept. 11, 2015).

<sup>34</sup> Life Dynamics maintains copies of the recorded calls and transcripts from its investigation on its website, as well as an excellent report on this subject including examples from Planned Parenthood, some of which are included in Exhibit 1, and other abortion facilities. Mark Crutcher, *Child Predators: Exposing the Partnership Between Planned Parenthood, the National Abortion Federation and Men Who Sexually Abuse Underage Girls*, Life Dynamics, <http://www.childpredators.com/the-child-predator-report/> (last visited Sept. 11, 2015).

September 3, 2015  
Page 5

## **ALLIANCE DEFENDING FREEDOM**

would reveal its failure to report sexual abuse of minors, the inescapable conclusion is that this cover up of sexual abuse happens regularly.

**EXHIBIT 1**

**SUMMARY OF DOCUMENTED CASES INVOLVING PLANNED PARENTHOOD AND SEXUAL ABUSE OF MINORS<sup>35</sup>**

**ARIZONA:**

**DOE V. PLANNED PARENTHOOD OF CENTRAL AND NORTHERN ARIZONA, ET AL.,**  
Maricopa County Superior Court, Case No. CV 2001-014876- CIVIL CASE

Court documents revealed that a 12-year-old girl who had been placed in foster care was impregnated by her 23-year-old foster brother, Shawn Stevens. Stevens himself took the child to Planned Parenthood of Central and Northern Arizona (PPCNA) for an abortion eight days *before* her 13<sup>th</sup> birthday. The facility failed to report the sexual abuse to authorities, consequently, the sexual abuse continued. Six months later, Stevens brought the girl back to PPCNA for another abortion. Five days *after* the *second abortion*, PPCNA notified the authorities. The girl later filed a lawsuit alleging that PPCNA's failure to timely report the sexual abuse to authorities essentially resulted in the continued abuse and subsequent abortion.<sup>36</sup> The civil case was ultimately settled.

**STATE OF ARIZONA V. TYLER KOST— CRIMINAL CASE**  
Pinal County Superior Court, Case No. CR201400949

The allegations in this ongoing case indicate that Planned Parenthood of Arizona's Tempe facility failed to report an alleged sexual assault of a 15-year-old girl by Tyler Kost. According to the police report, the girl's mother (who was present at Planned Parenthood with her daughter) advised investigators that the Planned Parenthood employee told them that it wasn't worth the "hassle" to report the sexual assault. The assault was allegedly intentionally miscoded as a consensual encounter. Kost was subsequently charged with numerous counts of sexual assault against numerous minor victims (but the credibility of some of the witnesses has been called into question). Four of the counts which name additional minor victims are alleged to have occurred *after* the alleged incident at Planned Parenthood.<sup>37</sup>

---

<sup>35</sup> Each of these examples resulted in *actual* litigation, either civil or criminal as noted by the case captions, and has been verified through various court documents, public records, court staff and/or law enforcement sources. Some of the court documents that articulate the allegations of each case are attached to this report for convenience. The facts of each of these cases are also discussed in various media articles available on the internet, and some are included in the comprehensive Life Dynamics report documenting numerous actual cases of abortion providers failing to report sexual abuse of minors. Mark Crutcher & Renee Hobbs, *The Cover-Up of Child Sexual Abuse: Part Two: Actual Cases*, Life Dynamics (2014), <http://www.childpredators.com/cases/>.

<sup>36</sup> *See, e.g.*, Amended Complaint, *Doe v. Planned Parenthood of Central and Northern Arizona, et al.*, Maricopa Cnty. Super. Ct., Case No. CV 2001-014876: ; Court Docket Sheet

<sup>37</sup> *See, e.g.*, Kost Supervening Indictment & Complaint; Pinal County Sheriff's Office Probable Cause Statement, *State of Arizona v. Tyler Kost*, Pinal Cnty. Super. Ct., Case No. CR201400949; May 13, 2014 Letter from Pinal County Sheriff Paul Babeu to Arizona Attorney General Tom Horne.

**CALIFORNIA:**

**PEOPLE OF THE STATE OF CALIFORNIA V. ANDREW KING – CRIMINAL CASE**  
Santa Clara County Superior Court, Case Nos. CC942933, CC939000

Andrew King, a well-known girls' swim coach who worked with nationally ranked swimmers, is now incarcerated as a result of his sexual abuse of scores of young girls over a period of decades. One criminal case was brought against King on behalf of a twelve-year old victim molested by him in 2008, and a second criminal case was brought on behalf of two of his earlier victims. The prosecution's sentencing statement to the court also details numerous other young victims of King dating back to the 1970s. It states King impregnated a 14-year-old girl who then went to Planned Parenthood for an abortion. Planned Parenthood evidently made no report of suspected sexual abuse to law enforcement or child protective services. After one of King's victims went to the authorities, an investigation ensued. Only then did law enforcement learn that King had, over the years, sexually molested numerous minor girls he had coached.<sup>38</sup>

**PEOPLE OF THE STATE OF CALIFORNIA V. GARY W. CROSS- CRIMINAL CASE**  
Calif. Supreme Court, Case No. S139791

Gary Cross was criminally charged and convicted for sexually assaulting his 13-year-old step-daughter. In an effort to conceal his crimes, Cross took her to a California Planned Parenthood facility where a pregnancy test was administered. Staff there apparently did not report to authorities that the girl was well below the age of consent, or that there may be sexual abuse. Instead, they referred her for a late-term abortion as she was five and half months pregnant and required a surgical procedure. After the abortion, Cross resumed raping the girl for months.<sup>39</sup> He was ultimately convicted and incarcerated.

---

<sup>38</sup> See, e.g., Prosecution's Statement in Aggravation, *People of the State of California v. Andrew King*, Santa Clara County Superior Court, Case Nos. CC942933, CC939000, <http://www.adfmedia.org/files/KingSentencingStatement.pdf>.

<sup>39</sup> See, e.g., *People v. Gary Cross*, 134 Cal.App.4th 500(Cal.Ct.App.2005); *People v. Gary Cross*, 45 Cal.4th 58 (Cal. 2008).

**CALIFORNIA (cont'd):**

**PEOPLE OF THE STATE OF CALIFORNIA V. EDGAR RAMIREZ- CRIMINAL CASE**

Los Angeles County Super. Ct. No. BA382225

Edgar Ramirez was criminally prosecuted for sexually abusing his daughters. After daily sexual abuse for an extended period of time, one of the girls became pregnant at age thirteen. The girl was taken to Planned Parenthood for an abortion in July 2010. She made up a story about having a boyfriend her own age and Planned Parenthood performed the abortion. There is no indication that it ever filed a report of potential sexual abuse. The young girl went back to the custody of Ramirez who resumed the sexual abuse a couple of days after the abortion. Later that same year, in December 2010, she was again impregnated by Ramirez and taken to Planned Parenthood for another abortion at six weeks of pregnancy. This time, the Planned Parenthood doctor implanted an intrauterine device in order to prevent additional pregnancies. Again, there is no indication a report was made by Planned Parenthood to law enforcement. The abuse was finally stopped when Ramirez was arrested in March of 2011 after the girl's older sister, also a victim of abuse by Ramirez, reported his conduct to law enforcement.<sup>40</sup>

---

<sup>40</sup> See, e.g., *People of the State of California v. Edgar Ramirez*, No. B243291, 2014 WL 667531 (Cal. Ct. App. Feb. 21, 2014) (unpublished).

**COLORADO**

**CARY SMITH (SISK) V. PLANNED PARENTHOOD OF THE ROCKY MOUNTAINS, ET AL. –  
CIVIL CASE**

Denver District Court, Case No. 2014 CV 21778

A pregnant 13-year-old child was brought to the Denver abortion facility of Planned Parenthood of the Rocky Mountains (PPRM) by her step-father, Timothy Smith, who had been sexually abusing her for seven years. PPRM failed to look into the suspicious circumstances pursuant to its “don’t ask, don’t tell” policy. It performed the abortion without notifying the child’s parents or reporting suspected abuse as required by Colorado law. Moreover, they sent the girl back home with Smith who continued to abuse her for months.<sup>41</sup> Smith was eventually prosecuted and incarcerated for his crimes, and the child’s mother brought a civil case against PPRM on behalf of her daughter. The court allowed the plaintiff to pursue punitive damages, noting that she had established a *prima facie* case that Planned Parenthood “purposefully committed conduct which they must have realized as dangerous, and performed it heedlessly and recklessly, without regard to consequences, or of the rights and safety of others, particularly [the child].” Planned Parenthood settled the case.

---

<sup>41</sup> See, e.g. Motion to Amend (re: Punitive Damages), *Cary Smith (Sisk) v. Planned Parenthood of the Rocky Mountains, et al.*, Denver Dist. Ct., Case No. 2014 CV 21778; Order Granting Motion to Amend, *Cary Smith (Sisk) v. Planned Parenthood of the Rocky Mountains, et al.*, Denver Dist. Ct., Case No. 2014 CV 21778; various deposition transcripts, *Cary Smith (Sisk) v. Planned Parenthood of the Rocky Mountains, et al.*, Denver Dist. Ct., Case No. 2014 CV 21778.

**CONNECTICUT:**

**STATE OF CONNECTICUT v. ADAM GAULT- CRIMINAL CASE**  
Hartford, Case No. HHD-CR007-0612969-T

A 15-year-old girl went missing in Connecticut in June 2006. She was rescued a year later from the home of 41-year-old Adam Gault, where she was found locked in a tiny room, about 3' high and 4 or 5' deep. During her year with Gault, she was sexually abused by him and taken to a Planned Parenthood facility in West Hartford for an abortion. Planned Parenthood performed the abortion, which enabled the abuse to continue until authorities ultimately found the child while investigating Gault.<sup>42</sup> Gault was convicted and incarcerated for his crimes. There is no indication that Planned Parenthood ever reported the sexual abuse.

**STATE OF CONNECTICUT v. KEVON WALKER- CRIMINAL CASE**  
New London, Case No. KNL-CR07-0291496-T

A police investigation uncovered that Walker (21-years-old) impregnated his then 14-year-old girlfriend three times in six months. The girl was taken for abortions to the Planned Parenthood clinic in Norwich April, July and September of 2006. Each pregnancy was terminated through abortion. The abortion providers evidently failed to report the first statutory rape and abortion to authorities which permitted the abuse to continue.<sup>43</sup>

---

<sup>42</sup> See, e.g. Affidavit in support of Arrest Warrant, *State of Connecticut v. Adam Gault*, Hartford, Case No. HHD-CR007-0612969-T.

<sup>43</sup> See, e.g. Affidavit in Support of Arrest Warrant, *State of Connecticut v. Kevon Walker*, New London, Case No. KNL-CR07-0291496-T; Disposition sheet, *State of Connecticut v. Kevon Walker*, New London, Case No. KNL-CR07-0291496-T.

**MINNESOTA:**

**STATE OF MINNESOTA V. PAUL JAMES FREDERICK- CRIMINAL CASE**  
Douglas County District Court, Case No. 21-CR-11-2285

This case reveals that Paul James Frederick, a 42-year-old father, was prosecuted for sexually assaulting the 14-year-old girlfriend of his son. Frederick groomed the young girl by driving her to and from school, buying her things, including clothing and Victoria's Secret underwear. Because the child was "inexperienced" and a "virgin," court documents indicate that Frederick took her to Planned Parenthood to get birth control. The court opinion states Frederick was convicted based on the discovery of a used condom in his bedroom, and no mention is made of a Planned Parenthood report of potential sexual abuse.<sup>44</sup>

---

<sup>44</sup> See, e.g., *State of Minnesota v. Paul James Frederick*, Douglas County District Court, Case No. 21-CR-11-2285, unpublished Minnesota Court of Appeals Opinion, A13-0784 (April 21, 2014).

**OHIO:**

**FAIRBANKS V. PLANNED PARENTHOOD SOUTHWEST OHIO REGION- CIVIL CASE**  
Court of Common Pleas, Civil Division, Hamilton County, Ohio, Case No. A0901484

Denise Fairbanks was just 16 years old when she went to a Planned Parenthood facility in Ohio on Nov. 15, 2004. She was pregnant as a result of sexual abuse by her biological father. Denise tried to put an end to this abuse, which had started in 2000, by informing a Planned Parenthood employee that she had been forced to do things she did not want to do. Planned Parenthood did not report to law enforcement that Denise was a victim of sexual abuse as required by state law. This failure resulted in her being subjected to sexual abuse for another 1 1/2 yrs. The civil lawsuit was settled and the girl's father was criminally prosecuted and sent to prison.<sup>45</sup>

**ROE V. PLANNED PARENTHOOD SOUTHWEST OHIO REGION- CIVIL CASE**  
Court of Common Pleas, Civil Division, Hamilton County, Ohio, Case No. A0502691

Jane Roe, a 14-year-old girl, was impregnated by her 21-year-old soccer coach. The coach persuaded Roe to have an abortion. Roe wrongly informed Planned Parenthood that at least one parent knew of the planned abortion. She provided the name and address of her father, but listed the coach's cell phone as a contact phone number. Planned Parenthood called the contact number but made no effort to verify the identity of the person to whom they spoke. At no time were Roe's parents notified of, nor did they provide consent to, the abortion. The coach accompanied Roe during the abortion, and Planned Parenthood even checked his ID. But they did not report any suspected abuse. The coach resumed having sex with Roe shortly after the abortion. As a result of a subsequent report made by a teacher, the coach was later found guilty of 7 counts of sexual battery. The trial court granted partial summary judgment in favor of Roe's parents (the plaintiffs) on the issue of Planned Parenthood's failure to comply with the 24 hour waiting requirement in a civil lawsuit. The case was subsequently settled.<sup>46</sup>

---

<sup>45</sup> See, e.g., *Fairbanks v. Planned Parenthood Southwest Ohio Region*, Ct. of Common Pleas, Civil Div., Hamilton Cnty., Ohio, Case No. A0901484.

<sup>46</sup> See, e.g., *Roe v. Planned Parenthood Southwest Ohio Region*, (2007) 173 Ohio App.3d 414; *Roe v. Planned Parenthood Southwest Ohio Region*, (2009) 122 Ohio St.3d 399; <http://www.adfmedia.org/News/PRDetail/4740>; <http://www.adfmedia.org/News/PRDetail/?CID=25767>.

**OHIO (cont'd):**

**STATE OF OHIO V. JOSEPH COLES- CRIMINAL CASE**  
Cuyahoga County Court of Common Pleas, Case No. CR-478823

Joseph Coles sexually abused the daughter of his girlfriend for years, starting when she was just 10 years old. She became pregnant twice and had abortions both times—the first when she was 12 years old. She was taken to two different abortion facilities, including Planned Parenthood. After moving to Iowa, the girl told her mother of the abuse that occurred back in Ohio, and the abortions she had there. Evidently neither Planned Parenthood nor the other abortion facility made a report to law enforcement since no investigation was conducted until after she told her mother.<sup>47</sup>

---

<sup>47</sup> See, e.g. *State of Ohio v. Joseph Coles*, Cuyahoga Cnty. Ct. of Common Pleas, Case No. CR-478823- Indictment; Affidavit, Motion & Order seeking records from Planned Parenthood, <http://www.adfmedia.org/files/ColesAffidavitParmaPD.pdf>; *State of Ohio v. Joseph Coles*, 2008 WL 4436872 (Ohio Ct. App. Oct. 2, 2008).

# Exhibit

# J



**Profit. No Matter What.**

**Alliance Defending Freedom's Annual Report on Publicly Available Audits of  
Planned Parenthood Affiliates and State Family Planning Programs**

September 17, 2015

### Preface

On October 26, 2011, Alliance Defending Freedom<sup>1</sup> submitted its original report, *Summary of State Audits of Planned Parenthood Affiliated Providers Showing Waste, Abuse, and Potential Fraud*, to the Oversight and Investigations Subcommittee of the U.S. House of Representatives Energy and Commerce Committee. On February 7, 2012, the updated and supplemented initial report was released to the public, and on April 10, 2013, Alliance Defending Freedom published its second annual report, *Planned Parenthood's Waste, Abuse, and Potential Fraud: Alliance Defending Freedom's 2013 Report on Federal and State Audits of Planned Parenthood Affiliates and State Family Planning Programs*. The 2014 edition, released on July 23, 2014, was entitled *Profit. No Matter What. Alliance Defending Freedom's Annual Report on Publicly Available Audits of Planned Parenthood Affiliates and State Family Planning Programs* in order to reflect Planned Parenthood's marketing and motto, "Care. No matter what."<sup>2</sup>

This fourth annual report documents Alliance Defending Freedom's research in identifying waste, abuse, and potential fraud of American taxpayer dollars by Planned Parenthood Federation of America (PPFA), its fifty-nine separately incorporated affiliates, and other abortion and family planning facilities, particularly with respect to federal and state Title XIX-Medicaid reimbursements. Updates in this 2015 edition include a new federal audit of the Texas Health and Human Services Commission, specifically aimed at Planned Parenthood of North Texas; new federal audits of state family planning programs in California and Nebraska, totaling nearly \$12 million; and more complete information on Planned Parenthood and other abortion and family planning facilities' other financial malfeasance.

Alliance Defending Freedom's research strongly suggests that Planned Parenthood and its affiliates are engaged in a pattern of practices designed to

---

<sup>1</sup> Alliance Defending Freedom is an alliance-building legal ministry advocating for religious liberty, the sanctity of life, and marriage and family.

<sup>2</sup> See Alliance Defending Freedom's response to the Planned Parenthood motto at Catherine Glenn Foster, *Planned Parenthood: A Rose by Any Other Name...?*, ALLIANCE DEFENDING FREEDOM (Nov. 27, 2012), available at <http://www.adflegal.org/detailspages/blog-details/allianceedge/2012/11/27/planned-parenthood-a-rose-by-any-other-name>.

maximize their bottom-line revenues through billings to complex, well-funded federal and state programs that are understaffed and rely on the integrity of the provider for program compliance.<sup>3</sup>

---

<sup>3</sup> Over the last ten years (FY 2005 – FY 2014), Planned Parenthood affiliates received over \$4.26 billion in taxpayer dollars. According to their own annual reports, Planned Parenthood has received government funding in the following amounts from 2002-2014:

|                          |                          |                          |
|--------------------------|--------------------------|--------------------------|
| FY 2002: \$240.9 million | FY 2007: \$336.7 million | FY 2011: \$538.5 million |
| FY 2003: \$254.4 million | FY 2008: \$349.6 million | FY 2012: \$542.4 million |
| FY 2004: \$265.2 million | FY 2009: \$363.2 million | FY 2013: \$540.6 million |
| FY 2005: \$272.7 million | FY 2010: \$487.4 million | FY 2014: \$528.4 million |
| FY 2006: \$305.3 million |                          |                          |

FY 2013 was the first year since FY 2002 that Planned Parenthood's self-reported government funding has decreased; the funding decreased further in FY 2014.

However, the U.S. Government Accountability Office (GAO), counting only a fraction of direct federal funding from self-reported expenditures, calculated Planned Parenthood's government funding and expenditures from 2002-2009 as \$657.1 million, with International Planned Parenthood Federation receiving \$3.9 million. *See* U.S. GOVERNMENT ACCOUNTABILITY OFFICE, FEDERAL FUNDS: FISCAL YEARS 2002-2009 OBLIGATIONS, DISBURSEMENTS, AND EXPENDITURES FOR SELECTED ORGANIZATIONS INVOLVED IN HEALTH-RELATED ACTIVITIES (GAO-10-533R) (2010), at Table 7, *available at* <http://www.gao.gov/new.items/d10533r.pdf>; *see also id.* at Tables 10, 16, 18. For the same time period, Planned Parenthood's annual reports report total government funding of \$2.388 billion – leaving only a fraction of Planned Parenthood's funding audited by GAO, the federal government's "watchdog."

Moreover, in FY 2012 alone, Planned Parenthood spent millions of dollars to elect politicians who support abortion and who defend and shield Planned Parenthood from any serious audit or investigation or other congressional oversight – including \$12 million for President Barack Obama's reelection alone. *See, e.g.,* Alicia Mundy, *Planned Parenthood PAC Aims Radio Ad for Obama*, WALL ST. J. (Oct. 31, 2012), *available at* <http://blogs.wsj.com/washwire/2012/10/31/planned-parenthood-pac-airs-radio-ad-for-obama/>.

Through the fourth quarter of 2013, Planned Parenthood's campaign contributions top \$30 million (\$30,129,374, not including contributions under \$200 or "accounting measures and more exotic contribution types"). INFLUENCE EXPLORER, PLANNED PARENTHOOD, [HTTP://INFLUENCEEXPLORER.COM/ORGANIZATION/PLANNED-PARENTHOOD/A3BF2B2A33A84534A706A2D04C52DE95](http://INFLUENCEEXPLORER.COM/ORGANIZATION/PLANNED-PARENTHOOD/A3BF2B2A33A84534A706A2D04C52DE95). Also through the fourth quarter of 2013, Planned Parenthood has spent over \$11 million on lobbying efforts (\$11,025,514). *Id.* For other general information on political influence, *see also, e.g.,* INFLUENCE EXPLORER, ADVISORY COMMITTEE DATA FOR PLANNED PARENTHOOD, <http://data.influenceexplorer.com/faca/#YWZmaWxpYXRpb249UGxhbm5lZCUyQlBhcmVudGhvb2Q=> (noting that four Planned Parenthood employees have sat on U.S. Department of Health and Human Services committees).

For the 2014 elections, Planned Parenthood has already announced plans to spend \$3 million in Texas alone, on races such as Sens. Wendy Davis for governor and Leticia Van de Putte for lieutenant governor. *See* Peggy Fikac & David Saleh Rauf, *Planned Parenthood Aiming to Spend \$3 Million on Texas Elections in 2014*, HOUSTON CHRONICLE (July 19, 2014), *available at* <http://www.houstonchronicle.com/news/politics/texas/article/Planned-Parenthood-aiming-to-spend-3-million-on-563335k9.php>.

A large and growing number of federal and state audits have documented that improper practices by Planned Parenthood and state family planning agencies have already resulted in losses to the American taxpayer of more than \$127.5 million, as a minimum, in Title XIX-Medicaid and other healthcare funding programs. This figure is supported by a recent U.S. Government Accountability Office (GAO) report estimating that \$14.4 billion of federal Medicaid expenditures for fiscal year 2013 were improper payments.<sup>4</sup> Yet it is troubling that all the audits conducted to date have been relatively superficial; thus far none has examined more than a small subsection of a provider's billings. Thus, the total amount of waste is likely many times the documented \$127.5 million in overbillings. Clinics that provide Title XIX-Medicaid and other subsidized family planning services must be held accountable for their expenditure of taxpayer dollars through comprehensive audits of their entire clinic networks and by congressional oversight. American tax dollars should be used responsibly and for the common good. And as Alliance Defending Freedom and the Charlotte Lozier Institute have documented, there are 13,540 clinics providing whole-woman healthcare in the United States, and only 665 Planned Parenthood facilities.<sup>5</sup>

More and more members of Congress are taking notice of Planned Parenthood's abuse of taxpayer dollars. A February 21, 2013, letter from Representative Diane Black (R-TN) and Representative Pete Olson (R-TX) and signed by seventy other Members of Congress was directed to the Comptroller General of the United States requesting that the U.S. Government Accountability Office (GAO) conduct a comprehensive audit of the receipt and use of federal taxpayer dollars – more than \$528 million in FY 2014 – by Planned Parenthood

---

<sup>4</sup> U.S. GOVERNMENT ACCOUNTABILITY OFFICE, *MEDICAID PROGRAM INTEGRITY: INCREASED OVERSIGHT NEEDED TO ENSURE INTEGRITY OF GROWING MANAGED CARE EXPENDITURES* (GAO-14-341) (2014), at 2 (citing a figure calculated by the Centers for Medicare & Medicaid Services (CMS), the federal agency within the Department of Health and Human Services (HHS) that oversees Medicaid).

<sup>5</sup> See Sarah Zagorski, *If Planned Parenthood Loses Taxpayer Funding, This Map Shows Health Clinics That Will Take Its Place*, LIFENEWS.COM, Aug. 18, 2015, <http://www.lifenews.com/2015/08/18/if-planned-parenthood-loses-taxpayer-funding-this-map-shows-health-clinics-that-will-take-its-place/>.

Federation of America and its related entities. On August 5, 2013, Members of Congress announced that GAO had accepted the request and had opened an investigation into Planned Parenthood, the Guttmacher Institute, and other prominent family planning organizations.

This congressional request follows the September 15, 2011, request by U.S. Representative Cliff Stearns, then Chairman of the Oversight and Investigations Subcommittee of the United States House of Representatives Energy and Commerce Committee, to PPFA President Cecile Richards for documents relating to “institutional practices and policies [of PPFA and its affiliates] . . . and its handling of federal funding,” and particularly as regards its compliance with federal restrictions on the funding of abortion.<sup>6</sup> The subcommittee demanded that Planned Parenthood produce its documents relating to audits, abortion funding, and sexual abuse reporting policies.

In response to this investigation, seven former Planned Parenthood employees, including clinic directors and an “abortion doctor,” wrote to the U.S. House Energy and Commerce Committee supporting the investigation, “not only . . . with respect to the use of tax dollars but also . . . to serve the best interest of women . . . .”<sup>7</sup> In addition to attesting to their knowledge of Planned Parenthood’s use of abortion as a method of family planning, biased abortion counseling, and failure to report statutory rape, coerced abortion, and human trafficking, these seven former Planned Parenthood employees stated that “PPFA failed to properly account for and maintain separation between government funds prohibited from use for elective

---

<sup>6</sup> Letter from Cliff Stearns, Chairman, U.S. House of Representatives Energy and Commerce Committee Subcommittee on Oversight and Investigations, to Cecile Richards, President, Planned Parenthood Federation of America (Sept. 15, 2011) (on file with Alliance Defending Freedom and available at <http://www.scribd.com/doc/66564569/Stearns-Planned-Parenthood>).

<sup>7</sup> Letter from Catherine Adair et al., former employees of Planned Parenthood affiliates, to Fred Upton, Chairman, U.S. House of Representatives Energy and Commerce Committee, & Henry Waxman, Ranking Member, U.S. House of Representatives Energy and Commerce Committee (Dec. 7, 2011) (on file with Alliance Defending Freedom and available at [http://www.sba-list.org/sites/default/files/content/shared/12.7.11\\_former\\_employees\\_of\\_planned\\_parenthood\\_letter\\_to\\_congress\\_0.pdf](http://www.sba-list.org/sites/default/files/content/shared/12.7.11_former_employees_of_planned_parenthood_letter_to_congress_0.pdf)).

abortions and [other, unrestricted] funds . . . .”<sup>8</sup> Further, “PPFA failed to engage in appropriate financial controls and billing practices to ensure compliance with applicable state and federal laws.” The former employees expressed concern that the “American people . . . are underwriting the growth of Planned Parenthood and its potent outreach to the young and the poor,” even as the organization acted and “operated as a law unto itself . . . exempt[] from the normal standards of accountability . . . .”

Coupled with this report, the letter from seventy-two Members of Congress and GAO investigation, the Oversight and Investigation letter and investigation, and the former employees’ letter calling for a “check and balance” on Planned Parenthood, highlight the need for meaningful Congressional oversight in order to have any hope of achieving transparency, integrity, and accountability in all federal family planning programs, including Title V, Title X, Title XIX, and Title XX programs, and particularly for Planned Parenthood, which receives more than half a billion dollars of these funds each year, to be held accountable for the federal taxpayer dollars it expends.

---

<sup>8</sup> This form of waste, abuse, and potential fraud was also documented in the HHS-OIG audit of Tapestry Health Systems, Inc., described below in the Audits of Other Nonprofit Abortion and Family Planning Facilities section.

**TABLE OF CONTENTS**

|  |           |
|--|-----------|
| <b>EXECUTIVE SUMMARY .....</b>   | <b>1</b>  |
| <b>TYPES OF UNLAWFUL BILLING IDENTIFIED IN AUDITS .....</b>  | <b>7</b>  |
| <b>AUDITS OF PLANNED PARENTHOOD AFFILIATES .....</b>   | <b>8</b>  |
| CALIFORNIA AUDITS .....  | 12        |
| <i>California Audit I – San Diego and Riverside Counties, 2004 .....</i>   | <i>12</i> |
| <i>California Audit II – Golden Gate, 2010 .....</i>   | <i>13</i> |
| CONNECTICUT AUDIT .....  | 13        |
| ILLINOIS AUDIT .....   | 14        |
| LOUISIANA AUDITS .....   | 15        |
| <i>Louisiana Audit I .....</i>   | <i>15</i> |
| <i>Louisiana Audit II – 2014 .....</i>   | <i>15</i> |
| MAINE AUDIT .....  | 15        |
| NEW YORK AUDITS .....  | 16        |
| <i>New York Audit I – New York City, January 2009 .....</i>  | <i>16</i> |
| <i>New York Audit II – Hudson Peconic, June 2009 .....</i>   | <i>16</i> |
| <i>New York Audit III – New York City, June 2009 .....</i>   | <i>17</i> |
| <i>New York Audit IV – New York City, December 2009 .....</i>  | <i>19</i> |
| <i>New York Audits V-VII – February/May 2010 .....</i>   | <i>19</i> |
| TEXAS AUDITS .....   | 21        |
| <i>Texas Audit I .....</i>   | <i>23</i> |
| <i>Texas Audit II .....</i>  | <i>21</i> |
| WASHINGTON STATE AUDITS .....  | 24        |
| <i>Washington Audit I .....</i>  | <i>24</i> |
| <i>Washington Audit II – Inland Northwest, 2007-2009 .....</i>   | <i>24</i> |
| <i>Washington Audit III – Great Northwest .....</i>  | <i>27</i> |
| WISCONSIN AUDITS .....   | 27        |
| <i>Wisconsin Audits I-IV – August 2006 .....</i>   | <i>28</i> |
| <i>Wisconsin Audit V – September 2006 .....</i>  | <i>29</i> |
| <i>Wisconsin Audits VI-XIII – July 2007 .....</i>  | <i>29</i> |
| <i>Wisconsin Audit XIV – October 2010 .....</i>  | <i>30</i> |
| <i>Wisconsin Audits XV-XXV – December 2010 .....</i>   | <i>31</i> |
| <i>Wisconsin Audit XXVI – August 2012 .....</i>  | <i>32</i> |
| <b>AUDITS OF OTHER NONPROFIT ABORTION AND FAMILY PLANNING FACILITIES .....</b>   | <b>33</b> |
| <b>FEDERAL AUDITS OF STATE FAMILY PLANNING PROGRAMS .....</b>  | <b>36</b> |
| <b>FEDERAL QUI TAM LAWSUITS AGAINST PLANNED PARENTHOOD AFFILIATES .....</b>  | <b>43</b> |
| <i>REYNOLDS V. PLANNED PARENTHOOD GULF COAST .....</i>   | <i>43</i> |
| <i>JOHNSON V. PLANNED PARENTHOOD GULF COAST .....</i>  | <i>44</i> |
| <i>CARROLL V. PLANNED PARENTHOOD GULF COAST .....</i>  | <i>45</i> |
| <i>GONZALEZ V. PLANNED PARENTHOOD OF LOS ANGELES .....</i>   | <i>46</i> |
| <i>THAYER V. PLANNED PARENTHOOD OF THE HEARTLAND .....</i>   | <i>47</i> |
| <i>BLOEDOW V. PLANNED PARENTHOOD OF THE GREAT NORTHWEST .....</i>  | <i>49</i> |
| <b>REPORT ON PLANNED PARENTHOOD AFFILIATES’ POTENTIAL MISUSE OF GRANTS FOR<br/>BREAST HEALTH TREATMENT AND EDUCATION .....</b> | <b>52</b> |

|   |           |
|---|-----------|
| <b>ACTION STEPS FOR INCREASED OVERSIGHT OF PLANNED PARENTHOOD AND STATE FAMILY PLANNING PROGRAMS.....</b> | <b>53</b> |
| <b>APPENDIX: CALCULATIONS .....</b>   | <b>56</b> |
| AUDITS OF PLANNED PARENTHOOD AFFILIATES.....  | 56        |
| FEDERAL AUDITS OF STATE FAMILY PLANNING PROGRAMS AND OTHER ORGANIZATIONS .....                            | 58        |

### EXECUTIVE SUMMARY

This report outlines Alliance Defending Freedom's research in identifying waste, abuse, and potential fraud by Planned Parenthood affiliates and other abortion providers, particularly with respect to federal and state Title XIX-Medicaid reimbursements.

The weight of evidence indicates that waste by Planned Parenthood affiliates may be widespread, and suggests that such policies may be the result of, at a minimum, a policy of benign neglect over billing practices organization-wide by Planned Parenthood Federation of America's headquarters in New York City.<sup>9</sup>

---

<sup>9</sup> Planned Parenthood Federation of America, Inc. directs all the activities, programs, services, and pronouncements of each of its affiliates (Amended and Restated Bylaws of the Planned Parenthood Federation of America, Inc. As Amended by the Membership at Its Meeting on March 29, 2008, Article XI, sections noted below). Affiliates must:

- “conform[] to the purposes, written policies and standards of PPFA” (2)
- “publicly support[] the purposes and policies of PPFA” (2)
- “develop a program to further those purposes and policies” (2)
- “have the words ‘Planned Parenthood’ in its name” (3)
- “provide services consistent with the purposes of PPFA” (5)
- “participate in the Risk Management and Quality Management Programs approved by the Membership” (5)
- “participate in the National Insurance Program approved by the Membership or have comparable insurance” (5)
- Participate in public affairs activities (5)
- Direct certain programs, e.g., educational programs (5)
- Pay National Program Support (10)

Additionally, “[e]ach Affiliate which provides medical services shall provide such services in conformity with the PPFA Medical Standards and Guidelines.” (5) PPFA reviews annual audits and management letters of each affiliate. (4, 5, 10) PPFA may impose administrative probation if an affiliate's audited financial statements report a deficit in expendable net assets. (10) According to the cease and desist procedure, PPFA may direct an affiliate's medical and other activities. (10) Upon an affiliate's disaffiliation, “PPFA shall make appropriate arrangements for continuity of patient care.” (10) And PPFA's National Office “provide[s] the leadership required for policy and program initiatives,” “administers the standards maintained by the Membership,” “provides a structure that encourages Affiliates to participate in the planning and executing of policies and plans,” “provid[es] leadership, support, and services,” fundraises in the name of affiliates, and “provide[s] guidance and counsel on [some] legal matters.” (12)

See also Steven H. Aden, *Driving Out Bad Medicine: How State Regulation Impacts the Supply and Demand of Abortion*, 8 UNIV. OF ST. THOMAS J. OF LAW & PUB. POL'Y 14, 19-23 (2013).

The publicly available audits summarized herein, as well as confidential sources who have inside knowledge of Planned Parenthood's operations, strongly suggest that Planned Parenthood affiliates systematically take advantage of "overbilling" opportunities to maximize revenues in complex, well-funded federal and state programs that are understaffed and rely on the integrity of the provider for program compliance.<sup>10</sup>

There are forty-five known external audits or other reviews of Planned Parenthood affiliates' financial data and practices: two in California, one in Connecticut, one in Illinois, two in Louisiana, one in Maine, seven in New York State, two in Texas, three in Washington State, and twenty-six in Wisconsin. Nearly all of the audits have found overbilling, and all are summarized below.

**These forty-five audits found numerous improper practices resulting in significant Title XIX-Medicaid overpayments of nearly \$8.5 million to Planned Parenthood affiliates for family planning and reproductive health services claims.** In combination with the \$4.3 million settlement in the *Reynolds* False Claims

---

<sup>10</sup> The lack of oversight of these state-run healthcare programs is supported by GAO's September 2011 report to congressional committees, U.S. GOVERNMENT ACCOUNTABILITY OFFICE, DRUG PRICING: MANUFACTURER DISCOUNTS IN THE 340B PROGRAM OFFER BENEFITS, BUT FEDERAL OVERSIGHT NEEDS IMPROVEMENT (GAO-11-836) (2011). This report concluded that the Health Resources and Services Administration (HRSA, within the Department of Health and Human Services, HHS) oversight of the 340B drug program was inadequate and that, "[t]o ensure appropriate use of the 340B program, GAO recommend[ed] that HRSA take steps to strengthen oversight regarding program participation and compliance with program requirements." HRSA agreed with GAO's recommendations that HRSA strengthen its compliance enforcement and not rely solely on self-policing by covered entities.

Nonetheless, Planned Parenthood Federation of America and dozens of its affiliates objected strenuously to a proposed Center for Medicare and Medicaid Services rule that would limit the number of entities that could purchase pharmaceuticals at reduced prices to 340B entities and intermediate care and nursing facilities. Planned Parenthood advocated for 340B-ineligible "safety net providers" to receive nominal pricing, as well, stating that many of its own clinics were not 340B-eligible and would be forced to close if asked to pay list price for pharmaceuticals. *See, e.g.*, Letter from Jacqueline K. Payne, Director of Government Relations, to Leslie V. Norwalk, Acting Administrator, Centers for Medicare and Medicaid Services (Feb. 20, 2007) (as a comment Medicaid Prescription Drugs Average Manufacture Price, 71 Fed. Reg. 77174 (Dec. 22, 2006)) (on file with Alliance Defending Freedom).

The audit further determined that between thirteen and nineteen of the twenty-nine covered entities audited were actually generating revenue through the 340B program, rather than merely covering the costs of the drugs as planned.

Act lawsuit, auditors and investigators have specifically identified **Planned Parenthood affiliates as the source of at least \$12.8 million in waste, abuse, and potentially fraudulent overbilling and penalties.** Former Planned Parenthood employees and others allege many millions more.

Furthermore, **fifty-seven federal audits of state family planning programs by HHS-OIG found over \$119 million in overbilling.** In the last year alone, audits limited in location, time frame, and type of service examined have found overbilling to the federal program of as much as 17.32%<sup>11</sup> and 14.04%<sup>12</sup> of the federal share of billed costs; other audits have found overbilling as high as 43.27% of the federal share.<sup>13</sup> These federal audits have detailed “unbundling” or “fragmentation” billing schemes related to pre-abortion examinations, counseling visits, and other services performed in conjunction with an abortion; and improper billing for the abortions themselves.<sup>14</sup> In New York alone during one four-year audit

---

<sup>11</sup> Audit A-07-14-01136, *Nebraska Incorrectly Claimed Federal Reimbursement for Inpatient Claims with Sterilization and Delivery Procedures for the Period April 1, 2011, Through December 31, 2013*, found \$268,285 in federal overbilling of the total \$1,549,241 in federal share of claims, or 17.32%.

<sup>12</sup> Audit A-09-13-02019, *California Improperly Claimed Enhanced Federal Reimbursement for Medicaid Family Planning Services Provided in East Los Angeles County*, found \$4,049,335 in federal overbilling of the total \$28,849,005 in federal share of claims, or 14.04%.

<sup>13</sup> See, e.g., Audit A-03-03-00220, *Review of Family Planning Service Costs Claimed by Delaware’s Medicaid Managed Care Program*, which found \$2,916,288 in federal overbilling of the total \$6,739,565 in federal share of claims, or 43.27%.

<sup>14</sup> One federal audit (*Review of Clinic and Practitioner Claims Billed as Family Planning Services Under the New York State Medicaid Program*, A-02-07-01037, Nov. 2008) noted that 27 of the 119 claims in the sample were abortion procedures, and one provider was responsible for 25 of them. Based on the procedure codes used, the auditors believed that this provider billed for at least 3,900 abortions during the audit claim, but only reviewed the 25 claims in the sample. Some were associated with no order at all; some orders had expired or had been signed only by a Registered Nurse (RN), without countersignature by a clinician. This practice is often associated with HOPE (Hormones with Optional Pelvic Exam) visits.

Another federal audit (*Review of Abortion-Related Laboratory Claims Billed as Family Planning Under the New York State Medicaid Program*, A-02-05-01009, July 2007) found that 98 out of the 100 sample claims, of a universe of 633,968 abortion-related claims, were improper. One laboratory provider, which specialized in examining abortion-related specimens, had submitted ninety-five of the ninety-eight improper claims. Forty-two involved abortion-related laboratory tests for which no federal funding is available, e.g., tests performed on the aborted fetus and tests performed before the abortion to assess the

period, it appeared that *hundreds of thousands* of abortion-related claims were billed unlawfully to Medicaid.

**Two of these federal audits specifically identified Planned Parenthood – and only Planned Parenthood – as the problem in state family planning program overbilling.**

Seven of the federal HHS-OIG audits were of New York State and found federal overpayments in excess of \$32 million<sup>15</sup> to the New York State Medicaid family planning program. These audits likely led to the seven state audits of New York Planned Parenthood affiliates; thirteen months after the federal audit of New York State that identified “especially Planned Parenthoods” as incorrectly claiming services as family planning,<sup>16</sup> New York State released its first known audit report of

---

risk to the patient, such as complete blood counts, electrolytes, and blood typing. The remaining fifty-six improper claims related to abortion-related laboratory tests that are allowable at the applicable federal medical assistance percentage rate, but not at the enhanced ninety-percent federal financial participation (FFP) rate, e.g., pap smears, urinalysis, and tests for pregnancy and sexually transmitted diseases.

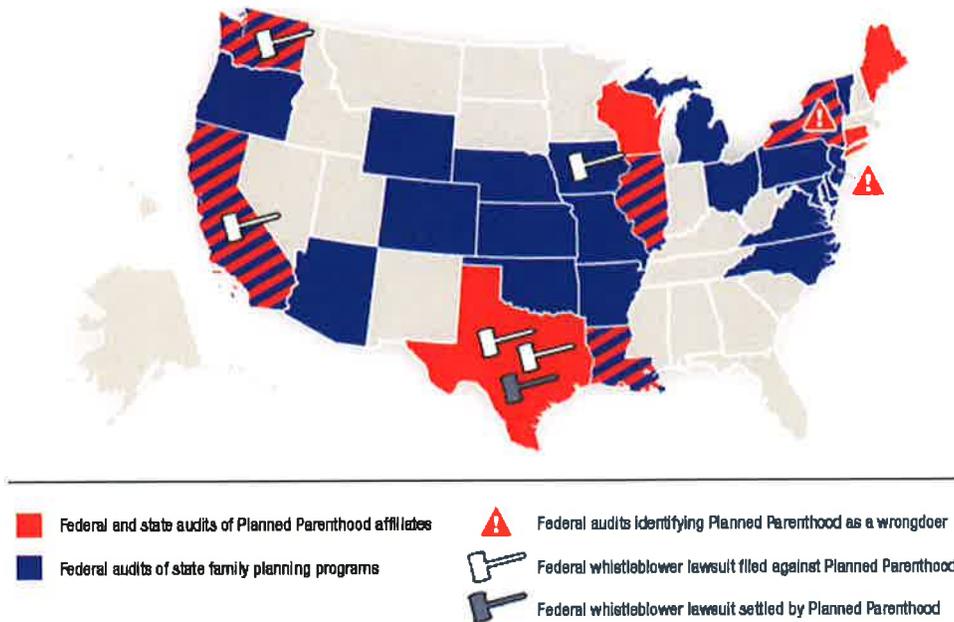
FFP is the federal portion of the shared federal-state contributions to the Medicaid program; the precise share is determined by the federal medical assistance percentage (FMAP). *See generally* Title XIX of the Social Security Act. In New York, the FMAP was 50% from January 1, 2000, through March 31, 2003, and 52.95% from April 1, 2003, through December 31, 2003. However, Social Security Act § 1903(a)(5) and 42 C.F.R. §§ 433.10, 433.15 provide for an enhanced 90% FFP for family planning services, which are defined in the Centers for Medicare & Medicaid Services (CMS) State Medicaid Manual. While a state may determine the specific services and supplies to be covered as Medicaid family planning services, such procedures and items must adhere to certain CMS guidelines. CMS State Medicaid Manual § 4270 also provides that an abortion may not be claimed as a family planning service. Further, based on the Supplemental Appropriations and Recession Act of 1981, P.L. No. 97-12 and 42 C.F.R. § 441.203, federal funds may only be used for an abortion in cases where the life of the mother is endangered. Therefore, many laboratory services related to an abortion are ineligible for federal funding. However, FFP is available at the applicable FMAP for the costs of certain services associated with the provision of a non-federally funded abortion if the same services would have been provided to a pregnant woman not seeking an abortion, CMS State Medicaid Manual § 4432, but these services will not be reimbursable at the enhanced ninety-percent rate, CMS Financial Management Review Guide Number 20, Family Planning Services, Medicaid State Operations Letter 91-9.

<sup>15</sup> The true amount may be \$35,381,352 or even higher, as HHS-OIG set aside certain amounts in question for further review, and as the scope of the audits was limited.

<sup>16</sup> Other audits may single out Planned Parenthood affiliates, as well, without referring to them by name. For example, in the November 2008 New York State audit A-02-07-01037, HHS-OIG found that New York improperly received enhanced ninety-percent federal reimbursement for 102 out of 119 sample claims. Of these, 96 were for services unrelated to

a Planned Parenthood affiliate.<sup>17</sup> In defense to a 2009 audit's findings of gross overbilling, one Planned Parenthood affiliate objected to the draft audit report, claiming that it was "unfair" for the State to request repayment or documentation "four to five years after the fact."<sup>18</sup>

COMBINED MAP OF FEDERAL AUDITS OF STATE FAMILY PLANNING PROGRAMS,  
-AND- FEDERAL AND STATE AUDITS OF PLANNED PARENTHOOD AFFILIATES



family planning, and 33 were for services for which no reimbursement was available - including 27 abortion procedures, and 4 services performed in conjunction with an abortion. HHS-OIG found that one provider was responsible for twenty-five of the twenty-seven abortion claims; this provider billed at least 3,900 abortion claims during the audit period.

<sup>17</sup> It is logical to presume that New York State, after being audited and charged over \$32 million, would attempt to recover this loss from the Planned Parenthood family planning clinics that would have been a primary source of the overpayments. One of the 2008 federal audits of New York State (Review of Federal Medicaid Claims Made for Beneficiaries in the Family Planning Benefit Program in New York State, A-02-07-01001, May 2008) specifically noted Planned Parenthood (and only Planned Parenthood) as a major offender in incorrectly claiming services as family planning: "[M]any provider officials (especially Planned Parenthoods) stated that they billed most of their claims to Medicaid as related to 'family planning.'"

<sup>18</sup> Family Planning Chargeback to Managed Care Network Providers, 09-1415, June 10, 2009.

The scope of each audit detailed or listed herein was very limited, examining only a fraction of the types of claims and only for a limited window of time, which varied by audit. Yet nearly every known audit of Planned Parenthood affiliates has found overbilling. Thus, in order to understand the scope of what monies may be regained through audits of Planned Parenthood and other family planning / abortion clinics and of state family planning programs, it is useful to calculate the average amount of overbilling by year found in the audits conducted to date. Of the forty-five audits of Planned Parenthood, the audited dates are known for forty audits. Of these audits, as much as \$5,213,645.92 was overbilled in one audited year in a single audit; the average overbilled amount per audited year in a single audit was \$95,067.90. Of the fifty-seven audits of state family planning programs, the audited dates are known for fifty-six audits. Of these audits, as much as \$4,410,900.70 was overbilled in one audited year; the average overbilled amount per audited year in a single audit was \$742,170.45. And more audits of Planned Parenthood and of state family planning programs are forthcoming, as well.<sup>19</sup>

---

<sup>19</sup> See, e.g., Sarah Zagorski, *If Planned Parenthood Loses Taxpayer Funding, This Map Shows Health Clinics That Will Take Its Place*, LIFENEWS.COM, Aug. 18, 2015, <http://www.lifenews.com/2015/08/18/if-planned-parenthood-loses-taxpayer-funding-this-map-shows-health-clinics-that-will-take-its-place/> (listing at least twelve states that have launched investigations into Planned Parenthood this year); documents responsive to an open records request, on file with Alliance Defending Freedom; U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE OF INSPECTOR GENERAL, WORK PLAN FOR FISCAL YEAR 2014, at Part III Medicaid Reviews, available at <https://oig.hhs.gov/reports-and-publications/archives/workplan/2013/WP03-Mcaid.pdf>.

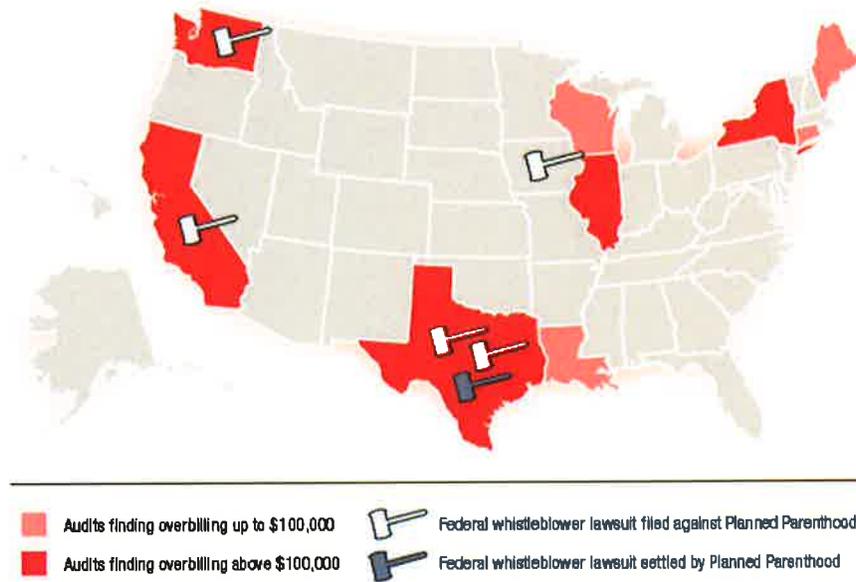
**TYPES OF UNLAWFUL BILLING IDENTIFIED IN AUDITS**

1. Billing and being reimbursed by Title XIX agencies for medications and/or services provided in connection with an abortion procedure in violation of the Hyde Amendment (a process known as “unbundling” or “fragmentation”);
2. Dispensing prescription drugs, including oral contraceptives, without an authorizing order by a physician or other approved healthcare practitioner;
3. Dispensing prescription drugs, including oral contraceptives, to patients who have moved or have not been seen by the clinic for more than a year;
4. Billing in excess of actual acquisition cost or other statutorily approved cost for contraceptive barrier products, oral contraceptives, and emergency contraceptive-Plan B (i.e., § 340B drugs) products;
5. Billing for services that were not medically necessary, including services for men and for women who were already pregnant, sterilized, or postmenopausal;
6. Billing for services that were not actually rendered;
7. Duplicate billing for examinations and products, including billing included products and services as fee for service;
8. Incorrectly coding and billing services;
9. Inadequate record-keeping, including lacking documentation to support the service billed and paid and not signing medical entries; and
10. Failing to pay the bills for which an affiliate had already been reimbursed with taxpayer funds.

**AUDITS OF PLANNED PARENTHOOD AFFILIATES**

There are forty-five known external audits or other reviews of Planned Parenthood affiliates' financial data and practices in nine states: two in California, one in Connecticut, one in Illinois, two in Louisiana, one in Maine, seven in New York State, two in Texas, three in Washington State, and twenty-six in Wisconsin. Each audit is very limited in scope in terms of location, time frame, and type of service examined; yet nearly every known government audit of Planned Parenthood affiliates has found overbilling.

FEDERAL AND STATE AUDITS OF PLANNED PARENTHOOD AFFILIATES



In total, these audits have uncovered at least \$8,496,533.96 in waste, abuse, and potential fraud:

- California (2 audits of 2 affiliates): \$5,213,645.92<sup>20</sup>
- Connecticut: \$18,791
- Illinois: \$387,000
- Louisiana: (2 audits of 1 affiliate): \$6,147.18

---

<sup>20</sup> The total may well be more, as the audit results are only known for one of the two audits.

- Maine: \$33,294.83
- New York (7 audits of 4 affiliates): \$1,615,083.25
- Texas (2 audits of 2 affiliates): \$538,703.10 - \$658,735.97
- Washington (3 audits of 2 or 3 affiliates<sup>21</sup>): \$640,595.88
- Wisconsin (26 audits of 1 affiliate): \$43,272.80

The audited dates are known for forty audits. Of these audits, as much as \$5,213,645.92 was overbilled in one audited year in a single audit; the average overbilled amount per audited year in a single, limited audit was \$95,067.90.

Planned Parenthood has fifty-nine affiliates,<sup>22</sup> and fifteen affiliates, or approximately twenty-five percent, have been audited, though each audit has been very limited in scope, detail, and time frame. And others have been accused of financial fraud and worse.

In 2008, former Florida PPFA affiliate Planned Parenthood of South Palm Beach and Broward Counties faced allegations of “terrible mismanagement and possibly fraud” related to nearly \$450,000 (only slightly less than the \$500,000 the affiliate received in government funding in 2005, and about one-sixth of the total budget), an allegedly plagiarized 2006 annual report, and sexual harassment by a former CEO.<sup>23</sup>

At Planned Parenthood of Southwest Michigan (PPSWMI), a May 2010 audit revealed bank statements accumulated for up to six months before being reconciled, and personal expenses such as household bills being paid as company expenses. PPSWMI Director of Finance Rene Davis was responsible for these problems and

---

<sup>21</sup> The number of affiliates is unknown because Alliance Defending Freedom has not yet been able to obtain the final report of an audit referenced in government documentation, and thus does not know which affiliate(s) the audit covered.

<sup>22</sup> See PLANNED PARENTHOOD LOCAL & STATE OFFICES, <http://www.plannedparenthood.org/about-us/local-state-offices/>. This number is down from the seventy-one affiliates as of the 2013 Alliance Defending Freedom audit report.

<sup>23</sup> See *Planned Parenthood Cuts Ties with 5 Clinics*, MIAMI HERALD (July 2, 2008).

personally took about \$5,000 from company funds – not her first offense – but was promoted to Chief Operating Officer.<sup>24</sup>

In Louisiana, the local Planned Parenthood affiliate conducted a self-audit in which they determined that one of their nurses had been writing and issuing prescriptions without proper authority due to not having the proper collaborative agreement paperwork filed, and voluntarily paid the Louisiana Department of Health and Hospitals \$33,739.13 in November 2013.<sup>25</sup>

In Texas and Vermont, Planned Parenthood affiliates have been hit with fines for campaign finance violations. In Texas, the Texas Ethics Commission fined Planned Parenthood of North Texas Action Fund Political Committee's campaign treasurer \$3,000 for failing to report or making mistakes in reporting tens of thousands of dollars it spent to support Wendy Davis and other candidates in 2008. The action fund accepted the fine without protest.<sup>26</sup> In Vermont, Planned Parenthood of Northern New England Action Fund agreed to pay a \$30,000 fine to the Vermont Office of the Attorney General for failing to comply with political committee reporting requirements relating to \$119,437 it spent in the 2010 gubernatorial election. It had failed to register its Action Fund as a political action committee and file contribution reports, as well as accepting contributions bigger than the \$2,000 limit per donor.<sup>27</sup>

---

<sup>24</sup> See Steven Ertelt, *Michigan Planned Parenthood Exec Stole 5K from Abortion Biz*, LIFENEWS.COM, Dec. 22, 2010, <http://www.lifenews.com/2010/12/22/state-5763/>.

<sup>25</sup> Documentation on file with Alliance Defending Freedom. Alliance Defending Freedom is working to obtain full audit records.

<sup>26</sup> See Mark Lisher, *Planned Parenthood of North Texas PAC Fined \$3,000 for Campaign Finance Violations*, TEXAS WATCHDOG, Aug. 26, 2010, <http://www.texaswatchdog.org/2010/08/planned-parenthood-of-north-texas-fined-3000-for-campaign/1282834605.column>.

<sup>27</sup> See, e.g., WCAX News, *Planned Parenthood PAC to Pay Fine for Vt. Campaign Finance Violations*, WCAX.COM, Nov. 21, 2013, <http://www.wcax.com/story/24011171/planned-parenthood-pac-to-pay-fine-for-vt-campaign-finance-violations>; Steven Ertelt, *Planned Parenthood Abortion Biz Pays \$30,000 Fine for Violating Campaign Finance Laws*, LIFENEWS.COM, Nov. 19, 2013, <http://www.lifenews.com/2013/11/19/planned-parenthood-abortion-biz-pays-30000-fine-for-violating-campaign-finance-laws/>.

Planned Parenthood affiliates have also been fined or settled in cases involving wrongful death / medical malpractice,<sup>28</sup> failure to report child sexual abuse and rape,<sup>29</sup> and regulatory violations.<sup>30</sup>

Over the last ten years (Planned Parenthood fiscal years 2005-2014), the average annual government funding received by Planned Parenthood and its affiliates has been \$426.48 million. If the service-limited audits conducted thus far were expanded and replicated in all Planned Parenthood affiliates, the overbillings due the government fisc would likely be in the millions or even higher.

---

<sup>28</sup> For example, Planned Parenthood settled a wrongful death lawsuit in the case of one 2012 death for \$2 million. See Steven Ertelt, *Planned Parenthood Must Pay \$2 Million Settlement After Killing Woman in Abortion*, LIFE NEWS.COM, Feb. 7, 2014, <http://www.lifenews.com/2014/02/07/planned-parenthood-pays-2-million-settlement-after-killing-black-teen-in-abortion/>.

<sup>29</sup> See, e.g., *Roe v. Planned Parenthood of Southwest Ohio Region*. (in which a Planned Parenthood affiliate settled a case involving their abortion on and coverup of a 14-year-old girl impregnated by her 22-year-old soccer coach); Brett Harvey, *Ohio Cases Put Molesters and Planned Parenthood on Notice*, TOWNHALL.COM, Oct. 5, 2012, [http://townhall.com/columnists/brettharvey/2012/10/05/ohio\\_cases\\_put\\_molesters\\_and\\_planned\\_parenthood\\_on\\_notice/page/full](http://townhall.com/columnists/brettharvey/2012/10/05/ohio_cases_put_molesters_and_planned_parenthood_on_notice/page/full).

<sup>30</sup> For example, Planned Parenthood of Delaware, Inc. (PPDE), was fined \$3,060 for violations including employee exposure to contaminated needles. An abortionist formerly employed there, Timothy Liveright, was fined \$1,500 by the Delaware Board of Medical Licensure and Discipline for misconduct including sexual harassment and failure to keep proper records. Other allegations against PPDE by "radically pro-abortion" former PPDE nurses include failure even to wipe off bloody tables between patients, over-sedation, perforation during abortion, not wearing gloves or other protective gear, failure to obtain consent for procedures, and incorrect labwork. They report that Liveright slapped a patient, placed patients on "operating tables still wet with the blood from the previous patient," refused to wear sterilized gloves during procedures, sang "hymns about sin to girls during the painful dilation phase of an abortion," played "Peek-A-Boo" with patients, "rushed abortions," allowed "sedated patients to wander down [the street] dazed and confused," and once left sedated patients in the middle of an abortion procedure waiting for hours in order to handle a mechanical issue with his private airplane. See, e.g., John Jalsevac, *Planned Parenthood Clinic Investigated After Multiple Botched Abortions, STD Scare*, LIFESITENEWS, Apr. 18, 2013, <http://www.lifesitenews.com/news/planned-parenthood-clinic-investigated-after-multiple-botched-abortions-std>; Dave Andrusko, *Former Planned Parenthood Abortionist Reprimanded and Fined for Behavior at Wilmington Abortion Clinic*, NATIONAL RIGHT TO LIFE NEWS TODAY, Jan. 8, 2014, <http://www.nationalrighttolifenews.org/news/2014/01/former-planned-parenthood-abortionist-reprimanded-and-fined-for-behavior-at-wilmington-abortion-clinic/>; see also Steven Ertelt, *Planned Parenthood Abortion Practitioner Loses Medical License*, LIFE NEWS.COM, July 28, 2011, <http://www.lifenews.com/2011/07/28/planned-parenthood-abortion-practitioner-loses-medical-license/>.

**California Audits**

Two audits have been conducted of Planned Parenthood affiliates in California; the scope and results are known for one.

**California Audit I – San Diego and Riverside Counties, 2004**

A 2004 State of California audit of Planned Parenthood of San Diego and Riverside Counties (PPSDRC) revealed payment in excess of cost for contraceptive barrier products, oral contraceptives, and Plan B products, totaling \$5,213,645.92.

The California Health and Human Services Agency, Department of Health Services conducted the audit of paid claims from July 1, 2002, to June 30, 2003 for Codes X1500 (contraceptive barrier products) and X7706 (oral contraceptives), and February 2, 2003, to May 30, 2004 for Code X7722 (Plan B products).

The audit found that during the audit review period, PPSDRC did not comply with the published billing requirements. It found a total payment in excess of cost during the audit period of \$5,213,645.92:

| <b>Billing Code</b> | <b>Code Description</b>        | <b>Amount Paid</b>    | <b>Provider's Cost</b> | <b>Payments in Excess of Cost</b> |
|---------------------|--------------------------------|-----------------------|------------------------|-----------------------------------|
| X1500               | contraceptive barrier products | \$35,117.30           | \$12,318.71            | \$22,798.59                       |
| X7706               | oral contraceptives            | \$5,030,347.00        | \$859,569.10           | \$4,170,777.90                    |
| X7722               | Plan B products                | \$1,119,351.53        | \$99,282.10            | \$1,020,069.43                    |
| <b>Total</b>        |                                | <b>\$6,184,815.83</b> | <b>\$971,169.91</b>    | <b>\$5,213,645.92</b>             |

In the case of oral contraceptives and Plan B products, Planned Parenthood Affiliates of California (PPAC) claimed that it had a longstanding relationship with manufacturers that allowed them to purchase these products at deeply discounted rates, i.e., "nominal prices." By then billing Medi-Cal at a "usual and customary rate," which is higher than what PPAC had paid for the Plan B product, but somewhat lower than the normal retail price for the product, PPAC defended its improper practices by deeming that PPAC was "sharing the profits" of the "nominal price" arrangements with the State of California. No such "nominal pricing" arrangement existed with respect to condoms. The health department rejected this justification and required repayment of amounts billed over acquisition cost.

California Audit II – Golden Gate, 2010

The Internal Revenue Service's criminal division audited the former PPFA affiliate Planned Parenthood Golden Gate (PPGG) in 2010, finding, at a minimum, "inaccurate information."<sup>31</sup> This audit was reportedly instigated by a former employee who lodged a complaint about an improper relationship between PPGG and its political arm, and also about PPGG's financial practices.

For the tax year ending June 30, 2009, for example, PPGG filed three separate sets of numbers with the IRS, showing losses between \$1.9 and \$2.8 million. In a 2004 accreditation review of PPGG by PPFA, PPGG failed five of PPFA's nine indicators of financial health. And in 2010, the California Attorney General's office charitable trusts division warned PPGG Action Fund, PPGG's political advocacy and public policy arm, for not having filed copies of its tax documents with that office for at least ten years.<sup>32</sup>

Thirty PPGG medical personnel additionally sent a "letter of concern" to PPGG and PPFA management, detailing numerous problems including "misappropriation and mismanagement" of funds.<sup>33</sup>

Connecticut Audit

The U.S. HHS-OIG conducted an audit<sup>34</sup> of Planned Parenthood of Connecticut Inc. & Subsidiar., finding \$18,791 of overbilling.

---

<sup>31</sup> Alliance Defending Freedom is working to obtain full audit records. *See also* Katharine Mieszkowski, *IRS Looking into Planned Parenthood Golden Gate After Complaint*, THE BAY CITIZEN, Sept. 2, 2010, available at <https://www.baycitizen.org/news/health/irs-looking-planned-parenthood-after/>.

<sup>32</sup> *See, e.g.*, Katharine Mieszkowski, *Internal Concerns About Fiscal Health and Tax Documents Suggest Long-Term Disarray*, THE BAY CITIZEN, Aug. 12, 2010, available at <https://www.baycitizen.org/news/health/financial-docs-raise-questions-about/>.

<sup>33</sup> *See id.*

<sup>34</sup> A-01-99-59104, released Aug. 1999. *See* U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE OF INSPECTOR GENERAL, SEMI-ANNUAL REPORT OCTOBER 1, 1999 – MARCH 31, 2000 (2000), at D-8, available at <https://oig.hhs.gov/publications/docs/semiannual/2000/00ssemi.pdf>. Alliance Defending Freedom is working to obtain full audit records.

### Illinois Audit

As the result of an audit<sup>35</sup> conducted by the Illinois Department of Healthcare and Family Services's Inspector General, Planned Parenthood of Illinois (PPIL) and its medical director, Caroline Hoke, agreed to repay the state \$367,000 to settle findings of overbilling Medicaid and failure to document services allegedly provided, primarily contraceptives.<sup>36</sup> Separately, Planned Parenthood's Westside Clinic agreed to pay the state \$20,000 for its portion of the overbilling. Hoke had been banned from reimbursement by and threatened with termination from the Medicaid program since May 2010, when these overbillings were uncovered.<sup>37</sup>

Specifically, this audit found 641 missing records, 31 instances of billing for non-covered services, and 10 instances of billing for services actually performed by someone else, as well as improper procedure codes.

During the fiscal year ending June 30, 2011 (the most recent fiscal year for which data is available), PPIL received approximately half its \$25 million revenue from Medicaid. In 2009, Hoke received over \$3 million from Medicaid – the second-highest amount of 30,000 physicians – but in 2011 received nothing. However, the other PPIL providers have seen their reimbursements grow accordingly – in fiscal year 2009, fifty-two other PPIL providers received \$2.8 million in reimbursements, but in 2011, a total of sixty-two providers received \$7 million.<sup>38</sup>

---

<sup>35</sup> This audit, case number 1074160, was conducted of the period January 1, 2006, to December 31, 2007.

<sup>36</sup> See Andrew L. Wang, *Planned Parenthood Settles with Illinois on Medicaid Payments*, MODERN HEALTHCARE, Sept. 6, 2012, <http://www.modernhealthcare.com/article/20120906/INFO/309069993>; Andrew L. Wang, *Medicaid Probes Planned Parenthood Fees*, CRAIN'S CHICAGO BUSINESS, July 9, 2012, <http://www.chicagobusiness.com/article/20120707/ISSUE01/307079977/medicaid-probes-planned-parenthood-fees>.

<sup>37</sup> See Andrew L. Wang, *Planned Parenthood Settles with Illinois on Medicaid Payments*, MODERN HEALTHCARE, Sept. 6, 2012, <http://www.modernhealthcare.com/article/20120906/INFO/309069993>.

<sup>38</sup> See Andrew L. Wang, *Medicaid Probes Planned Parenthood Fees*, CRAIN'S CHICAGO BUSINESS, July 9, 2012, <http://www.chicagobusiness.com/article/20120707/ISSUE01/307079977/medicaid-probes-planned-parenthood-fees>.

### **Louisiana Audits**

Two known government audits of Planned Parenthood have been completed in Louisiana.

#### **Louisiana Audit I**

As the result of an audit conducted by the Louisiana Department of Health and Hospitals (DHH), one Planned Parenthood clinic repaid \$6,147.18 to DHH to settle findings of improper billings.<sup>39</sup>

#### **Louisiana Audit II – 2014**

In response to Louisiana Senate Concurrent Resolution No. 57 and House Resolution No. 105, 2013 Regular Session, Louisiana's Legislative Auditor reviewed Planned Parenthood Gulf Coast's billings during calendar year 2012. In a report issued February 19, 2014, the Legislative Auditor found that overall, they could find no evidence that PPGC's billings were not allowable, and that they had no evidence of PPGC pressuring clients into abortion.<sup>40</sup>

#### **Maine Audit**

As the result of an audit conducted by the Maine Department of Health and Human Services of Planned Parenthood of Northern New England (PPNNE), PPNNE agreed to repay the state \$33,294.83 to settle findings of Levonorgestrel IUDs billed for nearly double their actual acquisition cost under one particular procedure code.<sup>41</sup>

---

<sup>39</sup> Specifically, the clinic had billed clinic services under the laboratory Medicaid provider code and vice versa. Alliance Defending Freedom is working to obtain full audit records.

<sup>40</sup> Audit report on file with Alliance Defending Freedom. However, Louisiana sources report that Planned Parenthood is not currently performing abortions in Louisiana, making allegations of abortion referrals more difficult to track.

<sup>41</sup> See Letter from Herbert F. Downs, Director of Audit, Maine Department of Health and Human Services, to Michael Barewicz, Associate Vice President, Planned Parenthood of Northern New England (June 21, 2012) (on file with Alliance Defending Freedom). The original audit finding was \$90,169.27 in overbillings. Letter from Michael Bishop, Auditor II, Program Integrity, Financial Services – Audit, Maine Department of Health and Human Services, to Michael Barewicz, Associate Vice President, Planned Parenthood of Northern

### New York Audits

The seven New York State audits of New York Planned Parenthood affiliates were likely conducted due to seven federal audits of New York Medicaid family planning program claims. The first known New York State audit of New York Planned Parenthood affiliates was released thirteen months after a federal audit identified “especially Planned Parenthoods” as incorrectly claiming services as family planning, as detailed in the Federal Audits of State Family Planning Programs and Other Organizations section below.

In sum, the seven New York State audits of New York Planned Parenthood affiliates uncovered overpayments of at least \$1,615,083.25.

#### New York Audit I – New York City, January 2009

A January 2009 audit<sup>42</sup> of Planned Parenthood of New York City, Inc. (PPNYC) / Margaret Sanger Center resulted in PPNYC electing to repay the amount of \$207,809.00.

#### New York Audit II - Hudson Peconic, June 2009

A June 2009 audit<sup>43</sup> of Medicaid payments for family planning and reproductive health services paid to Planned Parenthood Hudson Peconic, Inc. (PPHP) on behalf of Medicaid beneficiaries while they were enrolled in Community Choice Health Plan and Health Insurance Plan of New York found significant overpayments for family planning and reproductive health services claims, resulting in an overpayment of \$15,723.91, inclusive of interest.

The New York State Office of the Medicaid Inspector General (OMIG) conducted this audit to ensure that PPHP was in compliance with 18 NYCRR § 515.2, which addresses unacceptable practices under the medical assistance program, and

---

New England (Dec. 14, 2010) (on file with Alliance Defending Freedom). Alliance Defending Freedom is working to obtain full records on the audit process.

<sup>42</sup> Audit # 08-3045. Alliance Defending Freedom is working to obtain full audit records.

<sup>43</sup> The audit (Family Planning Chargeback to Managed Care Network Providers, 09-1415, June 10, 2009) was conducted of the period Jan. 1, 2004, through Dec. 31, 2004.

§ 540.6, which addresses recovery of third-party reimbursement and repayment to the medical assistance program.

OMIG found overpayments of \$12,173.63 for family planning and reproductive health services claims during the audit period; as a result, § 515.2 and § 540.6 requirements were violated. Inclusive of \$3,550.28 in interest, 18 NYCRR § 518.4, the repayments total \$15,723.91.

In PPHP's April 23, 2009, response to OMIG's March 23, 2009, draft report, it indicated (1) that PPHP considered it unfair to request repayment or documentation "four to five years after the fact"; (2) that it considered the Electronic Medicaid Eligibility Verification System (EMEVS) to be inaccurate for verifying that clients are enrolled in a managed care plan; and (3) an expression of doubt as to why Medicaid would pay the fee for service claim if the client was a managed care member. OMIG responded to each of these concerns.

New York Audit III – New York City, June 2009

A June 2009 audit<sup>44</sup> of payments to PPNYC / Margaret Sanger Center for diagnostic and treatment center services paid by Medicaid found five improper practices, with sample overpayments of \$7,960.01 and total overpayments of at least \$1,254,603.00.

OMIG conducted this audit to ensure that (1) Medicaid reimbursable services were rendered for the dates billed; (2) appropriate rate or procedure codes were billed for the services rendered; (3) patient-related records contained the documentation required by the regulations; and (4) claims for payment were submitted in accordance with the DOH regulations and the Provider Manuals for Clinics.

During the audit period, \$11,818,856.30 was paid for services rendered to 21,413 patients. The review consisted of a random sample of 100 patients with Medicaid payments of \$53,977.99.

OMIG found five improper practices:

---

<sup>44</sup> The audit (06-6696) was conducted of the period Jan. 1, 2004, through Dec. 31, 2005.

1. Missing documentation: In thirty-four instances pertaining to twenty patients, the services were not documented as required by 18 NYCRR §§ 504.3, 517.3, 540.7(a)(8), resulting in a sample overpayment of \$3,629.63.
2. Inadequate documentation of HIV pre-test counseling visit: In thirty-three instances pertaining to twenty-seven patients, the justification for the service billed was incomplete in the record, and the case record form was not completed as required by 18 NYCRR § 504.3(a), 517.3, 540.7(a)(8); Department of Health Memorandum 93-26 – HIV Primary Care Provider Agreement – Attachment I, resulting in an overpayment of \$2,973.96.
3. Visit billed for managed care client within network: In nine instances pertaining to four patients, PPNYC billed Medicaid for services provided to patients enrolled in PPNYC's HMO network, contrary to 18 NYCRR § 360-7.2; MMIS Provider Manual for Clinics § 2.1.9, resulting in an overpayment of \$1,109.38. (MMIS is a computerized payment and information reporting system that is used to process and pay Medicaid claims.)
4. Medical entry not signed: In one instance, the practitioner did not sign the entry in the medical record as required by 10 NYCRR § 751.7(f), resulting in an overpayment of \$164.02.
5. Incorrect rate code billed: In six instances pertaining to five patients, the incorrect rate code was billed, contrary to 18 NYCRR §§ 504.3(e), 504.3(h); MMIS Provider Manual for Clinics § 2.1.14, resulting in a higher reimbursement than indicated in the fee schedule for the proper rate code and an overpayment of \$83.02.

The total sample overpayment for this audit was \$7,960.01.

Using statistical sampling methodology to extrapolate from the sample findings to the universe of cases, 18 NYCRR § 519.18, the mean per unit point

estimate of the amount overpaid was \$1,704,477.00, and the lower confidence limit, with a ninety-five percent confidence interval, was \$1,254,603.00.

New York Audit IV – New York City, December 2009

A December 2009 audit<sup>45</sup> of Medicaid payments for family planning and reproductive health services paid to PPNYC/Margaret Sanger Center on behalf of Medicaid beneficiaries while they were enrolled in VidaCare Inc. SNP found overpayments, inclusive of interest, of \$886.26.

The audit found that PPNYC had improperly billed Medicaid \$719.55 for family planning and reproductive health services that were rendered to VidaCare enrollees; as a result, 18 NYCRR § 515.2 and § 540.6 requirements were violated. OMIG then calculated \$166.71 in interest, resulting in \$886.26 in required restitution.

PPNYC was invited to respond to the draft report but did not do so within thirty days.

New York Audits V-VII – February/May 2010

Three February/May 2010 audits<sup>46</sup> of Planned Parenthood affiliates in New York found six categories of overbilling, resulting in a total overpayment of \$136,061.08, inclusive of interest.

The Prenatal Care Assistance Program (PCAP) is a comprehensive prenatal care program that offers complete pregnancy care and other services to women. Facilities that enter into a contract with DOH to become a PCAP provider agree to provide these services, directly or indirectly, to pregnant women who are eligible for Medicaid and are reimbursed via all-inclusive, enhanced PCAP rates established by DOH. The provider agrees to establish procedures, internally and externally, to

---

<sup>45</sup> The audit (Family Planning Chargeback to Managed Care Network Providers, 09-4845, Dec. 16, 2009) was conducted of the period Jan. 1, 2005, through Dec. 31, 2005.

<sup>46</sup> The audits of PPHP (Prenatal Care Assistance Program, 2009Z33-136W, May 27, 2010), Planned Parenthood of Nassau County, Inc. (PPNC) (Prenatal Care Assistance Program, 2009Z33-083W, May 27, 2010), and Planned Parenthood of South Central New York, Inc. (PPSCNY) (Prenatal Care Assistance Program, 2009Z33-0480, Feb. 24, 2010) were conducted of the period Jan. 1, 2006, through Dec. 31, 2008.

ensure that ancillary services such as lab and ultrasound procedures related to prenatal care are not billed directly to Medicaid.

OMIG reviewed PPHP billings for PCAP patients to ensure that (1) clinic services were billed appropriately and in accordance with DOH rules and regulations, and provider billing guidelines; and (2) other Medicaid-enrolled providers who performed PCAP-covered services did not bill Medicaid.

The audits uncovered six improper practices:

|  | PPHP                      | PPNC     | PPSCNY     |
|--|---------------------------|----------|------------|
| Multiple initial prenatal care visits <sup>47</sup>  | \$0 <sup>48</sup>         | \$0      | \$0        |
| Initial, follow-up, and postpartum services billed incorrectly after delivery <sup>49</sup>  | \$162.96 <sup>50</sup>    | \$0      | \$24.30    |
| Laboratory services billed fee for service that are included in the PCAP rate <sup>51</sup>  | \$3,117.75 <sup>52</sup>  | \$169.55 | \$291.77   |
| Ultrasound services and diagnostic procedure services billed fee for services that are included in the PCAP rate – facility billed <sup>53</sup> | \$25,802.60 <sup>54</sup> | \$0      | \$4,272.09 |

<sup>47</sup> Initial visits receive the highest PCAP clinic reimbursement, and only one initial visit may be billed per patient per pregnancy, PCAP Billing Guidelines Booklet, May 2005.

<sup>48</sup> The audit found multiple PCAP recipients for whom more than one initial visit was billed, resulting in no overpayment. Alliance Defending Freedom is working to get further information to determine how billings for multiple initial visits would not result in overpayment.

<sup>49</sup> Only one postpartum visit may be billed; if additional visits are needed, claims should be submitted with the clinic’s general medicine rate codes, PCAP Billing Guidelines Booklet, May 2005.

<sup>50</sup> The audit found PCAP initial and follow-up visits reduced to the lower postpartum visit rate or, in some instances with multiple postpartum visits, reduced to the general medicine clinic rate.

<sup>51</sup> The PCAP services are comprehensive and cover services provided both at the clinic and at other locations, 10 NYCRR 85.40(i)(1)(ii)(iii); Medicaid Provider Manual for Physicians, Policy Guidelines, Section II, Physician Services, PCAP Billing Guidelines Booklet, May 2005.

<sup>52</sup> PPHP billed laboratory services ordered during PCAP visits in addition to the PCAP clinic rates, resulting in duplicate payments.

<sup>53</sup> Ultrasounds, whether performed at a PCAP facility or not, should not be billed fee for service by facilities due to the comprehensive nature of PCAP, PCAP Billing Guidelines Booklet, May 2005; PCAP Medicaid Policy Guidelines Manual, January 2007; DOH Medicaid Update, September 2008, Vol. 24, No. 10.

|   |                                  |                                 |                                 |
|---|----------------------------------|---------------------------------|---------------------------------|
| Ultrasound services and diagnostic procedure services billed fee for services that are included in the PCAP rate – physician billed <sup>55</sup> | \$68,105.40 <sup>56</sup>        | \$9,045.00                      | \$3,804.56                      |
| Vitamin and iron supplement services billed fee for service that are included in the PCAP rate <sup>57</sup>                                      | \$3,995.86                       | \$1,315.62                      | \$1,895.16                      |
| <b>Total</b>  | <b>\$112,490.31<sup>58</sup></b> | <b>\$12,031.29<sup>59</sup></b> | <b>\$11,539.48<sup>60</sup></b> |

Combined, the three audits found total overpayments of \$136,061.08.

### Texas Audits

There are two known audits of Planned Parenthood affiliates in Texas. In sum, they uncovered overpayments of at least \$640,595.88.

### Texas Audit I

A 2009 audit<sup>61</sup> of the 501(c)(3) and Texas Department of State Health Services (DSHS) contractor Planned Parenthood Center of El Paso (PPCEP) revealed numerous instances of subcontractors remaining unpaid for services rendered,

---

<sup>54</sup> The audit identified obstetrical ultrasounds and diagnostic procedures performed within 30 days of a PCAP visit, excluding any procedures associated with visits to other facilities or non-obstetrical providers, resulting in duplicate billing.

<sup>55</sup> Ultrasounds, whether performed at a PCAP facility or not, should not be billed fee for service by physicians due to the comprehensive nature of PCAP, DOH Medicaid Update, September 2008, Vol. 24, No. 10; 18 NYCRR 518.3(a).

<sup>56</sup> Using the same procedures as with claims improperly filed by facilities, the audit identified obstetrical ultrasounds and diagnostic procedures that were billed in duplicate.

<sup>57</sup> Vitamin and iron supplements as defined by drug therapeutic codes are included in the PCAP reimbursement and should not be billed fee for service, New York State Department of Health, PCAP Services Description, March 2003; the PCAP provider is responsible for providing these services.

<sup>58</sup> The total base amount of overpayment is \$108,494.45. OMIG then calculated interest on this amount totaling \$3,995.86, 18 NYCRR §§ 518.4, 518.1(c). The total amount of overpayment and restitution is therefore \$112,490.31.

<sup>59</sup> The total amount of restitution due was \$10,530.17 without interest; after \$1,501.12 in interest was added, the total was \$12,031.29.

<sup>60</sup> The total amount of restitution due was \$10,287.88 without interest; after \$1,251.60 in interest was added, the total was \$11,539.48.

<sup>61</sup> The audit (Attestation – Agreed-Upon Procedures Report on Planned Parenthood Center of El Paso, 09-56-00001-SP-19 Aug. 31, 2009) was conducted July 20-24, 2009.

despite the fact that the amounts had been included in PPCEP's requests for DSHS reimbursement. The total amount of the outstanding billings was likely between \$409,675.10 and \$529,707.97.

Founded in 1937 and personally visited by Planned Parenthood founder Margaret Sanger, PPCEP closed its seven centers on June 30, 2009, for financial reasons,<sup>62</sup> and filed for bankruptcy. Due to published reports of this closure, DSHS became concerned about the availability of PPCEP resources and records, and DSHS General Counsel requested that the Texas Health and Human Services Commission (HHSC), OIG conduct an audit of PPCEP.

This summer 2009 audit was to determine if PPCEP was in compliance with its payments to subcontractors for services rendered. Its goals were to determine:

1. The validity of allegations that PPCEP's subcontractors had not been paid for services rendered;
2. Whether such amounts or payments were rendered pursuant to a contract executed between DSHS and PPCEP; and
3. Whether DSHS had reimbursed PPCEP for the amounts that were alleged by the subcontractor to be unpaid (this was to be tied to the DSHS contract number).
4. Finally, if subcontractors were determined to be unpaid for services rendered, then OIG was to test a random sample of the expenditures that comprised the unpaid billings in order to ensure that they were allowable and in compliance with federal and state regulations and contract requirements.

During the audit, OIG collected both PPCEP's subcontractor billings and PPCEP's own accounts payable balances for subcontractors.

OIG determined that PPCEP was not in compliance with the applicable DSHS contracts, since it had requested DSHS reimbursement for subcontractor billings it

---

<sup>62</sup> See *Financially Troubled Planned Parenthood of El Paso Closes Doors*, LIFESITENEWS.COM, July 1, 2009, <http://www.lifesitenews.com/news/financially-troubled-planned-parenthood-of-el-paso-closes-doors>.

had never paid. Subcontractors identified the outstanding billings as totaling \$529,707.97; PPCEP's records indicated a total of \$409,675.10. However, neither amount was verifiable due to the incomplete condition of PPCEP's accounting records, and issues with patient confidentiality. Further, PPCEP had issued checks to subcontractors against the outstanding payable balances, as opposed to paying specific subcontractor invoice numbers. PPCEP's own records listed most subcontractor billings as more than 90 days overdue. State sources were unsure if the overbilling would ever be repaid.

#### Texas Audit II

In March 2015, the U.S. Department of Health and Human Services, Office of the Inspector General, released an audit<sup>63</sup> of the Texas Health and Human Services Commission, focusing solely on billings by Planned Parenthood of North Texas to Medicaid and the Texas Women's Health Waiver. The audit found three categories of overbilling, resulting in a total overpayment of \$129,028 (\$67,019 from Medicaid and \$62,009 from the waiver program).

1. Unrelated to family planning: 5 of 105 sample records were not billed for family planning purposes, including for four clients who had already been sterilized.
2. Incorrect billing: 51 of 210 sample records were incorrectly billed, such as duplicate billing.
3. Missing documentation: 89 of 210 sample records lacked supporting documentation.

Eighteen percent of the Medicaid sample (\$4,824 of \$26,313) was found to be overbilled, and eleven percent of the waiver sample (\$2,827 of \$26,477). The Texas Health and Human Services Commission indicated that it would recover the overpayments from Planned Parenthood of North Texas.

---

<sup>63</sup> The audit (Texas Claimed Unallowable Federal Reimbursement for Some Family Planning Services, A-06-11-00016) was conducted of the period Mar. 1, 2007, through Sept. 30, 2008.

### Washington State Audits

There are three known Washington State audits of Planned Parenthood affiliates. In sum, they uncovered overpayments of at least \$640,595.88, inclusive of interest.

#### Washington Audit I

In 2000 and 2001, an audit of a Planned Parenthood clinic uncovered "inflated billings"; a lengthy analysis and negotiation process resulted in an untenable and apparently illicit agreement.<sup>64</sup>

#### Washington Audit II – Inland Northwest, 2007-2009

A 2007-2009 audit<sup>65</sup> of the Planned Parenthood of the Inland Northwest (PPINW) affiliate<sup>66</sup> found numerous instances of overbilling or other irregularities, resulting in an overpayment of \$629,142.88, inclusive of interest.

The audit began after Washington Department of Social and Health Services grew suspicious of the frequency of clinic visits by Medicaid patients.<sup>67</sup> It was conducted by the Medical Audit Unit, Office of Payment Review and Audit, within the Department of Social and Health Services (DSHS) to determine provider compliance with applicable federal, state, and departmental regulations<sup>68</sup> relative to claims paid from Mar. 15, 2004, to Feb. 26, 2007, for services provided under the Health &

---

<sup>64</sup> Email from Myra S. Davis, Medical Assistance Administration Rules and Publications, to Heidi Robbins Brown, Deputy Assistant Secretary, Medical Assistance Administration, Washington Department of Social and Health Services (Sept. 17, 2004, 11:56 PDT) (on file with Alliance Defending Freedom). No more is known about the audit at this time, but Alliance Defending Freedom is working to obtain full audit records.

<sup>65</sup> The audit (MA 07-13, July 20, 2009) was conducted May 8-10, 2007.

<sup>66</sup> Doing business as Planned Parenthood of Spokane.

<sup>67</sup> See John Stucke, *Audit: Planned Parenthood Overbilled Medicaid*, THE SPOKESMAN-REVIEW, Aug. 12, 2009, <http://www.spokesman.com/stories/2009/aug/12/audit-clinic-overbilled-medicaid/>.

<sup>68</sup> Specifically, compliance with regulations stated in the Revised Code of Washington (RCW), Washington Administrative Code (WAC), the provider's Core Provider Agreement with DSHS, the Schedule of Maximum Allowances, Billing Instructions, and Numbered Memoranda.

Recovery Services Administration (HRSA) programs.<sup>69</sup> A total of 267,840 procedures, totaling \$7,697,613.86, met these criteria.

The audit conducted (1) probability sampling of 308 randomly selected procedures, totaling \$26,117.32, which were then extrapolated to the total number of procedures; (2) a claim-by-claim audit of the 25 procedures with the highest reimbursement, totaling \$11,728.50; and (3) an on-site documentation review. Thus, a total of 333 procedures were audited.

The audit found:

1. In seventeen instances, prescription drugs were dispensed without an authorizing order.<sup>70</sup> In ten audited instances, the dispenser did not have a current, valid authorizing order (prescription) to dispense and bill for the prescription drug on the date of service, for example, where the prescription was outdated. In seven audited instances, there was no valid authorizing order at all to dispense the prescription drug billed; for instance, in one case there was no documentation from the office visit of the medication being prescribed, and additionally, a licensed clinician had not signed the exam form.
2. In sixteen instances, documentation was missing or did not support the level of evaluation and management (E/M) service billed and paid by HRSA. There was one instance of incorrect coding, fourteen instances in which the visit was to pick up medication and there were no chart notes to substantiate that a face-to face office visit with a licensed clinical staff member occurred, and one instance in which there was no chart note or other signed documentation to substantiate a billed pregnancy test visit.

---

<sup>69</sup> Procedures paid at \$0 and Medicare crossover claims were excluded.

<sup>70</sup> In some cases, oral contraceptives were dispensed to patients with no order at all; some orders had expired or had been signed only by a Registered Nurse (RN), without countersignature by a licensed clinician or medical doctor. This practice is often associated with HOPE (Hormonal Option without Pelvic Examination) visits. Typically, in a HOPE examination, a non-licensed staff person takes a patient's blood pressure and obtains a brief medical history and, in lieu of a physical examination by a licensed clinician or medical doctor, thereupon provides the patient with contraceptives.

3. In thirteen instances, PPINW billed HRSA for more than the acquisition cost of the contraceptive supply, i.e., condom, contrary to the fee schedule.
4. In one instance, PPINW billed for a pregnancy test that was not medically necessary. The patient had been receiving contraceptive “shot[s]” and was not due for another, and on her HOPE (Hormones with Optional Pelvic Exam) form had indicated that there was no need for a test; no other chart note or documentation supported the test.
5. In one instance, PPINW billed separately for a medication included in a bundled service for an abortion that was covered under a different contract with the provider and a different provider number, thus engaging in “unbundling” / “fragmentation” and billing for medication not covered by the Family Planning or Take Charge programs.
6. In two instances, the Registered Nurse (RN) wrote an oral contraceptive order for a new patient without countersignature by a clinician, contrary to the Department of Health Nursing Commission’s Telehealth/Telenursing guidelines for Registered Nurses that require a prior patient-practitioner relationship for such an order.
7. In those same two cases, the RN did not identify the order as following the standing order protocol, so it was unclear where the order originated. The order could have originated over the telephone or by fax.

Overpayments associated with the probability sample totaled \$1,743.59; extrapolated to the universe of 267,840 procedures, totaling \$7,697,613.86, the calculated overpayment was \$628,692.88. Overpayments associated with the claim-by-claim audit of the highest reimbursed twenty-five claims totaled \$450.00. The total overpayment was \$629,142.88.

PPINW was directed to comply with all federal, state, and departmental regulations, rules, and billing instructions provided under the Medical Assistance program; continued violations could result in suspension or termination of their

eligibility to receive services. Further, PPINW was instructed to repay \$629,142.88, plus interest. PPINW settled with the state for \$345,000.<sup>71</sup>

#### Washington Audit III – Great Northwest

In May 2012, Planned Parenthood of the Great Northwest (PPGNW) reimbursed the Medicaid program \$11,453 as a result of a sample audit<sup>72</sup> conducted by the Washington Medicaid Fraud Control Unit (MCFU) as the result of complaints from concerned citizens alleging “questionable billing practices.” Additionally, one portion of the audit that related to a particular type of contraceptive billing was provided to the U.S. Attorney’s office for independent investigation.

#### Wisconsin Audits

In response to an open records request submitted by Alliance Defending Freedom and allies with Pro-Life Wisconsin, the State of Wisconsin released twenty-six audits it conducted of Planned Parenthood of Wisconsin from 2006-2012. In many cases Planned Parenthood of Wisconsin’s individual clinics were contacted separately, and these were considered different audits; such audits have been grouped in this report. In sum, these twenty-six audits uncovered total potential overpayments of at least \$43,272.80. All but the last audit were conducted and released under the administration of Wisconsin Governor Jim Doyle, a pro-choice Democrat.

In response to audits conducted of two other family planning facilities, Family Planning Health Services Inc. and NEWCAP Inc., Beth Hartung, president of the Wisconsin Family Planning and Reproductive Health Association, said, “We’re all operating the same way. It would mean, quite frankly, that we would all close.” Hartung admitted the distribution profits underwrite the cost of other services offered at local facilities, some of which perform abortions. And Nicole Safar, public

---

<sup>71</sup> See Kevin Graman, *Spokane’s Planned Parenthood Fined by State*, THE SPOKESMAN-REVIEW, Oct. 29, 2010, <http://www.spokesman.com/stories/2010/oct/29/spokanes-planned-parenthood-fined-state/>.

<sup>72</sup> Audit # 09-04-08, of Yakima County. Alliance Defending Freedom is working to obtain full audit records.

policy director at Planned Parenthood of Wisconsin, the state's largest recipient of this funding, said audits would trigger "clinic closing" statewide and questioned whether politics played a role in audits.<sup>73</sup>

#### Wisconsin Audits I-IV - August 2006

August 2006 audits<sup>74</sup> of payments to Planned Parenthood of Wisconsin clinics for physician office visits found that Planned Parenthood was billing for non-covered services, with total overpayments of \$1,990.16.

The Wisconsin Department of Health and Family Services conducted these audits to ensure that billed office visits were legitimately covered. CPT Guidelines provide that an Evaluation and Management Service may be billed along with a Preventive Medicine Service only if a significant, separately identifiable Evaluation and Management Service was provided by the same physician on the same date; an insignificant problem encountered in the process of the Preventive Medicine Service should not be reported. Planned Parenthood was billing for both such "visits."

The audits found a total overpayment of \$1,990.16:

- # 2006 37543 (Milwaukee - West Wisconsin Avenue): \$450.39
- # 2006 50088 (Kenosha): \$1,276.31
- # 2006 96759 (Milwaukee - North Jackson Street): \$135.18
- # 2006 98176 (Milwaukee - North Jackson Street): \$128.28

The audits recommended that Planned Parenthood review the Wisconsin Administrative Code and the Wisconsin Medicaid Provider Handbook for provider documentation and billing procedures, and that Medicaid seek repayment for undocumented claims.

---

<sup>73</sup> See Ben Johnson, *Planned Parenthood: We'll Have to Close Our Clinics if Gov. Walker Investigates Us for Medicaid Fraud*, LIFESITENEWS, Dec. 2, 2014, <http://www.lifesitenews.com/news/planned-parenthood-warns-it-will-be-forced-to-close-clinics-if-scott-walker>.

<sup>74</sup> The audits of Planned Parenthood of Wisconsin clinics in Kenosha (2006 50088), Milwaukee - North Jackson Street (2006 96759 and 2006 98176), and Milwaukee - West Wisconsin Avenue (2006 37543) were conducted of the period Jan. 1, 2003, through Sept. 30, 2003.

Wisconsin Audit V - September 2006

A September 2006 audit<sup>75</sup> of payments to Planned Parenthood of Wisconsin found that Planned Parenthood was billing for duplicate and incorrect services, with overpayments of \$74,288.

The Wisconsin Department of Health and Family Services conducted this audit of providers that billed for services that were also performed and billed by another provider. Planned Parenthood was billing both for complete procedures, and then again separately for the professional or technical component of the same procedure, when only the professional or technical component should have been billed.

The audit recommended that Planned Parenthood review the Wisconsin Administrative Code and the Wisconsin Medicaid Provider Handbook for provider documentation and billing procedures, and that Medicaid seek repayment.

Wisconsin Audits VI-XIII - July 2007

July 2007 audits<sup>76</sup> of payments to Planned Parenthood of Wisconsin clinics for physician office visits found that Planned Parenthood was billing for non-covered services, with total potential overpayments of \$5,819.91.

The Wisconsin Department of Health and Family Services conducted these audits to ensure that billed office visits were legitimately covered. CPT Guidelines provide that an Evaluation and Management Service may be billed along with a Preventive Medicine Service only if a significant, separately identifiable Evaluation and Management Service was provided by the same physician on the same date; an insignificant problem encountered in the process of the Preventive Medicine Service should not be reported. Planned Parenthood was billing for both such "visits."

The audits found a total potential overpayment of \$5,819.91:

- # 2007 03883 (Appleton): \$368.51

---

<sup>75</sup> The audit (2006 05090) was conducted of the period Jan. 1, 2005, through Dec. 31, 2005.

<sup>76</sup> The audits of Planned Parenthood of Wisconsin clinics in Appleton (2007 03883), Chippewa Falls (2007 70591), Fond du Lac (2007 86622), Kenosha (2007 88039), Madison (2007 27407), Milwaukee (2007 66774), Sheboygan (2007 29154), and Waukesha (2007 49325), were conducted of the period Oct. 1, 2003, through Sept. 30, 2005.

- # 2007 27407 (Madison): \$467.02
- # 2007 29154 (Sheboygan): \$381.99
- # 2007 49325 (Waukesha): \$404.59
- # 2007 66774 (Milwaukee): \$2,533.46
- # 2007 70591 (Chippewa Falls): \$277.31
- # 2007 86622 (Fond du Lac): \$613.19
- # 2007 88039 (Kenosha): \$773.84

The Planned Parenthood clinics were invited to submit rebuttal documentation to demonstrate that the claims were legitimate, but the clinics in Madison, Milwaukee, and Waukesha, at least, did not do so within thirty days as required.

The audits recommended that Planned Parenthood review the Wisconsin Administrative Code and the Wisconsin Medicaid Provider Handbook for provider documentation and billing procedures, and that Medicaid seek repayment for undocumented claims.

#### Wisconsin Audit XIV - October 2010

An October 2010 audit<sup>77</sup> of payments to Planned Parenthood of Wisconsin found that Planned Parenthood was billing for duplicate services, with potential overpayments of at least \$1,864.42.

The Wisconsin Department of Health and Family Services noted that the quantities billed by Planned Parenthood were excessive relative to the standard usage, or the dollar amount billed was inconsistent with the quantity billed. All the claims related to contraceptive implants and patches.

The audit recommended that Planned Parenthood review the Wisconsin Administrative Code and the Wisconsin Medicaid Provider Handbook for provider documentation and billing procedures, that Planned Parenthood review and complete an attached report and include a copy of each physician clinic note, and that Medicaid seek repayment.

---

<sup>77</sup> The audit (2010 53629) was conducted of the period Jan. 1, 2009, through Dec. 31, 2009.

Wisconsin Audits XV-XXV - December 2010

December 2010 audits<sup>78</sup> of payments to Planned Parenthood of Wisconsin clinics found that Planned Parenthood was billing for duplicate services, with total potential overpayments of \$31,319.77.

The Wisconsin Department of Health and Family Services conducted these audits to identify claims billed by Planned Parenthood for the same code, to the same recipient. The audits found that Planned Parenthood was likely billing multiple times for each listed intrauterine contraception device (IUD).

The audits found a total potential overpayment of \$31,319.77:

- # 2010 15792 (Madison): \$800.00
- # 2010 38805 (Milwaukee - West Wisconsin Avenue): \$5,139.71
- # 2010 55068 (Kenosha): \$1,968.71
- # 2010 75330 (Beaver Dam): \$2,096.00
- # 2010 22240 (Racine): \$13,270.11
- # 2010 34897 (Green Bay): \$468.71
- # 2010 39809 (Waukesha): \$2,198.13
- # 2010 40664 (Shewano): \$700.00
- # 2010 46459 (Chippewa Falls): \$3,200.00
- # 2010 58443 (Fond du Lac): \$1,100.00
- # 2010 84963 (Milwaukee - South 7th Street): \$378.40

The Planned Parenthood clinics were invited to submit rebuttal documentation to demonstrate that the claims were legitimate, but the clinics in Beaver Dam, Chippewa Falls, Fond du Lac, Kenosha, Milwaukee - South 7th Street, Milwaukee - West Wisconsin Avenue, Racine, Shewano, and Waukesha, at least, did not do so within thirty days as required.

---

<sup>78</sup> The audits of Planned Parenthood clinics in Beaver Dam (2010 75330), Chippewa Falls (2010 46459), Fond du Lac (2010 58443), Green Bay (2010 34897), Kenosha (2010 55068), Madison (2010 15792), Milwaukee - South 7th Street (2010 84963), Milwaukee - West Wisconsin Avenue (2010 38805), Racine (2010 22240), Shawano (2010 40664), and Waukesha (2010 39809) were conducted of the period Jan. 1, 2007, through Dec. 31, 2009.

The audits recommended that Planned Parenthood review the Wisconsin Administrative Code and the Wisconsin Medicaid Provider Handbook for provider documentation and billing procedures, that Planned Parenthood review and complete an attached report and include a copy of each physician clinic note and invoice for the product, and that Medicaid seek repayment.

Wisconsin Audit XXVI - August 2012

An August 2012 audit<sup>79</sup> of payments to Planned Parenthood of Wisconsin found that Planned Parenthood was billing for duplicate services, with overpayments of \$2,204.26.

The Wisconsin Department of Health and Family Services noted that the quantities billed by Planned Parenthood were excessive relative to the standard usage, or the dollar amount billed was inconsistent with the quantity billed. All the claims related to intrauterine contraception devices (IUDs), progesterone contraceptive injections, vaginal rings, and contraceptive patches.

The audit recommended that Planned Parenthood review the Wisconsin Administrative Code and the Wisconsin Medicaid Provider Handbook for provider documentation and billing procedures, that Planned Parenthood review and complete an attached report and include a copy of each physician clinic note, and that Medicaid seek repayment.

---

<sup>79</sup> The audit (2012 18225) was conducted of the period Jan. 1, 2010, through Dec. 31, 2010.

**AUDITS OF OTHER NONPROFIT ABORTION AND FAMILY PLANNING FACILITIES**

States have also begun to audit abortion and family planning facilities other than Planned Parenthood affiliates.

One such audit examined the financial management systems related to the Title X family planning program of Tapestry Health Systems, Inc., a nonprofit human service organization located in Western Massachusetts.<sup>80</sup> Tapestry engages in: (1) Family Planning/Health Services; (2) Education and Training/Community Support Services; and (3) HIV/AIDS Services. The Family Planning/Health Services division performs physical exams, counseling, testing and referrals to other health service providers. HHS-OIG conducted the audit to determine whether Tapestry had adequate financial management systems to ensure accurate and complete disclosure of the financial results of the Federal Title X award. HHS-OIG found that Tapestry was commingling funds and space, and recommended that Tapestry implement systems that: 1) provide for identification of Title X expenses (which it had not been doing as required); 2) ensure that family planning surplus revenues are used for family planning; 3) provide that requests for Title X funds be related to minimum amounts needed; and 4) ensure that space costs are allocated to all benefiting programs on an equitable basis. In addition, HHS-OIG recommended that Tapestry continue to monitor support of payroll charges to ensure proper allocation of salaries of employees working in family planning. In response, Tapestry claimed that it was grateful that the audit found no cause to question the quality of its services or to request disallowance or return of federal funds. Yet, as HHS-OIG noted in reply, "these conclusions cannot be drawn from this report as this audit did not include a review of services provided by Tapestry or the allowability of claimed costs."

In Wisconsin, audits conducted of Family Planning Health Services Inc. (FPHS) and NEWCAP Inc. uncovered \$3.5 million in overbilling. FPHS had billed for

---

<sup>80</sup> Audit of Tapestry Health Systems, Inc., Financial Management Systems Related to the Title X Family Planning Program, A-01-00-01504, May 2000.

non-covered services and overbilled for more than the actual acquisition cost for drugs such as oral contraceptives, and had violated the “written guidelines of the 340B Drug Pricing Program.” Wisconsin sought repayment of \$2,324,750.73. After finding similar violations at NEWCAP facilities, Wisconsin sought repayment of \$1,169,837.10. However, after the Wisconsin family planning association and the Wisconsin Planned Parenthood affiliate complained to the media,<sup>81</sup> and the audited facilities submitted written objections, the Wisconsin Department of Health Services reduced the amount due to \$229,781.63 (\$44,706.83 from FPHS and \$185,074.80 from NEWCAP), and indicated that it is likely to reissue written guidance to bill only for actual acquisition cost.

In Maine, Family Planning Association of Maine, Inc. (FPAM), was fined \$36,016 by the Maine Department of Health and Human Services for the fiscal year ending June 30, 2010, for not following the correct cost sharing method, resulting in the misuse of restricted funds.<sup>82</sup> FPAM was further fined \$12,075,91 for overbillings relating to IUDs, including twenty billings for removals rather than insertions (thus requiring no IUD), five billings where no IUD was inserted, forty-four billings at

---

<sup>81</sup> Beth Hartung, president of the Wisconsin Family Planning and Reproductive Health Association, said, “We’re all operating the same way. It would mean, quite frankly, that we would all close.” Hartung admitted the distribution profits underwrite the cost of other services offered at local facilities, some of which perform abortions. And Nicole Safar, public policy director at Planned Parenthood of Wisconsin, the state’s largest recipient of this funding, said audits would trigger “clinic closing” statewide and questioned whether politics played a role in audits. See Ben Johnson, *Planned Parenthood: We’ll Have to Close Our Clinics if Gov. Walker Investigates Us for Medicaid Fraud*, LIFESITENEWS, Dec. 2, 2014, <http://www.lifesitenews.com/news/planned-parenthood-warns-it-will-be-forced-to-close-clinics-if-scott-walker>.

<sup>82</sup> See Letter from Herbert F. Downs, Director, Financial Services – Audit, Maine Department of Health and Human Services, to George Hill, Chief Executive Officer, Family Planning Association of Maine, Inc. (Aug. 31, 2012) (on file with Alliance Defending Freedom). Audits of the FPAM fiscal years ending June 30, 2007, 2008, and 2009, did not appear to find any overbilling, but the scope of these audits is not known. See Letter from Herbert F. Downs, Director, Financial Services – Audit, Maine Department of Health and Human Services, to George Hill, Chief Executive Officer, Family Planning Association of Maine, Inc. (July 31, 2009) (on file with Alliance Defending Freedom); Letter from Herbert F. Downs, Director, Financial Services – Audit, Maine Department of Health and Human Services, to George Hill, Chief Executive Officer, Family Planning Association of Maine, Inc. (Apr. 25, 2011) (on file with Alliance Defending Freedom). Alliance Defending Freedom is working to obtain full records on the audits.

approximately 150% of actual acquisition cost, and one billing without proper documentation.<sup>83</sup>

---

<sup>83</sup> See Letter from Michael Bishop, Auditor II, Program Integrity, Division of Audit, Maine Department of Health and Human Services, to Brenda Chabre, Medical Billing Manager, Family Planning Association (Dec. 1, 2010) (on file with Alliance Defending Freedom). Alliance Defending Freedom is working to obtain full records on the audit process.

**FEDERAL AUDITS OF STATE FAMILY PLANNING PROGRAMS**

Fifty-seven federal audits by HHS-OIG of state family planning programs in twenty-four states found over \$119 million in overbilling, at a minimum. The audited dates are known for fifty-six audits. Of these audits, as much as \$4,410,900.70 was overbilled in one audited year; the average overbilled amount per audited year was \$742,170.45. In the last year alone, audits limited in location, time frame, and type of service examined have found overbilling to the federal program of as much as 17.32%<sup>84</sup> and 14.04%<sup>85</sup> of the federal share of billed costs; other audits have found overbilling as high as 43.27% of the federal share.<sup>86</sup> The 2010 GAO report and Office of Population Affairs Title X Family Planning Directory of Grantees report reveal that Planned Parenthood receives the lion's share of federal funding for family planning by private organizations under Title X and other programs.<sup>87</sup>

---

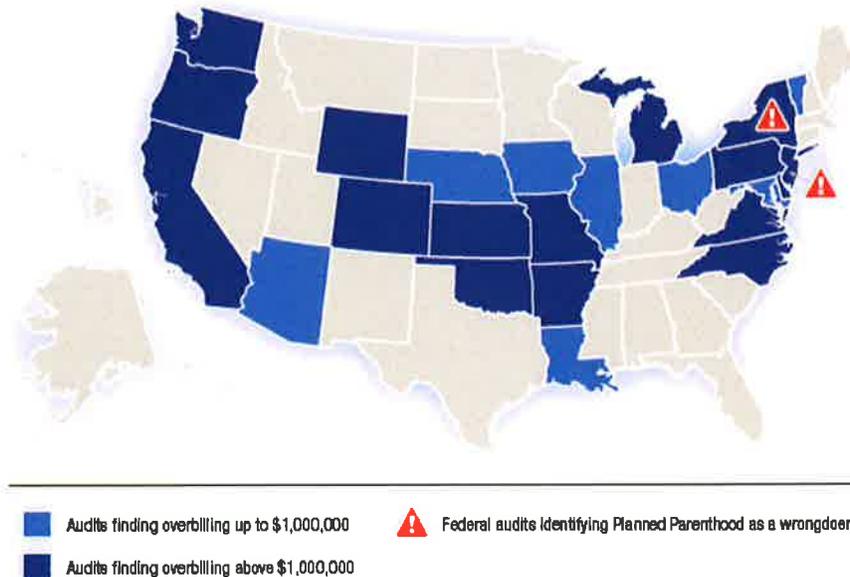
<sup>84</sup> Audit A-07-14-01136, *Nebraska Incorrectly Claimed Federal Reimbursement for Inpatient Claims with Sterilization and Delivery Procedures for the Period April 1, 2011, Through December 31, 2013*, found \$268,285 in federal overbilling of the total \$1,549,241 in federal share of claims, or 17.32%.

<sup>85</sup> Audit A-09-13-02019, *California Improperly Claimed Enhanced Federal Reimbursement for Medicaid Family Planning Services Provided in East Los Angeles County*, found \$4,049,335 in federal overbilling of the total \$28,849,005 in federal share of claims, or 14.04%.

<sup>86</sup> See, e.g., Audit A-03-03-00220, *Review of Family Planning Service Costs Claimed by Delaware's Medicaid Managed Care Program*, which found \$2,916,288 in federal overbilling of the total \$6,739,565 in federal share of claims, or 43.27%.

<sup>87</sup> See U.S. GOVERNMENT ACCOUNTABILITY OFFICE, *FEDERAL FUNDS: FISCAL YEARS 2002-2009 OBLIGATIONS, DISBURSEMENTS, AND EXPENDITURES FOR SELECTED ORGANIZATIONS INVOLVED IN HEALTH-RELATED ACTIVITIES* (GAO-10-533R) (2010), at Table 7, available at <http://www.gao.gov/new.items/d10533r.pdf>; OFFICE OF POPULATION AFFAIRS, *TITLE X FAMILY PLANNING DIRECTORY OF GRANTEEES* (2014), available at <http://www.hhs.gov/opa/title-x-family-planning/initiatives-and-resources/title-x-grantees-list/>.

FEDERAL AUDITS OF STATE FAMILY PLANNING PROGRAMS



**Two of these audits specifically identified Planned Parenthood – and only Planned Parenthood – as the problem in state family planning program overbilling.**

(1) In the June 2008 New Jersey audit A-02-06-01010, HHS-OIG determined that the overpayment occurred in part because “many” family planning clinics (“especially Planned Parenthood providers”) improperly billed *all* services as family planning, and eligible for 90-percent Federal funding.

(2) In the May 2008 New York State audit A-02-07-01001, HHS-OIG determined that the resultant overpayment occurred in part because some providers – “especially Planned Parenthoods” – incorrectly claimed services as family planning (“[M]any provider officials (especially Planned Parenthoods) stated that they billed most of their claims to Medicaid as related to ‘family planning.’”). **Thirteen months later, New York State released its first known audit report of a Planned Parenthood affiliate.**

Additionally, in the November 2008 New York State audit A-02-07-01037, HHS-OIG found that New York improperly received enhanced ninety-percent federal

reimbursement for 102 out of 119 sample claims. Of these, 96 were for services unrelated to family planning, and 33 were for services for which no reimbursement was available - including twenty-seven abortion procedures, and four services performed in conjunction with an abortion. HHS-OIG found that one provider was responsible for twenty-five of the twenty-seven abortion claims; this provider billed at least 3,900 abortion claims during the audit period.

In the July 2007 New York State audit A-02-05-01009, HHS-OIG noted that one "laboratory provider [which specialized in examining abortion-related specimens] submitted 95 of the 98 improper sample claims" out of the 100 claims sampled. Forty-two of the improper claims involved abortion-related laboratory tests for which no federal funding is available, e.g., tests performed on the aborted fetus and tests performed before the abortion to assess the risk to the patient, such as complete blood counts, electrolytes, and blood typing.

In the September 2009 New York State audit A-02-09-01015, the 105 sample claims had been submitted by a total of fourteen providers. Six of them coded approximately ninety-nine percent of their claims as family planning during the audit period, improperly claiming, among other things, treatment for sexually transmitted diseases and pre-abortion counseling visits unrelated to family planning services.

|                   | <b>HHS-OIG Audit #</b> | <b>Audited Period</b>      | <b>Total Overbilling</b>  |
|-------------------|------------------------|----------------------------|---------------------------|
| <b>Arizona</b>    | A-09-04-00027          | 10/01/1999 –<br>09/30/2002 | \$558,093 <sup>88</sup>   |
| <b>Arkansas</b>   | A-06-11-00022          | 10/01/2005 –<br>09/30/2010 | \$1,906,657 <sup>89</sup> |
| <b>California</b> | A-09-11-02040          | 10/01/2008 –<br>09/30/2010 | \$5,671,216               |

<sup>88</sup> HHS-OIG recommended that the Medicaid agency work with CMS to determine the eligibility of \$558,093 in payments. However, another HHS-OIG audit, A-03-06-00200, included this figure in its entirety in its total amount of claimed unallowable family planning costs.

<sup>89</sup> Further, HHS-OIG recommended that the State agency "work with CMS to determine the allowable portion of the [additional] \$929,019 in family planning Federal share that it received for allocated sterilization costs."

|                   |               |                            |                           |
|-------------------|---------------|----------------------------|---------------------------|
| <b>California</b> | A-09-12-02077 | 10/01/2008 –<br>09/30/2010 | \$627,053                 |
| <b>California</b> | A-09-13-02012 | 10/01/2010 –<br>09/30/2011 | \$2,953,936               |
| <b>California</b> | A-09-13-02019 | 10/01/2010 –<br>09/30/2011 | \$4,049,335               |
| <b>California</b> | A-09-13-02044 | 10/01/2011 –<br>09/30/2012 | \$2,280,044               |
| <b>California</b> | A-09-13-02047 | 10/01/2010 –<br>09/30/2011 | \$2,267,822               |
| <b>California</b> | A-09-14-02028 | 10/01/2011 –<br>09/30/2012 | \$171,121 <sup>90</sup>   |
| <b>Colorado</b>   | A-07-04-01005 | 10/1999 – 12/2003          | \$1,587,305               |
| <b>Colorado</b>   | A-07-04-01008 | 07/01/1998 –<br>06/30/1999 | \$454,786                 |
| <b>Colorado</b>   | A-07-11-01095 | 10/01/2005 –<br>09/30/2009 | \$617,999                 |
| <b>Colorado</b>   | A-07-11-01096 | 10/01/2005 –<br>09/30/2009 | \$1,975,800               |
| <b>Colorado</b>   | A-07-11-01097 | 10/01/2005 –<br>09/30/2009 | \$2,295                   |
| <b>Delaware</b>   | A-03-03-00220 | 10/2000 – 06/2004          | \$2,916,288 <sup>91</sup> |
| <b>Illinois</b>   | A-05-10-00053 | 10/01/2007 –<br>09/30/2009 | \$869,273                 |
| <b>Iowa</b>       | A-07-12-03178 | 10/01/2010 –<br>09/30/2011 | \$8,291 <sup>92</sup>     |
| <b>Kansas</b>     | A-07-09-04146 | 07/01/2005 –<br>06/30/2009 | \$589,355                 |
| <b>Kansas</b>     | A-07-10-04156 | 07/01/2005 –<br>06/30/2009 | \$2,447,414               |
| <b>Kansas</b>     | A-07-10-04157 | 07/01/2005 –<br>06/30/2009 | \$151,526                 |

<sup>90</sup> This audit was conducted because previous audits had found that California had claimed overbilled approximately \$17.8 million for family planning in three counties. One of these reviews found that California overbilled at least \$2.2 million for family planning services in Orange County, the focus of A-09-14-02028, but that review did not include claims for family planning drugs and supplies. An additional \$46,792 in apparent duplicate payments will be reviewed in a separate audit.

<sup>91</sup> Alternatively, Delaware could provide support for the family planning service costs claimed.

<sup>92</sup> This overpayment relates to services provided to just 28 women, or an average of over \$296 per woman.

|                  |               |  |                           |
|------------------|---------------|--|---------------------------|
| <b>Kansas</b>    | A-07-10-04162 | 07/01/2005 –<br>06/30/2009               | \$485,982                 |
| <b>Louisiana</b> | A-06-10-00075 | *93                                      | *94                       |
| <b>Louisiana</b> | A-06-10-00076 | 10/01/2007 –<br>09/30/2009               | \$0                       |
| <b>Maryland</b>  | A-03-03-00218 | 07/2000 – 03/2004                        | \$228,643                 |
| <b>Michigan</b>  | A-05-08-00064 | 10/01/2005 –<br>09/30/2007               | \$1,000,519               |
| <b>Michigan</b>  | A-05-09-00050 | 10/01/2005 –<br>09/30/2007               | \$838                     |
| <b>Missouri</b>  | A-07-04-01004 | 10/01/2000 –<br>09/30/2003               | \$0                       |
| <b>Missouri</b>  | A-07-04-01012 | 10/01/1995 –<br>09/30/2001 <sup>95</sup> | \$6,467,583               |
| <b>Missouri</b>  | A-07-12-01117 | 01/01/2009 –<br>09/30/2011               | \$2,373,541 <sup>96</sup> |
| <b>Missouri</b>  | A-07-12-01118 | 01/01/2009 –<br>12/31/2010               | \$487,351                 |
| <b>Missouri</b>  | A-07-12-01121 | 01/01/2009 –<br>12/31/2010               | \$862,398                 |
| <b>Nebraska</b>  | A-07-11-02759 | 01/01/2009 –<br>03/31/2009 <sup>97</sup> | \$43,948                  |

<sup>93</sup> Key: \* - audited dates or overbilling figures unknown

<sup>94</sup> Alliance Defending Freedom is working to obtain records on this audit.

<sup>95</sup> These were retroactive claims that were submitted in the quarter ending March 31, 2001.

<sup>96</sup> The audit found overpayments of \$1,480,516 and recommended that this amount be refunded to the federal government, and also recommended that the state agency review costs for family planning sterilization procedures for reporting periods after the audited period. The state agency found and pledged to additionally refund \$893,025.

<sup>97</sup> The review period for reviewing internal controls was October 1, 2008, to March 31, 2010, but expenditure testing was conducted only for the selected quarter, January 1, 2009, to March 31, 2009. Based on the audit, it is likely that \$43,948 of the claims were not allowable.

|                       |                              |                            |                            |
|-----------------------|------------------------------|----------------------------|----------------------------|
| <b>Nebraska</b>       | A-07-14-01136                | 04/01/2011 –<br>12/31/2013 | \$268,285                  |
| <b>New Jersey</b>     | A-02-05-01016                | 07/01/1997 –<br>03/31/2002 | \$314,446 <sup>98</sup>    |
| <b>New Jersey</b>     | A-02-05-01019                | 02/01/2001 –<br>01/31/2005 | \$2,219,746                |
| <b>New Jersey</b>     | A-02-06-01010 <sup>99</sup>  | 02/01/2001 –<br>01/31/2005 | \$597,496                  |
| <b>New Jersey</b>     | A-02-06-01020                | 02/01/2001 –<br>01/31/2005 | \$162,548                  |
| <b>New York</b>       | A-02-05-01001                | 01/01/2000 –<br>12/31/2003 | \$1,566,740                |
| <b>New York</b>       | A-02-05-01009                | 01/01/2000 –<br>12/31/2003 | \$3,235,640 <sup>100</sup> |
| <b>New York</b>       | A-02-05-01018                | 01/01/2000 –<br>12/31/2003 | \$6,132,366 <sup>101</sup> |
| <b>New York</b>       | A-02-06-01007                | 01/01/2000 –<br>06/30/2005 | \$2,603,128                |
| <b>New York</b>       | A-02-07-01001 <sup>102</sup> | 10/01/2002 –<br>06/30/2006 | \$918,816                  |
| <b>New York</b>       | A-02-07-01037                | 04/01/2003 –<br>03/31/2007 | \$17,151,156               |
| <b>New York</b>       | A-02-09-01015                | 04/01/2007 –<br>09/30/2008 | \$3,773,506                |
| <b>North Carolina</b> | A-04-10-01089 <sup>103</sup> | 10/01/2004 –<br>09/30/2007 | \$1,387,378                |

<sup>98</sup> Additionally, HHS-OIG set aside \$4,346,987 in unsupported claims for resolution.

<sup>99</sup> This is one of the two audits that named Planned Parenthood as a wrongdoer.

<sup>100</sup> This amount was considered overbilled but would be reviewed by CMS and the state because qualified practitioners had not performed a medical review of the sample claims.

<sup>101</sup> This audit did not question the medical necessity of the services or their eligibility for Medicaid reimbursement. Thus, the audit questioned and calculated only the difference between the applicable FMAP and the enhanced ninety-percent federal funding rate, which is either 40% (for the 50% FMAP, 90% - 50%) or 37.05% (for the 52.95% FMAP, 90% - 52.95%). Thus, the actual amount of overbilling may have been even higher.

<sup>102</sup> This audit uncovered improperly billed claims, including, e.g., a fractured ankle billed as family planning, and sterilizations performed without obtaining proper consent. This is one of the two audits that named Planned Parenthood as a wrongdoer.

<sup>103</sup> This audit uncovered improperly billed pharmacy claims and sterilizations performed without obtaining proper consent.

|                       |               |                            |                                    |
|-----------------------|---------------|----------------------------|------------------------------------|
| <b>North Carolina</b> | A-04-10-01091 | 10/01/2005 –<br>09/30/2007 | \$666,826                          |
| <b>North Carolina</b> | A-04-10-01092 | 10/01/2004 –<br>09/30/2007 | \$541,513                          |
| <b>Ohio</b>           | A-05-10-00035 | 10/01/2007 –<br>09/30/2009 | \$320,774                          |
| <b>Oklahoma</b>       | A-06-09-00097 | 10/01/2008 –<br>12/31/2008 | \$12,703 <sup>104</sup>            |
| <b>Oklahoma</b>       | A-06-10-00047 | 01/01/2005 –<br>12/31/2009 | \$3,356,074                        |
| <b>Oregon</b>         | A-09-10-02043 | 10/01/2006 –<br>09/30/2009 | \$1,487,974                        |
| <b>Oregon</b>         | A-09-11-02010 | 10/01/2006 –<br>09/30/2009 | \$1,692,956 <sup>105</sup>         |
| <b>Pennsylvania</b>   | A-03-03-00214 | 10/2000 – 02/2004          | \$15,070,548                       |
| <b>Vermont</b>        | A-01-05-00002 | 10/01/2003 –<br>09/30/2004 | \$323,367                          |
| <b>Virginia</b>       | A-03-04-00209 | 04/2001 – 03/2004          | \$1,388,506                        |
| <b>Washington</b>     | A-09-09-00049 | 10/01/2005 –<br>09/30/2008 | \$8,458,169                        |
| <b>Wyoming</b>        | A-07-11-01100 | 01/01/2006 –<br>12/31/2010 | \$1,348,942                        |
| <b>TOTAL</b>          |               |                            | <b>\$119,056,015<sup>106</sup></b> |

<sup>104</sup> The Oklahoma Health Care Authority was further directed to work with CMS to determine what portion of an additional \$126,613 was unallowable.

<sup>105</sup> Additionally, HHS-OIG set aside 27,405 claims totaling \$3,310,404 (\$2,979,364 federal share) for resolution for clients for whom the State agency did not verify client incomes and/or social security numbers.

<sup>106</sup> Each audit was very limited in scope as to location, time frame, and type of claim examined. Even with these restrictions, if the overbilling does include the amounts set aside, the total amount of overbilling could be far higher.

Further, HHS-OIG estimated these amounts, where applicable, using the lower limit at the ninety-percent confidence level, and not all audits questioned the medical necessity of services or their eligibility for Medicaid reimbursement, thus questioning and calculating only the difference between the applicable FMAP and the enhanced ninety-percent federal funding rate, rather than zero reimbursement and the ninety-percent federal funding rate.

**FEDERAL QUI TAM LAWSUITS AGAINST PLANNED PARENTHOOD AFFILIATES**

Numerous False Claims Act whistleblower lawsuits around the country have alleged waste, abuse, and potential fraud by Planned Parenthood affiliates. The federal False Claims Act (FCA) forbids government contractors from submitting “false or fraudulent” claims for payment, and authorizes whistleblowers to bring suit against the offenders in order to recover the fraudulently obtained funds. By law, such cases must initially be filed under seal and may not be made public while federal authorities decide whether to join the case. Six such lawsuits against Planned Parenthood affiliates have been made public at this time, and one – *Reynolds v. Planned Parenthood Gulf Coast* – recently led to an agreement by Planned Parenthood to pay \$4.3 million or more to settle claims that the U.S. Department of Justice called Medicaid fraud. Planned Parenthood does not mention these abuses in its 2012-2013 annual report’s discussion of its “growing litigation docket.”<sup>107</sup>

***Reynolds v. Planned Parenthood Gulf Coast*<sup>108</sup>**

American Center for Law and Justice attorneys represented Karen Reynolds, who was employed as a Health Care Assistant at the Lufkin, TX, Planned Parenthood clinic from October 1999 to February 2009 and filed her False Claims Act lawsuit against Planned Parenthood Gulf Coast, formerly known as Planned Parenthood of Houston and Southeast Texas, Inc., in the U.S. District Court for the Eastern District of Texas, Lufkin Division.

Her complaint alleged that Planned Parenthood’s clinics were required “to constantly increase their ‘pay per visit’ goals which were the bills charged to Medicaid for every patient visit.” The policies were intended to maximize “the financial payments and grants made by Medicaid, either directly or through Texas’ programs.” Reynolds’ complaint alleged that Planned Parenthood billed Medicaid for services that individual patients did not need or request, and that were not originally attested to by entries made in each individual patient’s chart, and then

---

<sup>107</sup> PLANNED PARENTHOOD FEDERATION OF AMERICA, ANNUAL REPORT 2012-2013, at 4.

<sup>108</sup> No. 9:09-cv-124 (E.D. Tex.).

Planned Parenthood employees altered patients' charts to reflect that all such services had actually been rendered. In July 2013 **Planned Parenthood settled the lawsuit by agreeing to reimburse \$4.3 million or more<sup>109</sup> to the federal and State of Texas governments to settle claims that the U.S. Department of Justice called Medicaid fraud.**

U.S. Attorney John M. Bales stated: "We are very pleased to settle this matter for an amount of money that addresses what was, in the Government's view, an abuse of programs that are extremely important to the well-being of many American women. . . . I am particularly grateful to the whistleblower for bringing the matter to our attention."<sup>110</sup>

***Johnson v. Planned Parenthood Gulf Coast***<sup>111</sup>

Alliance Defending Freedom is representing former Planned Parenthood clinic director Abby Johnson in her federal False Claims Act lawsuit against the same affiliate as Reynolds (Planned Parenthood's Houston and Southeast Texas affiliate, now known as Planned Parenthood Gulf Coast) in July 2010 and unsealed by a federal court in March 2012. This suit alleges that Planned Parenthood knowingly committed Medicaid fraud from 2007 to 2009 by submitting "repeated false, fraudulent, and ineligible claims for Medicaid reimbursements" through the Texas Women's Health Program for products and services not reimbursable by that program.

The lawsuit alleges that Planned Parenthood of Houston and Southeast Texas filed at least 87,075 false, fraudulent, or ineligible claims with the Texas Women's Health Program. As a result, Planned Parenthood wrongfully received and retained reimbursements totaling more than \$5.7 million.

---

<sup>109</sup> Planned Parenthood will pay an additional, unspecified amount for Reynolds' attorneys' fees.

<sup>110</sup> See Press Release, U.S. Department of Justice, Planned Parenthood Pays \$4.3 Million to Settle Allegations of Unnecessary Medical Care (Aug. 16, 2013), *available at* <http://www.justice.gov/usao/txe/News/2013/edtx-settlement-plan-081613.html>.

<sup>111</sup> No. 4:10-cv-03496 (S.D. Tex.).

Johnson's suit alleges that Planned Parenthood officials acknowledged that they had received taxpayer reimbursements to which they were not entitled, and that their policies had resulted in waste, abuse, and potential fraud. When Johnson pressed them about what they were going to do with those funds, she says, a Planned Parenthood official responded, "We're going to hope we don't get caught."

**Carroll v. Planned Parenthood Gulf Coast**<sup>112</sup>

Patricia M. Carroll, employed as the Accounts Receivable Manager by Planned Parenthood Gulf Coast from October 2007 to October 2012, filed her complaint against the same affiliate as Reynolds and Johnson in December 2012 after noticing that one Planned Parenthood clinic had increased its revenue more than 300%. Carroll alleges in her complaint that she discovered that Planned Parenthood "targeted" incarcerated, primarily minority teens at a school they were ordered to attend for STD and HIV blood tests performed offsite in two separate visits by unqualified non-medical staff and without physician supervision. Since neither school nor prison services are reimbursable by Medicaid, Planned Parenthood employees engaged in "blatant falsification," using Medicaid billing codes (e.g., for "office visit" and "syphilis in-house") to indicate the tests were performed in-clinic by a physician, then altering their clinic scheduling records to make it appear that the patients had actually visited the clinic. The complaint additionally alleges that at least some of the services were not medically necessary due to the duplication of visits, teens already having been tested at the jails or court systems they came from, and the higher-level staff already onsite at the school who could provide the same testing and education at no cost. Carroll also notes HIPAA violations and that Planned Parenthood "endangered" the children's "health and safety." Upon uncovering this duplicity, Carroll locked pending claims so they could not be submitted for payment, and attempted to report the overbillings. After Planned Parenthood Gulf Coast refused to acknowledge the false claims, she contacted Planned Parenthood Federation of America corporate offices in New York,

---

<sup>112</sup> No. 4:12-cv-03505 (S.D. Tex.).

NY, and Washington, DC. When even the “ethics” attorney she was directed to failed to call her back and instead reported her complaint to the very perpetrators of the fraud, Carroll resigned. In a May 2014 court order requesting more information from Carroll, the presiding judge found that the information already provided by Carroll “allows the court to draw the reasonable inference that Planned Parenthood knowingly filed false claims.” The complaint alleges that the false claims were billed “for the sole purpose of generating revenue,” and that between 2002 and May 2012, Planned Parenthood received improper reimbursements of approximately \$200 per patient for thousands of patients; at least as of the date of Carroll’s resignation, Planned Parenthood has refused to admit or reimburse the fraudulent billing.

**Gonzalez v. Planned Parenthood of Los Angeles<sup>113</sup>**

American Center for Law and Justice represents Victor Gonzalez, employed as Vice President of Finance and Administration (CFO) by Planned Parenthood of Los Angeles (PPLA) from December 2002 to March 2004. His complaint alleges that Planned Parenthood was involved in an ongoing statewide scheme involving all California Planned Parenthood affiliates and officers, to bill Medicaid and other government family planning programs for oral contraceptive pills and contraceptive devices far in excess of reimbursement limits set by federal and state law. The complaint alleges that between 1997 and 2004, Planned Parenthood affiliates in California received improper reimbursements far in excess of \$200,000,000.

An internal email from Gonzalez states that PPLA’s actual acquisition cost for oral contraceptive pills was \$1-2, but that it was charging the government \$12-48 per pack – a “hefty markup” “proscribed by DHS regulations.” Gonzalez estimates the impact on PPLA alone as approximately \$4 million in revenues in a single typical year.<sup>114</sup>

---

<sup>113</sup> No. CV 05-8818 AHM (C.D. Cal.).

<sup>114</sup> Email from Victor Gonzalez, Vice President of Finance and Administration, Planned Parenthood of Los Angeles, to Thomas Schulte, Managing Partner, RBZ, LLP (Feb. 20, 2004, 09:45 PST) (on file with Alliance Defending Freedom).

In response to news that California's Department of Health Services would be auditing PPLA's contraceptive purchases, CEO Mark Salo wrote that if Planned Parenthood could only charge the government "only what we paid for the product," "this could kill many of us."<sup>115</sup> PPLA President Martha Swiller replied: "This is bad."<sup>116</sup>

**Thayer v. Planned Parenthood of the Heartland**<sup>117</sup>

In a federal lawsuit filed in March 2011 by Alliance Defending Freedom attorneys and made public on July 9, 2012, Sue Thayer, former manager of Planned Parenthood of the Heartland's Storm Lake and LeMars clinics, alleged that Planned Parenthood's Iowa affiliate knowingly committed Medicaid fraud by filing nearly one half million false claims with Medicaid for products and services not legally reimbursable, from which Planned Parenthood received and retained nearly \$28 million. Thayer's complaint also alleges that Planned Parenthood failed to meet acceptable standards of medical practice. If Thayer prevails, Planned Parenthood could be ordered to pay the United States and Iowa as much as \$5.5 billion in False Claims Act damages and penalties.

The lawsuit explains that, to enhance revenues, Planned Parenthood implemented a "C-Mail" program that automatically mailed a year's supply of birth control pills to women who had only been seen once at a Planned Parenthood clinic and usually by personnel who were not qualified healthcare professionals. Thereafter, thousands of unrequested birth control pills were mailed to these clients. Planned Parenthood's cost for a 28-day supply of birth control pills mailed to clients was \$2.98. In turn, Planned Parenthood was reimbursed \$26.32 for the birth control pills by the taxpayers through Medicaid. In some cases, birth control pills

---

<sup>115</sup> Email from Mark Salo, Chief Executive Officer, Planned Parenthood of San Diego and Riverside Counties, to Jon Dunn, President and Chief Executive Officer, Planned Parenthood of Orange and San Bernardino Counties, et al. (Jan. 26, 2004, 16:00 PST) (on file with Alliance Defending Freedom).

<sup>116</sup> Email from Martha Swiller, President, Planned Parenthood of Los Angeles, to Victor Gonzalez, Vice President of Finance and Administration, Planned Parenthood of Los Angeles, et al. (Jan. 26, 2004, 17:38 PST) (on file with Alliance Defending Freedom).

<sup>117</sup> No. 4:11-cv-00129-JAJ-CFB (S.D. Iowa).

were returned to Planned Parenthood by the Postal Service. Instead of crediting Medicaid or destroying the returned pills, Planned Parenthood resold the same birth control pills and billed Medicaid twice for the same pills.

The suit also claims that Planned Parenthood coerced “voluntary donations” for services to Medicaid clients and then billed Medicaid for the full reimbursement amount for these services without crediting Medicaid for the donations it had received. In effect, the lawsuit explains, Planned Parenthood both falsely billed Medicaid and took money from low-income women by getting them to pay for services Medicaid was intended to cover in full. Additionally, Planned Parenthood engaged in directive counseling to urge women toward abortions, and – like Tapestry Health Systems, as described above – failed to separate abortion activities from its federally funded “options counseling” program.

Finally, Thayer alleges that Planned Parenthood engaged in an “unbundling” or “fragmentation” scheme whereby it separated out charges for services and products rendered in connection with abortions, including office visits, ultrasounds, Rh factor tests, lab work, general counseling, and abortion aftercare, and submitted such “fragmented” charges as separate claims for Medicaid reimbursement. This scheme was applied systematically to virtually every client who received an abortion at one of Planned Parenthood’s clinics, and each abortion was associated with a minimum of three abortion-related procedures or services, but often several more.

After a district court judge dismissed the case in 2012, on August 29, 2014, the U.S. Court of Appeals for the 8th Circuit reversed the district court’s order and reinstated Thayer’s complaint, writing, “we conclude that Thayer has pled sufficiently particularized facts to support her allegations that Planned Parenthood violated the FCA by filing claims for (1) unnecessary quantities of birth control pills, (2) birth control pills dispensed without examinations or without or prior to a physician’s order, (3) abortion-related services, and (4) the full amount of services that had already been paid, in whole or in part, by ‘donations’ Planned Parenthood coerced from patients.”

**Bloedow v. Planned Parenthood of the Great Northwest**<sup>118</sup>

Alliance Defending Freedom attorneys represent federal False Claims Act whistleblower Jonathan Bloedow, a Washington resident who discovered the alleged frauds through state open records requests and filed suit against Planned Parenthood of the Great Northwest in July 2011. The suit alleges that Planned Parenthood submitted false claims to Washington's Department of Social and Health Services and its Health and Recovery Services Administration (HRSA). HRSA runs the state's Title XIX Medicaid program.

Bloedow charges that Planned Parenthood of the Great Northwest filed at least 25,000 false claims with HRSA for reimbursements in excess of the amount allowed for oral contraceptive pills and at least another 25,000 for reimbursements in excess of the amount allowed for "emergency contraceptive" ("Plan B") pills under the federal government's 340B drug reimbursement program. Total damages could be as much as \$377,134,130.

The allegations of Bloedow's complaint are consistent with a 2011 Government Accountability Office report that concluded that HRSA monitoring of the 340B program was "inadequate" and recommended that "HRSA take steps to strengthen oversight regarding program participation and compliance with program requirements."<sup>119</sup>

---

<sup>118</sup> No. C11-1192 MJP (W.D. Wash.).

<sup>119</sup> U.S. GOVERNMENT ACCOUNTABILITY OFFICE, DRUG PRICING: MANUFACTURER DISCOUNTS IN THE 340B PROGRAM OFFER BENEFITS, BUT FEDERAL OVERSIGHT NEEDS IMPROVEMENT (GAO-11-836) (2011), at Highlights, 21, *available at* <http://www.gao.gov/products/GAO-11-836>. As noted *supra* at n.7, Planned Parenthood Federation of America and dozens of its affiliates nonetheless objected strenuously to a proposed Center for Medicare and Medicaid Services rule that would limit the number of entities that could purchase pharmaceuticals at reduced prices to 340B entities and intermediate care and nursing facilities. Planned Parenthood advocated for 340B-ineligible "safety net providers" to receive nominal pricing, as well, stating that many of its own clinics were not 340B-eligible and would be forced to close if asked to pay list price for pharmaceuticals. *See, e.g.*, Letter from Jacqueline K. Payne, Director of Government Relations, to Leslie V. Norwalk, Acting Administrator, Centers for Medicare and Medicaid Services (Feb. 20, 2007) (as a comment Medicaid Prescription Drugs Average Manufacture Price, 71 Fed. Reg. 77174 (Dec. 22, 2006)) (on file with Alliance Defending Freedom).

Further, the Washington Medical Assistance Administration (MAA) uncovered massive overbilling above actual acquisition cost by Planned Parenthood in Washington. In an internal email, MAA summarized the overbilling as follows:

Data Story:

- Since sometime in 2001 Family Planning Providers have been routinely billing us for birth control pills at our maximum allowable cost rather than their acquisition cost, **which is required of them by statute as a 340B drug purchaser** (parallel requirements are in our WAC and BI); . . .
- Planned Parenthood providers are receiving large reimbursements from MAA for birth control pills. Our maximum allowable cost for the pills is \$17.00. **They are billing us around \$16.95; \$16.99 etc for a product that costs them somewhere around 2.50, 2.00 or lower.**
- **Better enforcement of their statutory requirement to pass the savings on to Medicaid** will result in a major shift in resources from the provider back to the state.

Old History:

- In 2000 and 2001 this same issue of inflated billings was uncovered at an audit of a Planned Parenthood clinic. . . .

Recent History:

- Planned Parenthood initiated the recent conversations asserting that MAA has a problem with reimbursement methods for birth control pills; and that they would assume until told otherwise that the difference between their acquisition cost and our maximum allowable cost was to be considered a dispensing fee. **This is a misdirection. There is nothing we can do to relieve them of their obligations under 340B pricing rules and our rules clearly tell 340B purchasers to bill their actual acquisition cost.**<sup>120</sup>

In defense, in a September 24, 2004 meeting between MAA and Planned Parenthood representatives, Planned Parenthood's attorneys argued that "the higher 340B drug reimbursement is necessary to support the other services that PP

---

<sup>120</sup> Email from Myra S. Davis, Medical Assistance Administration Rules and Publications, to Heidi Robbins Brown, Deputy Assistant Secretary, Medical Assistance Administration, Washington Department of Social and Health Services (Sept. 17, 2004, 11:56 PDT) (on file with Alliance Defending Freedom) (emphases supplied).

provides” and that the overbilling could be justified as substantially similar to a dispensing fee. Another Planned Parenthood representative opined that “family planning providers are completely exempt from” pharmacy law; MAA noted that they “interpret it differently.”<sup>121</sup> Documents indicate that Planned Parenthood has been caught and warned on this issue on at least two occasions. Yet no further audit or prosecution beyond the two audits detailed *supra* has taken place, despite pressure from the public.<sup>122</sup>

---

<sup>121</sup> Notes from Meeting regarding Family Planning Policies and 340B Reimbursements (Sept. 24, 2004) (on file with Alliance Defending Freedom).

<sup>122</sup> See documents and emails on file with Alliance Defending Freedom.

**REPORT ON PLANNED PARENTHOOD AFFILIATES' POTENTIAL MISUSE OF  
GRANTS FOR BREAST HEALTH TREATMENT AND EDUCATION**

On April 3, 2013, Alliance Defending Freedom released a report identifying an additional area of potential waste, abuse, and fraud, this time in connection with the Susan G. Komen breast health foundation's controversial grant program.<sup>123</sup> Over the last several years, this program distributed nearly \$3 million in grants to Planned Parenthood affiliates for the primary purpose of providing breast cancer screening and education services to low-income, Medicaid-eligible women. During this controversy and as detailed in the report, Planned Parenthood repeatedly claimed that it used Komen's grant funds to provide mammograms, clinical breast exams, and breast health education for low-income women. However, during the entire length of the grant program, not a single Planned Parenthood facility had mammography equipment on site or performed any mammograms. Nor was any Planned Parenthood clinic capable of or licensed for mammography, since no Planned Parenthood facility was licensed to perform mammograms.

Furthermore, the Komen report determined that, while the services Planned Parenthood did provide to Medicaid-eligible women were underwritten by Komen grants, Planned Parenthood nonetheless apparently sought reimbursement routinely for these same services from Medicaid authorities without reflecting offsets for the amounts received from Komen, as it was required to do. In essence, Planned Parenthood affiliates apparently were "double-dipping": accepting grant money to provide, in part, services they did not provide, then billing the "payor of last resort" Medicaid for the entire amount rather than reducing the bill by the amount already paid for by other insurance or a grant.

---

<sup>123</sup> ALLIANCE DEFENDING FREEDOM, REPORT ON POTENTIAL FRAUD BY PLANNED PARENTHOOD AFFILIATES RELATING TO GRANTS FROM SUSAN G. KOMEN FOR THE CURE (2013), *available at* <http://www.alliancedefendingfreedom.org/content/campaign/2013/Planned-Parenthood/images/ADF/Publications/4-8-2013-Memo-to-Selected-Members-of-Congress-re-PP-Fraud.pdf>.

**ACTION STEPS FOR INCREASED OVERSIGHT OF PLANNED PARENTHOOD AND  
STATE FAMILY PLANNING PROGRAMS**

Alliance Defending Freedom applauds Representative Diane Black, Representative Pete Olson, and other Members of Congress for their February 21, 2013, letter requesting that GAO conduct a comprehensive audit of the receipt and use of federal taxpayer dollars by Planned Parenthood Federation of America and its related entities, and GAO for accepting the request and opening an investigation into Planned Parenthood, the Guttmacher Institute, and other prominent family planning organizations.

Alliance Defending Freedom now urges congressional oversight committees, state attorneys general, and other relevant federal and state entities to:

1. Vigorously pursue the current GAO investigation seeking, among other things, “up-to-date information regarding federal funding of Planned Parenthood and other specific organizations.”
2. Continue and complete the investigation begun in September 2011 by the House Energy and Commerce Committee’s Oversight and Investigations Subcommittee into PPFA and its affiliates’ use of federal funding and compliance with federal abortion funding restrictions.<sup>124</sup>
3. Empower auditors and state Medicaid Fraud Control Units (MFCUs) to investigate, prosecute, and recover overbilling practices including:
  - a. contraceptive overprescription, often through the use of mandatory, opt-out programs such as Pills by Mail, C-Mail, and Quarterly Contraceptive Kits<sup>125</sup> (each containing 3 months of pill

---

<sup>124</sup> See MEDICAID CONTRACTOR BENEFICIARY AND PROVIDER COMMUNICATIONS MANUAL, 60.3.2.4-CONGRESSIONAL INQUIRIES TIMELINESS (2014), available at <http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/Downloads/R29COM.pdf> (congressional inquiries must be responded to within ten business days of receipt).

<sup>125</sup> See <https://www.plannedparenthood.org/planned-parenthood-wisconsin/patients/qck-birth-control-by-mail>. This can be done “at no cost to you [the recipient]” for clients covered by Family Planning Only Services or BadgerCare. A similar program in Iowa was the subject of a federal False Claims Act lawsuit: *Thayer v. Planned Parenthood of the Heartland*, described herein.

or patch, 24 male condoms, 3 female condoms, and 1 emergency contraceptive pill package), which are automatically mailed to Medicaid beneficiaries after Planned Parenthood calculates that 75% of the original prescription has been used, leading to stockpiling, and which may be sent to women no longer using these contraceptives or no longer at the original address;

- b. billing contraceptives at much higher than actual acquisition cost, often a 900% markup;
  - c. prescribing and dispensing prescription contraceptives without medical authorization: for patients who have not been seen by a licensed clinician and without the required clinician signature; and
  - d. miscoding claims in order to maximize revenues, resulting in overbilling and an incorrect medical record that would not provide an accurate history to doctors who see the patient in the future.
4. Insist on greater transparency in reports maintained by federal and state Medicaid authorities on family planning program claims and reimbursements, as well as in the annual audits and quality control reviews required of all non-federal entities that expend \$500,000 or more of federal awards in a year.<sup>126</sup>
  5. Update state False Claims Act laws according to HHS-OIG guidelines in order to qualify for an incentive under section 1909 of the Social Security Act,<sup>127</sup> and to encourage legitimate whistleblowers to come forward.
  6. Update state Medicaid regulations relating to prescription refill frequency and maximum prescription reimbursement amount.

---

<sup>126</sup> See U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES, OFFICE OF INSPECTOR GENERAL, RECOVERY ACT OVERSIGHT, <https://oig.hhs.gov/recovery-act-oversight/>.

<sup>127</sup> See U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES, OFFICE OF INSPECTOR GENERAL, STATE FALSE CLAIMS ACT REVIEWS, <https://oig.hhs.gov/fraud/state-false-claims-act-reviews/index.asp>.

7. Investigate whether Planned Parenthood is double-dipping by billing Medicaid (and thus federal taxpayers) for services that the Susan G. Komen foundation and its donors are already paying it to provide.

Alliance Defending Freedom offers information on how to detect and address waste, abuse, and potential fraud to any interested government oversight entity. This audit report only adds to the urgency and necessity of such oversight.

**APPENDIX: CALCULATIONS**

The tables below demonstrate the calculations by which Alliance Defending Freedom determined the averages and other figures above.

**Audits of Planned Parenthood Affiliates: Audited Years and Averages**

| State Audit       | Audited Years | Total Overbilling | Overbilling by Audited Year |
|-------------------|---------------|-------------------|-----------------------------|
| California        | 1             | \$5,213,645.92    | \$5,213,645.92              |
| Connecticut       | *             | \$18,791.00       | *                           |
| Illinois          | 2             | \$387,000.00      | \$193,500.00                |
| Louisiana         | 1             | \$6,147.18        | \$6,147.18                  |
| Louisiana         | 1             | \$0               | \$0                         |
| Maine             | 5.02          | \$33,294.83       | \$6,632.44                  |
| New York - I      | *             | \$207,809.00      | *                           |
| New York - II     | 1             | \$15,723.91       | \$15,723.91                 |
| New York - III    | 2             | \$1,254,603.00    | \$627,301.50                |
| New York - IV     | 1             | \$886.26          | \$886.26                    |
| [New York - V     | 3             | \$112,490.31      | \$37,496.77                 |
| [New York - VI    | 3             | \$12,031.29       | \$4,010.43                  |
| [New York - VII   | 3             | \$11,539.48       | \$3,846.49                  |
| Texas - I         | *             | \$409,675.10      | *                           |
| Texas - II        | 1.58          | \$129,028         | \$81,663                    |
| Washington - I    | *             | *                 | *                           |
| Washington - II   | 2.96          | \$629,142.88      | \$212,548.27                |
| Washington - III  | *             | \$11,453          | *                           |
| [Wisconsin - I    | 0.75          | \$450.39          | \$600.52                    |
| [Wisconsin - II   | 0.75          | \$1,276.31        | \$1,701.75                  |
| [Wisconsin - III  | 0.75          | \$135.18          | \$180.24                    |
| [Wisconsin - IV   | 0.75          | \$128.28          | \$171.04                    |
| Wisconsin - V     | 1             | \$74.28           | \$74.28                     |
| [Wisconsin - VI   | 2             | \$368.51          | \$184.26                    |
| [Wisconsin - VII  | 2             | \$467.02          | \$233.51                    |
| [Wisconsin - VIII | 2             | \$381.99          | \$191.00                    |
| [Wisconsin - IX   | 2             | \$404.59          | \$202.30                    |
| [Wisconsin - X    | 2             | \$2,533.46        | \$1,266.73                  |
| [Wisconsin - XI   | 2             | \$277.31          | \$138.66                    |
| [Wisconsin - XII  | 2             | \$613.19          | \$306.60                    |
| [Wisconsin - III  | 2             | \$773.84          | \$386.92                    |
| Wisconsin - XIV   | 1             | \$1,864.42        | \$1,864.42                  |
| [Wisconsin - XV   | 3             | \$800.00          | \$266.67                    |
| [Wisconsin - XVI  | 3             | \$5,139.71        | \$1,713.24                  |

|                           |              |                       |                       |
|---------------------------|--------------|-----------------------|-----------------------|
| <b>[Wisconsin - XVII</b>  | <b>3</b>     | <b>\$1,968.71</b>     | <b>\$656.24</b>       |
| <b>[Wisconsin - XVIII</b> | <b>3</b>     | <b>\$2,096.00</b>     | <b>\$698.67</b>       |
| <b>[Wisconsin - XIX</b>   | <b>3</b>     | <b>\$13,270.11</b>    | <b>\$4,423.37</b>     |
| <b>[Wisconsin - XX</b>    | <b>3</b>     | <b>\$468.71</b>       | <b>\$156.24</b>       |
| <b>[Wisconsin - XXI</b>   | <b>3</b>     | <b>\$2,198.13</b>     | <b>\$732.71</b>       |
| <b>[Wisconsin - XXII</b>  | <b>3</b>     | <b>\$700.00</b>       | <b>\$233.33</b>       |
| <b>[Wisconsin - XXIII</b> | <b>3</b>     | <b>\$3,200.00</b>     | <b>\$1066.67</b>      |
| <b>[Wisconsin - XXIV</b>  | <b>3</b>     | <b>\$1,100.00</b>     | <b>\$366.67</b>       |
| <b>[Wisconsin - XXV</b>   | <b>3</b>     | <b>\$378.40</b>       | <b>\$126.13</b>       |
| <b>Wisconsin - XXVI</b>   | <b>1</b>     | <b>\$2,204.26</b>     | <b>\$2,204.26</b>     |
| <b>TOTAL</b>              | <b>82.56</b> | <b>\$8,496,533.96</b> | <b>\$6,423,548.56</b> |

**Total overbilling not including the audits for which audited years are not available:**

\$7,848,805.86

**Average overbilling per audited year, in a single audit:**

\$7,848,805.86 / 82.56 = \$95,067.90

**Key:**

[ - audits of different affiliates or clinics within one state that cover the same time frame and the same services

\* - audited dates or overbilling figures unknown

**Federal Audits of State Family Planning Programs and Other Organizations:**  
**Audited Years and Averages**

|                   | <b>Audited Years</b> | <b>Total Overbilling</b> | <b>Overbilling<br/>by Audited Year</b> |
|-------------------|----------------------|--------------------------|--|
| <b>Arizona</b>    | 3                    | \$558,093                | \$186,031.00                           |
| <b>Arkansas</b>   | 5                    | \$1,906,657              | \$381,331.40                           |
| <b>California</b> | 2                    | \$5,671,216              | \$2,835,608.00                         |
| <b>California</b> | 2                    | \$627,053                | \$313,526.50                           |
| <b>California</b> | 1                    | \$2,953,936              | \$2,953,936                            |
| <b>California</b> | 1                    | \$4,049,335              | \$4,049,335                            |
| <b>California</b> | 1                    | \$2,280,044              | \$2,280,044                            |
| <b>California</b> | 1                    | \$2,267,822              | \$2,267,822                            |
| <b>California</b> | 1                    | \$171,121                | \$171,121                              |
| <b>Colorado</b>   | 4                    | \$1,587,305              | \$396,826.25                           |
| <b>Colorado</b>   | 1                    | \$454,786                | \$454,786.00                           |
| <b>Colorado</b>   | 4                    | \$617,999                | \$154,499.75                           |
| <b>Colorado</b>   | 4                    | \$1,975,800              | \$493,950.00                           |
| <b>Colorado</b>   | 4                    | \$2,295                  | \$573.75                               |
| <b>Delaware</b>   | 3.75                 | \$2,916,288              | \$777,676.80                           |
| <b>Illinois</b>   | 2                    | \$869,273                | \$434,636.50                           |
| <b>Iowa</b>       | 1                    | \$8,291                  | \$8,291.00                             |
| <b>Kansas</b>     | 4                    | \$589,355                | \$147,338.75                           |
| <b>Kansas</b>     | 4                    | \$2,447,414              | \$611,853.50                           |
| <b>Kansas</b>     | 4                    | \$151,526                | \$37,881.50                            |
| <b>Kansas</b>     | 4                    | \$485,982                | \$121,495.50                           |
| <b>Louisiana</b>  | *                    | *                        | *                                      |
| <b>Louisiana</b>  | 2                    | \$0                      | \$0.00                                 |
| <b>Maryland</b>   | 3.75                 | \$228,643                | \$60,971.47                            |
| <b>Michigan</b>   | 2                    | \$1,000,519              | \$500,259.50                           |
| <b>Michigan</b>   | 2                    | \$838                    | \$419.00                               |
| <b>Missouri</b>   | 3                    | \$0                      | \$0.00                                 |
| <b>Missouri</b>   | 6                    | \$6,467,583              | \$1,077,930.50                         |
| <b>Missouri</b>   | 2.75                 | \$2,373,541              | \$863,105.82                           |
| <b>Missouri</b>   | 2                    | \$487,351                | \$243,675.50                           |
| <b>Missouri</b>   | 2                    | \$862,398                | \$431,199.00                           |
| <b>Nebraska</b>   | 0.25                 | \$43,948                 | \$175,792.00                           |
| <b>Nebraska</b>   | 2.75                 | \$268,285                | \$97,558.18                            |
| <b>New Jersey</b> | 4.75                 | \$314,446                | \$66,199.00                            |
| <b>New Jersey</b> | 4                    | \$2,219,746              | \$554,936.50                           |
| <b>New Jersey</b> | 4                    | \$597,496                | \$149,374.00                           |
| <b>New Jersey</b> | 4                    | \$162,548                | \$40,637.00                            |

|                       |                |                      |                     |
|-----------------------|----------------|----------------------|---------------------|
| <b>New York</b>       | 4              | \$1,566,740          | \$391,685.00        |
| <b>New York</b>       | 4              | \$3,235,640          | \$808,910.00        |
| <b>New York</b>       | 4              | \$6,132,366          | \$1,533,091.50      |
| <b>New York</b>       | 5.5            | \$2,603,128          | \$473,296.00        |
| <b>New York</b>       | 3.75           | \$918,816            | \$245,017.60        |
| <b>New York</b>       | 4              | \$17,151,156         | \$4,287,789.00      |
| <b>New York</b>       | 1.5            | \$3,773,506          | \$2,515,670.67      |
| <b>North Carolina</b> | 3              | \$1,387,378          | \$462,459.33        |
| <b>North Carolina</b> | 2              | \$666,826            | \$333,413.00        |
| <b>North Carolina</b> | 3              | \$541,513            | \$180,504.33        |
| <b>Ohio</b>           | 2              | \$320,774            | \$160,387.00        |
| <b>Oklahoma</b>       | 0.25           | \$12,703             | \$50,812.00         |
| <b>Oklahoma</b>       | 5              | \$3,356,074          | \$671,214.80        |
| <b>Oregon</b>         | 3              | \$1,487,974          | \$495,991.33        |
| <b>Oregon</b>         | 3              | \$1,692,956          | \$564,318.67        |
| <b>Pennsylvania</b>   | 3.41666        | \$15,070,548         | \$4,410,900.70      |
| <b>Vermont</b>        | 1              | \$323,367            | \$323,367.00        |
| <b>Virginia</b>       | 3              | \$1,388,506          | \$462,835.33        |
| <b>Washington</b>     | 3              | \$8,458,169          | \$2,819,389.67      |
| <b>Wyoming</b>        | 5              | \$1,348,942          | \$269,788.40        |
| <b>TOTAL</b>          | <b>160.416</b> | <b>\$119,056,015</b> | <b>\$33,079,205</b> |

**Average overbilling per audited year, in a single audit:**

\$119,056,015 / 160.416 = \$742,170.45

**Key:**

\* - audited dates or overbilling figures unknown

# Exhibit

K



# GetYourCare.org

GetYourCare.org is a resource brought to you by the pro-women & pro-life movements of America. Our goal is to give women everywhere in America access to information about the thousands and thousands of quality health care options women have.



- GetYourCare.org was created to show that women have real choices when it comes to health care. All across America, thousands of low-cost health centers offer women and their families high-quality health care. The centers here are only the federal-funds eligible facilities – for now
- The dots represent health care centers which have been identified primarily from two separate lists: Federally Qualified Health Centers (FQHC) and Rural Health Centers (RHC).
- Federally Qualified Health Centers and Rural Health Centers are health clinics which are federally funded and typically offer a full range of health services.
- The alternative centers on this map can, or already do, receive federal funds for women's health care. As a matter of federal law, no federal funds can be used for abortion.
- The website's sponsors include Alliance Defending Freedom, Charlotte Lozier Institute, Concerned Women for America, Family Research Council, Live Action, March for Life, March for Life Action, Pregnant on Campus, Pro-Life Future, Susan B. Anthony List, Students for Life, CitizenLink, Americans United for Life, and The Radiance Foundation.

# Exhibit

# L

# Plenty of reasons to defund Planned Parenthood in Iowa

Sue Thayer 10:08 p.m. CDT September 30, 2015



(Photo: Special to the Register)

No person, no business should view a woman's body as a profit center, yet that is exactly what Planned Parenthood does. As the former director of two Planned Parenthood clinics in Iowa, I know first-hand how massive are the profits and how terrible are the costs generated by their predatory practices on women and girls. And all the while, our tax dollars have been helping them do it.

A poll (<http://www.adfmedia.org/files/iowaPPpoll.pdf>) conducted in August reveals that 52 percent of Iowans oppose taxpayer subsidization of Planned Parenthood, and 70 percent of those who have seen the videos have a negative impression of the organization.

Because of the undercover videos that the Center for Medical Progress has released, the public is finally able to see, on the grandest scale ever, what actually goes on inside Planned Parenthood facilities. The videos are horribly compelling, leading many to call for lawmakers to investigate and defund the abortion giant. But the videos are only the latest reason people should support an end to funding for Planned Parenthood.

## **OTHER VIEW: Iowans rely on Planned Parenthood for healthcare (/story/opinion/columnists/iowa-view/2015/09/30/iowans-rely-planned-parenthood-health-care/73105466/)**

Efforts to end public funding for Planned Parenthood have been underway for years due to its many moral, ethical and legal transgressions. Among those transgressions are its failure to report the rape and sexual abuse of young girls, as [documented in court records](http://www.adfmedia.org/News/PRDetail/9746#SourceDocuments) (<http://www.adfmedia.org/News/PRDetail/9746#SourceDocuments>); its questionable use of taxpayer dollars, as [documented in federal audits and other sources](http://www.adfmedia.org/files/ProfitNoMatterWhatReport2015.pdf) (<http://www.adfmedia.org/files/ProfitNoMatterWhatReport2015.pdf>); and now its potential violation of the law when it comes to [the apparent sale of baby parts](http://www.centerformedicalprogress.org/) (<http://www.centerformedicalprogress.org/>). The current movement to defund Planned Parenthood is not a political one that a bunch of men in Washington began. No, it's the cry of many women who did not consent to the harvesting and trafficking of their baby's organs and the cry of taxpayers who don't want their money wasted.

Numerous other options exist for women's healthcare that don't involve a scandal-ridden abortion empire that believes it is above the law. For instance, women in Iowa can apply for the Family Planning Waiver and receive free services at any provider; they don't need to go to Planned Parenthood. And [federal records show](http://www.adfmedia.org/files/IAHealthClinics.pdf) (<http://www.adfmedia.org/files/IAHealthClinics.pdf>) that other federally funded health clinics in the state outnumber Planned Parenthood clinics 213 to 13.

Women who have felt the pain of abortion now must feel the pain of realizing what Planned Parenthood may have done with their children. The videos show high-ranking Planned Parenthood managers and abortionists scheming about how to get top dollar for the sale of the hearts, livers, lungs, thymuses, and legs of aborted babies and strategizing about how to keep the baby alive for most of the killing process in order to obtain better "specimens." People on both sides of the political spectrum have spoken out in shock and disgust.

It is not "unfair" that Iowa's Planned Parenthood affiliate is being drawn into the debate. I worked for Planned Parenthood of the Heartland for almost 18 years. As the center manager for Planned Parenthood's Storm Lake facility, I became aware that Planned Parenthood had "illegally billed Medicaid for services related to elective abortions," as [The Des Moines Register has accurately reported](http://www.adfmedia.org/News/PRDetail/8054) ([/article/20120711/NEWS01/307110018/1002/NEWS01/Planned-Parenthood-affiliate-accused-Medicaid-fraud?gcheck=1&nclick\\_check=1](http://www.adfmedia.org/News/PRDetail/8054)). I filed a [lawsuit](http://www.adfmedia.org/News/PRDetail/8054) (<http://www.adfmedia.org/News/PRDetail/8054>) against Planned Parenthood of the Heartland for fraudulently billing the residents of Iowa \$28 million through a cunning and complex Medicaid scheme. I saw it happen. Because of my opposition to abortion, including webcam abortions, I had no choice but to leave Planned Parenthood.

I saw tears inside these clinics. The noise of the suction machine used to rip the baby's body out of her mother's womb. If death has a sound, this is it. The sobbing in the abortion facility recovery room as mothers come to grips with the reality that they have just lost their child. And the awful smell of blood, death, and antiseptic all mingled together.

Pro-life Americans mourn the nearly 57 million babies' lives that have ended this way. Unfortunately, Planned Parenthood of the Heartland participates in killing the equivalent of a kindergarten class of Iowa children every two days. I left Planned Parenthood, and I think our tax dollars should leave it, too. Planned Parenthood, which nationally made more than \$127 million in excess revenue last year, can continue to raise its own money as the "non-profit" it claims to be.

I am among thousands of Americans who lament these deaths and the profits Planned Parenthood continues to make from them. Join with me in demanding that Planned Parenthood not receive another dime of taxpayer money.

**Sue Thayer** is the former director of Planned Parenthood's Storm Lake and LeMars clinics. Contact: [thayer@iw.net](mailto:thayer@iw.net) (mailto:thayer@iw.net)

Read or Share this story: <http://dmreg.co/1FGsAPg>



**TOP VIDEOS**



[/videos/opinion/2893066148001/448935004](#)

**Rekha Basu on Miss America's apology**  
[\(/videos/opinion/2893066148001/448935004\)](#)  
08:29



**Why we "Give a Damn"**

[\(/videos/opinion/2893066148001/4486901976\)](#)  
[\(/videos/opinion/2893066148001/4486901976001/01:07\)](#)



**4 times Donald Trump has insulted women**

[\(/videos/opinion/2893066148001/4406847142\)](#)  
[\(/videos/opinion/2893066148001/4406847142001/01:07\)](#)

**MORE STORIES**

**Finney: Confessions of a middle-aged Taylor Swift fan** [\(/story/news/local/daniel-](#)

## Thayer v. Planned Parenthood of the Heartland

To book an interview, click on the "Book an Interview" button on any page at [ADFmedia.org](http://ADFmedia.org).

Wednesday, October 07, 2015

**Description:** Planned Parenthood submitted "repeated false, fraudulent, and/or ineligible claims for reimbursements" to Medicaid and failed to meet acceptable standards of medical practice according to a federal lawsuit. Alliance Defending Freedom attorneys representing former Planned Parenthood clinic director Sue Thayer filed the lawsuit against the abortion giant's Iowa affiliate in March 2011.

## Former Planned Parenthood director to testify on how it places profit before women's health

*Sue Thayer, ADF attorneys available to media following hearing before House Judiciary Committee*

Wednesday, October 07, 2015

**WHO:** Former Planned Parenthood facility director Sue Thayer, ADF Senior Counsel Casey Mattox, and ADF Senior Counsel Michael J. Norton

**WHAT:** Available for media interviews following hearing at which Thayer will testify on Planned Parenthood and how it places its profits ahead of women's health

**WHEN:** Thursday, Oct. 8 at 2 p.m. EDT

**WHERE:** House Judiciary Committee, 2141 Rayburn House Office Building, Washington, or watch live webcast

**WASHINGTON** – Former Planned Parenthood facility director Sue Thayer will testify before the House Judiciary Committee Thursday about how the abortion giant places its bottom line ahead of women's health. The committee has been investigating the abortion giant's practices ever since the Center for Medical Progress released numerous undercover videos that reveal what appears to be Planned Parenthood's involvement in the trafficking of fetal baby parts – videos that a forensic report last week found are "authentic and show no evidence of manipulation...."



Thayer and Alliance Defending Freedom attorneys will be available for media interviews immediately following the hearing. ADF represents Thayer in a lawsuit against Planned Parenthood's Iowa affiliate. The lawsuit, *Thayer v. Planned Parenthood of the Heartland*, claims Planned Parenthood submitted "repeated false, fraudulent, and/or ineligible claims for reimbursements" to Medicaid.

"No person, no business should view a woman's body as a profit center, yet that is exactly what Planned Parenthood does," Thayer wrote recently in an opinion column for *The Des Moines Register*. "As the former director of two Planned Parenthood clinics in Iowa, I know first-hand how massive are the profits and how terrible are the costs generated by their predatory practices on women and girls. And all the while, our tax dollars have been helping them do it."

"American taxpayers should not be forced to fund a billion-dollar corporation that was caught on camera negotiating the sale of baby body parts," said Mattox. "No one should miss the horrific reality of what Planned Parenthood does behind closed doors, as most graphically revealed in the undercover videos. Our tax dollars should fund the thousands of trusted, local public health clinics across America, not provide corporate welfare for Planned Parenthood and its barbaric practices of trafficking baby parts, failing to report statutory rape, and fraudulent billing." (#DefundPP)

At the hearing, medical experts will testify on the gruesome nature of abortion, late-term abortions, and what is involved in altering an abortion in order to harvest fetal organs.

Written testimony of Susan Thayer provided to the House Judiciary Committee (2015-10-06)

***Alliance Defending Freedom is an alliance-building, non-profit legal organization that advocates for the right of people to freely live out their faith.***

### | Ref. 29005

---

## **Additional resources: Thayer v. Planned Parenthood of the Heartland**

*Scroll down to view additional resources pertaining to this case and its surrounding issue*

Wednesday, October 07, 2015

### **Previous news releases:**

2014-08-29: Appeals court reinstates fraud case against Planned Parenthood in Iowa

2013-11-19: 8th Circuit hears Iowa Planned Parenthood fraud case

2013-03-14: Iowa Planned Parenthood fraud case heads to 8th Circuit

**Legal documents, related news, and other related resources available in the right panel when this page is viewed at [ADFmedia.org](http://ADFmedia.org).**

 [Print This Page](#)

UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF IOWA  
 CENTRAL DISTRICT

|                              |   |                        |
|------------------------------|---|------------------------|
| UNITED STATES OF AMERICA and | ) |                        |
| the STATE OF IOWA,           | ) |                        |
| ex rel. SUSAN THAYER,        | ) |                        |
| Qui Tam Plaintiff/Relator    | ) |                        |
|                              | ) |                        |
|                              | ) |                        |
|                              | ) | Case No. 4:11-cv-00129 |
| Plaintiff,                   | ) |                        |
|                              | ) |                        |
| v.                           | ) |                        |
|                              | ) |                        |
| PLANNED PARENTHOOD OF        | ) |                        |
| THE HEARTLAND, INC.          | ) |                        |
| (f/k/a PLANNED PARENTHOOD    | ) |                        |
| OF GREATER IOWA, INC.),      | ) |                        |
|                              | ) |                        |
| Defendant                    | ) |                        |
|                              | ) |                        |

**THIRD AMENDED COMPLAINT**

QUI TAM PLAINTIFF-RELATOR SUSAN THAYER, on behalf of herself and on behalf of the United States of America and the State of Iowa, by and through her undersigned counsel, for her Third Amended Complaint against Planned Parenthood of the Heartland, Inc., formerly known as Planned Parenthood of Greater Iowa, Inc., states and alleges as follows:

**I. INTRODUCTION**

1. This action arises from false, fraudulent and/or ineligible claims for reimbursement knowingly made and presented by Planned Parenthood of the Heartland, Inc., formerly known as Planned Parenthood of Greater Iowa, Inc., to federal Title XIX-Medicaid program authorities of the United States of America and the State of Iowa in violation of the federal False Claims Act, 31 U.S.C. § 3729 *et seq.*, and the Iowa False Claims Act, IOWA CODE ANN. § 685 *et seq.*

2. The federal Title XIX-Medicaid program is a jointly funded federal-state healthcare program implemented pursuant to the provisions of (a) title XIX of the Social Security Act and its implementing regulations and policies, and (b) State of Iowa statutes and implementing regulations and policies.
3. The federal False Claims Act provides that any person who, *inter alia*, knowingly submits or causes to be submitted a false or fraudulent claim to the government for payment or approval, or knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim, is liable for a civil penalty up to \$11,000 for each such false claim, plus treble actual damages sustained by the government.
4. The Iowa False Claims Act provides that any person who, *inter alia*, “[k]nowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval” or “[k]nowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim” or “[c]onspires to commit [these] violation[s],” IOWA CODE ANN. § 685.2(1)(a) – (c), is liable to the State of Iowa for a civil penalty up to \$11,000 per false claim, plus treble actual damages.
5. The original complaint was filed under seal, without service on the defendant until order of Court. Following notices of nonintervention by both the United States of America and the State of Iowa, by order dated July 5, 2012, this Court ordered the First Amended Complaint unsealed and, with other specified documents, served on the defendant.
6. Qui Tam Plaintiff-Relator Susan Thayer is an original source with non-public, direct, personal, and independent knowledge of the facts and information upon which the allegations contained in this complaint are based.

7. As required by the federal False Claims Act, 31 U.S.C. § 3730(b)(2), and the Iowa False Claims Act, IOWA CODE ANN. § 685 *et seq.*, Qui Tam Plaintiff-Relator Susan Thayer has previously provided the Attorney General of the United States and the United States Attorney for the Southern District of Iowa, for the United States of America, and the Iowa Attorney General, for the State of Iowa, all material evidence and information in her possession, custody, or control related to her complaint.

## II. JURISDICTION AND VENUE

8. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345 and 31 U.S.C. § 3732, which specifically confers jurisdiction on this Court for actions brought pursuant to 31 U.S.C. §§ 3729 and 3730.
9. In addition, this Court has jurisdiction over the subject matter of this action pursuant to IOWA CODE ANN. § 685 *et seq.*, 28 U.S.C. § 1367(a), and 31 U.S.C. § 3732(b).
10. This Court has personal jurisdiction over Defendant Planned Parenthood of the Heartland pursuant to 31 U.S.C. § 3732(a), as Defendant Planned Parenthood of the Heartland may be found in, resides in, and transacts business, including the acts in violation of 31 U.S.C. § 3729 alleged, herein.

## III. PARTIES

11. Qui Tam Plaintiff-Relator Susan Thayer (hereinafter “Plaintiff-Relator Thayer”) is an individual resident in Lakeside, Iowa. From 1991 to December 2008, Plaintiff-Relator Thayer served as the center manager of the Defendant Planned Parenthood of the Heartland’s Storm Lake, Iowa, clinic. At the time, Defendant Planned Parenthood of the Heartland was known as Planned Parenthood of Greater Iowa, Inc. From approximately 1993 to 1997,

Plaintiff-Relator Thayer simultaneously served as the center manager for Defendant Planned Parenthood of the Heartland's LeMars, Iowa, clinic.

12. Planned Parenthood of the Heartland, Inc., is an Iowa non-profit corporation resident, upon information and belief, at 1171 7th Street, P.O. Box 4557, Des Moines, Iowa 50314. On September 1, 2009, Planned Parenthood of Greater Iowa, Inc., merged with Planned Parenthood of Nebraska/Council Bluffs, Inc., and thereafter was known as Planned Parenthood of the Heartland, Inc. On December 9, 2010, Planned Parenthood of the Heartland, Inc. merged with Planned Parenthood of East Central Iowa, Inc. At the time Plaintiff-Relator Thayer was employed by Planned Parenthood of the Heartland, Inc., Planned Parenthood of the Heartland, Inc. operated as many as eighteen clinics in Iowa, to wit: Ames, Ankeny, Bettendorf, Cedar Falls, Creston, Davenport, Des Moines, Ft. Dodge, Iowa City, Knoxville, LeMars, Newton, Red Oak, Rosenfield, Sioux City, Spencer, Storm Lake, and Urbandale. These clinics are referred to herein either by the specific clinic name or, collectively as "Planned Parenthood's Iowa Clinics." "Defendant Planned Parenthood of the Heartland" shall refer to Planned Parenthood's Iowa Clinics, its headquarters office in Des Moines, Iowa, and all management personnel of Planned Parenthood of the Heartland, Inc.

#### **IV. FACTS COMMON TO ALL CLAIMS FOR RELIEF**

##### **a. Title XIX-Medicaid Program**

13. The federal Title XIX-Medicaid program, authorized pursuant to Title XIX of the Social Security Act, is a federal-state healthcare program implemented and administered, pursuant to, as is required by law, a plan approved by the federal Centers for Medicare and Medicaid

Services (herein “CMS”), by the State of Iowa and financed jointly through federal and state funds.

14. The purpose of the Title XIX-Medicaid program is to help ensure that people of low income have available to them medical and health care. For eligible recipients, defined as those at and below specified federal poverty guidelines, the Title XIX-Medicaid program pays certain specified costs of services and products.
15. Both State of Iowa law and regulations and United States law and regulations (what is commonly called the “Hyde Amendment”) prohibit the use of Title XIX-Medicaid funds to pay for or reimburse abortions and all abortion-related services except in limited circumstances. Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, Pub. L. No. 111-8, §§ 507-508, 123 Stat. 750, 802-03 (2009); 42 C.F.R. §§ 50.303, 50.304, 50.306; Iowa Admin. Code r. 441-78.1(17); Iowa Admin. Code r. 441-78.26(4) (“Abortion procedures are covered only when criteria in subrule 78.1(17) are met.”); *see also* Medicaid Enterprise Family Planning Manual, p. 1.
16. To implement and manage the Iowa Medicaid Program pursuant to the CMS-approved plan, the Iowa Department of Human Services formed “Iowa Medicaid Enterprise.” Iowa Medicaid Enterprise has formulated Medicaid policies and procedures compliant with federal and state laws and regulations to receive, process, and reimburse providers, including Defendant Planned Parenthood of the Heartland, for approved charges relating to the provision of services and supplies provided to Title XIX-Medicaid eligible clients.
17. At all times relevant herein, Defendant Planned Parenthood of the Heartland has submitted claims for reimbursement for Title XIX-Medicaid eligible services and supplies to and has been reimbursed for such services and supplies by Iowa Medicaid Enterprise with funds

provided by both the United States of America and the State of Iowa. With the submittal of each reimbursement claim and as a condition of reimbursement, Defendant Planned Parenthood of the Heartland expressly and impliedly certified and represented that it was in compliance with all applicable federal and state laws and regulations relating to Iowa Medicaid Enterprise and its reimbursement claim requirements.

18. As is described in more detail hereinafter, Defendant Planned Parenthood of the Heartland has submitted false or fraudulent reimbursement claims to Iowa Medicaid Enterprise for family planning procedures, services and products, including oral contraceptive pills and birth control patches, knowing that Defendant Planned Parenthood of the Heartland's express and implied representations of compliance with laws and regulations relating to Iowa Medicaid Enterprise were, unbeknownst to Iowa Medicaid Enterprise, false.
19. To implement and manage a Medicaid waiver program pursuant to the CMS-approved plan, the Iowa Department of Human Services also formed Iowa Family Planning Network. The Iowa Family Planning Network Medicaid-waiver program provides for reimbursement to providers, including Defendant Planned Parenthood of the Heartland, for specified services and supplies to clients who have higher incomes relative to the poverty guidelines than those clients who may be covered by Iowa Medicaid Enterprise.
20. At all times relevant herein, Defendant Planned Parenthood of the Heartland has submitted requests for reimbursement for such limited family planning services and supplies to and has been reimbursed by Iowa Family Planning Network with funds provided by both the United States of America and the State of Iowa. With the submittal of each reimbursement claim and as a condition of reimbursement, Defendant Planned Parenthood of the Heartland expressly and impliedly certified and represented that it was in compliance with all applicable federal

and state laws and regulations relating to Iowa Family Planning Network and its reimbursement claim requirements.

21. As is described in more detail hereinafter, Defendant Planned Parenthood of the Heartland has submitted false or fraudulent reimbursement claims to Iowa Family Planning Network for family planning procedures, services and products, including oral contraceptive pills and birth control patches, knowing that Defendant Planned Parenthood of the Heartland's express and implied representations of compliance with laws and regulations relating to Iowa Family Planning Network were, unbeknownst to Iowa Family Planning Network, false.
22. For the purposes of Plaintiff-Relator Thayer's Complaint, clients served by both Iowa Medicaid Enterprise and Iowa Family Planning Network are referred to as "Title XIX-Medicaid eligible clients."
23. Upon submission to Iowa Medicaid Enterprise and/or Iowa Family Planning Network of apparently properly documented claims for reimbursement of approved services and supplies, including contraceptives such as oral contraceptive pills and birth control patches, Defendant Planned Parenthood of the Heartland was thereupon regularly reimbursed by Iowa Medicaid Enterprise and/or Iowa Family Planning Network for such reimbursement claims.
24. At all times relevant herein, Defendant Planned Parenthood of the Heartland has been receiving reimbursements in this manner from Iowa Medicaid Enterprise and/or Iowa Family Planning Network for prescribed family planning procedures, services and supplies, including contraceptives such as oral contraceptive pills and birth control patches, on the assumption that claims for reimbursement submitted by Defendant Planned Parenthood of the Heartland were valid. As is described in detail herein, many such claims for reimbursement were false, fraudulent, and/or ineligible for reimbursement.

25. At all times relevant herein, Defendant Planned Parenthood of the Heartland has participated in the Iowa Medicaid Program, and thus has been reimbursed by Iowa Medicaid Enterprise and/or Iowa Family Planning Network, pursuant to one or more Medicaid Provider Agreements between Defendant Planned Parenthood of the Heartland and the State of Iowa.
26. By executing each such Medicaid Provider Agreement, Defendant Planned Parenthood of the Heartland has expressly and/or impliedly agreed, certified, and represented that, in dispensing family planning procedures, services and products, including oral contraceptive pills and birth control patches, to Title XIX-Medicaid eligible clients and in submitting reimbursement claims to Iowa Medicaid Enterprise and/or Iowa Family Planning, it would “comply with all applicable Federal and State laws, rules and written policies to the Iowa Medicaid program, including but not limited to Title XIX of the Social Security Act (as amended), the Code of Federal Regulations (CFR), the provisions of the Code of Iowa and the rules of the Iowa Department of Human Services and written Department policies, including but not limited to the policies contained in the Iowa Medicaid Provider Manual, and the terms of this Agreement.” Medicaid Provider Agreement, ¶ 2.3.
27. Among other regulations relevant to Plaintiff-Relator Thayer’s Complaint, the State of Iowa has promulgated the Iowa Medicaid Enterprise, Department of Human Services, All Provider Manual with which Defendant Planned Parenthood of the Heartland was, at all times relevant herein, required to comply. The Iowa Medicaid Enterprise, Department of Human Services, All Provider Manual, herein “Iowa All Provider Manual” is incorporated herein by this reference.
28. Pursuant to applicable federal and state law and regulations, including Iowa Administrative Code (herein “IAC”) 441-79.3(249A) and, upon information and belief, Defendant Planned

Parenthood of the Heartland's Medicaid Provider Agreement with the State of Iowa, Defendant Planned Parenthood of the Heartland expressly and impliedly certified and represented, as a condition of reimbursement, that it had maintained and would "maintain clinical and fiscal records necessary to fully disclose the extent of services, care, and supplies furnished to Medicaid members" and further required to maintain "[c]linical records [to] . . . support charges made to the Medicaid program by documenting:

- a. Medical necessity of the services.
- b. The services provided are consistent with the diagnosis of the client's condition.
- c. The services are consistent with professionally recognized standards of care."

Iowa All Provider Manual, March 1, 2008, p. 30.

29. Pursuant to applicable federal and state law and regulations, including the Iowa All Provider Manual, Defendant Planned Parenthood of the Heartland expressly and impliedly certified and represented, as a condition of reimbursement, that it knew that the family planning procedures, services and supplies, including oral contraceptive pills and birth control patches, it provided and that were being reimbursed by Iowa Medicaid Enterprise and/or Iowa Family Planning Network were, at all times relevant herein, required to:

- a. Be consistent with the diagnosis and treatment of the client's condition.
- b. Be in accordance with standards of good medical practice.
- c. Be required to meet the medical need of the client and be for reasons other than the convenience of the client or the client's practitioner or caregiver.
- d. Be the least costly type of service that would reasonably meet the medical need of the client.

- e. Be provided with full knowledge and consent of the client or someone acting in the client's behalf . . . .

Iowa All Provider Manual, p. 20.

30. In addition to the foregoing, Defendant Planned Parenthood of the Heartland expressly and impliedly certified and represented, as a condition of reimbursement, that it knew that the Iowa All Provider Manual provided that, at all times relevant herein, “[p]ayment will not be made for medical care and services:

- a. That are medically unnecessary or unreasonable.
- b. That fail to meet existing standards of professional practice, [or] are currently professionally unacceptable . . . .
- c. That are fraudulently claimed.
- d. That represent abuse or overuse.”

Iowa All Provider Manual, p. 21.

31. As is relevant to Plaintiff-Relator Thayer's Complaint and the dispensing of oral contraceptive pills by Defendant Planned Parenthood of the Heartland, pursuant to Iowa law, “each prescription drug order issued or dispensed in this state must be based on a valid patient-practitioner relationship” and may not be dispensed to a client without a physician's order or prior to a physician's order. Iowa Code § 155A.27; 147.107(7).

32. In addition to the foregoing and as is relevant to Plaintiff-Relator Thayer's Complaint and the dispensing of oral contraceptive pills and birth control patches by Defendant Planned Parenthood of the Heartland, Defendant Planned Parenthood of the Heartland knew that the Iowa All Provider Manual provided that “[p]rescriptions will be reimbursed only if written or approved by the primary physician.” Iowa All Provider Manual, p. 26.

33. In accordance with applicable federal and state laws and regulatory enactments, including the Iowa All Provider manual and Defendant Planned Parenthood of the Heartland's Medicaid Provider Agreement, each time Defendant Planned Parenthood of the Heartland submitted a reimbursement claim to either Iowa Medicaid Enterprise or Iowa Family Planning Network, Defendant Planned Parenthood of the Heartland expressly and impliedly certified and represented, as a condition of reimbursement, that it was in compliance with all such applicable federal and state laws and regulatory enactments, including the Iowa All Provider Manual and Defendant Planned Parenthood of the Heartland's Medicaid Provider Agreement.

**b. Defendant Planned Parenthood of the Heartland and Its Fraudulent Schemes**

34. At all times relevant herein, Defendant Planned Parenthood of the Heartland:

- a. Has held itself out as providing to Title XIX-Medicaid eligible clients and others, among other things, services and supplies, including contraceptives such as oral contraceptive pills and birth control patches, testing and treatment of sexually transmitted illnesses and diseases, testing and counseling for unplanned pregnancies, and a full range of abortion services.
- b. Has, directed by management personnel at its headquarters in Des Moines, Iowa, managed and operated clinics in the Iowa towns of Ames, Ankeny, Bettendorf, Cedar Falls, Creston, Davenport, Des Moines, Ft. Dodge, Iowa City, Knoxville, LeMars, Newton, Red Oak, Rosenfield, Sioux City, Spencer, Storm Lake, and Urbandale.

35. Defendant Planned Parenthood of the Heartland's management and control of these Iowa clinics included, at all times relevant herein, the establishment and enforcement of operational and financial goals and objectives; the provision of services and supplies; the

direction of billing and reimbursement policies, including Title XIX-Medicaid billing and reimbursement policies, and all financial accounting; the oversight of all hiring and termination of employees; and the central purchasing and distribution of supplies such as oral contraceptive pills and birth control patches

36. From her nearly eighteen years of experience with Defendant Planned Parenthood of the Heartland, Plaintiff-Relator Thayer came to know that all such policies and procedures were uniformly imposed by Defendant Planned Parenthood of the Heartland's management at each of Defendant Planned Parenthood of the Heartland's Iowa clinics.

37. In compiling and processing bills for services or supplies rendered to clients at Defendant Planned Parenthood of the Heartland's Iowa clinics, Defendant Planned Parenthood of the Heartland utilized, at all times relevant herein, a centralized computer network located at its Des Moines, Iowa, headquarters office. This centralized computer network linked each of Defendant Planned Parenthood of the Heartland's Iowa clinics to it and provided a centralized electronic client record system. This centralized electronic client record system was, at all times relevant herein, based upon input from each of Defendant Planned Parenthood of the Heartland's Iowa clinics and included information or data relating to each client visit; services or supplies provided to each client during a visit; billing for services or supplies provided to each client, including services or supplies provided to Title XIX-Medicaid eligible clients; and payments received by Defendant Planned Parenthood of the Heartland for services or supplies provided to each client during a visit, including payments received from, or credited to services or supplies provided to each client directly from, the client, private insurance, and/or Iowa Medicaid Enterprise and/or Iowa Family Planning Network.

38. Utilizing its centralized accounting and billing system and data collected from each of Defendant Planned Parenthood of the Heartland Iowa's clinics, Defendant Planned Parenthood of the Heartland, at all times relevant herein, submitted claims for reimbursement from its Des Moines, Iowa, headquarters to the Iowa Medicaid Enterprise and/or to the Iowa Family Planning Network and was regularly reimbursed by Iowa Medicaid Enterprise and/or the Iowa Family Planning Network for such claims.
39. As manager of Defendant Planned Parenthood of the Heartland's Storm Lake, Iowa, clinic and LeMars, Iowa, clinic, in accordance with the directions given to Plaintiff-Relator Thayer by her supervisor Defendant Planned Parenthood of the Heartland Regional Director Todd Buchacker, Plaintiff-Relator Thayer oversaw the input of data into Defendant Planned Parenthood of the Heartland's centralized accounting and billing system.
40. By virtue of her position with Defendant Planned Parenthood of the Heartland as Storm Lake clinic manager, Plaintiff-Relator Thayer had access via her office computer to and frequently did view billing information and records for clients at other Planned Parenthood of the Heartland clinics, in addition to the clinics that Plaintiff-Relator Thayer managed.
41. In this way, Plaintiff-Relator Thayer could and often did view entries in each client billing record, including client case histories, services and supplies provided to clients, test and lab results, staff chart notations called "flags," charges to clients, and payments credited to the client's account, whether made by clients, characterized as "voluntary donations" by Defendant Planned Parenthood of the Heartland, or payments by others, including private insurers, Iowa Medical Enterprise, and Iowa Family Planning Network.
42. In addition to the foregoing, by virtue of her positions with Defendant Planned Parenthood of the Heartland, Plaintiff-Relator Thayer had knowledge of the calculation and submission by

Defendant Planned Parenthood of the Heartland of (a) claims to Iowa Medicaid Enterprise, and (b) claims to Iowa Family Planning Network.

43. In addition and by virtue of her positions with Defendant Planned Parenthood of the Heartland, Plaintiff-Relator Thayer viewed and was thus aware of the amounts and dates of funds received by Defendant Planned Parenthood of the Heartland from Iowa Medicaid Enterprise and/or Iowa Family Planning Network and/or from other sources, including for Title XIX-Medicaid eligible clients, as reimbursements for services and supplies that were purportedly rendered by Defendant Planned Parenthood of the Heartland to such Title XIX-Medicaid eligible clients.
44. In this manner and based upon other observations and communications, Plaintiff-Relator Thayer became aware of the false and fraudulent billing practices and schemes of Defendant Planned Parenthood of the Heartland as described herein.
45. From at least January 1, 1999, to, upon information and belief, the present and continuing, Defendant Planned Parenthood of the Heartland, acting through its officers, agents, and employees, including Defendant Planned Parenthood of the Heartland CEO Jill June and Defendant Planned Parenthood of the Heartland Regional Director Todd Buchacker, defrauded the United States and the State of Iowa by knowingly submitting and/or causing to be submitted to agencies of the United States, the State of Iowa, and/or their designated fiscal intermediaries, including Iowa Medicaid Enterprise and/or Iowa Family Planning Network, false, fraudulent, and/or ineligible claims for reimbursement that Defendant Planned Parenthood of the Heartland knew or reasonably should have known were false, fraudulent, and/or ineligible when made and knowingly used, or caused to be made or used, false records

and/or statements material to such false or fraudulent claims, all in violation of applicable United States and State of Iowa laws and regulations.

46. In billing procedures and services to the Title XIX-Medicaid Program, Defendant Planned Parenthood of the Heartland used the prescribed CPT or Current Procedural Terminology codes to bill for procedures, services, and supplies approved for Title XIX-Medicaid Program reimbursement. Pursuant to the CPT system, a different code is assigned to every procedure, service, and supply to identify each procedure, service, or supply in lieu of a lengthy written description of each such procedure, service, or supply.

47. In violation of such applicable United States and State of Iowa laws and regulations, Defendant Planned Parenthood of the Heartland, at all times relevant herein, engaged in the following fraudulent schemes that are detailed herein, to wit:

a. The making, in violation of the applicable United States and State of Iowa laws and regulations, of false, fraudulent, and/or ineligible Title XIX-Medicaid claims to, and which claims were subsequently reimbursed by, agencies of the United States, the State of Iowa, and/or their designated fiscal intermediaries, including Iowa Medicaid Enterprise and/or Iowa Family Planning Network, for contraceptives such as oral contraceptive pills (herein "OCPs") and birth control patches. As is relevant to this complaint, OCPs were:

i. dispensed by Defendant Planned Parenthood of the Heartland to clients without a valid patient-practitioner relationship, without or prior to a physician's order, or without or prior to the order of any other authorized practitioner;

- ii. dispensed by Defendant Planned Parenthood of the Heartland to clients at levels not medically reasonable or necessary and/or in amounts constituting “abuse or overuse” and/or in amounts not consistent with professionally recognized standards of care and practice;
  - iii. dispensed by Defendant Planned Parenthood of the Heartland to clients without any comprehensive examination by an authorized doctor or practitioner having been performed;
  - iv. in many cases, never delivered to the intended client; and
  - v. billed by Defendant Planned Parenthood of the Heartland at much higher than the allowed rate.
- b. The making, in violation of applicable United States and State of Iowa laws and regulations, of false, fraudulent, and/or ineligible Title XIX-Medicaid claims for reimbursement to, and which claims were subsequently reimbursed by, agencies of the United States, the State of Iowa, and/or their designated fiscal intermediaries, including Iowa Medicaid Enterprise and/or Iowa Family Planning Network, fragmented services and supplies provided in connection with non-reimbursable abortions in violation of such laws;
- c. The collection, from Title XIX-Medicaid eligible clients, of fees characterized by Defendant Planned Parenthood of the Heartland as “voluntary donations” for Title XIX-Medicaid services and supplies that were intended to be fully covered by the United States, the State of Iowa, and/or their fiscal intermediaries, including Iowa Medicaid Enterprise and/or Iowa Family Planning Network, without accepting such fees as full settlement of all such services and supplies and without accounting to

these agencies for the fees received by Defendant Planned Parenthood of the Heartland from such Title XIX-Medicaid eligible clients.

**FIRST CLAIM FOR RELIEF**  
**(Fraudulent Billing of Title XIX-Medicaid for OCPs and Birth Control Patches, in**  
**Violation of**  
**31 U.S.C. § 3729(a)(1)(A)-(C) and (G); IOWA CODE ANN. § 685.2(1)(a)-(c) and (g)**

48. Plaintiff-Relator Thayer hereby incorporates and realleges as fully as if set forth herein all prior allegations.
49. In early 2006, upon instructions from Defendant Planned Parenthood of the Heartland CEO Jill June, Defendant Planned Parenthood of the Heartland Vice President of Health Services & Education Penny Dickey, Defendant Planned Parenthood of the Heartland Regional Director Todd Buchacker, and other Des Moines-based managers of Defendant Planned Parenthood of the Heartland, each of the Defendant Planned Parenthood of the Heartland clinics was instructed to and did implement a new OCP and birth control patch distribution program that Defendant Planned Parenthood of the Heartland called its “C-Mail Program.”
50. At about the time of its new C-Mail Program, Defendant Planned Parenthood of the Heartland changed the policy whereby, at a client’s initial visit to a Defendant Planned Parenthood of the Heartland clinic, the client was provided with a comprehensive medical exam by a qualified healthcare practitioner. After this policy change, a client was provided only with a HOPE examination, i.e., a Hormonal Option Without Pelvic Exam, and then prescribed, without the prior approval of a doctor or any other qualified healthcare practitioner, a three-menstrual-cycle supply of OCPs (i.e., eighty-four birth control pills).<sup>1</sup> In addition, Defendant Planned Parenthood of the Heartland changed the procedure whereby,

---

<sup>1</sup> A menstrual-cycle supply of OCPs consists of twenty-eight (28) pills.

near the end of the time when the supply of the initial three-menstrual-cycle dosage was scheduled to have been exhausted, the client was required to return to one of Defendant Planned Parenthood of the Heartland's clinics for a follow-up examination by a qualified healthcare practitioner before the client could be prescribed additional three-cycle supplies of OCPs every sixty-three days, to Defendant Planned Parenthood of the Heartland's C-Mail Program.

51. A HOPE examination consisted of a visit to a Defendant Planned Parenthood of the Heartland clinic during which the client, without the involvement of a physician or other qualified practitioner, and with the assistance of a non-medical employee of Defendant Planned Parenthood of the Heartland, completed a simple form and had her blood pressure checked.
52. Except for the performance of abortions, doctors were rarely present at any of Defendant Planned Parenthood of the Heartland's clinics.
53. In order to save on costs, Defendant Planned Parenthood of the Heartland over time reduced the number of full-time qualified practitioners on staff, resulting in a qualified practitioner typically covering multiple clinics. As a result, it was frequently the case that no qualified practitioner was present at a particular Defendant Planned Parenthood of the Heartland clinic at a time when a client initially appeared at a clinic.
54. As a result and as qualified practitioners were increasingly required by Defendant Planned Parenthood of the Heartland to cover more than one clinic, it was, on those occasions, the case that, upon instructions from management of Defendant Planned Parenthood of the Heartland, contraceptives such as oral contraceptive pills and birth control patches were dispensed to Title XIX-Medicaid eligible clients by unqualified clinic personnel and later,

often days after the contraceptives such as oral contraceptive pills and birth control patches had been dispensed to such clients, the disbursement of contraceptives such as oral contraceptive pills and birth control patches was approved by a qualified practitioner.

55. As implemented in early 2006, the C-Mail Program was a voluntary program in that clients were enabled to “opt in” to the program. However, many of Defendant Planned Parenthood of the Heartland’s clients declined to participate in the C-Mail Program, in many cases because these clients, for personal reasons, did not want OCPs or birth control patches to be mailed to their homes or to their college dormitories.
56. During this voluntary stage of the C-Mail Program, Defendant Planned Parenthood of the Heartland observed that many clients who had agreed to receive OCPs via the C-Mail Program did not return to Defendant Planned Parenthood of the Heartland after three months to either pick up more contraceptive supplies or for any kind of follow-up examination, thus effectively discontinuing the use of OCPs or birth control patches.
57. Inasmuch as Defendant Planned Parenthood of the Heartland was experiencing revenue shortfalls, Defendant Planned Parenthood of the Heartland’s management, including CEO Jill June, tasked its Health Services Management Team (“HSMT Team”), made up of, among others, Defendant Planned Parenthood of the Heartland CEO Jill June; Defendant Planned Parenthood of the Heartland Vice President of Health Services & Education Penny Dickey; and Defendant Planned Parenthood of the Heartland’s Regional Directors Todd Buchacker, Deb Lord, Jennifer Warren-Ulrick, and Sherri Sperlich to develop programs to enhance revenue to Defendant Planned Parenthood of the Heartland to cover this shortfall.
58. Defendant Planned Parenthood of the Heartland’s HSMT Team and other Defendant Planned Parenthood of the Heartland management representatives determined that, following

implementation of the original “opt-in” C-Mail Program, most clients would use OCPs for only four to seven menstrual cycles and that Defendant Planned Parenthood of the Heartland could increase its revenues by converting the voluntary “opt-in” C-Mail Program to a mandatory program whereby clients were supplied OCPs and birth control patches for a full year, i.e., for at least twelve menstrual cycles.

59. As a consideration for this decision, Defendant Planned Parenthood of the Heartland determined that (i) its cost for a one-menstrual-cycle supply (i.e., twenty-eight [28] pills) of Ortho Tri-Cyclen Lo OCPs was \$2.98; (ii) it billed Iowa Medicaid Enterprise and/or Iowa Family Planning Network a total of \$35.00 for each one-menstrual-cycle supply of Ortho Tri-Cyclen Lo OCPs; and (iii) it was reimbursed \$26.32 by Iowa Medicaid Enterprise and/or Iowa Family Planning Network for each one-menstrual-cycle supply of Ortho Tri-Cyclen Lo OCPs. Thus, Defendant Planned Parenthood of the Heartland management concluded it could dramatically increase its revenues by converting the theretofore voluntary or “opt-in” C-Mail Program to a mandatory program, eliminate the follow-up examination, and thereupon mail each client at least a twelve-menstrual-cycle supply of OCPs in three-month increments.

60. Based upon these recommendations by Defendant Planned Parenthood of the Heartland’s HSMT Team and other management representatives of Defendant Planned Parenthood of the Heartland, in about mid-2006, Defendant Planned Parenthood of the Heartland converted the original “opt-in” C-Mail Program to a mandatory “opt-out” program.

61. Thereafter, usually without informing the client that the client could affirmatively decline to participate in its C-Mail Program, each client was, at the time of the initial examination, prescribed OCPs for one full year or at least twelve menstrual cycles, given OCPs to cover

the first three menstrual cycles, and thereafter automatically mailed an additional three-menstrual-cycle supply of OCPs every sixty-three (63) days for a total of at least twelve menstrual cycles of OCPs.

62. Upon instructions from Defendant Planned Parenthood of the Heartland CEO Jill June, Defendant Planned Parenthood of the Heartland Vice President of Health Services & Education Penny Dickey, Defendant Planned Parenthood of the Heartland Regional Director Todd Buchacker, and other Des Moines-based managers of Defendant Planned Parenthood of the Heartland, on and after mid-2006, each of Defendant Planned Parenthood of the Heartland's Iowa clinics:

- a. Did not provide comprehensive examinations by a doctor or other qualified practitioner to Title XIX-Medicaid eligible clients;
- b. Required all Title XIX-Medicaid eligible clients to sign a form whereby Defendant Planned Parenthood of the Heartland was enabled to mail OCPs to the address given by the client at the time of the initial examination;
- c. Provided the client with a three-menstrual-cycle supply of OCPs (i.e., 84 OCPs); and
- d. Thereafter, mailed, via the U.S. Postal Service, an additional three-menstrual-cycle supply of OCPs approximately every three months for a total of at least twelve menstrual cycles.

63. In these cases, OCPs were dispensed to Title XIX-Medicaid eligible clients without the approval of a primary physician as required by State of Iowa law and regulations.

64. Usually, OCPs were dispensed to Title XIX-Medicaid eligible clients without the client having been provided with any kind of examination, comprehensive or otherwise, by a doctor or qualified practitioner.

65. Usually, sometimes days after the first three-menstrual-cycle supply of OCPs was dispensed to a client by an unqualified staff person, an Advanced Registered Nurse Practitioner (“ARNP”) associated with Defendant Planned Parenthood of the Heartland and who had never seen or examined the client would appear at the Defendant Planned Parenthood of the Heartland clinic that had dispensed the OCPs and sign off on all OCP prescriptions that had previously been dispensed to clients since the last visit by the ARNP.
66. In about mid-2008, Defendant Planned Parenthood of the Heartland modified the C-Mail Program by transferring responsibility for mailing OCPs to clients from each of its clinics to its Des Moines, Iowa, headquarters office. Thereafter, specific Defendant Planned Parenthood of the Heartland clinics had even less contact with such Title XIX-Medicaid eligible clients.
67. As a result and after such automatic enrollment in Defendant Planned Parenthood of the Heartland’s C-Mail Program, Defendant Planned Parenthood of the Heartland mailed each client, usually without any periodic or intervening examination, a three-menstrual-cycle supply of OCPs (i.e., a total of eighty-four [84] OCPs, since each OCP package provides for twenty-eight days per menstrual cycle) every sixty-three (63) days for at least one full year.<sup>2</sup>

---

<sup>2</sup> In general, Medicaid regulations restrict the dispensing of prescriptions for more than thirty (30) days, but the regulations make an exception for contraceptive prescriptions, which are allowed to be dispensed or filled for up to ninety (90) days at a time. In the case of the OCPs prescribed by Defendant Planned Parenthood of the Heartland, the prescription consisted of a three-menstrual-cycle supply of OCPs, i.e., eighty-four (84) birth control pills. Until on or before January 1, 2011, Iowa Medicaid regulations provided that the soonest a prescription for a contraceptive can be refilled is “after 75% of the previous supply is used.” *See* Iowa Medicaid Enterprise, Prescribed Drugs Provider Manual, p. 7. On or before January 1, 2011, this was changed to restrict refills to only when 85% of the previous supply was used. The 85% rule remains in effect.

68. In light of a favorable arrangement with the manufacturer, the OCP prescribed by Defendant Planned Parenthood of the Heartland for most clients was Ortho Tri-Cyclen Lo. To those clients who were prescribed OCPs rather than patches, Defendant Planned Parenthood of the Heartland dispensed a three-menstrual-cycle supply of Ortho Tri-Cyclen Lo OCPs and then mailed a three-menstrual-cycle supply of Ortho Tri-Cyclen Lo OCPs (i.e., eighty-four [84] Ortho Tri-Cyclen Lo OCPs) to each client every sixty-three (63) days. In this manner, Defendant Planned Parenthood of the Heartland created a medically unnecessary surplus of at least 120.96 doses (approximately a four-month supply) of Ortho Tri-Cyclen Lo OCPs for each client each year, resulting in overcharges to the Iowa Medicaid Enterprise and/or Iowa Family Planning Network of at least \$113.70 per client.<sup>3</sup> Despite its knowledge that due to its own prior early automatic refills a client had a growing surplus of OCPs, such that including these excess OCPs the client had not yet reached the required percentage to permit a refill, Planned Parenthood of the Heartland continued to refill client OCPs and bill them to Medicaid.

---

<sup>3</sup> Once clients were enrolled in its C-Mail Program, without any interim client examination, Planned Parenthood of the Heartland automatically mailed an eighty-four-day (84-day) supply of OCPs every sixty-three (63) days for at least one full year, or nearly six times each year. To the extent clients even received these mailed OCPs, this scheme resulted in the accumulation by each client of a surplus of unused OCPs by the end of each year totaling nearly 121 OCPs (an 84-day supply of OCPs was mailed to clients 5.79 times per year; an 84-day supply of OCPs should have been mailed to clients no more than 4.35 times per year; the result was an over-prescription of 1.44 84-day supplies of OCPs, or a total of 120.96 OCPs). As Planned Parenthood of the Heartland was reimbursed by Iowa Medicaid Enterprise and/or Iowa Family Planning Network at the rate of ninety-four (94) cents per OCP, medically unnecessary and/or fraudulent claims by Planned Parenthood each year amounted to \$113.70 per client per year (120.96 OCPs x \$0.94/OCP = \$113.70).

69. Planned Parenthood of the Heartland knew or reasonably should have known that the growing excess of OCPs for each client that were dispersed as a result of its scheme were often sold or given to other women by its clients. On information and belief, these recipients of surplus OCPs were often juveniles and/or persons who had received no medical evaluation, creating a public health risk.
70. Moreover, contrary to acceptable medical practices and Iowa law, most clients were neither examined by a physician or other qualified practitioner at the initial client examination or at any time thereafter for at least one year or more, if at all, after the initial OCP prescription was dispensed to a client.
71. If clients ever received any examination at all, even after receiving and using OCPs for one full year or more, in many cases it was only a HOPE examination; not a standard comprehensive follow-up medical examination. The client would then be issued another OCP prescription for a full year.
72. In addition to the foregoing, knowing that many clients discontinued taking contraceptives such as oral contraceptive pills and birth control patches after a short while, Defendant Planned Parenthood of the Heartland did not contact clients to confirm that clients wanted and/or needed OCP prescriptions to be refilled and mailed. Instead, Defendant Planned Parenthood of the Heartland continued to mail OCPs to clients for a full year and to bill Iowa Medicaid Enterprise and/or Iowa Family Planning Network for each shipment of OCPs mailed to a client.
73. In many cases, clients had moved from the address to which Defendant Planned Parenthood of the Heartland was mailing OCPs, without providing Defendant Planned Parenthood of the Heartland with a forwarding address. In these cases, OCPs mailed by Defendant Planned

Parenthood of the Heartland to these clients were returned by the U.S. Postal Service to Defendant Planned Parenthood of the Heartland.

74. Notwithstanding these facts, Defendant Planned Parenthood of the Heartland did not credit or otherwise make an adjustment to its billings to or reimbursements received from Iowa Medicaid Enterprise and/or Iowa Family Planning Network.
75. In fact, Defendant Planned Parenthood of the Heartland instructed its staff to return OCPs that had been returned to Defendant Planned Parenthood of the Heartland in the mail to its inventory of OCPs and to reship such returned OCPs to future clients, thereby effectively billing Iowa Medicaid Enterprise and/or Iowa Family Planning Network at least twice for the same OCPs.
76. In addition to the foregoing and on a number of occasions, clients complained to Defendant Planned Parenthood of the Heartland, including to Plaintiff-Relator Thayer when she managed Defendant Planned Parenthood of the Heartland's clinics, that these clients had requested that Defendant Planned Parenthood of the Heartland cease mailing OCPs to them. Some of these clients reported that the unsolicited delivery of OCPs to a client's home or dormitory caused severe strain on the client's relationships.
77. Notwithstanding such requests from clients, Defendant Planned Parenthood of the Heartland continued to mail such clients a three-menstrual-cycle supply of OCPs every sixty-three (63) days for at least one full year from the date of the initial client examination.
78. As a way to expand its now-mandatory C-Mail Program, Defendant Planned Parenthood of the Heartland conducted competitions among its clinics to increase the number of Title XIX-Medicaid eligible women enrolled in its C-Mail Program.

79. By using each Defendant Planned Parenthood of the Heartland clinic's then-current C-Mail Program enrollee numbers as a baseline, Defendant Planned Parenthood of the Heartland established a percentage-increase goal from this baseline number and established a total goal of 7,667 Title XIX-Medicaid eligible women to be enrolled in its mandatory C-Mail Program by October 31, 2008.
80. As of August 31, 2008, Defendant Planned Parenthood of the Heartland had enrolled 6,600 Title XIX-Medicaid eligible women in its C-Mail Program.
81. On information and belief, by December 31, 2008, at least 7,000 Title XIX-Medicaid eligible women were enrolled in Defendant Planned Parenthood of the Heartland's now-mandatory C-Mail Program.
82. Upon further information and belief, the number of Title XIX-Medicaid eligible women enrolled in Defendant Planned Parenthood of the Heartland's mandatory C-Mail Program has continued to increase each calendar year and, in fact, Defendant Planned Parenthood of the Heartland has accelerated the frequency of the refills of OCPs to Title XIX-Medicaid eligible women even as Iowa Medicaid rules have been amended to further restrict the frequency of refills.
83. On several occasions, physicians in the Iowa area, upon becoming aware of Defendant Planned Parenthood of the Heartland's practice of dispensing birth control without a comprehensive examination of the client, objected to Defendant Planned Parenthood of the Heartland or to others about this practice and stated that this practice was below the medical standard of care.

84. Defendant Planned Parenthood of the Heartland justified its practice by contending that OCPs would soon be available over-the-counter and that Defendant Planned Parenthood of the Heartland therefore considered it acceptable to dispense OCPs in this manner.
85. Defendant Planned Parenthood of the Heartland knew or should have known that its mandatory C-Mail Program would result in the prescription of medically unnecessary OCPs and thus would result in false, fraudulent, or ineligible claims and/or overcharges by Defendant Planned Parenthood of the Heartland to Iowa Medicaid Enterprise and/or Iowa Family Planning Network of at least \$113.70 per client per year.
86. From mid-2006 through and after December 31, 2008, Defendant Planned Parenthood of the Heartland submitted claims to Iowa Medicaid Enterprise and/or Iowa Family Planning Network for OCPs Defendant Planned Parenthood of the Heartland had dispensed to clients it had arbitrarily enrolled in its mandatory C-Mail Program totaling at least \$3,316,320 per year, as a result of which Defendant Planned Parenthood of the Heartland has submitted false, fraudulent, or ineligible claims to Iowa Medicaid Enterprise and/or Iowa Family Planning Network of \$824,768.78 or more per year.
87. Much of the information relating to the above-pleaded false, fraudulent, or ineligible claims and/or reports, including the exact dates of the initial client visits, the identity and qualifications of the person initially seeing the client, whether or not a client was examined again after the initial visit, the exact dates that OCPs were initially dispensed to a client, the exact dates OCPs were mailed to a client, and the amount actually billed to Iowa Medicaid Enterprise and/or Iowa Family Planning Network and/or reimbursed by Iowa Medicaid Enterprise and/or Iowa Family Planning Network to Defendant Planned Parenthood of the

Heartland for such dispensed OCPs is within the exclusive control of Defendant Planned Parenthood of the Heartland.

88. The acts of Defendant Planned Parenthood of the Heartland and its officers and employees, as described herein, failed:

- a. To comply with all applicable United States and State of Iowa laws, rules, and written policies relating to the Iowa Medicaid program, including but not limited to Title XIX of the Social Security Act and relevant Iowa laws, all as required by Defendant Planned Parenthood of the Heartland's State of Iowa Medicaid Provider Agreement and by these laws which laws, rules, and written policies Defendant Planned Parenthood of the Heartland expressly and impliedly certified and represented that, as a condition of reimbursement, it was in compliance with at the time it submitted a reimbursement claim to either Iowa Medicaid Enterprise or Iowa Family Planning Network.
- b. To comply with applicable United States and State of Iowa laws, rules, and written policies, including, without limitation, that the services or medical prescriptions for which Defendant Planned Parenthood of the Heartland billed the United States and/or the State of Iowa were:
  - i. Provided pursuant to a valid patient-practitioner relationship.
  - ii. Medically necessary.
  - iii. Consistent with the diagnosis of the client's condition.
  - iv. Consistent with professionally recognized standards of care.
  - v. Consistent with the treatment of the client's condition.
  - vi. In accordance with standards of good medical practice.

- vii. Met the medical need of the client and were for reasons other than the convenience of the client or the client's practitioner or caregiver.
- viii. Were the least costly type of service that would reasonably meet the medical need of the client.
- ix. Were provided with the full knowledge and consent of the client or someone acting on the client's behalf.

89. In fact, and contrary to applicable United States and State of Iowa laws, rules, and written policies relating to the State of Iowa Medicaid Program, including but not limited to Title XIX of the Social Security Act and relevant Iowa laws and notwithstanding the fact that Defendant Planned Parenthood of the Heartland had expressly and impliedly certified and represented that, as a condition of reimbursement, it was in compliance with such laws, rules, and written policies each time it submitted a reimbursement claim to either Iowa Medicaid Enterprise or Iowa Family Planning Network, the acts of Defendant Planned Parenthood of the Heartland and its officers and employees, as described herein, resulted in the dispensing of OCPs that:

- a. Were medically unnecessary and/or unreasonable.
- b. Failed to meet existing standards of professional practice.
- c. Were professionally unacceptable.
- d. Resulted in false, fraudulent, and/or ineligible Title XIX-Medicaid claims by Defendant Planned Parenthood of the Heartland.
- e. Represented abuse or overuse.
- f. Resulted in the distribution to clients of OCPs that were not written or approved by any doctor or qualified practitioner.

90. As is described herein, Defendant Planned Parenthood of the Heartland regularly and routinely engaged in a pattern and practice of knowingly submitting false, fraudulent, or ineligible claims to Iowa Medicaid Enterprise and/or Iowa Family Planning Network for OCPs that were dispensed to Title XIX-Medicaid eligible clients without a doctor's order or before a qualified practitioner had approved the order; that were issued without the client having been examined by a doctor or qualified practitioner; that were issued without the contemporaneous approval of a qualified practitioner; and that, in some cases, were not in fact delivered to the client.
91. The acts of Defendant Planned Parenthood of the Heartland and its officers and employees, as described herein, constitute the knowing presentment of false, fraudulent, or ineligible claims to Iowa Medicaid Enterprise and/or Iowa Family Planning Network for payment or approval, and/or the knowing making and/or using of false records or statements material to false or fraudulent claims in violation of 31 U.S.C. § 3729(a)(1)(A) and (B) respectively and IOWA CODE ANN. § 685.2(1)(a)-(b), and/or conspiracy to commit violations of said provisions in violation of 31 U.S.C. § 3729(a)(1)(C) and IOWA CODE ANN. § 685.2(1)(c).
92. Through the acts described above and otherwise, Defendant Planned Parenthood of the Heartland and its agents and employees knowingly made, used, and/or caused to be made or used false records and statements to conceal, avoid, and/or decrease Defendant Planned Parenthood of the Heartland's obligations to repay money to the United States and/or to the State of Iowa that Defendant Planned Parenthood of the Heartland improperly and/or fraudulently received, in violation of 31 U.S.C. § 3729(a)(1)(G) and IOWA CODE ANN. § 685.2(1)(g). Defendant Planned Parenthood of the Heartland also failed to disclose to the United States and/or to the State of Iowa material facts that would have resulted in

substantial repayments by Defendant Planned Parenthood of the Heartland to the United States and/or to the State of Iowa, in violation of 31 U.S.C. § 3729(a)(1)(G) and IOWA CODE ANN. § 685.2(1)(g).

93. The United States and its fiscal intermediaries, including the State of Iowa and, in particular, Iowa Medicaid Enterprise and/or Iowa Family Planning Network, unaware of the falsity of the records, statements, and claims made or submitted by Defendant Planned Parenthood of the Heartland and its agents and employees, paid and continue to pay Defendant Planned Parenthood of the Heartland for claims that would not be paid if the truth were known.
94. By reason of Defendant Planned Parenthood of the Heartland's false records, statements, claims, and omissions, the United States and/or the State of Iowa have been damaged in the amount of many thousands of dollars. The precise number of such false claims as well as the precise amount of damage and loss caused the United States and the State of Iowa is presently undetermined, but, upon information and belief, is estimated to consist of 182,385 false records, statements, claims, and omissions with a value of \$14,401,119.60 relating to the automatic, mandatory enrollment of clients in Defendant Planned Parenthood of the Heartland's C-Mail program, and 45,360 false records, statements, claims, and omissions with a value of \$3,711,459.51 relating to the overprescription and oversupply of OCPs by Defendant Planned Parenthood of the Heartland.

**SECOND CLAIM FOR RELIEF**

**(Fraudulent Billing of Title XIX-Medicaid for Medical Services and Supplies Relating to Abortions in Violation of 31 U.S.C. § 3729(a)(1)(A)-(C) and (G); IOWA CODE ANN. § 685.2(1)(a)-(c) and (g))**

95. Plaintiff-Relator Thayer hereby incorporates and realleges as fully as if set forth herein all prior allegations.

96. As is known to Plaintiff-Relator Thayer by virtue of her former positions with Defendant Planned Parenthood of the Heartland, Defendant Planned Parenthood of the Heartland provides surgical abortion services at several of its Iowa clinics and provides medication abortions (under certain, frequently occurring circumstances termed “Telemed Abortions”) at many of its Iowa clinics. Other services and supplies are also provided at such clinics in connection with and contemporaneous with such abortions.
97. Pursuant to Iowa law and regulations and United States law and regulations (what is commonly called the “Hyde Amendment”), except in limited circumstances, Title XIX-Medicaid funds may not be used to pay for or reimburse abortions or any abortion-related services. Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, Pub. L. No. 111-8, §§ 507-508, 123 Stat. 750, 802-03 (2009); 42 C.F.R. §§ 50.303, 50.304, 50.306; Iowa Admin. Code r. 441-78.1(17); Iowa Admin. Code r. 441-78.26(4) (“Abortion procedures are covered only when criteria in subrule 78.1(17) are met.”); *see also* Medicaid Enterprise Family Planning Manual, p. 1.
98. Despite the aforementioned prohibitions, as is known to Plaintiff-Relator Thayer by virtue of her former positions with Defendant Planned Parenthood of the Heartland, Defendant Planned Parenthood of the Heartland has, on a regular basis and at all times relevant herein, sought reimbursement of Title XIX-Medicaid funds from Iowa Medicaid Enterprise and/or Iowa Family Planning Network for services and supplies rendered as part of the provision of abortions, including, without limitation, office visits, ultrasounds, Rh factor tests, lab work, general counseling, and abortion aftercare, all of which were, when provided, integral to and/or related to surgical and medical/Telemed abortion procedures and thus not properly reimbursable pursuant to the Title XIX-Medicaid Program.

99. As is known to Plaintiff-Relator Thayer by virtue of her past positions with Defendant Planned Parenthood of the Heartland, in a practice commonly referred to as “fragmentation,” Defendant Planned Parenthood of the Heartland knowingly and intentionally separated out charges for services and products rendered in connection with such abortions, including, without limitation, office visits, ultrasounds, Rh factor tests, lab work, general counseling, and abortion aftercare, and submitted such separate “fragmented” charges as claims for Title XIX-Medicaid reimbursement to Iowa Medicaid Enterprise and/or Iowa Family Planning Network.
100. In anticipation of the receipt of reimbursements for such separate “fragmented” charges from Iowa Medicaid Enterprise and/or Iowa Family Planning Network, Defendant Planned Parenthood of the Heartland then reduced the usual and customary charges to clients to whom abortions had been provided by Defendant Planned Parenthood of the Heartland. As a result, contrary to the specific prohibitions and requirements of the Title XIX-Medicaid program and Iowa law, abortions provided by Defendant Planned Parenthood of the Heartland were subsidized with public funds.
101. By failing to identify the aforementioned procedures and services as associated with the performance of abortions and by billing Iowa Medicaid Enterprise and/or Iowa Family Planning Network for such aforementioned procedures and services, Defendant Planned Parenthood of the Heartland has been knowingly and fraudulently able to obtain reimbursement from the United States and/or the State of Iowa for abortion-related services, save for the actual abortion procedure itself, provided by Defendant Planned Parenthood of the Heartland in conjunction with all or nearly all of the abortions performed by Defendant Planned Parenthood of the Heartland at its clinics.

102. The unbundling or fragmentation scheme was applied systematically to virtually every client who received an abortion at one of Defendant Planned Parenthood of the Heartland's clinics. Each abortion was associated with a minimum of three abortion-related procedures or services, and often several more. Although the procedures done in connection with abortions performed by Defendant Planned Parenthood of the Heartland varied from client to client, every client would have a pregnancy test, an Rh factor test, and an ultrasound. In addition, multiple types of medication were typically dispensed. All of these services, procedures, and supplies were improperly "unbundled" or "fragmented" and illegally billed to the Title XIX-Medicaid program.
103. The "fragmentation" of abortion-related services and the billing of abortion-related procedures in violation of the Title XIX-Medicaid program and related regulations and other United States and State of Iowa laws and regulations was done knowingly and systematically by Defendant Planned Parenthood of the Heartland to financially subsidize abortions as a method of family planning.
104. The acts of Defendant Planned Parenthood of the Heartland and its officers and employees, as described herein, constituted the knowing presentment of and/or causation of the presentment of false or fraudulent claims to the United States and/or Iowa for payment or approval, and/or the knowing making and/or using of false records or statements material to false or fraudulent claims in violation of 31 U.S.C. § 3729(a)(1)(A) and (B) respectively and IOWA CODE ANN. § 685.2(1)(a)-(b) and/or conspiracy to commit violations of said provisions in violation of 31 U.S.C. § 3729(a)(1)(C) and IOWA CODE ANN. § 685.2(1)(c).
105. Through the acts described above and otherwise, Defendant Planned Parenthood of the Heartland and its agents and employees knowingly made or used and/or caused to be made or

used false records and statements to the United States and/or Iowa to conceal, avoid, and/or decrease Defendant Planned Parenthood of the Heartland's obligations to repay monies to the United States and/or Iowa that Defendant Planned Parenthood of the Heartland improperly and/or fraudulently had received, in violation of 31 U.S.C. § 3729(a)(1)(G) and IOWA CODE ANN. § 685.2(1)(g). Defendant Planned Parenthood of the Heartland also failed to disclose to the United States and/or to Iowa material facts that would have resulted in substantial repayments by Defendant Planned Parenthood of the Heartland to the United States and/or Iowa, in violation of 31 U.S.C. § 3729(a)(1)(G) and IOWA CODE ANN. § 685.2(1)(g).

106. The United States and its fiscal intermediaries, including Iowa's Department of Human Services, Iowa Medicaid Enterprise, and/or Iowa Family Planning Network, unaware of the falsity of the records, statements, and/or claims made or submitted to the United States and/or the State of Iowa by Defendant Planned Parenthood of the Heartland and its agents and employees, paid and continue to pay Defendant Planned Parenthood of the Heartland for claims that would not have been paid or be paid if the truth were known.

107. By reason of Defendant Planned Parenthood of the Heartland's false records, statements, claims, and omissions, the United States and Iowa have been damaged in the amount of many millions of dollars in Title XIX-Medicaid funds. The precise number of such false claims is presently undetermined, but, upon information and belief primarily derived from Planned Parenthood of Greater Iowa's own annual reports, a minimum of 21,724 abortions were performed during the time period in question, from Planned Parenthood of Greater Iowa's fiscal year 2005 through its fiscal year 2009. The fragmentation scheme was applied systematically to virtually every patient, and each abortion would be associated with a minimum of three fragmented procedures, and often several more.

**THIRD CLAIM FOR RELIEF**  
**(Fraudulent Billing of Title XIX-Medicaid re: Fees for Services Collected from**  
**Title XIX Medicaid Clients in Violation of 31 U.S.C. § 3729(a)(1)(A)-(C) and (G);**  
**IOWA CODE ANN. § 685.2(1)(a)-(c) and (g))**

108. Plaintiff-Relator Thayer hereby incorporates and realleges as fully as if set forth herein all prior allegations.
109. From about January 1, 2006, to the present and, upon information and belief, continuing to this date, as is known to Plaintiff-Relator Thayer by virtue of her former positions with Defendant Planned Parenthood of the Heartland, Defendant Planned Parenthood of the Heartland, through its officers, agents, and employees, including Defendant Planned Parenthood of the Heartland CEO Jill June, in conspiracy with each other and with others not named herein, defrauded the United States and the State of Iowa by knowingly submitting and/or causing to be submitted to agencies of the United States, the State of Iowa, and/or their designated intermediaries, including Iowa Medicaid Enterprise and/or Iowa Family Planning Network, inflated, false, and fraudulent claims for Title XIX-Medicaid reimbursement for family planning services that Defendant Planned Parenthood of the Heartland knew were inflated, false, and fraudulent by the amounts of the “donations” solicited and received from Title XIX-Medicaid eligible clients.
110. Such inflated, false, and fraudulent claims for reimbursement resulted from Defendant Planned Parenthood of the Heartland’s practice of insisting that Title XIX-Medicaid eligible clients, at the time services were rendered, pay a portion of such client’s bill, which payment was tallied and strongly suggested by Defendant Planned Parenthood of the Heartland to be fifty percent of the bill for services rendered to the particular client, without informing such clients that the entire amount of the bill for family planning services rendered would be fully reimbursed by Title XIX-Medicaid funds and programs.

111. Defendant Planned Parenthood of the Heartland, through its officers, agents, and employees, including Defendant Planned Parenthood of the Heartland CEO Jill June, trained its clinic staff to inform each client of the total amount of the bill for family planning services rendered during a clinic visit, then insist that the client pay Defendant Planned Parenthood of the Heartland to offset the services rendered during the client's visit, the suggested amount of which payment was fifty percent of the amount of the bill. Thereupon, at the instruction of Defendant Planned Parenthood of the Heartland and its officers, including Defendant Planned Parenthood of the Heartland CEO Jill June, each client was asked, "How much are you planning to pay today?" Most clients made payments to Defendant Planned Parenthood of the Heartland of at least \$10, either during a visit or later by mail.
112. As was frequently viewed by Plaintiff-Relator Thayer, these payments were entered into Defendant Planned Parenthood of the Heartland's computer billing system by each clinic.
113. During the course of the foregoing conspiracy and scheme, Defendant Planned Parenthood of the Heartland improperly collected hundreds of thousands of dollars from Title XIX-Medicaid eligible clients; but did not report to the United States, the State of Iowa, and/or their designated fiscal intermediaries, including Iowa Medicaid Enterprise and/or Iowa Family Planning Network, any of these amounts collected from Title XIX-Medicaid eligible clients.
114. All such amounts as were collected by Defendant Planned Parenthood of the Heartland from Title XIX-Medicaid eligible clients should have been reported to the United States, the State of Iowa, and/or their designated fiscal intermediaries, including Iowa Medicaid Enterprise and/or Iowa Family Planning Network, either in full payment for such services or as offsets to or reductions of the amount of the bill for such services as were rendered to such

Title XIX-Medicaid eligible clients by Defendant Planned Parenthood of the Heartland and for which Defendant Planned Parenthood of the Heartland sought reimbursement from such agencies.

115. Instead, Defendant Planned Parenthood of the Heartland retained all such amounts as were collected and used such funds for purposes unrelated to the provisions of Title XIX-Medicaid services to such clients.

116. Information relating to the above-pleaded inflated, false, and fraudulent claims and/or reports, including the Title XIX-Medicaid eligible clients from whom such amounts were collected, the amounts collected from such Title XIX-Medicaid eligible clients, the dates on which such amounts were collected, and the actual use of the funds collected from such Title XIX-Medicaid eligible clients is within the exclusive control of Defendant Planned Parenthood of the Heartland.

117. By reason of Defendant Planned Parenthood of the Heartland's false records, statements, claims, and omissions, the United States and/or Iowa have been damaged in the amount of many thousands of dollars. The precise number of such false claims as well as the precise amount of damage and loss caused the United States and the State of Iowa is presently undetermined, but, upon information and belief, is estimated to consist of at least 250,000 false records, statements, claims, and omissions with a value of \$2,500,000 or more.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff-Relator Susan Thayer respectfully requests that this Honorable Court enter judgment against Defendant Planned Parenthood of the Heartland, as follows:

1. That Defendant Planned Parenthood of the Heartland cease and desist from violating 31 U.S.C. § 3729 *et seq.* and IOWA CODE ANN. § 685.2(1)(a)-(c) and (g).

2. That the Court enter judgment against Defendant Planned Parenthood of the Heartland and in favor of the United States in an amount equal to three times the amount of actual damages the United States has sustained as a result of the Defendant's actions and a civil penalty of up to \$11,000 for each false claim, all in violation of 31 U.S.C. § 3729.

3. That the Court enter judgment against Defendant Planned Parenthood of the Heartland and in favor of the State of Iowa in an amount equal to three times the amount of actual damages the State of Iowa has sustained as a result of the Defendant's actions and a civil penalty of up to \$11,000 for each false claim, all in violation of IOWA CODE ANN. § 685.2(1)(a)-(c).

4. That the Court enter an award against Defendant Planned Parenthood of the Heartland and in favor of Plaintiff-Relator Thayer for her fees; costs; witness fees, including expert witness fees; and expenses incurred, as provided by statute.

5. That Plaintiff-Relator Thayer be awarded the maximum amounts allowed pursuant to 31 U.S.C. § 3730(d) and IOWA CODE ANN. § 685.3(4).

6. That this Court award such other and further relief to the United States of America and/or to the State of Iowa and/or to Plaintiff-Relator Thayer as it deems just and proper.

#### **JURY DEMAND**

Pursuant to FED. R. CIV. P. 38, Plaintiff-Relator Thayer hereby demands trial by jury of all issues so triable.

DATED this 5<sup>th</sup> day of November, 2014.

Counsel for Plaintiff-Relator Thayer:

s/ Michael J. Norton  
Michael J. Norton  
Natalie L. Decker  
Alliance Defending Freedom  
7951 E. Maplewood Avenue, Suite 100  
Greenwood Village, CO 80111  
Tel.: 720-689-2410  
[mjnorton@alliancedefendingfreedom.org](mailto:mjnorton@alliancedefendingfreedom.org)  
[ndecker@alliancedefendingfreedom.org](mailto:ndecker@alliancedefendingfreedom.org)

Russell Hixson  
Hixson & Brown, P.C.  
160 S. 68<sup>th</sup> Street, Suite 1108  
West Des Moines, IA 50266  
Tel.: 515-222-2620  
Fax: 515-440-6395  
[rhixson@hixsonbrown.com](mailto:rhixson@hixsonbrown.com)

Steven H. Aden  
M. Casey Mattox  
Alliance Defending Freedom  
801 G Street, NW, Suite 509  
Washington, DC 20001  
Tel.: 202-888-7619  
Fax: 202-347-3622  
[saden@alliancedefendingfreedom.org](mailto:saden@alliancedefendingfreedom.org)  
[cmattox@alliancedefendingfreedom.org](mailto:cmattox@alliancedefendingfreedom.org)

CERTIFICATE OF SERVICE

I, Michael J. Norton, hereby certify that on the 5<sup>th</sup> day of November, 2014, I caused the foregoing Third Amended Complaint to be electronically filed with the Clerk of the Court using the Court's CM/ECF system which will send notification of such filing to all attorneys of record.

s/ Michael J. Norton