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31 August 2015

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

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

The Honorable Fred Upton, Chairman
House Energy & Commerce Committee
Washington, DC 20515

The Honorable Chuck Grassley
Chairman, Senate Judiciary Committee
Washington, DC. 20510

The Honorable Jason Chaffetz, Chairman
House Oversight & Government Reform
Washington, DC 20515

The Honorable Joe Pitts, Chairman
Health Subcommittee
Washington, DC 20515

The Honorable Bob Goodlatte, Chairman
House Judiciary Committee
Washington, DC 20515

The Honorable Trent Franks, Chairman
Subcommittee on the Constitution
Washington, DC 20515

The Honorable Tim Murphy, Chairman
Oversight & Investigations Subcommittee
Washington, DC 20515

Dear Speaker Boehner, Leader McConnell, Sen. Grassley, Rep. Upton, Rep. Chaffetz, Rep. Goodlatte, Rep. Murphy, Rep. Pitts, Rep. Franks:

The Center for Medical Progress (CMP) is an Irvine, CA-based 501(c)3 non-profit dedicated to monitoring and reporting on medical ethics and advances, with a special focus on bioethical and biotechnology issues that impact human dignity. As you are aware, CMP has recently been releasing a multi-year, comprehensive investigative journalism study of Planned Parenthood's involvement in trafficking aborted fetal tissue.

Planned Parenthood's sale of aborted baby parts is an issue of burning concern to the American people because it involves late-term abortions opposed by 64% of the public;¹ a wealthy and powerful national organization, Planned Parenthood, funded with \$528 million taxpayer dollars; and the exploitation, commodification, and commercialization of vulnerable women and their children; as well as many other important concerns.

¹ Gallup poll, Dec. 2012, <http://www.gallup.com/poll/1576/abortion.aspx>

CMP's video and document evidence of Planned Parenthood's involvement in illegal profiteering on fetal tissue, illegal abortions, and violations of patient autonomy and human dignity reach to the highest levels of Planned Parenthood's national organization. While denying any wrongdoing, Planned Parenthood leadership has admitted to Congress and to the public their knowledge and support of the fetal tissue supply programs in operation at multiple Planned Parenthood affiliates.

Instead of practicing transparency about the fetal tissue supply that Planned Parenthood claims to be so "proud" of, the organization and its allies are engaging in a pattern of stonewalling Congress and law enforcement and attacking whistleblowers with false and unsubstantiated calumnies. We agree with Speaker Boehner's office: "The American people deserve the facts—not PR releases."

Toward that end, there are two key admissions in Planned Parenthood CEO Cecile Richards' letter to Congress of August 27² that the investigating Committees should focus on particularly. First, Richards admits that multiple Planned Parenthood affiliates have recently received payments of \$45 to \$60 "per tissue specimen" from various Tissue Procurement Organizations (TPOs). Second, Richards admits that abortion procedure "adjustments to facilitate fetal tissue donations" may occur at Planned Parenthood facilities. We believe these two admissions, of payments for specimens of fetal tissue and changes to abortion procedures in order to get better specimens, constitute *prima facie* evidence of the three points CMP has raised all along: 1) That Planned Parenthood sells aborted fetal tissue, 2) That Planned Parenthood changes the abortion procedure in order to get saleable tissue, and 3) That there is knowledge and approval of these practices from the top of the organization on down.

Planned Parenthood's Sale of Fetal Tissue for Valuable Consideration

In Planned Parenthood's letter to Congress, CEO Cecile Richards reveals that a California Planned Parenthood affiliate currently "receives a modest reimbursement of \$60 per tissue specimen from the TPO." According to Richards, "that affiliate also has a separate relationship with the University of California." Based on this description and the discussion of other California affiliates in the letter, we conclude that Richards is referring to Planned Parenthood of the Pacific Southwest (PPPS), headquartered in San Diego, CA.

PPPS has been partnered with the TPO Advanced Bioscience Resources, Inc. (ABR) for over a decade to supply aborted fetal tissue, and also maintains a fetal tissue supply relationship with UC San Diego. The affiliate's long-time Medical Director, Dr. Katharine Sheehan, told CMP investigators in September 2013 about PPPS's relationship with ABR: "We've been using them for over 10 years, really a long time, just kind of renegotiated the contract." When CMP investigators raised the issue of payments to Dr. Sheehan, she replied: "Just to get a toe in and make it work? Alright."

We now know from Cecile Richards' letter that \$60 per collected tissue specimen is what will "get a toe in" to harvest baby parts at Planned Parenthood Pacific Southwest. Like other TPOs,

² Letter from Cecile Richards, President of Planned Parenthood Federation of America, to Congress (27 August 2015), <http://ppfa.pr-optout.com/ViewAttachment.aspx?EID=mr9WXYw4u2IxYnni1dBRVmMQR51KNkcLKWgR2hTdC2Y%3d>

ABR handles all dissection, packaging, and shipping of fetal organs and tissues,³ and so it is unclear for what PPPS could be receiving “reimbursement.” This is especially suspicious given that Ms. Richards says the \$60 fee is paid “per tissue specimen.” Thus, if ABR harvests a liver and a thymus, a common fetal tissue order, from an 18-week fetus aborted at the San Diego clinic, Planned Parenthood receives a total payment of \$120 from that case. It stretches credulity to believe that ABR’s technician harvesting two organs from a fetus costs Planned Parenthood \$120—this is a new revenue stream off of fetal tissue with no real cost to Planned Parenthood, and thus a criminal profit.

Therefore, records of PPPS’s relationship with ABR for the past 10 years will be highly relevant to the Committees’ inquiries. In particular, a comparison of this affiliate’s contracts with ABR before and after the “renegotiation” mentioned by Dr. Sheehan will be enlightening. ABR’s procurement logs, records of payment to PPPS or officers, and communications between PPPS or ABR and Planned Parenthood’s national office will also be key pieces of evidence.

The fact that other Planned Parenthood affiliates, according to Richards, have received similar payments from TPOs for each harvested fetal tissue specimen raises serious questions that can be answered with analogous documents from those affiliates and the national office.

Planned Parenthood’s Changes in Abortion Methods To Obtain Higher Quality Fetal Tissue Specimens

Stunningly, Richards also admits that some Planned Parenthood doctors may “adjust” abortion procedures in order to obtain higher quality fetal tissue specimens. Federal law at 42 U.S.C. 289g-1 is written to bar such alterations to abortion procedures. According to Richards, Planned Parenthood relies on their own narrow interpretation of this law to excuse the changes their doctors make to abortion procedures in order to get higher quality specimens. Even if the Planned Parenthood interpretation were correct, such changes to the procedure are clearly in violation of their own guidance and also contrary to the language used in their patient consent form for tissue donation: “I understand there will be no changes to how or when my abortion is done in order to get my blood or the tissue.”⁴ This form is attached to this letter.

Richards letter also troublingly conflates the 2nd-trimester abortion methods of dilation and evacuation (D&E) and intact dilation and extraction (IDX), the latter known legally as “partial-birth abortion” and prohibited by 18 U.S.C. 1531. Richards seems to refer to both as “dilation and extraction.” PPFA Senior Director of Medical Services, Dr. Deborah Nucatola, clearly described a partial-birth abortion according to the federal law during the lunch meeting CMP investigators had with her on July 25, 2014. Almost 7 weeks after the release of the video of that exchange, Planned Parenthood still has yet to explain why their lead doctor, responsible for writing the Medical Standards & Guidelines Manual (which includes policies for fetal tissue supply) and for training other Planned Parenthood abortion doctors, seems to routinely practice this illegal late-term abortion method to get higher quality fetal tissue.

³ ABR Fees for Services Schedule, 2015, <http://www.centerformedicalprogress.org/wp-content/uploads/2015/05/Fee-Schedule-1JAN2015.pdf>

⁴ Planned Parenthood Consent Form for Fetal Tissue, <http://www.centerformedicalprogress.org/wp-content/uploads/2015/05/PP-Mar-Monte-tissue-consent.pdf>

PPFA's "Don't Ask, Don't Tell" Policy on Fetal Tissue Harvesting

It is unclear to what degree bureaucratic ignorance of the details of their affiliates' activities, versus willful blindness, versus outright cover-up are operative in the Planned Parenthood national office's approach to the current fetal tissue harvesting scandal, but all three appear to play a role. While Richards' letter goes to great lengths to assert that fetal tissue harvesting is limited to a miniscule number of Planned Parenthood locations, the letter also admits uncertainty: "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. We will continue to make our best efforts to make sure our current understanding is comprehensive." The letter references 11 affiliates total with fetal tissue involvement in the past 5 years—nearly 20% of 59 affiliates—but based on statements from Planned Parenthood representatives to our investigators in September 2013, October 2014, and February 2015, and public statements from TPOs, CMP counts at least 14 Planned Parenthood affiliates that have definitively engaged in fetal tissue harvesting in that time period.

Planned Parenthood's National Director for their Consortium of Abortion Providers (CAPS), Deborah VanDerhei, told CMP investigators in February 2015 that it was difficult for the national office to get a clear picture of the scope of fetal tissue harvesting by Planned Parenthood affiliates because, "It's an issue, as you can imagine, that we're not really able to talk about on email. And so we want to have the conversation in person." Dr. Deborah Nucatola, Senior Director of Medical Services for PPFA, repeatedly told CMP investigators in July 2014 that for fetal tissue procurement and payment, "We don't have a policy, per se. And that is by choice." Richards' letter cites a May 2015 guidance from PPFA on "Programs for Donation of Blood and/or Aborted Pregnancy Tissue for Medical Research" that PPFA claims tracks with the federal law on fetal tissue payments, but versions of this same guidance from 2005 and 2011 make no mention of the payment issue whatsoever. In fact, the previous versions of the guidance show that between 2005 and 2011, PPFA chose to stop monitoring affiliate fetal tissue programs as part of the affiliate recertification process. These documents are also attached to this letter.

Conclusion

The full body of evidence from CMP's videos, documents provided by whistleblowers, and Planned Parenthood leadership's own recent statements raise many questions about Planned Parenthood's compliance with numerous federal laws, including 42 USC 289g-1, 42 USC 289g-2, 18 USC 1531, and 1 USC 8, and even potential HIPAA violations by multiple Planned Parenthood affiliates. Americans United for Life recently published and provided to the Committees a comprehensive legal analysis of the videotaped evidence that Planned Parenthood routinely violates these provisions and others.⁵

CMP is proud to have a positive relationship with law enforcement and with Congressional representatives. We are committed to supporting the Committees' ongoing investigations to the best of our ability and providing whatever information can be helpful in determining the full scope and character of Planned Parenthood's fetal tissue activities. Planned Parenthood's recent

⁵ Letter from Dr. Charmaine Yoest, President of Americans United for Life, to Senate Judiciary Committee (27 August 2015), <http://www.aul.org/wp-content/uploads/2015/08/AUL-Letter-to-Senate-Judiciary-Committee-8-27-15.pdf>

pseudoscientific, paid analysis of CMP videotapes by a political opposition research firm is a poor attempt to distract from the serious admissions of Planned Parenthood leadership in the videos: videos which Planned Parenthood's own analysis admits "did not reveal widespread evidence of substantive video manipulation" and "shows no evidence of audio manipulation." Of course, CMP is ready to provide original recording files to law enforcement and to Congress to the extent we are lawfully able to. Our attorneys are working diligently to resolve pending legal questions regarding the disclosure of these recording files to government investigators, including by seeking clarification of an unconstitutional prior restraint TRO imposed on CMP in federal litigation brought by Planned Parenthood's proxy, the National Abortion Federation.

The current federal law prohibiting the sale of fetal tissue and body parts was passed with the clear legislative intent to prevent anyone from making money off of human body parts or trading human body parts as a store of value. The lead sponsor of the bill to make this law, former Democratic Congressman Henry Waxman, was unequivocal about its purpose: "Any price is unreasonable and illegal." The reduction of any human being, man, woman, or child, to a commodity, or to only the commercial sum of their parts, is offensive to the public and contrary to our foundational values as a people. It would be unconscionable to allow Planned Parenthood to hold themselves above the law and human decency, with their barbaric abortion practice subsidized by half-a-billion taxpayer dollars each year. I urge each of the Committees to conduct a full and thorough investigation, and The Center for Medical Progress and myself remain at your service to ensure that liberty and justice are safeguarded for all Americans, born and unborn.

Sincerely,

A handwritten signature in black ink, appearing to read "David R. Daleiden". The signature is fluid and cursive, with a long horizontal line extending from the end.

David Daleiden
Project Lead and Executive Director
The Center for Medical Progress

ATTACHMENT A:

**PLANNED PARENTHOOD CONSENT
FORM, DONATION OF BLOOD
AND/OR ABORTED PREGNANCY
TISSUE FOR MEDICAL RESEARCH,
EDUCATION, OR TREATMENT**



Client Information for Informed Consent

**DONATION OF BLOOD AND/OR ABORTED PREGNANCY TISSUE FOR MEDICAL
RESEARCH, EDUCATION, OR TREATMENT**

Research using the blood from pregnant women and tissue that has been aborted has been used to treat and find a cure for such diseases as diabetes, Parkinson's disease, Alzheimer's disease, cancer, and AIDS.

You can donate your blood and/or pregnancy tissue after an abortion. Before you give your consent, read each of the following statements and initial the line to the right. We will be happy to answer any questions you have.

Before I was shown this consent, I had already decided to have an abortion and signed a consent form for it. _____

I agree to give my blood and/or the tissue from the abortion as a gift to be used for education, research, or treatment. _____

I understand I have no control over who will get the donated blood and/or tissue or what it will be used for. _____

I have not been told the name of any person who might get my donation. _____

I understand there will be no changes to how or when my abortion is done in order to get my blood or the tissue. _____

I understand I will not be paid. _____

I understand that I don't have to give my blood or pregnancy tissue, and this will not affect my current or future care at Planned Parenthood Mar Monte. _____

Signature: _____

Date: _____

Witness: _____

Date: _____



PATIENT NAME: _____

DOB: _____

DATE: _____

- _____ Aborted tissue was donated.
- _____ Consent for the abortion was obtained prior to requesting or obtaining consent for the tissue donation.
- _____ No substantive alteration in the timing of terminating the pregnancy or of the method used was made for the purpose of obtaining the tissue.

Physician's Signature

ATTACHMENT B:

**PLANNED PARENTHOOD
FEDERATION OF AMERICA *MANUAL
OF MEDICAL STANDARDS AND
GUIDELINES*, 2005: “ABORTED
PREGNANCY TISSUE DONATION
PROGRAMS”**

ABORTED PREGNANCY TISSUE DONATION PROGRAMS

I. GENERAL INFORMATION

Aborted pregnancy tissue donation and research are humanitarian undertakings that hold the potential to cure disease, save lives, and ameliorate suffering. Affiliate participation in donation programs is entirely voluntary.

Affiliates that choose to participate in such programs **must** recognize that there are federal, and frequently, state laws that govern these activities, as well as ethical considerations. Great care **must** be taken to assure that these programs are above reproach in all respects.

Provision of Services

1. Affiliates initiating an aborted tissue donation program **must** request approval for a new service (See Section I-C-1, Approval of Affiliate Clinical Services.)
Note: the Medical Affairs Division does not need to review and approve specific affiliate protocols if they are in compliance with all applicable *PPFA Medical Standards & Guidelines*.
2. If the affiliate is a partner in a specific research study or project that includes the provision of donated aborted tissue and also involves the participation and consent of the client as a research subject, this research project **must** be registered in the Medical Affairs Division as research and **must** meet all the documentation requirements of Category-2 research (See Section I-E-1, Affiliate Research)
3. Affiliate aborted tissue donation programs will be monitored as part of the affiliate recertification process.
4. Affiliate protocols **must** include provisions to ensure compliance with any federal, state, and local laws regarding
 - minors' consent and participation in aborted pregnancy tissue donation
 - documentation
 - retention of records
 - storage and transfer of aborted pregnancy tissue

II. COUNSELING AND INFORMED CONSENT

The following **must** be in any protocol and **must** be stated in mandatory language

1. The option of donating aborted tissue **must** not be offered to a client until
 - after she has decided to have an abortion
 - she has completed the process of signing an informed voluntary consent to the abortion
2. If the client is interested in donating aborted pregnancy tissue, she **must** provide a separate informed and voluntary consent and sign the Consent for the Donation of Aborted Pregnancy Tissue for Medical Research, Education, or Treatment, Section VII-E-2. The counseling process **must** instruct, and the consent form reflect, that
 - The donation is made without any restriction regarding who might receive the donated tissue or for what purpose it might be used.
 - There is no financial remuneration or consideration provided to the client for her consent to donate tissue.
3. If, in addition to donating aborted tissue, the client is participating in a research project involving the donated aborted tissue, any consent form required by the IRB-approved

protocol **must** be signed in addition to the PPFA Consent for the Donation of Aborted Pregnancy Tissue for Medical Research, Education, or Treatment, Section VII-E-2.

4. The timing, method, or procedure of abortion **must not** be substantively altered for the purpose of obtaining the tissue.

Note: The wording in the consent for donation of abortal tissue for research has been adopted from federal statute. The consent-form language cannot be altered in any way other than to add the affiliate name, address, and phone number or other demographic information.

III. DOCUMENTATION

To preserve the anonymity of the donor, documentation may be kept in a file separate from the client's medical record. A system **must** be maintained in the affiliate from which documentation of aborted tissue donation can be retrieved and cross-referenced with the client's medical record. The documentation **must** be kept on file in accordance with state laws governing the retention of medical records.

Documentation **must** include

1. All applicable consents signed by the client, including, at a minimum, the PPFA Consent for the Donation of Aborted Pregnancy Tissue for Medical Research, Education, or Treatment form, Section VII-E-2.
2. Notation signed by the clinician performing the abortion that
 - Aborted tissue was donated.
 - Consent for the abortion was obtained prior to requesting or obtaining consent for the tissue donation.
 - No substantive alteration in the timing of terminating the pregnancy or of the method used was made for the purpose of obtaining the tissue.

ATTACHMENT C:

**PLANNED PARENTHOOD
FEDERATION OF AMERICA *MANUAL
OF MEDICAL STANDARDS AND
GUIDELINES*, 2011: “PROGRAMS FOR
DONATION OF BLOOD AND/OR
ABORTED PREGNANCY TISSUE FOR
MEDICAL RESEARCH, EDUCATION,
OR TREATMENT”**

PROGRAMS FOR DONATION OF BLOOD AND/OR ABORTED PREGNANCY TISSUE FOR MEDICAL RESEARCH, EDUCATION, OR TREATMENT

I. GENERAL INFORMATION

Aborted pregnancy tissue donation and research are humanitarian undertakings that hold the potential to cure disease, save lives, and ameliorate suffering. Affiliate participation in donation programs is entirely voluntary.

State/
local laws

Affiliates that choose to participate in such programs **must** recognize that there are federal, and frequently, state laws that govern these activities, as well as ethical considerations. Great care **must** be taken to assure that these programs are above reproach in all respects.

Provision of Services

1. Affiliate **must** submit a written request to initiate an aborted tissue and/or blood donation program to PPFA for review and approval. Submit request to Affiliate 411 Request Form. (See Section I-A-1 Clinical Program Structure for requirements.)
2. If the affiliate is a partner in a specific research study or project that includes the provision of donated aborted tissue and/or blood and also involves the participation and consent of the client as a research subject, this research project **must** be registered with the PPFA Research Department and **must** meet all the documentation requirements. (See Section I-D-1 Research). The required registration form can be accessed at Affiliate Study Submission Site.
3. Affiliate protocols **must** include provisions to ensure compliance with any federal, state, and local laws regarding
 - minors' consent and participation in aborted pregnancy tissue donation
 - documentation
 - retention of records
 - storage and transfer of aborted pregnancy tissue
4. The timing, method, or procedure of abortion **must** not be substantively altered for the purpose of obtaining the tissue and/or blood.

AED
Review

Required
Protocols

State/
local laws

II. CLIENT EDUCATION AND INFORMED CONSENT

The following **must** be in any protocol and **must** be stated in mandatory language:

1. The option of donating aborted tissue **must** not be offered to a client until
 - after she has decided to have an abortion
 - she has completed the process of signing an informed voluntary consent to the abortion
2. If the client is interested in donating blood and/or aborted pregnancy tissue, she **must** provide a separate informed and voluntary consent and sign the [PPFA] Consent for the Donation of Blood and/or Aborted Pregnancy Tissue for Medical Research, Education, or Treatment (Section VII-E-2). The informed consent process **must** instruct, and the consent form reflect, that

Programs for Donation of Blood and/or Aborted Pregnancy Tissue

VII-E-1

Revised June 2011

- The donation is made without any restriction regarding who might receive the donated tissue or for what purpose it might be used.
 - There is no financial remuneration or consideration provided to the client for her consent to donate tissue.
3. The wording in the consent for donation of blood and/or aborted tissue for research has been adopted from federal statute. The affiliate **must** seek approval from PPFA Medical Services to alter the consent form language other than to add the affiliate name, address, and phone number or other demographic information. Submit request to Affiliate 411 Request Form.
 4. If, in addition to donating blood and/or aborted tissue, the client is participating in a research project involving the donated blood and/or aborted tissue, any consent form required by the IRB-approved protocol **must** be signed in addition to the [PPFA] Consent for the Donation of Blood and/or Aborted Pregnancy Tissue for Medical Research, Education, or Treatment (Section VII-E-2).

III. DOCUMENTATION

To preserve the anonymity of the donor, documentation may be kept separate from the client's medical record. A system **must** be maintained in the affiliate from which documentation of aborted tissue donation can be retrieved and cross-referenced with the client's medical record. The documentation **must** be kept on file in accordance with state laws governing the retention of medical records.

State/
local laws

Documentation **must** include

1. all applicable consents signed by the client, including, at a minimum, the [PPFA] Consent for the Donation of Blood and/or Aborted Pregnancy Tissue for Medical Research, Education, or Treatment form (Section VII-E-2).
2. notation signed by the clinician performing the abortion that
 - Blood and/or aborted tissue was donated.
 - Consent for the abortion was obtained prior to requesting or obtaining consent for the blood and/or tissue donation.
 - 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.