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31 July 2018

Office of the Assistant Secretary for Health
Office of Population Affairs, Attention: Family Planning
U.S. Department of Health and Human Services,
Hubert H. Humphrey Building, Room 716G
200 Independence Avenue SW
Washington, DC 20201

Dear Secretary Azar, Assistant Secretary ADM Giroir, Acting Director Huber:

I am writing to comment in support of the proposed rule “Compliance with Statutory Program Integrity Requirements,” HHS-OS-2018-0008-0001, to revise the Office of Population Affairs’ Title X regulations to better comply with and implement the clear statutory directives of 42 U.S.C. 300 *et seq.* to protect taxpayers from being forced to subsidize elective abortion.

The Center for Medical Progress (CMP) is a non-profit citizen journalism organization dedicated to monitoring and reporting on medical ethics and advances, with a special focus on bioethical issues that impact human dignity. CMP is responsible for the groundbreaking, long-term investigative journalism study “The Human Capital Project”, which documented senior-level leadership at Title X provider Planned Parenthood callously negotiating the harvesting and sale of late-term aborted fetal body parts in violation of federal law.¹

CMP’s undercover videos exposing Planned Parenthood’s sale of aborted baby body parts prompted two national-scope investigations by the Senate Judiciary Committee² and the House Energy & Commerce Committee’s Select Investigative Panel, which found “systematic violations” of federal law at multiple Title X provider Planned Parenthood affiliates.³ The Congressional investigations made criminal referrals to the FBI and U.S. Department of Justice for Title X providers Planned Parenthood Mar Monte, Planned Parenthood Northern California, Planned Parenthood Los Angeles, Planned Parenthood Pacific Southwest, their parent organization Planned Parenthood Federation of America, and their business partners.⁴

¹ See <http://www.centerformedicalprogress.org/human-capital/>

² *Human Fetal Tissue Research: Context and Controversy*, Dec. 2016, <https://www.grassley.senate.gov/sites/default/files/judiciary/upload/22920%20-%20FTR.pdf>

³ *Select Investigative Panel Final Report*, 30 Dec. 2016, <https://energycommerce.house.gov/news/letter/select-investigative-panel-final-report/> See pgs. xxi, 18, 181, 365.

⁴ See <https://www.grassley.senate.gov/news/news-releases/grassley-refers-planned-parenthood-fetal-tissue-procurement-organizations-fbi> and <https://energycommerce.house.gov/news/press-release/select-panel-refers-numerous-entities-further-investigation-possible/>



Last December, the DOJ announced it was following up on the criminal referrals and investigating the sales,⁵ and two companies that obtained fetal organs and tissues from late-term abortions at Title X provider Planned Parenthood Orange & San Bernardino Counties admitted guilt for selling the fetal tissue against the law in a \$7.8 million settlement with the Orange County District Attorney's Office.⁶ OCDA credited CMP's investigative reporting with prompting the successful case.⁷

The five California Planned Parenthood affiliates implicated in the Congressional investigations and criminal referrals collectively received **over \$5 million** in Title X funding in 2016 alone.⁸ Title X's extensive commingling with Planned Parenthood's abortion-as-family-planning and baby parts business in California illustrates the unconscionable abuse of taxpayer dollars that full implementation and enforcement of Section 1008 ought to prevent. CMP comments in support of the proposed new rule, and to highlight the need for full enforcement of the Title X statute to fulfill the statute's policy goal that the public not be forced to subsidize the abortion industry.

ABORTION AS FAMILY PLANNING IN CALIFORNIA TITLE X PROGRAMS

In Title X's statutory authorization, 42 U.S.C. 300a-6 states, *"None of the funds appropriated under this subchapter shall be used in programs where abortion is a method of family planning."* Under the current regulatory implementation, however, the clear words of this statute are a dead letter.

Each of the 7 regional Planned Parenthood affiliates in California performs abortions, and according to the most recent Title X directory, virtually every single one of Planned Parenthood's approximately 100 clinics in California is a Title X site. These Title X sites include some of the most notorious late-term abortion clinics in California operated by Planned Parenthood: the Planned Parenthood clinics in Riverside, San Diego, and Orange all perform elective abortions up to 6 months,⁹ and each of them is listed in the directory as a Title X site.¹⁰

The House Select Investigative Panel released a monthly invoice from Planned Parenthood Mar Monte seeking payment from its business partner StemExpress for fetal tissue "Products Of Conception" that StemExpress had harvested at Planned Parenthood Mar Monte clinics. Every

⁵ "Justice Dept. Investigating Fetal Tissue Transfers by Planned Parenthood and Others," Nicholas Fandos, *The New York Times*, 8 Dec. 2017, <https://www.nytimes.com/2017/12/08/us/politics/planned-parenthood-fetal-tissue-transfers-federal-investigation.html>

⁶ "Firms reach \$7.8-million settlement over allegations of selling fetal tissue," Daniel Langhorne, *The Los Angeles Times*, 9 Dec. 2017, <http://www.latimes.com/local/lanow/la-me-fetal-tissue-20171209-story.html>

⁷ OCDA press release, 8 Dec. 2017, <http://orangecountyda.org/civica/press/display.asp?layout=2&Entry=5406>

⁸ See Essential Access Health IRS Form 990, 2016, pg. 34,

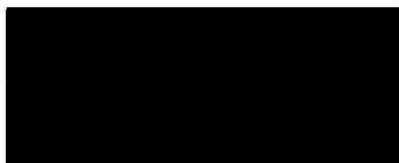
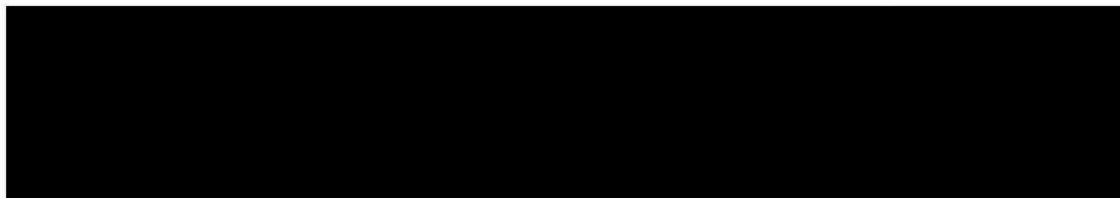
http://rct.doj.ca.gov/Verification/Web/Download.aspx?saveas=222412.pdf&document_id=09027b8f80300fa7

⁹ See <https://www.plannedparenthood.org/health-center/california/riverside/92506/riverside-center-2187-90110/abortion> and <https://www.plannedparenthood.org/health-center/california/san-diego/92101/first-avenue-specialty-services-michelle-wagner-center-4036-90110/abortion> and <https://www.plannedparenthood.org/health-center/california/orange/92866/orange-health-center-3264-90160/abortion>

¹⁰ See pages 155-156, <https://www.hhs.gov/opa/sites/default/files/Title-X-Family-Planning-Directory-June2018.pdf>

single Planned Parenthood Mar Monte clinic listed on the invoice as a site for harvesting and selling fetal tissue, is a Title X site:

Exhibit D1



9/5/12

Invoice Number: [REDACTED]

Please include the invoice number on all payments to [REDACTED]

For August 2012 sample collections.

Fresno (FL)

38 POCs x \$55.00 = \$2090.00 ✓

49 Bloods x \$10.00 = \$490.00 ✓

Sacramento, "B" Street (BC)

68 POCs x \$55.00 = \$3740.00 ✓

80 Blood x \$10.00 = \$800.00 ✓

Fruitridge (FR)

0 POCs x \$55.00 = 0

0 Bloods x \$10.00 = 0

San Jose (SJ)

65 POCs x \$55.00 = \$3575.00 ✓

63 Bloods x \$10.00 = \$630.00 ✓

Mountain View (MV)

0 POCs x \$55.00 = 0

0 Bloods x \$10.00 = 0

Seaside (SS)

0 POCs x \$55.00 = 0

0 Bloods x \$10.00 = 0

N. Highlands (NH)

0 POCs x \$55.00 = 0

0 Bloods x \$10.00 = 0

Stockton (NC)

0 POCs x \$55.00 = 0

0 Bloods x \$10.00 = 0

Eastland Plaza (EP)

0 POCs x \$55.00 = 0

4 Bloods x \$10.00 = \$40.00

Total = \$11,365.00

Please remit payment to:



Planned Parenthood Mar Monte invoice to StemExpress, LLC for payment for aborted fetal tissue.
Exhibit D1 from House Select Investigative Panel hearing, "The Pricing of Fetal Tissue," 20 April 2016.
<https://energycommerce.house.gov/hearings/pricing-fetal-tissue/>

All Title X grant money in California passes through Essential Access Health (EAH), the primary grantee which then distributes to the numerous sub-recipients, including Planned Parenthood affiliates. In 2016, 4 out of the 5 top sub-recipients of Title X grants through EAH were Planned Parenthood affiliates.¹¹ All 7 of California's regional Planned Parenthood affiliates are Title X sub-recipients under EAH, and together they received over \$5.6 million in 2016—well over 25% of EAH's total approximately \$20 million grant each year.¹² For every dollar in Title X money spent in California, about \$0.28 goes to Planned Parenthood.

EAH itself is an organization that embraces the concept of abortion as family planning. In 2016, EAH, co-sponsored California AB 1954, the “Direct Access to Reproductive Health Act”, under which “health insurance plans are prohibited from requiring enrollees to secure a referral prior to accessing services related to [...] abortion”.¹³ In fact, of EAH's 13 legislative priorities in 2016, 6 of them had to do with expanding elective abortion access.¹⁴ EAH offers an online Continuing Education Credit medical course in “Best Practices in Pregnancy Options Education”, which instructs providers: “Quality pregnancy options education includes providing medically accurate, unbiased, non-judgmental information about abortion”, and specifies that “Family Planning Staff” should attend this course.¹⁵

Of EAH's 15 Board Directors, almost half of them have close ties to Planned Parenthood. Meanwhile, 2 of the 5 officials on EAH's Executive Team are longtime Planned Parenthood executives—CEO Julie Rabinovitz is the former COO of Planned Parenthood of Illinois, and Communications Director Amy Moy was formerly the Public Relations manager for Planned Parenthood Golden Gate.¹⁶ It is unsurprising that EAH is dedicated to both Planned Parenthood's continued funding with taxpayer dollars and Planned Parenthood's promotion of abortion as family planning. For its part, Planned Parenthood was a Presenting Sponsor of EAH's 50th anniversary.¹⁷

ORGANIZATIONAL SEPARATION NECESSARY TO FULLY IMPLEMENT SECTION 1008

¹¹ See 2016 IRS Form 990 for Essential Access Health, *Ibid*.

¹² See <https://www.hhs.gov/opa/grants-and-funding/archive/past-grant-awards/index.html>

¹³ EAH Fact Sheet on California AB 1954, http://www.essentialaccess.org/sites/default/files/AB1954_Direct_Access_to_Reproductive_Health_Act_Fact_Sheet.pdf

¹⁴ EAH 2016 Legislative Priorities, http://www.essentialaccess.org/sites/default/files/EssentialAccessHealth_Legislative_Priorities_2016.pdf

¹⁵ EAH Continuing Education online course description, “Best Practices in Pregnancy Options Education,” <https://www.essentialaccess.org/learning-exchange/best-practices-pregnancy-options-education-online-course>

¹⁶ Essential Access Health ties to abortion-as-family-planning advocacy and Planned Parenthood, **Board Directors:** Jennifer Blum, MPH, Gynuity Health Projects, <http://gynuity.org/about/staff/blum/>; Dr. Kimberly Gregory, oversees Maternal-Fetal Medicine rotation at PPLA, <https://apps.acgme.org/ads/Public/Programs/Detail?programId=31825>; Dr. Pratima Gupta, abortion provider with Physicians for Reproductive Health, <https://twitter.com/prhdocs/status/610475107102945280>; Kim Meredith, former Chief Development Officer for PPFA, <https://pacscenter.stanford.edu/person/kim-meredith/>; Mona Shah, PPFA Champions for Women's Health Award, 2014, <https://www.plannedparenthood.org/about-us/newsroom/press-releases/planned-parenthood-honors-congressional-staffers-champions-womens-health-award>; Allison Sonenshine, longtime chair of PPOSBC Board of Directors, <https://www.linkedin.com/in/allyson-sonenshine-ab4268/>; Sandra Shewry, former CA Health Department, defended PP from False Claims Act lawsuit, <http://articles.latimes.com/2008/mar/08/local/me-billing8>; **Executive Staff:** CEO Julie Rabinovitz, former Senior VP of Business Operations, PPIL, <https://www.linkedin.com/in/julie-rabinovitz-mph-0351a925/>; VP Public Affairs Amy Moy, former VP Public Relations PP Golden Gate, <https://www.linkedin.com/in/amy-moy-1677523/>

¹⁷ See <https://www.essentialaccess.org/set-future-motion>

In Part IV.I of the Supplementary Information to the proposed rule, the Department “seeks public comment as to whether additional regulatory provisions, such as a requirement for a Title X clinic to operate under a distinct name from a facility that provides abortion as a method of family planning, or for organizational separation, are necessary to ensure compliance with section 1008.”

Based on the experience of California’s Title X subsidization of large Planned Parenthood abortion affiliates, total organizational separation is necessary to enforce the proposed rule’s physical and financial separation requirements and to fully implement the requirements of the Title X statute. The following table summarizes the California Planned Parenthood affiliates, their total amount of Title X grants in 2016, the number of these affiliates’ Title X clinics listed in the OPA Directory that also perform elective abortions, and the annual number of abortions performed by the Planned Parenthood affiliate/Title X sub-recipient:

Title X Sub-Recipient	Total Grants (2016) ¹⁸	AB Clinic Title X Sites, and (% total Sites) ¹⁹	Abortions (most recent year) ²⁰
<i>Planned Parenthood Mar Monte</i>	\$1,743,498	26 (79%)	17,884
<i>Planned Parenthood Northern California</i>	\$952,900	17 (100%)	<i>Unreported</i>
<i>Planned Parenthood Los Angeles</i>	\$1,052,689	16 (76%)	12,686
<i>Planned Parenthood Orange & San Bernardino Counties</i>	\$663,020	9 (100%)	8,601
<i>Planned Parenthood of the Pacific Southwest</i>	\$658,087	14 (88%)	16,999
<i>Planned Parenthood Pasadena & San Gabriel Valley</i>	\$219,915	3 (75%)	~800
<i>Planned Parenthood California Central Coast</i>	\$362,625	5 (100%)	<i>Unreported</i>
TOTAL:	\$5,652,734	90 (86%)	<i>at least 56,970</i>

Fully 86% of Planned Parenthood Title X sites in California are also abortion clinics, which is unsurprising given the institutional culture and business model of the Planned Parenthood brand.²¹ While in the abstract, physical and/or financial separation between abortion services and Title X programs might seem sufficient to carry out the directives of Section 1008, for abortion-centric providers like Planned Parenthood, nothing short of total organizational separation is likely to protect taxpayers from propping up the organization's abortion business.

Title X provider Planned Parenthood Mar Monte is both the largest Planned Parenthood affiliate in the country, and also the largest Title X sub-recipient in California. Planned

¹⁸ From 2016 IRS Form 990 for Essential Access Health, *Ibid*.

¹⁹ From OPA Title X Family Planning Directory, June 2018, <https://www.hhs.gov/opa/sites/default/files/Title-X-Family-Planning-Directory-June2018.pdf> and Planned Parenthood directory, <https://www.plannedparenthood.org/health-center>

²⁰ From most recent affiliate reports, available at <https://www.plannedparenthood.org> except for PPSGV, personal report from Dr. Mary Gatter, former Medical Director, http://www.centerformedicalprogress.org/wp-content/uploads/2015/05/PPFA020615_transcript.pdf

²¹ "Abortion mandate costs Planned Parenthood a few affiliates," M. Alex Johnson, *NBC News*, 6 Dec. 2012, <http://usnews.nbcnews.com/news/2012/12/06/15702142-abortion-mandate-costs-planned-parenthood-a-few-affiliates>

Parenthood Mar Monte performs nearly 18,000 abortions every year,²² and 79% of PPMM's Title X sites perform abortions. Planned Parenthood Mar Monte's abortion revenue and Title X revenue are both paid directly to Planned Parenthood Mar Monte the corporation, as was the money that StemExpress paid to Planned Parenthood Mar Monte in exchange for aborted fetal body parts.

Planned Parenthood Mar Monte, Inc. pays its Medical Director to manage both the abortion practice and the Title X operations, it pays the contract physicians who perform abortions, and it pays for clinic infrastructure and clinic management where the abortions are performed.²³ The assets, grants, and revenues held by an affiliate like Planned Parenthood Mar Monte directly enable its massive abortion program because the abortion program is coextensive with the Planned Parenthood affiliate itself.

Additionally, any Planned Parenthood affiliate must pay dues back to the national office at Planned Parenthood Federation of America,²⁴ which in turn offers grants back to affiliates to expand abortion services and requires they comply with its directives. In light of these facts, total organizational separation is likely required to keep abortion providers like Planned Parenthood from simply playing shell games with public funding.

CONCLUSION

The Department's updates to OPA's Title X regulations are long overdue in order to fully comply with the clear law and policy of the Title X statute at 42 U.S.C. 300a-6, and to protect American taxpayers from being forced to subsidize programs that peddle abortion as a method of family planning.

Sincerely,



David Daleiden
Founder & Project Lead
The Center for Medical Progress

²² Planned Parenthood Mar Monte Annual Report, FY2017, https://www.plannedparenthood.org/uploads/filer_public/74/0c/740cbaa6-0d5a-42be-a5e3-3fd852cdddf4/ar17_final_lowres.pdf

²³ See Planned Parenthood Mar Monte 2015 IRS Form 990, http://rct.doj.ca.gov/Verification/Web/Download.aspx?saveas=1330757.PDF&document_id=09027b8f802f33d1

²⁴ See PPFA Annual Report, https://www.plannedparenthood.org/uploads/filer_public/d4/50/d450c016-a6a9-4455-bf7f-711067db5ff7/20171229_ar16-17_p01_lowres.pdf