



Post-Roe PA: Deceptive Practices of Anti-Abortion Centers

PA Joint Democratic Policy Committee Roundtable Discussion

Women's Law Project

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On behalf of the Women's Law Project (WLP), we wish to thank Senator Muth, Senator Schwank, Rep. Kosierowski, Rep. Shusterman, and the rest of the Joint Democratic Policy Committee for convening this discussion on the deceptive practices of crisis pregnancy centers, or CPCs.

CPCs are anti-abortion organizations that seek to reach and interact with low-income people facing unintended pregnancies to prevent them from accessing abortion and contraception. Historically called CPCs, the anti-abortion movement started calling CPCs "pregnancy help centers" to rebrand in response to bad press about deceptive practices. They are also sometimes called "anti-abortion centers" or "fake clinics."¹

The Women's Law Project is a Pennsylvania-based legal advocacy organization dedicated to defending and advancing the rights of women, girls, and LGBTQ+ people through impact litigation, individual legal assistance, public policy advocacy, and community education. Advocacy to hold the CPC industry accountable for how they treat their targets - primarily women experiencing an unintended pregnancy, Black women, and low-income people disenfranchised from the medical establishment - is part of our reproductive rights and justice work.

In 2019, WLP partnered with the Alliance: State Advocates for Women's Rights and Gender Equality and California Women's Law Center to research crisis pregnancy centers in the nine states in which we collectively operate: Alaska, California, Idaho, Minnesota, Montana, New Mexico, Oregon, Pennsylvania, and Washington. We investigated how CPCs target people and what services they offer, and we sought to track affiliations with the major anti-abortion organizations that steer the CPC industry and collect and store sensitive medical and personal data of the people who visit or interact with CPCs online. As abortion bans snap into place across the country, this unregulated data collection - initiated by the same movement lobbying to criminalize abortion and implement civil citizen vigilante abortion bans - is an acute concern. This information is often collected without clients' knowledge and stored by organizations not typically subject to medical privacy regulations.

I co-authored the resulting report, *Designed to Deceive: A Study of the Crisis Pregnancy Center Industry in Nine States*.² This report, also referred to as the Alliance Study, was published in late 2021 and released in early 2022 along with an urgent new brief outlining how the CPC industry is poised to

¹ See p. 12 for methodology regarding how we defined crisis pregnancy centers:

https://www.womenslawproject.org/wp-content/uploads/2022/02/Alliance_CPC_Report_FINAL2-1-22.pdf

² The full report can be found here: https://www.womenslawproject.org/wp-content/uploads/2022/02/Alliance_CPC_Report_FINAL2-1-22.pdf

function as surveillance infrastructure for the anti-abortion movement, amassing data that could be used for post-*Roe* pregnancy- and abortion-related prosecutions.³

I will share relevant findings later in this testimony while noting here that Pennsylvania is arguably the most egregious state in terms of not only enabling, but directly funding, deceptive CPC practices by pouring millions of dollars into the state-funded CPC program Real Alternatives while failing to address multiple investigations that detail the organization's alleged misuse and waste of public funds.

As former chief counsel of Campaign for Accountability, a watchdog group that filed a 28-page public complaint⁴ in July 2020 said at the time, "Pennsylvania taxpayers have shelled out tens of millions of dollars to Real Alternatives without receiving much benefit in return. Low-income women and children who need support deserve a program that helps them, not one focused on lining the pockets of its top executives."⁵

Pennsylvania also has the dubious distinction of being the first state to divert public funding to crisis pregnancy centers, a model that anti-abortion activists have replicated in other states. We have an obligation to lead in correcting course to stop further harm and improve health outcomes in Pennsylvania.

The anti-abortion movement is seeking more state contracts and advancing legislation to force pregnant people to "consult" with anti-abortion activists before obtaining medical care.⁶ As the anti-abortion movement seeks to secure more CPC state contracts on the unconvincing premise of alleviating the very suffering they manufactured via abortion bans, we are facing the threat of anti-abortion tracking and surveillance system permanently embedded into government.

The U.S. is currently experiencing the biggest rollback in reproductive rights in modern history amid a maternal mortality crisis disproportionately harming Black women.⁷ Anti-abortion lawmakers are working to strip reproductive rights out of the Pennsylvania state constitution to pave the way to ban abortion.⁸ Pennsylvania is riddled with maternity care deserts: Almost 200,000 women live in Pennsylvania counties that have little to no access to maternal healthcare.⁹

Pennsylvania should be investing resources in ensuring equitable access to evidence-based comprehensive healthcare and working to assess the impact CPCs have on maternal, infant, and public health--not financing deceptive practices and barriers to healthcare.

CPC networks now have state contracts in at least 12 states; at least \$89 million in public funds were diverted to CPCs via state contracts last fiscal year alone.¹⁰

Pennsylvania has diverted more than \$144 million to Real Alternatives since the mid-1990s. In addition to state contracts, Pennsylvania double-funds CPCs in Pennsylvania by also giving away Temporary

³ *The CPC Industry as a Surveillance Tool of the Post-Roe State* can be found here:

https://www.womenslawproject.org/wp-content/uploads/2022/02/Alliance_CPC_Report_Feb2022_UrgentBrief2-10-22.pdf

⁴ <https://campaignforaccountability.org/wp-content/uploads/2020/07/Real-Alternatives-PA-7-14-20.pdf>

⁵ <https://campaignforaccountability.org/watchdog-calls-on-pennsylvania-officials-to-terminate-contract-with-anti-abortion-group-for-wasting-millions-of-taxpayer-dollars-violating-pennsylvania-law/>

⁶ <https://www.newyorker.com/magazine/2022/07/04/we-are-not-going-back-to-the-time-before-roe-we-are-going-somewhere-worse>

⁷ <https://www.health.pa.gov/topics/healthy/Pages/Maternal-Mortality.aspx>

⁸ <https://www.womenslawproject.org/wp-content/uploads/2022/07/SB106-Fact-Sheet-7-14-22-FinalA.pdf>

⁹ <https://www.marchofdimes.org/peristats/data?reg=99&top=23&stop=641&lev=1&slev=4&obj=9&sreg=42>

¹⁰ <https://apnews.com/article/abortion-business-health-nashville-personal-taxes-fffa6f6f86e6eaa448b8ea89087a1c46>

Assistance for Needy Families (TANF) funds, which is safety-net money intended for pregnant women and children living in poverty.¹¹

It is outrageous that this money is being siphoned from TANF even as Pennsylvania faces the lowest "TANF-to-poverty" ratio since the program's inception. Currently, only 25 out of every 100 families that qualify for TANF actually obtain assistance.¹² So where is Pennsylvania choosing to invest this money it is not giving to poor pregnant people, single mothers, and children? Some of it has been directly funneled into the salaries and benefits of executives and staff at Real Alternatives.¹³ The rest goes to anti-abortion activist programming without adequate oversight, regulation, or transparency.

It is worth noting here that the Alliance Study found that state-funded CPCs in Pennsylvania engage in some of the most egregious practices to a greater extent than privately funded ones.

We hope this testimony provides insight that galvanizes state lawmakers to stop funding fraudulent, harmful practices of the CPC industry; implement systems to establish oversight, accountability, and transparency; support living wages and other policies that inoculate people from falling prey to coercive organizations like CPCs that seek to exploit people struggling in poverty.

Crisis Pregnancy Centers: Old Strategy, Newly Sophisticated Tactics

The CPC industry has never posed a greater threat than it does now that we've been stripped of our federal right to abortion. It's been just over two months since the U.S. Supreme Court issued its unjust ruling in *Dobbs v. Jackson Women's Health Organization*, and one in three women¹⁴ in the United States has already lost access to legal abortion care.¹⁵

The newly empowered, digitally sophisticated, increasingly publicly funded CPC industry operating with little to no oversight or transparency is poised to function as the eyes and ears of the government in a country that is increasingly criminalizing or banning abortion.

Since the 1960s, the primary CPC strategy for reaching low-income pregnant people has been to strategically interfere as they search for legitimate medical care. Historically, that meant opening a facility next to or near a legitimate medical provider to confuse pregnant people into walking through the doors.¹⁶ "Co-locating," as this tactic is called, also enables anti-abortion activists to verbally and physically intercept people on their way to a legitimate medical provider. (Relatedly, CPCs function as gathering grounds for anti-abortion activist street protesters. One study found that clinics located near a CPC were 7x more likely to experience "high" rates of targeted harassment than clinics not located near a CPC.¹⁷)

"Medicalization," a marketing effort to make CPCs appear to be medical facilities by installing ultrasound equipment, was initiated in the mid-1990s to fix what the CPC industry saw as a dual problem: Pregnant people weren't interested in CPCs, and CPCs did not want to support the low-income parents who were coming to CPCs in searching for material support with free goods.

¹¹ <https://www.inquirer.com/news/abortion-roe-v-wade-real-alternatives-pennsylvania-legislature-planned-parenthood-20220803.html>

¹² https://www.cbpp.org/sites/default/files/atoms/files/tanf_trends_pa.pdf

¹³ See PA DHS contract with Real Alternatives FY 2017-2018.

¹⁴ We fully acknowledge that transgender men and gender-expansive people rely on, and lost, access to abortion care also. However, the data studied women.

¹⁵ <https://www.washingtonpost.com/nation/2022/08/22/more-trigger-bans-loom-1-3-women-lose-most-abortion-access-post-roe/>

¹⁶ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9189146/>

¹⁷ <https://feminist.org/anti-abortion-violence/images/2018-national-clinic-violence-survey.pdf>

As one CPC administrator complained in an academic history of CPCs, less than one percent of people visiting her CPC were pregnant and considering abortion and she didn't sign up to be a "diaper distribution service."¹⁸

Another solution to fixing the problem of poor people seeking material aid is a program called "Earn While You Learn" (EWYL). EWYL programs coerce engagement with anti-abortion ideology by conditioning the distribution of limited material goods on participation in programming and layperson "counseling." Ads promoting the EWYL program cynically play on racist "welfare queen" ideology, asserting that "giving things away free only enables our clients and fosters the entitlement mentality."¹⁹

Early experiments showed "medicalization" worked: pregnant people seeking abortion care were more likely to go to a CPC if it appeared to be a medical facility. Now, medicalization is a mainstream tactic of the CPC industry. "If we get people that are thinking we're Planned Parenthood, we get them to come in," a CPC advocate recently explained to the *New York Times*. "It has worked marvelously."²⁰

The modern, digitally upgraded CPC industry has successfully adapted and extended "medicalization" online by creating websites echoing the imagery and language of legitimate medical facilities; gaming Search Engine Optimization (SEO) so CPCs appear in online searches for abortion; and using sophisticated digital tactics like "geo-fencing" to intercept people in the waiting rooms of physician's offices and vulnerable populations like high school students.²¹

The Alliance Study found that despite the effort to rebrand CPCs as medical facilities, the vast majority do not provide medical services.

Designed to Deceive: A Brief Overview of Findings

Measuring the proliferating CPC industry's impact on public health must begin with a thorough assessment of the services CPCs offer pregnant people – and the services they do not. In the absence of government oversight, the Alliance conducted a study to document and evaluate CPC services and practices in nine states in which we operate and partner with allies: Alaska, California, Idaho, Minnesota, Montana, New Mexico, Oregon, Pennsylvania, and Washington.

Pennsylvania stands out as one of the most egregious states in the study in terms of failing to hold CPCs accountable for how they treat people, their impact on public health, and how they spend public funds.

Overall, many CPC websites used language and imagery signifying they were providers of medical services but the services most commonly offered were not medical. The most common CPC service (96%) was a pregnancy test— usually a self-administered urine-stick test.

Almost two-thirds (63%) of CPCs promoted patently false and/or biased medical claims mostly centered on pregnancy, contraception, and abortion, especially medication abortion. Most CPCs (88%) offered limited material goods conditioned on engagement with programming or "counseling."

While the CPC industry uses the provision of limited, "non-diagnostic" ultrasound to signal a CPC is "medicalized" to the public, it is understood within the movement the purpose of using ultrasound technology is to try to forge an emotional bond between the pregnant person and the fetus. National Institute of Family and Life Advocates (NIFLA), an evangelical Christian law firm for the anti-abortion movement, has promoted the provision of ultrasound technology at CPCs for many years. NIFLA claims, that "more than 80% of abortion-minded mothers choose life after they see their unborn baby via ultrasound" which gives clients "the opportunity to see the wonderful handiwork of the Creator."²²

¹⁸ *The Pro-Life Pregnant Help Movement* by Laura S. Hussey, page 104

¹⁹ <https://www.ewyl.com/>

²⁰ <https://www.nytimes.com/2022/06/25/nyregion/crisis-pregnancy-centers-abortion-nyc.html>

²¹ <https://www.chooselifemarketing.com/back-to-school-how-your-center-can-reach-more-students/>

²² <https://nifla.org/medical-clinic-conversion/>

Legitimate research shows that viewing an ultrasound does not change a person’s mind about abortion.²³

The American Institute of Ultrasound in Medicine condemns the use of ultrasounds for any non-medical purpose. “The use of ultrasound without a medical indication to view the fetus, obtain images of the fetus, or identify the fetal external genitalia is inappropriate and contrary to responsible medical practice.”

CPCs in Pennsylvania

Before the loss of *Roe* and the subsequent closing of facilities providing abortion care across the country, CPCs outnumbered freestanding abortion providers across the country by an average of three to one in the United States. In Pennsylvania, the ratio is nine to one.

The Alliance Study found 156 CPCs in Pennsylvania.²⁴ Twenty-seven (17.3%) of the state’s 156 crisis pregnancy centers are publicly funded through Real Alternatives, an organization plagued by allegations of misuse of public funds, waste, and lack of transparency.

The services provided by Pennsylvania CPCs align with data from other states. The most common services are free/earned goods (92.3%), pregnancy testing (88.5%), and “counseling” (82.1%). Most CPCs in Pennsylvania (64.7%) make false and biased claims, a rate that aligns with CPCs in other states examined in the Alliance Study.

In Pennsylvania, 32% of CPCs provide, refer for, or promote “abortion pill reversal” (APR). APR is the rogue practice of injecting or prescribing high-dose progesterone to pregnant people who have taken the first medicine in the two-step protocol for medication abortion in an attempt to stop (“reverse”) the abortion. The American College of Obstetricians and Gynecologists calls APR “unethical” and “not based on science.”²⁵

APR has been called “unproven and experimental” in *The New England Journal of Medicine* because neither the safety nor effectiveness of APR has been proven in clinical trials.²⁶

One of the most disturbing Alliance Study findings about CPCs in Pennsylvania is that state-funded CPCs promote APR at higher rates than privately funded ones. Among CPCs supported with public funding via Real Alternatives, 40.7% refer for APR.

The deceptive practices of CPCs must be viewed through a lens of racial justice. The CPC industry is primarily staffed by white people and runs programs to target Black women.

Pennsylvania should not be diverting public money away from serving constituents to help anti-abortion activists target Black women with medical disinformation and a snake-oil “treatment” considered an unethical experiment, not based on science, and not proven to be safe or effective.

Our primary concern is the safety, health, and dignity of Pennsylvania families. However, we are also deeply troubled by the serious allegations that Real Alternatives misuses and wastes public funds. The length of this testimony is inadequate space to review the years of investigations, complaints, and litigation centered on these allegations. I suggest reviewing the Campaign for Accountability complaint filed in July 2020; the 2017 investigative report issued by former Pennsylvania Auditor General Eugene DePasquale, who found the organization’s “skimming” of public funds,²⁷ and litigation documents related

²³ <https://www.ansirh.org/research/ongoing/ultrasound-viewing>

²⁴ https://www.womenslawproject.org/wp-content/uploads/2022/02/Alliance_CPC_Report_Pennsylvania.pdf

²⁵ <https://www.acog.org/advocacy/facts-are-important/medication-abortion-reversal-is-not-supported-by-science>

²⁶ <https://www.nejm.org/doi/full/10.1056/NEJMp1805927>

²⁷ <https://www.paauditor.gov/press-releases/auditor-general-depasquale-files-response-to-lawsuit-by-real-alternatives-outraged-at-%E2%80%98skimming%E2%80%99-of-tax-dollars>

to Real Alternatives' efforts to resist right-to-know records requests,²⁸ including a dissenting opinion issued by President Judge Emerita Bonnie Brigrance Leadbetter, who described a contract at issue in the case as a “scheme to get DHS to unknowingly pay Real Alternatives for non-government activities” and to “shield it from public scrutiny.”²⁹

CPC Industry as Surveillance Tool of the State

The CPC industry is now functioning as surveillance infrastructure for the anti-abortion movement, amassing data that could be used in post-Roe pregnancy- and abortion-related prosecutions and citizen vigilante litigation.

The global anti-abortion group Heartbeat International, for example, stores “digital dossiers” on CPC clients, stating “Big data is revolutionizing all sorts of industries. Why shouldn't it do the same for a critical ministry like ours?”³⁰

HBI's intake collects marital status, education, income, relationship status, recent medication, pregnancy symptoms, history of alcohol, tobacco, and drugs, pregnancy history, pregnancy intention, birth control, and history of abuse.

It's important to understand that architects of the anti-abortion movement assert that post-*Roe*, an “effective enforcement regime” requires citizen vigilante abortion bans in addition to criminalizing abortion.³¹ Civil citizen vigilante laws like SB8 in Texas financially incentivize anti-abortion activists to surveil and track the period cycles, sexual activity, and physical whereabouts of friends, family, and neighbors to find evidence of an alleged abortion.

Evidence of an alleged abortion includes evidence of a pregnancy and intention regarding that pregnancy—which is exactly the information collected and stored by CPCs.

The United States is amid a catastrophic maternal and public health crisis that has in large part been manufactured by the anti-abortion movement. Historically, Pennsylvania has contributed to this crisis by capitulating to the political demands of anti-abortion activists. Double-funding the CPC industry without adequate oversight is one of the many concessions that led us to this moment.

Among the immense challenges we now face are opportunities to rebuild the movement for equitable access to safe legal abortion and related evidence-based reproductive healthcare with clarity and integrity.

We urge you to meet the moment and prioritize the health and safety of Pennsylvania families. We ask that you defund state-funded CPCs, re-allocate funds to protect and improve maternal and infant health in Pennsylvania, and implement measures to hold CPCs accountable for how they treat pregnant Pennsylvanians.

Thank you.

²⁸ https://www.pennlive.com/opinion/2018/03/real_alternatives_column_-_wor.html

²⁹ <https://www.scribd.com/document/583217645/Commonwealth-Court-Dissenting-Opinion-on-Real-Alternatives-v-Equity-Forward>

³⁰ <https://www.nextlevelcms.com/better-together>

³¹ <https://www.nrlc.org/communications/national-right-to-life-committee-proposes-legislation-to-protect-the-unborn-post-roe/>

