



# CRISIS PREGNANCY CENTERS: AN AFFRONT TO CHOICE



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*The mission of the National Abortion Federation is to ensure safe, legal, and accessible abortion care to promote health and justice for women.*

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*This report was made possible by the generous support of the Robert Sterling Clark Foundation, the Tortuga Foundation, and the Moriah Fund.*

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# Crisis Pregnancy Centers: An Affront to Choice

Women make choices every day regarding their health. In order to make the choices that are right for them, women need access to accurate information about all of their reproductive health and treatment options. Women have reported to the National Abortion Federation (NAF) that they have sought advice and counseling from facilities that look like medical clinics but are actually anti-choice centers that give them false information and leave them feeling betrayed and misled. These women often come to NAF member clinics angry and confused about their experience and afraid that they will be treated this way again. This report seeks to educate individuals about these deceptive facilities and empower women to make fully informed decisions about their reproductive health care.

## Part I: The Problem

*“In answering the question of how far does a volunteer go to help a mother not to abort her unborn child, the answer is clear. How far would you go to save your own life?”<sup>1</sup>*

### What are Crisis Pregnancy Centers?

Crisis Pregnancy Centers (CPCs) exist to keep women from having abortions. In many instances, they misinform and intimidate women to achieve their goal. Women describe being harassed, bullied, and given blatantly false information. Many assert that their confidentiality has been violated, and that mistreatment by CPCs has threatened their health.

Robert Pearson established the first Crisis Pregnancy Center in 1967 in Hawaii after the state legislature repealed its laws criminalizing abortion. Pearson made his intentions for creating these CPCs clear when he declared, “Obviously, we’re fighting Satan. A killer, who in this case is the girl who wants to kill her baby, has no right to information that will help her kill her baby.”<sup>2</sup> After *Roe v. Wade* was decided in 1973, Pearson created The Pearson Institute to teach other anti-abortion advocates how to open CPCs throughout the country.<sup>3</sup> The first Canadian CPC opened in Toronto, Ontario in 1968. This CPC grew into the Birthright chain, which has CPCs in other countries including the United States.

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<sup>1</sup> *How to Start and Operate your own Pro-Life Outreach Crisis Pregnancy Center*, The Pearson Foundation, 1984, p. 14.

<sup>2</sup> See Deb Berry, *Choose Lies*, *Orlando Weekly*, April 17, 2003.

<sup>3</sup> *Id.*

Today there are as many as 4,000 CPCs in the United States,<sup>4</sup> compared to the 2,000 clinics that provide abortion care for women.<sup>5</sup> CPCs also are prevalent throughout Canada, with more than 150 centers in the country.<sup>6</sup>

The number of CPCs is growing while the number of abortion providers is shrinking.<sup>7</sup> This problem is most acute in rural areas where CPCs may substantially outnumber abortion providers. In North Carolina, for example, there are only 17 licensed abortion providers sparsely spread throughout the state, and they operate in only 20 of the state's 100 counties.<sup>8</sup> Conversely there are at least 72 CPCs in the state.<sup>9</sup>

By and large, CPCs are not medical facilities, and most CPC volunteers who work directly with women are not medical professionals.<sup>10</sup> Their main qualifications are a commitment to Christianity and anti-choice beliefs. Although CPCs historically have not employed medical staff, there is an emerging trend on the part of CPCs to gain validity by hiring part-time anti-choice medical providers and purchasing ultrasound equipment.<sup>11</sup>

Former Operation Rescue leader Chris Slattery initiated the drive to make CPCs appear more like medical facilities by establishing Expectant Mother Care, a New York chain of CPCs that offer ultrasounds and have obstetricians, certified sonographers, and several nurses on staff.<sup>12</sup> The National Institute of Family Life Advocates (NIFLA), an anti-choice organization, has continued the campaign to make CPCs more like medical clinics through The Life Choice Project. This project has installed ultrasounds in hundreds of CPCs and has assisted CPCs with medical malpractice insurance, medical consultations, and training for medical and volunteer personnel.<sup>13</sup> However, this growth in medical staff and the offering of select services in some cases does not change the fact that these CPCs do not provide women with a full range of reproductive health care services and information.

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<sup>4</sup> Ziba Kashef, *The Fetal Position*, Mother Jones, January/February 2003 (available at [http://www.motherjones.com/news/outfront/2003/02/ma\\_218\\_01.html](http://www.motherjones.com/news/outfront/2003/02/ma_218_01.html)).

<sup>5</sup> Lawrence B. Finer and Stanley K. Henshaw, *Abortion Incidence and Services in the United States in 2000*, The Alan Guttmacher Institute, *Perspectives on Sexual and Reproductive Health*, 2003, 35(1): 6-15.

<sup>6</sup> See LifeSite website (available at <http://www.lifesite.net>, list updated September 2005).

<sup>7</sup> In 1994 there were 2,000 CPCs nationwide compared to 1999 when the number had grown to an estimated 3,200. See NARAL Foundation, *Deceptive Anti-Abortion Crisis Pregnancy Centers*, NARAL: Reproductive Freedom and Choice, p. 9 (available at <http://www.ppscm.org/cpc.html>); see also Finer, *supra* note 5 at 10 (showing a decrease in abortion providers from 2,380 in 1992 to 1,819 in 2000).

<sup>8</sup> Barbara Solow, *Medicine or Ministry*, Independent Online, June 18, 2003 (available at <http://indyweek.com/durham/2003-06-18/cover.html>).

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

<sup>10</sup> See Care Net Administrative Manual job qualifications (requiring Christian beliefs, but not medical background) and sample organizational chart (all counselors are volunteers).

<sup>11</sup> Solow, *supra* note 8; see Neela Banerjee, *Church Groups Turn to Sonogram To Turn Women From Abortions*, The New York Times, February 2, 2005.

<sup>12</sup> Marc Cooper, *Robbing the Cradle*, The Village Voice, July 26, 1994 (available at [http://www.exiledmothers.com/adoption\\_facts/robbing\\_the\\_cradle.html](http://www.exiledmothers.com/adoption_facts/robbing_the_cradle.html)).

<sup>13</sup> See NIFLA website (available at <http://www.nifla.org/phmc.asp>); CNS News, *Ultrasound Enters Abortion Debate*, August 26, 2000, (available at <http://newsmax.com/articles/?a=2000/8/25/191131>); Jennifer Kabbany, *Ultrasound v. Abortion*, The Washington Times, October 28, 2003 (available at <http://www.washtimes.com/culture/20031028-093430-6442r.htm>).

## CPC's Strategy of Deception

*“The pro-life movement has to be sure that its more specific mission of stopping abortion is being fulfilled. We have to attract more abortion-minded women to our [crisis pregnancy] centers.”*

Fr. Frank Pavone, Priests for Life<sup>14</sup>

*“I have to say that I was disgusted to find one of those ‘Caring’ Pregnancy Center advertisements in my mail last week! Most of what it said was a bunch of lies. It says things like: “Free Pregnancy Test,” “Friendship and Emotional Support,” “Medical Referrals,” and “Aid in Obtaining Community Resources.” None of these were true, and the ad mentions NOTHING about religion, church, and being anti-contraceptive, and anti-choice.”*

NAF CPC Patient Partnership Participant<sup>15</sup>

### *Misleading Advertising Practices*

CPCs have a long history of engaging in deceptive advertising. For example, some CPCs intentionally choose their name to mislead women into believing that they offer a wide range of services, including family planning and abortion care. The Family Research Council investigated what names would be most likely to appeal to women, particularly pro-choice women, in a 1998 report. Women’s Resource Center, which gives the impression of a full range of services, was deemed to have the most strategic value in reaching women “at risk for abortion.”<sup>16</sup>

The report also showed that women faced with an unplanned pregnancy were most likely to look in the Yellow Pages under the words “Pregnancy,” “Medical,” “Women’s Centers” and “Clinics.”<sup>17</sup> Accordingly, CPCs often are advertised under these categories, as well as “Abortion Alternatives,” and “Women’s Organizations.”<sup>18</sup> CPCs also advertise through posters, signs, and billboards that contain messages like, “Free Pregnancy Test,” or “Pregnant? Scared? We Can Help! Call 1-800 #.”<sup>19</sup> Women report, however, that when they call these numbers the CPC representatives evade questions about whether they provide abortions, and urge the women to make an appointment to meet with a ‘counselor’ to talk in person.<sup>20</sup>

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<sup>14</sup> Fr. Frank Pavone, *A Sober Look at CPCs*, Priests for Life (available at <http://www.priestsforlife.org/columns/columns2002/02-03-11cpcs.htm>).

<sup>15</sup> The primary goal of NAF’s Patient Partnership is to include the voices of women who have had an abortion in the public discussions about this issue. The Crisis Pregnancy Center Project is a part of the Patient Partnership designed to ensure that women, journalists, and legislators are informed about the real nature of CPCs.

<sup>16</sup> Curtis J. Young, *Turning Hearts Toward Life: Market Research for Crisis Pregnancy Centers*, Family Research Council, 1998, p. 9; see Lisa Jacobson, *Commentary on Care Net Client Marketing Research, Center of Tomorrow*, Summer 2005 (available at <http://www.care-net.org/publications/cot/ClientMarketingResearch.pdf>).

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

<sup>18</sup> See, e.g. LegalCare: Advice and Education for Pregnancy Centers from Care Net, *Your Key to Advertising in the Yellow Pages*, November 1993.

<sup>19</sup> See, e.g. Care Net’s website (available at <http://www.care-net.org>).

<sup>20</sup> See Berry, *supra* note 2.

## Confusing Appearances

CPCs' deceptive tactics extend to their physical appearance as well. CPCs often design their facilities to look like actual health care facilities with a waiting room, a partitioned check-in desk, and an ultrasound machine.<sup>21</sup> They typically locate themselves near clinics that offer abortions in a deliberate attempt to increase their legitimacy and lure potential patients away from receiving abortion care by capitalizing on patients' confusion.<sup>22</sup> In Massachusetts, the CPC Problem Pregnancy obtained an office on the same floor as a Planned Parenthood clinic and placed a sign outside their door that read "PP, Inc." When challenged in court, Problem Pregnancy's use of the sign was enjoined as trademark and logo infringement.<sup>23</sup>

The North Dakota Supreme Court in 1986 affirmed a decision finding a CPC liable for false advertising after it gave itself the misleading name Fargo Women's Help Organization.<sup>24</sup> The CPC was forced to change its name after the Fargo Women's Health Organization discovered that many women had been intentionally diverted. The CPC also was ordered to stop advertising its services using the word "abortion" unless it clearly stated that it did not provide abortions. Similarly, in Calgary, Alberta, a CPC was ordered to stop using a name deceptively similar to the city-funded Calgary Birth Control Association.<sup>25</sup>

Though CPCs portray themselves as medical clinics, advertising medical services including an "Ask the Doctor" section and urging women to come in for "options counseling," they do not provide full options counseling and generally will not refer for abortion care or birth control.<sup>26</sup> In fact, Care Net, the largest network of CPCs in the United States, specifically instructs its CPCs not to give out information about birth control.<sup>27</sup> Most do not mention anywhere on their websites that the CPC will not provide or make referrals for abortions or birth control, but instead claim to provide a "nonjudgmental environment" where "each option" can be explored.<sup>28</sup>

*"When I was 17, still in high school, I missed my period and my sister recommended what she thought was a clinic, because it had a sign for a free pregnancy test and was called 'Birthright.' In the front hallway there was a statue of the Virgin Mary. I went with a friend, but the two counselors separated us. They had me pee in a cup and then one said that she had to talk to me separately in her office. The counselor asked me about my sexual activity, about why I thought I was pregnant, then asked if I believed in God, and what I planned to do if I was pregnant. I responded that I was Christian, my father was a minister, and that I would have an abortion. 'What do you think that God will think of that?' the counselor asked. I responded that I believed in a forgiving God who would want me to go to college. The counselor argued that God thinks that an abortion is murder and then showed me pictures of fetuses."*

NAF CPC Patient Partnership Participant

<sup>21</sup> Solow, *supra* note 8.

<sup>22</sup> See Kaiser Daily Reproductive Health Report, *Crisis Pregnancy Centers Moving to Expand Services, Seeking Government Funding*, February 19, 2002; see also Alan Cooper, *Abortion Battle: Prenatal Care or Pressure Tactics?* *The Washington Post*, February 21, 2002, A01.

<sup>23</sup> Planned Parenthood Federation of America, *Anti-Abortion Counseling Center*, *Reproductive Rights Litigation Update*, 39; *Planned Parenthood Federation of America and Planned Parenthood League of Massachusetts v. Problem Pregnancy of Worcester*, 418 N.E.2d 1044 (Mass. 1986).

<sup>24</sup> *Fargo Women's Health Organization v. Larson*, 381 N.W.2d 176 (N.D. 1986).

<sup>25</sup> David Climenhaga, *Anti-abortionist will continue birth-control advertisements*, *Calgary Herald*, May 1, 1994, A5.

<sup>26</sup> See, e.g. Rockville Pregnancy Center website (available at <http://www.rcpc.org>); Care Net website (available at <http://www.care-net.org>); Expectant Mother Care website (available at [http://www.expectantmothercare.org/pro\\_life\\_chapel.html](http://www.expectantmothercare.org/pro_life_chapel.html)).

<sup>27</sup> See Care Net Volunteer Training Manual.

<sup>28</sup> Maryland's Rockville Pregnancy Center website (available at <http://www.rcpc.org>).

CPCs often specifically target young and low-income women. They offer free pregnancy tests, locate themselves in close proximity to colleges and universities, and advertise in school newspapers.<sup>29</sup> Low-income women are particularly vulnerable because nationwide there is a shortage of clinics that offer full options counseling and abortion care. Throughout the United States, 87 percent of counties have no abortion provider, and this number rises to 97 percent for non-metropolitan counties.<sup>30</sup> This lack of accessibility affects all women. However it particularly hurts low-income women who may not have the means or time needed to travel long distances to an abortion provider.

CPCs also target women of color. As part of their activities surrounding Black History Month in February 2004, Care Net held a news conference in front of the U.S. Supreme Court to spotlight the “tragic” fact that every day more than 1,200 African American women make the decision to have an abortion.<sup>31</sup> Care Net emphasized the Alan Guttmacher Institute’s estimation that more than 14 million African American women have had abortions since *Roe v. Wade*, and they used this statistic as a basis for their commitment to develop 20 new CPCs in urban areas over the next five years in order to “make it easier for African-American women to choose life.”<sup>32</sup>

The Family Research Council encourages CPCs to target individuals or groups a pregnant woman is most likely to consult, primarily mothers and other family members.<sup>33</sup> CPCs are encouraged to target families and advise them of what to do if there is an unplanned pregnancy. Additionally, the Family Research Council found that 40 percent of women turn to their doctors and that intentional marketing to the medical community could significantly increase clientele.<sup>34</sup>

It is important to note that the primary mission of CPCs is to serve women who are “at risk” for abortion. According to the FRC report, “anecdotal reports suggest that there are sharply rising numbers of women coming to centers who are not ‘at risk’ for abortion. These women have decided to carry their children to term and come in for material assistance or other services.”<sup>35</sup> The FRC report stated that “these trends could threaten the primary mission of centers – to reach women at risk for abortion.”<sup>36</sup> Seemingly, the primary women that CPCs are interested in helping are those who are considering abortion rather than those women who have chosen to continue their pregnancy and need resources.

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<sup>29</sup> See, e.g. Saint Ignatius of Antioch Catholic Church website (available at <http://www.st.ignatius.net/annivpreg.html>); Karen Hauptman and Katie Kaplan, *Crisis Pregnancy Center Misleads Teenagers*, Black and White Online, December 21, 2001.

<sup>30</sup> Lawrence B. Finer and Stanley K. Henshaw, *Abortion Incidence and Services in the United States in 2000*, The Alan Guttmacher Institute, Perspectives on Sexual and Reproductive Health, 2003, 35(1): 6-15.

<sup>31</sup> See The Alan Guttmacher Institute, *Trends in Abortion in the United States: 1973-2000*, January 2003, p. 4-5 (available at <http://www.agi-usa.org/pubs/trends.pdf>).

<sup>32</sup> Tony Perkins, *Care Net to Plant New Urban Pregnancy Centers*, Washington Update, February 20, 2004.

<sup>33</sup> Young, *supra* note 16 at 13.

<sup>34</sup> *Id.*

<sup>35</sup> Young, *supra* note 16 at 4; see Lisa Jacobson, *The Abortion-Minded Woman*, Center of Tomorrow, Fall 2004 (available at <http://www.care-net.org/publications/cot/AbortionMindedWomen.pdf>).

<sup>36</sup> *Id.*



*“[The counselor] said that without knowing my religious beliefs she couldn’t counsel me because she needed to know my concept of right and wrong and my religious understanding of consequences for decisions made in life. She informed me that she was Catholic and used that as an example of the right way to be.”*

NAF CPC Patient Partnership Participant

### *Hidden Agendas: Religious Connections*

Many CPCs are connected with religious organizations, but few disclose that fact in their advertising.<sup>37</sup> Pearson’s CPC guide book states that, “[t]he guiding principles for every Pearson Foundation Emergency Pregnancy Service shall be: 1. To oppose abortion in all its forms... 2. To be free to talk about God and the Mother’s relationship to Him...”<sup>38</sup> Nevertheless, most CPCs do not initially disclose to women that they are driven by a religious agenda and that they oppose abortion and birth control. In Canada, many CPCs not affiliated with Birthright are a part of an umbrella organization known as the Christian Association of Pregnancy Support Services (CAPSS). Affiliates must adhere to the CAPSS Statement of Faith, Sanctity of Life Statement, Stewardship Policy, Statement of Principles, Counseling Code of Ethics, and Volunteer Training Guidelines.<sup>39</sup>

CPCs offer their “services” to women of all faiths, but their programs are often driven by extreme religious anti-abortion agendas. In some of their literature CPCs discuss religious messages about abortion and quote biblical passages that they claim show that God does not support abortion.<sup>40</sup> Care Net has a Volunteer Manual that is full of religious messaging;<sup>41</sup> however, it does not instruct volunteers to inform women who call or come to the centers that they are contacting a religious organization. The CAPSS Volunteer Manual instructs volunteers “never to advise or refer a single woman or man for contraceptives” since this would be inconsistent with the “clear command in Scripture to abstain from sexual intimacy outside of marriage.”<sup>42</sup> None of these materials mention the numerous religions and religious individuals who support choice and reproductive freedom.<sup>43</sup> Despite the CPCs’ claim that their first priority is to ensure the health of women, the name-filled banners reading “Babies Saved from Abortion” and “Salvations” which hung in the staff room of one CPC reveal a very different agenda.<sup>44</sup>

<sup>37</sup> *Id.*

<sup>38</sup> *How to Start and Operate Your Own Pro-Life Outreach Crisis Pregnancy Center*, The Pearson Foundation, 1984.

<sup>39</sup> See CAPSS website (available at <http://www.capss.com/aboutus.php>).

<sup>40</sup> Focus on the Family’s “*What Does God Say About Abortion*” can be found at Care Net facilities like the Rockville Pregnancy Center.

<sup>41</sup> Care Net Volunteer Training Manual: “The Biblical Basis for the Sanctity of Human Life” (p. 11); “Scripture to Use in Discussing Abortion” (p. 75); “The Biblical View of Fertility and Childbearing” (p. 97); “The Biblical View of Sexuality” (p. 102); “Role of Gospel” (p. 111).

<sup>42</sup> Crisis Pregnancy Centre Ministry’s *Volunteer Training Manual, Canadian Edition*, Christian Association of Pregnancy Support Services, 2002, p. 156.

<sup>43</sup> See Religious Coalition for Reproductive Choice website (available at <http://www.rcrc.org>); Catholics for a Free Choice website (available at [www.cath4choice.org](http://www.cath4choice.org)).

<sup>44</sup> These banners were witnessed by a woman who participated in NAF’s CPC Patient Partnership. Her report was based on her experience at the Rockville Pregnancy Center.

Antiabortion extremists also have been affiliated with CPCs. James Kopp, convicted of the 1998 shooting of New York abortion provider Dr. Barnett Slepian, started a CPC in San Francisco in 1984.<sup>45</sup> Kopp also is suspected in attacks on abortion providers in Canada. Kopp's CPC was investigated for attempting to deceive a 15 year-old girl's parents into allowing her to leave home to have a baby and for trying to persuade the girl to give up the baby to the CPC counselor instead of a licensed adoption agency.<sup>46</sup> The teenager, who repeatedly asked for information about abortion, was offered a trip anywhere she wanted - including Hawaii - for the duration of her pregnancy. Kopp offered to meet with her parents about an 'overseas education program' so that she could go away and have the baby. Her parents signed a 'permission slip,' but when her high school found out, a criminal investigation ensued.

Antiabortion extremists such as Joe Scheidler<sup>47</sup> and Rev. Paul Schenck<sup>48</sup> also have advocated in support of CPCs.<sup>49</sup> In his book *CLOSED: 99 Ways to Stop Abortion*, Scheidler suggests that CPCs should be aligned with "sidewalk counselors" and located near abortion providers, even in the same building, so that after the sidewalk counselor dissuades a woman from having an abortion a CPC is very close.

## Harmful Tactics

*"I asked for the results of my pregnancy test and she told me it was negative anyway so I don't need to get so worked up. Luckily I knew that these places often try to confuse women by telling them they aren't really pregnant so they are tricked into carrying the fetus past the time for a safer abortion. I repeated a home pregnancy test which was positive, so she was lying to me."*

NAF CPC Patient Partnership Participant

### *Delays and Harassment*

CPCs employ tactics designed to delay and even harass or intimidate women from having abortions. For example, CPCs have been known to extend the waiting period for pregnancy test results to expose women to their anti-choice or religious propaganda. While women wait, CPCs often present them with videos and pictures depicting gruesome and graphic images of bloody and dismembered fetuses that have allegedly been aborted as a scare tactic in their effort to compel women not to have abortions.<sup>50</sup> They show movies such as

<sup>45</sup> *Testimony of Mark Salo Before the Subcommittee on Regulations, Business Opportunities and Energy of the House Committee on Small Business*, 102<sup>nd</sup> Congress, September 20, 1991; see also *A Family at War*, *Hamilton Spectator*, April 10, 1999, at D11.

<sup>46</sup> Laura Fraser, *Behind the new anti-abortion scam*, *San Francisco Bay Guardian*, July 16, 1986, at 11.

<sup>47</sup> Scheidler has been arrested numerous times for trespassing, leading organized trespassing, and obstructing access to abortion clinics.

<sup>48</sup> Schenck was a leader in Operation Rescue and has been arrested several times for his anti-choice activities. He also spent a month in federal prison after being convicted of perjury in 1994. See John Riviera, *Prominent abortion foe to be pastor here; He will take up duties in Catonsville in July*, *Baltimore Sun*, June 6, 1997, at B1.

<sup>49</sup> See Joseph Scheidler, *CLOSED: 99 Ways To Stop Abortion*, 1985; see also Riviera, *supra* note 48.

<sup>50</sup> See Women's Health Action and Mobilization, *Fake Clinics: A Public Health Hazard*, Brooklyn Pro-Choice Network (available at <http://www.echonyc.com/~bpcn/fakeclinic.html>); Backwash.com (available at <http://www.backwash.com/previewnewsarchive.php?newsid=565>).

*Silent Scream*,<sup>51</sup> which has been discredited as medically inaccurate.<sup>52</sup> When the pregnancy results are revealed they may be presented in ways that are ambiguous<sup>53</sup> or even false.<sup>54</sup> Women also have received unwanted calls at their homes from CPCs urging them to not have an abortion following a visit, a clear violation of their privacy.<sup>55</sup>

### *The Myth of Free Services*

Although some prenatal services and childcare supplies may be provided to women by CPCs, the extent to which CPCs provide real services to women is not as great as they often lead women to believe. The Family Research Council report concluded that too many women who already had decided to give birth were coming to CPCs for services, and that the CPCs should re-focus their energies to prioritize talking women out of abortions over providing services to those who decide to give birth.<sup>56</sup> While some CPCs claim to offer prenatal care, some women have found that they “only provide prenatal care up to 24 weeks gestation because their real motive is to stop women from having abortions.”<sup>57</sup> In order to receive the “free” limited supply of baby clothes and equipment available from CPCs, women often must earn points by attending bible study classes.<sup>58</sup>

### *Adoption Coercion*

Some CPCs have had legal action taken against them due to adoption irregularities.<sup>59</sup> Women report tactics such as the withholding of medical care unless adoption forms are signed, lying about the significance of the adoption forms, representing the interests of the adoptive parents over the pregnant woman’s interest, and even trying to isolate pregnant minors from their parents and/or their newly born child.<sup>60</sup> One former volunteer at a Northern California CPC connected with the Christian Action Council stated that “adoptive parents usually turned out to be born-again Christians, financial donors to the center itself.”<sup>61</sup>

### *Misinformation about Contraception and “Abstinence Only”*

Although many CPCs claim to provide options counseling both over the phone and in person,<sup>62</sup> in reality they do not provide women with information about their full reproductive health options. Women are told that

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<sup>51</sup> Marc Cooper, *Robbing the Cradle*, *The Village Voice*, July 26, 1994 (available at [http://www.exiledmothers.com/adoption\\_facts/robbing\\_the\\_cradle.html](http://www.exiledmothers.com/adoption_facts/robbing_the_cradle.html)).

<sup>52</sup> See Planned Parenthood, *The Facts Speak Louder Than “The Silent Scream”* (available at <http://www.plannedparenthood.org/abortion/silentscream.HTM>).

<sup>53</sup> *Testimony of Mark Salo Before the Subcommittee on Regulations, Business Opportunities, and Energy of the House Committee on Small Business*, 102<sup>nd</sup> Congress, September 20, 1991.

<sup>54</sup> Center for Reproductive Rights, *Special Report: Crisis Pregnancy Centers Seek Public Funds and Legitimacy*, *Reproductive News*, Volume XI No. 7/8, July/August 2002.

<sup>55</sup> Information from NAF CPC Patient Partnership Participants; see also Solow, *supra* note 8.

<sup>56</sup> *Id.*; See also Pavone, *supra* note 14.

<sup>57</sup> Information from NAF CPC Patient Partnership Participant.

<sup>58</sup> Berry, *supra* note 2; Solow, *supra* note 8.

<sup>59</sup> *Stoner v. Williams*, 46 Cal. App. 986 (1996); *South Dakota v. Alpha Center for Women*, No. 87-1488, (2d Cir. 1987); see also Cooper, *supra* note 51.

<sup>60</sup> Cooper, *supra* note 51.

<sup>61</sup> *Id.*

<sup>62</sup> See Care Net’s website (available at <http://www.care-net.org/about/ol.html>) promoting its OptionLine; see also Rockville Pregnancy Center’s website advertising compassionate, non-judgmental counseling about each option (available at <http://www.rcpc.org>).

some birth control methods, especially emergency contraception, or the morning after pill, are actually abortifacients.<sup>63</sup> CPC representatives also claim that condoms are ineffective both at preventing unintended pregnancy and at protecting against HIV.<sup>64</sup> According to CPC brochures and websites, abstinence until marriage is the only method that works both for preventing STDs and pregnancy,<sup>65</sup> and CPCs promote reclaiming virginity or “making a U-turn.”<sup>66</sup>

This information is misleading. The National Institutes of Health in collaboration with the Centers for Disease Control and Prevention, the Food and Drug Administration, and the United States Agency for International Development confirmed that condoms are “very effective” in protecting against HIV.<sup>67</sup> The FDA website includes various pamphlets discussing the overall effectiveness of condoms in preventing pregnancy.<sup>68</sup> When used correctly, condoms are 98 percent effective in preventing unintended pregnancy.<sup>69</sup> However, CPCs consistently refuse to educate those who seek their services, even those who are already sexually active, about how to properly use contraception, or to provide referrals for contraceptive coverage.<sup>70</sup>

CPCs also have spread their misinformation in public schools. Some CPCs - such as Maryland’s Rockville Pregnancy Center, a self-described “independent Christian organization” that teaches abortion is murder and premarital sex is a sin - advertise in local school newspapers and teach sex education classes in public schools.<sup>71</sup>

Despite the claims of CPCs, the World Health Organization has found no evidence that informational, medically sound sex education programs lead to earlier or increased sexual activity among teens.<sup>72</sup> Conversely, in 17 studies HIV and/or sex education was shown to delay the onset of sexual activity, reduce the number of sexual partners, and/or reduce unplanned pregnancies.<sup>73</sup> Recent research suggests that abstinence-only education may be damaging for teens because those who participate are less likely to use condoms and contraception when they do become sexually active. Furthermore, there is no evidence that these programs help teens avoid or delay

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<sup>63</sup> Heritage House’s *The Morning After Pill: Get the Facts*, which was given to one of NAF’s CPC Patient Partnership Participants at the Rockville Pregnancy Center; see also OptionLine website (available at <http://www.optionline.org/>); refuted by The Alan Guttmacher Institute’s *Emergency Contraception* (available at <http://www.guttmacher.org/media/supp/ec121702.html>) (stating that emergency contraception will prevent a pregnancy from occurring but will not abort an established pregnancy).

<sup>64</sup> *Is Sex Safe?* Grapevine Publications (2000), obtained from Rockville Pregnancy Center in April 2004 by one of NAF’s CPC Patient Partnership Participants; see also Life Choices Pregnancy Center (available at <http://www.lifechoices.org/sexualhealth.htm>); Crisis Pregnancy Centre Ministry’s *Volunteer Training Manual, Canadian Edition*, Christian Association of Pregnancy Support Services, 2002, p. 152.

<sup>65</sup> AAA Women’s Services, Inc., *How At Risk Are You?* Given to one of NAF’s CPC Patient Partnership Participants.

<sup>66</sup> Report from one of NAF’s CPC Patient Partnership Participants who visited Rockville Pregnancy Center, April 2004.

<sup>67</sup> Centers for Disease Control and Prevention, *Fact Sheet for Public Health Personnel: Male Latex Condoms and Sexually Transmitted Diseases* (available at <http://www.cdc.gov/hiv/pubs/facts/condoms.htm>).

<sup>68</sup> See U.S. Food and Drug Administration website (available at <http://www.fda.gov>).

<sup>69</sup> See SIECUS Factsheet, *The Truth About Condoms*, 2002 (available at <http://63.73.227.69/pubs/fact/fact0011.html>); see also Planned Parenthood, *The Condom* (available at <http://www.plannedparenthood.org/bc/condom.htm>).

<sup>70</sup> See Care Net Volunteer Training Manual.

<sup>71</sup> Karen Hauptman and Katie Kaplan, *Crisis Pregnancy Center Misleads Teenagers*, Black and White Online, December 21, 2001; see also Reflector.com, *Pregnancy Center Hosts Open House* (available at <http://www.reflector.com/news/newsfd/auto/feed/news/2003/05/28/1054098320.03033.2035.1509.html>).

<sup>72</sup> See Advocates for Youth, *Myths & Facts About Sex Education* (available at <http://www.advocatesforyouth.org/rrr/mythsfacts.htm>).

<sup>73</sup> *Id.*

sexual activity.<sup>74</sup> Access to condoms, however, has been shown to encourage condom use among teens that are already sexually active.<sup>75</sup>

*"All I heard about was how bad abortion was and that it was more dangerous than any other choice, that it would completely ruin my relationship with my boyfriend and it would make me depressed, and that I would regret it for the rest of my life."*

NAF CPC Patient Partnership Participant

*"Last thing was the video. She left the room and said it was required for me to watch this video. I could immediately tell what kind of video it would be when the host came on and said in a very concerned voice, 'Millions of women have chosen abortion but few know the medical risks that can be associated with this procedure.' It went on to say that abortion doctors are the lowest on the figurative 'totem pole' of doctors and are often not as skilled as other doctors. They don't have the correct knowledge or tools to perform this complex procedure and therefore are 'working blind.'"*

NAF CPC Patient Partnership Participant

### *Misinformation about Abortion Procedures and Providers*

CPCs mislead women about abortion procedures. Women are told that abortions are painful, life-threatening procedures that will leave them with long-term emotional, physical, and psychological damage.<sup>76</sup> They are often told that having an abortion will put them at higher risk for developing breast cancer, post-traumatic stress disorder, infertility, and other serious medical conditions.<sup>77</sup> CPCs have been known to give women inaccurate information about when in pregnancy abortions will be performed. The Right to Life League of Southern California's website indicates that "abortion is legal throughout all nine months of pregnancy,"<sup>78</sup> despite the fact that California prohibits post-viability abortions unless necessary to preserve the health or life of the woman.

In truth, abortion is a significantly safe procedure, and less than 1 percent of all abortion patients experience a major complication. A woman's risk of death associated with childbirth is about 11 times as high as that associated with abortion.<sup>79</sup> In February 2003, the National Cancer Institute, a branch of the National Institutes of Health, convened a workshop that evaluated studies on abortion and breast cancer. More than 100 of the world's leading experts on pregnancy and breast cancer, including epidemiologists, clinicians and breast cancer advocates, participated and concluded that studies have clearly established that "induced abortion is not

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<sup>74</sup> SIECUS, "No New Money" Campaign Launched In U.S., Making the Connection — News and Views on Sexuality: Education, Health and Rights, Volume 2, Issue 3, Winter 2002/2003 (available at <http://63.73.227.69/inter/connection/conn0032.html>).

<sup>75</sup> Planned Parenthood, *Fact Sheet: The Truth About Condoms* (available at <http://www.plannedparenthood.org/pp2/portal/files/portal/medicalinfo/birthcontrol/fact-truth-condoms.xml>).

<sup>76</sup> See, e.g. *Health and Safety Checklist*, Rockville Pregnancy Center (available at <http://www.rcpc.org/checklist.html>).

<sup>77</sup> See, e.g. Westside Pregnancy Resource Center website (available at <http://www.wprc.org/abortion.phtml>); OptionLine website (available at <http://www.pregnancycenters.org/abortion.html>); Berry, *supra* note 2.

<sup>78</sup> The Right to Life League, *Abortion Facts* (available at <http://www.rtlsc.org/abortion.html>).

<sup>79</sup> See The Alan Guttmacher Institute's *Facts in Brief — Induced Abortion in the United States*, 2005 (available at [http://www.agi-usa.org/pubs/fb\\_induced\\_abortion.html](http://www.agi-usa.org/pubs/fb_induced_abortion.html)).

associated with an increase in breast cancer risk.”<sup>80</sup> This conclusion was reviewed and unanimously approved by the NCI’s top scientific advisors and counselors. Moreover, CPCs clearly ignore the most recent study confirming the absence of a link between abortion and an increased risk of breast cancer following an examination of 53 epidemiological studies that spanned 16 countries and 83,000 women.<sup>81</sup>

Research studies published in the *Journal of the American Medical Association*, *American Psychologist*, and *Professional Psychology: Research and Practice* all have concluded that ‘post-abortion syndrome’ does not exist. In fact, the most common emotion reported by women after an abortion is relief.<sup>82</sup> Despite these findings, CPCs have continued to distribute pamphlets contending that at least 19 percent of women who have had abortions exhibited diagnosable post-traumatic stress disorder after their abortion.<sup>83</sup>

CPCs also spread false information about abortion providers. CPCs tell women that abortion is unregulated and that abortion providers will lie to women, telling them falsely that they are pregnant “so that they can sell you an abortion.”<sup>84</sup> CPCs portray providers as belonging to a money-driven industry. However, in a very marked contrast to most other medical procedures, the cost of abortion has risen less than inflation. Contrary to the distorted picture of the ‘abortion industry’ as a tremendously profitable business designed to take advantage of women, abortion providers have maintained lower than average fees for their services compared with physicians in other specialties. Correcting for inflation, abortions in 1991 cost only half of what they did in the early 1970s.<sup>85</sup> Physicians and other medical professionals who provide abortion services understand that a woman’s right to choose whether she will continue a pregnancy is a critical part of her complete health care, and know that legal abortions are safe abortions.

## How CPCs are Funded

### *Federal Funding*

CPCs have successfully turned to the United States government for funding to further their goal of gaining legitimacy. Each year more than 100 million federal dollars are allocated to abortion alternatives programs, a portion of which funds CPCs. Public federal funding of CPCs began in 1996 when the federal welfare reform law allocated \$50 million to Title V abstinence-only education programs, which some states made available to CPCs. Since 1996, abstinence-only programs have been funded by a variety of federal grants which often are matched by state funds, thus making the impact of this allocation even more significant.<sup>86</sup> The first direct

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<sup>80</sup> See National Cancer Institute, *Summary Report: Early Reproductive Events and Breast Cancer Workshop* (available at <http://www.nci.nih.gov/cancerinfo/ere-workshop-report>).

<sup>81</sup> Collaborative Group on Hormonal Factors in Breast Cancer, *Breast Cancer and Abortion: Collaborative Reanalysis of Data from 53 Epidemiological Studies, including 83,000 Women with Breast Cancer from 16 Countries*, *The Lancet*, March 27, 2004, Vol. 363, p. 1007.

<sup>82</sup> Berry, *supra* note 2.

<sup>83</sup> Dr. David Reardon, *Post-Abortion Syndrome – Are You At Risk?* Obtained by one of NAF’s CPC Patient Partnership Participants in an April 2004 visit to Rockville Pregnancy Center.

<sup>84</sup> Berry, *supra* note 2.

<sup>85</sup> David Grimes, *Clinicians Who Provide Abortions: The Thinning Ranks*, *Obstetrics and Gynecology*, 1992, 80:719.

allocation of federal grants to CPCs began in 2000 under the maternal and child health block grant's Special Projects of Regional Significance Program. This program channeled \$20 million in 2001 to community-based organizations that condemn sex outside of marriage and target teenagers.<sup>87</sup> Close to \$3 million of this money was directed that year to groups that identify as CPCs,<sup>88</sup> and that amount doubled to \$6 million in 2002.<sup>89</sup>

Federal legislators also have introduced proposals to directly fund CPCs. In 1999 Senator Rick Santorum (R-PA) sponsored a bill giving \$85 million annually to abortion alternatives programs that provide childbirth assistance, but no abortion care or birth control.<sup>90</sup> This bill did not pass, but it is indicative of the growing trend of federal support for CPCs. In addition, federal legislation proposed by Rep. Cliff Stearns (R-FL) and Sen. Jim Bunning (R-KY) in 2002 would have authorized \$3 million in grants for the purchase of ultrasound equipment by nonprofit organizations that provide free examinations to pregnant women. In order to be eligible for a grant, the organization must provide all of its services free of charge. Therefore, the money could not go to Title X clinics which are required by law to charge their patients on a sliding scale based on their ability to pay, or nonprofit clinics providing full reproductive health care which typically charge fees for at least some of their services.<sup>91</sup> Consequently, the money would have gone to CPCs.

In Canada, many CPCs enjoy charitable tax status while only two pro-choice organizations have charitable tax status. Canadian charities can devote only about 10 percent of their resources to political activities under limited circumstances, but some of these groups may be spending far more than that.<sup>92</sup> This means that so-called charitable anti-abortion groups exploit an unfair tax advantage and enjoy higher donation rates compared to pro-choice groups.<sup>93</sup>

### *State Funding and Tax Breaks*

Legislators frequently attempt to fund CPCs at the state level through state-sponsored programs, specific grants, or tax credits. For instance, Michigan passed a bill in 2004 to provide grants for the purchase of ultrasound equipment to nonprofit agencies that provide free or low-cost reproductive health services to low-income women. Such agencies are then prohibited from using the equipment to assist in the performance of abortions.<sup>94</sup> This language ensures that grants could provide ultrasound equipment to CPCs, but not to clinics

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<sup>86</sup> In 2003, the Adolescent Family Life Act allocated \$12 million under Title XX of the Public Health Service Act to abstinence-only programs through five-year grants. Also in 2003, an additional \$55 million was provided to abstinence-only programs through the maternal and child health block grant's Special Projects of Regional Significance Program. See Advocates for Youth & SIECUS, *Toward a Sexually Healthy America: Roadblocks Imposed by the Federal Government's Abstinence-Only-Until-Marriage Education Program*, 2001 (available at <http://www.advocatesforyouth.org/publications/abstinenceonly.pdf>).

<sup>87</sup> Cynthia Dailard, *Abstinence Promotion and Teen Family Planning: The Misguided Drive for Equal Funding*, *The Guttmacher Report on Public Policy*, February 2002, Vol. 5, No. 1.

<sup>88</sup> Vitoria Lin and Cynthia Dailard, *Crisis Pregnancy Centers Seek to Increase Political Clout, Secure Government Subsidy*, *The Guttmacher Report on Public Policy*, May 2002, Vol. 5, No. 2 (available at <http://www.guttmacher.org/pubs/journals/gr050204.html>).

<sup>89</sup> See SIECUS website (available at <http://www.siecus.org>).

<sup>90</sup> Lin, *supra* note 88.

<sup>91</sup> *Id.*

<sup>92</sup> See Pro-Choice Action Network website (available at <http://www.prochoiceactionnetwork-canada.org>).

<sup>93</sup> *Id.*

<sup>94</sup> MCLS § 333.9141 (2004).

providing abortion care. In 2005, Kansas designated \$300,000 for the Senator Stan Clark pregnancy maintenance initiative program. This program awards grants to not-for-profit organizations providing services to enable women to carry their pregnancies to term. None of these grants can be awarded to any group “performing, promoting, referring for or educating in favor of abortion.”<sup>95</sup> Also in 2005, Minnesota enacted the Positive Alternatives Act which designates \$5 million over four years for grants to nonprofit organizations that encourage women to carry their pregnancies to term.<sup>96</sup>

Additional state funding comes from direct budget allocations. In 2004, Missouri gave \$1,330,000 to abortion alternatives programs and Pennsylvania lawmakers give approximately \$4,343,000 a year to agencies that provide “alternatives to abortion,” while withholding family-planning funds from facilities that provide abortion services. Also in 2004, Delaware granted \$39,398 to a single CPC and Louisiana designated \$1 million for CPCs. In 2005, North Dakota set aside \$500,000 over two years to promote childbirth over abortion in the state, and Missouri designated more than \$1 million that would be available to low-income women during pregnancy to encourage them to carry the pregnancy to term. In California, a portion of the state’s tobacco tax makes its way to a CPC.<sup>97</sup> The Westside Pregnancy Resource Center received \$25,000 from First 5 LA Commission, the local agency that distributes the tobacco tax funds in Los Angeles County. The Center is associated with Last Harvest Ministries, Inc., an anti-choice group based in Texas.

Several states have attempted to give certain tax incentives to CPCs and those who donate to CPCs. Virginia has a program that makes CPCs’ equipment purchases exempt from sales tax.<sup>98</sup> In 2005, the Missouri legislature proposed a tax credit for money given to a so-called pregnancy resource center, and the Oklahoma legislature sought to allow taxpayers to designate a portion of their tax liability for a Crisis Pregnancy and Abortion Prevention Taxpayer Support Fund.<sup>99</sup> None of this money could be distributed to organizations that perform or refer for abortion services or charge money for their services, so this taxpayer money could go to support CPCs. Neither of these bills was enacted during the 2005 legislative session.

### *Anti-Choice License Plates*

Under Governor Jeb Bush, Florida in 1999 became the first state to implement ‘Choose Life’ license plates as a state-run mechanism for raising funds that in many cases go to CPCs. Anti-choice organizations in some counties were given the power to decide which organizations receive the funds raised from the sale of these license plates.<sup>100</sup> During the next four years the ‘Choose Life’ license plate sales generated \$1.5 million (\$20 out of \$22 per plate) for CPCs in Florida. The program was challenged, but the court upheld it. Since then, South Carolina, Oklahoma, Mississippi, Alabama, Arkansas, Louisiana, Ohio, and Tennessee have passed ‘Choose Life’ license plate bills. States that provide ‘Choose Life’ plates administratively (without first passing a ‘Choose Life’ bill) include Maryland, Connecticut, Montana, and Hawaii.

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<sup>95</sup> 2005 Kansas HB 2301.

<sup>96</sup> 2005 Minnesota SB 917.

<sup>97</sup> See CARAL website (available at <http://www.prochoicecalifornia.org/s05factsheets/200407062.shtml>).

<sup>98</sup> Solow, *supra* note 8.

<sup>99</sup> 2005 Missouri SB 251; 2005 Oklahoma HB 1696.

<sup>100</sup> Berry, *supra* note 2.



South Carolina's law was struck down in court,<sup>101</sup> as was the law in Tennessee, although that decision is still on appeal.<sup>102</sup> The entire specialty license plate scheme in Louisiana was also struck down, although that decision is still being appealed in court.<sup>103</sup> Arizona refused to implement a 'Choose Life' license plate scheme administratively, and the abortion opponents lost a challenge in court to force the state to issue the plates.<sup>104</sup> Illinois also refused to implement a 'Choose Life' license plate scheme, and that decision is currently being challenged in court.<sup>105</sup> Virginia's 'Choose Life' license plate bill was vetoed by the Governor in 2003. Each year, however, more states are introducing similar 'Choose Life' license plate bills. On average these programs generate \$65,000 per month, a large percentage of which goes to CPCs in some states.<sup>106</sup>

### *Private Funding*

In addition to public funding, CPCs are supported financially by a myriad of private organizations and groups, the majority of which are associated with conservative religious organizations. These organizations include but are not limited to the Pearson Foundation, Birthright, the Christian Action Council,<sup>107</sup> and Jerry Falwell's Liberty Foundation.<sup>108</sup> Many CPCs also have been known to use office space within religious facilities and to recruit volunteers from local church groups.<sup>109</sup> Additionally, CPCs are funded by individuals and businesses that are supported by the general public. For example, Gary Heavin, the CEO of Curves for Women health clubs, has donated a substantial amount of money to CPCs.<sup>110</sup>

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<sup>101</sup> See *Planned Parenthood of South Carolina, Inc. v. Rose*, 236 F. Supp. 2d 564 (D.S.C. 2002), *affirmed*, 361 F.3d 786 (4<sup>th</sup> Cir. S.C. 2004), *cert. denied*, 543 U.S. 1119 (2005).

<sup>102</sup> *ACLU of Tenn. v. Bredesen*, 354 F. Supp. 2d 770 (M.D. Tenn. 2004), *reversed and remanded*, 2006 FED App. 0099P (6<sup>th</sup> Cir.).

<sup>103</sup> *Henderson v. Stalder*, 265 F. Supp. 2d 699 (E.D. La. 2003); see Kaiser Daily Reproductive Health Report, *In the Courts: Abortion-Rights Advocates Ask Federal Appeals Court To Reconsider Decision Allowing 'Choose Life' License Plates in Louisiana*, May 3, 2005 (available at [http://www.kaisernetwork.org/daily\\_reports/rep\\_index.cfm?hint=2&DR\\_ID=29767](http://www.kaisernetwork.org/daily_reports/rep_index.cfm?hint=2&DR_ID=29767)).

<sup>104</sup> See Kaiser Daily Reproductive Health Report, *In the Courts: Federal Judge Upholds Arizona Commission's Denial of 'Choose Life' License Plates*, Sept. 29, 2005 (available at [http://www.kaisernetwork.org/daily\\_reports/rep\\_index.cfm?hint=2&DR\\_ID=32819](http://www.kaisernetwork.org/daily_reports/rep_index.cfm?hint=2&DR_ID=32819)).

<sup>105</sup> See Kaiser Daily Reproductive Health Report, *In the Courts: Illinois Group Sues State for Refusing to Sell 'Choose Life' License Plates*, June 30, 2004 (available at [http://www.kaisernetwork.org/daily\\_reports/rep\\_index.cfm?DR\\_ID=24480](http://www.kaisernetwork.org/daily_reports/rep_index.cfm?DR_ID=24480)).

<sup>106</sup> See Choose Life, Inc., *About Us: Choose Life Story* (available at <http://www.choose-life.org/story.html>).

<sup>107</sup> See, e.g. Bowie Crofton Pregnancy Center Affiliations (available at <http://www.bowicroftonpregnancycenter.org/>); The Crisis Pregnancy Centers of Tucson History (available at [http://www.pcptucson.com/about\\_cpc/cpc\\_history.htm](http://www.pcptucson.com/about_cpc/cpc_history.htm)); South Central Pregnancy Care Center History (available at <http://www.pregnancy-care-center.org/AboutUs.htm>).

<sup>108</sup> See, e.g. Jerry Falwell Ministries 'Liberty Godparent Home' website (available at <http://www.godparent.org/>).

<sup>109</sup> See, e.g. Presbyterians Pro-Life website (available at [http://www.ppl.org/Ministry\\_CrisisPregnancy.html](http://www.ppl.org/Ministry_CrisisPregnancy.html)); College Church website (available at <http://www.college-church.org/carenet.asp>); Holy Trinity Catholic Church website (available at <http://www.holytrinitydc.org/Volunteer/Community/index.htm>); First Presbyterian Church Ministries (available at <http://www.fpcdouglasville.org>).

<sup>110</sup> See Rebecca Traister, *Curve Ball*, Salon.com, May 19, 2004 (available at <http://www.salon.com/mwt/feature/2004/05/19/curves/index.html>).

## Part II: Combating Crisis Pregnancy Centers

*"The woman at 'Caring' Pregnancy Center did not inform me about my legal rights to birth control, abortion... She did not tell me how to protect myself against a deadly STD or a future pregnancy. She did not care whether I was raped, or if I had sex recently enough to use the emergency contraceptive... 'Caring' Pregnancy Centers will only continue to hurt women like me and this makes me angry. And I agree that something must be done."*

NAF CPC Patient Partnership Participant

### Litigation

#### *Funding Challenges*

In some states, attorneys have successfully challenged CPCs' use of public funds under the First Amendment's Establishment Clause. For example, the American Civil Liberties Union challenged Louisiana's abstinence-only program that received both federal and state funds. The case was settled when the Governor's office agreed that no funds from the Governor's Program on Abstinence could be used to advocate or promote religion or religious messages.<sup>111</sup>

In September 2001, the Ontario Coalition for Abortion Clinics made a complaint to the Canada Customs and Revenue Agency (CCRA) about the charitable status of Aid to Women, a Toronto anti-abortion counseling agency next door to an abortion provider. In 2002, the Pro-Choice Action Network also sent formal complaints to the CCRA asking them to initiate audits of five anti-abortion groups in British Columbia and Alberta.

#### *'Choose Life' License Plate Challenges*

Other successful First Amendment cases have struck down 'Choose Life' license plate schemes on the grounds that they constitute viewpoint discrimination, since some states with 'Choose Life' license plate programs have denied 'Pro-Choice' license plate counterparts. In March 2004, the Fourth Circuit Court of Appeals unanimously affirmed the lower court decision that South Carolina's anti-choice license plate program was unconstitutional. The court ruled that the program was in violation of the First Amendment because the state provided a forum for expression that was not made equally available to competing interests and thus "engaged in viewpoint discrimination."<sup>112</sup> In September 2004, a U.S. District Judge in Tennessee used similar reasoning to strike down that state's 'Choose Life' license plate program, although that case is currently on appeal.<sup>113</sup> In Louisiana, the Center for Reproductive Rights challenged the state's entire specialty license plate program

<sup>111</sup> *ACLU of Louisiana v. Foster*, No. 02-1440 (E.D. La 2002) (available at <http://www.aclu.org/ReproductiveRights/ReproductiveRights.cfm?ID=10329&cc=147>).

<sup>112</sup> *Planned Parenthood of South Carolina, Inc. v. Rose*, 236 F. Supp. 2d 564 (D.S.C. 2002), *affirmed*, 361 F.3d 786 (4<sup>th</sup> Cir. S.C. 2004), *cert. denied*, 543 U.S. 1119 (2005); see Pamela Hamilton, *Appeals Court Rules "Choose Life" Plates Unconstitutional*, *Associated Press*, March 22, 2004.

<sup>113</sup> *ACLU of Tenn. v. Bredesen*, 354 F. Supp. 2d 770 (M.D. Tenn. 2004), *reversed and remanded*, 2006 FED App. 0099P (6<sup>th</sup> Cir.); see Colin Fly, *Federal Judge Says Tenn.'s "Choose Life" License Plate Unconstitutional*, *Associated Press*, September 24, 2004; ACLU Press Release, *ACLU Troubled By Appeals Court Decision Allowing Anti-Choice License Plate in Tennessee*, March 17, 2006 (available at <http://www.aclu.org/reproductiverights/gen/24696prs20060317.html>).

under the First Amendment on the basis that the program violated individual's free speech rights on a variety of issues. In July 2003, a federal judge ordered the state to end production of all specialty license plates, including 'Choose Life' plates, and the decision is currently on appeal.<sup>114</sup>

### *Deception, Fraud, and False Advertising*

Plaintiffs have been successful in requiring CPCs to change some of their deceptive tactics in states such as New York, California, Ohio, Missouri, and North Dakota.<sup>115</sup> In California and North Dakota, injunctions were entered against CPCs advertising as women's health clinics. In 1989, a teenager in Missouri successfully sued a CPC for intentional infliction of emotional distress for forcing her to watch a movie depicting mutilated fetuses that had allegedly been aborted, and making her listen to religious messaging while she waited for the results of her pregnancy test.<sup>116</sup> In a 1996 California lawsuit, a woman who worked for a CPC was found civilly liable for fraud after she forced a young woman to sign adoption papers. During labor, and after she received three doses of Demerol, the woman signed a paper allowing the prospective new parents to remove the baby from the hospital. The woman believed that she was signing medical authorization forms.<sup>117</sup>

Lawsuits challenging CPCs' Yellow Pages claims - alleging interference with business practices, trademark infringement, and unlicensed practice of medicine - have also been successful. For example, in 1986 a court in Fargo, North Dakota ruled that the Women's Help and Caring Connection engaged in deceptive advertising practices, since they were listed in the phone book under the word abortion and asserted to offer "advisory services." In reality, they were adamantly anti-abortion and "berated any woman who came to its offices seeking full-options counseling."<sup>118</sup> The court demanded that in all future advertising listed under "abortion" the organization state that they support and offer abortion alternatives.

A CPC in Calgary was sued in 1987 after it listed itself in the Yellow Pages under several names at the same time under several headings. It used names such as the Calgary Birth Control Agency, a name very similar to the Calgary Birth Control Association which was funded by the city. Calgary Health Services and the Calgary Birth Control Association sued and won an injunction against the center from using listings similar to the city-funded Calgary Birth Control Association. Pro-choice advocates also sought a broader injunction prohibiting the use of Yellow Pages headings like "birth control action line" and "family-planning center."<sup>119</sup> However, on appeal the CPC was prevented only from using the name Calgary Birth Control Agency. Fighting them further became too expensive.<sup>120</sup> The CPC pledged to continue using dishonest terms like 'birth control centre' in their advertising.

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<sup>114</sup> *Henderson v. Stalder*, 265 F. Supp. 2d 699 (E.D. La. 2003).

<sup>115</sup> Berry, *supra* note 2.

<sup>116</sup> *Boes v. Deschu*, 768 S.W. 2d. 205 (Mo. App. 1989).

<sup>117</sup> *Stoner v. Williams*, 46 Cal. App. 986 (1996).

<sup>118</sup> Patricia Baird-Windle and Eleanor J. Bader, *Targets of Hatred: Anti-Abortion Terrorism*, New York: Palgrave, 2001, p. 109.

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

## Attorney General Investigations

Ohio's attorney general fought and won a case in 1993 requiring CPCs to change their deceptive tactics. Other attorneys general slowly have begun to follow suit. New York's attorney general, for example, concluded an investigation of CPCs in 2002 by reaching a settlement with some CPCs requiring that they clearly disclose that they do not provide or make referrals for abortion or birth control; disclose verbally and in writing before providing a test and/or counseling about pregnancy that the center is not a licensed medical provider qualified to diagnose or accurately date pregnancy and inform the woman that only a licensed medical provider can confirm a pregnancy and provide medical advice about pregnancy; clarify in advertising and consumer contacts that the pregnancy tests it provides are self-administered; and tell people who call or visit the center that it is not a medical facility.<sup>121</sup>

## What Individuals Can Do

### *Contact Your Legislators*

Individuals can fight bills or initiatives that fund CPCs by providing testimony about their danger and/or unconstitutionality. Elected officials also can be educated through letters, emails, faxes, phone calls, and visits from their constituents and other concerned citizens.<sup>122</sup> It is important to convey support for affirmative bills that are based on medically accurate information and serve to keep abortion safe, legal, and accessible. Women who have had first-hand experience with CPCs are encouraged to report and document their encounters through participating in projects like the National Abortion Federation's Patient Partnership.<sup>123</sup> These stories of actual encounters help document the reality of CPCs, assist reporters with stories about CPCs, and aid in fighting harmful legislation and advocating for positive legislation.

Affirmative legislation has been introduced at both the state and federal level. For example, in 2006 Congresswoman Carolyn Maloney (D-NY) introduced a bill intended to curb deceptive advertising of CPCs, entitled the "Stop Deceptive Advertising in Women's Services" Act. The bill authorizes the Federal Trade Commission to regulate the advertising practices of CPCs so they cannot be confused with legitimate abortion providers or providers of abortion referrals. Constituent support and encouragement is vital to the success of this bill and other affirmative legislation.

### *Report False or Deceptive Advertising*

Residents can check their local Yellow Pages to see if CPCs in their area are involved with false or deceptive advertising, such as listing themselves under abortion services or abortion. In the event that that they are using such tactics, the Yellow Pages, the Better Business Bureau, and other local organizations supporting the CPCs should be contacted and a change in listing should be requested. Citizens who see false or deceptive advertising also should contact their state, provincial, or federal elected officials and encourage them to pursue the issue.

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<sup>121</sup> Lin, *supra* note 88.

<sup>122</sup> See NAF's Legislative Action Center (available at [http://www.prochoice.org/policy/get\\_informed\\_active/action\\_choice.html](http://www.prochoice.org/policy/get_informed_active/action_choice.html)).

<sup>123</sup> To learn about NAF's Patient Partnership visit NAF's website (available at [http://www.prochoice.org/policy/patient\\_partnership.html](http://www.prochoice.org/policy/patient_partnership.html)).

## *Create and Purchase Pro-Choice License Plates*

Some states with ‘Choose Life’ license plate programs allow citizens to express their views with pro-choice license plates. In Missouri, for example, a *Freedom = Choice* license plate can be purchased and used as a way of showing support for reproductive rights. In 2005, several state legislatures considered bills to create pro-choice license plates to counteract the ‘Choose Life’ license plates. Unfortunately, none of these bills were enacted.

## *Public Education*

Individuals can take part in public education campaigns about CPCs. This work could include submitting opinion pieces or letters to the editor, making informative posters, distributing brochures, coordinating discussion sessions, or hosting a forum on CPCs.

It is also important to work with the broader medical community and insurance companies to educate them on the dangerous realities of CPCs. In California, Kaiser Permanente stopped referring pregnant patients to First Resort’s Pregnancy Counseling Center after it became clear that it was an anti-abortion organization.<sup>124</sup> Another positive and important step is to approach school health clinics to make sure they are aware of the problems with CPCs and are not referring students to them.

It is essential to make sure that CPCs are not involved with schools in even more direct ways. Citizens should inquire whether CPCs are teaching sex education courses or providing materials and curricula. If they are, community members should meet with the school board and start a petition drive with parents of children enrolled at the school.

## **Conclusion**

CPCs have a history of intentionally misleading women to prevent them from accessing their full range of reproductive health options. They should not receive public support from taxpayers to continue their deceptive campaigns to dissuade women from choosing abortion. Concerned citizens must work together to expose the truth about CPCs and stop their public funding and support. Accurate and comprehensive reproductive health information and abortion care are integral to women’s health. CPCs should not be allowed to threaten women’s health through mistreatment and deception. When they harass or mislead women, they should be held accountable. Please share this report widely. Anyone with additional questions should contact the National Abortion Federation using the contact information listed below.

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202-667-5881, [info@prochoice.org](mailto:info@prochoice.org), [www.prochoice.org](http://www.prochoice.org)

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<sup>124</sup> See Julia Duin, *Kaiser Cuts Program to Reduce Abortions*, *The Washington Times*, January 20, 1999.



