

Regular Session, 2013

HOUSE RESOLUTION NO. 105

BY REPRESENTATIVES HOFFMANN, ADAMS, ANDERS, BADON, BARROW, STUART BISHOP, BURFORD, HENRY BURNS, CHAMPAGNE, CHANEY, CONNICK, COX, GAROFALO, GUILLORY, HARRIS, HAVARD, HENRY, HENSGENS, HILL, HODGES, HOLLIS, HOWARD, IVEY, KLECKLEY, LEBAS, LOPINTO, LORUSSO, MACK, JAY MORRIS, ORTEGO, PEARSON, POPE, PYLANT, RICHARD, SCHRODER, SEABAUGH, SIMON, STOKES, THOMPSON, WHITNEY, PATRICK WILLIAMS, AND WILLMOTT

A RESOLUTION

To urge and request various state and local departments to take certain actions regarding the commercial construction and operation by Planned Parenthood Gulf Coast of a facility in Louisiana to provide abortions, and to urge suspension of grants and reimbursements pursuant to any contract or Medicaid provider agreement pending investigation of fraudulent billing practices alleged in two federal lawsuits.

WHEREAS, Planned Parenthood Federation of America is a private nonprofit organization that provides sexuality education and reproductive health services, and is the largest provider of abortions in the United States; and

WHEREAS, Planned Parenthood facilities in New Orleans and Baton Rouge have been operating since 1984 to provide sexuality education and reproductive health services, but have never before provided abortions; and

WHEREAS, in 2005, Planned Parenthood of Houston and Southeast Texas entered into a management agreement with Planned Parenthood of Louisiana and the Mississippi Delta; and

WHEREAS, in 2010, the non-abortion-providing Planned Parenthood facilities in Louisiana merged with the abortion-providing affiliates of Planned Parenthood Houston and Southeast Texas, Inc., to form the new umbrella organization headquartered in Houston known as Planned Parenthood Gulf Coast, referred to hereafter as "PPGC", which operates twelve clinics: seven in the Houston area, three in southeast Texas, and two in Louisiana; and

WHEREAS, PPGC has purchased three parcels of land on Claiborne Avenue in New Orleans and plans to construct a four million two hundred thousand dollar, seven thousand

square foot facility where they intend to start performing abortions in Louisiana, according to their own legislative testimony and fundraising materials; and

WHEREAS, the state of Louisiana has various economic incentive programs for commercial construction and labor for certain businesses; and

WHEREAS, local permits for the commercial construction of facilities that intend to seek state licensure as an outpatient abortion facility should require the permitting authority's approval of plans for the sanitary disposal of human remains for the safety and welfare of Louisiana residents; and

WHEREAS, in addition to abortion services, PPGC also intends its Claiborne Avenue facility to provide other services including contraception and sexually transmitted disease testing that are available at public health units and at nonprofit facilities throughout the Louisiana region under the same Medicaid pricing structure used by Planned Parenthood; and

WHEREAS, the two clinics in New Orleans and Baton Rouge receive government payments pursuant to a Medicaid provider agreement issued by the Department of Health and Hospitals which total approximately one million dollars a year in fee-for-service Medicaid reimbursements for non-abortion reproductive health services, according to legislative committee testimony given by a PPGC representative; and

WHEREAS, the pre-2010 Louisiana Medicaid provider agreement was with the non-abortion providing Planned Parenthood of Louisiana and the Mississippi Delta, and that provider agreement is now with PPGC whose Texas clinics currently provide elective abortion, and whose planned Claiborne Avenue clinic in New Orleans intends to provide abortion; and

WHEREAS, federal and Louisiana laws regulate which services are reimbursable under Medicaid and provide for the practice of employees of public or private social service agencies with regard to abortion; and

WHEREAS, R.S. 40:1299.34.5 provides that no public funds shall be used in any way for, to assist in, or to provide facilities for an abortion, except when the abortion is medically necessary to prevent the death of the mother; and

WHEREAS, R.S. 40:1299.34 provides that no person employed in any public or private social service agency, by contract or otherwise, which is a recipient of any form of governmental assistance, shall require or recommend that any woman have an abortion; and

WHEREAS, a PPGC representative has stated publicly in legislative committee testimony that Planned Parenthood, as part of comprehensive pregnancy counseling, provides options for all available resources including abortion referral if requested; and

WHEREAS, two lawsuits by former employees are pending against PPGC alleging up to five million dollars in Medicaid fraud pursuant to the federal False Claims Act, 31 U.S.C. 3729 et seq., and such lawsuits include the following:

(1) An allegation that PPGC trained and instructed the employees at its twelve regional clinics to bill the government for medical services that were not medically necessary, medical services that were not actually provided, services that are not covered by Medicaid, and to falsify information in patient medical charts.

(2) An allegation that employees from each PPGC clinic were trained in PPGC's corporate scheme for maximizing clinic profits through the Women's Health Program, Medicaid, and Title XX grants and reimbursements, including an express policy of billing these government health care programs for a predetermined list of reimbursable services for every eligible patient who visited the clinic, regardless of whether those services were medically necessary or ever actually provided to the patient.

(3) An allegation that a PPGC memorandum was given to employees which explicitly instructed them on how to fraudulently bill government programs for post-abortion patient visits, including an express instruction to document in a patient chart that the reason for the patient's visit was to have the Well Woman Exam in instances when the patient had indicated that the purpose of the visit was a post-abortion follow-up.

(4) An allegation that members of Planned Parenthood's key management team instructed PPGC staff to provide auditors with charts that had been "fixed" regarding abortion on minor girls to ensure that required documentation, especially with regard to parental consent and non-coercion, was included in each client file; and

WHEREAS, disregard for parental involvement for minors and non-coercion laws endangers the health and safety of Louisiana's women and girls, and facilitates sex-trafficking, sexual tourism, and prostitution of minors; and

WHEREAS, the state of Louisiana has a responsibility to ensure that organizations operate in compliance with all laws, and if laws are being violated, to take appropriate actions against such organizations; and

WHEREAS, it is in the interest of this state to protect the fiscal and programmatic integrity of the medical assistance program.

THEREFORE, BE IT RESOLVED that the House of Representatives of the Legislature of Louisiana does hereby urge and request the Department of Health and Hospitals, the division of administration, the legislative auditor, and the office of the inspector general to investigate and monitor the practices of Planned Parenthood Gulf Coast to determine whether the organization is in compliance with all state and federal laws and regulations, including but not limited to provisions concerning state funding of abortion facilities, R.S. 40:1299.34.5, the counseling or recommendation of abortion by state contractors, R.S. 40:1299.34, the mandatory reporting of child sexual abuse pursuant to Articles 603, 609, and 610 of the Louisiana Children's Code, and R.S. 14:80 regarding felony carnal knowledge of a juvenile, parental consent for minors seeking abortion requirements, R.S. 40:1299.35.5, and the informed consent and signage requirements of R.S. 40:1299.35.5.1 and 1299.35.6.

BE IT FURTHER RESOLVED that the House of Representatives of the Legislature of Louisiana does hereby urge and request the Department of Health and Hospitals to immediately suspend all grants and reimbursements pursuant to its Medicaid provider agreement or any other state contract with Planned Parenthood Gulf Coast during the pendency of an onsite investigation conducted in accordance with the Medical Assistance Programs Integrity Law, R.S. 46:437.1 et seq.; the Surveillance and Utilization Review Subsystem (SURS) Rule, LAC 50:I.4101 et seq.; all relevant state and federal laws and regulations; and in light of a thorough legal review and independent investigation by the Department of Health and Hospitals, the legislative auditor, and the state inspector general of the allegations made in the federal court complaints and related discovery and court pleadings regarding the alleged fraudulent billing practices of Planned Parenthood Gulf Coast in the matters of *Reynolds v. Planned Parenthood Gulf Coast*, No. 9:09-cv-00124 (E.D. TX, Lufkin Division), and *United States and the State of Texas ex rel. Abby Kristen*

*Johnson v. Planned Parenthood Gulf Coast*, No. CV-H-cv-3496 (S.D. Texas, Houston Division).

BE IT FURTHER RESOLVED that the Department of Health and Hospitals, the legislative auditor, and the state inspector general shall report the results of the investigations conducted to the House Committee on Health and Welfare upon completion of the investigations, and no later than the date of convening of the 2014 Regular Session of the Legislature.

BE IT FURTHER RESOLVED that the House of Representatives of the Legislature of Louisiana does hereby urge and request that any application for economic incentives of any kind filed by Planned Parenthood Gulf Coast or any of its abortion-providing affiliates to construct, purchase, or operate any facility, or to employ any individuals therein, be denied by the Department of Economic Development, the Louisiana Workforce Commission, or any other department, and that any application for any economic incentive filed by Planned Parenthood Gulf Coast be reported to the House Committee on Health and Welfare and the House Committee on Commerce by the department receiving such application.

BE IT FURTHER RESOLVED that the House of Representatives of the Legislature of Louisiana does hereby urge and request that the City of New Orleans Department of Safety and Permits and the permitting authority of any other city in which Planned Parenthood Gulf Coast seeks to construct or operate an outpatient abortion facility require plans for the sanitary disposal of human remains for the safety and welfare of Louisiana residents.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the secretary of the Department of Health and Hospitals, the commissioner of administration, the secretary of the Department of Economic Development, the executive director of the Louisiana Workforce Commission, the legislative auditor, the state inspector general, and the City of New Orleans Department of Safety and Permits.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES