MISSOURI SENATE

CAPITOL BUILDING
JEFFERSON CITY, MISSOURI

Missouri Senate Planned Parenthood Review

Statement

For the past year the Missouri Senate has been hard at work investigating the possible sale of fetal tissue in the Show-Me State. This investigation was initiated by the release of undercover videos that showed top executives for Planned Parenthood, Inc. in their own words, admitting their involvement in the grotesque business of trafficking in human remains. One such video points to St. Louis as an ideal place for expansion.

In response, the Senate moved quickly and convened a special committee chaired by Sen. Kurt Schaefer to investigate. Despite months of stonewalling by Planned Parenthood executives and also by top officials in Gov. Nixon's Department of Health and Senior Services, the Senate ultimately received the information necessary to perform its constitutional duty to examine matters of public health and safety.

It is important to note that much of this information was only released under the threat of being held in contempt of the Senate. Also, Planned Parenthood's pathologist chose to invoke his right against self-incrimination under the Fifth Amendment, a matter that now falls to the appropriate law enforcement agencies to consider.

The Senate has completed its review of the documents produced by Planned Parenthood of the St. Louis Region (PPSLR). These documents and the testimony of witnesses taken by the Senate Committee on the Sanctity of Life paint a troubling picture. For starters, Planned Parenthood's own internal files reveal a shocking callousness towards vulnerable young women who seek their services. In fact, the procedures outlined in the materials reviewed may very well constitute outright medical malpractice.

Serious gaps have also surfaced in the record of what has become of fetal tissue from aborted babies at Planned Parenthood's St. Louis clinic. It appears that Planned Parenthood may very well have violated both state statute and Department of Health regulations in their disposal practices.

Planned Parenthood's pathologist, who under state law has the responsibility to review the human remains from abortions they perform, has refused to testify to his activities - choosing instead to invoke his constitutional right against criminal self-incrimination. While this has made it more difficult to find information, it has not obscured that fact that the waste disposal

company responsible for disposing of medical waste from Dr. Miller's pathology lab in St. Louis has been hit with fines by the State of Indiana for illegal disposal of human remains. Add to that reports that even the disposal company appears to have been misled as to the amount of fetal tissue they were receiving and it becomes clear that the Senate's investigation has raised many questions that have yet to be satisfactorily answered by Planned Parenthood.

The following is a brief summary of the findings of the Missouri Senate's investigation:

I. Record on the sale of human fetal tissue full of alarming gaps.

Contracts for the disposal of fetal human tissue are missing and incomplete.

Planned Parenthood was unable or unwilling to produce the full contract between themselves and Dr. Miller's Pathology Services, Inc. The portion that was produced is undated and important information (such as who certain parties actually are) is missing.

Furthermore, the record shows that Dr. Miller and Pathology Services, Inc., has had extensive legal compliance issues.

For example, since 2007 Dr. Miller has, on two occasions, gone an entire year without filing his business registration with the Secretary of State. During the years of 2008 and 2013 the Secretary of State administratively dissolved and revoked his business license and in 2011 and 2015 he again had his business license administratively dissolved for part of a year.

In 2016, he did not submit his registration until weeks after the April 30th deadline and when Dr. Miller testified before a House Committee investigating the possibility of fetal tissue sales on October 14, 2015, his license had again been administratively dissolved three weeks earlier pursuant to *RSMo* 351.484 and 351.598.

We also know that MedAssure (the waste disposal company that was used by Pathology Services, Inc.) was cited for violating Indiana state law for improper disposal of human remains coming from his lab in St. Louis as detailed above.

Although privy to the same information the Senate had, the Missouri Attorney General's report failed to mention any of these troubling discrepancies.

Alarming anomalies in Planned Parenthood's pathology reports raise questions concerning the sale of fetal tissue. Pathology reports demonstrate that fetal parts are unaccounted for and no valid explanation is offered.

In reviewing over 300 surgical pathology reports, an alarming trend surfaced. Fetal parts that should have been readily identifiable were not noted in pathology reports. These reports by Planned Parenthood's pathologist, Dr. Miller, list the age of the fetus, the type of pathological examination conducted and his findings.

The findings are broken into two categories **"No fetal tissue identifiable"** and **"fetal tissue is identifiable."** Consistently, Dr. Miller's "Clinical Description" would change from "No fetal tissue identifiable" to "Fetal tissue is identifiable" at almost exactly eight weeks of gestation.

However, four reports stood out as anomalies. These reports show that fetuses ranging from 9 to 20 weeks of age had "no fetal parts identified". These four babies were easily mature enough to have fetal parts identified and Senate reviewers are aware of no logical or medical explanation for this serious discrepancy.

This information raises several troubling possibilities. Perhaps Dr. Miller accurately reported what he found and in these instances Planned Parenthood (in spite of their protocols and assurances) simply did not deliver fetal parts to him for examination. This certainly begs the question of what became of those human remains - some of which were quite mature enough to be used for fetal tissue research purposes.

Other possibilities are that Dr. Miller falsified reports (raising the question of what then became of the fetal parts in question) or that his procedures were so sloppy that his reports cannot be considered a reliable record of what finally became of the fetal parts in question.

Conversely, it is possible that the "missing parts" were not extracted from the patient at all, which if true, could lead to a life threatening infection.

These unusual pathology reports should have immediately sent up "red flags" to the pathologist, Planned Parenthood and the Missouri Department of Health. It appears, however, that no one at Planned Parenthood was alarmed - even though they received copies of these pathology reports. This inattention to detail demonstrates a startling level of recklessness by the medical staff at Planned Parenthood who should have immediately noticed this anomaly.

Furthermore, testimony by representatives of the Missouri Department of Health and Senior Services before the Senate Committee on the Sanctity of Life indicated that state officials performed no meaningful review of these pathology reports and instead they were simply filed away.

At this point, it must be noted that the Attorney General's report failed to account for or make mention of these anomalies. A pathology report on a fetus over 20 weeks of age where the pathologist could find no identifiable fetal parts should, at the least, have prompted further questions in an investigation purportedly focused on finding out whether fetal tissue sales were occurring in Missouri. Likewise, the report makes no mention of the failure of the Missouri Department of Health to investigate these obvious "red flags".

Correspondence with key figures from undercover videos requires additional information:

Undercover video released in July of 2015 shows high ranking Planned Parenthood executives specifically targeting St. Louis as a prime location for the expansion of fetal tissue sales.[1]

Email correspondence received by the Senate shows that on October 21, 2015 Dr. Mary Gatter (President of Planned Parenthood's Directors' Council) references a conference call that included a discussion of "*issues related to the Biomax, Fetal Tissue Donation situation.*"

"Biomax" is the front company set up by the undercover video photographers. The e-mail does not elaborate on what was discussed in regard to Biomax and fetal tissue donations but it does raise questions. We would welcome Planned Parenthood to elaborate on the nature of this discussion.

II. Planned Parenthood appears to be out of compliance with state law in its disposal of fetal remains.

Planned Parenthood does not follow state statute and regulations for the disposal of human remains.

Missouri law (*RSMo* 188.047) mandates a "representative sample" of fetal tissue be submitted to a pathologist for review. However, it appears from PPSLR documents that the entire fetus (the parts such as the arms, legs, spine and head collected after the abortion) are apparently all delivered to the pathologist – not just a representative sample.

The Attorney General's report states (as do Planned Parenthood's own internal documents) that the tissue from the fetus is immersed in formalin, rendering it unusable for tissue donation. Yet, the Missouri Department of Health's own regulations (*19 CSR 30.30.060(4)(C)*) state that tissue sent to the pathologist shall not be "submerged in a preservative solution".

Read together, it appears that PPSLR is violating the law in one or more of the following ways:

- By sending the entire fetus to the pathologist.
- By failing to immerse fetal parts in a preservative solution (contrary to what their internal documents suggest).
- Conversely, Planned Parenthood may be violating the state regulation by actually treating all fetal material in formalin prior to delivery to the pathologist.

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[1] Statement by Deborah Nucatola, M.D., Senior Director, Medical Services at Planned Parenthood Federation of America - "You know the other place that I would consider that you are not thinking about possibly is St. Louis. David Isenberg is the medical director of the St. Louis region. They do second tri's [second trimester abortions]. They have a very extensive collaboration with all of kinds of research. They have a great dynamic medical director. His name is David Isenberg, so I think that is definitely worth your while. You know, just thinking of the map, and if there was some place untapped, I would say St. Louis is worth investigating." *See* **July 14, 2015 (date on video 2014-07-25) Video released – Full video - https://www.youtube.com/watch?v=H4UjIM9B9KQ**

Based on these discrepancies, it is possible that the entire fetus (in a dismembered form) is being delivered to the pathologist untreated with any kind of preservative solution. This raises the question as to whether the pathologist or some other person may be receiving these remains in a form where they are available for sale.[2]

The AG's report, fails to make mention any of these anomalies.

Concerns raised in regard to the use of the drug Digoxin in abortion procedures and the potential violation of the Federal 'Infants Born Alive Act'.

Use of Digoxin on Abortions

Digoxin is a drug that is used to stop the heart of a baby prior to the abortion procedure where the arms and legs are physically pulled apart by the abortionist. Planned Parenthood documents show that in a survey, 90% of women preferred that Digoxin be used so that they would have the peace of mind to know that their baby was dead before the brutal abortion procedure started.

Planned Parenthood's internal documents discuss the use of this drug in 2nd trimester abortions in order to help the doctor avoid violating a federal abortion law ("Born Alive Infant Protection Act").

However, in videos taken of key Planned Parenthood executives, they discuss deliberate efforts to avoid using this drug so as to not spoil the fetal tissue. Some of these same executives also specifically named St. Louis Planned Parenthood as a place to target for fetal sales.

Planned Parenthood should elaborate on its use of Digoxin and whether the remains of each second trimester baby delivered to the pathologist was administered this lethal injection. Or, perhaps some late-term infants were not administered a lethal injection of Digoxin, further ensuring that their fetal tissue (especially if not treated in Formalin as discussed above) would be available for sale.

[2] In view of the decision of the pathologist to invoke his Fifth Amendment right against self-incrimination in his refusal to testify to the Senate, questions remain as to whether he is involved in wrongdoing with regard to the disposal of fetal tissue.

III. Internal documents reveal shocking indifference to women's health, possibly constituting medical malpractice.

Informed consent procedures and forms willfully direct patients away from outside treatment in a hospital or emergency room.

Willful Disregard of Women's Health and Safety

In reviewing a number of consent forms, a disturbing trend came to light. There appears to be a deliberate effort to discourage women from seeking treatment at a hospital emergency room, apparently as part of an attempt to keep any medical errors or complications within the four walls of Planned Parenthood. Based on this evidence, it would appear that greed or secrecy trumps the concern for women's health at PPSLR.

Examples:

- Consent forms either DO NOT list 911 as an emergency number (instead substituting a number of the clinic itself) or, they list 911 below their own number in smaller font than their own "emergency" number.

- Patients are directed to call Planned Parenthood for "emergency" issues but to call 911 for "life threatening" situations (as if a patient who is experiencing massive bleeding will be able to tell the difference).

- A woman passing clots of blood "larger than the size of a lemon" is not first instructed to call 911 but to call PPSLR's "24-hour emergency number".

- On one form relating to "Buccal" pill abortion (which can cause significant bleeding) there is no reference at all to calling 911.

- In another form, complications as serious as "cardiac arrest" are discussed but no reference is made to calling 911.

- In one form, a patient seeking medical attention is told that if they don't hear back from Planned Parenthood in 20 minutes to then call 911.

- There is a chart (possibly directed at non-English speaking women) showing a picture graph of when to call and seek treatment. Examples on the chart are listed below:

- "If you are feeling worried and think you need to go to the Emergency Room, CALL US." There is no reference to calling 911.
- There is also a drawing of a lemon with a reference to passage of blood clots of that size being a reason to call Planned Parenthood but no reference to calling 911 is included.

- There is a picture of a hospital and below it is the caption, "If you are sick or are in a LOT of PAIN after the Misoprostol Day [*a day when the abortion drug Misoprostol was to be taken*]: Call us at: 314-531-7526 Our 24 hour Emergency # 314-729-2122." Again, no reference at all to calling 911.

This level of callous disregard by PPSLR for the safety of women seeking their services in an apparent effort to protect their own business model from being damaged by news of "botched abortions" and patients ending up in the ER is shocking. This kind of deliberate organizational effort to steer patients away from emergency medical treatment may very well constitute medical malpractice and reckless endangerment of the health of patients.

Abortion protocols discourage and inhibit timely response by emergency medical services.

The documents released by Planned Parenthood reveal an alarming lack of concern for the safety of their patients in an effort to keep any medical emergencies at Planned Parenthood concealed. This concerted pattern of secrecy at the expense of the health of the women in their care is a serious breach of trust between Planned Parenthood's doctors and the women seeking their services, many of whom are young, vulnerable, without resources and who find themselves in desperate circumstances.

Once again, Planned Parenthood's actions are irresponsible in the extreme, callous to the vulnerable and may very well constitute medical malpractice.

For example, written instructions to Planned Parenthood staff contain the following directives:

If it becomes necessary to call 911, staff is instructed to request "no sirens" be used by the ambulance. Staff is further instructed not to tell paramedics that the emergency call related to an abortion. They are instructed to only give general demographic information and a vague summary of the person's /condition info such as "patient in her 20's...bleeding but stable." Staff is also told to keep EMS out of the procedure room (unless necessary) and use a physical banner to shield patients being loaded into an ambulance from the view of picketers.

Clearly, the inability to use sirens on an emergency vehicle is likely to delay the arrival of paramedics. Refusing to give EMS necessary information as they rush to assist a critical patient

shows a great callousness to the welfare of the woman in need and could very well conflict with the ability to administer proper care.
All of this indicates that Planned Parenthood is far more worried about their reputation, business model and public relations efforts than they are about the woman in their care. It is difficult to conceive of any other organization, let alone an organization that holds itself out as providing women's health services, being so recklessly indifferent to the health of their patients as to put such directives as those listed above in print for the use of their employees.

Based on the evidence discussed in this report, future investigations may be needed to determine whether Planned Parenthood has deliberately suppressed the true number of patient emergencies and medical errors involving its own staff.

For starters, it is important that Planned Parenthood allow transparency as to the number of out-of-court settlements it makes each year with injured patients. Such information could help to ensure that its practices are in keeping with those of other out-patient medical centers. An unusually high number of settlements combined with the reckless instructions to its staff detailed above may very well point to a business calculation that private settlements with injured patients are more cost-effective in the long run than negative publicity from young patients being hospitalized or treated in local emergency rooms.

Conclusion:

The investigation by the Missouri Senate has raised as many questions as it has answered. The hours of testimony before both House and Senate committees as well as the hours spent reviewing Planned Parenthood's internal documents fail to provide satisfactory answers to even the most basic questions involving the disposal of fetal tissue.

It is the duty of Planned Parenthood to step forward and assure the public that they are not engaging in procedures that place the health of their patients at risk and to provide conclusive evidence that they are not violating state law in their disposal of human remains or the possible sale of fetal tissue.

The findings of this investigation as detailed above are deeply concerning. The health and safety of women in the Show-Me State is being jeopardized by the practices and policies of Planned Parenthood. Likewise, the basic dignity owed to even the weakest and most vulnerable members of the human family in regard to the proper disposal of their remains is being disregarded.

At a minimum, the findings of this investigation provide compelling evidence that Missouri's laws on inspections, medical malpractice, transparency and whistleblower protections, as they relate to the abortion industry, need to be strengthened. This is a duty of the general assembly and one that bears further discussion as the beginning of a new legislative session approaches.

Signed:

Sen. Ron Richard
Pres. Pro Tem

Sen. Kurt Schaefer
Chair, Committee on the Sanctity of Life

Sen. Jeanie Riddle

Sen. Will Kraus

Sen. Mike Kehoe
Majority Floor Leader

Sen. Eric Schmitt

Sen. Bob Onder, M.D.

Sen. David Sater