



Written Testimony of Anna Higgins, J.D.

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to the

Ohio Senate Government and Oversight Reform Committee

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To the Distinguished Chair and Honored Members of the Committee. Thank you for the opportunity to testify IN SUPPORT of SB 214. I am an attorney and legal researcher, currently working as an Associate Scholar for the Charlotte Lozier Institute in Washington, D.C.

Previously, I served as the Director of the Center for Human Dignity at the Family Research Council, where I wrote extensive research, model legislation, and opinion pieces on sanctity of life issues – ranging from conception to end of life care. I am testifying in my capacity as an attorney and legal researcher on behalf of the Charlotte Lozier Institute.

I. Removing state funds from entities that perform elective abortions serves the “legitimate government objective of protecting potential life.”

In *Harris v. McRae*, the Court upheld the constitutionality of the Hyde Amendment, which prohibits federal monies from being used to fund abortions. In so doing, the Court noted that the government’s decision to prevent taxpayer funds from being used for elective abortion served “the legitimate governmental objective of protecting potential life.”¹ Such a policy further serves the interest of protecting taxpayers from funding a practice against which they hold sincere moral and ethical objections.

II. Hyde and Title X are not sufficient protections

The Hyde Amendment and Title X restrictions have proved insufficient in preventing taxpayer money from being used to fund abortion, directly or indirectly.

Although state and federal monies may be given to entities that perform abortion for “family planning” purposes, abortion facilities are no longer required to maintain complete separation of

¹ *Harris v. McRae* 448 U.S. 297 (1980) at 396. Holding, “Where, as here, Congress has neither invaded a substantive constitutional right or freedom nor enacted legislation that purposefully operates to the detriment of a suspect class, the only requirement of equal protection is that congressional action be rationally related to a legitimate governmental interest. The Hyde Amendment satisfies that standard, since, by encouraging childbirth except in the most urgent circumstances, it is rationally related to the legitimate governmental objective of protecting potential life.”

abortion and non-abortion services. They are only required to see that taxpayer money does not support abortion services. As Alliance Defending Freedom notes, “the separate revenue streams are often combined prior to being apportioned to various services. Additionally, there is no enforcement mechanism for the separation of funds. Abortion clinics are left to police themselves. Title X funds that go to Planned Parenthood arguably support and promote abortion, because the money doesn’t swim in separate streams as it flows out to different services.”² They then quote Abby Johnson, former director of a Planned Parenthood in Texas who admitted that, “As clinic director, I saw how money received by Planned Parenthood affiliate clinics all went into one pot at the end of the day – it isn’t divvied up and directed to specific services.” It is simply an unconvincing accounting gimmick to claim that tax payer money does not go to funding abortion services, particularly when facilities combine their funding sources to pay expenses.

Since the state cannot be assured that its money is not being spent to fund abortions, it has an interest in removing funding altogether from entities that perform elective abortions.

III. Abortion is big business

The American public was sold a bill of goods when we were told that abortion must be legalized so that it can be safe legal, and rare. Abortion is big business.

Planned Parenthood, which has 28 locations in Ohio, is by far the nation’s largest abortion provider, performing approximately one out of every 4 abortions done in the United States.³ Planned Parenthood performed 327, 653 abortions in 2013⁴, and received \$528 million in taxpayer funding, accounting for 41% of its overall revenue.⁵

The Charlotte Lozier Institute fact sheet on world abortion numbers shows that “The United States is second in the world in number of abortions each year. If Planned Parenthood were included for comparison, it would rank sixth in the world in number of abortions carried out annually; and the International Planned Parenthood Federation would be fourth in the number of abortions carried out per year.”⁶

Far from being a rare practice, as Planned Parenthood claims, in 2013, abortions made up 94% of Planned Parenthood’s pregnancy services, while prenatal care and adoption referrals accounted

² Investigate Their Plan, Discover the Difference Between What Planned Parenthood Says and What Planned Parenthood Does. Alliance Defending Freedom. At 6. https://adflegal.blob.core.windows.net/web-content-dev/documents/investigatetheirplan_booklet_textpages2.pdf?sfvrsn=4

³ Susan B. Anthony List, Top 12 Reasons to Defund Planned Parenthood Now. <http://www.sba-list.org/suzy-b-blog/top-12-reasons-defund-planned-parenthood-now>

⁴ PP 2013-2014 Annual Report, p. 18 PP 2013-2014 http://issuu.com/actionfund/docs/annual_report_final_proof_12.16.14_/0.

⁵ PP 2013-2014 Annual Report, p. 20.

⁶ China leads the world in abortions with 9,173,000, followed by the US at 1,213,000; the Russian Federation at 1,208,700; International Planned Parenthood Federation at 977,189, India at 641,800; Vietnam at 332,200; and Planned Parenthood USA at 327,653. <https://www.lozierinstitute.org/wp-content/uploads/2015/07/Abortion-World-Leaders.pdf>.

for only 5% (18,684) and 0.5% (1,880), respectively.⁷ More than half of Planned Parenthood's clinic revenue comes from abortions.⁸

As the recent undercover videos from The Center for Medical Progress make it abundantly clear, PP is known in the fetal tissue research industry as a "volume institution."⁹ Recently, Diane Derzis, owner of the last abortion clinic in Mississippi appeared on the Alan Colmes radio show supporting the defunding of Planned Parenthood. She notes, "I agree that Planned Parenthood should be defunded. Absolutely. They actually do more abortions than anyone in the country, even though they talk about doing only 3%, that's not quite accurate – they do more than anyone in the country. And they are the Wal-Mart of abortion."¹⁰

Planned Parenthood has issued a directive instructing that all affiliates must have at least one clinic that performs abortion by 2013, and has required that its affiliates fulfill abortion "quotas."¹¹ Former Planned Parenthood clinic director Abby Johnson has written that she was given an abortion quota, and was even told by her superiors to "double the number of abortions" in order to bring in more revenue.¹²

Redirecting state funding to entities that offer more comprehensive healthcare services furthers the state's interest in maternal health and the health of its citizens, in general.

IV. Women's healthcare will not be negatively affected

Healthcare services for women, low-income women in particular, will only improve when state money is redirected away from abortion services and into more comprehensive health care clinics.

Planned Parenthood's healthcare "services" for women are far from adequate. Their most recent report reveals that while abortions rose slightly last year, adoption referrals by Planned

⁷ Susan B. Anthony List Fact Sheet, Planned Parenthood Annual Report (2013-2014) http://www.sba-list.org/sites/default/files/content/shared/12.31.14fact_sheet_pp_2013_2014_annual_report.pdf; PP 2013-2014 Annual Report, p. 18. http://issuu.com/actionfund/docs/annual_report_final_proof_12.16.14_/0

⁸ Alliance Defending Freedom chart based on Planned Parenthood's Annual Reports.

<http://adflegal.org/issues/sanctity-of-life/beginning-of-life/investigate-their-plan/key-issues/abortion-quotas>

⁹ CMP video# 8 features the CEO of StemExpress, LLC stating that "PP has volume. You know, because they're a volume institution." <https://youtu.be/cz1gRNPgMvE>. It is important to note that an independent forensic analysis report on the CMP video content has been completed. Digital Forensic Analysis Report, Delivered to Alliance Defending Freedom, September 28, 2015. Prepared by Coalfire Systems, Inc., "Coalfire's analysis of the recorded media files contained on the flash drive indicates that the video recordings are authentic and show no evidence of manipulation or editing. This conclusion is supported by the consistency of the video file date and time stamps, the video timeframe, as well as the folder and file naming scheme. The uniformity between the footage from the cameras from the two Investigators also support the evidence that the video recordings are authentic." p. 2

http://www.adflegal.org/content/docs/ADF_Forensic_Analysis_Report-09282015.pdf.

¹⁰ Diane Derzis, <http://liveactionnews.org/abortion-clinic-owner-planned-parenthood-should-be-defunded/>.

¹¹ Susan B. Anthony List, Top 12 Reasons to Defund Planned Parenthood Now. <http://www.sba-list.org/suzy-b-blog/top-12-reasons-defund-planned-parenthood-now>, citing Chiaroscuro Foundation Report, "Does Planned Parenthood Need or Deserve Federal Funds?," March, 2011, available at http://www.sba-list.org/sites/default/files/content/shared/Chiaroscuro_PP_Analysis_March_2011.pdf.

¹² Susan B. Anthony List, Top 12 Reasons to Defund Planned Parenthood Now. <http://www.sba-list.org/suzy-b-blog/top-12-reasons-defund-planned-parenthood-now> citing Abby Johnson Op-Ed in The Hill, "Exposing the Planned Parenthood business model," April 4, 2011, available at <http://thehill.com/blogs/congress-blog/politics/153699-exposing-the-planned-parenthood-business-model>.

Parenthood dropped 14%, prenatal care services dropped 4%.⁸, cancer prevention services are down 17% over one year, and contraceptive services dropped by 4% despite reporting more than \$127 million in excess revenue, and more than \$1.4 billion in net assets.¹³

As Chuck Donovan notes in his analysis of Planned Parenthood and public funds, if every penny of taxpayer dollars currently received by Planned Parenthood, was reallocated to community health centers (CHC), it would support 1.56 million new CHC patients.¹⁴

Additionally, “CHC patients would receive a much fuller range of women’s primary care services they are either presently receiving at a third site – neither Planned Parenthood nor a CHC – or not receiving at all,”¹⁵ such as mammograms, which Planned Parenthood does not perform at any of its facilities.

Donovan then highlights the extensive network of better qualified health centers already available to women. There are already over 13,000 federally qualified health centers, and rural health centers nationwide that provide primary care services and preventative health services including prenatal, primary, and preventative care as well as contraceptive services and mammograms.¹⁶ “If Planned Parenthood could no longer ‘afford’ to care for 1 million women, the net change in patient population per FQHC service site is approximately 110 women – that is, two additional women per week for basic well woman care, STD checks, family planning if desired, Pap smears and so forth.”¹⁷

Ohio already has 280 federally qualified health clinics and rural health clinics that serve as better alternatives to the 28 Planned Parenthood locations in the state.¹⁸ Citizens of Ohio or any state can now find alternatives to Planned Parenthood through GetYourCare.org, which provides interactive maps allowing people to look up where the closest comprehensive care clinic is located.

As one of the world’s largest and most lucrative non-profits, Planned Parenthood would be able to access multiple sources of funding to keep itself afloat in the absence of government money. Without any state or federal funding, Planned Parenthood “would retain 59% of its current baseline income.” “One could grant a slight loss in client load due just to lower economies of scale, but even so, an estimated 1.6 million of Planned Parenthood’s current clients would remain covered by the group’s budget – without taking into account any internal reallocation of funds to low-income women, lower-cost centers, or lower-cost services.”¹⁹

¹³ Susan B. Anthony List Fact Sheet, Planned Parenthood Annual Report (2013-2014) http://www.sba-list.org/sites/default/files/content/shared/12.31.14fact_sheet_pp_2013_2014_annual_report.pdf; PP 2013-2014 Annual Report, p. 18. http://issuu.com/actionfund/docs/annual_report_final_proof_12.16.14_/0

¹⁴ Charles Donovan, “Planned Parenthood and the Public Purse.” September 29, 2015. Charlotte Lozier Institute. <https://www.lozierinstitute.org/planned-parenthood-and-the-public-purse/>

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ http://www.adflegal.org/Content/Images/DefundPP/adf_pp_state_split_map_OH_PRINT.pdf

¹⁹ <https://www.lozierinstitute.org/planned-parenthood-and-the-public-purse/> noting, “In short, another way to look at Congressional reprogramming of Planned Parenthood funding would be to see it as a move from a high-profit, high-cost boutique supplier to a true-nonprofit, low-cost approach. Moreover, the actual changes in service involve improvements in access to primary care and other services from which women will benefit. The cost to the individual patient (and therefore to the government or private insurance) of family planning services will not change

The state of Texas stopped funding abortion providers after Planned Parenthood agreed to pay \$4.3 million to settle a claim against it for Medicaid billing fraud. Texas now funds a network of providers serving low-income women called the Women’s Health Program. This program offers family planning services, contraception and health screenings. The result has been an 81% increase in health care services for women at community clinics, 26% decrease in Medicaid claims, as well as a decrease in abortions – from 65,547 in 2012 compared to 61,513 in 2013. Casey Mattox, of Alliance Defending Freedom noted that, “The data belies the claim that Planned Parenthood was necessary to women’s health care in Texas,”²⁰

V. Medicaid Fraud/Waste

The state has an interest in seeing that taxpayer money is not misused. Unfortunately, Planned Parenthood has a long history of improper billing practices. “A large and growing number of federal and state audits have documented that improper practices by Planned Parenthood and state family planning agencies have already resulted in losses to the American taxpayer of more than \$115 million, as a minimum, in Title XIX-Medicaid and other healthcare funding programs.”²¹ Almost all of the forty-four known external audits or reviews of Planned Parenthood affiliates have shown overbilling – including “over \$8 million to Planned Parenthood affiliates for family planning and reproductive health services claims. In combination with the \$4.3 million settlement in the Reynolds False Claims Act lawsuit, auditors and investigators have specifically identified Planned Parenthood affiliates as the source of at least \$12.6 million in waste, abuse, and potentially fraudulent overbilling of taxpayers.”²² Alliance Defending Freedom in their report on Planned Parenthood audits includes an HHS-OIG audit that shows overbilling in Ohio to be \$320,774 between October 2007 and September 2009.²³

VI. Sexual Abuse Cover-up

Ohio Rev. Code § 2151.421 requires that physicians and healthcare professionals report suspected abuse or neglect, and the state’s interest in enforcing this law is served by withdrawing state funds from entities that do not comply.

and the availability of other primary care services not currently accessed (the real crisis for these women) will be solved.”

²⁰ Kelsey Harkness, “If Planned Parenthood Loses Government Funding, Here’s a Map of Health Clinics That Could Take Its Place.” August 17, 2015. The Daily Signal. Noting, Casey Mattox of Alliance Defending Freedom, <http://dailysignal.com/2015/08/17/planned-parenthood-loses-government-funding-heres-map-health-clinics-take-place/>

²¹ Profit. No Matter What. Alliance Defending Freedom’s Annual Report on Publicly Available Audits of Planned Parenthood Affiliates and State Family Planning Programs. July 23, 2014. at ii. <https://adflegal.blob.core.windows.net/web-content-dev/documents/life---planned-parenthood-overview---adf-report-to-congress-on-planned-parenthood-fraud.pdf?sfvrsn=18>

²² <https://adflegal.blob.core.windows.net/web-content-dev/documents/life---planned-parenthood-overview---adf-report-to-congress-on-planned-parenthood-fraud.pdf?sfvrsn=18> at 2.

²³ <https://adflegal.blob.core.windows.net/web-content-dev/documents/life---planned-parenthood-overview---adf-report-to-congress-on-planned-parenthood-fraud.pdf?sfvrsn=18> at 37-38. “Ohio: HHS-OIG (Office of Inspector General) Audit # A-05-10-00035 Billing Period: 10/01/2007 – 09/30/2009 Total Overbilling: \$320,774.”

In their 2015 Summary of Planned Parenthood’s failure to report sexual abuse, Alliance Defending Freedom notes that, “child victims of sexual predators are frequently brought to abortion facilities like Planned Parenthood by the abuser in an effort to hide criminal sexual abuse. Legal proceedings and undercover investigations demonstrate Planned Parenthood facilities often disregard mandatory sex abuse reporting laws. With the evidence of their crimes covered up, predators are free to continue abusing their child victims.”²⁴

In Ohio, several charges of failure to report abuse of a minor have been levied against Planned Parenthood. As Alliance Defending Freedom notes in their report, “[A] Planned Parenthood facility permitted a soccer coach who had impregnated a 14-year-old to sign off on her abortion without her parents’ knowledge or consent.²⁵ In another case, Planned Parenthood performed an abortion on a girl who was being sexually abused by her father and failed to report the abuse despite the young girl telling Planned Parenthood employees she was being forced to do things she didn’t want to do.²⁶ And in yet another Ohio case, a young girl was sexually abused by her mother’s boyfriend.²⁷ During the extended period of abuse, the girl was brought to Planned Parenthood for an abortion.²⁸ Apparently no report was made to law enforcement by Planned Parenthood as the abuse continued for years after the abortion.”²⁹

Such egregious failure to report serious offenses against minors supports any action by the state to prohibit federal or state dollars from being given to entities that fail to report.

VII. Taxpayer Dollars are Funding Political Campaigns

The expenditure of state monies by a non-profit on political campaigning represents a misuse of taxpayer dollars. Planned Parenthood has given multiple millions of dollars to candidates who will push their agenda. In 2012, Planned Parenthood spent \$12 million on the campaign to reelect President Obama. As of 2013, Planned Parenthood has spent over \$30 million on campaign contributions and \$11 million on lobbying efforts.³⁰ Such extensive political contributions serve to demonstrate that Planned Parenthood is not in need of taxpayer money and is misusing federal and state funds to buy political support.

²⁴ HOW PLANNED PARENTHOOD “CARES” FOR CHILD VICTIMS OF SEXUAL ABUSE: A Summary of Planned Parenthood Failing to Report Sexual Abuse. September 3, 2015. Alliance Defending Freedom. <http://www.adfmedia.org/files/PlannedParenthoodSexAbuseSummary.pdf>

²⁵ *Roe v. Planned Parenthood Southwest Ohio Region*, 878 N.E.2d 1061 (2007), <http://www.adfmedia.org/files/RoeOhioAppellateCourtDecision.pdf>.

²⁶ *Fairbanks v. Planned Parenthood Southwest Ohio Region*, Ct. of Common Pleas, Civil Div., Hamilton Cnty., Ohio, Case No. A0901484.

²⁷ *Ohio v. Coles*, Case No. CR-478823, 2008 WL 4436872 (Ohio Ct. App. Oct. 2, 2008).

²⁸ *Id.*

²⁹ *Id.*

³⁰ Profit. No Matter What. Alliance Defending Freedom’s Annual Report on Publicly Available Audits of Planned Parenthood Affiliates and State Family Planning Programs July 23, 2014. at ii. <https://adflegal.blob.core.windows.net/web-content-dev/documents/life---planned-parenthood-overview---adf-report-to-congress-on-planned-parenthood-fraud.pdf?sfvrsn=18>

Conclusion

Concerns over the evidence of fraud, misuse of funds, failure to report sexual abuse, and extensive donations to political campaigns warrant the proposed legislation to defund entities that perform elective abortions. Furthermore, the health of the citizens of Ohio will be better served by diverting those funds to comprehensive health care clinics.

I urge you to pass SB 214.