CHILD INTERSTATE ABORTION NOTIFICATION ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON THE CONSTITUTION

OF THE

COMMITTEE ON THE JUDICIARY

HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

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THURSDAY, MARCH 3, 2005

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON THE CONSTITUTION,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:34 p.m., in Room 2141, Rayburn House Office Building, Hon. Steve Chabot (Chair of the Subcommittee) presiding.

Mr. CHABOT. Good afternoon. The Committee will come to order. This is the Subcommittee on the Constitution. I would like to thank everyone for being here this afternoon for this very important legislative hearing.

Today, the House Constitution Subcommittee will examine H.R. 748, the "Child Interstate Abortion Notification Act," commonly known as CIANA, which was recently introduced by my colleague, the distinguished gentlelady from Florida, Congresswoman Ileana Ros-Lehtinen. I would also like to thank Congresswoman Ros-Lehtinen for her leadership on this issue.

CIANA's predecessor, the "Child Custody Protection Act," also introduced by Congresswoman Ros-Lehtinen, received broad support, passing the House on three separate occasions, including the 105th, 106th, and 107th Congresses. This hearing is the first step in ensuring that CIANA not only passes the House in the 109th Congress, but this time, it is enacted into law.

We have an expert panel with us here this afternoon and I would like to thank them for taking the time to share their knowledge and expertise with us.

Obtaining an abortion is a life-altering event, as we have heard and seen on numerous occasions. The medical, physical, and emotional impact on women can be long-lasting. CIANA would ensure that young girls who are seeking an abortion receive the care and support they need by enforcing existing State parental notification laws and providing for a Federal notification law that protects parental rights when a minor crosses State lines into a State without a notification law.

CIANA would make it a Federal offense to cause the circumvention of a valid State parental consent or notification law by knowingly transporting a minor across a State line with the intent that she obtain an abortion.

In addition, CIANA would build on the "Child Custody Protection Act" by also requiring that an abortion provider in a State without a parental involvement law notify a parent, or, if necessary, a legal

guardian before performing an abortion on a minor girl who is a resident of a different State. This requirement would be applicable unless the minor has already received authorization from a judge in her home State, pursuant to a judicial bypass procedure, or unless she falls into one of the carefully drafted exceptions to cover cases of abuse or medical emergencies.

Statistics show that approximately 80 percent of the public favors parental notification laws. Forty-four States have enacted some form of a parental notification statute. Twenty-three of these States currently enforce statutes that require the consent or notification of at least one parent or court authorization before a young girl can obtain an abortion. Such laws reflect widespread agreement that the parents of a pregnant minor are best suited to provide counsel, guidance, and support as she decides whether to continue her pregnancy or to undergo an abortion.

Despite widespread support for parental involvement laws and clear public policy considerations justifying them, substantial evidence exists that such laws are regularly evaded by individuals who transport minors to abortion providers in States that do not have parental notification or consent laws.

Confused and frightened young girls are routinely assisted by adults in obtaining abortions and are encouraged to avoid parental involvement by crossing State lines. Often, these girls are guided by those who do not share the love and affection that most parents have for their children. Personal accounts indicate that sexual predators recognize the advantage they have over their victims and use this influence to encourage abortions in order to eliminate critical evidence of their criminal conduct, and in turn, allowing the abuse to continue undetected.

Furthermore, when parents are not involved in the abortion decisions of a child, the risks to the child's health significantly increase. Parental involvement will ensure that parents have the opportunity to provide abortion providers with the minor's complete medical history and necessary information prior to the performance of an abortion, information that may have life or death consequences for the minor. Parental involvement in the after-care of a minor's abortion procedure is also critical in preventing or curtailing complications, such as infection, perforation, or depression, which if left untreated can be fatal.

Public policy is clear that parents should be involved in decisions that their daughters make regarding abortion. CIANA will assist in enforcing existing parental involvement laws that meet the relevant constitutional criteria and will provide for parental involvement when minors cross State lines to have abortions in States without parental involvement laws. The safety of young girls and the rights of parents demand no less.

Again, I would like to thank our witnesses for being here today and I would now yield to the gentleman from New York, the Ranking Member, Mr. Nadler, for making an opening statement.

Mr. NADLER. Thank you, Mr. Chairman.

When we last considered this legislation, I did not believe that the authors could possibly come up with a bill that would be more dangerous, more destructive of the well-being and the rights of young women than last year's bill. I am humbled to admit that I

suffered from a paucity of imagination that clearly does not afflict some on the other side of the aisle.

I am really stunned by this latest crazy quilt of restrictions which has obviously but one purpose, to impede the practice of medicine, to ensure that young women will have as few options as possible, and to teach those States, like mine, New York, that do not believe the best way to promote adolescent health and deal with the very real problems these young women often experience is with draconian laws that prevent doctors and caring, responsible adults from helping these young women who may have nowhere else to turn.

Often, that adult is a grandparent, a brother or a sister, or a member of the Clergy. In some cases, the young women may not be able to go to their parents. We all want young women to seek guidance and help from their parents, but sometimes, that may be impossible. Sometimes, indeed, the parents may pose a threat to the life and health of the young woman.

That is what happened to Spring Adams, a 13-year-old from Idaho. She was shot to death by her father after he found out that she planned to terminate her pregnancy, a pregnancy that was caused by his acts of incest. A law that would require her to tell him does not seem to make much sense.

I know that some of my colleagues might not see a problem forcing a doctor to ring Mr. Adams' doorbell to tell him they are planning to perform an abortion on his daughter. There has been longstanding and vigorous opposition to laws, including the Freedom of Access to Clinic Entrances Act, which aim to protect doctors and their patients from possibly violent fanatics.

This bill also uses an overly-narrow definition of medical emergency, one that seems to have been lifted from one of Attorney General Gonzales's infamous torture memos. Quote, "The prohibition of Subsection (a) does not apply if the abortion was necessary to save the life of the minor because her life was endangered by a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself," close quote.

This clearly falls far short of the Supreme Court's requirement that any restriction on the right to choose must have an explicit exception to protect the life and an explicit exception to protect the health of the woman. There are many things that threaten the health of a woman that fall far short of endangering her life. The only health threat recognized here is a life-endangering health threat. A health threat that doesn't endanger her life but may be a severe one is not recognized in this exception, and yet, clearly, that is necessary to salvage the constitutionality of this bill under the Supreme Court decisions, if anybody cares about the constitutionality of this bill.

There are many things, as I said before, far short of death that threatens a young woman. She deserves prompt and professional medical care and the Constitution still protects her right to receive that care.

Congress should not be tempted to play doctor. It is always bad medicine for women.

We want to encourage families to work together to face difficult situations and we want to provide young women facing these life-altering decisions with all the help that we can. In an ideal world, loving, supportive, and understanding families would join together to face these challenges. That is what happens in the majority of cases, with or without a law.

But we do not live in a perfect world. Some parents are violent. Some parents are rapists. Some young people can turn to their Clergy, to a grandparent, a sibling, or some other trusted adult who do not feel safe in turning to a parent. We should not turn these people into criminals simply because they are trying to help a young woman in a dire situation.

This bill is the wrong way to deal with a very real problem.

There is also one other major concern with this bill. This bill attempts to say, at least in the provision that was in last year's bill that makes it illegal to, quote, "transport a minor across State lines for the purpose of getting an abortion," unquote, if she doesn't need parental consent or notification in the State where she will get it but she did in the State she is leaving, this tries to use the power of the Federal Government to put the law of the State which she is leaving on her back and make her carry it with her to a different State.

I know of no other law which, in effect, uses the power of the government to enforce the law of one State in the boundaries of another State which has not chosen to have that law. The only other law I can think of that does that is a law that was enacted sometime ago called the "Fugitive Slave Act", and that was repealed by subsequent history.

I want to join the Chairman in welcoming our witnesses and I look forward to hearing their testimony. Thank you. I yield back.

Mr. CHABOT. Thank you.

Are there other Members that would like to make opening statements? If not, I will introduce the panel of witnesses here this afternoon, and we do have a very distinguished panel.

Our first witness today is Ms. Marcia Carroll, a mother from Pennsylvania who will share with us her own experience surrounding her minor daughter's abortion.

Our second witness is Richard Myers, Professor of Law at Ave Maria School of Law. Among other courses, Professor Myers teaches Constitutional Law, Federal Jurisdiction, first amendment, and Conflict of Laws. Prior to joining the Ave Maria faculty, Professor Myers taught at Case Western Reserve University School of Law and the University of Detroit Mercy School of Law. Professor Myers began his legal career by clerking for Judge John Kilkenny of the United States Court of Appeals for the Ninth Circuit. Professor Myers also worked for Jones, Day, Reavis and Pogue in several cases before the United States Supreme Court, and so we welcome you here this afternoon.

Our third witness is Dr. Warren Seigel. Dr. Seigel is the Chairman of Pediatrics and the Director of Adolescent Medicine at Coney Island Hospital in Brooklyn, New York. In addition to Coney Island Hospital, Dr. Seigel is affiliated with Maimonides Medical Center, Lutheran Medical Center, the Brooklyn Hospital Center, the New York Methodist Hospital, and Wyckoff Heights Medical Center. Dr.

Seigel also serves as the president of the New York State Chapter, District 2, of the American Academy of Pediatrics and is a Society for Adolescent Medicine Fellow. We welcome you here, Dr. Seigel.

Our final witness is Professor Teresa Stanton Collett. From 1990 to 2003, Professor Collett was a Professor of Law at South Texas College of Law, where she taught various legal courses. Since 2003, she has served as a Professor of Law at University of St. Thomas College of Law, teaching bioethics, property, and professional responsibility. Professor Collett has also served as a visiting professor at Notre Dame Law School, Washington University School of Law in St. Louis, the University of Texas School of Law, the University of Houston Law Center, and the University of Oklahoma College of Law. Prior to joining South Texas College of Law, Professor Collett was affiliated with the law firm of Crow and Dunleavy in Oklahoma City, Oklahoma.

We welcome all our witnesses here this afternoon. It is the practice of this Committee to swear in all witnesses——

Mr. NADLER. Before we do, Mr. Chairman——

Mr. CHABOT. Yes?

Mr. NADLER. Mr. Chairman, I want to join you in welcoming in particular Dr. Seigel, who is the Director of Adolescent Medicine and Chair of Pediatrics at Coney Island Hospital, which is in my district in Brooklyn and just a short walk away from my Brooklyn district office. Dr. Seigel founded the Division of Adolescent Medicine at Coney Island Hospital. He also serves as the Director of Adolescent Medicine at Maimonides Children's Medical Center, at Methodist Hospital, and at Lutheran Medical Center. How he finds time to serve at all these medical centers escapes me, but some people use their time better than some of us. All of these are outstanding medical institutions serving the people of the fourth largest city in America, namely the City of Brooklyn.

He is a respected authority on the care and treatment of young people, especially adolescents. He has worked in our community facing the real problems of real people every day. I believe his perspective will help inform this Committee's work, and I am pleased to join you in welcoming him.

Mr. CHABOT. I am sure that all the other witnesses will also be able to inform the Committee, as well, and we welcome your introduction.

It is the practice of this Committee, as I mentioned, to swear in the witnesses, so if you would all please stand and raise your right hands.

Do you swear that the testimony that you are about to give, that you will tell the truth, the whole truth, and nothing but the truth, so help you, God?

Mrs. CARROLL. I do.

Mr. MYERS. I do.

Dr. SEIGEL. I do.

Ms. COLLETT. I do.

Mr. CHABOT. Thank you. You can be seated.

Without objection, all Members will have five legislative days with which to submit additional materials for the record.

As you probably know, you have been familiarized by our staff, but each witness will have 5 minutes to testify before the Com-

mittee. There are a couple of lights there on your desk. The green light will be on until 4 minutes have elapsed, at which time the yellow light will come on. It tells you that you have 1 minute to come up, and then the red light will come on and we appreciate that you wrap up your testimony. We will give you a little leeway, but not too much because we are on a relatively tight schedule.

We will begin with you, Mrs. Carroll.

TESTIMONY OF MARCIA CARROLL, LANCASTER, PA

Mrs. CARROLL. Good afternoon. My name is Marcia Carroll and I am from Lancaster, Pennsylvania, and I would like to begin by thanking you for inviting me here to speak and to share my family's story. The following is a horrifying series of events centered around my 14-year-old daughter.

On Christmas Eve 2004, my daughter informed me that she was pregnant. I assured her that I would seek out all resources and help that was available. As a parent, her father and I would stand beside her and support any decision she made.

We scheduled appointments with her pediatrician, her private counselor, and her school nurse. I followed all their advice and recommendations. They referred us to Healthy Beginnings Plus, Lancaster Family Services, and the WIC program. They discussed all her options with her. I purposely allowed my daughter to speak alone with professionals so that she would speak her mind and not just to say what she thought I wanted to hear.

My daughter chose to have the baby and raise it. My family fully supported my daughter's decision to keep her baby and offered her our love and support.

Subsequently, her boyfriend's family began to harass my daughter and my family. They started showing up at our house to express their desire for my daughter to have an abortion. When that did not work, his grandmother started calling my daughter without my knowledge. They would tell her if she kept the baby, she couldn't see her boyfriend again. They threatened to move out of the State.

I told his family that my daughter had our full support in her decision to keep the baby. She also had the best doctors, counselors, and professionals to help her through the pregnancy. We all had her best interests in mind.

The behavior of the boy's family began to concern me to the point where I called my local police department for advice. Additionally, I called the number for an abortion center to see how old you have to be to have an abortion in our State.

I felt safe when they told me my minor daughter had to be 16 years of age in the State of Pennsylvania to have an abortion without parental consent. I found out later that the Pennsylvania Abortion Control Act actually says that parental consent is needed for a minor under 18 years of age. It never occurred to me that I would need to check the laws of other States around me. I thought as a resident of the State of Pennsylvania that she was protected by Pennsylvania State laws. Boy, was I ever wrong.

On February 16, I sent my daughter to her bus stop with two dollars of lunch money. I thought she was safe at school. She and her boyfriend even had a prenatal class scheduled after school.

However, what really happened was that her boyfriend and his family met with her down the road from her bus stop and called a taxi. The adults put the children in the taxi to take them to the train station. His stepfather met the children at the train station, where he had to purchase my daughter's ticket, since she was only 14. They put the children on the train from Lancaster to Philadelphia. From there, they took two subways to New Jersey. That is where his family met the children and took them to the abortion clinic, where one of the adults had made the appointment.

When my daughter started to cry and have second thoughts, they told her they would leave her in New Jersey. They planned, paid for, coerced, harassed, and threatened her into having the abortion. They left her alone during the abortion and went to eat lunch.

After the abortion, his stepfather and grandmother drove my daughter home from New Jersey and dropped her off down the road from our home. My daughter told me that on the way home, she started to cry. They got angry at her and told her there was nothing to cry about.

Anything could have happened to my daughter at the abortion facility or on the ride back home. These people did not know my daughter's medical history, yet they took her across State lines to have a medical procedure without my knowledge or consent. Our family will be responsible for the medical and psychological consequences for my daughter as a result of this procedure that was completed unbeknownst to me.

I was so devastated that this could be done that I called the local police department to see what could be done. They were just as shocked and surprised as I was that there was nothing that could be done in this horrible situation.

The State of Pennsylvania does have a parental consent law. Something has to be done to prevent this from happening to other families. This is just not acceptable to me and should not happen to families in this country. If your child goes to her school clinic for a headache, a registered nurse cannot give her a Tylenol or Aspirin without a parent's written permission.

As a consequence of my daughter being taken out of State for an abortion without parental knowledge, she is suffering intense grief. My daughter cries herself to sleep at night and lives with this every day.

I think about what I could have or should have done to keep her safe. Everybody tells me I did everything I could or should have done. It doesn't make me feel any better, knowing everything I did was not enough to protect my daughter.

It does ease my mind to know that, with your help, we can make a difference and change the law to protect other girls and their families. I urge your support for the "Child Interstate Abortion Notification Act". It is critical that this law passes in Congress. The rights of parents to protect the health and welfare of their minor daughters needs to be protected. No one should be able to circumvent State laws by performing an abortion in another State on a minor daughter without parental consent.

Thank you for your time.

Mr. CHABOT. Thank you very much, Mrs. Carroll.

Mrs. CARROLL. Thank you.

[The prepared statement of Mrs. Carroll follows:]

PREPARED STATEMENT OF MARCIA CARROLL

Good afternoon, my name is Marcia Carroll. I am from Lancaster, Pennsylvania. I would like to begin by thanking you for inviting me here to speak and share my family's story. The following is a horrifying series of events centered around my fourteen year old daughter.

On Christmas Eve 2004, my daughter informed me she was pregnant. I assured her I would seek out all resources and help that was available. As her parents, her father and I would stand beside her and support any decision she made.

We scheduled appointments with her pediatrician, her private counselor, and her school nurse. I followed all of their advice and recommendations. They referred us to Healthy Beginnings Plus, Lancaster Family Services, and the WIC program. They discussed all her options with her. I purposefully allowed my daughter to speak alone with professionals so that she would speak her mind and not just say what she thought I wanted to hear.

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I told his family that my daughter had our full support in her decision to keep the baby. She also had the best doctors, counselors, and professionals to help her through the pregnancy. We all had her best interests in mind.

The behavior of the boy's family began to concern me to the point where I called my local police department for advice. Additionally, I called the number for an abortion center to see how old you have to be to have an abortion in our state.

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However, what really happened was that her boyfriend and his family met with her down the road from her bus stop and called a taxi. The adults put the children in the taxi to take them to the train station. His stepfather met the children at the train station, where he had to purchase my daughter's ticket since she was only fourteen. They put the children on the train from Lancaster to Philadelphia. From there, they took two subways to New Jersey. That is where his family met the children and took them to the abortion clinic, where one of the adults had made the appointment.

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Thank you for your time.

Mr. CHABOT. Professor Myers, you are recognized for 5 minutes.

TESTIMONY OF RICHARD S. MYERS, PROFESSOR OF LAW, AVE MARIA SCHOOL OF LAW, ANN ARBOR, MI

Mr. MYERS. Thank you, Mr. Chairman. My name is Richard Myers. I have been teaching and writing about constitutional law for nearly 20 years. I am currently a professor at Ave Maria School of Law in Ann Arbor, Michigan. I am also President of University Faculty for Life. My testimony is on my individual behalf and doesn't necessarily reflect the position of my employer or any other organization.

I am pleased to have been invited to address the constitutional issues raised by H.R. 748. I have been asked to address two constitutional questions. One, is the act a proper exercise of one of Congress's enumerated powers, and two, does the act violate principles of Federalism, perhaps by endorsing the view that States may legislate in an extra-territorial manner?

First, it is basic constitutional law that Congress only has enumerated powers, but despite recent cases affirming that there are some judicially enforceable limits on the scope of the Commerce power, this act is well within Congressional authority. These recent cases, Lopez and Morrison, have dealt with Congressional efforts to reach non-economic local activity under the theory that the local activity had a substantial effect on interstate commerce.

These recent developments, however, do not raise any concern about whether the act is within the Congressional power to regulate commerce among the several States. The Court has long affirmed that Congressional power to prohibit transportation of items of interstate commerce. To transport another person across State lines is to engage in commerce among the States and is thus within Congressional power to regulate such commerce.

In Darby and other cases, the Supreme Court has clearly established that this power doesn't depend on Congress legislating in furtherance of the policy of the destination State. Moreover, the motive and purpose of a regulation of interstate commerce are matters for the legislative judgment, upon the exercise of which the Constitution places no restriction and over which the courts are given no control.

The abortion notification portion of the act is also a proper exercise of the Commerce power. Although this portion of the act doesn't focus on transporting a minor across State lines, this portion of the act is clearly a regulation of an economic transaction.

The many court cases upholding the constitutionality of the "Freedom of Access to Clinic Entrances Act" make it clear that the abortion industry is a major interstate industry that Congress may properly regulate. Some lower court cases have probably pushed Congressional authority too far in this area, but surely, recent cases such as Lopez and Morrison create no obstacle to Congressional regulation of the clearly economic side of the abortion industry.

The second area I would like to focus on deals with the arguments that this Act violates principles of federalism, in large part because it allegedly permits a State to legislate in an extraterritorial manner. As Congressman Nadler mentioned, some critics say that what this does is force a woman to carry the restrictive laws of her home State on their backs as they go to new States.

It seems clear that if you look at the testimony, for example, by Professor Rubin last summer, that this objection is principally driven by opposition to the substantive vision of the act, that is, the idea of protecting the rights of parents to be involved in the decisions that profoundly affect their children, and that the objection is not so much to the understanding of federalism that is presented. If one focuses—if one removes the negative labels, and keep in mind that the transportation portions of the act simply are designed to prevent the evasion of the law of the minor's home State, then it seems clear that the Act reinforces a proper conception of federalism.

The basic idea to prevent people from evading the laws of the home States when the home State is attempting to advance entirely properly objectives that are at the core of its sovereign authority is quite common. Strangely, the critics of this position adopt a strict territorial view of State power that was characteristic of American legal thought in the late 19th and early 20th century, but has been largely abandoned.

The same sort of mistaken objection has recently been made in the area of marriage. So some modern critics argue that it is unconstitutional for a State to refuse to recognize a marriage that is valid under the law of the State of celebration. Such a refusal, these critics say, is supposedly an unconstitutional effort to extend the regulatory reach of the couples' home State. Yet even in the absence of Federal law, like the "Defense of Marriage Act", this type of State policy, refusing to recognize a marriage that evades the law of the couples' home State, has long been regarded as appropriate, for hundreds of years in this country. The proper principles of federalism and longstanding law support a State's authority to avoid evasion of its laws.

This is even more secure when we are not dealing simply with a State law that is being interpreted to apply when some of the relevant events take place outside the State. Here, of course, we are dealing with proposed Federal law, and as Professor Mark Rosen testified last year before Congress, the Federal Government is the appropriate entity of government to umpire these conflicts between State regulatory authority.

Moreover, there is no right to travel problem presented by the Act. Most of the arguments here, I think, are simply not applicable.

I see my time is up. I don't know if I—I can just conclude that——

Mr. CHABOT. You can wrap it up, if you would like to.

Mr. MYERS. The right to travel argument, I think, is just completely a misnomer. The only objection that has any cogency at all is that the Supreme Court has said that the right of travel protects the right of a citizen of one State to be treated as a welcome visitor rather than unfriendly alien when they travel to another State.

But this component of the right to travel simply has no application here. This is protected by article IV of the Constitution and it really deals with discrimination against a citizen of a State simply because of their place of origin. It is designed to prevent States from having unreflective bias against out-of-Staters based on their place of origin. This act doesn't do that at all. What it is designed to do is to allow States to further the substantive policy of the home State, and so a destination State here has a reason to treat the minor differently, not simply because of their place of origin, but to reinforce the law of their home State. And so the right to travel argument doesn't have any application at all.

Thank you very much.

Mr. CHABOT. Thank you very much.

[The prepared statement of Mr. Myers follows:]

PREPARED STATEMENT OF RICHARD S. MYERS

I am pleased to have been invited to address the constitutional issues raised by H. R. 748, the Child Interstate Abortion Notification Act (hereinafter "Act"). I have been asked to address two constitutional questions: (1) is the Act a proper exercise of one of Congress's enumerated powers, and (2) does the Act violate principles of federalism, perhaps by endorsing the view that states may legislate in an extraterritorial manner.

First, "[t]he Constitution creates a Federal Government of enumerated powers." *United States v. Lopez,* 514 U. S. 549, 552 (1995). But despite recent cases affirming that there are judicially enforceable limits on the scope of the commerce power, see, e.g., *Lopez, United States v. Morrison,* 529 U. S. 598 (2000), the Act is well within Congressional authority. These recent cases have dealt with Congressional efforts to reach noneconomic local activity under the theory that the local activity had a substantial effect on interstate commerce. The scope of these limits on Congressional power is currently before the Supreme Court. See *Raich v. Ashcroft,* 352 F. 3d 1222 (9th Cir. 2003), cert. granted, 124 S. Ct. 2909 (2004).

These recent developments do not, however, raise any concern about whether the Act is within Congressional power to regulate commerce among the several states. The Court has long affirmed Congressional power to prohibit interstate transportation of items of commerce. *United States v. Darby,* 312 U. S. 100 (1941); *Champion v. Ames,* 188 U. S. 321 (1903). To transport another person across state lines is to engage in commerce among the states and is, thus, within Congressional power to regulate such commerce. *Cleveland v. United States,* 329 U. S. 14 (1946); *Caminetti v. United States,* 242 U. S. 470 (1917); *Hoke v. United States,* 227 U. S. 308 (1913).

The landmark case of *United States v. Darby,* 312 U.S. 100 (1941), makes this point clear. In Darby, the Court made it clear that Congressional power "extends not only to those regulations which aid, foster and protect the commerce, but embraces those which prohibit it." 312 U. S. at 113. In Darby and in other cases, the Court has clearly established that this power does not depend on Congress legislating in furtherance of the policy of the destination state. As the Darby Court stated: "The power of Congress over interstate commerce . . . can neither be enlarged nor diminished by the exercise or non-exercise of state power. Congress, following its own conception of public policy concerning the restrictions which may appropriately be imposed on interstate commerce, is free to exclude from the commerce articles whose use in the states for which they are destined it may conceive to be injurious to the public health, morals or welfare, even though the state has not sought to regulate their use." Id. at 114 (citations omitted). The Court was willing to sustain the federal law involved even on the assumption that Congress was primarily concerned about the local activity and not the interstate transport itself. As

the Darby Court stated: "The motive and purpose of a regulation of interstate commerce are matters for the legislative judgment upon the exercise of which the Constitution places no restriction and over which the courts are given no control." Id. at 115.

Moreover, as John Harrison stated in his testimony on a prior bill prohibiting interstate transport of a minor to evade the parental involvement law in the minor's home state: "This legislation, unlike the child labor statute at issue in *Hammer v. Dagenhart,* does not rest primarily on a congressional policy independent of that of the State that has primary jurisdiction to regulate the subject matter involved. Rather, in legislation like this Congress would be seeking to ensure that the laws of the State primarily concerned, the State in which the minor resides, are complied with. In so doing Congress would be dealing with a problem that arises from the federal union, not making its own decisions concerning local matters such as domestic relations or abortion." Hearing on H.R. 1755 (The Child Custody Protection Act) before the Subcommittee on the Constitution of the Committee on the Judiciary, House of Representatives, 108th Congress, 2d Session 51 (July 20, 2004)(statement of John C. Harrison).

The abortion notification portion of the Act is also a proper exercise of the commerce power. Although this portion of the Act does not focus on transporting the minor across state lines, this portion of the Act is a regulation of an economic transaction. The many court cases upholding the constitutionality of the Freedom of Access to Clinic Entrances Act (FACE) make it clear that the abortion industry is a major interstate industry that Congress may properly regulate. Some lower court cases have probably pushed Congressional authority too far, see *United States v. Bird,* 2005 U.S. App. LEXIS (%th Cir. February 28, 2005); Norton v. Ashcroft, 298 F. 3d 547 (6th Cir. 2002), cert. denied, 537 U. S. 1172 (2003); *United States v. Gregg,* 226 F. 3d 253 (3d Cir. 2000), cert.denied, 523 U. S. 971 (2001), by upholding FACE even when noncommercial activity was involved, but surely recent cases such as Lopez and Morrison create no obstacle to Congressional regulation of the clearly economic side of the abortion industry.

Second, opponents of this law contend that it is inconsistent with principles of federalism, in large part because it allegedly permits a state to legislate in an extraterritorial manner. This objection was set forth by Peter Rubin in his testimony before the Senate Judiciary Committee in June 2004. He stated: "The proposed law amounts to a statutory attempt to force a most vulnerable class of young women to carry the restrictive laws of their home states strapped to their backs, bearing the great weight of those laws like the bars of a prison that follows them wherever they go (unless they are willing to go alone). Such a law violates the basic premises upon which our federal system is constructed. . . . [According to Rubin,] the proposition that a state may not project its laws into other states by following its citizens there is bedrock in our federal system." The Child Custody Protection Act: Protecting Parents' Rights and Children's Lives: Hearing on S. 851 before the Senate Committee on the Judiciary, 108th Congress, 2d Session 2–3 (June 3, 2004)(statement of Peter J. Rubin).

It seems clear that opposition to the substantive vision of the Act (that is, to protect the rights of parents to be involved in decisions that profoundly affect their children) is driving much of this analysis. It is important and more conducive to a sound analysis of the relevant constitutional principles to remove the negatives labels and to keep in mind that the transportation portions of the Act simply are designed to prevent the evasion of the law of the minor's home state. As others have explained, so understood this Act reinforces a proper conception of federalism.

This point was well-expressed by Mark Rosen in his testimony before this Subcommittee in July 2004. He stated: "one of the great benefits of federalism is that with respect to policies that are not foreclosed by the Federal constitutional law or Federal statutory law, there can be diversity of approaches that States take, and when you have a law that by its nature can readily be circumvented through travel, as parental notification laws can be, then a Federal statute that helps to ensure the efficacy of constitutional policies does not undermine federalism, but helps to enhance the diversity across States with regard to policies that they're able to pursue." Hearing on H. R. 1755 (The Child Custody Protection Act) before the Subcommittee on the Constitution of the Committee on the Judiciary, House of Representatives, 108th Congress, 2d Session 10 (July 20, 2004)(statement of Mark D. Rosen). See Mark D. Rosen, Extraterritoriality and Political Heterogeneity in American Federalism, 150 U. Pa. L. Rev. 855 (2002).

The basic idea—to prevent people from evading the laws of their home states when the home state is attempting to advance entirely proper objectives that are at the core of its sovereign authority—is quite common. Strangely, the critics adopt a strict territorial view of state power that was characteristic of American legal

thought in the late 19th century and the early 20th century, but has been largely abandoned. The same sort of mistaken objection has recently been made in the area of marriage. So, some modern critics, most of whom are not experts in the relevant field of law, argue that it is unconstitutional for a state to refuse to recognize a marriage that is valid under the law of the state of celebration. Such a refusal is, supposedly, an unconstitutional effort to extend the regulatory reach of the couples' home state. Yet, even in the absence of federal law, such a state policy—that is, to refuse to respect the couples' efforts to evade the law of their home state—has long been regarded as appropriate. For discussion of this issue, see Richard S. Myers, The Public Policy Doctrine and Interjurisdictional Recognition of Civil Unions and Domestic Partnerships, 3 Ave Maria L. Rev. (2005)(forthcoming); Richard S. Myers, Same-Sex "Marriage and the Public Policy Doctrine, 32 Creighton L. Rev. 45 (1998).

It is quite clear that the real objection is not to a proper understanding of the constitutional principles underlying our system of federalism but, rather, to the substantive policy implicated. So, critics of the standard view that states are permitted to refuse to recognize marriages that violate the strong public policy of the couples' home state are, it seems safe to say, primarily driven by their opposition to the substantive policies of the states with a traditional view of marriage, even if that traditional view enjoys widespread public support, perhaps evidenced by the policy having been adopted by wide majorities of the voting populations in these states. In the context presented here today, the same dynamic seems at work. The real opposition to the Act is not to its understanding of federalism but to the substantive policy (promoting parental involvement in the decision by a minor whether to have an abortion) that the legislation seems designed to permit states to pursue.

States that have the requisite contacts to the individuals and/or the events involved are permitted to apply their own law. We see this even in the area of contracts where a respect for private ordering has long-standing support in our legal traditions. Even here, states do not allow individuals blanket authority to evade the laws of a state that is competent to legislate on the matter under review. Travel to a state with different law or drafting a choice of law clause to select law that is desired by the parties do not invariably result in successful evasion. A forum state will reject such an attempt when the other state's law is contrary to the fundamental policy of the state whose law the parties are attempting to avoid. This outcome is reflected in the Restatement (Second) of Conflict of Laws section 187 (1971) and in the laws of nearly every state. See Myers, 3 Ave Maria L. Rev. (2005)(forthcoming); Myers, 32 Creighton L. Rev. at 52–55.

These principles are quite basic and are quite commonly accepted. As the current debate about the interjurisdictional recognition of same-sex "marriages" and quasi-marital statuses indicates, these principles are challenged when opponents' principal objection is to the substantive policy of the state whose law is being evaded. But basic principles of federalism and long-standing law support a state's authority to avoid evasion of its laws.

This is even more secure when we are not dealing simply with a state law that is being interpreted to apply when some of the relevant events take place outside the state. Here, of course, we are dealing with a proposed federal law, and as Mark Rosen stated, "[a]s a structural matter, a federal government that umpires the sister states' regulatory powers vis-a-vis one another is eminently sensible, and several constitutional provisions . . . empower Congress to serve that function." Rosen Statement, supra, at 15.

Moreover, there is no "right to travel" problem presented by the Act. The Supreme Court has recently considered the right to travel in a case, *Saenz v. Roe,* 526 U. S. 489 (1999), that seems to have been given rather limited scope by subsequent cases. In any event, *Saenz v. Roe* does not suggest that the Act is constitutionally infirm. Saenz explained that there are three components to the "right to travel" recognized by the Supreme Court. The first component, the right to enter and leave a sister State is not at all implicated by the Act. See Rosen Statement, supra, at 15. The third component, the right of a new citizen to be treated the same as other citizens of the State, is not at all implicated either because the Act deals with situations where the minor has not changed her state citizenship. The second component of the right to travel, the right to be treated as a welcome visitor rather than an unfriendly alien, is not violated by the Act. This second component of the right to travel is protected by the Privileges and Immunities Clause of Article IV of the Constitution. This Clause prevents "discrimination against citizens of other States where there is no substantial reason for the discrimination beyond the mere fact that they are citizens of other States. But it does not preclude disparity of treatment in the many situations where there are perfectly valid independent reasons for it." *Toomer v. Witsell,* 334 U. S. 385, 396 (1948). The kind of discrimination that is constitutionally suspect is discrimination against out-of staters, simply because of their

place of origin. That is not at all what the Act attempts to reinforce. The Act is not trying to affirm unreflective bias against non-citizens; rather, the Act is designed to aid states in their efforts to have important substantive policies with regard to their residents followed. Because there is, then, a reason (defined by the law of the minor's home state) apart from the minor'status as an out-of stater to treat the minor differently, the presumption against discrimination is not at all implicated. See Myers, 32 Creighton L. Rev. at 56–59 (discussing this issue in the context of interjurisdictional recognition of same-sex "marriages").

In conclusion, the two constitutional questions I have reviewed do not present any significant obstacle to passage of the Act. The Act is well within the scope of Congressional authority and is perfectly consistent with principles of federalism. Those who oppose this Act would be well-advised to focus their attention on the substance of the legislation.

Mr. CHABOT. Dr. Seigel, you are recognized.

TESTIMONY OF WARREN SEIGEL, M.D., FAAP, FSAM, DIRECTOR OF ADOLESCENT MEDICINE, CHAIRMAN OF PEDIATRICS, CONEY ISLAND HOSPITAL, BROOKLYN, NY

Dr. SEIGEL. Good afternoon. Thank you to Chairman Chabot, Ranking Member Nadler, and Members of the Subcommittee on the Constitution for allowing me to appear before you today.

My name is Dr. Warren Seigel. I am Director of Adolescent Medicine and Chair of Pediatrics at Coney Island Hospital. I also serve, as has already been noted, as the Director of Adolescent Medicine at various institutions in Brooklyn. I am board certified in both pediatrics and adolescent medicine, and among my other medical association involvements, I am currently the President of the New York State Chapter 2, District 2, of the American Academy of Pediatrics.

I am submitting testimony today as a resident of New York State, an experienced health care provider, a leader in the American Academy of Pediatrics and the Society for Adolescent Medicine, and a member of Physicians for Reproductive Choice and Health, known as PRCH. PRCH is a national nonprofit organization created to enable concerned physicians to take a more active and visible role in supporting universal, evidence-based reproductive health. PRCH is committed to ensuring that all people have the knowledge, access to quality services, and freedom of choice to make their own reproductive health decisions.

I submit this testimony to you today on behalf of the PRCH Board of Directors and our more than 6,500 physician and non-physician members to express our opposition to H.R. 748, known as the "Child Interstate Abortion Notification Act," or CIANA. This bill puts young women's lives at risk. It makes criminals out of caring physicians. And it affects the care of all patients.

I recognize that parents ideally should be, and indeed usually are, involved in health decisions regarding their children. However, the "Child Interstate Abortion Notification Act" does nothing to promote such communication. Instead, CIANA places incredible burdens on young women and physicians, infringes on the rights of adolescents to health care that does not violate their safety and health, makes caring family, friends, and doctors criminals, and could be detrimental to the health and emotional well-being of all patients.

As a pediatrician, I believe CIANA will create insurmountable obstacles for adolescents. Young women seeking abortions in a

State other than their home State will be forced to comply with the parental notification laws in both States. They will also have to navigate through the complex and emotionally draining judicial bypass procedure in both States. This will cause delays that may be harmful to the young woman's health by forcing her to undergo a later-term procedure.

The American Medical Association states that a delay in receiving care will, quote, "increase the gestational age at which the induced pregnancy termination occurs, thereby also increasing the risk associated with the procedure," unquote. Requiring adolescents to comply with laws in more than one State will certainly increase the delay in receiving care.

CIANA also requires parental notification for young women receiving abortions in States where they are not permanent residents. Young women who are not trying to circumvent parental notification laws but are, in fact, living temporarily in a State for college or boarding school or other reasons will need to seek the care that is closest to them. CIANA would prohibit these women from the most accessible health care available to them.

Women from States with no parental notification legislation face an additional burden. Even if a young woman is not subject to any parental notification laws in either the State where she is from or the State where she is accessing care, CIANA will require parental notification. Thus, in States with no parental notification legislation, young women will not have access to the judicial bypass option, either.

When judicial bypass is available, however, the delays it may cause are compounded by a mandatory delay period of at least 24 hours, which is required by CIANA. Mandatory delay periods create additional expenses for both young women and their families, requiring overnight stays in hotels and missed days from work or school.

As I mentioned previously, young women as a population are already more likely to seek abortion later in their pregnancy. The Centers for Disease Control have shown that adolescents obtain 30 percent of all abortions performed after the first trimester, and younger women are more likely to obtain abortions at 21 weeks or more gestation. Mandatory delays will only serve to increase these trends.

CIANA also requires a mandatory delay even if a parent is present and consenting. If this legislation is about parental notification, then what is the purpose of this delay if not to keep women from accessing the care that they need in a timely manner?

I am also concerned that CIANA places extreme and unreasonable burdens on physicians and the other patients they treat. Physicians will be required to have detailed knowledge of the parental notification laws in the 49 States where they do not even practice. It is already time consuming to keep up with the laws of my own State. What this proposed legislation doesn't take into account is the amount of time it is going to take for physicians to go out and earn a law degree. If I were required to keep up to date on the complex and often changing laws of the other 49 States, it would severely cut into the time that I could spend giving quality care to my other patients. The impossibility of this effort means that al-

though I will in good faith try to obey the law, I face being criminalized for inadvertently violating this burdensome and ridiculous requirement.

I see my time is up. May I sum up?

Mr. CHABOT. Yes, go ahead and sum up, Doctor.

Dr. SEIGEL. Thank you. Physicians will be required in some cases to travel to the home State of young women to give notification in person to the parents. This means seeing the young women, leaving the practice to travel to another State to provide in-person notice, returning to the practice, and then performing the procedure, all this for one patient. What becomes of all the other patients seeing their physician for other health care issues during this time? This requirement will not only increase the delay for the procedure, but is simply impossible for a physician to carry out, thereby denying a young woman her right to an abortion.

The American Academy of Pediatrics is a national medical organization representing the 60,000 physician leaders in pediatrics, of which I am a proud member and leader. We have adopted the following statement regarding mandatory parental notification, and I quote, "Adolescents should be strongly encouraged to involve their parents and other trusted adults in decisions regarding pregnancy termination, and the majority of them voluntarily do so. Legislation mandating parental involvement does not achieve the intended benefit of promoting family communication, but it does increase the risk of harm to the adolescent by delaying access to appropriate medical care," unquote.

This legislation will decrease the ability of physicians to provide quality care to all of their patients by immersing them in legal questions, travel time, and mandatory delay purposes. It is for all of these reasons that we must protect the rights of young women to access safe, affordable, and appropriate health care. We must make it easier for physicians to provide medical services, not make it more difficult.

As a physician, I believe that this legislation represents bad medicine and places politics before the health of our youth. Leading medical organizations and scientific evidence overwhelmingly agree that this legislation would negatively impact the health of adolescents. It is for this reason that I appear in opposition to H.R. 748. Thank you.

Mr. CHABOT. Thank you.

[The prepared statement of Dr. Seigel follows:]

PREPARED STATEMENT OF WARREN SEIGEL

Thank you to Chairman Chabot, Ranking Member Nadler, and members of the Subcommittee on the Constitution for allowing me to appear before you today.

My name is Dr. Warren Seigel. I am Director of Adolescent Medicine and Chair of Pediatrics at Coney Island Hospital, where I founded the Division of Adolescent Medicine. I also serve as the Director of Adolescent Medicine at Maimonides Children's Medical Center, Methodist Hospital and Lutheran Medical Center. I am Board certified in both Pediatrics and Adolescent Medicine and, among my other medical association involvement, am currently the President of New York State Chapter 2—District II of the American Academy of Pediatrics.

I am submitting testimony today as a resident of New York State, an experienced health care provider, a leader in the American Academy of Pediatrics and the Society for Adolescent Medicine and a member of *Physicians for Reproductive Choice and Health*(r), or PRCH. PRCH is a national non profit organization created to enable concerned physicians to take a more active and visible role in supporting uni-

versal, evidence-based reproductive health. PRCH is committed to ensuring that all people have the knowledge, access to quality services and freedom of choice to make their own reproductive health decisions.

I submit this testimony to you today on behalf of the PRCH Board of Directors and our more than 6,500 physician and non-physician members to express our opposition to H.R. 748, known as the Child Interstate Abortion Notification Act, or CIANA. This bill puts young women's lives at risk, makes criminals out of caring physicians, and affects the care of all patients.

I recognize that parents ideally should be—and usually *are*—involved in health decisions regarding their children. However, the Child Interstate Abortion Notification Act does nothing to promote such communication. Instead, CIANA places incredible burdens on both young women and physicians; infringes on the rights of adolescents to health care that does not violate their safety and health; makes caring family, friends and doctors criminals; and could be detrimental to the health and emotional well-being of all patients.

As a pediatrician, I believe CIANA will create insurmountable obstacles for adolescents. Young women seeking abortions in a state other than their home state will be forced to comply with the parental notification laws in both states. They will also have to navigate through the complex and emotionally draining judicial bypass procedure in *both* states. This will cause delays that may be harmful to the young woman's health by forcing her to undergo a later-term procedure. The American Medical Association states that a delay in receiving care will "increase the gestational age at which the induced pregnancy termination occurs, thereby also increasing the risk associated with the procedure." Requiring adolescents to comply with laws in more than one state will certainly increase the delay in receiving care.

CIANA also requires parental notification for young women receiving abortions in states where they are not permanent residents. Young women who are not trying to circumvent parental notification laws but are, in fact, living temporarily in a state for college, boarding school or other reasons will need to seek the care that is closest to them. CIANA would prohibit these women from the most available health care.

Women from states with no parental notification legislation face an additional burden. Even if a young woman is not subject to any parental notification laws in either the state where she is from or the state where she is accessing care, CIANA will require parental notification. Judicial bypass procedures only exist in states with parental notification laws in place. Thus, in states with no parental notification legislation, young women will not have access to the judicial bypass option.

When judicial bypass is available, the delays it may cause are compounded by a mandatory delay period of at least 24 hour, which is required by CIANA. Mandatory delay periods create additional expenses for both young women and their families, requiring overnight stays in hotels and missed work or school. As mentioned previously, delaying the abortion procedure may increase the health risk for the young woman. Additionally, young women as a population are already more likely to be seeking abortion later in their pregnancy. The Centers for Disease Control have shown that adolescents obtain 30% of all abortions performed after the first trimester, and younger women are more likely to obtain abortions at 21 weeks or more gestation. Mandatory delays will only serve to increase these trends. CIANA also requires a mandatory delay even if a parent is present and consenting. If this legislation is about parental notification, then what is the purpose of this delay if not to keep young women from accessing the care that they need in a timely manner?

I am also concerned that CIANA places extreme and unreasonable burdens on physicians and the other patients they treat. Physicians will be required to have detailed knowledge of the parental notification laws in the 49 states where they do not practice. It is already time consuming to keep up with the laws of my own state. What this proposed legislation doesn't take into account is the amount of time it is going to take for physicians to get law degrees. If I were required to keep up-to-date on the complex and often changing laws of the other 49 states, it would *severely* cut into the time that I could spend giving quality care to my other patients. The impossibility of this effort means that although I will in good faith try to obey the law, I face being criminalized for inadvertently violating this burdensome and ridiculous requirement.

Physicians will be required in some cases to travel to the home state of the young woman to give notification in person to the parents. This means seeing the young woman, leaving their practice to travel to another state to provide in-person notice, returning to their practice, and then performing the procedure—all this for just *one* patient. What becomes of all the other patients seeing their physician for other health care issues during this time? This requirement will not only increase the

delay for the procedure but is simply impossible for a physician to carry out, thereby denying a young woman her right to an abortion.

This bill will grind medical practices to a halt, thereby affecting all types of care that *all* patients are receiving. Additionally, this legislation does not propose any standards or procedures for inter-state reporting, and will place heavy bureaucratic burdens on physicians who are trying to comply with the law. *CIANA makes it impossible for a physician to perform an abortion without neglecting the care of other patients, and is clearly not about protecting young women but simply and blatantly about ending access to abortions—period.*

This legislation contains an inadequate exception to protect a young woman's life and *no exception* to protect her health. This is unconstitutional according to Supreme Court decisions in *Roe v. Wade, Planned Parenthood v. Casey* and *Stenberg v. Carhart.* CIANA does not take into account psychological factors that may threaten a woman's life and will not consider an exception where her health is concerned.

Although this legislation is supposedly aimed at increasing parent-child communication, the government cannot mandate healthy families and, indeed, it is dangerous to attempt to do so. Research has shown that the overwhelming majority of adolescents already tell their parents before receiving an abortion. In fact, the younger the woman is, the more likely she is to tell her parent. The American Academy of Pediatrics, a national medical organization representing the 60,000 physician leaders in pediatric medicine—of which I am a member and leader—has adopted the following statement regarding mandatory parental notification:

> Adolescents should be strongly encouraged to involve their parents and other trusted adults in decisions regarding pregnancy termination, and the majority of them voluntarily do so. *Legislation mandating parental involvement does not achieve the intended benefit of promoting family communication, but it does increase the risk of harm to the adolescent by delaying access to appropriate medical care* (emphasis added).

It is important to consider why a minority of young women cannot inform their parents. The threat of physical or emotional abuse upon disclosure of the pregnancy to their parents or a pregnancy that is the result of incest make it impossible for these adolescents to inform their parents. Under CIANA, young women would be forced to put themselves in dangerous situations in order to receive medical care.

Young women have many reasons for needing to travel out of state to have an abortion. Eighty-seven percent of U.S. counties have no abortion provider. In some states, there is only one provider available. In cases like these, the nearest abortion provider may be in another state. Financially, an abortion may be more affordable at a facility in another state. As I mentioned before, an adolescent may be temporarily residing in another state and need local care. CIANA penalizes young women for seeking the closest and most affordable health care.

This legislation will decrease the ability of physicians to provide quality care to all of their patients by immersing them in legal questions, travel time and mandatory delay periods. Increasing these penalties will have the added effect of decreasing the number of adolescents that seek health care for any reproductive health need. Mandatory, burdensome and confusing legislation may lead to an increased distrust of the physicians who must now enforce this legislation. In addition to minimizing care for all other patients, this may lead to decreased access of contraceptives, later term abortions among a population already having later abortions and an increase in illegal or self-induced abortions—all of which are detrimental to a young woman's health.

Physicians for Reproductive Choice and Health(r) is in absolute agreement with leading medical organizations on this issue. The American Medical Association, the American College of Obstetricians and Gynecologists, the American College of Physicians and the American Public Health Association all oppose mandatory parental-involvement laws because they endanger the health of adolescents and pose undue burdens on physicians. Additionally, the American Academy of Pediatrics and the Society for Adolescent Medicine have opposed similar legislation, entitled the Child Custody Protection Act, currently under consideration in the Senate as S. 8, because of the harm it may cause adolescents.

It is for all of these reasons that we must protect the rights of young women to access safe, affordable and appropriate health care. We must make it easier for physicians to provide needed services, not more difficult. As a physician, I believe that this legislation represents bad medicine and places politics before the health of our youth. Practicing physicians and scientific evidence overwhelmingly agree that this legislation would negatively impact the health of adolescents. It is for this reason that I appear in opposition to H.R. 748.

APPENDIX:

Council on Scientific Affairs, American Medical Association. Induced termination of pregnancy before and after Roe v. Wade: trends in the mortality and morbidity of women. JAMA 1992;268:3231–3239.

American Academy of Pediatrics, Committee on Adolescence. The adolescent's right to confidential care when considering abortion. Pediatrics.1996;97:746–751.

Elam-Evans LD, Strauss LT, Herndon J, Parker WY, Bowens SV, Zane S, et al. Abortion surveillance—United States, 2000. MMWR CDC Surveill Summ 2003;52(SS–12):1–32.

Mr. CHABOT. Our final witness this afternoon will be Professor Collett. You are recognized.

TESTIMONY OF TERESA STANTON COLLETT, PROFESSOR OF LAW, UNIVERSITY OF ST. THOMAS SCHOOL OF LAW, MINNEAPOLIS, MN

Ms. COLLETT. Mr. Chairman, Representative Nadler, Members of the Committee, thank you for the opportunity to appear.

I am in support of CIANA for a number of reasons, but primarily it is because I believe that the widespread consensus represented by the number of States that have through their elected representatives come to the conclusion that parents should be involved in the decision of their minor daughters concerning the obtaining of an abortion is something that should be reinforced by Federal law.

As you can see by the map that has been prepared from the Council for State Legislatures, the vast majority of States in this country have either parental notice or parental consent laws. There are only a tiny minority of States that have not chosen legislatively to enact such protection. This law furthers the will of the people on this issue.

Mr. CHABOT. Professor, could you point out what the colors are there as far as what they represent?

Ms. COLLETT. Certainly, Mr. Chairman. The blue States indicate States that have parental consent laws. The red States indicate States that have parental notification laws. The purple States are States that indicate either parental notice or parental consent. Now, I would actually disagree with the classification of Oklahoma and Connecticut, but I drew this off of the Council for State Legislatures website. The white States have not enacted laws, but you can see that they constitute only six States in the Union at this point in time. Oklahoma's law is actually an abortion liability law, not a parental consent or notification law, as the Tenth Circuit has defined it.

In addition to that, you will see that the majority of abortion providers and abortion advocacy groups throughout this country refer to the fact that a substantial minority of minors will voluntarily involve their parents in the decision to obtain abortions. When you look at the sources they cite on that, they actually cite a study that was done by Stanley K. Henshaw and Kathryn Kost. Stanley K. Henshaw is the demographer for the Guttmacher Institute, which is Planned Parenthood's research affiliate. It is a 1992 article and he says that 61 percent of all minors will voluntarily involve a parent absent a parental involvement law. He indicates that this was based on a survey of 1,500 unmarried minors, which was a nationally representative sample.

In fact, when you look at the actual article, it did not involve any minors from States that had parental involvement laws at the time, of which there were 21 States at that point in time. Therefore, none of the minors involved in the survey actually were subject to a law. In addition to that, he did not survey the parents of these minors, so we simply had self-reporting. So the survey itself is not particularly reliable.

But the real example of experimenter bias or researcher bias of this particular survey is the only thing he asked these minors were, what were the adverse effects of this particular parental involvement? The number one adverse effect that the minors indicated for parental involvement, by 40 percent, was increase of parental stress. Now, I would suggest that, in fact, that could equally be indicative of good parenting as opposed to bad parenting. It also indicated that another adverse effect, according to 14 percent of the respondents, was that the minor was no longer allowed to interact with the individual who had impregnated her. Again, I think whether that is an adverse effect is one that is subject to diverse judgments.

He also discloses that of those minors who indicated that there was individuals involved, 95 percent said that their mothers were involved. Ninety-nine percent indicated that an adult was involved. But 53 percent of those under 15 said no adult was involved, but where only an adult was involved and no parent was involved, a significant number indicated that a boyfriend was involved in deciding or arranging for the abortion. Ninety-three percent of those 15 and under said that the boyfriend was involved. Seventy-six percent indicated that the boyfriend helped pay for the abortion. Clearly, a number of the young girls who obtain abortions without their parents' knowledge were encouraged to do so by a boyfriend who could be charged with statutory rape.

One of the substantial State interests that backs CIANA is, in fact, to help States protect minors from statutory rape. In addition to that, Mr. Chairman and Members of the Committee, the Congress has looked at the problem of teenage pregnancy and studies have consistently shown that adolescent pregnancies are often the result of impregnation by men who are at least 5 years older than the minor who is impregnated. One study of 46,000 pregnancies by school-age girls in California showed that 71 percent, or over 33,000, were fathered by adult post-high school men whose mean age was 22.6 years, an average of 5 years older than the mothers. Even among junior high school girls, the men were six to 7 years their senior.

Clearly, there is substantial State interest and there is substantial consistency among the States in the Union that parents should be involved. CIANA is both constitutional and is consistent with sound public policy.

Thank you, Mr. Chairman.

Mr. CHABOT. Thank you very much, Professor.

[The prepared statement of Ms. Collett follows:]

PREPARED STATEMENT OF TERESA STANTON COLLETT

UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY,
SUBCOMMITTEE ON THE CONSTITUTION

The Honorable Steve Chabot, Presiding

March 3, 2005

Prepared Testimony of
Professor Teresa Stanton Collett*

Good afternoon Mr. Chairman, Members of the Committee, and other distinguished guests. My name is Teresa Stanton Collett and I am a professor of law at the University of St. Thomas School of Law in Minneapolis, Minnesota.

I am honored to have been invited to testify on H.R. 748, the "Child Interstate Abortion Notification Act" (the "Act"). My testimony represents my professional knowledge and opinion as a law professor who writes on the topic of family law, and specifically on the topic of parental involvement laws. It also represents my experience in assisting legislators across the country in evaluating parental involvement laws during the legislative process and defending parental involvement laws in the courts. I have served as a member of the Texas Supreme Court Subadvisory Committee charged with proposing court rules implementing the judicial bypass of parental notification in that state. I testified before the House and Senate Judiciary Committees in 1998, 2001, and 2004 in support of "the Child Custody Protection Act" which is the predecessor to H.R. 748. My testimony today is not intended to represent the views of my employer, the University of St. Thomas, or any other organization or person.

It is my opinion that the Child Interstate Abortion Notification Act will significantly advance the state's interest in promoting the health and safety of young girls experiencing an unplanned pregnancy, as well as the interests of parents seeking to provide support and guidance to their minor daughters during this difficult time.[1] In the

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[1] Cases evidencing the general rule that parents are legally entitled to make medical decisions on behalf of their children include *Newmark v. Williams*, 588 A.2d 1108 (Del. Super. Ct. 1991) (upholding parents' rejection of chemotherapy in favor of prayer treatment where survival was not assured even with medical intervention.); *In re Eric B.*, 235 Cal Rptr. 22 (Cal. Ct. App. 1987) (requiring medical monitoring of child following court-ordered chemotherapy treatments over renewed parental objections); *In re Green*, 292 A.2d 387 (Pa. 1972) (dismissing court ordered medical intervention for seventeen-year-old poliomyelitis patient suffering from 94% curvature of the spine on basis that condition is not considered life-threatening); and *In re Baby K*, 832 F.Supp. 1022 (E.D. Va. 1993), *aff'd*, 16 F.3d. 590 (4th Cir.), *cert. denied*, 115 S.Ct. 91(1994) (court rejected petition by hospital and natural father to remove anacephalic child from life support over mother's objection). *See also* Gina Kolata, *Battle over a Baby's Future Raises Hard Ethical Issues,* NY TIMES, Dec. 27, 1994, at A1, and Michelle O. Ray, *Defying Death Sentence, Baby Ryan Heads*

cases where the pregnancy results from unlawful conduct by adult men, the Act will provide greater assurances that unlawful acts will come to the attention of law enforcement officials so that the perpetrators can be prosecuted.

Parental Rights to Control Medical Care of Minors

The United States Supreme Court has described parents' right to control the care of their children as "perhaps the oldest of the fundamental liberty interests recognized by this Court."[2] In addressing the right of parents to direct the medical care of their children, the Court has stated:

> Our jurisprudence historically has reflected Western civilization concepts of the family as a unit with broad parental authority over minor children. Our cases have consistently followed that course; our constitutional system long ago rejected any notion that a child is "the mere creature of the State" and, on the contrary, asserted that parents generally "have the right, coupled with the high duty, to recognize and prepare [their children] for additional obligations." Surely, this includes a "high duty" to recognize symptoms of illness and to seek and follow medical advice. The law's concept of the family rests on a presumption that parents possess what a child lacks in maturity, experience, and capacity for judgment required for making life's difficult decisions.[3]

It is this need to insure the availability of parental guidance and support that underlies the laws requiring a parent is notified or gives consent prior to the performance of an abortion on his or her minor daughter. The national consensus in favor of this position is illustrated by the fact that there are parental involvement laws on the books in forty-four of the fifty states.[4] Only six states in the nation have not attempted to legislatively insure some level of parental involvement in a minor's decision to obtain an abortion.[5]

Home, NEWS TRIB., Mar. 6, 1995, at A1 (news reports of successful effort by parents of premature handicapped infant to enjoin hospital from discontinuing dialysis without their consent).

[2] *Troxel v. Granville*, 530 U.S. 57, 120 U.S. Sup. Ct. 2054 at 2060 (2000)(overturning Washington visitation statute which unduly interfered with parental rights).

[3] *Parham v. J.R.*, 442 U.S. 584 at 602 (1979)(emphasis added)(rejecting claim that minors had right to adversarial proceeding prior to commitment by parents for treatment related to mental health).

[4] See Ala. Code § § 26-21-1 to-8 (Westlaw 2003 through organizational and 1st session); Alaska Stat. §§ 18.16.010(a)(3), .020, .030, .090(2) (Bender, WESTLAW through 2002 Replacement Set).; Ariz. Rev. Stat. Ann. § 36-2152 (West, WESTLAW through May 2004); Ark. Code Ann. § § 20-16-801 to-808 (WESTLAW through end of 2003 Reg. Sess.); Cal. Health & Safety Code § 123450 (West 1996 & Supp. 1999); COLO. REV. STAT. ANN. §§ 12-37.5-101 to -108 (WESTLAW through ch. 18 of 2003 1st Reg. Sess.); H.B. 1376, 64th General Assembly, Gen. Sess. (Co. 2003); Conn. Gen. Stat. Ann. § 19(a)-601 (WESTLAW current with amendments received through 2003 Jan. Reg. Sess., June 30 Sp. Sess. and Sept. 8 Sp. Sess.); Del. Code Ann. tit. 24, § § 1780-1789B (WESTLAW current through 2003 Regular Session of the 142nd General Assembly); Fla. Stat. Ann. § 390.01115 (WESTLAW current through May 12, 2004); Ga. Code Ann. § § 15-11-110 to-118 (WESTLAW current through end of 2003 Reg. Sess.); Idaho Code § 18-609(6) (WESTLAW current through end of 2003 session); 750 Ill. Comp. Stat. 70/1-70/99

Of the forty-four states that have enacted laws, ten statutes have been determined to have state or federal constitutional infirmities. Therefore the laws of thirty-four states are in effect today.[6] Ten of these remaining states have laws that empower abortion

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(WESTLAW current through P.A. 93-673 of the 2004 Reg. Sess.); Ind. Code Ann. § § 16-18-2-267, 16-34-2-4 (WESTLAW current through P.L. 1 of 2004 2nd Regular Sess.); Iowa Code Ann. § § 135L.1-8 (WESTLAW current through end of 2003 1st Ex. Sess.); Kan. Stat. Ann. § 65-6705 (WESTLAW current through 2003 Reg. Sess.); Ky. Rev. Stat. Ann. § 311.732 (WESTLAW current through end of 2003 Reg. Sess.); La. Rev. Stat. Ann. § 40:1299.35.5 (WESTLAW current through all 2004 First Extraordinary Session Acts); Me. Rev. Stat. Ann. tit. 22, § 1597-A (WESTLAW current through 2003 First Special Session of the 121st Legislature); Md. Code Ann., Health-Gen. § 20-103 (WESTLAW current with laws from the 2004 Regular Session effective through May 11, 2004); Mass. Ann. Laws ch. 112, § 12s (WESTLAW current through Ch. 115 of the 2004 2nd Annual Sess.); Mich. Stat. Ann. § § 722.901 et seq. (WESTLAW current through P.A.2004, No. 102); Minn. Stat. Ann. § § 144.343 , 645.452 (WESTLAW current with 2004 Regular Session laws through Chapters 140, 144, 147, 150 to 152 and 158); Miss. Code Ann. § § 41-41-51 to-63 (WESTLAW current through end of 2003 Reg. Sess.); Mo. Ann. Stat. § § 188.015, 188.028 (WESTLAW current through the End of the First Regular and Second Extraordinary Sessions of the 92nd General Assembly (2003); Mont. Code Ann. § § 50-20-201 to-215 (WESTLAW current through the 2003 Regular Session of the 58th Legislature); Neb. Rev. Stat. § § 71-6901 to- 6909 (WESTLAW current through First Regular Session of the 98th Legislature (2003)); Nev. Rev. Stat. § § 442.255-.257 (WESTLAW current through the 2003 Reg. Sess. Of the 72nd Legislature and the 19th and 20th Spec. Sess. (2003)); N.H. Stat. Ann. §§132.25 et seq. (WESTLAW current through end of 2003 Reg. Sess.); N.J. Stat. Ann. § § 9:17A-1 to-1.12 (WESTLAW current through L.2004); N.M. Stat. Ann. § § 30-5-1(C) (WESTLAW current through the Spec. Sess. Of the 46th Legislature (2004)); N.C. Gen. Stat. § § 90-21.6 et seq. (WESTLAW current through the 2003 Second Ex. Sess.); N.D. Cent. Code § § 14-02.1 to 03.1 (WESTLAW current through 2003 General and Spec. Sess.); OHIO REV. CODE ANN. §§ 2151.85, 2505.073, 2919.12, 2919.122 (WESTLAW current through 2004 File 76 of the 125th GA (2003-2004), apv. by 5/6/04); 18 Pa. Cons. Stat. Ann. § 3206 (WESTLAW current through Act 2004-21); R.I. Gen. Laws § 23-4.7-6 (WESTLAW current through Jan. 2003 Sess.); S.C. Code Ann. § § 44-41-10, 30 to-37 (WESTLAW current through end of 2003 Reg. Sess.); S.D. Codified Laws § § 26-1-1, 34-23A-7 (WESTLAW current through the end of the 2004 Reg. Sess.); Tenn. Code Ann. § 37-10-301 et seq. (WESTLAW current with laws from 2004 Second Reg. Sess. eff. April 30, 2004); Tex. Fam. Code Ann. § 33.001-.004 (WESTLAW current through the end of the 2004 Fourth Called Session); Utah Code Ann. § 76-7-304 (WESTLAW current through 2003 2nd Spec. Sess.); Va. Code Ann. § 16.1-241(V) as amended by Senate Bill 335 (WESTLAW current through 2003 Reg. Sess.); W. Va. Code § § 16-2F-1 et seq. (WESTLAW current with Laws of the 2004 Regular Session effective before April 15, 2004); Wis. Stat. Ann. § 48.375 (WESTLAW current through 2003 Act 137, published 3/4/04); Wyo. Stat. Ann. § 35-6-118 (WESTLAW current through 2003 Reg. Sess.).

[5] These are Hawaii, New York, Oklahoma, Oregon, Vermont, and Washington. The proper classification of Connecticut and Oklahoma are debated between advocates and detractors of parental involvement laws, with Connecticut commonly being classified as having no parental involvement law and Oklahoma's abortion liability law being classified as a parental notice law.

[6] One state law is not being enforced due to an attorney general's opinion that the statute is unconstitutional. Courts have enjoined the implementation of nine state statutes based on claims of state or federal constitutional infirmity. Three of these rulings are currently on appeal, and the citizens recently rejected one when they amended the Florida state constitution to clarify the state's ability to protect minors through the enactment of a parental involvement law.

See *Planned Parenthood v. State*, 3AN-97-6014 C1 (Alaska Super. Ct. Oct. 13, 2003) (decision on remand); appeal filed *State v. Planned Parenthood*, S-11365 (Alaska Supreme Court)(oral argument scheduled for April 13,2005); *American Acad. of Pediatrics v. Lungren*, 940 P.2d 797 (Cal. 1997) (parental consent statute violated state constitutional right to privacy); *North Florida Women's Health and*

providers to decide whether to involve parents or allow notice to or consent from people other than parents or legal guardians.[7] These laws are substantially ineffectual in assuring parental involvement in a minor's decision to obtain an abortion. However, parents in the remaining twenty-four states are effectively guaranteed the right to parental notification or consent in most cases.[8]

Widespread Public Support

There is widespread agreement that as a general rule, parents should be involved in their minor daughter's decision to terminate an unplanned pregnancy. This agreement even extends to young people, ages 18 to 24.[9] To my knowledge, no organizations or

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Counseling Services, Inc. v. State, 866 So.2d 612 (Fla. 2003) (parental notification requirement violated state constitutional right to privacy) Florida citizens then passed a state constitutional amendment authorizing the legislature to enact a parental notice law which the state supreme court upheld in *ACLU of Fla. v. Hood*, SC04-1671 (Dec. 22, 2004) available at http://jweb.flcourts.org/pls/docket/ds_docket_search; *Planned Parenthood of Idaho, Inc. v. Lance*, No. CIV 00-0353-S-MHW (D. Idaho Mar. 8, 2002), aff'd in part and rev'd in part sub nom, *Planned Parenthood of Idaho, Inc. v. Wasden*, 376 F.3d 908 (9th Cir. 2004), *petition for cert filed*, 73 USLW 3338 (Nov. 24, 2004); *Zbaraz v. Ryan*, No. 84 C 771 (N.D. Ill. 1996) (Ill. Supreme Ct. refused to issue rules implementing Ill. Stat.); *Wicklund v. State*, No. ADV-97-671 (Mont. Dist. Ct. Feb. 25, 1999) (parental notification law violated state constitution) available at http://www.mtbizlaw.com/1stjd99/WICKLUND_2_11.htm; *Glick v. McKay*, 616 F. Supp. 322, 327 (D. Nev. 1985), aff'd, 937 F.2d 434 (9th Cir. 1991); *Planned Parenthood of Northern New England v. Heed*, 296 F.Supp.2d 59 (D.N.H. 2003) (striking down statute due to absence of health exception) aff'd by *Planned Parenthood of Northern New England v. Heed*, 390 F.3d 53 (1st Cir. 2004) *petition for cert. filed sub nom Ayotte v. Planned Parenthood of Northern New England* (Feb. 22, 2005); *Planned Parenthood of Central New Jersey v. Farmer*, 762 A.2d 620 (N.J. 2000) (parental notification law with judicial waiver violates state constitution). See also N.M. Op. Att'y Gen. No. 90-19 (Oct. 3, 1990) (opining that a pre-Roe N.M. parental consent law was unconstitutional).

[7] See Conn. Gen. Stat. Ann. § 19(a)-601 (stating that the abortion provider need only discuss the possibility of parental involvement); Del. Code Ann. tit. 24, § 1783(a) (allowing notice to a licensed mental health professional not associated with an abortion provider); Kan. Stat. Ann. § 65-6705(j) (allowing a physician to bypass parental notice in cases where the physician determines that an emergency exists that threatens the "well-being" of the minor); Me. Rev. Stat. Ann. tit. 22, § 1597- A(2) (allowing a minor to give informed consent after counseling by the abortion provider); Md. Code Ann., Health-Gen. § 20-103(c) (allowing a physician to determine that parental notice is not in the minor's best interest); Ohio Rev. Code Ann. § 2919.12 (stating that notice may be given to a brother, sister, step-parent, or grandparent if certain qualifications are met); Utah Code Ann. § 76-7-304 (stating that a physician need notify only if possible); W. Va. Code § 16-2F-1 (stating physician not affiliated with an abortion provider may waive the notice requirement); Wis. Stat. Ann. § 48-375 (stating that the notice may be given to any adult family member).

[8] The guarantee is qualified by the fact that every state with an effective parental involvement law has judicial bypass of parental involvement for mature and well informed minors and minors for whom the court determines that abortion is in their best interest.

[9] A Kaiser Family Foundation/MTV Survey of 603 people ages 18-24 found that 68% favored laws requiring parental consent prior to performance of an abortion on girls under 18. *Sex Laws: Youth Opinion on Sexual Health Issues in the 2000 Election* (conducted July 5-17, 2000) available at <http://www.kcts.org/productions/youthpolitics/issues/index.asp l> (visited June 1, 2004). Similar results are found in polls taken from September 1981 to January 2004, which consistently reflect over 70% of the American public support parental consent or notification laws. See, e.g., Gallup/CNN/USA Today Poll (released Jan. 15, 2004) (73% favor requiring parental consent for abortion "for women under 18"); CBS

individuals, whether abortion rights activists or pro-life advocates, dispute this point.[10] On an issue as contentious and divisive as abortion, it is both remarkable and instructive that there is such firm and long-standing support for laws requiring parental involvement.

Various reasons underlie this broad and consistent support. As Justices O'Connor, Kennedy, and Souter observed in *Planned Parenthood v. Casey*,[11] parental consent and notification laws related to abortions "are based on the quite reasonable assumption that minors will benefit from consultation with their parents and that children will often not realize that their parents have their best interests at heart."[12] This reasoning led the Court to conclude that the Pennsylvania parental consent law was constitutional.

Voluntary Involvement of Parents by Minors in the Abortion Decision

Opponents of parental involvement laws commonly argue that, absent a parental involvement law, approximately 61 percent of all minors involve a parent in the decision to obtain an abortion, and the remaining minors have good reason to avoid involving a

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News/ NY Times Poll (released Jan. 15, 1998) (78% of those polled favor requiring parental consent before a girl under 18 years of age could have an abortion); Americans United for Life, Abortion and Moral Beliefs, A Survey of American Opinion (1991); Wirthlin Group Survey, Public Opinion, May-June 1989; Life/Contemporary American Family (released December, 1981) (78% of those polled believed that "a girl who is under 18 years of age [should] have to notify her parents before she can have an abortion"). Other polling results are available in Westlaw, Dialog library, poll file.

[10] "NARAL Pro-Choice America believes that loving and responsible parents should be involved when their daughters face crisis pregnancies." NARAL Pro-Choice America Foundation, WHO DECIDES? THE STATUS OF WOMEN'S REPRODUCTIVE RIGHTS IN THE UNITED STATES (2005) at http://naral.org/yourstate/whodecides/trends/issues_young_women.cfm. "Physicians should strongly encourage minors to discuss their pregnancy with their parents. Physicians should explain how parental involvement can be helpful and that parents are generally very understanding and supportive. If a minor expresses concerns about parental involvement, the physician should ensure that the minor's reluctance is not based on any misperceptions about the likely consequences of parental involvement." Council on Ethical and Judicial Affairs, American Medical Association, *Mandatory Parental Consent to Abortion*, JAMA 82 (January 6 1993) (opposing laws that mandate parental involvement on the basis that such laws may expose minors to physical harm, or compromise "the minor's need for privacy on matters of sexual intimacy.")

[11] *Planned Parenthood v. Casey*, 505 U.S. 833 (1992).

[12] 505 U.S. at 895. In *Planned Parenthood of Central Missouri v. Danforth*, 428 U.S. 52 (1976), the first of a series of United States Supreme Court cases dealing with parental consent or notification laws, Justice Stewart wrote, "There can be little doubt that the State furthers a constitutionally permissible end by encouraging an unmarried pregnant minor to seek the help and advice of her parents in making the very important decision of whether to have a child." *Id.* at 91. Three years later the Court acknowledged that parental consultation is critical for minors considering abortion because "minors often lack the experience, perspective and judgment to avoid choices that could be detrimental to them." *Bellotti v. Baird*, 443 U.S. 622, 640, (1979) (*Bellotti II*) (plurality opinion). The *Bellotti* Court also observed that parental consultation is particularly desirable regarding the abortion decision since, for some, the situation raises profound moral and religious concerns. *Bellotti II*, 443 U.S. at 635.

parent.[13] These individuals and organizations base their assertions on the 1992 article, *Parental Involvement in Minors' Abortion Decisions* by Stanley K. Henshaw and Kathryn Kost.[14] While the article may provide adequate empirical support for the first conclusion (61% of all minors will voluntarily involve a parent absent a parental involvement law), there are several limitations and qualifications that make the second conclusion highly suspect.

While the study purports to be "based on a nationally representative sample of more than 1500 unmarried minors having an abortion"[15] no respondents from the twenty-one states requiring parental involvement at that time were included. Therefore no respondent was impacted by a parental consent or notification law. Further, the sample included only respondents who obtained abortions. There is absolutely no information from adolescents who, after consultation with a parent, decided to continue their pregnancies.

To gain an accurate understanding of the impact and value of parental involvement in minors' abortion decisions, it is necessary to have information from: **(a)** adolescents who terminated their pregnancies as well as adolescents who carried their pregnancies to term; and **(b)** the parents of adolescents who terminated their pregnancies as well as the parents of those adolescents who carried to term. Without information obtained directly from parents of those adolescents who responded to survey questions about their parents, there is no basis for assessing the accuracy of the adolescents' perceptions regarding their parents' knowledge, behavior and attitudes.

Notwithstanding these limitations, researcher bias is most evident in that the minors in study whose parents knew of their pregnancy were asked whether they experienced any of 11 possible "adverse" consequences from their parents' finding out, but were not asked about any possible positive outcomes. At a minimum, balanced research would require asking respondents to also report benefits of parents' finding out

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[13] "Sixty-one percent of the respondents reported that at least one of their parents knew about their abortion. Of those minors who did not inform their parents of their abortions, 30 percent had histories of violence in their families, feared the occurrence of violence, or were afraid of being forced to leave their homes." Planned Parenthood Federation of America, *Teenagers, Abortion, and Government Intrusion Laws* (2004) at http://www.plannedparenthood.org/pp2/portal/files/portal/medicalinfo/abortion/fact-teenagers-abortion-intrusion.xml. "Based on a national survey of more than 1,500 unmarried minors having abortions in states without parental involvement laws, 61% of young women discussed the decision to have an abortion with at least one of their parents." ACLU, *Laws Restricting Teenagers' Access to Abortion* (Apr. 1, 2001) at http://www.aclu.org/ReproductiveRights/ReproductiveRights.cfm?ID=9034&c=223.
"Even in states that do not enforce mandatory parental involvement laws, 61 percent of parents know of their daughters' pregnancy." NARAL Pro-Choice America, *Facts and Myths about the "Child Custody Protection Act"* (Jan. 1, 2004) at http://www.prochoiceamerica.org/facts/loader.cfm?url=/commonspot/security/getfile.cfm&PageID=7963.

[14] Stanley Henshaw & Kathryn Kost, *Parental Involvement in Minors' Abortion Decisions*, 24 Fam. Plan. Persp. 196-213 (1992).

[15] *Id.* at 196.

about their intended abortion and whether the minors are glad that their parents were involved in the decision making process.

The survey reported in the article asked respondents who had been involved in helping them decide or arrange for the abortion. Among those who reported that at least one parent knew of their pregnancy, 95% said their mother was involved, and 99% indicated at least one adult was involved (and 100% of those 15 and under said an adult was involved). Among those who reported that neither parent knew, 48% said that no adult was involved (and 53% of those 15 and under said that no adult was involved). Presumably the only adult involved for some of these minors who said that some adult was involved was a *boyfriend over age 21.*

Among those minors who reported that neither parent knew of the abortion, 89% said that a boyfriend was involved in deciding or arranging the abortion (and 93% of those 15 and under said that a boyfriend was involved). Further, 76% indicated that a boyfriend helped pay the expenses of the abortion. Clearly, a number of young girls who obtained abortions without their parents' knowledge were encouraged to do so by a boyfriend who could have been charged with statutory rape.

Discussing this study in litigation related to the Alaska parental consent statute, Dr. Henshaw reported, "Among minors whose parents found out about the pregnancy, 58% reported one or more adverse results of parental knowledge." The most common "adverse" result reported by adolescents was that their parents' stress increased (30%). Parental stress upon learning of a child's problem is hardly uncommon or indicative of family dysfunction. Another "adverse" result was that parents forced the respondent to stop seeing her boyfriend (14%). It is not clear whether this consequence was harmful to the child; it may have been both beneficial for the child and mutually agreed upon as in her best interests.[16]

Adolescents are often reluctant to inform their parents about any action that they know would displease or disappoint them. It is not surprising to hear that some adolescents are fearful of their parents' disapproval or disappointment. But fear does not justify empowering an adolescent to disregard the very people in her life who can provide her with informed, experienced input and sincere, selfless support during a most desperate time.

When parents are informed of their daughter's pregnancy, they may, indeed probably will, feel displeasure or disappointment. However such an initial reaction by parents is not grounds for labeling those families as a threat to their child's wellbeing. "[P]arents whose daughters told them about the pregnancy were understanding and supportive as often as they were upset and disappointed." [17] In fact, when parents were

[16] *Id.* at 204 Table 7.

[17] *Id.* at 207.

told about the pregnancy by their daughter, 87% of mothers and 77% of fathers were supportive of an abortion, while only 5 or 6% were not supportive.[18]

As currently drafted the Act before this committee seeks to advance three substantial state interests: improved medical care for minors who decide to terminate their pregnancies, increased protection of minor girls against sexual exploitation by adult men, and decreased adolescent pregnancy rates.

Improved Medical Care of Minor Girls

Medical care for minors seeking abortions is improved by parental involvement in three ways. First, parental involvement laws allow parents to assist their daughter in the selection of the abortion provider.

As with all medical procedures, one of the most important guarantees of patient safety is the professional competence of those who perform the medical procedure. In *Bellotti v. Baird*, the United States Supreme Court acknowledged the superior ability of parents to evaluate and select appropriate healthcare providers.[19]

> In this case, however, we are concerned only with minors who according to the record range in age from children of twelve years to 17-year-old teenagers. Even the latter are less likely than adults to know or be able to recognize ethical, qualified physicians, or to have the means to engage such professionals. Many minors who bypass their parents probably will resort to an abortion clinic, without being able to distinguish the competent and ethical from those that are incompetent or unethical.[20]

Historically, the National Abortion Federation has recommended that patients seeking an abortion confirm that the abortion will be performed by a licensed physician in good standing with the state Board of Medical Examiners and that the doctor have admitting privileges at a local hospital not more than twenty minutes away from the location where the abortion is to occur in order to insure adequate care should complications arise.[21] These recommendations were deleted after they were introduced into evidence in malpractice cases against abortion providers. Notwithstanding this change in the NAF recommendations, a well-informed parent seeking to guide her child is more likely to inquire regarding these matters than a panicky teen who just wants to no longer be pregnant.

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[18] *Id.* at 203, Table 6.

[19] 443 U.S. 622 at 641 (1979) (*Bellotti II*).

[20] *Bellotti v. Baird*, 443 U.S. 622 at 641 (1979) (*Bellotti II*).

[21] National Abortion Federation, *Having an Abortion? Your Guide to Good Care* (2000) which was available at <http://www.prochoice.org/pregnant/goodcare.htm>, (visited Jan. 1, 2000).

Second, parental involvement laws insure that parents have the opportunity to provide additional medical history and information to abortion providers prior to performance of the abortion.[22]

> The medical, emotional, and psychological consequences of an abortion are serious and can be lasting; this is particularly so when the patient is immature. An adequate medical and psychological case history is important to the physician. Parents can provide medical and psychological data, refer the physician to other sources of medical history, such as family physicians, and authorize family physicians to give relevant data.[23]

Abortion providers, in turn, have the opportunity to disclose the medical risks of the procedure to the adult who can advise the girl in giving her informed consent to the surgical procedure. Parental notification insures that the abortion providers inform a mature adult of the risks and benefits of the proposed treatment, after having received a more complete and thus more accurate medical history of the patient.

The third way in which parental notification will improve medical treatment of pregnant minors is by insuring that parents have adequate knowledge to recognize and

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[22] In *Edison v. Reproductive Health Services*, 863 S.W.2d 621 (Mo. App. E.D. 1993), the court confronted the question of whether an abortion provider could be held liable for the suicide of Sandra, a fourteen-year-old girl, due to depression following an abortion. Learning of the abortion only after her daughter's death, the girl's mother sued the abortion provider, alleging that her daughter's death was due to the failure to obtain a psychiatric history or monitor Sandra's mental health. *Id.* at 624. An eyewitness to Sandra's death "testified that he saw Sandra holding on to a fence on a bridge over Arsenal Street and then jumped in front of a car traveling below on Arsenal. She appeared to have been rocking back and forth while holding onto the fence, then deliberately let go and jumped far out to the driver's side of the car that struck her. A second car hit her while she was on the ground. Sandra was taken to a hospital and died the next day of multiple injuries." *Id.* at 622.

The court ultimately determined that Sandra was not insane at the time she committed suicide. Therefore her actions broke the chain of causation required for recovery. Yet evidence was presented that the daughter had a history of psychological illness, and that her behavior was noticeably different after the abortion. *Id.* at 628. If Sandra's mother had known that her daughter had obtained an abortion, it is possible that this tragedy would have been avoided.

See also Anna Glasier, *Counseling for Abortion, in* MODERN METHODS OF INDUCING ABORTION 112, 117 (David T. Baird et al. eds., 1995)("20% of women suffer from severe feelings of loss, grief and regret"); Jo Ann Rosenfeld, *Emotional Responses to Therapeutic Abortion*, 45 AM. FAM. PHYSICIAN 137, 138 (1992) ("Teenagers who do not tell their parents about their abortion have an increased incidence of emotional problems and feelings of guilt."); Mika Gissler, *Suicides After Pregnancy in Finland 1987-1994: Register to Linkage Study,* 313 BRIT. MED. J. 1431, 1433 (1996); H. David et al., *Postpartum and Postabortion Psychotic Reactions*, 13 FAMILY PLANNING PERSPECTIVES 889 (1981) and David C. Reardon, 95 So. Med. J. 834 (Aug. 2002) available at www.sma.org/smj/index.cfm. Additional sources are collected and discussed in Thomas R. Eller, *Informed Consent Civil Actions for Post-Abortion Psychological Trauma*, 71 NOTRE DAME L. REV. 639 (1996).

[23] *H.L. v. Matheson*, 450 U.S. 398 at 411 (1981). Accord *Ohio v. Akron Ctr. for Reproductive Health*, 497 U.S. 502, 518-19 (1990).

respond to any post-abortion complication that may develop.[24] While it is often claimed that abortion is one of the safest surgical procedures performed today, the actual rate of many complications is simply unknown because there is no coordinated national effort to collect and maintain this information.[25]

Notwithstanding this failure by public health authorities, abortion providers have identified infection is one of the most common post-abortion complications.[26] The warning signs of infection typically begin within the first forty-eight to ninety-six hours after the abortion and can include fever, pain, pelvic tenderness, and elevated white blood count.[27] Caught early, most infections can be treated successfully with oral antibiotics.[28] Left untreated, it can result in death.

Similarly post-operative bleeding after an abortion is common, and even where excessive[29] can be easily controlled if medical treatment is sought promptly. However, hemorrhage is a one of the most serious post-abortion complications and should be evaluated by a medical professional immediately. [30] Untreated it can result in the death of the minor.[31]

Experts often characterize a perforated uterus is a "normal risk" associated with abortion.[32] This complication also can be easily dealt with if detected early, but lead to serious consequences if medical help is not sought promptly.

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[24] See *Ohio v. Akron Ctr. For Reproductive Health*, 497 U.S. 502, 519 (1990).

[25] "The abortion reporting systems of some countries and states in the United States include entries about complications, but these systems are generally considered to underreport infections and other problems that appear some time after procedure was performed." Stanley K. Henshaw, *Unintended Pregnancy and Abortion: A Public Health Perspective* in *A Clinician's Guide to Medical and Surgical Abortions* at 20 (Maureen Paul et al., eds. 1999).

[26] David A. Grimes, *Sequelae of Abortion*, *in* MODERN METHODS OF INDUCING ABORTION 95, 99-100 (David T. Baird et al. eds., 1995).

[27] *See* E. Steve Lichtenberg et al., *Abortion Complications: Prevention and Management, in* A CLINICIAN'S GUIDE TO MEDICAL AND SURGICAL ABORTIONS 197, 206 (Maureen Paul et al. eds., 1999).

[28] *See id.* at 206-07.

[29] Excessive bleeding is defined as "saturation of more than one pad per hour for more than three hours" under *Complications, Standard* 3, n 23. National Abortion Federation, *Clinical Policy Guidelines*, 40, http://www.prochoice.org/pubs_research/publications/downloads/professional_education/cpgs_2005.pdf (2005).

[30] *Id.* at 39-40.

[31] See *Evans v. Mutual Assur., Inc.*, 727 So. 2d 66 (Ala. 1999) (discussing a dispute between a physician and the malpractice carrier regarding coverage for the death of an 18-year-old girl from hemorrhaging induced by abortion).

[32] *Reynier v Delta Women's Clinic*, 359 So.2d 733 (La. Ct. App. 1978). "All the medical testimony was to the effect that a perforated uterus was a normal risk, but the statistics given by the experts indicated that it

Many minors may ignore or deny the seriousness of post-abortion symptoms or may lack the financial resources to respond to those symptoms.[33] This is because some of the most serious complications are delayed and only detected during the follow-up visit; yet, only about one-third of all abortion patients actually keep their appointments for post-operative checkups.[34] Absent parental notification, hemorrhaging may be mistaken for a heavy period and severe depression as typical teenage angst.

Increased Protection from Sexual Assault

In addition to improving the medical care received by young girls dealing with an unplanned pregnancy, parental notification will provide increased protection against sexual exploitation of minors by adult men. National studies reveal "[a]lmost two thirds of adolescent mothers have partners older than 20 years of age."[35] In a study of over 46,000 pregnancies by school-age girls in California, researchers found that "71%, or over 33,000, were fathered by adult post-high-school men whose mean age was 22.6 years, an average of 5 years older than the mothers. . . . Even among junior high school mothers aged 15 or younger, most births are fathered by adult men 6-7 years their senior. *Men aged 25 or older father more births among California school-age girls than do boys under age 18.*"[36] Other studies have found that most teenage pregnancies are the result of predatory practices by men who are substantially older.[37]

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was an infrequent occurrence and it was rare for a major blood vessel to be damaged." *Id.* at 738. Frequent injuries from incomplete abortions in Texas are discussed in *Swate v. Schiffers*, 975 S.W.2d 70, 26 Media L. Rep. 2258 (Tex.App.-San Antonio, 1998) (abortionist unsuccessful claim of libel against journalist for reports based in part upon one disciplinary order that doctor had failed to complete abortions performed on several patients, and that he had failed to repair lacerations which occurred during abortion procedures) *Compare Sherman v. District of Columbia Bd. of Medicine*, 557 A.2d 943 (D.C. 1989) "Dr. Sherman placed his patients' lives at risk by using unsterile instruments in surgical procedures and by intentionally doing incomplete abortions (using septic instruments) to increase his fees by making later surgical procedures necessary. His practices made very serious infections (and perhaps death) virtually certain to occur. Dr. Sherman does not challenge our findings that his misconduct was willful nor that he risked serious infections in his patients for money." *Id.* at 944.

[33] *Parental Notification of Abortion: Hearings on H. 218 Before the House Comm. on Health and Welfare*, 2001-2002 Legis. Sess. (Vt. 2001) 33 (testimony of ASue@ an anonymous Vermont mother, on March 20, 2001).

[34] *See id.*

[35] American Academy of Pediatrics Committee on Adolescence, *Adolescent Pregnancy Current Trends and Issues: 1998*, 103 PEDIATRICS 516, 519 (1999), also available on the worldwide web at <http://www.aap.org/policy/re9828.html>. See also Nat'l Ctr. for Health Statistics, *Report to Congress on Out-of-Wedlock Childbearing*, DHHS Pub. No. (PHS) 95-1257 (1995) available at http://www.cdc.gov/nchs/data/misc/wedlock.pdf.

> In fact, data indicate that, among girls 14 or younger when they first had sex, a majority of these first intercourse experiences were nonvoluntary. Evidence also indicates that among unmarried teenage mothers, two-thirds of the fathers are age 20 or older, suggesting that differences in power and status exist between many sexual partners.

Id. at 12.

[36] Mike A. Males, *Adult Involvement in Teenage Childbearing and STD*, LANCET 64 (July 8, 1995)

In Virginia during 1999 and 2000, 219 births to girls age 13 and 14 were fathered by men over the age of eighteen.[38] A 1992 study of 535 teen mothers in Washington state revealed that two-thirds were victims of molestation, rape, or attempted rape prior to their first pregnancy"[39] A study conducted by the Ounce of Prevention Fund in 1986 evaluated 445 teen mothers in Illinois who were pregnant by age 16. Sixty percent of these girls reported they had been forced into an unwanted sexual experience. The mean age for the first instance of abuse was 11 ½ years old, and more than half the mothers were abused by men more than ten years their senior.[40]

Clearly, a number of young girls who obtained abortions without their parents' knowledge were encouraged to do so by a sexual partner who could be charged with statutory rape. Secret abortions do nothing to expose these men's wrongful conduct.[41] In fact, by aborting the pregnancy abusive partners avoid the public evidence of their misconduct and are licensed to continue the abuse. Parental notification laws insure that parents have the opportunity to protect their daughters from those who would victimize their daughters further.

(emphasis added).

[37] *Id.* citing HP Boyer and D. Fine, *Sexual Abuse as a Factor in Adolescent Pregnancy and Child Maltreatment*, FAM. PLAN. PERSPECTIVES at 4 (1992); and HP Gershenson, et al. *The Prevalence of Coercive Experience Among Teenage Mothers*, J. INTERPERS. VIOL. 204 (1989). "Younger teenagers are especially vulnerable to coercive and nonconsensual sex. Involuntary sexual activity has been reported in 74% of sexually active girls younger than 14 years and 60% of those younger than 15 years." American Academy of Pediatrics Committee on Adolescence, *Adolescent Pregnancy – Current Trends and Issues: 1998*, 103 PEDIATRICS 516 (1999), also available on the worldwide web at <http:// www.aap.org/policy/re9828.html>.

[38] Va. Dept. of Health, *Estimating the Incidence of Statutory Rape in Virginia* 13 (2002) at http://www.vahealth.org/civp/sexualviolence/statrape.pdf

[39] HP Boyer and D. Fine, *Sexual Abuse as a Factor in Adolescent Pregnancy and Child Maltreatment*, 24 FAM. PLAN. PERSPECTIVES at 4 (1992) (adolescent mothers and pregnant adolescents have high prevalence of sexual abuse, ranging from 43% to 62%).

[40] Ounce of Prevention Fund, *The Prevalence of Coercive Sexual Experience Among Teenage Mothers*, Chicago, IL, 1986.

[41] See *Manning v. Hunt*, 119 F.3d 254 (4th Cir. 1997). In disposing of a constitutional challenge to a reporting duty imposed in the North Carolina parental consent statute, the court stated:

> Appellants would have a judge, who is sworn to uphold the law, withhold vital information regarding rape or incest, which would allow state authorities to end the abuse, protect the victim, and punish the abuser. Not only would Appellants' position prevent the judge from helping the victim seeking the abortion, but it would prevent the judge from helping other juveniles in the same household under the same threat of incest. This Court does not believe that the Constitution requires judges be placed in such an untenable position. . . . Appellants' position would instead afford protection to rapists and perpetrators of incest. This can only serve the interests of the criminal, not the child.

Id. at 273-74.

Abortion providers are reluctant to report information indicating a minor is the victim of statutory rape.[42] Failure to report may result in the minor returning to an abusive relationship. For example, a Planned Parenthood affiliate in Arizona was found civilly liable for failing to report the fact that the clinic had performed an abortion on a twelve-year-old girl who had been impregnated by her foster brother. The abortion provider did not report the crime as required by law and the girl returned to the foster home where she was raped and impregnated a second time.[43] Or consider the case of the Connecticut ten-year old girl impregnated by a seventy-five year old man. The child was examined by two physicians who failed to report the sexual abuse to public authorities, as required by Connecticut law.[44] Furthermore, by failing to preserve fetal tissue the abortion providers may make effective prosecution of the rape impossible since the defendant's paternity cannot be established through the use of DNA testing.[45]

Secret abortions do not advance the best interests of most minor girls.[46] Parental involvement laws insure that parents have the opportunity to protect their daughters from those who would victimize their daughters again and again and again. This Act would insure that parents, as the natural protectors of the interests of their children, will have the knowledge necessary to insure their daughters' well-being..

Decline in Teen Pregnancies and Abortions

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[42] Patricia Donovan, *Caught Between Teens and the Law: Family Planning Programs and Statutory Rape Reporting*, 3 Family Planning Perspectives 5 (1998).

[43] See *Glendale Teen Files Lawsuit Against Planned Parenthood*, THE ARIZONA REPUBLIC, Sept. 2, 2001 and *Judge Rules Against Planned Parenthood* at www.12news.com/headline/PlannedParenthood122602.html

[44] Christine Walsh, *Conn. Doc Set to be Cleared in Abuse Case,* India New England (Jan. 15, 2003) available at http://www.indianewengland.com/news/2003/01/15/Connecticut/Conn-Doc.Set.To.Be.Cleared.In.Abuse.Case-345711.shtml

[45] Sharon G. Elstein and Barbara E. Smith, *Victim-Oriented Multidisciplinary Responses to Statutory Rape Training Guide* 22 (U.S. Dept. of Justice, Office for Victims of Crime & ABA Ctr. on Children and the Law 2000) ("If the girl has an abortion or miscarries, conduct a DNA test on the fetus before it is destroyed.") at http://www.ojp.usdoj.gov/ovc/publications/infores/statutoryrape/trainguide/victimoriented.pdf.

[46] See *Manning v. Hunt*, 119 F.3d 254 (4th Cir. 1997). In disposing of a constitutional challenge to a reporting duty imposed in the North Carolina parental consent statute, the court stated:

> Appellants would have a judge, who is sworn to uphold the law, withhold vital information regarding rape or incest which would allow state authorities to end the abuse, protect the victim, and punish the abuser. Not only would Appellants' position prevent the judge from helping the victim seeking the abortion, but it would prevent the judge from helping other juveniles in the same household under the same threat of incest. This Court does not believe that the Constitution requires judges be placed in such an untenable position. . . . Appellants' position would instead afford protection to rapists and perpetrators of incest. This can only serve the interests of the criminal, not the child.

Id. at 273-74.

During the first year of the Texas Parental Notification Act's enforcement, pregnancies by Texas minors dropped approximately five percent from 26,117 in 1999 to 24,665 in 2000. In 2001, pregnancies continued to fall from 24,665 to 23,416, representing an additional five percent decline.[47] In 2002, teen pregnancies continued to decline, dropping to 23,251.[48]

Mothers aged 10-17 accounted for 5.7 percent of the births in 2000 compared to 6.1 percent in 1999.[49] In 2001 births to Texas mothers ages 10-17 numbered 19,754, comprising 5.66 percent of all births.[50] Teen births virtually held steady with 19,730 being reported in 2002.[51]

During 2000, the first year the Texas Parental Notification Act was implemented, induced abortions performed on minors declined approximately twenty percent from 4,798 in 1999 to 3,830.[52] This decline is substantially higher than the overall 5.4 percent decline in abortions performed on all Texas residents during 2000 (73,155 abortions obtained by Texas residents in 2000, in contrast to the 77,291 obtained in 1999).[53] In 2001, abortions provided to minors declined 6.7% with only 3,573 minors terminating their pregnancies.[54] Abortions to minors declined only slightly to 3, 499 in 2002.[55]

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[47] Texas Dept. of Health, Bureau of Vital Statistics, Summary of Vital Statistics for Texas, 2001 <www.tdh.state.tx.us/bvs/stats01/ANNR_HTM/01t14b.HTM>.

[48] Texas Dept. of Health Services, *Teen Births, Fetal Deaths, Induced Abortions, and Pregnancies, Texas Residents, 2002* at http://www.tdh.state.tx.us/bvs/reports/teenpg02.htm.

[49] Compare Texas Dept. of Health -- Bureau of Vital Statistics, Reported Pregnancies, Births, Fetal Deaths, and Abortions – Women Aged 13-17, Texas1999, Table 14B (last modified June 13, 2001); and Texas Dept. of Health -- Bureau of Vital Statistics, Reported Pregnancies, Births, Fetal Deaths, and Abortions – Women Aged 13-17, Texas 2000, Table 14B (last modified Feb. 5, 2002).

[50] Texas Dept. of Health Services, *Teen Births, Fetal Deaths, Induced Abortions, and Pregnancies, Texas Residents, 2001* at http://www.tdh.state.tx.us/bvs/reports/teenpg01.htm.

[51] Texas Dept. of Health Services, *Teen Births, Fetal Deaths, Induced Abortions, and Pregnancies, Texas Residents, 2002* at http://www.tdh.state.tx.us/bvs/reports/teenpg02.htm.

[52] Compare Texas Dept. of Health -- Bureau of Vital Statistics, Resident Induced Termination of Pregnancy Texas, 1999, Table 33 (last modified June 18, 2001) <http://www.tdh.state.tx.us/bvs/stats00/ANNR_HTM/00t33.HTM>; and Texas Dept. of Health -- Bureau of Vital Statistics, Resident Induced Termination of Pregnancy Texas, 2000, Table 33 (last modified Feb. 5, 2002) <http://www.tdh.state.tx.us/bvs/stats00/ANNR_HTM/00t33.HTM>.

[53] See Texas Dept. of Health -- Bureau of Vital Statistics, Summary of Vital Statistics for Texas, 2000 (last modified Nov. 26, 2001) <http://www.tdh.state.tx.us/bvs/stats00/annr_htm/00summ.htm>.

[54] Texas Dept. of Health Services, *Teen Births, Fetal Deaths, Induced Abortions, and Pregnancies, Texas Residents, 2001* http://www.tdh.state.tx.us/bvs/reports/teenpg01.htm.

[55] Texas Dept. of Health Services, *Teen Births, Fetal Deaths, Induced Abortions, and Pregnancies, Texas Residents, 2002* at http://www.tdh.state.tx.us/bvs/reports/teenpg02.htm.

Other states have also experienced declines in teen pregnancies after passage of parental involvement laws. Following enactment of a parental notification act in Minnesota, the decline in birth rates was substantially greater among minors aged 15-17 and women ages 18-19 than it was among women aged 20-44.[56] In Indiana, the birth rate after the parental involvement law was enforced declined significantly more for girls under eighteen than for women over age eighteen.[57] A national study concluded that, "Our results cast considerable doubt on the concerns that recent restrictions in access to abortion are responsible for an increase in teen births. Our estimates suggest that, if anything, these restrictions have resulted in fewer teen births."[58]

In the Rare Case of Abusive Parents

In those few cases where it is not in the girl's best interest to disclose her pregnancy to her parents, state laws generally provide the pregnant minor the option of seeking a court determination that either involvement of the girl's parent is not in her best interest, or that she is sufficiently mature to make decisions regarding the continuation of her pregnancy. This is a requirement for parental consent laws under existing United States Supreme Court cases, and courts have been quick to overturn laws omitting adequate bypass.[59]

The Supreme Court has not imposed a similar requirement on parental notification laws, similar to the requirements of this Act, recognizing that such laws to not provide parents a veto of the minor's decision regarding the continuation or termination of the pregnancy. "Although the Court has held that parents may not exercise 'an absolute, and possibly arbitrary, veto' over that decision [by a minor to terminate her pregnancy], it has never challenged a State's reasonable judgment that the decision should be made after notification to and consultation with a parent."[60]

In the past, opponents to the predecessor of this Act, the Child Custody Protection Act, have argued that passage of federal legislation in this area would endanger teens

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[56] Rogers, Boruch, Stoms, and DeMoya, *Impact of the Minnesota Parental Notification Law on Abortion and Birth*, 294 Am. J. Public Health 294-298 (1991).

[57] Ellertson, *Mandatory Parental Involvement in Minor's Abortions: Effects of the Laws in Minnesota, Missouri, and Indiana*, 87 Am J. Public Health 1372 at 1373 (1997).

[58] Thomas J. Kane and Douglas Staiger, *Teen Motherhood and Abortion Access*, 111 Quar. J. of Economics, 503 (1996).

[59] See n. 7 *supra*.

[60] *Hodgson v. Minnesota*, 497 U.S. 417, 445 (1990) (citation omitted). *See also Lambert v. Wicklund*, 520 U.S. 292 (1997). "This case [does not] determin[e] the constitutionality of a statute which does no more than require notice to the parents, without affording them or any other third party an absolute veto." Id. at 296 n.3, *citing Bellotti II*, 443 U.S. at 654 n.1 (Stevens, J., concurring). For an extensive review of Supreme Court precedent on this issue, see *Planned Parenthood of the Blue Ridge v. Camblos*, 155 F.3d 352, 361-67 (4th Cir. 1998).

since parents may be abusive and many teens would seek illegal abortions.[61] The Act specifically addresses this concern by its exception for minors who declare they are victims of parental abuse.

While this exception is prudent public policy, experience with existing parental involvement laws suggest it will rarely be utilized. Parental involvement laws are on the books in over two-thirds of the states, some for over twenty years, and there is almost no case where it has been established that these laws led to parental abuse or to self-inflicted injury.[62] Similarly, there is no evidence that these laws have led to an increase in illegal abortions.[63]

Conclusion

By passage of the Act before this Committee, Congress will protect the ability of the parents to be involved in the decisions of their minor daughters facing an unplanned pregnancy.

Experience in states having parental involvement laws has shown that, when notified, parents and their daughters unite in a desire to resolve issues surrounding an unplanned pregnancy. If the minor chooses to terminate the pregnancy, parents can assist their daughters in selecting competent abortion providers, and abortion providers may receive more comprehensive medical histories of their patients. In these cases, the minors will more likely be encouraged to obtain post-operative check-ups, and parents will be prepared to respond to any complications that arise.[64]

[61] See Donna Leusner, *Parental Notification of Abortion Approved*, The Star-Ledger (June 25, 1999) available online at www.nj.com/page1/ledger/c21e74.html. "They would go to New York. They would go to a back alley. They would do what they have to do to avoid telling their parents. . . . Don't force them to do that," said Sen. Richard C. Codey (D-Essex) who voted no [to passage of the Parental Notification of Abortion Act]. *Id.*

[62] A 1989 memo prepared by the Minnesota Attorney General regarding Minnesota's experience with its parental involvement law states that "after some five years of the statute's operation, the evidence does not disclose a single instance of abuse or forceful obstruction of abortion for any Minnesota minor." Testimony before the Texas House of Representatives on the Massachusetts' experience with its parental consent law revealed a similar absence of unintended, but harmful, consequences. Ms. Jamie Sabino, chair of the Massachusetts Judicial Consent for Minors Lawyer Referral Panel, could identify no case of a Massachusetts' minor being abused or abandoned as a result of the law. *See Hearing on Tex. H.B. 1073 Before the House State Affairs Comm.*, 76th Leg., R.S. 21 (Apr. 19, 1999) (statement by Jamie Sabino, JD).

[63] *See Hearing on Tex. H.B. 1073 Before the House State Affairs Comm.*, 76th Leg., R.S. 21 (Apr. 19, 1999) (statement by Jamie Sabino, J.D. testifying that there had been no increase in the number of illegal abortions in Massachusetts since the enactment of the statute in 1981).

[64] Compare the experience recounted in *Testimony of Marie P. Carter*, Public Hearing before N.J. Assembly Judiciary Committee, Oct. 16, 2000, at p. 90x (secret abortion by teen resulting in emotional harm).

If the minor chooses to continue her pregnancy, involvement of her parents serves many of the same goals. Parents can provide or help obtain the necessary resources for early and comprehensive prenatal care. They can assist their daughters in evaluating he options of single parenthood, adoption, or early marriage. Perhaps most importantly, they can provide the love and support that is found in the many healthy families of the United States.[65]

Regardless of whether the girl chooses to continue or terminate her pregnancy, parental involvement laws have proven desirable because they afford greater protection for the many girls who are pregnant due to sexual assault. By insuring that parents know of the pregnancy, it becomes much more likely that they will intervene to insure the protection of their daughters from future assaults.

The Child Interstate Parental Notification Act has the unique virtue of building upon two of the few points of agreement in the national debate over abortion: the desirability of parental involvement in a minor's decisions about an unplanned pregnancy, and the need to protect the physical health and safety of the pregnant girl. I urge members of this committee to vote for its passage.

Thank you, Mister Chairman, for allowing me the time to appear before the committee and to extend my remarks in the form of this written testimony.

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[65] See *Statement of Marie Sica, Constitutional Amendment ACR-2/SCR86*, Public Hearing before N.J. Assembly Judiciary Committee, Oct. 16, 2000, at p. 16x.

Mr. CHABOT. And now, the Members will have 5 minutes to ask questions and I yield myself 5 minutes for that purpose.

Mrs. Carroll, I will begin with you, if I can. I first of all just want to say that it is my clear opinion that you did everything you could under the existing law to protect your daughter, so there is no way that you are in any way responsible for this as far as I am concerned.

But let me ask you, do you think it is dangerous for young girls to be coerced into having an abortion by adults who may be trying to protect their own interests rather than the interests of the pregnant girl? For example, as a parent, is there information that you would have shared with the doctor, and did the clinic sufficiently ensure that your daughter would receive follow-up care?

Mrs. CARROLL. No, they didn't. She received one piece of paper that said that she needed to make an appointment in 2 weeks for post-care with the blanks left open. They did not schedule that. When I did take her to her OB, he asked if there was a paper that they wanted sent in to clarify that she did get post-care and she said, no, there was nothing that was given.

Mr. CHABOT. Do you think it is dangerous for a young girl to——

Mrs. CARROLL. Yes. They had no idea—they didn't know if she was allergic to anything, what her medical history was. They had no clue about anything.

Mr. CHABOT. Okay.

Mrs. CARROLL. She told me that they talked to her for about 5 minutes and that was it.

Mr. CHABOT. And you said your daughter is still going through difficulties psychologically with respect to this?

Mrs. CARROLL. Yes.

Mr. CHABOT. Thank you. Professor Myers, let me ask you, would you please discuss the similarities between CIANA and the "Mann Act" or other acts of Congress in which Congress has similarly utilized its Commerce Clause authority.

Mr. MYERS. The Mann Act is a good example. That is just one of many instances where Congress has used its authority to regulate commerce. Clearly, transporting people across State lines has been interpreted as commerce among the several States and Congress has been viewed as well within its authority to achieve objectives that might undermine State laws by transporting people to a State for immoral purposes or other purposes that Congress objects to.

Here, what the Congress's basic objective seems to me is to try to reinforce the views of the home States, and in that sense, I think it is even clearer that it is permissible under the "Mann Act" line of cases.

Mr. CHABOT. Thank you. Dr. Collett, let me ask you a question. Dr. Seigel had stated in his written testimony, I think also said this orally, that, quote, "under CIANA, young women would be forced to put themselves in dangerous situations in order to receive medical care," unquote. But that is not really accurate, is it? CIANA clearly does not require parental notification in cases, for example, of abuse or neglect. What are your views about the points that Dr. Seigel made in that area?

Ms. COLLETT. Well, in fact, the bill has an express exception for a situation where the minor is willing to sign a written statement that she is a victim of sexual abuse, neglect, or physical abuse, and where the physician will notify the authorities specified to receive reports of child abuse.

In fact, in *Manning v. Hunt*, the Fourth Circuit specifically dealt with a similar requirement where judges in judicial bypass proceedings were required to report where a minor was seeking a bypass on the basis of potential abuse and the court said that the only people that would benefit from not having a reporting duty would be the potential abuser.

It is very similar to the case out in Arizona where Planned Parenthood accepted a young girl who was being sexually assaulted by her foster brother. She was impregnated. They secretly gave her an abortion, notified no one in the household, gave her the abortion, sent her back into the household. She was sexually assaulted again. She became pregnant a second time and was sent back for the second abortion. Finally, it was revealed, and they were sued and held civilly liable for the failure to report under the Arizona laws.

This has got an exemption, but it is a very sensible exemption that requires the physician to report.

Mr. CHABOT. Thank you. Dr. Seigel, with the time I have remaining, you stated in your written testimony that under CIANA, minors will be forced to comply with parental notification laws and judicial bypass provisions in both her home State and the State where the abortion is to be performed, but that is not correct.

CIANA's first part penalizes a transporter who seeks to circumvent a State parental involvement law. It imposes no obligations on the minor. The second part of CIANA places a duty only on those abortion providers in States that do not have parental involvement laws, and if a minor presents the abortion provider with a court order she obtained from her own State court allowing her to bypass the parental involvement law, then the abortion provider does not have to give parental notice. So the bill simply doesn't require a minor to comply with multiple judicial bypass procedures. Do you disagree?

Dr. SEIGEL. I believe CIANA is detrimental to all patients. I think we are putting burdens on the patient, the young woman who needs to get adequate medical care.

The fact of the matter is, communication is already happening, and I would like to just take a moment, if I may, to express my disappointment in the medical community. I wanted to say to Mrs. Carroll that I am very sorry about what I heard happen to her daughter. It is an example of how the medical community has let you down, your daughter down, and your entire family.

I am concerned that when physicians are burdened with legalities, we will wind up spending more time learning about the legalities and the changing legalities of our laws and not spend the time that a physician should have spent with your daughter.

Mr. CHABOT. My time is expired, but I would just, in response to that, say that it would seem that it wouldn't be particularly difficult to have a chart that would show the States in the surrounding area, what the laws are. It would seem that is the least

that one should do when you are considering something as significant as terminating the unborn child that that girl is carrying, so——

Dr. SEIGEL. My understanding is it is not as simple as the color——

Mr. CHABOT. We obviously just have to agree to disagree on that, and my time is expired.

I will now recognize the gentleman from New York.

Mr. NADLER. Thank you. Let me ask Professor Myers, in the situation, the very unfortunate situation described by Mrs. Carroll, forgetting CIANA, I counted about five different crimes there—harassment, stalking, interstate kidnapping, conspiracy, assault. Don't you think in that situation that there were a number of crimes committed and that the real problem, or that a real problem—maybe not the only one—is not the absence of this bill but the absence of prosecution and enforcement of existing law?

Mr. MYERS. I think you are right that it sounds like there were many other violations. I think one of the problems with the remedies you suggest, prosecution, is they are after the fact, so that doesn't help her daughter——

Mr. NADLER. Well——

Mr. MYERS.—and it doesn't help Mrs. Carroll——

Mr. NADLER. Enforcement of this bill would also be after the fact. It is always after the fact. Enforcement of any law has to be after the fact.

Mr. MYERS. I think you could—I would hope we could assume that the physicians, as Dr. Seigel said, would try to comply with the law, and if they made an effort to provide notice in this situation, it would have helped to protect Mrs. Carroll's daughter. It seems like in that situation, if we are trying to protect the choice of young women, that that would be one way to further it——

Mr. NADLER. But you would agree that——

Mr. MYERS.—requiring notice.

Mr. NADLER.—the police told Mrs. Carroll that there was nothing they could do in the situation. They are probably wrong. They should have, or the D.A. or somebody should have initiated enforcement of criminal law at that point.

Mr. MYERS. I think it sounds like that there were violations ongoing, that there were other things that could have been done. In this situation, if——

Mr. NADLER. Thank you very much.

Mr. MYERS.—they had required notice——

Mr. NADLER. I only have 5 minutes, so thank you very much.

Dr. Seigel, you have already expressed in your opinion that the doctors did the wrong thing. Talk about, for a moment, and then I have another question for you, the real world situation, not in this extreme situation, but of young women who cannot confide in their parents, or feel they cannot confide in their parents, who are not being, in effect, kidnapped by somebody else, who seek the help of a brother or sister or grandmother or member of the clergy or someone to help them. Do we see those situations now? Are those real situations? Are they more common or less common than this sort of thing?

Dr. SEIGEL. Well, the truth is that they are uncommon. They are uncommon. The vast majority of adolescents do speak to their parents, not just about abortion. When a girl comes in—we are just speaking about young women today. When a girl comes in and I speak to her and it is related to pregnancy and there is an issue about whether she is going to terminate, have an abortion, my responsibility as a health care provider is to encourage her telling her parent, and if she feels unsafe, it is my responsibility to find out why she is unsafe. Is she being sexually abused at home? Is she worried about physical abuse at home? Is she worried about emotional abuse at home?

I will tell you a very quick story, since you know New York. We have a large immigrant population, and one of my first patients, an arrival from Honduras, had been in New York for about a year. She came in under the guise of coming in just for a school physical. In the course of my history taking, I realized that she hadn't had a period in two or 3 months. A pregnancy test was positive and I gave her her options and she told me that she wanted to have an abortion but she could not tell her parents because she said they were devout Catholics and good girls just don't do this in our country.

I gave her some scenarios that I could tell her mother with her in the room or she could tell her mother with me in the room, but that I would protect her from physical harm. She was concerned that her father would beat her up. And, in fact, she did allow me to tell her mother with her in the room, and as soon as I told the mother that her daughter was pregnant, she got up to hit her, and luckily my reflexes were faster 15 years ago and I was able to stop that from happening.

This is real world stuff, and the things that these girls are worried about occurs every day. Again, it is a minority. The vast majority of my patients do say, yes, this is important, after I explain to them this is a surgical procedure and if there is a problem after, somebody needs to know. Somebody needs to drive you to the hospital. Somebody needs to bring you home. But sometimes it is not the parent that is the perfect person to let in on this difficult situation.

Mr. NADLER. Thank you. Let me ask the last question. The health exception in this bill, which says you don't have to—the health exception is only for life-threatening conditions. Is that, from your knowledge of the state of the law now, the Stenberg decision and others, is that anywhere close? Or let me ask Professor Myers. Unfortunately, we don't have—on our side, we were only permitted one-quarter of the witnesses. We don't have a lawyer here, a sympathetic lawyer, but let me ask Professor Myers—not sympathetic to my point of view.

How can you justify when the Stenberg case of the Supreme Court clearly said you have to have both a life and health exception to allow this sort of, these requirements in a bill in order to render it constitutional, this is clearly only with life-threatening. How can this possibly be constitutional?

Mr. CHABOT. The gentleman's time has expired, but you can answer the question.

Mr. MYERS. It seems to me from looking at the Supreme Court cases is that when the Court insists on a life and health exception, a broader health exception, as you suggest, they are in situations where the law actually prevents somebody from getting an abortion. In these situations, what we are talking about are notice provisions that the Court has been much more sympathetic to and has upheld in virtually every case because the Court takes the view that a notice, unlike a veto or some other law that tries to actually ban abortions in certain circumstances, doesn't really present a burden on the woman. At least, that is how the courts evaluate it. So I would say that the broader health exception isn't necessary under the Supreme Court cases.

Mr. CHABOT. The gentleman's time has expired.

The gentleman from Arizona, Mr. Franks, is recognized for 5 minutes.

Mr. FRANKS. Thank you, Mr. Chairman.

Mrs. Carroll, notwithstanding the expertise and the erudite knowledge of the rest of the panel here, it seems to me that your testimony is one of first-hand knowledge, and it is always a very powerful thing when someone who has actually experienced a circumstance is able to speak to the issue. For my part, I just express a sincere gratitude to you for having the courage to come before this Committee. I know it can't be easy to come before a Congressional Committee, and yet it seems easy to examine the motivations for being here. You know, this was your daughter. This is your daughter that was taken without your permission——

Mrs. CARROLL. Yes, sir.

Mr. FRANKS.—in a sense, exploited and really abused for someone else's purpose. It seems that oftentimes we forget that sometimes abortion is done not for a young girl, but to a young girl by a man for the sake of another man.

Mrs. CARROLL. Right.

Mr. FRANKS. I just, again, express my encouragement to you for being willing to come down and do this. I know it is not only protecting your own daughter, but the hope that, somehow, this will protect a mother in the future from having to go through what you went through.

I guess my question to you is, with all of the heartache and the loss of your grandchild and the abuse of your child, what have been the long-term effects, if any, on your daughter at this point? What is her state of mind now? Do you think she suffers from any of the—that this has had a negative long-term effect on her?

Mrs. CARROLL. Well, it happened not too long ago, but she does suffer. She has gone to counseling for this. I just know that she cries and she wishes that she could redo everything, relive that day over. It is just sad that it had to happen this way and this is how she had to, you know, this is what she had to go through. But she did want me to come here today and speak on her behalf, because she said, "Mom, just one phone call was all it would have taken to stop this from happening to another girl," and I said, yes, just one phone call. And so she asked me to come here just for her sake and for other girls' safety to speak and let you know what was happening.

There are going to be long-term effects, and she understands that. But I let her know that everything will be all right eventually and that she can overcome any obstacle and just to be strong. God will get us through this.

Mr. FRANKS. You said that maybe one phone call could have made the difference in her case. Do you think that that would indicate that maybe if this law had been in place at the time, that it would have either been a deterrent to those taking your daughter across State lines or would have been in her own mind? Do you think it could have helped——

Mrs. CARROLL. Yes, I think it could have, because when they came to my house one time, I asked them to please stop coming by and stop harassing us and they told me they weren't harassing us, that they had spoken to a lawyer. So I am sure that they had help on how to get by the laws of our State, because I told them, I said, well, if you have spoken to a lawyer, then you can sign away all your rights and you won't be bothered again and then you won't have to bother us any more. And it is just—I know that one phone call would have saved her. She told me that she was the only—she was the youngest girl in there, she thought, and she was the only one crying, and nobody questioned that, really, you know.

Mr. FRANKS. I just again reiterate my gratitude to you and just respect for you——

Mrs. CARROLL. Thank you.

Mr. FRANKS.—because it was kind of difficult, I am sure, to hear some of the arguments that are made in opposition to something like this. I mean, sometimes we just have got to open our eyes and put all of the nonsense aside and say, what are we really talking about here? We are talking about parents——

Mrs. CARROLL. Right.

Mr. FRANKS.—whose children are taken without their permission across the State line to have another child killed, and it is astonishing to me that somehow we are so erudite and so sophisticated that we miss that basic, fundamental, undeniable point. It is beggars' comprehension.

Mrs. CARROLL. Right.

Mr. FRANKS. But yet you have had the courage to see above all that and I encourage you and wish you the best for your daughter and for your future.

Mrs. CARROLL. Thank you.

Mr. FRANKS. Thank you.

Mr. CHABOT. The gentleman's time has expired.

I would note for the panel, both here and down there, that light over there is apparently on the blink. This light is still functioning over here.

The gentleman from Virginia, Mr. Scott, who was kind enough to come to my district recently and we had, I thought, an excellent hearing there, a field hearing, and so I want to thank him again for making that trip and sorry that we had weather here and your flight got canceled and everything, but I understand you got back home. I am not taking your time here, by the way, in my rambling. [Laughter.]

Even though he and I may disagree on this issue, I have a great amount of respect for him. Now you can disregard everything he says from here on. [Laughter.]

Just kidding. Mr. Scott is recognized for 5 minutes.

Mr. SCOTT. Thank you, Mr. Chairman. I appreciate your holding the hearing in Cincinnati. It shows that there are things that we can work on and agree on. Unfortunately, there are also things that we disagree on.

I would ask Dr. Seigel, following up on that last question, I don't think you got to the end of your testimony. Have medical organizations taken a position on mandatory notice and consent laws?

Dr. SEIGEL. Yes. Actually, PRCH is in agreement with leading medical organizations on this issue. The AMA, for example, the American College of Obstetrics and Gynecology, the American College of Physicians, and the American Public Health Association all oppose mandatory parental involvement laws because they endanger the health of adolescents and impose undue burdens on physicians.

Additionally, the American Academy of Pediatrics and the Society for Adolescent Medicine have opposed similar legislation entitled the Child Custody Protection Act, which is currently under consideration in the Senate as S. 8, because of the harm that it may cause adolescents.

Mr. SCOTT. And so, on balance, they have judged that children would be more endangered with the passage of this bill than helped?

Dr. SEIGEL. Correct. However, all——

Mr. SCOTT. Do they take the position that it is a good idea to encourage the children to seek parental involvement?

Dr. SEIGEL. Not only do all of those organizations encourage that appropriate counseling for young women include them divulging the pregnancy to the parents, but also they have pushed us to start teaching it in medical schools, to our residents, to our fellows, in all of our programs throughout the country. This is the standard of care of medicine as it should be in this country right now, and to do anything less, in my view, is just not appropriate.

Mr. SCOTT. Thank you. Professor Myers, you mentioned that you don't need a health exception in this bill. It has no health exception. Is your——

Mr. MYERS. Well, it has a variety of exceptions that I think are crafted to protect——

Mr. SCOTT. Does it have a health exception?

Mr. MYERS. It has the—there is an exception for—there is a judicial bypass in the minor's home State——

Mr. SCOTT. Does it have a health exception?

Mr. MYERS. It has an exception for the life situation and in the sexual abuse and neglect situation.

Mr. SCOTT. It has a partial life exception. Does it have a health exception? Well, let me just say it has no health exception. Can you cite any case that supports the contention that you do not need a health exception in this bill? *Carhart v. Stenberg* would suggest that you need a health exception. Can you cite a case that would suggest that you do not need a health exception?

Mr. MYERS. I think, as I mentioned earlier, I think the understanding of *Stenberg* was based on the Court's view that the law there actually prohibited abortions in certain situations because of the definition.

Mr. SCOTT. So you are citing——

Mr. MYERS. So in that situation——

Mr. SCOTT. You are citing, *Stenberg*, then, as the case that we should rely on?

Mr. MYERS. No. What I am saying is it required a health exception because the law was an actual obstacle to a woman getting an abortion.

Mr. SCOTT. Can you cite a case that we can review—can you cite the name of a case that we can review to lead us to the conclusion that you don't need a health exception in this bill?

Mr. MYERS. I think the——

Mr. SCOTT. The name of a case.

Mr. MYERS. The case that I think has the best understanding of the Supreme Court's case law in this area is the Fourth Circuit cases, Blueridge?

Ms. COLLETT. *Hodgson v. Minnesota*, Representative Scott, is a United States Supreme Court case where there was no health exception and it involves a parental notice act.

Mr. SCOTT. Thank you. Ms. Collett, in two States, adjoining States, I guess Washington and Oregon, neither of which has any parental involvement law, if you go from one to the other, does this bill require parental notification?

Ms. COLLETT. Yes, it will.

Mr. SCOTT. Even though neither State has that provision?

Ms. COLLETT. That is correct.

Mr. SCOTT. Professor Myers, if the Commonwealth of Virginia feels that casino gambling is immoral, under the idea and the principles in this bill, could we pass legislation prohibiting these buses from gathering up people and transporting them across State lines to go to Atlantic City, New Jersey to gamble in a casino?

Mr. MYERS. I think it is the sort of thing, and I teach conflicts of law, as happens all the time, where States as long as they have a proper interest——

Mr. SCOTT. Is the answer yes?

Mr. MYERS.—in protecting their residents have an interest in applying their law——

Mr. SCOTT. I am almost out of time. Do you feel that is a yes?

Mr. MYERS. Well, I think that one is this is a Federal law, so whether the State of Virginia has that authority is really immaterial. I think that they do have the right to legislate——

Mr. SCOTT. Let me ask a couple of other quick questions. Under the bill, is it legal for the teenager to cross State lines by herself? That would not be a violation of this bill, is that right?

Mr. MYERS. The law doesn't focus on the minor.

Mr. SCOTT. Would it be legal to transport someone to the State line, without crossing the State line, and then dropping the child off at the State line? Would that be legal under the bill?

Mr. MYERS. It turns on transporting somebody across the State lines for the——

Mr. SCOTT. Would an older sister——

Mr. MYERS.—purpose of evading their home State's law.

Mr. SCOTT. Would an older sister be vulnerable under this act?

Mr. MYERS. It applies to persons who have the proper mens rea who are trying to transport a minor for purposes of evading her home State's law, so yes, it applies——

Mr. SCOTT. That would include an older sister?

Mr. MYERS.—it applies to—yes, it doesn't have an exception for——

Mr. SCOTT. And finally, if you catch a taxicab and in the conversation in the back make it clear that you are going from Kansas City, Kansas, to Kansas City, Missouri, for the purpose of getting an abortion and evading some parental consent laws, is the taxicab driver vulnerable under the bill?

Mr. MYERS. I think it is really unrealistic to think that they would fall within the statutory requirement of knowingly transporting with the intent of abridging the rights of parents. So if you actually had a taxicab service that was set up for the purpose of evading the State law——

Mr. SCOTT. So if you had a taxicab driver——

Mr. MYERS.—fine, but in this situation——

Mr. SCOTT.—who listens to the conversation——

Mr. MYERS.—that you describe, I don't think that would fall within the definition of this statute.

Mr. SCOTT. If you listen to the conversation where the teenager says, "Please take me to the abortion clinic. I can't get my parents' permission here. Take me across State lines," the taxicab driver would or would not be vulnerable?

Mr. MYERS. I don't think they would have the requisite intent under the statute.

Mr. CHABOT. The gentleman's time has expired, and I think that gentleman asked that same probing question in the last hearing and I think it was basically that the principal objective of the taxicab driver is to receive a fare, not to transport somebody for the purpose of getting an abortion, and so, therefore, probably wouldn't——

Mr. NADLER. Mr. Chairman, if I may comment, with all due respect to Professor Myers, the moment that taxicab driver knows the purpose of the trip, if he is crossing the State line, he is doing it with knowledge and intent. He would clearly be vulnerable under this Act.

Mr. CHABOT. I would encourage taxicab drivers not to do that. [Laughter.]

But if they did, we can see if they would be prosecuted or not.

The gentleman from Iowa, Mr. King, is recognized for 5 minutes.

Mr. KING. Thank you, Mr. Chairman. I want to thank the witnesses for their testimony today and I regret that there was a large part of it that I missed. I have been able to review some of the testimony and I do know I would say, Mrs. Carroll, how difficult that is to come before this Committee and give this testimony.

I am curious, with all that you have been through as a family, have you had any contact with the family of the father, either the father or his family, since this time?

Mrs. CARROLL. No. They never contacted me to check on my daughter at all. She has spoken with him—the boy at school.

Mr. KING. Does that continue?

Mrs. CARROLL. Yes, at school.

Mr. KING. Thank you. And Dr. Seigel, your testimony focused to some degree on the burdens imposed upon people that are seeking an abortion, that being a professional opinion of you as a doctor. I am wondering if that burden in transportation or finances or delay, that being a professional opinion, what you might have is a professional opinion with regard to any psychological damage that might be caused to the young lady who got the abortion and to the people who carry the guilt who carried her across the State line.

Dr. SEIGEL. Well, first, I am not here giving my personal opinions. I am speaking on behalf of PRCH as well as the other organizations that I am a leader in, which is the American Academy of Pediatrics. So my concerns here are not just about the health concerns and health risks to the young woman who is having an abortion, but also the psychological risks, and that is one of the reasons I am concerned that there is inadequate language in CIANA to protect the psychological health as well as the physical health of adolescents, and that is one of the reasons we are opposed to CIANA.

I am concerned because everyone involved in the care of this young woman becomes criminalized—the family who helps this adolescent, the physician who helps this adolescent, as was mentioned earlier, not just an older sibling, but a grandmother.

Mr. KING. Doctor, from a personal and human perspective, do you believe that the people who organized and transported this woman's daughter across the State line. circumvented the parental responsibility, do you think they should carry any moral guilt?

Dr. SEIGEL. I believe, in addition, the medical community let Mrs. Carroll and her family down, as I—unfortunately, I don't think you were here, but I did say that. I believe that we are all justifiably at fault. The medical community standard of care is to make sure that an adolescent is consenting to whatever she does and get an adult involved. However, I do not believe that the government can mandate good family communication.

Mr. KING. Do you recognize that Mrs. Carroll's daughter carries guilt, as well?

Dr. SEIGEL. Absolutely, and I, as a physician, am embarrassed——

Mr. KING. And when you weigh that psychological burden that she will carry against the inconvenience for a young co-ed on a college campus that you allege would be brought about by this legislation, and then your testimony that college students would be negatively affected when seeking an abortion at a clinic, and you weigh that against, in your professional opinion, the inconvenience as compared to the guilt?

Dr. SEIGEL. I wouldn't characterize this as an inconvenience. If we are talking about later-term abortions, we are talking about significant medical risks. So I would not—I think it is a mischaracterization to call it an inconvenience.

Mr. KING. Thank you, Dr. Seigel, and I would direct my next question, then, to Professor Myers. Professor Myers, I would ask if you could address the subject matter for this Committee and for the record with regard to three rights that are in our Declaration—

life, liberty, and the pursuit of happiness. Could you define as to whether they are co-equal rights or prioritized rights?

Mr. MYERS. I think that, really, the right to life is the basic objective. If you don't have that, you really don't have any other—any right at all, so I think that that is really the fundamental right. This law is designed to protect that in a sense kind of indirectly by having parents involved in important life decisions of their minor children. It seems to me that it is entirely supportive of that core right.

Mr. KING. I thank you, Dr. Myers, and I just conclude with this, that it is my opinion that they are prioritized rights, that the right to life is paramount over anyone's liberty and no life should be taken because someone else wanted to exercise their liberty, and neither should someone's pursuit of happiness infringe upon the liberty of anyone else. So I will argue that there are prioritized rights founded by our Founders and I think that is what we need to keep in mind in this and I fully support this bill.

Thank you, Mr. Chairman.

Mr. CHABOT. Thank you. The gentleman's time has expired.

Mr. NADLER. Mr. Chairman?

Mr. CHABOT. Yes, the gentleman from New York?

Mr. NADLER. I just want to point out briefly, especially for Congressman King's benefit, who wasn't here earlier, that in questioning earlier, it was conceded essentially by everybody that the conduct of the people involved with Mrs. Carroll's daughter was not only unconscionable, but violated four or five different criminal laws in existing law.

Mr. CHABOT. All right. I want to thank the panel for coming here this afternoon. I think this testimony was very helpful. We want to, especially, Mrs. Carroll, thank you for appearing here this afternoon and we are very sorry for the experience that you and your family had in this matter. So again, we want to thank everyone for being here.

If there is no further business to come before the Committee, we are adjourned. Thank you.

[Whereupon, at 3:49 p.m., the Subcommittee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE STEVE CHABOT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO, AND CHAIRMAN, SUBCOMMITTEE ON THE CONSTITUTION

Good afternoon. I'd like to thank everyone for being here for this very important legislative hearing. Today, the House Constitution Subcommittee will examine H.R. 748, the "Child Interstate Abortion Notification Act," commonly known as SEE-ANNA ("CIANA"), which was recently introduced by my colleague, the distinguished gentlewoman from Florida, Congresswoman Ileana Ros-Lehtinen. I would like to thank Congresswoman Ros-Lehtinen for her leadership on this issue.

CIANA's predecessor, the Child Custody Protection Act (CCPA) also introduced by Congresswoman Ros-Lehtinen, received broad support, passing the House on three separate occasions, including the 105th, 106th, and 107th Congresses.

This hearing is the first step in ensuring that CIANA not only passes the House in the 109th Congress, but is enacted into law.

We have an expert panel with us today, and I would like to thank them for taking the time to share their knowledge and expertise with us.

Obtaining an abortion is a life-altering event, as we have heard and seen on numerous occasions. The medical, physical, and emotional impact on women can be long lasting.

CIANA would ensure that young girls who are seeking an abortion receive the care and support they need by enforcing existing state parental notification laws and providing for a federal notification law that protects parental rights when a minor crosses state lines into a state without a notification law.

CIANA would make it a federal offense to cause the circumvention of a valid state parental consent or notification law by knowingly transporting a minor across a state line with the intent that she obtain an abortion. In addition, CIANA builds on the Child Custody Protection Act by also requiring that an abortion provider in a state without a parental involvement law notify a parent, or if necessary a legal guardian, before performing an abortion on a minor girl who is a resident of a different state.

This requirement would be applicable unless the minor has already received authorization from a judge in her home state pursuant to a "judicial bypass" procedure, or unless she falls into one of the carefully drafted exceptions to cover cases of abuse or medical emergencies.

Statistics show that approximately 80% of the public favors parental notification laws. Forty-four states have enacted some form of a parental involvement statute. Twenty-three of these states currently enforce statutes that require the consent or notification of at least one parent or court authorization before a young girl can obtain an abortion.

Such laws reflect widespread agreement that the parents of a pregnant minor are best suited to provide counsel, guidance, and support as she decides whether to continue her pregnancy or to undergo an abortion.

Despite widespread support for parental involvement laws and clear public policy considerations justifying them, substantial evidence exists that such laws are regularly evaded by individuals who transport minors to abortion providers in states that do not have parental notification or consent laws.

Confused and frightened young girls are routinely assisted by adults in obtaining abortions and are encouraged to avoid parental involvement by crossing state lines. Often, these girls are guided by those who do not share the love and affection that most parents have for their children. Personal accounts indicate that sexual predators recognize the advantage they have over their victims and use this influence to

encourage abortions in order to eliminate critical evidence of their criminal conduct, and, in turn, allowing the abuse to continue undetected.

Furthermore, when parents are not involved in the abortion decisions of a child, the risks to the child's health significantly increase. Parental involvement will ensure that parents have the opportunity to provide abortion providers with the minor's complete medical history and necessary information prior to the performance of an abortion, information that may have life or death consequences for the minor. Parental involvement in the after care of a minor's abortion procedure is also critical in preventing or curtailing complications such as infection, perforation, or depression, which if left untreated may be fatal.

Public policy is clear that parents should be involved in decisions that their daughters make regarding abortion. CIANA will assist in enforcing existing parental involvement laws that meet the relevant constitutional criteria and will provide for parental involvement when minors cross state lines to have abortions in states without parental involvement laws. The safety of young girls and the rights of parents demand no less.

Again, I would like to thank our witnesses for being here today.

PREPARED STATEMENT OF THE HONORABLE JERROLD NADLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK, AND RANKING MEMBER, SUBCOMMITTEE ON THE CONSTITUTION

Thank you, Mr. Chairman.

When we last considered this legislation, I honestly did not believe that the authors could possibly come up with a bill that would be more dangerous, more destructive, of the well being and the rights of young women.

I am humbled to admit that I suffered from a paucity of imagination that clearly does not afflict some on the other side of the aisle. I am truly stunned by this latest crazy quilt of restrictions which can have obviously has but one purpose: to impede the practice of medicine, to ensure that young women will have as few options as possible, and to teach those states, like mine, that do not believe the best way to promote adolescent health, and deal with the very real problems these young women often experience, is with draconian laws that prevent doctors and caring responsible adults from helping these young women who may have nowhere else to turn.

Often, that adult is a grandparent, or a sibling, or a member of the clergy. In some cases, the young woman may not be able to go to her parents. Indeed, sometimes, the parents may pose a threat to the life and health of the young woman. That's what happened to Spring Adams, a 13 year old from Idaho. She was shot to death by her father after he found out that she planned to terminate a pregnancy—one he caused by his acts of incest.

I know that some of my colleagues might not see a problem forcing a doctor to ring Mr. Adams' doorbell to tell him they are planning to perform an abortion on his daughter. There has been longstanding and vigorous opposition to laws, including the Freedom of Access to Clinic Entrances Act, which aim to protect doctors and their patients from violent fanatics.

This bill also uses a narrow definition of medical emergency that seems to have been lifted from one of Alberto Gonzalez's infamous torture memos. "The prohibition of subsection (a) does not apply if the abortion was necessary to save the life of the minor because her life was endangered by a physical disorder, physical injury, or physical illness, including a life endangering physical condition caused by or arising from the pregnancy itself." That clearly falls far short of the Supreme Court's requirement that any restriction on the right to choose must have an explicit exception to protect the life or health of the woman. There are many things far short of death that threaten a young woman. She deserves prompt and professional medical care, and the Constitution still protects her right to receive that care.

Congress should not be tempted to play doctor. It is always bad medicine for women.

We want to encourage families to work together to face difficult situations, and we want to provide young women facing these life altering decisions with all they help we can. In an ideal world, loving, supportive, and understanding families would join together to face these challenges. That's what happens in the majority of cases, law or no law.

But we do not live in a perfect world. Some parents are violent. Some parents are rapists. Some young people can turn only to their clergy, to a grandparent, a sibling, or some other trusted adult. We should not turn these people into criminals simply because they are trying to help a young woman in a dire situation.

This bill is the wrong way to deal with a very real problem.

I want to join the Chairman in welcoming our witnesses, and I look forward to their testimony.

PREPARED STATEMENT OF THE HONORABLE STEVE KING, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA

Thank you, Chairman Chabot, for holding this hearing today, and to our witnesses for sharing their experiences and knowledge with us. The Child Interstate Abortion Notification Act is necessary to uphold state parental consent and notification laws.

A vast majority of Americans support parental involvement and notification laws, which protect parents' roles when their daughters are making such an important life decision as whether to abort their pregnancies. Based on this support, 44 states have passed parental involvement statutes. Twenty-three of those states require that a parent either be notified of or consent to their minor daughter's abortion. Despite all this public effort, these laws are regularly evaded by adults who transport children across state lines to obtain abortions in states without parental involvement laws. In many of these cases, the adult doing the transportation is a man who has sexually assaulted the minor, and the abortion a cover-up for his crime.

Even the most vocal of abortion supporters recognize the psychological trauma abortion causes women. Coined by President Clinton, abortion advocates everywhere now use the tagline "safe, legal, and rare." Senator Clinton even acknowledges that abortion is a sad and tragic choice. For teenagers, unexpected pregnancy is most often a panic-inducing situation. To make a decision that will so greatly impact the rest of their lives, girls need parental support and advice. States, by and large, have recognized this. They need our help to be able to realize their goal.

Thank you, Mr. Chairman.

PREPARED STATEMENT OF THE HONORABLE ILEANA ROS-LEHTINEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

I would like to begin by commending Chairman Chabot for his outstanding leadership, and especially for holding this important hearing. Mr. Chairman, thank you for considering this vital piece of legislation.

Abortion is perhaps one of the most life-altering and life-threatening of procedures. It leaves lasting medical, emotional, and psychological consequences.

Although *Roe v. Wade* legalized abortion in 1973, it did not legalize the right for persons other than a parent or a guardian to decide what is best for a child. Nor did it legalize the right for strangers to place our children in a dangerous or potentially fatal situation.

In our society, there are many rules and regulations aimed at ensuring the safety of our nation's youth through parental guidance. At my alma mater, Southwest High School in Miami, as in many of our schools, a child cannot be given aspirin to relieve a simple headache or cramp, unless the school has been given consent by at least one parent or legal guardian.

Most schools, require permission to take minors on field trips and, in many schools, parents have the ability to decide whether or not to enroll their children in sexual education classes. Every one of these principles emphasize that parents should be involved in decisions that can seriously affect their children. The decision of whether or not to obtain an abortion, a life-altering, potentially fatal and serious medical procedure, should be no exception to these rules.

Designed to ensure children's safety, cosmetic ear piercing requires parental consent for fear that girls may pick up dangerous infections. Who ensures safety for young girls who are ill advised to disobey state laws and are taken to undergo a highly dangerous procedure that may tragically result in death or severe medical complications?

As a mother of two teenage daughters, I realize the profound impact that a positive relationship with one's primary caregiver has on the development of our most important resource, our young people. I believe that I have a right to know what is going on in my daughters' lives, especially with regard to a potentially life threatening medical procedure. We must ensure that our most precious natural resource, our children, are protected and afforded every opportunity to succeed.

My legislation, the Child Interstate Abortion Notification Act will incorporate all of the provisions previously contained in the Child Custody Protection Act (H.R. 1755 in the 108th Congress), a bill that the House has passed in 1998, 1999, and

2002, making it a Federal offense to transport a minor across state lines to circumvent that state's abortion parental notification laws.

In addition, the bill will require that in a state without a parental notification requirement, abortion providers are required to notify a parent. It will protect minors from exploitation from the abortion industry, promote strong family ties, and will help foster respect for state laws.

This historic legislation will put an end to the abortion clinics and family planning organizations that exploit young, vulnerable girls by luring them to recklessly disobey state laws.

I am proud to have introduced this critical legislation less than one month ago with the bipartisan support of 105 original cosponsors. I am hopeful that it will pass again.

About 80% of the public favors parental notification laws, and over 30 states have enacted such laws. Yet, these laws are often evaded by interstate transportation of minors, often openly encouraged in advertising by abortion providers.

Parental consent or parental notification laws may vary from state to state, but they are all made with the same purpose in mind: to protect frightened and confused adolescent girls from harm.

I thank you, Mr. Chairman, for considering this vital piece of legislation, and I hope that this subcommittee will support H.R. 748 for the purpose of upholding safety laws designed by individual states; a bill that will protect parents' rights to be involved in decisions involving their minor children, will work to strengthen the bonds of America's families, and most importantly will ensure that America's youth have a safer, healthier, and brighter future.

PREPARED STATEMENT OF DR. JOHN C. HARRISON, PROFESSOR OF LAW, UNIVERSITY OF VIRGINIA

The Subcommittee has asked that I give my views concerning Congress' power to enact Section 2 of H.R. 748, the Child Interstate Abortion Notification Act. [1]

The proposed legislation would make it a federal crime knowingly to transport across a state line "an individual who has not attained the age of 18 years . . . with the intent that such individual obtain an abortion, and thereby in fact [to abridge] the right of a parent under a law requiring parental involvement in a minor's abortion decision, in force in the State where the individual resides."

Section 2 of H.R. 748 is a regulation of commerce among the several States. Commerce, as that term is used in the Constitution, includes travel whether or not that travel is for reasons of business. *E.g., Caminetti v. United States,* 242 U.S. 470 (1917). To transport another person across state lines is to engage in commerce among the States. There is thus no need to address the scope of Congress' power to regulate activity that is not, but that affects, commerce among the States, *see, e.g., A.L.A. Schechter Poultry Corp. v. United States,* 295 U.S. 495 (1935); *Wickard v. Filburn,* 317 U.S. 111 (1942); *Katzenbach v. McClung,* 379 U.S. 294 (1964); *United States v. Lopez,* 514 U.S. 549 (1995).

Under the Supreme Court's current doctrine, Congress can adopt rules concerning interstate commerce, such as this one, for reasons related primarily to local activity rather than commerce itself. *United States v. Darby,* 312 U.S. 100 (1941). [2]Hence even if H.R. 748 reflected a substantive congressional policy concerning abortion and domestic relations it would be a valid exercise of the commerce power because it is a regulation of interstate commerce.

Even under the more limited view of the commerce power that has prevailed in the past, this part of H.R. 748 would be within Congress' power. This legislation, unlike the child labor statute at issue in *Hammer v. Dagenhart,* does not rest primarily on a congressional policy independent of that of the State that has primary jurisdiction to regulate the subject matter involved. Rather, in legislation like this Congress would be seeking to ensure that the laws of the State primarily concerned, the State in which the minor resides, are complied with. In doing so Congress would be dealing with a problem that arises from the federal union, not making its own decisions concerning local matters such as domestic relations or abortion.

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[1] This statement is substantially identical to the statements I provided the Subcommittee with respect to H.R. 1755 in the 108th Congress, H.R. 476 in the 107th Congress, and H.R. 1218 in the 106th Congress.

[2] *Darby* overruled *Hammer v. Dagenhart,* 247 U.S. 251 (1918), which held unconstitutional a ban on interstate shipment of goods made with child labor. The Court in *Hammer* found that the statute was in excess of the commerce power, even though it regulated only interstate transportation, because its purpose was related to production, which is a local activity.

H.R. 748 in this regard resembles the Webb-Kenyon Act, Act of March 1, 1913, 37 Stat. 699, which dealt with a problem posed by then-current dormant commerce clause doctrine for States with strong prohibition laws. Such States, under *Leisy v. Hardin,* 135 U.S. 100 (1890), were limited in their power to regulate liquor that was shipped from out of state. Under the Webb-Kenyon Act, liquor was "deprived of its interstate character" (to use the old terminology) and its introduction into a dry State prohibited. The Court upheld the Webb-Kenyon Act in *Clark Distilling Company v. Western Maryland Railway Company and State of West Virginia,* 242 U.S. 311 (1917).[3]

This statement is concerned with the Commerce Clause, not with the limitations on the regulation of abortion that the Court has found in the Due Process Clauses of the Fifth and Fourteenth Amendments as they may apply to Section 2 of H.R. 748. That focus is appropriate, I think, because this aspect of the legislation does not raise any questions concerning the permissible regulation of abortion that are independent of the state laws that it is designed to effectuate. To the extent that a state rule is inconsistent with the Court's doctrine, that rule is ineffective and this bill would not make it effective. Hence it is unnecessary to ask, for example, whether subsection (b)(1) of proposed section 2431 of title 18 would constitute an adequate exception to a rule regulating abortion. Because constitutional limits on the States' regulatory authority are in effect incorporated into proposed Section 2431, subsection (b)(1) is in addition to any exceptions required by the Court's doctrine.

This testimony on legal issues associated with H.R. 748 is provided to the Subcommittee as a public service. It represents my own views and is not presented on behalf of any client or my employer, the University of Virginia.

[3] The rule of the Webb-Kenyon Act currently appears in Section 2 of the Twenty-First Amendment.

ABORTION FORM FOR ASHLEY CARROLL, SIGNED BY HER DOCTOR, DR. KAJI AND MATERIALS RELATED TO DR. KAJI AND BRIGHAN CLINICS SUBMITTED BY CHAIRMAN STEVE CHABOT

American Medical Services, PC

RETURN TO WORK OR SCHOOL

DATE: 2-16-05

This is to certify that Ashley Carroll has been under my care for the following:

Gynecological Care

and is able to return to work/school on 2/22/05.

Remarks: Work & Restriction, NO exercising & heavy lifting 7,10lbs for TWO WKS
↑ 2 weeks AA Battaglia

Provider's Signature

Gustavo Kaji
VOORHEES, NJ 08043

DATE	DESCRIPTION	TOTAL FEE	PAYMENT / CREDITS	ADJ.	BALANCE
7/1/07	99080	70	70	-0-	0

PATIENT # 52524 NAME [illegible]

FORM OF PAYMENT:

O CASH

O MONEY ORDER

O TRAVELER CHECK

DISCOUNT: O YES O NO

REASON: _____

CHARGES:

O VISA

O MASTER CARD

O DISCOVER CARD

O MAC

INSURANCE:

O PRIVATE/COMMERCIAL

DEPOSIT: _____

O NJ MEDICAID

O REFERRAL: GSHP HMO

THANK YOU FOR USING OUR SERVICES !

INTAKE COUNSELOR SIGNATURE

PATIENT SIGNATURE

AMERICAN MEDICAL SERVICES PC
ASHLAND OFFICE CENTER
1 ALPHA AVE #27
VOORHEES, NJ 08043
PHONE: (856) 427-0245

LBMOC001423 7/04 0J1-00

American Medical Services, P.C.

POST-SURGICAL ABORTION FOLLOW-UP INSTRUCTIONS

After an abortion, you should expect to have heavy bleeding and cramping. The bleeding is heavier than a period and can last for two to three weeks. It may stop for a few days and then return. This is normal. Also, after an abortion, you should expect to experience cramping. This is also normal. If you do not cramp or bleed, that can be normal also, so do not be alarmed by either the absence or presence of either bleeding or cramping.

What you should not experience is:

1. Passage of large clots of blood (nothing as large as the size of your fist should come out in one clot).

2. The continuos rapid gushing of bright red blood for more than an hour. Rapid gushing of blood for short periods is normal, but if it continues, non-stop, rapidly, for more than an hour at a time without slowing down, you should call us. You should not have to use more than 20 thick maxi pads per day.

3. You should not develop a fever. (Temp. over 100.6 lasting more than four hours.)

4. Passage of chunks of tissue(not clotted blood) can be normal, but usually appear in blood clots. Numerous large chunks of tissue are not normal.

5. Although uterine cramping that is moderate or even severe is normal, your entire abdomen should not become exquisitely tender to the touch. You should not suddenly watch your abdomen growing larger. You should be able to have normal bowel movements. You should be able to urinate.

6. Nausea and/or vomiting are not abnormal after the procedure, especially for patients who have intravenous sedation. However, this nausea or vomiting should not last more than 2 days. Morning sickness, however, can take up to a week to subside.

If you have any of the above six abnormal symptoms, please call us immediately. Our phone number is 1-800-ABORTION (1-800-226-7846). You can call us 24 hours a day, 7 days a week. DO NOT GO TO ANOTHER DOCTOR OR HOSPITAL WITHOUT TALKING TO US FIRST.

Please take the medication given to you by the nurse 2 times a day. It is very important to take the medication and to finish it. If you do experience cramping you may take Tylenol, Advil, Nuprin, Alleve or any non-aspirin pain medication. Do not use ASPIRIN or any medication that contains ASPIRIN.

Please do not put anything in the vagina until you see us again. This means no sexual intercourse, no douching, no vibrators, no tampons, no baths, no swimming; not until you have your follow-up appointment. Do not exercise or do any repetitive lifting or lifting over 10 pounds until you are cleared at your follow up.

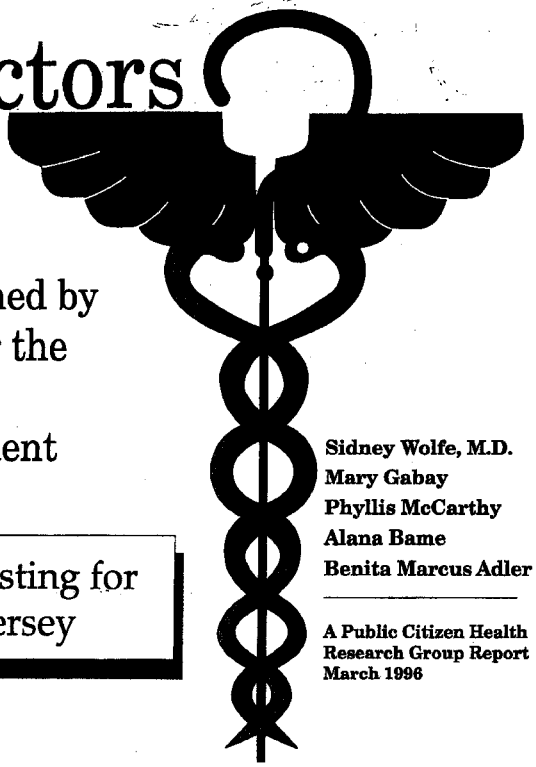
You should return to us for your follow-up appointment in two weeks. There is a $55.00 follow-up fee.

YOUR POST-OPERATIVE EXAM IS SCHEDULED ON _____ _____ AT _____.

Thank you for choosing us as your provider of medical services.

1996 Edition

Questionable Doctors



Disciplined by states or the federal government

State listing for New Jersey

Sidney Wolfe, M.D.
Mary Gabay
Phyllis McCarthy
Alana Bame
Benita Marcus Adler

A Public Citizen Health Research Group Report
March 1996

Public Citizen is a nonprofit membership organization in Washington, D.C., dedicated to advancing consumer rights through lobbying, litigation, research, publications, and information services.

Since its founding by Ralph Nader in 1971, Public Citizen has fought for consumer rights in the marketplace, for safe and secure health care, for fair trade, for clean and safe energy sources, and for corporate and government accountability.

Second Printing

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PHYSICIANS' HEALTH PROGRAM AS SPECIFIED WITH QUARTERLY REPORTS TO THE BOARD.

JIMENEZ, ANTHONY MD, DATE OF BIRTH NOVEMBER 18, 1923, LICENSE NUMBER 0030901, OF 95 HORATIO ST, NEW YORK, NY, WAS DISCIPLINED BY NEW JERSEY ON JULY 27, 1992.
DISCIPLINARY ACTION: 24-MONTH PROBATION
OFFENSE: DISCIPLINARY ACTION BY ANOTHER STATE OR AGENCY
NOTES: SANCTION OF LICENSE IN NEW YORK, TWO-YEAR SUSPENSION, STAYED TO BECOME A PERIOD OF PROBATION RETROACTIVE TO 12/12/91. UNTIL PROBATION IN NEW YORK IS COMPLETED, HE MAY NOT ENGAGE IN ACTIVE PRACTICE IN NEW JERSEY UNTIL HE APPEARS BEFORE THE BOARD'S PRELIMINARY EVALUATION COMMITTEE FOR A STATUS CONFERENCE.

JOACHIM, LEONARD MD, DATE OF BIRTH AUGUST 16, 1951, LICENSE NUMBER 0047527, OF 200 BOULEVARD, MOUNTAIN LAKES, NJ, WAS DISCIPLINED BY NEW JERSEY ON JANUARY 11, 1993.
DISCIPLINARY ACTION: RESTRICTION PLACED ON LICENSE; MONITORING OF PHYSICIAN
OFFENSE: PROFESSIONAL MISCONDUCT
NOTES: ALLEGATIONS OF SEXUAL IMPROPRIETY. SHALL NOT SEE ANY FEMALE PATIENT IN HIS OFFICE WITHOUT A CHAPERON PRESENT AT ALL TIMES, NOR SHALL HE SEE A FEMALE PATIENT IN ANY HOSPITAL UNLESS A NURSE IS PRESENT AT ALL TIMES. SHALL NOT ENGAGE IN ANY OFFICE PRACTICE ON WEEKENDS OR OUTSIDE NORMAL OFFICE HOURS AND MAY CONDUCT NO PELVIC OR VAGINAL EXAMINATIONS.

JOHNSON, ROLAND E MD, DATE OF BIRTH JANUARY 15, 1949, LICENSE NUMBER 0033518, OF 555 STANHOPE ROAD, SPARTA, NJ, WAS DISCIPLINED BY NEW JERSEY ON AUGUST 11, 1987.
DISCIPLINARY ACTION: 36-MONTH PROBATION; REQUIRED TO ENTER AN IMPAIRED PHYSICIAN PROGRAM OR DRUG OR ALCOHOL TREATMENT.
OFFENSE: DRUG OR ALCOHOL ABUSE
NOTES: 3 YEAR SUSPENSION STAYED; SHALL ACTIVELY PARTICIPATE IN THE IMPAIRED PHYSICIANS PROGRAM, AA, AND SUNRISE HOUSE; QUARTERLY REPORTS REQUIRED; COSTS ASSESSED; ACTION BASED ON SUBSTANCE ABUSE

JOHNSON, ROLAND E MD, DATE OF BIRTH JANUARY 15, 1949, LICENSE NUMBER 0033518, OF 555 STANHOPE RD, SPARTA, NJ, WAS DISCIPLINED BY NEW JERSEY ON AUGUST 10, 1992.
DISCIPLINARY ACTION: SURRENDER OF LICENSE
NOTES: PENDING SUCCESSFUL COMPLETION OF INPATIENT AND OUTPATIENT PROGRAMS FOR ALCOHOL ABUSE.

JOHNSON, ROLAND E MD, DATE OF BIRTH JANUARY 15, 1949, LICENSE NUMBER 0033518, OF 555 STANHOPE ROAD, SPARTA, NJ, WAS DISCIPLINED BY NEW JERSEY ON DECEMBER 10, 1992.
DISCIPLINARY ACTION: LICENSE REINSTATEMENT
NOTES: REINSTATED WITH CONDITIONS. EFFECTIVE 2/16/95 LIMITATIONS PLACED ON LICENSE ARE VACATED.

JOO, EUI D MD, DATE OF BIRTH NOVEMBER 15, 1939, LICENSE NUMBER 0026374, OF 29 TIP TOP WAY, BERKELEY HEIGHTS, NJ, WAS DISCIPLINED BY NEW JERSEY ON MARCH 1, 1988.
DISCIPLINARY ACTION: 6-MONTH LICENSE SUSPENSION
OFFENSE: INSURANCE, MEDICARE, OR MEDICAID FRAUD
NOTES: SUSPENSION FOR 3 YEARS; FIRST 6 MONTHS ACTIVE. RESPONDENT REQUIRED TO DONATE SERVICES TO CLINIC OR OTHER BOARD-APPROVED FACILITY FOR [illegible] HOURS. ACTION BASED ON MEDICAID FRAUD

JOO, EUI DON MD, LICENSE NUMBER 0123740, OF BERKELEY HEIGHTS, NJ, WAS DISCIPLINED BY NEW YORK ON JULY 11, 19[illegible]
NOTES: ONE YEAR SUSPENSION STAYED

JULIO, JOSE MD, DATE OF BIRTH MARCH 16, 1941, LICENSE NUMBER 0027442, OF 272 NASSAU STREET, PRINCETON, NJ, WAS DISCIPLINED BY NEW JERSEY ON FEBRUARY 1, 1988.
DISCIPLINARY ACTION: FINE; REPRIMAND
OFFENSE: OVERPRESCRIBING OR MISPRESCRIBING DRUGS
NOTES: REQUIRED TO SUCCESSFULLY COMPLETE MINI-RESIDENCY IN CONTROLLED DANGEROUS SUBSTANCES

KADE, NIRMAL MD, LICENSE NUMBER 0154736, OF PORT WASHINGTON, NY, WAS DISCIPLINED BY NEW YORK ON JUNE [illegible], 1989.
DISCIPLINARY ACTION: LICENSE REVOCATION

KADE, NIRMAL MD, DATE OF BIRTH OCTOBER 10, 1940, LICENSE NUMBER 0042554, OF 27 DRIFTWOOD DRIVE, PORT WASHINGTON, NY, WAS DISCIPLINED BY NEW JERSEY ON NOVEMBER 16, 1990.
DISCIPLINARY ACTION: LICENSE REVOCATION
OFFENSE: CRIMINAL CONVICTION OR PLEA OF GUILTY, NOLO CONTENDERE, OR NO CONTEST TO A CRIME
NOTES: HE WAS CONVICTED IN NEW YORK FOR AIDING AND ABETTING THE UNLICENSED PRACTICE OF MEDICINE, INCLUDING SUBMISSION OF BILLS TO MEDICAID FOR TREATMENT BY UNLICENSED INDIVIDUALS. CANNOT REAPPLY FOR AT LEAST ONE YEAR.

KAJI, VIKRAM MD, DATE OF BIRTH NOVEMBER 12, 1936, LICENSE NUMBER 0023676, OF 59 SOUTH MAIN STREET, YARDLEY, PA, WAS DISCIPLINED BY NEW JERSEY ON NOVEMBER 1, 1993.
DISCIPLINARY ACTION: 12-MONTH LICENSE SUSPENSION; 24-MONTH PROBATION
OFFENSE: SEXUAL ABUSE OF OR SEXUAL MISCONDUCT WITH A PATIENT
NOTES: SEXUAL ABUSE OF THREE PATIENTS AND INDISCRIMINATE PRESCRIBING OF CONTROLLED DANGEROUS SUBSTANCES. REMAINDER OF 3 YEAR SUSPENSION STAYED. DURING ACTIVE SUSPENSION, SHALL UNDERGO PSYCHOLOGICAL COUNSELLING REGARDING PROPER PROFESSIONAL CONDUCT. NO CREDIT TOWARD THE ONE YEAR WILL BE GIVEN IF DR. KAJI ACTIVELY PRACTICES IN ANOTHER JURISDICTION. SHALL ATTEND AND COMPLETE COURSES IN THE PROPER USE OF CONTROLLED DANGEROUS SUBSTANCES AND MEDICAL ETHICS DURING THE ONE-YEAR SUSPENSION. PENALTY OF $5,000 AND COSTS OF $4,046 ASSESSED.

KAJI, VIKRAM HIRALAL MD, LICENSE NUMBER 0D13732, OF PARK AND THIRD STREETS, BORDENTOWN, NJ, WAS DISCIPLINED BY DEA ON FEBRUARY 22, 1994.
DISCIPLINARY ACTION: SURRENDER OF CONTROLLED SUBSTANCE LICENSE
OFFENSE: DISCIPLINARY ACTION BY ANOTHER STATE OR AGENCY
NOTES: NEW JERSEY MEDICAL BOARD SUSPENDED LICENSE FOR GROSS MALPRACTICE.

KAJI, VIKRAM HIRALAL MD OF YARDLEY, PA. WAS DISCIPLINED BY PENNSYLVANIA ON DECEMBER 23, 1994.
DISCIPLINARY ACTION: 36-MONTH LICENSE SUSPENSION
OFFENSE: DISCIPLINARY ACTION BY ANOTHER STATE OR AGENCY

NOTES: RECIPROCAL ACTION TAKEN IN NEW JERSEY. AFTER ONE YEAR OF ACTIVE SUSPENSION MAY PETITION FOR THE REMAINDER TO BE STAYED FOR PROBATION.

KALLAS, TIIDO MD, DATE OF BIRTH FEBRUARY 24, 1938, LICENSE NUMBER 0027911, OF 13 COLONIAL DRIVE, DALLAS, PA, WAS DISCIPLINED BY NEW JERSEY ON JANUARY 9, 1991.
DISCIPLINARY ACTION: 4-MONTH LICENSE SUSPENSION; 20-MONTH PROBATION
OFFENSE: DRUG OR ALCOHOL ABUSE
NOTES: SUBSTANCE ABUSE RELAPSE. LICENSE SUSPENDED FOR TWO YEARS, THE FIRST FOUR MONTHS ACTIVE RETROACTIVE TO 09/02/90, THE REMAINDER STAYED TO A PERIOD OF PROBATION EFFECTIVE 01/01/91. REQUIRED TO PRACTICE SOLELY AT VA MEDICAL CENTER UNDER THE SUPERVISION OF THEIR CHIEF OF STAFF. MUST MAINTAIN REGULAR CONTACT WITH THE PHYSICIANS HEALTH PROGRAM AND ENGAGE IN NO MEDICAL PRACTICE IN NEW JERSEY WITHOUT PRIOR BOARD APPROVAL.

KALLAS, TIIDO MD, DATE OF BIRTH FEBRUARY 24, 1938, LICENSE NUMBER 0027911, OF 13 COLONIA DRIVE, DALLAS, PA, WAS DISCIPLINED BY NEW JERSEY ON DECEMBER 23, 1993.
DISCIPLINARY ACTION: SURRENDER OF LICENSE
OFFENSE: DRUG OR ALCOHOL ABUSE
NOTES: SUBSTANCE ABUSE RELAPSE.

KALLAS, TIIDO MD, LICENSE NUMBER 0104100, OF 13 COLONIAL DRIVE, DALLAS, PA, WAS DISCIPLINED BY NEW YORK ON AUGUST 29, 1994.
DISCIPLINARY ACTION: 60-MONTH PROBATION
OFFENSE: DISCIPLINARY ACTION BY ANOTHER STATE OR AGENCY
NOTES: FOUND GUILTY OF MISCONDUCT AND DISCIPLINED BY THE NEW JERSEY BOARD. 3 YEAR SUSPENSION STAYED.

KALLAS, TIIDO MD, DATE OF BIRTH FEBRUARY 24, 1938, OF 13 COLONIAL DRIVE, DALLAS, PA, WAS DISCIPLINED BY MEDICARE ON NOVEMBER 8, 1994.
DISCIPLINARY ACTION: EXCLUSION FROM THE MEDICARE AND/OR MEDICAID PROGRAMS
OFFENSE: DISCIPLINARY ACTION BY ANOTHER STATE OR AGENCY
NOTES: LICENSE SURRENDERED FOR REASONS BEARING ON PROFESSIONAL COMPETENCE.

KANAR, WILLIAM F MD, LICENSE NUMBER 0126831, OF PLATTSBURGH, NY, WAS DISCIPLINED BY NEW YORK ON FEBRUARY 22, 1989.
DISCIPLINARY ACTION: 36-MONTH PROBATION
NOTES: SUSPENSION 1 YEAR, STAYED

KANAR, WILLIAM F MD, DATE OF BIRTH MARCH 13, 1930, LICENSE NUMBER 0018681, OF 84 CUMBERLAND AVENUE, PLATTSBURGH, NY, WAS DISCIPLINED BY NEW JERSEY ON OCTOBER 30, 1989.
DISCIPLINARY ACTION: SURRENDER OF LICENSE
OFFENSE: DISCIPLINARY ACTION BY ANOTHER STATE OR AGENCY
NOTES: IN LIGHT OF ACTION TAKEN AGAINST LICENSE IN NEW YORK; ACTION BASED ON GROSS NEGLIGENCE AND INCOMPETENCE

KANAR, WILLIAM F MD OF PLATTSBURGH, NY, WAS DISCIPLINED BY VERMONT ON FEBRUARY 7, 1990.
DISCIPLINARY ACTION: 36-MONTH PROBATION; REQUIRED TO TAKE ADDITIONAL MEDICAL EDUCATION
OFFENSE: DISCIPLINARY ACTION BY ANOTHER STATE OR AGENCY
NOTES: DISCIPLINED BY NEW YORK DUE TO AN IMPROPER SEXUAL RELATIONSHIP WITH A PATIENT UNDER HIS CARE; NEW YORK LICENSE ON PROBATION FOR THREE YEARS IN 1/89. ONE YEAR SUSPENSION STAYED. VERMONT BOARD MAY RECEIVE DOCUMENTS SENT TO NEW YORK, INCLUDING CERTIFICATION OF COMPLETION OF 100 HOURS OF CONTINUING MEDICAL EDUCATION IN PSYCHIATRY; MUST APPEAR BEFORE VERMONT BOARD BEFORE PRACTICING IN VERMONT.

KAO, MICHAEL MD OF 16 DELANCY STREET, EDISON, NJ, WAS DISCIPLINED BY NEW JERSEY ON DECEMBER 2, 1981.
DISCIPLINARY ACTION: FINE; REPRIMAND
OFFENSE: PRACTICING WITHOUT A VALID LICENSE OR PRESCRIBING WITHOUT A VALID CONTROLLED SUBSTANCE LICENSE
NOTES: $2500 FINE.

KAPLAN, MYRON J DO OF LEVITT PKWY & ROUTE 130, WILLINGBORO, NJ, WAS DISCIPLINED BY MEDICARE ON NOVEMBER 1, 1983.
DISCIPLINARY ACTION: 60-MONTH EXCLUSION FROM THE MEDICARE AND/OR MEDICAID PROGRAMS
OFFENSE: CRIMINAL CONVICTION OR PLEA OF GUILTY, NOLO CONTENDERE, OR NO CONTEST TO A CRIME
NOTES: PROGRAM-RELATED CONVICTION.

KAPLAN, MYRON J DO, LICENSE NUMBER 0095660, OF CHERRY HILL, NJ, WAS DISCIPLINED BY NEW YORK ON JUNE 24, 1987.
DISCIPLINARY ACTION: LICENSE REVOCATION

KARASAKALIDES, ANDY MD, DATE OF BIRTH JUNE 8, 1951, LICENSE NUMBER 0053664, OF 141 OLD SHORT HILLS RD, WEST ORANGE, NJ, WAS DISCIPLINED BY NEW JERSEY ON JULY 31, 1990.
DISCIPLINARY ACTION: EMERGENCY SUSPENSION
OFFENSE: PROFESSIONAL MISCONDUCT
NOTES: ALSO KNOWN AS KALIDES, ANDY; ALLEGED SEXUAL IMPROPRIETIES, PERSON UNSPECIFIED. LICENSE TEMPORARILY SUSPENDED PENDING DISPOSITION OF ADMINISTRATIVE PROCEEDINGS, PHYSICIAN SHALL HAVE LEAVE TO APPEAR BEFORE THE BOARD OR A COMMITTEE OF THE BOARD TO SEEK DISSOLUTION OF TEMPORARY SUSPENSION ON NO LESS THAN TWO DAYS' NOTICE TO THE BOARD.

KARASAKALIDES, ANDY MD, DATE OF BIRTH JUNE 8, 1951, LICENSE NUMBER 0053664, OF 58 LORRAINE TERRACE, BOONTON, NJ, WAS DISCIPLINED BY NEW JERSEY ON NOVEMBER 19, 1990.
DISCIPLINARY ACTION: 60-MONTH LICENSE SUSPENSION; FINE
OFFENSE: CRIMINAL CONVICTION OR PLEA OF GUILTY, NOLO CONTENDERE, OR NO CONTEST TO A CRIME
NOTES: ACTION BASED UPON A PLEA OF NOLO CONTENDERE TO ALLEGATIONS OF SEXUAL ASSAULT/HARASSMENT. REINSTATEMENT SHALL BE GRANTED ONLY UPON APPEARANCE BEFORE BOARD WHEN HE SHALL DEMONSTRATE FITNESS AND COMPETENCE AND NOT BEFORE 6/13/92. PENALTY OF $1500 ASSESSED.

KARIMI, MAHMOOD M MD, DATE OF BIRTH JULY 7, 1935, LICENSE NUMBER 0036861, OF 50 KINDERKAMACK RD, WOODCLIFF LAKE, NJ, WAS DISCIPLINED BY NEW JERSEY ON MAY 13, 1992.
DISCIPLINARY ACTION: SURRENDER OF CONTROLLED SUBSTANCE LICENSE; RESTRICTION PLACED ON LICENSE
OFFENSE: PROFESSIONAL MISCONDUCT
NOTES: ALLEGED QUESTIONABLE CONTROLLED DANGEROUS SUBSTANCES DISPENSING. ORDER IMPOSING TEMPORARY RESTRAINTS FILED. SHALL IMMEDIATELY

Physician at clinic suspended

11-22-97 CDT

Doctor who works at State College abortion facility suspended from practicing medicine

By PAULA SHARA
Centre Daily Times

A part-time physician who was performing abortions at State College Medical Services was suspended Tuesday from practicing medicine in Pennsylvania, according to Pennsylvania Department of State documents.

Vikrant H. Kaji, 62, who was disciplined in New Jersey and Pennsylvania for sexually abusing three patients and indiscriminately prescribing an anabolic steroid, was suspended from medical practice on Tuesday for violating a two-year probationary period on the suspension of his medical license. The probation was to end in April 1998.

"The commonwealth believes a violation of the probation occurred," said Kevin Shivers, spokesman for the Department of State.

Kaji has 30 days to request a formal hearing to appeal the suspension of his medical license and then prove he did not violate the terms of his probation.

Kaji could not be reached for comment Friday night.

Kaji, of Yardley violated the terms of his probation between Sept. 18 and Sept. 27, when he practiced medicine in Pennsylvania and accepted medical employment from a person who was not a licensee approved by the state Board of Medicine, according to state documents.

Dr. Stephen Chase Brigham, president of The Friendly Corp., which operates State College Medical Services, voluntarily retired his medical license in Pennsylvania in 1992 in return for the state ending an investigation of him. Brigham is suspended from medical practice in New York and Florida and is restricted from using the words "safe" and "painless" in his advertising in New Jersey.

Brigham is now being sued by HFL Corp., the landlord of the medical practice's office at 477 E. Beaver Ave., for violating a lease. In HFL's second attempt to evict the practice, it claims the occupant of the space is not the occupant indicated on the lease, according to Centre County court documents.

Kaji admitted to having sex with a female patient on a bed in his New Jersey clinic's birthing room in 1985.

In 1994, a Pennsylvania medical board followed its New Jersey counterpart and suspended Kaji's medical license for three years. After one year, Kaji was allowed to continue practicing medicine in Pennsylvania with a two-year probation period.

Clinic doctor suspended from practicing in Pa.

CENTRE COUNTY CITIZENS CONCERNED FOR HUMAN LIFE

Press Release
July 13, 1997

CCHL refutes claim State College Medical Services will be a general medical practice; Its primary purpose will be to establish an abortion clinic

Contact person: Susan Rogacs (814) 238-9590

Additional information has been received by CCHL concerning Steven Chase Brigham, president of Friendly Corporation, who signed the lease to open State College Medical Services in State College and its director, Eric Harrah. Evidence exists that Brigham has entered into contracts with landlords in New York, New Jersey, and Pennsylvania without the prior knowledge of the landlord that he would be performing abortions.

New York

Express Times December 6, 1994

The New York Medical Board revoked the medical license of Brigham for endangering the lives of two patients. A committee of the Board said he was "guilty of deviation and, in some instances, gross deviations, from accepted medical practice." It said he "used inexcusably bad judgement and that his negligence was life threatening and caused injuries to the patient." The committee found Brigham "showed no hint that he understood the gravity of his errors in judgement." It also found Brigham repeatedly exaggerated his medical training, experience and skill. "He routinely displayed a tendency to inflate and embellish the truth," the committee report said.

One case the board reviewed involved a November 1993 abortion Brigham performed for a 20 year old woman in New York who was 26 weeks pregnant. After the procedure, the woman bled profusely, vomited, and lost consciousness in the recovery room. Brigham kept her in the office three hours before calling an ambulance. The woman was rushed to a hospital where an emergency hysterectomy was performed because Brigham had cut the uterine artery. The case of this woman, because she is a new Jersey resident also appears in the charges (see below) levied by the New Jersey Attorney General's office. In a second case in May 1992, Brigham is charged with botching a procedure which damaged the woman's uterus, bowels, and ureters.

Albany Times Union May 5 and 8, 1996 and Sept. 29, 1996
New Jersey Express Times September 18, 1996

Brigham was banned from practicing medicine in New York in December of 1994. Two abortion clinics in New York operated by Brigham, American Women's Services in Colonie, NY and American Medical Services in Nanuet, NY were shut down by the State after a grand jury

investigation in Albany County by the New York attorney general's office into alleged Medicaid fraud; patients and the government were double billed for the same services. American Women's Services had opened October 1, 1994 without the required state license. Their bank statements showed Brigham was the authorized signature on the bank accounts of American Women's Service. Seventeen frozen fetuses were seized from the Colonie, NY abortion clinic operated by Brigham. The clinic's operator could be charged with 17 misdemeanors carrying penalties from 15 days to one year in prison for each offense. The grand jury is also investigating whether unlicensed practitioners performed abortions at both clinics.

B. Robert Joel, the Colonie, NY clinic's landlord said Brigham signed a five year lease and did not disclose that the clinic would offer abortions. Brigham also faces charges for billing for procedures that were never performed. The spokesman for American Women's Services was Eric Harrah.

New Jersey

Star Ledger October 25, 1994

Charges against Brigham in New Jersey include: unauthorized performance of 2nd trimester abortions and falsely advertising to perform late term abortions in his Phillipsburg, New Jersey office. Physicians performing abortions outside a hospital in New Jersey cannot operate after 14 weeks. Brigham does not have hospital privileges in New Jersey according to the New Jersey Attorney General. Brigham is not board certified in obstetrics-gynecology and he has never completed residency training in obstetrics-gynecology or general surgery.

Home News and Tribune August 23, 1996
Daily Record August 16, 1996

After botching at least three abortions in New Jersey, the State Attorney General sought to have Brigham's license revoked. One case involved the 20 year old New Jersey woman (see above) who had an emergency hysterectomy after Brigham performed an abortion during her 26th week of pregnancy at his New York clinic. The Board ruled in August 1996 that he must "cease and desist using the term 'safe and painless' in his advertising and be limited to performing 1st trimester abortions only". This was Brigham's third appearance before the New Jersey Medical Board.

Star Ledger August 18, 1996

"He (Brigham) concealed his intentions to perform abortions when he first set up the clinic at 157 South Main Street, Phillipsburg, New Jersey (Phillipsburg Women's Services operating under the name Friendly Corporation). He never advised the landlord that he planned to do abortions. He capitalized by setting up shop in a town bordering Pennsylvania, which has the nation's most restrictive laws".

Note: Pennsylvania law requires minors to have parental permission or a court order and a twenty four hour waiting period prior to obtaining an abortion. No such restriction exists in New Jersey.

Courier News August 3, 1994

"His (Brigham's) practice is virtually, completely abortions," said Bonnie James Sheppard, a spokeswoman for the State Division of Consumer Affairs, part of the New Jersey Attorney General's office.

Pennsylvania

Sunday Independent July 22,1990

The owner of a Wilkes-Barre office building cancelled a lease with Brigham three weeks after entering into an agreement because Brigham did not disclose his plans to open an abortion clinic in the building. The clinic put their plans to open "on hold" and eventually gave up the plans for the Wilkes-Barre clinic.

Reading Eagle MARCH 31,1991

The business practices and ethics of Dr. Brigham, who operates a clinic in Wyomissing, PA, are being questioned by medical groups. Brigham admits to accepting personal property, including jewelry and other items, as payment for abortions. "There was not one case where the jewelry was worth more than the fees," Brigham said, "People were giving us Timex watches and earrings, that sort of thing. One person offered us her sneakers." Brigham also admitted to sending patients to a finance company located in the same building as his abortion clinic. "When they (the patients) pay their bill, we'll give it (the personal items such as jewelry and watches) back," said Brigham.

Brigham also did not have an agreement with a local hospital, as required by law, and he misrepresented himself in advertisements saying his fees were low (His fees for second trimester abortion were considerably higher than other clinics in the state) and that he offered sonograms (Brigham did not have a sonogram machine in his office at the time of the review).

Reading Eagle Series of articles September 1991-October 1991

Brigham was ordered on September 5, 1991 to stop performing abortions or any medical procedures related to abortion in his Wyomissing, PA office. The judge ruled that Brigham concealed his intentions when he signed a lease for office space in August 1990. Brigham told the landlord that he planned to use the office for general medical practice. "The practice of general medicine does not include performing abortions," the judge wrote. "In fact, special state approval is required before a medical facility can be used for that purpose," said the judge. Brigham responded that "this decision will mean that every doctor in Pennsylvania will have to tell his landlord if he plans to perform abortions."

Brigham moved his abortion business to a run-down basement in Sinking Springs after the judge ordered him to stop doing abortions at his main office in Wyomissing. The Borough Code

Enforcement Officer said the location was in violation of the zoning laws. "It was located in the basement of an old brick building that housed five apartments, and the office, with its peeling yellow walls, dirty plate glass windows, and musty stench, appeared cramped and run-down. A flimsy curtain separated one of the rooms from the makeshift waiting area." The Sinking Spring abortion clinic had not been inspected by the State Department of Health and was operating illegally, according to State Senator Michael O'Pake. Because of these violations, Brigham was forced to close the Sinking Spring location in late September 1991.

Reading Times May 7, 1992

Stephen Brigham, under investigation stemming from his practices in Wyomissing, signed an unusual consent agreement with the state Board of Medical Licensing, voluntarily retiring his Pennsylvania medical license and agreeing never to apply for reactivation, renewal, or reissuance.

Bethlehem Express Times June 9, 1994

Brigham estimates he has performed about 15,000 abortions since earning his medical degree in 1986, and on occasion, has performed more than forty abortions in one day.

Conclusion

In conclusion, Brigham has no medical license in Pennsylvania. Brigham signed a five year lease in State College in which the landlord claims he was deceived about Brigham's intentions to offer elective abortions. CCHL asks the following question: With the trail of malpractice, deception, professional misconduct, and violations of the law that follow Brigham, can we expect anything different in State College?

Saturday, October 4, 1997 Centre Daily Times

Controversial clinic causes concern among health agencies, NOW

By STEPHEN TRIMBLE
Centre Daily Times

Regarding State College Medical Services, some local health and community officials say the moral question of whether abortion is right or wrong is now less important than another query:

Is the controversial medical practice safe for women?

Some agencies, such as University Health Services, the Women's Resource Center, Family Health Services and Pennsylvania's chapter of National Organization for Women, are alarmed.

Here's why:

◆ The clinic's part-time physician, Vikram Kaji, was disciplined professionally for sexually abusing three patients since 1985. His medical license is on probation in Pennsylvania until December.

◆ The clinic's owner, Dr. Steven Chase Brigham, lost his medical license in New York after he was accused of injuring two women. Florida revoked his license in 1995, and he voluntarily resigned from medical practice in Pennsylvania in 1992 to end an investigation.

◆ Eric Harrah, administrative director, operated an abortion clinic in Delaware that was fined $43,000 for what news reports said was illegally dumping fetal remains.

Adminstrative director of medical practice

"We really felt that this compromises the safety of women," said Erin Pedersen, education and training coordinator at the Women's Resource Center. The agency will not refer women to the clinic at 477 E. Beaver Ave., she said.

But Harrah shrugged off the criticism Friday, claiming it was his busiest day since the clinic opened Sept. 11. He said a copy of the Centre Daily Times newspaper featuring an article exposing Kaji's past was available for patients in his waiting room.

"I'm not concerned at all," Harrah said. "That's their own personal choice."

Staff at University Health Services tell students it's too early to tell whether it's safe to go to the clinic, said Dr. Margaret Spear, the Penn State agency's director.

But Spear said she is personally very concerned over allegations that Kaji admitted having consensual sex with a patient in his clinic's birthing room in 1985, and then continued to be her doctor.

'not concerned at all'

"I think that physician having sexual relations with someone who continues to be his or her patient is problematic," Spear said.

Bellefonte-based Family Health Services, which has operated locally for 27 years, would not hire a doctor with Kaji's background, said Karen Burke-Crawford.

Harrah countered that the (Family Health Services) practice was "just afraid that I'll dominate and take over their business, which I plan to do."

The public response to the new allegations against Kaji gratified Sue Rogacs, an outspoken member of the Centre County Citizens Concerned for Human Life.

"Where's the medical community been up to now?" Rogacs said. "Who's been the only one fighting this thing the whole time?"

But, Joanne Tosti-Vasey, state treasurer of Pennsylvania NOW and a local member, blamed efforts by Rogacs and pro-life organizations across the county for the lack of quality physicians.

Pennsylvania NOW does not endorse the clinic, according to Tosti-Vasey. "Our priority is safety for the women," she said.

Daily Record 8/15/96 (FRONT PAGE)

N.J. aids embattled abortion doctor

Lets him practice despite 'botched' procedures, but limits ads

BY LINDA A. JOHNSON
Associated Press

TRENTON — New Jersey regulators decided yesterday not to revoke the license of a doctor accused of botching abortions in New Jersey and New York.

But the state Board of Medical Examiners opted to bar Dr. Steven Chase Brigham from using the words "safe" and "painless" in his advertisements.

"We're delighted and relieved, and hopefully this young doctor's ordeal is over," said his attorney, Nathan L. Dembin of Manhattan.

He said his client, whose case has been widely publicized by anti-abortion groups, resumed practicing in New Jersey in May — with state approval — and will continue to do so.

Dembin would not specify where Brigham is working.

Brigham, 39, of Phillipsburg, had practiced there and was the former medical director of the Voorhees Women's Center. He has had licensing problems in several states since New York regulators revoked his license after finding him guilty of malpractice in two cases.

Secret takeover

He then caused further controversy when he secretly took over for Dr. John Baynard Britton at the Ladies Center clinic in Pensacola, Fla., for six months in 1994 after Britton and an escort were shot to death that July by a former minister.

"It'll be interesting to see what will happen now in other states," that followed New York's lead and took action against Brigham, Dembin said.

With New Jersey making a decision "diametrically opposed" to New York's and vindicating Brigham, he will pursue getting his license back in other states, the lawyer said.

Florida and New York have revoked Brigham's license, and he surrendered his license in Pennsylvania because of "overt hostility" there, according to a report by an administrative law judge in New Jersey, who recommended in April that Brigham be allowed to practice in the Garden State.

Brigham's status is inactive in Georgia. His California license was still active this spring, and a hearing was pending, but it could not be determined last night whether action had been taken there against him.

See DOCTOR / A13

■ Doctor

Continued from / A1

Dembin maintains the Columbia Medical School graduate did not get a fair hearing by the medical board in New York, where he had maintained a practice in Spring Valley.

Once one state revokes a physician's license, others can take action against the doctor without a full hearing, even if he faces no charges in their state.

Because of that, Dembin said, Brigham chose to stop practicing in New Jersey in December 1994 if the state would fully investigate the pending charges of negligence, malpractice, gross negligence and professional misconduct involving five abortions performed in New Jersey and in New York. Most involved his handling of complications arising during second-trimester abortions.

After 39 days of hearings from October 1994 to June 1995, with testimony from numerous medical experts and other witnesses, Administrative Law Judge Joseph F. Fidler recommended in April that Brigham be allowed to resume practicing in New Jersey.

Yesterday's decision by the Board of Medical Examiners followed those recommendations with one modification.

"Respondent shall in the future cease and desist utilizing the term safe and/or the term painless in any advertisement which he places. Respondent shall also cease and desist advertisements which mislead or have the capacity to mislead," the board wrote.

The New Jersey Right to Life Committee criticized the board's ruling, calling it "shocking and irresponsible."

In Florida, regulators suspended Brigham's license in February 1995, then revoked it this June because he failed to notify the state that he was practicing in Florida, and that actions had been taken against him in New York, New Jersey and Pennsylvania.

Brigham said authorities had told him not to disclose that he was practicing in the state because they feared for his safety, after both Britton and Dr. David Gunn were shot to death outside Pensacola abortion clinics.

FROM THE PAPER

FEB. '95

Doctor's license

PENSACOLA
News Journal

FINAL EDITION

Sports
In high-stakes world of college football, the Bowdens stretch family ties in quest for success.

MONEY
Developer awaits state's OK to add commercial tenants to Cordova Mall area.

1D

INSIDE

State suspends doctor's license

By Gail Boxrud
News Journal

The state suspended abortion doctor Steven Chase Brigham's medical license through an emergency order issued Friday by the Agency of Health Care Administration.

The Connecticut doctor replaced Dr. John Britton after radical abortion opponent Paul Hill gunned down Britton July 29 outside The Ladies Center, a Pensacola clinic that offers abortion services.

BRIGHAM WAS served the notice Friday at the Pensacola Regional Airport.

"This shuts him down right now," said Ed Towey, spokesman for the state agency that issued the suspension. "This emergency order instantly stops him from practicing."


Brigham

Neither Brigham nor his attorney could be reached Saturday.

Brigham has a right to a hearing on the suspension within 14 days if he requests one, Towey said. The board will make a final decision about Brigham's license whether he fights the suspension or not.

The suspension became effective late Friday afternoon when the director of Agency of Health Care Administration signed it, Towey said. But Towey did not immediately know the specific reasons cited in the document.

The agency issued the suspension in response to a completed investigation by a legal team.

"IT'LL HAVE to have some serious allegations in it for them to issue an emergency suspension," Towey said. "When you go to these emergency suspensions, you have a case already built, and you have to be ready to go to court right away.

"They investigate these things thoroughly," Towey said. "The standard of proof is as high as any court."

A pending case against Brigham in New York has triggered action by New Jersey, Pennsylvania, Georgia and California medical officials. New York revoked his license in November, he let his license expire in Georgia and he voluntarily stopped practicing in Pennsylvania, according to state medical board records.

In December, he agreed to stop practicing in New Jersey until an administrative law judge rules on his fitness as a physician. The current status of the case was not available Saturday.

The accusations include injuring two women in New York during late second-trimester abortions, false advertising, unsanitary practices and offering to perform an illegal third-trimester abortion.

See DOCTOR'S, 6A

Sunday, September 29, 1996

TIMES UNION

CAPITAL REGION

ALBANY, NEW YORK

D SECTION

Abortion provider also provides controversy

■ Grand jury probe in Albany over closed clinic is latest chapter in a doctor's very public, professional life

BY HOLLY TAYLOR
Staff writer

ALBANY — Flanked by armed escorts, Dr. Steven Chase Brigham flew in and out of Florida one day a week for six months in 1994 to perform abortions at the Pensacola Ladies Clinic.

It was a place where few doctors dared to tread after an anti-abortion gunman killed clinic physician John C. Britton and his escort on July 29, 1994.

But after Florida officials learned that New York earlier that year had suspended Brigham's license for finishing two second-trimester abortions, they suspended his license, too.

In the turbulent arena of abortion services, Brigham, 39, has blazed a trail of headlines and controversy upand down the East Coast.

He has been hounded by anti-abortionists, shunned by other abortion providers and banned from practicing medicine in New York.

Brigham describes himself as a champion of a women's right to abortion and a victim of political persecution.

Now Brigham's name has surfaced in a grand jury investigation in Albany County by the state attorney general into alleged Medicaid fraud at American Women's Services, an abortion clinic on Central Avenue in Colonie, and another related clinic in Nanuet, Rockland County. The state shut both facilities on May 22. On Sept. 16, Colonie police seized 17 frozen fetuses from abortions performed at the Colonie site. The clinic failed to dispose of the fetuses within 30 days, as required by law, according to the state Health Department.

State investigators are trying to determine who owned and operated the American Women's Services Clinic, which opened Oct. 1, 1994, without the required state license.

State corporation listings state Brigham owned a company called American Women's Services, which dissolved in September 1995.

"We are trying to determine his relationship to the clinic," said Wes Gedarik, a spokesman in

Please see DOCTOR D-5

Associated Press/GREGORY SMITH
DR. STEVEN CHASE BRIGHAM at a June hearing before the Florida Board of Medicine.

New York revokes license of abortion doctor

MD to face Jersey medical board after negligence cited in 2 cases

By DAVID VANHORN

New York has revoked the medical license of controversial abortion doctor Steven Brigham, who now faces another challenge to his practice in New Jersey.

Two boards acting under the auspices of the New York Department of Health concluded Brigham is a danger to the public for acting negligently and displaying bad judgment in two abortion cases. Both women were hospitalized with injuries, and one had to undergo an emergency hysterectomy.

"(Brigham) is under-trained, has demonstrated grievous deviations from accepted standards of care and diligence, has shown submarginal abilities and has evidenced not the slightest recognition of any of his deficiencies," a hearing committee in New York said.

Brigham yesterday replied that he had "no chance of a fair hearing. It's vigilantism."

In light of New York's decision, he has been ordered to appear before the state Board of Medical Examiners next Wednesday in Trenton to show why he should be allowed to keep his license in New Jersey, said Bonnie James Sheppard, spokeswoman for the state Division of Consumer Affairs.

Brigham works at offices in Phillipsburg and Voorhees, Camden County. His license in New Jersey has been in jeopardy since November 1993, when the state Attorney General's Office charged that he performed unauthorized second-trimester abortions.

The medical board in February ordered him to do only first-trimester abortions, and Brigham temporarily stopped performing any abortions for several weeks after the Attorney General's Office filed a second complaint against him in July.

Brigham resumed working under the prior restrictions after the medical board decided on Aug. 2 not to revoke or suspend his license.

One case that drew the attention of New York and New Jersey officials was an abortion performed in November 1993 on a 20-year-old Middlesex County woman who was 26 weeks pregnant. The woman bled from lacerations to her uterus, cervix and uterine artery in Brigham's Spring Valley, N.Y., office before an emergency hysterectomy was done at a hospital, according to the charges.

New York suspended Brigham's license in January, and a hearing committee in August concluded he used "inexcusably bad judgment" and that his negligence was "life threatening."

Brigham also "routinely displayed a tendency to inflate and embellish the truth" on his medical qualifications, the committee said.

Asked why Brigham did not promptly transfer one patient to a hospital to treat her profuse bleeding, he replied in part that there is nothing "magical" about a hospital, the committee said. His answer showed his inability "to distinguish between mere attention and appropriate care," the panel's decision said.

The New York Administrative Review Board for Professional Medical Conduct issued a ruling on Nov. 23 affirming the hearing committee's recommendation of revocation.

In his defense, Brigham said both New York cases involved "technically difficult" late-term abortions with "known and accepted complications."

Brigham said he is properly trained and charged that the hearing committee failed to consider the testimony of three physicians who defended his performance. "I'm obviously disappointed. I think it's unfair and unjust. I think I was a victim of bias and prejudice," said Brigham, who plans to file a court appeal.

> *'I'm obviously disappointed. I think it's unfair and unjust. I think I was a victim of bias and prejudice.'*
>
> **—Steven Brigham**

New Jersey Right to Life spokeswoman Marie Tasy said she hopes New Jersey officials follow New York's lead by revoking Brigham's license. Group members have picketed an office in Phillipsburg where Brigham works and protested at the first session of Brigham's hearing before Administrative Law Judge Joseph Fidler in October.

The hearing has been adjourned until Jan. 26, Sheppard said.

Brigham worked this year at the Ladies Center in Pensacola, Fla., following the murders in July of Dr. John Britton, a doctor at the clinic, and James Barrett, a retired Air Force lieutenant who was a volunteer escort and bodyguard for the clinic. Anti-abortion activist Paul Hill yesterday was sentenced to die in Florida's electric chair after being found guilty in the shootings.

Brigham said he has not worked in Pensacola in several weeks and is required to notify Florida officials of his license revocation in New York.

Brigham surrendered his Pennsylvania medical license in 1992 while undergoing a state investigation. He let his license expire this year in Georgia instead of facing a disciplinary hearing, and the medical board of California is holding a hearing in March on whether to revoke or suspend his license.

CENTRE DAILY TIMES 10/3/97

day, October 3, 1997

Part-time clinic doctor disciplined for abus

STEPHEN TREMBLE
for Daily Times

State medical board suspended Vikram Kaji's license in 1994; probation lasts until December

STATE COLLEGE — A doctor o was disciplined in two states for ually abusing three patients is w, a part-time physician at State llege Medical Services, Vikram Kaji, 62, admits he made human error" in 1985 when he l what he called consensual sex h a female patient on a bed in his ice's birthing room.

Documents obtained from the nsylvania State Board of Medicine indicate the woman suffered from depression, and had been a "childhood victim of sexual abuse."

The Centre Daily Times does not identify alleged victims of sexual crimes.

Kaji denies that he sexually abused two other patients in Bordentown City, N.J., and said he regrets following his attorney's advice not to challenge those accusations.

Kaji acknowledged that he is performing abortions in State College.

In 1994, a Pennsylvania medical board followed its New Jersey counterpart and suspended Kaji's medical licenses for three years. The boards also concluded that Kaji indiscriminately prescribed drugs to his first accuser.

After one year, Kaji was allowed to continue practicing medicine in Pennsylvania with a two-year probation period. That ends in December, said Eric Harrah, administrative director of the medical practice at 477 E. Beaver Ave.

Local pro-life activists uncovered Kaji's involvement here and alerted media organizations. Women in the area should know about Kaji's background before seeking treatment at the clinic, said Sue Rogers, a board member of Centre County Citizens for Human Life.

Harrah said he knew of Kaji's encounter with a patient in 1985, but had to ask him about the subsequent cases. He added that he was not concerned about the accusations or disciplinary actions.

The last two accusers didn't come forward until months after the alleged incidents occurred, Harrah said.

in past

"People always come out of the woodwork and make allegations," he said.

Harrah said he believes Kaji's claim that the first incident consisted of consensual — albeit unethical — intercourse.

"Dr. Kaji is a fine human being. He's a wonderful doctor," Harrah said. "I would send my sister to him, and I would send my niece to him without hesitation."

See DOCTOR, *page 13A*

Doctor disciplined for abuse in past

DOCTOR, *continued from 1A*

Kaji was interviewed by telephone Thursday and said he deserved to be punished for having sex with his first accuser.

"She was right," he said. "It was a physician-patient relationship. You cannot have sexual contact with a patient."

But they had sex only once, he said, although she continued to visit his office for treatments. "We both realized later on it was the wrong thing to do," he said.

An article in The Times of Trenton newspaper on Oct. 28, 1993, reported that the woman had been Kaji's patient since 1976, and he was aware of her depression and history of sexual abuse. He was fined $5,000, the article said.

The article also said he prescribed steroids for the woman when she started weight-lifting. The New Jersey Board of Medical Examiners said Kaji's prescription "constitutes gross malpractice."

> "All that really matters is what the patient feels about it."
>
> **Vikram Kaji,**
> *clinic's newest doctor*

The other two patients accused him of improper examinations. Kaji said the accusations were based on a "perception problem" between him and the patients, for which he accepts the blame. He should have explained what he was doing more carefully, he said.

"All that really matters is what the patient feels about it," he said.

Until the accusations were made, he said, he was operating a successful, 25-year-old medical practice that included delivering about 850 babies each year.

"I have delivered thousands of babies," he said. "That was my life, and I had to give it up," he said.

About 10 percent to 15 percent of his business was based on performing abortions, he said.

Kaji said he has spent the last four years unemployed, but stayed busy taking business and law classes. His job at State College Medical Services is his first chance to practice medicine since 1993.

OUR VIEW

A troubling pattern backs their concern

Clinic critics have reasons to worry about patients' safety.

What other troubling news will be uncovered about State College Medical Services, the clinic that is performing elective abortions in the borough? One has to wonder, and worry.

While abortion opponents have campaigned against the facility since June, now others — including the Centre County Women's Resource Center, Family Health Services of Bellefonte and the state chapter of the National Organization for Women — have stepped forward to express more mundane concerns. Specifically, they are worried about the safety of women who choose to seek medical treatment at the clinic on East Beaver Avenue.

Their concern is justified, as the record indicates.

It seemed unreal to learn that the doctor who is president of The Friendly Corp., the clinic's parent company, cannot legally practice medicine in Pennsylvania. But, in fact, while he was being investigated by state officials in April 1992, he signed a sealed agreement in which he retired his medical license and agreed not to apply for reinstatement — ever.

Equally disconcerting was word that this doctor, Steven Chase Brigham, also has been barred from practicing medicine in Florida and New York. Although he has said that "I have never been found in any state to have done anything improper," others disagree.

For example, a committee of the New York State Medical Board that investigated Brigham concluded that he was "guilty of deviations, and in some cases gross deviations, from accepted medical practice"; that he "used inexcusably bad judgment and that his negligence was life threatening"; and that he "showed no hint that he understood the gravity of his errors in judgment."

And last year, a spokesman for the New York Department of Health, which revoked his medical license in 1994, said: "We believe Dr. Brigham is a threat to the health of New Yorkers. We don't want him practicing in this State."

operated unlicensed abortion clinics in New York; that he fraudulently concealed his intention to perform abortions when he leased an office in Berks County, Pa.; that he operated an abortion clinic illegally in Sinking Spring; and that he is not board-certified in obstetrics or gynecology.

Despite this background, and although he is barred from practicing at the State College clinic, Brigham, as president of Friendly, certainly is making decisions that can affect the health of local women.

Among those decisions is his choice for director of the clinic, Eric C. Harrah. The self-described female impersonator is a Brigham associate who chides people who oppose abortion, calling them "hicks," among other things. Harrah, too, has had trouble with the law. In 1994, for instance, one of two clinics Harrah operated in Delaware was fined $43,000 for the improper disposal of what he called medical waste, and what the authorities called fetal remains.

And this past week it was revealed that a doctor hired to perform abortions at the State College clinic has a history of sexually abusing patients. In 1994, after accusations from three women, Pennsylvania regulators suspended Dr. Vikram Kaji's medical license for three years. He is practicing at the State College clinic while on probation.

Moral issues aside, the facts justify the concern expressed by local health-care providers and support agencies. Taken separately and together, they also provide more than enough reason to ask: What else?

11-22-97 COS

Physician at clinic suspended

Doctor who works at State College abortion facility suspended from practicing medicine

By PAULA SHAIA
Centre Daily Times

A part-time physician who was performing abortions at State College Medical Services was suspended Tuesday from practicing medicine in Pennsylvania, according to Pennsylvania Department of State documents.

Vikram H. Kaji, 62, who was disciplined in New Jersey and Pennsylvania for sexually abusing three patients and indiscriminately prescribing an anabolic steroid, was suspended from medical practice on Tuesday for violating a two-year probationary period on the suspension of his medical license. The probation was to end in April 1998.

"The commonwealth believes a violation of the probation occurred," said Kevin Shivers, spokesman for the Department of State.

Kaji has 30 days to request a formal hearing to appeal the suspension of his medical license and then prove he did not violate the terms of his probation.

Kaji could not be reached for comment Friday night.

Kaji, of Yardley violated the terms of his probation between Sept. 18 and Sept. 27, when he practiced medicine in Pennsylvania and accepted medical employment from a person who was not a licensee approved by the state Board of Medicine, according to state documents.

Dr. Stephen Chase Brigham, president of The Friendly Corp., which operates State College Medical Services, voluntarily retired his medical license in Pennsylvania in 1992 in return for the state ending an investigation of him. Brigham is suspended from medical practice in New York and Florida and is restricted from using the words "safe" and "painless" in his advertising in New Jersey.

Brigham is now being sued by HFL Corp., the landlord of the medical practice's office at 477 E. Beaver Ave., for violating a lease. In HFL's second attempt to evict the practice, it claims the occupant of the space is not the occupant indicated on the lease, according to Centre County court documents.

Kaji admitted to having sex with a female patient on a bed in his New Jersey clinic's birthing room in 1985.

In 1994, a Pennsylvania medical board followed its New Jersey counterpart and suspended Kaji's medical license for three years. After one year, Kaji was allowed to continue practicing medicine in Pennsylvania with a two-year probation period.

11/25/97 Centre

Clinic doctor suspended from practicing ...

Continued from D1

DOCTOR: Abortion provider draws legal heat

Former associates criticize abortion clinic owner

By DAVID BRUCE
Staff writer

Dr. Steven Chase Brigham's file sits on top of Tom Fitzsimmons' desk, its contents spilling out of the folder.

As executive director of the National Coalition of Abortion Providers, a trade association with headquarters in Fairfax, Va., Fitzsimmons keeps files on the more than 200 physicians and clinics across the country who belong to NCAP and some abortion providers who don't belong, like Brigham.

Most of the files are thin, containing service award announcements or clinic location changes. Brigham's file is several inches thick, and Fitzsimmons said there isn't a single piece of paper that isn't a complaint, allegation of wrongdo-

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ing or questionable business practice.

"There are hundreds of pages of stuff: questionable yellow page ads, reports from patients who later visited other clinics, faxes of my conversations about Steve with various state attorneys general," said Fitzsimmons.

"Because Brigham doesn't belong to NCAP, there is little Fitzsimmons can do besides alert authorities about complaints made by NCAP members about Brigham's clinics.

It's not surprising that Brigham, who may open an abortion clinic in downtown Erie, has drawn the ire of the pro-life movement. Some of his harshest critics, however, are fellow abortion providers and officials in the abortion rights movement.

Jennifer Boulanger works as director of the Allentown Women's Center, an abortion clinic certified by the National Abortion Federation (none of Brigham's clinics are NAF-certified or belong to NCAP, which are voluntary organizations). She admits her clinic competes for clients with one of Brigham's clinics, which is located less than 30 minutes away.

"We are competitors, but I'm all for other clinics. There aren't enough doctors (who perform abortions), and there are lots of good clinics out there," Boulanger said. "It's the clinics that are hurting women that scare me, clinics like his."

Brigham downplayed Fitzsimmons' and Boulanger's comments, calling them the words of competitors. Asked if he knows of a single pro-choice organization that supports him, Brigham said, "I don't need them to support me."

Even former supporters no longer back Brigham. In 1997, Eric Harrah managed State College Medical Services, which is owned by one of Brigham's companies, and Harrah either co-owned or managed Brigham's other clinics in Pennsylvania, New Jersey and Maryland.

Harrah said he wrote the procedure manual for SCMS despite not having a medical degree, a violation of the state's Abortion Control Act. Though he once deeply cared for abortion rights, Harrah said he left SCMS on Nov. 2, 1997 after becoming disillusioned with the way Brigham's clinics were being run.

"He cut so many corners that I didn't call him Steve Chase Brigham, I called him Steven 'Shortcut' Brigham," said Harrah, who said conditions at SCMS and the other clinics were "incredibly unsanitary."

"It's all about making money," Harrah said. "Steven doesn't care about women, and I find it incredible that the Commonwealth of Pennsylvania doesn't make him close up shop."

As for Brigham leasing the Erie offices to a "group of feminist women," Harrah said they probably are office workers from one of his other clinics.

"That's been his mode of operation in other places," Harrah said.

Harrah underwent what he calls a religious conversion and attends an Assembly of God church in State College. He no longer supports abortion and tours the country speaking about his former life as an abortion provider. Harrah will travel to Erie today to hold a press conference at the Women's Care Center, 2012 W. 19th St. He said he will discuss his former working and personal relationship with Brigham.

Harrah said he sleeps at night with a chair in front of his apartment door because he fears reprisals from Brigham.

Brigham denied all of Harrah's allegations and said Harrah left for religious reasons, not because of the way SCMS was run.

"SCMS has a long, established record of safe medical care," Brigham said.

Brigham also said the group to whom he's leasing the Erie offices aren't all clinic workers, though at least one might be. He would not say how many women are in the group.

Brigham's medical license has been revoked in New York and Florida, and he voluntarily placed his Pennsylvania medical license on inactive status.

He is allowed to practice medicine in New Jersey, but the state board of medical examiners filed a complaint against Brigham on March 29 seeking to suspend or revoke his license.

Brigham said the will contest the complaint. No hearing date has yet been set.