



Planned Parenthood Federation of America, Inc.

July 20, 2015

The Honorable Fred Upton, Chairman
House Energy and Commerce Committee
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Upton:

I am responding to your letter of July 17 to Cecile Richards.

For nearly 100 years, Planned Parenthood has been the nation's leading provider of reproductive health care and sex education to women, men, and young people. Last year, we provided birth control, lifesaving cancer screenings, STD testing and treatment, and other services to 2.7 million patients, and we provided sex education to 1.5 million people. The more than 10,000 people who work at Planned Parenthood's national office and 59 affiliates provide high-quality health care and information with compassion and a deep commitment to women's health, wellbeing, and dignity. Planned Parenthood complies with all state and local laws and has extremely high medical and ethical standards, which are informed by the Centers for Disease Control and Prevention, the American College of Obstetricians and Gynecologists, and other national and international professional organizations and published literature. We insist that all of our staff adhere to the highest standards, and if we learn that they are not met, we take swift action. One in five women in America have turned to us for high-quality health care at some point in their lives, and the health and safety of our patients is our top priority.

Your July 17 letter requests a staff briefing on one facet of Planned Parenthood's efforts to improve public health: the tissue donation programs adopted by some of our affiliates. The letter asks for the briefing no later than July 31, which is short notice given the number of questions raised. We believe, however, that we will be able to provide a thorough and informative briefing for your staff within an expeditious timeframe.

Your letter asks that we address "consent procedures," "practices for collecting fetal tissue," the "guidance or criteria ... Planned Parenthood provides to its affiliates," and other related issues. The best person to address these issues is Dr. Raegan McDonald-Mosley, who is the Chief Medical Officer of Planned Parenthood. She will lead our briefing team. We will consult with you to find a time that accommodates your staff and Ranking Member Frank Pallone's staff.

While we are working to cooperate with the Committee, we need to bring to your attention some significant and disturbing facts about the individuals who have spurred this unfounded controversy, extremists who have spent a decade deceiving the public and making

false charges – all in order to intimidate women, end access to Planned Parenthood’s health services and ban safe and legal abortion in this country.

The nine-minute video released last week by the Center for Medical Progress is the most recent example of their deplorable and possibly unlawful actions. Your letter asks why we called the video “heavily edited” and said it “falsely portrays” our activities. The reason is that it was selectively edited to create the impression that Planned Parenthood sells tissue, profits from tissue donation for medical research, or violates other laws in this area – which is simply not true. Here are several troubling examples:

- During the surreptitiously taped meeting, Dr. Deborah Nucatola of Planned Parenthood expressly stated that “nobody should be ‘selling’ tissue. That’s just not the goal here.” This highly relevant statement was omitted from the video excerpt. In fact, ten times during the conversation, Dr. Nucatola said Planned Parenthood would not sell tissue or profit from tissue donations, and all ten instances were cut out of the video, misleading the public into thinking she said something she didn’t.
- At one point, Dr. Nucatola stated that the reimbursement of costs for a tissue specimen could be between \$30 and \$100. This statement by Dr. Nucatola was immediately followed by an explanation that the amount had to be based on the clinic’s costs, which is what the law allows. As Dr. Nucatola explained, “It just has to do with space issues, are you sending someone there who’s going to be doing everything, is there shipping involved, is somebody going to have to take it out. ... [I]t’s really just about if anyone were ever to ask them, well what do you do for this \$60, how can you justify that? ... So it just needs to be justifiable.” This important passage was also edited out of the video excerpt, making it appear that Dr. Nucatola was discussing impropriety when in fact she was saying the opposite, which is that Planned Parenthood only receives reimbursement for costs associated with humanitarian tissue donation, as the law requires.
- During the video, Dr. Nucatola repeatedly says that the Planned Parenthood affiliates are not making a profit, but are only recovering their costs. For example, she says: “To them, this is not a service they should be making money from, it’s something they should be able to offer this to their patients, in a way that doesn’t impact them”; “affiliates are not looking to make money by doing this. They’re looking to serve their patients and just make it not impact their bottom line”; “we’re not looking to make money from this, our goal is to keep access available”; and “this is not a new revenue stream that affiliates are looking at, this is a way to offer the patient the service that they want, do good for the medical community and still have access.” None of these relevant comments are in the edited version of the video. Instead, they were cut, creating the false impression that Dr. Nucatola was saying the opposite of what she actually was.
- During the video, Dr. Nucatola also repeatedly refers to Planned Parenthood’s practice as “tissue donation,” which is appropriate because the tissue is being donated and any fees are simply to recover costs. Nearly all of the references to “tissue donation” were edited out of the video excerpt.

The video also conveyed the impression that all Planned Parenthood affiliates have tissue donation programs. In fact, only a very small number of affiliates have programs to help women and families who wish to donate tissue for medical research, as we will explain during the briefing.

We don't know what the Center will release next, but we know enough to be deeply concerned about the infiltration of Planned Parenthood and its affiliates. The head of the Center of Medical Progress is David Daleiden, who previously worked for the discredited anti-abortion group Live Action. Over the last eight years, Mr. Daleiden has participated in at least 10 separate attacks on Planned Parenthood involving gaining access to our health centers and offices under false pretenses, taping staff (and sometimes patients) without their knowledge on at least 65 occasions (not counting this latest fraud), and misleading the public with heavily edited tapes and flat-out false charges. In fact, the extremist ties of this latest effort stretch beyond Mr. Daleiden and Live Action. According to published reports, Troy Newman is registered as a board member for the Center for Medical Progress. Mr. Newman is the head of Operation Rescue, which harassed Dr. George Tiller for a decade until, again according to published reports, one of the group's members murdered Dr. Tiller in his church.

Nearly three years ago, Mr. Daleiden created what we now know to be a phony company called Biomax Procurement Services, which held itself out as a legitimate tissue procurement organization. Biomax then embarked on a campaign of corporate espionage with Planned Parenthood and its affiliates as its target. The sham company used the false pretense of seeking tissue for research purposes to gain access to our facilities and staff. These fraudulent efforts appear to have been meticulously planned. To cite one example, Biomax set up exhibits at our National Medical Conference and our National Conference over the last couple of years.

At this point, we do not know the full extent of Biomax's illicit conduct. We believe that on at least one occasion a representative from Biomax was shown a highly sensitive area in a clinic where tissue is processed after abortion procedures. While this work is standard and essential during any abortion procedure, any filming in such an area would be an extremely serious invasion of our patients' privacy and dignity. We also believe that in at least one interaction at a Planned Parenthood facility, the Biomax representative asked questions about the racial characteristics of tissue donated to researchers studying sickle cell anemia, apparently seeking to create a misleading impression.

We believe a focal point of Biomax's efforts was to induce our affiliates to enter into sham procurement contracts. In one instance, the amounts offered by Biomax were \$100 per specimen. In another instance, Biomax offered to pay much more, sending the affiliate a "procurement agreement" that offered a payment of \$1,600 for a liver and thymus – an astronomical amount compared to the minimal cost-recovery fees that affiliates with tissue donation programs currently recoup. These efforts most often targeted Planned Parenthood affiliates not currently engaged in tissue donation. All of these efforts were rebuffed. We suspect, however, that this will not deter the extremists behind this campaign from editing and distorting their surreptitious videos.

We also believe there are multiple taped interactions initiated by Biomax discussing whether and how a physician could adjust an abortion if the patient has requested to donate tissue for medical research, and we believe that these extremists will manipulate those videos to make more false claims. In fact, given the scope and length of the deceptive practices perpetrated by Mr. Daleidan, and the lengths he apparently went to in order to advance his political agenda, there may well be thousands of hours of videotape that he will deceptively edit into short video clips to release for many months.

News reports have commented that Biomax's and the Center for Medical Progress's activities may have violated the law. These reports have cited possible violations of state recording laws¹ and federal tax laws.² We know that Mr. Daleidan used a false California driver's license in gaining access to Planned Parenthood facilities.

The ever-present threat of these deceptive practices makes it vastly more difficult for Planned Parenthood to do its important work. Our staff is extraordinarily dedicated to providing essential reproductive health services, often working long hours under difficult circumstances. Our doctors are the most highly skilled and compassionate medical providers in their field, and they ensure that women have access to the best health care. It is inexcusable that they too often have to fear for their personal safety – and the safety of their families and their patients – because of the likes of Mr. Daleidan and Mr. Newman. Our organization and the women they serve should not be subject to these recurring, deceptive, malicious attacks in some of the most intimate and confidential health care situations imaginable.

Your letter asks that Dr. Nucatola attend the staff briefing. We are still assessing this aspect of your request. When the video was released last week, there were assertions by leading politicians that her remarks were evidence of illegal, and possibly criminal, activity. Republican Governor Scott Walker accused Planned Parenthood and Dr. Nucatola of “heinous, and possibly illegal actions.” Louisiana Governor Bobby Jindal directed state officials to launch an investigation into “this alleged evil and illegal activity” and asked the FBI “to assist ... in investigating this alleged criminal activity.” We strongly dispute these assertions, and the longer video footage of the conversation with Biomax does not support them. But in light of these allegations, we are understandably in the process of retaining counsel to advise us on the best way to proceed. Until we have completed this engagement and provided counsel an opportunity to become familiar with the relevant facts, we cannot provide a definitive response. We hope, though, that this letter helps answer your questions and explains why the video was a gross distortion of Dr. Nucatola's comments.

As a high-quality health care provider, Planned Parenthood has extremely high standards, and any time those standards are not being met, we take swift action. But what we know right now is that a group of extremists who have intimidated women and doctors for years – in their agenda to ban abortion completely – are not “documenting” misdeeds; they are trying to create them, quite unsuccessfully. Indeed, from all that is known today, it appears that the only people who have broken laws are the extremists who have been hounding women and Planned Parenthood doctors for years.

¹ “Does the Planned Parenthood Video Violate State Recording Laws,” MSNBC (July 16, 2015).

² “Group Behind Planned Parenthood Sting Video May Have Tricked IRS, Donors,” Huffington Post (July 17, 2015).

Throughout our work, we strive for the highest level of care and welcome responsible oversight of our work. We look forward to cooperating with the Committee.

Sincerely,

Roger K. Evans
Senior Counsel, Law & Policy
Planned Parenthood Federation of America

cc: The Honorable Frank Pallone, Jr., Ranking Member

The Honorable Tim Murphy, Chairman
Subcommittee on Oversight and Investigations

The Honorable Diana DeGette, Ranking Member
Subcommittee on Oversight and Investigations

The Honorable Joe Pitts, Chairman
Subcommittee on Health

The Honorable Gene Green, Ranking Member
Subcommittee on Health