

Regular Session, 2013

HOUSE RESOLUTION NO. 105

BY REPRESENTATIVES HOFFMANN, ANDERS, BARROW, STUART BISHOP, BURFORD, HENRY BURNS, CHANEY, COX, HARRIS, HAVARD, HENRY, HENSGENS, HILL, HODGES, IVEY, LEBAS, LOPINTO, JAY MORRIS, ORTEGO, PEARSON, POPE, SCHRODER, SIMON, STOKES, WHITNEY, PATRICK WILLIAMS, AND WILLMOTT

GOVERNMENTAL REGULATIONS: Requests various state and local entities to take certain actions regarding construction and operation by Planned Parenthood of a facility to provide abortions in La.

1 A RESOLUTION

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

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

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

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

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

1 WHEREAS, PPGC has purchased three parcels of land on Claiborne Avenue in New
2 Orleans and plans to construct a four million two hundred thousand dollar, seven thousand
3 square foot facility where they intend to start performing abortions in Louisiana, according
4 to their own legislative testimony and fundraising materials; and

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (4) An allegation that members of Planned Parenthood's key management team
29 instructed PPGC staff to provide auditors with charts that had been "fixed" regarding

1 abortion on minor girls to ensure that required documentation, especially with regard to
2 parental consent and non-coercion, was included in each client file; and

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

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

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

11 THEREFORE, BE IT RESOLVED that the House of Representatives of the
12 Legislature of Louisiana does hereby urge and request the Department of Health and
13 Hospitals, the division of administration, the legislative auditor, and the office of the
14 inspector general to investigate and monitor the practices of Planned Parenthood Gulf Coast
15 to determine whether the organization is in compliance with all state and federal laws and
16 regulations, including but not limited to provisions concerning state funding of abortion
17 facilities, R.S. 40:1299.34.5, the counseling or recommendation of abortion by state
18 contractors, R.S. 40:1299.34, the mandatory reporting of child sexual abuse pursuant to
19 Articles 603, 609, and 610 of the Louisiana Children's Code, and R.S. 14:80 regarding
20 felony carnal knowledge of a juvenile, parental consent for minors seeking abortion
21 requirements, R.S. 40:1299.35.5, and the informed consent and signage requirements of R.S.
22 40:1299.35.5.1 and 1299.35.6.

23 BE IT FURTHER RESOLVED that the House of Representatives of the Legislature
24 of Louisiana does hereby urge and request the Department of Health and Hospitals to
25 immediately suspend all grants and reimbursements pursuant to its Medicaid provider
26 agreement or any other state contract with Planned Parenthood Gulf Coast during the
27 pendency of an onsite investigation conducted in accordance with the Medical Assistance
28 Programs Integrity Law, R.S. 46:437.1 et seq.; the Surveillance and Utilization Review
29 Subsystem (SURS) Rule, LAC 50:I.4101 et seq.; all relevant state and federal laws and
30 regulations; and in light of a thorough legal review and independent investigation by the

1 Department of Health and Hospitals, the legislative auditor, and the state inspector general
2 of the allegations made in the federal court complaints and related discovery and court
3 pleadings regarding the alleged fraudulent billing practices of Planned Parenthood Gulf
4 Coast in the matters of *Reynolds v. Planned Parenthood Gulf Coast*, No. 9:09-cv-00124
5 (E.D. TX, Lufkin Division), and *United States and the State of Texas ex rel. Abby Kristen*
6 *Johnson v. Planned Parenthood Gulf Coast*, No. CV-H-cv-3496 (S.D. Texas, Houston
7 Division).

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

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

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

28 BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the
29 secretary of the Department of Health and Hospitals, the commissioner of administration,
30 the secretary of the Department of Economic Development, the executive director of the

- 1 Louisiana Workforce Commission, the legislative auditor, the state inspector general, and
2 the City of New Orleans Department of Safety and Permits.
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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Hoffmann

HR No. 105

Urges and requests the following:

- (1) That DHH, DOA, the legislative auditor, and the office of the inspector general investigate and monitor the practices of Planned Parenthood Gulf Coast to determine whether the organization is in compliance with all state and federal laws and regulations.
- (2) That DHH immediately suspend all grants and reimbursements pursuant to its Medicaid provider agreement or any other state contract with Planned Parenthood Gulf Coast during the pendency of an onsite investigation conducted in accordance with the Medical Assistance Programs Integrity Law, the Surveillance and Utilization Review Subsystem Rule, all relevant state and federal laws and regulations; and in light of a thorough legal review and independent investigation by DHH, the legislative auditor, and the state inspector general of the allegations made in the federal court complaints and related discovery and court pleadings regarding the alleged fraudulent billing practices of Planned Parenthood Gulf Coast in the matters of *Reynolds v. Planned Parenthood Gulf Coast* and *United States and the State of Texas ex rel. Abby Kristen Johnson v. Planned Parenthood Gulf Coast*.
- (3) That the results of the investigations called for in proposed Resolution be reported to the House Committee on Health and Welfare upon completion, and no later than the date of convening of the 2014 R.S.
- (4) That any application for economic incentives of any kind filed by Planned Parenthood Gulf Coast or any of its abortion-providing affiliates to construct, purchase, or operate any facility, or to employ any individuals therein, be denied by DED, LWC, or any other department, and that any application for any economic incentive filed by Planned Parenthood Gulf Coast be reported to the House Committee on Health and Welfare and the House Committee on Commerce by the department receiving such application.
- (5) That the City of New Orleans Department of Safety and Permits and the permitting authority of any other city in which Planned Parenthood Gulf Coast seeks to construct or operate an outpatient abortion facility require plans for the sanitary disposal of human remains.

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Health and Welfare to the original bill.

1. Added provision specifying the location of certain clinics.
2. Added provision requesting that DHH immediately suspend all grants and reimbursements pursuant to its Medicaid provider agreement or any other state contract with Planned Parenthood Gulf Coast during the pendency of an onsite investigation conducted in accordance with the Medical Assistance Programs

Integrity Law, the Surveillance and Utilization Review Subsystem (SURS) Rule, all relevant state and federal laws and regulations; and in light of a thorough legal review and independent investigation by DHH, the legislative auditor, and the state inspector general of the allegations made in the federal court complaints and related discovery and court pleadings regarding the alleged fraudulent billing practices of Planned Parenthood Gulf Coast in the matters of *Reynolds v. Planned Parenthood Gulf Coast* and *United States and the State of Texas ex rel. Abby Kristen Johnson v. Planned Parenthood Gulf Coast*.

3. Added provision requesting that the results of the investigations called for in proposed Resolution be reported to the House Committee on Health and Welfare upon completion, and no later than the date of convening of the 2014 R.S.