MEMORANDUM

TO: [Undisclosed Parties]
FROM: Americans United for Life Legal Team
DATE: January 11, 2011

The rate and number of abortions in the United States has been in decline since peaking in 1990, but the Guttmacher Institute issued a report this week that the decline has “stalled.”¹ This memorandum will evaluate the data presented by the Guttmacher report and how it demonstrates that Planned Parenthood’s business model - in particular, the use of chemical abortion drugs and increasing both the size and number of abortion providers - appears to be designed to increase abortions. This is more evidence why we must defund Planned Parenthood.

¹ Several points should be noted about the abortion data published by the Guttmacher Institute. First, since the Guttmacher Institute is a privately-funded organization, its ability to collect data and produce statistics is limited. Second, the Guttmacher Institute collects information on a voluntary basis directly from abortion providers. Moreover, Guttmacher has revealed that it does not use an authentic, comprehensive list of abortion providers. Third, Guttmacher’s scope is limited to abortion providers who are known as or advertise themselves as abortion providers, and abortions performed by private practice physicians (outside of established abortion clinics) remain mostly unreported. Lastly, the Guttmacher Institute does not ask abortion providers for information on short- and long-term complications, medical care provided for complications, or follow-up examinations. For more information see Regulating Abortion Facilities and Providers, Denise M. Burke, Americans United for Life, Defending Life 2010, 107-108 (2010).
This memorandum also notes Guttmacher’s failure to consider key factors known to affect abortion rates, including differences among the states in abortion legislation.

The Guttmacher report concludes by advocating an increase in funding for the abortion industry, a move that their research shows raises abortion rates.\(^2\)

Americans United for Life is dedicated to lowering the incidence of abortion. In the conclusion, this memorandum will outline AUL’s legislative approach to defunding Planned Parenthood to protect women and the unborn.

**Increase in chemical abortions**

Guttmacher reports that by 2008 chemical abortion “has become an integral part” of the abortion industry, and the number and proportion of all abortions accounted for by this method “grew substantially.” While Guttmacher found the overall incidence of abortion “changed little” between 2005 and 2008, the number of chemical abortions performed by nonhospital facilities increased by 24%. Guttmacher found that a “substantial number” of abortion providers offer only chemical, not surgical, abortions.

Approved in 2000 by the Food and Drug Administration (FDA) for use in the United States, the abortion drug mifepristone (RU-486) is known to have serious adverse health risks.\(^3\) Consequently, the regimen required by the FDA requires at least three office visits. Failing to follow the approved regimen of an already dangerous drug further jeopardizes the lives and

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\(^2\) A Guttmacher Institute literature review released in 2009 shows strong consensus that abortion rates are reduced when public funding is restricted. *Restrictions on Medicaid Funding for Abortions: A Literature Review*, Guttmacher Institute, June 2009 available at http://www.guttmacher.org/pubs/MedicaidLitReview.pdf

\(^3\) See Jessica Sage, *Agenda-Motivated Claims that RU-486 is “Safe” and “Easy” Are Dead Wrong*, Americans United for Life, http://www.aul.org/2010/04/agenda-motivated-claims-that-ru-486-is-%e2%80%9csafe%e2%80%9d-and-%e2%80%9ceasy%e2%80%9d-are-dead-wrong/
health of women. Yet, abortion providers openly ignore the FDA protocol, and the second office visit is often eliminated.⁴

Nevertheless, Planned Parenthood is increasing its distribution of RU-486 through the use of telemedicine, that is, videoconferencing in place of face-to-face visit between doctor and patient. By dispensing with even the first in-person patient-doctor visit, this practice violates not only the FDA protocol, but the spirit, if not the letter, of state laws designed to protect women.

For example, Iowa law requires that any abortion in the state must be performed by a doctor. However, by using telemedicine, Planned Parenthood of the Heartland appears to be violating this law.⁵ The law’s requirement that only a doctor can perform an abortion was intended to protect women from various harms associated with abortion, but Planned Parenthood bypasses those protections by making the doctor’s presence merely “virtual.”

**Trends in the numbers and “type” of abortion providers**

The first trend the Guttmacher report notes is that the number of abortion providers has “paralleled” the abortion rate. For the first time since 1982, the census does not show a decline in the number of abortion providers. According to Guttmacher’s findings, it, too, has “stalled.”

However, Planned Parenthood, already the nation’s largest abortion provider, recently announced that all its affiliates would now be required to provide abortions. The logical result, based on Guttmacher’s observations, is that the increase in abortion providers will mean an increase in abortions.

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⁴ See AAPLOG et al., *Citizen Petition and Request for Administrative Stay*, at nn. 313 & 317 & accompanying text. Instead, the patients administer a second drug, misoprostol vaginally - not orally, as approved – at home.

In addition, Planned Parenthood’s use of telemedicine to distribute chemical abortion drugs is designed to maximize the “reach” of each abortionist, who can “virtually” be in more than one place at a time.

Guttmacher’s report indicates another trend - the number of “very large providers,” defined as clinics that perform 5,000 or more abortion procedures annually, increased by more than 50% between 2005 and 2008. The establishment of more mega-clinics appears to have driven abortion rates higher in at least two ways.

First, Guttmacher notes that cost can affect the incidence of abortion, and surgical abortions are the least expensive at facilities “with the highest caseloads.” By increasing the “caseload” and offering abortions at lower prices, Planned Parenthood’s mega-clinics drive up the abortion rates.

Second, Planned Parenthood’s new mega-abortion clinics are “strategically” located in urban areas. Guttmacher does note that “abortion services are concentrated in cities,” but fails to provide an analysis of the impact of new clinic locations on abortion rates.

However, the data shows the increase in abortion rates comes from low-income communities. The Guttmacher report acknowledges that from 2000 to 2008 “the representation of poor women among abortion patients increased.” Guttmacher states this “suggests that barriers to abortion services were reduced for this population.”

Lowering the incidence of abortion

Between 1973, when the Supreme Court overturned state laws restricting abortion in Roe v. Wade and 1980, the number of abortions more than doubled. But since Planned Parenthood v. Casey in 1992 permitted some abortion restrictions, the number of abortions in the United States has been steadily declining.

The Guttmacher report notes that “the lack of change in abortion incidence nationally masks variations by states,” and that “changes in abortion incidence may also be due to developments within a state.” Studies confirm that laws regulating abortion have a direct impact on the incidence
of abortion. However, the Guttmacher report fails to examine changes in state abortion legislation during its survey period.

Instead of examining the change in state abortion laws, the Guttmacher report concludes that the solution to lowering a stalled abortion decline is to increase contraception. However, Guttmacher notes it has no research to confirm that unintended pregnancies are on the rise, and its conclusion ignores the fact that federal funding for contraception has risen dramatically during its survey period (while the abortion decline has “stalled”).

In addition, Planned Parenthood, the nation’s largest abortion provider, is also the largest recipient of Title X “family planning” funding, ostensibly for its family planning services. However, Title X money reduces the cost of its overhead and allows Planned Parenthood to discount its abortion rates, attracting more patients. Thus, the abortion industry will benefit from an increase in contraception funds.

Conclusion

Planned Parenthood, facing a long-term decline in public opinion supporting, and in the incidence of, abortion, has an aggressive business model to increase the numbers of abortions it performs. Planned Parenthood's annual reports show it continues to perform more abortions every year and to increase its share of the abortion market. One conclusion

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6 Research by Dr. Michael New, a political science professor at the University of Alabama, demonstrates a corollary between state pro-life legislation and lowered abortion rates. The impact of abortion regulation on its incidence is not simply an American phenomenon. A 2004 study that appeared in The Journal of Law and Economics analyzed the relationship between changes in abortion policies and abortion rates in post-communist Eastern Europe. Modest restrictions on abortion were found to reduce abortion rates by around 25 percent. Poland, as one of the few countries to have significantly tightened restrictions on abortion, is an excellent case-study. In 1993 abortion was restricted to cases where the life or health of the mother was threatened, where the child was disabled, or in cases of rape—and they have strictly enforced these grounds. The number of abortions in Poland has drastically decreased since.

7 In prior years Planned Parenthood’s Annual Report has listed the number of abortions conducted as well as the number of adoption referrals and prenatal clients. However, the
that could be drawn from the Guttmacher report is that Planned Parenthood's strategy has affected the national abortion rate by “stalling” the decline in abortions, which is one more reason to defund Planned Parenthood.

Americans United for Life has drafted legislation to combat Planned Parenthood’s aggressive abortion agenda.

In addition to calling on the new Congress to defund Planned Parenthood, AUL has state model legislation, the Title X Consistency and Transparency Act, designed to ensure that federal and state “family planning funds” (a significant source of revenue for Planned Parenthood) are not used directly or indirectly for abortions or abortion counseling.

AUL has also drafted model legislation to protect against Planned Parenthood’s misuse of telemedicine. The AUL legislation requires a doctor’s examination before dispensing abortion-causing drugs.

AUL also continues to draft and promote legislation regulating abortion that has proven to be effective in decreasing abortion and protecting women. Some examples are:

- The Abortion Patient’s Enhanced Safety Act (regulation of abortion clinics)
- The Women’s Ultrasound Right to Know Act
- The Coercive Abuse Against Mothers Prevention Act
- The Child Protection Act, the Crimes Against the Unborn Child Act (fetal homicide)
- The Pregnant Woman’s Protection Act
- The Unborn Wrongful Death Act
- The Women’s Health Defense Act (late-term abortion ban)

All of AUL’s model legislation may be found at AUL’s web page.