

6. Public Health Assessment of Pregnancy Services Act

Issue Overview

Unregulated Pregnancy Clinics (UPCs) often present themselves as free medical clinics to mislead clients seeking abortion. Their primary goal is to prevent clients, through persuasion, misinformation, or delay, from having an abortion.¹⁰⁸ While these organizations have the right to oppose abortion, most use misleading tactics, including ads, signs, and websites presenting their facilities as conventional medical clinics, even at times as abortion providers.^{109,110} Inside, they often resemble medical offices, with waiting rooms, exam rooms outfitted with medical equipment, and staff in lab coats and scrubs. Clients must often fill out intake forms that ask for private health information.¹¹¹

The vast majority of UPCs advertise medical or quasi-medical services. Nearly all offer free pregnancy tests¹¹² readily available at any pharmacy. Between one-quarter¹¹³ and one-half¹¹⁴ advertise free STD/STI tests, and approximately three-quarters advertise free ultrasounds, typically performed by someone presenting as a medical professional.¹¹⁵

UPCs typically operate without medical oversight or standards of care, exposing people to risk. Some list off-site doctors as medical directors, and some have on-site RNs or LPNs, but they don't diagnose medical conditions, write prescriptions, or refer people for care. Because most UPCs are not regulated as conventional medical clinics, they are not required to follow rules around client confidentiality, medical accuracy, or sanitation.¹¹⁶

UPC clients have reported that they believed they were at an actual medical clinic,^{117,118} where staff made false claims about reproductive health care under the guise of medical authority. UPCs often target people who are young, have lower incomes, and may not be familiar with the difference between a traditional medical clinic and a UPC. These clients are vulnerable; many may be afraid. This vulnerability is exploited when someone who may or may not be an appropriately licensed medical professional makes alarming medical claims to someone in a state of stress. That's routinely the UPC strategy: use medical impersonation to push falsehoods about the safety of standard reproductive health care.¹¹⁹

UPCs' use of ultrasound machines is unethical. UPCs do not perform diagnostic ultrasounds that address medical issues. Instead, they offer so-called "limited" or "non-diagnostic" ultrasounds, intended to show pictures of the uterus they hope will dissuade clients from seeking an abortion. This is a misuse of medical equipment;¹²⁰ even one of the three major UPC umbrella groups, Care Net, admits as much when it truthfully addresses the question "Can we just do ultrasounds without becoming a medical clinic?" with the

answer, “Absolutely not. The use of ultrasound energy in any form is considered the practice of medicine.”¹²¹

Because the vast majority of UPCs are not medical offices, they can and do violate clients’ privacy. Traditional medical clinics must follow the privacy, confidentiality, and records security requirements of the Health Insurance Portability and Accountability Act (HIPAA). UPCs are not subject to HIPAA and, therefore, are not required to protect clients’ private health information.¹²² On the contrary, many UPCs maintain client records in online databases accessible by third parties outside the UPC.¹²³ The national UPC industry employs these records to amass “digital dossiers” on clients, their doctors, and their loved ones that could be used in pregnancy-related prosecutions.¹²⁴

We must regulate these pregnancy centers. The American Medical Association “urges the development of effective oversight for entities offering pregnancy-related health services and counseling.”¹²⁵ The American College of Obstetricians and Gynecologists says that policymakers should hold UPCs “accountable for deceptive practices by, for example, enforcing and strengthening consumer protection laws against false and misleading advertising, investigating the pervasiveness and impact of deceptive practices on patients, and partnering across the public and private sectors to ensure transparency.”¹²⁶