

3. Professional Responsibility in Health Care Act

Issue Overview

Licensed medical providers must follow a professional code of conduct, which state licensing agencies enforce through established disciplinary procedures.

Many licensed medical providers volunteer at free medical clinics that offer free or low-cost medical care. [Your state may call them “free clinics,” “charitable clinics,” or another term.] These clinics follow standard health care regulations, including requirements for protecting clients’ private health information, restricting who can diagnose and treat people, ensuring proper credentials for mental health providers, regulating who can operate medical equipment, and following basic sanitation and safety rules.

Unregulated Pregnancy Clinics (UPCs) often present themselves as free medical clinics, even though they are not. Their primary goal is to prevent clients, through persuasion, misinformation, or delay, from having an abortion.⁶⁷ 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.⁶⁸ Inside, they often resemble medical offices, with waiting rooms and exam rooms outfitted with medical equipment and staff in lab coats and scrubs. Clients must often fill out intake forms that ask for extensive private health information.⁶⁹

Between 72⁷⁰ and 77⁷¹ percent of UPCs use ultrasound machines for non-medical purposes. These are not diagnostic tests from which medical conclusions can be drawn. UPCs advertise “limited” ultrasounds,⁷² which they perform to show clients pictures of the uterus they hope will emotionally influence those considering abortion to continue the pregnancy. UPCs are using this medical equipment unethically;⁷³ even one of the three major UPC umbrella groups, Care Net, acknowledges this 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.”⁷⁴

UPC intake forms are often invasive. Even though they are not medical providers, many UPCs ask for prescription drug lists, past and current illnesses, and medical conditions unrelated to their services. Some ask inappropriate questions like the name or age of the person who impregnated the client, whether the client is living with someone they aren’t married to, when they first had sex, or whether they have multiple partners or same-sex partners. Collecting such information is unnecessary and likely unethical, given that most UPCs only provide over-the-counter pregnancy tests, STD/STI tests without treatment, lay

counseling, and material resources like diapers and wipes. Further, even though they don't bill insurance, UPCs often ask for clients' government identification documents, insurance information, income, employer, or eligibility for public assistance.⁷⁵

Because the vast majority of UPCs are not medical offices, they are not required to protect clients' personal identifying data and private health information. Unlike standard medical clinics, UPCs are not governed by HIPAA or state privacy laws.⁷⁶ National UPC organizations admit this.⁷⁷ Yet many UPCs falsely claim to be "HIPAA compliant," giving clients a false sense of security.

Many UPCs do not meet basic medical standards. Most states don't require UPCs to follow any health or safety regulations, not even basic sanitation rules.

Many UPCs have been documented giving clients false or misleading information. For example, clients may be given false information as part of their ultrasound, or gestational age may be willfully miscalculated to delay or deter clients from seeking an abortion.⁷⁸

The state has a responsibility to protect people from misleading or unethical practices. The Society for Adolescent Health and Medicine and the North American Society for Pediatric and Adolescent Gynecology jointly stated support for this policy position: "[We] urge all governmental, regulatory (e.g., medical and nursing boards), and accrediting bodies with responsibility for enforcing medical and ethical practice standards to ensure that health care professionals providing services at CPCs and services delivered at CPCs adhere to established standards of care."⁷⁹ Similarly, the American Medical Association "urges the development of effective oversight for entities offering pregnancy-related health services and counseling."⁸⁰