



CITY & COUNTY OF SAN FRANCISCO

NEWS RELEASE

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Cohen, Herrera take on S.F. 'crisis pregnancy centers' for deceptive marketing tactics

Proposed ordinance, City Attorney demand letter target misleading advertising by centers that push hidden agenda for 'abortion free world'

SAN FRANCISCO (Aug. 2, 2011)—Supervisor Malia Cohen and City Attorney Dennis Herrera today announced joint legal and legislative steps to halt deceptive marketing by so-called “crisis pregnancy centers” in San Francisco, which purport to offer non-judgmental abortion services and counseling to women with unwanted pregnancies, but that instead push an anti-abortion agenda on those seeking constitutionally protected medical services. Cohen and Herrera announced their initiatives at a City Hall press conference this morning.

Cohen’s legislation, which she will introduce at today’s Board of Supervisors meeting, is entitled the “Pregnancy Information Disclosure and Protection Ordinance.” If enacted, Cohen’s measure would explicitly prohibit limited services pregnancy centers in San Francisco from making false or misleading statements to the public about pregnancy-related services that the centers offer. While some crisis pregnancy centers openly acknowledge their pro-life advocacy, many misleadingly target women in search of abortion services through false advertising—and then employ manipulative and fear mongering tactics on their visitors to dissuade them from obtaining abortions. Crisis pregnancy centers commonly offer few services other than anti-abortion rhetoric, but the proliferation of Internet search engines has given anti-abortion centers an effective way to misrepresent themselves as bona fide clinics, offering prominent paid links in response to search queries for “abortion” and related terms within their region.

“One of the most serious threats to reproductive rights today comes from so-called ‘crisis pregnancy centers,’ which misrepresent themselves as non-political medical providers, but that push anti-abortion propaganda and mistruths on unsuspecting women,” said Cohen. “The legislation that will be introduced today would prohibit these limited services pregnancy centers in San Francisco from misleading the public about the services they perform. It’s a measured, thoughtful approach that balances the free speech rights of anti-abortion activists with constitutionally protected reproductive rights for women. I appreciate City Attorney Dennis Herrera’s office working with me to craft a policy to protect women in San Francisco, while minimizing possible legal risks.”

In tandem with Cohen’s legislation, Herrera took a first step today toward a possible legal action under California law against San Francisco’s most egregiously misleading crisis pregnancy center, First Resort,

[MORE]

Inc. Herrera's demand letter to the anti-abortion crisis pregnancy center in the medical building at 450 Sutter Street expressed serious concerns about the veracity of the center's print advertising and Internet marketing, which imply to prospective clients that First Resort offers abortion services or referrals to abortion providers—when it in fact does neither.

Herrera's letter notes that First Resort has purchased paid Google advertisements to secure top placement in search results for abortion providers in San Francisco. Moreover, the letter details several of First Resort's public representations to prospective clients that are false and misleading, and which contrast starkly with the organization's stated purpose—as revealed in its state licensing documents—to achieve “an abortion-free world.”

“First Resort is certainly entitled to advocate for ‘an abortion-free world’ to anyone who wants to hear it, but the center is breaking the law by misrepresenting itself as an abortion provider for the purpose of luring women with unwanted pregnancies to its office,” Herrera said. “This is an insidious practice that victimizes women who are, in some instances, already victims. It's especially problematic because the delays these centers can cause interfere with women's time-sensitive, constitutionally protected right to reproductive choice. I've taken this step to demand that First Resort clarify its purpose in accordance with state law. Moreover, I applaud Supervisor Malia Cohen for her leadership to further tighten restrictions on this unethical practice here in San Francisco.”

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1 [Administrative Code—False Advertising by Limited Services Pregnancy Centers]

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3 **Ordinance amending the San Francisco Administrative Code by adding Chapter 93,**
4 **Sections 93.1 through 93.5, to prohibit limited services pregnancy centers from making**
5 **false or misleading statements to the public about pregnancy-related services the**
6 **centers offer or perform.**

7 NOTE: Additions are *single-underline italics Times New Roman*;
8 deletions are *strike-through italics Times New Roman*.
9 Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough-normal~~.

10 Be it ordained by the People of the City and County of San Francisco:

11 Section 1. The San Francisco Administrative Code is hereby amended by adding
12 Chapter 93, Sections 93.1 through 93.5, to read as follows:

13 **SEC. 93.1. TITLE.**

14 *The Chapter shall be known as the Pregnancy Information Disclosure and Protection*
15 *Ordinance.*

16 **SEC. 93.2. FINDINGS.**

17 *1. San Francisco serves as the medical provider of last resort for indigent individuals who need*
18 *medical care. These individuals include women facing unexpected pregnancies.*

19 *2. A woman's right to choose whether to terminate a pregnancy is protected by both the federal*
20 *and state Constitutions, and is protected from interference by third parties and the government.*

21 *3. Many people have deeply held religious and moral beliefs both supporting and opposing*
22 *abortion, and the City respects the right of individuals to express and promote such beliefs.*

23 *4. When a woman considers termination of a pregnancy, time is a critical factor. Delays in*
24 *deciding to terminate a pregnancy may mean that a less invasive option is no longer available or that*
25 *the option to terminate a pregnancy is no longer available.*

1 5. In recent years, clinics that seek to counsel clients against abortion have become common
2 throughout California. These clinics are often referred to as crisis pregnancy centers ("CPCs").
3 Although some CPCs are licensed to provide various medical services to pregnant women, most CPCs
4 are not licensed medical clinics.

5 6. Some CPCs openly acknowledge, in their advertising and their facilities, that they do not
6 provide abortions or emergency contraception or refer clients to other providers of such services.
7 Some of these same CPCs also openly acknowledge that they believe abortion is morally wrong. Many
8 CPCs, however, seek to mislead women contemplating abortion into believing that their facilities offer
9 abortion services and unbiased counseling.

10 7. CPCs often purchase "pay per click" ads on online search services such as Google for terms
11 such as "abortion", so that persons searching for abortion services will see a link and advertisement
12 for the CPC at the top of the results page. In addition, many CPCs advertise on billboards, mass-
13 transit facilities, and through websites.

14 8. Most clients do not come to CPCs as a result of a referral from a medical professional.
15 Clients seeking information regarding options to terminate a pregnancy commonly are experiencing
16 emotional and physical stress and are therefore especially susceptible to false or misleading elements
17 in advertising by CPCs. These circumstances raise the need for regulation that is more protective of
18 potential consumers of pregnancy center services.

19 9. Because of the time-sensitive and constitutionally protected nature of the decision to
20 terminate a pregnancy, false and misleading advertising by clinics that do not offer or refer clients for
21 abortion or emergency contraception is of special concern to the City. When a woman is misled into
22 believing that a clinic offers services that it does not in fact offer, she loses time crucial to the decision
23 whether to terminate a pregnancy. Under these same circumstances a client may also lose the option
24 to choose a particular procedure, or to terminate the pregnancy at all.
25

1 10. The City respects the right of limited services pregnancy centers to counsel against
2 abortions, if the centers are otherwise operating in compliance with this Chapter, and the City does not
3 intend by this Chapter to regulate, limit or curtail such advocacy.

4 11. However, if women who have chosen to terminate a pregnancy are misled and delayed by
5 the false advertising of CPCs, the cost of providing more invasive and expensive options may fall upon
6 City health facilities, which provide the medical services of last resort for the City's indigent
7 population.

8 12. After carefully balancing the constitutionally protected right of a woman to choose to
9 terminate her pregnancy, the right of individuals to express their religious and ethical beliefs about
10 abortion, the harm to women worked by even slight delays that can be caused by false advertising for
11 pregnancy and/or abortion services, and the cost to the City that can accrue from such delay, the City
12 has determined that there exists a need to regulate false and misleading advertising by pregnancy
13 clinics offering limited services.

14 **SEC. 93.3. DEFINITIONS.**

15 For the purposes of this Chapter, the following terms shall have the following meanings:

16 (a) "Abortion" shall mean the termination of a pregnancy for purposes other than producing a
17 live birth. "Abortion" includes, but is not limited to, a termination using pharmacological agents.

18 (b) "Client" shall mean an individual who is inquiring about or seeking services at a pregnancy
19 services center.

20 (c) "Emergency contraception" shall mean one or more prescription drugs (1) used separately
21 or in combination, to prevent pregnancy, when administered to or self-administered by a patient, within
22 a medically-recommended amount of time after sexual intercourse, (2) dispensed for that purpose in
23 accordance with professional standards of practice, and (3) determined by the United States Food and
24 Drug Administration to be safe for that purpose.

1 (d) "Health information" shall mean any oral or written information in any form or medium
2 that relates to health insurance and/or the past, present or future physical or mental health or condition
3 of a client.

4 (e) "Licensed medical provider" shall mean a person licensed or otherwise authorized under
5 the provisions of federal, state, or local law to provide medical services.

6 (f) "Limited services pregnancy center" shall mean a pregnancy services center, as defined in
7 subsection (g), that does not directly provide or provide referrals to clients for the following services:
8 (1) abortions; or (2) emergency contraception.

9 (g) "Pregnancy services center" shall mean a facility, licensed or otherwise, and including
10 mobile facilities, the primary purpose of which is to provide services to women who are or may be
11 pregnant, that either (1) offers obstetric ultrasounds, obstetric sonograms or prenatal care to pregnant
12 women, or (2) has the appearance of a medical facility. A pregnancy service center has the
13 appearance of a medical facility if two or more of the following factors are present:

14 (A) The facility offers pregnancy testing and/or pregnancy diagnosis;

15 (B) The facility has staff or volunteers who wear medical attire or uniforms;

16 (C) The facility contains one or more examination tables;

17 (D) The facility contains a private or semi-private room or area containing medical
18 supplies and/or medical instruments;

19 (E) The facility has staff or volunteers who collect health information from clients; or

20 (F) The facility is located on the same premises as a state-licensed medical facility or
21 provider or shares facility space with a state-licensed medical provider.

22 It shall be prima facie evidence that a facility has the appearance of a medical facility if it has
23 two or more of the characteristics listed above.

24 (h) "Premises" shall mean land and improvements or appurtenances or any part thereof.
25

1 (i) "Prenatal care" shall mean services consisting of physical examination, pelvic examination
2 or clinical laboratory services provided to a woman during pregnancy. Clinical laboratory services
3 refers to the microbiological, serological, chemical, hematological, biophysical, cytological or
4 pathological examination of materials derived from the human body, for purposes of obtaining
5 information, for the diagnosis, prevention, or treatment of disease or the assessment of health
6 condition.

7 **SEC. 93.4. VIOLATION.**

8 (a) It is unlawful for any limited services pregnancy center, with intent directly or indirectly to
9 perform pregnancy-related services (professional or otherwise), to make or disseminate or cause to be
10 made or disseminated before the public in the City, or to make or disseminate or cause to be made or
11 disseminated from the City before the public anywhere, in any newspaper or other publication, or any
12 advertising device or in any other manner or means whatever, including over the Internet, any
13 statement, concerning those services, professional or otherwise, or concerning any circumstance or
14 matter of fact connected with the proposed performance or disposition thereof, which is untrue or
15 misleading, whether by statement or omission, that the limited services pregnancy center knows or
16 which by the exercise of reasonable care should know to be untrue or misleading.

17 (b) It is unlawful for any limited services pregnancy center, with intent directly or indirectly to
18 perform pregnancy-related services (professional or otherwise), to make or disseminate or cause to be
19 so made or disseminated any such statement identified in subsection (a) as part of a plan or scheme
20 with the intent not to perform the services expressly or impliedly offered, as advertised.

21 **SEC. 93.5. ENFORCEMENT.**

22 (a) The City Attorney may enforce the provisions of this Chapter through a civil action in any
23 court of competent jurisdiction. Before filing an action under this Chapter, the City Attorney shall give
24 written notice of the violation to the limited services pregnancy center. The written notice shall
25 indicate that the limited services pregnancy center has ten (10) days in which to cure the false,

1 misleading, or deceptive advertising. If the limited services pregnancy center has not responded to the
2 written notice within ten (10) days, or refuses to cure the false, misleading, or deceptive advertising
3 within that period, the City Attorney may file a civil action.

4 (b) The City Attorney may apply to any court of competent jurisdiction for injunctive relief
5 compelling compliance with any provision of this Chapter and correcting the effects of the false,
6 misleading, or deceptive advertising. Such an injunction may require a limited services pregnancy
7 center to:

8 (1) Pay for and disseminate appropriate corrective advertising in the same for as the
9 false, misleading, or deceptive advertising.

10 (2) Post a notice on its premises, in a location clearly noticeable from the waiting area,
11 examination area, or both, stating:

12 (A) Whether there is a licensed medical doctor, registered nurse, or other
13 licensed medical practitioner on staff at the center; and

14 (B) Whether abortion, emergency contraception, or referrals for abortion or
15 emergency contraception are available at the center.

16 (3) Such other narrowly tailored relief as the court deems necessary to remedy the
17 adverse effects of the false, misleading, or deceptive advertising on women seeking pregnancy-related
18 services.

19 (c) Upon a finding by a court of competent jurisdiction that a limited services pregnancy center
20 has violated Section 93.4 of this Chapter, the City shall be entitled to recover civil penalties from each
21 and every party responsible for the violation of not less than fifty dollars (\$50) and not more than five
22 hundred dollars (\$500) per violation. In addition, if the City prevails it shall be entitled to reasonable
23 attorney's fees and costs pursuant to order of the court.

1 (e) Nothing in this Chapter shall be interpreted as restricting or otherwise limiting the
2 enforcement authority that state law or the Charter or Municipal Code vest in the City, its agencies,
3 officers or employees or any state agency.

4 (f) Nothing in this Chapter shall be interpreted as creating a right of action for any party other
5 than the City.

6 (g) Nothing in this Chapter shall be interpreted as restricting, precluding or otherwise limiting
7 a separate or concurrent criminal prosecution under the Municipal Code or state law. Jeopardy shall
8 not attach as a result of any court action to enforce the provisions of this Chapter.

9 Section 2. **General Provisions.**

10 (a) **Severability.** If any section, subsection, sentence, clause, or phrase of this
11 ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of
12 competent jurisdiction, such decision shall not affect the validity of the remaining portions of
13 the ordinance. The Board of Supervisors hereby declares that it would have passed this
14 ordinance and each and every section, subsection, sentence, clause, or phrase not declared
15 invalid or unconstitutional without regard to whether any portion of this ordinance would be
16 subsequently declared invalid or unconstitutional.

17 (b) **No Conflict with State or Federal Law.** Nothing in this ordinance shall be
18 interpreted or applied so as to create any requirement, power, or duty in conflict with any
19 federal or state law.

20 (c) **Undertaking for the General Welfare.** In adopting and implementing this
21 ordinance, the City and County of San Francisco is assuming an undertaking only to promote
22 the general welfare. It is not assuming, nor is it imposing in its officers and employees, an
23 obligation for breach of which it is liable in money damages to any person who claims that
24 such breach proximately caused injury.

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1 Section 3. **Effective Date.** This ordinance shall become effective 30 days from the
2 date of passage.

3 APPROVED AS TO FORM:
4 DENNIS J. HERRERA, City Attorney

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6 By: 
7 ERIN BERNSTEIN
8 Deputy City Attorney
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DENNIS J. HERRERA
City Attorney

DIRECT DIAL: (415) 554-4748
EMAIL: tara.collins@sfgov.org

August 2, 2011

Ms. Shari Plunkett
Chief Executive Officer
First Resort, Inc.
450 Sutter Street, Suite 1740
San Francisco, CA 94108

Re: **Misleading Advertising By First Resort, Inc.**

Dear Ms. Plunkett:

I am writing to express my serious concerns about First Resort, Inc.'s advertising of its "Pregnancy Counseling Women's Health Clinics." First Resort's print advertising, as well as its website, appear to be designed to confuse or mislead consumers into thinking that First Resort offers abortion services or referrals thereto, when in fact it does not perform abortions or refer clients to abortion providers.

First Resort has taken steps to ensure that its website will be seen by anyone searching for an abortion provider in San Francisco. First Resort has a paid Google search link, that causes its website to appear at or near the top of the search results for "abortion in San Francisco" and similar queries. On First Resort's website, the clinic:

- advertises "counseling and medical care to women who are making decisions about unplanned pregnancies"
- includes a testimonial from a "Client who chose to terminate her pregnancy"
- offers detailed information about abortion procedures offered at outpatient medical clinics
- implies on its "Abortion Procedures" page that First Resort performs pregnancy tests and ultrasounds as a prelude to offering abortion as an outpatient procedure, or referring clients to a provider who performs abortions

The First Resort website also links to a video advertisement on YouTube which states that First Resort offers "non-political services" in a time of need, and that its satisfied customers are "the face of choice." These representations are misleading, and stand in stark contrast to the organization's goal of building "an abortion-free world," as stated in First Resort's state licensing documents.

Nowhere on its website, print advertisements, or in the paid Google advertisement, does First Resort state that it does not perform or refer clients for abortion services. In contrast, on its "Adoption Options" page, First Resort's website does expressly note that First Resort "do[es] not handle adoptions or endorse any one in particular."

First Resort's advertising may mislead and deceive women facing unplanned pregnancies. Every year, thousands of women in the San Francisco Bay Area find themselves facing an unplanned pregnancy. Although many women seek counseling on their options, including abortion, many others come to a decision on their own, and choose to terminate their

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pregnancies. It is crucial that these women who have chosen to have an abortion are not delayed from accessing medical services in a timely fashion. At a juncture when even small delays can make a large difference in the type of procedure required—or even the availability of the option to terminate the pregnancy—it is vitally important that women receive honest information about the kind of services available at the clinic of their choice.

While First Resort is certainly entitled to offer pro-life counseling to women who desire such services, it may not lawfully attract its customers by advertising in a misleading fashion. This is particularly true where the delays caused by such misleading advertising interfere with a woman's time-sensitive and constitutionally protected right to terminate her pregnancy. I therefore ask that you correct your advertising, including First Resort's website, to clarify that the clinic does not offer or make referrals for abortion services. The City requests a response to this letter by August 31, 2011, and looks forward to your response. Should you have any questions, please contact Deputy City Attorney Erin Bernstein at 415-554-3975.

Very truly yours,

/s/

DENNIS J. HERRERA
City Attorney

**BYLAWS
OF
FIRST RESORT
A California Nonprofit Public Benefit Corporation**

ARTICLE I. STATEMENT OF PURPOSE

Motivated by God's call to express, in word and deed, our belief in the sanctity of unborn human life. We who participate in the ministry of First Resort have joined together to provide a remedy for the tragedy of abortion in our community.

As an organization we honor, respect, and care for the human dignity of all persons involved in or at risk of an unwanted pregnancy or a pregnancy-related crisis.

In providing care to its clients, First Resort is committed to the highest standards of quality and integrity, and serves persons of all races, creeds, colors, national origins, ages, and religions.

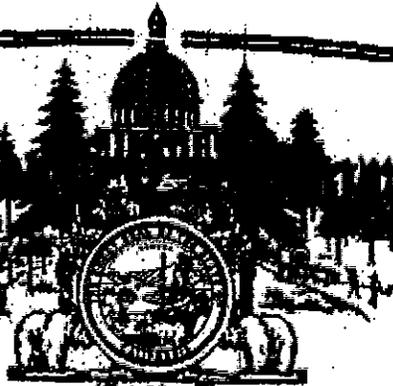
First Resort conducts its daily operations and administers its finances in accordance with Biblical principles of good stewardship.

This Mission & Purpose is accomplished through a comprehensive and holistic program of services based on the twin pillars of the Christian message: truth and unconditional love. Nurtured by our ongoing and prayerful relationship with God, we will:

- Seek to direct women and their partners who view abortion as the only solution to an unwanted pregnancy toward choosing life for their unborn babies.
- Empower each mother to carry to term and care for her child by offering her emotional, physical, and spiritual support, through counseling, medical care, education, and direct aid.
- Help people who have experienced abortion to receive emotional and spiritual healing.
- Educate youth and single adults about the benefits of sexual abstinence outside of marriage, and equip adults who influence youth to promote and reinforce this message.
- Re-educate the community about the truths of abortion and the tragic and irreversible costs of abortion decisions which destroy lives and weaken the fabric of our society.

Reaching people one by one, together we will build an abortion-free world.

State of California



SECRETARY OF STATE

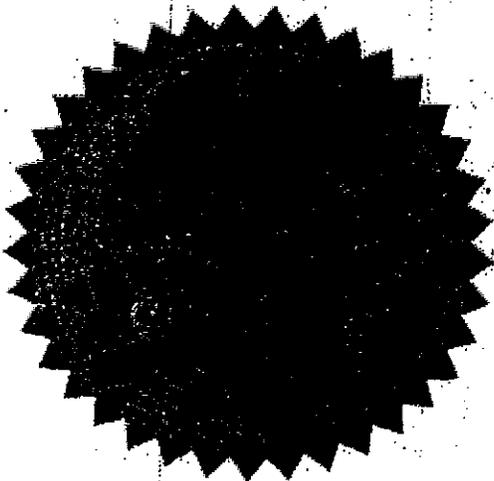


I, *BILL JONES*, Secretary of State of the State of California, hereby certify:

That the attached transcript has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this

OCT 10 1907



Bill Jones

Secretary of State



FOR IMMEDIATE RELEASE

August 2, 2011

NARAL Pro-Choice California Supports San Francisco Ordinance to Help Protect Bay Area Women from Deceptive Tactics of Crisis Pregnancy Centers

New legislation would protect San Francisco women from deceptive advertising of anti-choice fake clinics and prevent anti-choice organizations from posing as comprehensive medical clinics

San Francisco, CA (August 2, 2011) – NARAL Pro-Choice California is proud to support an ordinance introduced today in San Francisco that would protect women who are facing an unplanned pregnancy.

The ordinance, introduced by San Francisco Supervisor Malia Cohen, is an important step in the fight to require honest advertising by so-called “crisis pregnancy centers” (CPCs) that use deceitful marketing practices to target pregnant women seeking comprehensive medical advice.

“Crisis pregnancy centers are a serious threat to women’s health,” said Amy Everitt, NARAL Pro-Choice California state director. “By posing as legitimate medical clinics that offer a full range of reproductive-health services, these fake clinics often lie and manipulate women who are facing unplanned pregnancies. I applaud Supervisor Cohen for her work on this important issue, and urge the San Francisco Board of Supervisors to support Cohen’s ordinance.”

NARAL Pro-Choice California has conducted extensive research on CPCs in the state, and published an extensive report entitled “**Unmasking Fake Clinics: the Truth about Crisis Pregnancy Centers in California**,”ⁱ which can be viewed at the NARAL Pro-Choice California website. NARAL Pro-Choice America has been supportive of similar local legislation designed to hold CPCs accountable in New York, Texas, and Maryland cities.ⁱⁱ

By requiring CPCs to be truthful in their advertising, this ordinance would ensure that pregnant women who are seeking medical services are able to make informed decisions about where they seek information, counseling, and care. This is the first ordinance of its kind to be introduced in California.

About NARAL Pro-Choice California

NARAL Pro-Choice California is a statewide organization that works through the political and legislative systems to fulfill our mission:

To develop and sustain a constituency that uses the political process to guarantee every woman the right to make personal decisions regarding the full range of reproductive choices, including preventing unintended pregnancy, bearing healthy children, and choosing legal abortion.

California's nationwide influence is unquestioned; maintaining the state's strong pro-choice orientation is a national priority. NARAL Pro-Choice California works on both the state and national levels to protect and defend a woman's right to choose.

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Contact: Sarah LaDue at 415-890-1020, SLaDue@ProChoiceAmerica.org or Michelle Andersen, 415-292-3677 at mixmoo@yahoo.com

ⁱ NARAL Pro-Choice California has conducted For more information about crisis pregnancy centers in California, the NARAL Pro-Choice California report entitled "Unmasking Fake Clinics: the Truth about Crisis Pregnancy Centers in California" can be found at the following address:

<http://www.prochoicecalifornia.org/assets/files/cpcreport2010-revisednov2010.pdf>

ⁱⁱ To learn more about the threat that CPCs pose nationwide, the NARAL Pro-Choice America fact sheet entitled "The Truth About Crisis Pregnancy Centers" can be found at the following address:

<http://www.prochoiceamerica.org/media/fact-sheets/abortion-cpcs.pdf>