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[May 26, 1993 - Memorandum for Carol Rasco - From: Nancy-Ann Min - Subject: Family Planning /
Abortion Q's and A's - Choice] [loose]

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Choice

Susan —

Here's the legislative update
you wanted.

Bill Galster

6/17/93

3:05 PM

TO: NANCY-ANN MIN
BILL GALSTON ✓

FROM: Bob Pellicci

Listed below is a summary of the status of abortion-related bills that are moving through Congress as of June 17, 1993. Attached to this report is a listing of all introduced abortion-related bills.

CONGRESSIONAL ACTION ON ABORTION-RELATED LEGISLATION

S. 25 - Freedom of Choice Act Reported by Senate Cte. on Labor and Human Resources on 4/23/93 (12-5 vote) — S. Rpt 103-42.

H.R. 25 - Freedom of Choice Act Ordered reported by the House Cte. on the Judiciary on 5/19/93 (20-15 vote).

(The major difference between the above two bills is that S. 25 would give States the authority to decline to use State funds to pay for abortions.)

S. 636 - Freedom of Access to Clinic Entrances Act Senate Cte. on Labor and Human Resources held a hearing on the bill on 5/12/93. Attorney General Reno strongly supported enactment of the bill (she did note that certain 1st Amendment concerns needed to be worked out.) Cte. markup scheduled for 6/15 was postponed; new markup has not been rescheduled.

H.R. 796 - Freedom of Access to Clinic Entrances Act Reported by House Judiciary Subcte. on Crime and Criminal Justice on 3/25/93 (9-4 vote)

(Both bills provide Federal protection for women seeking access to medical facilities that perform abortions.)

H.R. 670 - Family Planning Amendments of 1993 Passed by the House on 3/25/93 (273-149). Ordered reported by the

Senate Cte. on Labor and Human
Resources on 5/5/93 (15-2 vote).

H.R. 676 would codify the President's 1/22/93 directive that Federal family planning clinics provide their patients with information, counseling, or referrals concerning abortions -- repeals the so-called "gag rule.")

Appropriations Bills

Labor/HHS/Education	House Subcte. marked-up on 6/8/93. Subcte. bill <u>does not</u> include Hyde Amendment language.
Treasury/Postal Service	House Subcte. marked-up on 5/26/93. Subcte. bill <u>does not</u> include Hyde Amendment language.
Commerce/Justice/State	House Subcte. marked-up on 6/16/93. Subcte. action has been embargoed until next week.
D.C.	House Subcte. marked-up on 6/15/93. Subcte. bill <u>does not</u> include Hyde Amendment language.
Foreign Operations	Full Cte. marked-up on 6/10/93; full House action expected today, 6/17. Cte. bill <u>continues</u> the prohibition on the use of Federal funds for abortions (population assistance programs).

Abortion Legislation Enacted Into Law

S. 1 -- National Institutes of Health Revitalization Act of 1993. Among other things, this legislation codifies the President's decision to allow federally funded transplantation research involving human subjects to use fetal tissue from induced abortions. Signed by the President on June 10, 1993 [P.L. 103-43].

List of Bills Found
Bills 1-11 of 27

Screen 1 of 3

H.R. 4 by WAXMAN (D-CA) -- National Institutes of Health Revitalization Act of 1993 [3,716 lines]
H.R. 25 by EDWARDS, DON (D-CA) -- Freedom of Choice Act of 1993 [81 lines]
H.R. 26 by FAZIO (D-CA) -- Reproductive Health Equity Act [108 lines]
H.R. 129 by COLLINS, CARDISS (D-IL) -- Adolescent Health Demonstration Projects, Provision [71 lines]
H.R. 178 by EMERSON (R-MO) -- Use of Federal Funds for Abortions, Provision [37 lines]
H.R. 519 by LOWEY (D-NY) -- Reproductive Freedom Protection Act [57 lines]
H.R. 562 by DORNAN, ROBERT (R-CA) -- Internal Revenue Code of 1986, Amendment [39 lines]
H.R. 670 by WAXMAN (D-CA) -- Family Planning Amendments Act of 1993 [129 lines]
H.R. 1068 by TORKILDBSEN (R-MA) -- Freedom of Choice Act of 1993 [102 lines]
H.R. 1175 by OBEY (D-WI) -- Research on Human Fetal Tissue Amendments of 1993 [182 lines]
H.R. 1991 by SMITH, CHRISTOPHER (R-NJ) -- United States-China Act of 1993

List of Bills Found
Bills 12-19 of 27

Screen 2 of 3

[358 lines]
H.R. 2061 by DELLUMS (D-CA) -- United States Health Services Act
[3,464 lines]
H.R. 2232 by SNOWE (R-ME) -- Refugee Women and Children Protection Act
[110 lines]
H.R. 2295 by OBEY (D-WI) -- Foreign Operations, Export Financing, and
Related Programs Appropriations Act of 1994 [1,890 lines]
H.R. 2333 by HAMILTON (D-IN) -- International Relations Act of 1993
[4,228 lines]
H.R. 2404 by HAMILTON (D-IN) -- Foreign Assistance Authorization Act of
1993 [1,547 lines]
H.Con.Res. 22 by SCHROEDER (D-CO) -- Resolution Concerning Contraception
and Infertility [95 lines]
H.Con.Res. 40 by DELAY (R-TX) -- Resolution Opposing the Imposition of a
Sexual Agenda on Children [49 lines]
S. 1 by KENNEDY, EDWARD (D-MA) -- National Institutes of Health
Revitalization Act of 1993 (Pub. L. 103-43, approved 6/10/93)

List of Bills Found
Bills 20-27 of 27

Screen 3 of 3

[4,875 lines]
S. 25 by MITCHELL, GEORGE (D-ME) -- Freedom of Choice Act of 1993
[115 lines]
S. 40 by HELMS (R-NC) -- Civil Rights of Infants Act [47 lines]
S. 48 by HELMS (R-NC) -- Unborn Children's Civil Rights Act [97 lines]
S. 60 by HELMS (R-NC) -- Civil Rights of Infants Act [44 lines]
S. 64 by HELMS (R-NC) -- Unborn Children's Civil Rights Act [94 lines]
S. 636 by KENNEDY, EDWARD (D-MA) -- Freedom of Access to Clinic Entrances
Act of 1993 [231 lines]
S. 1096 by BINGAMAN (D-NM) -- International Population Stabilization and
Reproductive Health Act [599 lines]
S.Res. 90 by DURENBERGER (R-MN) -- Resolution Concerning the First
Amendment to the Constitution [43 lines]

ABORTION VOTING IN THE 102d SENATE

Based on 7 floor votes in the 102D Senate:

- 2 R's voted Pro-choice on all votes
- 8 R's voted Pro-choice over 50% of the time
- 4 R's voted Pro-choice between 14 and 43% of the time
- 24 R's voted Pro-life on all votes

- 4 D's voted Pro-choice on all votes
- 33 D's voted Pro-choice over 57% of the time
- 3 D's voted Po-choice between 83 and 43% of the time
- 8 D's voted Pro-life on all votes

This indicates 6 Pro-choice, 42 lean Pro-choice, 7 lean Pro-life, and 32 Pro-life votes.

In a whip list, one would also want to include the new Senators:

BENNETT (R-UT)
COVERDELL (R-GA)
FAIRCLOTH (R-NC)
GREGG (R-NH)
HUTCHISON (R-TX)
KEMPTHORNE (R-ID)

BOXER (D-CA)
CAMPBELL (D-CO)
DORGAN (D-ND)
FEINGOLD (D-WI)
FEINSTEIN (D-CA)
MATHEWS (D-TN)
MOSELEY-BRAUN (D-IL)
MURRAY (D-WA)

If the new Senators went on straight party lines, this would mean 56 Pro-choice, and 44 Pro-life.

It may also be relevant to note that on the House vote on the Hyde Amendment, many of the swing members voted Pro-life.

Attached are the voting records on abortion of the members of the 102d, and description of the votes used in this analysis.

DEMOCRATS

BRADLEY (D-NJ)	+	+	+	+	+	+	+	100	100
KENNEDY, EDWARD (D-MA)	+	+	+	+	+	+	+	100	100
LAUTENBERG (D-NJ)	+	+	+	+	+	+	+	100	100
METZENBAUM (D-OH)	+	+	+	+	+	+	+	100	100
AKAKA (D-HI)	+	+	+	+	-	+	+	86	86
BAUCUS (D-MT)	+	+	+	+	-	+	+	86	86
BIDEN (D-DE)	+	+	+	+	-	+	+	86	86
BRYAN, RICHARD (D-NV)	+	+	+	+	-	+	+	86	86
BUMPERS (D-AR)	+	+	+	+	-	+	+	86	86
DASCHLE (D-SD)	+	+	+	+	-	+	+	86	86
DODD (D-CT)	+	+	+	+	-	+	+	86	86
GLENN (D-OH)	+	+	+	+	-	+	+	86	86
GRAHAM, BOB (D-FL)	+	+	+	+	-	+	+	86	86
HOLLINGS (D-SC)	+	+	+	+	-	+	+	86	86
KERRY, JOHN (D-MA)	+	+	+	+	-	+	+	86	86
LEAHY (D-VT)	+	+	+	+	-	+	+	86	86
LEVIN, CARL (D-MI)	+	+	+	+	-	+	+	86	86
LIEBERMAN (D-CT)	+	+	+	+	-	+	+	86	86
MIKULSKI (D-MD)	+	+	+	+	-	+	+	86	86
MITCHELL, GEORGE (D-ME)	+	+	+	+	-	+	+	86	86
MOYNIHAN (D-NY)	+	+	+	+	-	+	+	86	86
PELL (D-RI)	+	+	+	+	-	+	+	86	86
RIEGLE (D-MI)	+	+	+	+	-	+	+	86	86
ROBB (D-VA)	+	+	+	+	-	+	+	86	86
ROCKEFELLER (D-WV)	+	+	+	+	-	+	+	86	86
SARBANES (D-MD)	+	+	+	+	-	+	+	86	86
SASSER (D-TN)	+	+	+	+	-	+	+	86	86
SIMON (D-IL)	+	+	+	+	-	+	+	86	86
WELLSTONE (D-MN)	+	+	+	+	-	+	+	86	86
WOFFORD (D-PA)	+	+	+	+	-	+	+	86	86
BINGAMAN (D-NM)	+	+	+	+	-	+	?	83	71
INOUE (D-HI)	+	+	+	+	-	+	?	83	71
KERREY, BOB (D-NE)	+	+	+	+	-	?	+	83	71
HARKIN (D-IA)	+	+	+	+	-	?	?	80	57
PRYOR (D-AR)	?	?	?	+	-	+	+	75	43
KOHL (D-WI)	+	+	-	+	-	+	+	71	71
SHELBY (D-AL)	+	+	-	-	-	+	+	57	57
BYRD, ROBERT (D-WV)	+	+	-	-	-	-	+	43	43
CONRAD (D-ND)	+	-	-	-	-	+	+	43	43
NUNN (D-GA)	+	-	-	-	-	+	+	43	43
DECONCINI (D-AZ)	-	-	-	-	-	-	-	0	0
EXON (D-NE)	-	-	-	-	-	-	-	0	0
FORD, WENDELL (D-KY)	-	-	-	-	-	-	-	0	0
HEFLIN (D-AL)	-	-	-	-	-	-	-	0	0
JOHNSTON, BENNETT (D-LA)	-	-	-	-	-	-	-	0	0
REID (D-NV)	-	-	-	-	-	-	-	0	0
BOREN (D-OK)	-	-	-	-	-	-	?	0	0
BREAUX (D-LA)	-	-	-	-	-	?	-	0	0

7 VOTES ON ABORTION IN THE 102d CONGRESS

S.323 by CHAFEE (R-RI) -- Family Planning Amendments Act of 1992 (Vetoed, 9/25/92)

07/16/91 -- SENATE Vote No. 1128: 35-64 (DEM: 8-48; REP: 27-16)
(Senate rejected the Durenberger Amendment No. 754 (to Amendment No. 753), providing for the referral of individuals who are pregnant for appropriate prenatal medical care, including referrals to prenatal health care providers who perform abortions, but prohibiting referrals to such providers whose principal business is the provision of abortions.)

-----No. 2 of 7-----

07/16/91 -- SENATE Vote No. 1130: 54-45 (DEM: 45-11; REP: 9-34)
(Senate agreed to the Mitchell Amendment No. 758 (to Amendment No. 753), providing for parental notice or consent in the case of minor patients who request an abortion.)

-----No. 3 of 7-----

07/16/91 -- SENATE Vote No. 1131: 52-47 (DEM: 14-42; REP: 38-5)
(Senate agreed to the Coats Amendment No. 756 (to Amendment No. 753), providing for parental notification in the case of minor patients who request an abortion.)

-----No. 4 of 7-----

H.R.2707 by NATCHER (D-KY) -- Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1992
Department of Labor Appropriations Act, 1992
Department of Health and Human Services Appropriations Act, 1992
Department of Education Appropriations Act of 1992 (Vetoed, 11/19/91)

09/11/91 -- SENATE Vote No. 1185: 45-55 (DEM: 14-43; REP: 31-12)
(Senate rejected the Nickles Amendment No. 1107 (to committee amendment beginning on page 18, line 5), restricting the use of funds to perform an abortion on a minor under the age of 18.)

-----No. 5 of 7-----

09/11/91 -- SENATE Vote No. 1186: 92-8 (DEM: 51-6; REP: 41-2)
(Senate agreed to the Kassebaum Amendment No. 1108, requiring entities receiving assistance under Title X of the Public Health Service Act to provide for parental notification in the case of minor patients who request an abortion.)

-----No. 6 of 7-----

H.J.R.157 by WHITTEN (D-MS) -- Dire Emergency Supplemental Appropriations and Transfers for Relief from the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Cost of "Operation Desert Shield/Desert Storm" Act of 1992 (Pub. L. 102-229, approved 12/12/91)

11/22/91 -- SENATE Vote No. 1268: 40-57 (DEM: 8-46; REP: 32-11)
(Senate failed to uphold the ruling of the Chair in sustaining a point of order against Lautenberg Amendment No. 1407, limiting the use of funds for carrying out any Department of Defense policy that prohibits certain abortions overseas.)

-----No. 7 of 7-----

S.3114 by NUNN (D-GA) -- National Defense Authorization Act for Fiscal Year

Former Soviet Union Demilitarization Act of 1992
Military Construction Authorization Act for Fiscal Year 1993
Panama Canal Commission Authorization Act for Fiscal Year 1993
Iran-Iraq Arms Non-Proliferation Act of 1992
Arms Retooling and Manufacturing Support Act of 1992
Landmine Moratorium Act
Cuban Democracy Act of 1992

09/18/92 -- SENATE Vote No. 2220: 36-55 (DEM: 7-44; REP: 29-11)
(Senate rejected the Coats Amendment No. 3074, to strike provisions that allow military personnel stationed abroad to obtain pre-paid reproductive services, including abortions in U.S. military hospitals overseas.)



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

Choice

May 26, 1993

MEMORANDUM FOR CAROL RASCO

FROM: Nancy-Ann Min *NAM*
Associate Director for Health

SUBJECT: Family Planning/Abortion Q's and A's

I have attached a revised draft of Secretary Shalala's responses to the Q's and A's on family planning and abortion issues. This draft reflects comments I received from some of the members of our working group, as indicated in the margins.

I would appreciate it if everyone would give this one more careful look before we clear it for submission to the Congress.

Attachment

cc: ☒ Susan Brophy
Bill Galston
Steve Neuwirth
Melanne Verveer
Ricki Seidman
Charlotte Hayes

Revised Draft: 5-25-93

Family Planning

- (1) It was recently announced that Baltimore City Schools are expected to be the first in the nation to offer Norplant, a surgically implanted contraceptive, to teenage girls. The drug is expected to be offered to students at Laurence Paquin Middle and High School, and will eventually be expanded to the six high schools that have school-based health clinics on campus.

- a. Do you support the distribution of Norplant to this population?

(FDA)
Norplant, a new implantable hormonal, long-term contraceptive, has been approved by the Food and Drug Administration as safe for use as a contraceptive method in the United States. Local community groups, including the Baltimore City Schools, may have a right to provide voluntary contraceptive services to sexually active individuals in compliance with any relevant Federal, State or local requirements, including informed consent requirements. However, I am not aware of any Federal restrictions on the provision of Norplant through the schools, nor would I support such restrictions at the national level.

- b. Given the drug's short history, do you believe these minor girls should have to obtain parental consent before implanted with Norplant?

reversed Norplant has been approved by the FDA as a safe, reversible family planning method. ~~These inserts can be removed~~ through a simple, outpatient procedure. As to remove the implant.
with all other contraceptive services provided to adolescents through the Title X national family planning program, Norplant is available to adolescents who request such services on a confidential basis. I would, however, urge parents to become involved with their children's decisions whenever practicable.

- c. If you do not support parental consent before Norplant is distributed to minor girls, do you at least support parental notification before this new drug is distributed?

There are no Federal laws that require parental consent or notification for the provision of contraceptive services to minors. ~~nor would I recommend that Norplant~~ would not be singled out for such a requirement.

- d. Would you support using federal funds for this type of distribution?

Funding for the provision of Norplant is currently available through various Federal programs including Medicaid and the Title X national family planning program. Title X specifically requires that all family planning services to adolescents be provided in a confidential manner, and prohibits parental consent or notification requirements for the provision of such services. provided

- e. What if any restrictions would you place before federal funds could be used to distribute Norplant to minors?

(See above response)

Family planning

- (2) Section 1008 of the Public Health Service Act implementing the Title X Family Planning Act provides that: "None of the funds appropriated under this Title shall be used in programs where abortion is a method of family planning."

- a. How do you interpret this section of the law, which has not been altered since 1970?

The previous Administration's interpretation of this section of the statute lead to the so-called "Gag Rule", which has been the focus of much litigation and controversy. ~~Because we believe the rule~~ and which (see insert 1 below) inappropriately restricted grantees, ~~I suspended them~~ and proposed that the program return to the compliance standards operative prior to the issuance of the "Gag Rule" in 1988. The Department is currently reviewing comments received in response to the February, 1993 Federal Register notice and working on the development of a new rule in accordance with the notice and comment provisions of the Administrative Procedures Act. As the Department's February, 1993 interim rule notes, the original interpretation of section 1008 (from the program's inception in 1970 up until the 1988 "Gag Rule") did not include a prohibition on non-directive counseling on abortion.

- b. Do you support regulations known as the "Gag Rule" which aim to separate abortion related activities from federally supported family planning activities? If not, do you support any limitations on the ability of clinics receiving federal funds to counsel and refer women for abortion in federally funded Title X clinics?

~~I support the President's efforts in which he directed~~ (see insert 2 below) ~~the Department to publish in the Federal Register --~~ (1) a notice of proposed rulemaking (NPRM) proposing to return the program to the abortion policies and interpretations that were in effect prior to February 1988 and (2) an interim final rule suspending the "gag rule" and reinstating the pre-1988 policies pending the issuance of a final rule.

The Department has proposed that ^{the} compliance standards operative prior to 1988 be reinstated, including those set out in the Family Planning Program Guidelines which that require that in the event of an unplanned pregnancy, ~~and where the patient requests such action, that non-~~ directive counseling be provided to a client, on all ~~options relating to her pregnancy, including abortion,~~ at her request, and to refer her for abortion, if that is the option she selects.

Insert 1: I therefore suspended the so-called "gag rule" and proposed that the program return to

Insert 2: See ~~the Department has published~~
above response.

- c. Do you view the federal family planning program as preventive in nature?

Department believes that the intended The federal family planning program is meant to provide a broad range of acceptable and effective medically approved family planning methods and services to persons desiring such services. These services must be provided in a manner that does not subject individuals to coercion, deception or withholding of complete and accurate medical information about their health condition and legal options. The Department's view is that these

- d. Do you think it is important to separate abortion activities from legitimate family planning or preventive activities? How do you propose to separate abortion activities from legitimate family planning activities?

As the Department stated in the February, 1993 interim rule, we believe the 1988 "Bag Rule" would have required many grantees to make extensive, expensive and unnecessary alterations in their physical facilities and organizational structures. ~~We have proposed,~~ consistent with the longstanding Departmental interpretation and administration of the statute, that we have proposed Title X projects not be permitted to promote or encourage abortion as a method of family planning, and that they be required to maintain a separation (that is more than a mere exercise in bookkeeping) of their project activities from any activities that promote or encourage abortion as a method of family planning. The Department will consider this issue further ~~in response to the comment received when promulgating a new final rule~~ in light of the comments received to its February, 1993 interim final rule.

- e. Should Title X clinics be permitted to perform abortions on the same site as the federally funded Title X clinic?

(See above response)

- f. Should personnel whose salaries are supported by federal funding be permitted to work in abortion related activities at the same site?

(See above response)

Family Planning

- (3) Since its involvement in funding contraceptives and family planning, the Federal government has invested over \$2 billion to curb teenage pregnancy. Yet the rate of teenage pregnancy and sexually transmitted diseases afflicting teenagers continues to grow. Many experts feel it is time for us to admit this approach has not yielded the returns we had hoped, and to recognize that we have focused on the symptom of teen pregnancy rather than the root, which is teen sexual activity.

- a. What if anything will you direct the Department of Health and Human Services to do to curb the rate of teen sexual activity?

Adolescent pregnancy prevention is a priority within the Department in order to provide national leadership in creating credible, reliable response to the problem. Toward this end, I have asked several experts in the Department to begin to design a strategy on teenage pregnancy in order to develop a strong adolescent pregnancy initiative.

- b. What role, should abstinence education play in this effort?

Abstinence is a legitimate public health approach to ~~delaying or preventing~~ early adolescent sexual activity ~~in order to prevent pregnancy~~ and the transmission of sexually transmitted diseases, including HIV infection. However, a broader, more comprehensive range of public health and social service approaches is needed to target these dual problems. ~~The impact of the abstinence-only message of the last decade has been minimal because it is laden with heavy moralistic tones. We need a significantly revised approach which includes among other things age-appropriate comprehensive sexuality education, comprehensive reproductive health information and services, school-based services, family life and life skills training, and on-going parenting education and family support efforts.~~

developing a

Abortion

- (1) What is your position on abortion?

~~Individuals have a right to complete and accurate medical information and unharrassed access to safe, legal medical services.~~

See insert 3
attached

- (2) Do you believe a woman should have a right to an abortion, for any or no reason, throughout the entire duration of pregnancy?

~~I support the right to privacy as articulated in the 1973 Supreme Court decision Roe v. Wade.~~

See insert 4
attached

- (3) Do you support reasonable restrictions on abortion such as parental consent for minors? What about parental notification?

~~Ideally, parents should be involved in decisions affecting the health and well-being of their children. In real life, however, such matters are not clear cut, and as with all such controversial matters, parental consent and notification requirements are a matter of continued policy debate both at the State and Federal level.~~

See insert 5
attached

- (4) What is your position on the Freedom of Choice Act?

~~This bill codifies the tenets of the Roe v. Wade decision legalizing abortion and defers to States on matters of parental involvement and public funding. The Department is reviewing this legislation, however, to date, we have no formal position.~~

See insert 6
attached

- (5) Do you support the "Hyde" amendment which prohibits the expenditure of federal funds for abortion except in those cases where the mother's life would be endangered if the fetus was carried to term?

include → ~~The Administration's FY 1994 Budget request proposes repeat of the Hyde Amendment, an annual HHS appropriations rider which has prohibited the use of any federal funds for abortions since the mid-70s. The Administration will be working with the Congress to provide for an approach that is consistent with Federal and State laws.~~

so-called does not

limited

Insert 3: The right of personal privacy is a fundamental liberty guaranteed and protected by our Constitution. The Government's role should be to reduce the need for abortion, not to interfere with the difficult and intensely personal decisions women must sometimes make with regard to abortion.

Insert 4: The application of the right to privacy in this content has been articulated by the Supreme Court in Roe v. Wade.

Insert 5: The Administration opposes any Federal attempt to limit access to abortion through mandatory waiting periods or parental or spousal consent requirements. The Administration supports State efforts to require some form of adult counseling or consultation for underage girls who choose to have an abortion -- as long as workable and effective bypass provisions are attached to such laws.

Insert 6: The Administration supports the Freedom of Choice Act, which codifies the tenets of Roe v. Wade.

(6) What is your position on RU-486?

~~I support the President's efforts in which~~ The President directed the Department to review the scientific basis for the import ban on RU-486 and to pursue initiatives that promote the testing, licensing, and manufacturing of RU-486 in the U.S. FDA has since lifted the ban and Roussel-Uclaf, the French manufacturer of RU-486, has agreed to license the drug to an American organization, the Population Council, to begin the process of clinical trials in the U.S.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

CLOSE HOLD

May 17, 1993

MEMORANDUM FOR CAROL RASCO

FROM: Nancy-Ann Min *NAM*
SUBJECT: Family Planning/Abortion Policy

As a follow-up to our meeting last Friday, I have attached a revised version of the Qs & As that have been posed to Secretary Shalala. As I mentioned, these responses will be placed in the record of Secretary Shalala's confirmation hearing, and thus will constitute the basis for the Administration's policy regarding family planning and abortion issues. I apologize for the fact that reviewing this draft will require you to decipher my messy handwriting, but I wanted everyone to be able to see the changes Bill Galston and I have suggested to the original draft from HHS.

I would appreciate the group's views on these responses; although we do want to clear them expeditiously, I think it is very important that everyone has time to consider these responses carefully.

As always, please let me know if you have any questions.

Attachment

cc: Steve Neuwirth
Melanne Verveer
Susan Brophy
Ricki Seidman
Charlotte Hayes
Jerry Klepner
Harriet Rabb
Ken Apfel

DRAFT

Revised
Draft

5/16/93
NSM

Family Planning

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- a. Do you support the distribution of Norplant to this population?

(FDA)

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(Min)

including the
Baltimore
City
Schools,
may

- b. Given the drug's short history, do you believe these minor girls should have to obtain parental consent before implanted with Norplant?

(Min)

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revised

- c. If you do not support parental consent before Norplant is distributed to minor girls, do you at least support parental notification before this new drug is distributed?

There are no Federal laws that require parental consent or notification for the provision of contraceptive services to minors, nor would I recommend that Norplant be singled out for such a requirement.

DRAFT *provided*

(Min)

- d. Would you support using federal funds for this type of distribution?

Funding for the provision of Norplant is currently available through various Federal programs including Medicaid and the Title X national family planning program. Title X specifically requires that all family planning services to adolescents be provided in a confidential manner, and prohibits parental consent or notification requirements for the provision of such services.

- e. What if any restrictions would you place before federal funds could be used to distribute Norplant to minors?

(see above response)

DRAFT

Family planning

- (2) Section 1008 of the Public Health Service Act implementing the Title X Family Planning Act provides that: "None of the funds appropriated under this Title shall be used in programs where abortion is a method of family planning."

(Min)

- a. How do you interpret this section of the law, which has not been altered since 1970?

and which

The previous Administration's interpretation of this section of the statute lead to the so-called "Gag Rule", which has been the focus of much litigation and controversy. ~~Because we believe the rule inappropriately restricted grantees, I suspended them and proposed that the program return to the compliance standards operative prior to the issuance of the "Gag Rule" in 1988. The Department is currently reviewing comments received in response to the February, 1993 Federal Register notice and working on the development of a new rule in accordance with the notice and comment provisions of the Administrative Procedures Act. As the Department's February, 1993 interim rule notes, the original interpretation of section 1008 (from the program's inception in 1970 up until the 1988 "Gag Rule") did not include a prohibition on non-directive counseling on abortion.~~

The President directed ~~that~~ the Department to suspend the "gag rule" issue and issue a new interim final rule that restored

- b. Do you support regulations known as the "Gag Rule" which aim to separate abortion related activities from federally supported family planning activities? If not, do you support any limitations on the ability of clinics receiving federal funds to counsel and refer women for abortion in federally funded Title X clinics?

I support the President's efforts in which he directed the Department to publish in the Federal Register -- (1) a notice of proposed rulemaking (NPRM) proposing to return the program to the abortion policies and interpretations that were in effect prior to February 1988 and (2) an interim final rule suspending the "gag rule" and reinstating the pre-1988 policies pending the issuance of a final rule.

(Min)

The Department has proposed that ~~compliance standards operative prior to 1988 be reinstated, including those set out in the Family Planning Program Guidelines which require that in the event of an unplanned pregnancy, and where the patient requests such action, that non-directive counseling be provided to a client, on all options relating to her pregnancy, including abortion, and to refer her for abortion, if that is the option she selects.~~

That at her request

that

that

DRAFT

- c. Do you view the federal family planning program as preventive in nature?

The Federal family planning program is ^{intended} ~~meant~~ to provide a broad range of acceptable and effective medically approved family planning methods and services ⁽ⁿ⁾ to persons desiring such services. These services must be provided in a manner that does not subject individuals to coercion, deception or withholding of complete and accurate medical information about their health condition and legal options.

- d. Do you think it is important to separate abortion activities from legitimate family planning or preventive activities? How do you propose to separate abortion activities from legitimate family planning activities?

As the Department stated in the February, 1993 interim rule, we believe the 1988 "Lag Rule" would have required many grantees to make extensive, expensive and unnecessary alterations in their physical facilities and organizational structures. We have proposed, ~~consistent with the longstanding Departmental Interpretation and administration of the statute~~, that Title X projects not be permitted to promote or encourage abortion as a method of family planning, and be required to maintain a separation (that is more than a mere exercise in bookkeeping) of their project activities from any activities that promote or encourage abortion as a method of family planning. The Department will consider this issue further ~~in response to the comment received when promulgating a new final rule~~. ^{family plan}

- e. Should Title X clinics be permitted to perform abortions on the same site as the federally funded Title X clinic?

(see above response)

- f. Should personnel whose salaries are supported by federal funding be permitted to work in abortion related activities at the same site?

(see above response)

(M:-)
in light
of the
comments
received
to its
February,
1993
interim
final
rule.

DRAFT**Family Planning**

- (3) Since its involvement in funding contraceptives and family planning, the Federal government has invested over \$2 billion to curb teenage pregnancy. Yet the rate of teenage pregnancy and sexually transmitted diseases afflicting teenagers continues to grow. Many experts feel it is time for us to admit this approach has not yielded the returns we had hoped, and to recognize that we have focused on the symptom of teen pregnancy rather than the root, which is teen sexual activity.

- a. What if anything will you direct the Department of Health and Human Services to do to curb the rate of teen sexual activity?

developing a (Min)
Adolescent pregnancy prevention is a priority within the Department in order to provide national leadership in ~~creating~~ credible, reliable response to the problem. Toward this end, I have asked several experts in the Department to begin to design a strategy on teenage pregnancy in order to develop a strong adolescent pregnancy initiative.

- b. What role, should abstinence education play in this effort?

Abstinence is a legitimate public health approach to delaying or preventing early adolescent sexual activity in order to prevent pregnancy and the transmission of sexually transmitted diseases, including HIV infection. However, a broader, more comprehensive range of public health and social service approaches is needed to target these dual problems. ~~The impact of the abstinence-only message of the last decade has been minimal because it is laden with heavy moralistic tones. We need a significantly revised approach which includes among other things age-appropriate comprehensive sexuality education, comprehensive reproductive health information and services, school-based services, family life and life skills training, and on-going parenting education and family support efforts.~~ (Gaelston)

DRAFT

Abortion

- (1) What is your position on abortion?

Individuals have a right to complete and accurate medical information and unharassed access to safe, legal medical services.

- (2) Do you believe a woman should have a right to an abortion, for any or no reason, throughout the entire duration of pregnancy?

I support the right to privacy as articulated in the 1973 Supreme Court decision Roe v. Wade.

- (3) Do you support reasonable restrictions on abortion such as parental consent for minors? What about parental notification? *(Min) (from Putting Per 151 at 170)*

The Administration opposes any Federal attempt to limit access to abortion through mandatory waiting periods or parental or spousal consent requirements. The Administration supports state efforts to require some form of counseling or consultation for girls underage who choose abortion - as long as workable and effective judicial bypass provisions are attached to such laws.

~~Ideally, parents should be involved in decisions affecting the health and well-being of their children. In real life, however, such matters are not clear cut and as with all such controversial matters, parental consent and notification requirements are a matter of continued policy debate both at the State and Federal level.~~

- (4) What is your position on the Freedom of Choice Act?

The Administration supports the Freedom of Choice Act, which will codify the tenets of Roe v. Wade.

~~This bill codifies the tenets of the Roe v. Wade decision legalizing abortion and defers to States on matters of parental involvement and public funding. The Department is reviewing this legislation, however, to date, we have no formal position.~~

- (5) Do you support the "Hyde" amendment which prohibits the expenditure of federal funds for abortion except in those cases where the mother's life would be endangered if the fetus was carried to term?

The Administration's FY 1994 Budget request proposes repeal of the Hyde Amendment, an annual HHS appropriations rider which has prohibited the use of any federal funds for abortions since the mid-70s. The Administration will be working with the Congress to provide for an approach that is consistent with Federal and State laws.

limited

Note:

[It hasn't prohibited use of federal funds, strictly speaking, in that the "life of the mother" exception has always been there.]

DRAFT

(6) What is your position on RU-486?

~~I support the President's efforts in which the~~
President directed the Department to review the
scientific basis for the import ban on RU-486 and to
pursue initiatives that promote the testing, licensing,
and manufacturing of RU-486 in the U.S. FDA has since
lifted the ban and Roussel-Uclaf, the French
manufacturer of RU-486, has agreed to license the drug
to an American organization, the Population Council, to
begin the process of clinical trials in the U.S.



U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

October 17, 1995

To: Pat Griffin
Fr: Andy Foia
Re: Partial Birth Abortion Bill
cc: Janet

We have heard that Congressman Canaday expects to get his partial birth abortion ban bill to the House floor soon, perhaps as early as next week (with an outside chance of even this week). When last we left this issue you had sent, or were going to send, a memo to the President asking how he wanted it handled.

We have intentionally avoided taking a position, although there has been some pressure to do so from House Democrats and constituency groups, preferring to await floor action. Our recommendation was to limit opposition to constitutional grounds and had drafted a letter along those lines. Alternative was to oppose more aggressively on policy grounds.

James Costello of the Counsel's office is also involved in this issue.

VOTERS FOR CHOICE

FRIENDS OF FAMILY PLANNING

August, 1994

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Catholics for a Free Choice
Judith Lichtman
Women's Legal Defense Fund
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Washington, D.C.*

* Affiliations listed for identification
purposes only

Paid for by Voters For Choice
and not authorized by any candidate

Dear Pro-Choice Advocate,

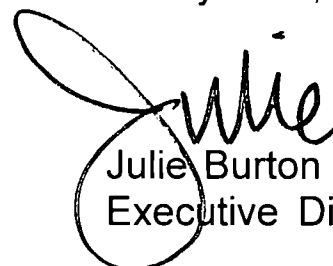
Enclosed please find the first edition of
**COUNTERING THE RADICAL RIGHT: A GUIDE FOR
PRO-CHOICE CANDIDATES.**

In the tradition of our highly acclaimed candidate handbook, **WINNING WITH CHOICE**, this unique guide is a compendium of the issues and tactics that are crucial to running effective campaigns against radical right opponents. Voters For Choice produced this handbook in response to repeated requests for help in answering the question, "What can I do about the radical right?" Its help is directed to candidates, campaign workers, and citizens who are all key to the pro-choice majority vote.

Additional copies are available for a fee of \$2.50 per copy. Orders of twenty or more will receive the bulk rate of \$1.25 per copy (plus shipping).

Thank you for your pro-choice support -- with your help we will elect more leaders nationwide to fight for reproductive freedom.

All My Best,



Julie Burton
Executive Director

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**COUNTERING
THE
RADICAL
RIGHT**

**THE 1994 GUIDE
FOR PRO-CHOICE CANDIDATES**

Voters For Choice

An independent

BiPartisan

Political Action

Committee

Washington, D.C.

First Edition

ABORTION /
PARTIAL BIRTH
ABORTION

TO: PAT G.

FR: ANDY FOIS **AF**

DA: NOV 6

RE: PARTIAL BIRTH ABORTION

I promised to get back to you with answers to two questions you asked at Friday's meeting:

1. Specter is expected to offer the motion to commit
2. There already was a companion bill in the Senate sent to Judiciary Committee so under R 14 I am told Majority Leader can hold House bill at desk.

Motion to commit is close. Strategy of groups is to have hearing to educate people about how rare this is and have women who had it come in and testify in support.

My Office of Legal Counsel is weighing in strongly on the constitutional issue. They are saying that even if bill is amended as has been discussed to create a defense from prosecution based on the health of the mother, the bill would still be unconstitutional. My understanding is some WH folks want to sign the bill if it has this defense.

Also, on terrorism: it is increasingly clear that the real deal here is the same old crime bill song of guns and habeas but especially guns. Without a vote to repeal the assault weapons ban, the R's cant pass a rule (since they cant rely on many, if any, Dems on a rule). NRA has joined forces with ACLU opposing the bill on substantive grounds but it is really about those two things. President may be able to beat up on NRA and special interests for blocking terrorism legislation on that basis.

DAILY HERALD

DATE: 11-3-7

PAGE: _____



Anti-terrorism bill

Attorney General Janet Reno, speaking Thursday in Chicago, called for passage of an anti-terrorism bill stalled in the House, saying it includes needed prevention measures and effective means of punishing offenders. AP Photo



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

November 7, 1995
(Senate)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 1833 -- Partial-Birth Abortion Ban Act of 1995
(Rep. Canady (R) FL and 115 others)

The President believes that the decision to have an abortion should be between a woman, her conscience, her doctor, and her God. He believes that legal abortions should be safe and rare. The President has long opposed late-term abortions except where they are necessary to protect the life of the mother or where there is a threat to her health, consistent with the law. The Supreme Court has ruled that "Roe forbids a state from interfering with a woman's choice to undergo an abortion procedure if continuing her pregnancy would constitute a threat to her health." Therefore, the Administration cannot support H.R. 1833 because it fails to provide for consideration of the need to preserve the life and health of the mother, consistent with the U.S. Supreme Court's decision in Roe v. Wade.

* * * * *

JOHNATHAS

~~VP~~

VP Commercial

66605

have him pulled please

THE WHITE HOUSE
WASHINGTON

ABORTION /
PARTIAL BIRTH
ABORTION

Dan Baer

Mike McCurry

Pat Griffin

Susan Brophy

WANTED TO BE SURE YOU
HAD ALL OF THE ATTACHED
INFO ON THE PARTIAL
BIRTH ABORTION BILL

- Jeremy

November 6, 1995

MEMORANDUM FOR DISTRIBUTION

FROM: Debbie Fine and Jeremy Ben-Ami ✓
SUBJECT: Attached on Partial Birth Abortion Ban Bills

In addition to the e-mail that went out this evening, attached are several documents you might find helpful as a follow-up to our meeting last week:

- suggested internal talking points;
- statements/letters from American College of Obstetricians and Gynecologists, the California Medical Association, American Medical Women's Association, Planned Parenthood (American Association of Nurse Practitioners have also released a statement that we are waiting to receive);
- the SAP that went to the House (Senate SAP is likely to be virtually the same);
- a couple of news articles; and
- an ad placed by NARAL.

cc: Carol Rasco
Alexis Herman
George Stephanopoulos
Martha Foley
Nancy-Ann Min
Jennifer Klein
James Castello
Elena Kagan
Mary Ellen Glynn
Kitty Higgins
John Hart
Betsy Myers
Judy Gold
Barbara Woolley
Tracy Thornton
Barbara Chow
Janet Murguia
Marilyn Yager

November 6, 1995

**SUGGESTED TALKING POINTS FOR INTERNAL USE ONLY
ON THE "PARTIAL BIRTH ABORTION BAN ACT"**

- The President believes that the decision whether or not to have an abortion should be between a woman, her doctor and her faith; and that abortions should be safe, legal and rare. He has consistently opposed late term abortions except to protect the life or health of the mother.
- H.R. 1833 does not include consideration of the health of the mother. This is the wrong policy. The President believes it is wrong in this case to substitute political decision making for medical decision making. These decisions must be made on the basis of the woman's health.
- It is also in conflict with constitutional law, since the Supreme Court has ruled in Roe v. Wade that women's health must always be considered as a factor in such decisions.
- For these reasons, the Administration cannot support H.R. 1833.

The
American
College of
Obstetricians and
Gynecologists

November 6, 1995

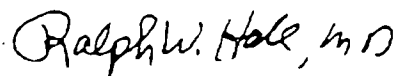
The Honorable Robert Dole
Majority Leader
S-230, The Capitol
Washington, DC 20510

Dear Majority Leader Dole:

The American College of Obstetricians and Gynecologists (ACOG), an organization representing more than 35,000 physicians dedicated to improving women's health care, does not support HR 1833, the Partial-Birth Abortion Ban Act of 1995. The College finds very disturbing that Congress would take any action that would supersede the medical judgment of trained physicians and criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may or may not perform, HR 1833 employs terminology that is not even recognized in the medical community -- demonstrating why Congressional opinion should never be substituted for professional medical judgment.

Thank you for considering our views on this important matter.

Sincerely,



Ralph W. Hale, MD
Executive Director

*Womens
not heard*

*Committee - health
hearing - outside*

*NMIA
Trust
+ ACOG
members*

*See
for
info*

The
American
College of
Obstetricians and
Gynecologists

November 1, 1995

Statement on H.R.1833
The Partial-Birth Abortion Ban Act of 1995

The American College of Obstetricians and Gynecologists is disappointed that the U.S. House of Representatives has attempted to regulate medical decision-making today by passing a bill on so-called "partial-birth" abortion.

The College finds very disturbing any action by Congress that would supersede the medical judgment of trained physicians and that would criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may or may not perform, the bill employs terminology that is not even recognized in the medical community -- demonstrating why congressional opinion should never be substituted for professional medical judgment.

The College does not support H.R.1833, or the companion Senate bill, S.939.

###



California Medical Association

221 Main Street, P.O. Box 7690, San Francisco, CA 94120-7690 (415) 541-0900
Physicians dedicated to the health of Californians

October 24, 1995

Representative Sam Farr
1117 Longworth House Off. Bldg.
Washington, DC 20515-0917

Re: H.R. 1833

Dear Representative Farr:

The California Medical Association is writing to express its strong opposition to the above-referenced bill, which would ban "partial-birth abortions." We believe that this bill would create an unwarranted intrusion into the physician-patient relationship by preventing physicians from providing necessary medical care to their patients. Furthermore, it would impose an horrendous burden on families who are already facing a crushing personal situation—the loss of a wanted pregnancy to which the woman and her spouse are deeply committed.

An abortion performed in the late second trimester or in the third trimester of pregnancy is extremely difficult for everyone involved, and CMA wishes to clarify that it is not advocating the performance of elective abortions in the last stage of pregnancy. However, when serious fetal anomalies are discovered late in a pregnancy, or the pregnant woman develops a life-threatening medical condition that is inconsistent with continuation of the pregnancy, abortion—however heart-wrenching—may be medically necessary. In such cases, the intact dilation and extraction procedure (IDE)—which would be outlawed by this bill—may provide substantial medical benefits. It is safer in several respects than the alternatives, maintaining uterine integrity, and reducing blood loss and other potential complications. It also permits the parents to hold and mourn the fetus as a lost child, which may assist them in reaching closure on a tragic situation. In addition, the procedure permits the performance of a careful autopsy and therefore a more accurate diagnosis of the fetal anomaly. As a result, these families, who are extremely desirous of having more children, can receive appropriate genetic counseling and more focused prenatal care and testing in future pregnancies. Thus, there are numerous reasons why the IDE procedure may be medically appropriate in a particular case, and there is virtually no scientific evidence supporting a ban on its use.

CMA recognizes that this type of abortion procedure performed late in a pregnancy is a very serious matter. However, political concerns and religious beliefs should not be permitted to take precedence over the health and safety of patients. CMA opposes any legislation, state or federal, that denies a pregnant woman and her physician the ability to make medically appropriate decisions about the course of her medical care. The determination of the medical need for, and effectiveness of, particular medical procedures must be left to the medical profession, to be reflected in the standard of care. It would set a very undesirable precedent if Congress were by

American Medical Women's Association, Inc.

Diana L. Dell, M.D., F.A.C.O.G., President
Sharon McCreath, J.D., C.A.B., Executive Director

Lonnie R. Bristow, M.D.
President
The American Medical Association
515 North State Street
Chicago, Illinois 60610

October 17, 1995

Dear Dr. Bristow,

On behalf of the 13,000 women physician members of The American Medical Women's Association, I write to express AMWA's concern regarding the September 23, 1995 unanimous decision of the Council on Legislation of the American Medical Association in support of HR 1833 "the Partial-Birth Abortion Ban Act."

It is the position of the American Medical Women's Association that this legislation represents a serious impingement on the rights of physicians to determine appropriate medical management for individual patients.

AMWA urges the Board of the American Medical Association to carefully consider the implications that its support of this legislation will have for future governmental regulation of the practice of medicine. We encourage the AMA Board to actively oppose HR 1833 as legislation which unduly interferes with the physician-patient relationship.

Sincerely,


Diana L. Dell, M.D.
President



Planned Parenthood®
Federation of America, Inc.

November 2, 1995

The Honorable William Jefferson Clinton
The White House
Washington, D.C.

Dear Mr. President:

Women's fundamental reproductive rights are under siege as never before in the United States Congress. Radical right forces have attached anti-family planning and anti-abortion amendments to almost every appropriations bill and are promoting other legislation that is a direct assault on the legal right to abortion. Planned Parenthood Federation of America represents millions of American women and men who are depending on your solid support of reproductive rights. Mr. President, we urge you to veto -- and make clear publicly your commitment to veto -- the following legislative actions:

H.R. 1833, the so-called "Partial Birth Abortion Ban" Act. The approval of this legislation by the House of Representatives yesterday was deeply disturbing. It is bad policy and represents an unprecedented intrusion by Congress into the most personal and difficult of medical decisions. While late-term abortions are tragic, the fact is that the procedure is extremely rare -- fewer than 600 are performed in any given year -- and are performed only in dire situations to protect the woman's life, health and future reproductive capability. We were heartened by the statement issued by the Office of Management and Budget stating your opposition to the bill. We encourage you to continue to take the life and health of these women and their families to heart. We need you to reject this unwarranted intrusion into the practice of medicine by vetoing this bill if it is approved by the Senate.

H.R. 1868, the FY 96 Foreign Operations Appropriations bill, containing a "Mexico City Policy" (an international "gag rule") and ban on funding of the UNFPA. We are very pleased by the recommendation of the Office of Management and Budget that you veto this bill because of the population provisions. On your second day in office, you made clear your opposition to denying U.S. population assistance to organizations that -- *with private, non-U.S. funds* -- provide abortions by repealing the so-called "Mexico City Policy." Should the foreign aid spending bill include this type of restriction, an international gag rule on groups that seek to influence abortion policy in their own country, or a prohibition on funding of the United Nations Population Fund, we urge you to maintain your support by vetoing the bill. These kinds of restrictions fly in the face of the U.S. commitments to international population and reproductive health care announced at the international population and women's conferences in Cairo and Beijing.

The Honorable William Jefferson Clinton
November 2, 1995
Page Two

The Istook/McIntosh/Ehrlich Silence America language. This provision is intended to prevent non-profit organizations from engaging in public discourse while permitting for-profit companies with views more compatible with the Congressional leadership to lobby unfettered, even if they receive millions of dollars from the government. The YWCA has noted that they might have to choose between closing down one of the nation's largest day care operations or advocating for better laws to protect abused women. The American Lung Association would be barred from advocating for restrictions on smoking while the tobacco industry would be able to run adds such as those by RJR Tobacco opposing government policies, despite receiving enormous amounts of money in Federal price supports and other government largess. This language cannot be made acceptable and should be rejected. Likewise bills that include it should be rejected if for no other reason than because of the inclusion of this provision. We urge you to stand firm and refuse to accept this undemocratic attempt to silence those that disagree with the current congressional majority.

The women of America are counting on you to preserve their fundamental right to make choices about their own reproductive lives. We all agree that unless women can make these personal decisions, they will not be fully empowered to take the best possible care of their families and communities.

We greatly appreciate your support and look forward to working with you on policies that protect women's reproductive choices.

Sincerely,



Jane Johnson
Interim Co-President



Jim LeFevre
Interim Co-President



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

November 1, 1995
(House)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 1833 -- Partial-Birth Abortion Ban Act of 1995
(Rep. Canady (R) FL and 115 others)

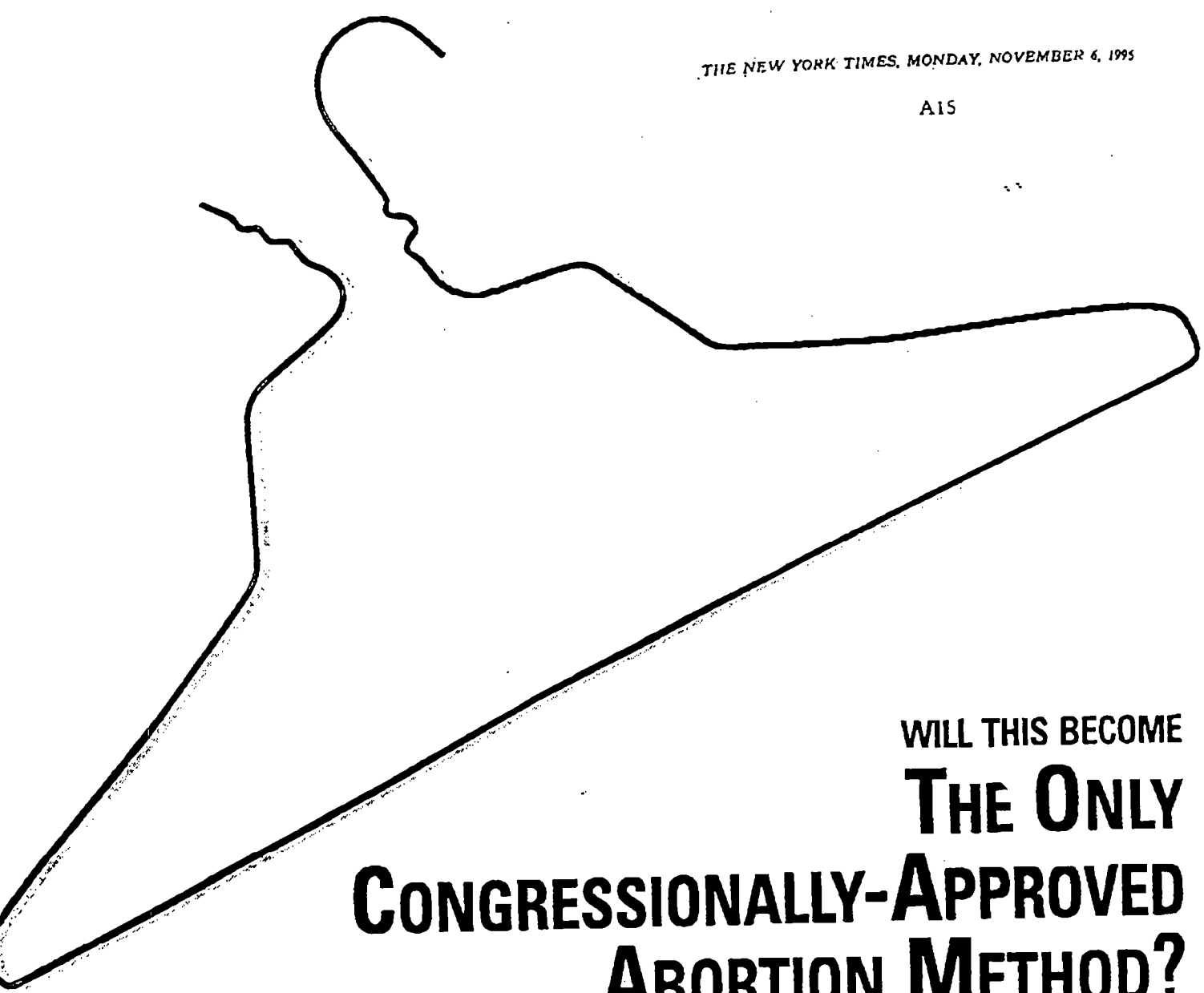
The President believes that the decision to have an abortion should be between a woman, her conscience, her doctor, and her God. He believes that legal abortions should be safe and rare. The President has long opposed late term abortions except where they are necessary to protect the life of the mother or where there is a threat to her health, consistent with the law. The Supreme Court has ruled that "Roe forbids a state from interfering with a woman's choice to undergo an abortion procedure if continuing her pregnancy would constitute a threat to her health." Therefore, the Administration cannot support H.R. 1833 because it fails to provide for consideration of the need to preserve the life and health of the mother, consistent with the Supreme Court's decision in Roe v. Wade.

Pay-As-You-Go Scoring

H.R. 1833 would affect both direct spending and receipts; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. OMB's preliminary scoring estimate of this bill is zero.

THE NEW YORK TIMES, MONDAY, NOVEMBER 6, 1995

A15



WILL THIS BECOME THE ONLY CONGRESSIONALLY-APPROVED ABORTION METHOD?

Last Wednesday, the House of Representatives voted for the first time to criminalize some abortions and challenge *Roe v. Wade*. Even a doctor trying to save a woman's life or protect her health could be sent to jail as a common criminal. This week, Bob Dole and his anti-choice Senate are poised to do the same.

The anti-choice majority in Congress is boasting that this is the beginning of the end for abortion rights. As Rep. Chris Smith (R-NJ) said, "We will begin to focus on the methods (of abortion) and declare them to be illegal."

Since January, the House has voted to allow states to ban Medicaid abortions for rape and incest victims; interfere with the training of medical residents in abortion procedures; dictate which procedure doctors can use; prohibit federal employees

Your right to choose is in grave danger. It's time to stand up and fight back. Join NARAL's campaign to protect women, their doctors and the freedom to choose. Make sure women have a place to turn other than the back alleys. Join us, while you still have the choice.

Don't let the Senate take away your rights.

Call your Senators today at 202/224-3121.

☐ **Yes** I want to help NARAL keep politicians out of this private decision.

Name

Address

to abortion to servicewomen overseas; and impose a "gag" rule on international family planning programs. And they've only just begun.

The truth is that when women face obstacles to abortion, they don't stop having abortions, they just stop having safe abortions. When abortion was illegal, women died. The women of America should never again have to face those dangerous and degrading days.

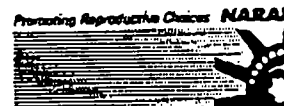
I'm enclosing my donation of:

☐ \$15 ☐ \$25 ☐ \$50 ☐ \$100 ☐ more

Contributions or gifts to NARAL are not tax deductible as charitable contributions. NARAL cannot accept corporate contributions. Please mail to the address below.

NT115

National Abortion & Reproductive Rights Action League
1156 15th Street NW, Washington, D.C. 20005-202/973-3000



Attack on rare abortion procedure invites misery

OUR VIEW These cases are tragic. These cases are personal. Legislation is a clumsy and painful response.

Abortion is a wrenching decision under any circumstance. In the later stages of a pregnancy, it's a nightmare.

So it is doubly painful to find the House of Representatives voting to make the nightmare worse. It did so Wednesday, voting to outlaw a last-resort procedure to terminate some late-term pregnancies.

The procedure is one that would make anyone cringe. The fetus dies from an overdose of anesthesia given to its mother. Sometimes, its skull is then drained so the fetus can be aborted intact without risk to the mother (not to cause death as critics of the procedure often claim).

It's a process undertaken in desperate circumstances. Just ask Viki Wilson, a 39-year-old registered nurse, doctor's wife, and mother of two in Fresno, Calif. She was eagerly awaiting the birth of her baby when the bad news arrived. Just four weeks before her delivery date, she learned what previous tests had failed to detect: two-thirds of her unborn daughter's brain was in a sac outside the skull. The fetus was suffering seizures and Viki Wilson's life was in danger. The baby was doomed to die outside the womb no matter what was done.

After consulting with specialists, the Wilsons opted for "intact dilation and evacuation," the procedure banned by the House. The anesthesia was administered and a needle used to draw fluid from the baby's

enlarged head so it could pass through the birth canal without damaging her mother.

"This wasn't about choice, this was about a medical necessity," Wilson says.

That's the case for most late-term abortions. A mother's pregnancy is complicated by health problems such as cancer or heart disease, so that continuing the pregnancy endangers her life. Or an unborn baby is found to have unthinkable deformities.

If the Senate agrees with the House, other families won't get the option available to the Wilsons. Or other choices. The House language is so vague it can be read as outlawing all late-term abortions. It bans "partial-birth abortions," a term not found in medical dictionaries. Doctors, facing jail terms, may refuse to perform any late-term pregnancy terminations.

And that is the real story of this legislation. Its backers say it is a wedge to challenge abortion rights broadly.

The idea of aborting a healthy, late-term fetus for mere convenience is reprehensible to all sides. And rare is the doctor who would participate in such an abortion. Only a handful will even perform late-term abortions for the more compelling reasons.

The legislation just isn't needed. And the broader assault will do nothing to alter the national division on abortion.

After 20-plus years of debate, there's no sign of national consensus to ban abortion. And absent such social agreement, the choice must be a personal one.

Abortion's dilemmas are indeed painful. But they are best resolved by appeals to hearts and minds, not dictates of law like this one.

Tolerating this is denial

OPPOSING VIEW In fact, it's denial cubed. Any abortion is bad enough. In the third trimester, it's outrageous.

By Andrea Sheldon

It has been most illuminating these past few months to hear liberals on the floor of Congress and on the op-ed pages of major newspapers, feign disgust at our country's communal lack of responsibility only to rationalize the willful taking of innocent human life that someone has determined to be defective.

Wednesday, the House overwhelmingly passed a ban on partial-birth abortions. During a partial-birth abortion, the baby is delivered feet first with only the head remaining inside the birth canal — just inches from being a living person. The doctor then pierces the baby's skull, inserts a suction catheter and forcibly extracts the baby's brain. The baby, having developed a nervous system, dies an excruciatingly painful and gruesome death.

To accept abortion as simply a medical procedure that rids a woman's body of a "lifeless fetus" in the early stages is denial enough. Attempting to rationalize and jus-

tify the abortion of a baby in the third trimester is denial cubed.

Having worked in Washington, D.C., for a number of years in issue advocacy I have considered the arrogant defense of partial-birth abortions as merely a cynical political device, a desperate move on behalf of abortion supporters to keep the debate from moving too quickly against them.

Elected to Congress last year for the very first time in significant numbers were conservative women who oppose abortion. Gone forever are the days when radical feminists could position themselves as the mainstream defenders of women's rights against a bunch of closed-minded, middle-aged white guys. These are desperate times for abortion-rights advocates and desperate times often beget desperate measures, especially in politics.

Still, it doesn't matter whether this is some kind of desperate move to stem the political tide or whether abortion supporters honestly believe partial-birth abortions are defensible. What does matter is that as the abortion debate continues to evolve, those who support abortion will continue to betray the denial in which they live.

Andrea Sheldon is director of government affairs for the Traditional Values Coalition.

Wider Impact Is Foreseen for Bill to Ban Type of Abortion

By TAMAR LEWIN

Public health officials and doctors who perform abortions say the bill passed by the House of Representatives last week that would ban a type of late-term abortion is so broadly written and ill defined that it could affect many more doctors than originally thought.

Indeed, they say, it could criminalize almost any doctor who performs abortions in the second trimester, or after 12 weeks of gestation, and might force doctors to turn to less-safe methods to avoid the possibility of prosecution. Some also say that it would shrink the pool of doctors who perform second-trimester abortions.

The sponsors of the bill, and the anti-abortion groups they worked with, said their goal was to ban what they call "partial-birth abortions," in which a fetus at 20 weeks of gestation or more is partly delivered, feet first, and then to make it easier for the fetus to pass through the birth canal, the skull is collapsed.

But the House bill approved on Wednesday, the Partial-Birth Abortion Ban Act, provides a far looser definition, with no reference to fetal age or to the specifics of inserting scissors into the neck to create a hole through which the brains can be suctioned out to collapse the skull.

The legislation, which will be considered in the Senate this week, says only that "the term 'partial-birth abortion' means an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery."

That language is so broad — and the term 'partial-birth abortion' so unfamiliar in the medical community — that many doctors who perform only earlier abortions, by the most common methods, say they have done procedures that would probably be prosecutable under the law.

"I'm sure I've had a situation, with a 14- or 16-week pregnancy, when the fetus presented feet first, where I did something that a Federal prosecutor might take to court under this language," said Dr. Lewis Koplik, who performs abortions up to 20 weeks in Albuquerque, N.M., and El Paso. "The decision about what method to use is made in an individual setting, based on an individual woman's situation. It's not one-size-fits-all, and it shouldn't be. I don't want to make medical decisions based on Congressional language. I don't want to be that vulnerable. And it's not what I want for my patients."

Those who drafted the legislation said they did not believe it would interfere with second-trimester

abortions performed by the standard method of dilation and evacuation, or D&E.

"An element of the crime is that the prosecution has to prove beyond a reasonable doubt that the baby was living," said an assistant counsel to the Constitution subcommittee of the House Judiciary Committee, Keri Harrison, who helped draft the bill. "In a D&E, there's not a living fetus being delivered. They're in there suctioning and cutting, and what they deliver is body parts. This wouldn't cover that."

Ms. Harrison said that in drafting the legislation, she and others had rejected specifying the gestational age or abortion technique it would cover. "This isn't about a viable

Concerns that the legislation's language is too imprecise.

baby, or a nonviable one," she said. "And we didn't want anything about inserting scissors into the base of the skull, because we didn't want them to come up with a slightly different technique and avoid the statute. What we want to make a crime is the abortionist starting to deliver a baby and then killing it."

About 13,000 of the nation's 1.5 million abortions a year are performed after 20 weeks' gestation. And only two doctors, who perform a total of about 450 of these abortions a year, have said publicly that this method is the safest and best. So most discussion of the proposed ban has been based on the assumption that the method is rarely used, and only by a small number of doctors.

But the National Abortion Federation, which represents several hundred abortion providers, says that more doctors have recently reported that they sometimes use the method, which they call "intact D&E." And since the House vote, some gynecologists at prominent hospitals have acknowledged that they often use the method in late-term abortions.

"Of course I use it, and I've taught it for the last 10 years," said a gynecologist at a New York teaching hospital, who spoke on the condition of anonymity. "So do doctors in other cities. At around 20 weeks, the fetus is usually in a breech position. If you don't have to insert sharp instruments blindly into the uterus, that's

better and safer.

"Even in earlier abortions," the doctor continued, "it can happen that after you prepare the patient by dilating the cervix, the feet move down, and the procedure might be covered by this law."

"This legislation would be a disaster for women's health," the doctor said.

Most of the doctors interviewed said they saw no moral difference between dismembering the fetus within the uterus or partially delivering it, intact, before killing it.

Several said they saw the bill as an opening wedge to outlawing all second-trimester abortions — and conceded that anti-abortion groups had won an important public-relations victory by focusing so much attention on late-term abortions, which are the least common but most emotionally fraught procedures.

According to the Alan Guttmacher Institute, a private group that studies reproductive health issues, almost nine out of 10 abortions are performed in the first trimester, when the procedure is relatively simple. About 164,000 abortions a year are performed during the second trimester, that is, at 13 to 26 weeks of gestation, but more than 9 out of 10 of these are before the 20th week.

Although second-trimester abortions are legal throughout the nation for any reason, few doctors perform abortions after 20 weeks, and while third-trimester abortions are legal in some states, only a few hundred take place each year. Third-trimester abortions are performed almost exclusively by a handful of doctors who get referrals from obstetricians whose patients have serious health

problems or are carrying fetuses with profound abnormalities.

Dr. Allan Rosenfield, dean of the Columbia University School of Public Health and a professor of obstetrics, said that he and a group of other doctors discussing the legislation had been unable to agree on what the law would cover — but did agree that it posed a threat to anyone who did second-trimester abortions.

"In a standard D&E, the fetus generally doesn't come out intact," Dr. Rosenfield said. "But you might very well bring down a leg at the start of the procedure, and if the definition is a beating heart, potentially any second-trimester abortion could fit this bill. My big worry is that if this becomes law, doctors will feel they have to go back to the less-safe second-trimester abortion methods we did until the 1980's, the installation procedures, in which the uterus is flooded with saline or urea."

Many of the doctors interviewed expressed concern that the legislation would shrink the pool of doctors willing to perform late-term abortions, especially since many of these doctors already face demonstrations and threats, and may not be willing to take on an additional worry about criminal prosecution.

"It really is such nonspecific and bizarre legislation that it's hard to tell what exactly they're trying to ban," said Dr. Mary Campbell, medical director of Planned Parenthood of Metro Washington. "Clearly they're anxious to prosecute anybody who's doing second- or third-trimester abortions. I know people who have said that this would be the end of their third-trimester practice, and probably their second."

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