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Testimony Senate Health & Welfare Committee - February 14, 2023

Thank you for the invitation to testify on S.37. I am aware that there is growing concern across the country surrounding the advertising practices of pregnancy services centers. These concerns center around the use of misleading advertisements that induce women to come to these centers for care and the dissemination of information about abortion that is inaccurate and inconsistent with evidence-based clinical medicine. There are certainly First Amendment considerations that you, as policy makers, will be weighing as you decide whether and how to regulate information on websites, in advertisements and in printed materials that are distributed by these centers. However, my purpose today is to speak more broadly to the ethical implications of deception and misinformation as it relates to health care decision-making and patient-centered care.

Important Definitions:

- ***Lying:*** statements made by an individual who knows they are false, or believes to be false, and are deliberately intended to mislead the listener. *(Lo, B. 2020)*
- ***Deception:*** broader than lying and includes all statements and actions that are intended to mislead the listener, whether or not the statements are literally true. Some techniques used to deceive patients include use of technical jargon, ambiguous statements, misleading or incomplete statistics, not answering questions directly or omitting important qualifying or contextual information. *(Lo B. 2020)*
- ***Misrepresentation:*** includes unintentional as well as intentional statements and actions that might or might not be true. Unintentional misrepresentations might occur due to inexperience, lack of knowledge and training or poor communication skills. *(Lo, B. 2020)*

Ethical Considerations:

In general, there are strong ethical objections to lying, deception and intentional misrepresentation. This is true even more so in medical decision-making given the importance that contemporary society places on patient autonomy and informed consent, as well as the necessity for trust in any clinician-patient relationship.

- ***Truth telling*** is a near absolute in medical ethics. It is how trained health care professionals demonstrate respect for patients, foster trust, promote self-determination and cultivate an environment where best practice in shared decision-making can flourish. Without veracity in information and communication, it is difficult for individuals to make informed, voluntary choices--essential in fulfilling autonomy-based obligations.

  Advertising strategies and educational information about health care options that lack transparency, use misleading or ambiguous terminology, misrepresent or obfuscate services provided, and/or provide factually inaccurate information are a form of manipulation that disrespects patients, undermines trust, broadens health disparity, and can result in patient harm.

- ***Professional Responsibility & Scope:*** Medical professionals have responsibilities to "do good" for their patients (by providing comprehensive, accurate, evidence-based clinical information) and to avoid disproportionate burdens and harms. Misrepresentation of services, inaccurate information about abortion and its risks, and lack of transparency about access to abortion and/or abortion referrals presents disproportionate burdens and may lead to delayed opportunity for timely intervention resulting in increased risks to women's health and undermining their well-being. Violations of these fundamental beneficence- and nonmaleficence-based obligations are not ethically defensible.

> Health professionals are obligated to engage with patients in a morally neutral manner—free from bias and judgement— prioritizing the primacy of the patient's interests over their own self-interest. It is unclear if the pregnancy service centers operating in Vermont are actual medical clinics with trained medical professionals or if they non-medical religious centers that provide faith-based perspectives on pregnancy and abortion from lay volunteers. Informing and counseling patients about the risks, benefit and alternatives of medical procedures are the core of the informed consent process. The responsibility of obtaining informed consent rests squarely within the scope of practice of physicians, advance practice nurses, and physicians assistants. It is ethically problematic, if not wholly impermissible, for individuals with limited or no medical knowledge to engage in clinical discussions that are beyond their scope of expertise. Doing so is akin to practicing medicine without a license, represents a safety issue, puts the health and welfare of women at risk and erodes public trust in the medical profession overall.
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> "Honest information about the perspective from which they [pregnancy service centers] dispense advice and support, in addition to forthright acknowledgement of their limitations, is essential for these centers to provide an ethical service to women."[i]

The Vermont Ethics Network supports the inclusion of language in S.37 to curtail the dissemination of deceptive and inaccurate information pertaining to abortion and related services provided by these centers.

Respectfully submitted,

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[i] *AMA J Ethics*. 2018;20(3):269-277. doi: 10.1001/journalofethics.2018.20.3.pfor1-1803
ii Lo, B. *Resolving Ethical Dilemmas: A guide for clinicians. Sixth Edition.* Wolters Kluwer 2020.