

Care in Crisis

An Investigation into Nebraska “Crisis Pregnancy Centers”

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Introduction

“Crisis pregnancy centers” (“CPCs”), often called “pregnancy resource centers” and disguised as medical clinics, provide counseling and other services designed to discourage or prevent people who are pregnant from accessing abortion.¹ Some CPCs provide pregnancy-related resources and counseling, while others also provide services like pregnancy tests and ultrasounds.² Many CPCs are affiliated with national anti-abortion organizations or evangelical Christian networks.³ CPCs do not offer abortion care or referrals to abortion providers nor do they offer contraception (although some CPCs provide education about and encourage natural family planning methods).⁴

Even though most CPCs are not medical clinics and are rarely staffed by medical professionals, it is common for CPCs to model themselves after medical facilities with “ultrasound machines, staff in white coats, medical-sounding names, and professional websites.”⁵ Importantly, however, laws such as the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) that protect patient information only apply to medical clinics and providers. Therefore, visitor information shared with CPCs is not protected and may not be confidential. CPCs typically establish themselves geographically near abortion clinics and choose

names that suggest they provide a wide range of family planning and abortion services.⁶ CPCs also utilize deceptive keyword-based online advertising campaigns, such that a keyword search for “abortion providers” will yield CPCs in search results without distinguishing the CPCs from abortion providers.⁷ CPCs promise to provide unbiased, medically accurate information; however, a Congressional investigation into CPC practices found that their services are decidedly anti-abortion and their information is often misleading or inaccurate.⁸ Ultimately, these tactics utilized by CPCs interfere with individuals’ ability to access healthcare such as contraception and abortion.

With the relentless efforts to push abortion care out of reach on the local, state, and federal levels, access to time-sensitive abortion care is as critical as ever. Delays in accessing care, such as an individual unknowingly engaging with a CPC, are increasingly likely to deny a person their ability to access abortion care. Even more alarming is that the same groups who are hurt most by abortion bans, including people experiencing poverty, young people, people of color, and people living in rural communities, are the same groups CPCs target. For example, CPCs intentionally and explicitly target people with low incomes and young people by offering free services, establishing locations near colleges and universities, and marketing their services to students.⁹

This report aims to shed light on CPCs throughout Nebraska; reveal common themes uncovered in reviewing CPC websites; and raise awareness that CPCs are not medical providers, have anti-abortion agendas, and interfere in the ability of Nebraskans to access needed healthcare.

CPCs in Nebraska

Our investigation¹⁰ identified 16 CPCs operating in 22 different locations in Nebraska, including:

- ABC Pregnancy Help Center (McCook)
- Assure Women’s Center (two Omaha locations)
- Beginnings Pregnancy Resource Center (O’Neill)
- Birthright (Chadron, Lincoln, Norfolk)
- Collage Center (Kearney, Grand Island)
- Essential Pregnancy Services (two Omaha locations, Bellevue)
- Hope Pregnancy Center (Superior)
- Life Choices Pregnancy Resource Center (Fremont)
- Ogallala Women’s Resource Center (Ogallala)
- Options Pregnancy Center (Scottsbluff)
- The Pregnancy Center (Lincoln)
- Wellspring Pregnancy & Health Center (Hastings)
- Willow Center (Beatrice)
- Women’s Care Center (Lincoln)
- Women’s Resource Center (North Platte)
- York Pregnancy and Family Resource Center (also known as York “Crisis Pregnancy Center”) (York)

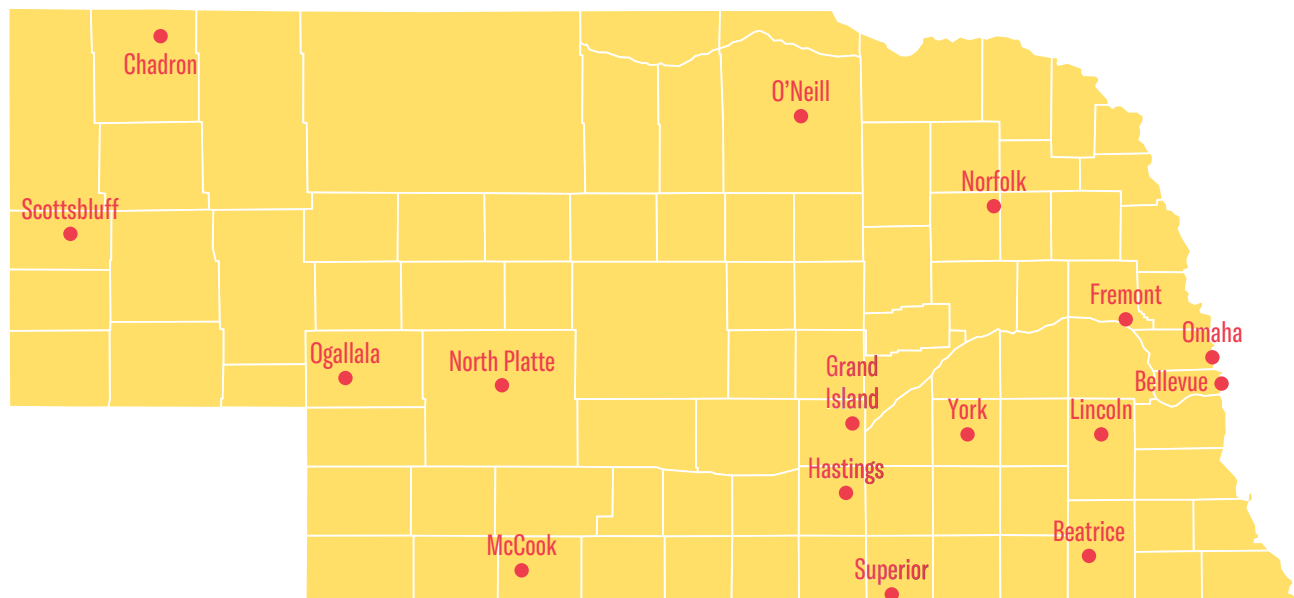


Figure 1. A map of CPC locations in Nebraska.

Findings

In reviewing each Nebraska CPC website, common themes, as detailed below, emerged. These findings raise concerns not only for those who visit these facilities or receive information from them, but also broader public health concerns that must be considered.

Failure to disclose that CPC is not a medical office and does not perform abortions

Out of the 16 CPCs reviewed, only one CPC website clearly disclosed that it is not a medical facility. The CPC websites frequently have sections or pages titled “Abortion,” but do not disclose or clarify that a client cannot obtain medical care, including abortion care, at the facility. Despite presenting themselves as equipped to counsel clients on *all* pregnancy options, a vast majority of CPC websites reviewed have a clear anti-abortion bias and lack information about birth control options or effectiveness.

Medically inaccurate information about abortion

The CPC websites reviewed contain numerous instances of medically inaccurate information, particularly as it relates to abortion care. For example, several websites inaccurately state or imply that emergency contraception, also called Plan B, is a form of abortion. Further, without citation or attribution, ten websites claim that women’s mental health is negatively affected after an abortion. Alarmingly, five websites suggest that abortion procedures should be delayed or postponed due to the probability of a miscarriage — arguing that there is no point in accessing abortion care if the pregnancy will likely result in a miscarriage. Given the extent

of Nebraska’s restrictions on abortion, especially the limited time frame in which abortion can be accessed, counseling clients to wait and see if they have a miscarriage poses a significant risk that by the time an individual decides they need to access abortion, it may be too late under Nebraska law.

Further, five CPC websites claim that medication abortion can be “reversed.” These websites falsely state that taking progesterone within 72 hours of taking mifepristone (the first pill in the medication abortion two-pill regimen) can “reverse the abortion and rescue the pregnancy.”¹¹ One website even includes the “Abortion Pill Reversal 24/7 helpline”¹² number that is also included on the Nebraska Department of Health and Human Services’ (DHHS) abortion web page after a law was passed to mandate the inclusion of abortion-reversal so-called “science” into Nebraska state law in 2019.¹³

Emphasis on “truth” at CPCs

Many of the CPC websites suggest that abortion providers and other medical professionals fail to provide complete and accurate information to visitors, implying that clients must go to a CPC to receive the truth about their pregnancy options. Nearly all the websites use the following or similar language to imply that abortion providers will perform abortions without verifying the existence and timing of the pregnancy: “An abortion procedure should only be performed on women who have a viable (capable of living) pregnancy.”¹⁴ Because these websites do not disclose that abortion providers are required to confirm a pregnancy prior to the abortion, CPCs imply to website visitors that an individual seeking an abortion should go to a CPC to get confirmation of pregnancy before scheduling an abortion.

Religious affiliation and providing incentives

Many CPCs in Nebraska are religiously affiliated, with some CPCs offering pro-life parenting classes and incentives for completion, including money and childcare essentials. Other CPCs offer free diapers and baby clothes without training components, presumably to promote the idea that clients will have the necessary and ongoing support to parent.

Characterizing abortion as dangerous and including graphic descriptions of abortion

Many of the reviewed CPC websites provide graphic descriptions of abortion that do not reflect accurate medical terminology.¹⁵ In fact, several of the websites included a dramatized animated video showing a medical instrument removing an animated fetus from a uterus.¹⁶ The use of graphic, specific language, and visceral imagery to describe abortion procedures is a common tactic designed to scare individuals who are considering abortion as an option. Tellingly, though nine of the websites provide graphic descriptions of abortion procedures, not one of the websites provides comparable descriptions of childbirth and C-section procedures.

Most of the websites present abortion as a dangerous medical procedure. Even though it is medically established that the risks of abortion are low and typically short-lived,¹⁷ the CPC websites reviewed state only the risks and consequences of abortion, without any discussion of the probability or severity of those risks

Characterizing abortion as having an absolute negative effect on parental mental health and parenting as having an absolute positive effect on parental mental health

The CPC websites discuss abortion in terms of women who have been “affected by” abortion,¹⁸ who have experienced the “trauma” of abortion,¹⁹ or who require “post-abortive healing,”²⁰ without any discussion of those who feel positively about their abortion decision. On the other hand, the CPC websites frequently suggest that parenting only produces positive outcomes.²¹



Figure 2. Pictures of sad women appear only on pages describing abortion on several CPC websites.²²

Misleading, unreliable, or fake citations

A pattern of CPC websites using misleading, unreliable, or no citations at all also emerged. For example, misleading citations appeared on two reviewed websites suggesting that emergency contraception, or Plan B, works “not as well as was originally advertised. It is intended for use within 72 hours of intercourse”²³ and provides two citations. Both sources cited provide accurate information about Plan B, but neither source suggests that Plan B does not work as well as advertised. Moreover, some CPC websites make medical and statistical claims with no supporting citations at all. For instance, one website claims that “33% of American women experience abortion...7 of 8 fear others learning of the abortion...82% experience feelings of loneliness or isolation... [and] 25 years is the average delay in seeking recovery”²⁴ without providing any citations to support those statistics.

“Even though these centers claim to give you complete information about every option, they definitely don’t. I was just out of an abusive relationship with an unexpected pregnancy when I went to a ‘crisis pregnancy center.’ When I shared that I was considering ending the pregnancy, instead of providing support and accurate information, they told me I was a full month later in my pregnancy than I actually was so I thought I had less time to make my decision. They showed me pamphlets that claimed abortion care was extremely dangerous and could permanently impact my ability to have kids in the future. They then told me the support they offer to single mothers as we sat next to a table with religious material on it, even though I had already told them I planned to seek an abortion. At no point did I feel like I was supported in my personal health care decision and it wasn’t until I went to an actual medical facility that I learned they had given me wildly inaccurate information about my pregnancy so I didn’t even have the ability to make a decision. I know a lot of people — especially young people — turn to these centers because they claim to offer support on every option at no cost. Nebraskans deserve to know that’s not what happens.”

JENNIFER, OMAHA

Strategies to Address Problematic CPC Practices

Tactics including legislation, legal challenges, and public education campaigns have been used throughout the country to challenge problematic CPC practices.

Legislation

Some states and municipalities have passed legislation requiring CPCs to disclose that they are not licensed medical clinics and/or that they do not provide or refer for abortion services; however, such legislation will likely be unenforceable after the 2018 U.S. Supreme Court case of *National Institute of Family & Live Advocates (NIFLA) v. Becerra*. The California statute at issue in *NIFLA* required licensed CPCs to notify visitors that California provides free abortion services and required unlicensed CPCs to notify visitors that they are not licensed medical clinics. Ultimately, the statute was struck down as unconstitutional based upon the Court's determination of violating the First Amendment's protection of free speech by including content-based speech regulations.²⁵

Even though the *NIFLA* decision severely limits states' abilities to mandate CPC disclosures, one CPC disclosure mandate has survived post-*NIFLA*. In *First Resort, Inc. v. Herrera*, the Ninth Circuit upheld municipal legislation requiring CPCs to make disclosures only when the CPCs violated legislation prohibiting false or misleading advertisements.²⁶ Cities and states may be able to pass legislation prohibiting CPCs from making false claims because they have a compelling interest in preventing fraud and the First Amendment does not protect false statements made with the intent to deceive.²⁷

Legal Challenges

It may be possible to pursue successful legal claims against CPCs using pre-existing laws and civil liability theories. For example, clients who have been physically touched by a CPC staff member (e.g., having their pulse taken or undergoing a vaginal exam or ultrasound) could possibly bring a battery claim if they could show that they consented to the touching under false pretenses.²⁸ Claims of negligence and fraudulent misrepresentation may also be available to clients who justifiably relied on the CPC's false claims about the timeline of pregnancy or the future availability of abortion.²⁹ Some states have also created an individual cause of action for "wrongful pregnancy" in order to compensate parents for the expenses and intangible losses related to an unwanted pregnancy.³⁰

Another legal option may be to criminally prosecute the CPCs for the unlicensed practice of medicine. Unlicensed CPCs may violate laws regulating medical practitioners by diagnosing pregnancies, discussing prenatal care, and using ultrasound technology.³¹ Moreover, legal actions for violations of false advertising or deceptive business practice may also limit the ability of CPCs to intentionally deceive women in need of abortion care.³² However, as there is no private right of action for these type of claims, the state licensing board and local prosecutors would have to decide to pursue such a claim.³³ Other regulations of medical professionals, such as laws prohibiting holding oneself out as a medical professional without a license, may also succeed at regulating CPC conduct.³⁴

Public Education Campaigns

Public education campaigns designed to educate residents about CPCs' deceptive practices and legitimate reproductive healthcare services have been and can be successful in addressing the problematic practices of CPCs. These

campaigns highlight the limited nature of pregnancy centers' services, their deceptive practices, and the availability of comprehensive healthcare alternatives.

Conclusion

The common practices of Nebraska CPCs, particularly in the information disseminated on their websites and presumably shared at in-person client visits and appointments, raise numerous concerns for Nebraskans seeking reproductive health care because CPCs

consistently propagate medically inaccurate information. Even more concerning is that CPCs providing this deceptive information often hold themselves out as medical providers, yet they do not provide medical care including birth control or abortion care, nor are they bound to comply with HIPAA, or other regulations aimed to protect patients. Especially in a legal landscape increasingly hostile to abortion rights and abortion access, exposing these facilities has become even more important in ensuring that all Nebraskans can access accurate, reliable, non-biased information and medical care concerning their reproductive health.

Table 1: Abortion Information Provided on CPC Websites

Abortion Information	Number of CPCs	Percent of CPCs
Biased anti-abortion information/guidance	10	63%
Graphic descriptions of abortion procedures	9	56%
Claim that abortion should be postponed due to likelihood of early miscarriage	5	31%
Claim that medication abortions can be reversed	5	31%
Claim that Plan B is a form of abortion	2	13%
Claim a link between abortion and death	2	13%
Claim a link between abortion and future miscarriages or premature births	1	6%
Claim that women's mental health suffers after an abortion	10	63%
Claim that some women regret having an abortion	6	38%

Table 2: Services Provided by Nebraska CPCs

Service	Number of CPCs	Percent of CPCs
Qualified, trained medical personnel on staff ³⁵	2	13%
Free pregnancy tests	16	100%
Free ultrasounds	11	69%
STI testing, treatment, and counseling	5	31%
STI counseling only	4	25%
"Post-abortion" counseling	8	50%

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ENDNOTES

- 1 MINORITY STAFF OF THE H.R. COMM. ON GOV'T REFORM SPECIAL INVESTIGATIONS DIV., 109TH CONG., FALSE AND MISLEADING HEALTH INFORMATION PROVIDED BY FEDERALLY FUNDED PREGNANCY RESOURCE CENTERS 1 (2006) (prepared for Rep. Waxman), <https://motherjones.com/files/waxman2.pdf> [hereinafter Waxman].
- 2 ASSURE WOMEN'S CTR., <https://assureomaha.com/> (last visited Apr. 13, 2022); BEGINNINGS PREGNANCY RESOURCE CTR., <https://beginningspregnancycenter.com/> (last visited Apr. 13, 2022); LIFE CHOICES, <https://fremontpregnancy.com/> (last visited Apr. 13, 2022)
- 3 Waxman, *supra* note 1.
- 4 Joanne D. Rosen, *The Public Health Risks of Crisis Pregnancy Centers*, GUTTMACHER INST. (Sept. 10, 2012), <https://www.guttmacher.org/journals/psrh/2012/09/public-health-risks-crisis-pregnancy-centers>.
- 5 *What are Crisis Pregnancy Centers?*, PLANNED PARENTHOOD (Nov. 4, 2021, 6:03 PM), <https://www.plannedparenthood.org/blog/what-are-crisis-pregnancy-centers>.
- 6 NAT'L ABORTION FED'N, *Crisis Pregnancy Centers: An Affront to Choice* (2006), http://www.prochoice.org/pubs_research/publications/downloads/public_policy/cpc_report.pdf; See, e.g., WOMEN'S CARE CTR., <https://www.womenscarecenter.org/> (last visited Apr. 13, 2022); OPTIONS PREGNANCY CTR., <https://opcnebraska.org/> (last visited Apr. 13, 2022).
- 7 NARAL PRO-CHOICE AMERICA, *Crisis Pregnancy Centers Lie: The Insidious Threat to Reproductive Freedom*, <https://www.prochoiceamerica.org/wp-content/uploads/2017/04/cpc-report-2015.pdf>.
- 8 Waxman, *supra* note 1.
- 9 NAT'L ABORTION FEDERATION, *supra* note 6.
- 10 ACLU of Nebraska first reviewed the websites of the state-sanctioned list of ultrasound providers compiled by Nebraska's Department of Health and Human Services and identified that two (2) of 18 state-sanctioned ultrasound providers on the list were CPCs. Internet searches and review of online lists on websites, including Ramah Internal, Heartbeat International, CareNet, and the National Institute of Family and Life Advocates, revealed 16 unduplicated CPCs across 22 different locations in Nebraska.
- 11 *Abortion*, BEGINNINGS PREGNANCY RESOURCE CTR., <https://beginningspregnancycenter.com/pregnancy-options/abortion-oneill-nebraska/> (last visited Apr. 13, 2022).
- 12 *Abortion Information*, OPTIONS PREGNANCY CTR., <https://opcnebraska.org/be-informed/abortion-information>.
- 13 L.B. 209, 106th Leg., 1st Sess. (Neb. 2019), <https://nebraskalegislature.gov/FloorDocs/106/PDF/Final/LB209.pdf>.
- 14 *Abortion Information*, OGALLALA WOMEN'S RESOURCE CTR., <https://ogallalawrc.com/be-informed/abortion-information> (last visited Apr. 13, 2022).
- 15 See BEGINNINGS PREGNANCY RESOURCE CTR., *supra* note 11.
- 16 *Pregnancy Options*, WILLOW CTR., <https://willowcenter.net/pregnancy-options/> (last visited Apr. 13, 2022).
- 17 See Alison Kodjak, *Landmark Report Concludes Abortion In U.S. Is Safe*, NPR (Mar. 16, 2018, 11:00 AM), <https://www.npr.org/sections/health-shots/2018/03/16/593447727/landmark-report-concludes-abortion-is-safe>.
- 18 *Support After Your Abortion*, OGALLALA WOMEN'S RESOURCE CTR., <https://ogallalawrc.com/be-informed/abortion-recovery> (last visited Apr. 13, 2022).
- 19 *Recovery After Abortion*, BEGINNINGS PREGNANCY RESOURCE CTR., <https://beginningspregnancycenter.com/begin-healingandhope/> (last visited Apr. 13, 2022).
- 20 WOMEN'S RESOURCE CTR., <https://pregnancynorthplatte.com/> (last visited Apr. 13, 2022).
- 21 WILLOW CTR, *supra* note 16.
- 22 OGALLALA WOMEN'S RESOURCE CTR., *supra* note 14; OPTIONS PREGNANCY CTR., *supra* note 12.
- 23 *What is the Morning-After Pill?*, BEGINNINGS PREGNANCY RESOURCE CTR., <https://beginningspregnancycenter.com/morning-after-pill-oneill-nebraska/> (last visited Apr. 13, 2022).
- 24 BEGINNINGS PREGNANCY RESOURCE CTR., *supra* note 19.
- 25 *Nat'l Inst. of Fam. & Life Advocs. v. Becerra*, 138 S. Ct. 2361 (2018).
- 26 *First Resort, Inc. v. Herrera*, 860 F.3d 1263 (9th Cir. 2017).
- 27 Diane Kee, *Reclaiming Access to Truth in Reproductive Healthcare After National Institute of Family & Life Advocates v. Becerra*, 119 MICH. L. REV. 175 (2020).
- 28 Teneille R. Brown, *Crisis at the Pregnancy Center: Regulating Pseudo-Clinics and Reclaiming Informed Consent*, 30 YALE J.L. & FEMINISM 221 (2018).
- 29 Kee, *supra* note 29.
- 30 Hayley E. Malcolm, *Pregnancy Centers and the Limits of Mandated Disclosure*, 119 COLUM. L. REV. 1133 (2019).
- 31 Brown, *supra* note 30.
- 32 Rosen, *supra* note 4.
- 33 Brown, *supra* note 30.
- 34 Kee, *supra* note 29.
- 35 Other CPCs may have medical personnel on staff as this information was gathered from information about medical personnel on staff from CPC websites.