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Office of the Attorney General

July 17, 2015

The Honorable Doug Lamborn
United States House of Representatives
2402 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Lamborn:

Thank you for sending me a copy of your July 17, 2015 letter to Dr. Tony Frank, President of Colorado State University ("CSU"). Since I was made aware earlier this week of allegations concerning the sale of fetal tissue, I have been following this matter closely.

I have reviewed pertinent federal and state law, including the legislation you introduced in 2000, now codified at C.R.S. § 25-2-111.5. Enforcement of that statute falls within the jurisdiction of the Colorado Department of Public Health and Environment ("CDPHE"), a state agency which, along with CSU, my office represents. For that reason, I am sending a copy of this letter to Dr. Larry Wolk, the Executive Director of CDPHE, to ensure that he is apprised of this matter. Also, as you are undoubtedly aware, jurisdiction to enforce criminal violations of federal statutes lies with the United States Department of Justice. I am therefore sending a copy of this letter to John Walsh, the United States Attorney for the District of Colorado.

I will continue to carefully monitor this situation. Please do not hesitate to contact me if you would like to discuss this matter further.

Sincerely,

Cynthia H. Coffman
COLORADO ATTORNEY GENERAL

cc: Dr. Larry Wolk, Executive Director and Chief Medical Officer for the Colorado
Department of Public Health and Environment
Dr. Tony Frank, President, Colorado State University
John F. Walsh, United States Attorney, District of Colorado

Colorado General Assembly

Session Laws of Colorado 2000
Second Regular Session, 62nd General Assembly

CHAPTER 240

HEALTH AND ENVIRONMENT

HOUSE BILL 00-1468 [Digest]

BY REPRESENTATIVES Paschall, May, Fairbank, Hefley, Mitchell, Nuñez, Scott, Sinclair, Clapp, Dean, Decker, Lee, and McKay;
also SENATORS Lamborn, Andrews, Arnold, Congrove, Hiltman, Teck, Chlouber, Epps, Murgrave, Nichol, Owen, Sullivant, and Tebedo.

AN ACT

CONCERNING THE USE OF FETAL TISSUE FROM INDUCED TERMINATION OF PREGNANCY.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 25-2-102, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

25-2-102. **Definitions.** As used in this article, unless the context otherwise requires:

(2.7) "INDUCED TERMINATION OF PREGNANCY" MEANS THE PURPOSEFUL INTERRUPTION OF A PREGNANCY WITH AN INTENTION OTHER THAN PRODUCING A LIVE-BORN INFANT OR REMOVING A DEAD FETUS AND THAT DOES NOT RESULT IN A LIVE BIRTH.

SECTION 2. Article 2 of title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

25-2-111.5. **Transfer of fetal tissue from induced termination of pregnancy - legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT THE UNITED STATES CONGRESS ENACTED 42 U.S.C. SEC. 289g-2, PROHIBITING THE ACQUISITION, RECEIPT, OR OTHER TRANSFER OF HUMAN FETAL TISSUE FOR VALUABLE CONSIDERATION IF THE TRANSFER AFFECTS INTERSTATE COMMERCE. THE GENERAL ASSEMBLY DETERMINES AND DECLARES THAT THE ACQUISITION, RECEIPT, OR OTHER TRANSFER OF HUMAN FETAL TISSUE FOR VALUABLE CONSIDERATION AFFECTS INTRASTATE COMMERCE AND IS NOT IN THE PUBLIC INTEREST OF THE RESIDENTS OF COLORADO. THEREFORE, THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT THE EXCHANGE FOR VALUABLE CONSIDERATION OF HUMAN FETAL TISSUE SHOULD BE PROHIBITED.

(2) (a) NO PHYSICIAN OR INSTITUTION THAT PERFORMS PROCEDURES FOR THE INDUCED TERMINATION OF PREGNANCY SHALL TRANSFER SUCH TISSUE FOR VALUABLE CONSIDERATION TO ANY ORGANIZATION OR PERSON THAT CONDUCTS RESEARCH USING FETAL TISSUE OR THAT TRANSPLANTS FETAL TISSUE FOR THERAPEUTIC PURPOSES. FOR THE PURPOSES OF THIS SECTION, "VALUABLE CONSIDERATION" INCLUDES, BUT IS NOT LIMITED TO:

(1) ANY LEASE-SHARING AGREEMENT IN EXCESS OF THE CURRENT MARKET VALUE FOR COMMERCIAL RENTAL PROPERTY FOR THE AREA IN WHICH THE PHYSICIAN'S OR INSTITUTION'S PLACE OF BUSINESS IS LOCATED;

(II) ANY LEASE-SHARING AGREEMENT THAT IS BASED ON THE TERM OR NUMBER OF INDUCED TERMINATIONS OF PREGNANCY PERFORMED BY SUCH PHYSICIAN OR INSTITUTION;

(III) ANY MONEYS, GIFTS IN LIEU OF MONEY, BARTER ARRANGEMENTS, OR EXCHANGE OF SERVICES THAT DO NOT CONSTITUTE REASONABLE PAYMENT ASSOCIATED WITH THE TRANSPORTATION, IMPLANTATION, PROCESSING, PRESERVATION, QUALITY CONTROL, OR STORAGE OF HUMAN FETAL TISSUE AS DEFINED IN 42 U.S.C. SEC. 289 g-2; OR

(IV) ANY AGREEMENT TO PURCHASE FETAL TISSUE FOR A PROFIT.

(b) NOTHING IN THIS SUBSECTION (2) SHALL PREVENT THE DISPOSITION OF FETAL TISSUE FROM AN INDUCED TERMINATION OF PREGNANCY PURSUANT TO PART 4 OF ARTICLE 15 OF THIS TITLE.

(3) ANY PHYSICIAN OR INSTITUTION THAT VIOLATES SUBSECTION (2) OF THIS SECTION SHALL BE FINED BY THE STATE REGISTRAR NOT MORE THAN TEN THOUSAND DOLLARS, DEPENDING UPON THE SEVERITY OF THE VIOLATION.

(4) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT MAY PROMULGATE RULES RELATED TO ENFORCEMENT ACTIVITIES NECESSARY TO IMPLEMENT SUBSECTIONS (2) AND (3) OF THIS SECTION.

SECTION 3. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to all induced terminations of pregnancy on or after the applicable effective date of this act.

Approved: May 26, 2000

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

Session Laws of Colorado Digest of Bills General Assembly State of Colorado

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COLORADO

**CARY SMITH (SISK) v. PLANNED PARENTHOOD OF THE ROCKY MOUNTAINS, ET AL. –
CIVIL CASE**

Denver District Court, Case No. 2014 CV 21778

A pregnant 13-year-old child was brought to the Denver abortion facility of Planned Parenthood of the Rocky Mountains (PPRM) by her step-father, Timothy Smith, who had been sexually abusing her for seven years. PPRM failed to look into the suspicious circumstances pursuant to its “don’t ask, don’t tell” policy. It performed the abortion without notifying the child’s parents or reporting suspected abuse as required by Colorado law. Moreover, they sent the girl back home with Smith who continued to abuse her for months.⁴¹ Smith was eventually prosecuted and incarcerated for his crimes, and the child’s mother brought a civil case against PPRM on behalf of her daughter. The court allowed the plaintiff to pursue punitive damages, noting that she had established a *prima facie* case that Planned Parenthood “purposefully committed conduct which they must have realized as dangerous, and performed it heedlessly and recklessly, without regard to consequences, or of the rights and safety of others, particularly [the child].” Planned Parenthood settled the case.

⁴¹ See, e.g. Motion to Amend (re: Punitive Damages), *Cary Smith (Sisk) v. Planned Parenthood of the Rocky Mountains, et al.*, Denver Dist. Ct., Case No. 2014 CV 21778; Order Granting Motion to Amend, *Cary Smith (Sisk) v. Planned Parenthood of the Rocky Mountains, et al.*, Denver Dist. Ct., Case No. 2014 CV 21778; various deposition transcripts, *Cary Smith (Sisk) v. Planned Parenthood of the Rocky Mountains, et al.*, Denver Dist. Ct., Case No. 2014 CV 21778.



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8/27/2015	Credit Card	1030799
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10/04/2015

BILL TO

University of CO-Denver
[REDACTED]
12700 E 19th Avenue
Aurora, CO 80045

PROC. DATE	PATIENT ID	ABR ID	GEST	DESCRIPTION	RESEARCHER	FEE
8/27/2015	[REDACTED]	9034	22	Skin, 2nd Trimester 10/04/15 PAID via [REDACTED] Request by [REDACTED] 11/17/15 PAID DUPLICATE Emailed to [REDACTED] [REDACTED] per request.	[REDACTED]	340.00
Total						\$340.00

