

POLICY FORUM

Why Crisis Pregnancy Centers Are Legal but Unethical

Amy G. Bryant, MD, MSCR, and Jonas J. Swartz, MD, MPH

Abstract

Crisis pregnancy centers are organizations that seek to intercept women with unintended pregnancies who might be considering abortion. Their mission is to prevent abortions by persuading women that adoption or parenting is a better option. They strive to give the impression that they are clinical centers, offering legitimate medical services and advice, yet they are exempt from regulatory, licensure, and credentialing oversight that apply to health care facilities. Because the religious ideology of these centers' owners and employees takes priority over the health and well-being of the women seeking care at these centers, women do not receive comprehensive, accurate, evidence-based clinical information about all available options. Although crisis pregnancy centers enjoy First Amendment rights protections, their propagation of misinformation should be regarded as an ethical violation that undermines women's health.

What Are Crisis Pregnancy Centers?

Drive down any highway in America, and you might see a sign: "Pregnant? Scared? Call 1-800-555-5555." Most often, these signs are advertisements for crisis pregnancy centers (CPCs). CPCs, sometimes known as "pregnancy resource centers," "pregnancy care centers," "pregnancy support centers," or simply "pregnancy centers," are organizations that seek to intercept women with unintended or "crisis" pregnancies who might be considering abortion. Their mission is typically to prevent abortions by persuading women that adoption or parenting is a better option [1, 2]. One of the first CPCs opened in 1967 in Hawaii [3].

Most CPCs are religiously affiliated [4], and a majority are affiliated with a network or umbrella organization such as Birthright International, Care Net, Heartbeat International, or the National Institute of Family and Life Advocates [1, 3]. These umbrella organizations offer legal support, ultrasound training, and other services to CPCs. With an estimated 1,969 network-affiliated CPCs in the US in 2010 [1], CPCs outnumber abortion clinics, which were estimated at 327 as of 2011 [5]. Many state governments fund CPCs through mechanisms such as "Choose Life" specialty license plates and grants, and many also receive federal funding [3, 6].

In this article, we will argue that both the lack of patient-centered care and deceptive practices make CPCs unethical. We will first highlight the discrepancy between the lack of standards for quality of care provided by CPCs and the innumerable restrictions on abortion clinics. We then show that CPCs violate principles of medical ethics, despite purporting to dispense medical advice. Finally, we will review legal challenges to CPCs, including an upcoming Supreme Court case, and regulatory challenges in an industry that seeks to be perceived as providing health care while simultaneously seeking to elude the need to be held to evidence-based standards of caring for women with unexpected pregnancies.

What Do Crisis Pregnancy Centers Do?

What might not be immediately apparent to someone seeking help at a CPC is that these centers take a distinct anti-abortion approach to pregnancy in that unintended or “crisis” pregnancies have two viable options, adoption or parenting. Multiple “undercover” or “secret shopper” surveys of CPCs and detailed reviews of the centers’ promotional materials and websites reveal that these centers give the impression of being medical clinics or having medical expertise [3, 7-9]. Often using neutral-sounding language, these centers offer to help women with free pregnancy tests, [ultrasounds](#), testing for sexually transmitted infections, and counseling on “all options” for pregnancy. In addition, pregnant women are often offered resources such as maternity clothes, diapers, and parenting classes. These centers often offer to give a “pregnancy verification” form, which women can use to enroll in prenatal care or to apply for government assistance with medical care (e.g., Medicaid or the Special Supplemental Nutrition Program for Women, Infants, and Children) [3, 8, 9].

CPCs, as a rule, not only discourage abortion but also refuse to provide referrals to abortion clinics, although they often provide “counseling” about “dangers associated with premarital sexual activity” [10]. Women who visit CPCs typically do not realize that they are not in an abortion clinic and are surprised to find that abortion is not considered an option at these centers [3]. As obstetrician-gynecologists, we have had several disgruntled patients come to us who were disappointed and felt deceived by the care that they had received at CPCs.

Arguments against Crisis Pregnancy Centers

CPCs have received criticism from lawmakers, physicians, scholars, and reproductive rights organizations for many of their practices [2, 3, 11]. They strive to appear as sites offering clinical services and unbiased advice. Lay volunteers who are not licensed clinicians at CPCs often wear white coats and see women in exam rooms [3, 8]. They also purport to provide medical advice on a variety of issues, including sexually transmitted infections, early pregnancy, and abortion [3, 8]. Because centers are sometimes located close to abortion clinics and have names and logos similar to nearby abortion clinics,

women could mistakenly seek care there rather than at the intended clinic. They also seek to target women who are most likely to seek abortion, particularly low-income women and women of color [12]. These strategic practices appear designed to mislead abortion clinic clients [3, 8].

Despite looking like legitimate clinics, most CPCs are not licensed [9, 13], and their staff are not licensed medical professionals [13]. CPCs that are not licensed medical clinics cannot legally be held to the privacy provisions of the Health Insurance Portability and Accountability Act (HIPAA) [3], which could lead to violations of [client privacy](#). For example, client information might not be kept confidential, and information about pregnancy or abortion intentions might be shared with people outside the clinic [14, 15]. Some CPCs have adopted a “Commitment of Care and Competence” statement that is provided by umbrella organizations, such as Heartbeat International and Care Net [16, 17]. This statement includes provisions on patient confidentiality and accurate clinical information; however, adoption of these guidelines is optional and adherence is not regulated or enforced [3].

Perhaps most worrisome, regardless of whether a particular location is licensed, CPCs engage in counseling that is misleading or false [8]. Despite claims to the contrary, these centers do not meet the standard of patient-centered, quality medical care [18]. The counseling provided on abortion and contraception by CPCs falls outside accepted medical standards and guidelines for providing evidence-based information and treatment options. For example, CPCs often suggest a link between abortion and subsequent serious mental health problems [3], while multiple studies have invalidated this assertion [19-21]. Similarly, centers cite debunked literature showing an association between abortion and breast cancer [22]. Although abortion has been shown to be safer than childbirth [23], it is portrayed as a dangerous or even deadly procedure [7].

Contrary to the claim that many CPCs make that they provide comprehensive services and offer women “all options,” most of these centers do not provide comprehensive women’s reproductive health care, abortion care, or referrals for abortion [1, 3]. For example, CPCs tend to avoid discussion of contraception and dismiss the role of condoms in preventing sexually transmitted infections [24].

Are Crisis Pregnancy Centers Legal?

The question of whether CPCs are “legal” is complicated. Centers lack regulatory oversight as they are not medical practices and do not charge for services. This exempts them not only from laws and statutes specific to medical clinics but also from Federal Trade Commission or state regulations that apply to commercial enterprises. Their practices are considered to fall under the classification of free speech, which is protected by the First Amendment [2, 11]. This makes them much harder to regulate and provides

them with a loophole to avoid scrutiny while providing information that does not conform to medical standards of care.

Multiple, largely unsuccessful legal challenges have been brought against CPCs, mainly in the form of local ordinances that require them to disclose that they are not medical centers and that they do not refer for abortion [4, 9]. One notable exception is the Reproductive FACT Act in California, which requires CPCs to offer information on where clients can obtain a full scope of low-cost or free reproductive health services. CPCs without a physician on staff must also disclose their unlicensed status [13]. This law was upheld by the Ninth Circuit Court of Appeals in October 2016 [13], but it is likely to be heard before the Supreme Court in March 2018 [25]. A ruling by the Supreme Court in favor of CPCs could definitively hamper efforts to curb deceptive practices by considering them free speech. This would be unjust because of the harms to women incurred by inaccurate information provision and by an organization's noncompliance with regulations such as HIPAA. Seeking abortion is time-sensitive; providing inaccurate information causes delays that can lead to higher costs and risks or even an inability to receive care [8]. The safety and well-being of women seeking abortion or any reproductive health care should take precedence over free speech, particularly when exercising that right can harm patients.

In stark contrast, despite receiving no federal and often no state funding [26], abortion clinics face increasingly high legal barriers [11]. Abortion clinics are strictly regulated, and abortion practice is often restricted by waiting periods, gestational age limits, and targeted regulation of abortion providers (TRAP) laws [11, 27]. Moreover, several states require medically inaccurate scripts and counseling that fail to protect free speech for abortion providers [27]. In North Carolina, where we practice, the state requires directed counseling, and informed consent must be given 24 hours prior to an abortion procedure [28]. This mandated counseling includes information on how women can see real-time images of the fetus and hear the heartbeat through an agency that provides this service for free; in other words, health care professionals must let women seeking abortion know about the existence of CPCs.

Are Crisis Pregnancy Centers Unethical?

Because CPCs purport to offer medical advice and care, it seems reasonable to expect them to abide by medical ethical principles. Four fundamental principles are widely recognized as guides to practice: beneficence, nonmaleficence, respect for autonomy, and justice [29]. Beneficence requires that treatment and care do more good than harm; that the benefits outweigh the risks, and that the greater good for the patient is upheld [29]. Providing inaccurate and misleading information violates the principle of beneficence because it is not patient-centered and does not fully consider the patient's well-being. Anti-abortion ideology thus supersedes the needs, values, and preferences of the woman seeking care. Respect for autonomy is similarly not expressed, because a

key component of autonomy is having the information needed to make an informed decision and the ability to make medical decisions free of coercion. Again, by placing ideology over accurate and comprehensive counseling, CPCs violate respect for a woman's autonomy by failing to give her the tools necessary to make the decision that is best for her life and circumstances [3].

Nonmaleficence, or the idea that health care professionals should "do no harm," is violated in multiple ways by CPCs. First, because these centers might tell women they have "plenty of time" to get an abortion, they could delay access to abortion, which could lead to women missing the gestational age cut-off for abortion in a given state; expose women to more involved and slightly riskier procedures at higher gestational ages; or cause women to miss the opportunity for abortion altogether [8]. Second, false or misleading information about contraception, condoms, and abortion could lead to unnecessary anxiety or failure to use measures that protect against sexually transmitted infections [24].

From a public health standpoint, these centers endanger women by misinterpreting and misrepresenting medical evidence. States implicitly endorse these centers when they provide support for them. Women are put in a difficult position when they have to navigate a perplexing landscape: abortion is safe and legal in every state, yet some states support and promote centers that provide inaccurate information on abortion. These conflicting messages presume a level of sophistication on the part of patients—that they understand the political landscape that underlies the abortion debate and that they are able to make informed, autonomous decisions despite the misinformation that they are given [11].

Distributive justice assumes a fair distribution of resources. In the setting of CPCs, justice is violated when women are not apprised of the availability of abortion services and access to abortion is consequently obstructed. Moreover, CPCs often target low-income women and women of color, adolescents, and women with less formal education [3, 12]. By [impeding access](#) to abortion through delays, expense, or other tactics, CPCs may propagate racial, ethnic, and socioeconomic inequities [12]. Multiple factors contribute to women's seeking to terminate a pregnancy, including economic considerations, the need to parent other children, relationship factors, professional aspirations, and educational goals [30, 31]. Those who are unable to obtain an abortion might be less likely to have and achieve aspirational goals, which affect overall well-being, and are exposed to the greater health risk of carrying a pregnancy to term [23, 32].

What are the ethical obligations of CPC personnel? CPCs are often staffed by lay volunteers [13], but many have volunteers who are licensed medical professionals such as nurses, physicians, and ultrasound technicians [1]. Even in their capacity as volunteers, health care professionals should conform to the ethical standards guiding

their profession. It is less clear what the standards for providing ethical care should be for lay volunteers. However, given that the federal government and 14 states fund CPCs [13], taxpayers should expect that all volunteers adhere to accepted medical ethical standards when providing health care advice.

Towards a More Ethical Approach

As nonprofit organizations, CPCs have the right to exist. Indeed, they could provide a valuable resource for some women, particularly those seeking material support for a pregnancy they plan to continue [33]. However, as we have seen, they also employ dubious communication strategies— withholding information about abortion referral, not being transparent about clinically and ethically relevant details, or using inflammatory language to scare women and dissuade them from having abortions [3, 8, 9].

Honest information about the perspective from which they dispense advice and support, in addition to forthright acknowledgement of their limitations, is essential for these centers to provide an ethical service to women. For no other medical procedure would someone who is not a health care professional seek to give detailed counseling on the risks of the procedure. CPCs should provide clear advertising and refrain from providing misleading and false information about abortion. Clear acknowledgement that no abortion referrals will be made would also be a step in the right direction. Until taxpayers can be assured that these centers conform to ethical standards of licensed medical facilities, offer sound medical advice, and do not lead to harm, states should refrain from directly or indirectly funding these centers.

Finally, health care professionals should be aware of the existence of CPCs and alert to the harms they can cause. Because primary care physicians who encounter pregnancy diagnoses may not be comfortable with options counseling [34], they should educate themselves about where women can obtain comprehensive reproductive health care locally to avoid referrals to CPCs for women considering abortion. Health care professionals also should support laws, like California's, that regulate CPCs by preventing them from withholding critical information about abortion availability from women seeking abortion.

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Amy G. Bryant, MD, MSCR, is an assistant professor of obstetrics and gynecology in the Family Planning Division at the University of North Carolina School of Medicine in Chapel Hill. Her research interests include abortion access, crisis pregnancy centers, and postpartum, long-acting, reversible contraception.

Jonas J. Swartz, MD, MPH, is a clinical fellow in family planning at the University of North Carolina School of Medicine in Chapel Hill. He did his residency training at Oregon Health & Sciences University and his research interests include contraception coverage, abortion policy, health reform, and immigration.

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