

C A M P A I G N F O R

ACCOUNTABILITY

December 17, 2024

VIA EMAIL

The Honorable Michelle Henry
Attorney General for Pennsylvania
Strawberry Square
Harrisburg, PA 17120

Dear Attorney General Henry:

On April 23, 2024, Campaign for Accountability (CfA) asked your office to investigate whether a Pennsylvania crisis pregnancy center (CPC), Options Women’s Center (OWC), violated state law by deceptively posting information on its website claiming clients’ personal health information (PHI) is protected under the Health Insurance Portability and Accountability Act (HIPAA) when it is not.¹ One such apparently deceptive statement was that OWC’s clients had the option to seek legal recourse by filing a complaint with the Department of Health and Human Services (HHS) if they believed OWC has misused their data.² CfA has since received a written determination from HHS explaining that a CPC in Louisiana, whose business model and affiliations appear indistinguishable from OWC’s, is *not* a covered entity under HIPAA.

On May 30, 2024, Abortion, Every Day reported that an employee for Heartbeat International—the anti-abortion organization with which OWC and hundreds of other CPCs are affiliated—appeared to have leaked the names of 13 women who were clients of one of its affiliates, The Unexpected Pregnancy Center (TUPC) in New Iberia, Louisiana.³ A training video posted online by a Heartbeat employee clearly displayed the names of real women who lived near TUPC, and contained personal information such as the women’s due dates and dates of their last menstrual periods.

TUPC’s online “Notice of Privacy Practices,” like OWC’s, claimed that, in the event of data misuse, clients can seek recourse by filing a complaint with HHS’s Office of Civil Rights

¹ Letter from Michelle KupperSmith, Executive Director of Campaign for Accountability, to Pennsylvania Attorney General Michelle Henry, Apr. 23, 2024, <https://www.documentcloud.org/documents/24590569-cfa-pa-ag-options-womens-center/>.

² OWC, Notice of Privacy Practices Webpage, *available at* <https://www.optionswomenscenter.com/notice-of-privacy-practices>.

³ Jessica Valenti, EXCLUSIVE: Health Data Breach at America’s Largest Crisis Pregnancy Org, Abortion, Every Day, May 30, 2024, *available at* <https://jessica.substack.com/p/exclusive-health-data-breach-at-americas>.

(OCR).⁴ Following TUPC's guidance, on August 20, 2024, CfA filed a complaint with OCR regarding the posting of the CPC's clients' personal data.⁵

On November 26, 2024, OCR responded, explaining the agency was unable to investigate the leak because neither TUPC nor Heartbeat is subject to HHS oversight. The agency stated, "*The Unexpected Pregnancy Center & Heartbeat International does not meet the definition of a covered entity or a business associate. Therefore, the requirements of the HIPAA Rules do not apply to The Unexpected Pregnancy Center & Heartbeat International.*"⁶ (emphasis added)

As described in CfA's April letter, OWC's business model appears virtually indistinguishable from TUPC's, meaning it too is unlikely to be a covered entity under HIPAA, and any complaint filed with HHS regarding OWC would be rejected similarly.

In apparent response to CfA's complaint, OWC has removed some claims of HIPAA compliance from its website; for example, the link to request an appointment now includes the text "Options Women's Center maintains the highest level of confidentiality," rather than "our forms are HIPAA compliant."⁷ Further, OWC's homepage no longer includes a link to its Notice of Privacy Practices, but the notice itself is still available.⁸

Notably, OWC is not the only Pennsylvania CPC making such a claim. *AlphaCare* in Philadelphia,⁹ *Carlisle Area Family Life Center* in Carlisle,¹⁰ *Human Life Services* in York,¹¹ and *The Pregnancy Resource Center of Greater Hazleton (DBA Shine Women's Center)* in West Hazleton,¹² all suggest clients can file a complaint with HHS. Others, including *PCC Corner of Hope* in Shamokin,¹³ *Heart of Tioga* in Mansfield,¹⁴ *LC Medical and Support Services* in

⁴ The Unexpected Pregnancy Center, Notice of Privacy Practices Webpage at 4, available at https://www.unexpectedpc.com/images/Client_Notice_of_Privacy_Practices_Jan_2023_Update.pdf.

⁵ Complaint filed by Campaign for Accountability with Office for Civil Rights, Department of Health and Human Services, Aug. 20, 2024 (attached as Exhibit 1).

⁶ Letter from Southwest Regional Manager, Office for Civil Rights, to Campaign for Accountability, Nov. 26, 2024 available at <https://www.documentcloud.org/documents/25452367-hhs-closure-letter-the-unexpected-pregnancy-center/>

⁷ See OWC, Contact Webpage, available at <https://www.optionswomenscenter.com/contact>.

⁸ See OWC, Notice of Privacy Practices Webpage, available at <https://www.optionswomenscenter.com/notice-of-privacy-practices/>.

⁹ AlphaCare, Notice of Privacy Practices Webpage, available at <https://alphacarephilly.org/wp-content/uploads/2024/03/Notice-of-Privacy-Practices-NPP.pdf>.

¹⁰ Carlisle Area Family Care Center, Notice of Privacy Practices Webpage, available at <https://carlisleareafamilylifecenter.org/our-services/ultrasounds/notice-of-privacy-practices/>.

¹¹ Human Life Services, Notice of Privacy Practices Webpage, available at <https://humanlifeservices.org/notice-of-privacy-practices/>.

¹² The Pregnancy Resource Center of Greater Hazleton, Notice of Privacy Practices Webpage, available at <https://www.shinewomenscenter.com/notice-of-privacy-practices/>.

¹³ PCC Corner of Hope Family Resource Center, STD/STI Information Webpage, available at <https://cohpc.org/our-services/std-sti-testing-treatment/>.

¹⁴ Heart of Tioga, Commitment of Care Webpage, available at <https://www.heartoftioga.org/commitment-of-care>.

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Kutztown and Hamburg,¹⁵ and *Women's Choice Network* in Oakland, Northside, and Monroeville,¹⁶ make various claims of adherence to HIPAA standards on their websites.

In light of the OCR determination regarding TUPC and Heartbeat, CfA again urges your office to investigate whether OWC, its business affiliate Heartbeat, and other Pennsylvania CPCs with privacy policies similar to TUPC's are violating Pennsylvania's Unfair Trade Practices and Consumer Protection Law by falsely claiming HIPAA compliance to persuade clients to hand over PHI.

Thank you for your prompt attention to this important matter.

Sincerely,

A handwritten signature in black ink that reads "Michelle Koppersmith". The signature is written in a cursive, flowing style.

Michelle Koppersmith
Executive Director
Campaign for Accountability

¹⁵ LC Medical and Support Services, What to Expect at Your First Appointment Webpage, *available at* <https://www.lifeschoicessupport.org/post/what-to-expect-at-your-first-appointment>.

¹⁶ Women's Choice Network, Our Approach Webpage, *available at* <https://www.womenschoicenetwork.com/our-approach>.