

PLANNED PARENTHOOD FUNDING BATTLE CONTINUES

In our Winter 2011 issue, we pointed out that Planned Parenthood is the nation's largest abortion provider, performing 324,008 abortions in 2008, or approximately 27% of the nation's total that year. Many polls have shown that a majority of Americans do not want their tax dollars paying for abortion, and in April, 2011 Polling Company and Woman Trend poll found that 54% of Americans oppose "tax dollars for family planning services going to organizations that perform abortions."

Legislators at the federal and state levels have been trying to defund Planned Parenthood (PP), but have been opposed by the pro-choice movement and the Obama Administration. On April 14, 2011, the U.S. House passed a bill to cut off all federal funds to PP and its affiliates for the remainder of the fiscal year 2011. The bill passed the House 241 to 185, supported by 231 Republicans and 10 Democrats. It was opposed by 7 Republicans and 178 Democrats. Local Representatives Steven LaTourette and Jim Renacci voted for the bill, while Tim Ryan and Betty Sutton voted against it. The U.S. Senate voted on the bill the same day. It failed in the Senate with 42 Republicans voting to defund PP, while 53 Democrats and 5 Republicans voted to continue funding. Ohio's Senator Rob Portman voted to defund PP, while Senator Sherrod Brown voted to continue funding it. During federal budget negotiations, President Obama refused requests from House Speaker John Boehner to agree to cut funding for PP.

At the state level to date, three legislatures have passed bills denying state administered funds to PP or any other organization performing abortions. Indiana was the first in early May, followed by Kansas and North Carolina. Planned Parenthood challenged Indiana within hours of Governor Mitch Daniels signing the bill. PP alleges that the law violated contracts already in place, and forces it to choose between doing abortions and getting taxpayer funding. Therefore, it sought an injunction in the U.S. District Court in Indianapolis against the law's implementation. In response, Indiana filed a memorandum of opposition, stating that PP does not try to segregate its funds to ensure the taxpayer money is not paying for abortion, which the Hyde Amendment requires. It also noted that the law advances Indiana's goal of encouraging women to choose childbirth over abortion (which the Supreme Court said was permissible in *Maher v. Roe*), and contains other provisions insuring women's informed consent and protecting their health. The judge has not ruled in this case as yet.

Exercising its right to review state decisions involving joint state-federal Medicaid funds, Dr. Donald Berwick, on behalf of the Obama Administration, filed legal papers on June 16 telling Indiana it can't implement its law, saying federal law stipulates that states can't exclude providers based on the services they provide. Berwick's office (the Center for Medicare and Medicaid Services or CMS) said it might cut off all Medicaid funds to Indiana if it implemented its law, and subsequently sent correspondence to all of the other states indicating the same might befall them if they attempted to deny PP funding.

Marcus Barlow of Indiana's Family and Social Services Administration said, "The way the law was written, it went into effect the moment the governor signed it. We were just advised by our lawyers that we should continue to enforce Indiana law." Led by U.S. Senator Orrin Hatch (R-UT), 28 senators cosigned a letter written to Dr. Berwick, challenging his interpretation of federal law. Hatch said in part, "We fully support the intent [of Indiana's law] to prevent taxpayer dollars from subsidizing the operational costs of abortions; and more broadly, we support the right of states to administer their Medicaid programs in a manner consistent with the values and needs of their citizens. ... Given CMS's recent informational bulletin issued to all

states on this issue, we certainly hope that you are not actually considering jeopardizing care for the nation's 70 million Medicaid beneficiaries over this ideological difference."

On June 24, U.S. District Judge Tanya W. Pratt blocked enforcement of the law, granting Planned Parenthood a preliminary injunction. However, Judge Pratt did protect the language of the provision which clearly states that life begins at conception by stating: *"Here, the mandated statement states only a biological fact relating to the development of the living organism; therefore, it may be reasonably read to provide accurate, non-misleading information to the patient. Under Indiana law, a physician must disclose the facts and risks of a treatment which a reasonably prudent physician would be expected to disclose under like circumstances, and which a reasonable person would want to know."*