

TRANSCRIPT OF PUBLIC HEARING  
ON PROPOSED PERMANENT REGULATIONS ON ABORTION FACILITIES

COMMONWEALTH OF VIRGINIA DEPARTMENT OF HEALTH  
OFFICE OF LICENSURE AND CERTIFICATION  
DIVISION OF CERTIFICATE OF PUBLIC NEED

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FEBRUARY 3, 2012

CONDUCTED BY:  
MR. ERIK BODIN, ACTING DIRECTOR  
OFFICE OF LICENSURE AND CERTIFICATION

**TRANSCRIPT OF ELECTRONICALLY RECORDED MATERIAL**

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P R O C E E D I N G S

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3 **FEBRUARY 3, 2012.**

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NOTE: This transcript was created from two electronic files saved onto a compact disc. The following text was taken from the first file, denoted Track03.cda

MR. BODIN: Good morning. Thank you all for coming out today for a public hearing. I'll make some introductions of who's at the table, first. On my left is Joe Hilbert. He is the Virginia Department of Health Director of Governmental and Regulatory Affairs. To Joe's left is Kathy Creegan-Tedeski. She is the Supervisor of the Acute Care Unit that will be responsible for doing the inspections for licensure. Our timekeeper today is Ms. Carol Nixon. She is a Policy Analyst for the Department of Health. And I'm Erik Bodin. I'm the Acting Director of the Office of Licensure and Certification for the Department of Health.

Let me scoot over just a little bit for you.

(Laughed.)

A couple of quick housekeeping rules, in the event of an emergency, the exits are to the back, your right, and

1 back the way you came and back out the door. Hopefully,  
2 that won't happen today and we won't have to put that into  
3 practice. The restrooms are out the main door and to the  
4 left.

5 Last December, emergency regulations went into effect  
6 for the licensure of facilities that perform five or more  
7 first-trimester abortions per month, as required by  
8 legislation passed by the 2011 session of the Virginia  
9 General Assembly. In addition, the Governor approved a  
10 Notice of Intended Regulatory Action to start the process  
11 for the promulgation of permanent regulations.

12 The emergency regulations now in effect must be  
13 replaced by permanent regulations prior to the emergency  
14 regulations expiring. We are here to take public comment  
15 on that Notice of Intended Regulatory Action.

16 Persons will be called to speak in the order in  
17 which they signed in. We will call the speaker and we  
18 will announce the next speaker in line so you can be  
19 ready. This should speed the process so everyone will  
20 have an opportunity to speak today.

21 Each speaker will be given two minutes to speak.  
22 The timing clock is projected on the screen so you can  
23 keep track of your time and tailor your comments  
24 accordingly to the time you have available. If anyone  
25 wishes to provide us with written comments today, they

1 may certainly do so, or you may send them in at a later  
2 date.

3 This hearing is also being audio recorded.  
4 Periodically, you will see us turn the recorder off and  
5 then back on. That's simply a mechanism for saving the  
6 file at various points along the way so that we don't  
7 lose anything. We're not going to do it during somebody  
8 speaking. We will prepare a written transcript from  
9 that recording, and that written transcript will be  
10 posted to the Office of Licensure and Certification's  
11 website.

12 So, without further—As people come in they can  
13 continue to sign in on additional sign-in sheets, and  
14 we will collect those as each sign-in sheet is filled  
15 up.

16 MR. HILBERT: First on the sign-in sheet is Lee  
17 Perkins, and on deck is Maggie Clayton.

18 MS. PERKINS: Good morning. My name is Lee Perkins  
19 and I live in Alexandria and thank you for the  
20 opportunity to speak today.

21 I'm here because I'm concerned about the use of the  
22 power of the State against the poor. Specifically,  
23 because I want the opportunity for safe, effective  
24 abortions to remain accessible and affordable in  
25 Virginia.

1           People with money can buy anything they want,  
2 including healthcare abortion services. Our collective  
3 obligation as citizens is to help the poor who cannot  
4 afford to provide these for themselves. According to  
5 research, one in three women will have an abortion at  
6 some point in her reproductive life, and the vast  
7 majority will be in the first trimester.

8           These regulations would result in many or most  
9 clinics being closed. Virginia women would thus be  
10 deprived of safe, legal first-trimester abortion care.

11           Abortion is one of the safest medical procedures,  
12 and Virginia clinics have an outstanding safety record.  
13 These regulations are unrelated to the services  
14 provided by these clinics and will have no proven  
15 medical benefit and would be a waste of money in hard  
16 times.

17           I am especially concerned that these regulations  
18 will have the greatest impact on the most vulnerable  
19 and at-risk women, those who are young, low-income,  
20 underserved, uninsured, and minority women, and they  
21 will only add to the healthcare disparities in  
22 Virginia.

23           Finally, I am concerned about the process for  
24 developing these regulations. The process has been  
25 politicized and has reflected the views of abortion

1       opponents. People have very different views about  
2       abortion, but in a democracy we respect differing  
3       views. And I ask that the regulations be amended so  
4       that they will not impede women's access to abortion  
5       care.

6               Thank you.

7               MR. BODIN: Thank you.

8               MR. HILBERT: Next speaker is Maggie Clayton, and  
9       on deck is Elizabeth Fogarty.

10              MS. CLAYTON: Good morning. My name is Maggie  
11       Clayton. I live in Arlington, Virginia. I am a clinic  
12       escort for the past three years.

13              While I find the need for emergency regulations of  
14       any kind for women's healthcare completely wasteful and  
15       erroneous, there are two things, specifically, that I  
16       would like you to think about and address as you  
17       prepare to make permanent regulations.

18              The first is, as far as new construction  
19       regulations go, I would ask that you consider a  
20       grandfather clause for the existing clinics. I work in  
21       these clinics. There is no need for the type of new  
22       regulations that are being proposed, and in any other  
23       circumstances, existing buildings would be  
24       grandfathered in if you were talking about a hospital  
25       or anything else, and there's no reason why existing

1 clinics cannot be.

2 The second item I would like you to consider, and  
3 it's most important to me, and it's patient  
4 confidentiality. I am sorry, but I do not think that  
5 any Board of Health employee should be able to walk in  
6 to a clinic and look at records. I don't think you  
7 would want any Board of Health employee walking in and  
8 looking at your records if you were in an ambulatory  
9 service. So I don't think that Virginia women deserve  
10 anything less. It's a privacy concern and also doesn't  
11 add anything to the level of care that these clinics  
12 provide, which is some of the highest, best in the  
13 country, and their care and concern about the women is  
14 what is foremost in their minds.

15 Thank you.

16 MR. BODIN: Thank you.

17 MR. HILBERT: Next speaker is Elizabeth Fogarty.

18 MS. FOGARTY: Hi. I'm Elizabeth Fogarty. I'm an  
19 Arlington resident. On behalf of those of us who prefer  
20 to avoid the traffic on I-95, I thank you for holding  
21 this hearing in northern Virginia.

22 I oppose the proposed permanent regulations for  
23 women's health centers. They are unnecessary and will  
24 violate patient privacy. The structural changes will  
25 not improve women's health or their access to

1 healthcare. The regulations regarding patient records  
2 violate patient privacy and confidentiality and make  
3 patients vulnerable to further harassment and  
4 intimidation by those seeking to end safe, legal  
5 abortion.

6 I have a dream. I dream that the Virginia Board of  
7 Health will make decisions based on medical and  
8 scientific evidence rather than political persuasion. I  
9 dream that the Virginia Board of Health will spend my  
10 tax dollars regulating medical procedures that have  
11 been shown to be unsafe rather than medical procedures,  
12 such as first-trimester abortion, that have a strong  
13 safety record. I dream that the Virginia Board of  
14 Health will take a strong stand on behalf of patient  
15 privacy and patient rights even if members of the State  
16 Board of Health hold religiously-based objections to  
17 the safe, legal medical procedure the patient is  
18 obtaining. I dream that the Virginia Board of Health  
19 will respect the rights of patients and medical  
20 providers over the interests of groups seeking to  
21 harass those patients and medical providers.

22 As a Virginian, as a woman, as the mother of  
23 daughters, I oppose these unnecessary medical  
24 regulations and I ask that you oppose them also.

25 Thank you.

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1 MR. BODIN: Thank you.

2 MR. HILBERT: Next speaker is Dr. Laura Meyers.

3 DR. MEYERS: Good morning, and I'd like to echo  
4 holding this in northern Virginia. I am Dr. Laura  
5 Meyers, and I am the CEO of Planned Parenthood of  
6 Metropolitan Washington, which operates a women's  
7 health center in Falls Church, as well as two in the  
8 district and two in Maryland.

9 I'm here today to discuss the proposed regulations  
10 for licensure of abortion facilities. These proposed  
11 regulations are, as others have said, medically  
12 unnecessary and not based in medical science. They have  
13 no proven medical or health benefits to Virginia women  
14 and will instead actually reduce or eliminate access to  
15 necessary healthcare for many patients across the state  
16 of Virginia.

17 Right now, women's health centers across the state  
18 are evaluating their facilities and determining whether  
19 there is any way they can afford to make the extensive  
20 renovations required by the new emergency and totally  
21 unnecessary and burdensome regulations or whether they  
22 must simply close their doors and cease to offer  
23 integral health services to women.

24 Virginia women need more access to high quality  
25 healthcare, not less. If these centers close their

1 doors as a result of the proposed permanent  
2 regulations, patients face financial burdens, and it  
3 will increase the financial burdens of patients and  
4 decrease their healthcare options, which will  
5 marginalize and deny care to young, low-income, and  
6 uninsured women.

7 Abortion already has an outstanding record in  
8 Virginia of fewer than .3 percent of abortion patients  
9 face any sort of complications that require any sort of  
10 further medical care. Complications from having a  
11 first-trimester abortion are considerably less frequent  
12 and less serious than those associated with giving  
13 birth.

14 Part of the reason abortion is so safe is because  
15 it is legal and accessible to women in well-regulated  
16 health centers. Abortion providers are already - -

17

18 NOTE: A bell rang.

19

20 DR. MEYERS: Oops. Thank you. Sorry.

21 MR. HILBERT: Thank you, ma'am.

22 MR. BODIN: Thank you very much. Right now I  
23 believe that's all that have signed in to speak. Is  
24 there anyone here who has not spoke who did not sign in  
25 and would like to speak?

1 (No audible response.)

2 MS. MARTINEZ: Hello, my name is Gabriella Martinez  
3 and I work for Planned Parenthood here in Metropolitan  
4 Washington.

5 There is no evidence that unnecessary regulations  
6 like these will do anything to improve patient safety.  
7 There's also no evidence that there even was a safety  
8 issue among Virginia abortion providers that  
9 necessitated the adoption of these regulations.

10 Instead, it seems like they are more of a solution  
11 without a problem and could end up wreaking havoc on  
12 Virginian women's ability to access quality healthcare  
13 throughout the state. Instead of improving patient  
14 safety, these proposed regulations will end up reducing  
15 access to a wide range of preventative reproductive  
16 healthcare services provided at women's health centers,  
17 including life-saving cancer screenings, family  
18 planning, and sexually transmitted infections testing  
19 and treatment.

20 I and Planned Parenthood here in Metropolitan  
21 Washington hope that the final permanent abortion  
22 provider regulations will be based solely on medicine  
23 and science and not politics and do not impede women's  
24 access to essential healthcare. Thank you for your  
25 time.

1 MR. BODIN: Thank you, ma'am.

2 MR. HOLIHAN: Hi. I'm Sean Holihan with NARAL Pro-  
3 Choice Virginia.

4 I think you and most everyone in this room,  
5 including myself, know that this procedure is less  
6 invasive than things like LASKI surgery; however, I  
7 also understand that you have to follow what the  
8 legislature does. The only thing I'd ask is that you  
9 grandfather the existing clinics and let them keep  
10 their doors open. It's this kind of thing when people  
11 don't have the money to completely overhaul the clinic  
12 that they're in, and I wish that you would, at the very  
13 very least, extend that courtesy to these clinics.

14 Thank you.

15 MR. BODIN: Thank you.

16 MR. MAMBER: Hi. My name is Noah Mamber. I also  
17 work for Planned Parenthood of Metropolitan Washington.

18 My comment is very brief. I just want to ask the  
19 Board to embrace common sense on the issue of  
20 medication abortion. Medication abortion is a very very  
21 different thing than surgical abortion, and we ask that  
22 medication abortion be treated differently than  
23 surgical abortion, and not have exactly the same  
24 regulations apply to facilities that are only  
25 performing medication abortions and no longer

1 performing surgical abortions.

2 MR. BODIN: Thank you, sir.

3 Yes, ma'am.

4 MS. WILKINSON: My name is Sandra Wilkinson (sp). I  
5 live here in Alexandria, and again, thank you for  
6 holding this hearing here. It's a benefit to us.

7 The second benefit that I'd like to ask is that  
8 these regulations be set aside, again, for existing  
9 clinics. A couple of weeks ago I had cataract removal  
10 here in Falls Church, and I was interested to note that  
11 the layout there for this major surgical center that  
12 performed very delicate eye surgery would not qualify  
13 as an abortion clinic. I think that illustrates that  
14 the rules that are proposed here are purely punitive  
15 and of no medical necessity. So I would ask that they  
16 be set aside.

17 And certainly, there is no need for having these  
18 regulations simply for clinics that prescribe needed  
19 medication for women which can save their lives. Many  
20 more women die in childbirth than from illegal  
21 abortion.

22 MR. BODIN: Thank you, ma'am.

23 Do we have another sign-in?

24 MR. HILBERT: Next on the sign-in sheet is Rose  
25 Coddling, and on deck is Wayne Coddling.

1 MS. CODDING: Good morning. Falls Church Healthcare  
2 Center is a faith-based center, has provided quality  
3 reproductive healthcare in Virginia for almost a decade  
4 with a distinguished record of excellent medicine and  
5 compassionate support for women and families.

6 I'm Rosemary Wilbert Coddling, the Director of  
7 Patient Services. One of three Virginia women will have  
8 an abortion in her lifetime, and that is her moral and  
9 spiritual and medical decision. Tip O'Neill said  
10 "Everyone has a right to his or her own opinion but not  
11 to his or her own facts." The facts in medical  
12 literature are indisputable. Abortion is a very safe  
13 medical service, and aspiration DNC, used for first-  
14 trimester abortion care as well as for other  
15 gynecological care, is a minimally invasive procedure,  
16 has uncomplicated, quick medical recovery, and is one  
17 of the safest in-office procedures provided in  
18 Virginia.

19 Look at the medical facts when developing  
20 regulations for Virginia's businesses and medical  
21 practices, please. The fact: there is not a public  
22 health crisis with abortion care in Virginia or in the  
23 other 49 states across this country. Medical practices,  
24 including abortion care providers, are already heavily  
25 regulated: CLIA, OSHA, HIPPA, CMS, Virginia Corporation

1 Committee, IRS, CDC, ACOG, NEA, ACN, ARHP, and our  
2 insurance providers, of which 80 percent cover abortion  
3 care.

4 Any new regulation should be thoroughly researched  
5 and based on improving healthcare and access for women  
6 in Virginia, not based on someone's unsupported medical  
7 facts, misguided religious or political agendas. Any  
8 regulation should embrace evidence-based medicine best  
9 practices that advance the public health - -

10

11 NOTE: A bell rang.

12

13 MS. CODDING: - - to ensure women in the  
14 Commonwealth can maintain access to vital healthcare - -

15 MR. HILBERT: Thank you, ma'am.

16 MS. CODDING: - - from her trusted ... trusted  
17 (inaudible).

18 MR. BODIN: Thank you.

19 MS. CODDING: Thank you. I also invite you to come  
20 see us, and I have also volunteered to be on a  
21 professional committee for you as you go through this,  
22 and I have something here for each you on the Board  
23 members.

24 MR. HILBERT: Thank you.

25 MR. BODIN: Thank you, ma'am.

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1 MR. HILBERT: Next speaker is Wayne Coddling.

2 MR. CODDING: Yes. I'm out of breath trying to find  
3 a parking space. Yeah. My name is Wayne Coddling. I'm a  
4 Virginia resident. I was born in Hopewell, Virginia.  
5 Grew up in Newport News. I went to college in  
6 Williamsburg and now live in Reston, Virginia.

7 I'd like to commend the Virginia Board of Health  
8 for its approach in determining the temporary  
9 regulations responding to SB924. First it assembled a  
10 distinguished group of medical professionals for their  
11 guidance and opinions and next invited public comments;  
12 however, it has ignored both.

13 The professionals disagreed with Attorney General  
14 Cuccinelli, who is now a candidate for governor, with  
15 what was forwarded as temporary regulations and you're  
16 considering as permanent regulations. Cuccinelli has  
17 joined with state Senator Colgan and Delegate Marshall  
18 in their attempt to make abortion unavailable to women  
19 in Virginia.

20 The blitzkrieg against women's reproductive rights,  
21 including a zygote being defined as a person and  
22 denying insurance coverage for poor women with  
23 extremely deformed fetuses, will soon extend to  
24 contraception as they consider IUD and certain birth  
25 control pills as abortifacients. It has only just

1 begun.

2 I dare say that Attorney General Cuccinelli,  
3 Senator Colgan, and Delegate Marshall have never seen  
4 the inside of a procedure room where abortion care is  
5 safely provided. Yet they intend to trump the medical  
6 advice of medical professionals and women. To  
7 paraphrase Abraham Lincoln, the Virginia Department of  
8 Health would not long remember what we say or do here  
9 today but will not forget what we will do this November  
10 and every November hereafter.

11 Thank you.

12 MR. BODIN: Thank you, sir.

13 Yes, ma'am. Please.

14 MS. PETERSON-HARTZLER: My name is Mary Peterson-  
15 Hartzler, and I had not intended to say anything but I  
16 see an issue that I think we're overlooking.

17 I've been working in the women's movement and for  
18 women's rights all my adult life, and the issue that I  
19 see here is that services provided to women, like  
20 abortion services, in this country are available at  
21 this time and for all women. If we make them difficult,  
22 if we make them expensive, if we make them nonexistent  
23 in certain areas, poor women are the women who will not  
24 have services available to them. Well-off women simply  
25 get their passport out and go to a country where it's

1 available.

2 MR. BODIN: Thank you very much.

3 MR. HILBERT: Well, that's it for the sign-in  
4 sheet, so ...

5 MR. BODIN: Once again, that's all that have signed  
6 in to speak. Is there anybody else who has come in or  
7 who has been here who has not spoken and would like to  
8 speak?

9 (No audible response.)

10 MR. BODIN: I'll tell you what we'll do, then. Just  
11 in case there are folks that are tied up in traffic—I  
12 understand that can be an issue up here.

13 (Laughter.)

14 MR. BODIN: We'll take a 10 minute recess on the  
15 public hearing and then we'll reconvene and anybody  
16 else who has come in and signed in or would like to  
17 speak, we'll hear them, then. Alright? So we'll  
18 reconvene at, let's see, according to that clock it's  
19 24 after. So at 34 after the hour we'll reconvene and  
20 proceed.

21 Thank you all very much.

22

23 NOTE: End of first audio file. The remainder  
24 of the transcript is from the second audio  
25 file, denoted Track04.cda.

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2 (Multiple voices, apparently engaged in multiple  
3 conversations, can be heard.)

4 MR. BODIN: Well, if I could have your attention,  
5 please.

6 (Continued conversation among multiple speakers.)

7 MR. BODIN: If I could have your attention, please,  
8 I'd like to reconvene the hearing.

9 (The disparate conversations continue but with  
10 fewer participants.)

11 MR. HILBERT: Hey.

12 MR. BODIN: I've already checked. There's no one  
13 there.

14 Alright.

15 UNIDENTIFIED SPEAKER: Thank you.

16 MR. BODIN: Thank you.

17 UNIDENTIFIED SPEAKER: Thank you for holding it up  
18 here.

19 MR. BODIN: The 10 minutes have passed and I'll  
20 reconvene the public hearing. I checked. There has been  
21 no one else signed in. So I will ask once again if  
22 there's anybody here who has not already spoken who  
23 would like to speak. We'd like to hear you.

24 (No audible response.)

25 MR. BODIN: Having no one step forward, I'd once

1       again like to thank you all. On behalf of the  
2       Department of Health, thank you for coming and sharing  
3       your comments with us. They're very important to us.  
4       Thank you. And I will adjourn this public hearing.  
5       Thank you very much.

6               UNIDENTIFIED SPEAKER:   Thank you.

7

8                       **NOTE: END OF HEARING.**

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