

#### Via email

January 28, 2025

Attorney General Tim Griffin Office of the Attorney General 323 Center Street, Suite 200 Little Rock, AR 72201

#### **Potentially Deceptive Privacy Practices of Crisis Pregnancy Centers** Re:

Dear Attorney General Griffin,

The Electronic Frontier Foundation ("EFF") is a member-supported, non-profit civil liberties organization that has worked to protect free speech and privacy rights in the online world for more than thirty years. With more than 30,000 active donors and dues-paying members nationwide, EFF represents the interests of technology users in courts, legislatures, and broader policy debates regarding law, technology, and civil liberties.

We write to draw your attention to potential violations of the privacy and consumer rights of people in your state who have provided sensitive health data to crisis pregnancy centers ("CPCs"). CPCs are facilities that offer pregnancy tests, counseling, and information, as well as limited medical services in some cases, but not reproductive healthcare such as abortion or contraception. Some are licensed medical clinics; many are not. Nationally, there are an estimated 2,750 of these facilities and the vast majority are affiliated with one or more of three national organizations: Care Net, Heartbeat International, and the National Institute of Family and Life Advocates. CPCs reportedly received \$1.4 billion in revenue in 2022, including substantial federal and state funds.1

As you may be aware, last year researchers at the Campaign for Accountability filed a series of complaints asking Attorneys General in five states—Idaho, Minnesota, Washington, Pennsylvania, and New Jersey—to investigate crisis pregnancy centers in those states that had allegedly misrepresented, through their client intake process and/or via their websites, that information provided to them was protected by the Health Insurance Portability and Accountability Act ("HIPAA").2

An incident in Louisiana also suggests that some CPCs may be sharing client information with other centers in their affiliated networks, without appropriate privacy or anonymity protections.<sup>3</sup> In that incident, a software training video shared the names and personal information of roughly a dozen patients.

eff.org

<sup>&</sup>lt;sup>1</sup> See https://www.theguardian.com/world/2024/feb/14/anti-abortion-centers-funding

<sup>&</sup>lt;sup>2</sup> See https://campaignforaccountability.org/watchdog-asks-state-attorneys-general-toinvestigate-crisis-pregnancy-centers-for-deceptive-practices/

<sup>&</sup>lt;sup>3</sup> See https://campaignforaccountability.org/watchdog-asks-louisiana-ag-to-investigatedeceptive-pregnancy-center-following-leak-and-hhs-determination/

Attorney General Tim Griffin January 28, 2025 Page 2 of 2

As advocates for consumer privacy, we are concerned that CPCs in your state may be similar practices. For example, Options on Main's (https://www.optionsonmain.com/) claims that: "Client information is held in strict and absolute confidence, according to HIPAA guidelines" and its "Notice of Privacy Practices" suggests oversight by the U.S. Department of Health and Human Services Office for Civil Rights, instructing clients who feel their rights were violated to "file a complaint with the U.S. Department of Health and Human Services Office for Civil Rights by sending a letter to 200 Independence Avenue, S.W., Washington, D.C. 20201, calling 1-877-696-6775, or visiting www.hhs.gov/ocr/privacy/hipaa/complaints/." See Exhibit 1.

Similarly, First Choice Pregnancy Medical Center's website (https://www.1stchoicefortsmith.com/) states that "Client information is held in strict and absolute confidence, according to HIPAA guidelines" and its "Notice of Privacy Practices" suggests oversight by the U.S. Department of Health and Human Services Office for Civil Rights, instructing clients who feel their rights were violated to "file a complaint with the U.S. Department of Health and Human Services Office for Civil Rights by sending a letter to 200 Independence Avenue, S.W., Washington, D.C. 20201, calling 1-877-696-6775, or visiting www.hhs.gov/ocr/privacy/hipaa/complaints/." First Choice Pregnancy Medical Center also receives Arkansas taxpayer funding.<sup>4</sup> See Exhibit 2.

As a final example, Choices Pregnancy Resource Clinic's online appointment forms (https://www.choicesprc.org/) state that "Our forms are HIPAA-compliant to protect your privacy and ensure that your information is safe with us." The website also states that "Client information is held in strict and absolute confidence, according to HIPAA guidelines." And like the facilities listed above, its Notice of Privacy Practices instructs clients who feel their rights were violated to "file a complaint with the U.S. Department of Health and Human Services Office for Civil Rights by sending a letter to 200 Independence Avenue, S.W., Washington, D.C.20201. 1-877-696-6775, calling or visiting www.hhs.gov/ocr/privacy/hipaa/complaints/." See Exhibit 3.

EFF is concerned that people in your state may rely on these representations when they share personal information with these centers and others with similar practices. Accordingly, we respectfully urge your office to investigate whether CPCs in Arkansas are violating privacy and consumer protection laws by deceiving clients as to how their private information will be retained and used. If you have any questions, please do not hesitate to contact me.

Sincerely,

Corynne McSherry Legal Director

Electronic Frontier Foundation

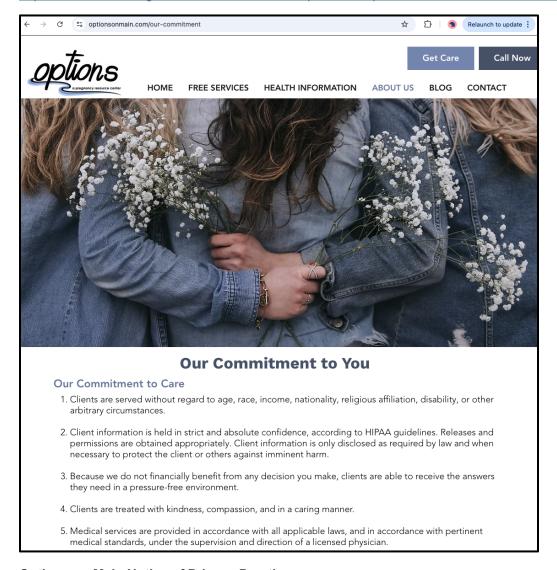
eff.org

<sup>&</sup>lt;sup>4</sup> https://www.dfa.arkansas.gov/wp-content/uploads/FY24 Appliations Funded 1.pdf

# Exhibit 1 - Options on Main

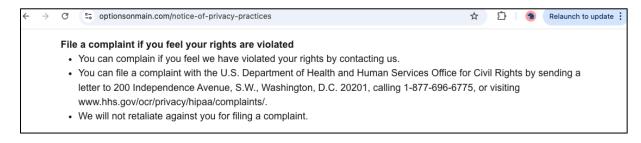
# **Options on Main Commitment of Care**

https://web.archive.org/web/20240719204826/https://www.optionsonmain.com/our-commitment



# **Options on Main Notice of Privacy Practices**

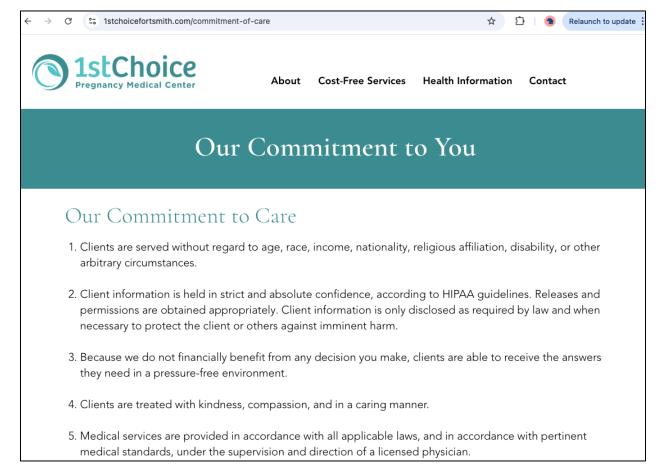
https://web.archive.org/web/20240719220921/https://www.optionsonmain.com/notice-of-privacy-practices



# Exhibit 2: 1st Choice Pregnancy Medical Center

# 1st Choice Pregnancy Medical Center Commitment of Care

https://web.archive.org/web/20240524231138/https://www.1stchoicefortsmith.com/commitment-of-care



# 1<sup>st</sup> Choice Pregnancy Medical Center Notice of Privacy Practices

https://web.archive.org/web/20240514052549/https://www.1stchoicefortsmith.com/notice-of-privacy-practices



# **Exhibit 3: Choices Pregnancy Resource Clinic**

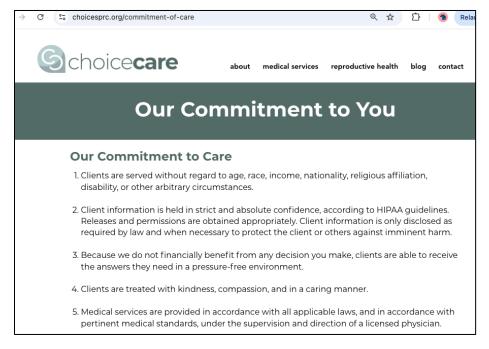
# **Choices Pregnancy Resource Clinic Appointment Request Form**

https://web.archive.org/web/20250122130413/https://www.choicesprc.org/appointments

→ G	choicesprc.org/appointmen	ts			(	₹ ☆	호   🖜	
	<b>S</b> choice	care	about	medical services	reproductive health	blog	contact	
Request an Appointment Compassionate care when you need it the most								
Free Reproductive Health Services								
	You've come to the right place! <b>ChoiceCare</b> is Russellville's go-to place for holistic sexual health and pregnancy services.							
	All our services are offered at no cost to you. Whether you need STD testing, are facing an unexpected pregnancy, or are considering abortion, we provide a compassionate and private place for you to receive quality medical care, explore your options, and receive additional support and resources.							
Please reach out and let us know how we can help. Our forms are HIPAA-compliant to protect your privacy and ensure that your information is safe with us.								
		First / Last Name*						
		First		Last				
		Phone Number*		Email Address				
		### ### ####						
		Date of Birth*		First Day of Last Perio	od			
		Type of Appointme	nt:*					
	☐ I think I may be pregnant							
	☐ I need to know how far along I am							
	☐ I want to talk to someone about abortion pills and procedures							
	☐ I want to talk about my pregnancy options							
	☐ I am looking for pregnancy support, prenatal information, and/or parenting education							
	☐ I want to learn more about Plan B and emergency contraceptives							
		☐ I want to talk to someone about my abortion						
	☐ I think I may have an STD							
	Other:							
	Preferred Method of Contact*							
		Text** Ca						
			_	do not state your name w	when contacting me.)			
	Text Message Disclaimer**We are committed to protecting your health information. Please be aware that communicating via unencrypted regular texting has some level of risk of being read by a 3rd party. By checking the Text Box was a chanwled with it is is							

# **Choices Pregnancy Resource Clinic Commitment of Care**

https://web.archive.org/web/20240716093417/https://www.choicesprc.org/commitment-of-care



#### **Choices Pregnancy Resource Clinic Notice of Privacy Practices**

