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ONE HUNDRED FOURTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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WASHINGTON, DC 20515–6115

Majority (202) 225–2927

Minority (202) 225–3641

September 22, 2015

Linda Tracy
President
Advanced Bioscience Resources
1516 Oak Street, #303
Alameda, CA 94501

Dear Ms. Tracy,

Pursuant to Rules X and XI of the U.S. House of Representatives, the Committee on Energy and Commerce is continuing its investigation into practices related to the donation, collection, processing and distribution of human fetal tissue. We appreciate the information you provided to the Committee staff in an informal bipartisan briefing on September 3, 2015. As a result of that information, and other information the Committee has obtained, we are asking for your additional cooperation in responding to the following questions and requests for documentation.

It is our understanding that Advanced Bioscience Resources (ABR), a non-profit entity, works with numerous abortion providers, primarily in Southern California, to procure human fetal tissue, and then provides that tissue, unaltered, to its clients, a majority of whom are scientific researchers. In its nearly 20-year existence, ABR has provided human fetal tissue to researchers for both transplantation purposes and basic research.

As you know, it is illegal under Federal law for "any person to knowingly acquire, receive, or otherwise transfer any human fetal tissue for valuable consideration if the transfer affects interstate commerce."[1] In a transaction involving a tissue procurement organization such as ABR, the prohibition on valuable consideration would apply to both the donor of the tissue, i.e., the abortion provider, and the ultimate recipient of the donated fetal tissue, e.g., the researcher.

Federal law allows the acceptance of reasonable payments associated with transportation, implantation, processing, preservation, quality control or storage of the human fetal tissue.[2] To ensure compliance with these provisions, organizations engaging in the collection and redistribution of donated human fetal tissue would expect to have processes and procedures in

[1] 42 USC 289g-2
[2] 42 U.S. Code § 289g–2(e)

place. In our discussion on September 3rd, you assured us that ABR does not pay valuable consideration for donated fetal tissue it collects and does not receive valuable consideration for fetal tissue samples it provides to researchers and others. However, documentation was not provided to support those assertions.

Federal law also mandates, in cases where federal funds are used to conduct or support research on the transplantation of human fetal tissue for therapeutic purposes, that the consent of the woman for the abortion was obtained prior to requesting or obtaining consent for a donation of the tissue for use in such research.[3] Even though this requirement is written to apply only to circumstances in which federal funds are used for research on human implantation of fetal tissue, it is our understanding that obtaining consent from the patient for the donation of fetal tissue after the patient has consented to the abortion procedure itself has become a widespread practice.

In the September 3rd briefing, you acknowledged that ABR employees are sometimes present in the abortion clinic and obtain the consent from the patient for the donation of fetal tissue. However, ABR does not appear to have uniform protocols for the process of obtaining consent nor does it appear to conduct oversight to ensure employees properly obtained consent. Furthermore, there is some risk that the tissue procurement organization obtaining consent presents a conflict of interest. We are writing today to seek further information on these questions.

Please provide the following documents and written information by October 6, 2015:

1. Provide ABR's gross revenue for calendar years 2010 through 2014. Please indicate what percentage of that revenue is derived from fetal tissue, or cells manufactured from fetal tissue.

2. Provide ABR's revenue from fetal tissue obtained from patients at Planned Parenthood facilities in 2013 and 2014.

3. Indicate the percentage of fetal tissue procured by ABR that comes from Planned Parenthood providers.

4. Provide copies of agreements and/or contracts with all entities that have provided fetal tissue to ABR since January 1, 2012.

5. Identify which Planned Parenthood employees (by name and title) that ABR has worked with to create, finalize and implement the service agreements regarding reimbursement for donation of fetal tissue.

6. Provide a breakdown of the direct and indirect costs of procurement and sale of unaltered fetal tissue.

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[3] 42 USC 289g-1

7. Provide all documents and communications referring or relating to the cost incurred to ABR from the procurement of fetal tissue, from January 1, 2010 to the present.

8. Provide all documents and communications referring or relating to the direct or indirect cost of donating and/or selling fetal tissue, from January 1, 2010 to the present.

9. Provide all documents and communications referring or relating to an ABR employee obtaining consent to donate fetal tissue from a patient, including but not limited to training materials, informal guidance, ABR consent forms, internal memoranda, employee emails, and informal understandings between ABR and abortion providers, from January 1, 2010 to the present.

10. Provide all documents and communications referring or relating to an ABR employee's knowledge that a patient has consented to donate fetal tissue before tissue is procured, including but not limited to training materials, informal guidance, ABR consent forms, internal memoranda, employee emails, and informal understandings between ABR and abortion providers, from January 1, 2010 to the present.

11. Provide information regarding the percentage of patients who consent to donate fetal tissue.

12. Provide information about how researchers communicate specific fetal tissue needs to ABR, and how ABR procures fetal tissue that contains specific characteristics requested by researchers.

13. Provide information about how ABR ascertains whether human fetal tissue is or is not used for human transplantation purposes.

14. Identify any ABR employees, agents or contractors who have worked for Planned Parenthood as an employee, agent or contractor. Provide names, dates of employment at ABR and Planned Parenthood, and job titles at both companies.

15. Provide a list of researchers and/or clients receiving fetal tissue from ABR from January 1, 2010 to the present.

If you have any questions about this letter, please contact Charles Ingebretson or Emily Felder of the committee staff at (202) 225-2927.

Sincerely,

Fred Upton
Chairman

Tim Murphy
Chairman
Subcommittee on Oversight and Investigations

cc: The Honorable Frank Pallone, Jr., Ranking Member

The Honorable Diana DeGette, Ranking Member
Subcommittee on Oversight and Investigations