

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>C3703</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____  B. WING _____	(X3) DATE SURVEY COMPLETED  <b>10/15/2009</b>
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NAME OF PROVIDER OR SUPPLIER  <b>PLANNED PARENTHOOD OF ALABAMA, INC</b>	STREET ADDRESS, CITY, STATE, ZIP CODE <b>1211 27TH PLACE SOUTH BIRMINGHAM, AL 35205</b>
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L 000	<p><b>INITIAL COMMENTS</b></p> <p>Survey Introduction</p> <p>From 8/25/09 to 8/27/09, Department surveyors visited the licensed abortion or reproductive health center operated by Planned Parenthood of Alabama ( " the Center " ), located at 1211 27th Place South, Birmingham, Alabama to conduct an on-site annual survey and to conduct a complaint investigation. The complaint investigation arose in response to the public release of an audio recording by Live Action, an organization that describes itself on its website as a youth led movement dedicated to ending abortion. Live Action has conducted a series of surreptitious visits to various Planned Parenthood centers around the country.</p> <p>On 7/2/08, an individual named Lila Rose, and another unnamed person associated with Live Action, made a visit to the Center. During the visit, Lila Rose, an adult female, posed as a 14 year old girl pregnant by a 31 year old boyfriend. In this surreptitious role, Ms. Rose told a Center staff member that she wanted an abortion but did not want her parents to know.</p> <p>The following is the surveyor's transcription of an audio recording posted on the Live Action website. Voices on the tape are Lila Rose (LR), Lila Rose's Friend, and Employee Identifier (EI) # 4, one of the Center's support staff.</p> <p>LR: " I need to um make an appointment." EI #4: " For?" LR: "An abortion." EI #4: " Hold on for one second." EI #4: " You can come next Tuesday at 8:30. You need to bring \$100.00 and your ID for your first consultation. Now how old are you?"</p>	L 000		
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Health Care Facilities

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE

TITLE

(X6) DATE

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L 000	<p>Continued From page 1</p> <p>LR: " 14"</p> <p>EI #4: " OK in order to have one you're going to have to have a parent's consent."</p> <p>LR's friend: "What does that mean?"</p> <p>EI #4: " That means she can't have an abortion until her parents sign some papers."</p> <p>LR: " Can we talk about that some more? Because I can't- I don't want-um my parents to know."</p> <p>EI #4: " It's um- it's a state law. Yeah, so you have to have some type of parent's consent. Do you have an older sister that's over the age of 18?"</p> <p>LR: " inaudible."</p> <p>EI #4: "That's the only way you're going to be able to get it, sweetheart."</p> <p>LR: " Um, my half brother is over 18."</p> <p>EI #4: " Does he have the same last name?"</p> <p>LR: " No."</p> <p>EI #4: " He has to have the same last name."</p> <p>LR ' s friend: "There's nothing else she can do? Nothing else?"</p> <p>EI #4: " She can-um-."</p> <p>LR: " Can you - can I talk to you about something?"</p> <p>EI #4: " Uh huh, Have a seat I'll call you in a second. Let me take these two calls."</p> <p>LR: " What was your name?"</p> <p>EI #4: "[Name of EI # 4]"</p> <p>EI #4: " OK what's up?"</p> <p>LR: " OK well. So - my- um- I don't know what to say- OK so I need an abortion and my parents can't know about it."</p> <p>EI #4: " OK. Um- as far as I know you have to have a parent's consent, cause you're under the age of 18- it's a state law."</p> <p>LR: " OK."</p> <p>EI #4: " If you don't have like a grandparent or somebody else that has a last name of you then you won't be able to get it done."</p>	L 000		

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L 000	<p>Continued From page 2</p> <p>LR: " What if my boyfriend gives his consent?" EI #4: " How old is your boyfriend?" LR: " What?" EI #4: " How old is your boyfriend?" LR: " Is everything here confidential?" EI #4: " Yeah, I can't say anything." LR: " OK, he's 31." EI #4: " He's 31- OK- he won't be able to do that [give consent] because he doesn't have the same last name." LR's friend: " He could get the same last name." EI #4: " No, he can't do that- just call back tomorrow and speak to somebody else, OK? Just call back I'm gonna give you a phone number you can call and ask to speak to [Gives name of EI # 5, the Health Center Manager]. OK, she's the health center manager." LR: " She can tell me what to do?" EI #4: " Yeah, she can tell you what to do. Because like I said- as far as I know you have to have a parent's consent." LR: " Is it a problem about my boyfriend?" EI #4: " As long as you consented to having sex with him there's nothing we can truly do about that." LR: " I consented very much. Cause he said he could get in big trouble." EI #4: " He could. Especially if your parents find out that he's 31." LR: " That's why we have to be careful because my parents might find out." EI #4: "Yeah, so like I said that's- a big issue but you can call and talk to her, she's the health center manager." LR: " Does she help other girls?" EI #4: " Um, I'm not sure I don't know what she actually does. I know sometimes she does bend the rules a little bit but in your case I don't know if she'll do that." LR: "Should I- What do you mean because he's</p>	L 000		

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L 000	<p>Continued From page 3</p> <p>older?" EI #4: "Mmhm." LR: " What if I say he's maybe younger? Like 20 or 19 or something?" EI #4: "Um, doesn't matter either way, we'll probably find out. OK?" EI #4: " But you want to be up front with her. If she's gonna work with you, you need to be up front with her." LR: "OK, but she's gonna work with me because she won't like report me like to my parents." EI #4: " I don't think she will. We can't say anything to your parents. OK? It's the HIPAA law. We can't even if they call up here, we can't disclose any information to anybody. OK? Whatever you tell us stays within these walls. We can't say anything."</p> <p>By interview, Lila Rose has confirmed that she made this recording during the 7/2/08 visit to the Center.</p> <p>During the surveyors' 8/25/09 to 8/27/09 visit to the Center, the Interim CEO, EI # 1, was interviewed. The surveyors asked what the Center's official policy was on providing under age abortions. Employee Identifier # 1 stated that she would need to have the policy in front of her before she spoke. The surveyors showed EI# 1 the written information that EI # 2, the Director of Operations, gave them related to the Center's provision of underage abortions. EI # 1 excused herself and left the room. When EI # 1 returned she stated, "I need to talk to my lawyer before I can continue. In the survey you have done some unusual things like interviewing my staff and me." The surveyors asked EI # 1 if she found a policy related to underage abortions, and EI # 1 stated, "You have what I have." The surveyors asked EI # 1 if they would be able to speak with the</p>	L 000		

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L 000	<p>Continued From page 4</p> <p>Director of Operations and EI # 1 stated, "All interviews are off until I get an okay from my lawyer."</p> <p>On 9/02/09 the surveyors returned to the Center to conduct follow-up interviews and obtain additional documentation. On the return visit the Center's staff refused to be interviewed without legal counsel present. The surveyors were instructed by their Department's Bureau Director to return to Montgomery. As a result, no additional interviews or documentation were obtained on the 9/02/09 visit.</p> <p>A third visit was made to the Center on 10/13/09 to conduct follow-up interviews and obtain additional documentation. On this visit the surveyors were able to interview staff members without legal counsel present and gather additional documentation. However, the only person surveyors were able to interview regarding the "Lila Rose visit" was EI # 1, the Interim CEO. Other staff involved with the Lila Rose visit refused to be interviewed about the visit, based on the advice of their legal counsel.</p>	L 000		
L 100	<p>ALABAMA LICENSURE DEFICIENCIES</p> <p>THE FOLLOWING ARE LICENSURE DEFICIENCIES AND REQUIRE A PLAN OF CORRECTION.</p> <p>This Rule is not met as evidenced by: Regulatory Violation # 1</p> <p>Alabama Administrative Code 420-5-1-.03 Patient Care</p>	L 100		

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L 100	<p>Continued From page 5</p> <p>(1) Patient Care. All patient care must be rendered in accordance with all applicable federal, state, and local laws, these rules, and current standards of care, including all professional standards of practice...</p> <p>(2) Policies and Procedures. The facility shall develop and follow detailed written policies and procedures that are consistent with all applicable federal, state, and local laws, these rules, and current standards of care, including all professional standards of practice. A comprehensive review of these policies and procedures shall be made annually, or whenever it appears that either a comprehensive or limited review is necessary to meet current legal requirements or standards of care. All necessary revisions shall be made and implemented promptly.</p> <p>Code of Alabama</p> <p>Section 26-21-3 of the Code of Alabama, which requires the written consent of the parent or guardian be obtained before an abortion may be performed on an unemancipated minor, provides in part as follows:                      "(a) Except as otherwise provided...no person shall perform an abortion upon an unemancipated minor unless he or she or his or her agent first obtains the written consent of either parent or the legal guardian of the minor...                      (c) The person who shall perform the abortion or his or her agent shall obtain or be provided with the written consent from either parent or legal guardian stating the names of the minor, parent or legal guardian, that he or she is informed that the minor desires an abortion and does consent to the abortion, the date, and shall be signed by</p>	L 100		

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L 100	<p>Continued From page 6</p> <p>either parent or legal guardian. The unemancipated minor shall verify on the same form, by her signature and in the presence of such person who shall perform the abortion or his or her agent, that the signature of the parents, parent, or legal guardian is authentic. The consent shall be kept as a part of the minor's patient file for four years." The requirements of this rule and law were not met as evidenced by:</p> <p>Based on record reviews, interviews, review of the Center's policy manual given to the surveyors, and the audio recording made by Lila Rose, it was determined that the Center failed to develop and follow policies and procedures that are consistent with applicable state law related to parental consent for abortions performed on unemancipated minors. The Center failed to obtain the witnessed signature of the minor patient verifying that the signature of the parent or legal guardian was authentic in 9 of 9 sampled records that involved minors. The Center's consent form had no designated space in which the minor patient could verify the authenticity of the parent or guardian's signature as required by law.</p> <p>Findings include:</p> <p>Refer to the transcribed audio recording of Lila Rose and the Center staff member, EI # 4, set out in the Introduction section.</p> <p>The Lila Rose audio recording, made on 7/2/08, reveals that EI # 4, the support staff member greeting patients and making appointments on that date, either did not understand the requirement to obtain consent of the actual parent or guardian prior to the abortion, or was</p>	L 100		

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L 100	<p>Continued From page 7</p> <p>suggesting ways for Lila Rose (who presented herself as a 14 year old pregnant by a 31 year old) to circumvent the requirement by bringing in the signature of anyone with the same last name.</p> <p>The following excerpted conversation is found on the audio recording.</p> <p>EI #4: "It's um- it's a state law. Yeah, so you have to have some type of parent's consent. Do you have an older sister that's over the age of 18?"</p> <p>...</p> <p>LR: "Um, my half brother is over 18."</p> <p>EI #4: "Does he have the same last name?"</p> <p>LR: "No."</p> <p>EI #4: "He has to have the same last name."</p> <p>...</p> <p>EI #4: "If you don't have like a grandparent or somebody else that has a last name of you then you won't be able to get it done."</p> <p>LR: "What if my boyfriend gives his consent?"</p> <p>EI #4: "How old is your boyfriend?"</p> <p>...</p> <p>LR: "OK, he's 31."</p> <p>EI #4: "He's 31- OK- he won't be able to do that [give consent] because he doesn't have the same last name."</p> <p>Medical Record findings:</p> <p>1. Patient Identifier (PI) # 1, a 15 year old patient, came to the center on 1/16/09 for a medical abortion.</p> <p>The medical record of this 15 year old contained an expired Alabama drivers license of the person who purported to be the mother of PI # 1, and who signed as such giving consent for this minor's abortion. The purported mother did not have the same last name or address of the</p>	L 100		



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L 100	<p>Continued From page 8</p> <p>patient. Alabama birth records show a different person as the parent of PI # 1. Center Worker, EI # 7, signed as the witness to the parental consent for the medical abortion PI # 1 received. There was no documentation in the medical record for PI # 1 to show that EI # 7 made any effort to verify the relationship of the person who signed as parent of PI # 1.</p> <p>The Center violated the Alabama parental consent statute by failing to have PI # 1 verify by her signature, and in the presence of the person who would perform the abortion or in the presence of his or her agent, that the signature of the parent or guardian was authentic. The consent form used by the Center has no place for such a verification to be made.</p> <p>Employee Identifier # 7 signed as the witness to the parental consent for the medical abortion PI # 1 received. There was no documentation in PI #1's medical record to show that EI # 7 verified the parental relationship.</p> <p>2. Patient Identifier # 2, a 13 year old patient, came to the Center on 9/25/08 for a medical abortion.</p> <p>The Center violated the Alabama parental consent statute by failing to have PI # 2 verify by her signature, and in the presence of the person who would perform the abortion or in the presence of his or her agent, that the signature of the parent or guardian was authentic. The consent form used by the Center has no place for such a verification to be made.</p> <p>3. Patient Identifier # 3, a 14 year old patient, came to the Center on 11/14/08 for a medical abortion.</p>	L 100		

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L 100	<p>Continued From page 9</p> <p>The Center violated the Alabama parental consent statute by failing to have PI # 3 verify by her signature, and in the presence of the person who would perform the abortion or in the presence of his or her agent, that the signature of the parent or guardian was authentic. The consent form used by the Center has no place for such a verification to be made.</p> <p>4. Patient Identifier # 4, a 14 year old patient, came to the Center on 3/06/09 for a medical abortion.</p> <p>The Center violated the Alabama parental consent statute by failing to have PI # 4 verify by her signature, and in the presence of the person who would perform the abortion or in the presence of his or her agent, that the signature of the parent or guardian was authentic. The consent form used by the Center has no place for such a verification to be made.</p> <p>5. Patient Identifier # 5, a 15 year old patient, came to the Center on 4/17/09 for a medical abortion.</p> <p>The Center violated the Alabama parental consent statute by failing to have PI # 5 verify by her signature, and in the presence of the person who would perform the abortion or in the presence of his or her agent, that the signature of the parent or guardian was authentic. The consent form used by the Center has no place for such a verification to be made.</p> <p>6. Patient Identifier # 6, a 13 year old patient, came to the Center on 8/06/09 for a procedure.</p> <p>The Center violated the Alabama parental</p>	L 100		

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L 100	<p>Continued From page 11</p> <p>presence of his or her agent, that the signature of the parent or guardian was authentic. The consent form used by the Center has no place for such a verification to be made.</p> <p>The Center Manager, EI # 5, was interviewed on 8/26/09. EI # 5 was asked about the Center's policy on underage abortions and she said that, according to the Center's lawyer and the training she received whoever gives their identification and signs the papers it falls on them to be responsible for parental consent.</p> <p>The Center's Registered Nurse (RN), EI # 6, was interviewed on 8/26/09. Employee Identifier # 6 was asked about the Center's policy on underage abortions and she said that the person giving consent has to have photo identification of the parent and signature.</p> <p>The Center Worker, EI # 7, was interviewed on 8/26/09. She said that she looks at the mother's identification. If the names are different she pulls them aside and asks the relationship, looks at the state identification and checks the age.</p> <p>On 10/14/09, EI # 7 was again interviewed. The surveyors asked EI # 7 whether the Center had a policy on how to obtain parental consent for minors. Employee Identifier # 7 said, "I don't know about it. Yes, there is a protocol for minors but I've not seen it." The surveyors asked EI # 7 how the Center assures the parental consent obtained is in fact the minor's parent. Employee Identifier # 7 said, "Get their ID." Employee Identifier # 7 said, "Normally when parent makes appointment I tell them to bring their ID." The surveyors showed the signed parental consent form for PI # 1 and asked EI # 7 how the Center knew this was the minor's mother, did the female</p>	L 100		

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L 100	<p>Continued From page 12</p> <p>say she was the mother. Employee Identifier # 7 said, "Exactly." The surveyors asked if the Center staff would document this in the medical record. Employee Identifier # 7 said, "No. I just write mother on there." Employee Identifier # 7 was asked if she had ever seen the parental consent law. Employee Identifier # 7 said, "No."</p> <p>During an interview with the Center's Interim CEO, EI # 1, on 8/27/09 she was asked, "What is the official center policy on underage abortions done here?" She responded, "I would need to have it in front of me before I speak to that." She was provided with the two documents given to the surveyor by EI # 2, the Director of Operations, on 8/25/09. She excused herself and returned saying, "I need to talk to my lawyer before I can continue." The surveyor asked, "Did you find a policy?" She responded, "You have what I have."</p> <p>On 10/14/09, EI # 1 was again interviewed. The surveyors asked EI # 1 what procedure staff follow to identify a parent or legal guardian of a minor that comes to the Center. Employee Identifier # 1 said that the staff get a copy of the identification. The surveyors asked EI # 1 if there was a written procedure for this process. Employee Identifier # 1 said that it would be completion of the consent form. The surveyors then asked EI # 1 how the Center assured the parental consent obtained is in fact the minor's parent. Employee Identifier # 1 said that if the parent or guardian is present, when signing, then they show their ID. If the consent form is signed off-site, then the patient has to bring a copy of the ID with the signed consent form.</p> <p>Employee Identifier # 1 was shown the drivers license of the purported parent for PI # 1. The name and address are not the same as that of</p>	L 100		

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L 100	<p>Continued From page 13</p> <p>the minor. EI # 1 was asked by the surveyors how the Center staff knew this was the parent of this minor. EI # 1 answered, "I would not know. I am confident that my staff." (She paused) "I am confident that they [the staff] are discerning enough that if they questioned it they would question it. If someone were trying to misrepresent themselves they would catch it." Employee Identifier # 1 was asked if the Center staff would document this. Employee Identifier # 1 said that if there was not a place for staff to document this then they would not document it. The surveyors asked EI # 1 if the Center had any other consent forms they used. She said that there were no other forms used for consent.</p> <p>In summary, the Center failed to comply with the State Board of Health's rules in that the Center had no policy or procedure in regard to verifying parental consent. Staff at the Center were inconsistent with their understanding in regard to obtaining parental consent for minors and failed to obtain parental consent for 9 of 9 minor patients in a manner that complies with state legal requirements. In addition, on the 7/2/08 visit, made by Lila Rose who was portraying to be a 14 year old girl pregnant by a 31 year old boyfriend, Center staff suggested that someone other than a parent or legal guardian could give consent for a minor to have an abortion.</p> <p>Regulatory Violation # 2</p> <p>Alabama Administrative Code</p> <p>420-5-1-.03 Patient Care (1) Patient Care. All patient care must be rendered in accordance with all applicable federal, state, and local laws, these rules, and current standards of care, including all</p>	L 100		

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L 100	<p>Continued From page 14</p> <p>professional standards of practice...</p> <p>(2) Policies and Procedures. The facility shall develop and follow detailed written policies and procedures that are consistent with all applicable federal, state, and local laws, these rules, and current standards of care, including all professional standards of practice. A comprehensive review of these policies and procedures shall be made annually, or whenever it appears that either a comprehensive or limited review is necessary to meet current legal requirements or standards of care. All necessary revisions shall be made and implemented promptly.</p> <p>The requirements of this rule were not met as evidenced by:</p> <p>The Center failed to develop and follow detailed written policies and procedures that are consistent with state laws for the mandatory reporting of suspected abuse or neglect of a minor child. The Alabama Child Abuse Reporting Act was not followed for 1 of 2 sampled patients for whom it would be only reasonable to suspect abuse or neglect. Further, during the surreptitious visit in which Lila Rose posed as a 14 year old pregnant by a 31 year old, EI # 4's verbal responses to Lila Rose revealed a disregard or lack of knowledge regarding the mandatory reporting of statutory rape.</p> <p>Findings include:</p> <p>Code of Alabama The Alabama Child Abuse Reporting Act, section 26-14-3 of the Code of Alabama, reads in part as follows: "(a) All hospitals, centers, sanitariums, doctors, physicians, surgeons, medical examiners,</p>	L 100		

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L 100	<p>Continued From page 15</p> <p>coroners, dentists, osteopaths, optometrists, chiropractors, podiatrists, nurses, school teachers and officials, peace officers, law enforcement officials, pharmacists, social workers, day care workers or employees, mental health professionals, members of the clergy as defined in Rule 505 of the Alabama Rules of Evidence, or any other person called upon to render aid or medical assistance to any child, when the child is known or suspected to be a victim of child abuse or neglect, shall be required to report, or cause a report to be made of the same, orally, either by telephone or direct communication immediately, followed by a written report, to a duly constituted authority."</p> <p>The Alabama Child Abuse Reporting Act, section 26-14-1 of the Code of Alabama, contains in part the following definitions:</p> <p>"(1) Abuse. Harm or threatened harm to a child's health or welfare. Harm or threatened harm to a child's health or welfare can occur through nonaccidental physical or mental injury, sexual abuse or attempted sexual abuse or sexual exploitation or attempted sexual exploitation. 'Sexual abuse' includes the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or having a child assist any other person to engage in any sexually explicit conduct or any simulation of the conduct for the purpose of producing any visual depiction of the conduct; or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children as those acts are defined by Alabama law. 'Sexual exploitation' includes allowing, permitting, or encouraging a child to engage in prostitution and allowing, permitting, encouraging or engaging in the obscene or pornographic photographing, filming, or depicting of a child for commercial purposes.</p> <p>(2) Neglect. Negligent treatment or maltreatment</p>	L 100		



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L 100	<p>Continued From page 16</p> <p>of a child, including the failure to provide adequate food, medical treatment, supervision, clothing or shelter.</p> <p>(3) Child. A person under the age of 18 years ." Various Alabama criminal statutes address sex crimes against children. Among them are the following: Section 13A-6-61 of the Code of Alabama, which provides as follows: "(a) A person commits the crime of rape in the first degree if: 1) He or she engages in sexual intercourse with a member of the opposite sex by forcible compulsion; or 2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being physically helpless or mentally incapacitated; or 3) He or she, being 16 years or older, engages in sexual intercourse with a member of the opposite sex who is less than 12 years old. (b) Rape in the first degree is a Class A felony." Section 13A-6-62 of the Code of Alabama, which provides as follows: "(a) A person commits the crime of rape in the second degree if: (1) Being 16 years old or older, he or she engages in sexual intercourse with a member of the opposite sex less than 16 and more than 12 years old; provided, however, the actor is at least two years older than the member of the opposite sex. (2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being mentally defective. (b) Rape in the second degree is a Class B felony." Section 13A-6-67 of the Code of Alabama, which provides as follows:</p>	L 100		

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L 100	<p>Continued From page 17</p> <p>"(a) A person commits the crime of sexual abuse in the second degree if:</p> <p>(1) He subjects another person to sexual contact who is incapable of consent by reason of some factor other than being less than 16 years old; or</p> <p>(2) He, being 19 years old or older, subjects another person to sexual contact who is less than 16 years old, but more than 12 years old.</p> <p>(3) Sexual abuse in second degree is a Class A misdemeanor, except that if a person commits a second or subsequent offense of sexual abuse in the second degree within one year of another sexual offense, the offense is a Class C felony."</p> <p>The Center failed to report a case in which a reasonable person would suspect sexual abuse or neglect of a child has occurred.</p> <p>On 10/26/09, EI # 2, the Director of Operations, was interviewed by telephone. The surveyors asked EI # 2 if the Center staff notified her of suspected cases of abuse. Employee Identifier # 2 said that staff are not required to report suspected cases of abuse to her. She said that if the staff felt comfortable handling these cases she allowed them to handle it, but if staff were uncomfortable they could come to her for assistance. Employee Identifier # 2 said that the Center's reporting on minors was straightforward, they call the police and the police come and file a report.</p> <p>Center Policy:</p> <p>The surveyor requested the Center policy on Mandatory Reporting and Child Sex laws on 8/25/09. In response EI # 2 provided to the surveyor a Planned Parenthood of Alabama form consisting of three pages, titled Alabama and Mississippi, "Mandatory Reporting &amp; Sex</p>	L 100		

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L 100	<p>Continued From page 18</p> <p>Laws,"dated 6/05. EI # 2 also presented to the surveyor a pamphlet with Planned Parenthood of Alabama logo, titled Alabama Mandatory Reporting Laws. There is no date on this form.</p> <p>The pamphlet defines "mandatory reporting" as, "If you know or suspect a child to be victim of child abuse or neglect: Immediately report orally, either by telephone or direct communication to the chief of police or local sheriff. Follow with a written report. Include the following information in your report, if known: The name of the child Her/his whereabouts The names and addresses of the parents, guardian or caretaker and the character and extent of her/his injuries Any evidence of previous injuries to said child and any other pertinent information which might establish the cause of such injury or injuries, and the identity of the person or persons responsible for the same.</p> <p>"Sexual abuse: the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or having a child assist any other person to engage in any sexually explicit conduct or any simulation of the conduct for the purpose of producing any visual depiction of the conduct; or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children.</p> <p>"Statutory Rape is committed when: Minor is under 12 and reports intercourse with a person 16 or older. Minor is between 12 and 16 and reports intercourse with a person 16 or older and 2 years older than minor.</p> <p>"The crime of Sexual Abuse is committed when:</p>	L 100		

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L 100	<p>Continued From page 19</p> <p>Minor is under 12 and report of sexual contact with a person 16 or older. Minor is between 12 and 16 and report of sexual contact with a person 19 or older."</p> <p>Patient Identifier # 2</p> <p>Patient Identifier (PI) # 2, a 13 year old patient, came to the Center on 9/25/08 for a medical abortion. The Center utilized a form they titled, "Initial History Comprehensive" which is to be completed by the patient.</p> <p>The initial history comprehensive form documented that PI # 2's age of first vaginal intercourse was at the age of 12. The Initial History and Comprehensive form, under section "I. STI/HIV Risks" documented that PI # 2 had three sex partners in the past year.</p> <p>Under section "G. Social History" of the document there was no documentation listed for PI # 2, the section had no marks or answers.</p> <p>The Social History section of the form has the following questions:                      Emotional?__ Relationship problems?__                      Death of __ Family Member?__ Friend? __                      __ Job Loss?__ Financial problems?__                      Problems in __ Living arrangements? __ School?                      __                      __ Legal problems?__ Arrests?__ Divorce?__                      __ Do you have any parental problems?                      __ Are you physically abused?                      __ Has anyone forced you to have sex?                      __ Are you sexually abused?                      Are you afraid of your __ Partner?__ Family member?                      Who helps and supports you with your problems?</p>	L 100		

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L 100	<p>Continued From page 20</p> <p>The Center's Registered Nurse, EI # 6, and Medical Doctor, EI # 10, both signed and dated the initial history form documenting that the form had been reviewed. There was no documentation the physician or nurse asked the minor if she understood the form's questions or that the nurse or physician explored the possibility of abuse or neglect regarding a 12 year old having sex, now seeking an abortion at age 13.</p> <p>Approximately four months later, on 1/16/09 PI # 2 returned to the Center for another medical abortion. On the Initial History Comprehensive form completed on 1/09/09 PI # 2's age of first vaginal intercourse was again listed as being at the age of 12. Under section "G. Social History" of the initial history comprehensive form again documented as "no" or "none" to every question. The form under section "I. STI/HIV Risks" documented the patient had four sex partners in her life, two within the past year. The Center's Registered Nurse, EI # 6, and Medical Doctor, EI # 10, both signed and dated the initial history form documenting that the form had been reviewed. There was no documentation the physician or nurse asked the minor if she understood the questions on the form or that the nurse or physician made any inquiry about the possible abuse or neglect of a minor who began sexual activity at age 12, and who as a 13 year old (with multiple sex partners) presented for two abortions within a four month period.</p> <p>A reasonable person would suspect abuse or neglect of this 13 year old child based on the above. The Center failed to report the suspected abuse or neglect. Neither the Registered Nurse, the Medical Doctor, nor any other Center staff reported the suspected abuse or neglect to the authorities as required by law.</p>	L 100		

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L 100	<p>Continued From page 21</p> <p>On 10/14/09, EI # 6, the Registered Nurse, was interviewed. The surveyors asked EI # 6 what the policy of the Center was for the nurse and doctor on reviewing the history and physical form. Employee Identifier # 6 said, "If they make comment then we ask questions. If they have psychological issues or abuse then we ask. I was under the understanding if they leave it blank or didn't comment then there was nothing to comment on."</p> <p>Employee Identifier # 6 was asked if the Center staff received in-service training on reporting abuse. EI # 6 said that just the initial orientation training is provided. EI # 6 was asked what the Center does about suspected cases of abuse and she said that they would report it. EI # 6 said that for minors they call the police and for adults they refer them to the crisis center.</p> <p>On 8/26/09, the surveyor asked EI # 5, the Center Manager, if the Department of Human Resources had been notified about PI # 2's repeat visits to the Center for abortions. She stated, "No, her mother or grandmother brought her in."</p> <p>On 10/14/09, EI # 5 was again interviewed. The surveyors asked EI # 5 if the Center's staff received in-service training on reporting abuse. Employee Identifier # 5 said that the Center has a referral list and had been shown how to use it. Employee Identifier # 5 said that she would not say the staff had really received training, if something comes up it would be hands on and a person in the center would know what to do. Employee Identifier # 5 was asked what the Center does about cases of suspected abuse and she said that they call the police and follow the reporting process. Employee Identifier # 5 was</p>	L 100		

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L 100	<p>Continued From page 22</p> <p>asked if she is made aware of cases of suspected abuse for patients that come to the Center and she said yes. Employee Identifier # 5 said that she is usually the person that completes the report.</p> <p>Employee Identifier # 5 was shown PI # 2's medical record. The surveyors asked EI # 5 if she suspected this 13 year old minor had been abused. She said "No." Employee Identifier # 5 said PI # 2 "was probably just sexually active and got caught up." Employee Identifier # 5 was asked if she thought PI # 2 was ever abused at home. Employee Identifier # 5 said that PI # 2 never gave her any reason to think she was neglected.</p> <p>Employee Identifier # 5 was asked how she, as the Center manager, assured the Center's staff were following policy and procedures and state law. Employee Identifier # 5 said that the Center used to have a policy manual. Employee Identifier # 5 said that other than the State of Alabama rule book for abortion centers and hand me down training, the Director of Operations, EI # 2, would pass on information to the staff. Employee Identifier # 5 stated, "We have staff meetings, audits, drills throughout the year. I work closely with them and we communicate."</p> <p>In an surreptitious role, Lila Rose, posing as a 14 year old pregnant by a 31 year old, told a Center staff member that she wanted an abortion but did not want her parents to know.</p> <p>The following is an excerpt from the Lila Rose audio tape of the 7/2/08, visit.</p> <p>EI #4 (Planned Parenthood Employee Identifier # 4, Center Support Staff): "How old is your</p>	L 100		

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L 100	<p>Continued From page 23</p> <p>boyfriend?"</p> <p>LR (Lila Rose): "Is everything here confidential?"</p> <p>EI #4: "Yea, I can't say anything."</p> <p>LR: "OK, he's 31."</p> <p>EI #4: "He's 31- OK- he won't be able to do that [give consent]because he doesn't have the same last name."</p> <p>LR's friend: "He could get the same last name."</p> <p>EI #4: "No, he can't do that- just call back tomorrow and speak to somebody else, OK? Just call back I'm gonna give you a phone number you can call and ask to speak to [Gives name of EI # 5 the Health Center Manager]. OK, she's the health center manager."</p> <p>LR: "She can tell me what to do?"</p> <p>EI #4: "Yeah, she can tell you what to do. Because like I said- as far as I know you have to have a parent's consent."</p> <p>LR: "Is it a problem about my boyfriend?"</p> <p>EI #4: "As long as you consented to having sex with him there's nothing we can truly do about that."</p> <p>LR: "I consented very much. Cause he said he could get in big trouble."</p> <p>EI #4: "He could. Especially if your parents find out he's 31."</p> <p>By interview, Lila Rose has confirmed that she made this recording during the 7/2/08, visit to the Birmingham office of Planned Parenthood of Alabama.</p> <p>The audio tape recording shows that EI # 4, the Center staff member, either did not understand or disregarded the requirements to report suspected abuse or neglect of a minor.</p> <p>In summary, the Center staff that works directly with patients or is responsible for the operation of the Center, all differ in their knowledge and</p>	L 100		



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L 100	<p>Continued From page 24</p> <p>understanding of the State law requiring suspected cases of abuse or neglect to be reported. This places all minor patients who receive abortions at the Center at risk for further possible abuse or neglect. The Governing Body failed to develop policies and procedures, train staff and assure staff followed the policies and procedures to comply with State law.</p> <p>Regulatory Violation # 3</p> <p>Alabama Administrative Code</p> <p>420-5-1-.02 Administration.</p> <p>(1) Governing Authority.</p> <p>(a) Responsibility. The governing authority is the person or persons responsible for the management, control, and operation of the facility, including the appointment of persons to fill the minimum staffing requirements. The governing authority shall ensure that the facility is organized, equipped, staffed and administered in a manner to provide adequate care for each patient admitted.</p> <p>(b) Notification of Center Administrator. The State Board of Health shall be advised of the center administrator's name within fifteen days of appointment.</p> <p>(2) Policies &amp; Procedures. Policies and procedures for operation of the facility shall be formulated and reviewed annually by the governing authority. They shall include at least the following:</p> <p>(a) Purpose of the facility, to include scope and quality of services;</p> <p>(b) Method to ensure compliance with all relevant federal, state, and local laws that govern operations of the facility;</p> <p>(c) Inservice training requirements;</p> <p>...</p>	L 100		

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L 100	<p>Continued From page 25</p> <p>The requirements of this rule were not met as evidenced by:</p> <p>The Governing Body failed to have policies and procedures that included a method to ensure compliance with state law. Based on state law, record reviews and an interview, it was determined that the Governing Authority failed to require that minor children verify the signature of a parent or legal guardian as authentic, and failed to assure the mandatory abuse or neglect reporting law was followed. The parental consent law was not followed for 9 of 9 sampled records that involved minors. The mandatory reporting law was not followed for 1 of 2 sampled patients for whom it would be only reasonable to suspect abuse or neglect. Further, during the surreptitious visit in which Lila Rose posed as a 14 year old pregnant by a 31 year old, the Center staff member's verbal responses to Lila Rose revealed a disregard or lack of knowledge regarding the mandatory reporting of statutory rape and the requirements for obtaining the consent of a parent or guardian prior to performing an abortion on a minor. This had the potential to affect all minor patients served by the center.</p> <p>Findings include:</p> <p>Refer to the introduction for the complete transcribed audio recording of Lila Rose and EI # 4. Refer to findings and interviews in Regulatory Violation # 1 and Regulatory Violation # 2.</p> <p>Regulatory Violation # 4</p> <p>Alabama Administrative Code</p>	L 100		

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L 100	<p>Continued From page 26</p> <p>420-5-1-.03 Patient Care</p> <p>(2) Policies and Procedures. The facility shall develop and follow detailed written policies and procedures that are consistent with all applicable federal, state, and local laws, these rules, and current standards of care, including all professional standards of practice. A comprehensive review of these policies and procedures shall be made annually, or whenever it appears that either a comprehensive or limited review is necessary to meet current legal requirements or standards of care. All necessary revisions shall be made and implemented promptly.</p> <p>The requirements of this rule was not met as evidenced by:</p> <p>Based on review of the policy manual given to the surveyors, it was determined that the Center failed to assure all policies were reviewed annually. This had the potential to affect all patients served.</p> <p>Findings include:</p> <p>A review of the Center policy manual given to the surveyors by the Director of Operations, EI # 2, on 8/27/09 revealed there was no documentation to support the Center's policies had been reviewed annually as required.</p> <p>Regulatory Violation # 5 Alabama Administrative Code</p> <p>420-5-1-.03(8)(d)1 Infection Control- Investigation of Infections Reports of infections observed during any follow-up or return visit of the patient shall be</p>	L 100		

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L 100	<p>Continued From page 27</p> <p>made and kept as a part of the patient's medical record. Each facility shall maintain a surveillance logbook recording all follow-up visits and telephone inquiries in which infections or other complaints are reported or observed. This logbook shall be reviewed at least quarterly by the facility's medical director.</p> <p>The facility's medical director may specify certain patient complaints, such as mild cramps, which, in his professional opinion and judgment, do not warrant being recorded in the logbook. The logbook shall in all events contain documentation of the following:</p> <ul style="list-style-type: none"> <li>(i) Any report by a patient of severe cramps;</li> <li>(ii) Any report by a patient of passage of a blood clot as large or larger than three centimeters, or one and one fourth inches, in diameter (the approximate size of a fifty cent piece);</li> <li>(iii) Any report by a patient that she has passed tissue;</li> <li>(iv) Any report by a patient of foul-smelling discharge;</li> <li>(v) Any report by a patient that she has soaked two or more sanitary pads in one hour;</li> <li>(vi) Any report by a patient of a body temperature of 100 degrees Fahrenheit or more;</li> <li>(vii) Any diagnosis of perforation of the uterus; and</li> <li>(viii) Any hospitalization of a patient for adverse conditions resulting from a procedure performed at the facility.</li> </ul> <p>The requirements of this rule were not met as evidenced by:</p> <p>Based on an interview, review of Center protocol and procedures and review of the surveillance logbook it was determined the Center failed to:</p> <ol style="list-style-type: none"> <li>1. Have documentation of after hour calls</li> </ol>	L 100		

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L 100	<p>Continued From page 28</p> <p>received from the answering service from 4/09 to 8/09 in the surveillance logbook.</p> <p>2. Assure the Medical Director reviewed the surveillance log at least quarterly.</p> <p>This had the potential to affect all patients served.</p> <p>Findings include:</p> <p>The following is the Center's policy and procedure on surveillance.</p> <p>"Agency Procedure and Protocols for Telephone Consultation, Infection Control and Abortion Complication Forms:</p> <p>"5. The Assistant Director of Operations will review the log monthly with the Director of Operations. The Medical Director will review it quarterly and discuss its contents at annual Infection Control Meetings."</p> <p>The surveillance log book (the Center calls it the "Answering Service Call Log ") was reviewed by the surveyor 8/25/09 at 3:00 PM. There were no answering service entries available in the Center's surveillance log book after 3/09. The Center maintains another surveillance log book for all calls throughout Alabama for both Planned Parenthood offices. There were no entries in the state log book after 3/09.</p> <p>On 8/26/09, the surveyor asked EI # 5, the Center Manager, for the answering service information from 4/09 through 8/09 and any infection report forms. She stated that she would have to get them from the Director of Operations.</p> <p>The surveyor interviewed EI # 2, the Director of Operations, on 8/27/09 at 9:55 AM and requested</p>	L 100		

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L 100	<p>Continued From page 29</p> <p>the surveillance log book entries and infection control reports from 4/09 through 8/09. She said there were no records of calls received since 4/09.</p> <p>The surveyor asked EI # 2 to contact the answering service and have the answering service fax over the documentation of calls the answering service had received since 4/09.</p> <p>On 8/27/09 at 1:45 PM, EI # 2 provided the surveyor 39 pages of call information from the answering service. The 39 pages documented that the answering service had referred 55 calls to the Center's duty nurse from 4/3/09 to 8/27/09.</p> <p>Department surveyors requested answering service documentation from EI # 2, EI # 3 and EI # 5. It was not until the surveyors requested the answering service records from 4/09 to be faxed over that the Center staff became aware there had in fact been after hour calls received. Some of the calls required physician notification.</p> <p>The surveyor interviewed EI # 1, EI # 2, EI # 3 and EI # 5. All of these employees verified that none of the Center management was aware of the after hour patient calls for the time period from 4/3/09 to 8/27/09.</p> <p>Department surveyors requested documentation of the Medical Director's quarterly reviews and the Center staff failed to provide the documents. The Center failed to have documentation of the Medical Director's review of the surveillance log at least quarterly, as required by the State Board of Health's rules.</p> <p>The Center's failure to maintain a current surveillance log put all patients at risk of having</p>	L 100		

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L 100	<p>Continued From page 30</p> <p>an adverse event following an abortion. There was an increased likelihood Center staff and the Medical Director would be unable to identify all infections or other bad outcomes due to the documentation not being onsite and available for review.</p> <p>Regulatory Violation # 6</p> <p>Alabama Administrative Code</p> <p>420-5-1-.03 Patient Care.</p> <p>(6) (e) Call Records: In addition to the infection control record required by these rules, a facility must keep a record of all calls taken by the registered nurse, nurse practitioner, physician assistant, or physician. The call record should include the patient's name, time and date of call, a brief description of the reason for the call, and any action taken in response. A full description of any adverse conditions and the instructions or treatment given in response must be noted in the patient's medical record.</p> <p>The requirements of this rule were not met as evidenced by:</p> <p>Based on a review of the on-call log book for the Center, the on-call log book for Planned Parenthood state offices and an interview it was determined the Center failed to have a record of all calls received by the Registered Nurse. This had the potential to affect all patients served.</p> <p>Findings include:</p> <p>The Answering Service Call Log book was reviewed by the surveyor 8/25/09 at 3:00 PM, there was no documentation available in the log</p>	L 100		

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L 100	<p>Continued From page 31</p> <p>book after 3/09. The on call book for the Center and the state were reviewed and no calls were documented as reported since 3/09.</p> <p>On 8/26/09, the surveyor asked EI # 5, the Center Manager, for the on call information from 4/09 to 8/09 and any infection report forms. She stated that she would have to get them from, EI # 2, the Director of Operations.</p> <p>The surveyor interviewed EI # 2 on 8/27/09 and requested the on-call log book entries and infection control reports from 4/09 to 8/09. She said there were no records of calls received since 4/09.</p> <p>During the 10/13/09 to 10/15/09 on-site visit the surveyors requested the on-call answering service log book. The Center had the answering service fax over a document to show the dates the Center had no after hour calls. This document was faxed after the surveyors requested the on-call log book and there was no documentation of calls for the months of August and September.</p> <p>Refer to interviews in Regulatory Violation # 5 related to on-call service.</p> <p>Regulatory Violation # 7</p> <p>Alabama Administrative Code</p> <p>420-5-1-.04 Physical Environment.</p> <p>(5) Equipment and Supplies. (a) Testing and Diagnostic Equipment. All testing and diagnostic equipment shall be maintained in good working order at all times. If equipment is obsolete or permanently unusable because of</p>	L 100		



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L 100	<p>Continued From page 32</p> <p>irreparable damage or malfunction to the equipment or any other condition that renders its use detrimental to patient care, it shall be immediately separated from the equipment currently in use, clearly tagged as permanently unusable, and properly disposed of as soon as possible. If equipment is temporarily unusable, it shall be immediately separated from equipment currently in use and clearly tagged as being temporarily unusable until it is repaired or otherwise made fit for use. Equipment is temporarily unusable if in need of repair or if not maintained in accordance with manufacturer standards, regardless of whether there is an apparent defect. Tagged equipment shall not be returned to use until repaired and tested to ensure proper operation.</p> <p>The requirements of this rule were not met as evidenced by:</p> <p>Based on observation and interview, it was determined that the Center failed to assure two suction machines were clearly tagged as unusable. This had the potential to affect all patients served by the center.</p> <p>Findings include:</p> <p>On the initial tour of the Center on 8/25/09 at 9:20 AM the storage room had two Synevac System 20-C suction pumps. The identification number listed on the first machine was 02490, the inspection label expired on 10/07. The identification number listed on the second machine was 02491, the inspection label expired on 4/08. The suction pumps were not tagged to show they were not available for patient use.</p> <p>Employee Identifier # 5, the Center Manager, was</p>	L 100		

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L 100	<p>Continued From page 33</p> <p>asked about the suction pumps on 8/26/09 at 3:40 PM, and stated they were from the Huntsville center and needed to be labeled.</p> <p>Regulatory Violation # 8</p> <p>Alabama Administrative Code</p> <p>420-5-1-.04 Physical Environment. (e) Ventilation. The building shall be well ventilated at all times with a comfortable temperature maintained.</p> <p>The requirements of this rule was not met as evidenced by:</p> <p>Based on observations and interviews, it was determined that the Center failed to assure there was a comfortable temperature maintained for patients, visitors and employees. This affected all of the occupants of the building.</p> <p>Findings include:</p> <p>During the entrance conference on 8/25/09 at 8:25 AM, the temperature of the building was noted by the survey team as warm. Employee Identifier # 5, the Center Manager, was asked about the temperature and she stated the air conditioning was not working. The Center did have portable cooling units placed in the recovery room, end of the hallway where exam rooms are located, outside the lab and lab waiting room, outside the staff offices and on the first floor in the hallway.</p> <p>The Center performed procedures on 8/27/09. During the time the surveyors were on-site on 8/27/09 the temperature readings in the exam rooms, where patients and staff work behind</p>	L 100		

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L 100	<p>Continued From page 34</p> <p>closed doors, was documented to be 90 degrees Fahrenheit (F).</p> <p>The surveyor observed EI # 7, the Center Worker, who was assisting the physician in the exam rooms wearing personal protective equipment (PPE) consisting of a plastic apron, hair cover, and mask with sweat standing out on her face and neck. In treatment room number two the temperature was 90 F degrees at 12:28 PM, where she had just left a procedure to walk the patient to the recovery room.</p> <p>In an interview with EI # 6, the Registered Nurse, on 8/26/09 at 10:05 AM, she confirmed the air conditioning had been out for seven days.</p> <p>Regulatory Violation # 9</p> <p>Alabama Administrative Code</p> <p>420-5-1-.03 Patient Care.</p> <p>(8) Infection Control.</p> <p>(c) Abortion or reproductive health centers shall adhere to regulations of the United States Occupational Safety and Health Administration for handling medical waste, and regulations of the Alabama Department of Environmental Management and other applicable federal regulations for disposal of medical waste (medical waste includes, but is not limited to disposable gowns, soiled dressings, sponges, surgical gloves, bacteriological cultures, blood and blood products, excretions, secretions, other bodily fluids, catheters, needles, IV tubing with needles attached, scalpel blades, glassware, and syringes that have been removed from their original sterile containers).</p> <p>The requirements of this rule were not met as</p>	L 100		

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>C3703</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____  B. WING _____	(X3) DATE SURVEY COMPLETED  <b>10/15/2009</b>
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NAME OF PROVIDER OR SUPPLIER  <b>PLANNED PARENTHOOD OF ALABAMA, INC</b>	STREET ADDRESS, CITY, STATE, ZIP CODE <b>1211 27TH PLACE SOUTH BIRMINGHAM, AL 35205</b>
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(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
L 100	<p>Continued From page 35</p> <p>evidenced by:</p> <p>Based on observation, it was determined that the Center failed to assure the proper disposal of a needle attached to a 3 cubic centimeters (cc) syringe and an opened glass vial of medication in the lab. This had the potential to affect all patients served.</p> <p>Findings include:</p> <p>On initial tour of the lab on 8/25/09 at 9:13 AM, the surveyor observed a 3cc syringe with needle attached and an opened glass vial of Medroxyprogesterone 150 mg (milligrams) that had an expiration date of 6/07, on the top shelf in a cabinet.</p> <p>The 3cc syringe and half empty glass vial of medication was shown to the lab personnel who removed it.</p>	L 100		