

March 21, 1994

Attorney General's Office
Public Protection Bureau
Barbara Anthony
One Ashburton Place
Boston, MA. 02103

Dear Ms. Anthony:

Since May 1993, I have forwarded your office numerous documents relating to the questionable practices of Massachusetts -fertility clinics; and have requested your assistance in this matter.

On February 16th, in speaking with Debra Ecker, I was informed that the Attorney General's office would require concrete evidence that misleading and deceptive advertising and practices are taking place before the Attorney General's Office could become involved. (I had previously submitted multiple sources of documentation, including medical journal articles, that detailed the cancer risks to the woman, and the risks and increased incidence of spontaneous abortion, death around the time of birth, and neurological handicap in the offspring.)

On February 16th, I mailed additional documents to your office which contained the concrete evidence you required. Five Massachusetts fertility clinics ('Boston IVF", 'IVF America', and fertility clinics at The Faulkner Hospital, New England Memorial Hospital, and Malden Hospital) state in their brochures: "the medications are not harmful", "no clinical evidence of increased incidence of birth defects", "this new protocol has many advantages to the patient", "effective and safe hormonal drugs are prescribed", "no known serious side effects", etc.

Also on February 16th, I mailed additional medical journal articles, and enclosed a three page letter reinforcing the issue of the threat to public health that currently exists - prompted in part by misleading and deceptive advertising and practices. I received a four sentence letter dated March 8, 1994 from Ms. Ecker that stated "I have reviewed all of the information that you have sent me about your case. I regret to inform you that your office cannot pursue this matter on your behalf. Our office receives many complaints throughout Massachusetts, and because of our small staff, we can only handle a very limited number of these complaints. If you are not satisfied with the outcome, you may consider discussing with a private attorney."

As I stated in my recent letter to you, I have provided concrete examples of local IVF clinics utilizing consumer deception as to the alleged "safety and efficacy" of the drug protocols used. There has been evidence in the literature documenting the risks and dangers associated with these drugs for several decades. Lupron, another drug used since the late '80's, is being routinely used in an IVF cycle -- **yet** it is without approval by the FDA for use in an IVF cycle. Lupron contains the warnings "safe use of Lupron in pregnancy has not been established", "patients should not use Lupron if they are pregnant", "a nonhormonal method of contraception should be used during treatment with Lupron".

I have attempted to inform your office of a public health issue that needs to be addressed. Page 8 of the 'Prepared Statement of the Federal Trade Commission before the Subcommittee on Health and the

Environment' states "we pointed out that, because providers of infertility treatment generally practice at a local level, consumer protection efforts need to rest primarily with state and local authorities, including the state attorneys general." Page 10 states "Promoters of medical services, including infertility services, who misrepresent their success, or who deceive consumers as "to the safety or efficacy of the services they provide, put themselves at risk for challenge".

It would appear inappropriate for the Attorney General's Office to suggest that I consider discussing this with a private attorney. The information that I have provided you concerns more than just my private matter - it involves a serious risk to Massachusetts women and children, a threat to public safety, and entails false, misleading, and deceptive advertising and practices by fertility clinics (who do not even require a license to operate).

As stated in my February 16th letter to your Public Protection Bureau, if you could please review the information I've provided to the Attorney General's Office and inform me in writing as to your intentions about this matter, I would be greatly appreciative. Please let me know what actions your agency will be able to undertake regarding this situation. And if it is felt no action is possible, please provide me a written rationale as to why no action is warranted.

Thank you for your attention to this matter, and I await your response.

Sincerely,

Lynne Millican

cc The Federal Trade Commission
cc Representative John Rogers
cc Representative Ed Moakley
cc Representative Ron Wyden
cc Boston Women's Health Book Collective
cc New England Patient's Rights Group
cc Senator Kerry
cc Ralph Nader
cc The People's Medical Society
cc Lupron Victims Network
cc President Clinton