



May 22, 2013

The Honorable Fred Upton
United States Representative, Michigan
2125 Rayburn House Office Building
Washington, DC 20515-6115

RE: Oversight of Clinics and Facilities that Perform Abortions

Dear Chairman Upton:

I am writing on behalf of the Georgia Department of Community Health (DCH) in response to your committee's letter of May 8, 2013 regarding Georgia's oversight of facilities that perform abortions. DCH is responsible for licensing facilities that perform abortions and we are happy to provide the following information in response to your committee's inquiry. The paragraphs numbered below correspond to the numbered inquiries in your correspondence.

1. HFRD licenses facilities that perform second-trimester abortions. In order for a facility to be licensed to perform second trimester abortions, it must complete a full application to become licensed either as a hospital or an ambulatory surgical treatment center. In order to obtain a license as a hospital, a hospital is required to comply with the Rules and Regulations for Hospitals, Chapter 111-8-40. In order to obtain a license as an ambulatory surgical treatment center, the facility must comply with the Rules and Regulations for Ambulatory Surgical Treatment Centers, Chapter 111-8-4. There were seven facilities that were licensed as ambulatory surgical treatment centers that provided second trimester abortions during the period 2008 through 2013. Currently, there are six ambulatory surgical treatment centers providing second trimester abortions. Other hospitals and ambulatory surgical treatment centers may also have performed second trimester abortions in the course of providing authorized gynecological procedures.
2. For the years 2008-2013, no licensed ambulatory surgical treatment center performing abortions has had its license suspended or revoked. However, an administrative enforcement action to suspend the license of an ambulatory surgical treatment center performing abortions is in progress. The pending suspension is based upon a failure to comply with regulations regarding access to an elevator for use by patients where the facility is located in a multi-story building.
3. HFRD conducts inspections in licensed ambulatory surgical treatment centers performing abortions. The inspections are performed by nurse surveyors, who are licensed professional registered nurses who work for HFRD performing licensure inspections and certification surveys for Medicare in a variety of licensed facility-types.

During the course of the inspections, the nurse surveyor inspects the cleanliness of the premises, reviews clinical records for compliance with accepted medical standards and applicable laws regarding notice, consent, gestation and general compliance with the Rules for Ambulatory Surgical Treatment Centers, Chapter 111-8-4.

	2008	2009	2010	2011	2012	2013
# Inspected	7	0	7	4	3	4

4. HFRD receives complaints by phone, in writing or via on line from the public regarding care provided at the licensed ambulatory surgical treatment facilities that perform abortions. Each complaint received by HFRD is entered into a complaint tracking system for assessment and investigation as determined necessary. The Division also reviews unscheduled hospital transfer logs at these licensed facilities when it conducts on-site inspections.

	2008	2009	2010	2011	2012	2013
# Complaints Filed	4	1	0	4	18	1
# Complaints Investigated On-Site	4	1	0	2	4	1

* 8 complaints raised essentially the same issue regarding the availability of an elevator for patient use which was already scheduled for review by the Division.

- a. The complaints are triaged by a professional registered nurse to determine whether the allegations, if true, would constitute a violation of applicable state laws and regulations that have not already been investigated. If an allegation is determined to be regulatory, it is investigated by a registered professional nurse surveyor who conducts an unannounced on-site focused inspection (based on the nature of the allegations received) to determine whether the licensed facility is in compliance with the applicable laws and rules.

If the facility is found out of compliance with the Rules for Ambulatory Surgical Treatment Centers, it is cited for a violation and required to submit an acceptable plan of correction. If the surveyor were to identify a criminal violation of law, it would be referred for investigation and prosecution through local law enforcement authorities. If the surveyor identified medical or nursing care that appeared to fall below accepted professional standards, referrals would be made to the respective licensing boards for review and action as deemed appropriate against the professional license of the individual, in addition to any action the Division pursues against the licensed facility.

5. HFRD has concluded two enforcement actions involving administrative fines against two licensed ambulatory surgical treatment facilities performing abortions and initiated an

administrative action to suspend the license of another for violation of various licensing requirements. Examples of the kinds of violations identified which resulted in fines include improper storage of flammable materials, failure to document fire drills, failure to maintain credentialing files and failure to maintain policies regarding proper sterilization of equipment.

The Georgia Composite Medical Board has sanctioned one physician, in 2002. The details of that case are provided in the attached documentation. Additionally, when HFRD conducts on-site inspections, it reviews the licensure status of professionals providing care at the licensed facility.

	2008	2009	2010	2011	2012	2013
# Facility Enforcement Actions	0	0	0	2	0	1 pending

6. See attached Rules and Regulations for Ambulatory Surgical Treatment Centers, Chapter 111-8-4 and the Rules and Regulations for General Licensing and Enforcement Requirements, Chapter 111-8-25. The Division is responsible for applying these rules to licensed ambulatory surgical treatment facilities performing second trimester abortions.
 - a. The Division utilizes the Georgia Administrative Procedures Act, O.C.G.A. §50-13-1 et seq. and the Rules and Regulations for General Licensing and Enforcement Requirements, Chapter 111-8-25, to enforce licensing requirements through administrative enforcement actions. Enforcement actions may range from civil monetary penalties, through suspension or revocation of the facility's license.

7. The Georgia Department of Human Services' Division of Family and Children Services administers the Child Abuse Prevention and Treatment Act (CAPTA) program, and has submitted the following response:
 - a. DFCS has actively engaged hospitals and birthing centers throughout Georgia regarding new and existing mandated reporter requirements as well as continuously reinforcing CAPTA requirements; however, DFCS has not included abortion clinics in our outreach efforts. Our policy does require medical personnel to report the withholding of medically necessary treatment. DFCS has not captured data that would allow us to determine whether a birth was the result of an attempted abortion or whether the child had ever been considered for an abortion by a medical facility.
 - b. While our state has two web-based mandated reporter trainings that are available for viewing at any time and our county staff routinely engages with medical facilities regarding mandated reporting, we have not created a policy or protocol for requiring *annual* coordination, consultation and notification.

I hope that this information is responsive to your letter and we are happy to provide any additional information you may need or answer any questions you may have.

Finally, let me thank each of you for your service to our nation.

Respectfully submitted,



David A. Cook
Commissioner

DAC/sd

cc: Katie Rogers
Todd Smith
Lisa Marie Shekell
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