

# Commonwealth of Pennsylvania



DEPARTMENT OF HEALTH

DEPUTY SECRETARY FOR  
QUALITY ASSURANCE

April 10, 2012

Steven Brigham, M.D.  
Facility ID 00028701  
Rose Health Services Company dba Allentown Medical Services  
2200 Hamilton Street Suite 200  
Allentown PA 18104

Re: Closure of Allentown Medical Services

Dear Dr. Brigham:

On April 9, 2012, at 4:20 PM, Allentown Medical Services (AMS) reported an infrastructure failure at 2200 Hamilton Street, Suite 200. An infrastructure failure is an “[a]n undesirable or unintended event, occurrence or situation involving the infrastructure of a medical facility or the discontinuation or significant disruption of a service which could seriously compromise patient safety.” 40 P.S. § 1303.302. AMS’s report indicates that its landlord locked it out of the facility.

The AMS landlord, David A. Klein Real Estate Limited, has confirmed the following facts: Its lease with AMS expired on March 31, 2012; it permitted AMS to hold over for two (2) extra days only; and no further hold-over will be permitted or otherwise allowed. The landlord expects AMS to remove all of its belongings within thirty (30) days of the expiration of the lease. Accordingly, not only does the loss of the lease constitute an infrastructure failure, it is an infrastructure failure that results in a total inability of AMS to comply with the provisions of the registration requirements.

Abortion facility registrations are site-specific; the facility must operate at the address indicated on the registration certificate. Based on the fact that AMS no longer has a physical facility in which to offer abortion services to patients, the Department of Health hereby **REVOKES** AMS’s registration to operate a free-standing abortion facility at 2200 Hamilton Street, Suite 200, Allentown, PA 18104.

The Department takes this action under provisions of the Abortion Control Act (“ACA”), *see* 18 Pa.C.S. § 3207(b), the ACA implementing regulations, the Medical Care Availability and Reduction of Error (MCARE) Act, *see* 40 P.S. § 1303.315, and The Administrative Code of 1929, *see* 71 P.S. §§ 532(a) and (b), 1403, 1404.

The Administrative Code in particular obligates the Department to protect the health of the people of the Commonwealth and to cause examination of questions affecting the security of life and health of Commonwealth citizens. Not having a building in which to perform otherwise approved services negatively affects the health and safety of the citizens of the Commonwealth.

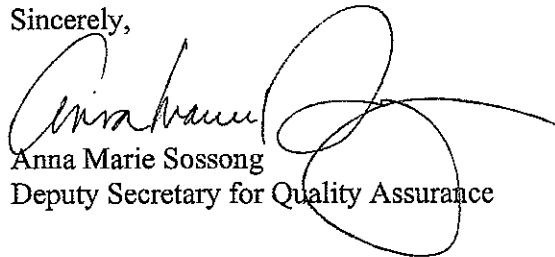
In order to protect the health and safety of women having abortions and premature infants born alive at a freestanding facility that performs abortions, there must be a freestanding facility. AMS has no physical location in which to provide abortions.

In addition, I would note that the Department of Health long has witnessed a chronic inability by AMS to comply with the most fundamental statutory and regulatory requirements. Most recently, for example, AMS has exhibited its serial lack of adherence to law in (1) failing to advise the Department that its attending physician resigned and that it did not have a physician on the premises to provide services; (2) failing for nine (9) days to report as an infrastructure failure the resignation of its attending physician, whom the Department was led to believe was the ob-gyn staff consultant required by 28 Pa. Code § 28.33(4); (3) failing to timely report that its lease expired on March 31, 2012; and (4) failing to advise the Department that it was continuing operations as a hold-over tenant for the (2) days following its lease expiration. These recent events have shown that AMS is unwilling or unable to comply even with the most basic requirements of the law established and designed to assure the health and safety of patients.

Accordingly, an **Order** revoking AMS's registration is enclosed with this letter. I am directing that a representative of the Department deliver this letter and Order to the facility and to remove the facility's registration certificate. If there is no one at the facility to accept delivery of this letter and Order, a copy thereof shall be posted on the front door of the facility. Upon delivery or posting of this letter and Order, AMS no longer may provide any services that were previously provided under its abortion facility registration.

In order to ensure that AMS no longer attempts to provides services, you must take steps to assure that the public is notified that AMS is closed. This includes providing notification on your website that you are no longer authorized to provide services at 2200 Hamilton Street, Allentown, PA 18104.

Sincerely,



Anna Marie Sossong  
Deputy Secretary for Quality Assurance

Enclosure

cc: Julia E. Gabis, Esquire  
Julia E. Gabis & Associates  
401 East Elm Street, 2<sup>nd</sup> Floor  
Conshohocken, PA 19428  
610-834-1212  
Fax: 610-834-1190



**DATE OF MAILING: April 10, 2012**

**Certified Mail**

Hand carried: April 10, 2012

Facsimile: 610-834-1190

**ORDER**

Facility ID 00028701

Rose Health Services Company dba Allentown Medical Services

2200 Hamilton Street suite 200

Allentown PA 18104

(610)782-0573

TO:

Steven Brigham, M.D.

Rose Health Services Company dba Allentown Medical Services

2200 Hamilton Street suite 200

Allentown PA 18104

You are hereby notified that the Pennsylvania Department of Health is issuing an **Order** against your facility pursuant to the the Abortion Control Act ("ACA"), *see* 18 Pa.C.S. § 3207(b), the ACA implementing regulations, the Medical Care Availability and Reduction of Error (MCARE) Act, *see* 40 P.S. § 1303.315, and The Administrative Code of 1929, *see* 71 P.S. §§ 532(a) and (b), 1403, 1404. As a result of Allentown Medical Service's (AMS) report of an infrastructure failure of the loss of a physical location in which to offer services, the Department has determined that AMS is in serious violation of state laws and regulations because of this **PERMANENT INFRASTRUCTURE FAILURE**, which poses an immediate and serious threat to the health and safety of patients of your facility.

Therefore, pursuant to 18 Pa.C.S. § 3207(b), 28 Pa. Code § 29.43, 40 P.S. § 1303, and 71 P.S. §§ 532, 1403 and 1404, the Department **IMMEDIATELY REVOKES** the approval under the Laws of this Commonwealth of Pennsylvania, 28 Pa. Code Chapter 29, Subchapter D, to Operate as an Abortion Facility **EFFECTIVE IMMEDIATELY, April 10, 2012**. No abortion related service of any kind may be offered after April 10, 2012.

You may appeal the **REVOCATION** by requesting an Administrative Hearing. If you wish to appeal the Department's action, you must file a "Notice of Appeal" within 30 days of the date of mailing of this decision at the following address:


Administrative Docket  
Room 825, Health and Welfare Building  
Attention: Lois Feger, Docket Clerk  
Harrisburg, PA 17120

Additionally, if an appeal is filed, an Answer to the Order must be filed specifically admitting or denying the allegations or charges in the Order. Failure to file an Answer shall be deemed an admission by you that all allegations or charges contained in the Order are true. The General Rules of Administrative Practice and Procedure apply. An administrative appeal shall not act as an automatic supersedeas of the decision of the Department of Health.

If you do not request a hearing within 30 days of the Date of Mailing, this Order shall become final pursuant to 1 Pa. Code § 35.37.

If you do request a hearing, a copy of the Notice of Appeal and Answer, if any, shall be served on the Department of Health on or before the date of filing your appeal at the address stated below, and a Certificate of Service (attached) shall be filed with the Administrative Docket indicating the party served:

Office of Legal Counsel  
Pennsylvania Department of Health  
Room 825, Health & Welfare Building  
Harrisburg, PA 17120

  
Ann Chronister, Director  
Bureau of Facility Licensure and  
Certification

cc: Julia E. Gabis, Esquire  
Julia E. Gabis & Associates  
401 East Elm Street, 2<sup>nd</sup> Floor  
Conshohocken, PA 19428  
610-834-1212  
Fax: 610-834-1190