

MQAC CASE REVIEW DISPOSITION
Commission Meeting RCM Presentations

Respondent: Kothenbeutel, Robert L.

Case Number: 2012 - 4919

Date Presented: <u>8/16/2012</u>	RCM: <u>Dr. Hopkins</u>	License#: <input checked="" type="checkbox"/> MDI <input type="checkbox"/> PA _____
Panel Chair: <u>MS. Ruiz</u>	Staff Attorney: <u>McLaughlin</u>	MQAC Clerk <u>Smith/Dani</u>

PANEL A	Andison, Brantner, Clower, Concannon, Cullen, Elders, Green, Johnson, Pattison, Winslow
PANEL B	<u>Burger</u> , <u>Cvitkovic</u> , <u>Gothold</u> , <u>Harder</u> , <u>Harvey</u> , <u>Hensley</u> , <u>Hopkins</u> , <u>Marsh</u> , <u>Ruiz</u> , <u>Sch</u>

A. REQUEST FOR LEGAL ACTION: Summary Suspension Summary Action Practice Restriction

<input type="checkbox"/> Statement of Charges	<input type="checkbox"/> Statement of Allegations /Stipulation to Informal Disposition
<input type="checkbox"/> Withdrawal of SOC	<input type="checkbox"/> SOA/STID for Voluntary Surrender
<input type="checkbox"/> Notice of Decision on Application: (Denied)	<input type="checkbox"/> Withdrawal of SOA
<input type="checkbox"/> Notice of Decision on Application (Granted with conditions)	<input type="checkbox"/> Notice of Correction

Alleged Violations—RCW 18.130.180:

<input type="checkbox"/> (1) Moral turpitude	<input type="checkbox"/> (10) Aiding and abetting	<input type="checkbox"/> (19) Treating by secret methods
<input type="checkbox"/> (2) Misrepresentation of facts	<input type="checkbox"/> (11) Violation of rules	<input type="checkbox"/> (20) Betrayal of patient privilege
<input type="checkbox"/> (3) False advertising	<input type="checkbox"/> (12) Practice beyond scope	<input type="checkbox"/> (21) Rebating
<input type="checkbox"/> (4) Incompetence	<input type="checkbox"/> (13) Misrepresentation or fraud	<input type="checkbox"/> (22) Interference with investigation
<input type="checkbox"/> (5) Out of state action	<input type="checkbox"/> (14) Failure to supervise	<input type="checkbox"/> (23) Current drug/alcohol misuse
<input type="checkbox"/> (6) Illegal use of drugs	<input type="checkbox"/> (15) Public health risk	<input type="checkbox"/> (24) Sexual contact/patient abuse
<input type="checkbox"/> (7) Violated state or federal law	<input type="checkbox"/> (16) Unnecessary or inefficacious drugs	<input type="checkbox"/> (25) Acceptance of more than nominal gratuity
<input type="checkbox"/> (8) Failure to cooperate	<input type="checkbox"/> (17) Criminal conviction	
<input type="checkbox"/> (9) Failure to comply	<input type="checkbox"/> (18) Criminal abortion	

Other Violations of Relevant State or Federal Law or RCW 18.130.170: _____

Mental Impairment Physical Impairment

B. CLOSED AFTER INVESTIGATION:

<input type="checkbox"/> Application investigation only - Panel decides to grant without conditions	<input type="checkbox"/> A7-Mistaken identity
<input checked="" type="checkbox"/> A1-Care rendered was within standard of care	<input type="checkbox"/> A8-No jurisdiction
<input type="checkbox"/> A2-Complainant withdrew	<input type="checkbox"/> A11- No whistleblower
<input type="checkbox"/> A3- Unique closure (Panel must explain)	<input type="checkbox"/> A12-Risk minimal, not likely to reoccur
<input type="checkbox"/> A5-Evidence does not support a violation	<input type="checkbox"/> Sexual Misconduct : RCW 18.130.062 No standard of care MQAC retain / Refer to Secretary non clinical

OTHER EXPLANATIONS (Legal Review, Return to Investigation, etc.)
1)
2)

Handwritten initials: VCW

GUIDE FOR CLOSURE CODES

September 2011

Code	Closure	Description
	Application	Decision to grant an unrestricted license.
A-1	Care rendered was within standard of care	The evidence establishes that the respondent met or exceeded the standard of care.
A-2	Complainant withdrew complaint	The complainant withdrew the complaint, and the complainant's testimony is necessary to meet the burden of proof.
A-3	Unique closure (Panel must explain)	Any concerns regarding Respondent have been resolved through corrective action, license revocation, and suspension, death of respondent or other circumstances. <ul style="list-style-type: none"> • (explain): _____
A-5	Evidence does not support a violation	<ul style="list-style-type: none"> • The evidence is not sufficient to establish by clear, cogent, and convincing evidence that Respondent violated any UDA provision. • This includes situations in which the investigator was unable to obtain all material evidence.
A-7	Mistaken Identity	The case opened under the wrong respondent's name.
A-8	No Jurisdiction	Respondent is not licensed in Washington, has never been licensed in Washington, and is not applying for a license in Washington.
A-11	No Whistleblower Release	Complainant would not sign a whistleblower release AND the release of complainant's identity is necessary to prove a UDA violation.
A-12	Risk Minimal- Not likely to Reoccur	There is sufficient evidence that Respondent violated the UDA, but the evidence indicates that: (a) the violation is not likely to reoccur and (b) closure poses no more than a minimal risk to the public.

zdan guideclosecode revised mlf 0914-2011



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION
PO Box 47866, Olympia, WA 98504-7866

August 20, 2012

Robert L. Kothenbeutel, MD

1 - DOH Licensee Health Professional Home Ad...

RE: Robert L. Kothenbeutel, MD
Case No. 2012-4919MD; Credential Number: MD00012137

Dear Dr. Kothenbeutel:

The Medical Quality Assurance Commission has completed its investigation. The Commission is committed to protecting the health and safety of the citizens of the State of Washington. The Commission takes every complaint seriously.

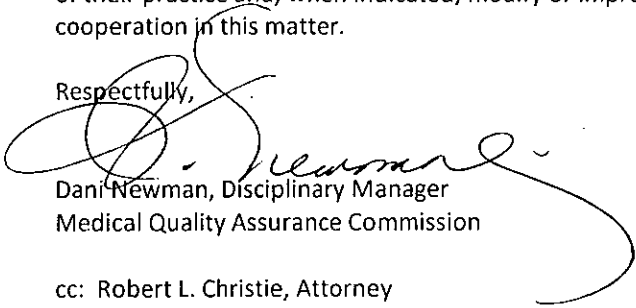
To take disciplinary action against a physician's license, the Commission is required to prove by clear and convincing evidence that the physician's conduct violated the law. After careful review of the information gathered during the investigation, the Commission determined that the evidence does not support a violation. Based on this review, the Commission closed the case.

Washington State law provides you with the right to submit an additional written statement if you wish. Any statement you provide will be added to the investigative file. The investigative file is subject to public release pursuant to the Washington State Public Records Act.

The Washington State Public Records Act also provides you with the right to request copies of documents from the investigative file. If you would like a copy of the investigative report, or copies of documents gathered during the investigation, please submit a request to the Department of Health, Public Disclosure Unit, PO Box 47865, Olympia, WA 98504-7865 or fax your request to 360-586-2171.

The Commission thanks you for your cooperation during this investigation. The Commission understands that being investigated is disconcerting and inconvenient. Many physicians use this experience to initiate a self-critique of their practice and, when indicated, modify or improve certain areas of practice. Thank you again for your cooperation in this matter.

Respectfully,


Dani Newman, Disciplinary Manager
Medical Quality Assurance Commission

cc: Robert L. Christie, Attorney





STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION
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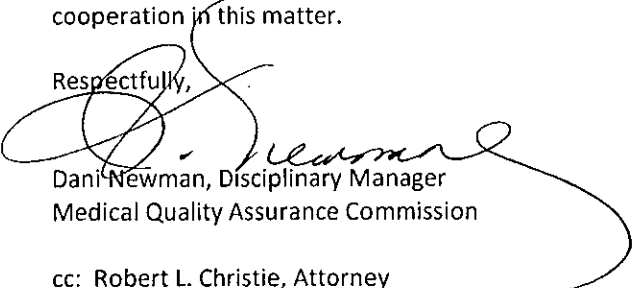
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Respectfully,


Dani Newman, Disciplinary Manager
Medical Quality Assurance Commission

cc: Robert L. Christie, Attorney



CONFIDENTIAL INVESTIGATIVE REPORT

**PREPARED FOR THE
MEDICAL QUALITY ASSURANCE COMMISSION**

CASE #2012-4919MD

Respondent: Robert L. Kothenbeutel, M.D.
ILRS Address:

1 - DOH Licensee Health Professional Home Address ...

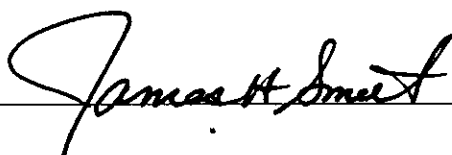
Attorney: Robert L. Christie
2100 Westlake Ave. N.
Suite 206
Seattle, WA 98109

Specialty: Gynecology
Board Certification: No. Self-designation: Gynecology
Type of Practice: Office based
DOB: 02/12/1944
Licensed since: 08/03/1971
Expiration date: 02/12/2014
License #: MD00012137
Licenses: WA-Active; IA - Inactive
Medical School: 1969 – Univ. of Iowa Roy J & L Carver Com, IA
Residency: 07/1970 – 12/1971 – Univ. of Washington, WA – OB/GYN
06/1969 – 06/1970 – L A CO USC Medical Center, CA – Flexible or
Transitional

Complainant: Admiral Insurance Company
1255 Caldwell Road
PO Box 5725
Cherry Hill, NJ 08034

Attorney:

Investigative Case File completed by Investigator Bonita James, HCI 3
Date: July 26, 2012

APPROVED:  DATE: 7-27-12

PRIOR CASE HISTORY:

None.

GENERAL CASE SUMMARY

COMPLAINT / ALLEGATIONS:

A medical malpractice payment report in the amount of \$60,000.00. The respondent performed a dilation and evacuation on a 19-year-old patient with a 25+ week anencephalic fetus. The patient lost an excessive amount of blood and needed a hysterectomy. The patient alleged the termination of the fetus was negligently performed. **See pages 2-4.**

CASE REVIEW:

The respondent's statement was provided on his behalf by his Attorney, Robert L. Christie.

On November 28, 2007, the patient had imaging studies of her 24-week fetus which was significant for funneling of the distal cervix and non visualization of the intracranial compartment or contents of the fetus skull. The patient elected to undergo a D&E procedure to terminate the pregnancy.

On December 11, 2007, the patient was admitted to Cedar River. The patient was informed about the D&E procedure and the risks associated with it. After giving her consent, the patient underwent laminaria insertion to dilate the cervix.

On December 13, 2007, the respondent performed the D&E procedure. After the procedure, the patient's temperature rose to 103 degrees and she developed uterine bleeding. The patient was given pitocin, methergine, misoprostol and uterine massage to induce uterine contractions to stop the bleeding but she continued to lose blood. The respondent's counsel said that unbeknownst to the medical staff at Cedar River, the patient's vaginal tract was infected with E-coli. The patient was transported to Valley Medical Center.

While in the emergency room at Valley Medical Center, the patient became hypotensive and tachycardic. She was taken to the operating room where a uterine curettage was performed, but the bleeding continued. Upon laparoscopic inspection, the uterus was intact and showed no evidence of perforation. Fluid was noted over the bladder and in the cul-de-sac of the uterus. During the procedure, the patient became hypoxic and acidotic and she was believed to be in respiratory distress. Because the patient's bleeding and atony continued, an emergency hysterectomy was performed. The patient fully recovered.

The respondent's counsel said that due to the unforeseen presence of E-coli bacteria in the patient's vaginal area, she experienced a rare complication requiring an emergency hysterectomy. He further said the respondent's treatment was at all times within the standard of care. **See pages 5-12.**

Case # 2012-4919MD – Robert L. Kothenbeutel, M.D.

CONTACTS:

Robert L. Christie, Attorney
Christie Law Group
2100 Westlake Avenue North
Suite 206
Seattle, WA 98109

ACTIVITY:

<u>Date</u>	<u>Activity</u>
06-12-12	Case review.
06-16-12	Letter of cooperation.
06-15-12	Telephone message for the respondent stating that he is on his way out of town for a week and a half, so he will not be able to respond within the 14 days timeframe. He said that he will contact me when he returns.
06-25-12	Telephone message from Ann Trivett stating that Mr. Robert Christie would be representing the respondent and he needs an extension.
06-25-12	Telephone call to Ann Trivett. Ms. Trivett said the respondent is out of town and they just received the LOC and need an extension. A 2-week extension was granted.
07-06-12	Telephone message from Ann Trivett stating that they need a little more time.
07-10-12	Telephone call to Ann Trivett. Left a voicemail message granting a brief extension.
07-19-12	Respondent's statement and records received.
07-26-12	Records reviewed.
07-26-12	Report writing and file forwarded for review.

Case # 2012-4919MD – Robert L. Kothenbeutel, M.D.

MQAC ASSIGNMENT MEMO

Case #: 2012-4919

Respondent: Kothenbeutel, Robert L.

Date Received: 6-6-12 Date Assigned: 6-6-12

Investigator: Ronita James

Priority: A B C D Code: 01

- Respondent Notification Letter
- Complainant Acknowledgement Letter
- Whistleblower Letter & Waiver
- Malpractice Letter

Abandonment	Health & Safety Violations	Neglect	Possible Summary Action	Sexual Misconduct
Abduction	High visibility	No Patient Harm	Practice Beyond Scope	Single Complaint Process
Abuse	Imminent Harm	Non-Compliance	Prohibition in another state	Standard of Care
Action w/other state/jurisdiction	Inappropriate Communication	Other	Sanitation	Substance Abuse <input checked="" type="checkbox"/>
Credential Application	Inspection Issues	Patient Abuse	Serious Injury	Testing Issues
EMTALA	Jurisdictional Questions	Patient Death	Serious Physical Harm	Transfusion Fatality
Exposure to physical/fire hazards	Mandatory Suspension	Physical Plant	Sexual Contact	Unlicensed Practice

Comments: _____

Background Check Processed *AS*
 JUN 06 2012 Report
 NPDB/HIPDB
 DEPARTMENT OF HEALTH
 MEDICAL COMMISSION

MQAC REVIEW
Case Number: 2012-4919

Date: May 29, 2012
Presented by: George Heye, MD

Respondent: KOTHENBEUTEL, ROBERT L., MD King County

Complainant: Admiral Insurance Company

CASE SUMMARY

The Respondent:

Board Certified:	NO. Self-Designation: Gynecology
DOB:	02/12/1944
Licensed since:	08/03/1971
Expiration date:	02/12/2014
Medical School:	1969—UNIV OF IA ROY J & L CARVER COM, IA
Residency:	07/1970-12/1971—UW, WA OB/GYN 06/1969-06/1970—L A CO - USE MED CTR, CA FLEXIBLE OR TRANSITIONAL

The Complainant:

Malpractice Settlement: \$60,000 settlement. Date of event: 12/13/2007.

The Complaint: The respondent performed a dilation and evacuation on a 19 y/o patient with a 25 + week anencephalic fetus. The patient lost an excessive amount of blood and required a hysterectomy.

RCM Review

Prior Cases:

None.

Recommendation:

Medical Quality Assurance Commission

CMT

Review of Cases

CMT Date/

Panel Members/

Decision:

MQAC CMT - JUNE 6, 2012
William Gotthold, MD
Les Burger, MD, Chair
Mimi Winslow, JD, Public Member
Mike Concannon, JD, Public Member
DECISION: Investigation authorized

Case No.:

2012-4919

The attached pages were reviewed:

227 - 230

MQAC REVIEW
Case Number: 2012-4919

Date: May 29, 2012
Presented by: George Heye, MD

Respondent: KOTHENBEUTEL, ROBERT L., MD **King County**

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RCM Review

Prior Cases:

None.

Recommendation:

Case View Screen [update]



Case	2012-4919 (PUBLIC: Internal)	Date Created	05/29/2012	Audit Entry Items Documents Notes Master Ca Participan Add Maste Timeline f
Status	Intake	Date Received	05/29/2012	
Respondent ID	355594	How Received	Mail	
Respondent	ROBERT L KOTHENBEUTEL	Receiving Board	COMMISSION	
Credential	MD.MD.00012137	Receiving Profession	Physician And Surgeon License	
Address	<input type="radio"/> Public <input checked="" type="radio"/> Mail ROBERT L KOTHENBEUTEL 1 - DOH Licensee Health Professional Home Ad...	Receiving Department	Case Intake	
		Received By	Vicki I Creighton	
		Alleged Issues	Malpractice	
		Case Nature	Mandatory Malpractice Reports	
Complainant ID	1032787			
Complainant	Admiral Insurance Company			
Comments:	4 - Healthcare Integrity and Protec...			
	4 - Healt...			

- Action Items
- Resolution
- Participants
- Priority History
- HIPDB Reports
- TimeTracker

Action Items [add] [add group]

Type	Assigned To	Activity	Track Time	Due Effective	Completed	Order Signed	Created	User
Intake	Case Intake, Creighton, Vicki		[add]	05/29/2012	05/29/2012		05/29/2012	Creighton
	Target: ROBERT L KOTHENBEUTEL, MD.MD.00012137							
	Warning: Warning Type: CASE PENDING							
	Warning Effective Date: 05/29/2012							
	Suppress License Print: NO							
	Warning: 2012-4919							
	Case Status: Status Changed To: Intake							
	Action Info: Complaint Source Insurance Company							
	Possible Imminent Danger? No							

Credential View Screen [update]



ROBERT L KOTHENBEUTEL Address: <input type="radio"/> Public <input checked="" type="radio"/> Mail <input type="text" value="[change mail address]"/> ROBERT L KOTHENBEUTEL <input type="text" value="1 - DOH Licensee Health Professional Home Ad..."/>		ID 355594 Warnings SSN/FEIN <input type="text" value="2 - DOH Licen..."/> Contact Standing Living Contact Type INDIVIDUAL Birth Date 02/12/1944 Public File YES Mailing List US Citizen Legacy Licensure Name KOTHENBEUTEL, ROBERT L	Contact Audit Enforcemen Cont. Edu Documents Owned By/k Exams Experience Notes Schools Librarian Other State Online Info
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Comments: ALT.SPONS.FOR KATHERINE R. RUNNING, PA.

Physician And Surgeon License [update] [form letter]

Credential # MD.MD.00012137 Legacy License # MD00012137 Application Date Effective Date 01/30/2012 Expiration Date 02/12/2014 First Issuance Date 08/03/1971 Last Date Of Contact CE Due Date 02/12/2016	Credential Status ACTIVE (01/31/2012) Status Reason ACTIVE Amount Due \$0.00 Date Last Activity 5/21/2012 9:50:08 AM Last Updated by System Certificate Sent Date 01/31/2012 Work Queue LEGACYDATA, DOH	Audit Documents Verification Workflow Key Mgmt Fees Notes Print Docs Comp. Audit Renewal Legacy License Statu
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Comments: ALT.SPONS.FOR KATHERINE R. RUNNING, PA.

- Supervised By
- Supervises
- User Defined License Data
- Workflow
- Legacy

Supervised By [update] [Show All]

- Legacy Contact Information
- Legacy Credential History
- Legacy Renewal Information
- Legacy Revenue History



AMA Physician Profile

Name and Mailing Address:

Primary Office Address:

ROBT LEWIS KOTHENBEUTEL MD

1 - DOH Licensee Health Professional Home Address and/...

FEMINIST WOMEN'S HEALTH CENTER
DBA CEDAR RIVER CLINICS-RENTON
263 RAINIER AVE S STE 200
RENTON WA 98057-2055
Phone: 1-206-255-0471

Birthdate: 02/12/1944

Physician's Major Professional Activity: OFFICE BASED PRACTICE

Practice Specialties Self Designated by the Physician*:

Primary Specialty: GYNECOLOGY

Secondary Specialty: UNSPECIFIED

**Self-Designated Practice Specialties/Areas of Practice (SDPS) listed on the AMA Physician Profile do not imply "recognition" or "endorsement" of any field of medical practice by the Association, nor does it imply, certification by a Member Medical Specialty Board of the American Board of Medical Specialties, or that the physician has been trained or has special competence to practice the SDPS.*

AMA membership: NON MEMBER

————— All Information from this Point Forward is Provided by the Primary Source —————

Current and/or Historical Medical School:

UNIV OF IA ROY J & L CARVER COM, IOWA CITY, IA 52242

Degree Awarded: Yes

Degree Year: 1969



AMA Physician Profile

Current and/or Historical Post Graduate Medical Training Programs Accredited by the Accreditation Council for Graduate Medical Education (ACGME):

Beginning with the 2010 cycle of the National GME Census, post-graduate training segments will include the name of the program attended in addition to the sponsoring institution. Program-level information prior to 2010 will not be available for reporting. Future training dates, as reported by the program, should be interpreted as "in progress" or "current" with the projected date of completion.

Post-graduate training performed at accredited osteopathic institutions or in Canada are updated on the AMA Physician Masterfile only upon verification by the program. US licensing authorities accept graduate medical education from both entities as equivalent to training performed in a US program accredited by ACGME.

Sponsoring Institution: UNIV WA MED CTR
Sponsoring State: WASHINGTON
Specialty: OBSTETRICS & GYNECOLOGY
Dates: 07/1970 - 12/1971 (VERIFIED)

Sponsoring Institution: L A CO-USC MED CTR
Sponsoring State: CALIFORNIA
Specialty: FLEXIBLE OR TRANSITIONAL
Dates: 06/1969 - 06/1970 (VERIFIED)

Note: If you have discrepant information, please submit a Request for Investigation to the AMA so that we may verify the information with the primary source(s). See the last page of this Profile for instructions on how to report a data discrepancy.

Current and/or Historical Medical Licensure:

<u>Jurisdiction</u>	<u>MD/ DO</u>	<u>Date Granted</u>	<u>Expiration Date</u>	<u>Status</u>	<u>License Type</u>	<u>Last Reported</u>
WASHINGTON	MD	08/03/1971	02/12/2014	ACTIVE	UNLIMITED	05/01/2012
IOWA	MD	06/01/1971	02/01/1982	INACTIVE	UNLIMITED	01/02/2007



AMA Physician Profile

Current and/or Historical NPI Information:

<u>NPI Number</u>	<u>Enumeration Date</u>	<u>Deactivation Date</u>	<u>Reactivation Date</u>	<u>Replacement Number</u>	<u>Last Reported Date</u>
1649356189	10/27/2006	NOT RPTD	NOT RPTD	NOT RPTD	05/04/2012

ECFMG Certification:

Applicant Number:

Note: The Educational Commission for Foreign Medical Graduates (ECFMG) applicant identification number does not imply current ECFMG certification status. To verify ECFMG status, contact the ECFMG Certification Verification Service in writing at P.O. Box 13679, Philadelphia, PA 19101.

Federal Drug Enforcement Administration:

* Only the last three characters of active DEA number(s) are displayed.

<u>DEA Number *</u>	<u>Schedule</u>	<u>Expiration Date</u>	<u>Last Reported</u>
XXXXXX930	22N 33N 4 5	12/31/2014	05/07/2012
Address: Feminist Women's Health Center, DbA Cedar River Clinics-Tacoma, 1401 Martin Luther King Jr Way Ste A			
XXXXXX542	22N 33N 4 5	12/31/2014	05/07/2012
Address: Feminist Women's Health Center, DbA Cedar River Clinics-Renton, 263 Rainier Ave S Ste 200, Renton, W			

Note: Many states require their own controlled substances registration/license. Please check with your state licensing authority for requirement information as the AMA does not maintain this information.

Specialty Board Certification(s)*:

Specialty Board Certification(s) by one or more of the 24 boards recognized by the American Board of Medical Specialties (ABMS) and the American Medical Association (AMA) through the Liaison Committee on Specialty Boards, as reported by the ABMS:

The AMA Physician Profile has been designated by the ABMS as an Official ABMS Display Agent of Member Board Certification data. Therefore, the ABMS Board certification information on the AMA Physician Profile is considered a designated equivalent source in regard to credentialing standards set forth by Joint Commission. The AMA is also an NCQA-approved source for verification of medical school, postgraduate medical training, ABMS Board certification, and Federal DEA registration.



AMA Physician Profile

Certifying Board: TO DATE, THERE HAVE BEEN NO BOARD CERTIFICATIONS REPORTED.

Certificate:

Certificate Type:

<u>Duration</u>	<u>Effective</u>	<u>Expiration</u>	<u>Reverification</u>	<u>Occurrence</u>	<u>Last Reported</u>
-----------------	------------------	-------------------	-----------------------	-------------------	----------------------

Note: For certification dates, a default value of "01" appears in the day or month field if data were not provided to AMA. Please contact the appropriate specialty board directly for this information. (**) Indicates an expired certificate.

*This information is proprietary data maintained in a copyrighted database compilation owned by the American Board of Medical Specialties. Copyright 2012 American Board of Medical Specialties. All right reserved.

Medicare/Medicaid Sanction(s):

TO DATE, THERE HAVE BEEN NO SUCH SANCTIONS REPORTED TO THE AMA BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

Other Federal Sanction(s):

TO DATE, THERE HAVE BEEN NO FEDERAL SANCTIONS REPORTED TO THE AMA BY ANY BRANCH OF THE US MILITARY, THE VETERAN'S ADMINISTRATION OR THE US PUBLIC HEALTH SERVICE.

Additional Information:

TO DATE, THERE IS NO ADDITIONAL INFORMATION FOR THIS PHYSICIAN ON FILE.

The content of the Physician Profile is intended to assist with credentialing. Appropriate use of the data contained in the AMA Physician Masterfile by an organization meets selected primary source verification requirements of the Joint Commission, the Accreditation Association for Ambulatory Health Care (AAAHC), and the American Accreditation Health Care Commission (AAHCC)/Utilization Review Accreditation Commission (URAC). The AMA is also an NCQA-approved source for verification of medical school, postgraduate medical training, ABMS Board certification and Federal DEA registration.

If you note any discrepancies, please log onto our web site (<http://www.ama-assn.org/go/amaprofiles>) and go to the order detail page, select the D following the physician's name and enter the data in question. Or you can mark the issues on a copy of the profile and mail or fax to:

Division of Database Products and Licensing
Attn: Credentialing Products
515 N. State Street
Chicago, IL 60654
800-665-2882
312 464-5900 (fax)

If you have questions or need additional information, please call the AMA Profile Service customer support line at 800-665-2882.

EVIDENCE / ATTACHMENTS:

<u>Page</u>	<u>Description</u>
1	WAC 246-15-030 notice.
2 – 4	Medical malpractice payment report.
5 – 14	Respondent's statement and expert opinion from Dr. Sarah Prager.
15 – 68	Medical records.
69	Letter of representation.
70 – 71	Letter of cooperation.
72	Notification letter.

NOTICE

WAC 246-15-030, procedures for filing, investigation, and resolution of whistleblower complaints.

(1)(b) Instructs that staff will affix a permanent cover to the letter of complaint or other form of notice in the complaint file, noting the statutory citation concerning protecting the identity of the complainant.

(3)(c) Ensure upon case closure, that the permanent cover affixed in subsection (1)(c) of this section will remain.

RCW 43.70 provides that the identity of a whistleblower who complains in good faith to the Department of health about the improper quality of care by a health care provider as defined in RCW 43.72.010 **shall remain confidential**.

Pursuant to the above RCW and WAC it is staff's duty to see that the complainant's name or any information which may identify the complainant is not disclosed.

NOTICE



CHRISTIE : LAW GROUP ^{PLLC}

July 18, 2012

RECEIVED
JUL 19 2012
DEPARTMENT OF HEALTH
MEDICAL COMMISSION

Ms. Bonita James
Department of Health
Medical Quality Assurance Commission
P.O. Box 47866
Olympia, WA 98504-7866

Re: Case file #2012-4919MD: Dr. Robert Kothenbeutel

Dear Ms. James:

This letter responds to the Department of Health's request that Dr. Kothenbeutel provide a statement explaining the circumstances leading up to the settlement in the civil lawsuit [3 - Healthcare Info...] and *Dalvouhn Yearby v. Robert Kothenbeutel, M.D. and Feminist Women's Health Center d/b/a Cedar River Clinics*. A copy of Dr. Kothenbeutel's patient file and our expert materials are enclosed for your review.

A. SUMMARY-OVERVIEW

This was a medical malpractice case brought by [3 - Healthcare Information Readily Identifiable to a Person ...], a young woman who underwent a dilation and evacuation ("D&E") abortion procedure during her second trimester due to a fetal abnormality. Robert Kothenbeutel, M.D. performed the procedure at Feminist Women's Health Center d/b/a Cedar River Clinics (Cedar River). Due to the unforeseen presence of E. coli bacteria in her vaginal area, [3 - Healthcar...] experienced a rare complication requiring an emergency hysterectomy. Dr. Kothenbeutel's treatment was at all times within the standard of care.

B. DR. KOTHENBEUTEL AND CEDAR RIVER

Feminist Women's Health Center d/b/a Cedar River Clinics is a non-profit charitable organization that operates the Cedar River Clinics in Renton, Tacoma, and Yakima, Washington and specializes in abortion care, birth control, and women's health care. Dr. Kothenbeutel is one of two doctors in Washington State who provides second trimester abortion procedures. He works at the Cedar River Clinic in Renton. I represented both Dr. Kothenbeutel and Cedar River in the civil lawsuit brought by [3 - Healthca...] and Mr. Yearby.

C.

3 - Healthcare Information Readily Identifiable to a Person - RCW 42.56.3...

3 - Healthcare Information Readily Identifiable t... and her husband, Dalvouhn Yearby, were the plaintiffs in this lawsuit. 3 - Healthcare I... was 18 years old and married to Mr. Yearby when she first visited Dr. Kothenbeutel. They were represented by Steven R. Pruzan of Miracle Pruzan & Pruzan.

D. SUMMARY OF TREATMENT

On November 28, 2007, 3 - Healthcare... saw her obstetrician, Dr. Jennifer Edgoose, at Community Health Care in Lakewood, Washington. Dr. Edgoose referred 3 - Healthcare... for multiple ultrasound images of her 24-week old fetus. The ultrasound was significant for funneling of the distal cervix and nonvisualization of the intracranial compartment or contents of the fetus' skull. This is consistent with a finding of anencephaly which is an absence of the brain. On December 1, 2007, Dr. Edgoose spoke with 3 - Healthcare... and her mother at length and they decided to terminate the pregnancy. 3 - Healthca... selected Cedar River as the facility that would perform the D&E procedure to terminate the pregnancy.

D&E remains the most prevalent method of second-trimester pregnancy termination in the United States, accounting for 96% of all second-trimester abortions. Dr. Robert Kothenbeutel has performed approximately 18,000 D&E procedures during the first trimester. Since 1996, Dr. Kothenbeutel has performed more than 14,500 D&E procedures in the second trimester. Of these second trimester procedures, 3,300 involved fetuses that were more than 21 weeks gestational age.

On December 11, 2007, 3 - Healthca... was admitted to Cedar River. She was informed about the D&E procedure and the risks associated with it. The risks discussed with 3 - Healthcare... included perforation of the uterine wall, uterine infection, blood loss and DIC (a rare, and sometimes fatal bleeding disorder where the blood fails to clot). 3 - Healthca... signed the informed consent form, initialing each paragraph. After giving her informed consent, 3 - Healthcare... underwent laminaria insertion to dilate the cervix. This step of the D&E procedure occurs in stages over the course of two days. The entire D&E procedure spanned a three-day period, culminating with removal of the fetus.

Dr. Kothenbeutel performed the D&E procedure on December 13, 2007. 3 - Healthca... was properly prepped and clean. The surgery was completed and the fetus was removed. After the procedure, 3 - Healthcare...s temperature rose to 103 degrees and she developed uterine bleeding. She was given pitocin, methergine, misoprostol and uterine massage to induce uterine contractions to stop the bleeding, but she continued to lose blood. Unbeknownst to medical staff at Cedar River, 3 - Healthcare...s vaginal tract was infected with E-coli. As discussed in more detail below, this likely caused 3 - Healthcare...s uterine atony and the associated heavy bleeding. Staff called 911 and she was transported to Valley Medical Center (VMC).

3 - Healthca... was hospitalized at VMC and treated by Dr. James Rice. An ultrasound at VMC revealed some blood clots and "no significant product of conception within the uterus," showing that the D&E had successfully eliminated the fetus. Dr. Rice noted that the D&E was

performed without complications. However, [3 - Healthca...] became hypotensive and tachycardic and was taken to the operating room.

Dr. Rice first performed an evacuation and curettage, but the bleeding persisted. Upon laparoscopic inspection, the uterus was intact and showed no evidence of perforation, more objective proof that the D&E was performed properly. Fluid was noted over the bladder and in the cul-de-sac of the uterus. During the procedure, [3 - Healthcar...] became hypoxic and acidotic. Dr. Rice believed she was in respiratory distress. Because [3 - Healthcar...]'s bleeding and atony continued, Dr. Rice performed an emergency hysterectomy, which he believed was necessary to stop the bleeding and save her life. The pathology report revealed no evidence of injury to the uterus. [3 - Healthca...] has recovered but, due to the hysterectomy, cannot conceive a child.

E. [3 - Healthcare Inform...] **S LAWSUIT**

1. Background

[3 - Healthca...] and her former husband Mr. Yearby¹ filed a lawsuit against Dr. Kothenbeutel and Cedar River Clinics on June 5, 2010 in King County Superior Court. They asserted two causes of action: medical negligence and lack of informed consent. Dr. Kothenbeutel and the Clinic denied these claims. The parties voluntarily elected to put the case into arbitration under chapter 7.70A RCW.

2. Legal Analysis

Negligence Standard

To establish negligence, a plaintiff must prove: (1) the existence of a duty; (2) breach of that duty; (3) resulting injury; and (4) proximate cause. *Musci v. Graoch Assocs. P'ship #12*, 144 Wn.2d 847, 854, 31 P.3d 684 (2001). In a medical malpractice claim, a plaintiff must proffer expert medical testimony to establish both the applicable standard of care and proof that the defendant medical provider breached that standard. *Berger v. Sonneland, M.D.*, 144 Wn.2d 91, 110-111, 26 P.3d 257 (2001)(en banc). Expert testimony played a key role in this case.

Plaintiffs identified Dr. Steven Pine as their testifying liability expert. Dr. Pine disagreed that the only way to deliver the baby was by D&E or Caesarean section. He opined that Dr. Kothenbeutel could have performed a cytotec induction, during which the cervix would have been forcefully dilated for fetus expulsion. This would have occurred in a hospital, and plaintiff's expert believes that under those circumstances, [3 - Healthcar...] would not have bled as much as she did. This is not the standard of care in Washington for this type of abortion procedure.

¹ They were divorced by the time the lawsuit concluded.

D&E vs. Induction

Induction is not the standard of care in Washington State, or the entire country, in cases such as this one. Dr. Charles Browne at the University of Washington and Dr. Kothenbeutel are the only physicians in Washington who perform abortion procedures at the stage of pregnancy at issue in this case. Both doctors perform D&E, not induction. According to sources at the National Abortion Federation, which reviews the practices and procedures of all NAF member clinics and physicians, the vast majority of second trimester and late second trimester procedures are performed by D&E. Observational data and several retrospective cohort trials in the 1980s consistently confirmed the safety advantages of D&E versus available methods of medical induction throughout much of the second trimester. In fact, by 2005, 96% of abortions performed after 13 weeks gestation were done by D&E.

Even if plaintiffs' expert testified that an induction procedure would have been an appropriate option, no credible expert would testify that it was the ONLY option within the standard of care. Under Washington law, when reasonable medical providers could select alternative treatment plans, it is not negligent to select one over the other. "A physician is not liable for selecting one of two or more alternative courses of treatment, if, in arriving at the judgment to follow the particular course of treatment, the physician exercised reasonable care and skill within the standard of care the physician was obliged to follow." WPI 105.08. The overwhelming weight of existing literature supports the use of the D&E procedure for termination of pregnancies at this stage, and this method has been the predominant procedure (accounting for 96% of all second trimester abortions in the United States) used since the development of osmotic dilating laminaria as a safe and atraumatic method for dilating the cervix prior to extraction of the fetus.

Furthermore, the induction procedure is not as simple as plaintiffs contend. Generally, on the first day, laminaria or dilapan are inserted into the cervix and digoxin is injected into the fetus. The induction is begun on day two, usually with the administration of misoprostol and sometimes augmented with pitocin. This process may take 6 to 20 hours. In most cases, once the fetus and placenta have been expelled, the uterus is curetted and suctioned to be certain that no tissue remains and the uterus is empty. So, not only is there a time lapse of 36 to 48 hours from first instrumentation to final procedure, there is also instrumentation. All of these factors could very well have ended with the same complications given that 3 - Healthca... harbored E-coli in her vagina or cervix prior to the start of the procedure. In fact, the two most common complications of induction are hemorrhage and infection.

We retained Warren M. Hern, M.D, M.P.H., Ph.D., the director of the Boulder Abortion Clinic, to testify about D&E procedures. On the central issue whether Dr. Kothenbeutel's decision to perform a D&E procedure as opposed to an induction fell below the standard of care, Dr. Hern is strongly in favor of doing the D&E procedure. A Caesarean section would be the only other option. It is Dr. Hern's opinion that an induction procedure should not be done under any circumstances in this type of case, because the fetus must have a normal size head in order to dilate the mother's cervix. With 3 - Healthcare...'s fetus having

no brain, the head size was too small to dilate the cervix. In this situation, an induction procedure was contraindicated. Dr. Kothenbeutel's decision to proceed with a D&E was well within the standard of care.

3 - Healthcar... Likely Suffered From an Infection

We also retained David A. Eschenbach, M.D., an infectious disease expert in the Obstetrics and Gynecology Department at the University of Washington. Dr. Eschenbach was prepared to testify that there was E-coli bacteria present in 3 - Healthcar... 's vaginal area at the time of the D&E procedure, and that E-coli bacteria caused her to experience uterine atony and led to her emergency hysterectomy. In normal circumstances, the body produces a hormone that allows the uterine muscles to contract and stop the bleeding. However, an infection can counter the release of the hormone and prevent muscle contraction. This likely occurred here. A combination of the infection and the atony caused 3 - Healthcar... to continue bleeding and to experience a high fever, high white blood cell count, a drop in blood pressure, and other symptoms.

Dr. Eschenbach found that, while this case was unusual, it was also straightforward. E-coli does not usually cause so much damage so quickly, but in rare circumstances, it is certainly capable of this type of harm. By the time Dr. Kothenbeutel performed the procedure, the E-coli bacteria likely had already moved up into 3 - Healthcar... 's uterus. The bacteria stayed outside of the uterine membranes, so the bacteria could not have been detected at that time. During the procedure, Dr. Kothenbeutel evacuated all remnants of the placenta from 3 - Healthcar... 's uterus. There is no evidence that Dr. Kothenbeutel left any particles of the placenta behind. In fact, all the evidence shows that the area was clean. However, when Dr. Kothenbeutel peeled the placenta away from 3 - Healthcar..., her blood vessels were exposed directly to the bacteria in her uterus. It is likely that the infection went directly into her blood stream, causing the rapid spread of the infection.

Dr. Eschenbach was also prepared to testify that there was nothing that Dr. Kothenbeutel did during this procedure that fell below the standard of care. Dr. Kothenbeutel used all methods available to prevent infection. He properly sterilized the area before performing the procedures, and he properly sterilized his equipment. Further, he administered two antibiotics. The vaginal area is not a sterile environment, and therefore it is impossible to prevent all risk of infection there.

Role of Infection vs. Cervical Lacerations

Plaintiffs' case theory ignored the presence of E-coli bacteria in 3 - Healthcar... 's vaginal area at the time of the D&E procedure, and instead, Dr. Pine assumed the presence of cervical lacerations causing the DIC and uterine atony. The D&E procedure takes three days, with the laminaria being placed the first two days. Given that E-coli was present in the vagina and/or cervix when 3 - Healthcar... first presented, there was more than enough time for the infection to develop into a septic condition.

Moreover, there is no evidence of any cervical lacerations. Even if there was such evidence, cervical lacerations can result from nearly any procedure involving dilation of the cervix, including induction. There is no evidence Dr. Kothenbeutel performed the D&E below the standard of care, and there is no evidence the outcome would have been any different had he performed an induction.

Proper Lab Work Was Performed

Dr. Pine opined that, if infection was a possibility, Cedar River should have done vaginal cultures and white blood counts on all patients.

Besides a hemoglobin and Rh determination, Dr. Kothenbeutel has Chlamydia and gonorrhea tests performed on all patients unless they choose not to have it done. After being fully informed, [3 - Healthcare...] elected not to have it done. The assertion that vaginal cultures should be done on all patients prior to abortion is unsupported. It is not the standard of care to take vaginal cultures prior to abortion procedures, or any other gynecologic procedure for that matter (hysterectomy, D&C, hysteroscopy, cone biopsy, IUD insertion, etc.). Plaintiffs' contention that a vaginal culture should be done on every abortion patient is not supported by any medical study or evidence. Again, plaintiffs would have been unable to show that Dr. Kothenbeutel's treatment was below the applicable standard of care.

[3 - Healthca...]'s Treatment at Valley Medical Center

We also retained Sarah Prager, M.D., M.A.S., of the University of Washington School of Medicine Department of Obstetrics and Gynecology to assist with our defense. She reviewed the entire case file and was prepared to testify that Dr. Kothenbeutel and Cedar River provided [3 - Healthcar...] with routine care all through the preoperative process. Dr. Kothenbeutel's care was conservative and appropriate under the circumstances presented, and there was not anything else he could have done to secure [3 - Healthcar...]'s health and safety, given the known risks of a D&E procedure. She also agreed with Dr. Eschenbach that uterine infection most likely played the pivotal role in causing the uterus to hemorrhage. Her opinions, together with the opinions of Dr. Hern and Dr. Eschenbach, clearly establish that Dr. Kothenbeutel's treatment fell well within the accepted standard of care.

Dr. Prager went on to explain that the treatment [3 - Healthcar...] received at VMC may have contributed to her ultimate hysterectomy. The care she received there was, in Dr. Prager's words, "sub-optimal." The records suggest that a gynecologist did not see [3 - Healthcar...] for at least two hours after her arrival to the emergency room even though the attending's exam notes state: "blood exploded out of the vagina." If [3 - Healthcar...] had been seen more quickly, non-surgical options, such as a Bakri or other uterine balloon in the uterus, could have been utilized to reduce her bleeding and potentially avoid hysterectomy.

Lack of Informed Consent

In order to establish this claim, plaintiffs would have had to show that Dr. Kothenbeutel failed to inform [3 - Healthcar...] of a material fact or facts relating to her treatment, that she consented to the treatment without being aware of or fully informed of the material fact or facts, a reasonably prudent patient under similar circumstances would not have consented to the treatment if informed of the material fact or facts, and the treatment proximately caused her injuries. RCW 7.70.050.

Plaintiffs would have had a very difficult time satisfying even the first element of this claim. [3 - Healthcare...] signed an informed consent form, after discussing possible treatment options with Dr. Kothenbeutel, and she initialed every paragraph of that informed consent form. The risks discussed with and initialed by [3 - Healthc...] include perforation of the uterine wall, uterine infection, blood loss, DIC, a hysterectomy, and even death.

3. Damages

[3 - Healthcar...] was claiming general damages (including compensation for her inability to have children) and special damages, and Mr. Yearby was claiming loss of consortium. According to the plaintiffs' calculations, [3 - Healthcar...]s medical expenses for her hospitalization and surgery totaled approximately \$77,450. [3 - Healthcar...] was able to physically recover from her hysterectomy. While we vigorously denied liability, we acknowledge that general damages in this type of case could be significant.

4. Settlement

The parties attempted early disposition of this case through pre-suit mediation. After discovery and our production to plaintiffs' attorney of our expert reports, the parties resumed settlement discussions in April of this year, in anticipation of the upcoming arbitration. The case finally settled for \$60,000. This final number was lower than the total of [3 - Healthcar...]s related medical records, and we believe it was an extremely favorable resolution given the defensible nature of the case and the lack of evidence that Dr. Kothenbeutel violated a standard of care.

F. CONCLUSION

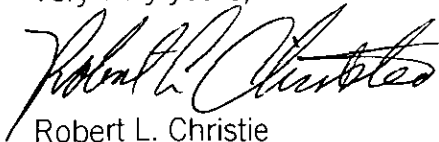
While we understand that this was a traumatic and sad experience for [3 - Healthcare...] there was no factual basis for the plaintiffs' medical malpractice or lack of informed consent claim. Dr. Kothenbeutel performed the procedure used throughout the United States in this situation and did not breach the standard of care at any point during the D&E. Given the standard of care in Washington and the evidence in this case, plaintiffs would not have been able to meet their burden of proof. Had this case gone to arbitration, we are confident we would have obtained a full defense verdict.

I hope that this summary, along with Dr. Kothenbeutel's treatment records and our expert materials, adequately address any questions or concerns you might have regarding

Ms. Bonita James
July 18, 2012
Page 8

this case. Please do not hesitate to contact me with any additional questions you may have.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Robert L. Christie".

Robert L. Christie

RLC:mp

Enclosures

cc: Robert Kothenbeutel, M.D. (w/o enclosure)
Ms. Connie Cantrell (w/o enclosure)

Robert Christie
Christie Law Group, PLLC
Julie's Landing on Lake Union
2100 Westlake Ave. N., Ste.206
Seattle, WA 98109

APR 13 2012

Copy
Received

April 7, 2012

Dear Mr. Christie –

At your request, I have reviewed the following materials: Deposition of Dr. Robert Kothenbeutel, Dr. Kothenbeutel's notes on the salient points in this case, his information on uterine balloons and uterine artery embolization, the records from Cedar River Clinic and the records from the admission [3 - Healthcare Infor...] the plaintiff in this case, to Valley Medical Center. I would like to render my opinion both on the appropriateness of care [3 - Healthcare I...] received, both at Cedar River Clinic (CRC) and at Valley Medical Center (Valley).

[3 - Healthcar...] presented to the Cedar River Clinic for an abortion and received routine care through all the preoperative steps. She was given prophylactic antibiotics to start on the first day of cervical preparation, and received two days of cervical preparation to facilitate the advanced procedure. On the third day, when she was to actually have her procedure, she had a low grade temperature elevation to 99.5°F, not quite reaching what clinically is considered a fever (100.4°F), but elevated above what it had been the previous days. Dr. Kothenbeutel acted very conservatively and treated her at that time with antibiotics prior to performing the abortion procedure. [3 - Healthcare ...] received appropriate antibiotics of Gentamycin and Ancef. The procedure was uncomplicated and the patient received three uterotonics; methergine intra-cervically and misoprostol rectally, as well as pitocin intravenously to help keep the uterus contracted and reduce bleeding. In the recovery room, the patient was found to have a fever to 103°F, and Dr. Kothenbeutel was called and responded appropriately by giving her more antibiotics and arranging for her to be transferred to Valley. During this time, she also started to have more bleeding, and was given significantly more uterotonics to control her bleeding prior to transfer. All of Dr. Kothenbeutel's behavior, and that of his staff, was appropriate and designed to stabilize her as well as possible before moving her to a more appropriate location given her complications; fever, indicating an infection and increased bleeding. I don't think there was any more that Dr. Kothenbeutel could have done to secure this patient's health and safety, given the known risks of a dilation and evacuation procedure.

Once [3 - Healthcare Inf...] was transported to Valley Medical Center, the care she received is sub-optimal. The records are a bit difficult to interpret, but it appears that she was not seen by a gynecologist there for at least 2 hours, even though her exam is described by the emergency department (ED) attending as "blood exploded out of the vagina". This is not consistent with the assessment by the gynecologist 2 hours after [3 - Healthcar...] 's arrival, that the estimated blood loss since arrival was 150 ml. [3 - Healthcar...] 's vital signs, per the records, were unstable upon her arrival to the ED, and I would have expected her to be seen more immediately by a gynecologic surgeon who could intervene. It's possible that had she been seen more readily, non-surgical options, such as a Bakri or other

Department of Obstetrics and Gynecology
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BB-644 Health Sciences Center Box 356460 Seattle, WA 98195
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MD 2012-4919-000010

uterine balloon in the uterus for tamponade or uterine artery embolization, could have been utilized to reduce her bleeding and avoid hysterectomy. There appeared to be no immediate or ongoing attention to [3 - Healthcar...]s bleeding, and it is certainly possible that this deficiency led directly to the more drastic outcome of requiring hysterectomy for the patient's survival.

I agree with Dr. Eschenbach, the infectious disease expert who was consulted, that uterine infection most likely played the pivotal role in causing [3 - Healthcare L...]s elevated temperature and in causing her uterus to hemorrhage. In spite of all reasonable preventive measures against infection (which Dr. Kothenbeutel took), infection is always a possibility with an abortion procedure, and the increased vascularity of the pregnant uterus makes it even easier for bacteria to enter the uterine tissue and cause damage. My opinion is that the infection likely caused the uterus to hemorrhage and also caused that hemorrhage to be more difficult to control or stop.

[3 - Healthcar...] certainly had a very unfortunate outcome from her abortion procedure, but I cannot see any deficiencies in the care she received by Dr. Kothenbeutel or at Cedar River Clinic.

Sincerely,



Sarah Prager, MD, MAS



CHRISTIE : LAW GROUP ^{PLLC}

RECEIVED

JUN 27 2012

DEPARTMENT OF HEALTH
MEDICAL COMMISSION

June 25, 2012

Ms. Bonita James
Department of Health
Medical Quality Assurance Commission
P.O. Box 47866
Olympia, WA 98504-7866

Re: Case file #2012-4919MD: Dr. Robert Kothenbeutel

Dear Ms. James:

Thank you for speaking with me on the telephone today. This letter will confirm that Robert L. Christie of Christie Law Group, PLLC, will be representing Dr. Kothenbeutel during the course of this Department of Health investigation. I am an associate attorney and will also be working on this matter.

This letter will also confirm that you agreed to extend the deadline to respond to the Department of Health's June 12, 2012 letter and notice of preliminary investigation. We will mail you our response within the next 14 days.

Thank you, and please do not hesitate to contact us with any questions or concerns. We look forward to working with you and resolving this matter.

Sincerely,

Ann E. Trivett

AET:mp



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION
PO Box 47866, Olympia, WA 98504-7866

June 12, 2012

Robert L. Kothenbeutel, M.D.

1 - DOH Licensee Health Professional Home Addr...

Re: Our case file #: 2012-4919MD

Dear Dr. Kothenbeutel:

The Washington State Medical Quality Assurance Commission received a medical malpractice payment report from Admiral Insurance Company. It was reported that you performed a dilation and evacuation on a 19-year-old patient with a 25+ week anencephalic fetus. The patient lost an excessive amount of blood and needed a hysterectomy. The patient alleged the termination of the fetus was negligently performed. Date of occurrence was 12/13/2007. Patient is 3 - Healthcare Inf...

The Washington State Medical Quality Assurance Commission is the entity within State government with legislated authority and responsibility to assure the delivery of safe medical care. Under provisions of RCW 18.130.050, the Washington State Medical Quality Assurance Commission is empowered to investigate all allegations and complaints to determine whether such allegations are substantiated and to take disciplinary or corrective action, if warranted.

Please be advised that this is a preliminary investigation only and that no charges have been issued in connection with this investigation.

Under provision of RCW 18.130.180(8) and WAC 246-919-620, a health care provider shall cooperate by providing a full and complete explanation covering the matter under investigation. The Health Care Information Act, RCW 70.02.050(2)(a), requires that a health care provider disclose health care information about a patient without patient authorization when that information is needed to determine compliance with state licensure rules or laws.

Additionally, the Washington State Medical Quality Assurance Commission is a "health oversight agency" as defined under HIPAA, 42 CFR Section 164.501. Therefore, covered entities do not need to see consent or authorization from the patient to release medical records to the Washington State Department of Health/Medical Quality Assurance Commission.



Robert L. Kothenbeutel, M.D.
June 12, 2012
Page two

Under the terms of the laws mentioned above, you are requested to provide:

1. A written statement explaining the factual background of the case.
2. A copy of the medical records for 3 - Healthcare Inf... *If you do not have access to the medical records, please contact the Attorney who represented you in the lawsuit and/or your insurance carrier and have them provide me with a copy of the medical records.*

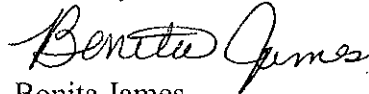
You are free to consult with and engage an attorney at your expense to represent you in this matter before making your response. Your response may be used if disciplinary action is deemed necessary. If you wish to have an attorney represent you, please have the attorney send us a **Letter of Representation** at the address below. The Letter of Representation will allow us to speak with them, if necessary, about the complaint against you and ensure they are copied on any correspondence to you.

Please submit your response within **fourteen (14 days)** after receipt of this letter. Make your response to: **Bonita James, Healthcare Investigator 3, Department of Health, Medical Quality Assurance Commission, Medical Investigations Unit, P.O. Box 47866, Olympia, WA 98504-7866.**

Note: If you are sending your response by **FED EX or UPS**, our physical address is 111 Israel Road SE, MS 47866, Tumwater, WA 98501.

Thank you for your cooperation. If you have any questions, please feel free to contact me at (360) 236-2779 or by fax at (360) 586-4573.

Sincerely,



Bonita James
Healthcare Investigator 3



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION
PO Box 47866, Olympia, WA 98504-7866

June 8, 2012

Robert L. Kothenbeutel, MD

1 - DOH Licensee Health Professional Ho...



COPY

Subject: Case No. 2012-4919MD

Dear Dr. Kothenbeutel:

The purpose of this letter is to inform you that the Medical Quality Assurance Commission received medical malpractice payment report regarding the care you provided to a patient. A dilation and evacuation was performed on a 19-year-old patient with a 25+ week anencephalic fetus. The patient lost an excessive amount of blood and required a hysterectomy.

Under the provision of the Uniform Disciplinary Act, RCW 18.130.050, the Medical Quality Assurance Commission is the agency within State government with legislated authority to investigate medical malpractice payment reports.

The report has been reviewed by a panel of the Medical Quality Assurance Commission and it has been determined that the report falls under the jurisdiction of the Commission. An investigation will be conducted to gather facts and records relevant to this case. You will be contacted as soon as practical during the investigation and given the opportunity to discuss the case and provide any information you feel is relevant to the case. You will be asked to provide a written response to the Commission.

You may submit a written statement concerning the malpractice payment report at any time, however, you may choose to wait until you are contacted by the assigned investigator and the relevant facts are discussed. Any statement submitted by you will be placed in the investigative file. You may consult with legal counsel at your expense prior to making a statement. Any statement that you make may be used in adjudicative proceedings.

Please be aware that this process can take three to six months and in some cases longer. If you have questions, please contact me at 360-236-2770.

Respectfully,

James H. Smith, Chief Investigator
Medical Quality Assurance Commission



MD 2012-4919-000072

Redaction Summary (75 redactions)

4 Privilege / Exemption reasons used:

- 1 -- "DOH Licensee Health Professional Home Address and/or Phone - RCW 42.56.350(2)" (8 instances)
- 2 -- "DOH Licensee Social Security Number - RCW 42.56.350(1)" (1 instance)
- 3 -- "Healthcare Information Readily Identifiable to a Person - RCW 42.56.360(2), RCW 70.02.020(1), RCW 42.56.070(1)" (64 instances)
- 4 -- "Healthcare Integrity and Protection Data Bank Information or National Practitioner Data Bank Information - 45 CFR 61.14, RCW 42.56.070(1)" (2 instances)

- Page 3, DOH Licensee Health Professional Home Address and/or Phone - RCW 42.56.350(2), 1 instance
- Page 4, DOH Licensee Health Professional Home Address and/or Phone - RCW 42.56.350(2), 1 instance
- Page 5, DOH Licensee Health Professional Home Address and/or Phone - RCW 42.56.350(2), 1 instance
- Page 19, DOH Licensee Health Professional Home Address and/or Phone - RCW 42.56.350(2), 1 instance
- Page 19, Healthcare Integrity and Protection Data Bank Information or National Practitioner Data Bank Information - 45 CFR 61.14, RCW 42.56.070(1), 2 instances
- Page 20, DOH Licensee Health Professional Home Address and/or Phone - RCW 42.56.350(2), 1 instance
- Page 20, DOH Licensee Social Security Number - RCW 42.56.350(1), 1 instance
- Page 21, DOH Licensee Health Professional Home Address and/or Phone - RCW 42.56.350(2), 1 instance
- Page 30, Healthcare Information Readily Identifiable to a Person - RCW 42.56.360(2), RCW 70.02.020(1), RCW 42.56.070(1), 4 instances
- Page 31, Healthcare Information Readily Identifiable to a Person - RCW 42.56.360(2), RCW 70.02.020(1), RCW 42.56.070(1), 16 instances
- Page 32, Healthcare Information Readily Identifiable to a Person - RCW 42.56.360(2), RCW 70.02.020(1), RCW 42.56.070(1), 7 instances
- Page 33, Healthcare Information Readily Identifiable to a Person - RCW 42.56.360(2), RCW 70.02.020(1), RCW 42.56.070(1), 2 instances
- Page 34, Healthcare Information Readily Identifiable to a Person - RCW 42.56.360(2), RCW 70.02.020(1), RCW 42.56.070(1), 8 instances
- Page 35, Healthcare Information Readily Identifiable to a Person - RCW 42.56.360(2), RCW 70.02.020(1), RCW 42.56.070(1), 7 instances
- Page 36, Healthcare Information Readily Identifiable to a Person - RCW 42.56.360(2), RCW 70.02.020(1), RCW 42.56.070(1), 8 instances
- Page 38, Healthcare Information Readily Identifiable to a Person - RCW 42.56.360(2), RCW 70.02.020(1), RCW 42.56.070(1), 7 instances
- Page 39, Healthcare Information Readily Identifiable to a Person - RCW 42.56.360(2), RCW 70.02.020(1), RCW 42.56.070(1), 3 instances
- Page 95, DOH Licensee Health Professional Home Address and/or Phone - RCW 42.56.350(2), 1 instance
- Page 95, Healthcare Information Readily Identifiable to a Person - RCW 42.56.360(2), RCW 70.02.020(1), RCW 42.56.070(1), 1 instance
- Page 96, Healthcare Information Readily Identifiable to a Person - RCW 42.56.360(2), RCW 70.02.020(1), RCW 42.56.070(1), 1 instance
- Page 97, DOH Licensee Health Professional Home Address and/or Phone - RCW 42.56.350(2), 1 instance