

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HEALTH

RECEIVED

DEPARTMENT OF HEALTH,
Bureau of Facility Licensure and
Certification

Docket

v.

ROSE HEALTH SERVICES
COMPANY,
d/b/a Allentown Medical Services and
American Women's Services

FEB 21 2012

OFFICE OF THE SECRETARY
SECRETARY OF HEALTH

ANSWER TO ORDER TO SHOW CAUSE

Rose Health Services Company, by and through its attorney, Julia E. Gabis, Esquire, hereby files an Answer to the Order to Show Cause in the above-captioned matter and, in support, avers as follows:

1. Denied as a conclusion of law to which no response is required.
2. Denied as a conclusion of law to which no response is required.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Neither admitted nor denied. The regulation is a writing and speaks for itself.
8. Denied. This allegation is specifically denied. For both American Women's Services and Allentown Medical Services, the physician on staff who meets

the "board eligible" requirement is Vikram Kaji, M.D., F.A.C.O.G. ("Dr. Kaji"). Dr. Kaji is a board-certified obstetrician-gynecologist, with a Pennsylvania medical license MD031218L. Verification of Dr. Kaji's license and board status is attached hereto as Exhibit "A."

9. Denied. This allegation is specifically denied. Richard Efrem Gordon, M.D. ("Dr. Gordon"), saw patients through January 28, 2012 in the offices of Allentown Medical Services. By way of further answer, even if Dr. Gordon had resigned, Rose Health Services Company met its obligation to have a physician on staff or as a consultant who meets the "board eligible" requirements under 28 Pa. Code §29.33(4) through Dr. Kaji.

10. Denied. This allegation is specifically denied. As of Monday, January 9, 2012 (and at all relevant times), Dr. Kaji has been available for new patients either as a staff member or as a consultant at Allentown Medical Services as required by 28 Pa. Code §29.33(4).

11. Denied. This allegation is specifically denied. Dr. Kaji has been available at all relevant times for new patients either as a staff member or as a consultant at Allentown Medical Services as required by 28 Pa. Code §29.33(4).

12. Denied. This allegation is specifically denied. Dr. Kaji has been available at American Women's Services for new patients either as a staff member or as a consultant at all times as required by 28 Pa. Code §29.33(4).

13. Neither admitted nor denied. The regulation is a writing and speaks for itself.

14. Neither admitted nor denied. The regulation is a writing and speaks for itself.

15. Neither admitted nor denied. The regulation is a writing and speaks for itself.

16. Neither admitted nor denied. The regulation is a writing and speaks for itself. By way of further answer, the failure of an abortion facility to meet the "board eligible" requirement does not constitute an "infrastructure failure" under the MCARE Act.

17. Neither admitted nor denied. The regulation is a writing and speaks for itself.

18. Neither admitted nor denied. The regulation is a writing and speaks for itself.

19. Denied. This allegation is specifically denied. Dr. Gordon continued to see patients for Rose Health Services through January 28, 2012. By way of further answer, even if Dr. Gordon had resigned, that would not affect the obligation of Rose Health Services under 28 Pa. Code §29.33(4).

20. Denied. This allegation is specifically denied. Rose Health Services had no obligation to report the resignation to the Department.

21. Denied. This allegation is specifically denied. Dr. Kaji is the "board eligible" physician made available for new patients either as a staff member or as a consultant for Allentown Medical Services. Allentown Medical Services meets the "board eligible" requirement of the ACA regulations.

22. Denied as a conclusion of law to which no response is required. By way of further answer, the failure of an abortion facility to meet the "board eligible" requirement does not constitute an "infrastructure failure" under the MCARE Act.

23. Denied. This allegation is specifically denied. The Patient Safety Officer for Rose Health Services Company advised the Department that Dr. Gordon was continuing to see patients after January 11, 2012. Dr. Gordon did, in fact, see patients after that date. By way of further answer, although the Department affirmatively sought confirmation of Dr. Gordon's resignation from a representative of Rose Health Services Company, the Department failed to inquire or investigate whether Allentown Medical Services had a physician who met the "board eligible" requirement of the ACA regulations. Had the Department inquired or conducted an adequate investigation before filing the instant Oder to Show Cause, Rose Health Services Company would have informed the Department that Dr. Kaji serves as the "board eligible" physician for Allentown Medical Services and meets the "board eligible" requirement of the ACA regulations.

24. Denied. This allegation is specifically denied. Allentown Medical Services did not have an infrastructure failure and had no obligation to report Dr. Gordon's resignation to the Department.

25. Denied. This allegation is specifically denied. American Women's Services did not have an infrastructure failure and, thus, had no obligation to report Dr. Gordon's resignation to the Department.

26. Denied. This allegation is specifically denied. Dr. Gordon's resignation is irrelevant to American Women's Services' obligation under the ACA regulations. Dr. Kaji, a "board eligible" physician made available either as a staff member or as a consultant, fully meets the requirements of the "board eligible" requirement of the ACA regulations.

27. Denied. This allegation is specifically denied. The Patient Safety Officer for Rose Health Services Company advised the Department that Dr. Gordon was continuing to see patients after January 11, 2012 and, in fact, Dr. Gordon did see patients after that date. By way of further answer, although the Department affirmatively sought confirmation of Dr. Gordon's resignation from a representative of Rose Health Services Company, it failed to inquire or investigate whether American Women's Services met the "board eligible" requirement of the ACA regulations. Had the Department inquired or conducted an adequate investigation before the filing the Order to Show Cause, American Women's Services would have informed the Department that Dr. Kaji serves as the "board eligible" physician and meets the "board eligible" requirement of the ACA regulations.

28. Denied as a conclusion of law. By way of further answer, the failure of an abortion facility to meet the "board eligible" requirement does not constitute an "infrastructure failure" under the MCARE Act.

29. Denied. This allegation is specifically denied. American Women's Services did not have an infrastructure failure and, thus, had no obligation to report to the Department.

COUNT I

- 30. Paragraphs 1-29 are incorporated by reference
- 31. Denied as a conclusion of law to which no response is required.

COUNT II

- 32. Paragraphs 1-29 are incorporated by reference.
- 33. Denied as a conclusion of law to which no response is required.

COUNT III

- 34. Paragraphs 1-29 are incorporated by reference.
- 35. Denied as a conclusion of law to which no response is required.

COUNT IV

- 36. Paragraphs 1-29 are incorporated by reference.
- 37. Denied as a conclusion of law to which no response is required.

COUNT V

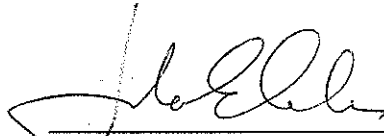
- 38. Paragraphs 1-29 are incorporated by reference.
- 39. Denied as a conclusion of law to which no response is required.

COUNT VI

- 40. Paragraphs 1-29 are incorporated by reference.
- 41. Denied as a conclusion of law to which no response is required.

Respectfully submitted,

Dated: February 16, 2012

A handwritten signature in cursive script, appearing to read "Julia E. Gabis", written over a horizontal line.

Julia E. Gabis, Esquire
Julia E. Gabis & Associates
401 East Elm Street, Suite 200
Conshohocken, PA 19428

EXHIBIT "A"



**PENNSYLVANIA
Department of State**

For questions about this website, please [Click Here](#) to send an E-Mail, or to contact your Board directly, [Click Here](#).

Click the X at the upper right corner to close this window and return to the list of licensees.

Person Information

Name: VIKRAM HIRALAL KAJI

Address Information

Address(city state zipcode): YARDLEY PA 19067

License Information

Type:	Medical Physician and Surgeon	Secondary Type:		Number:	MD031218L
Profession:	Medicine	Status:	Active		
Issue Date:	6/25/1970	Expires:	12/31/2012	Last Renewed:	1/7/2011

Discipline Action History

Disciplinary action or corrective action history exists. For more information, email us at ra-prothonotary@state.pa.us.

The Information above is considered primary source for verification of license credentials.

DIPLOMATE

American Board of Obstetrics and Gynecology

COMPOSED OF MEMBERS NOMINATED BY THE
AMERICAN BOARD OF OBSTETRICS AND GYNECOLOGY
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AMERICAN GYNECOLOGICAL AND OBSTETRICAL SOCIETY
ASSOCIATION OF PROFESSORS OF GYNECOLOGY AND OBSTETRICS

Obstetrics and Gynecology

Vikram H. Kaji, M.D.

HAVING PURSUED AN ACCEPTED COURSE OF GRADUATE STUDY AND CLINICAL WORK,
HAS MET THE STANDARDS AND QUALIFICATIONS, AND PASSED THE EXAMINATIONS
REQUIRED BY THE AMERICAN BOARD OF OBSTETRICS AND GYNECOLOGY, INC.,
AND IS AN ACKNOWLEDGED DIPLOMATE OF THE BOARD

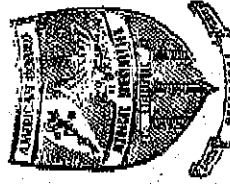
1974

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DIPLOMATE NO. 4424


COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH, :
Bureau of Facility Licensure and :
Certification :
 : Docket
v. :
 :
ROSE HEALTH SERVICES :
COMPANY, :
d/b/a Allentown Medical Services and :
American Women's Services :

CERTIFICATE OF SERVICE

I, JULIA E. GABIS, do hereby certify that on this 16th day of February, 2012, I hereby certify I served a true and correct copy of the Answer to Order to Show Cause and Motion to Dismiss on behalf of Rose Health Services Company, via facsimile and first-class mail delivery upon the following:

Audrey Feinman Miner, Esquire
Pennsylvania Department of Health
Office of Legal Counsel
Room 825 Health and Welfare Building
625 Forster Street
Harrisburg, PA 17120-0701
(717) 705-6042



JULIA E. GABIS, ESQUIRE
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