

Commonwealth of Pennsylvania



DEPARTMENT OF HEALTH

DEPUTY SECRETARY FOR
QUALITY ASSURANCE

April 17, 2012

VIA HAND DELIVERY, FACSIMILE AND CERTIFIED MAIL

Steven Brigham, M.D.
Facility ID 00058701
Rose Health Services Company dba American Women's Services
320 Fort Duquesne Blvd., Suite 325
Pittsburgh, PA 15222

Re: Revocation of American Women's Services' Registration

Dear Dr. Brigham:

American Women's Services (AWS), a registered facility, does not have a physician on its premises to provide services to patients and has voluntarily closed its doors. The Department of Health confirmed the closure as recently as April 12, 2012, with an on-site visit and in conversation with your Patient Safety Officer. Despite AWS's voluntary closure, the Department has confirmed that the facility's website continues to promote it as open and available for patients to obtain services.

Facilities must be able to provide services in order to maintain a registration in good standing. Since no services can be or are being provided at this time, the Department **REVOKES** AWS's registration to operate a free-standing abortion facility at 320 Fort Duquesne Blvd., Suite 325, Pittsburgh, PA 15222. The Department does not permit a registration to go into an "inactive" status.

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.

AWS's failure to have a physician on site to perform abortions, resulting in its closure, constitutes an "infrastructure failure," defined as 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. Not only does the lack of a physician to perform abortions constitute an infrastructure failure, it is an infrastructure failure that results in a total inability of AWS to provide the services for which it has been registered with the Department.

Steven Brigham, M.D.
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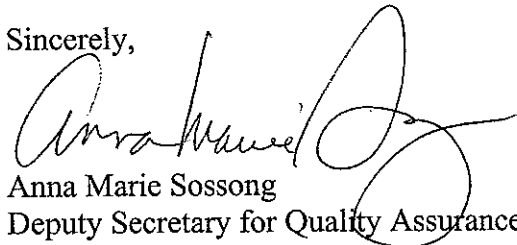
The Administrative Code in particular obligates the Department to protect the health of the people of the Commonwealth and to cause examination of questions affecting the security of life and health of Commonwealth citizens. Not having a physician who can perform otherwise approved services negatively affects the health and safety of the citizens of the Commonwealth.

In addition, I would note that the Department of Health long has witnessed a chronic inability by AWS to comply with fundamental statutory and regulatory requirements. Most recently, for example, AWS has exhibited its 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; and (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). These recent events have shown that AWS is unable to comply with the basic requirements of the law established and designed to assure the health and safety of patients.

Accordingly, an **Order** revoking AWS'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, AWS no longer may provide any services that were previously provided under its abortion facility registration.

In order to ensure that AWS continues to provide no medical services of any kind, you must take steps to assure that the public remains notified that AWS is closed. This includes providing notification on your website that you are no longer authorized to provide services at 320 Fort Duquesne Blvd., Suite 325, Pittsburgh, PA 15222.

Sincerely,



Anna Marie Sossong
Deputy Secretary for Quality Assurance

Enclosure

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

Gloria Muckerstrum, Patient Safety Officer
American Women's Services
1 Alpha Ave.
Voorhees, NJ 08043
856- 616-6151
Fax: 856-427-6151



DATE OF MAILING: April 17, 2012

Certified Mail

Hand carried: April 17, 2012

Facsimile: (412) 765-3699; (856) 427-6151

ORDER

Facility ID 00058701

Rose Health Services Company dba American Women's Services

320 Fort Duquesne Blvd., Suite 325

Pittsburgh, PA 15222

(412) 765-3660

TO:

Steven Brigham, M.D.

Rose Health Services Company dba American Women's Services

320 Fort Duquesne Blvd., Suite 325

Pittsburgh, PA 15222

You are hereby notified that the Pennsylvania Department of Health is issuing an **Order** against your facility pursuant to 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 American Women's Service's (AWS) failure to have a physician on site to provide services, resulting in its closure, the Department has determined that AMS's registration is in an impermissible "inactive" status. AWS's lack of a physician results in a total inability of AWS to provide the services for which it has been registered by the Department.

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 17, 2012**. No abortion related service of any kind may be offered after April 17, 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, 2nd Floor
Conshohocken, PA 19428
610-834-1212
Fax: 610-834-1190

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