

STATE BOARD OF HEALTH
FOR THE STATE OF ALABAMA

ALABAMA DEPARTMENT OF)
PUBLIC HEALTH)
v.)
PLANNED PARENTHOOD OF)
ALABAMA, INC.)

CASE NO. 09-0229

CONSENT AGREEMENT

Now come the parties, the Alabama Department of Public Health, ("the Department"), and Planned Parenthood of Alabama, Inc., ("Planned Parenthood"), and in accordance with § 22-21-25, Code of Ala. 1975, settle the disputed status of the license to operate the abortion or reproductive health center ("the Center"), located at 1211 27th Place South, Birmingham, Alabama, by hereby entering into this Consent Agreement, the terms of which are as follows:

1. In order to settle this dispute, Planned Parenthood voluntarily accepts a downgrade of its license to operate the Center to probational status and waives its right to a hearing or to any further due process with regard to this license downgrade or the 2009 Statement of Deficiencies.

2. The probational period shall continue for a period of one year, but in no event shall the probational period be extended beyond January 2011. During the probational period, the Department shall conduct on-site inspections of the Center in a number and in a manner and at times and dates to be determined by the Department, to aid the Department in determining whether regulatory compliance with the State Board of Health Rules for Abortion or Reproductive Health Centers, Chapter 420-5-1, Ala. Admin. Code, has been achieved and maintained by Planned Parenthood in its operation of the Center.

3. If at any time during the probational period the Department determines that Planned Parenthood has not demonstrated that it has achieved or can maintain regulatory compliance in its operation of the Center, then the Department may issue notice of license revocation to Planned Parenthood in accordance with the contested case rules of the State Board of Health and the Alabama Administrative Procedure Act.

4. Planned Parenthood shall correct all deficiencies cited in the 2009 Statement of Deficiencies, in accordance with completion dates set forth in an acceptable Plan of Correction submitted to, and approved by, the Department. The written Plan of Correction must be submitted to the Department on or before February 16, 2010.

5. In concurrence with, or in addition to, the Plan of Correction, Planned Parenthood agrees that it shall:

a) Develop and implement written policies and procedures to ensure the Center's full compliance with § 26-21-3, Code of Ala. 1975. In addition to these statutory requirements, the Center's policies and procedures shall also require reasonable measures to verify that any individual signing the consent for an abortion involving a minor patient is actually a parent or legal guardian capable of giving such consent. Reasonable measures must include the provision of a birth certificate for the minor, or a court record or other legal document verifying that the individual is the parent or legal guardian of the minor, coupled with a document showing positive identification that the individual signing the consent is the person who is shown by the other documents to be the parent or legal guardian.

b) Develop and implement written policies and procedures to ensure full compliance with the mandatory reporting requirements of the Alabama Child Abuse Reporting Act, §§ 26-14-1 through 26-14-6, Code of Ala. 1975. Such policies and procedures shall describe

indicators of abuse or neglect to assist Center staff in recognizing appropriate circumstances in which abuse or neglect of a "child," as defined by the Alabama Child Abuse Reporting Act, should be reasonably suspected, and shall contain specific measures that must be taken by Center staff when such abuse or neglect is suspected or known. These policies and procedures shall require that in all cases of suspected or known abuse or neglect of a child, the Center shall make a report to the Department of Human Resources, in addition to any report that it may make to local law enforcement agencies.

c) Verify to the Department that said written policies and procedures have been developed by submission of same to the Department on or before February 16, 2010.

d) Provide appropriate and adequate inservice training to all Center staff regarding the above described policies and procedures. Such inservice training for current Center employees must be completed within fourteen calendar days after submission of the policies and procedures to the Department. New employees shall complete inservice training on the above described policies and procedures prior to beginning their work assignments. The Center must maintain documentation of the topics covered during the inservice, by whom the training was provided, and the dates of the training. Attendance of each employee must be documented in that employee's personnel file, and must be retained throughout the employment.

e) Maintain all Center policies and procedures in a written format, easily accessible to all Center staff, and require each staff member to review all policies and procedures annually, including the physician(s) and any contract employees. The written policies and procedures available to all Center staff must be kept current and appropriately updated.

f) Maintain an infection surveillance logbook in the manner required by Rule 420-5-1.03(8)(d), Ala. Admin. Code, as well as adhering to the following additional requirements. The

logbook shall be clearly labeled "Surveillance Logbook" and shall be freely accessible to the Center's medical director, the Center administrator, and other Center management personnel, and shall be made available on demand to surveyors from the Department. During the Center's probationary period, the logbook shall be reviewed by the Center's medical director not less frequently than monthly, and thereafter not less frequently than quarterly as is required by the rules of the State Board of Health. The medical director shall investigate, or cause to be investigated, any trends in reported complaints that may indicate an infection control problem, as well as any unusual or unexpected decrease in the number of complaints received. The Center shall designate one or more specific employees to be responsible for transferring on-call reports to the surveillance logbook. Said employees must be knowledgeable of the requirements of Rule 420-5-1-.03(8)(d), Ala. Admin. Code, and of generally accepted professional medical practices with respect to quality assurance. These employees shall be provided training sufficient to meet these requirements, and said training must be documented and retained in the employees' personnel file throughout the period of employment.

6. The Department acknowledges that Planned Parenthood has entered into a Plan of Merger dated July 1, 2009, with Planned Parenthood of Georgia, Inc. (PPG), and that the merged entity will be known as Planned Parenthood Southeast, Inc. (PPSE). The Department also acknowledges that on or about September 1, 2009, PPG/PPSE submitted "Change of Ownership License Applications" (Applications) to enable PPSE to become responsible for the operation of the Planned Parenthood clinics in Mobile and Birmingham. The Department agrees to approve the pending Applications within thirty (30) days from the date of the State Health Officer's entry of a formal Consent Order. PPSE acknowledges that subsequent to the Department's approval of

the pending Applications that PPSE shall become responsible for fulfilling Planned Parenthood's obligations agreed to in this Consent Agreement.

7. Nothing in this Consent Agreement shall be construed to limit or prohibit the Department from taking other enforcement action against Planned Parenthood's license to operate the Center, should Planned Parenthood violate the terms of this Consent Agreement or violate the Rules of the State Board of Health. Further, nothing in this Consent Agreement shall be construed to limit or prohibit Planned Parenthood from exercising its legal right to defend against any future enforcement action that may be taken by the Department against Planned Parenthood's license to operate the Center.

8. This Consent Agreement shall be final and binding upon the parties, their successors and assigns, upon execution by the undersigned, who represent and warrant that they are authorized to enter this Consent Agreement on behalf of the parties hereto.

9. This Consent Agreement shall be incorporated into a formal Consent Order to be entered by the State Health Officer and to be subject to enforcement by the Department.

DONE and ENTERED on this the 15 day of January, 2010.

Planned Parenthood of Alabama, Inc.

By: Barbara Buchanan

As Its CEO, interim

Alabama Department of Public Health

By: Rich Hamy

As Its Director BHP

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CONSENT ORDER

Now comes the State Health Officer, who having reviewed the terms and conditions of the attached Consent Agreement, hereby orders that the terms and conditions of said agreement be fully implemented by the parties.

This final administrative order is hereby entered on this the 19th day of January, 2010.



Donald E. Williamson, M.D.
State Health Officer