



DHMH

Maryland Department of Health and Mental Hygiene

Office of Health Care Quality

Spring Grove Center • Bland Bryant Building

55 Wade Avenue • Catonsville, Maryland 21228-4663

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – Joshua M. Sharfstein, M.D., Secretary

May 23, 2013

Via Email and U.S. Mail

Paul Ballard, Esquire
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Richard B. Bardos, Esquire
Schulman, Hershfield & Gilden, P.A.
The World Trade Center
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Re: Emergency Suspension of License Nos. SA 000006, SA 000007, SA 000008, and SA 000009 Held by Associates in OB/GYN Care, LLC

Dear Messrs. Ballard and Bardos:

On May 9, 2013, the Secretary of Health and Mental Hygiene authorized me to issue summary suspensions of the licenses held by Associates in OB/GYN Care, LLC (“OB/GYN Care”) to operate surgical abortion facilities in Silver Spring, Cheverly, Frederick, and Baltimore. The summary suspension letter scheduled a Show Cause Hearing for Thursday, May 16, 2013, at 2:00 p.m. to allow OB/GYN Care to present argument on whether the summary suspensions should be continued. That hearing was re-scheduled by agreement of the parties to Tuesday, May 21, 2013, at 2:00 p.m. and held as re-scheduled. This letter constitutes my findings after that hearing.

I issued the summary suspensions of the four licenses to operate surgical abortion facilities held by OB/GYN Care because a complaint investigation disclosed that staff at the Baltimore facility followed its standard, unwritten protocol and administered misoprostol, a medication that induces abortion, to a patient without a physician present at the facility and before a physician or other licensed healthcare professional had any contact with the patient. The investigation also revealed that all four facilities operated by OB/GYN Care followed the same unwritten protocol. In addition, the Baltimore facility was not open during the hours that it told the Office of Health Care Quality that it provided services; the four facilities had failed to submit acceptable plans of correction for all of the outstanding

deficiencies, and the Secretary had previously summarily suspended the Baltimore, Cheverly and Silver Spring facilities' licenses for patient safety related deficiencies.

At the Show Cause Hearing, OB/GYN Care conceded that the unwritten protocol and the treatment of the patient that prompted the complaint investigation and summary suspensions were improper. It did not accept responsibility for the protocol followed at its four Maryland facilities and instead portrayed the incident as the responsibility of a single physician. Additionally, OB/GYN Care demonstrated a lack of understanding of the importance of being open during its reported hours of operation, of cooperating with the Office of Health Care Quality to submit acceptable plans of corrections for all outstanding deficiencies, and of its previous disciplinary history.

OB/GYN Care failed to provide compelling evidence that the summary suspensions should be lifted. Thus, I find that the summary suspensions should be continued.

As described in the May 9 letter, OB/GYN Care has the following hearing rights: It may request an evidentiary hearing by filing a request for a hearing with the Office of Administrative Hearings at 11101 Gilroy Road, Hunt Valley, Maryland 21031. OB/GYN Care must file its hearing request within thirty days after receipt of the May 9 letter, with a copy to Kathleen A. Ellis, Assistant Attorney General, 300 West Preston Street, Suite 302, Baltimore, Maryland 21201. The request shall include a copy of the May 9 letter and this letter. Under COMAR 10.12.01.17C, the filing of a hearing request will not stay the summary suspensions.

Sincerely,

A handwritten signature in cursive script that reads "Patricia Tomsko Nay, MD".

Patricia Tomsko Nay, MD, CMD, CHCQM, FAAFP, FAIHQ, FAAHPM
Acting Executive Director and Medical Director

cc: Kathleen A. Ellis, Esquire