

**BEFORE THE MEDICAL LICENSING BOARD OF INDIANA  
CAUSE NO. 2014 MLB 0044**

IN THE MATTER OF THE  
LICENSE OF  
ULRICH G. KLOPFER, D.O.  
LICENSE NO: 02000628A

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**AMENDED ADMINISTRATIVE COMPLAINT**

This amended complaint is brought against the medical license of Ulrich G. Klopfer, D.O. ("Respondent"), by the State of Indiana, by counsel, Deputy Attorneys General N. Renee Gallagher, Kelsie E. Duggan, and Amelia A. Hilliker, on behalf of the Office of the Attorney General ("Petitioner") and pursuant to Ind. Code § 25-1-7-7, Ind. Code § 25-1-5-3, Ind. Code art. 25-22.5, the Administrative Orders and Procedures Act, Ind. Code ch. 4-21.5-3, and Ind. Code ch. 25-1-9, and in support alleges and states:

**FACTS**

1. Respondent's address on file with the Medical Licensing Board of Indiana is 2010 Ironwood Circle, South Bend, Indiana 46635. Respondent is a licensed Doctor of Osteopathy, holding Indiana license number 02000628A, issued January 12, 1979.
2. Respondent has practiced at three (3) different locations in Indiana: Women's Pavilion Clinic, located at 2010 Ironwood Circle, South Bend, Indiana 46635; Fort Wayne Women's Health Organization, located at 2210 Inwood Drive, Fort Wayne, Indiana 46815; and Friendship Family Planning Clinic of Indiana, located at 3700 Broadway, Gary, Indiana 46408.
3. Between January 2012 and November 2013, Respondent performed approximately two thousand four hundred and five (2,405) surgical and medical abortions at

those clinics. Respondent continued to perform both medical and surgical abortions at one or more of those clinics through November 2015.

#### **FAILURE TO PROVIDE QUALIFIED PERSONNEL TO MONITOR PATIENTS**

4. On or about October 29, 2014, Indiana State Department of Health ("ISDH") conducted a survey of the Women's Pavilion Clinic in South Bend, Indiana ("Women's Pavilion Clinic").

5. During the October 29, 2014, survey, surveyors reviewed patient records for fifteen (15) patients who underwent a surgical abortion procedure.

6. During the October 29, 2014, survey, the patient record review and personnel files for employees at the Women's Pavilion Clinic revealed that no qualified personnel were present in the recovery room to monitor the patients who received sedation medications such as Lidocaine and/or Stadol before, undergoing, and/or following the surgical abortion procedure, as the personnel who staffed the recovery room lacked proper training, licensure, and/or certification.

#### **FAILURE TO PROVIDE INFORMATION AND COUNSELING TO PATIENTS AS REQUIRED BY INDIANA LAW**

7. On or about July 24, 2012, ISDH performed a survey at the Women's Pavilion Clinic.

8. The ISDH surveyors' patient record reviews of three (3) patients who underwent an abortion procedure revealed that each of the three (3) patients signed the facility's consent form, "Required Components of Abortion Consent Documentation," on the same day the abortion procedure was performed.

9. The chart reviews also revealed that none of the three (3) patients' records contained documentation showing that information or counseling was provided to them at least eighteen (18) hours prior to the abortion procedure.

10. On or about July 24, 2012, an ISDH surveyor interviewed the Respondent and informed him that the consent form, "Required Components of Abortion Consent Documentation," lacked supporting documentation in the patient records to show that information was given to three (3) patients at least eighteen (18) hours prior to the procedure being performed.

11. On July 24, 2012, the Respondent signed the notes prepared by the surveyor summarizing the issues discussed in their interviews on July 23, 2012 and July 24, 2012.

12. On or about December 10, 2014, ISDH performed a survey at the Friendship Family Planning Clinic in Gary, Indiana ("Friendship Family Clinic").

13. The ISDH surveyors' review of five (5) patients' records who underwent a surgical abortion procedure revealed that each of the five (5) patients signed the facility's consent form, "Abortion Consent State Form 55320," on the same day the surgical abortion procedure was performed.

14. During this same survey, the patient record reviews revealed that none of the five (5) patient charts contained documentation showing that information or counseling was provided to the patients at least eighteen (18) hours prior to the surgical abortion procedure.

15. On or about August 7, 2012, ISDH performed a survey of the Fort Wayne Women's Health Organization in Fort Wayne, Indiana ("Women's Health Clinic").

16. During that survey, the ISDH surveyor reviewed the Women's Health Clinic's policy regarding the "Abortion Consent Form" which indicated, "[a]t least eighteen (18) hours

before the abortion the physician or a physician assistant, an advanced practice nurse, or a midwife to whom the responsibility has been delegated by the physician who is to perform the abortion or the referring physician has orally informed me of the following....”

17. The ISDH surveyor’s patient record reviews of six (6) patients who underwent an abortion procedure revealed that the individual who provided the form and information and/or counseling to each of the six (6) patients was not properly educated and/or trained, pursuant to Indiana law and the Women’s Health Clinic’s facility policy.

18. Upon further review, the ISDH surveyor identified that the staff member who witnessed and signed the Abortion Consent Form for six (6) patients was a registered nurse.

19. On or about June 3, 2015, ISDH performed a survey of Women’s Pavilion Clinic.

20. The ISDH surveyors’ patient record review of ten (10) records of patients who underwent a medical abortion procedure revealed that each record lacked documentation to show that the required information and counseling was provided at least eighteen (18) hours prior to the initiation of the medical abortion.

21. An ISDH surveyor interviewed the Respondent during the survey. The Respondent provided the process for medical abortions. At the first visit an ultrasound was performed, labs were completed, and counseling provided. The patient then executed a consent form and was given the first medication, RU-486 Mifiprex (Mifepristone), to take while in the clinic. The patient was then given the second medication, Misoprostol, and instructed to take the second medication forty-eight (48) hours later, while at home.

22. The surveyor requested a copy of the Women’s Pavilion Clinic’s policy and procedure for medical abortions. The Respondent informed the surveyor that no policy and procedure for medical abortions existed.

#### **FAILURE TO TIMELY REPORT ABORTIONS PERFORMED ON UNDERAGE PATIENTS**

23. On September 28, 2012, Respondent performed an abortion on a 13-year-old patient.

24. Respondent did not report that abortion to ISDH within three (3) days.

25. On January 25, 2013, Respondent performed an abortion on another 13-year-old patient.

26. Respondent did not report that abortion to ISDH within three (3) days.

#### **CRIMINAL CHARGES FILED IN LAKE COUNTY, INDIANA**

27. On or about January 3, 2014, Respondent was criminally charged in Lake County Superior Court, under cause number 45D07-1401-CM-0018, for failing to timely file a public report, a Class B misdemeanor, for his failure to timely file with ISDH a report of his performing an abortion on a 13-year-old patient.

28. On or about July 13, 2015, Respondent entered into a plea agreement.

29. Pursuant to that agreement, Respondent received a deferred prosecution of the Class B misdemeanor, and agreed to be monitored by the pretrial diversion program for one (1) year and pay court costs and fees.

#### **CRIMINAL CHARGES FILED IN ST. JOSEPH COUNTY, INDIANA**

30. On or about June 27, 2014, Respondent was criminally charged in St. Joseph County Superior Court, under cause number 71D04-1406-CM-002439, for failing to timely file a public report, a Class B misdemeanor, for his failure to timely file with ISDH a report of his performing an abortion on a 13-year-old patient.

31. On or about December 1, 2014, Respondent entered into a pretrial diversion agreement with prosecutors, which required him to pay fees and costs totaling Three Hundred

Thirty Dollars (\$330.00) within three (3) months, not commit any criminal offense during the term of the agreement, perform twenty four (24) hours of community service, report to the St. Joseph County Prosecutor's Office as requested, and notify the St. Joseph County Prosecutor's office in writing of any changes in his contact information.

32. On or about December 1, 2015, cause number 71D04-1406-CM-002439 was dismissed.

#### **TERMINATED PREGNANCY REPORTS**

33. Between January 2012 and November 2013, Respondent submitted approximately two thousand four hundred and five (2,405) Terminated Pregnancy Reports ("TPRs") to ISDH.

34. Between January 2012 and November 2013, approximately two thousand four hundred and five (2,405) TPRs submitted by Respondent were incomplete or not timely submitted to ISDH.

35. The incomplete TPRs submitted by or on behalf of Respondent contained the following deficiencies:

- a. The father's name field was handwritten or typed as "Unknown" on approximately one thousand seven hundred and ninety-four (1,794) TPRs and left blank on six hundred and eleven (611) TPRs.
- b. The father's age or approximate age field was omitted or listed as "Unknown" on approximately one thousand two hundred and twenty-nine (1,229) TPRs.
- c. The post-fertilization age of the fetus field was not listed on approximately one hundred fifty-one (151) TPRs.

- d. The dates of any prior terminations field was blank on approximately five hundred fifty-seven (557) TPRs.
- e. The field indicating whether a pathological examination was performed was blank on approximately twenty-one (21) TPRs.
- f. The patient's last menses field was blank on approximately twenty-seven (27) TPRs.

#### **INDIANA STATE DEPARTMENT OF HEALTH ACTION AGAINST CLINIC LICENSE**

36. On or about January 28, 2015, the ISDH filed a licensing action against Respondent's abortion clinic license to operate the Women's Pavilion Clinic located in South Bend, Indiana.

37. On or about June 26, 2015, the ISDH filed a second licensing action against Respondent's abortion clinic license to operate the Women's Pavilion Clinic located in South Bend, Indiana.

38. On or about November 4, 2015, Respondent entered into a settlement agreement with the Division of Acute Care of the ISDH, wherein Respondent agreed not to seek current licensure for the Women's Pavilion Clinic for at least ninety (90) days in exchange for the dismissal with prejudice of the two ISDH actions.

39. Respondent's other two (2) clinics had closed prior to the settlement agreement with ISDH.

#### **COUNT I**

40. Paragraphs one (1) through thirty-nine (39) are incorporated by reference herein.

41. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(4)(B) in that Respondent has failed to keep abreast of current professional theory

and practice in that he has failed to ensure that qualified staff were present when patients received and/or recovered from Lidocaine and Stadol medications given prior to and during abortion procedures.

### COUNT II

42. Paragraphs one (1) through thirty-nine (39) are incorporated by reference herein.

43. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(4)(B) in that Respondent failed to keep abreast of current professional theory or practice when he failed to document in patients' medical records that information and counseling was provided to patients at least eighteen (18) hours prior to a surgical abortion procedure being performed.

### COUNT III

44. Paragraphs one (1) through thirty-nine (39) are incorporated by reference herein.

45. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(3) in that Respondent has knowingly violated a state statute or rule regulating the medical profession. Specifically, Respondent violated Ind. Code § 16-34-2-1.1(a)(1), when he failed to document in patients' medical records that information and counseling was provided to patients at least eighteen (18) hours prior to the surgical abortion procedure being performed.

### COUNT IV

46. Paragraphs one (1) through thirty-nine (39) are incorporated by reference herein.

47. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(4)(A) in that Respondent is unfit to practice due to professional incompetence as Respondent has continued to engage in a pattern of conduct which demonstrates an inability to exercise reasonable care and diligence as is normally exercised by practitioners in the same or



similar circumstances in that, since January 2014, Respondent has failed to document in patients' medical records that information and counseling was provided to patients at least eighteen (18) hours prior to the medical abortion procedure being performed.

#### COUNT V

48. Paragraphs one (1) through thirty-nine (39) are incorporated by reference herein.

49. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(4)(B) in that Respondent failed to keep abreast of current professional theory or practice when he failed to document in patients' medical records that information and counseling was provided to patients at least eighteen (18) hours prior to the medical abortion procedure being performed.

#### COUNT VI

50. Paragraphs one (1) through thirty-nine (39) are incorporated by reference herein.

51. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(3) in that Respondent has knowingly violated a state statute or rule regulating the medical profession. Specifically, Respondent violated Ind. Code § 16-34-2-1.1(a)(1), when he failed to ensure that either a physician, a physician assistant, an advanced practice nurse or a midwife provided patients scheduled to undergo a surgical abortion procedure with information and counseling at least eighteen (18) hours prior to a surgical abortion procedure being performed.

#### COUNT VII

52. Paragraphs one (1) through thirty-nine (39) are incorporated by reference herein.

53. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(3) in that Respondent has knowingly violated a state statute or rule regulating the

medical profession. Specifically, Respondent violated Ind. Code § 16-34-2-5(b), when he failed to submit a TPR within three (3) days after performing an abortion on at least two (2) thirteen (13) year old patients.

#### COUNT VIII

54. Paragraphs one (1) through thirty-nine (39) are incorporated by reference herein.

55. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(3) in that Respondent has knowingly violated a state statute or rule regulating the medical profession. Specifically, Respondent violated Ind. Code § 16-34-2-5(a)(4), when he failed to ensure that the TPR fields requesting: the name of the father; age or approximate age of the father; post-fertilization age of the fetus; dates of prior terminations; results of any pathological examinations performed; and/or dates of the patients' last menses were completed on several of the TPR forms submitted to ISDH.

#### COUNT IX

56. Paragraphs one (1) through thirty-nine (39) are incorporated by reference herein.

57. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(4)(A) due to professional incompetence as Respondent has continued to engage in a pattern of conduct which demonstrates an inability to exercise reasonable care, as defined in 844 IAC 5-2-5, in providing abortion services, as is normally exercised by practitioners in the same or similar circumstances.

**WHEREFORE**, Petitioner demands an order against Respondent, that:

1. Imposes the appropriate disciplinary sanction;
2. Directs Respondent to immediately pay all of the cost incurred in the prosecution of this case;

3. Directs Respondent to pay a fee of Five Dollars (\$5.00) to be deposited into the Health Records and Personal Identifying Information Protection Trust Fund pursuant to Ind. Code § 4-6-14-10(b); and
4. Provide any other relief the Board deems just and proper.

Respectfully submitted,

GREGORY F. ZOELLER  
Attorney General of Indiana  
Attorney Number: 1958-98

By: Kelsie E. Duggan  
Kelsie E. Duggan  
Deputy Attorney General  
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By: N. Renee Gallagher  
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By: Amelia A. Hilliker  
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Deputy Attorney General  
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**CERTIFICATE OF SERVICE**

I certify that a copy of the Amended Administrative Complaint has been duly served via hand delivery and electronic mail upon:

Ulrich G. Klopfer, D.O.  
2010 Ironwood Circle  
South Bend, IN 46635  
**Service by U.S. Mail**

Mary Watts, Counsel for Respondent  
BINGHAM GREENEBAUM DOLL, LLP  
2700 Market Tower  
10 West Market Street  
Indianapolis, Indiana 46204  
**Service by U.S. Mail**

7/11/11  
Date

Kelsie E. Duggan  
Kelsie E. Duggan, Deputy Attorney General

Indiana Government Center South, Fifth Floor  
302 West Washington Street  
Indianapolis, Indiana 46204-2770  
Phone: (317) 234-7129  
Fax: (317) 233-4393

**Explanation of Service Methods**

Personal Service: by delivering a true copy of the aforesaid document(s) personally.

Service by U.S. Mail: by serving a true copy of the aforesaid document(s) by First Class U.S. Mail, postage prepaid.

Service by Email: by sending a true copy of the aforesaid document(s) to the individual's electronic mail address.