



**CABINET FOR HEALTH AND FAMILY SERVICES
OFFICE OF INSPECTOR GENERAL**

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Vickie Yates Brown Glisson
Secretary

Robert S. Silverthorn, Jr.
Inspector General

March 13, 2017

EMW Women's Surgical Center, PSC
136 West Market Street
Louisville, Kentucky 40202

Re: License Application 300200

Dear EMW Women's Surgical Center, PSC:

Pursuant to 902 KAR 20:360 (2)(4) an abortion facility shall be in compliance with the administrative regulations relating to an abortion facility.

KRS 216B.0435 and 902 KAR 20:360(10)(1) requires that it have written agreements with a licensed acute-care hospital treating patients and a written agreement with a licensed local ambulance service for the transport of an emergency patient and treatment of patients when hospitalization becomes necessary, as required by KRS 216.0435.

KRS 216B.105(2), states that "The cabinet may deny, revoke, modify or suspend a license in any case it finds that there has been a substantial failure to comply with the provisions of this chapter or the administrative regulations promulgated hereunder."

The revocation suspension shall become final conclusive thirty (30) days after notice is given, unless the applicant or licensee, within the thirty (30) day period, shall file a request in writing for a hearing with the cabinet.

Notwithstanding the OIG's renewal license to operate an abortion facility at 136 West Market Street, Louisville, Kentucky 40202, by letter dated April 27, 2016 for the period June 1, 2016 through May 31, 2017, such renewal was in error, because the written transfer agreement and ambulance transportation agreements were both deficient, having failed to comply with the specific requirements of KRS 216B.0435, and 902 KAR 20:360 (10)(1).

The tendered "Emergency Transfer Agreement", dated February 14, 2014, is deficient in that it (1) is not signed by an authorized representative of the University of Louisville Hospital (The acute-care hospital required to be named in the Agreement), (2) the University of Louisville Hospital withdrew from a similar arrangement with another abortion facility in 2016, and may have done so with the licensee, (3) the Chair, Department of

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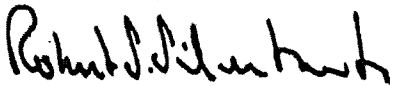
Obstetrics, Gynecology and Women's Health is not authorized to enter into the Agreement and (4) the transfer agreement names the Emergency Room as the transferee.

The tendered "Mercy Ambulance Service Inc." document, dated February 1, 2016, (encl. 2) does not mandate with reasonable certainty the transport of the licensee's patients to the Transfer Agreement named entity (University of Louisville Department of Obstetrics, Gynecology). In fact, its terms are no more than an offer to provide a response time, upon being contacted, thus providing no certainty of transport for an emergency patient to the purported transfer hospital.

Pursuant to 902 KAR 20:360, EMW Women's Surgical Center, PSC, shall have (10) calendar days to cure the two stated deficiencies by filing, with the Office of Inspector General, a compliant Transfer Agreement and Transportation Agreement. Failure to cure these deficiencies will result in an immediate revocation of the Abortion Facility license.

Please note that any violation of KRS-Chapter 216B regarding the abortion facility, by intent, fraud, deceit, unlawful claim, willful and deliberate misrepresentation, or by careless, negligence or incautious disregard for the statute or administrative regulation, either by persons acting individually or in consent with others, shall constitute a violation and shall be punishable by fine not to exceed one thousand dollars (1,000) for each offense. Each day of continuing violation shall be considered a separate offense. See KRS 216B.990 (b).

Respectfully,



ROBERT S. SILVERTHORN, JR.
Inspector General