

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

PLANNED PARENTHOOD	:	Case No. 1:15-cv-568
SOUTHWEST OHIO REGION, et al.,	:	
Plaintiffs,	:	Judge
vs.	:	
	:	<u>PLAINTIFFS' MOTION FOR</u>
RICHARD HODGES, et al.,	:	<u>PRELIMINARY INJUNCTION</u>
Defendants.	:	<u>AND MEMORANDUM IN</u>
	:	<u>SUPPORT</u>

MOTION

Pursuant to Fed. R. Civ. Pro. 65, Plaintiffs, Planned Parenthood of Southwest Ohio and Women's Medical Group Professional Corporation, move for a preliminary injunction to declare two provisions of Ohio Substitute Amended House Bill 64 of the 131st General Assembly, which goes into effect on September 29, 2015, unconstitutional and to enjoin Defendant Director of the Ohio Department of Health, Richard Hodges, from enforcing or complying with those provisions. These two provisions, on their face, and as applied to Plaintiffs, are designed to permit Director Hodges as early as September 29, 2015 to make a ruling that would immediately suspend Plaintiffs' surgery center licenses and close the facilities without a pre-deprivation hearing on their licenses to operate the last two Ambulatory Surgery Centers that provide women abortions in Southwest Ohio.

Notice will be provided to the defendants but due to the threatened closure of Plaintiff's facilities as early as September 29, 2015, an expedited briefing schedule, hearing, and ruling on the merits is requested.

Plaintiffs request that if a bond is required, it be set at \$1.00.

MEMORANDUM IN SUPPORT

**I. INTRODUCTION AND SUMMARY OF ARGUMENT
PURSUANT TO LOCAL RULE 7.2(a)(3)**

Ohio's deliberate strategy to reduce abortion access in the state through unnecessary laws and regulations that undermine women's health has resulted in the closure of at least six abortion clinics in just the past two years. But apparently, these clinic closures were not enough for opponents of abortion. Ohio's most recent tactic for eliminating abortion access threatens, in the absence of injunctive relief by this Court, to shut down the last two remaining surgical abortion clinics in Southwest Ohio without providing Plaintiffs with any semblance of the procedural due process they are guaranteed under the United States Constitution.

The Ohio Legislature's most recent scheme, contained within the biennial omnibus state budget bill HB 64, leaves any abortion clinic that applies for a variance from Ohio's written transfer agreement requirement ("WTA Requirement"), such as Plaintiffs' clinics, vulnerable to immediate license suspension and shut-down of its operations without providing the clinic with any form of pre-deprivation, or even post-deprivation, review.

For several years, Ohio has required surgical abortion in Ohio to be provided only in ambulatory surgical facilities ("ASFs") that maintain a WTA with a local hospital, even though a WTA requirement is medically unjustified in the context of abortion. In practice, the WTA Requirement has been exceedingly difficult, if not impossible, for abortion clinics to comply with, for reasons that are entirely beyond their control. Abortion clinics have had difficulty obtaining WTAs with local hospitals because of hospitals' religious and political opposition to abortion, and/or because of hospitals' fear

of the harassment and intimidation they and their doctors would face if they were to enter into a WTA with an abortion clinic. And, abortion clinics' ability to obtain WTAs recently became even more challenging because the Ohio Legislature prohibited public hospitals from entering into a WTA with abortion clinics.¹ Because of abortion clinics' inability to obtain a WTA, many have instead been forced to apply, on an annual basis, for a variance from this requirement. In fact, because of the hostility towards abortion providers and the hospitals and physicians that support them, the only ASFs in Ohio that have been unable to obtain WTAs and that have been forced to apply for a variance are those that provide abortions.

And because of the Ohio Legislature's most recent actions in HB 64, abortion clinics applying for variances from the WTA Requirement are at risk of immediate license suspension and shut down of their clinics. More specifically, HB 64 provides that ODH: (1) must rule on a variance application for the WTA Requirement within 60 days and deem a variance application denied if ODH fails to act within 60 days ("the 60-Day Deadline"); and (2) immediately and automatically suspend an ASF's license if its variance application for the WTA Requirement is denied ("the Automatic Suspension Provision"), thereby forcing the ASF to shut down its operations, without providing the ASF with any procedural protections.

During the Senate floor debate over HB 64, a state senator, who is a former President of Ohio Right to Life,² made clear that these amendments were targeted at

¹ In their Complaint, Plaintiffs challenge the WTA Requirement itself, as well as the ban on WTAs with public hospitals, but Plaintiffs do not seek a preliminary injunction on these bases.

² Catherine Candisky, *Group pushes for more abortion restrictions, defunding of Planned Parenthood*, THE COLUMBUS DISPATCH (Feb. 11, 2015, 12:36 AM), <http://www.dispatch.com/content/stories/local/2015/02/10/ohio-right-to-life-legislative-agenda.html>; Peggy

abortion clinics, describing the variance process as applying “in those situations where you cannot find a hospital who is willing to serve as a backup to an abortion clinic, and you can seek a variance by having some physicians who are willing to take ownership of the complications that occur in that clinic.”³ On HB 64’s signing by Governor Kasich, Ohio Right to Life issued a press release celebrating the bill’s “pro-life measures” that “will hold abortion facilities accountable.” In fact, Ohio Right to Life’s Press release acknowledges that the Automatic Suspension Provision will shut down abortion clinics, and specifically references one of Plaintiffs’ ASFs, Women’s Med Center Dayton, as a clinic that could be shut down.⁴

The Automatic Suspension Provision blatantly violates Plaintiffs’ procedural due process rights under clear Sixth Circuit case law requiring abortion providers to be afforded the opportunity for a hearing before they can be deprived of their protected liberty and property interests in their licenses and the continued operation of their businesses. *See Women’s Med. Prof’l Corp. v. Baird*, 438 F.3d 595 (6th Cir. 2006).

Plaintiff Planned Parenthood Southwest Ohio Region (“PPSWO”) and Plaintiff Women’s Med Group Professional Corporation (“WMGPC”) which operates Women’s Med Center of Dayton (“WCMD”) both have variance applications from the WTA Requirement pending with ODH. Thus, on the date these amendments to the WTA variance process go into effect, September 29, 2015, both clinics risk immediate license suspension and shut-down of their operations, even though there is no evidence that the

Lehner, LINKEDIN <https://www.linkedin.com/pub/peggy-lehner/8/943/461> (listing her role as President of Ohio Right to Life from 1984-1988).

³ *Senate Session*, THE OHIO CHANNEL (June 18, 2015) <http://www.ohiochannel.org/MediaLibrary/Media.aspx?fileId=146746&startTime=9777>.

⁴ Katherine Franklin, *Governor Kasich Signs Pro-Life Budget*, OHIO RIGHT TO LIFE (June 30, 2015) http://www.ohiolife.org/governor_kasich_signs_pro_life_budget.

clinics' continued operation poses a risk of harm to their respective patients or anybody else. In fact, the evidence shows the opposite: if Plaintiffs' clinics were forced to shut down, their patients' health would be compromised: abortion access in Southwest Ohio would be eliminated, forcing women to travel hundreds of miles round-trip, and to make that trip at least twice, to the next closest abortion providers in Columbus or Cleveland.

Moreover, HB 64 violates the One-Subject Rule of the Ohio Constitution, which requires legislation to share a common purpose or relationship. The 60-Day Deadline and the Automatic Suspension Provision were added as last minute additions to the biennial state budget in June, despite having absolutely nothing to do with the purpose of the budget bill, the appropriation of state funds.

Because of these clear violations of Plaintiffs' constitutional rights, the irreparable harm that Plaintiffs' and their patients would suffer in the absence of injunctive relief, the lack of harm that injunctive relief would impose on Defendants, and the public interest that injunctive relief would serve, the 60-Day Deadline and Automatic Suspension Provision must be preliminarily enjoined by this Court.

II. FACTS

A. ABORTION PRACTICE AND SAFETY

Legal abortion is one of the safest and most common procedures in contemporary medicine, with an incredibly low rate of complications. The majority of abortions are performed during the first trimester of pregnancy, when the gestational age of the fetus is at or less than fourteen weeks LMP. And because abortions are so safe, they are almost always provided in an outpatient setting: for example, in 2013, 99.6% of Ohio abortions were performed on an outpatient basis. Haskell Declaration ¶ 7.

In those rare instances where a complication occurs, Plaintiffs’ physicians manage all of these complications safely and appropriately in the outpatient clinic setting, either at the time of the procedure or during a follow-up visit. When an even rarer complication requiring hospital-based care occurs, Plaintiffs’ protocols and practices ensure that the patient receives high-quality hospital-based care. In addition, hospitals are required by the federal Emergency Medical Treatment & Labor Act to treat and stabilize all emergency patients. 42 U.S.C. § 1395dd (b). As a result, Plaintiffs’ patients receive the appropriate and necessary hospital-based care regardless of whether Plaintiffs’ have a written transfer agreement (“WTA”) with a given hospital agreeing to admit Plaintiff’s patients.⁵

B. THE WTA REQUIREMENT

Though WTAs are not medically necessary and do nothing to increase patient health or safety in the context of abortion, in 1999, Ohio notified abortion clinics that they needed to obtain ASF licenses, which required them to have a WTA “for transfer of patients in the event of medical complications, emergency situations, and for other needs as they arise.” Ohio Admin. Code § 3701-83-19(E) (the “WTA Requirement”). At the time, an ASF could apply for a variance or waiver from the WTA Requirement, as it could from any other ASF requirement, by demonstrating that “the requirement has been met in an alternative manner,” or that the ASF would suffer “undue hardship” from the

⁵ In fact, even if Plaintiffs were to have a WTA with a given hospital, that does not guarantee that Plaintiffs’ patients would be sent to that hospital in the very rare event that a patient needed hospital care. First, some paramedics determine which hospital is best suited to a patient’s needs, and others will follow patient preferences. Second, if a patient seeks hospital-based care after returning home from a clinic, she would be instructed to go to the closest hospital, which may not be the hospital that has a WTA with the clinic.

requirement and that granting the waiver would not “jeopardize the health and safety of any patient.” *Id.* § 3701-83-14 (C).

In 2006, the Sixth Circuit upheld the WTA Requirement as applied to WMCD because of ODH’s ability to grant a variance or waiver from this requirement. *See Women’s Med. Prof’l Corp. v. Baird*, 438 F.3d 595 (6th Cir. 2006). Since that time, however, the State has altered the WTA Requirement and variance application process, making it even more difficult for abortion clinics to satisfy the WTA Requirement.

C. HB 59

In 2013, as part of the omnibus budget bill HB 59 of the 130th General Assembly of the Ohio legislature altered the WTA Requirement in three critical ways, for the stated purpose of “stand[ing] up for the rights of the unborn.”⁶

First, originally only required by regulation, the WTA Requirement was codified into a statute. *See* Ohio Rev. Code Ann. § 3702.303(A) (requiring an ASF to “have a written transfer agreement with a local hospital that specifies an effective procedure for the safe and immediate transfer of patients.”).

Second, HB 59 amended the ASF licensing scheme to prohibit any “public hospital” from “enter[ing] into a written transfer agreement with an ambulatory surgical facility in which nontherapeutic abortions are performed or induced.” Ohio Rev. Code Ann. § 3727.60(B)(1) (“Public Hospital Ban”). The ban applies only to clinics that provide abortions and does not apply to any other ASF in the state. Further, the Public Hospital Ban also prohibits physicians with staff membership or professional privileges at a public hospital “to use that membership or those privileges as a substitution for, or

⁶ Ann Sanner, *Abortion-Related Issues Remain Part of Ohio Budget*, THE ASSOCIATED PRESS (June 6, 2013) available at <http://www.crescent-news.com/editors%20pick/2013/06/06/abortion-related-issues-remain-part-of-budget> (quoting a state senator in support of the restrictions).

alternative to, a written transfer agreement for purposes of a variance application” for an ASF that performs abortions. Ohio Rev. Code Ann. § 3727.60(B)(2).⁷

Third, HB 59 also provided a new variance process, which applies only to a variance of the WTA Requirement. The contents of an application for a variance from the WTA Requirement are set out in Ohio Rev. Code Ann. §3702.304, which requires an applicant to submit a “complete variance application” that must contain certain specified agreements with physicians in order for the ASF to be eligible for a variance. Prior to HB 59, it was solely within the ODH Director’s discretion whether to grant a variance request. HB 59 significantly reduced the ODH Director’s discretion.

Thus, because of HB 59, it has become even more difficult for abortion clinics in Ohio to meet the WTA Requirement and/or to obtain a variance from this requirement. Plaintiff PPSWO, for example, lost its WTA with the University of Cincinnati Medical Center (“UCMC”) as a direct result of the Public Hospital Ban, and has been unable to obtain a WTA with any other local hospital. Lawson Declaration ¶ 10. Similarly, UCMC declined to enter into a WTA with Plaintiff WMGPC’s clinic in Sharonville, Ohio as a direct result of the Public Hospital Ban. Haskell Declaration ¶ 31.

Both PPSWO and WMCD have been unable to obtain WTAs and have instead been forced to apply for variances from the WTA Requirement, and must do so annually. Plaintiff PPSWO initially applied for a variance prior to the effective date of UCMC’s termination of its WTA with PPSWO. ODH granted PPSWO’s variance on November

⁷ Even if WTAs were medically justified, which they are not, there is no plausible safety or health rationale for prohibiting public hospitals from entering into WTA’s with abortion providers. Indeed the Public Hospital Ban undermines women’s safety and health since public hospitals and physicians practicing at these hospitals may provide the highest level of patient care in a community.

20, 2014,⁸ but this variance expired with the expiration of PPSWO's license on May 31, 2015. On May 18, 2015, PPWSO filed a variance application that is substantively identical to the application that was granted in November 2014, and that meets every single statutory requirement for a variance. This application is currently pending with ODH.⁹ Lawson Declaration ¶ 19.

WMCD has applied for variances from ODH, on an annual basis, since 2012.¹⁰ On July 24, 2015, WMCD filed its annual 2015 license renewal and variance applications with ODH. This variance application meets every single statutory requirement for a variance, and is currently pending with ODH. Haskell Declaration ¶ 24.

Both Plaintiffs have complied with every single one of HB 59's onerous and detailed requirements for the contents of a variance application. But because of the Ohio Legislature's most recent actions, these pending variance applications mean that both clinics are at risk of being shut down.

D. HB 64

At the end of June 2015, the Legislature yet again altered the ASF variance application process as part of another biennial omnibus budget bill HB 64, making it harder still for abortion providers. The Ohio Senate Finance Committee added these provisions to the completely unrelated budget bill during its final hearing on the bill, just

⁸On October 14, 2014, while PPSWO's variance application was still pending, ODH informed PPSWO that it did not comply with the ASF licensing requirements because it lacked a WTA. PPSWO was forced to file litigation in this Court seeking to enjoin ODH from taking actions to revoke its ASF license. *See* Complaint, *Planned Parenthood Southwest Ohio Region v. Hodges*, No. 1:14-cv-867 (S.D. Ohio Nov. 10, 2014). In response to this litigation, ODH granted PPSWO's variance request on November 20, 2014, and the litigation was dismissed without prejudice.

⁹Under Ohio law, ASFs with pending license renewal applications can continue operating as long as the renewal application is timely filed. Ohio Admin. Code 3701-83-05.

¹⁰WMCD's variance application was granted in 2008, but in December 2011, ODH changed its internal rules for processing variance applications and required ASFs to apply for a variance annually, at the time that the ASF applied for its license renewal. Thus, since 2012, WMCD has been required to apply for a variance annually.

one day before the bill went to the full Senate for a vote, and without any opportunity for public testimony.¹¹

HB 64 amends Ohio Rev. Code § 3702.304 and requires Defendant Hodges, the director of ODH, to grant or deny an application for a variance of the written transfer agreement requirement within 60 days. Any variance application “that has not been approved within 60 days is considered denied.” Ohio Rev. Code § 3702.304 (A)(2) (“60-Day Deadline”) (attached). For those variance applications that are pending with ODH on the effective date of HB 64, HB 64 gives the director an additional 60 days after the effective date to grant or deny the application prior to the automatic denial. Ohio Rev. Code § 737.13 (attached).

HB 64 also adds a new section, § 3702.309, that requires an ASF’s license to be automatically suspended in the event of a WTA variance denial: “If a variance application is denied under section 3702.304 of the Revised Code, the license of such an ambulatory surgical is automatically suspended.” (“Automatic Suspension Provision”). Thus, if a WTA variance application is either explicitly denied by the director of ODH, or if the variance application is considered denied because of the 60-day Deadline, ODH must automatically suspend the ASF’s license. Immediately upon the suspension of its license, an ASF must cease operations. Ohio Rev. Code § 3702.30(E)(1); Ohio Admin. Code § 3701-83-03(A). If an ASF were to provide surgical services without a license, ODH could take action against them, including imposing civil penalties between \$1,000 and \$250,000 and/or impose daily civil penalties between \$1,000 and \$10,000 for each

¹¹See Jeremy Pelzer, *Restrictions On Abortion Clinics, Local Hiring Quotas Added to Ohio Senate Budget*, CLEVELAND.COM (Jun. 17, 2015 7:07 PM), http://www.cleveland.com/open/index.ssf/2015/06/restrictions_on_abortion_clini.html.

day that the ASF operates. Ohio Admin. Code § 3701-83-05.1(A); Ohio Rev. Code Ann. § 3702.32 (A).

E. PLAINTIFFS AND THEIR PATIENTS WILL SUFFER IRREPARABLE HARM IN THE ABSENCE OF AN INJUNCTION.

Once HB 64 goes into effect, the last two remaining surgical abortion providers in Southwest Ohio will be at risk of immediate shut down. If Plaintiffs' variance applications are denied, Plaintiffs will be forced to shut down their ASFs, lay off staff members, and cease providing services to their patients. As a result, Cincinnati will become the largest metropolitan area in the entire United States without a surgical abortion provider, and Dayton will also be without any access to surgical abortion services. Complaint ¶¶ 77 - 78.

Plaintiffs' patients will also suffer immediate and irreparable harm. Those patients, including patients with already scheduled procedures at PPSWO and WMCD, will be forced to seek surgical abortions elsewhere, and to travel hundreds of miles in order to access care. The additional travel required to obtain an abortion (which includes at least two trips and /or an overnight stay because of state laws and two-day procedures for later term patients) will increase the costs of the abortion, which is a significant hurdle for Plaintiffs' predominantly low-income patients, and will also result in significant delays for women in obtaining care, as well as completely preventing others from accessing care. Complaint ¶¶ 81 - 83. Thus, in the absence of injunctive relief from this court, the elimination of abortion access in Southwest Ohio will also impose significant, irreparable harms on Plaintiffs' patients.

III. ARGUMENT

A. STANDARD FOR GRANTING PRELIMINARY RELIEF

The standard for evaluating a request for preliminary injunctive relief under Rule 65 is well established in this Circuit. Though there is no “rigid and comprehensive test” for determining the appropriateness of this relief, *Tate v. Frey*, 735 F.2d 986, 990 (6th Cir. 1984), the Court should consider the following four factors:

- (1) Whether the party seeking the injunction has shown a substantial likelihood of success on the merits;
- (2) Whether the party seeking the injunction will suffer irreparable harm absent the injunction;
- (3) Whether the injunction will cause others to suffer substantial harm;
- (4) Whether the public interest would be served by the preliminary injunction.

Doe v. Barron, 92 F. Supp. 2d 694, 695 (S.D. Ohio 1999); *Memphis Planned Parenthood, Inc. v. Sundquist*, 175 F.3d 456, 460 (6th Cir. 1999); *S. Milk Sales, Inc. v. Martin*, 924 F.2d 98, 103 n.3 (6th Cir. 1991); *Women’s Med. Prof’l Corp. v. Voinovich*, 911 F. Supp. 1051, 1059 (S.D. Ohio 1995), *aff’d*, 130 F.3d 187 (6th Cir. 1997).

These factors are “to be balanced and [are] not prerequisites that must be satisfied [T]hey are not meant to be rigid and unbending requirements.”

McPherson v. Mich. High Sch. Athletic Ass’n, Inc., 119 F.3d 453, 459 (6th Cir. 1997) (en banc) (citation omitted). The “plaintiff must show more than a mere possibility of success,” but need not “prove his case in full.” *Certified Restoration Dry Cleaning Network, L.L.C. v. Tenke Corp.*, 511 F.3d 535, 543 (6th Cir. 2007) (citations omitted). “[I]t is ordinarily sufficient if the plaintiff has raised questions going to the merits so serious, substantial, difficult, and doubtful as to make them a fair ground for litigation and thus for more deliberate investigation.” *Northeast Ohio Coalition for Homeless v.*

Husted, 696 F.3d 580, 591 (6th Cir. 2012) (quoting *Six Clinics Holding Corp., II v. Cafcomp Sys., Inc.*, 119 F.3d 393, 402 (6th Cir. 1997)).

In this case, as thoroughly set out below and in the accompanying declarations, Plaintiffs meet the test for preliminary injunctive relief. Plaintiffs' likelihood of success on the merits, irreparable harm, the balance of hardships, and the public interest all strongly favor the issuance of a preliminary injunction.

**B. PLAINTIFFS HAVE DEMONSTRATED A SUBSTANTIAL
LIKELIHOOD OF SUCCESS ON THE MERITS.**

**1. THE AUTOMATIC SUSPENSION PROVISION VIOLATES
PROCEDURAL DUE PROCESS.**

To establish a procedural due process claim, a plaintiff must show “(1) that it had a life, liberty, or property interest protected by the Due Process Clause of the Fourteenth Amendment; (2) that it was deprived of that protected interest within the meaning of the due process clause; and (3) that the state did not afford it adequate procedural rights before depriving it of its protected interest.” *Wedgewood Ltd. P'ship I v. Twp. of Liberty, Ohio*, 610 F.3d 340, 349 (6th Cir. 2010). As discussed below, Plaintiffs meet all three of these elements.

In fact, the Procedural Due Process analysis in this case is substantially similar to that in the Sixth Circuit's decision in *Women's Medical Professional Corp. v. Baird*, 438 F.3d 595 (6th Cir. 2006). In that case, the court held that ODH had violated Plaintiff WMCD's¹² right to procedural due process by abruptly denying its ASF license and forcing the clinic to shut down immediately, without any opportunity for pre-deprivation review. *Baird*, 438 F.3d at 613. The court explained that “[t]he case

¹²The *Baird* court referred to Plaintiff WMGPC as “WMPC.” The Corporation changed its name since *Baird*. This brief will consistently refer to Plaintiff as WMGPC and its ASF facility in Dayton as WMCD.

law contemplates at a minimum some chance to react to proposed governmental action before deprivation occurs.” *Baird*, 438 F.3d at 614 (citing *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 547 (1985)). Indeed, the Supreme Court has made clear that “the root requirement” of the Due Process Clause is that generally “an individual [must] be given an opportunity for a hearing *before* he is deprived of any significant property interest.” *Loudermill*, 470 U.S. at 542, 105 S.Ct. 1487 (internal quotation marks omitted) (emphasis in original).

Here, the Automatic Suspension Provision is unconstitutional for the same reasons ODH’s actions were unconstitutional in *Baird*—the provision permits ODH to suspend Plaintiffs’ licenses automatically and to shut down their ASFs immediately without providing them with the opportunity for any pre-deprivation, or even post-deprivation, hearing.

a. Plaintiffs Have Protected Liberty and Property Interests.

Both PPSWO and WMGPC have protected property and liberty interests in the continued operation of their respective businesses and in their ASF licenses.

As settled in *Baird*, both PPSWO and WMGPC have protected interests in the continued operation of their ASFs. 438 F.3d at 611. In that case, the court held that “due process protects an interest in the continued operation of an existing business,” and that Dr. Haskell and WMGPC “have a protected property interest in the continued operation of the Dayton clinic.” *Baird*, 438 F.3d at 611-612. Indeed, the right to pursue and engage in a chosen business or profession, free from unreasonable governmental interference, has long been considered among the “liberty” interests protected under the Fourteenth Amendment, which guarantees “the right of the individual to contract [and] to engage in any of the common occupations of life.” *See Conn v. Gabbert*, 526 U.S.

286, 291 (1999); (internal citations and quotations omitted); *Wilkerson v. Johnson*, 699 F.2d 325, 328 (6th Cir. 1983).

PPSWO and WMGPC also have protected property interests in their ASF licenses. PPSWO has held an ASF license since 2000, and WMCD has held its ASF license since 2008. Both PPSWO and WMCD have filed timely annual renewal applications for their ASF licenses, and thus retain a protected property interest in their licenses under Ohio law.¹³ Complaint ¶¶ 64 & 69. It is well settled that a license-holders have a protected property interest in maintaining their licenses. *See State v. Hochhausler*, 668 N.E.2d 457, 463 (1996) (holding that a driver has a protected property interest in his driver's license); *O'Daniel v. Ohio State Racing Comm'n*, 307 N.E.2d 529, 533 (1974) ("the suspension of a [horse] trainer's license is a grievous loss. Accordingly, a fair hearing . . . is constitutionally required . . ."); *see also Bell v. Burson*, 402 U.S. 535, 539 (1971) ("Once licenses are issued . . . their continued possession may become essential in the pursuit of a livelihood"); *Brookpark Entm't, Inc. v. Taft*, 951 F.2d 710, 716 (6th Cir. 1991) ("An Ohio liquor licensee holds a substantial and valuable interest and has a claim to its continuation under state law. Accordingly, we hold that a holder of an Ohio liquor license has a property interest protected under the Due Process Clause."); *Wojcik v. City of Romulus*, 257 F.3d 600, 609-10 (6th Cir. 2001) (distinguishing, under Michigan law, between a new applicant for a license, who does not have a protected property interest, and an existing holder of a license, who does).

¹³ Under Ohio law, an ASF license "is valid unless revoked or suspended pursuant to Chapter 119 of the Revised Code, or voided at the request of the owner, or . . . [unless the ASF] fails to timely apply for a renewal." Ohio Admin. Code 3701-83-05. *See also* Ohio Rev. Code Ann. § 119.06 ("[A] licensee who has filed an application for registration or renewal within the time and in the manner provided by statute or rule of the agency shall not be required to discontinue a licensed business or profession merely because of the failure of the agency to act on the licensee's application.").

Therefore, Plaintiffs, who are ASF license-holders, have protected interests in their current licenses.

b. The Automatic Suspension Provision Will Deprive Plaintiffs of Their Protected Interests.

The automatic suspension of Plaintiffs' ASF licenses and the forced closure of their ASFs will, in the absence of an injunction, deprive Plaintiffs of their protected interests under the Due Process Clause. Again, *Baird* is instructive. In that case, after denying WMCD's license, ODH issued a cease-and-desist order requiring WMCD to shut down immediately. The Sixth Circuit held that the cease-and-desist order deprived Dr. Haskell of his protected interests in operating his business. *Baird*, 438 F.3d at 612. Moreover, it is well established that the suspension of a license infringes on the licenseholder's protected property interests. See, e.g., *Mackey v. Montrym*, 443 U.S. 1, 10 n. 7 (1979) ("the Due Process Clause applies to a state's suspension or revocation of a driver's license"); *Bell v. Burson*, 402 U.S. 535, 539 (1971) ("Suspension of issued licenses thus involves state action that adjudicates important interests of the licensees. In such cases the licenses are not to be taken away without that procedural due process required by the Fourteenth Amendment."); *O'Daniel v. Ohio State Racing Comm'n*, 307 N.E.2d at 533 (suspension of a horse trainer's license deprives the licensee of a protected property interest).

Here, the Automatic Suspension Provision will, in the absence of an injunction, automatically suspend Plaintiffs' ASF licenses if ODH denies their variance applications or does not act upon these applications within 60 days. Once an ASF's license is suspended, an ASF must cease operations immediately. Ohio Rev. Code § 3702.30(E)(1); Ohio Admin. Code § 3701-83-03(A). Thus, the Automatic Suspension

Provision will also force Plaintiffs to close their clinics upon the denial of their variance applications, whether ODH denies these applications explicitly or by inaction. If Plaintiffs were to continue operating and providing surgical abortion services at their ASFs without a license, ODH could take action against them, including imposing civil penalties between \$1,000 and \$250,000 and/or imposing daily civil penalties between \$1,000 and \$10,000 for each day that the ASF operates. Ohio Admin. Code § 3701-83-05.1(A); Ohio Rev. Code Ann. § 3702.32 (A). *See Baird*, 438 F.3d at 613 (noting that ODH threatened to “impose a civil penalty for operating without a license as well as additional penalties for each day that the clinic continued operating” if the clinic did not immediately shut down).

Thus, the automatic suspension of Plaintiffs’ ASF licenses and the subsequent forced closures of Plaintiffs’ ASFs qualify as a deprivation of their protected interests under the Due Process Clause.

c. The Automatic Suspension Provision Provides Plaintiffs With No Procedural Protections.

The key requirement of the Due Process Clause is that an individual must generally be provided with the opportunity for a hearing “*before* he is deprived of any significant property interest.” *Loudermill*, 470 U.S. at 542 (internal quotation marks omitted). In those situations where the State “feasibly can provide a pre-deprivation hearing before taking property, it generally must do so regardless of the adequacy of a post-deprivation tort remedy to compensate for the taking.” *Zinermon v. Burch*, 494 U.S. 113, 132 (1990). It is only in those situations where a pre-deprivation hearing would be “unduly burdensome” in proportion to the protected interest at stake, or where the “State is truly unable to anticipate and prevent a random deprivation” of a protected

interest, where post-deprivation remedies might satisfy due process. *Id.* Thus, notice and a pre-deprivation hearing are required except for those “extraordinary situations where some valid governmental interest is at stake that justifies postponing the hearing until after the event.” *United States v. James Daniel Good Real Prop.*, 510 U.S. 43, 53 (1993) (internal quotation marks omitted); *see also Fed. Deposit Ins. Corp. v. Mallen*, 486 U.S. 230, 240 (1988) (denial of pre-deprivation hearing warranted in only “limited cases demanding prompt action” where the government offers “substantial assurance that the deprivation is not baseless or unwarranted” and where a post-deprivation hearing is available).

In *Baird*, the Sixth Circuit applied this clear precedent and held that the cease and desist order requiring WMCD to immediately shut down without any hearing did not provide WMCD with adequate procedural protections. The court further held that “a pre-deprivation hearing would not have been unduly burdensome, especially given the property interest at stake, namely continued operation of business.” *Baird*, 438 F.3d at 613. In addition, the court noted that ODH could not argue that the deprivation of WMCD’s protected interest was unanticipated “given that it issued a cease-and-desist letter that served to close the Dayton Clinic.” *Id.* It was ODH itself that “prevented [WMCD] from obtaining a pre-deprivation hearing on the proposed licensed denial” by issuing the order that required WMCD to shut down immediately. *Id.* In light of the property interests involved, the minimal burden a hearing would have imposed, and the anticipated nature of the deprivation, the court held that “the post-deprivation remedy of a hearing on the proposed license denial does not satisfy procedural due process.” *Id.*¹⁴

¹⁴ Since *Baird*, the Sixth Circuit has reaffirmed that the State must provide pre-deprivation process when feasible, especially when significant property and liberty interests are at stake. In *Guba v. Huron Cnty.*,

Here, the Automatic Suspension Provision is specifically designed to deprive Plaintiffs of any type of procedural protections before their ASF licenses are suspended and they are forced to shut down. The Automatic Suspension Provision explicitly states that “if a variance application is denied under section 3702.304 of the Revised Code, the *license of such an ambulatory surgical facility is automatically suspended.*” Ohio Rev. Code § 3702.309 (emphasis added) (attached). Thus, there is no opportunity for a hearing before the suspension of Plaintiffs’ ASF licenses would take effect. Indeed, Plaintiffs would not even have any advance notice that their licenses would be suspended. Instead, the moment that Plaintiffs’ variance applications are denied, whether because ODH has failed to act on their applications for 60-days or because ODH affirmatively denied the applications, Plaintiffs’ ASF licenses would be suspended and they would be forced to immediately shut down their ASFs.

As in *Baird*, Plaintiffs have a significant interest in their licenses and the continued operation of their ASFs, and there is no countervailing state interest served by immediately shutting down Plaintiffs’ ASFs without providing pre-deprivation review. *Baird*, 438 F.3d at 614 (noting that the state had not presented any evidence that a pre-deprivation hearing “would impose any burden or that any public policy reason existed for shutting down the clinic’s operations simultaneously with the denial of the license,” and that WMC’s “interest in continue to operate its business is strong”). The immediate

600 F. Appx 374 (6th Cir. 2015), the court held that the plaintiffs had stated a procedural due process claim against the Defendants because county employees had terminated child support payments to the plaintiffs without providing them with a pre-deprivation hearing. A pre-deprivation hearing was required because the deprivation of property was a “direct result of county personnel’s deliberate actions at a specific, predictable point” and there was no government interest justifying the failure to provide notice and a hearing. *Id.* at 384. *See also Revis v. Meldrum*, 489 F.3d 273 (6th Cir. 2007) (holding that post-deprivation remedies of any type are inadequate to redress an unconstitutional eviction given an individual’s important interest in maintaining possessory rights in his place of residence); *Rodgers v. 36th Dist. Court*, 529 F. Appx 642, 648 (6th Cir. 2013) (relying on *Baird* for the court’s evaluation of the plaintiff’s procedural due process claim, and holding that all three elements of the claim were met).

suspension of Plaintiffs' ASF licenses and shut down of their clinics does not serve any safety or health rationale: ODH can deny or fail to act upon variance applications that meet every single statutory requirement for a variance, as Plaintiffs' applications do. *See* Ohio Admin. Code §§ 3701-83-14(F)& (G); Lawson Declaration ¶ 19 and Exhibit A p. 000009-48; Haskell Declaration ¶ 24 and Exhibit B p. 000003-37. There is no plausible safety or health rationale for immediately suspending an abortion clinic's license and forcing that clinic to shut down when there is no evidence that the clinic's continued operation – as they have operated for years -- will pose a risk of harm to patients. In fact, the immediate shut down of Plaintiffs' clinics will harm their patients' health by abruptly forcing these patients to travel significant distances to other providers in order to access abortion services. Lawson Dec. ¶ 24; Haskell Dec. ¶ 41.

Further, just as in *Baird*, ODH can fully anticipate the property deprivation—ODH will know whether it will deny Plaintiffs' variance applications and/or not act on Plaintiffs' variance applications before the 60-day deadline. Thus, there is absolutely no reason why ODH could not anticipate the need for a pre-deprivation hearing and provide this hearing before the deprivation occurs.

In sum, the Automatic Suspension Provision's complete lack of procedural protections directly conflicts with Sixth Circuit precedent requiring adequate pre-deprivation review. In fact, while *Baird* is clear that, when ODH abruptly closes a clinic, a "post-deprivation remedy alone will [not] suffice to meet the requirements of due process," 438 F.3d at 614, the Automatic Suspension Provision does not even provide Plaintiffs with any form of post-deprivation review. This lack of post-deprivation review only further highlights the Automatic Suspension Provision's

constitutional flaws.¹⁵

In sum, in the absence of an injunction, Plaintiffs will have neither pre-deprivation nor post-deprivation review of the suspension of their ASF licenses and the forced closure of their clinics. Abortion services in Southwest Ohio will be eliminated immediately, and without any semblance of procedural due process. Plaintiffs have therefore established a substantial likelihood of success on the merits of their claim that the Automatic Suspension Provision violates their procedural due process rights.

2. HB 64 VIOLATES THE SINGLE SUBJECT RULE OF THE OHIO CONSTITUTION BECAUSE THE 60-DAY DEADLINE AND AUTOMATIC SUSPENSION PROVISION HAVE NOTHING TO DO WITH THE BIENNIAL STATE BUDGET

Ohio Constitution, Article II, Section 15(D) expressly provides that “no bill shall contain more than one subject, which shall be clearly expressed in its title.” This provision, known as the One-Subject Rule, unambiguously requires every piece of legislation to address only a single subject and serve a single purpose. The 60-Day Deadline and Automatic Suspension Provision, Ohio Rev. Code §§3702.304(A)(2) & 3702.309, were enacted as part of the biennial state budget, HB 64, despite having no relationship whatsoever to the state budget, appropriations, or the funding of state

¹⁵Though the Automatic Suspension Provision states that a provider’s license could be reinstated post-suspension pursuant to an order issued in accordance with Chapter 119 of the Revised Code, Ohio Rev. Code § 3702.309(A)(3), an abortion provider will, in fact, have *no* right of appeal under Chapter 119. In order to have an appeal right under Chapter 119, the agency must have entered an “adjudication order,” which is defined as *not* including “ministerial” agency actions. Ohio Rev. Code § 119.06. *See Ohio Boys Town, Inc. v. Brown*, 69 Ohio St. 2d 1, 3-4, 429 N.E.2d 1171, 1172-1173 (1982). When suspending an abortion provider’s license, ODH will be performing a “ministerial act” that does not qualify as an “adjudication order” under Ohio law: the suspension is required as a matter of law upon the denial of the applicant’s variance application. *Compare Ohio Boys Town*, 69 Ohio St. 2d at 9, 429 N.E.2d at 1175 (holding that an agency’s action denying an application for bingo license renewal was *not* ministerial, and therefore was an adjudication order triggering a right to appeal, because the agency’s action involved “judgment and deliberation”) *with Koch v. Ohio Dep’t of Natural Res.*, 70 Ohio App. 3d 612, 616, 591 N.E.2d 847, 849 (Ohio Ct. App. 6th Dist. 1990) (holding that an agency’s action was ministerial and did not trigger a right to appeal because the agency had no discretionary authority and was required to act in a certain way as a matter of law pursuant to statute).

programs. As a consequence, Plaintiffs have a substantial likelihood of success on the merits of their claim that HB 64 violates the One-Subject Rule.

a. The One-Subject Rule Requires Legislation To Share a Common Purpose or Relationship

The One-Subject Rule's purpose is to promote an orderly and fair legislative process by prohibiting "logrolling" — "the practice of combining and thereby obtaining passage for several distinct legislative proposals that would probably have failed to gain majority support if presented and voted on separately." *See In re Nowak*, 104 Ohio St.3d 466, 472, 2004-Ohio-6777, 820 N.E.2d 335 at ¶ 31 (citing *State ex rel. Ohio Acad. of Trial Lawyers v. Sheward* (1999), 86 Ohio St.3d 451, 495-96, 1999-Ohio-123, 715 N.E.2d 1062). A blatant violation of the One-Subject Rule will cause an enactment to be invalidated. *Id.* at ¶¶ 38, 46, 52-54. Courts find such violations where there is "an absence of common purpose or relationship between specific topics in an act." *Id.* ¶ 44 (quoting *State ex rel. Dix v. Celeste*, 11 Ohio St.3d 141, 145, 464 N.E.2d 153 (1984)).

An act may involve multiple topics, so long as they share a common purpose or relationship. However, where there is a "disunity of subject matter such that there is no discernible practical, rational or legitimate reason for combining the provisions in one Act," *State ex rel. Ohio Civ. Serv. Emps. Ass'n v. State Emp. Relations Bd.*, 104 Ohio St.3d 122, 130, 2004-Ohio-6363, 818 N.E.2d 688, at ¶ 28 ("*OCSEA v. SERB*") (internal quotation marks omitted), the Court must invalidate the law "in order to effectuate the purpose of the rule." *In re Nowak*, 820 N.E.2d 335 at ¶ 44 (quoting *Dix* 11 Ohio St.3d at 145); *see also Sheward*, 86 Ohio St.3d at 497; *State ex rel. Hinkle v. Franklin Cty. Bd. of Elections*, 62 Ohio St.3d 145, 148, 580 N.E.2d 767 (1991).

Appropriations bills such as HB 64 “present[] a special temptation” to attach unrelated provisions, but the One-Subject Rule still applies to appropriations bills. *Simmons-Harris v. Goff*, 86 Ohio St.3d 1, 16, 1999-Ohio-77, 711 N.E.2d 203 (citation omitted). Such bills appropriate funds for an array of programs touching on many topics, but the different provisions nevertheless must be “all bound by the thread of appropriations.” *OCSEA v. SERB*, 104 Ohio St.3d 122, 130, 2004-Ohio-6363, 818 N.E.2d 688, at ¶ 30 (quoting *Simmons-Harris*, 86 Ohio St.3d at 16). It is not enough for provisions in an appropriations bill to simply have an impact on the state expenditures: they must be directly related to the state budget and appropriations. *Id.* at ¶ 33 (citing *Simmons-Harris*, 86 Ohio St.3d at 16); *Riverside v. State*, 190 Ohio App. 3d 765, 787, 2010-Ohio-5868, 944 N.E.2d 281, at ¶ 44 (10th Dist.); *cf. Cleveland v. State*, 2013-Ohio-1186, 989 N.E.2d 1072, at ¶ 52 (8th Dist.). In fact, the Ohio Supreme Court has explicitly rejected the argument that a slight, indirect impact on the state budget is enough to tie the challenged provisions to the subject of appropriations. Accepting such a theory would “stretch[] the one-subject concept to the point of breaking,” and “render the one-subject rule meaningless in the context of appropriations bills because virtually any statute arguably impacts the state budget, even if only tenuously.” *OCSEA v. SERB*, 104 Ohio St.3d 122, 131, 2004-Ohio-6363, 818 N.E.2d 688, at ¶ 33.

**b. The 60-Day Deadline and Automatic Suspension Provision
Are Wholly Unrelated to the State Budget**

HB 64 flagrantly violates the One-Subject Rule. The stated purpose of this omnibus budget bill is “[t]o amend sections . . . ; to enact new sections . . . to repeal sections . . . to make operating appropriations for the biennium beginning July 1, 2015, and ending June 30, 2017; [and] to provide authorization and conditions for the operation

of state programs . . .” 2015 Am. Sub. H.B. No. 64. It is a general appropriations bill—“a measure before a legislative body which authorizes the expenditure of public moneys and stipulat[es] the amount, manner, and purpose of the various items of expenditure.”

LetOhioVote.org v. Brunner, 123 Ohio St.3d 322, 329, 2009-Ohio-4900, 916 N.E.2d 462, at ¶ 28 (internal quotation marks and citations omitted). Simply put, HB 64’s primary subject is appropriations.

However, HB 64 also addresses two topics that bear no rational relationship with appropriations or the state budget, and that instead relate to the regulation of the state’s abortion providers: (1) the deadline for approving variance applications from the WTA Requirement, and (2) the automatic suspension of ASF licenses following the denial of such variance applications.

HB 64 clearly violates the One-Subject Rule as there is “no discernible practical, rational or legitimate reason for combining the provisions in one Act.” *SERB*, 104 Ohio St. 3d 122, 130, 2004-Ohio-6363, 818 N.E.2d 688, 697. The 60-Day Deadline and the Automatic Suspension Provision are wholly unrelated to HB 64’s primary subject – appropriations. The 60-Day Deadline sets a timeline for ODH to follow when ruling on variance applications from ASFs that cannot meet the WTA Requirement, and provides for an automatic denial of the variance if ODH has not ruled on the application within 60 days. The Automatic Suspension Provision requires ODH to automatically suspend an ASF’s license once its variance application from the WTA Requirement is denied. Neither provision has anything to do with the expenditure of state funds. The 60-Day Deadline and Automatic Suspension Provision do not authorize the expenditure of any state dollars or stipulate the amount, manner, or purpose of an expenditure. *See Brunner*,

123 Ohio St.3d 322, 329, 2009-Ohio-4900, 916 N.E.2d 462, at ¶ 28. Neither the obligations they create nor the mechanisms for their enforcement bear any tangible relationship to the appropriation of state funds. In fact, evidencing the lack of connection between these provisions and appropriations, the Legislative Service Commission included *no* fiscal effect note for the 60-Day Deadline or Automatic Suspension Provision, recognizing that neither provision will have any fiscal impact. Ohio Legislative Serv. Comm’n, *H.B. 64 Comparison Document: As Enacted – Department of Health*, at 10-11.

Indeed, in a case similar to the one before the Court, the Eighth District Court of Appeals struck down provisions relating to local governments’ authority to regulate food nutrition information and consumer incentive items at food service operations that were “tucked away” inside a “massive” omnibus budget bill. *Cleveland v. State*, 2013-Ohio-1186, 989 N.E.2d 1072, at ¶¶ 42-44. Although the court “accept[ed], in theory,” that the challenged provisions “could *potentially* impact the budgets of municipalities,” it rejected the State’s argument that “such a tenuous, tangential link” between the provisions and the remainder of the appropriations bill was sufficient to save it. *Id.* at ¶ 52 (Emphasis sic.). To accept the State’s argument would “render the one-subject rule meaningless in the context of appropriations bills.” *Id.* at ¶ 51 (citing *OCSEA v. SERB*, 104 Ohio St.3d 122, 2004-Ohio-6363, 818 N.E.2d 688, at ¶ 33). Accordingly, even if the 60-Day Deadline or Automatic Suspension Provision were to impact the use of state funds in some tangential way, this would still fail to bring the provisions within HB 64’s overall purpose. In short, since there is no common purpose or relationship among the biennial budget and these provisions, HB 64 violates the One-Subject Rule.

c. HB 64 Directly Conflicts With the Purpose of the One-Subject Rule

Moreover, while a plaintiff need not present evidence of logrolling in order to prevail in a One-Subject Rule challenge, the legislative history demonstrates HB 64's conflict with the purpose of the One-Subject Rule. The One Subject Rule is meant to ensure that legislators do not bury unrelated provisions in a single bill, thereby truncating the legislative process and reducing the likelihood that provisions will be fairly and thoroughly debated before their enactment. *See In re Nowak*, 820 N.E.2d 335 at ¶ 31. Here, Ohio legislators did exactly that: they buried the 60-Day Deadline and Automatic Suspension Provision as last-minute amendments, along with other amendments, in an unrelated budget bill specifically because the budget bill was sure to pass. The Ohio Senate Finance Committee added these provisions to HB 64 during its final hearing on the bill, just *one* day before the bill went to the full Senate for a vote, and without any opportunity for public testimony.¹⁶ These provisions, which are of significant constitutional import and affect women's access to a fundamental right, were not debated and approved during a fair and open legislative process. *cf. Cleveland v. State*, 989 N.E.2d 1072 at ¶¶ 44-45 (noting that the lack of testimony and hearings on nutrition- and food-service-related provisions in a budget bill "create[d] a strong suggestion" of impermissible logrolling). Thus, HB64 frustrates the One-Subject Rule's purpose of preventing logrolling and ensuring "a more orderly and fair legislative process." *Dix v. Celeste*, 11 Ohio St. 3d at 143; *In re Nowak*, 820 N.E.2d 335 at ¶ 31.

¹⁶See Jeremy Pelzer, Restrictions On Abortion Clinics, Local Hiring Quotas Added to Ohio Senate Budget, Jun. 17, 2015, http://www.cleveland.com/open/index.ssf/2015/06/restrictions_on_abortion_clini.html.

Plaintiffs have demonstrated a substantial likelihood of success on the merits of their claim that HB 64 violates the One-Subject Rule of the Ohio Constitution.

d. THE ABSENCE OF PRELIMINARY INJUNCTIVE RELIEF WILL CAUSE IRREPARABLE HARM

In the absence of a preliminary injunction, Plaintiffs and their patients will suffer irreparable harm. As an initial matter, the violation of Plaintiffs' constitutional rights constitutes per se irreparable harm. *See, e.g., Elrod v. Burns*, 427 U.S. 347, 373 (1976) ("The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury."); *Saenz v. Roe*, 526 U.S. 489, 498 (1999) (violation of right to travel interstate constituted irreparable injury); *Planned Parenthood Ass'n of Cincinnati, Inc. v. City of Cincinnati*, 822 F.2d 1390 (6th Cir.1987) (finding irreparable injury where plaintiff has shown substantial likelihood of success on merits of constitutional challenge to abortion regulation).

Plaintiffs will also be irreparably harmed because they will be forced to close their ASFs and cease providing surgical abortion services to their patients, resulting in the layoff of staff members. Lawson Decl. ¶¶ 20, 22, 23, 24; Haskell Decl. ¶¶ 27, 28, 29, 30, 33. *See NACCO Materials Handling Grp., Inc. v. Toyota Materials Handling USA, Inc.*, 246 F. App'x 929, 943-44 (6th Cir. 2007) (forcing plaintiff to lay-off employees because of inability to offer certain services constitutes irreparable harm); *Performance Unlimited, Inc. v. Questar Publishers, Inc.*, 52 F.3d 1373, 1382 (6th Cir. 1995) ("impending loss ... of ... business constitutes irreparable injury").

In addition to violating Plaintiffs' constitutional rights, the closure of Plaintiffs' ASFs, and the virtual elimination of abortion access in Southwest Ohio, will cause other

irreparable injuries for Plaintiffs' patients. As discussed *supra* Part II(E), the closure of Plaintiffs' ASFs will mean that women will have to travel a significantly farther distances and face unnecessary and harmful delays in order to access abortion. Travelling such significant distances would be no small feat for Plaintiffs' patients, the majority of whom are low-income. In fact, because of the closure of Plaintiffs' ASFs, some women will be unable to access abortion at all.

These threats to Plaintiff's patients' health and wellbeing constitute irreparable harm. *See Planned Parenthood Southeast., Inc. v. Bentley*, 951 F. Supp. 2d 1280, 1289 (M.D. Ala. 2013) (finding irreparable harm where abortion restriction would impose delays and prevent some women from accessing abortion); *Planned Parenthood of Wis., Inc. v. Van Hollen I*, 738 F.3d 786, 796 (7th Cir. 2013) (same); *Harris v. Bd. of Supervisors, L.A. Cnty.*, 366 F.3d 754, 766 (9th Cir. 2004) (plaintiffs established likelihood of irreparable harm where evidence showed they would experience pain, complications, and other adverse effects due to delayed medical treatment); *Van Hollen I*, 963 F. Supp. 2d 858, 868 (W.D. Wis. 2013) (holding that an abortion restriction caused irreparable harm to patients by imposing a travel burden that would foreclose some women from obtaining an abortion, and by imposing increased health risks through delay).

**e. PRELIMINARY RELIEF WILL NOT CAUSE
SUBSTANTIAL HARM TO OTHERS, AND THE
PUBLIC INTEREST FAVORS THE ISSUANCE OF
PRELIMINARY RELIEF**

In contrast to the harms that Plaintiffs and their patients will face, a preliminary injunction in this case that merely preserves the status quo – under which the Plaintiffs can continue providing high quality and safe care to their patients – while the case

proceeds will not impose any harm on Defendant Hodges or others. Plaintiffs have operated with ASFs licenses for 15 years (PPSWO) and 7 years (WMCD), and they have both provided abortions for far longer than that. Permitting Plaintiffs to continue operating their ASFs in the exact same manner while this case proceeds will not substantially harm Defendant Hodges or others.

Moreover, the public interest is always served by preventing the violation of constitutional rights. *See Planned Parenthood Ass'n of Cincinnati*, 822 F.2d at 1400 (holding that there was no substantial harm in preventing the enforcement of an ordinance that was likely unconstitutional). *See Am. Freedom Def. Initiative v. Suburban Mobility Auth. for Reg'l Transp.*, 698 F.3d 885, 896 (6th Cir. 2012) (“the public interest is promoted by the robust enforcement of constitutional rights”); *see also Planned Parenthood Ass'n of Cincinnati*, 822 F.2d at 1400 (holding that the public interest was served by an injunction since “the public is certainly interested in the prevention of enforcement of ordinances which may be unconstitutional”). Ensuring continued access to constitutionally protected health care services is also undoubtedly in the public interest. *See Barron*, 92 F. Supp. 2d 694, 697 (S.D. Ohio 1999) (holding that the public interest was served by a temporary restraining order that would permit the plaintiff to access abortion services since “it is in the public’s interest to uphold” “a woman’s right to choose to terminate her pregnancy”).

IV. CONCLUSION

For the foregoing reasons, Plaintiffs request that this Court grant their motion for a preliminary injunction.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 1, 2015, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. I further certify that a copy of the foregoing pleading and the Notice of Electronic Filing has been served by ordinary U.S. mail and email upon all parties for whom counsel has not yet entered an appearance electronically, including:

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

**PLANNED PARENTHOOD OF
OHIO SOUTHWEST REGION,
et al.,**

Plaintiffs,

vs.

RICHARD HODGES, et al.,

Defendants.

[illegible]

Case No. 1:15-cv- 568

Judge

DECLARATION OF JERRY H. LAWSON IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION

I, Jerry H. Lawson, pursuant to 28 U.S.C. §1746, declare under penalty of perjury that the following is true and correct:

1. I have been President and Chief Executive Officer of Planned Parenthood of Southwest Ohio Cincinnati Region (“PPSWO”) since June 2013. Prior to holding that position, I was the Acting President and CEO beginning in December 2011.

2. I have read the complaint in this action and verify that all of the facts regarding PPSWO are true based either on my personal knowledge or my personal investigation of those facts.

PPSWO and Abortion Care

3. PPSWO and its predecessor organizations have provided care in Ohio since 1929.

PPSWO is a non-profit corporation organized under the laws of the State of Ohio that operates seven health centers located in and around Cincinnati, Ohio.

4. PPSWO provides a broad range of medical services to women and men in Ohio, including: birth control; annual gynecological examinations; cervical pap smears; diagnosis and

treatment of vaginal infections; testing and treatment for certain sexually transmitted diseases; HIV testing; pregnancy testing; and abortions.

5. PPSWO has operated its only licensed ambulatory surgical facility (“ASF”) providing abortions at the Elizabeth Campbell Medical Center, at 2314 Auburn Avenue, Cincinnati, Ohio, since May 2000. Prior to that date, PPSWO and its predecessor organizations, provided abortions at the same facility. Currently PPSWO provides surgical abortions through 19 weeks 6 days of pregnancy as dated from the first day of the woman’s last menstrual period (“LMP”) and medication abortion through 49 days LMP. In the last twelve months, PPSWO performed over 3,000 surgical abortions. The majority of those abortions were surgical abortions performed during the first trimester. PPSWO performed only 47 medication abortions during that time. In addition to abortion, PPSWO provides D&Cs at the ASF to women experiencing miscarriages.

6. Abortion is extremely safe, and complications are rare, at our ASF and nationwide. The vast majority of the rare complications are minor and are treated successfully at our ASF by our excellent physicians. Notwithstanding the fact that more serious complications are exceedingly rare, our ASF is prepared for them. The last patient we transferred, in early 2015, was transferred because of a seizure she experienced before her procedure and not because of a complication from the procedure. In the past five years, we have performed over 14,000 abortions, and only three of those patients were transferred to a hospital.

PPSWO’s ASF License and Written Transfer Agreement

7. Since May 2000 PPSWO has operated with an ASF license, annually applying for and, until 2013, annually receiving license renewals from the Ohio Department of Health (“ODH”).

8. As required by O.A.C. § 3701-83-19(E), PPSWO maintained a written transfer agreement (“WTA”), first with the OB/GYN Department at the University of Cincinnati College

of Medicine, and then with the University of Cincinnati Medical Center (“UCMC”). The most recent UCMC WTA, dated May 29, 2013, was effective for one year, with automatic one-year renewal periods. Exhibit A pages 000001-3.¹

9. On June 30, 2013, Governor Kasich signed HB 59 into law. HB 59, a budget measure, included Ohio Revised Code § 3727.60 (“Public Hospital Ban”), which prohibited a “public hospital” from entering into a WTA with abortion providers. The Public Hospital Ban went into effect on September 29, 2013.

10. On July 15, 2013, UCMC provided notice that it would rescind its written transfer agreement with PPSWO effective September 28, 2013, one day before the Public Hospital Ban was set to go into effect. Exhibit A page 000004.

11. On behalf of PPSWO, I contacted other local hospitals to secure a WTA. I made requests to all the local hospitals, including The Christ Hospital, Deaconess Hospital, and Good Samaritan Hospital. The Christ Hospital declined to enter into a WTA with PPSWO. The other hospitals did not respond to my requests. Exhibit A pages 000005-8.

12. In September 2013, prior to the termination of the WTA with UCMC, PPSWO applied to ODH for a variance from the WTA requirement. The variance application complied to the letter with all of the requirements of O.R.C. § 3702.304, which was also enacted by HB 59 and specified a new process just for requesting a variance of the WTA requirement. The variance application documented attempts to obtain a WTA and provided all of the required information and documentation regarding our back-up doctors with admitting privileges at one of the local hospitals.

13. The 2013 variance application also provided PPSWO’s written protocol for safely and quickly transferring patients to a local hospital in an emergency. The protocol delegates specific

¹ Attached as Exhibit A are true and accurate copies of documents related to this case.

responsibilities to various staff members in the facility. The attending physician is tasked with making arrangements to transport the patient and send a copy of her complete chart to the hospital. The attending physician is also responsible for informing the backup physician of the patient's history and the reason for the transfer, among other things as is required by PPSWO's hospital transfer policy. See Exhibit A pages 000045-48.

14. Thus, the variance application demonstrated that our protocol and practice provide more than the standard of care for ensuring that our patients receive the best possible treatment in the exceedingly rare case that a transfer is necessary and provide the "same level of safety and protection as" the WTA requirement. The 2013 variance application met all the criteria for a variance of the WTA requirement.

15. In preparation for submitting our annual license renewal, in April 2014, I again contacted all of the local hospitals to try to obtain a WTA. UCMC responded by stating that it was prohibited from entering into a written transfer agreement by O.R.C. § 3727.60. Jewish Hospital (which is owned and operated by a Catholic health system) declined an agreement as being inconsistent with its ethical and religious directives. The Christ Hospital, Good Samaritan Hospital, and Bethesda North Hospital all failed to respond to the request. Exhibit A page 000049-55.

16. On May 8, 2014, PPSWO applied to renew its ASF license and submitted its 2014 variance application. The contents of the variance application were largely identical to the 2013 application, and included my attempts to secure a WTA with a local hospital and updated documentation regarding our back-up physicians.

17. On October 20, 2014, ODH ordered PPSWO to correct our not having a WTA within 10 days or face denial, revocation, or non-renewal of its ASF license. Exhibit A pages 000056-000057.

18. On November 10, 2014 PPSWO filed litigation challenging, among other things, the constitutionality of HB 59, *Planned Parenthood Southwest Ohio Region v. Hodges, et al.*, SDOH 1:14-cv-867 (“*Hodges I*”). Ten days later ODH granted PPSWO’s variance application and license renewal. As a result, PPSWO dismissed the litigation without prejudice. Exhibit A pages 000061-62.

19. On May 18, 2015, PPSWO applied to renew its ASF license and submitted its 2015 variance application. The contents of the variance application were substantively identical to the 2014 variance that ODH granted, and included my recent attempts to secure a WTA with a local hospital and updated documentation regarding our back-up physicians. PPSWO has complied with every single one of HB 59’s onerous and detailed requirements for the contents of a variance application. Exhibit A pages 000009-48.

20. On June 30, 2015, Ohio’s biennial budget bill, HB 64, was enacted. Because of the restrictions contained within HB 64, if ODH denies PPSWO’s variance request on or after September 29, 2015, or if PPSWO’s variance request is pending with ODH as of November 28, 2015, ODH will suspend our ASF license immediately. If this were to occur PPSWO would immediately close its surgery center and be unable to provide surgical abortions to our patients. Prior to the Automatic Suspension Provision in HB 64, ASFs with pending license renewal applications could continue operating as long as the renewal application had been timely filed. Ohio Admin. Code 3701-83-05.

21. If UCMC had not been forced to terminate its WTA with PPSWO, PPSWO would not need to apply for a variance. Because of HB 59's Public Hospital Ban PPSWO is unable to obtain a WTA from a local hospital and is thus forced to apply for a variance every year.

22. Because of the effects of HB 59 and HB 64, PPSWO is in imminent danger of losing its ASF license and being forced to close its ASF.

23. If PPSWO is forced to close its ASF, PPSWO, its employees, and its patients in the Greater Cincinnati area will suffer irreparable harm. The Greater Cincinnati area will be left without a surgical abortion provider.

24. PPSWO will suffer loss of patients, loss of patient trust, and loss of our ability to provide comprehensive reproductive health care to our patients, including miscarriage management, and might have to lay off surgical staff members who cannot be absorbed into our remaining health centers.

25. Closing our ASF will make abortions virtually unavailable in the region. As I stated, only 47 of our 3,000 patients last year obtained a medication abortion. Even if PPSWO continues to provide medication abortion, the hardship on our patients would be substantial since, in Ohio, medical abortions require 4 and sometimes 5 visits to the clinic. In addition, medication abortions are available only very early in pregnancy when most women do not know they are pregnant. Medication abortions cannot be performed later than 49 days LMP.

26. Our patients – many of whom are already in dire straits – will suffer significant harm if our ASF is closed. Women who would ordinarily have sought a surgical abortion at PPSWO will be forced to travel to clinics in other parts of the state or out of state. If Women's Med Center of Dayton closes, the closest clinic providing first trimester abortions would be in Columbus, which is 220 miles round trip from our ASF. The only facility that could provide

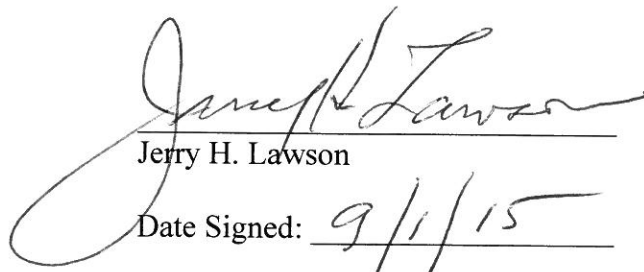
abortion to our patients who are pregnant over 16 weeks 6 days is located in Cleveland, which is 502 miles round trip from our ASF. Most will need to make that trip at least twice for a single abortion since two visits, at least 24 hours apart, are required by Ohio laws.

27. Just over 70% of our patients have incomes below 110% of the federal poverty level. Many do not own a car and can only reach us by using borrowed cars or public transportation. Many struggle to afford their abortions, to make child care arrangements, and to arrange time off from work to reach our ASF. For many of these women, traveling to Columbus will be extremely difficult, if not impossible.

28. It is my understanding that Planned Parenthood of Greater Ohio, which has a clinic in Columbus, currently has a two to three week waiting list and does not have the capacity to accept the abortion patients served by PPSWO.

29. Even if a clinic in Columbus could accept some of our patients, wait times for all patients would grow, delaying the procedure for some patients.

30. I am concerned that some of our patients may be unable to obtain an abortion altogether because of the loss of abortion services. For other women, the additional travel will increase costs and delay the procedure. It is my understanding that any delay in obtaining an abortion is significant because gestational age is an important determinant of risk. The increased travel costs alone could be insurmountable for many of our patients.


Jerry H. Lawson
Date Signed: 9/1/15

PATIENT TRANSFER AGREEMENT

This Patient Transfer Agreement ("Agreement") is effective as of May 29, 2013 ("Effective Date"), by and between Planned Parenthood of Southwest Ohio, an Ohio nonprofit corporation, ("PPSWO") and University of Cincinnati Medical Center, LLC, an Ohio nonprofit limited liability company, ("UCMC").

WHEREAS, PPSWO and UCMC are desirous of assuring a continuity of high quality care and appropriate medical treatment for the needs of patients and have determined that it would be in the best interest of patient care to enter into a Transfer Agreement for transfer of certain patients from PPSWO to UCMC; and

WHEREAS, PPSWO and UCMC conduct appropriate peer review and quality assurance procedures; and

WHEREAS, UCMC desires to accept patients from PPSWO under the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, PPSWO and UCMC agree as follows:

1. **Term and Termination.** This Agreement will commence on the Effective Date and will continue for one (1) year. Thereafter it will be renewed automatically for successive periods of one (1) year. This Agreement may be terminated by either party for any reason, by giving thirty (30) days written notice. This Agreement will be terminated immediately, without written notice thereof, if either party fails to maintain its license and/or accreditation.

2. **Patient Transfer.** The need for patient transfer will be determined by the patient's attending physician and will only occur pursuant to a physician's order. Thereafter, PPSWO will notify UCMC of the requested transfer and receive confirmation that UCMC can accept the patient. PPSWO will have the responsibility for arranging transportation of the patient to UCMC, including the mode of transportation and providing health care practitioner(s), if necessary, to accompany the patient. UCMC agrees to admit the patient as promptly as practicable, provided that its admission policies are met and bed space is available. UCMC's responsibility for the patient's care will begin when the patient is admitted to UCMC.

3. **Provision of Information.** Each party will provide the other party with the names and/or titles of persons authorized to initiate, confirm and accept the transfer of patients, as well as the specific location upon its premises where patients are to be delivered upon transfer.

4. **Patient Records and Personal Effects.** PPSWO will provide all necessary medical and administrative information that will accompany the patient during transfer. Such information will include, but is not limited to, the patient's name, address, age, diagnosis, physician name, course of treatment summary, third party billing information and any additional pertinent information upon request. Prior to transfer, PPSWO will return the patient's personal effects to the patient, patient's family member or patient's legally authorized representative.

5. **Transfer Consent.** PPSWO will have the responsibility for obtaining the patient's (parent, legal guardian, or legally authorized representative) consent to the transfer to UCMC.

6. **Payment for Services.** Payment for services rendered to patients transferred will be collected by the party providing such services directly from the patient or third party payors. Neither the PPSWO nor UCMC will have any liability, by virtue of this Agreement, to the other for such charges or responsibility for the collection of such charges.

7. **Independent Contractor Status.** PPSWO and UCMC are independent contractors. Neither PPSWO nor UCMC is authorized or permitted to act as an agent or employee of the other.

8. **Insurance.** PPSWO and UCMC will each secure and maintain, or cause to be secured or maintained, during the term of this Agreement, comprehensive general and professional liability insurance, with coverage and limits acceptable to each other. Either party, at its option, may provide proof of adequate self insurance.

9. **Nondiscrimination.** Neither party hereto will discriminate against any individual in the performance of their obligations under this Agreement, on the basis of race, color, religion, national origin, ancestry, sex, age, handicap, disability, sexual orientation or gender identity.

10. **Entire Agreement and Modification.** This Agreement constitutes the entire understanding between the PPSWO and the UCMC and may be modified at any time upon mutual agreement of both parties in writing.

11. **Excluded Providers.** Each party hereby represents and warrants that it is not and at no time has been excluded from participation in any federally funded health care program, including Medicare and Medicaid. Each party hereby agrees to immediately notify the other party of any threatened, proposed or actual exclusion from any federally funded health care program, including Medicare and Medicaid. In the event that either party is excluded from participation in any federally funded health care program during the term of this agreement, or if at any time after the effective date of this Agreement it is determined that either party is in breach of this provision, this Agreement will automatically terminate as of the effective date of such exclusion or breach. Each party will indemnify and hold harmless the other party against all actions, claims, demands and liabilities and against all loss, damage, costs and expenses, including reasonable attorneys' fees, arising directly or indirectly out of any violation of the provisions of this paragraph or due to the exclusion of either party from a federally funded health care program, including Medicare and Medicaid, or out of an actual or alleged injury to a person or to property as a result of the negligent or intentional act or omission of the offending party, or any of its employees, subcontractors or agents providing services under this Agreement, in connection with that party's obligation under this Agreement except to the extent any such loss, damage, costs and expenses were caused by the negligent or intentional act or omission of the other party, its officers, employees or agents.

12. **Privacy of Information.** Each party agrees to comply with all requirements under federal law and regulations relating to confidentiality, privacy and security of patient information, including without limitation of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and its implementing regulations.

13. **No Referrals Required.** It is expressly understood and agreed that while PPSWO and UCMC are each facilities which may serve the medical needs of patients, nothing in this Agreement shall obligate or require UCMC to admit or refer patients to PPSWO or any facility affiliated with PPSWO, and likewise, PPSWO shall have no obligation or requirement to admit or refer patients to UCMC or any facility affiliated with UCMC. Neither party will receive payment for admissions, recommendations or referrals to the other party. Each party hereby certifies that it shall not violate the federal "Anti-Kickback Statute" (42 U.S.C. § 1320a-7b(b), as amended) or the "Stark Law" (42 U.S.C. § 1395nn, as amended), as well as the corresponding regulations for both laws, with respect to the performance of this Agreement.

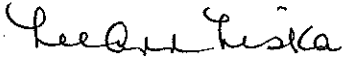
14. **Governing Law/Venue.** This Agreement is made and entered into in the State of Ohio and shall be governed and construed in accordance with the laws of Ohio. The venue for any litigation between the parties hereto arising out of or resulting from this Agreement is Hamilton County, Ohio, and the parties hereto irrevocably submit themselves to the jurisdiction of the courts of Hamilton County, Ohio, and waive any right that they have or may have to any other jurisdiction.

15. **Advertising.** Neither PPSWO nor WCH shall use the name of the other party in any promotional or advertising material unless review and approval of the intended advertisement first shall be obtained from the party whose name is to be used.

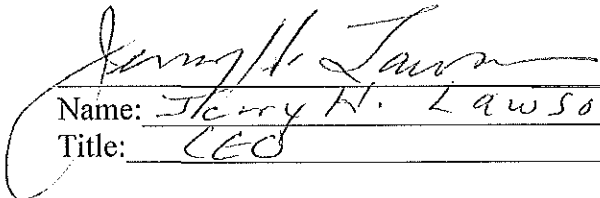
16. **Executed in Multiple Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original copy of the Agreement, and all of which, when taken together, shall be deemed to constitute one and the same Agreement. Signatures to this Agreement transmitted by fax, by electronic mail in "portable document format" (".pdf"), or by any other electronic means intended to preserve the original graphic and pictorial appearance of the Agreement, shall have the same effect as physical delivery of the paper document bearing the original signature.

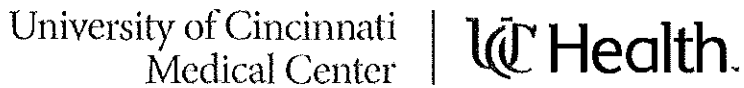
IN WITNESS WHEREOF, the parties have executed this Agreement by each of their authorized representatives.

University of Cincinnati Medical
Center, LLC


Name: Lee Ann Lisica
Title: Pres & CEO, UCMC

Planned Parenthood of Southwest Ohio


Name: Jerry H. Lawson
Title: CEO



Lee Ann Liska
President and CEO, UC Medical Center
Senior Vice President, UC Health

Executive Suite
234 Goodman Street
Cincinnati, OH 45219
513-584-1000
www.uchealth.com

July 24, 2013

VIA CERTIFIED MAIL

Jerry H. Lawson
Chief Executive Officer
Planned Parenthood of Southwest Ohio
2314 Auburn Avenue
Cincinnati, OH 45219

Re: Patient Transfer Agreement
Dated: May 29, 2013

Dear Mr. Lawson:

This letter is in follow-up to my letter to you dated July 15, 2013 providing written notice to Planned Parenthood of Southwest Ohio that University of Cincinnati Medical Center, LLC is terminating the above-referenced Patient Transfer Agreement dated May 29, 2013 (the "Agreement") pursuant to Section 1 of the Agreement.

This letter is provided to clarify and provide further written notice that the Agreement shall terminate on September 28, 2013.

You can contact me at the above address if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Lee Ann Liska".

Lee Ann Liska
President & CEO
University of Cincinnati Medical Center



2314 Auburn Ave.
Cincinnati, Ohio 45219
p: 513.721.7635 – f: 513.721.2313
www.ppswo.org – www.supportppsw.org

Planned Parenthood Southwest Ohio Region

May 7, 2013

Mr. Michael Keating, President & CEO
The Christ Hospital
2139 Auburn Avenue
Cincinnati, Ohio 45219

Dear Mr. Keating,

As Interim President and CEO of Planned Parenthood Southwest Ohio (PPSWO), I am writing to you to request The Christ Hospital enter into an agreement with PPSWO for the transfer of our surgery patients to The Christ Hospital. PPSWO operates an ambulatory surgery center. The Ohio Department of Health requires all ambulatory surgery centers have a current written transfer agreement with a hospital. The purpose of the agreement is to transfer patients in the event of medical complications, emergency situations and for other needs as they arise. A copy of what the Ohio Department of Health requires we have in a transfer agreement is attached.

If The Christ Hospital would like to discuss entering a written transfer agreement with PPSWO, please contact me at your earliest convenience.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Jerry H. Lawson', written over a horizontal line.

Jerry H. Lawson
Interim President and CEO

JHL/pp

Enc

Attachment 3

000005



2314 Auburn Ave.
Cincinnati, Ohio 45219
p: 513.721.7635 – f: 513.721.2313
www.ppswo.org – www.supportppsw.org

Planned Parenthood Southwest Ohio Region

May 7, 2013

Mr. Anthony Woods, CEO
Deaconess Hospital
311 Straight Street
Cincinnati, Ohio 45219

Dear Mr. Woods,

As Interim President and CEO of Planned Parenthood Southwest Ohio (PPSWO), I am writing to you to request Deaconess Hospital enter into an agreement with PPSWO for the transfer of our surgery patients to Deaconess Hospital. PPSWO operates an ambulatory surgery center. The Ohio Department of Health requires all ambulatory surgery centers have a current written transfer agreement with a hospital. The purpose of the agreement is to transfer patients in the event of medical complications, emergency situations and for other needs as they arise. A copy of what the Ohio Department of Health requires we have in a transfer agreement is attached.

If Deaconess Hospital would like to discuss entering a written transfer agreement with PPSWO, please contact me at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jerry H. Lawson', written over a horizontal line.

Jerry H. Lawson
Interim President and CEO

JHL/pp

Enc

000006



2314 Auburn Ave.
Cincinnati, Ohio 45219
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www.ppswo.org – www.supportppsw.org

Planned Parenthood Southwest Ohio Region

May 7, 2013

Mr. Jamie Easterling, Executive Director
Good Samaritan Hospital
375 Dixmyth Avenue
Cincinnati, Ohio 45220

Dear Mr. Easterling,

As Interim President and CEO of Planned Parenthood Southwest Ohio (PPSWO), I am writing to you to request the Good Samaritan Hospital enter into an agreement with PPSWO for the transfer of our surgery patients to the Good Samaritan Hospital. PPSWO operates an ambulatory surgery center. The Ohio Department of Health requires all ambulatory surgery centers have a current written transfer agreement with a hospital. The purpose of the agreement is to transfer patients in the event of medical complications, emergency situations and for other needs as they arise. A copy of what the Ohio Department of Health requires we have in a transfer agreement is attached.

If the Good Samaritan Hospital would like to discuss entering a written transfer agreement with PPSWO, please contact me at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jerry H. Lawson', with a long, sweeping horizontal line extending to the right.

Jerry H. Lawson
Interim President and CEO

JHL/pp

Enc

000007



2139 Auburn Ave.
Cincinnati, OH 45219

513.585.2000

May 30, 2013

Jerry H. Lawson
Interim President & CEO
Planned Parenthood
2314 Auburn Avenue
Cincinnati, Ohio 45219

JUN 04 2013

Dear Mr. Lawson,

Thank you for your letter of May 7, 2013 requesting The Christ Hospital to enter into a transfer agreement with Planned Parenthood Southwest Ohio (PPSO). I believe Dr. Schwartz may have spoken with Mike Keating previously on this matter. After consideration, at this time, we are not interested in entering into an agreement for these services.

Sincerely,

A handwritten signature in cursive script that reads "Deborah M. Hayes".

Deborah M. Hayes
Vice-President &
Chief Hospital Officer & Chief Nursing Officer

cc. Mike Keating

GERHARDSTEIN & BRANCH

A LEGAL PROFESSIONAL ASSOCIATION

432 WALNUT STREET, SUITE 400
CINCINNATI, OHIO 45202

TELEPHONE: (513) 621-9100
FACSIMILE: (513) 345-5543

*ALPHONSE A. GERHARDSTEIN
JENNIFER L. BRANCH
**JACKLYN GONZALES MARTIN
*ADAM G. GERHARDSTEIN

Of Counsel
ROBERT F. LAUFMAN

May 18, 2015

**Also admitted in
Minnesota*

***Also Admitted in
Kentucky and West
Virginia*

Ms. Rebecca Maust, Chief
Division of Quality Assurance
Ohio Department of Health
246 North High Street
Columbus, OH 43215

Re: Planned Parenthood Southwest Ohio Region
Request for Variance to the Hospital Transfer Agreement Requirement

Dear Ms. Maust:

I represent Planned Parenthood of Southwest Ohio Region ("PPSWO"), the owner and operator of the PPSWO ambulatory surgery facility. This letter is being submitted with PPSWO's 2015 annual renewal application. I am writing to request a variance of O.A.C. § 3701-83-19(E), which is the requirement that the ASF have a written transfer agreement ("WTA") with a hospital. PPSWO was granted a variance in November 2104.

Need for Variance

In 2013 PPSWO had a written transfer agreement with University of Cincinnati Medical Center ("UCMC"). That agreement complied with the Department's February 6, 2013 ODH letter outlining the requirements of a transfer agreement. However, after HB 59 was passed, UCMC rescinded the written transfer agreement effective September 28, 2013.

PPSWO Meets ODH's Variance Requirements

PPSWO requested a WTA with The Christ Hospital, Mercy Hospital St. Elizabeth Hospital, Good Samaritan Hospital, The Jewish Hospital, Bethesda North Hospital, and the University of Cincinnati Medical Center. (Attachment 1). As of now, none of the hospitals have responded to the request. If any hospital does sign a WTA with PPSWO, I will inform you promptly.

PPSWO has contracted with three back-up physicians (Attachment 2) and has a patient hospital transfer policy (Attachment 3)¹ in order to ensure continuity of care for any patient who may need to be transferred to a hospital. For these reasons, PPSWO requests a variance from the

¹ This policy was amended May 7, 2015.

Rebecca Maust
May 18, 2015
Page 2 of 4

WTA requirement. As is explained in more detail below, PPSWO's alternative to a written transfer agreement provides patients with the same level of safety and protection as its written transfer agreement had provided.

PPSWO has contracted with three back up physicians who each have admitting privileges at The Christ Hospital (Attachment 2) and who have agreed to exercise those privileges to provide for the continuity of care and the timely, unimpeded acceptance and admission of PPSWO's emergency patients:

- Dr. David B. Schwartz, M.D. is an obstetrician/gynecologist with unrestricted admitting privileges in Women's Health at The Christ Hospital.
- Dr. Tari S. Anderson, M.D. is an gynecologist with unrestricted admitting privileges in Women's Health at The Christ Hospital.
- Dr. Katherine D. Hewitt, M.D. is a gynecologist with unrestricted admitting privileges in Women's Health at The Christ Hospital.

PPSWO's alternative to a written transfer agreement satisfies ODH's November 17, 2011 protocol and HB 59 as follows:

- a. The contracts with the backup physicians comply with the requirements in ODH's protocol. (Attachment 2). The facility has a written policy ensuring 24-hour per day, seven days per week coverage by the backup physicians who can admit patients to The Christ Hospital in the event that a patient experiences a surgical complication, an emergency, or other medical need. (Attachment 3). The policy contains a plan for coverage in the event that all named physicians are temporarily unavailable. The Christ Hospital is located 0.1 miles from PPSWO.
- b. All backup physicians currently have active status with the Ohio Medical Board and possess a current medical license according to the Ohio Medical Board website and their contract with PPSWO. (Attachment 2).
- c. Drs. Schwartz, Dr. Anderson and Dr. Hewitt have had no actions taken against them by the Ohio State Medical Board for violations of R.C. 4731.22 according to the Ohio Medical Board website and their agreement with the facility. No backup physician has a pending action or a complaint under review by the Ohio State Medical Board for violations of R.C. 4731.22 according to the Ohio Medical Board website and their agreement with the facility. Furthermore, PPSWO will verify this annually. (Attachment 2).
- d. All backup physicians are credentialed with admitting privileges in Women's Health without restrictions at The Christ Hospital. This has been verified by the physicians in their contracts and in the credentialing documents attached. (Attachment 2). In addition, annually, PPSWO will verify their admitting privileges have not changed. Furthermore, each backup physician has notified The Christ Hospital that he is a consulting physician for PPSWO and that he has agreed to provide backup services. (See Exhibit A to each of the contracts in Attachment 2).

Rebecca Maust
May 18, 2015
Page 3 of 4

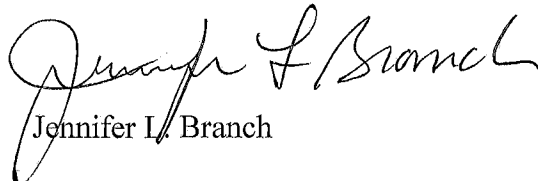
- e. The backup physicians agreed in their contracts to immediately inform PPSWO of any circumstances that may impact his ability to provide for continuity of care and the timely, unimpeded acceptance and admission of the PPSWO's emergency patients.
- f. The backup physicians are familiar with PPSWO and its operations and its policy. Their contracts verify this.
- g. Each back up physician has verified that there is minimal travel time from the backup physician's office to The Christ Hospital. The travel time from their offices to The Christ Hospital is as follows:
 - Dr. Schwartz's travel time from his office to The Christ Hospital is five minutes by foot.
 - Dr. Anderson's travel time from his office to The Christ Hospital is 18 minutes by car.
 - Dr. Hewitt travel time from his office to The Christ Hospital is 15 minutes by car.
- h. The facility's written policy explains how the attending physician will use the backup physician to admit patients to a local hospital in an emergency, complication, or other medical need. The policy includes a plan which ensures that a substitute doctor is available to admit patients to local hospitals in the event the named backup physicians are temporarily unavailable and unable to admit patients to local hospitals.
- i. The backup physicians have represented in their contracts that they utilize their own list of physicians to consult with or refer outside their specialty or they use The Christ Hospital's on-call physician list for consulting/referral physicians outside their specialty/expertise.
- j. See i above.
- k. PPSWO's written protocol ensures that a copy of the patient's medical record is transmitted contemporaneously with the patient to hospital.

This variance request is a good faith attempt to comply with ODH's November 17, 2011 protocol and HB 59. PPSWO has not been informed by ODH of any additional rules or regulations that apply to a variance request. If ODH implements any additional rules, PPSWO requests ODH to notify PPSWO.

Rebecca Maust
May 18, 2015
Page 4 of 4

If you need any additional information or have any questions, please contact me at the address and phone number above, or by email to jbranch@gbfirm.com.

Sincerely,



Jennifer L. Branch

Encls. Attachment 1 PPSWO WTA requests
Attachment 2 Backup physician agreements with Exhibit A and credentialing
Attachment 3 PPSWO Hospital transfer Protocol



2314 Auburn Avenue
Cincinnati, Ohio 45219
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www.ppswo.org

Planned Parenthood Southwest Ohio Region

April 16, 2015

Mr. Thomas Urban, FACHE
Market Leader and President of
Mercy Health – North Market
Mercy Health Fairfield Hospital
3000 Mack Road
Fairfield, Ohio 45014

Dear Mr. Urban,

As President and CEO of Planned Parenthood Southwest Ohio Region (PPSWO), I am writing to you to request Mercy Health Fairfield Hospital enter into an agreement with PPSWO for the transfer of our surgery patients to Mercy Health Fairfield Hospital. PPSWO operates an ambulatory surgery center. The Ohio Department of Health requires all ambulatory surgery centers have a current written transfer agreement with a hospital. The purpose of the agreement is to transfer patients in the event of medical complications, emergency situations and for other needs as they arise. A copy of what the Ohio Department of Health requires we have in a transfer agreement is attached.

If Mercy Health Fairfield Hospital would like to discuss entering a written transfer agreement with PPSWO, please contact me at your earliest convenience.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Jerry H. Lawson', written over a large, stylized loop.

Jerry H. Lawson
President/CEO
Planned Parenthood Southwest Ohio Region
2314 Auburn Avenue, Cincinnati, Ohio 45219
P: 513.824.7804
F: 513.824.7805
jlawson@ppsw.org

JHL/pp

Enc.



2314 Auburn Avenue
Cincinnati, Ohio 45219
p: 513.721.7635 · f: 513.721.2313
www.ppswo.org

Planned Parenthood Southwest Ohio Region

April 16, 2015

Mr. Michael Stephens, FACHE
Market Leader and President of
Mercy Health – West Market
Mercy Health West Hospital
3300 Mercy Health Boulevard
Cincinnati, Ohio 45211

Dear Mr. Stephens,

As President and CEO of Planned Parenthood Southwest Ohio Region (PPSWO), I am writing to you to request **Mercy Health West Hospital** enter into an agreement with PPSWO for the transfer of our surgery patients to **Mercy Health West Hospital**. PPSWO operates an ambulatory surgery center. The Ohio Department of Health requires all ambulatory surgery centers have a current written transfer agreement with a hospital. The purpose of the agreement is to transfer patients in the event of medical complications, emergency situations and for other needs as they arise. A copy of what the Ohio Department of Health requires we have in a transfer agreement is attached.

If **Mercy Health West Hospital** would like to discuss entering a written transfer agreement with PPSWO, please contact me at your earliest convenience.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Jerry H. Lawson', written over a horizontal line.

Jerry H. Lawson
President/CEO

Planned Parenthood Southwest Ohio Region
2314 Auburn Avenue, Cincinnati, Ohio 45219
P: 513.824.7804
F: 513.824.7805
jlawson@ppswo.org

JHL/pp

Enc.



2314 Auburn Avenue
Cincinnati, Ohio 45219
p: 513.721.7635 · f: 513.721.2313
www.ppswo.org

Planned Parenthood Southwest Ohio Region

April 16, 2015

Mr. Michael Stephens, FACHE
Market Leader and President of
Mercy Health – West Market
Mercy Health West Hospital
3300 Mercy Health Boulevard
Cincinnati, Ohio 45211

Dear Mr. Stephens,

As President and CEO of Planned Parenthood Southwest Ohio Region (PPSWO), I am writing to you to request **Mercy Health Harrison Medical Center** enter into an agreement with PPSWO for the transfer of our surgery patients to **Mercy Health Harrison Medical Center**. PPSWO operates an ambulatory surgery center. The Ohio Department of Health requires all ambulatory surgery centers have a current written transfer agreement with a hospital. The purpose of the agreement is to transfer patients in the event of medical complications, emergency situations and for other needs as they arise. A copy of what the Ohio Department of Health requires we have in a transfer agreement is attached.

If **Mercy Health Harrison Medical Center** would like to discuss entering a written transfer agreement with PPSWO, please contact me at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jerry H. Lawson', written over a large, stylized 'J' that loops around the text.

Jerry H. Lawson
President/CEO
Planned Parenthood Southwest Ohio Region
2314 Auburn Avenue, Cincinnati, Ohio 45219
P: 513.824.7804
F: 513.824.7805
jlawson@ppswow.org

JHL/pp

Enc.

000015



2314 Auburn Avenue
Cincinnati, Ohio 45219
p: 513.721.7635 · f: 513.721.2313
www.ppswo.org

Planned Parenthood Southwest Ohio Region

April 16, 2015

Ms. Pat Davis-Hagens
Central Market Leader and President of
The Jewish Hospital and Chief Nursing Officer
for Mercy Health
The Jewish Hospital
4777 E. Galbraith Road
Cincinnati, Ohio 45236

Dear Ms. Davis-Hagens,

As President and CEO of Planned Parenthood Southwest Ohio Region (PPSWO), I am writing to you to request **The Jewish Hospital** enter into an agreement with PPSWO for the transfer of our surgery patients to **The Jewish Hospital**. PPSWO operates an ambulatory surgery center. The Ohio Department of Health requires all ambulatory surgery centers have a current written transfer agreement with a hospital. The purpose of the agreement is to transfer patients in the event of medical complications, emergency situations and for other needs as they arise. A copy of what the Ohio Department of Health requires we have in a transfer agreement is attached.

If **The Jewish Hospital** would like to discuss entering a written transfer agreement with PPSWO, please contact me at your earliest convenience.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Jerry H. Lawson', written over a horizontal line.

Jerry H. Lawson
President/CEO
Planned Parenthood Southwest Ohio Region
2314 Auburn Avenue, Cincinnati, Ohio 45219
P: 513.824.7804
F: 513.824.7805
jlawson@ppswow.org

JHL/pp
Enc.

000016



2314 Auburn Avenue
Cincinnati, Ohio 45219
p: 513.721.7635 • f: 513.721.2313
www.ppswo.org

Planned Parenthood Southwest Ohio Region

April 16, 2015

Ms. Pat Davis-Hagens
Central Market Leader and President of
The Jewish Hospital and Chief Nursing Officer
for Mercy Health
The Jewish Hospital
4777 E. Galbraith Road
Cincinnati, Ohio 45236

Dear Ms. Davis-Hagens,

As President and CEO of Planned Parenthood Southwest Ohio Region (PPSWO), I am writing to you to request **Mercy Health Rookwood Medical Center** enter into an agreement with PPSWO for the transfer of our surgery patients to **Mercy Health Rookwood Medical Center**. PPSWO operates an ambulatory surgery center. The Ohio Department of Health requires all ambulatory surgery centers have a current written transfer agreement with a hospital. The purpose of the agreement is to transfer patients in the event of medical complications, emergency situations and for other needs as they arise. A copy of what the Ohio Department of Health requires we have in a transfer agreement is attached.

If **Mercy Health Rookwood Medical Center** would like to discuss entering a written transfer agreement with PPSWO, please contact me at your earliest convenience.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Jerry H. Lawson', written over a large, stylized loop.

Jerry H. Lawson
President/CEO
Planned Parenthood Southwest Ohio Region
2314 Auburn Avenue, Cincinnati, Ohio 45219
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000017



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Planned Parenthood Southwest Ohio Region

April 16, 2015

Ms. Pat Davis-Hagens
Central Market Leader and President of
The Jewish Hospital and Chief Nursing Officer
for Mercy Health
The Jewish Hospital
4777 E. Galbraith Road
Cincinnati, Ohio 45236

Dear Ms. Davis-Hagens,

As President and CEO of Planned Parenthood Southwest Ohio Region (PPSWO), I am writing to you to request **Mercy Health Western Hills Medical Center** enter into an agreement with PPSWO for the transfer of our surgery patients to **Mercy Health Western Hills Medical Center**. PPSWO operates an ambulatory surgery center. The Ohio Department of Health requires all ambulatory surgery centers have a current written transfer agreement with a hospital. The purpose of the agreement is to transfer patients in the event of medical complications, emergency situations and for other needs as they arise. A copy of what the Ohio Department of Health requires we have in a transfer agreement is attached.

If **Mercy Health Western Hills Medical Center** would like to discuss entering a written transfer agreement with PPSWO, please contact me at your earliest convenience.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Jerry H. Lawson', written over a horizontal line.

Jerry H. Lawson
President/CEO
Planned Parenthood Southwest Ohio Region
2314 Auburn Avenue, Cincinnati, Ohio 45219
P: 513.824.7804
F: 513.824.7805
jlawson@ppsw.org

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Enc.

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2314 Auburn Avenue
Cincinnati, Ohio 45219
p: 513.721.7635 • f: 513.721.2313
www.ppswo.org

Planned Parenthood Southwest Ohio Region

April 16, 2015

Mr. Jeffrey Graham
Market Leader and President of
Mercy Health –East Market
Mercy Health Anderson Hospital
7500 State Road
Cincinnati, Ohio 45255

Dear Mr. Graham,

As President and CEO of Planned Parenthood Southwest Ohio Region (PPSWO), I am writing to you to request **Mercy Health Anderson Hospital** enter into an agreement with PPSWO for the transfer of our surgery patients to **Mercy Health Anderson Hospital**. PPSWO operates an ambulatory surgery center. The Ohio Department of Health requires all ambulatory surgery centers have a current written transfer agreement with a hospital. The purpose of the agreement is to transfer patients in the event of medical complications, emergency situations and for other needs as they arise. A copy of what the Ohio Department of Health requires we have in a transfer agreement is attached.

If **Mercy Health Anderson Hospital** would like to discuss entering a written transfer agreement with PPSWO, please contact me at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jerry H. Lawson', written over a horizontal line.

Jerry H. Lawson
President/CEO
Planned Parenthood Southwest Ohio Region
2314 Auburn Avenue, Cincinnati, Ohio 45219
P: 513.824.7804
F: 513.824.7805
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Enc.



2314 Auburn Avenue
Cincinnati, Ohio 45219
p: 513.721.7635 · f: 513.721.2313
www.ppswo.org

Planned Parenthood Southwest Ohio Region

April 16, 2015

Mr. Jeffrey Graham
Market Leader and President of
Mercy Health –East Market
Mercy Health Anderson Hospital
7500 State Road
Cincinnati, Ohio 45255

Dear Mr. Graham,

As President and CEO of Planned Parenthood Southwest Ohio Region (PPSWO), I am writing to you to request **Mercy Health Eastgate Medical Center** enter into an agreement with PPSWO for the transfer of our surgery patients to **Mercy Health Eastgate Medical Center**. PPSWO operates an ambulatory surgery center. The Ohio Department of Health requires all ambulatory surgery centers have a current written transfer agreement with a hospital. The purpose of the agreement is to transfer patients in the event of medical complications, emergency situations and for other needs as they arise. A copy of what the Ohio Department of Health requires we have in a transfer agreement is attached.

If **Mercy Health Eastgate Medical Center** would like to discuss entering a written transfer agreement with PPSWO, please contact me at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jerry H. Lawson', written over a large, stylized loop.

Jerry H. Lawson
President/CEO
Planned Parenthood Southwest Ohio Region
2314 Auburn Avenue, Cincinnati, Ohio 45219
P: 513.824.7804
F: 513.824.7805
jlawson@ppswow.org

JHL/pp

Enc.

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2314 Auburn Avenue
Cincinnati, Ohio 45219
p: 513.721.7635 · f: 513.721.2313
www.ppswo.org

Planned Parenthood Southwest Ohio Region

April 16, 2015

Mr. Jeffrey Graham
Market Leader and President of
Mercy Health –East Market
Mercy Health Anderson Hospital
7500 State Road
Cincinnati, Ohio 45255

Dear Mr. Graham,

As President and CEO of Planned Parenthood Southwest Ohio Region (PPSWO), I am writing to you to request **Mercy Health Liberty Falls Medical Center** enter into an agreement with PPSWO for the transfer of our surgery patients to **Mercy Health Liberty Falls Medical Center**. PPSWO operates an ambulatory surgery center. The Ohio Department of Health requires all ambulatory surgery centers have a current written transfer agreement with a hospital. The purpose of the agreement is to transfer patients in the event of medical complications, emergency situations and for other needs as they arise. A copy of what the Ohio Department of Health requires we have in a transfer agreement is attached.

If **Mercy Health Liberty Falls Medical Center** would like to discuss entering a written transfer agreement with PPSWO, please contact me at your earliest convenience.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Jerry H. Lawson', written over a horizontal line.

Jerry H. Lawson
President/CEO
Planned Parenthood Southwest Ohio Region
2314 Auburn Avenue, Cincinnati, Ohio 45219
P: 513.824.7804
F: 513.824.7805
jlawson@ppswow.org

JHL/pp

Enc.



2314 Auburn Avenue
Cincinnati, Ohio 45219
p: 513.721.7635 • f: 513.721.2313
www.ppswo.org

Planned Parenthood Southwest Ohio Region

April 16, 2015

Mr. Garren Colvin
Interim President & CEO
St. Elizabeth Healthcare Edgewood
1 Medical Village Drive
Edgewood, Ohio 45017

Dear Mr. Colvin,

As President and CEO of Planned Parenthood Southwest Ohio Region (PPSWO), I am writing to you to request **St. Elizabeth Healthcare Covington** enter into an agreement with PPSWO for the transfer of our surgery patients to **St. Elizabeth Healthcare Covington**. PPSWO operates an ambulatory surgery center. The Ohio Department of Health requires all ambulatory surgery centers have a current written transfer agreement with a hospital. The purpose of the agreement is to transfer patients in the event of medical complications, emergency situations and for other needs as they arise. A copy of what the Ohio Department of Health requires we have in a transfer agreement is attached.

If **St. Elizabeth Healthcare Covington** would like to discuss entering a written transfer agreement with PPSWO, please contact me at your earliest convenience.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Jerry H. Lawson', written over a large, stylized circular flourish.

Jerry H. Lawson
President/CEO
Planned Parenthood Southwest Ohio Region
2314 Auburn Avenue, Cincinnati, Ohio 45219
P: 513.824.7804
F: 513.824.7805
jlawson@ppsw.org

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Enc.



2314 Auburn Avenue
Cincinnati, Ohio 45219
p: 513.721.7635 • f: 513.721.2313
www.ppswo.org

Planned Parenthood Southwest Ohio Region

April 16, 2015

Mr. Garren Colvin
Interim President & CEO
St. Elizabeth Healthcare Edgewood
1 Medical Village Drive
Edgewood, Ohio 45017

Dear Mr. Colvin,

As President and CEO of Planned Parenthood Southwest Ohio Region (PPSWO), I am writing to you to request **St. Elizabeth Healthcare Edgewood** enter into an agreement with PPSWO for the transfer of our surgery patients to **St. Elizabeth Healthcare Edgewood**. PPSWO operates an ambulatory surgery center. The Ohio Department of Health requires all ambulatory surgery centers have a current written transfer agreement with a hospital. The purpose of the agreement is to transfer patients in the event of medical complications, emergency situations and for other needs as they arise. A copy of what the Ohio Department of Health requires we have in a transfer agreement is attached.

If **St. Elizabeth Healthcare Edgewood** would like to discuss entering a written transfer agreement with PPSWO, please contact me at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jerry H. Lawson', written over a horizontal line.

Jerry H. Lawson
President/CEO
Planned Parenthood Southwest Ohio Region
2314 Auburn Avenue, Cincinnati, Ohio 45219
P: 513.824.7804
F: 513.824.7805
jlawson@ppswow.org

JHL/pp

Enc.

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Cincinnati, Ohio 45219
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www.ppswo.org

Planned Parenthood Southwest Ohio Region

April 16, 2015

Mr. Garren Colvin
Interim President & CEO
St. Elizabeth Healthcare Edgewood
1 Medical Village Drive
Edgewood, Ohio 45017

Dear Mr. Colvin,

As President and CEO of Planned Parenthood Southwest Ohio Region (PPSWO), I am writing to you to request **St. Elizabeth Healthcare Florence** enter into an agreement with PPSWO for the transfer of our surgery patients to **St. Elizabeth Healthcare Florence**. PPSWO operates an ambulatory surgery center. The Ohio Department of Health requires all ambulatory surgery centers have a current written transfer agreement with a hospital. The purpose of the agreement is to transfer patients in the event of medical complications, emergency situations and for other needs as they arise. A copy of what the Ohio Department of Health requires we have in a transfer agreement is attached.

If **St. Elizabeth Healthcare Florence** would like to discuss entering a written transfer agreement with PPSWO, please contact me at your earliest convenience.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Jerry H. Lawson', written over a large, stylized loop.

Jerry H. Lawson
President/CEO
Planned Parenthood Southwest Ohio Region
2314 Auburn Avenue, Cincinnati, Ohio 45219
P: 513.824.7804
F: 513.824.7805
jlawson@ppswow.org

JHL/pp

Enc.

000024



2314 Auburn Ave.
Cincinnati, Ohio 45219
p: 513.721.7635- f: 513.721.2313
www.ppswo.org - www.supportppsw.org

Planned Parenthood Southwest Ohio Region

April 16, 2015

Mr. Garren Colvin
Interim President & CEO
St. Elizabeth Healthcare Edgewood
1 Medical Village Drive
Edgewood, Ohio 45017

Dear Mr. Colvin,

As President and CEO of Planned Parenthood Southwest Ohio Region (PPSWO), I am writing to you to request **St. Elizabeth Healthcare Ft. Thomas** enter into an agreement with PPSWO for the transfer of our surgery patients to **St. Elizabeth Healthcare Ft. Thomas**. PPSWO operates an ambulatory surgery center. The Ohio Department of Health requires all ambulatory surgery centers have a current written transfer agreement with a hospital. The purpose of the agreement is to transfer patients in the event of medical complications, emergency situations and for other needs as they arise. A copy of what the Ohio Department of Health requires we have in a transfer agreement is attached.

If **St. Elizabeth Healthcare Ft. Thomas** would like to discuss entering a written transfer agreement with PPSWO, please contact me at your earliest convenience.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Jerry H. Lawson', written over a horizontal line.

Jerry H. Lawson
President/CEO

Planned Parenthood Southwest Ohio Region
2314 Auburn Avenue, Cincinnati, Ohio 45219
P: 513.824.7804
F: 513.824.7805
jlawson@ppsw.org

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Enc.

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2314 Auburn Ave.
Cincinnati, Ohio 45219
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www.ppswo.org – www.supportppsw.org

Planned Parenthood Southwest Ohio Region

April 16, 2015

Mr. John Prout, President & CEO
Tri Health
619 Oak Street
Cincinnati, Ohio 45206

Dear Mr. Prout,

As President and CEO of Planned Parenthood Southwest Ohio Region (PPSWO), I am writing to you to request Good Samaritan Hospital enter into an agreement with PPSWO for the transfer of our surgery patients to Good Samaritan Hospital. PPSWO operates an ambulatory surgery center. The Ohio Department of Health requires all ambulatory surgery centers have a current written transfer agreement with a hospital. The purpose of the agreement is to transfer patients in the event of medical complications, emergency situations and for other needs as they arise. A copy of what the Ohio Department of Health requires we have in a transfer agreement is attached.

If Good Samaritan Hospital would like to discuss entering a written transfer agreement with PPSWO, please contact me at your earliest convenience.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Jerry H. Lawson', written over a horizontal line.

Jerry H. Lawson
President/CEO
Planned Parenthood Southwest Ohio Region
2314 Auburn Avenue, Cincinnati, Ohio 45219
P: 513.824.7804
F: 513.824.7805
jlawson@ppsw.org

JHL/pp

Enc.



2314 Auburn Ave.
Cincinnati, Ohio 45219
p: 513.721.7635-- f: 513.721.2313
www.ppswo.org – www.supportppsw.org

Planned Parenthood Southwest Ohio Region

April 16, 2015

Mr. Jerry Oliphant
Vice President & COO
Tri Health
619 Oak Street
Cincinnati, Ohio 45206

Dear Mr. Oliphant,

As President and CEO of Planned Parenthood Southwest Ohio Region (PPSWO), I am writing to you to request Bethesda North Hospital enter into an agreement with PPSWO for the transfer of our surgery patients to Bethesda North Hospital. PPSWO operates an ambulatory surgery center. The Ohio Department of Health requires all ambulatory surgery centers have a current written transfer agreement with a hospital. The purpose of the agreement is to transfer patients in the event of medical complications, emergency situations and for other needs as they arise. A copy of what the Ohio Department of Health requires we have in a transfer agreement is attached.

If Bethesda North Hospital would like to discuss entering a written transfer agreement with PPSWO, please contact me at your earliest convenience.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Jerry H. Lawson', written over the printed name and title.

Jerry H. Lawson
President/CEO

Planned Parenthood Southwest Ohio Region
2314 Auburn Avenue, Cincinnati, Ohio 45219
P: 513.824.7804
F: 513.824.7805
jlawson@ppsw.org

JHL/pp

Enc.

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2314 Auburn Ave.
Cincinnati, Ohio 45219
p: 513.721.7635 – f: 513.721.2313
www.ppswo.org – www.supportppsw.org

Planned Parenthood Southwest Ohio Region

April 16, 2015

Mr. Michael Keating
President & CEO
The Christ Hospital
2139 Auburn Avenue
Cincinnati, Ohio 45219

Dear Mr. Keating,

As President and CEO of Planned Parenthood Southwest Ohio Region (PPSWO), I am writing to you to request The Christ Hospital enter into an agreement with PPSWO for the transfer of our surgery patients to The Christ Hospital. PPSWO operates an ambulatory surgery center. The Ohio Department of Health requires all ambulatory surgery centers have a current written transfer agreement with a hospital. The purpose of the agreement is to transfer patients in the event of medical complications, emergency situations and for other needs as they arise. A copy of what the Ohio Department of Health requires we have in a transfer agreement is attached.

If The Christ Hospital would like to discuss entering a written transfer agreement with PPSWO, please contact me at your earliest convenience.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Jerry H. Lawson', written over a horizontal line.

Jerry H. Lawson
President/CEO
Planned Parenthood Southwest Ohio Region
2314 Auburn Avenue, Cincinnati, Ohio 45219
P: 513.824.7804
F: 513.824.7805
jlawson@ppsw.org

JHL/pp

Enc.

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2314 Auburn Avenue
Cincinnati, Ohio 45219
p: 513.721.7635 • f: 513.721.2313
www.ppswo.org

Planned Parenthood Southwest Ohio Region

April 16, 2015

Ms. Lee Ann Liska
President & CEO
University of Cincinnati Medical Center
234 Goodman Street
Cincinnati, Ohio 45219

Dear Ms. Liska,

As President and CEO of Planned Parenthood Southwest Ohio Region (PPSWO), I am writing to you to request University of Cincinnati Medical Center enter into an agreement with PPSWO for the transfer of our surgery patients to University of Cincinnati Medical Center. PPSWO operates an ambulatory surgery center. The Ohio Department of Health requires all ambulatory surgery centers have a current written transfer agreement with a hospital. The purpose of the agreement is to transfer patients in the event of medical complications, emergency situations and for other needs as they arise. A copy of what the Ohio Department of Health requires we have in a transfer agreement is attached.

If University of Cincinnati Medical Center would like to discuss entering a written transfer agreement with PPSWO, please contact me at your earliest convenience.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Jerry H. Lawson', written over a horizontal line.

Jerry H. Lawson
President/CEO
Planned Parenthood Southwest Ohio Region
2314 Auburn Avenue, Cincinnati, Ohio 45219
P: 513.824.7804
F: 513.824.7805
jlawson@ppswow.org

JHL/pp

Enc.

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BACK-UP PHYSICIAN SERVICES AGREEMENT


This Back-Up Physician Services Agreement ("Agreement") is effective as of May 1, 2015 ("Effective Date"), by and between Planned Parenthood of Southwest Ohio, an Ohio nonprofit corporation, ("PPSWO") and Tari S. Anderson, M.D. (Dr. Anderson).

1. Dr. Anderson agrees she has admitting privileges at The Christ Hospital in Cincinnati, Ohio and will exercise those privileges to provide for the continuity of care and the timely, unimpeded acceptance and admission of PPSWO's patients.
2. Dr. Anderson agrees to be a back-up physician for PPSWO. She agrees to provide 24/7 emergency back-up hospital admissions for PPSWO's patients in the event of surgical complications, emergency situations, or to meet other medical needs that require a level of service beyond the capability of PPSWO. In the event that she is temporarily unavailable she will insure that coverage is provided by the other physicians who provide coverage for Dr. Anderson in her medical practice or other physicians who are serving as back-up physicians for PPSWO.
3. Dr. Anderson attests that the following statements are true:
 - a. I am licensed to practice medicine in Ohio.
 - b. I am familiar with PPSWO and its operations.
 - c. I agree to provide PPSWO of notice of any changes in my ability to provide back-up coverage.
 - d. The travel time from my office to The Christ Hospital is approximately eighteen minutes by car.
4. Dr. Anderson verifies that:
 - a. she has told PPSWO that her specialty is Obstetrics and Gynecology;
 - b. her telephone numbers are:
 - _____ (office)
 - { _____ (cell)
 - _____ (home);
 - c. she has informed The Christ Hospital that she is a consulting physician for PPSWO and has agreed to provide back-up coverage for the facility when medical care beyond the care the facility can provide is necessary (see attached Exhibit A).
5. Dr. Anderson agrees she is licensed to practice medicine in Ohio and will alert PPSWO within 24 hours if her active status to practice medicine in Ohio changes.
6. Dr. Anderson agrees that no disciplinary actions have been taken against her and that there are no complaints under review by the Ohio State Medical Board for violation of R.C. 4731.22. Dr. Anderson agrees to alert PPSWO within 24 hours if an action is taken against her by the Ohio State Medical Board.

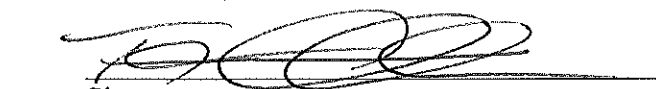
7. Dr. Anderson agrees she is credentialed with admitting privileges in Obstetrics and Gynecology without restrictions at The Christ Hospital in Cincinnati, Ohio and will arrange patient admission and care for each patient needing medical services according to each patient's need.
8. Dr. Anderson agrees to immediately and without delay inform PPSWO of any circumstances that may impact his ability to provide for continuity of care and the timely, unimpeded acceptance and admission of the PPSWO's patients.
9. Dr. Anderson agrees to provide PPSWO with notice of any planned or unplanned absence from the locale within one business day before such date or as soon as practicable (if the absence is unplanned) or three business days before such date or as soon as practicable (if the absence is planned in advance).
10. Dr. Anderson agrees to maintain a list of physicians outside her area of specialty to consult with or refer to or to use The Christ Hospital's on-call for consulting/referral physicians outside her area of specialty/expertise.
11. PPSWO agrees to provide Dr. Anderson with the patient's name, reason for referral, current medical condition and the means of transport to the hospital.
12. PPSWO agrees to send to the hospital with the patient a copy of all patient records.
13. This agreement may only be modified in writing.
14. This agreement may be terminated without cause after thirty (30) days written notice is provided to the parties.

The parties have executed this Agreement by each of their authorized representatives.

Tari S. Anderson, M.D.


Signature

Planned Parenthood of Southwest Ohio


Signature
Name: Jerry H. Lawson
Title: President/ CEO



Identification Information		(back)
Name	Dr. TARI SUZANNE ANDERSON Birth Date: 6/1962 Birth Place: WAHIAWA, HI Birth Country:	
Practice	5777 Kellogg Avenue Cincinnati, OH 45230 United States of America	
Residence	New Richmond, OH 45157 County: Clermont	
Professional Education	School: 036070-Wright State University School of Medicine Graduated: 06/11/88	

License and Registration Information				
Credential	License Type	Initial Licensure Date	Expiration Date	Status
35.058827	Doctor of Medicine	09/15/1989	07/01/2015	ACTIVE IN RENEWAL
Specialties				
GYNECOLOGY				
<p><u>Specialty listings are voluntarily provided by the physician. They are not verified by the State Medical Board and do not confirm that the physician is Board certified by a professional specialty organization. To find out if a physician is certified by a specialty board, you should contact that board. Information and links to specialty boards can be found by clicking this green box.</u></p>				

Formal Action Information
No formal action exists.

The above is an accurate representation of information currently maintained by the State Medical Board of Ohio as of 4/14/2015. The JCAHO and the NCQA have informed the Board that they consider this on-line license status information as fulfilling the primary source requirement for verification of licensure in compliance with their respective credentialing standards. This information is otherwise provided as a public service and no user may claim detrimental reliance thereon.

The State Medical Board utilizes the Federation Credentials Verification Service (FCVS) as an agent and partner in licensing physicians in Ohio. Physicians initially licensed in Ohio after February 1st, 1997 have had their medical education, post-graduate training and examination history primary source verified by FCVS. Therefore, the use of this website for documentation of primary source verification (PSV) of education and training meets current NCQA guidelines for those licensed after February 1, 1997. This statement, affirming that primary source verification of medical education and post-graduate training has been performed as part of the licensure process, should be printed out and retained in your files. Prior to February 1, 1997, the State Medical Board prime source verified the post-graduate training and examination history.



2139 Auburn Avenue
Cincinnati, Ohio 45219
Tel. (513)-585-2221
Fax: (513)-585-3293

April 14, 2015

Confirmation of Medical Staff Membership and/or Clinical Privileges

The information provided below applies only to the period of affiliation at The Christ Hospital.

Name: Tari S. Anderson, MD
Department: Women's Health Service Line
Staff Category: Active
Privilege: Clinical Privileges
Date: 4/1/2005 - Present
Prior Date: *No Date on File*

This letter will serve as confirmation that **Tari S. Anderson, MD** is/was credentialed by The Christ Hospital, in full compliance with Ohio State Regulation, Federal Law and Joint Commission Standards.

This individual meets/met this facility's standards for appointment/reappointment and/or approval/renewal of clinical privileges. There is no derogatory information on file regarding this practitioner. Information is based on review of the individual's credentials record at The Christ Hospital.

If you have any questions regarding the above information, please contact our office at 513.585.2221.

Sincerely,

Jeni George, CPCS
Manager, Medical Staff Services

Payton, Phyliss

Subject: FW: Revised transfer agreement

From: asgard@fuse.net [mailto:asgard@fuse.net]

Sent: Friday, May 01, 2015 7:58 PM

To: Mike Keating

Cc: Lawson, Jerry

Subject: Revised transfer agreement

Gentlemen,

This note is to inform you that I have agreed to provide backup emergency coverage for Planned Parenthood of Southwest Ohio. This arrangement includes 24/7 emergency care for any services that Planned Parenthood is unable to provide, potentially requiring hospitalization of patients at The Christ Hospital under my supervision. If I am unavailable, Dr. David Schwartz and Kate Hewitt would serve as alternates for staff coverage. Thank you for your attention to this matter.

Tari Anderson, MD

Exhibit A

BACK-UP PHYSICIAN SERVICES AGREEMENT

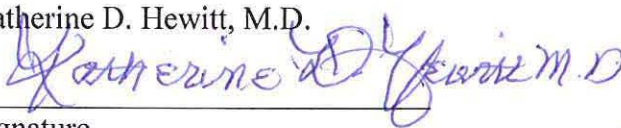
This Back-Up Physician Services Agreement ("Agreement") is effective as of May 1, 2015 ("Effective Date"), by and between Planned Parenthood of Southwest Ohio, an Ohio nonprofit corporation, ("PPSWO") and Katherine D. Hewitt, M.D. (Dr. Hewitt).

1. Dr. Hewitt agrees she has admitting privileges at The Christ Hospital in Cincinnati, Ohio and will exercise those privileges to provide for the continuity of care and the timely, unimpeded acceptance and admission of PPSWO's patients.
2. Dr. Hewitt agrees to be a back-up physician for PPSWO. She agrees to provide 24/7 emergency back-up hospital admissions for PPSWO's patients in the event of surgical complications, emergency situations, or to meet other medical needs that require a level of service beyond the capability of PPSWO. In the event that she is temporarily unavailable she will insure that coverage is provided by the other physicians who provide coverage for Dr. Hewitt in her medical practice or other physicians who are serving as back-up physicians for PPSWO.
3. Dr. Hewitt attests that the following statements are true:
 - a. I am licensed to practice medicine in Ohio.
 - b. I am familiar with PPSWO and its operations.
 - c. I agree to provide PPSWO of notice of any changes in my ability to provide back-up coverage.
 - d. The travel time from my office to The Christ Hospital is approximately fifteen minutes by car.
4. Dr. Hewitt verifies that:
 - a. she has told PPSWO that her specialty is Obstetrics and Gynecology;
 - b. her telephone numbers are:
 - (513) ___ (office)
 - (513) ___ (cell)
 - (513) ___ (home);
 - c. she has informed The Christ Hospital that she is a consulting physician for PPSWO and has agreed to provide back-up coverage for the facility when medical care beyond the care the facility can provide is necessary (see attached Exhibit A).
5. Dr. Hewitt agrees she is licensed to practice medicine in Ohio and will alert PPSWO within 24 hours if her active status to practice medicine in Ohio changes.
6. Dr. Hewitt agrees that no disciplinary actions have been taken against her and that there are no complaints under review by the Ohio State Medical Board for violation of R.C. 4731.22. Dr. Hewitt agrees to alert PPSWO within 24 hours if an action is taken against her by the Ohio State Medical Board.

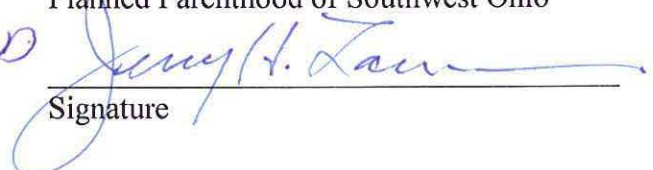
7. Dr. Hewitt agrees she is credentialed with admitting privileges in ~~Obstetrics and~~ ^{KH 4/28/15} Gynecology without restrictions at The Christ Hospital in Cincinnati, Ohio and will arrange patient admission and care for each patient needing medical services according to each patient's need.
8. Dr. Hewitt agrees to immediately and without delay inform PPSWO of any circumstances that may impact his ability to provide for continuity of care and the timely, unimpeded acceptance and admission of the PPSWO's patients.
9. Dr. Hewitt agrees to provide PPSWO with notice of any planned or unplanned absence from the locale within one business day before such date or as soon as practicable (if the absence is unplanned) or three business days before such date or as soon as practicable (if the absence is planned in advance).
10. Dr. Hewitt agrees to maintain a list of physicians outside her area of specialty to consult with or refer to or to use The Christ Hospital's on-call for consulting/referral physicians outside her area of specialty/expertise.
11. PPSWO agrees to provide Dr. Hewitt with the patient's name, reason for referral, current medical condition and the means of transport to the hospital.
12. PPSWO agrees to send to the hospital with the patient a copy of all patient records.
13. This agreement may only be modified in writing.
14. This agreement may be terminated without cause after thirty (30) days written notice is provided to the parties.

The parties have executed this Agreement by each of their authorized representatives.

Katherine D. Hewitt, M.D.


Signature

Planned Parenthood of Southwest Ohio


Signature

Name: Jerry H. Lawson

Title: President/CEO



Identification Information		[back]
Name	Dr. KATHERINE DENISE HEWITT Birth Date: 9/1954 Birth Place: SPRINGFIELD, OH Birth Country:	
Practice	5777 Kellogg Avenue Cincinnati, OH 45230 United States of America	
Residence	Cincinnati, OH 45230 County: Hamilton	
Professional Education	School: 036050-Ohio State University College of Medicine and Public Graduated: 06/12/81	

License and Registration Information				
Credential	License Type	Initial Licensure Date	Expiration Date	Status
35.048288	Doctor of Medicine	11/16/1982	10/01/2016	ACTIVE
Specialties				
GYNECOLOGY				
Specialty listings are voluntarily provided by the physician. They are not verified by the State Medical Board and do not confirm that the physician is Board certified by a professional specialty organization. To find out if a physician is certified by a specialty board, you should contact that board. Information and links to specialty boards can be found by clicking this green box.				

Formal Action Information
No formal action exists.

The above is an accurate representation of information currently maintained by the State Medical Board of Ohio as of 4/14/2015. The JCAHO and the NCQA have informed the Board that they consider this on-line license status information as fulfilling the primary source requirement for verification of licensure in compliance with their respective credentialing standards. This information is otherwise provided as a public service and no user may claim detrimental reliance thereon.

The State Medical Board utilizes the Federation Credentials Verification Service (FCVS) as an agent and partner in licensing physicians in Ohio. Physicians initially licensed in Ohio after February 1st, 1997 have had their medical education, post-graduate training and examination history primary source verified by FCVS. Therefore, the use of this website for documentation of primary source verification (PSV) of education and training meets current NCQA guidelines for those licensed after February 1, 1997. This statement, affirming that primary source verification of medical education and post-graduate training has been performed as part of the licensure process, should be printed out and retained in your files. Prior to February 1, 1997, the State Medical Board prime source verified the post-graduate training and examination history.



The
Christ Hospital

The Christ Hospital Health Network

2139 Auburn Avenue
Cincinnati, Ohio 45219
Tel. (513)-585-2221
Fax: (513)-585-3293

April 14, 2015

Confirmation of Medical Staff Membership and/or Clinical Privileges

The information provided below applies only to the period of affiliation at The Christ Hospital.

Name: Katherine D. Hewitt, MD
Department: Women's Health Service Line
Staff Category: Active
Privilege: Clinical Privileges
Date: 12/17/1997 - Present
Prior Date: No Date on File

This letter will serve as confirmation that **Katherine D. Hewitt, MD** is/was credentialed by The Christ Hospital, in full compliance with Ohio State Regulation, Federal Law and Joint Commission Standards.

This individual meets/met this facility's standards for appointment/reappointment and/or approval/renewal of clinical privileges. There is no derogatory information on file regarding this practitioner. Information is based on review of the individual's credentials record at The Christ Hospital.

If you have any questions regarding the above information, please contact our office at 513.585.2221.

Sincerely,

Jeni George, CPCS
Manager, Medical Staff Services

000038

4/14/2015

Payton, Phyliss

Subject: FW: planned parenthood coverage

-----Original Message-----

From: craw10s1 <craw10s1@netscape.net>
To: mike.keating <mike.keating@thechristhospital.com>
Sent: Wed, May 6, 2015 11:51 am
Subject: Fwd: planned parenthood coverage

Gentleman,

This note is to inform you that I have agreed to provide emergency back up coverage to Planned Parenthood of Southwest Ohio. The arrangement includes 24/7 emergency care for any services that Planned Parenthood is unable to provide potentially requiring hospitalization of patients at Christ Hospital under my supervision. If I am unavailable, Dr. David Schwarz and Dr. Tari Anderson would serve as alternates for staff coverage. Thank you for your attention to this matter.

Kate Hewitt MD

BACK-UP PHYSICIAN SERVICES AGREEMENT

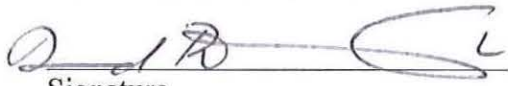
This Back-Up Physician Services Agreement ("Agreement") is effective as of May 1, 2015 ("Effective Date"), by and between Planned Parenthood of Southwest Ohio, an Ohio nonprofit corporation, ("PPSWO") and David B. Schwartz, M.D. (Dr. Schwartz).

1. Dr. Schwartz agrees he has admitting privileges at The Christ Hospital in Cincinnati, Ohio and will exercise those privileges to provide for the continuity of care and the timely, unimpeded acceptance and admission of PPSWO's patients.
2. Dr. Schwartz agrees to be a back-up physician for PPSWO. He agrees to provide 24/7 emergency back-up hospital admissions for PPSWO's patients in the event of surgical complications, emergency situations, or to meet other medical needs that require a level of service beyond the capability of PPSWO. In the event that he is temporarily unavailable he will insure that coverage is provided by the other physicians who provide coverage for Dr. Schwartz in his medical practice or other physicians who are serving as back-up physicians for PPSWO.
3. Dr. Schwartz attests that the following statements are true:
 - a. I am licensed to practice medicine in Ohio.
 - b. I am familiar with PPSWO and its operations.
 - c. I agree to provide PPSWO of notice of any changes in my ability to provide back-up coverage.
 - d. The travel time from my office to The Christ Hospital is approximately five minutes by foot.
4. Dr. Schwartz verifies that:
 - a. he has told PPSWO that his specialty is Obstetrics and Gynecology;
 - b. his telephone numbers are:
 - (513) _____ (office)
 - _____ (cell)
 - { _____ (home);
 - c. he has informed The Christ Hospital that he is a consulting physician for PPSWO and has agreed to provide back-up coverage for the facility when medical care beyond the care the facility can provide is necessary (see attached Exhibit A).
5. Dr. Schwartz agrees he is licensed to practice medicine in Ohio and will alert PPSWO within 24 hours if his active status to practice medicine in Ohio changes.
6. Dr. Schwartz agrees that no disciplinary actions have been taken against him and that there are no complaints under review by the Ohio State Medical Board for violation of R.C. 4731.22. Dr. Schwartz agrees to alert PPSWO within 24 hours if an action is taken against him by the Ohio State Medical Board.

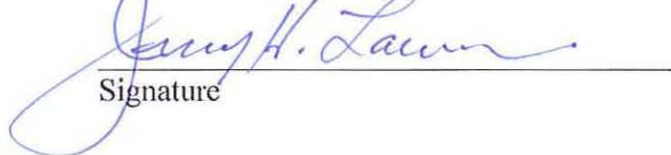
7. Dr. Schwartz agrees he is credentialed with admitting privileges in Obstetrics and Gynecology without restrictions at The Christ Hospital in Cincinnati, Ohio and will arrange patient admission and care for each patient needing medical services according to each patient's need.
8. Dr. Schwartz agrees to immediately and without delay inform PPSWO of any circumstances that may impact his ability to provide for continuity of care and the timely, unimpeded acceptance and admission of the PPSWO's patients.
9. Dr. Schwartz agrees to provide PPSWO with notice of any planned or unplanned absence from the locale within one business day before such date or as soon as practicable (if the absence is unplanned) or three business days before such date or as soon as practicable (if the absence is planned in advance).
10. Dr. Schwartz agrees to maintain a list of physicians outside his area of specialty to consult with or refer to or to use The Christ Hospital's on-call for consulting/referral physicians outside his area of specialty/expertise.
11. PPSWO agrees to provide Dr. Schwartz with the patient's name, reason for referral, current medical condition and the means of transport to the hospital.
12. PPSWO agrees to send to the hospital with the patient a copy of all patient records.
13. This agreement may only be modified in writing.
14. This agreement may be terminated without cause after thirty (30) days written notice is provided to the parties.

The parties have executed this Agreement by each of their authorized representatives.

David B. Schwartz, M.D.


Signature

Planned Parenthood of Southwest Ohio


Signature

Name: Jerry H. Lawson

Title: President/ CEO



Identification Information		[back]
Name	Dr. DAVID BRUCE SCHWARTZ Birth Date: 1/1952 Birth Place: NEWARK, NJ Birth Country:	
Practice	2123 AUBURN AVE SUITE 320 CINCINNATI, OH 45219 United States of America	
Residence	CINCINNATI, OH 45202 County: Hamilton	
Professional Education	School: 023030-University of Michigan Medical School Graduated: 05/26/78	

License and Registration Information				
Credential	License Type	Initial Licensure Date	Expiration Date	Status
35.043742	Doctor of Medicine	07/12/1979	01/01/2016	ACTIVE
Specialties				
OBSTETRICS & GYNECOLOGY				
<p>Specialty listings are voluntarily provided by the physician. They are not verified by the State Medical Board and do not confirm that the physician is Board certified by a professional specialty organization. To find out if a physician is certified by a specialty board, you should contact that board. Information and links to specialty boards can be found by clicking this green box.</p>				

Formal Action Information
No formal action exists.

The above is an accurate representation of information currently maintained by the State Medical Board of Ohio as of 4/14/2015. The JCAHO and the NCQA have informed the Board that they consider this on-line license status information as fulfilling the primary source requirement for verification of licensure in compliance with their respective credentialing standards. This information is otherwise provided as a public service and no user may claim detrimental reliance thereon.

The State Medical Board utilizes the Federation Credentials Verification Service (FCVS) as an agent and partner in licensing physicians in Ohio. Physicians initially licensed in Ohio after February 1st, 1997 have had their medical education, post-graduate training and examination history primary source verified by FCVS. Therefore, the use of this website for documentation of primary source verification (PSV) of education and training meets current NCQA guidelines for those licensed after February 1, 1997. This statement, affirming that primary source verification of medical education and post-graduate training has been performed as part of the licensure process, should be printed out and retained in your files. Prior to February 1, 1997, the State Medical Board primary source verified the post-graduate training and examination history.



2139 Auburn Avenue
Cincinnati, Ohio 45219
Tel. (513)-585-2221
Fax: (513)-585-3293

April 14, 2015

Confirmation of Medical Staff Membership and/or Clinical Privileges

The information provided below applies only to the period of affiliation at The Christ Hospital.

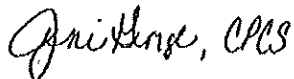
Name: David B. Schwartz, MD
Department: Women's Health Service Line
Staff Category: Active
Privilege: Clinical Privileges
Date: 10/20/1982 - Present
Prior Date: *No Date on File*

This letter will serve as confirmation that **David B. Schwartz, MD** is/was credentialed by The Christ Hospital, in full compliance with Ohio State Regulation, Federal Law and Joint Commission Standards.

This individual meets/met this facility's standards for appointment/reappointment and/or approval/renewal of clinical privileges. There is no derogatory information on file regarding this practitioner. Information is based on review of the individual's credentials record at The Christ Hospital.

If you have any questions regarding the above information, please contact our office at 513.585.2221.

Sincerely,



Jeni George, CPCS
Manager, Medical Staff Services

000043

4/14/2015

Payton, Phyliss

Subject: FW: Planned Parenthood of Southwestern Ohio Back-up Agreement

From: DBDoc8@aol.com [mailto:DBDoc8@aol.com]

Sent: Monday, April 27, 2015 2:51 PM

To: mike.keating@thechristhospital.com

Cc: Lawson, Jerry

Subject: Planned Parenthood of Southwestern Ohio Back-up Agreement

I was asked to inform you that I have agreed to be a back-up physician for Planned Parenthood of Southwestern Ohio ("PPSWO"). I agree to provide 24/7 emergency back-up hospital admissions for PPSWO's patients in the event of surgical complications, emergency situations, or to meet the needs that require a level of service beyond the capability of PPSWO. I will exercise my privileges at the Christ Hospital in Cincinnati to provide for the continuity of care should it be deemed necessary. In the event that I am temporarily unavailable, I will insure that coverage is provided by Drs Kate Hewitt and Tara Anderson. Thank you.

David B. Schwartz M.D. FACOG

dbdoc8@aol.com

cincinnati-obgyn.com

This message contains confidential information and is intended only for the individual named. If you are not the named addressee, you should not disseminate, distribute or copy this email. Please notify the sender immediately by email if you have received this email by mistake and delete this email from your system. Email transmission cannot be guaranteed to be secure or error-free, as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. The sender, therefore, does not accept liability for any errors or omissions in the contents of this message which arises as a result of email transmission. If verification is required, please request a hard-copy version

Exhibit A

Planned Parenthood Southwest Ohio Region (PPSWO) Hospital Transfer Policy (To Be Used if Variance from ODH Approved)

This policy is intended to comply with ODH's November 2011 guidelines for processing variance requests and HB 59 (effective May 07, 2015).

In lieu of a written transfer agreement between the PPSWO ambulatory surgical facility (ASF) and a hospital, this policy will outline the requirements and necessary monitoring to satisfy the requirements for a variance using named physicians with admitting privileges to provide for continuity of care and timely, unimpeded acceptance and admission of patients from the PPSWO ASF.

Backup Physician Credentialing Procedures

PPSWO ASF will maintain a written agreement with the physician(s) who will provide 24/7 emergency backup hospital admission for patients of the facility in the event of surgical complication, emergency situations, or other medical needs that require a level of service beyond the capability of the ASF. This will be kept as a written contract by PPSWO along with all documentation of requirements listed below.

Physicians will be asked, as part of the written agreement, to notify PPSWO as to any change to the status of their state license. PPSWO will verify the active status of the State of Ohio medical license for each physician named by viewing the licensure status on the State Medical Board website (<http://www.med.ohio.gov> under licensee profile and status). PPSWO will verify this information at initiation of the agreement as well as annually thereafter. If PPSWO learns of any changes, it will notify ODH no later than one week after PPSWO becomes aware of the change.

Physicians will be required, as part of the written agreement, to notify PPSWO if any actions have been taken against them or are in progress by the State Medical Board. PPSWO will verify this information by viewing the formal actions on the State Medical Board website at <http://www.med.ohio.gov> at initiation of the agreement and annually thereafter. If PPSWO learns of any actions, it will notify ODH no later than one week after PPSWO becomes aware of the change.

Physicians will be required, as part of the written agreement, to maintain privileges at a local hospital that allow the physician to admit a PPSWO patient if admission becomes necessary. PPSWO will verify the physician's hospital credentials in the appropriate areas of competency by contacting the medical staff credentialing office in the hospital at the initiation of the agreement and annually thereafter. If PPSWO learns of any changes, it will notify ODH no later than one week after PPSWO becomes aware of the change.

As part of the written agreement with the physician, PPSWO will require the physician to inform PPSWO immediately of any circumstance that may impact his or her ability to provide for continuity of care and the timely, unimpeded acceptance and admission of PPSWO's emergency patients. This will be included in the written contract signed by the physician. If PPSWO learns of any changes, it will notify ODH no later than one week after PPSWO becomes aware of the change.

PPSWO will provide each physician with a copy of this policy and PPSWO medical protocols and ensure that the physician has reviewed the policies and are familiar with the operations at PPSWO.

Utilization of Backup Physician Services

In the event a patient needs to be transferred to a hospital, PPSWO's attending physician shall call the contact number for one of the back-up physicians to facilitate the patient's admission to the hospital. The contact numbers for each back-up physician are on file at PPSWO.

Unless PPSWO knows Dr. Schwartz is unavailable, he is the preferred primary back-up physician. If Dr. Schwartz is unavailable, any of the other back-up physicians may be called. If all backup physicians are unavailable, the PPSWO attending physician shall contact the physician providing coverage for Dr. Schwartz by calling the contact number for Dr. Schwartz.

Each backup physician shall provide notice to PPSWO of any planned or unplanned absence from the locale within one business day before such date or as soon as possible (if the absence is unplanned) or three business days before such date or as soon as possible if the absence is planned in advance).

Dr. Schwartz travel time from his office to The Christ Hospital is 5 minutes. Dr. Anderson's travel time from her office to The Christ Hospital is 18 minutes by car. Dr. Hewitt's travel time from her office to The Christ Hospital is 18 minutes by car.

How to transfer a patient directly from PPSWO

When a patient is being transferred to the hospital for a surgical complication, emergency situation or other medical necessity the following shall take place:

DUTY	RESPONSIBILITY OF
Start appropriate emergency measures: IVs, oxygen, airway management, CPR, etc.	PPSWO physician and medical staff
Call ambulance service and give them instructions as to where to enter.	Clinical Nursing Coordinator Surgical Services
Notify staff by preexisting code of emergency and its location.	Surgery Center Manager
Monitor and record vital signs.	Medical personnel
Reassure and support patient.	Medical/counseling personnel
Complete emergency transfer form and copy patient record.	Medical personnel
Notify medical director, executive director, and others as indicated.	Available staff
Notify hospital/emergency room of impending transfer.	Surgical Medical Director, PPSWO physician or back-up physician
Notify those accompanying patient of transfer, reassure them, arrange or	Available staff

direct their trip to the hospital.	
Notify clinic personnel to halt flow to procedure rooms until patient transfer has been completed.	Available staff
Shield recovery room and other areas from observing transfer if possible.	Available staff
Inform waiting patients of delay and reschedule as necessary.	Available staff
For a serious complication or death, prepare appropriate statement for press.	CEO or designee
As soon as possible, hold staff meeting to process feelings and reactions.	CEO or designee
Quality Assurance Review	ASF Governing Body

The PPSWO attending physician shall make arrangements to transport the patient, her complete surgical chart, and the PPSWO transfer form to the hospital. A copy of other relevant medical records that are readily available will be transmitted in full with the patient.

The PPSWO attending physician shall inform the backup physician of the patient's history and cause for the hospital transfer. The PPSWO attending physician will remain available to consult with the backup physician and help arrange any necessary follow up care.

The PPSWO attending physician shall assign appropriate medical personnel to accompany the patient if the patient needs care the transporters cannot provide.

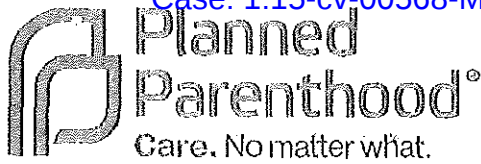
If the backup physician needs to arrange specialty coverage to the patient, the backup physician shall utilize his consultant list or the admitting hospital's specialty on call rotation using the physician on call for the particular service needed on a given day.

How to arrange for hospital admission after a patient leaves PPSWO

Patients are advised of 24/7 PPSWO nurse/physician on call availability. If it is determined that a patient is in need of immediate hospital care, the backup physician will be contacted. All known information about the patient will be given to the backup physician and this will be followed by a copy of the chart as soon as it is available. If the patient is unable to go to a hospital that is covered by a PPSWO backup physician, the PPSWO nurse and physician on call will contact the emergency department and on call physicians at the hospital the patient is able to go to. The PPSWO on call physician shall provide to the treating hospital physician all information requested as soon as possible. The PPSWO attending physician will remain available to consult with the backup or treating physician and help arrange any necessary follow up care.

Changes to this Protocol

PPSWO will notify Rebecca Maust at the Department of Health within 48 hours of any change to this written protocol by emailing her at Rebecca.Maust@odh.ohio.gov or by faxing her at 614-466-3543. A paper copy of the transmission shall be kept by PPSWO.



2314 Auburn Ave.

Cincinnati, Ohio 45219

p: 513.721.7635– f: 513.721.2313

www.ppswo.org – www.supportppsw.org

Planned Parenthood Southwest Ohio Region

April 11, 2014

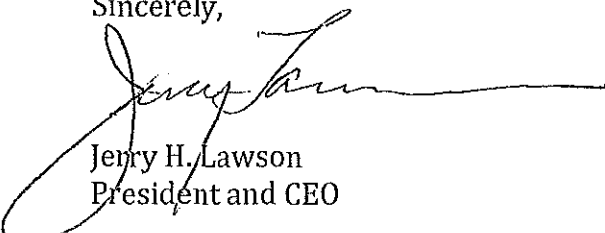
Mr. John Prout
Chief Executive Officer
619 Oak Street
Cincinnati, Ohio 45206

Dear Mr. Prout,

As President and CEO of Planned Parenthood Southwest Ohio (PPSWO), I am writing to you to request the Good Samaritan Hospital enter into an agreement with PPSWO for the transfer of our surgery patients to the Good Samaritan Hospital. PPSWO operates an ambulatory surgery center. The Ohio Department of Health requires all ambulatory surgery centers have a current written transfer agreement with a hospital. The purpose of the agreement is to transfer patients in the event of medical complications, emergency situations and for other needs as they arise. A copy of what the Ohio Department of Health requires we have in a transfer agreement is enclosed.

If the Good Samaritan Hospital would like to discuss entering a written transfer agreement with PPSWO, please contact me at your earliest convenience.

Sincerely,

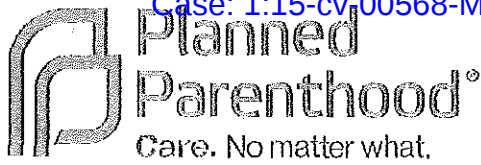

Jerry H. Lawson
President and CEO

JHL/pp

Enc.

Attachment 3

000049



2314 Auburn Ave.

Cincinnati, Ohio 45219

p: 513.721.7635 – f: 513.721.2313

www.ppswo.org – www.supportppsw.org

Planned Parenthood Southwest Ohio Region

April 11, 2014

Mr. John Prout
Chief Executive Officer
619 Oak Street
Cincinnati, Ohio 45206

Dear Mr. Prout,

As President and CEO of Planned Parenthood Southwest Ohio (PPSWO), I am writing to you to request the Bethesda North Hospital enter into an agreement with PPSWO for the transfer of our surgery patients to the Bethesda North Hospital. PPSWO operates an ambulatory surgery center. The Ohio Department of Health requires all ambulatory surgery centers have a current written transfer agreement with a hospital. The purpose of the agreement is to transfer patients in the event of medical complications, emergency situations and for other needs as they arise. A copy of what the Ohio Department of Health requires we have in a transfer agreement is enclosed.

If the Bethesda North Hospital would like to discuss entering a written transfer agreement with PPSWO, please contact me at your earliest convenience.

Sincerely,

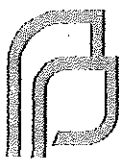
A handwritten signature in black ink, appearing to read 'Jerry Lawson', written over the typed name and title.

Jerry H. Lawson
President and CEO

JHL/pp

Enc.

000050



Planned
Parenthood®
Care. No matter what.

2314 Auburn Ave.

Cincinnati, Ohio 45219

p: 513.721.7635-- f: 513.721.2313

www.ppswo.org – www.supportppsw.org

Planned Parenthood Southwest Ohio Region

April 11, 2014

Mr. Michael Keating
President and CEO
The Christ Hospital
2139 Auburn Avenue
Cincinnati, Ohio 45219

Dear Mr. Keating,

As President and CEO of Planned Parenthood Southwest Ohio (PPSWO), I am writing to you to request The Christ Hospital enter into an agreement with PPSWO for the transfer of our surgery patients to The Christ Hospital. PPSWO operates an ambulatory surgery center. The Ohio Department of Health requires all ambulatory surgery centers have a current written transfer agreement with a hospital. The purpose of the agreement is to transfer patients in the event of medical complications, emergency situations and for other needs as they arise. A copy of what the Ohio Department of Health requires we have in a transfer agreement is enclosed.

If The Christ Hospital would like to discuss entering a written transfer agreement with PPSWO, please contact me at your earliest convenience.

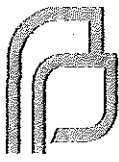
Sincerely,

A handwritten signature in black ink, appearing to read 'Jerry H. Lawson'.

Jerry H. Lawson
President and CEO

JHL/pp

Enc.



Planned
Parenthood®
Care. No matter what.

2314 Auburn Ave.

Cincinnati, Ohio 45219

p: 513.721.7635– f: 513.721.2313

www.ppswo.org – www.supportppsw.org

Planned Parenthood Southwest Ohio Region

April 11, 2014

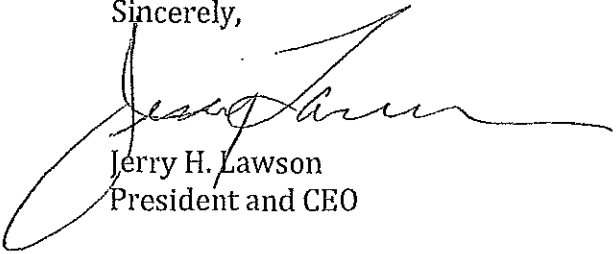
Mr. Steven Holman
President and Central Market Leader
Jewish Hospital
4777 E. Galbraith Road
Cincinnati, Ohio 45236

Dear Mr. Holman,

As President and CEO of Planned Parenthood Southwest Ohio (PPSWO), I am writing to you to request the Jewish Hospital enter into an agreement with PPSWO for the transfer of our surgery patients to the Jewish Hospital. PPSWO operates an ambulatory surgery center. The Ohio Department of Health requires all ambulatory surgery centers have a current written transfer agreement with a hospital. The purpose of the agreement is to transfer patients in the event of medical complications, emergency situations and for other needs as they arise. A copy of what the Ohio Department of Health requires we have in a transfer agreement is enclosed.

If the Jewish Hospital would like to discuss entering a written transfer agreement with PPSWO, please contact me at your earliest convenience.

Sincerely,

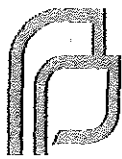


Jerry H. Lawson
President and CEO

JHL/pp

Enc.

000052



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Parenthood®
Care. No matter what.

2314 Auburn Ave.

Cincinnati, Ohio 45219

p: 513.721.7635— f: 513.721.2313

www.ppswo.org — www.supportppsw.org

Planned Parenthood Southwest Ohio Region

April 11, 2014

Ms. Lee Ann Liska
University of Cincinnati Medical Center
234 Goodman Street
Cincinnati, Ohio 45219

Dear Ms. Liska,

As President and CEO of Planned Parenthood Southwest Ohio (PPSWO), I am writing to you to request the University of Cincinnati Medical Center enter into an agreement with PPSWO for the transfer of our surgery patients to the University of Cincinnati Medical Center. PPSWO operates an ambulatory surgery center. The Ohio Department of Health requires all ambulatory surgery centers have a current written transfer agreement with a hospital. The purpose of the agreement is to transfer patients in the event of medical complications, emergency situations and for other needs as they arise. A copy of what the Ohio Department of Health requires we have in a transfer agreement is enclosed.

If the University of Cincinnati Medical Center would like to discuss entering a written transfer agreement with PPSWO, please contact me at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jerry H. Lawson'.

Jerry H. Lawson
President and CEO

JHL/pp

Enc.

APR 24 2014



Lee Ann Liska
President and CEO, UC Medical Center
Senior Vice President, UC Health

Executive Suite
234 Goodman Street
Cincinnati, OH 45219
513-584-1000
www.uchealth.com

April 22, 2014

VIA CERTIFIED MAIL

Jerry H. Lawson
Chief Executive Officer
Planned Parenthood of Southwest Ohio
2314 Auburn Avenue
Cincinnati, OH 45219

Re: Patient Transfer Agreement
Dated: April 11, 2014

Dear Mr. Lawson:

Thank you for your letter of April 11, 2014. Due to the changes in the law last summer, specifically ORC 3727.60, University of Cincinnati Medical Center is still prohibited from entering the transfer agreement you have requested. You may contact our Office of General Counsel if you have any further questions regarding this matter.

Sincerely,

A handwritten signature in black ink that reads "Lee Ann Liska".

Lee Ann Liska
President & CEO
University of Cincinnati Medical Center

000054

The Jewish Hospital 



APR 23 2014

April 16, 2014

Mr. Jerry H. Lawson
President and CEO
Planned Parenthood®
2314 Auburn Avenue
Cincinnati, OH 45219

Dear Mr. Lawson:

Thank you for your letter of April 11, 2014. The Jewish Hospital – Mercy Health respectfully declines your request to enter into a transfer arrangement. We have determined that such action would be inconsistent with our Ethical and Religious Directives (<http://usccb.org/issues-and-action/human-life-and-dignity/health-care/upload/Ethical-Religious-Directives-Catholic-Health-Care-Services-fifth-edition-2009.pdf>).

Absent a transfer agreement, please note that The Jewish Hospital – Mercy Health accepts and treats all patients who present for treatment in the Emergency Department.

Sincerely,



Steven M. Holman
President and Central Market Leader

/jlg



OHIO DEPARTMENT OF HEALTH

246 North High Street
Columbus, Ohio 43215

614/466-3543
www.odh.ohio.gov

John R. Kasich/Governor

Richard Hodges/Director of Health

October 14, 2014

Holly Myers, Administrator
Planned Parenthood Southwest Ohio Region
2314 Auburn Avenue
Cincinnati, OH 45219

RE: Planned Parenthood Southwest Ohio Region - License: 0286AS
Survey Completed on June 26, 2014

Dear Ms. Myers :

The Ohio Department of Health, under the authority of Chapter 3702 of the Ohio Revised Code, inspects Health Care Facilities to determine compliance with the licensure requirements set forth in Chapter 3701-83 of the Ohio Administrative Code. To attain and maintain licensure, a health care facility must be in compliance with each licensure requirement and not have any violations that jeopardize the patients' health and safety or seriously limit the facility's capacity to provide adequate care and services.

On the date noted above, we completed an inspection of your facility and cited the violation(s) annotated on the enclosed form. Therefore, in order to recommend your agency for licensure, we must receive an acceptable plan of correction **signed and dated within ten (10) calendar days** after you receive this notice. **Failure to provide an acceptable plan of correction may result in denial, revocation, or non-renewal of your license.** You have the option to fax your POC to the attention of Wanda Iacovetta at 614-564-2416.

This plan of correction must contain the following at a minimum:

What action(s) will be accomplished to correct the situation(s) or condition(s) causing or contributing to the noncompliance.

What measures will be put into place or what systemic changes you will make to ensure that the deficient practice does not recur.

How the corrective action(s) will be monitored to ensure the deficient practice will not recur; i.e., what quality assurance/improvement program will be put into place.

Planned Parenthood Southwest Ohio Region
October 14, 2014
Page Two of Two

The Plan of Correction must be written on the enclosed Statement of Deficiency form.

The projected date of correction must not exceed 30 days from the date of inspection exit date unless approval for an extended period for correction is obtained from this office.

Where documentary evidence of corrective action is appropriate, such evidence should accompany the plan of correction wherever possible. When this is not possible, these documents should be provided not later than the latest correction date submitted in your plan of correction **and accepted by this office**. Evidence of compliance may include documentation of facility monitoring, in-service training records, consultant reports, work orders, purchase orders, invoices, photographs, or other information that would confirm compliance.

Normally, an onsite revisit will be conducted to verify corrective action has been taken per the plan of correction. However, after our review of the plan of correction and any evidence of compliance, it is possible that an onsite visit will not be required. If this is the case, you may be contacted to request supporting documentation of compliance and/or receive a 2567B notifying you that your facility is now in compliance. The appropriate licensure action will also be recommended to the licensure administrator.

If you have any questions regarding this notice, please feel free to contact me at (614) 387-0801.

Sincerely,

Wanda L. Iacovetta, R.N.
Non Long Term Care Unit Supervisor
Bureau of Community Health Care Facilities and Services
Division of Quality Assurance

WLI:cc

Enclosure: STATE FORM Licensure

Ohio Dept Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 0286AS	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING: _____	(X3) DATE SURVEY COMPLETED R 06/26/2014
NAME OF PROVIDER OR SUPPLIER PLANNED PARENTHOOD SOUTHWEST OHIO I		STREET ADDRESS, CITY, STATE, ZIP CODE 2314 AUBURN AVENUE CINCINNATI, OH 45219		
(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
{C 000}	Initial Comments Post Survey Revisit The following violation is issued as a result of the post survey revisit The ASF facility has three surgical operating rooms (OR). Surgical procedures are conducted on Tuesday, Friday, Saturday, consultations Wednesday, Thursday, closed on Sunday and Monday. At the time of the post survey revisit there were a total of 2613 surgical procedures in the last year.	{C 000}		
C 234	O.A.C. 3701-83-19 (E) Transfer Agreement The ASF shall have a written transfer agreement with a hospital for transfer of patients in the event of medical complications, emergency situations, and for other needs as they arise. A formal agreement is not required in those instances where the licensed ASF is a provider-based entity of a hospital and the ASF policies and procedures to accommodate medical complications, emergency situations, and for other needs as they arise are in place and approved by the governing body of the parent hospital. This Rule is not met as evidenced by: This is a new citation Based on interview and policy review it was	C 234		

Ohio Department of Health
LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE

TITLE

(X6) DATE

Ohio Dept Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 0286AS	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING: _____	(X3) DATE SURVEY COMPLETED R 06/26/2014
NAME OF PROVIDER OR SUPPLIER PLANNED PARENTHOOD SOUTHWEST OHIO I		STREET ADDRESS, CITY, STATE, ZIP CODE 2314 AUBURN AVENUE CINCINNATI, OH 45219		
(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
C 234	<p>Continued From page 1</p> <p>determined the facility did not ensure a transfer agreement was in place for transferring of patients to a hospital if medically necessary. The total number of procedures in the last 12 months was 2,613.</p> <p>Interview with Staff A on 06/26/14 at 4:40PM revealed the facility does not have a transfer agreement in place and is waiting for a variance to be approved. Staff A further revealed there are three physicians at a local hospital who would take any patient whom would need to be transferred if medically necessary.</p> <p>This finding was confirmed with Staff A on 06/26/14 at 4:40PM.</p>	C 234		

State Form: Revisit Report

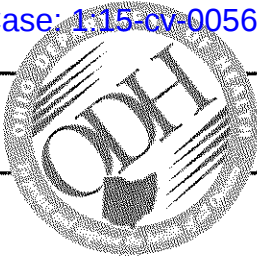
(Y1) Provider / Supplier / CLIA / Identification Number 0286AS	(Y2) Multiple Construction A. Building B. Wing	(Y3) Date of Revisit 6/26/2014
Name of Facility PLANNED PARENTHOOD SOUTHWEST OHIO REGION		Street Address, City, State, Zip Code 2314 AUBURN AVENUE CINCINNATI, OH 45219

This report is completed by a State surveyor to show those deficiencies previously reported that have been corrected and the date such corrective action was accomplished. Each deficiency should be fully identified using either the regulation or LSC provision number and the identification prefix code previously shown on the State Survey Report (prefix codes shown to the left of each requirement on the survey report form).

(Y4) Item	(Y5) Date	(Y4) Item	(Y5) Date	(Y4) Item	(Y5) Date
ID Prefix <u>C0104</u> Reg. # <u>O.A.C. 3701-83-03 (F)</u> LSC _____	Correction Completed 06/26/2014	ID Prefix <u>C0119</u> Reg. # <u>O.A.C. 3701-83-08 (A)</u> LSC _____	Correction Completed 06/26/2014	ID Prefix <u>C0150</u> Reg. # <u>O.A.C. 3701-83-12 (A)</u> LSC _____	Correction Completed 06/26/2014
ID Prefix <u>C0152</u> Reg. # <u>O.A.C. 3701-83-12 (C)</u> LSC _____	Correction Completed 06/26/2014	ID Prefix <u>C0201</u> Reg. # <u>O.A.C. 3701-83-16 (B)</u> LSC _____	Correction Completed 06/26/2014	ID Prefix <u>C0211</u> Reg. # <u>O.A.C. 3701-83-17 (F)</u> LSC _____	Correction Completed 06/26/2014
ID Prefix <u>C0255</u> Reg. # <u>O.A.C. 3701-83-21 (A) - (E)</u> LSC _____	Correction Completed 06/26/2014	ID Prefix _____ Reg. # _____ LSC _____	Correction Completed	ID Prefix _____ Reg. # _____ LSC _____	Correction Completed
ID Prefix _____ Reg. # _____ LSC _____	Correction Completed	ID Prefix _____ Reg. # _____ LSC _____	Correction Completed	ID Prefix _____ Reg. # _____ LSC _____	Correction Completed
ID Prefix _____ Reg. # _____ LSC _____	Correction Completed	ID Prefix _____ Reg. # _____ LSC _____	Correction Completed	ID Prefix _____ Reg. # _____ LSC _____	Correction Completed

Reviewed By _____	Reviewed By _____	Date: _____	Signature of Surveyor: <i>Linda Hart / Dr.</i>	Date: <u>6/26/14</u>
State Agency _____				
Reviewed By _____	Reviewed By _____	Date: _____	Signature of Surveyor: _____	Date: _____
CMS RO _____				

Followup to Survey Completed on: 6/6/2013	Check for any Uncorrected Deficiencies. Was a Summary of Uncorrected Deficiencies (CMS-2567) Sent to the Facility? YES NO
--	---



OHIO DEPARTMENT OF HEALTH

246 North High Street
Columbus, Ohio 43215

614/466-3543
www.odh.ohio.gov

John R. Kasich/Governor

Richard Hodges/Director of Health

NOV 20 2014

Jennifer Branch
Gerhardstein & Branch
432 Walnut Street, Suite 400
Cincinnati, Ohio 45202

Re: Planned Parenthood of Southwest Ohio
Variance Request

Dear Ms. Branch:

Pursuant to R.C. 3702.304 and O.A.C. 3701-83-14 and after careful review and consideration, I am granting the variance request of Planned Parenthood of Southwest Ohio for the 2013 and 2014 license periods. The variances are being granted based on the information submitted and on the identified back-up physicians. The physicians listed in both the 2013 and 2014 variance applications are: David B. Schwartz, M.D., Joseph Caligaris, M.D., and Michael Draznik, M.D. By letter dated July 7, 2014, you notified the Ohio Department of Health that Dr. Caligaris would no longer serve as a back-up physician for Planned Parenthood of Southwest Ohio. On July 30, 2014 you notified the Department that Tori Anderson, M.D. would serve as a back-up physician and on August 6, 2014, you notified the Department that Kate Hewitt, M.D. would also serve as a back-up physician.

It is my expectation that Planned Parenthood of Southwest Ohio will comply with the requirements of R.C. 3702.307(B) and (C) and will notify me within 48 hours of any modification to the variance protocol or the information contained in the variance application described in R.C. 3702.304(B). This information includes, but is not limited to, changes to the back-up physician(s) listed. Planned Parenthood of Southwest Ohio must also notify me within one week after becoming aware of any event that may affect a back-up physician's ability to practice medicine, including discipline by the state medical board, ability to admit patients to the hospital identified in Planned Parenthood of Southwest Ohio's variance application, or any court judgments that affect a back-up physician's ability to practice medicine or provide back-up services.

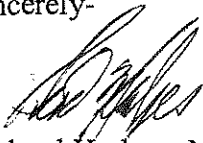
R.C. 3702.306 provides a variance the director of health grants under section 3702.304 of the Revised Code is effective for the period of time specified by the director, except that it shall not be effective beyond the date the ambulatory surgical facility's license expires. If a variance is to expire on the date the facility's license expires, the facility may submit to the director an application for a new variance with its next license renewal application. This variance will

Jennifer Branch
Page 2

expire on the date the facility's license expires, the facility may submit to the director an application for a new variance with its next license renewal application. This variance expires on May 31, 2015, to coincide with Planned Parenthood of Southwest Ohio's next license renewal, at which time a new variance request must be submitted. This variance may be rescinded at any time and for any reason pursuant to R.C. 3702.305.

If you have any questions regarding this variance, please contact Lance Himes, General Counsel, at 614-466-4882.

Sincerely-

A handwritten signature in black ink, appearing to read "R. Hodges", is written over the printed name.

Richard Hodges, MPA
Director of Health

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

PLANNED PARENTHOOD OF OHIO SOUTHWEST REGION, et al.,	:	Case No. 1:15-cv-568
	:	
	:	
	:	
Plaintiffs,	:	Judge
	:	
vs.	:	
	:	
RICHARD HODGES, et al.,	:	<u>DECLARATION OF W.M.</u>
	:	<u>MARTIN HASKELL, M.D., IN</u>
	:	<u>SUPPORT OF PLAINTIFFS’</u>
Defendants.	:	<u>MOTION FOR PRELIMINARY</u>
	:	<u>INJUNCTION</u>

I, W.M. Martin Haskell, pursuant to 28 U.S.C. §1746, declare under penalty of perjury that the following is true and correct:

1. I am the sole shareholder of Women’s Medical Group Professional Corporation (“WMGPC”), which operates Women’s Medical Center of Dayton (“WMCD”) in Kettering, Ohio and the Lebanon Road Surgery Center (“LRSC”) in Sharonville, Ohio. WMGPC was formerly Women’s Medical Professional Corporation. WMGPC has owned and operated WMCD since 1983.
2. I have read the complaint in this action and verify that all of the facts regarding WMGPC and WMCD are true based either on my personal knowledge or my personal investigation of those facts.

WMGPC and Abortion Care

3. WMGPC and its predecessor organizations have provided women’s reproductive care in Ohio since 1973. WMGPC is a corporation organized under the laws of the State of Ohio.

4. WMGPC provides pregnancy testing, abortions (including pre-op and post-op care), and birth control.

5. WMGPC has operated a licensed ambulatory surgical facility (“ASF”) providing abortions at WMCD at 1401 E. Stroop Road in Kettering, Ohio, since 2008. Prior to that date, WMGPC and its predecessor organizations, provided abortions without needing to obtain an ASF license. Currently WMGPC provides surgical abortions at WMCD to women up to 23 weeks of pregnancy as dated from the first day of the woman’s last menstrual period (“LMP”) or to 450 grams estimated fetal weight, whichever is less.

6. In the last twelve months, WMGPC performed over 2,500 surgical abortions at WMCD. Approximately 18 % of those abortions were performed after the first trimester.

7. Abortion is extremely safe, and complications are rare at our ASFs and nationwide. Legal abortion is one of the safest and most common procedures in contemporary medicine, with an incredibly low rate of complications: nationwide less than 0.3% of abortion patients experience a complication requiring hospitalization. The overwhelming majority of abortions are performed during the first trimester of pregnancy, when the gestational age of the fetus is at or less than fourteen weeks LMP. And because abortions are so safe, they are almost always provided in an outpatient setting. In 2013, 99.6% of Ohio abortions were performed on an outpatient basis.

8. Women seek abortion for a variety of deeply personal reasons, including familial, medical, financial, and personal. Some women have abortions because they conclude that it is not the right time in their lives to have a child or to add to their families; some to preserve their life or health; some because they receive a diagnosis of a severe fetal medical condition or

anomaly; some because they have become pregnant as a result of rape; and others because they choose not to have children.

9. Approximately one in three women in this country will have an abortion by age forty-five. A majority of women having abortions (61%) already have at least one child, while most (66%) also plan to have a child or additional children in the future.

10. Women in Ohio may obtain two types of abortion: medication abortion and surgical abortion. Medication abortion is a method of ending an early pregnancy by taking medications that cause the woman to undergo a procedure similar to an early miscarriage. Medication abortion is available in Ohio only through 49 days LMP.

11. Surgical abortion, despite its name, does not involve any incision. It is available in Ohio until viability up to 23 weeks LMP or to 450 grams estimated fetal weight, whichever is less.

12. Many women who seek abortions after 20 weeks LMP do so because they have received a tragic diagnosis of a severe fetal anomaly that is incompatible with life. These conditions are often not diagnosed until 20 weeks LMP. For women who have made the difficult decision to end a wanted pregnancy, WMCD is one of only two abortion providers that provides compassionate, high-quality care to Ohio women seeking abortions past 19 weeks 6 days LMP.

13. The vast majority of the rare complications are minor and are treated successfully at our ASF by myself or my excellent physicians. Notwithstanding the fact that more serious complications are exceedingly rare, our ASF is prepared for them. In 2015 WMPGC transferred one patient from WMCD for reasons unrelated to the abortion procedure. Two patients were transferred in 2014, one for observation and the other for minor gynecological care. In the past five and a half years, over 11,000 abortions have been performed with only 7 patients needing to

be transferred to a hospital. My staff follows the medical protocols attached hereto in Exhibit B at pages 000033-37 for each patient transferred.

WMGPC's ASF License and Written Transfer Agreement

14. Based on my 42 years of experience practicing medicine, it is my opinion that a WTA is not necessary for a hospital to treat a patient. Before Ohio required ASFs to have a WTA, any patient needing hospitalization from any clinic I owned or operated was treated by physicians to whom I made direct referrals. Indeed, virtually all hospitals—and certainly those in Dayton—must comply with the federal Emergency Medical Treatment & Labor Act, which requires hospitals to treat and stabilize all emergency patients (unless transfer to another facility is otherwise indicated). 42 U.S.C. § 1395dd(b) (commonly referred to as EMTALA). Although Miami Valley Hospital declined WMCD's requests for a WTA, it assured the Ohio Department of Health ("ODH") that it would treat WMCD patients in an emergency. Exhibit B page 000038.

15. In fact, even if a clinic were to have a WTA with a particular hospital, the clinic's patients may not go to that hospital. Some paramedics determine which hospital is closest or best suited for the patient's needs per their protocols and do not care which hospital has a WTA with the clinic. Others may follow the patient's preference based on insurance or other concerns.

16. Further, in the exceedingly rare event that a patient requires follow-up care at a hospital after she has returned home from the clinic, she would be instructed to go to the nearest hospital, which may not necessarily be the hospital where the clinic has a WTA.

17. In 1996, Ohio's ASF rules became effective. In 1999, ODH required WMCD to apply for a license. WMCD, along with other abortion clinics, appealed this decision. In 2002, the court held the ASF rules applied to WMCD. In October 2002, WMCD applied to ODH for an ASF license. The application met the requirement for a license in all respects.

18. At the time of its application, WMCD had a WTA with Miami Valley Hospital.

However, the following month, in November 2002, Miami Valley Hospital rescinded the WTA after pressure from a Board member who did not want the hospital to be associated with an abortion clinic.

19. Thus, while WMCD's ASF application was pending, WMCD requested a waiver of the WTA Requirement because it had alternative provisions in place for admitting patients to a hospital in emergency and non-emergency situations. WMCD met all the other requirements for an ASF license except the WTA Requirement.

20. In January 2003, ODH denied WMCD's waiver request and ASF license application and issued a cease and desist order requiring the clinic to close immediately. Litigation over ODH's actions ensued for several years. *See Women's Med. Prof'l Corp v. Baird*, 438 F.3d 595, 603 (6th Cir. 2006); *Women's Med. Prof'l Corp v. Baird*, SDOH Case No. 2:03-cv-162.

21. In 2008, WMCD applied for a variance of the WTA Requirement. ODH granted WMCD's variance request based on WMCD's hospital transfer protocol and relationship with backup physicians who could admit a WMCD patient to a local hospital.

22. In December 2011, ODH changed its internal rules for processing variance requests and required ASFs to apply for a variance annually at the time that the ASF applied for its license renewal. At the time of this rule change, WMCD and LRSC were the only ASFs in the state with a WTA variance. Since this rule change, WMCD has filed timely license renewal and variance applications each year in 2012, 2013, 2014 and 2015.

23. Under Ohio law, ASFs with pending license renewal applications can continue operating as long as the renewal application is timely filed. Thus, WMCD continues to operate under its 2011 ASF license because its renewal applications are timely filed each year.

24. WMCD filed its annual license renewal application and variance application for 2015 on July 25, 2015. Exhibit B pages 000003-37.¹ That application described WMCD's hospital transfer protocols and its relationships with backup physicians who could admit WMCD patients to Miami Valley Hospital. The application for a variance is still pending.

25. Immediately thereafter, ODH posted WMCD's variance application on its website.² Miami Valley Hospital objected to the variance, as did others. Miami Valley Hospital did verify that WMCD's back-up physicians maintain active privileges at the hospital and that the hospital will "continue to treat any and all patients presenting to our Emergency Department." Exhibit B page 0000038.

26. On June 30, 2015, Ohio's biennial budget bill, H.B. 64, was enacted. Now, under H.B. 64, if ODH denies WMCD's pending variance request on or after September 29, 2015, or if WMCD's variance request is pending with ODH as of November 28, 2015, ODH will automatically suspend the clinic's ASF license ("Automatic Suspension Provision"). If this were to occur WMCD would be forced to immediately close its ASF and it would be unable to provide surgical abortions to our patients. Prior to the Automatic Suspension Provision in H.B. 64, ASFs with pending license renewal applications could continue operating as long as the renewal application was timely filed. Ohio Admin. Code 3701-83-05.

27. Governor Kasich wrote a letter to Ohio Right to Life touting the pro-life provisions in the budget bill. Exhibit B page 000039.

28. Because of the effects of H.B. 64, WMCD is in imminent danger of losing its ASF license and being forced to close its ASF.

¹ The documents hereto as Exhibit B are true and accurate copies of documents related to this case.

² Ohio Department of Health website

<https://www.odh.ohio.gov/odhprograms/chcf/comhfs/ambctr/ASF%20Variance%20Request.aspx> (last visited August 29, 2015).

29. If WMCD is forced to close, WMGPC, its employees, and its patients in the Greater Dayton area will suffer irreparable harm. The Greater Dayton area will be left without a surgical abortion provider.

30. WMCD will suffer loss of patients, loss of patient trust, and loss of our ability to provide abortions to our patients, and will likely need to lay off all staff members at both WMCD and LRSC.

31. WMGPC's LRSC clinic in Sharonville, Ohio stopped performing surgical abortions in 2014. ODH granted LRSC a variance from the WTA Requirement in 2010, but in 2014 ODH denied the variance and revoked LRSC's license for not having a variance or a WTA. WMGPC requested a WTA for LRSC with University of Cincinnati Medical Center ("UCMC") in July 2013. However, UCMC responded that because of recently passed HB 59—which prohibited "public hospitals" from entering into WTAs with ASFs—it was unable to provide a WTA. Exhibit B page 000001. If WMGPC could obtain a WTA from UCMC, it would be able to reapply for LRSC's ASF license.

32. Until that happens, so long as LRSC remains unable to provide surgical abortions, and if WMCD and PPSWO were to close due to the Automatic Suspension Provision, the entire Southwest Ohio region would be left without a surgical provider. The closest clinic providing first trimester abortions is in Columbus, which is approximately 150 miles round trip from WMCD. Most patients will need to make that trip at least twice for a single abortion since two visits, at least 24 hours apart, are required by Ohio laws. The first visit is for the woman to receive information about the abortion procedure, and the second visit is for the procedure itself.

33. Our patients – the vast majority of whom are already low income and without resources – will suffer significant harm if our ASF is closed. Women who would ordinarily have sought a surgical abortion at WMCD will be forced to travel to clinics in other parts of the state.

34. Those women we treat who need an abortion after 16 weeks 6 days LMP will be forced to travel to Cleveland, Ohio, a trip that is approximately 438 miles round trip from our clinic.

These women will need to make at least three visits to a clinic in Cleveland—the first visit is to receive information about the procedure, and the second two are for the abortion procedure and must be on back to back days, thus requiring out of town patients to stay overnight in a hotel.

35. Given the approximately 200 WMCD patients per year who seek abortions after 18 weeks, the increased costs, the fact that the vast majority of WMCD's patients are low-income, the travel costs and delays will make it impossible, for a significant number of women to obtain an abortion past 16 weeks 6 days LMP gestation.

36. Many of our patients already struggle to afford their abortions, to make child care arrangements, and to arrange time off from work to reach our ASF, making travel to Columbus or Cleveland a significant hurdle to obtaining an abortion.

37. Even if a clinic in Columbus could accept some of our patients, wait times for all patients will grow, delaying the procedure for some of our patients.


38. Although abortion is an extremely safe procedure, the risks do increase as the pregnancy advances.

39. Further, the costs of the abortion procedure also increase with gestational age. Thus as women are forced to delay their procedure due to long wait times at clinics, they may also be forced to come up with more money, thus causing them to delay their procedure even further, as

they acquire the additional funds to cover the additional costs of the procedure and the accompanying travel, childcare, and lost wages.

40. For some women, these additional logistical and financial burdens may be too great and they may be unable to travel to another clinic in the state to receive an abortion. These women may resort to dangerous self-help methods, or obtain illegal abortions, which could create a public health crisis.

41. My training in medicine began in 1968 and I received my license in Alabama in 1973. I have seen first-hand the devastating infections, complications, sterility, and even death that resulted from illegal abortions and self-abortions prior to 1973 when abortions were legalized in this country. I am most concerned that desperate women will resort to desperate measures and attempt, at great risk to their health, to self-abort or otherwise obtain an illegal abortion. This number will surely grow as safe and legal surgical abortions become unavailable in Southwest Ohio.



W. M. Martin Haskell, M.D.

Date Signed: 1 SEPT 2015

University of Cincinnati
Medical Center



August 5, 2013

VIA U.S. Mail and FAX (513-272-0052)

W. Martin Haskell, MD
PO Box 43100
Cincinnati, Ohio 45213

Re: Transfer Agreement for Lebanon Road Surgery Center

Dear Dr. Haskell:

I am writing to respond to your letter of July 24, 2013. Due to recent changes in Ohio law and the ownership and leasehold interests of the City of Cincinnati and the University of Cincinnati in the University of Cincinnati Medical Center (formerly University Hospital), we are not able to execute and provide the transfer agreement you requested. Please feel free to contact Charles Pangburn, our General Counsel, at 513-585-8065 if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'N. Barone', with a large, stylized initial 'B'.

Nancy Barone
Chief Operating Officer and Vice President
University of Cincinnati Medical Center

Exhibit B to Haskell Declaration



GERHARDSTEIN & BRANCH

A LEGAL PROFESSIONAL ASSOCIATION

432 WALNUT STREET, SUITE 400
CINCINNATI, OHIO 45202

TELEPHONE: (513) 621-9100
FACSIMILE: (513) 345-5543

*ALPHONSE A. GERHARDSTEIN
JENNIFER L. BRANCH
**JACKLYN GONZALES MARTIN
*ADAM G. GERHARDSTEIN

Of Counsel
ROBERT F. LAUFMAN

July 24, 2015

**Also admitted in
Minnesota*

***Also Admitted in
Kentucky and West
Virginia*

Richard Hodges, MPA
Director of Health
Ohio Department of Health
246 North High Street
Columbus, OH 43215

Re: Women's Med Center Dayton
Request for Variance to the Hospital Transfer Agreement Requirement

Dear Director Hodges:

This letter serves two purposes. One is a response to your letter to me dated June 24, 2015. The second is to request a variance for 2014 and 2015 license periods. If this letter or variance application raises additional concerns or questions, please let me know immediately so I can respond.

Response to Director's June 24, 2015 letter

On June 24, 2015 you denied Women's Med Group Professional Corporation ("WMCD")'s variance request for the 2012, 2013, and 2014 license periods. You raised several concerns with the 2014 variance which I would like to address.

First, in your view, two back-up physicians are not sufficient to provide 24/7 back-up coverage and uninterrupted continuity of care. WMCD has added a third back-up physician to address your concern. (Attachment 1). In addition, all three previous and all three current physicians are members of the same practice. Their back-up coverage if they were unavailable or out of town is their group practice, Wright State Physicians Obstetrics & Gynecology ("WSP Ob/Gyn"). If all three doctors are unavailable their group practice is their back-up. *Id.* Furthermore, WMCD has a separate contract with the group practice, Wright State Physicians Women's Health Care to provide back-up coverage and continuity of care in addition to the back-up doctors (see Attachment 1 to 2013 variance request; (Attachment 2 hereto)). Moreover, WMCD's policy (Attachment 3) allows the Medical Director to contact his physician contacts for back-up coverage. Finally, Mr. Shaker's September 5, 2014 letter to ODH states that "Miami Valley Hospital will continue to treat any and all patients presenting to our Emergency

Director Hodges

July 24, 2015

Page 2 of 4

Department.” For all of these reasons, WMCD’s variance applications are designed to provide back-up coverage and uninterrupted continuity of care.

Second, you stated you are very concerned that Mr. Shaker, the President, and CEO of Miami Valley Hospital (“MVH”) objected to the back-up physician’s agreement with WMCD. Mr. Shaker objected because the agreement uses the name Miami Valley Hospital. Frankly, I do not understand Mr. Shaker’s objection. WMCD and Miami Valley Hospital agree that WMCD has asked MVH for a written transfer agreement every year and each year it has declined. The back-up agreement does not purport to be a transfer agreement between the hospital and WMCD. Nor does the agreement make MVH an affiliate of WMCD or a supporting agency of WMCD. In addition, the physicians cannot contract with WMCD as its back-up physicians without stating the hospital where they have admitting privileges, notifying the hospital of their back-up status, verifying their admitting privileges and stating where they would admit the patient, as required by R.C. § 3702.304. For these reasons Mr. Shaker’s objection is not relevant to WMCD’s compliance with R.C. § 3702.304.

Renewed 2014 Variance Request and 2015 Variance Request

I am writing to request a variance for 2014 and 2105 of O.A.C. § 3701-83-19(E), which is the requirement that the ASF have a written transfer agreement (“WTA”) with a hospital. WMCD has requested a written transfer agreement with all the local hospitals but none have agreed to provide an agreement.

WMCD has contracted with Drs. Barhan, Duke, and Yaklic to provide backup physician services (Attachment 1). WMCD also has a contract with Wright State Physicians Women’s Health Care (“WSPWHC”) to provide back-up coverage. (Attachment 2). The three physicians have admitting privileges at Miami Valley Hospital and have agreed to exercise those privileges to provide for the continuity of care and the timely, unimpeded acceptance and admission of PPSWO’s emergency patients.

WMCD continues to have the same patient hospital transfer policy (Attachment 3) in order to ensure continuity of care for any patient who may need to be transferred to a hospital.

As is explained in more detail below, WMCD’s alternative to a written transfer agreement provides patients with the same level of safety and protection as a written transfer agreement would provide. For these reasons, WMCD requests a variance from the WTA requirement.

Drs. Barhan, Duke, and Yaklic are credentialed with admitting privileges in Obstetrics and Gynecology without restrictions at Miami Valley Hospital and will arrange patient admission and care for each patient needing medical services according to each patient's need. Drs. Barhan, Duke, and Yaklic have agreed to exercise those privileges to provide for the continuity of care and the timely, unimpeded acceptance and admission of WMCD’s patients.

Director Hodges

July 24, 2015

Page 3 of 4

WMCD's alternative to a written transfer agreement satisfies ODH's November 17, 2011 protocol and the provisions of HB 59 as follows:

- a. The attached contract complies with the requirements in ODH's protocol. WMCD has a written policy ensuring 24-hour per day, seven days per week coverage by the backup physicians who can admit patients to a hospital in the event that a patient experiences a surgical complication, an emergency, or other medical need. (Attachment 3). Drs. Barhan, Duke, and Yaklic's offices are located 5 minutes away from MVH by foot.
- b. Drs. Barhan, Duke, and Yaklic currently have active status with the Ohio Medical Board and possess a current medical license. (Attachment 4).
- c. Neither Drs. Barhan, Duke, nor Yaklic have had any actions taken against them by the Ohio State Medical Board for violations of R.C. § 4731.22 according to their agreement with the facility. Nor does any physician have a pending action or a complaint under review by the Ohio State Medical Board for violations of R.C. § 4731.22 according to their agreement with the facility. (Attachment 4).
- d. All backup physicians are credentialed with admitting privileges in Gynecology without restrictions at Miami Valley Hospital. This has been verified the physicians in the contract and in the attached credentials. (Attachment 5). Furthermore, the physicians have notified MVH that the group is consulting for WMCD and that it has agreed to provide backup services. (See Exhibit A to Attachment 1).
- e. Drs. Barhan, Duke, and Yaklic agreed in the contract to immediately inform WMCD of any circumstances that may impact their ability to provide for continuity of care and the timely, unimpeded acceptance and admission of the WMCD's emergency patients.
- f. Drs. Barhan, Duke, and Yaklic are familiar with WMCD and its operations and its policy. The contract verifies this.
- g. Drs. Barhan, Duke, and Yaklic have verified that there is practically no travel time from the WSPWHC office to the hospital. The travel time is 5 minutes by foot.
- h. The facility's written policy explains how the attending physician will use the back-up physicians to admit patients to a local hospital in an emergency, complication, or other medical need. The policy includes a plan which ensures that a substitute doctor is available to admit patients to local hospitals in the event the named backup physicians are temporarily unavailable and unable to admit patients to local hospitals.
- i. Drs. Barhan, Duke, and Yaklic agree they have access to and will use MVH's on-call consulting/referral physicians outside WSPWHC's area of specialty/expertise, if necessary.

Director Hodges

July 24, 2015

Page 4 of 4

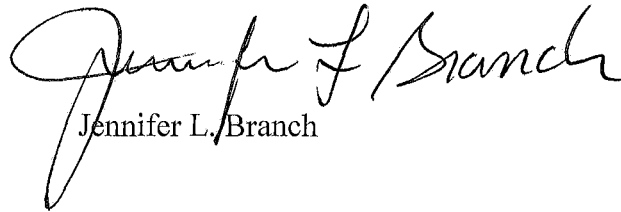
j. See i above.

k. WMCD's written protocol ensures that a copy of the patient's medical record is transmitted contemporaneously with the patient to hospital.

This variance request is a good faith attempt to comply with ODH's November 17, 2011 protocol and HB 59. WMCD has not been informed by ODH of any additional rules or regulations that apply to a variance request. If ODH implements any additional rules, WMCD requests ODH to notify WMCD.

If you need any additional information or have any questions, please contact me at the address and phone number above, or by email to jbranch@gbfirm.com.

Sincerely,



Jennifer L. Branch

C: Lance Himes
Rebecca Maust

Encls. Attachment 1 Back-up physician agreement
Attachment 2 WSPWHC agreement
Attachment 3 WMCD Back-up Physician and Hospital Transfer protocol
Attachment 4 Verification of status of license with the Ohio Medical Board
Attachment 5 Miami Valley Hospital Privileges

BACK-UP PHYSICIAN SERVICES AGREEMENT

This Back-Up Physician Services Agreement ("Agreement") is effective as of July 24, 2015 ("Effective Date"), by and between Women's Med Professional Corporation, an Ohio professional corporation, ("WMPC") and Janice Duke, M.D., Sheela Barhan, M.D., and Dr. Jerome Yaklic, M.D. ("Physicians").

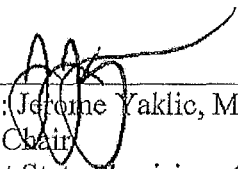
1. Dr. Janice Duke, Dr. Sheela Barhan, and Dr. Jerome Yaklic agree to be back-up physicians for WMPC. Physicians agree to provide 24/7 emergency back-up hospital admission for WMPC's patients in the event of surgical complication, emergency situations, or other medical needs that request a level of service beyond the capability of WMPC. In the event that any Physician is not on call at the time admission is needed he or she will insure that coverage is provided by the other physicians who provide coverage for them in their medical practice, Wright State Physicians Obstetrics & Gynecology ("WSP Ob/Gyn").
2. Wright State Physicians Obstetrics & Gynecology is the faculty practice plan for the department of Obstetrics and Gynecology responsible for overseeing the ACGME accredited education and training for resident physicians at the Miami Valley Hospital. As part of WSP Ob/Gyn's responsibility for the resident training program, it provides a supervising physician in the hospital 24 hours 365 days a year. All of the on-call physicians in WSP Ob/Gyn's group are board certified or board eligible in Obstetrics and Gynecology, have active Ohio medical licenses and have admitting privileges at Miami Valley Hospital as a requisite for membership in the department. The Physicians are members of Wright State Physicians, Inc. ("WSP"), the nonprofit corporation that oversees WSP Ob/Gyn.
3. Dr. Duke, Dr. Barhan, and Dr. Yaklic agree they each have admitting privileges at Miami Valley Hospital in Dayton, Ohio and will exercise those privileges to provide for the continuity of care and the timely, unimpeded acceptance and admission of WMPC's patients. Copies of Physicians admitting privilege credentials are attached as Exhibit A.
4. Dr. Duke attests that the following statements are true:
 - a. I am licensed to practice medicine in Ohio.
 - b. I am familiar with WMPC and its operations.
 - c. I agree to provide WMPC notice of any changes in my ability to provide back-up coverage.
 - d. The travel time from my main office to Miami Valley Hospital is approximately 5 minutes by foot.

5. Dr. Barhan attests that the following statements are true:
 - a. I am licensed to practice medicine in Ohio.
 - b. I am familiar with WMPC and its operations.
 - c. I agree to provide WMPC notice of any changes in my ability to provide back-up coverage.
 - d. The travel time from my main office to Miami Valley Hospital is approximately 5 minutes by foot.
6. Dr. Yaklic attests that the following statements are true:
 - a. I am licensed to practice medicine in Ohio.
 - b. I am familiar with WMPC and its operations.
 - c. I agree to provide WMPC notice of any changes in my ability to provide back-up coverage.
 - d. The travel time from my main office to Miami Valley Hospital is approximately 5 minutes by foot.
7. The Physicians verily that
 - a. Each has told WMPC that her/his specialty is Obstetrics and Gynecology.
 - b. WMPC may contact Physicians by calling Match MD, telephone number 866-200-1935, and asking for the *doctor on call*.
 - c. Each has informed Miami Valley Hospital that she/he is consulting for WMPC and has agreed to provide back-up coverage for the facility when medical care beyond the care the facility can provide is necessary. Copies of Physician's notice to the hospital are attached as Exhibit B.
8. The Physicians agree they are licensed to practice medicine in Ohio and will alert WMPC within 24 hours if their active status to practice medicine in Ohio changes.
9. The Physicians agree that no disciplinary actions have been taken against them and that no complaints are under review by the Ohio State Medical Board for violations of R.C. §4731.22. The Physicians agree to alert WMPC within 24 hours if an action is taken against any of them by the Ohio State Medical Board.
10. The Physicians agree they are credentialed with admitting privileges in Obstetrics and Gynecology without restrictions at Miami Valley Hospital in Dayton, Ohio. Any one Physician or their practice WSP Ob/Gyn will arrange patient admission and care for each patient needing medical services according to each patient's need.
11. Physicians agree to immediately and without delay inform WMPC of any circumstances that may impact their ability to provide for continuity of care and the timely, unimpeded acceptance and admission of the WMPC's patients.
12. If Physicians experience any planned or unplanned absence from the locale for one business day *where coverage will not be available* through another member of their group, WSP Ob/Gyn, they agree to provide WMPC with notice before such date or as soon as practicable (if the absence is

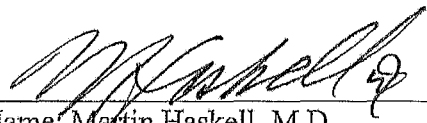
unplanned) or three business days before such date or as soon as practicable (if the absence is planned in advance).

13. The Physicians agree they have access to and will use Miami Valley Hospital's on-call consulting/referral physicians outside of their area of specialty/expertise, if necessary.
14. WMPC agrees to provide the Physicians with the patient's name, reason for referral, current medical condition and the means of transport to the hospital.
15. WMPC agrees to send to the hospital with the patient a copy of all patient records.
16. This agreement may only be modified in writing.
17. This agreement may be terminated without cause after thirty (30) days written notice is provided to the parties.

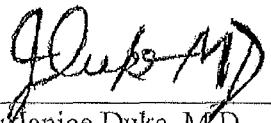
The parties have executed this Agreement by each or their authorized representatives.



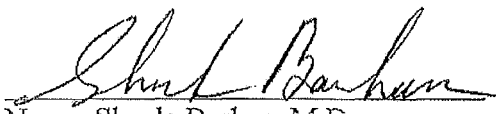
Name: Jerome Yaklic, M.D.
Title: Chair
Wright State Physicians Ob/Gyn



Name: Martin Haskell, M.D.
Title: Medical Director
Women's Med Professional Corporation



Name: Janice Duke, M.D.
Title: Physician
Wright State Physicians



Name: Sheela Barhan, M.D.
Title: Physician
Wright State Physicians

Mark Shaker
President and Chief Executive Officer
Miami Valley Hospital

7/24/2015

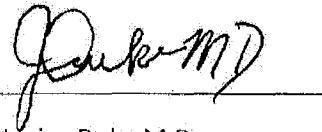
Re: Back-up Agreement with Women's Medical Center of Dayton

Dear Mr. Shaker,

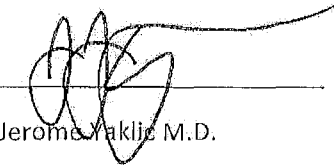
We are required to notify our hospital administration of a back-up agreement with the Women's Medical Center of Dayton. Sheela Barhan M.D., Janice Duke M.D., and Jerome Yaklic M.D. are serving as consulting physicians for Women's Medical Center of Dayton. We will be consulted when medical care is needed that is beyond the scope of that which the Women's Medical Center of Dayton can provide. Patients treated at the Women's Medical Center who require hospitalization will be admitted by us or a covering member of our practice for care.

A handwritten signature in cursive script, appearing to read "Sheela Barhan", written over a horizontal line.

Sheela Barhan M.D.

A handwritten signature in cursive script, appearing to read "Janice Duke MD", written over a horizontal line.

Janice Duke M.D.

A handwritten signature in cursive script, appearing to read "Jerome Yaklic", written over a horizontal line.

Jerome Yaklic M.D.

BACK-UP PHYSICIAN SERVICES AGREEMENT

11/1/2013
~~NOVEMBER~~
This Back-Up Physician Services Agreement ("Agreement") is effective as of 11/1/2013 ("Effective Date"), by and between Women's Med Professional Corporation, an Ohio professional corporation, ("WMPC") and Wright State Physicians Women's Health Care ("WSPWHC").


1. Wright State Physicians Women's Health Care is the faculty department of Obstetrics and Gynecology for the Wright State University Boonshoft School of Medicine overseeing the ACGME-accredited education and training for resident physicians at Miami Valley Hospital ("MVH") in Dayton, Ohio. Part of our responsibility for the resident training program is to provide a supervising physician in the hospital 24 hours 365 days a year. All of the physicians in our group are board certified or board eligible in Obstetrics and Gynecology, have active Ohio medical licenses and have admitting privileges at Miami Valley Hospital as a requisite for membership in our department.
2. WSPWHC agrees its physicians are credentialed with admitting privileges in Obstetrics and Gynecology without restrictions at MVH and will arrange patient admission and care for each patient needing medical services according to each patient's need.
3. WSPWHC agrees to provide 24/7 emergency hospital admission as the admitting physician for WMPC's patients in the event of surgical complications, emergency situations, or other medical needs that require a level of service beyond the capability of WMPC.
4. WSPWHC attests that the following statements are true:
 - a. its physicians are licensed to practice medicine in Ohio and will alert WMPC within 24 hours if any physicians' active status to practice medicine in Ohio changes;
 - b. its physicians are familiar with WMPC and its operations;
 - c. its physicians agree to provide WMPC notice of any changes in their ability to provide back-up coverage; and
 - d. the travel time from WSPWHC main offices to MVH is approximately 5 minutes by foot as we are located on the MVH Campus located in downtown Dayton. After the office is closed, physicians on call for the practice are within 30 minutes of Miami Valley Hospital and will respond within this time frame if needed.

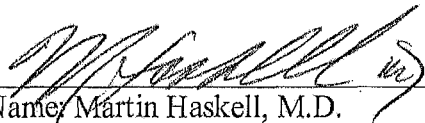
5. WSPWHC verifies that:
 - a. it has told WMPC that its physicians' specialty is Obstetrics and Gynecology;
 - b. WMPC may contact WSPWHC by calling the office telephone number 937.208.6810 during the hours of 8:30am and 4:30 pm and ask to speak to the *private office doctor on call* regarding any question related to or the transportation needs of a patient. During non-office hours, call the answering service, Match MD, telephone number 866.200.1935 and ask for the *private office doctor on call*; and
 - c. WSPWHC has informed MVH that its physicians are consulting for WMPC and have agreed to provide back-up coverage for the facility when medical or surgical complications arise for WMPC patients
6. WSPWHC agrees that no disciplinary actions have been taken against any of its physicians and that no complaints are under review by the Ohio State Medical Board for violations of R.C. § 4731.22. WSPWHC agrees to alert WMPC within 24 hours if an action is taken against any of its physicians by the Ohio State Medical Board.
7. WSPWHC agrees to immediately and without delay inform WMPC of any circumstances that may impact its physicians' ability to provide for continuity of care and the timely, unimpeded acceptance and admission of the WMPC's patients.
8. If all WSPWHC physicians experience any planned or unplanned absence from the locale for one business day, WSPWHC agrees to provide WMPC with notice before such date or as soon as practicable (if the absence is unplanned) or three business days before such date or as soon as practical (if the absence is planned in advance).
9. WSPWHC agrees it has access to and will use MVH's on-call consulting/referral physicians outside WSPWHC's area of specialty/expertise, if necessary.
10. WMPC agrees to provide WSPWHC with the patient's name, reason for referral, current medical condition and the means of transport to the hospital.
11. WMPC agrees to send to the hospital with the patient a copy of all patient records.
12. This agreement may only be modified in writing.
13. This agreement may be terminated without cause after thirty (30) days written notice is provided to the parties.

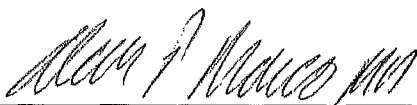
The parties have executed this Agreement by each of their authorized representatives.

Wright State Physicians Women's Health Care

Women's Med Professional Corporation


Name: Sheela Barhan, M.D.
Title: Physician


Name: Martin Haskell, M.D.
Title: Medical Director


Alan P. Marco, M.D.
Title: President and CEO
Wright State Physicians

E. Emergency Medical Protocol

1. Initial Response

Upon recognition of a suspected emergency, Nursing Staff summons the Head Nurse, the attending physician and immediately surrounding personnel using any means available (paging system, intercom, telling a nearby employee).

Nursing staffs' priorities are to

- a) protect the patient from further injury (make sure the patient will not fall),
- b) summon assistance
- c) assist the patient according to each staff member's capability
- d) assist licensed staff as they arrive

Physicians respond to requests for assistance immediately upon being notified that there is a possible emergency.

However, if a physician has started a surgery, he or she completes the surgery at hand before responding. The physician defers charting the completed surgery until the emergency is under control or has been triaged successfully.

2. Attending Physician

The attending physician is responsible for the patient outcome and has the authority and prerogative to direct the care of the patient including choice of physician and/or hospital to which the patient will be transferred. The attending physician has the prerogative to:

- a. choose to continue his or her care at another facility or hospital;
- b. refer the patient to a consultant of his or her choosing;
- c. refer the patient to one of the Center's backup physicians (list and contact information available on the company intranet).

In the event the attending physician wishes to use the Center's backup physicians and in the unlikely event that all the backup physicians are unavailable, the attending physician contacts the Medical Director for assistance in obtaining a receiving physician from the Medical Director's network of physician contacts.

The attending physician performs, directs and/or coordinates the following responses to a medical emergency in order of priority:

- a. Declares that a medical emergency or need for transfer exists and has the in charge nurse summoned to the patient care area.
- b. Provides immediate support to the emergency until adequate personnel are present and can step back.
- c. Directs the medical response and assures that the patient is receiving the appropriate medical care.
- d. Directs the in charge nurse to summon appropriate personnel and transport for the patient and assist in the medical response.
- e. Unless the attending physician will be continuing the care himself or herself, contacts the physician who will be assuming care of the patient by phone or other verbal means of communication and provides the necessary medical information and history for the receiving physician to appropriately assume care of the patient.
- f. Contacts the receiving Emergency Room physician and provides all necessary medical information and history for the physician to appropriately care for the patient until the treating physician arrives.
- g. Prepares a detailed note for the patient chart of the nature of the emergency, physical findings, the care given, order for transfer and the patient's condition at the time of transport.
- h. Directs that a complete copy of the patient's chart be made and given to the ambulance crew to transport to the emergency room

with the patient. The chart copy should be placed in an envelope labeled with the patient's name, the receiving hospital's name and receiving physician's name and the reason for the transfer.

- i. Provides instructions to the ambulance crew to appropriately care for the patient while in transit, or alternatively accompanies or directs a nurse to accompany the patient in the ambulance if the patient's condition is grave or requires ongoing medical care beyond the scope of the transport crew.
- j. Communicates the nature of the emergency and care plan with the family as soon as practical without endangering the patient's safety.

3. Charge Nurse

The in-charge nurse on duty manages and coordinates the center's response to the emergency, subject to the direction of the attending physician.

In conducting the center's response, the in charge nurse conducts herself in a calm and reassuring manner towards other staff, patients and visitors. When delegating tasks, she instructs each person to whom a task is assigned to act in a calm and professional manner.

The in charge nurse performs the following tasks in this order of priority:

- a. Provides immediate support to the emergency until adequate personnel are present that the nurse can step back.
- b. Directs personnel to assist in managing the patient's medical care and obtain appropriate equipment as conditions warrant.
- c. Upon direction of the attending physician, calls or directs someone to call 911 requesting an ambulance and describing the nature of the emergency.
- d. Calls or directs someone to call the in-charge person for the front desk/reception/waiting areas, notifying them of the existence of a medical emergency and that an ambulance has been called.
- e. Directs someone to greet the ambulance crew at the surgical area entrance and lead them to the site of the emergency.
- f. Directs someone to move patients and visitors in the surgical area into areas where they will not observe the ambulance crew entering or leaving (patient privacy), and to advise them in a calm, reassuring manner that we have an emergency and are expecting an ambulance.
- g. Directs such other response of personnel, equipment or resources that will serve the patient's best interest.
- h. Calls or directs someone to call the Medical Director if not present.
- i. Talks with the patient's family/visitors and explains the circumstances and plan to them; takes them to wait with the patient if circumstances warrant.
- j. Directs the ambulance crew to take the patient to the hospital designated by the attending physician. Insures that the crew has a copy of the patient's medical record with the receiving hospital's

name, receiving physician's name and reason for transfer prominently written on the outside of the envelope containing the medical record.

- k. If requested by the attending physician, accompanies or directs a nurse to accompany the patient to the hospital with the patient's belongings and a copy of the chart, and to relate to the hospital emergency room personnel the nature of the patient's emergency, circumstances surrounding the emergency and the care given.

4. Front Desk Charge Person

The person in charge of the front desk/waiting/reception areas, upon learning of a medical emergency, directs and coordinates the following responses in order of priority:

- a. Directs someone to wait at the building entrance for the ambulance crew and leads them to the surgical area.
- b. Directs someone to move visitors in the waiting reception areas so as to provide an unobstructed path for the ambulance crew; insofar as possible, visitors should be moved to a location out of the view of the entering and exiting ambulance crew; these activities should be conducted in a calm reassuring manner.
- c. Directs a Patient Educator or other individual to locate any visitors that accompanied the patient experiencing the emergency and take them to a private room; the Patient Educator explains to them that the patient is involved in an emergency and that a member of the medical/nursing staff will come down and explain the situation after the patient is cared for; the Patient Educator stays with the visitors providing support.
- d. Assists in accomplishing the above and directs any other response necessary as circumstances warrant.
- e. Assures that one of the patient's visitors accompanies the patient to the hospital.

5. Nursing Staff

After ensuring that any patient under their direct care has been appropriately transferred to the care of another staff member, nursing staff (other RNs, LPNs, Medical Assistants) respond to the site of the emergency and provide assistance as directed by the in charge nurse or physician.

6. Code Blue

Code Blue is the universal call for help for cardiac or respiratory arrest and is a call for all available medical personnel to respond to the site of the emergency.

After ensuring that any patient under their direct care has been appropriately transferred to the care of another staff member or discharged, nursing staff (other RNs, LPNs, Medical Assistants) respond to the site of the emergency and provide assistance as directed by the in charge nurse or physician and according to each member's capability.

The order of priority of roles and minimal qualification are as follows:

1. Call for help
2. Chest compressions—BLS Certified
3. Airway and breathing (may take 2 individuals)— BLS Certified
4. Obtain emergency cart and AED— BLS Certified
5. Operate AED—BLS Certified
6. Start IV—LPN with IV certification
7. Scribe—MA
8. Administer IV medications—RN or physician

Upon entering the site of the emergency, each staff member assesses the scene, the roles being fulfilled, whether the most appropriate level staff member is fulfilling each role and decide where he or she can best help. For example:

- If someone is performing chest compressions but no one is breathing for the patient, the person entering should begin airway management/breathing.
- If chest compressions and breathing are managed but the emergency cart is not present, the entering staff member should obtain the emergency cart, notifying those present.
- If a nurse or physician is performing CPR and an MA enters the room, the MA should ask if she can relieve the nurse or physician from the CPR.
- If a nurse enters the room, and chest compressions and airway/breathing are under way but the AED is not engaged, the nurse should set up and start the AED.

Of course, if there is only respiratory arrest but not cardiac arrest, chest compressions and the AED are not warranted. The AED should remain available and staff should be vigilant for the onset of cardiac arrest following respiratory arrest.

Some roles may require two people, depending upon the skill level of the individuals. For instance, it may take one person holding the mask securely over the patient's nose and mouth with both hands while another squeezes the ambu bag. One person can easily tire doing chest compressions for more than 2 minutes. This person and the scribe may want to alternate roles every 2 minutes.

From the above examples, it is evident that the first goal is to be sure that the roles are being fulfilled in order of priority and second that the most appropriate person is fulfilling that role. Staff communicates with each other to coordinate their actions so that all know who is doing what. Ultimately, the nurse in charge or the physician will direct personnel into specific roles.



Identification Information		[back]
Name	Dr. SHEELA MADHAV BARHAN Birth Date: 4/1966 Birth Place: CANTON, OH Birth Country:	
Practice	Wright State University School of Medicine Dept. of OB/Gyn 128 E. Apple St., Suite 3800 CHE DAYTON, OH 45409 United States of America	
Residence	BEAVERCREEK, OH 45430 County: Greene	
Professional Education	School: 019030-Tulane University School of Medicine Graduated: 06/06/92	

License and Registration Information				
Credential	License Type	Initial Licensure Date	Expiration Date	Status
35.070345	Doctor of Medicine	05/08/1996	07/01/2017	ACTIVE
Supervises				

Name	Credential	Supervisor Agreement	Approved Date	Expiration Date	Status
Barhan, Sheela- Miami Valley Hospital	41. 15278 SA	SUPV	08/29/2012	01/31/2017	ACTIVE
Specialties					
OBSTETRICS & GYNECOLOGY					
<u>Specialty listings are voluntarily provided by the physician. They are not verified by the State Medical Board and do not confirm that the physician is Board certified by a professional specialty organization. To find out if a physician is certified by a specialty board, you should contact that board. Information and links to specialty boards can be found by clicking this green box.</u>					

Formal Action Information
No formal action exists.

The above is an accurate representation of information currently maintained by the State Medical Board of Ohio as of 7/23/2015. The JCAHO and the NCQA have informed the Board that they consider this on-line license status information as fulfilling the primary source requirement for verification of licensure in compliance with their respective credentialing standards. This information is otherwise provided as a public service and no user may claim detrimental reliance thereon.

The State Medical Board utilizes the Federation Credentials Verification Service (FCVS) as an agent and partner in licensing physicians in Ohio. Physicians initially licensed in Ohio after February 1st, 1997 have had their medical education, post-graduate training and examination history primary source verified by FCVS. Therefore, the use of this website for documentation of primary source verification (PSV) of education and training meets current NCQA guidelines for those licensed after February 1, 1997. This statement, affirming that primary source verification of medical education and post-graduate training has been performed as part of the licensure process, should be printed out and retained in your files. Prior to February 1, 1997, the State Medical Board prime source verified

the post-graduate training and examination history.



Identification Information		[back]
Name	Dr. JANICE MOSNY DUKE Birth Date: 2/1944 Birth Place: ST CHARLES, IL Birth Country:	
Practice	UNIVERSITY WOMENS HEALTH CENTER One Wyoming Street Suite 4130 DAYTON, OH 45409 United States of America	
Residence	KETTERING, OH 45429 County: Montgomery	
Professional Education	School: 036070-Wright State University School of Medicine Graduated: 06/08/96	

License and Registration Information				
Credential	License Type	Initial Licensure Date	Expiration Date	Status
35.073011	Doctor of Medicine	09/02/1997	04/01/2017	ACTIVE
Specialties				
OBSTETRICS & GYNECOLOGY				

OBSTETRICS & GYNECOLOGY
OBSTETRICS & GYNECOLOGY

Specialty listings are voluntarily provided by the physician. They are not verified by the State Medical Board and do not confirm that the physician is Board certified by a professional specialty organization. To find out if a physician is certified by a specialty board, you should contact that board. Information and links to specialty boards can be found by clicking this green box.

Formal Action Information

No formal action exists.

The above is an accurate representation of information currently maintained by the State Medical Board of Ohio as of 7/23/2015. The JCAHO and the NCQA have informed the Board that they consider this on-line license status information as fulfilling the primary source requirement for verification of licensure in compliance with their respective credentialing standards. This information is otherwise provided as a public service and no user may claim detrimental reliance thereon.

The State Medical Board utilizes the Federation Credentials Verification Service (FCVS) as an agent and partner in licensing physicians in Ohio. Physicians initially licensed in Ohio after February 1st, 1997 have had their medical education, post-graduate training and examination history primary source verified by FCVS. Therefore, the use of this website for documentation of primary source verification (PSV) of education and training meets current NCQA guidelines for those licensed after February 1, 1997. This statement, affirming that primary source verification of medical education and post-graduate training has been performed as part of the licensure process, should be printed out and retained in your files. Prior to February 1, 1997, the State Medical Board prime source verified the post-graduate training and examination history.



Identification Information		[back]
Name	Dr. Jerome Lumetta Yaklic Birth Date: 12/1965 Birth Place: GROSSE POINTE, MI Birth Country:	
Practice	Wright State Physicians Women's Health Care One Wyoming Street, Suite 4130 Dayton, OH 45409 United States of America	
Residence	Centerville, OH 45458 County: Montgomery	
Professional Education	School: 023040-Wayne State University School of Medicine Graduated: 06/02/92	

License and Registration Information				
Credential	License Type	Initial Licensure Date	Expiration Date	Status
35.075267	Doctor of Medicine	09/25/1998	10/01/2015	ACTIVE IN RENEWAL
Supervises				

Name	Credential	Supervisor Agreement	Approved Date	Expiration Date	Status
Yaklic, Jerome-Miami ValleyHospital	41. 14548 SA	SUPV	04/05/2012	01/31/2017	ACTIVE
Specialties					
OBSTETRICS & GYNECOLOGY					
<u>Specialty listings are voluntarily provided by the physician. They are not verified by the State Medical Board and do not confirm that the physician is Board certified by a professional specialty organization. To find out if a physician is certified by a specialty board, you should contact that board. Information and links to specialty boards can be found by clicking this green box.</u>					

Formal Action Information
No formal action exists.

The above is an accurate representation of information currently maintained by the State Medical Board of Ohio as of 7/23/2015. The JCAHO and the NCQA have informed the Board that they consider this on-line license status information as fulfilling the primary source requirement for verification of licensure in compliance with their respective credentialing standards. This information is otherwise provided as a public service and no user may claim detrimental reliance thereon.

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Jennifer Branch

From: Beals, Pat <PRBeals@PremierHealth.com>
Sent: Thursday, July 23, 2015 1:58 PM
To: Jennifer Branch
Cc: 'sheela.barhan@wright.edu'
Subject: Admitting Privileges of Drs. Duke, and Barhan

MIAMI VALLEY HOSPITAL
Dayton, Ohio

MEMORANDUM

July 23, 2015

To: Jennifer Branch

FROM: Pat Beals
Medical Staff Coordinator

This email will confirm that Drs.
privileges at Miami Valley Hospital.

Sheela Barhan, and Jerome Yaklic have unrestricted admitting

Pat Beals
Medical Staff Coordinator
Miami Valley Hospital
One Wyoming Street
Dayton, Ohio 45409
(937) 208-2055 FAX: (937) 208-2890
prbeals@premierhealth.com

This document and any attachments are strictly intended for the use only by the named addressee(s). No other person is entitled or authorized to act upon them. If you believe you have received this message in error, please notify me by return mail.



July 21, 2014

To Whom It May Concern:

Due to the volume of verification requests we receive, the following information is available concerning the practitioner about whom you inquired.

• Name	Sheela Barhan, MD
• Appointment Date	11/26/1996
• Reappointment Date	3/31/2016
• Staff Status	Active
• Specialty	Obstetrics and Gynecology

Professional activity of all members of the Miami Valley Hospital medical staff is routinely assessed through our quality assurance/peer review mechanisms. This ongoing assessment did not result in any adverse actions being contemplated or taken against the above referenced practitioner at our hospital. To the best of my knowledge, there are no health problems that might interfere with this member's ability to perform in a competent manner and the member remains in good standing.

Sincerely,

A handwritten signature in dark ink that reads "Marc Belcastro DO".

Marc Belcastro, DO
Chief of Staff

pb

000030



July 21, 2014

To Whom It May Concern:

Due to the volume of verification requests we receive, the following information is available concerning the practitioner about whom you inquired.

• Name	Janice M Duke, MD
• Appointment Date	10/11/2000
• Reappointment Date	3/31/2016
• Staff Status	Active
• Specialty	Obstetrics and Gynecology

Professional activity of all members of the Miami Valley Hospital medical staff is routinely assessed through our quality assurance/peer review mechanisms. This ongoing assessment did not result in any adverse actions being contemplated or taken against the above referenced practitioner at our hospital. To the best of my knowledge, there are no health problems that might interfere with this member's ability to perform in a competent manner and the member remains in good standing.

Sincerely,

A handwritten signature in dark ink, appearing to read "Marc Belcastro DO". The signature is written in a cursive, somewhat stylized script.

Marc Belcastro, DO
Chief of Staff

pb

000031

GERHARDSTEIN & BRANCH

A LEGAL PROFESSIONAL ASSOCIATION

432 WALNUT STREET, SUITE 400
CINCINNATI, OHIO 45202

TELEPHONE: (513) 621-9100

FACSIMILE: (513) 345-5543

*ALPHONSE A. GERHARDSTEIN

JENNIFER L. BRANCH

**JACKLYN GONZALES MARTIN

*ADAM G. GERHARDSTEIN

Of Counsel

ROBERT F. LAUFMAN

Richard Hodges, MPA
Director of Health
Ohio Department of Health
246 North High Street
Columbus, OH 43215

July 27, 2015

**Also admitted in
Minnesota*

***Also Admitted in
Kentucky and West
Virginia*

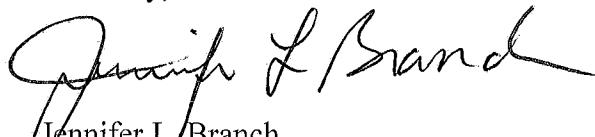
Re: Women's Med Center Dayton
Request for Variance to the Hospital Transfer Agreement Requirement

Dear Director Hodges:

I have attached Women's Med Center of Dayton's revised Hospital Transfer Protocol and Back-up Physician's protocol. They will be effective as of July 27, 2015.

If you need any additional information or have any questions, please contact me at the address and phone number above, or by email to jbranch@gbfirm.com.

Sincerely,



Jennifer L. Branch

C: Lance Himes
Rebecca Maust

Encls. Revised WMCD Back-up Physician and Hospital Transfer protocol

H. Back-up Physicians

In the absence of a hospital transfer agreement, the Medical Director maintains agreements and relationships with physicians with admitting privileges at local hospitals to care for patients that may need admission to a hospital for ongoing care.

These agreements must meet all the requirements for such agreements for the respective states in which the center is located.

The backup physicians provide the Medical Director with the following documents:

1. Written verification of their current state license to practice medicine
2. Written verification of their hospital admitting privileges

The Medical Director maintains copies of these documents and a copy of the back-up agreement in the Back-up subfolder of the respective Director's folder on the network.

G. Hospital Transfer Protocol**1. Overview**

Transfer of a patient to a hospital for a successful outcome requires the actions of several staff members performing their duties in a coordinated and seamless fashion.

In summary:

Position	Duties
Attending Physician	Requests transport Communicates with receiving physician and ER physician Completes and prints detailed note in EMR of problem and care delivered Provides care instructions to transport crew Communicates with patient's visitors reason for transport
Charge Nurse	Calls 911 Notifies Reception Charge Person that an ambulance has been called Communicates with patient's visitors that an ambulance has been called Provides care instructions to transport crew Accompanies patient to hospital if requested by attending physician or ambulance crew
Reception Charge Person	Directs someone to greet ambulance and accompany them to surgery area Directs someone to move visitors from immediate area of entrance and path to surgery area Locates patient's visitors and moves them to a private room

1. Attending Physician

The attending physician is responsible for the patient outcome and has the authority and prerogative to direct the care of the patient including choice of physician and/or hospital to which the patient will be transferred if indicated. The attending physician has the prerogative to:

- a. choose to continue his or her care at another facility or hospital;
- b. refer the patient to a consultant of his or her choosing;
- c. refer the patient to one of the Center's backup physicians (list and contact information available on the company intranet).

The attending physician performs, directs and/or coordinates the following responses to transfer a patient:

- 1) Directs the in charge nurse to summon transport for the patient and assist in the medical response.
- 2) Unless the attending physician will be continuing the care himself or herself, contacts the physician who will be assuming care of the patient by phone or other verbal means of communication and provides the necessary medical information and history for the receiving physician to appropriately assume care of the patient.
- 3) In the event the attending physician wishes to use the Center's backup physicians and in the unlikely event that all the backup physicians are unavailable, the attending physician contacts the Medical Director for assistance in obtaining a receiving physician from the Medical Director's network of physician contacts.
- 4) Contacts the receiving Emergency Room physician and provides all necessary medical information and history for the physician to appropriately care for the patient until the receiving physician arrives.
- 5) Prepares a detailed note in the patient EMR of the nature of the emergency, physical findings, the care given, the order for transfer and the patient's condition at the time of transport.

- 6) Directs that a complete copy of the patient's Visit Note be printed and given to the ambulance crew to transport to the emergency room with the patient.
- 7) Provides instructions to the ambulance crew to appropriately care for the patient while in transit, or alternatively accompanies or directs a nurse to accompany the patient in the ambulance if the patient's condition is grave or requires ongoing medical care beyond the scope of the transport crew.
- 8) Communicates the nature of the emergency and care plan with the family as soon as practical without endangering the patient's safety.

2. Charge Nurse

The in charge nurse performs the following tasks in this order of priority:

- 1) Upon direction of the attending physician, calls 911 requesting an ambulance and describing the nature of the emergency.
- 2) Calls or directs someone to call the in-charge person for the front desk/reception/waiting areas, notifying them that an ambulance has been called.
- 3) Directs someone to move patients and visitors in the surgical area into areas where they will not observe the ambulance crew entering or leaving (patient privacy), and to advise them in a calm, reassuring manner that we have an emergency and are expecting an ambulance.
- 4) Talks with the patient's family/visitors and explains the circumstances and plan to them; takes them to wait with the patient if circumstances warrant.
- 5) Directs the ambulance crew to take the patient to the hospital designated by the attending physician.
- 6) Insures that the crew has a copy of the patient's medical record in an envelope with the receiving hospital's name, receiving physician's name and reason for transfer prominently written on the outside of the envelope containing the medical record.

- 7) If requested by the attending physician, accompanies or directs a nurse to accompany the patient to the hospital with the patient's belongings and a copy of the record, and to relate to the hospital emergency room personnel the nature of the patient's emergency, circumstances surrounding the emergency and the care given.

3. Front Desk Charge Person

The person in charge of the front desk/waiting/reception areas, upon learning of a medical emergency, directs and coordinates the following responses in order of priority:

- 1) Directs someone to wait at the building entrance for the ambulance crew and leads them to the surgical area.
- 2) Directs someone to move visitors in the waiting reception areas so as to provide an unobstructed path for the ambulance crew; insofar as possible, visitors should be moved to a location out of the view of the entering and exiting ambulance crew; these activities should be conducted in a calm reassuring manner.
- 3) Locates any visitors that accompanied the patient and takes them to a private room; explains that the patient is being transported to a hospital and that a member of the medical/nursing staff will come down and explain the situation when the patient's condition permits.



Office of the President
One Wyoming St.
Dayton, Ohio 45409
(937) 208-2701
mvh.org

July 31, 2015

Mr. Richard Hodges, Director
Ohio Department of Health
246 N. High St.
Columbus, Ohio 43215

RE: Objection of Miami Valley Hospital to Back-up Physician Services Agreement with Women's Med Center of Dayton

Dear Mr. Hodges:

The purpose of this correspondence is to express the objection by Miami Valley Hospital (and Miami Valley Hospital South) to the use of its name in a Back-up Physician Services Agreement between Women's Med Center of Dayton and Janice Duke, M.D., Sheela Barhan, M.D. and Jerome Yaklic, M.D. which may have been presented to the Ohio Department of Health.

We have previously notified the aforementioned Center and physicians of our objection, plus requested for all references to Miami Valley Hospital (and Miami Valley Hospital South) be removed from the Agreement. We made this request in 2014, and have now been notified of a similar agreement generated in 2015 and possibly presented to the Ohio Department of Health.

We do not have a Transfer Agreement with the Center. While the Center has made numerous requests for a Transfer Agreement over the last several years, Miami Valley Hospital has consistently declined to provide the same. As required by Ohio and federal law, Miami Valley Hospital will continue to treat any and all patients presenting to our Emergency Department. The physicians listed in the Back-Up Agreement do maintain active privileges with Miami Valley Hospital; however, the hospital has not agreed to serve in any capacity as a supporting agency or affiliate of the Center.

Please advise if you require any other information concerning this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "M. S. Shaker", written over a horizontal line.

Mark S. Shaker
President & CEO

C: Dr. Alan Marco, President/CEO, Wright State Physicians
Dr. Jerome Yaklic, Chair, WSU, Department of OB/Gyn
Dr. Martin Haskell, Medical Director, Women's Med Center of Dayton
Dr. Margaret Dunn, M.D., MBA, Dean, WSU, Boonshoft School of Medicine

000038



JOHN R. KASICH
GOVERNOR
STATE OF OHIO

August 30, 2013

Right To Life
Ohio Right to Life
88 East Broad Street
Suite 620
Columbus, Ohio 43215

Dear Friend:

Thank you for contacting me regarding your thoughts on abortion. I appreciate hearing from you.

As a Member of Congress, I consistently opposed federal funding of abortion and voted to support a ban on partial birth abortions. As Governor, I have continued to support the right to life.

You may be interested to know the latest state operating budget includes a number of pro-life provisions including a provision which outlines a process that the Ohio Department of Health must use to distribute public funds for family planning services. State funding is reprioritized to focus on public entities operated by state or local government bodies that provide, or are able to provide, family planning services and Federally Qualified Health Centers or community action agencies instead of organizations such as Planned Parenthood.

Also included in these provisions is strong support for women against victimization. This budget creates a new funding line by giving first-ever state-level support for rape crisis centers for the purpose of providing victims of sexual assault with victim advocacy, support services, and access to hotlines. It also gives training and technical assistance to service providers and general training to prevent sexual assault.

Additionally, there is a provision in the budget which codifies current Ohio Department of Health policy that requires all ambulatory surgical facilities have a current written transfer agreement with a local hospital. In keeping with federal and state regulations against public resources being used to support abortions, it prohibits public hospitals from entering into written transfer agreements with ambulatory surgical facilities that provide or induce non-therapeutic abortions.

Finally, the bill requires a person who intends to perform or induce an abortion to determine the presence of a detectable fetal heartbeat via an external ultrasound. This provision prohibits a person from knowingly and purposefully performing or inducing an abortion before determining the presence of a detectable fetal heartbeat unless there is a medical emergency.

Again, thank you for writing. If you have any further questions please do not hesitate to contact me.

Sincerely,

John R. Kasich
Governor

JRK/ag

Am. Sub. H. B. No. 64

131st G.A.

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successfully to complete its work.

SECTION 737.13. Not later than sixty days after the effective date of this section, the director of health shall grant or deny all variance applications under section 3702.304 of the Revised Code that are pending on that effective date. A variance application that has not been granted within sixty days of the effective date of this section is considered denied.

SECTION 737.20. The Board of Building Standards shall adopt rules pursuant to section 3781.106 of the Revised Code not later than one hundred eighty days after the effective date of this section.

SECTION 737.30. Any provision of the State Fire Code that is in conflict with the amendments by this act to section 3737.84 of the Revised Code is unenforceable.

SECTION 737.40. For purposes of the transfer by this act of the Storm Water Management Program established prior to the effective date of the amendment of the statutes governing the Program by this act under Chapter 1511. of the Revised Code from the Department of Natural Resources to the Environmental Protection Agency, all of the following apply:

(A) The Director of Natural Resources may enter into a memorandum of understanding with the Director of Environmental Protection regarding the transfer of the Program.

(B) The Director of Natural Resources shall rescind rules in accordance with Chapter 119. of the Revised Code regarding the Program that were in effect immediately preceding the effective date of this section.

(C) Any business commenced but not completed by the Chief of the Division of Soil and Water Resources relating to the Program on the effective date of the amendment of the statutes governing the Program by this act shall be completed by the Director of Environmental Protection. Any validation, cure, right, privilege, remedy, obligation, or liability is not lost or impaired solely by reason of the transfer required by this act and shall be administered by the Director in accordance with this act.

(D) All of the orders and determinations of the Chief of the Division of Soil and Water Resources relating to the Program continue in effect as orders and determinations of the Director of Environmental Protection until modified or rescinded by the Director.

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(B) The director of health shall identify each government program providing benefits, other than the help me grow program established by the department of health pursuant to section 3701.61 of the Revised Code, that has the goal of reducing infant mortality and negative birth outcomes or the goal of reducing disparities among women who are pregnant or capable of becoming pregnant and who belong to a racial or ethnic minority. A program shall be identified only if it provides education, training, and support services related to those goals to program participants in their homes. The director may consult with the Ohio partnership to build stronger families for assistance with identifying the programs.

(C) An administrator of a program identified under division (B) of this section shall report to the director data on program performance indicators that are used to assess progress toward achieving program goals. The administrator shall report the data in the format and within the time frames specified in rules adopted under division (D) of this section. Using the data reported under this division, the director shall prepare an annual report assessing the performance of each government program identified pursuant to division (B) of this section during the immediately preceding twelve-month period. In addition, the report shall summarize and provide an analysis of the information contained in the "information for medical and health use only" section of the birth records for individuals born during the prior twelve-month period.

The director shall provide a copy of the report to the general assembly and the joint medicaid oversight committee. The copy to the general assembly shall be provided in accordance with section 101.68 of the Revised Code.

(D) The director shall adopt rules specifying program performance indicators on which data must be reported by the administrators described in division (C) of this section as well as the format and time frames in which the data must be reported. To the extent possible, the program performance indicators specified in the rules shall be consistent with federal reporting requirements for federally funded home visiting services. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 3702.304. (A)(1) The director of health may grant a variance from the written transfer agreement requirement of section 3702.303 of the Revised Code if the ambulatory surgical facility submits to the director a complete variance application, prescribed by the director, and the director determines after reviewing the application that the facility is capable of achieving the purpose of a written transfer agreement in the absence of one. The director's determination is final.

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(2) Not later than sixty days after receiving a variance application from an ambulatory surgical facility, the director shall grant or deny the variance. A variance application that has not been approved within sixty days is considered denied.

(B) A variance application is complete for purposes of division (A)(1) of this section if it contains or includes as attachments all of the following:

(1) A statement explaining why application of the requirement would cause the facility undue hardship and why the variance will not jeopardize the health and safety of any patient;

(2) A letter, contract, or memorandum of understanding signed by the facility and one or more consulting physicians who have admitting privileges at a minimum of one local hospital, memorializing the physician or physicians' agreement to provide back-up coverage when medical care beyond the level the facility can provide is necessary;

(3) For each consulting physician described in division (B)(2) of this section:

(a) A signed statement in which the physician attests that the physician is familiar with the facility and its operations, and agrees to provide notice to the facility of any changes in the physician's ability to provide back-up coverage;

(b) The estimated travel time from the physician's main residence or office to each local hospital where the physician has admitting privileges;

(c) Written verification that the facility has a record of the name, telephone numbers, and practice specialties of the physician;

(d) Written verification from the state medical board that the physician possesses a valid certificate to practice medicine and surgery or osteopathic medicine and surgery issued under Chapter 4731. of the Revised Code;

(e) Documented verification that each hospital at which the physician has admitting privileges has been informed in writing by the physician that the physician is a consulting physician for the ambulatory surgical facility and has agreed to provide back-up coverage for the facility when medical care beyond the care the facility can provide is necessary.

(4) A copy of the facility's operating procedures or protocols that, at a minimum, do all of the following:

(a) Address how back-up coverage by consulting physicians is to occur, including how back-up coverage is to occur when consulting physicians are temporarily unavailable;

(b) Specify that each consulting physician is required to notify the facility, without delay, when the physician is unable to expeditiously admit patients to a local hospital and provide for continuity of patient care;

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(c) Specify that a patient's medical record maintained by the facility must be transferred contemporaneously with the patient when the patient is transferred from the facility to a hospital.

(5) Any other information the director considers necessary.

(C) The director's decision to grant, refuse, or rescind a variance is final.

(D) The director shall consider each application for a variance independently without regard to any decision the director may have made on a prior occasion to grant or deny a variance to that ambulatory surgical facility or any other facility.

Sec. 3702.309. (A) If a variance application is denied under section 3702.304 of the Revised Code, the license of such an ambulatory surgical facility is automatically suspended. The director of health shall reinstate the license if one of the following occurs:

(1) The facility files with the director a copy of a written transfer agreement that meets the requirements of section 3702.303 of the Revised Code.

(2) The director grants the facility a variance pursuant to the requirements and procedures under section 3702.304 of the Revised Code;

(3) The license is required to be reinstated pursuant to an order issued in accordance with sections 119.01 to 119.13 of the Revised Code.

(B) If a facility's license remains under suspension pursuant to this section after the expiration date of the license, in order to operate as an ambulatory surgical facility it must apply for a new license under section 3702.30 of the Revised Code.

Sec. 3702.3010. A local hospital shall not be further than thirty miles from an ambulatory surgical facility:

(A) With which the local hospital has a written transfer agreement under section 3702.303 of the Revised Code; or

(B) Whose consulting physicians under a variance granted under section 3702.304 of the Revised Code have admitting privileges at the local hospital.

Sec. 3702.74. (A) A primary care physician who has signed a letter of intent under section 3702.73 of the Revised Code and the director of health may enter into a contract for the physician's participation in the physician loan repayment program. The physician's employer or other funding source may also be a party to the contract.

(B) The contract shall include all of the following obligations:

(1) The primary care physician agrees to provide primary care services in the health resource shortage area identified in the letter of intent for the number of hours and duration specified in the contract;