

Toledo abortion clinic asks Ohio Supreme Court to reconsider

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Abortion rights protesters gather on Monroe Street during an event near ProMedica Toledo Hospital to call on ProMedica and St. Luke's Hospital to sign a transfer agreement with Capital Care Network on, Monday, Feb.12, 2018.

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An attorney for Toledo's last abortion clinic has filed a motion for reconsideration with the Ohio Supreme Court — 10 days after the court ruled against it and reinstated an order to revoke its license.

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The motion, filed Friday morning by Capital Care Network attorney Jennifer Branch, asks the court to reconsider its decision in light of a newly-signed patient-transfer agreement with ProMedica Toledo Hospital.

It stays the effects of the court's 5-2 decision in the state's favor and keeps the clinic open while the justices ponder the motion. The motion also requests that the case be returned to Lucas County Common Pleas "to consider the new evidence of the transfer agreement."

On Thursday Ms. Branch sent a letter, provided to The Blade, urging state health department Director Lance Himes to reconsider the decision to revoke the clinic's license. Health department spokesman Melanie Amato confirmed the

department received the letter but did not answer whether it would take any action regarding the clinic's license.

Ms. Branch said in a written statement Friday she hopes the state health department acts "with the same lightning speed" that ProMedica did in signing the agreement this week and asks the department to issue a license promptly.

"If it does, after five years of litigation, Capital Care can finally end this unnecessary legal battle and continue providing reproductive care to the women of Northwest Ohio without the constant cloud of closure hanging over it," she wrote.

On Monday, ProMedica's board of trustees authorized the health system to enter into a transfer agreement with the clinic located at 1160 W. Sylvania Ave. The two entities signed on Wednesday. ProMedica spokesman Tedra White on Friday declined to comment on the court motion.

The Ohio Department of Health in 2014 ordered the clinic's ambulatory surgical center license revoked because it lacked a written transfer agreement with a local hospital, as required by law.

The health department did not find the clinic's agreement with an Ann Arbor Hospital 52 miles away met the definition of "local." The clinic also operated for several months without any transfer agreement after the University of Toledo Medical Center in 2013 opted not to renew its pact.

In 2013 Ohio lawmakers banned abortion clinics from entering into agreements with public hospitals like UTMC, the former Medical College of Ohio hospital. The Supreme Court in its Feb. 6 decision found the health department was correct in its revocation order, reversing two lower court decisions.

Mike Gonidakis, president of the anti-abortion group Ohio Right to Life, said the motion was just buying the clinic time.

"It's sad that this abortion clinic refuses to accept the fact that they violated state health laws for the past four years," he said. "The abortion clinic's motion will fail as the court ruled 5-2 against them in the first place. This is nothing but a stall tactic."

Blade Columbus bureau chief Jim Provance contributed to this report.

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