

Capital Care ends surgical abortions, for now

4/25/2018

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BLADE COLUMBUS BUREAU CHIEF



Volunteer clinic escorts Kristen Robideaux, left, and Laurel Hanson, stand outside the Capital Care Network abortion clinic, 1160 West Sylvania Avenue, Tuesday, February 6, 2017 in Toledo.

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COLUMBUS — Northwest Ohio's last abortion clinic has stopped performing surgical procedures — at least for now — after the Ohio Supreme Court on Wednesday refused to rethink its decision allowing the state Department of Health to revoke its license.

Capital Care Network's Cincinnati attorney, Jennifer Branch, said patients are being notified that their surgical abortions have been cancelled. No appointments had been set for Wednesday or Thursday, she said. Ms. Branch also said no further legal action is anticipated.

The clinic will remain open for medication-induced abortions.

"On March 13, we applied for a new license," Ms. Branch said. "That is still pending. Our hope is that ODH will process that license quickly, and if they do, this would just be a delay in abortion services, not a complete termination."

Without comment, the court on Wednesday unanimously denied a motion from the Toledo clinic asking the court to reconsider its prior decision upholding the state's actions because the clinic lacked a legally required written patient transfer agreement with a local hospital in the event of a medical emergency.

After the ruling, the clinic reached an agreement with ProMedica, and the clinic asked the department to either renew the clinic's operating license as an ambulatory surgical center or issue a new one. The department has not yet acted on that request.

The Supreme Court had previously ruled 5-2 that the department had the authority to pursue its action against the clinic, overturning decisions by Lucas County Common Pleas Court and the Sixth District Court of Appeals.

Capital Care at one point had gone months without a transfer agreement in place after the University of Toledo Medical Center, formerly the Medical College of Ohio, opted not to renew its prior deal. A state law later prohibited publicly funded institutions like UTMC from being parties to such an agreement.

After failing to find another Ohio hospital willing to take its place, Capital Care penned a deal with the University of Michigan Health Systems in Ann Arbor. But the state rejected that deal, saying a hospital more than 50 miles away did not meet its idea of a "local" hospital. The term "local" was later defined in law as being within 30 miles of the clinic.

The state successfully urged the high court to reject the reconsideration motion, saying that having an agreement now doesn't negate the fact that the clinic was not in compliance with the law before that.

"It rightly lost its old license," Attorney General Mike DeWine's office said. The clinic must seek a new license, it said.

"This is now a matter between the Ohio Department of Health and Capital Care Network," ProMedica spokesman Tedra White said in a statement.

A department hearing officer on June 27 will consider the clinic's separate challenge to a \$40,000 fine levied for alleged violations stemming from a surprise license inspection of the facility last year.

The state accused the clinic of failing to follow its own internal procedures when it came to the transfer of a patient to Toledo Hospital for an ultrasound after suspected complications following an abortion.

"Capital Care Network owes an enormous fine of \$40,000 to the state of Ohio, based upon repeated violations of state law," said the organization's president, Michael Gonidakis. "The original Ohio Department of Health order remains in effect and, in order to reopen, this abortion facility must reapply for a license and pay its fine before aborting any more children."

NARAL Pro-Choice Ohio, meanwhile, called the state's actions "ugly," "shameful," and "dangerous."

"This morning a woman in Toledo woke up with the knowledge that she needed an abortion," Executive Director Kellie Copeland said. "There is a clinic in her community that can offer her safe and professional care. That clinic has met all state requirements to provide abortion services.

"John Kasich and Mike DeWine are standing in between that woman and this clinic, and they are violating her rights as they do so," she said.

The attorney general's office considers the case to be over, leaving administrative decisions pertaining to the clinic's license to the Department of Health.

The vast majority of the 20,672 abortions performed in Ohio in 2016 were through surgical procedures rather than medication-induced. The latter option is limited to pregnancies of shorter gestation.

With the developments in Toledo, surgical abortions are available in Ohio at seven clinics — two each in the Cleveland and Columbus areas and one each in Dayton, Cuyahoga Falls, and Cincinnati, according to Ms. Copeland.

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