ALABAMA STATE BOARD OF MEDICAL EXAMINERS

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March 26, 2018

Sarah Dilley, M.D.
Suite 10250
1700 6th Avenue South
Birmingham, Alabama 35233

Dear Dr. Dilley:

The Alabama Board of Medical Examiners, at its meeting March 21, 2018, considered an investigative report concerning a complaint filed by Ms. M[redacted]L. G[redacted] Your response to the allegations was also considered.

Based upon the information presented, the Board found no basis at this time for any action against your license to practice medicine and has closed the investigation into this matter. Ms. G[redacted] will be informed of the Board's disposition of the complaint.

Dr. Dilley, the Board does consider its inquiry into this matter to be an investigation. Under certain circumstances, other credentialing, regulatory or licensing boards may require that you report this investigation. If necessary, you may use a photocopy of this correspondence to convey the Board's decision in this matter.

Thank you for your cooperation in this investigation.

Sincerely,
ALABAMA BOARD OF MEDICAL EXAMINERS

Mark H. LeQuire, M.D.
Acting Executive Director

MHL/atd

MHCI
McCALLUM • HOAGLUND • COOK • IRBY

CHARLES A. McCALLUM, III
ERIC D. HOAGLUND*
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**ALSO ADMITTED IN TENNESSEE
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*** * * PRIVILEGED & CONFIDENTIAL * * ***

January 24, 2018

VIA ELECTRONIC MAIL and U.S. MAIL

Randy Dixon
Alabama Board of Medical Examiners
848 Washington Avenue
Montgomery, Alabama 36104
Email: rdixon@albme.org

RE: Case No.: 2017-257

Dear Mr. Dixon:

The following will serve as the response of Dr. Sarah E. Dilley with respect to the above-referenced case number. Attached hereto are the following:

1. the Statement of Sarah E. Dilley, M.D., MPH (Attachment 1);
2. the Statement of Ashley Mosley who assisted in the procedure (Attachment 2);
3. a clearer copy of the photographs of the ultrasound performed by Dr. Dilley on May 11, 2017, bates labeled PP00035 (Attachment 3).

We were able to locate the original ultrasound photographs and make a better copy. The prior ultrasound photograph was produced as PP00025.

As expressed by Dr. Dilley, we are very sorry that Ms. G[redacted] experienced a continuing pregnancy. It is very understandable that Ms. G[redacted]s upset and believes she paid for a procedure that did not successfully terminate her pregnancy.

From a disclosure perspective, however, I did want to highlight that patients are informed that no guarantees or promises are made concerning the procedure. (PP0009 - 10.) Further, patients are informed, as the first disclosed risk, as follows:

> Sometimes the in-clinic abortion does not end the pregnancy. If the pregnancy is still in the uterus, you may need a suction procedure.

(PP0007.)

Because there is a risk of a continuing pregnancy, patients are advised to make a return appointment as soon as possible if they still feel pregnant. (PP00020.) In her Complaint, Ms. G[redacted] indicates she continued to feel sick after the procedure and had thought maybe she had gotten pregnant again. Based upon Planned Parenthood's records it does not appear that she returned to the clinic until July 5, 2017, which was almost 8 weeks after the procedure. When it learned of the situation, Planned Parenthood made arrangements and paid for Ms. G[redacted] to have an abortion procedure at the Alabama Women's Center in Huntsville.

As set forth in her statement, Dr. Dilley had previously stopped performing clinics at Planned Parenthood at the end of May 2017 in order to focus on the clinical aspect of her fellowship at UAB. Accordingly, when Ms. G[redacted] returned in July 2017 she did not have the opportunity to consult with or attend to Ms. G[redacted] at that time. Dr. Dilley was not even aware of Ms. G[redacted] situation until being contacted by you in late November 2017.

While Dr. Dilley cannot determine the etiology of the continuing pregnancy based upon the information she has available, she is confident that she adhered to the applicable standard of care in providing medical care to Ms. G[redacted].

Dr. Dilley appreciates the consideration of her response to the Complaint. Please advise if you should need anything further from Dr. Dilley.

Very truly yours,

Chip McCallum

Charles A. McCallum, III
CAM/lm
Enclosures

Statement of Sarah E. Dilley, MD, MPH
Alabama License No. 34967
Case No.: 2017-257

My name is Sarah E. Dilley and I am providing this Statement in connection with Case No. 2017-257 which involves a complaint by a patient, M[redacted] G[redacted]. I understand Ms. G[redacted] complains that I failed to properly terminate her pregnancy on May 11, 2017 which caused her to suffer pain, duress and concern until a continuing pregnancy was subsequently diagnosed and terminated in July 2017. As a medical practitioner committed to women's healthcare, it affects me deeply to learn of Ms. G[redacted] experience, and I am very regretful and sorry for what she had to endure. I have reviewed Ms. G[redacted] complaint and the medical records associated with her treatment.

My Background and Experience

Attached to this Statement is my *Curriculum Vitae*. I am currently in the second year of a clinical Fellowship at the University of Alabama at Birmingham, Division of Gynecological Oncology. I received an undergraduate degree from Emory University in 2006, a Masters in Public Health from Harvard University in 2011 and a Doctor of Medicine from Indiana University School of Medicine in 2012. I completed my residency with the Department of Obstetrics and Gynecology at Oregon Health and Science University ("OHSU") in 2016. Notably at OHSU I participated in the Ryan Residency Training Program, which is a national initiative designed to provide enhanced clinical training in family planning and abortion care. The rotation involves working one-on-one with an attending physician to improve competency in uterine sizing, sonography, uterine evacuation techniques, management of fetal demise and management of abortion-related complications. During residency I performed over one hundred elective abortion procedures, as well as many D&C procedures for miscarriages.

After being accepted as a Fellow in the Division of Gynecologic Oncology at UAB's Comprehensive Cancer Center in the summer of 2016, my first year was devoted to research which afforded me the time and opportunity to participate in outside clinical activities. In November 2016, I agreed to serve as a physician with Planned Parenthood for two (2) days a month until June 2017 when the clinical portion of my Fellowship at UAB was to begin. Prior to handling clinics at Planned Parenthood, I went through an ultrasound training module and spent three (3) days being followed by other physicians who attended, reviewed, and signed off on my competency. My first solo clinic was on or around December 22, 2016 and my last was at the end of May 2017. I had approximately twelve (12) full clinic days at Planned Parenthood. During that period I performed 65 surgical abortion procedures with no known issues or complications other than Ms. G[redacted] I have not handled any clinics at Planned Parenthood since my planned end date in May 2017 and wasn't aware of Ms. G[redacted] situation until I was contacted by Mr. Randy Dixon in November 2017.

Ms. Grady's Procedure

I do not have a specific recollection of Ms. G[redacted] procedure, but I have reviewed her patient records. Ms. G[redacted] initially presented at Planned Parenthood on May 8, 2017 for confirmation of a suspected pregnancy and was provided with family planning alternatives. A history was taken. Ms. G[redacted] has five (5) previous children, two (2) by Cesarean Section. She had one set of twins. Ms. G[redacted] elected to terminate the existing pregnancy by an in-clinic vacuum suction procedure. The procedure was scheduled for May 11, 2017. Based upon her last menstrual cycle, the estimated duration of pregnancy was seven (7) weeks and five (5) days.

The documentation provided to Ms. G[redacted] informed her that "[s]ometimes the in-clinic abortion does not end the pregnancy." The documentation also states that there is "[n]o

guarantee about the results from this service/procedure/surgery" and "[n]o promise can be made about the outcome on the in-clinic abortion." Because there is a disclosed risk of a continuing pregnancy, all patients, including Ms. G[redacted] are notified to contact the clinic after the procedure if patient feels like she is still pregnant.

When Ms. G[redacted] returned on May 11, 2017 for the procedure, I personally confirmed the pregnancy by abdominal ultrasound, detected a fetal heartbeat and estimated a gestational age of seven (7) weeks and four (4) days based on crown-rump length measurements. I did not detect multiple heartbeats or observe multiple pregnancies on the ultrasound. When I conduct an ultrasound it is my standard practice to scan the entire uterus on both a transverse and longitudinal plane. The yolk sac, amniotic fluid and surrounding structures appeared normal and appropriate for the estimated gestational age.

Prior to the procedure she was given medication for minimal sedation. Per my standard practice, she was then taken to the procedure room where I performed a bimanual exam, placed a speculum and performed a paracervical block with 1% lidocaine. Her cervix was serially dilated, and the procedure was performed with an electric suction vacuum with a 7mm rigid curved suction cannula. After the aspiration, I personally grossly identified the products of conception including chorionic villi and gestational sac. At that gestational age, fetal parts would not be identifiable. The products of conception were also visually confirmed by my assistant, Ashley Mosley, while Ms. G[redacted] was still on the table. If there was any question about the volume of aspirated tissue or the contents therein, it is my practice to re-aspirate to ensure the procedure was successful, which would have been documented in Ms. G[redacted] chart if I had done this. In my professional opinion there was no question that a pregnancy had been successfully terminated based upon my visualization of the products of conception. A specimen of the

aspirated tissue was also labeled and submitted to a pathology laboratory for confirmation of the presence of pregnancy tissue. The pathology report received back on Ms. G[redacted] specimen confirmed the existence of decidualized endometrium with chorionic villi that are consistent with products of conception. Accordingly, there is nothing in the pathology report that would indicate that the pregnancy was not successfully terminated.

Based upon my standard practices and review of the medical records, every medical indication leads me to believe that Ms. G[redacted] had a pregnancy that was successfully terminated on May 11, 2017. I am convinced that I fully adhered to the standard of care in diagnosing a pregnancy and performing a safe termination procedure. The completion of this procedure was confirmed visually by myself and my assistant, Ashley Mosley, and from the pathology report. The aspirated tissue was clearly identified as products of conception which is a reliable indicator that a pregnancy has been terminated. Based upon my training, experience and standard of practice I exercised reasonable care in performing the ultrasound and the aspiration procedure and, honestly, cannot specifically determine the precise etiology of her continuing pregnancy.

Conclusion

As previously stated, I have much empathy for Ms. G[redacted] and feel badly that she had to endure such difficulty. I am completely committed to providing professional and competent medical treatment focused on women's healthcare. I saw the opportunity to provide clinical services at Planned Parenthood as a way to serve women during a very emotional and vulnerable time period in their lives. Thank you for your consideration of this response.

Respectfully,

Sarah E. Dilley, MD, MPH

Date: 1-22-2018