

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED
AHCA
AGENCY CLERK

2022 OCT 27 A 11:34

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

DOAH No. 22-2627

v.

AHCA No. 2022008533

RENDITION NO.: AHCA-22-786 -S-OLC

DOCTOR'S OFFICE FOR WOMEN, INC.
d/b/a TODAY'S WOMEN MEDICAL CENTER,

Respondent.

FINAL ORDER

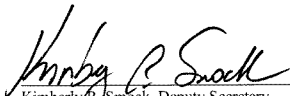
Having reviewed the Administrative Complaint, and all other matters of record, the Agency for Health Care Administration finds and concludes as follows:

1. The Agency issued the attached Administrative Complaint and Election of Rights form to the Respondent. (Ex. 1). The parties have since entered into the attached settlement agreement, which is adopted and incorporated by reference into this Final Order. (Ex. 2).

2. The Respondent shall pay the Agency \$500.00. If full payment has been made, the cancelled check acts as receipt of payment and no further payment is required. If full payment has not been made, payment is due within 30 days of the Final Order. Overdue amounts are subject to statutory interest and may be referred to collections. A check made payable to the "Agency for Health Care Administration" and containing the AHCA ten-digit case number should be sent to:

Central Intake Unit
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 61
Tallahassee, Florida 32308

ORDERED at Tallahassee, Florida, on this 27th day of October, 2022.

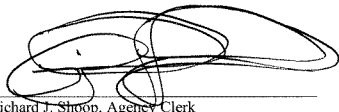

Kimberly R. Smoak, Deputy Secretary
Agency for Health Care Administration

NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this Final Order is entitled to judicial review, which shall be instituted by filing one copy of a notice of appeal with the Agency Clerk of AHCA, and a second copy, along with filing fee as prescribed by law, with the District Court of Appeal in the appellate district where the Agency maintains its headquarters or where a party resides. Review of proceedings shall be conducted in accordance with the Florida appellate rules. The Notice of Appeal must be filed within 30 days of rendition of the order to be reviewed.

CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy of this Final Order was served on the below-named persons by the method designated on this 21st day of October, 2022.



Richard J. Shoop, Agency Clerk
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 3
Tallahassee, Florida 32308
Telephone: (850) 412-3630

Facilities Intake Unit Agency for Health Care Administration (Electronic Mail)	Central Intake Unit Agency for Health Care Administration (Electronic Mail)
Elizabeth DeMarco, Senior Attorney Office of the General Counsel Agency for Health Care Administration (Electronic Mail)	Vlad Van Rosenthal Doctor's Office for Women, Inc. d/b/a Today's Women Medical Center 3250 South Dixie Highway Miami, Florida 33133 vladrosenthal@bellsouth.net (Electronic Mail)
Division of Administrative Hearings 1230 Apalachee Parkway Tallahassee, Florida 32399-3060 (Electronic Filing)	

**STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION**

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

v.

AHCA No. 2022008533

DOCTOR'S OFFICE FOR WOMEN, INC.
d/b/a TODAY'S WOMEN MEDICAL CENTER,

Respondent.

ADMINISTRATIVE COMPLAINT

The Petitioner, State of Florida, Agency for Health Care Administration ("the Agency"), files this Administrative Complaint against the Respondent, Doctor's Office for Women, Inc. d/b/a Today's Women Medical Center ("the Clinic"), pursuant to Sections 120.569 and 120.57, Florida Statutes.

NATURE OF THE ACTION

This is an administrative action against an abortion clinic to impose an administrative fine of \$3,000.00 based upon violations of Chapter 390, Florida Statutes, and Chapter 59A-9, Florida Administrative Code.

PARTIES

1. The Agency is the licensing and regulatory authority that oversees abortion clinics in Florida and enforces the applicable state statutes and rules governing such facilities. Ch. 390 Fla. Stat. (2021); Ch. 408, Part II, Fla. Stat. (2021); Ch. 59A-9, Fla. Admin. Code.
2. The Clinic was issued a license by the Agency to operate an abortion clinic to perform second trimester abortions and was at all times material required to comply with the

applicable statutes and rules governing abortion clinics.

3. The Clinic was issued a license (License Number 898) to operate an abortion clinic located at 3250 South Dixie Highway, Miami, Florida 33133.

COUNT 1
Requirement for Informed Consents

4. Under Florida law:

390.0111 Termination of pregnancies. —

(3) CONSENTS REQUIRED. —A termination of pregnancy may not be performed or induced except with the voluntary and informed written consent of the pregnant woman or, in the case of a mental incompetent, the voluntary and informed written consent of her court-appointed guardian.

(a) Except in the case of a medical emergency, consent to a termination of pregnancy is voluntary and informed only if:

1. The physician who is to perform the procedure, or the referring physician, has, at a minimum, orally, while physically present in the same room, and at least 24 hours before the procedure, informed the woman of:

a. The nature and risks of undergoing or not undergoing the proposed procedure that a reasonable patient would consider material to making a knowing and willful decision of whether to terminate a pregnancy.

b. The probable gestational age of the fetus, verified by an ultrasound, at the time the termination of pregnancy is to be performed.

(I) The ultrasound must be performed by the physician who is to perform the abortion or by a person having documented evidence that he or she has completed a course in the operation of ultrasound equipment as prescribed by rule and who is working in conjunction with the physician.

(II) The person performing the ultrasound must offer the woman the opportunity to view the live ultrasound images and hear an explanation of them. If the woman accepts the opportunity to view the images and hear the explanation, a physician or a registered nurse, licensed practical nurse, advanced practice registered nurse, or physician assistant working in conjunction with the physician must contemporaneously review and explain the images to the woman before the woman gives informed consent to having an abortion procedure performed.

(III) The woman has a right to decline to view and hear the explanation of the live ultrasound images after she is informed of her right and offered an opportunity to view the images and hear the explanation. If the woman declines, the woman shall complete a form acknowledging that she was offered an opportunity to view and hear the explanation of the images but that she declined that opportunity. The form must also indicate that the woman's decision was not based on any undue influence from any person to discourage her from viewing the images or hearing the explanation and that she declined of her own free will.

(IV) Unless requested by the woman, the person performing the ultrasound may not offer the opportunity to view the images and hear the explanation and the explanation may not be given if, at the time the woman schedules or arrives for her appointment to obtain an abortion, a copy of a restraining order, police report, medical record, or other court order or documentation is presented which provides evidence that the woman is obtaining the abortion because the woman is a victim of rape, incest, domestic violence, or human trafficking or that the woman has been diagnosed as having a condition that, on the basis of a physician's good faith clinical judgment, would create a serious risk of substantial and irreversible impairment of a major bodily function if the woman delayed terminating her pregnancy.

c. The medical risks to the woman and fetus of carrying the pregnancy to term.

The physician may provide the information required in this subparagraph within 24 hours before the procedure if requested by the woman at the time she schedules or arrives for her appointment to obtain an abortion and if she presents to the physician a copy of a restraining order, police report, medical record, or other court order or documentation evidencing that she is obtaining the abortion because she is a victim of rape, incest, domestic violence, or human trafficking.

2. Printed materials prepared and provided by the department have been provided to the pregnant woman, if she chooses to view these materials, including:

a. A description of the fetus, including a description of the various stages of development.

b. A list of entities that offer alternatives to terminating the pregnancy.

c. Detailed information on the availability of medical assistance benefits for prenatal care, childbirth, and neonatal care.

3. The woman acknowledges in writing, before the termination of pregnancy, that the information required to be provided under this subsection has been provided.

Nothing in this paragraph is intended to prohibit a physician from providing any additional information which the physician deems material to the woman's informed decision to terminate her pregnancy.

(b) If a medical emergency exists and a physician cannot comply with the requirements for informed consent, a physician may terminate a pregnancy if he or she has obtained at least one corroborative medical opinion attesting to the medical necessity for emergency medical procedures and to the fact that to a reasonable degree of medical certainty the continuation of the pregnancy would threaten the life of the pregnant woman. If a second physician is not available for a corroborating opinion, the physician may proceed but shall document reasons for the medical necessity in the patient's medical records.

(c) Violation of this subsection by a physician constitutes grounds for disciplinary action under s. 458.331 or s. 459.015. Substantial compliance or reasonable belief that complying with the requirements of informed consent would threaten the life or health of the patient is a defense to any action brought under this paragraph.

§ 390.0111(3)(a), Fla. Stat. (2021) (emphasis added).

5. On or about May 31, 2022, the Agency conducted a survey of the Clinic.

6. A review of the records of patients who had termination procedures at the Clinic was conducted on May 31, 2022. The records reflected that the physician who was to perform the termination procedure, or the referring physician, had not, at a minimum, orally, while physically present in the same room, and at least 24 hours before the procedure, made the required disclosures to the patients as follows:

- Sampled patient #112 signed a consent form on April 25, 2022, at 3:00 p.m. acknowledging the disclosures and consenting to the termination procedure; however, the termination pill was provided on April 26, 2022, at 12:00 p.m.
- Sampled patient #118 signed a consent form on May 11, 2022, at 12:00 p.m. acknowledging the disclosures and consenting to the termination procedure; however, the surgical procedure was conducted on May 12, 2022, at 10:00 a.m.
- Sampled patient #125 signed a consent form on May 5, 2022, at 12:40 p.m. acknowledging the disclosures and consenting to the termination procedure; however, the termination bill was provided on May 6, 2022, at 11:00 a.m.

7. The Clinic's physician was interviewed on May 31, 2022, at approximately 10:05 a.m. When asked by the Agency's representatives as to the times documented in the foregoing records, the physician responded that he documents the time he meets with the patients and the times that the procedures are conducted.

8. The Clinic failed to provide documentation of written acknowledgement, before the termination of the pregnancy, that the information required to be provided to the patient under subsection 390.0111(3)(a), Florida Statutes. The documentation was required to establish that the physician who was to perform the procedure or the referring physician, had at a minimum, orally, while physically present in the room, and at least 24 hours before the procedure informed the

patient of the risks set out in subsection 390.0111(3)(a), Florida Statutes. Absent such documentation, there was no record that the Clinic obtained each patient's informed consent to the procedure.

Fine Authority

9. Under Florida law, the Agency may fine an abortion clinic up to \$1,000 for each violation of chapters 390 or 408, Part II, Florida Statutes, or applicable rules, except failing to timely file a monthly ITOP report will result in a \$200 fine. § 390.018, Fla. Stat. (2021).

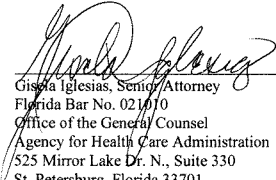
WHEREFORE, the Agency seeks administrative fine in the amount of \$3,000.00 against the Clinic representing a fine of \$1,000.00 for each of the violations described above.

CLAIM FOR RELIEF

WHEREFORE, the Petitioner, State of Florida, Agency for Health Care Administration, respectfully seeks an order that:

1. Makes findings of fact and conclusions of law in favor of the Agency.
2. Imposes the relief set forth above.

Respectfully Submitted,



Gisela Iglesias, Senior Attorney
Florida Bar No. 021010
Office of the General Counsel
Agency for Health Care Administration
525 Mirror Lake Dr. N., Suite 330
St. Petersburg, Florida 33701
Telephone: (727) 552-1945
Facsimile: (727) 552- 1440
Email: Gisela.Iglesias@ahca.myflorida.com

NOTICE

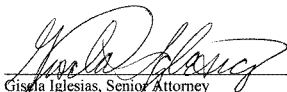
Pursuant to Section 120.569, F.S., any party has the right to request an administrative hearing by filing a request with the Agency Clerk. In order to obtain a formal hearing before the Division of Administrative Hearings under Section 120.57(1), F.S., however, a party must file a request for an administrative hearing that complies with the requirements of Rule 28-106.2015, Florida Administrative Code. Specific options for administrative action are set out in the attached Election of Rights form.

The Election of Rights form or request for hearing must be filed with the Agency Clerk for the Agency for Health Care Administration within 21 days of the day the Administrative Complaint was received. If the Election of Rights form or request for hearing is not timely received by the Agency Clerk by 5:00 p.m. Eastern Time on the 21st day, the right to a hearing will be waived. A copy of the Election of Rights form or request for hearing must also be sent to the attorney who issued the Administrative Complaint at his or her address. The Election of Rights form shall be addressed to: Agency Clerk, Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop 3, Tallahassee, FL 32308; Telephone (850) 412-3630, Facsimile (850) 921-0158.

Any party who appears in any agency proceeding has the right, at his or her own expense, to be accompanied, represented, and advised by counsel or other qualified representative. Mediation under Section 120.573, F.S., is available if the Agency agrees, and if available, the pursuit of mediation will not adversely affect the right to administrative proceedings in the event mediation does not result in a settlement.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Administrative Complaint and Election of Rights form were served to the below named persons/entities by the method designated on this 14th day of July, 2022.



Gisela Iglesias, Senior Attorney
Florida Bar No. 021610
Office of the General Counsel
Agency for Health Care Administration
525 Mirror Lake Dr. N., Suite 330
St. Petersburg, Florida 33701
Telephone: (727) 552-1945
Facsimile: (727) 552- 1440
Email: Gisela.Iglesias@ahca.myflorida.com

Vladimir Rosenthal, Administrator Doctor's Office for Women, Inc. d/b/a Today's Women Medical Center 3250 South Dixie Highway Miami, Florida 33133 Return Receipt No. 7021 0350 0000 4641 2496 (Certified Mail)	Vlad Van Rosenthal, Registered Agent Doctor's Office for Women, Inc. d/b/a Today's Women Medical Center Registered Agent 3250 South Dixie Highway Miami, Florida 33133 (Regular U. S. Mail)
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**STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION**

**Re: DOCTOR'S OFFICE FOR WOMEN, INC. d/b/a TODAY'S WOMEN MEDICAL
CENTER
AHCA No. 2022008533**

ELECTION OF RIGHTS

This Election of Rights form is attached to an Administrative Complaint. It may be returned by mail or facsimile transmission, but must be received by the Agency Clerk within 21 days, by 5:00 pm, Eastern Time, of the day you received the Administrative Complaint. If your Election of Rights form or request for hearing is not received by the Agency Clerk within 21 days of the day you received the Administrative Complaint, you will have waived your right to contest the proposed agency action and a Final Order will be issued imposing the sanction alleged in the Administrative Complaint.

(Please use this form unless you, your attorney or your representative prefer to reply according to Chapter 120, Florida Statutes, and Chapter 28, Florida Administrative Code.)

Please return your Election of Rights form to this address:

Agency for Health Care Administration
Attention: Agency Clerk
2727 Mahan Drive, Mail Stop #3
Tallahassee, Florida 32308
Telephone: 850-412-3630 Facsimile: 850-921-0158

PLEASE SELECT ONLY 1 OF THESE 3 OPTIONS

OPTION ONE (1) _____ I admit to the allegations of fact and conclusions of law alleged in the Administrative Complaint and waive my right to object and to have a hearing. I understand that by giving up the right to object and have a hearing, a Final Order will be issued that adopts the allegations of fact and conclusions of law alleged in the Administrative Complaint and imposes the sanction alleged in the Administrative Complaint.

OPTION TWO (2) _____ I admit to the allegations of fact alleged in the Administrative Complaint, but wish to be heard at an informal proceeding (pursuant to Section 120.57(2), Florida Statutes) where I may submit testimony and written evidence to the Agency to show that the proposed agency action is too severe or that the sanction should be reduced.

OPTION THREE (3) _____ I dispute the allegations of fact alleged in the Administrative Complaint and request a formal hearing (pursuant to Section 120.57(1), Florida Statutes) before an Administrative Law Judge appointed by the Division of Administrative Hearings.

PLEASE NOTE: Choosing OPTION THREE (3), by itself, is NOT sufficient to obtain a

formal hearing. You also must file a written petition in order to obtain a formal hearing before the Division of Administrative Hearings under Section 120.57(1), Florida Statutes. It must be received by the Agency Clerk at the address above **within 21 days** of your receipt of this proposed agency action. The request for formal hearing must conform to the requirements of Rule 28-106.2015, Florida Administrative Code, which requires that it contain:

1. The name, address, telephone number, and facsimile number (if any) of the Respondent.
2. The name, address, telephone number and facsimile number of the attorney or qualified representative of the Respondent (if any) upon whom service of pleadings and other papers shall be made.
3. A statement requesting an administrative hearing identifying those material facts that are in dispute. If there are none, the petition must so indicate.
4. A statement of when the respondent received notice of the administrative complaint.
5. A statement including the file number to the administrative complaint.

Mediation under Section 120.573, Florida Statutes, may be available in this matter if the Agency agrees.

Licensee Name: _____

Contact Person: _____ Title: _____

Address: _____
Number and Street City Zip Code

Telephone No. _____ Fax No. _____

E-Mail (optional) _____

I hereby certify that I am duly authorized to submit this Election of Rights form to the Agency for Health Care Administration on behalf of the licensee referred to above.

Signed: _____ Date: _____

Printed Name: _____ Title: _____

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

DOAH No. 22-2627
AHCA No. 2022008533

Petitioner,

v.

DOCTOR'S OFFICE FOR WOMEN, INC. d/b/a
TODAY'S WOMEN MEDICAL CENTER,

Respondent.

SETTLEMENT AGREEMENT

Petitioner, State of Florida, Agency for Health Care Administration (hereinafter the "Agency"), through its undersigned representatives, and Doctor's Office for Women, Inc. d/b/a Today's Women Medical Center (hereinafter "Respondent"), pursuant to Section 120.57(4), Florida Statutes, each individually, a "party," collectively as "parties," hereby enter into this Settlement Agreement ("Agreement") and agree as follows:

WHEREAS, Respondent is an abortion clinic licensed pursuant to Chapters 390 and 408, Part II, Florida Statutes, Section 20.42, Florida Statutes and Chapter 59A-9, Florida Administrative Code; and

WHEREAS, the Agency has jurisdiction by virtue of being the regulatory and licensing authority over Respondent, pursuant to Chapters 429, Part I, and 408, Part II, Florida Statutes; and

WHEREAS, the Agency served Respondent with an Administrative Complaint dated July 14, 2022, notifying Respondent of the Agency's intent to impose an administrative fine in the sum of three thousand dollars (\$3,000.00) based on violations of Chapter 390, Florida Statutes and Chapter 59A-09, Florida Administrative Code; and

WHEREAS, the Respondent submitted an Election of Rights Form denying the allegations of fact contained in the Administrative Complaint and requesting an hearing; and

WHEREAS, the parties have negotiated and agreed that the best interest of all the parties will be served by a settlement of this proceeding; and

NOW THEREFORE, in consideration of the mutual promises and recitals herein, the parties intending to be legally bound, agree as follows:

1. All recitals herein are true and correct and are expressly incorporated herein.

2. Both parties agree that the “whereas” clauses incorporated herein are binding findings of the parties.

3. Upon full execution of this Agreement, Respondent agrees to waive any and all appeals and proceedings to which it may be entitled including, but not limited to, informal proceedings under Subsection 120.57(2), Florida Statutes, formal proceedings under Subsection 120.57(1), Florida Statutes, appeals under Section 120.68, Florida Statutes; and declaratory and all writs of relief in any court or quasi-court of competent jurisdiction; and agrees to waive compliance with the form of the Final Order (findings of fact and conclusions of law) to which it may be entitled, provided, however, that no agreement herein shall be deemed a waiver by either party of its right to judicial enforcement of this Agreement.

4. Upon full execution of this Agreement, Respondent shall pay an administrative fine of five hundred dollars (\$500.00) within thirty (30) days of the entry of the Final Order.

5. Venue for any action brought to enforce the terms of this Agreement or the Final Order entered pursuant hereto shall lie in Circuit Court in Leon County, Florida.

6. By executing this Agreement, Respondent denies the allegations raised in the Administrative Complaint referenced herein, and the Agency asserts the validity of the allegations raised in the Administrative Complaint referenced herein. No agreement made herein

shall preclude the Agency from imposing a penalty against Respondent for any deficiency/violation of statute or rule identified in a future survey of Respondent which constitutes an “uncorrected” deficiency from the survey identified in the Administrative Complaint.

7. No agreement made herein shall preclude the Agency from using the deficiencies from the survey identified in the Administrative Complaint as the sole basis for in any decision regarding licensure of Respondent, including, but not limited to, a demonstrated pattern of deficient performance. The Agency is not precluded from using the subject events for any purpose within the jurisdiction of the Agency. Further, Respondent acknowledges and agrees that this Agreement shall not preclude or estop any other federal, state, or local agency or office from pursuing any cause of action or taking any action, even if based on or arising from, in whole or in part, the facts raised in the Administrative Complaint.

8. Upon full execution of this Agreement, the Agency shall enter a Final Order adopting and incorporating the terms of this Agreement and closing the above-styled case.

9. Each party shall bear its own costs and attorney’s fees.

10. This Agreement shall become effective on the date upon which it is fully executed by all the parties.

11. Respondent for itself and for its related or resulting organizations, its successors or transferees, attorneys, heirs, and executors or administrators, does hereby discharge the State of Florida, Agency for Health Care Administration, and its agents, representatives, and attorneys of and from all claims, demands, actions, causes of action, suits, damages, losses, and expenses, of any and every nature whatsoever, arising out of or in any way related to this matter and the Agency’s actions, including, but not limited to, any claims that were or may be asserted in any

federal or state court or administrative forum, including any claims arising out of this agreement, by or on behalf of Respondent or related facilities.

12. This Agreement is binding upon all parties herein and those identified in paragraph eleven (11) of this Agreement.

13. Respondent agrees that if any funds to be paid under this agreement to the Agency are not paid within thirty (30) days of entry of the Final Order in this matter, the Agency may deduct the amounts assessed against Respondent in the Final Order, or any portion thereof, owed by Respondent to the Agency from any present or future funds owed to Respondent by the Agency, and that the Agency shall hold a lien against present and future funds owed to Respondent by the Agency for said amounts until paid.

14. The undersigned have read and understand this Agreement and have the authority to bind their respective principals to it. Respondent has the capacity to execute this Agreement. Respondent understands that it has the right to consult with counsel and has knowingly and freely entered into this Agreement without exercising its right to consult with counsel. Respondent affirms that Respondent understands counsel for the Agency represents solely the Agency and Agency counsel has not provided legal advice to or influenced Respondent in its decision to enter into this Agreement.

15. This Agreement contains and incorporates the entire understandings and agreements of the parties.

16. This Agreement supersedes any prior oral or written agreements between the parties.

17. This Agreement may not be amended except in writing. Any attempted assignment of this Agreement shall be void.

18. All parties agree that a facsimile signature suffices for an original signature.

19. The following representatives hereby acknowledge that they are duly authorized to enter into this Agreement.



Kimberly R. Smoak
Deputy Secretary
Agency for Health Care Administration
2727 Mahan Drive, MS#59
Tallahassee, Florida 32308

DATED: 10/27/2022



Dr. Vlad Van Rosenthal, M.D.
Medical Director
Doctor's Office for Women, Inc. d/b/a
Today's Women Medical Center
3250 South Dixie Highway
Miami, Florida 33133

DATED: 10/17/2022



Andrew T. Sheeran
Acting General Counsel
Office of the General Counsel
Agency for Health Care Administration
2727 Mahan Drive, MS #3
Tallahassee, Florida 32308

DATED: 10/26/22



Elizabeth Hathaway DeMarco
Senior Attorney
Agency for Health Care Administration
15500 Lightwave Drive
Clearwater, Florida 33760

DATED: 10/21/22