



LIFE: AT THE HEART OF THE LAW

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P.O. Box 2105
Napa, California 94558
(707) 224-6675

Southern California
P.O. Box 1313
Ojai, California 93024
(805) 640-1940

www.LLDF.org

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Alabama Department of Public Health
ATTN: Walter T. Geary Jr., M.D., Director, Bureau of Health Provider Standards
P.O. Box 303017
Montgomery, AL 36130-3017
Telephone (334)206-5366
Email WT.Geary@adph.state.al.us
Sent via email

Re: Abortion and Reproductive Health Centers Proposed Regulations

Life Legal Defense Foundation (LLDF), would like to take this opportunity to express support for the proposed regulations regarding Abortion and Reproductive Centers, and to specifically address the need to clarify the definition of "Abortion or Reproductive Health Center" (420-5-1-.01(2)).

Over the past several years, LLDF has closely observed the activities at the New Woman, All Women (NWA) abortion clinic in Birmingham. We have watched with interest as the Department of Public Health took steps to enforce proper licensing standards on former clinic owner Diane Derzis and abortionist Bruce Norman. NWA's complete failure to adhere to basic medical safety standards illustrates the need for tighter clinic regulation. The deficiencies at NWA made a list 76 pages long. Failing to rectify these deficiencies, clinic owner Derzis was forced to enter a consent agreement in which she withdrew from clinic operations (although evidence later showed that she continued to be deeply involved with the clinic, see <http://lldf.org/misrepresentation-order-of-the-day/>). Ultimately, it took a civil action by the Department of Public Health to obtain an injunction against the unsafe, unlicensed clinic's further operation. The judge accepted evidence that Bruce Norman performed thirty or more abortions in a two-month period, meaning that the NWA clinic fell under the definition of "Abortion or Reproductive Health Center." Since it had failed to qualify for a licensed Abortion or Reproductive Health Center, further operations as such were enjoined.

However, it appears that abortionists such as Mr. Norman are continuing to perform abortions in substandard conditions, getting around the regulatory rules by slightly decreasing the number of abortions performed. (See letter sent by LLDF to the Department of Public Health October 14, 2013, available at <http://lldf.org/wp-content/uploads/131014-ADPH-inspection-request-final.pdf>.)

This being the case, the proposal to change the rule from 30 abortions in a two-month period to 10 abortions in any month, or 100 abortions per year, while a step in the right direction, will not be sufficient to protect women.

Each of the standards and requirements contained in 420-5-1-.01 *et seq.* are designed to protect the health and safety of women who undergo abortion at an Abortion or Reproductive Health Center. However, an expectant mother, the person that the rules are intended to protect, needs protection when undergoing an abortion no matter what the setting—whether at an Abortion or Reproductive Health Center or at a physician’s office. She ought to be assured of basic safety precautions no matter whether her doctor performed nine other abortions that month or no other abortions that month. We suggest that if a physician performs any non-emergency abortion, his or her practice ought to be considered an “Abortion or Reproductive Health Center” and that regulations ought to be applicable. This is the only way to effectively protect women by eliminating the ability of any doctor to avoid licensure requirements and thus perform abortions in substandard conditions.

It is in the best interest of all women to know that reproductive healthcare will occur only in a properly regulated medical facility, and that any provider that performs abortion will be properly regulated. In pursuit of these interests, we urge you to consider this revision to 420-5-1-.01 (2) Definitions:

(be) “Abortion or Reproductive Health Center” means any health care facility, institution, physician’s office, or place operated substantially for the purpose of performing where 10 or more where one or more abortions are performed during any month, or where 100 or more abortions are performed in any calendar year, or that holds itself out to the public as an abortion provider by advertising by some public means, such as a newspaper, telephone directory, magazine or electronic media, that it performs abortions. Such a facility must be a freestanding unit and not part of a hospital or other facility licensed for other purposes by the State Board of Health. A health care facility operates substantially for the purpose of performing abortions if any of the following conditions are met This term does not include the following: a health care facility licensed as a hospital pursuant to Chapter 420-5-7, Ala. Admin. Code.

Further, there is an urgent need to require regular inspection when abortions are performed within a physician’s office. The Alabama Department of Vital Statistics receives reports and compiles statistics on abortion within the state, (420-5-1-.02 (8)(a)). A report of an abortion from a physician operating out of a facility not licensed as an Abortion or Reproductive Health Center, ought to trigger an investigation of the procedure and an inspection of the facility. This would help to eliminate the threat that an abortion provider will simply mislead as to the number of abortions performed to avoid compliance with the regulations.

If a physician is going to undertake this medically invasive procedure, it ought to be performed within a properly regulated environment. The women of Alabama deserve no less.

Please feel free to contact us should you need any additional information or should you have any questions with which we may be of assistance.

Sincerely,



Rebekah Millard, Staff Counsel, LLDF
Allison Aranda, Senior Staff Counsel, LLDF