



*Protecting, maintaining and improving the health of all Minnesotans*

May 22, 2013

The Honorable Fred Upton  
Chairman, Committee on Energy and Commerce  
House of Representatives  
Washington, D.C. 20515

RE: United States House of Representatives Committee on Energy and Commerce  
request for information received on May 8, 2013

Dear Mr. Chairman:

Please find below answers to the questions referenced above. As you consider our responses, please bear in mind the fact that Minnesota does not license health care facilities based on the procedures performed in the facilities. Minnesota also does not license physicians on the basis of whether they do or do not provide abortions.

1. *Does your state license abortion clinics or those facilities and providers who perform abortions? If so, please identify what information must be provided or requirements must be met for a facility or provider to be licensed. In addition, please identify the number of abortion clinics licensed in your state for each year from 2008-2013.*

**Answer:** Minnesota does not license clinics – including those which perform abortions. However, Minnesota does license hospitals in which an abortion may be performed. This licensure is performed by the Minnesota Department of Health. Minnesota does license providers who perform abortions. The Board of Medical Practice licenses all physicians - including those who perform abortions.

2. *For the years 2008-2013, please identify each abortion clinic for which your state has suspended or revoked its license and the reason for this action.*

**Answer:** Not applicable.

3. *Does your state conduct inspections of abortion clinics or facilities that perform abortions? If so, please identify the number of clinics that your state has inspected for each year from 2008-2013. In addition, please identify how an inspection is conducted and what information is examined in the course of an inspection.*

**Answer:** As indicated in our response to question #1, Minnesota does not license clinics – including those which perform abortions. The Minnesota Department of Health inspects hospitals, in which abortions may sometimes be performed. However, we do not inspect these facilities based on procedure.

4. *Does your state monitor complaints or adverse health events relating to abortions? If so, how are these complaints filed or processed? How many complaints relating to abortions or abortion clinics have been filed for each year from 2008-2013?*
- a. *Please explain how your state investigates the complaints it receives relating to abortions. In addition, please explain how many investigations, including those that included inspections of abortion clinics, have resulted from complaints filed for each year from 2008-2013.*

**Answer:** Minnesota does not license abortion facilities. All physicians, including those performing abortions in any setting, are licensed by the Minnesota Board of Medical Practice.

5. *Please explain whether your state, including professional licensure boards, has initiated any disciplinary actions against facilities or health care providers relating to abortions? Please identify the number of disciplinary actions taken in each year from 2008-2013 and the underlying violation or reason for the action.*

**Answer:** According to information we received from the Minnesota Board of Medical Practice, which licenses physicians, the board has not initiated any disciplinary action against physicians relating to abortions during the time period of 2008 – 2013. We requested this information from the Minnesota Board of Medical Practice to respond to your inquiry.

6. *Please provide copies of the rules, regulations that govern facilities and licensed health care providers in your state that perform abortions, including the rules and regulations that specifically govern how abortions are conducted in your state.*
- a. *Which of these laws is your agency tasked with enforcing and how do you enforce them?*

**Answer:** Copies of the rules and regulations are attached. The Minnesota Department of Health is responsible for licensing hospitals under Minnesota Statutes sections 144.50 to 155.56 and Minnesota Rules part 4640. The Department's Licensing and Certification Program conducts the hospital licensing activities, using as minimum standards the federal hospital certification regulations promulgated pursuant to Title XVIII of the Social Security Act, United States Code, title 42, section 1395, et seq.

7. *On April 19, 2005, the Assistant Secretary for Children and Families issued a Program Instruction to state agencies administering the Child Abuse Prevention and Treatment Act (CAPTA) program. The instruction requires states to have procedures for responding to reports of medical neglect (including the withholding of medically indicated treatment from disabled infants with life-threatening conditions), and applies those protections equally to born-alive infants.*

- a. *What actions has your state taken since 2005 to ensure that, at every licensed health care facility that provides abortions, there is a designated individual to report suspected medical neglect (including withholding of medically indicated treatment from disabled infants with life threatening conditions) of born-alive infants to the state child protective services agency? Has the state received any such notifications and what were the outcomes?*
- b. *Does your state child protective services agency annual contact each health care facility to obtain purpose of coordination, consultation, and notification pursuant to 45 C.F.R. sec. 1340.15? Does this contact include health care facilities that provide abortions? Please provide a list of all such designations.*

**Answer:** In Minnesota, the Child Abuse Prevention and Treatment Act Program is administered by a separate state agency – the Minnesota Department of Human Services. According to the information we received from the Minnesota Department of Human Services to respond to this request, the answer to questions 7a and 7b are as follows: Minn. Statutes, sec. 626.556 subd. 2 (f) (7) defines medical neglect as an instance of child maltreatment, further defining medical neglect and creating the status of a child in need of protection and services under Minn. Statutes, sec. 260C.007 as follows:

(5) is medically neglected, which includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life-threatening condition. The term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include the failure to provide treatment other than appropriate nutrition, hydration, or medication to an infant when, in the treating physician's or physicians' reasonable medical judgment:

- (i) the infant is chronically and irreversibly comatose;
- (ii) the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; or
- (iii) the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane;

Minnesota is a state-supervised and county/tribal administered social service system. All health care providers in Minnesota are obligated by law to report any suspected medical neglect. Counties and tribes are responsible for providing mandated reporter training in their jurisdictions annually. The Minnesota Department of Human Services (DHS) also provides mandated reporter guidance on the DHS website [www.dhs.state.mn.us](http://www.dhs.state.mn.us) and through a technical assistance and consultation telephone line. Minnesota DHS does not have any known allegations of medical neglect of born-alive infants in abortion facilities.

We trust the information we provided addresses your questions. If you would like more information about activities conducted by the Minnesota Board of Medical Practice or the Minnesota Department of Human Services, you may wish to contact them directly.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward P. Ehlinger". The signature is fluid and cursive, with a long horizontal line extending to the right.

Edward P. Ehlinger, M.D., M.S.P.H.  
Commissioner  
P.O. Box 64975  
St. Paul, MN 55164-0975

cc: Minnesota Board of Medical Practice  
Minnesota Department of Human Services