



Catherine B. Templeton, Director

Promoting and protecting the health of the public and the environment

June 4, 2013

The Honorable Fred Upton, Chairman
Committee on Energy and Commerce
United States House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515-6115

Dear Chairman Upton:

Pursuant to the letter from the Committee on Energy and Commerce to me dated May 8, 2013, I am providing the following responses on behalf of the South Carolina Department of Health and Environmental Control ("DHEC" or "Department"):

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.*

Response: South Carolina licenses abortion clinics pursuant to S.C. Code Ann. §§ 44-7-260(A)(13) and 44-41-70(b) and -75. To be licensed as an abortion clinic, a facility must submit a properly completed application and licensing fee to DHEC. S.C. Code Ann. Regs. 61-12 § 102.G. A facility must be in compliance with the requirements of S.C. Code Ann. §§ 44-7-110, *et seq.*, *State Certification of Need and Health Facility Licensure Act*, and Regulation 61-12, *Standards for Licensing Abortion Clinics*, to be licensed as an abortion clinic. The Department conducts an inspection of a facility prior to issuance of an initial license in order to determine compliance with the regulatory requirements. *Id.* at § 102.F. A copy of the abortion clinic license application form is attached at Tab A. For each year from 2008 through the present, South Carolina has had three (3) licensed abortion clinics.

Additionally, South Carolina certifies certain hospitals, which are licensed pursuant to S.C. Code Ann. 44-7-160(A)(1), as suitable facilities for the performance of abortions pursuant to S.C. Code Ann. §§ 44-41-70(a) and -75. To be certified as a facility suitable for the performance of abortions, a hospital must meet all requirements to be licensed as a hospital pursuant to S.C. Code Ann. §§ 44-7-110, *et seq.*, *State Certification of Need and Health Facility Licensure Act*, and Regulation 61-16, *Standards for Licensing Hospitals and Institutional General Infirmaries*, and must submit a request to DHEC to be certified to perform abortions. S.C. Code Ann. Regs. 61-16 § 104. A copy of the hospital license application form is attached at Tab B. From 2008 through 2009, South Carolina had

thirteen (13) hospitals certified to perform abortions; from 2010 through the present, South Carolina has had fourteen (14) hospitals certified to perform abortions.

Providers who perform abortions are regulated by the South Carolina Department of Labor, Licensing and Regulation (“LLR”), the state’s professional and occupational licensing agency.

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.*

Response: South Carolina has not suspended or revoked any abortion clinic’s license or any hospital’s certification to perform abortions in the time period from 2008 through the present.

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.*

Response: South Carolina conducts inspections of abortion clinics and hospitals certified to perform abortions. From 2008 through the present, DHEC conducted inspections of the following number of abortion clinics and hospitals certified to perform abortions:

2008	Abortion clinics inspected: 3	Certified hospitals inspected: 2
2009	Abortion clinics inspected: 0	Certified hospitals inspected: 1
2010	Abortion clinics inspected: 3	Certified hospitals inspected: 7
2011	Abortion clinics inspected: 3	Certified hospitals inspected: 11
2012	Abortion clinics inspected: 2	Certified hospitals inspected: 12
2013 (to date)	Abortion clinics inspected: 1	Certified hospitals inspected: 2

Inspections of abortion clinics are conducted unannounced. Upon arrival at an abortion clinic, the inspector informs the clinic administration of the purpose of the visit and begins the inspection. Inspection includes examination of patient records, staff records (including training records), sterilization and infection control procedures, compliance with the requirements of Regulation 61-12, *Standards for Licensing Abortion Clinics*, and documentation required pursuant to S.C. Code Ann. §§ 44-41-310 through -380, *Woman’s Right to Know*. A physical inspection of the facility is also conducted. Inspection checklists used by field inspectors for abortion clinics are attached at Tab C.

Inspections of hospitals certified to perform abortions are also unannounced. Upon arrival at a hospital, the inspector informs the hospital administration of the purpose of the visit and begins the inspection. Inspection includes examination of patient records, staff records, sterilization and infection control procedures, compliance with the requirements of Regulation 61-16, *Standards for Licensing Hospitals and Institutional*

General Infirmaries, and a physical inspection of the facility. Inspection checklists used by field inspectors for hospitals are attached at Tab D.

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?*

Response: A complaint received by DHEC relating to an abortion is initially reviewed by staff. If it alleges a possible violation of laws enforced by DHEC, the complaint is logged, prioritized, and assigned to a field inspector for investigation. A copy of the guidelines utilized by DHEC staff for prioritizing complaints regarding health care facilities is attached, along with information from the DHEC website on how to file a complaint regarding a health care facility. *See* Tab E. If criminal activity is alleged, the Department refers the complaint to law enforcement. If the complaint involves a physician, DHEC sends a copy LLR, which licenses physicians.

Abortion clinics are required to report accidents or incidents resulting in serious injury to the Department within ten (10) days of the occurrence. S.C. Code Ann. Regs. 61-12 § 403.B. If a death occurs, other than a fetal death, it must be reported to the Department no later than the next work day. *Id.* Accident and incident reports received by the Department are reviewed by staff. If a possible violation of a law enforced by DHEC is indicated, DHEC staff generates an internal complaint and processes it as set forth above.

DHEC received one (1) complaint relating to abortions in 2009. DHEC received no complaints relating to abortions in 2008, 2010, 2011, 2012, and to date in 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.*

Response: All complaints are investigated by conducting an inspection. The inspector generates an investigation report of visit. If violations of Regulation 61-12 or Regulation 61-16 are cited during the investigatory visit to the facility, the facility must provide a written response, to include: the action taken to correct the violation; the date the violation was or will be corrected; and the preventative action which will be put into place to ensure that the violation will not be repeated. Enforcement or a follow-up visit may be deemed necessary depending on the results of the investigation. One investigation conducted in 2009 resulted from a complaint. No investigations relating to abortions took place in 2008 or 2010 through the present.

5. *Please explain whether your state, including state professional licensure boards, has initiated any disciplinary actions against the 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.

Response: DHEC has not initiated any disciplinary action against an abortion clinic or a hospital certified to perform abortions from 2008 through the present. DHEC forwarded this request to LLR, the state agency responsible for licensing physicians, on May 22, 2013. LLR advised DHEC on May 24, 2013 that it has not initiated any disciplinary action relating to abortions from 2008 through the present.

6. *Please provide copies of the rules and 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.*

Response: Copies of the following statutes and regulations are attached:

- S.C. Code Ann. §§ 40-47-5 through -220, *Physicians and Miscellaneous Health Care Professionals (General Provisions)* (Tab F)
- S.C. Code Ann. §§ 44-7-110, *et seq.*, *State Certification of Need and Health Facility Licensure Act* (Tab G)
- S.C. Code Ann. §§ 44-41-10 through -85, *Abortions Generally* (Tab H)
- S.C. Code Ann. §§ 44-41-310 through -380, *Woman's Right to Know* (Tab I)
- S.C. Code Ann. Regs. 61-12, *Standards for Licensing Abortion Clinics* (Tab J)
- S.C. Code Ann. Regs. 61-16, *Standards for Licensing Hospitals and Institutional General Infirmaries* (Tab K)
- S.C. Code Ann. Regs. 61-19 § 22, *Vital Statistics (Reports of Induced Termination of Pregnancy)* (Tab L)
- S.C. Code Ann. Regs. 81, *Department of Labor, Licensing and Regulation – State Board of Medical Examiners* (Tab M)

- a. *Which of these laws is your agency tasked with enforcing and how do you enforce them?*

Response: DHEC is tasked with enforcing S.C. Code Ann. § 44-7-110, *et seq.*, *State Certification of Need and Health Facility Licensure Act*. DHEC is tasked with enforcing S.C. Code Ann. §§ 44-41-10 through -85, *Abortions Generally*, and S.C. Code Ann. §§ 44-41-310 through -380, *Woman's Right to Know*, to the extent they apply to licensing, inspecting, and conducting complaint investigations of abortion clinics and hospitals certified to perform abortions. DHEC is also charged with enforcing the following regulations: S.C. Code Ann. Regs. 61-12, *Standards for Licensing Abortion Clinics*; S.C. Code Ann. Regs. 61-16, *Standards for Licensing Hospitals and Institutional General Infirmaries*; and S.C. Code Ann. Regs. 61-19, *Vital Statistics*. DHEC enforces these laws through licensing, inspecting, and conducting complaint investigations.

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 state 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?*

Response: The CAPTA program is administered by the South Carolina Department of Social Services ("DSS"). DHEC forwarded a copy of this request to DSS on May 20, 2013. DSS has indicated to DHEC that they will respond separately to this request.

b. *Does your state child protective services agency annually contact each health care facility to obtain purpose of coordination, consultation, and notification pursuant to 45 C.F.R. §1340.15? Does this contact include health care facilities that provide abortions? Please provide a list of all such designations.*

Response: The CAPTA program is administered by DSS. DHEC forwarded a copy of this request to DSS on May 20, 2013. DSS has indicated to DHEC that they will respond separately to this request.

Sincerely,



Catherine B. Templeton, Director
South Carolina Department of Health and
Environmental Control

Attachments