

June 12, 2013

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

Dear Chairman Upton:

On May 18, 2013, the Vermont Department of Health ("Department") received your letter requesting the Department to answer a number of questions in order to assist the Committee in having a better understanding of "how states regulate and monitor abortion clinics and protect the health and safety of women." The Department reached out to sister agencies and departments within the State of Vermont to assist in responding to the Committee's questions. Please find below our responses as well as web links to the pertinent Vermont statutes and regulations. The applications for licensure of hospitals and health care providers are attached in an e-mail to Legislative Aide Carl Anderson.

**1. Does your state license abortion clinics or those facilities and providers who perform abortions?**

The State of Vermont does not license abortion clinics. The Vermont Department of Health ("Department") through the State Board of Health licenses hospitals and some of the hospitals licensed may perform abortions. The Board of Medical Practice ("Board") is housed within the Department; it licenses physicians and physician assistants who may perform abortions within their scopes of practice.

The Office of Professional Regulation (OPR), located within the Vermont Secretary of State's Office, provides licensing and disciplinary support to osteopathic physicians and advanced practice registered nurses (APRNs) who may perform abortions within their scopes of practice. Only APRNs with a certification as Family Nurse Practitioner, Women's Health Nurse Practitioner, Adult Nurse Practitioner, or Pediatric Nurse Practitioner would apply. For the adult and pediatric endorsements, age parameters would govern the ability to provide services. None of the licensing statutes or administrative rules for these professions address abortion practice.

**If so please identify what information must be met for a facility or provider to be licensed?** Not applicable.

**In addition, please identify the number of abortion clinics licensed in your state for each year from 2008-2013.** Not applicable.

**2. For the years 2008-2012, please identify each abortion clinic for which your state has suspended or revoked its license and reason for this action.** Not applicable.



**3. Does your state conduct inspections of abortion clinics or facilities that perform abortions?**

Vermont does not conduct inspections of abortion clinics. The Department by statute is responsible to inspect all hospitals, some of which may perform abortions. The Department has a Memorandum of Understanding (MOU) with the Vermont Department of Disabilities, Aging and Independent Living (DAIL). Under the MOU, DAIL performs surveys or inspections of licenses for the Department. The specific statutory provision regarding licensing of Vermont hospitals is 18 V.S.A. § 1905, which may be found at:

<http://www.leg.state.vt.us/statutes/fullsection.cfm?Title=18&Chapter=043&Section=01905>

**If so, please identify the number of clinics that your state has inspected for each year from 2008-2013.** Not applicable.

**In addition, please identify how an inspection is conducted and what information is examined in the course of an inspection?** Not applicable.

**4. Does your state monitor complaints or adverse health events relating to abortions?** The

Department's MOU with DAIL provides that DAIL is to receive and investigate any complaints regarding hospitals. The complaint form used by DAIL is attached. Any disciplinary action would be handled by the Vermont Board of Health. The specific statutory provision regarding licensing revocation is 18 V.S.A. § 1906, which may be found at:

<http://www.leg.state.vt.us/statutes/fullsection.cfm?Title=18&Chapter=043&Section=01906>. No Board cases during the period 2008-2012 concerned allegations related to abortions.

The Department also oversees the Patient Safety Surveillance and Improvement System. The specific statutory provision is 18 V.S.A. § 1912, which may be found at:

<http://www.leg.state.vt.us/statutes/fullsection.cfm?Title=18&Chapter=043A&Section=01912> This requires all hospitals to send an initial report regarding an adverse health event no later than 7 days after the reportable adverse event. An adverse event could involve an abortion. A corrective action plan is due within 60 days from the submission of the initial report. The Commissioner of Health may sanction a hospital that has failed to comply with the Patient Safety Surveillance and Improvement System. The Commission has not sanctioned any hospital for an abortion-related adverse health event during the period 2008-2013.

The Vermont Board of Medical Practice would receive any complaints, investigate and potentially prosecute complaints of unprofessional conduct relating to performance of an abortion by a licensee. There have been no abortion-related complaints to the Board during the period 2008 - 2013. The Board's complaint procedure is available via the Board web page, [http://healthvermont.gov/hc/med\\_board/complaint.aspx](http://healthvermont.gov/hc/med_board/complaint.aspx).

The Office of Professional Regulation, in support of the Board of Osteopathic Physicians and the Board of Nursing would receive, investigate and potentially prosecute complaints of unprofessional conduct relating to these licensees and abortions. There have been no abortion related complaints to OPR during the period 2008 - 2013. The Office complaint procedure is available via the OPR web page, <http://vtprofessionals.org/> and is attached.

**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.** Not applicable.



5. **Please explain whether your state, including state professional licensure boards, has initiated any disciplinary actions against facilities or health care providers relating to abortions?** The Board of Health (hospitals), the Board of Medical Practice (physicians and physician assistants) and the Office of Professional Regulation, the Board of Osteopathic Physicians, and the Board of Nursing have not initiated any disciplinary complaints regarding abortions during the period 2008 - 2013.
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.** Rules governing the licensing of hospitals, physicians, physicians assistants, osteopathic physicians and advanced practice registered nurses are attached. None of the statutes or rules addresses abortion services.
- Hospital Licensing Procedure  
[http://healthvermont.gov/regs/hospital\\_licensing.pdf](http://healthvermont.gov/regs/hospital_licensing.pdf)
  - Rules of the Board of Medical Practice, Section I, Part 2 Physician Licensing  
[http://healthvermont.gov/hc/med\\_board/documents/BoardofMedicalPracticeRules-2-16-2001.pdf](http://healthvermont.gov/hc/med_board/documents/BoardofMedicalPracticeRules-2-16-2001.pdf)
  - Rules of the Board of Medical Practice, Section II, Part 5 Rules for Physician Assistants  
[http://healthvermont.gov/hc/med\\_board/documents/BoardofMedicalPracticeRules-2-16-2001.pdf](http://healthvermont.gov/hc/med_board/documents/BoardofMedicalPracticeRules-2-16-2001.pdf)
  - Rules of the Board of Osteopathic Physicians and Surgeons:  
[http://vtprofessionals.org/opr1/osteopaths/rules/OST\\_Rules.pdf](http://vtprofessionals.org/opr1/osteopaths/rules/OST_Rules.pdf)
  - Administrative Rules of the Board of Nursing:  
[http://vtprofessionals.org/opr1/nurses/rules/NU\\_Rules.pdf](http://vtprofessionals.org/opr1/nurses/rules/NU_Rules.pdf)

**Which of these laws is your agency tasked with enforcing and how do you enforce them?** As noted above the Department is responsible for the administrative oversight of the Board of Medical Practice and the State Board of Health.

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.
- 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?**



Vermont’s child abuse and neglect reporting law specifies that all health care providers are mandatory reporters of suspected child maltreatment. See 33 V.S.A. § 4913. This is without regard to the health care provider’s place of employment. Moreover, under state law, a mandatory reporter’s duty to report suspected child maltreatment is personal to the individual and cannot be undertaken by another “designated person” within the employment hierarchy. A copy of the State’s mandatory reporting law and related rules and policies are attached. The State’s compliance with CAPTA is reviewed by the Children’s Bureau annually, as part of the approval process for Vermont’s CAPTA state plan. The data regarding the reports of all types of suspected medical neglect of children for the past 10 years is attached. The Vermont Department for Children and Families does not maintain statistics that differentiate between the various types of suspected medical neglect reported.

Year	Substantiated	Unsubstantiated	Total
2002	38	60	98
2003	36	61	97
2004	25	61	86
2005	14	61	75
2006	24	80	104
2007	31	76	107
2008	17	105	122
2009	15	139	154
2010	13	127	140
2011	28	151	179
2012	12	151	163

**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. §130.14? Does this contact include health care facilities that provide abortions? Please provide a list of all such designations.**



The Vermont Department for Children and Families makes available to all mandatory reporters, including health care providers, training and information on the legal requirements and procedures for reporting suspected child maltreatment. This training is available to all health care providers without regard to their place of employment.

Please let me know if the Committee has any other questions.

Sincerely,



Harry Chen, MD, Commissioner  
Vermont Department of Health