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23 April 2019

Honorable Schuyler Marvin  
Bossier Parish District Attorney  
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Benton, LA 71006

Vincent A. Culotta, Jr., MD  
Louisiana State Board of Medical Examiners  
630 Camp Street  
New Orleans, LA 70130

Secretary Rebekah E. Gee, MD, MPH  
Louisiana Department of Health  
P.O. Box 629  
Baton Rouge, LA 70821-0629

To Whom It May Concern:

I am writing to express my concerns that RS 40:1061.19 seems to have been violated by Bossier City Medical Suite (BCMS), a licensed outpatient abortion facility that operated until April 1, 2017, at 1505 Doctors Dr., Bossier City, LA 71111. In addition, I am concerned that other state laws could have been violated as well surrounding failure to report rape of a minor and failure to submit ITOP forms following abortion. I am requesting investigation by your agencies or offices to ascertain whether legal action must be pursued on these matters.

On March 30 2017, Robert Gross, the Vice President of BCMS, informed the Louisiana Department of Health ("LDH") by letter that, effective April 1, 2017, BCMS was closing and voluntarily returning its license to operate as an outpatient abortion facility. The letter is enclosed.

In the letter, Mr. Gross informed LDH that he would be the medical records custodian who would place the records at a location in Bossier City and advertise the location.

On July 3, 2018, Roneal Martin, the owner of the now closed BCMS, filed a declaration in the United States



District Court Eastern District of Texas, stating, among other things, the following:

*“Initially, as I prepared to close Bossier, we began moving Bossier's records to a storage facility. But it became apparent to me that the cost of continuing to store voluminous records for years to come would be prohibitively expensive. That was compounded by the fact that much of the reason I had to close Bossier was that the cost of recordkeeping and administrative requirements were already prohibitively expensive.”*

*“In May of 2017, approximately a month after the clinic closed, all of Bossier's business records, patient files, and all other documents were shredded. The only purpose I had in doing so was to make sure that patient confidentiality was protected and to avoid the cost of continued storage.”*

A copy of the declaration is enclosed.

Louisiana law requires that physicians retain medical records for a defined period of time. According to RS 40:1061.19, physicians performing abortion must retain medical records for not less than seven years after the abortion procedure.

Because Mr. Martin and BCMS admitted to shredding all patient records, questions arise as to how physicians operating at that facility would be able to meet their legal duty to maintain these patient records. Were the physicians who performed abortions at the facility complicit in the destruction of records, and thus in violation of RS 40:1061.19? Was the clinic owner an accessory to a violation of the law? Is there any other violation of state law or regulation?

Another concerning matter regarding the destruction of records is that in the months immediately preceding the closure of BCMS, the Health Standards Section of the Louisiana Department of Health had cited BCMS for failure to report the rape of a minor and failure to document submission of necessary reports. As evidenced by a Health Standards Section Statement of Deficiencies and Plan of Correction, in a survey on Feb. 1, 2017, Health Standards reviewed the medical record for “patient #1” and it revealed that patient #1 was a 14-year-old patient who had an abortion at BCMS on Sept. 9, 2016. The deficiency report reads the following on page 12,

“Further review of the Minor Patient Questionnaire revealed an answer to the following question: ‘Did he force you to have sex?’ ‘Yes.’ She indicated on the questionnaire that the age of the father was 16. Continued review of the record revealed no documented evidence that the facility had reported the patient response of ‘forced sex.’”

This situation presents the following questions: How many other instances of undocumented rape were present in the patient files destroyed by Mr. Martin? Has this instance of failure to report rape been investigated by local authorities? As mandatory reporters under the Children’s Code, these are serious matters that require immediate investigation.

In the same report, it was found that 12 out of 15 medical records (see page 7 of the report) surveyed had no documentation maintained to evidence that the “Induced Termination of Pregnancy (ITOP)” reports had been certified and registered within 30 days of the abortion procedure as is required by state law (RS 40:1061.21). Have local authorities investigated this apparent violation of state law? If all BCMS’s records could be reviewed, how many of those records would evidence this violation of state law? Have the statutorily required penalties been assessed?

We request your immediate attention and prompt investigation of these matters. If I can provide further information, please feel free to contact me at (504) 835-6520.

Sincerely,

A handwritten signature in black ink, appearing to read "Benjamin Clapper". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Benjamin Clapper  
Executive Director  
Louisiana Right to Life

Enclosures:

March 30, 2017 Facility Closure Letter from Bossier City Medical Suite

July 3, 2018 Declaration of Roneal Martin

February 1, 2017 Health Standards Section Statement of Deficiencies and Plan of Correction for Bossier City Medical Suite