



THOMAS J. MILLER
ATTORNEY GENERAL

Iowa Department of Justice

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August 12, 2010

Troy Newman, President
Cheryl Sullenger, Senior Policy Advisor
Operation Rescue
P.O. Box 782888
Wichita, KS 67278-2888

Dear Mr. Newman and Ms. Sullenger:

I am responding to your letters of June 22, 2010, and July 19, 2010, and an Operation Rescue email dated July 7, 2010.

June 22nd Letter

Your June 22nd letter states that it is "a formal complaint asking for a criminal investigation of Planned Parenthood of the Heartland ("PPH"), Susan Haskell, D.O., and Thomas William Ross, D.O., for their parts in dispensing abortion pills to women in remote locations via internet teleconferencing hook-up." A "complaint narrative" accompanies the letter and contains allegations that can be categorized as violations of: (1) standards of practice required of physicians, (2) criminal statutes, and (3) consumer protection statutes.

Standards of Practice for Physicians.

Your complaint narrative alleges several violations of the standards of practice required of physicians, including alleged violations of laws requiring onsite examination of patients, deviations from FDA approved protocols, violations of drug manufacturer warnings, and patient abandonment.

The Iowa Board of Medicine is entrusted with the responsibility to license physicians and to discipline a physician if, after investigation, notice, and hearing, the physician is found to have violated required standards of practice. *See* Iowa Code chapters 148 and 272C. A complaint regarding this issue has been filed with the Board of Medicine and it is our understanding that an investigation is underway.

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Criminal Statutes.

Your complaint narrative also claims that the practices at issue amount to “criminal negligence.”

Iowa has a county-based criminal justice system and the jurisdiction to prosecute criminal cases of this type lies with the appropriate county attorney. The Board of Medicine, as noted above, is already investigating your complaint. The Board is required by law to report any evidence of a violation of law discovered in the course of its investigation to the proper law enforcement agency. Iowa Code §272C.6(4)(a), as amended by Senate File 2237, 83rd G.A., 2d Sess., §94. If the Board obtains information indicating that a crime has been committed, then it is mandated to report that information to the law enforcement official with jurisdiction where the incident occurred, such as a chief of police, sheriff, or county attorney.

Consumer Protection Statutes.

Finally, your complaint narrative alleges that consumer protection statutes are being violated because (1) the risks, complications, and recommended use of the drugs dispensed are not adequately disclosed, and (2) the fees charged for the remote dispensation of the drugs via the internet are greater than the fees charged for in-person abortion services.

This office enforces Iowa’s consumer fraud statute. Under the statute, the office can take action if a person uses an unfair practice, deception, fraud, false pretense, or misrepresentation, or the omission of a material fact, in connection with the sale of a service. *See* Iowa Code §714.16. In response to your complaint, we requested, and have reviewed, the PPH document which provides client information for the informed consent of patients. The document contains information about alternative ways to take the medicine, the side-effects of the medicine, and the risks associated with the procedure. The patient is required to sign an agreement acknowledging the patient understands the information and was given an opportunity to ask questions. We do not see any deficiency in the information provided by PPH which would rise to a violation of the consumer fraud act.

We leave to the Medical Board the determination as to whether the physicians involved, as a matter of professional standards, are obligated to provide additional information to patients for informed consent.

As far as the issue of fees, the consumer fraud act does not prohibit a variation in the amount of fees charged for similar services if the fees are fully disclosed, as it appears they are here.

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July 19th Letter

Your letter of July 19th is a “formal request for a state audit of Planned Parenthood of the Heartland (PPH).” Specifically, you ask for audits concerning: (1) alleged over-billing by PPH of “insurance companies for remote-controlled abortion pill distribution services,” (2) alleged misuse by PPH of state and federal money, and (3) alleged misuse of a grant made by this office to PPH in FY2005.

Audits.

The State Auditor, not this office, has the authority and expertise to conduct audits on behalf of the State of Iowa. You may want to refer your request to the State Auditor. Additionally, you may want to refer your request to the Insurance Division of the Department of Commerce with respect to your claim that PPH is engaging in improper billing of insurance companies.

Crime Victim Services Money to PPH.

Let me address your allegations about crime victim services money that is provided by this office to PPH. You state “[t]he Iowa Attorney General’s office has funneled thousands of taxpayers dollars directly to PPH, yet there is a question of accountability concerning exactly how these funds were spent.” You have not provided any facts to support this statement. On the contrary, a review of the facts demonstrates the statement is inaccurate. There is no question that these funds were properly expended by PPH.

The Crime Victims Assistance Division (CVAD) of this office has made only one crime victim services grant to PPH. The grant was in the amount of \$7000 for FY05. The source of the money was the federal STOP Violence Against Women Program (VAWA). The grant was awarded to create and coordinate a Polk County Sexual Abuse Response Team that would respond to the needs of sexual assault victims in Polk County. The funds were granted and used to pay for a part-time Sexual Abuse Response Team/Sexual Abuse Nurse Examiner (SART/SANE) Coordinator. The duty of the Coordinator was to create protocols for responding to sexual assault victims and to coordinate the schedules of nurse examiners that collect evidence and provide medical treatment to sexual assault victims in Polk County.

PPH, like all grant recipients, was subject to CVAD’s programmatic and fiscal oversight. PPH’s application for funding was reviewed by a multi-disciplinary team of reviewers, including CVAD staff, for allowable use of funds. PPH’s detailed program budget was reviewed and approved as part of the grant award process. PPH provided three performance reports for the grant - - two 6-month

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performance reports and an annual performance report. PPH submitted one 6-month claim for reimbursement in the amount of \$5,265, providing all required documentation for the reimbursement of payroll for the part-time SART/SANE Coordinator position. The claim for reimbursement was reviewed for allowable costs by a CVAD program staff person and CVAD's accountant, who is a CPA. There was no further claim by PPH for reimbursement, resulting in \$1,735 of the \$7,000 grant not being used by PPH.

In addition to the single crime victim services grant, CVAD reimburses PPH for the costs of sexual assault examinations ("SAEs"), as required under Iowa Code section 915.41 and related regulations. For each SAE, the regulations mandate that CVAD pay up to \$300 for the examination facility and \$200 for the examiner fees, in addition to related laboratory and prescription drug costs. As a general rule, these payments only partially cover the costs actually incurred by providers offering SAE services. In FY10, CVAD paid PPH \$16,283 for 53 SAEs. (In FY10, CVAD paid all providers \$1,612,720 for 2,645 SAEs.) In FY09, CVAD paid PPH \$17,363 for 51 SAEs. (In FY09, CVAD paid all providers \$1,175,406 for 2030 SAEs.) In FY08, CVAD paid PPH \$21,520 for 54 SAEs. (In FY08, CVAD paid all providers \$1,386,400 for 2,276 SAEs.)

Claims for crime victim compensation, including payments for SAEs, are reviewed by two different CVAD staff persons prior to disbursement. It also should be noted that crime victim compensation is not paid with taxpayer dollars, but with criminal fines and penalties.

CVAD's expenditures for grants and crime victim compensation are annually reviewed by the State Auditor and are periodically audited by the federal government with respect to the use of VAWA and other federal funds.

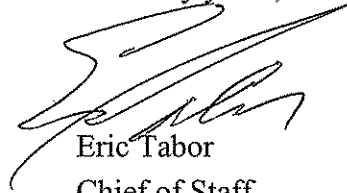
July 7th Email

In addition to your correspondence to this office, I would like to address some unfortunate comments contained in an Operation Rescue email dated July 7, 2010, concerning Dr. Linda Railsback. Dr. Railsback is a respected Des Moines emergency medicine professional. She is a private practice obstetrician and gynecologist and serves part time at PPH in their prenatal and women's health services. Contrary to the implications of your email, Dr. Railsback does not and has never performed elective termination of pregnancy.

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Dr. Railsback is recognized as a pioneer in the field of crime victim services Iowa. Since 1977, she has been a strong leader advocating for services needed by sexual assault victims. She was appointed to our Crime Victims Assistance Board by Attorney General Miller in 2007 and has been a very active board member since. We value Dr. Railback's long service, special expertise, and deep commitment to serving victims of violent crimes.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Eric Tabor", written over a horizontal line.

Eric Tabor
Chief of Staff