

IN THE MATTER OF * BEFORE THE
IRIS E. DOMINY, M.D. * MARYLAND STATE
Respondent * BOARD OF PHYSICIANS
License Number: D30890 * Case Number: 2013-0722
* * * * *

ORDER FOR SUMMARY SUSPENSION OF LICENSE TO PRACTICE MEDICINE

The Maryland State Board of Physicians (the “Board”) hereby **SUMMARILY SUSPENDS** the license of **IRIS E. DOMINY, M.D.** (the “Respondent”) (D.O.B., 03/29/1952), License Number D30890, to practice medicine in the State of Maryland. The Board takes such action pursuant to its authority under Md. State Gov’t Code Ann. § 10-226(c)(2009 Repl. Vol. and 2012 Supp.), concluding that the public health, safety or welfare imperatively requires emergency action.

INVESTIGATIVE FINDINGS

Based on information received by, and made known to the Board, and the investigatory information obtained by, received by and made known to and available to the Board, including the instances described below, the Board has reason to believe that the following facts are true:¹

BACKGROUND

1. At all times relevant hereto, the Respondent was licensed to practice medicine in the State of Maryland. The Respondent was initially licensed to practice

¹ The statements regarding the Respondent’s conduct are intended to provide the Respondent with notice of the basis of the summary suspension. They are not intended as, and do not necessarily represent a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with this matter.

medicine in Maryland on June 12, 1984, under License Number D30890. The Respondent's license is scheduled for renewal on September 30, 2014

2. The Respondent is board-certified in obstetrics and gynecology.

3. At all times relevant hereto, the Respondent was affiliated with Associates in OB/GYN Care, LLC ("OB/GYN Care"), a practice that provides abortion services at offices located in Baltimore, Frederick, Cheverly and Silver Spring.

4. The Board initiated an investigation of the Respondent after reviewing recent actions the Maryland Office of Health Care Quality ("OHCQ")² took against OB/GYN Care. OHCQ summarily suspended the licenses of three of OB/GYN Care's offices on or about March 5, 2013, and suspended the licenses of all four of its offices on May 9, 2013, for violations of the State's surgical abortion facility regulations. See Code Md. Regs. ("COMAR") tit. 10, §§ 12.01.01 *et seq.* The Respondent performed abortions at OB/GYN Care's offices during the time of OHCQ's inspections.

5. OHCQ determined that OB/GYN Care's continuing violations of the State's surgical abortion facility regulations placed patients at risk of serious harm or death. OHCQ ordered that OB/GYN Care immediately cease providing surgical abortions after its investigation determined that the public health, safety or welfare imperatively required emergency action. Among other findings, OHCQ determined that OB/GYN Care's Baltimore office "was not equipped to complete a procedure safely . . . failed to implement a safe discharge plan for the patient . . . [which] . . . could have resulted in serious or life-threatening harm or death to the patient."

² OHCQ licenses and certifies state health care facilities and monitors the quality of care in those facilities. The OHCQ monitors state health care facilities under its jurisdiction to ensure compliance with all applicable state and federal regulations.

6. After reviewing these investigative findings, the Board issues this Order for Summary Suspension pursuant to Md. State Gov't Code Ann. § 10-226(c)(2). The Board concludes that the Respondent's actions constitute a substantial likelihood of risk of serious harm to the public health, safety and welfare, which imperatively requires the immediate suspension of his license to practice medicine.

OHCQ Investigation

7. OHCQ initially inspected OB/GYN Care's surgical abortion facilities in February 2013, when the Respondent was performing abortions at its offices. OHCQ's inspection determined that OB/GYN Care committed numerous violations of the State's surgical abortion facility regulations. After considering these findings, the Secretary of the Department of Health and Mental Hygiene summarily suspended the licenses of OB/GYN Care's Baltimore, Cheverly and Silver Spring offices, concluding that there was a threat to the public health and safety.

8. OHCQ found that OB/GYN Care's Cheverly facility was in violation of COMAR 10.12.01.09 because (a) the pads of its Automated External Defibrillator ("AED") expired in 2008; (b) the clinical nurse on site did not know how to use the AED and suction machine; (c) the District Manager admitted to the surveyor that the nurses had not been trained on the use of the AED and suction machine; and (d) the suction machine did not work because an adapter was missing.

9. OHCQ found that OB/GYN Care's Baltimore and Silver Spring locations violated COMAR 10.12.01.07A and B by failing to perform surgical abortion services in a safe manner and by failing to develop appropriate post-anesthesia procedures and protocols.

10. During the survey, OHCQ inspectors investigated the Respondent's performance of an abortion on February 13, 2013, at the Baltimore office. OHCQ investigators found that the Respondent left a patient unattended for a period of time after administering conscious sedation to her and performing an abortion. A staff member informed the Respondent, who was not currently certified in cardiac life support, that the patient had ceased breathing. The Respondent undertook resuscitation efforts, after which the patient was treated by emergency services and hospitalized. The patient died on February 15, 2013, with causes of death reportedly including severe pulmonary edema, acute respiratory distress syndrome and hypoxic brain injury.

11. The Secretary subsequently lifted the suspensions of the clinics' licenses pending OB/GYN Care's submission of acceptable written correction plans. To date, however, OB/GYN Care has not filed acceptable plans of correction for all of the deficiencies at each site. In addition, OB/GYN Care has not responded to repeated telephone calls and emails from OHCQ and is thus not in compliance with the regulations for abortion facilities in this State.

12. OHCQ then received an anonymous complaint, dated May 7, 2013, regarding treatment a patient (the "Patient") received at OB/GYN Care's Baltimore office on May 4, 2013.

13. On May 4, 2013, a patient presented for an elective surgical abortion. OHCQ's investigation determined that an untrained/unlicensed OB/GYN Care staff person evaluated the patient, performed and interpreted the ultrasound, obtained informed consent, and dispensed the medication misoprostol, a drug used to induce

abortions. At the time the staff person performed these non-delegable medical acts, no physician was on site.

14. When the surgeon on duty arrived later, he refused to perform the abortion on the patient, who then had to seek treatment elsewhere. The patient's medical record did not accurately describe what occurred and what was discussed with her during the encounter. Later that day, the patient presented to another facility where the staff completed a surgical abortion procedure with no reported complications.

15. The Respondent practiced in an environment in which unlicensed/untrained office staff were allowed to perform ultrasounds, evaluate fetal gestational age, and provide medications to patients to promote abortions. OB/GYN Care staff admitted to OHCQ surveyors that OB/GYN Care's standard protocol was to administer misoprostol to all patients at 11 weeks' gestation or beyond, even if the patient had not been evaluated by a physician, and even if no physician was available on site. OHCQ investigators interviewed the Respondent, who stated all OB/GYN Care offices follow this standard protocol.

16. OHCQ investigation determined that OB/GYN Care initiated a surgical abortion in a facility that was not equipped to complete the procedure safely. In addition, OB/GYN Care failed to implement a safe discharge plan for the Patient. These deficiencies constitute violations of COMAR 10.12.01.07A and 10.12.01.01A, which could have resulted in serious or life-threatening harm or death to the Patient.

17. On May 8, 2013, OHCQ inspectors went to OB/GYN Care's Baltimore office during the facility's reported hours of operation to investigate the complaint. The office was closed at that time in violation of COMAR 10.12.01.04A(2).

18. The Respondent provided abortion services at OB/GYN Care during which time its offices violated numerous provisions of the State's surgical abortion facility regulations, which could have resulted in serious or life-threatening harm of death to patients. To date, OB/GYN Care has not submitted satisfactory plans of correction to address these deficiencies. Thus, the Respondent is continuing to provide abortion services at offices that are not in compliance with the State's surgical abortion facility regulations.

19. In addition, the Respondent practiced medicine at OB/GYN Care with unauthorized persons or aided unauthorized persons in the practice of medicine there. The Respondent provided abortion services in offices in which unlicensed/untrained individuals performed ultrasounds, dispensed medications that can promote labor/abortions, and independently initiated treatment in violation of COMAR 10.32.12.04.

20. Based on these facts, the Board concludes that the Respondent constitutes an imminent threat to the public, which imperatively requires the suspension of his license.

CONCLUSIONS OF LAW

Based on the foregoing investigative facts, the Board concludes that the public health, safety or welfare imperatively require emergency action in this case, pursuant to Md. State Gov't Code Ann. § 10-226(c)(2)(2009 Repl. Vol. and 2012 Supp.).

ORDER

It is by the affirmative vote of a majority of the quorum of the Board considering this case:

ORDERED that pursuant to the authority vested by Md. State Gov't Code Ann. §10-226(c)(2), the Respondent's license to practice medicine in the State of Maryland is hereby **SUMMARILY SUSPENDED**; and it is further

ORDERED that a post-deprivation hearing in accordance with Code of Maryland Regulations tit. 10, § 32.02.05.B(7), C and E on the Summary Suspension has been scheduled for **Wednesday, June 12, 2013 at 10:00 a.m.**, at the Maryland State Board of Physicians, 4201 Patterson Avenue, Room 108, Baltimore, Maryland 21215-0095; and it is further

ORDERED that at the conclusion of the **SUMMARY SUSPENSION** hearing held before the Board, the Respondent, if dissatisfied with the result of the hearing, may, within ten (10) days, request an evidentiary hearing, such hearing to be held within thirty (30) days of the request, before an administrative law judge at the Office of Administrative Hearings, Administrative Law Building, 11101 Gilroy Road, Hunt Valley, Maryland 21031-1301; and it is further

ORDERED that on presentation of this Order, the Respondent **SHALL SURRENDER** to the Board's investigator the following items:

- (1) her original Maryland License D30890;
- (2) her current renewal certificate;
- (3) DEA Certificate of Registration, # AD9330628 (exp. 06/30/14);
FD3140174, FD3118204, FD3118228, FD3140162 (exp. 06/30/14)
- (4) Maryland Controlled Dangerous Substance Registration, # M20803 (exp. 03/31/15);
- (5) All controlled dangerous substances in her possession and/or practice;
- (6) All Medical Assistance prescription forms;


- (7) All prescription forms and pads in her possession and/or practice; and
- (8) Any and all prescription pads on which her name and DEA number are imprinted.

AND IT IS FURTHER ORDERED that a copy of this Order of Summary Suspension shall be filed with the Board in accordance with Md. Health Occ. Code Ann. § 14-407 (2009 Repl. Vol. and 2012 Supp.); and it is further

ORDERED that during the period of **SUMMARY SUSPENSION**, in accordance with the provisions of Title 4, subtitle 3 of the Health-General Article, the Respondent shall have a continuing duty, on proper request, to provide the details of a patient's medical record to the patient, another physician or hospital; and it is further

ORDERED that this is a Final Order of the Board and, as such, is a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. § 10-611 *et seq.* (2009 Repl. Vol. and 2012 Supp.).

May 29, 2013
Date


Andrea Mathias, M.D., MPH
Board Chair
Maryland State Board of Physicians