

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED
AHCA
AGENCY CLERK

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

2009 JUL 15 A 9 20

Petitioner,

FRAES No.: 2009005105

CASE No. 09-672PH

vs.

RENDITION NO.: AHCA-09-*608* -S-OLC

EPOC CLINIC, LLC,

Respondent.

FINAL ORDER

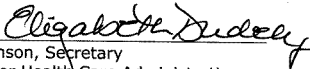
Having reviewed the Notice of Intent to Impose Fine dated May 4, 2009, attached hereto and incorporated herein (Ex. 1), and all other matters of record, the Agency for Health Care Administration ("Agency") has entered into a Settlement Agreement (Ex. 2) with the other party to these proceedings, and being otherwise well-advised in the premises, finds and concludes as follows:

ORDERED:

1. The attached Settlement Agreement is approved and adopted as part of this Final Order, and the parties are directed to comply with the terms of the Settlement Agreement.
2. The Notice of Intent to Impose Fine is rescinded.
3. Each party shall bear its own costs and attorney's fees.
4. The above-styled case is hereby closed.

DONE and **ORDERED** this 14 day of July, 2009

in Tallahassee, Leon County, Florida.


Holly Benson, Secretary
Agency for Health Care Administration

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW WHICH SHALL BE INSTITUTED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF AHCA, AND A SECOND COPY, ALONG WITH FILING FEE AS PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE AGENCY MAINTAINS ITS HEADQUARTERS OR WHERE A PARTY RESIDES. REVIEW OF PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH THE FLORIDA APPELLATE RULES. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

Copies furnished to:

Patricia L. Fulop Executive Director EPOC Clinic, LLC 609 Virginia Drive Orlando, Florida 32803 (U. S. Mail)	Michael O. Mathis Assistant General Counsel Agency for Health Care Administration 2727 Mahan Drive, Bldg #3, MS #3 Tallahassee, Florida 32308 (Interoffice Mail)
Jan Mills Agency for Health Care Administration 2727 Mahan Drive, Bldg #3, MS #3 Tallahassee, Florida 32308 (Interoffice Mail)	Laura MacLafferty Hospital Unit Manager Agency for Health Care Administration 2727 Mahan Drive, MS #31 Tallahassee, Florida 32308 (Interoffice Mail)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Final Order was served on the above-named person(s) and entities by U.S. Mail, or the method designated, on this the 15th day of July, 2008.



Richard Shoop, Agency Clerk
Agency for Health Care Administration
2727 Mahan Drive, Building #3
Tallahassee, Florida 32308-5403
(850) 922-5873



CHARLIE CRIST
GOVERNOR

7160 3901 9845 1190 8639
HOLLY BENSON
SECRETARY

May 4, 2009

DORA NOLD
EPOC CLINIC, LLC
609 VIRGINIA DRIVE
ORLANDO, FL 32803

LICENSE NUMBER: 822

CASE #: 2009005105

NOTICE OF INTENT TO IMPOSE FINE

Pursuant to Section 408.813 and Section 390.0112(4), Florida Statutes (F.S.), a fine of \$200 is hereby imposed for not submitting your monthly report of induced terminations of pregnancy for the month of March, 2009. The monthly report is due no later than 30 days following the preceding month. Pursuant to Section 390.0112(4) F.S., any person required to report who fails to report may be subject to a \$200 fine.

TO PAY NOW, PAYMENT SHOULD BE MADE WITHIN 21 DAYS AND MAILED WITH A COPY OF THIS NOTICE OF INTENT TO:

Agency for Health Care Administration
Finance and Accounting, Revenue Section
OMC Manager
2727 Mahan Drive, MS #14
Tallahassee, FL 32308

Include License Number: 822 and Case Number: 2009005105 in check memo field

EXPLANATION OF RIGHTS

Pursuant to Section 120.569, F.S., you have the right to request an administrative hearing. In order to obtain a formal proceeding before the Division of Administrative Hearings under Section 120.57(1), F.S., your request for an administrative hearing must conform to the requirements in Section 28-106.201, Florida Administrative Code (F.A.C), and must state the material facts you dispute.

SEE ATTACHED ELECTION AND EXPLANATION OF RIGHTS FORMS.

Agency for Health Care Administration

Laura MacLafferty ⁸⁵⁰ (407) 487-2717
By: Laura MacLafferty, Manager
Hospital And Outpatient Services Unit

cc: Agency Clerk, Mail Stop 3
Legal Intake Unit, Mail Stop 3

Exhibit # 1



FILED
AHCA
AGENCY CLERK

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION 2009 MAY 15 P 12:46

RE: EPOC CLINIC, LLC

CASE NO: 2009005105

ELECTION OF RIGHTS

This Election of Rights form is attached to a proposed Notice of Intent to Deny of the Agency for Health Care Administration (AHCA). The title may be **Notice of Intent to Impose a Fine, Administrative Complaint, or some other notice of intended action by AHCA.**

An Election of Rights must be returned by mail or by fax within twenty-one (21) days of the day you receive the attached Notice of Intent to Impose a Fine, Administrative Complaint or any other proposed action by AHCA.

If an Election of Rights with your selected option is not received by AHCA within twenty-one (21) days from the date you received this notice of proposed action, you will have given up your right to contest the Agency's proposed action and a final order will be issued.

(Please reply using this Election of Rights form unless you, your attorney or your representative prefer to reply according to Chapter 120, Florida Statutes (2006) and Rule 28, Florida Administrative Code.)

Please return your ELECTION OF RIGHTS to:

Agency for Health Care Administration
Attention: Agency Clerk
2727 Mahan Drive, Mail Stop #3
Tallahassee, Florida 32308
Phone: (850) 922-5873 Fax: (850) 921-0158

PLEASE SELECT ONLY 1 OF THESE 3 OPTIONS:

OPTION ONE (1) I admit to the allegations of facts and law contained in the Notice of Intent to Impose a Fine, Administrative Complaint, or other notice of intended action by AHCA and I waive my right to object and have a hearing. I understand that by giving up my right to a hearing, a final order will be issued that adopts the proposed agency action and imposes the proposed penalty, fine or action.

OPTION TWO (2) I admit to the allegations of facts and law contained in the Notice of Intent to Impose a Fine, Administrative Complaint, or other proposed action by AHCA, but I wish to be heard at an informal proceeding (pursuant to Section 120.57(2), Florida Statutes) where I may submit testimony and written evidence to the Agency to show that the proposed administrative action is too severe or that the fine should be reduced.

OPTION THREE (3) _____ I dispute the allegations of facts and law contained in the Notice of Intent to Impose a Fine, Administrative Complaint, or other proposed action by AHCA, and I request a formal hearing (pursuant to Section 120.57(1), Florida Statutes) before an Administrative Law Judge appointed by the Division of Administrative Hearings.

PLEASE NOTE: Choosing OPTION THREE (3), by itself, is **NOT** sufficient to obtain a formal hearing. You also must file a written petition in order to obtain a formal hearing before the Division of Administrative Hearings under Section 120.57(1), Florida Statutes. It must be received by the Agency Clerk at the address above **within twenty-one (21) days** of your receipt of this proposed administrative action. The request for formal hearing must conform to the requirements of Rule 28-106.2015, Florida Administrative Code, which requires that it contain:

1. Your name, address, and telephone number, and the name, address, and telephone number of your representative or lawyer, if any.
2. The file number of the proposed action.
3. A statement of when you received notice of the Agency's proposed action.
4. A statement of all disputed issues of material fact. If there are none, you must state that there are none.

Mediation under Section 120.573, Florida Statutes, may be available in this matter if the Agency agrees.

License type: Abortion Clinic License number: 822

Licensee Name: EPOC CLINIC, LLC

Contact person: PATRICIA L. FULOP EXECUTIVE DIRECTOR

Name Title
Address: 609 VIRGINIA DR. ORLANDO 32803
Street and number City Zip Code

Telephone No. 407-898-2046 Fax No. 407-228-2198

Email (optional) _____

I hereby certify that I am duly authorized to submit this Notice of Election of Rights to the Agency for Health Care Administration on behalf of the licensee referred to above.

Signed: Patricia L. Fulop Date: May 8, 2009
Print Name: PATRICIA L. FULOP Title: EXEC. DIRECTOR

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

FRAES No.: 2009005105
CASE No. 09-672PH

vs.

EPOC CLINIC, LLC,

Respondent.

SETTLEMENT AGREEMENT

Petitioner, State of Florida, Agency for Health Care Administration (hereinafter the "Agency"), through its undersigned representatives, and Respondent, EPOC Clinic, LLC (hereinafter "Respondent"), pursuant to Section 120.57(4), Florida Statutes, each individually, a "party," collectively as "parties," hereby enter into this Settlement Agreement ("Agreement") and agree as follows:

WHEREAS, the Respondent is an abortion clinic licensed pursuant to Chapter 408, Part III and 390, Florida Statutes; and

WHEREAS, the Agency has jurisdiction by virtue of being the regulatory and licensing authority over licensure of Petitioner; and

WHEREAS, the Agency served the Petitioner with a Notice of Intent to Impose Fine on or about May 8, 2009; and

Ex. 2

WHEREAS, the parties have agreed that a fair, efficient, and cost effective resolution of this dispute would avoid the expenditure of substantial sums to litigate the dispute; and

WHEREAS, the parties stipulate to the adequacy of considerations exchanged; and

WHEREAS, the parties have negotiated in good faith and agreed that the best interest of all the parties will be served by a settlement of this proceeding; and

NOW THEREFORE, in consideration of the mutual promises and recitals herein, the parties intending to be legally bound, agree as follows:

1. All recitals are true and correct and are expressly incorporated herein.
2. Both parties agree that the "whereas" clauses incorporated herein are binding findings of the parties.
3. Upon full execution of this Agreement, Respondent agrees to waive any and all proceedings and appeals to which it may be entitled including, but not limited to, an informal proceeding under Subsection 120.57(2), a formal proceeding under Subsection 120.57(1), appeals under Section 120.68, Florida Statutes; and declaratory and all writs of relief in any court or quasi-court (DOAH) of competent jurisdiction; and further

agrees to waive compliance with the form of the Final Order (findings of fact and conclusions of law) to which it may be entitled. Provided, however, that no agreement herein, shall be deemed a waiver by either party of its right to judicial enforcement of this Agreement.

4. Upon full execution of this Agreement, the parties agree to the following:

a. The Notice of Intent to Impose Fine is deemed superseded by this agreement.

5. Venue for any action brought to interpret, challenge or enforce the terms of this Agreement or the Final Order entered pursuant hereto shall lie solely in the Circuit Court in Leon County, Florida.

6. By executing this Agreement, the Petitioner neither admits nor denies the allegations raised in the Notice of Intent to Impose Fine.

7. Upon full execution of this Agreement, the Agency shall enter a Final Order adopting and incorporating the terms of this Agreement and closing the above-styled case(s).

8. Each party shall bear its own costs and attorney's fees.

9. This Agreement shall become effective on the date upon which it is fully executed by all the parties.

10. The Respondent for itself and for its related or resulting organizations, its successors or transferees, attorneys, heirs, and executors or administrators, does hereby discharge the Agency and its agents, representatives, and attorneys of all claims, demands, actions, causes of action, suits, damages, losses, and expenses, of any and every nature whatsoever, arising out of or in any way related to this matter and the Agency's actions, including, but not limited to, any claims that were or may be asserted in any federal or state court or administrative forum, including any claims arising out of this Agreement, by or on behalf of the Petitioner or related or resulting organizations.

11. This Agreement is binding upon all parties herein and those identified in the aforementioned paragraph of this Agreement.

12. In the event that Respondent is or was a Medicaid provider, this settlement does not prevent the Agency from seeking Medicaid overpayments or from imposing any sanctions pursuant to Rule 59G-9.070, Florida Administrative Code. This agreement does not prohibit the Agency from taking action regarding Petitioner's Medicaid provider status, conditions, requirements or contract.

13. The undersigned have read and understand this Agreement and have authority to bind their respective principals to it. Petitioner's representative has the capacity to execute this Agreement and has done so without the advice of counsel. The Petitioner understands that it has the

JUN-19-2009 12:05

AGENCY HEALTH CARE ADMIN

850 921 0150

P.06

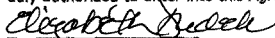
right to consult with counsel and has knowingly and freely entered into this Agreement without exercising its right to consult with counsel. The Respondent fully understands that counsel for the Agency represents solely the Agency and Agency counsel has not provided legal advice to or influenced the ^{Respondent} Petitioner in its decision to enter into this Agreement.

14. This Agreement contains the entire understandings and agreements of the parties.


15. This Agreement supersedes any prior oral or written agreements between the parties. This Agreement may not be amended except in writing. Any attempted assignment of this Agreement shall be void.

16. All parties agree that a facsimile signature suffices for an original signature.

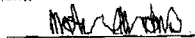
17. The following representatives hereby acknowledge that they are duly authorized to enter into this Agreement.


 Elizabeth Dudek
 HQA, Deputy Secretary
 Agency for Health Care Administration
 2727 Mahan Drive, Bldg #1
 Tallahassee, Florida 32308


DATED: 7/14/2009


 Patricia L. Fulop, Exe. Director
 EPOC Clinic, LLC
 609 Virginia Drive
 Orlando, FL 32803

DATED: 6/19/09


 Michael O. Mathis
 Assistant General Counsel
 Agency for Health Care Admin.
 2727 Mahan Drive, MS #3
 Tallahassee, Florida 32308

DATED: 6/19/09


 Justin Senior, General Counsel
 Agency for Health Care Administration
 2727 Mahan Drive, Mail Stop #3
 Tallahassee, Florida 32308

DATED: 6/29/09