

STATE OF FLORIDA
BOARD OF MEDICINE

Final Order No. DOH-02-1930-DS-MQA
FILED DATE - 12/23/02
Department of Health
By: *Linda R. Jensen*
Deputy Agency Clerk

IN RE: PETITION FOR DECLARATORY
STATEMENT OF

MARK RABINOWITZ, M.D.

FINAL ORDER

The Board of Medicine considered the Petition for Declaratory Statement filed by Mark Rabinowitz, M.D., at a duly-noticed meeting of the Board held on December 7, 2002 in Tampa, Florida, and determined that the petition should be denied. The Board published notice of receipt of the petition in Volume 28, No. 43, of the October 25, 2002, issue of the Florida Administrative Weekly.

Upon consideration of the petition, the Board determined that a response to the petition was not appropriate on the grounds that the petition does not provide enough information for the Board to determine whether the procedure outlined in the petition is the appropriate standard of care. In addition, the Board cannot review the informed consent procedures of every physician in the State of Florida for every medical treatment or procedure performed on the patient.

Therefore, the Board of Medicine declines to issue a declaratory statement in response to the petition, and the petition is dismissed.

This Final Order shall become effective upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 23 day of DECEMBER, 2002.

BOARD OF MEDICINE



Larry McPherson, Jr., Executive Director
for Zachariah P. Zachariah, M.D., Chair

NOTICE TO PARTIES

Pursuant to Section 120.569, Florida Statutes, petitioner is hereby notified that he may appeal this Final Order by filing one copy of a notice of appeal with the Clerk of the Department of Health and one copy of a notice of appeal and the filing fee with the District Court of Appeal within 30 days of the date this Final Order is filed.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been provided by U.S. Mail to Mark Rabinowitz, M.D., 1140 Kane Concourse, Bay Harbor Islands, Florida 33154, this 23 day of December, 2002.



RECEIVED
SEP 27 2002

Women's Centre for Health, Inc.
1140 Kane Concourse
Bay Harbor Islands
FL 33154

Tel: 305/865-6866 Fax: 305/865-7907

September 23, 2002

Florida Board of Medicine
4052 Bald Cypress Way
Bin # C03
Tallahassee, FL 32399-3253

(1) Petition for Declaratory Statement Before The Florida Board of Medicine

(2) Petitioner: Mark Rabinowitz, MD
1140 Kane Concourse
Bay Harbor Islands
Florida 33154
Tel: 305/865-6866 Fax: 305/865-7907

(3) Representative: None

(4) Statutory Provision: Florida Statute 458.331(1)(t)

(5) Description:

It is my desire that the board comment upon the circumstances outlined below specifically with regard to existing statutes or rules or standards of care as outlined in the Florida Statutes.

I am an obstetrician. I provide delivery services to patients referred to me by the local community health center where family practice physicians provide prenatal care. The family physicians send the patients to visit me during the course of their prenatal care, usually in the first trimester or early second trimester. After I evaluate a patient, if there is no precluding existing condition, I offer to deliver her baby when she goes into labor provided the patient continues her prenatal care at the community clinic according to the clinic guidelines and no condition develops that precludes me from delivering her baby.

If a condition develops during her prenatal care or when she presents for delivery to the hospital, i.e. a high risk condition that I am not comfortable handling, the patient has the option to be transferred to a facility of her choice, provided transfer is safe. Alternatively, the physician who covers the obstetric emergency room at my hospital will deliver her baby.

I have discussed this arrangement with the physician who covers the emergency room and he has expressed that he finds this arrangement favorable.

If the patient is *uncomfortable* with the conditions outlined in the attached letter I advise her that I cannot offer my services and she may *continue her prenatal care* at the local clinic that referred her to me. The clinic provides the patient with additional options as follows:

1. The patient may present in labor to the indigent care facility associated with the local medical school;
2. The patient may present in labor to any local hospital emergency room including the emergency room attached to the hospital where I deliver my patients;
3. The patient may seek care with any physician of her choice.

I would be grateful if you would review the letter I provide the patient on her first visit outlining the conditions upon which I plan to deliver her care. If you feel that this letter or this standard of care is acceptable, please advise me in writing.

See Attached Sample Letter

(6) Signature:

(7) Date: September 23, 2002

Women's Centre for Health, Inc.

1140 Kane Concourse

Bay-Harbor Islands

FL 33154

Tel: 305/863-6866 Fax: 305/865-7917

Sample Letter

Dear Obstetric Patient:

Our physician has performed a preliminary evaluation to determine if he will be able to deliver you when you go into labor. At this time there is no condition revealed by your history and physical examination that would preclude our physician from delivering your baby; however, that may change at any time including when you actually go into labor.

Please continue to obtain your prenatal care with the physician who referred you to our office. If you go into labor before 34 weeks of pregnancy or if you go into labor before your next visit to our office, our physician will not be able to deliver you. In that case, please obtain your delivery services from the alternate facility that your physician who is providing your prenatal care has designated. Make certain that your physician provides you with an alternate delivery plan.

On your next scheduled visit to our office our physician will advise you of our intention regarding your delivery. If our physician determines at that visit or at a later time including when you present to the hospital for delivery that he cannot deliver you, you will be referred to another hospital such as Jackson Memorial Hospital or you will be cared for at Mount Sinai Medical Center by the physician on call. It is also your option to attend the alternate facility designated by your physician who is providing your prenatal care.

Your signature below indicates that you understand and accept these conditions of the care provided to you by us. If you do not accept these conditions, please seek care at another facility of your choice.

Thank you.

Sincerely,

Mark Rabinowitz, MD

Patient signature and date

Printed patient name and social security number