



OHIO DEPARTMENT OF HEALTH

246 North High Street
Columbus, Ohio 43215

614/466-3543
www.odh.ohio.gov

John R. Kasich/Governor

Richard Hodges/Director of Health

SEP 25 2015

Women's Med Group Professional Corporation
Attn: Martin Haskell, MD
PO Box 43100
Cincinnati, Ohio 45243

dba Women's Med Center of Dayton
1401 E. Stroop Rd.
Dayton, Ohio 45429

Re: **Proposed License Revocation and Refusal to Renew - Opportunity for Hearing**
ID # 0600AS

Dear Dr. Haskell:

I propose to issue an Order revoking and refusing to renew Women's Med Center of Dayton's (WMC) health care facility license (ambulatory surgical facility) in accordance with Revised Code (R.C.) Chapter 119 and R.C. 3702.32(D)(2) due to violations of R. C. 3702.303 and Ohio Admin. Code (O.A.C.) 3701-83-19(E). R.C. 3702.303(A) requires an ambulatory surgical facility have a written transfer agreement (WTA) with a local hospital for the safe and immediate transfer of patients when medical care is needed beyond that which can be provided in the facility. O.A.C. 3701-83-19(E) requires an ambulatory surgical facility have a WTA with a hospital for the transfer of patients in the event of medical complications, emergency situations, and for other needs as they arise.

On June 24, 2015, I denied WMC's pending 2012, 2013 and 2014 variance requests from the requirement that each ambulatory surgical facility have a written transfer agreement with a hospital. I denied the variance requests because they did not meet the same standard of protections that written transfer agreement would provide. The variance request did not meet my expectation for 24/7 backup coverage and uninterrupted continuity of care as would occur with a written transfer agreement. I expressed concern that WMC provided only two back-up physicians to provide coverage for care beyond that which the facility can provide and for emergencies, medical complications and other needs as may arise. I provided WMC thirty (30) days to provide a new variance application for consideration.

On July 24, 2015, WMC submitted a variance request from the written transfer agreement requirement for the 2015 license period and a supplement to its 2014 variance request. The new variance request added a back-up physician, bringing the total number of back-up physicians to three. All three of the back-up physicians work in the same medical practice.

On September 25, 2015, after consultation with the department's medical director, I denied WMC's 2015 variance request and the 2012, 2013 and 2014 variance requests. Variances from the WTA requirement are for limited circumstances in which the facility can still achieve the purposes of a WTA, where compliance with the WTA requirement would impose an undue hardship, and where the proposed alternative method of compliance meets or exceeds the protections afforded by the statute and rule. R.C. 3702.304. WMC's provision of only three named back-up physicians did not meet my expectation that a variance provide the same level of patient health and safety that a WTA with a local hospital assures for 24/7 back-up coverage. Further, additional backup from un-named physicians in the group practice does not comply with R.C. 3702.304 which requires specific information to be provided as to each named physician e.g., licensure status, travel time to hospital, and contact information. Additionally, I remained concerned that Miami Valley Hospital, which is the hospital where the three named backup physicians have admitting privileges, again shared its objection to any involvement with WMC. Any future change in their admitting privileges could negatively impact patient health and safety and continuity of care.

WMC does not have a written transfer agreement with a local hospital and is not in compliance with R.C. 3702.303 or O.A.C. 3701-83-19(E).

Specifically, WMC does not meet the requirements of R.C. 3702.303 because it does not have a written transfer agreement with "a local hospital that specifies an effective procedure for the safe and immediate transfer of patients from the facility to the hospital when medical care beyond the care that can be provided at the ambulatory surgical facility is necessary, including when emergency situations occur or medical complications arise."

Additionally, WMC does not meet the requirements of O.A.C. 3701-83-19(E) because it does not have a written transfer agreement "with a hospital for transfer of patients in the event of medical complications, emergency situations, and for other needs as they arise."

You may request a hearing before me or my duly authorized representative concerning my proposal to revoke and refuse to renew WMC's health care facility license. Such request must be made in writing and received within thirty (30) days of receipt of this letter and should be directed to Kaye Norton, Ohio Department of Health, 246 N. High Street, Office of the General Counsel, Columbus, Ohio, 43215. A request is considered timely if it is received by ODH via FAX, hand delivery, or ordinary United States mail, within thirty days of the date of receipt of this letter.

At a hearing, you may appear in person or be represented by an attorney. You may present evidence and you may examine witnesses for and against you. You also may present your position, contentions, or arguments in writing, rather than appear in person for a hearing. If you are a corporation or limited liability corporation, you must be represented by an attorney licensed to practice in Ohio. Pursuant to R.C. 119.07, you may remain in operation while the administrative proceedings take place. Please be advised that if you do not request a hearing within thirty days of receipt of this letter, I may revoke and/or refuse to renew WMC's health care facility license.

Please contact Heather Coglianese, Senior Legal Counsel, at (614) 466-4882, if you have questions about this matter.

Sincerely,



Richard Hodges, MPA
Director of Health

CMRRR: 7013 2630 0002 1125 4560

c: Brian Dean, Bureau of Regulatory Compliance
Tamara Malkoff, Chief, Bureau of Information & Operational Support
Drema Phelps, Chief, Bureau of Community Health Care Facilities & Services
Heather Coglianese, Office of General Counsel