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July 26, 2021

Kim Gaedeke
Chief Deputy Director
Department of Licensing and Regulatory Affairs
Bureau of Community and Health Systems – Health Facility Complaints
611 W. Ottawa Street – Central Office
P.O. Box 30664
Lansing, MI 48909

BCHS-Complaints@michigan.gov

Dear Ms. Gaedeke:

The American Civil Liberties Union of Michigan (ACLU) submits this complaint on behalf of Ms. M, a pregnant, 38-year-old woman who has significant scarring and whose bladder and uterus have fused together as a result of prior pregnancies delivered via cesarian section. Due to her medical condition, her physician advised that her health will be at risk if she delivers more than one additional child. Despite her doctor’s recommendation, Ascension Providence Hospital is preventing her from undergoing a safe sterilization procedure during her upcoming delivery. We request that you take immediate action to stop Ascension Providence from continuing to prohibit their physicians from providing appropriate medical care to Ms. M and others.

Factual Background

The only way to protect Ms. M’s health is for her to avoid future pregnancies. She has significant scarring caused by prior Cesarean sections, and her bladder has fused to her uterus. Her doctors have advised her that her condition creates substantial risks to her health if she were to deliver any more children after the one she is already scheduled to deliver. Because of this, she wishes to have a tubal ligation at the time of her scheduled C-section. This is the appropriate standard of care if a woman seeks a tubal ligation while pregnant. When Ms. M learned of her current pregnancy, aware that it would have to be her last in order to protect her health, she discussed the procedure with her doctors. She was shocked when her doctors informed her that, although they are willing to perform the procedure, Ascension Providence will revoke their admitting privileges if they do. Her doctors further informed her that this is because Ascension Providence is part of a Catholic health system that requires all of its hospitals to adhere to a religious policy promulgated by the U.S. Conference of Catholic Bishops, called the Ethical and Religious Directives for Catholic Health Care Services (“Directives”). Ms. M’s doctors explained that, based on these Directives, Ascension has implemented a ban on almost all tubal ligations.

Ms. M is 26 weeks pregnant. Her current doctors have safely delivered her other children at Ascension Providence. They have admitting privileges only at Ascension Providence, and therefore cannot provide Ms. M with the care that she needs in another hospital. As such, if Ascension Providence does not provide Ms. M with an exemption from its policy so that she can receive a tubal ligation at the time of her currently-scheduled C-section, she will be forced to choose from three options, none of them being optimal. One option would be to search for a new doctor and new hospital in the middle of her pregnancy. Because she already trusts her doctors and has safely delivered at Ascension Providence, and because it is difficult to develop a relationship with a new doctor with so little time left in her pregnancy, this would be a highly stressful situation, and therefore not a good option. The other option would be to have the C-section at Ascension Providence, wait to heal, and then schedule the tubal ligation as a subsequent surgery at another hospital. Not only would this still require her to find a new physician, but it would also require her to incur the risks associated with a second surgery, and wait to heal a second time, thus extending the amount of time that she will be unable to work or care for her family. Finally, delaying the procedure puts her at risk of becoming pregnant again, which is a danger to her health. These options are all unnecessary and contrary to medical standards, as well as state and federal law.

Ascension Providence's ban on tubal ligations has no medical basis of which we are aware. **If a patient seeks a tubal ligation for *any* reason, and there is no medical reason that a tubal ligation cannot be performed, it is an accepted medical practice for the doctor to deem the tubal ligation medically indicated. Here, Ms. M has a serious medical condition that increases the risk of carrying another pregnancy. Refusing to provide her with a tubal ligation represents a serious threat to her well-being and is medically unjustified.**

Ascension Providence is Failing to Comply with State and Federal Law

Hospital patients are "entitled to receive adequate and appropriate care...unless medically contraindicated as documented in the medical record by the attending physician...." M.C.L. § 333.20201. Additionally, a patient "shall not be denied appropriate care on the basis of...sex..." *Id.*

Ascension Providence receives Medicaid and Medicare funds. Facilities receiving such funds are required to abide by the Conditions of Participation, which state that a "patient...has the right to make informed decisions regarding his or her care [including]...being able to request or refuse treatment." 42 C.F.R. § 482.13(b)(2).

"Adequate and appropriate care" for Ms. M is for her to have a tubal ligation to prevent further surgeries. The standard of care dictates that the safest time for her to have this procedure is at the time of her C-section delivery. Instead of providing Ms. M with the care that she needs and requests, her doctors have informed her that Ascension Providence has chosen to abide by a policy that substantially departs from accepted medical standards. As noted above, this leaves Ms. M with three options that are all hazardous to her health. The

decision to deny a patient adequate and appropriate care for her medical condition falls below the appropriate standard of care.

There is no adequate justification for Ascension Providence to force patients to endure such treatment. Ascension Providence's ban on tubal ligations is not only contrary to the standard of care and grossly negligent, it is also discriminatory. To our knowledge, Ascension Providence does not have a similar policy that requires male patients with a serious medical condition, such as Ms. M's, to choose a riskier treatment that falls well below the standard of care or be forced to find an alternate hospital. It is our understanding that Ascension Providence is still allowing its physicians to perform vasectomies. If this is the case, banning tubal ligations is an arbitrary, discriminatory policy. Only women and those with female reproductive organs are forced to make this choice.

Request for Relief

Under M.C.L. § 333.20165,

[LARA] may deny, limit, suspend, or revoke the license or certification or impose an administrative fine on a licensee if 1 or more of the following exist:

(d) Negligence or failure to exercise due care....

...

(f) Evidence of abuse regarding a patient's health, welfare, or safety or the denial of a patient's rights.

Ascension Providence's refusal to provide Ms. M with the treatment that she needs to safeguard her health and life constitutes negligence, a failure to exercise due care, evidence of abuse regarding her safety, and a denial of her right to appropriate care.

Hospitals should not be permitted to choose a policy that has no medical basis over patient safety and welfare. We urge LARA to immediately investigate Ascension Providence, and take appropriate action to ensure that nobody who seeks care at its facilities are subjected to this medically dangerous and unnecessary policy. Due to the time-sensitive nature of this request, please be aware that simultaneously with this complaint, we sent a letter to Ascension Providence requesting that it reconsider its decision regarding Ms. M. We have attached it here. We look forward to a prompt response by your agency and request that you confirm receipt of this complaint by August 6, 2021 and provide notification of the steps you intend to take to investigate this issue.

Very truly yours,



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