

March 4, 2016

**Via Overnight Mail and Fax**

Kris Ordelheide, Senior Vice President and General Counsel  
Gary S. Campbell, FACHE, President and Chief Executive Officer  
Centura Health  
188 Inverness Drive W #500  
Englewood, CO 80112  
Fax: (303) 804-8198

Paul Chodkowski, CEO  
Mary Henrikson, CNO, COO, VP Patient Care Services  
Dr. Alan Dulit, CMO  
St. Anthony Summit Medical Center  
340 Peak One Drive  
Frisco, Colorado 80443  
Fax: (970) 668-6991

Dear Mr. Ordelheide,

We are writing on behalf of our client Jennifer Versailles, who is scheduled to deliver her third child at St. Anthony Summit Medical Center (“St. Anthony”) by Cesarean Section (“C-section”) on March 15, 2016. It is our understanding that St. Anthony has refused to authorize Ms. Versailles’s doctor to perform a postpartum tubal ligation at the time of her delivery, and that this refusal is based on the United States Conference of Catholic Bishops’ Ethical and Religious Directives for Catholic Health Care Services. Denying Ms. Versailles a postpartum tubal ligation in these circumstances violates the standard of care by subjecting her to additional and medically unnecessary health risks. Further, both federal law and Colorado law prohibit a hospital like St. Anthony from denying Ms. Versailles medically indicated pregnancy-related care, as doing so constitutes sex discrimination. We ask that you immediately authorize Ms. Versailles’s doctor to perform a postpartum tubal ligation at the time of her C-section.

Ms. Versailles, in consultation with her doctor, Dr. Andrew Catron, has decided that immediate postpartum tubal ligation is in her best medical interest, given her age and prior medical history. Ms. Versailles has two young children—ages two and five, both delivered by C-section—and she and her husband do not wish to have more children. Because each repeat C-section is more complicated than the last, and studies show that a woman’s health risks increase



progressively with multiple cesarean deliveries,<sup>1</sup> many doctors, including Dr. Catron, discourage women from having more than three C-sections in their lifetimes. Further, immediate postpartum sterilization—both for vaginal delivery and C-section—is safe, effective, and medically appropriate for patients who have indicated their desire to undergo sterilization.<sup>2</sup> Because of its advantages in reducing the medical risks and burdens of undergoing a separate surgical procedure that will require additional anesthesia, the American College of Obstetricians and Gynecologists recommends that postpartum tubal ligation be considered “an urgent surgical procedure.”<sup>3</sup> Ultimately, Dr. Catron has determined that postpartum tubal ligation is the proper standard of care for Ms. Versailles.

It would be practically impossible for Ms. Versailles to deliver at another hospital. St. Anthony is the only hospital in Summit County, and the next closest hospitals are located in Vail and Denver, 35 and 70 miles away, respectively. Dr. Catron does not have admitting privileges in Vail and cannot be the primary surgeon in Denver because it is outside his call coverage area. Furthermore, travel to either of these hospitals is unpredictable and treacherous this time of year, as March is typically Colorado’s heaviest month for snowfall,<sup>4</sup> and both Vail Pass and the Eisenhower tunnel regularly close due to weather.<sup>5</sup> To ask Ms. Versailles to find a new doctor in the next ten days and accept the risk of unpredictable winter storms preventing her from reaching the hospital, is unsafe and unrealistic to say the least.

Moreover, Ms. Versailles *wants* to deliver at St. Anthony—she trusts Dr. Catron, she knows the nurses at St. Anthony, and she feels most comfortable delivering her third child in the same hospital and with the same OB/GYN group who safely delivered her first two.

On December 28, 2015, Dr. Catron sought authorization from St. Anthony to perform postpartum tubal ligation at the time of Ms. Versailles’s third C-section. In addition to explaining his medical reasons for recommending the procedure for Ms. Versailles, Dr. Catron noted the difficulties with travel to another hospital. On December 30, 2015, Father Godwin Nnamezie of St. Anthony’s Ethics Committee notified Dr. Catron that his request was denied: “Honestly, you know that we cannot do direct sterilization whether permanent or temporary at our Facility.

---

<sup>1</sup> See Robert M. Silver, et al., *Maternal Morbidity Associated with Multiple Repeat Cesarean Deliveries*, 107(6) *Obstetrics & Gynecology* 1226–32 (2006), available at [http://journals.lww.com/greenjournal/Fulltext/2006/06000/Maternal\\_Morbidity\\_Associated\\_With\\_Multiple\\_Repeat.4.aspx](http://journals.lww.com/greenjournal/Fulltext/2006/06000/Maternal_Morbidity_Associated_With_Multiple_Repeat.4.aspx).

<sup>2</sup> Am. C. of Obstetricians & Gynecologists, *Comm. Op. 530: Access to Postpartum Sterilization* (July 2012, reaffirmed 2014), available at <http://www.acog.org/Resources-And-Publications/Committee-Opinions/Committee-on-Health-Care-for-Underserved-Women/Access-to-Postpartum-Sterilization>; Am. C. of Obstetricians & Gynecologists, *Practice Bulletin 133: Benefits and Risks of Sterilization* (Feb. 2013).

<sup>3</sup> Am. C. of Obstetricians & Gynecologists, *Comm. Op. 530: Access to Postpartum Sterilization* (July 2012, reaffirmed 2014).

<sup>4</sup> See *Denver Monthly Snowfall*, National Weather Service, <http://www.weather.gov/bou/denverannualsnowfall1882-2014>.

<sup>5</sup> See David Mitchell & Shanna Mendiola, *Heavy Snow Hits Mountains; Denver Could Get Rain, Light Snow*, KDVR Fox31 Denver (Mar. 26, 2014), <http://kdvr.com/2014/03/26/storm-to-bring-rain-possible-light-snow-to-denver> (“I-70 was closed in both directions at Silverthorne because of multiple accidents and adverse conditions.”).



Procedures that induce sterility are only allowed when it is to cure or alleviate any serious illness of the patient.” E-mail from Godwin Nnamezie to Andrew Catron (Dec. 30, 2015, 10:38 AM PST). We presume that St. Anthony’s policy stems from the United States Conference of Catholic Bishops’ Ethical and Religious Directives for Catholic Health Care Services, which set forth the “Church’s teaching” on sterilization: “Direct sterilization of either men or women, whether permanent or temporary, is not permitted in a Catholic health care institution. Procedures that induce sterility are permitted when their direct effect is the cure or alleviation of a present and serious pathology and a simpler treatment is not available.”<sup>6</sup>

St. Anthony’s refusal to permit Ms. Versailles to undergo a postpartum tubal ligation violates the medical standard of care and her rights under both federal and state anti-discrimination law. This policy constitutes sex discrimination because it exposes female patients like Ms. Versailles to additional and unnecessary health risks not imposed on male patients, and prevents doctors from providing care in the manner and at the time that is in their patients’ best interests, only when those patients are women. It is immaterial that St. Anthony refuses to perform vasectomies. Unlike a vasectomy or separate tubal ligation procedure, *postpartum* tubal ligation—particularly as part of a repeat C-section—is “an urgent surgical procedure” that is medically appropriate and safer than the available alternatives for patients like Ms. Versailles.

Federal law clearly prohibits sex discrimination in the provision of healthcare. The federal Affordable Care Act’s anti-discrimination clause expressly states that “an individual shall not,” on the basis of sex, “be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any health program or activity, any part of which is receiving Federal financial assistance.” 42 U.S.C. § 18116(a). Upon information and belief, St. Anthony receives federal grants and accepts Medicare and Medicaid, and thus cannot discriminate in the provision of health services on the basis of sex.

Similarly, Colorado law prohibits St. Anthony’s actions. For example, various provisions of article II of the Colorado Constitution and the Colorado Anti-Discrimination Act, Colo. Rev. Stat. § 24-34-601, prohibit hospitals from engaging in sex discrimination and denying women appropriate health care. Colorado law also explicitly recognizes the importance of “ready and practicable access” to all “contraceptive procedures, supplies, and information,” Colo. Rev. Stat. § 25-6-101(3), including “permanent sterilization,” *id.* § 25-6-102(5), and prohibits hospitals from “interfer[ing] with either the physician-patient relationship or any physician or patient desiring to use any medically acceptable contraceptive procedures, supplies, or information,” *id.* § 25-6-102(4). Under Colorado law, hospitals may not “limit or otherwise exercise control over [a] physician’s independent professional judgment concerning the practice of medicine or diagnosis or treatment.” *Id.* § 25-3-103.7(3).

To comply with federal and Colorado law, we ask that you promptly authorize Dr. Catron to perform postpartum tubal ligation immediately following Ms. Versailles’s C-section on March

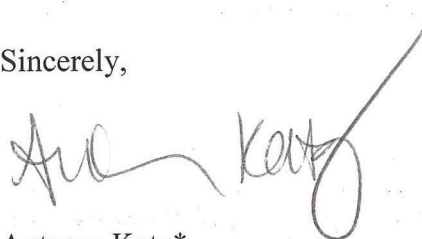
---

<sup>6</sup> United States Conference of Catholic Bishops, *Ethical and Religious Directives for Catholic Health Care Services*, 5th ed., No. 53 (Nov. 17, 2009), available at <http://www.usccb.org/issues-and-action/human-life-and-dignity/health-care/upload/Ethical-Religious-Directives-Catholic-Health-Care-Services-fifth-edition-2009.pdf>.

15, as the Ethical and Religious Directives are not a legal basis for withholding medically appropriate care to patients of St. Anthony who desire postpartum sterilization.

Please contact us no later than 5:00 PM on March 11, 2016 with notice of your intent to authorize Dr. Catron to perform postpartum tubal ligation following Ms. Versailles's scheduled C-section. Because of Ms. Versailles's impending delivery, we view this deadline as urgent and look forward to your prompt response. In the event you are unable to accommodate this request, we will investigate all of Ms. Versailles's options to ensure that she is able to obtain the medically indicated care to which she is entitled under federal and Colorado law.

Sincerely,

A handwritten signature in black ink, appearing to read "Autumn Katz", with a long, sweeping flourish extending from the end of the name.

Autumn Katz\*  
Senior Staff Attorney  
Molly Duane\*  
Legal Fellow  
Center for Reproductive Rights  
199 Water Street, 22nd Floor  
New York, NY 10038  
Fax: (917) 637-3666

\* Admitted to practice in New York

cc: Jennifer Versailles (via e-mail)  
Dr. Andrew Catron (via e-mail)