

Release and Settlement Agreement

This Release and Settlement Agreement is made and executed by and between **Planned Parenthood of Kansas and Mid-Missouri, Inc.**, (hereinafter referred to as “PPKM”), the **Missouri Department of Health and Senior Services**, (hereinafter referred to as “DHSS”), **Margaret Donnelly**, in her official capacity as the Director of DHSS (hereinafter referred to as “Donnelly”), **Chris Koster**, in his official capacity as Attorney General of the State of Missouri (hereinafter referred to as “Koster”), **James Kanatzar**, in his official capacity as **Prosecuting Attorney of Jackson County**, Missouri (hereinafter referred to as “Kanatzar”), and **Daniel Knight**, in his official capacity as Prosecuting Attorney of Boone County, Missouri (hereinafter referred to as “Knight”), **(DHSS, Donnelly, Koster, Kanatzar, and Knight will hereinafter be referred to collectively as “Defendants”;** PPKM and Defendants will hereinafter be referred to collectively as the “Parties.”) The Parties enter into this agreement through their respective lawyers.

For due and good consideration recited herein, the Parties agree and state as follows:

1. **Plaintiff.** PPKM is the Plaintiff in lawsuits styled (1) *Planned Parenthood of Kansas and Mid-Missouri, Inc., v. Jane Drummond, et al.*, No. 07-4164-CV-C-ODS, in the United States District Court for the Western District of Missouri, Central Division; (2) *Planned Parenthood of Kansas and Mid-Missouri, Inc., v. Missouri Department of Health and Senior Services*, No. 08AC-CC00463, filed in the Cole County Circuit Court; and (3) *Planned Parenthood of Kansas and Mid-Missouri, Inc., v. Missouri Department of Health and Senior Services*, No. 08AC-CC00276, filed in the Cole County Circuit Court.

(These lawsuits will hereinafter be referred to collectively as the “Lawsuits.”)

2. **Defendants.** Defendants are named as the defendants in the Lawsuits.

3. **Scope of Agreement.** This Agreement embodies the entire agreement and understanding of the Parties with respect to the subject matter contained herein. The Parties hereby declare and represent that no promise, inducement, or agreement not herein expressed has been made, and the Parties acknowledge that the terms and conditions of this Agreement are contractual and not a mere recital.

4. **Non-Admission.** No actions taken by the Parties, or any of them, either previously or in connection with this Agreement shall be deemed or construed to be an admission of the truth or falsity of any matter pertaining to any claim or defense alleged in the pleadings filed on behalf of the Parties in the Lawsuits, or an acknowledgment by any of the Parties of any liability to the other parties or to any person for any other claim, demand, or action, all liability being expressly denied by the Parties.

5. **Consideration.** In consideration for (1) PPKM’s dismissal of the Lawsuits; (2) PPKM’s release of claims as set forth in paragraph 10 of this Agreement; (3) PPKM’s agreement to complete structural changes at the Columbia Center and to otherwise comply with 19 CSR 30-30.070(2), as set out in paragraph 6 of this Agreement; and (4) PPKM’s agreement that the Broussard Center will comply with certain provisions of 19 CSR 30-30.050 and 19 CSR 30-30.060, as set out in paragraph 7 of this Agreement, the Defendants agree that DHSS will approve the Columbia Center and the Broussard Center for licensure as abortion facilities.

(2) is regs for NEW abortion facilities structure. (3) is for grandfathered sites.

Regs for Organizational management for abortion facilities

Definitions & procedures for licensing abortion facilities.

6. **Modifications of the Columbia Center.** PPKM agrees to make modifications to its facility located in Columbia, Missouri ("Columbia Center") as set out in the attached Addendum A. PPKM anticipates being able to begin construction within nine months of the date that this Agreement is finally signed by all the parties and completing construction within sixteen months from the date this Agreement is finally signed by all the parties, and agrees that while certain factors relevant to this timing (such as the DHSS's approval of its architectural drawings and sprinkler plans) are not under PPKM's control, it will make a good-faith effort to comply with these time frames.

PPKM agrees that it will submit architectural drawings showing the modifications to be made, as set out in Addendum A, to DHSS before work begins at the Columbia Center, including the agreed upon modifications in the sterilization and soiled rooms, and the sprinkler plans. PPKM agrees that DHSS shall be granted entry onto the Columbia Center premises for a mid-construction progress inspection. DHSS agrees that it will give PPKM at least 7 days prior notice of the proposed date for its progress inspection, which shall commence at an agreed upon date and time convenient to both parties. DHSS will be available for follow up questions and approval of specific construction or design questions as they arise and will endeavor to provide prompt responses to the Columbia Center during the construction and pre-approval phases.

PPKM agrees to permit DHSS to conduct a final inspection of the Columbia Center within 2 weeks of the completion of the structural modifications set out in Addendum A and before an abortion facility license is issued to ensure that the modifications at the Columbia

At this location on copy of this page obtained in 2/2012 Sunshine request has dates:
05/18/10
Mid-10/1/1(?can't read 2nd digit)
Final-03/1 (?rest of date/comment did not copy). who wrote it & where are inspection docs that match date.

2/14/2011 letter by David C. East, Mechanical Engineer 573-526-8521, mentions plans received at DHSS 1/5/2011, reviewed 2/4/2011, but needed further verification of corrections of several deficiencies. Specific inspection detailed check sheet not supplied by DHSS to any Sunshine records for inspections.

Sidewalk Advocates have not witnessed any signs of the major construction required to alter structure, sprinkler systems, or ventilation

A 4/14/2011 letter from David East to Ronald Elifrits, VP finance PPKMM, said final inspection completed 4/11/2011 and still needed verification of "conditions" to meet compliance with license regulations. Letter also requested "certifications upon completion of the construction" that HVAC, fire alarm, sprinkler system, electrical system, comply with codes; floor coverings were compliant; drapes & cubicle curtains were compliant. On site inspection records not included in Sunshine request for inspection documents. Where are the "certification" documents?

Center have been completed as agreed and also to ensure that the Columbia Center is also in compliance with the other requirements of 19 CSR 30-30.070(2) that have not been modified as set out in Addendum A. If this inspection reveals that the modification set out in Addendum A have not been completed as agreed, or that the Columbia Center is not in compliance with the other requirements of 19 CSR 30-30.070(2) that have not been modified as set out in Addendum A, PPKM agrees that it will make a good-faith effort to complete the remaining work needed for the Columbia Center to complete the modifications set out in Addendum A, and to be in compliance with the other requirements of 19 CSR 30-30.070(2) that have not been modified as set out in Addendum A, within six weeks.

DHHS acknowledges that it has made two site visits to the Columbia Center, believes it to be in compliance with the requirements of 19 CSR 30-30.070(2) except as specifically set forth in Addendum A, and will not require changes not set forth in Addendum A unless it determines that material alterations at the Columbia Center since the time of the site visits cause it to no longer be in compliance with those requirements.

7. **Brous Center.** PPKM will comply with the procedural, operational, and management requirements of 19 CSR 30-30.050 and 19 CSR 30-30.060 at its Brous Center location. Modifications to certain requirements of 19 CSR 30-30.050 and 19 CSR 30-30.060 that will apply to the Brous Center are set forth in Addendum B.

PPKM agrees to permit an inspection of the Brous Center before an abortion facility license is issued to ensure that the Brous Center is in compliance with the requirements of 19 CSR 30-30.050 and 19 CSR 30-30.060, as modified by Addendum B.

Where is inspection records showing what these deficiencies are? and if they have been corrected?

Definitions & Procedures for Licensing Abortion Facilities.

Organization and management for Abortion Facilities

The Parties acknowledge that the Brous Center currently does not perform surgical abortions. If the Brous Center at a future time wishes to provide surgical abortion services, PPKM will notify Defendants' counsel. PPKM understands that the performance of surgical abortions at the Brous Center would constitute a material change that would require the Brous Center to comply with additional regulations.

8. **Provision of Services.** It is the intention of the Parties and Defendants that the Columbia Center may continue providing abortion services throughout the process of preparing for and completing the modifications described in paragraph 6, and that it shall be deemed in compliance with the requirements of the ASCLL throughout that process. It is the intention of the Parties and Defendants that the Brous Center may continue providing medication abortion services during the abortion facility license application process, and that it shall be deemed in compliance with the requirements of the ASCLL throughout that process.

9. **Dismissal of the Lawsuits.** Upon payment of the fees and expenses set forth in Paragraph 12 of this Agreement, the Parties shall also execute the following Stipulations of Prejudicial Dismissal: (a) a Stipulation of Prejudicial Dismissal pursuant to Fed. R. Civ. P. 41(a)(1)(ii), to be filed the federal lawsuit identified in paragraph 1 of this Agreement, dismissing with prejudice PPKM's claims in their entirety; and (b) Stipulations of Prejudicial Dismissal pursuant to Mo. R. Civ. P. 67.02, to be filed in the state lawsuits identified in paragraph 1 of this Agreement dismissing with prejudice all claims raised in those lawsuits.

10. **Release.** PPKM does hereby release, acquit, and forever discharge the

Defendants, the State of Missouri, and any current or former employee, agent, agency, actor, or contractor of the Department or the State of Missouri, of all and from any and all liability, claims, actions, causes of action, demands, rights, damages, costs, interest, loss of service, expenses, and compensation whatsoever, whether or not now known or contemplated, which PPKM now has, or which may hereafter accrue, against the Defendants, the State of Missouri, or any current or former employee, agent, agency, actor, or contractor of the Department or the State of Missouri, based on or arising out of the allegations in the Lawsuits relating to the licensure of the Columbia and Brous Centers. PPKM specifically acknowledges that it is forever barred from filing suit against the Defendants, the State of Missouri, or any current or former employee, agent, agency, actor, or contractor of the Department or the State of Missouri, based on any claim based on or arising out of the allegations in the Lawsuits relating to licensure of the Columbia and Brous Centers.

11. **Full Consideration.** PPKM acknowledges that the consideration described in paragraph 5 of this Agreement is all that it or its representatives are ever to receive from the State of Missouri, the Defendants, or any person or entity related to them whatsoever, for the settlement described in this Agreement, whether in settlement of PPKM's claims for damages, attorney's fees, costs, or other claims which were or could have been asserted in the Lawsuits.

PPKMM should not expect any future waivers or exemptions from this settlement after they lost their license and MUST re-license as a new abortion facility.

12. **Attorney's Fees, Costs and Expenses.** In exchange for payment of \$80,000.00, representing compensation for attorney's fees and expenses generated in litigating the application of the ASCLL and the regulations implementing that law to the

Tax payer dollars went to assist abortions to continue in MO.!!!

Tax payer dollars
went to assist
abortions to
continue in MO!!!!

Columbia Center, and payment of \$65,000.00, representing compensation for attorney's fees and expenses generated in litigating the application of the ASCLL and regulations implementing that law to the Broussard Center in the federal lawsuit, PPKM hereby waives any remaining claim it might have against the State of Missouri, the Defendants in the Lawsuits, or any current or former employee, agent, agency, actor, or contractor of the State for attorney's fees, expenses, or costs, pursuant to 42 U.S.C. § 1988, or any other statute, rule, or other provision of law which is or may be in any way applicable hereto. The payment of \$145,000.00 will be issued to Plaintiff's counsel by June 30, 2010.

13. **Court Costs.** The Parties will bear their own court costs.

14. **Non-Assignment.** PPKM hereby represents, acknowledges, and warrants that it has not at any time heretofore assigned to any other person or entity all or any portion of any claim or potential claim whatsoever that it may have, or may have had, against the Defendants, the State of Missouri, or any person or entity whatsoever based on or arising out of the allegations contained in the Lawsuits.

15. **Binding Effect.** The persons signing this Agreement represent that they have read this Agreement and fully understand its provisions. The signatories of the Parties declare that they are of legal age and that they have relied solely upon their own judgment without influence of anyone in making this Agreement. This Agreement shall be binding upon, and inure to the benefit of the heirs, personal representatives, successors, and assigns of the Parties.

16. **Preparation of Documents.** This Agreement is the joint work product of the

Parties and, in the event of any ambiguity herein, no inference shall be drawn against a party by reason of document preparation.

17. **Further Execution.** Each party hereto shall execute any and all documents as are necessary or desirable to consummate the transactions contemplated hereby.

18. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be deemed executed as of the date the Agreement was finally signed by the Parties below.

Copies received in the 2/2012 Sunshine request have these pages signed, however, most of Addendum A, relating to non-compliance issues to be corrected by the Columbia facility, is redacted (Addendum B for Broussard facility has nothing redacted). I obtained this non-redacted file from the web site of the Center for Reproductive Rights.

PLANNED PARENTHOOD OF KANSAS
AND MID-MISSOURI, INC.

By: _____

Title: _____

STATE OF _____)
)
COUNTY OF _____) SS

Before me, a notary public for the State of _____, personally appeared _____, who did upon his/her oath state that he/she is authorized to execute this Agreement on behalf of Planned Parenthood of Kansas and Mid-Missouri, Inc., and that he/she executed this Agreement as his/her free act and deed. Subscribed and sworn to before me this _____ day of _____, 2010.

Notary Public

My commission expires on _____

MARGARET DONNELLY, in her official
capacity as Director, Missouri Department of
Health and Senior Services

By: _____

Title: _____

STATE OF MISSOURI)
)
COUNTY OF) ss

Before me, a notary public for the State of Missouri, personally appeared Emily A. Dodge, who did upon her oath state that she is an attorney for Margaret Donnelly with respect to the matter set forth in this Agreement, that she is authorized to execute this Agreement on behalf of Margaret Donnelly, in her official capacity as Director of the Missouri Department of Health and Senior Services, and that she executed this Agreement as her free act and deed. Subscribed and sworn to before me this _____ day of May, 2010.

Notary Public

My commission expires on _____.

CHRIS KOSTER, in his official capacity as
Attorney General of Missouri

By: _____

Title: _____

STATE OF MISSOURI)
) ss
COUNTY OF)

Before me, a notary public for the State of Missouri, personally appeared Emily A. Dodge, who did upon her oath state that she is an attorney for Chris Koster with respect to the matter set forth in this Agreement, that she is authorized to execute this Agreement on behalf of Chris Koster, in his official capacity as Attorney General of Missouri, and that she executed this Agreement as her free act and deed. Subscribed and sworn to before me this _____ day of May, 2010.

Notary Public

My commission expires on _____.

JAMES KANATZAR, in his official capacity
as Prosecuting Attorney of Jackson County

By: _____

Title: _____

STATE OF MISSOURI)
) ss
COUNTY OF)

Before me, a notary public for the State of Missouri, personally appeared _____, who did upon his/her oath state that he/she is authorized to execute this Agreement on behalf of James Kanatzar, in his official capacity as Prosecuting Attorney of Jackson County, and that he/she executed this Agreement as his/her free act and deed. Subscribed and sworn to before me this _____ day of _____, 2010.

Notary Public

My commission expires on _____.

DANIEL KNIGHT, in his official capacity as
Prosecuting Attorney of Boone County

By: Charles J. Dyhouse
Title: County Counselor for Boone County

STATE OF MISSOURI)
) ss
COUNTY OF)

Before me, a notary public for the State of Missouri, personally appeared Charles J. Dyhouse, who did upon his/her oath state that he/she is authorized to execute this Agreement on behalf of Daniel Knight, in his official capacity as Prosecuting Attorney of Boone County, and that he/she executed this Agreement as his/her free act and deed. Subscribed and sworn to before me this 18th day of May, 2010.

DEBORAH A. SPRAGUE
Notary Public - Notary Seal
State of Missouri
County of Boone
My Commission Expires August 10, 2012
Commission #08379046

Deborah A. Sprague
Notary Public

My commission expires on August 10, 2012.

I obtained this non-redacted file from the web site of the Center for Reproductive Rights. I have highlighted green all information redacted in the documents received from DHSS in the 2/2012 Sunshine request.

ADDENDUM A

Work to Be Completed by Planned Parenthood of Kansas and Mid-Missouri at its Columbia Center as Described in Paragraph 6 of the Settlement Agreement

Corridors and Patient-Traveled Doors

In light of the Columbia Center's specific configuration, the Department determines that the facility's existing corridor width of 5 feet and door widths and construction are acceptable if combined with the following modifications. The door swing in the procedure and recovery rooms will be made so that they continue to swing into the room, but swing next to the wall and out of the way of the gurney. The fire extinguisher on the wall opposite the recovery room will be moved to the same side as the recovery room. The fire extinguisher adjacent to the procedure room will be moved to the same side as the procedure room. These modifications will provide extra maneuvering room for a stretcher into either room.

Construction Type/Sprinkler System

The Regulations require single story facilities to be Type II (111) construction. The facility will become fully equipped with a sprinkler system, which will be an acceptable alternative to the construction type. The design specifications for the sprinkler system must be submitted to the Department for approval before construction begins.

Dimensions for procedure room

The Regulations require the procedure room to be 12 feet length and width and a minimum ceiling height of 9 feet. The procedure room to be used by the Columbia Center is

12 feet by 9 feet, 1/2 inch, with a ceiling height of 8 feet, 6 inches. These dimensions are an acceptable alternative because the facility will only use one procedure room.

Personnel Change Rooms

The Regulations require personnel change rooms for each sex, be located convenient to the procedure room, and each equipped with a toilet and lavatory. The facility may have only one, unisex personnel change room because the facility will only use one procedure room.

Procedure Room Lighting

The Regulations require that the procedure room be equipped with a ceiling-mounted surgical light. The Department grants a deviation from this Regulation to the Columbia Facility provided that the procedure room be equipped with a wall-mounted surgical light and gooseneck light.

In the redacted file from the DHSS this phrase has a circle around it.

Patient Change Rooms

The Regulations require at least two patient change rooms with storage for personal effects. The facility shall be allowed to use only one patient change room and to have patient belongings travel with the patient in a secure container, if it uses only one procedure room and does not use the procedure room as the change room.

Counseling Room Dimensions

The Regulations require that counseling rooms shall be separate and not smaller than ten feet by ten feet (10' x 10'). The facility shall be allowed to use its counseling room that is eight feet by ten feet, eleven inches (8' x 10', 11''),

Scrub Facility

The Regulations require knee or foot-operated scrub facilities located immediately outside the procedure room. The Facility shall be allowed to use a hands-free scrub sink located in the former procedure room which will no longer be used as a procedure room, and which is adjacent to the usable procedure room.

Sterilizing Room

The Facility shall provide a sterilization room with positive air pressure in relation to adjacent areas, in accord with 19 CSR 30-30.070(2)(v). The Facility shall also provide a separate soiled/decontamination room with a constant running exhaust.

Additional Items:

The following items shall also be completed:

Redacted version has 1 written and circled in front of it.

The facility shall install five (5) additional exit signs to clearly indicate the direction of exit travel.

Redacted version has 2 written and circled in front of it.

The facility shall make ceiling tile in the clinical area so that it is smooth and easily cleanable.

Redacted version has 3 written and circled in front of it.

The patient toilet facility shall be equipped with a constant running exhaust.

All open cabinet storage of supplies in the procedure room must be converted into closed cabinets in accord with the Regulations.

Redacted version has 1 written and circled in front of it.

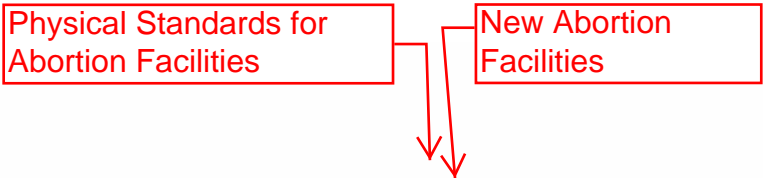
If not specifically mentioned in this Addendum, the additional regulations of 19 CSR 30-30.070(2) shall apply in full to the Columbia Center. DHHS acknowledges that it has made two site visits to the Columbia Center, believes it to be in compliance with the

Does this mean the facility did NOT have a separate sterile an dirty utility?? Unacceptable for any health care facility! Yet how many years did the DHSS allow this??

Where are the on site inspection documents?

Physical Standards for
Abortion Facilities

New Abortion
Facilities



requirements of 19 CSR 30-30.070(2) except as specifically set forth above, and agrees that it will not require changes not set forth in above unless it determines that material alterations at the Columbia Center since the time of the site visits cause it to be no longer in compliance with those requirements.

ADDENDUM B

Modifications of Brous Center requirements.

The Brous Center's quality assurance program will review all medication abortion complications, but will not be required to review the following items set forth in 19 CSR 30-30.060(3)(J) that are not applicable to medication abortion: cases that resulted in a stay of more than twelve (12) hours, and cases in which gestational age was determined to be beyond eighteen (18) weeks. The quality assurance program will not be required to review intraoperative and postoperative complications, however, complications of medication abortion, including incomplete or failed medication abortions that requires surgical completion, and hemorrhaging that requires surgical intervention following a medication abortion, shall be reviewed as part of the quality assurance program.

The Brous Center will not be required to provide medication abortion in a procedure room or a recovery room, and requirements that relate to the procedure and/or recovery room are therefore inapplicable. Continuous physician services or registered professional nursing services will be provided whenever an abortion patient is in the Brous Center, once the patient has received the mifepristone or other medication that begins the abortion process. PPKM represents that medication abortion at the Brous Center is provided by a physician licensed to practice in Missouri who has privileges to perform surgery either at Menorah Medical Center or Research Medical Center. This will fulfill the physical presence requirements of 19 CSR 30-30.060 (3) and (3)(A) and (3)(D) and the staff privileges requirement of 19 CSR 30-30.060(1)(C)(4). 19 CSR 30-30.060(3)(H)(2) and 19 CSR 30-

This is DHSS own admission that "induced" (medical) abortions are serious enough to require AMC full regulations. Their own words state serious complications of RU486 that "requires surgical completion" or "requires surgical intervention". Also note the clearly stated hospital privilege for the physician is the physician can do surgical procedures in said hospital.--BL

30.060(4) (A) through (C) do not apply to the inducement of medication abortions at the Brous Center.

The Brous Center will provide Anti-Rh immune globulin therapy to Rh negative patients during the appointment where the patient receives the mifepristone or other medication that begins the abortion process. The Brous Center need not perform urinalysis or a pelvic exam for every abortion patient, because it performs ultrasound on every patient to confirm pregnancy and gestational age. It will also perform hematocrit or hemoglobin and RH typing on every abortion patient. The option to perform a hemoglobin test instead of a hematocrit shall apply to the Columbia Center as well as the Brous Center.

If not specifically mentioned in this Addendum, the additional regulations of 19 CSR 30-30.050 and 19 CSR 30-30.060 shall apply in full to the Brous Center.