



Executive Office of Health and Human Services
1 Ashburton Place
Boston, MA 02108

Massachusetts Department of Public Health
99 Chauncy Street
Boston, MA 02111

Re: Clearway Clinic, anti-abortion center deceptive practices and patient endangerment

December 4, 2023

To Whom it May Concern:

I write on behalf of Reproductive Equity Now¹ to register our concern with the practices detailed in a recent lawsuit against Clearway Clinic, a Worcester anti-abortion center, which allegedly resulted in life-threatening complications and emergency surgery for a pregnant woman who sought care at Clearway.² Clearway Clinic is licensed by the Massachusetts Department of Public Health.³ The woman, referred to as Jane Doe to protect her identity, sued Clearway Clinic in a class action lawsuit that details the harms she suffered as a result of alarming practices at Clearway. Among Clearway's alleged practices are deceptive advertising, out-of-scope practice, and improper delegation of medical services, all of which endangered the life of Jane Doe. The alleged practices of Clearway Clinic harm both people seeking abortion care and patients in need of basic pregnancy care. We urge an investigation into the practices of Clearway Clinic and the staff who treated Jane Doe.

I. Background

¹ Reproductive Equity Now works to make equitable access to the full spectrum of reproductive health care a reality for all people regardless of their gender, age, race, ethnicity, zip code, income, immigration status, disability, or sexual orientation. Advancing reproductive justice and eliminating barriers to safe, legal abortion care are central to our mission.

² Anti-abortion centers (AACs), commonly referred to as "crisis pregnancy centers" or "CPCs", work to dissuade pregnant people from obtaining abortions. AACs are nonprofit organizations that often present themselves as medical clinics offering pregnancy-related care while actually seeking to prevent people from obtaining abortion care. Frequently, AACs are religiously affiliated and do not provide abortion or contraception or make referrals for abortion or contraceptive care, though some such as Clearway Clinic, do provide pregnancy tests, STI testing and treatment, and ultrasounds. See Melissa N Montoya et al., *The Problems with Crisis Pregnancy Centers: Reviewing the Literature and Identifying New Directions for Future Research*, 14 INT'L JOURNAL OF WOMEN'S HEALTH 757 (June 8, 2022), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9189146/>.

³ MASS. DEP'T OF PUBLIC HEALTH DIV. OF HEALTH CARE FACILITY LICENSURE & CERTIFICATION, FIND INFORMATION ABOUT LICENSED OR CERTIFIED HEALTH CARE FACILITIES, <https://www.mass.gov/info-details/find-information-about-licensed-or-certified-health-care-facilities>, (last visited Dec. 5, 2023).

According to the complaint, in October 2022, Jane Doe booked a same-day appointment with Clearway Clinic’s Worcester location when she thought she may be pregnant.⁴ The woman was seen by a nurse who conducted a limited number of ultrasounds and diagnosed the pregnancy as both viable and in utero and “sent the woman home believing she was carrying a completely healthy baby.”⁵ Despite only being seen by the nurse, the woman was given paperwork at the end of her visit indicating she had been treated by Dr. Erin Kate Dooley.⁶

One month after her Clearway appointment, Jane Doe experienced sharp and shooting pain in her side and was rushed to the hospital. The emergency room doctors diagnosed the woman with an ectopic pregnancy, a potentially life-threatening condition in which the fetus grows outside the uterus.⁷ The ectopic pregnancy had ruptured and caused “massive internal bleeding.”⁸ The woman underwent emergency surgery to stop the hemorrhaging and doctors removed one of her fallopian tubes.⁹ Had Doe been properly diagnosed at her October appointment, she could have received less invasive treatment to terminate the pregnancy and may not have lost her fallopian tube.¹⁰

An ectopic pregnancy is never a viable pregnancy and is potentially life-threatening to the pregnant person. Withholding or delaying treatment can cause death.¹¹ Treatment for an ectopic pregnancy is termination either via medication or surgery.¹² However, Clearway states on their website “we do not offer or refer for abortions.”¹³ As pregnancy termination is the appropriate treatment for ectopic pregnancy, Clearway’s anti-abortion policy raises the question as to whether they would have provided the appropriate treatment for the ectopic pregnancy if they had properly diagnosed it.

II. Deceptive Advertising

Clearway deceptively advertises pregnancy diagnosis services, yet the allegations outlined in the recent lawsuit raise questions about who provides pregnancy diagnostic services and their ability to appropriately diagnose pregnancy viability. Clearway advertises their services are provided by a “team of board certified doctors and nurses”,¹⁴ yet, according to Jane Doe’s

⁴ Ivy Scott, *Crisis pregnancy center accused of failing to care for Worcester woman who was later forced to have emergency abortion*, BOSTON GLOBE (June 22, 2023), available at <https://www.bostonglobe.com/2023/06/22/metro/clearway-clinic-lawsuit/>.

⁵ *Id.*

⁶ Kiernan Dunlop, *Worcester woman suing Clearway Clinic claims missed diagnosis put her life at risk*, MASSLIVE (June, 23, 2023), available at <https://www.masslive.com/worcester/2023/06/worcester-woman-suing-clearway-clinic-claims-missed-diagnosis-put-her-life-at-risk.html>.

⁷ THE AM. COLLEGE OF OBSTETRICIANS & GYNECOLOGISTS, FAQs: ECTOPIC PREGNANCY (last updated July 2022), <https://www.acog.org/womens-health/faqs/ectopic-pregnancy#:~:text=An%20ectopic%20pregnancy%20occurs%20when.can%20cause%20major%20internal%20bleeding>.

⁸ Scott *supra* note 4.

⁹ *Id.*

¹⁰ *Id.*

¹¹ THE AM. COLLEGE OF OBSTETRICIANS & GYNECOLOGISTS, FACTS ARE IMPORTANT: UNDERSTANDING ECTOPIC PREGNANCY <https://www.acog.org/advocacy/facts-are-important/understanding-ectopic-pregnancy#:~:text=A%20tubal%20ectopic%20pregnancy%20will.ectopic%20pregnancy%3A%20medication%20and%20surgery> (last visited Dec. 1, 2023).

¹² *Id.*

¹³ *Thinking About Abortion?*, CLEARWAY CLINIC, (<https://clearwayclinic.com/thinking-about-abortion/>) (last visited Dec. 1, 2023).

¹⁴ *About Us*, CLEARWAY CLINIC, (<https://clearwayclinic.com/about-us/>) (last visited Dec. 1, 2023).

attorneys, she was seen only by a nurse despite being given treatment paperwork signed by Dr. Dooley.¹⁵ This advertising and documentation practice may give patients the false impression of who is providing their treatment. Additionally, Clearway advertises ultrasound services to “[d]etermine the viability of a pregnancy [and] [d]etermine the location of an embryo or fetus.”¹⁶ Advertising diagnostic ultrasounds to determine the location of an embryo is not accurate if, as Jane Doe alleges, Clearway staff did not properly diagnose her ectopic pregnancy. It is against nursing standards of conduct for nurses to “engage in false, deceptive, or misleading advertising related to the practice of nursing.”¹⁷ Additionally, it is “against the public interest” for advertising of the practice of medicine to be “false, deceptive, or misleading.”¹⁸ Any potential deceptive advertising in violation of Board of Registration in Nursing and Board of Registration in Medicine regulations should be investigated further.

III. Out-of-Scope Practice and Improper Delegation of Medical Services

In addition to the potentially deceptive and misleading advertising practices in violation of Board of Registration in Nursing and Board of Registration in Medicine regulations, Jane Doe’s allegations raise the troubling policy that Clearway Clinic may routinely permit out-of-scope diagnostic ultrasound services. As the woman was seen only by a nurse, we are concerned that registered nurses may be routinely operating outside of their scope of practice by diagnosing ultrasounds. Registered nurses are not permitted to diagnose; only licensed doctors or Advanced Practice Registered Nurses are permitted to do so.¹⁹ Out-of-scope practice is not only unlawful, but also can result in a misdiagnosis as we have seen documented in the woman’s complaint. This merits serious inquiry by the appropriate licensing bodies.

Additionally, we raise concerns about the potential for improper delegation of medical services by Dr. Dooley who signed Jane Doe’s medical paperwork. Jane Doe reports she was seen only by a nurse at her appointment but was provided paperwork indicating that she had been treated by Dr. Dooley. As Dr. Dooley did not interact with the woman, it raises the serious question as to whether Dr. Dooley improperly delegated medical services to the nurse who is not licensed to perform diagnostic services resulting in grave risk to Jane Doe’s life. Any such delegation of medical services is impermissible under Board of Registration in Medicine regulations.²⁰

IV. Request for Investigation

We are alarmed by press reports about the practices of Clearway Clinic that resulted in an emergency life-saving surgery for a woman who sought basic and routine pregnancy care at their Worcester location. The allegations detailed in the class action lawsuit create a basis for an investigation as to whether Clearway endorses out-of-scope practice at its clinics and has engaged in deceptive and false advertising. We urge an investigation to ensure patient safety and that the standards set forth by the Board of Registration in Nursing and the Board of Registration in Medicine have been adhered to by Clearway Clinic and Dr. Erin Kate Dooley.

¹⁵ Dunlop *supra* note 6.

¹⁶ *Ultrasound Exam*, CLEARWAY CLINIC (<https://clearwayclinic.com/ultrasound-exam/>) (last visited Dec. 1, 2023).

¹⁷ 244 CMR 9.03.

¹⁸ 243 CMR 2.0.

¹⁹ 243 CMR 2.01; 244 CMR 3.02; 244 CMR 10.0.

²⁰ 243 CMR 207.

Sincerely,

A handwritten signature in black ink that reads "Rebecca Hart Holder". The signature is written in a cursive style with a large initial 'R'.

Rebecca Hart Holder

President

Reproductive Equity Now

CC: Executive Office of Health and Human Services Secretary Kate Walsh

Massachusetts Department of Public Health Commissioner Dr. Robert Goldstein

Board of Registration in Medicine

Board of Registration in Nursing

Division of Health Care Facility Licensure and Certification