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November 21, 1991

7 More Patients Accuse Doctor of Botching Their Abortions

By LISA BELKIN

The Lower East Side doctor who the police say severed the right arm of a fetus while performing an illegal abortion was accused by seven patients yesterday of botching their abortions, authorities said.

In addition, the obstetrician, **Dr. Abu Hayat**, was the subject of a civil malpractice suit earlier this year in which a judgment was found against him. The other seven cases were reported by women who called a police hot line after they heard of Dr. Hayat's arrest on Tuesday, the police said.

Dr. Hayat, 61 years old, of Manhattan, was released without bond late yesterday afternoon after being charged with performing an illegal third trimester abortion on 20-year-old Rosa Rodriguez. 'Danger to Public Health'

Peter Slocum, a spokesman for the New York State Health Department, said the agency was investigating Dr. Hayat and has the authority to suspend his license if officials "determine that the physician poses an imminent danger to public health."

The investigation could take several weeks, Mr. Slocum said. Until it is complete, he said, Dr. Hayat "could go back to work tomorrow."

Dr. Hayat did not return telephone calls to his office and his home. His Women's Medical Clinic at 9 Avenue A was closed yesterday.

A lawyer involved in the malpractice suit said Dr. Hayat had filed for bankruptcy on Monday. He also said that Dr. Hayat did not have malpractice insurance.

At a news conference yesterday afternoon, Miss Rodriguez described the events that brought her to that clinic on Oct. 25 and that led to the mutilation of her daughter, Ana Rosa, who was born alive but missing her arm. The baby, who weighed three pounds one ounce at birth, is in critical condition at New York University Hospital. A Calm Voice

Miss Rodriguez spoke in Spanish, in a soft, calm voice, and her remarks were translated by a legal assistant at the law firm of Trolman & Glaser, where the news conference was held and which is representing her at no charge. A small woman, about five feet tall, she said she did not look pregnant when she went to Dr. Hayat's clinic and she thought she was only three to four months into her pregnancy.

Miss Rodriguez is unemployed and the unmarried mother of a 2-year-old daughter, and she lives with her mother in Queens. She sought the abortion, she said, because she did not feel she could support a second child.

She said she found Dr. Hayat's telephone number in an advertisement in the Spanish-language newspaper El Diario, an advertisement that continued to appear yesterday. She chose his clinic, she said, because it had a Queens area code and she wanted to remain close to home, but when she made an appointment and arrived at the address she had been given, there was no clinic. Instead, she was taken by taxi to Dr. Hayat's office in Manhattan. She did not say who called the taxi.

Once she arrived at the clinic, she said Dr. Hayat performed no tests to determine how far along she was in her pregnancy. After an internal pelvic examination, she said, Dr. Hayat told her she was correct in her estimate that she was between her 12th and 16th week of pregnancy.

Doctors now estimate she was in her 32d or 34th week, her lawyer, Jeffrey Lichtman, said.

New York State law prohibits abortions after the 24th week of pregnancy unless the health of the mother is threatened or the fetus has congenital defects that mean it will not survive. Under the law, a woman is not responsible for having an illegal abortion; the doctor bears sole responsibility.

No sonogram test was done to confirm the fetus's age, Miss Rodriguez said. In fact, she said, she did not see any machines in the office. An officer present at the arrest of Dr. Hayat described the clinic as "filthy" and said there was no sonogram equipment.

Dr. Hakin Elahi, medical director for the Margaret Sanger Center, which is the Manhattan clinic for Planned Parenthood of New York City, said yesterday that "accepted medical practice requires a sonogram after 12 weeks."

After the examination, Miss Rodriguez said, Dr. Hayat told her to return the next day and he would perform the abortion.

When she returned, Miss Rodriguez said, she was having second thoughts about whether to have the abortion. She had felt the baby moving inside her, she said, and wondered whether to go through with her pregnancy. But, she said, Dr. Hayat pressured her to have the procedure.

Mr. Lichtman said his client was charged \$1,500 for the abortion. He said she paid \$1,000 in cash and gave her passport, green card and some jewelry as collateral for the other \$500. Planned Parenthood typically charges from \$300 to \$500 for an abortion.

Miss Rodriguez said Dr. Hayat gave her an anesthetic and she awoke later to find blood on her leg. Dr. Hayat, she said, told her there was nothing to worry about. Mr. Lichtman said that Dr. Hayat told his client that the abortion was incomplete and instructed her to go home and return the next day. Miss Rodriguez said the doctor told her that if she felt pain that evening she should not go to the hospital or seek other help but should instead call his assistant, who he said was a registered nurse.

Miss Rodriguez said she did feel pain that evening and called the assistant. The assistant said she would call Dr. Hayat. The assistant called back, saying she had spoken to Dr. Hayat and said the pains were normal and would subside, Miss Rodriguez said.

Later that evening, when Miss Rodriguez's mother, Ana, came home, her daughter told her about the pain. The two women went to Jamaica Hospital by taxi. Five hours later, the baby, Ana Rosa, was born, her arm severed below her right shoulder.

The Manhattan District Attorney's office is also investigating charges that Dr. Hayat fondled a patient during an examination. That sexual-abuse investigation is being conducted by Linda Fairstein, chief of the District Attorney's sex crimes unit. She will also handle the investigation of the Rodriguez case. Investigating Complaints

Ms. Fairstein said her office is encouraging women who believe they were mistreated by Dr. Hayat to come forward. "We will investigate any complaints against him," she said.

Law-enforcement officials would not give specifics about the accusations of the seven women who came forward yesterday. But they said that all the complaints could be documented because all the women sought other medical help after seeing Dr. Hayat.

The eighth woman, Clara Robles-Veliz, has gone public with her accusations. Last year she filed a malpractice suit against Dr. Hayat saying he perforated her uterus and cervix during an incomplete abortion during her 12th week of pregnancy in 1988. Dr. Hayat never responded to the suit, according to her lawyer, Irv Gertel, and was found guilty by default. Dr. Hayat challenged the default finding, Mr. Gertel said, but the New York State Supreme Court ruled that the finding should stand.

A settlement hearing was scheduled for this spring, Mr. Gertel said, but before the hearing Dr. Hayat declared Chapter 11 bankruptcy, asking for a rescheduling of his debts. On Monday of this week, Mr. Gertel said, Dr. Hayat filed for Chapter 7 bankruptcy, asking that all his debts be discharged.

Mr. Gertel said the expected settlement in a case would be "hundreds of thousand of dollars."

Mr. Gertel and Mr. Lichtman said Dr. Hayat does not have malpractice insurance.

Photo: Rosa Rodriguez at news conference yesterday as she described the attempted abortion procedure at the Women's Medical Clinic that, she said, led to her giving birth to a baby whose arm was missing. With her was her lawyer, Jeffrey Lichtman. (Vic DeLucia/The New York Times)

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