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Woman files lawsuit in 'botched abortion'

Candace Nelson Jun 10, 2013 (0)

CHARLESTON, W.Va. - A Charleston woman is alleging that a doctor at a local clinic went through with an abortion after she asked him to stop and that parts of the fetus remained in her uterus after the procedure. Her medical malpractice lawsuit against the doctor and the Women's Health Center of West Virginia was filed Friday with the help of two anti-abortion entities that also advocate for more regulation of the industry. Itai Gravely, 26, alleges that Dr. Rodney Lee Stephens, a doctor at the Women's Health Center, conducted the abortion, said her attorney, Jeremiah Dys, in a Monday press conference. Dys is president of the Family Policy Council of West Virginia, an anti-abortion religious organization. Attorneys with Alliance Defending Freedom, a conservative Christian nonprofit with goals that are similar to Dys' organization, also are representing Gravely. The legal complaint describes Gravely's visit to the center. Gravely reportedly went there April 19, 2012, to seek an abortion. Shortly into the procedure, the complaint says Gravely was in severe pain, "apparently related to the insertion of the curette," and told Stephens and center employees to stop. She alleges in the complaint that Stephens refused to do so, told other center employees to restrain Gravely and proceeded. The complaint says the center's staff knew of Gravely's "history of pain medication dependency" but did not ask about it sufficiently. Because of that, Stephens performed the abortion without using enough anesthesia to adequately sedate Gravely, she argues. In the 24 hours following the procedure, Gravely was in severe pain, she says. She was eventually taken by ambulance to CAMC Hospital. CAMC doctors allegedly found and removed a fetus from Gravely's uterus. At nine weeks a fetus might be 3/4 of an inch long, according to the Mayo Clinic website. The same website states a fetus at 12 weeks could be about 2 1/2 inches long. Gravely's pregnancy was between nine and 13 weeks, the

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complaint indicates. The lawsuit alleges the center and Stephens breached the standard of care, committed medical malpractice, battery, false imprisonment and more. Gravely is asking for compensation as a result of emotional distress, medical bills, pain and suffering and more. Dys thinks the most Gravely could receive is \$500,000. Gravely did not attend Monday's press conference. Dys said she is in better health and is currently pregnant again. Dys and the Alliance Defending Freedom say the circumstances of Gravely's case show more regulations are needed for clinics that perform abortions. "The general public, as a matter of public safety, needs to know that Women's Health Center of West Virginia and the abortion industry of West Virginia is unregulated," Dys said. "That means the state of West Virginia is not inspecting this clinic, licensing its activities, or in any way ensuring the safety of the women who enter its doors." "No local, state or federal agencies license or inspect the two West Virginia clinics that perform abortions. **Regulations** Two clinics in West Virginia perform elective abortions. Both are located in Charleston, and neither is licensed or regulated by the state. "There is no state agency that specifically inspects clinics or facilities that perform abortion," said Marsha Dadisman, spokeswoman for the state Department of Health and Human Resources, in a May email. There is no state category for licensing abortion clinics or providers, Dadisman said then. Within the DHHR, the Office of Health Facility Licensure and Certification licenses hospitals and extended care units that work in conjunction with hospitals, she added. Dr. Rahul Gupta, executive director of the Kanawha-Charleston Health Department, said routine inspections of abortion clinics do not fall under his department's purview. "What basically happens is, if there is an infectious disease that has a connection to a facility, then the Kanawha-Charleston Health Department does go in and inspect," Gupta said. "We have done that in the past. Part of our job is to monitor disease control and outbreaks. So we'll go if there is any infectious disease tied to a particular facility. Other than that, there's nothing else regulatory." "While the clinics don't receive state inspections, there is a state governing body for individual physicians. The West Virginia Board of Medicine is responsible for licensing only physicians, said Robert Knittle, its executive director. If someone complains about a physician, the board looks into it, he added. As for inspecting facilities, "that's beyond the jurisdiction of the board, to do something like that," Knittle said. Doctors are required to renew their licenses every two years, Knittle said. Facilities that dispense drugs must be certified to do so and are subject to inspections. Those inspections are rare and are conducted in response to complaints, Knittle said. If any entity had oversight authority for abortion clinics, Knittle guessed it would be the state Office of Licensure and Certification. Dadisman said that office is under the DHHR umbrella and does not have that oversight authority. The National Abortion Federation is a professional association of abortion providers in North America. It offers training and services to providers as part of their membership. Both clinics in West Virginia are voluntary members of the federation. The independent organization inspects member sites every three to five years, said president and CEO Vicki Saporta. While membership is voluntary, Saporta said reputable providers choose to become part of

the federation. "Quality providers are interested in joining NAF for a variety of reasons: they are invested in providing quality care, and we help them do so," she said. Saporta noted that both West Virginia clinics are in good standing. In addition to the health center, Kanawha Surgicenter is the only other facility that conducts elective abortions. Dr. Gorli Harish is the only person at the facility who performs the procedure. In May he said the last time the federation inspected his facility was five years ago. The center conducts basic lab tests and as such is subject to tests of its laboratory equipment through the Clinical Laboratory Improvement Amendments, Harish said. Most labs doing any testing involving humans in the country are regulated under these requirements, according to the federal Centers for Medicare and Medicaid Services. If a complication requires hospitalization, Harish said it is up to the center to report the complication to the hospital. Such complications are rare, he said. Harish, who has operated the center since 1979, said he conducts abortions only two days a week. The Women's Health Center does most of the procedures, he said. Coverage of such clinics has become a "hot potato" that takes attention from the real problem, Harish said. "There should be more preventive measures for young girls not to get into this situation," he said. "I think the Plan B ... is going to go a long way to prevent these unwanted pregnancies from happening," he said of the medication often referred to as the "morning-after pill." A CAMC spokesperson said no one from the hospital could comment on any case involving past or present patients. Dale Witte, another spokesperson with CAMC, was not available Monday. However, in May he said the hospital conducts abortions only in cases of medical emergency that put the mother's life at risk. Messages left for the Women's Health Center and WV Free, a pro-choice nonprofit organization, were not returned. A representative at the center said Stephens does not come to the center every day and was not there Monday. There are no disciplinary actions concerning Stephens on file with the state Board of Medicine, but he has been named in nine previous lawsuits. This is the first case filed since 2000, according to the Board of Medicine website. Of the nine cases on file, two were dismissed and three were settled for \$25,000 or less. An insurance company paid a combined \$87,500 in 1995 in three settled cases. In 1996 Stephens settled a lawsuit for \$150,000 in Logan County Circuit Court. A \$115,000 settlement in 2001 in Kanawha County is the most recent case listed. An official at the Kanawha Circuit Clerk's Office could not provide details about the case because it was sealed. Knittle said that number of lawsuits is a little above average, but he noted that the country saw a flurry of malpractice lawsuits filed in the late 1980s and early 1990s. Gravely's case has been referred to Kanawha Circuit Judge Paul Zaikaib. A date for a hearing has not been set, and Stephens and the clinic have not filed an official response to the lawsuit with the circuit clerk's office, said an employee in the office. *Contact writer Candace Nelson at Candace.Nelson@dailymailwv.com or 304-348-5148. Contact writer Dave Boucher at david.boucher@dailymailwv.com or 304-348-4843.*

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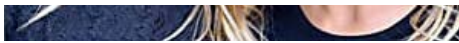
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