

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101

FILED

SEPTEMBER 8, 2010
NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

By: Jeri L. Warhaftig
Deputy Attorney General
Tel. (973) 648-7457

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE OF

Administrative Action

STEVEN C. BRIGHAM, M.D.
LICENSE NO. MA05106800

**ORDER TO SHOW CAUSE, NOTICE
OF HEARING AND NOTICE TO
FILE ANSWER**

TO PRACTICE MEDICINE AND SURGERY
IN THE STATE OF NEW JERSEY

This matter was opened to the New Jersey State Board of Medical Examiners by the Verified Administrative Complaint of Paula T. Dow, Attorney General of New Jersey, by Jeri L. Warhaftig, Deputy Attorney General, together with the supporting certifications and documents, seeking the temporary suspension of the license of Respondent, Steven C. Brigham, M.D., to practice medicine and surgery and for such other relief deemed appropriate, pursuant to the authority conferred on the Board by N.J.S.A. 45:9-1, et seq. and N.J.S.A. 45:1-14, et seq. and related administrative regulations. It being alleged in the Verified Complaint that the

Respondent has committed serious violations of the statutes and regulations governing the practice of medicine and surgery, and it being palpably demonstrated that the continued practice of medicine and surgery by the Respondent pending final disposition of the Verified Complaint would represent a clear and imminent danger to the public health, safety and welfare, in accordance with N.J.S.A. 45:1-22; and for good cause shown:

IT IS ON THIS 8th day of September, 2010

ORDERED that the Respondent, Steven C. Brigham, M.D., either in person or by attorney, show cause before the New Jersey State Board of Medical Examiners on **Wednesday, September 15, 2010 at 10:00 a.m.** or as soon thereafter as the parties may be heard, at the 4th Floor Conference Center, Richard J. Hughes Justice Complex, 25 Market Street, Trenton, New Jersey, why an Order should not be entered temporarily suspending Respondent's license to practice medicine and surgery in this State, or imposing such other restraints as the Board deems necessary; and it is further

ORDERED that a copy of this Order, together with the Verified Complaint, and materials in support thereof be served upon Respondent or his attorney forthwith; and it is further

ORDERED that Respondent shall file an Answer to the Verified Complaint and any response to this Order to Show Cause on or before **5 p.m., Monday, September 13, 2010**; said response to be delivered to the New Jersey State Board of Medical Examiners, 140

East Front St., 2nd Floor, P.O. Box 183, Trenton, New Jersey 08625-0183, with a copy delivered on that same date and time to Jeri L. Warhaftig, Deputy Attorney General, Division of Law, 124 Halsey Street, 5th Floor, P.O. Box 45029, Newark, New Jersey 07101; and it is further

ORDERED that failure to respond to this Order to Show Cause or failure to file an Answer to the Verified Complaint or failure to appear before the New Jersey State Board of Medical Examiners in person or through an attorney, as is herein required, may result in this matter being considered in Respondent's absence on the proofs presented and an Order may be entered against Respondent for any and all relief demanded in the Verified Complaint; and it is further


ORDERED that an admission of the charges will indicate that Respondent does not wish to contest the charges stated, rendering unnecessary hearings in this matter. The case will then be presented to the State Board of Medical Examiners within thirty (30) days of the receipt of Respondent's Answer or on an adjourned date, together with any written materials he may wish to submit with the Answer in alleged mitigation of penalty, for a determination as to whether disciplinary actions, including suspension or revocation of Respondent's license to practice medicine or other sanctions should be imposed and whether monetary penalties and costs should be assessed and, if so, the amount

thereof, pursuant to the authority conferred on the Board by N.J.S.A. 45:9-1 et seq. and N.J.S.A. 45:1-14 et seq.; and it is further

ORDERED that a denial of the charges will result in a formal hearing which may be conducted by the Board or by an administrative law judge, who, upon notice to Respondent, will consider the allegations contained in the Verified Complaint and the imposition of disciplinary sanctions. Respondent may appear at the hearing either in person or by attorney or both, and shall be afforded an opportunity at the time to make defense to any and all charges.

STATE BOARD OF MEDICAL EXAMINERS

By:



Paul T. Jordan, M.D.
President

Kindly Address an Original and One Copy of Respondent's Answer Specifically Responding to Each Paragraph of the Verified Complaint to:

Mr. William Roeder, Executive Director
New Jersey State Board of Medical Examiners
140 East Front St.
P.O. Box 183
Trenton, New Jersey 08625-0183

And

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
Attn: Jeri L. Warhaftig, D.A.G.
New Jersey Division of Law
124 Halsey Street, Fifth Floor
Newark, New Jersey 07101

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Tel. (201)648-7457

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SEPTEMBER 8, 2010

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OF MEDICAL EXAMINERS**

By: Jeri L. Warhaftig
Deputy Attorney General

STATE OF NEW JERSEY
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IN THE MATTER OF THE :
SUSPENSION OR REVOCATION OF :
THE LICENSE OF :
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STEVEN C. BRIGHAM, M.D. :
:
TO PRACTICE MEDICINE :
AND SURGERY IN THE :
STATE OF NEW JERSEY :

Administrative Action

VERIFIED COMPLAINT

Paula T. Dow, Attorney General of New Jersey, by Jeri L. Warhaftig, Deputy Attorney General, with offices located at 124 Halsey Street, 5th floor, Newark, New Jersey, by way of Complaint says:

GENERAL ALLEGATIONS

1. Complainant, Attorney General of New Jersey, is charged with enforcing the laws in the State of New Jersey pursuant to N.J.S.A. 52:17A-4(h), and is empowered to initiate administrative disciplinary proceedings against persons licensed by the Board of Medical Examiners pursuant to N.J.S.A. 45:1-14 et seq.

2. The New Jersey State Board of Medical Examiners is charged with the duty and responsibility of regulating the practice of medicine and surgery in the State of New Jersey pursuant to N.J.S.A. 45:9.1 et seq.

3. Respondent Steven C. Brigham, M.D. is licensed to practice medicine and surgery in the State of New Jersey, and has been a licensee at all times pertinent to this Complaint.

4. Respondent is engaged in the practice of medicine with a principal address of American Women's Center, 1 Alpha Avenue, Suite 20/27, Voorhees, New Jersey, 08043. Respondent does not have hospital privileges at any institution in the State of New Jersey.

5. American Women's Center is also denominated as American Women's Services, American Healthcare Services, American Medical Services and Grace Medical Services. Hereinafter, American Women's Services, refers to ll of these entities and to Respondent's medical practice in New Jersey.

6. N.J.A.C. § 13:35-4.2 regulates the conduct of New Jersey licensed physicians with regard to terminations of pregnancies. Absent a special certification on file with the State Board of Medical Examiners pursuant to N.J.A.C. § 13:35-4.2(f), a termination entailing a D & E (dilatation and evacuation) can only be performed through 18 weeks LMP ("last menstrual period" as defined in the regulation). Respondent Brigham does not have such a certification on file and thus is authorized by virtue of his New Jersey medical license to perform terminations of pregnancy only through 18 weeks, with the caveat that procedures performed at 15 through 18 weeks LMP must be performed in a licensed ambulatory care facility.

7. American Women's Services is not reflected on the list of licensed ambulatory care facilities displayed on the website of the New Jersey Department of Health and Senior Services. There is no

licensed ambulatory car facility with an address of 1 Alpha Avenue, Voorhees, New Jersey.

COUNT I

8. The General Allegations are repeated and realleged as if set forth at length herein.

9. On or about August 9, 2010, patient D.B., a pregnant 18 year old, presented at the offices of American Women's Services for the purpose of seeking a termination of pregnancy. Exhibit A, Interview of D.B., August 18, 2010, page 6.

10. On August 9, 2010 D.B.'s pregnancy was estimated by ultrasound to have a gestational age of 21.5 weeks. Exhibit B, Medical Record of D.B., as produced by Nicola Riley, M.D. on August 24, 2010; Exhibit C, Portions of Medical Record of D.B. as produced by Nicola Riley M.D. on August 23, 2010.

11. On August 12, 2010 D.B. underwent the insertion of seven laminaria at American Women's Services. The insertion was performed by Respondent Brigham. She was then advised to return to that same office on August 13. Exhibit A, page 8-9; Exhibit B, fax page 24.

12. On the morning of August 13, 2010, when D.B. returned to American Women's Services, she was administered two tablets of Cytotec an abortive agent, also known as misoprostol. Exhibit B, fax page number 30; Exhibit A, page 8.

13. Respondent Brigham arrived at American Women's Services on the morning of August 13, after D.B. had been administered the misoprostol and directed D.B. and two other waiting patients (S.D. and N.C.) that he "was ready". Respondent then directed the three patients and the people accompanying them to get in their cars and

follow a car driven by a "nurse" from Respondent's office. Exhibit A, pages 12-13

14. According to D.B., one of the two other patients also awaiting procedures on the morning of August 13, 2010, "was already (sic) to have it done" while waiting in Voorhees. Exhibit A, page 10. After the cars arrived in Elkton, Maryland, that other patient (SD or NC) underwent an abortion prior to D.B.'s procedure. Exhibit A, page 15; Exhibit K, Information from Nicola Riley, M.D.; Exhibit H, Daily Tissue and Regulated Medical Waste Log.

15. The termination of D.B.'s pregnancy commenced in the New Jersey offices of American Women's Services, either when the laminaria were inserted on August 12 or upon D.B.'s consumption of misoprostol on August 13, 2010. Exhibit B, fax page 10.

16. D.B. received two receipts from American Healthcare Services in New Jersey. The first reflects "TWL @ 10 weeks" and a payment of \$445. The second reflects "2nd tri 21.4" and a payment of \$1,600.00 Exhibit B, fax page 29.

17. D. B. anticipated that the abortion would be completed in Philadelphia. She was unaware that the office she arrived at after following the "nurse's" car in a caravan from New Jersey was in Elkton, Maryland. Exhibit A, pages 13-14.

18. Respondent and Dr. Nicola Riley undertook the completion of an abortion on D.B. in the office located at American Medical Services, PC., 126 East High Street, Elkton, Maryland, 21921-5635 which is a clinic operated by American Women's Services. Exhibit B; Exhibit C; Exhibit I, Interview of Nicola Riley, M.D. on August 24, 2010, page 8.

19. Prior to completion of the D & E segment of the abortion procedure, a complication was encountered. D.B. was transported to Union Hospital by car, driven and/or accompanied by Respondent Brigham and Dr. Riley. Exhibit B; Exhibit C; Exhibit I.

20. D.B. suffered a uterine perforation and small bowel injury and was ultimately airlifted to Johns Hopkins Health Center for treatment. Exhibit C; Exhibit D, Excerpts from medical record of DB, Johns Hopkins Hospital, 8/13/2010; Exhibit E, excerpts from medical record of D.B., Union Hospital, 8/13/2010.

21. The medical treatment provided by Respondent Brigham for patients identified herein constituted gross negligence in violation of N.J.S.A. 45:1-21(c); repeated acts of negligence in violation of N.J.S.A. 45:1-21(d); and repeated acts in violation of N.J.A.C. 13:35-4.2 (Termination of Pregnancy) and thus repeated violations of N.J.S.A. 45:1-21(h).

22. Respondent Brigham's conduct constitutes a clear and imminent danger to the public and warrants immediate temporary suspension of Respondent's license to practice medicine and surgery in the State of New Jersey pursuant to N.J.S.A. 45:1-22.

COUNT II

23. The allegations contained in the General Allegations and Count I are repeated and realleged as if set forth at length herein.

24. Respondent Brigham does not hold a license to practice medicine and surgery in the State of Maryland.

25. From in or about September 2009 until August 2010 Respondent Brigham performed abortions in the Elkton, Maryland

offices of American Women's Services on Wednesdays and Fridays. Exhibit F, Interview of George Shepard, Jr., M.D., August 19, 2010, pages 9 and 13.

26. More specifically, during the period of time from in or about January 2010 until in or about August 2010 Respondent Brigham performed approximately 50 terminations of pregnancy in the Elkton, Maryland office of American Women's Services. Exhibit G, Interview statement of Kimberly Walker, M.D., August 23, 2010 at page 23.

27. The majority of the approximately 50 procedures observed by Dr. Walker were "second trimester cases" and about 30 percent of the procedures were "later cases" on patients beyond twenty weeks. These patients' procedures were begun by Dr. Brigham in a location other than the Elkton, Maryland clinic. Exhibit G, pages 12-13, 18-20.

28. Respondent Brigham created and/or caused to be created, medical records which falsely reflected that the procedures he performed in Elkton, Maryland were in fact performed by a licensed practitioner, Dr. George Shepard, and/or by an unlicensed medical school graduate, Dr. Kimberly Walker. Exhibit H, Daily Tissue and Regulation Waste Log and Recovery Room Log (Elkton Office).

29. Dr. George Shepard did not perform any terminations of pregnancies in the Elkton, Maryland office. Exhibit F, page 3.

30. Dr. Kimberly Walker did not perform any terminations of pregnancies nor render any medical care to patients in the Elkton, Maryland Clinic. She was present as an observer. Exhibit G, page 5.

31. On or about August 25, 2010, the Maryland State Board of Physicians ordered Steven Chase Brigham, M.D. to cease and desist from the unlicensed practice of medicine. Exhibit M.

32. Respondent Brigham's conduct, as set forth herein, constitutes the unlicensed practice of medicine and thus acts constituting a crime or offense relating adversely to the practice of medicine in violation of N.J.S.A. 45:1-21(f); repeated acts of professional misconduct in violation of N.J.S.A. 45:1-21(e); the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense in violation of N.J.S.A. 45:1-21(b); and the failure to maintain patient records that conform to the requirements of N.J.A.C. 13:35-6.5 and are thus a basis for disciplinary action pursuant to N.J.S.A. 45:1-21(h).

33. Respondent Brigham's conduct constitutes a clear and imminent danger to the public and warrants immediate temporary suspension of Respondent's license to practice medicine and surgery in the State of New Jersey pursuant to N.J.S.A. 45:1-22.

COUNT III

34. The allegations contained in the General Allegations and Count I and Count II are repeated and realleged as if set forth at length herein.

35. On and before about August 13, 2010 patients S.D. and N.C. were treated at American Women's Services in Voorhees, New Jersey.

36. On August 13, 2010 S.D. and N.C. were transported in private vehicles from Respondent Brigham's practice in Voorhees,

New Jersey to Elkton, Maryland. Exhibit A, pages 10, 12; Exhibit J, page 3.

37. Both S.D. & N.C. were pregnant and present in the waiting room at American Women's Services with patient D.B. on the morning of August 13, 2010. D.B.'s mother physically described S.D. and N.C. as an "Indian" and a "Spanish mixture". Exhibit J, statement of C.B., pages 3-4.

38. Patient S.D. was 25 weeks pregnant with twins. Exhibit H, second page.

39. Patient N.C. was 18.4 weeks pregnant. Exhibit H, second page.

40. Both S.D. and N.C. underwent terminations of pregnancy. The procedures were begun at American Women Services in New Jersey. S.D. and N.C. were then transported in a car caravan directed by Respondent Brigham to the clinic in Elkton Maryland where the procedures were completed by Dr. Riley, in Respondent Brigham's presence. Exhibit K, Information from Nicola Riley, M.D. September 1, 2010.

41. Respondent Brigham could not legally perform the termination of pregnancy procedures performed on S.D. or N.C. under New Jersey Law.

42. Respondent Brigham caused patients S.D. and N.C. to be transported out of New Jersey, after their unlawful procedures were begun. Fetal demise for both patients was "initiated" in New Jersey. Exhibit K; Exhibit I, page 23.

43. Respondent Brigham's treatment of S.D. & N.C. is part of a wide-scale pattern of practice whereby terminations of pregnancy

that cannot be legally performed by Respondent Brigham in his New Jersey office are begun by him in New Jersey and completed in Maryland. Exhibit I, Interview of Dr. Nicola Riley on August 24, 2010, page 12, pages 6-7.

44. Respondent Brigham's conduct, as set forth herein, constitutes the unlicensed practice of medicine and thus acts constituting a crime or offense relating adversely to the practice of medicine in violation of N.J.S.A. 45:1-21(f); repeated acts of professional misconduct in violation of N.J.S.A. 45:1-21(e); the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense in violation of N.J.S.A. 45:1-21(b); and the failure to maintain patient records that conform to the requirements of N.J.A.C. 13:35-6.5 and are thus a basis for disciplinary action pursuant to N.J.S.A. 45:1-21(h).

45. Respondent Brigham's treatment of patients S.D. and N.C. and all unidentified New Jersey patients whose terminations of pregnancies began in New Jersey and concluded out of State constitutes acts of gross and/or repeated negligence in violation of N.J.S.A. 45:1-21(c) and (d).

46. Respondent Brigham's conduct constitutes a clear and imminent danger to the public and warrants immediate temporary suspension of Respondent's license to practice medicine and surgery in the State of New Jersey pursuant to N.J.S.A. 45:1-22.

COUNT IV

47. The allegations contained in the General Allegations and Count I, Count II and Count III are repeated and realleged as if set forth at length herein.

48. In June 2010, Respondent received a Demand for Statement in Writing Under Oath from the New Jersey State Board of Medical Examiners ("Board").

49. In correspondence dated June 30, 2010, Respondent Brigham requested an extension of time within which to submit a response to the Board's Demand. Exhibit L, letter from Steven Brigham, M.D. dated June 30, 2010.

50. In his letter Respondent Brigham stated, "We are not performing any abortions beyond 14 weeks in New Jersey."

51. In fact, Respondent's statement in his request for an extension was false since Respondent routinely commenced abortions in the New Jersey office on patients who were beyond 14 weeks. Exhibit G, page 18 Exhibit F, page 14-16, 21-22.

52. Respondent's letter was sent from a return address of "American Women's Services, 1 Alpha Avenue, Suite 20, Voorhees, New Jersey 08043-1049."

53. Respondent's false statements in response to the Board's Demand for Statement constitutes a failure to fulfill his Duty to Cooperate with the Board pursuant to N.J.A.C. 13:45C-1.2 and thus subjects him to discipline under N.J.S.A. 45:1-21(e) and (h).

54. Respondent's false response constitutes the use of dishonesty, fraud deception, misrepresentation, false promise or false pretense in violation of N.J.S.A. 45:1-21(b).

55. Respondent's failure to deal honestly with the regulatory board responsible for his professional licensure on a subject integral to the oversight of the safety of his medical conduct constitutes a clear and imminent danger to the public and is thus

grounds for the temporary suspension of Respondent's license pursuant to N.J.S.A. 45:1-22.

WHEREFORE, Complainant demands the entry of an order against respondent as follows:

1. The immediate temporary suspension of Respondent's license to practice medicine and surgery in the State of New Jersey pending a full plenary hearing;

2. The suspension or revocation of respondent's license to practice medicine and surgery in the State of New Jersey;

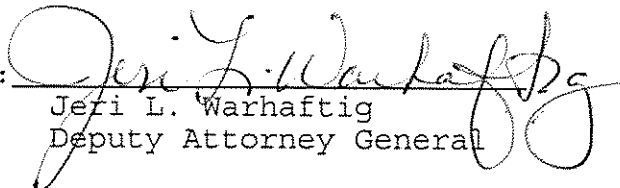
3. An Order directing Respondent to cease and desist the practice of medicine and surgery in the State of New Jersey;

4. Imposition of penalties for each separate offense as set forth herein;

5. Costs including investigative costs, fees for expert witnesses, and costs of trial (including transcripts); and

6. Such other relief as the Board of Medical Examiners shall deem just and appropriate.

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY

BY: 
Jeri L. Warhaftig
Deputy Attorney General

DATED: September 8, 2010

FILED

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street - 5th Floor
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SEPTEMBER 8 2010
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Attorney for State Board of Medical Examiners
By: Jeri L. Warhaftig
Deputy Attorney General
Telephone No. (973) 648-7457

STATE OF NEW JERSEY
DIVISION OF LAW & PUBLIC SAFETY
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STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF THE LICENSE OF :
: Administrative Action
STEVEN C. BRIGHAM, M.D. :
LICENSE NO. MA05106800 :
: CERTIFICATION OF
: JERI L. WARHAFTIG, DAG
TO PRACTICE MEDICINE AND SURGERY:
IN THE STATE OF NEW JERSEY :

Jeri L. Warhaftig, a Deputy Attorney General in the State of New Jersey hereby certifies:

1. I am the Deputy Attorney General assigned to handle the above-captioned matter.

2. I have received and reviewed the contents of the investigative file developed by the Maryland Board of Physicians in its August 2010 investigation of the conduct of Steven C. Brigham, M.D. in the State of Maryland.

3. Attached to this certification is the certification of Christine A. Farrelly, Compliance Analyst, Maryland Board of Physicians. Exhibits A through J were provided to the New Jersey

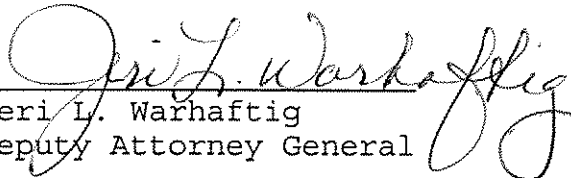
Attorney General under cover of that certification.

4. Exhibit K to the Verified Complaint was provided directly to the undersigned by Nicola Riley, M.D., and she has indicated that she considers it to be "notarized certification". Exhibit L bears the signature of Steven C. Brigham, M.D. Exhibit M is a Cease and Desist Order from the Maryland Board of Physicians which was publicly disseminated on their website.

5. The exhibits to the Verified Complaint have been provided to Gary Brickner, M.D. whom the Attorney General has retained as an expert in this matter. Dr. Brickner has not yet rendered a written opinion but has reviewed the documents and opined that Dr. Brigham's care of D.B. was dangerous and both repeatedly and grossly negligent. Dr. Brickner has further opined that the commencement of late term abortions in New Jersey (after 14 weeks LMP) with transportation in a private vehicle for completion at a distant location such as Elkton, Maryland, is dangerous to the patient. Further, Dr. Brickner has opined that the insertion of laminaria is acknowledged in Dr. Brigham's consent forms to be the commencement of an abortion and that the insertion of laminaria and the administration of an abortive agent such as misoprostol in the State of New Jersey, constitutes performing an abortion in New Jersey. Dr. Brickner has also opined that causing fetal demise in New Jersey, for the purposes of completing an abortion in another state such as Maryland, constitutes performing an abortion in New Jersey.

6. I have reviewed the Exhibits and conferred with Dr. Brickner. I hereby verify that the documents identified as Exhibits to the Verified Complaint and the expert opinion of Dr. Brickner support the allegations of the complaint and the claim that Dr. Brigham's conduct constitutes a clear and imminent danger to the public health, safety and welfare.

I certify that the forgoing statements are true and understand that if any of these statements is willfully false, I am subject to punishment.


Jeri L. Warhaftig
Deputy Attorney General

Dated: 9/8/10