

IN THE MATTER OF	*	BEFORE THE
GEORGE SHEPARD, JR., M.D.	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: D48352	*	Case Number: 2011-0134
* * * * *	*	* * * * *

CONSENT ORDER

PROCEDURAL BACKGROUND

On August 25, 2010, the Maryland State Board of Physicians (the "Board") voted to summarily suspend the medical license of George Shepard, Jr., M.D. (the "Respondent") (D.O.B. 02/27/22), License Number D48352, pursuant to its authority under Md. State Gov't Code Ann. § 10-226(c)(2009 Repl. Vol.), concluding that the public health, safety or welfare imperatively required emergency action.

The Board also voted to charge the Respondent with violating the Maryland Medical Practice Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 14-101 *et seq.* (2009 Repl. Vol.). Specifically, the Board voted to charge the Respondent with violating the following provisions of H.O. § 14-404, which provide:

- (a) Subject to the hearing provisions of § 14-405 of this subtitle, the Board, on the affirmative vote of a majority of the quorum, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:
 - (3) Is guilty of: (i) immoral conduct in the practice of medicine; or (ii) unprofessional conduct in the practice of medicine; [and]
 - (18) Practices medicine with an unauthorized person or aids an unauthorized person the practice of medicine[.]

Prior to the issuance of charges, the Respondent entered into negotiations to resolve this matter. Based on these negotiations, the Respondent agreed to enter into

this Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law, Consent and Order.

BOARD'S FINDINGS OF FACT

The Board finds the following:

BACKGROUND FINDINGS

1. At all times relevant hereto, the Respondent was and is licensed to practice medicine in the State of Maryland. The Respondent was initially licensed to practice medicine in Maryland on March 12, 1996, under License Number D48352. The Respondent also holds a license to practice medicine in Delaware.

2. The Respondent is board-certified in obstetrics and gynecology. The Respondent was the medical director at the following address: 126 East High Street, Elkton, Maryland 21921. The Respondent has no hospital privileges in Maryland.

3. The Board initiated an investigation of the Respondent in conjunction with its investigation of two other physicians, Steven C. Brigham ("Dr. Brigham") and Nicola I. Riley, M.D. ("Dr. Riley").

4. Dr. Brigham is not and has never been licensed to practice medicine in the State of Maryland. Dr. Brigham is reportedly licensed to practice medicine in the State of New Jersey. Dr. Brigham was formerly licensed to practice medicine in the State of New York. On November 30, 1994, Dr. Brigham's New York medical license was revoked for gross negligence and negligence on more than one occasion.

5. Dr. Riley was originally licensed to practice medicine in Maryland on July 20, 2010, under License Number D71213. Dr. Riley also holds medical licenses in Utah and Wyoming.

6. Dr. Brigham owns and operates American Women's Services ("AWS"), which provides abortion services at facilities in several states, including New Jersey, Pennsylvania, Virginia, and Maryland.

7. AWS's Maryland offices are located at the following addresses: 3506 N. Calvert Street, Suite 110, Baltimore, Maryland 21218; 6005 Landover Road, Suite 6, Cheverly Maryland 20785; 801 Toll House Avenue, Unit H-6, Frederick, Maryland 21701; and 126 East High Street, Elkton, Maryland 21921.¹

8. Shortly after being granted licensure, Dr. Brigham hired Dr. Riley to perform abortions at the Maryland offices of AWS. Dr. Riley began performing abortions at one or more of these facilities on July 30, 2010.

9. In mid-August 2010, the Board initiated investigations of Drs. Brigham and Riley after receiving a complaint against them from the Elkton Police Department. The Board docketed its investigation of Dr. Brigham under Board Case Number 2011-0117. The Board docketed its investigation of Dr. Riley under Case Number 2011-0118.

10. The Board then received a second complaint against Dr. Riley from a physician from Johns Hopkins Hospital on August 18, 2010, which the Board docketed under Case Number 2011-0130.

11. Both of these complaints involved an incident in which Drs. Riley and Brigham performed an abortion that occurred in Elkton on August 13, 2010.

¹ According to State Assessments and Taxation records, since at least 2004, Dr. Brigham has established a series of corporate entities for these facilities, going by various trade names, such as Access Medical Care, P.C., Professional Medical Services, P.C., Advanced Professional Care, LLC, and American Women's Services.

12. During its investigation of this matter, the Board determined that Dr. Brigham hired the Respondent to be the medical director of the Elkton office of AWS and the laboratory director at AWS's other Maryland locations.

13. After conducting an investigation into the above complaints and the Respondent's involvement with AWS, the Board issued an Order for Summary Suspension pursuant to Md. State Gov't Code Ann. § 10-226(c)(2), concluding that the public health, safety or welfare imperatively required emergency action. The Respondent was served with the Order for Summary Suspension on or about September 2, 2010. A copy of the Order for Summary Suspension, under Board Case Number 2011-0134, is attached hereto and incorporated herein.

14. The Board's investigations investigative findings are set forth *infra*.

BOARD INVESTIGATIVE FINDINGS

15. The Board re-alleges and incorporates by reference herein paragraphs one through fourteen above.

Complaint Numbers 2011-0117 and 2011-0118

16. On or about August 16, 2010, a representative of the Elkton Police Department submitted a complaint to the Board about Drs. Brigham and Riley, alleging that on August 13, 2010, they transported a critically injured patient (referred to *infra* as "Patient A")² in a private vehicle to the Emergency Department at Union Hospital, located in Elkton, Maryland, following a failed surgical abortion.

² To ensure confidentiality, patient names will not be disclosed in this Consent Order. The Respondent is aware of the identities of all individuals referenced herein.

Complaint Number 2011-0130

17. On or about August 18, 2010, a physician from Johns Hopkins Hospital (“Johns Hopkins”) submitted a second complaint against Dr. Riley to the Board.

18. Physician A stated that on August 13, 2010, Dr. Riley performed an abortion on Patient A, during which she noted a uterine perforation. Dr. Riley then transported Patient A in a personal vehicle to the emergency room at a hospital in Elkton, where it was determined that Patient A sustained a uterine perforation with evisceration of small bowel through the uterine perforation into the vagina. Due to the extent of Patient A’s injuries, Patient A was transported to Johns Hopkins, where Physician A and a general surgeon performed an exploratory laparotomy, repair of the hysterotomy, and small bowel resection in order to repair the injuries Patient A sustained during the failed abortion.

19. Physician A stated that she filed the complaint for the following reasons: (a) It was “unsafe” to transport a patient in Patient A’s condition via personal vehicle to the emergency room, which “demonstrates poor clinical judgment” that placed Patient A “at risk”; and (b) “It is concerning that patients were being transported across state lines to complete medical care.”

Investigation of the Respondent

20. When conducting its investigation into the above complaints, Board investigators determined that the Respondent was listed on recovery room and medical waste logs³ that were found at AWS’s Elkton facility. Board investigators subsequently interviewed the Respondent about his involvement with AWS.

³ The Board reviewed two types of logs that were retrieved from AWS’s Elkton office. These logs are entitled, “Daily Tissue and Medical Waste Log for NJ Offices”; and “Recovery Room Log.” Both of these

21. The Respondent stated that in or around September, 2009, Dr. Brigham hired him to act as medical director at his Elkton facility. The Respondent typically worked two days per week in this role.

22. The Respondent stated that he is partially physically disabled and that when he was scheduled to work, AWS would send a driver to his home in Delaware to transport him to its Maryland facilities.

23. The Respondent stated that he ordered medications for AWS's Maryland facilities. The Respondent stated that he was periodically contacted by the managers of the facilities, who requested medications that he then ordered. The Respondent maintained a Drug Enforcement Administration ("DEA") Certificate of Registration for each AWS Maryland facility.⁴

24. The Respondent stated that he also checked the logs, ensured that the "biologicals" were properly refrigerated and that the medications stored at the facilities were not expired. The Respondent also stated that after patients underwent abortions, he would "wait and see all the patients and make sure that they left in good shape."

25. The Respondent was aware of the fact that Dr. Brigham, or physicians at his direction, commenced performing first and second trimester abortions in New Jersey or at other AWS facilities; after the patients underwent these procedures, Dr. Brigham

logs list the Respondent as a physician on the forms. The medical waste logs list such information as the patient's initials, date of procedure, weeks of pregnancy and total sample weight. The recovery room logs list such information as the patient's initials, number of weeks pregnant, the procedure and payment type. The "medical waste" logs record patients who underwent second trimester abortions from July 13, 2010 to August 13, 2010.

⁴ The Respondent's DEA registration numbers are as follows: for the Elkton facility, FS1759440; for the Cheverly facility, FS1759717; for the Frederick facility, FS1759438; and for the Baltimore facility, FS1759402. All of these registrations reportedly expire on February 28, 2013.

directed them down to his Maryland facilities for completion of the abortion process, and performed first and second trimester abortion on the patients at AWS's Elkton office.

Cease and Desist Order, August 25, 2010

26. On August 25, 2010, the Board issued a Cease and Desist Order (the "Order") pursuant to Md. Health Occ. Code ("H.O.") § 14-206(e), in which it ordered Dr. Brigham to immediately cease and desist from practicing medicine in Maryland without a license. In its Order, the Board stated the following:

Dr. Brigham is not and has never been licensed to practice medicine in Maryland.

Dr. Brigham has performed surgical procedures in Elkton, Maryland on a regular basis, performing two to three procedures on each visit during each of approximately two visits per week for at least several months prior to the date of this Order.

On August 13, 2010, Dr. Brigham initiated a procedure, which then had to be completed on an urgent basis. Dr. Brigham then followed the patient in an automobile as the patient, under his instructions, traveled to Elkton, Maryland for the completion of the procedure. In Elkton, Maryland, the patient was admitted, as planned, to a clinic owned by the Respondent for the completion of the procedure. Dr. Brigham directed the surgical procedure that took place at his clinic on that date.

As recently as Friday, August 20, 2010, Dr. Brigham arranged for and attempted to assist in surgical procedures in Elkton, Maryland.

Dr. Brigham has been observed performing surgical procedures on approximately 50 occasions in Maryland at the Elkton location since January 2010.

The health of Maryland patients is being endangered by Dr. Brigham's unlicensed practice of medicine in this State.

Additional Police Investigation

27. Officers of the Elkton Police Department returned to AWS's Elkton facility on August 18, 2010, to serve a search and seizure warrant for Patient A's medical record, which they were not able to find. Officers did locate a chest freezer in the facility, which contained approximately 35 late term fetuses and fetal parts removed from Patient A.

28. Officers also found two sets of logs at the facility, entitled, "Daily Tissue and Regulated Medical Waste log for NJ offices," and "Recovery Room Log." These logs show the date, weeks of pregnancy and the total sample weight, presumably relating to abortions that were performed at the facility. The latest fetal age is measured as being 36 weeks. The forms list other later term abortions involving fetal ages of 28, 20, 33 and 35 weeks. The logs also identify the following physician names: "Dr. Sheppard (sic), Dr. Woaker (sic), Dr. Rilley (sic)."

29. On August 20, 2010, officers of the Elkton Police Department served a search and seizure warrant at Dr. Brigham's New Jersey office in order to obtain the medical records that correspond to the fetuses found in the chest freezer. Officers found only two medical records related to the fetuses found in the Elkton facility.

30. Board investigation determined the following: The Respondent participated in a practice arrangement at AWS's Elkton facility that poses a threat to the public, to the patients who undergo procedures there, and to the profession of medicine. The Respondent knowingly participated in a practice arrangement in which abortions were initiated in one state, after which the patients were instructed to drive across state lines to an undisclosed location for completion of the abortion. This arrangement

potentially places patients at grave risk for harm or catastrophic outcomes. The Respondent practiced with an unlicensed individual, Dr. Brigham, or aided an unlicensed individual, Dr. Brigham, in the practice of medicine in Maryland. The Respondent facilitated the functioning of AWS's Maryland offices through his involvement in the day-to-day operations there, and facilitated the unlicensed practice of medicine.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated the following provisions of the Act: Is guilty of; unprofessional conduct in the practice of medicine, in violation of H.O. § 14-404(a)(3)(ii); and Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine, in violation of H.O. § 14-404(a)(18).

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 18th day of November, 2010, by a quorum of the Board considering this case:

ORDERED that the Respondent's license to practice medicine in the State of Maryland shall be and hereby is **PERMANENTLY REVOKED**; and it is further

ORDERED that the Respondent understands and agrees that he shall not apply for licensure or reinstatement of his medical license to the Board or any successor agency; and it is further

ORDERED that this Consent Order is considered a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. §§ 10-611 *et seq.* (2009 Repl. Vol.).

11/18/10
Date


John T. Papavasiliou
Deputy Director
Maryland State Board of Physicians

CONSENT

I, George Shepard, Jr., M.D., acknowledge that I have had the opportunity to consult with counsel before signing this document. By this Consent, I agree to be bound by the foregoing Consent Order and its terms, conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections as provided by law. I acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I also affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing.

I sign this Consent Order after having had an opportunity to consult with counsel, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order. I voluntarily sign this Order, and understand its meaning and effect.

11/16/10
Date

George Shepard, Jr.
George Shepard, Jr., M.D.
Respondent

Read and approved:

11-15-10
Date

J. L. Allison
Jason L. Allison, Esquire
Counsel for Dr. Shepard

NOTARY

STATE OF DE

CITY/COUNTY OF: Kent

I HEREBY CERTIFY that on this 16 day of November, 2010, before me, a Notary Public of the State and County aforesaid, personally appeared George Shepard, Jr., M.D., and gave oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

Nancy W. Oyerly
Notary Public

My commission expires: 10/20/2014

