

Original article found online at:

<https://www.washingtonpost.com/archive/politics/1984/10/10/indicted-va-doctor-involved-in-clashes-for-past-6-years/a70e89c7-4a68-43db-a4c6-4b7de3c8f84c/>

Indicted Va. Doctor Involved In Clashes for Past 6 Years

By Mary Battiata October 10, 1984

On a snowy evening in February six years ago, **Dr. Parviz Modaber**, an obstetrician and gynecologist, entered the nursery at Culpeper Memorial Hospital carrying a gun and a small dagger attached to a set of brass knuckles, according to the testimony of two hospital employees.

A nurse who saw him that night also told a malpractice review panel that Modaber threatened to kill a former chief of staff at the hospital, with whom he had a longstanding feud over Modaber's surgical practices.

Modaber testified that he went to his car for his gun because he was "kind of scared" after the doctor called him a "a butcher" and other expletives at a hospital committee meeting.

Modaber didn't find the doctor that night, but Modaber's behavior alarmed hospital officials. Soon afterward, when the Virginia State Board of Medicine heard of the incident, it placed Modaber's medical license on probation for one year.

The matter surfaced four years later in an inquiry by a medical malpractice review panel in connection with a lawsuit against Modaber.

The episode is one in a series of clashes the 53-year-old Iranian-born physician has had with fellow doctors, former patients, his former hospital and Virginia legal and medical officials.

His medical procedures again became an issue last month when a Norfolk grand jury charged him and **Dr. Chris Simopoulos** of Fairfax County with performing separate, second-trimester abortions outside a licensed clinic or hospital, a violation of Virginia state law. Lawyers for both men have said their clients are innocent of the charge.

Simopoulos, who failed to appear at a preliminary hearing in Norfolk and is being sought on a bench warrant, was convicted of the same crime in 1980 in Fairfax.

He was also charged in Norfolk earlier this summer with taking money under false pretenses in what police say was a scheme to perform abortion-type procedures on women who were not pregnant.

The State Board of Medicine suspended Simopoulos' license after he was charged in connection with the alleged unnecessary fake abortions, but to the surprise of some the women's groups and others who were active in the state's investigation of the Norfolk clinic where the two men worked, Modaber has been allowed to keep his license pending further investigation by state officials.

Critics of the medical board say it has been slow to respond, and should have suspended Modaber's license immediately. "We're concerned because we feel there was enough evidence to suspend his license," said Janice Kohl, a spokeswoman for the Tidewater chapter of the National Organization for Women.

"The medical community's not pressuring the state board to act more expeditiously just aggravates the damage to the public's confidence in physicians," says Peter M. Boynton, executive director of the federally funded Eastern Virginia Health Systems Agency in Norfolk. "There really is a sense that physicians don't police themselves adequately."

A board spokeswoman says that the board's failure to suspend Modaber's license was due to conflicting evidence about the Norfolk charge.

Modaber's indictment by a Norfolk Circuit Court grand jury on Sept. 5 charges him with performing a second-trimester abortion at Simopoulos' unlicensed Norfolk clinic, a violation of state law punishable by up to 10 years in prison.

A day after the procedure, the girl, a 16-year-old Norfolk resident, was hospitalized at Portsmouth Naval Hospital with severe complications, according to state investigators. Joseph Pennington, an attorney who represents the girl, says that an examination revealed that the head of a 17-week-old fetus had not been removed from the girl's uterus..

Modaber could not be reached for comment but his lawyer, Peter G. Decker of Norfolk, said last week that his client will plead innocent at his trial in December. "He will plead not guilty because he is not guilty," Decker said.

"There is no doubt that he did an abortion, but he did not believe he was doing an illegal abortion," Decker said. "The 'victim' had told him that she was 10 weeks pregnant.

"His physical examination did not belie the fact that it was more than 10 weeks or 12 weeks or whatever," he said. Under Virginia law Modaber would have been permitted to perform an abortion at the clinic only through the first trimester, or 12th week of pregnancy.

Decker said that Modaber began the abortion with a suction procedure used in the first-trimester, but experienced difficulty. "It was only after that that he suggested the fetus might be more than 12 weeks or so. Then he took the medical procedures warranted"

Court records in Culpeper and Richmond disclose other controversies involving Modaber's medical practice. In 1980, he locked horns with officials at Culpeper Memorial Hospital after they revoked his privileges for what they said was substandard medical practice. The following year a jury here awarded \$750,000 in malpractice damages to a Modaber patient who gave birth to a stillborn infant in a hospital hallway.

The revocation of privileges came after a lengthy review of more than three dozen of Modaber's patient charts by the hospital's medical staff. A letter from the hospital's administrator to Modaber filed in Circuit Court here cited a lack of competence in "a significant number of gynecological and obstetrical cases."

One physician who reviewed the charts, Dr. James G. Sites, chairman of the department of obstetrics and gynecology at Fairfax Hospital, stated in an affidavit filed in Culpeper Circuit Court that there were "far too many" infant deliveries by Modaber in which his use of forceps produced lacerations to the eyes and scalps of newborns that required suturing.

Sites also stated that Modaber "is in need of supervision or further training I would only permit him to practice on my staff if another physician were consulted with regard to each of his admissions."

In the same affidavit Sites mentioned a "blatant yet typical example of Dr. Modaber's inappropriate use of gynecological procedures." In that case, Sites wrote, Modaber performed a hymenectomy, or opening of the hymen, on a 12-year-old girl when the chart revealed "simply no justification" in that chart for performing the procedure.

Modaber did not directly respond to Sites' affidavit, but he has contended that his medical practices were no worse than those of others allowed to practice at Culpeper Memorial and that the hospital singled him out unfairly. After his privileges were revoked, Modaber sued the hospital, its administrator and several doctors in federal district court in Alexandria, claiming that his constitutional right to due process had been violated.

He told newspapers that his troubles at the hospital were directly linked to American anger over the hostage crisis in Iran. The hospital denied this charge, saying that the review of Modaber began more than a year before the American Embassy hostages were seized.

The federal case was dismissed, as was a subsequent appeal. Modaber then filed suit in state court here, claiming that the hospital had violated a contractual agreement when it revoked his privileges. There has been no further action in that case.

After losing privileges at Culpeper Hospital, Modaber applied for privileges at Fauquier Hospital in the neighboring county. That request was never granted, according to a hospital spokesman.

In 1981, a Culpeper woman was awarded \$750,000 in malpractice damages by a Circuit Court jury that found Modaber had failed to provide proper prenatal care in a high-risk pregnancy, "recklessly" jeopardizing the woman's health and causing her to deliver a stillborn son in a hallway at Culpeper Memorial in 1978.

Modaber, according to testimony before a malpractice review panel, arrived late at the hospital on the morning of the delivery and further delayed childbirth by leaving the woman to search for papers that would have allowed him to sterilize her. The suit also contended that the doctor failed to treat properly her high-risk, toxemic pregnancy.

He testified that he had provided proper and adequate care and that he had not, as her suit claimed, abandoned his patient to retrieve papers for a sterilization.

The jury's verdict echoed the findings of the state medical malpractice review panel that Modaber had requested to investigate the woman's claim against him. The panel found unanimously that Modaber's medical care had been substandard and the cause of the stillbirth. The Circuit Court jury subsequently agreed and Judge David F. Berry, who presided over the trial, described the case as "the clearest case that I've ever seen on . . . the matter of negligence."

Modaber has appealed the verdict to the Virginia Supreme Court, contending that his treatment was proper, that Virginia law does not consider a fetus a person; thus a stillbirth would not be covered by the state's wrongful-death statute and could not be cause for a malpractice action. He also contends the damage award is excessive.

In a telephone conference meeting last month that lasted nearly two hours, members of the State Board of Medicine listened to arguments from Modaber's attorneys, state investigators and its own counsel, Assistant Attorney General Paul A. Sinclair on whether his license should be immediately suspended because of the abortion charge. Sinclair urged a suspension, arguing that Modaber posed an "immediate and clear danger to the public health," but the board was unable to reach a conclusion and remanded the case to a hearing before the full board.

Eugenia Dorson, executive secretary to the board, a 14-physician panel appointed by the governor, says the decision was "one of the most difficult" the board has had to make. They were aware they would receive a lot of heat from the public."

Unlike the Simopoulos suspension, Dorson said, where the board believed letting Simopoulos continue to practice at his clinic could pose an imminent danger to the public, the board "did not believe the evidence here was conclusive enough," Dorson said. "The patient said one thing, and the doctor said another."

The board also believed, Dorson said, that if they had suspended the license based on the evidence presented, Modaber could have gone to court immediately and had the suspension overruled.

"They did feel enough concerned that they moved forward with a hearing," Dorson said. It is at the full hearing, she said, that Modaber's entire professional history could be considered.

Modaber's path from boyhood in Iran to medical practice in rural Virginia is outlined in depositions filed in Culpeper Circuit Court. According to his statements, Modaber came to the United States in the 1950s, after attending high school in Tehran. He graduated from Davis and Elkins College in West Virginia, taking two years of German before attending medical school in

West Germany. He received his medical degree from the University of Heidelberg where he wrote a thesis in forensic pathology at the university's Department of Legal Medicine.

By 1965 he had returned to the United States, settling in Oklahoma where for five years he did research on new drugs using volunteer inmates at the Oklahoma State Penitentiary.

After an internship at an Oklahoma City hospital and a stint in the emergency room of another Oklahoma hospital, Modaber applied to Texas for a medical license that was granted in 1971 after he passed a written examination. He moved to Virginia and completed a three-year residency in obstetrics and gynecology at a Norfolk hospital. His Virginia medical license was granted without examination through a reciprocity agreement with Texas, according to Modaber's testimony.

He began practicing medicine in Culpeper in 1976. He is one of the few physicians in rural Culpeper County who perform abortions, according to county officials, and one of a dwindling number of private physicians in Culpeper willing to treat Medicaid patients. His three-suite medical office is housed in a one-story office building just south of the town of Culpeper, not far from the hospital.

It is unclear when Modaber's association with Simopoulos began, although officials and physicians say that **Modaber worked at both the Falls Church and Norfolk clinics until Simopoulos sold them in September.**

The Falls Church clinic was a busy place, according to the state statistics, reporting performing 1,977 abortions in 1983, or one-fourth of all the abortions reported in Northern Virginia that year.