

Finkel Aborted

PAUL RUBIN | **OCTOBER 18, 2001** | **4:00AM**

Dr. Brian Finkel, the Phoenix abortion doctor now under criminal investigation for allegedly molesting several of his patients, has been suspended from practicing medicine.

Citing a recent *New Times* article that detailed the allegations and Phoenix police reports, the Arizona Board of Osteopathic Examiners voted on October 13 to suspend the controversial Finkel until it holds an investigative hearing, probably before the end of the year.

Finkel did not attend the hearing before a packed chamber at the board's Scottsdale offices. His attorney, Richard Gierloff, says he plans to file papers in Maricopa County Superior Court requesting a temporary restraining order against the board's action. Finkel has repeatedly denied any wrongdoing ("Bedside Matter," Paul Rubin, September 20).

The doctor long has been a lightning rod in the debate over abortion rights. The oft-quoted Finkel owns and operates the Metro Phoenix Women's Clinic. By all accounts, he is Arizona's most prolific abortion doctor, and says he performs about 1,600 procedures a year, or about 20 percent of abortions statewide.

The board believed it had to take action immediately, and voted 5-1 under a state law that says, in part, "If the Board finds . . . that the public health, safety or welfare imperatively requires emergency action, [it] may order a summary suspension of a license pending proceedings for revocation or other action."

Board executive director Ann Marie Berger told the board she initiated the case against Finkel after reading the *New Times* story. That, she said, was the first she or her staff had heard of the allegations, a surprising comment because a Phoenix police detective indicated in a report that he'd visited the board offices in early 2000 seeking information on Finkel.

Berger said her staff has gotten little cooperation from the Maricopa County Attorney's Office, whose criminal investigators took over investigation of Finkel months ago.

Seven women have filed sexual misconduct allegations against Finkel over the last decade. Each lodged similar complaints -- that Finkel allegedly manipulated their clitorises and fondled their breasts inappropriately during pre-abortion or other examinations. One alleged victim told Phoenix police detective Art Haduch in early 2000 that Finkel also had licked her genitals briefly before he began the procedure.

The police reports also indicated four of Finkel's ex-medical assistants knew of his sexual misconduct, and had spoken with the doctor's wife about it. (Diana Finkel told *New Times* that she never heard anything of the sort from the ex-employees.)

Dr. Richard W. Whitaker, the sole board member to vote against suspension, warned his colleagues not to rush to judgment. He said he's known Finkel for two decades.

"Dr. Finkel is a very unique individual, to say the least . . . possibly obnoxious to a lot a people," Whitaker said, speaking of the doctor's universal reputation as brash and outspoken.

Whitaker's defense of Finkel visibly startled some in attendance when he suggested women who seek abortions may be of questionable integrity.

"Bear in mind the character of his patients," he said, referring to the thousands of women who have undergone abortions at Finkel's clinic since he opened for business in 1982. "I think it behooves us to act cautiously. Other than the article in the [*New Times*] and the police reports, they all seem to say the same thing."

Board member Dr. Scott Steingard countered by saying the alleged pattern of behavior is what troubles him most. "This is considerably worse [than a he-said, she-said situation]," Steingard said of the spate of allegations against Finkel.

Board president Dr. Murray Cohen asked: "What do we do to protect the patients on Monday if, in fact, it is an ongoing thing?"

Responded Whitaker, "I don't believe it is. Again, it's a he-said, she-said, without much more defending each one."

Board vice president Dr. Martin B. Reiss said he suspects Finkel's abortion patients would be more likely to keep the doctor's sexual improprieties to themselves than other patients.

"There would be a reluctance on their part to advertise that they've been to a place for an abortion," Reiss said. "I think that it's probably underreported than overreported."

D. Jayne McElfresh, an investigator for a Valley law firm and the only woman on the board, said: "There is evidence that women who did not know each other, who never spoke to each other . . . said the exact same thing. I have a deep concern for the public safety. I have a deep concern for any woman who walks into Dr. Finkel's office on Monday."

McElfresh added that "everyone on the board knows I have been a supporter of Dr. Finkel . . . [But] my concern is for those women who don't get the *New Times*. . . . There are probably more women out there."

After the story appeared, the paper got calls and e-mails from about a half-dozen women who complained of similar inappropriate treatment by Finkel.

Toward the end of the public discussion, Dr. Cohen told his colleagues, "We have an enigma. We need to protect the public, and we have not 100 percent corroborated the evidence."

That led Whitaker to note that the ex-employees who have spoken to police (and, in some instances, to *New Times*) stayed on the job after they allegedly had been eyewitnesses to sexual improprieties: "This may be about a disgruntled employee."

In the story, the 51-year-old Finkel vehemently denied wrongdoing with any of his patients. "They misconstrue professional conduct for professional misconduct," the doctor said of his clients. "Physicians that abuse their patients in this state go to prison. I'm not going to prison, because I'm not doing anything wrong."

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