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N.J. judge moves to revoke abortion provider's license

by Marie McCullough, Inquirer Staff Writer, Posted: August 22, 2014



South Jersey-based abortion provider Steven Brigham, who has spent much of his two-decade career fighting charges of misconduct and negligence, suffered a major blow Thursday in his bid to keep his medical license in New Jersey.

An administrative judge recommended permanent revocation of Brigham's medical privileges, which were suspended almost four years ago after one of his patients was critically injured during a botched abortion.

If the New Jersey Board of Medical Examiners upholds the judge's decision, Brigham, 57, will lose his eight clinics in that state, which have continued to operate and make up the bulk of his multistate business, called American Women's Services.

Brigham's "past conduct is troubling," Judge Jeff S. Masin wrote in an 86-page decision. "He has suffered license revocations. He has run afoul of the licensing authorities in New York, Pennsylvania and Florida. He has a conviction for failure to file income taxes. And here, he has demonstrated a willingness to play fast and loose with the law in Maryland."

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Neither Brigham nor his lawyer, Joseph M. Gorrell, returned calls requesting comment.

In hearings before Masin last fall and winter, New Jersey prosecutors presented evidence that Brigham - who has never been licensed in Maryland - used a bistate abortion scheme so he could perform late-term abortions for which his New Jersey clinics were not licensed or equipped.

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Brigham induced fetal death in his Voorhees clinic; a few days later, he surgically removed the fetuses at a clinic in Elkton, Md. - a facility so clandestine that even patients were not told where they were going until the last minute.

The scheme came to light in August 2010 because the 18-year-old patient who was critically injured, and the doctor who performed emergency surgery on her at a Baltimore hospital, went to Elkton police.

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Masin concluded that Brigham's practice of inducing fetal death in Voorhees was not illegal because the wording of New Jersey's regulation is ambiguous. But Masin came down on Brigham for his "unlawful practice of medicine in the state of Maryland."

Masin dismissed Brigham's defense that he was acting as a medical "consultant," which would have been permitted under Maryland's law. Brigham claimed the clinic was run by the man he hired as medical director - George Shepard, an 88-year-old Delaware obstetrician-gynecologist who was partly disabled by a stroke.

Maryland never went after Brigham for illegally practicing medicine. Instead, the state charged him with murdering viable fetuses found at the Elkton clinic. Maryland has a law recognizing viable fetuses as murder victims, although the statute had been used only in cases in which a pregnant woman was murdered or assaulted.

Maryland prosecutors dropped the charges in 2012, acknowledging that they lacked jurisdiction because the fetal deaths occurred in New Jersey.

This is the second time in Brigham's career that New Jersey prosecutors have tried to yank his license for performing bistate abortions that severely injured several patients. However, in the early 1990s, the abortions that Brigham initiated in his New Jersey clinics were completed in a New York facility.

Brigham lost his New York license as a result. But in New Jersey, an administrative judge ultimately concluded that Brigham's only legal violation was advertising "painless" abortions. The Board of Medical Examiners chose not to overrule the judge.

Brigham tried to argue that New Jersey was barred from punishing him this time around because he was exonerated in 1996.

Jeri Warhaftig, the N.J. deputy attorney general who was involved at the end of the prosecution of Brigham in the 1990s, faced him again this time around. She pounded him for a history of deception, and for his attempts to portray himself as a victim of anti-abortion activism.

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"His desire to create a [victim] persona . . . has blinded him to his lack of qualifications," she wrote in legal papers.

The Board of Medical Examiners, which has given both sides until Sept. 15 to respond to Masin's ruling, will then hear oral arguments from the attorneys and issue a final ruling.

Under New Jersey law, Brigham will not be allowed to own medical clinics in the state if he loses his medical privileges, both sides agreed during the hearings.

That is not the rule, however, in other states. American Women's Services has two clinics in Virginia, where Brigham is not licensed, and one in Florida, where his license was revoked.

In Pennsylvania, Brigham gave up his license in 1992 amid an investigation. He was barred in 2010 from owning abortion clinics in the state due to a history of hiring unqualified medical workers.

In Maryland, Brigham's Elkton storefront is gone, but four other American Women's Services clinics are offering appointments.

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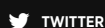
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