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Frozen fetuses part of doctor's troubles

Doctor now facing murder owned Colonie clinic where 17 fetuses found in '96



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Dr. Steven Chase Brigham speaks with one of his attorneys as he waits to appear before the New Jersey Board of Medical Examiners in 2010. He was accused of violating state regulations on performing late-term abortions. (Tony Kurdzuk / The Star-Ledger)

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COLONIE — A New Jersey doctor charged with murder last week for performing several late-term abortions in Maryland had once operated an abortion clinic in Albany County at which state investigators discovered 17 frozen fetuses in 1996.

The discovery was part of a broader investigation by the New York attorney general's office, which declined to pursue criminal charges related to allegations that late-term abortions, in violation of New York's fetal homicide law, were being performed at the Colonie clinic then owned by Dr. Steven Chase Brigham.

At the time, investigators said there was evidence that Dr. Mark Binder, who worked for Brigham at the Central Avenue facility, American Women's Services, had performed abortions on fetuses that exceeded 24 weeks.

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Brigham was never prosecuted in New York on abortion charges. He was prosecuted for Medicaid fraud and also found responsible by a state medical panel for gross negligence, including nearly causing the death of an abortion patient.

Brigham, 55, operated a second clinic in Nanuet, Rockland County, where investigators said they had additional evidence 15 years ago of late-term abortions.

Brigham, of Voorhees, N.J., was arrested Dec. 28 along with a Utah physician, Dr. Nicola Irene Riley, 46, on charges of murder and murder conspiracy handed up by a grand jury in Elkton, Md., where prosecutors said the pair traveled to perform late-term abortions at a clinic operated by Brigham. They were charged under Maryland's viable fetus law. New York has a similar law that prohibits abortion of fetuses after 24 weeks.

The fetuses discovered in a freezer at the Central Avenue clinic were later buried in Albany Rural Cemetery.

Dennis C. Vacco, who was New York's attorney general for much of the earlier investigation, said he could not recall the case or why his office didn't pursue charges related to the suspected late-term abortions. Vacco lost re-election in 1998 to Eliot Spitzer, who took over as attorney general when the investigation was ongoing.

"It seems to me that it was the type of thing that would have risen to my attention and if it had I just don't understand why we would not have brought (charges) ... I just don't know," Vacco said Wednesday. "It seems to me that we would have pursued this if it had risen high enough up in the organization."

John Meekins, a former assistant attorney general who worked the case, said that his supervisors in New York City instructed him to pursue Medicaid fraud charges related to the illegal billing practices at Brigham's clinics.

"They said stick with just the Medicaid fraud," Meekins said. "We were forbidden to do anything without their approval."

Meekins, who retired in 2003, headed a regional Medicaid fraud unit for the attorney general. He said there was little consideration by his office to turning over the fetal abortion case to the Albany County district attorney's office. Meekins said

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The judge is not being identified by the Times Union because he could not be reached for comment.

"The landlord kept telling me how close they were," Meekins said. "(The judge) paid me a visit and I told him that this was a case that deserved prosecution."

Binder was sentenced to 40 days in jail for contempt of court for refusing to turn over the clinic's medical records, which he claimed belonged to Brigham. Meekins said Brigham was finally served with a subpoena when he traveled through New York between a Connecticut residence and his New Jersey office.

During a contempt hearing in Albany, when Meekins said his office was trying to get access to the records, a clinic worker testified she was instructed to use an outdated medical scale so the age of fetuses would appear younger in the clinic's records.

"Some of the details that were coming out were nasty," Meekins said.

Meekins said he also routinely had trouble meeting with then-District Attorney Sol Greenberg.

"Anytime I had anything for Greenberg they told me he wasn't available he was at Democratic Party headquarters," Meekins said. "I remember having to empower my own grand juries just to meet him."

Investigators with the New York Health Department and Attorney General's office concluded patients at Brigham's clinics were refused abortions if they did not make extra cash payments, even though their treatment was covered by Medicaid. The clinics also made no arrangements with nearby hospitals in case of emergencies, and at least two women nearly bled to death. One woman required a colostomy following a botched operation, health department records alleged.

also said several witnesses provided damaging testimony against the crime.

"In fact, I spoke to an undertaker and he said he picked up the body of a child there that looked to him like it was fully developed. I couldn't get any confirmation of that," Meekins said. But a health department report refers to a coroner describing one of the fetuses as appearing in size to be about 7 or 8 months.

Investigators in Maryland said during an investigation that began 16 months ago they discovered 35 late-term fetuses in a freezer at the Elkton clinic, including one suspected of being aborted at 36 weeks. Brigham is charged with five counts of first-degree murder, five counts of second-degree murder and one count of murder conspiracy.

In New York, Brigham owned and operated clinics in Nanuet and Colonie, including acting as a consulting physician after his medical license had been revoked by New York in January 1994.

The administrative charges included negligence related to a young woman who nearly bled to death after Brigham delayed getting her to a hospital following a botched abortion.

Binder fled the country while his fraud case was pending. He was arrested in Hong Kong in 1999 and later sentenced by former Albany County Judge Larry Rosen to six months in jail.

Brigham was sentenced to 120 days in jail for a conviction on two misdemeanor tax charges.

Binder also had his medical license revoked in New York. A state panel said he made a bleeding woman drive to New York City after a botched abortion in Colonie because he didn't have medical privileges at upstate hospitals. He misled hospital officials by indicating the woman was flown to the hospital, records show.

A state Health Department report on Binder included allegations that former lab technicians, a funeral director, patients and a physician assistant gave health investigators information that Binder routinely aborted fetuses that were in excess

In one case, "the nurse who worked on the procedure found that the fetal foot length correlated with a 26- to 28-week pregnancy ... (and) even the funeral director assessed the fetus to be 7 to 8 months," according to a ruling against Binder in March 1997 by the state Professional Medical Conduct Board.

Brigham was arrested Dec. 28 and is being held in the Camden County jail in New Jersey. Authorities arrested Riley in Salt Lake City. Both are awaiting extradition hearings.

The Maryland investigation began in August 2010 after a botched procedure at Brigham's Elkton clinic. An 18-year-old woman who was 21 weeks pregnant had her uterus ruptured and her bowel injured, and rather than call 911, Brigham and Riley drove her to a nearby hospital, where both were uncooperative and Brigham refused to give his name, authorities said.

The procedure authorities say was botched resulted in the murder case against Riley and three of the 11 murder charges against Brigham. The other charges against Brigham relate to four illegal abortions, prosecutors said.

Information from the Associated Press was included in this story. Reach Lyons at 454-5547 or by e-mail at blyons@timesunion.com.



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