

# STATE SUIT AGAINST DOCTOR STUCK IN SYSTEM REGULATORS SAY COMPLAINTS OF PHYSICIAN MISCONDUCT CAN TAKE YEARS TO RESOLVE

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It was just after 6 p.m., and the woman had to rush to make her appointment with Dr. Jeffrey J. Goldenberg. She was grateful the gynecologist had agreed to see her after office hours.

The doctor escorted her across his empty office to an exam room. He was supposed to take out her

IUD, a birth control device that takes just a few minutes to remove.

Two hours later, the woman, disheveled and groggy from drugs Goldenberg had injected into her body, staggered from the room into the arms of a friend, records state.

She claimed the doctor had raped her while she was drugged and unable to resist.

That was in April 1986.

Today, Goldenberg, 41, lists five Broward offices in the phone book. And a state lawsuit seeking to revoke his medical license is hung up in a system so clogged that complaints of serious misconduct by doctors routinely take years to resolve.

“It’s frustrating to us that it takes so long,” said Bruce Lamb, a senior attorney for the Florida Department of Professional Regulation. “But that’s the nature of the American legal system.”

Goldenberg, who faces a hearing in October concerning the woman’s allegations, declined requests for an interview. In sworn testimony, he has denied assaulting the patient.

Court records, DPR files and police reports show the doctor has been the target of several lawsuits challenging his fitness to practice, has been suspended from the staff of a Broward hospital

and has been the subject of other allegations of sexual misconduct.

— The DPR case against Goldenberg began on April 29, 1986, the day after the woman reported the alleged rape to Tamarac police.

Still sleepy from the medication, she was driven to Northwest Regional Hospital in Margate. Lab tests at the Sexual Assault Treatment Center in Fort Lauderdale — where Goldenberg was serving as an advisory board member — detected no physical evidence of rape.

Based on the scant evidence and the fact that the woman said the drugs she was given made her unable to swear the attack occurred, no charges were filed, police records state.

Goldenberg, who had been appointed to the rape center's board in 1980, resigned on May 13, 1986. Broward County records cite no reason for his departure.

While the police closed their case, DPR officials began evaluating the doctor's conduct.

Goldenberg told DPR agents he gave the woman three injections of four depressant drugs within a half-hour. The patient had asked to be put in a "twilight" state because she feared the IUD removal would be painful, he stated.

But the drug dosage was so potent it could have been fatal, according to Dr. William Kirkley, a paid DPR consultant and Broward gynecologist. Goldenberg also failed to monitor the patient properly or keep adequate records, Kirkley testified.

Experts hired by Goldenberg disagreed.

“In no way (did Goldenberg) jeopardize the patient under his care,” said Dr. Karlis Adamsons, chairman of obstetrics and gynecology at the University of Puerto Rico Hospital.

Broward DPR agents in June 1986 determined that probable cause existed to charge Goldenberg. It took DPR lawyers in Tallahassee nearly a year to file suit, however.

The March 1987 complaint charged Goldenberg with four violations of medical practice laws. The allegations are:

- Exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity.
- Administering drugs inappropriately.
- Failing to meet acceptable standards of medical practice.

— Failing to keep written records justifying the course of treatment.

— The Goldenberg case reveals the state's difficulty in disciplining doctors swiftly, DPR officials said.

“This case took too long,” said acting DPR secretary Larry Gonzalez. “It’s frustrating to have the case protracted over an extended period of time, because of the seriousness of the charges and the importance of protecting the public’s health and safety.”

Complaints should to take three months to a year to investigate, agency spokesman Jack Maynard said. Many cases actually take far longer.

DPR officials said that 1,320 complaints against doctors are pending statewide, many of them years old. Until February, DPR employed five lawyers and 41 investigators. If each case took three months to resolve, it would take investigators eight years to clear their caseloads.

Meanwhile, the number of misconduct charges is increasing. In fiscal 1983, DPR handled 1,238 cases. This fiscal year, 2,783 complaints were filed.

Cases also can drag on because of legal strategies used by the accused doctors and the

DPR itself.

“Legal tactics can delay the cases,” said Maynard. “And any action (by the DPR) is subject to appeal, which can cause a longer delay.”

Building a case against a doctor also is complicated because hospitals may refuse to provide confidential records sought by DPR investigators, officials said.

Once DPR files an administrative complaint, a doctor has 30 days to answer it. Both sides then take depositions from witnesses before pleading their case to a hearing officer.

Hearing officers submit their findings to DPR’s Board of Medical Examiners, which meets six times a year.

After reviewing the record, the board can impose fines, order supervision of a doctor’s practice, suspend or revoke a license.

Any penalty can be appealed, and the doctor may continue practicing in the meantime.

The agency expects to speed up the process soon.

Earlier this year, the Legislature approved a \$1.4 million increase in DPR’s budget. Part of that money is being used to hire 14 new investigators and seven lawyers to process medical cases.

“It’s going to take some time,” Gonzalez said. “But I’m very optimistic, with the resources given to us by the Legislature, we will be able to reduce the case load and get the turnaround time down.”

— Some complaints about the competence of Goldenberg’s medical practice were never reported to the DPR.

For example, Goldenberg, a graduate of the University of Miami School of Medicine who has practiced in Broward since 1979, has been named in several medical malpractice lawsuits.

Among them:

— A 1982 suit alleged Goldenberg was negligent after a tube broke off in a woman’s stomach during surgery at Plantation General Hospital. The case was settled, but the terms were not disclosed.

— A 1982 suit alleged that he nicked a woman’s bladder during a hysterectomy at Plantation General. That case also was settled, but the terms were not made public.

— A 1985 suit alleged that he left a sponge in a woman’s abdomen during a cesarean section at Broward General. The lawsuit is set for trial later this year.

— A 1985 suit alleged that Goldenberg's negligence caused the death of a woman who developed severe bleeding following a cesarean at Broward General. Terms of the suit's settlement were not disclosed.

Goldenberg has denied negligence in all of the malpractice suits filed against him.

But two weeks after the woman's death following the cesarean, Goldenberg was suspended from the staff of Broward General, according Richard Stull, then hospital administrator.

Stull, now executive director of the North Broward Hospital District, said he suspended Goldenberg's privileges to perform surgery because other doctors refused to work with him.

"I suspended him based on medical staff bylaws, which give the administrator authority to suspend a physician," said Stull. "I felt the person posed a threat to good patient care."

The settlement of the lawsuit involving the patient's death was reported to DPR in 1987, agency records state. DPR official Gonzalez declined to discuss the status of the investigation.

Depositions and other records made public by the DPR suit seeking to revoke Goldenberg's license



indicate that doctors at Broward General also had complained about his competence.

“I have been aware of Dr. Goldenberg’s activities for many years and many of my colleagues and I have felt that he should not even be practicing medicine,” medical consultant Kirkley wrote in a June 1986 letter to DPR.

During the controversy over hospital privileges, Goldenberg was the target of another allegation of sexual misconduct, DPR records state.

A woman complained in July 1986 that Goldenberg touched her private parts needlessly and did not have a nurse present during an exam. The woman “voiced her displeasure in having to ask Goldenberg to leave the room to allow her to get dressed,” DPR records state.

The complaint was dismissed after a DPR attorney found no proof of the woman’s claims.

Still another allegation of sexual misconduct was filed against Goldenberg in January. A 42-year-old woman accused him of fondling her breasts and legs during a visit on Dec. 21, 1987.

The woman “complained of Dr. Goldenberg’s improprieties, including absence of an attending nurse, inappropriate remarks and unnecessary touching,” the Tamarac police report states.

“No basis of criminal charge has been established, therefore the case is unfounded,” police records state.

— DPR lawyers thought they had ended their two-year legal battle with Dr. Goldenberg earlier this year.

According to DPR records, Goldenberg agreed in February to a one-year license suspension, a three-year probationary period and a fine not to exceed \$10,000 as a result of the sexual-misconduct allegations.

DPR officials said Goldenberg later changed his mind, leading them to push for revocation of his license.

“The evidence clearly and convincingly demonstrates the rape and (Goldenberg’s) deception in connection with this entire proceeding,” reads a DPR legal brief filed July 15.

The case is set for a hearing before the Board of Medical Examiners in October, officials said.

William Williams, a Tallahassee lawyer recently retained by Goldenberg, said he is confident his client will be cleared.

“Based on tests taken one day after the incident, there’s just no evidence the sexual assault occurred,” he said.

Williams also said that DPR failed to prove that drugs Goldenberg gave the patient were potentially fatal.

“Based on my review of the records, the administrative complaint should be dismissed,” said Williams. “It’s not a revocation case.”

If there was a mistake in the case, Williams said, “it was that Dr. Goldenberg was being too accommodating to a patient coming in after hours.”