

IN THE MATTER OF  
NICOLA I. RILEY, M.D.

Respondent

License Number: D71213

\* BEFORE THE  
\* MARYLAND STATE  
\* BOARD OF PHYSICIANS  
\* Case Numbers: 2011-0118 and  
2011-0130

\* \* \* \* \*

**ORDER FOR SUMMARY SUSPENSION  
OF LICENSE TO PRACTICE MEDICINE**

The Maryland State Board of Physicians (the "Board") hereby **SUMMARILY SUSPENDS** the license of Nicola I. Riley, M.D. (the "Respondent") (D.O.B. 03/27/65), License Number D71213, to practice medicine in the State of Maryland. The Board takes such action pursuant to its authority under Md. State Gov't Code Ann. § 10-226(c)(2009 Repl. Vol.), concluding that the public health, safety or welfare imperatively requires emergency action.

**INVESTIGATIVE FINDINGS**

Based on information received by, and made known to the Board, and the investigatory information obtained by, received by and made known to and available to the Board, including the instances described below, the Board has reason to believe that the following facts are true:<sup>1</sup>

**BACKGROUND FINDINGS**

1. At all times relevant hereto, the Respondent was and is licensed to practice medicine in the State of Maryland. The Respondent was initially licensed

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<sup>1</sup> The statements regarding the Respondent's conduct are intended to provide the Respondent with notice of the basis of the suspension. They are not intended as, and do not necessarily represent a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with this matter.

to practice medicine in Maryland on July 20, 2010, under License Number D71213. The Respondent also holds medical licenses in Utah and Wyoming.

2. The Respondent is board-certified in family medicine. The Respondent's primary practice address is: 1220 East 3900 South, Suite 4A, Salt Lake City, Utah 84124.

3. The Respondent has no hospital privileges in the State of Maryland.

4. Shortly after being granted licensure, the Respondent was hired by Steven C. Brigham, M.D. ("Dr. Brigham"), to perform abortions at the Maryland offices of American Women's Services ("AWS").

5. Dr. Brigham is licensed to practice medicine in New Jersey but is not and has never been licensed to practice medicine in Maryland. Dr. Brigham was formerly licensed to practice medicine in the State of New York. On November 30, 1994, Dr. Brigham's New York medical license was revoked for gross negligence and negligence on more than one occasion.

6. Dr. Brigham owns and operates AWS, which provides abortion services at facilities in several states, including New Jersey, Pennsylvania, Virginia, and Maryland.

7. AWS's Maryland offices are located at the following addresses: 3506 N. Calvert Street, Suite 110, Baltimore, Maryland 21218; 6005 Landover Road, Suite 6, Cheverly Maryland 20785; 801 Toll House Avenue, Unit H-6, Frederick, Maryland 21701; 4700 Berwyn House Road, College Park, Maryland 20740; and 126 East High Street, Elkton, Maryland 21921.<sup>2</sup>

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<sup>2</sup> According to State Department of Assessments and Taxation records, since at least 2004, Dr. Brigham has established a series of corporate entities for these facilities, going by various trade

8. The Respondent reportedly began performing abortions at one or more of these facilities on July 30, 2010. The Respondent flies from her home in Utah every other week to Maryland to perform abortions, typically on Thursdays, Fridays and Saturdays.

9. At the time the Respondent accepted employment from Dr. Brigham, she was aware of the fact that Dr. Brigham was not licensed to practice medicine in the State of Maryland.

10. At the time the Respondent accepted employment from Dr. Brigham, she was aware of the fact that the initial intake for her abortion patients would take place in New Jersey, where they would undergo initial assessment, including "laminaria<sup>3</sup> insertion, digoxin<sup>4</sup> insertion and ultrasound." The Respondent was informed that the patients would then be sent to Maryland for completion of the abortion, and that Dr. Brigham would accompany the patients and bring their charts.

11. In mid-August 2010, the Board initiated an investigation of the Respondent after receiving two complaints about her. The first complaint was filed by representatives of the Elkton Police Department, which the Board docketed under Case Number 2011-0118. The second complaint was filed by a physician from Johns Hopkins Hospital on August 18, 2010, which the Board docketed under Case Number 2011-0130.

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names, such as Access Medical Care, P.C., Professional Medical Services, P.C., Advanced Professional Care, LLC, and American Women's Services.

<sup>3</sup> Laminaria is a product developed from seaweed that is used to dilate the cervix for various purposes, including abortions.

<sup>4</sup> Digoxin is widely used to treat various heart conditions, but can be used for purposes of causing fetal demise.

12. After conducting an investigation into these complaints, the Board issues this Order for Summary Suspension pursuant to Md. State Gov't Code Ann. § 10-226(c)(2), concluding that the public health, safety or welfare imperatively required emergency action. The Board's investigations investigative findings are set forth *infra*.

### **BOARD INVESTIGATIVE FINDINGS**

13. The Board realleges and incorporates by reference herein paragraphs one through twelve above.

#### **Complaint Number 2011-0118**

14. On or about August 16, 2010, a representative of the Elkton Police Department submitted a complaint to the Board about the Respondent and Dr. Brigham. The complainant stated that on August 13, 2010, the Respondent and Dr. Brigham transported a critically injured patient (referred to *infra* as "Patient A")<sup>5</sup> in a private vehicle to the Emergency Department at Union Hospital, located in Elkton, Maryland, following a failed surgical abortion.

#### **Complaint Number 2011-0130**

15. On August 18, 2010, a physician ("Physician A") from Johns Hopkins Hospital ("Johns Hopkins") submitted a second complaint against the Respondent to the Board.

16. Physician A stated that on August 13, 2010, the Respondent performed an abortion on Patient A, during which the Respondent noted a uterine perforation. The Respondent then transported Patient A in a personal vehicle to

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<sup>5</sup> To ensure confidentiality, patient names will not be disclosed in this Order for Summary Suspension. The Respondent may obtain the identity of any individuals referenced herein by contacting the assigned administrative prosecutor.

the emergency room at a hospital in Elkton, where it was determined that Patient A sustained a uterine perforation with evisceration of small bowel through the uterine perforation into the vagina. Due to the extent of Patient A's injuries, Patient A was transported to Johns Hopkins, where Physician A and a general surgeon performed an exploratory laparotomy, repair of the hysterotomy, and small bowel resection in order to repair the injuries Patient A sustained during the failed abortion.

17. Physician A stated that she filed the complaint for the following reasons: (a) It was "unsafe" to transport a patient in Patient A's condition via personal vehicle to the emergency room, which "demonstrates poor clinical judgment" that placed Patient A "at risk"; and (b) "It is concerning that patients were being transported across state lines to complete medical care."

#### **The August 13, 2010, Pregnancy Termination**

18. On or about August 9, 2010, Patient A, then 18-years old, visited the Voorhees, New Jersey office of AWS to obtain an abortion after discovering that she was pregnant. While there, Patient A reportedly underwent a sonogram that determined that she was approximately 21 weeks pregnant. Patient A was instructed that she would have to return to the facility because the procedure would be performed over a two-day period.

19. Patient A returned to the Voorhees, New Jersey office of AWS on August 12, 2010, to begin the procedure. During this visit, Patient A met with Dr. Brigham, who initiated the abortion process by inserting/administering the laminaria. Patient A signed various forms on August 12, 2010, including a form

entitled, "Consent for Laminaria Insertion." In part, this form states, "I understand that the insertion of laminaria into my cervix **COMMITTS ME TO THE TERMINATION OF THE PREGNANCY.**" (emphasis in original). Patient A also signed a form entitled, "Consent for Use of Misoprostol in Voluntary Surgical Abortion." In part, this form advised Patient A that she may be given the drug Cytotec, which is usually prescribed to prevent stomach ulcers, which may also increase the possibility of miscarriage by softening the cervix and causing expulsion of the pregnancy by causing contractions.

20. Patient A was instructed to return to the facility for completion of the procedure at 8:00 a.m. on August 13, 2010.

21. Patient A returned to the facility on August 13, 2010, whereupon staff gave her two pills to take to induce contractions. On August 13, 2010, Patient A signed another form, entitled, "Post-Laminaria Insertion Instructions." In part, this form states, "Remember that your abortion really begins when the laminaria is inserted into your cervix."

22. At least two other patients were also at the facility to complete abortion procedures. Patient A, who was under the understanding that she would be provided transportation to Philadelphia to complete the abortion, was advised that AWS would not provide transportation to the other facility. Instead, she was instructed to use her own personal vehicle. Dr. Brigham arrived at the facility and instructed Patient A and the other women who were scheduled to complete abortions to form a line of cars and follow the lead car to a location where the abortion would be performed.

23. Patient A, accompanied by her mother and boyfriend, followed the caravan of cars to the Elkton office of AWS. Patient A arrived at the Elkton location and entered the facility. Patient A was instructed to wait in the waiting room, during which time one of the other women who was undergoing an abortion was taken to a procedure room for that purpose.

24. After the first abortion was completed, Patient A was escorted into the procedure room, whereupon she saw Dr. Brigham, who introduced her to the Respondent. Patient A was then placed on the procedure table where the abortion was to be performed.

25. Patient A recalls that the Respondent began administering medications to her at Dr. Brigham's direction, which ultimately caused her to lose consciousness. Patient A next remembers regaining consciousness at Union Hospital.

26. The Respondent reportedly administered several intravenous anesthetic medications, including Versed, Ketamine and Fentanyl. The Respondent also reported that she provided other contractile agents. The Respondent did not place an intravenous line for intravenous access prior to commencing the procedure. Thereafter, the Respondent commenced performing the abortion surgery, which she called a dilation and evacuation. During the surgery, the Respondent perforated Patient A's uterus and also suspected that she may have injured Patient A's bowel.

27. After encountering these complications, the Respondent came out of the procedure room and informed Patient A's mother and boyfriend that Patient A

would have to be transported to the hospital. Patient A's mother and boyfriend requested that Patient A be taken to the hospital by ambulance.

28. The Respondent refused to call for an ambulance, however.

29. The Respondent originally contemplated taking Patient A by wheelchair to the hospital, which was about two blocks away, but ultimately decided to drive her there.

30. According to the Respondent, staff at the clinic dressed Patient A, who was still in a state of semi-unconsciousness.

31. The Respondent, with the assistance of Dr. Brigham and a staff member, placed Patient A in a wheelchair and wheeled her outside the facility to a rented Chevrolet Malibu. The Respondent placed Patient A in the back seat and reportedly sat there with her while Dr. Brigham drove them to Union Hospital.

32. Upon their arrival at the emergency department at Union Hospital, the Respondent moved Patient A out of the back seat of the automobile and placed her in a wheelchair, whereupon security and hospital personnel came up to them offering assistance. Hospital staff and security personnel stated that the Respondent and Dr. Brigham were circumspect about who they were, what had happened and from where they had come. Staff stated that they attempted to take Patient A inside the emergency department for assessment, at which point the Respondent began insisting on getting their identities and demanded that an emergency room physician come outside to talk to her, which caused a delay in Patient A's transport inside for care. During this time, Patient A was still in the wheelchair, slumped over, in a state of semi-unconsciousness.



33. Patient A was ultimately taken inside where her condition was assessed. The Respondent reported to the emergency room physician that she and Dr. Brigham attempted to perform an abortion on Patient A when they began having complications. Physicians at Union Hospital determined that during the failed abortion, the Respondent and/or Dr. Brigham ruptured Patient A's uterus and possibly perforated her bowel. Physicians observed blood and retained fetal tissue in Patient A's abdomen.

34. Because of the complexity of Patient A's injuries and Patient A's critical status, physicians and hospital staff contacted Johns Hopkins to transport Patient A there for emergency surgery.

35. The Respondent then left Union Hospital and returned to the Elkton office of AWS to perform another abortion.

36. Patient A was transferred to Johns Hopkins by helicopter where she was assessed by physicians there, including Physician A, the complainant in Case Number 2011-0130. Patient A was declared a level one case, requiring immediate transport to the operating room, where Physician A assessed her. Physician A confirmed that Patient A's uterus was ruptured and that maternal bowel had extended through the uterine perforation and into the uterus and vagina. Physician A also identified fetal components in Patient A's abdomen.

37. Physician A operated on Patient A with the assistance of a general surgeon. Physician A and the general surgeon performed an exploratory laparotomy, repair of the hysterotomy, and small bowel resection in order to repair the injuries Patient A sustained during the failed abortion.

### **Additional Police Investigation**

38. Officers of the Elkton Police Department returned to AWS's Elkton facility on August 18, 2010, to serve a search and seizure warrant for Patient A's medical record, which they were not able to find. Officers did locate a chest freezer in the facility, which contained approximately 35 late term fetuses and fetal parts removed from Patient A.

39. Officers also found two sets of logs at the facility, entitled, "Daily Tissue and Regulated medical Waste log for NJ offices," and "Recovery Room Log." These logs show the date, weeks of pregnancy and the total sample weight, presumably relating to abortions that were performed at the facility. The latest fetal age is measured as being 36 weeks. The forms list other later term abortions involving fetal ages of 28, 20, 33 and 35 weeks. The logs also identify the following physician names: "Dr. Shepard, Dr. Woaker, Dr. Rilley."

40. On August 20, 2010, officers of the Elkton Police Department served a search and seizure warrant at Dr. Brigham's New Jersey office in order to obtain the medical records that correspond to the fetuses found in the chest freezer. Officers reportedly found only two medical records related to the fetuses found in the Elkton facility.

### **Cease and Desist Order, August 25, 2010**

41. On August 25, 2010, the Board issued a Cease and Desist Order (the "Order") pursuant to Md. Health Occ. Code ("H.O.") § 14-206(e), in which it ordered Dr. Brigham to immediately cease and desist from practicing medicine in Maryland without a license. In its Order, the Board stated the following:

Dr. Brigham is not and has never been licensed to practice medicine in Maryland.

Dr. Brigham has performed surgical procedures in Elkton, Maryland on a regular basis, performing two to three procedures on each visit during each of approximately two visits per week for at least several months prior to the date of this Order.

On August 13, 2010, Dr. Brigham initiated a procedure, which then had to be completed on an urgent basis. Dr. Brigham then followed the patient in an automobile as the patient, under his instructions, traveled to Elkton, Maryland for the completion of the procedure. In Elkton, Maryland, the patient was admitted, as planned, to a clinic owned by the Respondent for the completion of the procedure. Dr. Brigham directed the surgical procedure that took place at his clinic on that date.

As recently as Friday, August 20, 2010, Dr. Brigham arranged for and attempted to assist in surgical procedures in Elkton, Maryland.

Dr. Brigham has been observed performing surgical procedures on approximately 50 occasions in Maryland at the Elkton location since January 2010.

The health of Maryland patients is being endangered by Dr. Brigham's unlicensed practice of medicine in this State.

42. Based on the above investigative facts, the Board has a basis to charge the Respondent with violating the Maryland Medical Practice Act (the "Act"), H.O. §§ 14-101 *et seq.* Specifically, the Board has a basis to charge the Respondent with violating the following provisions of the Act under H.O. § 14-404(a):

(3) Is guilty of: (ii) unprofessional conduct in the practice of medicine; [and]

(18) Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine.

43. The Board concludes that the Respondent poses a threat to her patients' safety and wellbeing and thereby represents a danger to the public, her patients, and the profession of medicine. The Respondent, as described above, exercised poor medical judgment and otherwise exposed her patients to harm. The Respondent knowingly participated in a practice arrangement in which abortions were initiated in one state, after which the patients were instructed to drive across state lines to an undisclosed location for completion of the abortion. This arrangement potentially placed the patients at grave risk for harm or catastrophic outcomes. The Respondent practiced with an unlicensed individual, Dr. Brigham, or aided an unlicensed individual, Dr. Brigham, in the practice of medicine. With respect to the August 13, 2010, abortion, the Respondent knowingly participated in a surgical procedure that was initiated elsewhere. When the Respondent noted that she had ruptured Patient A's uterus, she exercised poor judgment or placed her patient in potential life-threatening danger by refusing to call for an ambulance or emergency medical services, and transporting her to a hospital by automobile. When the Respondent arrived at the hospital, she acted in a manner that delayed or otherwise impeded emergency staff from attending to Patient A, which endangered Patient A's health and placed her at additional risk for life-threatening injury or death.

#### **CONCLUSIONS OF LAW**

Based on the foregoing investigative facts, the Board concludes that the public health, safety or welfare imperatively require emergency action in this case, pursuant to Md. State Gov't Code Ann. § 10-226(c)(2)(2009 Repl. Vol.).

**ORDER**

It is this 21<sup>st</sup> day of August 2010, by a majority of the quorum of the

Board:

**ORDERED** that pursuant to the authority vested by Md. State Gov't Code Ann. §10-226(c)(2), the Respondent's license to practice medicine in the State of Maryland is hereby **SUMMARILY SUSPENDED**; and it is further

**ORDERED** that a post-deprivation hearing in accordance with Code of Maryland Regulations tit. 10, § 32.02.05.B(7), C and E on the Summary Suspension has been scheduled for **Wednesday, September 8, 2010 at 10:00 a.m.**, at the Maryland State Board of Physicians, 4201 Patterson Avenue, Room 108, Baltimore, Maryland 21215-0095; and it is further

**ORDERED** that at the conclusion of the **SUMMARY SUSPENSION** hearing held before the Board, the Respondent, if dissatisfied with the result of the hearing, may, within ten (10) days, request an evidentiary hearing, such hearing to be held within thirty (30) days of the request, before an administrative law judge at the Office of Administrative Hearings, Administrative Law Building, 11101 Gilroy Road, Hunt Valley, Maryland 21031-1301; and it is further

**ORDERED** that on presentation of this Order, the Respondent **SHALL SURRENDER** to the Board's investigator the following items:

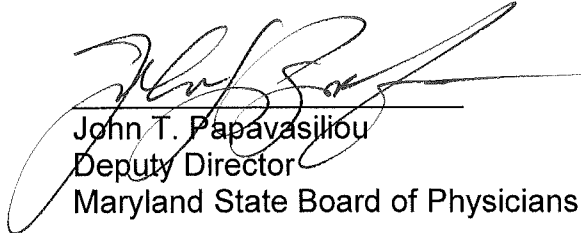
- (1) her original Maryland License D71213;
- (2) her current renewal certificate;
- (3) DEA Certificate of Registration, # BR9253535 (exp. 04/30/11);

- (4) Any Maryland Controlled Dangerous Substance Registrations in her name;
- (5) All controlled dangerous substances in her possession and/or practice;
- (6) All Medical Assistance prescription forms;
- (7) All prescription forms and pads in her possession and/or practice; and
- (8) Any and all prescription pads on which her name and DEA number are imprinted.

**AND IT IS FURTHER ORDERED** that a copy of this Order of Summary Suspension shall be filed with the Board in accordance with Md. Health Occ. Code Ann. § 14-407 (2009 Repl. Vol.); and it is further

**ORDERED** that this is a Final Order of the Board and, as such, is a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. § 10-611 *et seq.* (2009 Repl. Vol.)

8/31/10  
Date

  
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John T. Papavasiliou  
Deputy Director  
Maryland State Board of Physicians