

FINAL REPORT ON THE INVESTIGATION OF DR. ULRICH KLOPFER

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FOREWORD FROM ATTORNEY GENERAL CURTIS T. HILL, JR.

As Indiana's 43rd Attorney General, my goal is to protect the safety and welfare of Hoosiers, and few matters are more important to me than preserving the dignity of human life. The troubling discovery of 2,411 fetal remains from Indiana abortion clinics was a shock to our state and our nation alike, and my office is proud to lead the investigation of this horrific situation to bring answers and closure to all those impacted. This case exemplifies the need for strong laws to ensure the dignified disposition of fetal remains, like those passed by the Indiana General Assembly in 2016 and upheld by the U.S. Supreme Court in 2019. I am extremely humbled by the fact that my office was able to provide for a dignified burial of these remains in accordance with Indiana law so that they could finally rest in peace. The purpose of this final report is to communicate our findings and to provide greatly needed closure to all those affected by this tragedy.

EXECUTIVE SUMMARY

In September 2019, the Office of the Indiana Attorney General (“OAG”) was notified by Will County, Illinois, authorities of the discovery of 2,246 medically preserved fetal remains and thousands of abandoned patient health records in the garage of deceased Dr. Ulrich Klopfer, a physician previously licensed by the State of Indiana. Dr. Klopfer performed tens of thousands of abortions at his clinics in South Bend, Fort Wayne, and Gary, Indiana, and his career ended following the Indiana Medical Licensing Board’s permanent revocation of his medical license in 2016 for poor record keeping, failure to provide appropriate anesthesia to patients, and performing abortions on thirteen year old patients without proper reporting to the state.

An initial investigation determined that the 2,246 fetal remains all appeared to be from 2000-2002 and had originated from Dr. Klopfer’s Indiana abortion clinics, as Dr. Klopfer was only practicing in Indiana at that time. Additional searches of Dr. Klopfer’s properties and clinics led to the discovery of an additional 165 medically preserved fetal remains in the trunk of one of his vehicles and thousands more health records. Because of the OAG’s statutory authority over abandoned health records, the 2,411 fetal remains and health records were transferred from Will County, Illinois, to secure facilities in Indiana. Upon further investigation by the OAG, it was determined that the remains appear to be from Dr. Klopfer’s medical practice in Indiana from the years 2000-2003.

The OAG’s investigation has revealed that Dr. Klopfer failed to make arrangements for the appropriate disposition of patient health records or notify his patients regarding their records from his closed medical practice. The OAG has reviewed, processed, and indexed the records abandoned by Dr. Klopfer and will maintain and safeguard the health and patient records required to be retained by law until such a time as they can be disposed of properly.

The OAG investigation has also revealed that Dr. Klopfer failed to effectuate the proper disposition of the fetal remains as required by Indiana law. Based on the poor condition of the fetal remains and the state and unreliable nature of the accompanying records, it was not possible to make an independent verification of the identities of the individual fetal remains. Accordingly, the Attorney General provided for all 2,411 fetal remains to be interred in a respectful and dignified manner in accordance with state law. The OAG’s investigation into this matter has concluded and the following is a final report of its findings.

I. INTRODUCTION

Dr. Ulrich Klopfer was an osteopathic physician licensed by the State of Indiana in 1979. Prior to his medical license being suspended indefinitely in 2016, Dr. Klopfer practiced at and was the medical director for women's health clinics in South Bend, Fort Wayne, and Gary, Indiana. Dr. Klopfer performed a variety of obstetric and gynecological services, but his practice was primarily focused on surgical and medical abortions. Dr. Klopfer performed tens of thousands of abortions over the course of more than three decades.

Dr. Klopfer died on September 3, 2019. After his death, Dr. Klopfer's family discovered medically preserved fetal remains in the garage next to his family home. Through their family attorney, local law enforcement was notified and dispatched to search the premises, and they discovered over 2,200 fetal remains and thousands of health records from Dr. Klopfer's medical practice. This discovery led to the search of multiple properties identified as owned or rented by Dr. Klopfer and his related businesses. Additional fetal remains and health records were also found in the trunk of a car belonging to Dr. Klopfer. Hundreds of thousands of health records from Dr. Klopfer's medical practice were found abandoned in the former clinic locations, storage units, and another garage.

Under specific statutory authority, the Office of the Indiana Attorney General ("OAG") initiated an investigation and took possession of the abandoned health records from Dr. Klopfer's medical practice. The OAG transferred the health records to a secure location where they could be maintained in such a manner that the privacy of the patients and the confidentiality of the information would be preserved. The fetal remains were determined to be from Indiana and were transferred from the custody of the Will County (Illinois) Sheriff to the St. Joseph County (Indiana) Coroner. The Attorney General provided for all 2,411 fetal remains to be interred in a respectful and dignified manner and the OAG will maintain and safeguard the health and other records

containing personal information in its possession from Dr. Klopfer's medical practice until such a time as they can be disposed of pursuant to Indiana law.

II. THE ATTORNEY GENERAL'S AUTHORITY

The OAG initiated its investigation pursuant to Indiana Code § 4-6-14, *et seq.*, which outlines the OAG's role in handling abandoned records and provides for the protection of health records and identifying information. The Attorney General has specific statutory authority to take possession of, store, maintain, transfer, protect, and/or destroy abandoned health records and other records that contain personal information under Indiana Code § 4-6-14-5. As contemplated by Indiana Code § 4-6-14-5 and defined by Indiana Code § 4-6-14-2.5, "health records" are "written, electronic, or printed information possessed or maintained by a health care provider concerning any diagnosis, treatment, or prognosis of the patient, including health information that is possessed or maintained on microfiche, microfilm, or in a digital format".

The term "health records" also includes mental health records, alcohol and drug abuse records, and information required to remain private under the federal Health Insurance Portability and Accountability Act ("HIPAA"). *See* Indiana Code § 4-6-14-2.5. The Attorney General's authority to enforce HIPAA comes from the Social Security Act. *See* 42 USC § 17939(e). Under HIPAA, any of the following types of information would constitute protected health information if possessed or maintained by a health care provider:

- a. Names;
- b. Dates, except year;
- c. Telephone numbers;
- d. Geographic data;
- e. FAX numbers;
- f. Social Security numbers;
- g. Email addresses;
- h. Medical record numbers;
- i. Account numbers;
- j. Health plan beneficiary numbers;

- k. Certificate/license numbers;
- l. Vehicle identifiers and serial numbers including license plates;
- m. Web URLs;
- n. Device identifiers and serial numbers;
- o. Internet protocol addresses;
- p. Full face photos and comparable images;
- q. Biometric identifiers (i.e. retinal scan, fingerprints);
- r. Any unique identifying number or code.

See 45 CFR § 160.103, 45 CFR § 164.514.

“Personal Information” as utilized in Indiana Code § 24-4.9-2-10 includes:

- (1) a Social Security number that is not encrypted or redacted; or
- (2) an individual's first and last names, or first initial and last name, and one (1) or more of the following data elements that are not encrypted or redacted:
 - (A) A driver's license number.
 - (B) A state identification card number.
 - (C) A credit card number.
 - (D) A financial account number or debit card number in combination with a security code, password, or access code that would permit access to the person's account.

A “health care provider” includes any “person listed in Indiana Code § 16-39-7-1(a)(1) through (11), or a person licensed, certified, registered, or regulated by an entity described in Indiana Code § 25-0.5-11”. *See* Indiana Code § 4-6-14-2.

Health records and other records that contain personal information are deemed abandoned when they are either “(1) voluntarily surrendered, relinquished, or disclaimed by the health care provider or regulated professional, with no intention of reclaiming or regaining possession; or (2) recklessly or negligently treated, such that an unauthorized person could obtain access or possession”. *See* Indiana Code § 4-6-14-1. Prior to the Attorney General utilizing his or her power to take possession of, store, maintain, transfer, protect, or destroy abandoned health records and other records that contain personal information, the Attorney General must make a determination as to whether a health care provider or other regulated professional has abandoned said records. *See* Indiana Code § 4-6-14-6. Once abandoned records are obtained by the OAG, they are maintained in a secure access facility that is not accessible to the public. The records are

maintained for the period of time mandated by state law, which varies by the record type and age.
Id.

III. FACTUAL BACKGROUND

Dr. Ulrich G. Klopfer was a licensed Doctor of Osteopathy, holding Indiana license number 02000628A, issued January 12, 1979. Dr. Klopfer practiced at, and was medical director for, three different locations in Indiana: Women's Pavilion Clinic, located at 2010 Ironwood Circle, South Bend, Indiana 46635; Fort Wayne Women's Health Organization, located at 2210 Inwood Drive, Fort Wayne, Indiana 46815; and Friendship Family Planning Clinic of Indiana, located at 3700 Broadway, Gary, Indiana 46408. At these three clinic locations, Dr. Klopfer provided general gynecological care, surgical and medical abortions, and vasectomies.

A. CRIMINAL ACTIONS

On or about January 3, 2014, Dr. Klopfer was criminally charged in the Lake County Superior Court under Cause No. 45D07-1401-CM-0018, for failing to timely file a public Termination of Pregnancy Report, a Class B Misdemeanor, regarding a thirteen year old patient. This report is to be filed under Indiana Code § 16-34-2-5(b), which required that abortions performed on patients less than fourteen years of age be reported to the Indiana State Department of Health ("ISDH") and the Indiana Department of Child Services ("IDCS") within three days after the abortion is performed. *See Exhibit A* attached hereto. Dr. Klopfer entered into a pretrial diversion agreement on the Lake County case in July 2015 wherein he received a deferred prosecution of the Class B Misdemeanor in exchange for its dismissal at the end of a one year period. *See Exhibit B* attached hereto.

Similarly, on or about June 27, 2014, Dr. Klopfer was criminally charged in the St. Joseph Superior Court under Cause No. 71D04-1406-CM-002439, for failing to timely file a public

Termination of Pregnancy Report, a Class B Misdemeanor, regarding a thirteen year old patient. This report is to be filed under Indiana Code § 16-34-2-5(b), which required that abortions performed on patients less than fourteen years of age be reported to the ISDH and the IDCS within three days after the abortion is performed. *See Exhibit C* attached hereto. Dr. Klopfer entered into a pretrial diversion agreement on the St. Joseph County case in December 2014 wherein he received a deferred prosecution of the Class B Misdemeanor in exchange for its dismissal at the end of a one year period. *See Exhibit D* attached hereto.

B. INDIANA DEPARTMENT OF HEALTH LICENSING ACTIONS

On or about January 28, 2015, the ISDH filed a licensing action against Dr. Klopfer's Women's Pavilion Clinic in South Bend as the result of a series of surveys it had conducted at the Women's Pavilion Clinic location finding significant disrepair, violations of state law, and erratic record keeping. On June 26, 2015, the ISDH filed a second licensing action in reference to the deteriorating conditions at the Women's Pavilion Clinic location. Specifically, the ISDH alleged that various surveys, patient record review, and personnel file review had revealed multiple violations of Indiana law including: (1) a failure to have qualified medical personnel to monitor patients who were given sedation medications prior to or during an abortion procedure; (2) a failure to provide the requisite information and counseling to patients as required by Indiana law; and (3) a failure to timely report abortions performed on underage patients. Dr. Klopfer entered into a settlement agreement with the ISDH in November 2015 wherein he agreed not to seek current licensure for the Women's Pavilion Clinic location for ninety (90) days in exchange for the dismissal with prejudice of the two ISDH actions. Dr. Klopfer closed the other two clinic locations voluntarily prior to entering into his settlement agreement with the ISDH.

C. MEDICAL LICENSING BOARD ACTIONS

As a practicing physician in the State of Indiana, Dr. Klopfer was licensed and subject to regulation by the Medical Licensing Board of Indiana (“Board”). On January 11, 2016, the Board filed an amended administrative complaint against the medical license of Ulrich G. Klopfer “pursuant to Ind. Code § 25-1-7-7, Ind. Code § 25-1-5-3, Ind. Code art. 25-22.5, the Administrative Orders and Procedures Act, Ind. Code ch. 4-21.5-3, and Ind. Code ch. 25-1-9”. Cause No. 2014 MLB 0044. *See Exhibit E* attached hereto. Dr. Ulrich continued to perform both medical and surgical abortions at one or more of his clinics through November 2015.

After a hearing conducted on August 25, 2016, the Board entered its Findings of Fact, Ultimate Findings of Fact, Conclusions of Law, and Final Order on November 22, 2016, suspending Dr. Klopfer’s medical license indefinitely, finding that:

- a. Dr. Klopfer had violated Indiana Code § 25-1-9-4(a)(4)(B) in that he had failed to keep abreast of current professional theory and practice in that he failed to ensure that qualified staff were present when patients received and/or recovered from Lidocaine and Stadol medications given prior to and during abortion procedures.
- b. Dr. Klopfer had violated Indiana Code § 25-1-9-4(a)(4)(B) in that he had failed to keep abreast of current professional theory and practice in that he had failed to document in patients’ medical records that information and counseling was provided to patients at least eighteen hours prior to a surgical abortion procedure being performed.
- c. Dr. Klopfer had violated Indiana Code § 25-1-9-4(a)(4)(B) in that he had failed to keep abreast of current professional theory and practice in that he had failed to document in patients’ medical records that information and counseling was provided to patients at least eighteen hours prior to a medical abortion procedure being performed.
- d. Dr. Klopfer had violated Indiana Code § 25-1-9-4(a)(3) in that he knowingly violated a state statute or rule regulating the medical profession. Specifically, Dr. Klopfer was found to have violated Indiana Code § 16-34-2-5(b), when he failed to submit a Termination of Pregnancy Report within three days after performing an abortion on at least two thirteen year old patients.
- e. Dr. Klopfer had violated Indiana Code § 25-1-9-4(a)(4)(A) due to professional incompetence as he continued to engage in a pattern of conduct which demonstrated an inability to exercise reasonable care, as defined in 844 IAC 5-2-5, in providing abortion

services, as is normally exercised by practitioners in the same or similar circumstances.

See **Exhibit F** attached hereto.

Following the suspension of his medical license, Dr. Klopfer closed the Women's Pavilion Clinic in South Bend.

IV. INVESTIGATIVE FINDINGS

Physicians are subject to certain state and federal regulations which govern patient records and/or health records. The OAG's investigation has revealed that despite having his license suspended indefinitely and closing all three clinics, it appears that Dr. Klopfer failed to: (1) make arrangements for the transfer of the patient records and/or health records related to his medical practice in Indiana (*See* 844 IAC 7-1-4); (2) failed to notify all active patients in writing and provide patients with the mechanism to request their records (*See* 844 IAC 5-2-16); (3) failed to make appropriate arrangements for custodianship of the health records from his practice or to assure continued access or any mechanism to ensure the ability of a patient to supplement or amend said records (*See* 844 IAC 5-3-8 and 844 IAC 5-3-6); and (4) failed to name an authorized proxy or contact person and failed to establish appropriate administrative, technical and physical safeguards to protect the privacy of protected health information were he to become unable to do so (*See* 45 CFR §164.530(c)(1), Indiana Code §§ 34-43-1-1, *et seq.*, 16-41-8-1, *et seq.*). Dr. Klopfer also failed to effectuate the proper disposition of the fetal remains in his possession under Indiana law. Accordingly, the OAG asserts that Dr. Klopfer failed in many respects to meet his obligations under both state and federal law which will be further explained below.

A. THE INITIAL DISCOVERY OF FETAL REMAINS

Dr. Klopfer died of natural causes on September 3, 2019, at the age of 79 in his home in unincorporated Crete Township in Will County, Illinois. On the afternoon of September 12, 2019,

the Will County Coroner's Office received a telephone call from an attorney representing Dr. Klopfer's family. The attorney informed the Coroner's Office that while going through the doctor's personal property, they discovered what they believed to be fetal remains in the garage of the family home and requested that the Will County Coroner's Office provide proper removal. The Will County Coroner's Office contacted the Will County State's Attorney's Office and the Will County Sheriff's Office regarding the situation.

Will County Sheriff's detectives, crime scene investigators, and representatives from the Will County Coroner's Office were then dispatched to the Klopfer family home. Upon their arrival, they were directed to a garage on the property. Upon conducting a thorough search of the property over the course of two days, utilizing nearly the full resources of the Will County Sheriff's Department, 2,246 medically preserved fetal remains were found among boxes of personal items, rusting cars, multitudes of soda cans, and other random garbage stacked high to the ceiling in Dr. Klopfer's garage. The Will County Coroner's Office took possession of the 2,246 remains found on the Klopfer family property at the conclusion of the search.

The fetal remains were in various states of decay. The remains were mostly found inside molding boxes and old Styrofoam coolers containing large red medical waste bags. It appeared as though each remain had been placed in a small clear plastic specimen bag for purposes of being medically preserved in a chemical suspected to be formalin, a formaldehyde derivative. However, many of the bags had degraded over time and/or suffered damage, resulting in leakage from the individual bags into the outer bag, box, or cooler.

Various personal health information was written on the front of the individual bags in black marker. The information displayed on the bags in certain instances included a patient chart number, date, and/or initials of the patient. However, the personal health information written on

the individual bags varied greatly, and some of the information written on the individual bags was missing, contained errors, or had eroded over time due to the formalin leakage.

The Will County Sheriff's Department also found health records in conjunction with the remains. The health records were found in Dr. Klopfer's garage inside or near the boxes and coolers that housed the fetal remains. These health records consisted of one page forms, filled in partially by hand, that contained personal health information such as patient name, patient chart number, date of birth, and social security number.

However, like the personal health information written on the individual bags of fetal remains, the personal health information contained in the records varied greatly, with many fields left blank and displaying many apparent errors or improbable entries. For example, many health records were missing entries for particular fields, such as name, date of birth, or social security number. Other forms had partial entries for some fields, such as only month and day being listed for date of birth or only a partial social security number. In some instances, the patient was identified by age, meaning there was no name, social security number, or chart number listed on the individual record. In other instances, it was clear that entries had been made in error. For example, on some records, the form date and date of birth were listed as the same date, and on other records, the patient date of birth was listed as only two years before the form date, both of which would be scientifically impossible. Additionally, some health records contained chart numbers that correlated to more than one patient name.

A majority of the health records found with the remains were dated and appeared to all be from the years 2000, 2001, 2002, and 2003, when Dr. Klopfer was only practicing medicine and performing abortions at his three clinics in Indiana. The Will County Sheriff's Office took custody of the records found with the remains following their collection from the family property. The

investigation conducted by the Will County Sheriff's Department revealed no evidence that Dr. Klopfer had performed any surgical procedures or medical services on the family property in Illinois. Rather, all evidence suggested that the remains and health records that were discovered originated from Dr. Klopfer's medical practice in Indiana.

While investigating the initial 2,246 fetal remains discovered on the Klopfer family property, the Will County Sheriff's Office was made aware of additional properties either owned or rented by Dr. Klopfer. Specifically, the Will County Sheriff's Office was made aware that numerous vehicles and possibly other property owned by Dr. Klopfer were being stored in an outdoor gated lot of a business located in Dolton, Illinois. The Will County Sheriff's Office made contact with the business owner to ascertain what type of property was stored in the lot.

The information received by Will County detectives indicated that the only property stored on this lot consisted of eight vehicles, and the vehicles had been stored at that location for over six years. There was no indication that additional personal property was either stored or visible inside of the vehicles that would have contained additional fetal remains. Arrangements were then made between the property owner, the Klopfer family, and the Will County Sheriff's Office to conduct a thorough search of the vehicles once the Klopfer family located the keys.

Following this initial discovery in early September 2019, the OAG initiated its investigation regarding the fetal remains and health records that had been found in Will County, Illinois, as they were products of Dr. Klopfer's medical practice in the State of Indiana. On October 2, 2019, the initial 2,246 fetal remains and health records found in Dr. Klopfer's garage were transferred from Will County to the custody of the St. Joseph County Coroner's Office in Indiana pursuant to an arrangement with the OAG.

B. ADDITIONAL PROPERTIES IDENTIFIED

Following the discovery of the fetal remains, the OAG determined that additional properties either owned or rented by Dr. Klopfer, or one of his associated businesses, were located in Indiana. These properties included three clinic locations, adjacent properties, a vacant lot, and multiple storage units and vehicles. It was suspected that additional fetal remains may be located on these properties, and it was known that Dr. Klopfer kept health records at these properties.

Upon further investigation, it was determined that the Fort Wayne Women's Health Organization, located at 2210 Inwood Drive, Fort Wayne, Indiana 46815, and Friendship Family Planning Clinic of Indiana, located at 3700 Broadway, Gary, Indiana 46408, were owned by an Illinois Limited Liability Company named UG Klopfer Real Estate Holdings LLC, belonging to Dr. Klopfer. UG Klopfer Real Estate Holdings LLC was administratively dissolved in Indiana on October 19, 2010. UG Klopfer Real Estate Holdings LLC was involuntarily dissolved in Illinois on August 12, 2016. The Women's Pavilion Clinic, located at 2010 Ironwood Circle, South Bend, Indiana 46635, was owned by Dr. Klopfer individually. The OAG's investigation also found that Dr. Klopfer maintained three storage units at Public Storage in Hobart, Indiana, at 4001 W. 37th Ave. Hobart, Indiana 46342.

After the clinics closed, all three fell further and further into disrepair. In an interview provided to The Daily Caller News Foundation ("DCNF"), filmmaker Mark Archer described an interview he did of Dr. Klopfer in his Fort Wayne clinic on October 18, 2018. Dr. Klopfer told Mr. Archer that he went to the Fort Wayne clinic every Wednesday night to "check on his property." Archer described the office as "filthy dirty full of clutter," and told DCNF that "I think he's a hoarder. . . I am fearful of what they're going to find in the clinics." *See* <https://dailycaller.com/2019/09/17/abortion-doctor-fetal-remains/>. What was found in the OAG's

investigation confirmed those fears.

1. THE FORT WAYNE CLINIC

On September 19, 2019, the Fort Wayne Police Department executed a search warrant obtained through the Allen County Superior Court on Dr. Klopfer's Fort Wayne clinic, the Women's Health Organization located at 2210 Inwood Drive. Officers from the Fort Wayne Police Department were the first to enter the clinic. They cleared the building for safety, and then Fort Wayne crime scene investigators walked through and documented the disorderly condition of the clinic.

The Fort Wayne clinic has a ground level and a basement. The ground level was extremely cluttered. Boxes, garbage, cleaning supplies, clothing, unopened food and drinks, magazines, and other miscellaneous personal items were strewn about. Directly off the waiting room, there was an office that appeared to be Dr. Klopfer's. It contained multiple filing cabinets which contained health records along with other miscellaneous documents and office supplies. These filing cabinets were not secured or locked.

The basement level of the clinic appeared to be used mainly for storage and was in very poor condition. It was apparent that it had flooded previously, as there were distinct indicators of water damage throughout the basement, extremely prevalent mold, and a strong musty odor. Many health records were discovered in the basement, completely unsecured and wrapped in trash bags.

When entering the basement from the main entrance stairway, Dr. Klopfer had a bedroom immediately to the right of the stairs. This bedroom contained a bed and numerous boxes with various personal items, including gifts, magazines, clothes, and food. Also in the basement, there were several storage rooms that contained more than 100 boxes of health records dating back to the 1980s and some employee records intermingled with garbage, personal items, and medical

supplies. Many of the boxes housing the health records were in extremely poor condition due to water damage. Some boxes fell apart as soon as they were moved, and many records were so severely damaged that they were unreadable. Another basement storage room contained a number of unlocked filing cabinets containing health records, employee records, and various other items, which could have been easily accessed by anyone entering the clinic.

With the consent of Dr. Klopfer's family, all health records were removed from the Fort Wayne clinic by the OAG with the assistance of the Fort Wayne Police Department, a task that required significant man power and a twenty-six foot moving truck. The health records recovered from the Fort Wayne clinic were then taken to a secure access facility utilized by the State of Indiana for record storage. The facility is not accessible to the public.

2. THE SOUTH BEND CLINIC

Dr. Klopfer's South Bend clinic, the Women's Pavilion Clinic, located at 2010 Ironwood Circle, as well as a vacant lot owned by Dr. Klopfer near the clinic, were also searched on September 19, 2019, pursuant to a search warrant obtained by the St. Joseph County Prosecutor's Office. Law enforcement officers for the St. Joseph County Prosecutor's Office were the first to enter the clinic and secure it for safety. Upon entering the clinic, it was apparent that unsecured health records were strewn about the waiting area and throughout the facility. The clinic is a one floor free standing building consisting of a main lobby and waiting area, multiple exam rooms, a large recovery room, multiple bathrooms, and various large storage areas.

The entire clinic was extremely cluttered. Boxes, garbage, and debris were stacked from floor to the ceiling in each room, and the building was in complete disarray. Health records were intermingled with boxes upon boxes of miscellaneous items including car parts, rotting food, unsterilized used medical instruments, hundreds of empty soda cans and protein shake bottles,

various personal items, and medical supplies – including loose syringes. Some of the health records were soaking in an unidentified liquid and were covered in mold.

With the exception of one filing cabinet that contained mostly narcotics, presumably used in Dr. Klopfer's medical practice, none of the filing cabinets were locked or secured in any manner. The keys to that filing cabinet were located on the front desk in the clinic waiting area. Therefore, the records were unsecured and easily accessible to anyone, authorized or not, who gained entry to the clinic. With the consent of Dr. Klopfer's family, all health records found were removed from the South Bend clinic by the OAG over a two day period, utilizing significant man power and two twenty-six foot moving trucks. The health records recovered from the South Bend clinic were then taken to a secure access facility utilized by the State of Indiana for record storage. The facility is not accessible to the public.

3. THE GARY CLINIC

Dr. Klopfer's Gary clinic, the Friendship and Family Planning Clinic of Indiana, located at 3711 Washington Street, an adjacent property with a garage, and multiple storage units in the area were also searched on September 19, 2019, by the Hobart Police Department in conjunction with the OAG upon the consent and cooperation of the Klopfer family. The Klopfer family was present while these properties were searched.

The clinic location in Gary was extremely cluttered. There were hundreds of empty protein shake bottles littering nearly every room on the main level. There were boxes of miscellaneous items including old shoes, old phone books, medical equipment, decorations, magazines, clothes, and old typewriters, stacked wall-to-wall and floor-to-ceiling in the two rooms on the north part of the building. The basement had suffered severe water damage and was infested by rodents.

The large main area of the Gary clinic had garbage and boxes strewn throughout. The

rooms on the south part of the building were filled with old electronics equipment and numerous boxes of miscellaneous personal items. The large main area had multiple large filing cabinets nearly entirely full of health records. There were also boxes of health records scattered throughout the main area. There were two rooms attached to both sides of the main area that had numerous boxes of health records intermingled with the garbage and amongst the boxes of miscellaneous personal items and car parts. The room in the southeast portion of the building had several large filing cabinets full of health records. None of the health records found in the Gary clinic were secured or protected from unauthorized access in any way. Rather, they were accessible by anyone who gained entry to the clinic.

The garage located on the property adjacent to the clinic was also searched by the OAG with the consent and assistance of the Klopfer family. The garage housed multiple vehicles filled with garbage, old car parts, and rodent carcasses, along with various boxes of debris and other personal items. Several health records were found strewn about the garage.

With the consent of Dr. Klopfer's family, said health records were removed from the Gary clinic and garage by the OAG with the assistance of the Hobart Police Department, utilizing significant man power and one twenty-six foot moving truck. The health records were then taken to a secure access facility utilized by the State of Indiana for storage of records. The facility is not accessible to the public.

4. THE HOBART STORAGE UNITS

With the assistance of the Hobart Police Department and the Klopfer family, the OAG also located health records from Dr. Klopfer's medical practice in the storage units he had rented in Hobart. The records were intermingled with boxes of personal items, garbage, old furniture, and car parts that filled most of the units. Many of the records were decades old. The health records

were not secured inside the unit in any way. Anyone who gained access to the inside of the storage unit would have been able to access the health records being stored there.

With the consent and cooperation of Dr. Klopfer's family, all health records found were removed from the storage units in Hobart by the OAG with the assistance of the Hobart Police Department utilizing significant man power over the course of two days and two twenty-six foot moving trucks. The records were then taken to a secure access facility utilized by the State of Indiana for storage of records. The facility is not accessible to the public.

C. THE FAMILY HOME

In the months following the initial discovery of the fetal remains, the Klopfer family undertook the arduous task of going through Dr. Klopfer's personal property located inside the family home. In doing so they found countless health records and other records containing personal health information. Upon this discovery the Klopfer family contacted the OAG to notify them of these abandoned health records and arranged for the OAG to take possession. All health records were then removed from the home by the OAG with the family's permission and assistance. Those records were then safely transported to a secure access facility utilized by the State of Indiana for storage of records. The facility is not accessible to the public.

D. THE DETERMINATION OF ABANDONMENT

In order to determine if the records from Dr. Klopfer's medical practice were abandoned under Indiana law, the OAG reviewed the information at its disposal from its own internal efforts as well the information provided by Will County, Illinois, authorities. On September 18, 2019, as a result of its investigation, the OAG made a Determination of Abandonment as to the health records from Dr. Klopfer's medical practice in the State of Indiana. The Determination of Abandonment found that (1) as Dr. Klopfer was a licensed Doctor of Osteopathy and subject to

the governance of the Medical Licensing Board of Indiana, he was a “health care provider” as defined by Indiana Code § 4-6-14-2; (2) the health records relating to Dr. Klopfer’s medical practice in the State of Indiana constituted “health records” as defined by the Abandoned Records Statute, Indiana Code § 4-6-14, *et seq.*, and the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health (“HITECH”) Act, 42 U.S.C. § 1302(a), and the Department of Health and Human Services Regulations, 45 C.F.R. § 160 *et seq.* (collectively, “HIPAA”), specifically §§ 45 C.F.R. § 160.103, 45 CFR § 164.304, 45 CFR § 164.310, and 45 CFR §164.514; and (3) that the subject health records had been recklessly or negligently treated by Dr. Klopfer in the manner in which they had been kept, such that an unauthorized person could obtain access or possession.

The Determination of Abandonment therefore found that the records related to Dr. Klopfer’s medical practice had been abandoned pursuant to Indiana law and that the OAG could thereby exercise its power to take possession of, store, maintain, transfer, protect, or destroy said records subject to applicable state and federal law. It is of note that prior to the Determination of Abandonment, Mrs. Sherry Klopfer, as Dr. Klopfer’s next of kin, legal and personal representative, gave her consent to the Indiana Office of the Attorney General taking possession of the health records from Dr. Klopfer’s medical practice in Indiana. In fact, Dr. Klopfer’s family offered its full cooperation and support throughout the OAG investigation. Following the Determination of Abandonment, and through the collaboration of the Klopfer family, multiple state law enforcement agencies, state prosecutor’s offices, and the OAG, the properties located in Indiana either belonging to or rented by Dr. Klopfer were located and searched for additional fetal remains and health records.

On October 1, 2019, the OAG issued a Notice of Determination of Abandonment to Mrs.

Sherry Klopfer regarding the health records from the former medical practice of Dr. Klopfer, stating that the records had been deemed abandoned pursuant to Indiana Code § 4-6-14-5 and that the OAG would be exercising its powers under Indiana Code § 4-6-14-8. *See Exhibit G* attached hereto. The Notice of Determination of Abandonment also informed Mrs. Klopfer of her right as Dr. Klopfer's legal and personal representative to petition for review of the Determination. The time to petition for review expired on October 19, 2019. To date, no objections, challenges, or requests for review of the determination have been received by the OAG. As such, this determination is final.

E. SECOND DISCOVERY OF FETAL REMAINS

On the morning of October 9, 2019, members of the Will County Sheriff's Office discovered additional fetal remains associated with the Dr. Ulrich Klopfer investigation. Detectives with the Will County Sheriff's Office conducted a search of numerous vehicles owned by Dr. Klopfer in Dolton, Illinois. The search conducted was done with the assistance and cooperation of the Klopfer family. In one vehicle's trunk compartment, a late 1990's Mercedes Benz, there were five plastic bags and one box that contained 165 medically preserved fetal remains intermingled with bits of garbage and rodent droppings.

The additional remains recovered from Dr. Klopfer's vehicle were preserved, packaged, and marked similarly to the previous fetal remains discovered at the Klopfer family property in September 2019. Health records were also found with the additional remains that were nearly identical in form and content to those found with the initial fetal remains in Dr. Klopfer's garage.

All of the health records and information observed by Will County detectives and crime scene investigators in their investigation of the additional 165 fetal remains coincided with the previously known information that the fetal remains were from the time period of 2000-2003,

when Dr. Klopfer was only performing abortions in the State of Indiana. As such, on October 21, 2019, the additional 165 remains were transferred from Will County, Illinois, to the custody of the St. Joseph County Coroner's Office in Indiana pursuant to an arrangement with the OAG, bringing the total number of fetal remains to 2,411.

F. A SUMMARY OF THE ABANDONED HEALTH RECORDS

The OAG reviewed, processed, and indexed all abandoned health records that accompanied the fetal remains. There were more records than fetal remains found. A total of 2,460 health records that accompanied the fetal remains were legible and able to be processed. It was not possible to match these records to a corresponding fetal remain due to the manner in which they were kept, the condition of both the records and the fetal remains, and the unreliability of the information contained therein. 622 of the records listed procedure dates in 2000. 861 of the records listed procedure dates in 2001. 823 of the records listed procedure dates in 2002 and 137 records listed a procedure date in 2003. 17 of the records either listed the patient's date of birth as the procedure date, had an illegible procedure date, or no procedure date at all. Therefore, it is presumed that all of the fetal remains were from abortion procedures that took place between 2000 and 2003.

There was no location information provided on any of the records. However, it is known that Dr. Klopfer was only practicing in the State of Indiana at that time at one of his three clinic locations. As such, it is presumed that all of the fetal remains originated from abortion procedures that took place at one of Dr. Klopfer's three Indiana clinic locations: Fort Wayne, South Bend, or Gary.

From the personal health information displayed on the records which accompanied the fetal remains the OAG was able to determine that 181 of the records belonged to patients under the age

of 18 at the time of the abortion procedure, the youngest of which being 11 years of age. These records were referred to the Indiana Department of Child Services for further review.

The OAG also reviewed, processed, and indexed the abandoned health records collected from the clinic locations, storage locations, and Klopfer family home that had a last patient contact within the proscribed retention period. These health records totaled 35,888 individual patient records.

From the personal health information displayed on the records the OAG was able to determine that 2,625 of the records belonged to patients under the age of 18 at the time of the abortion procedure, the youngest of which being 10 years of age. Information obtained by the OAG from these records pertaining to suspected or potential child abuse and neglect was referred to the Indiana Department of Child Services on December 17, 2020.

In addition, patient records were also identified where it appeared that Dr. Klopfer performed an abortion procedure despite the fact that the patient was over 27 weeks pregnant. Information obtained by the OAG related to these procedures was referred to the Indiana State Police on December 18, 2020.

Abandoned health records from Dr. Klopfer's medical practice that were outside the proscribed retention period were processed, recorded, and then disposed of in a confidential manner. These records filled 552 boxes comprised of over 84,000 patient records. These records were dated between 1977 and 2012. These records were maintained in a secure facility while being processed and recorded. These records were disposed of in a confidential manner pursuant to state law.

V. FINAL DISPOSITION OF THE FETAL REMAINS

The St. Joseph County Coroner's Office was unable to make an independent verification

of the identities of the individual fetal remains. *See Exhibit H* attached hereto. Under Indiana Code § 16-34-3-4(a), an aborted fetus must be interred or cremated. Pursuant to Indiana Code § 16-41-16-7.6, a person or facility possessing an aborted fetus:

(b) within ten (10) business days after a miscarriage occurs or an abortion is performed, a person or facility described in subsection (a) shall:

(1) conduct the final disposition of a miscarried fetus or an aborted fetus in the manner required by IC 16-21-11-6 or IC 16-34-3-4; or

(2) ensure that the miscarried fetus or aborted fetus is preserved until final disposition under IC 16-21-11-6 or IC 16-34-3-4 occurs.

In order to effectuate the burial or cremation of an aborted fetus, the “local health officer shall issue a permit for the disposition of the aborted fetus to the person in charge of the interment of the aborted fetus”. Indiana Code § 16-34-3-4(b).

Accordingly, on February 12, 2020, all 2,411 fetal remains were interred at Southlawn Cemetery in South Bend, Indiana. Attorney General Curtis Hill spoke at the non-denominational burial service for the fetal remains noting that the OAG had “identified a burial site with the purpose to memorialize the unborn, keeping them together in rest, each of them connected by their common fate... Each of these was a life — a life that was terminated — and each deserves to be secure in a final resting place, with dignity and respect, as should be afforded all human beings. May each of the 2,411 buried here, now and forever, rest in peace.” The interment of the fetal remains at Southlawn Cemetery effectuated a proper and legal disposition of the remains.

VI. SENATE BILL 299

It is of note that in the wake of this tragedy there was positive reform. In January of 2020 Senator Liz Brown presented Senate Bill 299 which proposed to amend and supplement existing state law surrounding the disposition of fetal remains. Specifically, Senate Bill 299 requires “the state department of health (state department) to develop forms that provide: (1) that a pregnant

woman has a right after a surgical abortion to dispose of the remains by interment or cremation or have the provider dispose of the remains; and (2) that, after an abortion induced by an abortion inducing drug, the pregnant woman will expel an aborted fetus and set forth the disposition policy of the health care facility or abortion clinic concerning the disposition of the aborted fetus, including allowing a pregnant woman to return an aborted fetus to the health care facility or abortion clinic for disposition by interment or cremation”. See <https://legiscan.com/IN/bill/SB0299/2020>. The Bill also sought to amend current state laws by stating “that a pregnant woman who has an abortion has the right to have the health care facility or abortion clinic dispose of the aborted fetus by cremation or interment and to ask the health care facility or abortion clinic the method of disposition used.” *Id.* Senate Bill 299 also requires “the pregnant woman to inform the health care facility or abortion clinic of the pregnant woman's decision for disposition or, in the case of an abortion induced by an abortion inducing drug, whether the pregnant woman will return the aborted fetus to the health care facility or abortion clinic for disposition” and requires “the health care facility or abortion clinic to dispose of the returned fetus by cremation or interment.” *Id.* Finally, Senate Bill 299 requires “that a burial transit permit that includes multiple aborted fetal remains be accompanied by a log prescribed by the state department containing certain information, except in certain circumstances, about each fetus included under the burial transit permit.” *Id.*

The OAG provided testimony to both the House and Senate as to its investigation of Dr. Klopfer and the fetal remains he left degrading in his garage and the trunks of his cars. The OAG supported Senate Bill 299 and the need for the proposed legislative reform to assure the dignified treatment of fetal remains in the State of Indiana. Senate Bill 299 passed and was signed into law by the Governor on March 18, 2020. The new requirements amended Indiana Code § 16-34-2-

1.1, Indiana Code § 16-34-3-2, and Indiana Code §16-34-3-4. The amendments took effect on July 1, 2020.

VII. MAINTENANCE AND FINAL DISPOSITION OF THE HEALTH RECORDS

Indiana law establishes procedures for the OAG to obtain and secure abandoned health records or other records with personal identifying information to protect those named in the files from becoming victims of identity theft or having their personal information exposed. Once abandoned records are obtained by the OAG, they are maintained in a secure access facility that is not accessible to the public. The records are maintained for the period of time mandated by state law, and the length of time they are maintained depends on the record type and age.

For example, while abandoned records obtained by the OAG are to be kept for a minimum of three years after the date the records are secured under Indiana Code § 4-6-14-8, original health records or microfilms of the records are to be maintained for at least seven years from the time they are created under Indiana Code § 16-39-7-1, x-ray film is to be maintained for at least five years under Indiana Code § 16-39-7-2, and other records that are not health records but contain personal information are to be maintained for three years after the date the records are seized or secured pursuant to Indiana Code § 4-6-14-9.

Health records that fell within the required retention period have been reviewed, processed, and indexed. They will be maintained for the time periods prescribed by law in a secure facility until they can be properly disposed of to maintain patient confidentiality. Records outside of the required retention period were processed, logged, then properly disposed of to maintain patient confidentiality. Because the health records and/or other records containing personal identifying information found at Dr. Klopfer's home, clinics, and storage locations in Fort Wayne, Gary, and

South Bend have been deemed abandoned records pursuant to state law, some individuals may wish to determine if their records may be included.

A notice related to these health records has been added to the Abandoned Records page of the OAG website. That page can be accessed at: <https://www.in.gov/attorneygeneral/2808.htm>. The OAG has completed an index of the recovered records required to be maintained by law. As discussed above, the OAG recovered 35,888 health records required by law to be retained. These records include patients seen by Dr. Klopfer at all three clinic locations over the past seven years. These records will be maintained confidentially by the OAG until 2024. Upon the expiration of the required retention date the OAG will have the records properly destroyed in a confidential manner.

If an individual was a patient of Dr. Klopfer's and has reason to believe their records may be part of those recovered, said individual may file a written request to retrieve the record(s) and/or obtain copies by filling out an Abandoned Records Request Form. The form can be requested by calling the OAG at 1-800-382-5516 or downloaded at the following web address: <https://www.in.gov/attorneygeneral/files/Abandoned%20Records%20Request%20Form.pdf>.

VIII. CONCLUSION

The fetal remains have been interred in a respectful and dignified manner. The interment of the fetal remains was effectuated in accordance with Indiana law. The OAG has and will continue to maintain the safety and security of the health and other records containing personal information from Dr. Klopfer's medical practice until such a time as they can be properly disposed of in accordance with state law.

The OAG created a phone number and email address for the specific use of anyone who may wish to inquire further about this investigation. The email address is questions@atg.in.gov, and the phone number is (317) 234-6663.

EXHIBIT LIST

- EXHIBIT A** Charging Information filed in the Lake County Superior Court
under Cause No. 45D07-1401-CM-0018
- EXHIBIT B** Plea Agreement filed in the Lake County Superior Court
under Cause No. 45D07-1401-CM-0018
- EXHIBIT C** Charging Information St. Joseph Superior Court
under Cause No. 71D04-1406-CM-002439
- EXHIBIT D** Pretrial Diversion Agreement filed St. Joseph Superior Court
under Cause No. 71D04-1406-CM-002439
- EXHIBIT E** Amended Administrative Complaint before the Medical Licensing Board
of Indiana under Cause No. 2014 MLB 0044
- EXHIBIT F** Findings of Fact, Ultimate Findings of Fact, Conclusions of Law, and
Final Order of the Medical Licensing Board of Indiana under Cause No.
2014 MLB 0044
- EXHIBIT G** Notice of Determination of Abandonment
- EXHIBIT H** Affidavit of St. Joseph County Coroner Michael J. McGann

STATE OF INDIANA

COUNTY OF LAKE

STATE OF INDIANA

v.

Ulrich Georg Klopfer

Filed in Court
JAN 08 2014

[Signature]
CLERK LAKE

LAKE SUPERIOR COURT
COUNTY DIVISION
CROWN POINT, INDIANA

430021401 CM

0018

CAUSE: _____

INFORMATION

Falling to timely file a public report

Class B [Misdemeanor / Felony]

Affiant, Lieutenant J. Gruszka #415 upon oath, says that on or about 09/28/2012 in the County of Lake, State of Indiana, the accused, Dr. Ulrich Georg Klopfer did knowingly or intentionally fail to submit the Terminated Pregnancy Report for an abortion performed on a female who is less than fourteen (14) years of age to the Indiana State Department of Health and the Department of Child Services within three (3) days after the abortion is performed

contrary to I.C. 16-34-2-5 (b), and against the peace and dignity of the State of Indiana.

I swear, under the penalty for perjury as specified by I.C. 35-44-2-1 that the foregoing is true to the best of my information and belief.

AFFIANT

[Signature] 1/3/14

Subscribed and sworn to before me and approved for prosecution on 1/3/14
2014

BERNARD A. CARTER
PROSECUTING ATTORNEY

[Signature]
DEPUTY PROSECUTING ATTORNEY

WITNESSES:

Lynne Scherschell, Robin Tharpe, Indiana State Health Department Keeper of Records

STATE OF INDIANA
COUNTY OF LAKE

Filed in Clerk's Office

JAN 08 2014

LAKE SUPERIOR COURT
COUNTY COURT DIVISION
CROWN POINT, INDIANA

vs.

Ulrich Georg Klopfer
CLEIK LAKE

CAUSE NUMBER:

Ulrich Georg Klopfer

45D0450021401 CN 0018

PROBABLE CAUSE AFFIDAVIT

Affiant swears or affirms that he believes and has good cause to believe that:

Affiant, Lieutenant John Gruszka, a detective with the Lake County Police Department, was involved in the investigation of an incident which occurred on September 28, 2012.

On December 18, 2013 at approximately 10:00, the affiant spoke with Lynne Scherschel from the Lake County Right to Life at the Lake County Family & Domestic Services Bureau. Lynne Scherschel said that she reviewed several Indiana Terminated Pregnancy Reports from the Indiana Department of Health. During her review of the documents, she discovered an abortion performed on an unidentified thirteen (13) year old female at the Friendship Family Planning Clinic of Indiana located at 3700 Broadway in Gary, Indiana. The abortion was performed by Physician Ulrich Georg Klopfer on September 28, 2012. The Indiana Terminated Pregnancy Report indicates that the Indiana Terminated Pregnancy Report form for this abortion was received by the Indiana Department of Health on January 22, 2013.

On January 2, 2014, the affiant spoke with Robin Tharpe of the Indiana State Department of Health. Robin Tharpe verified that information on the Indiana Terminated Pregnancy Report form received by the Indiana State Department of Health from Dr. Ulrich Georg Klopfer on January 22, 2013 for an abortion performed on a thirteen (13) year old female on September 28, 2012.

I swear, under the penalty for perjury as specified by I.C. 35-44-2-1, that the foregoing is true to the best of my information and belief.

John Gruszka 1/3/14
Affiant, John Gruszka

Subscribed and sworn to before me and approved for prosecution on 1/3/14

BERNARD A. CARTER
PROSECUTING ATTORNEY

Bernard A. Carter
DEPUTY PROSECUTING ATTORNEY

IN THE SUPERIOR COURT OF LAKE COUNTY, DIV. I
STATE OF INDIANA

DATE: 7/20/15

vs.
Ulrich Georg Klopfer

CAUSE NO: 4SD07-1401-CM-18
4SD07-
4SD07-
4SD07-

PLEA AGREEMENT

DEFENDANT, HAVING BEEN CHARGED WITH THE FOLLOWING OFFENSE(S):

- 1. Failing to file timely public Report (B)
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____

Filed in Open Court
JUL 13 2015

PLEADS GUILTY TO THE FOLLOWING OFFENSE(S) AS CHARGED OR AMENDED:

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____

M. Robinson
CLERK LAKE COUNTY

AND THE STATE NOW MOVES TO DISMISS THE FOLLOWING CHARGES:

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____

X K **CONDITIONAL DISCHARGE (REFERRED COURT(S))** FOR 365 Days (Review Date 7-18-16 1:30 PM)
X TO BE MONITORED BY THE PRETRIAL DIVERSION PROGRAM: the Defendant Agrees to Commit No
Other Offenses; Defendant Waives Any Criminal Rule 4C Objection; Defendant to pay PDP User Fee of \$ 170 and
Court Costs of \$ 160.

SENTENCE RECOMMENDATION AS FOLLOWS:

CHARGE #1
\$ _____ Fine [_____ Suspended]
\$ _____ Court Costs
_____ Days-Lake County Jail
_____ Days Suspended
\$200 Counter-measure Fee

CHARGE #2
\$ _____ Fine [\$ _____ Suspended]
\$ _____ Court Costs [\$ _____ Suspended]
_____ Days-Lake County Jail
_____ Days Suspended
\$200 Counter-measure Fee

RECEIVED
JUL 14 2015

THE FOLLOWING ADDITIONAL CONDITIONS ARE IMPOSED: [X applicable provisions]

- _____ Probation for a Term of _____ Months; Informal _____ Formal _____
- _____ Community Service for _____ Days/Hours
- _____ Alcohol/Drug Abuse counseling at COURT APPROVED
- _____ Drivers License suspension terminated
- _____ License Suspension for _____ Months/Years _____ terminated
- _____ 180 Day Administrative License Suspension
- _____ Restricted License for _____ Days
- _____ Bond Ordered Released _____ Restitution _____ LADOS _____ LADOS to Monitor _____ PAF _____ PUP _____ Prob. Fees
- (Monthly) _____ CMF _____ DAPIC _____ Safe School Fee _____ Court Costs _____ Attorney
- _____ Defendant has no bond, Probation to set up payment plan for Probation Fees ONLY.
- _____ 60 _____ 90 days to pay CMF/DAPIC/Safe School and C/C _____ LADOS to set up payment plan
- _____ Probation to set up payment plan
- _____ Refusal Suspension terminated based on parties stipulation that Defendant did not knowingly refuse to submit to test
- _____ Restitution in the Amount of \$ _____ to _____
- _____ No Contact/Adverse Contact with Victim
- _____ Defendant Ordered Released (on this charge only)
- X Other Conditions Imposed by the Court Defendant's appearance waived

M. Robinson
CLERK LAKE COUNTY

I, the Defendant in this Cause, certify that I have discussed the terms of the Plea Agreement with my Attorney and I have read this document and fully understand its contents.

Defendant
[Signature]
Deputy Prosecuting Attorney Lindsey M. Field

Defense Attorney
[Signature]
Judge
[Signature]

STATE OF INDIANA) IN THE ST. JOSEPH SUPERIOR COURT
) SS:
ST. JOSEPH COUNTY) CAUSE NO. 71D-~~CM~~ ^{04-1406-CM-002439}

STATE OF INDIANA) FAILURE TO TIMELY FILE A PUBLIC REPORT,
) CLASS B MISDEMEANOR
)

vs.)

ULRICH G. KLOPFER

DOB: ~~1940~~ 1940)

- FILED -

JUN 30 2014

**Clerk
St. Joseph Superior Court**

MICHAEL A. DVORAK, upon information and belief, affirms under the penalty of perjury that:

On or between January 25, 2013 and January 28, 2013 inclusive, ULRICH G. KLOPFER, a physician, did knowingly fail to complete a form, entitled "Terminated Pregnancy Report," supplied by the Indiana State Department of Health, and transmit that form to the Indiana State Department of Health and the Indiana Department of Child Services within 3 days after Dr. Klopfer performed an abortion in St. Joseph County, Indiana, on January 25, 2013, upon A.P., a female who was less than fourteen (14) years of age.

All of which is contrary to the form of the statute made and provided, to wit: Indiana Code 16-34-2-5(b) and Indiana Code 16-34-2-5(d), and against the peace and dignity of the State of Indiana.

I affirm under the penalty for perjury that the foregoing information is true and correct to the best of my knowledge and belief.



MICHAEL A. DVORAK,
PROSECUTING ATTORNEY

DATE: June 27, 2014

WITNESSES:

Det. Jason Biggs, South Bend Police Department
Terri Zornig, Indiana Department of Child Services
Regan Harding, Indiana Department of Child Services
Kristin Chabot, Indiana Department of Child Services
Susan Rozzi, Indiana Department of Child Services
Robin Tharpe, Indiana State Department of Health
Brian Carnes, Indiana State Department of Health
Hilari Saubine, Indiana State Department of Health
Romana Ploss, Indiana State Department of Health

STATE OF INDIANA) IN THE ST. JOSEPH SUPERIOR COURT

) SS:

ST. JOSEPH COUNTY)

CAUSE NO. 71D 04 14 06 - CM-002439

STATE OF INDIANA)

)

VS.)

SUPPLEMENTAL AFFIDAVIT IN

)

SUPPORT OF PROBABLE CAUSE

Ulrich G. Klopfer)

DOB: XX-XX-1940)

- FILED -

JUN 30 2014

Clerk
St. Joseph Superior Court

I, Det. Jason Biggs, upon information and belief, affirms under the penalties for perjury and states that:

I am a Police Officer employed by the South Bend Police Department, and I am currently assigned to the St. Joseph County Special Victims Unit (SVU).

On or about the 25th day of January, 2013, in St. Joseph County, State of Indiana, DR. ULRICH G. KLOPFER, performed an abortion at the Women's Pavilion located at 2010 Ironwood Circle, South Bend, St. Joseph County Indiana on a thirteen (13) year old female known as A.P. DR. KLOPFER never reported that he performed the abortion on A.P. to the Indiana Department of Child Services (DCS), and reported the abortion to the Indiana State Department of Health (ISDH) on July 25, 2013.

All to which are contrary to the form of the statute in such cases made and provided, to wit: Indiana Code 16-34-2-5(b) which requires a report, in the form of a terminated pregnancy report (TPR) be transmitted to the ISDH not later than July 30 for each abortion performed in the first six (6) months of that year and not later than January 30 for each abortion performed for the

last six (6) months of the preceding year. The statute also requires that when an abortion is performed on a female who is less than 14 years old the report of that abortion shall be sent to the ISDH and DCS within three (3) days after the abortion is performed. IC 16-34-2-5 makes it a class B misdemeanor if a report is not filed within the time limits set.

A copy of the A.P. TPR was provided to the Special Victims Unit by the ISDH, after complying with a prosecutor subpoena, showed a received date stamp of July 25, 2013. Further, statements collected from ISDH employees during the investigation provided information that a date stamp is placed on the TPR on the date that the TPR is officially received by ISDH Vital Record's Department, and is hand stamped by one employee. A statement taken from that ISDH employee confirmed that the date stamped on the TPR for the abortion performed on A.P. is the date that the TPR was received by ISDH.

Statements were also collected from supervisors of DCS. When researching the database at the DCS Call Center, no report or notification was transmitted to them concerning A.P. within the three (3) days after the abortion was performed by DR. KLOPFER.

All of the above events occurred in St. Joseph County, Indiana.

I affirm under the penalty for perjury that the foregoing representations are true.


Signature

Jason T. Biggs
Printed Name

STATE OF INDIANA)
ST. JOSEPH COUNTY)
STATE OF INDIANA)
VS.)
ULRICH KLOPFER)

IN THE ST. JOSEPH SUPERIOR COURT
TRAFFIC & MISDEMEANOR DIVISION
CAUSE NO. 71D04-1406-CM-002439
PRETRIAL DIVERSION AGREEMENT

Comes now the State of Indiana by Michael A. Dvorak, Prosecuting Attorney for the 60th Judicial Circuit, and the Defendant, and enter into the following agreement pursuant to Indiana Code 33-39-1-8:

I. The State of Indiana agrees to withhold prosecution of the charge(s) in this cause and to dismiss said charge(s) on the 1st day of December, 2015. IF, AND ONLY IF, Defendant complies with each and every term of the agreement. As a specific condition, it is the responsibility of the Defendant to show the Prosecutor's Office that he/she has completed all the terms of this agreement. Defendant specifically acknowledges that if he/she fails to comply, this cause will be redocketed for court and prosecution resumed and waives the right to have a trial within one year of the date that the case was filed.

II. THE DEFENDANT AGREES TO:

A. Pay a user's fee of \$170.00 and court costs of \$160.00 as instructed at the time of signing this agreement. Payment is to be paid within three (3) months. Total amount due is \$330.00. Payment is due in full by the 1st day of March, 2015.

NOTE: Payments are to be made at: Traffic & Misdemeanor Court, 112 S. Lafayette Street, 2nd Floor, Window # 208, South Bend, IN. 46601. Money orders, cashiers checks, credit cards and cash are accepted. Mailed payments (money orders/cashiers checks) are to be made payable to the St. Joseph County Clerk and mailed to the above address. PERSONAL CHECKS ARE NOT ACCEPTED. You may pay by credit card by calling GPS Services at 1-888-604-7888 toll free/24 hours or online at www.GovPayNow.com ; there is an additional fee for this service. The pay location code for GPS is #6579.

B. Not commit ANY criminal offense during the term of this agreement.

C. Perform 24 hours of community service. The Prosecutor's Office reserves the right to require the Defendant to perform community service hours at non-profit agencies. Defendant is to provide the Prosecutor's Office with written verification of community service performed on or before the 1st day of June, 2015. Verification shall consist of a letter from the non-profit agency or agencies, on their letterhead, stating the number of hours performed. Note: All community service verification must be returned to: Prosecutor's Office, 227 W. Jefferson Blvd., 10th Floor, South Bend, IN. 46601, Attn.: Pre-Trial Diversion Department.

D. Report to the St. Joseph County Prosecutor's Office as may be directed at reasonable times AND to answer all reasonable inquiries posed by the Prosecutor's Office and all Law Enforcement Agencies, including information concerning the allegations in this case. This information will not be used against you if this cause is redocketed and prosecution resumed.

E. Notify the St. Joseph County Prosecutor's office IN WRITING of any changes of address and/or telephone number within seven days.

The date by which the Defendant is to be dismissed from the Pretrial Diversion Program is the 1st day of December, 2015.

DATED THIS 28 DAY OF November 2014.

I, H. Klopfer, being duly sworn upon my oath, do hereby swear/affirm, under penalties of perjury, that I have read all of the provisions of the agreement, that I understand said provisions, that I accept them as binding upon me, and that I enter into this agreement of my own free will. In addition, I state that all of the information provided by me and contained in this agreement is true.

Having read and signed the above agreement I understand that I must comply with all the conditions set forth by the dates indicated; that no reminders will be sent; and that if I fail to comply with this agreement, it will automatically be revoked and a summons to appear in Court will be issued.

x [Signature]
SIGNATURE

x 8/28/1940
DATE OF BIRTH

x 7010 Downwood Circle
ADDRESS

x Smith Bend, IN 46635
CITY STATE ZIP CODE

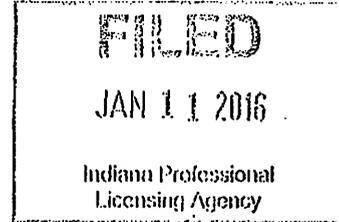
x 574-272-1175
TELEPHONE

[Signature]
ARBITRATOR AND WITNESS

[Signature]
MICHAEL A. DVORAK
PROSECUTING ATTORNEY
60TH JUDICIAL CIRCUIT

**BEFORE THE MEDICAL LICENSING BOARD OF INDIANA
CAUSE NO. 2014 MLB 0044**

IN THE MATTER OF THE)
)
LICENSE OF)
)
ULRICH G. KLOPFER, D.O.)
)
LICENSE NO: 02000628A)



AMENDED ADMINISTRATIVE COMPLAINT

This amended complaint is brought against the medical license of Ulrich G. Klopfer, D.O. ("Respondent"), by the State of Indiana, by counsel, Deputy Attorneys General N. Renee Gallagher, Kelsie E. Duggan, and Amelia A. Hilliker, on behalf of the Office of the Attorney General ("Petitioner") and pursuant to Ind. Code § 25-1-7-7, Ind. Code § 25-1-5-3, Ind. Code art. 25-22.5, the Administrative Orders and Procedures Act, Ind. Code ch. 4-21.5-3, and Ind. Code ch. 25-1-9, and in support alleges and states:

FACTS

1. Respondent's address on file with the Medical Licensing Board of Indiana is 2010 Ironwood Circle, South Bend, Indiana 46635. Respondent is a licensed Doctor of Osteopathy, holding Indiana license number 02000628A, issued January 12, 1979.
2. Respondent has practiced at three (3) different locations in Indiana: Women's Pavilion Clinic, located at 2010 Ironwood Circle, South Bend, Indiana 46635; Fort Wayne Women's Health Organization, located at 2210 Inwood Drive, Fort Wayne, Indiana 46815; and Friendship Family Planning Clinic of Indiana, located at 3700 Broadway, Gary, Indiana 46408.
3. Between January 2012 and November 2013, Respondent performed approximately two thousand four hundred and five (2,405) surgical and medical abortions at

those clinics. Respondent continued to perform both medical and surgical abortions at one or more of those clinics through November 2015.

FAILURE TO PROVIDE QUALIFIED PERSONNEL TO MONITOR PATIENTS

4. On or about October 29, 2014, Indiana State Department of Health ("ISDH") conducted a survey of the Women's Pavilion Clinic in South Bend, Indiana ("Women's Pavilion Clinic").

5. During the October 29, 2014, survey, surveyors reviewed patient records for fifteen (15) patients who underwent a surgical abortion procedure.

6. During the October 29, 2014, survey, the patient record review and personnel files for employees at the Women's Pavilion Clinic revealed that no qualified personnel were present in the recovery room to monitor the patients who received sedation medications such as Lidocaine and/or Stadol before, undergoing, and/or following the surgical abortion procedure, as the personnel who staffed the recovery room lacked proper training, licensure, and/or certification.

**FAILURE TO PROVIDE INFORMATION AND COUNSELING TO PATIENTS
AS REQUIRED BY INDIANA LAW**

7. On or about July 24, 2012, ISDH performed a survey at the Women's Pavilion Clinic.

8. The ISDH surveyors' patient record reviews of three (3) patients who underwent an abortion procedure revealed that each of the three (3) patients signed the facility's consent form, "Required Components of Abortion Consent Documentation," on the same day the abortion procedure was performed.

9. The chart reviews also revealed that none of the three (3) patients' records contained documentation showing that information or counseling was provided to them at least eighteen (18) hours prior to the abortion procedure.

10. On or about July 24, 2012, an ISDH surveyor interviewed the Respondent and informed him that the consent form, "Required Components of Abortion Consent Documentation," lacked supporting documentation in the patient records to show that information was given to three (3) patients at least eighteen (18) hours prior to the procedure being performed.

11. On July 24, 2012, the Respondent signed the notes prepared by the surveyor summarizing the issues discussed in their interviews on July 23, 2012 and July 24, 2012.

12. On or about December 10, 2014, ISDH performed a survey at the Friendship Family Planning Clinic in Gary, Indiana ("Friendship Family Clinic").

13. The ISDH surveyors' review of five (5) patients' records who underwent a surgical abortion procedure revealed that each of the five (5) patients signed the facility's consent form, "Abortion Consent State Form 55320," on the same day the surgical abortion procedure was performed.

14. During this same survey, the patient record reviews revealed that none of the five (5) patient charts contained documentation showing that information or counseling was provided to the patients at least eighteen (18) hours prior to the surgical abortion procedure.

15. On or about August 7, 2012, ISDH performed a survey of the Fort Wayne Women's Health Organization in Fort Wayne, Indiana ("Women's Health Clinic").

16. During that survey, the ISDH surveyor reviewed the Women's Health Clinic's policy regarding the "Abortion Consent Form" which indicated, "[a]t least eighteen (18) hours

before the abortion the physician or a physician assistant, an advanced practice nurse, or a midwife to whom the responsibility has been delegated by the physician who is to perform the abortion or the referring physician has orally informed me of the following....”

17. The ISDH surveyor’s patient record reviews of six (6) patients who underwent an abortion procedure revealed that the individual who provided the form and information and/or counseling to each of the six (6) patients was not properly educated and/or trained, pursuant to Indiana law and the Women’s Health Clinic’s facility policy.

18. Upon further review, the ISDH surveyor identified that the staff member who witnessed and signed the Abortion Consent Form for six (6) patients was a registered nurse.

19. On or about June 3, 2015, ISDH performed a survey of Women’s Pavilion Clinic.

20. The ISDH surveyors’ patient record review of ten (10) records of patients who underwent a medical abortion procedure revealed that each record lacked documentation to show that the required information and counseling was provided at least eighteen (18) hours prior to the initiation of the medical abortion.

21. An ISDH surveyor interviewed the Respondent during the survey. The Respondent provided the process for medical abortions. At the first visit an ultrasound was performed, labs were completed, and counseling provided. The patient then executed a consent form and was given the first medication, RU-486 Mifiprex (Mifepristone), to take while in the clinic. The patient was then given the second medication, Misoprostol, and instructed to take the second medication forty-eight (48) hours later, while at home.

22. The surveyor requested a copy of the Women’s Pavilion Clinic’s policy and procedure for medical abortions. The Respondent informed the surveyor that no policy and procedure for medical abortions existed.

FAILURE TO TIMELY REPORT ABORTIONS PERFORMED ON UNDERAGE PATIENTS

23. On September 28, 2012, Respondent performed an abortion on a 13-year-old patient.
24. Respondent did not report that abortion to ISDH within three (3) days.
25. On January 25, 2013, Respondent performed an abortion on another 13-year-old patient.
26. Respondent did not report that abortion to ISDH within three (3) days.

CRIMINAL CHARGES FILED IN LAKE COUNTY, INDIANA

27. On or about January 3, 2014, Respondent was criminally charged in Lake County Superior Court, under cause number 45D07-1401-CM-0018, for failing to timely file a public report, a Class B misdemeanor, for his failure to timely file with ISDH a report of his performing an abortion on a 13-year-old patient.

28. On or about July 13, 2015, Respondent entered into a plea agreement.

29. Pursuant to that agreement, Respondent received a deferred prosecution of the Class B misdemeanor, and agreed to be monitored by the pretrial diversion program for one (1) year and pay court costs and fees.

CRIMINAL CHARGES FILED IN ST. JOSEPH COUNTY, INDIANA

30. On or about June 27, 2014, Respondent was criminally charged in St. Joseph County Superior Court, under cause number 71D04-1406-CM-002439, for failing to timely file a public report, a Class B misdemeanor, for his failure to timely file with ISDH a report of his performing an abortion on a 13-year-old patient.

31. On or about December 1, 2014, Respondent entered into a pretrial diversion agreement with prosecutors, which required him to pay fees and costs totaling Three Hundred

Thirty Dollars (\$330.00) within three (3) months, not commit any criminal offense during the term of the agreement, perform twenty four (24) hours of community service, report to the St. Joseph County Prosecutor's Office as requested, and notify the St. Joseph County Prosecutor's office in writing of any changes in his contact information.

32. On or about December 1, 2015, cause number 71D04-1406-CM-002439 was dismissed.

TERMINATED PREGNANCY REPORTS

33. Between January 2012 and November 2013, Respondent submitted approximately two thousand four hundred and five (2,405) Terminated Pregnancy Reports ("TPRs") to ISDH.

34. Between January 2012 and November 2013, approximately two thousand four hundred and five (2,405) TPRs submitted by Respondent were incomplete or not timely submitted to ISDH.

35. The incomplete TPRs submitted by or on behalf of Respondent contained the following deficiencies:

- a. The father's name field was handwritten or typed as "Unknown" on approximately one thousand seven hundred and ninety-four (1,794) TPRs and left blank on six hundred and eleven (611) TPRs.
- b. The father's age or approximate age field was omitted or listed as "Unknown" on approximately one thousand two hundred and twenty-nine (1,229) TPRs.
- c. The post-fertilization age of the fetus field was not listed on approximately one hundred fifty-one (151) TPRs.

- d. The dates of any prior terminations field was blank on approximately five hundred fifty-seven (557) TPRs.
- e. The field indicating whether a pathological examination was performed was blank on approximately twenty-one (21) TPRs.
- f. The patient's last menses field was blank on approximately twenty-seven (27) TPRs.

INDIANA STATE DEPARTMENT OF HEALTH ACTION AGAINST CLINIC LICENSE

36. On or about January 28, 2015, the ISDH filed a licensing action against Respondent's abortion clinic license to operate the Women's Pavilion Clinic located in South Bend, Indiana.

37. On or about June 26, 2015, the ISDH filed a second licensing action against Respondent's abortion clinic license to operate the Women's Pavilion Clinic located in South Bend, Indiana.

38. On or about November 4, 2015, Respondent entered into a settlement agreement with the Division of Acute Care of the ISDH, wherein Respondent agreed not to seek current licensure for the Women's Pavilion Clinic for at least ninety (90) days in exchange for the dismissal with prejudice of the two ISDH actions.

39. Respondent's other two (2) clinics had closed prior to the settlement agreement with ISDH.

COUNT I

40. Paragraphs one (1) through thirty-nine (39) are incorporated by reference herein.

41. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(4)(B) in that Respondent has failed to keep abreast of current professional theory

and practice in that he has failed to ensure that qualified staff were present when patients received and/or recovered from Lidocaine and Stadol medications given prior to and during abortion procedures.

COUNT II

42. Paragraphs one (1) through thirty-nine (39) are incorporated by reference herein.

43. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(4)(B) in that Respondent failed to keep abreast of current professional theory or practice when he failed to document in patients' medical records that information and counseling was provided to patients at least eighteen (18) hours prior to a surgical abortion procedure being performed.

COUNT III

44. Paragraphs one (1) through thirty-nine (39) are incorporated by reference herein.

45. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(3) in that Respondent has knowingly violated a state statute or rule regulating the medical profession. Specifically, Respondent violated Ind. Code § 16-34-2-1.1(a)(1), when he failed to document in patients' medical records that information and counseling was provided to patients at least eighteen (18) hours prior to the surgical abortion procedure being performed.

COUNT IV

46. Paragraphs one (1) through thirty-nine (39) are incorporated by reference herein.

47. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(4)(A) in that Respondent is unfit to practice due to professional incompetence as Respondent has continued to engage in a pattern of conduct which demonstrates an inability to exercise reasonable care and diligence as is normally exercised by practitioners in the same or

similar circumstances in that, since January 2014, Respondent has failed to document in patients' medical records that information and counseling was provided to patients at least eighteen (18) hours prior to the medical abortion procedure being performed.

COUNT V

48. Paragraphs one (1) through thirty-nine (39) are incorporated by reference herein.

49. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(4)(B) in that Respondent failed to keep abreast of current professional theory or practice when he failed to document in patients' medical records that information and counseling was provided to patients at least eighteen (18) hours prior to the medical abortion procedure being performed.

COUNT VI

50. Paragraphs one (1) through thirty-nine (39) are incorporated by reference herein.

51. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(3) in that Respondent has knowingly violated a state statute or rule regulating the medical profession. Specifically, Respondent violated Ind. Code § 16-34-2-1.1(a)(1), when he failed to ensure that either a physician, a physician assistant, an advanced practice nurse or a midwife provided patients scheduled to undergo a surgical abortion procedure with information and counseling at least eighteen (18) hours prior to a surgical abortion procedure being performed.

COUNT VII

52. Paragraphs one (1) through thirty-nine (39) are incorporated by reference herein.

53. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(3) in that Respondent has knowingly violated a state statute or rule regulating the

medical profession. Specifically, Respondent violated Ind. Code § 16-34-2-5(b), when he failed to submit a TPR within three (3) days after performing an abortion on at least two (2) thirteen (13) year old patients.

COUNT VIII

54. Paragraphs one (1) through thirty-nine (39) are incorporated by reference herein.

55. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(3) in that Respondent has knowingly violated a state statute or rule regulating the medical profession. Specifically, Respondent violated Ind. Code § 16-34-2-5(a)(4), when he failed to ensure that the TPR fields requesting: the name of the father; age or approximate age of the father; post-fertilization age of the fetus; dates of prior terminations; results of any pathological examinations performed; and/or dates of the patients' last menses were completed on several of the TPR forms submitted to ISDH.

COUNT IX

56. Paragraphs one (1) through thirty-nine (39) are incorporated by reference herein.

57. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(4)(A) due to professional incompetence as Respondent has continued to engage in a pattern of conduct which demonstrates an inability to exercise reasonable care, as defined in 844 IAC 5-2-5, in providing abortion services, as is normally exercised by practitioners in the same or similar circumstances.

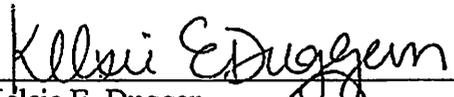
WHEREFORE, Petitioner demands an order against Respondent, that:

1. Imposes the appropriate disciplinary sanction;
2. Directs Respondent to immediately pay all of the cost incurred in the prosecution of this case;

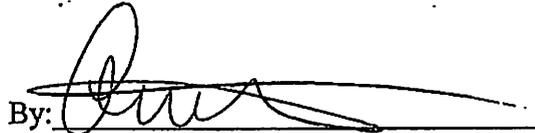
3. Directs Respondent to pay a fee of Five Dollars (\$5.00) to be deposited into the Health Records and Personal Identifying Information Protection Trust Fund pursuant to Ind. Code § 4-6-14-10(b); and
4. Provide any other relief the Board deems just and proper.

Respectfully submitted,

GREGORY F. ZOELLER
Attorney General of Indiana
Attorney Number: 1958-98

By: 
Kelsie E. Duggan
Deputy Attorney General
Attorney Number: 26505-49

By: 
N. Renee Gallagher
Deputy Attorney General
Attorney Number: 22590-49

By: 
Amelia A. Hilliker
Deputy Attorney General
Attorney Number: 32007-49

CERTIFICATE OF SERVICE

I certify that a copy of the Amended Administrative Complaint has been duly served via hand delivery and electronic mail upon:

Ulrich G. Klopfer, D.O.
2010 Ironwood Circle
South Bend, IN 46635
Service by U.S. Mail

Mary Watts, Counsel for Respondent
BINGHAM GREENEBAUM DOLL, LLP
2700 Market Tower
10 West Market Street
Indianapolis, Indiana 46204
Service by U.S. Mail

7/11/16
Date

Kelsie E Duggan
Kelsie E. Duggan, Deputy Attorney General

Indiana Government Center South, Fifth Floor
302 West Washington Street
Indianapolis, Indiana 46204-2770
Phone: (317) 234-7129
Fax: (317) 233-4393

Explanation of Service Methods

Personal Service: by delivering a true copy of the aforesaid document(s) personally.

Service by U.S. Mail: by serving a true copy of the aforesaid document(s) by First Class U.S. Mail, postage prepaid.

Service by Email: by sending a true copy of the aforesaid document(s) to the individual's electronic mail address.

THE MEDICAL LICENSING BOARD OF INDIANA

CAUSE NO. 2014 MLB 0044

IN THE MATTER OF THE)
)
LICENSE OF ULRICH G. KLOPFER, D.O.)
)
LICENSE NO. 02000628A)



FINDINGS OF FACT, ULTIMATE FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND FINAL ORDER

The Medical Licensing Board of Indiana (“Board”) held a hearing on August 25, 2016, in Room W064 of the Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana, concerning an amended administrative complaint filed against the medical license of Ulrich G. Klopfer, D.O., (“Respondent”) on January 11, 2016.

The State of Indiana (“Petitioner”) was represented by counsel, Deputy Attorneys General, N. Renee Gallagher, Amelia A. Hilliker, and Kelly C. Haltom. Respondent appeared in person and was represented by counsel, Mary Watts and Joshua Burress. The Board, after considering the evidence and taking official notice of its file in this case, issues the following Findings of Fact, Ultimate Findings of Fact, Conclusions of Law, and Final Order.

FINDINGS OF FACT

1. Respondent’s address on file with the Medical Licensing Board of Indiana is 2010 Ironwood Circle, South Bend, Indiana 46635. Respondent is a licensed Doctor of Osteopathy, holding Indiana license number 02000628A, issued January 12, 1979.
2. Respondent last worked as a physician on November 6, 2015. Respondent last completed Continuing Medical Education Hours in either 2008 or 2010.

3. Respondent practiced at, and was medical director for, three (3) different locations in Indiana: Women's Pavilion Clinic, located at 2010 Ironwood Circle, South Bend, Indiana 46635; Fort Wayne Women's Health Organization, located at 2210 Inwood Drive, Fort Wayne, Indiana 46815; and Friendship Family Planning Clinic of Indiana, located at 3700 Broadway, Gary, Indiana 46408 (the "clinics").

4. At these three (3) clinics Respondent provided general gynecological care, first-trimester abortions, and vasectomies. Respondent performed surgical and medical abortions at the clinics. Respondent continued to perform both medical and surgical abortions at one or more of the clinics through November 2015.

5. On or about October 29, 2014, the Indiana State Department of Health ("ISDH") Surveyors conducted a survey of the Women's Pavilion Clinic in South Bend, Indiana ("Women's Pavilion Clinic") in which they reviewed patient records for fifteen (15) patients who underwent a surgical abortion procedure, as well as the personnel files for employees at Women's Pavilion Clinic.

6. Patients who received sedation medications, such as Lidocaine and/or Stadol, were those who were sixteen (16) years old and younger who had not previously been pregnant, or those who requested the medication and paid additional for the medication. If necessary, Respondent would provide Phenergan to patients.

7. The medication was delivered intravenously, and patients were not equipped with a heparin lock during the procedure, nor was there IV access to the patients.

8. A Medical Assistant ("MA") would be next to the patient during the procedure, and speak with the patient during the procedure. The patient would not be connected to any monitoring device.

9. The patient would be monitored in the recovery room by either the nurse or the MA speaking with the patient, as well as blood pressure and pulse rate being documented every five (5) minutes.
10. Personnel who staffed the recovery room lacked proper training, licensure, and/or certification to monitor patients who received sedation medications such as Lidocaine and/or Stadol before, during, and/or following the surgical abortion procedure.
11. The clinics were equipped with defibrillators in each procedure room and the recovery room. Respondent received training in using a defibrillator in the 1970s, but is not Advanced Cardiac Life Support certified.
12. On or about July 24, 2012, ISDH performed a survey at the Women's Pavilion Clinic.
13. Three (3) patients signed the facility's consent form, "Required Components of Abortion Consent Documentation," on the same day the abortion procedure was performed. None of the three (3) patients' records contained documentation showing that the State mandated information or counseling was provided to the patients at least eighteen (18) hours prior to the abortion procedure.
14. On or about December 10, 2014, ISDH performed a survey at the Friendship Family Planning Clinic in Gary, Indiana ("Friendship Family Clinic").
15. Five (5) patients signed the facility's consent form, "Abortion Consent State Form 55320," on the same day the surgical abortion procedure was performed. None of the five (5) patient records contained documentation showing that the State mandated information or counseling was provided to the patients at least eighteen (18) hours prior to the surgical abortion procedure.

16. On or about June 3, 2015, ISDH performed a survey of Women's Pavilion Clinic.
17. Ten (10) records of patients who underwent a medical abortion procedure lacked documentation to show that the required information and counseling was provided at least eighteen (18) hours prior to the initiation of the medical abortion.
18. ISDH surveyors were looking for documentation to show that the patients received the required information and counseling at least eighteen (18) hours prior to the procedure.
19. If a patient had undergone an abortion procedure at one of Respondent's clinics and received the State required information within one (1) year to eighteen (18) months of the subsequent abortion procedure, they did not receive the State required information again. Patients were sometimes in groups of two (2) to four (4) when they received the information from Respondent.
20. Ind. Code § 16-34-2-1.1 requires that at least eighteen (18) hours before an abortion the pregnant woman is informed of specific information regarding the procedure and alternatives. Starting January 1, 2014, this statute also applied to medical abortions.
21. On September 28, 2012, Respondent performed an abortion on a 13-year-old patient. Respondent reported that abortion to ISDH on January 22, 2013.
22. On January 25, 2013, Respondent performed an abortion on another 13-year-old patient. Respondent reported that abortion to ISDH on July 25, 2013.
23. Indiana Code §16-34-2-5(b) requires that abortions on patients less than fourteen (14) years of age to be reported to ISDH and the Indiana Department of Child Services within three (3) days after the abortion is performed.
24. On or about January 3, 2014, Respondent was criminally charged in Lake County Superior Court, under cause number 45D07-1401-CM-0018, for failing to timely file a public

report, a Class B misdemeanor, for his failure to timely file with ISDH a report of his performing an abortion on a 13-year-old patient.

25. On or about July 13, 2015, Respondent entered into a plea agreement, wherein Respondent received a deferred prosecution of the Class B misdemeanor, and agreed to be monitored by the pretrial diversion program for one (1) year and pay court costs and fees.

26. On or about July 18, 2016, cause number 45D07-1401-CM-0018 was dismissed due to Respondent's compliance with the Pretrial Diversion Agreement.

27. On or about June 27, 2014, Respondent was criminally charged in St. Joseph County Superior Court, under cause number 71D04-1406-CM-002439, for failing to timely file a public report, a Class B misdemeanor, for his failure to timely file with ISDH a report of his performing an abortion on a 13-year-old patient.

28. On or about December 1, 2014, Respondent entered into a pretrial diversion agreement, which required him to pay fees and costs totaling Three Hundred Thirty Dollars (\$330.00) within three (3) months, not commit any criminal offense during the term of the agreement, perform twenty-four (24) hours of community service, report to the St. Joseph County Prosecutor's Office as requested, and notify the St. Joseph County Prosecutor's office in writing of any changes in his contact information.

29. On or about December 1, 2015, cause number 71D04-1406-CM-002439 was dismissed.

30. Earlier in his career, Respondent terminated a pregnancy on a 10-year-old patient who reported to him she had been raped. Respondent did not report that child to any law enforcement agency.

31. On or about January 28, 2015, the ISDH filed a licensing action against Respondent's abortion clinic license to operate the Women's Pavilion Clinic located in South Bend, Indiana.

32. On or about June 26, 2015, the ISDH filed a second licensing action against Respondent's abortion clinic license to operate the Women's Pavilion Clinic located in South Bend, Indiana.

33. On or about November 4, 2015, Respondent entered into a settlement agreement with the Division of Acute Care of the ISDH, wherein Respondent agreed not to seek current licensure for the Women's Pavilion Clinic for at least ninety (90) days in exchange for the dismissal with prejudice of the two ISDH actions.

34. Respondent's other two (2) clinics had closed prior to the settlement agreement with ISDH.

ULTIMATE FINDING OF FACT

1. By a vote of 5-1-0, Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(4)(B) in that Respondent has failed to keep abreast of current professional theory and practice in that he has failed to ensure that qualified staff were present when patients received and/or recovered from Lidocaine and Stadol medications given prior to and during abortion procedures.

2. By a vote of 6-0-0, Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(4)(B) in that Respondent failed to keep abreast of current professional theory or practice when he failed to document in patients' medical records that information and counseling was provided to patients at least eighteen (18) hours prior to a surgical abortion procedure being performed.

3. By a vote of 4-2-0, Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(4)(B) in that Respondent failed to keep abreast of current professional theory or practice when he failed to document in patients' medical records that information and counseling was provided to patients at least eighteen (18) hours prior to the medical abortion procedure being performed.

4. By a vote of 6-0-0, Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(3) in that Respondent has knowingly violated a state statute or rule regulating the medical profession. Specifically, Respondent violated Ind. Code § 16-34-2-5(b), when he failed to submit a TPR within three (3) days after performing an abortion on at least two (2) thirteen (13) year old patients.

5. By a vote of 6-0-0, Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(4)(A) due to professional incompetence as Respondent has continued to engage in a pattern of conduct which demonstrates an inability to exercise reasonable care, as defined in 844 IAC 5-2-5, in providing abortion services, as is normally exercised by practitioners in the same or similar circumstances.

CONCLUSIONS OF LAW

Respondent's violations of Indiana Code § 25-1-9-4 are cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, revocation, and/or a fine up to the amount of one thousand dollars (\$1,000.00) per violation as detailed in Ind. Code §25-1-9-9.

ORDER

Based on the above Findings of Fact the Board issues the following Order:

1. Respondent's license shall be placed on **INDEFINITE SUSPENSION** with no right to apply for reinstatement for at least six (6) months.
2. Prior to petitioning for reinstatement, Respondent shall:
 - a. Demonstrate his clinical competency by completion of an assessment by the Center for Personalized Education for Physicians, or an equivalent assessment ("Assessment");
 - b. Complete any educational requirement of the Assessment;
 - c. Provide any clinical plan of the Assessment to the Board;
 - d. Complete twenty (20) Continuing Medical Education ("CME") hours in the area of Obstetrics and Gynecology;
 - e. Complete ten (10) CME hours in the areas of ethics and child abuse reporting;
 - f. Certify that Respondent has read all the statutes regarding reporting of child abuse; and
 - g. Provide to the Board his plan for re-entering the practice of medicine
3. Within ninety (90) days of this Order, Respondent shall pay a **FINE of FOUR THOUSAND DOLLARS (\$4000.00)** payable to the Indiana Professional Licensing Agency by check or money order, and submitted to the following address:

Medical Licensing Board of Indiana
402 W. Washington Street, Room W072
Indianapolis, Indiana 46204

4. Within ninety (90) days of the Board's Order, Respondent shall pay **COSTS** in the amount of sixteen thousand, seven hundred-fifteen dollars and sixteen cents (\$16,712.16) payable to the Office of the Indiana Attorney General and submitted to the following address:

Indiana Office of the Attorney General

Attn: Katherine Shively
302 West Washington Street, 5th Floor
Indianapolis, IN 46204

5. Respondent is ordered to pay **COSTS** to the Indiana Professional Licensing Agency. A separate order will be issued concerning these costs.

6. Respondent shall, within ninety (90) days of this Final Order, pursuant to Ind. Code §4-6-14-10(b) pay a **FEE** of **FIVE DOLLARS** (\$5.00) to be deposited into the Health Records and Personal Identifying Information Protection Trust Fund. This fee shall be paid by check or money order payable to the **State of Indiana**, and submitted to the following address:

Office of the Indiana Attorney General
Attn: Health Records and Personal Identifying Information
302 West Washington Street, 5th Floor
Indianapolis, Indiana 46204

7. A violation of this Final Order or any non-compliance with the statutes or regulations regarding the practice of medicine may result in an Order to Show Cause as may be issued by the Board, or a new cause of action pursuant to Ind. Code § 25-1-9-4, and or all of which could lead to additional sanctions.

SO ORDERED, this 22nd day of November, 2016.

Medical Licensing Board of Indiana

By: Herbert W. Price

for

Kirk Masten, D.O., President
Medical Licensing Board of Indiana

CERTIFICATE OF SERVICE

I certify that a copy of the "Findings of Fact, Ultimate Findings of Fact, Conclusions of Law and Order" has been duly served upon:

Mary Watts and Joshua Burress,
Counsel for Respondent
BINGHAM GREENEBAUM DOLL, LLP
2700 Market Tower
10 West Market Street
Indianapolis, IN 46204
Service by U.S. Mail

Amelia A. Hilliker
Deputy Attorney General
Office of the Indiana Attorney General
Indiana Government Center South
302 West Washington Street, Fifth Floor
Indianapolis, IN 46204
Service by E-mail

11/22/16

Date

D. S.
Darren Covington, Director

Medical Licensing Board of Indiana
Indiana Government Center South
402 West Washington St., Room W072
Indianapolis, IN 46204
Phone: 317-234-6060
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Explanation of Service Methods

Personal Service: by delivering a true copy of the aforesaid document(s) personally.

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STATE OF INDIANA

OFFICE OF THE ATTORNEY GENERAL
302 WEST WASHINGTON STREET, IGCS 5TH FLOOR
INDIANAPOLIS, INDIANA 46204

CURTIS T. HILL, JR.
ATTORNEY GENERAL

October 1, 2019

Sherry L. Klopfer
[REDACTED]

Re: Abandoned Records
File No. 19-10291

Dear Mrs. Klopfer,

As you are aware, the Office of the Indiana Attorney General ("OAG") conducted an investigation regarding potentially abandoned health records from the former medical practice of the late Dr. Ulrich G. Klopfer ("Dr. Klopfer") at the following locations:

- [REDACTED]
- 2010 E. Ironwood Circle, South Bend, Indiana
- 2210 Inwood Drive, Ft. Wayne, Indiana
- 3711 Washington Street, Gary, Indiana
- 3712-3714 Broadway, Gary, Indiana
- 4001 West 37th Avenue, Hobart, Indiana

The investigation revealed that Dr. Klopfer was responsible for maintaining and/or storing health records at these locations and that Dr. Klopfer is now deceased. Given the death of Dr. Klopfer, Dr. Klopfer has no use for or access to the records and has thereby relinquished his rights and control to them.

At the conclusion of the investigation, the OAG determined that the records were abandoned pursuant to Ind. Code § 4-6-14-6. Under Ind. Code § 4-6-14-5, the OAG has the power to take possession of, store, maintain, transfer, protect, or destroy abandoned health records, subject to certain time limitations under Ind. Code § 4-6-14-8.

The OAG has identified around 460 boxes, tubs and index card holders, and 25 filing cabinets of health records which will be taken into possession.

The OAG's determination of abandoned records constitutes an order under Ind. Code § 4-21.5-1-9. The notice to you, as Dr. Klopfer's next of kin and legal representative, of the right to petition for review of this determination is stated below.

Sincerely,



Betsy M. DeNardi
Indiana Attorney General Office
Director of Consumer Protection Division

cc: Kevin P. Bolger

**NOTICE OF RIGHT TO PETITION FOR REVIEW OF THIS
DETERMINATION**

You may petition for review of this decision under Ind. Code § 4-21.5-3-7. The petition must be filed with the Office of the Indiana Attorney General ("OAG") in writing, identifying the reasons for review and demonstrating that you have been aggrieved or adversely affected by the OAG's determination. The petition for review must be filed no later than eighteen (18) days from the issuance of this determination unless such date is a Saturday, a Sunday, a legal holiday under state statute or a day the OAG's offices are closed during regular business hours in which case the deadline would be the first day which is not a Saturday, a Sunday, a legal holiday under state statute or a day that the OAG's offices are closed during regular business hours.

If your petition for review is timely filed and review is granted, you will receive notification of an administrative hearing. You or your representative must be present at that hearing. You have the right to be represented by an attorney at your own expense. A deputy attorney general may be present to represent the state of Indiana. As petitioner, you will have the burden of proving that the OAG's determination is incorrect.

AFFIDAVIT OF MICHAEL J. MCGANN

I, Michael J. McGann, affirm and state as follows:

1. That I am more than eighteen (18) years of age.
2. I am the duly elected Coroner for St. Joseph County, Indiana, and am currently serving in that capacity in St. Joseph County.
3. I am competent to testify to the facts set forth herein.
4. The facts set forth herein are based upon my personal knowledge.
5. Part of my duties as coroner for St. Joseph County include providing independent verification of the identity of human remains.
6. On October 2, 2019, I received custody of more than 2,000 sets of fetal remains transported to St. Joseph County, Indiana from Joliet, Illinois, pursuant to an arrangement between the Indiana Attorney General and Will County (Illinois) attorney. The remains had been recovered from a garage near the residence of Dr. Ulrich Klopfer.
7. On October 21, 2019, I received custody of a second set of fetal remains transported to St. Joseph County, Indiana from Joliet, Illinois, pursuant to an arrangement between the Indiana Attorney General and Will County (Illinois) attorney. The remains had been recovered from a vehicle belonging to Dr. Klopfer located in Dolton, Illinois.
8. I have reviewed the remains and the records produced along with the remains.
9. Based on the state of the remains, and the records provided to me, I am unable to make an independent verification of the identity of the thousands of remains delivered to me from Will County and currently in my custody and possession.

I affirm under the penalties of perjury that the above and foregoing is true and accurate.

Dated this 12-19-19 day of December, 2019.

A handwritten signature in black ink, appearing to read 'MJ McGann', written over a horizontal line.

Michael J. McGann
Coroner, St. Joseph County, Indiana