

Will the Indiana State Health Department Re-License the Women's Pavilion?

By Tom Borek

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Throughout calendar 2015 I spent a great deal of time trying to understand and explain the bizarre history of Indiana State Department of Health's law enforcement actions against abortionist Ulrich "George" Klopfer and his clinic known as the "Women's Pavilion." My tentative conclusions were as described in **Why I Don't Trust the Indiana Health Department to Enforce Abortion Laws** attached, and I've found no reason the change them.

Now that the abortionist's 90-day time-out is over and he seems poised to re-apply for a clinic license, the situation is equally bizarre and the actions and inactions of the Indiana State Department of Health (ISDH) are equally difficult to explain. Nonetheless I plunge ahead. If there is any chance that the abortion business run by this recidivist lawbreaker will be relicensed, then I must as a Christian and as a member of the Apostolate of Divine Mercy in Service of Human Life act. Accordingly, I must determine whether there is such a chance. To do this, I must look to the actions of Dr. Klopfer, himself, and to the words and actions of state officials.

Dr. Klopfer – Getting Ready to Re-Open

Ever since surrendering his clinic license last November, Dr. Klopfer has continued to keep regular hours at 2010 Ironwood Circle, in South Bend. More important, his staff has continued to keep regular hours as well. Paying several staff members while being unable to see patients must be extremely expensive. I cannot imagine that the Abortionist would spend that much money unless he had good reason to believe (or at least hope) that he was to be re-licensed in the near future. Moreover, one of the clinic's staffers told a caller early in February that they would have information about re-licensure on or about February 15.

The Abortionist's attorneys have certainly had extended discussions with the Assistant Attorney Generals about re-licensure when they were negotiating the

90-day time-out. Clearly the attorneys left those discussions with some information that gave the Abortionist hope for a grand re-opening.

Why then has the clinic been closed for more than 118 days? Why did the Abortionist not reapply as soon as his 90-day time-out expired? I don't know, but only one theory comes to mind. Perhaps he expected to reapply on the 91st day (or on February 15) but circumstances changed. Perhaps having TLC Advocates watching the clinic even during the time out, while having TLC Legal continue to force document production, having the Answer the C.A.L.L. folks petition the state, and even having an Abortion Abolitionist spend long hours petitioning and distributing literature in front of ISDH headquarters has generated too much public scrutiny. Perhaps the lawyers have told the Abortionist to withhold his new application until the furor dies down.

I see no other explanation. I am inclined to work to insure that the furor never dies down.

ISDH's Position on Re-licensure

ISDH has taken no position on the clinic's possible re-licensure. Neither has the Governor nor the Attorney General. One would think that a pro-life administration would issue a press release saying: "The clinic has no license at present, and we do not expect that it will be re-licensed in the future."

In the absence of the will to make such a straightforward statement, the administration could certainly have said, "All of the evidence available in June 2015 that caused the state to seek to revoke his license and to deny his application for re-licensure, will be available and will be considered by the decision-makers should the Abortionist re-apply for a clinic license in the future." Instead -- silence.

The silence suggests that officials want to retain the option to re-license the clinic, and to argue that the evidence of his prior lawbreaking is not relevant to his application for a new license.

A Phone Call

I recently spoke with a state government official by phone regarding one of TLC Legal's document requests. The official asked me why we (members of TLC Legal)

were so very critical of the state's law enforcement efforts. Before I could answer, she explained that:

- ISDH did not investigate most of the TLC Advocates' complaints pointing to informed-consent violations because Dr. Klopfer had already admitted to 10 violations of that law and that only a single violation of that law would be sufficient to support a revocation of his license for one day.
- Adding additional "counts" citing additional violations of the informed consent law would not have strengthened the ISDH's case before the Administrative Law Judge because the maximum penalty that could be imposed by the Administrative Law Judge was revocation of the clinic's license for one day. In other words, investigating the additional claims would be a complete waste of time, energy and money.
- Negotiating the 90-day time-out for the clinic was a spectacular success because it closed the clinic for 90-times as long as the strongest possible order the Administrative Law Judge might have issued at trial.

I must admit that I was skeptical of this explanation. I had always understood that Klopfer's attorneys were highly-skilled professionals. Why would they agree to a settlement that closed the clinic for 90-days when the only legal-authorized remedy was closure for one day? If I accepted the official's explanation, I'd have to conclude that Klopfer's attorneys were incompetent or worse. Seems unlikely.

Nevertheless, maybe she was right. So I asked the next obvious question. Even if the maximum penalty is a one-day time-out, why not investigate and build the best possible case:

- In order to increase the chances that the judge will rule in your favor on the one-day time-out, and
- So the evidence of great numbers of deliberate violations would be available to whoever makes the decisions regarding re-licensure?

At that point, I hit a brick wall. She would not tell me who makes the decisions on re-licensure and would not tell me whether any of the evidence generated by the TLC Advocate complaints would be available for use by that person when ruling on re-licensure. In other words, she left open the possibility that ISDH would relicense

the Women Pavilion based upon its equipment and paperwork without considering its past record of lawlessness.

Conclusion

Many, many Americans favor abortion-on-demand, and feel that the closure of any abortion clinic – even a lawless one – is a tragedy. Some of those Americans work for the government of the great state of Indiana. I am worried that a grand-reopening of the Women’s Pavilion is being planned despite its proven record of brazen noncompliance with the law. Can anyone reassure me?