

Indiana Medical Board reprimands OB-GYN physician who spoke about providing medical abortion for 10-year-old rape victim

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On Thursday, Indiana's Medical Licensing Board voted to reprimand and fine practicing obstetrician-gynecologist Dr. Caitlin Bernard \$3,000 on trumped-up charges that she violated a 10-year old Ohio rape victim's privacy last year by speaking publicly on the implication of overturning *Roe v. Wade* after she provided the young girl a medical abortion.

The headline capturing story began on June 22, 2022, when Columbus, Ohio, police were made aware of the young girl's rape through the Franklin County Children Services. Two days later the Supreme Court of the United States overturned *Roe v. Wade*, triggering an Ohio law to go into effect that restricts abortions after fetal cardiac activity is detected which is around six weeks into the pregnancy.

On June 27, Dr. Bernard received a call from a child abuse doctor in Ohio who explained his patient was beyond the legal pregnancy threshold of six weeks and three days for the state to allow her to obtain a legal and safe abortion. Dr. Bernard accepted the referral and the young girl traveled with her mother to Indiana. On June 30, the medical abortion was completed.

Although the Supreme Court ruling had not yet impacted Indiana's abortion laws, the Indiana General Assembly was planning to convene a special session on July 25 to specifically discuss restrictions to their abortion policy. But because the procedure was still legal, the young girl, like many others, was heading to a neighboring state where these treatments were being provided.

Dr. Bernard, speaking with the *Indianapolis Star*, said at the time, "It's hard to imagine that in just a few short weeks we will have no ability to provide that care." Fundamentally, she was speaking not just about her own practice, but the impact on women's reproductive health in her state and everywhere else across the country that has been affected by the reactionary Supreme Court decision.

Defending her actions, she recently explained to *PBS News Hour* why she spoke with the press on the specifics of the

case at hand. "I think that it's incredibly important for people to understand the real-world impacts of the laws of this country about abortion," Dr. Bernard said. "I think it's important for people to know what patients will have to go through because of legislation that is being passed, and a hypothetical does not make that impact." Furthermore, she explained she had ethical obligations as a physician to educate the public about issues that had significant negative impact on their health.

In the week after the Supreme Court ruling, Women's Med, a medical center that offers abortions in Indianapolis that is affiliated with a similar center in Dayton, Ohio, told the paper they had accepted more than 100 patients from Dayton to their facility. In an email, Women's Med wrote to *Indianapolis Star* that the women and pregnant patients coming to their clinic were "crying, distraught, desperate, thankful and appreciative" for the ability to receive care.

As the paper noted at the time, "The two centers are working together to route patients to Indianapolis for a termination after a pre-op appointment in Dayton. In recent months, they have also had people from southern states, like Texas, come north for a procedure." They added, "Many patients, particularly from Ohio and Kentucky, are seeking care through Women's Med while also making multiple appointments in other states so if one state closes down, they will still have some [other] options."

The story in the *Indianapolis Star* quickly became a lightning rod for far-right reaction. Besides openly threatening Dr. Bernard, many in the Republican Party claimed the incident never occurred despite soon after garnering national attention when a 27-year-old man who had confessed to the crime was arrested. He is expected to face trial this summer.

Dr. Bernard's reputation was vilified and denigrated in the national and conservative press. The *Wall Street Journal's* editorial board wrote that the issue was fabricated to make "abortion a voting issue" then openly attacked her: "You

may not be surprised to learn that Dr. Bernard has a long history of abortion activism in the media.”

Indiana State Attorney General Todd Rokita, a reactionary and staunchly anti-abortion Trump supporter, quickly went on the offensive employing intimidation and bullying tactics promising he would prosecute Dr. Bernard to the fullest extent of the law claiming the doctor—whom he smeared as “this abortion activist acting as a doctor”—had broken privacy laws and failed to report the case to authorities about suspected child abuse. Clearly, his office and the powers he held were seeking any way to make an example of Dr. Bernard and other abortion providers.

Dr. Bernard has never disclosed the name of the child, the city or county in Ohio where her patient resides or provided the media any of the young girl’s personal health information that would expose the victim of the rape.

The Board—six physicians and one attorney hand-picked by the state’s Republican governor Eric Holcomb—have been given extensive leeway on interpreting these charges of patient privacy violations. But they had to reject the accusations, brought by the reactionary and staunchly anti-abortion Rokita, that Dr. Bernard had failed to report the crime to Indiana authorities. It had been well-documented that Dr. Bernard, after performing the abortion on June 30, filed the appropriate “terminated pregnancy form” with the Indiana Department of Health and the Department of Children Services, on July 2, 2022.

At a hearing back in November 2022 to counter the allegations brought by the Attorney General, Dr. Bernard testified that she told an Indiana University Health social worker that the young girl was going to be treated and the hospital administration’s staff would notify proper authorities. Marion County Deputy Prosecutor Katharine Melnick corroborated that hospital social workers and not physicians report and refer such cases to law enforcement. Even her employer, the Indiana Health System, has acknowledged that Dr. Bernard followed hospital and state reporting procedures.

From the beginning, it was clear that Dr. Bernard had not done anything wrong. A simple inquiry and request for records and documents would have assured the state authorities that all was in fact in order.

The allegations brought by Rokita that Dr. Bernard had failed to report the suspected child abuse, a violation of state law, was intended to provide the Indiana Medical Board with ammunition to suspend or revoke the doctor’s medical license. Although the Board placed no restrictions on her ability to practice medicine, her name will be placed in a national database as a censure in her record that will follow her for the rest of her career.

The entire proceedings and rulings have been politically

motivated to threaten physicians and health networks that offer reproductive care which includes safe and legal abortions to their patients. Dr. Bernard’s case was used by the right-wing coalition that has uprooted the half-century-old ruling that upheld the right to privacy, which includes affording women the choice to seek and have an abortion. The ultra-right is seeking to block moves to find legal ways around state laws that ban abortions or place strict limits over them, including by traveling to other states which allow abortion.

Anticipating the social and political issues that were at stake in the June 24, 2022, Supreme Court decision to overturn *Roe v. Wade*, the *World Socialist Web Site* published a statement by the Socialist Equality Party (US) on May 3, 2022, which explained, “Without legal access to abortion, working-class women, without the resources or ability to take off work to travel across state lines, will be forced to resort to the unsafe and potentially deadly methods of the past.” In this regard, the attack on health care workers who provide such services was an essential component of the fascistic attack on democratic rights.

As the statement concludes, “Beyond the right to an abortion, a Supreme Court decision overturning *Roe* will open the door for a frontal assault on a whole series of established democratic rights known as ‘unenumerated rights.’”

The working class must demand the rescinding of the fine and removal of the censure of Dr. Bernard and call for an immediate investigation into the witch-hunt by the Indiana Attorney General’s office. More importantly, the democratic right to an abortion is intimately bound up with the social rights of the working class to free and humane public health and health care. In this regard, the defense of Dr. Bernard as a physician is also the defense of the inalienable social rights of the working class.



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