Exposing Substandard Abortion Facilities: The Pervasiveness of True “Back-Alley” Practices

By Denise M. Burke, Vice President of Legal Affairs

[T]here are few surgical procedures given so little attention and so underrated in its potential hazard as abortion.¹

- Abortionist Warren Hern

“Practitioner Heads to Jail for Manslaughter, Killed Woman in Failed Abortion,”² “Abortionist Agrees to License Suspension After Severely Injuring Teen,”³ and “Abortion Clinic Closed After Regulators Find Aborted Baby Parts in Jars”⁴—these are just a few of the recent headlines that have Americans rightly questioning the safety and legitimacy of abortion practice in this country.

Abortion advocates have consistently argued that legalized abortion is beneficial to women’s health. When abortion is legal, women are not supposed to be at the mercy of unskilled and incompetent butchers and unsanitary and unsafe clinics. All too often, however, today’s abortion clinics have become the true “backalleys” of abortion mythology.

Remember the disturbing television and newspaper accounts detailing how, in April 1998, a young mother visited a Phoenix, Arizona abortion clinic seeking a late-term abortion. Arizona law prohibits an abortion after 24 weeks gestation unless the abortion is necessary to preserve the woman’s life or health. A medical assistant performed an ultrasound examination and determined that the unborn child was at 26 weeks gestation. Moreover, there were no legitimate medical indications that an abortion was necessary to preserve the woman’s life or health.

However, rather than comply with Arizona law, the abortionist, John Biskind, ordered multiple ultrasound examinations until a single, manipulated examination purported to show a 23-week-old unborn child. Biskind then performed the abortion and, in doing so, tore a 2-inch laceration in the woman’s uterus.

Two medical assistants later recalled that the woman was very frightened about her condition as she lay in the recovery room. She begged to know what was wrong with her. She cried out in pain as she lay in a “puddle of blood” that soaked the sheets and ran down her legs. After multiple requests to check the woman’s condition, Biskind adjusted her IV (complaining that there was no qualified nurse onsite who could do this), reassured the woman, and left the facility to visit his tailor.

When paged 25 minutes later and informed of the woman’s deteriorating condition, Biskind refused to return to the clinic and instead instructed the staff to call 911. Paramedics were eventually called, but it was too late. The woman was already dead.

Later, at Biskind’s 2001 criminal trial, Phoenix fire captain Brian Tobin testified that, when responding to the abortion clinic that day, he...
“very quickly” recognized “that there wasn’t a lot of competent medical care going on.” Biskind was subsequently convicted of manslaughter and sentenced to 5 years in prison.\(^5\)

Unfortunately, this incident is just the tip of the proverbial iceberg.

Imagine walking into a Kansas abortion clinic in 2003 and finding fetal remains stored in the same refrigerator as food, a dead rodent in the hallway, overflowing and uncovered disposal bins containing medical waste, improperly labeled and expired medicines, and visible dirt and general disarray throughout the clinic.\(^6\)

Consider the implications of a Philadelphia abortion clinic where, in March 2010, state inspectors found “deplorable and unsanitary” conditions, including blood on the floors and parts of aborted children stored in jars. State inspectors also discovered that the clinic’s director sanctioned the performance of gynecological exams and the administration of controlled substances by non-licensed clinic staff.\(^7\)

Or imagine finding out that your daughter has died from “cardiac pulmonary arrest” during an abortion and that the abortion provider did not have the necessary equipment to monitor her vital signs, did not have oxygen or a functioning blood pressure cuff, failed to adhere to a basic cardiac life support protocol, and refused to call 911 in a timely fashion. This is the horror that one Massachusetts family faced in September 2007 and which led to the abortion provider being convicted of manslaughter in September 2010.\(^8\)

Sadly, cases of substandard abortion practice have arisen in states from coast to coast, and each year brings new outrages over appalling patient care.

So, what is being done about this persistent problem? Surely, given their self-touted concern for women’s health and safety, abortion advocates must be leading the charge to ensure that abortion clinics are properly regulated and inspected and that all necessary steps are being taken to protect women.

If this is what you think and hope, you would be wrong. Rather, pro-life advocates and like-minded state officials are the ones who are working tirelessly to remedy the epidemic of substandard conditions at the nation’s abortion clinics, promoting medically-appropriate and comprehensive health and safety regulations for these clinics. They also defend these regulations when they are challenged in court by abortion providers more concerned with plying their trade without legitimate oversight and protecting their “bottom line” than with safeguarding women’s health and safety.

Just over a decade ago, in response to well-publicized cases of substandard abortion care, a handful of states including Arizona, South Carolina, and Texas began enacting comprehensive abortion clinic regulations based, in
large part, on the abortion industry’s own standards. Legislators in these states used practice guidelines obtained from Planned Parenthood and the National Abortion Federation (NAF) to craft rules and regulations designed to help ensure that women receive medically appropriate care at abortion clinics.\(^9\)

How were they rewarded for their efforts? Abortion advocates vigorously opposed protective legislation and, when unsuccessful in derailing legislation providing meaningful regulations for abortion clinics, immediately filed federal and state lawsuits vociferously complaining about the costs of complying with the new laws and arguing that they should not be required to comply with their industry’s own internal standards.

Clearly, abortion advocates are not the protectors of women’s health that they so publicly hold themselves out to be. Nor can they be counted on to police themselves. 

While virtually every state heavily regulates the provision of veterinary services, only 28 states currently regulate—to widely varying degrees—abortion clinics.\(^10\) However, only about a dozen states have implemented comprehensive, abortion-specific regulations requiring that medically appropriate standards for clinic staffing, equipment, sanitary conditions, and patient care are implemented and enforced.

**IMPACT OF CLINIC REGULATIONS**

Disturbingly, the impact of existing abortion clinic regulations has, thus far, been muted. Concerted campaigns to undercut legislative efforts to enact new regulations or strengthen existing clinic regulations, “delaying tactics” by abortion advocates once a law has been enacted including federal and state lawsuits to block the enforcement of these laws, and a lack of enforcement by state officials have impeded the positive and protective impact of these laws.

**Misinformation Campaigns to Block Protective Legislation**

Abortion advocates vigorously fight the adoption of mandatory health and safety standards for abortion clinics. They refer to them as “TRAP laws” (the “targeted regulation of abortion providers”) and, blithely ignoring the demonstrated medical need for minimum health and safety standards in any facility providing invasive surgical procedures and the widespread use of their own internal standards in crafting state abortion clinic regulations, illogically claim that the only purpose of such laws is to make abortions more difficult to obtain, less readily available, and more expensive.

Implicit in their argument is the politically calculated, but medically unsupported belief
that *mere* access to abortion promotes and protects women’s health. Clearly, it does not.

**Cynical “Delaying” Tactics**

When abortion advocates fail to derail legislative efforts to regulate abortion clinics, they then typically launch multi-year court battles to prevent these protective standards from being enforced. For example, Arizona’s law—also known as “Lou Ann’s Law” in honor of Biskind’s victim—was enacted in 1998, was supplemented in 1999, but did not go into effect until November 2010, after more than a decade of willful obstruction by abortion advocates.

More recently, abortion advocates have filed a federal lawsuit against a 2011 Kansas law mandating minimum health and safety standards for abortion clinics—standards drawn from Planned Parenthood’s own treatment protocols and current abortion clinic regulations from Arizona, South Carolina, and Texas. Notably, all three of these state laws informing the Kansas law have already survived federal and state court legal challenges—challenges nearly identical to those just launched in Kansas.

**Dereliction of Duty by State Officials**

On both February 18 and February 23, 2010, federal agents raided Kermit Gosnell’s West Philadelphia abortion clinic, the Women’s Medical Society, and found “deplorable and unsanitary” conditions including blood on the floors, parts of aborted children stored in jars, post-operative recovery areas that consisted solely of recliners, padlocked emergency exits, and broken and inoperable emergency equipment. During the course of the investigation, it was discovered that Gosnell typically did not arrive at the clinic until 6:00 p.m. each day and sanctioned the performance of gynecological exams and the administration of controlled substances and prescription medication by non-licensed staff at the clinic.

Following the raids, Gosnell’s license to practice medicine was immediately suspended and the clinic was closed down. During a later grand jury investigation, prosecutors learned that state health officials had ignored dozens of complaints against Gosnell and that the clinic had not been inspected since 1993 (despite the fact that Pennsylvania had enacted abortion clinic regulations). Similar failures have been reported in other states.

**THE ALL-TOO-PREDICTABLE RESULTS**

Years of obstruction by abortion advocates and their allies and neglect by some state officials have continued to expose untold numbers of women to substandard abortion care and increased risk of death and serious complications. In just the last two years alone, at least 14 states have opened investigations into abortion providers or closed down substandard abortion clinics, including:

- Kermit Gosnell in Pennsylvania
- Soleiman Soli in Pennsylvania
- The Beacon Women’s Center in Alabama
- Feliciano Rios and Andrew Rutland in California
• Albert Dworkin in Delaware

• Randall Whitney and James Pendergraft in Florida

• Ann Kristin Neuhaus in Kansas

• The Gentilly Medical Clinic for Women and the Hope Medical Group for Women in Louisiana

• Romeo Ferrer, George Sheppard, and Nicola Riley in Maryland

• Steven Brigham in Maryland, New Jersey, and Pennsylvania

• Rapin Osathanondh in Massachusetts

• Alberto Hodari in Michigan

• Salomon Epstein in New York

• Southwestern Women’s Options in New Mexico

• Tami Lynn Holst Thorndike in North Dakota

• Robert E. Hanson Jr., Margaret Kini, Douglas Karpen, Pedro J. Kowalszyn, Sherwood C. Lynn Jr., Alan Molson, Robert L. Prince, H. Brook Randal, Franz Theard, and William W. West Jr. in Texas

• Whole Women’s Health in Texas

Tragically, these investigations are indicative of the pervasive substandard care and abject disregard for women’s health and safety that have become the norm in the abortion industry. It is a sad state of affairs when the family pet is protected more than a woman entering an abortion clinic, but that is the alarming reality of abortion practice today. And for the sake of American women, it is a reality that must be confronted and transformed through the implementation of stringent and medically appropriate standards for abortion patient care.

Endnotes
8 See Ertelt I, supra.
9 For more information about state efforts to regulate abortion clinics and providers, see D. Burke, Regulating Abortion Facilities and Providers: Combating the True Back Alley, in DEFENDING LIFE 2012, infra.
10 Id.


22 See S. Ertelt, Pro-Lifers Want Maryland Practitioner Disciplined, Killed Woman in Botched Abortion (June 1, 2010), available at http://www.lifenews.com/2010/06/01/state-5145/ (last visited Nov. 8, 2011).


24 Id.


Since 2010, at least 14 states have launched investigations of abortion providers and/or closed abortion clinics: AL, CA, DE, FL, KS, LA, MD, MA, MI, NJ, NM, ND, PA, and TX.