ABORTION CLINIC
Combating

IN THEIR QUEST to legalize abortion, abortion advocates warned the American public that unsafe, “back-alley” abortions were killing women. Legalizing abortion would make the procedure safer, since it would be performed in sanitary, well-equipped offices and clinics under the supervision of trained medical personnel—or so the argument went.

Thirty years later, many of the nation’s abortion clinics are the true “back alleys” of abortion mythology. Each year thousands of American women are injured, undergo hysterectomies, endure the pain of infertility, or even die because of substandard care at abortion clinics.

In recent years, several abortion-related deaths have garnered significant local and national attention. In one such case, Lou Anne Herron, a 32-year-old mother of two from Arizona, 26 weeks pregnant, bled to death in April 1997 after the abortion doctor punched a two-inch hole in her uterus.

In the recovery room, Ms. Herron was bleeding heavily, eventually lying in a pool of

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REGULATIONS: "Back Alley" Abortions

her own blood. She also was heard to complain that she "couldn't feel [her] legs." Characteristic of many abortion clinics, untrained and inexperienced medical assistants were responsible for monitoring Ms. Herron's recovery.

Later, these medical assistants, realizing that Ms. Herron was still bleeding heavily and had not fully regained consciousness, alerted abortion doctor John Biskind and the clinic's administrator. Rather than ensuring that Ms. Herron received basic post-operative care, Biskind finished his lunch, performed other abortions, and eventually left the clinic to visit his tailor. Ms. Herron bled for three hours before an ambulance was called. When the ambulance arrived, Ms. Herron was dead and Biskind had not returned to the clinic. In February 2001, Biskind was convicted of manslaughter and is now serving a five-year prison sentence. The clinic administrator was convicted of negligent homicide for failing to ensure that Ms. Herron received proper care and for failing to call an ambulance.

Travesties such as these raise serious questions. Abortion advocacy groups have utterly failed to answer these legitimate questions from the public and the media about the safety of abortion clinics—or even to acknowledge that a problem exists.

Adding to the impact of publicity surrounding abortion deaths, investigative journalists have exposed unclean and substandard conditions at some abortion clinics. In Louisiana, a local television station, with the help of a clinic employee, videotaped the conditions inside one abortion clinic, revealing blood-spattered walls, jagged surgical instruments, and generally unsanitary conditions.

In response to mounting evidence of unsafe, unsanitary and medically substandard conditions at some abortion clinics, state legislatures in Arizona, Louisiana, South Carolina and Texas have recently passed comprehensive abortion clinic regulations, designed to ensure the health and safety of women seeking abortions. Other states have re-evaluated the effectiveness of existing regulations.

More and more state legislators are acting quickly and decisively to protect women's health and prevent more deaths and injuries.

This is not true of abortion advocates, who claim to stand for women's rights and to be motivated by concerns for women's health. Many oppose any regulation of abortion facilities. Tragically, in some states, veterinary clinics are more regulated than many abortion clinics. It is strangely discomforting to know that our pets are more protected than women who seek abortions. Meanwhile, in other states, abortion clinics have been specifically exempted from complying with requirements imposed on general surgery offices and outpatient surgical centers.

Twenty-four states, including such populous states as New York and Colorado, have no law regulating abortion clinics or do not enforce existing laws. The District of Columbia also has no law.

In the most common reason for non-enforcement of laws on the books, state attorneys general have ruled their states' laws unconstitutional because of second-trimester hospitalization requirements. Subsequent to *Roe v. Wade,* the U.S. Supreme Court ruled a strict second-trimester hospitalization requirement unconstitutional, which gutted many laws passed to regulate abortion after the 1973 decision.

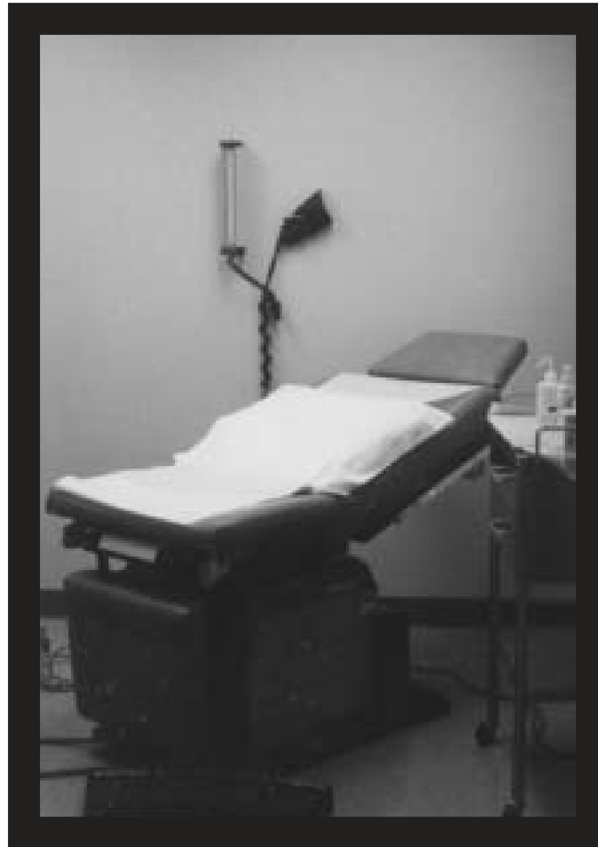
Twenty states regulate the provision of abortion at all stages of pregnancy. Six additional states regulate some aspect of the provision of second-trimester abortions. However, the scope and effectiveness of these regulations vary widely. Some states require that certain abortions take place in hospitals or surgical centers, while others simply require that abortion clinics provide statistical information to state officials.

Often, comprehensive abortion clinic regulations (like those in Arizona, South Carolina and Texas) include such "controversial" requirements as maintaining a smoke-free and vermin-free environment, properly sterilizing instruments and having resuscitation equipment and drugs necessary to support cardiopulmonary function readily available in treatment and recovery rooms. Equally unacceptable to many abortion providers are requirements that clinics maintain and

periodically review written guidelines for patient care and employ properly trained and certified personnel. Moreover, state regulations may also require that the clinic employ a registered nurse to monitor patient recovery and care, that at least one physician employed by the clinic have admitting privileges at a local hospital, and that patient medical records be properly maintained and safeguarded. In order to ensure compliance with the regulatory requirements, the regulations also typically provide for an annual inspection by the state health department prior to initial licensing or subsequent re-licensure.

Despite their public profession of commitment to women's health, abortion advocates, including local and state affiliates of Planned Parenthood, the National Abortion Federation (NAF) and most abortion doctors, adamantly and publicly oppose any state regulation of abortion clinics or other facilities performing abortions. Using the term "targeted regulation of abortion providers" ("TRAP") to refer to any regulation of abortion facilities, they lobby tirelessly against the passage of these laws, cynically claiming the regulation is unnecessary and politically motivated. Then, when they fail to derail the legislation, they institute court challenges against enforcement.

Legal challenges to the comprehensive abortion clinic regulations in Arizona, South Carolina, Tennessee and Texas have recently been filed. To support their legal challenges, abortion advocates frequently and disingenuously argue that the regulations are not designed to improve women's health and will, in fact, hurt women. In advancing this argument, they blatantly ignore the legislatures' frequent reliance on standards of care devised and promulgated by national abortion advocates NAF and Planned Parenthood in establishing medically appropriate, minimum standards for abortion care.



Abortion activists also argue that the cost of complying with the regulations will drive many providers out of business, undermining women's ability to get abortions and, therefore, compromising their health.

For example, according to the Center for Reproductive Law and Policy (CRLP), a pro-abortion legal group, "[T]he real purpose of TRAP laws is to make it harder for women to exercise their constitutional right to choose abortion. Anti-choice legislators and government officials claim they target abortion providers in order to make abortion safer. However, legal abortion is one of the safest surgical procedures in this country. Singling out abortion with discriminatory TRAP measures serves only the anti-choice goal of making abortion prohibitively expensive and increasingly difficult to obtain."

What is amazing is that these medically appropriate standards are standards the abortion industry itself developed. These legal challenges clearly demonstrate that the abortion industry sees "women's health" in very narrow terms, equating it with access to abortion rather than with safe and competent medical care.

The abortion industry's arguments against clinic regulation also expose the industry's refusal to take affirmative action to protect women from the dangers inherent in abortion. Women have been the victims of the abortion industry's refusal to police itself. In opposing common sense and medically appropriate regulations, the abortion industry reveals an ugly agenda—pocketing profits instead of investing in women's safety.

While the challenges to the Arizona, South Carolina and Texas regulations are still in litigation, the results have been promising. In August 2000, the Fourth Circuit Court of Appeals upheld the South Carolina regulations, rejecting arguments that the regulations would prohibitively increase the cost of abortions and would ultimately hurt women's health. In early

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2001, the Supreme Court refused to review the case.

Not to be deterred, attorneys from CRLP continued to challenge the regulations when they were sent back to the lower court, losing yet another battle in September 2001. In April 2002, the Fourth Circuit was again asked to review the regulations and rule on different constitutional challenges to their enforceability.

Meanwhile, the Texas regulations have survived challenges alleging that they "unduly burden" a woman's right to choose abortion and that they violate constitutional equal protection guarantees. In advancing the equal protection theory, attorneys who represent abortion clinics are, in effect, arguing that abortion cannot be regulated without the state also regulating every other arguably "comparable" surgical procedure. To support this legal theory, they argue that such diverse procedures as the removal of tracheotomy tubes, the removal of moles and skin lesions, biopsies and other unrelated medical procedures are "comparable" to abortion. This argument ignores what the American public, women and even the Supreme Court have recognized—abortion is a "unique act" with unique consequences.

While recent court victories are encouraging, the legal battles over abortion clinic regulation have just begun. Ultimately, the Supreme Court will be called upon to decide to what degree and in what circumstances individual states can regulate abortion facilities. In the meantime, these lower court decisions can have positive and far-reaching implications for women's health by encouraging state legislators to take decisive and concrete action to ensure that women are not receiving substandard medical care at abortion clinics. ❍

and Colorado,

force existing laws.

We Remember

Gracealynn T. Harris

1976 – 1997

GRACEALYNN T. HARRIS WAS 19 YEARS OLD when she bled to death from a perforated uterus after a botched abortion at a Delaware clinic, as the doctor hurried off to his private practice in New Jersey.

"It's an inadvertent perforation that happened without showing any signs that it happened," Dr. Mohammad Imram testified. "I have no idea how it happened. I do know how to introduce these instruments."

Dr. James Mollick, an ob-gyn who practices in Pennsylvania, testified as an expert witness that Imram violated several standards of care, including failing to perform a second trimester abortion in a hospital and not using an ultrasound to guide the instruments. "At 18 weeks of gestation, she has an extremely high risk of being perforated." Mollick also noted that Imram was working on two patients simultaneously.

Witnesses testified that Harris was weak after the procedure, needed a wheelchair to leave the clinic and may have suffered a seizure in front of the staff. No ambulance was ever called.

In his closing arguments, defense attorney Gil Shelsby said there are commonly acknowledged risks associated with abortions, and that Imram did everything that could have been reasonably expected of him.

Gracealynn Harris was four and a half months pregnant upon her death in September 1997. She left a son, less than one year old. A Delaware Superior Court jury found the Delaware Women's Health Organization and Imram medically negligent and awarded more than $2 million to Harris' son in January 2002. The abortion clinic had already reached an undisclosed settlement with the plaintiffs; that amount and the more than $900,000 Imram is required to pay will go into a court-controlled account for the child. Imram is a part owner of the abortion clinic.

Source: *The* (Wilmington) *News Journal*, Jan. 16, 2002; The Prolife Infonet, based on The Associated Press, Jan. 14, 2002.