

# The Legal Intelligencer

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By now, most people know that Kermit Gosnell is charged with the deaths of one woman and seven infants at the benignly-named Women's Medical Society in West Philadelphia. Public outrage and indignation have focused on Dr. Gosnell, his employees, and the government officials who failed to investigate complaints about his facility or conduct regular inspections.

But public focus has been largely silent on one question: why did women go to his clinic? Why did they not go to a legitimate, reputable provider of abortion care? To understand why women went to Dr. Gosnell, we must listen to the reasons given by his former patients themselves.

During a Senate Public Health and Welfare Committee hearing on proposed abortion regulation bills, Tyhisha Hudson, a woman who had obtained an abortion at Gosnell's clinic, was asked why she went to him. Her answer was that she tried to go to Planned Parenthood but couldn't afford it, and that women in the "underprivileged" community knew that Gosnell was the man you saw for the cheapest abortion.

In an Associated Press story published soon after the Grand Jury report was issued, Davida Johnson noted that she intended to go to Planned Parenthood for an abortion procedure, but was scared away by anti-abortion protesters picketing outside the clinic. "The picketers out there, they just scared me half to death," she told the AP reporter. An acquaintance suggested she go to Gosnell, where protesters (ironically) were not an issue.

From the reasons given by these women, we can infer several factors influenced why women went to Gosnell's clinic: Medicaid's refusal to provide insurance coverage for most abortions; the scarcity of abortion providers in Pennsylvania (and across the nation); the fear of violence perpetrated by protestors at clinics, and the right wing culture that has so stigmatized abortion that many think it is illegal.

Abortion is a safe medical procedure completed in an average of 7-15 minutes, less risky than childbirth or even wisdom teeth extraction. Since *Roe v. Wade* was decided in 1973, 30-40 million women in the United States have safely had an abortion, and at current rates, one in three American women will have an abortion by the time she's 45.

Since 1976, Congress has annually re-authorized the Hyde Amendment, which bans federal money from covering abortion procedures except in cases of rape, incest, or if the pregnant woman's life is endangered. This means that Medicaid, the federally-subsidized health insurance program for low-income Americans, does not cover most abortion procedures. Pennsylvania law restricts any state Medicaid money from funding the procedure except in those three rare circumstances (rape, incest, and threat to life) so low-income Pennsylvania women are often responsible for covering the entire cost of an abortion out-of-pocket.

Right on the heels of the initial passage of the Hyde Amendment, the anti-choice movement mounted a campaign to intimidate and harass abortion providers until they stopped providing this medical care to women altogether. As a result, the number of abortion providers in the United States declined 38 percent between 1982 and 2005. In Pennsylvania, there is not a single freestanding abortion clinic north of Lehigh County.

Anti-abortion forces are exploiting the tragedy suffered by women at Gosnell's clinic to attack and close down Pennsylvania's excellent providers of abortion care – the Planned Parenthood and National Abortion Federation affiliated clinics cited by the Gosnell Grand Jury repeatedly as “reputable” and “legitimate.”

Instead of working to assure that existing law is followed and that appropriate inspections take place, our state legislature has chosen to advance measures which would create more Gosnell-type clinics in the back alleys of Pennsylvania. HB 574, which passed the House, would create a public health crisis by requiring freestanding clinics to re-equip, re-model, and re-staff themselves to meet the requirements of ambulatory surgical centers, which are facilities where riskier, more invasive surgeries of up to four hours' duration take place. HB 574 would also require the hiring of fulltime nurses to supervise recovery rooms even on days when no abortions are being performed, and increasing the size of procedure rooms to two or three times their current size for no medical reason.

The likely impact of HB 574's passage would be to close many of the 20 existing freestanding abortion providers in Pennsylvania, forcing women seeking abortions to resort to hospital-based care. Closing down all but hospital-based abortion care would be catastrophic for women because of the much higher costs of hospital procedures (thousands of dollars compared to \$350 for an early clinic-based procedure), coupled with the failure of Medicaid and many insurance plans to cover abortion. HB 574 will become the vehicle to drive more women to seek out cheap, illegal, unsafe practitioners. Worse still, another bill is pending in Harrisburg, [S].B. 3 which would limit further private insurance coverage for abortion.

Pennsylvania is not alone in developing strategies to so over-regulate abortion care that it will have the effect of shutting down reputable clinics. Opponents of choice, frustrated by their inability to overturn Roe have been introducing a plethora of bills in Congress and in state legislatures throughout the country to restrict access. Much of the legislation is designed to further restrict any insurance coverage for abortion. Other legislative attacks are against Planned Parenthood, ironically enough, the organization that does more to prevent abortion through its provision of birth control and family planning services.

Women's reproductive health care has become a political football. The extreme conservatives, the tea party, the catholic bishops should take note that women are a powerful force, and when angered enough, will react. The Women's Law Project remains steadfast in our commitment to ensure that the personal autonomy and bodily integrity of women is respected and will do all in our power to preserve women's rights and to defeat forces intent on returning women to the dark ages.