

KANSAS BOARD OF HEALING ARTS

LAWRENCE T. BUENING, JR.
EXECUTIVE DIRECTOR



KATHLEEN SEBELIUS
GOVERNOR

October 24, 2006

Cheryl Sullenger
P.O. Box [REDACTED]
Wichita, KS [REDACTED]

Re: Complaint against George Tiller, M.D. & Ann Neuhaus, M.D.

Dear Ms. Sullenger:

The Kansas Board of Healing Arts is in receipt of the information you sent us regarding the above referenced matter. The disciplinary staff has carefully reviewed the information and assigned the matter for investigation.

Enclosed is a Complaint Form for you to complete, sign and return to us. We need this form completed in order to better investigate your complaint. Since you have already provided a narrative of your complaint, you may skip that portion on the form.

Because of the large volume of complaints we receive, it may take some time for this matter to be investigated. You will likely be contacted by an investigator for more information. Kansas law requires that the Board keep matters under investigation confidential. This means that unless public disciplinary action is taken against the licensees, we will be unable to advise you of the progress or of the findings of our investigation.

If you are not contacted during the investigation, you will be notified when the investigation is concluded.

Sincerely,

Shelly R. Wakeman
Disciplinary Counsel

Enclosure

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235 S. Topeka Boulevard, Topeka, Kansas 66603-3068

Voice: (785) 296-7413 Toll Free: (888) 886-7205 Fax: (785) 296-0852 Website: www.ksbha.org

Cheryl Sullenger

P.O. Box [REDACTED] Wichita, KS [REDACTED]

Voice: 316-516-3034; FAX: [REDACTED]; E-Mail:
[REDACTED]

February 26, 2007

Shelly R. Wakeman
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, KS 66603

Dear Ms. Wakeman:

On October 16, 2007, I sent The Kansas State Board of Healing Arts a complaint against George R. Tiller and Ann Kristin Neuhaus for violating K.S.A. 65-6703.

There has been some confusion as to whether the complaint forms were sent. My records show that inadvertently omitted them from the packet I sent you in October. I sent them to you in November, 2006, but I received a letter in January, 2007, indicating they had not been received.

I am now filing a modified version of that same complaint, complete with complaint forms, a narrative, and supporting documents, just so that we can be sure that you have all the forms and documents you need for your investigation.

I am asking you to investigate George R. Tiller of Wichita, Kansas, and Ann Kristin Neuhaus of Nortonville, Kansas, for violating K.S.A. 65-6703, the ban on post-viability abortions.

Again, I urge you to please take this request for investigation seriously, since the health and safety of women is at stake here, as well as the lives of viable babies that the law was meant to protect.

I look forward to your reply.

Sincerely,

Cheryl Sullenger

Cheryl Sullenger



KANSAS STATE BOARD OF HEALING ARTS

235 S. Topeka Boulevard – Topeka, KS 66603-3068

ATTN: Complaint Coordinator

Phone: (785) 296-7413 – Toll Free 1-888-886-7205

Fax: (785) 368-7103

COMPLAINT FORM

INSTRUCTIONS: (Please Type or Print)

Please furnish all identifying information for the complainant, the patient and all practitioners and facilities involved in the complaint. When providing your address, the address of the patient or the practitioner, list the street address, not a post office box. Please complete all pages of this form. Additional pages may be added if necessary.

PERSON MAKING COMPLAINT: (Please notify this agency if the following information changes.)

NAME: Cheryl D. Sullenger
First Middle Last Other Names Used

ADDRESS: P.O. Box [REDACTED] Wichita KS [REDACTED]
Street City State Zip Code

HOME PHONE: [REDACTED] WORK PHONE: (316-516-3034)

May we contact you at your place of employment? YES NO (Agency working hours are 8:00 a.m. to 4:30 p.m.) Best time to contact you would be? 9 a.m./p.m. to 4 a.m./p.m.

PATIENT INFORMATION:

NAME: _____
First Middle Last Other Names Used

ADDRESS: _____
Street City State Zip Code

DATE OF BIRTH: _____

SSN: _____

HOME PHONE: () _____ WORK PHONE: () _____

PRACTITIONER(S) AGAINST WHOM ALLEGATION IS MADE: (Please identify practitioner with the appropriate title: (M.D., D.O., D.C., D.P.M., P.A., P.T., P.T.A., O.T., O.T.A., R.T., A.T., N.D., C.L.)

NAME: George R. Tiller, M.D. NAME: Ann Kristin Neuhaus, M.D.

ADDRESS: 5107 E. Kellogg Ave. ADDRESS: 1727 Osage Rd.
Wichita, KS 67218 Nortonville, KS 66060

PHONE: (316-684-5108)

PHONE: ()

FACILITIES INVOLVED IN THE INCIDENT: (Hospitals, Nursing Homes, Clinics, Etc.)

FACILITY: Women's Health Care Services

FACILITY: _____

ADDRESS: 5107 E. Kellogg Ave.
Wichita, KS 67218

ADDRESS: _____

PHONE: (316-684-5108)

PHONE: ()

FACILITY: _____

FACILITY: _____

ADDRESS: _____

ADDRESS: _____

PHONE: ()

PHONE: ()

WITNESS(ES) TO THE INCIDENT: (If known)

NAME: ^{Ann} Kristin Neuhaus, MD

NAME: Dr. Paul McHugh

ADDRESS: 17127 Osage Rd.
Nortonville, KS 66060

ADDRESS: Johns Hopkins Hospital
Baltimore, MD 21201

PHONE: ()
Home and Work

PHONE: (410-955-3130)
Home and Work

NAME: _____

NAME: _____

ADDRESS: _____

ADDRESS: _____

PHONE: ()
Home and Work

PHONE: ()
Home and Work

PLEASE LIST A FRIEND OR RELATIVE WHO WILL KNOW YOUR MOST CURRENT ADDRESS AND PHONE NUMBER.

NAME: Brenna Sullenger

ADDRESS: P.O. Box [REDACTED]

PHONE: [REDACTED]
Home and Work

NARRATIVE

Please describe in detail all allegations against the practitioner(s). Describe each incident with specific dates and list any witnesses. Attach copies of any documents you have concerning the allegations. Use additional sheets if necessary.

DATE OF INCIDENT: 2003-present PATIENT'S NAME: _____
YOUR RELATIONSHIP TO PATIENT, IF OTHER THAN YOURSELF: _____

Please investigate George R. Tiller for illegal late term abortions and illegal reporting of same. Tiller advertizes on his web site that he does post - viability abortions for reasons other than allowed by K.S.A. 65-6703.

Former Atty. General Phill Kline filed a 30 count criminal complaint against Tiller for illegal late-term abortions & reporting violations. Two judges ruled there is probable cause to believe Tiller committed the crimes. The case was dismissed on jurisdictional grounds, but the merits of the complaint have never been questioned.

Attached: 7 supporting documents

Also, the relationship between Tiller and Dr. Ann Kristin Neuhaus should be investigated. Neuhaus has no medical office of her own & can only see patients at Tiller's invitation. One cannot financially benefit from late-term abortions without the other. This violates the non-association clause in K.S.A. 65-6703.

I acknowledge that the Kansas Board of Healing Arts may provide a copy of this form to the person against whom the allegations are made. I agree to testify in any hearings which may arise as a result of these allegations. The statements I have made are true and correct to the best of my knowledge and belief.

DATE: Feb. 26, 2007 SIGNED: Cheryl Sullenger

Contents

1. Full Text of K.S.A. 65-6703 – Abortion prohibited when fetus is viable
2. State of Kansas V. George Tiller, Criminal Case 06CR2961 alleging 15 counts of illegal late-term abortions and 15 counts of illegal filing of reports to the State of Kansas. (This case was dismissed on jurisdictional grounds, but the merits of the case have never been questioned.)
3. Stoval Opinion (Attorney General Opinion No. 2000-20) indicating that mental health exception qualifies as “bodily function” as long as the risks to maternal mental health are “substantial and irreversible.”
4. Late Abortion for Fetal Anomaly (web page from www.drTiller.com) indicating that Tiller does post-viability abortions for fetal anomaly, not a qualified exception under K.S.A. 65-6703.
5. Executive Summary by George R. Tiller of Fetal Indications Termination of Pregnancy Program (from www.drTiller.com), indicating abortions for reasons other than maternal physical or mental health as required by law.
6. “Late Decision, A Lasting Anguish” by Stephanie Simon, *LA Times*, May 31, 2005, indicating abortions for reasons other than maternal physical or mental health as required by law.
7. Personal correspondence from “Janice,” a woman who had a post-viability abortion at Women’s Health Care Services for fetal anomaly, not maternal physical or mental health as required by law.

Document 1

**Full Text of K.S.A.
65-6703 – Abortion
prohibited when
fetus is viable**

(2 pages)

65-6703

Chapter 65.--PUBLIC HEALTH Article 67.--ABORTION

65-6703. Abortion prohibited when fetus viable, exceptions; determination of age of fetus; determination of viability; reports; retention of medical records; viable, defined; criminal penalties. (a) No person shall perform or induce an abortion when the fetus is viable unless such person is a physician and has a documented referral from another physician not legally or financially affiliated with the physician performing or inducing the abortion and both physicians determine that: (1) The abortion is necessary to preserve the life of the pregnant woman; or (2) a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman.

(b) (1) Except in the case of a medical emergency, prior to performing an abortion upon a woman, the physician shall determine the gestational age of the fetus according to accepted obstetrical and neonatal practice and standards applied by physicians in the same or similar circumstances. If the physician determines the gestational age is less than 22 weeks, the physician shall document as part of the medical records of the woman the basis for the determination.

(2) If the physician determines the gestational age of the fetus is 22 or more weeks, prior to performing an abortion upon the woman the physician shall determine if the fetus is viable by using and exercising that degree of care, skill and proficiency commonly exercised by the ordinary skillful, careful and prudent physician in the same or similar circumstances. In making this determination of viability, the physician shall perform or cause to be performed such medical examinations and tests as are necessary to make a finding of the gestational age of the fetus and shall enter such findings and determinations of viability in the medical record of the woman.

(3) If the physician determines the gestational age of a fetus is 22 or more weeks, and determines that the fetus is not viable and performs an abortion on the woman, the physician shall report such determinations and the reasons for such determinations in writing to the medical care facility in which the abortion is performed for inclusion in the report of the medical care facility to the secretary of health and environment under K.S.A. 65-445 and amendments thereto or if the abortion is not performed in a medical care facility, the physician shall report such determinations and the reasons for such determinations in writing to the secretary of health and environment as part of the written report made by the physician to the secretary of health and environment under K.S.A. 65-445 and amendments thereto.

(4) If the physician who is to perform the abortion determines the gestational age of a fetus is 22 or more weeks, and determines that the fetus is viable, both physicians under subsection (a) determine in accordance with the provisions of subsection (a) that an abortion is necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman and the physician performs an abortion on the woman, the physician who performs the abortion shall report such determinations, the reasons for such determinations and the basis for the determination that an abortion is necessary to preserve the life of the pregnant woman or that a continuation of the

pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman in writing to the medical care facility in which the abortion is performed for inclusion in the report of the medical care facility to the secretary of health and environment under K.S.A. 65-445 and amendments thereto or if the abortion is not performed in a medical care facility, the physician who performs the abortion shall report such determinations, the reasons for such determinations and the basis for the determination that an abortion is necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman in writing to the secretary of health and environment as part of the written report made by the physician to the secretary of health and environment under K.S.A. 65-445 and amendments thereto.

(5) The physician shall retain the medical records required to be kept under paragraphs (1) and (2) of this subsection (b) for not less than five years and shall retain a copy of the written reports required under paragraphs (3) and (4) of this subsection (b) for not less than five years.

(c) A woman upon whom an abortion is performed shall not be prosecuted under this section for a conspiracy to violate this section pursuant to K.S.A. 21-3302, and amendments thereto.

(d) Nothing in this section shall be construed to create a right to an abortion. Notwithstanding any provision of this section, a person shall not perform an abortion that is prohibited by law.

(e) As used in this section, "viable" means that stage of fetal development when it is the physician's judgment according to accepted obstetrical or neonatal standards of care and practice applied by physicians in the same or similar circumstances that there is a reasonable probability that the life of the child can be continued indefinitely outside the mother's womb with natural or artificial life-supportive measures.

(f) If any provision of this section is held to be invalid or unconstitutional, it shall be conclusively presumed that the legislature would have enacted the remainder of this section without such invalid or unconstitutional provision.

(g) Upon a first conviction of a violation of this section, a person shall be guilty of a class A nonperson misdemeanor. Upon a second or subsequent conviction of a violation of this section, a person shall be guilty of a severity level 10, nonperson felony.

History: L. 1992, ch. 183, § 3; L. 1993, ch. 291, § 240; L. 1998, ch. 142, § 15; July 1.

Document 2

**State of Kansas V.
George Tiller,
Criminal Case
06CR2961
(15 pages)**

06 CR 2961

APP. DISTRICT NO. *rw*

IN THE DISTRICT COURT
SEDGWICK COUNTY, KANSAS

2006 DEC 21 P 1: 37

STATE OF KANSAS,

Plaintiff,

v.

CASE NO. 06 CR

GEORGE R. TILLER

Defendant.

DISTRICT COURT
SEDGWICK COUNTY, KANSAS
BY *rw*

COMPLAINT / INFORMATION

COMES NOW the State of Kansas by Phill Kline, Kansas Attorney General, and for
Complaint / Information against the above-named Defendant, alleges and states:

COUNT ONE

Unlawful Late Term Abortion

K.S.A. 65-6703

Class A Non Person Misdemeanor

That on or about July 22, 2003, in Sedgwick County, State of Kansas, the defendant, GEORGE R. TILLER, did, then and there, contrary to the statutes of the State of Kansas, unlawfully perform or induce or caused to be performed or induced an abortion on a 14 year old pregnant child when the fetus was viable and had a gestational age of 22 weeks or more, to wit: 26 weeks, by failing to determine that (1) the abortion is necessary to preserve the life of the pregnant woman; or (2) a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, to wit: In file #30, patient ID #072203LN, the defendant wrongfully relied on a diagnosis of Anxiety Disorder NOS or Adjustment Disorder with mixed anxiety and depressed mood, to determine that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman when such diagnoses do not establish that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, in violation of KSA 65-6703.

06CR2961

COUNT TWO

**Failure to Report Justifications for
Late Term Abortion**

**K.S.A. 65-6703
Class A Non Person Misdemeanor**

That on or about and after July 22, 2003, in Sedgwick County, State of Kansas, GEORGE R. TILLER did, then and there, contrary to the statutes of the State of Kansas, unlawfully, after performing or inducing or causing to be performed or induced an abortion, to wit: file #30, patient ID #072203LN, state record #005956, on a viable fetus having a gestational age of 22 or more weeks, to wit: 29 weeks of age, did report that the fetus was not viable and therefore did not report the actual determination of fetus viability, nor the reasons for such determinations, nor the basis for the determination that the abortion was necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy would cause a substantial and irreversible impairment of a major bodily function of the pregnant woman in writing to the medical care facility in which the abortion was performed for inclusion in the report of the medical care facility to the secretary of health and environment under K.S.A. 65-445 and amendments thereto, in violation of K.S.A. 65-6703.

COUNT THREE

Unlawful Late Term Abortion

**K.S.A. 65-6703
Class A Non Person Misdemeanor**

That on or about July 8, 2003, in Sedgwick County, State of Kansas, the defendant, GEORGE R. TILLER, did, then and there, contrary to the statutes of the State of Kansas, unlawfully perform or induce or caused to be performed or induced an abortion on a 10 year old pregnant child when the fetus was viable and had a gestational age of 22 weeks or more, to wit: 28 weeks, by failing to determine that (1) the abortion is necessary to preserve the life of the pregnant woman; or (2) a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, to wit: In file #31, patient ID #070803GG, the defendant wrongfully relied on a diagnosis of Major Depressive Disorder, Single Episode, to determine that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman when such diagnosis does not establish that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, in violation of KSA 65-6703.

COUNT FOUR**Failure to Report Justifications for
Late Term Abortion**K.S.A. 65-6703
Class A Non Person Misdemeanor

That on or about and after July 8, 2003, in Sedgewick County, State of Kansas, GEORGE R. TILLER did, then and there, contrary to the statutes of the State of Kansas, unlawfully, after performing or inducing or causing to be performed or induced an abortion, to wit: file #31, patient ID #070803DG, state record #005970, on a viable fetus having a gestational age of 22 or more weeks, to wit: 28 weeks of age, did report that the fetus was not viable and therefore did not report the actual determination of fetus viability, nor the reasons for such determination, nor the basis for the determination that the abortion was necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy would cause a substantial and irreversible impairment of a major bodily function of the pregnant woman in writing to the medical care facility in which the abortion was performed for inclusion in the report of the medical care facility to the secretary of health and environment under K.S.A. 65-443 and amendments thereto, in violation of K.S.A. 65-6703.

COUNT FIVE**Unlawful Late Term Abortion**K.S.A. 65-6703
Class A Non Person Misdemeanor

That on or about July 15, 2003, in Sedgewick County, State of Kansas, the defendant, GEORGE R. TILLER, did, then and there, contrary to the statutes of the State of Kansas, unlawfully perform or induce or caused to be performed or induced an abortion on a 15 year old pregnant child when the fetus was viable and had a gestational age of 22 weeks or more, to wit: 28 weeks, by failing to determine that (1) the abortion is necessary to preserve the life of the pregnant woman, or (2) a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, to wit: In file #32, patient ID #071503LJ, the defendant wrongfully relied on a diagnosis of Major Depressive Disorder, Single Episode, to determine that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman when such diagnosis does not establish that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, in violation of K.S.A. 65-6703.

COUNT SIX

06CR2961

**Failure to Report Justifications for
Late Term Abortion**

**K.S.A. 65-6703
Class A Non Person Misdemeanor**

That on or about and after July 13, 2003, in Sedgwick County, State of Kansas, GEORGIE B. TULLER did, then and there, contrary to the statutes of the State of Kansas, unlawfully, after performing or inducing or causing to be performed or induced an abortion, to wit: file #33, patient ID #071503RL, state record #009976, on a viable fetus having a gestational age of 23 or more weeks, to wit: 28 weeks of age, did fail to report the basis for the determination that the abortion was necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy would cause a substantial and irreversible impairment of a major bodily function of the pregnant woman in writing to the medical care facility in which the abortion was performed for inclusion in the report of the medical care facility to the secretary of health and environment under K.S.A. 65-445 and amendments thereto, in violation of K.S.A. 65-6703.

COUNT SEVEN

Unlawful Late Term Abortion

**K.S.A. 65-6703
Class A Non Person Misdemeanor**

That on or about November 18, 2003, in Sedgwick County, State of Kansas, the defendant, GEORGE R. TULLER, did, then and there, contrary to the statutes of the State of Kansas, unlawfully perform or induce or caused to be performed or induced an abortion on a 16 year old pregnant child when the fetus was viable and had a gestational age of 22 weeks or more, to wit: 29 weeks, by failing to determine that (1) the abortion is necessary to preserve the life of the pregnant woman, or (2) a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, to wit: In file #59, patient ID #111803LR, the defendant wrongfully relied on a diagnosis of Major Depressive Disorder, Single Episode, as determining that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman when such diagnosis does not establish that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, in violation of KSA 65-6703.

COUNT EIGHT

06CR2961

**Failure to Report Justifications for
Late Term Abortion**

**K.S.A. 65-6703
Class A Non Person Misdemeanor**

That on or about and after November 18, 2003, in Sedgwick County, State of Kansas, GEORGE R. TILLER did, then and there, contrary to the statutes of the State of Kansas, unlawfully, after performing or inducing or causing to be performed or induced an abortion, to wit: file #59, patient ID #111803LR, state record #010373, on a viable fetus having a gestational age of 22 or more weeks, to wit: 29 weeks of age, did fail to report the basis for the determination that the abortion was necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy would cause a substantial and irreversible impairment of a major bodily function of the pregnant woman in writing to the medical care facility in which the abortion was performed for inclusion in the report of the medical care facility to the secretary of health and environment under K.S.A. 65-445 and amendments thereto, in violation of K.S.A. 65-6703.

COUNT NINE

Unlawful Late Term Abortion

**K.S.A. 65-6703
Class A Non Person Misdemeanor**

That on or about July 30, 2003, in Sedgwick County, State of Kansas, the defendant, GEORGE R. TILLER, did, then and there, contrary to the statutes of the State of Kansas, unlawfully perform or induce or caused to be performed or induced an abortion on a 19 year old pregnant woman when the fetus was viable and had a gestational age of 22 weeks or more, to wit: 27 weeks, by failing to determine that (1) the abortion is necessary to preserve the life of the pregnant woman; or (2) a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, to wit: In file #33, patient ID #073003CS, the defendant wrongfully relied on a diagnosis of Major Depressive Disorder, Single Episode, to determine that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman when such diagnosis does not establish that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, in violation of KSA 65-6703.

COUNT TEN

**Failure to Report Justifications for
Late Term Abortion**

**K.S.A. 65-6703
Class A Non Person Misdemeanor**

That on or about and after July 30, 2003, in Sedgwick County, State of Kansas, GEORGE R. TILLER did, then and there, contrary to the statutes of the State of Kansas,

unlawfully, after performing or inducing or causing to be performed or induced an abortion, to wit: file #33, patient ID #073003CS, state record #005988, on a viable fetus having a gestational age of 22 or more weeks, to wit: 27 weeks of age, did report that the fetus was not viable and therefore did not report the actual determination of fetus viability, nor the reasons for such determinations, nor the basis for the determination that the abortion was necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy would cause a substantial and irreversible impairment of a major bodily function of the pregnant woman in writing to the medical care facility in which the abortion was performed for inclusion in the report of the medical care facility to the secretary of health and environment under K.S.A. 65-445 and amendments thereto, in violation of K.S.A. 65-6703.

COUNT ELEVEN

Unlawful Late Term Abortion

**K.S.A. 65-6703
Class A Non Person Misdemeanor**

That on or about August 19, 2003, in Sedgwick County, State of Kansas, the defendant, GEORGE R. TILLER, did, then and there, contrary to the statutes of the State of Kansas, unlawfully perform or induce or caused to be performed or induced an abortion on a 22 year old pregnant woman when the fetus was viable and had a gestational age of 22 weeks or more, to wit: 31 weeks, by failing to determine that (1) the abortion is necessary to preserve the life of the pregnant woman; or (2) a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, to wit: In file #37, patient ID #081903EW, the defendant wrongfully relied on a diagnosis of Major Depressive Disorder, Single Episode, to determine that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman when such diagnosis does not establish that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, in violation of KSA 65-6703.

COUNT TWELVE

**Failure to Report Justifications for
Late Term Abortion**

**K.S.A. 65-6703
Class A Non Person Misdemeanor**

That on or about and after August 19, 2003, in Sedgwick County, State of Kansas, GEORGE R. TILLER did, then and there, contrary to the statutes of the State of Kansas, unlawfully, after performing or inducing or causing to be performed or induced an abortion, to wit: file #37, patient ID #081903EW, state record #006402, on a viable fetus having a gestational age of 22 or more weeks, to wit: 31 weeks of age, did fail to report the basis for the determination that the abortion was necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy would cause a substantial and irreversible impairment of a major bodily function of the pregnant woman in writing to the medical care facility in which the abortion was performed for inclusion in the report of the medical care facility to the secretary of health and environment under K.S.A. 65-445 and amendments thereto, in violation of K.S.A. 65-

COUNT THIRTEEN

Unlawful Late Term Abortion

**K.S.A. 65-6703
Class A Non Person Misdemeanor**

That on or about August 5, 2003, in Sedgwick County, State of Kansas, the defendant, GEORGE R. TILLER, did, then and there, contrary to the statutes of the State of Kansas, unlawfully perform or induce or caused to be performed or induced an abortion on a 15 year old pregnant child when the fetus was viable and had a gestational age of 22 weeks or more, to wit: 26 weeks, by failing to determine that (1) the abortion is necessary to preserve the life of the pregnant woman; or (2) a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, to wit: In file #38, patient ID #080503KC, the defendant wrongfully relied on a diagnosis of Major Depressive Disorder, Single Episode, to determine that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman when such diagnosis does not establish that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, in violation of K.S.A. 65-6703.

COUNT FOURTEEN

**Failure to Report Justifications for
Late Term Abortion**

**K.S.A. 65-6703
Class A Non Person Misdemeanor**

That on or about and after August 5, 2003, in Sedgwick County, State of Kansas, GEORGE R. TILLER did, then and there, contrary to the statutes of the State of Kansas, unlawfully, after performing or inducing or causing to be performed or induced an abortion, to wit: file #38, patient ID #080503KC, state record #006408, on a viable fetus having a gestational age of 22 or more weeks, to wit: 26 weeks of age, did fail to report the basis for the determination that the abortion was necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy would cause a substantial and irreversible impairment of a major bodily function of the pregnant woman in writing to the medical care facility in which the abortion was performed for inclusion in the report of the medical care facility to the secretary of health and environment under K.S.A. 65-445 and amendments thereto, in violation of K.S.A. 65-6703.

COUNT FIFTEEN

Unlawful Late Term Abortion

**K.S.A. 65-6703
Class A Non Person Misdemeanor**

That on or about August 5, 2003, in Sedgwick County, State of Kansas, the defendant, GEORGE R. TILLER, did, then and there, contrary to the statutes of the State of Kansas,

age of 22 or more weeks, to wit: 28 weeks of age, did fail to report to the medical care facility in which the abortion was performed for inclusion in the report of the medical care facility to the secretary of health and environment under K.S.A. 65-445 and amendments thereto, in violation of K.S.A. 65-6703.

COUNT SEVENTEEN

Unlawful Late Term Abortion

**K.S.A. 65-6703
Class A Non Person Misdemeanor**

That on or about August 12, 2003, in Sedgwick County, State of Kansas, the defendant, GEORGE R. TILLER, did, then and there, contrary to the statutes of the State of Kansas, unlawfully perform or induce or caused to be performed or induced an abortion on a 15 year old pregnant child when the fetus was viable and had a gestational age of 22 weeks or more, to wit: 25 weeks, by failing to determine that (1) the abortion is necessary to preserve the life of the pregnant woman; or (2) a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, to wit: In file #40, patient ID #081203SP, the defendant wrongfully relied on a diagnosis of Major Depressive Disorder, Single Episode, to determine that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman when such diagnosis does not establish that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, in violation of K.S.A. 65-6703.

COUNT EIGHTEEN

06CR2961

**Failure to Report Justifications for
Late Term Abortion**

**K.S.A. 65-6703
Class A Non Person Misdemeanor**

That on or about and after August 12, 2003, in Sedgwick County, State of Kansas, GEORGE R. TILLER did, then and there, contrary to the statutes of the State of Kansas, unlawfully, after performing or inducing or causing to be performed or induced an abortion, to wit: file #40, patient ID #081203SP, state record #006591, on a viable fetus having a gestational age of 22 or more weeks, to wit: 25 weeks of age, did fail to report the basis for the determination that the abortion was necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy would cause a substantial and irreversible impairment of a major bodily function of the pregnant woman in writing to the medical care facility in which the abortion was performed for inclusion in the report of the medical care facility to the secretary of health and environment under K.S.A. 65-445 and amendments thereto, in violation of K.S.A. 65-6703.

COUNT NINETEEN

Unlawful Late Term Abortion

**K.S.A. 65-6703
Class A Non Person Misdemeanor**

That on or about August 19, 2003, in Sedgwick County, State of Kansas, the defendant, GEORGE R. TILLER, did, then and there, contrary to the statutes of the State of Kansas, unlawfully perform or induce or caused to be performed or induced an abortion on a 15 year old pregnant child when the fetus was viable and had a gestational age of 22 weeks or more, to wit: 26 weeks, by failing to determine that (1) the abortion is necessary to preserve the life of the pregnant woman; or (2) a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, to wit: In file #41, patient ID #081903AG, the defendant wrongfully relied on a diagnosis of Acute Stress Disorder, to determine that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman when such diagnosis does not establish that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, in violation of KSA 65-6703.

COUNT TWENTY

**Failure to Report Justifications for
Late Term Abortion**

**K.S.A. 65-6703
Class A Non Person Misdemeanor**

That on or about and after August 19, 2003, in Sedgwick County, State of Kansas, GEORGE R. TILLER did, then and there, contrary to the statutes of the State of Kansas, unlawfully, after performing or inducing or causing to be performed or induced an abortion, to wit: file #41, patient ID #081903AG, state record #006598, on a viable fetus having a gestational

age of 22 or more weeks, to wit: 26 weeks of age, did fail to report the basis for the determination that the abortion was necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy would cause a substantial and irreversible impairment of a major bodily function of the pregnant woman in writing to the medical care facility in which the abortion was performed for inclusion in the report of the medical care facility to the secretary of health and environment under K.S.A. 65-445 and amendments thereto, in violation of K.S.A. 65-6703.

COUNT TWENTY ONE

age of 22 or more weeks, to wit: 26 weeks of age, did fail to report the basis for the determination that the abortion was necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy would cause a substantial and irreversible impairment of a major bodily function of the pregnant woman in writing to the medical care facility in which the abortion was performed for inclusion in the report of the medical care facility to the secretary of health and environment under K.S.A. 65-445 and amendments thereto, in violation of K.S.A. 65-6703.

COUNT TWENTY ONE

Unlawful Late Term Abortion

K.S.A. 65-6703

Class A Non Person Misdemeanor

That on or about November 4, 2003, in Sedgwick County, State of Kansas, the defendant, GEORGE R. TILLER, did, then and there, contrary to the statutes of the State of Kansas, unlawfully perform or induce or caused to be performed or induced an abortion on a 15 year old pregnant child when the fetus was viable and had a gestational age of 22 weeks or more, to wit: 25 weeks, by failing to determine that (1) the abortion is necessary to preserve the life of the pregnant woman; or (2) a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, to wit: In file #55, patient ID #110403BB, the defendant wrongfully relied on a diagnosis of Major Depressive Disorder, Single Episode, to determine that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman when such diagnosis does not establish that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, in violation of KSA 65-6703.

COUNT TWENTY TWO

**Failure to Report Justifications for
Late Term Abortion**

K.S.A. 65-6703

Class A Non Person Misdemeanor

That on or about and after November 4, 2003, in Sedgwick County, State of Kansas, GEORGE R. TILLER did, then and there, contrary to the statutes of the State of Kansas, unlawfully, after performing or inducing or causing to be performed or induced an abortion, to wit: file #55, patient ID #110403BB, state record #010134, on a viable fetus having a gestational age of 22 or more weeks, to wit: 25 weeks of age, did fail to report the basis for the determination that the abortion was necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy would cause a substantial and irreversible impairment of a major bodily function of the pregnant woman in writing to the medical care facility in which the abortion was performed for inclusion in the report of the medical care facility to the secretary of health and environment under K.S.A. 65-445 and amendments thereto, in violation of K.S.A. 65-6703.

COUNT TWENTY THREE

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Unlawful Late Term Abortion

K.S.A. 65-6703

Class A Non Person Misdemeanor

That on or about August 26, 2003, in Sedgwick County, State of Kansas, the defendant, GEORGE R. TILLER, did, then and there, contrary to the statutes of the State of Kansas, unlawfully perform or induce or caused to be performed or induced an abortion on a 14 year old pregnant child when the fetus was viable and had a gestational age of 22 weeks or more, to wit: 25 weeks, by failing to determine that (1) the abortion is necessary to preserve the life of the pregnant woman; or (2) a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, to wit: In file #43, patient ID #082603TK, the defendant wrongfully relied on a diagnosis of Acute Stress Disorder, to determine that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman when such diagnosis does not establish that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, in violation of KSA 65-6703.

COUNT TWENTY FOUR

**Failure to Report Justifications for
Late Term Abortion**

K.S.A. 65-6703

Class A Non Person Misdemeanor

That on or about and after August 26, 2003, in Sedgwick County, State of Kansas, GEORGE R. TILLER did, then and there, contrary to the statutes of the State of Kansas, unlawfully, after performing or inducing or causing to be performed or induced an abortion, to wit: file #43, patient ID #082603TK, state record #006604, on a viable fetus having a gestational age of 22 or more weeks, to wit: 25 weeks of age, did fail to report the basis for the determination that the abortion was necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy would cause a substantial and irreversible impairment of a major bodily function of the pregnant woman in writing to the medical care facility in which the abortion was performed for inclusion in the report of the medical care facility to the secretary of health and environment under K.S.A. 65-445 and amendments thereto, in violation of K.S.A. 65-6703.

COUNT TWENTY FIVE

Unlawful Late Term Abortion

K.S.A. 65-6703

Class A Non Person Misdemeanor

That on or about September 9, 2003, in Sedgwick County, State of Kansas, the defendant, GEORGE R. TILLER, did, then and there, contrary to the statutes of the State of Kansas, unlawfully perform or induce or caused to be performed or induced an abortion on a 15 year old pregnant child when the fetus was viable and had a gestational age of 22 weeks or more, to wit: 25 weeks, by failing to determine that (1) the abortion is necessary to preserve the life of the

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pregnant woman; or (2) a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, to wit: In file #44, patient ID #090903JC, the defendant wrongfully relied on a diagnosis of Major Depressive Disorder, Single Episode, to determine that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman when such diagnosis does not establish that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, in violation of KSA 65-6703.

COUNT TWENTY SIX

**Failure to Report Justifications for
Late Term Abortion**

**K.S.A. 65-6703
Class A Non Person Misdemeanor**

That on or about and after September 9, 2003, in Sedgwick County, State of Kansas, GEORGE R. TILLER did, then and there, contrary to the statutes of the State of Kansas, unlawfully, after performing or inducing or causing to be performed or induced an abortion, to wit: file #44, patient ID #090903JC, state record #008238, on a viable fetus having a gestational age of 22 or more weeks, to wit: 25 weeks of age, did fail to report the basis for the determination that the abortion was necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy would cause a substantial and irreversible impairment of a major bodily function of the pregnant woman in writing to the medical care facility in which the abortion was performed for inclusion in the report of the medical care facility to the secretary of health and environment under K.S.A. 65-445 and amendments thereto, in violation of K.S.A. 65-6703.

COUNT TWENTY SEVEN

Unlawful Late Term Abortion

**K.S.A. 65-6703
Class A Non Person Misdemeanor**

That on or about November 4, 2003, in Sedgwick County, State of Kansas, the defendant, GEORGE R. TILLER, did, then and there, contrary to the statutes of the State of Kansas, unlawfully perform or induce or caused to be performed or induced an abortion on a 18 year old pregnant woman when the fetus was viable and had a gestational age of 22 weeks or more, to wit: 25 weeks, by failing to determine that (1) the abortion is necessary to preserve the life of the pregnant woman; or (2) a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, to wit: In file #58, patient ID #110403KH, the defendant wrongfully relied on a diagnosis of Anxiety Disorder NOS or Acute Stress Disorder, to determine that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman when such diagnoses do not establish that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, in violation of KSA 65-6703.

COUNT TWENTY EIGHT

06CR2961

**Failure to Report Justifications for
Late Term Abortion**

**K.S.A. 65-6703
Class A Non Person Misdemeanor**

That on or about and after November 4, 2003, in Sedgwick County, State of Kansas, GEORGE R. TILLER did, then and there, contrary to the statutes of the State of Kansas, unlawfully, after performing or inducing or causing to be performed or induced an abortion, to wit: file #58, patient ID #110403KH, state record #010150, on a viable fetus having a gestational age of 22 or more weeks, to wit: 25 weeks of age, did fail to report the basis for the determination that the abortion was necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy would cause a substantial and irreversible impairment of a major bodily function of the pregnant woman in writing to the medical care facility in which the abortion was performed for inclusion in the report of the medical care facility to the secretary of health and environment under K.S.A. 65-445 and amendments thereto, in violation of K.S.A. 65-6703.

COUNT TWENTY NINE

Unlawful Late Term Abortion

**K.S.A. 65-6703
Class A Non Person Misdemeanor**

That on or about November 4, 2003, in Sedgwick County, State of Kansas, the defendant, GEORGE R. TILLER, did, then and there, contrary to the statutes of the State of Kansas, unlawfully perform or induce or caused to be performed or induced an abortion on a 13 year old pregnant woman when the fetus was viable and had a gestational age of 22 weeks or more, to wit: 25 weeks, by failing to determine that (1) the abortion is necessary to preserve the life of the pregnant woman; or (2) a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, to wit: In file #53, patient ID #110403TDS, the defendant wrongfully relied on no established diagnosis, to determine that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman when such diagnoses do not establish that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman, in violation of KSA 65-6703.

COUNT THIRTY

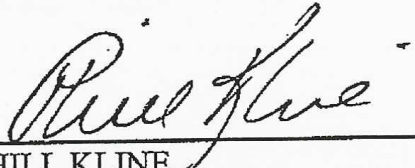
**Failure to Report Justifications for
Late Term Abortion**

**K.S.A. 65-6703
Class A Non Person Misdemeanor**

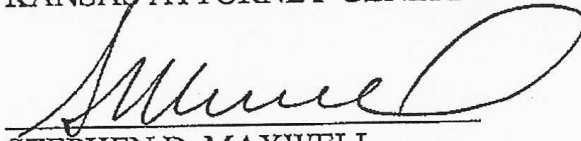
That on or about and after November 4, 2003, in Sedgwick County, State of Kansas, GEORGE R. TILLER did, then and there, contrary to the statutes of the State of Kansas, unlawfully, after performing or inducing or causing to be performed or induced an abortion, to wit: file #53, patient ID #110403TDS, state record #010117, on a viable fetus having a gestational age of 22 or more weeks, to wit: 25 weeks of age, did report that the fetus was not

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viable and therefore did not report the actual determination of fetus viability, nor the reasons for such determinations, nor the basis for the determination that the abortion was necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy would cause a substantial and irreversible impairment of a major bodily function of the pregnant woman in writing to the medical care facility in which the abortion was performed for inclusion in the report of the medical care facility to the secretary of health and environment under K.S.A. 65-445 and amendments thereto, in violation of K.S.A. 65-6703.



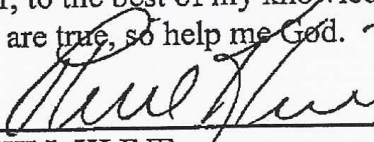
PHILL KLINE
KANSAS ATTORNEY GENERAL



STEPHEN D. MAXWELL
SENIOR ASSISTANT ATTORNEY GENERAL

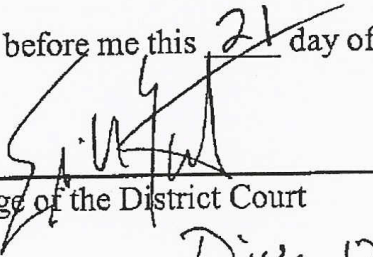
STATE OF KANSAS, COUNTY OF SEDGWICK, ss:

I, Phill Kline, do solemnly swear, to the best of my knowledge and belief, that the matters set forth in the Complaint / Information are true, so help me God.



PHILL KLINE
KANSAS ATTORNEY GENERAL

SUBSCRIBED AND SWORN to before me this 21 day of December, 2006.



Judge of the District Court

Div. 12

06CR2961

Witnesses

Thomas Williams
Jared Reed
Dr. Ann Kristin Neuhaus
Steve Cavanaugh
Clerk of the District Court—3rd Judicial District
Dr. Paul McHugh
Dr. Lorne Phillips
Lorna Jansen
Gina Bowes

Sealed documents attached in support of Complaint/Information:

- 1) Affidavit of Dr. Paul R. McHugh, M.D. Johns Hopkins Medical Center
- 2) Affidavit of Special Agent In Charge Thomas D. Williams
- 3) Transcript of sworn statement by Dr. Ann Kristin Neuhaus, M.D.
- 4) Transcript of sworn statement by Dr. Lorne Phillips, KDHE
- 5) Copies of 15 KDHE report forms
- 6) Copies of 15 medical files, patient identification redacted

Document 3

The Stoval Opinion
(Attorney General Opinion
No. 2000-20)
(6 pages)



State of Kansas

Office of the Attorney General

120 S.W. 10th Avenue, 2ND FLOOR, TOPEKA, KANSAS 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

March 21, 2000

MAIN PHONE: (785) 296-2215
FAX: 296-6296

ATTORNEY GENERAL OPINION NO. 2000- 20

The Honorable Richard Alldritt
State Representative, 105th District
State Capitol, Room 302-S
Topeka, Kansas 66612

Re: Public Health--Abortion--Abortion Prohibited When Fetus Viable, Exceptions;
Exception for Maternal Mental Health

Synopsis: The United States Supreme Court has found that a state statute prohibiting post-viability abortion does not have to specifically contain the words "mental health" in its maternal health exception to be considered constitutional; statutes not containing these words have been construed to nonetheless include mental health within the scope of "health" generally. In our opinion, the term "bodily function," as used in K.S.A. 1999 Supp. 65-6703, would be interpreted by the courts to include an exception for risks to maternal mental health, as well as physical health, as long as such risk is substantial and irreversible. Cited herein: K.S.A. 1999 Supp. 65-6703.

* * *

Dear Representative Alldritt:

You request our opinion regarding K.S.A. 1999 Supp. 65-6703. Specifically, your questions are "whether a specific mental health exception is constitutionally required and is a mental health exception contained within the statute."

Your first question may be answered by reference to the United States Supreme Court's decision in *United States v. Vuitch*.¹ The District of Columbia abortion statute that was the

¹402 U.S. 62, 28 L.Ed.2d 601, 91 S.Ct. 1294 (1971).

subject of that case prohibited performance of any abortion except "as necessary for the preservation of the mother's life or health" ² Milan Vuitch, a doctor who had been indicted for producing and attempting to produce abortions in violation of this provision, challenged the statute as vague because the term "health" as used in the statute was "ambivalent and uncertain." ³ While the trial court had "apparently felt that the term was vague because there 'is no indication whether it includes varying degrees of mental as well as physical health,' 305 F.Supp., at 1034," the Supreme Court upheld the statute finding that "properly construed the District of Columbia abortion law is not unconstitutionally vague." ⁴ The Court found that the statute had been previously interpreted by another federal district court judge "to permit abortions 'for mental health reasons whether or not the patient had a previous history of mental defects.' [313 F.Supp.], at 1174-1175." ⁵ The Court then stated:

"We see no reason why this interpretation of the statute should not be followed. Certainly this construction accords with the general usage and modern understanding of the word 'health,' which includes psychological as well as physical well-being. Indeed Webster's Dictionary, in accord with that common usage, properly defines health as the '(s)tate of being . . . sound in body (or) mind.' Viewed in this light, the term 'health' presents no problem of vagueness. Indeed, whether a particular operation is necessary for a patient's physical or mental health is a judgment that physicians are obviously called upon to make routinely whenever surgery is considered." ⁶

Thus, the United States Supreme Court has upheld abortion statutes that do not contain a *specific* mental health exception, at least when the statute in question can be construed to include such an exception.

You next inquire whether, while not specifically stated, K.S.A. 1999 Supp. 65-6703 nevertheless contains a mental health exception.

K.S.A. 1999 Supp. 65-6703 states as follows:

"(a) No person shall perform or induce an abortion when the fetus is viable unless such person is a physician and has a documented referral from another physician not legally or financially affiliated with the physician performing or inducing the abortion and both physicians determine that: (1)

² *Vuitch*, 91 S.Ct. at 1297. [This case was decided two years prior to *Roe v. Wade*, 410 U.S. 113, 35 L.Ed.2d 147, 93 S.Ct. 705 (1973) and did not reach the issue of whether abortion prohibitions such as this applying to all stages of pregnancy violate a woman's constitutional right of privacy.]

³ *Id.*, at 1298.

⁴ *Id.*, at 1299.

⁵ *Id.*

⁶ *Id.*

The abortion is necessary to preserve the life of the pregnant woman; or (2) a continuation of the pregnancy will cause a *substantial and irreversible impairment of a major bodily function* of the pregnant woman."⁷

At least one court has interpreted language identical to that which is emphasized in the above-quoted statute to include mental functions:

"The answer to the third question, whether compliance with Public Law 187's informed consent provisions may be excused when compliance threatens to cause the woman severe psychological harm, is affirmative. Such circumstances are covered by the exception, assuming they are not temporary, as our answer to the previous question indicates.

"Plaintiffs draw a distinction between mental process and bodily function which they maintain is irreconcilable. Mental processes are done by the brain, of course, and the brain is an organ, so mental processes are bodily functions even though they are not mechanical or chemical. Persons who suffer mental health injuries are often substantially and irreversibly disabled. A woman faced with this risk may be excused from compliance with the informed consent requirements when her physician concludes through good faith clinical judgment that an abortion is medically indicated.

"It is also possible that a woman may suffer long term emotional or psychological injury from making an ill-informed decision to abort a pregnancy. The legislature has attempted to ensure that women receive the best information available when making this decision and to provide an exception when the information is not helpful because an abortion is medically necessary. Public Law 187's medical emergency exception excuses a woman from the informed consent requirement when there is a significant threat to her life or health, physical and mental."⁸

In *Planned Parenthood of Southern Pennsylvania v. Casey*,⁹ the United States Supreme Court reviewed Pennsylvania's medical emergency statute, which also contains language identical to that we have highlighted in the above reference to K.S.A. 1999 Supp. 65-6703:

"Under the statute, a medical emergency is

"[t]hat condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for

⁷Emphasis added.

⁸*A Woman's Choice-East Side Women's Clinic v. Newman*, 671 N.E.2d 104, 111 (Ind. 1996).

⁹505 U.S. 833, 120 L.Ed.2d 674, 112 S.Ct. 2791(1992).

which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.' 18 Pa.Cons.Stat. § 3203 (1990).

"Petitioners argue that the definition is too narrow, contending that it forecloses the possibility of an immediate abortion despite some significant health risks. If the contention were correct, we would be required to invalidate the restrictive operation of the provision, for the essential holding of *Roe* forbids a State to interfere with a woman's choice to undergo an abortion procedure if continuing her pregnancy would constitute a threat to her health. [Citations omitted.]"¹⁰

Because the Court of Appeals had interpreted the Pennsylvania statute "to assure that compliance with its abortion regulations would not in any way pose a significant threat to the life or health of a woman," the Supreme Court deferred to that interpretation and concluded that "as construed by the Court of Appeals, the medical emergency definition imposes no undue burden on a woman's abortion right."¹¹ In correlating the phrase "serious risk of substantial and irreversible impairment of a major bodily function" to the term "health," the Court drew in more than what some may consider "bodily function" to mean. In several other instances involving abortion statutes, the Supreme Court has concurred with lower court rulings that have defined "health" to include mental as well as physical maladies. The Court's decision in *U.S. v. Vuitch*,¹² discussed previously, was one such instance. *Doe v. Bolton*,¹³ decided the same day as *Roe v. Wade*,¹⁴ was another:

"We agree with the District Court, 319 F.Supp., at 1058, that the medical judgment may be exercised in the light of all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient. All these factors may relate to health. This allows the attending physician the room he needs to make his best medical judgment. And it is room that operates for the benefit, not the disadvantage, of the pregnant woman."¹⁵

Lower federal courts have held statutes unconstitutional that cannot be read to contain a mental health exception. The United States Court of Appeals for the sixth circuit has stated:

¹⁰505 U.S. at 879-880, 112 S.Ct. at 2822.

¹¹*Id.*

¹²*Supra*, note 1.

¹³410 U.S. 179, 35 L.Ed.2d 201, 93 S.Ct. 739 (1973).

¹⁴*Supra*, note 2.

¹⁵*Doe v. Bolton*, 410 U.S. at 192, 93 S.Ct. at 747. See also *Harris v. McRae*, 448 U.S. 297, 316, 65 L.Ed.2d 784, 100 S.Ct. 2671, 2687 (1980).

"We believe the Court will hold, despite its decision in *Casey*, that a woman has the right to obtain a post-viability abortion if carrying a fetus to term would cause severe non-temporary mental and emotional harm. *Doe* and *Vuitch*—which both involved regulations essentially prohibiting, as opposed to delaying, abortions—strongly suggest that a State must provide a maternal health exception to an abortion ban that encompasses situations where a woman would suffer severe mental or emotional harm if she were unable to obtain an abortion. Moreover, *Roe* and *Doe* were decided on the same day and 'are to be read together.' *Roe* 410 U.S. at 165, 93 S.Ct. at 733. Therefore, *Roe*'s prohibition on state regulation when an abortion is necessary for the 'preservation of the life or health of the mother,' *id.*, must be read in the context of the concept of health discussed in *Doe*, *see id.* at 191-92, 93 S.Ct. at 747-48. Accordingly, the Act's medical necessity exception is unconstitutional, because it does not allow post-viability abortions where necessary to prevent a serious non-temporary threat to a pregnant woman's mental health."¹⁶

Because the United States Supreme Court has placed a paramount emphasis on maternal health throughout all stages of pregnancy holding that states must carve out an exception for the life and health of the pregnant woman even in post-viability abortion prohibition statutes, and because it has defined health to include mental aspects, we believe the courts would likewise construe K.S.A. 1999 Supp. 65-6703(a)(2) to include a mental health exception. This interpretation is consistent with what has been publically stated by the legislation's principal authors, and the Governor, to have been their intent when passing K.S.A. 1999 Supp. 65-6703.¹⁷ We recognize that K.S.A. 1999 Supp. 65-6721 was passed at the same time using the phrase "substantial and irreversible impairment of a major physical or mental function" in its maternal health exception provision.¹⁸ However, there is no evidence that the Legislature intended "bodily function" to be something different than "physical or mental function"; they may just be two ways of saying the very same thing. In light of all the above case law and apparent legislative intent, we do not believe the difference between the two provisions would compel a different conclusion.

In summary, the United States Supreme Court has found that a state statute prohibiting post-viability abortion does not have to specifically contain the words "mental health" in its maternal health exception to be considered constitutional; statutes not containing these words have been construed to nonetheless include mental health within the scope of "health" generally. In our opinion, the term "bodily function," as used in K.S.A. 1999 Supp.

¹⁶*Women's Medical Professional Corp. v. Voinovich*, 130 F.3d 187, 209 (6th Cir. 1997), *cert. den.* 523 U.S. 1036, 140 L.Ed.2d 496, 118 S.Ct. 1347 (1998). *See also Planned Parenthood of Central New Jersey v. Verniero*, 41 F.Supp.2d 478 (D.N.J. 1998).

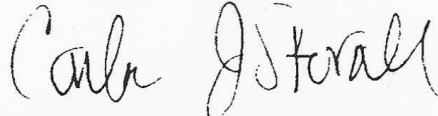
¹⁷Letter from Representative Tim Carmody to the Kansas City Star, April 22, 1998; letter from Senator Tim Emert to Governor Bill Graves, April 24, 1998; Governor's Message to the House, April 27, 1998.

¹⁸L.1998, Ch. 142, §§ 15, 18.

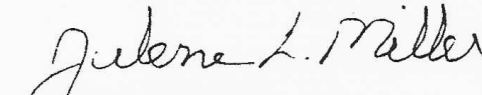
Representative Richard Aldritt
Page 6

65-6703, would be interpreted by the courts to include an exception for risks to maternal mental health, as well as physical health, as long as such risk is substantial and irreversible.

Very truly yours,



CARLA J. STOVALL
Attorney General of Kansas



Julene L. Miller
Deputy Attorney General

CJS:JLM:jm

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Document 4

**Late Abortion for
Fetal Anomaly
(web page from
www.drtiler.com)**

(2 pages)

- HOME
- INFORMED CONSENT
- IF YOU ARE PREGNANT INFORMATION BOOKLET
- IF YOU ARE PREGNANT DIRECTORY OF AVAILABLE SERVICES
- LATE ABORTION CARE FOR FETAL ANOMALY
- LATE ABORTION CARE ELECTIVE
- OUR FACILITY
- OUR FEES
- OUR STAFF
- OUR MEDICAL DIRECTOR
- CHAPLAINCY PROGRAM
- NOTICE OF PRIVACY PRACTICES
- ABORTION BY PILL

WOMEN'S HEALTH

CARE SERVICES, P.A.

Specialists in 2nd Trimester Elective and 2nd/3rd Trimester Therapeutic Abortion Care

Late Abortion Care for Fetal Anomaly

Counseling & Consultation | Procedure Remembrances & Special Requests
Chaplaincy Program

- Executive Summary for Fetal Indication Termination of Pregnancy Program
- Internet Support & Discussion Group

If you are reading this information, you have received devastating news regarding your pregnancy: a serious or lethal health problem has been diagnosed. We recognize that you are sad and concerned about the diagnosis and this has come as unexpected news. You may, based on the information provided by your doctor or genetics counselor, elect to end your pregnancy early due to the serious medical problem explained to you. At Women's Health Care Services, we offer Fetal Indication Termination of Pregnancy consultation and care.

We recognize your decision to come to our center is distressing. We understand that many of our patients are experiencing the most difficult situation of their lives. All of our services are oriented around our philosophy that the easy part of the process is the premature delivery of a stillborn -- the hard part is saying goodbye to the hopes, dreams and relationships that you have with your baby.

Kindness, courtesy, justice, love, and respect are the cornerstones of our patient-provider relationships. Our outstanding reputation for high quality abortion care is the result of our dedication to providing professional, respectful, and confidential health care services.

● Admission Criteria

In order to offer you an appointment, we require that a physician refer you to our center. In addition, we need your genetic counselor or doctor to provide us with gestational and diagnostic information regarding your pregnancy. Over the past twenty-five years, we have had experience with pregnancy terminations in such situations as anencephaly, Trisomy 13, 18, and 21, polycystic kidney disease, spina bifida, hydrocephalus, Potter's syndrome,

These are fetal health issues, not maternal health issues, as required by law

lethal dwarfism, holoprosencephaly, anterior and posterior encephalocele, non-immune hydrops, and a variety of other very significant abnormalities.

● **Informed Consent**

The Kansas abortion law requires that we provide information known as "informed consent" to our patients. Informed consent is comprised of information from our physicians, along with State of Kansas publications. One of our counselors will arrange to provide you with the required paperwork in advance of your appointment.

[GO TO INFORMED CONSENT AREA](#)

● **Confidentiality**

All records are absolutely confidential and will be released only with the patient's written and notarized approval.

● **Institutional Support**

Women's Health Care Services has hospital backup at a major medical center complete with specialized intensive care units. Our Medical Director, consulting gynecologists, and surgeons maintain personal admitting privileges.

Professional interpreters for non-English speaking patients are available by advance request.

● **Referral Area**

Wherever you are in the North American continent, someone from your area, state or country has been a patient at Women's Health Care Services. By providing our professional and compassionate Fetal Indications Termination of Pregnancy Program services to hundreds of women, we have developed an international reputation for excellence and safety.

[Counseling & Consultation](#) | [Procedure Remembrances & Special Requests](#)

WOMEN'S HEALTH CARE SERVICES, P.A.

5107 East Kellogg
Wichita, Kansas USA 67218

316-684-5108

800-882-0488 Toll Free in US

316-684-0052 Fax

[WHCS Home](#) | [Informed Consent Information](#) | [If You Are Pregnant Booklet](#)
[Our Facility](#) | [Our Fees](#) | [Our Staff](#) | [Our Medical Director](#) | [Chaplaincy Program](#)
[Late Abortion Care for Fetal Anomaly](#) | [Late Abortion Care Elective](#)
[Notice of Privacy Practices](#) | [Abortion by Pill](#)

Document 5

**Executive Summary by
George R. Tiller of Fetal
Indications Termination
of Pregnancy Program
(from www.drtiler.com)**

(2 pages)

- HOME
- INFORMED CONSENT
- IF YOU ARE PREGNANT INFORMATION BOOKLET
- IF YOU ARE PREGNANT DIRECTORY OF AVAILABLE SERVICES
- LATE ABORTION CARE FOR FETAL ANOMALY
- LATE ABORTION CARE ELECTIVE
- OUR FACILITY
- OUR FEES
- OUR STAFF
- OUR MEDICAL DIRECTOR
- CHAPLAINCY PROGRAM
- NOTICE OF PRIVACY PRACTICES
- ABORTION BY PILL

WOMEN'S HEALTH

CARE SERVICES, P.A.

Specialists in 2nd Trimester Elective and 2nd/3rd Trimester Therapeutic Abortion Care

There is no exception in KSA 65-6703 for fetal indications or anomaly

Executive Summary

George R. Tiller M.D., P.A.

Fetal Indications Termination of Pregnancy Program
January 1989 to May 2002

- Number of Patients: 2,210
- Categories of fetal anomalies, in descending order of frequency:
 - Central Nervous System (42.9%)
 - Genetic (19.4%)
 - Skeletal (9.5%)
 - Cardiac (5.4%)
 - Renal (4.2%)
 - Pulmonary (1.4%)
 - Fetal infection (1.3%)
 - Gastrointestinal (1.2%)
 - Premature Membrane Rupture (1.1%)
 - Twin/Twin Transfusion (0.4%)
 - Other / Miscellaneous (13.2%)
- Average gestation: 27 weeks (range: 15-38 weeks)
- Procedure used:
 - Induction (81.6%)
 - D&E (11.7%)
 - Combined Induction / D&E (5.6%)
 - Other (0.7%)
 - Consult only (0.5%)
- Average induction time: 2.5 hours
 - 36.8% - 1 hour or less
 - 59.4% - 2 hours or less
 - 84.6% - 4 hours or less

Includes post-viability abortions (22 weeks or older)

- Complication / hospitalization rate: 0.51%
- Percentage of fetuses on which special studies were performed:
 - Autopsy or tissue samples taken (11.2%)
 - Chromosomes, amniotic fluid, or fetal blood (4.7%)
 - Both categories of studies (1.8%)
 - No special studies requested (82.2%)
- Average age of patients: 29 years (range: 13-56 years)
- Ethnic background of patients:
 - Caucasian (77.1%)
 - Hispanic (5.8%)
 - Asian (5.8%)
 - African-American (3.9%)
 - Other (1.4%)
 - Not specified (1.5%)
- Marital status of patients:
 - Married (81.1%)
 - Single (14.2%)
 - Separated / Divorced (3.1%)
 - None or not specified (1.5%)
- Religious backgrounds of patients:
 - Protestant (36.2%)
 - Catholic (32.5%)
 - Jewish (3.7%)
 - Other (4.5%)
 - None or not specified (23.0%)
- Educational level of patients:
 - Less than 12 years (12.3%)
 - Completed High School / GED (36.2%)
 - Completed College (36.7%)
 - Graduate School (12.8%)
 - Not specified (2.0%)

WOMEN'S HEALTH CARE SERVICES, P.A.

5107 East Kellogg

Wichita, Kansas USA 67218

316-684-5108

800-882-0488 Toll Free in US

Document 6

**“Late Decision, A
Lasting Anguish” by
Stephanie Simon,
LA Times,
May 31, 2005
(4 Pages)**

A Late Decision, a Lasting Anguish

LATimes.com

www.latimes.com/news/nationworld/nation/la-na-abortion31may31...headlines

By Stephanie Simon
May 31, 2005

WICHITA, Kan. — The moment is burned forever in her mind: The small exam room, her husband's ashen face, her sobs as the doctor guided a needle into her womb to kill her son.

It's been 4 1/2 years, and still Marie Becker can feel Daniel kicking inside her, kicking and kicking as she choked back hysteria — kicking until the drug stopped his heart and she felt only stillness.

She prayed Daniel would forgive her.

She prayed for forgiveness from God as well. Becker had been taught that abortion was a sin; she wanted so to believe it might also be a blessing. In her seventh month of pregnancy she had learned Daniel had a fatal genetic disorder and his life would be brief and brutal. She wanted to spare him that.

"For the love of God, the last thing I wanted to do was to murder my own child," she said recently. "This was something we did out of love and respect for him."

...

"I don't know what I would have done had [Dr. Tiller] not been available to me," said Katie Plazio, a financial analyst from New Jersey. "That's selfish, I know. I feel selfish. But ... doesn't everyone want the best for themselves and their family?"

...

For Plazio, the heartache began with the unexpected. After a decade of infertility, she was stunned to feel a kick to her ribs as she sat through a meeting in February 2001. She had been dieting for weeks, running five miles a day — and wondering why she still couldn't squeeze into her pants. She was six months pregnant.

Overjoyed, Plazio and her husband scheduled an amniocentesis. The preliminary results were clean; bursting with excitement, Plazio, then 43, bought a baby blanket dotted with pale blue bunnies. Ten days later, her doctor called with devastating news: More complete genetic tests had determined that their son had Down syndrome.

Plazio had studied special education in college; working with adults with Down syndrome, she had seen their lives as lonely, frustrating, full of hurt. She was not sure she could find joy in raising her son to such a future. She didn't think she could cope with what she expected would be a lifetime of sadness and struggle.

Giving her son up for adoption seemed even worse — to wake each morning not knowing where he was, imagining him scared and alone. "I could not live with that fear all my life," Plazio said.

*These abortions
were for fetal
anomaly -- not
maternal physical
health as required
by law.*

"I don't want anyone to think that I did this all for Matthew," she said. "I was not just sparing him problems. I was sparing my daughter, my husband, me and all those who depend on me.... I knew the limits of my family and my marriage. Maybe there are families who can handle it all. Maybe they are better people. But I knew I could not do it."

In March 2001, a week into her third trimester, she and her husband flew to Tiller's clinic. They took the bunny blanket and a teddy bear with a big red heart on its chest — a gift to the baby from their daughter, then 11.

Since her abortion, Plazio has suffered such severe panic attacks that she can't drive even as far as the high school to watch her daughter cheerlead. She has gained 60 pounds as she battles depression. The abortion she sought to preserve her mental health has left her deeply shaken; doctors say she suffers from post-traumatic stress syndrome.

Her mental health, she is convinced, would be even worse had she tried to raise a profoundly disabled son — or had she given him up for adoption.

The abortion "released my poor sick baby back to the angels," she said. "The only thing I wish I had done differently was realize I was pregnant months earlier."

...

One patient who had an abortion at 25 weeks in November said she could not bear to imagine surgeons cutting open her daughter's tiny chest to rebuild her heart. The thought of her Emma spending months of her childhood in the hospital overwhelmed the woman, a 30-year-old technology educator from Virginia who asked to be identified by her middle name, Paige.

"Part of me just wanted to let her die," Paige said. "Is that horrible?"

Marie Becker had the same impulse — and the same question — about her son.

At a four-month ultrasound, the doctor noticed that Daniel's limbs seemed short. She told Becker not to worry, but suggested another ultrasound in a few weeks. At that appointment, Daniel again measured short. Becker was told to come back in another month.

Becker, an accounting clerk, and her husband, a teacher, tried not to dwell on their fears for their first child. They delighted in the ultrasound pictures: Blurry black-and-white images of an arm, a leg, a face. In one, Daniel appeared to be waving; the technician typed a caption: "Hi, mom!"

Becker was 27 weeks pregnant when she went in for her next appointment. By then, it was clear that something was wrong.

A few days later, her doctor confirmed that Daniel had a rare and lethal skeletal disease. His organs were growing normally, but his bones were not; his tiny rib cage was slowly crushing his expanding heart and lungs. "His prognosis was death," Becker said. "Not at 8 years old. Not at 10 years old. Within a few months at most."

In her Florida home, with her husband at her side, Becker wept and prayed for days. Conflicting emotions overwhelmed her. She was scared to carry Daniel to term — scared of how she would react to his deformities. She was afraid to abort, sure she would burn in hell. Her son disgusted her; she wanted him out of her body. She loved him. She wanted to protect him.

Becker, who was then 30, blamed herself for making Daniel sick: Hadn't she taken migraine pills before she knew she was pregnant? Hadn't she sipped a few glasses of wine? Was it that ride at SeaWorld, the one that whirled her around? Had that caused his genes to mutate?

"I was so afraid," she said. "It was bad enough that I had inflicted this on him. I didn't want him to suffer any more."

The week before Christmas, at the start of her third trimester, Becker and her husband flew to Kansas.

Every detail of the trip remains vivid. She remembers staring, transfixed, at the freshly cleaned carpet in the Wichita airport. She remembers driving to the hotel through ice and snow — and turning away from a billboard plastered with gruesome photos of aborted fetuses. On the morning of the appointment, she threw up in the hotel shower, then insisted she needed time to style her hair; her looks seemed the one thing she could control, and she took long minutes applying her lipstick.

When she and her husband turned into the clinic parking lot, a handful of elderly protesters swarmed them, yelling, "Don't go in!" and "You don't have to do this!"

The activists were peaceful that day, but there had been scattered violence: The clinic was bombed in 1986 and blockaded for six weeks in the summer of 1991. In 1993, an antiabortion activist shot Tiller through both arms. He now works in a bulletproof vest.

Armed guards pat down patients and walk them through a metal detector at the clinic door. After paying for their abortions — which can cost more than \$5,000, depending on the stage of pregnancy — patients wait in a room decorated floor to ceiling with framed letters from grateful women.

"We couldn't stop reading them," Becker said. "When you see how many people wrote letters, when you see how much they love this man, it almost feels like you're being hugged."

Becker still believes that abortion is wrong in most cases. Sitting in her Florida bungalow, her two young daughters playing beside her, she recalled a movie she once saw in Catholic school, of a baby being ripped limb from limb. The image haunts her.

She finds it reprehensible that Tiller aborts healthy fetuses in the first and second trimester (and even, sometimes, in the third trimester when the mother is very young, or a victim of rape). But she cannot censure him too harshly.

For children like Daniel, "the man is a savior," she said. "He's there for women who have nowhere else to go."

With most advanced pregnancies, Tiller performs abortions by injecting the fetus with digoxin to stop its heart. He then gradually dilates the woman's cervix to induce labor. After two or three days of contractions, the women — heavily dosed with pain medication — deliver their babies intact.

Some refuse to look. But many hug their dead children. "It was very important to us to be able to hold her, to give her that kind of respect," said Paige, who aborted her daughter at the end of the second trimester. "This was not just a fetus to me. She was my child."

After Susan Crocker's second-trimester abortion in August, she and her fiance spent three hours cradling their daughter, Isabella, who had Down syndrome. They stroked her scrunched red face and kissed her rounded cheeks. They took pictures of her tiny, almost translucent hands, folded across a green-and-pink striped blanket.

Crocker, a 34-year-old customer service manager, keeps Isabella's ashes in a marble urn decorated with dolphins; she kisses it before she goes to bed each night. Her sons follow her lead. On Halloween, they each gave a Tootsie Roll to Isabella. Jordan, 5, shares his toys with her, propping a little plastic skateboard against the urn.

When a doctor once referred to Crocker as a mother of two, Jamie, the 9-year-old, interrupted indignantly: "No, she has three kids."

"Her daughter's in her heart," said Jordan.

Despite her family's support, Crocker, who lives in Texas, has struggled with doubt and depression. "I did the unthinkable," she said. "I ended my baby's life. Sometimes I think, oh God, what if I was wrong?"

Then she thinks about the room where Tiller stopped Isabella's heart. There was a poster on the ceiling of a leaping dolphin. Underneath, it said: "Set them free."

She believes Isabella is free.

"I ended her suffering," she said. "I owe Dr. Tiller greatly. I can never, ever thank him enough."

Crocker sometimes wishes she could talk to the protesters who shouted as she entered the clinic: "Think about your baby!" She would tell them she was thinking of Isabella then, and thinks of her still, every day, with love. She would ask them not to judge.

"You don't know," she'd tell them. "You have no idea. Until it happens to you, you don't know."

Document 7

Personal correspondence
from “Janice,” a woman
who had a post-viability
abortion at Women’s
Health Care Services.

(3 pages)

[This story was sent to Troy Newman via e-mail correspondence. We are withholding her true name to protect her privacy, but that information will be surrendered to the appropriate authorities in the event of an investigation.]

From "Janice":

I do however agree with you on one thing now, and that is that Dr Tiller's abortion clinic should be closed. After some deep soul searching and many sleepless nights up thinking about the care I received there, I agree it's not right. I live in Canada, a country with some of the world's best health care, and free health care at that. I think I was so grateful to him [abortionist George R. Tiller] because he was able to terminate a pregnancy for me because I couldn't face the results of that pregnancy.

Don't get me wrong. I'm not some girl off the street who got pregnant and decided in my third trimester that I all of the sudden was not ready to be a parent. I was newly married had a new home and had been helping raise my stepson since he was 6 months old. We were beyond elated to be having this baby we loved her from the minute we found out she was coming. We had the nursery all painted and basically were waiting.

I was due to have her on the 15th of January, 2004. It wasn't until the 23rd of December that it was noticed that there was something wrong during a routine ultrasound. The next day (Christmas Eve) me and my husband were sent to [a] hospital. They [the hospital] have the best prenatal diagnosis and medical genetics program in the country. It was then, after a bunch of tests, that they were able to tell me that our daughter, whom we were expecting in less than a month, more than likely had Complete Trisomy 22, a condition incompatible with life.

An MRI the day after Christmas confirmed that this was true. I was then faced with two decisions: I could wait and deliver any time and watch my child expire before my eyes while I stood there helplessly and did nothing, or I could go see this doctor in Wichita who would terminate my pregnancy for me so that I would not have to go through that. I was distraught. I didn't know what to do and I let others sway me into going to see him. Now I don't know what these procedures normally cost being that we have free health care here but Dr. Tiller charged 19000 Dollars US. OHIP (Ontario Health Insurance Plan) paid for it, of course, and then all I had to pay for was my flight and accommodations and to have the body of my daughter sent back to [Canada] for a full autopsy.

Now most of my trip to Kansas is a blur. This is because from the time you arrive at Dr. Tiller's clinic, you are on some form of drugs. You're in a daze. Though I remember a lot, there is a lot I don't remember. I will never however forget the day I was given the digoxin shot through my stomach into the heart of my baby. It took me 45 minutes to calm down enough so that Dr. Tiller and one of his nurses could come in to do this. I was hysterical because after this there was no turning back. By telling them I was ready for them to come in and do it, I was telling them that it was ok to kill my daughter. They sedated me and then did it.

Now I have spoken to many other women who have been to Dr. Tiller's clinic. NONE of them were sedated for the procedure. I woke up and my baby was dead. After that I was given a perscription for a drug called "Pentazocine," while all the other women were given a prescription for something similar to TYLENOL #3.

I was then sent to have laminaria packed up into me. While inserting the laminaria they broke my water "accidentally." I was then shipped off to the La Quinta [- Ed. Note: This hotel chain has since disassociated themselves with Tiller.] where my labour began.

It's now 6 pm the clinic is closed for the day and I'm in pretty intense labour. My contractions were less then 5 minutes apart. My mother, who was with me at the time, called down to Edna's room. [-Ed. Note: This is Tiller employee Edna Roach.] Edna told my mom to give me 2 pills, then one every hour. After that I didn't know my left from my right. After a few hours I was to the point where I was begging my mother for no more pills. I was in excruciating pain and I was vomiting from the pills. I had this HORRIBLE pain in my cervix that to this day I can't explain. (To this day, I still experience that pain from time to time.) My mother called Edna several more times she finally came down to my room and examined me on the hotel bed and said I was fine. She then gave me another shot that sedated me. The pain was so intense that when it would come I would come out of the sedation then pass back out. This persisted for several hours until the sedation wore off.

By this time it was about 1 am and my contractions were one minute apart. My mom called Edna several times screaming at her. She then came again and gave me another shot and sedated me. All the while I was still taking the pills every hour on the hour. By the time the second round of the sedation had worn off, I could no longer stand because of the drugs and because of the extreme pressure on my pelvis.

I remember saying I needed to go to a hospital I didn't care about Dr. Tiller's clinic. I needed another doctor. My mom was crying and she ran into the hall. When she opened the door, the man in the next room heard me crying and screaming. He was a doctor. I thought I was saved! Turns out the doctor in the next room was [Tiller abortionist] Dr. [LeRoy] Carhart. He had just arrived and checked into the hotel. He came in and examined me. Immediately he then called Edna and the exchanged some harsh words and he said I needed to go to the clinic NOW.

I had to be carried out to the van. Both me and my mother [were] in the back seat. Dr. Carhart and Edna [were] in the front. My mother and I had to listen to Edna's rap music the whole way there, which I found highly unprofessional. At this point, [my mother and I] were both, like, what did we get ourselves into? What kind of clinic is this? I left the hotel at 5:15am by the time I got to Dr. Tiller's clinic (they brought me in through [Tiller's private] garage) they registered me, undressed me, sedated me, and I delivered my child. It was 6 am, 45 minutes [after I arrived at the clinic.]

I do remember a few minor things about the delivery, but because of the anesthetic, I hardly remember anything at all. I was sent back to the hotel at 9 am. I returned to the

clinic around 10 am the next day for a "check-up." It was at this time I was allowed to hold my daughter and have her baptized. They recommended I did not look at her because of all the disfigurements she had due to the Trisomy 22. They suggested it would be better for me to just think of her as the perfect little baby I had imagined she would be.

Now when you first get to the clinic you get a check list of things you can ask for, [for example] the baby blanket, hand and foot prints, pictures, etc. I asked for these things and they told me they would mail them to me. I was hysterical. I just needed something to hold onto. I threw a fit in a waiting room (a waiting room I had never seen before). It was FULL of people. All of a sudden, they brought me my stuff. It seemed to me as soon as my abortion was over they couldn't wait to get rid of me.

[Tiller employee] Sarah Phares and [former abortion chaplain] Reverend Gardner [-Ed. Note: Gardner is now deceased.] however were there for me and consoled me to the best of their abilities. I now see that the medical care I received there was the worst kind of medical care one could ever [have] received.

Now my story is almost over, but there is a little more to it. The prescription I was given there had a refill on it, but it cost my 75 dollars US to fill this so I figured I would wait until the next day when I got home to refill this prescription because it would only cost me 35 cents. (I have a medical plan.) So I had been home for 2 days and had not slept. I was vomiting I had nosebleeds, the shakes, the sweats, and uncontrollable spasms. I thought this was because of stress, so I went to see my doctor and he wanted to run tests. I agreed. On my way out his door I remembered my prescription so I gave it to him and asked for the refill. He looked at me with a very strange look on his face and asked me to sit down. He explained to me that this drug was illegal in Canada and he could not give it to me, and that basically it was synthetic heroine. And he couldn't believe the amount of milligrams in each pill. I then explained to him that I was told to take 2 and then one every hour. He then did a quick blood test and it confirmed that the levels of pentazocine in my system now – let alone 2 days ago – should have killed me. I was not having all these symptoms from stress. They were my body's way of trying to detox me.

I am no longer grateful for Dr. Tiller "helping me." He didn't help me at all. I wish now I would [have] had the courage to deliver my little girl and let her get even just one breath of air before she passed, to let her see my face just once before she passed. I will never have that chance now and I will always have to live with the decision I made and the nightmares of what happened to me in Kansas. All I have now is my little 6 lb. 2 oz. daughter's ashes in a tiny silver engraved box in my living room. I have a small box of pictures and footprints and a receiving blanket with green goop on it that I can't bring myself to wash because I think it will wash her away. I still cry every day and I miss her everyday. Dr. Tiller didn't help me. He robbed me and I let him. Women need to know what goes on there. People need to be educated on what goes on inside his clinic.