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## Late-Term Abortion Debate Turns to ABQ

By [Colleen Heild / Journal Investigative Reporter](#) on Sun, Feb 3, 2013



*Dr. Shelley Sella, one of the few physicians who performs third trimester abortions in the U.S., is featured in a documentary about her former associate Dr. George Tiller, screened last month at the 2013 Sundance Film Festival. The New Mexico Medical Board is slated to consider whether Sella will be subject to disciplinary action stemming from a 2011 late-term abortion in Albuquerque. (PHOTO COURTESY OF SUNDANCE INSTITUTE)*

The New Mexico Medical Board is poised to rule next week on a controversial case involving a physician who performs late-term abortions at a private clinic in Albuquerque — one of only four of its kind in the country.

And national advocates on both sides of the issue are paying close attention.

The patient was a 26-year-old New York woman who had a uterine rupture during the third day of the procedure to abort a 35-week-old fetus with severe brain abnormalities.

The abortion was performed by Dr. Shelley Sella, a former colleague of a prominent Kansas physician who was slain in 2009 by an anti-abortion fanatic.

Sella was hired at Southwestern Women's Options in Downtown Albuquerque after Dr. George Tiller's murder.

During a closed hearing on the Medical Board allegations last November, Sella testified that about 90 percent of all third-trimester abortions in the U.S. are performed in four clinics around the country.



*Anti-abortion activists have picketed the Southwestern Women's Options clinic on Lomas Boulevard on and off over the years. In 2011, they filed complaints with the New Mexico Medical Board based on 911 calls made from the abortion clinic seeking ambulances to transport patients to University Hospital. (marla brose/journal)*

Since she was first licensed in the late 1980s, Sella testified, she has performed a total of about 10,000 abortions involving women in the first, second and third trimesters of pregnancy.

But Sella testified that, until the May 2011 case involving the patient from New York, she had never before performed an abortion on a patient so far along in her pregnancy who'd had a prior cesarean section.

According to a transcript of the disciplinary hearing and other documents, the patient had to be rushed to University Hospital after the rupture. She ultimately recovered, but may not be able to carry a future pregnancy to full term.

The medical board's prosecutor maintains that Sella breached the standard of practice in treating the woman, and contends that the abortion should have been performed at a hospital because the patient was at higher risk of a rupture due to her medical history.

But no hospital in New Mexico performs third-trimester abortions, and only 10 percent of such late-term procedures are done at hospitals in the U.S.

Hospitals don't perform third-trimester abortions usually because of hospital policy, lack of skilled personnel and equipment, and because of religious or political attitudes about abortions, according to an expert witness called by Sella's attorneys.

The three other private clinics that perform late-term abortions in the U.S. are in Germantown, Md.; Boulder, Colo.; and Los Angeles.

Sella's attorneys say the allegations of gross negligence are nothing more than a political tactic by a national anti-abortion group "dedicated to ending all legal abortion through any means necessary."

The complaint that triggered the medical board inquiry was filed in 2011 by local and national anti-abortion activists who say a ruling against Sella could lead to a national medical standard of practice governing late-term abortions.

The board's prosecutor told a hearing officer last November that the case against Sella has nothing to do with abortion rights, but involves the standard of care in the way Sella administered uterine stimulants to the woman.

If the board finds a violation of the state's Medical Practice Act, Sella could face possible revocation, suspension or restriction of her medical license in New Mexico.



*Bud Shaver, with Project Defending Life, is shown next to a sign near Southwest Women's Options in Albuquerque in September 2011. (JOURNAL FILE)*

Last November, hearing officer David Thomson closed the hearing to the public at the urging of Sella's attorneys, who cited the patient's privacy, safety concerns and predicted local abortion opponents would attend and "distract and heckle" Sella and her defense team.

Thomson will give the board his recommendation on whether grounds exist to take action on Sella's medical license. The board is composed mostly of physicians who are appointed by Gov. Susana Martinez.

Documents filed in the case provide a rare public view into the private practice of late-term abortions in New Mexico and elsewhere.

For instance:

◆ The clinic that employs Sella isn't required to be licensed or inspected by the state Department of Health. By contrast, the clinic's other location, in Dallas, is licensed as an ambulatory surgical center that is overseen by the Texas Department of State Health Services and is subject to routine inspections.

The New Mexico Department of Health says Southwestern Women's Options clinic in Albuquerque is a private physician's practice and, therefore, falls under the jurisdiction of the Medical Board.

◆ In New Mexico, Planned Parenthood and the University of New Mexico Center for Reproductive Health limit abortions to either the first- or second-trimester. New Mexico is one of 41 states and the District of Columbia that ban post-viability abortions except to preserve the life or health of the woman, and that includes cases of severe fetal abnormalities.

◆ The city of Albuquerque stopped releasing 911 tapes that reveal a patient's medical condition after local right-to-life advocates and their national counterpart, Operation Rescue, put portions of the audio recordings on an Internet website in 2011. The groups then cited the emergency calls in filing complaints against Sella and others with the medical board.

The city says it changed its policy, not because of how the recordings were used, but out of concern about possible violations of federal health privacy laws.

◆ A copy of the bill for the May 2011 abortion procedure shows the cost was more than \$12,000. Insurance declined to pay for the woman's subsequent emergency treatment at University Hospital, according to medical invoices included in the case exhibits, because it was "out of network." Sella wrote a letter to help the patient appeal that decision.

<b>Late-term abortions in N.M.</b>		
<b>Year</b>	<b>Total number of abortions</b>	<b>Abortions performed at 28+ weeks' gestation</b>
2010	4,779	20
2011	4,086	35
2012*	3,415	33

*\*2012 data represents a partial-year tally.  
Source: New Mexico Department of Health*

### **Third trimester**

Since 2010, some 88 late-term abortions, in which the gestation was 28 weeks or more, have been reported in New Mexico.

In 2010, Dr. Curtis Boyd, owner of Southwestern Women's Options, began to offer such third-trimester abortions to ensure the work of Kansas abortion doctor George Tiller would continue.

After Tiller was murdered by an anti-abortionist, his clinic closed. Boyd hired Sella and another of Tiller's associates in Wichita, Dr. Susan Robinson. Sella lives in Oakland and commutes to New Mexico.

Vicki Saporta, president of the National Abortion Federation, touted the reputation of both Sella and Southwestern Women's Options in a Journal telephone interview from Washington, D.C., last week.

She said she was asked by Sella and the clinic's management to return a Journal reporter's request for comment.

"I have seen Operation Rescue file these kind of complaints in at least eight other states. The result, in a vast majority of cases, the complaints are dismissed and the board doesn't find any violations," Saporta said.

She maintained that Operation Rescue's credibility is "zero."

"I have every confidence that Dr. Sella and Southwestern Women's Options provided the patient with the highest quality care."

"These are often very wanted pregnancies," Saporta added. "They (the mothers) find out late in a very wanted pregnancy that they're carrying a fetus with anomalies incompatible with life. Many of them feel that they don't really have a choice. These women couldn't be more grateful to their doctors for providing this kind of care when they need it."

Operation Rescue's Cheryl Sullenger told the Journal the key issue in the case is whether Sella's actions should be judged based on obstetrical standards of care, rather than abortion standards.

If the board finds against Sella, Sullenger predicted the decision could have national ramifications.

"Right now, there really are no (national) third-trimester abortion standards and what it could do is essentially stop third-trimester abortions, which actually would be a good thing, even in the case of fetal anomalies," Sullenger said.

"For heaven's sakes, let the baby take a breath, have a hug from Mom before he goes. It's just not a humane thing."

### **Complications arise**

Sella testified at the closed hearing in November that she relied on a medical protocol Tiller developed for third-trimester abortions that involved administering several medications over a period of several days to ensure "fetal demise" and induce labor.

Tiller, she said, had been the "leading provider of third-trimester abortions in the U.S. and the world."

Sella said the patients at Southwest Women's Options in Albuquerque are counseled before an abortion.

And a post-delivery checklist is offered to all patients "where there's something very wrong with the baby."

"It's before the day of their delivery," Sella testified. "We talk about whether they're interested in viewing the baby, a blessing ... footprints or handprints, photos. We discuss whether they want ashes or making arrangements for burial."

In the case of M.L., Sella testified that she administered uterine stimulants on the first and second day of the procedure. By the third day, Sella testified she expected M.L. to have delivered the fetus. But, she added, "it wasn't happening."

She suspected a uterine rupture, which can cause bleeding and damage to the uterus.

The clinic "could not care for a uterine rupture but we could ... transfer her very quickly (to the hospital)," Sella testified, "... As far as I know it took minutes ... I know that it was extremely quick."

From the time Sella identified the rupture to the time M.L. was seen at University Hospital, 24 minutes had elapsed.

Medical notes show Sella visited the patient and family, including her mother, several times in the days that followed.

"My role was to be with them. This was a complication. I was very concerned ..."

Sella testified that she had performed late-term abortions on about 75 women with C-sections in her career.

The patient was discharged within three days, with no permanent damage indicated in medical records.

But Sella testified that the rupture could require her to have a C-section in the future if she becomes pregnant and can affect her ability to completely go to full term.

### **Opposing views**

The closed hearing included conflicting testimony from two experts, a San Francisco area physician who has performed late-term abortions; and a Texas obstetrician who faulted Sella for the way she administered the medications prior to the rupture.

Board prosecutor Daniel Rubin, citing the state's expert testimony, contended in case documents that Sella was responsible for the rupture in how she administered the uterine stimulants and, after doing so, sending the patient back to the hotel where she was staying.

A Southwestern Women's Options website notes that the clinic is an outpatient office with no overnight accommodations.

Rubin also faulted Sella for administering two drugs simultaneously and aborting M.L.'s fetus in a clinic instead of a hospital.

Sella, according to the prosecutor, "willfully ignored" the risks involved.

Sella's attorneys say the uterine rupture was an "unfortunate complication," but one that she didn't cause.

And, said Sella attorney Joseph Goldberg in one case filing: "If Dr. Sella did not provide abortion services to M.L. in the (clinic) it is likely that M.L. would not have been able to obtain an abortion (since few third-trimester abortion services are provided in hospital settings) and would have suffered the risks to her associated with a live birth of this seriously deformed fetus."

### **Sella 'Very Committed to This Work'**

Before Dr. Shelley Sella started working for Dr. George Tiller, there had been an assassination attempt and a bombing of his Kansas abortion clinic. One time, someone broke in, got a hose and flooded the place.

Every Wednesday, a man with a bullhorn would sit on a fence outside Dr. Tiller's Women's Health Care clinic in Witchita and yell "Daddy, Daddy" to the partners of incoming patients.

Businesses the clinic frequented were boycotted; garbage service stopped. Cab companies refused to pick up incoming patients at the airport. FedEx refused to pick up the clinic's packages.

After Tiller's murder by an anti-abortion fanatic in 2009, Sella moved West, joining the practice of one of only four abortion clinics in the country that perform late-term abortions today — in Albuquerque.

Of the estimated 10,000 abortions Sella has performed in the past 12 years, between 500 and 1,000 involved late-term pregnancies of 25 weeks or more, Sella testified last November in a closed disciplinary hearing before a hearing officer for the New Mexico Medical Board.

The board's investigation, which accuses Sella of gross negligence in connection with a late-term abortion in Albuquerque in 2011, was spurred by some of the same groups that once protested at Tiller's now-closed clinic in Kansas.

Sella has denied the allegations and said in documents on file at the Medical Board that the uterine rupture involving a 26-year-old New York woman was a "bad complication" linked to the patient's prior C-section.

Sella, 55, is a native of Israel who graduated from the University of Wisconsin-Madison and Sackler School of Medicine in Israel.

Her New Mexico medical licensing file shows three prior medical board investigations in Kansas that were triggered by complaints from the national anti-abortion group, Operation Rescue.

Only one was sustained, involving a handwritten note in a patient's medical file that wasn't legible or sufficient. She was required to take a course on record keeping.

Sella testified at the hearing that she lives in Oakland, Calif., but shares a practice in Albuquerque with Dr. Susan Robinson, who also worked with Tiller.

She and Robinson are featured in a documentary called "After Tiller" that was screened at the 2013 Sundance Film Festival in January.

Sella testified during the disciplinary hearing that she felt "bereft" after Tiller was assassinated.

"Why did you continue to provide abortion services?" her attorney Joseph Goldberg asked.

"... I never thought of stopping, very committed to this work," she responded. "Everyday that I go to work renews my commitment."

— Colleen Heild

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