



National American Holocaust Memorial

Formerly Delta Abortion Clinic of Baton Rouge, Louisiana



Home

Chronological History of Delta Clinic of Baton Rouge

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1981-1990

Numerous lawsuits and injuries to women at the clinic including two deaths linked to abortions at the clinic.

A chronic asthma patient, 27-year-old Sheila Hebert went to Delta Women's Clinic in Baton Rouge for an abortion on June 6, 1984. Shortly after the abortion, Sheila complained of chest pains and difficulty breathing. She lost consciousness, and staff injected her with adrenaline, but were unable to revive her. She was taken to a nearby hospital where she died. Her baby was aborted by Richardson Glidden at Delta on June 5, 1984. Afterward, she was "placed in a post-operative room where she developed an acute asthma condition and expired." Emergency personnel arrived within 3 minutes of getting the call, but found the young woman blue, cool, and essentially lifeless. Efforts to revive her, both at Delta and at the ICU proved unsuccessful. The suit charged Glidden and Delta staff with failure to monitor the patient in recovery, failing to react properly when her condition was discovered, failing to call 911 promptly, and failing to have adequate emergency equipment available. (East Baton Rouge Parish District Court Case No. 289518)

Ingar Lee Whittington Weber died January 26, 1990, in a Louisiana hospital. She had been treated for acute kidney failure after an abortion performed at Delta Women's Clinic in Baton Rouge on January 20, 1990.

Ingar's family sued the clinic and its doctors, Richardson P. Glidden and Thomas Booker. They faulted the doctors with failing to diagnose Ingar's kidney problems, or her deteriorating physical condition, before, during, or after the abortion.

1990-1994

Lawsuit by the federal government with Writ of Levy and Writ of Execution for dispensing narcotics illegally.

1995

Mary W. Fowler and Braython Fowler v. David McPherson M.D. and Delta Women's Clinic. February 17, 1995. Number 414373, Division D, 19th Judicial District Court, Parish of East Baton Rouge, State of Louisiana. Petition. 19th Judicial

District Court, Parish of East Baton Rouge, State of Louisiana.

On or about June 6, 1994, Mary Fowler went to have an abortion at Delta Womens' Clinic. The abortion was performed by Dr. David McPherson. An incomplete abortion and failure to remove parts of the fetus resulted in hemorrhaging, infection, and a hysterectomy.

1996

Katrina Robertson v. Delta Women's Clinic, Dr. Doe, Dr. Roe, ABC Insurance Company, DEF Insurance Company, and XYZ Insurance Company. Number 424497, Section M, 19th Judicial District Court, Parish of East Baton Rouge, State of Louisiana.

On October 6, 1994, Katrina Robertson had an abortion at Delta Women's Clinic, which later resulted in her hemorrhaging. It was found out that the remaining portions of the fetus were still inside her, which resulted in infection, surgery, and possible infertility.

1997-1999

Affidavits of Delta employees revealed unbelievable negligence and injury to women who had abortions at the Delta Clinic. Even more startling is the fact that Delta made up the number of abortions performed and never reported any of the injuries that occurred at the clinic. They even admitted that the forms to be submitted to the DHH (Report of Induced Termination of Pregnancy) were pre-printed, with pre-printed question responses checked off and completed prior to seeing any patients.

1998

Denise Doe and Jane Doe, Plaintiffs, vs. Eileen White-O'Neill, M.D., A. James Whitmore, III, M.D., Delta Women's Clinic of Baton Rouge, a/k/a Delta Clinic of Baton Rouge, Delta Women's Clinic West, Inc., Delta Women's Clinic, Inc., Clinical Leasing Service, Inc., Clinical Leasing Service, Inc., d/b/a Delta Women's Clinic, and Clinical Leasing - Gynecological Services, Inc., and Leroy T. Brinkley - Defendants. Suit Number 456-525 Division N, 19th Judicial District Court, Parish of East Baton Rouge, State of Louisiana. Petition.

On August 29, 1998 Denise Doe went to the Delta Clinic of Baton Rouge for an abortion. During the procedure Denise' uterus was perforated, resulting in hemorrhaging, which sent her to the emergency room. She ultimately went into septic shock and an emergency hysterectomy was performed which resulted in her needing a colostomy and long term health care.

1999

Delta Witness Affidavits 1 of 2

Delta Witness Affidavits 2 of 2

Allison Tunnard Witness Affidavit

"During the term of my employment I was often ordered to help hold down 'second timer' patients in the surgery rooms. These are the women who are having later term abortions and require two days of procedures (a return visit on the second day after the insertion of laminaria). These women usually require at least four workers to hold them down on the table, because they are screaming out in pain and struggling to get up. Dr. James Whitmore usually has to stuff a gown in their mouth to keep them quiet.

"Recently, there was a rather disturbing event that took place with one of these patients, Denise Cameron. I was in the room helping to hold her down when Dr. Whitmore said, 'The big mama always does it.' He was referring to the largest dilator we had. He was rough with her, as he is with all the patients, and he apparently punctured her uterus. She was heavily sedated and then we moved her to the recovery room. About three hours later she began to awaken, and he pressed on her belly, and blood came gushing out. She cried out loud. We moved her back to a surgery room and she passed several blood clots as large as my head! Whitmore refused to let anyone call 911 because he was afraid the media might find out about it. It was not until four hours later that he allowed one of the workers to call Acadian Ambulance. Whitmore had tried to call Dr. D'orsay Bryant to get him to sign off on the patient with his hospital admitting rights (because Whitmore has none), but Bryant wouldn't take his call (Bryant never takes calls from Whitmore anymore).

The 'A B' forms that are required by the Department of Health and Hospitals are never correctly done. Filling them out was my job - and neither Dr. Whitmore or Dr. O'Neill ever fill them out themselves. In fact, the doctors just pre-signed a large stack of the forms at a time, and left them blank for me to fill out on my own time. I filled out each form exactly the same, and never reported complications or difficulties."

July 30, 1999

Linda Doe vs. Delta Women's Clinic of Baton Rouge and Dr. A. James Whitmore. Suit Number 86255, Division B, 21st Judicial District Court, Parish of Livingston, State of Louisiana. Petition.

On April 1, 1999, Linda Doe obtained an abortion at Delta Clinic. Hemorrhaging profusely from a uterine perforation, by 5:45 pm her blood pressure dropped to dangerously low levels. She was noted under ultrasound to having a severe uterine perforation and was bleeding profusely, yet Dr. James Whitmore III did not want to call an ambulance because of the notoriety of Delta and its abortionists. He did not want the news media involved. A worker finally called the ambulance as her blood pressure was bottoming out. She was transported to the hospital and underwent a total abdominal hysterectomy with transfusion of eight units of packed red blood cells and two units of fresh frozen plasma.

2000

Lanya Marriam Pankey v. A. James Whitmore, M.D., Delta Women's Clinic and/or Delta Clinic of Baton Rouge, and Leroy Brinkley and ABC Insurance Company. Suit Number 471468, Division H, 19th Judicial District Court, Parish of East Baton Rouge, State of Louisiana. April 13, 2000.

On or about August 20, 1999, Lanya Marriam Pankey underwent emergency salpingectomy for removal of the left fallopian tube from a large ectopic pregnancy that was not diagnosed when she had a D&C at the Delta Women's Clinic on or about July 21, 1999.

January 10, 2003

Lisa H. McCullough v. Delta Clinic of Baton Rouge and Dr. Joseph R. Triana. Jan 10, 2009, Docket 503320 (25), 19th Judicial District Court, East Baton Rouge Parish, State of Louisiana.

On January 12, 2002, Lisa McCullough went to the Delta Clinic of Baton Rouge to have an abortion. After repeated attempts and suffering excruciating pain she was sent home. She went to Our Lady of Lourdes Hospital for pain medication. While at the hospital she passed a foot and a leg through her cervical canal. The ultrasound by the ER physician revealed a macerated fetus in her uterus. She had to undergo another D&C to remove the dismembered baby.

2009-2011

October 15, 2009: Mike Johnson wrote to the DHH Office of Public Health to request an investigation of specific allegations raised against the Delta Clinic by numerous concerned citizens.

DHH findings: Proceedings against Delta Clinic of Baton Rouge, Inc., State ID: BO0004642; Complaint No. 9AB28180. 128-page report.

Just a few findings noted here.

Delta Clinic admitted that it failed to report the carnal knowledge of minor as required by law. Under R.S. 14:403, mandatory reporters who fail to report such crimes shall be guilty themselves of a misdemeanor and shall be subject to fines, imprisonment or a combination of both.

Delta Clinic admitted in its Statement that it failed to provide pre-abortion counseling as mandated by R.S. 401299.35.6. Failure to comply with this statute provides a basis for both criminal and civil penalties, in addition to malpractice actions, professional disciplinary actions and wrongful death actions.

Delta also admitted in its Statement that it failed to maintain confidentiality of patient records. According to § 4415(E)(2) of Title 48 of the Louisiana Administrative Code, any person who knowingly discloses patient identifiable information in violation of said section shall be subject to punishment under Federal law (42 U.S.C. § 1320d-6) which includes fines, imprisonment, or a combination of both.

Delta Clinic readily admitted that it failed to gather and report complete information to the Office of Public Health Vital Records registry. According to R.S. 40:66, failure to complete the forms required by law shall be considered a misdemeanor punishable by fines, imprisonment or a combination of both. Delta fraudulently pre-printed all of its state forms ("Report of Induced Termination of Pregnancy") to contain typed data indicating there were no complications with any abortions performed at Delta. Delta admits that the forms were pre-printed with pre-printed question responses, already completed prior to seeing any patients.

Delta failed to ensure sterilization of syringes and intravenous injections to prevent infection and cross-contamination. Failed to decontaminate equipment (vaginal probes) between patient uses, thereby increasing the risk of transmitting bacteria and other infectious diseases. Failure to ensure single dose intravenous fluid was used for only one patient, thereby increasing the risk of cross-contamination and putting patients at increased risk for infection. Failed to ensure outdated supplies that could cause serious and adverse reactions were not used on patients.

Failed to properly label, measure, and monitor doses of narcotics or their expiration dates. For patients receiving conscious sedation, Delta workers failed to document the name of medication given, the dosage, the route, the time, and infusion rate, and failed to document the name of the women given the medication. Failed to properly store, handle and distribute intravenous medications administered at Delta.

Failed to monitor and document cardio-pulmonary status that may have required emergency intervention. Failure to ensure pre-op assessments risking undiagnosed medical conditions that would preclude having an abortion (contraindications).

Most importantly, the information on complications experienced from abortion (infections, adverse drug reactions, uterine perforations, bleeding, STD's, loss of limbs, emergency hysterectomies, injuries and deaths) need to be rigorously investigated and the appropriate number and severity needs to be documented. Delta workers admitted using unsterile dilators and tubing on patients for years in the Clinic, which could have led to infecting tens of thousands of women going there with STD's.

This practice of falsifying legal documents to the DHH's Office of Vital Records and the medical malpractice and fraud involved in sending forms to the DHH that were pre-printed, with the pre-printed questions responses checked off and completed prior to seeing any patients, is tantamount to the largest travesty of justice ever perpetrated by the medical establishment under the guise of women's reproductive health care.

January 15, 2010

Christine A. Kingston v. Kevin Work, M.D., Helen Williams, L.P.N., and Delta Clinic of Baton Rouge, Inc.
19th Judicial District Court, Parish of Baton Rouge
Jan 15, 2010, Sec. 26, Docket 586501.

On January 23, 2009 Christine Kingston obtained an abortion at the Delta Clinic. Due to the improper administration of Phenergan, Miss Kingston was forced to undergo the complete amputation of the first two digits of her right hand.

2011

January 2011

Bobby Jindal
GOVERNOR



Bruce D. Greenstein
SECRETARY

State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

While Delta had a policy on hand to report suspected minor sexual abuse, one medical record reviewed revealed the boyfriend of a 15-year-old patient was 18. He had committed statutory rape, but a report was never filed.

This facility also failed to ensure notarized parental consents were received for minor aborting patients, also in violation of Louisiana law. The survey reports conducted by the DHH on December 7, 2009 revealed the non-reporting of minors having abortions without parental consent and the concealment of these crimes from the DHH, Baton Rouge Sex Crimes Lab and the Child Protection Agency. DHH warned and fined Delta for these and other crimes and promised to shut them down if it ever happened again. In DHH's report on February 3, 2011 we see the same crimes committed with no punitive action by the DHH.

January 20, 2011

BATON ROUGE, LA (WAFB-TV) - www.wafb.com

The abortion debate in Baton Rouge heats up after a national association of lawyers says it plans to sue over the controversial Delta Women's Clinic in Baton Rouge. Saturday will mark 38 years since the U.S. Supreme Court decided Roe v. Wade, a decision which made abortions legal.

Christopher Ferrara is the president of the American Catholic Lawyers Association, a group made up of hundreds of attorneys from across the country. He came to Baton Rouge to warn the Department of Health and Hospitals of a possible lawsuit if Delta is not shut down. "There's more than enough to warrant an injunction against further operation at this clinic," he said.

Ferrara is referring to a 21-page internal DHH report from 2009, which alleges several violations on the part of Delta. He believes they are still going on.

The report completed by DHH includes "Delta Clinic of Baton Rouge Inc. acknowledges its governing board failed to ensure the clinic had a quality assurance program." It also alleges the clinic did not provide women individual counseling to protect their privacy and identity, and goes on to say the clinic did not document monitoring of patients receiving conscious sedation regarding their cardiac status, respiratory status and level of consciousness during the medical procedure.

Channel 9 News did a series of stories about Delta Clinic in 1998 and the years following, at the time exposing unsanitary equipment and stories of long term health problems because of Delta. Governor Mike Foster stepped in, laws changed and years went on, but Ferrara says 2011 is not that much different from the way things were then.

Delta Women's Clinic officials did not respond to requests for comment. DHH released the following statement:

"We investigated every complaint we received about this abortion center. We cited deficiencies and, following the regulatory policies and laws in place at that time, we provided time for those deficiencies to be removed. We also levied monetary penalties, which Delta paid without appeal. We conducted two follow-up visits to ensure that the abortion center had corrected all items noted in its review and had not additional deficiencies. We have met with the people filing the initial complaints. We have not received additional complaints since March of 2010, and we have not received any requests for additional meetings from anyone on this topic."

February 2, 2011

February 2, 2011

Secretary Bruce Greenstein
Department of Health & Hospitals
P.O. Box 629
Baton Rouge, LA 70821-0629

Dear Secretary Greenstein:

I am writing to seek your immediate and personal involvement in investigating and taking all appropriate enforcement action against the abortion facility known as the Delta Clinic in Baton Rouge, Louisiana. Recent media reports indicate that this abortion clinic has a record of grievances and possible serious violations more than sufficient to warrant immediate action by the Department of Health & Hospitals.

In fact, these reports are so condemning that even the National Abortion Federation has suspended the Delta Clinic's membership and will no longer refer women to the abortion center. However, the clinic is still open for business because only your department has the authority to shut it down. According to the DHH Office of Health Standards, there is not yet an open investigation into this matter. If it is true that the Delta Clinic is in violation of Louisiana or federal law, I urge you to immediately suspend the facility's license to ensure the protection of women seeking their services.

As you may know, a Pennsylvania abortion practitioner and several of his employees were recently charged with murder and other crimes related to running a horrific abortion practice that endangered the lives of countless women and children. News accounts have revealed that one of those employees, Eileen O'Neill, is a former employee of the Delta Clinic. She has been arrested for a number of violations that include theft by deception for pretending to be a licensed physician.

According to the grand jury, the travesty in Pennsylvania was partly due to the failure of state and local officials to perform their duties properly. We must not allow this to happen in Louisiana, especially when the Louisiana Legislature has recently provided the necessary tools to prevent against a similar occurrence. I urge you to utilize the enforcement tools provided in Act 490, enacted last year, to the fullest extent possible. If there have been violations by the Delta Clinic that "pose an immediate threat to the health, welfare, or safety of a client or patient," the Louisiana DHH should immediately order the clinic to close and cease providing abortions.

It is critical that we all take action to prevent dangerous and unsanitary medical conditions. That is why I have introduced the Pregnant Women Health and Safety Act, which would require that any physician that performs an abortion have admitting privileges at a local hospital, and that their patients have access to a nearby hospital where the patients can receive follow-up care in case complications do occur. This requirement offers a simple way to protect against the horrific practices that went unnoticed in Pennsylvania until many innocent human beings lost their lives.

Fortunately, our state has provided you with the means to take quick action against any abortion clinic engaged in unsafe practices. I urge you to vigorously investigate the alleged violations against the Delta Clinic to ensure that no woman's life is endangered.

Sincerely, David Vitter

cc: Governor Bobby Jindal

The Honorable Willie L. Mount, Chairman, Louisiana State Senate Health & Welfare Committee

The Honorable Kay Katz, Chairman, Louisiana House of Representatives Health & Welfare Committee

May 24, 2011

Abortion opponents say reporting requirements ignored

By **MARK BALLARD**

Advocate Capitol News Bureau — Baton Rouge, LA

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(excerpts)

Tasha Lesaichere recently recalled that when she sought an abortion in 1987, the only medical data gathered by the clinic's staff was to confirm her pregnancy.

Now in her 40s and a supporter of anti-abortion legislation, Lesaichere said she was asked few, if any, of the two dozen questions on a state required form.

"No questions, no counseling, no medical history," said Lesaichere, of Metairie. "They just took the \$500." The reporting issue is expected to be discussed Tuesday morning when the House Committee on Health and Welfare considers a measure that would define legal life as beginning at fertilization. House Bill 587 also would ban spending Medicaid dollars on procedures that terminate rape and incest pregnancies, and criminalize many of the practices involved with abortion.

Longtime anti-abortion activist Richard Mahoney, who plans to testify on this issue Tuesday, said Lesaichere's story supports an important issue often overlooked in the debate over abortions, which are legal. Many Louisiana abortion clinics have, for decades, improperly filled out the forms that are submitted to the Office of Vital Records in the state Department of Health and Hospitals, he said.

"We have 31 years of direct evidence of falsifying these forms," Mahoney said of Delta Clinic, Baton Rouge's only abortion clinic, where he frequently organizes protests outside.

He said the erroneous forms call into question statistics state leaders use to describe how often abortions take place in Louisiana and what happens during the procedures. DHH Secretary Bruce Greenstein said a December 2009 investigation found that the Baton Rouge clinic used pre-answered forms. He is unsure how far into the past the practice went. The clinic's office manager, Betty Harrell-Myles, on Feb. 2, 2010, signed the report acknowledging DHH's findings and corrective actions.

Greenstein said DHH investigators have returned four times in the past 16 months — the latest in April — and found that the clinic no longer follows that practice. "Otherwise we would have shut them down," Greenstein said. The forms are called "Report of Induced Termination of Pregnancy."

Mahoney said the answers on the forms were filled in advance, including preprinted "unknown" on blanks for information about the presumed father, the reason for termination and any complications from the procedures. "This admitted practice of pre-printing and repeatedly submitting intentionally falsified legal documents to DHH's Office of Vital Records shows a shocking disregard for the law and women's health," Mahoney said in a prepared statement.

"This would simply never be tolerated in any other branch of medical practice, and the government's apparent lack of concern here is unconscionable as it is dangerous," Mahoney said. Greenstein's lawyers say no law requires DHH to go back and update the information on the forms, according to Lisa Faust, DHH spokeswoman.

June 13, 2011

Priests for Life calls for probe of Louisiana Department of Health and Hospitals

Priests for Life have joined a Louisiana pro-life advocate in calling for an independent investigation of that state's Department of Health and Hospitals (DHH).

Baton Rouge resident Richard Mahoney has uncovered evidence that Delta Women's Clinic in Baton Rouge has, for decades, falsified medical records and under-reported the number of abortions that result in death or injury to pregnant women. DHH officials have been aware of the practice and have allowed it to continue, he alleges.

Father Peter West, associate director of Priests for Life, is working with Mahoney to expose abuses at DHH and Delta, which has ties to indicted Philadelphia abortionist Kermit Gosnell.

Mahoney has documents that show Delta Clinic submits forms to DHH on which many of the boxes had been pre-filled. On two separate forms, the box for "Complication of Pregnancy Termination" have been pre-printed with an "x" next to the "None" response.

"This practice of falsifying legal documents to the DHH's Office of Vital Records and the medical malpractice and fraud involved in sending forms to the DHH that were ... completed prior to seeing any patients, is tantamount to the largest travesty of justice ever perpetrated by the medical establishment under the guise of women's reproductive health care," Mahoney said. "In no other branch of medical practice would this be tolerated. The ramifications of these perjuries to the health of women in the United States is staggering."

Father West said it is within DHH's power to close Delta Clinic immediately.

"Under a 2010 law, DHH has the authority to close abortion facilities that violate state standards," said Father West. "In fact, the publicity surrounding Delta Clinic in Baton Rouge is at least partially responsible for the closure of a New Orleans abortion facility. We demand that DHH immediately use its power to close Delta. Failing that, Priests for Life demands an independent congressional investigation of DHH."

In the past, Delta owner Leroy Brinkley employed Gosnell one day a week. Eileen White O'Neil, who has been charged in the Gosnell case with pretending to be a licensed physician, also has worked for Brinkley.

"Women in Louisiana need to know the danger they are in once they step inside Delta Clinic," Father West said. "DHH has the authority to shut it down today, and yet officials refuse to act. It's time - it's way past time - to find out why."

Mahoney said: "The public needs to know the truth about abortion, the atrocities that have been committed by the abortion industry and the government's complicity in the skewing of the number of abortions performed and the injuries and complications associated with these procedures. All records that were falsified to the DHH Vital Records Registry need to be corrected and the appropriate information needs to be reported for each patient. We believe that only a Congressional hearing and an Independent Council investigation on these false reporting practices will reveal the truth about these abominable practices."

Dear Kendra

I read the article again and I couldn't believe that Steve Russo lied about Delta's false reporting for over 30 years.

He said it wasn't a repeat violation when it is documented that they did it for over 30 years. We contacted Hilar Moore of the District Attorney office to prosecute and neither DHH or he have taken any action. The perjury that Delta committed is documented by DHH own report and that of affidavits from Delta employees from 1999-2009. This violation will come back to haunt the DHH since it makes them complicit with the crimes the abortion industry has committed. I would like to have an interview on WAFB with you and Steve Russo to let the truth be known about these crimes. Call David Spunt at WAFB and let us all get together at the news channel to do a news release with all the documents present. Let us see if Steve Russo or anyone else at DHH will come. By the way I don't mind being called a one man show if it was a musical or comedy show we are talking about. But what we are talking about is a national tragedy and holocaust with the murder of millions of innocent babies and the tragic harm done to their parents.

Ad Majorem Dei Gloriam,
Richard Mahoney

The Delta Clinic of Baton Rouge, an abortion clinic, has faced a slew of violations and allegations. (Credit: Kaju Sarkar)

The Wolf in Doctor's Clothing

Are departmental bureaucrats and shady abortionists endangering Louisiana women?

By Kendra R. Chamberlain
Published September 7, 2011

Editor's Note: The Delta Clinic refused to comment on this story. Neither Planned Parenthood nor the Center for Reproductive Rights returned requests for comment.

The Delta Clinic of Baton Rouge gained sensational notoriety in 1999, when WAFB news reporter Julie Baxter did a series of stories on the sub-par conditions of the clinic, and the inadequate staff. What ensued was a string of political posturing and bureaucratic maneuvering that led to Gov. Mike Foster declaring a public health emergency, and ordering the state Department of Health and Hospitals to inspect all abortion clinics in Louisiana.

A decade later, the Delta clinic is still operating, and despite calls from activists, politicians, and former patients of the clinic, the DHH insists it has no reason to shut down the clinic.

The Delta Clinic's dark days



The American Holocaust Memorial is housed in an older location of the Delta Clinic. (Credit: David S. Lewis)

As news of physician Kermit Gosnell's "House of Horrors" broke in January of this year, some Baton Rouge residents might have noticed a familiar name in the headlines. When Gosnell was arrested and charged with eight counts of murder for performing live birth abortions, eight other suspects were also arrested, including one Eileen O'Neill.

Formerly known as Eileen White, O'Neill had been a physician for the Delta Clinic in the 1990s, and garnered heavy scrutiny in the WAFB reports because she wasn't a licensed physician – though she did go to medical school. She was dismissed from LSU's med school in 1998, while she was performing abortions at the Delta Clinic. In the Gosnell case, O'Neill faces, among other charges, theft by deception for posing as a doctor.

It was then that state government authorities began scrambling to figure out who was responsible for inspecting and regulating abortion clinics in the state. The Office of Public Health said its hands were tied due to a technicality in licensing these types of outpatient centers. The Louisiana State Board of Medical Examiners, though able to revoke physician licenses, was not able to shut down the clinics. It appears that the Delta Clinic, along with all the other clinics in the state, had slipped through the bureaucratic cracks of regulation.

Prior to the WAFB exposé, the Delta Clinic had suffered a world of trouble. In 1994, the federal government filed a lawsuit against the clinic for dispensing narcotics illegally; when the clinic didn't pay the fine, the building was put up for sale in an auction.

The St. Mary and St. Joseph Family Memorial Foundation, an anti-abortion group, purchased the building and now runs the American Holocaust Memorial there. Richard Mahoney, a staunch anti-abortionist and activist, seems to be the one-man show behind the memorial, which offers exclusive tours of the clinic – supposedly set up just as the Delta Clinic had been, with original equipment and blood stains. He also spends a few mornings a week praying outside the Delta Clinic.

Mahoney has dedicated a large part of his life to fighting abortion, and is well known by both the BRPD and the Department of Health and Hospitals for his activism and opposition to the Delta Clinic.

In a document entitled "Chronological History of the Delta Clinic of Baton Rouge," Mahoney has compiled a list of violations for which the Delta Clinic has been cited. It reads like an exercise in the use of the phrase 'failure of compliance.'

Mahoney, along with well known Christian attorney Mike Johnson – who was recently appointed to the Louisiana Commission on Marriage and Family by Gov. Bobby Jindal – alleges that a DHH 'findings' report from 2009 included a long list of violations at the Delta Clinic, including failure to report carnal knowledge of a minor, failure to provide pre-abortion counseling, failure to maintain confidentiality of patient records, failure to gather and report complete information to the Office of Public Health, failure to ensure sterilization of syringes and intravenous injections, failure to de-contaminate equipment, failure to properly label, measure, and

monitor does of narcotics, failure to properly store, handle, and distribute intravenous medications, and failure to monitor and document cardio-pulmonary status.

The department didn't confirm whether these alleged findings were an accurate reflection of the DHH records. But when asked why the Delta Clinic has never been shut down, Stephen Russo, Deputy Counsel for the DHH, answered that the Department doesn't have any reason to.

"We had a licensing survey that we went out on in December of 2009, where we had a quite lengthy deficiency report," Russo said. "We didn't see anything in that report that would have jeopardized health or safety of women or put them in imminent danger."

The inspection resulted in a fine for the Delta Clinic, and a follow-up a few months later.

"We found that they had corrected and cleared the deficiencies that we found in that December survey," Russo said, meaning the Delta Clinic has received a clean bill of health from the DHH, so to speak.

Determining imminent danger

Operation Rescue is a Christian activist organization that actively seeks the closure of abortion facilities around the country. In May of 2011, Operation Rescue filed a complaint with the Louisiana State Board of Medical Examiners against Mary Frances Gardner, a physician at the Delta Clinic, on behalf of an anonymous woman who received an abortion there in 2009. According to Operation Rescue, the patient was forced to undergo a hysterectomy, from an outside facility, as a result of her procedure at the Delta Clinic. However, the patient neither filed a complaint with the clinic nor did so with DHH.

"This extra knowledge was brought to our attention by Operation Rescue, and we dealt with it as a complaint as best we could," Russo said of the incident. "When you get something that supposedly happened in 2009 in 2011, we did our best to try and figure out the veracity of the complaints and processed it pursuant to our protocols."

Russo said that because there was no record of the complaint in 2009, the DHH had no proof of anything the patient had claimed happened. "And of course we processed that and did a complaint as best we can for something that's...for lack of a better word, stale," Russo said.

"It was so old that there was not enough information we could gather at the time to substantiate any or most of what was in the letter," agreed LaVon Raymond Johnson, deputy general counsel of the DHH. "We did a complaint survey at the time; we didn't substantiate anything, so for all intents and purposes the clinic is still in compliance with the regulations and has not been cited for any other deficiencies."

The 2009 incident – if it is true – is one of many that Mahoney has compiled. He and his lawyers allege there have been multiple injuries at the clinic; including incidents in June 1994, one in October of 1996, April of 1999, July of 1999, January of 2002, and January of 2010. When all of these stories are laid out side by side, it's hard to understand why, exactly, the DHH is allowing the Delta Clinic to continue to operate.

Many people are wondering the same thing. In January of 2011, Christopher Ferrara, president of the American Catholic Lawyers Association, released a statement indicating the association is interested in filing a lawsuit against the DHH if the clinic is not shut down.

The Department responded with a statement indicating they have done everything in their powers to investigate allegations regarding the clinic.

"We have met with the people filing the initial complaints. We have not received additional complaints since March of 2010, and we have not received any requests for additional meetings from anyone on this topic," the statement reads.

A month later, Sen. David Vitter sent a letter to Secretary Bruce Greenstein.

"I am writing to seek your immediate and personal involvement in investigating and taking all appropriate enforcement action against the abortion facility known as the Delta Clinic in Baton Rouge, Louisiana," the letter states. "Recent media reports indicate that this abortion clinic has a record of grievances and possible serious violations more than sufficient to warrant immediate action..."

Russo said the department conducted what he called a "desk review," a meeting in which the most recent complaint was discussed. He reiterated that there wasn't enough information to warrant the closure of the clinic.

"So, as bad of a picture as the affidavit may have tried to paint, there was nothing therein that we could see that Delta really did anything wrong or out of compliance with our licensing regulations," Russo said.

The new law and "zero tolerance" policies

Last year, Sen. Fred Mills successfully guided a piece of legislation to law that has given the DHH the authority to immediately shut down any abortion clinic, for any violation, without notice. Previous to this legislation, an abortion clinic had the ability to continue operations until the legal matter had been settled.

"We have rules and regulations, and if you don't comply, much like any other clinic, we have a statute that will allow us to revoke licensure. It's much the same as any other provider," Russo said. "The normal process for normal licensure, like for a hospital or nursing home – we go in, we seek to revoke a license, they can file a 'suspensive appeal,' meaning that they can stay open pending the results of any hearing that they seek. For abortion clinics and a couple other facility types, we have special powers to where if imminent health and safety of recipients [is jeopardized], we can go in and immediately shut down a clinic or provider and we don't have to give them a suspensive appeal."

Perhaps emboldened with this new authority, the DHH attempted to shut down two abortion clinics within the state.

The first item on the DHH agenda was the Hope Medical Group for Women, an abortion clinic located in Shreveport. In September of 2010, the DHH faxed over a letter notifying the clinic of immediate suspension. Citing a "recent investigation," the DHH listed a number of violations witnessed at Hope Medical, including failure to properly monitor vital signs of patients, failure to have proper procedures for administering anesthesia, and failure to have trained professionals perform medical procedures associated with anesthesia.

"When we see this level of egregious conduct at a facility, it is incumbent on us to take steps necessary to protect our residents," said DHH Interim Secretary Anthony Keck in a news release.

But the authority proved to be more vulnerable than perhaps even the drafters of the law predicted. A few days later, the activist organization Center for Reproductive Rights filed a lawsuit claiming the DHH was acting in an "arbitrary and capricious" manner in shutting down the clinic. Judge Michael Caldwell of the 19th Circuit Court, here in Baton Rouge, issued a preliminary injunction, which barred the DHH from enforcing the immediate suspension, and allowed Hope Medical to continue to operate.

A similar series of events occurred earlier this year, when the DHH moved to close down the New Orleans' Gently Medical Clinic for Women. In May of 2011, Sec. Greenstein issued a revocation of license to the clinic, citing two specific and repeated violations: failure to monitor a patient in recovery, and failure to provide nursing services that meet the needs of the patients. In June, another Baton Rouge Judge granted a temporary restraining order against the suspension. A week later, Judge Kay Bates held a formal hearing and extended the restraining order, ordering the DHH to conduct a follow-up survey on the clinic.

These two attempts demonstrate that even with the new law in place, it seems that the DHH's ability to shut down danger abortion clinics is still more talk than walk.

"Well, the best answer I can seriously give you is that's how the statute was set up," Russo explained, "...for the judge to come in and determine whether or not he believes the secretary had proper grounds to immediately suspend [the license]."

Russo said the department believes patients of these two clinics are in imminent danger, due to a lack of nursing services provided.

"...[T]hat was something surely in his [Sec. Greenstein's] mind and my mind [that] would put women in threat of immediate harm and jeopardy," Russo said. "The judge, looking at it, the best thing I can say - he didn't think it did."

What remains unanswered, though, is why the DHH has not pursued closing the Delta Clinic, in light of its rather off-putting history and record. The most significant offense, according to Russo: the DHH had cited the Delta Clinic for pre-filling the Report of Induced Termination of Pregnancy forms required by the state. The clinic had been printing the forms with markings indicating that no complications with any abortions ever occurred.

"It's documentation, which we take serious, don't get me wrong," Russo said. "But normally, documentation, especially if it's not a repeat deficiency, is not something that we'd go to the lengths of revoking a license for."

In other words, the Department of Health and Hospitals has no impetus to shut down the Delta Clinic.

"We can only go off one - in response to complaints, or two - going out once a year for licensing," Russo said. "So if we don't get a complaint and we catch them on a good day to where we don't find anything, technically they're in compliance."

State agency says privacy law bars release of records
Source: <http://dcbatonrouge.com/article/the-wolf-in-the-doctor-s-clothing-2904/>

By Mark Ballard/Capitol news bureau
December 29, 2011 theadvocate.com
Published December 27, 2011 in the Paper edition

Twenty anti-abortion activists say the state's health agency is blocking their public records requests to hide that many physicians who perform terminations failed to properly file thousands of mandatory reports.

That's not accurate, says the chief lawyer for the state Department of Health and Hospitals. State law specifically forbids disclosures of patient information gathered by physicians, including "The Report of Induced Termination of Pregnancy," said Stephen Russo, DHH's executive counsel.

"Pursuant to that same statute, they are clearly confidential," Russo said Thursday of the state law that requires the creation of the reports. "I didn't make the law. It says the report shall be confidential. I cannot give that out."

"The reports are not 'medical records.' The patients are not identified by name," Mike Johnson, a Shreveport lawyer helping the 20 anti-abortion advocates, countered in an interview. "Regardless of where you're at on this issue, the data is noncontroversial because it's about women's health."

Though state law does not specify any document as "The Report of Induced Termination of Pregnancy," the law does say physicians need to collect 25 specific pieces of information, including "medical condition of woman at the time of abortion" and "complications by type." Physicians are required to document "the nature of the abortion complication diagnosed or treated." The patient is not named on the report but is identified with a number.

The law also states: "The report shall be confidential and shall not contain the name or address of the woman."

The information, according to state law, is supposed to be submitted within 30 days by the abortion clinic. DHH is supposed to collate and evaluate the data from the reports, then annually publish the statistics, according to state law.

Johnson said that officials with the Delta Clinic of Baton Rouge on Colonial Drive admitted in October 2009 on pages 27 and 28 of their statements to DHH that they often failed to fully fill out the forms. "Incredibly, Delta fraudulently pre-printed all of its state forms to contain typed data indicating 'Father (of fetus)' was 'unknown' and typed data indicating there were no complications with any

abortion performed," Johnson wrote in an email.

Richard Mahoney, one of the 20 activists filing public records requests, said Thursday they requested copies of the reports because they believe that thousands of the reports were submitted to DHH over the past decade or so without the necessary information included.

"Between the lawsuits brought by women, the HIPPA violations and affidavits from abortion clinic workers, we know there have been thousands of complications, and we think they have gone unreported," Mahoney said. HIPPA is the Health Insurance Portability and Accountability Act of 1996, which sets civil and criminal penalties and creates standards for the use and dissemination of health-care information.

"This is the data from which the state and federal government make public policy. We think the forms need to be correctly filled out," Mahoney said.

The 20 anti-abortion advocates have been asking to see the documents for more than two years, Mahoney said. They began writing public records requests in September and October, he said.

One of them phoned DHH and asked for a mailing address, Mahoney said, and they were given an address in New Orleans.

Russo said the letters apparently were mailed to a DHH office that has closed, but eventually ended up in an office where they were recognized as public records requests.

"At that stage, we jumped right on them and followed our protocol," Russo said.

On Oct. 31, Carol L. Haynes, the attorney supervisor and regional attorney for DHH's Region Three in New Orleans, responded that the information being sought "is either exempt from the Public Records Act or which does not exist."

On Nov. 29, Haynes wrote Mahoney and several others saying that DHH had identified 88 pages that could be released. She asked for a check to cover copying costs.

Russo said that some of the anti-abortion advocates want DHH to go back and fill in the missing information on the forms. Mahoney said that is one of their goals.

"You have to weigh the pros and cons of that," Russo said. "Some of these ladies, what kind of trauma is that going to put on them? They had an abortion five, six years ago and all sudden they're going to get a call saying we want information about your termination from five years ago."

NEW: 2012 Lawsuit against Delta

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2014

DHH Justification of Lawsuit

July 19, 2014

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Vitter Calls for Investigation into Baton Rouge Abortion Clinic

Delta Clinic, previously connected to Gosnell murder trial, accused of violating HIPAA

(Washington , D.C. July 19, 2014) – U.S. Sen. David Vitter (R-La.) today sent a letter to Louisiana Department of Health and Hospitals (DHH) Secretary Kathy Kliebert urging an investigation and appropriate action against the abortion facility known as the Delta Clinic in Baton Rouge . Vitter says that Delta Clinic may have directly violated the federal Health Insurance Portability and Accountability Act (HIPAA) by mishandling its clients' private health information.

"If allegations that Delta Clinic mishandled patients' private health information are true, there needs to be serious consequences for the abortion facility," Vitter said. "To protect the health and safety of women and children in Louisiana , DHH needs to thoroughly investigate this clinic."

The Delta Clinic came under scrutiny in 2011 for its connection to Kermit Gosnell , Pennsylvania abortion practitioner, and several of his employees, who were charged with murder and other crimes related to running an abortion practice. Vitter called for a subsequent investigation into the Delta Clinic. [Click here to read Vitter's 2011 letter to DHH.](#)

The text of Vitter's letter today is below.

May 20, 2014

Kathy Kliebert
Office of the Secretary
Department of Health and Hospitals
P.O. Box 629
Baton Rouge, LA 70821

Dear Secretary Kliebert:

It has recently come to my attention that the Delta Clinic of Baton Rouge, Inc. ("Delta Clinic"), located at 756 Colonial Drive in Baton Rouge, may have directly violated the federal Health Insurance Portability and Accountability Act (HIPAA) by mishandling the private health information of its clients. I request that you investigate these allegations and, if true, impose serious consequences for the unlawful actions that occurred at this abortion facility.

As you know, HIPAA exists to protect patients' right to privacy and requires Delta Clinic to acquire a signed disclosure from any patient before releasing any of her private information to anyone else, especially the public. I believe my office has received credible information that Delta Clinic has clearly broken this law, and thus should be held accountable for its illegal practices.

As Secretary of the Department of Health and Hospitals for our state, I know that you are committed to the safety and health of our citizens and to the full enforcement of the law. The abortion industry in Louisiana, and the Delta Clinic in particular, have a long and undisputed history of reckless and illegal behavior and disregard, not only for the privacy concerns of their clients, but also for the most basic health and safety regulations. These clinics simply must be held to the same standards as medical facilities, and I am sure you agree there is no room for compromise when it comes to the protection of women and the lives of the vulnerable unborn.

Again, I respectfully request that your department immediately and thoroughly investigate the allegations referenced herein, and take all necessary action by involving other appropriate federal and state agencies and imposing serious consequences if the allegations are proven true. I believe they will be.

Thank you for your attention to this matter and for your work for Louisiana. I look forward to your written response and stand ready to help in any way I can.

Sincerely,
David Vitter

Anti-abortion activist sues DHH for access to abortion records

by mark ballard
mballard@theadvocate.com
July 26, 2014



310387-123/anti-abortion-activist-sues-dhh-for

Advocate Photo by MARK BALLARD --
Pastors Flip Benham and Rusty Thomas,
of the North Carolina-based Operation
Save America, protested abortion at a clinic,
LSU and the State Capitol on Thursday
during a week-long swing through Louisiana.

Local anti-abortion activists used the protest of a national group to announce a lawsuit against the Jindal administration for access to mandatory reports detailing each pregnancy termination performed in Baton Rouge. About 150 demonstrators waved disturbing color photos of aborted fetuses at people driving down Goodwood Boulevard, while more than dozen police officers lined the streets. Protesters from Operation Save America rallied in front of Delta Clinic of Baton Rouge, which performs the heavily regulated but legal procedures. The clinic was closed for the day.

During a series of speeches conducted over a megaphone, Richard Mahoney announced legal action to overcome the state Department of Health and Hospitals' refusal to make public records he had requested three years ago. The lawsuit, which was filed late Wednesday in Baton Rouge and was assigned to be heard by 19th Judicial District Judge Wilson Fields, asks the court to order DHH to turn over the documents.

When asked for a comment, DHH spokeswoman Olivia Watkins wrote in an email late Thursday that the department had just received a copy of the lawsuit and is reviewing the allegations.

In responses to Mahoney's October 2011 request and in earlier interviews, DHH officials maintained that law specifically forbids disclosures of patient information gathered by physicians.

Physicians are required by law to fill out "The Report of Induced Termination of Pregnancy" on each patient. The information is used to calculate statistics on abortions. Individual records use a code number to identify patients, not a name.

The documents would show how many minors receive abortions and how many of the procedures lead to complications, information Mahoney said could cause the immediate shutdown of the remaining three or four abortion clinics in the state.

Mahoney pointed to a trash bin by the clinic and said that he had collected copies of the reports that had been thrown out. A review of the discarded documents led him to believe that physicians filled out the reports prior to seeing the patients, Mahoney said.

The Baton Rouge nurse is a frequent picketer at the Delta Clinic.

Rusty Thomas, a minister for nondenominational church in Waco, Texas, made a special trip Thursday and brought about 150 campaigners. He is director of the Operation Save America, which as Operation Rescue helped organize and man protests in the 1990s that led to the closure of several abortion clinics. It's the memory of those fractious protests that probably led to police presence, he said.

The group is staying at motel in Kenner, protested in New Orleans and Metairie on Wednesday, and is sending a contingent to Shreveport later in the week. They hope to raise awareness and to pressure the closure of the handful of abortion clinics in the state.

Wearing a cowboy hat and sunglasses, the muscular father of 13 says the event was designed to tell local governments that they are under no obligation to enforce immoral laws when the federal government goes too far.

Flip Benham, a pastor from Concord, N.C., said he was arrested the last time he visited Baton Rouge in the early 1990s. "We have to open up the window to show moms (coming to the abortion clinic) that there is an alternative. So many moms feel like they have no choice," Benham said.

After a couple of hours, the group continued protesting at LSU and at the State Capitol. The handful of local protestors went to work.

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AUGUST 2014

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