

GA Abortion Facility Investigation Summary

In the wake of the Kermit Gosnell trial, many states finally enforced regulations covering abortion facilities. Since 2011, at least 58 abortion facilities have been shut down. Roughly 10% of all U.S. abortion facilities have closed their doors following the horrendous discovery of the Philadelphia abortion mill. While many states have used the tools afforded them through constitutionally valid regulations to prevent the repeat of the travesty that was the Gosnell facility, Georgia has done nothing. Not a single abortion facility has closed in Georgia due to enforcement of the Georgia regulations, despite many facilities operating in violation of the regulations.

Georgia's abortion facility regulatory scheme is broken. Abortion facilities are regulated under two different sets of regulations, depending on when the abortion is performed. Abortion facilities are allowed to move between classifications, seemingly at will, when they prefer one set of regulations to another. Furthermore, even when a set of regulations clearly applies, violations go uninvestigated and regulations remain unenforced.

Due to this lack of oversight, Georgia attracts abortion providers with no apparent regard for patient safety. Those who own and run abortion facilities have done everything they can to increase profit, largely coming at the expense of patient safety. We have home grown doctors with histories of medical complaints, public reprimands, and arrests. However, the strongest evidence that the regulatory scheme in Georgia is broken is that disreputable out of state abortion providers come to Georgia for refuge after being run out of their home states. With this climate of confusing and negligible regulatory enforcement attracting the worst providers from other states, reasonable minds must ask – is there a Kermit Gosnell operating in Georgia?

Abortion Facilities

The current laissez-faire regulatory environment of the abortion industry in Georgia has allowed abortion facilities to continue to operate regardless of the regulations they violate. They know that even if they lose their ambulatory surgical center license, which is unlikely, they can still continue to operate by claiming they are a private doctor's office. This has emboldened GA abortion providers to push the limits of patient safety, not to mention ignoring existing regulations, in order to cut their costs and raise their profits. Below are a few examples of abortion facilities that are acting in defiance of the regulations.¹

Atlanta Women's Medical Center

Atlanta Women's Medical Center is a typical example of the abortion facilities in the state of Georgia. Over the course of its history, it has tried to circumvent regulations varying from fire safety requirements to patient safety regulations. Even though their request for waivers has been denied 4 times, the Atlanta Women's Medical Center continues to operate, in direct violation of the regulations.

This same facility which only has two exits also lacks a sprinkler system, posing a potential disaster when trying to evacuate unconscious and semiconscious women in case of a fire or emergency.² Yet the GA Fire Marshall states it is acceptable for this facility to continue operating in this manner because they don't have 4 or more people unconscious or unable to take care of themselves at any given time. This raises serious questions since this facility performs an average of 6 abortions an hour.

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Though the fire regulations are important, the larger problem is that Atlanta Women's Medical Center presses the envelope when it comes to patient safety as well. Atlanta Women's Medical Center operates without an elevator thanks to a waiver that has relieved them of the burden of regulation 290-5-33-10(f), which requires an ambulatory surgical center in multistory buildings to have an elevator.³ This waiver expired in August of 2012⁴. Despite four letters from the Department of Community Health denying the renewal of the waiver urging Atlanta Women's Medical Center to comply with ambulatory surgical center rules and regulations⁵, the Atlanta Women's Medical Center has continued to perform second trimester abortions.⁶ To date, there has been no consequence imposed on Atlanta Women's Medical Center for knowingly disregarding this regulatory requirement.

The absence of an elevator creates significant problems for patient safety. According to personnel that have worked at Atlanta Women's Medical Center, there are many instances of the stairs endangering patient safety. One ambulance service told them not to call in the event of an emergency due to the stairs.⁷ When an ambulance does come to Atlanta Women's Medical Center, they still have difficulty getting down the stairs. Once a husband was forced to carry his wife down the stairs to the waiting ambulance, and another time a post convulsion patient was forced to walk themselves down the stairs to the waiting ambulance.⁸

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The Department of Community Health has been notified of this ongoing regulatory violation. On October 20, 2011 a woman was taken from Atlanta Women’s Medical Center in an ambulance. Following this incident, an anonymous complaint noted that the paramedics had not been informed of the lack of an elevator in the building. The lack of information caused a dangerous, life-threatening delay in removing the patient to the hospital.⁹ The Department of Community Health investigated on November 22, 2011 and found the allegations “could be substantiated.”¹⁰ This same inspection revealed more dangerous deficiencies, such as lack of documentation of monitoring and transfer of a patient who required hospitalization and failure to effectively sterilize equipment. However, Atlanta Women’s Medical Center did not have its license revoked.

On November 15, 2012 a second woman was rushed from Atlanta Women’s Medical Center by ambulance.¹¹ This complaint regarding the second injury was summarily closed by the state a day later stating they were “unable to identify any regulatory issues that would authorize an inspection.”¹²

In addition to operating in violation of 290-5-33-10(f) Atlanta Women’s Medical Center has requested and was denied a waiver to Regulation 290-5-33-09, which requires a sufficient number of currently licensed nurses present and on duty to attend to patients at all times patients are receiving treatment or recovering from treatment up to and including the time of discharge.¹³ While it is unknown whether or not Atlanta Women’s Medical Center is operating in compliance

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with this regulation, the continuous request for waivers for regulations that are designed to protect patient safety shows that Atlanta Women's Medical Center prioritizes profit over patient safety.

Former employees have suggested that these priorities also affect the standard of care. Atlanta Women's Medical Center has two small operating rooms. The architecture of these two small rooms inhibits unconscious patients from being taken from the operating room to the recovery room on a gurney.¹⁴ Therefore, patients must be lifted off the operating table by Atlanta Women's Medical Center personnel and placed in a wheel chair to be taken to recovery and then lifted again into the recovery recliner. This process results in a litany of patient safety problems.¹⁵ The transfer has resulted in cuts and bruising of the patients, as well as injuries to facility personnel. Also recovering from an abortion in the seated position, rather than lying prone on a gurney, increases the likelihood of complications such as a blood clot.¹⁶

This problem could be easily solved with the removal of the wall between the operating rooms creating one larger operating room. However, this would force Atlanta Women's Medical Center to decrease the volume of abortions being performed.¹⁷

Atlanta Center for Women's Choice

Atlanta Center for Women's Choice operates at 1874 Piedmont Rd. This is a two-story building that does not have an elevator. The Department of Community Health is under the belief

¹⁴ It should also be noted that lack of gurney access has been found to contribute to the injury and death of patients in abortion facilities in several states. That includes the death of Karnamaya Mongar, which led to the charges of murder against Kermit Gosnell.

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¹⁷ This volume can reach as high as 6 an hour.

that no abortions are performed on the second floor of the building. However, in October of 2012 a patient complaint was submitted to the Composite Medical Board. The complaint, among other things, alleged that there were abortion activities being performed on the second floor of the building in direct violation of the regulations.¹⁸ When the investigation was conducted, it was only conducted on the lower level of the facility. Therefore, the investigators could not substantiate the allegations in the complaint.

Columbus Women’s Health Organization

Until 2010, Columbus Women’s Health Organization operated as an ambulatory surgical center, when the owner died and the license was surrendered. The new owner is Diane Derzis, the “abortion queen” of Alabama.¹⁹ Derzis is not a licensed physician in the State of Georgia, and therefore her office does not qualify as a doctor’s office under the regulations.²⁰ Despite this history of deception by the Columbus Women’s Health Organization and the violation of the regulations, it has been allowed to operate as a private doctor’s office despite the fact that its owner is not a licensed physician.

Northside Women’s Center

Northside Women’s Center was allowed to operate for 9 years under an invalid license. The permit of Northside Women’s Center was issued in the name of James W. Gay, M.D. Dr. Gay died in 2004. There was neither a provisional nor a new permit issued as required by regulation 290-5-33-05. Northside Women’s Center’s license was not surrendered until June 1,

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¹⁹ It is worth noting that Diane Derzis lost her abortion provider’s license in Alabama in 2012.

²⁰ 290-5-33-01(s).

2013 when it closed its doors. The abortion facility did not close due to enforcement action over the regulatory violation. It closed due to the retirement of its medical director.

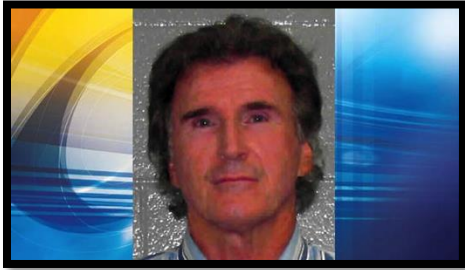
Preferred Women's Health Center

Preferred Women's Health Center in Augusta is owned by Lois Turner who is not a licensed physician in the State of Georgia. Because Lois Turner is not licensed in the State of Georgia, Preferred Women's Health Center is operating in violation of ambulatory surgical center regulations. To date, there has been no investigation into or regulatory enforcement action against Preferred Women's Health Center.

Abortion Providers

Abortion facilities are not the only ones taking advantage of the lenient regulatory environment. Given the lack of oversight, the Georgia abortion industry attracts doctors that are less than scrupulous, upstanding citizens. There are a string of Georgia abortion providers who have had their license suspended, a history of patient complaints, reprimands for patient safety, and indictments for Medicaid fraud.

In addition, in the wake of the Gosnell trial, a rash of stricter abortion regulations has run abortion providers out of other states. These stricter regulations in other states have closed dozens of abortion facilities nationwide. Some of these abortion providers have felt welcome in Georgia because, due to the lack of enforcement of Georgia's regulations, they can continue their dangerous practices without fear. Included below are a few examples of the type of doctors Georgia's lax regulatory environment has attracted.



Daniel McBrayer, M.D.

Medical School: Medical College of Georgia

Affiliated Medical Facilities: Alpha Group GYN P.C.

Medical Complaints:

1. In 2002, McBrayer was issued a consent order for performing second trimester abortions outside an ambulatory surgical center. He was placed on probation for two years and fined \$5,000.²¹
2. Four of his former workers have spoken to investigators at the Composite Medical Board detailing many infractions including “reusing disposable medical equipment; duct taping the tables and chairs on which the surgery is performed or as patients recover; passing inflections through the instruments and failure to properly launder blankets and sheets used during the surgery.”²²
3. In addition, staff report numerous return patient visits due to incomplete abortions. Staff also reports McBrayer performs abortions after the patient expresses a desire not to go through with the abortion.²³

Other Highlighted Activities:

1. In 2009, McBrayer was charged with simple battery after leaving his car to yell at a woman in another car. He approached her vehicle, and when she rolled down the window he punched her in the face in front of two small children.²⁴

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2. McBrayer had a federal tax lien in the sum of \$123,143.61.²⁵



Tyrone Cecil Malloy, M.D.

Medical School: John Hopkins University

Affiliated Medical Facilities: Old National GYN,
Feminist Women's Center, Summit Medical Associates,
Atlanta Center for Women's Choice, Paces Women's

Medical Group, and Atlanta Surgi Center.

Medical Complaints:

1. In 1999 the Composite Medical Board cited Malloy for substandard care of a patient that resulted in the death of her baby. At the conclusion of the proceedings Malloy stated he would no longer perform OB services.²⁶
2. In 2009, Malloy was issued a consent order for providing a late term abortion that resulted in the **death of the patient**.²⁷

In both the 1999 and 2009 cases, Malloy was merely fined a total of \$15,500 and ordered to take continuing education classes.

Other Highlighted Activities:

1. In 2011, a grand jury indicted Malloy on Medicaid fraud charges.²⁸ Malloy is accused of submitting and being paid \$380,000 for medical services he never performed.

Andre Damian Williams

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Medical School: Howard University College of Medicine

Affiliated Medical Facilities: Legacy Obstetrics, DeKalb Gynecology Associates, Columbus Women's Health Organization

Other Highlighted Activities:

1. On December 20, 2012, Andre Damian Williams was indicted by a DeKalb County Grand Jury for Medicaid Fraud.²⁹ Williams is accused of submitting and being paid \$205,000 for medical services he never performed.

Clarence Joseph Washington

Medical School: University of Michigan

Affiliated Medical Facilities: Atlanta Surgi Center

Medical Complaints:

1. In 2010, the North Carolina Medical Board issued a consent order against Clarence Washington, where they found Dr. Washington's treatment failed "to conform to the accepted and prevailing standards of medical practice". One woman had a significant cervical laceration and a suture needle left protruding from her cervix which caused hemorrhaging and required an emergency hysterectomy. Another woman had uncontrollable bleeding from "a perforation at the junction of the cervix and the uterus" which "required aggressive fluid resuscitation and transfusion".³⁰

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2. In 2012, the North Carolina Medical Board suspended Clarence Washington's Medical License for unprofessional conduct and failure to conform to acceptable and prevailing medical practice.³¹

Other Highlighted Activities:

1. In 1999, Clarence Washington was convicted of tax evasion and sentenced to 20 months imprisonment.³²

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³² *United States of America v. Clarence J. Washington, III*. Case Number: 5:98-0580M-001