

Findings

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Partial-Birth Abortion

An in-depth look at the controversial procedure

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Picture the inside of a mother's womb about 23 weeks (roughly 5 1/2 months) into a full-term pregnancy. A tiny baby girl weighing about one pound and around 12 inches in length is snuggled safely and warmly inside. She is a fully formed tiny human being with all her fingers and toes. Downy fine hair covers her little head, and fuzzy eyebrows are set above a pair of eyes that move all around. The baby girl exercises her developing muscles by turning her head, curling her tiny fingers and kicking her little feet. Sleeping and waking are part of her routine, and sucking her thumb is one of her favorite pastimes as she waits to be born. With fully developed ears, she is able to hear outside noises—from the sound of her mother's voice to music and even traffic. A loud noise will often cause her to jump . . .

If born prematurely at this point, this baby girl would grasp for breath and have roughly a 23 percent chance of survival.¹ If she is born at 25 weeks into a full-term pregnancy—just two weeks later—her chance of survival outside the womb more than doubles.² Also at this stage of a pregnancy and beyond, this same baby could be partially delivered feet first, stabbed in the head with a pair of scissors and, after having her brain suctioned out, be removed from her mother's womb and discarded.³ As horrible as it may sound, this procedure—known as partial-birth abortion—is legal in states across America.

A National Battle

The fact that these infants are partially delivered and just seconds from their first breath of air before they are killed has elicited a national outcry against the partial-birth abortion procedure. The push to make this procedure illegal began at the national

level in 1995, when members of Congress introduced a bill banning partial-birth abortions.⁴ The bill received bipartisan support, passing in both the House (288-139) and the Senate (54-44), but was vetoed by President Clinton in April 1996.⁵ Since then, the Partial-Birth Abortion Ban Act has been reintroduced three times, each time gaining more support, although still not enough to override a presidential veto.⁶



*A 14-week old infant in the womb.
(Photo, courtesy of Hayes Publishing Co.)**

As the national debate continues, 28 states have passed laws banning the partial-birth abortion procedure.⁷ Nineteen of these statutes have been challenged in court, and the ban has been struck down in 17 states.⁸ The controversy over these state partial-birth abortion bans centers around their constitutionality.⁹ Currently, nine states have successfully banned the partial-birth abortion procedure.¹⁰ As the political battles over this procedure continue, partial-birth abortion remains legal in most states, including North Carolina.

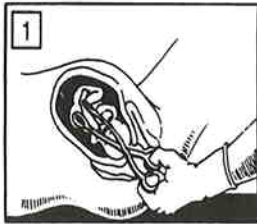
The Procedure

When discussing the partial-birth abortion procedure, it is important to be familiar with the various terms used to describe it. *Partial-birth abortion* is a term given to the procedure by Congressman Charles Cannady, who introduced the first ban on the procedure to Congress in 1995.¹¹ It refers to an abortion where “the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.”¹²

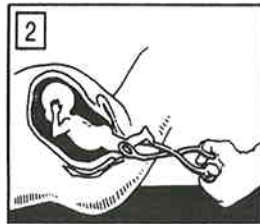
The abortion industry prefers the term *intact dilation and evacuation (intact D&E)*. *Intact D&E* was actually first used by the man who developed the procedure, the late Dr. James McMahon.¹³ Another term used for the procedure is *dilation and extraction (D&X)*, a term coined by W. Martin Haskell, the Ohio doctor who publicized the partial-birth abortion method.¹⁴ The terms refer to the same procedure.

Partial-birth abortion differs from regular *D&E*—the most commonly used procedure for second trimester abortions (roughly 14 to 28 weeks)—because the baby is removed whole, or intact.¹⁵ In the regular *D&E* procedure, the abortionist dilates the mother's cervix and then takes an instrument known as a grasping forceps and proceeds to cut up and extract the baby, piece by piece. Usually, at this stage the baby's head is too large to be removed from the mother whole, so the abortionist crushes and drains the skull. Later, the baby's body is reassembled to make sure that every piece was removed.¹⁶

The *D&E* procedure is a detailed process that must be completed carefully because every tissue of the baby's body has to be removed from inside the mother. For abortions after 20 weeks, regular *D&E*'s can be very difficult.¹⁷ In his paper describing the partial-birth abortion procedure, Dr. Haskell explained why: “Most surgeons



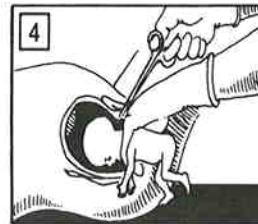
1 Guided by Ultrasound, the abortionist grabs the baby's leg with forceps.



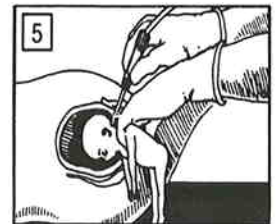
2 The baby's leg is pulled out into the birth canal.



3 The abortionist delivers the baby's entire body, except for the head.



4 The abortionist jams scissors into the baby's skull. The scissors are then opened to enlarge the hole.



5 The scissors are removed and a suction tube is inserted. The child's brains are sucked out causing the skull to collapse. The dead baby is then removed.

Courtesy of National Right to Life ¹⁸

find dismemberment at 20 weeks and beyond to be difficult due to the toughness of fetal tissues at this stage of development."¹⁹ In a 1993 interview with *Cincinnati Medicine*, Dr. Haskell said that regular D&E's for later-term abortions could sometimes take as long as 45-minutes.²⁰ In other words, the partial-birth abortion procedure (i.e., *intact D&E*) is often preferred by the abortionist because instead of having to cut the baby out, limb by limb, he can extract the baby in one piece.

But there is more to this procedure than simply removing the baby in one piece. The term, *intact D&E* does little to fully describe what takes place during the procedure—a procedure that entails the partial delivery of a live baby before it is killed. (Please see graphics at top of the page for step-by-step details of the PBA procedure.)

Partial-birth abortions are performed on babies from 20 weeks up to even the ninth month of pregnancy.²¹ Literally seconds from their first breath, these babies are either fast-approaching viability (the ability to survive independent from the mother) or have already reached the viable stage (23 weeks and beyond).²² They are so close to viability, in fact, that if the baby's head were to slip outside the womb before suctioning of the brain contents, the abortionist could be charged with murder for completing the procedure.²³

What may be an "easy" procedure for the abortionist is anything but easy for the tiny babies who are forced to die that way. It is important to consider several key questions in this debate: Are partial-birth abortions ever medically necessary? Does the unborn child experience pain? How often are they performed?

A Medical Necessity?

After reading a detailed description of the partial-birth abortion procedure, most people probably wonder what reason there could possibly be for aborting a baby this

way. Of course, pro-abortion groups contend that the partial birth abortion procedure is a medical necessity—only used in situations when either the life of the mother is at risk or the baby suffers from some irreparable physical deformity or brain damage.²⁴

The claim that most partial-birth abortions are medically necessary was refuted in 1997 by Ron Fitzsimmons, president of the National Coalition of Abortion Providers. Fitzsimmons admitted that he had lied when he told ABC News in 1995 that the majority of partial-birth abortions were performed in order to save the life of the mother.²⁵ "In the vast majority of cases, the procedure is performed on a healthy mother with a healthy fetus that is 20 weeks or more along," he said.²⁶

The answer to why most partial-birth abortions are performed is disturbing. According to Dr. Haskell, most of the women on whom he had performed this procedure "tended to be younger," like teenagers who simply waited too long to come into the clinic.²⁷ The other group for which this procedure was most common, Haskell said, was older women who either didn't realize they were pregnant (because they continued to bleed), or whose babies suffered from a malformation like Down Syndrome.²⁸

Teenage mothers who put off coming into an abortion clinic and mothers who discover they're carrying babies with Down Syndrome certainly have little to do with saving a mother's life. Dr. McMahon stated that out of the nearly 2,000 partial-birth abortions he had performed, only nine percent had been for maternal health concerns, with depression being the most common health concern of the women in that category.²⁹

It is clear that the use of this procedure has more to do with convenience than the health of the mother. According to Dr. Gary Haakenson, M.D., an obstetrician-gynecolo-

gist who has practiced medicine in North Carolina for 21 years, "the only reason partial-birth abortion would be a preferable procedure is from the standpoint that it is quick for the doctor."³⁰

The fact is that partial-birth abortions are never a medical necessity. Even the American Medical Association (AMA) has stated that this procedure is "not good medicine" and gave its support to the Partial Birth Abortion Ban Act in 1997.³¹ Former U.S. Surgeon General C. Everett Koop stated: "In no way can I twist my mind to see that the late-term abortion as described . . . partial-birth, and then destruction of the unborn child before the head is born, is a medical necessity for the mother."³²

Not only is the partial-birth abortion procedure never medically necessary, it can also be dangerous for the women involved. The Physician's Ad Hoc Coalition for the Truth (PHACT), a group that specializes in fetal medicine, has stated that "The procedure can pose a significant and immediate threat to both the pregnant woman's health and fertility."³³ Dr. Haakenson agrees. "This procedure is dangerous to the mother because you run the risk of permanently doing trauma to the cervix," he explains. "By sticking an instrument up into the uterus to decompress the head, you risk lacerating or rupturing the uterus, which can result in excessive bleeding, even hysterectomy, and, very rarely, possible maternal death."³⁴ If the partial-birth abortions are never medically necessary and even dangerous for women, then the only people who benefit from this procedure are the abortion providers themselves.

What the Baby Feels

The horrific nature of a procedure that involves partially delivering a live baby before it is killed raises the question of what these babies can feel. As early as seven weeks of fetal development in the uterus, a baby has all the structures necessary for pain sensation, and by eight weeks will even

respond to touch.³⁵ By 20 weeks, the infant's sensitivity to pain is fully functioning.³⁶

According to Dr. Watson Bowes, Professor Emeritus of Obstetrics and Gynecology at the University of North Carolina-Chapel Hill, it is "nonsense" to claim that these unborn babies do not feel pain at this stage of pregnancy. "Babies at this gestational age are able to feel pain," says Dr. Bowes.³⁷

Abortion advocates have conceded that these unborn babies can feel pain by arguing that because the mothers are given a high dose of anesthesia, the babies inside them can't feel what is happening. At one point, they even argued that the amount of drugs given to the mother will kill the baby before the procedure begins.³⁸

The AMA refuted this argument in the *American Medical News*, calling it "scientifically unsound and irresponsible, unnecessarily worrying pregnant women who need anesthesia."³⁹ The AMA was concerned because pregnant women who needed to undergo surgical procedures (other than abortion) were afraid that by taking anaesthesia they would harm or kill their unborn babies.

What about the claim that the anesthesia given to the mother will at least keep the baby from feeling any pain? In a letter written to Congress in 1995, Dr. Norig Ellison, president of the American Society of Anesthesiologists, wrote: "Drugs administered to the mother, either local anesthesia administered in the paracervical area or sedatives/analgesics administered intramuscularly or intravenously, will provide no-to-little analgesia to the fetus."⁴⁰

"There is no doubt about the fact that these fetuses do have pain" stated former U.S. Surgeon General C. Everett Koop. "I can't think that there's any way that you could perform a partial-birth abortion with out causing excruciating pain to the baby."⁴¹

A Common Procedure

How common is the partial-birth abortion procedure? Groups like Planned Parenthood and the Alan Guttmacher Institute have stated that it is rarely used—with about 500 occurring each year in the United States.⁴²

These low numbers were refuted in 1997 when Ron Fitzsimmons admitted that his 1995 statement that the procedure was "rarely used" was a lie and that partial-birth abortions are common.⁴³ Fitzsimmons estimated that 5,000 partial-birth abortions occur each year.⁴⁴ His admission helped strengthen a 1996 investigative report by *The Record*, a New Jersey newspaper, that

found 1,500 partial-birth abortions had been performed at a single clinic in one year alone.⁴⁵

Admittedly, it is very difficult to say exactly how many partial-birth abortions occur in this country every year. The people reporting the numbers are the abortion industry themselves—an industry that is fighting to keep this procedure legal. The Centers for Disease Control and Prevention (CDC) does not keep track of this specific procedure, although it does track the number of later term abortions. The CDC reports that in 1997, 16,800 abortions occurred after 21 weeks gestation and beyond.⁴⁶ One can only estimate how many of these were partial-birth abortions. What is certain is that this procedure occurs more often than abortion advocates would like for people to believe.

An Issue for North Carolina

So why is partial-birth abortion an issue for North Carolina citizens to consider? Many people may be surprised to hear that the partial-birth abortion procedure is legal under current North Carolina law. The law states: "It shall not be unlawful, after the 20th week of a woman's pregnancy, to advise, procure or cause a miscarriage or abortion when the procedure is performed by a physician licensed to practice medicine in North Carolina in a hospital licensed by the Department of Human Resources, if there is substantial risk that continuance of the pregnancy would threaten the life or gravely impair the health of the woman."⁴⁷

According to North Carolina law, a woman who is 20 weeks into a full-term pregnancy or beyond, can obtain an abortion in any licensed hospital willing to perform the procedure as long as the pregnancy is shown to impair her health.⁴⁸ Note that the law does not specify what kinds of procedures are legal after 20 weeks. In fact, the only specification is that the mother's health be impaired or her life be endangered by the pregnancy.

The State Center for Health Statistics, a division of the North Carolina Department of Health and Human Resources, tracks the number of abortions that occur each year in the state. According to their 1998 report on pregnancies and abortions in North Carolina, the total number of abortions performed after 21 weeks gestation was 125.⁴⁹ The most commonly used procedure for these abortions, according to the State Center for Health Statistics, was *dilation & evacuation*, or *D&E* (see page 1).⁵⁰

What North Carolina does not track is the method of *D&E* used for these abortions. As explained earlier, the *D&E*

procedure is difficult to perform after 20 weeks gestation because the baby's tissue is tougher and bones have started to form.⁵¹ Because of this, there are different ways to perform a *D&E* abortion, including an *intact D&E*—a common term for the partial-birth abortion procedure. Abortion facilities and hospitals performing abortions are required to fill out an "Induced Abortion Case Report" for each abortion performed. Included on the form is a list of seven procedures with the instruction that only one box be checked.⁵² *Intact D&E* is not included in this list, nor is there a question on the specific method of *D&E* used.

The state is also not required to track the reasons why these later-term abortions were performed.⁵³ Since North Carolina law specifies that a woman seeking an abortion after 20 weeks must show that the pregnancy impairs her health, one would assume that the state would be monitoring the ones that do occur. The abortion case report does ask for the "weeks of gestation," but it does not include a place for the doctor to explain why the abortion was performed after 20 weeks. It is reasonable to assume, then, that if partial-birth abortions are being performed in North Carolina, the state would not know about it.⁵⁴

Partial-birth abortions are legal under current North Carolina law. Because the state does not monitor the specific procedures used to perform abortions after 20 weeks or the reasons why they are performed, there is every reason to expect that they are happening here.

Why NC Needs a PBA Ban

In the 1997-98 session of the North Carolina General Assembly, a bill was introduced that would ban the partial-birth abortion procedure in this state. HB 303—Ban Partial-Birth Abortions—passed in the House by a wide margin (86-31) but was never considered in the Senate, where it was assigned to a committee and never discussed.⁵⁵ Prior to its passage in the House, the bill was amended to allow the procedure if "continuation of the pregnancy would endanger the life or gravely impair the physical health of the woman."⁵⁶

Adding the health exception language ("gravely impair the physical health of the woman") to a partial-birth abortion ban basically renders the legislation powerless because a woman's health has been so broadly defined by the courts. The health of the woman language resulted from *Doe v. Bolton*, the alternate 1973 landmark U.S. Supreme Court abortion ruling to *Roe v. Wade*.⁵⁷ In *Doe v. Bolton*, factors relating to a woman's health were defined as "physi-