

Congress of the United States
House of Representatives
Washington, DC 20515

BEWARE OF INACCURATE INFORMATION ON H.R. 1833

October 25, 1995

Dear Colleague,

By now you may have seen a letter circulated, from a nurse named Brenda Pratt Shafer, who purports to tell "the truth" about what happens during an intact D&E abortion procedure. Brenda Shafer, formerly Brenda Pratt, worked for three days as a temporary nurse in the office of Dr. Martin Haskell, an Ohio physician who performs some of these procedures.

What Ms. Shafer writes is upsetting. It is also inaccurate. Dr. Haskell's head nurse Christie Gallivan, who supervised Ms. Shafer, has written to us to correct the misinformation that is being distributed with regard to the surgery.

There are many errors, incorrect descriptions, and other inaccuracies in Ms. Shafer's letter.

First, Dr. Haskell does not perform third-trimester abortions, contrary to Ms. Shafer's assertion, and never has. Ms. Gallivan confirms this.

Second, Ms. Gallivan notes that "at no point during a dilation and extraction or intact D&E is there fetal movement or response that would indicate awareness, pain, or struggle. Ms. Pratt absolutely could not have witnessed fetal movement as she describes." In fact the anesthesia given the mother causes fetal demise while the fetus is still in the womb.

Finally, Ms. Gallivan notes that Ms. Pratt would not have been present during a dilation and extraction procedure because, as a temporary nurse, she would not be trained in such a procedure. It is highly technical and would not be performed by someone in a temporary capacity. Ms. Gallivan writes "If, indeed, Ms. Pratt entered the operating room at any point during a D&E procedure, she clearly either is misrepresenting what she saw or remembers it incorrectly."

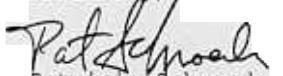
The subject of later abortions is a difficult and painful one, but it is only made unnecessarily worse by the distribution of these kinds of inflammatory and inaccurate depictions of the procedure.


As people interested in the facts of the matter, we have met personally with women who have undergone this surgical procedure, women who discovered late in their pregnancies that severe fetal anomalies would kill their children in utero, or soon after birth, and endanger their own lives, health, and reproductive capacity. These women know that Brenda Shafer's description of this surgery is wrong, and they have told us so. We have also spoken with the physician who pioneered the procedure, Dr. James McMahon, who states that this procedure is one of the safest ways to manage these complex and tragic cases.

The United States Congress has no place second-guessing the medical decisions of physicians and families confronted with the painful need to end a later pregnancy. Life is precious. We should know--we are all mothers and we love our children dearly. Misrepresentation on so personal and devastating a decision does not do justice to the legislative process.

We urge you to join us in opposing H.R. 1833, for the sake of all women who face these agonizing decisions.

Sincerely,


Patricia Schroeder
Member of Congress


Sheila Jackson Lee
Member of Congress


Zoe Lofgren
Member of Congress

Congress of the United States
House of Representatives
Washington, DC 20515-0912

Partial-Birth Abortions: What the Nurse Saw
Agrees With Other Documentation

October 30, 1995

Dear Colleague:

On October 19, Congressman Tony Hall circulated a "Dear Colleague" letter in support of the Partial-Birth Abortion Ban Act (HR 1833), which will be voted on this week. Mr. Hall attached a copy of a July 9 letter that he had received from a registered nurse, Brenda Pratt Shafer, in which she described a partial-birth abortion that she observed from close up. (Nurse Shafer's account is also highlighted in advertisements that some HR 1833 supporters recently have published in *Roll Call*, *Congressional Quarterly*, and other publications.)

On October 25, our colleagues, Ms. Schroeder, Ms. Jackson Lee, and Ms. Lofgren, distributed a "Dear Colleague" letter which purports to correct certain "errors" and "inaccuracies" in Nurse Shafer's account, on the basis of new statements by the doctor for whom Brenda Shafer worked, Dr. Martin Haskell, and his nurse-employee, Christine Gallivan.

On each disputed point, however, Brenda Shafer's eyewitness testimony is plainly consistent with other strong documentation, including past statements by Dr. Haskell himself. Dr. Haskell is the author of "Dilation and Extraction for Late Second Trimester Abortion" (hereafter, the "Haskell monograph"), which is an eight-page, explicit, step-by-step instructional in how to perform a partial-birth abortion. (Dr. Haskell prefers to call the procedure "dilation and extraction," a term that he says he "coined.") In 1993, Dr. Haskell told *American Medical News* that in his practice, "80 percent" of these procedures "are purely elective."

As we explain below, Brenda Shafer's account is completely consistent with Dr. Haskell's 1992 monograph, and with a tape-recorded 1993 interview of Dr. Haskell by *American Medical News*. There are, however, blatant and irreconcilable contradictions between the Dr. Haskell's statements in 1992-93 and the assertions that he has made this year, since HR 1833 was introduced. **We believe that any fair-minded observer who reviews those past statements will be forced to conclude that it is Dr. Haskell's credibility that suffers, not Brenda Shafer's.**

Was Brenda Shafer There?

In her original letter to Congressman Hall, dated July 9, Nurse Shafer explained that in September, 1993, she was employed by Kimberly Quality Care, a nursing agency in Dayton, Ohio, and was assigned to work at the Women's Medical Center, which is operated by Dr. Martin Haskell. Mrs. Shafer had often voiced strongly "pro-choice" views, so she had no hesitancy about accepting the assignment. However, Nurse Shafer explained in her letter, on her third day at the clinic, **Dr. Haskell asked her to observe as he performed a partial-birth abortion. She was horrified at what she saw, and after leaving work that day, she never returned to the clinic.**

At a July 12 Judiciary Committee markup on HR 1833, Ms. Schroeder distributed a letter (also dated July 12) in which Dr. Haskell said, "I have examined our records and have found no evidence of a Brenda Schafer [sic] working for us during 1993. Additionally, we do not hire temporary nurses to assist with the rather technical D&X procedure." However, **the Committee possessed copies of the billing sent by Kimberly Quality Care to the Women's Medical Center for services provided by "Brenda Pratt" on September 28, 29, and 30, 1993, and of her payroll stub for the same three days.** This particular confusion may be explained by the fact that Brenda Pratt got married and took the name Shafer shortly after her employment at the clinic-- but it is unfortunate that our colleagues publicly impugned Brenda Shafer's integrity without bothering to request or examine the readily available documentation. **(After examining the documents, Ms. Schroeder withdrew her allegation that Mrs. Shafer had never worked at the clinic--although without making any apology to Mrs. Shafer, who was present at the markup.)**

Regrettably, in their October 25 letter, our colleagues and their sources (Dr. Haskell and his employee, nurse Christine Gallivan) once again impugn Mrs. Shafer's integrity. While they now concede that Brenda Shafer did work at Dr. Haskell's clinic, they continue to insist that as a nurse on assignment from a temporary agency, she "would not have been present" while Dr. Haskell performed the partial-

birth procedure-- or then again, maybe she was, but if so, her memory must be faulty, or else she is deliberately "misrepresenting" what she saw. (Brenda Shafer has consistently said that, although she was assigned to the clinic by a temporary agency, Dr. Haskell was interested in hiring her on a permanent basis, and wanted her to observe the procedure.)

Let us now examine, point by point, the points on which Shafer's account is being challenged.

Does Dr. Haskell Perform Abortions After 24 Weeks?

In his July 12 letter, Dr. Haskell said that Nurse Shafer's letter was "inaccurate," because "she describes procedures at 26 1/2 weeks and 25 weeks... This is contrary to my own self-imposed and established limit of 24 weeks." But in his monograph, Dr. Haskell wrote, "This author routinely performs this procedure on all patients 20 through 24 weeks LMP [i.e., from last menstrual period] with certain exceptions. *The author performs the procedure on selected patients 25 through 26 weeks LMP.*" [emphasis added] As nurse Shafer explained in her July letter to Mr. Hall, the 26½-week case that Shafer witnessed involved a baby boy with Down syndrome; she believes that this factor may have caused the doctor to go slightly beyond the 26-week point that he cites in his monograph.

Are the Babies Alive When They Are Partly Removed from the Womb?

Nurse Shafer relates that after the baby boy was removed from the womb, except for his head, he was moving-- **"the baby's body was moving. His little fingers were claspng together. He was kicking his feet"**-- until he was stabbed in the back of the head with a surgical scissors.

Of course, anyone who has watched ultrasound videotapes knows that unborn babies display plenty of non-reflexive movement even in the first trimester. Usually by 16 to 18 weeks, the baby is massive enough for his kicks and other movements to be felt by the mother through the strong muscular cushioning of the uterus. Dr. Haskell's monograph says that he routinely performs these "extraction" abortions from 20 to 26 weeks. At those ages, the babies are 7 to 12 inches long, display a full array of arm and leg movements, and are responsive to painful stimuli.

Yet, in their Oct. 25 letter, our colleagues endorse the current claim of Dr. Haskell and Christine Gallivan that Brenda Shafer "absolutely could not have witnessed fetal movement as she describes." Well, why not? Because, we are told, "the anesthesia given the mother causes fetal demise while the fetus is still in the womb."

This claim is pharmacological nonsense. It is also directly contradicted by explicit statements made by Dr. Haskell that are contemporary to Brenda Shafer's experience.

Indeed, this is one of the specific points on which Dr. Haskell was questioned in a *tape-recorded* interview by a reporter for *American Medical News*, conducted in June, 1993-- shortly before Nurse Shafer's employment at Dr. Haskell's clinic. (*American Medical News* is the official newspaper of the American Medical Association.) This interview and the resulting story dealt *solely and entirely* with the controversy over the partial-birth abortion procedure (a controversy that Dr. Haskell's own monograph had ignited). The *American Medical News* reporter asked Dr. Haskell about the claims that certain pro-abortion activists were already making at that time: that the fetuses are *already dead* before being partly "extracted" from the womb.

American Medical News: Let's talk first about whether the fetus is dead beforehand.

Dr. Haskell: No it's not. No, it's really not. A percentage are for various numbers of reasons. Some just because of the stress--intrauterine stress during, you know, the two days that the cervix is being dilated. Sometimes the membranes rupture and it takes a very small superficial infection to kill a fetus in utero when the membranes are broken. **And so in my case, I would think probably about a third of those are definitely are [sic] dead before I actually start to remove the fetus. And probably the other two-thirds are not.**

[Transcript of tape recording provided to Judiciary Committee by *American Medical News*.]

Dr. Haskell gave that answer only four months before Brenda Shafer was assigned to work at his

clinic. During the Judiciary Committee's July 18 markup session on HR 1833, Ms. Schroeder, Ms. Jackson Lee, and Ms. Lofgren heard this and other portions of the Haskell transcript quoted repeatedly. We are at a loss to understand why they continue to dismiss Brenda Shafer's testimony even though it is so painfully obvious that her account is consistent with what Dr. Haskell himself was saying *at the time*-- and when it is equally obvious that Dr. Haskell has completely changed his story, apparently in response to the introduction of HR 1833.

In his 1992 monograph, Dr. Haskell indicated that for the "extraction" procedure, he gives his patients only a *local anesthetic* and *nitrous oxide* ("laughing gas"), which has an anti-anxiety effect. Medical experts agree that a woman given these drugs would remain completely conscious, and these drugs would have very little effect on the baby. Nurse Shafer says that in the particular case that she describes, the mother was also given a sedative because of emotional distress, but that she was fully conscious and conversing with the nurses throughout the procedure.

Even if, hypothetically, a pregnant woman were also given a *general* anesthesia, at most this would sedate the baby to some degree-- not kill him. As Professor Watson Bowes, an internationally recognized authority on maternal and fetal medicine at the University of North Carolina and co-editor of the *Obstetrical and Gynecological Survey*, explained in a July 11 letter, "It is a fact that the distribution of analgesic medications given to a pregnant woman result in blood levels of the drugs which are less than those in the mother. **Having cared for pregnant women who for one reason or another required surgical procedures in the second trimester, I know that they were often heavily sedated or anesthetized for the procedures, and the fetuses did not die.**"

Is Nurse Shafer's Account Contradicted by Other Witnesses?

Our colleagues also write that they have met with unnamed women who have undergone "this surgical procedure," and that "these women know that Brenda Shafer's description of this surgery is wrong." But really, none of these women were standing beside Brenda Shafer as Dr. Haskell performed the partial-birth abortion, so they can hardly "know that [her] description...is wrong"-- **especially since nurse Shafer's account is so clearly consistent with Dr. Haskell's own detailed description of the procedure in his monograph.**

We have no way of knowing what types of abortions were performed on the unnamed women to whom our colleagues refer. For all we know, their abortions were performed by methods different from that witnessed by Brenda Shafer-- methods not addressed by HR 1833. Indeed, Ms. Lofgren and some other critics of HR 1833 have spoken extensively of the case of Mrs. Viki Wilson, whose unborn daughter Abigail-- who had a brain malformation-- was "terminated" by Dr. McMahon at 8½ months (38 weeks). Although Dr. McMahon performs many partial-birth abortions, the procedure utilized in this particular case-- if accurately described by Mrs. Wilson in published accounts-- was *not* a "partial-birth abortion" as defined by the bill, because Abigail was killed *before* being moved into the birth canal.

[The bill defines "partial-birth abortion" as "an abortion in which the person performing the abortion *partially vaginally delivers a living fetus before* killing the fetus and completing the delivery." Procedures in which the killing is done *before* the delivery are not affected by HR 1833.]

We hope that each Member will read Dr. Haskell's 1992 monograph, the transcript of his 1993 interview with *American Medical News*, and Brenda Shafer's account. These documents agree on these essential facts: in a partial-birth abortion, a living member of the human family is pulled most of the way out of the womb, then killed. This week, we will vote on whether this practice should remain legal.

Sincerely,

Chas. T. Conady

Charles Canady
Chairman
Subcommittee on the Constitution
Committee on the Judiciary

Tom A. Coburn

Tom A. Coburn, M.D.
Obstetrician
Member of Congress