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# **Abortion Services in Wyoming**

—A report of the Wyoming Advisory Committee to the United States Commission on Civil Rights prepared for the information and consideration of the Commission. This report will be considered by the Commission, and the Commission will make public its reaction. In the meantime, the recommendations in this report should not be attributed to the Commission, but only to the Wyoming Advisory Committee.

June 1977

## Abortion Services in Wyoming

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A report prepared by the Wyoming Advisory Committee to the U. S. Commission on Civil Rights

### ATTRIBUTION:

The findings and recommendations contained in this report are those of the Wyoming Advisory Committee to the United States Commission on Civil Rights and, as such, are not attributable to the Commission.

This report has been prepared by the State Advisory Committee for submission to the Commission, and will be considered by the Commission in formulating its recommendations to the President and the Congress.

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U.S. COMMISSION ON CIVIL RIGHTS  
June 1977

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Dear People:

The Wyoming Advisory Committee, pursuant to its responsibility to advise the Commission on civil rights problems in this state, submits this report on abortion services in the State.

Through its investigation, the Advisory Committee concludes that several hospitals in the State have by-laws that are unconstitutional. The by-laws of the Lutheran Hospital and Homes Society which operates nine public hospitals in Wyoming prevent the performance of elective abortions in contravention of the U.S. Supreme Court decisions concerning abortion. The Committee found that 50 percent of all abortions on women who reside in Wyoming are performed out of State. A paucity of information about the many aspects of abortion was shown to exist; this was found to be true even among those responsible for referral services. The overwhelming majority of physicians, who legally could perform abortions, do not do so. Many in the Wyoming medical community were found to lack the medical skills to perform abortions; hence, women requiring the operation are sent several hundred miles away for the service.

The purpose of the Wyoming study was to generate data on the magnitude of the problem of lack of abortion services to women in the State and to determine difficulties and options open to women denied abortions. This report seeks to determine if there are legal, administrative, procedural, and other barriers to a woman's right to choose to have an abortion in Wyoming. Specific objectives of the study were to determine the extent of compliance of public hospitals with the Court's decisions, the availability of abortion services in the State, and Medicaid policy in terms of paying for abortions of poor women.

In conducting the study, members of the Wyoming Advisory Committee and staff of the Commission's Rocky Mountain Regional Office reviewed available literature on abortion and the recent court decisions. Questionnaires were mailed to nine public hospital administrators with responses analyzed and tabulated. In addition, a total of 42 persons were interviewed (public hospital administrators, physicians or their support staff, personnel from other facilities providing abortion services, medicaid officials, and other interested persons).

Of particular concern to this Advisory Committee is Wyoming's disregard of a woman's constitutional right to decide whether to terminate a pregnancy, a right delineated by the Supreme Court. We urge you to communicate our concern to the Department of Health, Education, and Welfare asking that public hospitals receiving Federal funding are in compliance with the law. We also ask you to communicate with the Attorney General requesting that the Department of Justice investigate allegations that public hospitals in Wyoming are spending Federal funds in violation of the law. If such violations are, indeed, found, litigation should be initiated to correct the situation.

Respectfully,

JUANA RODRIGUEZ  
Chairperson

## ACKNOWLEDGMENTS

The Wyoming Advisory Committee wishes to thank the staff of the Commission's Rocky Mountain Regional Office, Denver, Colorado, for its help in the preparation of this report.

The investigation and report were the principal staff assignment of Roger Wade, Ph.D., consultant, with assistance from William Levis, Cal E. Rollins, and support from Esther Johnson, Cathie Davis and Linda Stahnke. The project was undertaken under the overall supervision of Dr. Shirley Hill Witt, director, and William F. Muldrow, deputy director, Rocky Mountain Regional Office.

## THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights, created by the Civil Rights Act of 1957, is an independent, bipartisan agency of the executive branch of the Federal Government. By the terms of the act, as amended, the Commission is charged with the following duties pertaining to denials of the equal protection of the laws based on race, color, sex, religion, or national origin, or in the administration of justice: investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to denials of the equal protection of the law; appraisal of the laws and policies of the United States with respect to denials of equal protection of the law; maintenance of a national clearinghouse for information respecting denials of equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

## THE STATE ADVISORY COMMITTEES

An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105(c) of the Civil Rights Act of 1957 as amended. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; and attend, as observers, any open hearing or conference which the Commission may hold within the State.

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## I. INTRODUCTION

### A. Methodology

In April 1975, the United States Commission on Civil Rights submitted to the President and the Congress its report entitled Constitutional Aspects of the Right to Limit Childbearing.<sup>1/</sup> The report analyzed the manner in which the proposed constitutional amendments would nullify the right to abortion, as defined by the Supreme Court undermining the First, Ninth and Fourteenth Amendments to the Constitution.<sup>2/</sup> Based on its analysis of the legal and constitutional issues, the Commission took a firm position in support of each woman's constitutional right to privacy in the decision whether to terminate a pregnancy, as delineated by the Supreme Court.<sup>3/</sup> The Commission thus recommended that Congress reject constitutional amendments which "seek to abolish the historic freedom to limit childbearing as contained in the Bill of Rights and the Fourteenth Amendment and as recognized by the Supreme Court of the United States." Further, the Commission recommended that Congress reject other anti-abortion legislation and amendments, and repeal those which have been enacted.<sup>4/</sup>

The extent of compliance of public hospitals with the 1973 Supreme Court decisions has not been determined. In fact, one recent study shows that most abortion services are available in large metropolitan areas. For instance, 30 percent of the public hospitals in metropolitan areas performed at least one abortion during 1973 compared to only 8 percent of public hospitals in non-metropolitan areas.<sup>5/</sup> As a result of the lack of information in their State, members of the Wyoming Advisory Committee to the U.S. Commission on Civil Rights voted in November 1976 to conduct a

study on abortion services in public hospitals.

This report of the State Advisory Committee seeks to determine if there are legal, administrative, procedural and other barriers to a woman's right to choose to have an abortion in Wyoming. Specific objectives of the study were to determine: the extent of compliance of public hospitals with the Court's decisions, the availability of abortion services in the State, and medicaid policy in terms of paying for abortions of poor women.

The study has been limited to investigation of Wyoming's publicly supported hospitals. Selection of hospitals has been limited to those receiving public funds and offering obstetrical-gynecological services to women. In addition, approximately one half of the hospitals selected are from geographical locations which have the highest number of residents in Wyoming.

In conducting the study, members of the Wyoming Advisory Committee abortion services subcommittee and staff of the Commission's Rocky Mountain Regional Office reviewed available literature on abortion and the recent court decisions. In addition, questionnaires were mailed to nine public hospital administrators. The questionnaires were designed to elicit information about the number of abortions performed during the years 1973-1976, the number of abortions requested during 1973-76, and the number of requests for reimbursement for abortion services by Medicaid. After the questionnaires were returned (only five were completed and returned), the responses were analyzed and tabulated. (See Appendix A).

Additionally, the Wyoming Advisory Committee members and RMRO staff conducted interviews with hospital administrators and State Health officials. A total of 42 persons were interviewed. Of those, 14 were public hospital administrators, 14 were physicians or their support staff, five worked for facilities providing abortion services, two were State Medicaid

officials and seven other persons interested in abortion services. The interviews were conducted in March and April 1977.

#### B. Demographic Data for Wyoming

With its 332,000 inhabitants, less than 0.2 percent of the nation's population, and an area of 97,914 square miles, Wyoming is only more densely populated than Alaska. Both states are the only two in the nation without a population center large enough to qualify as a standard metropolitan statistical area<sup>6/</sup>.

Wyoming is a state of large distances and small towns. Approximately 315,000 of Wyoming's population are whites, 18,000 are Hispanics, 3,000 are blacks, and 7,000 are people of other races, the greatest number of whom are Native Americans. The State has a large reservation in the Wind River area owned by the Arapahoe and Shoshone tribes<sup>7/</sup>. In 1970, Wyoming's urban population was 201,000. Its rural population of 131,000 makes it considerably more rural than the rest of the lower United States. Of the rural residents, 31,000 live on farms. In terms of percentages, Wyoming is 60 percent urban and 40 percent rural<sup>8/</sup>. The United States as a whole is 73.5 percent urban and 26.5 percent rural.

Of the State's 332,000 persons, 66,500 or 20 percent are women aged 15-44. These women are in what is generally considered to be the child bearing years<sup>9/</sup>.

Approximately 33.5 percent of those Wyoming women who are the heads of households fall below the 1969 poverty level. This compares with a national figure showing 32.5 percent of such women in the poverty category. Eleven percent of the State's total population falls below the

1969 poverty line, while nationally, 13.7 percent of the U.S. population lives in poverty.<sup>10/</sup>

According to the Alan Guttmacher Institute's figures in 1973, Wyoming had an abortion rate of 2.6 abortions per 1,000 women within the ages of 15-44 and a rate of 4.5 in 1974. Nationally, the abortion rate for 1973 was 16.5 and 19.5 in 1974, four to six times greater than the rate in Wyoming. The abortion ratio for the State (based on the number of abortions per 1,000 live births for a given population) was 30 in 1973 and 282 in 1974. The Wyoming ratios are five to eight times smaller than the national averages.<sup>11/</sup>

### C. Glossary of Terms

Abortion rate: the number of abortions per 1,000 women in the child bearing years, 15-44.

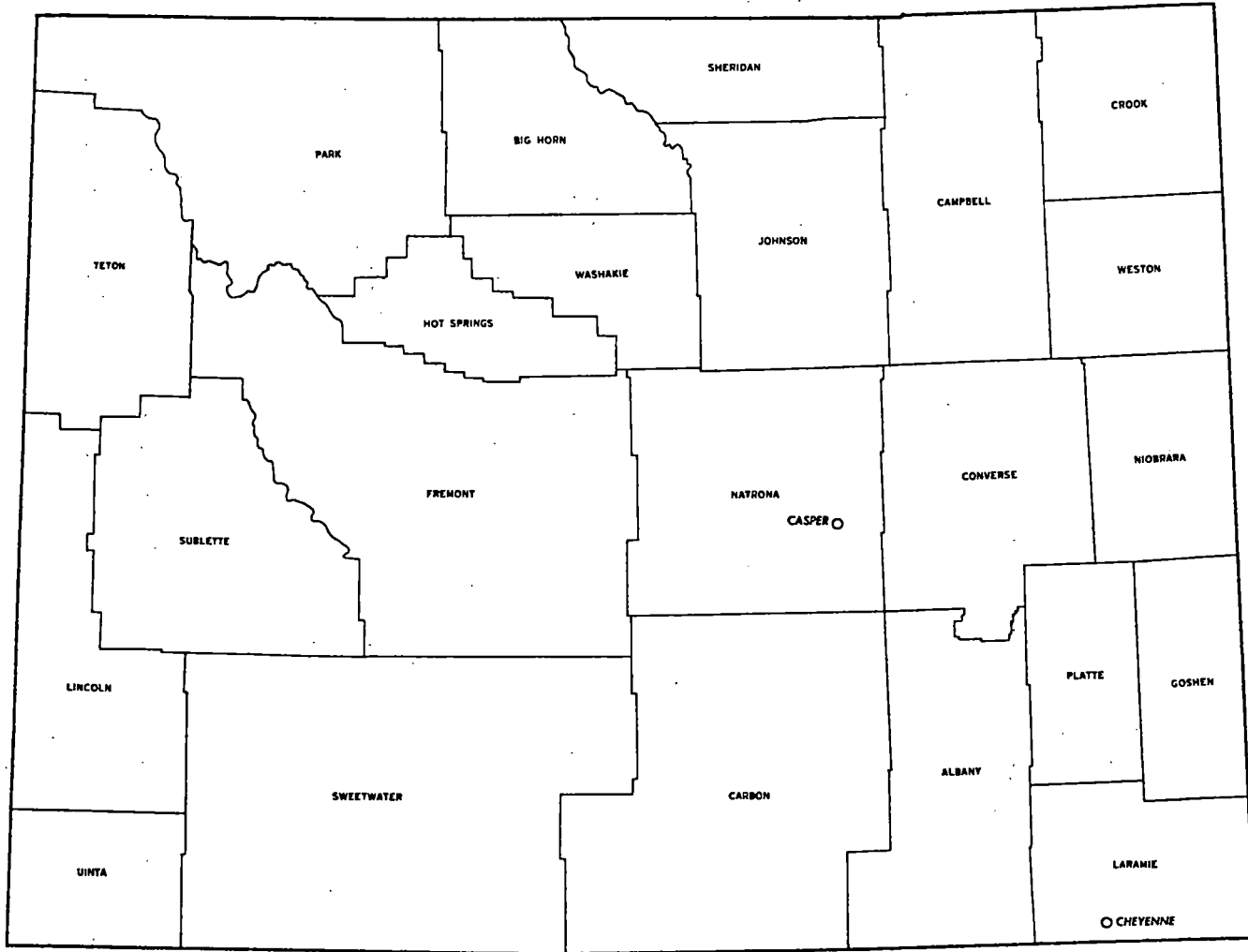
Abortion ratio: the number of abortions compared to the number of live births for a given population. The number of abortions per 1,000 live births.

D&C: dilatation and curettage is the older and still widely used technique of performing abortions. It involves dilatation of the cervix and curettage of the uterine walls.

Elective abortion: an abortion performed because the pregnant woman wishes to terminate the pregnancy.

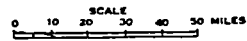
Length of Gestation: the length of time a fetus has been developing in the uterus. This is most accurately estimated by a pelvic examination. This is generally a more accurate estimate of the length of pregnancy than IMP.

IMP: an abbreviation for the length of time that has passed since a woman's last menstrual period. This is used as a rough indication of the length of pregnancy.



LEGEND

○ Places of 25,000 to 50,000 inhabitants



Therapeutic abortion: an abortion performed for reasons of possible risk to the mother. Usually of a medical nature, the term is also used to refer to instances in which the abortion is performed because of the potential for psychological damage to the mother if the pregnancy continues.

Trimester: pregnancy is broken up into three 12 week segments

1st Trimester--the first 12 weeks of pregnancy. Abortion at this point is, according to the U. S. Supreme Court in Roe v. Wade, 410 U.S. 113 (1973), a matter between a woman and her doctor.

2nd Trimester--the second 12 weeks of pregnancy. The State can interfere in abortions at this stage only in order to insure the safety of the woman.

3rd Trimester--the final 12 weeks of pregnancy. Abortions should be performed in this trimester only if the mother's life is in danger.

Vacuum aspirator: a machine used for performing abortions. It is considered to be the safest technique available.

Viability: the stage of human development (usually after 24 weeks of pregnancy) when the fetus is able to live outside the womb of the mother according to appropriate medical judgment.

#### D. Legal Background

In January 1973, the United States Supreme Court ruled seven to two in Roe V. Wade that during the first trimester (approximately three months) of pregnancy a State cannot bar any woman from attaining an abortion from a licensed physician. The Court reached this conclusion, in part, because

of the established medical fact that until the end of the first trimester the mortality rate in normal childbirth is greater than that in abortion.<sup>13/</sup> Furthermore, the Court ruled that during the second trimester of pregnancy the State can regulate abortion procedures only if such regulations relate to the preservation and protection of the woman's health. During the third trimester the State can regulate or even prohibit all abortions except those necessary, "in appropriate medical judgment," to protect the woman's life and health.<sup>14/</sup>

The Court based its decision on a right of privacy:

(W)hether it be founded in the Fourteenth Amendment's concept of personal liberty and restrictions upon State action, as we feel it is, or as the District Court determined, in the Ninth Amendment's preservation of rights to the people.<sup>15/</sup>

This right of privacy was limited in the second and third trimesters by the long-established doctrine of compelling State interest, which provides a basis for State restriction of certain "fundamental rights" when there is clear evidence of a State interest in the goal to be obtained by the limitation. In Roe, the health risk to the woman, and the potential for human life of the fetus at the point of viability, permitted the restriction on freedom to abort in the later stages of pregnancy.<sup>16/</sup>

On the same day it decided Roe, the Supreme Court held in Doe v. Bolton that a Georgia statute which provided for certain restrictions on the accessibility of abortions was also unconstitutional.<sup>17/</sup> The Court decided that the statute's requirement that the hospital in which the abortion was performed be accredited by the Joint Commission on Accreditation of Hospitals, that a committee approve the abortion, and that two practicing physicians concur in the treating physician's recommendation, were unnecessary State action and not related to the purpose of the statute.<sup>18/</sup>

As a result of the two Supreme Court decisions, the Wyoming law

outlawing abortions in the State was overturned. In Doe v. Burk,<sup>19/</sup> the Wyoming Supreme Court ruled the State abortion law unconstitutional.<sup>20/</sup> Writing for the Court, Justice Guthrie found "(t)he regulation of abortions in this State is beyond the power of the courts and is solely a matter for the legislature, which must, of course, give heed to the pronouncements of the United States Supreme Court..."<sup>21/</sup>

Based on the Burk case, the Wyoming Legislature revised its abortion statute in 1973. The new statute simply stated that no one could be forced to participate in any way in the performance of an abortion.<sup>22/</sup> During the 1977 legislative session, a new statute (see Appendix B) was enacted to repeal and update the former abortion laws. The new comprehensive statute inserts the State into the abortion process during the third trimester.<sup>23/</sup> In large part, the new law is based on the Danforth v. Planned Parenthood<sup>24/</sup> decision of the U. S. Supreme Court announced in July 1976. In that decision, Justice Blackmun wrote that "after the stage of viability has been reached" a physician need "exercise the prescribed skill, care, and diligence to preserve the life and health of the fetus."<sup>25/</sup>

The newest Wyoming statute mandates that "(t)he commonly accepted means of care shall be employed in the treatment of any viable infant aborted alive with any chance of survival" (emphasis added).<sup>26/</sup> In addition, it is illegal to abort a fetus after it has reached viability except to preserve the life or health of the woman.<sup>27/</sup>

The new law maintains the provision that no one can be required to perform an abortion.<sup>28/</sup> The act also provides that no private hospital or clinic is required to do abortions.<sup>29/</sup> The Tenth Circuit Court of Appeals, which includes Wyoming, has ruled that a hospital having tax exemption as a private institution and receiving approximately five percent of its construction monies from Federal funds is not a public institution.<sup>30/</sup>



In Wyoming, however, 27 of the 28 hospitals are public facilities since they are city, county, or state controlled. The Danforth decision reaffirmed the proposition that neither a state nor any of its political subdivisions can limit a woman's access to an abortion during the first trimester. During the second 12 weeks of pregnancy, the state can only dictate where abortions will be performed.

Although Wyoming has revised its abortion statute, one pre-Roe law remains. It is presently a felony punishable by imprisonment up to 14 years to cause "miscarriage, abortion, or premature expulsion of a fetus" by assaulting a pregnant woman.<sup>34/</sup> This statute could be interpreted by some to prohibit any abortions by licensed physicians. The U.S. Supreme Court has made it clear, however, that a pregnant woman has a right to an abortion. Only one condition can be placed upon a woman during the first trimester, a condition that does not apply in Wyoming. The State may require a woman to consent in writing to the procedure and certify that "her consent is informed and freely given (without) ... coercion."<sup>35/</sup> It is illegal for the State to require the consent of the spouse or to "impose a blanket provision...requiring the consent of a parent...of an unmarried minor..."<sup>36/</sup>

## II. Access to Abortion Services in Wyoming

### A. Abortions In-State and Out-of-State

According to the Division of Vital Statistics of the Wyoming Health Department, the State has never kept records of the number of abortions performed within its jurisdiction.<sup>37/</sup> The recent changes in the Wyoming abortion law call for the establishment of record-keeping in this regard. In spite of the lack of data collected by Wyoming, the report of the Alan Guttmacher Institute, "Abortion 1974-75: Need and Services in the United States, Each State and Metropolitan Area," contains statistics generally considered by authorities to be accurate. The figures, derived from inclusive survey of abortion service providers, report that 180 abortions were performed in Wyoming in 1973, 320 in 1974, 530 in 1975, and a projected 500 abortions for 1976.<sup>38/</sup> The report contends that less than one-sixth of the estimated need for abortions in Wyoming was being met within the State.<sup>39/</sup>

Unlike Wyoming, most of its bordering states have kept records of the number of abortions performed within their boundaries. The data provided by the State health departments of Colorado, Montana, South Dakota, and Utah also indicate that Wyoming is not providing adequate abortion services for its residents.<sup>40/</sup> The chart on page 23 presents the findings which are incomplete due to variation in data collection procedures and tabulations. The information also does not account for all abortions obtained by Wyoming women out-of-State, since at least one physician in the State sends women to California for abortions.<sup>41/</sup>

Reports from State Health Departments  
on the Number of Abortions Performed on Wyoming Women  
in 1973-1976

<u>State</u>	<u>1973</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>
Colorado	151	218	357	No Data
Montana	No Data	5*	15	26
South Dakota	22	49	51	50
Utah	No Data	46	88	No Data
Totals	171	318	511	Incomplete
Number of Abortions Performed in Wyoming	180	320	530	500**
Total Abortions on Wyoming Residents	351	638	1,041	Incomplete
Percentage of Total Done out of State	48%	46%	50%	Incomplete

\* Data for six months only.

\*\* An estimate from the Alan Guttmacher Report.

In every year for which information is available, 46 percent or more of the abortions performed on Wyoming women were performed out-of-state. This compares with national data which shows that in 1972, the year before the Roe and Doe Supreme Court decisions, 44 percent of all women who got abortions had to go out-of-state.<sup>42/</sup> After the court decisions, this figure declined to 25 percent in 1973, and, by 1974, only 10 percent of women were traveling out-of-state to get abortions.<sup>43/</sup> More recent figures are not available. At the same time, Wyoming's figures have not dropped; they have increased somewhat. While the total number of abortions performed on Wyoming women has nearly tripled, services in the State have not expanded to meet the demand. Dr. Warren Hern, Boulder Abortion Clinic, reports that seven and one half of his patients during the two year period ending March 1977 were from Wyoming. He estimates that one third to one half of all out-of-state patients seeking abortions in Colorado are from Wyoming.<sup>44/</sup> If, as the Guttmacher study indicates, only about one sixth of the demand for abortion is being met within Wyoming, and, since the number done out-of-state is about the same, it would indicate that about two thirds of the demand is not being met at all. The Guttmacher Institute report states that the lower estimate of demand for 1974 was 1,650 abortions.<sup>45/</sup> (The report contains both a lower and a higher estimate of demand. These estimates are based on demand patterns in states which have had legal abortion for some time.) When both the number of abortions performed in Wyoming and the number performed on Wyoming women out-of-state are combined, the figure is 638 abortions for 1974. Even with allowances for considerable error in both the estimate of need and in the accounting of the actual number of abortions obtained by Wyoming women, much difference yet remains between the potential demand for such services and the provision of them.

The figures used in the Guttmacher report may not be applicable to Wyoming, since they are based on California and New York figures. There may be a considerably lower demand for abortion services in Wyoming due to some local factor such as an ethical aversion to abortion. John Owen Yale, administrator of the Sheridan County Hospital thinks so. "Independence is very strong here. We come here because we do value independence. We value life stronger." He feels that because of this "stronger value for life" people in Wyoming just are not as likely to seek an abortion.<sup>46/</sup> Byrla Carson, Family Planning Specialist, Wyoming Department of Health and Social Services, disagrees. "Funding people to do abortions is a real hassle," she says. "Doctors just won't do them."<sup>47/</sup>

There does not seem to be any evidence in the demographic data on Wyoming to support the notion that people in Wyoming have a moral resistance to abortion. It, for instance, is not a very Catholic state.

Another possible explanation for the low number of abortions may be that, for some reason, fewer unplanned or unwanted pregnancies occur in Wyoming. Yet there is some reason to believe just the opposite, however, i.e., that the rate of unplanned pregnancies might, in fact, be higher for Wyoming. For example, the family planner (a social worker) in the county public assistance office is the major dispenser of birth control information. Of all the hospitals visited during the development of this report, not one provided any birth control information nor did one supply the various methods necessary to practice birth control. Planned Parenthood has offices in only three cities in Wyoming. This information would tend to indicate that a woman might have considerable difficulty obtaining birth control information and methods. Under such conditions, the chances of unwanted pregnancies occurring would seem to be increased.

The Guttmacher study has addressed such considerations as "moral aversion to abortion" and "lower unplanned pregnancy rates." The report states that, in fact, no evidence of great regional variability in these regards can be found:

Fertility studies have shown that the incidence of unwanted and mistimed births does not vary significantly by geographic area. Opinion polls have shown some regional variations in support for legal abortions, although the differences reported often are not great. In light of these findings, this study is predicated on the expectation that if all women had equal access to safe, legal abortion, there would be very few differences among the sections of the nation in the utilization of abortion services.<sup>48/</sup>

Whether the above supposition that women in Wyoming would seek abortion as much as women from other parts of the country if the services were readily available is not something that can be settled here. But what is clear is that a sizable number of Wyoming residents have to and do travel long distances to get abortions.

#### B. Distances

Those Wyoming women who go out-of state for an abortion must travel considerable distances. One abortion clinic in Colorado detailed information about the patients it has treated from Wyoming. These data give a more precise idea of the distances covered.<sup>49/</sup>

The clinic saw a total of 112 patients in three years, 40 in 1974, 23 in 1975, and 49 in 1976. These people traveled to the Colorado clinic from 20 different Wyoming towns. One hundred or 89 percent of the patients came from towns that have public hospital facilities which could provide abortion services. The average length of these trips was 149 miles one way. Of the 11 percent who did not live in a city with a public hospital, only one person lived more than 40 miles from such a facility. The average one way length of the trips for those patients who did not come from a city

with a public hospital was 260 miles. The longest trip, made by two different individuals, was 527 miles. The average distance traveled by the entire sample was 157 miles one way.

These long distances might have a deterring effect on women seeking an abortion. Aside from the time and expense required, knowledge of such out-of-state facilities may be difficult to obtain. Barriers to obtaining services almost invariably work the most difficulty on those with the least resources. Since approximately one half of the demand for abortion in Wyoming would be expected to come from women in the lower and marginal income categories, a considerable number of women may be having a very difficult time getting an abortion.<sup>50/</sup>

Such distances may lead to some increased medical risks. The Institute of Medicine reported in "Legalized Abortion and the Public Health" the following opinion:

There are positive health benefits in obtaining abortions nearer a woman's home: If a complication should arise, she has access to the same facility that performed the abortion, where her medical history is available to facilitate care.<sup>51/</sup>

In support of this view the Guttmacher report states:

The second kind of unmet need, which is not present in connection with other health services, consists of those women who obtain legal abortions but only by traveling some distance from their homes; as a consequence, such women are denied the close postoperative supervision which is (or should be) an integral part of any surgical procedure. If the U. S. health system treated abortion as it does other comparable procedures, very few women would be forced to travel outside their own communities to obtain services.<sup>52/</sup>

### C. Medicaid and Title XX

The Wyoming Department of Health and Social Services receives grants from two programs of the U.S. Department of Health, Education, and Welfare (DHEW) to reimburse physicians and hospitals for abortion services. Under Title XIX of the Social Security Act, DHEW provides funds to states which create medical assistance (Medicaid) programs to aid families with dependent<sup>53/</sup>

children, and aged, blind, or disabled persons. Physicians and hospitals which provide abortions to a person covered by the State medical assistance program are reimbursed through the Wyoming Department of Health and Social Services.

In addition, funds are available through Title <sup>54/</sup>XX to reimburse medical personnel and facilities for abortion services. Title XX is not Medicaid and Medicaid eligibles cannot be a part of the program. Title XX allows each State to set its own social services priorities after reviewing the needs and services available in local communities. As of April 1977, Wyoming was offering 17 varieties of social services under Title XX.

Neither of the Wyoming offices of Title XIX and Title XX have kept any records of the amount of money spent on abortion in the State. RMRO staff obtained some information by review of the Title XIX files and from Byrla Carson, family planning specialist for Title XX, who has kept her own records of state and federal abortion expenditures over the six months from November 1976 to April 1977.

According to the Guttmacher Institute, a minimum of 265,000 abortions per year are paid for by Medicaid funds. The Department of Health, Education, and Welfare estimates the number to be between 250,000 and 300,000. The cost of these operations is placed at between \$45 to \$55 millions. This estimate is based on data collected at nine different places in the country. More accurate data is not available.<sup>55/</sup>

The files of Title XIX in Wyoming show that for 1974, \$6,744 was paid physicians to perform abortions. (This figure, as do all of the ones for Title XIX, does not include payments to hospitals for abortion services. That information was not available). Almost all of the funds paid to physicians went to two doctors. In 1975, \$4,683 was paid out to physicians



for abortion services (again, better than 90 percent went to two physicians). In 1976, the total dropped to \$3,000, probably because one of the two Wyoming physicians who perform abortions practiced little in 1976.<sup>56/</sup>

The Carson figures show that from November 1976 to April 1977 Title XX funds paid hospitals \$4,574 and physicians \$7,679 for abortions. Of this \$12,253 half year total, \$1,921 went to out-of-state hospitals and \$1,950 to out-of-state physicians and clinics. This 31 percent figure would no doubt be higher if not for the policy of the Wyoming Health Department to refer patients within state when possible.<sup>57/</sup>

If the Title XX data is doubled to give us a yearly estimate and the Title XIX amount is added, yearly Health Department expenditures for abortion services can be approximated. Assuming the money ratio spent on hospitals, compared to that spent on physician services, would be about the same for both Titles XIX and XX, and using the 1974 figures, \$10,000 could be added to Title XX for a total yearly expenditure of about \$35,000.

Although these figures are speculative, Wyoming women of child bearing ages (15-44) do comprise about 0.1 percent of U.S. women of child bearing age. In theory, they should account for about 0.1 percent of the nation's Medicaid abortion expenditures. Since about \$50 million is spent nationally on abortion, Wyoming could be expected to spend about \$50,000 per year, \$15,000 more than the figure arrived at by even the most generous estimates of State spending.

No evidence exists that Title XIX or XX funds are being used in any way to deter women from obtaining abortions. According to Carson, "a lot of doctors won't accept Title XIX and XX rates. They refer them out-of-state. This is one way for the doctors to get out of doing abortions."<sup>58/</sup> Other factors at work to underutilize Federal funds will be examined in the following sections.

#### D. Public Hospitals in Wyoming

Wyoming has a total of 28 licensed hospitals. Of these, one is run by a religious order and another is the State mental institution. The remaining 26 are all public hospitals, though nine are run by a private organization, the Lutheran Hospital and Homes Society (LHHS)<sup>59/</sup>. This organization, quartered in Fargo, North Dakota, is not an affiliate of the American Lutheran Church. Of the 26 public hospitals (excluding the State mental institution), RMRO sent nine a questionnaire (see the following chart) in regard to their abortion policies and practices. In three cases, hospitals that were sent a questionnaire were also visited. Followup phone calls were made to those hospitals which did not return the questionnaire. In all, 19 of the 26 public hospitals were contacted during this study.

Of the seven hospitals which were not included in the study, four are managed by LHHS. According to Charles Hall, administrator of the Fremont County Memorial Hospital in Riverton, all of the LHHS hospitals in Wyoming have a standard set of by-laws.<sup>60/</sup> Therefore it can be surmised that four of the seven hospitals not included in this study have the same by-laws and practices similar to the five LHHS hospitals included in the report.

Of the 19 public hospitals polled, six have actually performed elective abortions and eight hospitals have by-laws which prohibit the use of their facilities for elective abortions. In two cases, the hospitals have no rules in this regard. In another two instances, the information was not supplied. In one case, St. John's Hospital in Jackson, the administrator indicated that the prohibitive by-laws were currently being rewritten.<sup>61/</sup>

The importance of access to public hospitals for the performance of abortions has been underscored by the recent changes in the Wyoming state law regarding abortion. This law calls for the following of accepted medical standards in the performance of abortions:

Wyoming Hospitals Contacted on Abortion Services

<u>Name of Hospital</u>	<u>Location</u>	<u>Questionnaire/Interview</u>
Memorial Hospital of Laramie County	Cheyenne	Questionnaire & Interview
Memorial Hospital of Natrona County	Casper	Questionnaire
Ivinson Memorial Hospital	Laramie	Interview
Memorial Hospital of Sweetwater County	Rock Springs	Questionnaire *
Memorial Hospital of Sheridan County	Sheridan	Interview
Memorial Hospital of Fremont County	Riverton	Interview
Memorial Hospital of Carbon County	Rawlins	Questionnaire
Memorial Hospital of Campbell County	Gillette	Questionnaire
Bishop Randall Hospital	Lander	Questionnaire *
West Park County Hospital	Cody	Questionnaire & Interview *
Memorial Hospital of Uinta County	Evanston	Interview
Memorial Hospital of Goshen County	Torrington	Interview
Memorial Hospital of Hot Springs County	Thermopolis	Interview
Memorial Hospital of Converse County	Douglas	Interview
Memorial Hospital of Platte County	Wheatland	Interview
North Big Horn Hospital	Lovell	Interview
St. John's Hospital	Jackson	Questionnaire *
South Big Horn Hospital	Greybull	Interview
Crook County Memorial Hospital	Sundance	Questionnaire *

\* Returned Questionnaire

'Accepted medical procedures' means procedures of the type and performed in a manner and in a facility which is equipped with surgical, anesthetic, resuscitation and laboratory equipment sufficient to meet the standards of medical care which physicians engaged in the same or similar lines of work in the community would ordinarily exercise and devote to the benefit of their patients.<sup>62/</sup>

According to Robert G. Smith, Executive Secretary of the Wyoming Medical Society, this phrase was designed to encourage doctors to perform abortions in hospitals. He says, "This doesn't eliminate office abortions, but it does encourage that they be done in a hospital."<sup>63/</sup> Smith and many other people in the Wyoming medical community believe that safety increases when an abortion is done in a hospital. The findings of the Joint Program for the Study of Abortion (JPSA), however, do not support this belief:

If complication rates in JPSA are analyzed by the type of facility in which the abortion was performed, total complication rates associated with the method of suction are substantially lower for clinic patients than for either outpatients or inpatients of hospitals.<sup>64/</sup>

What effect this new law will have on the physicians in the State who are doing abortions in their offices remains to be seen. Will pressure be put upon them to desist? Nationally, 51 percent of all abortions in 1974 were done in outpatient clinics in ways that are generally quite safe.<sup>65/</sup> This percentage has most likely increased since 1974, since the trend was in that direction. Additionally, in 41 states, including most of the nation's largest, public hospitals performed fewer than one fifth of all abortions.<sup>66/</sup> Wyoming has one outpatient abortion clinic, the Women's Clinic in Cheyenne, and this section of the law could make the establishment of any additional clinics difficult.<sup>67/</sup> With access to in-office abortion limited, and no outpatient clinic in the State, the public hospitals play the primary role in provision of abortion services.

If Wyoming falls in line with national trends, it is even more likely to have a substantial number of indigent rural people who need public hospitals. The Gutmacher report substantiates this:

Since a disproportionate number of nonmetropolitan residents who need abortion services have low or marginal incomes and rely to a great degree on public hospitals for their medical care, the failure of nonmetropolitan hospitals to provide abortions can only have the effect of severely limiting the availability of abortion to these women, many of whom lack the resources to travel to larger cities.<sup>68/</sup>

#### E. Hospitals Which Do Elective Abortions

The six hospitals which have done some elective abortions are: Memorial Hospital of Laramie County (Cheyenne), Memorial Hospital of Natrona County (Casper), Ivinson Memorial Hospital (Laramie), Memorial Hospital of Converse County (Douglas), South Big Horn County Hospital (Greybull), and Bishop Randall Hospital (Lander). Natrona County, Ivinson Memorial, and Bishop Randall have done considerably more than the others, with Natrona County the most.

Throughout the State, Casper is known as a place where abortions are done. This, according to the State Medical Society's Smith, is due to the fact that the judicial district in which Casper lies was the first in Wyoming to make a ruling on abortion. "The history of the situation," he says, "is that abortion became legal in the seventh judicial district first. So everyone started sending their people there."<sup>69/</sup> Smith is referring to the 1973 Wyoming Supreme Court decision in Doe v. Burk, where the State Supreme Court held that the Wyoming law prohibiting elective abortions was unconstitutional, not only in Natrona County but State-wide.<sup>70/</sup> In any event, Casper is the main city in Wyoming in which abortion is readily obtained. Many people from other parts of the State travel to Casper to get an abortion. A number are referred by doctors and social service agencies while others are self-initiated.

According to the Natrona County Hospital, 183 elective abortions were performed there in 1973, 258 in 1974, 291 in 1975, and 150 in 1976. Hospital officials explain: "Most abortions are performed on an outpatient basis. . . . Therefore, these statistics do not present the entire totals. There are no statistics available on outpatient abortions.<sup>71/</sup>" The decline in the number of abortions performed in 1976 may be due to an increase in the number of abortions performed on an outpatient basis but more likely to the fact that one of the main physicians performing abortions did not practice very much in 1976. In all, the hospital has four doctors on its staff of 73 physicians who do elective abortions.

Availability of abortion is generally good in Casper, yet one physician complains that he has difficulty scheduling patients in the hospital for abortion procedures. He says:

If you require anesthesia in the hospital, only two anesthesiologists will do them. One of these is often out of town, so you're usually down to just one. You have to pick your time and day because of only one anesthesiologist.<sup>72/</sup>

None of the other physicians who practice at Natrona County and do abortions mentioned any difficulties.

Bishop Randall (Lander) appears to be the only hospital of the nine in Wyoming administered by the LHHS that performs elective abortions. The LHHS's position against elective abortions is discussed on pages 27 and 28.

The number of elective first trimester abortions done at Bishop Randall has increased steadily since 1973 when four were performed. In 1974, 42 were done, 70 were performed in 1975 and 73 in 1976. Of the 37 physicians on the Bishop Randall staff, two do abortions.<sup>73/</sup>

Ivinson Memorial Hospital (Laramie) has been performing elective abortions since 1973, but very few until recently. In 1973, one elective abortion was performed in the hospital, two in 1974, 19 in 1975 and 100

in 1976. In 1976, the hospital denied one request for an abortion because the woman was a minor. Ivinson Memorial Hospital has three physicians on its staff of 26 who do abortions.<sup>74/</sup>

None of the other three hospitals that have performed elective abortions have done nearly as many as Natrona, Bishop Randall, and Ivinson Memorial. Converse County Memorial Hospital (Douglas) has performed nine abortions since 1973: three in 1973, one in 1974, one in 1975, and four in 1976.<sup>75/</sup> South Big Horn Memorial Hospital (Greybull) performed 32 in 1976. This is the only year for which data is available. A significant fact about these latter two hospitals is that they are located in very small towns.

Many of the administrators questioned during this study indicated that persons seeking an abortion would not be likely to come to their hospital since, in a small town, word of the operation would soon spread. Knowing or fearing this, the women would go elsewhere. For example, the administrator of the North Big Horn County Hospital said: "I'm sure if someone came here for an abortion, that kind of information would be hard to suppress. Someone from another small town would be the most likely candidate."<sup>76/</sup> And similarly, the head of the Sheridan County Memorial Hospital stated:

The smaller the community, now granted this is also a spider web kind of thing, but, generally speaking, whatever the moral restraints are in a community, if a gal is going to have an abortion who lives in this community, she would much prefer to go to another community to have it.<sup>77/</sup>

Yet Sheridan is the fifth largest city in the State and considerably larger than Lander, Douglas or Greybull where elective abortions are done. According to Byrla Carson, Wyoming Department of Health and Social Services, the people in Sheridan have a need for abortion services in their community.<sup>78/</sup> Still, this "small town factor" is put forth as an explanation for the lack of demand for abortion services experienced by many hospitals. In those

hospitals that do not perform abortions, the lack of abortion services was sometimes viewed by administrators as in no way thwarting those who might be seeking an abortion. It was argued that people would probably prefer to go out of town anyway. Traveling to another locale for an abortion was seen as an acceptable alternative to providing the services locally. For example, Donnell Anderson, administrator at Hot Springs County Memorial Hospital, wrote, "[t]hese [abortion] services are available in surrounding communities so they [the physicians at the hospital] do not feel that they are depriving anyone of their rights since the service is available nearby.<sup>79/</sup>" John Owen Yale of the Sheridan Hospital added: "Most of them [persons seeking an abortion] out of here are basically are sent to Casper. And its a relatively simple matter to do that. So that's what they [physicians] prefer to do.<sup>80/</sup>" But the fact that Douglas and Greybull have experienced some demand and have performed the operations indicates that if services are available even in the smallest town, people will use them.

Some women may indeed be reluctant to have an abortion in the hospital in their small town. But lack of privacy may be only one of the reasons for this. A woman might be concerned about the attitude expressed toward her by the hospital staff. At least one administrator indicated that this would be a problem with his staff. Gayle Robertson of South Lincoln County Hospital said: "They'd [staff] probably do them if it was within their duties, but they wouldn't look favorably on the individual. You know what I mean."<sup>81/</sup> He believed that this would not affect treatment. But such attitudes could be a deterrent to use of hospital facilities.

The administrators of both the Greybull and Douglas hospitals expressed some concern that widespread knowledge of the fact that their hospitals do abortions could stir up controversy. And some of the administrators of hospitals that do not perform abortions cited the small town climate as a



block to providing them. R. Dee Cozzens, of West Park County Hospital, said that she knew of one elective abortion that had been performed in the hospital, but this was kept quiet.<sup>82/</sup> She did not believe that the community of Cody would stand for abortions being performed in the hospital. Similar arguments were put forward by three hospitals in New Jersey that were brought to court for not providing abortion services. The hospitals argued that they would lose funds because people in their communities would withhold them if they did abortions. The New Jersey Supreme Court ruled, however, that:

Even though the propriety of elective abortions provokes highly emotional responses, it is extremely doubtful that the public will not assist the hospitals whose services are so vital to the public health and welfare of the community. Furthermore the... contention conflicts with and ignores the underlying principle of a non-sectarian hospital, whose basic purpose is to make available hospital facilities for the care and treatment of the public.<sup>83/</sup>

One result of the concern with the local climate of opinion is that even those few services that are available in Wyoming are not easily discoverable.

#### 1. First Trimester Abortions

None of the hospital personnel who perform first trimester abortions believe they treat abortion procedures differently than any other medical operation they perform. Only Bishop Randall requires that husbands give their consent before an abortion is performed. All of them do require the consent of at least one parent in the case of a teenager. This is what they require for any surgery performed on a youth. Such blanket requirements in regard to abortion have been found unconstitutional by the U.S. Supreme Court. The requirement of parental consent, though it is not a special policy solely for abortion cases, is still unconstitutional if it amounts to a veto over a girl's decision to abort.<sup>84/</sup>

All of the hospitals performing abortions make it known to their employees that they may refuse to participate in an abortion procedure. The same would not be tolerated in the case of heart surgery or another type of operation. Four of the hospitals have had staff members who have exercised this option. Twenty percent of Natrona County physicians who would normally perform abortions have refused to do them along with ten percent of the nursing staff<sup>85/</sup>. As previously mentioned, one physician claimed that some of the anesthesiologists have also refused. But, by and large, none of these hospitals has found much difficulty staffing for abortion procedures.

Except for Douglas, all of the hospitals which perform first trimester abortions have vacuum aspiration machines. The use of a vacuum aspirator in an abortion widely considered to be the best medical technique. The study done in Ljubljana, Yugoslavia found: "For every complication, women obtaining suction abortion experienced lower rates than those obtaining D&C abortions."<sup>86/</sup> Patients can choose to have either a local anesthetic or a general anesthetic, in most instances.

None of the hospitals is staffed with counselors or welfare workers to counsel women having an abortion. Doctors and nurses involved with a patient may do some questioning such as that described by the administrator of the Douglas hospital: "At least in one case I am familiar with, the girl was asked, 'Are you sure this is what you want to do?' And this sort of thing."<sup>87/</sup> No counseling and education in regard to birth control is done either. Nor are methods of birth control dispensed by these hospitals. Birth control has been made a part of abortion services offered by some hospitals in other states. None of the hospitals involved in this report offer birth control services, whether they perform abortions or not.

The average cost a patient pays for a first trimester abortion, including doctor and hospital costs, is about \$400. One physician interviewed felt

that, because of lack of public awareness in Wyoming, patients were paying more money than they might otherwise have to. He explained, "Most patients don't know about the high cost of the physicians they are referred to. They don't shop around at all.<sup>88/</sup>"

## 2. Second Trimester Abortions

Second trimester abortions, those performed in the second 12 weeks of pregnancy, are available only in Casper at the Memorial Hospital of Natrona County. People desiring a second trimester abortion are very likely to travel out-of-state. The fact that there is but one physician in the State who does second trimester abortions is not well known. For example, the University Common Ministry on the campus of the University of Wyoming in Laramie, a major referral point in Wyoming, was not aware of this. This agency has made 131 referrals for abortion since 1973, yet the personnel were not aware of any place in Wyoming where a woman could obtain a second trimester abortion. They refer all women seeking this operation out-of-state.<sup>89/</sup> In some instances, people may have been sent long distances needlessly because of the lack of information. If a referral agency does not know the services, it stands to reason that the ordinary person is much less likely to know about them.

## F. Hospitals That Do Not Perform Abortions

Of the hospitals that do not do abortions, there are basically two types: 1.) those which have by-laws which prohibit the performance of elective abortions or have made a decision in a medical staff meeting not to do them, and 2.) those which have no by-laws in this regard but yet have never performed an elective abortion. In many instances, the administrators of these latter hospitals indicate that they had never had a request to perform an abortion, either from a doctor, or a patient. Of the hospitals that have not done any elective abortions, eight have by-laws or have made a staff

decision banning elective abortions. These hospitals will be discussed first.

1. Hospitals with By-laws That Prohibit Abortions

The Lutheran Hospital and Homes Society (LHHS), headquartered in Fargo, North Dakota, manages hospitals in 13 states. It manages nine hospitals Wyoming. Eight of these are county hospitals and one is a district facility. This management is undertaken pursuant to agreements between the district, counties, and the LHHS. The counties own the hospital facilities and are the fiscally responsible agents. Ultimate control of the hospitals lies with the counties or districts. In all cases, the hospitals are considered to be public institutions.

Five of the hospitals managed by the LHHS were contacted by RMRO staff. In three cases, interviews with the hospital administrator were conducted, and in two instances a questionnaire was forwarded. In addition, Harry Malm of the LHHS Fargo office was interviewed by telephone and Dr. Martin A. Bucka of the American Lutheran Church was interviewed by a staff member in his office in Minneapolis, Minnesota.

According to Malm, the organization is not connected with the American Lutheran Church. This was confirmed by Dr. Bucka of the American Lutheran Church.<sup>90/</sup> Malm said that the organization is a tax exempt private corporation. By-laws for its hospitals are drawn up in Fargo and vary from state to state, but within a state all of the LHHS hospitals have approximately the same by-laws. Malm estimated that 90 to 95 percent of the rules would be the same for all the hospitals in Wyoming.<sup>91/</sup> It should be noted that each hospital staff is given the chance to amend the rules if they desire.

The first of the three LHHS hospitals visited in Wyoming was in Wheatland. Donald Witt, administrator of Wheatland's Platte County Memorial Hospital, agreed that "The county is the owner of the facilities and they lease the operation to the Lutherans...whose governing board is in Fargo, North Dakota. There is a local board but it has no real power."<sup>92/</sup>

The by-laws of the Platte County Hospital allow only therapeutic abortions. The hospital has a committee to deal with abortion matters. The hospital's by-laws state that: "This committee shall be responsible for the supervision of all therapeutic terminations of pregnancy or other interrup-<sup>93/</sup>tions of pregnancy which occur or are performed in the hospital." The committee is composed of at least two members of the medical staff and meets monthly. (See Appendix C for the complete by-laws) The by-laws only permit therapeutic abortions and in the case of a minor, the consent of both parents. As previously noted, such requirements have been overturned by the U.S. Supreme Court. (See Appendix D for forms.)

Goshen County Memorial in Torrington also is run by the LHHS. Helen Phelps, the Hospital's director of nursing, said none of the eight physicians do abortions. "I don't know whether all of them object personally," she stated, "but they, as a medical staff, decided not to do them." Phelps added that this decision was made at a hospital staff meeting, but she does not recall when the meeting had taken place. She did believe there was a record of this decision.<sup>94/</sup>

Goshen County does not have a committee on abortion or a vacuum aspirator. No birth control information is dispensed nor are birth control devices available at the hospital.

Barbara Ellis, Goshen County public health nurse, volunteered that she sees about 25 women each year from the Torrington area who are seeking an abortion. They are referred to the Goshen County Department of Public Assistance and then either referred out-of-state if they can afford that or to Casper if they are eligible for Medicaid. Until only recently, the women eligible for Medicaid also were sent out-of-state, usually to Boulder, Colorado. It has now become the practice of the Wyoming Division of Public

Assistance not to send people out-of-state for services available in-state. Transportation is available from Public Assistance if needed. Ellis expresses concern about the cost of abortion in Casper: "In Casper people have to stay in the hospital overnight. It costs \$400 to \$500." It is less expensive by a considerable amount to send abortion patients out-of-state to an out-patient clinic even with the inclusion of traveling expenses.<sup>95/</sup>

Charles Halls, administrator of the LHHS-managed Fremont County Memorial Hospital in Riverton, reported that the hospital has 17 physicians on its staff, none of whom perform abortions. When asked if there had been any elective abortions performed at the hospital, he responded: "No. To the best of my knowledge there haven't been any since the new LHHS regulations were adopted May 5th 1973." That was more than three months after the Supreme Court decision declaring that the choice of an abortion was a matter between a woman and her physician.<sup>96/</sup>

When asked, "Would a determination of medical necessity be needed in order to obtain an abortion in the hospital?" Halls replied: "It would. No mill, no machine." He further stated: "I guess we're very fortunate we've got doctors who don't want to do them. And that's the best thing in the world as far as I'm concerned. It sure makes a lot of difference. It makes it easier."<sup>97/</sup>

Although the doctors decided individually not to perform abortions, they made their positions known.<sup>98/</sup> As with most of the other administrators interviewed, Halls was not aware that the Wyoming Legislature had passed a new law regulating abortions in the State. When asked what difference a new statute would make in the hospital practices, he replied: "I don't think it would really change. I think our medical staff is of the nature that this is the way it is going to be."<sup>99/</sup> In response to whether or not the

hospitals would perform the abortions, Halls stated: "They wouldn't. I can't speak for them but this is my feeling I got from the whole thing." <sup>100/</sup>

The two LHHS-run hospitals mailed questionnaires are Memorial Hospital of Campbell County in Gillette and Bishop Randall Hospital in Lander. In addition to the initial mailing, each of these hospitals was telephoned, and two weeks after that, a follow-up letter requesting the return of the questionnaire was sent them. The Gillette hospital sent the Advisory Committee a letter refusing to fill out the questionnaire (Appendix E). It was not until two weeks after the hospital was mailed a copy of sections of this report's draft that Bishop Randall submitted the questionnaire for analysis. Since the hospital has performed 187 elective abortions during the last four years, 73 of which took place in 1976, their procedures were discussed on pages 20 and 21 in the section outlining facilities that do abortions.

It appears that Bishop Randall's abortion policy differs from that of the other LHHS hospitals. According to Harry Malm of the LHHS office in Fargo, member hospitals in Wyoming have similar by-laws although abortion decisions are left to the individual facilities. It became apparent that Malm was referring to staff members' right to decide whether to do therapeutic and not elective abortions. When asked whether the staffs were free to decide to do elective abortions, he answered:

An abortion for the sake of abortion, we wouldn't approve of that.... We are not willing to do abortions for the sake of abortion. There has to be a medical reason.... We wouldn't run any abortion mills.101/

Not only was Malm not aware of the Bishop Randall policy but also of the changes taking place in the Wyoming law. When informed that a new law had been passed, he said: "We will bring our by-laws in line with any changes

in State law. We will make them comply. At this time we are in compliance with State law.<sup>102/</sup> That is not completely true since the Doe v. Burk decision in 1973 affirmed that Wyoming public hospitals had to permit first and second trimester abortions in accordance with the rulings of the U.S. Supreme Court.

Three hospitals not controlled by LHHS also have prohibitions against elective abortion. They are St. John's in Jackson, Hot Springs County, and Memorial Hospital of Sheridan County.

R.P. Gilstrap, St. John's Hospital administrator, returned the Advisory Committee questionnaire and indicated that the hospital has 12 staff physicians, none of whom do abortions. In a subsequent telephone conversation, Gilstrap indicated that the hospital's by-laws restrict abortions. He also mentioned that the hospital staff was in the process of rewriting the rules to bring them in line with State and Federal laws and that this would be accomplished shortly.<sup>103/</sup>

Donnell Anderson, administrator of Hot Springs County Memorial Hospital, stated that, to the best of his knowledge, none of the physicians on the staff performs abortions and that none has been done in that hospital.

The hospital's by-laws concerning abortion are brief:

Until such time as permissive legislation becomes available, the only abortions which shall be performed in this hospital shall be for inevitable abortion or incomplete abortion. <sup>104/</sup>

At the time of the interview, Anderson was not aware of the new Wyoming law.

The administrator of Sheridan County Memorial, John Owen Yale, said that the hospital has 25 physicians who comprise 80 percent of the physicians in the northeast part of the State and all of them are specialists. None of these doctors does abortions. "They don't do it for moral and ethical reasons, individual decisions," Yale stated.<sup>105/</sup> The hospital's policy on abortion is that, other than the preservation of the mother's life,



abortions are not performed. This rule was passed by the hospital's Board of Trustees on September 9, 1973, more than a half year after the U.S. Supreme Court struck down laws limiting a woman's right to an abortion. (See Appendix F).

Yale said he feels that the matter of abortion is not a burning issue in Sheridan. Neither those in favor of it nor those against it have been very active. Yale pointed out:

This has never come up as an issue. I've never had one physician come up to me and ask how to get around the basic policy of the hospital so he could do one.... I've never had a patient approach me as administrator of this hospital and ask why they couldn't have an abortion in this hospital.106/

Yale, like many of the administrators interviewed, does not feel that the denial of abortion services locally works much hardship on women seeking them or that there is much demand for such services. However, as pointed out earlier, Byrla Carson of the Wyoming Health Department disagreed.<sup>107/</sup> The Guttmacher study finds this a fairly typical interpretation by medical officials of the circumstances in small towns where abortion services are not provided. The report states:

In most smaller metropolitan and nonmetropolitan areas from which women must travel to obtain abortions, the patterns enable local officials to believe their communities have little or no unmet abortion need, because residents who have the resources and the status to make their needs visible also have the resources to travel elsewhere.108/

Yale indicated that if a person makes inquiries about getting an abortion in the Sheridan Hospital they would be dealt with thusly:

If a patient came, I would say fine. The legal position of the hospital is this. However, you must be advised that, number one, we do not supply the physician, nor the other personnel. I'm sure they'll go down the road to Casper.109/

In short, this would be his method for thwarting patients even if the hospital by-laws were changed, he said.

Yale stated that the hospital board of directors is aware that the hospital's ruling against performing abortions is not legal. He said, "They're aware that the first time it goes to court, if it gets that far, that the policy will have to be dumped. Particularly since we are a public hospital.<sup>110/</sup>" When asked whether he thought the new law in Wyoming would change what happened in his hospital regarding abortion, he replied: "In all honesty the thing that's going to lead to a change in policy here is if somebody sues us. That's what it's going to take."<sup>111/</sup>

## 2. Hospitals That Do Not Outlaw Abortions

At least three hospitals have no rules prohibiting abortions but had never performed any--West Park County in Cody, Memorial Hospital of Uinta County, and North Big Horn County in Lovell. No one has requested an abortion at two of these hospitals and very few at the third. The administrators of these three hospitals indicated, as did those of many other hospitals visited, that they do not have women seeking abortions. It is the local doctors who see the women. No one had ever presented themselves at their hospitals asking for an abortion.

If the local physicians do not wish to deal with a woman seeking an abortion they almost invariably refer her to another town. Since many of Wyoming's towns have very few physicians, the patient has little alternative but to go elsewhere if the local doctors will not do abortions. According to Robert Smith of the Wyoming Medical Society, this situation even exists in Cheyenne. He says: "Here in Cheyenne the M.D.s who would normally do them, all three, do not do them because of ethical reasons. They refer to Fort Collins."<sup>112/</sup>

None of the three hospitals has made any effort to find medical personnel who would perform abortions. One administrator said that the hospitals

have a hard enough time find any doctors, let alone one who would perform  
 113/  
 abortions. A chart outlining which hospitals contacted for this report  
 permit and prohibit abortion services is found on pages 35 and 36.

#### G. Physicians and Abortion

According to the 1976 Directory of Physicians, the Wyoming Medical Society has 418 members, or about 91 percent of all the doctors in the  
 114/  
 State. The Medical Society's Smith claimed that very few of the non-members were actually practicing in the State. Wyoming has 113 general practitioners and family practitioners and 20 obstetricians-gynecologists. Most of the obstetricians-gynecologists are located in the larger cities.

Seven physicians in the State do abortion on a regular basis: four of them are in Casper, two in Laramie, and one in Greybull. While it is permissible for other types of doctors to do abortions, all of those performing them are obstetrician-gynecologists.

One fact stands out from all of the interviews with hospital administrators and physicians--if doctors wish to perform abortions, they can do so. A few of the hospitals that have not performed any abortions have no by-laws against abortion. And, in at least one hospital, it was a decision of the doctors not to do abortions that led the hospital's by-law posture against them. In areas of the State where physicians have chosen to do abortions, the service is available. In parts of Wyoming where no doctors choose to do abortions, none has done. Of the 19 hospitals contacted in this study, 16 did not have a doctor on their staff who would do abortions.

Several attempts were made to contact each of the physicians who perform abortions. In some instances, no direct contact could be made. Information in these cases was supplied by office personnel. Several

Abortion Services in 19 Wyoming Hospitals

<u>Name &amp; Location of Hospital</u>	<u>City or Town Population</u>	<u>Bylaws Permit Elective Abortions</u>	<u>Have Performed Elective Abortions</u>
Memorial Hospital of Laramie County, Cheyenne	40,914	Yes	Yes (few)
Memorial Hospital of Natrona County, Casper	39,361	Yes	Yes
Ivinson Memorial Hospital, Laramie	23,143	Yes	Yes
Memorial Hospital of Sweetwater County, Rock Springs	11,657	No Data	No Data
Memorial Hospital of Sheridan County, Sheridan	10,856	No	No
Memorial Hospital of Fremont County, Riverton	7,995	No (LHHS)	No
Memorial Hospital of Carbon County, Rawlins	7,855	No Data	No Data
Memorial Hospital of Campbell County, Gillette	7,194	No (LHHS)	No Data
Bishop Randall Hospital, Lander	7,125	Yes (LHHS)	Yes
West Park County Hospital, Cody	5,161	None Prohibiting It	No
Memorial Hospital of Uinta County, Evanston	4,462	None Prohibiting It	No
Memorial Hospital of Goshen County, Torrington	4,237	No (LHHS)	No
Memorial Hospital of Hot Springs County, Thermopolis	3,063	No	No
Memorial Hospital of Converse County, Douglas	2,677	Yes	Yes

<u>Name &amp; Location of Hospital</u>	<u>City or Town Population</u>	<u>Bylaws Permit Elective Abortions</u>	<u>Have Performed Elective Abortions</u>
Memorial Hospital of Platte County, Wheatland	2,498	No (LHHS)	No
North Big Horn Hospital, Lovell	2,371	No	No
St. John's Hospital, Jackson	2,101	No	No
South Big Horn County Hospital, Greybull	1,953	Yes	Yes
Crook County Memorial Hospital, Sundance	1,056	No	No

\* Response will be submitted.

agencies which make abortion referrals were also contacted to determine what they knew about the various practices and fees charged by physicians who do abortions.

Of the seven doctors who do abortions in Wyoming, three perform them in their offices. One of these doctors is located in Laramie and the other two in Casper. One does office procedures up to the eighth week of pregnancy. The other two will perform the operation until the 12th week. Costs range from \$150 to \$250. All use the vacuum aspiration technique.<sup>115/</sup>

As previously mentioned, only one doctor, located in Casper, does second trimester abortions in Wyoming. One of the physicians who performs only first trimester abortions was asked why he did not perform the later abortions. He responded that he didn't think the community of Laramie was ready for it. He felt that the nurses probably could not take seeing the intact fetus.<sup>116/</sup> He further stated that he refers women seeking a second trimester abortion to Fort Collins, Colorado. He was not aware that a second trimester abortion could be obtained in Casper.

Community response was mentioned frequently when the question was raised as to why so few doctors in the State do abortions. Dr. Jean Coates of Laramie said: "There are two factors here--not wanting to be branded an abortionist, and the girl not wanting to go to their small town hospital."<sup>117/</sup> Smith of the State Medical Society said: "There are many pressures on small town physicians to do abortions or not to do abortions. It can be really tough on them."<sup>118/</sup> Similar sentiments were echoed in many other people's comments. One physician who does abortions indicated that "he keeps a low profile" to avoid problems.<sup>119/</sup> But community pressure was not the only response to this question. Another factor cited was the doctor's own ethical beliefs

about abortion. "Of those who could do abortions," estimated Smith, "35 percent don't do them for ethical reasons, 20 percent do them, and the rest don't feel competent enough with them."<sup>120/</sup> A nurse for one of the doctors who does abortions said, "There are a lot of long time practitioners in the State. The old-timers have religious feelings. It's the young M.Ds who are doing them."<sup>121/</sup> Some of the hospital administrators also mentioned the doctors' moral objections to abortion.

Another frequently-mentioned reason why few Wyoming doctors do abortions were feelings on the part of physicians that they lacked competence with the procedure. Dee Chew, Director of the Casper office of Planned Parenthood, remembered talking to one doctor who said that he never learned how to do abortions in training. "They don't feel comfortable with them," said Chew. "Since others are doing them, let them," he continued.<sup>122/</sup> The nurse mentioned above stated: "In small towns, doctors may feel that they just don't feel competent because they don't see enough patients to get good at it. I've had doctors say that to me."<sup>123/</sup> Dr. Jean Coates asserted: "It should be something you get good at. I wouldn't want to be doing them just once in a while. In a small town you may not see enough patients. And you may not have a hospital nearby."<sup>124/</sup> Many small town doctors believe it is in the best interest of their patients to refer them on to physicians who are quite skilled with the techniques. The report of the Guttmacher Institute takes exception to this:

Although it might be preferable medically, where possible and practicable, to concentrate riskier second-trimester abortions in large facilities where experience can be accumulated, there is no sound medical reason why first-trimester abortions should not be offered wherever comparable obstetrical and gynecological procedures are provided.<sup>125/</sup>

Whether there is sound medical reason or not, many physicians would rather refer patients on to other facilities and practitioners.

It is a widespread belief, shared by the State Medical Society, doctors, and hospital administrators, that, in Wyoming, abortions are done more safely in the hospital than in other settings. One hospital administrator commented: "If you're going to do it, do it in a hospital." Yet, again, national figures do not bear this out.

Physicians in Wyoming have little familiarity not only with techniques but with the sorts of services provided by outpatient abortion clinics in other states. Such facilities generally are equated with "mills." The desire to avoid the stigma of abortion and being branded "an abortionist" mitigates against free and open discussions which might help inform Wyoming doctors about abortion. The physicians' own ethical beliefs, their perceptions of community sentiment regarding abortion, their desire to avoid controversy, their lack of familiarity with abortion techniques and facilities, and the lack of hospital backup in many areas has led to a situation in which a mere seven of the approximately 455 practicing doctors in Wyoming perform abortions.



## III. FINDINGS AND RECOMMENDATIONS

Finding 1

The Wyoming Advisory Committee to the U.S. Commission on Civil Rights found that several hospitals in the State have by-laws which are unconstitutional. The by-laws of the Lutheran Hospital and Homes Society which manages nine public hospitals prevent the performance of elective abortions in contravention of the U.S. Supreme Court decisions in Roe and Doe. Even in the case of an abortion judged to be therapeutic, these hospitals require the husband's consent, and, in the case of a minor, parental consent. In Danforth, the U.S. Supreme Court found the husband's consent requirement to be unconstitutional and that parents have no right to veto their daughter's choice of an abortion, except in unusual cases. Four other hospitals, Hot Springs County Memorial, St. John's Hospital, Crook County Memorial, and Memorial Hospital of Sheridan County, have by-laws which prevent hospital facilities from being used for elective abortions. Memorial in Sheridan passed its restrictive by-laws shortly after the Supreme Court's ruling on abortion in January of 1973.

Approximately 50 percent of all abortions on women who reside in Wyoming are performed out-of-state. Nationally, only about 10 percent of women travel out-of-state for an abortion. Aside from the expense and other difficulties associated with out-of-state travel, it also increases the medical risk, since they are at a considerable distance from the place of treatment should anything go wrong medically. The Advisory Committee found this increased medical risk is the result of the lack of abortion services at public hospitals in Wyoming.

Recommendation

The Wyoming Advisory Committee recommends that the U.S. Commission on Civil Rights write to the Department of Health, Education, and Welfare to ask that DHEW insure that public hospitals in the State which receive Federal funds are in compliance with the law. If they are not, Federal funding including Hill-Burton, Title XIX Medicaid and Title XX Social Service funds should be stopped.

The U.S. Commission on Civil Rights should write to the Attorney General asking that the U.S. Department of Justice investigate allegations that public hospitals in Wyoming are spending Federal funds in violation of the law. If violations are found, litigation should be initiated to correct the situation.

The Attorney General of Wyoming should also investigate charges that public hospitals are denying abortion services in violation of State law. If the allegations are substantiated, the appropriate charges should be brought against hospitals involved.

The Governor and Wyoming Legislature should withhold State funds from those hospitals in violation of the law until they bring themselves in line with Federal and State statutes and court cases.

The county commissioners of those counties in which the public hospitals do not provide elective abortion should withhold funding from those hospitals until they bring their by-laws in line with Federal and State law. The commissioners in counties which have managerial arrangements with the Lutheran Hospital and Homes Society should end such arrangements unless and until the hospital by-laws are brought in line with Federal and State law.

Finding 2

The Wyoming Advisory Committee found that a lack of information about the many aspect of abortion exists in the State. There is a widespread lack of information, even among those who are involved in making referrals for abortion, as to what services are available in-state and out-of-state. Fear of being branded an abortionist, and the desire on the part of those doctors who do abortions to "keep a low profile," makes it very difficult for people in Wyoming to find out about the services that are available. Many physicians in the State who could perform abortions do not do so. Although some doctors have moral objections to elective abortion, others do not perform abortions primarily because they do not feel they have the necessary skills to carry out such procedures.

Within the Wyoming medical community, there is little familiarity with abortion techniques, methods of treatment, complication statistics, and types of services offered in other parts of the country. Only one physician in the State feels competent to do second trimester abortions. Many people in Wyoming who should be familiar with the legal status of abortion are not. For instance, many of the hospital administrators interviewed were not aware that to require the husband's consent to an abortion is unconstitutional or that teenagers can get an abortion without parental consent. Many hospital administrators in Wyoming are not aware that there is a substantial demand for abortion services in their communities.

For a myriad of reasons, women do not seek abortions at their hospitals. Typically, women are referred out-of-town by local doctors and do not go to the local hospitals. Some administrators believe that services 100 or 200

miles away adequately fill the demand for abortion. Further, they believe that local services would not be used, because the pregnant women fear that knowledge of their abortion would leak out of the local hospital.

#### Recommendation

The Wyoming Department of Health and Social Services should insure that in accordance with Griswold v. Connecticut, 381 U.S. 479 (1965), and Carey v. Population Services, \_\_ U.S. \_\_ (June 9, 1977), information about abortion and birth control services is made available throughout the State. The Department should compile a pamphlet which lists and describes abortion and birth control services available both in and out-of-state. This pamphlet should be distributed through the county offices of public assistance. Public schools of Wyoming should offer such information as part of its health education courses.

The Wyoming Department of Health and Social Services should make available grants for those physicians wishing to attend remedial courses on abortion techniques. The State Medical Society should offer series of workshops on abortion techniques and services to the staffs of hospitals around Wyoming. Persons experienced in abortion techniques and the various types of services, such as counseling, that can be offered should be brought into the State.

A pamphlet on the legal status of abortion should be drawn up by the Wyoming Medical Society in cooperation with the Wyoming Bar Association. This should be made available to all interested parties.

The Wyoming Department of Health and the Social Services and the State Medical Society should sponsor workshops to inform hospital administrators of abortion services laws.

The U.S. Commission on Civil Rights should ask that the U.S. Department of Health, Education, and Welfare make funds available for such programs.

### Finding 3

The Wyoming Advisory Committee found that doctors who only do an occasional abortion do not develop the familiarity with the procedure which comes with more frequent operations. Physicians in very sparsely populated regions are particularly bothered by this problem. They sometimes prefer to refer a patient several hundred miles because they do not feel competent to perform the operation.

### Recommendation

The Wyoming Department of Health and Social Services should insure that abortion services are provided for the great majority of women in the State without their having to travel more than 50 miles from their homes. This should help reduce both the medical and emotional risks of abortions. The Wyoming Department of Health and Social Services should divide the State into several health service districts according to the availability of hospital facilities and population densities in order to provide adequate medical care.

The hospitals in the various districts should join together, in cases where it is necessary to do so, to provide abortion services. Whether this means having doctors travel from one hospital to another in the area to do abortions, or that one of the hospitals involved would become the place where all the others refer, can be decided by the hospitals involved and the State Department of Health. In this way, a few doctors can cover a large area, become proficient in abortion techniques, and provide services near to the homes of the women who need them. After-care could be done through the hospital closest to the patient's home or through out-

patient clinics affiliated with the hospitals. In case of medical problems, charts should be easily exchanged between hospitals. Counseling services should also be available through the hospitals, both before and after the abortion.

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21. 513 P. 2d 643, 645.
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28. Wyo. Stat. Ann. § 35-221.18 (1977).
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35. 428 U.S. 52 (1976).
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38. Tietze, Abortion 1974-1975, p. 79.

39. Ibid., p. 33.
40. RMRO staff interviews, April 3-6, 1977.
41. John O. Yale, Administrator of Sheridan County Hospital, Sheridan, Wyoming, interview with RMRO staff, April 15, 1977 (hereafter cited as Yale interview).
42. Institute of Medicine, Legalized Abortion and the Public Health (National Academy of Sciences: Washington, D.C., 1975), p. 26.
43. Ibid., p. 3.
44. Interview with RMRO staff, June 4, 1977
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46. Yale interview.
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49. Boulder Valley Clinic, Boulder, Colorado
50. Tietze, Abortion 1974-1975, p. 28
51. Institute of Medicine, Legalized Abortion, p. 31.
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53. 42 U.S. C. § 1396.
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56. Dr. Robert Bowden, Casper, Wyoming, RMRO staff interview, May 10, 1977.
57. Earnie Rumpf, Title XIX, Wyoming Div. of Public Assistance, RMRO staff interview, April 11, 1977.
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75. George Ovecká, Administrator, Converse County Hospital, Douglas, Wyoming, RMRO staff interview, March 22, 1977 (hereafter cited as Ovecká interview).
76. William Carls, Administrator, North Big Horn County Hospital, Lovell, Wyoming, interview with RMRO staff, April 14, 1977.



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78. Carson telephone interview.
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93. By-laws, Platte County Hospital.
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99. Ibid.
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101. Malm interview.
102. Ibid.
103. Interview with RMRO staff, April 28, 1977.
104. Interview with RMRO staff, April 12, 1977.
105. Yale interview.
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113. E. Lynn Reed, Memorial Hospital of Uinta County, interview with RMRO staff, March 23, 1977.
114. Rocky Mountain Medical Journal, Dec. 31, 1976.
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116. Robert Shine, interview with RMRO staff, March 17, 1977.
117. Interview with RMRO staff, March 18, 1977 (hereafter cited as Coates interview).
118. Interview with RMRO staff, April 11, 1977.
119. Interview with RMRO staff, April 11, 1977.
120. Interview with RMRO staff, April 11, 1977.
121. Telephone interview with RMRO staff, March 18, 1977.
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125. Tietze, Abortion 1974-1975, p. 10.
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APPENDIX - A

WYOMING PUBLIC HOSPITAL ADMINISTRATORS

QUESTIONNAIRE

Please review the entire questionnaire before answering the questions to the best of your ability.

Your name and position \_\_\_\_\_

Hospital name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

Telephone \_\_\_\_\_

Date Questionnaire completed \_\_\_\_\_

1. How many physicians are on your hospital staff?
2. How many of these physicians perform abortions?
3. How many elective abortions have been performed in your hospital since 1973? How many live births? How many still births? Please provide data separately for 1973, 1974, 1975, and 1976.

	1973	1974	1975	1976
Elective abortions				
Live births				
Still births				
4. Of these elective abortions, how many in each year were first trimester? second trimester? third trimester?

	1973	1974	1975	1976
First trimester				
Second trimester				
Third trimester				
5. How many requests for abortions were denied during this period? (If no exact figures are available give an estimate and so indicate.) Of these denials, how many each year were first trimester? second trimester? third trimester?

	1973	1974	1975	1976
First trimester				
Second trimester				
Third trimester				

6. What were the major reasons for these denials?

7. If elective abortions are not performed in your hospital, do you refer requesting patients to other facilities in which they may obtain the abortion procedure?  
Yes \_\_\_\_\_ No \_\_\_\_\_

Which personnel would routinely make such referrals

8. Does your hospital have a vacuum aspirator? Yes \_\_\_\_\_ No \_\_\_\_\_

9. Are first trimester abortion procedures done by vacuum aspirator? Yes \_\_\_\_\_ No \_\_\_\_\_  
D & C? Yes \_\_\_\_\_ No \_\_\_\_\_

How many of the elective abortion procedures were done by each method?

	1973	1974	1975	1976
Vacuum aspiration				

D & C

10. Can elective abortion patients choose to have local anesthesia? Yes \_\_\_ No \_\_\_  
General anesthesia? Yes \_\_\_ No \_\_\_

11. For second trimester procedures, is the saline or prostaglandin abortion performed?  
Yes \_\_\_ No \_\_\_  
Is hysterotomy performed? Yes \_\_\_ No \_\_\_

If no in both instances, then what alternatives are available?

12. Are counseling services available to elective abortion patients? Yes \_\_\_ No \_\_\_

If yes, describe the services.

13. When a first or second trimester abortion is requested, do you make a determination whether it is "medically necessary," "medically indicated," "therapeutic," and/or elective? Yes  No

If yes, please explain the basis for such determinations.

14. Does your hospital have a committee to deal with requests for elective abortions? Yes  No

If yes, describe its composition and functions.

15. Of all elective abortions performed, how many were eligible for reimbursement by Medicaid? How many were actually reimbursed by Medicaid?

	1973	1974	1975	1976
Eligible for Medicaid				
Reimbursed by Medicaid				

16. Of all abortions denied, how many were eligible for reimbursement by Medicaid?

	1973	1974	1975	1976
Eligible for Medicaid				

17. What is the average cost for a first trimester abortion performed in your hospital? \$ \_\_\_\_\_

A second trimester abortion? \$ \_\_\_\_\_

A third trimester abortion? \$ \_\_\_\_\_

18. Do your hospital's policies governing performance of first trimester elective abortions (including consent requirements, method of payment accepted, for instance) differ from policies governing performance of substantially similar medical procedures (e.g., tonsillectomy, sterilization by laparoscopy or vasectomy)? Yes  No

If yes, what are your policies in regard to first trimester elective abortions?

Second trimester?

19. Are hospital personnel permitted to refuse to participate in the performance of elective abortion procedures if it would violate their religious or moral scruples? Yes \_\_\_\_\_ No \_\_\_\_\_  
 If yes, how is this policy made known to employees, (e.g., by written policy statement, group meetings, interview, etc)?
20. How does your hospital administration determine which employees are not required to participate in performance of abortions (e.g., individual interview, questionnaire, group meeting, etc.)?
21. Does your hospital make an attempt to employ some personnel who are willing to participate in the performance of elective abortions? Yes \_\_\_\_\_ No \_\_\_\_\_
22. Can you estimate the number and percentage of your medical personnel, by occupation, who have refused to participate in the performance of elective abortion procedures?
- Physicians:
- Nurses:
- Technicians: -
- Other:
23. Is the consent of any person other than the woman seeking an elective abortion required? Yes \_\_\_\_\_ No \_\_\_\_\_
- For married women, is spousal consent required? Yes \_\_\_\_\_ No \_\_\_\_\_
- For minor women, is parental consent required? Yes \_\_\_\_\_ No \_\_\_\_\_
- For divorced women, is estranged-spousal consent required? Yes \_\_\_\_\_ No \_\_\_\_\_

23. (continued) If the answer to any of the above is yes, please explain in detail the reasons for such restrictions. Please attach copies of all relevant consent forms.

24. In addition to abortion services, does your hospital provide birth control counseling and/or provision of various birth control devices? Yes \_\_\_\_\_ No \_\_\_\_\_

What methods/devices are described to patients and/or provided?

	Described	Provided
Contraceptive pill	_____	_____
IUD	_____	_____
Diaphragm	_____	_____
Other	_____	_____

Please estimate which type of birth control is most frequently described.

ORIGINAL HOUSE  
BILL NO. 34

ENROLLED ACT NO. 12, HOUSE OF REPRESENTATIVES

FORTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING  
1977 SESSION

AN ACT to create W.S. 35-221.13 through 35-221.27; and to repeal W.S. 6-77, 6-77.1 through 6-77.4 and 6-78 relating to abortion; providing for the regulation of abortion; providing penalties for certain acts; repealing the present laws on abortion; providing for severability; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 35-221.13 through 35-221.27 are created to read:

CHAPTER 4.2

ABORTIONS

35-221.13. Definitions.

(a) As used in the act, unless the context otherwise requires:

(i) "Abortion" means an act, procedure, device or prescription administered to or prescribed for a pregnant woman by any person with knowledge of the pregnancy, including the pregnant woman herself, with the intent of producing the premature expulsion, removal or termination of a human embryo or fetus, except that in cases in which the viability of the embryo or fetus is threatened by continuation of the pregnancy, early delivery after viability by commonly accepted obstetrical practices shall not be construed as an abortion;

(ii) "Accepted medical procedures" means procedures of the type and performed in a manner and in a facility which is equipped with surgical, anaesthetic, resuscitation and laboratory equipment sufficient to meet the standards of medical care which physicians engaged in the same or similar lines of work in the community would ordinarily exercise and devote to the benefit of their patients;

(iii) "Conception" means the fecundation of the ovum by the spermatozoa;

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(iv) "Hospital" means those institutions licensed by the state department of health and social services as hospitals;

(v) "Physician" means any person licensed to practice medicine in this state;

(vi) "Pregnant" means that condition of a woman who has a human embryo or fetus within her as the result of conception;

(vii) "Viability" means that stage of human development when the embryo or fetus is able to live by natural or life-supportive systems outside the womb of the mother according to appropriate medical judgment;

(viii) "Woman" means any female person, whether an adult or a minor;

(ix) The singular where used herein includes the plural, the plural includes the singular, and the masculine includes the feminine or neuter, when consistent with the intent of this act and when necessary to effect its purpose;

(x) "This act" means W.S. 35-221.13 through 35-221.27.

35-221.14. No abortion after viability; exception. An abortion shall not be performed after the embryo or fetus has reached viability except when necessary to preserve the woman from an imminent peril that substantially endangers her life or health, according to appropriate medical judgment.

35-221.15. Viability not affected by abortion. A physician who performs an abortion procedure employed pursuant to W.S. 35-221.14 shall not intentionally terminate the viability of the unborn infant prior to, during or following the procedure.

35-221.16. Means of treatment for viable abortion. The commonly accepted means of care shall be employed in the treat-



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ment of any viable infant aborted alive with any chance of survival.

35-221.17. Private institutions not required to perform abortions; no liability for refusal to perform abortion. No private hospital, clinic, institution or other private facility in this state is required to admit any patient for the purpose of performing an abortion nor to allow the performance of an abortion therein. The private hospital, clinic, institution or any other private facility shall inform any prospective patient seeking an abortion of its policy not to participate in abortion procedures. No cause of action shall arise against any private hospital, clinic, institution or any other private facility for refusing to perform or allow an abortion.

35-221.18. Persons not required to perform abortion; no civil liability for refusal; person cannot be fired, etc., for refusal. No person shall, in any way, be required to perform or participate in any abortion or in any act or thing which accomplishes or performs or assists in accomplishing or performing a human miscarriage, euthanasia or any other death of a human fetus or human embryo. The refusal of any person to do so is not a basis for civil liability to any person. No hospital, governing board or any other person, firm, association or group shall terminate the employment of, alter the position of, prevent or impair the practice or occupation of, or impose any other sanction or otherwise discriminate against any person who refuses to perform or participate in any abortion or in any act or thing which accomplishes, performs or assists in accomplishing or performing a human miscarriage, euthanasia or any other death of a human fetus or embryo.

35-221.19. Forms for reporting abortions.

(a) The state office of vital records services shall establish an abortion reporting form which shall be used after May 27, 1977 for the reporting of every abortion performed or prescribed in this state. The form shall include the following items in addition to such other information as may be necessary to complete the form, but in no case shall information be

required that would tend to disclose the identity of any individual participating in an abortion:

- (i) The age of the pregnant woman;
- (ii) The type of procedure performed or prescribed;
- (iii) Complications, if any;
- (iv) A summary of the pregnant woman's obstetrical history regarding previous pregnancies, abortions and live births;
- (v) The length and weight of the aborted fetus or embryo, when measurable;
- (vi) Type of facility where the abortion is performed (i.e. hospital, clinic, physician's office, or other).

(b) The form shall be completed by the attending physician and sent to the administrator of the division of health and medical services within twenty (20) days after the abortion is performed.

35-221.20. Compilations of abortions; matter of record; exception. The state office of vital records services shall prepare and after May 27, 1977 keep on file for seven (7) years compilations of the information submitted on the abortion reporting forms. The compilations shall be available only to a local, state or national public health official or a physician upon his written request. The administrator of the division of health and medical services, in order to maintain and keep such compilations current, shall file with the reports any new or amended information. The information submitted under W.S. 35-221.19 and compiled under this section shall not be stored in any computer.

35-221.21. Rules and regulations for disposal of bodies, etc. The state board of health may prescribe rules and regulations for the disposal of the bodies, tissues, organs and parts

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thereof of an unborn child, human fetus or human embryo which has been aborted.

35-221.22. Penalty for violation of W.S. 35-221.14, 35-221.15 or 35-221.16. Any physician or other person who violates any provision of W.S. 35-221.14, 35-221.15 or 35-221.16 is guilty of a felony punishable by imprisonment in the penitentiary for not more than fourteen (14) years.

35-221.23. Penalty for person other than physician to perform abortion. Any person other than a licensed physician who performs an abortion is guilty of a felony punishable by imprisonment in the penitentiary for not less than one (1) year nor more than fourteen (14) years.

35-221.24. Penalty to use means other than commonly accepted medical procedures. Any person who performs or prescribes an abortion by using anything other than accepted medical procedures is guilty of a felony punishable by imprisonment in the penitentiary for not more than fourteen (14) years.

35-221.25. Penalty for violating W.S. 35-221.18. Any person, firm, corporation, group or association who violates W.S. 35-221.18 is guilty of an offense punishable by a fine of not more than ten thousand dollars (\$10,000.00).

35-221.26. Right to damages for discriminatory employment practices for refusal to perform abortion. Any person or persons injured by any action prohibited in W.S. 35-221.18 may by civil action obtain injunctive relief or damages.

35-221.27. Penalty for giving away, etc., a live or viable aborted child for experimentation. Whoever sells, transfers, distributes or gives away any live or viable aborted child for any form of experimentation is guilty of a felony punishable by a fine of not less than ten thousand dollars (\$10,000.00) and by imprisonment in the penitentiary for not less than one (1) year nor more than fourteen (14) years. Any person consenting, aiding or abetting such sale, transfer, distribution or other unlawful disposition of an aborted child is guilty of a felony

ORIGINAL HOUSE  
BILL NO. 34

ENROLLED ACT NO. 12, HOUSE OF REPRESENTATIVES

FORTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING  
1977 SESSION

punishable by a fine of not less than ten thousand dollars (\$10,000.00) and by imprisonment in the penitentiary for not less than one (1) year nor more than fourteen (14) years or both, and shall also be subject to prosecution for violation of any other criminal statute.

Section 2. W.S. 6-77, 6-77.1 through 6-77.4 and 6-78 are repealed.

Section 3. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 4. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

ORIGINAL SIGNED BY  
PRESIDENT AND SPEAKER)

SIGNED BY GOVERNOR

DATE: 2-14-77

CHAPTER NO: 11

APPENDIX - C

Memorial Hospital of Platte County Abortion By-laws

When a patient upon admission to the hospital is in any phase or process of an abortion, she or her representative shall sign a statement certifying to the circumstances of the abortion and she or her representative shall sign a statement that neither an employee of the hospital, nor the attending physician, was directly responsible for the inducement of the abortion.

Any physician on the medical staff of the hospital or a person employed by the hospital may refuse or agree to participate directly in any termination or interruption of pregnancy. A written statement to that effect from such physician or employee of the hospital, shall be filed with the administrator.

The therapeutic termination or interruption of a pregnancy in its first trimester may be performed within the hospital. When such therapeutic terminations or interruptions of pregnancy are performed, the prior written consent of the patient shall be obtained and if the patient is married, the consent of the husband shall also be obtained. If it is determined that the husband is deceased, disabled, or otherwise unavailable to give his consent, then it shall not be necessary to obtain the same. When the patient is not married and is a minor as defined by the laws of the State, it will be necessary to obtain the written consent of both parents of the patient, if living, or of the patient's legal guardian.

Attention shall be given to special requirements pertaining to consents affecting minors who are pregnant, married, or are parents.

The therapeutic termination or interruption of a pregnancy after the first trimester shall only be performed within the hospital when: (a) There has been consultation with at least one other physician not related to the attending physician. The consultation report of such physician shall be in

writing, shall be recorded as provided in Rule 21, and shall reflect that the continued pregnancy threatens the life or the health of the mother, and (b) The consent referred to in Rule 22 has been obtained.

Termination of Pregnancy Committee

a. Composition: This committee shall consist of at least two (2)

members of the medical staff (if this is not feasible, the chief of staff shall obtain physicians from outside the hospital

medical staff.)

b. Functions: This committee shall be responsible for the super-

vision of all therapeutic terminations of pregnancy or other

interruptions of pregnancy which occur or are performed in the

hospital. This committee shall ascertain that all such thera-

peutic terminations or interruptions of a pregnancy are performed

pursuant to the medical staff by-laws, and the rules and regulations

of the hospital, and pursuant to any applicable laws.

c. Meetings: This committee shall meet at least monthly and shall

maintain a record of its proceedings and activities and report

to the medical staff.

APPENDIX - D

STATEMENT OF NEED FOR THERAPEUTIC ABORTION

DATE \_\_\_\_\_ TIME \_\_\_\_\_ A.M.  
P.M.

We find from observation and examination of \_\_\_\_\_  
\_\_\_\_\_ that she is pregnant and that she is suffering  
from the following ailment or condition:

\_\_\_\_\_

Further progress of her pregnancy would gravely endanger or  
imperil her life. Therefore, we are of the opinion that it is  
medically necessary to perform a therapeutic abortion upon her.

(1) \_\_\_\_\_

(2) \_\_\_\_\_

(3) \_\_\_\_\_  
Duly licensed Physicians

APPENDIX - D

AUTHORIZATION FOR TREATMENT OF A  
PARTIAL ABORTION

Date \_\_\_\_\_

I hereby authorize Dr. \_\_\_\_\_ to treat me  
for my present condition which arose in the following manner:\*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Neither Dr. \_\_\_\_\_ nor the \_\_\_\_\_

\_\_\_\_\_ Hospital was in any way responsible for my con-  
dition, which arose prior to the time I was admitted to this hospital for treatment.

\_\_\_\_\_  
Signature of patient

Witness: \_\_\_\_\_

\*The patient should set forth briefly the history of her condition in her own hand (if possible).



APPENDIX - E

# Campbell County Memorial Hospital

720 West 8th St.

GILLETTE, WYOMING 82716

OPERATED BY  
LUTHERAN HOSPITALS AND HOMES SOCIETY  
FARGO, NORTH DAKOTA 58102

May 6, 1977

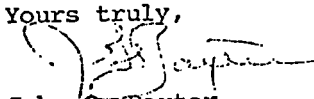
Dr. Shirley Hill Witt,  
Regional Director  
United States Commission on Civil Rights  
Mountain States Regional Office  
Executive Tower - Suite 1700  
1405 Curtis Street  
Denver, Colorado 80202

Dr. Witt:

The attached questionnaire has not been answered. I regard the information requested as confidential, and the amount of research required on the hospitals part as being wasteful of time and personnel resources.

I shall be pleased to make information available to your personnel, properly credentialed and with valid authorization and waivers of liability, to perform the research.

Yours truly,

  
John G. Baxter,  
Administrator

JGB/plh

APPENDIX - F

MEMORIAL HOSPITAL OF SHERIDAN COUNTY

ABORTION POLICY

The Board of Trustees of the Memorial Hospital, after considering the many facets of the issue and after reviewing the recommendation of its medical staff, feels that with the absence of governing law as determined by the United States Supreme Court and the Supreme Court of the State of Wyoming that the issue of elective abortion is sociological and not of a medical nature; therefore the following policy shall be in effect at this hospital until such time as governing law is developed by the legislature of the State of Wyoming or a court decision directs otherwise:

"Abortions for reasons other than the preservation of the mother's life shall not be performed at this hospital."

Passed at the regular monthly Board of Trustees meeting 9-13-73

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