

His own clinic at Mt. Sinai, Dr. Kerenyi said, screens patients closely to make sure they are not past the legal 24-week limit. But in theory, he said, there is nothing to prevent successful saline abortions from being performed "virtually all the way to birth. At 30 weeks, say, you would just have to draw off and inject that much more of the solution."

Most practitioners who were interviewed say they stop doing D&E at 18 to 22 weeks. But again, there appears to be nothing to prevent the technique from being used much later.

"You can do it, you can do it," an abortionist, who would talk only if not quoted by name, said of D&Es late in pregnancy. "Some son-of-a-bitch misreads a sonogram and sends me a woman 26 weeks. I've done it. You've just got to take your time and be careful. And you're not going to end up with a live birth."

"I STOOD BY AND WATCHED THAT BABY DIE"

Nurses are the ones who bear the burden of handling the human-looking products of late abortions. And when an unintentional live birth occurs, they are the first to confront the waving of limbs and the gasping.

Reluctant to talk about their experiences, most of those interviewed for this article did not want their names to be published, and out of professional loyalty, they did not even want their hospitals to be named.

They spoke of being deeply troubled by what they have seen of late abortions in American hospitals.

Linda is a nurse in her late 50s in Southern California. Hurrying out of a patient's room one day to dispose of the aborted "tissue," as nurses were taught to think of it, she felt movement. Startled, she looked down, straight into the staring eyes of a live baby.

"It looked right at me," she recalled. "This baby had real big eyes. It looked at you like it was saying, 'Do something—do something.' Those haunting eyes. Oh God, I still remember them."

She rushed the 1½-pound infant to the nursing station. She took the heart rate—80 to 100 beats a minute. She timed the respirations—three to four breaths a minute. She called the doctor.

"I called him because the baby was breathing," Linda said. "It was pink. It had a heartbeat. The doctor told me the baby was not viable and to send it to the lab. I said, 'But it's breathing' and he said, 'It's non-viable, it won't be breathing long—send it to the lab.'"

She did not follow the order. Nor did she have resources at her command to provide any life-saving care. Two hours later the infant died, still at the nursing station, still without medical treatment. It died in a makeshift crib with one hot-water bottle for warmth and an open tube of oxygen blowing near its head.

The nursing supervisor, Linda said, had refused to let her put the baby in the nursery, where there was equipment to assist premature babies in distress. "She said to follow the doctor's orders and take it to the lab. I kept it with me at the station. We couldn't do an awful lot for it."

This happened eight years ago, in 1973, but Linda is still upset. "I stood by and watched that baby die without doing a thing," she said. "I have guilt feelings to this day. I feel the baby might have lived had it been properly cared for."

Jane, about 50, is the head floor nurse in an Ohio hospital. She and her fellow nurses successfully petitioned their hospital in 1978 to stop doing late abortions. Twice before that, she witnessed live births after abortions.

She recalls vividly the 16-year-old patient who phoned her mother after her abortion and said in an agonized voice, "Ma, it's out—but Ma, it's alive."

That happened in 1975. Jane still speaks of it bitterly, her eyes flashing anger.

A year earlier Jane saw the second abortion live birth in her experience. "I was called by the patient's roommate," she recalled. "When I got there the baby's head was sticking out and its little tongue was wiggling. Everybody felt they couldn't do anything until they called the doctor. It was a little thing—it only lasted about 15 minutes. But it was alive, and we did nothing. And that was wrong."

It rankles, too, that she was routinely forced to handle dead fetuses, the size and shape of well-formed premature babies.

"Because of my position," she said, "I had to pick them up off the bed and put them in a bottle of formalin [a preservative fluid]. Sometimes you had to have a very large container. Our gynecologists seemed to have a very poor ability to estimate gestational age. Time and again they would say with a straight face, 'This woman is 20 weeks pregnant' when she was actually 26 weeks."

Norma Rojo, about 35, is an obstetrical nurse at Indio Community Hospital in Indio, Calif. She was present the night of May 3, 1980, when a 15-year-old patient delivered a live baby girl after a saline abortion.

"Get rid of it" the patient cried hysterically. "I'm sorry. Mama—get rid of it," she said, the baby alive, kicking and crying between her legs.

Two weeks earlier the girl had been in a traffic accident that killed four others and had sought the abortion out of fear that her baby might be damaged.

The fetus, which in tests had shown a normal heartbeat of 132 to 136 in the womb, appeared healthy at birth. "She was beautiful," said Mrs. Rojo. "She was pink. There were no physical deformities. She let out a little lusty cry. She lay in a basin put there to catch all the stuff. She was waving her arms and legs. You could tell she was making a big effort to live."

The nurses cut the umbilical cord, wrapped the infant in a blanket and took her to the intensive care nursery. She was put in an isolette (a life-support system) within minutes and was given oxygen.

Acting on their own, the nurses had the 1 pound 14 ounce baby transferred six hours later to Loma Linda University Medical Center, one of several hospitals in the Los Angeles area specializing in the care of very small premature infants. Four days later the baby was reported stable but had developed a complication causing hemorrhaging of the brain. Dr. David Deming of Loma Linda said then that its chances were only 50-50. He added, though, that the abortion had done little damage. "I would say there is probably no effect on her from the saline."

Eleven days after birth, the baby died. Family members indicated they were upset by the nurses' effort to save it.

"After this experience," Rojo said, "my friend [another nurse] and I are changed. We realize doctors aren't perfect. . . . I hope this is the last [abortion live birth] I ever see, but if there are any more, we will do the same thing."

The CHAIRMAN. Are there any other questions of these witnesses by any member of the committee?

[No response.]

ABORTION NOT MENTIONED IN CONSTITUTION

The CHAIRMAN. I want to say this on the subject of abortion. Abortion is not mentioned in the Constitution of the United States. This field was never delegated by the States to the Union at the time the Constitution was written or by any amendment since the adoption of the Constitution.

Therefore, I do not hesitate to say that in my judgment the Supreme Court had no jurisdiction in entering the field of abortion. In my opinion that field is reserved to the States under the Constitution, but they went into it anyway. They not only went into it, they have written a law on it, practically, as you have stated here today.

Now, however, the testimony of Judge O'Connor as I recollect it was that she stated how she voted on these matters back yonder, and then after that the question of abortion became, if you want to call it, a hotter question, a question more timely and it has received a lot more consideration.

She did not answer about how she would vote on that question because, if she had done that, then she would disqualify herself from voting as a member of the Supreme Court on that question, when it comes before it, if it does. She said she anticipated it would come before the Supreme Court.

Therefore, I wanted to just bring out that point, that I do not think she could be censured necessarily for not saying how she would vote as a member of the Supreme Court on abortion because she would disqualify herself from voting on that question if it does come before the Supreme Court again.