

## **Background on abortionist Haskell's relationship with Wright State Physicians Group and Haskell's history of challenging Ohio Department of Health regulations**

The state of Ohio classifies surgical abortion centers as ambulatory surgical facilities and like all other ambulatory surgical facilities in the state, requires that they must have a written transfer agreement with a local hospital. These kinds of agreements are designed to provide the highest level of medical care in the event of an emergency that the ambulatory surgical facility is not equipped to handle. The law also provides that the Department of Health can grant a variance to the requirement for a transfer agreement if it believes that the same level of care for patients can be achieved through an alternative arrangement.

Martin Haskell, who owns the Women's Med Group abortion facility in Kettering, doesn't have a hospital transfer agreement or a license to operate an ambulatory surgical facility. He has applied to the Ohio Health Department for a variance to the requirement and that application has been pending at least since 2012, according to a letter his lawyers sent to the Ohio Department of Health.

Three doctors -- Janice Duke, Sheila Barhan, and Jerome Yaklic -- who are members of the Wright State Physicians Group, have signed an agreement to provide emergency back-up services for the abortion center. Emergency back-up services are provided through the Miami Valley Hospital where the physicians have admitting privileges and offices. There are indications (shorter hours, not taking new patients) that Dr. Duke either has retired from active practice or will retire soon.

The agreement also involves other members of the Wright State Physicians OB/GYN group in that if the three doctors named in the contract are not available, other members of the Wright State group on duty at the hospital will provide the services.

In addition, the agreement is signed by Dr. Alan Marco, the president and CEO of Wright State Physicians, which comprises over 150 doctors who teach at the Wright State University Boonshoft School of Medicine. Although it is closely and uniquely associated with the medical school, the Wright State Physicians group is a privately chartered non-profit corporation.

The contract between the abortionist and the Wright State Physicians has been the only basis underlying the abortionist's recent requests for a variance to the requirement that ambulatory surgical facilities have a written transfer agreement with a nearby hospital. Without the contract or a similar agreement with other doctors, the abortionist would have had no basis to request the variance.

Despite the contract between the abortionist and the Wright State Physicians, the Ohio Department of Health on September 25, 2015, denied the abortionist's 2015 request for a variance. Haskell then requested a Section 119 hearing concerning the denial and that hearing took place on April 26, 2016, at the Department of Health in

Columbus. A ruling on the hearing was expected in July of 2016 but has now apparently been postponed until the Spring of 2017.

In the meantime a variance request for 2016 was submitted by Women's Med Center on August 26, 2016, and on October 21, 2016, the Department of Health denied that request.

While the regulatory and legal process plays out the abortion mill remains open.

*The key point is that the Wright State Physicians Group has enabled the Women's Med Group surgical abortion center in Kettering to stay open. Without the agreement they would have no basis for even requesting the Ohio Department of Health to grant a variance to the requirement that they have hospital transfer privileges and the ODH would have had to close down the abortion facility years ago.*

*Ohio voters are being victimized and taken advantage of by members of the Wright State Physicians Group, who while benefitting from the support of a taxpayer funded medical school and university, are helping an abortionist stay in business, thus violating the intention of an Ohio regulation designed to prohibit tax-supported medical facilities from supporting abortionists. The doctors are pursuing their own private pro-abortion agenda -- which is opposed by the majority of Ohioans -- at the expense of taxpayers. Ohio taxpayers are being made complicit in the destruction of thousands of pre-born babies in Kettering.*

*In a very real sense, the consciences of millions of Ohioans are being violated because their taxes are supporting a group of physicians who are pursuing a personal pro-abortion agenda and who have enabled the killing of over 35 babies a week to continue at Haskell's Kettering abortion facility.*

*In supporting the abortion center, the Wright State Physicians are also ignoring the facts of evidence based medicine and science that a separately identified, unique, living, developing human being, with all aspects of personhood intact, comes into being with the fusion of genetic material from the mother and the father, and from that moment forward, nothing is ever added to that living, developing being to give it more in the way of humanness or personhood. All any of us need from that point on to continue living and developing is nutrition, oxygen and water.*

In fact, in 2014 the Ohio Department of Health shut down the surgical abortion services at Haskell's Women's Med Center in Sharonville, OH, a suburb of Cincinnati, because Haskell did not have a written hospital transfer agreement with any area hospitals.

All of the members of the Wright State Physicians OB/GYN group have admitting privileges at Miami Valley Hospital and offices at the hospital. Miami Valley is the largest Dayton-area hospital and is part of Premier Health Partners, which provides

services through several hospitals and other health care facilities in southwestern Ohio.

## **Timeline**

Going back to the 1990s when the state of Ohio began licensing ambulatory surgical facilities, Haskell has had a history of challenging and avoiding the law through a series of appeals and court rulings.

Here is a timeline of events drawing in part from reports by Operation Rescue (<http://www.operationrescue.org/>):

**1996** – An Ohio law is passed requiring ambulatory surgical centers to be licensed by the state.

**1999** - It is discovered that most surgical abortion centers are not in compliance with the licensing law, and the state begins enforcing the requirement.

**1999-2000** Haskell refuses to comply, claiming that he is operating as a general practitioner. Ohio Department of Health disagrees and Haskell appeals their decision to the State Administrative Review Board; his appeal there is denied.

**2001** Haskell appeals the Review Board decision to the Franklin County Common Pleas Court; this appeal fails and he is ordered to get a license.

**2002** The Common Pleas Court decision is appealed to the Ohio Court of Appeals for the 10th Appellate District; again Haskell is ordered to get a license.

**Fall 2002** – Haskell applies for an ambulatory surgical center license for his Kettering abortion facility.

**January 9, 2003** Ohio Department of Health denies the license because Haskell does not have a transfer agreement.

**January 9, 2003** – Federal Court Judge Susan Dlott issues a restraining order preventing ODH from enforcing the law until the case can be adjudicated.

**July 2003** – The case is heard by Federal District Court; Judge Marbley rules for Haskell and orders ODH to issue a license. ODH appeals the decision.

**February 2006** The 6th Circuit Court of Appeals rules that ODH can deny the license but that first Haskell can have a hearing before the ODH

**March 2007** After the hearing process the ODH recommends that the license (ordered by Judge Marbley in 2003) be revoked because Haskell does not have a transfer agreement.

**February 2008** ODH issues order to revoke Haskell's license

**February 27, 2008** Haskell is still not in compliance, and ODH issues a cease and desist order. On the same day Federal District Judge Marbley issues another temporary injunction preventing ODH from enforcing the cease and desist order.

At this point Haskell reveals that he has emergency back-up services through three local physicians: Dr. Janice Duke, Dr. Sheila Barhan, and Dr. Lawrence Amesse. All have privileges at Miami Valley Hospital and are affiliated with Wright State Physicians Group. The physicians were apparently acting as private individuals and had not involved the Wright State Physicians Group in the process. Based on that arrangement, the ODH grants a variance to the requirement for a transfer agreement and grants a license to Haskell for his Kettering abortion center.

**2012** Haskell's lawyers request a renewal of the variance (this is asserted in Nov. 20, 2013 letter to ODH).

**May 2013** It is learned that Dr. Amesse has left the group practice, requiring that a new agreement for back-up services be arranged.

**November 1, 2013** An agreement (included in November 20, 2013 letter to the Ohio Department of Health) is signed with the Wright State Physicians Group (signed by Dr. Sheela Barhan and by Dr. Alan Marco, president and CEO of Wright State Physicians) to provide emergency back up privileges.

**February 27, 2014** Responding to a Feb 12, 2014 letter from ODH, Haskell's lawyers submit a modified version of the contract between Haskell and the Wright State Physicians group.

**July 25, 2014** Another version of contract with Wright State Physicians and the request for a variance are sent to ODH, again noting that requests for a renewal had been sent in August 2012 and Sept 2013, but that the Ohio Department of Health had not responded.

**June 25, 2015** The Ohio Department of Health denies requests for a variance and gives Haskell 30 days to submit a new proposal or else "the department may propose revocation of the facility's ambulatory surgical facility license.

**July 24, 2015** Haskell submits a new request for a variance, based on a contract signed by Dr. Janice Duke, Dr. Sheila Barhan, and Dr. Jerome Yaklic, all members of the Wright State Physicians Group. The request also includes a contract signed by Dr. Alan Marco, president and CEO of the Wright State Physicians Group, which says that in the event the three primary physicians are not available, other Wright State group OB/GYN physicians will provide emergency back-up services.

**September 1, 2015** Haskell and Planned Parenthood of Southwest Ohio file suit against the Director of the Ohio Department of Health, contending that the requirement that abortionists must have a written transfer agreement with a nearby hospital is unconstitutional. The suit also contends that a 2013 Ohio statute

prohibiting public hospitals from providing transfer agreements to abortionists is unconstitutional.

**September 25, 2015** Ohio Department of Health denies the July 25, 2015, request by Haskell for a variance and proposes the revocation of his license to operate an ambulatory surgical facility. Haskell is given one month to request a hearing on the decision.

**September 28, 2015** U.S. District Court Judge Michael R. Barrett orders that the two businesses involved in the suit filed on Sept 1, 2016 – Women’s Med Center of Dayton and the Planned Parenthood abortion Center in Cincinnati – may stay open and continue committing abortions while they appeal ODH's decision. Planned Parenthood of Southwest Ohio submits a new request for a variance.

**October 13, 2015** U.S. District Court Judge Michael R. Barrett grants preliminary injunction allowing Planned Parenthood of Southwest Ohio’s Cincinnati abortion center to stay open (blocking the state health department from suspending the abortion center’s license).

**October 23, 2015** Haskell requests a hearing regarding the September 25 denial of his request for a variance. The Ohio Department of Health eventually sets a hearing for April 26, 2016.

**November 28, 2015** Ohio Department of Health issues a temporary variance to Planned Parenthood of Cincinnati’s surgical abortion center, based on the center’s agreement with four physicians to provide emergency back-up services. The temporary variance runs through May 31, 2016.

**April 26, 2016** At the Ohio Department of Health hearing, Haskell’s lawyer questions ODH director Richard Hodges on his background and on the process and factors involved in reaching his September 25, 2016, decision to deny Haskell’s request for a variance and to propose revocation of his license to operate an ambulatory surgical facility. Allowing time for transcription of the four-plus hour hearing and preparation of briefs, a decision should be issued in July of 2016. If the denial for the variance and license revocation is upheld, the case will most probably be appealed to Ohio Common Pleas Court.

**June 27, 2016** The Supreme Court, in a 5-3 vote, invalidated Texas’s requirement that abortion providers must obtain admitting privileges at local hospitals and that they must meet the same medical standards as other ambulatory surgical facilities. Given the differences in laws in Texas and Ohio, Ohio laws regarding ambulatory surgical facility remain in force.

**June 22, 2016** The Ohio Department of Health released a report in connection with an abortion procedure on June 12, 2015 in which it says that the abortion center “failed to ensure a patient was allowed to refuse or withdraw consent for

treatment when her physical and cognitive condition precluded her from participating in her treatment.”

**August 3, 2016** Dayton Right to Life filed a complaint with the State Medical Board of Ohio against the abortionists who were involved in June 12, 2015 abortion.

**August 26, 2016** Women’s Med Center submits variance request for 2016. As with the 2015 request, the 2016 request names Wright State Physicians Group members Dr. Janice Duke, Dr. Sheela Barhan, and Dr. Jerome Yaklic as backup physicians. (Dr. Yaklic was name president and CEO of the Wright State Physicians Group in March of 2017, which may mean that, given his full time administrative role, he very likely will be unable to function as one of the emergency back up physicians named in the contract.)

**October 10, 2016** Ohio Director of Health denies the August 26, 2016, variance request, saying that the provision of only three named back-up physicians “does not meet my expectation that a variance provide the same level of patient health and safety that a written transfer agreement with a local hospital assures for 24/7 back-up coverage.” He added that additional back-up from un-named doctors in the Wright State Physicians Group does not comply with the statute that requires that specific information concerning the physicians be provided.

**November 22, 2016** Ohio Medical Board closes investigation of August 3, 2016 complaint by Dayton Right to Life.

**November 30, 2016** Ohio Department of Health revokes the Ambulatory Surgical Center license of Women’s Med Center in Kettering. Revocation follows denial of a variance request in September 25, 2015 and an appeals hearing on April 28, 2016. Women’s Med Center has 15 days to file an appeal in Ohio Common Pleas Court either in Montgomery or Hamilton County.

**December 2, 2016** Women’s Med Center files emergency motion in Common Pleas Court of Montgomery County to suspend and stay the Ohio Department of Health’s November 30 revocation of the abortion center’s license.

**December 8, 2016** Ohio Department of Health files a memorandum opposing the December 2 motion by the Women’s Med Center, and the following day, the Women’s Med Center files a reply to the Department of Health’s memorandum.

**December 12, 2016** Common Pleas Court judge Mary Wiseman grants the Women’s Med Center’s motion to suspend and stay the Department of Health’s November 30 revocation of its license, allowing the abortion center to remain open until a final decision is made.

**January 30, 2017** Women’s Med Center files its brief in Montgomery County Common Pleas Court, presenting its arguments for a reversal of the Department of

Health's revocation of its license and its denial of a variance to the requirement for a written transfer agreement with a hospital.

**February 6, 2018** In a case involving an abortion center in Toledo, the Ohio Supreme Court reversed a lower court opinion and reinstated the Ohio Health Department's earlier order which had revoked and refused to renew the license of the abortion center. The Dayton Women's Med Center suit in Montgomery County Common Pleas Court appealing the Department of Health's revocation of its license and denial of a variance, had been delayed pending the outcome of the Ohio Supreme Court's decision in the Toledo case. The judge in the Dayton Women's Med Center case has 14 days to decide how to proceed, in light of the Toledo case, which involved similar issues.

**August 17, 2018** Hearings set in Montgomery County Common Pleas Court for the Women's Med Center appeal of the Department of Health's revocation of its license and denial of a variance, taking into consideration the Ohio Supreme Court's February decision.

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The Operation Rescue reports on which some of the information in the timeline is based are at:

<http://www.operationrescue.org/archives/part-1-why-is-abortionist-haskell-deemed-above-the-law/>

<http://www.operationrescue.org/archives/part-two-9-1-1-calls-show-haskell%E2%80%99s-mill-remains-a-danger/>

## **Information Campaign**

Beginning in September of 2014, local respect life groups and individuals began a public information campaign at the Wright State Physicians Health Center on the campus of Wright State University and at Miami Valley Hospital in Dayton to create awareness about how Wright State Physicians are enabling the abortion center to remain open and to urge the physicians to withdraw from their agreement with the abortionist. The campaign also seeks to create awareness about the many alternatives to abortion available in the local community to meet all circumstances that women might feel are forcing them to have an abortion.

Among the groups involved in the information effort are Dayton Right to Life; Stand True, the youth outreach of Priests for Life, which is headquartered in Troy, Ohio; Created Equal, a national, Columbus, Ohio based, pro-life advocacy group; and Have a Heart for the Next Generation, a national pro-life youth-oriented outreach.

In addition to regular educational outreach events at the Wright State Physicians Health Center and the Miami Valley Hospital, the campaign has included other events at Wright State University, lettering writing and personal outreach efforts.

Beginning in May of 2015, the Created Equal group began a “Killers Among Us” campaign (<http://www.createdequal.org/wright-state>) highlighting the role that Wright State Physicians are playing in keeping the Kettering abortion center open. This campaign makes use of informational mailings and large truck-mounted billboards featuring graphic images of aborted babies juxtaposed with pictures of Wright State Physicians, calling attention to their role in keeping the abortion center in business. The truck has circulated around the Wright State Physicians Health Center, the Miami Valley Hospital, and the Kettering abortion center, as well as the homes and neighborhoods of members of the Wright State Physicians who are involved with the agreement with the abortionist.

## **Status of laws on abortion center standards & recent developments**

The role of laws like the Ohio requirement for abortionists to have hospital transfer agreements has recently attracted national attention because of challenges to laws in Texas that require abortion clinics to meet the same standards as ambulatory surgical facilities and laws that require abortionists to have admitting privileges or transfer agreements with local hospitals.

On June 9, 2015, the 5th Federal District Court of Appeals issued a ruling upholding those Texas regulations.

On June 29, 2015, the U.S. Supreme Court on a 5-4 decision issued a temporary stay which blocked the Texas laws from going into effect while the court decides whether to hear the case. On November 28, 2015, the Supreme Court agreed to consider the Texas case and the case was argued before the now 8-member court.

In a 5-3 decision announced June 27, 2016 the court ruled that the Texas laws imposed an undue burden on women’s right to an abortion. While the decision immediately affects laws in Texas and Louisiana, Ohio’s laws remain in force. See <http://www.scotusblog.com/case-files/cases/whole-womans-health-v-cole/>.

In October of 2014 the Ohio Department of Health put Planned Parenthood’s Cincinnati surgical abortion center on notice that it would be forced to close unless it gets a hospital transfer agreement. In November Planned Parenthood filed suit against the director of the Department of Health, the University of Cincinnati Medical Center, and UC Health, claiming that the Ohio law requiring abortion centers to have transfer agreements with private-only hospitals was unconstitutional. Later in November, ODH director Rick Hodges granted the Planned Parenthood Cincinnati abortion center a variance, based on its agreement with local doctors to provide emergency back-up services.

In October of 2015 the Ohio Department of Health approved a temporary variance for the Planned Parenthood’s Cincinnati surgical abortion center, based on its agreement with four doctors to provide emergency backup services. The variance runs through May of 2016.



As mentioned earlier, in August of 2014, Haskell's Sharonville, Ohio, center was prohibited from performing surgical abortions by the Ohio Department of Health because it did not have a transfer agreement with a local hospital.

On December 11, 2014 two emergency situations (<http://www.maxlifer.com/911.html>) arose at the Kettering abortion center which required hospital care. One patient was sent to Miami Valley Hospital and the second was sent to Kettering Hospital, where there is no agreement with the abortionist for emergency back up services.

An emergency call occurred on June 12, 2015, involving an Indiana patient being sent by ambulance from the abortion center to Miami Valley Hospital. According to the clinic staffer making the call, they suspected the patient had overdosed on recreational drugs.

In July of 2016, the Ohio Department of Health issued a report stating that the Kettering abortion center was not in compliance with the rules for Ambulatory Surgical Facilities in connection with the June 12, 2015 abortion procedure in which the center "failed to ensure a patient was allowed to refuse or withdraw consent for treatment when her physical and cognitive condition precluded her from participating in her treatment."

In August of 2016 Dayton Right to Life filed a complaint with the State Medical Board seeking disciplinary action against the abortionists involved in the 2015 procedure.

### **Wright State Physicians affiliation with Wright State University**

While Wright State Physicians Group is a privately chartered organization, it is closely allied with and dependent on a public, tax-payer supported university medical school.

- The group would not exist except for its relationship with the tax-supported Wright State medical school and it benefits from using the University name.
- According to a doctor familiar with the Wright State Medical Group, the president and CEO of the group is appointed or approved by the tax-payer supported medical school. In addition members of the group are paid directly by the medical school for their roles as the teaching staff at the school. Also, fees paid for services provided by members of Wright State Physicians in their private practices are divided among the physician, the Wright State Physicians Group, and the Wright State University medical school.
- Finally, according to Greene County on-line Tax Office The Wright State Physicians Health Center, where many of the doctors have their practices, is owned by the Board of Trustees of Wright State University and no property taxes are collected on the property. The Wright State Physicians Group leases the building and parking lot from the university. (Article on refinancing the

Wright State Physicians building:  
(<http://www.wrightstatephysicians.org/whatsnew/building-refinance.html>)

As the forgoing suggests, the matrix of relationships between the medical school and the physicians group is extensive and goes well beyond that of an independent contractor in which the principal may have limited influence over the contractor's other business relationships.

In fact the university through its medical school functions more as a traditional employer or co-employer and, as a taxpayer supported entity, has an obligation to oppose the role that Wright State Physicians Group is playing in keeping the abortion center in business.

A statement by trustees and university leaders publicly opposing the agreement would be in line with a letter written by the president of Miami Valley Hospital to the Department of Health, objecting the use of the hospital's name in the contract and stating that the hospital does not serve in any capacity as a supporting agency or affiliate of the abortion center (see the Sept. 25, 2015 letter of denial from the Ohio Department of health:  
<http://www.maxlifer.com/WMC%20150925DenialFinal.pdf>).

The intention of Ohio statute 3727.60 is to prohibit state agencies from supporting abortion facilities. However, public funding and support flow from the University to the Wright State Physician's group, which through its contract with the abortionist has allowed the abortion center to stay in business.

If the doctors were providing emergency services as private physicians, the Wright State administration would have no power to influence their actions. But given the unique and close relationship between the University and the Physicians Group, the Wright State administration has a duty to ensure that members of any group so closely affiliated with the university is not acting contrary to the intent of the Ohio legislature and the values of Ohio taxpayers.

**For additional information:**

[www.wrightstateabortion.com](http://www.wrightstateabortion.com)

**Dayton Right to Life** ([www.daytonlife.org](http://www.daytonlife.org)); Executive Director: Paul Coudron - 937-461-3625; email [pcoudron@daytonlife.org](mailto:pcoudron@daytonlife.org) President, Board of Directors: Mike Haynes - 937-461-3625; Advocacy and Community Outreach Manager: Margie Christie 937-461-3625; email: [mchristie@daytonlife.org](mailto:mchristie@daytonlife.org).

**Ohio Right to Life** (<http://www.ohiolife.org/>); President, Mike Gonidakis, (614) 547-0099, ext. 301 [mgonidakis@ohiolife.org](mailto:mgonidakis@ohiolife.org); Director of Communications: Katherine McCann 614-547-0099 ext 304; email: [kmccann@ohiolife.org](mailto:kmccann@ohiolife.org)

**Stand True** ([www.standtrue.com](http://www.standtrue.com)); Founder & director: Brian Kemper - 937-570-0671; email [info@standtrue.com](mailto:info@standtrue.com)

**Created Equal** ([www.createdequal.net](http://www.createdequal.net)) ; Executive Director: Mark Harrington - 614-269-7808; email [mark@createdequal.org](mailto:mark@createdequal.org)

**Niraj J. Antani**, Representative of the 42nd District of the Ohio House of Representatives. Website: <http://www.ohiohouse.gov/niraj-j-antani>, Telephone: (614) 466-6504, Email: [niraj.antani@ohiohouse.gov](mailto:niraj.antani@ohiohouse.gov)

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For copies of various legal documents concerning contracts between the abortionist and Wright State Physicians, requests to the Ohio Department of Health for variances, denials of those requests, and the federal lawsuit initiated by the abortionist Haskell and Planned Parenthood of Southwest Ohio:

<http://www.maxlifer.com/WSLegal.html>

Copy of brochure distributed at information outreach events:

<http://www.maxlifer.com/ws.pdf>

Copy of post card mailed to all Wright State Physicians, highlighting the connection between the abortionist and the CEO of Wright State Physicians:

<http://www.maxlifer.com/doctorscard.pdf>

Green County website showing ownership of Wright State Physicians Building:

<http://apps.co.greene.oh.us/auditor/ureca/data.aspx?parcelid=A02000200190000100&taxyear=2014&taxformyear=2014&search=ParcelID&searchp=A02000200190000100>

Relevant Ohio Statutes

3727.60 Prohibitions for public hospitals regarding non-therapeutic abortions

3702.30 Ambulatory surgical facility

3701.07 Public hospital

3701.791 Notice to be posted where abortions performed

140.01 Hospital agency definitions

3702.303 Written transfer agreement

3702.304 Variances from written transfer agreements

9.04 Non therapeutic abortion