

Why a NY woman came to Colorado for a 32-week abortion

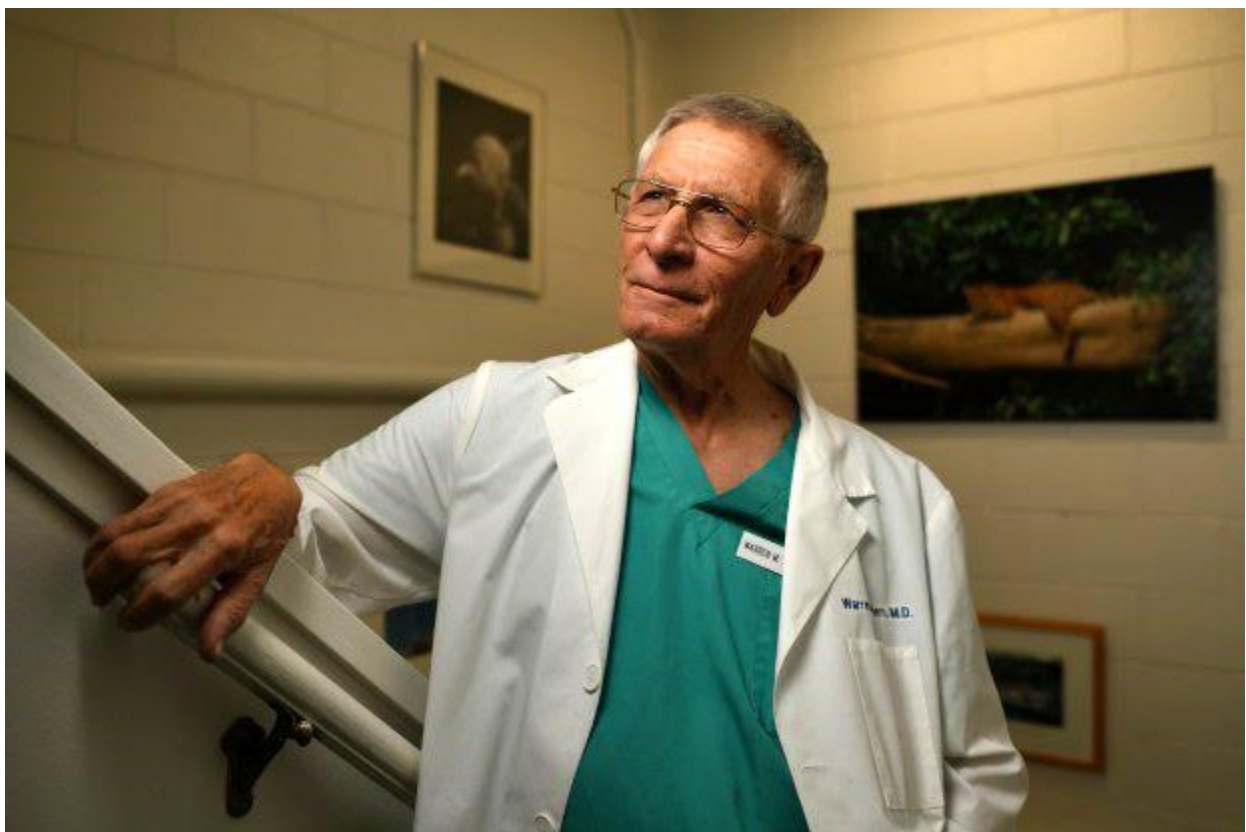
Forty-three states place some restrictions on abortions after a certain point in pregnancy, but Colorado isn't one of them

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In the spring of 2016, Erika Christensen and her husband walked past a tall, wooden fence that obscured the Boulder office of Dr. Warren Hern from the street and his waiting room.

Printed signs taped to bulletproof glass told her all electronic devices – even cellphones – were prohibited and asked her to tell someone on staff if she needed to leave for any reason. The only items she could carry through the door were a printed book, her identification card and a check for \$10,000.



Hyoung Chang, The Denver Post

Dr. Warren Hern is pictured on Oct. 3

Hern is one of a handful of doctors in the country who perform abortions later in pregnancy, and Christensen was a just about 32 weeks gestation when she walked through his front door carrying a son diagnosed with fatal complications.

Abortions late in pregnancy – especially those in the third trimester – are rare, expensive and politically charged. Forty-three states place some restrictions on abortions after a certain point in pregnancy, but Colorado isn't one of them. Yet. Groups are gathering signatures to put a question to Colorado voters in November 2020 that would outlaw all abortions after 22 weeks except those to save the life of the mother.

Fetal abnormalities are just one reason for late-term abortions; about 30% of Hern's patients listed at least one abnormality in the most recent data he published, and good national research isn't available. But these abortions are the ones where the women couldn't have made the decision earlier. Signs of trouble often don't turn up until the standard 20-week ultrasound, and opponents of a 22-week ban say it would leave almost no time for second opinions, further tests and reflection.

Giuliana Day, co-sponsor of the Colorado initiative, said the decision not to provide an exception for fetal diagnoses was intentional. Doctors can be wrong and advances in medicine are continually improving outcomes.

“Incompatible with life”

At 32 weeks, a healthy fetus weighs about 3.5 to 4 pounds. Organs are fully formed except for the lungs, and his or her skin is no longer transparent. Far from an amorphous ball of cells, the fetus looks like a newborn, complete with 10 tiny fingers and toes, and that makes many people deeply uncomfortable about abortion at that stage.

But Christensen's son, whom she and her husband called Spartacus for his fighting spirit, hadn't developed normally.

She had ultrasounds every other week, and each one revealed another problem. They had started out small and correctable – her son would have clubbed feet, the couple learned at 16 weeks. But the issues grew right alongside him and culminated in a devastating diagnosis from her high-risk obstetrician and geneticist around 31 weeks: Her son's abnormalities meant he wasn't viable. He was “incompatible with life,” her doctor told her.

“The growth had fallen off a cliff, and my fluid was very high because the baby wasn't swallowing,” Christensen said. “It's how a fetus practices breathing. No swallowing means no breathing.”

That's when her OB in New York mentioned Hern.

The Boulder Abortion Clinic was one of five in the country that would take someone like Christensen on at this stage in her pregnancy. Her home state had a ban on almost all abortions after 24 weeks. The only exception was to save the life of the mother.

“We didn’t even know we had an abortion law in New York,” Christensen said. “So, when we came up against the law, it was very jarring...Literally, in an instant, it became a legal event instead of a health care event.”

Christensen boarded a plane with her husband a week later and traveled to Colorado for a \$10,000 shot – not covered by her insurance – to stop her son’s heartbeat. She took medicine to prevent labor, slept for a few hours in an airport hotel and boarded a red-eye flight back to New York, where she had a stillbirth the next day. The whole trip took about 36 hours.

“The travel part was so enraging that it continues to infuriate us to this day,” Christensen said. “We were so angry we had to do it but at the same time grateful. We’ve met people who weren’t able to get care and were forced to carry doomed pregnancies to term.”

Christensen spent the next three years convincing New York’s lawmakers to change the state’s abortion law. In January, Gov. Andrew Cuomo signed the Reproductive Health Act, legalizing abortions past 24 weeks in the absence of fetal viability. But now Colorado, the state Christensen said she turned to “when my state turned me away,” could pass a ban on abortions past 22 weeks.

The ballot measure was submitted by Day and another woman who started an issue group called Due Date Too Late. They’re gathering signatures to put a question before Colorado voters to ban all abortions after 22 weeks, except those necessary to save the life of the mother. Women caught getting abortions past the deadline wouldn’t be penalized, but doctors could be charged with crimes and lose their medical licenses.

“This initiative will succeed because 73% of Americans think that abortion should have limitations, according to a recent Gallup poll,” Day wrote in an email to The Denver Post.

Lots of emotion, little data

According to the national Centers for Disease Control and Prevention, the number of women getting abortions in the United States has steadily declined. A total of 638,169 abortions were reported to the agency in 2015 (the most recent year of

available data), and almost two-thirds of those happened before eight weeks' gestation. Ninety-one percent occurred by 13 weeks. Just 1.3% - or roughly 8,300 abortions – took place at 21 weeks or later.

Little comprehensive data exists on the reasons women seek abortions after the fifth month of pregnancy. One of the largest studies was done by University of California at San Francisco Professor Diana Greene Foster. Her team found that women who chose later abortions for reasons other than fetal abnormalities cited substance abuse, mental health problems, difficulties raising money and finding a clinic, and difficulty making the decision. Based on the limited research available, she believes fetal anomalies “make up a small minority of later abortion.”

Hern kept detailed records on his patients' reported fetal anomalies over two decades – up to 2012 – and published his own paper detailing 160 different conditions cited in seeking abortions. Some of the conditions were rare, like Leigh syndrome, which causes the loss of physical and mental abilities and is usually fatal within two or three years. But the most common anomaly mentioned was Trisomy 21, or Down syndrome: Nearly one in four of the 1005 patients listed this genetic disorder as one of her reasons for seeking an abortion. Down syndrome can include heart and stomach malformations, but Hern's data didn't go into that level of detail.

Most of his patients, though, gave a reason other than fetal abnormality. According to the paper, “the proportion of all patients seeking pregnancy termination for fetal disorder increased over time from 2.5% to 30%.”

For him, the decision to abort comes down to a simple question: Is the woman safer carrying to term or not?

His answer was yes for a 13-year-old girl in her third trimester who'd been raped by a family member. It was an awful situation with no easy solution, Hern said. The girl had a long road to recovery from the trauma she experienced no matter what her family decided. But, the doctor said, he turned a woman who came to him at the same gestational age after she broke up with her partner.

“I'm not going to do that,” he said.

He said he thinks there's a lot of misinformation about how he and other doctors perform abortions later in pregnancy. After 18 weeks, it's standard practice at his clinic to induce fetal demise through an injection that stops the heartbeat. The

medical reason, Hern said, is it makes the procedure safer. The emotional reason is women tell him they don't want the fetus to suffer.

He described the born-alive protection bills passed in other states as “nonsense.” A woman's cervix has to dilate for up to 72 hours for a third-trimester abortion because she's essentially having a stillbirth. The ultrasound Hern does before he starts makes it obvious to any observer with a medical background that the fetus has been dead for days.

“Trying to do this on a living fetus would be extremely difficult, to say nothing of unnerving,” he said.

Wanted pregnancies

Many of the women who visit Hern's clinic hold their baby after delivery. “A very large portion of my patients are women who have a desired pregnancy,” Hern said. “They don't want to have an abortion. They want to have a baby.”

That's what Nicole, 38, wanted when she went in for her 20-week ultrasound the week before Christmas 2016. The Denver-area mother asked that her last name not be used for safety concerns.

“It started out great, but then the nurse practitioner was taking longer than you would expect,” Nicole said. “She got quieter and then she had to go get the specialist.”

The specialist sat down and gently told Nicole that the little girl growing inside of her had developed without kidneys. Her baby's lungs needed functioning kidneys to produce the amniotic fluid she'd use to learn to breathe. There was zero percent survival rate. This was a non-viable pregnancy.

Nicole cried.

“It's such a weird thing to find out that the pregnancy you were having was a baby that was never going to be,” she said.

The doctor said she might carry to term, but her daughter would die during labor or suffocate in the moments after birth. It sounded awful, Nicole said. That's why she decided to abort. With her parents in town for the holidays, she and her husband left their toddler with grandma and grandpa and went for induction the day after Christmas. “We got to hold her afterward,” Nicole said. “I don't even know how to describe how small she was.”

An unexpected delivery

Jeff Hunt, an outspoken critic of abortion and vice president at Colorado Christian University, knows all too well how small babies are in the second trimester. His first child, a daughter, was born just shy of 27 weeks when his wife developed a life-threatening blood pressure condition. They went to the hospital because his wife had a lot of swelling and suddenly found themselves in an operating room with dozens of doctors and nurses.

“There was this intense focus on saving this baby’s life and down the street, a baby the exact same size can be killed,” Hunt said. “Where that difference happens just isn’t right to us.”

Hunt’s daughter spent 94 days in intensive care, but she survived without lasting complications. Now 10 years old, she’s a book lover and the artist of their family. But even in those first moments, with all those tubes and machines working to keep her alive, Hunt said, he saw flashes of her personality. He saw a human.

“Colorado is just way too extreme on this,” Hunt said. “There’s a life there, and it should be respected.”

Hunt’s faith teaches him to give God control of seemingly out-of-control situations like an early delivery or a fatal fetal diagnosis. Sometimes doctors are wrong and sometimes surgeons can perform miracles.

That’s true, but a high-risk obstetrician interviewed by The Denver Post said she thinks people who make that argument don’t consider what life looks like for those families. The Denver-based doctor asked that her name not be used due to safety concerns because she offers abortion services to patients later in their pregnancies.

“People think, ‘Well, you can just fix that, and things are going to be fine,’” she said. “When you are talking about anomalies that are not lethal but are serious, you’re talking about taking on a life that is medicalized forever, and a child that could spend half of its time in a hospital.”

She spoke with a potential parent once who was born with a serious medical condition. The person had 38 surgeries by 11 years old and was adamant about not carrying a baby with the same genetic abnormality to term.

“I’ve heard it said that no child ever wished they had never been born, but they have. They do,” the doctor said.

She plans to vote against the 22-week ban if it makes the ballot because she doesn't want her patients rushing through the decision to terminate.

"They come in for their routine anatomy scan (around 20 weeks), and we say, 'I'm so very sorry I'm seeing something wrong with the brain or the heart or the anatomy.' And then we start the process of figuring out what it is," she said.

Patients want genetic testing to confirm the ultrasound, and those results take about two weeks. They want to meet with pediatric heart surgeons or get a fetal brain scan or find a support group for parents with their particular genetic disorder to understand what life might look like if they choose medical intervention over palliative care.

The Denver doctor said it's not unusual for couples to take a month to reach their decision. Hern's data on women who aborted because of fetal abnormalities showed more women terminated at between 24 and 24 weeks' gestation than at any other time in the last two trimesters.

Continuing with a nonviable pregnancy

Day told The Denver Post she understands that fatal fetal abnormalities are "extremely difficult" but also rare. Due Date Too Late chose 22 weeks because that's the edge of viability. Palliative care is an option for women who get a diagnosis later in pregnancy, she noted.

That's what Laura Huene, a labor and delivery nurse, decided to do when doctors diagnosed her daughter, Pearl, with severe facial abnormalities in 2006. The Colorado mom said she felt like her doctor presented termination as her only option.

"I knew that wasn't going to be the right thing for our family, but you can see how families get pulled into that decision," Huen said.

She started a Colorado-based nonprofit called String of Pearls to support women who choose to carry nonviable pregnancies to term. The organization has helped hundreds of women over the last 12 years with everything from detailed birth plans to counseling to funeral arrangements.

Two of those women discovered their doctors were wrong and took healthy babies home from the hospital.

But even the ones whose diagnoses were 100% correct tell Huene they don't regret their decision. She has, however, heard from dozens of women over the years who said they regretted terminating.

“Abortion is a secret they feel like they have to hid,” she said. “Carrying your baby gives you a story instead of a secret.”

But it was that story, the one about a little girl who would never breathe, that Nicole said pushed her toward termination. She didn’t want to lie to strangers who congratulated her in the grocery store. She didn’t want to explain to her daughter why her little sister wasn’t coming home. She didn’t want to endure months of sympathetic looks and awkward silences.

“All (a ban) does is remove from my options the very thing the doctors are saying I could do to protect my emotional health,” Nicole said. “The physical labor gets harder every day you wait, but the emotional trauma is so much worse.”

Nicole and Christensen recognize that they’re the ideal, sympathetic faces for abortion later in pregnancy. They were both married. They wanted their children. And their diagnoses were clear. Neither of them had to decide whether to subject a newborn to surgery.

But, Christensen said, her rights can’t be untangled from the 13-year-old rape victim or the woman who has three abortions just because she doesn’t want a child. She doesn’t believe in bans with exceptions for this or that because she doesn’t want government in the business of deciding who does and doesn’t deserve access.

“I wish we had more chances to express our gratitude to the state of Colorado because when our states turned us away, this is where we went,” Christensen said. “We all feel this enormous sense of gratitude.”

Anna Staver covers state politics for The Denver Post. She previously worked at 9 News, the Salem, Oregon Statesman-Journal and Idaho Press Tribune and is a graduate of Kent State University

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