

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE.

The meeting was called to order by Chairperson Senator Susan Wagle at 1:30 p.m. on March 25, 2002 in Room 231-N of the Capitol.

All members were present except: Senator Chris Steineger
Senator Nick Jordan (EA)
Ms. Emalene Correll, Kansas Legislative Research Department

Committee staff present: Mr. Norm Furse, Revisor of Statutes
Ms. Lisa Montgomery, Revisor of Statutes
Ms. Margaret Cianciarulo, Administrative Assistant

Conferees appearing before the committee: Ms. Carla Mahany, Kansas Public Affairs Director,
Planned Parenthood of KS & Mid-Missouri
Dr. Delores Furtado, Professor Emerita, retired
Mr. Bob Williams, Executive Director,
KS Pharmacists Association
Mr. Terry Leatherman, Vice President - Legislative Affairs,
KS Chamber of Commerce and Industry
Ms. Lisa Nathanson, Legal Director,
ACLU of KS & Western Missouri
Mr. Ron Pope, Attorney
Member of Kansas Trial Lawyers Association
Executive Committee

Others attending: See attached guest list.

Hearing on HB2711 - an act enacting the health care providers' rights of conscience act

Upon calling the meeting to order, Chairperson Wagle the Committee would be hearing opponent testimony on the above bill. Proponent testimony would be heard tomorrow. She then asked that Mr. Norm Furse, Revisor of Statute, explain the bill.

Mr. Furse began by stating that COW amendments are shown in the bill in brackets. He then gave an overview of the sections as follows:

Sec.1 titles the bill;

Sec.2 is a policy statement of legislative findings;

Sec.3 is the definitions section (definition ex. Right of conscience act, discrimination, etc.) containing a floor amendment defining euthanasia. Health Care Services subject to this act is a key definition (ex. cloning, stem cell and fetal experimentation, etc.);

Sec. 4, 5, and 6 are similar as they all relate to health care (4) provider (5) institution and (6) payers. He stated the wording shown in **bold** was added by the House committee.

Sec.7 applies to health care providers recourse for unlawful employment;

Sec. 8 covers liability if entered into a contractual agreements or accepted federal or state funds;

Sec. 9 added by the HOW and touches on civil or criminal liability;

Sec 10 applies to "do not resuscitate";

Sec.11 provides that the act does not supersede;

Sec.12 this particular act does not intend to prohibit or permit any of the health care services;

Sec.13 is a severability clause; and

Sec.14 is a statute clause.

Chairperson Wagle then asked him about the statutes relating to this bill he had mentioned to her before the Committee started. Mr. Furse stated the two statutes are: 1) 65-443, dated 1969, says that no person will be required to perform or participate in procedure which relates to termination of pregnancy in any hospital or similar facility and 2) 65-446, first enacted in 1971, has similar language that no person that is a health care provider required to perform or participate in a medical procedure that would result in serialization. The Chair recognized Senators Praeger and Barnett who asked of Mr. Furse questions regarding ectopic pregnancy, is it covered, contradictory statements regarding payment (page 6 line 8 and page 2 line 7), does the bill effect insurance companies, and is "abortion" defined in another statute.

The Chair then began the hearing by introducing the first opponent Ms. Carla Mahany, Kansas Public Affairs Director, Planned Parenthood of Kansas and Mid-Missouri who stated that in its eagerness to protect the ability of health care providers to refuse to provide any of the targeted services they find objectionable, it allows for the wholesale denial of care for patients. She also provided suggested amendments, some of the things the bill does do in its current for, what it allows, and a "Journal of the House" showing explanation of vote and protests opposing the bill. A copy of her testimony and attachment are ([Attachment 1](#)) attached hereto and incorporated into Minutes by reference.

The second opponent was Dr. Delores Furtado, Professor Emerita, retired, who stated she wanted to speak to the impact of this bill on faculty members, students and residents, which the bill includes (medical faculty and medical schools among the health care providers). With her testimony, she included written testimony from two medical students and a physician. A copy of her testimony and the three letters are ([Attachment 2](#)) attached hereto and incorporated into Minutes by reference.

The third opponent was Mr. Bob Williams, Executive Director, Kansas Pharmacists Association who stated that the bill does little to protect the patient's legal right to obtain services. He also attached a resolution that the KPhA believes allows equal protection for the health care provider and patient. A copy of his testimony and suggested amendment is ([Attachment 3](#)) attached hereto and incorporated into Minutes by reference.

The fourth opponent was Mr. Terry Leatherman, Vice President of Legislative Affairs for the Kansas Chamber of Commerce and Industry who stated that the sole reason behind KCCI's testimony is how this bill will affect the employment-at-will doctrine, that permits an employer or employee to conclude an employment arrangement for any reason, or no reason at all, has served this state well for years. A copy of his testimony is ([Attachment 4](#)) attached hereto and incorporated into Minutes by reference.

The fifth opponent was Ms. Lisa Nathanson, Legal Director, American Civil Liberties Union of Kansas and Western Missouri who stated that under this bill: health care providers, institutions, and payers can refuse to provide or pay for certain reproductive and other health care services for any reason; does not require that patients receive advance notice that the care or coverage will be denied; nor does it require that patients be given referrals for denied services. A copy of her testimony is ([Attachment 5](#)) attached hereto and incorporated into Minutes by reference.

The last opponent to testify was Mr. Ron Pope, Attorney, and a member of the KTLA Executive Committee who stated that this bill which would allow health care providers and facilities and insurance companies to refuse to perform or pay for certain health care services because the object to them on moral not medical grounds. He also provided a few examples that KTLA felt illustrated the negative impact of the bill. A copy of his testimony is ([Attachment 6](#)) attached hereto and incorporated into Minutes by reference.

The two written opponent testimonies presented were from the American Society for Reproductive Medicine and Ms. Sylvie Rueff, Kansas National Organization for Women. Copies of these testimonies are ([Attachment 7](#)) attached hereto and incorporated into Minutes by reference. The neutral written testimony was provided by Mr. William Minner Executive Director, KHRC. A copy of his testimony is ([Attachment 8](#)) hereto and incorporated into Minutes by reference.

The Chair then asked for questions or comments from the Committee. Questions were asked by Senators Haley, Praeger, Wagle, and Barnett ranging from where did this concept come from, is there similar in Missouri, were the conferees aware of the other two statutes Mr. Furse referred to, what if staff division in a small hospital, statute does not permit but does not not permit, to what is the law on patients receiving advance notice.

As there were no further discussions, comments, or questions, The Chair adjourned the meeting

Adjournment

Adjournment time was at 2:24 p.m.

The next meeting is scheduled for March 26, 2002.

CONTINUATION SHEET