

MINUTES OF THE HOUSE COMMITTEE ON TRANSPORTATION.

The meeting was called to order by Chairperson Kenneth King at 1:30 p.m. on February 7, 1995 in Room 519-S of the Capitol.

All members were present except:
All present

Committee staff present: Hank Avila, Legislative Research Department
Tom Severn, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
Ellie Luthye, Committee Secretary

Conferees appearing before the committee:
Representative Empson
Representative Carmody
Pat Turner, Right-To-Life

Others attending: See attached list

Chairman King called the meeting to order at 1:35 p.m.

The Chair opened hearings on **HB 2196, relating to drivers' licenses; concerning the content thereon,** and called on Bruce Kinzie to give an overview of the bill.

Chairman King recognized Representative Empson who appeared in support of **HB 2196**. She stated this bill was requested by one of her constituents and would allow an individual who had executed a "living will", or a declaration directing the withholding or withdrawal of life sustaining procedures, to have the words "Living Will" placed on the front of their drivers license. (Attachment 1)

She stood for questions from the committee. In response to a question by the committee, Betty McBride, Director of Motor Vehicles, stated there was room to affix a sticker to the front of the drivers licenses.

Pat Turner, Right-To-Life, stood in opposition to **HB 2196**. She read the prepared testimony from Cleta Renyer who stated a Living Will is a vague declaration that takes rights and control from its signer and gives decision-making authority to a physician who they may not know. (Attachment 2)

Following her testimony she stood for questions.

John Smith, Vehicle Administrator, suggested adding "I.D. cards" to the bill as an alternative for those persons who do not have drivers licenses.

Chairman King closed hearings on **HB 2196**.

The Chair recognized former Representative Steve Cloud and welcomed him to the committee.

Chairman King opened hearings on **HB 2215, concerning voluntary surrender of a driver's license,** and Bruce Kinzie gave an overview of the bill.

Representative Carmody appeared before the committee in support of **HB 2215**. He told the committee the problem concerns drivers in this state being unable to surrender a driver's license even in the case of a mistake by the Department of Revenue. He called attention to an attached letter from a constituent outlining a case in Johnson County. (Attachment 3)

Following his testimony he stood for questions. John Smith stated the Department was in favor of this legislation, with a modification, and a draft of this change was distributed to the committee. (Attachment 4)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON TRANSPORTATION, Room 519-S Statehouse, at 1:30 p.m. on February 7, 1995.

Chairman King closed hearings on **HB 2215**.

The minutes for the Transportation Committee meeting of February 2nd were presented for additions or corrections. There being no corrections Chairman King stated the minutes would be approved as presented.

Chairman King announced that discussion and final action would occur on February 8 concerning **HB 2118**, regulating traffic, concerning the axle weight limitations on certain vehicles; **HB 2147**, providing for permanent registration of school district vehicles; and **HB 2199**, concerning owners of registered vehicles which unlawfully pass school buses .

The Chair adjourned the meeting at 2:05 p.m.

The next meeting is scheduled for February 8, 1995.

CINDY EMPSON
REPRESENTATIVE, TWELFTH DISTRICT
MONTGOMERY COUNTY
HOME ADDRESS: P.O. BOX 848
INDEPENDENCE, KANSAS 67301-0848
(316) 331-5712



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
VICE-CHAIRMAN: EDUCATION
CHAIRMAN: LEGISLATIVE EDUCATIONAL
PLANNING COMMITTEE
MEMBER: FEDERAL AND STATE AFFAIRS
TAXATION

NATIONAL CONFERENCE OF STATE
LEGISLATURES: EDUCATION AND
JOB TRAINING COMMITTEE
MEMBER: MIDWESTERN HIGHER
EDUCATION COMPACT

TOPEKA OFFICE: STATEHOUSE, RM. 182-W
TOPEKA, KANSAS 66612-1504
(913) 296-7685

February 7, 1995

TO: Chairman King
Members of the House Transportation Committee

RE: HB 2196

Mr. Chairman, and Members of the Committee, thank you for the opportunity to appear before you in support of HB 2196.

This bill was requested by one of my constituents. It allows an individual who has executed a "living will" - or a declaration directing the withholding or withdrawal of life sustaining procedures - to have the words "Living Will" placed on the front of their drivers license.

In the event of an accident, injury, or illness which renders a person incapable of notifying emergency personnel that such a document is in place, this designation would alert hospitals and physicians of an individuals wishes on life-sustaining procedures. Once it becomes common knowledge that this information is contained on a person's drivers license, it will be easy for hospitals and/or physicians to check.

*House Transportation Committee
February 7, 1995
Attachment 1*

This designation would be in the form of a sticker that could be placed on the front of your license. I don't have a fiscal note on it, but the cost of producing the stickers should be minimal.

I would appreciate your favorable passage of this bill and will be happy to stand for questions.

ent interest" means of the value of the business entity which are entity, or own- shares of stock of or leases the health

3, § 37; L. 1976, ch. 4; L. 1979, ch. 200, L. 1984, ch. 237, § 1987, ch. 176, § 6; 1991, ch. 192, § 3; L.

References:

Between a Physician and Vol. XVI, No. 3, 26, 27

Documents with any person who shall be board any false or affidavit or identify any other written or guilty of forgery as and a severity level

3, § 59; L. 1976, ch. 231; July 1.

Penalty. Any affidavit or oral by virtue of the pro- cess and regulations of guilty of a severity

3, § 61; L. 1976, ch. 232; July 1.

practice of medicine and sur- gery. 92-114.

practice of medicine and sur- gery. 92-114.

Emergency care or assistance or accident by cer- tain standards of care ap- proved defined. (a) who in good faith re- sistance at the scene t including treatment

of a minor without first obtaining the consent of the parent or guardian of such minor shall not be liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.

(b) Any health care provider may render in good faith emergency care or assistance, without compensation, to any minor requiring such care or assistance as a result of having engaged in competitive sports, without first obtaining the consent of the parent or guardian of such minor. Such health care provider shall not be liable for any civil damages other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.

(c) Any health care provider may in good faith render emergency care or assistance during an emergency which occurs within a hospital or elsewhere, with or without compensation, until such time as the physician employed by the patient or by the patient's family or by guardian assumes responsibility for such patient's professional care. The health care provider rendering such emergency care shall not be held liable for any civil damages other than damages occasioned by negligence.

(d) Any provision herein contained notwithstanding, the ordinary standards of care and rules of negligence shall apply in those cases wherein emergency care and assistance is rendered in any physician's or dentist's office, clinic, emergency room or hospital with or without compensation.

(e) As used in this section the term "health care provider" means any person licensed to practice any branch of the healing arts, licensed dentist, licensed optometrist, licensed professional nurse, licensed practical nurse, licensed podiatrist, licensed pharmacist and registered physical therapist, and any physician's assistant who has successfully completed an American medical association approved training program and has successfully completed the national board examination for physicians' assistants of the American board of medical examiners, any person who holds a valid attendant's certificate under K.S.A. 65-6129, and amendments thereto, any person who holds a valid certificate for the successful completion of a course in first aid offered or approved by the American red cross, by the American heart association, by the mining

enforcement and safety administration of the bureau of mines of the department of interior, by the national safety council or by any instructor-coordinator, as defined in K.S.A. 65-6112, and amendments thereto, and any person engaged in a postgraduate training program approved by the state board of healing arts.

History: L. 1965, ch. 385, § 1; L. 1969, ch. 300, § 1; L. 1971, ch. 214, § 1; L. 1973, ch. 252, § 1; L. 1975, ch. 326, § 1; L. 1976, ch. 277, § 1; L. 1977, ch. 220, § 1; L. 1986, ch. 231, § 32; L. 1988, ch. 252, § 1; L. 1988, ch. 246, § 18; L. 1988, ch. 253, § 1; L. 1993, ch. 146, § 1; April 15.

65-2898.

Attorney General's Opinions:

Persons subject to legislative post audits; access to records; limitations; peer assistance program records. 92-101.

65-28,103. Same; declaration authorizing; effect during pregnancy of qualified patient; duty to notify attending physician; form of declaration; severability of directions. (a) Any adult person may execute a declaration directing the withholding or withdrawal of life-sustaining procedures in a terminal condition. The declaration made pursuant to this act shall be: (1) In writing; (2) signed by the person making the declaration, or by another person in the declarant's presence and by the declarant's expressed direction; (3) dated; and (4)(A) signed in the presence of two or more witnesses at least 18 years of age neither of whom shall be the person who signed the declaration on behalf of and at the direction of the person making the declaration, related to the declarant by blood or marriage, entitled to any portion of the estate of the declarant according to the laws of intestate succession of this state or under any will of the declarant or codicil thereto, or directly financially responsible for declarant's medical care; or (B) acknowledged before a notary public. The declaration of a qualified patient diagnosed as pregnant by the attending physician shall have no effect during the course of the qualified patient's pregnancy.

(b) It shall be the responsibility of declarant to provide for notification to the declarant's attending physician of the existence of the declaration. An attending physician who is so notified shall make the declaration, or a copy of the declaration, a part of the declarant's medical records.

(c) The declaration shall be substantially in the following form, but in addition may include

other specific directions. Should any of the other specific directions be held to be invalid, such invalidity shall not affect other directions of the declaration which can be given effect without the invalid direction, and to this end the directions in the declaration are severable.

DECLARATION

Declaration made this ____ day of ____ (month, year). I, _____, being of sound mind, willfully and voluntarily make known my desire that my dying shall not be artificially prolonged under the circumstances set forth below, do hereby declare:

If at any time I should have an incurable injury, disease, or illness certified to be a terminal condition by two physicians who have personally examined me, one of whom shall be my attending physician, and the physicians have determined that my death will occur whether or not life-sustaining procedures are utilized and where the application of life-sustaining procedures would serve only to artificially prolong the dying process, I direct that such procedures be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication or the performance of any medical procedure deemed necessary to provide me with comfort care.

In the absence of my ability to give directions regarding the use of such life-sustaining procedures, it is my intention that this declaration shall be honored by my family and physician(s) as the final expression of my legal right to refuse medical or surgical treatment and accept the consequences from such refusal.

I understand the full import of this declaration and I am emotionally and mentally competent to make this declaration.

Signed _____

City, County and State _____
of Residence _____

The declarant has been personally known to me and I believe the declarant to be of sound mind. I did not sign the declarant's signature above for or at the direction of the declarant. I am not related to the declarant by blood or marriage, entitled to any portion of the estate of the declarant according to the laws of intestate succession or under any will of declarant or codicil thereto, or directly financially responsible for declarant's medical care.

Witness _____

Witness _____

(OR)

STATE OF _____)

) SS.

COUNTY OF _____)

This instrument was acknowledged before me on _____
(date) by _____ (name of person)

(Signature of notary public)

(Seal, if any)

My appointment expires: _____

Copies

History: L. 1979, ch. 199, § 3; L. 1994, ch. 224, § 2; July 1.

Article 29.—PHYSICAL THERAPY

65-2901.

Attorney General's Opinions:

Physical therapists practicing in accordance with law are not subject to healing arts act. 93-61.

65-2906. Duties of board; qualifications of applicants; form of application. (a) It shall be the duty of the state board of healing arts, with the advice and assistance of the state examining committee, to pass upon the qualifications of all applicants for examination and registration or certification, provide for and conduct all examinations, determine the applicants who successfully pass the examination, duly register or certify such persons and adopt rules and regulations for professional conduct of the registered or certified persons.

(b) An applicant applying for registration as a physical therapist or for a certificate as a physical therapist assistant shall file a written application on forms provided by the state board of healing arts, showing to the satisfaction of the board that the applicant meets the following requirements:

- (1) The applicant is of legal age;
- (2) the applicant has successfully completed the academic requirements of an educational program in physical therapy approved by the board which is appropriate for the certification or registration of the applicant;
- (3) the applicant has passed an examination required by the board which is appropriate for the certification or registration of the applicant to test the applicant's knowledge of the basic and clinical sciences relating to physical therapy theory and practice; and

(4) the applicant has paid to the board all applicable fees established under K.S.A. 65-2911 and amendments thereto.

(c) The board shall adopt rules and regulations establishing the criteria which a school shall satisfy in order to be approved by the board for purposes of subsection (b). The board may send a questionnaire developed by the board to any school for which the board does not have sufficient information to determine whether the school meets the requirements of the board for approval and rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the school to be considered for approval. The board may contract

with investigative agencies. sultants to assist the board mation about schools. In en the authority to approve solely with the board.

(d) All registrations c prior to July 1, 1994, whic effective date of this act sh full force and effect and b and reinstatement under amendments thereto.

History: L. 1963, ch. 237, § 1; L. 1973, ch. 253, § 1; L. 1983, ch. 215, § 5 10; L. 1988, ch. 243, § 10 1; July 1.

65-2912.

Attorney General's Opinions:

Physical therapists practicing i not subject to healing arts act. 9

65-2913. Represent therapist or physical the hibitions; exceptions. (a

any manner, represents onc apist, or who uses in conn son's name the words or let physiotherapist, registere P.T., Ph. T. or R.P.T., or a abbreviations or insignia, that such person is a phys a valid existing certificat physical therapist issued s the provisions of this act, s B nonperson misdemeanc

(b) Any person who, sents oneself as a physica who uses in connection w the words or letters phys certified physical therap C.P.T.A. or P.T. Asst., or a abbreviations or insignia, that such person is a phys without a valid existing c therapist assistant issued t to the provisions of this a class B nonperson misder

(c) Nothing in this act son not holding oneself ou or physical therapist assis as an independent practiti tion or supervision, the t which the person is quali:

RE: HB 2196

The "declaration" in the Kansas Natural Death Act is a LIVING WILL - but many who sign a declaration choose to execute a Durable Power of Attorney for Health Care Decisions, which is quite another thing.

A Living Will is a vague declaration that takes rights and control from its signer and gives decision-making authority to a physician (who they may not know). A Living Will also gives a physician complete immunity from civil or criminal liability for his or her actions or inactions.

If an individual has signed a "declaration", it is his responsibility to have it filed with his physician and others, as specified in 65-28,103 (b). The term "Living Will" does not clearly specify the commissions or omissions requested. Since there cannot be one standard way for people to make health care decisions, this could make many health providers liable if they did not interpret those two words correctly. Once the medical personnel have reacted with finality, there is no turning back. An instantaneous reaction to a given situation could be very premature. Prognoses do change and particularly after specific treatments.

This amendment to the driver's license statute is very dangerous as well as inappropriate.

65-28,102 (e) "Qualified patient" means a patient who has executed a declaration in accordance with this act and who has been diagnosed and certified in writing to be afflicted with a terminal condition by two physicians who have personally examined the patient, one of whom shall be the attending physician.

This definition would seem to presume this diagnosis would be made in a hospital since there would not likely be two physicians present and examining an accident victim at the scene. Of what additional benefit is the notation on a driver's license? Contact with one's physician and/or family would be more beneficial. If anyone really believes that in the event of an emergency an individual is apt to receive care from the doctor they call their "attending physician", they are very naive. Actually, this amendment has no relevance to emergency medical personnel, if it references 65-28,103.

Individuals can be in an unconscious state and unable to communicate their desire for treatment. What a shame to have someone proclaim this condition "terminal" and consequently withhold treatment that could conserve the body energies until the vital organs could perform normally on their own again. This technique is used routinely in trauma and transplant surgery.

Our current law does allow one to revoke a declaration. What if that happens sometime during the four years after the notation has been put on the license?

We believe we need to leave the license for driving vehicles and in some other fashion emphasize that individuals be responsible for having their own self-determining medical directives available elsewhere.



Cleta Renyer
RIGHT TO LIFE OF KANSAS, INC.

House Transportation Committee
February 7, 1995
Attachment 2



TOPEKA

HOUSE OF
REPRESENTATIVESCOMMITTEE ASSIGNMENTS
VICE-CHAIR: APPROPRIATIONSTIM CARMODY
REPRESENTATIVE, SIXTEENTH DISTRICT
10710 W. 102ND STREET
OVERLAND PARK, KS 66214ROOM 175-W
STATE CAPITOL
TOPEKA, KANSAS 66612-1504
(913) 296-7695TESTIMONY IN SUPPORT OF
HB 2215
BY REP. TIM CARMODY

HB 2215 is one of those bills that the legislature should not have to spend its time addressing. However, it is a real problem in that drivers in this state are unable to surrender a driver's license even in the case of a mistake by the Department of Revenue. I am attaching to this testimony a letter outlining a real case in Johnson County where the Department of Revenue made a mistake and issued a restricted license. Even though they admitted it on the telephone they said they could not accept surrender of the license and therefore this individual's parents must bear the additional expense of carrying him on their insurance.

There may be an argument in favor of restricting voluntary surrenders. For instance, we would not want persons charged with D.U.I. to be able to surrender their license then avoid a revocation. However, in the case of mistake on the part of the Department of Revenue, in the case of an elderly driver who does not feel competent to drive and simply wants to cancel their license and, even in the case where one is charged with a crime and may face revocation, there still should be an opportunity to surrender the license without sacrificing any sanctions that might be imposed on the driver.

Thank you for consideration of this bill.

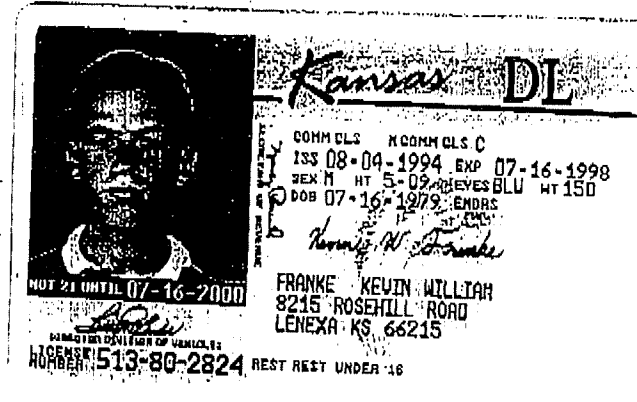
A handwritten signature in cursive script, reading "Tim Carmody", written over a horizontal line.

Rep. Tim Carmody

House Transportation Committee
February 7, 1995
Attachment 3

December 22, 1994

Kansas Dept of Revenue
Division of Motor Vehicles
Attn John Smith
P O Box 12021
Topeka, KS 66626



Dear Mr. Smith,

Per a conversation with Sondra Dexter at your office yesterday, I am enclosing Kevin W. Franke's (SSN 513-80-2824) Kansas restricted driver's license. Kevin is our 15 1/2 year old son that took and completed drivers education in July of this year. On August 4th, his mother took him to the Mission license bureau to get a learner's permit. We only wanted a learner's permit while he continued to practice driving with a parent for the following reasons:

- 1> He attends St Thomas Aquinas High School and freshman are not allowed to drive to school.
- 2> He does not have a job and will not be driving to or from work.
- 3> As parents we don't feel any youth under the age of 16 should be driving alone.

When Mrs. Franke took Kevin to the license bureau and asked for a learner's permit, some form of mistake happened. A restricted license was issued to Kevin instead of a learner's permit. We did not think anything about the error until State Farm Insurance notified us that Kevin would have to be rated on our automobile policy at a considerable fee.

For the above reasons, the three of us want this license cancelled, revoked, voluntarily surrendered or even just down graded to a Learner's permit as quickly as possible. Please inform us what we need to do, where we need to go and we will respond immediately. Kevin will be happy to reapply for a license and pay the appropriate fees after his 16th birthday and after we, his parents, feel he is fully competent to be behind the wheel of an automobile alone.

Thank you in advance for your help in this matter.

Sincerely,

William E. Franke
William E. Franke

Margaret A. Franke
Margaret A. Franke

Kevin W. Franke

WEF/mf
Enclosure

cc: Steve Weiner,
State Farm Insurance

The division of vehicles shall accept any voluntary surrender of a driver's license by the licensee.

Upon surrender of such driver's license, the division shall ~~cancel such driver's license.~~ *note on the person's driving record that the license has been voluntarily surrendered.*

Nothing herein shall prohibit a person from applying or the division from granting a new *driver's* license upon application of such person, *if the person is otherwise eligible to apply for a driver's license.* However, *no person who has voluntarily surrendered such person's driver's license shall be eligible to apply for a new license for a period of at least 90 days.*

The voluntary surrender of a license under this section shall not affect the authority of the division or of a court to suspend, revoke, cancel or withdraw the person's driving privileges or the privilege to obtain a driver's license under any other statute or ordinance.

This section shall be part of and supplemental to the motor vehicle drivers' license act.

*House Transportation Committee
February 7, 1995
Attachment 4*