

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman William Mason at 1:40 p.m. on February 16, 2004 in Room 313-S of the Capitol.

All members were present except:

Representative Tom Burroughs- excused

Committee staff present:

Russell Mills, Legislative Research Department
Mary Torrence, Revisor of Statutes Office
Dennis Hodgins, Legislative Research Department
Rose Marie Glatt, Secretary

Conferees appearing before the committee:

Representative Peggy Long-Mast
Mike Farmer, Executive Director, KS Catholic Conference
Jeanne Gawdun, Kansans for Life
Mary Kay Culp, Executive Director, Kansans for Life
Brendan Mitchell, M.D., Johnson County
Kathy Ostrowski, Legislative Director, Kansans for Life
Laura Kenny, M.D., Overland Park (written testimony)
Judy Smith, Concerned Women for America, Kansas (written testimony)

Others attending:

See Attached List.

Without objection, Representative Vickrey introduced a bill concerning the Kansas Open Record Act.

HB 2751 - Regulation, licensing and standards for the operation of abortion clinics.

Ms. Torrence, Revisor of Statutes, reviewed the bill, stating that it was the same bill passed by the Legislature last year and vetoed by the Governor. It would require the Secretary of the Health and Environment to adopt rules and regulations for an abortion clinic's facilities. Russell Mills answered questions regarding the differences between last year's and the current fiscal note. Changes are due mainly to changes in FTE positions and outside consultants resulting in a projected increased fiscal expenditure.

PROPONENTS:

Representative Peggy Long-Mast, a prime sponsor of the bill, spoke about the need to protect individuals that seek an abortion (Attachment 1). She gave several examples of people whose lives had been gravely affected through mishaps that had happened in abortion clinics. She urged the committee to carry out their primary duty, which was to protect those they were elected to represent.

Discussion followed over concern of the fiscal note. The Chairman stated that he would contest the fiscal note, which would require further explanation of the note. Representative Long-Mast answered questions regarding the advantages and possible safeguard of having another woman in the room when abortion procedures are taking place.

Mike Farmer, Executive Director, KS Catholic Conference, stated that currently abortion clinics are unregulated (Attachment 2). They are considered doctor offices instead of surgical centers or hospitals. The Kansas Board of Healing Arts was charged with the oversight of six of the seven known abortion clinics, however they govern practitioners, not facilities. He gave examples of how Planned Parenthood failed inspection in Kansas. The form of **HB 2571** had already passed Constitutional muster in five federal courts.

Jeanne Gawdon, Kansans for Life, testified about practices observed by a woman who had been employed by an abortion doctor in Wichita for over a year (Attachment 3). The former employee stated that

CONTINUATION SHEET

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE at 1:30 p.m. on January 16, 2004 in Room 313-S of the Capitol.

conditions inside the offices were deplorable and filthy and that other employees were disgusted with the way the doctor did business. She described disturbing practices including sterilization and disposal problems that had occurred prior, during and after surgical abortions.

Mary Kay Culp, Executive Director, Kansans for Life, stated that they remind people everyday that Roe v Wade didn't change the back-alley clinics—it just gave them a front door entrance (Attachment 4). Kansas does not require any inspection in order to open or maintain abortion facilities, thus each abortion business can decide whether meeting medical standards is worth the effort. The Board of Healing Arts was designed to react to complaints or problems brought to their attention, not to prevent them. Women deserve trained surgical assistants and adequate resuscitative equipment during surgery and should be part of the minimum requirements to do business under **HB 2751**. Her testimony contained numerous examples of occurrences regarding violations.

Dr. Brendan Mitchell, Obstetrician/Gynecologist, stated the because of his experience in treating women with miscarriage in the first and second trimesters he understood that abortion was a procedure that was fraught with potential hazards (Attachment 5). Most physicians would not want to perform these procedures, in a substandard facility. The public perceives that legal abortion is safe abortion and that the same standards that apply to other surgical procedures, apply to legal abortion. **HB 2751** ensures that those who provide abortion in our state, document to the people of Kansas that they are meeting the minimum standards promulgated by the abortion industry itself.

Discussion followed concerning: possible unfair regulations being put on abortion clinics that are not required of other clinics, reasons for lack of malpractice suits against abortion clinics, pros and cons of positions of outside consultants in Health and Environment, and abortion being the cause of infertility.

Kathy Ostrowski, Legislative Director, Kansans for Life testified in support of **HB 2751**, stating that the bill protected women with a proper exercise of state oversight (Attachment 6). She spoke of the inadequacy of relying on the Board of Healing Arts to protect women, since it is structured without the ordinary ability to do either regular or surprise inspections of doctors offices, but relies on patients or clinic staffers to blow the whistle on the problems. Abortion in Kansas is carried out in a shockingly substandard manner according to an eyewitness report and she urged the passage of the bill to ensure the safety of women.

It was noted that two sets of written testimony were distributed: Laura Kenny , M.D., Overland Park (Attachment 7) and Judy Smith, Concerned Women for America, Kansas (Attachment 8).

The hearing was closed on **HB 2751** and will be continued February 17.

HCR 6013 - Memorializing Congress to maintain Kansas' military installations

Representative Lane made the motion that HCR 6013 be moved out favorably. Representative Ruff seconded and the motion carried.

The meeting was adjourned at 3:05 p.m. The next meeting was scheduled for February 17, 2004.



TOPEKA

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VICE-CHAIR: HEALTH & HUMAN SERVICES
MEMBER: UTILITIES
JUDICIARY

**TESTIMONY
ABORTION CLINIC LICENSURE
FEBRUARY 16, 2004**

I want to thank the chairman and members of the committee for allowing me to bring this issue before you once again. This is not a new topic for this committee or for myself. Nearly everyone in this room has heard it before, but it is before you again for one reason. This is an important issue and it needs to be addressed. I believe that the main purpose of Government is to protect and to serve. If we avoid this issue, we are avoiding our primary purpose, and that is the protection of those that we are elected to represent.

If this bill passes, it will allow protection from abuse of individuals that go in for an abortion many of which have often been abused by someone already. They often do not make the choice to terminate their pregnancy out of a quick response to it, but out of fear or sometimes duress. Women are very venerable when they go in for an abortion. We need these regulations because the industry itself has admitted to not measuring up to these minimum standards.

Abortion is a surgical procedure. It involves penetrating the uterus with sharp instruments. Mishaps do happen. People are injured. Last week, I had the opportunity of a very considerate interview with a local paper here in Topeka. The interviewer told me that day that he needed a picture for the story. The next day, I was successful at contacting a young woman who confided in me two years ago about the death of her 17-year-old sister on the day that she had an abortion. Her family does not want to face the guilt and pain of that memory and refused to consent to this young woman coming forward. There are many other stories like this one. I ask you to clear your mind of any prejudice about the issue of abortion and consider the facts. It can be a dangerous procedure. We need to protect those who are hurting and in a crisis pregnancy. I stand before you and ask that you consider the way that you would feel if it were your daughter or granddaughter. Would you not want to know they were in competent hands, that there was qualified staff taking care of her?

Thanks again for your time and attention to this matter. I ask that you pass HR 2751 from this committee and show women that you care like I do.



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Testimony in Support of House Bill 2751

Chairman Mason and members of the committee:

Thank you for the opportunity to testify in support of House Bill 2751, which would implement minimum health and safety standards for abortion clinics that operate in Kansas. My name is Mike Farmer and I am the Executive Director of the Kansas Catholic Conference, the public policy office of the Catholic Church in Kansas.

HB 2751 is enabling legislation that directs the Secretary of the Department of Health and Environment to adopt rules and regulations for an abortion clinic's facilities. This bill will protect Kansas women's lives by mandating that abortion providers meet minimum health and safety requirements.

Abortion clinics in Kansas are unregulated. Six of the seven known abortion sites are also never inspected because they are considered "doctor offices" instead of surgical centers or hospitals. Oversight of these six "offices" is left to the Kansas Board of Healing Arts. The Board however is charged only with granting or denying the license to practice medicine. They govern the practitioners, not the facility. In response to a complaint, the Board will request an appearance from the licensed practitioner. Rarely has the Board ever gone onsite and that was only while in the middle of a full-blown investigation.

One clinic, Planned Parenthood in Overland Park, has an ambulatory surgical center license issued by the Kansas Department of Health & Environment (KDHE). This is a voluntary licensing program within which they have chosen to participate. KDHE grants licenses and oversees approximately forty-four health facilities, including hospitals, nursing homes and ambulatory surgical centers. KDHE inspects these facilities on a regular basis and in response to complaints. When problems arise, KDHE can compel action in nursing homes and hospitals by withholding federal funds. They can even have a judge close their doors until deficiencies are fixed. But Planned Parenthood cannot be forced to make corrections in a timely fashion. There is no penalty for not complying with KDHE, specifically because there are no federal monies to be withheld. Additionally it seems that no judge has been willing to close such a politically controversial facility as an abortion clinic – and Planned Parenthood obviously knows this. Therefore, there is only one Kansas abortion clinic that is even inspected. But by records brought forward last session, and again today (see attachment) this inspected clinic has had multiple and repeated deficiencies, such as staffers without immunizations, without training in infection control and with free access to drugs, just to name a few.

MOST REVEREND GEORGE K. FITZSIMONS, D.D.
DIOCESE OF SALINA

MOST REVEREND JAMES P. KELEHER, S.T.D.
Chairman of Board
ARCHDIOCESE OF KANSAS CITY IN KANSAS

MOST REVEREND THOMAS J. OLMSTED, J.C.D., D.D.
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MOST REVEREND EUGENE J. GERBER, S.T.L., D.D.
RETIRED

MOST REVEREND MARION F. FORST, D.D.
RETIRED

MICHAEL P. FARMER
Executive Director

MOST REVER

HS Federal & State Affairs
February 16, 2004
Attachment 2

It is a sad state of affairs in our State when we regulate veterinary clinics more than abortion clinics. The Supreme Court has repeated that oversight of abortion providers and clinics is a valid exercise of the state. This bill will set the floor, not the ceiling, for protection of women. It is not the case that this bill would have Legislators “make decisions regarding an individual’s health care procedures,” or “regulate health care procedures” as stated by our Governor as the reason for her veto message last year. The oversight of these clinics would be by KDHE based on minimum standards that are taken from the published standards of the National Abortion Federation and Planned Parenthood. Since these are the standards of the abortion industry itself, why should there be any objection?

Is the objection based on a fear that abortionists in Kansas are not even observing the minimum standards recommended by their own industry? I refer you again to the list of deficiencies in my attachment with the only abortion clinic in Kansas that can currently be inspected. As loud as the objections were that we heard last year makes me wonder what the condition is inside the other abortion clinics that remain totally unregulated.

The form of HB 2571 has already passed Constitutional muster in five federal courts. It is time that this bill becomes the law in our State. I encourage the members of this committee to recommend HB 2751 favorable for passage.

Thank you.



Michael P. Farmer
Executive Director

GOVERNOR’S 2003 VETO MESSAGE OF HB 2176

“Health care facilities should be safe, clean and appropriate for the best medical care possible in every circumstance and for every medical procedure. Kansans experience and appreciate some of the highest standards for medical care in the country. Standards for health care facilities in Kansas have been developed by physicians and medical personnel. The health care facilities addressed in this bill are already subject to those high standards. I have long fought to make sure that doctors and patients, not insurance companies and not the Kansas Legislature, make decisions regarding an individual’s health care procedures. For these same reasons I veto H.B. 2176, in which the legislature, instead of physicians and medical personnel, would regulate health care procedures.”

Planned Parenthood of Mid-Missouri Eastern Kansas

Sample excerpts of how Planned Parenthood failed inspection in Kansas 5-24-02 KDHE Inspection

"based on record reviews and staff interview, the facility failed to establish a policy that would allow patients the right to access the information in their medical record." 28-34-521 (a) (4)

"facility failed to provide education to facility staff related to reporting of reportable incidents. 28-34-55a (e)

"Staff...would not necessarily report medication or treatment errors" 28-34-55a (e)

"failed to assure that only authorized personnel had access to medical records" 28-34-57(b)

"boxes of medical records stored in an unlocked open room" 28-34-57(b)

"facility failed to initiate and maintain an ongoing infection control program" 28-34-58a (a)

"facility failed to require medical examinations upon employment and subsequent medical exams or health assessments thereafter" 28-34-58a (b)

"employee files ...failed to have immunization histories" 28-34-58a (b)

"outdated drugs dispersed among other drugs on the shelves in Pharmacy" 28-34-59a (h)

"bulk narcotics...nurses have access to these narcotics they are not counted by nursing" 28-34-59a (h)

Sample excerpts of how Planned Parenthood failed inspection in Missouri 6-24-97-inspection triggered by Crist abortion patient death at Planned Parenthood St. Louis location

"facility failed to see that all licensed personnel are CPR certified. The physician involved in the medical emergency failed to have CPR certification" 19 CSR 30-30.060(1) (B) 11.D

"Facility failed to have the necessary emergency equipment immediately available to the procedure room as required by 19CSR 30-30.060(3)(L)"

"the facility failed to have the necessary equipment needed in a respiratory and cardiac arrest situation" 19CSR 30-30.060(3)(L)

"the patient was in cardiac arrest...no CPR was attempted by the provider" 19CSR 30-30.060(3)(L)

"facility failed to have the necessary emergency endotracheal equipment available" 19CSR 30-30.060(3)(L)

"An abortion was performed on patient whose hemoglobin was 8.0. the facility policy indicates that anyone in the first trimester that has a hemoglobin of 8 should be ineligible for the procedure" 19CSR 30-30.060(3)(L)

"On 4-30-97 ...22 year old patient who had an abortion, began seizing, lost consciousness and ceased to breathe....patient was transferred to an acute care hospital via ambulance where she later died."



Presented by
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Testimony of Abortion Clinic Staff Whistleblower
House Federal and State Affairs Committee
February 16, 2004

Mr. Chairman and Members of the Committee:

Kansans for Life has recently been in contact with a former employee of Kansas City, Kansas abortionist Krishna Rajanna, age 66. Even though Rajanna advertises in the yellow pages as "Abortions Affordable," his office at 1030 Central has never had his name on the door.

The information in this testimony comes from a young woman whom we shall call "Ruby," in order to protect her identity. "Ruby" became pregnant in high school and never graduated. At the time of her interview with KFL, she had been employed for over a year at Rajanna's office, without incident, and continued there for several more weeks.

"Ruby" was distressed at the practices of Rajanna and the deplorable, filthy conditions inside his offices. She said other employees were also disgusted with the way Rajanna did business.

Another former employee, "Kay," told "Ruby" that she had at one time sent information on the conditions in Rajanna's office to the "authorities." "Ruby" did not know what kind of "authority" regulated doctors and their offices. Out of desperation, "Ruby" spoke to someone at a crisis pregnancy center and was encouraged to contact Kansans for Life. KFL Legislative Director Kathy Ostrowski interviewed "Ruby" and urged her to make a report to the Kansas State Board of Healing Arts. "Ruby's" testimony below is unsolicited, uncompensated and self-motivated. Neither "Ruby" nor her family has any connection to Kansans for Life.

"Ruby" revealed the following irregular JOB PRACTICES:

Rajanna employs 4 staffers, and for part of "Ruby's" employment time Rajanna employed a Certified Nurse Aide. Other than the CNA, no one with any formal medical training was employed during her tenure. No published medical training materials were ever given to "Ruby". She claims that references were not checked on anyone who applied for a job nor was the truth of their alleged job experience confirmed.

When "Ruby" was interviewed, she was not asked to produce a record of immunizations, nor was she told to obtain any missing immunization shots. She believes that was also the case for other employees.

"Ruby" had applied for a position as receptionist /physician helper. She was surprised when, soon after being hired, she was called inside the procedure room to assist with abortions. "Ruby" was uncomfortable in the role of surgical assistant.

Rajanna's employees, including "Ruby", picked up his drug orders from neighborhood pharmacies. Drugs were stored in a locked closet on site to which all employees had key access. At the time she was hired, "Ruby" can recall no questions asking if she had a criminal record.

"Ruby" revealed the following disturbing practices PRIOR TO SURGICAL ABORTIONS:

"Ruby" was shown how to take a patient's blood sample for the Rh test. She was not made aware of several procedural variances that can affect the accuracy of the test. When completed, the bloody slides, gloves and other contaminated products are tossed into regular plastic trash bags. There are no Bio-Hazardous waste containers anywhere onsite.

Minors who come for abortions are counseled over the phone. Prior to the issuance of the attorney general's opinion in June, "Ruby" knew some minors had been aborted as young as 13. After the opinion, staff was told not to take appointments for minors under 16.

"Ruby" revealed the following disturbing practices DURING SURGICAL ABORTIONS:

There are no changing rooms for patients and only one bathroom onsite for use by the public, patients and staff. A woman being aborted is brought to the procedure room clothed and put up on a bare table. An employee helps her lower her slacks and places a drape under her bottom. On her own initiative, between patients, "Ruby" said she wiped the table with alcohol.

"Ruby" was told how to insert an IV (intravenous line). No patient vital signs are taken during the abortion. "Ruby" has no training in CPR and believes the other employees also do not possess such training. She recalls being frightened at witnessing one abortion in spring 2003 where a minor went into shock from an allergic reaction to abortion medications. Rajanna lifted up the patient and literally carried her into his car, taking her to hospital.

"Ruby" revealed the following disturbing practices AFTER SURGICAL ABORTIONS:

After the abortion, an employee removes the IV, immediately puts sanitary pads inside the patient's underwear and pulls up the patient's lower garments. The patient, though unsteady, is then walked to a couch with staff assistance but without use of a wheelchair. This "recovery" area is barely a semi-private space. The patient's friend, not an employee, attends the patient on the couch. No post-procedure vital signs are taken.

The patient is dismissed approximately 20 minutes later. No blood flow has been checked and no exam or discussion with doctor takes place before leaving the clinic. The patient is given antibiotic pills to take at home and has been given papers saying she can call the clinic, even after office hours. Patient has been requested to return within 21 days, although it was "Ruby's" observation that 25% or less of the women actually returned for follow-up.

“Ruby” revealed the following disturbing STERILIZATION & DISPOSAL PROBLEMS:

Rajanna and staff wear gloves, but Rajanna’s medical jacket is infrequently washed, exhibiting dried blood stains, food and dirt. Sometimes, clinic instruments were rinsed in bleach, but not sterilized. Two dishwashers adjoining a toilet are the “sterilizers.”

Unexamined fetal remains are strained through a sock into a jar and then put inside plastic bags, plastic convenience store cups and milk cartons. The cups and cartons are stored in the office refrigerators and freezers, adjoining unsealed and open food.

Nearly every area in the clinic is dirty and disheveled. There is no medical waste pickup service. At the end of the business day, all clinic trash, including bio-hazardous materials, is put into large trash bags that Rajanna loads into his car. Rajanna then drives with these bags to his Missouri home where they have been seen set outside for regular residential trash pickup.

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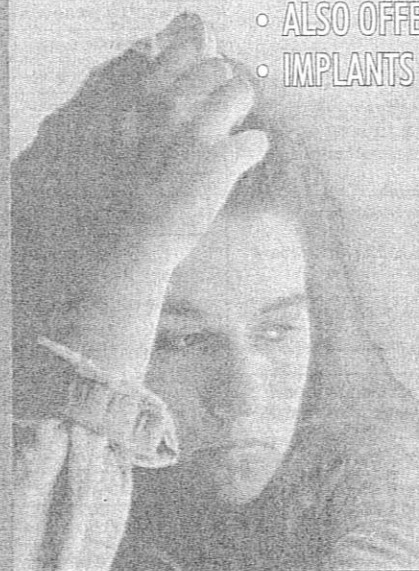


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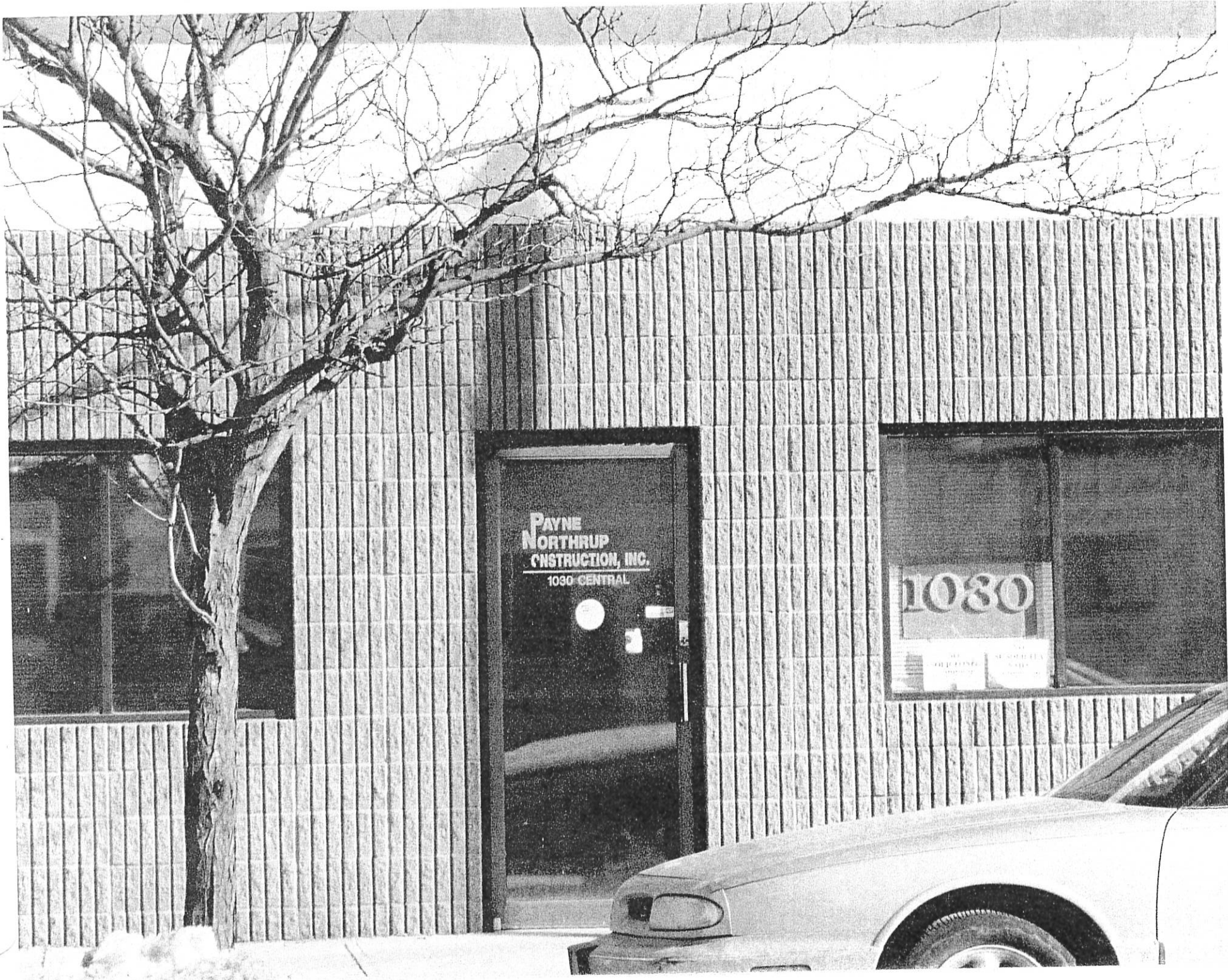
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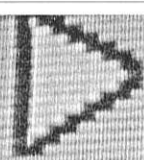
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Feb. 16, 2004 Testimony in support of HB 2751
House Federal State Affairs Committee
Hon. Bill Mason, chair

Good afternoon, I am Mary Kay Culp, executive director of Kansans for Life, here today in support of HB 2751, abortion clinic licensing and regulation. I have worked in Pro-life for over 25 years, and am a past president of Missouri Right to Life, yet it still amazes me that we have to tell people that Roe v Wade didn't change the back-alley clinics--it just gave them a front door entrance. Because Missouri passed a clinic licensing bill with inspections, they found roaches and rusty tables in a clinic that also gave relaxant drugs to women prior to signing consent forms. Kansas really needs a licensing bill. (1+2)

Kansas does *not* require a state license to open abortion facilities. Kansas does *not* require any inspection in order to open or maintain abortion facilities. Thus, each abortion business can decide whether meeting medical standards is worth the effort. They can cut corners and defy anyone to make them change. They can advertise for procedures without having the proper facilities. They can use medical forms with legally unsustainable liability language. They can even slap a woman and get away with it. And why not? Abortion clinics have a captive market. Women in crisis, and those being coerced into abortion (estimated as up to 60%), are usually not in a position to act as critical consumers. (4a+b) (9)

Consider the fact of three abortion clinics located within a 1 ½ mile radius in Kansas City, Kansas. The economically and educationally deprived women in KCK might end up going to abortionist Sherman Zaremski because he has "discount days" on Tuesdays and Thursdays. Or they may interpret Krishna Rajanna's half-page full color ad in the yellow pages as indicative of top quality medical care. (3)

Many women may also believe the George Tiller web-page claiming "We have a national and international reputation for providing the highest quality abortion services in a safe and caring environment" [<http://drtiller.com/mainpg.html>] They will assume he is following the published standards of the National Abortion Federation, of which he is a member. If they knew, they would wonder why he opposes a licensing bill derived from those same standards. In fact, if women were actually told the content of HB 2751, they would demand he support it!!

But Tiller and the other Kansas abortion clinics are extremely happy to be considered doctor offices, rather than licensed facilities. It's not widely known that doctor offices operate only under the authority of the Kansas State Board of Healing Arts and are not inspected. Following a complaint, the Board will request a doctor to come before them but they won't enter a doctor's office unless the doctor is the

subject of serious disciplinary legal actions. And if the Board labels an abortionist "an imminent danger to the public" as they labeled Kris Neuhaus, the Board may spend years, and untold taxpayer dollars, to micro-manage the clinic, rather than close it.

There are those who claim the Board is eminently able to provide medical safety. We disagree; the Board is designed to react to problems brought to their attention, not to prevent them. And sometimes it appears it doesn't want to do either! Abortionist Sherman Zaremski wrote prescriptions for 10 years in violation of Kansas statutes, and then tried to invent paperwork to cover his trail, and the Board's response was a slap on the wrist, ordering him to write the equivalent of a term paper. Two abortionists, Herb Hodes & Robert Crist, have had over 40 malpractice lawsuits filed against them, including three abortion death suits against Crist. According to the Board, Hodes and Crist have a clean disciplinary record.

5a+5b

Hodes aggressively fights clinic licensing bills and Crist's employer, Planned Parenthood, heavily lobbies against them also. Yet both of them have settled lawsuits on matters that could possibly have been prevented by the provisions of HB 2751. The claim against Hodes was for not properly addressing an abortion patient's Rh factor. The claim against Crist was for abortion post-procedural negligence leading to death. This alone ought to be enough to show that women need state protection from unregulated clinics.

6a,b,c,d,e

7a,b
c,d

HB 2751 will protect women by giving KDHE statutory powers, including penalties. The toothless guidelines for office-based surgery coming from the Kansas Medical Society and the Board of Healing Arts are not abortion-specific protective and they admittedly set no standard of care. The power of the Board is the ability to grant or deny a license to practice medicine. They don't review or approve the physical facilities. The Board acts cautiously so as not to get counter-sued. They sit at the pleasure of the Governor. The Board is not the right body to evaluate the equipment, premises and protocols of abortion clinics as consistently permitted by Supreme Court decisions.

Legislators must codify safety. They are not breaking new ground. HB 2751 is based on abortion clinic regulations passed in South Carolina and Texas, which the 4th and 5th Circuit Courts have explicitly stated are "based on Planned Parenthood and NAF standards" and are appropriate standards of abortion care.

There is too much assembly-line abortion, as the remainder of our testimony will show. Women's lives are lost and irrevocably changed by cost-cutting. 15 months ago, a beloved wife and mother of three, became permanently comatose during surgery at Planned Parenthood. Perhaps it could have been avoided. Among the many charges in the now-settled lawsuit were that Planned Parenthood had "failed to properly screen, train and supervise their agents" and had "negligently failed to properly and adequately monitor the conditions of the plaintiff."

8a+b

Don't all women deserve trained surgical assistants and adequate resuscitative equipment during surgery --even those getting abortions? This is the purported standard published by the abortion industry and would be part of the minimum requirements to do business under HB 2751. How can anyone argue against it?

Abortion clinic to address state citations

(1)

■ **Inspection:** The state says complaints center on the new clinic physician.

By Kathleen O'Dell

The News-Leader

A Springfield abortion clinic will fix 12 deficiencies cited by a Missouri Department of Health inspector last week, clinic interim administrator Lynn Wilson told the state in a letter.

Most of the issues involve lack of verification of staff credentials; a few noted non-sterile conditions. Wilson said she has resolved some issues already. Once she's finished, a state inspector will re-inspect the clinic.

"It is our intent to be within all areas of the law," Wilson said Tuesday. "We are a licensed facility and we will continue to be. Our main purpose is to provide a quality health care for the women of this area."

An inspector with the state Bureau of Hospital Licensing and Certification surveyed the clinic last week on the basis of complaints, according to a state record.

A state spokesman said the complaints centered on the new clinic physician, Dr. Malcom Knarr, who has done abortions there since Dr. Robert Crist resigned in August. Knarr travels from Kansas City on Wednesdays to perform abortions at the clinic.

Around the time of the complaints, former clinic Administrator Leah Guymon resigned and told the state she closed the clinic until it resolved some needed staff changes as a result of the physician changeover.

Deficiencies cited by the state:

■ Patient care services aren't under the direction of a registered professional nurse.

■ Little or no documentation was found to verify qualifications, credentials, health status or continuing education of various employees with direct contact with patients.

■ There was no documentation that the licensed practical nurse on duty had current CPR training.

■ There was no indication the medical consultant available to the facility was involved in the peer review process to assure the quality and appropriateness of treatment.

■ There was evidence of the presence of insects in the recovery area.

■ Rust was found on an operating room table drawer and the table used for the suction device.

■ A mop and bucket and washing machine are stored in a closet adjacent to a utility room used for sterilizing instruments, setting up the chance of cross traffic of dirty



MISSOURI DEPARTMENT OF HEALTH
BUREAU OF HOSPITAL LICENSING AND CERTIFICATION
STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION

2

TYPE OF LICENSE <input checked="" type="checkbox"/> HOSPITAL <input type="checkbox"/> ASC <input checked="" type="checkbox"/> ABORTION CLINIC		DATE INSPECTION COMPLETED 1/19/94	INSPECTOR'S NAME Yolanda Richards	
FACILITY NAME Women's Community Health Center			PLAN OF CORRECTION <input checked="" type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED	
STREET ADDRESS 1835-7 E. Cherry		CITY Springfield	STATE MO	ZIP CODE 65802

REGULATORY REFERENCE	18CSR 30-28	STATEMENT OF DEFICIENCY	REGULATORY REFERENCE	18CSR 30-30
19 CSR30-30.60 (1)(A)1		<p>The governing body has not taken full responsibility for determining, implementing, and monitoring policies governing the facilities total operation. This is evident by:</p> <ol style="list-style-type: none"> The policies/procedures are not approved by the governing body or designee. Some policies are non-existent such as those pertaining to: reporting of suspected incidences of child abuse; smoking; reporting of infections to DOH; contents for procedures regarding minors; employee required health status; retention of records for cases performed on minors; quality assurance program; preventive maintenance of equipment. Upon review of clinical records, it was evident that patients are premedicated before a decision to proceed with the abortion had been made by the facility and according to established criteria. Thirteen (13) patients were premedicated prior to the identification of the gestation age which turned out to be over 16 weeks. Internal criteria exclude patients over 16 week gestation. Also, one (1) patient was premedicated prior to the pregnancy test, which turned out to be negative. 		

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**2-10-04 7 Current Kansas Abortion clinics in operation:
6 resident abortionists, 3 non-resident abortionists**

3

KCK

*2211 N 13th St KCK(no sign outside for abortions) 913-321-4000
Arthur Taliaferro, KS lic#04-11183, disciplinary file KSBHA

*720 Central,KCK Central Family Medicine 913-321-3343
Sherman Zaremski,KS lic#04-13172, disciplinary file KSBHA[not an OB/GYN]
www.aidforwomen.org

*1030 Central,KCK, front door says "Construction" 913-342-6789
"Abortions affordable" in phone book yellow pages,
Krishna Rajanna, KS lic#04-15624, disciplinary file KSBHA[not an OB/GYN]

Wichita

*5101 E Kellogg, Wichita,Women's Health Services 316-684-5108
George R Tiller,KS lic#04-14025, disciplinary file KSBHA[not an OB/GYN]
Out-of-state staff who fly-in on alternate weeks:
Shelley Sella, (California) KS lic#04-29603,
Norman Harris, (Florida) KS lic#04-12974
Leroy Carhart, (Nebraska) KS lic#04-24866

*3013 East Central ,Wichita, Central Women's Services Inc. 316-688-0107
Sherman Zaremski, *above*, travels here for Wednesday-only abortions

Overland Park

*4840 College Blvd.Overland Park(Center for Women's Health) 913-491-6878
Herb Hodes, KS lic#04-14447 multiple malpractice suits
Tracie Nauser (Hodes' daughter) KS lic#04-26188 www.hodesnauser.com

*4401 W 109th Overland Park, Planned Parenthood MMEK, 913-345-1400
Robert Crist, KS lic#04-13176 [2 abortion deaths in Missouri, 1 in Texas] multiple malpractice suits

LICENSED ABORTIONISTS WITHOUT CLINICS

*Abortionist Kris Neuhaus, KS lic#04-21596, is on a self-imposed hiatus following 3 years of KSBHA supervision and limitations. According to her 2003 license renewal, Neuhaus is "consulting" from her home at 1228 Westloop #127, Manhattan, and has surrendered her DEA license. She is rumored to be seeking office space near Nortonville.

*Abortionist Ronald Yeomans, KS lic#04-14015, 9234 Kessler Lane, Overland Park, formerly Planned Parenthood (*above*); 2003 renewal says "unemployed, maybe retired".

CONSENT for ELECTIVE ABORTION

4a

PLEASE
INITIAL

1. I, _____, AGE: _____ hereby consent to the performance upon me of an abortion by suction "D & C" using local anesthetic ("Paracervical Block") by Herbert C. Hodes, M.D., or Traci L. Nauser, M.D. The procedure is being done at MY request; and with MY consent, which I give freely.
2. I further consent to the performance of any additional emergency procedures, which may be indicated because of unforeseen conditions arising during the abortion.
3. I have disclosed to the doctor my COMPLETE medical history: including ALLERGIES, adverse reactions to other medications or anesthetics; ANY previous surgery, abortions, or procedures on my cervix; as well as telling the doctor ANY medications or drugs that I have taken since my last menstrual period.
4. I believe I am less than 22 weeks pregnant. My LAST MENSTRUAL PERIOD began on: ____/____/____. My period: was / was NOT normal. (circle one)
5. I understand there are very few complications from abortions, and certainly less than from a full-term delivery. Any surgical procedure involves risks of possible complications that could occur without fault of Dr. Hodes or Dr. Nauser or their staff.
6. SOME of the possible complications of abortions are the following:
- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| a. Retained blood clots or tissue requiring repeat suction, or a "D & C" | <1: 100 |
| b. Hemorrhage (Excessive bleeding), or Infection | <1: 500 |
| c. Missing an Ectopic ("Tubal") pregnancy (pregnancy outside of the uterus) | <1: 500 |
| d. "Missing" an early pregnancy (and still being pregnant) | <1: 1000 |
| e. Failure of the blood-clotting mechanism with need for extensive blood transfusion replacement (disseminated intravascular coagulopathy, "D.I.C.") | <1: 1000 |
| f. Uterine Perforation, with damage to other organs (bladder, intestines); Hospitalization; Major Surgery; Hysterectomy; or Sterility (inability to get pregnant) | <1: 10,000 |
| g. Death | <1: 250,000 |
7. I realize that such complication(s) can be caused by my own medical condition, my behavior after the procedure, by the treatment of follow-up physicians; OR may occur spontaneously without the fault of ANY person.
8. IF I have any problems after the abortion, I will immediately notify one of the above doctors as explained in the *Aftercare Instructions*. I understand that my failure to promptly notify the doctor may lead to delay of proper treatment and could cause further complications. I understand that if I seek alternate treatment without the prior instruction of one of the doctors to do so, I may not hold either doctor responsible for subsequent medical expenses, or any other loss experienced as a result thereof.
9. I agree to have a Post-Abortion Exam in 1 (one) to 4 (four) weeks; and that failure to do so shall absolve the doctors of all medical, legal, and/or financial responsibility for any abortion-related problems that might arise at a later date.
10. I acknowledge that it is MY responsibility to ask the doctor any questions that I have pertaining to the abortion; OR to this consent form before I sign it below.

NOT LEGALLY SUSTAINABLE

I hereby certify that I have read this entire form, initialed it, and fully understand its contents.

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WOMAN AT ZAREMSKI CLINIC
FILES REPORT=ALLEGED BATTERY

4B

<input checked="" type="checkbox"/> INITIAL <input type="checkbox"/> MODIFY		<input type="checkbox"/> DELETE <input type="checkbox"/> ADD		KANSAS STANDARD OFFENSE REPORT				PAGE 1 OF 2												
FRONT PAGE OPEN PUBLIC RECORD		NAME OF AGENCY		KS AGENCY ORI NUMBER		CASE NUMBER														
ON VIEW CITIZEN		DISPATCHED		KCKPD		1CS 1050200		200213450												
INCIDENT	DATE OFFENSE STARTED (MMDDCCYY)		TIME (HHMM)		DATE OFFENSE ENDED (MMDDCCYY)		TIME (HHMM)		DATE OF REPORT (MMDDCCYY)											
	11-26-2002		0910						11-26-2002											
	EXCEPTIONAL CLEARANCE DATE (MMDDCCYY)		EXCEPTIONAL CLEARANCE		A. <input type="checkbox"/> DEATH OF OFFENDER D. <input type="checkbox"/> VICTIM REFUSES TO TESTIFY		B. <input type="checkbox"/> PROSECUTION DENIED E. <input type="checkbox"/> JUVENILE - NO CUSTODY		C. <input type="checkbox"/> EXTRADITION DENIED N. <input type="checkbox"/> NOT APPLICABLE											
LOCATION OF OFFENSE				REPORT AREA		TIME REPORTED		TIME ARRIVED		TIME CLEARANCE										
720 CENTRAL Kansas city ks				111		0945		0933		1025										
OFFENSE # 01	CHAPTER	SECTION	SUB 1	SUB 2	<input type="checkbox"/> ATTEMPTED <input checked="" type="checkbox"/> COMPLETED	<input type="checkbox"/> AID / ABET <input type="checkbox"/> CONSPIRACY <input type="checkbox"/> SOLICITATION	CHAPTER	SECTION	SUB 1	SUB 2	<input type="checkbox"/> ATTEMPTED <input checked="" type="checkbox"/> COMPLETED	<input type="checkbox"/> AID / ABET <input type="checkbox"/> CONSPIRACY <input type="checkbox"/> SOLICITATION								
	DESCRIPTION																			
	BATTERY																			
	PREMISE	# OF PREM.	HATE/BIAS	CAMPUS CODE	METHOD OF ENTRY F. <input type="checkbox"/> FORCE N. <input type="checkbox"/> NO FORCE		PREMISE	# OF PREM.	HATE/BIAS	CAMPUS CODE	METHOD OF ENTRY F. <input type="checkbox"/> FORCE N. <input type="checkbox"/> NO FORCE									
	19		88																	
	TYPE OF THEFT				TYPE OF FORCE / WEAPON				TYPE OF THEFT				TYPE OF FORCE / WEAPON							
	M. <input type="checkbox"/> COIN MACHINE D. <input type="checkbox"/> FROM BUILDING A. <input type="checkbox"/> M.V. PARTS & ACC. L. <input type="checkbox"/> SHOPLIFTING P. <input type="checkbox"/> POCKET-PICKING S. <input type="checkbox"/> PURSE SNATCHING				E. <input type="checkbox"/> EMBEZZLEMENT T. <input type="checkbox"/> POSS. STOLEN PROP. V. <input type="checkbox"/> MOTOR VEHICLE F. <input type="checkbox"/> THEFT FROM M.V. O. <input type="checkbox"/> ALL OTHER N. <input checked="" type="checkbox"/> NOT APPLICABLE				11. <input type="checkbox"/> FIREARM <input type="checkbox"/> AUTO 12. <input type="checkbox"/> HANDGUN <input type="checkbox"/> AUTO 13. <input type="checkbox"/> RIFLE <input type="checkbox"/> AUTO 14. <input type="checkbox"/> SHOTGUN <input type="checkbox"/> AUTO 15. <input type="checkbox"/> OTHER FIREARM <input type="checkbox"/> AUTO				M. <input type="checkbox"/> COIN MACHINE D. <input type="checkbox"/> FROM BUILDING A. <input type="checkbox"/> M.V. PARTS & ACC. L. <input type="checkbox"/> SHOPLIFTING P. <input type="checkbox"/> POCKET-PICKING S. <input type="checkbox"/> PURSE SNATCHING				E. <input type="checkbox"/> EMBEZZLEMENT T. <input type="checkbox"/> POSS. STOLEN PROP. V. <input type="checkbox"/> MOTOR VEHICLE F. <input type="checkbox"/> THEFT FROM M.V. O. <input type="checkbox"/> ALL OTHER N. <input type="checkbox"/> NOT APPLICABLE			
	OFFENDER SUSPECTED OF USING (SELECT UP TO 3)				OFFENDER SUSPECTED OF USING (SELECT UP TO 3)				OFFENDER SUSPECTED OF USING (SELECT UP TO 3)				OFFENDER SUSPECTED OF USING (SELECT UP TO 3)							
	A. <input type="checkbox"/> ALCOHOL C. <input type="checkbox"/> COMPUTER EQUIP.				D. <input type="checkbox"/> DRUG / NARCOTICS N. <input checked="" type="checkbox"/> NOT APPLICABLE				A. <input type="checkbox"/> ALCOHOL C. <input type="checkbox"/> COMPUTER EQUIP.				D. <input type="checkbox"/> DRUG / NARCOTICS N. <input type="checkbox"/> NOT APPLICABLE							
	TYPE OF CRIMINAL ACTIVITY (SELECT UP TO 3)				TYPE OF CRIMINAL ACTIVITY (SELECT UP TO 3)				TYPE OF CRIMINAL ACTIVITY (SELECT UP TO 3)				TYPE OF CRIMINAL ACTIVITY (SELECT UP TO 3)							
B. <input type="checkbox"/> BUYING / RECEIVING C. <input type="checkbox"/> CULT / MANU / PUBL D. <input type="checkbox"/> DIST / SELLING E. <input type="checkbox"/> EXPLOIT. CHILDREN D. <input type="checkbox"/> OPER / PROMOTE / ASSIST P. <input type="checkbox"/> POSSESS / CONCEAL				T. <input type="checkbox"/> TRANS / TRANSMIT / IMPORT U. <input type="checkbox"/> USING / CONSUMING J. <input type="checkbox"/> JUVENILE GANG G. <input type="checkbox"/> OTHER GANG N. <input type="checkbox"/> NO GANG INVOLVEMENT				B. <input type="checkbox"/> BUYING / RECEIVING C. <input type="checkbox"/> CULT / MANU / PUBL D. <input type="checkbox"/> DIST / SELLING E. <input type="checkbox"/> EXPLOIT. CHILDREN D. <input type="checkbox"/> OPER / PROMOTE / ASSIST P. <input type="checkbox"/> POSSESS / CONCEAL				T. <input type="checkbox"/> TRANS / TRANSMIT / IMPORT U. <input type="checkbox"/> USING / CONSUMING J. <input type="checkbox"/> JUVENILE GANG G. <input type="checkbox"/> OTHER GANG N. <input type="checkbox"/> NO GANG INVOLVEMENT								
LOCAL CODE				LOCAL CODE				LOCAL CODE				LOCAL CODE								
22-17																				
VICTIM # 01	TYPE OF VICTIM		R. <input type="checkbox"/> RELIGIOUS ORGANIZATION		D. <input type="checkbox"/> OTHER		VICTIM OF OFFENSE NUMBER (CIRCLE)													
	I. <input type="checkbox"/> INDIVIDUAL B. <input type="checkbox"/> BUSINESS		S. <input type="checkbox"/> SOCIETY / PUBLIC F. <input type="checkbox"/> FINANCIAL INSTITUTION		G. <input type="checkbox"/> GOVERNMENT		U. <input type="checkbox"/> UNKNOWN		① 2. 3. 4. 5. 6. 7. 8. 9. 10.											
	NAME: LAST FIRST MIDDLE																			
	MYRIK TOSHEDA R																			
	ADDRESS: STREET CITY STATE ZIP																			
	3403 AGNES Kansas city mo 64128																			
TELEPHONE NUMBER (HOME)	RACE	BFX	ETHNICITY	RES. / N. RES.	AGE	DATE OF BIRTH (MMDDCCYY)	HEIGHT	WEIGHT	HAIR	EYES										
916-921-4960	B	F	N	N		01-28-1980	502	155	BLK	BRN										
DRIVERS LICENSE NUMBER	D.L. STATE	SOCIAL SECURITY NUMBER			EMPLOYER / SCHOOL															
		499 82 5367																		
TELEPHONE NUMBER (WORK/SCHOOL)	ADDRESS: STREET		CITY		STATE		ZIP													
CIRCUM. AGG. ASLT/BATTERY (MAX 2)	VICTIMS RELATIONSHIP TO CORRESPONDING SUSPECT NUMBER (INDICATE ALL SUSPECTS)					TYPE OF INJURY (MAX 5)														
	1. 2. 3. 4. 5. 6. 7. 8. 9. 10.					1. 2. 3. 4. 5.														
RP / DC / W/O	NAME: LAST FIRST MIDDLE		ADDRESS: STREET		CITY		STATE		ZIP											
	TELEPHONE NUMBER (HOME)	RACE	SEX	ETHNICITY	RES. / N. RES.	AGE	DATE OF BIRTH (MMDDCCYY)	HEIGHT	WEIGHT	HAIR	EYES									
EMPLOYER / SCHOOL				ADDRESS: STREET		CITY		STATE		ZIP		TELEPHONE NUMBER (WORK/SCHOOL)								
ROP. DESCRIPTION	TYPE PROPERTY LOSS 1-NONE 2-BURNED 3-COUNTERFEITED / FORGERY 4-DESTROYED / DAMAGED / VANDALIZED 5-RECOVERED 6-SEIZED 7-STOLEN 8-UNKNOWN																			
	TYPE LOSS	PROPERTY / DRUG CODE	DESCRIPTION / SUSPECTED DRUG TYPE				ESTIMATED QUANTITY	FRACTION	TYPE DRUG MEASURE	VALUE	DATE RECOVERED									
REPORTING OFFICER		BADGE / ID	DATE	COPIES TO		PROPERTY TOTAL														
CAWDERN		1545	11-26-2002			2500														

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medicine and surgery, having last renewed his license on June 28, 1993 for the period July 1, 1993 to June 30, 1994.

4. Since issuance of license, while engaged in a regulated profession in the State of Kansas as a medical doctor authorized to engage in the practice of a branch of the healing arts pursuant to K.S.A. 65-2801 et seq, it has come to the attention of the Board that Licensee committed the following acts, to wit:

COUNT 1

For a period of approximately ten (10) years, by Licensee's own admission, Licensee claims to have treated and provided prescription drugs including controlled substances to patient X. During the applicable period of time Licensee failed to maintain medical records in accordance with Kansas statutory provisions and rules and regulations, by failing to include records of patient histories, pertinent findings, examination and test results, and by failing to fully comply with the requirements of K.A.R. 100-24-1(a)(1)-(10). Further, Licensee failed to comply with the requirements of 100-24-1(b). Said acts and/or conduct are in violation of K.S.A. 1993 Supp. 65-2836(k) and K.S.A. 1993 Supp. 65-2836(b) as defined by K.S.A. 1993 Supp. 65-2837(b)(25).

COUNT 2

The allegations of Count 1 are adopted as if fully recounted herein. On or about March 22, 1993, Licensee was served with a

4-8

subpoena to produce copies of all patient records in his possession and control or subject to his possession and control pertaining to patient X. Said subpoena clearly stated that "a person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business". Licensee failed to comply with the subpoena by failing to provide his records pertaining to all treatment of patient X. Said acts or conduct are in violation of K.S.A. 1993 Supp. 65-2836(r) in that Licensee failed to furnish the Board and its investigative representatives information legally requested by the Board.

COUNT 3

The allegations of Count 1 and 2 are adopted in Count 3 as if fully recounted herein. Licensee created false, fraudulent, or deceptive records in response to the subpoena served on him March 22, 1993 by creating a record where no record existed prior to receipt of the subpoena. Licensee used false, fraudulent, or deceptive statements in documents connected with the practice of the healing arts including the intentional falsifying or fraudulent altering of a patient or medical care facility record. Said acts are in violation of K.S.A. 1993 Supp. 65-2836(b) as defined by K.S.A. 1993 Supp. 65-2837(b)(17).

56

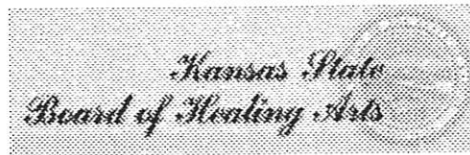
Licensee to the terms and conditions set forth in the stipulation whether or not the Board's signature is affixed to the document. Licensee specifically acknowledges that counsel for the Board is not authorized to sign for nor bind the Board.

5. In consideration of the conditions, terms, covenants, and promises contained herein, the parties agree as follows:

a) In lieu of the initiation of formal proceedings and/or findings by the Board, Licensee, by signature attached to this Stipulation and Agreement, hereby voluntarily agrees to the following disciplinary measures placed on his license to engage in the practice of medicine and surgery in the State of Kansas:

i) Licensee's license is hereby suspended for a period of fourteen (14) days. The period of suspension shall start at 12:01 A.M. December 19, 1994, and shall end at midnight of January 2, 1995. During the period of suspension, Licensee shall not practice medicine and surgery in the State of Kansas. Further, Licensee may not perform professional or other services listed under the exceptions to the practice of the healing arts under K.S.A. 65-2872(d), (e), (f), (g), (h), (i), (j), and (o).

ii) Upon completion of the period of suspension, Licensee shall be placed on probation for a period of two years. During the period of probation, Licensee understands that he shall be subject to unannounced, random inspections of his medical records to ensure compliance with statutory and regulatory requirements. Further, at the end of the first year of the probationary period, Licensee shall provide to the Board a paper to be entitled "The Importance of Proper Medical Record Keeping". Said paper shall be at least fifteen (15) pages in length, with footnotes included at the conclusion of the paper and not counted as pages for fulfillment of the required length. The paper shall be presented in a format suitable for publication based on American Medical Association



GA

Information available from: **Kansas Board of Healing Arts**

Herbert Charles Hodes, M.D.

Licensee Name	HERBERT C HODES
Profession Description	MD - MEDICINE
License Status	ACTIVE
Specialty	Obstetrics, Gynecology
License Number	414447
Address	4840 COLLEGE BLVD
City State Zip	OVERLAND PARK KS 66211-1601
Phone	(913)491-6878
Fax	(913)491-6808
School	Univ of Kansas Medical Center
Degree Date	06/01/1969
Birthdate	1943
Original License Date	07/01/1970
License Expiration Date	06/30/2003
Continuing Education Year	2003
No Derogatory Information on File	

This data effective 04/08/2003

**Direct questions and comments about these results to
 Kansas Board of Healing Arts
 235 South Topeka Blvd.
 Topeka, Kansas 66603
 Phone (785) 296-7413**

Bryan W. Smith - KS-15473
 FISHER, CAVANAUGH, SMITH & LEMON, P.A.
 2942A S W. Wanamaker Drive
 Suite 100
 Topeka, Kansas 66614-4135
 TEL: 785/440-4000
 FAX: 785/440-3900
 E-MAIL: fishcav@fishcav.com
 ATTORNEYS FOR PLAINTIFF
 3018.0

6B

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
 DIVISION 8

MARC GARRETT and)
 JACQUE GARRETT (formerly Jackie Keast),)
 individually, and as)
 parents and natural guardians of)
 ALLEN GARRETT, a minor child,)
 Plaintiffs,)
 vs.)
 HERBERT C. HODES, M.D.,)
 Defendant.)

Case No. 00CV04517

PETITION
 (Pursuant to Chapter 60 K.S.A.)

Comes now the Plaintiffs by and through their attorney Bryan W. Smith of Fisher, Cavanaugh, Smith & Lemon, P.A., and for their cause of action against the Defendant, allege and state as follows:

1. Marc and Jacque Garrett are the parents and natural guardians of Allen Garrett, a minor child, and bring this action in their individual capacities as well as on behalf of the child.
2. That the Defendant Herbert Hodes, M.D. may be served with process at 4840 College Boulevard, Overland Park, Kansas 66211.

CLERK OF DISTRICT COURT
 JOHNSON COUNTY, KS
 2000 JUL 18 PM 4:51

(6c)

EN-10050-1-10

3. That the Defendant is a duly licensed physician in the State of Kansas specializing in obstetrical and gynecological care.

4. That at all times pertinent herein, the Plaintiff Jacque Garrett, formerly Jacque Keast, was a patient of the Defendant.

5. That on or about August 22, 1996, the Defendant performed a dilatation and evacuation procedure upon the Plaintiff to terminate a pregnancy.

6. That the Defendant failed to verify through blood tests whether or not the Plaintiff Jacque Garrett was Rh+ or Rh-. That the Defendant negligently noted in the medical record that the Plaintiff was Rh+.

7. That the Plaintiff was actually Rh- which required the administration of Rhogan to prevent Rh sensitization. The Defendant failed to administer this medication to the Plaintiff after the dilatation and evacuation procedure.

8. That subsequently, the Plaintiff became pregnant and discovered that she had developed Rh sensitization. The Plaintiffs' then unborn child required multiple blood transfusions in utero in order to save the child's life. Allen Garrett was born on November 16, 1999, and has required an additional blood transfusion after birth.

9. That the actions of the Defendant in failing to correctly determine the Rh status of the Plaintiff constituted a deviation from acceptable standard of care.

10. That as a direct and proximate result of the negligence of the Defendant as aforestated, the Plaintiff Jacque Garrett has developed a condition that prevents her from having additional children; that Plaintiff Marc Garrett has been deprived of the ability to have further children with his wife, with said claim being brought individually and by his wife, Jacque

(6d)

Rh Factor and Pregnancy

Just as there are different major blood groups, such as A and B type blood, there is also an Rh factor—a type of protein on the red blood cells. Most people have the Rh factor and are said to be Rh positive. Others do not have the Rh factor and are thus Rh negative. Today, a simple lab test quickly determines whether you are Rh positive or Rh negative.

The Rh factor does not affect a person's general health. It can cause problems during pregnancy, however. Now, with the use of a special drug, these problems can almost always be prevented.

When Does the Rh Factor Cause Problems for a Pregnancy?

The Rh factor causes problems when an Rh-negative person's blood (without Rh factors) comes in contact with Rh-positive blood (with Rh factor). The person with Rh-negative blood may then become sensitized. This means he or she produces antibodies to fight the Rh factor as if it were a harmful substance. Sensitization can occur if an Rh-negative woman becomes pregnant with an Rh-positive fetus. An Rh-negative mother and an Rh-positive father can conceive an Rh-positive child. The Rh-negative woman's body may produce antibodies that then attack the fetal Rh-positive red blood cells.

During pregnancy, although mother and fetus have separate blood systems, blood from the fetus can cross the placenta (an organ connecting mother and fetus that brings nourishment and takes away waste) into the mother's system. A small number of pregnant women with Rh-negative blood who carry an Rh-positive fetus will react to the fetal blood as a foreign substance and become sensitized by making antibodies. These antibodies then go back to the fetus and attack the fetal blood, breaking down the red blood cells and producing anemia. This condition is called hemolytic disease. It can become severe enough to cause serious illness, brain damage, or even death in the fetus or newborn.

Once formed, these antibodies do not disappear. In a first pregnancy with an Rh-positive fetus, the baby is usually delivered before the mother's body develops significant amounts of antibodies, although a small percentage of these pregnancies develop problems during the last 3 months. In a second pregnancy with an Rh-positive fetus, the antibodies are more likely to cause hemolytic disease in the fetus. The condition usually becomes worse in later pregnancies.

Sensitization can also occur if an Rh-negative woman has had a previous miscarriage, induced abortion, or ectopic pregnancy (pregnancy in the tubes). There is also a slight chance that a woman may develop antibodies after having amniocentesis done later in pregnancy. These are all cases in which fetal blood (that might be Rh positive) could mix with maternal blood, resulting in the production of antibodies that could complicate a subsequent pregnancy.

How Is Hemolytic Disease Prevented?

Today, hemolytic disease can for the most part be prevented if the Rh-negative woman has not already made antibodies against the Rh factor from an earlier pregnancy or blood transfusion. Rh immunoglobulin (Rhogam) is a product that can safely prevent sensitization of an Rh-negative mother. It suppresses her ability to respond to Rh-positive red cells. With its use, sensitization can be prevented almost all the time, although Rhogam is not helpful if the mother is already sensitized.

A simple blood test can tell a woman what her blood type and Rh factor are. Another blood test, called an antibody screen, can show if an Rh-negative woman has developed antibodies to Rh-positive blood.

If an Rh-negative woman is given Rhogam, it is injected into a muscle of the arm or buttocks. She will be "passively immunized." This means that her body will not make antibodies that might otherwise attack the red blood cells of her Rh-positive fetus.

(2)

Rhogam is safe for a pregnant woman to use. The only known side effects are a soreness where the drug was injected or a slight fever. Both are temporary reactions.

When Is Rhogam Used? During Pregnancy and After Delivery

If a woman with Rh-negative blood has not been sensitized (has not developed Rh antibodies), her health care provider may recommend that she receive Rhogam around the 28th week of pregnancy to prevent sensitization for the rest of the pregnancy. This takes care of the small number of women who can become sensitized during the last 3 months. Shortly after birth, if the child has Rh-positive blood, the mother should be given another dose. This treatment nearly eliminates all chances of developing antibodies to the Rh-positive cells she may have received from her fetus before and during delivery. No treatment is needed if the father or baby is also Rh negative.

The treatment is good only for the pregnancy in which it is given. Protection seems to last only about 12 weeks. Each pregnancy and delivery of an Rh-positive child requires repeat doses of Rhogam. Rh-negative women should also receive treatment after any miscarriage, ectopic pregnancy, or induced abortion. This prevents any chance of the woman developing antibodies that would attack a future Rh-positive fetus.

Rhogam may also be given if an Rh-negative woman has amniocentesis. Amniocentesis is a procedure in which a small amount of amniotic fluid (the fluid in the sac surrounding the fetus) is withdrawn from the mother's uterus through a needle for testing. This can help detect certain birth defects in the fetus during pregnancy. If and when this is done, fetal Rh-positive red blood cells could mix with a mother's Rh-negative blood, causing her to produce antibodies; thus, Rhogam is given.

What Happens if Antibodies Develop?

Once a woman develops antibodies, Rhogam treatment does not help. However, health care providers are finding ways to save infants who get hemolytic disease. An Rh-sensitized mother will be checked during her pregnancy to see if the fetus is developing the disease. In some cases of hemolytic disease, the health care provider may recommend delivery at the normal time. Delivery may be followed by a type of transfusion for the baby that will replace the diseased blood cells with healthy blood. For more severe cases, the baby may be delivered early or given transfusions while still in the mother's womb.

Finally . . .

Today, of all Rh-negative women who run the risk of developing Rh sensitization, most have received treatment to prevent them from developing antibodies to Rh-positive blood. Hospitals are working with health care providers and their patients to try and reach the remaining women to prevent the 5,000 cases of hemolytic disease that still occur each year. Safeguards can be taken against Rh sensitization:

- All pregnant women should have a blood test done at an early stage of pregnancy.
- If a pregnant woman's blood group is Rh negative, knowing whether the father is Rh positive or Rh negative will help identify the risk of Rh sensitization.
- Rhogam, given when needed, provides protection for women who have a chance of developing Rh antibodies.
- For every woman, a routine of regular health care before her baby is born is the first step in ending the problem.

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SEP 18 1999 DIV. 04

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

JHERRIKA WILLIAMS, a Minor,)
 by next friend, father, and guardian Kevin Fluellen,)
)
 AND)
)
 JASON BROWN, a Minor,)
 by next friend and guardian, Charlene Williams,)
)
 AND)
)
 JASMINE BANKS, a Minor,)
 by next friend, father and guardian, Lee Banks,)
)
 PLAINTIFFS,)
)
 vs.)
)
 DR. ROBERT CRIST, et al.,)
)
 DEFENDANTS.)

7a

Cause No. 992-01174
Division I

DEATH after
ABORTION
by CRIST
PP/St. Louis

ORIGINAL

PLAINTIFF'S THIRD AMENDED PETITION

Plaintiffs, Jherrika Williams, Jason Brown, and Jasmine Banks, for their cause of action against Defendants, Dr. Robert Crist, and Planned Parenthood of Mid-Missouri Reproductive Health Services of St. Louis Region, Gateway Ambulance Service, City of St. Louis Emergency Medical Service (EMS), states as follows:

Count I - Medical Malpractice

1. Plaintiffs, Jherrika Williams, Jason Brown, and Jasmine Banks, are minors and the natural children of the decedent, Nicole Williams and they reside in the City of St. Louis;
2. Defendant, Robert Crist is employed by Planned Parenthood of Mid-Missouri Reproductive Health Services of St. Louis Region, and he resides in the City of St. Louis, Missouri;

3. Defendant Planned Parenthood of Mid-Missouri owns and operates Reproductive Health Services of the St. Louis Region facility located in the City of St. Louis, Missouri;
4. Defendant Gateway Ambulance Service, is an ambulance service operating in the City of St. Louis, Missouri;
5. Emergency Medical Services, EMS, is an ambulance service that is owned and operated by the City of St. Louis, Missouri;
6. On April 25, 1997, decedent, Nichole LeChea Williams received the service from Dr. Robert Crist to perform an abortion procedure in the City of St. Louis;
7. Dr. Crist and Planned Parenthood failed to use that degree of skill and learning ordinarily used under the same or similar circumstances by the members of his profession and Dr. Crist and Planned Parenthood was negligent in the following manner:
 - a.) Dr. Crist and Planned Parenthood staff failed to obtain decedent's medical records prior to performing the abortion procedure;
 - b.) Dr. Crist and Planned Parenthood staff failed to test decedent for potential allergic reactions to medications to be used in the abortion procedure;
 - c.) Dr. Crist and Planned Parenthood staff failed to ask decedent about any known allergies or prior allergic reactions to medications;
 - d.) Dr. Crist and Planned Parenthood staff failed to timely notice decedent's breathing difficulties while performing the abortion procedure;
 - e.) Dr. Crist and Planned Parenthood staff failed to timely respond to the decedent's breathing distress and unduly delayed in administering life-saving measures;
 - f.) Dr. Crist and Planned Parenthood staff failed to administer Cardio-Pulmonary Resuscitation, CPR, on decedent despite her apparent distress;
 - g.) Dr. Crist and Planned Parenthood staff failed to administer adrenaline and other life-saving measures to the decedent;
 - h.) Dr. Crist and Planned Parenthood staff was negligent in that the abortion procedure should not have been performed because the decedent was anemic at the time

7c

with a hemoglobin level of 8, and this was an elective surgical procedure and not life-threatening;

i.) Dr. Crist and Planned Parenthood staff failed to notify decedent of her anemic condition and hemoglobin level and thus failed to obtain decedent's proper consent to the surgery;

j.) Dr. Crist and Planned Parenthood staff failed to first administer a blood transfusion to decedent prior to abortion procedure and failed to supply decedent with appropriate cardiovascular reserves prior to abortion procedure;

k.) Dr. Crist and Planned Parenthood staff failed to perform the abortion procedure at a hospital, particularly with the decedent being anemic at the time;

l.) Dr. Crist and Planned Parenthood staff failed to put an I.V. in the decedent prior to the abortion procedure;

m.) Dr. Crist and Planned Parenthood staff failed to put an I.V. in the decedent at any time while she was in his care;

n.) Dr. Crist and Planned Parenthood staff failed to remove decedent's legs from the stirrups upon decedent's distress, to allow blood to flow to her heart;

o.) Dr. Crist and Planned Parenthood staff failed to position decedent's shoulders to allow blood to flow to decedent's heart upon her distress;

p.) Dr. Crist and Planned Parenthood staff failed to provide and ensure that a qualified nurse took initial information from decedent and failed to provide and ensure that a qualified nurse remained with decedent at all relevant times, instead allowing a student nurse to care for decedent;

q.) Dr. Crist and Planned Parenthood staff failed to properly dilate decedent's cervix;

r.) Dr. Crist and Planned Parenthood failed to take the necessary time to properly perform an abortion procedure;

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8. Such acts and omissions of Dr. Crist and Planned Parenthood caused the following injury to Nichole Williams;

- a.) Decedent's lungs to fill up with fluid;
- b.) Decedent's lungs became inflamed an enlarged;
- c.) Decedent did not receive enough oxygen to her heart and she did not have enough blood or cardiovascular reserves prior to surgery;
- d.) Decedent's heart went into fibrillation;
- e.) Decedent developed an embolism;

9. Planned Parenthood of Mid-Missouri and Reproductive Health Services of St. Louis Region failed to adequately provide the necessary resuscitative instruments which caused injury to Nichole Williams;

- a.) Planned Parenthood failed to have available life-saving medical equipment, including but not limited to cardiac arrest equipment;
- b.) Planned Parenthood failed to have available life-saving medications, including but not limited to adrenaline;
- c.) Planned Parenthood failed to have available other life-saving, resuscitative devices and equipment;

10. Gateway ambulance services failed to use that degree of skill and learning ordinarily used under the same or similar circumstances by the members of their profession and was negligent in the following manner;

- a.) Gateway ambulance service failed to timely respond to the initial Emergency Medical Services' telephone call;
- b.) Gateway failed to get adequate directions to Planned Parenthood, where the patient was located;
- c.) Gateway failed to get an adequate location of the patient upon arrival on the Planned Parenthood parking lot;

SURGERY PUTS WOMAN IN COMA

17. The medical treatment provided to plaintiff by defendants' employees was negligent and fell below the reasonable standard of care in the following respects that include, but are not limited to the following:

- a. Defendants' employees negligently failed to properly advise plaintiff of the risks of general endotracheal anesthesia and negligently failed to obtain plaintiff's informed consent;
- b. Defendants' employees negligently administered general endotracheal anesthesia to plaintiff during the course of the surgery causing a disruption of vital oxygen to her person and resulting in serious injury, including but not limited to, permanent brain damage;
- c. Defendant's employees negligently failed to properly and adequately utilize reasonable monitoring devices to monitor the conditions of the plaintiff throughout the surgery and medical treatment provided to her;
- d. Defendant's employees negligently failed to properly and adequately monitor the conditions of the plaintiff throughout the surgery and medical treatment provided to her;
- e. Defendant's employees negligently failed to properly treat plaintiff resulting medical emergency;
- f. Defendant's employees negligently failed to advise subsequent responding health care professionals of the cause and extent of plaintiff medical emergency, complicating her treatment.

18. As a direct and proximate result of the defendants' employees' professional negligence as aforesaid, plaintiff suffered and continues to suffer grave injuries

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SUIT SETTLED BY PP / CONFIDENTIAL

and damages, including, but not limited to: severe physical and emotional injuries, including but not limited to anoxic encephalopathy and atelectasis leading to a persistent vegetative state, cost for treating such injuries, and future medical and life care expenses in an amount not yet ascertainable, but in any event exceeding \$10,000,000.00; loss of earning capacity, pain and suffering, and other consequential damages in an amount exceeding \$2,500,000.00.

19. Defendants Planned Parenthood and Comprehensive Health are liable for the damages incurred by their employees and/or agents.

WHEREFORE, plaintiff demands judgment against the defendant Planned Parenthood and Comprehensive Health, for damages in an amount exceeding \$12,500,000.00 for the professional negligence of their agents, employees, and/or servants as for such other and further relief as this Court deems just and proper.

COUNT II: NEGLIGENCE

COMES NOW the plaintiff by and through her counsel of record, as for her cause of action against the defendants Planned Parenthood and Comprehensive Health states and alleges as follows:

20. Plaintiff repeats and reiterates each and every allegation contained in paragraphs through 19 of this Petition as if fully set forth at length herein.

21. Planned Parenthood and/or Comprehensive Health failed to properly screen, train and/or supervise their agents, servants, and/or employees responsible for the care and treatment of plaintiff causing the aforesaid negligent treatment of plaintiff.

22. As a direct and proximate result of the defendants' negligence as aforesaid, plaintiff suffered and continues to suffer grave injuries and damages, including, but not limited to: severe physical and emotional injuries, including but not limited to and

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- a. Dr. Crist negligently failed to properly advise plaintiff of the risks of general endotracheal anesthesia and negligently failed to obtain plaintiff's informed consent;
 - b. Dr. Crist negligently administered general endotracheal anesthesia to plaintiff during the course of the surgery causing a disruption of vital oxygen to her person and resulting in serious injury, including but not limited to, permanent brain damage;
 - c. Dr. Crist negligently failed to properly and adequately utilize reasonable monitoring devices to monitor the conditions of the plaintiff throughout the surgery and medical treatment provided to her;
 - d. Dr. Crist negligently failed to properly and adequately monitor the conditions of the plaintiff throughout the surgery and medical treatment provided to her;
 - e. Dr. Crist negligently failed to properly treat plaintiff resulting in a medical emergency;
 - f. Dr. Crist negligently failed to advise subsequent responding health care professionals of the cause and extent of plaintiff's medical emergency, complicating her treatment;
 - g. Dr. Crist failed to properly supervise his agents, servants, and/or employees, responsible for the care and treatment of plaintiff
27. As a direct and proximate result of Dr. Crist's professional negligence as-aforesaid, plaintiff suffered and continues to suffer grave injuries and damages, including, but not limited to: severe physical and emotional injuries, including but not limited to anoxic

encephalopathy and atelectasis leading to a persistent vegetative state, costs for treatment, injuries, and future medical and life care expenses in an amount not yet ascertainable, but event exceeding \$10,000,000.00; loss of earning capacity, pain and suffering, and consequential damages in an amount exceeding \$2,500,000.00.

WHEREFORE, plaintiff demands judgment against the defendant Planned Parenthood and Comprehensive Health, for damages in an amount not exceeding \$12,500,000.00 for negligence and for such other and further relief as this Court deems proper.

COUNT III: MEDICAL NEGLIGENCE

COMES NOW the plaintiff, by and through her counsel of record for her cause of action against the defendant Robert Crist, M.D., states and alleges as follows:

- 23. Plaintiff repeats and reiterates each and every allegation contained in paragraphs 1 through 22 of this Petition as if fully set forth at length herein.
- 24. Dr. Crist had a duty to possess and use that degree of skill and learning usual and customary under the same or similar circumstances by members of his profession and to adhere to the proper standard of care by members of and/or in the medical profession in the treatment and providing health care to
- 25. During the course of the treatment in the providing of health care to the plaintiff, defendant Dr. Crist breached his aforesaid duties and the aforesaid standard of care and was thereby negligent in the medical treatment of the plaintiff.
- 26. The medical treatment provided to plaintiff by Defendant Dr. Crist was negligent and fell below the reasonable standard of care in the following respects, which include, but are not limited to the following:

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Abortion Practitioner in Oregon Convicted of Harassing Patients

by Steven Ertelt, *LifeNews.com* Editor

February 14, 2004

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Bend, OR (LifeNews.com) -- The second abortion practitioner in as many months has been convicted of harassing patients. This time, Ronald Stevenson, of Oregon, was convicted on two counts of inappropriately touching or kissing a patient.

Stevenson appeared in the Deschutes County Circuit Court on Friday and, according to the Bend Tribune newspaper, agreed to a plea bargain with prosecutors that reduced his original charges, five counts of felony and misdemeanor sexual abuse.

Darryl Nakahira, senior deputy district attorney, was pleased with the agreement. "We evaluated the case and thought about where we wanted to end up as far as criminal charges," Nakahira told the Bend newspaper. "There is certainty in this resolution, whereas if we went to trial, there is no certainty on either side."

Stevenson, an OBGYN who sometimes performs abortions, is charged in two cases of alleged sexual abuse by two women who were treated by him in April 2000.

Previously, Stevenson was charged with abuse in a case in Washington state that was dropped when investigators couldn't get the woman involved to help gather more evidence.

In that case, a 26 year-old Seattle woman says she went to Stevenson for an abortion. Perhaps to not ruin his reputation as an OBGYN, Stevenson claimed that abortions were illegal in the county and that he could lose his job by performing the abortion. Abortions are not illegal, but the woman told police she believed Stevenson.

She said she awoke from the anesthesia given her during the abortion to find Stevenson caressing her. She didn't report the abuse until a friend of her sister's said Stevenson treated her so inappropriately that she changed doctors.

"And I couldn't do anything; I didn't, I couldn't stop him. I was under ... a lot of drugs. I couldn't do anything," the woman said, according to a police interview transcript.

As a result of the plea agreement, Stevenson will be on probation for five years and cannot have any contact with the victim. He may be required to seek counseling. However, during his sentencing, the abortion practitioner could face up to one year in jail for each count.

In addition, Stevenson cannot practice medicine in the state again unless he notifies the Oregon Board of Medical Examiners two weeks in advance and provides them with detailed information of where he will practice and what he'll be doing.

He would have to have a board-approved chaperone with him during any examinations of female patients and would be subject to have his office inspected at any time.

Previously, Stevenson operated the Women's Center of Bend, which opened in 2001, according to the secretary of state's office. The clinic is closed. He also worked for the East Cascade Women's Center in Bend.

In January, Arizona abortion practitioner Brian Finkel was sentenced to 34 years in prison after he was found guilty of 22 counts of sexual abuse against women who complained he touched their breasts and private parts inappropriately during abortions and examinations.

Stevenson will be sentenced on February 23rd.

STATE REGULATION OF ABORTION CLINICS

State	Definitions, Requirements and Exemptions	Citation	Enforcement Status
Alabama	<p>"Abortion and reproductive health centers" are defined as "hospitals" and are subjected to licensing and regulation by the State Board of Health.</p> <p>Law applies to abortion providers, including private physicians, at all stages of pregnancy. These regulations impose minimum standards for clinic administration, professional qualifications, patient testing and physical plant.</p> <p><i>Exemptions:</i> Providers who perform fewer than 30 abortions per month for at least ten months of a calendar year and who do not advertise as "abortion providers."</p>	<p>ALA. CODE § 22-21-20 (2001)</p> <p>ALA. ADMIN. CODE IT. 420-5-1-.01 to 420-5-1.04 (2001)</p>	<p>In effect.</p> <p>An Alabama appellate court has determined that a private physician's office that performs a minimum number of abortions may be regulated. <i>Tucker v. State Dep 't of Public Health</i>, 650 So. 2d 910 (Ala. Civ. App. 1994).</p>
Alaska	<p>The law applies to abortion providers at all stages of pregnancy and mandates minimum standards for clinic administration, professional qualifications, patient testing and physical plant.</p> <p>Law requires that abortions be performed in a hospital or facility approved by the Alaska Department of Health and Social Services during the first trimester and only in a hospital during the second and third trimesters.</p>	<p>ALASKA STAT. §§ 08.64.105, 18.16.010 (a)(2) (2001); ALASKA ADMIN. CODE tit. 7, § 12.370 (2001)</p> <p>ALASKA ADMIN. CODE tit. 7, §§ 12.370, .900 (2001)</p> <p>ALASKA ADMIN. CODE tit. 12, §§ 40.120, .130, .080, .090 (2001)</p>	<p>Not enforced.</p> <p>Although the law remains on the books, the Alaska Attorney General has determined that it is largely unconstitutional and unenforceable. <i>See Alaska Op. Att'y Gen. No. J-66-816-81</i> (Oct. 7, 1981) (concluding that the requirement that all abortions be performed in a hospital or other approved facility is invalid since it does not exclude the first trimester of pregnancy (citing <i>Sendak v. Arnold</i>, 429 U.S. 968 (1976))); <i>Alaska Op. Att'y Gen. No. 366-028-85</i> (July 24, 1984) (stating that the regulation of other aspects of the provision of first trimester abortions is "obviously problematic.")</p> <p>A strict second trimester hospitalization requirement has been found unconstitutional. <i>Akron v. Akron Center for Reproductive Health</i>, 462 U.S. 461 (1983).</p>
Arizona	<p>The law applies to abortion providers, including private physicians, at all stages of pregnancy and mandates minimum standards for clinic administration, professional qualifications, patient testing, the performance of abortion procedures, maintenance of patient records, and physical plant.</p> <p><i>Exemptions:</i> Providers who perform fewer than 5 first trimester abortions in any month and no second or third trimester abortions.</p>	<p>ARIZ. REV. STAT. ANN. § 36-449.01, .02, .03 (2001)</p> <p>ARIZ. ADMIN. CODE R9-10-1501 to R9-10-1514 (2001)</p>	<p>Enjoined pending outcome of litigation.</p> <p>Regulations have been substantially upheld and case is on appeal to Ninth Circuit. <i>Tucson Women's Clinic v. Eden</i>, No. CIV 00-141 TUC RCC (D. Ariz. Oct. 1, 2002). District court invalidated requirement that patients be treated with "respect" as unconstitutionally vague; a requirement that state officials be given access to regulated clinics "anytime during business hours" as contrary to Fourth Amendment; and two provisions allowing state officials to access unredacted patient records and ultrasound prints as a violation of informational privacy rights.</p>
Arkansas	<p>The law applies to abortion providers at all stages of pregnancy and to any facility in which the "primary function" is the willful termination of pregnancy. The law mandates minimum standards for clinic administration, professional qualifications, patient and employee testing and physical plant.</p> <p>The law also requires that any abortion performed after the 20th week of pregnancy be performed in a licensed hospital.</p>	<p>ARK. CODE ANN. §§ 20-9-302 (a), (b) (2001)</p> <p>Ark. State Bd. of Health, Rules and Regulations for Abortion Facilities § 3 -12 (approved Aug. 2, 1999)</p>	<p>In effect.</p>

State	Definitions, Requirements and Exemptions	Citation	Enforcement Status
California	<p>The law applies to abortion providers, including private physicians, at all stages of pregnancy. The law mandates minimum standards for clinic administration, professional qualifications and physical plant.</p> <p>A separate statute further requires that all be abortions be performed in a hospital accredited by the Joint Commission on Accreditation of Hospitals (JCAH) and be approved, in advance, by a hospital committee upon finding that there is a substantial risk that continuance of the pregnancy would gravely impair the woman's physical or mental health or the pregnancy resulted from rape or incest.</p>	<p>CAL. CODE REGS. tit. 22, §§ 75040 to 75047 (West 2001)</p> <p>CAL. HEALTH & SAFETY CODE § 123405 (West 2001) (accreditation requirement)</p>	<p>In effect; however, the accreditation and committee approval requirements are not enforced.</p> <p>Although the law remains on the books, the California Attorney General has concluded that the requirement that all abortions be performed in hospitals that have been accredited by JCAH is invalid. <i>See</i> 74 Op. Cal. Att'y Gen. 101 (1991).</p> <p>A requirement that an accredited hospital perform abortions and the interposition of a hospital committee for approval has been ruled unconstitutional <i>Doe v. Bolton</i>, 410 U.S. 179 (1973).</p>
Colorado	No law		
Connecticut	Law applies to outpatient clinics at all stages of pregnancy and mandates minimum standards for clinic administration, professional qualifications and patient testing.	<p>CONN. GEN. STAT. ANN. § 19 a-116 (2001)</p> <p>CONN. AGENCIES REGS. §§ 19-13-D45, <i>et seq.</i>; 19 a-116-1 (2001)</p>	In effect.
Delaware	No law		
District of Columbia	No law		
Florida	<p>The law applies to abortion providers at all stages of pregnancy and mandates minimum administrative requirements.</p> <p><i>Exemptions:</i> Law does not apply to a hospital or a private physician's office, provided the physician's office is not used "primarily for the performance of abortions."</p>	<p>FLA. STAT. ANN. §§ 390.011, 390.012 (2000)</p> <p>FLA. ADMIN. CODE ANN. r.59A-9.019, <i>et seq.</i> (2000)</p>	In effect.
Georgia	<p>Law applies to abortion providers at all stages of pregnancy and mandates minimum administrative requirements.</p> <p>The law also requires that all second and third trimester abortions be performed in a hospital or ambulatory surgical center. Further, only dilation and evacuation (D&E) procedures may be performed in an ambulatory surgical center.</p>	<p>GA. COMP. R. & REGS. r. 290-5-32-.01, <i>et seq.</i> (Harrison 2000)</p> <p>GA. CODE ANN. § 16-12-141 (Harrison 2000)</p>	In effect.
Hawaii	<p>Law applies to abortion providers, including private physicians, at all stages of pregnancy.</p> <p>The law requires that all abortions be performed in a hospital.</p>	HAW. REV. STAT. ANN. § 453-16 (Bender 2000)	<p>Not enforced.</p> <p>Although the law remains on the books, the Hawaii Attorney General has concluded that it is unconstitutional and unenforceable. <i>See</i> Haw. Op. Att'y Gen. No. 74-17 (Oct. 10, 1974).</p> <p>Strict first and second trimester hospitalization requirements have been found to be unconstitutional. <i>Doe v. Bolton</i>, 410 U.S. 179 (1973); <i>Akron v. Akron Center for Reproductive Health</i>, 462 U.S. 461 (1983).</p>
Idaho	<p>Law applies to abortion providers, including private physicians, in the second trimester of pregnancy.</p> <p>The law requires that all second trimester abortions be performed in a hospital.</p>	IDAHO CODE § 18-608 (2000)	<p>Not enforced.</p> <p>Although the law remains on the books, the Idaho Attorney General has concluded that it is unconstitutional and unenforceable. <i>See</i> Idaho Op. Att'y Gen. No. 98-1 (Jan. 26, 1998).</p> <p>Strict first and second trimester hospitalization requirements have been found to be unconstitutional. <i>Doe v. Bolton</i>, 410 U.S. 179 (1973); <i>Akron v. Akron Center for Reproductive Health</i>, 462 U.S. 461 (1983).</p>

State	Definitions, Requirements and Exemptions	Citation	Enforcement Status
Illinois	<p>Law applies to abortion providers, including private physicians, at all stages of pregnancy; however, requirements vary depending on the stage of pregnancy. The regulations mandate minimum standards for clinic administration, patient testing, professional qualifications and physical plant.</p> <p>The applicable law, the Ambulatory Surgical Treatment Center Act (ATSCA), defines any facility in which an abortion is performed as an "ambulatory surgical center."</p>	<p>210 ILL. COMP. STAT. ANN. 5/3, <i>et seq.</i> (2001)</p> <p>ILL. ADMIN. CODE tit. 77 §§ 205.330, 205.540 and 205.710 (2001) (codifying consent decree)</p>	<p>In effect.</p> <p>Consent decree, following extensive litigation, limits enforceability of regulations. <i>See Ragsdale v. Turnock</i>, 734 F. Supp. 1457 (N.D. Ill. 1990). ATSCA, in its entirety, applies only to facilities that perform abortions after 18 weeks of pregnancy and use general, epidural or spinal anesthesia or "require incisions that expose the patient to risk of infection." Facilities that only perform abortions prior to 18 weeks of pregnancy and use only local anesthesia must be licensed and are subjected only to administrative rules for "Limited Procedure Specialty Centers."</p>
Indiana	<p>Law applies to abortion providers, including private physicians, during the second trimester of pregnancy.</p> <p>The law requires that abortions after the first trimester be performed in a hospital or ambulatory outpatient surgical center.</p>	<p>IND. CODE ANN. §§ 16-18-2-1, 16-18-2-14 and 16-34-2-1 (West 2000)</p> <p>IND. ADMIN. CODE tit. 410, r. 15-2.5 (West 2000)</p>	In effect.
Iowa	No law		
Kansas	No law		
Kentucky	<p>Law applies to abortion providers, including private physicians, at all stages of pregnancy. The regulations mandate minimum standards for clinic administration, professional qualifications, patient and employee testing and physical plant.</p>	<p>KY. REV. STAT. ANN. §§ 216B.015(1), 216B.020(2)(b), 216B-0431, 216B.0435 311.720(1) (Michie 2001)</p> <p>KY. ADMIN. REG. 20.360</p>	In effect.
Louisiana	<p>Statute defines "an outpatient abortion facility" as any facility other than a hospital in which any second trimester or five or more first trimester abortions per month are performed.</p> <p>Law, passed during 2001 legislative session, applies to abortion providers, including private physicians, at all stages of pregnancy.</p> <p><i>Exemptions:</i> Providers who perform fewer than 5 first trimester abortions in any month and no second or third trimester abortions.</p>	<p>LA. REV. STAT. ANN. § 40:1299.35.1(1) (West 2001)</p> <p>H.B. 949, 2001 Reg. Sess. (La. 2001)</p>	<p>Pending promulgation of administrative rules and enforcement.</p> <p>Administrative regulations are being drafted and will be issued for public comment.</p> <p>In 1999, the Louisiana legislature had deleted the exemption for abortion clinics from its statute concerning the licensing of ambulatory surgical centers. <i>See LA. REV. STAT. ANN. § 40:2134</i> (West 2001). However, a federal district court later determined that abortion clinics were not "ambulatory surgical centers" under that statute. <i>Causeway Med. Suite v. Foster</i>, No. 99-2069 (E.D. La. Aug. 2, 2000)</p>
Maine	No law		
Maryland	No law		
Massachusetts	<p>Law applies to abortion providers, including private physicians, after the 12th week of pregnancy and mandates minimum administrative requirements.</p> <p>Law requires that all abortions performed after the 12th week of pregnancy be performed in a hospital authorized to provide facilities for general surgery.</p>	<p>MASS. GEN. LAWS ANN. ch. 111, § 51 and ch. 112, §§ 12k, 12Q (West 2001)</p>	<p>Not enforced.</p> <p>A strict second trimester hospitalization requirement has been found unconstitutional. <i>Akron v. Akron Center for Reproductive Health</i>, 462 U.S. 461 (1983).</p> <p>Further, the Massachusetts Appeals Court has twice "suggested" that the second trimester hospitalization requirement is unenforceable, by holding that a mature minor had the right to choose to have a second trimester abortion in a clinic rather than in a hospital. <i>See In re Moe</i>, 469 N.E.2d 1312 (Mass. App. Ct. 1984) and <i>In re Moe</i>, 517 N.E.2d 170 (Mass. App. Ct. 1987)</p>

State	Definitions, Requirements and Exemptions	Citation	Enforcement Status
Michigan	<p>Law regulates abortion providers as "freestanding surgical outpatient facilities."</p> <p>Law applies to abortion providers, including private physicians, at all stages of pregnancy. Law mandates minimum standards for clinic administration, professional qualifications and physical plant.</p> <p><i>Exemption:</i> Physician's offices and facilities where less than 50 percent of the patients annually served undergo abortion procedures.</p>	<p>MICH. COMP. LAWS ANN. §§ 333.20115, 333.17015 (a), (b) (West 2001)</p> <p>MICH. ADMIN. CODE IT. 325.3801, <i>et seq.</i> (West 2001)</p>	In effect.
Minnesota	<p>Law applies to abortion providers, including private physicians, after the first trimester of pregnancy.</p> <p>Law also requires that all abortions after the first trimester be performed in a hospital or "abortion facility."</p> <p><i>Exemptions:</i> Private physician's offices whose practices are not "devoted primarily to" the performance of abortion procedures.</p>	<p>MINN. STAT. ANN. §§ 145.411, <i>et seq.</i>; 145.4131 (West 2000)</p> <p>MINN. IT. 4615.3400, 4615.3600 (West 2000)</p>	In effect.
Mississippi	<p>Law defines an "abortion facility" as a doctor or organization providing abortion services to 10 or more patients in any one-month period of time or 100 or more abortions during any calendar year and those facilities that advertise as abortion providers.</p> <p>Law applies to abortion providers, including private physicians, at all stages of pregnancy. Law mandates minimum standards for clinic administration, professional qualifications, patient and employee testing and physical plant requirements.</p> <p>Law also requires that abortions after the 15th week of pregnancy be performed at a licensed hospital or an ambulatory surgical facility.</p> <p><i>Exemptions:</i> Abortion facilities that perform fewer than ten abortions per month and fewer than 100 abortions per year. However, it does not exempt any provider who "markets" itself as an abortion provider.</p>	<p>MISS. CODE ANN. § 41-75-1, <i>et seq.</i> (2001)</p> <p>MISS. CODE R. 12 000 034 (2001)</p>	<p>In effect.</p> <p>Discrete portions of the law were preliminary enjoined. <i>See Pro-Choice Mississippi v. Thompson</i>, No. 3:96CV596BN, bench op., (S.D.Miss. Sept. 27, 1996). Court enjoined 1500 foot zoning prohibition; portion of the definition of "abortion facility" that pertained to advertising; requirement that abortion providers receive training through an AMA-approved residency program; and requirement of a transfer agreement with a local hospital. Majority of the statute was not enjoined and remains in effect.</p>
Missouri	<p>Law applies to abortion providers, including private physicians, at all stages of pregnancy. Law mandates minimum standards for clinic administration, professional qualifications, patient and employee testing and physical plant.</p> <p>Law also requires that all abortions after the 15th week of pregnancy be performed in a hospital.</p> <p><i>Exemptions:</i> Facilities in which either the number of patients having abortions represents 50 percent or less of the total patients treated or 50 percent or less of the total facility revenue is from abortions or abortion-related procedures.</p>	<p>MO. ANN. STAT. §§ 188.010, <i>et seq.</i> (West 2000)</p> <p>MO. CODE REGS. ANN. tit. 19, § 30-3010, <i>et seq.</i> (West 2000)</p>	<p>In effect, except for hospitalization requirement.</p> <p>A federal appeals court has ruled that the second trimester hospitalization requirement is unconstitutional. <i>Reproductive Health Services v. Webster</i>, 851 F.2d 1071 (8th Cir. 1988), <i>rev'd on other grounds</i>, 492 U.S. 490 (1989).</p>
Montana	No law		

State	Definitions, Requirements and Exemptions	Citation	Enforcement Status
Nebraska	<p>Law applies to abortion providers, including private physicians, at all stages of pregnancy. Law mandates minimum standards for clinic administration, professional qualifications, employee testing and physical plant.</p> <p><i>Exemptions:</i> Health care facilities that never perform ten or more abortions during a calendar year.</p>	<p>NEB. REV. STAT. § 71-416 (2001)</p> <p>NEB. ADMIN. CODE tit. 175, ch. 7 §§ 001, <i>et seq.</i> (2001)</p>	In effect.
Nevada	No law		
New Hampshire	No law		
New Jersey	<p>Law applies to abortion providers, including private physicians, after the first trimester of pregnancy.</p> <p>Law requires that all second trimester abortions, except for dilation and evacuation (D&E) procedures, be performed in licensed hospital. The law also requires that all D&E procedures performed between 15 and 18 weeks of pregnancy be performed in a licensed ambulatory care facility or a licensed hospital.</p> <p>Additional regulations apply to D&E procedures performed after 18 weeks of pregnancy.</p>	N.J. ADMIN. CODE tit. 13, § 13:35-4.2 (2001)	In effect.
New Mexico	No law		
New York	<p>Law applies to abortion providers, including private physicians, after the first trimester of pregnancy and requires that all abortions after 12 weeks of pregnancy be performed in a hospital on an in-patient basis.</p>	N.Y. PUB. HEALTH LAW § 4164 (2001)	<p>Not enforced.</p> <p>The General Counsel for New York has concluded that the second trimester hospitalization requirement would be unconstitutional, if enforced. <i>See</i> Letter from Henry Greenberg, General Counsel, State of N.Y. Dep't of Health, to Erin Walker (Mar. 10, 1997).</p> <p>A strict second trimester hospitalization requirement has been found unconstitutional. <i>Akron v. Akron Center for Reproductive Health</i>, 462 U.S. 461 (1983).</p>
North Carolina	<p>Law applies to abortion providers, including private physicians, at all stages of pregnancy. Law mandates minimum standards for clinic administration, professional qualifications, patient testing and physical plant.</p> <p>Law further requires that all abortions after the 20th week of pregnancy be performed in a licensed hospital.</p>	<p>N.C. GEN. STAT. ANN. § 14-45.1 (2000)</p> <p>N.C. ADMIN. CODE tit. 10, IT. 3E.0101-.0402 (2000)</p>	In effect.
North Dakota	<p>Law applies to abortion providers, including private physicians, after the 12th week of pregnancy.</p> <p>Law requires that all abortions after 12 weeks of pregnancy be performed in a licensed hospital.</p>	N. D. CENT. CODE § 14-02.1-04(2) (2000)	<p>Not enforced.</p> <p>Although the law remains on the books, a federal court has entered a declaratory judgment that the statute is unconstitutional and unenforceable. <i>Miks v. Olson</i>, No. A3-82-78 (D.N.D. Aug. 25, 1983).</p>

State	Definitions, Requirements and Exemptions	Citation	Enforcement Status
Ohio	Law applies to abortion providers, including private physicians, after the 14 th week of pregnancy. Law requires that immediate post-abortion care be provided in a hospital.	OHIO REV. CODE ANN. § 2919.11(2001) OHIO ADMIN. CODE §§ 3701-47-01, 3701-47-02 (2001)	On 23 August 2002, a state appellate court ruled that abortion clinics must obtain licenses as "ambulatory surgical centers." The plaintiff-clinics had been inspected by the state and ordered to obtain the licenses. Plaintiff - Martin Haskell filed suit and argued that his clinics were private physician's offices and that his rights were violated because the state singled out only abortion clinics for "special treatment." <i>Women's Medical Professional Corp. v. Taft</i> A strict second trimester hospitalization requirement has been found to be unconstitutional. <i>Akron v. Akron Center for Reproductive Health</i> , 462 U.S. 461 (1983).
Oklahoma	Law applies to abortion providers, including private physicians, at all stages of pregnancy. Law mandates minimum standards for clinic administration, patient testing and physical plant. Law also requires that all abortions after the first trimester be performed in a "general hospital."	OKLA. STAT. ANN. tit. 63, § 1-701(1), <i>et seq.</i> (West 2001) OKLA. ADMIN. CODE § 310-600 (West 2001)	In effect, except for second trimester hospitalization requirement. A federal court has enjoined the second trimester hospitalization requirement, <i>see Reproductive Servs. v. Keating</i> , No. 98-CV-447-H (N.D. Okla. Dec. 16, 1998). This ruling superceded one by the Oklahoma Supreme Court that held that <i>Planned Parenthood of Southeastern Pennsylvania v. Casey</i> , 505 U.S. 833 (1992), had overruled <i>Akron v. Akron Center for Reproductive Health</i> , 462 U.S. 461 (1983) which had ruled that a strict second trimester hospitalization requirement was unconstitutional. <i>See Davis v. Fieker</i> , 952 P.2d 505 (Okla. 1997).
Oregon	No law		
Pennsylvania	Law applies to abortion providers, including private physicians, at all stages of pregnancy. Law mandates minimum standards for clinic administration, professional qualifications, patient testing and physical plant. Law also requires that all abortion after the first trimester be performed in a hospital.	18 PA. CONS. STAT. ANN. §§ 3201 - 3214 (2000) 28 PA. CODE §§ 29.31-43 (2000)	In effect. A strict second trimester hospitalization requirement has been found unconstitutional. <i>Akron v. Akron Center for Reproductive Health</i> , 462 U.S. 461 (1983).

State	Definitions, Requirements and Exemptions	Citation	Enforcement Status
Rhode Island	<p>Law applies to abortion providers, including private physicians, at all stages of pregnancy. The minimum standards imposed on providers are based on gestational age at which the abortions are performed. (a) For providers performing first trimester abortions, law mandates minimum standards for clinic administration, patient testing and physical plant. (b) For providers performing abortions between 14 and 18 weeks of pregnancy, law mandates minimum standards for clinic administration, professional qualifications, patient and employee testing and physical plant.</p> <p>Law specifies that all abortions prior to the 14th week of pregnancy may be performed outside of a hospital or a freestanding ambulatory surgical center, but only when hospital emergency back-up services are available.</p> <p>Law also requires that abortions performed between the 14th and 18th week of pregnancy must be performed in a hospital, a licensed freestanding ambulatory surgical center, a licensed physician's office or a freestanding surgical facility.</p> <p>Law further requires that abortions after 18 weeks of pregnancy must be performed in a hospital or ambulatory surgical center.</p>	<p>R.I. GEN. LAWS ANN. §§ 23-4.7-1, 23-17-4 (2001)</p> <p>R.I. CODE IT. 14 000 009, 14 090 006 (2001)</p>	In effect.
South Carolina	<p>Law defines an "abortion clinic" as a facility that performs any second trimester or 5 or more first trimester abortions per month. Law mandates minimum standards for clinic administration, professional qualifications, patient and employee testing and physical plant.</p> <p>"Abortion clinics" must be licensed by the state.</p> <p>Law applies to abortion providers, including private physicians, at all stages of pregnancy.</p>	<p>S.C. CODE ANN. §§ 44-7-130(22), 44-41-75 (2000)</p> <p>61-12 S.C. CODE ANN. REGS.200, <i>et seq.</i> (200 0)</p>	<p>In effect.</p> <p>In 2000, law was upheld as constitutional, surviving challenges claiming created an "undue burden" on women seeking abortions and violated constitutional equal protection guarantees. <i>See Greenville Women's Clinic v. Bryant</i>, 222 F.3d 157 (4th Cir. 2000), <i>cert. denied</i>, 531 U.S. 1191 (2001). In a second round of litigation, the regulations were, again, found to be constitutional. The Fourth Circuit found that the regulations did not involve illegal delegation of state licensing authority, did not violate the doctrine of "separation of church and state," were not unconstitutionally vague, and did not violate patients' or providers' rights to informational privacy. <i>See Greenville Women's Clinic v. Com'r, S.C. Dep't of Health and Environmental Control</i>, 2002 U.S. App. LEXIS 19275 (4th Cir. Sept. 19, 2002). Plaintiffs intend to again request U.S. Supreme Court review of the case.</p>
South Dakota	<p>Law applies to abortion providers, including private physicians, after the 12th week of pregnancy. Law mandates minimum standards for clinic administration and physical plant.</p> <p>Law requires that all abortions between 12 and 24 weeks of pregnancy be performed in a hospital, or if one is not available, in a licensed physician's medical clinic or office.</p>	<p>S.D. CODIFIED LAWS § 34-23A-1, <i>et seq.</i> (2001)</p>	<p>Hospitalization requirement was determined to be unconstitutional. <i>Parenthood of Minnesota and South Dakota v. Barnett</i>, (D.S.D., Aug. 14, 2002). On September 12, 2002, State requested that the court reconsider its rulings or, in the alternative, dismiss the case.</p>

State	Definitions, Requirements and Exemptions	Citation	Enforcement Status
Tennessee	<p>Law defines any facility used to terminate a pregnancy as an "ambulatory surgical treatment center." Law imposed facility-specific administrative requirements.</p> <p>Law applies to abortion providers, including private physicians, at all stages of pregnancy.</p> <p>A separate statute requires that all second trimester abortions be performed in a hospital.</p> <p><i>Exemptions:</i> Physicians' offices that do not perform a "substantial number" of abortions.</p>	<p>TENN. CODE ANN. § 68-11-201, <i>et seq</i> (2001)</p> <p>TENN. CODE ANN. § 39-15-201, <i>et seq</i> (2001) (second trimester hospitalization requirement)</p>	<p>Not enforced.</p> <p>A federal court has permanently enjoined the enforcement of the law against certain providers due to the vagueness of the phrase, "substantial number." <i>Bristol Reg'l Women's Ctr., P.C. v. Tenn. Dep't of Health</i>, No. 3:99-0465 (D. Tenn. Oct. 22, 2001). However, the court, in dicta, found that the regulations did not create an "undue burden" on the abortion right.</p> <p>Although the law remains on the books, the Tennessee Attorney General has concluded that the administrative requirements imposed solely on abortion facilities are unconstitutional and unenforceable. <i>See</i> Tenn. Op. Att'y Gen. No. 89-123 (Sept. 26, 1989).</p> <p>The Tennessee Supreme Court has struck down the second trimester hospitalization requirement as unconstitutional under the state constitution. <i>Planned Parenthood of Middle Tennessee v. Sundquist</i>, 38 S.W.3d 1 (Tenn. 2000).</p>
Texas	<p>Law applies to abortion providers, including private physicians, at all stages of pregnancy. Law mandates minimum standards for clinic administration, professional qualifications and physical plant.</p> <p><i>Exemptions:</i> Private physicians who perform fewer than 300 abortions per year.</p>	<p>TEX. HEALTH & SAFETY CODE ANN. §§ 245.001, <i>et seq.</i> (2000)</p> <p>25 TEX. ADMIN. CODE §§ 139.1-139.60 (2000)</p>	<p>In effect; 1999 amendments enjoined pending outcome of litigation.</p> <p>Law was upheld as constitutional, surviving challenges claiming it was an "undue burden," violated equal protection guarantees and was, in its entirety, unconstitutionally vague. <i>Women's Med. Ctr. of Northwest Houston v. Bell</i>, 248 F.3d 411 (5th Cir. 2001). Discrete provisions of the law were found to be unconstitutionally vague, but were subsequently amended by the legislature. In April 2002, the U.S. District Court again upheld the regulations against claims that they were a form of "sex discrimination." <i>Women's Medical Center of Northwest Houston v. Bell</i>, Order, Civil Action No. H-99-3639 (S.D. Tex. April 1, 2002). The remainder of the plaintiffs' claims were dismissed with prejudice in December 2002.</p>
Utah	<p>Law applies to abortion providers, including private physicians, during the second trimester of pregnancy. Law mandates minimum requirements for clinic administration, professional qualifications, patient and employee testing and physical plant.</p> <p>A separate statute requires that all second trimester abortions be performed in a hospital.</p>	<p>UTAH CODE ANN. §§ 26-21-1, <i>et seq.</i>: 76-7-313 (2001)</p> <p>UTAH ADMIN. CODE R432-600 (2001)</p> <p>UTAH CODE ANN. § 76-7-302 (2001) (second trimester hospitalization requirement)</p>	<p>In effect.</p> <p>A strict second trimester hospitalization requirement has been found unconstitutional. <i>Akron v. Akron Center for Reproductive Health</i>, 462 U.S. 461 (1983).</p>
Vermont	No law		

State	Definitions, Requirements and Exemptions	Citation	Enforcement Status
Virginia	Law applies to abortion providers, including private physicians, after the first trimester of pregnancy. Law requires that all second trimester abortions be performed in a licensed general hospital or outpatient hospital.	VA. CODE ANN. § 18.2-73 (2001) 12 VA. ADMIN. CODE §§ 5-410-10, 5-410-1260 (2001)	In effect. The U.S. Supreme Court upheld the constitutionality of the law, finding it to be reasonably related to the state's compelling interest in protecting maternal health. <i>Simopoulos v. Virginia</i> , 462 U.S. 506 (1983). The court distinguished this law from an unconstitutional "strict" second trimester hospitalization requirement because it allowed for an "outpatient hospital" as an alternative to a general hospital.
Washington	No law		
West Virginia	No law		
Wisconsin	Law applies to abortion providers, including private physicians, at all stages of pregnancy. Law mandates minimum standards for clinic administration, professional qualifications, patient testing and physical plant. Law also requires that all abortions after the first trimester be performed in a hospital.	WIS. STAT. ANN. § 69.186 (2001) WIS. ADMIN. CODE § 11.01, <i>et seq.</i> (2001)	In effect, except for second trimester hospitalization requirement. A federal district court held that the second trimester hospitalization requirement is unconstitutional and unenforceable. <i>Christensen v. Wisconsin Medical Board</i> , 551 F.Supp. 565 (W.D. Wis. 1982). However, the provision remains on the books.
Wyoming	No law		

Testimony of Dr. Brendan Mitchell

House Federal and State Affairs Committee

February 16, 2004

Chairman Mason and Members of the Committee:

Thank you for this opportunity to address you regarding HB 2751, clinic licensing and regulation.

I am Dr. Brendan Mitchell, a Board Certified Obstetrician/Gynecologist in practice ten years in the Johnson County area. I am part of a large single specialty group practice that performs a wide variety of surgical procedures in different settings. My patient population is diverse, covering a wide range of ages, educational levels and socioeconomic status. My colleagues and I are subject to quality assurance at every hospital and ambulatory surgery center where we practice, and rightly so.

It is the role of the state to protect the consumers of health care, and to insure that a mechanism is in place to monitor the quality of health care delivered. From my conversations with patients, I am gravely concerned about the quality of health care that women are receiving when they undergo abortion procedures, and the lack of quality oversight surrounding these practitioners and this procedure.

With over 12,000 abortions occurring annually in the state of Kansas, it is surprising to me that the abortion facilities are unregulated. Because of my experience treating women with miscarriage in the first and second trimesters, I understand that abortion is a procedure that is fraught with potential hazards, even in the most experienced hands. Women treated for miscarriage in the first and second trimester, and fetal death in the third trimester, are treated at hospitals and licensed ambulatory care facilities. These facilities are modern, clean, and secure, but most importantly, they are subject to independent quality assurance entities as a requirement for their operation.

Reasonably well-trained Ob-Gyns performing these surgical procedures for miscarriage would be expected to examine the patient prior to the procedure. They would perform basic laboratory analysis for anemia and Rh typing. They would be working with well-maintained equipment, and well trained and qualified staff. They would monitor the patient's condition during anesthesia, and in the postoperative period. Procedures to empty the uterus, after a pregnancy has been lost, are performed in a hospital or a licensed ambulatory care center. These facilities are regulated by the KDHE, and are subject to inspections to ensure minimum quality standards. Most physicians, myself included, would not want to perform these procedures, with their inherent risk of complications, in a substandard facility.

I have had personal experience with unexpected complications arising from this procedure. I was performing a D&C for first trimester miscarriage and encountered heavy unexpected hemorrhage. Despite the administration of numerous drugs to cause the uterus to contract, the patient continued to bleed and her condition deteriorated to the point of shock. It was necessary to perform an emergency hysterectomy to control the bleeding, and the patient required several units of blood and blood products. Because of the expert care delivered by a team that included an anesthesiologist and well-trained nurses, the patient survived. The hysterectomy specimen was sent to pathology as required, and an explanation was derived from examination of the

specimen. The case was then reviewed by my peers. Had this D&C been performed in an area abortion clinic, the patient would not have survived.

For a variety of reasons, abortion is generally not performed in a regulated and licensed facility, and these reasons have nothing to do with the safety, complication rate or difficulty of the procedure. Abortions are generally performed in an office or clinic setting, and they are not substantially different in risk from similar procedures performed in a hospital. There is currently no mechanism to regulate the quality of surgical and anesthesia care administered in an office or clinic performing abortions.

Abortion in this country has become less restricted since Roe vs. Wade. However, this does not abdicate lawmakers' responsibility to ensure the safety of patients undergoing surgical procedures in the state of Kansas. The public perceives that legal abortion is safe abortion. Indeed many of the proponents of abortion rights cite safe abortion as the main justification against laws restricting abortion. The public believes that the same standards that apply to other surgical procedures, apply to legal abortion. However, this is not the case. In the absence of quality standards, there is no evidence that abortion is safer now than before 1973.

Obviously, there is a social stigma associated with abortion for many patients. Because of this, patients undergoing abortion are at great risk for substandard care or even abuse. Many patients having abortions are given anesthetic agents producing amnesia for the experience, and are reluctant to report any perception of substandard care. They are not in a position to protect themselves.

I have had many patients with a history of abortion complain that they were given consent, that the ultrasound and other medical equipment appeared to be antiquated, and that the facility appeared unsanitary.

I have recently delivered a patient that was a former employee of an abortion clinic and reported poor training and appalling conditions. In my own practice it has become obvious to me that many patients undergoing the abortion procedure are not given adequate means to follow up in case of a complication. HB 2751 would establish a minimum set of standards of quality for offices and clinics where surgical abortion is taking place. It establishes regulations and standards that any reasonable consumer of health care would expect in a facility administering anesthesia and performing surgical procedures that carry a risk of infection or life threatening bleeding, and gives the ability to enforce these standards.

The standards proposed in this bill are the same standards set forth by the American College of Obstetrics and Gynecology, Planned Parenthood and the National Abortion Federation. These standards are basic and not restrictive, and are attainable by facilities practicing abortion.

The role of laws regulating the practice of the healing arts is to protect the public. Providers of health care are already subject to these laws. Unfortunately, however, the abortion industry has remained unfettered by the regulation designed to ensure safety and quality of care, and, because of the politically divisive nature of the abortion debate, it has managed to stay unregulated. This is bad for the consumer of abortion services. HB 2751 is good legislation. It will ensure that those who provide abortion in our state document to the people of Kansas that they are meeting the minimum standards promulgated by the abortion industry itself.

This is what the public expects of its elected officials and of its government.

I encourage you to support this legislation and welcome any questions you may have.



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Feb. 16, 2004 Testimony in support of HB 2751
House Federal State Affairs Committee
Hon. Bill Mason, chair

Good afternoon, Mr. Chairman and members of the committee. I am Kathy Ostrowski, legislative director for Kansans for Life, testifying in support of HB 2751, abortion clinic licensing and regulation. I have been before this committee several times and my request remains the same, protect women with a proper exercise of state oversight.

You have just heard how an abortion clinic allegedly operates. I talked with this young woman "Ruby", face to face, and found her extremely credible. I urged her to call and write the Board of Healing Arts to discuss her complaints. You may wonder why she isn't here today. The answer is she's a single mom trying to get her GED and has started a new job. She doesn't have a car or her own apartment. But she does have common sense. She claims there were other staffers at this KCK abortion clinic who were similarly disgusted with Krishna Rajanna's operation but they feared losing their job if they complained to him. Likewise, they didn't know who to report to, unlike health professionals who are taught about medical review boards and incident reporting.

This points up the inadequacy of relying on the Board of Healing Arts to protect women. Since the Board is structured without the ordinary ability to do either regular or surprise inspections of doctors' offices, the Board relies on patients or clinic staffers to blow the whistle on problems. However, certain human factors impede that from happening:

- 1) very few people want to acknowledge any connection with abortion.
- 2) many patients who have complaints about abortion practices are at a vulnerable point in their lives, without the resolve or confidence to pursue reporting.
- 3) as mentioned above, staffers in abortion clinics are frequently under-educated and desperate to keep their jobs.
- 4) staffers in abortion clinics aren't always trained in the duty to report and in patient rights. (The latter was a deficiency reported in 2002 by KDHE for Planned Parenthood in Overland Park; see attachment of Catholic Conference testimony.)

Ruby's allegations --of overall filth, boxes stacked everywhere, and food side-by-side with medicine, needles, and milk containers filled with fetal parts-- need to be inspected. Even Kansas veterinary clinics must maintain a "clean, sanitary, inoffensive, orderly and disinfected condition [70-6-1-1A] "with protective storage compartments for drugs, supplies and equipment" [70-7-1A]. Ruby described a clinic room where medical equipment was "sterilized" in dishwashers and spread

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out, uncovered, near an adjoining open toilet. If Ruby is correct, Rajanna is in violation of the Board's guidelines for office-based surgery, item II c, concerning cleanliness and sterilization. These are the guidelines that opponents of HB 2751 say are a sufficient substitute for licensing & inspection.

Has Rajanna read those guidelines? Does he care? The Board has already disciplined him for not handling the Rh protocol properly, another provision in HB2751. They also reprimanded him for not properly correctly providing the state information packets to abortion clients.[7-3-01] They also fined him for violating procedures for handling drugs [4-10-00] However, as far as the Board knows, Rajanna now runs a model facility! This is why we need automatic state inspection prior to issuing a license.

The abortion industry and the Board guidelines require proper medical waste disposal. Maybe that is too expensive for Rajanna. Night after night he has been seen stuffing office trash bags in his car before driving home. Ruby never saw hazardous containers onsite nor a bio-medical waste truck come to Rajanna's for pickup. This is why we need automatic state inspection prior to issuing a license.

The abortion industry advocates adequate monitoring during and after abortion. According to Ruby, this is not being done. HB 2751 would require Rajanna to have a monitored recovery room. Ruby says his practice is allowing patients twenty minutes on a couch and then they're out the door, with no final discussion, observation or exam from the abortionist.

To review, abortion in Kansas is carried out in a shockingly substandard manner according to an eye-witness report. Allegedly, medically untrained and non-immunized staffers work in unsanitary facilities, without proper credentials, where the mentality alleged is "hop on the table, pull your pants down, get aborted, hobble off to a couch for 20 minutes and then get out". Add to that the allegations of a doctor with dirty jacket, non-sterile equipment, and lack of medical monitoring. If this report is true—it belies the confidence the governor has claimed in the high standards in Kansas health facilities.

Just this past weekend I was given some shocking photos allegedly taken inside a Kansas abortion clinic. These photographs echo the message Ruby was telling. These photos are being handed over today to the Board of Healing Arts. While the Board sorts this out, women remain in jeopardy. Let's pass HB 2751. Thank you.

Testimony of Laura Kenny, M.D.
House Federal and State Affairs Committee
House Bill 2751 – Abortion Clinic Licensing
February 16, 2004

Mr. Chairman and Members of the Committee, Thank you for this opportunity to address you regarding HB 2751.

I'm Dr. Laura Kenny. I'm a Board Certified Obstetrician/Gynecologist with 14 years of private practice experience in Overland Park. For the past three years I have held an administrative position with a managed care company. A significant part of my current role involves quality improvement and quality oversight of the providers of health care.

I'm submitting this testimony today because I am concerned about the quality of care that women are receiving when they undergo abortions and the lack of quality oversight surrounding this procedure.

Abortion is one of the most frequently performed surgical procedures in this state, yet it is one of the least regulated. All other surgical procedures that I know of that require the same degree of skill and carry the same amount of risk as abortion, are performed in licensed facilities or hospitals, where they are required to meet certain quality standards and are subjected to peer review. The techniques that are used to perform abortions, specifically D&Cs or D&Es, are the same techniques that obstetrician/gynecologists use to empty the uterus when a woman's baby dies or when the woman has an incomplete miscarriage.

Reputable Ob/Gyns doing these procedures would thoroughly examine the patient prior to the procedure, use well-maintained equipment, work with properly trained staff, and have a protocol for managing unexpected complications. When these procedures are performed on women who have lost their pregnancies, they are virtually always done in outpatient surgical facilities or hospitals because there is risk associated with them. They are done in facilities which are regulated by the KDHE, which are subjected to inspections and are held to specific quality standards. Emptying the uterus of a pregnant woman, whether the fetus is alive or dead, is not a simple low risk procedure.

Abortions, for a number of reasons that don't have anything to do with the difficulty of the procedure or the risk associated with the procedure, are usually performed in physician offices or clinics. These abortions carry the same risk of injury or death as the surgical procedures which are being performed in outpatient surgery centers or hospitals, yet there is currently no mechanism to monitor or regulate what is happening in physician offices or clinics from a quality stand point.

Women believe that legal abortion equals safe abortion. They believe that the quality standards that apply to other surgical procedures also apply to abortion. In reality while we have made abortion legal, we have not made it any safer than it was when it was not legal. Legal abortion does not equal safe abortion.

Only adherence to sound quality medical standards and guidelines will reduce the risk inherent in the surgical procedures themselves that are used for abortion. Currently, abortion procedures remain free from the type of review, regulation, and accountability that is an integral part of the rest of the medical profession. Abortion services for the most part remain out of the medical mainstream and as such are not subjected to the same scrutiny as virtually all other surgical procedures. Unfortunately, this lack of accountability has allowed some providers to place women seeking abortions in very dangerous positions.

HB 2751 would establish regulation and accountability for clinics and offices where abortions are being performed. This bill outlines the minimal standards required to provide quality care to women and gives the KDHE the ability to enforce these standards. The standards set forth in this bill are the same standards set forth by Planned Parenthood, the National Abortion Federation, and the American College of Obstetricians and Gynecologists. Any reasonable physician providing quality care to women should be meeting these standards already.

These are not standards that are difficult to attain. They are basic quality requirements that can be accomplished by physicians providing abortions in their offices or clinics.

For example, the bill requires the clinic to have personnel trained in CPR. It requires the physician to have admitting privileges at a hospital and be able to admit a patient if a complication occurs. It requires the staff to check the patient's blood count prior to the surgical procedure. It mandates proper sterilization of equipment and proper medical supervision of patients in the post-operative recovery period. It requires a thorough and complete exam prior to the procedure. It requires follow-up of the patient after the procedure. It mandates proper maintenance, use and calibration of equipment. This bill will also give KDHE the power to enforce compliance with these standards.

HB 2751 is good legislation. It will allow those who provide abortion services to document to the people of Kansas that they are meeting the minimum standards promulgated by the abortion industry itself. This is the expectation of the women who are seeking abortion services. I believe that it is our obligation to assure these women that they are receiving care that at minimum meets these standards.

I strongly encourage you to support this legislation and welcome any questions you might have.



February 13, 2004

Abortion: safe but rare. This statement reflects wishful thinking on the part of policy-makers and abortion proponents. The facts are that women continue to die and suffer complications from abortions. Abortion is a surgical procedure that carries with it risks of perforation of the uterus, infection, hemorrhage and other complications, including death.

The opportunity lies before you to do something about half of the slogan...to make abortion safer. **HB 2751** requires the abortion industry to give credence to their motto by submitting to the same regulations as all other surgical care centers. In fact this legislation follows the abortion industry's own recommendations.

The legitimate function of government of protecting the health and safety of its citizens is being thwarted by a mentality that says *any regulation* of the abortion industry is tantamount to harassment; that abortion clinics are accurately self-reporting statistics about injuries and complications in the abortion procedures performed. The abortion industry made its case thirty-some years ago by claiming that "women were dying in back-alley abortions." Women are still dying, being rendered sterile and suffering complications from abortions **now**. Because of a deficiency of reporting requirements, abortion deaths and complications are often not reported as such. In addition to the industry's "immunity" from proper reporting, abortion complications are often under-reported because of lack of follow-up care; shame or anxiety on the part of the woman that someone will find out about her abortion. Millions of dollars flow through abortion clinics across this country; yet states are reluctant to regulate clinics because they are uniquely insulated by the abortion industry's claim to the so-called Constitutional "right to choose." Yet the Supreme Court has never put abortion clinics or providers outside of the State's "legitimate interests from the outset of the pregnancy in protecting the health of the woman and the life of the fetus that may become a child." [*Planned Parenthood v Casey*, 505 U.S. 833, 852 (1992) at 846] Another Court opinion, *Greenville Women's Clinic v. Bryant* illustrates that the Constitution does permit health and safety regulation of abortion clinics and services. [*Greenville Women's Clinic*, 222 F.3d 157 (4th Cir. 08/15/000), *cert. den'd Feb 26, 2001*] The regulations in question were to promote proper sanitation, housekeeping, maintenance, staff qualifications, emergency equipment and procedures to provide emergency care, medical records and reports, laboratory, procedure and recovery rooms, physical plant, quality assurance, infection control and information on and access to patient follow-up care necessary to keep women safer. To the ordinary person, these requirements seem like a no-brainer in light of the intense scrutiny given veterinarian clinics, beauty parlors, barbers and nail technicians.

As a women's organization, we ask you to protect those women who choose abortion by requiring that abortion clinics follow safe medical practices; accurate and complete reporting; and proper protocol for ensuring emergency care should a serious complication arise and that the regulation be under the scrutiny of an agency that can actually do something should infractions occur.

Judy Smith State Director,
Concerned Women for America of Kansas

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