

SESSION OF 2002

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2711**

As Amended by House Committee of the Whole

**Brief\***

HB 2711 would create the Health Care Providers' Rights of Conscience Act. The bill would provide that health care providers could decline to perform health care services that violate their religious or moral convictions. The bill also would prohibit discrimination against health care providers who decline to provide services based on these convictions. The bill contains provisions related to remedies for health care providers aggrieved by an alleged unlawful employment practice. The bill also would prohibit licensing agencies from imposing any disciplinary sanctions on licensees based upon the refusal to participate in the provision of a health care service subject to this act.

Health care services subject to the act include the following: abortion, artificial insemination, assisted reproduction, artificial birth control prescribed for a contraceptive purpose, human cloning, embryonic stem cell and fetal experimentation, infanticide, assisting suicide, euthanasia, and sterilization for contraceptive purposes.

The House Committee amended the bill to:

- ! Add Advanced Registered Nurse Practitioners to the definition of health care provider;
- ! Modify the listing of health care services subject to the act; and
- ! Add provisions concerning necessary and appropriate health care service in the case of an emergency when the patient's life is in jeopardy.

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org/cgi-bin/fulltext/bills.cgi>

The House Committee of the Whole amended the bill to:

- ! Add a definition of the term "euthanasia";
- ! Provide that a health care provider may give the employer written notice of the provider's objection to participating in the provision of such health care service, prior to such provider's employment or within 30 days after enactment of this act;
- ! Provide that nothing in the act will be construed to relieve any health care provider from civil or criminal liability or administrative action for the unlawful or negligent practice of a health care profession; and
- ! Provide that nothing in the act will be construed to excuse any health care provider from complying with any "do not resuscitate" order which is valid under Kansas law, or any declaration directing the withholding or withdrawal of life-sustaining procedures which is valid under Kansas law.

## **Background**

Proponents who testified in support of HB 2711 included the following individuals and organizations: Representative Tony Powell; Kansas Hospital Association; Kansas Catholic Conference; Kansas Medical Society; U.S. Conference of Catholic Bishops; Via Christi Health; a pharmacist; a registered nurse; a physician; and Americans United for Life.

Opponents who testified against HB 2711 included the following individuals and organizations: Kansas Pharmacists Association; Planned Parenthood of Kansas and Mid-Missouri; Kansas Choice Alliance; a Unitarian Universalist Pastor; Kansas Chamber of Commerce and Industry; two medical students; Kansas State Nurses Association; Kansas Trial Lawyers Association; Kansas Religious Leaders for Choice; Kansas Coalition Against Sexual and Domestic Violence; Kansas National Organization for Women; and the Kansas Section of the American College of Obstetricians and Gynecologists.

The fiscal note prepared by the Division of the Budget indicates that, according to the Boards of Healing Arts and Nursing, HB 2711

could create a negligible fiscal effect on the agencies by subjecting them to civil and administrative proceedings resulting in defense-related costs. The Boards have attorneys on staff to handle legal proceedings. HB 2711 specifies that claims brought against public agencies or licensing boards would be subject to the Kansas Tort Claims Act. Any damages would be paid from the Tort Claims Fund, which is financed with State General Fund dollars in the Attorney General's budget. Should the funds be insufficient, a mechanism is in place to provide an automatic transfer from the State General Fund to the Tort Claims Fund.