

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE.

The meeting was called to order by Chairperson Senator Susan Wagle at 1:30 p.m. on March 24, 2003 in Room 231-N of the Capitol.

All members were present except: Senator David Haley

Committee staff present: Mrs. Emalene Correll, Kansas Legislative Research Department  
Mr. Norm Furse, Revisor of Statutes  
Ms. Margaret Cianciarulo, Administrative Assistant

Conferees appearing before the committee: Mr. Peter Bownlie, President and CEO  
Planned Parenthood of KS and Mid-Missouri  
Ms. Julie Burkhart, Director, Pro Kan Do PAC for  
Dr. George R. Tiller, M.D., DABPF  
Medical Director and Abortion Provider  
Women's Health Care Services, Wichita, Kansas  
Ms. Michelle Amaro, Central Women's Services, Inc.  
Dr. Herb Hodes, Center from Women's Services, Inc.

Others attending: See attached guest list

**Hearing on HB 2176 - an act concerning abortion clinics; providing for regulations licensing and standards for the operation thereof; providing penalties for violations and authorizing injunction actions**

Upon calling the meeting to order, Chairperson Wagle announced there would be a hearing on the above bill for opponents and tomorrow they would hear from proponents, ask questions, and leave some time to work the bill. She then asked Mr. Norm Furse, Revisor of Statutes, to give an overview of the bill. Highlights of Mr. Furse's overview is as follows:

- 1) provides for the regulations, licensure, penalties, and standards, for the operation of abortion clinics;
- 2) Section one has a number of subsections and contains the substantive part of the bill.
- 3) Section two contains the effective date of the bill after it has been published in the statute book.
- 4) In regards to the subsection in Section one:

(a) is the definition section, ex. The operative administrator is the Secretary of Health and Environment (KDHE) and the key term, "abortion clinic" is defined as a facility, other than an accredited hospital in which five or more first trimester abortions in any month or any second or third trimester abortions are performed;

(b) through (h) sets out areas by which the Secretary of Health and Environment adopts rules and regs relating to various aspects that the clinics perform (for physical facilities) and set out in a list, the minimum these rules and regulation may be;

©) sets out standards relating to abortion clinic supplies and equipment and what the Secretary should set out as standards are enumerated in lines 7 through 31;

(d) commencing on line 32, page 2, requires the Secretary to set by rules and regs and standards relating to abortion clinic personnel (ex. requiring an abortion clinic designate a medical director and physicians performing the abortions are licensed and demonstrate competence);

## CONTINUATION SHEET

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE at on March 24, 2003 in Room 231-N of the Capitol.

Page 2

(e) page 3, beginning on line 25, relates to rules and regs relating to the medical screening and evaluation. The enumerations' following (A through D) would be the subject matter areas (ex. A medical history including reporting of allergies, appropriate lab tests, etc.);

(f) page 4, beginning on line 15, relates to abortion procedures and again directs the Secretary to adopt rules and regs relating to medical personnel available and standards for safe conduct of abortion procedures (ex. Local anesthesia, establishment of intravenous access, monitoring of vital signs, etc.);

(g) relates to minimum recovery room standards (ex. Immediate postprocedure care, arranging hospitalization if complications, etc.);

(h) commencing on page 5, line 15, this section relates to follow-up visits (ex. Minimum postabortion medical visits, and a urine pregnancy test is obtained);

(I) relates to rules and regs to adopt minimum abortion clinic reporting;

(j) this is a new subsection amended into the bill by the House Committee, requiring each clinic to: establish and maintain an internal risk management program and at a minimum, which will consist of investigation and analysis of reportable instances; measures to minimize the occurrence of reportable incidents, and a reporting system based upon the duty of health care providers staffing the clinic, agents, and employees to report reportable incidents to the chief of the medical staff or administrative officer or risk manager of the clinic. The second part of this subsection, defines a "reportable incident."

(k) is also a new subsection relating to the Secretary making or cause to be made, inspections and investigations of clinics as the Secretary deems necessary to protect public health;

(l) (a new subsection) found on lines 23 through 29, relates to information received by the Secretary through filed reports, inspections, etc. and will not be disclosed publicly as to identify individuals and all patient medical or other identifying information will be treated as confidential;

(m) (new) requires each clinic to annually to obtain a license from KDHE and the Secretary to adopt rules and regs for this issuance, requiring compliance, at a minimum, with the standards adopted pursuant to this act and setting fees;

(n) is a clarifying statement that nothing in the act or rules and regs adopted by the Secretary is to limit the ability of a physician or health care professional to advise a patient on any health issue;

(o) the provision of the act and rules & regs adopted or in addition to any other laws and regulations adopted pursuantly, will be in addition to any other laws or rules and regs applicable to these types of clinics under this section;

(p) is the penalty subsection; and

(q) deals with seek and order by the Secretary.

And finally, Section two relates to the statute and publication.

The Chair then asked the Committee if there were questions for Mr. Furse. Questions from Senators Barnett, Harrington, Haley, Steineger, and Brungardt ranged from what does "available" mean (page 2 line 42), physical presence of abortion clinic personnel (page 4, line 31), is the HIPPA compliance

## CONTINUATION SHEET

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE at on March 24, 2003 in Room 231-N of the Capitol.

Page 3

achieved found on page 6, sec.(l), what is a class B misdemeanor (minimum, maximum, discretions left to the judge), are there any previous annual licensing provisions, annual licenses inspected by KDHE (for ambulatory surgical centers or special hospitals, recuperative centers, etc.), are physician or medical director's licenses posted, are home addresses or where the doctor's practice listed, reference to medical screening and evaluations (physical or psychological), screening for allergies or medical solutions (Page 3, line 13), to license statutes and specific guidelines.

As there were no more questions for Mr. Furse, the Chair recognized Mr. Peter Brownlee, the first opponent conferee called to testify. Mr. Brownlee, President/CEO of Planned Parenthood of Kansas and Mid-Missouri, gave a brief history of Planned Parenthood and stated that a criminal statute regulating the practice of medicine is vastly different from medical standards and guidelines in three ways:

- 1) Medical standards are established by medical experts.
- 2) Medical standards are revised constantly because medical practice and technology change constantly.
- 3) Medical standards advise practicing physicians on the latest advancements in medicine and advise them on standards of practice.

A copy of his testimony, a fact sheet, and guidelines adopted by the Board of Healing Arts in October of last year, are ([Attachment 1](#)) attached hereto and incorporated into the Minutes as referenced.

The second opponent was Ms. Julie Burkhart, Director, Pro Kan Do PAC, read testimony for Dr. George R. Tiller, M.D. DABFP, Medical Director and Abortion Provider, Women's Health Care Services. In Dr. Tiller's testimony, he stated that he felt the sole purpose of the bill is to further limit the number of abortion providers by punitively and unnecessarily increasing the cost, regulation and restriction of this integral component of reproductive medicine and that the Health Care Stabilization fund reports that in the past five years, there has been two abortion related settlements and the total of all malpractice settlements made to patients for abortion related problems in the past five years in Kansas are \$300,000. A copy of his testimony is ([Attachment 2](#)) attached hereto and incorporated into the Minutes as referenced.

The third opponent was Ms. Michelle Amaro, co-owner of Central Women's Services, Inc., who gave an overview of her clinic and stated that in 20 years of operation, they have never experienced a death resulting from complications from an abortion procedure. A copy of her testimony is ([Attachment 3](#)) attached hereto and incorporated into the Minutes as referenced.

The third opponent to testify was Dr. Herb Hodes, Center for Women's Services, Inc., offering 8 articles relating to abortion (ex. ACOG News Releases, surveillance, complications, guidelines, aftereffects of abortion, etc.) A copy of his testimony and the articles are ([Attachment 4](#)) attached hereto and incorporated into the Minutes as referenced.

### **Adjournment**

As it was after 2:30 p.m., Senate session time, Chairperson Wagle announced they would meet tomorrow at 12:45 p.m. to allow time for the remaining testimony of opponents and to hear proponent testimony.

Senator Harrington then shared an instance with Dr. Hodes during a prior year Public Health and Welfare Committee meeting.

The meeting was adjourned at 2:35 p.m. The next meeting is scheduled for March 25, 2003.

CONTINUATION SHEET

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE at on March 24, 2003 in Room 231-N of the Capitol.

Page 4