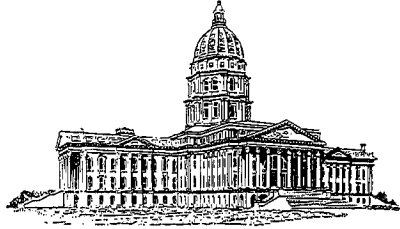


STATE OF KANSAS  
HOUSE OF REPRESENTATIVES

STATE CAPITOL, ROOM 167-W  
TOPEKA, KANSAS 66612  
(785) 296-7631  
pat.colloton@house.ks.gov

COMMITTEE ASSIGNMENTS  
CORRECTIONS AND JUVENILE JUSTICE, CHAIR  
EDUCATION  
JUDICIARY  
JOINT COMMITTEE ON CORRECTIONS AND  
JUVENILE JUSTICE OVERSIGHT, CHAIR



2513 W. 118TH STREET  
LEAWOOD, KANSAS 66211  
(913) 339-9246  
pat@patcolloton.com

**PAT COLLOTON**  
28TH DISTRICT

March 7, 2011

Senate Judiciary Committee  
State Capitol  
Topeka, Kansas 66612

Chairman Owens and Judiciary Committee Members:

Under the Kansas tort claims act the voluntary work of physicians and other health care workers receive immunity when working in a clinic that serves the indigent. The Jay Doc facility near KU Hospice serves indigent patients in that area and is staffed by various volunteers from KU Hospital as well as KU medical students. Ultrasound exams are performed at the Jay Doc facility and ultrasound technologies are used to help perform ultrasound examinations. Ultrasound technologies were not yet included in the specific list of health care workers covered under the tort claim act and HB 2029 amends the list to add them.

In order to provide full coverage for the health care workers at the Jay Doc facility I urge adoption of HB 2029.

Respectfully submitted

A handwritten signature in cursive script that reads "Pat Colloton". The signature is written in black ink and is positioned above the typed name.

State Rep. Pat Colloton

Senate Judiciary

3-8-11

Attachment 11

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Written testimony from  
Barbara F. Atkinson, MD  
Executive Vice Chancellor, University of Kansas Medical Center  
Executive Dean, University of Kansas School of Medicine  
before the  
House Judiciary Committee  
January 27<sup>th</sup>, 2011

Dear Committee Members:

This letter is in support of HB 2029, which would amend the definition of Charitable Health Care Providers under the Kansas Tort Claims Act (K.S.A. 75-6102(e)) to include ultrasound technologists. The Charitable Health Care Provider program allows health care providers who provide volunteer health care services to the medically indigent to be included for liability purposes under the Kansas Tort Claims Act. Currently, ultrasound technologists are not included.

Our students at the University of Kansas Medical Center operate two charitable care clinics in Kansas City and one in Wichita that would benefit from passage of HB 2029 and expanded tort protections for ultrasound technologists.

JayDoc Free Clinic, which operates in Kansas City, is a student-run safety net clinic that provides preventive and non-urgent medical care, including prenatal care, to the uninsured of the Kansas City metropolitan area at no cost to the patients. JayDoc Free Clinic operates general clinics two nights a week, staffed by more than two dozen volunteers, including physicians, medical students, allied health students, interpreters and community volunteers. Like other safety net clinics, JayDoc patients may be referred to other area medical providers or JayDoc-operated specialty clinics for continued care.

Unlike other safety clinics, however, JayDoc is unique in that it is entirely governed by a board of KU medical students. Students also provide patient care, under the supervision of volunteer faculty physicians. Last spring, JayDoc began offering limited, monthly radiology services to qualified patients and hope to expand this capability by offering on-site ultrasound diagnostic imaging as needed to improve their acute care services.

Also unlike other clinics, JayDoc does not screen patients for ability to pay. All care provided by the clinic is free to every patient. JayDoc, which is funded entirely by donations and local grants, is the only completely free clinic in the Kansas City area.

Each year, more than 2,000 people (mostly residents of Wyandotte County) depend on the medical care they receive from JayDoc volunteer physicians and students, while our students receive valuable hands-on training in their medical disciplines.

KU medical students in Wichita operate a similar clinic, the JayDoc Community Clinic, which offers free care every Saturday to more than 500 patients each year. KU Health Partners also provides care to the uninsured and underinsured through Silver City Health Center in Kansas City. We believe that extending protections to ultrasound technologists providing charitable care through HB 2029 could help our clinics and students better meet the needs of more patients.

The Kansas tort claims act helped to ensure that many health care providers could continue to provide charitable care, and we believe that expanding the same protections to ultrasound technologists will ensure that more Kansans have access to high-quality health care. We urge you to pass HB 2029 favorably and without amendment.

Sincerely,



Barbara F. Atkinson, MD  
Executive Vice Chancellor, KUMC  
Executive Dean, KU School of Medicine

# The University of Kansas Medical Center

Judson R. Bertsch, M.D.  
 Kevin D. Brown, M.D.  
 Zachary S. Collins, M.D.  
 Larry T. Cook, Ph.D.  
 Glendon G. Cox, M.D., M.B.A., M.H.S.A.  
 Kendrick C. Davidson, M.D., F.A.C.R.  
 Reginald W. Dusing, M.D.  
 Crosby L. Gernon, M.D.  
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 Marc F. Inciardi, M.D.  
 Philip L. Johnson, M.D.

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Stanton J. Rosenthal, M.D., F.A.C.R.  
 Professor and Chairman

Steven M. Lemons, M.D.  
 Norman L. Martin, M.D., F.A.C.R.  
 Lucas J. Meek, M.D.  
 Kirk A. Miller, D.O.  
 Douglas L. Nelson, M.D.  
 Mark L. Redick, M.D.  
 Alan R. Reeves, M.D.  
 Pauline R. Sieder, M.D.  
 William P. Smith, M.D.  
 Louis H. Wetzel, M.D.  
 Wendell Y. Yap, M.D.

March 5, 2011

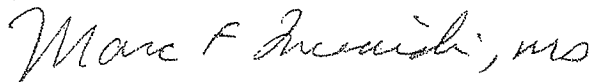
Senate Judiciary Committee, Chairman Owens  
 State Capitol  
 Topeka, KS 66612

Chairman Owens and Committee Members:

I am radiologist and work at the KU Hospital in Kansas City, Kansas. As radiologists we provide staff coverage for ultrasound examinations performed at the Jay Doc facility. The Jay Doc facility provides care for indigent patients and is operated by KU medical students under the supervision and guidance of physicians such as myself. Our work is uncompensated and voluntary.

Physicians and many allied health care workers receive immunity from any claims arising from this volunteer work but the ultrasound technologists are not currently included. I am asking that the law be changed to include this important group of health care workers who perform ultrasound examinations on patients at the Jay Doc facility. HB 2029 amends the law to provide this protection for ultrasound technologists and I respectfully request the legislature to make this change in the law. I urge your favorable consideration of HB 2029.

Respectfully,



Marc F. Inciardi, M.D.  
 Breast Imaging Section  
 Department of Radiology

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March 5, 2011

Senate Judiciary Committee, Chairman Owens  
State Capitol  
Topeka, KS 66612

Chairman Owens and Committee Members:

My name is Ashley Inciardi, and I am currently a third year medical at the University of Kansas School of Medicine, studying at the University of Kansas Hospital in Kansas City, KS.

As background, the Jay Doc clinic was established in 2003 to serve the indigent population of the Kansas City metro area. It is located at 300 Southwest Blvd in KC, KS. All services are provided at no cost to the patient. Jay Doc is a member of the Kansas City Safety Net Coalition and is the only completely free clinic in the coalition. General clinic is held twice a week and patients are often referred for specialty nights such as Women's Health, Diabetes, Ophthalmology and Physical Therapy. It is the only entirely student operated facility of its kind in the United States. Medical students at all levels volunteer their time to help the patients while at the same time learning to become better doctors. Finally, all patient's assessments and treatment plans are reviewed and approved by board certified staff physicians donating their time as well. Jay Doc also has student volunteers in Social Services that equip patients with referrals to other Safety Net clinics so that they can find a medical home for ongoing health care. It truly is a great benefit for this population with limited access to medical care as the clinic serves over 2000 patients per year.

While a second year student, I thought about expanding the scope of the services of the Jay Doc clinic. We established a "Radiology" night whereby patients who were seen and often referred for ultrasound examinations could come back another night for an ultrasound performed at the Jay Doc clinic. One of the issues that immediately arose was medical liability coverage for the ultrasound technologists who volunteer their time scanning patients. While staff physicians, residents, medical students, radiology technologists, and other allied personnel who volunteer their time at the Jay Doc clinic receive immunity from malpractice claims, ultrasound technologists do not.

I am asking that the law be changed to include this important group of health care workers who perform ultrasound examinations on patients at the Jay Doc facility. HB 2029 amends the law to provide this protection for ultrasound technologists and I respectfully request the legislature to make this change in the law.

I urge your favorable consideration of HB 2029.

Respectfully,



Ashley Inciardi

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**Office of Revisor of Statutes**  
300 S.W. 10th Avenue  
Suite 24-E, Statehouse  
Topeka, Kansas 66612-1592  
Telephone (785) 296-2321 FAX (785) 296-6668

MEMORANDUM

To: Chairman Owens and members of the Senate Judiciary Committee  
From: Jill Wolters, Senior Assistant Revisor  
Date: March 7, 2011  
Subject: HB 2029, ultrasound technologists included as charitable health care providers under the Kansas Tort Claims Act

House Bill No. 2029 would allow ultrasound technologists working under the supervision of a licensed physician to be included as charitable health care providers under the Kansas Tort Claims Act. If such technologist had entered into an agreement with the secretary of health and environment or an indigent health care clinic and pursuant to such agreement, gratuitously renders professional services to a medically indigent person, such technologist is covered by the Tort Claims Act.

**Office of Revisor of Statutes**  
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Suite 24-E, Statehouse  
Topeka, Kansas 66612-1592  
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MEMORANDUM

To: Interested Persons  
From: Jill Wolters, Senior Assistant Revisor  
Date: January 21, 2011  
Subject: The Tort Claims Act, 75-6102 et seq. concerning charitable health care providers

Under the Kansas Tort Claims Act, a government entity can be held liable for damages caused by employee's acts or omissions. K.S.A. 75-6103 states that each governmental entity shall be liable for damages caused by the negligent or wrongful act or omission of any of its employees while acting within the scope of their employment. K.S.A. 75-6102 defines "government entity" and "employee."

The definition of employee found in K.S.A. 75-6102, includes charitable health care providers. If a charitable health care provider enters into an agreement with the secretary of health and environment or an indigent health care clinic and pursuant to such agreement, gratuitously renders professional services to a medically indigent person, such charitable health care provider is covered by the Tort Claims Act. This means that the State of Kansas can be held liable for damages caused by the charitable health care providers's negligent or wrongful act or omission, if that charitable health care provider was acting within the scope of his or her employment. The State of Kansas will provide a defense and indemnification for any claims arising out of such professional services.

K.S.A. 75-6105 limits the liability to \$500,000 for any number of claims arising out of a single occurrence or accident. Further, the governmental entity is not liable for punitive or exemplary damages or for interest prior to judgment.

The Tort Claims Act covers the following medical professionals:

K.S.A. 75-6102 (e) "Charitable health care provider" means

1. person licensed by the state board of healing arts as an exempt licensee or a federally active licensee
2. person issued a limited permit by the state board of healing arts
3. physician assistant licensed by the state board of healing arts
4. mental health practitioner licensed by the behavioral sciences regulatory board and
5. health care provider as the term "health care provider" is defined under K.S.A. 65-4921 (See below)

K.S.A. 65-4921 (c) "Health care provider" means:

1. Those persons and entities defined as a health care provider under K.S.A. 40-3401 (See below)
2. a dentist licensed by the Kansas dental board
3. dental hygienist licensed by the Kansas dental board
4. professional nurse licensed by the board of nursing
5. practical nurse licensed by the board of nursing
6. mental health technician licensed by the board of nursing
7. physical therapist licensed by the state board of healing arts
8. physical therapist assistant certified by the state board of healing arts
9. occupational therapist licensed by the state board of healing arts
10. occupational therapy assistant licensed by the state board of healing arts
11. respiratory therapist licensed by the state board of healing arts

K.S.A. 2010 Supp. 40-3401(f). "Health care provider" means a

1. person licensed to practice any branch of the healing arts by the state board of healing arts (See below) with the exception of physician assistants (However, p.a.'s are covered under the 75-6102 (e) definition)
2. person who holds a temporary permit to practice any branch of the healing arts issued by the state board of healing arts
3. person engaged in a postgraduate training program approved by the state board of healing arts
4. medical care facility licensed by the department of health and environment
5. health maintenance organization issued a certificate of authority by the commissioner of insurance
6. podiatrist licensed by the state board of healing arts
7. optometrist licensed by the board of examiners in optometry
8. pharmacist licensed by the state board of pharmacy
9. licensed professional nurse who is authorized to practice as a registered nurse anesthetist
10. licensed professional nurse who has been granted a temporary authorization to practice nurse anesthesia under K.S.A. 65-1153
11. professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by such law to form such a corporation and who are health care providers as defined by this subsection
12. Kansas limited liability company organized for the purpose of rendering professional services by its members who are health care providers as defined by this subsection and who are legally authorized to render the professional services for which the limited liability company is organized
13. partnership of persons who are health care providers under this subsection, a Kansas not-for-

profit corporation organized for the purpose of rendering professional services by persons who are health care providers as defined by this subsection

14. nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine

15. dentist certified by the state board of healing arts to administer anesthetics under K.S.A. 65-2899

16. psychiatric hospital licensed under K.S.A. 75-3307b

17. mental health center or mental health clinic licensed by the secretary of social and rehabilitation services

EXCEPTIONS: health care provider does not include (1) any state institution for the mentally retarded, (2) any state psychiatric hospital, (3) any person holding an exempt license issued by the state board of healing arts [However, exempt licensees are covered under the 75-6102 (e) definition] or (4) any person holding a visiting clinical professor license from the state board of healing arts.

K.S.A. 65-4921

"Health care provider" means:

1. Those persons and entities defined as a health care provider under K.S.A. 40-3401 (see above)
2. a dentist licensed by the Kansas dental board
3. dental hygienist licensed by the Kansas dental board
4. professional nurse licensed by the board of nursing
5. practical nurse licensed by the board of nursing
6. mental health technician licensed by the board of nursing
7. physical therapist licensed by the state board of healing arts
8. physical therapist assistant certified by the state board of healing arts
9. occupational therapist licensed by the state board of healing arts
10. occupational therapy assistant licensed by the state board of healing arts
11. respiratory therapist licensed by the state board of healing arts

Persons licensed to practice any branch of the healing arts by the state board of healing arts

1. Medical Doctors (MD)
2. Osteopathic Doctors (DO)
3. Chiropractic Doctors (DC)
4. Podiatric Doctors (DPM)
5. Physician Assistants (PA)
6. Physical Therapists (PT)
7. Physical Therapist Assistants (PTA)
8. Occupational Therapists (OT)
9. Occupational Therapy Assistants (OTA)
10. Respiratory Therapists (RT)
11. Athletic Trainers (AT)
12. Naturopathic Doctors (ND)
13. Contact Lens Distributors
14. Radiologic Technologists (LRT)