

# House Committee on Federal and State Affairs

February 20, 2013

Testimony of Robert V. Eye Opposing HB 2253 on behalf of Trust Women Foundation, Inc. and South Wind Women's Center L.L.C.

Mr. Chairman and Members of the Committee:

My name is Robert Eye. I am a lawyer with the firm of Kauffman & Eye in Topeka, Kansas. Our firm represents Trust Women Foundation, Inc. and South Wind Women's Center, L.L.C. These two organizations are dedicated to respecting and protecting women's rights to reproductive freedom and meaningful access to quality healthcare including safe and legal abortions.

We oppose HB 2253 because it:

- Is a clear retreat from constitutional protections related to reproductive rights,
- Creates a threat to women's health and safety,
- Is a significant attempt by government to dictate terms of women's medical care; and,
- Is a significant attempt to make Kansas families' private medical decisions a matter of government record through their tax returns.

HB 2253 Defines "Medical Emergency" So Narrowly that it Creates a Significant Threat to Women's Health and Safety. The bill would:

- Increase medical risk by delaying needed medical services;
- Define "medical emergency" to include only such limited and severe circumstances that would prevent the performance of abortions in situations when prompt pregnancy termination is needed to protect a woman's health.
- Jeopardize the health of Kansas women.
- Excludes mental health considerations from the abortion calculus.
- Fail to meet tests of both the U.S. and Kansas Constitutions.

HB 2253 Infringes on First Amendment Rights. The bill would:

- Preclude entities that provide abortion services from participating in human sexuality education in the schools.
- Create a first amendment circumstance that has been rejected by numerous courts as an unconstitutional condition on freedom of speech and association.

HB 2253 Requires Doctors To Provide False Information To Patients. The bill would:

- Require a physician to tell a patient that there is a risk of breast cancer related to abortions. The claim that abortion is linked to breast cancer has been definitively

rejected by health experts from the American Cancer Society, the National Cancer Institute and the American Congress of Obstetricians and Gynecologists.

- Violate physicians' ethical duty to provide patients with medically accurate information when obtaining informed consent.
- Violate the constitutional mandate that abortion counseling requirements be truthful, not misleading, and relevant to the abortion decision.

HB 2253 Creates A Disparate Class of Taxpayers and Threatens The Privacy of Patients.  
The bill would:

- Use the tax code to discourage access to abortion services - a policy contrary to tax fairness that injects confusion and needless complexity into the already heavily regulated area of abortion services.
- Require the Kansas Secretary of Revenue to collect the names and tax returns of every Kansas taxpayer who had an abortion related cost in the previous tax year. Is the Department of Revenue prepared to take on private health records; prepared to protect citizens' privacy and meet HIPAA<sup>i</sup> requirements?

**In conclusion, HB 2253 does nothing to actually protect the health of anyone in Kansas.** However, its passage could have the effect of jeopardizing women's health by defining "medical emergency" so narrowly that only the most extreme conditions would qualify.

This bill needlessly attempts to stigmatize anyone associated with providing abortion care by denying them volunteer activities with public schools. This not only denies the public schools opportunity for community involvement, but also unconstitutionally limits speech and association.

HB 2253 effectively makes the legislature the source of medical information – supplanting that received by a patient from her board-certified medically trained physician. The bill promotes a fiction that a scientific relationship exists between abortion and medical conditions, such as breast cancer - when those with actual scientific credentials say otherwise.

Finally, HB 2253 adds more bureaucratic complexity to the tax code and sacrifices medical privacy in the process. Whether a woman has an abortion is not the business of the Kansas Secretary of Revenue.

Thank you. I would be happy to stand for questions.

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<sup>i</sup> HIPAA: Health Insurance Portability and Accountability Act.