



TESTIMONY OF
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IN OPPOSITION TO SB 98
KANSAS SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS
FEBRUARY 7, 2017

- WRITTEN TESTIMONY ONLY -

Thank you, Chairman LaTurner, and members of the Federal and State Affairs Committee for affording us the opportunity to provide testimony on SB 98.

The American Civil Liberties Union (ACLU) of Kansas is a non-partisan, non-political membership organization dedicated to preserving and strengthening the constitutional liberties afforded to every resident of Kansas. We work to preserve and strengthen our constitutional rights and freedoms through policy advocacy, litigation, and education. We proudly serve over 10,000 supporters in Kansas and represent more than 1 million supporters nationwide.

The ACLU of Kansas opposes SB 98. SB 98 unnecessarily and senselessly intervenes in the provision of medical care, substituting the judgement of elected officials for medical professionals. The clear intent of the bill's provisions is to harass medical professionals and women; none of its provisions even marginally advance or ensure the health or safety of women seeking medical care. The ACLU of Kansas opposes SB 98 because:

- **The bill attempts to politically micromanage the practice of medicine to an absurd—and unprecedented—degree.** For example, the bill institutes requirements on the typeface, type size, and type color of forms distributed by doctors. The state does not micromanage any other health care provider to such a degree. This sort of regulatory and bureaucratic overreach is breathtaking, not just because of the extent to which it delves into minutiae but because it lacks any relation whatsoever to the health and safety of a woman who receives the form.
- **These regulations do precisely nothing to ensure or advance a woman's health and safety, and as such raises constitutional issues.** In the 2016 case *Whole Women's Health v. Hellerstedt*, the United States Supreme Court ruled in a 5-3 decision that states cannot place burdens on women's healthcare providers that are medically unnecessary or do not meaningfully protect a woman's health and safety. The new requirements set out in SB 98 have zero relationship with the health and safety of women, or the healthcare that a woman would receive from a provider. They do nothing to protect the health and safety of *anyone*. As such, the new burdens on doctors spelled out in SB 98 clearly fail the test set out by the Court and raise grave constitutional issues.

- **The regulations are designed primarily to harass and intimidate doctors and women.** Rather than doing anything to improve or protect the health and safety of women, the bureaucratic burdens established by SB 98 are instead designed to harass and intimidate doctors and women, impinge on the doctor-patient relationship, and substitute the judgement of politicians for medical professionals. Regulation of the practice of medicine is certainly appropriate, but only when it is actually related to protecting the health and safety of patients. Coupled with Kansas's many other unnecessary restrictions on vital healthcare for women, the net effect of the bill is simply to create a hostile, toxic environment for women and women's healthcare providers. That limits access to women's healthcare, including abortion, in a way that not only raises serious constitutional concerns but is also harmful to women's health.
- **Harassment and intimidation of doctors hurts all Kansans.** It is not just women seeking healthcare from medical professionals who are harmed by SB 98. Adding unnecessary burdens to the practice of medicine—ones unconnected to any genuine health and safety interest—contributes to a hostile climate for the medical profession as a whole. Doctors will be less likely to want to practice medicine in Kansas, which is harmful to everyone.
- **Women's healthcare providers in Kansas already do a good job of protecting the health and safety of patients.** Complications associated with women's healthcare, including abortion, are exceedingly rare. Nationally, less than 0.3% of women experience a complication from an abortion procedure that requires hospitalization. Kansas providers have an exceptional record in this regard. In addition, Kansas already posts the disciplinary records of healing arts professionals online, making this bill both cruel and unnecessary.

We strongly urge the committee to reject SB 98.