

**Testimony of Rachel Sweet  
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House Federal & State Affairs Committee and Senate Judiciary Committee  
Opposing HCR 5019 and SCR 1613  
January 21, 2020**

Planned Parenthood Great Plains Votes, the advocacy and political arm of Planned Parenthood in Kansas, opposes both HCR 5019 and SCR 1613, as these bills attempt to amend the state constitution to take away women’s reproductive rights.

In its 6-1 decision in *Hodes & Nauser, MDs, P.A. v. Schmidt*, the Kansas Supreme Court has found that “Section 1 of the Kansas Constitution Bill of Rights affords protection of the right of personal autonomy, which includes the ability to control one’s own body, to assert bodily integrity, and to exercise self-determination. This right allows a woman to make her own decisions regarding her body, health, family formation, and family life—decisions that can include whether to continue a pregnancy<sup>1</sup>.” We believe that this right should be preserved and that the fundamental right to personal autonomy is too critical to be stripped from our state constitution.

**Kansans deserve the right to make their own personal, private medical decisions without government interference. A constitutional amendment would allow increased government overreach into our private lives.**

- Decisions about whether to end a pregnancy are deeply personal, and should be left to a woman in consultation with her health care provider, her family, and her faith—not politicians in Topeka.
- Throughout their pregnancy, a woman must be able to make her own decisions with the advice of the health care professional she trusts. This amendment could ultimately prevent many Kansans from making those important, personal decisions in consultation with their doctors.

**A constitutional amendment on abortion takes away women’s constitutional rights.**

- Women deserve equal protection under the Kansas Constitution.
- The Kansas Supreme Court conducted a comprehensive analysis of the history of the state constitution and the inclusion of natural rights. In painstaking detail, the court explained how the text includes the right to personal autonomy and how this right encompasses decisions about pregnancy. To extract one piece of this right to personal autonomy makes clear the motives behind those proposing this amendment—to discriminate against women and deprive them of their rights.

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<sup>1</sup> *Hodes & Nauser, MDs, P.A. v. Schmidt* Case No. 114,153, (Kan. April 26, 2019), *slip op.* at 3

- The highest court in Kansas has interpreted the state constitution to protect a fundamental right of those who are pregnant. There is no justification for putting this right for women up for a vote.

**Abortion is a safe, common medical procedure and should be regulated as such. No constitutional change is necessary to regulate the practice of abortion.**

- Regardless of whether the Kansas Constitution has been found to protect abortion as an individual right, abortion can be regulated as a medical procedure, and health care providers who provide abortion can be regulated just like other licensed health care providers in the state. In other states where this right has been found in the state constitution, health care providers and facilities that provide abortion have continued to be regulated just like other health care providers and institutions.
- In its decision, the Kansas Supreme Court made clear that while the right to personal autonomy is fundamental, it is not absolute, and that the state will be able to regulate abortion using a strict scrutiny standard. “Accordingly, the State is prohibited from restricting this right unless it is doing so to further a compelling government interest and in a way that is narrowly tailored to that interest<sup>2</sup>.”
- States have a compelling interest in ensuring that the practice of medicine in the state is safe and legal. Kansas can continue to ensure that the practice of medicine is well regulated to protect the safety of patients across the state, including the provision of abortion.
- Abortion is one of the safest procedures in the United States, with complication rates that are exceedingly low, and mortality rates that are lower than those for colonoscopies, plastic surgery, dental procedures, and adult tonsillectomies<sup>3</sup>—and much lower than that for childbirth. There is no medical reason for regulating health care practitioners who provide abortion differently from those that provide other services that are similar in risk and complexity.

**This is the next step in a pattern of medically unnecessary restrictions that push abortion care out of reach for our most vulnerable citizens—with the ultimate goal of banning abortion outright.**

- Kansas legislators have nearly two dozen medically unnecessary restrictions on abortion since 2011, creating a web of laws that push safe and affordable care out of reach, especially for poor women, young people, people of color, and Kansans who live in rural communities.
- Just last year, the legislature attempted to pass SB 67, which would have mandated that physicians inform their patients of an experimental protocol called medication abortion “reversal.” A recent clinical study of this protocol had to be stopped due to dangerous patient outcomes<sup>4</sup>.
- Women and their doctors, not politicians, know what’s best for women's health. We don’t need more dangerous political interference in our medical decisions.

**This constitutional amendment would hamstring the courts from ever protecting abortion access in Kansas if *Roe v. Wade* falls.**

- We have seen a rash of extreme abortion bans sweeping the country, all with one goal in mind—to bring a direct challenge to *Roe v. Wade* to the U.S. Supreme Court and make abortion inaccessible in this country. This is why it is more important than ever for Kansas to ensure that its citizens are protected from extreme politicians who want to ban all abortion.
- If *Roe* is overturned, an anti-abortion constitutional amendment like this one would bar Kansas courts from protecting the right to abortion for decades to come. With a U.S. Supreme Court that has turned

<sup>2</sup> *Hodes & Nauser, MDs, P.A. v. Schmidt* Case No. 114,153, (Kan. April 26, 2019), *slip op.* at 7

<sup>3</sup> Nat’l Acad. of Scis. Eng’g & Med., *The Safety and Quality of Abortion Care in the United States* 74–75 (2018), <https://doi.org/10.17226/24950>.

<sup>4</sup> Gordon, M. Safety Problems Lead To Early End For Study Of 'Abortion Pill Reversal'. (December 2019), <https://www.npr.org/sections/health-shots/2019/12/05/785262221/safety-problems-lead-to-early-end-for-study-of-abortion-pill-reversal>

against abortion rights, it is quite possible that we could lose federal protections for reproductive rights in the near future.

- We should value the rights provided by our constitution instead of changing it with a vaguely worded amendment that strips away our rights. We must fight to ensure our freedoms are protected, now and into the future.

The Kansas Supreme Court reached a thoughtful and well-reasoned conclusion in the *Hodes & Nauser* case that protects every Kansan's right to personal autonomy. It is vital that Kansas legislators realize that they will not be on the right side of history should they allow a vote that could strip rights from Kansas women. Particularly in light of the threats at the federal level, Kansas must not go backwards. We must retain our full state constitutional right to personal autonomy and ensure that people in our state can make their own personal medical decisions without government interference.

Nearly one in four women will have an abortion in her lifetime, and every woman's decision about her pregnancy—whether to have an abortion, choose adoption, or parent—should be respected and valued, as well as legally protected. We strongly encourage you to reject HCR 5019 and SCR 1613.