

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Steven Brunk at 1:30 p.m. on March 10, 2011, in Room 346-S of the Capitol.

All members were present except:

Representative Fund – excused
Representative Peterson - excused

Committee staff present:

Mike Heim, Office of the Revisor of Statutes
Doug Taylor, Office of the Revisor of Statutes
Julian Efird, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Stephen Bainum, Committee Assistant

Conferees appearing before the Committee:

Michael Schuttloffel, Executive Director, Kansas Catholic Conference
Virginia Phillips, Trust Women
Sarah Gillooly, Kansas Public Affairs Manager, Planned Parenthood of Kansas & Mid-Missouri

Others attending:

See attached list.

The Chairman called for bill introductions. Mike Murray, Kansas Food Dealers Association and Retail Grocers Association of Greater Kansas City introduced a bill to allow the sale of full strength beer, wine and spirits in grocery and convenience stores. It was received without exception. The Chairman introduced three bills; one concerning religious liberties, the second was an education bill and the third was the K-State Student Veterinary bill, All three were received without exception.

The Chairman opened the hearing on **HB 2337 Licensing of abortion clinics by department of health and environment.**

Michael Schuttloffel, Kansas Catholic Conference, presented testimony as a proponent of **HB 2337 (Attachment 1)**. He said that abortion is the killing of a human being—an innocent, defenseless human being. We support this bill because we believe that this is a necessary step if sanity is ever to be restored to our nation. He said that veterinary clinics in Kansas are more strictly regulated than abortion clinics. It is impossible to imagine any other medical procedure where “woman’s rights” groups would fight tooth and nail against the right of a woman to have information about a medical procedure. There is little hope that society's treatment of unborn human life will be brought into conformity with the natural law if the practice of abortion cannot even be made to conform to the standards of positive law.

Representative Loganbill asked Kathy if she had said that there were five maternal deaths. Kathy said that maternal death could be from anything, not just abortion. Kathy clarified that Dr. Hodes said there were five women who had died. So they were maternal because they were pregnant. She was just going by what he said.

Virginia Phillips, Trust Women, presented testimony as an opponent of **HB 2337 (Attachment 2)**. She said that the purpose of this bill was to further limit the number of abortion providers. She said that payouts between 2000-2004 for medical malpractice, specifically for abortion, was 1.35 percent.

Representative Rubin asked if she was aware of the former abortion clinic of Dr. Krishna Rajanna? She said that she had heard of it. Considering what the police found there, do you not think that Kansas has a legitimate health or welfare interest in regulating an establishment like that? Virginia said that there were already regulations for abortion providers. Representative Loganbill asked if Dr. Rajanna was practicing anymore? Virginia said not to her knowledge. Representative Brunk asked how long this doctor was in business before he was exposed? Virginia did not know but would get back to him with it. Representative Knox asked how the inspection of three clinics twice a year could cost over a million dollars. Representative Boman said it seems that the solution to the problem is comprehensive sex

CONTINUATION SHEET

The minutes of the House Federal and State Affairs Committee at 1:30 p.m. on March 10, 2011, in Room 346-S of the Capitol.

education. Would you explain what that means? Virginia said it would start with increased access to affordable contraception and age appropriate comprehensive sex education to reduce the number of unintended pregnancies. Representative Boman asked if sex education had been taught in schools for longer than you have been born? Virginia said it had not been treated uniformly. Representative Brunk pointed out that we are not dealing with a 1.35 percent death rate, but rather with a 100 percent death rate of the unborn child.

Sarah Gillooly, Planned Parenthood of Kansas and Mid-Missouri, presented testimony as an opponent of **HB 2337** (Attachment 3). She said that the Woman's Right to Know Act of 2009 carried a fiscal note of \$100,000 which was never funded. She said that this was not the time to pass unfunded mandates or expensive licensure requirements.

Representative Rubin asked how much does Planned Parenthood charge for an abortion? Sarah said the fee ranges from \$300 to well over \$1000. It depends on whether the woman is choosing medication or surgical abortion. There are a variety of other factors that affect the costs. Representative Rubin asked how much Planned Parenthood charged for a family counseling session and provision of contraceptives? Sarah said that they could not prescribe contraceptives without a physical exam. The fee is on a sliding scale from zero up to full pay. I'm not sure what the full pay is. The sliding scale is based on a woman's income. Representative O'Hara asked if gestational age was the age of the baby. Sarah said yes.

Kathy Ostrowski said that women are being injured and are not being reported.

Sarah Gillooly said that Dr. Hodes does not offer medical abortions.

The Chairman closed the hearing on **HB 2337**.

The next meeting is scheduled for March 14, 2011.

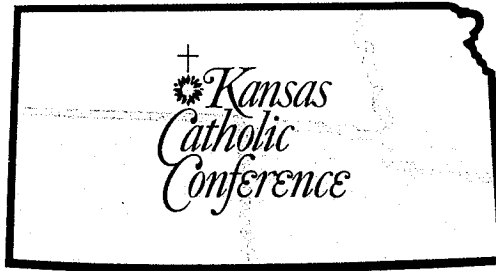
The meeting was adjourned at 2:25 p.m.

HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

3.10.11

ROOM 346-S

[illegible]



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House Federal and State Affairs Committee – Hearing on HB 2337

March 9, 2011

Chairman Brunk and Members of the Committee:

The Kansas Catholic Conference strongly supports HB 2337, legislation that would apply common sense licensing requirements to facilities that perform abortion.

The Catholic Church opposes abortion because it is the killing of a human being -- an innocent, defenseless human being. One might therefore ask why we would seek to have the state license the practice of abortion. We do so because we believe that this is a necessary step if sanity is ever to be restored to our nation's approach to the issue of abortion. Supporters of abortion insist that it is just another health care procedure and should be treated as such. Yet they have nonetheless succeeded in ensuring that abortion is treated differently -- radically differently -- than any other procedure in health care. Indeed, there is no analogy in American life to the abortion industry and how it operates outside of the normal moral and legal universe inhabited by the rest of society.

For evidence of how it is that the normal rules do not seem to apply to abortion, look no further than the fact that veterinary clinics in Kansas are more strictly regulated than abortion clinics. No veterinarian, nor barber, nor short order cook could have escaped severe penalization had they maintained anything like the work environment found at the abortion-providing Affordable Medicine Clinic in Kansas City, Kansas in 2003. There, Kansas City Police discovered filthy facilities, infested with cockroaches, with dried blood on the floor. According to employees, Dr. Krishna Rajanna failed to properly sterilize equipment and even kept aborted fetuses in the refrigerator next to food. But because Dr. Rajanna killed unborn children for money, he was long exempt from penalty. Only after the application of sustained political pressure did he eventually lose his license.

MOST REVEREND RONALD M. GILMORE, S.T.L., D.D.
DIOCESE OF DODGE CITY

MOST REVEREND MICHAEL O. JACKELS, S.T.D.
DIOCESE OF WICHITA

MOST REVEREND EUGENE J. GERBER, S.T.L., D.D.
BISHOP EMERITUS – DIOCESE OF WICHITA

MOST REVEREND JOSEPH F. NAUMANN, D.
Chairman of Board
ARCHDIOCESE OF KANSAS CITY IN KANSAS

MICHAEL M. SCHUTTLOFFEL
EXECUTIVE DIRECTOR

House Fed & State Affairs

Date: 3.10.11

Attachment 1

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IN KS

MOST REVEREND GEORGE K. FITZSIMONS, D.D.
BISHOP EMERITUS – DIOCESE OF SALINA

Remarkably, the stomach-churning details of that police report are surpassed by the 281 page grand jury report in the recent case of Pennsylvania abortionist Dr. Kermit Gosnell. According to the January 2011 report:

[H]e regularly and illegally delivered live, viable, babies in the third trimester of pregnancy – and then murdered these newborns by severing their spinal cords with scissors. The medical practice by which he carried out this business was a filthy fraud in which he overdosed his patients with dangerous drugs, spread venereal disease among them with infected instruments, perforated their wombs and bowels – and, on at least two occasions, caused their deaths... The clinic reeked of animal urine, courtesy of the cats that were allowed to roam (and defecate) freely. Furniture and blankets were stained with blood. Instruments were not properly sterilized. Disposable medical supplies were not disposed of; they were reused, over and over again. Medical equipment – such as the defibrillator, the EKG, the pulse oximeter, the blood pressure cuff – was generally broken; even when it worked, it wasn't used. The emergency exit was padlocked shut. And scattered throughout, in cabinets, in the basement, in a freezer, in jars and bags and plastic jugs, were fetal remains. It was a baby charnel house.

As explained by Philadelphia District Attorney Seth Williams:

What they discovered was horrific, out of one of the worst horror movies or horror novels that you could image... The interior of this clinic had blood stained walls, blood stained beds, unclean sheets, women walking around almost like zombies. They had been drugged to the state of being zombies, that the building itself was a maze of corridors and just unbelievable, just cat feces everywhere.

In what other industry would such a scenario even be possible? Where else is such madness allowed to go unscrutinized in our very midst? Perhaps most telling was the district attorney's comment that there was "more oversight of women's hair salons and nail salons" than there was of abortion facilities.

Two years ago, the Kansas Legislature debated legislation known as the Woman's Right to Know and See Act. Now law, it ensures that a woman about to undergo an abortion has the right to see the sonogram of her baby *if she chooses*. Some of those here today in opposition to HB 2337 opposed that bill. They opposed the right of a woman to see the sonogram being performed on her. In a manner worthy of Orwell, they did this in the name of protecting women's rights.

It is impossible to imagine any other medical procedure where "women's rights" groups would fight tooth and nail against the right of a woman to have information about a medical procedure being performed on her. Most abortionists are male and few graduate summa cum laude from Harvard Medical School, yet we are told that these individuals must not be interfered with when underage girls are taken into their "care," must not be burdened with regulations for sterilized equipment, must not be subject to inspection, and must not be hindered by informed consent provisions that give women access to medical information. Imagine the accusations of

paternalism if in any other circumstance, we were told that women should not be emotionally burdened with medical information about the procedure they are about to undergo. Only with abortion, which functions in a parallel universe, is this even conceivable.

There is little hope that society's treatment of unborn human life will be brought into conformity with the natural law if the practice of abortion cannot even be made to conform to the standards of positive law. The fact that abortion clinics function outside even a minimal regulatory scheme is a symbol of the moral lawlessness of abortion itself, but it is more than mere metaphor.

During the years that Kansas became the late-term abortion capital of America, abortion clinics existed as lacunae within Kansas' legal and regulatory framework, operating with veritable impunity, shielded by political benefactors, functioning beyond the reach of the law. Now, however, the state is reasserting the principle that its writ does in fact extend past the doors of abortions clinics. HB 2337 is an announcement that abortion providers will now be subject to the rules like everybody else. The time has come for what is effectively legal immunity for the abortion industry to be revoked.

Michael Schuttloffel
Executive Director

The Honorable Steve Brunk, Chairperson
House Committee on Federal and State Affairs
Statehouse, Room 149-S
Topeka, Kansas 66612

Dear Chairman Brunk:

My name is Virginia Phillips and I work with Trust Women, which is a reproductive health and rights organization. Thank you for affording me to opportunity to address the committee regarding HB 2337.

This bill, "Targeted Regulations Against Abortion Providers," has appeared, in a variety of forms before this committee and around the United States for the past several years. According to HB 2337's fiscal note, provided by the Director of the Budget, the Department of Health and Environment indicates that passage of the bill would increase State General Fund expenditures by \$1,259,481 and require the addition of 12.50 FTE positions. At a time when Title X Family Planning Funding is under attack and thousands of Kansans who depend on these services to prevent unintended pregnancy may not be able to afford contraception, it hardly seems effective to use over a million dollars of the Kansas budget to fix something that isn't broken. If the goal is to protect women and keep Kansans safe and healthy, then valuable time this session should instead be spent helping women and their families access safe, quality healthcare and preventive services.

For those who are unsure about the origin and intent of this bill, please make no mistake, the sole purpose of this bill is to further limit the number of abortion providers, thus restricting health care services to women, with punitive, detrimental measures that increase costs and restrict surgical healthcare options. Simply, the facts do not substantiate the necessity for this bill.

For example, the Health Care Stabilization Fund reports that payout between fiscal years 2000-2004 for medical malpractice, specifically relating to abortion, was 1.35%. The total malpractice payout for other medical procedures during those years was \$91,550,800.22. Turning to the State Board of Healing Arts, between 1999-2004, 925 complaints were filed against M.D.'s and D.O.'s. Out of those complaints, abortion physicians represent 0.76% of all complaints.

Additionally, if the public health and welfare are threatened because abortion clinics are not operating under these proposed prejudicial guidelines, why then is there not an outcry about the public health and welfare for those who receive other office-based surgical procedures such as breast augmentation and reduction, liposuction, hernia repairs and knee arthroscopies – just to name a few. According to the Institute for Safety in Office-Based Surgery, over 10 million office-based procedures were performed last year in the United States. If this bill is absolutely necessary, all office-based surgery centers ought to be evaluated and held to the same standards.

The fact about abortion is that it entails half the risk of death involved in a tonsillectomy, one-hundredth the risk of death involved in an appendectomy and one-tenth the risk of death associated with childbirth. Of women who have first trimester abortions, 97% report no

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Attachment

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complications, 2.5% have minor complications and less than 0.5% require additional surgical procedure or hospitalization.

As a society, if we're really concerned about reducing the number of abortion, we should work to provide contraceptive equity so that women will not have to bear the brunt of the cost for contraception. We can also work to make sure that girls and women receive comprehensive sex education so they will be able to make the best decisions for themselves, which will be in line with their moral convictions. These are just a few things that the legislature could do if the intent is to reduce the number of abortions performed each year.

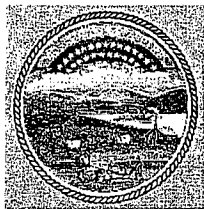
The American College of Obstetricians and Gynecologists has publicly stated that, "Abortion is a confidential, medical matter that should be protected between the physician and their patient. The intervention of legislative bodies into medical decision-making is inappropriate, ill advised, and dangerous. Women who wish to obtain an abortion should be unencumbered by obstacles such as: ...stricter facility regulations for abortion than for other surgical procedures of similar risk."

In conclusion, this bill is bad for Kansas women and their families and is bad for independent abortion providers. Quite clearly, this legislative measure is intended to restrict abortion even further by eliminating small practitioners who safely do abortion procedures in their office-based practices. I urge you to oppose this bill, as it is not necessitated by factual evidence, does nothing to enhance the public health and welfare of Kansans and does not respect the intellect of women in this state to decide what is best for themselves and their families.

Sincerely,

A handwritten signature in cursive script that reads "Virginia Phillips".

Virginia Phillips
Trust Women PAC



Health Care Stabilization Fund

Robert D. Hayes, Executive Director
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Topeka, Kansas 66603-3912

Rita L. Noll, Chief Attorney
Claims Section
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785-291-3407
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MEMO

To: Sara London
From: Rita Noll
Date: February 16, 2005

1. Listed below by fiscal year is the amount of money the Health Care Stabilization Fund has incurred in settlements and judgments for medical negligence claims involving Kansas health care providers. These amounts do not include any amounts paid by an insurance company that provides primary insurance coverage or excess insurance coverage above the Fund's limits.

Fiscal Year 2004	\$19,055,505.00
Fiscal Year 2003	\$18,295,320.32
Fiscal Year 2002	\$17,467,033.19
Fiscal Year 2001	\$17,114,748.80
Fiscal Year 2000	\$20,868,192.91

2. Listed below by fiscal year is the amount of money the Health Care Stabilization Fund has incurred in settlements and judgments for medical negligence claims, specifically concerning abortions, involving Kansas health care providers. These amounts do not include any amounts paid by an insurance company that provides primary insurance coverage or excess insurance coverage above the Fund's limits.

Fiscal Year 2004	\$1,250,000
Fiscal Year 2003	0
Fiscal Year 2002	0
Fiscal Year 2001	0
Fiscal Year 2000	0

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Deborah M. Burns, D.O.
Gregory Lundstrom
Julie Quirin

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**Testimony of Sarah M. Gillooly, M.A.
Kansas Public Affairs Manager of
Planned Parenthood of Kansas & Mid-Missouri,
in opposition to House Bill No. 2337 before the
House Federal & State Affairs Committee
of the Kansas Legislature
March 9, 2011**

Good afternoon. My name is Sarah M. Gillooly and I am the Kansas Public Affairs Manager for Planned Parenthood of Kansas and Mid-Missouri. Thank you for this opportunity to present testimony in opposition to HB 2337. In Kansas, Planned Parenthood maintains family planning health and education centers in Wichita, Hays and Overland Park. Our most important goal is to help men and women make responsible choices that prevent unintended pregnancies and sexually transmitted infections. More than ninety percent of our patients come to our agency for family planning and other preventive health services. At our Comprehensive Health facility in Overland Park, we also provide safe and legal abortion care.

HB 2337 seeks only to unnecessarily restrict access to abortion, not protect women's health.

First, medicine, not politics, should determine appropriate settings for patient care. Although there are risks associated with all office-based surgical procedures, including Lasik eye surgery, vasectomy, wisdom tooth extraction, incision of the eardrum, and D & C for reasons other than abortion, HB 2337 singles out surgical abortions for extra regulation. With no credible medical justification for this distinction, this bill is clearly motivated by politics, not concern for women's health. In fact, women account for more than 60% of all office-based surgery patients, and many common procedures, such as eye surgery and wisdom tooth extraction, have higher risks of complication than abortion. If proponents of HB 2337 are truly concerned about women's health, why not regulate all surgical procedures performed on women? According to prominent pro-life/anti-choice activist Mark Crutcher, the goal of laws like HB 2337 is to create "an America where abortion may indeed be perfectly legal, but no one can get one." Despite the claims of proponents, HB 2337 seeks to restrict access to abortion, not protect women's health. Abortion in Kansas is safer than many other surgical procedures and is considerably safer than childbirth.

According to KDHE, between 1990 and 2003, there were 152 deaths caused by surgical and medical care. None of these deaths were attributed to abortion services. In the same period, there were 35 maternal deaths attributed to pregnancy or deliver-related complications. In 2009 alone, 13 Kansas women died as a result of complications from pregnancy and childbirth. Between 1990 and 2005, there were only 2 deaths attributed to legal abortions, and less than 0.5% of women obtaining abortions experience any complication.

Abortion remains one of the safest surgical procedures for women. Abortion is far safer than other types of outpatient surgery, none of which will face the undue regulations proposed in HB 2337. Legal abortion in the first trimester is 10 times safer than childbirth, and nearly 90% of women obtain abortion during the first trimester, when it is safest. The American College of Obstetricians and Gynecologists has determined that such abortions may be performed safely and appropriately in a physician's office. In the last 20 years, the maternal mortality rate in the United States has not declined, despite the significant advances in obstetric care. If proponents of HB 2337 were serious about protecting women's health, and not just intent on ending abortion, they would work to decrease the number of pregnancy and childbirth related deaths in Kansas.

HB2337 and its unnecessary provisions will come at significant cost to Kansas during a fiscal crisis.

HB 2035, the Omnibus Abortion Restriction bill, previously passed by this committee carries a fiscal note of over \$290,000. The Department of Health and Environment indicated the passage of the bill would increase expenditures by \$70,380 from all funding sources, including \$20,380 from the State General Fund and \$50,000 from agency special revenue funds. The Office of the Attorney General estimated increased expenditures of \$220,000 from the State General Fund. The Department of Health and Environment has yet to provide a fiscal note for HB 2218, the PreViability Abortion Ban, previously passed by this committee. However, the serious constitutional issues contained in HB 2218 alone are likely to result in prolonged and expensive litigation.

No fiscal note has yet been provided for HB 2337. However, given the extensive regulation and monitoring process, the bill is likely to cost hundreds of thousands of dollars, if not more, to implement. The Woman's Right to Know Act (WRTKA) of 2009 carried a fiscal note of over \$100,000 as well; however, the funding to implement WRTKA was never provided. During difficult economic times, when all state agencies including KDHE are working at reduced capacity, passing unfunded mandates or expensive licensure requirements does nothing to protect women's health or reduce the number of abortions in Kansas.

In closing, Planned Parenthood asks this Committee to oppose HB 2337 as it seeks only to place more unnecessary burdens on abortion providers and women seeking abortion care and does nothing to protect women's health. Nor does HB 2337 do anything to reduce the need for or number of abortions in Kansas, but we know what does work. The real answer to reducing the abortion rate for all women is access to affordable birth control and comprehensive sex education.