

MINUTES OF THE HOUSE INSURANCE COMMITTEE

The meeting was called to order by Chairman Clark Shultz at 3:38 p.m. on February 16, 2011, in Room 152-S of the Capitol.

All members were present except:

Representative O'Hara - Excused

Committee staff present:

David Wiese, Office of the Revisor of Statutes  
Ken Wilke, Office of the Revisor of Statutes  
Melissa Calderwood, Legislative Research Department  
Cindy Lash, Kansas Legislative Research Department  
Sue Fowler, Committee Assistant

Conferees appearing before the Committee:

Representative Peter DeGraaf, District 81  
Jeanne Gawdun, Kansas for Life  
Sarah Gillooly, Planned Parenthood of Kansas and Mid-Missouri  
Marlee Carpenter, Kansas Association of Health Plans  
Michael Schuttloffel, Kansas Catholic Conference

Others attending:

See attached list.

Hearing on:

**HB 2292**      **Accident and health insurance; excluding coverage for certain abortions**

Ken Wilke, Kansas Office of Revisor of Statutes, gave a brief overview for **HB 2292**.

The Chairman opened the hearing on **HB 2292**.

Proponents:

Representative Peter DeGraaf, District 81, (Attachment 1), appeared before the committee in support of **HB 2292**.

Jeanne Gawdun, Kansas for Life, (Attachment 2), gave testimony before the committee in support of **HB 2292**.

Michael Schuttloffel, Kansas Catholic Conference, (Attachment 3), appeared before the committee in support of **HB 2292**.

Opponent:

Sarah Gillooly, Planned Parenthood of Kansas and Mid-Missouri (Attachment 4), gave testimony before the committee in opposition to **HB 2292**.

Neutral:

Marlee Carpenter, Kansas Association of Health Plans, (Attachment 5), presented written neutral testimony on **HB 2292**.

Hearing closed on **HB 2292**.

Hearing on:

**HB 2293**      **Prohibiting state employees from receiving benefits and reimbursements for abortion procedures under a state health savings account plan**

Ken Wilke, Kansas Office of Revisor of Statutes, gave a brief overview on **HB 2293**.

Representative Shultz opened the hearing on **HB 2293**.

## CONTINUATION SHEET

Minutes of the House Insurance Committee at 3:38 p.m. on February 16, 2011, in Room 152-S of the Capitol.

### Proponents:

Representative DeGraaf, District 81, (Attachment 6), gave testimony before the committee in support of **HB 2293**.

Jeanne Gowdun, Kansas for Life, (Attachment 7), appeared before the committee in support of **HB 2293**.

Michael Schuttloffel, Kansas Catholic Conference, (Attachment 8), appeared before the committee in support of **HB 2293**.

### Opponent:

Sarah Gillooly, Planned Parenthood of Kansas and Mid-Missouri, (Attachment 9), gave testimony before the committee in opposition to **HB 2293**.

Hearing closed on **HB 2293**.

Representative Grant moved without objection to pass the February 14, 2011 committee minutes as written.

Next meeting is scheduled for Monday, February 21, 2011, 3:30 P.M. in Room 152-S in Capitol.

Meeting adjourned at 4:45 p.m.

[illegible]

## Representing

PPKM

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FAMILY

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COMMITTEE ASSIGNMENTS

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MEMBER: APPROPRIATIONS  
GOVERNMENT EFFICIENCY

JOINT COMMITTEES:  
CHILDREN'S ISSUES  
LEGISLATIVE STREAMLINING

February 16, 2011

PETE DEGRAAF

81ST DISTRICT

House Insurance Committee

Testimony in SUPPORT of HB 2292 – Abortion Rider

Dear Chairman Schultz, and members of the committee,

Thank you for allowing me to draw your attention to this important matter.

This bill is very similar to the one I introduced in this committee last year. The purpose of this bill is to ensure that private citizens of Kansas and private business owners do not end up financing other people's abortions through their premium payments. This bill still allows insurance companies to cover and pay for abortions.

The majority of our citizens feel it is morally repugnant to think that their insurance premiums are actually being used to underwrite the costs of someone else's abortion. Currently, this is exactly what happens as standard practice in Kansas.

KS is running behind. At last count, seven states (ID, KY, MO, OK, ND, RI, WI) have passed similar legislation. Blue Cross of KS City already offers abortion riders as a result of Missouri Law.

I envision that individuals who want abortion coverage will be able to purchase it via a rider, just like people do with floaters insurance, extra computer or jewelry insurance, or even life insurance for a family member.

In closing, I ask that this committee give the people of Kansas a choice by voting **HB 2292 favorably for passage.**

Respectfully,

A large, stylized handwritten signature in black ink, appearing to read 'Pete DeGraaf'.



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## Proponent, HB 2292

Feb. 16, 2011

Chairman Schultz and committee,

I am Jeanne Gawdun, senior lobbyist for Kansans for Life, a proponent of HB 2292.

Our support of this bill is grounded on two tenets:

- abortion is not "healthcare"—it destroys unborn children and harms women, and
- the public does not want to pay for abortion in either public or private health insurance.

Since 2007, Kansas taxpayers have been freed from paying for elective abortions in state health employee insurance.

The SEHBP language for all health insurance plan options A and B, and Plan C (Qualified High Deductible Health Plan) reads as follows: provisions for abortion and abortion-related services will be covered in the following:

- ▶ *where the life of the mother would be endangered if the fetus were carried to term;*
- ▶ *termination of a tubal pregnancy;*
- ▶ *prior to the 8th week of pregnancy when the pregnancy is a result of an act of rape or incest;*
- ▶ *medical complications that have risen from an abortion.*

HB 2292 will allow ordinary citizens to be free from being forced to pay for other people's elective abortions in employee-provided, or self-insured, healthcare policies.

The current situation of automatically covering abortion has infuriated many individuals, including private businesses that do not want to include this for their employees.

Seven states (ID, KY, MO, OK, ND, RI, WI) exclude abortion in private insurance policies, some allowing coverage only for life of mother cases.

Kansans for Life suggests one simple technical amendment for section 1 (a), line 13: replace "preserve the life" with "prevent the death," to be consistent with section 1 (c) (2) as well as the language in other abortion bills this session.

With that simple correction, Kansans for Life stands in support of HB 2292.



Kansas Affiliate of the National Right to Life Committee

House Insurance  
Date: 2-16-11  
Attachment # 2

## Information about states that exclude insurance from covering abortion as standard from National Right to Life Committee via Kansans for Life

### Arkansas

Pursuant to Arkansas' Constitution, certain state employee insurance plans prohibit coverage of abortion unless necessary to preserve the life of the mother. Amendment 68 of the Arkansas Constitution prohibits the use of public funds to pay for an abortion unless necessary to preserve the life of the mother. In 1998, an agreement was reached that the University of Arkansas's employee group health insurance plan will cover abortions only when necessary to preserve the life of the mother. Ark. Const. amend. 68, &sect1 (Initiative Petition Approved 1988); *Foshee v. Sugg*, No. E-IJ97-4325 (Ark. Cir. Ct. Feb. 6, 1998) (dismissal).

In 2002, a lawsuit was filed seeking to prohibit Pulaski County from continuing to offer employee health insurance coverage for abortion in cases of rape and incest claiming that this violated Amendment 68. The county changed insurance policies and now provides coverage only for abortion in cases of life endangerment to the mother. The lawsuit was dismissed. *Ehlebracht v. Villines*, No. IJ2000-2121 (Ark. Cir. Ct. Dec. 4, 2002) (order dismissing without prejudice).

### Colorado

In 1985, the Colorado Attorney General issued an opinion stating that group health insurance provided by the state for its employees must exclude coverage for abortion pursuant to the state constitutional prohibition on the use of state funds for abortion except when necessary to prevent the death of the mother. Colo. Op. Att'y Gen. No. OLS8500339/ANY (Feb. 6, 1985); Colo. Const. art. V, § 50 (Enacted 1984).

### \*Idaho

Disability insurance policies, individual insurance policies, and managed care plans must exclude coverage for abortions unless the procedure is necessary to preserve the mother's life. Coverage may be obtained if the carrier elects to offer it and an additional premium is paid. Idaho Code §§ 41-2142, 2210A, 3439 (Enacted 1983); Idaho Code § 41-3924 (Enacted 1983; Last Amended 1997).

### Illinois

Funds paid by the state for group health insurance and health maintenance organization (HMO) plans for its employees may not be used to pay for an abortion unless necessary to preserve the life of the mother. 5 Ill. Comp. Stat. Ann. 375/6 (Original Statute Enacted 1971; Relevant Provision Enacted 1978; Last Amended 2003); 5 Ill. Comp. Stat. Ann. 375/6.1 (Original Statute Enacted 1976; Relevant Provision Enacted 1983).

### \*Kentucky

All health insurance contracts, plans, and policies must exclude coverage for abortion unless the procedure is necessary to preserve the life of the mother. Coverage may be obtained through an optional rider for which an additional premium is paid. Ky. Rev. Stat. Ann. § 304.5-160 (Enacted 1978).

Health insurance policies provided to state employees may not provide coverage for obtaining or performing an abortion. No state funds may be used to obtain or perform an abortion on behalf of state employees or their dependents. Ky. Rev. Stat. Ann. § 18A.225 (10) (Original Statute Enacted 1982; Relevant Provision Enacted 1996; Last Amended 2002).

### **Mississippi**

No public funds may be used to pay for insurance coverage for abortion for state employees, except in cases when the procedure is necessary to preserve the life of the mother, the pregnancy is the result of rape or incest, or the fetus has an anomaly incompatible with live birth. Miss. Code Ann. § 41-41-91 (Enacted 2002).

### **\*Missouri**

Health insurance policies must exclude coverage for abortions for any reason except to preserve the life of the mother. Coverage may be obtained through an optional rider for which an additional premium is paid. Mo. Ann. Stat. § 376.805 (Enacted 1983). A court upheld the constitutionality of this law in *Coe v. Melahn*, 958 F.2d 223 (8th Cir. 1992).

### **\*Nebraska**

No group insurance contract or health maintenance agreement providing health care coverage paid for in whole or in part with public funds may include coverage for abortion except to preserve the life of the mother or to cover medical complications arising from an abortion. Abortion coverage may be obtained if the insurer offers special coverage and the costs are borne by the employee. Neb. Rev. Stat. § 44-1615.01 (Enacted 1981).

### **\*North Dakota**

Health insurance contracts, plans, or policies delivered or issued for delivery in the state must exclude coverage for abortion unless the procedure is necessary to preserve the life of the mother. Coverage may be obtained by an optional rider for which an additional premium must be paid. N.D. Cent. Code § 14-02.3-03 (Enacted 1979).

### **\*Ohio**

State funds for health insurance for state employees may not be used to provide coverage for abortions unless necessary to preserve the life of the mother or the pregnancy was the result of rape or incest and reported to a law enforcement agency. Beneficiaries may obtain coverage by paying an addition premium for an optional rider. Ohio Rev. Code Ann. § 124.85 (Enacted 1998).

### **\*Oklahoma**

All health insurance contracts, plans or policies must exclude coverage for abortions unless the procedure is necessary to preserve the life of the mother or in the case of rape reported to a law enforcement agency or in the case of incest involving a minor and reported to a law enforcement agency. Coverage may be obtained through an optional rider for which an additional premium is paid. S.B. 139, 51st Leg., 2007 1st Sess. (Okla. 2007) (Enacted 2007) (to be codified at Okla. Stat. Ann. tit. 63, § 1-741.2).

### **Pennsylvania**

Health and disability insurance providers must offer a policy that expressly excludes coverage for abortion not necessary to avert the death of the woman or to terminate pregnancies initiated by acts of rape or incest. 18 Pa. Cons. Stat. Ann. § 3215(e) (Enacted 1982; Last Amended 1988).

Employee health plans funded by the state may not include coverage for abortion unless an independent physician certifies that the abortion is necessary to avert the death of the mother or the pregnancy is the result of rape reported to a law enforcement agency prior to the abortion or incest reported to a law enforcement agency or child protective services prior to the abortion. 18 Pa. Cons. Stat. Ann. §§ 3215(c), (d) (Enacted 1982; Last Amended 1988).

### **\*/\*\*Rhode Island**

No health insurance contract, plan, or policy here and after delivered or issued for delivery in the state, shall provide coverage for induced abortion, except where the mother's life would be endangered or the pregnancy resulted from rape or incest. Coverage for abortion may be obtained through an optional rider for which an additional premium must be paid. R.I. Gen. Laws Ann. § 27-18-28 (Enacted 1983).

The state or any city or town must not include coverage for abortion in any employees' health insurance contract, plan, or policy unless the procedure is necessary to preserve the life of the mother or the pregnancy resulted from rape or incest. R.I. Gen. Laws Ann. § 36-12-2.1 (Enacted 1981).

**\*\*A court has permanently enjoined §27-18-28 as unconstitutional and held that §36-12-2.1 is unconstitutional and unenforceable as applied to municipal employees. *Nat'l Educ. Ass'n of R.I. v. Garrahy*, 598 F. Supp. 1374 (D.R.I. 1984), *aff'd*, 779 F.2d 790 (1st Cir. 1986).**

### **South Carolina**

Funds appropriated to the State Health Insurance Plan may not be used to pay for an abortion except in cases of rape, incest, or to preserve the life of the mother. H.B. 4800, 117th Gen. Assem., 2nd Reg. Sess. (S.C. 2008) (Enacted 2008).

### **Virginia**

Benefits provided to state employees through the Commonwealth of Virginia Health Benefits Plan may not provide coverage for abortion unless: (1) the procedure is necessary to preserve the life of the mother; (2) the pregnancy is the result of rape or incest that has been reported to a law enforcement or public health agency; or (3) a physician certifies that the fetus is believed to have an incapacitating physical deformity or mental deficiency. Va. Dep't of Human Resource Mgmt., Mem. No. 96-9 (May 31, 1996); Va. Dep't of Human Resource Mgmt., COVA Care Member Handbook, (July 1, 2007) *at* <http://www.dhrm.state.va.us/hbenefits/hbhandbooks/COVAHDHPMemberHandBk2007.pdf>.

### **\*Wisconsin**

Insurance provided through the Private Employer Health Care Purchasing Alliance may not include coverage for non-therapeutic abortion unless directly and medically



necessary to preserve the mother's life. Coverage for abortions not medically necessary to preserve the life of the mother may be obtained by an optional rider or supplemental coverage provision that is offered and provided on an individual basis for which an additional premium is paid. Nothing in the act requires an insurer or employer to offer or provide coverage of abortions. Wis. Stat. Ann. §§ 40.98 (1)(g), (2)(bm) (Enacted 1999); Wis. Legis. Reference Bureau, Private Employer Health Care Coverage, Budget Br. 99-9 (Nov. 1999).

\*Laws which provide for optional riders



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### Testimony in Support of HB 2292

Michael Schuttloffel

Executive Director, Kansas Catholic Conference

### House Insurance Committee

February 16, 2011

3:30 PM

Chairman Schultz and Members of the Committee:

Thank you for holding this hearing and for your attention to this important issue.

The Kansas Catholic Conference strongly supports HB 2292. If one were to conduct a poll of all Kansans, we have little doubt that an overwhelming majority of them would share our support of this bill, for the simple reason that most Americans do not believe that they should have to pay for other people's abortions.

Currently, insurance companies in Kansas can cover abortions as a matter of course, meaning that everyday Kansans end up financing other people's abortions through their premium payments, usually completely unwittingly. It would be a very unpleasant surprise for many people in this state to discover what exactly it is their premium dollars are paying for.

Opponents of this legislation will likely point out that health insurance oftentimes pays for procedures and medications that many or most plan participants will never use. Some claim that allowing coverage of, say, Viagra, but not abortion, amounts to unfairness or even discrimination. In fact, this is a poor analogy that does not hold water.

Abortion should not be a routine component of insurance coverage for the simple reason that it is morally repugnant to a majority of our citizens. Individuals may hold differing views over whether insurance should cover Viagra, or LASIK surgery, or a number of treatments. Indeed, whether through one's health insurance premium or one's taxes, we all end up paying for services that we may never use or even that we find objectionable. That is just a function of being a part of modern society.

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

MOST REVEREND JOSEPH F. NAUMANN, D.D.  
*Chairman of Board*  
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BISHOP EMERITUS - DIOCESE OF WICHITA

MICHAEL M. SCHUTTLOFFEL  
EXECUTIVE DIRECTOR

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

Date: 2-16-11  
Attachment # 3

However, abortion is a uniquely divisive issue. Opponents of abortion believe it to be a transcendent evil. Asking an opponent of abortion to finance it with their taxes, or with their health care premium, is an extremist position and well outside the mainstream of public opinion.

Put simply, abortion is not even remotely morally equivalent to Viagra, LASIK, or anything else on the menu of health care treatments. Abortion is not a preventative or corrective procedure, pregnancy is not an illness to be healed, and an unborn child is not a virus to be eradicated. Abortion is an act of destruction that is sharply distinct from what most Americans consider to be health care.

Because so many Americans receive their health insurance coverage through their employer, and because many employers offer only a single plan, many Kansans really have no choice but to accept that plan, no matter how unsatisfactory its terms. If their employer-offered plan includes abortion coverage that violates their conscience, people can find themselves in a very difficult position. This is a problem that has been fixed in other states in our region and should be fixed in Kansas.

Kansans should be able to provide health care for their children without having to support the destruction of the unborn children of others. This is not a radical concept. Indeed, Americans who cannot agree over abortion in general can and do find common ground in the proposition that those opposed to it should not be required to be complicit in it.

We urge the Committee to act on behalf of the conscience rights of everyday Kansans who simply want to have health care for themselves and their families without being involved in abortion. Please support HB 2292.



**Testimony of Sarah M. Gillooly, M.A.  
 Kansas Public Affairs Manager of  
 Planned Parenthood of Kansas & Mid-Missouri,  
 in opposition to House Bill No. 2292  
 before the House Insurance Committee of the Kansas Legislature  
 February 16, 2010**

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 on our opposition to HB 2292. In Kansas, Planned Parenthood maintains family planning health and education centers in Wichita, Hays and Overland Park. One of our most important goals is to help men and women make responsible choices that prevent unintended pregnancies. 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 for women in their first and second trimesters of pregnancy.

Let me first clarify that HB2292 deals with three types of insurance systems: private insurance, state employee insurance and the new state health insurance exchanges to be established under federal HCR.

This bill is unnecessary to "protect" those who object to insurance coverage for a woman's right to choose a safe, legal abortion. Additionally, the language of HB 2292 infringes on the rights of employers and their employees. HB 2292 provides no consideration for the health of the mother and proposes an unworkable, impractical so-called "rider" system.

In regards to banning insurance coverage for abortion in the private insurance market, HB 2292 is government intrusion into the rights of employers and private insurance companies to provide benefits to their employees and clients as they deem most appropriate. As the House and Senate consider a concurrent resolution serving notice to the federal government to cease and desist health care mandates, it seems contradictory to consider a bill that creates government mandates for the products that private insurance companies do and do not offer. Proponents of this bill will claim that members of an insurance group who have objections to abortion should not be forced to pay for other group members' abortion care coverage. Health insurance coverage is a private contract between an insurance company, an employer, and an employee. In our free market economy, if an employee has objections to any provisions in their health insurance benefits, including abortion care coverage, that employee has the right to take their concerns to the employer. The employer, in consultation with the insurance company, can choose to change the benefit offered, or they can choose to not do so, in which case the employee has the right to opt out of the employer provided benefit and purchase their own insurance. Similarly, many members of this chamber objected to Federal Health Care reform because, among other concerns, it will take away benefits already afforded to Americans. HB2292 will take away a benefit the vast

majority of plans currently provide. If enacted this extreme measure would result in women losing benefits currently have.

HB 2292 becomes law it would result in drastic and dangerous implications for some women in need of serious medical care resulting from complex and sometimes life-threatening pregnancies. The legislation contains exceptions only for the immediate life of the mother. HB 2292 does NOT contain an exception for the health of the mother. For example, if a woman with cancer who must undergo chemotherapy needed an abortion to preserve her health, she would be denied insurance coverage for her abortion. Current insurance plans cover abortion care when a pregnancy is complicated by a health condition of the woman or pregnancy, and these procedures can be prohibitively expensive. If the abortion coverage ban passes, it will eliminate coverage for these procedures, and women making the most difficult personal and medical decisions of their lives will also be facing costly medical bills they simply cannot afford. This legislation is extreme, and does not take into account the real and difficult circumstances that sometimes accompany pregnancy and endanger the health of women.

The so-called rider system proposed in HB 2292 is unworkable, and for all practical purposes, nonexistent. First, no woman plans for an unplanned pregnancy, a fetal indication/abnormality, or a pregnancy that goes tragically, and sometimes life threateningly, wrong. Second, in the 5 states that currently have laws similar to that proposed in HB 2292, there is no evidence that "abortion insurance riders" exist in practice. Creating a separate rider system will effectively eliminate ALL insurance coverage for abortion care in Kansas, even in circumstances of health of the mother and tragic fetal indications, which I have no doubt is the intended, though unspoken, goal of this legislation. HB 2292 is yet another attempt by the anti-choice hardliners to play politics with women's lives, instead of focusing on good public policy and the prevention of unintended pregnancy.

In regards to the ban of abortion coverage in the new state-based health insurance exchanges, there are no taxpayer dollars, neither federal dollars nor state dollars that would be paying for "elective" abortion coverage in any private insurance plan sold in the exchange. That is specifically spelled out in the Affordable Care Act. The ACT says abortion can only be covered with federal dollars in cases of rape, incest or threat to a woman's life. Otherwise, the abortion has to be paid for with private premium dollars only, and those have to be strictly segregated from any federal subsidies being used to buy the insurance policy. Since no credible objects can be made based on taxpayer dollars, than this is an issue of private premium dollars and insurance policies being sold by private insurance companies. The state telling people they cannot spend their own money on something a private company wants to sell them is an unnecessary and outrageous intrusion into the free market.

I would like to close with my personal story. My sister Lauren and her husband Chip were overjoyed when they learned they were pregnant with a baby girl. They named her Cecelia Ruth: Cecelia, the Patron Saint of Music, our mother is a musician in the Church; and Ruth for our paternal grandmother. After an irregular ultrasound at 12 weeks and follow-up genetic testing, the doctors determined that Cecelia had Turner Syndrome. Turner's Syndrome is a genetic defect that occurs in female fetuses. It is the absence of part or all of

the second X chromosome. Some girls have parts of that second X chromosome and usually go on to full life with only relatively minor health issues. Other girls do not have any of that second X chromosome, known as monosomy Turner's Syndrome. Monosomy Turner's Syndrome is a fatal abnormality. Cecelia had monosomy Turner's Syndrome. She would not survive. Lauren and Chip were told their loved and wanted baby girl would likely not survive to 15 weeks gestation. My sister Lauren, her husband Chip and our entire family were heartbroken. Our dreams of a healthy baby had come crashing down.

The days and weeks went by, and at each ultrasound Cecelia's heart rate decreased. At 20 weeks, the edema all over Cecelia's body, a complication caused by Turner's Syndrome, which prevents the developing body from reabsorbing any lymph fluid, was extreme, and the doctors could no longer tell my sister Lauren if her baby was experiencing distress. Lauren and Chip made a decision, they could not provide Cecelia with any "palliative" care, and they wanted to hold their baby girl before she was gone. Lauren and Chip decided to induce labor, which at 20 weeks gestation, pre-viability, is an abortion in the state of Kansas as elsewhere in the country. Tragically, Cecelia's heart stopped beating during the labor. Cecelia Ruth Gillooly Robbins was stillborn on May 6, 2007. Lauren and Chip held her, dressed her, kissed her, loved her, had her baptized, and said their goodbyes. Both sets of grandparents were there to do the same. It was the hardest day in my sister's life- to lose the daughter they so desperately wanted. But when they held her, they knew they had made the right decision. The weeks that followed were incredibly difficult for our entire family. In the midst of this tragic circumstance, our tremendous grief, we were all grateful Chip had health insurance. As Lauren wrote to me recently, "I can only imagine how much harder that time would have been if we had been financially devastated because insurance wouldn't have paid." If HB 2292 becomes law, abortion care procedures, like Lauren's, would not be covered by health insurance in the State of Kansas and would add an unnecessary, and traumatic, burden to women facing these already difficult circumstances.

In closing, Planned Parenthood asks this Committee to oppose HB 2292 – it is an attack on women in the most difficult circumstances, an attack on our free market system, and a government health care mandate. HB2292 seeks only to place more unnecessary burdens on women seeking abortion care and does nothing to actually prevent unintended pregnancy or reduce the number of abortions in Kansas.



# Kansas Association of Health Plans

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February 16, 2011

**HB 2292**

**Neutral Conferee**

**Written Testimony before the House Insurance Committee**

**Marlee Carpenter, Executive Director**

Chairman Shultz and members of the Committee;

I am Marlee Carpenter, Executive Director of the Kansas Association of Health Plans (KAHP). The KAHP is a nonprofit association dedicated to providing the public information on managed care health plans. Members of the KAHP are Kansas licensed health maintenance organizations, preferred provider organizations and other entities that are associated with managed care. KAHP members serve the majority of Kansans enrolled in private health insurance. KAHP members also serve the Kansans enrolled in HealthWave and Medicaid managed care. We appreciate the opportunity to provide comments to this committee.

KAHP is here today as a neutral conferee, to provide information on how this measure will affect the administration of health insurance in Kansas. For many of our member plans, coverage is provided if this procedure is medically necessary and that decision is made by the provider. Some groups--businesses that purchase this coverage for their employees--have requested specific "opt-out" language. This language allows groups to opt-out of this coverage unless the life of the mother is at risk if they carry to full-term or have an ectopic pregnancy. Handling this opt-out clause or having a rider in the non-group market will make these policies difficult to administer.

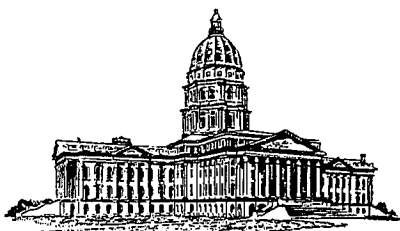
The KAHP requests that as you look at this measure and that you consider the impact it will have on the health insurance market and ability to offer cost effective insurance products to Kansas citizens.

Thank you for your time and I will be happy to answer any questions at any time.

STATE OF KANSAS  
HOUSE OF REPRESENTATIVES

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COMMITTEE ASSIGNMENTS

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MEMBER: APPROPRIATIONS  
GOVERNMENT EFFICIENCY

JOINT COMMITTEES:  
CHILDREN'S ISSUES  
LEGISLATIVE STREAMLINING

February 16, 2011

PETE DEGRAAF

81ST DISTRICT

House Insurance Committee

Testimony in SUPPORT of HB 2293 – NO Tax Funded Abortions

Dear Chairman Schultz, and members of the committee,

This bill is also very similar to the one I introduced in this committee last year. I would like to ask you to think about our State Employee Medical Reimbursement Programs. State employees have a number of options and plans to choose from, and if they choose to set up a reimbursement plan they can use those **tax free funds** for a number of eligible expenses.

National polling indicates the public does not want tax money to cover abortions as healthcare. (68% in a Sept 2009 poll done by International Communications Research).

Kansas has chosen ASI to administrate our employee Flex Spending Plan. Please notice that on the ASI website, the first item listed for eligible reimbursement is – ABORTION.

(<http://www.asiflex.com/Eligible%20Expenses/eligibleexpenses.htm>)

Also attached for your review is a letter from KHPA – Kansas Health Policy Authority answering a number of questions I had. They clearly state that abortions are paid for and reimbursed by our state employee health plan.

Most taxpayers are morally adverse to any form of abortion for any reason, yet alone with the use of tax dollars (even if remote).

It is my belief that the Kansas Legislature on behalf of the State of Kansas, as an employer, can and should, on behalf of all taxpayers, outlaw the payment for and/or the reimbursement of costs associated with abortions by state employees under any State Employee Benefit Program.

This does not mean that State Employees are prohibited from undergoing legal abortions or from using their own or other private foundations to pay for an abortion. I just don't feel the people of Kansas want nor should they be expected to pay for abortions using taxpayer money.

To protect the right of the taxpayers, I ask that this committee vote **HB 2293 favorably for passage.**

Respectfully,

A large, stylized handwritten signature in black ink, appearing to read 'Pete DeGraaf'.



A					
Condition/Type of Service/Expense	Account Type	Eligible Expense	Potentially Eligible Expense*	Not Eligible	Additional Information
ABORTION	HCFA	X			Expenses for operations that are not legal do not qualify.
ACUPUNCTURE	HCFA	X			
ADAPTIVE EQUIPMENT	HCFA		X		Adaptive equipment for a major disability, such as a spinal cord injury, can be reimbursed.  Adaptive equipment to assist you with activities of daily living (ADL) for persons with arthritis, lupus, fibromyalgia, etc., can be reimbursed.
ADOPTION FEES	HCFA			X	Medical expenses incurred by your adopted child who is claimed as a dependent are eligible. Care must be for the adopted child and incurred while the child qualifies as your dependent. Your child's medical care expenses are eligible <b>only during</b> the adoption process as long as the child qualifies as your dependent.
AIR CONDITIONERS/AIR PURIFIERS	HCFA		X		Covered with a letter of medical necessity.
ALCOHOLISM/DRUG/SUBSTANCE ABUSE TREATMENT	HCFA	X			Eligible expenses include: <ul style="list-style-type: none"> <li>• Inpatient treatment, including meals and lodging provided by a licensed addiction center.</li> <li>• Outpatient care</li> <li>• Transportation expenses associated with</li> </ul>

*Coordinating health & health care  
for a thriving Kansas*



February 17, 2010

Representative Pete DeGraaf  
Docking State Office Building  
7<sup>th</sup> Floor, L32  
Topeka, KS 66612

Representative DeGraaf,

On February 11<sup>th</sup>, I received a request from you related to abortion coverage in the State Employee Health Plan. Below is a list of your questions, and my responses to those questions:

**1. What kind of abortion services are covered in our benefits plan?**

Under the State Employee Health Plan, abortion and abortion related services are covered as follows:

- Where the life of the mother would be endangered if the fetus were carried to term
- Termination of a tubal pregnancy
- Prior to the 8<sup>th</sup> week of pregnancy if the pregnancy is the result of an act of rape or incest
- Medical complications that have arisen from an abortion will be covered

**2. How many abortion services were directly covered in calendar year 2009, by type?**

A total of 4 abortions were directly covered in Calendar Year 2009. We are unable to provide the "type" of abortion, as determinations of coverage are based upon reviews of medical files. If the information reviewed in a medical file indicates that the services are coverable under the State Employee Health Plan, then reimbursement is allowed. If information reviewed in a medical file indicates that the services are not coverable under the State Employee Health Plan, the reimbursement is denied.

**3. How many were refused, by type, and under what criteria?**

State Employee Health Plan claims are administered through 4 different carriers. Each carrier uses the same criteria, which is the State Employee Health Plan's Description of Benefits. The description of benefits provides as follows:

Under the State Employee Health Plan, abortion and abortion related services are covered as follows:

- Where the life of the mother would be endangered if the fetus were carried to term

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[www.khpa.ks.gov](http://www.khpa.ks.gov)

Medicaid and HealthWave:

Phone: 785-296-3981  
Fax: 785-296-4813

State Employee Health Plan:

Phone: 785-368-6361  
Fax: 785-368-7180

State Self Insurance Fund:

Phone: 785-296-2364  
Fax: 785-296-6995

- Termination of a tubal pregnancy
- Prior to the 8<sup>th</sup> week of pregnancy if the pregnancy is the result of an act of rape or incest
- Medical complications that have arisen from an abortion will be covered

According to our carriers, a total of 43 requests of abortion were denied during Calendar year 2009.

We are unable to provide the "type" of abortion, as determinations of coverage are based upon reviews of medical files. If the information reviewed in a medical file indicates that the services are coverable under the State Employee Health Plan, then reimbursement is allowed. If information reviewed in a medical file indicates that the services are not coverable under the State Employee Health Plan, the reimbursement is denied.

#### 4. What criteria is used for coverage refusal?

The criteria used for coverage refusal are the same as those used for approval. State Employee Health Plan claims are administered through 4 different carriers. Each carrier uses the same criteria, which is the State Employee Health Plan's Description of Benefits. The description of benefits provides as follows:

Under the State Employee Health Plan, abortion and abortion related services are covered as follows:

- Where the life of the mother would be endangered if the fetus were carried to term
- Termination of a tubal pregnancy
- Prior to the 8<sup>th</sup> week of pregnancy if the pregnancy is the result of an act of rape or incest
- Medical complications that have arisen from an abortion will be covered

#### 5. How many abortion services, by type, were reimbursed in Calendar Year 2009?

Through a conversation that I had with you on February 11, I understand this question to mean that you wish to know how many abortion services, by type were reimbursed through Flexible Spending Accounts (FSA) during Calendar Year 2009.

FSA administration for The State Employee Health Plan is performed by ASIFlex of Columbia, MO.

ASIFlex indicates that their only criteria used for reimbursement of abortion services is whether the abortion is "legal." When they receive a claim for an abortion that was provided by a medical facility, they make these reimbursements without further requirements, as long as the date of service, services provided, and amount of the patient's responsibility is provided. ASIFlex's underlying assumption is that if an abortion is not legal in a specific state, a medical facility would not perform the procedure.

ASIFlex does not break claims down by what services were reimbursed or denied for every participant, so have no way of knowing the number of abortion claims for which FSA reimbursement was requested, paid or denied.

**6. How many abortion services were refused and under what criteria, by type?**

Through a conversation that I had with you on February 11, I understand this question to mean that you wish to know how many abortion services, by type were refused reimbursement through Flexible Spending Accounts (FSA) during Calendar Year 2009.

FSA administration for The State Employee Health Plan is performed by ASIFlex of Columbia, MO.

ASIFlex indicates that a denial would only be made if the date of service, services provided, description of services provided, or amount of the patient's responsibility are not provided. ASIFlex does not maintain data broken down by what services were reimbursed or denied for every participant, so are unable to report on the number of abortion claims for which FSA reimbursement was requested, paid or denied.

**7. What criteria is used for reimbursement refusal, by type?**

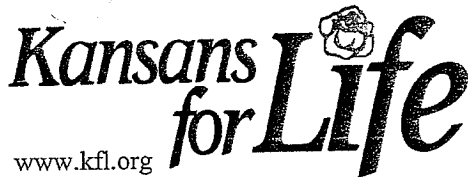
Through a conversation that I had with you on February 11, I understand this question to mean that you wish to know what criteria is used to determine the refusal of reimbursement for abortion services, through Flexible Spending Accounts (FSA) during Calendar Year 2009.

FSA administration for The State Employee Health Plan is performed by ASIFlex of Columbia, MO. ASIFlex indicates that a denial would be made if the date of service, services provided, description of services provided, or amount of the patient's responsibility are not provided.

If you have further questions regarding this inquiry, please do not hesitate to contact me at 785-296-8146.

Sincerely,

Doug Farmer  
Deputy Director, KHPA  
Director, State Employee Health Benefits Plan



www.kfl.org

State Office  
2501 East Central  
Wichita, KS 67214  
(800) 928-LIFE (5433)  
Fax (316) 687-0303  
kfl@kfl.org

Legislative Office  
929-A S. Kansas Ave.  
Topeka, KS 66612  
(785) 234-2998  
Fax (785) 234-2939  
topeka@kfl.org

K.C. Regional Office  
7808 Foster  
Overland Park, KS 66204  
(913) 642-LIFE (5433)  
Fax 642-7061  
kansansforlife@aol.com

## Proponent, HB 2293

Feb.16, 2011

Chairman Schultz and committee,

I am Jeanne Gawdun, senior lobbyist for Kansans for Life, a proponent of HB 2293.

The SEHBP language for all health insurance plan options A and B, and Plan C (Qualified High Deductible Health Plan) reads as follows: provisions for abortion and abortion-related services will be covered in the following:

- ▶ *where the life of the mother would be endangered if the fetus were carried to term;*
- ▶ *termination of a tubal pregnancy;*
- ▶ *prior to the 8th week of pregnancy when the pregnancy is a result of an act of rape or incest;*
- ▶ *medical complications that have risen from an abortion.*

In 2009, state employee health insurance paid for 4 abortions and rejected 43, presumably for failure to meet the above criteria. This information came from KHPA in a letter to Rep. Pete Degraaf, dated Feb.17, 2010.

As a pre-tax benefit, the SEHBP health insurance for state employees also provides the ASIFlex program that reimburses state employees' medical expenses.

Unfortunately, according to the same KHPA memo, ASIFlex has been used to reimburse abortion costs!

The administrator for the reimbursement program has explained that the only criteria used to allow reimbursed abortions is whether they are "legal" and performed in a medical facility.

This does not match in any fashion the legislative limitations intended for tax funding, established in 2007— as some abortions in Kansas are "legal" throughout all 9 months.

Kansans for Life strongly urges that medical spending accounts be used for healthcare, not abortions that harm women and destroy unborn children.

Kansans for Life stands in support of HB 2293, and urges you to pass it favorably out of committee.



Kansas Affiliate of the National Right to Life Committee

House Insurance  
Date: 2-16-11  
Attachment # 7



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### Testimony in Support of HB 2293

Michael Schuttloffel

Executive Director, Kansas Catholic Conference

### House Insurance Committee

February 16, 2011

3:30 PM

Chairman Schultz and Members of the Committee:

Thank you for holding this hearing and for your attention to this important issue.

The Kansas Catholic Conference strongly supports HB 2293. We do not believe that the destruction of unborn children should be treated as a "benefit" of state employment. Abortion, put simply, is not health care. It is the antithesis of health care in that it does not preserve life, but rather destroys it. We are confident that it would come as an unwelcome shock to many Kansans that state employees are able to obtain abortions "tax free" as a part of their benefits package. This amounts to taxpayer subsidization of abortion, which is opposed by large majorities of Kansans and Americans.

The state should not pretend that abortion is just another service on the health care menu. It is a uniquely divisive issue and, from our perspective, a transcendent evil. The state government should not be complicit in its procurement.

At a time when the state is starved for revenue and is cutting benefits for some of the neediest and most vulnerable Kansans, it is particularly distasteful that abortion continues to be subsidized by the taxpayers. Please rectify this situation by supporting HB 2293.

Thank you for your consideration.

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.D.  
*Chairman of Board*  
ARCHDIOCESE OF KANSAS CITY IN KANSAS

MICHAEL M. SCHUTTLOFFEL  
EXECUTIVE DIRECTOR

MOST REVEREND PAUL S. COAKLEY, S.T.L., D.D.  
DIOCESE OF SALINA

MOST REVEREND JAMES P. KELEHER, S.T.D.  
ARCHBISHOP EMERITUS - ARCHDIOCESE OF K.C. IN KS

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

Date: 2-16-11  
Attachment # 8



**Testimony of Sarah M. Gillooly, M.A.  
 Kansas Public Affairs Manager of  
 Planned Parenthood of Kansas & Mid-Missouri,  
 in opposition to House Bill No. 2293  
 before the House Insurance Committee of the Kansas Legislature  
 February 16, 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 on our opposition to HB 2293. In Kansas, Planned Parenthood maintains family planning health and education centers in Wichita, Hays and Overland Park. One of our most important goals is to help men and women make responsible choices that prevent unintended pregnancies. 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 for women in their first and second trimesters of pregnancy.

HB 2293 is an outrageous attack on women facing wanted, medically challenging pregnancies or pregnancy resulting from despicable acts of rape and incest. HB 2293 is also a direct assault on principals this body claims to hold dear – the health care freedom of Kansans. HB 2293 would ban state employees from using **their own dollars**, held in health savings accounts, to cover the cost of unreimbursed, legal medical care expenses.

Planned Parenthood asks this Committee to oppose HB 2293 – it is an attack on women in the most difficult circumstances, an attack on our free market system, and a government healthcare mandate. HB2293 seeks only to place more unnecessary burdens on women seeking abortion care. If this body were serious about reducing the number of abortion in Kansas, they would work to reduce the number of unintended pregnancies in our state through affordable birth control and sex education. With 9 pieces of anti-abortion legislation moving in the legislature and zero pieces of legislation designed to provide affordable birth control to low-income Kansas families, it is clear the intent of this body is not to reduce the number of abortions in Kansas, but instead to create burdensome and dangerous hurdles for women seeking safe, legal abortion care.