

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Lance Kinzer at 3:30 p.m. on January 18, 2011, in Room 346-S of the Capitol.

All members were present.

Committee staff present:

Jill Wolters, Office of the Revisor of Statutes
Matt Sterling, Office of the Revisor of Statutes
Tamera Lawrence, Office of the Revisor of Statutes
Lauren Douglass, Kansas Legislative Research Department
Robert Allison-Gallimore, Kansas Legislative Research Department
Sue VonFeldt, Committee Assistant

Conferees appearing before the Committee:

Helen Pedigo, Special Counsel to Chief Justice Nuss
Cynthia K. Smith, J.D., Advocacy Counsel for Sisters of Charity of Leavenworth Health System

Others attending:

See attached list.

Chairman Kinzer proposed the Committee adopt the following requests for bill introductions without objection unless a specific request for a motion/vote is made.

Representative Holmes requested a bill on behalf of the Larned State Hospital that would limit the number of repetitive law suits.

Representative Pauls requested a bill that would limit the fiscal impact statements on bills utilizing correctional resources to such bills set for hearing or by request of the chairperson or ranking minority member of the committee to which the bill was referred.

Representative Meiers requested a bill to include a review of the living expenses of both parents when determining child support.

Representative Kinzer requested a bill requiring law enforcement to collect and report pornographic materials found at scene of or in possession of person who commits a sexually violent crime,

Helen Pedigo, Special Counsel to Chief Justice Nuss, requested a bill to require the plaintiff or plaintiff's attorney, rather than the clerk of the district court, to notify the defendants that the plaintiff has paid the amount of the appraiser's award pursuant to K.S.A. 26-507. This is a reintroduction of 2010 **SB 400** and was originally requested by the Kansas Association of District Court Clerks and Administrators (KADCCA). ([Attachment 1](#))

Cynthia Smith, J.D., Advocacy Counsel for the Sisters of Charity of Leavenworth Health System, requested a bill whereby expression of apology, sympathy, compassion or benevolent acts by health care providers would not be admissible as evidence of an admission or liability or as evidence of an admission against interest. This is a reintroduction of 2010 Substitute for **SB 374**. ([Attachment 2](#))

The next meeting is scheduled for January 24, 2011.

The meeting was adjourned at 3:44 p.m.

JUDICIARY COMMITTEE GUEST LIST

DATE: Jan. 18, 2011

[illegible]



SUPREME COURT OF KANSAS

KANSAS JUDICIAL CENTER
301 SW 10TH AVE.
TOPEKA, KANSAS 66612-1507

HELEN PEDIGO
SPECIAL COUNSEL
TO CHIEF JUSTICE

PHONE: (785) 368-6327
FAX: (785) 291-3274

HOUSE JUDICIARY COMMITTEE

Honorable Representative Lance Kinzer, Chair

Request for Introduction

January 18, 2010

Mr. Chairman, and committee members, thank you for the opportunity to request that legislation be introduced through this committee. I would like to request the following bill:

Notification that the Appraiser's Award Has Been Paid

2010 SB 400 was introduced at the request of the Kansas Association of District Court Clerks and Administrators (KADCCA) to provide that the plaintiff or plaintiff's attorney, rather than the clerk of the district court, shall notify the defendants that the plaintiff has paid the amount of the appraiser's award pursuant to K. S. A. 26-507. The bill was heard by the Senate Judiciary Committee, but the committee did not take action on the bill. KADCCA would like to reintroduce this provision.

House Judiciary

Date 1-18-11

Attachment # 1

Substitute for SENATE BILL No. 374

By Committee on Judiciary

2-16

9 AN ACT enacting the Kansas adverse medical outcome transparency act;
10 concerning evidence in civil actions; expression of apology, sympathy,
11 compassion or benevolent acts by health care providers not admissible
12 as evidence of an admission of liability or as evidence of an admission
13 against interest.
14

15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. (a) This section may be cited as the "Kansas adverse med-
17 ical outcome transparency act."

18 (b) In any claim or civil action brought by or on behalf of a patient
19 allegedly experiencing an adverse outcome of medical care, any and all
20 statements, activities, waivers of charges for medical care provided or
21 other conduct expressing benevolence, regret, mistake, error, sympathy,
22 apology, commiseration, condolence, compassion or a general sense of
23 benevolence which are made by a health care provider, an employee or
24 agent of a health care provider, shall be inadmissible as evidence and shall
25 not constitute an admission of liability or an admission against interest.

26 (c) A defendant in a medical malpractice action may waive the in-
27 admissibility of statements defined in subsection (b) that are attributable
28 to such defendant by expressly stating, in writing, the intent to make such
29 a waiver.

30 (d) As used in this section:

31 (1) "Health care provider" has the meaning prescribed in K.S.A. 65-
32 4915, and amendments thereto.

33 (2) "Adverse outcome" means the outcome of a medical treatment
34 or procedure, whether or not resulting from an intentional act, that differs
35 from an intended result of such medical treatment or procedure.

36 Sec. 2. This act shall take effect and be in force from and after its
37 publication in the statute book.



Sisters of Charity
of Leavenworth
Health System

Cynthia K. Smith, J.D.
Advocacy Counsel
Phone 913-895-2946
Cell 785-580-8508

9801 Renner Boulevard, Suite 100
Lenexa, Kansas 66219-9745
Fax 913-895-2900
E-mail Cynthia.Smith@sclhs.net
www.sclhealthsystem.org

House Judiciary

Date 1-18-11

Attachment # 2