



**To:** House Health and Human Services Committee

**From:** Jerry Slaughter  
Executive Director

**Date:** March 16, 2004

**Subject:** SB 466; concerning medical information reported to DMV

The Kansas Medical Society appreciates the opportunity to appear today in support of SB 466, which amends the laws governing the reporting of certain medical information to the Division of Motor Vehicles. The bill is designed to encourage and facilitate the reporting of medical information when a physician has reason to believe that his or her patient is not capable of safely operating a motor vehicle due to a medical condition.

Physicians are often faced with a dilemma – should they report a potentially unsafe driver to the state at the expense of breaching confidentiality and damaging the physician-patient relationship, or should they forgo reporting and risk being liable for potential future injuries to the patient or others? It's a difficult issue for physicians, because it can transform their role from patient advocate to patient reporter to potential defendant - when they are sued by the patient for making a report, or sued by a third party for not reporting.

Most states, including those surrounding Kansas, encourage, but do not require, reporting of mental or physical conditions which could affect a patient's ability to safely operate a motor vehicle. Our current law could best be categorized as one that allows such reports, but does not necessarily encourage them. The changes contained in SB 466 would appear to move Kansas into the group of states that encourages such reports. Virtually all states with similar laws provide immunity for good faith reports, as does our law. We strongly support the language in the bill which makes it clear that the change in law does not create a new duty to report.

Finally, there could be an issue relating to the new federal privacy law, the Health Insurance Portability and Accountability Act of 1996 (HIPAA). HIPAA generally prevents physicians and others from releasing protected health information without a proper authorization from the patient. However, if a patient has a medical condition that would cause an "immediate and serious danger" to the public, then reporting such information without patient authorization is allowed. The senate committee added an amendment we suggested on lines 29-30 that should overcome the HIPAA threshold for release of information in such situations. We would be happy to respond to questions.