

Written Testimony in Support of SB 219

Brittany Jones

Senate Public Health Committee

February 17, 2023

Chair Gossage and members of the committee, my name is Brittany Jones. I am an attorney and the Director of Policy and Engagement for Kansas Family Voice. We represent thousands of members in Kansas who are concerned about the use of tax dollars for abortions. We support S.B. 219 as it ensures that Kansas dollars are not subsidizing abortion procedures through a discretionary fund.

The Kansas Healthcare Stabilization Fund, the “Fund”, as outlined in K.S.A. 40-3401, was created to provide supplemental liability coverage for the healthcare providers defined in the code. There are eight groups that are already excluded from the Fund.

It is well established that the government is allowed to determine how it speaks through its funding.<sup>1</sup> The government is allowed to speak whatever message it wants. In *Rust. v. Sullivan*, the Court did point out that part of the reason that the law that excluded abortion providers from Title X funding was upheld was because a doctor could still provide, and a women could still receive, the abortion-related information outside the context of the government program.<sup>2</sup> This is true in the context of this Kansas fund as well.

The Fund already excludes other providers who provide a host of services.<sup>3</sup> The Fund is not necessary in order to provide services in the state of Kansas. If the government is not allowed to regulate how these abortion services are provided,<sup>4</sup> it should not also be required to give access to a discretionary program that provides supplemental coverage for their medial liabilities. Excluding abortion providers from the Fund does not keep them from getting liability coverage or from continuing to perform abortions. It simply says that the state doesn’t have to give them extra coverage.

The government is allowed to chose how it speaks through its funding programs. Even if a court were to consider this bill under the state’s current abortion jurisprudence it would still be constitutional.<sup>5</sup> In this instance, the government has a compelling interest in not providing extra coverage for clinics it cannot also regulate.

Because the state is allowed to speak in this arena, we encourage them to speak by limiting who can access this Fund. Abortion clinics will continue to function in Kansas with or without this bill. They are claiming that they are seeing record number of

---

<sup>1</sup> *Rust v. Sullivan*, 500 U.S. 173 (1991).

<sup>2</sup> *Id.* at 203.

<sup>3</sup> K.S.A. 40-3401(1)(f).

<sup>4</sup> *Hodes & Nauser v. Norman*, 11-CV-1298 (2021).

<sup>5</sup> *See Hodes & Nauser v. Schmidt*, 309 Kan. 610 (2019).

women seeking abortions.<sup>6</sup> The taxpayers through the government should not be obligated to provide supplemental liability coverage. Therefore, we ask that you report S.B. 219 favorably for passage.

Thank you!

---

<sup>6</sup> PBS, Kansas Planned Parenthood takes step toward telemedicine abortions, Dec. 20, 2022, <https://www.pbs.org/newshour/nation/kansas-planned-parenthood-takes-step-toward-telemedicine-abortions>