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Special Committee on Federal and State Affairs: Hodes and Nauser, MD's, P.A v. Schmidt

Jeanette Pryor, Kansas Catholic Conference

October 30, 2019

Chairman Barker, Vice-Chair Estes and Members of the Committee,

My name is Jeanette Pryor and I am the Policy Specialist for the Kansas Catholic Conference, representing the four Bishops and Dioceses of Kansas. On their behalf, I would like to thank you for this opportunity to advocate for an amendment of our State Constitution to protect vulnerable pregnant mothers and their growing babies.

On April 26, 2019, the Supreme Court of Kansas issued its ruling in the case of *Hodes and Nauser MDs, P.A. v. Schmidt* containing their discovery, in the 1859 Constitution, of a woman's "fundamental right" to end the life of her preborn baby.

The Bishops of Kansas join thousands of your constituents who have already signed the Catholic Petition for Life circulating in 285 parishes across Kansas. We respectfully ask that you enable Kansas voters to reverse the Hodes ruling by placing an amendment on the ballot in 2020 that will allow the people of Kansas to weigh in on this crucial issue.

Prior to the Hodes ruling, Kansas mothers and babies could confidently rely upon a robust body of reasonable pro-life laws, each deliberated and passed by our elected representatives—many with bipartisan support. That is no longer true.

These sensible regulations representing the collective will of the people of Kansas are now all but nullified, since the legal basis for these laws has been evacuated by the Court.

Because of the Court's ruling, virtually no limits on abortions will remain in Kansas.

It is a little-known fact that, according to the Kansas Department of Health and Environment, about a dozen second trimester Kansas babies die each week by the barbaric procedure technically known as dilation and evacuation. Dr.'s Hodes and Nauser filed their original case so they could continue this live dismemberment of non-anesthetized infants in the womb.

MOST REVEREND JOHN B. BRUNGARDT, D.D.  
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ARCHDIOCESE OF KANSAS CITY IN KANSAS

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Another little-known fact is that the three cases relied upon by the Kansas Court in their *Hodes* ruling referenced laws in other states related to publicly funded abortions.

Does this mean taxpayers in Kansas may soon be forced to pay for large numbers of abortions with state funds not impacted by the Federal Hyde Amendment?

One critical law, still technically on the books though almost certainly nullified by the Court's decision, requires parental consent for surgical or chemical abortions offered to minors.

Parents have a natural, legal and universally recognized duty and privilege to protect, nurture and guide their daughters as they grow into independence. Our laws demanded that no one--no educator, representative of a religious or financial institution, a coach or even non-emergency healthcare provider—may professionally interact with our child without our express consent.

If Kansas legislators do not help reverse the Court's ruling, even this most basic and obvious protection of our daughters will be deemed unconstitutional. Complete strangers, strangers with deep financial and ideological interests in selling their services, will have full access to our daughters without any obligation to inform us so we can make sure the medical and emotional needs of our child are being met.

The right to life—*to live*—is the first and most important of all human rights. It is foundational to all other rights. We are not, as cynics like to say, simply “pro birth.” We are pro-Life. Catholics not only offer our prayers for mothers in a crisis pregnancy, we offer other substantial, real-life resources—foster parents to live with and homes to live in. Food. Clothing. Educational opportunities, and a wide array of critical social services. We are part of the solution in making our culture better for all people, most particularly those in greatest need.

By allowing the people of Kansas the opportunity to decide upon a state constitutional amendment, it is our hope that God's most precious gift—human life—will enter the world and be a part of our culture.

Thank you

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## 65-6704. Abortion upon minor; required information and counseling.

(a) Before the performance of an abortion upon a minor, a counselor shall provide pregnancy information and counseling in a manner that can be understood by the minor and allows opportunity for the minor's questions to be addressed. A parent or guardian, or a person 21 or more years of age who is not associated with the abortion provider and who has a personal interest in the minor's well-being, shall accompany the minor and be involved in the minor's decision-making process regarding whether to have an abortion. Such information and counseling shall include:

(1) The alternatives available to the minor, including abortion, adoption and other alternatives to abortion;

(2) an explanation that the minor may change a decision to have an abortion at any time before the abortion is performed or may decide to have an abortion at any time while an abortion may be legally performed;

(3) make available to the minor information on agencies available to assist the minor and agencies from which birth control information is available;

(4) discussion of the possibility of involving the minor's parent or parents, other adult family members or guardian in the minor's decision-making; and

(5) information regarding the provisions of K.S.A. [65-6705](#), and amendments thereto, and the minor's rights under such provisions.

(b) After the performance of an abortion on a minor, a counselor shall provide counseling to assist the minor in adjusting to any post-abortion problems that the minor may have.

(c) After the counselor provides information and counseling to a minor as required by this section, the counselor shall have the minor sign and date a statement setting forth the requirements of subsections (a) and (b) and declaring that the minor has received information and counseling in accordance with those requirements.

(d) The counselor shall also sign and date the statement and shall include the counselor's business address and business telephone number. The counselor shall keep a copy for the minor's medical record and shall give the form to the minor or, if the minor requests and if the counselor is not the attending physician, transmit the statement to the minor's attending physician. Such medical record shall be maintained as otherwise provided by law.

(e) The provision by a counselor of written materials which contain information and counseling meeting the requirements of subsections (a) and (b) and which is signed by the minor shall be presumed to be evidence of compliance with the requirements of this section.

(f) The requirements of subsection (a) shall not apply when a medical emergency exists. A physician who does not comply with the requirements of this section by reason of this exception shall state in the medical record of the abortion the medical indications on which the physician's judgment was based.

**History:** L. 1992, ch. 183, § 4; L. 2014, ch. 87, § 4; Apr. 24.

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