

MINUTES OF THE HOUSE FEDERAL & STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairperson Doug Mays at 1:40 p.m. on March 6, 2001 in Room 313-S of the Capitol.

All members were present except: Representative Joann Freeborn

Committee staff present: Theresa M. Kiernan, Revisor of Statutes
Shelia Pearman, Committee Secretary

Conferees appearing before the committee:

Mike Farmer, Director, Kansas Catholic Conference
Virgil Stinson, Wichita Pharmacist
Dr. Todd Bielefeld, Topeka Pharmacist
Dr. Eugene Pearce, Kansas Catholic Conference
Jeanne Gawdun, Kansas for Life
Pat Turner, Kansas Right to Life
Ron Pope, Kansas Trial Lawyers Association
Dr. John Swomley, Planned Parenthood of KS/Mid MO
Carla Mahany, Planned Parenthood of KS/Mid MO
Barbara Duke, American Association of University Women
Barbara Holzmark, National Council of Jewish Women
Bob Williams, Executive Director KS Pharmacy Association.
Sharon Lockhart, Kansas National Organization for Women

Others attending: See attached list

Chairman Mays opened the hearing on **HB 2491 - Health care professionals' rights of conscience act.**

Mr. Farmer stated **HB 2491** seeks to protect any individual, including nurse's aides, pharmacists, students and others who may be in the situation of having to participate in a health care service to which he/she conscientiously objects, or risks disciplinary action or liability for his or her failure to participate. (Attachment #1) A Kansas pharmacist is about to be fired from their job for refusing to dispense a drug that violates their conscience. Illinois is the only state that currently protects the rights of conscience of all healthcare providers, institutions and payers who refuse to provide any health care service based on a religious or moral objection.

Mr. Stinson declared **HB 2491** is critically important to all pharmacists and health care providers. Because of the potential for pharmacists to be requested/required to participate in physician-assisted suicide and the withholding or withdrawal of life sustaining drugs. (Attachment #2)

Dr. Bielefeld cited the potential for being fired if he chose not to dispense a medication that a doctor has authorized, due to personal religious and moral convictions. He urged the Committee to support **HB 2491**. (Attachment #3)

Dr. Pearce stated the many moral ramifications of our medical and scientific technology presents the need to address of legislation such as **HB 2491**. Other issues which potentially cause conscientious objection are capital punishment, euthanasia, and fetal organ research (Attachment #4) As an obstetrician-gynecologist for the past 49 years, he expressed his support of the bill to address the concerns of current and future health care personnel.

Ms. Gawdun rose in support of **HB 2491** and offered a nondiscrimination amendment (Attachment #5) to prevent potential misunderstanding that euthanasia would be applicable. She stated this bill is necessary to protect the rights of individuals in the health care field to be able to refuse, on moral or religious grounds, to participate in those activities that would result in the devaluation of human life, at any stage.

Ms. Turner stated the Pharmacists for Life (www.pfli.org) organization also recommends the bill as written. (Attachment #6)

Written testimony submitted by Matthew Hesse on behalf of Via Christi also supported **HB 2491** as a declaration of its public policy to respect and protect the fundamental rights of consciences of all individuals of all faiths who provide health care services in Kansas. (Attachment #7)

Mr. Williams expressed his association has not adopted a position on the conscientious objection issue although it has been discussed at both state and national meetings for years. He does expect adoption of a policy state this Fall. Additionally, KPhA has some concerns regarding the sections of the bill which apply to health care payers right to decline to pay for health care services based on religious or moral objections. (Attachment #8)

Mr. Pope noted KTLA has concerns about the far-reaching implications of **HB 2491** in that it goes far beyond what is necessary to achieve the purpose of allowing an individual health care provider as a matter of personal conscience. It appears to interfere with contractual rights of insureds who, after paying premiums, would be denied coverage for medically required health care services based on the undefined "religious or moral convictions" of the insurance company. This bill could potentially permit refusal of treatment in several situations. (Attachment #9) Additionally, it does not require notice to the public that provider, institution, or health care payer does not provide or pay for a specific procedure. It disproportionately impacts individuals who reside in rural areas and those of lower income levels who do not have the resources to find another health care facility or physician willing to perform the needed medical service.

Dr. Swomley declared this legislation attempts to give health care providers, hospitals, insurance agencies and corporations a right of conscience against providing normal medical service is really a weapon against people who do not share the views of a powerful religious organization. He commented the bill does not, however, recognize the conscience of health care personnel who disagree with the religious position of the corporate or religious owners of some hospitals, nursing homes, research centers and other facilities. But specifically refers to health care services that the Vatican has decided to oppose. (Attachment #10) He cited a pharmacist who refuses to fill certain prescriptions or provide other services is similar to a landlord or real-estate agency refusing to rent to certain financially qualified people for reasons of his own, such as discrimination against blacks, Hispanics, Asians, gays or lesbians.

Ms. Mahany cited **HB 2491** is one of the broadest health care denial bills introduced in any state to date. She commented current statutes are far better at permitting individuals and/or institutions to "opt out" without risking civil liability. Her written testimony (Attachment #11) lists several scenarios to consider. Health care providers have a professional, ethical and - in some instances - legal obligation not to impede access to health care.

Ms. Duke noted the pharmacist's job is to facilitate doctors' decisions, not to sit in moral judgement on them. (Attachment #12) She recommended the committee defeat the bill.

Ms. Holzmark opposed **HB 2491** citing that any person who is in need of health care should be allowed to visit any institution, either public or private, including any hospital, nursing home or pharmacy of their choice. (Attachment #13)

The hearing on **HB 2491** was closed.

The committee meeting adjourned at 3:05 p.m. The next scheduled meeting is March 7, 2001.