

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE.

The meeting was called to order by Chairperson Senator Susan Wagle at 1:30 p.m. on March 26, 2002 in Room 231-N of the Capitol.

All members were present except: Senator David Haley  
Mr. Norm Furse, Revisor of Statutes  
Ms. Emalene Correll, Kansas Legislative Research Department

Committee staff present: Ms. Lisa Montgomery, Revisor of Statutes  
Ms. Margaret Cianciarulo, Administrative Assistant

Conferees appearing before the committee: Representative Tony Powell  
Ms. Dorinda Bordlee, Staff Counsel with  
Americans United for Life  
Mr. Mike Farmer, Executive Director,  
Kansas Catholic Conference  
Dr. Patrick Herrick, Family Physician, Overland Park  
Ms. Orva Hargett, Registered Nurse, Newton  
Ms. Paula Koch, Registered Pharmacist, Lawrence  
Mr. Matthew Hesse, Associate General Counsel for  
Via Christi Health System

Others attending: See attached guest list.

**Final Action on HB2665 - an act concerning emergency medical services; relating to certification**

Upon calling the meeting, Chairperson Susan Wagle asked the Committee to address HB2665's proposed amendments before them. She stated this was the EMS bill that added the "epinephrine pin" to it and was passed as amended out of Committee on March 19, 2002. She stated that Ms. Emalene Correll, Legislative Research, had found that the bill needed one technical change, found on page 2 of the balloon, adding the word "initial" throughout the bill, to emergency medical technician. She then said she would entertain a motion to adopt this amendment with the word "initial" throughout the bill and pass it out favorably again. Senator Harrington made the motion to amend the bill and pass it out favorably and was seconded by Senator Jordan. The motion carried.

**Hearing on HB2711 - an act enacting the health care providers' rights of conscience act**

The Chair then asked the Committee to address a letter from the University of Kansas Medical Center which states that the KU Med Center is remaining neutral on the bill however, they do have some language that they would like to have amended into the bill which is italics on the letter. She stated that they have a concern that if a medical student opt out of a particular procedure and then as a consequence of that they fail that part of the test, they want to exempt the state or the school from lawsuits and they feel this language does this. A copy of their letter is (Attachment 1) attached hereto and incorporated into the Minutes as referenced.

The Chair then announced the first of seven proponents to testify, Representative Tony Powell who stated that the bill will guarantee to very health care provider, institution, and payer, the right to not participate in, or pay for, the limited list of medical procedures and services which they and many Kansas find morally or religiously objectionable. He went on to state that this bill:

- 1) does not patients access and the right of health care providers to perform, the medical procedures and services set forth in this bill;
- 2) does not prohibit hospitals or medical schools from training or teaching health care professionals about the medical procedures outlined in this bill;

3) contains an emergency exception for those extremely rare situations, such as ectopic pregnancies, when performing one of the medical procedures outlined in the bill, is necessary to protect a patient's life and requires that health care professional comply with any ethical duties they may have to patients so long as they are not required to participate in the provision of a health care service subject to this act;

4) with regard to health care payers, they must pay for all services they voluntarily contract for, regardless of the rest of the bill's provisions; and

5) health care providers must give advance notice to their employer in writing of their objection to performing any of the medical procedures or services set forth in this bill.

A copy of his testimony is ([Attachment 2](#)) attached hereto and incorporated into the Minutes by reference.

Questions for Representative Powell were taken at this time from Senators Praeger, Brungardt, and Barnett ranging from waiting on an ectopic pregnancy, is there an issue if the emergency staff if there, "emergency clause", pre-application, contractual relations, access to information from patient, right to hire, to his thoughts regarding a nurse who "did before" "now she doesn't".

Next to come before the Committee was Ms. Dorinda Bordlee, Staff Counsel with Americans United for Life, who addressed the background of this legislation and "discuss the Supreme Court case law which makes clear that the court-created right to choose abortion does not trump a health care worker's right to choose a profession, and to practice within that profession in a manner best serves both the patient and the professional's highest ethical standards." She also provided a copy of the "Current State Statutes, Overview of Current Rights of Conscience Laws" dated February, 2002. A copy of her testimony and her attachment is ([Attachment 3](#)) attached hereto and incorporated into the Minutes by reference.

The next proponent to testify was Mr. Mike Farmer, Executive Director of the Kansas Catholic Conference who introduced Mr. Mike Moses, Associate General Counsel with the United States Conference of Catholic Bishops, who was here to assist Mr. Farmer and the Kansas Bishops. He stated that the bill guarantees that no health care professional, institution or payer will be forced, contrary to its conscience, to provide a health care service subject to this act. A copy of his testimony is ([Attachment 4](#)) attached hereto and incorporated into the Minutes by reference.

The fourth proponent recognized was Dr. Patrick Herrick, Family Physician from Overland Park who offered motivation factors for those who object to artificial fertility regulation and provided true stories of health care professionals he knows who have encountered significant organized opposition in following their conscience with these issues. A copy of his testimony is ([Attachment 5](#)) attached hereto and incorporated into the Minutes by reference.

The fifth proponent recognized was Ms. Orva Hargett, a registered nurse at Newton, who gave a history of before becoming a Catholic and after and worked in an OB-Gyn office. She stated that this bill would prohibit "...all forms of discrimination, disqualification, coercion, disability or imposition of liability upon such persons...by reason of their refusal to participate in the provision of..." the health care services described in the act. A copy of her testimony is ([Attachment 6](#)) attached hereto and incorporated into the Minutes by reference.

Next was Ms. Paula Koch, registered pharmacist at Lawrence, who related her past 2-years on the job where she faced employee opposition and threatening to fire her because she did not want to dispense the morning after pill. A copy of her testimony is ([Attachment 7](#)) attached hereto and incorporated into the Minutes by reference.

The last proponent to testify was Mr. Matthew Hesse, Associate General Counsel for the Via Christi Health System in Wichita, Kansas who stated before he began, he was instructed by Mr. LeRoy Rheault, the Chief Executive Office of Via Christi to submit his written testimony in support of the bill. Mr. Hesse stated that it is not Via Christi's intention to deny others their right to seek healthcare services listed in the Act, but seeks to reaffirm that it, its affiliates and employees, and all healthcare providers of different faiths and beliefs, have the right to refuse to provide and/or pay for them as a matter of conscience and as a matter of private contract between the health plan, employer and employee. A copy of his testimony and Mr. Rheault's are (Attachment 8) attached hereto and incorporated into the Minutes by reference.

The Chair then let the Committee know they had before them written testimony from:

- 1) Secretariat for Pro Life Activities, United States Conference of Catholic Bishops;
- 2) Dr. Gary Yarbrough, Family Physician at Parsons, Kansas;
- 3) Mr. Jerry Slaughter, Executive Director, Kansas Medical Society; and
- 4) Mr. Tom Bell, Senior Vice President/Legal Counsel, Kansas Hospital Association.

A copy of these testimonies are (Attachment 9) attached hereto and incorporated into the Minutes by reference.

The Chair let the Committee know that from what she understands that Mr. Daniel Young, from the Kansas Choice Alliance, wanted to change his testimony from yesterday and has presented new testimony today. She then asked if the Committee had any questions to ask of the conferees.

As there were none, the Chair closed the hearing.

### **Adjournment**

Adjournment time was at 2:30 p.m.

The next meeting is scheduled for March 27, 2002.

CONTINUATION SHEET