

MINUTES OF THE HOUSE FEDERAL & STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairperson Doug Mays at 1:40 p.m. on February 20, 2002 in Room 313-S of the Capitol.

All members were present except: Representative Judy Morrison, Excused
Representative R. J. Wilson, Excused

Committee staff present: Mary Torrence, Revisor of Statutes
Russell Mills, Legislative Research Department
Shelia Pearman, Committee Secretary

Conferees appearing before the committee:
Representative Tony Powell
Mike Farmer, KS Catholic Conference
Terry Leatherman, Kansas Chamber of Commerce and Industry
Michael Moses, Esquire, US Conference of Catholic Bishops
Nikolas Nikas, Americans United for Life
Patrick Herrick, M.D., Ph.D., Associates in Family Care

Others attending: See attached list

Chairman Mays re-opened the hearing on HB 2711 - Health care providers' rights of conscience act. Mr. Leatherman expressed concern to the proposed legislation citing limited protection for health care workers as an issue of the employment-at-will doctrine in Kansas. (Attachment #1)

Representative Powell authored this civil rights legislation which will guarantee to every individual, institution, and payer the right to not participate in, or pay for, the limited list of medical procedures. (Attachment #2) With a collaborative effort from various associations and institutions, this bill is a result of revising **HB 2419**. An amendment will remove blood transfusions in Sec. 3(c), included nurse practitioners in Sec. 3(d). He cited California's law and the pending litigation which required employers to provide health insurance which covered abortion and contraceptives. This bill would cover voluntary contract to provide services but will not force institution or insurance companies to cover specific services. He stated it will not deny patient's access to procedures/services included in this legislation. This would be subject to the Kansas Tort Claim Act. Upon questioning, he clarified that the Constitution shall not restrict the free exercise of religion. He stated he expects the practical impact of this legislation will be minor.

Mr. Farmer stated the failure to enact the bill would have a chilling effect on anyone who wishes to participate in the delivery of health services in Kansas yet rejects the practice of abortion, sterilization, cloning, or any of the other morally controversial procedures identified in the bill. (Attachment #3) It also ensures the freedom of health care professionals, institutions and payers not to participate in certain procedures, all of which are morally controversial. He also submitted testimony from Mr. Moses (Attachment #4) who stated out of respect for religious freedom, concern for the ethical integrity of the medical profession, and appreciation for the diversity of our health system and our society, all should agree to help prevent such coercion. Committee questions included Do Not Resuscitate orders and pain-control medication. Mr. Moses testimony included a statement that the intent to provide compassionate care would be permissible.

Mr. Hesse represents the State's largest multi-institutional healthcare system which employs approximately 10,000 employees and referenced the submitted testimony of LeRoy E. Rheault, Via Christi Health System's CEO. (Attachment #5) He stated as a faith-based organization, they support the belief all health care providers should have the civil right to exercise their rights of conscience covered by this act. Also, they believe the bill should be expanded to go outside the walls of hospitals to include physician clinics, senior care facilities, medical and nursing schools. He stated this legislation would prohibit employers from discriminating against professionals who conscientiously object to provide services/procedures listed. He also said healthcare providers and payers should have the individual and organizational right of conscience to decline to participate in or pay for services in the act which they deem morally objectionable without fear of discrimination, termination, government intrusion or other

legal actions. He further stated this legislation also requires reasonable notice of objection so that other healthcare providers are available to provide the necessary treatment. (Attachment #6)

Dr. Herrick cited personalized incidences of healthcare providers who have experienced discrimination. He also stated failure to pass this legislation allows the pressure upon doctors and other practitioners to continue; either ignore their conscience or act against it. (Attachment #7)

Ms. Hargett has been employed for 18 years in an OB-GYN office. Following a conversion of faith, she no longer feels she can administer all medication and services previously done during her employment. Following discussions with her physician employer, he stated he is likely to alter his hiring decisions in the future because of this situation. While she believes this legislation will not benefit her, she stated it is important to the future of healthcare employees. (Attachment #8)

Mr. Nikas voiced his support of **HB 2711**. Their organization, which has been involved in every abortion-related case since *Roe v. Wade*, gives advice to Attorney Generals and State Legislators across America. (Attachment #9) Although he and his colleague, Ms. Bordlee, would not make a policy statement on this bill, he cited this bill is constitutionally-based and nothing in Supreme Court jurist prudence would prevent the State of Kansas from passing this legislation. He cited thirteen states are presently dealing with end-of-life care issues including the freedom to give advance notice of objection of care.

Kansas Human Rights Commission Executive Director and Legal Counsel submitted written testimony stating the prohibitions contained within the proposed legislation concerning discrimination based upon rights of conscience might be seen as inconsistent with such an intent regarding the types of things the act should deal with. KHRC anticipates an increase in discrimination complaints, thus requiring additional resources not currently considered in the FY2003 budget. (Attachment #10)

The meeting recessed at 3:20 with testimony for **HB 2711** to continue on February 21, 2002.