

**HB2503 Opponent**, Mark Pederson, Manager, and Zaremski, MD, Medical Director  
Capitol Bldg., Rm 526-S, 15March2005, 1:30pm, Human & Health Services Cmte.

Aid For Women, abortion clinic, 720 Central Avenue, Kansas City, KS 66101, 913.321.3350  
National Abortion Federation (NAF) member

This is at least the fourth attempt to get abortion health restrictions in place<sup>1</sup> which presumes abortions are unsafe, and for the fourth time, "Where are those facts about abortion risks? I will agree that 2nd trimester abortions are slightly riskier than 1st trimester, but those mortalities are still better than childbirth<sup>2,3</sup>, and yet birthing can still be done at home. Driving to the clinic is riskier than either of these.<sup>4</sup> Last year's HB2751 proponents and the Attorney General media-splashed low-cost abortion provider (Rajanna) as the stereotype, yet this bill will not affect him.

Proponents will not be appeased until abortion is eliminated. This bill is not about women's health care otherwise they would not have forbid abortions at ambulatory KU Medical Center in 1998.<sup>5</sup> Don't believe these proponents who claim to want to make abortion safer, **unless safer means none**. Are there plans to regulate births which are ten times more dangerous? Nope, even though there have been 37 birth-related deaths since 1990.

What regulations would prevent abortion clinic deaths, specifically please? Which causes of deaths have there been and how will these regulations prevent them? In my opinion it won't prevent any deaths. Proponents will use the loaded word 'botched,' the real word being 'incomplete' which isn't life-threatening and preferable over 'perforation,' and still has more to do with doctor skill (curettaging too lightly or heavily) and patient's circumstances (lying about medical history). This bill doesn't fix doctor skill or patient mistakes. That's why we go to annual NAF meetings for continuing medical education. ProLifer's also bandy the phrase 'vulnerable women' who won't talk when wronged, but our patients are not vulnerable if they have crossed through the proLife gauntlet picket line.

Why have proponents not enabled the Board of Healing Arts with more power? Proponents claim that BOHA is 'toothless,' 'impotent,' and 'reactive, not pro-active' to fix poor abortion clinics.<sup>6</sup> We've had our problems, and BOHA has dealt us Corrections. BOHA doesn't seem so toothless, but I am open to broadly based increases in BOHA's power. By the way, if this bill is supposedly pro-active, pro-active implies before problems have happened. Is that an accidental admission?

Proponents have claimed abortion deaths are being hidden by coroners out of respect, collusion by the CDC et cetera, and therefore proponents couldn't get needed proof of risks. We've been told that ambulances have arrived at our clinic silently, proof of city collusion to hide problems.<sup>7</sup> Conspiracies abound. A coroner told me that they have no problem declaring embarrassing Cause-of-Death statements such as AIDS, accidental auto-erotic hangings, drug overdoses, and suicides. In Wyandotte county a death outside of a hospital is required to be sent to the coroner. Part of proponent's mis-impression comes from the fact that there must be a direct or indirect causal relationship to abortion to be listed as an "abortion death"<sup>8</sup>. An anesthesia-related death during an otherwise uneventful abortion shouldn't be an abortion death. Also, deaths in another state attributable to a Kansas abortion provider don't count unless the state's other numbers are included. Keep it simple.

The 1997 CDC mortality rate for legal abortions is 0.6 per 100K abortions<sup>9</sup>, and abortion is done exclusively in outpatient clinics. The mortality for birthing ranges from 6.0 per 100K births for white women and up to 24.9 for black women, the national average being 8.9.<sup>10</sup> Most deliveries are in hospitals. Car accidents kill 16 people/100K people annually, while suicide consumes 11 people per 100K people annually. Remove the mote from thine own eye first.

Ambulatory rules under SB155 require local hospital privileges or transfer agreements with a local hospital<sup>11</sup> and rules under HB2503 require hospital privileges in state<sup>12</sup>. Will there be legal remedy provided for the abortion provider when the hospital discriminates by refusing

to make transfer agreements by use of the Conscience Clause that same proponents have pushed for? Providence Medical Center would never make a tacit transfer agreement with any abortion clinic. KU Medical Center cannot make a transfer agreement for fear of losing their State funding. Those are MY local hospitals. To get ONE abortion done at any other secular ambulatory surgery center requires a committee meeting, much less ten thousand KS abortions annually. HB2503 requires an RN or LPN, but our 3 female CPR-trained CMA's will not suffice. An LPN would be an over-qualification for dressing patients, making bottle labels, taking Histories, Vitals, and discussing birth control. Our female surgery nurse of 35 years experience doesn't qualify to provide post-operative monitoring under these rules. Under SB155, ambulatory regulations require 5' wide hallways.<sup>13</sup> I have a 43" wide corridor. Ambulatory regulations require a 360 sqft surgery room minimum<sup>14</sup> and I have a 9'9" x 11' surgery room. Regulations require an X-ray illuminator in each surgery room.<sup>14</sup> I have one hallway X-ray illuminator and have never used it for abortions. I worry about what the regulations under HB 2503 would become.

Proponents claim that these are minimum requirements BASED ON national standards, implying national acceptance. The phrase "based on" is a lie as HB2503 goes beyond NAF standards, and therefore is not a minimum. Where in the minimum NAF Clinical Policy Guidelines will one find the hospital privileges requirement, or the requirement for LPN's or RN's that exclude CMA's? You will find the current online 2005 NAF Clinical Policy Guidelines at [http://www.guidelines.gov/summary/summary.aspx?doc\\_id=6518&nbr=4087](http://www.guidelines.gov/summary/summary.aspx?doc_id=6518&nbr=4087). NAF members annually sign a promise to follow these standards. We follow them because we want to be better than the proLifer's think.

Proponents claim that veterinary clinics are more regulated than abortion clinics, that a woman would be better off at a veterinarian clinic than an abortion clinic. That is misleading. Veterinary standards at the statute-level are general. At the regulation-level directed by the Board of Veterinary Examiners, they are quite proscriptive. But then again, veterinarians aren't required to have malpractice insurance, something all physicians must have, and veterinarians are unlikely to get sued and have no death reporting requirement. Specific proscriptive laws are usually implemented by regulation not statute.<sup>15</sup>

Anti-abortion proponent Mark Crutcher of Life Dynamics, Inc. urges that abortion can be made unavailable by regulating it out of business. His goal, he wrote, is to create an America where abortion may indeed be perfectly legal but no one can get one."<sup>16</sup> Until KU Medical Center starts performing abortions again, the State helps finance important public health renovations at abortion clinics, and make annual licensing fees the same as ambulatory facilities (free), proponent's safety motives shouldn't be believed.

KDHE KIC statistics<sup>17</sup>

<b>Mortalities 1990-2003:</b>		<b>Hospital diagnoses (not deaths) 1995-2002:</b>	
11,351	Pneumonia	25,173	Complications of surgical procedures or medical care
6,825	Motor vehicle accidents		
4,442	Suicides	21,367	Scepticemia
3,034	Septicemia	9,658	Aspiration pneumonitis, food/vomit
2,078	Homocides		
1,799	Pneumonitis (throwing up during anesthesia)	1,815	Ectopic pregnancies
		1,083	Miscarriages-spontaneous abortion
348	Complications of medical & surgical care	154	Post-abortion complications (abortion, ectopic, and molar)
302	Influenza		
37	Pregnancy complications	123	Induced abortion
0	Legal abortion		

## FOOTNOTES

<sup>1</sup> Senate Bill 155 (2005) full ambulatory restrictions, House Bill 2751 (2004 3<sup>rd</sup> incarnation) partial ambulatory with \$49,000 per clinic annual registration fee (6 clinics), House Bill 2176 (2003 2<sup>nd</sup> incarnation) partial ambulatory with \$32,000 per clinic annual registration fee, and HB2819 (2002 1<sup>st</sup> incarnation) partial ambulatory and claims to follow our own national standards.

<sup>2</sup> "The risk of death associated with abortion increases with the length of pregnancy, from 1 death for every 500,000 abortions at 8 or fewer weeks to 1 per 27,000 at 16-20 weeks and 1 per 8,000 at 21 or more weeks." New York: Allan Guttmacher Institute, [http://www.agi-usa.org/pubs/fb\\_induced\\_abortion.html](http://www.agi-usa.org/pubs/fb_induced_abortion.html) and made reference to previously published report titled "AGI, Abortion and Women's Health: A Turning Point for America?" New York: AGI, 1990, p. 30.

<sup>3</sup> Pearlman et al, *Obstetric & Gynecologic Emergencies: Diagnosis and Management*, (ISBN 0-07-145740-2), Chapter 6, Stubblefield P & Borgatta L, *Complications of Induced Abortion*, McGraw-Hill Companies, Inc., p. 65, c. 2004.

<sup>4</sup> <http://www.cdc.gov/nchs/data/hus/hus04.pdf>, Annual deaths from Vehicular Accidents, p. 190, 15.7 per 100K people; annual Suicides, p. 197, 11.0 per 100K people, 2002, all ages crude rate.

<sup>5</sup> KSA 76-3308(i)

<sup>6</sup> Kline news conference last April 28, 2004 regarding poor cleanliness of Dr. Rajanna's clinic. Mason: Was this discussed with BOHA? Rep Long: Larry Buenig [BOHA] was notified 4 weeks ago, and is finally up for review. Mason: They are powerless without new laws. But HB 2741 would enable BOHA to do something. Kline: No clear jurisdiction. Det. Howard to Tomasic: Inability to do anything. A restaurant health inspector has more power. Kline: BOHA is broken. During House Federal & State Affairs, HB 2751 2004 Proponent Mary Kay Kulp of Kansas Right To Life: Complaints [to BOHA] don't do anything. No standard of care. BOHA reacts but doesn't prevent.

<sup>7</sup> Mary Kay Kulp complained that they had seen ambulances at KCK clinic but ambulance was quiet, that there was collusion with the city to hide problems. We had an 8-month pregnant woman wearing over-alls, dropped off at our clinic without appointment by boyfriend who screeched his tires while leaving, and she demanded that we get this pregnancy out of her NOW because she was going to get arrested if she went to the hospital... [assumed drug use]. Her water broke while talking with us, and she went into labor with contractions about 5-minutes apart. We called 911, explained the situation, they arrived quietly, and they gurneyed her out the back door. Ignorant anti-abortion Eugene Frye from across the street was taking pictures like crazy, assuming we had just butchered an abortion patient. Why bother to tell him? Another time it was a minor who had a seizure and we sent her to the hospital via ambulance also. Later we were told at the hospital that she had faked the seizure to scare her mother who had pushed her into having the abortion! This is the kind of insanity we deal with every year, including this bill.

<sup>8</sup> <http://www.cdc.gov/mmwr/PDF/ss/ss5309.pdf>, Morbidity and Mortality Weekly Report, November 26, 2004, Vol. 53, No. SS-9, US Department of Health and Human Services, Centers for Disease Control and Prevention, Abortion Surveillance - United States, 2001, p. 3, "An abortion death was defined as a death resulting from 1) a direct complication of an abortion, 2) an indirect complication caused by the chain of events initiated by an abortion, or 3) aggravation of a pre-existing condition by the physiologic or psychologic effects of an abortion (1,2)"

<sup>9</sup> Ibid., p. 32, Table 19, Number of deaths and case-fatality rate for abortion-related deaths reported to CDC, by type of abortion - United States, 1972 - 2000.

<sup>10</sup> <http://www.cdc.gov/nchs/data/hus/hus04.pdf>, p. 189. Crude rates were used. Maternal mortality of complications of pregnancy, childbirth, and the puerperium, according to race, Hispanic origin, and age: United States, selected years 1950-2002. Typically these results are

for deaths up to 42 days after childbirth. Other reputable studies include all deaths up to 1 year after childbirth.

<sup>11</sup> K.A.R. 28-34-52b. Assessment and care of patients **(g) The ambulatory surgical center shall have a written transfer agreement with the local hospital for the immediate transfer of any patient** requiring medical care beyond the capability of the ambulatory surgical center, **or each physician** performing surgery at the ambulatory surgical center **shall have admitting privileges with a local hospital.**

<sup>12</sup> HB2503(d) “The Secretary shall adopt rules and regulations relating to abortion clinic personnel. At a minimum these rules shall require that: (3) A physician with admitting privileges at an accredited hospital in this state is available.”

<sup>13</sup> KAR 28-34-62a Construction Standards. (a) General provisions. All ambulatory surgical center construction, including new buildings and additions or alterations to existing buildings, shall be in accordance with standards set forth in sections 1,2,3,4,5,6, **and subsections 9.1, 9.2, 9.5, 9.9, 9.10, and 9.32** in the American Institute of Architects Academy of Architecture for Health, publication number ISBN 1-55835-151-5, entitled “**1996-1997 Guidelines for Design and Construction of Hospital and Health Care Facilities,**” copyrighted in 1996, and hereby adopted by reference.

**9.2) Common Elements of Outpatient Facilities, H1.** Details shall comply with the following standards: **(a) “Minimum public corridor width shall be 5 feet (1.52 meters).”**

<sup>14</sup> Ibid., Section **9.2) Common Elements of Outpatient Facilities, B3.** Treatment rooms(s). **Rooms for minor surgical** and cast procedures (if provided) **shall have a minimum floor area of 120 square feet** (11.15 square meters), excluding vestibule, toilet, and closets. Or more strictly, under Section **9.5) Outpatient Surgical Facility, F2. Each operating room shall have a minimum clear area of 360 square feet** (33.48 square meters), exclusive of cabinets and shelves,... **There shall be at least one X-ray film illuminator in each room.**

<sup>15</sup> Kansas Board of Veterinary Examiners, <http://www.accesskansas.org/veterinary/policies.html>  
Kansas Board of Healing Arts, <http://www.ksbha.org/regs.html>

Specific proscriptions fall under rules and regs. See Physician Assistants, Short Term Treatment of Obesity, or Light-based Medical Treatment’ [usually plastic surgery using laser knife or Lasix eye surgery];

State Board of Examiners in Optometry, <http://www.kssbeo.com/Statutes.htm>

Specific proscriptions fall under rules and regs. See Minimum Standards For Ophthalmic Services;

Kansas Dental Board, <http://www.accesskansas.org/kdb/legislation.html>

Specific proscriptions fall under rules and regs. See Sedative and General Anaesthesia;

<sup>16</sup> Targeted Regulations of Abortion Providers (TRAP), The Center for Reproductive Law and Policy, New York, NY, May 1999 handout.

<sup>17</sup> <http://kic.kdhe.state.ks.us/kic/>, Kansas Department of Health and Environment, Kansas Information for Communities (KIC).

Addendum 15 March2005:

### **Previously I said :**

Part of proponent’s mis-impression comes from the fact that there must be a direct or indirect causal relationship to abortion to be listed as an “abortion death.” An anesthesia-related death during an otherwise uneventful abortion shouldn’t be an abortion death.

**My correction:**

An anesthesia-related death during abortion **shouldn't** be listed as an abortion death, but it **would be** listed as such since all abortions are done at clinics without hospitals. The coroner replied to my question of how would typical abortion complications be coded, the approximate reply was:

- Hemorrhage during an abortion.
- Amniotic fluid embolism during an abortion.
- Anesthesia oxygen insufficiency, strictly anesthesia-related if at a hospital but would include another cause like abortion if outside hospital setting.
- Sepsis from perforation during an abortion.

Mark Pederson  
Manager