

PROPONENT, Senate Bill 98

Senate Federal and State Affairs Committee
 Chairman LaTurner and committee,

Feb. 7, 2017

Good Morning. I am Kathy Ostrowski, KFL legislative director, here today to urge support for the DISCLOSE ACT, SB 98.

KDHE statistics for 2015 released last April revealed the lowest abortion total since 1987: **6,931 abortions done in Kansas**. An additional 43 Kansas women obtained abortions outside Kansas for a total of 6,974.

53% (3,579) abortions were obtained by Kansas women and teens and 47% (3,395) by non-residents. Of the latter, 3,060 were from Missouri.

This was the first abortion for nearly 65%. Nearly 60 % were in their 20's.

Of all other groups of Kansans headed to different types of procedures in medical settings, these abortion seekers were the most "in the dark" about what was really going to happen and what quality of physician would be working on them.

For the great majority of them, they first saw the abortionist and learned his/her name only minutes before putting their legs in the stirrups. They are at the mercy of whoever shows up that day, from whatever state, and possessing unknown skills. *(The seven abortionists working in Kansas are shown below.)*

If these women (and teens) are leery about an abortionist of advanced age, or bedside manner-- tough luck. Moreover, they don't know there's a good chance the abortionist won't be in town to handle any subsequent emergency.

By and large, these "elective" abortions were chosen in a hurry, under duress and conflict, with the goal of solving a variety of social and relational problems.



Ideally, the abortion-seeking woman will look at the state-provided videos of gestational development and consider obtaining a free ultrasound at one of the state-wide pregnancy resource centers. Ideally she will take serious time to reflect on her options. But as Dr. Colbern's testimony explains, so many of them are in crisis mode and not thinking clearly.

The only requirement for abortion is showing up with money—and the signed informed consent paperwork, with a timestamp of at least 24 hours prior to the abortion.

The Kansas State Board of Healing Arts has licensed the seven current abortionists shown.

- One is a convicted felon with serious abortion malpractice lawsuits.
- One was accepted despite ten “settled” malpractice suits, including one death—and all but one were botched Dismemberment abortions.
- One has kept licensure after serious disciplinary action resulting in an order *not* to practice ob/gyn...yet is listed as providing prenatal care and abortions—i.e. ob/gyn!
- One never was disciplined for repeat malpractice (over 20 lawsuits through 2003).

The general public has no clue what the State Board of Healing Arts is, or what public information they provide. Consumer Reports ranks the Board as having improved on transparency about their licensees (#13 in nation overall) but even if the abortion seeker knew the Board's name, and located its website--it would take six more “clicks” to find out *some* information on just one of the abortionists listed on the clinic website.

There are no yellow page listings of abortionists, the way there are for every medical specialty. Additionally, even gross clinic abuses have been covered up in Kansas—as mentioned by other proponents.

As the testimony from Mr. Whitehead, J.D., indicates, Kansas needs to update its Woman's Right to Know Statute of 1997 for the way abortion is being sold in 2017. In a focused way, SB 98, the DISCLOSE ACT, will expand the abortion seeker's access to baseline data about the abortionists she has been “assigned” to...not “chosen.”

The three Kansas abortion businesses that operate in four locations (Overland Park and Wichita) should have little trouble (i.e. no “undue burden”) in adding information to their online forms. They rely on the convenience of online admissions and hardly distribute the state pamphlets. (KDHE only printed 200 pamphlets in 2015 and none in 2016!)

Unfortunately, the abortion businesses have played some games making available the information mandated by the state. For example, their websites each show the mandatory link to the KDHE abortion information website, but in small, light grey type, with negative, prefatory comments. That is why SB 98 info is required to be in 12pt. Black Times font.

KFL urges this committee pass out SB 98 favorably. (Please note attachments.) Thank you.

KANSAS 24-HOUR INFORMED CONSENT

- **Bring this document with you to your appointment.**
- **Please read and initial each section and sign your FULL LEGAL name at the bottom.**
- **Please mail, fax, or hand deliver to South Wind Women's Center, LLC.**
- **THIS MUST BE SIGNED WITH THE DATE AND TIME AT LEAST 24 HOURS BEFORE YOUR APPOINTMENT!**

To comply with Kansas Law effective July 1, 1998 (amended July 1, 2009; July 1, 2011; July 1, 2013), you must receive this Informed Consent at least 24 hours prior to your procedure.

_____ 1. Your abortion procedure will be performed by Colleen McNicholas, D.O., Leslie Page, D.O., or Allen Palmer, D.O. You will have the opportunity to meet with the doctor before your procedure.

_____ 2. Estimated Gestation of Pregnancy: Until you have a sonogram to determine how far along the pregnancy is, the best way to estimate the gestation is by the date of your last normal menstrual period.

If you believe your last normal menstrual period started: Then you are probably about:

| | |
|--------------|-------------------|
| 4 weeks ago | 4 weeks pregnant |
| 5 weeks ago | 5 weeks pregnant |
| 6 weeks ago | 6 weeks pregnant |
| 7 weeks ago | 7 weeks pregnant |
| 8 weeks ago | 8 weeks pregnant |
| 9 weeks ago | 9 weeks pregnant |
| 10 weeks ago | 10 weeks pregnant |
| 11 weeks ago | 11 weeks pregnant |
| 12 weeks ago | 12 weeks pregnant |
| 13 weeks ago | 13 weeks pregnant |
| 14 weeks ago | 14 weeks pregnant |
| 15 weeks ago | 15 weeks pregnant |
| 16 weeks ago | 16 weeks pregnant |

The final determination will be made by the doctor upon ultrasound examination. If you are between 4 - 14 weeks, the common procedure is Vacuum Aspiration. Medication Abortion is available for pregnancy termination between 4 - 9 weeks. If you are between 15 - 22 weeks the most common procedure is Dilation and Evacuation.

Kansans for Life

Senate Bill 98, DISCLOSE ACT:

What is "INFORMED CONSENT"?

Informed consent is the right to accept or refuse a medical procedure based on reasonable, medically-accurate and non-misleading facts. Informed consent serves two main objectives: to acquire a patient's consent, and for doctors to disclose such information to patients as will enable them to participate knowledgably in making decisions about treatment."

In *Planned Parenthood v. Casey* (1992), the U.S. Supreme Court affirmed three principles central to the constitutionality of informed consent laws, such that:

- the state has an interest in fetal life from the moment of conception;
- the state could prefer childbirth over abortion; and
- the **state could enact regulations to ensure that a woman's choice was "thoughtful and informed"**. (*Casey* at 916)

These principles, the court argued, were consistent both with doctor-patient medical privacy and a woman's "reproductive" rights. Furthermore, the Court argued that **neither the state's attempts to dissuade a woman from abortion, nor the state's mandate that a specific body of information be given** to a woman, invalidated a state's informed consent law.

"In attempting to ensure that a woman apprehend the full consequences of her decision, the State furthers the legitimate purpose of reducing the risk that a woman may elect an abortion, only to discover later, with devastating psychological consequences, that her decision was not fully informed." (*Casey* at 882)

Over the past 30 to 40 years, courts have established that patients have the right to **full** information. The standard of disclosure has shifted from what a "reasonable" doctor might disclose to what a "reasonable or prudent" patient or person deserves to know about a procedure. Elective procedures (for example induced abortion) require a greater degree of disclosure than emergency procedures.

The fully informed consent depends on three aspects of medical consent:

1. How well informed is the patient?
2. Is the patient fully competent, at that moment, to make such a major decision?
3. To what extent is consent given voluntarily?

In the abortion context, none of these can be taken for granted.

ConsumerReports Medical Board Website Ratings

● Excellent ● Very Good ○ Good ◐ Fair ● Poor

| Site | Overall Score | Search Capabilities | Complaint and Board Information | Identifying Doctor Information | Board Disciplinary Actions | Hospital Disciplinary Actions | Federal Disciplinary Actions | Malpractice Payouts | Convictions |
|-----------------------|---------------|---------------------|---------------------------------|--------------------------------|----------------------------|-------------------------------|------------------------------|---------------------|-------------|
| California | 84 | ● | ● | ● | ● | ● | ● | ○ | ● |
| New York | 79 | ● | ○ | ● | ● | ○ | ○ | ○ | ○ |
| Massachusetts | 78 | ● | ○ | ● | ○ | ● | ● | ● | ● |
| Illinois | 76 | ● | ○ | ○ | ○ | ● | ● | ● | ● |
| North Carolina | 76 | ○ | ● | ○ | ● | ○ | ● | ○ | ● |
| Virginia | 72 | ● | ● | ● | ○ | ○ | ○ | ○ | ○ |
| New Jersey | 70 | ● | ● | ● | ● | ○ | ● | ○ | ○ |
| Florida | 70 | ○ | ● | ● | ● | ○ | ● | ○ | ● |
| Texas | 68 | ○ | ● | ● | ● | ● | ○ | ○ | ○ |
| Florida Osteopathic | 67 | ○ | ● | ● | ○ | ○ | ● | ○ | ● |
| Oregon | 66 | ● | ○ | ● | ● | ● | ● | ● | ● |
| Nevada Osteopathic | 61 | ○ | ● | ● | ○ | ● | ● | ○ | ● |
| Colorado | 61 | ○ | ● | ○ | ○ | ○ | ● | ○ | ○ |
| Arizona | 69 | ● | ● | ● | ○ | ● | ● | ● | ● |
| Connecticut | 68 | ○ | ○ | ● | ○ | ○ | ● | ○ | ○ |
| Tennessee Osteopathic | 68 | ○ | ○ | ● | ○ | ○ | ● | ○ | ○ |
| Maryland | 67 | ○ | ○ | ● | ● | ● | ● | ○ | ● |
| Kansas | 66 | ○ | ○ | ● | ○ | ○ | ○ | ● | ● |

KANSAS: ranked below 14 states and 3 Osteopathic groups in disclosing info

Search capabilities=very good,

Complaint & Board info=good,

Identifying doctor info=excellent,

Board disciplinary actions=very good,

Hospital disciplinary actions=very good,

Federal disciplinary actions=very good,

Malpractice payments=poor,

Convictions=poor

<http://consumersunion.org/wp-content/uploads/2016/03/Chart-website-review-CR-blobs-all-states-FINAL-4.pdf>