



Tom Bell
President and CEO

TO: Senate Judiciary Committee

FROM: Deborah Stern, Sr. Vice President Clinical Services and
General Counsel

DATE: January 26, 2016

RE: Senate Bill 96 - Disclosures of Unanticipated Medical Outcomes

The Kansas Hospital Association appreciates the opportunity to provide testimony **in opposition to SB 96** which requires health care providers to disclose unanticipated outcomes and medical errors.

For the past seven years, legislation has been introduced in Kansas encouraging providers to speak openly with their patients about unexpected outcomes and medical errors. Protections were offered so health care providers would be able to speak openly with their patients without the fear of that sharing being used against them in a court of law. To help ease the difficult conversations that occur, many states have given health care providers legal protection so that they feel free to express their feelings to patients in the form of an apology, condolence, an admission fault or state that an error has been committed. This proposed legislation offers no such protections.

SB 96, as written, does not apply to all health providers; only to those who are licensed to practice the healing arts, namely physicians. No sanctions apply if they fail to make this disclosure. Medical care facilities, however, would be under a mandate to file a copy of their disclosure policies with the Kansas Department of Health and Environment (KDHE), which could levy fines of \$10,000 for the non-disclosure of an event. KHA is concerned that with KDHE's current resources, they do not have the staff and budget to oversee this type of program.

In summary, it is extremely difficult to enact and enforce legislation that mandates certain professionals to handle situations in such a prescriptive way. KHA opposes SB 96 as it would inhibit the communication that occurs between health care providers and their patients and replaces it with a detailed, punitive checklist that mandates each step of the disclosure process. Providing education to physicians, on how to conduct such important conversations, outside of legislating such an activity, may be a much better way of approaching this issue. Expressing compassion and communicating cannot be legislated.

KHA strongly opposes the passage of SB 96 and encourages you to do the same. Thank you for your consideration of our comments.