

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

Hodes & Nauser, M.D.s, P.A.;)
Herbert C. Hodes, M.D.; and)
Traci Lynn Nauser, M.D.,)
)
Plaintiffs-Appellees,)
v.)
)
Derek Schmidt, in his official capacity)
as Attorney General of the State of)
Kansas; and Stephen M. Howe, in his)
Official capacity as District Attorney for)
Johnson County,)
)
Defendants-Appellants.)
_____)

Case No. 15-114153-A

MOTION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF

Pursuant to Rule 6.06(a) of the Kansas Rules of Appellate Procedure, the *amici curiae*, through its counsel, Mark P. Johnson, respectfully move this Court for leave to file a brief as *amici curiae* in support of Plaintiffs-Appellees, Hodes & Nauser, M.D.s, P.A., Herbert C. Hodes, M.D., and Traci Lynn Nauser, M.D..

Interest of *Amici*

Amici curiae are individual Kansas-based physicians whose main area of practice is obstetrics and gynecology or a related field. These physicians provide pre-viability second trimester abortions using Dilation and Evacuation ("D&E") procedures, without prior inducement of fetal demise. Due to the lack of reasonably safe and effective alternatives, the legislation at issue, S.B. 95 ("the Act"), presents a substantial obstacle for women seeking a second trimester abortion of a non-viable fetus. The D & E process is used in ninety-five percent

of all second trimester abortions. Enforcement of the Act would impact nearly all women seeking such abortions.

The unreasonable alternatives recommended by Defendants-Appellants pose anywhere from an unknown risk to a serious risk due to the lack of meaningful data, resulting in an undue burden on a woman's right to an abortion. Women seeking an abortion would be required to subject themselves to medications with unknown risks, procedures with questionable effectiveness, lengthy hospital stays, increased costs, and the possibility of increased anxiety or psychological effects due to the additional time needed to complete the abortion process.

Each of the twelve individual doctors, listed below, has an ethical responsibility to protect the well-being of his or her patients and to avoid procedures that are medically unnecessary.

List of Represented *Amici*

Alisha Ash, M.D., Peter Caruso, M.D., Tracey Cowles, M.D., Margaret A. Estrin, M.D., Bret Gordon, D.O., Stephen Gordon, D.O., Carrie Grounds, M.D., Amanda N. Healy, M.D., Harry Jonas, M.D., Susan Mou, M.D., William Ramos, M.D., Hal Younglove, M.D..

Consent of the Parties

Both parties consented to the filing of our *amici curiae* brief.

Purpose of *Amici Curiae* Brief

1. Due to the Act's elimination of the most commonly used procedure for second trimester pre-viability abortions, *amici* file out of concern for their patients and similarly-situated

women in the state of Kansas. The implementation of the Act will gravely affect both patients of *amici* and similarly-situated Kansas physicians and their patients.

2. Defendants-Appellants endeavor to severely restrict women's access to second trimester abortion services by leaving them with no alternative but to undergo abortion procedures that present greater risk and greater cost.

3. The *amici* brief will expound further on the extraordinary consequences that will result if the Act is enforced.

Conclusion

For the foregoing reasons, *amici* respectfully request that the Court grant leave to file an *amici curiae* brief in support of Plaintiffs-Appellees, Hodes & Nauser, M.D.s, P.A.; Herbert C. Hodes, M.D.; and Traci Lynn Nauser, M.D..

Dated: October 26, 2015

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion For Leave To File

Amici Curiae Brief was sent by electronic mail on October 26, 2015 to:

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