

Kansas State Board of Healing Arts  
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Topeka, KS 66612



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Kathleen Seizler Lippert  
Executive Director

Sam Brownback, Governor

March 25, 2011

Cheryl Sullenger  
[cherylsullenger@gmail.com](mailto:cherylsullenger@gmail.com)

**SENT ONLY BY EMAIL**

**Re: Open Records Request to Kansas State Board of Healing Arts**

Dear Ms. Sullenger:

The purpose of this letter is to respond to your email open records request of March 11, 2011. Your request for open records followed your initial inquiry to our agency about the number of abortion-related maternal deaths referenced in a statement made by Dr. Herbert Hodes before the House Committee on Federal and State Affairs. Our response to your inquiry was that the number referenced was not from our agency's records. Subsequently, as part of our own exploration of this matter, we obtained a copy of a letter from Dr. Hodes (Attachment 1- Hodes' letter of March 15, 2011), which indicates the statement to the Committee contained only an estimated number. Because our agency has a duty to refer a requesting individual to the appropriate records custodian, if known, when we do not possess responsive records ourselves, we also contacted the Kansas Department of Health and Environment (KDHE) to see if they maintain records relating to your request. KDHE provided us with a recent response they issued to a similar request. Because it is now in our possession, we are disclosing it to you (Attachment 2- Reported Occurrence of Abortion-related Maternal Deaths). Should you desire additional information, you may wish to contact KDHE's Public Information Director at (785) 291-3684.

With respect to our own agency's records, we researched our records to determine if there was recorded information in the agency's possession which was responsive to your requests. We then analyzed the records in our possession to determine if they are public under the Kansas Open Records Act or if they must be held confidential pursuant to state law. We then evaluated the confidential records we possessed to determine if there was any portion we could release. K.S.A. 65-2839a requires us to keep patient records confidential. K.S.A. 65-2898a requires us to keep complaints received by the Board confidential. This is detailed further below.

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In your email, you specifically requested the following information, for which the corresponding responses with respect to our agency's records are included:

1. Number of abortion-related maternal deaths in KS from 2005-present

**Response: Our agency has a record of 1 abortion-related maternal death in Kansas from 2005 to present. This record is required to be held confidential pursuant to K.S.A. 65-2839a and 65-2898a.**

2. Names of facilities and or physician(s) involved in those incidents

**Response: Our agency has 1 record containing the information requested. This record is required to be held confidential pursuant to K.S.A. 65-2839a and 65-2898a.**

3. Dates of abortion-related maternal deaths in KS from 2005-present

**Response: Our agency has 1 record of an abortion-related maternal death occurring in January of 2005. This record is required to be held confidential pursuant to K.S.A. 65-2839a and 65-2898a.**

4. Action, if any, taken by the KSBHA against any physician involved in an abortion-related maternal death from 2005-present

**Response: Our agency has 1 record containing the information requested. See Attachment 3- closure letter to complainant dated November 23, 2005. This record has been redacted to de-identify the subject and source of the complaint pursuant to K.S.A. 65-2898a.**

5. Any other public information related to abortion-related maternal deaths from 2005-present

**Response: Our agency does not possess public records containing the information requested other than as identified in response to Request No. 4 above.**

To further explain the contents of the responses provided above, it is important to note that unlike KDHE, our agency does not regularly receive reporting information on abortion-related maternal deaths outside of our complaint process or unless reported pursuant to certain agency regulations. If there is a complaint to the Board that contains information about an abortion-related maternal death or if one is reported to us by a licensee under the very narrow set of criteria in the agency's Office Based Surgery/Special Procedure regulations (K.A.R. 100-25-1 through 100-25-5), we would have information that is specific only to those cases. Therefore, we do not possess records which *definitively* provide the number of abortion-related maternal deaths in Kansas since 2005, or the related information requested. Finally, as noted previously, complaints and investigations are required by K.S.A. 65-2839a and 65-2898a to be held confidential.

Cheryl Sullenger  
March 25, 2011  
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If you have any questions regarding this response, please feel free to contact me further.

Sincerely,

A handwritten signature in cursive script that reads "Kathleen Selzler Lippert". The signature is written in black ink and is positioned above the printed name.

Kathleen Selzler Lippert  
Executive Director  
Kansas Board of Healing Arts

KSL:kjs

Attachments

**CENTER FOR WOMEN'S HEALTH**

HERBERT HODES, MD, FACOG  
TRACI L. NAUSER, MD, FACOG  
COLLEEN O'DONNELL, ARNP, RN-C

4840 College Boulevard  
Overland Park, Kansas 66211  
Telephone: (913) 491-6878  
Fax: (913) 491-6808

March 15, 2011

Members of the House Committee on Federal and State Affairs:

Re: Follow-up Testimony from March 9, 2011

Thank you again for the opportunity to speak before your committee last week. I am writing to follow-up on one question that was asked during my testimony. I was asked how many deaths had occurred as a result of abortion in Kansas; and I did not know the answer to that question. I did offer an estimation, that perhaps five such deaths had occurred over the many years abortion has been provided in the State.

I have researched this question and I now feel that in more than thirty years that abortion has been legal in Kansas, only two deaths have occurred. I wanted to make sure that I was clear about that issue.

Abortion has been and continues to be one of the safest surgical procedures available in this country and I want to ensure that the committee has the correct information before it.

Sincerely,



Herbert C. Hodes, MD, FACOG

Attachment 1

**FILE COPY**

# Reported Abortion-Related Maternal Deaths in Kansas, 2000-2009



## Background

Kansas state law requires physicians and coroners to certify the cause for each death that occurs in the state. Collection of this information occurs on a standard form based on the U.S Standard certificate of death prepared by the National Center for Health Statistics (NCHS). Physicians certifying the cause enter narrative information on the death certificate. Once the information is collected, funeral homes submit the death certificate to the Kansas Department of Health and Environment, Office of Vital Statistics.

Once received, the information on the death certificate is checked for completeness and the record is registered. The narrative cause of death information is entered into a nosology software program from the NCHS. This program standardizes the information and assigns cause codes. The software is used throughout all states and many other countries to assure consistency of the cause of death coding.

Another element of the standardized cause of death coding is the use of ICD-10 codes. ICD stands for the International Classification of Diseases, which is now in its tenth revision.\* These codes facilitate the grouping of like causes of death and their evaluation for public health purposes.

The ICD-10 codes for pregnancy-related mortality (maternal deaths, stillbirths, and infant deaths) include:

- O00-O99 Pregnancy, childbirth and the puerperium, involving pregnant and post-partum women;
  - O00-O03 (ectopic pregnancy, hydatidiform mole, abnormal products of conception, miscarriages)
  - O04-O07 (abortion);
  - O08.0-O08.9 (complications following abortion and ectopic and molar pregnancy);
- P00-P96 Certain conditions originating in the perinatal period, involving live born and still born children and conditions that have their origin in the perinatal period (defined as stillbirths over 350 grams to live births less than 7 days in age), even though death or morbidity occurs later; and
- Q00-Q99 Congenital malformations, deformations and chromosomal abnormalities, involving live born and still born children.

This document was prepared in response to requests for abortion-related maternal mortality information. Data from 2000 – 2009 are included; 2009 is the most recent year for which final data are available.

## Reported Occurrence of Abortion-related Maternal Deaths

Reported Maternal Deaths from Selected Abortive Outcomes  
Kansas Occurrence, 2000-2009

Cause Group	Count
O04-O07 & O08.0-O08.9	1
Total	1

Source: Kansas Department of Health and Environment

\* World Health Organization. Geneva, Switzerland. [Internet] Classifications - International Classification of Diseases (ICD) [cited 2011 Mar 15] Available from: <http://www.who.int/classifications/icd/en/>.

Attachment 2

# KANSAS BOARD OF HEALING ARTS

LAWRENCE T. BUENING, JR.  
EXECUTIVE DIRECTOR



KATHLEEN SEBELIUS  
GOVERNOR

November 23, 2005



Re: [REDACTED]

Dear [REDACTED]

This is to inform you of the final outcome regarding the complaint you forwarded to the Kansas State Board of Healing Arts ("Board") regarding [REDACTED] which involved a patient transported by ambulance to [REDACTED] on January 13, 2005. This matter was fully investigated and presented to the Board's Medicine and Surgery Review Committee, established by the Board for its recommendation. After careful review of your complaint and all relevant investigative information, the Committee recommended there was no violation of the healing arts act. The investigative information and the Review Committee's recommendation were also reviewed by the Board's Disciplinary Panel, which is comprised of Board members. The Panel also concluded there was no violation of the healing arts act and the matter is now closed.

The healing arts act requires that the investigation remain confidential unless public disciplinary action is initiated against the doctor. In this case, no public disciplinary action was authorized. The Board maintains all complaints in our historical files. Thank you for bringing this matter to our attention. If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Kelli J. Stevens  
Litigation Counsel

KJS:msf

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Attachment 3