

KANSAS BOARD OF HEALING ARTS

LAWRENCE T. BUENING, JR.
EXECUTIVE DIRECTOR



KATHLEEN SEBELIUS, GOVERNOR

March 25, 2005

The Honorable Kathleen Sebelius
Governor of Kansas
Capitol
300 SW 10th Ave, Ste 2125
Topeka, KS 66612-1590

Re: Your letter dated February 2, 2005

Dear Governor Sebelius:

This is in response to your letter of February 2, 2005 in which you request that the State Board of Healing Arts commence an immediate and thorough investigation into the death of a physician's patient in Wichita on or about January 13, 2005. You also requested the Board determine the following:

1. If the medical procedures used in the treatment of this patient complied with standard and accepted medical practice;
2. If all procedures were followed to safeguard the health and safety of this patient;
3. If the laws of the state of Kansas were followed in the medical procedures and services provided to this patient; and
4. If the provisions of 2003 H.B. No. 2176 would have mitigated or prevented this patient's death.

In my letter to you of February 10, 2005, I advised that the Board had received a complaint relating to this incident on January 26. An investigative case was opened at that time and the investigation was concluded on March 9. The investigative information was then presented to a review committee authorized by K.S.A. 65-2840c. This committee is composed of three licensed physicians who are not members of the Board. A Committee composed of five Board members then reviewed the information.

Various statutes require that information obtained by the Board as part of the investigative and peer review process be kept confidential and not disclosed in a manner that would identify the parties involved. Therefore, the Board cannot furnish factual details or comment on the mental processes and rationale of the committee during their review of this matter. However, I can confirm that a woman received medical procedures at a medical clinic in Wichita and later died on January 13, 2005, the second day following the procedures. The death did not occur at the clinic. As of this date, the cause of the death has not been determined or made known by the responsible authority.

MEMBERS OF THE BOARD

Ray M. Caskey, D.C., PRESIDENT
Overland Park

Steve D. Maxwell, VICE-PRESIDENT
Lawrence

WYTON E. ARNETT, D.O., Topeka
DARYL L. COLGABELLA, D.C., Topeka
FRANK C. BALDWIN, D.P.M., Wichita
MERLE J. "BOB" FORDON, D.O., Smith
SUE ANN, PUBLIC MEMBER, Topeka
JANA JENSEN, D.O., Lawrenceville

BETTY BARRICK, PUBLIC MEMBER, Colverdale
MARK A. MADOLE, D.D., Overland Park
CAROL S. SACON, PUBLIC MEMBER, Winona, Minn.
CAROLINE S. ROMA, D.O., Wichita
NANCY J. WYLLIE, D.O., Berkeley
JOHN P. WHITE, D.O., President
RONALD W. WYTHE, D.O., Edward

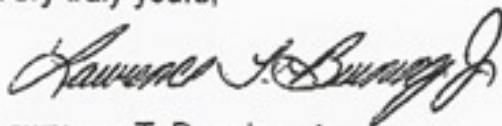
255 S. Topeka Boulevard, Topeka, Kansas 66603-2062
Voice 785-235-3415 Fax 785-234-0852 www.kcbha.org

necessary to preserve the life of the woman, or a continuation of the pregnancy would cause a substantial and irreversible impairment of a major bodily function of the pregnant woman. The Licensee met the letter of the law for the statutory exception in that he made the determination that a continuation of the pregnancy would cause a substantial and irreversible impairment of a major bodily function. As required by statute, the physician also received the same determination from another physician not legally or financially affiliated with him.

4. The prior two committees considered the effect that 2003 H.B. No. 2176 would have potentially had on this patient's outcome. As stated previously, the committees concluded the Licensee's facilities and personnel qualifications met or exceeded the standard set forth in that bill. The committees further concluded that if H.B. No. 2176 had been in effect, its provisions would not have had any bearing on the patient's outcome. The eleven-member committee did not re-evaluate these conclusions.

The Board has now concluded all inquiry and review of the matter and closed the investigation. A letter has been sent to the third-party complainant advising her of this outcome. Please contact me at any time if you desire further information or have questions about this investigation case.

Very truly yours,



Lawrence T. Buening, Jr.
Executive Director

LTB/jd