



**Kansas House Judiciary Committee
Testimony of William Colby on H.B. 2109
February 9, 2009**

Chairman Kinzer, and members of the House Judiciary Committee, good afternoon.

My name is Bill Colby; I am a lawyer (U. of Kansas, 1982), and currently the Senior Fellow, Law and Patient Rights, at the Center for Practical Bioethics in Kansas City. I live in Prairie Village, Kansas.

I have been involved in the questions raised by the intersection of law, medicine and technology since the spring of 1987, when I became the lawyer for Nancy Cruzan and her family. Nancy's tragic case ultimately ended up in the U.S. Supreme Court. In 1990 that case established our right to make decisions about our own medical treatment, including, if we choose, to refuse medical treatment – what some call our constitutional “right to die.”

I appreciate the opportunity that I've had to serve on the Kansas Judicial Council advisory committee which reviewed the end-of-life laws in Kansas, and appreciate the opportunity to talk to the Committee today about our work.

To start, I thought it might be useful to share some background that sets the foundation, at least for how I think about the laws that affect our decisions at the end of our lives. A generation ago there were no living wills, no healthcare powers of attorney, no state laws defining “death.”

The issues addressed by H.B. 2109 did not yet exist. The first cardiac ICU in the world was opened right here in Kansas on May 20, 1962. (Kansas would also become the first state to define “brain death,” eight years later in 1970.)

The seriously-ill patients in that first cardiac ICU took all the treatment the doctor had to offer, and either got better, or died. No questions about the appropriateness of treatment were needed or asked. All treatment available was given, and accepted gladly.

The rapid advance of medical technology has changed that dynamic forever. Consider how unusual these laws are in many ways. Most doctors practice medicine for a living so that they can help people; most patients want that help. The idea of saying “no” to the doctor who wants to help you is new.

The idea is also complex, raising fundamental questions for doctors, patients and for society generally: “What is the purpose of medicine? When do we use it? And when should we stop?”

These questions are never black and white; they exist in the gray zones of our society, and people of good will can differ on what the “right” answers are. The advisory committee of the Kansas Judicial Council which reviewed Kansas law brought together Kansans coming at these questions from a variety of viewpoints.

Our deliberations, which spanned more than two years, were marked by thoughtful and respectful debate, leading this group to the compromise that is the 2009 Kansas Uniform Health-Care Decisions Act. I believe that this Act, taken as a whole, is a significant step forward for Kansans in a complex area of law.

Thank you.