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Date 1-27-87
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MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Marvin L. Littlejohn at
Chairperson

1:30 /a.m./p.m. on January 21, 1987 in room 423-S of the Capitol.

All members were present except:

Representative Wells, Representative O'Neal, both excused.

Committee staff present:

Emalene Correll, Research
Norman Furse, Revisor
Sue Hill, Committee Secretary

Conferees appearing before the committee:

Mack Smith, Executive Secretary, Kansas Board of Mortuary Arts

Chairman called meeting to order.

He called attention to the agenda for next week which will include hearings on several bills.

Chair further noted that several persons who had planned to make bill requests this date asked to have those requests deferred. The Department of Health and Environment has not firmed up their bill requests at this date. Completion of their plans will make the position of others more clear. (Waiting until after the Health and Environment makes their decisions will eliminate duplication of bills).

Chairman then introduced Mack Smith.

Mr. Smith called attention to Attachment No. 1, which gives a detailed draft of the proposed legislation they request this committee introduce. He explained they are attempting to combine statutes for the Embalmers and Funeral Directors. He answered questions from committee members.

Chair then asked wishes of committee. Representative Hassler made a motion to introduce this bill, motion seconded by Representative Neufeld, vote taken, motion carried.

Chair invited other bill requests be made at this time and there was no response from those in attendance.

Chair was asked if the remainder of the Interim Report on the M.R. Facilities could be given, and it was agreed that if meeting tomorrow's meeting did not run too long, perhaps Ms. Correll could complete her report at that time.

Meeting adjourned at 1:40 p.m.

BOARD OF MORTUARY ARTS — 1987 LEGISLATIVE PROPOSAL DRAFT

65-1722 Denial, Revocation, or Suspension of license; censure; grounds; procedures.

(a) As used in this section, "licensee" or "licensed" shall mean a person licensed by the Board of Mortuary Arts as an embalmer, funeral director, or assistant funeral director or an applicant for a license.

(b) The board may refuse to issue or renew a license, or a licensee's license may be revoked or suspended, or the licensee may be publicly or privately censured, upon a finding of the existence of any of the following grounds:

- (1) The licensee has committed fraud or misrepresentation in applying for or securing an original or renewal license.
- (2) The licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency.
- (3) the licensee has been convicted of a felony, and the board determines the licensee has not been sufficiently rehabilitated to warrant the public trust, or any offense involving moral turpitude.
- (4) the licensee has violated any law, ordinance, rule or regulation affecting the handling, custody, care or transportation of dead human bodies.
- (5) the licensee is rendered unfit to practice embalming or funeral directing by reason of illness, alcoholism, excessive use of drugs, controlled substances, chemical or any other type of material, or as a result of any mental or physical condition.
- (6) the licensee has failed or refused to properly protect or guard against contagious, communicable or infectious disease, or the spreading thereof.
- (7) the licensee has refused to surrender a dead human body upon the request of the next of kin, or legal representative, if there is no next of kin, or person entitled to the custody and control of the body if there is no next of kin available and no legal representative qualified to act.
- (8) the licensee, or his agent, employee or representative has advertised, solicited or sold merchandise or services in a manner which is fraudulent, deceptive or misleading in form or content.

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(9) the licensee or his agent, employee or representative has engaged in the uninvited, in-person solicitation of an actual or potential customer, who, because of the customer's particular circumstances, was vulnerable to undue influence, intimidation, coercion or overreaching.

(10) the licensee, or his agent, employee or representative has knowingly engaged in at-need solicitation. At-need solicitation means any uninvited contact for the purpose of the sale of funeral services or merchandise to the family or next of kin of a person after the person's death, or where death is imminent.

(11) the licensee has employed, directly or indirectly, any representative or person, for the purpose of contacting individuals or institutions by whose influence dead human bodies may be turned over to a particular licensee or funeral establishment.

(12) the licensee has aided or abetted an unlicensed person to practice any licensed activity.

(13) the licensee has had a license to practice embalming or funeral directing revoked or suspended, or has been censured or has had other disciplinary action taken, or an application for a license denied, by the proper licensing authority of another state, territory, District of Columbia, or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

(14) the licensee has cheated on or attempted to subvert the validity of the examination for a license.

(15) the licensee has been found to be mentally ill, disabled, not guilty by reason of insanity or incompetent to stand trial by a court of competent jurisdiction.

(16) the licensee has failed to furnish the board, or its investigators or representatives, any information legally requested by the board.

(17) the licensee has failed to report to the board any adverse action taken against the licensee by another state or licensing jurisdiction, a professional association or society, a governmental agency, by a law enforcement agency or a court for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(18) the licensee has an adverse judgment, award or settlement against the licensee resulting from the practice of funeral directing or embalming which related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section, or the licensee has failed to report such matter to the board.

(19) the licensee has knowingly submitted any misleading, deceptive, untrue or fraudulent representation on a claim form, bill or statement.

(20) the licensee has violated any lawful rule and regulation promulgated by the board, or any law related to the practice of funeral directing, embalming or funeral establishments.

The board shall have the power to adopt rules and regulations defining, construing and interpreting the above grounds for adverse license action.

All administrative proceedings taken by the board pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.