

Approved 2-21-90  
Date ohc

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

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

1:30 /4:45/p.m. on February 19, 1990 in room 423-S of the Capitol.

All members were present except:

Committee staff present:

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

Conferees appearing before the committee:

Pat Johnson, Acting Director, Kansas Board of Nursing  
Jim Snyder, Kansas Funeral Director's Association  
Larry McElwain, Legislative Chair for Kansas Funeral Director's  
Association.  
Tim Owens, Legal Counsel, Department of Social Rehabilitation  
Services.

Jan Allen, Commission on Adult Services, SRS  
Dick Morrissey, Deputy Director of Health Services, Department  
of Health and Environment

Chairman called meeting to order, asking members and conferees  
for their cooperation in regard to testimony and questions.  
Be as concise and brief so that we may get to as much of the  
scheduled agenda as possible.

Chair recognized Rep. Wells in regard to HB 2886. SB 184 a nearly  
identical bill has been killed. Rep. Wells noted HB 2886 is  
very different legislation and she requested Chair hold hearings  
as scheduled. He agreed.

Chair drew attention to HB 2630.

Discussion began on HB 2630.

Rep. Scott moved to amend HB 2630 to delete sub-section "o" on  
Page 14, lines 13-15 and to re-letter subsequent sections. Further  
to amend on Page 16, Section 18, sub, (d), beginning on line  
21, have language read, "Any licensee shall not have, maintain  
or derive any economic benefit pursuant to sub-sections a,b,c,  
in more than three practice locations exclusive of practice in  
governmental institutions". Motion seconded by Rep. Green.  
Discussion ensued, i.e., only the words, "exclusive of governmental  
institutions" is being added on Page 16. Rational given for  
request to delete "o" on Page 14. Vote taken, motion carried.

On the bill as a whole, Rep. Green moved to pass HB 2630 favorably  
as amended, seconded by Rep. Amos, motion carried.

Recorded Attachments are as follows, (Attachment No. 1) is fiscal  
note on HB 2630, (Attachment No. 2) is letter and proposed amendments  
for HB 2630 from Kansas Optometric Association, (Attachment No.  
3) is letter from Doctors Smith/Ernzen/McCarthy.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 423-S, Statehouse, at 1:30 4:45/p.m. on February 19, 1990

Chair drew attention to bill requests.

Pat Johnson, Acting Director of Kansas Board of Nursing offered hand-out, (Attachment No.4), copy of their bill request. She gave rationale, and detailed clean-up language, requests for fee increases where necessary, explained continuing education courses, and other course expansion. Rep. Branson moved to introduce this bill, seconded by Rep. Wiard, motion carried.

An announcement was made in regard to sub-committee meeting on HB 2594, 2830, 2803 will be held in room 531-N tomorrow noon.

Chair drew attention to hearings scheduled for this date.

HEARINGS BEGAN ON HB 2801.

Jim Snyder, Kansas Funeral Director's Association introduced Larry McElwain, Legislative Committee Chair for the Funeral Director's Association.

Larry McElwain, (Attachment No. 4) offered a large hand-out with information in regard to specific funeral expense claims to the Department of Social Rehabilitation Services, (SRS). He noted they have tried for several years unsuccessfully to solve this problem with the SRS. He noted a recent survey indicates overhead for funeral homes in this area are \$2130 per funeral. The SRS procribes \$900. (\$750 for funeral and casket, \$150 for grave enclosure), or 42% of the expenses incurred. SRS then deducts "found assets" and directs the funeral director to collect these assets. HB 2801 suggests that a fourth class claim be restored to the Statutes so the SRS will be directed to reclaim these assets. He answered numerous questions.

Tim Owens, Legal Counsel for Department of SRS offered hand-out, (see Attachment No. 6-A, 6-B). He noted HB 2801 as it appears is unclear. The Secretary of SRS is still granted the authority to fix the amount of expenses to be paid by Rules/Regs, determines eligibility and the amount of payment to the funeral home by determining whether the estate is insufficient. Who will bury the poor is the issue. It should be the estate of the deceased, but if no estate exists, then we submit it is more reasonable to ask the funeral home, rather than try to place the burden of payment on SRS. He noted a funeral home would be granted First class claim, while the bill promotes SRS be granted a fourth class claim to recover costs. He noted to require SRS to pay the full cost of service and attempt to recoup that expense would be opening Pandora's box. There are many other entities with which SRS clients do business which might also want a similar situation. He drew attention to Attachment 6-B which details the Burial Assistance Program. He answered numerous questions, i.e., SRS is limited to what they can do with the money that has been made available to them; yes, if a cemetery doesn't require an outside container, then SRS would not pay for it; yes we do set the costs to be paid; yes, it is true there often are no assets left in an estate if the deceased has been on assistance; yes, there was a conservative fiscal note drawn. It would include the salary for an investigator, benefit increases, estimating total costs to be \$376,272. (Chair noted at this point, he had not received an official fiscal note on HB 2801.) Yes, for SRS to be responsible for collection of these assets would be virtually impossible; yes, perhaps if the funeral director had to hire an attorney and go through the legal process for this collection process, it would be virtually impossible for them as well.

HEARINGS CLOSED ON HB 2801.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 423-S, Statehouse, at 1:30 /a.m./p.m. on February 19, 1990.

HB 2800.

Chair called on Revisor, Norman Furse to give members an explanation of HB 2800.

Mr. Furse detailed changes proposed; policy issues; changes in definitions on reporting of abuse; explanations on deletions. He answered questions from committee members.

HEARINGS BEGAN ON HB 2800.

Dick Morrissey, Deputy Director of Health Services, Department of Health and Environment was speaking for Dr. Gary Hulett who was unable to present testimony in person today. He gave a lengthy, detailed testimony, noting there are two issues in HB 2800, i.e., the difficulty in having a multiplicity of agencies involved in inspection/regulation of nursing facilities; and complying with federal mandates requiring states to have staff and procedures in place as part of federal certification function to investigate complaints in regard to abuse/neglect/ or exploitation. Other than these two key issues, there are also other issues to be dealt with in HB 2800. He explained the proposal at great length, then noted this bill will enhance the state's ability to protect its most frail citizens. It does so by placing within the licensing agency the responsibility for investigating and resolving allegations of abuse/neglect/exploitation. HB 2800 also enhances efficiency in government by consolidating within one agency duplicative functions. This is consistent with the Governor's initiative to bring more efficiency to bureaucracies. They recommended favorable passage. He answered numerous questions. (See Attachment No. 7).

Jan Allen, Commissioner of Adult Services, Department of Health and Environment gave hand-out, (Attachment No.8). Their Department is in full support of HB 2800 to transfer from Department of SRS to Department of Health and Environment (H&E) the powers/duties to investigate allegations of abuse/neglect/exploitation in adult care homes and medical care facilities. H&E is the regulatory agency and has the authority to issue sanctions against the facilities, therefore it is more appropriate that Agency has the responsibility to investigate allegations. Both our Departments have worked together in drafting this proposed legislation.

Chair asked those conferees who had not had an opportunity to give testimony on HB 2800 to please return tomorrow, and we would continue testimony then.

Meeting adjourned 3:18 p.m.

GUEST REGISTER

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

Date Feb. 19<sup>th</sup>, 1990

Name	Organization	Address
GARY Robbins	Ks Opt Assn	Topeka
LARRY LUTJOHANN	Ks. Opt. Assn.	Topeka
Ally D. Nason	AARP	KC KS
L. Hodges	W.U.	Topeka
M. Child	W.U.	"
Juni Shaughnessy	W.U.	"
Ma Shaughnessy		Hulburt
Jack F. Kroe	KDHE	Topeka
Richard J. Maursey	KDHE	"
Marilyn Bratt	WINH	Lawrence
Jan Strubler	KAPS	Manhattan
Mac K. Smith	Mortuary Arts Board	Topeka
<del>Robert</del> Robert, Esq.	AARF - CCTF	KC KS
Pam Kufant	Rep. Hallenberger's office	Topeka
Nelda Fleisch	Kansas for Life	Clay Center
Magr. John Geo. Weber	Kansas for Life 730 con.	Clay Center, Ks
Dudger Patten		Topeka Ks.
Bob Ray	SRS	Topeka
Her Tammler Tota	KDOA	Topeka
Ken Baker	Ks. Society of Med. Tech.	Topeka
STEVE KENNEY	CAE USIU	"
Pat Johnson	Board of Nursing	Topeka
Ralph James-Martin	SRS - Adult Services	Topeka



STATE OF KANSAS

426-5



DIVISION OF THE BUDGET

MIKE HAYDEN,  
Governor  
MICHAEL F. O'KEEFE  
Director of the Budget

Room 152-E  
State Capitol Building  
Topeka, Kansas 66612-1575  
(913) 296-2436

January 24, 1990

The Honorable Marvin Littlejohn, Chairperson  
House Committee on Public Health and Welfare  
House of Representatives  
Third Floor, Statehouse

Dear Representative Littlejohn:

SUBJECT: Fiscal Note for HB 2630 by Joint Committee on Administrative  
Rules and Regulations

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2630 is respectfully submitted to your committee.

HB 2630 amends rules and regulations which pertain to the practice of optometry in the State of Kansas. The bill contains the following major provisions:

(1) A new section defines "false advertisement" as any advertisement which is false, misleading or deceptive in a material respect. False advertisement shall be taken into account in representations made or suggested by statement, word, design, device, sound or any combination thereof, but also to the extent to which the advertisement fails to reveal material facts in light of such representations made.

(2) The maximum fee for applying to take an examination to be licensed as an optometrist increases from \$75 to \$150. The maximum fee fixed for those taking the examination a second time after failing an initial exam is increased from \$37.50 to \$75. For the third and subsequent examinations the maximum fee that can be set is increased from \$22.50 to \$45.

(3) The maximum on license fees are increased from an annual amount of \$15 to \$30.

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*2-19-90*  
*Attn #1*

(4) New language proposed would require those applicants for reciprocal licensure to submit a sworn statement of the licensing authority of such other state that the applicant's license has never been limited, suspended, or revoked and that the applicant has never been censured or had other disciplinary action taken. In addition, this applicant must successfully pass an examination of Kansas law administered by the Board and such clinical practice examination as the Board deems necessary.

(5) The maximum fee that can be set for a licensing fee for an application for reciprocal licensure is increased from \$75 to \$150.

(6) Any license to practice optometry issued by the Optometry Board shall expire on May 31 of each year and may be renewed annually upon request of the licensee. The maximum that can be set for renewal fees is also increased under HB 2630 from \$75 to \$150. The Optometry Board is responsible for notifying each licensee 30 days prior to the expiration of the licensee's license.

(7) Any licensee who allows the licensee's license to lapse or be canceled may be reinstated by the Board upon payment of the renewal fees then due and upon proof of compliance with the continuing education requirements established by the Board.

(8) In addition to payment of the license renewal fee, each licensee must submit satisfactory evidence of successfully completing a minimum of 20 hours of continuing education programs in the year preceding such application for renewal. New language contained in HB 2630 exempts those who have graduated from an optometry school within 12 months of the date of the application for renewal.

(9) Violation of the Optometry Law is a class C misdemeanor. Any subsequent violation is a class B misdemeanor.

(10) The Board shall meet at least annually for the purpose of examining applicants for licensure. Such meetings shall be held in Topeka. The Board is required to publish notice of the examination 30 days prior to the examination in the Kansas Register. Notice under current law is required to be published in "some newspaper of general circulation".

(11) A new section contains the grounds by which a licensee's license may be revoked, suspended, or limited, or the licensee may be publicly or privately censured. Grounds for such action include the commission of fraud or misrepresentation in applying for or securing an original or renewal license, felony conviction, fraudulent or false advertisement, failure to pay annual renewal fees, mental illness or violation of federal law or regulation relating to controlled substances.


(12) Provisions of HB 2630 enable the Board, in addition to any other remedies provided by law, to apply to a court for injunctive relief to restrain violations of the provisions of this act and lawful rules and regulations promulgated by the Board under authority of this act.

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*Attm #1*  
*pg. 2*

The Honorable Marvin Littlejohn  
January 24, 1990  
Page Three

Those revisions relating to procedure and qualification requirements of applicants have no fiscal effect. Those revisions which increase the maximum fees for license renewals and examinations will significantly increase revenue potential for the Optometry Board.

The expenditure recommendations made by the Governor for FY 1990 and FY 1991 are based on receipts collected within the maximum limits established under current law.

  
Michael F. O'Keefe  
Director of the Budget

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*2-19-90*  
*Attn #1*  
*pg. 3.*



# Kansas Optometric Association

1266 SW Topeka Blvd., Topeka, KS 66612  
913-232-0225

1989-1990

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1626 E. Madison, P.O. Box 708  
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1266 SW Topeka Blvd.  
Topeka, KS 66612  
913-232-0225

February 14, 1990

TO: HOUSE PUBLIC HEALTH & WELFARE COMMITTEE  
FROM: GARY L. ROBBINS, CAE, EXECUTIVE DIRECTOR  
RE: HOUSE BILL 2630

I appreciated the opportunity to appear before the Committee on House Bill 2630. In my testimony I proposed two amendments which I hope the committee will seriously consider. I have attached the amendments in balloon form. I have also prepared an explanation below.

The first amendment deletes sub-section "o" on Page 14, Lines 13-15.

The second amendment is located on Page 16 under new Section 18, sub-section "d." We propose a new sub-section "d" starting on Line 21 which would read as follows:

"A licensee shall not have, maintain or derive any economic benefit pursuant to sub-sections a, b, and c in more than three practice locations exclusive of practice in governmental institutions."

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Attm # 2.2*

1 nary action taken, or an application for a license denied, by the  
2 proper licensing authority of another state, territory, District of Co-  
3 lumbia, or other country, a certified copy of the record of the action  
4 of the other jurisdiction being conclusive evidence thereof.

5 (l) The licensee has violated any lawful rules and regulations  
6 promulgated by the board or violated any lawful order or directive  
7 of the board previously entered by the board.

8 (m) The licensee has cheated on or attempted to subvert the  
9 validity of the examination for a license.

10 (n) The licensee has been found to be mentally ill, disabled, not  
11 guilty by reason of insanity or incompetent to stand trial by a court  
12 of competent jurisdiction.

13 (o) ~~The licensee has prescribed, sold, administered, distributed~~  
14 ~~or given a controlled substance to any person for other than opto-~~  
15 ~~metrically accepted or lawful purposes.~~

16 (o) (p) The licensee has violated a federal law or regulation relating  
17 to controlled substances.

18 (p) (q) The licensee has failed to furnish the board, or its investigators  
19 or representatives, any information legally requested by the board.

20 (q) (r) Sanctions or disciplinary actions have been taken against the  
21 licensee by a peer review committee, health care facility or a profes-  
22 sional association or society for acts or conduct similar to acts or  
23 conduct which would constitute grounds for disciplinary action under  
24 this section.

25 (r) (s) The licensee has failed to report to the board any adverse  
26 action taken against the licensee by another state or licensing juris-  
27 diction, a peer review body, a health care facility, a professional  
28 association or society, a governmental agency, by a law enforcement  
29 agency or a court for acts or conduct similar to acts or conduct which  
30 would constitute grounds for disciplinary action under this section.

31 (s) (t) The licensee has surrendered a license or authorization to  
32 practice optometry in another state or jurisdiction or has surrendered  
33 the licensee's membership on any professional staff or in any profes-  
34 sional association or society while under investigation for acts or  
35 conduct similar to acts or conduct which would constitute grounds  
36 for disciplinary action under this section.

37 (t) (u) The licensee has failed to report to the board surrender of  
38 the licensee's license or authorization to practice optometry in an-  
39 other state or jurisdiction or surrender of the licensee's membership  
40 on any professional staff or in any professional association or society  
41 while under investigation for acts or conduct which would constitute  
42 grounds for disciplinary action under this section.

43 (u) (v) The licensee has an adverse judgment, award or settlement

*Patricia  
2-19-90  
Attorney # 2, 3.*

1 the submission to the board of the report of the examination shall  
2 not be included in the computation of the time limit for hearing  
3 prescribed by the Kansas administrative procedure act.

4 New Sec. 17. At any time after the expiration of one year, ap-  
5 plication may be made for reinstatement of any licensee whose li-  
6 cense shall have been revoked, and such application shall be  
7 addressed to the secretary-treasurer of the board. The board may  
8 promulgate such rules and regulations concerning notice and hearing  
9 of such application as are deemed necessary.

10 New Sec. 18. (a) A licensee may practice optometry under the  
11 name of a professional corporation, authorized by K.S.A. 17-2706  
12 and amendments thereto. Such professional corporate name may  
13 contain a trade name or assumed name approved by the board.

14 (b) A licensee may practice as a sole practitioner or may associate  
15 with other licensees or health care providers licensed under the laws  
16 of the state of Kansas and may practice optometry as a sole prac-  
17 titioner or in such associations under a trade or assumed name  
18 approved by the board.

19 (c) A licensee may practice in a medical facility, medical care  
20 facility or a governmental institution or agency.

21 ~~(d) A licensee shall not practice pursuant to subsections (a), (b),~~  
22 ~~and (e) in more than three practice locations from which the licensee~~  
23 ~~derives any economic benefit.~~ In all office locations a licensee shall:

24 (1) Provide adequate staff during the hours of its operation and  
25 shall provide the necessary optometric equipment to enable a li-  
26 censee to provide adequate optometric care on the premises; and

27 (2) provide that there shall be present at the office location a  
28 person licensed by optometry law when optometric practice acts  
29 requiring a license are performed at the office location.

30 (e) Nothing herein contained shall be construed to permit the  
31 franchised practice of optometry.

32 New Sec. 19. The board in its discretion, in addition to any  
33 other remedies provided in this act, may apply to a court of com-  
34 petent jurisdiction for injunctive relief to restrain violations of the  
35 provisions of this act, lawful rules and regulations promulgated by  
36 the board under authority of this act.

37 New Sec. 20. Nothing contained herein shall be construed to  
38 allow a corporation except as provided in K.S.A. 17-2706 and amend-  
39 ments thereto to practice, offer, or undertake to practice or hold  
40 itself out as practicing optometry.

41 New Sec. 21. The confidential communications between a li-  
censed optometrist and the optometrist's patient are placed on the  
same basis of confidentiality as provided by law for communications

(d) A licensee shall not have, maintain or derive any economic benefit pursuant to sub-sections a, b, and c in more than three practice locations exclusive of practice in governmental institutions.



DRS. SMITH, ERNZEN & McCARTHY

PHONE 685-1898  
321 SOUTH HILLSIDE  
WICHITA, KANSAS 67211-2194

LEWIS A. SMITH, O.D.  
PHILLIP L. ERNZEN, O.D.  
THOMAS E. McCARTHY, O.D.

February 12, 1990

The Honorable Marvin Littlejohn  
State House  
Topeka, KS 66612

Dear Rep. Littlejohn:

During the the hearing on H.B. 2630, the State Board of Examiners in Optometry was asked to clarify whether or not franchising was prohibited under the current optometry law. Our legal counsel indicates that it is illegal. The current law prohibits the practice of optometry under a trade name in K.S.A. 65-1510(a). The use of a trade name is the essential element involving the franchised practice of optometry. Furthermore, a franchise arrangement requires that a percentage of an optometrist's fees be paid to the franchiser. This practice is prohibited by K.A.R. 65-7-9.

If the State Board of Examiners in Optometry can be of further assistance, please don't hesitate to contact my office.

Sincerely,

*Phillip L. Ernzen, O.D.*

Phillip L. Ernzen, O.D.  
President

cc Emalene Correll

*PHL*  
*2-19-90*  
*Attch #3*

\_\_\_\_\_ BILL NO. \_\_\_\_\_

By \_\_\_\_\_

AN ACT concerning the Kansas nurse practice act; amending K.S.A. 65-1118a and K.S.A. 1989 Supp. 65-1115, 65-1116, 65-1119 and 65-1120 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1989 Supp. 65-1115 is hereby amended to read as follows: 65-1115. (a) Qualifications of applicants. An applicant for a license to practice as a registered professional nurse shall file with the board written application for a license and submit satisfactory proof that the applicant: (1) Has graduated from a high school accredited by the appropriate legal accrediting agency or has otherwise obtained the equivalent of a high school education, as determined by the Kansas state department of education; (2) has successfully completed the basic professional curriculum in an accredited school of professional nursing and holds evidence of graduation therefrom or has successfully completed the basic professional curriculum in a school of professional nursing located outside this state which maintains standards at least equal to schools of professional nursing which are accredited by the board and holds evidence of graduation therefrom; (3) has been satisfactorily rehabilitated if the applicant has ever been convicted of a felony; and (4) has obtained such other qualifications not in conflict with this act as the board may prescribe.

(b) License. (1) By examination. An applicant shall be required to pass a written examination in such subjects as the board may prescribe. Each written examination may be supplemented by an oral or practical examination. Upon successfully passing such examination the board shall issue to the applicant a license to practice nursing as a registered professional nurse.

(2) Without examination. The board may issue a license to

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2-19-90  
Attn #4*

practice nursing as a registered professional nurse without examination to an applicant who has been duly licensed or registered as a registered professional nurse by examination under the laws of another state, territory or foreign country if, in the opinion of the board, the applicant meets the qualifications required of a licensed professional nurse in this state.

(3) Persons licensed under previous law. Any person who was licensed immediately prior to the effective date of this act as a registered professional nurse, shall be deemed to be licensed as a registered professional nurse under the provisions of this act and shall be eligible for renewal licenses upon compliance with K.S.A. 65-1117 and any amendments thereto.

(c) Title and abbreviation. Any person who holds a license to practice as a registered professional nurse in this state shall have the right to use the title, "registered nurse," and the abbreviation, "R.N." No other person shall assume such title or use such abbreviation or any other words, letters, signs or figures to indicate that the person using the same is a registered professional nurse.

(d) Temporary permit. The board may issue a temporary permit to practice nursing as a registered professional nurse for a period of not to exceed 60 days, except that the board may issue a temporary permit to practice nursing as a registered professional nurse for a period of not to exceed 180 days to an applicant for a license as a registered professional nurse ~~who was---previously---licensed---in---this---state---as---a---registered professional-nurse-and~~ who is enrolled in a refresher course required by the board for reinstatement of a ~~lapsed~~ license which has lapsed for more than five years or for licensure in this state from another state if the applicant has not been engaged in practice of nursing for five years preceding application. The 180 day temporary permit may be renewed by the board for one additional period of not to exceed 180 days.

Sec. 2. K.S.A. 1989 Supp. 65-1116 is hereby amended to read as follows: 65-1116. (a) Qualification. An applicant for a

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Attn # 4  
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license to practice as a licensed practical nurse shall file with the board a written application for a license and submit to the board satisfactory proof that the applicant: (1) Has graduated from a high school accredited by the appropriate legal accrediting agency or has otherwise obtained the equivalent of a high school education, as determined by the Kansas state department of education; (2) has successfully completed the prescribed curriculum in an accredited school of practical nursing and holds evidence of graduation therefrom or has successfully completed the prescribed curriculum in an accredited school of practical nursing located outside this state which maintains standards at least equal to schools of practical nursing which are accredited by the board and holds evidence of graduation therefrom; and (3) has obtained such other qualifications not in conflict with this act as the board may prescribe.

(b) License. (1) By examination. The applicant shall be required to pass a written examination in such subjects as the board may prescribe. Each written examination may be supplemented by an oral or practical examination. Upon successfully passing such examinations, the board shall issue to the applicant a license to practice as a licensed practical nurse. (2) Without examination. The board may issue a license to practice as a licensed practical nurse without examination to any applicant who has been duly licensed or registered by examination as a licensed practical nurse or a person entitled to perform similar services under a different title under the laws of any other state, territory or foreign country if, in the opinion of the board, the applicant meets the requirements for licensed practical nurses in this state. (3) A licensed practical nurse licensed under the provisions of this act shall be eligible for renewal licenses upon compliance with K.S.A. 65-1117 and any amendments thereto.

(c) Title and abbreviation. Any person who holds a license to practice as a licensed practical nurse in this state shall have the right to use the title, "licensed practical nurse," and the abbreviation, "L.P.N." No other person shall assume such

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*2-19-90*  
*Attn # 4,*  
*pg. 3.*

title or use such abbreviation or any other words, letters, signs or figures to indicate that the person using the same is a licensed practical nurse.

(d) Temporary permit. The board may issue a temporary permit to practice nursing as a licensed practical nurse for a period of not more than 60 days, except that the board may issue a temporary permit to practice nursing as a licensed practical nurse for a period of not to exceed 180 days to an applicant for a license as a licensed practical nurse who is enrolled in a refresher course required by the board for reinstatement of a license which has lapsed for more than five years or for licensure in this state from another state if the applicant has not been engaged in practice of nursing for five years preceding application. The 180 day temporary permit may be renewed by the board for one additional period of not to exceed 180 days.

Sec. 3. K.S.A. 65-1118a is hereby amended to read as follows: 65-1118a. (a) The board shall collect ~~in--advance~~ fees provided for in this act as fixed by the board, but not exceeding:

Application for accreditation -- schools of nursing.....	\$700-00	<u>\$1,500</u>
Biennial renewal of accreditation -- schools of nursing.....	300-00	<u>1,000</u>
Application for approval of continuing education providers.....	200-00	<u>400</u>
<del>Biennial</del> Annual fee for <del>renewal-of-approval-of</del> continuing education providers.....	100-00	<u>150</u>
Approval of single continuing education offerings.....	25-00	<u>100</u>
Consultation by request, not to exceed per day on site.....	300-00	<u>600</u>

(b) In addition to the above prescribed fees, consultants' travel expenses shall be charged to the person, firm, corporation or institution requesting consultation services to be provided by the board.

(c) The board by rule and regulation may specify that annual fees are to be paid biennially.

Sec. 4. K.S.A. 1989 Supp. 65-1119 is hereby amended to read

*PNW*  
*2-19-90*  
*Attm #4*  
*294*



as follows: 65-1119. (a) Application for accreditation. An accredited school of nursing is one which has been approved as such by the board as meeting the standards of this act, and the rules and regulations of the board. An institution desiring to conduct an accredited school of professional or practical nursing shall apply to the board for accreditation and submit satisfactory proof that it is prepared to and will maintain the standards and basic professional nursing curriculum or the required curriculum for practical nursing, as the case may be, as prescribed by this act and by the rules and regulations of the board. Applications shall be made in writing on forms supplied by the board and shall be submitted to the board together with the application fee fixed by the board. The accreditation of a school of nursing shall expire two years after the granting of such accreditation by the board. An institution desiring to continue to conduct an accredited school of professional or practical nursing shall apply to the board for the renewal of accreditation and submit satisfactory proof that it will maintain the standards and basic professional nursing curriculum or the required curriculum for practical nursing, as the case may be, as prescribed by this act and by the rules and regulations of the board. Applications for renewal of accreditation shall be made in writing on forms supplied by the board and shall be submitted to the board together with the application fee fixed by the board.

(b) Schools for professional nurses. To qualify as an accredited school for professional nurses, the school must be conducted in the state of Kansas, and shall apply to the board and submit evidence that: (1) It is prepared to carry out the professional curriculum as prescribed in the rules and regulations of the board; and (2) it is prepared to meet such other standards as shall be established by this law and the rules and regulations of the board.

(c) Schools for practical nurses. To qualify as an accredited school for practical nurses, the school must be conducted in the state of Kansas, and shall apply to the board

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*Attn #4*  
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and submit evidence that: (1) It is prepared to carry out the curriculum as prescribed in the rules and regulations of the board; and (2) it is prepared to meet such other standards as shall be established by this law and the rules and regulations of the board.

(d) Survey. The board shall prepare and maintain a list of accredited schools for both professional and practical nurses whose graduates, if they have the other necessary qualifications provided in this act, shall be eligible to apply for a license as a registered professional nurse or as a licensed practical nurse. A survey of the institution or institutions and of the schools applying for accreditation shall be made by an authorized employee of the board or members of the board, who shall submit a written report of the survey to the board. If, in the opinion of the board, the requirements as prescribed by the board in its rules and regulations for an accredited school for professional nurses or for practical nurses are met, it shall so approve and accredit the school as either a school for professional nurses or practical nurses, as the case may be. From time to time, as deemed necessary by the board, it shall cause to be made a resurvey of accredited schools and written reports of such resurveys submitted to the board. If the board determines that any accredited school of nursing is not maintaining the standards required by this act and by rules and regulations prescribed by the board, notice thereof in writing, specifying the failures of such school, shall be given immediately to ~~it~~ the school. A school which fails to correct such conditions to the satisfaction of the board within a reasonable time shall be removed from the list of accredited schools of nursing until such time as the school shall comply with ~~said~~ the standards. All accredited schools shall maintain accurate and current records showing in full the theoretical and practical courses given to each student.

(e) (1) Providers of continuing education offerings. To qualify as an approved provider of continuing education offerings, persons, organizations or institutions proposing to provide such continuing education offerings shall apply to the

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2-19-90  
Attn #4.  
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board for approval and submit evidence that the applicant is prepared to meet the standards and requirements established by the rules and regulations of the board for such continuing education offerings. Initial applications shall be made in writing on forms supplied by the board and shall be submitted to the board together with the application fee fixed by the board. Qualification as an approved provider of continuing education offerings shall expire ~~two~~ five years after the granting of such approval by the board. ~~A--person,--organization--or--institution~~ ~~desiring--to--continue--to--qualify--as~~ An approved provider of continuing education offerings shall ~~apply~~ submit annually to the board ~~for--renewal--as--an--approved-provider-of-continuing~~ ~~education-offerings-and-submit--satisfactory--evidence--that--the~~ ~~applicant---will---maintain---the---standards---and---requirements~~ ~~established-by--the--rules--and--regulations--of--the--board--for~~ ~~continuing--education--offerings~~ the annual fee established by rules and regulations, along with an annual report for the previous fiscal year. Applications for renewal as an approved provider of continuing education offerings and annual reports shall be made in writing on forms supplied by the board and shall be submitted to the board together with the application fee fixed by the board.

(2) Survey of continuing education providers. As deemed necessary by the board, a survey of the continuing education provider shall be made by an authorized employee of the board or members of the board, who shall submit a written report of the survey to the board. From time to time, as determined by the board, it shall cause to be made a resurvey of continuing education providers and written reports of such resurveys submitted to the board. If the board determines that any continuing education provider is not maintaining the standards required by this act and by rules and regulations prescribed by the board, notice thereof in writing, specifying the failures of such continuing education provider, shall be given immediately to the continuing education provider. A continuing education provider which fails to correct such conditions to the

*PKW*  
2-19-90  
Attn # 4.  
Pg. 7.

satisfaction of the board within a reasonable time shall be removed from the list of approved providers of continuing education until such time as the provider shall comply with the standards.

(f) Criteria for evaluating out-of-state schools. For the purpose of determining whether an applicant for licensure who is a graduate of a school of professional or practical nursing located outside this state meets the requirements of item (2) of subsection (a) of K.S.A. 65-1115 and amendments thereto or the requirements of item (2) of subsection (a) of K.S.A. 65-1116 and amendments thereto, as appropriate, the board by rules and regulations shall establish criteria for determining whether a particular school of professional nursing located outside this state maintains standards which are at least equal to schools of professional nursing which are accredited by the board and whether a particular school of practical nursing located outside this state maintains standards which are at least equal to schools of practical nursing which are accredited by the board. The board may send a questionnaire developed by the board to any school of professional or practical nursing located outside this state for which the board does not have sufficient information to determine whether the school meets the standards established under this subsection (f). The questionnaire providing the necessary information shall be completed and returned to the board in order for the school to be considered for approval. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about schools. In entering such contracts the authority to approve schools shall remain solely with the board.

Sec. 5. K.S.A. 1989 Supp. 65-1120 is hereby amended to read as follows: 65-1120. (a) Grounds for disciplinary actions. The board shall have the power to deny, revoke, limit or suspend any license or certificate of qualification to practice nursing as a registered professional nurse, as a licensed practical nurse or as an advanced registered nurse practitioner that is issued by the board or applied for in accordance with the provisions of

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*Att. #4.*  
*pg. 8*

this act in the event that the applicant or licensee is found after hearing:

(1) To be guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing;

(2) to have been guilty of a felony if the board determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust, or of any offense involving moral turpitude;

(3) ~~to be unfit or incompetent by reason of negligent habits or other causes~~ to have committed an act of professional incompetency;

(4) to be habitually intemperate in the use of alcohol or addicted to the use of habit-forming drugs;

(5) to be mentally incompetent;

(6) to be guilty of unprofessional conduct;

(7) to have willfully or repeatedly violated any of the provisions of the Kansas nurse practice act or any rule and regulation adopted pursuant to that act, including K.S.A. 65-1114 and 65-1122 and amendments thereto; or

(8) to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended by a licensing authority of another state, agency of the United States government, territory of the United States or country or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country. A certified copy of the record or order of denial, suspension, limitation, revocation or other disciplinary action of the licensing authority of another state, agency of the United States government, territory of the United States or country shall constitute prima facie evidence of such a fact for purposes of this paragraph (8).

(b) Proceedings. Upon filing of a sworn complaint with the board charging a person with having been guilty of any of the unlawful practices specified in subsection (a), two or more

*PKW*  
*2-19-90*  
*Att. # 4.*  
*Pg 9.*

members of the board shall investigate such charges, or the board may designate and authorize an employee or employees of the board to conduct such investigation. After investigation, the board may institute charges. In the event such investigation, in the opinion of the board, shall reveal reasonable grounds for believing the applicant or licensee is guilty of the charges, the board shall fix a time and place for proceedings thereon, which shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(c) Witnesses. No person shall be excused from testifying in any proceedings before the board under this act or in any civil proceedings under this act before a court of competent jurisdiction on the ground that such testimony may incriminate the person testifying, but such testimony shall not be used against such person for any prosecution for any crime under the laws of this state except the crime of perjury as defined in K.S.A. 21-3805 and amendments thereto.

(d) Costs. If final agency action of the board in a proceeding pursuant to this section is adverse to the applicant or licensee, the costs of the board's proceedings shall be charged to the applicant or licensee as in ordinary civil actions in the district court, but if the board is the unsuccessful party, the costs shall be paid by the board. Witness fees and costs may be taxed by the board according to the statutes relating to procedure in the district court. All costs accrued at the instance of the board, when it is the successful party, and which the attorney general certifies cannot be collected from the applicant or licensee shall be paid out of any available moneys in the board of nursing fee fund.

(e) Professional incompetency defined. As used in this section, "professional incompetency" means:

(1) One or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board;

(2) repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes

PHW  
2-19-90  
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ordinary negligence, as determined by the board; or

(3) a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.

Sec. 6. K.S.A. 65-1118a and K.S.A. 1989 Supp. 65-1115, 65-1116, 65-1119 and 65-1120 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

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Remarks of Larry McElwain  
House Bill 2801  
Public Health and Welfare Committee  
February 19, 1990

Mr. Chairman, members of the committee. I am Larry McElwain, Warren McElwain Mortuary, Lawrence, Kansas. I am the Chairman of the Kansas Funeral Directors Association Legislative Committee and am a recent past president of the Association.

I appear today to request your support for House Bill 2801. I could go into great detail regarding the Kansas Funeral Directors community responsibility in providing public service funeral service for deceased citizens requiring this type of service, but that is not the issue today. We recognize this need and have been pleased to provide it through the years at a reduced reimbursement--something provided Kansas citizens by us and the other professions in our State.

However, we have had a situation which we feel is rather unique. We have made efforts to solve this without coming to the Legislature. But, our most recent efforts in November and December of this past year came to nothing, and so we appeared before you earlier and requested this bill which you so graciously introduced as House Bill 2801.

During the past number of years, SRS has instigated a policy of deducting any assets of the estate of the decedent, including cash, old cars, Social Security Death Benefits, and similar items. (Some of the complaints received are attached to this material.) They have told the funeral director these items are recoverable...are assets...and therefore were deducted from the payment made for the funeral.

*PHW*  
*2-19-90*  
*attm #5*



I'd like to point out here, a recent survey published by Hillenbrand Industries, Batesville, Indiana--for the Mid Central Region which includes Kansas--has stated overhead for funeral homes in our area at \$1822 per funeral. Then when the merchandise is added--usually a cloth covered wood, wholesale cost \$153; and a 2 piece box grave enclosure, wholesale cost \$153--this brings the COST to the funeral home at \$2130 for one of these services. The SRS proscribed amount for this part of burial expenses is \$900 (\$750 for funeral and casket, and \$150 for grave enclosure), or 42% of the expense incurred. Forget profit--there is none, and we are not worrying about that today. However, then SRS starts deducting these 'found assets' and the amount paid gets less and less. Many of these 'assets' we have discovered, are not recoverable to a funeral home or any other creditor, but most likely would be to an agency which had an on-going relation with survivors of the deceased.

At any rate, we are asking for your support in House Bill 2801. It provides that SRS pays the funeral director and/or cemeterian the amount stated in regulations (exhibit 'B'), and then the bill reinstates SRS's fourth class claim they had before the law was changed in 1973. We feel SRS can recover much more, if not all, of these estates than can funeral directors. And, most likely, we feel this can be accomplished with methods and personnel presently available to the agency. Therefore we feel the fiscal impact should be small, providing of course, their statements regarding the recoverability of these funds have been accurate for the past 16 years.

I shall be happy to answer any questions.

*PKW  
2-19-90  
Attn #5  
292.*

EXHIBIT

"B"

THE KANSAS PUBLIC ASSISTANCE MANUAL

2921 - 2921  
Rev. No. 1

Section 2

Eligibility Requirements Other Than Need

5-84

Outside container expense shall include all expenses connected with the purchase of an outside container in which the casket is placed. This expense shall only be allowed when the cemetery requires an outside container.

The specific allowances are as follows:

Funeral expenses:

Oversize casket	\$850
Adult casket	\$750
Casket 5'	\$650
Casket 4' - 4'6"	\$450
Casket 3' - 3'6"	\$350
Casket 2' - 2'6"	\$250
Casket Infant - 1'9"	\$150

Cemetery expenses - Not to exceed \$250.

Outside container expenses - not to exceed \$150.

The allowance for funeral, cemetery, and outside container expenses shall be determined by subtracting any cash contributions from the standards established above.

Funeral, cemetery, and outside container expenses are considered separate standards. The agency shall not participate in the payment of funeral, cemetery, or outside container expenses if the cost exceeds the standard established.

Cash contributions or partial payment of funeral, cemetery, or outside container expenses by relatives or friends, if available, shall be used to reduce the agency's participation in funeral, cemetery, and/or outside container expenses (except for payments made for transportation costs outside the trade area) and shall not be used to supplement the regularly established cost.

*PKH*  
*2-19-90*  
*Attn #5*  
*Pg. 3.*

# Downing & Lahey

MORTUARY

6555 EAST CENTRAL / WICHITA, KANSAS 67206 / (316) 682-4553

October 21, 1989

Mr. Larry K. McElwain  
Legislative Chairman  
K.F.D.A.  
1200 Kansas Avenue  
Topeka, Kansas 66601

Dear Larry,

With regards to your letter of October 11, 1989, the following instances have taken place with the Wichita S.R.S. office:

June 7, 1988 Deceased was Delmar Hodgens  
S.R.S. agreed to pay the full amount less \$100.00. This \$100.00 was the value that they placed on a automobile that was not in running condition. They informed us that we must contact the family, have them sell the car, and then pay the \$100.00 to us. Needless to say, the \$100.00 balance was written off as a loss.

July 21, 1989 Deceased was Grover Elliott  
S.R.S. approved the entire \$750.00. We then received a check from them for \$101.20. We tried several times to contact the case worker regarding the case to find out why they did not pay the entire amount, leaving a message each time. Finally, we got a letter from them stating that they had found assets and that the rest of the bill would have to be paid by the widow. We contacted Mrs. Elliott about this payment; she became extremely upset, saying that she had NO funds and was barely able to eat each month. To date we still have not had an answer back from S.R.S.

July 14, 1989 Deceased was Ruby Scott  
S.R.S. approved the entire \$1050.00. We then received a check from them for \$950.00. They informed us that they had found \$100.00 in assets, and we were to get that money from the guardian that was handling Mrs. Scott's affairs before she died.

I hope that we can get this matter resolved. We appreciate the help from K.F.D.A.

Sincerely,



Jack R. Morris

## Thatcher's Funeral Home, Inc

---

1520 NORTH 5TH STREET  
KANSAS CITY, KANSAS 66101

The Kansas Funeral Directors and Embalmers Association, Inc.  
1200 Kansas Ave. P. O. Box 1904  
Topeka, Kansas 66601

Dear Colleague:

The following is a list of the deceased individuals that SRS did not pay for or did not complete the payment:

1. Walter Freeman died 6-13-87. The amount of the service was \$1000.00. SRS paid \$ 889.50. The balance of \$ 110.50 was supposed to be in the deceased's account at the Bryant, Butler, Kitchen (BBK) Nursing Home; but BBK stated there was no money.
2. Michael E. Hickman died 10-2-87. The amount of the service was \$1000.00. SRS will not pay. Their explanation was that Mr. Hickman had a car.
3. John H. Kidd died 11-21-87. The amount of the service was \$1000.00. \$792.00 was paid. SRS stated there was \$ 208.00 countable income.
4. Laura Jones died 9-4-88. The amount of the service was \$1000.00. SRS stated BBK was supposed to pay for this out of the estate. BBK stated there was no estate. BBK is now out of business and closed.
5. Claude Gooch died 5-7-89. The amount of the service was \$ 750.00. A VA payment of \$ 470.00 is due. That made the balance \$ 280.00. The family paid \$25.00. The balance now due is \$255.00. SRS gave no explanation as to why they would not pay the balance.
6. Dennis Collier Sr. died 8-24-89. The amount of the service was \$1000.00. \$ 589.00 was paid. SRS gave no explanation for the balance due.

Our SRS is located at 400 State Ave., Kansas City, Kansas 66117. The P. O. Box is 171248.

Sincerely,

Q. Thatcher Davis  
General Manager

*PxkW*  
*2-19-90*  
*Attn #5,*  
*Cg.S.*

NOTICE OF ACTION

IM-3  
11-86

STATE OF KANSAS  
DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES  
MAINTENANCE AND MEDICAL SERVICES

To: David Mann

Address: Box 73

Rodney, Iowa 51051

Distribution:

PA/MA  FS  VR  ES-WIN  CSE  SS  
 JS  Other: Ryan Mortuary

The action described below applies to the following category of assistance:

Public Assistance  Medical Assistance  Food Stamps  Other \_\_\_\_\_

Your application for burial assistance on behalf of Arthur Mann is approved effective May 31, 1989. A payment to Ryan Mortuary for the amount payable under Social and Rehabilitation Services policies has been authorized in the amount of \$414.72 for funeral and cemetery expenses.

The total burial costs were \$1150.00. The amount payable by Social and Rehabilitation Services is burial costs less the \$450.00 payable by VA, \$185.28 paid from Arthur's checking account to Ryan's and the value of Arthur's vehicle (\$100.00).

The burial assistance case is closed effective May 31, 1989.

The above is in accordance with the following manual references (adverse action only):

KPAM 2900

Your Income Maintenance Worker is Mrs. Vaupel who can be reached at 2130 South Ohio or 825-8111 to answer any questions you may have about your case. Please see the reverse side for IMPORTANT information.

Local Office Salina

Signature/Date

*M Vaupel*

5-31-89  
dr

*PA/MA  
2-19-90  
attm # 5  
pp. 6.*



*Mrs. J. W. Jones Memorial Chapel*

Established in 1900

December 11, 1989

The Kansas Funeral Directors and  
Embalmers Association Inc.  
1200 Kansas Ave  
Topeka, Kansas 66601

RE: Mrs. Vivian Payne Deceased:

Dear Jim:

Below is a recent situation encountered by one of my staff members, with SRS. We thought you would be interested. We would appreciate any help you can give on this.

The case of Vivian B. Payne, On December 2, 1989, Debra Payne, came to Mrs. J. W. Jones Memorial Chapel to ask Questions as to how to get help to bury Mrs. Payne. I gave her and Itemized statement to take to SRS. This was the regular Itemized statement that we generally give. SRS called the following Monday and said that the monthly check that Mrs. Vivian B. Payne had received for \$525.00 would be deducted from the monies that they would pay.

Also Mr. Thee the caseworker, sent Ms. Debra Payne to Social Security to inquire about \$255.00 that he was also going to deduct from the total.

Mrs. Vivian Payne was never entitled to get \$255.00 from Social Security and neither was any member of her family, but she was sent to Social Security office anyway.

Mrs. Vivian Payne had lived one day in December, she had not been ill. She got her social security check for the month. Her daughter took her around to pay her bills, and I related this to the person st SRS, because the rent and other bills taht were incurred during the last part of November were due and paid by Mrs. Vivian Payne. This made no difference to the SRS worker. He said that the amount of \$525.00 would be deducted from the total bill, and the \$255.00 would have been also if I had not made it perfectly clear that Mrs. Vivian Payne none of her relatives were entitled to the lump sum benefit.

Again, I guess our question is, Why does the amount of the monthly living expenses of an individual get deducted from the amount of the burial expenses, when there appears to be no relationship between the two items.

Thank you very much for any help you can give.

Sincerely,

*Peggy D. Powell*  
Peggy D. Powell

Manager  
rlc/PDP

*PDP  
2-19-90  
Attn #5  
Og. 7.*

*Holmes Funeral Home*

303 South Broadway P.O. Box 176 Riley, Kansas 66531  
Phil Pfeifley Mildred Pfeifley  
(913) 485-2222

June 20, 1989

Dear Jim,

Enclosed find a copy of the 'Notice of Action', I received from the SRS Office in Manhattan, Kansas. As per our telephone conversation, this woman was divorced, owned a home with a mortgage that was more than the equity in the home, and had no known funds in which to pay or help pay for a funeral. The lady was to receive or had received a small maintenance check every month from her former husband. I asked the SRS worker, in what bank I could find the \$390.00 that they had disallowed. He told me he had no idea if these funds even existed, but that because she was suppose to have received a monthly check, she would have this amount of money and it was up to me to collect.

The SRS rules seem to be a guide, as for one case we will receive our total claim and for the next case we receive what ever the SRS worker deems appropriate. I feel it is important for the funeral directors of Kansas to pursue legislation that would pay us a set amount for a funeral, and should there be funds of a small amount, let the SRS collect them: We furnish a funeral service at cost or as in most cases below cost, and why should the State of Kansas expect us to furnish these services for even less and still go to the expense to collect a few dollars that don't even pay for legal fees to collect these funds.

Should you have any question in regard to this case or the SRS system in general, please give me a call, I'm just full of comments.

Sincerely,



Phil Pfeifley

*Phil Pfeifley*  
*2-19-90*  
*Attn: #5*  
*39.8*  
*(over)*

To: Holmes Funeral Home  
Address: P.O. Box 176  
Riley, KS. 66502

Distribution:

PA/MA  FS  VR  ES-WIN  CSE  SS  
 JS  Other: \_\_\_\_\_

The action described below applies to the following category of assistance:

Public Assistance  Medical Assistance  Food Stamps  Other Linda Whitko

Your request for burial assistance for Linda King has now been approved. You will receive a payment of \$610<sup>00</sup> towards the cost of her burial. Income of \$390<sup>00</sup> was used to determine amount of payment.

*PA/MA  
2-19-90  
attm #5  
09, 9*

The above is in accordance with the following manual references (adverse action only):

2900 *Kim Davis Supervisor*

Your Income Maintenance Worker is Tom Barcellina  
who can be reached at 776-4011 to answer any questions you may have about your case. Please see the reverse side for IMPORTANT information.

Local Office Manhattan Signature/Date TOM Barcellina



EDDY-BIRCHARD FUNERAL HOME  
203 MAIN STREET - BOX 430  
OSAWATOMIE, KANSAS 66064  
(913) 755-2114

October 18, 1989

On May 14, 1989, Ivy Peacor died. It was on a Sunday. On Monday May 15th Joe Moreland contacted the local SRS Office. He was told that she would qualify and they would check on available assets. They never called and told us any different.

Funeral arrangements were made and we sent SRS a bill. We then received a check for \$813.16.

We called SRS and asked why the difference and we were told that Ivy Peacor had an account with her name and someone else's on it. The husband could not get the money to pay us and SRS did nothing to be sure we were paid.

We were not told where the account was or who else was on it.

Also, Ivy Peacor was married to Robert Peacor and then was divorced. Then they lived together. Social Security decided it was a common law marriage and Mr. Peacor received the \$255. We received nothing.

If you need other information, please call me.

Thanks.

*Shari D. Riley*

Shari D. Riley

*P. Hill*  
*2-19-90*  
*Attn #5*  
*3919*



**PURCHASE ORDER**

ASSISTANCE CASE IDENTIFIER			
County Number	Prog. No.	Case Number	Ind'l No.
061	53	01005230	01

ME Codes: 01-09

M. E. or Matching Code	P. O. Date			Total Purchase Order Amount
	No.	Day	Yr.	
600	06	01	89	\$813.16

Prepared By: <i>[Signature]</i> S. R. S. Employee	Approved By: <i>[Signature]</i> Authorized Co-Signer
---	--

Vendor's Name and Address  
  
**Eddy Birchard Funeral Home**  
 Box 430  
 Oceansville, Ke 66064

Please Deliver To:  
 CASE NAME Ivy Hancock  
 CASE ADDRESS 1111 4 4th  
 CITY, STATE Oceansville, KS 66064

Quantity	Unit	Description of Material or Service	Unit Price	Amount
1	ea	Casket and Services	\$750.00	
1	ea	Cemetery Charges	\$250.00	
1	ea	Two Piece grave liner	\$150.00	
<b>TOTAL</b>				<b>\$1150.00</b>
Less amount received Available Assets				<b>336.84</b>
Total paid by agency				<b>813.16</b>
Date of Death 5/14/89				

*[Handwritten]*  
 PHW  
 7-19-90  
 Attn. #5  
 24.10.

I do hereby certify that the above bill is just, correct, and remains due and unpaid, and that the amount claimed therein is actually due according to law.

I do hereby acknowledge receipt of the above assistance.

*[Signature]*

Vendor's Signature

Recipient's Signature

SEE REVERSE SIDE FOR INSTRUCTIONS

White—Central Office  
 Blue—Vendor  
 Buff—Case Record  
 Green—Outstanding

OCT-18-89 WED 11:43

EDDY-BIRCHARD FUNERAL

FAX NO. 9137553587

P.03

EDDY-BIRCHARD FUNERAL HOME  
203 MAIN STREET - BOX 430  
OSAWATOMIE, KANSAS 66064  
(913) 755-2114

May 17, 1989

Osawatomie SRS  
Box 1000  
Osawatomie, Kansas 66064

RE: Ivy Winifred Peacor

Professional services & Casket	\$ 750.00
Cemetery	250.00
Two Piece grave liner	150.00
Total due	\$1150.00

Thank you.

*P. H. H. H.  
2-19-90  
Attm # 5  
Pg. 12*

COLONIAL CHAPEL  
Ninth at Spruce

# Ford-Wulf-Bruns

Funeral Service

EDGEWOOD CHAPEL  
2400 Woodland Ave.

P. O. Box 468

• COFFEYVILLE, KANSAS 67337 •

[316] 251-3100

November 2, 1989

## SOCIAL REHABILITATION SERVICE CASES - 1987 and 1988

Dewey M. Jundy  
January 6, 1988 - Balance Due \$201.60

George O. VanAlstine  
July 24, 1987 - Balance Due \$460.00

William T. Vanderford  
October 16, 1988 - Balance Due \$206.00

In all three cases we were told by the Department of Social and Rehabilitation Services that there were available assets.

We have been unable to collect the balance due, even with many phone calls to the family.

*PHW.  
2-19-90  
Attn. #5,  
09.13*

G. Ross Barben  
Funeral Director

Telephone: 913-524-4549

## HALL MORTUARY, INC.

111 E. Elm  
Lincoln, Kansas 67455

Kansas Funeral Directors & Embalmers Association  
1200 Kansas Ave. P. O. Box 1904  
Topeka, Kansas 66601  
November 27, 1989

Dear Jim:

In Reference to the Welfare burials payments, I would like the members to know that I had a welfare funeral in July and am still waiting on payment. I received the Veteran's Allowance on Sept. 8, 1989 and an SRS payment on Nov. 13, 1989 in the Amount of \$473.00, and the V. A. Payment was \$450.00. I am still waiting on the estate to pay \$227.00, this is after deducting \$50.00 for power of attorney fees. Since the same type of service we provide for SRS is the same that is available to the public to purchase, and the amount of the funeral bill is \$2,651.00 I think SRS should be aware of the fact that the amount of payment they provide, is not sufficient enough to pay a break even amount. And we still have to wait five to six months to collect. Also I think that a checking account should be made able to have someone be able to write check on it, to clear it without having to pay for power of attorney fees. Thank you.

Sincerely,

*G. Ross Barben*

G. Ross Barben

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Jim Owen  
Sk

TESTIMONY REGARDING HOUSE BILL 2801

1. The bill, as proposed, does not make a clear change in the way SRS handles burials. The Secretary of SRS is still granted the authority to fix the amount of expenses to be paid by "rules and regulations."

2. The bill, as proposed, still incorporates the concept presently used by SRS in that SRS only pays expenses when the estate of the decedent or other resources "are insufficient." SRS currently determines eligibility and the amount of the payment to the funeral home by determining whether the estate is insufficient.

3. Even though the language is not clear, from discussions between SRS staff and representatives from the funeral home industry, it is understood that the intent of the bill is to require SRS to pay, in the case of people who may qualify for burial assistance, the full amount of the cost of the funeral, cemetery, and outside container. Then, SRS, and not the funeral home, is responsible to collect from the family, a bank, a governmental agency (such as social security, who pays a death benefit), and other entities who may control the resources of the decedent. If this is the intent of the bill, it is not clearly stated.

4. The issue is "who bears the responsibility for burying the poor?" Traditionally, it is the estate of the decedent who has borne the cost of burial. We submit that it is more reasonable to ask the funeral home who is working with the family to assure the payment of expenses from resources available, rather than try to place that burden on SRS.

5. The language relating to the establishment of a right to recover expenses as a debt due to the state appears to have been borrowed, and modified slightly, from K.S.A. 39-719b, a statute that allows SRS to bring claims when a

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client has misstated his or her resources, income, or circumstances. However, this bill gives SRS only a fourth class claim. According to K.S.A. 59-1301, the following classes of claims are established:

- First class: funeral expenses;
- Second class: costs and expenses of administration of the estate and reasonable sums for the expenses of the last sickness;
- Third class: judgments and liens on the decedent in his or her lifetime; and
- Fourth class: All other demands.

So, while a funeral home would have a first class claim, SRS is being placed last in priority with a fourth class claim. It is doubtful that any significant recovery could be made by SRS from estates with this language.

6. Until approximately 1974, SRS had the authority to place liens and recover costs through fourth class claim against estates for medical assistance paid. In 1974, this option was taken from the welfare statutes.

7. To require SRS to pay the full cost of a service and attempt to recoup the expense would be opening a Pandora's Box. There are many other entities with which SRS clients do business which might also want a similar situation.

*P. Heel*  
*2-19-90*  
*Attm # 6-A*

*Jenkins*  
*SRS*

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES  
Winston Barton, Secretary

THE BURIAL ASSISTANCE PROGRAM

1. Burial assistance is requested at the local SRS office. Any interested party may make application on behalf of the deceased.
2. Funeral costs must not exceed the Burial Assistance allowances in order for SRS to participate in payment. Maximum Burial Assistance allowances are as follows:

Funeral expenses - \$750 (based on standard adult casket size)

Funeral expenses include all costs associated with preparation of the body, purchase of a minimum casket, transportation, and service. Allowance varies based on size of casket.

Cemetery expenses - \$250

Cemetery expenses include all costs associated with interment of the body which includes opening and closing the grave, purchase of a lot and marker.

Outside container expenses - \$150

Allowed if the cemetery requires an outside container.

3. SRS determines the total amount of the countable income and resources of the deceased and all legally responsible persons in the home. This total is considered available to meet funeral costs.

a. Countable income is determined in the month of death as follows:

Total gross earned income	
- \$90 work expense	(if applicable)
- Child care expense	(if applicable)
+ Total gross unearned income	(including SSI, PA grant, death benefits)
- PA budgetary standard	(based on household size)
- Incurred long term care obligation	
<u>= Countable income</u>	

b. All resources of a deceased person with no dependents are countable. All accessible resources excluding the home, \$1500 equity in one vehicle and \$1,000 assets are considered available to meet the funeral costs of the deceased with surviving dependents.

4. If the countable income and resources are less than the cost of burial, SRS will assist the family or supplement the estate by reimbursing the difference to the funeral home. The family or the estate remains responsible for paying to the funeral home the amount which the agency has determined as available and countable.

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~~*[Signature]*~~





State of Kansas

Mike Hayden, Governor

*Dick Morrissey*

Department of Health and Environment  
Division of Health

Stanley C. Grant, Ph.D., Secretary

Landon State Office Bldg., Topeka, KS 66612-1290

(913) 296-1343  
FAX (913) 296-6231

Testimony presented to

The House Public Health and Welfare Committee

by

The Kansas Department of Health and Environment

House Bill 2800

Background

Since 1980, the investigation of alleged abuse or neglect of persons residing in institutions such as adult care homes, adult family homes and medical care facilities has been the responsibility of the Department of Social and Rehabilitation Services (SRS). SRS is responsible to receive, investigate and follow-up on all such reports pursuant to K.S.A. 39-1401 et. seq.

Since 1985, the investigation of alleged abuse, neglect or exploitation for adults not in an institution has been the responsibility of SRS pursuant to K.S.A. 39-1421 et. seq.

The current statutory framework compromises the quality of investigation and follow-up that occur because SRS does not have nurses available to investigate such complaints and SRS is oriented toward the provision of individual protective services rather than enforcement. In fact, the most effective protective service that can be provided is direct action to correct problems in the facility in which the abuse, neglect, or exploitation has occurred.

The Governor is committed to consolidating, where practical, related functions in single agencies. With regard to adult care homes, the first step was taken on July 1, 1989 when the federally mandated Inspection of Care (IOC) process was transferred from SRS to the Kansas Department of Health and Environment (KDHE). This bill, transferring responsibility for investigating abuse, neglect and exploitation complaints, is the second critical step towards completing the Governor's initiative.

In addition, the Nursing Home Reform Act contained in the Omnibus Reconciliation Act of 1987 requires that each nursing facility resident be advised, in writing, that complaints regarding resident abuse, neglect, or exploitation are to be filed with the state survey and certification agency. This act also requires that the state maintain adequate procedures and staff to investigate such complaints.

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Issues

This bill addresses two general issues. First and fundamental, is the inherent difficulty in having a multiplicity of agencies involved in the inspection or regulation of nursing facilities. And two, complying with federal mandates requiring states to have staff and procedures in place as part of the federal certification function to investigate complaints regarding abuse, neglect, or exploitation.

The approach under current law is ineffective because it places the responsibility for receipt and resolution of complaints regarding adult care homes and medical care facilities outside the licensing agency. The concept of providing protective services, traditionally an SRS role, is not pertinent because in the great majority of the cases the most effective protective service to be provided when abuse, neglect, or exploitation occurs in an institution is enforcement activity to assure that problems are corrected.

A number of other issues are also addressed in this proposal. State psychiatric hospitals and state institutions for the mentally retarded are specifically excluded from the provisions of this bill so as not to conflict with internal SRS mechanisms established to deal with complaints arising in those institutions.

We believe it is important that the agency responsible to license or register an institution is the agency responsible to investigate complaints. Adult family homes are excluded from the proposal so that they remain the responsibility of SRS which is the agency responsible to register such facilities.

A definition for exploitation was included to meet federal requirements as well as to provide state authority to investigate issues of exploitation.

It is proposed that the requirement for a state-wide register be abolished. As structured, the requirement has not been a meaningful record nor of any valid use to SRS. The Nursing Home Reform Act, a section of OBRA'87 mandates that the state survey agency establish a process and provide staff to investigate allegations of abuse, neglect, or exploitation. This same federal law mandates the establishment of a public registry no later than October 1, 1990 of nurse aides who have been confirmed of abusing, neglecting, or exploiting residents.

The proposed requirement that the Secretary of KDHE forward any findings of abuse, neglect, or exploitation of a licensed provider to the appropriate licensing authority is mandated by the OBRA legislation. It is also consistent with the current administrative practice of KDHE.

The proposal that the Secretary of KDHE may consider the finding of abuse, neglect, or exploitation in any disciplinary action taken with respect to the licensed provider is not only consistent with OBRA legislation but provides the Secretary with clear authority to sanction a facility where abuse, neglect, or exploitation has occurred.

The bill also contains language seeking to protect the confidentiality of persons registering the complaint or the alleged victim.

Department's Position

Proposed House Bill 2800 enhances the state's ability to protect its most frail citizens. It does so by placing within the licensing agency the responsibility for investigating and resolving allegations of abuse, neglect, or exploitation. The need for protective services is best met by strengthening the licensing agency's ability to correct problems in a facility where such abuse, neglect, or exploitation has occurred.

The bill also enhances efficiency in government by consolidating within one agency duplicative functions. This is consistent with the Governor's initiative to bring more efficiency to bureaucracies. It is recommended that House Bill 2800 be favorably passed.

Testimony Presented by: Richard J. Morrissey, Deputy Director  
Division of Health, KDHE

Date: February 19, 1990

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KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Testimony before

The House Committee on Health and Public Welfare

Regarding

House Bill 2800

on

February 19, 1990

1:30 p.m.

Room 423 South  
Capitol Building

Rosilyn James-Martin, Program Administrator  
Adult Abuse, Neglect and Exploitation  
Telephone # 296-2458

presented by:

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Jan Allen, Commissioner ✓  
Adult Services  
Telephone# 296-6959

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TESTIMONY FOR HOUSE BILL 2800

AN ACT relating to abuse, neglect and exploitation of certain persons; declaring certain acts to be crimes and providing penalties for violations; amending K.S.A. 39-1402, 39-1404, 39-1406 and 39-1409 and K.S.A. 1989 Supp. 39-1401 and 39-1430 and repealing the existing sections; also repealing K.S.A. 39-1405, 39-1407, 39-1408 and 39-1410.

Thank you for allowing me the opportunity to speak to you today.

The Department of Social and Rehabilitation Services (SRS) supports HB 2800 to transfer to the Kansas Department of Health and Environment (H&E) the powers and duties to investigate allegations of abuse, neglect and exploitation in adult care homes and medical care facilities.

Currently SRS is the mandated state agency to investigate complaints in Adult Care Homes, Adult Family Homes, State Institutions and hospitals. K.S.A. 39-1401 through 39-1410 directs SRS to: 1) investigate allegations of abuse, neglect and exploitation, 2) determine whether abuse, neglect or exploitation has occurred, 3) provide protective services as deemed necessary and 4) maintain a Central Registry of the reports.

H&E is the regulatory state agency and has the legislative authority to issue sanctions against the facilities. Therefore, it is appropriate for that Agency

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attn #8  
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have sole responsibility to investigate allegations of abuse, neglect and exploitation in adult care homes and medical care facilities.

SRS and H&E have worked together in drafting the proposed legislation. We recommend that the State of Kansas enact legislation that will provide the maximum protection to residents in adult care homes and medical care facilities.

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