

Approved 3-26-91
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by SENATOR ROY M. EHRLICH at
Chairperson

10:00 a.m./~~p.m.~~ on March 21, 1991 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Bill Wolff, Legislative Research
Norman Furse, Revisor's Office
Jo Ann Bunten, Committee Secretary

Conferees appearing before the committee:

Mack Smith, Kansas State Board of Mortuary Arts
Representative Gene Amos
Jim Trast, SRS, Youth Services

Chairman Ehrlich called the meeting to order at 10:00 a.m.

SB 82 - Dental hygienists practice and licensure requirements.

The wishes of the committee were asked on SB 82. A balloon of the bill was distributed to the committee, and Senator Langworthy stated Staff Furse would explain the amendments to the bill. (Attachment 1) After explanation of the amendments, Senator Langworthy made the motion to adopt the amendments to SB 82, seconded by Senator Anderson. Discussion followed regarding responsibilities of dental hygienists. The motion carried. Senator Walker expressed concern with certain language in the bill, and also concern dental hygienists, even under direct supervision of a dentist, do not have adequate training to administer injections or shots. Senator Walker made the motion to table SB 82, seconded by Senator Strick. Senator Langworthy made a substitute motion to recommend SB 82 as amended favorably for passage. The motion was seconded by Senator Burke. Discussion followed regarding liability insurance coverage, brodening scope of practice for hygienists, shortage of dentists in certain rural areas, quality of dental care, and incidents of death from administration of anesthetics. The motion lost. Division was called, the vote was 6 to 4, the motion lost. Back to the original motion by Senator Walker to table SB 82. No discussion followed. The motion carried. SB 82 will be tabled in Senate Public Health and Welfare Committee.

Hearing and Final Action:

HB 2083 - Statutory changes relating to licensure of funeral directors, embalmers and funeral establishments.

Mack Smith, Executive Secretary, Kansas State Board of Mortuary Arts, submitted written testimony and appeared in support of HB 2083. Mr. Smith explained various changes in the bill. (Attachment 2) Discussion centered on educational requirements for embalmers, fee increases, apprentice embalmers and clarification of language in the bill on page 1, regarding AA degrees; page 3, line 6 regarding reinstatement of a lapsed license; page 6, line 2, qualifications to act as a licensed funeral director; and page 7, reference to fees for new license.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 526-S, Statehouse, at 10:00 a.m.~~x~~m. on March 21, 1981.

Representative Gene Amos appeared before the committee in support of HB 2083 and explained the changes regarding education requirements for an embalmer's license. Payment of all back renewal fees to the board was discussed, and it was decided to leave the language as printed in the bill regarding that issue.

The wishes of the committee were asked on HB 2083. Senator Anderson made the motion to recommend HB 2083 favorably for passage, seconded by Senator Hayden. No discussion followed. The motion carried. Senator Anderson will carry the bill.

Chairman Ehrlich introduced his two pages from Paradise that served in the Senate and assisted at the committee meeting.

Hearing and Final Action:

HB 2490 - Health care for juvenile felons.

Jim Trast, SRS, Youth Services, submitted written testimony and appeared in support of HB 2490. This bill would provide the superintendents of the youth centers the same authority to authorize medical care for juvenile felons in their care as they now have for juvenile offenders. This authority is needed primarily when the parents or guardian do not exist and when they are otherwise unavailable or unwilling to provide consent. (Attachment 3) Senator Hayden made the motion to recommend HB 2490 favorably for passage, seconded by Senator Reilly. After committee discussion on medical care for pregnant juvenile felons, the motion carried. Senator Hayden will carry the bill.

The meeting was adjourned at 10:55 a.m.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 3-21-91

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

Mack Smith 1200 S, Kansas, #2
Topeka, Ks 66602

Kansas State Board
of Mortuary Arts

Tim Polka 210 S. WATER
OLATHE K.S.

KU student getting info
ON BILL 2490 (HEALTH CARE JUVENILE)

Carl Schmittheuer

Kansas Dental Ass'n

D. Hanzlick

KS Dental Ass'n

P. Hund

K.S. Dental Ass'n

Jana P. Hart

SAS Youth Services

SENATE BILL No. 82

By Committee on Public Health and Welfare

1-30

8 AN ACT concerning dental hygienists; relating to the practice of
9 dental hygiene and requirements for licensure; amending K.S.A.
10 65-1456, 65-1457 and 74-1404 and K.S.A. 1990 Supp. 65-1455 and
11 repealing the existing sections.
12

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

14 Section 1. K.S.A. 1990 Supp. 65-1455 is hereby amended to read
15 as follows: 65-1455. (a) No person shall practice as a dental hygienist
16 in this state until such person has passed an examination by the
17 board under such rules and regulations as the board may adopt *and*
18 *has been issued a license and license certificate.* The fee for such
19 examination and the certificate fee shall be fixed by the board pur-
20 suant to K.S.A. 65-1447 and amendments thereto. An annual reg-
21 istration fee shall be paid to the board in the amount fixed by the
22 board pursuant to K.S.A. 65-1447 and amendments thereto.

23 (b) The board shall issue licenses and license certificates as dental
24 hygienists to those who have passed the examination in a manner
25 satisfactory to the board. Each license certificate shall be posted and
26 displayed in the office in which the hygienist is employed, but no
27 person shall be entitled to such license and license certificate unless
28 such person ~~shall be~~: (1) *Is more than 18 years of age;*; (2) *is of*
29 *good moral character and;* (3) *is a graduate of a school for dental*
30 *hygienists approved by the board for dental hygienists; and (4) for*
31 *licenses issued on and after July 1, 1992, has successfully completed*
32 *a course of instruction in cardiopulmonary resuscitation approved*
33 *by the board.*

34 (c) (1) The board shall approve only those dental hygiene schools
35 which require ~~the~~ *at least a two-year course of study of dental*
36 *hygiene and which the board determines have standards of education*
37 *not less than that required for accreditation by the commission on*
38 *dental accreditation of the American dental association or its*
39 *equivalent.*

40 (e) (2) The board shall adopt rules and regulations establishing
41 the criteria which a school for dental hygienists shall satisfy in meet-
42 ing the standards of education established under *paragraph (1) of*
43 *this subsection (b).* The board may send a questionnaire developed

1 by the board to any school for dental hygienists for which the board
2 does not have sufficient information to determine whether the school
3 meets the requirements of *paragraph (1) of this subsection (b)* and
4 rules and regulations adopted under this section. The questionnaire
5 providing the necessary information shall be completed and returned
6 to the board in order for the school to be considered for approval.
7 The board may contract with investigative agencies, commissions or
8 consultants to assist the board in obtaining information about schools.
9 In entering such contracts the authority to approve schools shall
10 remain solely with the board.

11 (d) Any person practicing dental hygiene *or aiding and abetting*
12 *another person to practice dental hygiene* in violation of the pro-
13 visions of this act shall be guilty of a misdemeanor, and the board
14 may revoke or suspend such person's license therefor.

15 Sec. 2. K.S.A. 65-1456 is hereby amended to read as follows:
16 65-1456. (a) The board may suspend or revoke the license, license
17 certificate and renewal certificate of any registered and licensed den-
18 tist who shall permit any dental hygienist operating under such
19 dentist's supervision to perform any operation other than that per-
20 mitted under the provisions of article 14 of chapter 65 of the Kansas
21 Statutes Annotated, or acts amendatory *of the provisions thereof or*
22 *supplemental thereto*, and may suspend or revoke the license of any
23 *dental hygienist found guilty of performing any operation other than*
24 *those permitted under article 14 of chapter 65 of the Kansas Statutes*
25 *Annotated, or acts amendatory of the provisions thereof or supple-*
26 *mental thereto*. No license or certificate of any dentist or dental
27 hygienist shall be suspended or revoked in any administrative pro-
28 ceedings without first complying with the notice and hearing re-
29 quirements of the Kansas administrative procedure act.

30 (b) (1) The practice of dental hygiene shall include those edu-
31 cational, preventive, and therapeutic procedures which result in the
32 removal of extraneous deposits, stains and debris from the teeth and
33 the rendering of smooth surfaces of the teeth to the depths of the
34 gingival sulci.

35 (2) Included among ~~these~~ *the* educational, preventive and ther-
36 apeutic procedures are ~~the~~:

37 (A) Instruction of the patient as to daily ~~personal~~ *oral health*
38 *care*;

39 (B) protecting the teeth *and supporting structure* from dental
40 *earies, disease*;

(C) the scaling and polishing of the ~~own~~ *tooth* surfaces ~~and~~;

(D) *administration of local (block and infiltration) anesthesia and*
43 *application of topical anesthetic agents*;

1-3

(E) removal of overhanging restorations and periodontal surgery materials;

(F) the planing of the root surfaces, in addition to the curettage of those soft tissues lining the free gingiva to the depth of the gingival sulcus; and

(G) such additional educational, preventive and therapeutic procedures as the board may establish by rules and regulations.

(c) Subject to such prohibitions, limitations and conditions as the board may prescribe by rules and regulations, any licensed dental hygienist may practice dental hygiene and may also perform such dental service as may be performed by a dental assistant under the provisions of K.S.A. 65-1423 and amendments thereto.

(d) [1] The practice of dental hygiene shall be performed under the direct or indirect general supervision of a licensed dentist at the office except that the administration of local anesthesia shall be under the direct supervision of such licensed dentist. The board may designate by rules and regulations the procedures which may be performed by a dental hygienist under direct supervision and the procedures which may be performed under the indirect supervision of a licensed dentist. The administration of local anesthesia may be performed by a dental hygienist who has completed a course of instruction as the board may designate by rules and regulations. The degree of supervision of any additional procedures not listed under subsection (b)(2) of this section shall be determined by the board. As used in this section, "indirect supervision" means that the dentist is in the dental office, authorizes the procedures and remains in the dental office while the procedures are being performed and "direct supervision" means that the dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure and before dismissal of the patient evaluates the performance.

[direct or indirect

[at the office of the licensed dentist

[The board may designate by rules and regulations the procedures which may be performed by a dental hygienist under direct supervision and the procedures which may be performed under the indirect supervision of a licensed dentist except that the administration of local anesthesia shall be under the direct supervision of such licensed dentist.

[As used in this section, "indirect supervision" means that the dentist is in the dental office, authorizes the procedures and remains in the dental office while the procedures are being performed and "direct supervision" means that the dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure and before dismissal of the patient evaluates the performance.

[2] As used in this section: (A) "General supervision" means that the procedures provided by the dental hygienist are provided with the intent and knowledge of the supervising dentist, whether or not the dentist is present on the premises where such procedures are performed, and such procedures are evaluated by the dental hygienist before the patient is dismissed; and (B) "direct supervision" means that the procedures provided by the dental hygienist are provided with the intent and knowledge of the supervising dentist who is present on the premises where such procedures are performed, and such procedures are evaluated by the dental hygienist and the dentist before the patient is dismissed.

1-4

(e) The board may issue a permit to A licensed dental hygienist to may provide dental screening as an employee of the state of Kansas, or any subdivision thereof, at any public institution or facility under the supervision of the governing body of such public institution or facility pursuant to a permit granted by the board under such terms and conditions as the board may reasonably establish in such permit. Such permit shall be for a period of one year and shall be subject to renewal annually at the time the license for dental hygiene is renewed.

~~(f) No licensed dentist or a licensed dental hygienist shall establish an office in which a dental hygienist is the primary provider of dental care or provides dental care independent from the direct supervision or general supervision, or both, of a licensed dentist.~~

Sec. 3. K.S.A. 65-1457 is hereby amended to read as follows: 65-1457. It shall be the duty of (a) On or before December 1 each year, all licensed dental hygienists who engage in the practice of dental hygiene to be registered shall register with the board and have issued to them receive a renewal certificate annually issued by the board on or before the first day of December of each year. The form, method and renewal certificate fee, and all provisions relating to the renewal of licenses of dentists as provided herein shall apply to the annual registration and renewal of licenses of dental hygienists.

(b) On and after July 1, 1992, no licensed dental hygienist who was issued a license and license certificate under K.S.A. 65-1455 and amendments thereto prior to July 1, 1992, shall be issued a renewal certificate unless such person has successfully completed a course of instruction in cardiopulmonary resuscitation approved by the board. The board may grant waivers or extensions of time to complete the requirement of this subsection (b) for good cause shown because of sickness, disability, hardship or such other good cause beyond the control of the licensee as the board may determine.

Sec. 4. K.S.A. 74-1404 is hereby amended to read as follows: 74-1404. (a) In order to accomplish the purpose and to provide for the enforcement of this act, there is hereby created the Kansas dental board. The board shall be vested with authority to carry out the purposes and enforce the provisions of this act.

(b) The board shall consist of the following: (1) Three licensed and qualified resident dentists; (2) one registered licensed dental hygienist; and (3) one representative of the general public. At least 30 days before the expiration of any the term, other than that of the member appointed from the general public of a licensed dentist, the Kansas dental association or its successor shall submit

1 to the governor a list of three names of ~~persons licensed dentists~~
2 of recognized ability who have the qualifications prescribed for board
3 members. *At least 30 days before the expiration of the term of the*
4 *licensed dental hygienist, the Kansas dental hygienists association or*
5 *its successor shall submit to the governor a list of three names of*
6 *licensed dental hygienists of recognized ability who have the qual-*
7 *ifications prescribed for board members.* The governor shall consider
8 such list of persons *as may be applicable* in making ~~the~~ an appoint-
9 ment to the board.

10 (c) The members shall be appointed by the governor in the
11 manner hereinafter prescribed for terms of four years and until their
12 successors are appointed and qualified. No person in any way con-
13 nected with a dental supply or dental laboratory business shall be
14 eligible for appointment to the board. No person shall be eligible
15 for appointment to the board who has been convicted of a violation
16 of any of the provisions of this or any other prior dental practice
17 act or who has been convicted of a felony. No dentist or dental
18 hygienist shall be appointed to the board who has not been engaged
19 in the active practice of dentistry or dental hygiene in the state of
20 Kansas for at least five years next preceding appointment. Whenever
21 a vacancy occurs it shall be filled by appointment for the remainder
22 of the unexpired term in the same manner as an original appointment
23 is made.

24 ~~(b)~~ (d) Upon the expiration of terms of office of members, suc-
25 cessors shall be appointed in the same manner as original appoint-
26 ments for terms of four years.

27 Sec. 5. K.S.A. 65-1456, 65-1457 and 74-1404 and K.S.A. 1990
28 Supp. 65-1455 are hereby repealed.

29 Sec. 6. This act shall take effect and be in force from and after
30 its publication in the statute book.

EXPLANATION OF H.B. 2083 BY THE MORTUARY ARTS BOARD
MACK SMITH, EXECUTIVE SECRETARY

Mr. Chairman and Members of the Committee:

My name is Mack Smith and I am the Executive Secretary to the Kansas State Board of Mortuary Arts. H.B. 2083 was introduced by the House Public Health and Welfare Committee at the request of the Mortuary Arts Board, and it effects the following eight (8) statutes:

K.S.A. 65-1701a: On page 1, lines 21-39, the educational requirements are being up-dated as was recommended by the National Conference of Funeral Service Examining Boards to require a minimum of an A.A. Degree in Mortuary Science in order to be eligible to take the embalmer examination. This eliminates the old option of sixty (60) semester college hours and graduation from a twelve-month mortuary science school. This is being done as all schools approved by the Board now offer the A.A. Degree program. On page 2, lines 10-12, the embalmer apprenticeship is defined as "full time" (currently defined in K.A.R. 63-1-3 as full-time) and would allow the apprenticeship to be served under a licensee from another state--if approved by the Board. Current apprenticeships must be served under Kansas licensees only, penalizing apprentices living out-of-state or on the Kansas border;

K.S.A. 65-1702: Lines 2-9 on page 3 define the relicensure process for embalmer licenses lapsed over six months in duration. Previously, reinstating lapsed licenses of only six months or less was defined;

K.S.A. 65-1703: Adding "apprentice embalmers" to the list of individuals able to embalm is defined on page 4, beginning with line 9. In the past student embalmers were considered apprentices, but the wording has been changed. Apprentice embalmers have passed the written examination, while student embalmers have only registered to take the examination;

K.S.A. 65-1714: Page 4, line 37 would require that the funeral director apprenticeship be served full-time (currently define in K.A.R. 63-2-12, f);

K.S.A. 65-1716: Page 5, lines 41+ defines the relicensure process for funeral director licenses lapsed over six months in duration. Previously reinstating lapsed licenses of only six months or less was defined;

K.S.A. 65-1727: Page 7, lines 1-11 increases the maximum fee limitations that can be charged by the Board. The actual fees are established via regulation (K.A.R. 63-4-1) using the public hearing process. The Board anticipates fee increases effective January 1, 1992 that would bring the embalmer, funeral director and assistant funeral director renewals towards the end of their limitations. The funeral and branch establishments fees are already at the maximum amount. A new section (c) has been added making fees paid to the board not refundable;

K.S.A. 65-1729: Page 7, lines 28-32 adding a new section (b) to further define reasons necessary in applying for a new funeral establishment or branch establishment license and putting a 30 day prior notice requirement in the statute. The Board has had a problem in this area that is directly addressed with this new section, and

K.S.A. 74-1703: Page 8, section 8, lines 1-2 requiring that the Board hold at least four meetings each year. This simply up-dates the statute to current Board standards as they have met on at least a quarterly basis for many years. Our budget included money for 10 days of meetings: four of the regular quarterly two day meetings and 2 additional days of meetings as needed. All 10 days have been necessary for the past several years. K.A.R. 63-1-2 specifies four meetings annually for the purpose of examinations and business.

I want to thank this committee for introducing this bill and for allowing me to testify in its' favor today. I hope that the committee will be able to act favorably on HB 2083, and I would be glad to answer any questions that you might have. Thank you very much!


Mack Smith, Executive Secretary
Kansas State Board of Mortuary Arts

Senate P H&W
Attachment #2
3-21-91

Department of Social and Rehabilitation Services

Testimony before

Senate Public Health & Welfare

Regarding

House Bill 2490

March 21, 1991

Carolyn Risley Hill
Acting Commissioner of Youth & Adult Services
Kansas Department of Social and Rehabilitation Services
(913) 296-3284

Department of Social and Rehabilitation Services
Robert C. Harder, Acting Secretary

Testimony in Support of H.B. 2490

(Mr. Chairman,) Members of the Committee, I appear today in support of House Bill 2490.

Background: The 1990 Legislature created a new class of offenders known as juvenile felons. Juvenile felons are 14-15 year old youth who were certified as adults and were convicted of a Class A or B felony. The Secretary of Corrections has authority to place these youth in the Youth Center at Topeka or the Youth Center at Beloit until they are at least 16 years of age. The issue of medical consent was not addressed at that time.

Discussion: This bill would provide the superintendents of the youth centers the same authority to authorize medical care for juvenile felons in their care as they now have for juvenile offenders. This authority is needed primarily when the parents or guardian do not exist and when they are otherwise unavailable or unwilling to provide consent. Because of the nature of the crimes committed by these youth, the above conditions frequently exist.

Action Required: Your favorable consideration of this bill will enhance the agency's ability to meet the needs of these youth.

Robert C. Harder,
Acting Secretary
Department of Social and
Rehabilitation Services
(913) 296-3271