

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Chairperson Carlos Mayans, at 1:30 p.m. on January 22, 1998 in Room 423-S-of the State Capitol.

All members were present except: Representative Clark Shultz - excused

Committee staff present: Emalene Correll, Legislative Research Department
Robin Kempf, Legislative Research Department
Norman Furse, Revisor of Statutes
Lois Hedrick, Committee Secretary

Conferees appearing before the committee:

Scott Bryan, Executive Director, Wichita Eye Bank
Gary Robbins, Kansas Optometric Association
Pam Scott, Executive Director, Kansas Funeral Directors & Embalmers Association

Others attending: See Guest List ([Attachment 1](#))

Chairperson Mayans noted that **HB 2681** - actions against licensees under the Kansas Healing Arts Act - had been assigned to this committee.

Chairperson Mayans asked if anyone was present to testify for introduction of a bill. No one came forward.

The Chairperson then opened the hearing on **HB 2408** - persons authorized to perform the enucleation of eyes. Representative Geraldine Flaharty testified in behalf of the bill, which she sponsored. (See testimony, [Attachment 2](#).) Representative Flaharty noted that she had reviewed the additional amendments that will be offered by Scott Bryan, Executive Director of the Wichita Eye Bank.

Mr. Bryan then presented testimony in support of the bill and offered amendments to include health care professionals and Eye Bank personnel as qualified eye enucleators. (See written testimony and amendments, [Attachment 3](#).) Representative Morrison asked why optometrists were removed as qualified eye enucleators. Mr. Bryan replied that optometrists would be included under the provision of a technician employed by a nationally certified eye bank. Representative Morrison stated that would not work in western Kansas. He asked if there would be a problem in including optometrists, and Mr. Bryan answered that would be no problem. Representative Wells asked what change was being made to section 1. Mr. Bryan answered that the national standards and criteria for donation has been changed to include the screening for HIV and hepatitis, and interviews with the involved family. Representative Storm asked if all enucleators would perform all of the standards or are they limited to removing the eye. Mr. Bryan replied that at the Wichita Eye Bank, enucleators do everything but the actual removal of the eye, which is done by the KU Medical Center. He stated that KUMC's Department of Ophthalmology certifies the courses, the school, and the persons authorized to enucleate eyes. To answer Representative Cook's question of how many eye banks there were in Kansas, Mr. Bryan stated that are two: in Wichita and on Cambridge Circle in Kansas City.

Representative Horst asked if someone who moved into Kansas and was certified by another state, would they be certified as an enucleator. Mr Bryan replied that such a person would be required to take the Kansas course. Representative Wells inquired about the certification of licensing physicians and optometrists by the KU School of Medicine and the cost of the one-day course. Mr. Bryan answered that the School picks up the costs of the one-day course, and oversees the certification of enucleators. He stated the courses can be held at any location in the state as long as it is certified. Representative Morrison stated that licensed medical professionals get the training through required continuing education. Representative Flaharty suggested that changing the certifying entity may be something that should be entertained, but there is no proposal to change it.

Gary Robbins, Kansas Optometric Association, testified in support of **HB 2408**. He indicated some association members in rural areas have asked to perform enucleation to assist embalmers. He also indicated the association feels it is appropriate to include optometrists in the definition of eligible enucleators.

Pam Scott, Executive Director, Kansas Funeral Directors & Embalmers Association, stated the association has decided to take a neutral position on **HB 2408**. Ms. Scott noted the association wanted some limits on those who could qualify; saying embalmers have intensive training through two years of schooling. She stated the one-day educational course required for enucleators is given each year by the association. Ms. Scott stated the association has no objection to including optometrists; and is neutral on the amendments offered by

CONTINUATION PAGE

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 423-S State Capitol, at 1:30 p.m. on January 22, 1998

Mr. Bryan.

Representative Wells asked if, when donating eyes, there was an age limit or did it rest with the condition of the eye. Ms. Scott answered the condition of the eye is the determining factor. She said all these procedures take the work of the embalmers, and the concern of the association is that the carcass can be reconstructed after enucleation.

The committee discussed the bill at length. Representative Flaharty moved, Representative Morrison seconded, that HB 2408 be passed with the balloon amendments offered by Mr. Bryan (Attachment 3) and the addition of "licensed optometrists" to those who may perform enucleation. The motion carried.

Representative Flaharty moved that HB 2408 be passed as amended. Representative Horst seconded the motion; and the motion carried. Representative Flaharty will carry the bill on the floor of the House.

The meeting was adjourned at 2:10 p.m.

The next meeting is scheduled for January 26, 1998.

HOUSE COMMITTEE ON
HEALTH AND HUMAN SERVICES GUEST LIST
JANUARY 22, 1998

| NAME | REPRESENTING |
|-------------------|---|
| Gary Robbins | KS Optometric Assn |
| Scott Bryan | Wichita EYE BANK |
| Ronald Walkenbach | Kansas Lions Eye Bank |
| Rich Guttridge | Health Midwest |
| Julie Thomas | DOB |
| KETHAN R LANDIS | CHRISTIAN SCIENCE Comm on PUBLICATION FOR KS |
| Mack Smith | KS St Bd of Mortuary Arts |
| Rebecca Rice | KS Chiropractor Assn |
| Pam Scott | KS Funeral Directors Assn |
| Dee Elliott | KARL Program. |
| Susan Anderson | Hein + Weir |
| Dane Valley | Via Christi |
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HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

MEMBER: BUSINESS, COMMERCE AND LABOR
EDUCATION
HEALTH & HUMAN SERVICES
JOINT COMMITTEE, PENSIONS, INVESTMENTS
AND BENEFITS

Testimony presented

to

HOUSE HEALTH & HUMAN SERVICES COMMITTEE

January 22, 1998

Thank you Mr. Chairman and fellow members of the committee.

Eye enucleation is the removal of the eye from a deceased person who is making the donation as provided by Kansas law. For the donated eye to have value, it must be harvested within a few hours after death. This bill expands the list of persons who may do enucleations, thus making it easier for all donor eyes to be made available to recipients.

Since this bill was written in early 1997, the Eye Bank has proposed some changes in wording. I do not believe these amendments materially alter the bill.

HOUSE HHS COMMITTEE

Attachment 2

1 - 22 - 98

My name is Scott Bryan, and I am the Executive Director of the Wichita Eye Bank. For the past several years, the Eye Bank community has wanted to expand the existing enucleation law to include health care professionals and Eye Bank personnel in order to help cover the increasing need for qualified eye enucleators when a licensed embalmer is not available. This is a problem particularly during normal working hours when their duties at the funeral home make them at times unavailable to the Eye Bank.

In consulting with the Kansas Funeral Directors Association, Kansas Lions Eye Bank, and the University of Kansas School of Medicine department of Ophthalmology, who will continue to offer the enucleator certification course, the following proposed changes have been agreed upon and are included with this testimony.

By expanding the current law to include these changes, we as an Eye Bank will be able to:

1. Provide a prompt response to the hospitals we serve.
2. Procure and process the tissue in a timely manner which will provide higher quality tissue to the surgeons and recipients.
3. Utilize the skills and expertise of health care professionals as it relates to gathering medical information and performing F.D.A. mandated body exams to rule out high risk behavior.
4. Provide a larger pool of eligible enucleators in the increasingly time consuming eye donation process, and provide relief to our current enucleators as has been requested by them.

As donation becomes more popular and more families are offered the option of donation, we have seen our current rate of donation increasing. While this is great news for those who currently are awaiting a sight restoring surgery, it has put an ever increasing strain on our current limited pool of enucleators. Through the many changes in Medical Standards, donor screening criteria, procurement & preservation techniques, and with increasing F.D.A. and Eye Bank Association of America regulations, what typically required 30 minutes on an occasional basis several years ago now requires a couple of hours on a more regular basis. Time which many of our current enucleators are unable to provide due to their busy work schedules. As our education staff educates health care professionals and hospitals on the donation process, approaching families with the option of donation, and the public on the need for donated tissues, we feel that this trend will continue.

We feel that this bill, if made into law would provide a means to address the above stated problems and concerns. The eye banks in Kansas will have a larger pool of enucleators we can train, to utilize when an embalmer is not available. Recipients will receive higher quality tissue for sight restoring surgery due to a shorter death to preservation time of the transplanted tissue. Donor families will never again be denied the opportunity to make a generous gift of sight because an enucleator was not available.

We hope you will feel as we do that this is good legislation for Kansas, and the people that we mutually serve.

Thank you.

HOUSE HHS COMMITTEE
Attachment 3-1
1 - 22 - 98

HOUSE BILL NO. 2408

By Representative Flaharty

1 An Act concerning eye enucleation; persons performing, amending K.S.A. 65-1728 and
2 repealing the existing section.

3 Be it enacted by the Legislature of the State of Kansas Section 1, K.S.A. 65-1728 is
4 hereby amended to read as follows: 65-1728. For the purpose of removing an eye or
5 part thereof, any embalmer licensed in accordance with the provisions of article 17 of
6 chapter 65 of the Kansas Statutes Annotated, and acts amendatory thereof, a licensed
7 nurse, technician employed by an nationally certified eye bank, attendant as defined under
8 K.S.A. 65-6112 and amendments thereto or physician's assistant who has completed a
9 course in eye enucleation at a school certified by the department of Ophthalmology,
10 College of Medicine of the University of Kansas School of Medicine, and holds a valid
11 certificate of competence from such certified school, or a person licensed to practice
12 medicine and surgery is hereby authorized to enucleate eyes from any body when the
13 gift of such eye has been made in accordance with the terms of the Kansas anatomical
14 gift act (K.S.A. 65-3209 et seq.). Persons certified in accordance with this section and
15 persons licensed to practice medicine and surgery who perform the enucleation of eyes
16 in accordance with the provisions of K.S.A. 65-3209 et seq. shall incur no liability, civil
17 or criminal, for his acts in performance of enucleation of eyes.

18 Sec. 2. K.S.A. 65-1728 is hereby repealed.

19 Sec. 3. This act shall take effect and be in force from and after its publication in the
20 statute book.

HOUSE BILL No. 2408

By Representatives Flaharty, Gilbert, Henry, Horst, Kirk, Mayans,
Morrison, Ruff, Storm, Toelkes, Wells and Welshimer

2-14

10 AN ACT concerning eye enucleation; persons performing; amending
11 K.S.A. 65-1728 and repealing the existing section.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 65-1728 is hereby amended to read as follows: 65-
15 1728. *For the purpose of removing an eye or part thereof, any embalmer*
16 *licensed in accordance with the provisions of article 17 of chapter 65 of*
17 *the Kansas Statutes Annotated, and acts amendatory thereof, a licensed*
18 *nurse, ~~eye bank technician certified by the eye bank association of Amer-~~*
19 *ica, ~~licensed optometrist,~~ attendant as defined under K.S.A. 65-6112 and*
20 *amendments thereto or physician's assistant, who has completed a course*
21 *in eye enucleation ~~at a school~~ certified by the department of ophthal-*
22 *mology, ~~college of medicine of the~~ university of Kansas school of medicine,*
23 *and holds a valid certificate of competence from such ~~certified school~~*
24 *~~course,~~ or a person licensed to practice medicine and surgery is hereby*
25 *authorized to enucleate eyes from any body when the gift of such eye has*
26 *been made in accordance with the terms of the Kansas anatomical gift*
27 *act (K.S.A. 65-3209 et seq.). A licensed embalmer who is Persons certified*
28 *in accordance with this section and performs and persons licensed to*
29 *practice medicine and surgery who perform the enucleation of eyes in*
30 *accordance with the provisions of K.S.A. 65-3209 et seq. shall incur no*
31 *liability, civil or criminal, for his acts in performance of enucleation of*
32 *eyes.*

33 Sec. 2. K.S.A. 65-1728 is hereby repealed.

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35 publication in the statute book.

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