

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chair Sandy Praeger at 10:00 a.m. on February 11, 1998 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Emalene Correll, Legislative Research Department
Robin Kempf, Legislative Research Department
Norman Furse, Revisor of Statutes
Jo Ann Bunten, Committee Secretary

Conferees appearing before the committee:

Larry Buening, Board of Healing Arts
Meg Draper, Kansas Medical Society
Lou Saadi, Kansas Department of Health and Environment

Others attending: See attached list

Continued Hearing on SB 506 - Funeral merchandise agreement, contracts and plans, irrevocable provisions

A concern was expressed at the February 3rd Committee meeting relating to new language in the bill that would increase the total funds a person could set aside in a prearranged funeral account and still be eligible for Medicaid assistance. Staff briefed the Committee on SRS eligibility requirements in regard to funeral agreements, and it was noted that increasing the limit that could be placed in an irrevocable agreement and the ability to add funeral merchandise to the irrevocable agreement would not affect Medicaid eligibility for those participants. (See Attachment 1)

Action on SB 506

Senator Hardenburger made a motion the Committee recommend SB 506 favorably for passage, seconded by Senator Salmans. The motion carried.

Continued Hearing on SB 548 - Disciplinary counsel for Board of Healing Arts

Larry Buening, Board of Healing Arts, offered amendments to **SB 548** that would (1) delete language on page 1, line 18; (2) add language on page 1, line 34, relating to disciplinary counsel may investigate and present for the board matters within the jurisdiction of the board, and (3) change the effective date from Kansas register to "statute book" as shown in the balloon of the bill. (Attachment 2) It was also pointed out by staff that language needed to be added on page 1, line 16, after the word "and", insert "such other duties".

Meg Draper, Kansas Medical Society, expressed support for **SB 548** and the amendments offered by the Board. She noted that the amendments would bring the disciplinary counsel and persons employed or appointed to assist the disciplinary counsel within the confidentiality and privilege statutes within the Healing Arts Act. KMS believes this would help ensure confidentiality of the reports and records used during or created by the disciplinary process would be maintained as noted in her written testimony. (See Attachment 3)

The Chair called attention to a proposed amendment to **SB 548** offered by the Kansas Department of Health and Environment that would require the Board of Healing Arts to collect, compile, process and submit data to the secretary of Health and Environment as prescribed by the Health Care Data Governing Board as shown in Attachment 4. Lou Saadi, Kansas Department of Health and Environment, whose office is charged with establishing the Health Care Data Base, pointed out that the Health Care Data Board is requesting this amendment in order to obtain accurate accounting of health care professions/applicants. Concern was expressed during Committee discussion as to what information should be collected by the Data Board, how data should be collected, and the fiscal impact of such collection on the agencies involved. The Chair noted that these issues needed to be looked into, and a dialogue established using Rules and Regs authority for the various health care licensing agencies collecting the data.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 526-S
Statehouse, at 10:00 a.m. on February 11, 1998.

Action on SB 548

Senator Langworthy made a motion that the Committee adopt the balloon amendments to **SB 548** as offered by the Board of Healing Arts, with appropriate language change as suggested by staff, seconded by Senator Hardenburger. The motion carried.

Senator Hardenburger made a motion that the Committee recommend **SB 548 as amended** favorably for passage, seconded by Senator Langworthy. The motion carried.

Adjournment

The meeting was adjourned at 11:00 a.m.

The next meeting is scheduled for February 12, 1998.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE GUEST LIST

DATE: 2-11-98

NAME	REPRESENTING
Pam Scott	Ks Funeral Directors Assn
Bob Williams	Ks. Pharmacists Assoc
CHARLES BUZARD	Ks. PHARMACISTS ASSOC.
Greg Ruckers	KS Pharmacists Assoc
Scott Kwoer	KS Pharmacists Assoc
KATHY LANDIS	CHRISTIAN SCIENCE COMM. ON PUBLICATION FOR KS
Harold Riehn	Ks. OSTEOPATHIC ASSN.
Tom Beth	Ks. Hospitlrs Assn.
Nancy S. Henauer	Ks Funeral Directors
Juli W. Tellez	WU Social Work Student
Debra Davis	WU Social Work Student
Krista Blewins	wu. social work student
Jusau Andersen	Hein & Wei's
LARRY BUENING	BD OF HEALING ARTS
Amy A. Campbell	KSOS
David A. Day	
Doug Smith	KAPA
Jenni Lamb	BVHS - Student
Autumn Sump	" "

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE GUEST LIST

DATE: 8-11-98

NAME	REPRESENTING
Colleen Wiener	BVHS Student
Larry Sisson	Kearney Law Office
Mack Smith	Northway Arts



KANSAS FUNERAL DIRECTORS AND EMBALMERS ASSOCIATION, INC.

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Wichita

DANE SCHERLING
Smith Center

STEPHEN PRICE
Leoti

SHIRLEY BROWN
Gardner

Date: February 11, 1998
To: Senate Public Health & Welfare Committee
From: Pam Scott, Executive Director
Re: Senate Bill No. 506

At this Committee's February 3 hearing on Senate Bill No. 506, a concern was raised as to whether the amendments contained in the bill would increase the total funds a person could set aside in a prearranged funeral account and still be eligible for public assistance. We do not believe the bill will result in more dollars being set aside in prearranged funeral accounts. We believe it will only effect the type of account they are placed in.

The only increase allowed by Senate Bill No. 506 is that \$3500 rather than \$3000 can be set aside in such an account for funeral services. There would be no increase in the dollar amount of funds that could be set aside for burial space items (merchandise). The amendments would merely allow funds set aside for a casket, urn, and outside burial container, which are burial space items, to now be placed in an irrevocable instead of a revocable prearranged funeral account. Again, there is no change in the total dollar amount that can be set aside for burial space items.

The KFDA anticipates no significant increase in the amount of funds that will be set aside by consumers under these proposed amendments. In 1997, the average dollar amount set aside in a prearranged funeral account trusted in the KFDA's Master Trust was approximately \$3500. This is significantly below the dollar amount SRS allows to be set aside for prearranged funeral agreements. The amendments contained in this bill will provide more freedom to those establishing prearranged funeral accounts. They will have more choices as to the type of prearranged funeral accounts they will enter into.

We ask for your support of Senate Bill No. 506. Thank you for your consideration.

Senate Public Health & Welfare
Date: 2-11-98
Attachment No. #1

"1897-1997"

SENATE BILL No. 548

By Committee on Public Health and Welfare

1-29

9 AN ACT concerning the Kansas healing arts act; disciplinary counsel;
10 amending K.S.A. 65-2840a and repealing the existing section.

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

12 Section 1. K.S.A. 65-2840a is hereby amended to read as follows: 65-
13 2840a. The state board of healing arts shall appoint a disciplinary counsel;
14 who shall not otherwise be an attorney for the board, with the duties set
15 out in this act and, as may be specified by the board. The disciplinary
16 counsel shall be an attorney admitted to practice law in the state of Kan-
17 sas. The disciplinary counsel shall have the power and the duty to, ~~for the~~
18 ~~designee of the disciplinary counsel, may investigate~~ or cause to be in-
19 ~~vestigated and appear on behalf of the board in all disciplinary matters~~
20 involving professional incompetency, unprofessional conduct or any other
21 matter which may result in disciplinary action against a licensee pursuant
22 to K.S.A. 65-2836 through 65-2844, and amendments thereto. In the per-
23 formance of these duties, the disciplinary counsel may apply to any court
24 having power to issue subpoenas for an order to require by subpoena the
25 attendance of any person or by subpoena *duces tecum* the production of
26 any records for the purpose of the production of any information perti-
27 nent to an investigation. Subject to approval by the state board of healing
28 arts, the disciplinary counsel shall employ clerical and other staff neces-
29 sary to carry out the duties of the disciplinary counsel. The state board
30 of healing arts may adopt rules and regulations necessary to allow the
31 disciplinary counsel to properly perform the functions of such position
32 under this act ~~within the jurisdiction of the board and in any administra-~~
33 ~~tive or judicial proceeding]~~

34 Sec. 2. K.S.A. 65-2840a is hereby repealed.

35 Sec. 3. This act shall take effect and be in force from and after its
36 publication in the Kansas register. _____ statute book
37

Other such duties

delete

delete

may investigate and present for the board matters within the jurisdiction of the board. As designated by the board, the disciplinary counsel may appear on behalf of the board in administrative proceedings and in judicial proceedings brought under the act for judicial review and civil enforcement of agency actions. The board may employ or appoint other persons to assist the disciplinary counsel in carrying out the duties of this section. The disciplinary counsel and all persons employed or appointed to assist the disciplinary counsel shall be subject to all provisions of the healing arts act.

Senate Public Health & Welfare
Date: 2-11-98
Attachment No. 2

HR



KANSAS MEDICAL SOCIETY

February 11, 1998

TO: Senate Public Health and Welfare Committee

FROM: Meg Draper *M. Draper*
Director of Government Affairs

SUBJ: SB 548: Board of Healing Arts Disciplinary Counsel

The Kansas Medical Society appreciates the opportunity to appear today in support of SB 548, which amends one of the disciplinary counsel statutes within the Healing Arts Act.

During the hearings on this bill last week, the Board of Healing Arts testified that KMS had suggested two amendments, one of which the Board had agreed to include in its balloon amendment. The intent of our proposed amendments to the Board was to help ensure the confidentiality of the matters discussed and documents related to disciplinary proceedings. The amendment that was not included in the Board's balloon dealt with the ability of the disciplinary counsel to designate an individual to investigate and appear on behalf of the Board. KMS believes that without the amendment, the Board is free to designate to any person the ability to appear on behalf of the Board in these proceedings. The Board pledged to work with KMS to come up with some acceptable language on this issue, and over the past week we have discussed possible amendments that would ease our concerns about confidentiality.

We understand that the Board will propose an amendment this morning. We have seen the amendment and support it. The amendment limits the authority of the disciplinary counsel or his or her designee to appear on behalf of the board to proceedings involving enforcement of agency actions. Additionally, it brings the disciplinary counsel and persons employed or appointed to assist the disciplinary counsel within the confidentiality and privilege statutes within the Healing Arts Act. KMS believes this will help ensure that confidentiality of the reports and records used during or created by the disciplinary process will be maintained.

Thank you very much for this opportunity.

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65-2808. Filing names and records of applicants for examination; index; record of licenses issued; application forms; records open to public inspection. The name, age, place of birth, current address, school, and date of graduation, and date of license, if one be issued, with rating or grades received, of all applicants for examination shall be filed in the office of the board, which office shall be located in the city of Topeka. The names of applicants shall be appropriately indexed, and all other records relating to that application or license granted shall be given the same designation. A suitable record shall also be kept of those granted licenses. Applications shall be upon forms prepared by the board, and completed applications shall be retained as a part of its permanent records. All applications based on licenses granted in other states shall be received upon forms prepared by the board and entered as near as may be in the same form as are those applying for examinations. In addition to the date of license, the length of time of practice in all other states shall be given and entered. All such records shall be open to public inspection under proper regulations adopted by the board.

which shall address the data needs required by the secretary of health and environment and as prescribed by the health care data governing board of the state of Kansas. The board of healing arts shall collect, compile, process and submit the required data to the secretary of health and environment as prescribed by the health care data governing board.

History: L. 1957, ch. 343, § 8; L. 1975, ch. 325, § 1; L. 1976, ch. 273, § 5; Feb. 13.

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65-2824. Application for examination, contests; fees; documents and affidavits. Any person desiring to take the examination for a license hereunder shall make application to the board on a form provided by the board, and sworn to by the applicant. Such application shall specify that branch of the healing arts in which the applicant desires to be examined and shall be accompanied by the prescribed examination fee and such documents and affidavits as are necessary to show the eligibility of the candidate to take such examination. All applications shall be filed in the form, within the time, and in accordance with the rules of the board.

which shall address the data needs required by the secretary of health and environment and as prescribed by the health care data governing board of the state of Kansas. The board of healing arts shall collect, compile, process and submit the required data to the secretary of health and environment as prescribed by the health care data governing board.

History: L. 1957, ch. 343, § 24; July 1.

#4

65-2809. Expiration date of licenses; continuing education requirements; evidence licensee maintaining professional liability insurance; notice of expiration; fees; cancellation of license; reinstatement, when; exempt licensees; inactive license; federally active license. (a) The license shall expire on the date established by rules and regulations of the board which may provide renewal throughout the year on a continuing basis. In each case in which a license is renewed for a period of time of less than one year, the board may prorate the amount of the fee established under K.S.A. 65-2852 and amendments thereto. The request for renewal shall be on a form provided by the board, and shall be accompanied by the prescribed fee, which shall be paid not later than the expiration date of the license.

(b) Except as otherwise provided in this section, the board shall require every licensee in the active practice of the healing arts within the state to submit evidence of satisfactory completion of a program of continuing education required by the board. The requirements for continuing education for licensees of each branch of the healing arts shall be established by rules and regulations adopted by the board.

(c) The board, prior to renewal of a license, shall require the licensee, if in the active practice of the healing arts within the state, to submit to the board evidence satisfactory to the board that the licensee is maintaining a policy of professional liability insurance as required by K.S.A. 40-3402 and amendments thereto and has paid the annual premium surcharge as required by K.S.A. 40-3404 and amendments thereto.

(d) At least 30 days before the expiration of a licensee's license, the board shall notify the licensee of the expiration by mail addressed to the licensee's last mailing address as noted upon the office records. If the licensee fails to pay the an-

which shall address the data needs required by the secretary of health and environment and as prescribed by the health care data governing board of the state of Kansas. The board of healing arts shall collect, compile, process and submit the required data to the secretary of health and environment as prescribed by the health care data governing board.

nual fee by the date of the expiration of the license, the licensee shall be given a second notice that the licensee's license has expired, that the license will be deemed canceled if not renewed within 30 days following the date of expiration, that upon receipt of the annual fee and an additional fee established by rules and regulations of the board not to exceed \$500 within the thirty-day period the license will not be canceled and that, if both fees are not received within the thirty-day period, the license shall be deemed canceled by operation of law and without further proceedings.

(e) Any license canceled for failure to renew may be reinstated within two years of cancellation upon recommendation of the board and upon payment of the renewal fees then due and upon proof of compliance with the continuing educational requirements established by the board by rules and regulations. Any person who has not been in the active practice of the branch of the healing arts for which reinstatement is sought or who has not been engaged in a formal educational program during the two years preceding the application for reinstatement may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety.

(f) There is hereby created a designation of exempt license. The board is authorized to issue an exempt license to any licensee who makes written application for such license on a form provided by the board and remits the fee for an exempt license established pursuant to K.S.A. 65-2852 and amendments thereto. The board may issue an exempt license to a person who is not regularly engaged in the practice of the healing arts in Kansas and who does not hold oneself out to the public as being professionally engaged in such practice. An exempt license shall entitle the holder to all privileges attendant to the branch of the healing arts for which such license is issued. Each exempt license may be renewed annually subject to the provisions of this section. Each exempt licensee shall be subject to all provisions of the healing arts act, except as otherwise provided in this subsection (f). The holder of an exempt license shall not be required to submit evidence of satisfactory completion of a program of continuing education required by this section. Each exempt licensee may apply for a license to regularly engage in the practice of the appropriate branch of the healing arts upon filing a written application

on a form provided by the board and shall be accompanied by the license fee established pursuant to K.S.A. 65-2852 and amendments thereto. For those licensees whose license has been inactive for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for inactive licensees to become licensed to regularly practice the healing arts within Kansas. Any licensee whose license has been inactive for more than two years and who has not been in the active practice of the healing arts or engaged in a formal education program since the licensee has been inactive may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety.

(h) There is hereby created a designation of federally active license. The board is authorized to issue a federally active license to any licensee who makes written application for such license on a form provided by the board and remits the same fee required for a license established under K.S.A. 65-2852 and amendments thereto. The board may issue a federally active license only to a person who meets all the requirements for a license to practice the healing arts in Kansas and who practices that branch of the healing arts solely in the course of employment or active duty in the United States government or any of its departments, bureaus or agencies or who, in addition to such employment or assignment, provides professional services as a charitable health care provider as defined under K.S.A. 75-6102 and amendments thereto. The provisions of subsections (b), (d) and (e) of this section relating to continuing education, expiration and renewal of a license shall be applicable to a federally active license issued under this subsection. A person who practices under a federally active license shall not be deemed to be rendering professional service as a health care provider in this state for purposes of K.S.A. 40-3402 and amendments thereto.

History: L. 1957, ch. 343, § 9; L. 1966, ch. 35, § 1 (Budget Session); L. 1969, ch. 299, § 2; L. 1976, ch. 273, § 6; L. 1976, ch. 274, § 3; L. 1978, ch. 249, § 5; L. 1986, ch. 229, § 34; L. 1986, ch. 239, § 1; L. 1987, ch. 242, § 2; L. 1988, ch. 250, § 1; L. 1991, ch. 192, § 1; L. 1992, ch. 253, § 2; L. 1993, ch. 29, § 1; L. 1995, ch. 82, § 1; July 1.