

Approved: 3-30-98
Date

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 March 20, 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
JoAnn Bunten, Committee Secretary

Conferees appearing before the committee:

Sandra Strand, Kansas Advocates for Better Care
Jan Maxwell, Department on Aging
Debra Zehr, Kansas Association of Homes and Services for the Aging
Marcene Grimes, Alzheimers Association
Preston Barton, Developmentally Disabled Council
Mary Lou Davis, Board of Cosmetology
Linda Hodgson, cosmetologist
Max Grier, ABC Team Systems
Sharan Bailey, National Cosmetology Association of Kansas, Inc.
Pam Ahring, cosmetologist
Lenore Cupt, cosmetologist

Others attending: See attached list

Hearing on HB 2607 - State long-term care ombudsman, attached to Department of Administration

Sandra Strand, Kansas Advocates for Better Care, testified before the Committee in support of **HB 2607** which would abolish the Office of the State Long-Term Care Ombudsman in the Department on Aging and transfer its powers, duties and functions to an independent office attached to the Department of Administration. The office would be an independent state agency, but the Department of Administration would provide all administrative services to the office. The agency would be headed by the State Long-Term Care Ombudsman who would be appointed by the Governor with confirmation by the Senate. The Department of Administration would have no authority over the office. Ms. Strand outlined for the Committee suggested amendments that she felt would strengthen the Ombudsman program relating to (1) definition of facility; (2) definition of conflict of interest; (3) limitations on investigations of abuse, neglect or exploitation; (4) restrictions on information provided to news media and (5) volunteer access to records as shown in her written testimony. (Attachment 1)

Jan Maxwell, staff attorney, Kansas Department on Aging, noted that they support the move of the Long-Term Care Ombudsman Program to another agency or to separate agency status, because this move would remove any conflict of interest, real or perceived, between the duties of KDOA as the agency involved in the nursing facilities rate setting and overseer of the nursing home admission process with the role of the Ombudsman to advocate for the individual applicant or resident. The move to separate the Ombudsman from KDOA would reinforce the credibility of the Ombudsman as an independent advocate as noted in her written testimony. (Attachment 2)

Debra Zehr, Kansas Association of Homes and Services for the Aging, testified in support of **HB 2607** and recommended three areas for change that would: (1) add a provision for a volunteer Ombudsman; (2) strike the word "recommendations" from Section 7 (e) relating to providing information and recommendations directly to the news media; and (3) replace language in current Section 10 (d) with, "A volunteer Ombudsman shall not have access to clinical records." as shown in her written testimony. (Attachment 3)

Marcene Grimes, Alzheimer's Association testified in support of **HB 2607** noting that the four principles they

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 526-S
Statehouse, at 10:00 a.m. on March 20, 1998.

believe should govern the program have been addressed in the bill, and that the intent is to truly keep the program as independent as possible, separate from regulatory functions, and protected from conflicts of interest. She also noted that the budget process would give the program the financial resources needed to perform the job well. (Attachment 4)

Preston Barton, Kansas Council on Developmental Disabilities, also spoke in support of **HB 2607** but felt that the Long-Term Care Ombudsman Program would be more impartial if it were in the Legislative branch, rather than within the Executive branch as outlined in his written testimony. (Attachment 5)

Written testimony in support of the bill was received from Rev. Don Moses, Kansas Silver Haired Legislature, with recommended changes to amend mileage reimbursement as well as any necessary expenses that the volunteer Ombudsman may occur in the carrying out of their duties. (See Attachment 6)

There were no opponents to **HB 2607**

Hearing on Sub HB 2609 - Certain cosmetologists exempted from continuing education requirements

Senator Lana Oleen submitted written testimony in support of **Sub HB 2609** which would was the result of an effort to combine three separate bills, one of which was introduced by the Legislative Post Audit Committee after extensive deliberations by a subcommittee of which Senator Oleen was a member. She noted that one change recommended by the subcommittee and endorsed by the full Post Audit Committee would make the Department of Health and Environment rather than the Cosmetology Board responsible for inspections of cosmetology and barber establishments. (See Attachment 7)

Mary Lou Davis, Kansas State Board of Cosmetology, testified in support of **Sub HB 2609** and stated that since the negative Post Audit Report in June of last year, the Board has diligently worked to address the recommendations outlined by Legislative Post Audit. She pointed out that the bill now addresses several of those recommendations, and outlined several of the provisions that the Board feels are critical to its ability to effectively regulate the industries under its jurisdiction as shown in her written testimony. (Attachment 8)

Linda Hodgson, cosmetologist, expressed support for the bill and noted that there are many items in the bill that would correct some major problems that cosmetologists have encountered in the last few years as shown in her written testimony. (Attachment 9)

Max Grier, ABC Team Systems, spoke in opposition to **Sub HB 2609** and felt that his organization provided obtainable and affordable information in the form of seminars and independent study packets. (Attachment 10)

Sharan Bailey, President of National Cosmetology Association of Kansas, testified in opposition to the bill, specifically in regard to the elimination of the continuing education requirements for the renewal of the cosmetology, nail technician, and electrologist licenses as noted in her written testimony. (Attachment 11)

Pam Ahring, cosmetologist, also testified in support of **Sub HB 2609** and noted that the audit of the Board of Cosmetology uncovered very serious problems, and that criminal action should be taken against some of the board members as noted in her written testimony. (Attachment 12)

Lenore Cult, cosmetologist, expressed support for continuing education requirements to the Committee, and written testimony was submitted to the Committee from Randy Tongier, Legislative Division of Post Audit, who recommended that the responsibility for inspecting cosmetology establishments be transferred from the Board of Cosmetology to the Kansas Department of Health and Environment, as well as transferring the responsibility for inspecting barbering establishments from the Board of Barbering to KDHE. (See Attachment 13)

The Chair noted during Committee discussion that copies of the Post Audit Report on the Kansas Board of Cosmetology as well as any additional information on the issue would be provided to the Committee.

Adjournment

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

The next meeting is scheduled for March 23, 1998.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE GUEST LIST

DATE: 3-20-98

NAME	REPRESENTING
Carolyn Muddindaf	KSNWA
Marilyn Bradt	
Marcine Grimes	Alzheimer Association
TK Shively	KS Legal Services
De Davis	Bd of Cosmetology
Rosie Sly	Bd of Cosmetology
Carol A Grier	ABC Team Systems
MAX A Grier	ABC Team
RANDY TONGIOR	LEGISLATIVE Post Audit
Ledene Cole	Intern Sr. Japan
Virginia S. Gerhardt	KDOT
Del Moses	KS LEGISLATIVE Council of Silver Hair
Preson Barton	DD COUNCIL
Wendy Aritz	DS
Anne Spiess	Peterson Public Affairs Group

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TESTIMONY

TO: The Senate Committee on Public Health and Welfare
FROM: Sandra Strand, Legislative Coordinator
DATE: March 20, 1998
SUBJECT: HB 2607

Kansas Advocates for Better Care appreciates the opportunity to testify in support of this legislation. Since 1975 the mission of our organization has been the same as that of the Long-Term Care Ombudsman program: to assist and empower people who live in care homes. Our work has complemented and supplemented that of the Ombudsman program, and we have worked cooperatively with Ombudsman staff for the benefit of adult care home residents.

We appreciate the many hours The SRS Transition Oversight Committee spent reviewing the Ombudsman Program. While we support the bill drafted by that committee, we are requesting a few amendments which we believe are necessary to comply with the Older Americans Act (OAA) requirements for Ombudsman programs, and to maintain eligibility for federal funding (which accounts for 88% of the program's \$212,000 budget). Our goal is for our state to have the best possible Ombudsman program working for residents.

✓ **1. DEFINITION OF "FACILITY"** (p. 4, lines 31 - 34).

Delete: *"except that facility does not include any nursing facility for mental health or any intermediate care facility for the mentally retarded. . . ."*

There was general agreement among conferees to the Transition Oversight Committee that Ombudsman Services should be available to residents of any age of any licensed adult care home. Licensed adult care homes in Kansas include:

- nursing facilities,
- nursing facilities for mental health,
- intermediate care facilities for the mentally retarded,
- assisted living facilities,
- residential health care facilities,
- home plus,
- boarding care homes, and
- adult day care facilities.

Including all the above facilities would be consistent with the definition of "resident" found in K.S.A. 39-923(a)(13): "all individuals kept, cared for, treated, boarded or otherwise accommodated in any adult care home."

2. DEFINITION OF "CONFLICT OF INTEREST" (p. 5, lines 9 to 13).

Delete: *"or (3) being employed by or having an active association with any entity that represents any resident or group of residents, including any area agency on aging, but not including any such active association that results only from having a relative who is a resident or from being the guardian of a resident."*

The OAA defines conflict of interest for Ombudsmen as:

- (A) having a direct involvement in the licensing or certification of a long-term care facility or of a provider of a long-term care service;
- (B) having an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or a long-term care service;
- (C) employment by, or participation in the management of, a long-term care facility; and
- (D) receiving remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility.

It is very clear from this OAA language that *"active association with any entity that represents any resident or group of residents"* is not a conflict of interest with the goals and purposes of the Ombudsman program.

3. LIMITATIONS ON INVESTIGATIONS OF ABUSE, NEGLECT OR EXPLOITATION (p. 8, lines 35 - 38):

Change to: *"except that all complaints of abuse, neglect, or exploitation shall also be referred to the secretary of health and environment."*

The OAA requires the Ombudsman to "identify, investigate, and resolve complaints," and does not limit the scope of investigations.

4. RESTRICTIONS ON INFORMATION PROVIDED TO NEWS MEDIA (p. 9, lines 20 - 23).

Delete: *"except that the state long-term care ombudsman shall give the information or recommendations to any directly affected parties or their representatives before providing such information or recommendations to news media representatives."*

The OAA requires the Ombudsman, among other duties, to "analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long-term care facilities and services in the State," and to "facilitate public comment on the laws, regulations, policies and actions."

Restricting contact with news media would seriously hamper the Ombudsman's effectiveness. It is critically important that the Ombudsman be able to speak out freely on behalf of residents. Even without this restriction the Ombudsman, as any citizen who speaks to the media, must still be accountable for the accuracy of his or her statements. The Ombudsman is already required to obtain permission from residents or their legal representatives before releasing any resident-specific information.

4. VOLUNTEER ACCESS TO RECORDS

We support access to the plans of care and other resident records or documents by volunteer ombudsman who have met training requirements and who are closely supervised by Ombudsman staff. Timely access to records is necessary for volunteer ombudsmen to effectively investigate and resolve complaints on behalf of residents.

Kansas Advocates for Better care asks you to strengthen the Ombudsman program by supporting these amendments.

I will be happy to respond to your questions.



KANSAS

DEPARTMENT ON AGING

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Bill Graves
Governor

Thelma Hunter Gordon
Secretary of Aging

**Testimony to the Public Health and Welfare Committee Regarding House Bill 2607
by KDOA Staff Attorney Jan Haley Maxwell
March 20, 1998**

Senators, it is my pleasure to speak on behalf of the Kansas Department on Aging regarding HB 2607. KDOA is appreciative of the time and effort that the SRS Transition Committee spent in the many hearings which resulted in the original HB 2607.

The Ombudsman Program has been a part of the Department on Aging for many years. During Secretary Hunter Gordon's tenure, the program has grown. In the last eighteen months, the Secretary has taken steps to strengthen the program by developing a volunteer ombudsman component. The Secretary contracted for the development of the training program and has funded a part-time temporary Volunteer Coordinator position to conduct training, unit meetings, chair the Volunteer Ombudsman Advisory Committee, and provide support to volunteers serving the elder population in nursing facilities. With no new money, the program has grown.

KDOA has budgeted \$221,012.00 for the Ombudsman Program for FY 1999. This amount is contained in the Governor's budget recommendation. The Department of Administration has proposed an additional \$286,401.00 for the Ombudsman Program for the FY 1999 budget. These additional funds represent an increase of 4.25 FTE with an estimated cost of \$164,972.00 and an additional \$121,429.00 for operating expenses which includes one-time moving and capital expenses of \$31,647.00. KDOA does not have additional funds to cover these costs estimated by the Department of Administration.

The state general fund match which is required to receive Older American Act funds from the federal government must be matched within KDOA budget and then forwarded to the new location for support of the Ombudsman program. The Kansas Department on Aging is the single state agency to receive Older American Act funds for the state from the federal government.

If the legislature authorizes additional positions for the Ombudsman Program, they would need to be new positions funded from the state general fund.

Under the Older Americans Act, regardless of how the Ombudsman Program is logistically operated and supported, KDOA is required:

- To make assurances to AOA that the State carries out an Ombudsman Program in accordance with the Older Americans Act provisions (42 U.S.C. 3027 (a)(12))
- To make assurances to the AOA that the Ombudsman Program is funded at the Senate Public Health & Welfare

minimum level required by the Older Americans Act (42 U.S.C. 3027 (a)(21))

- To “assure that all of the requirements of the [Older Americans] Act for this [Ombudsman Program] are met regardless of the State legislation [creating the Ombudsman Program] or source of funds” (45 C.F.R. 1321.9 (d)); and
- To develop policies addressing how KDOA will monitor the Ombudsman Program for “performance of all programs and activities . . . for quality and effectiveness” (45 C.F.R. 1321.11 (b)).

Additionally, HB 2607 requires that the State Long-Term Care Ombudsman bring issues to the State Advisory Council on Aging. KDOA provides all the support to the State Advisory Council on Aging in the same way it provides support services to the State Long-Term Care Ombudsman program - without any allocation to that program. This additional function will increase the duties of the Advisory council and require continued funding.

We support the move of the Long-Term Care Ombudsman Program to another agency or to separate agency status. This move will remove any conflict of interest, real or perceived, between the duties of KDOA as the agency involved in the nursing facilities rate setting and overseer of the nursing home admission process with the role of the Ombudsman to advocate for the individual applicant or resident. The move to separate the Ombudsman from KDOA will reinforce the credibility of the Ombudsman as an independent advocate.



KANSAS ASSOCIATION OF
HOMES AND SERVICES FOR THE AGING

TESTIMONY

To: Senator Sandy Praeger, Chair, and Members,
Senate Public Health and Welfare Committee
From: Debra Zehr, RN, MA, Vice President, Policy/Education
Re: House Bill 2607
Date: Friday, March 20, 1998

Thank you, Madam Chairman, and Members of the Committee. The Kansas Association of Homes and Services for the Aging represents more than 150 not-for-profit long-term health care and housing providers throughout the state. We appreciate this opportunity to offer comments on House Bill 2607.

We support House Bill 2607. This bill is the product of extensive debate and careful consideration by legislators, state agencies, and other concerned groups. It creates a program that is free of perceived conflict of interest. It gives the program statutory authority and independence to comment on the activities of residents, families, nursing facilities, and governmental agencies. It also brings Kansas' program more in line with the 1995 recommendations of the National Institute of Medicine.

Following are three areas of concern:

Section 3 charges the Advisory Council on Aging with numerous powers and duties, only two of which pertain to the ombudsman program [(i) and (j)]. We believe that it is crucial that this program be provided adequate oversight, and that an especially watchful eye be kept on the volunteer component of the program. There are numerous thorny issues regarding volunteers, including implementation of systems to ensure adequate screening, training, and ongoing supervision.

- **KAHSA recommendation: Add a provision for a volunteer ombudsman oversight council similar to that, which is in place for the CARE program.**

Section 7 (e) authorizes the state long-term care ombudsman to provide information and recommendations directly to the news media once directly affected parties or their representatives have been provided with the same information or recommendations. The term "recommendations" is not clearly defined and presents some concern to our organization. Does this constitute the course of action recommended to the resident, family, or facility by the ombudsman? Does it mean what the ombudsman would personally do given the circumstances? Does it mean that the ombudsman can publicly recommend action or intervention by another agency, to which that agency may or may not be bound?

- **KAHSA recommendation: Strike the word "recommendations" from this section.**

Section 10 (d) would give volunteers access to the plan of care and other records kept for or concerning the resident except for privileged medical records. However, all medical or clinical records of the resident, including the care plan are privileged records. We are opposed to allowing volunteers access to the clinical record because volunteers are not versed in the interpretation of clinical records and are provided only a cursory review of the care planning process. In addition, nothing prevents the volunteer from asking staff or residents about treatments that are being provided, or from having the regional or state ombudsman review these records.

- **KAHSA Recommendation: Replace current (d) with *A volunteer ombudsman shall not have access to clinical records.***

Thank you. I would be glad to answer questions.



TESTIMONY OF MARCENE GRIMES IN FAVOR OF H.B. 2607

My name is Marcene Grimes and I am Executive Director of the Alzheimer's Association-Topeka Chapter. I am here representing the coalition of three Alzheimer's Association chapters in Kansas. Our mission is to look out for the interests of our Kansas Alzheimer population, which could be as many as 51,000 people. If anyone needs advocacy help, it is these unfortunate people, particularly those who end up in long term care facilities and have few if any family advocates to speak for them.

Our Coalition subscribes to four principles we believe should govern our Kansas Long Term Care Ombudsman Program. (1) the program must have the independence to advocate fairly and free of political constraints; (2) the program must be protected from potential conflicts of interest; (3) the program must have adequate resources to perform the job well; (4) the best physical location for the program would be either in a non-profit agency or in an independent government entity without long term care regulatory responsibilities.

My perusal of H.B. 2607 makes it appear that all four of our principles are addressed and will be governing factors in the new program. It looks like the intent is to truly keep the program as independent as possible, separate from regulatory functions, protected from conflicts of interest, and all we can do is hope and pray that the budget process will give the program the financial resources needed to perform the job well.

We urge you to adopt H.B. 2607 in a form that will promulgate our principles.

Thank you for allowing me to appear.



Someone to Stand by You

Principles for Kansas' Long-Term Care Ombudsman Program

The Kansas Coalition of Alzheimer's Association Chapters subscribe to these principles for Kansas' Long Term Care Ombudsman Program and call on the legislature to take action.

1. The ombudsman program must have the independence to advocate for residents within legislative and administrative policy-making processes and in the public arena.
2. The ombudsman program must be protected from potential conflicts of interest. The Institute of Medicine proposal states: Of particular concern to the committee is the prevalence of potential and actual conflicts of interest that arise from the structural location of many of the Offices of the State Long-Term Care (LTC) Ombudsman programs. Situations in which real, potential, and perceived conflicts of interest exist may be more prevalent than is typically understood, and perceived conflicts of interest may be as detrimental to operating the ombudsman program as real conflicts of interest. All conflicts of interest work to the disadvantage of the vulnerable client. It is imperative that steps are taken to avoid real, potential and perceived conflicts of interest.
3. Locating the ombudsman program in a non-profit agency or in an independent government entity without LTC regulatory responsibilities would decrease the conflict of interest situations as well as increase the independence of the program. The Institute of Medicine proposals states: Significant conflicts of interest pertinent to the Office of State LTC ombudsman program can be avoided only by prohibiting the co-location of the ombudsman program with other entities. It is difficult for any organization to regulate and advocate the same program.
4. The ombudsman program must have adequate resources to perform the job well. Kansas has approximately 32,000 long-term beds licensed as 487 adult care homes that are spread across 88,000 square miles. This is a very large area to cover. It is necessary to increase funding for training, travel and miscellaneous expenses for volunteers to assist paid staff in this endeavor.



Kansas Council on Developmental Disabilities

BILL GRAVES, Governor
TOM ROSE, Chairperson
JANE RHYS, Ph. D., Executive Director

Docking State Off. Bldg., Room 141, 915 Harrison
Topeka, KS 66612-1570
Phone (785) 296-2608, FAX (785) 296-2861

"To ensure the opportunity to make choices regarding participation in society and quality of life for individuals with developmental disabilities"

Senate Committee on Public Health and Welfare

March 20, 1998

Testimony in Regards to the Long-Term Care Ombudsman Program -- in favor of HB 2607, as amended by House Committee.

Madam Chairperson, Members of the Committee, my name is Preston Barton, and I am appearing today on behalf of the Kansas Council on Developmental Disabilities to provide information regarding the Long-Term Care Ombudsman Program.

The Kansas Council is a federally mandated, federally funded council composed of individuals who are appointed by the Governor. At least half of the membership are persons with developmental disabilities or their immediate relatives. We also have representatives of the major agencies who provide services for individuals with developmental disabilities. Our mission is to advocate for individuals with developmental disabilities, to see that they have choices regarding their participation in society.

I come before you today, as a person with nearly a decade of experience as the state's first Corrections Ombudsman (and an officer in the US Association of Ombudsmen), and slightly longer as a Clinical Social Worker and Licensed Administrator in the nursing home industry.

This summer I followed the thoughtful deliberations of the SRS Transition Oversight Committee regarding the Long-Term Care Ombudsman Program. HB 2607(as amended) is a good bill, especially its designation of the Long-Term Care Ombudsman Program as a **separate state agency**. It provides the Nursing Home Ombudsman with the **statutory authority** and **independence** to achieve increased credibility with all the players: nursing home residents; their families; state officials; and nursing home staff, management and owners. It expands the Program's ability to make comments and recommendations not only regarding the conduct of Adult Care Homes, residents and their families, but also regarding the conduct of the three state agencies (the Kansas Department of Health and Environment, the Kansas Department on Aging and the Kansas Department of Social and Rehabilitation Services) which directly impact the way in which nursing homes must operate and how they are paid. (See page 11, Section 12,

Lines 34 through 42.) With its new ability to comment equally on the conduct of (1) government, (2) nursing homes and (3) residents and their families, the Nursing Home Ombudsman will more likely be seen as objective and credible, by the nursing home industry and the resident/family community.

But HB 2607 falls short of creating a truly independent entity: to the extent that it places the office in the Executive Branch of State government, with the Ombudsman being **appointed by the Governor, who also appoints the Secretaries of SRS, Aging, and Health & Environment** (See page 5, Section 5, lines 22 through 25).

The Long-Term Care Ombudsman Program would be more impartial if it were in the **Legislative Branch**, rather than within the Executive Branch. Under this bill, it will be difficult for the Ombudsman Program to voice an investigative finding or a recommendation in conflict with that of the existing administration, since the Ombudsman Program would be a part of the administration. It is for this reason that Ombudsman Offices are traditionally placed within the Legislative Branch of governments.

There is much precedence for placing the Ombudsman function in the Legislative Branch of government. This function is similar to that of Legislative Post Audit, in that the Ombudsman also monitors and evaluates the implementation of legislation. Locating this Office in the Legislative Branch would provide Legislators with more and better direct information regarding conditions in Nursing Homes and constituent complaints.

I raise this concern with considerable reservation. This is a good bill. I would not raise an objection if this were not such a central issue. It would not be easy to re-visit and adjust this placement during a future Legislative Session. Appointment and supervision by the Legislature would give the Program the **independence** it would need to be effective and credible.

✓ *The recommended change* would be on page 5, Section 5, Line 24: replace **“Governor”** with the **Legislative Coordinating Council** (or some variation) as the appointing authority.

This Bill follows the traditional Ombudsman concept fairly well: It creates a high level government official with oversight of the conduct of government. It is a voice of the voiceless, a way in which citizens can bring the light of public scrutiny to the conduct of government. It provides a way citizens can “fight City Hall.” It values openness and accountability of government, and is concerned with the protection of individual due process rights. It cannot issue or reverse directives, but it can issue non-binding recommendations and go public with them, after giving notice to the parties involved.

✓ HB 2607 (page 10, Sections 9 and 10, starting on Line 24) strengthens one of the Kansas Nursing Home Ombudsman Program’s stronger attributes: its legislated investigatory authority to enter any nursing home, at any time, in order to have access to facilities, persons, and records. **The power of presence on the premises** by a credible third party in a nursing home setting can change the behavior of staff, resident and family. It can bring out the best in everyone.

All said and done, our frail elderly citizens deserve no less than that proposed in HB 2607(as amended).

Attached to this testimony is one possible vision for this new Long-Term Care Ombudsman Program.

I appreciate the opportunity of speaking before you on this issue and would be happy to respond to any questions you might have.

Preston N. Barton II, MSW
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A Vision for A High Level, Long-Term Care Ombudsman

1. Respond to **individual complaints**, and requests for mediation and information, and provide an annual accounting of its findings and recommendations.
2. **Develop strategies to reduce staff turn-over** in nursing homes. Establish acceptable and realistic goals for turn-over rates, and publicly acknowledge those facilities achieving these outcomes. High staff turn-over is a significant contributor to the lack of appropriate individualized care, continuity of care, lack of understanding of confused and speech impaired residents; excessive forced over-time for remaining staff, possibly a contributing factor to elder neglect and abuse, and much more.
3. Spearhead efforts for humane **care of aggressive residents** -- develop alternative care models, specifically programs to effectively protect the other residents from those who are violent, disruptive, or in other ways impact negatively on the quality of life of the majority of residents in a facility.
4. Actively **advocate** for institutionalized elderly persons and persons with disabilities with regard to:
a) establishing consumer friendly Rules and Regulations; b) Securing seed money and grants for innovative systemic changes in the delivery of housing, social programs, and health care; c) promoting innovative legislation; d) proposing innovative local government housing and fire codes, and social services; and e) creating self-directed care options.
5. Work toward the establishment of a **state-wide Advocacy Coalition** for elderly persons and persons with disabilities who are living in nursing homes or at risk of nursing home placement. Network members would hopefully include the Area Agencies on Aging (AAA's), the many disease and disability specific associations, various retirement associations, various professional associations, and others.
6. **Establish a Kansas Nursing Home Ethics Advisory Committee** to develop, educate and advocate for the adoption of guidelines for facilities and for the establishment of facility ethics committees. These ethical guidelines would deal with the ethics of a) end of life decisions; b) adequate pain management; c) physical restraints, d) the use of psychotropic medications, e) other treatment decisions; f) management of aggressive and out-of-control residents; g) confidentiality; and h) many other day to day interactions and transactions with residents and prospective residents.

TESTIMONY IN FAVOR OF HB2607

The Honorable Senator Sandy Praeger, Chair
Kansas State Senate
Public Health and Welfare Committee

Chairman Praegers, Committee Members,
and Interested Parties:

Today, we are discussing the future of a program that has been an extremely valuable part of the long term care of our aging populace and their families.

I wish to speak in support of HB2607, which moves the LTC Ombudsman program under the office of the Kansas Department of Administration. This has been recommended by the SRS Transition Oversight Committee this past summer of 1997. The importance of an independent Ombudsman program can not be emphasized enough!

The Ombudsman program has been literally swamped for lack of staff to carry on its basic functions of "being the resident's friend". To work with residents, their families, the staff and facility of long term care facilities, is a never-ending, ongoing process. To alleviate the shortage of trained staff ombudsman, an innovative volunteer ombudsman program was picked, trained and been placed in facilities as the "eyes, ears, feet, etc." for the State and Regional Ombudsman.

To this date, there are volunteer ombudsman working under supervision in Shawnee, Johnson, Riley, Douglas, and several other counties. I was in the first group of trainees that spent over thirty hours in classroom, fieldwork, observation and examination. I have worked in facilities in Shawnee and Crawford counties, as a volunteer ombudsman assigned, as well as, "a trouble shooter" assisting a regional ombudsman on a particular assignment. The additional recruiting of volunteer ombudsman is currently on hold, until the future of the Long Term Ombudsman program is resolved.

As a fairness issue in this bill, I believe that it would be appropriate to ammend some mileage reimbursement, as well as, any necessary expenses that the volunteer ombudsman may occur in the carrying out of their volunteer ombudsman duties.

At the 1997 KS Silver Hair Legislature, the Long Term Care Ombudsman Act, was of top priority.

To continue to provide our aging citizens in long term care facilities with the best ombudsman program available, I urge that your committee act favorably on HB2607 and report it for passage by the Kansas State Senate.

Thank you for allowing me to testify before you. I will be willing to answer any questions.

Faithfully yours,
The Rev. Don Moses, KS Silver
Haired Legislator, PSA 4

LANA OLEEN
SENATOR, 22ND DISTRICT
GEARY AND RILEY COUNTIES



TOPEKA

SENATE CHAMBER

LEGISLATIVE HOTLINE
1-800-432-3924

CHAIR: FEDERAL AND STATE AFFAIRS
CHAIR: CORRECTIONS/JUVENILE JUSTICE
CHAIR: LEGISLATIVE POST AUDIT
VICE CHAIR: JUDICIARY
MEMBER: EDUCATION
CONFIRMATION OVERSIGHT
LEG. EDUCATIONAL PLANNING
KANSAS SENTENCING COMMISSION

**TESTIMONY BEFORE THE
SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
ON SUBSTITUTE FOR HOUSE BILL 2609**

LANA OLEEN,
March 20, 1998

Madame Chairperson and members of the Committee, I am submitting testimony on behalf of the Legislative Post Audit Committee generally in support of Substitute for House Bill 2609, but also to suggest a change in the bill. This bill resulted from an effort to combine three separate bills, one of which was introduced by the Legislative Post Audit Committee after extensive deliberation by a specially appointed Subcommittee. Representative Mays chaired that Subcommittee, and I was a member.

The Committee thinks this bill makes a number of important changes that will improve the operations and accountability of the Board of Cosmetology, and help prevent the kinds of severe, significant problems found in a performance audit of the Board last year.

One change recommended by the Subcommittee and endorsed by the full Post Audit Committee, (but not included in the bill before you) would make the Department of Health and Environment rather than the Cosmetology Board responsible for inspections of cosmetology and barber establishments. The Department of Health and Environment currently sets the sanitation standards for those establishments, and our suggested change would make that same agency responsible for enforcing those standards. We think this change will provide greater independence and more consistency on the part of the inspectors, while eliminating any concerns about possible favoritism. The change may also better serve the rate and frequency of inspections, as they have been very spotty for several years.

I am supportive of this bill, and would urge the Committee to give it favorable consideration, with the changes recommended by the Post Audit Subcommittee.

Substitute FOR HOUSE BILL No. 2609

By Committee on Education

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10 AN ACT concerning the state board of cosmetology; persons and prac-
11 tices regulated by the board; amending K.S.A. 65-1904a, 65-1904b,
12 65-1905, 65-1906, 65-1909, 74-2703 and 74-2704 and K.S.A. 1997
13 Supp. 65-1901, 65-1902, 65-1903, 65-1904, 65-1907, 65-1908, 65-1912,
14 and 74-2701 and repealing the existing sections.

, 65-1827, 74-1806, 74-1807, 74-2702

, 65-1948

15
16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section 1. K.S.A. 1997 Supp. 65-1901 is hereby amended to read as
18 follows: 65-1901. As used in K.S.A. 65-1901 through 65-1912, and amend-
19 ments thereto:

20 (a) "Apprentice" means any person engaged in learning the practice
21 of cosmetology, ~~manicuring~~ nail technology, esthetics or electrology in a
22 school of cosmetology, nail technology, esthetics or electrology licensed
23 by the board, except until such time as an electrology school is established
24 in this state apprenticing of electrology will be subject to approval by the
25 board in a clinic or establishment.

26 (b) "Board" means the state board of cosmetology.

27 (c) "Cosmetologist" means any person, other than a manicurist or
28 esthetician, who practices the profession of cosmetology for compensa-
29 tion.

30 (d) "Cosmetology" means the profession of:

31 (1) Arranging, dressing, permanently curling, curling, waving, singe-
32 ing, cleansing, ~~eyelining~~ temporarily or permanently coloring, conditioning
33 or bobbing cutting the hair;

34 (2) massaging, cleansing, stimulating, manipulating or performing
35 similar work on the scalp, face, neck, arms or hands, by use of either the
36 hands or mechanical or electrical appliances;

37 (3) removing superfluous hair from the face or any part of the body
38 by use of either the hands or mechanical or electrical appliances other
39 than electric needles;

40 (4) performing facials, skin care, eyebrow and eyelash services;

41 (4) (5) using cosmetic preparations, antiseptics, lotions, creams or
42 other preparations in performing any of the practices described in pro-
43 visions (d)(1), (2) and (3) and (4);

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- 1 ~~(5)~~ (6) manicuring, pedicuring or sculpturing nails; or
- 2 ~~(6)~~ performing any other beautifying process on any person
- 3 (7) performing any other external application intended to beautify or
- 4 improve the complexion, skin, nails or hair.

5 (e) "Esthetician" means any person who, for compensation practices
 6 the profession of cosmetology only to the following extent:

7 (1) Performing facials, skin care and eyebrow and eyelash services;
 8 or

9 (2) removing superfluous hair from the face or body, using either the
 10 hands or mechanical or electrical appliances other than electric needles.

11 (f) "Manicurist" means any person who, for compensation practices
 12 the profession of cosmetology only to the extent of manicuring, pedicuring
 13 and sculpturing nails.

14 (g) "Nail technology" means ~~the information related to~~ manicuring,
 15 pedicuring and sculpturing nails.

16 (h) "Electrologist" means any person who, for compensation removes
 17 hair from, or destroys hair on, the human body for beautification by use
 18 of an electric needle only.

19 (i) "Person" means any individual, corporation, partnership, associa-
 20 tion or other entity.

21 Sec. 2. K.S.A. 1997 Supp. 65-1902 is hereby amended to read as
 22 follows: 65-1902. (a) Except as provided in subsection (b), no person shall:

23 (1) Engage in practice of cosmetology, esthetics, ~~manicuring nail~~
 24 *technology* or electrology unless the person holds a valid license, issued
 25 by the board, to engage in that practice;

26 (2) conduct a school for teaching cosmetology unless the person holds
 27 a valid license, issued by the board, to conduct the school;

28 (3) teach cosmetology in a licensed school unless the person holds a
 29 valid cosmetology instructor's license issued by the board;

30 (4) conduct a school for teaching nail technology unless the person
 31 holds a valid license, issued by the board, to conduct the school;

32 (5) teach nail technology in a licensed school unless the person holds
 33 a valid cosmetology or manicuring instructor's license issued by the board;

34 (6) conduct a school for teaching electrology unless the person holds
 35 a valid license, issued by the board, to conduct the school;

36 (7) teach electrology in a licensed school or clinic unless the person
 37 holds a valid electrology instructor's license issued by the board;

38 (8) conduct a school for teaching esthetics unless the person holds a
 39 valid license, issued by the board, to conduct the school; ~~or~~

40 (9) teach esthetics in a licensed school unless the person holds a valid
 41 cosmetology or esthetics instructor's license issued by the board.;

42 (10) *own or operate a school, salon or clinic where cosmetology, es-*
 43 *thetics, nail technology or electrology is taught or practiced unless the*

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1 person holds a valid school, salon or clinic license issued by the board; or
2 (11) teach or practice cosmetology, esthetics, nail technology or elec-
3 trolology in a school, salon or clinic unless the owner or operator of the
4 school, salon or clinic holds a valid school, salon or clinic license issued
5 by the board.

6 (b) The provisions of this act shall not apply to:

7 (1) Any person licensed as a barber or apprentice barber;

8 (2) any person licensed to practice medicine and surgery, *osteopathy*,
9 *chiropractic*, optometry, nursing or dentistry, while engaged in that prac-
10 tice;

11 (3) any person who is a registered physical therapist or *certified phys-*
12 *ical therapist assistant* while engaged in that practice; or

13 (4) any teacher while engaged in instructing elementary or secondary
14 school students in the proper care of their own persons.

15 (c) A person holding a license as a cosmetology technician on the day
16 immediately preceding the effective date of this act shall continue to be
17 a licensed cosmetology technician and perform the functions of a cos-
18 metology technician, as such term was defined immediately prior to the
19 effective date of this act, and may renew such license subject to the pay-
20 ment of fees and other conditions and limitations on the renewal of li-
21 censes under article 19 of chapter 65 of the Kansas Statutes Annotated
22 and acts amendatory of the provisions thereof.

23 Sec. 3. K.S.A. 1997 Supp. 65-1903 is hereby amended to read as
24 follows: 65-1903. (a) Licensed schools may be established and maintained
25 in this state where the profession of cosmetology may be taught or ac-
26 quired, under the following conditions and regulations:

27 (1) Any person may apply to the board for a license for conducting a
28 school for the teaching of the profession of cosmetology. The license shall
29 be granted by the board upon proper and sufficient showing of compe-
30 tency of the applicant and assurance of compliance by the applicant with
31 the requirements of this act, all reasonable rules and regulations adopted
32 by the board for the proper conduct of the school and all applicable
33 sanitation standards adopted by the secretary of health and environment
34 pursuant to K.S.A. 65-1,148 and amendments thereto. Prior to issuance
35 of the license, the applicant shall pay to the board the *nonrefundable*
36 *license application* fee established under K.S.A. 65-1904 and amend-
37 ments thereto. School licenses shall be renewed before July 1 of each
38 year by submitting an application and payment of the *nonrefundable li-*
39 *cence renewal* fee established under K.S.A. 65-1904 and amendments
40 thereto. No license fee shall be required of schools operating under the
41 state board of regents or any tax-supported school. Nothing in this act
42 shall prohibit any person who is a licensed electrologist, while acting as
43 owner and manager of the person's clinic or establishment, from teaching

1 electrology in the regular course of the person's business, but at no time
2 shall any clinic or establishment have more than one apprentice or charge
3 tuition for its teaching services.

4 (2) Each school licensed under this subsection (a) shall remain under
5 the constant supervision of the board. Each licensed school at all times
6 shall employ and maintain a sufficient number of instructors, duly li-
7 censed in the practices they teach, to provide at least one instructor for
8 every 25 students. Each licensed school shall provide a course of training
9 requiring not less than 1,500 clock hours of instruction and practice in
10 preparation for the profession of cosmetology covering a period of not
11 less than nine nor more than 12 months of training for full-time students.
12 In addition, the school may provide a course of training of 350 clock hours
13 of instruction and practice in the profession of ~~manicuring~~ *nail technol-*
14 *ogy*, and a course of training of 650 clock hours of instruction and practice
15 in the profession of esthetics. Such course of training shall include the
16 practices of cosmetology for all major ethnic groups residing in the state,
17 and the board shall require by rules and regulations that each school shall
18 provide instruction for part-time students who are unable to attend a full
19 schedule of classes each week because of part-time employment; enroll-
20 ment in an accredited public or private school of secondary education by
21 a student who is pursuing a course of study leading to a diploma from
22 such school; enrollment in a cooperative industrial training program, ap-
23 proved by the division of vocational education of the state department of
24 education, by a student who is working toward an occupational objective;
25 or the principles or tenets of the student's religion preventing full-time
26 attendance. Instruction of a part-time student shall be completed by the
27 student within 18 months after the student's enrollment in the school.

28 (b) Any person who teaches the profession of cosmetology in a li-
29 censed school of cosmetology shall be required to obtain a cosmetology
30 instructor's license from the board. To qualify for a cosmetology instruc-
31 tor's license, the applicant must (1) be licensed as a cosmetologist under
32 this act, (2) have practiced as a cosmetologist for one year prior to licen-
33 sure, with 300 hours of instructor training, ~~or have obtained 600 hours of~~
34 ~~instructor training~~, (3) pass a cosmetology instructor exam, administered
35 by the board *or the board's designee*, and (4) pay the *nonrefundable in-*
36 *structor license* application fee established by K.S.A. 65-1904 and amend-
37 ments thereto. A cosmetology instructor license shall be renewed every
38 two years by furnishing satisfactory evidence that the applicant, *except*
39 *the first renewal period following the effective date of this act for appli-*
40 *cants holding a cosmetology instructor license on the effective date of this*
41 *act and the first renewal period following licensure for applicants not*
42 *holding a cosmetology instructor license on the effective date of this act,*
43 has completed ~~an additional 20~~ 100 clock hours of continuing education

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1 approved by the board in the practice of *cosmetology* and teaching of
2 *cosmetology skills and methods*, and by paying the *nonrefundable license*
3 renewal fee established by K.S.A. 65-1904 and amendments thereto.

4 (c) Licensed schools may be established and maintained in this state
5 where nail technology may be taught or acquired, under the following
6 conditions and regulations:

7 (1) Any person may apply to the board for a license for conducting a
8 school for the teaching of nail technology. The license shall be granted
9 by the board upon proper and sufficient showing of competency of the
10 applicant and assurance of compliance by the applicant with the require-
11 ments of this act, all reasonable rules and regulations adopted by the
12 board for the proper conduct of the school and all applicable sanitation
13 standards adopted by the secretary of health and environment pursuant
14 to K.S.A. 65-1,148 and amendments thereto. Prior to issuance of the
15 license, the applicant shall pay to the board the *nonrefundable license*
16 *application fee* established under K.S.A. 65-1904 and amendments
17 thereto. School licenses shall be renewed before July 1 of each year by
18 submitting an application and payment of the *nonrefundable license re-*
19 *newal fee* established under K.S.A. 65-1904 and amendments thereto.
20 No license fee shall be required of schools operating under the state board
21 of regents or any tax-supported school.

22 (2) Each school licensed under this subsection (c) shall remain under
23 the constant supervision of the board. Each licensed school at all times
24 shall employ and maintain a sufficient number of instructors, duly li-
25 censed in the practices they teach, to provide at least one instructor for
26 every 25 students. Each licensed school shall provide a course of training
27 requiring not less than 350 clock hours of instruction and practice in
28 preparation for the profession of manicurist. The board shall require by
29 rules and regulations that each school shall provide instruction for part-
30 time students who are unable to attend a full schedule of classes each
31 week because of part-time employment; enrollment in an accredited pub-
32 lic or private school of secondary education by a student who is pursuing
33 a course of study leading to a diploma from such school; enrollment in a
34 cooperative industrial training program, approved by the division of vo-
35 cational education of the state department of education, by a student who
36 is working toward an occupational objective; or the principles or tenets
37 of the student's religion preventing full-time attendance. Instruction of a
38 ~~part-time student~~ *all students* shall be completed by the student within
39 six months after the student's enrollment in the school.

40 (d) Any person who teaches nail technology in a licensed school of
41 cosmetology or nail technology shall be required to obtain a manicuring
42 instructor's license from the board, unless the person holds a valid cos-
43 metology instructor's license issued under subsection (b). To qualify for

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1 a manicuring instructor's license, the applicant must (1) be licensed as a
2 cosmetologist or manicurist under this act, (2) have practiced as a mani-
3 curist or cosmetologist for one year prior to licensure, with 300 hours of
4 instructor training, ~~or have obtained 600 hours of instructor training,~~ (3)
5 pass a manicuring instructor exam, administered by the board *or the*
6 *board's designee* and (4) pay ~~on a nonrefundable instructor license~~ appli-
7 cation fee established by K.S.A. 65-1904 and amendments thereto. A
8 manicuring instructor license shall expire every two years and shall be
9 renewed by furnishing satisfactory evidence that the applicant, *except the*
10 *first renewal period following the effective date of this act for applicants*
11 *holding a manicuring instructor license on the effective date of this act*
12 *and the first renewal period following licensure for applicants not holding*
13 *a manicuring instructor license on the effective date of this act,* has com-
14 pleted ~~an additional 20~~ 100 clock hours of continuing education, approved
15 by the board, in the practice of manicuring and teaching of manicuring
16 skills and methods and paying the nonrefundable license renewal fee es-
17 tablished by K.S.A. 65-1904 and amendments thereto.

18 (e) Licensed schools may be established and maintained in this state
19 where the profession of esthetics may be taught or acquired, under the
20 following conditions and regulations:

21 (1) Any person may apply to the board for a license for conducting a
22 school for the teaching of the profession of esthetics. The license shall be
23 granted by the board upon proper and sufficient showing of competency
24 of the applicant and assurance of compliance by the applicant with the
25 requirements of this act, all reasonable rules and regulations adopted by
26 the board for proper conduct of the school and all applicable sanitation
27 standards adopted by the secretary of health and environment pursuant
28 to K.S.A. 65-1,148 and amendments thereto. Prior to issuance of the
29 license, the applicant shall pay to the board the nonrefundable license
30 application fee established under K.S.A. 65-1904 and amendments
31 thereto. School licenses shall be renewed before July 1 of each year by
32 submitting an application and payment of the nonrefundable license re-
33 newal fee established under K.S.A. 65-1904 and amendments thereto.
34 No license fee shall be required of schools operating under the state board
35 of regents or any tax-supported school.

36 (2) Each school licensed under this subsection (e) shall remain under
37 the constant supervision of the board. Each licensed school at all times
38 shall employ and maintain a sufficient number of instructors, duly li-
39 censed in the practices they teach, to provide at least one full-time in-
40 structor for every 25 students. Each licensed school shall provide a course
41 of training requiring not less than 650 clock hours of instruction and
42 practice in esthetics.

43 (f) Any person who teaches esthetics in a licensed school of cosme-

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1 tology or esthetics shall be required to obtain an esthetics instructor's
 2 license from the board, unless the person holds a valid cosmetology in-
 3 structor's license issued under subsection (b). To qualify for an esthetics
 4 instructor's license, the applicant must (1) be licensed as a cosmetologist
 5 or esthetician under this act, (2) have practiced as an esthetician or cos-
 6 metologist for one year prior to licensure, with 300 hours of instructor
 7 training, ~~or have obtained 600 hours of instructor training~~; (3) pass an
 8 esthetician instructor exam, administered by the board ~~or the board's~~
 9 *designee* and (4) pay ~~an~~ a nonrefundable license application fee estab-
 10 lished by K.S.A. 65-1904 and amendments thereto. An esthetics instructor
 11 license shall expire every two years and shall be renewed by furnishing
 12 satisfactory evidence that the applicant, *except the first renewal period*
 13 *following the effective date of this act for applicants holding an esthetics*
 14 *instructor license on the effective date of this act and the first renewal*
 15 *period following licensure for applicants not holding an esthetics instruc-*
 16 *tor license on the effective date of this act*, has completed ~~an additional~~
 17 ~~20~~ 100 clock hours of continuing education, approved by the board, in
 18 the practice of esthetics and teaching of ~~esthetics skills and methods~~ and
 19 by paying the nonrefundable license renewal fee established by K.S.A. 65-
 20 1904 and amendments thereto.

21 (g) Licensed schools may be established and maintained in this state
 22 where the profession of electrology may be taught or acquired, under the
 23 following conditions and regulations:

24 (1) Any person may apply to the board for a license for conducting a
 25 school for the teaching of the profession of electrology. The license shall
 26 be granted by the board upon proper and sufficient showing of compe-
 27 tency of the applicant and assurance of compliance by the applicant with
 28 the requirements of this act, all reasonable rules and regulations adopted
 29 by the board for the proper conduct of the school and all applicable
 30 sanitation standards adopted by the secretary of health and environment
 31 pursuant to K.S.A. 65-1,148 and amendments thereto. Prior to issuance
 32 of the license, the applicant shall pay to the board the nonrefundable
 33 license *application* fee established under K.S.A. 65-1904 and amend-
 34 ments thereto. School licenses shall be renewed before July 1 of each
 35 year by submitting an application and payment of the nonrefundable li-
 36 cense renewal fee established under K.S.A. 65-1904 and amendments
 37 thereto. No license fee shall be required of schools operating under the
 38 state board of regents or any tax-supported school. Nothing in this act
 39 shall prohibit any person who is a licensed instructor of electrology or
 40 who is and has been for at least three years a licensed electrologist, while
 41 acting as owner and manager of the person's salon, clinic or establishment,
 42 from teaching electrology in the regular course of the person's business,
 43 but at no time shall any salon, clinic or establishment have more than one

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1 apprentice or charge tuition for its teaching services.

2 (2) Each school licensed under this subsection (e) shall remain under
3 the constant supervision of the board. Each licensed school at all times
4 shall employ and maintain a sufficient number of instructors, duly li-
5 censed in the practices they teach, to provide at least one full-time in-
6 structor for every four students. Each licensed school shall provide a
7 course of training requiring not less than 500 clock hours of instruction
8 and practice in electrology covering a period of not less than four months
9 of training for full-time students and not less than eight months of training
10 for part-time students.

11 (h) Any person who teaches electrology in a licensed school of cos-
12 metology or electrology shall be required to obtain an electrology instruc-
13 tor's license from the board. To qualify for an electrology instructor's
14 license, the applicant must (1) be licensed as an electrologist under this
15 act, (2) have practiced as an electrologist for one year prior to licensure,
16 with 300 hours of instructor training, ~~or have obtained 600 hours of in-~~
17 ~~structor training,~~ (3) pass an electrology instructor exam, administered by
18 the board ~~or the board's designee~~ and (4) pay ~~an a nonrefundable instructor~~
19 ~~license application fee established under K.S.A. 65-1904 and amend-~~
20 ~~ments thereto.~~ Electrology instructor licenses shall expire every two years
21 and may be renewed by furnishing satisfactory evidence that the appli-
22 cant, *except the first renewal period following the effective date of this act*
23 *for applicants holding an electrology instructor license on the effective*
24 *date of this act and the first renewal period following licensure for appli-*
25 *cants not holding an electrology instructor license on the effective date of*
26 *this act,* has completed ~~an additional 20~~ 100 clock hours of continuing
27 education, approved by the board, in the practice and teaching of elec-
28 trology and paying the *nonrefundable license* renewal fee established un-
29 der K.S.A. 65-1904 and amendments thereto. To teach in a licensed salon,
30 the electrologist is issued a license for the period of training for the stu-
31 dent. To qualify they must: (1) Be a licensed practicing electrologist for
32 a three-year period and (2) pay ~~an a nonrefundable instructor license~~
33 ~~application fee established under K.S.A. 65-1904 and amendments~~
34 thereto.

35 (i) ~~All instructors holding a valid instructor's license on December 31,~~
36 ~~1995, upon expiration of their instructor's license, shall have their instruc-~~
37 ~~tor's license renewed, without examination, by paying the renewal fee for~~
38 ~~that renewal period and furnishing satisfactory evidence that the applicant~~
39 ~~has completed an additional 100 clock hours of continuing education,~~
40 ~~approved by the board, in the practice and teaching of cosmetology, man-~~
41 ~~icuring or electrology as appropriate for the instructor's license held by~~
42 ~~the applicant.~~

43 (j) The board may adopt through rules and regulations a curriculum

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1 for cosmetology, ~~manicuring~~ nail technology, esthetics and electrology
2 instructor training to be provided in a licensed school of cosmetology.

3 (j) The board may provide by rules and regulations that instructor
4 licenses may expire less than two years from the date of issuance in order
5 for the expiration date of the instructor license to correspond with the
6 expiration date of the individual's license to practice cosmetology, nail
7 technology, esthetics or electrology. In each case in which an instructor
8 license is issued for a period of time of less than two years, the board shall
9 prorate the instructor license application fee from the month of the date
10 of application to the month of the date of expiration of the license to
11 practice cosmetology, nail technology, esthetics or electrology.

12 Sec. 4. K.S.A. 1997 Supp. 65-1904 is hereby amended to read as
13 follows: 65-1904. (a) Unless revoked for cause, all licenses of cosmetol-
14 ogists, cosmetology technicians, electrologists and manicurists issued or
15 renewed by the board shall expire on the expiration dates established by
16 rules and regulations adopted by the board under this section. Subject to
17 the other provisions of this subsection, each such license, ~~other than the~~
18 ~~three-year senior cosmetologist license~~, shall be renewable on a biennial
19 basis upon the filing of a renewal application prior to the expiration of
20 the license; and payment of the *nonrefundable license* renewal fee estab-
21 lished under this section and, ~~except for an apprentice license, the elec-~~
22 ~~trologist license and the senior cosmetologist license~~, for licenses renewed
23 on and after July 1, 1997, furnishing evidence satisfactory to the board of
24 the completion of a minimum of five clock hours annually of continuing
25 education on health and safety related issues in the practice of cosme-
26 tology approved by the board in the license category in which the licensee
27 holds a license or if the licensee holds a license in more than one category,
28 in the category specified by rules and regulations of the board for licens-
29 ees holding more than one license. Applicants for renewal of an elec-
30 trologist license shall furnish with the biennial renewal application evi-
31 dence satisfactory to the board of the completion of 10 clock hours
32 annually of continuing education on health and safety related issues in
33 electrologist practice approved by the board. In order to provide for the
34 establishment of a system of biennial renewal of licenses issued by the
35 board, the board may provide by rules and regulations that licenses issued
36 or renewed may expire less than two years from the date of issuance or
37 renewal. In each case in which a license is issued or renewed for a period
38 of time of less than two years, the board shall prorate to the nearest whole
39 month the license or renewal fee established under this section.

40 (b) Any cosmetologist's, cosmetology technician's, esthetician's, elec-
41 trologist's or manicurist's license may be renewed by the applicant within
42 90 days ~~six months~~ after the date of expiration of the applicant's last
43 license upon submission of proof, satisfactory to the board, of the appli-

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1 cant's qualifications to renew practice as a cosmetologist, cosmetology
2 technician, *esthetician*, electrologist or manicurist; including the comple-
3 tion of any applicable continuing education requirements and payment
4 of the applicable *nonrefundable* renewal fee and delinquent fee pre-
5 scribed pursuant to this section. Any applicant whose license as a cos-
6 metologist, cosmetology technician, *esthetician*, electrologist or manicur-
7 ist has expired for more than one year prior to application for renewal six
8 months may obtain a license in the same manner and on payment of the
9 same *nonrefundable* fees as provided for an applicant for an original li-
10 cense on and after July 1, 1996; and upon proof that such applicant has
11 satisfactorily completed a program of continuing education required by
12 the board for applicants whose licenses have expired.

13 (e) At the time of application for license renewal, a cosmetologist
14 licensed in this state may apply to the board and qualify for a three-year
15 senior cosmetologist license by:

16 (1) Paying the fee required by this section;

17 (2) showing evidence satisfactory to the board of having been actually
18 employed in a licensed salon or licensed school for not less than 120 days
19 during the preceding three years;

20 (3) on and after July 1, 1996, furnishing evidence satisfactory to the
21 board of the completion of a minimum of 15 clock hours triennially of
22 continuing education on health and safety related issues in the practice
23 of cosmetology approved by the board; and

24 (4) furnishing evidence satisfactory to the board of attendance of 40
25 clock hours of courses of instruction in cosmetology approved by the
26 board.

27 (d) (c) Any applicant for a license other than a renewal license shall
28 make a verified application to the board on such forms as the board may
29 require and, upon payment of the license application fee and the exami-
30 nation fee shall be examined by the board or their appointees and shall
31 be issued a license, if found to be duly qualified to practice the profession
32 of cosmetologist, esthetician, electrologist or manicurist.

33 (e) (1) Except as otherwise provided in this section, the board shall
34 require every licensee in the active practice of cosmetology within the
35 state to submit evidence of satisfactory completion of a program of con-
36 tinuing education required under this section. Such evidence shall be
37 made in writing in a form required by the board. The board shall require
38 every licensee in the active practice of cosmetology within the state to
39 remit a continuing education fee to the board in an amount fixed by the
40 board. The board shall adopt rules and regulations establishing the pro-
41 gram of continuing education in accordance with this section as soon as
42 possible after the effective date of this act. In establishing such require-
43 ments the board shall consider any existing programs of continuing ed-

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1 section currently being offered to licensees of the board.

2 (2) To qualify as an approved provider of continuing education of-
3 ferings, persons, organizations or institutions proposing to provide such
4 continuing education offerings shall apply to the board for approval and
5 submit evidence that the applicant is prepared to meet the standards and
6 requirements established by the rules and regulations of the board for
7 such continuing education offerings. Initial applications shall be made in
8 writing on forms supplied by the board and shall be submitted to the
9 board together with the application fee fixed by the board. Qualification
10 as an approved provider of continuing education offerings shall expire
11 five years after the granting of such approval by the board. An approved
12 provider of continuing education offerings shall submit annually to the
13 board the continuing education program approval fee established by rules
14 and regulations, along with an annual report of its educational programs
15 for the previous fiscal year. Applications for renewal as an approved pro-
16 vider of continuing education offerings and annual reports shall be made
17 in writing on forms supplied by the board and shall be submitted to the
18 board together with the application fee fixed by the board.

19 (3) The board shall establish an inactive license category and may
20 waive the continuing education requirements for the renewal of a license
21 and place a licensee on inactive status if a licensee is not engaged in or
22 has retired from practice or has become temporarily or permanently dis-
23 abled and the licensee files with the board a certificate stating either of
24 the following:

25 (A) A retiring licensee certifies to the board that the licensee:

26 (i) Has retired from the active practice of cosmetology service; or

27 (ii) is not engaged in the provision of any cosmetology service as de-
28 fined by the statutes of the state of Kansas; or

29 (B) a disabled licensee certifies to the board that such licensee is no
30 longer engaged in the provision of any cosmetology service as defined by
31 the statutes of the state of Kansas by reason of any physical disability,
32 whether permanent or temporary; and shall describe the nature of such
33 disability. The waiver of continuing education under this subsection shall
34 continue so long as the retirement or physical disability exists. Prior to
35 returning to active practice for which a person holds an inactive license,
36 such person shall complete 20 clock hours of continuing education ap-
37 proved by the board in the license category in which the licensee holds
38 a license or if the licensee holds a license in more than one category, in
39 the category specified by rules and regulations of the board for licensees
40 holding more than one license. The board shall establish by rules and
41 regulations a procedure to activate an inactive license.

42 (4) (d) The board is hereby authorized to adopt rules and regulations
43 fixing the amount of nonrefundable fees for the following items and to

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1	charge and collect the amounts so fixed, subject to the following limita-	
2	tions:	
3	Active Cosmetologist license or renewal application fee, for two years—	
4	not more than	\$60
5	Inactive cosmetologist license or renewal; for two years—not more	
6	than	30
7	Cosmetologist license renewal fee	60 [40]
8	Delinquent cosmetologist license renewal fee	4 25
9	Cosmetology technician license renewal fee, for two years—not more	
10	than	30 35
11	Delinquent cosmetology technician renewal fee	25
12	Electrologist license or renewal application fee, for two years—not more	
13	than	30 35
14	Electrologist license renewal fee	35
15	Delinquent electrologist license renewal fee	4 25
16	Senior cosmetologist license or renewal; for three years—not more	
17	than	45
18	Manicurist license renewal or renewal application fee, for two years—not	
19	more than	24 30
20	Manicurist license renewal fee	30
21	Delinquent manicurist license renewal fee	4 25
22	Esthetician license or renewal application fee, for two years—not more	
23	than	30 30
24	Esthetician license renewal fee	30
25	Delinquent esthetician license renewal fee	4 25
26	Any apprentice license application fee—not more than	10 15
27	Additional training license—not more than	10
28	New school license application fee	100 150
29	School license renewal fee—not more than	50 75
30	Delinquent school license fee—not more than	10 50
31	New cosmetology services salon or electrology clinic license application	
32	fee—not more than	30 50
33	Cosmetology services salon or electrology clinic license renewal fee—not	
34	more than	30 30
35	Delinquent cosmetology services salon or electrology clinic license re-	
36	newal fee	6 30
37	Transfer of salon or electrology clinic license—not more than	15
38	Cosmetologist's examination—not more than	25 50
39	Cosmetology technician's examination—not more than	25
40	Electrologist's examination—not more than	25 50
41	Manicurist's examination—not more than	25 50
42	Esthetician examination—not more than	25 50
43	Instructor's examination—not more than	50 75

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1	Out-of-state examinations Reciprocity application fee—not more than ...	35 50
2	Out-of-state affidavits Verification of licensure	2 20
3	Any duplicate of license	2 25
4	Instructor's license or renewal application fee, for two years—not more	
5	than	50 75
6	Renewal of instructor's license fee	50
7	Delinquent instructor's license renewal fee—not more than	50 75
8	Cosmetologist continuing education registration fee	40
9	Continuing education program application fee	100
10	Continuing education program approval fee	100
11	Temporary permit fee	15
12	Statutes and regulations book	5

13 ~~(g)~~ (e) Whenever the board determines that the total amount of revenue derived from the fees collected pursuant to this section is insufficient to carry out the purposes for which the fees are collected, the board may amend its rules and regulations to increase the amount of the fee, except that the amount of the fee for any item shall not exceed the maximum amount authorized by this subsection. Whenever the amount of fees collected pursuant to this section provides revenue in excess of the amount necessary to carry out the purposes for which such fees are collected, it shall be the duty of the board to decrease the amount of the fee for one or more of the items listed in this subsection by amending the rules and regulations which fix the fees.

24 ~~(h)~~ (f) Any person who failed to obtain a renewal license while in the armed forces of the United States shall be entitled to a renewal license upon filing application and paying the *nonrefundable* renewal fee for the current year during which the person has been discharged on and after July 1, 1996; and upon proof that such applicant has satisfactorily completed a program of continuing education required by the board for applicants under this subsection.

31 (g) Any person who was formerly licensed as a cosmetologist, a cosmetology technician, an esthetician, an electrologist or a manicurist and whose license expired on or after July 1, 1996, and was not renewed may obtain reinstatement of the license until July 1, 1999, upon application to the board and upon payment of the applicable delinquent renewal fee.

36 (h) Any person who is currently licensed as a cosmetologist, cosmetology technician, esthetician, electrologist or manicurist on inactive status shall be deemed licensed on active status. Upon application for renewal of the license as provided in rules and regulations, the person shall be issued a license which does not indicate inactive status. Prior to application for renewal of the license and upon request to the board, such person may obtain a license which does not indicate inactive status.

43 Sec. 5. K.S.A. 65-1904a is hereby amended to read as follows: 65-

h12

1 1904a. Any licensed cosmetologist, *esthetician*, electrologist, manicurist,
 2 or person desiring to establish a salon or clinic shall make application, on
 3 a form provided, to the Kansas state board of cosmetology, accompanied
 4 by the new salon or clinic license fee established under K.S.A. 65-1904
 5 and amendments thereto. Upon filing of the application, the board shall
 6 inspect the equipment as to safety and sanitary condition of the premises
 7 and if the equipment and premises are found to comply with the rules
 8 and regulations of the secretary of health and environment and the rules
 9 and regulations of the Kansas state board of cosmetology, the board shall
 10 issue a new salon or clinic license. Nothing herein contained shall be
 11 construed as preventing any licensed person from practicing cosmetology
 12 or electrology in a private home or residence if the home or residence
 13 complies with rules and regulations of the secretary and the state board.
 14 *Licensed salons and clinics may be reinspected in accordance with a*
 15 *schedule determined by the board by rules and regulations or upon a*
 16 *complaint made to the board that such salon or clinic is not being main-*
 17 *tained in compliance with rules and regulations of the board.* The license
 18 shall expire on June 30 following its issuance. Any such license may be
 19 renewed upon application accompanied by the salon or clinic license re-
 20 newal fee made to the board before July 1 of the year in which the license
 21 expires. Any ~~certificate~~ license may be renewed by the applicant within
 22 60 days after the date of expiration of the last ~~certificate~~ license upon
 23 payment of a delinquent renewal fee.

24 Sec. 6. K.S.A. 65-1904b is hereby amended to read as follows: 65-
 25 1904b. (a) Upon application to the Kansas state board of cosmetology on
 26 a form provided for application for a cosmetologist, ~~cosmetology techni-~~
 27 ~~cian~~, *esthetician*, electrologist or manicurist license, accompanied by the
 28 ~~examination~~ application fee, a person practicing as a cosmetologist, ~~cos-~~
 29 ~~metology technician~~ *esthetician*, electrologist or manicurist under the laws
 30 of another state or jurisdiction shall be granted a license entitling the
 31 person to practice in this state if:

- 32 (1) The person is not less than 17 years of age and a graduate of an
 33 accredited high school, or equivalent thereof;
 34 (2) the person submits to the board a ~~certified~~ copy of the person's
 35 ~~birth certificate~~ verification of date of birth;
 36 (3) the person submits to the board a written statement from a person
 37 licensed to practice medicine and surgery under the laws of any state
 38 showing that the person is free from infectious or contagious disease; and
 39 (4) the person meets at least one of the following criteria:
 40 (A) The person's training and qualifications, including examination
 41 requirements, are equal to the requirements for licensure in this state; or
 42 (B) the person has been licensed in the other state for a period of at
 43 least one year immediately preceding application for licensure in this

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1 state; or a state or jurisdiction which has substantially the same require-
 2 ments for licensure as this state.

3 (C) the person satisfactorily passes an oral examination or demon-
 4 stration required by the board.

5 (b) The renewal of a license issued pursuant to this section shall be
 6 in the manner provided in K.S.A. 65-1904 and amendments thereto.

7 Sec. 7. K.S.A. 65-1905 is hereby amended to read as follows: 65-
 8 1905. (a) All examinations held or conducted by the board shall be in
 9 accordance with rules and regulations adopted by the board. The exam-
 10 inations shall include practical demonstrations and written and oral tests,
 11 except that examinations to qualify for an instructor's license shall be
 12 limited to written tests.

13 (b) Each applicant for licensure by examination shall:

14 (1) Be at least 17 years of age and a graduate of an accredited high
 15 school, or equivalent thereof; or be at least 25 years of age;

16 (2) submit to the board a certified copy of the applicant's birth cer-
 17 tificate verification of date of birth;

18 (3) submit to the board a certificate written statement from a person
 19 licensed to practice medicine and surgery under the laws of any state
 20 showing that the applicant is free from contagious and infectious diseases;
 21 and

22 (4) have served as an apprentice for the period of time provided by
 23 K.S.A. 65-1912.

24 (c) Any person making application who apparently possesses the nec-
 25 essary qualifications to take an examination provided herein, upon appli-
 26 cation and payment of the nonrefundable temporary permit fee, may be
 27 issued a temporary permit by the board to practice cosmetology until the
 28 next regular examination conducted by the board.

29 Sec. 8. K.S.A. 65-1906 is hereby amended to read as follows: 65-
 30 1906. All certificates of registration, licenses and permits issued by said
 31 board, pursuant to this act, shall be kept posted in a conspicuous place
 32 in the shop, establishment or school where the holder thereof is employed
 33 or working. (a) Each licensed cosmetologist, esthetician, manicurist, elec-
 34 trologist and instructor shall display such person's license in a conspicuous
 35 place in the salon, clinic or school where the holder thereof is employed
 36 or working.

37 (b) Each holder of a salon, clinic or school license shall display the
 38 license and most recent inspection report in a conspicuous place in the
 39 salon, clinic or school.

40 Sec. 9. K.S.A. 1997 Supp. 65-1907 is hereby amended to read as
 41 follows: 65-1907: The ~~chairperson~~, with the approval of the board, shall
 42 employ inspectors to inspect schools, salons and clinics and the inspectors
 43 shall perform all of the inspection duties of the board, as required by this

secretary of health and environment

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1 act, rules and regulations of the board and sanitation standards adopted
2 by the secretary of health and environment pursuant to K.S.A. 65-1,148
3 and amendments thereto. The board shall provide training to the inspec-
4 tors to enable the inspectors to provide current information to school,
5 salon and clinic personnel regarding requirements of applicable statutes
6 and regulations. It shall be the duty of the board to determine the number
7 of hours and practice work required of students in each subject of cos-
8 metology, nail technology, esthetics and electrology taught in a licensed
9 school.

10 Sec. 10. K.S.A. 1997 Supp. 65-1908 is hereby amended to read as
11 follows: 65-1908. (a) The state board of cosmetology may revoke any
12 license provided for by this act, may censure, limit or condition any license
13 or may refuse to issue, renew or suspend any license or assess a fine, not
14 to exceed \$1,000 per violation, for any of the following reasons:

15 (1) Failure to comply with the sanitary requirements prescribed by
16 the secretary of health and environment pursuant to K.S.A. 65-1,148 and
17 amendments thereto;

18 (2) failure to comply with any provision of this act, with the rules and
19 regulations of the board of cosmetology or with any order issued by the
20 board;

21 (3) ~~habitual drunkenness or drug addiction~~ has become a danger to
22 the public by reason of alcohol or drug abuse;

23 (4) conviction of a felony; but such conviction shall not automatically
24 operate as a bar to licensure unless the applicant or licensee is able to
25 demonstrate to the board's satisfaction that such person has been suffi-
26 ciently rehabilitated to warrant the public trust;

27 (5) the obtaining of, or the attempt to obtain, a license by fraudulent
28 misrepresentation or bribery;

29 (6) advertising by means of false or knowingly deceptive matter or
30 statement;

31 (7) failure to display the annual license or inspection report as pro-
32 vided for in this act; or

33 ~~(8) failure, after July 1, 1996, to comply with applicable continuing~~
34 ~~education requirements while actively engaging in the practice of cos-~~
35 ~~metology; or~~

36 ~~(9) (8) being found guilty of gross negligence or unprofessional con-~~
37 ~~duct as defined by rules and regulations of the board.~~

38 (b) The board may order the remedying of any violations of rules and
39 regulations of the board or any statutes pertaining to it provision of this
40 act, and the board may issue a cease and desist order upon board deter-
41 mination that the holder of a license has violated any order of the board,
42 any rules and regulations of the board or any provision of this act.

43 (c) Inspectors employed by the board shall have such powers as the

the secretary of health and environment
to conduct inspections for

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1 board may prescribe by rules and regulations to make inspections, inves-
2 tigations, and inquiries; except that a permanent order for closing any
3 establishment licensed by the board shall be issued only by the board.

4 (d) All proceedings under this section shall be conducted in accord-
5 ance with the provisions of the Kansas administrative procedure act.

6 Sec. 11. K.S.A. 65-1909 is hereby amended to read as follows: 65-
7 1909. (a) No person shall:

8 (1) Knowingly employ an individual to engage in any activity for
9 which a license is required pursuant to K.S.A. 65-1902 and amendments
10 thereto unless such individual holds a currently valid ~~such~~ license issued
11 to such individual;

12 (2) violate any order or ruling of the state board of cosmetology;

13 (3) fail or refuse to comply with rules and regulations prescribed by
14 the board or applicable sanitation standards adopted by the secretary of
15 health and environment pursuant to K.S.A. 65-1,148; or

16 (4) violate any of the provisions of article 19 of chapter 65 of Kansas
17 Statutes Annotated.

18 (b) Violation of subsection (a) is a misdemeanor punishable by a fine
19 of not less than \$10 nor more than \$100, or by imprisonment in the county
20 jail for not less than 10 days nor more than 90 days, or by both such fine
21 and imprisonment.

22 (c) *The board may bring an action to enjoin any person from prac-*
23 *ticing or teaching cosmetology, esthetics, nail technology or electrology or*
24 *from operating a salon, clinic or school if such person does not hold a*
25 *currently valid license. If the court finds that such person is unlawfully*
26 *teaching or practicing cosmetology, esthetics, nail technology or electrol-*
27 *ogy or operating a salon, clinic or school without a currently valid license,*
28 *the court shall enter an injunction restraining such person from such*
29 *unlawful acts.*

30 Sec. 12. K.S.A. 1997 Supp. 65-1912 is hereby amended to read as
31 follows: 65-1912. (a) Any person desiring to practice as an apprentice shall
32 be required to pay to the board the fee required pursuant to K.S.A. 65-
33 1904 and amendments thereto and obtain an apprentice license from the
34 board. Application for an apprentice license allowing a person to practice
35 in a licensed school shall be submitted to the board not more than 15
36 days after the person's enrollment in the school.

37 (b) (1) An applicant for examination and licensure as a cosmetologist
38 shall be required to have practiced as an apprentice in a licensed school
39 for not less than 1,500 clock hours.

40 (2) An applicant for examination and licensure as an esthetician shall
41 be required to have practiced as an apprentice in a licensed school for
42 not less than 650 clock hours.

43 (3) An applicant for examination and licensure as a manicurist shall

when conducting such inspections

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1 be required to have practiced as an apprentice in a licensed school of
2 cosmetology or nail technology for not less than 350 clock hours.

3 (4) An applicant for examination and licensure as an electrologist shall
4 be required to have practiced as an apprentice in a licensed school of
5 cosmetology or electrology for not less than 500 clock hours or in a li-
6 censed clinic or establishment for not less than 1,000 clock hours of train-
7 ing. The duration of practice as an apprentice in a clinic or establishment
8 must be in the clinic or establishment in which practice was commenced,
9 except that the board may permit, upon written application and for good
10 cause, the transfer of the apprentice to another clinic or establishment
11 for completion of the term of apprenticeship. Any licensed cosmetologist
12 who is practicing electrology in a licensed clinic or establishment on July
13 1, 1987, may apply for and be issued an electrologist's license without
14 examination.

15 (c) No apprentice shall make any charge for the apprentice's services,
16 but a licensed school of cosmetology, electrology or nail technology or a
17 proprietor of a licensed clinic or establishment in which an apprentice of
18 electrology practices may charge for services of the apprentice.

19 (d) For purposes of subsection (b), a person is not required to have
20 practiced as an apprentice continuously or without interruption in ob-
21 taining the required number of hours.

22 Sec. 13. K.S.A. 1997 Supp. 74-2701 is hereby amended to read as
23 follows: 74-2701. (a) There is hereby created the Kansas state board of
24 cosmetology, which shall be composed of ~~five~~ *seven* members, appointed
25 by the governor, to regulate the practice of the profession of cosmetology
26 in Kansas. Subject to the provisions of K.S.A. 75-4315c and amendments
27 thereto, a member shall be appointed from each congressional district
28 and the remainder from the state at large. Not more than ~~three~~ *four*
29 members shall be of the same political party. ~~Two~~ *Four* members shall
30 be licensed operators of a shop and shall also be registered cosmetologists;
31 ~~two members shall be registered cosmetologists; one member shall be a~~
32 ~~licensed permanent color technician and tattoo artist or a licensed body~~
33 ~~piercer; and one member~~ *two members* shall represent the general public
34 interest, except that no manufacturer, wholesaler or retailer of cosmetic
35 supplies or equipment used by the profession of cosmetology, or any
36 representative of such manufacturer, wholesaler or retailer, shall become
37 a member of the board, ~~nor shall any two members of the board be~~
38 ~~graduates of the same system or school of beauty culture.~~

39 (b) Each member of the board shall serve a term of three years, and
40 until a successor is appointed and qualifies. The board shall annually se-
41 lect a chairperson from its membership.

42 (c) The ~~board of cosmetology~~ *governor* shall appoint an executive
43 director who shall serve at the pleasure of the ~~board~~ *governor*. The ex-

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1 executive director shall also be the treasurer of the board and shall keep a
2 record of the proceedings and perform such other duties as the board
3 shall direct. The executive director shall be a practicing cosmetologist and
4 have the same educational qualifications which are required of an instructor
5 of cosmetology.

6 (d) When a vacancy occurs by death or resignation, appointees to the
7 board shall have the prescribed qualifications. All vacancies in the board
8 shall be filled by the governor for the unexpired terms. The members of
9 the board shall take the oath of office prescribed for public officers before
10 entering upon the discharge of their duties.

11 (e) The board of cosmetology shall have an advisory member appointed
12 by the governor who shall be qualified in the area of permanent
13 color technology and tattooing or in the area of body piercing. Such member
14 shall serve for a term of three years and until a successor is appointed
15 and qualified. The advisory member may attend board meetings, but shall
16 not be a voting member of the board.

17 Sec. 14. K.S.A. 74-2703 is hereby amended to read as follows: 74-
18 2703. It shall be the duty of such board to meet at least twice each year,
19 and at such times and places as it may deem advisable, and shall at such
20 times hold examinations of such applicants as shall have applied for registration
21 licenses.

22 Sec. 15. K.S.A. 74-2704 is hereby amended to read as follows: 74-
23 2704. All fees and payments required to be paid by applicants for examinations
24 or licenses, shall be paid to the executive director of the Kansas
25 state board of cosmetology or the board's designee. The executive director,
26 or the board's designee, shall remit all moneys received by or for him
27 or her from fees, charges or penalties to the state treasurer at least
28 monthly. Upon receipt of any such remittance the state treasurer shall
29 deposit the entire amount thereof in the state treasury. Twenty percent
30 (20%) of each such deposit shall be credited to the state general fund
31 and the balance shall be credited to the cosmetology fee fund. All expenditures
32 from such fund shall be made in accordance with appropriation
33 acts upon warrants of the director of accounts and reports issued
34 pursuant to vouchers approved by the executive director or by a person
35 or persons designated by him or her the board.

7-20

Sec. 16 K.S.A. 65-1827 is hereby amended to read as follows: 65-1827. ~~Any member of the board~~ *The secretary of health and environment, or any employee designated by the secretary for the this purpose, shall have access to and may enter at all reasonable hours all places where barbering is being carried on. Any member of the board The secretary of health and environment or any such designated employee also shall have power to inspect all books, papers, records or documents in any barber shop within the state for the purpose of ascertaining facts to enable the board to administer this act.*

Sec. 17 K.S.A. 1997 Supp. 65-1948 is hereby amended to read as follows: 65-1948. The powers and duties of the board as related to this act are as follows:

- (a) To authorize all disbursements necessary to carry out the provisions of this act;
- (b) to determine training and experience requirements for taking the examination and to supervise and administer examinations to test the knowledge of applicants for licensure;
- (c) to license persons who apply to the board and who have qualified to practice tattooing or body piercing;
- (d) to rent facilities when necessary to carry out the examination of applicants for licensure;
- (e) to renew licenses;
- (f) to suspend or revoke licenses or place licensees on probation in the manner provided by this act;
- (g) to appoint representatives to conduct or supervise the examination of applicants for licensure;
- (h) to designate the time and place for examining applicants for licensure;
- (i) ~~to provide for the secretary of health and environment to carry out, together with the department or separately,~~ *to provide for the secretary of health and environment to carry out,* the periodic inspection of facilities of persons who are licensed to practice tattooing or body piercing;
- (j) to issue a tattoo facility license to qualified applicants upon compliance with this act;
- (k) to issue a body piercing facility license to qualified applicants upon compliance with this act; and
- (l) to appoint or employ subordinate employees.

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Sec. 18 K.S.A. 74-1806 is hereby amended to read as follows: 74-1806. (a) The *Kansas board of barbering* shall meet immediately after appointment and determine the policies of the board and may conduct any business that may be before such board. Thereafter, the board shall meet as required by law, at times designated by the board and on the call of the administrative officer. The board shall keep a record of all its proceedings and a register of all applicants for licensure and all licensees.

(b) Members of the *Kansas board of barbering* attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(c) The board shall adopt rules and regulations for the purpose of carrying out the provisions of this act.

(d) The administrative officer, with the approval of the board, shall have authority to employ ~~inspectors and office personnel~~ as may be deemed necessary to administer this act; and shall provide and maintain

offices. ~~The inspectors so appointed shall perform all of the inspection duties of the board.~~ All employees of the board shall be within the classified service of the Kansas civil service act, with the exception of the administrative officer, who shall be in the unclassified service.

(e) *The secretary of health and environment shall conduct all inspections for the Kansas board of barbering as authorized or prescribed by statutes administered by the Kansas board of barbering, upon the request of the Kansas board of barbering and in accordance with such request. To the extent practicable, the secretary of health and environment shall coordinate and conduct inspections of places that are inspected for the Kansas board of barbering at the same times as inspections of such places conducted pursuant to K.S.A. 65-173 and amendments thereto. The secretary of health and environment and the Kansas board of barbering shall advise and consult regularly and may enter into such agreements as may be required in order to effectuate the orderly and effective performance of inspections by the secretary of health and environment for the Kansas board of barbering.*

Sec. 19 K.S.A. 74-1807 is hereby amended to read as follows: 74-1807. Upon presentation of proper credentials, ~~any member of the board, the administrative officer or the board's~~ the secretary of health and environment or the secretary's inspectors shall have the authority to enter, inspect and enforce rules and regulations pertaining to barber shops, barber schools or barber colleges at any time during business hours.

Sec. 20 K.S.A. 74-2702 is hereby amended to read as follows: 74-2702. (a) The Kansas state board of cosmetology shall meet immediately after appointment and determine policies of the board and conduct any business that may be before such board, and said officers thereafter shall meet as required by law, at times designated by the board and shall also meet on the call of the chairman chairperson. The executive director shall not be entitled to vote at such meetings. ~~Said~~ The board shall keep a record of its proceedings and a register of the names of applicants for licenses, showing whether the licenses were granted or refused. ~~Said~~ The board shall have a seal; and Each of said members of said member of the board shall have the authority and be empowered, for all purposes and duties of said the board in connection therewith, to administer oaths. The chairman With the approval of the board shall have the power to appoint inspectors who shall perform all of the inspection duties of the board and the chairperson may employ such additional help as may in his or her judgment be necessary, in the judgment of the chairperson, to properly carry out the provisions of this act the laws administered by the board.

(b) All employees appointed as herein authorized, except the executive director, shall be within the classified service of the Kansas civil service act. The executive director shall be within the unclassified service of the Kansas civil service act and shall receive an annual salary to be fixed by the board, with the approval of the state finance council governor.

(c) Members of the Kansas state board of cosmetology attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223 and amendments thereto.

(d) The secretary of health and environment shall conduct all inspections for the Kansas state board of cosmetology as authorized or prescribed by statutes administered by the Kansas state board of cosmetology, upon the request of the Kansas state board of cosmetology and in accordance with such request. To the extent practicable, the secretary of health and environment shall coordinate and conduct inspections of places that are inspected for the Kansas state board of cosmetology at the same times as inspections of such places conducted pursuant to K.S.A. 65-173 and amendments thereto. The secretary of health and environment and the Kansas state board of cosmetology shall advise and consult regularly and may enter into such agreements as may be required in order to effectuate the orderly and effective performance of inspections by the secretary of health and environment for the Kansas state board of cosmetology.

TESTIMONY ON SUBSTITUTE FOR HOUSE BILL 2609
BEFORE THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

MARY LOU DAVIS
ADMINISTRATIVE OFFICER, KANSAS STATE BOARD OF COSMETOLOGY
MARCH 20, 1998

Madam Chairperson and members of the committee, thank you for the opportunity to appear before you today to discuss Substitute for House Bill 2609.

Since the negative Post Audit Report in June of last year, the Board has diligently worked to address the recommendations outlined by LPA. This bill addresses several of those recommendations and is the culmination of many hours of work and discussion between the Board of Cosmetology and its staff, the Board's legal advisor at the Attorney General's office and with members of the legislature.

The Board considers the following provisions critically important to its ability to effectively, and efficiently regulate the industries under its jurisdiction:

1. Increase the Board from six to seven members. A change in the Board representation will reflect those professions we regulate.

2. Permit the Board to establish a simplified license renewal system which would allow a licensed instructor to renew her instructor's license at the same time she renews her cosmetology (or other practice) license. As now structured, the procedure and process to license an individual in more than one profession places a complicated burden on the licensee.

To simplify this one licensing process would facilitate a more timely response for dual license renewals.

3. Provide the Board with greater flexibility in relation to persons who violate the cosmetology practice act by expanding the Board's enforcement authority to include the ability to assess civil fines, issue cease and desist orders, and seek court injunctions.

At present, we can only suspend or revoke a license for violations. This is frequently too severe, and thus avoided, or is inapplicable when the violation involves unlicensed practice. Many agencies already have authority to levy fines, and our agency presently has this authority over the tattoo, permanent color and body piercers we regulate.

This provision would make uniform our ability over all the professions we regulate. If the Board is going to effectively enforce its laws, it must have the tools with which to accomplish that obligation.

4. Make clear that it is a violation of the law to own or operate an unlicensed cosmetology school or salon, and specifically prohibit persons from working in an unlicensed school or salon. Unlicensed operations continue to be a problem. With this clarification, coupled with the provision to levy civil fines, we can begin to seriously address this problem - and better protect the general public.

5. Establish equality between Kansas law and out-of-state applicants in relation to license requirements. Under present law, it is easier for an out-of-state applicant to get a license in Kansas under reciprocity than it is for someone to get initially licensed in Kansas.

6. We are totally fee funded, and these industries want us to do a better job, but we need adequate money to accomplish our tasks.

Currently fees are \$30 per biennial licensure for cosmetologists. Present statute allows for a maximum fee of \$60. The House, through an amendment to Substitute HB 2609 has enacted a \$40 fee. The Board requests that the maximum level remain at the \$60 level with the Board continuing to monitor the fee structure and increase the fee should expenditures warrant.

7. Remove the statutory requirement that the Executive Director of our agency be a licensed cosmetologist. This requirement restricts the pool of applicants from whom we can choose a Director. This agency would be well served by someone who understands administration, supervision, governmental processes, budget and legislative procedures.

8. The Board currently supports the provision within this bill which would eliminate the continuing education requirement for cosmetologists.

These statutory changes will facilitate this agency's efforts to effectively meet its obligations to its licensees and the public. Numerous problems identified in the LPA Report were caused by a severe lack of resources. With adequate resources, coupled with the provisions outlined in Substitute for House Bill 2609, the Kansas State Board of Cosmetology will become an efficient, effective agency on behalf of the people of the State of Kansas. We ask that you act favorably on Substitute for HB 2609.

Public Health and Welfare Committee
Substitute for House Bill No. 2609
March 20, 1998

Respectfully Submitted by Linda Hodgson

Good morning. I am testifying today in favor of the Substitute for House Bill No. 2609.

I have been a practicing, licensed cosmetologist in the State of Kansas since 1971 – 27 years. Except for time off to have two sons, I have worked full time in my own salon.

There are many items in the bill that would correct some major problems that cosmetologists have encountered in the last few years. First and foremost, are the 20 hours of continuing education we were required to receive before we could renew our licenses. This turned out to be a total failure. The only “people” who benefited from the law were the suppliers. They sold tickets by the thousands and then offered us little more than “Vegas-like” style shows. My own experience at a seminar was in Wichita where I was to receive (in two days) 16 hours of continuing education. I walked in at 8:00 a.m., signed my name and social security number and at that time received my certificate for eight hours. If I had wanted to, I could have walked out and gone shopping for the day – many did! The next day the same procedure and yet no classes were held until 11:00 a.m. A big arena was opened where we could shop and browse. This substitute bill includes a reinstatement clause that would definitely benefit many stylists who were negatively affected by the continuing education hours.

For the most part, my belief is that this is a self-regulated profession. The basics are taught in cosmetology school. In my opinion, being a successful hairstylist is creative ability that cannot be taught only enhanced by your own desire to improve your art.

This bill also gives the governor the responsibility of appointing the executive director rather than being hired by the board of cosmetology. The director does not necessarily have to be a cosmetologist, which I definitely agree with. In my opinion, the director should be a detail-oriented manager and a fiscal officer, a cosmetologist might not have those certain abilities. According to the substitute bill, four members of the board of cosmetology must be licensed cosmetologists, thus the reason that the director does not have to be.

The inspectors employed by the board have always been very professional and conscientious – aware that their job protects the health and welfare of the public. And the cosmetologists, I might add. This substitute bill states that the board shall provide training to the inspectors to enable the

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inspectors to give current information to schools, salons and clinic personnel regarding requirements of statutes and regulations. This puts the responsibility where it belongs. Ultimately, the seven-member board appointed by the governor must bring back the integrity that was once associated with the profession of cosmetology in the State of Kansas.

Finally, my greatest concern is that no action will be taken on this substitute bill, so I ask you to move this bill out of committee and into the Senate for a vote. I know that you are all very busy and have great concerns for Kansans, but I urge you to consider this bill and vote for it in its entirety.

Thank you.

Linda R. Hodgson
5937 S.W. 57th Street
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(785) 862-1923

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WE, AT ABC TEAM SYSTEMS ARE A LIFETIME LEARNING GROUP OF EDUCATORS THAT PROVIDE INFORMATION ON THE MEDICAL ASPECTS OF INFECTION, BACTERIA, & VIRUS CONTROL AND PREVENTION; AS WELL AS, CHEMICAL & ELECTRICAL SAFETY, AND SAFETY IN THE WORKPLACE DERIVED FROM OSHA EXPERTS.

ABC TEAM SYSTEMS PROVIDES OBTAINABLE AND AFFORDABLE INFORMATION IN THE FORM OF SEMINARS AND INDEPENDENT STUDY PACKETS. THE EASE OF OBTAINING EDUCATIONAL INFORMATION VIA MAIL HAS BEEN ESPECIALLY USEFUL TO CLIENTS WHO LIVE IN REMOTE AREAS OR WHO HAVE TIME CONSTRAINTS THAT PREVENT THEM FROM ATTENDING A SEMINAR. OUR CLIENTS RECEIVE USEFUL & PRACTICAL INFORMATION WITHOUT THE ASPECT OF PRODUCT LINE ENDORSEMENTS. THIS INFORMATION CAN BE PUT TO DIRECT USE IN THEIR BUSINESS.

THE STATE OF KANSAS REQUIRES RENEWALS OF LICENSES FOR DRIVING, WELL-DRILLERS, NURSES, INSURANCE AGENTS, TEACHERS, ETC. THESE REQUIREMENTS ARE FOR THE PROTECTION OF THE CLIENT/CONSUMER AS WELL AS THE PROFESSIONAL. SOME CONCERNS FOR THE COSMETOLOGY FIELD INCLUDE CHEMICAL & ELECTRICAL BURNS, DAMAGED & BROKEN HAIR, PUNCTURES, BLOOD SPILLS, & MIS-INFORMATION GIVEN TO THE PROFESSIONAL.

IN CONCLUSION, LIFETIME LEARNING ENABLES THOSE SEEKING LICENSE RENEWALS TO BE KEPT ABREAST OF IMPROVEMENTS, CHANGES, AND NEW DEVELOPMENTS, TECHNIQUES, & TECHNOLOGY IN THEIR RESPECTIVE FIELDS. LIFETIME LEARNING IS NEEDED AND SHOULD NOT BE REMOVED FROM THIS BILL.

MAX Grier

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NATIONAL COSMETOLOGY ASSOCIATION OF KANSAS, INC.

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March 20, 1998

FIRST VICE PRESIDENT

Terry Chrisco
7325 E. Kellogg
Wichita, Kansas 67207
H. (316) 681-1779
W. (316) 689-8891

Ladies & Gentlemen:

My name is Sharan Bailey from Hutchinson, Kansas. I have been a working cosmetologist for 27 years and a salon owner for 10 years. I have been a member of the National Cosmetology Association for 25 years and am currently serving as the President of the National Cosmetology Association of Kansas. NCA is the oldest professional organization in the United States representing all cosmetologists, estheticians, nail technicians, men's stylists, and electrologists in the country since 1921. Education for the cosmetologist in all aspects of our industry has always been the primary concern of NCA on the national, state and local areas.

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I am speaking today in regards to Bill Number 2609, specifically in regard to the elimination of the continuing education requirements for the renewal of the cosmetology, nail technician, esthetician and electrologist licenses.

In today's world, continuing education on Health, Sanitation and Chemical Control in the cosmetology field is important to the health and safety of the consumer as well as the cosmetologist. The diseases that are so easily transmitted from person to person are frightening to say the least, but can be controlled with the proper knowledge. The chemicals used in the cosmetology industry can be lethal without the proper knowledge and implementation to the consumer as well as the cosmetologist.

SECRETARY

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Education is being encouraged and stressed as being important to the youth of this country. What kind of signals are we giving them if we as adults do not find it necessary to require continuing education for cosmetologists or any other professional? Education should be life long learning. At the end of the day, if I haven't learned at least one new idea, it hasn't been a good day.

TREASURER

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Sandra Rush
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Thank you for allowing me to speak on behalf of all the cosmetologists needing life long learning. Our goal is to promote and upgrade the cosmetology industry through education. *Please defeat Bill Number 2609.*

IMMEDIATE PAST PRESIDENT

Terry Chrisco
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Thank you.

KEC CHAIRMAN

Cathy Ferguson
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Sharan Bailey, Consumer, Cosmetologist and
President of NCA of Kansas

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TESTIMONY
by
Pam Ahring
Licensed Cosmetologist of Garnett, KS 66032

Before the
SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
Regarding HB 2609
March 20, 1998

Good morning Madam Chairperson and members of the Committee. Thank you for the opportunity to appear before you today with my comments on HB 2609. My name is Pam Ahring. I am a licensed cosmetologist in Garnett, KS. I have been a cosmetologist for 31 years, and I have owned my own shop for 30 years. I want to address one of your main concerns -- the health and safety of the public. I have always believed our profession was one of self-regulation. Those of us who take the time to find out about sanitation and proper safety and care of our tools have always done this in the past on our own. Continuing education will not make someone do it if they don't care about it anyway. Making something mandatory does not make people care.

The bill has included continuing education hours for instructors. This is a level where I believe it might help. These are the teachers for the new student of our profession. I am sure you have all heard of the audit of the Board of Cosmetology. It uncovered very serious problems. I believe criminal action should be taken against some of the board members. The new bill allows for the Governor to appoint 7 board members one of which will be the Director. The board then hires and trains the inspectors to provide current information to schools, salons and clinic personnel regarding requirements of applicable statutes and regulations. All the inspectors that I have had in my salon have been very professional, helpful and fair. The sign I am showing you is one that is in every salon. It is very easy for clients to contact the Board of Cosmetology if they have any complaints. The health and safety problems of our profession will be better handled by these trained inspectors rather than the mandatory hours.

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I have followed this bill through the House committees where they worked very hard to make it fair to the hard working professionals and fair to the public. Our present laws need to be changed. They have been a real hardship on a lot of licensed professionals. Please address and support this bill in its entirety.

I again thank you for your time and attention. I will be happy to respond to any questions you may have at this time.

Pam Ahring

**TESTIMONY BEFORE THE
SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
ON SUBSTITUTE FOR HOUSE BILL 2609**

Randy Tongier, Audit Manager
Legislative Division of Post Audit
March 20, 1998

Madame Chairperson and members of the Committee, thank you for the opportunity to provide comments on Substitute for House Bill 2609. This bill deals with the Board of Cosmetology and the practices it regulates. The bill includes several provisions from House Bill 2760, a bill introduced by the Legislative Post Audit Committee, and one of three separate bills addressing the Board of Cosmetology. The Post Audit Committee's bill was based on a performance audit of the Board, issued in June 1997, and follow-up discussion on that audit by a Post Audit Committee Subcommittee on Regulatory Agencies.

Substitute for House Bill 2609 does the following three things that are consistent with the Post Audit Committee bill:

- has the Governor appoint the Executive Director, rather than the Board
- removes the requirement that the Executive Director be a practicing cosmetologist
- adds a second Board member representing the general public

The Committee thought these changes would improve the Board's accountability to the public.

The Post Audit Committee bill would have done the following two things that aren't included in Substitute for House Bill 2609:

- transferred the responsibility for inspecting cosmetology establishments from the Board of Cosmetology to the Department of Health and Environment (which establishes sanitation standards for these establishments)
- transferred the responsibility for inspecting barbering establishments from the Board of Barbering to the Department of Health and Environment (which establishes sanitation standards for these establishments)

The Committee thought these changes would result in a more independent and cost-effective inspection process.

That concludes my comments. I would be happy to try to answer any questions Committee members may have.

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