

Approved: 2-7-00  
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chairperson Sandy Praeger at 10:00 a.m. on February 3, 2000 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Norman Furse, Revisor of Statutes  
Lisa Montgomery, Revisor of Statutes  
Emalene Correll, Legislative Research Department  
JoAnn Bunten, Committee Secretary

Conferees appearing before the committee:

Dr. Kelly Douglass, President, Kansas Dental Board  
Kevin Robertson, Executive Director, Kansas Dental Association  
Teresa Higgins, President, Kansas Dental Hygienists Association  
Debra Jennings, Braiden Maidens  
Bob L. Corkins, Executive Director, Kansas Public Policy Institute  
Dr. Richard D. Iliff, American Academy of Family Physicians

Others attending: See attached list

**Hearing on: SB 510 – Procedure for licensure under the dental practices act**

Dr. Kelly Douglass, President of the Kansas Dental Board, appeared before the Committee in support of **SB 510** which would clarify that the Dental Practices Act does not apply to dental and hygiene students and instructors in an approved school or course of instruction. The bill also adds limited liability companies to the definition of a professional corporation as dental practices that may use trade names. Dr. Douglass also pointed out that other changes in the bill addressed the need to allow reinstatement of a license as noted in his written testimony. (Attachment 1) Also speaking in support of the bill was Kevin Robertson, Kansas Dental Association. (Attachment 2)

Speaking in opposition to specific portions of the bill was Teresa Higgins, President of the Kansas Dental Hygienists Association. She noted they have concerns with new language on page 4, lines 17 through 22 of the bill and question why the dental board is addressing dental students when there is no school for dental students in Kansas. Ms. Higgins offered new language for this section of the bill as noted in her written testimony. (Attachment 3)

The Chair suggested the Dental Hygienists and Kansas Dental Board confer and attempt to reach a compromise on language for portions of the bill in disagreement and bring the compromise language back to the Committee. The Chair also noted that the Committee would be holding informal hearings on dental access issues in the following weeks.

**Hearing on: SB 513 – Cosmetology; braiding not considered cosmetology**

Debra Jennings, Braiden Maidens, appeared before the Committee in support of **SB 513**. The bill would define the braiding of hair and exclude braiding from the list of professions regulated by the Board of Cosmetology. Ms. Jennings gave a brief history of the Braiden Maidens, hair braiding at the Kansas City Renaissance Festival, confrontation with the Board of Cosmetology, and the circumstances that lead them to justify support of the bill as noted in her written testimony. (Attachment 4)

Bob Corkins, President and Executive Director of the Kansas Public Policy Institute, expressed his support for **SB 513**, and noted that the Board of Cosmetology may have been created with good intentions to protect the people of Kansas, but the board has evolved, however, into a bureaucratic conglomeration of rules and regulations that go far beyond protecting public health and safety as noted in his written testimony. (Attachment 5) Also speaking in support of the bill was Dr. Richard Iliff, American Academy of Family Physicians. (Attachment 6) Opponents of the bill will be heard on February 4, 2000.

**Adjournment**

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

The next meeting is scheduled for February 4, 2000.

**SENATE PUBLIC HEALTH AND WELFARE COMMITTEE  
GUEST LIST**

DATE: 2-3-00

NAME	REPRESENTING
Jack Hawn	KPER5
Mary Lee Davis	Ks. Bd of Cosmetology
SUSAN STARTUP	Ks. Bd. of Cosmetology
Walter Hawn	Ks Bd of Cosmetology
Charlotte Repp	Community College
Joe Hancock	Superior School Olathe KS
Gary Jennings	Braiden Maidens
Toby Jennings	Braiden Maidens
Ann Lavaty	Braiden Maidens
Rachel Fyle	(Public)
Teresa Higgins RPA	Kansas Dental Hygienists' Assoc.
KEN VILEHAY	KDA
Phil Zivnuska	KDA
Joe Bales	KDA
Ed L. Landrum	KDA
Kelly D. Deigas, DDS, MS	Kansas Dental Board
Jerri Freed	KS Dental Bd
Jeff Gamber	United Methodist Health Ministry Fund
Kelly B. Dwyer	KDA





February 3, 2000

Madam Chair and members of the Committee, I am Dr. Kelly Douglass, a periodontist practicing here in Topeka and President of the Kansas Dental Board. I am speaking today on behalf of the Dental Board in support of Senate Bill 510 as introduced to your committee.

The Dental Board voted unanimously to introduce and support the changes outlined in Senate Bill 510. Most of the changes proposed are simple housekeeping measures that were made by the Reviser's office to bring clarity and consistency to the dental statutes.

✓ Our initial objective was to change areas in our statutes that address the license certificates we issue and to include language for Limited Liability Companies (LLC's) that closely follows that of Corporations. With the increase in size of the Dental Board, from recent legislative change, we felt it was necessary to alter the requirement in the number of member signatures for license certificates. We also have been receiving inquiries from dentists wishing to establish LLC's and our current statutes do not have provisions allowing this.

During this process we also determined that a change was needed in the exemption of the definition of practicing dentistry. Currently it appears that all students of dental hygiene and dental assisting, being trained in Kansas, are practicing in violation of the dental practice act when they are learning while working on patients under instructor supervision. Our statutes require either completion of an approved course or a license from our body before some clinical procedures can be legally accomplished. Without this proposed change, there is no exemption allowing these students, or testing individuals, to carry out their necessary duties. As our statutes stand today, all supervising dentists and hygienists place their licenses in jeopardy if they allow students to perform clinical skills necessary to be adequately trained.

The fourth substantive change we requested was to address a need to allow the reinstatement of a license. Currently that authority is ambiguous, at best.

Once again, I express my support in the legislative changes in the dental statutes before you, and I ask that you support and pass them. I would be happy to address any questions you might have at this time.

Thank you for your consideration.

Senate Public Health & Welfare  
Date: 2-3-00  
Attachment No. 1





KANSAS DENTAL ASSOCIATION

Date: February 3, 2000

To: Senate Committee on Public Health and Welfare

From: Kevin J. Robertson, CAE  
Executive Director

RE: SB 510

Madame Chair and members of the Committee, I am Kevin Robertson Executive Director of the Kansas Dental Association, which consists of approximately 1,000 members, or 80% of Kansas' practicing dentists.

The KDA supports the provisions contained in SB 510 as presented by the Kansas Dental Board. In short, SB 510 contains simple clean up and administrative amendments to the Dental Practice Act and are acceptable to the KDA. and its members.

Thank you for the opportunity to appear before you today, if you have any questions I will be happy to answer them at this time.

5200 Huntoon  
Topeka, Kansas 66604-2398  
Phone: 785-272-7360  
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Senate Public Health & Welfare  
Date: 2-3-00  
Attachment No. 2



February 3, 2000

Testimony presented to the Senate Committee on Public Health and Welfare in regard to SB 510.

Senator Praeger and Committee members,

My name is Teresa Higgins, RDH. I am President of the Kansas Dental Hygienists' Association and come before you today to speak on their behalf. We are opposing only a specific portion of this bill, and not the bill in its entirety. The KDHA is opposing on page 4, the addition of lines 17 through 22.

We are not totally sure of the intent of the Kansas Dental Board in regard to this section. It appears that the dental board has found an over site within the current statute. By virtue of the addition of this section, dental, dental hygiene and dental assisting students would no longer be in violation of the existing statute while performing dental services specific to their expertise prior to obtaining a license. The KDHA has several concerns with the language of this portion of the bill. First, I certainly question why the dental board is addressing dental students when there is no school for dental students in Kansas.

Second, I question the recognition of the "practice of dental assisting" when they are not recognized as a "practice" in the statute currently. It seems that they may be referring to language on page 4 line 2 when it talks about individuals who are not licensed but are able to coronal scale teeth. I feel that this portion in regard to dental assistants was added to cover up another over site of the dental board by its approval of Concorde Career Institute. In prior discussions with the dental board, KDHA has questioned the dental board in regard to the course meeting statutory requirements. We feel that this new language will be a way to get around the statute as it currently stands. For instance, this new wording is so vague that it could be interpreted to mean simply this: as long as you are a dental assisting student in this course approved by the board, you could legally work in a dental office scaling on patients teeth prior to ever completing the course. This could be compared to dental and dental hygiene students as well. They could sharpen their skills during summer break by working in a dental office under the supervision of a licensed dentist acting as their "evaluator". I question what it takes to constitute being an "evaluator" other than a licensed dentist or licensed dental hygienist.

Third, I question two areas which are important to include but were not addressed. One, there are no specific limitations as to where any of these students can "practice" their skills. Skills should be practiced and learned under the direct supervision of clinical instructors within school settings. They should not have the opportunity to practice on unknowing patients within dental office settings that are not specific facilities operated or overseen by the program. Two, it should be noted that the student receives no remuneration for the services they provide.

And lastly, I question the clarity of the entire statement. There are already too many areas of the current statute that are unclear and are therefore left up to the dental board to determine just exactly what it means. The problem with this is as the members of the board change, the way the

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Legislative Chair  
1334 N. Coach House  
Wichita, KS 67235

bdp

Senate Public Health & Welfare  
Date: 2-3-00  
Attachment No. 3

statute is interpreted also changes. This eventually leads to the loss of the original intent of the statute.

The following is a suggestion for language to replace lines 17 through 22 on page 4:

*The practice of dentistry by a dental student, the practice of dental hygiene by a dental hygiene student or the performance of duties permitted under this chapter to unlicensed persons by a dental assisting student, provided that:*

- the procedures are performed as part of the educational program of an ADA commission on dental accreditation accredited dental, dental hygiene or dental assisting program;*
- in a facility operated or overseen by the program;*
- the student is under the supervision of a licensed faculty member of the program; and*
- the student receives no remuneration for the services.*

I know that you will look carefully at our recommendation for new language. KDHA feels that it is important that this proposed statute be as clear as possible as to protect the citizens of Kansas.

Thank you for allowing me to come before you today. I stand for questions.

Dear Kansas Dental Board,

On behalf of the Kansas Dental Hygienists' Association, I request that the board rescind its July 16, 1999 approval of the scaling course for dental assistants at Concorde Career Institute in Kansas City, Missouri until the course content is revised to provide for appropriate clinical instruction. Although we have serious reservations about a Kansas board approving a course in Missouri, where scaling by dental assistants is illegal under any circumstances, we will refrain from that objection until a later time. My intentions for this letter are to explain that "on-the-job" training provisions in the recently approved Missouri scaling course circumvent both the spirit and the letter of Kansas law.

When the 1998 Legislature agreed to a pilot project to permit dental assistants to scale teeth, it did so only after much debate about public safety. As a result, the Legislature also required any assistant wishing to scale to successfully complete a prior course which is "consistent with American dental association accreditation standards and includes, but is not limited to adequate instruction on scaling the teeth..." (65-1423(h)(5)(B) K.S.A 1999).

"On-the-job" training is not consistent with the clinical training provided in reputable, accredited dental assisting programs, which teach clinical skills in an orderly, stepped and faculty-supervised process. In accredited programs students receive preclinical instruction from the faculty. Next they move into basic clinical instruction provided by faculty members. Finally, they may be exposed to a series of planned clinical experiences in extramural facilities.

Training by private office dentists does not meet the criteria for either faculty or extramural instruction set forth in the ADA CODA standards for dental assisting schools. Standard 7 requires that all "dental assisting faculty members must have background in and current knowledge of the specific subjects they are teaching, and educational methodology. Clinical instructors are required to be certified by the Dental Assisting National Board.

On the other hand, in-office training does not meet standards for extramural enrichment experiences. Standard 5.4.5 unequivocally states that "clinical assignments must be designed to perfect students' competence in performing basic dental assisting functions, rather than to provide basic instruction. Moreover, the dental assisting faculty "must plan, supervise and evaluate" these experiences insuring that there will be objective performance measurements in place. Standard 5.4.5.1 requires that a faculty member must "visit each facility regularly to assess each students progress.

From a public policy point of view, on the job training circumvents the legislative intent to protect patients by insuring that students have completed a course before treating private patients at large. "On-the-job" training not only subjects an unsuspecting public at large to treatment by trainees but allows them to be charged for it as well.

"On-the-job" training does not provide for a standardized program of excellence or even assure achievement of minimum standards. It does not provide a standard to protect the consumer. Lastly, it does not provide policy makers with a mechanism to assure the public's interest is protected because there is no system currently established to provide an objective assessment of how effective "on-the-job" training programs are.

I repeat our call for the Kansas Dental Board to rescind its approval of the Missouri scaling course. I expect you will give this matter your prompt attention and look forward to your response in writing at your earliest possible convenience.

Respectfully submitted,

Connie Hiatt  
President, KDHA

cc:

Governor  
All the members of the legislature  
Atty.. general  
Your attorneys  
Your lobbyist  
ADHA President



LAW OFFICES OF  
**FRIEDEN, HAYNES & FORBES**  
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

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\* ADMITTED IN KANSAS & MISSOURI  
ALL OTHERS ADMITTED IN KANSAS

December 30, 1999



Connie Hiatt R.D.H., B.S.  
President KDHA  
300 West 8<sup>th</sup>  
Topeka, Kansas 66601

RE: Concorde Career Institute

Dear Ms. Hiatt:

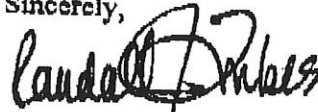
As counsel for the Kansas Dental Board ("Board"), I have been asked to draft the Board's response to your inquiry regarding Concorde Career Institute ("Concorde"). As you are aware, on July 16, 1999, a majority of the Board voted to approve Concorde's program to instruct dental assistants in coronal scaling. The program consists of 90 hours including 30 hours of lecture over various topics and 60 hours of laboratory work, of which 10 is in instrumentation and 32 is in scaling. The laboratory experience is taught as part of the Concorde curriculum. Clinical experience is not provided as part of the program, but completion of the program requires the student to pass a clinical outcome assessment examination administered by the student's sponsoring dentist. Documents describing this examination and its requirements are attached.

The Board understands the question raised by the Kansas Dental Hygienist's Association to be whether a training course such as is contemplated by K.S.A. 65-1423 (h)(5) must include clinical experience in the nature of coronal scaling on actual patients during the teaching phase and prior to the outcome assessment examination. The answer is no. The specific requirements for such a course are found at K.A.R. 71-6-3. This regulation requires laboratory experience in coronal scaling and coronal polishing, but does not require clinical experience. The only "clinical" requirement is an "... outcome assessment examination that demonstrates that the student has obtained technical and clinical competency in the coronal scaling of teeth ..." K.A.R. 71-6-3 (a) (5). The majority of the Board feels Concorde's program meets this requirement. The majority of the Board feels that licensed and practicing dentists are more than qualified to make the determination of technical and clinical competency in this area.

The Board again looked at the Concorde program after receipt of your letter and again a majority of the Board members felt that it met the requirements for such programs.

If there are further questions feel free to contact me.

Sincerely,



Randall J. Forbes  
FRIEDEN, HAYNES & FORBES

cc: Ed O'Malley  
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Kelly Douglass, D.D.S., M.S.  
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Jerri Freed  
Administrative Director  
KANSAS DENTAL BOARD  
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Madame Chairperson, and members of the committee.  
I'm Debra Jennings, and I and Wendy Moody, my partner in Braiden Maidens, thank you for the opportunity to speak to you in support of Bill 513.. This bill is the product of an almost two year struggle between the Braiden Maidens and The State Board of Cosmetology. We thank Representative Tom Sloan, and Senator Sandra Praeger for introducing and supporting this legislation.

I'll begin with a brief history of the Braiden Maidens and hair braiding at The Kansas City Renaissance Festival, describe our process and sanitation methods, and finally, tell you how braiding hair has led us to appear before your committee.

Wendy and I purchased Fantasy Hair Weaving from Ms. Suzanne Haney 5 years ago. We changed the name of

the business to Braiden Maidens. Ms. Haney had operated the business at The Kansas City Renaissance Festival for 18 years. Wendy has braided at he Festival for 11 years and I have braided for 8 years. Tens of thousands of heads have been braided at the Festival over these 23 years and there has not been one complaint to the braiders, or Festival management concerning the finished hair weave, the process, or sanitation methods.

What do we do? We braid hair. We weave hair. We do 3, 5, 7, and , 9 strand braids. We finish the braid by placing silk flowers in the hair. We do not wash hair. We do not cut hair. We do not color or perm hair. We braid hair. It is a natural process. The only chemical used is Barbicide, in which we soak our combs, and a minimal amount of hair spray.

Sanitation is a concern and a responsibility. We take pride in our practices. And we have improved them over the years. We have now learned to be more careful in our use of bobby pins and rubber bands. We cleanse our hands with an antibacterial gel and Baby Wipes between each braid.. Our combs are fully immersed in a solution of Barbicide and water. Before a customer's hair is woven they are given a sanitized comb with which to comb out their hair. The customer then gives the same comb to the braider to complete the combing out process. Once the hair weave is complete, the comb is returned to the Barbicide solution. We have never received a complaint concerning our sanitary practices from customers. These customers have also included licensed cosmetologists. We have never been cited by the Department of Health for any violations.



So, for 7 weekends, every year, the past 23 years, hair braiding has been happening at the Kansas City Renaissance Festival without incident. For 7 weekends, every year, the past 23 years, the hair braiding booth has been one of the most popular booths in the Festival. For 7 weekends, every year, the past 23 years, hair has been braided, openly, in front of over 100, 000 people a year. Not one complaint. Not one.

That being the case, why are we here? In October of 1998 one licensed cosmetologist filed a complaint with the State Board of Cosmetology alleging that the Braiden Maidens were practicing cosmetology without a license. The Board of Cosmetology chose to pursue the matter, quickly and aggressively. They demanded that the Kansas City Renaissance Festival shut us down. The Festival management refused. As there were only two weeks

remaining in the 1998 show, we were able to complete the show without further incident. However, it was during this time that we had our initial phone contact with Ms. Mary Lou Davis, Executive Director of the State Board of Cosmetology. It was apparent that the State Board of Cosmetology had no intention of compromising or letting the matter drop.

In early March of 1999, The Kansas City Renaissance Festival, Wendy, and myself received a letter dated March 4, 1999 from Mary Lou Davis. The letter stated that upon issuance of the letter we had ten (10) calendar days to respond in writing to allegations that we were providing cosmetology services to the public without a license. Both Wendy and I replied within ten (10) days. The Kansas City Renaissance Festival did not respond. Our response was that we were not providing cosmetology services. We were only

braiding hair. We, in turn, did not request a response from the Board within ten (10) days. That was a mistake.

We did not hear from the State Board of Cosmetology until we received a letter from Mary Lou Davis dated July 19, 1999. There are one hundred twenty nine (129) days between March 12, 1999 and July 19, 1999. That's over four (4) months. In the letter, the Board elected not to fine us for braiding hair the previous year at the Festival, but did make it clear that if we were found practicing cosmetology at the Kansas City Renaissance Festival, or at any other location without a valid license issued by the Board, we would be issued a summary order assessing a fine. However, by July 19, our Festival fees of 1350 dollars had been paid, supplies had been ordered, arrangements had been made. We were in the Festival.

The Festival opened the first weekend of September. Up until 6:00pm of the night before opening day we were not

sure what we were going to do. We had talked with Festival management and legal counsel. There were differing opinions. Some advised us that the Board could indeed fine us, and fine us heavily. Others suggested we open and see what would happen. At around 6:00pm on September 3, we received a call from Scott Mauck, of the Festival, advising us we had been cleared, by someone in the Governor's office, to braid opening weekend. We hoped we could make it through the entire Festival and then work out something with the Board for next year.

On Sunday, September 12, an inspector from the Board arrived at our booth with a camera and tape recorder. Her name was Dixie. She demanded to speak with us. We immediately notified Festival management. Ms. Carrie Shoptaw, General Manager, was soon at our booth. Dixie denied working for the Board. She denied knowing Mary



Lou Davis. She denied knowledge of an executive session of the Board scheduled for Monday, September 13, which we were scheduled to attend via conference call. She did say that if we continued braiding, we would be violating a Kansas Statute, and that we were a threat to the health of the general public.. When asked, she could not name the statute. She said the paper work was in her car and she would not go get it.

On Monday, September 13, the Board met in executive session. We made arrangements to conference call from the Festival office. My husband called Ms. Davis that morning. He asked if the meeting would be recorded. She assured him it would. (later, when he requested minutes of the meeting , he was advised by Ms. Davis by letter that no recordings or minutes of the discussion were made.) The meeting was remarkable. Dixie was there. We were still naive enough to

believe that we could reach some sort of compromise. After Ms. Shoptaw made a statement on our behalf, we remained hopeful that a compromise could be reached. However, a motion to issue a cease and desist order against us was made, seconded, and passed . We hadn't caught our breath when we heard a voice say, " Can't we fine them too? " There was a brief discussion about how many thousands of dollars they were going to fine us before one of the Board members suggested that if we complied with the cease and desist order, that is not braid, that they would not fine us. The Board reached an agreement that fines would not be assessed at this time. The tactics of the Board were now clear.

For the next three weekends we did not braid. However we gathered over 3000 names on petitions. We alerted the news media. We called our State Representatives and State Senators. We made hundreds of phone calls. We found an

attorney willing to represent us. We filed a restraining order against the Board. Our case was heard in Shawnee District Court 4 by Judge Eric Rosen. In conference with attorneys prior to the hearing the cease and desist order of the Board was declared to carry no force of law. The Board can only issue such orders against licensed cosmetologists. If the Board knew this to be the case when they issued the cease and desist order against us then it should be seen as a blatant threat. If they did not know, why didn't they. Judge Rosen did not make a final ruling. He did, however, allow us to braid for the final two weekends of the Festival.

And that brings us to today, and this hearing. I'll conclude now, but I'd like to leave you with the following thoughts.

1 We braid hair. We are not cosmetologists. We do not claim to be cosmetologists. We do not compete with cosmetologists. We provide a different service to a different clientele.

2 The braids we do are not covered in the 1500 hour course required to become a licensed cosmetologist.

3 This is not a public safety or health issue. The Board only considers us a threat to the public health if we are being compensated. They would allow us to braid for free. This is about money. This is about licensing. This is about power and control.

4 The State Board of Cosmetology has been uncompromising, unreasonable, and unprofessional throughout this ordeal. If I treated my customers at my day

job, which is in retail, the way this state agency has treated us, state's constituents, I would not have clientele.

5 We have substantial public support, including cosmetologists. We have gathered over 3000 signatures to petition the state to allow us to continue braiding. Daily we receive inquiries, from friends and strangers alike, as to how the situation is progressing. Everyone we've talked to supports us.

6 Why has the Board of Cosmetology pursued two hair braiders so aggressively? What outcome would justify their pursuit of two hair braiders?

7 If this issue were to be placed before the people of Kansas we have no doubt as to its outcome. Common sense would prevail.



Lastly, and most importantly, I would ask that you pass Senate Bill 513, which would remove hair braiding from the control of the Board of Cosmetology.



# KANSAS PUBLIC POLICY INSTITUTE

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Bob L. Corkins

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George Mason University

Gene W. Wunder, Ph.D.  
Washburn University

February 3, 2000

**Testimony before the Kansas Legislature**  
Senate Committee on Public Health & Welfare  
Re: Board of Cosmetology, hairbraiding

by  
Bob L. Corkins  
KPPI Executive Director

Honorable Chair and Members of the Committee:

My name is Bob Corkins, president and executive director of the Kansas Public Policy Institute. KPPI is a nonpartisan, nonprofit research firm that educates people about free-market economic principles in the context of today's important public policy debates. KPPI was founded in Wichita in 1996, is now based in Topeka, and continues to decline any government funding of our work.

KPPI's direct involvement with the Legislature is minor, but our research into the topic of cosmetology regulations upon hairbraiding warrants my appearance today to explain our reasons for supporting the cause of Debra Jennings and others similarly affected. The proposal before you now would address the plight of hairbraiders, but I will gear my comments to the general issues in question rather than the specific language of any given bill.

Regardless of the intent motivating the 1927 Kansas Legislature to create the Board of Cosmetology, the Board has become a bureaucratic conglomeration of rules and regulations that extend far beyond the Board's mission to protect public health. Mandates by the state have become burdensome and irrelevant, entrepreneurship has been stifled and freedoms have been trampled.

The State claimed that the Jennings and Moody -- the "Braidin' Maidens" -- were illegally operating without cosmetology licenses and were not working in a licensed salon. Braiding hair, as the State defines, is an act of cosmetology, and the braiders were acting as black-market cosmetologists.

This obscure case begs the question of when is government too much government. The Board of Cosmetology's mission is "to regulate the profession of cosmetology, tattooing, and body piercing, including the cosmetology schools and tanning facilities in order to protect the health and safety of the licensees and the general public." But with this recent case and others, one can clearly see that the issue is largely one of protecting economic turf.

As the statutes currently read, if the Maidens had continued braiding hair at the Renaissance Festival for free, they would not have been in violation of the statutes, for the laws only apply if they charge money for their services. What better evidence could there be that the law's real purpose is economic protectionism?

A number of years ago, Monique Landers, then a 15-year-old student in Wichita, opened her own hair-braiding business. While she won an award from the

*(more, ove*

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National Foundation for Teaching Entrepreneurship for her ingenuity, the State quickly shut her down for practicing without a cosmetology license.

According to Monique, "The [Kansas Cosmetology] Board won't let me earn my own money, and won't let kids like me learn how to take care of ourselves. I think owning your own business is a way of being free. If more kids knew they could grow up to be their own boss they would be more responsible and cause less trouble."

If the Board were simply trying to secure health and safety, then Landers could have stayed in business. Many individuals who perform traditional African-styled hair braiding have also run into obstacles in other states.

Cosmetologists are required by law to complete 1,500 hours of education, including classes in "care of hair pieces", "blow dry styling" and "salesmanship." These state-mandated classes go far beyond the Cosmetology Board's mission of protecting health.

It should also be noted that just because someone has a cosmetology license does not ensure customers will be happy with haircuts they receive. A cosmetology license merely means that the beautician has managed to jump through multiple hoops and spent a lot of money while jumping. Kansas statutes dictate that police officers only need 320 hours of training, emergency medical technicians are required to have 90 hours of training, and a hunting license may be obtained after only a 10- or 12-hour course.

A person wanting to become a beautician can expect to pay thousands of dollars for his or her training. Not including books, supplies or enrollment fees, tuition at a Kansas cosmetology school can cost up to \$8,500 -- education at a licensed school that is mandated by the state of Kansas.

In a case similar to those of Jennings and Landers, JoAnne Cornwell, a professor at San Diego State University who practices a form of ethnic hair braiding, was shut down by the California Board of Cosmetology for braiding hair without a license. In Professor Cornwell's case, however, a U.S. District Judge corrected this stifling of freedom when he said that California's requirement of 1,600 hours "may work against the State's professed interest in health and safety."

While on the surface the Cornwell case may sound like a minor victory for hair braiders, it could have truly profound Constitutional implications, for the ruling held that there was no *rational basis* for California's onerous cosmetology regulations. The *rational basis* test is a critical gauge in deciding whether a law complies with the Constitution's Due Process requirement. Historically, the Supreme Court has been extremely liberal in giving state legislatures the benefit of doubt that there is *some good* reason for their enactments. Perhaps now, humble hair braiders can bring some meaningful limit to this presumption.

The Board of Cosmetology may have been created with good intentions, to protect the people of Kansas. The board has evolved, however, into a bureaucratic conglomeration of rules and regulations that go far beyond protecting public health and safety. Cosmetology laws need to be trimmed so that their authority doesn't extend beyond public health issues. The best plan, therefore, would be to give authority back to Kansans by eliminating the 1927-era cosmetology board and getting the government out of its citizens' hair. At a minimum, the immediate plight of Kansas hairbraiders should be corrected as soon as possible.

Thank you for your time and consideration.

# # #



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*Text of Testimony Before the Senate Public Health and Welfare Committee*  
*Thursday, February 3, 2000*

As I am testifying before a committee composed of sensible fellow-citizens, I am going to make the following assertions based on common sense, *sans* medical mumbo-jumbo:

1. Instruction in the proper method of comb-cleaning between consenting clients is more likely to require five minutes than fifteen hundred hours. Likewise, instruction in recognition of lice roaming through, or nits attached to, human hair.
2. If the proper technique is willfully neglected, the cause is likely to be a moral or motivational defect on the part of the operator-- rather than a lack of knowledge.
3. As we have learned for the umpteenth time from the roaches swimming in the soup at the local Evergreen restaurant, legal sanctions are a poor substitute for basic human decency.
4. Regulation by state agencies is most important in professions where the average citizen cannot reasonably be expected to possess the knowledge or experience to adequately judge the quality or safety of a service or product. An average citizen is capable of judging whether a hair braider is using sanitary technique.

As legislators, the problem you face is this: how do you rightly and prudently allow hair braiders at the Renaissance Festival to ply their trade unmolested without setting foot on the slippery slope which would undermine regulation of barbers and beauty operators?

I will leave the answer to that question in your capable hands, for here you are the professional and I the amateur.

## Pediculosis

Roger W. Williams

Pediculosis is a skin infestation caused by blood-sucking lice.

**Etiology**

Three varieties of lice attack man—*Pediculus humanus* var. *capitis* (head louse), *P. humanus* var. *corporis* (body louse), and *Phthirus pubis* (pubic or crab louse) (Fig. 99-1). These dorsoventrally compressed, wingless, oval, grayish insects measure 1 to 4 mm in length, and become reddish when engorged with blood. The thoracic segments are fused and the one-segmented tarsi are fitted with a single prominent claw for clinging to hairs. The body louse is the vector of epidemic typhus, louse-borne relapsing fever, and trench fever.

**Epidemiology**

Both the head louse and the crab louse attach their shiny, operculate eggs (nits) to hairs. The head louse usually attaches to head hairs, although they have been found on other hairy parts; the crab louse usually attaches to pubic and perianal hairs, although they sometimes are associated with the hairs of the head, eyebrows, eyelashes, axillae, breast, and beard. The body louse, more often associated with aged people and those living under congested conditions, lays most of its eggs in the seams of clothing. A single fe-

male of the head or body louse may have about 2,000 descendants during her 30-day life.

Contact with infested clothing and bedding is probably the most common method of acquiring lice. However, lice are very active and crawl on walls of rooms and vehicles of public transportation. They migrate from a person with a fever and can survive 10 days without a blood meal. Head lice are readily spread from head to head when there is close contact, by means of hats and scarfs hung close together in schools and public places, and through the fitting of headgear in millinery stores and haberdasheries. Hair from lousy persons is often shed and may be the vehicle for the transmission of lice.

Crab lice can survive only for about 2 days off man. Spread occurs via bedding and toilet seats, during coitus, and by the use of common or stacked bath towels, undergarments, and gym suits.

**Pathogenesis and Pathology**

Adult and nymph lice are hematophagous. As they feed, saliva is introduced into the site of puncture causing an erythematous papule within hours. The papules itch, and as a consequence of scratching, secondary bacterial infection may occur.

On microscopic examination, edema, infiltration with lymphocytes, and the extravasation of

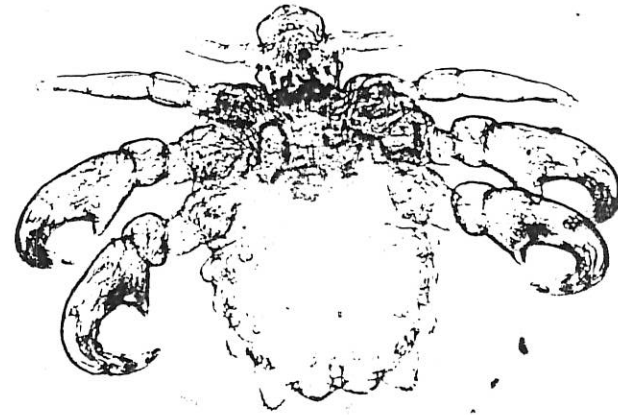


Fig. 99-1. The crab louse.

erythrocytes are found. A residual pigmentation of the skin from bleeding and scratching is characteristic of lesions from long-continued infestations, particularly with crab lice.

**Manifestations**

Head lice may be seen, but frequently only the nits are visible, most commonly on hair above the ears or on the occiput an inch or so from the scalp. Intense pruritus of the scalp is common, and affected hairs may become lusterless and dry. Owing to scratching, secondary complications with impetigo and furunculosis are common and may cause the cervical lymph nodes to enlarge. Pustular eczema may occur (Fig. 99-2). In extremely severe infestations, a condition known as plica polonica may develop in which the hair may become matted with exudate from pustules, nits, and parasites, forming a fetid carapace in which fungi may proliferate and beneath which many lice may be found. Temporary alopecia may occur (Fig. 99-2).

Body lice live chiefly in the seams of clothing, particularly where there is close contact between garment and wearer, in such places as waistline, axillae, and shoulders. The bites cause general pruritus, erythematous macules, urticarial wheals, and excoriated papules. A pigmented thickening

of the skin with parallel linear scratch marks from continued rubbing and scratching is often observed. Secondary furunculosis is common. In heavy infestations, a tired feeling in the calves of the legs and along the shin bones and the soles of the feet may be so intense that normal sleep is prevented. An irritable and pessimistic state of mind develops.

Symptoms caused by crab lice range from slight discomfort to intolerable pubic itching that may lead to secondary infections from scratching. Pale, bluish gray maculae mark the sites of the bites.

**Diagnosis**

The diagnosis of head and crab lice is made by finding lice or nits on the hairs. Head lice should be suspected in children with impetigo, or furunculosis or tender swelling of the postauricular or posterior cervical lymph nodes. Lice and eggs are absent in pityriasis sicca or pustular eczema from other causes. The diagnosis of body lice can be confirmed by finding the lice and nits in the seams of clothing, particularly underclothing. Erythematous macules occur on the shoulders and around the axillary region and waist accompanied by hyperpigmentation. The center of the back is usually free of eruptions.

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