

MINUTES OF THE HOUSE FEDERAL & STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairperson Doug Mays at 1:40 p.m. on March 6, 2002 in Room 313-S of the Capitol.

All members were present except: Representative John Edmonds, Excused

Committee staff present: Mary Torrence, Revisor of Statutes  
Russell Mills, Legislative Research Analyst  
Shelia Pearman, Committee Secretary

Conferees appearing before the committee: Representative Mary Cook  
Mary Ellen Conlee  
Mary Lou Davis, Board of Cosmetology  
Bill Hancock, Wichita School Director  
Tracy Hein, National Cosmetology Association  
Walter Markley, KS Association of Licensed Investigators  
Janet Reynolds, Board of Cosmetology member/salon manager  
George Smololich, Salina's School  
Richard Swank, Tamberlane Investigations  
B. J. Werne, Board of Cosmetology  
Cecelia Wood, Wood Investigative Service  
Laurie Yocum, American Academy of Hair Design

Others attending: See attached list

**Without objection, bill was introduced as requested by Representative Pauls between members of the governing body of a political or taxing subdivision. [HB 3010]**

**Chairman Mays opened the hearing on HB 3006 - Private detective business; requirements for licensure; advertising; continuing education; penalties for certain violations.**

Mr. Markley, President of the Kansas Association of Licensed Investigators, urged passage of **HB 3006** to professionalize the industry. KALI was formed in October 2000 and conferences and seminars have since been planned to provide ongoing information to its members. He cited considerable coordination with state regulatory authorities occurred resulting in the proposed legislation which seeks minimum education, qualifying experience and continuing education requirements. (Attachment #1)

Ms. Wood reviewed her experience in insurance investigations and law enforcement prior to starting her own company. She urged support for **HB 3006**. She voiced concern that without specific licensing and continuing education requirements the industry may be faced with serious legal, ethical and moral issues that could be prevented with a few restrictions. (Attachment #2)

Mr. Swank urged the committee to pass **HB 3006** which would enhance the qualification process requiring experience and education prior to licensure for Private Investigators. Additionally, it would require inclusion of a license number in advertising and create an intern or apprentice license. He provided a comparison of neighboring states requirements for licensing private investigators. Unlike Kansas' open book test, Nebraska requires 3,000 hours of verifiable law enforcement, military investigator or Private Investigator experience and a written test on criminal and civil law. He stated his vast military and government experience in intelligence and investigations and more than 20 years as a self-employed Private Investigator. He also noted the Kansas Bureau of Investigation found that presently 54 percent of listings in Kansas City Yellow Pages are not licensed. (Attachment #3)

No other conferees appeared before the committee. The hearing on HB 3006 was closed.

**Chairman Mays opened the hearing on HB 2977 - Cosmetology training, examinations, broadened definitions, reciprocity and board membership.** Ms. Conlee addressed the committee to correct a drafting error regarding the educational requirements not being directed by the Board of Regents.

Ms. Janet Reynolds rose in support of **HB 2977** because of the expansion to include day spa regulation. She also cited the ability to include an instructor-in-training as an important addition. (Attachment #4)

Mr. Hancock rose in support of **HB 2977** stating the changes addresses of educational concerns and issues of employment of recent graduates. (Attachment #5)

Mr. Smolich rose in support of **HB 2977** with more than 40 years of experience in cosmetology because he believes it will be beneficial to the clients, the students, the salons and the colleges. Due to a shortage in qualified instructors, he encouraged the instructor-in-training. (Attachment #6)

Ms. Yocum rose in support of **HB 2977** addressing the changes in the industry as well as the instructional methods require updating current regulations. She clarified the intent was not to incorporate regulation of massage therapist or other therapeutic providers. (Attachment #7)

Ms. Hein stated the National Cosmetology Association supports the cosmetology colleges have the choice to chose providing education in clock hours versus credit hours. She also addressed the present issue of reciprocity requirements of applicants from other states. (Attachment #8)

Ms. Davis informed the committee of the additional staffing necessary should **HB 2977** be enacted. She stated it is believed to require up to three years to implement and determine success of proposed changes in educational changes. (Attachment #9)

Mr. Werne rose in opposition to **HB 2977** due to the breadth and vagueness of the current language. He cited the expansion to encompass massage therapy and dermatological techniques without the licensee being trained in those areas would increase insurance rates and place customers at a higher risk. He also stated the proposed changes in application requirements, examinations and credit hours are not feasible in this industry. (Attachment #10)

Ms. Norma Reynolds submitted written testimony addressing the concern of **HB 2977** including "massage" and "manipulating" and encourages removal of this terminology. (Attachment #11)

The committee meeting adjourned at 3:18 p.m. The next scheduled meeting is March 7, 2002.

# HOUSE FEDERAL & STATE AFFAIRS COMMITTEE GUEST LIST

DATE March 6, 2002

<u>NAME</u>	<u>REPRESENTING</u>
Anita Belt	Fantastic Sams
Maggie Kelley	KS Assn Therapeutic Massage & Bodywork
Denise Eum	KATMB & A Friend In Kneed
Mary Lou Davis	KB OC
Nancy Welch	"
<del>MA</del>	"
Roger Zoller	"
Cherie Daniels	"
Rebecca Tomlinson	KALI
Matt Tomlinson	
Walter Markley	KS Assn Licensed Invest.
Bruce Tomlinson	AAI
MIKE GARBORTH	KALI
Dan Bond	KALI
Rick Swann	KACT
Cecilia Wood	KALI
DICK CARTER	KB OR
Mary Ellen Conlee	Assoc of Cosmetology Schools
Michelle Whit	Kearney Law / KALI
Barbara Nute	Lo Chace Alliance
Rebecca J. -	Chiropractic Assn
Carla Mahony	PPKM





**KANSAS ASSOCIATION OF LICENSED INVESTIGATORS**

To: House Committee on Federal and State Affairs  
From: Walter Markley  
Date: March 6, 2002  
Subject: Prepared remarks of Walter Markley, representing the Kansas Association of Licensed Investigators, in support of HB#3006, March 6, 2002, before the House Committee on Federal and State Affairs.

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WALTER MARKLEY

*Vice President*  
RICHARD LEMMON

*Secretary*  
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DONNA INGRAM  
ED MCPHEETERS  
AL WHEELER

*Region 2*  
GARY BROWNE

*Region 3*  
PATRICK ATKINS  
DAN BOYD

*Region 4*  
JACK KELLEY, III

**KALI OFFICE**

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I wish to express my gratitude to the Chair and the entire Committee for allowing me, and other representatives of KALI to testify today in support of HB3006.

By way of introduction, my name is Walter Markley, I am a private investigator licensed in the State of Kansas. I live in Derby and work primarily in the Wichita area. My practice is varied but consists principally of criminal defense and insurance investigations. I also do some process serving and miscellaneous investigations, such as skip tracing.

My experience includes service in the U.S. Army both in the enlisted and commissioned ranks. I served one tour of duty in the Republic of Vietnam. Subsequently, I was accepted by the U.S. Secret Service and served as a special agent in various capacities and locations until my retirement in 1988. I retired in Chicago, and took employment there as Security Director for the Swiss Grand Hotel, and later as Security Director for the Wrigley Building. In 1993, I moved to Kansas in order to be closer to aging parents. I have worked in this state both as a security practitioner and as an investigator. I am no longer active in the security business, but do continue to work as a private investigator.

I think it is appropriate to provide some information about the Kansas Association for Licensed Investigators (KALI). There are two additional speakers present today representing KALI and their remarks will be directed more specifically to the legislation proposed. My remarks will serve as an introduction and to acquaint you with our Association, our aims, our purposes, our goals and the purpose of our efforts regarding this legislation.

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As an aid in that regard, I have included in the handout materials a copy of the Association's By Laws. Article 2 of that document (pages 2 & 3) is our Code of Ethics. I have not included that material here, but for those with a curiosity about the Association, this is a definitive statement.

KALI is a new Association formed officially in October 2000. The principal purpose of the Association is to raise the level of professionalism throughout the state's private investigation industry. We seek to do that through education and training. We have addressed these subjects in our own organization by incorporating top-quality training programs into our membership meetings. These programs have included presentations from highly qualified sources including District Court and Workers Compensation judges. Even beyond this, KALI organized and presented a three (3) day conference in July 2001, which included speakers and trainers of national stature. Investigators from states as distant as California and Florida attended this training conference. We intend to repeat training conferences such as this as annual events.

Taking the goal beyond our Association level, we seek to mandate minimum levels of education as a licensing prerequisite, and to specify minimum qualifying experience as well.

The legislation you are considering here today, HB3006, represents an extension of our efforts to professionalize our industry. The changes included in HB3006 have been the subject of considerable coordination with state regulatory authorities such as the Kansas Bureau of Investigation and the Office of the Attorney General. We are very much indebted to these authorities for their patient guidance and assistance.

At the present time PI licensing in this state includes no experience or educational requirements. HB3006 does establish experience and education minimums. And the bill does establish a mechanism, e.g., internship, for new applicants to meet qualification standards for licensing.

Unfortunately, it is necessary to provide a credible deterrent for the inevitable unlicensed practitioners. HB3006 does establish more stringent criminal sanctions for unlicensed investigators. And it provides a requirement that all investigative service advertisement include the service provider's license number. This is intended as an aid to enforcement and consumers alike.

HB3006 goes beyond the initial licensing qualifications and establishes continuing education as a requisite for license renewal. Over time, it is hoped this provision will encourage availability and require utilization of more and better educational programs. Again, providing an avenue for professional growth for the industry.

That concludes my overview. Thank you again for your consideration.

Enclosure

By Laws; Kansas Association of Licensed Investigators (KALI)

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# KALI BY-LAWS

Due to the quantity and format of these listings, they may require extra time to download. Please be patient with these pages.

## ARTICLE 1: NAME, LOCATION, AND PURPOSE

**Section 1.1** This document shall be known as the By-Laws of the corporation whose name is the KANSAS ASSOCIATION OF LICENSED INVESTIGATORS, INC., also known as, and hereinafter referred to as KALI.

**Section 1.2** These By-Laws replace the Interim By-Laws duly adopted by KALI on August 18, 2000.

**Section 1.3** The principal and registered office of KALI is 410 Humbolt Street, Manhattan, Kansas. The registered agent at this office is Richard H. Seaton, Jr., Esq.

**Section 1.4** Other offices for the transaction of the business of KALI may be located at such places as the Board of Directors may from time to time determine.

**Section 1.5** The primary purpose of this organization is educational within the meaning of Section 501 ( c ) (3) of the Internal Revenue Code of 1986 or such other provisions of state or federal law as may from time to time be applicable. The objectives of the organization will be to:

- a) Encourage and develop cooperation among all Kansas private detectives, law enforcement agencies, and other government agencies, in the application and utilization of the services that private detectives provide for the good of the general public.
- b) Promote and maintain the highest standards of ethics, integrity, honor and conduct in the private detective profession.
- c) Develop the highest standards of proficiency in the profession by fostering and encouraging training, study and progressive techniques among the members.
- d) Provide an opportunity and forum for the exchange of information between members regarding experiences, studies, and training.
- e) Establish a means of on-going communication between the members and agencies responsible for licensing and regulation of private detectives.
- f) Monitor legislation, proposed legislation, or regulation, which affects private detectives, and to support or oppose legislation based on the studied affect upon the industry.
- g) Disseminate by publication or other means, information of interest to members, the public, and government, for the benefit of the members.
- h) Cooperate with other national, regional and state associations in matters of mutual interest and of benefit to the detective profession.

## ARTICLE 2: CODE OF ETHICS

**Section 2.1** Preamble: This Association has been formed as a venture for the combined membership of Kansas licensed private detectives for the following purposes:

- a) To seek for membership only those individuals whose personal and professional backgrounds and business affiliations strictly observe the precepts of truth, accuracy and prudence; and, to endeavor to strengthen the membership by inviting and approving for membership only those individuals whose business operations are conducted in an honest and legitimate manner and are qualified personally and professionally,
- b) To foster and perpetuate a spirit of cooperation among its members and with all those engaged in law enforcement, both public and private,
- c) To promote and support programs with educational intent designed to raise standards, improve efficiency, and increase effectiveness of the private detective profession,

- d) To endorse legislation designed to raise standards, improve efficiency, and increase effectiveness of the private detective profession,
- e) To promote and maintain networking and referral benefits and the highest ethical practices in the profession of Kansas private detectives, and,
- f) To further and establish a mutual feeling of trust and goodwill among other agencies.

Each member agrees to abide by the provisions and principles set forth herein when dealing with clients, the general public, associates and members in business as follows:

**Section 2.2** Duties to Clients, General Public and Legal Entities: Each member agrees to perform all work in a professional and ethical manner. Nothing shall be done which would impugn the position or name of this Association or its members or the private detective industry. Everything possible shall be done to protect the rights, interests and confidentiality of clients, private detectives, and the legal profession as a whole. We will at all times perform our duties within the bounds of the law and will not permit nor demand of any employee, nor fellow member, nor client, any violation of the law or any manner of fraud.

**Section 2.3** Licenses, Permits, Bonds, Other Requirements: Each member agrees to comply with and keep current during the tenure of his membership all necessary business licenses, bonds, permits and any other requirements mandated by the city, county, state and/or country in which the member conducts business.

**Section 2.4** Exchange Work: Each member agrees to handle work sent to him by another member in a professional and ethical manner. It is unethical for a member to contact another member's client unless specifically directed to do so.

**Section 2.5** Financial Responsibility: Each member agrees to promptly pay for services rendered by another member unless other specific arrangements have been made. A member, who is not an owner of the firm for which they work, is responsible for the ethical conduct of the firm for which they work. We will remember that the private detective should accept no compensation, commission, rebate or other advantage from others without the knowledge and consent of his/her client.

**Section 2.6** Networking: Each member agrees to assist in the networking of members by sharing general knowledge in areas of their expertise to advance the knowledge of all members. We will not directly or indirectly injure the professional reputation, prospects or practice of another detective or detective profession as a whole.

**Section 2.7** As members of this association, we each share a singular responsibility and accountability for maintaining the integrity and trust of the private detective profession; thus, we mutually pledge that as members, we will:

- a) Always perform our professional duties in accordance with the highest ethical and professional standards,
- b) Observe strictly the precepts of truth, accuracy and prudence,
- c) Respect and protect confidential and privileged information,
- d) Promote programs and legislation designed to raise the standards, improve the efficiency, and increase the effectiveness of the private detective profession, and,
- e) Work together toward the achievement of the professional objectives of the association.

Failure to abide by these objectives and standards may result in disciplinary action that can include dismissal, censure, or suspension from the association.

**Section 2.8** Public criticism regarding professional conduct of one member by another, other than before the Board of Directors or the standing committee authorized by the Board of Directors for the purpose of hearing grievance or ethical issues is condemned and expressly forbidden for all KALI members. Grievance or ethical issues raised by a member must be presented in writing, must be signed and dated, and must be delivered to the chairperson of the Grievance and Ethics Committee. The Committee will investigate and evaluate the allegations or charges and will report to the Board of Directors. The member submitting the issue may be required to appear



before the Committee and/or the Board of Directors to further clarify issues raised. The Board of Directors will determine what, if any, actions are warranted. Any member who knowingly makes a false certification or endorsement regarding an applicant's eligibility and/or qualifications will be subject to termination of membership.

**Section 3.1** The membership of KALI shall be open to all individuals, persons, corporations, proprietorships, associations, partnerships, and clubs interested in the promotion of the objectives and purposes of KALI and who are deemed qualified for membership as either a Member or Associate Member under the terms established by the Board of Directors and have met all conditions for membership.

**Section 3.2** Qualifications for membership:

- a) Membership (with full voting privileges) shall be limited to individuals who are licensed Private Detectives by, and in good standing with, the Kansas Attorney General; who have applied and have been approved for membership, and have paid current KALI dues and fees as determined and published by the Board of Directors.
- b) Associate Membership (without voting privileges) shall include all other non-detective individuals, persons, corporations, proprietorships, associations, partnerships, and clubs interested in the promotion of the objectives and purposes of KALI.

**Section 3.3** Suspension or Termination of Membership:

- a) Membership shall generally terminate at the end of the term of paid membership dues as established by the Board of Directors. Membership terminated in this manner is renewable upon receipt of such membership dues or fees as then required by the Board of Directors.
- b) Membership may be terminated or suspended for actions prohibited by these By-Laws, or for nonpayment of dues or fees fixed by the Board of Directors. In actions involving termination or suspension, the member shall be given not less than fifteen (15) days written notice delivered by U.S. Postal Service. Such notice shall state the reason(s) for termination or suspension, and the member shall have the right of appeal, oral or written, before the Board. The Board of Directors solely exercises authority for termination or suspension of members. A terminated or suspended member may be reinstated by action of the Board.
- c) Notification to a private detective by the Kansas Attorney General of the suspension or termination of that detective's license by the Kansas Attorney General, for any reason, or failure of the detective to renew his/her license, will result in termination of the detective's membership in KALI. Such termination of membership shall be automatic and without action by the Board. Membership reinstatement will be contingent upon reinstatement of the detective's licensure and upon hearing by the Board of Directors.
- d) Membership in KALI shall be terminated upon the conviction of any member, of a felony crime or any crime of moral turpitude. Conviction, for the purpose of this section, shall mean the judgment of any court of competent jurisdiction, local, state or federal and shall include a plea of "no contest" to a crime amounting to a felony or when included as a lesser offense or when included as a condition of probation. Such termination of membership shall be automatic and without action by the Board.
- e) Any member who has been charged in any court of competent jurisdiction on a charge amounting to a felony crime or any crime of moral turpitude shall, within thirty (30) days of such arraignment, notify the Board of Directors of such arraignment. Notification shall be in writing and shall include the nature of the charge(s), the name and address of the court where the member was arraigned, the date of the arraignment and the case or docket number assigned by the court. The Board shall suspend the membership of any member who fails to comply with the provisions of this section. Said suspension shall be effective on the thirty-first (31st) day after being charged and shall continue until the member complies with the requirements of this section.

#### ARTICLE 4: MEMBER MEETINGS

**Section 4.1** Member Meetings:

Regular member meetings will be held at a date, time, and place determined by the Board of Directors at least

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semi-annually, with written (and/or electronic) notice to each member provided at least thirty (30) days in of the meeting. Regular member meetings shall be generally informational or educational and shall promote the purposes of KALI as stated in Section 1.5 and 2.1.

#### **Section 4.2 Annual Meetings:**

The annual meeting may be combined with a regular membership meeting. The annual meeting of KALI shall be held at a date, time, and place determined by the Board of Directors but not later than December 15, with written (and/or electronic) notice to each member provided at least thirty (30) days in advance of the meeting. Annual Meetings shall be held for the election of officers and directors, and any other business that may properly come before the annual meeting.

### **ARTICLE 5: VOTING BY MEMBERS, BOARD of DIRECTORS and OFFICERS**

#### **Section 5.1 Member Meetings:**

- a) Voting members as defined, present at any duly held meeting of the regular membership, shall constitute a quorum to transact any and all business brought before the membership by proper motion. A simple majority vote, unless otherwise provided in the motion, shall be sufficient to carry the motion. All votes, other than those for elective office, shall be taken by voice vote or a show of hands unless the motion requires a secret written ballot in which case the vote shall be taken by secret written ballot.
- b) Any member shall be entitled to speak at any meeting of the general membership. Only voting members as defined by the By-Laws shall have the right to vote upon motions, elections or any other business brought before the general membership.
- c) Voting by proxy at a membership meeting is prohibited.
- d) Voting by absentee ballot at a membership meeting shall be allowed under condition that the vote is cast on official ballot stock prepared by the KALI secretary and the vote is delivered to the KALI secretary prior to the floor vote. Absentee ballots must bear a signature of the voting member.
- e) The election of officers and directors shall be held by secret ballot; provided, the election of any unopposed candidate may be by voice vote. If there are two candidates for a specific office, the candidate with the largest number of votes will be elected. If there are three or more candidates and the first ballot does not achieve a majority vote, the two candidates with the most votes will participate in a run-off election with the larger number of votes electing the candidate.
- f) Roberts Rules of Order as amended will govern motions, voting, and other conduct of the meetings.

#### **Section 5.2 Directors Meetings:**

- a) A quorum shall be required for conduct of any KALI business at a Board of Directors meeting. A quorum shall be 2/3 of the total number of directors and others eligible to vote. In the event this fraction produces other than a whole number, the quorum requirement will be rounded down to the nearest whole number.
- b) At all meetings of the Board of Directors, except where otherwise required by law, the articles, or these By-Laws, the affirmative vote of a majority of directors present at a duly held meeting shall be sufficient for any action.
- c) Any action required or permitted at a meeting of the Board of Directors may be accomplished by a written action, provided the directors unanimously approve such written action. The written action is effective when signed by all directors, or a majority, as specified in the action as approved. Written action as here defined may include electronic communication.
- d) Voting by proxy at a Board of Directors meeting is prohibited.
- e) Voting by absentee ballot at a Board of Directors meeting shall be allowed under condition that the vote is cast on official ballot stock prepared by the KALI secretary and the vote is delivered to the KALI secretary prior to the floor vote. Absentee ballots must bear a signature of the voting director.

- f) Roberts Rules of Order as amended will govern motions, voting, and other conduct of Board of Directors' meetings.

**Section 5.3** Officers Meetings:

- a) At all meetings of the officers, except where otherwise required by law, the articles, or these By-Laws, the affirmative vote of a majority of officers present at a duly held meeting shall be sufficient for any action. A quorum shall be required for conduct of any KALI business. A quorum shall be defined as 2/3 of the total number of officers authorized by the Board of Directors. In the event this fraction produces other than a whole number, the quorum requirement will be rounded down to the nearest whole number.
- b) Voting by proxy at an officers meeting is prohibited.
- c) Voting by absentee ballot at an officers meeting shall be allowed under condition that the vote is cast on official ballot stock prepared by the KALI secretary and the vote is delivered to the KALI secretary prior to the floor vote. Absentee ballots must bear a signature of the voting officer.
- d) Roberts Rules of Order as amended will govern motions, voting, and other conduct of the meetings.

**Section 5.4** Concurrent Meetings of Officers and Board of Directors

Officers and the Board of Directors may meet concurrently. Officers may contribute to discussion and may argue positions, but are not allowed to vote in matters where authority is delegated to the Board of Directors.

**ARTICLE 6: THE BOARD OF DIRECTORS**

**Section 6.1** The business and affairs of KALI will be managed under the direction of a Board of Directors. The number of directors comprising the Board may vary at the discretion of the Board itself, provided the proportional representation of four (4) designated KALI regions shall be observed. No region shall be represented by less than one (1) regional director.

**Section 6.2** All voting members as defined qualify for election as directors.

**Section 6.3** The Board of Directors shall be elected from the following four (4) regions of the State of Kansas:

- a) Region I: The general metropolitan Kansas City area;
- b) Region II: The general metropolitan Topeka and Lawrence areas;
- c) Region III: The general metropolitan Wichita area;
- d) Region IV: All areas of the state not defined as Regions I, II or III, above.

Out-of-state members shall be considered to be included in Region IV for representation purposes.

**Section 6.4** Directors shall reside and practice in the region elected. Elected directors shall be expected represent the interests and concerns of members comprising the region of their respective election. To this end, directors must establish and maintain on-going communication with members of their region and when called upon to cast ballots as a director, must be prepared to vote in a manner that reflects the majority opinion of their constituency.

**Section 6.5** The out-going president, upon fulfilling his/her elected term, shall serve as Chairman of the Board until replaced by the next out-going president. The Chairman of the Board shall call and preside at all meetings of the Board of Directors, oversee the long-term goals and strategies of KALI, and perform such other duties as determined by the Board of Directors. He/she shall serve as the liaison between the Board of Directors and the elected president.

**Section 6.6** There may be ex-officio members of the Board of Directors. They must be nominated by the president and confirmed by majority vote of the Board of Directors. They may attend any and all meetings of the Board, but shall have no vote in matters before the Board. Ex-officio members may include, but are not limited to:



- a) General Counsel: may be appointed by the president on an as needed basis on condition the appointment is approved within ninety-days (90) by action of the Board of Directors.
- b) Editor-In-Chief: may be appointed by the president to edit and publish official KALI publications.

**Section 6.7** No member may be nominated, elected or appointed to the Board of Directors if he/she is an officer or director of any other association of private detectives incorporated in the state of Kansas, or any contiguous state, and has members who are private detectives licensed by the State of Kansas. This restriction shall not include elected or appointed positions in national or international associations or organizations of private detectives.

**Section 6.8** If a member of the KALI Board of Directors is elected or appointed as an officer to the Board of Directors of any other association of private detectives incorporated in the state of Kansas, or any contiguous state, which has members who are private detectives licensed by the State of Kansas, that election or appointment shall be deemed his/her automatic suspension as a KALI officer or board member. Such suspension shall be automatic and without action by the Board. Suspension will be effective immediately upon election or appointment to office of the other association.

**Section 6.9** Directors shall be elected by the affirmative vote of a majority of the membership present at a duly held annual membership meeting. Voting members of each region will vote for director candidates from their respective regions. Directors shall serve for a term of three (3) years each, but shall be so elected that approximately one-third (1/3) are elected each year. A director may serve no more than two (2) consecutive three (3) year terms.

**Section 6.10** Should a director die, resign, be suspended or removed, the Board may elect a director to serve for the duration of the un-expired term. The vacancy shall be filled from the same region in which the vacancy occurred.

**Section 6.11** A director may be removed from office, with or without cause, by an affirmative vote of a majority of the directors present at a duly called meeting, provided that not less than five (5) days and not more than thirty (30) days notice of such meeting, stating that removal of named director is to be on the agenda, shall be given to each director.

**Section 6.12** No compensation shall be paid to any member of the Board of Directors for services as a director, except that by resolution of the Board, directors may be reimbursed for ordinary and necessary expenses incurred on behalf of KALI.

## ARTICLE 7: MEETINGS OF THE BOARD OF DIRECTORS

**Section 7.1** The Board of Directors must meet at least semi-annually, but may meet as often as monthly if necessary to fulfill the requirements and interests of the association. The Board may hold it's meeting(s) at such times and places in Kansas, as a majority of the directors in office determine. The Board of Directors may delegate this determination to the Chairman of the Board.

**Section 7.2** Special meetings of the Board of Directors may be called at any time upon request of the Chairman of the Board, or any two (2) directors, provided that any such request shall specify the purpose of the meeting. Such a meeting shall be held within fifteen (15) days of such a request.

**Section 7.3** Written notice of regular and special meetings shall be given not less than fifteen (15) days prior to such meetings, provided, however, that any director may execute a written waiver of notice before or during the meeting, and the secretary shall enter it in the minutes or other records of the meeting.

**Section 7.4** Roberts Rules of Order as amended will govern motions, voting, and other conduct of the meetings.

## ARTICLE 8: OFFICERS

**Section 8.1** The officers of KALI shall be:

- a) President;

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- b) Vice President;
- c) Secretary;
- d) Treasurer;
- e) Sergeant at Arms; and,
- f) Other officers as the Board of Directors may determine.

Officers shall serve a term of two (2) years. Officer's terms of office shall all run concurrently, e.g., election of all officers shall take place every other year at the Annual Meeting.

**Section 8.2** No member may be a KALI officer if he/she is an officer or director of any other association of private detectives incorporated in the state of Kansas, or any contiguous state, which has members who are private detectives licensed by the State of Kansas. This restriction shall not include elected or appointed in national or international associations or organizations of private detectives.

**Section 8.3** If a KALI officer is elected as an officer or to the Board of Directors (or similar governing body) of another association of private detectives incorporated in the state of Kansas, or any contiguous state, which has members who are private detectives licensed by the State of Kansas, that election or appointment shall be deemed his/her automatic suspension as a KALI Officer or Board member. Such suspension shall be automatic and without action by the Board. Suspension will be effective immediately upon election or appointment to office of the other association. This restriction shall not include elected or appointed positions in national or associations or organizations of private detectives.

**Section 8.4** Not more than one person employed by the same employer may be elected to serve as a KALI officer during the same period.

**Section 8.5** Any officer may be removed, with or without cause, by affirmative vote of a two-thirds (2/3) majority of the directors present at a duly held meeting of the Board of Directors, provided that not less than five (5) days and not more than thirty (30) days notice of such meeting has been provided to each director. Such notice must clearly state the order of business to include proposed removal of a named officer.

**Section 8.6** An officer-vacancy may be filled by appointment by the Board of Directors.

**Section 8.8** The **president** shall call and preside at, the general membership meetings, appoint committees, and supervise the activities of KALI as directed by the Board of Directors, be the official spokesperson for KALI and be an ex officio member of all standing and ad-hoc committees. The president shall be a voting member of the Board of Directors.

**Section 8.9** The **vice president** shall perform such duties as may be assigned by the president. The vice president shall be vested with all powers of, and perform all duties of, the president in the president's absence or inability to act, but only so long as such absence or inability continues. The vice president shall be an ex-officio member of all standing and ad-hoc committees.

**Section 8.10** The **secretary** shall attend all meetings of the membership, Board of Directors, officers and such committees as directed thereof. In the event of the absence or inability of the secretary to act or to attend a meeting, the officer or director chairing the meeting may ask another meeting attendee to keep the minutes of that meeting. In such instances, the person designated to keep records of the meeting(s) shall immediately make those records available to the secretary for incorporation into the official record. The secretary shall make appropriate entry of all meeting minutes into an official report that will be approved or amended by the next meeting of the respective body. The secretary will be responsible for compiling a record of the associations annual meeting that will be a part of the corporation records. Additionally, the Secretary shall:

- a) Be responsible for recording and retaining the official minutes, resolutions, and proceedings of KALI derived from business meetings of the membership, the Board of Directors, officers, or other meetings as may be directed by the president as required for the effective and orderly transactions of KALI business;
- b) Publish the minutes of membership meetings, Board of Directors meetings, officers meetings or any emergency meetings, and to make the written form of that publication available at the next meeting of the respective group;
- c) Distribute official notices, correspondence and other materials and record policy and procedures established during Board of Directors meetings;
- d) Maintain current and former membership records;
- e) Maintain a file of all official KALI records and correspondence;

- f) Give notices, prepare any necessary certified copies of KALI corporate records; and,
- g) Perform other duties as assigned by the president.

**Section 8.11** The **treasurer** shall be the primary custodian of all funds and securities, of whatever nature, which are the property of KALI and shall provide full accounting thereof to the president and to the Board of Directors. The treasurer shall:

- a) Maintain complete and accurate records of all KALI financial transactions;
- b) Act in all financial matters wherein an authorized signature is required on behalf of KALI.
- c) Publish, or cause to be published, a Statement of Assets and Liabilities as well as a Statement of Income and Expenses of KALI on a quarterly basis and make available to the president and each member of the Board;
- d) Collect all dues and all assessments levied by the Board of Directors;
- e) Deposit all money collected into the proper KALI bank account within a reasonable period, but not exceeding fifteen (15) business days, of receipt of those moneys;
- f) Obtain a bond payable to KALI in an amount deemed appropriate by the Board, and bill the cost of that bond to KALI;
- g) Disburse up to the specified amount authorized by the president for KALI business without prior approval of the president, but in no instance disburse more than \$150 without prior approval of the president;
- h) Cooperate with the Audit & Finance Committee in compiling and presenting financial records in support of budget deliberations for each new calendar year;
- i) Cooperate with the Audit & Finance Committee to perform an annual audit of KALI's records and financial transactions and report the results to the membership at the Annual Meeting;
- j) Make available financial records sufficient to allow federal and state tax preparations, as appropriate, by an entity designated by the Board of Directors; and,
- k) Perform other duties as assigned by the president.

In the absence or disability of the treasurer, the president may direct another officer or member to temporarily act for him/her.

KALI financial records, including those described in part c), above, shall be available for review by any member upon demand. Such information is deemed proprietary to KALI and shall be treated as confidential. Any dissemination to other than an authorized requestor is prohibited and cause for censure, removal or termination of membership.

**Section 8.12** The **sergeant at arms** shall preserve order and decorum at all meetings and gatherings, and shall act as official parliamentarian using Roberts Rules of Order as amended to govern motions, voting, and other conduct of the meetings. The sergeant at arms shall perform other such duties as may be determined by the president.

## ARTICLE 9: STANDING and AD-HOC COMMITTEES

**Section 9.1** The Board of Directors shall establish the following standing committees and shall charge the president to appoint a chairperson from the membership for each committee:

- a) Audit & Finance Committee;
- b) By-Laws Committee;
- c) Election Committee;
- d) Grievance and Ethics Committee;
- e) Law Enforcement Committee;
- f) Legislative Committee;
- g) Marketing & Membership Committee;
- h) Public Relations Committee;
- i) Training & Education Committee;

The Board of Directors is responsible for publishing an operational guideline for each standing committee. Responsibilities, goals and procedures will be specifically stated. Committee chairpersons, with the concurrence of the president, are empowered to recruit members for their respective committees.

<http://www.k-a-l-i.org/vpn/bylaws.htm>

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**Section 9.2** The President may establish Ad-Hoc committees for the purpose of administering the goals and objectives of KALI and may appoint any voting member to act as chairperson of any such committee. Ad-committees shall dissolve upon the completion of their stated purpose, dissolution by the president, or upon the expiration of the office of the appointing president.

#### ARTICLE 10: AMENDMENT OF THE BY-LAWS

**Section 10.1** These By-Laws may be adopted, amended, or repealed.

**Section 10.2** Any change or amendments to the By-Laws must be presented electronically or in writing to the full membership at least thirty-days (30) prior to the Annual Meeting. The motion for amendment or change shall only carry when it has been seconded by a voting member and carried by a two-thirds (2/3) majority of the voting members present. Upon passage the amendment or change shall take effect immediately unless otherwise specified in the change or amendment.

**Section 10.3** An emergency amendment may be brought before the membership at a meeting other than the Annual Meeting, but will require a two-thirds (2/3) majority vote of membership present to declare the emergency and also two-thirds (2/3) majority vote of membership present to enact the proposed change(s).

#### ARTICLE 11: DUES AND ASSESSMENTS

**Section 11.1** Dues, and the amount thereof, may be established by a majority vote of the Board of Directors.

**Section 11.2** Dues shall be levied against all members in equal amount for the appropriate membership category.

**Section 11.3** Dues are assessed annually on a calendar-year basis, e.g., January 1<sup>st</sup> through December 31<sup>st</sup> of each year.

**Section 11.4** Dues may be prorated as a fraction of the total annual amount for new members who join subsequent to February 15<sup>th</sup>. In these instances, the amount of dues owing for the first year of membership shall be expressed in a fraction of 1/12<sup>th</sup> of the total for each month of membership. Dues of existing members may not be prorated.

**Section 11.5** Dues are payable as of January first (1<sup>st</sup>) of each year, and are considered delinquent if not received on or before February 15<sup>th</sup>. Any member who fails to meet financial obligations to KALI shall be suspended without action of the Board of Directors until the next meeting of that body. At the next meeting of the Board of Directors the Board will determine whether to continue the suspension or to terminate the membership.

**Section 11.6** The Board of Directors, by affirmative vote may waive the dues of a member if it is in the best interest of KALI.

**Section 11.7** For the sole purpose of recruitment incentives, when deemed appropriate, the Board of Directors shall have the authority to waive, suspend, adjust, or modify the existing membership dues and/or fees for specified groups of applicants or potential applicants when such action is deemed in the best interest of KALI.

**Section 11.8** Special assessments, and the amount thereof, may be established and levied by the Board of Directors; provided, no single special assessment shall exceed the amount of dues levied in the year in which the special assessment is imposed. All members may be subject to any assessment.

#### ARTICLE 12: DISSOLUTION

**Section 12.1** In the event KALI is dissolved for any reason, all remaining funds, assets and property will be used to settle any outstanding financial obligations. The balance, if any, shall be returned to the then current membership, or donated to a charitable organization (which shall be Internal Revenue Code Section 501 (c)(3) tax exempt) as determined by the Board of Directors.

\*\*\*\*\*

APPENDIX A

Section A.1 General Provisions:

- a) All persons who, at the time these By-Laws are adopted, hold offices under any previous By-Laws which offices are continued by these By-Laws, shall continue to hold the same offices according to the former tenure thereof.
- b) No action or proceeding commenced before these By Laws take effect, and no right accrued is affected by provisions of these By Laws, but all provisions thereafter taken herein shall conform to the provisions of these By Laws.
- c) Unless the context otherwise requires, the general provisions herein before and after set forth shall govern the By-Laws established by the Board of Directors.
- d) Writing shall include any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required by the By-Laws of this Association, it shall be made in writing in the English language. The mailing of any notice, report or record by first class mail shall be sufficient compliance with any requirement of these By-Laws or except as established by Board policy in accordance with the By-Laws.
- e) Whenever any reference is made to any portion of the By-Laws, such reference shall apply to all amendments and additions thereto now or hereafter made.
- f) The present tense includes the past and future tense; and the future, the present the singular includes the plural and the plural the singular. The masculine gender includes the feminine and neuter. "Shall" is mandatory and "may" is permissive.
- g) "Association" shall mean the Kansas Association of Licensed Investigators or any successor thereto.
- h) "Board" shall mean the Board of Directors of the Association.
- i) "By-Laws" shall mean any set of rules or other writings established by the Board of Directors for the purpose of the administration of the affairs of the Association. The Board of Directors shall establish and maintain By-Laws. The By-Laws shall include, but are not limited to, a Code of Ethics.
- j) "Director" shall mean any natural person elected by the membership of one of four designated geographical regions within the state as a regional director. The terms director and regional director shall mean the same. Directors comprise a Board of Directors with responsibility for management of business and oversight of operational activities of the Association.
- k) "Elective Year" shall mean the period between meetings of the general membership held for the purpose of electing directors and officers of this Association.
- l) "Meeting" shall mean any meeting of the general membership of this Association, any meeting of the Board of Directors, or officers of this Association or any meeting of any committee authorized by the By-Laws or convened at the direction of the president. "Member" shall mean any natural person, partnership or division as defined and or limited by the By-Laws of this Association.
- m) "Officer" shall mean any natural person elected to one of the following offices: President, Vice President, Secretary, Treasurer, or Sergeant at Arms.
- n) "Person" shall mean a human being as opposed to a partnership, corporation, association or division.
- o) "Voting Member" shall mean any member with voting privileges as defined by the By-Laws.
- p) KALI "Year" shall mean the calendar year beginning on January 1 at 0001 hours and ending on December 31 at 2400 hours of any year.
- q) The terms, "private detective" and "private investigator" may be used interchangeably and for purposes of this document, have the same meaning.
- r) In the event the By-Laws, or any part thereof, or any additions or amendments thereto, of the application thereof to any person or circumstance, be found in conflict with any law, federal or state, such conflict shall be resolved in favor of the law; provided, that if the provisions of law be less than the requirements of the By-Laws, such conflict shall be resolved in favor of the By-Laws.

Members' Only Home

Return to KALI's home

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KANSAS ASSOCIATION OF LICENSED INVESTIGATORS

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WALTER MARKLEY

*Vice President*

RICHARD LEMMON

*Secretary*

LUCINDA RAMSEY

*Treasurer*

CECILIA WOOD

*Sergeant of Arms*

MIKE GALBREATH

**BOARD MEMBERS**

*Chairman of the Board*  
WALTER MARKLEY

*Region 1*

DONNA INGRAM  
ED MCPHEETERS  
AL WHEELER

*Region 2*

GARY BROWNE

*Region 3*

PATRICK ATKINS  
DAN BOYD

*Region 4*

JACK KELLEY, III

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[www.k-a-i.org](http://www.k-a-i.org)

March 06, 2002

House Federal and State Affairs Committee  
Chairman Mays

To the members of the committee:

Good Afternoon. My comments today will be regarding  
House Bill 3006.

My name is Cecilia Wood, I own and operate Wood Investigative Service, Inc. I have operated my company for 3 1/2 years. Prior to opening my owned business, I was employed as a Insurance Fraud Investigator for a major insurance company in the Kansas City area. My experience prior to that, included service as a police officer. My combined experiences provided me with a good solid background in investigations. During these years, I also saw a need for quality private investigators. Currently, the majority of my elected work now is in criminal defense.

Less than a year and a half following the opening of my company, a group of motivated, education hungry investigators coordinated and came together for what we called the 2000 Super conference. Approximately 40 private investigators from all over the State of Kansas attended the conference in Salina, Kansas. We discussed many areas concerning our profession. It became apparent that there were many areas that needed attention, but there were two that appeared to be most pressing:

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1) Collectively coming together as one Kansas Private Investigative organization to provide service and resources, support and networking to all licensed private investigators.

2) To develop and make available the needed education and training that is necessary for a private investigator to operate a business and conduct quality investigations. Our profession is unique enough that our training really needs to be tailored to adequately address specific areas. Although, in some ways we are like law enforcement officers, there are many more ways we are different. Most of us are self employed and working in one and two person businesses. We are responsible to obtain our own education and training. Some are motivated to continue education in their areas of expertise and stay up to date with our investigative techniques, but many do not. The continuing education is what I will speak to today.

\* We need quality education and training focused on the private investigations fields that serve the insurance, legal and private sectors of our community.

\* We must maintain a level of continuing education that introduces new investigative skills, techniques and products.

\* It is a must that we stay up to date on our Kansas Laws and Kansas State Statutes. We have a responsibility to our clients and to the public to maintain this knowledge.

Since our 2000 Super Conference we have developed and supported two major seminars for investigative training. In the summer of 2001, we held the first KALI Investigators Mid-America Regional Conference in Topeka. Our 50 participants left asking for another in 2002. And it is going to happen. In October 2001, we hosted another seminar in Kansas City. The nationwide speaker drew participants from over 20 states. We have the organization, the members and the motivation to maintain our continued education goals. KALI is also willing to track the Continuing Education Credits as needed. We believe with the continuing education plan we could also attract such professions as Social Workers and Attorneys and offer the CEU's for them as well. Our proposed continuing education requirements could be provided by organizations that have their courses approved by the Kansas Bureau of Investigation.



There are some people who want to be PI's, but do not know the profession. There is a television image of the fun, late night, gun wielding, sneaky PI who always gets the bad guy. This is not the reality. But the ones who believe this image will apply and try it for a while. There is a concern that without limits to the application process and continued education requirements to maintain the license, our profession may be faced with serious legal, ethical and moral issues that could be prevented with a few restrictions in the application process.

Others have been known to start doing PI work without a license. They advertise, accept business and do investigative work for clients without a license, liability insurance and the structure of the Kansas statutes as set out by the Kansas Bureau of Investigation. We believe there needs to be a consequence to this type of blatant violation. We believe a revision in the statute to reflect the changes and bring it current with the new sentencing guideline is needed. This would show the offense as a Level 6 non person Felony. We believe a felony status will capture the attention of the county district attorneys and encourage the prosecution of such offenders.

We want to be recognized as a legitimate profession who has value in our insurance industry, our legal arenas, the business world and in the private sector. To do that, we must begin with the more stringent qualifications in the application process, a required continuing education clause and the ability to police our own profession with the impact of legal consequences.

This concludes my portion of this presentation. I appreciate your time and consideration.



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Prepared remarks of Richard Swank, representing the Kansas Association of Licensed Investigators as Chairman of it's Legislative Committee, in support of HB#3006, March 6, 2002, before the Kansas Legislative Joint Committee on Federal and State Affairs.

Mr. Chairman, Ladies and Gentleman of the Committee, thank you for allowing me to testify today in support of HB#3006. It was my committee's hard work in searching for answers to the problems facing our profession here in Kansas that led to this Bill being presented to you for your consideration.

By way of introduction, My name is Richard Swank. I am President of the Tamberlane Company, Inc. and Chief Investigator of it's two entities, Tamberlane Investigations and Tamberlane CounterIntelligence. Our agency is based in Olathe, KS and serves clients in Kansas and Missouri.

Tamberlane Investigations is a general detective agency specializing in:

- Legal Investigations (Criminal defense and civil),
- surveillance operations in support of insurance fraud,
- undercover operations,
- national skip-trace locator,
- and we are a volunteer agency for the Missing Childrens Network.

Tamberlane Counterintelligence is a counter-espionage firm offering consulting and Technical Surveillance Countermeasures (TSCM) to Corporate and Governmental entities.

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My specific background in intelligence and investigations began as a USMC Intelligence officer in Vietnam (two tours), followed by tour of duty as an CounterIntelligence officer with another agency of the U.S. Government. I left the service of the U.S. Government in 1975 to start Rampart Investigations in Hartford Connecticut. In 1979, I moved to the Kansas City area and started The Tamberlane Co. Inc..

My remarks today are directed towards to major portions of the legislation being proposed in an effort to better insure the interests and the welfare of the public are being adequately served and protected and that there is competent delivery of services rendered. Specifically:

- The requiring of qualifications, education and experience in order to become licensed as a Private Detective (Pi) in this state and
- the creation of an additional Detective license (Intern) to assist in the process of developing quality professionals in our industry.

I<sup>u</sup>order to better understand our situation here in Kansas and to obtain a larger perspective and overview of how our problems are being addresses<sup>u</sup> in other states, my committee researched all the states requiring licensing of Private Detectives or Investigators (eight states do not). Unlike the majority of these states, wherein to protect the citizenry they have stringent licensing requirements in place in order to weed out the unqualified and the “detective wannabes”, Kansas does NOT require either investigative experience or educational minimums to order for someone to obtain licensing. Over one half of the states requiring licensure, administer written exams as a qualifier for licensing. The test in Kansas is a simple open book test on applicable state statutes governing Pi’s in Kansas. There is no testing here into the needed knowledge professional Private Detectives work with on a daily basis.... that of civil and criminal law.

In the last two months, three individuals (two housewives and a truck driver), who recently obtained their Kansas Private Detective license, have contacted Private Detective’s I’m acquainted with, asking of them “I just got my Pi license, now what do I do?” This situation is a regular occurrence in this state. While we certainly

encourage and desire qualified individuals to enter our profession, the liability is simply to great for our agencies, to the clients we serve, and to the public as a whole for us to become involved with those people who think our industry is the exciting and glamorous answer to their “life-long” dreams.

With few exceptions, most of us who earn our living as Private Detectives have police, military, or insurance investigative backgrounds. With few exceptions, ALL of us have college education's. The combination of education and practical experience is critical for the success of the individual in this profession, the success of the cases we undertake and to the safety of the public as a whole.

What do other states do to screen detective “wannabes” from those qualified to be Private Detectives? To list a few of the 42 states who require licensing:

- ❑ Nebraska - requires 3,000 hours of verifiable investigative background (Law enforcement, military investigator or Private investigator experience) plus the passing of a written test on Criminal and civil law.
- ❑ Illinois – Their test is a 100 question test on criminal law.
- ❑ Minnesota, Arizona, California – Require 3 years (6000) hours of verifiable experience.
- ❑ Arkansas, Florida, Georgia – Two years of experience and a written exam on Criminal and civil law.
- ❑ Connecticut, Delaware, Maryland – Five years of experience.

[All either have strict qualification requirements and or a hard written exam in place that only a person with the necessary background could hope to pass. Most have a combination of the two as licensing qualifiers. In addition, once licensed, most states now recognize the value and require continuing education to maintain licensure]

Once a Private Detective gets a license, they are free to go. No supervision, no one really to answer to. The person needs to be a quality AND qualified person to start with. Many Private Detectives obtain a license so they can carry a gun. That is frightening and simply ludicrous. Unlike police officers who are initially qualified, then trained, supervised, managed and monitored minute by minute, Private Detectives are not. IF the person does not have in-depth weapons handling



experinece (military, police or sport) training, he or she puts all of us at risk. It's simply not enough to take a weekend course in firearm safety to "qualified" to carry a concealed weapon.

THEREFORE, we ask you consideration in:

- The creation of an "intern or apprentice license". This will assist our Detective agencies in training those individuals who lack the necessary experience but who are otherwise "qualified" to become Private Detectives,
- The enhancement of the screening and qualification process to require qualifications, experience and education in order to obtain licensure,
- To insure the integrity of service and the well being of the citizens of this state, all advertisements or business solicitations as a Private Investigator or Detective Agency in the state of Kansas must include his or her Kansas Private Detective License number on the printed matter or any electronic media (internet).

Note: To better understand the magnitude of this problem here in Kansas, yesterday, Tuesday, March 5<sup>th</sup>, this investigator contacted the KBI and submitted to them the Kansas City metro yellow pages with the request, that all investigators and detectives listed in such, be reviewed by them for Kansas licensure. (We receive calls regularly concerning citizens being ripped off or wronged by unlicensed Private Detectives.) Results from the KBI's survey:

- Of the Detective agencies advertising as such, seven or 33% were NOT licensed in Kansas.
- Of the Investigators listings, thirty one or 43% were NOT licensed to do business in Kansas.

*Fifty-four percent (54%) of the listings in the Kansas City Southwestern Bell Yellow Pages are NOT licensed to accomplish or pursue investigations in this state!* From the complaints of my fellow investigators statewide, the problem of unlicensed Pi's falsely and illegally advertising for business appears throughout the state of Kansas

In summation ladies and gentleman of the Committee, KALI whose membership of approx. 120 members plus affiliated others, represents the vast majority of working and licensed Private Detectives in this state (\*), implores you to please give careful consideration to HB3006. As in most career endeavors, if applicants for licensure as Private Detectives do not have even basic qualifications to enter this profession in the first place, then we have little or nothing to build on to insure their success and more importantly, the safety and well being of the public as a whole. It is only by having qualification and educational requirements that we can hope to provide and insure to the citizens of this state, that they are receiving quality and professional investigative services.

I would like to thank you for allowing me to address the issue(s) at hand and invite you to ask any questions of myself or my fellow KALI colloquies appearing before you today.

Thank you.



Richard Swank  
Chairman of the KALI Legislative Committee  
Tamberlane Investigations  
Olathe, KS

(\* KAPI is a small K.C. area based organization with approx. 10 licensed members.

IN SUPPORT OF HOUSE BILL # 2977

Hello, I am Janet Reynolds---I was appointed to the Board of Cosmetology, as a "Salon Representative", by Governor Bill Graves, effective August 7, 2000. I have worked at The Academy of Hair Design in Salina, as an instructor and Assistant Manager for the past 15 years. I was previously employed for 8 years, as an instructor and teacher supervisor at a beauty school in New Jersey. I have had a Cosmetology license since 1976; have worked as a stylist, salon manager and salon owner. As you see, I have a long history with the beauty industry.

House Bill No. 2977, expands the law regulating the field of Cosmetology to keep up with the trends of the profession which it represents. In today's salons, client services have broadened to include the "day spa" atmosphere. Because the total body is being treated, our regulations must be expanded to allow these treatments.

I am also in favor of allowing a school to hire a licensed Cosmetologists as an instructor without having to wait for them to acquire one year of salon experience. While our students are going through their beauty school training, we get to know them pretty well. We are able to recognize what students have the potential as an instructor. A student who has a caring and patient attitude, with the ability to transfer a skill or idea, doesn't always need salon experience. Our school has a good combination of skill levels and backgrounds. One teacher compliments and supports the other.

In my opinion, House Bill No. 2977 will result in a only minimal additional financial cost to our regulatory agency. I acted as the chairperson at our regular meeting of the Board on Monday, March 4th. The Board reviewed Bill # 2977, pretty much line by line. I asked the board members if they supported or opposed this bill. There was no response. I understood that the Board was not taking any stand on this bill.

I am supporting this bill, not as a representative of the Board, but as a school manager and instructor.

Janet Reynolds 785-825-8155

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Testimony of Bill Hancock

Before the Federal and State Affairs Committee  
The Honorable Doug Mays – Chair  
March 6, 2002

I am speaking today in support of HB 2977. This testimony will address three provisions in the bill. The first two of the three proposed changes I will address in this testimony, supports Kansas Cosmetology Schools in their mission to educate students. It supports the cosmetology students in their quest to learn their craft and become licensed. It allows eventual employers of graduates, an enhanced opportunity to hire and retain recently trained individuals. And finally, the last item will help create among all the stakeholders a better understanding of one another and enhance their working relationships

**1000 Hour Testing**

Cosmetology students are required to complete 1500 hours of practice and training before they are eligible to make application and take the Kansas State Board of Cosmetology examination. Within their 1500-hour program, they are required to complete 320 hours of theory and practice before they may actually provide services to live patrons in the school. Therefore, the most intense theory training is given during the first 320 hours of their education. Throughout their 1500-hour program there is never another time, which a student will focus entirely on the theory portion of their education. While reviews are performed each week during the student's clinic practice of nearly 1180 hours, these reviews can never replace the intense study occurring in the first 320 hours of their education.

The State Board examination has two parts: theory and practical. This bill will allow students to take the theory portion of the examination after 1000 hours as opposed to the current 1500 hours. Instead of approximately 8 1/2 months between the their intense study of the theory, only 4 3/4 months would pass for the typical student before being subjected to examination. In the event the student fails the examination at 1000 hours, they would have the remaining 500 hours of their program to review and retake the test. Upon graduation, only the practical portion of the state examination would remain before licensure.

This change helps the students to succeed while still in school. It helps the salons hire individuals with a higher degree of confidence that that student will be able to go to work and remain an employee after graduation. Currently, those failing to pass the state test, create extreme difficulties for salon owners as well as for themselves as they must stop their work and employment until they pass the state examination. This change would help reduce many of the problems associated with graduation, the state examination, and employment.

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### **Elimination Of The Practical Examination**

The practical examination is a demonstration of practical skills by the student that is then graded according to certain guidelines. It is one of two parts making up the Kansas State Board Cosmetology examination. In many ways, if the raters (examiners) are not trained and experienced, the examination can become excessively subjective. This provision would eliminate the practical as a part of the examination and allow the schools to certify the students as to their respective practical skills. It would save the students time and money at the end of their educational program. This change would also make the schools even more cognizant of their responsibilities to the student. The schools would be forced to recognize and deal with their respective failures or abilities to train and grade students that in turn would ultimately be measured and graded by the salons and the consumer.

To be sure, instituting a 1000-hour theory examination and elimination of the practical examination are mutually exclusive issues. One, or both of these changes can be instituted without drastically affecting the other.

### **State Board Membership**

Currently the Kansas State Board of Cosmetology consist of 7 members; 4 cosmetologist, 2 members representing the general public, and 1 member representing the permanent color technicians. On July 1, 2002 the permanent color representative will leave the board. That industry will then be licensed and regulated by the Secretary of Health and Environment. The cosmetology schools of Kansas seek membership on the board in place of the tattoo/piercing member. This will keep the board membership at 7, and give a voice to the schools in the decision making process. There are over 20,000 cosmetologists in the state of Kansas. Each one of those individuals, or equivalent, attended and graduated from a Kansas cosmetology school. The schools are a vital element in the beauty industry in Kansas. They are often the subject of discussion during board meetings, and yet, schools have no formal recognized voice within their own licensing and regulatory agency.

Governing bodies and regulatory agencies today, must include as many stakeholder as possible. The State Board can only enhance their own decisions and actions by including a member with knowledge and experience regarding the processes of recruiting, educating and placing new cosmetologist in the workplace. Moreover, misunderstandings, and unintended consequences can be reduced through increased communication while creating heightened respect between fellow board members and schools. The schools, the board, the students, the salons and ultimately, the people of the state of Kansas will benefit from a board that utilizes all the resources available to it while acting on their behalf.

Thank you for you time and interest in HB 2977.

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My name is George Smolich. I am a licensed cosmetologist with 44 years experience in our industry. For the last 37 years I have also been owner and operator of the Academy of Hair Design a cosmetology school in Salina Kansas.

I want to thank the committee for hearing me today. I speak out in favor of house bill 2977. As an experienced cosmetologist and school owner, I believe this bill is a benefit to the industry. I have reviewed the entire bill and believe each change is important and beneficial to the clients we serve, the students we teach, as well as salons and colleges in this state. I feel strongly that these changes are positive and can be achieved with little impact on the financial operation of regulating our industry.

There are 2 subjects in this bill that I would like to discuss with this committee. The first area concerns our instructor licensing. Currently there is a 1 year waiting period for cosmetologist who wish to be educators in our schools. A cosmetologist must work in a salon for 1 year before being allowed to train and become licensed as an instructor. After they have worked in the field for 1 year they must then complete an instructor's course of 300 hours before becoming licensed to teach.

The intent of this current law is that "experience" in the field is beneficial in the classroom. I believe that all would agree that experience is important especially in the area of technical expertise. There is another area, however that is more important than technical skill and this is the ability to teach and educate.

Over the last several years since this law has been in affect I have found the one year working requirement to be restrictive and a barrier to hiring qualified instructors. The reality today is that there are highly skilled students graduating in the field of cosmetology who may have a higher degree of technical skills than those with work experience. As a college focused on quality in education, we place emphasis on a potential instructor's ability to teach and educate. Experience in a salon, although preferred, does not guarantee "quality" when it comes to instructing.

We feel that colleges should be able to make educated decisions on the qualifications required to teach in our schools. The current change we recommend is to remove the 1 year clause and allow the schools to interview and hire instructors we feel are qualified to teach. The current training hours for an instructor would remain a requirement and would ensure that individuals teaching in our schools are of the highest standards.

The second area I would briefly like to discuss is the area of our law that defines the practices of cosmetology. Before you in this bill are several changes to the subjects defining cosmetology. Our current list of "definitions" as it relates to the operations of cosmetology does not reflect the current practices in our state. Although the definition change is not a significant one, it is one that has been needed for many years. In this list of changes the most important one is in the area of skin care. Currently across the state there are salons devoted to total body skin care. Our current law does not reflect the current practices as found within our industry. The practice of cosmetology and more specifically estheticians is focused on the entire body. These changes simply define the

area of skin allowed to be serviced by licensed individuals in this field. As you read through these changes, it is important to note that these practices are common and do not infringe upon any other agency or regulated industry as they are already being practiced across the country by cosmetologists.

Thank you for taking the time to address these issues that affect our industry. Please feel free to contact me at my college, Academy of Hair Design in Salina, Kansas (785-825-8155).

Sincerely,

George Smolich  
Owner/Operator  
Academy of Hair Design

**RE: HB 2977**

**Testimony Proponent: Laurie A. Yocum, Owner American Academy of Hair Design Topeka, KS**

My name is Laurie Yocum and I am a co-owner of the American Academy of Hair Design, a Cosmetology college in Topeka, Kansas. I am also a member of the newly formed organization, the Kansas Association of Cosmetology School and Salons. I am here today to speak in favor of House Bill 2977.

I have been a licensed cosmetologist and a licensed cosmetology instructor for 12 years. During the last decade I have seen tremendous changes in the cosmetology industry. The technology and advancement in the educational field alone has been outstanding. No longer is it necessary to teach students using antiquated methods such as chalkboards, slides and flip charts. Instead, we teach today's learners using state of the art technology. DVD's, interactive laser disc systems and viewing monitors are used in many cosmetology colleges around the country.

Educational methods are not the only thing that has changed in the Cosmetology industry over the last decade. The end of the 1990's brought a wave of awareness with the importance of having a healthy body and mind. Research has shown that there is a direct correlation between looking good and feeling good. As this awareness swept the country, Day Spa's began appearing from coast to coast. An article in the Topeka Capitol Journal dated February 23, 2002 addressed the growing trend of Day Spa's and listed five in the Topeka area alone.

A Day Spa is an establishment that offers beautification and relaxation benefits for the entire body. Services may include but are not limited to: aromatherapy wraps, back facials, full body mudpacks, seaweed facials, leg waxing, etc. These services are offered in the same facilities where clients can receive haircuts, perms, colors or artificial nails. These services and many more are being performed on a daily basis in licensed salons by cosmetologists throughout the state of Kansas. These individuals are trained to perform these services by the product manufacturers or when available, by Cosmetology colleges.

With all of these changes occurring in our industry, our organization felt it was important to review our state's existing language pertaining to the field of cosmetology. In order to ensure our state was current and consistent with industry standards, we reviewed language from various states across the country. One of the most significant areas we found to be outdated and in need of revision were the sections on definitions in relation to the specific practices of cosmetology.

As the cosmetology industry expanded to meet the needs of the consuming public the areas of the body which cosmetologist touch on a daily basis also expanded. This is the reason for the proposed changes to the current definitions you have before you today. The intent of the changes is simply to expand the current definitions to encompass all areas of the body in which cosmetologist may come into contact with during salon or spa services. We would like to clarify at this point that it is not the intent of our organization to regulate any type of massage therapy or therapeutic treatments performed by massage therapists or chiropractors.



Any massaging done during a body beautification service is merely to distribute the aromatherapy oils or lotions being used during the service. This application process should not be confused with massage given by certified massage therapists or treatments performed by chiropractors for the treatment of injuries or chronic pain. Cosmetologists perform beautification services, not medical treatments.

Under the heading of "Cosmetologist" the only parts of the body currently listed in section "B" are: scalp, face, neck, arms and hands. Our organization is asking to have these areas expanded to include: ears, torso, legs or feet.

Services currently being performed on the torso, feet and legs in salons and day spa's may include but are not limited to: pedicures, thigh cellulite services, back and chest facials, and complete body facials. Ears were added as cosmetologists are allowed to pierce the lobe of the ear.

Section "C" allows for hair removal on the face or any part of the body, however; the parts of the body are not listed. In the past, waxing services were primarily to remove unwanted facial hair. Waxing services have expanded in recent years to include: arms, armpits, toes, legs, backs, buttocks and bikini areas.

Section "E" of the current law permits the practice of pedicuring. A pedicure is a service performed on the feet and includes filing of toenails and a leg massage. As the definition is currently written, cosmetologists cannot touch the feet or legs. Expanding the definitions in section "B" would allow the cosmetologist to practice this procedure in addition to protecting the consuming public.

Section "F" has added the term "noninvasive". Invasive as defined by the Merriam Webster Dictionary means, "involving entry into the living body (as by surgery)". This language was chosen to ensure that the skin remain unbroken by any service performed by a licensed cosmetologist. Only the epidermal layer of the skin (the outer most layers) would be affected by any beautification services performed in the salon or day spa.

Milady's Cosmetology Dictionary defines esthetics as "the branch of cosmetology that deals with the health and beautification of the skin and the entire body". This dictionary further defines esthetician as "a specialist in or devotee of esthetics; one whose occupation is in the cleansing, preservation of health, and beautification of the skin and body; one who gives therapeutic facial treatments."

Under the heading of "Esthetician" we have added language that would allow esthetician's to perform beautification services on any skin surface. This change is to update our state's definition to meet industry and nationwide expectations of services performed by licensed estheticians. Again the term "non-invasive" has been added to assure the consumer that the skin will remain unbroken. The use of electrical appliances was also added to this section to allow for the use of today's modern facial machines.

The last definition change is the addition of the term "Student Instructor". This definition is necessary to support legislation changes that would allow a college to hire a licensed cosmetologist to train to become a licensed instructor.

The second issue I would like to address with you today involves improving education in cosmetology schools across the state. As I mentioned earlier, education has changed dramatically in the last several years. Schools are currently required to teach in "clock hour" requirements. Students are required to attend a specific number of hours on a subject as defined by our state board curriculums.

In recent years, The National Accrediting Commission of Cosmetology Arts and Sciences has encouraged cosmetology schools to move away from the antiquated clock hour process to the more progressive and universally recognized "credit hour" process. Today's student better understands the value of earning "credit" towards completing a subject in a program instead of completing "seat-time" while attending class. As an organization we are asking that cosmetology colleges have the option to teach subject matter in "credits" instead of clock hours. As an organization, we feel the value of teaching in credits is significant in improving our educational process.

I would like to end my comments by stating that we worked diligently to ensure that any changes brought before this legislative body would not have a significant financial impact on our regulating agency. After many meetings and group discussions, it was the consensus of our association that these changes could be implemented efficiently and effectively with a minimal impact on the board of cosmetology and its office operations.

The only financial impact foreseeable is the necessary reprinting of the cosmetology law books. The office personnel would work with "student instructor" licenses in the same manner they work with all other licenses. As there are less than 30 cosmetology colleges in the state at the current time, this should not be a significant increase in work load.

We also believe that these changes will have no impact on state inspectors and the inspection process. Each inspector currently checks sanitation procedures in all licensed establishments where these services are being performed. The proposed definition changes do not affect sanitation procedures in any manner. The state inspectors would continue to inspect all licensed facilities in the usual prescribed manner to ensure the protection of the consuming public.

Thank you for your time and attention to these matters.

Sincerely,

Laurie Yocum

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Date 3/6/02

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**RE: HB 2977**

**Testimony Proponent:**        *Tracy Hein, President of Kansas National Cosmetology Association Affiliate #3, Lenexa, Kansas*

My name is Tracy Hein and I am the First Vice-President of the Kansas National Cosmetology Association. I am also the President of the Kansas National Cosmetology Association Affiliate #3. The National Cosmetology Association has over 300,000 members nationwide. I am here today to speak on behalf of the NCA of Kansas in support of House Bill 2977.

Recently, the Kansas board members of the National Cosmetology Association discussed the proposed legislative changes. After careful review, the board members chose to support this bill as we feel it improves our industry as a whole. We found several important changes that we feel are very beneficial to all practicing cosmetology professionals.

Our board feels that the changes in the proposed definitions section of the bill more accurately reflect what cosmetologists and estheticians do in salons. Revising and expanding the current definitions would be a very positive and needed change for our profession.

The Cosmetology industry is comprised of a very progressive and creative group of individuals. Our main goal is to provide quality service to our clients while promoting professionalism at all times. In today's competitive market, it is essential for the survival of salons to be able to hire qualified cosmetologists.

In recent years, it has been very difficult at times to hire qualified applicants to work in salons who have moved to Kansas from other states. Current reciprocity requirements do not take an individuals experience or time in the field into consideration. Most applicants are required to take a written and practical exam prior to licensure in Kansas regardless of their qualifications or length of licensure in another state.

The proposed changes would allow a cosmetologist with 5 years or more in the field to receive a Kansas license without having to take another examination. We believe this is a positive change and will encourage licensed individuals from other states to look favorably on our State when considering relocation.

One goal of the National Cosmetology Association is to support growth in the cosmetology salons and in cosmetology education. With this thought in mind, we would like to support the cosmetology colleges in having the choice to chose to educate their students in either "clock" or "credit" hours. After meeting with representatives from some of the Kansas cosmetology schools and listening to their thoughts on how this would improve our industry in the future, we feel this option will allow schools to raise the educational standard to a new level.

I would like to thank you for your time and for allowing me to appear here before you today.

Sincerely,

Tracy Hein

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BILL GRAVES, Governor

# KANSAS BOARD OF COSMETOLOGY

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House Committee on Federal and State Affairs  
Wednesday, March 06, 2002

House Bill 2977  
Testimony Presented by Mary Lou Davis, Executive Director

Mr. Chair and Members of the Committee:

House Bill 2977 significantly impacts the Kansas Board of Cosmetology in both administrative programs and fiscal responsibility.

Expanding the definition for cosmetologists and estheticians to include massage of the "torso" and "noninvasive beautifying" processes has far reaching implications for the consumer, the licensees, cosmetology schools and the Board.

Currently the Board's curriculum for cosmetology licensure is 1500 clock hours. The esthetics course of study requires 650 clock hours. With the inclusion of these provisions, the curriculum should appropriately be revised to include the necessary hours of training. Another consideration may be an advanced licensure status for those wishing to receive additional training beyond the 1500 or 650 hours. However, this bill does not address a corresponding curriculum requirement.

The Board's regulatory responsibility for inspections with these additional services would also increase significantly. Since 1998 this Board has worked diligently to raise its inspection standards. To maintain that level for the health and safety of the consuming public, the Board would be required to add two inspectors to the Board staff.

The Board has studied the issue of clock hour, credit hour and competency based education for the past fourteen months. The Board's main focus throughout this process was to ensure quality education for all students and to make certain that no school was adversely affected.

Please bear in mind cosmetology instruction is a career program wherein the student/licensee enters the workforce with entry level skills.

Because the Board is not an educational agency it embarked on a cautious and deliberate process studying the impact of credit hour instruction and its reporting at the state and federal level. We quickly learned it is a very complex issue and therefore sought the assistance of education specialists from the Kansas Board of Regents and the U.S. Department of Education. All schools were notified of these meetings and welcomed to attend.

The federal regulation included in this bill – 34 C.F.R. 668.8 - does not reference an academic standard. This regulation specifically addresses a credit hour formula based on a Title IV financial aid conversion.

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With credit hour instruction the inference may be made that daily attendance is not necessary - or the omission of this requirement may be sought in future legislation. Presently the cosmetology statute requires daily attendance and clock hour reporting. Of course there is individual instructional variance, but a consistency in curriculum instruction is assured through the clock hour format.

Additionally, to omit clock hour instruction may preclude some future student from receiving Title III funding available through displaced workers/job training programs, veterans programs and rehabilitation programs.

Enabling schools to choose between instructing in clock hour or credit hour places the Board in a situation where two academic standards must be established and implemented. Articulation standards would be required between Kansas cosmetology schools. Would other state Board's of Cosmetology honor a Kansas Board verification?

We discovered there is no study or model that can be referenced to show the immediate or long-term impact. We have been advised that once implemented it may take at least two years and possibly up to three years to determine the success rate of students taught in the credit hour format. Measurement of the implementation involves more than the student's completion of instruction. It includes but is not limited to the measurement of curriculum instruction, teacher/student ratio, and budget considerations for the school.

Presently the Board licenses 28 schools. Ten of these are publicly funded as cosmetology departments within eight community colleges and two vocational education schools. Thirteen schools are accredited by two different accrediting organizations – four schools are not currently accredited. The two accrediting organizations do not use the same instructional hour reporting requirement. This underscores the necessity for uniform academic standards for all Kansas cosmetology schools.

For the development and implementation of uniform academic standards it would be necessary that an education program specialist be added to the Board staff.

As you can see the fiscal impact for this Board is severe. With the addition of two Board inspectors - each employee at pay grade 19 – the Board's budget would increase in excess of \$64,000. The addition of an education program consultant – with the proper educational background and post-secondary education experience – would necessitate an additional \$54,000 in revenue.

In addition to the salary expenses exceeding \$100,000 the Board would also be required to budget additional expense for state vehicles, travel, supplies and etc.

Cosmetology, esthetics and manicuring salon annual renewal fees would need to be increased by 100%. This increase would generate just over \$100,000 in revenue. School renewal fees and new salon licensure fees would also be increased significantly. This fee increase would require legislative revision as these increases exceed those fees presently outlined in K.S.A. 65-1904.



**KBOC STATISTICS**  
**JANUARY 1, 2002**

Active Cosmetologist	16,938
Active Manicurist	2,123
Active Cosmetology Technician	61
Active Electrologist	51
Active Esthetician	174
Active Body Piercer	34
Active Permanent Color Technician	6
Active Tattoo Artist	59
<u>Active Tattoo/Permanent Color Technician</u>	<u>9</u>
<b>Sub-Total Individuals</b>	<b>19,455</b>
Active Body Piercing Facilities	28
Active Cosmetology Establishments	3,332
Active Electrology Clinics	25
Active Esthetic Establishments	26
Active Nail Technology Establishments	240
Active Permanent Cosmetic Facilities	9
Active Tanning Facilities	716
Active Tattoo Facilities	30
<u>Active Tattoo/Permanent Cosmetics Facilities</u>	<u>6</u>
<b>Sub- Total Establishments</b>	<b>4,412</b>
Active Tattoo Trainer	12
Active Tattoo/Perm Color Trainer	4
Active Electrology Instructors	1
Active Cosmetology Instructors	159
Active Esthetics Instructors	2
Active Body Piercing Trainer	8
<u>Active Manicuring Instructors</u>	<u>8</u>
<b>Sub-Total Instructors</b>	<b>194</b>
Active Nail Technology Schools	1
<u>Active Cosmetology Schools</u>	<u>25</u>
<b>Sub-Total Schools</b>	<b>26</b>
Active Cosmetology Additional Training Licenses	4
Active Mainicuring Additional Trainning Licenses	5
Active Electrology Apprentices	1
Active Cosmetology Apprentices	1,487
Active Esthetician Apprentices	59
<u>Active Manicurist Apprentice</u>	<u>88</u>
<b>Sub-Total Apprentices</b>	<b>1,644</b>
Active Cosmetology Temporary Permits	113
Active Esthetician Temporary Permits	14
<u>Active Manicurist Temporary Permits</u>	<u>46</u>
<b>Sub-Total Temporary Permits</b>	<b>173</b>
Demo License - Body Piercer	0
Demo License - Tattoo Artist	0
<b>Sub-Total Demo Licenses</b>	<b>0</b>
<b>TOTAL ACTIVE REGULATED LICENSES</b>	<b>25,904</b>

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BILL GRAVES, Governor

## KANSAS BOARD OF COSMETOLOGY

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### House Committee on Federal and State Affairs House Bill 2977

Wednesday, March 6, 2002

#### Testimony presented by Robert J. Werne, Member, Kansas Board of Cosmetology

My name is Robert J. Werne. I have been a member of the Kansas Board of Cosmetology since 1999. I own and operate a chain of tanning salons in Wichita, Lawrence and Manhattan.

Due to health restrictions the Board chair is unable to address this committee today. In her absence I express our appreciation for the opportunity to testify before you on HB 2977.

While I have many reservations with this bill in its present form, my biggest concern is that the bill undercuts many of the efforts and accomplishments my fellow Board members, Board staff and licensees have achieved in the last few years.

We have made protecting the public's health the highest priority of this board. Inspectors have received nationally certified training. We have increased communication to licensees on the standards of practice and their thorough knowledge of KDHE sanitation regulations and blood spill procedures. We have urged consumers to be mindful of high practice standards through a consumer awareness press release this past holiday season with the assistance of the Governor's office. We have increased license revocation proceedings against facilities that repeatedly violate the cosmetology laws and/or health regulations. We have sought input from other state agencies on overlapping issues and discussions have been held with federal and state educational agencies on enhancing academic standards.

This bill however, does not further these goals.

In fact this bill detracts from our past efforts and will serve to make our mission more difficult. Let me explain:

1. HB 2977 expands the definition of cosmetology to include massaging and manipulation of the torso. Our current cosmetology curriculum does not train students to understand or work on these parts of the body, and our licensing exams do not test an applicant's competence in these areas. It is our understanding that certified massage therapists must have 500 clock hours of education and training from a licensed school to sit for their national certification exam. This bill would permit our licensees to perform services for which they have not been trained or tested. Nor is the Kansas Board of Cosmetology prepared in any way to license many more applicants in a field for which it has no laws or regulations.

As a business owner, I tend to think about things from a business standpoint. While this may or may not be factored into your thoughts on this bill, I would like to share one additional concern that I have as a business owner. What will this do to the insurance rates of the men and women that are in this field? By including this provision in the bill the insurance rates for cosmetology services and businesses performing those services will surely increase, as they will now have to be insured against a loss due to massage therapy as well as cosmetology. This in-turn will then adversely impact anyone in the state that practices cosmetology whether they chose to offer massage therapy or not.

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2. My next concern is that this bill appears to give cosmetologists and estheticians the ability to perform "any noninvasive beautifying process on any person by means of hands or mechanical or electrical appliance
3. other than electrical needles." What does this encompass? What does this mean? Let me give you an example: Recent advances in dermatology have given dawn to a dermatological treatment for the removal of scars. This is done through the use of a high-speed rotary tool that effectively grinds the scar down. The end result is a new smaller scar than that of the original. Is it appropriate that an individual that has not had any dermatology training perform this "beautifying process?"

This provision is vague and too broad.

4. HB 2977 also provides an alternative to the present clock hour reporting. An option would permit schools to instruct in "credit hours." The Board and staff have sat through many meetings with state and federal education experts and the Board is very concerned that schools may no longer be required to take attendance if they measured only credit hours. Each of the 28 schools would simply decide a student was qualified by using whatever criteria evolved at that school. We believe that a career school which is instructing a course of skills should have a minimum number of instructional hours in theory and practice. Those minimums are currently in the law, and we believe they should remain.
4. HB 2977 allows or requires a student to take the exam prior to completing the course of study. I know of no other course of study where a student is to take an exam prior to completing the material being taught. This exam is for professional licensure and designed to test the student's knowledge on the entire course of study. How can a student be expected to pass an exam over material that has not even been covered yet?
5. HB 2977 imposes both a lesser and a greater standard on out-of-state licensure applicants. An ACT score would or could be substituted for a high school education. What if an individual passes the SAT but not the ACT? The provision is also restrictive. An out-of-state applicant may be required to have five years of practice. The individual may be competent but unable to attain licensure.

This provision places the Board in a contradictory position. On one hand individuals seeking an instructors license would not be required to have "hands - on experience in a salon," but on the other hand an individual must have five years of experience to qualify for licensure. Verification of this five year requirement also places a difficult if not impossible burden on the applicant and the Board.

6. Lastly, the bill redefines the makeup of the Board by requiring that one board member be a school owner. Nothing prevents a school owner who is also a licensed cosmetologist from sitting on the board now. In fact, one school instructor who is a soon-to-be school owner is on the board.

Currently there is no requirement that the tanning profession be represented, although it is regulated by the board.

Each profession we regulate SHOULD be represented on the Board, to contribute and share their wealth of information in their particular field. This will give the Board the ability to make better and more informed decisions.

In sum, there are many ways our laws and practices could be improved. In fact we introduced a bill last year with some very needed amendments. The bill was heard in committee and reported favorably to the House. As Board member who has spent a good deal of time dealing with the Board staff on varied and difficult issues, I do not believe that HB 2977 helps us in any way to better meet our responsibilities to the public, the regulated professionals or the students.

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**Testimony Against HB 2977**  
**House Committee on Federal and State Affairs**  
**Wednesday, March 6, 2002**

**by Norma L. Reynolds, J.D., NCTMB, LMT**  
**Chair, Government Relations Committee,**  
**Kansas Chapter, American Massage Therapy Association**

HB 2977 Seeks to expand the responsibilities performed by Estheticians to include "massaging and manipulating the face, neck, scalp, arms, legs and torso." This language effectively allows estheticians to massage the entire body with no additional training in the related techniques, anatomy, physiology or pathology.

◆ **National Trends in Massage Education, Credentialing & Regulation**

- ◆ *Massage Therapy has a national credential, NCTMB, Nationally Certified in Therapeutic Massage and Bodywork. The certification program of the National Certification Board of Therapeutic Massage and Bodywork is accredited by the National Commission for Certifying Agencies (NCCA), the accrediting body of the National Organization for Competency Assurance.*
  - ◆ *Eligibility requirements to sit for the National Certification Exam include: completion of a program in massage therapy at a state approved school; consisting of a minimum of 500 in-class clock hours; to include at least 100 in-class clock hours in anatomy and physiology; and at least 200 in-class clock hours in massage theory and practice, including at least 2 in-class clock hours of ethics.*
- ◆ *30 states plus the District of Columbia currently regulate the practice of massage.*
  - ◆ *81% of those states accept the National Certification Exam in lieu of an in-state exam.*
  - ◆ *97% of the state-wide licensing boards require at least 500 clock hours of education to practice massage therapy.*
- ◆ *Massage therapy curriculum typically includes such courses as anatomy, physiology, pathology, kinesiology, entrepreneurial business, basic Swedish massage, postural analysis and biomechanics, medical charting, advanced massage techniques such as neuromuscular therapy, myofascial release, PNF stretching, deep tissue massage, geriatric massage, pregnancy massage, and sports massage to name a few.*

The AMTA understands that there is a desire to include language that covers the increasingly popular spa treatments. We would encourage them to do so without using terms such as "massaging" and "manipulating".