

Approved: May 10, 2002
Date

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE.

The meeting was called to order by Chairperson Senator Susan Wagle at 1:30 p.m. on March 19, 2002 in Room 231-N of the Capitol.

All members were present except: Senator Steineger
Ms. Emalene Correll, Kansas Legislative Research Department

Committee staff present: Mr. Norm Furse, Revisor of Statutes
Ms. Lisa Montgomery, Revisor of Statutes
Ms. Margaret Cianciarulo, Administrative

Conferees appearing before the committee:

Others attending: See attached guest list.

Final Action on HB2718 - an act concerning vital statistics records, including certificates of birth, death, adoption, marriage, and divorce, and the manner in which the Department of Health & Environment makes records it maintains available to eligible applicants

Upon calling the meeting to order, Chairperson Wagle asked Mr. Norm Furse, Revisor of Statutes, to give an overview of the bill. Mr. Furse introduced a balloon of the bill and proceeded to cover the changes which included: deleting K.S.A. 65-2422 and adding 65-2422d; 65-2423 (cases of adoption) needing to be amended & adding to the certified copy of the vital record an "abstract" copies; a substantive change to amendment 65-2434 (a criminal act); picking up two additional sections adding; and renumbering sections accordingly. A copy of the balloon is (Attachment 1) attached hereto and incorporated into the Minutes by reference.

As there were no questions of Mr. Furse, Chairperson Wagle then recognized Senator Jordan who had received a call from a constituent regarding the Immigration and Naturalization Service (I&NS) regulations and current statutes of adopting foreign-born children. He stated, a couple of years ago the federal law changed to if you are a citizen, your adopted foreign-born child is also considered a citizen. Kansas statutes stated that when a child born in a foreign country is adopted, "the (birth) certificate shall show the true country of birth and *the date of birth of the child and that the certificate is not evidence of United States citizenship*". He would like to introduce an amendment to basically remove the language shown above in italics. A copy of the amendment is (Attachment 2) attached hereto and incorporated into the Minutes by reference.

Senator Jordan then stated that after visiting with Dr. Phillips, the federal law states "children under the age of 18", and since his amendment does not address this, it needs to include children over the age of 18. So conceptually the amendment would remove that language for children adopted under 18 years of age but the amendment would say that language remains even if the child is over the age of 18. Senator Salmans asked what's the maximum age you can still adopt a child. Mr. Furse answered that in visiting with Dr. Phillips these types of adoptions still occur.

A motion was then made by Senator Salmans to move to adopt both the one balloon and Senator Jordan's conceptual amendment as written and seconded by Senator Jordan to adopt both amendments. The motion carried.

Chairperson Wagle then recognized Mr. Furse who asked that the Committee refer back to the last page of his handout, the last two paragraphs to his handout. He stated that this is an old statute originally enacted with the vital statistics act and provides a prohibition of transporting a dead body without an accompanying permit and the fine would be \$500 and sub (3) except for a different penalty provided under sub (1) and sub (2), any person violating this act shall be find \$100. He asked if the Committee wanted to make a change to the lowest level of a misdemeanor (Class C) to be more consistent to our current law or leave as is. This would also make it possible that there is a criminal jail penalty for violation of the act.

Chairperson Wagle then called upon Dr. Phillips asking if he ever applied these two paragraphs, to which he replied yes, but with the fines being so low, the department cannot get a District Attorney or County Attorney to deal with the violation. He did cite examples. A discussion ensued between Senators Barnett Wagle, and Praeger and Mr. Furse questioning going from a monetary penalty to an "and/or" imprisonment, a reason to do or not do it, to the reinforcement aspect.

Senator Barnett made a motion to change the language on both sub (2) and (3) of Sec. 5., to a Class C misdemeanor. This was seconded by Senator Praeger and the motion carried. Senator Praeger motioned to pass the bill out favorably as amended. This was seconded by Senator Brungardt and the motion carried.

Hearing and Final Action on HB2733 - an act concerning presumptive death, relating to persons absent after catastrophic events and disasters

The Chair announced the next bill to be heard was HB2733 as stated above. She asked Mr. Furse to report his findings after his visit with the Judicial Council to see if there was any problems with the language as it was written, as it came over from the House. Mr. Furse referred to the handout of the email response from Mr. Randy Harold who asked the members of the Judicial Council Probate Law Advisory Committee to review the bill and compare to the current law. Mr. Harold wrote that while not all had responded, but for those who did, they had no problem with the bill. A copy of the email is (Attachment 3) attached hereto and incorporated into the Minutes by reference.

The Chair then asked Mr. Furse if there were any technical amendments that were necessary. He did refer to page 2, line 19, that states "state and federal" and the Committee thought about changing this to "or" or "or both" which was satisfactory with Dr. Phillips.

Senator Brungardt motioned has moved that the language be changed as suggested above and seconded by Senator Salmans. The motion carried.

The Chair then asked what was the will of the Committee on the bill and Senator Salmans motioned to pass as amended, seconded by Senator Harrington, and the motion carried.

Final Action on SB643 - an act concerning the secretary of health and environment; permanent color technology; tattooing and body piercing; concerning the transfer of certain powers; duties and functions to the secretary of health & environment

The Chair then asked the Committee to look at SB643 as stated above. She stated, Secretary Graeber asked that the Committee delay the body art and tattooing being moved to KDHE for one year, mentioning there was no money to fund and regulate this move. The Chair also gave a history of the bill, stating that last year when the Committee started with HB2275, all of cosmetology would move to KDHE. She said the bill was voted out of the Senate and moved to the House, but when it went to conference, the House would not take all of the cosmetology, they would only allow the body art and taboo. She stated she has been getting feedback on problems with the split. She would like to move all of cosmetology under KDHE, make them an advisory board, and delay the enactment of the bill to give Secretary Graeber time to work on it as he is involved with the unexpected bioterrorism initiatives right now.

There followed a discussion as to when the Committee would make this effective. (July 1, 2003 was the original effective date, but with a new administration, it was suggested the Committee might want to consider implementing the transfer on January 15, 2003.) Another discussion among Senators Praeger, Salmans, Harrington ensued regarding issues with the transfer (budget shift, grace time, interim not on a fiscal year, how much would you allocate to each and where would it go, moving cosmetology fee fund, previous administration) It was then discussed, with Dr. Phillips, who stated that from a functional perspective there would be a previous administration making all of the decisions of how this would be set up and then the new administration comes in with perhaps a whole new structure, so there could be chaos.

Senator Harrington made a motion to amend HB2275 into SB643, with an implementation date of July, 2003. Senator Praeger seconded, and the motion carried. Senator Harrington then motioned that the Committee pass the bill favorably as amended, seconded by Senator Praeger, and the motion carried.

A copy of the amendment is (Attachment 4) attached hereto and incorporated into the Minutes as referenced.

Final action on SB584 - an act concerning institutional licenses; relating to the granting of a license

The Chair then asked Senator Salmans to pass out his amendment he has been working on. He explained that the Committee had received some objection from the osteopaths and the Board of Healing Arts and the handout is the solution of the two. He stated on the handout, the first half is Mr. Chip Wheelen's (Osteopaths) opinions and the bottom is Mr. Larry Bruening's (Board of Healing Arts) opinion, and it has the expiration date, the sunset, opening it for that limited number of physicians. Senator Salmans also stated, the amendment did not meet the objection of the KS Medical Society because philosophically they do not want to open any of the healing arts licensure practices. A copy of his amendment is (Attachment 5) attached hereto and incorporated into the Minutes by reference.

The Chair then asked for questions. A discussion ensued between Senators Barnett, Brungardt, and Praeger and Mr. Furse regarding what other professions have we opened and altered licensure on, diagnostic, OT's, compromise between the medical society and the optometrists (ex. most recently 1998 for treatment of glaucoma), dental hygienists, licensure versus scope of practice, altering practices, to a pharmacist at Larned State Hospital that the Legislature made a special exemption for.

Senator Salmans made a motion to adopt the bill as amended. It was seconded by Senator Harrington and the motion carried. Senator Salmans made a motion to move it favorably as amended. It was seconded by Senator Brungardt. The motion carried.

Final action on HB2665 - an act concerning emergency medical services; relating to certification

The Chair then announced that Senator Downey had a request to amend this bill and asked Mr. Furse to explain the changes. He stated the bill had a couple of exceptions that it did not need and some language that is vague with regards to the placement of the authorization to engage in some of the activities. He stated he:

- 1) removed sub (b), except as provided in another subsection in Sec.1, because it did not agree with Sec. 1 and to use the same strike language on page 2 as in HB2665;
- 2) removed the language in the bill, which related to the request of an operator of an ambulance service for an applicant for certification to be able to work for that ambulance service, and moved it to the bottom of page 3 so that it follows the temporary certificate; and,
- 3) inserted "approval by the Board" in the language at the bottom of page 3.

The Chair asked Mr. Furse asked if Senator Downey's concerns regarding "epinephrine" were not in this amendment and Mr. Furse this was handled separately in the March 13, 2002 Committee meeting. A copy of the amendment is (Attachment 6) attached hereto and incorporated into the Minutes by reference.

The Chair asked for the will of the Committee. Senator Harrington made a motion to adopt both amendments. Senator Salmans said he would second but did want to mention that Senator Downey came to him regarding the addition of "first responders" to the bill. The Chair mentioned there was a problem with this addition, the issue being first responders are not authorized by medical protocol and that it was discussed during the hearing. She stated the Committee would request a statement from EMS as to why they were opposed and let the people make up their own minds. At this point, Senator Harrington made a motion was made to adopt Senator Downey's amendment and the technical cleanup. This was seconded by Senator Salmans and the motion carried.

The Chair then asked what the will of the Committee was for this bill. Senator Barnett motioned to pass the bill favorably as amended and it was seconded by Senator Praeger. The motion carried.

Adjournment

Adjournment time was at 2:30 p.m.

The next meeting is scheduled for March 20, 2002.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

GUEST LIST

23 in all.

DATE: Tues 3.19.02

NAME	REPRESENTING
Pam Guthrie	Heneta Midwest
Fred Jones	KDHE, CHFS
Eric Collins	Ks Govt. Consulting
LORNE PHILLIPS	KDHE
JW Slaton	USD 228
Maury Elmore	USD 228
Maury Elmore	USD 228
TUCK DUNCAN	Ks. occupational therapy Assn
Michelle Peterson	Ks. Governmental Consulting
John Peterson	Ks. Governmental Consulting

HOUSE BILL No. 2718

By Committee on Health and Human Services

1-28

AN ACT concerning the department of health and environment; relating to vital statistics; amending K.S.A. 23-110 and 65-2417 and K.S.A. 2001 Supp. 65-2418 and 65-2422d and repealing the existing sections; also repealing K.S.A. 2001 Supp. 65-2418a.

, 65-2417 and 65-2434

, 65-2422d and 65-2423

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

Section 1. K.S.A. 23-110 is hereby amended to read as follows: 23-110. The secretary of health and environment shall index all records received pursuant to K.S.A. 23-109 and amendments thereto and, upon request, shall issue a certified copy or abstract of them which in all courts and for all purposes shall be prima facie evidence of the facts stated in them. For each certified copy or abstract a fee shall be paid to the secretary in an amount prescribed in accordance with, and disposed of in the manner provided by, K.S.A. 65-2418 and amendments thereto.

, 65-2422d

Sec. 2. K.S.A. 65-2417 is hereby amended to read as follows: 65-2417. (a) Subject to the requirements of K.S.A. 65-2421, ~~65-2422~~ and 65-2423, the state registrar shall, upon request, furnish to any applicant a certified copy or a certified abstract of any certificate, or any part thereof.

and amendments thereto

(b) Copies or abstracts of the contents of any certificate on file or any part thereof, certified by the state registrar shall be considered for all purposes the same as the original subject to the requirements of K.S.A. 65-2421, ~~65-2422~~ and 65-2423.

, 65-2422d

Sec. 3. K.S.A. 2001 Supp. 65-2418 is hereby amended to read as follows: 65-2418. (a) Except as otherwise provided in this section, the secretary shall fix and charge the fees, if any, to be paid for certified copies or abstracts of certificates or for search of the files or records when no certified copy or abstract is made. Fees for certified copies or abstracts of certificates shall be fixed by rules and regulations of the secretary except that the fee for the first copy of a birth or death certificate shall include a \$3 surcharge and the fee for each additional copy of the same birth or death certificate requested at the same time shall include a \$1 surcharge. The secretary shall not charge any fee for a certified copy or abstract of a certificate or for a search of the files or records if the certificate or search is requested by a person who exhibits correspondence from the United States veterans administration department of veterans

Senate Public Health & Welfare Committee
Date: March 14, 2002
Attachment 1

1 *affairs* or the Kansas commission on veterans' affairs which indicates that
 2 the person is applying for benefits from the United States veterans ad-
 3 ~~ministration~~ *department of veterans affairs* and that such person needs
 4 the requested information to obtain such benefits, except that, for a sec-
 5 ond or subsequent ~~certified~~ copy of a certificate or search of the files
 6 requested by the person, the usual fee shall be charged. The secretary
 7 may provide by rules and regulations for exemptions from such fees.

8 (b) Subject to K.S.A. 65-2420, and amendments thereto, the national
 9 office of vital statistics may be furnished copies or data it requires for
 10 national statistics. The state shall be reimbursed for the cost of furnishing
 11 the data. The data shall not be used for other than statistical purposes by
 12 the national office of vital statistics unless so authorized by the state reg-
 13 istrar of vital statistics.

14 (c) (1) The secretary shall remit all moneys received by or for the
 15 secretary from fees, charges or penalties to the state treasurer in accord-
 16 ance with the provisions of K.S.A. 75-4215, and amendments thereto.
 17 Upon receipt of each such remittance, other than remittances for fees
 18 for birth certificates, the state treasurer shall deposit the entire amount
 19 in the state treasury to the credit of the state general fund.

20 (2) Upon receipt of any such remittance of a fee for a birth certificate,
 21 \$3 of each such fee for the first copy of a birth certificate and \$1 of each
 22 such fee for each additional copy of the same birth certificate requested
 23 at the same time shall be remitted to the state treasurer in accordance
 24 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
 25 receipt of each such remittance, the state treasurer shall deposit the entire
 26 amount in the state treasury to the credit of the permanent families ac-
 27 count of the family and children investment fund created by K.S.A. 38-
 28 1808, and amendments thereto. Upon receipt of any such remittance of
 29 a fee for a death certificate, \$3 of each such fee for the first copy of a
 30 death certificate and \$1 of each such fee for each additional copy of the
 31 same death certificate requested at the same time shall be remitted to
 32 the state treasurer in accordance with the provisions of K.S.A. 75-4215,
 33 and amendments thereto. Upon receipt of each such remittance, the state
 34 treasurer shall deposit the entire amount in the state treasury to the credit
 35 of the district coroners fund created by K.S.A. 22a-245, and amendments
 36 thereto. The balance of the money received for a fee for a birth certificate
 37 shall be remitted to the state treasurer in accordance with the provisions
 38 of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
 39 remittance, the state treasurer shall deposit the entire amount in the state
 40 treasury to the credit of the state general fund.

41 (d) Upon receipt of any fee for a certified copy or abstract of a birth,
 42 death, fetal death, marriage or divorce certificate, \$1 of each such fee shall
 43 be remitted to the state ~~treasure and~~ treasurer who shall deposit the entire amount

treasurer

1 of each such remittance in the state treasury and credit it to the vital
2 statistics maintenance fee fund created under K.S.A. 2001 Supp. 65-
3 2418b, and amendments thereto. For the purposes of the vital statistics
4 maintenance fee fund, the secretary of health and environment shall adopt
5 rules and regulations providing for an increase of \$1 in the fees charged
6 by the state registrar for providing a certified copy or abstract of a birth,
7 death, fetal death, marriage or divorce certificate.

8 Sec. 4. K.S.A. 2001 Supp. 65-2422d is hereby amended to read as
9 follows: 65-2422d. (a) The records and files of the division of health per-
10 taining to vital statistics shall be open to inspection, subject to the pro-
11 visions of this act and rules and regulations of the secretary. It shall be
12 unlawful for any officer or employee of the state to disclose data contained
13 in vital statistical records, except as authorized by this act and the secre-
14 tary, and it shall be unlawful for anyone who possesses, stores or in any
15 way handles vital statistics records under contract with the state to disclose
16 any data contained in the records, except as authorized by law.

17 (b) No information concerning the birth of a child shall be disclosed
18 in a manner that enables determination that the child was born out of
19 wedlock, except upon order of a court in a case where the information is
20 necessary for the determination of personal or property rights and then
21 only for that purpose.

22 (c) The state registrar shall not permit inspection of the records or
23 issue a certified copy or abstract of a certificate or part thereof unless the
24 state registrar is satisfied the applicant therefor has a direct interest in
25 the matter recorded and the information contained in the record is nec-
26 essary for the determination of personal or property rights. The state
27 registrar's decision shall be subject, however, to review by the secretary
28 or by a court in accordance with the act for judicial review and civil
29 enforcement of agency actions, subject to the limitations of this section.

30 (d) The secretary shall permit the use of data contained in vital sta-
31 tistical records for research purposes only, but no identifying use of them
32 shall be made.

33 (e) Subject to the provisions of this section the secretary may direct
34 the state registrar to release birth, death and stillbirth certificate data to
35 federal, state or municipal agencies.

36 (f) On or before the 20th day of each month, the state registrar shall
37 furnish to the county election officer of each county, without charge, a
38 list of deceased residents of the county who were at least 18 years of age
39 and for whom death certificates have been filed in the office of the state
40 registrar during the preceding calendar month. The list shall include the
41 name, age or date of birth, address and date of death of each of the
42 deceased persons and shall be used solely by the election officer for the
43 purpose of correcting records of their offices.

1 (g) No person shall prepare or issue any certificate which purports to
2 be an original, certified copy or abstract or copy of a certificate of birth,
3 death or fetal death, except as authorized in this act or rules and regu-
4 lations adopted under this act.

5 (h) Records of births, deaths or marriages which are not in the cus-
6 tody of the secretary of health and environment and which were created
7 before July 1, 1911, pursuant to chapter 129 of the 1885 Session Laws of
8 Kansas, and any copies of such records, shall be open to inspection by
9 any person and the provisions of this section shall not apply to such
10 records.

11 (i) Social security numbers furnished pursuant to K.S.A. 65-2409 and
12 amendments thereto shall only be used as permitted by title IV-D of the
13 federal social security act and amendments thereto or as permitted by
14 section 7(a) of the federal privacy act of 1974 and amendments thereto.
15 The secretary shall make social security numbers furnished pursuant to
16 K.S.A. 65-2409 and amendments thereto available to the department of
17 social and rehabilitation services for purposes permitted under title IV-
18 D of the federal social security act.

19 (j) Fact of death information may be disseminated to state and federal
20 agencies administering benefit programs. Such information shall be used
21 for file clearance purposes only.

22 Sec. 5. K.S.A. 23-110 and 65-2417 and K.S.A. 2001 Supp. 65-2418,
23 65-2418a and 65-2422d are hereby repealed.

24 Sec. 6. This act shall take effect and be in force from and after its
25 publication in the Kansas register.

Sec. 5. 65-2423 attached.

Sec. 6. 65-2434 attached.

And by renumbering sections accordingly

, 65-2417 and 65-2434

, 65-2422d and 65-2423

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Sec. 4. K.S.A. 2001 Supp. 65-2423 is hereby amended to read as follows: 65-2423. (a) In cases of adoption the state registrar upon receipt of a certified decree of adoption, or a similar document or documents which evidences finalization of the adoption in the foreign country, and the report of adoption form shall prepare a supplementary certificate or abstract in the new name of the adopted person and seal and file the original certificate of birth with such certified copy or abstract attached thereto. Such sealed documents may be opened by the state registrar only upon the demand of the adopted person if of legal age or by an order of court. Upon receipt of a certified copy of a court order of annulment of adoption the state registrar shall restore the original certificate to its original place in the files.

(b) For any child born in a foreign country but adopted in Kansas or born and adopted in a foreign country and such adoption is filed and entered pursuant to K.S.A. 59-2144, and amendments thereto, the state registrar, upon request, shall complete and register a birth certificate upon receipt of a certified copy of the decree of adoption, or a similar document or documents which evidences finalization of the adoption in the foreign country, the report of adoption form and proof of the date and place of the child's birth. The certificate shall show the new name of the child as specified in the decree of adoption, or a similar document or documents which evidences finalization of the adoption in the foreign country, and such further information

concerning the adopting parents as may be necessary to complete the birth certificate. The certificate shall show the true country of birth and the date of birth of the child, and that the certificate is not evidence of United States citizenship.

Sec. 5. K.S.A. 65-2434 is hereby amended to read as follows:
65-2434. (1) Any person who willfully makes or alters any certificate ~~or~~, certified copy thereof or abstract provided for in this act, except in accordance with the provisions of this act, shall be fined not more than \$1,000, or be imprisoned not exceeding six months, or both fined and imprisoned.

(2) Any person who knowingly transports or accepts for transportation, a dead body located in this state to a location outside the boundaries of this state without an accompanying permit issued in accordance with the provisions of K.S.A. 65-2428a, shall be fined not more than \$500.

(3) Except where a different penalty is provided in this section, any person who violates any of the provisions of this act or neglects or refuses to perform any of the duties imposed upon such person by this act, shall be fined not more than \$100.

Immigration and Naturalization Service

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INSERTS/SERVICE LAW BOOKS/IMMIGRATION AND NATIONALITY ACT/TITLE III/CHAPTER 2 - NATIONALITY THROUGH NATURALIZATION/INA: ACT 320 - Children born outside the United States and residing permanently in the United States; cc which citizenship automatically acquired 1/

INA: ACT 320 - Children born outside the United States and *residing* permanently in the United States; conditions under which citizenship automatically acquired 1/

Sec. 320. [8 U.S.C. 1431] (a) A child born outside of the United States automatically becomes a citizen of the United States when all of the following conditions have been fulfilled:

(1) At least one parent of the child is a citizen of the United States, whether *by birth* or, naturalization.

(2) The child is under the age of eighteen years.

(3) The child is residing in the United States in the legal and physical custody of the *citizen parent* pursuant to a lawful admission for permanent residence.

(b) Subsection (a) shall apply to a child adopted by a United States citizen parent if the child's requirements applicable to adopted children under section 101(b)(1).

FOOTNOTES FOR SECTION 320

the 30th day of each month shall furnish to the registrar during the pre-

The list shall include the date of birth, address and name of the deceased persons as determined by the election officer preparing records of their

shall prepare or issue any certificate of birth, except as authorized in the regulations adopted under

deaths or marriages and the provisions of chapter 24, pursuant to chapter 24, Laws of Kansas, and orders, shall be open to the public and the provisions of chapter 24 apply to such records.

Numbers furnished pursuant to section 409 and amendments thereto as permitted by title 24, security act and as permitted by section 24, security act of 1974 and the secretary shall make copies furnished pursuant to amendments thereto available to social and rehabilitation purposes permitted under the social security act.

Chapter 355, § 22; L. 1963, ch. 233, § 1; L. 1974, ch. 114, § 28; L. 1985, ch. 241, § 1; L. 1987, ch. 241, § 1; L. 1987, ch. 241, § 1; L. 1987, ch. 241, § 1.

See in 1990 session, see also 65-

§ 24, security act of 1974 and the secretary shall make copies furnished pursuant to amendments thereto available to social and rehabilitation purposes permitted under the social security act.

In cases. (a) In cases of adoption the registrar upon receipt of a certified copy of a birth certificate shall prepare a supplement in the new name of the child and file the original and a certified copy at-

tached thereto. Such sealed documents may be opened by the state registrar only upon the demand of the adopted person if of legal age or by an order of court. Upon receipt of a certified copy of a court order of annulment of adoption the state registrar shall restore the original certificate to its original place in the files.

(b) For any child born in a foreign country but adopted in Kansas the state registrar, upon request, shall complete and register a birth certificate upon receipt of a certified copy of the decree of adoption, together with proof of the date and place of the child's birth. The certificate shall show the new name of the child as specified in the decree of adoption, and such further information concerning the adopting parents as may be necessary to complete the birth certificate. The certificate shall show the true country of birth and the date of birth of the child, and that the certificate is not evidence of United States citizenship.

History: L. 1951, ch. 355, § 23; L. 1978, ch. 247, § 1; July 1.

Cross References to Related Sections:

Probate code, 59-2111 et seq.
Registration, see 65-2433.

Research and Practice Aids:

Birth certificate of adopted child, Kansas Probate Law and Practice § 1451.

Order for adoption, Kansas Practice Methods § 1207.
Supplementary birth certificates, Kansas Probate Law and Practice § 1147.

Law Review and Bar Journal References:

"Independent Adoption: Regulating the Middleman," Natalie Haag Wallisch, 24 W.L.J. 327, 332 (1985).

Attorney General's Opinions:

Disclosure of records; effect of Kansas parentage act on issuance of birth certificates. 85-74.

Change of birth date on adopted child's birth certificate. 90-35.

65-2424.

History: L. 1951, ch. 355, § 24; Repealed, L. 1985, ch. 114, § 30; July 1.

Revisor's Note:

Later act, see 38-1128.

65-2425. Institution inmates or patients; records and reports. Persons in charge of institutions for care of [or] correction or for treatment of disease, injury or childbirth shall record and report all statistical data required by this act relating to their inmates or patients.

History: L. 1951, ch. 355, § 25; June 30.

65-2426.

History: L. 1951, ch. 355, § 26; L. 1979, ch. 188, § 14; Repealed, L. 1982, ch. 266, § 5; July 1.

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KSA
65-
2423 (b)

PROPOSED AMENDMENT TO HOUSE BILL NO. 2718

MR. PRESIDENT;

The Committee on Public Health and Welfare recommends HB 2718 be amended on page 4, following line 21, by inserting the following:

"Sec. 5. K.S.A. 2001 Supp. 65-2423 is hereby amended to read as follows: 65-2423. (a) In cases of adoption the state registrar upon receipt of a certified decree of adoption, or a similar document or documents which evidences finalization of the adoption in the foreign country, and the report of adoption form shall prepare a supplementary certificate in the new name of the adopted person and seal and file the original certificate of birth with such certified copy attached thereto. Such sealed documents may be opened by the state registrar only upon the demand of the adopted person if of legal age or by an order of court. Upon receipt of a certified copy of a court order of annulment of adoption the state registrar shall restore the original certificate to its original place in the files.

(b) For any child born in a foreign country but adopted in Kansas or born and adopted in a foreign country and such adoption is filed and entered pursuant to K.S.A. 59-2144, and amendments thereto, the state registrar, upon request, shall complete and register a birth certificate upon receipt of a certified copy of the decree of adoption, or a similar document or documents which evidences finalization of the adoption in the foreign country, the report of adoption form and proof of the date and place of the child's birth. The certificate shall show the new name of the child as specified in the decree of adoption, or a similar document or documents which evidences finalization of the adoption in the foreign country, and such further information concerning the adopting parents as may be necessary to complete the birth certificate. The certificate shall show the true country of birth and the date of birth of the child, ~~and that the certificate is not evidence of United States citizenship.~~";

And by renumbering remaining sections accordingly;

On page 4, in line 23, by striking "and" and inserting a comma; also in line 23 following "65-2422d" by inserting "and 65-2423";

In the title, on page 1, in line 11, by striking "and" the first time it appears and inserting a comma; also in line 11 following "65-2422d" by inserting "and 65-2423";

From: Judicial Council <judicial.council@ksjc.state.ks.us>
To: <gordons@rs.state.ks.us>
Date: 3/11/02 2:40PM
Subject: 2002 HB 2733

Dear Norm and Gordon,

I sent a copy of 2002 HB 2733 concerning presumptive death to the members of the Judicial Council Probate Law Advisory Committee. Not all members have responded. (If I get any late responses that differ with what I say in this e-mail, I will immediately forward them to you.) Those who responded have no problem with or objections to HB 2733. Judge Bruner stated that over the years he has completed a number of estates under Article 27 of Chapter 59, it has worked well, and he believes it will continue to work well if the proposed amendments contained in HB 2733 are enacted.

If I can provide further information, please inquire.

Randy

CC: <normf@rs.state.ks.us>

Senate Public Health & Welfare Committee
Date: March 19, 2002
Attachment 3

5
6 HOUSE BILL No. 2275

7
8 By Committee on Health and Human Services

9
10 2-1

11
12 AN ACT concerning the state board of cosmetology; **abolishing such**
13 **board and transferring the powers, duties and functions thereof**
14 **to the secretary of health and environment**; persons and practices
15 regulated ~~by the board~~; permanent color technology, tattooing and
16 body piercing; amending ~~K.S.A. 2000 Supp. 65-1940, 65-1941, 65-~~
17 ~~1942, 65-1943, 65-1944, 65-1945, 65-1946, 65-1947, 65-1948, 65-1949,~~
18 ~~65-1950 and 65-1954 and repealing the existing sections; also repealing~~
19 ~~K.S.A. 2000 Supp. 65-1952~~ **K.S.A. 39-938, 65-1,148, 65-1920, 65-**
20 **1925 and 65-1926 and K.S.A. 2000 Supp. 65-1901, 65-1902, 65-**
21 **1903, 65-1904, 65-1904a, 65-1904b, 65-1905, 65-1907, 65-1908,**
22 **65-1909, 65-1912, 65-1940, 65-1941, 65-1942, 65-1943, 65-1944,**
23 **65-1945, 65-1946, 65-1947, 65-1948, 65-1949, 65-1950, 65-1951,**
24 **65-1953, 65-1954 and 75-3717 and repealing the existing sec-**
25 **tions; also repealing K.S.A. 74-2702 and 74-2705 and K.S.A. 2000**
26 **Supp. 65-1952, 74-2701, 74-2702a, 74-2703 and 74-2704.**

27
28 *Be it enacted by the Legislature of the State of Kansas:*

29 Section 1. K.S.A. 2000 Supp. 65-1940 is hereby amended to read as
30 follows: 65-1940. As used in this act, unless the context otherwise
31 requires:

32 (a) ~~“Board” means the Kansas state board of cosmetology.~~ **“Secre-**
33 **tary” means the secretary of health and environment.**

34 (b) ~~“Director” means the executive director of the board.~~

35 ~~(c) “Department” means the department of health and environment.~~

36 ~~(d) “Secretary” means the secretary of health and environment.~~

37 ~~(e) (b) “Licensed permanent color technician and tattoo artist” means~~
38 ~~a person licensed under this act to practice tattooing or permanent color~~
39 ~~technology, or both.~~

40 ~~(f) (c) “Permanent color technician and tattoo artist” means a person~~
41 ~~who practices tattooing or permanent color technology, or both pursuant~~
42 ~~to this act.~~

43 ~~(g) (d) “Body piercing” means puncturing the skin of a person by aid~~

Senate Public Health & Welfare Committee
Date: March 19, 2002
Attachment 4

1 of needles or other instruments designed or used to puncture the skin
2 for the purpose of inserting **removable** jewelry or other objects ~~in or~~
3 through the human body, except puncturing the external part of the hu-
4 man ear ~~earlobe~~ shall not be included in this definition. **This act shall**
5 **not be construed to authorize a licensed body piercer to implant or**
6 **embed foreign objects into the human body or otherwise to engage**
7 **in the practice of medicine and surgery.**

8 ~~(h)~~ (e) "Physician" means a person licensed to practice medicine and
9 surgery by the state board of healing arts.

10 ~~(i)~~ (f) "Tattoo" means the indelible mark, figure or decorative design
11 introduced by insertion of nontoxic dyes or pigments into or under the
12 subcutaneous portion of the skin upon the body of a live human being.

13 ~~(j)~~ (g) "Tattooing" means the process by which the skin is marked or
14 colored by insertion of nontoxic dyes or pigments into or under the sub-
15 cutaneous portion of the skin so as to form indelible marks for cosmetic
16 or figurative purposes.

17 ~~(k)~~ "Tattoo facility" (h) "Facility" means any room or space or any
18 part thereof where tattooing ~~is~~, *permanent color technology or body pierc-*
19 *ing, or any combination thereof, are practiced or where the business of*
20 *tattooing is, permanent color technology or body piercing, or any com-*
21 *bination thereof, are conducted.*

22 ~~(l)~~ "Body piercing facility" means any room space, or any part thereof,
23 where body piercing is practiced or where the business of body piercing
24 is conducted.

25 ~~(m)~~ (i) "Permanent color technology" means the process by which
26 the skin is marked or colored by insertion of nontoxic dyes or pigments
27 into or under the subcutaneous portion of the skin so as to form indelible
28 marks for cosmetic or figurative purposes.

29 (j) "Dentist" means a person licensed to practice dentistry by the Kan-
30 sas dental board.

31 (k) "Licensed body piercer" means a person licensed under this act
32 to practice body piercing.

33 Sec. 2. K.S.A. 2000 Supp. 65-1941 is hereby amended to read as
34 follows: 65-1941. (a) No person, including a permanent color technician
35 and tattoo artist, shall perform tattooing, display a sign or in any other
36 way advertise or purport to be a permanent color technician and tattoo
37 artist unless that person holds a valid license issued by the ~~board~~ **secre-**
38 **tary**. No person shall perform body piercing, display a sign or in any
39 other way advertise or purport to be in the business of body piercing
40 unless that person holds a valid license issued by the ~~board~~ **secretary**.
41 *No person shall operate a facility where permanent color technology, tat-*
42 *tattooing or body piercing is practiced unless that person holds a valid fa-*
43 *cility license issued by the ~~board~~ secretary. No person shall knowingly*

1 employ an individual to engage in permanent color technology, tattooing
2 or body piercing unless such individual holds a currently valid license
3 issued by the board secretary. This act does not prevent or affect the
4 use of tattooing, permanent color technology or body piercing by a phy-
5 sician, a person under the control and supervision of a physician, a dentist,
6 a person under the control and supervision of a dentist, an individual
7 performing tattooing, permanent color technology or body piercing solely
8 on such individual's own body ~~or any other person specifically permitted~~
9 ~~to use electrolysis or tattooing by law~~ **or any other person specifically**
10 **permitted to use electrolysis or tattooing by law.**

11 (b) Violation of subsection (a) is a class A nonperson misdemeanor.

12 (c) The board secretary may bring an action to enjoin any person
13 from practicing permanent color technology, tattooing or body piercing
14 if such person does not hold a currently valid license. The board secretary
15 may bring an action to enjoin any person from operating a facility where
16 permanent color technology, tattooing or body piercing is practiced if such
17 person does not hold a currently valid facility license.

18 (d) The board secretary may order the remedying of any violations
19 of rules and regulations of the board secretary or any provision of this
20 act and the board secretary may issue a cease and desist order upon
21 board secretary determination that the holder of a license has violated
22 any order of the board secretary, any rules and regulations of the board
23 secretary or any provision of this act.

24 Sec. 3. K.S.A. 2000 Supp. 65-1942 is hereby amended to read as
25 follows: 65-1942. (a) No person shall:

26 ~~(a)~~ (1) Sell, barter or offer to sell or barter a license;

27 ~~(b)~~ (2) purchase or procure by barter a license with intent to use it
28 as evidence of the person's qualification to practice tattooing or body
29 piercing;

30 ~~(c)~~ (3) alter materially a license with fraudulent intent;

31 ~~(d)~~ (4) use or attempt to use as a valid license a license which has
32 been purchased, fraudulently obtained, counterfeited or materially al-
33 tered; ~~or~~

34 ~~(e) willfully make a false, material statement in an application for~~
35 ~~licensure or for renewal of a license.~~

36 (b) A violation of subsection (a)(1), (a)(2), (a)(3) or (a)(4) is a class A
37 nonperson misdemeanor.

38 Sec. 4. K.S.A. 2000 Supp. 65-1943 is hereby amended to read as
39 follows: 65-1943. An applicant for licensure as a permanent color tech-
40 nician and tattoo artist or as a body piercer shall pay a fee established by
41 rules and regulations adopted by the board secretary and shall show to
42 the satisfaction of the board secretary that the applicant:

43 (a) Has complied with the provisions of this act and the applicable

1 rules and regulations of the ~~secretary~~ board secretary;

2 (b) *is not less than 18 years of age;*

3 (c) *has a high school diploma or equivalent education;*

4 (d) *has submitted evidence of completion of education or training*

5 *prescribed and approved by the board secretary as follows:*

6 (1) (A) *If the application is for a permanent color technician and*

7 *tattoo artist, a training program under the direct supervision of a licensed*

8 *permanent color technician and tattoo artist ~~in a state approved by in~~*

9 *accordance with rules and regulations of the board, or a person or school*

10 *in this state designated by the board, if the application is for a permanent*

11 *color technician and tattoo artist license ~~secretary~~, or*

12 (B) *if the application is for a license to practice body piercing, a train-*

13 *ing program under the direct supervision of a ~~person licensed in a state~~*

14 *body piercer approved by in accordance with rules and regulations of the*

15 *board or a person or school in this state designated by the board if the*

16 *application is for a license to perform body piercing ~~secretary~~, and*

17 (2) *if the license is applied for under either subpart (A) or (B), has*

18 *passed an examination approved, administered or recognized by the*

19 *board secretary.*

20 New Sec. 5. (a) Any person who teaches and trains the profession of

21 tattooing, permanent color technology or body piercing shall be required

22 to obtain a trainer's license from the board secretary. An applicant for a

23 trainer's license shall submit an application on forms approved by the

24 board secretary and pay the trainer license application fee.

25 (b) To qualify as a permanent color technician and tattoo artist

26 trainer, the applicant shall have four years of full-time active practice and

27 shall be currently licensed as a permanent color technician and tattoo

28 artist.

29 (c) To qualify as a body piercing trainer, the applicant shall have three

30 years of full-time active practice and shall be currently licensed as a body

31 piercer.

32 (d) The trainer license shall expire one year following its issuance and

33 may be renewed upon application accompanied by the trainer license

34 renewal fee made to the board secretary before the license expires. A

35 trainer license may be renewed by the applicant within six months after

36 the date of expiration of the license upon payment of the renewal fee and

37 payment of a delinquent renewal fee. An applicant whose trainer's license

38 has been expired for more than six months may obtain a trainer's license

39 in the same manner and on payment of the same fees as provided for an

40 applicant for an original trainer's license.

41 New Sec. 6. (a) Any person desiring to practice tattooing, permanent

42 color technology or body piercing while completing a training program

43 shall be required to obtain an apprentice license. The applicant shall pay

1 the apprentice license fee and submit an application on a form approved
2 by the board secretary which indicates the name of the licensed trainer
3 or trainers under whose supervision the apprentice will practice and the
4 name and address and telephone number of the licensed facility or facil-
5 ities in which the apprentice will practice. The applicant shall also comply
6 with applicable rules and regulations of the board secretary. The appli-
7 cation for an apprentice license shall be submitted to the board secretary
8 before the person begins the training program. The person shall not prac-
9 tice tattooing, permanent color technology or body piercing until the ap-
10 prentice license has been issued. An apprentice shall practice tattooing,
11 permanent color technology or body piercing under the direct supervision
12 of the licensed trainer or trainers who are indicated on the application
13 form. An apprentice shall keep the apprentice license conspicuously
14 posted in the licensed facility where the apprentice practices.

15 (b) An apprentice license issued by the board secretary shall expire
16 at such time as final action on the application for licensure as a permanent
17 color technician and tattoo artist or body piercer is completed or 18
18 months after the date of issuance of the apprentice license.

19 New Sec. 7. Upon application to the board secretary on a form pro-
20 vided, accompanied by the application fee, a person licensed to practice
21 permanent color technology, tattooing or body piercing under the laws
22 of another state or jurisdiction shall be granted a license entitling the
23 person to practice in this state if:

24 (a) The person has complied with the provisions of this act and the
25 applicable rules and regulations of the board secretary;

26 (b) the person is not less than 18 years of age;

27 (c) has a high school diploma or equivalent education; and

28 (d) the person meets at least one of the following criteria:

29 (1) The person's education, training and experience, including ex-
30 amination requirements, are equal to the requirements for licensure in
31 this state; or

32 (2) the person has been licensed in a state or jurisdiction which has
33 substantially the same requirements for licensure as this state; and

34 (3) the person submits to the board secretary a written statement
35 from a person licensed to practice medicine and surgery under the laws
36 of any state that the person applying is free from infectious or contagious
37 disease.

38 Sec. 8. K.S.A. 2000 Supp. 65-1944 is hereby amended to read as
39 follows: 65-1944. (a) A person who holds a license *as a permanent color*
40 *technician and tattoo artist or as a body piercer* shall notify the board
41 secretary in writing of the ~~regular~~ address and telephone number of the
42 place or places where the person performs or intends to perform *per-*
43 *manent color technology, tattooing or body piercing* and shall keep the

1 license conspicuously posted in ~~the such place of business or places~~ at all
2 times. *Such person shall also keep the board secretary notified in writing*
3 *of the person's home address and telephone number.*

4 (b) The board secretary shall keep a record of the place or places of
5 ~~business of~~ where each person who holds a license *performs permanent*
6 *color technology, tattooing or body piercing.*

7 (c) Any notice required to be given by the board secretary to a per-
8 son who holds a license may be given by mailing the notice to the address
9 of the last place of ~~business practice~~ of which the person has notified the
10 board secretary.

11 (d) The board secretary shall issue to each qualified applicant a li-
12 cense to operate a ~~tattoo facility or a body piercing facility~~, *whether mobile*
13 *or stationary, where permanent color technology, tattooing or body pierc-*
14 *ing is practiced* and to advertise permanent *new color technology, tattoo-*
15 *ing or body piercing services for which the facility is licensed. Any person*
16 *desiring to operate a tattoo and permanent color technology facility or a*
17 *body piercing facility shall make application to the board secretary, on*
18 *a form provided by the board secretary, accompanied by a facility license*
19 *fee. Upon filing of the application, the board secretary shall inspect the*
20 *facility and equipment as to safety and sanitary conditions and, if the*
21 *equipment and facility are found to comply with the provisions of this act*
22 *and with the rules and regulations of the board secretary, the board*
23 *secretary shall issue a facility license.*

24 (e) A facility license issued during the twelve-month period preceding
25 July 1, 2001, shall expire on December 31, 2001, and may be renewed
26 upon application accompanied by the facility license renewal fee made to
27 the board secretary before the license expires. For those facility licenses
28 issued during the twelve-month period preceding July 1, 2001, and that
29 would have otherwise expired between January 1, 2002, and June 30,
30 2002, renewal applicants shall pay a prorated facility license renewal fee
31 that gives the applicant a credit of \$8.33 per month for each month the
32 license would otherwise have been in effect.

33 (f) A facility license issued on or after July 1, 2001, shall expire on
34 the December 31 following its issuance and may be renewed upon appli-
35 cation accompanied by the facility license renewal fee made to the board
36 secretary before the license expires.

37 (g) A license may be renewed by the applicant within 60 days after
38 the date of expiration of the last license upon payment of the renewal fee
39 and a delinquent renewal fee. An applicant whose license has been expired
40 for more than 60 days may obtain a facility license in the same manner
41 and on payment of the same fees as provided for an applicant for an
42 original license.

43 (h) Licensed facilities shall be reinspected in accordance with a sched-

1 *ule determined by the board secretary by rules and regulations or upon*
2 *a complaint made to the board secretary that such facility is not being*
3 *maintained in compliance with the provisions of this act or with the rules*
4 *and regulations of the board secretary.*

5 Sec. 9. K.S.A. 2000 Supp. 65-1945 is hereby amended to read as
6 follows: 65-1945. (a) Except as otherwise provided in this section, a *per-*
7 *manent color technician and tattoo artist or body piercer* license ~~issued~~
8 ~~under K.S.A. 2000 Supp. 65-1950~~ expires one year after the date of issue
9 unless renewed by payment of the required renewal fee. The ~~board sec-~~
10 ~~retary~~ may vary the date of license renewal by giving to the applicant
11 written notice of the renewal date being assigned and by making prorated
12 adjustments in the renewal fee. If payment is transmitted by postal serv-
13 ice, the envelope must be postmarked on or before the expiration of the
14 license. If the license expires, the license may be renewed *within six*
15 *months of the expiration date* on payment of a renewal fee and ~~late penalty~~
16 ~~delinquent renewal~~ fee established by the board secretary under this act.

17 ~~(b) The board may suspend the license of any person who fails to~~
18 ~~renew. A suspended license may be reactivated upon the payment of a~~
19 ~~reactivation fee established by the board under this act and all past unpaid~~
20 ~~renewal fees.~~

21 ~~(c) A person applying for reactivation shall not be required to take~~
22 ~~an examination as a condition of reactivation if the reactivation occurs~~
23 ~~within three years after the date the license expired.~~

24 *(b) An applicant whose license has expired for more than six months*
25 *after the date of expiration may obtain a license in the same manner and*
26 *on payment of the same fees as provided for an applicant for an original*
27 *license and upon proof that such applicant has satisfactorily completed a*
28 *program of continuing education required by the board secretary for*
29 *applicants whose licenses have expired.*

30 ~~(d) (c) All licensed permanent color technicians, and tattoo artists and~~
31 ~~persons who are licensed to perform body piercing ~~must shall be required~~~~
32 ~~to participate in continuing education, with guidelines and effective date~~
33 ~~to be established by rules and regulations of the board secretary.~~

34 New Sec. 10. (a) Any person desiring to practice as a permanent
35 color technician and tattoo artist or as a body piercer for no more than
36 15 continuous days may apply for a temporary license by submitting an
37 application on a form approved by the board secretary and submitting
38 a temporary license fee at least 30 days prior to the date on which the
39 applicant intends to practice in this state. To qualify for a temporary
40 license, a person shall meet the requirements of subsections (a) through
41 (d) of section 7 and amendments thereto.

42 (b) Any person desiring to operate a facility, whether mobile or sta-
43 tionary, where permanent color technology, tattooing or body piercing is

1 practiced for no more than 15 continuous days may apply for a temporary
2 facility license by submitting an application on a form provided by the
3 board secretary which specifies the location and submitting a temporary
4 facility license fee at least 30 days prior to the date on which the applicant
5 intends to operate the facility in this state. Upon filing of the application,
6 the board secretary shall inspect the facility and equipment as to safety
7 and sanitary conditions and if the equipment and facility are found to
8 comply with the provisions of this act and with the rules and regulations
9 of the board secretary, the board secretary shall issue a temporary fa-
10 cility license for the location specified in the application.

11 Sec. 11. K.S.A. 2000 Supp. 65-1946 is hereby amended to read as
12 follows: 65-1946. Licensed practicing permanent color technicians and
13 tattoo artists and persons who are licensed to perform body piercing shall
14 meet the following standards and any ~~others~~ *other standards* the board
15 secretary may adopt by rules and regulations:

16 (a) Tattooing, *permanent color technology* and body piercing instru-
17 ments shall be sterilized in accordance with methods approved by rules
18 and regulations of the board secretary ~~and such rules and regulations~~
19 ~~shall be approved by the secretary before adoption or amendment;~~

20 (b) ~~practicing licensed~~ permanent color technicians and tattoo artists
21 and persons licensed to perform body piercing shall be equipped with
22 appropriate sterilizing equipment, with availability of hot and cold run-
23 ning water and a covered waste receptacle; and

24 (c) ~~case history cards~~ *a client record* shall be kept for each client for
25 a period of ~~five~~ *three* years.

26 Sec. 12. K.S.A. 2000 Supp. 65-1947 is hereby amended to read as
27 follows: 65-1947. The board secretary may revoke, suspend, refuse to
28 issue, *limit or condition* a license or renewal or ~~place on probation~~ *censure*
29 any licensee upon proof that a person or licensee:

30 (a) Has been convicted of a violation under K.S.A. 2000 Supp. 65-
31 1942 ~~and amendments thereto~~;

32 (b) has been convicted in this or any other state of a crime related to
33 the practice of *permanent color technology*, tattooing or body piercing;

34 (c) ~~has knowingly misrepresented, misstated or failed to disclose per-~~
35 ~~sonal qualifications or other information necessary to practice tattooing~~
36 ~~or body piercing in any communication to the board or the department~~
37 ~~made a material false, misleading or deceptive statement or made a ma-~~
38 ~~terial omission in an application for licensure or renewal of a license or~~
39 ~~in any communication to the board secretary;~~

40 (d) has used, caused or promoted the use of any advertising matter,
41 promotional literature, warranty, label, insignia or any other representa-
42 tion, however disseminated or published, that is false, misleading or
43 deceptive;

1 (e) has knowingly deceived the public by acting in a manner as to
2 mislead clients as to the person's professional status;

3 (f) has employed directly or indirectly any suspended or unlicensed
4 person to perform any *permanent color technology*, tattooing or body
5 piercing covered by this act;

6 (g) has permitted another person to use the license;

7 (h) has practiced *permanent color technology*, tattooing or body
8 piercing under a false, misleading or deceptive name;

9 (i) has failed, if a licensed permanent color technician and tattoo artist
10 or if licensed to perform body piercing, *body piercer* to maintain a busi-
11 ness provide the **board secretary** with an address and telephone number
12 at which the licensee may be reached during business hours;

13 (j) has failed, if a nonpracticing permanent color technician and tattoo
14 artist or a person licensed to perform body piercing, to provide the board
15 with a home address and telephone number *become a danger to the public*
16 *by reason of alcohol or drug abuse*;

17 ~~(k) has failed to properly and reasonably accept responsibility for the~~
18 ~~actions of employees *been convicted of a felony, and the licensee or ap-*~~
19 ~~*plicant for a license is unable to demonstrate to the board's satisfaction*~~
20 ~~*that such person has been sufficiently rehabilitated to warrant the public*~~
21 ~~*trust;*~~

22 ~~(l) (k)~~ has practiced *permanent color technology*, tattooing or body
23 piercing with a mental or physical illness that affects ability to perform
24 or endangers the public;

25 ~~(m) (l)~~ has demonstrated gross incompetence or gross negligence in
26 performing *permanent color technology*, tattooing or body piercing; or

27 ~~(n) (m)~~ has violated any of the provisions of this act or, any order of
28 the **board secretary** or the rules and regulations adopted by the **board**
29 **secretary** pursuant to this act.

30 Sec. 13. K.S.A. 2000 Supp. 65-1948 is hereby amended to read as
31 follows: 65-1948. The powers and duties of the **board secretary** as related
32 to this act are as follows:

33 (a) To authorize all disbursements necessary to carry out the provi-
34 sions of this act;

35 (b) to determine training, *education* and experience requirements for
36 taking the examination and to supervise and administer examinations to
37 test the knowledge of applicants for licensure;

38 (c) to license persons who apply to the **board secretary** and who have
39 qualified to practice *permanent color technology* and tattooing or body
40 piercing, *to license persons who apply to the board secretary and who*
41 *have qualified for a trainer's license, to license persons who apply to the*
42 *board secretary and who have qualified for an apprentice license;*

43 (d) to rent facilities when necessary to carry out the examination of

- 1 applicants for licensure;
 2 (e) to renew licenses;
 3 (f) to suspend or revoke licenses or place licensees on probation in
 4 the manner provided by this act;
 5 (g) to appoint representatives to conduct or supervise the examina-
 6 tion of applicants for licensure;
 7 (h) to designate the time and place for examining applicants for
 8 licensure;
 9 (i) to carry out, ~~together with the department or separately,~~ the pe-
 10 riodic inspection of facilities of persons who are licensed to ~~practice tat-~~
 11 ~~toeing or body piercing~~ *operate a facility where tattooing, permanent*
 12 *color technology or body piercing is practiced;*
 13 (j) to issue a ~~tattoo facility~~ license *to operate a facility where tattooing,*
 14 *permanent color technology or body piercing is practiced* to qualified
 15 applicants upon compliance with this act;
 16 ~~(k) to issue a body piercing facility license to qualified applicants upon~~
 17 ~~compliance with this act;~~ and
 18 ~~(l)~~ (k) to appoint or employ subordinate employees *for the purposes*
 19 *of administering this act.*

20 Sec. 14. K.S.A. 2000 Supp. 65-1949 is hereby amended to read as
 21 follows: 65-1949. (a) The ~~board~~ **secretary** shall adopt rules and regula-
 22 tions to prescribe education, *experience* and training standards for the
 23 practice of *permanent color technology*, tattooing and ~~separate education~~
 24 ~~and training standards for the licensure of~~ body piercing.

25 (b) An applicant seeking licensure as a permanent color technician
 26 and tattoo artist or ~~to be licensed to perform body piercing~~ *body piercer*
 27 shall be required to demonstrate safety, sanitation and sterilization tech-
 28 niques by means of ~~an inspection~~ *a written examination and a practical*
 29 *examination* conducted by the ~~board~~ **secretary** to test the applicant's
 30 knowledge ~~of~~ *and techniques concerning* infection control practices and
 31 *other* requirements.

32 Sec. 15. K.S.A. 2000 Supp. 65-1950 is hereby amended to read as
 33 follows: 65-1950. (a) The ~~board~~ **secretary** shall assess, by rules and reg-
 34 ulations adopted by the ~~board~~ **secretary**, the following fees and any other
 35 fees necessary to carry out the provisions of this act:

- 36 (1) Application fee *for permanent color technician and tattoo artist*
 37 *license or body piercer license;*
 38 (2) examination fees;
 39 (3) reexamination fees;
 40 (4) reciprocity fee;
 41 (5) *permanent color technician and tattoo artist or body piercer li-*
 42 *cence fee;*
 43 (6) license renewal fee, ~~active and inactive~~ *for permanent color tech-*

1 *nician and tattoo artist or body piercer;*

2 (7) ~~late fee delinquent renewal fee for any personal or facility license;~~

3 (8) ~~reactivation apprentice license fee;~~

4 (9) duplicate license fee;

5 (10) ~~demonstration permit temporary license fee for permanent color~~
6 *technician and tattoo artist or body piercer;*

7 (11) tattoo, *permanent color technology or body piercing facility li-*
8 *cence fee and renewal fee, active or inactive; and*

9 (12) ~~body piercing facility fee renewal fee, temporary tattoo, per-~~
10 *manent color technology or body piercing facility license fee;*

11 (13) *application fee for trainer license; and*

12 (14) *trainer license fee and renewal fee.*

13 (b) The **board secretary** shall license each applicant, without dis-
14 crimination, who proves to the satisfaction of the **board secretary**, fitness
15 for such licensure as required by this act and upon payment of a fee
16 established by the **board secretary** under this section. ~~Except as provided~~
17 ~~in K.S.A. 2000 Supp. 65-1945, the **board secretary** shall issue to the~~
18 applicant a license that expires one year after the date of issuance.

19 (c) An applicant who is employed as a permanent color technician
20 and tattoo artist on the day immediately preceding the effective of this
21 act shall be licensed by the board, even though the applicant does not
22 meet the training requirements of this act, so long as the applicant suc-
23 cessfully passes an examination required by the board.

24 (d) (c) The **board secretary** shall establish all fees under this act. The
25 fees and charges established under this section shall not exceed the cost
26 of administering the regulatory program under this act pertaining to the
27 purpose for which the fee or charge is established.

28 Sec. 16. K.S.A. 2000 Supp. 65-1954 is hereby amended to read as
29 follows: 65-1954. (a) The **board secretary**, in addition to any other pen-
30 alty prescribed under the act governing *body piercers*, permanent color
31 technicians and tattoo artists, may assess civil fines and costs, including
32 attorney fees, after proper notice and an opportunity to be heard, against
33 any person or entity for a violation of the statutes, rules and regulations
34 or orders enforceable by the **board secretary** in an amount not to exceed
35 \$5,000 for the first violation, \$10,000 for the second violation and \$15,000
36 for the third violation and for each subsequent violation.

37 (b) In determining the amount of penalty to be assessed pursuant to
38 this section, the **board secretary** may consider the following factors
39 among others: (1) Willfulness of the violation; (2) repetitions of the vio-
40 lation; and (3) magnitude of the risk of harm caused by the violation.

41 (c) In addition to a civil penalty and costs, the **board secretary** may
42 assess investigation and hearing costs against a licensee *or an unlicensed*
43 *person* for proceedings which have resulted in a successful action by the

1 ~~board secretary~~ against the license of the licensee *or the unlicensed per-*
2 *son* under K.S.A. 2000 Supp. ~~65-1947~~ *this act* and amendments thereto.

3 (d) All civil fines assessed and collected under this section shall be
4 remitted to the state treasurer at least monthly and shall be deposited in
5 the state treasury and credited to the state general fund. All costs assessed
6 under this section shall be remitted to the state treasurer at least monthly
7 and shall be deposited in the state treasury and credited to the cosme-
8 tology fee fund.

9 ~~Sec. 17. K.S.A. 2000 Supp. 65-1940, 65-1941, 65-1942, 65-1943, 65-~~
10 ~~1944, 65-1945, 65-1946, 65-1947, 65-1948, 65-1949, 65-1950, 65-1952~~
11 ~~and 65-1954 are hereby repealed.~~

12 *Sec. 17. K.S.A. 2000 Supp. 65-1953 is hereby amended to read*
13 *as follows: 65-1953. No person shall perform body piercing or tat-*
14 *toeing on or to any person under 18 years of age without the prior*
15 *written and notarized consent of the parent or court appointed*
16 *guardian of such person and the person giving such consent must*
17 *be present during the body piercing or tattooing procedure. The*
18 *written permission and a copy of the letters of guardianship when*
19 *such permission is given is granted by a guardian, shall be retained*
20 *by the person administering such body piercing or tattooing for a*
21 *period of five years. Violation of this section is a class C A*
22 *misdemeanor.*

23 *New Sec. 18. (a) On and after July 1, 2001, the state board of*
24 *cosmetology established under K.S.A. 74-2701 and amendments*
25 *thereto and the position of executive director established under*
26 *K.S.A. 74-2701 and amendments thereto are hereby abolished.*

27 *(b) On July 1, 2001, all of the powers, duties and functions of*
28 *the state board of cosmetology and the position of executive director*
29 *thereof are hereby transferred to and imposed upon the secretary*
30 *of health and environment.*

31 *(c) On and after July 1, 2001, whenever the state board of cos-*
32 *metology or the executive director thereof are referred to or des-*
33 *ignated by this act, any other statute, rule and regulation, contract*
34 *or other document, such reference or designation shall apply to the*
35 *secretary of health and environment.*

36 *(d) All rules and regulations of the state board of cosmetology*
37 *in existence on the effective date of this act shall continue to be*
38 *effective and shall be deemed to be duly adopted rules and regu-*
39 *lations of the secretary of health and environment under this act*
40 *until revised, amended, revoked or nullified pursuant to law.*

41 *(e) All orders and directives of the state board of cosmetology*
42 *in existence on the effective date of this act shall continue to be*
43 *effective and shall be deemed to be orders and directives of the*

1 *secretary of health and environment under this act until revised,*
2 *amended or nullified pursuant to law.*

3 *(f) On July 1, 2001, all books, records and other property of the*
4 *state board of cosmetology are hereby transferred to the secretary*
5 *of health and environment.*

6 *(g) On July 1, 2001, officers and employees who immediately*
7 *prior to the effective date of this act were engaged in the exercise*
8 *and performance of the powers, duties and functions specified in*
9 *this section and who, in the opinion of the secretary of health and*
10 *environment, are necessary to perform the powers, duties and func-*
11 *tions transferred under this section shall become officers and em-*
12 *ployees of the department of health and environment. Any such of-*
13 *ficer or employee shall retain all retirement benefits and all rights*
14 *of civil service which had accrued to or vested in such officer or*
15 *employee prior to the effective date of this act. The service of each*
16 *such officer and employee so transferred shall be deemed to have*
17 *been continuous. All transfers and any abolition of personnel po-*
18 *sitions in the classified service under the Kansas civil service act*
19 *shall be in accordance with civil service laws and any rules and*
20 *regulations adopted thereunder.*

21 *(h) Whenever any conflict arises as to the proper disposition of*
22 *any property or records as a result of any abolishment and transfer*
23 *made under this act, or under authority of this act, such conflict*
24 *shall be resolved by the governor, and the decision of the governor*
25 *shall be final.*

26 *Sec. 19. K.S.A. 39-938 is hereby amended to read as follows:*
27 *39-938. Adult care homes shall comply with all the lawfully estab-*
28 *lished requirements and rules and regulations of the secretary of*
29 *health and environment and the state fire marshal, and any other*
30 *agency of government so far as pertinent and applicable to adult*
31 *care homes, their buildings, operators, staffs, facilities, mainte-*
32 *nance, operation, conduct, and the care and treatment of residents.*
33 *The administrative rules and regulations of the state board of secre-*
34 *tary of health and environment relating to cosmetology and of the Kan-*
35 *sas board of barbering shall not apply to adult care homes.*

36 *Sec. 20. K.S.A. 65-1,148 is hereby amended to read as follows:*
37 *65-1,148. (a) As used in this section, "sanitation standards" means*
38 *standards for personal and environmental sanitation and for the*
39 *prevention of infectious and contagious diseases.*

40 *(b) The secretary of health and environment shall adopt rules*
41 *and regulations establishing sanitation standards for professions,*
42 *shops, salons, clinics, schools and colleges regulated by the state*
43 *board of barber examiners or the state board of practice of*

1 *cosmetology.*

2 *Sec. 21. K.S.A. 2000 Supp. 65-1901 is hereby amended to read*
3 *as follows: 65-1901. As used in K.S.A. 65-1901 through 65-1912,*
4 *and amendments thereto:*

5 (a) *“Apprentice” means any person engaged in learning the*
6 *practice of cosmetology, nail technology, esthetics or electrology in*
7 *a school of cosmetology, nail technology, esthetics or electrology*
8 *licensed by the board secretary, except until such time as an elec-*
9 *trology school is established in this state apprenticing of electrology*
10 *will be subject to approval by the board in a clinic or establishment.*

11 (b) *“Board” means the state board of cosmetology “Secretary” means*
12 *the secretary of health and environment.*

13 (c) *“Cosmetologist” means any person, other than a manicurist*
14 *or esthetician, who practices the profession of cosmetology for*
15 *compensation.*

16 (d) (1) *“Cosmetology” means the profession of:*

17 (A) *Arranging, dressing, permanently curling, curling, waving,*
18 *cleansing, temporarily or permanently coloring, conditioning or*
19 *cutting the hair;*

20 (B) *massaging, cleansing, stimulating, manipulating or per-*
21 *forming similar work on the scalp, face, neck, arms or hands, by use*
22 *of either the hands or mechanical or electrical appliances;*

23 (C) *removing superfluous hair from the face or any part of the*
24 *body by use of either the hands or mechanical or electrical appli-*
25 *ances other than electric needles;*

26 (D) *using cosmetic preparations, antiseptics, lotions, creams or*
27 *other preparations in performing any of the practices described in*
28 *paragraphs (A), (B) and (C) of this subsection (d)(1);*

29 (E) *manicuring, pedicuring or sculpturing nails; or*

30 (F) *performing any other beautifying process on any person.*

31 (2) *“Cosmetology” shall not include a service that results in ten-*
32 *sion on hair strands or roots by twisting, wrapping, weaving, ex-*
33 *tending, locking, or braiding by hand or mechanical device so long*
34 *as the service does not include the application of dyes, reactive*
35 *chemicals or other preparations to alter the color of the hair or to*
36 *straighten, curl or alter the structure of the hair and so long as the*
37 *requirements of K.S.A. 2000 Supp. 65-1928 and amendments*
38 *thereto are met. Nothing in this paragraph shall be construed to*
39 *preclude a licensed cosmetologist from performing the service de-*
40 *scribed in this paragraph.*

41 (e) *“Esthetician” means any person who, for compensation*
42 *practices the profession of cosmetology only to the following extent:*

43 (1) *Performing facials, skin care and eyebrow and eyelash serv-*

1 *ices; or*

2 *(2) removing superfluous hair from the face or body, using ei-*
3 *ther the hands or mechanical or electrical appliances other than*
4 *electric needles.*

5 *(f) "Manicurist" means any person who, for compensation prac-*
6 *tices the profession of cosmetology only to the extent of manicuring,*
7 *pedicuring and sculpturing nails.*

8 *(g) "Nail technology" means manicuring, pedicuring and sculp-*
9 *turing nails.*

10 *(h) "Electrologist" means any person who, for compensation re-*
11 *moves hair from, or destroys hair on, the human body for beauti-*
12 *fication by use of an electric needle only.*

13 *(i) "Person" means any individual, corporation, partnership,*
14 *association or other entity.*

15 *Sec. 22. K.S.A. 2000 Supp. 65-1902 is hereby amended to read*
16 *as follows: 65-1902. (a) Except as provided in subsection (b), no*
17 *person shall:*

18 *(1) Engage in practice of cosmetology, esthetics, nail technology*
19 *or electrology unless the person holds a valid license, issued by the*
20 *board secretary, to engage in that practice;*

21 *(2) conduct a school for teaching cosmetology unless the person*
22 *holds a valid license, issued by the board secretary, to conduct the*
23 *school;*

24 *(3) teach cosmetology in a licensed school unless the person*
25 *holds a valid cosmetology instructor's license issued by the board*
26 *secretary;*

27 *(4) conduct a school for teaching nail technology unless the per-*
28 *son holds a valid license, issued by the board secretary, to conduct*
29 *the school;*

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

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

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

39 *(8) conduct a school for teaching esthetics unless the person*
40 *holds a valid license, issued by the board secretary, to conduct the*
41 *school;*

42 *(9) teach esthetics in a licensed school unless the person holds*
43 *a valid cosmetology or esthetics instructor's license issued by the*

- 1 board secretary;
- 2 (10) own or operate a school, salon or clinic where cosmetology,
3 esthetics, nail technology or electrology is taught or practiced un-
4 less the person holds a valid school, salon or clinic license issued
5 by the board secretary; or
- 6 (11) teach or practice cosmetology, esthetics, nail technology or
7 electrology in a school, salon or clinic unless the owner or operator
8 of the school, salon or clinic holds a valid school, salon or clinic
9 license issued by the board secretary.
- 10 (b) The provisions of this act shall not apply to:
- 11 (1) Any person licensed as a barber or apprentice barber;
- 12 (2) any person licensed to practice medicine and surgery, chi-
13 ropactic, optometry, nursing or dentistry, while engaged in that
14 practice;
- 15 (3) any person who is a registered physical therapist or certified
16 physical therapist assistant while engaged in that practice; or
- 17 (4) any teacher while engaged in instructing elementary or sec-
18 ondary school students in the proper care of their own persons.
- 19 (c) A person holding a license as a cosmetology technician on
20 the day immediately preceding the effective date of this act shall
21 continue to be a licensed cosmetology technician and perform the
22 functions of a cosmetology technician, as such term was defined
23 immediately prior to the effective date of this act, and may renew
24 such license subject to the payment of fees and other conditions and
25 limitations on the renewal of licenses under article 19 of chapter 65
26 of the Kansas Statutes Annotated and acts amendatory of the pro-
27 visions thereof.
- 28 Sec. 23. K.S.A. 2000 Supp. 65-1903 is hereby amended to read
29 as follows: 65-1903. (a) Licensed schools may be established and
30 maintained in this state where the profession of cosmetology may
31 be taught or acquired, under the following conditions and
32 regulations:
- 33 (1) Any person may apply to the board secretary for a license for
34 conducting a school for the teaching of the profession of cosmetol-
35 ogy. The license shall be granted by the board secretary upon proper
36 and sufficient showing of competency of the applicant and assur-
37 ance of compliance by the applicant with the requirements of this
38 act, all reasonable rules and regulations adopted by the board sec-
39 retary for the proper conduct of the school and all applicable sani-
40 tation standards adopted by the secretary of health and environ-
41 ment pursuant to K.S.A. 65-1,148 and amendments thereto. Prior to
42 issuance of the license, the applicant shall pay to the board secretary
43 the nonrefundable license application fee established under K.S.A.

1 *65-1904 and amendments thereto. School licenses shall be renewed*
2 *before July 1 of each year by submitting an application and pay-*
3 *ment of the nonrefundable license renewal fee established under*
4 *K.S.A. 65-1904 and amendments thereto. No license fee shall be*
5 *required of schools operating under the state board of regents or*
6 *any tax-supported school. Nothing in this act shall prohibit any per-*
7 *son who is a licensed electrologist, while acting as owner and man-*
8 *ager of the person's clinic or establishment, from teaching electrol-*
9 *ogy in the regular course of the person's business, but at no time*
10 *shall any clinic or establishment have more than one apprentice or*
11 *charge tuition for its teaching services.*

12 *(2) Each school licensed under this subsection (a) shall remain*
13 *under the constant supervision of the board secretary. Each licensed*
14 *school at all times shall employ and maintain a sufficient number*
15 *of instructors, duly licensed in the practices they teach, to provide*
16 *at least one instructor for every 25 students. Each licensed school*
17 *shall provide a course of training requiring not less than 1,500 clock*
18 *hours of instruction and practice in preparation for the profession*
19 *of cosmetology covering a period of not less than nine nor more*
20 *than 12 months of training for full-time students. In addition, the*
21 *school may provide a course of training of 350 clock hours of in-*
22 *struction and practice in the profession of nail technology, and a*
23 *course of training of 650 clock hours of instruction and practice in*
24 *the profession of esthetics. Such course of training shall include the*
25 *practices of cosmetology for all major ethnic groups residing in the*
26 *state, and the board secretary shall require by rules and regulations*
27 *that each school shall provide instruction for part-time students*
28 *who are unable to attend a full schedule of classes each week be-*
29 *cause of part-time employment; enrollment in an accredited public*
30 *or private school of secondary education by a student who is pur-*
31 *suing a course of study leading to a diploma from such school; en-*
32 *rollment in a cooperative industrial training program, approved by*
33 *the division of vocational education of the state department of ed-*
34 *ucation, by a student who is working toward an occupational ob-*
35 *jective; or the principles or tenets of the student's religion prevent-*
36 *ing full-time attendance. Instruction of a part-time student shall be*
37 *completed by the student within 18 months after the student's en-*
38 *rollment in the school.*

39 *(b) Any person who teaches the profession of cosmetology in a*
40 *licensed school of cosmetology shall be required to obtain a cos-*
41 *metology instructor's license from the board secretary. To qualify for*
42 *a cosmetology instructor's license, the applicant must (1) be li-*
43 *censed as a cosmetologist under this act, (2) have practiced as a*

1 cosmetologist for one year prior to licensure, with 300 hours of
2 instructor training, (3) pass a cosmetology instructor exam, admin-
3 istered by the board secretary or the board's secretary's designee, and
4 (4) pay the nonrefundable instructor license application fee estab-
5 lished by K.S.A. 65-1904 and amendments thereto. A cosmetology
6 instructor license shall be renewed every two years by furnishing
7 satisfactory evidence that the applicant, except the first renewal
8 period following licensure for applicants not holding a cosmetology
9 instructor license on the effective date of this act, has completed 20
10 clock hours of continuing education approved by the board secretary
11 in the practice of cosmetology and teaching skills and methods, and
12 by paying the nonrefundable license renewal fee established by
13 K.S.A. 65-1904 and amendments thereto.

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

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

34 (2) Each school licensed under this subsection (c) shall remain
35 under the constant supervision of the board secretary. Each licensed
36 school at all times shall employ and maintain a sufficient number
37 of instructors, duly licensed in the practices they teach, to provide
38 at least one instructor for every 25 students. Each licensed school
39 shall provide a course of training requiring not less than 350 clock
40 hours of instruction and practice in preparation for the profession
41 of manicurist. The board secretary shall require by rules and regu-
42 lations that each school shall provide instruction for part-time stu-
43 dents who are unable to attend a full schedule of classes each week

1 *because of part-time employment; enrollment in an accredited pub-*
 2 *lic or private school of secondary education by a student who is*
 3 *pursuing a course of study leading to a diploma from such school;*
 4 *enrollment in a cooperative industrial training program, approved*
 5 *by the division of vocational education of the state department of*
 6 *education, by a student who is working toward an occupational*
 7 *objective; or the principles or tenets of the student's religion pre-*
 8 *venting full-time attendance. Instruction of all students shall be*
 9 *completed by the student within six months after the student's en-*
 10 *rollment in the school.*

11 *(d) Any person who teaches nail technology in a licensed school*
 12 *of cosmetology or nail technology shall be required to obtain a man-*
 13 *icuring instructor's license from the board secretary, unless the per-*
 14 *son holds a valid cosmetology instructor's license issued under sub-*
 15 *section (b). To qualify for a manicuring instructor's license, the*
 16 *applicant must (1) be licensed as a cosmetologist or manicurist un-*
 17 *der this act, (2) have practiced as a manicurist or cosmetologist for*
 18 *one year prior to licensure, with 300 hours of instructor training,*
 19 *(3) pass a manicuring instructor exam, administered by the board*
 20 *secretary or the board's secretary's designee and (4) pay a nonrefund-*
 21 *able instructor license application fee established by K.S.A. 65-1904*
 22 *and amendments thereto. A manicuring instructor license shall ex-*
 23 *pire every two years and shall be renewed by furnishing satisfactory*
 24 *evidence that the applicant, except the first renewal period follow-*
 25 *ing licensure for applicants not holding a manicuring instructor*
 26 *license on the effective date of this act, has completed 20 clock hours*
 27 *of continuing education, approved by the board secretary, in the*
 28 *practice of manicuring and teaching skills and methods and paying*
 29 *the nonrefundable license renewal fee established by K.S.A. 65-*
 30 *1904 and amendments thereto.*

31 *(e) Licensed schools may be established and maintained in this*
 32 *state where the profession of esthetics may be taught or acquired,*
 33 *under the following conditions and regulations:*

34 *(1) Any person may apply to the board secretary for a license for*
 35 *conducting a school for the teaching of the profession of esthetics.*
 36 *The license shall be granted by the board secretary upon proper and*
 37 *sufficient showing of competency of the applicant and assurance of*
 38 *compliance by the applicant with the requirements of this act, all*
 39 *reasonable rules and regulations adopted by the board secretary for*
 40 *proper conduct of the school and all applicable sanitation standards*
 41 *adopted by the secretary of health and environment pursuant to*
 42 *K.S.A. 65-1,148 and amendments thereto. Prior to issuance of the*
 43 *license, the applicant shall pay to the board secretary the nonrefund-*

1 *able license application fee established under K.S.A. 65-1904 and*
2 *amendments thereto. School licenses shall be renewed before July*
3 *1 of each year by submitting an application and payment of the*
4 *nonrefundable license renewal fee established under K.S.A. 65-1904*
5 *and amendments thereto. No license fee shall be required of schools*
6 *operating under the state board of regents or any tax-supported*
7 *school.*

8 (2) *Each school licensed under this subsection (e) shall remain*
9 *under the constant supervision of the board secretary. Each licensed*
10 *school at all times shall employ and maintain a sufficient number*
11 *of instructors, duly licensed in the practices they teach, to provide*
12 *at least one full-time instructor for every 25 students. Each licensed*
13 *school shall provide a course of training requiring not less than 650*
14 *clock hours of instruction and practice in esthetics.*

15 (f) *Any person who teaches esthetics in a licensed school of cos-*
16 *metology or esthetics shall be required to obtain an esthetics in-*
17 *structor's license from the board secretary, unless the person holds a*
18 *valid cosmetology instructor's license issued under subsection (b).*
19 *To qualify for an esthetics instructor's license, the applicant must*
20 *(1) be licensed as a cosmetologist or esthetician under this act, (2)*
21 *have practiced as an esthetician or cosmetologist for one year prior*
22 *to licensure, with 300 hours of instructor training, (3) pass an es-*
23 *thetician instructor exam, administered by the board secretary or the*
24 *board's secretary's designee and (4) pay a nonrefundable license ap-*
25 *plication fee established by K.S.A. 65-1904 and amendments*
26 *thereto. An esthetics instructor license shall expire every two years*
27 *and shall be renewed by furnishing satisfactory evidence that the*
28 *applicant, except the first renewal period following licensure for*
29 *applicants not holding an esthetics instructor license on the effec-*
30 *tive date of this act, has completed 20 clock hours of continuing*
31 *education, approved by the board secretary, in the practice of es-*
32 *thetics and teaching skills and methods and by paying the nonre-*
33 *fundable license renewal fee established by K.S.A. 65-1904 and*
34 *amendments thereto.*

35 (g) *Licensed schools may be established and maintained in this*
36 *state where the profession of electrology may be taught or acquired,*
37 *under the following conditions and regulations:*

38 (1) *Any person may apply to the board secretary for a license for*
39 *conducting a school for the teaching of the profession of electrology.*
40 *The license shall be granted by the board secretary upon proper and*
41 *sufficient showing of competency of the applicant and assurance of*
42 *compliance by the applicant with the requirements of this act, all*
43 *reasonable rules and regulations adopted by the board secretary for*

1 *the proper conduct of the school and all applicable sanitation stan-*
2 *dards adopted by the secretary of health and environment pursuant*
3 *to K.S.A. 65-1,148 and amendments thereto. Prior to issuance of the*
4 *license, the applicant shall pay to the board secretary the nonrefund-*
5 *able license application fee established under K.S.A. 65-1904 and*
6 *amendments thereto. School licenses shall be renewed before July*
7 *1 of each year by submitting an application and payment of the*
8 *nonrefundable license renewal fee established under K.S.A. 65-1904*
9 *and amendments thereto. No license fee shall be required of schools*
10 *operating under the state board of regents or any tax-supported*
11 *school. Nothing in this act shall prohibit any person who is a li-*
12 *censed instructor of electrology or who is and has been for at least*
13 *three years a licensed electrologist, while acting as owner and man-*
14 *ager of the person's salon, clinic or establishment, from teaching*
15 *electrology in the regular course of the person's business, but at no*
16 *time shall any salon, clinic or establishment have more than one*
17 *apprentice or charge tuition for its teaching services.*

18 (2) *Each school licensed under this subsection (e) shall remain*
19 *under the constant supervision of the board secretary. Each licensed*
20 *school at all times shall employ and maintain a sufficient number*
21 *of instructors, duly licensed in the practices they teach, to provide*
22 *at least one full-time instructor for every four students. Each li-*
23 *censed school shall provide a course of training requiring not less*
24 *than 500 clock hours of instruction and practice in electrology cov-*
25 *ering a period of not less than four months of training for full-time*
26 *students and not less than eight months of training for part-time*
27 *students.*

28 (h) *Any person who teaches electrology in a licensed school of*
29 *cosmetology or electrology shall be required to obtain an electrol-*
30 *ogy instructor's license from the board secretary. To qualify for an*
31 *electrology instructor's license, the applicant must (1) be licensed*
32 *as an electrologist under this act, (2) have practiced as an electrol-*
33 *ogist for one year prior to licensure, with 300 hours of instructor*
34 *training, (3) pass an electrology instructor exam, administered by*
35 *the board secretary or the board's secretary's designee and (4) pay a*
36 *nonrefundable instructor license application fee established under*
37 *K.S.A. 65-1904 and amendments thereto. Electrology instructor li-*
38 *censes shall expire every two years and may be renewed by fur-*
39 *nishing satisfactory evidence that the applicant, except the first re-*
40 *newal period following licensure for applicants not holding an*
41 *electrology instructor license on the effective date of this act, has*
42 *completed 20 clock hours of continuing education, approved by the*
43 *board secretary, in the practice and teaching of electrology and pay-*

1 *ing the nonrefundable license renewal fee established under K.S.A.*
2 *65-1904 and amendments thereto. To teach in a licensed salon, the*
3 *electrologist is issued a license for the period of training for the*
4 *student. To qualify they must: (1) Be a licensed practicing electrol-*
5 *ogist for a three-year period and (2) pay a nonrefundable instructor*
6 *license application fee established under K.S.A. 65-1904 and*
7 *amendments thereto.*

8 *(i) The board secretary may adopt through rules and regulations*
9 *a curriculum for cosmetology, nail technology, esthetics and elec-*
10 *trology instructor training to be provided in a licensed school of*
11 *cosmetology.*

12 *(j) The board secretary may provide by rules and regulations that*
13 *instructor licenses may expire less than two years from the date of*
14 *issuance in order for the expiration date of the instructor license to*
15 *correspond with the expiration date of the individual's license to*
16 *practice cosmetology, nail technology, esthetics or electrology. In*
17 *each case in which an instructor license is issued for a period of*
18 *time of less than two years, the board secretary shall prorate the*
19 *instructor license application fee from the month of the date of ap-*
20 *plication to the month of the date of expiration of the license to*
21 *practice cosmetology, nail technology, esthetics or electrology.*

22 *Sec. 24. K.S.A. 2000 Supp. 65-1904 is hereby amended to read*
23 *as follows: 65-1904. (a) Unless revoked for cause, all licenses of*
24 *cosmetologists, cosmetology technicians, estheticians, electrologists*
25 *and manicurists issued or renewed by the board secretary shall expire*
26 *on the expiration dates established by rules and regulations adopted*
27 *by the board secretary under this section. Subject to the other pro-*
28 *visions of this subsection, each such license shall be renewable on*
29 *a biennial basis upon the filing of a renewal application prior to the*
30 *expiration of the license, payment of the nonrefundable license re-*
31 *newal fee established under this section and with renewal applica-*
32 *tions filed on and after July 1, 2000, the filing of a successfully*
33 *completed written renewal examination prescribed by the board sec-*
34 *retary under this subsection. For renewal applications filed on and*
35 *after July 1, 2000, the board secretary shall prescribe a written re-*
36 *newal examination for each classification of licensee under this sub-*
37 *section which will test the applicant's understanding of the laws*
38 *relating to the practice for which the applicant holds a license, will*
39 *test the applicant's understanding of health and sanitation matters*
40 *relating to the practice for which the applicant holds a license and*
41 *will test the understanding of the applicant about safety matters*
42 *relating to the practice for which the applicant holds a license. The*
43 *board secretary shall fix the score for the successful completion of a*

1 *written renewal examination. The board secretary shall develop an*
 2 *information booklet to be sent to an applicant for renewal of a li-*
 3 *cence along with the written renewal examination. The information*
 4 *booklet shall contain information on the subjects to be tested on the*
 5 *written renewal examination and shall be provided to the applicant*
 6 *along with the written renewal examination at least 30 days prior*
 7 *to the date on which the renewal application is to be filed. The*
 8 *written renewal examination may be prepared by the applicant with*
 9 *the use of the information booklet. The board shall report to the 1999*
 10 *session of the legislature the progress made by the board in developing*
 11 *an information booklet and a written renewal examination.*

12 *(b) Any cosmetologist's, cosmetology technician's, esthetician's,*
 13 *electrologist's or manicurist's license may be renewed by the appli-*
 14 *cant within six months after the date of expiration of the applicant's*
 15 *last license upon submission of proof, satisfactory to the board sec-*
 16 *retary, of the applicant's qualifications to renew practice as a cos-*
 17 *metologist, cosmetology technician, esthetician, electrologist or*
 18 *manicurist, and payment of the applicable nonrefundable renewal*
 19 *fee and delinquent fee prescribed pursuant to this section. Any ap-*
 20 *plicant whose license as a cosmetologist, cosmetology technician,*
 21 *esthetician, electrologist or manicurist has expired for more than*
 22 *six months may obtain a license in the same manner and on payment*
 23 *of the same nonrefundable fees as provided for an applicant for an*
 24 *original license.*

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

32 *(d) The board secretary is hereby authorized to adopt rules and*
 33 *regulations fixing the amount of nonrefundable fees for the follow-*
 34 *ing items and to charge and collect the amounts so fixed, subject to*
 35 *the following limitations:*

36	<i>Cosmetologist license application fee, for two years—</i>	
37	<i>not more than.....</i>	<i>\$60</i>
38	<i>Cosmetologist license renewal fee.....</i>	<i>60</i>
39	<i>Delinquent cosmetologist renewal fee.....</i>	<i>25</i>
40	<i>Cosmetology technician license renewal fee, for two</i>	
41	<i>years—not more than.....</i>	<i>35</i>
42	<i>Delinquent cosmetology technician renewal fee.....</i>	<i>25</i>

43

1	<i>Electrologist license application fee, for two years—</i>	
2	<i>not more than.....</i>	35
3	<i>Electrologist license renewal fee.....</i>	35
4	<i>Delinquent electrologist renewal fee.....</i>	25
5	<i>Manicurist license application fee, for two years—not</i>	
6	<i>more than.....</i>	30
7	<i>Manicurist license renewal fee.....</i>	30
8	<i>Delinquent manicurist renewal fee.....</i>	25
9	<i>Esthetician license application fee, for two years—not</i>	
10	<i>more than.....</i>	30
11	<i>Esthetician license renewal fee.....</i>	30
12	<i>Delinquent esthetician renewal fee.....</i>	25
13	<i>Any apprentice license application fee—not more</i>	
14	<i>than.....</i>	15
15	<i>New school license application fee.....</i>	150
16	<i>School license renewal fee—not more than.....</i>	75
17	<i>Delinquent school license fee—not more than.....</i>	50
18	<i>New cosmetology services salon or electrology clinic</i>	
19	<i>license application fee—not more than.....</i>	50
20	<i>Cosmetology services salon or electrology clinic li-</i>	
21	<i>cence renewal fee—not more than.....</i>	30
22	<i>Delinquent cosmetology services salon or electrology</i>	
23	<i>clinic renewal fee.....</i>	30
24	<i>Cosmetologist’s examination—not more than.....</i>	50
25	<i>Electrologist’s examination—not more than.....</i>	50
26	<i>Manicurist’s examination—not more than.....</i>	50
27	<i>Esthetician examination—not more than.....</i>	50
28	<i>Instructor’s examination—not more than.....</i>	75
29	<i>Reciprocity application fee—not more than.....</i>	50
30	<i>Verification of licensure.....</i>	20
31	<i>Any duplicate of license.....</i>	25
32	<i>Instructor’s license application fee, for two years—not</i>	
33	<i>more than.....</i>	75
34	<i>Renewal of instructor’s license fee.....</i>	50
35	<i>Delinquent instructor’s renewal fee—not more than..</i>	75
36	<i>Temporary permit fee.....</i>	15
37	<i>Statutes and regulations book.....</i>	5
38	<i>(e) Whenever the board secretary determines that the total</i>	
39	<i>amount of revenue derived from the fees collected pursuant to this</i>	
40	<i>section is insufficient to carry out the purposes for which the fees</i>	
41	<i>are collected, the board secretary may amend its the rules and regu-</i>	
42	<i>lations to increase the amount of the fee, except that the amount of</i>	
43	<i>the fee for any item shall not exceed the maximum amount author-</i>	

1 *ized by this subsection. Whenever the amount of fees collected pur-*
2 *suant to this section provides revenue in excess of the amount nec-*
3 *essary to carry out the purposes for which such fees are collected,*
4 *it shall be the duty of the board secretary to decrease the amount of*
5 *the fee for one or more of the items listed in this subsection by*
6 *amending the rules and regulations which fix the fees.*

7 *(f) Any person who failed to obtain a renewal license while in*
8 *the armed forces of the United States shall be entitled to a renewal*
9 *license upon filing application and paying the nonrefundable re-*
10 *newal fee for the current year during which the person has been*
11 *discharged on and after July 1, 1996[.]*

12 ~~*(g) Any person who was formerly licensed as a cosmetologist, a cos-*~~
13 ~~*metology technician, an esthetician, an electrologist or a manicurist and*~~
14 ~~*whose license expired on or after July 1, 1996, and was not renewed may*~~
15 ~~*obtain reinstatement of the license until July 1, 1999, upon application to*~~
16 ~~*the board and upon payment of the applicable delinquent renewal fee.*~~

17 ~~*(h) (g) Any person who is currently licensed as a cosmetologist,*~~
18 ~~*cosmetology technician, esthetician, electrologist or manicurist on*~~
19 ~~*inactive status shall be deemed licensed on active status. Upon ap-*~~
20 ~~*plication for renewal of the license as provided in rules and regu-*~~
21 ~~*lations, the person shall be issued a license which does not indicate*~~
22 ~~*inactive status. Prior to application for renewal of the license and*~~
23 ~~*upon request to the board secretary, such person may obtain a license*~~
24 ~~*which does not indicate inactive status.*~~

25 ~~*(i) (h) From and after the effective date of this act, there shall*~~
26 ~~*be no continuing education requirement imposed by the board sec-*~~
27 ~~*retary upon any person who was formerly or is currently licensed*~~
28 ~~*as a cosmetologist, cosmetology technician, esthetician, electrolo-*~~
29 ~~*gist or manicurist as a condition of reinstatement or renewal of the*~~
30 ~~*person's license to practice.*~~

31 *Sec. 25. K.S.A. 2000 Supp. 65-1904a is hereby amended to read*
32 *as follows: 65-1904a. Any licensed cosmetologist, esthetician, elec-*
33 *trologist, manicurist, or person desiring to establish a salon or clinic*
34 *shall make application, on a form provided, to the Kansas state board*
35 *of cosmetology secretary, accompanied by the new salon or clinic*
36 *license fee established under K.S.A. 65-1904 and amendments*
37 *thereto. Upon filing of the application, the board secretary shall in-*
38 *spect the equipment as to safety and sanitary condition of the prem-*
39 *ises and if the equipment and premises are found to comply with*
40 *the rules and regulations of the secretary of health and environment*
41 *and the rules and regulations of the Kansas state board of cosmetology,*
42 *the board secretary shall issue a new salon or clinic license. Nothing*
43 *herein contained shall be construed as preventing any licensed per-*

1 son from practicing cosmetology or electrology in a licensed cos-
2 metologist's private home or residence if the home or residence com-
3 plies with rules and regulations of the secretary and the state board.
4 A licensed cosmetologist may provide cosmetology services in a
5 place other than the licensed salon or clinic or a private home or
6 residence of the licensed cosmetologist. Excluding services provided
7 by a licensed cosmetologist in a health care facility, hospital or
8 nursing home or in the residence of a person requiring home care
9 arising from physical or mental disabilities, in order to provide such
10 services, such licensed cosmetologist shall be employed in a salon
11 or clinic or in the licensed cosmetologist's private home or residence
12 for at least 51% of the total hours per week employed; and shall
13 attest by affidavit that such cosmetology services shall be provided
14 only in the residence or office of the person receiving services. Li-
15 censed salons and clinics may be reinspected in accordance with a
16 schedule determined by the board secretary by rules and regulations
17 or upon a complaint made to the board secretary that such salon or
18 clinic is not being maintained in compliance with rules and regu-
19 lations of the board secretary. The license shall expire on June 30
20 following its issuance. Any such license may be renewed upon ap-
21 plication accompanied by the salon or clinic license renewal fee
22 made to the board secretary before July 1 of the year in which the
23 license expires. Any license may be renewed by the applicant within
24 60 days after the date of expiration of the last license upon payment
25 of a delinquent renewal fee.

26 Sec. 26. K.S.A. 2000 Supp. 65-1904b is hereby amended to read
27 as follows: 65-1904b. (a) Upon application to the Kansas state board
28 of cosmetology secretary on a form provided for application for a
29 cosmetologist, esthetician, electrologist or manicurist license, ac-
30 companied by the application fee, a person practicing as a cosme-
31 tologist, esthetician, electrologist or manicurist under the laws of
32 another state or jurisdiction shall be granted a license entitling the
33 person to practice in this state if:

34 (1) The person is not less than 17 years of age and a graduate
35 of an accredited high school, or equivalent thereof;

36 (2) the person submits to the board secretary verification of date
37 of birth;

38 (3) the person submits to the board secretary a written statement
39 from a person licensed to practice medicine and surgery under the
40 laws of any state showing that the person is free from infectious or
41 contagious disease; and

42 (4) the person meets at least one of the following criteria:

43 (A) The person's training and qualifications, including exami-

1 *nation requirements, are equal to the requirements for licensure in*
2 *this state; or*

3 *(B) the person has been licensed in a state or jurisdiction which*
4 *has substantially the same requirements for licensure as this state.*

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

8 *Sec. 27. K.S.A. 2000 Supp. 65-1905 is hereby amended to read*
9 *as follows: 65-1905. (a) All examinations held or conducted by the*
10 *board secretary shall be in accordance with rules and regulations*
11 *adopted by the board secretary. The examinations shall include prac-*
12 *tical and written tests. Examinations to qualify for an instructor's*
13 *license shall be limited to written tests.*

14 *(b) Each applicant for licensure by examination shall:*

15 *(1) Be at least 17 years of age;*

16 *(2) be a graduate of an accredited high school, or equivalent*
17 *thereof. The provisions of this paragraph shall not apply to any*
18 *applicant who was at least 25 years of age and licensed as an ap-*
19 *prentice on May 21, 1998;*

20 *(3) submit to the board secretary verification of date of birth;*

21 *(4) submit to the board secretary a written statement from a per-*
22 *son licensed to practice medicine and surgery under the laws of any*
23 *state showing that the applicant is free from contagious and infec-*
24 *tious diseases; and*

25 *(5) have served as an apprentice for the period of time provided*
26 *by K.S.A. 65-1912, and amendments thereto.*

27 *(c) Any person making application who apparently possesses*
28 *the necessary qualifications to take an examination provided*
29 *herein, upon application and payment of the nonrefundable tem-*
30 *porary permit fee, may be issued a temporary permit by the board*
31 *secretary to practice cosmetology until the next regular examination*
32 *conducted by the board secretary.*

33 *Sec. 28. K.S.A. 2000 Supp. 65-1907 is hereby amended to read*
34 *as follows: 65-1907. The chairperson, with the approval of the board,*
35 *secretary shall employ inspectors to inspect schools, salons and clin-*
36 *ics and the inspectors shall perform all of the inspection duties of*
37 *the board secretary, as required by this act, rules and regulations of*
38 *the board secretary and sanitation standards adopted by the secretary*
39 *of health and environment pursuant to K.S.A. 65-1,148 and amend-*
40 *ments thereto. The board secretary shall provide training to the in-*
41 *spectors to enable the inspectors to provide current information to*
42 *school, salon and clinic personnel regarding requirements of appli-*
43 *cable statutes and regulations. It shall be the duty of the board sec-*

1 *retary to determine the number of hours and practice work required*
2 *of students in each subject of cosmetology, nail technology, esthetics*
3 *and electrology taught in a licensed school.*

4 **Sec. 29. K.S.A. 2000 Supp. 65-1908 is hereby amended to read**
5 **as follows: 65-1908. (a) The state board of cosmetology secretary may**
6 **revoke any license provided for by this act, may censure, limit or**
7 **condition any license or may refuse to issue, renew or suspend any**
8 **license or assess a fine, not to exceed \$1,000 per violation, for any**
9 **of the following reasons:**

10 (1) **Failure to comply with the sanitary requirements prescribed**
11 **by the secretary of health and environment pursuant to K.S.A. 65-**
12 **1,148 and amendments thereto;**

13 (2) **failure to comply with any provision of this act, with the**
14 **rules and regulations of the board of cosmetology secretary or with**
15 **any order issued by the board secretary;**

16 (3) **has become a danger to the public by reason of alcohol or**
17 **drug abuse;**

18 (4) **conviction of a felony unless the applicant or licensee is able**
19 **to demonstrate to the board's secretary's satisfaction that such person**
20 **has been sufficiently rehabilitated to warrant the public trust;**

21 (5) **the obtaining of, or the attempt to obtain, a license by fraud-**
22 **ulent misrepresentation or bribery;**

23 (6) **advertising by means of false or knowingly deceptive matter**
24 **or statement;**

25 (7) **failure to display the annual license or inspection report as**
26 **provided for in this act; or**

27 (8) **being found guilty of gross negligence or unprofessional con-**
28 **duct as defined by rules and regulations of the board secretary.**

29 (b) **The board secretary may order the remedying of any viola-**
30 **tions of rules and regulations of the board secretary or any provision**
31 **of this act, and the board secretary may issue a cease and desist order**
32 **upon board the secretary's determination that the holder of a license**
33 **has violated any order of the board secretary, any rules and regula-**
34 **tions of the board secretary or any provision of this act.**

35 (c) **Inspectors employed by the board secretary shall have such**
36 **powers as the board secretary may prescribe by rules and regulations**
37 **to make inspections, investigations, and inquiries, except that a per-**
38 **manent order for closing any establishment licensed by the board**
39 **secretary shall be issued only by the board secretary. The secretary**
40 **may contract for the conduct of inspections under the provisions of article**
41 **19 of chapter 65 of the Kansas Statutes Annotated.**

42 (d) **All proceedings under this section shall be conducted in ac-**
43 **cordance with the provisions of the Kansas administrative proce-**

1 *dure act.*

2 **Sec. 30. K.S.A. 2000 Supp. 65-1909 is hereby amended to read**
3 **as follows: 65-1909. (a) No person shall:**

4 **(1) Knowingly employ an individual to engage in any activity**
5 **for which a license is required pursuant to K.S.A. 65-1902 and**
6 **amendments thereto unless such individual holds a currently valid**
7 **license issued to such individual;**

8 **(2) violate any order or ruling of the state board of cosmetology**
9 **under this act;**

10 **(3) fail or refuse to comply with rules and regulations pre-**
11 **scribed by the board secretary or applicable sanitation standards**
12 **adopted by the secretary of health and environment pursuant to K.S.A.**
13 **65-1,148; or**

14 **(4) violate any of the provisions of article 19 of chapter 65 of**
15 **Kansas Statutes Annotated.**

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

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

28 **Sec. 31. K.S.A. 2000 Supp. 65-1912 is hereby amended to read**
29 **as follows: 65-1912. (a) Any person desiring to practice as an ap-**
30 **prentice shall be required to pay to the board secretary the fee re-**
31 **quired pursuant to K.S.A. 65-1904 and amendments thereto and**
32 **obtain an apprentice license from the board secretary. Application**
33 **for an apprentice license allowing a person to practice in a licensed**
34 **school shall be submitted to the board secretary not more than 15**
35 **days after the person's enrollment in the school.**

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

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

42 **(3) An applicant for examination and licensure as a manicurist**
43 **shall be required to have practiced as an apprentice in a licensed**

1 school of cosmetology or nail technology for not less than 350 clock
2 hours.

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

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

21 (d) For purposes of subsection (b), a person is not required to
22 have practiced as an apprentice continuously or without interrup-
23 tion in obtaining the required number of hours.

24 Sec. 32. K.S.A. 65-1920 is hereby amended to read as follows:
25 65-1920. (a) As used in this act:

26 (1) "Authorized agent" means an employee of the state board of
27 cosmetology secretary designated by the board secretary to enforce this
28 act.

29 (2) "Board" means the state board of cosmetology.

30 (3) (2) "Phototherapy device" means equipment that emits ul-
31 traviolet radiation that is used in the treatment of disease or other
32 medical use.

33 (4) (3) "Tanning device" means equipment that emits electro-
34 magnetic radiation with wavelengths in the air that is used for tan-
35 ning of human skin and includes any accompanying items incidental
36 to operation of the tanning device.

37 (5) (4) "Tanning facility" means any facility, whether independ-
38 ent or part of a salon, health spa or any other facility, which pro-
39 vides access to tanning devices but shall not include private resi-
40 dences if access to tanning devices is provided without charge.

41 (b) This act does not apply to use of a phototherapy device by
42 or under supervision of a person licensed to practice medicine and
43 surgery.

1 **Sec. 33. K.S.A. 65-1925 is hereby amended to read as follows:**
2 **65-1925. (a) The board secretary may adopt rules and regulations to**
3 **implement this act. The board, after consultation with the secretary of**
4 **health and environment, secretary shall adopt rules and regulations**
5 **relating to the safe functioning of tanning devices.**

6 **(b) An authorized agent shall have access at all reasonable times**
7 **to any tanning facility to inspect the facility to determine compli-**
8 **ance with this act.**

9 **(c) If an authorized agent finds that a person has violated, or is**
10 **violating or threatening to violate this act and that the violation or**
11 **threat of violation creates an immediate threat to the health and**
12 **safety of the public, the authorized agent may petition the district**
13 **court for a temporary restraining order to restrain the violation or**
14 **threat of violation.**

15 **(d) If a person has violated, or is violating or threatening to**
16 **violate this act, the board secretary, after a hearing in accordance**
17 **with the administrative procedure act, may suspend the license of**
18 **a tanning facility until such time that the tanning facility can dem-**
19 **onstrate to the board secretary that it has corrected deficiencies and**
20 **is in compliance with this act and rules and regulations adopted**
21 **pursuant to this act.**

22 **(e) On application for injunctive relief and a finding that a per-**
23 **son is violating or threatening to violate this act, the district court**
24 **shall grant any injunctive relief warranted by the facts.**

25 **Sec. 34. K.S.A. 65-1926 is hereby amended to read as follows:**
26 **65-1926. (a) ~~On and after January 1, 1993,~~ A person may not operate**
27 **a tanning facility without a valid license issued by the board secre-**
28 **tary.**

29 **(b) The license shall be displayed in a conspicuous place in the**
30 **tanning facility.**

31 **(c) On application, on forms provided by the board secretary, and**
32 **on receipt of the appropriate fee, a license shall be renewed by the**
33 **board secretary.**

34 **(d) The board secretary may adopt a system under which licenses**
35 **expire on various dates during the year. As part of this system the**
36 **annual renewal fee may be prorated on a monthly basis to reflect**
37 **the actual number of months the license is valid.**

38 **(e) The board secretary may revoke, cancel, suspend or place on**
39 **probation a license to operate a tanning facility for any of the fol-**
40 **lowing reasons:**

41 **(1) A failure to pay a license fee or an annual renewal fee for a**
42 **license;**

43 **(2) the applicant obtained or attempted to obtain a license by**

1 *fraud or deception;*

2 *(3) a violation of any of the provisions of this act; or*

3 *(4) a violation of a rule and regulation of the board secretary*
4 *adopted under this act.*

5 *(f) The board secretary shall establish appropriate licensure and*
6 *renewal fees, not to exceed \$100 per year for each tanning facility,*
7 *by adoption of rules and regulations. The board secretary may es-*
8 *tablish the fees based upon the number of beds used for tanning*
9 *which the facility maintains. In addition to the fee for licensure and*
10 *the fee for renewal of a license, the board secretary may establish a*
11 *fee not to exceed \$150 for delinquent renewal of a license and a fee*
12 *not to exceed \$200 for reinstatement of a license.*

13 *(g) The executive director of the board secretary shall remit all*
14 *moneys received from fees under this act to the state treasurer at*
15 *least monthly. Upon receipt of each such remittance, the state trea-*
16 *surer shall deposit such moneys in the manner specified under*
17 *K.S.A. 74-2704 and amendments thereto.*

18 *Sec. 35. K.S.A. 2000 Supp. 65-1951 is hereby amended to read*
19 *as follows: 65-1951. The board, the director secretary or a person*
20 *authorized by the board secretary shall remit all moneys received by*
21 *or for it from fees, charges or penalties to the state treasurer at least*
22 *monthly. Upon receipt of any such remittance the state treasurer*
23 *shall deposit the entire amount thereof in the state treasury. Twenty*
24 *percent of each such deposit shall be credited to the state general*
25 *fund and the balance shall be credited to the cosmetology fee fund.*

26 *New Sec. 36. (a) There is hereby created the state advisory*
27 *board on cosmetology, which shall be composed of seven members,*
28 *appointed by the governor, to advise the secretary of health and*
29 *environment on the administration of article 19 of chapter 40 of the*
30 *Kansas Statutes Annotated. A member shall be appointed from each*
31 *congressional district and the remainder from the state at large. Not*
32 *more than four members shall be of the same political party. Four*
33 *members shall be licensed cosmetologists; one member shall be a*
34 *licensed permanent color technician and tattoo artist or a licensed*
35 *body piercer; and two members shall represent the general public*
36 *interest, except that no manufacturer, wholesaler or retailer of cos-*
37 *metic supplies or equipment used by the profession of cosmetology,*
38 *or any representative of such manufacturer, wholesaler or retailer,*
39 *shall become a member of the board.*

40 *(b) Of the members first appointed to the advisory board on and*
41 *after the effective date of this act, two members shall be appointed*
42 *for terms of one year, two members shall be appointed for terms of*
43 *two years and three members shall be appointed for terms of three*

1 *years. Thereafter each member of the advisory board shall be ap-*
2 *pointed for a term of three years, and until a successor is appointed*
3 *and qualifies. The advisory board shall annually select a chairper-*
4 *son from its membership.*

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

11 (d) *The advisory board shall meet on the call of the chairperson,*
12 *except that for the first meeting after the effective date of this act*
13 *the advisory board shall meet on call of the governor. Members of*
14 *the advisory board attending meetings of such board, or attending*
15 *a subcommittee meeting thereof authorized by such board, shall be*
16 *paid amounts provided in subsection (e) of K.S.A. 75-3223 and*
17 *amendments thereto.*

18 *New Sec. 37. The secretary of health and environment or the*
19 *secretary's designee, shall remit all moneys received from fees,*
20 *charges or penalties under article 19 of chapter 65 of the Kansas*
21 *Statutes Annotated to the state treasurer at least monthly. Upon*
22 *receipt of any such remittance the state treasurer shall deposit the*
23 *entire amount thereof in the state treasury. Twenty percent of each*
24 *such deposit shall be credited to the state general fund and the bal-*
25 *ance shall be credited to the cosmetology fee fund. All expenditures*
26 *from such fund shall be made in accordance with appropriation acts*
27 *upon warrants of the director of accounts and reports issued pur-*
28 *suant to vouchers approved by the secretary or by a person or per-*
29 *sons designated by the secretary.*

30 *Sec. 38. K.S.A. 2000 Supp. 75-3717 is hereby amended to read*
31 *as follows: 75-3717. (a) As provided in this section, each state*
32 *agency, not later than October 1 of each year, shall file with the*
33 *division of the budget its budget estimates for the next fiscal year,*
34 *and all amendments and revisions thereof, except that, in lieu of*
35 *such annual filing, each agency listed in subsection (f), not later*
36 *than October 1, 2000, and every two years thereafter, shall file*
37 *budget estimates for the next fiscal year and for the ensuing fiscal*
38 *year thereafter. Each agency listed in subsection (f) may file ad-*
39 *justments to such agency's budget that was approved by the legis-*
40 *lature during a prior fiscal year. All such budget estimates shall be*
41 *in the form provided by the director of the budget. Each agency's*
42 *budget estimates shall include:*

43 (1) *A full explanation of the agency's request for any appropri-*

1 *ations for the expansion of present services or the addition of new*
2 *activities, including an estimate of the anticipated expenditures for*
3 *the next fiscal year and for each of the three ensuing fiscal years*
4 *which would be required to support each expansion of present serv-*
5 *ices or addition of new services as requested by the state agency;*
6 *and*

7 (2) *a listing of all programs of the agency that provide services*
8 *for children and their families and the following information re-*
9 *garding each such program: Of the amount of the agency's request*
10 *for appropriations to fund the program, that amount which will be*
11 *spent on services for children or families with children and the num-*
12 *ber of children or families with children who are served by the*
13 *program.*

14 (b) *At the same time as each state agency submits to the division*
15 *of the budget a copy of its budget estimate, and all amendments and*
16 *revisions thereof, each such state agency shall submit a copy of such*
17 *estimate, and all amendments and revisions thereof, directly to the*
18 *legislative research department for legislative use.*

19 (c) *The director of the budget shall require the agencies to sub-*
20 *mit a sufficient number of copies of their budget estimates, and all*
21 *amendments and revisions thereof, to the director's office to satisfy*
22 *the requirements of such office and one additional copy for legis-*
23 *lative use which shall be retained in the division of the budget until*
24 *the budget of the governor is submitted to the legislature. On or*
25 *before the day that such budget is submitted to the legislature such*
26 *legislative use copy, posted to reflect the governor's budget rec-*
27 *ommendations, shall be submitted to the legislative research de-*
28 *partment for use by the ways and means committee of the senate*
29 *and the committee on appropriations of the house of representa-*
30 *tives. Following presentation of the governor's budget report to the*
31 *legislature, the legislative research department may request and*
32 *shall receive detailed information from the division of the budget*
33 *on the governor's budget recommendations.*

34 (d) *The director of the budget may prepare budget estimates for*
35 *any state agency failing to file a request.*

36 (e) *As used in this section, "services for children and their fam-*
37 *ilies" includes but is not limited to any of the following services,*
38 *whether provided directly or made accessible through subsidies or*
39 *other payments:*

40 (1) *Financial support for children and families with children or*
41 *enforcement of the obligation to support a child or a family with*
42 *one or more children;*

43 (2) *prenatal care, health care for children or immunizations for*

- 1 **children;**
- 2 **(3) mental health or retardation services for children;**
- 3 **(4) nutrition for children or families with children or nutri-**
- 4 **tional counseling or supplements for pregnant or nursing women;**
- 5 **(5) child care, early childhood education or parenting educa-**
- 6 **tion;**
- 7 **(6) licensure or regulation of child care or early childhood ed-**
- 8 **ucation programs;**
- 9 **(7) treatment, counseling or other services to preserve families;**
- 10 **(8) care, treatment, placement or adoption of children without**
- 11 **functioning families;**
- 12 **(9) services to prevent child abuse and to treat and protect child**
- 13 **abuse victims;**
- 14 **(10) services for children who are pregnant, substance abusers**
- 15 **or otherwise involved in high risk behavior;**
- 16 **(11) services related to court proceedings involving children;**
- 17 **and**
- 18 **(12) youth employment services.**

19 **(f) On a biennial basis, the following state agencies shall file**
 20 **budget estimates under the provisions of subsection (a): Abstract-**
 21 **ers' board of examiners, behavioral sciences regulatory board,**
 22 **board of accountancy, board of examiners in optometry, board of**
 23 **nursing, consumer credit commissioner, Kansas board of barbering,**
 24 **Kansas board of examiners in fitting and dispensing of hearing aids,**
 25 **Kansas dental board, Kansas real estate commission, ~~Kansas state~~**
 26 **~~board of cosmetology,~~ office of the securities commissioner of Kansas,**
 27 **real estate appraisal board, state bank commissioner, state board**
 28 **of healing arts, state board of mortuary arts, state board of phar-**
 29 **macy, state board of technical professions, state board of veterinary**
 30 **examiners, governmental ethics commission and state department**
 31 **of credit unions.**

32 **Sec. 39. K.S.A. 39-938, 65-1,148, 65-1920, 65-1925, 65-1926,**
 33 **74-2702 and 74-2705 and K.S.A. 2000 Supp. 65-1901, 65-1902, 65-**
 34 **1903, 65-1904, 65-1904a, 65-1904b, 65-1905, 65-1907, 65-1908,**
 35 **65-1909, 65-1912, 65-1940, 65-1941, 65-1942, 65-1943, 65-1944,**
 36 **65-1945, 65-1946, 65-1947, 65-1948, 65-1949, 65-1950, 65-1951,**
 37 **65-1952, 65-1953, 65-1954, 74-2701, 74-2702a, 74-2703, 74-2704**
 38 **and 75-3717 are hereby repealed.**

39 **Sec. ~~18.~~ 40.** This act shall take effect and be in force from and after
 40 its publication in the statute book.

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 42
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att 5

DRAFT SUBSTITUTE FOR SENATE BILL NO. 584

Submitted by: Lawrence T. Buening, Jr.

March 6, 2002

Be it enacted by the Legislature of the state of Kansas:

Section 1. K.S.A. 65-2873a is hereby amended to read as follows: 65-2873a. (a) Notwithstanding the provisions of K.S.A. 65-2873, the state board of healing arts may grant a license to practice medicine and surgery and renew the same annually as provided in K.S.A. 65-2809 to any person who meets all of the requirements of K.S.A. 65-2873, except the requirements of clause (2) (1) and (3) of subsection (a) of such section, if such person: ~~is a citizen of the United States, a resident of Kansas, has a fellowship license, has been employed as a physician or by the state of Kansas for twenty (20) years or more, has been the head of a state hospital for five (5) years or more and has successfully completed the licensing examinations given by the state board of healing arts~~

(1) Has completed at least two years of postgraduate training in a postgraduate training program in the United States approved by the board;

(2) holds a valid institutional license issued under K.S.A. 65-2895, and amendments thereto, on the effective date of this act; and

(3) has held a valid institutional license issued under K.S.A. 65-2895 and amendments thereto, for a period of at least five years.

(b) The provisions of this section shall expire on July 1, 2007.

Sec. 2. K.S.A. 65-2873a is hereby repealed.

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

*Senate Public Health & Welfare Committee
Date: March 19, 2002
Attachment 5*

Proposed Amendment to HB 2665

By striking section 1 from the bill and inserting in lieu thereof the following:

Section 1. K.S.A. 2001 Supp. 65-6129 is hereby amended to read as follows: 65-6129. (a) Application for an attendant's certificate shall be made to the board upon forms provided by the administrator. The board may grant an attendant's certificate if the applicant meets the following requirements:

(1) (A) Has made application within one year from the date of the last class of ~~an--appropriate~~ a course of instruction approved by the board for the classification of attendant's certificate for which application has been made; and

(B) has completed successfully such course of instruction, passed an examination prescribed by the board and paid a fee prescribed by the board; or

(2) has completed successfully a course of instruction or training accredited by the commission on accreditation of allied health education programs, a program of instruction or training offered by the armed forces of the United States or a program of instruction completed in another state that is equivalent to a program approved by the board for the class of attendant's certificate applied for, passed an examination prescribed by the board and paid a fee prescribed by the board.

(b) ~~An--attendant--applying--for--an--emergency--medical--technician's--certificate--shall--have--completed--successfully--a--course--of--training,--approved--by--the--board,--in--preliminary~~

Senate Public Health & Welfare Committee
Date: March 19, 2002
Attachment 6

emergency--medical--care.---An--attendant--applying--for--a--mobile
intensive-care--technician's--certificate--shall--have--completed
successfully--a--course-of-training, approved-by-the-board, which
shall-include, but-not--be--limited--to, didactic--and--clinical
experience--in--a--hospital--and-in-an-emergency-vehicle-unit. An
attendant-----applying-----for-----an-----emergency-----medical
technician-intermediate--certificate--shall--be--certified--as-an
emergency---medical---technician---and---shall---have---completed
successfully-a-course-of-training, approved-by-the--board, which
shall--include--training--in-veni-puncture-for-blood-sampling-and
administration--of--intravenous--fluids--and---advanced---patient
assessment.---An--attendant--applying--for--an--emergency--medical
technician-defibrillator--certificate--shall--be--certified-as-an
emergency---medical---technician---and---shall---have---completed
successfully-a-training-program-approved-by-the-board. The board
shall not grant an emergency medical technician-intermediate
certificate, an emergency medical technician-defibrillator
certificate or a mobile intensive care technician certificate
unless the applicant for such a certificate is certified as an
emergency medical technician.

(c) ~~An--attendant's--certificate--shall--expire--on--December--31,~~
~~2000,--and--may--be--renewed--as--provided--in--this--section.~~ On and
after January 1, 2001, a an attendant's certificate shall expire
on the date prescribed by the board. An attendant's certificate
may be renewed for a period of two years upon payment of a fee as
prescribed by rule and regulation of the board and upon

presentation of satisfactory proof that the attendant has successfully completed continuing education as prescribed by the board. The board may prorate to the nearest whole month the fee fixed under this subsection as necessary to implement the provisions of this subsection.

(d) (1) The emergency medical services board may issue a temporary certificate to any person who has not qualified for an attendant's certificate under paragraph (1) or (2) of subsection (a) when:

~~(1)~~ (A) The operator for whom such person serves as an attendant requests a temporary certificate for that person; and

~~(2)~~ (B) such person meets or exceeds certain minimum requirements prescribed by the board by rules and regulations.

(2) A temporary certificate shall be effective for one year from the date of its issuance or until the person has qualified as an attendant under paragraph (1) or (2) of subsection (a), whichever comes first. A temporary certificate shall not be renewed and shall be valid only while an attendant works for the operator requesting the temporary certificate. A person holding a temporary certificate as an emergency medical technician shall not be eligible to apply for certification as an emergency medical technician-intermediate, emergency medical technician-defibrillator or a mobile intensive care technician.

(e) (1) Upon request by an operator to the board and upon approval by the board of such request, an applicant for certification may perform activities that are within the

authorized activities of the certification level applied for, provided that the applicant:

(A) Has successfully completed the appropriate course of instruction for the level applied for;

(B) serves with the ambulance service identified in this subsection (e); and

(C) is practicing under the direct supervision of a physician, physician assistant, professional nurse or an attendant who is at or above the certification level for which the applicant has applied.

(2) The authority to perform activities under this subsection (e) shall terminate 120 days from the date of the last class or until the results of the first examination are received by the board, whichever comes first. Such authority to practice shall not be renewed and shall be valid only while the applicant serves with the ambulance service identified in this subsection (e).

~~(e)~~ (f) All fees received pursuant to the provisions of this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

~~(f)~~ (g) If a person who was previously certified as an attendant applies for an attendant's certificate within two years of the date of ~~its~~ the certificate's expiration, the board may

grant a certificate without the person completing a course of instruction or passing an examination if the person has completed continuing education requirements and has paid a fee prescribed by rules and regulations.