

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairman Jim Morrison at 1:32 p.m. on January 22, 2004, in Room 526-S of the Capitol.

All members were present.

Committee staff present:

Dr. William Wolff, Legislative Research Department  
Renaë Jefferies, Office of Revisor of Statutes  
Gary Deeter, Secretary

Conferees appearing before the committee:

Mack Smith, Executive Secretary, Kansas Mortuary Arts Boards  
Pam Scott, Executive Director, Kansas Funeral Directors and Embalmers Association  
Ron Hein, Kansas Society of Radiologic Technologists

Others attending:

See Attached List.

The minutes for the January 20 and January 21 meetings were approved.

Mack Smith, Executive Secretary, Kansas Mortuary Arts Board, requested the introduction of a bill that would, among other things:

- Define where a dead human body may taken upon removal from the place of death;
- Give the Mortuary Arts Board further subpoena authority;
- Change some requirements for those taking an examination for an embalmer's license.

(See Attachments 1 and 2)

The Committee passed a motion to introduce the bill.

Pam Scott, Executive Director, Kansas Funeral Directors and Embalmers Association, requested the introduction of two bills. (Attachment 3) The first proposes to amend **K.S.A. 16-303** in order to increase the amount of funds allowed in an irrevocable funeral service agreement from \$3500 to \$5000. She said the bill would have no fiscal impact on the state.

A motion was made, seconded and passed to introduce the bill.

The second bill request from Ms. Scott was to amend **K.S.A. 65-1762** to require the operator of a licensed crematory to hold a Kansas funeral director's or embalmer's license. (Attachment 4) She said that this bill likewise would result in no cost to the state.

A motion was passed by the Committee to introduce the bill.

## CONTINUATION SHEET

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE at 1:30 p.m. on January 22, 2004 in Room 526-S of the Capitol.

Representative Bob Bethell requested the introduction of four bills:

1. A revision in the Administrator in Training program as recommended by the interim Long-term Care Task Force.
2. Establishing an informal dispute resolution process between Kansas Department of Aging and individual nursing facilities
3. Move the certification of Certified Nursing Aides, Certified Medication Aides, Home Health Aides from the Kansas Department of Health and Environment to the Kansas Board of Nursing.
4. Allow the use of "Paid Nutrition Aides" in nursing facilities, reflecting standards established by the Centers for Medicaid and Medicare Services (U. S. Health and Human Services)

A motion was made, seconded and passed to introduce these four bills by the Committee.

Ron Hein, representing the Kansas Society of Radiologic Technologists, referring to the previous year's **HB 2274** (licensure of radiologic technologists), requested a new bill to be introduced by the Committee. He said changes had been made to answer concerns and objections made by other groups, especially the difficulty in finding fully-trained technologists in physicians' offices and in rural hospitals. (Attachments 5 and 6)

The Committee passed a motion to have the bill introduced.

Assuming the Chair, Representative Neighbor continued the hearing on **HB 2513**. The remainder of the committee time was given over to questions by Committee members to conferees from the previous day's hearing: Dr. Gianfranco Pezzino, State Epidemiologist; KDHE, Gary Haulmark, representing Cerner Corporation; and Jeff James, software engineer for Cerner.

Dr. Pezzino answered a series of questions. He said if the proposed bill were implemented, its greatest positive impact would be to enhance receiving electronic reports from laboratories, stating that little else would change from what the agency is currently doing. He also noted that the Cerner system is well adapted to metropolitan-area reporting but not to rural areas. He said presently the agency receives data from HealthSentry (Cerner) through Kansas City, Missouri, health-care entities, but keeps it separate from the agency's HAWK system and accesses it separately. He said Cerner and HAWK function differently, that HAWK was developed in 1999 and continues to be enhanced on a regular basis, and that new standards are built into the system as they are established.

Mr. James said that HealthSentry is not better than HAWK, just different, stating that if HealthSentry were adopted, HAWK would continue as it is, the main difference being that HealthSentry would provide more comprehensive laboratory reporting.

## CONTINUATION SHEET

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE at 1:30 p.m. on January 22, 2004 in Room 526-S of the Capitol.

Members discussed costs. Mr. Haulmark estimated it would cost the state about \$1 million to implement HealthSentry in all 35 laboratories across the state. It was noted that grants were available from the federal Centers for Disease Control, that \$4.4 billion was allocated by the federal government to combat bio-terrorism, and that last year about \$80 million in federal dollars was allocated to KDHE.

Representative DeCastro stated that, beginning in 1999, Kansas became a forerunner in electronic reporting of communicable diseases and is still considered a model among the dozen state that have electronic disease-tracking. She expressed concern that the bill veers from setting policy to automatically selecting a vendor. Representative McLeland noted that any information technology project costing over \$250,000 must be approved by the Joint Committee on Information Technology. Members agreed that, if the bill passes, the reporting system would necessarily be submitted for bids.

Other members expressed various thoughts: that the Cerner system appeared to offer more breadth of reporting; that KDHE's present system seemed to be lagging behind the technology; and that Cerner's laboratory-reporting system appeared to be exceptionally effective.

Chairperson Neighbor closed the hearing on **HB 2513**. Chairman Morrison adjourned the meeting at 3:03 p.m.

**HOUSE HEALTH AND HUMAN SERVICES COMMITTEE  
GUEST LIST**

DATE: JANUARY 22 2004

NAME	REPRESENTING
Ronald Liebman	Kansas Health Institute
Kim Hlobik	Cerner
Jeff James	Cerner
Awendaryn Carguel	ACS
Michelle Peterson	Ks. Governmental Consulting
Gary Hankock	Leine
DEBORAH STERN	KS. HOSP. ASSOC.
Amy Biel	KDHE
Susan Kang	KDHE
GIANFRANCO PEZZINO	KDHE
Bill Sneed	KFDA
Jan Scott	KFDA
Mack Smith	KS St Bd of Mortuary Arts
Ron Hein	Ks Society of Radiologic Technologists

Thursday, January 22, 2004

Chairperson Jim Morrison  
House Health and Human Services Committee

Chairperson Morrison and Members of the Committee:

Thank you for the opportunity to appear before your committee today. My name is Mack Smith, and I am the executive secretary to the Kansas State Board of Mortuary Arts. I appear before you to request introduction of a bill that addresses the following issues:

Section 1—Defines where a dead human body may be taken to upon removal from the place of death.

Section 2—Would give the Mortuary Arts Board investigative subpoena authority.

Section 3—Amendments would allow for changes relating to the embalmer examination.

Section 4—Amendments to the Mortuary Arts Board Actions Statute including the ability to fine with updates to the provisions relating to violations.

Section 5—Eliminates the provision relating to subpoenas addressed in section one of the bill.

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**Economic Impact Statement**

The only known areas of economic impact would be the cost to the Mortuary Arts Board involving subpoenas and costs to the individuals found guilty (following the guidelines of the Kansas Administrative Procedure Act) of the provisions outlined in section four in the bill.

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Again, thank you for the opportunity to appear before the committee today. I will do my best to answer any questions you may have at this time and request the committee's consideration for introduction of this bill.

Attachment 1  
HHS 1-22-04

Respectfully submitted:

Mack Smith, Executive Secretary  
The Kansas State Board of Mortuary Arts  
700 SW Jackson, Suite 904  
Topeka, KS 66603-3733  
Telephone: 296-3980  
Fax: 296-0891  
Email: [mack.smith@ksbma.state.ks.us](mailto:mack.smith@ksbma.state.ks.us)  
Web Site: <http://www.accesskansas.org/ksbma/>

MS  
attachment: Bill Request

\_\_\_\_ BILL NO. \_\_\_\_

By

AN ACT concerning mortuary arts; relating to removal of dead bodies; educational requirements; examination and licensure; subpoenas; amending K.S.A. 65-1701a, 65-1751 and 74-1704 and repealing the existing sections.

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

New Section 1. A dead human body may be removed from the location of death and transported only to a licensed funeral establishment, a licensed branch funeral establishment containing an embalming preparation room or a holding facility, a licensed crematory containing a holding facility, a hospital, a cemetery or other location of final interment, and the university of Kansas medical center.

New Sec. 2. (a) In connection with any investigation, based upon a complaint or other reasonably reliable information received by the board, the board or its duly authorized agent or employee may issue subpoenas and subpoenas duces tecum to compel the attendance of witnesses, to compel the production of any physical evidence for examination or copying or to compel the taking of the deposition of witnesses, residing within or outside of the state, to be taken in the manner prescribed by law for taking depositions in civil actions in the district courts, if such evidence relates to practices which may be grounds for disciplinary action.

(b) Within five days after the service of the subpoena or subpoena duces tecum on any person requiring the production of any evidence in the person's possession or under such person's control, such person may petition the board to revoke, limit or modify such subpoena. The board shall revoke, limit or modify such subpoena if in its opinion the evidence required does not relate

Attachment 2  
HHS 1-22-04

to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the proceeding or investigation, or does not describe with sufficient particularity the physical evidence which is required to be produced.

(c) Upon application by the board or by the person subpoenaed, the district court shall have jurisdiction to issue an order:

(1) Requiring such person to appear before the board or a duly authorized agent of the board to produce evidence relating to the matter under investigation; or

(2) revoking, limiting or modifying the subpoena if in the court's opinion the evidence demanded does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the hearing or investigation or does not describe with sufficient particularity the evidence which is required to be produced.

Sec. 3. K.S.A. 65-1701a is hereby amended to read as follows: 65-1701a. (a) Except as otherwise provided by K.S.A. 65-1701b and amendments thereto, each applicant for a license to practice embalming in this state, in order to be eligible for examination, shall be required to show to the satisfaction of the state board of mortuary arts that: (1) ~~Prior to the effective date of this act~~ July 1, 1991, the applicant successfully completed courses in a community college, college or university accumulating at least 60 semester hours and attended a school of mortuary science approved by the board which offers a twelve-month course in mortuary science and prior to the effective date of this act graduated therefrom accumulating during this training at least 30 semester hours in mortuary science; or (2) ~~prior to, on or subsequent to the effective date of this act~~ beginning July 1, 1991, the applicant has graduated from a community college, college or university with at least an AA degree in mortuary science, which degree program is approved by the board, ~~and has~~



~~accumulated during this training at least 30 semester hours in mortuary science.~~

(b) Except as otherwise provided in K.S.A. 65-1701b and amendments thereto, each applicant for a license to practice embalming in this state, in order to be eligible for apprenticeship, shall be required to submit to an examination approved by the state board of mortuary arts. Each applicant shall be required to register with the secretary of the board in the manner and at the time required by the board before submitting to examination ~~and shall receive an overall score of at least 75% with a minimum of 70% in any one section before successfully passing the examination.~~ The examination fee and registration fee shall be in the amounts fixed by the board in accordance with K.S.A. 65-1727 and amendments thereto. The board may require that fees paid for an examination be paid by the person taking the examination directly to the examination service providing the examination approved by the board.

(c) Except as otherwise provided by K.S.A. 65-1701b and amendments thereto, each applicant for a license to practice embalming in this state, in order to be eligible for licensure, shall successfully pass a written examination established by rules and regulations of the board and shall successfully serve a full-time apprenticeship of one year under the supervision of a Kansas licensed embalmer or an embalmer approved by the board. The board shall fix the score for the successful completion of the written examination.

(d) The board shall adopt rules and regulations establishing the criteria which a school of mortuary science or college or university offering at least an AA degree in mortuary science shall satisfy in order to obtain board approval under subsection (a). The board may send a questionnaire developed by the board to any school of mortuary science or college or university offering at least an AA degree in mortuary science for which the board does not have sufficient information to

determine whether the school, college or university meets the criteria for approval established by rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the school, college or university to be considered for approval. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about such schools, colleges or universities. In entering such contracts the authority to approve schools, colleges or universities shall remain solely with the board.

Sec. 4. K.S.A. 65-1751 is hereby amended to read as follows: 65-1751. (a) The state board of mortuary arts may refuse to issue or renew a license, may condition, limit, revoke or suspend a license or may publicly or privately censure a licensee, or may impose a fine not to exceed \$1,000 per violation upon a finding that a licensee or an applicant for a license:

(1) Has made any misleading, deceptive, untrue or fraudulent statements in applying for or securing an original or renewal license;

(2) has committed an act of unprofessional or dishonorable conduct or professional incompetency;

(3) has been convicted of a felony crime, and the licensee or applicant for a license is unable to demonstrate to the board's satisfaction that such person has been sufficiently rehabilitated to warrant the public trust, ~~or has been convicted of any offense involving moral turpitude;~~

(4) has violated any law, ordinance or rule and regulation affecting the handling, custody, care or transportation of dead human bodies;

(5) is rendered unfit or incapacitated to practice embalming or funeral directing by reason of illness, alcohol, chemicals or other types of substances, or as a result of any mental or physical

condition ~~when certified by a physician as to unfitness;~~

(6) has failed or refused to properly protect or guard against contagious, communicable or infectious disease, or the spreading thereof;

(7) has refused to surrender a dead human body upon the request of the next of kin, or legal representative, if there is no next of kin, or person entitled to the custody and control of the body if there is no next of kin available and no legal representative qualified to act;

(8) or the agent, employee or representative thereof, has advertised, solicited or sold merchandise or services in a manner which is fraudulent, deceptive or misleading in form or content;

(9) or the agent, employee or representative thereof, has engaged in the uninvited, in-person solicitation of an actual or potential customer, who, because of the customer's particular circumstances, was vulnerable to undue influence, intimidation, coercion or overreaching or has violated a provision of K.S.A. 65-1752 and amendments thereto;

(10) or the agent, employee or representative thereof, has knowingly engaged in at-need solicitation;

(11) has used or employed, directly or indirectly, any agent, representative or person, for the purpose of contacting public officials or agents of institutions by whose influence dead human bodies may be turned over to a particular licensee or funeral establishment;

(12) has aided or abetted an unlicensed person to practice any activity for which a license is required under article 17 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto;

(13) has had a license to practice embalming or funeral directing revoked or suspended, has been censured or has had other disciplinary action taken against oneself or has had an application

for a license denied by the proper licensing authority of another state, territory, District of Columbia or other country, ~~a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof;~~

(14) has cheated on or attempted to subvert the validity of the examination for a license;

(15) has been found to be mentally ill, mentally disabled, not guilty by reason of insanity, not guilty because the licensee suffers from a mental disease or defect or incompetent to stand trial by a court of competent jurisdiction;

(16) has failed to furnish the board, or its investigators or representatives, any information legally requested by the board;

(17) has failed to report to the board any adverse action taken against the licensee by another state or licensing jurisdiction, a professional association or society, a governmental agency, by a law enforcement agency or a court for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(18) has an adverse judgment, award or settlement against the licensee resulting from the practice of funeral directing or embalming which related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section or has failed to report such matter to the board;

(19) has knowingly submitted any misleading, deceptive, untrue or fraudulent representation on a claim form, bill or statement;

(20) has violated any lawful rules and regulations promulgated by the board or any state or federal law related to the practice of funeral directing, embalming, cremation or funeral establishments; ~~or~~

(21) has failed to pay any fee required under this act: ;

(22) has been found guilty of negligence, incompetence, fraud, misrepresentation or deceit in connection with services rendered as a licensee;

(23) has provided misleading, fraudulent or deceptive statements to the board, its investigators or its representatives, when information is legally requested; or

(24) has provided misleading, fraudulent or deceptive information when filing a death certificate.

(b) The board may adopt rules and regulations defining, construing and interpreting the above grounds for licensure action. All administrative proceedings taken by the board pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(c) As used in this section:

(1) "License" means an embalmer's license, funeral director's license, assistant funeral director's license, funeral establishment license, crematory license or branch establishment license.

(2) "At-need solicitation" means any uninvited contact for the purpose of the sale, or attempted sale, of funeral services or merchandise to the family or next of kin of a person after the person's death, or where death is imminent.

Sec. 5. K.S.A. 74-1704 is hereby amended to read as follows: 74-1704. The board shall annually elect a president and vice-president from the members of said board. The vice-president shall act for the president when the president is absent or unable to act. Said officers shall serve for one year or until their successors are elected and qualified. The board shall also elect a secretary, who shall serve for four (4) years, unless removed for cause, and such secretary shall be the executive

officer of said board, but not a member thereof. The secretary shall receive such salary as may be fixed by the board, which shall not be in excess of just compensation for the duties required, and in addition thereto all necessary expenses incurred in the discharge of the duties of said office. The board shall adopt a common seal. The president of said board is hereby authorized to administer oaths to witnesses testifying before said board. In order to carry out the provisions of this act said board shall have the authority to issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents and testimony, and to cause the deposition of witnesses, either residing within or without the state, to be taken in the manner prescribed by law for taking depositions in civil actions in the district courts.

~~In case of disobedience on the part of any person to comply with any subpoena issued in behalf of said board, or on the refusal of any witness to testify to any matters regarding which he or she may be lawfully interrogated, the district court of any county, or the judge thereof, on application of a member of said board, may compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. Each witness who appears before said board by its order or subpoena, other than a state officer or employee, shall receive for his or her attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid upon the presentation of proper vouchers sworn to by such witness and approved by the president and secretary of said board.~~

The board shall employ an investigator-inspector. Such employee shall perform all inspections and conduct the investigative duties of the board and shall be within the classified service of the Kansas civil service act. Upon presentation of proper credentials the investigator-inspector shall have the authority to enter into and inspect any funeral establishment, as said term is defined

in K.S.A. 65-1713a, at any reasonable time.

The board shall also have power to employ such agents and attorneys as it may deem necessary for the performance of the work of the board, and may allow them reasonable compensation and their actual necessary expenses incurred in the performance of their duties. It shall also have power to make reasonable rules and regulations establishing ethical standards and practices for embalming and funeral directing, provided the same are not inconsistent with the provisions of this act. Said board shall meet quarterly and may meet as often as the proper and efficient discharge of its duties shall require, but at no time shall the board contract in excess of the amount of its funds on hand.

Sec. 6. K.S.A. 65-1701a, 65-1751 and 74-1704 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

January 22, 2004

To: Health and Human Services Committee

From: Pam Scott, Executive Director  
Kansas Funeral Directors and Embalmers Association

Re: Bill Introduction  
Amendment to K.S. A. 16-303

Chairman Morrison and members of the Committee, on behalf of the Kansas Funeral Directors and Embalmers Association (KFDA), I would like to request the introduction of legislation that would amend K.S.A. 16-303 to increase the amount of funds that can be placed in an irrevocable funeral service agreement contract or plan.

The proposed amendment, which is attached, would increase the amount of funds from \$3500 to \$5000. This amount is in addition to the retail price of a casket, urn, and outside burial container. This amount has not been increased since 1998.

The KFDA does not believe this bill will have any fiscal impact on the State of Kansas. We have discussed this proposed amendment with representatives of the Kansas Department of Social and Rehabilitation Services and they have indicated they have no objection to the increase.

Thank you for your consideration of this bill request. I would be happy to respond to any questions.

Attachment 3  
HHS 1-22-04



**16-303** Chapter 16.--CONTRACTS AND PROMISES Article 3.--

**FUNERAL AND CEMETERYMERCHANDISE AGREEMENTS, CONTRACTS AND PLANS 16-303. Prearranged funeral agreements; payments and earnings; credit life insurance; irrevocable agreements.** (a) Except as authorized by K.S.A. 16-308, and amendments thereto, all payments made under such agreement, contract or plan, and any earnings or interest thereon, shall remain with such bank, credit union or savings and loan association until the death of the person for whose service the funds were paid or, except as provided in subsection (c), until demand for payment is made by the purchaser of the merchandise or services to the bank, credit union or savings and loan association, and upon such payment to the purchaser, the contract shall terminate.

(b) At the option of a purchaser, any installment contract may provide for additional payments by the purchaser for the cost of group credit life insurance at such rate as is approved from time to time by the insurance commissioner. In the event of the death of the purchaser, the proceeds shall be treated as funds in accordance with K.S.A. 16-304, and amendments thereto. (c) At the option of the purchaser, such agreement, contract or plan may be made irrevocable as to the retail price of a casket, urn and outside burial container and as to the first ~~\$3,500~~ \$5000 of funds paid and set aside at the direction of the purchaser. Any interest and earnings accumulated under the agreement, contract or plan may also be irrevocable. This option shall not prohibit the purchaser to designate a different funeral home at any time prior to death, after written notice to the current funeral home, and upon such notification all documents and funds shall be transferred as necessary. **History:** L. 1953, ch. 54, § 3; L. 1973, ch. 86, § 3; L. 1976, ch. 97, § 3; L. 1982, ch. 90, § 1; L. 1983, ch. 76, § 3; L. 1989, ch. 48, § 72; L. 1991, ch. 68, § 2; L. 1998, ch. 55, § 1; July 1.

January 22, 2004

To: Health and Human Services Committee

From: Pam Scott, Executive Director  
Kansas Funeral Directors and Embalmers Association

Re: Bill Introduction  
Amendment to K.S.A. 65-1762

On behalf of the Kansas Funeral Directors and Embalmers Association, I would like to request introduction of legislation that would amend K.S.A. 65-1762 to provide that a crematory operator in charge of a licensed crematory must hold a Kansas funeral directors or embalmers license if the crematory has a holding facility. A copy of the proposed amendment is attached.

Currently Kansas law does not require individual licensure of a crematory operator in charge of a licensed crematory. The KFDA believes an individual in charge of a licensed crematory with a holding facility should hold a Kansas funeral directors or embalmers license.

A holding facility is defined in K.S.A. 65-1760(1) as "an area within or adjacent to a licensed crematory designated for the retention of dead human bodies prior to the act of cremation that shall: 1) Comply with any applicable public health statute, regulation or ordinance; 2) preserve the dignity of the dead human body; 3) recognize the integrity, health and safety of the crematory's personnel operating the crematory; and 4) be secure from access by anyone other than licensed personnel."

The KFDA believes that if a dead human body is to be held in a crematory for a period of time, the person operating the crematory should be licensed. Funeral directors and embalmers are licensed by the State Board of Mortuary Arts. A licensed funeral service professional can best assure that the dignity of the dead human body is protected and that the health and safety of the public is protected.

To our knowledge, there currently there are no crematories with holding facilities operating in Kansas that are not under the supervision of a licensed funeral director or embalmer.

We see no fiscal impact resulting from this legislation.

Thank you for your consideration of this proposed legislation. If you should have any questions, please do not hesitate to contact me at 232-7789.

Attachment 4  
HHS 1-22-04

**65-1762** Chapter 65.--PUBLIC HEALTH Article 17.--REGULATION

**OF EMBALMERS AND FUNERAL DIRECTORS; FUNERAL**

**ESTABLISHMENTS 65-1762. Supervision; cremation requirements; authorization**

**form and coroner's permit.** (a) The crematory operator in charge shall supervise the licensed crematory on a full-time or a part-time basis and perform such other duties relating to the supervision of a licensed crematory as prescribed by the board by rules and regulations. The crematory operator in charge of a licensed crematory with a holding facility must hold a Kansas funeral directors or embalmers license. (b) No crematory or crematory operator in charge shall cremate or cause to be cremated any dead human body until it has received: (1) A cremation authorization form signed by an authorizing agent. The written authorization shall include: (A) The identity of the dead human body and the time and date of death; (B) the name of the funeral director or assistant funeral director and the funeral establishment or branch establishment, or the authorizing agent if that obtained the cremation authorization; (C) notification as to whether the cause of death occurred from a disease declared by the department of health and environment to be infectious, contagious, communicable or dangerous to the public health; (D) the name of the authorizing agent and the relationship between the authorizing agent and the decedent; (E) authorization for the crematory to cremate the dead human body; (F) a representation that the dead human body does not contain a pacemaker or any other material or implant that may be potentially hazardous or cause damage to the cremation chamber or the person performing the cremation; (G) the name of the person authorized to receive the cremated remains from the crematory; and (H) the signature of the authorizing agent, attesting to the accuracy of all representations contained on the cremation authorization form. (2) A completed and executed coroner's permit to cremate, as is provided in K.S.A. 65-2426a and amendments thereto, indicating that the dead human body is to be cremated. **History:** L. 2001, ch. 183, § 3; Jan. 1, 2002.

65-1762(a)

(1) The crematory operator in charge of a licensed crematory with a holding facility must hold a Kansas funeral directors or embalmers license.

# HEIN LAW FIRM, CHARTERED

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Ronald R. Hein

Attorney-at-Law

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**Bill Introduction Request  
House Health and Human Services Committee  
Presented by Ronald R. Hein  
on behalf of  
Kansas Society of Radiologic Technologists  
January 22, 2004**

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Society of Radiologic Technologists, the professional association for radiologic technologists in Kansas.

Last year, this committee held a hearing on 2003 HB 2274, which provides for licensure of radiologic technologists. Those of you who were here will remember a visual demonstration by Topeka radiologist, Dr. James Owen, who demonstrated a number of x-rays which were inappropriately performed.

Most of the opposition to the legislation related to the difficulty of finding fully trained rad techs in physician's offices and rural hospitals. We were able to meet with all the interested groups in December, 2003, and as a result of that meeting, we have proposed changes to last year's bill that would provide for licensure of the fully trained radiologic technologists, and registration at a minimal level for those persons who provide simple diagnostic x-rays in physician's offices, rural hospitals, or otherwise, who would be registered as "x-ray technicians".

Because attempting to utilize balloon amendments would be cumbersome for the committee, we have decided to request introduction of a new bill for ease of working with the legislation for the legislature and the groups that are interested in this bill. At this time, I cannot state that this bill is agreed to by all of the other groups who testified on this issue, but we are continuing our discussions with the Board of Healing Arts, the Kansas Medical Society, the Kansas Hospital Association, the Kansas Chiropractic Association, and the Kansas Podiatric Medicine Association, and the Kansas Association of Osteopathic Medicine to attempt to address any concerns they might still have with the latest draft.

Estimated economic impact:

Licensed rad techs - payment of fees provided by the act

Registered x-ray technicians - payment of fees provided by the act

Board of Healing Arts - fees should be sufficient for expenses

State General Fund - statutory percentage of fees to SGF based on amount of

BOHA revenue generated; expenses to SGF for services provided to BOHA  
unknown but probably minimal

Attachment 5  
HHS 1-22-04

House Health and Human Services Committee  
January 22, 2004

I would request introduction of this new version of the rad tech legislation. Attached is the rough draft provided to the Revisor but as discussions are continuing with other groups there may be changes in addition to any Revisor changes before the bill is actually introduced.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

Session of 2004  
**HOUSE BILL No. \_\_\_\_\_**  
By Committee on Health and Human Services

AN ACT providing for the regulation and licensing of radiologic technologists; granting powers and duties of the state board of healing arts; establishing a radiologic technology council and providing for the functions thereof; declaring unlawful acts and penalties.

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

Section 1. Sections 1 through 14 and amendments thereto shall be known and may be cited as the radiologic technologists practice act.

Sec. 2. As used in this act:

- (a) "Board" means the state board of healing arts.
- (b) "Ionizing radiation" means x-rays, gamma rays, alpha and beta particles, high speed electrons, protons, neutrons and other nuclear particles capable of producing ions directly or indirectly in its passage through matter.
- (c) "License" means a certificate issued by the board authorizing the licensee to perform radiologic technology procedures on humans for diagnostic or therapeutic purposes.
- (d) "Licensed practitioner" means a person licensed to practice medicine and surgery, dentistry, podiatry, chiropractic or osteopathic medicine and surgery in this state.
- (e) "X-ray technician" means a person who is not able to meet minimum requirements for a license as a radiologic technologist pursuant to this act who is providing limited radiography under the supervision of a supervisor pursuant to this act.
- (f) "Nuclear medicine technologist" means a person who uses radio pharmaceutical agents on humans for diagnostic or therapeutic purposes.
- (g) "Nuclear medicine technology" means the use of radio nuclides on human beings for diagnostic or therapeutic purposes.
- (h) "Radiation therapist" means a person who applies radiation to humans for therapeutic purposes.
- (i) "Radiation therapy" means the use of any radiation procedure or article intended for the cure, mitigation or prevention of disease in humans.
- (j) "Radiographer" means a person who applies radiation to humans for diagnostic purposes.
- (k) "Radiography" means the use of ionizing radiation on human beings for diagnostic purposes.
- (l) "Radiologic technologist" means any person who is a radiographer, radiation therapist or nuclear medicine technologist.
- (m) "Radiologic technology" means the use of radioactive substance or equipment emitting or detecting ionizing radiation on humans for diagnostic or therapeutic purposes upon prescription of a licensed health care provider authorized to prescribe services of a radiologic technologist. The term includes the practice of radiography, nuclear medicine technology and

radiation therapy, but does not include echo cardiography, diagnostic sonography and magnetic resonance imaging.

(n) "Supervisor" means a licensed practitioner or a hospital licensed pursuant to K.S.A. 65-401 *et. seq.* providing supervision for a registered x-ray technician pursuant to this act.

Sec. 3. (a) On and after January 1, 2005, except as otherwise provided in this act, no person shall perform radiologic technology procedures on humans for diagnostic or therapeutic purposes unless the person possesses a valid license issued under this act.

(b) A person holding a license under this act shall use radioactive substances or equipment for radiologic technology procedures on humans only for diagnostic or therapeutic purposes by prescription of a licensed practitioner, and only if the application of a substance or the use of equipment is limited in a manner herein specified.

(c) No person shall depict one's self orally or in writing, expressly or by implication, as holder of a license who does not hold a current license under this act.

(d) (i) Only persons licensed under this act as a radiologic technologist shall be entitled to use the title "radiologic technologist", abbreviations thereof, or words similar thereto or use the designated letters "R.T." or "R.T. (R)".

(ii) Only persons licensed under this act as a radiologic technologist and who have received additional certification from the American registry of radiologic technologists (ARRT) or the nuclear medicine technology certification board (NMTCB) shall be entitled to use the title "radiation therapist" or "nuclear medicine technologist", abbreviations thereof, or words similar thereto or use the designated letters "R.T. (N)" or "R.T. (T)".

(e) Except as otherwise provided in this act, no person shall employ a person to engage in the practice of radiologic technology unless the person possesses a valid license issued under the provisions of this act.

Sec. 4. The following shall be exempt from the provisions of this act and the requirement of a license pursuant to this act:

(a) a licensed practitioner;

(b) a resident physician or a student enrolled in and attending a school while under the direct supervision of a licensed practitioner, radiographer, radiation therapist or nuclear medicine technologist; and

(c) health care providers in the United States armed forces, public health services, federal facilities and other military service when acting in the line of duty in this state;

(d) persons rendering assistance in the case of an emergency; and

(e) a licensed dentist, a licensed dental hygienist or an unlicensed person working under the supervision of a licensed dentist who has been trained by a licensed dentist on the proper use of dental radiographic equipment for the purpose of providing medical imaging for dental diagnostic purposes consistent with K.S.A. 65-1422 *et. seq.* and amendments thereto.

Sec. 5. (a) An applicant applying for licensure as a radiologic technologist shall file a written application on forms provided by the board, showing to the satisfaction of the board that the applicant meets the following requirements:

(1) At the time of the application is at least 18 years of age;

(2) has successfully completed a four-year course of study in a secondary school approved by the state board of education, passed an approved equivalency test or has graduated from a



secondary school outside Kansas having comparable approval by the state board of education;

(3) has satisfactorily completed a course of study in radiography which is approved by the board and which contains a curriculum no less stringent than the standards of existing organizations which approve radiologic technology programs;

(4) Except as provided in section 10, and amendments thereto, has successfully passed a license examination approved by the board; and

(5) has paid all fees required for licensure prescribed in this act.

\_\_\_\_\_ (b) The board may issue a temporary license to an applicant seeking licensure as a radiologic technologist who applies for temporary licensure on a form provided by the board, who meets the requirements for licensure or who meets all the requirements for licensure except examination and who pays to the board the temporary license fee as required under section 11, and amendments thereto. Such temporary license shall expire 180 days from the date of issue or on the date that the board approves the application for licensure, whichever occurs first. No more than one such temporary license shall be permitted to any one person.

(c) An applicant for renewal of a license shall submit proof of having successfully completed continuing education courses as prescribed by rules and regulations.

(d) The board may accept, in lieu of its own licensure examination, a current certificate by the American registry of radiologic technologists, nuclear medicine technologist certification board or other recognized national voluntary credentialing bodies, which the board finds was issued on the basis of an examination which meets standards at least as stringent as those established by the board.

(e) The board may waive the examination, education or experience requirements and grant licensure to any applicant who presents proof of current licensure as radiologic technologist in another state, the District of Columbia or territory of the United States which requires standards for licensure determined by the board to be equivalent to the requirements under this act.

(f) A person whose license has been revoked may make written application to the board requesting reinstatement of the license in a manner prescribed by the board, which application shall be accompanied by the fee provided for in section 12, and amendments thereto.

(h) A licensee holding a license under this act whose license has lapsed and who has ceased activities permitted in this act, may apply for re-licensure upon making a request for renewal upon a form provided by the board and payment of a fee set by the board and satisfactorily meeting the requirements established by rules and regulations of the board.

(i) At least 30 days before the expiration of a license issued under this act, the board shall notify the licensee of the expiration date by mail addressed to the licensee's last mailing address as noted upon office records.

(j) A licensee holding a license under this act shall notify the board in writing within 30 days of any name or address change.

Sec. 6. The board shall waive the education and examination requirements for an applicant who, on or before January 1, 2005:

(a)(i) has been engaged in the practice of radiologic technology for a period of at least two years of the three years immediately preceding January 1, 2005; (ii) is 18 years of age or older; (iii) and has successfully completed secondary schooling or its equivalency; or

(b)(i) has been engaged in the practice of radiologic technology prior to January 1, 2005;

(ii) has, at the time of application, a current valid certificate by the American registry of radiologic technologists, nuclear medicine technologist certification board or other recognized national voluntary credentialing bodies, which the board finds was issued on the basis of an examination which meets standards at least as stringent as those established by the board; (iii) is 18 years of age or older; and (iv) has successfully completed secondary schooling or its equivalency; or

(c)(i) has engaged in the practice of radiologic technology prior to January 1, 2005; (ii) submits an affidavit from two of the following: a hospital administrator, a radiologist, or a licensed practitioner other than a radiologist attesting to the applicant's competency in the practice of radiologic technology; (iii) is 18 years of age or older; and (iv) has successfully completed secondary schooling or its equivalency..

Sec. 7 An applicant who does not meet the requirements of this act for licensure as a radiologic technologist may apply for registration as an X-ray technician in order to practice limited diagnostic radiography pursuant to this act. The applicant for registration as a X-ray technician shall file a written application on forms provided by the board stating, among other requirements by the board, the supervising licensee of the board or the supervising licensee of the Kansas department of health and environment and the areas of practice such applicant for registration has received training for, has passed an examination for, or has experience in as follows: (1) Chest radiography: radiography of the thorax, heart, and lungs; (2) Extremities radiography: radiography of the upper and lower extremities; (3) Spine radiography: radiography of the vertebral column; (4) Skull/sinus radiography: radiography of the skull and sinuses; (5) Podiatric radiography: radiography of the foot and ankle.

Sec. 8 (a) It shall be unlawful for any person to function as an X-ray technician in this state unless such person is licensed as a radiologic technologist under this act or is registered with the board as an X-ray technician pursuant to this act. Except as otherwise provided in subsection (d), every applicant for registration as an X-ray technician shall have passed an examination approved by the board. The board shall adopt rules and regulations establishing the criteria for the required examination and a passing score. The board may utilize, in lieu of its own examination, a limited scope radiography examination administered by the American registry of radiologic technologists or other organizations providing such examination as approved by the board.

(b) All applications for registration shall be made on a form to be prescribed and furnished by the board. Each application for registration shall be accompanied by a registration fee fixed by the board by rule and regulation of not to exceed \$50.

(c) The board shall take into consideration any felony conviction of an applicant, but such conviction shall not automatically operate as a bar to registration.

(d) All persons who are employed as an X-ray technician in a Kansas hospital or licensed practitioner's office on the effective date of this act shall be entitled to continue performing the functions of an X-ray technician until January 1, 2005, without registering pursuant to the requirements of this section and without passing the examination required by subsection (a). On and after January 1, 2005, to perform the functions of an X-ray technician, such person shall be registered by the board as an X-ray technician pursuant to this act.

(e) Each applicant for renewal of an X-ray technician registration shall be made on a form prescribed and furnished by the board and shall be accompanied by a renewal fee fixed by the board by rule and regulation of not to exceed \$25. Except as otherwise provided in this

subsection, the application for registration renewal, when accompanied by the renewal fee and received by the executive secretary of the board on or before the date of expiration of the registration, shall have the effect of temporarily renewing the applicant's registration until actual issuance or denial of the renewal registration. If at the time of filing a proceeding is pending before the board which may result in the suspension, probation, revocation or denial of the applicant's registration, the board may by emergency order declare that the application for renewal shall not have the effect of temporarily renewing such applicant's registration. If the renewal fee is not paid by December 1 of the renewal year, the registration is void.

(f) (1) The board may deny an application for issuance or renewal of any registration as an X-ray technician on any ground, which would authorize the board to take action against the license of a radiologic technologist pursuant to this act.

(2) The board may require a physical or mental examination, or both, of a person applying for or registered as an X-ray technician.

(3) The board may temporarily suspend or temporarily limit the registration of any X-ray technician in accordance with the emergency adjudicative proceedings under the Kansas administrative procedure act if the board determines that there is cause to believe that grounds exist for disciplinary action under this section against the registrant and that the registrant's continuation of X-ray technician functions would constitute an imminent danger to the public health and safety.

(4) Proceedings under this section shall be subject to the Kansas administrative procedure act.

(g) Every registered X-ray technician, within 30 days of obtaining new employment, shall furnish the board notice of the name and address of the new employer.

(h) Each X-ray technician supervisor shall at all times maintain a list of the names of X-ray technicians employed by the supervisor.

(i) The board shall adopt such rules and regulations as are necessary to ensure that X-ray technicians are adequately trained as to the nature and scope of their lawful duties.

(j) Only persons registered under this act as x-ray technicians shall be entitled to use the title "X-ray technician", abbreviations thereof, or words similar thereto.

(k) A person registered as an X-ray technician shall not hold themselves out as and shall not be entitled to use the titles listed in section 3 of this act, or abbreviations thereof, or words similar thereto.

Sec. 9. (a) There is established the radiologic technology council to assist the state board of healing arts in carrying out the provisions of this act. The council shall consist of five members, all citizens and residents of the state of Kansas appointed as follows: The council shall be appointed as follows: The board shall appoint one member who is a physician licensed to practice medicine and surgery who is certified as a radiologist and one member who is a member of the state board of healing arts. The governor shall appoint three radiologic technologists who have at least three years' experience in radiologic technology preceding the appointment and are actively engaged, in this state, in the practice of radiologic technology or the teaching of radiologic technology. At least two of the Governor's appointments shall be made from a list of four nominees submitted by the Kansas society of radiologic technologists.

(b) The terms of office shall be four years, except that of the members first appointed, one

shall be appointed for a term of one year, one for a term of two years, one for a term of three years, and two for a term of four years, with successor members appointed for four years. If a vacancy occurs on the council, the appointing authority of the position which has become vacant shall appoint a person of like qualifications to fill the vacant position for the unexpired term.

(c) Radiologic technologists initially appointed to the council must be eligible for licensure under section 9 and amendments thereto. On and after, January 1, 2005, new appointees shall be licensed under the provisions of this act.

(d) The council shall meet at least once each year at a time and place of its choosing and at such other times as may be necessary on the chairperson's call.

(e) A majority of the council constitutes a quorum. No action may be taken by the council except by affirmative vote of the majority of the members present and voting.

(f) Members of the council attending meetings of the council, or a subcommittee of the council, shall be paid amounts provided in subsection (e) of K.S.A. 75-3223, and amendments thereto, from the healing arts fee fund.

Sec. 10. The radiologic technology council shall advise the board regarding:

(a) Examination, licensing, registration, and other fees;

(b) rules and regulations to be adopted to carry out the provisions of this act;

(c) subject areas to be covered during schooling and on the licensure examination;

(d) the number of yearly continuing education hours required to maintain active licensure or registration;

(e) changes and new requirements taking place in the area of radiologic technology; and

(f) such other duties and responsibilities as the board may assign.

Sec. 11. (a) The board, with the advice and assistance of the radiologic technology council, shall pass upon the qualifications of all applicants for examination, licensing and registration; contract for examinations; determine the applicants who successfully pass the examination; duly license or register such applicants; adopt rules and regulations as may be necessary to administer the provisions of this act, and amendments thereto; and prescribe forms which shall be issued in the administration of this act.

(b) The board, with the advice and assistance of the radiologic technology council, shall establish, by rules and regulations: standards for approval of an educational course of study and clinical experience, continuing education criteria, criteria for registration, procedures for the examination of applicants and standards for professional conduct and discipline of licensees or registrants.

(c) The board shall keep a record of all proceedings under this act, and amendments thereto, and a roster of all individuals licensed or registered under this act.

(d) The board, after obtaining the advice and assistance of the radiologic technology council, shall establish by rules and regulations, the effective period for a license or registration under this act and for its expiration at the end of that time unless renewed in a manner prescribed by the board upon payment of the license or registration renewal fee established under this act, and amendments thereto. The board may establish additional requirements for license or registration renewal which provide for completing the required number of continuing education courses and any other evidence of continued competency the board may require. The board may provide for the late renewal of a license or registration upon the payment of a late fee established

by this act, and amendments thereto, but no such late renewal of a license may be granted more than five years after its expiration.

(e) After obtaining the advice and assistance of the radiologic technology council, the board shall establish by rules and regulations, procedures for reinstatement of expired and revoked licenses.

(f) A person whose license is suspended shall not engage in any conduct or activity in violation of the order by which the license was suspended. If a license revoked on disciplinary ground is reinstated, the licensee, as a condition of reinstatement, shall pay the license renewal fee and any other late fee that may be applicable.

Sec. 12. (a) The board shall charge and collect in advance fees provided for in this act as fixed by the board by rules and regulations, but not exceeding:

Application for examination .....	\$200
Application for license.....	80
Temporary licensing fee .....	40
License renewal .....	80
Late license renewal .....	80
License reinstatement fee.....	80
Certified copy of license.....	40
Verified copy .....	25

(b) If the examination is not administered by the board, the board may require that fees paid for any examination under the radiologic technologists practice act be paid directly to the examination service by the person taking the examination.

Sec. 13. (a) The license of a licensee may be limited, suspended or revoked, or the individual may be censured, reprimanded, find, pursuant to K.S.A. 65-2863a, and amendments thereto, or otherwise sanctioned by the board in accordance with the provisions and procedures of this act or an application for a license may be denied if it is found that the individual:

- (1) Is guilty of fraud or deceit in the procurement or holding of the license;
- (2) has been convicted of a felony in a court of competent jurisdiction, either within or outside of this state, unless the conviction has been reversed and the holder of the license discharged or acquitted or if the holder has been pardoned with full restoration of civil rights in which case the license shall be restored;
- (3) is addicted to or has distributed intoxicating liquors or drugs for other than lawful purposes;
- (4) the licensee is found to be mentally or physically incapacitated to such a degree that in the opinion of the board, continued practice by the licensee would constitute imminent danger to the public's health and safety;
- (5) has aided and abetted a person who is not a licensee under this act or is not otherwise authorized to perform the duties of a license holder under this act;
- (6) has undertaken or engaged in any practice beyond the scope of duties permitted a licensee under this act;
- (7) has engaged in the practice of radiologic technology under a false or assumed name or

the impersonation of another licensee;

(8) has been found guilty of unprofessional conduct which the board may establish by rules and regulations;

(9) has interpreted a diagnostic image for a fee; or

(10) is, or has been found guilty of incompetence or negligence while performing as a license holder.

(b) The denial, refusal to renew, suspension, limitation or revocation of a license may be ordered by the board after notice and hearing on the matter in accordance with the provisions of the Kansas administrative procedure act.

Sec. 14. When it appears that any person is violating any provision of this act, the board may bring an action in the name of the state in a court of competent jurisdiction for an injunction against such violation without regard as to whether proceedings have been or may be instituted before the board or whether criminal proceedings have been or may be instituted.

Sec. 15. The board shall remit all moneys received by or for the board from fees, charges or penalties 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. Twenty percent of such amount shall be credited to the state general fund and the balance shall be credited to the healing arts fee fund. All expenditures from the healing arts fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or by a person or persons designated by the president.

Sec. 16. Any violation of this act shall constitute a class B misdemeanor.

Sec. 17. This act shall take effect and be in force from and after its publication in the statute book.