

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Chairperson Susan Wagle at 1:30 p.m. on March 22, 2004 in Room 231-N of the Capitol.

All members were present.

Committee staff present:

Ms. Emalene Correll, Legislative Research
Mr. Norm Furse, Revisor of Statutes
Mrs. Diana Lee, Revisor of Statutes
Ms. Margaret Cianciarulo, Committee Secretary

Conferees appearing before the committee:

Ms. Pam Scott, Executive Director, Kansas Funeral Directors and Embalmers Association
Mr. Dennis Priest, Program Administrator, Economics and Employment Support, Kansas
Department of Social and Rehabilitative Services

Others attending:

Please See Attached List.

Approval of Minutes

Upon calling the meeting to order, the minutes of February 17, 23, 24 and March 2, 3, and 4 were passed out to each member of the Committee. The Chair asked that the members notify Ms. Cianciarulo if there were comments and if none are received by the end of the day Friday, March 26, they would stand approved. Also, the minutes of February 9, 10, 11, and 12 were approved March 19, 2004.

Hearing on HB2717 - an act concerning mortuary arts; relating to licensure of crematory operations

The Chair then announced there would be two hearings today, the first, HB2717, an act concerning mortuary arts; relating to licensure of crematory operations, and asked Ms Correll to provide a brief overview of the bill. Highlights included:

- 1) Amends one of the statutes that the Committee enacted a few years ago that has to do with the licensing crematories;
- 2) This particular statute has to do in part with the responsibilities of a crematory operator in charge which is a defined term within the law;
- 3) The change is more in nature of clarification and would require that the crematory operator in charge must hold a Kansas funeral director's or embalmer's license and then the House Committee amended the bill to say "unless the crematory only receives dead human bodies for cremation through licensed funeral establishments or branch funeral establishments" (so if a body came from an establishment where a licensed funeral director or embalmer was in charge then the crematory would not have to have a funeral director or embalmer license);
- 4) Note that the supplemental note is headed "As Recommended by Committee on Health and Human Services," that should read "As Amended by Committee on Health and Human Services"

As there were no questions for Ms. Correll, the Chair called on the only conferee to testify, Ms. Pam Scott, Executive Director, Kansas Funeral Directors and Embalmers Association (KFDEA), who stated that the bill as amended, provides that the crematory operator in charge of a licensed crematory must hold a Kansas funeral director or embalmers' license unless the crematory only receives dead human bodies for cremation through a licensed funeral establishment or branch funeral establishment. She also stated to KFDEAs knowledge, there are only three crematories in the state of Kansas at which the crematory operator in charge is not a licensed funeral director or embalmer and that they only accept bodies for cremation from licensed funeral establishments, and that bodies are not held for an extended period of

CONTINUATION SHEET

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE at 1:30 p.m. on March 22, 2004 in Room 231-N of the Capitol.

Page 2

time so the bill should have no impact on their operations. A copy of her testimony is ([Attachment 1](#)) attached hereto and incorporated into the Minutes as referenced.

As there was no opponent, neutral, or written testimony, the Chair asked for questions of the Committee. Senators Salmans and Barnett asked a number of questions including: how long does it take for an embalmer to get a license and what does it require, how long does it take to become a cremator, in the course of study, is there a section set out that deals with cremation or is there a course on cremation, what problem are we trying to fix and what problem do we need to fix?

As there was no further discussion, the Chair closed the hearing.

Hearing on HB2718 - an act concerning mortuary arts; relating to funeral and cemetery; merchandise agreements;

The next order of business was the hearing on HB2718 an act concerning mortuary arts; relating to funeral and cemetery, merchandise agreements, and again called on Ms. Correll to explain the bill. Her highlights included:

- 1) This also concerns mortuary arts and has to do with a totally different subject and law;
- 2) This is a statute that concerns funeral and cemetery merchandise, often identified as “preneed” and would simply raise the amount of the contract to be entered into from \$3,500 to \$5,000 that could be paid as the first funds paid out and set aside at the direction of the purchaser (intended to reflect the inflation and cost of funeral planning).

As there were no questions of Ms. Correll, the Chair called upon the first of two proponents of the bill, Ms. Pam Scott, Executive Director, Kansas Funeral Directors and Embalmers Association (KFDEA), who stated the \$3,500 has not been increased since 1998 and according to statistics released by Federated Funeral Directors of America for 2002, the cost of an average “Regular Adult Funeral” nationwide as \$5,211.21, which does not include the outside burial container, cemetery expenses, or cash advance items. She also stated that KFDEA does not believe the increase contained in this bill will have any adverse fiscal impact on the state of Kansas. A copy of her testimony is ([Attachment 2](#)) attached hereto and incorporated into the Minutes as referenced.

The second proponent was Mr. Dennis Priest, Program Administrator, Economics and Employment Support, Kansas Department of Social and Rehabilitation Services (SRS), who stated that under the current Medicaid eligibility are exempted as countable assets along with the value of any prepaid burial merchandise such as a casket or burial container and that many of their elderly consumers have or obtain such agreements to make sure there are sufficient resources to pay for their funeral and burial needs. So due to inflationary factors since the standard was last increased and the lack of any discernable impact on the agency, SRS would not oppose the proposed increase. A copy of his testimony is ([Attachment 3](#)) attached hereto and incorporated into the Minutes as referenced.

As there was no opponents, neutral, or written testimony, the Chair asked for questions from the Committee. Senators Salmans asked: what are we now paying for a funeral assistance program; when did we raise that; in the cases of counties and other places, where the expense isn’t covered, who picks this up; what do you see as an average cost of an estate, not private; why did you choose to set it below what the average is that can be set aside?

As there was no further discussion, the Chair closed the hearing.

CONTINUATION SHEET

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE at 1:30 p.m. on March 22, 2004 in Room 231-N of the Capitol.

Page 3

Action on HB2717 - an act concerning mortuary arts; relating to licensure of crematory operations

Senator Salmans made a motion to send the bill out favorably. It was seconded by Senator Brownlee, as there was no discussion, the motion carried.

Action on HB2718 - an act concerning mortuary arts; relating to funeral and cemetery

Senator Barnett made a motion to advance the bill favorably and was seconded by Senator Brungardt. As there was no discussion, the motion carried.

Review of a Balloon on HB2657 - an act concerning mortuary arts; relating to removal of dead bodies; educational requirements; examination and licensure; subpoenas; amending statutes and repealing sections

The Chair then announced that Mr. Furse had prepared a balloon on HB2657, an act concerning mortuary arts; relating to removal of dead bodies; educational requirements; examination and licensure; subpoenas, after the hearing last week and asked Mr. Furse to explain. A copy of the balloon is (Attachment 4) attached hereto and incorporated into the Minutes as referenced. His highlights included:

- 1) The amendment in Sec. 2 is a technical amendment, needing to specify what Board we are talking about here since this is a new section;
- 2) On page 2, line 19, it says currently "beginning on July 1", and this will insert "on and after" and then it has been noted throughout the rest of the balloon, the policies used that these language changes have made;
- 3) Sec. 1, if you remember during the hearing, the subject about dead human bodies being removed and taken to various places, several questions were raised during the hearing regarding this so language has been worked up and ran by Mr. Max Smith, Executive Secretary, Kansas State Board of Mortuary Arts, for his review and he did feel comfortable with the language;
(Mr. Furse) felt it needed some conditioning language to start out with, we may have other statutes that relate to this, we may have local, county, or state ordinances, so inserted, "Except as otherwise provided by law and in accordance with any applicable legal requirements."
(Mr. Furse) One thing comes immediately to mind, is the toe tagging requirement for certain people who have died of communicable diseases, and we can't just say they can be removed without putting some sort of conditioning language in the balloon like with any applicable legal requirement, so (he) tried to pick up what generally, other types of requirements may be out there with this initial lead-in language; then turned the language around a little bit to say, after "Except as otherwise provided a dead human body removed from the location of death shall be transported to a licensed funeral establishment, etc.", deleting on line 21, "or other location of final internment" and placing it at the end of the sentence so the University of Kansas medical center would be included with the other entities that have been enumerated;
Then the general provision in line 22, where "other location of final disposition" will be inserted. Mr. Smith suggested using "disposition" instead of "internment" as somewhat a less technical term;
So this language would be changed, beginning on line 16, to put new conditions in the bill to read, "Except as otherwise provided by law and in accordance with any applicable legal requirements in accordance with any legal requirements the dead human body *which is* removed from a location of death *shall be* transported and then the enumeration would occur;

- page 2, those areas that are noted on "Policy", the change here, current law requires thirty semester hours of mortuary arts, this change would lead the Board to determine those hours; also on page 2, there is a policy change that would leave to the board the passing score, in line 30, currently the passing score is 75% with a minimum of 70% in any one section for successful passage of examination, this would be

CONTINUATION SHEET

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE at 1:30 p.m. on March 22, 2004 in Room 231-N of the Capitol.

Page 4

changed by this bill to line 43, "*The Board by rules and regulations establishing the score for successful completion of the written examination.*";

4) On page 3, lines 29 and 30, would change one of the grounds for disciplinary action. Currently the law is a conviction of a felony, and this would change it to a crime and delete the "moral turpitude" language. (He said) this generated several questions from the Committee.

5) Still on page 3, lines 33 through 36, "*incapacitated*" has been added to unfitness and another "Policy" change, the "Current law requires certification of a physician to unfitness" would be deleted under this proposed amendment;

6) On page 4, beginning on line 22, the certified copy of the record of another jurisdiction would be conclusive evidence of a licensure act in that jurisdiction against the license;

7) Page 5, in line five through 11, adds language three additional grounds for disciplinary action;

8) On page 6, the subpoena language deleted in lines one through 13, is replaced by Sec. 2.

The Chair then asked if there were questions on Mr. Furse's proposed language. Senator Journey, Salmans, Barnett, Brownlee and Brungardt and Ms. Correll asked: was curious of the removal of the certified copy of another state's records, is it your interpretation that it would still be admissible in an administrative hearing, but not conclusive and if not conclusive evidence, question if you could get around the "here say exception" and would probably require bringing the original witnesses in from the other state; regarding page 2, line 19, "on or after," why not just say July 1; regarding the policy changes, in the case of an EMT or deputy sheriff finding a body, for example, in a blizzard, and cannot declare the body dead, does this affect or change that removal of the body, or are they still operating under the current EMS procedures; in a rural setting, dead bodies are taken to the morgue instead of emergency rooms, is this in violation of this legislature with this balloon; is the Board's disciplinary action public record; regarding finding a person incapacitated, how will the Board find that person unfit; and, expressing concern reading the bill, one page weakens the bill then the next page strengthens, it seems to go back and forth, does this make it a better bill or not and are all of these appropriate changes?

The Chair called upon Ms. Camille Noy, Attorney for KFDEA, who was able to give the Board's rationale to the policy changes (felony to crime - in order to catch misdemeanors, line 33 adding incapacitate - seemed more descriptive; "certified by a physician - to be deleted, physicians don't certify people; line 18 "certified copy" removed - other agencies do not certify copies of the record.) The Chair asked Ms. Noy, if just "copy" could be used and Senator Journey suggests "attested to" be inserted, so that someone in that office can swear that it is a true and accurate copy, eliminate selective editing. She also referred to the educational policy changes:

1) On page 2, regarding the requirement of 30 semester hours, why KFDEA wants this change as it reads, allows 30 or more hours and then they are striking it? Senator Brungardt offered it speaks to accreditation, to the educational process (at least an AA degree in mortuary science).

2) The passing score, (the Board uses an exam company that sets the score and if that changes the Board wants to set that by regulation so the Board can make any changes that would be necessary).

The Chair asked if further questions, Senator Brownlee said she wanted to make sure that what the Committee is doing in **HB2657** and **HB2717**, where we are not saying that a dead human body can arrive at a crematory unless it first passes through the licensed funeral establishment (both going in the same direction.) The Chair stated that they had worked everything out before bringing to Committee.

Action on HB2657 - an act concerning mortuary arts; relating to removal of dead bodies; educational requirements; examination and licensure; subpoenas; amending statutes and repealing sections

CONTINUATION SHEET

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE at 1:30 p.m. on March 22, 2004 in Room 231-N of the Capitol.

Page 5

The Chair asked the Committee to turn to page 4 of the balloon. Senator Journey made a motion to replace the stricken language on lines 22 and 23 with “an attested copy of the record of the action of the other jurisdiction being presumptive evidence, thereof”: It was seconded by Senator Barnett and the motion carried

Senator Journey made a motion that the amended language “crime” be stricken on page 3, line 27, and replaced with “felony” as originally drafted and on lines 29 and 30, the stricken language be reinserted with additional language to read as “or has been convicted of any offense involving moral turpitude or criminal desecration,” and was seconded by Senator Brownlee. The motion carried.

Adjournment

As it was going on 2:30 p.m., Senate session time, the meeting was adjourned.

The next meeting is scheduled for Wednesday, March 23, 2004.



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EXECUTIVE DIRECTOR

PAM SCOTT
Topeka

March 22, 2004

To: Senate Public Health and Welfare Committee

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

Re: House Bill No. 2717

Madam Chair and members of the Committee, I appear before you today on behalf of the Kansas Funeral Directors and Embalmers Association (KFDA) in support of House Bill No. 2717. The KFDA has a membership of over 300 funeral homes, which constitutes over 90% of the funeral homes in the state of Kansas.

House Bill No. 2717 was introduced at the request of the KFDA. The bill, as amended, provides that the crematory operator in charge of a licensed crematory must hold a Kansas funeral directors or embalmers license unless the crematory only receives dead human bodies for cremation through a licensed funeral establishment or branch funeral establishment.

It is not the intent of the bill to require that all crematories be under the supervision of a licensed funeral director or embalmer. The bill would apply only to crematories that are not conducting immediate cremations and might hold bodies for an extended period of time.

The KFDA believes this legislation is the best way to assure that dead human bodies are properly cared for and that the health and safety of the public is protected. We do not believe dead human bodies should be held by a crematory, except for direct cremation, unless a licensed funeral professional is the operator in charge of the crematory.

To our knowledge, there are only three crematories in the state of Kansas at which the crematory operator in charge is not a licensed funeral director or embalmer. It is our understanding that those three crematories only accept bodies for cremation from licensed funeral establishments. Bodies at those facilities are not held for an extended period of time. Therefore this bill should have no impact on their operations.

Funeral directors and embalmers are trained to handle dead human bodies and are charged with the responsibility of taking appropriate precautionary measures to prevent the spread of infectious and contagious diseases from dead human bodies. This is especially important with the increased threat of bio-terrorism. Their license also

*Senate Public Health & Welfare Committee
Attachment 1
Date, March 22, 2004*

requires that they are knowledgeable on laws concerning vital statistics, cremation, OSHA, and other death care issues. They must pass a test to receive their license and are required to obtain continuing education to keep them abreast of any changes in applicable Kansas statutes and regulations.

A crematory operator, under current law, is not licensed. There is no prerequisite that he or she receive education, training or have experience in funeral service, death care, cremation or the many Kansas statutes relating thereto.

This bill becomes even more important if House Bill No. 2657, which we support, is passed. That bill provides that a dead human body can be removed from the location of death to a licensed crematory. In such cases, it is especially important that a licensed funeral professional be in charge of the crematory. In some instances the deceased may have been dead for sometime before reaching the crematory, therefore, precautionary measures will need to be taken. It is impossible to determine how much time will pass before a cremation can actually take place. It will take time to obtain information for and complete an application for a death certificate. A coroner's permit to cremate must also be obtained which may require a death investigation. Because cremation is final, it is important that these responsibilities are completed by someone with the education, training, and experience to do so in accordance with the laws of the state of Kansas. That person is a licensed funeral director or embalmer.

The KFDDA believes the passage of House Bill No. 2717 is important for the protection of the public and will assure that dead human bodies are handled with dignity. Therefore we ask for your support of this legislation

We thank you for the opportunity to testify and I would be happy to stand for any questions the committee may have.



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PAM SCOTT
Topeka

March 22, 2004

To: Senate Public Health and Welfare Committee

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

Re: House Bill No. 2718

Chairman Wagle and members of the Committee, I appear before you today on behalf of the Kansas Funeral Directors and Embalmers Association (KFDA) in support of House Bill No. 2718. The KFDA represents over 300 funeral homes across the state of Kansas.

House Bill No.2718 was introduced at the request of the KFDA. The bill would increase the dollar amount of funds that can be placed in an irrevocable funeral agreement, contract or plan to \$5000 plus the retail price of a casket, urn and outside burial container. Currently \$3500 plus the retail price of a casket, urn and outside burial container can be placed in an irrevocable account.

The KFDA is requesting this increase because the \$3500 is not sufficient when considering today's funeral costs. The \$3500 has not been increased since 1998. Statistics released by Federated Funeral Directors of America for 2002 show the cost of an average "Regular Adult Funeral" nationwide as \$5211.21. This amount does not include the outside burial container, cemetery expenses or cash advance items. The Federated Funeral Directors of America statistics show the cost of an average "Regular Adult Funeral" in Kansas is \$5123.57. The increase in the amount of funds that can be placed in these accounts is needed to cover the cost of an average funeral.

We do not believe the increase contained in this bill will have any adverse fiscal impact on the state of Kansas. In fact it could have a favorable fiscal impact. Individuals going on medical assistance are encouraged to place funds into prearranged funeral agreements when spending down their assets to qualify for assistance. The placing of funds in a prearranged funeral account has the effect of reducing the amount of funds the state pays out under the funeral assistance program because recipients have set aside funds to pay for their funeral expenses instead of leaving the state responsible. Any funds remaining in a prearranged funeral account, after the payment of funeral

*Senate Public Health & Welfare Committee
Attachment 2
Date: March 22, 2004*

expenses, are paid to the Estate Recovery Unit of the Kansas Department of Social and Rehabilitation Services, to the extent of medical assistance that has been expended on the deceased.

We would appreciate your support of House Bill No.2718. I would be happy to respond to any questions you may have.

Kansas Department of

Social and Rehabilitation Services

Janet Schalansky, Secretary

Senate Public Health and Welfare
March 22, 2004

HB 2718 - Irrevocable Funeral Service Agreement
Contracts

Integrated Service Delivery
Dennis Priest, Program Administrator

For additional information contact:
Public and Governmental Services Division
Tanya Dorf, Director of Legislative Affairs

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Senate Public Health and Welfare Committee
Attachment 3
Date: March 22, 2004

**Kansas Department of Social and Rehabilitation Services
Janet Schalansky, Secretary**

Public Health and Welfare
March 22, 2004

HB 2718 - Irrevocable Funeral Service Agreement Contracts

Senator Wagle and members of the Committee, thank you for the opportunity to appear on HB 2718. My name is Dennis Priest, Program Administrator within SRS. HB 2718 increases the current limit on irrevocable funeral agreements from \$3500 to \$5000.

Under current Medicaid eligibility rules such agreements are exempted as countable assets along with the value of any prepaid burial merchandise such as a casket or burial container. SRS' experience is that many of our elderly Medicaid consumers have or obtain such agreements to make sure there are sufficient resources to pay for their funeral and burial needs. Because of limited funding available in the State's funeral assistance program, a prepaid funeral agreement offers better protection for both the individual and his or her family.

Due to inflationary factors since the standard was last increased and the lack of any discernable impact on the agency, SRS would not oppose the proposed increase.

Thank you for the opportunity to present. I would be happy to stand for questions.

HOUSE BILL No. 2657

By Committee on Health and Human Services

1-30

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

14
15 *Be it enacted by the Legislature of the State of Kansas:*

16 New Section 1. ~~A dead human body may be removed from the lo-~~
17 ~~cation of death and transported only to a licensed funeral establishment,~~
18 ~~a licensed branch funeral establishment containing an embalming prep-~~
19 ~~aration room or a holding facility, a licensed crematory containing a hold-~~
20 ~~ing facility, a hospital, a cemetery, a coroner or medical examiner~~
21 ~~facility or other location of final interment, and the university of Kansas~~
22 ~~medical center.~~

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

32 (b) Within five days after the service of the subpoena or subpoena
33 duces tecum on any person requiring the production of any evidence in
34 the person's possession or under such person's control, such person may
35 petition the ~~board~~ to revoke, limit or modify such subpoena. The board
36 shall revoke, limit or modify such subpoena if in its opinion the evidence
37 required does not relate to practices which may be grounds for discipli-
38 nary action, is not relevant to the charge which is the subject matter of
39 the proceeding or investigation, or does not describe with sufficient par-
40 ticularity the physical evidence which is required to be produced.

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

43 (1) Requiring such person to appear before the board or a duly au-

Except as otherwise provided by law and in accordance with any applicable legal requirements, a

which is

shall be

, or other location of final disposition

state board of mortuary arts

Senate Public Health
Attachment 4
Note: March 22, 2004
Wellcare Committee

4-2

1 thORIZED agent of the board to produce evidence relating to the matter
2 under investigation; or

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

8 Sec. 3. K.S.A. 65-1701a is hereby amended to read as follows: 65-
9 1701a. (a) Except as otherwise provided by K.S.A. 65-1701b and amend-
10 ments thereto, each applicant for a license to practice embalming in this
11 state, in order to be eligible for examination, shall be required to show
12 to the satisfaction of the state board of mortuary arts that: (1) Prior to ~~the~~
13 ~~effective date of this act~~ July 1, 1991, the applicant successfully completed
14 courses in a community college, college or university accumulating at least
15 60 semester hours and attended a school of mortuary science approved
16 by the board which offers a twelve-month course in mortuary science and
17 prior to the effective date of this act graduated therefrom accumulating
18 during this training at least 30 semester hours in mortuary science; or (2)
19 ~~prior to, on or subsequent to the effective date of this act~~ beginning July
20 1, 1991, the applicant has graduated from a community college, college
21 or university with at least an AA degree in mortuary science, which degree
22 program is approved by the board, ~~and has accumulated during this training~~
23 ~~at least 30 semester hours in mortuary science.~~

on and after

Policy: Current law requires 30 semester hours in mortuary arts. Change would leave to the board to determine the hours.

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

Policy: Change would leave to the board the passing score. See line 43 and p. 3, line 1.

37 (c) Except as otherwise provided by K.S.A. 65-1701b and amend-
38 ments thereto, each applicant for a license to practice embalming in this
39 state, in order to be eligible for licensure, ~~shall successfully pass a written~~
40 ~~examination established by rules and regulations of the board and shall~~
41 ~~successfully~~ serve a full-time apprenticeship of one year under the su-
42 pervision of a Kansas licensed embalmer or an embalmer approved by
43 the board. ~~The board by rules and regulations shall establish the score for~~

4-3

1 *the successful completion of the written examination.*

2 (d) The board shall adopt rules and regulations establishing the cri-
3 teria which a school of mortuary science or college or university offering
4 at least an AA degree in mortuary science shall satisfy in order to obtain
5 board approval under subsection (a). The board may send a questionnaire
6 developed by the board to any school of mortuary science or college or
7 university offering at least an AA degree in mortuary science for which
8 the board does not have sufficient information to determine whether the
9 school, college or university meets the criteria for approval established by
10 rules and regulations adopted under this section. The questionnaire pro-
11 viding the necessary information shall be completed and returned to the
12 board in order for the school, college or university to be considered for
13 approval. The board may contract with investigative agencies, commis-
14 sions or consultants to assist the board in obtaining information about
15 such schools, colleges or universities. In entering such contracts the au-
16 thority to approve schools, colleges or universities shall remain solely with
17 the board.

18 Sec. 4. K.S.A. 65-1751 is hereby amended to read as follows: 65-
19 1751. (a) The state board of mortuary arts may refuse to issue or renew
20 a license, may *condition, limit,* revoke or suspend a license or may publicly
21 or privately censure a licensee, *or may impose a fine not to exceed \$1,000*
22 *per violation* upon a finding that a licensee or an applicant for a license:

23 (1) Has made any misleading, deceptive, untrue or fraudulent state-
24 ments in applying for or securing an original or renewal license;

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

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

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

33 (5) is rendered unfit *or incapacitated* to practice embalming or fu-
34 neral directing by reason of illness, alcohol, chemicals or other types of
35 substances, or as a result of any mental or physical condition ~~when cer-~~
36 ~~tified by a physician as to unfitness;~~

37 (6) has failed or refused to properly protect or guard against conta-
38 gious, communicable or infectious disease, or the spreading thereof;

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

43 (8) or the agent, employee or representative thereof, has advertised,

Policy: Felony is changed to crime and "moral turpitude" is deleted.

Incapacitated is added to unfitness

Policy: Current law requires certification of physician to unfitness.

1 solicited or sold merchandise or services in a manner which is fraudulent,
2 deceptive or misleading in form or content;

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

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

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

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

18 (13) has had a license to practice embalming or funeral directing re-
19 voked or suspended, has been censured or has had other disciplinary
20 action taken against oneself or has had an application for a license denied
21 by the proper licensing authority of another state, territory, District of
22 Columbia or other country; ~~a certified copy of the record of the action~~
23 ~~of the other jurisdiction being conclusive evidence thereof;~~

24 (14) has cheated on or attempted to subvert the validity of the ex-
25 amination for a license;

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

30 (16) has failed to furnish the board, or its investigators or represen-
31 tatives, any information legally requested by the board;

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

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

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

Policy: Currently a certified copy of another state's record constitutes
conclusive evidence of disciplinary action in the other jurisdiction.

1 (20) has violated any lawful rules and regulations promulgated by the
 2 board or any state or federal law related to the practice of funeral di-
 3 recting, embalming, *cremation* or funeral establishments; ~~or~~

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

5 (22) *has been found guilty of negligence, incompetence, fraud, mis-*
 6 *representation or deceit in connection with services rendered as a licensee;*

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

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

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

17 (c) As used in this section:

18 (1) "License" means an embalmer's license, funeral director's license,
 19 assistant funeral director's license, funeral establishment license, *crema-*
 20 *tory license* or branch establishment license.

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

25 Sec. 5. K.S.A. 74-1704 is hereby amended to read as follows: 74-
 26 1704. The board shall annually elect a president and vice-president from
 27 the members of said board. The vice-president shall act for the president
 28 when the president is absent or unable to act. Said officers shall serve for
 29 one year or until their successors are elected and qualified. The board
 30 shall also elect a secretary, who shall serve for four (4) years, unless re-
 31 moved for cause, and such secretary shall be the executive officer of said
 32 board, but not a member thereof. The secretary shall receive such salary
 33 as may be fixed by the board, which shall not be in excess of just com-
 34 pensation for the duties required, and in addition thereto all necessary
 35 expenses incurred in the discharge of the duties of said office. The board
 36 shall adopt a common seal. The president of said board is hereby au-
 37 thorized to administer oaths to witnesses testifying before said board. In
 38 order to carry out the provisions of this act said board shall have the
 39 authority to issue subpoenas, compel the attendance of witnesses and the
 40 production of any papers, books, accounts, documents and testimony, and
 41 to cause the deposition of witnesses, either residing within or without the
 42 state, to be taken in the manner prescribed by law for taking depositions
 43 in civil actions in the district courts.

This language adds three additional grounds for disciplinary action, lines 5 through 11.

1 ~~In case of disobedience on the part of any person to comply with any~~
2 ~~subpoena issued in behalf of said board, or on the refusal of any witness~~
3 ~~to testify to any matters regarding which he or she may be lawfully in-~~
4 ~~terrogated, the district court of any county, or the judge thereof, on ap-~~
5 ~~plication of a member of said board, may compel obedience by proceed-~~
6 ~~ings for contempt, as in the case of disobedience of the requirements of~~
7 ~~a subpoena issued from such court or a refusal to testify therein. Each~~
8 ~~witness who appears before said board by its order or subpoena, other~~
9 ~~than a state officer or employee, shall receive for his or her attendance~~
10 ~~the fees and mileage provided for witnesses in civil cases in courts of~~
11 ~~record, which shall be audited and paid upon the presentation of proper~~
12 ~~vouchers sworn to by such witness and approved by the president and~~
13 ~~secretary of said board.~~

14 The board shall employ an investigator-inspector. Such employee shall
15 perform all inspections and conduct the investigative duties of the board
16 and shall be within the classified service of the Kansas civil service act.
17 Upon presentation of proper credentials the investigator-inspector shall
18 have the authority to enter into and inspect any funeral establishment, as
19 said term is defined in K.S.A. 65-1713a, at any reasonable time.

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

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

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

Supoena language in current law replaced by Sec. 2 of this bill.