

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Chairman James Barnett at 1:30 P.M. on March 19, 2008 in Room 136-N of the Capitol.

Senator Vicki Schmidt was excused, all other members were present.

Committee staff present:

Emalene Correll, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Renaë Jefferies, Revisor of Statutes
Jan Lunn, Committee Secretary

Conferees appearing before the committee:

Sky Westerlund, LMSW, Kansas Chapter National Association of Social Workers
Mary Lou Davis, executive director, Kansas Board of Cosmetology
Ray Dalton, Deputy Secretary, Social and Rehabilitation Services

Others attending:

See attached list.

HB 2570 - Persons authorized to make adoption assessments

Sky Westerlund, representing the Kansas Chapter of National Social Workers, was recognized by Chairman Barnett to conclude her comments from March 12, 2008 (reference minutes of March 12, 2008, for attachments). Ms. Westerlund refreshed committee members on her points made previously. Ms. Westerlund spoke in opposition to **HB 2570** indicating social work licensure is classified as a "specialty practice." In addition, Ms. Westerlund pointed out the possibility of an ethical challenge when a social worker conducts mental health therapy with a family/client and the family/client requires an adoption home assessment by the same social worker. Ms. Westerlund encouraged committee members to consider a balloon amendment that prevents a home adoption assessment being conducted by the same social worker who is providing mental health therapy to the family/client.

Senator Brungardt asked whether the reasons for delay in adoptions were due to difficulty in obtaining home assessments. Ms. Westerlund clarified that a legislative post audit report reveals the majority of back-log was due to potential adoptive parents not returning required paper work.

Chairman Barnett indicated the next order of business would be to hear **HB 2721 - Board of cosmetology; licensing requirements**, and final action on the previous bill would be taken towards the conclusion of the meeting.

Emalene Correll, Legislative Research, briefed those attending on the very lengthy **HB 2721 - Board of cosmetology; licensing requirements**. This bill makes numerous changes to statutes governing licenses of the Kansas Board of Cosmetology in areas of cosmetology, tanning, and body arts (including the practice of tattooing, cosmetic tattooing, and body piercing). The bill also makes technical changes in numbering for purposes of clarity. Main components in the bill relate to:

- a. educational requirements for schools in raising the instructor to student ratio both for didactic and practical experiences as well as increasing clock hours of instruction;
- b. provisions for cosmetology relating to definitions and health statement for applicant licensure;
- c. provisions related to display of license and sanitation standards prescribed by KDHE;
- d. provisions clarifying Board's disciplinary options;
- e. the inclusion and expansion of tanning facilities in the Board's disciplinary authority accompanied by authority to discipline and assess a civil penalty against a licensee;
- f. provisions affecting the practice of tattooing in clarifying multiple definitions and the prohibiting of "scarification;" licensure requirements; disciplinary actions; and civil fines;

Mary Lou Davis, executive director Board of Cosmetology, appeared in support of **HB 2721** and indicated the bill is the result of a two-year study by the Board of Cosmetology to provide needed

CONTINUATION SHEET

MINUTES OF THE Senate Public Health and Welfare Committee at 1:30 P.M. on March 19, 2008 in Room 136-N of the Capitol.

changes in the law required by evolving market- and consumer-driven demands. Ms. Davis indicated the Board had also developed a comprehensive educational plan to accommodate the transition in the law. Ms. Davis' testimony is attached and therefore, becomes part of the record. (Attachment 1)

Chairman Barnett called attention to written testimony submitted by A. Wes Siegner, Jr., President of MELA, (Attachment 2) in which members were urged to amend **HB 2721** so that procedures such as temporary hair removal using light-based devices, including laser devices, remain within the scope of practice of adequately trained cosmetologists and estheticians.

Ms. Davis requested several minutes to review Mr. Siegner's written testimony due to the fact that according to her knowledge, laser devices (in Kansas) are defined as "medical devices," and the use of medical devices is not allowed by licensees governed by the Board of Cosmetology.

Renae Jefferies distributed copies of a balloon amendment containing technical (enumeration) changes (Attachment 3) to **HB 2721** that provide consistency and clarify instructional clock hours required prior to July 1, 2009, in the appropriate places. Senator Palmer moved to accept the balloon amendment as presented; Senator Jordan seconded the motion. The motion passed.

It was noted that it was never the intention of the Board of Cosmetology to deposit civil fines assessed and collected under the act into the cosmetology fee fund but into the state general fund. Therefore, on page 28, line 9 the corrected language should read: *"to the credit of the state general fund cosmetology fee fund."* Senator Palmer moved a conceptual amendment to correct language in the act on page 28, line to read "to the credit of state general fund"; Senator Brungardt seconded the motion. The motion passed.

Ms. Davis asked that final action on the bill be postponed until Wednesday, March 26, 2008, to allow adequate time to research and to assess the written testimony submitted. Chairman Barnett indicated final action would be moved to March 26, 2008.

Chairman Barnett called committee members attention to **SB 566 - attendant care workers act**, that was heard on March 12, 2008.

Chairman Barnett referred to a letter from Barbara J. Hinton, legislative post auditor, that was received following the hearing on March 12, 2008. This was considered a matter of information. (Attachment 4)

Renae Jefferies, revisor, distributed a balloon amendment (Attachment 5) including a technical change to reflect findings and recommendations from the study are reported to the health policy oversight committee (not the health care oversight committee). Senator Haley moved to adopt the technical amendment to **SB 566** as submitted; the motion was seconded by Senator Wagle. The motion passed.

Deputy Secretary Social and Rehabilitation Services, Ray Dalton, discussed a technical amendment (Attachment 6) submitted by Secretary Don Jordan clarifying to whom the study pertains and subsequent enumeration changes. Senator Haley moved to adopt the amendment; Senator Wagle seconded the motion. The motion passed.

Following brief discussion, Senator Haley moved to pass the bill out favorably as amended. Senator Gilstrap seconded the motion. The motion passed unanimously.

HB 2570 - Persons authorized to make adoption assessments

Chairman Barnett called for additional discussion on **HB 2570**. There was none. Senator Palmer moved to pass out favorably **HB 2570**, Senator Wagle seconded the motion. The motion carried.

The meeting was adjourned at 2:38pm.

JIM BARNETT
SENATOR, 17TH DISTRICT,
CHASE, COFFEY, GREENWOOD
LYON, MARION, MORRIS, AND OSAGE
COUNTIES



TOPEKA

SENATE CHAMBER

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CHAIR: SENATE PRESIDENTS TASK FORCE ON
HEALTH CARE
CHAIR: PUBLIC HEALTH AND WELFARE
CHAIR: KANSAS HEALTH POLICY AUTHORITY
OVERSIGHT COMMITTEE
MEMBER: FINANCIAL INSTITUTIONS AND
INSURANCE
HEALTH CARE STABILIZATION FUND
ORGANIZATION, CALENDAR AND RULES
FEDERAL AND STATE AFFAIRS

PUBLIC HEALTH & WELFARE
3-19-08

Please sign in & indicate your affiliations:

Angela Webb

*Jeanette Brieseman
Sharon Cole*

DUSTY BELL *YOUTHVILLE*

Daniel Bryan *LPA*

Shawn Kane *American Adoptions*

Debi Hatfield, KDHE

Mary Lou Davis *Ks Bd of Cosmetology*

Jackie Cortright

Shyama Presovic

Emily Smith Goering

Sky Wintred *KS chapter, NASW*

Ray Dalton *SRS*

Rob Woods *SRS*

Mike Oufad *PHLC*

Gina Mould *KCSL*

Melissa Ness *St Francis
Community Services*

R.S. McKenna *SRS*

M. Feighny *AG*

Willa DeCato *Am Adoptions*

Juni Rose *KCSL*

STATE OF KANSAS

JIM BARNETT
SENATOR, 17TH DISTRICT,
CHASE, COFFEY, GREENWOOD
LYON, MARION, MORRIS, AND OSAGE
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KANSAS BOARD OF COSMETOLOGY

KATHLEEN SEBELIUS, GOVERNOR

SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

Presentation by Mary Lou Davis, Executive Director
Wednesday, March 19, 2008

Mr. Chairman and Members of Committee:

The Kansas Board of Cosmetology has regulatory responsibility for cosmetology professions, body art professions and tanning facilities. This proposed legislation, which is an accumulation of two years of review by the members of the Board, contains revisions for each of those above listed responsibilities.

Cosmetology – pages 1- 17

The cosmetology professions include those practitioners licensed as cosmetologists (hair, skin and nails), manicurists (nail technology), estheticians (skin care) and electrologists (permanent hair removal by needle only). Currently the Board licenses approximately 25,000 individuals and over 3800 facilities. The Board also has regulatory authority for 34 cosmetology schools.

Several of the initial revisions of the proposed legislation include language to more adequately define the practices of the cosmetology professions and are reflective of current terminology. Additionally the changes are viewed as proactive enabling the practitioner to more clearly understand their standard of practice.

After study and review by the Board – and in an effort to ensure quality education – the Board determined the law regarding the student-to-instructor ratio should be revised. Most often instruction is occurring in a theory classroom while simultaneously advanced students are providing services for consumers on the practice floor. Current law states the student-to-instructor ration is one-to-25. The Board believes one instructor per 25 students is necessary in the theory classroom and one instructor to 25 students is necessary to adequately supervise the practice floor.

Although there is an overall growth in the number of cosmetology professionals, the number of licensed estheticians has nearly doubled from 2004 (337 licensees) to 2007 (610 licensees). Consumers are driving this trend. And to meet the consumers desire for these services, new skin care techniques are constantly being introduced.

In 1962 cosmetology law was enacted whereby instructional hours to attain cosmetology licensure was increased from 1,000 clock hours to 1,500 clock hours. In 1995 the legislature enacted separate licensure for esthetics which currently requires 650 instructional hours. This proposed legislation would increase the instructional hours for esthetic practitioners from 650 to 1,000 clock hours. In a two-year study of skin care and public health concerns, the Board determined increasing the instructional hours more adequately prepares the student thereby safeguarding the public health when licensees enter the workforce.

Currently an applicant seeking licensure in a cosmetology profession is required to submit a physician's statement that the applicant is "free from infectious or contagious disease." At no time during the renewal process is the licensee required to submit a similar physician statement. The Board believes this requirement is unnecessary and places an additional expense on the licensure applicant. This proposed legislation would eliminate this requirement.

Due to varying legal interpretations of K.S.A. 65-1908, the Board is seeking a revision in the disciplinary action options allowing the Board to issue a monetary fine in addition to denying renewal of a "license, or revoke, suspend, censure, limit or condition a license." KSA 65-1908 does currently outline nine separate criteria for which the Board may take disciplinary action.

Tanning – Page 17

In 1993, the legislature enacted law regulating tanning facilities. Approximately 680 facilities are currently licensed by the Kansas Board of Cosmetology.

One revision is sought regarding the licensure of tanning facilities. The Board is seeking the ability to discipline tanning facility licensees in the same manner as for cosmetology and body art professions and facilities.

Disciplinary action would include the ability to "deny, refuse to renew" a license in addition to the current law which states the Board may "revoke, cancel, suspend or place on probation" a facility license. This revision would also allow the Board to issue a monetary fine, "not in excess of \$1,000 against a licensee."

Body Art – Pages 18 -28

The professions of body art – tattoo artists, body piercers and permanent cosmetic practitioners – and the facilities in which these services are provided came under the authority of the Board as the result of legislative action in 1998. Currently the Board licenses 133 body art practitioners and 69 facilities.

Much of the language included in this bill regarding body art is a reflection of current terminology. For example, the term permanent cosmetic technician is replaced with "cosmetic tattoo artist." Definitions have been added for clarification within the law itself.

Section 13 includes language prohibiting body scarification which is a trend more prevalent on the east and west coasts, but the Board believes language prohibiting said services should be included in Kansas body art law.

Body art applicants must attain training as outlined in law and regulation and must also successfully complete written and practical exams. Training is attained through an apprenticeship under direct supervision of a Board licensed trainer. The training revision included in the proposed legislation more clearly outlines the necessary training requirements. The language does eliminate the option whereby an individual may attain training in a licensed school.

Current regulation requires a continuing education requirement for renewal. Although renewals are annual, 15 hours of CE is currently required each third year. With current health risks, the Board believes it is necessary each body art practitioner attain "five hours of continuing education, approved by the board, in infection control and blood-borne pathogens" for each annual renewal.

Other revisions include language that all body art fees are non-refundable, delinquency licensure periods are more clearly outlined and the necessary CE for delinquency renewal is included in the revisions. Additionally disciplinary action revisions would provide consistency among all professions regulated by the Board including Board review of any body art applicant who has been convicted of a felony.

Mr. Chairman and Members of the Committee, the Board requests review of this proposed legislation and your favorable action.

MELA



MANUFACTURERS OF EQUIPMENT FOR LIGHT-BASED AESTHETICS

Providing an Industry Perspective on Light-based Equipment Regulation

March 13, 2008

VIA EMAIL/ CONFIRMATION COPY BY U.S. MAIL

Senator Jim Barnett
Chair, Public Health and Welfare Committee
State Capitol, Room 120S
300 SW 10th Street
Topeka, Kansas 66612

Re: House Bill 2721

Dear Senator Barnett:

The Manufacturers of Equipment for Light-based Aesthetics (“MELA”) respectfully submit this letter in opposition to House Bill 2721 (“HB 2721” or the “Bill”). MELA is a trade association of manufacturers of laser and intense pulsed light systems for aesthetic skin care services whose mission is to provide information, education, and industry views on the safe and appropriate use of such devices.

Since the mid-1990s, cosmetic procedures, including hair removal, have undergone a revolution, with new light-based, non-invasive technologies dramatically expanding the range of available options to consumers and enhancing the safety of such services. Non-invasive, light-based aesthetic procedures include both laser and high powered lamp sources, which are targeted to improve appearance while minimizing any damage to surrounding skin. It is currently estimated that consumers spend approximately \$8 billion per year on cosmetic light-based procedures in the United States. Consumers often seek these services to improve their self-image and self-esteem.

Further establishing the advances in the safety of these procedures and the available products, FDA has recently cleared for marketing light-based hair removal products that are marketed over-the-counter for home use by the consumer. FDA is the lead authority on the safety of this technology and the available products, and has made a determination that even untrained consumers are capable of safely operating certain available technology for hair removal in their homes.

PUBLIC HEALTH AND WELFARE
ATTACHMENT:
DATE:

2
03/19/08

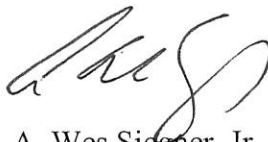
Senator Jim Barnett

March 13, 2008

Page 3

We appreciate this opportunity to provide you with this information regarding the regulation of light-based hair removal in Kansas. Should you have any questions regarding the issues raised in this letter or if you would like additional information, we encourage you to contact Wes Siegner at (202) 737-4289.

Sincerely yours,



A. Wes Siegner, Jr.
President of MELA

AWS/BFP/jlb

cc: Senator Vicki Schmidt, Vice Chair, Public Health and Welfare Committee
Senator David Haley, Ranking Minority Member, Public Health and Welfare Committee

In part, HB 2721 would amend Kansas cosmetology and esthetics laws to explicitly remove temporary hair removal using lasers from cosmetologists' and estheticians' scope of practice. Current Kansas regulations permit a physician to delegate the use of a laser or intense pulsed-light device so long as the physician is immediately available and certain other requirements are met. One of these requirements is that the person performing the treatment be competent to do so by "training, education, or experience."

MELA believes that training is the key to ensuring safety of consumers of such services. Appropriate training should be tied to the type of device used, and should ordinarily include light physics, hair and skin biology, hair growth cycles, device safety, client care, device maintenance, hands-on training, and handling complications. A properly trained professional provides the greatest assurance of safety for consumers of aesthetic skin care services.

MELA believes that current Kansas statutes and regulations provide more than sufficient protection for the citizens of Kansas who receive light-based hair removal procedures from a cosmetologist or esthetician. Indeed, MELA believes that adequately trained cosmetologists and estheticians can safely perform light-based hair removal and other non-ablative light-based cosmetic procedures without on-site physician supervision. Explicitly removing temporary hair removal using laser devices from the scope of practice of cosmetologists and estheticians would unnecessarily impose additional expenses on consumers of light-based hair removal services without additional public health benefits. In addition to increased cost to consumers, the proposed amendment may also limit consumer access to these safe cosmetic services. As a result, consumers may resort to less expensive and more invasive procedures or be economically barred entirely. The proposed amendment may also adversely affect many Kansas businesses and professionals currently providing laser hair removal services.

We therefore strongly urge you to amend HB 2721 so that procedures such as temporary hair removal using light-based devices, including laser devices, remain within the scope of practice of adequately trained cosmetologists and estheticians. We encourage you to consider whether improved education and training of cosmetologists and electrologists performing light-based hair removal is warranted. We are happy to speak with you to share our experience with effective training programs.

* * * * *

HOUSE BILL No. 2721

By Committee on Health and Human Services

1-31

12 AN ACT concerning the board of cosmetology; relating to licensing
13 requirements; amending K.S.A. 65-1901, 65-1903, **65-1904b**, **65-**
14 **1905**, 65-1906, 65-1908, 65-1909, 65-1912, 65-1926, 65-1940, 65-
15 1941, 65-1942, 65-1943, 65-1944, 65-1945, 65-1946, 65-1947, 65-1948,
16 65-1949, 65-1950, 65-1953 and 65-1954 and K.S.A. 2007 Supp. 65-
17 1902 and repealing the existing sections.

18
19 *Be it enacted by the Legislature of the State of Kansas:*

20 Section 1. K.S.A. 65-1901 is hereby amended to read as follows: 65-
21 1901. As used in K.S.A. 65-1901 through 65-1912, and amendments
22 thereto:

23 (a) "Apprentice" means any person engaged in learning the practice
24 of cosmetology, nail technology, esthetics or electrology in a school of
25 cosmetology, nail technology, esthetics or electrology licensed by the
26 board, except until such time as an electrology school is established in
27 this state apprenticing of electrology will be subject to approval by the
28 board in a clinic or establishment.

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

30 (c) "Cosmetologist" means any person, other than a manicurist or
31 esthetician, who practices the profession of cosmetology for
32 compensation.

33 (d) (1) "Cosmetology" means the profession of:

34 (A) Arranging, dressing, permanently curling, curling, waving, cleans-
35 ing, temporarily or permanently coloring, bleaching, relaxing, condition-
36 ing or cutting the hair;

37 (B) cleansing, stimulating or performing any other noninvasive beau-
38 tifying process on any skin surface by means of hands or mechanical or
39 electrical appliances, other than electric needles, provided for ~~purposes~~
40 ~~other than treatment of medical, physical or mental ailments~~ *esthetic*
41 *rather than medical purposes*;

42 (C) ~~removing superfluous hair from the face or any part of the body~~
43 ~~by use of either the hands or mechanical or electrical appliances other~~

Technical Amendments
March 19, 2008

3-2

1 (4) The formula for conversion from clock hour to credit hour shall
2 be subject to review by the board.

3 (5) Each course of instruction and practice shall include those core
4 areas of education as determined and defined by the board.

5 (F) (1) Each licensed school of cosmetology may provide instruction
6 and practice in the profession of esthetics.

7 (2) ~~The~~ course of instruction and practice shall require not less than
8 ~~650~~ 1,000 clock hours, or a licensed school may elect to base the course
9 of instruction and practice on credit hours.

10 (3) The formula for conversion from clock hour to credit hour shall
11 be provided by a recognized accrediting body which is approved by the
12 United States department of education for the accreditation of schools of
13 cosmetology and the licensed school applying the credit hour conversion
14 must be accredited through the accrediting body providing the conversion
15 formula.

16 (4) The formula for conversion from clock hour to credit hour shall
17 be subject to review by the board.

18 (5) Each course of instruction and practice shall include those core
19 areas of education as determined by the board.

20 ~~(3)~~ ~~(A)~~ [(6)(i)] Such course of training shall include the practices of
21 cosmetology for all major ethnic groups residing in the state, and the
22 board shall require by rules and regulations that each school shall provide
23 instruction for part-time students who are unable to attend a full schedule
24 of classes each week because of part-time employment; enrollment in an
25 accredited public or private school of secondary education by a student
26 who is pursuing a course of study leading to a diploma from such school;
27 enrollment in a cooperative industrial training program, approved by the
28 division of vocational education of the state department of education, by
29 a student who is working toward an occupational objective; or the prin-
30 ciples or tenets of the student's religion preventing full-time attendance.

31 ~~(B)~~ [(ii)] Instruction of a part-time student shall be completed by the
32 student within 18 months after the student's enrollment in the school.

33 ~~[(C) The provisions of this subsection shall be effective on July~~
34 ~~1, 2000.]~~

35 (b) Any person who teaches the profession of cosmetology in a li-
36 censed school of cosmetology shall be required to obtain a cosmetology
37 instructor's license from the board. To qualify for a cosmetology instruc-
38 tor's license, the applicant must: (1) Be licensed as a cosmetologist under
39 this act; (2) either (A) have practiced as a cosmetologist for one year prior
40 to licensure and successfully completed 300 hours of instructor training
41 or (B) have successfully completed 450 hours of instructor training; (3)
42 pass a cosmetology instructor exam, administered by the board or the
43 board's designee; and (4) pay the nonrefundable instructor license appli-

Before July 1, 2009, the course of instruction and practice shall require not less than 650 clock hours, or a licensed school may elect to base the course of instruction and practice on credit hours. On and after July 1, 2009, the

3-2

22

1 license renewal fee established by K.S.A. 65-1904, and amendments
2 thereto.

3 (e) Licensed schools may be established and maintained in this state
4 where the profession of esthetics may be taught or acquired, under the
5 following conditions and regulations:

6 (1) (A) Any person may apply to the board for a license for con-
7 ducting a school for the teaching of the profession of esthetics.

8 (B) The license shall be granted by the board upon proper and suf-
9 ficient showing of competency of the applicant and assurance of compli-
10 ance by the applicant with the requirements of this act, all reasonable
11 rules and regulations adopted by the board for proper conduct of the
12 school and all applicable sanitation standards adopted by the secretary of
13 health and environment pursuant to K.S.A. 65-1,148, and amendments
14 thereto.

15 (C) Prior to issuance of the license, the applicant shall pay to the
16 board the nonrefundable license application fee established under K.S.A.
17 65-1904, and amendments thereto.

18 (D) School licenses shall be renewed before July 1 of each year by
19 submitting an application and payment of the nonrefundable license re-
20 newal fee established under K.S.A. 65-1904, and amendments thereto.

21 (E) Any license may be renewed by the applicant within 30 days after
22 the date of expiration of the last license upon payment of a delinquent
23 renewal fee.

24 (F) No license fee shall be required of schools operating under the
25 state board of regents or any tax-supported school.

26 (2) (A) Each school licensed under this subsection (e) shall remain
27 under the constant supervision of the board.

28 (B) Each licensed school at all times shall employ and maintain a
29 sufficient number of instructors, duly licensed in the practices they teach,
30 to provide at least one full-time instructor for every 25 students *on the*
31 *floor where the consumer services are provided in addition to one instruc-*
32 *tor for every 25 students in the instructional classroom.*

33 (C) Not more than one instructor in training shall count as an instruc-
34 tor toward the required ratio of instructors to students.

35 (D) Each licensed school shall provide a course of instruction and
36 practice in preparation for the profession of esthetics.

37 (E) ~~The~~ course of instruction and practice shall require not less than
38 ~~650~~ 1,000 clock hours, or a licensed school may elect to base the course
39 of instruction and practice on credit hours.

40 (F) The formula for conversion from clock hour to credit hour shall
41 be provided by a recognized accrediting body which is approved by the
42 United States department of education for the accreditation of schools of
43 cosmetology and the licensed school applying the credit hour conversion

Before July 1, 2009, the course of instruction and practice shall require not less than 650 clock hours, or a licensed school may elect to base the course of instruction and practice on credit hours. On and after July 1, 2009, the

3-3

1 must be accredited through the accrediting body providing the conversion
2 formula.

3 (G) The formula for conversion from clock hour to credit hour shall
4 be subject to review by the board.

5 (H) Each course of instruction and practice shall include those core
6 areas of education as determined and defined by the board.

7 ~~[(I) The provisions of this subsection shall be effective on July~~
8 ~~1, 2000.]~~

9 (f) Any person who teaches esthetics in a licensed school of cosme-
10 tology or esthetics shall be required to obtain an esthetics instructor's
11 license from the board, unless the person holds a valid cosmetology in-
12 structor's license issued under subsection (b). To qualify for an esthetics
13 instructor's license, the applicant must: (1) Be licensed as a cosmetologist
14 or esthetician under this act; (2) either (A) have practiced as an esthetician
15 or cosmetologist for one year prior to licensure and successfully com-
16 pleted 300 hours of instructor training or (B) have successfully completed
17 450 hours of instructor training; (3) pass an esthetician instructor exam,
18 administered by the board or the board's designee; and (4) pay a nonre-
19 fundable license application fee established by K.S.A. 65-1904, and
20 amendments thereto. An esthetics instructor license shall expire every
21 two years and shall be renewed by furnishing satisfactory evidence that
22 the applicant, except the first renewal period following licensure for ap-
23 plicants not holding an esthetics instructor license on the effective date
24 of this act, has completed 20 clock hours of continuing education, ap-
25 proved by the board, in the practice of esthetics and teaching skills and
26 methods and by paying the nonrefundable license renewal fee established
27 by K.S.A. 65-1904, and amendments thereto.

28 (g) Licensed schools may be established and maintained in this state
29 where the profession of electrology may be taught or acquired, under the
30 following conditions and regulations:

31 (1) (A) Any person may apply to the board for a license for con-
32 ducting a school for the teaching of the profession of electrology.

33 (B) The license shall be granted by the board upon proper and suf-
34 ficient showing of competency of the applicant and assurance of compli-
35 ance by the applicant with the requirements of this act, all reasonable
36 rules and regulations adopted by the board for the proper conduct of the
37 school and all applicable sanitation standards adopted by the secretary of
38 health and environment pursuant to K.S.A. 65-1,148, and amendments
39 thereto.

40 (C) Prior to issuance of the license, the applicant shall pay to the
41 board the nonrefundable license application fee established under K.S.A.
42 65-1904, and amendments thereto.

43 (D) School licenses shall be renewed before July 1 of each year by

24

34



LEGISLATURE OF KANSAS
LEGISLATIVE DIVISION OF POST AUDIT

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March 13, 2008

Senator Jim Barnett, Chair
Public Health and Welfare Committee
120-S Statehouse

Dear Senator Barnett:

On March 12, the Senate Public Health and Welfare Committee heard testimony on Senate Bill 566. This bill authorizes a study of the working conditions of attendant care workers, including hourly pay rates. We wanted to make sure you were aware that our office is currently conducting an audit that relates to that topic and may be of use to the committee.

The audit is examining whether or not the additional funding provided by the Legislature in fiscal years 2007 and 2008 to the Department of Social Rehabilitation and Services to increase reimbursement rates resulted in an increase in the hourly pay rate of attendant care workers. A copy of the scope statement detailing the audit work is enclosed. This audit is scheduled to be presented and available in late April or early May.

If you would like to discuss this further or have any questions, please contact me at 296-3792.

Sincerely,

For Barbara J. Hinton
Legislative Post Auditor

cc: Senator Pete Brungardt, Vice-Chair
Senator Mark Gilstrap, Ranking Minority Member

Enclosure

SCOPE STATEMENT

Developmental Disabilities: Reviewing the Use of Appropriations Intended To Upgrade the Wages of Caregivers

The Department of Social and Rehabilitation Services funds home- and community-based services that are aimed at allowing those with certain types of disabilities to be able to live in the community rather than be institutionalized.

As part of its fiscal year 2007 budget, the Department of Social and Rehabilitation Services received \$18.7 million in increased funding for the Home- and Community-Based Services waiver for persons with developmental disabilities. Of that amount, \$8.2 million was earmarked for reducing waiting lists for services, and \$10.5 million was for salary increases for persons providing direct services to waiver participants. In addition, the Department received \$8.8 million in additional funding for services for those on the Physical Disability waiver. That money was to be split between reducing waiting lists for services and increasing salaries for direct-care providers at the discretion of the Department.

Recently legislators have heard a number of complaints from caregivers that they have not seen any increase in their level of compensation since the additional money was appropriated. Legislators want to know what has happened to the additional money, whether it has resulted in the anticipated pay increases for direct caregivers, and if not, why not.

A performance audit of this topic would address the following question:

- 1. Have the additional moneys appropriated to SRS in fiscal year 2007 for increasing salaries of direct caregivers for those with developmental and physical disabilities been used for the intended purposes, and if not, why not?** To answer this question, we would interview SRS officials to determine which moneys they made available for salary increases to caregivers and how that money was made available. We would determine how they factored those additional dollars into their reimbursement rates or otherwise made the moneys available to providers. We would review payroll records for a sample of service providers, home health agencies, and payroll agents, to determine how much of the moneys they have received through the rate increases have gone toward increasing direct caregiver wages, and what the rest of the moneys have been used for. We would conduct other work in this area as needed.

Estimated Time to Complete: 4-6 Weeks

SENATE BILL No. 566

By Committee on Ways and Means

2-6

Technical
Balloon Amendment
March 19, 2008

9 AN ACT concerning the department of social and rehabilitation services;
10 relating to attendant care workers who provide home and community
11 based services; providing for a study.

12
13 WHEREAS, The population of Kansans needing long-term care and
14 support services is expected to increase significantly over the next 40 years
15 and living in the home and community while receiving such care and
16 services is a much preferred choice to an institutional placement; and

17 WHEREAS, Attendant care workers in home and community based
18 services programs provide vital care and support services for the inde-
19 pendence and the well-being of thousands of Kansans in home and com-
20 munity settings; and

21 WHEREAS, Attendant care workers need to be highly qualified and
22 motivated in order to provide the valuable services for all Kansans who
23 receive long-term care and services in home and community settings; and

24 WHEREAS, Attendant care workers do not receive health insurance
25 coverage or retirement benefits, furthermore, many attendant workers
26 are expected to travel between multiple workplace settings and incur
27 substantial daily travel expenses which are not included in the current
28 reimbursement rate system.

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

30 Section 1. (a) This section shall be known and may be cited as the
31 attendant care workers act.

32 (b) The secretary of social and rehabilitation services shall conduct a
33 study regarding the status and working conditions of the attendant care
34 workers to be completed by October 31, 2008. The study shall be funded
35 from the money follows the person (MFP) or the systems transformation
36 federal Medicaid grants. The study shall include, but not be limited to
37 identifying:

- 38 (1) An appropriate procedure or mechanism for pay rate increases;
- 39 (2) an appropriate procedure or mechanism for travel and mileage
40 reimbursement or allowance;
- 41 (3) an appropriate procedure or mechanism for reimbursement for
42 the employer's share of premium paid for attendant care workers partic-
43 ipating in the state employee health care benefits program under K.S.A.

PUBLIC HEALTH AND WELFARE
DATE:
ATTACHMENT:

03/19/08
5

1 75-6506, and amendments thereto; and
 2 (4) any other wage and benefit enhancements or expense allowances.
 3 (c) The findings and recommendations resulting from such study
 4 shall be reported to the joint committee on health ~~care~~ oversight on or
 5 before November 1, 2008. The joint committee may request the secretary
 6 of social and rehabilitation services to conduct further study or develop
 7 requests for funding or legislation to provide for implementation of the
 8 program or policy adjustments that may be required or recommended
 9 based on the study.
 10 Sec. 2. This act shall take effect and be in force from and after its
 11 publication in the Kansas register.

policy

5-2

5-2

Session of 2008

SENATE BILL No. 566

By Committee on Ways and Means

2-6

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For purposes of this act,
attendant care workers are
non-licensed employees who
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