

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairperson Brenda Landwehr at 1:30 p.m. on February 15, 2010, in Room 784 of the Docking State Office Building.

All members were present except:

- Representative Owen Donohoe- excused
- Representative Jim Ward - excused
- Representative Peggy Mast - excused

Committee staff present:

- Norm Furse, Office of the Revisor of Statutes
- Kathie Sparks, Kansas Legislative Research Department
- Debbie Bartuccio, Committee Assistant

Conferees appearing before the Committee:

- Pam Scott, Executive Director, Kansas Funeral Directors, Assoc.
- Kathleen Taylor Olsen, Kansas Bankers Association

Others attending:

See attached list.

HB 2589 - Prepaid funeral arrangements; required disclosures.

Chairperson Landwehr opened the hearing on **HB 2589** and recognized Pam Scott, Executive Director of the Kansas Funeral Directors Association.

Pam Scott provided the committee with a memo explaining why the Kansas Funeral Directors Association (KFDA) supports **HB 2589** (Attachment 1). They are requesting the bill in reaction to the results of a study the National Funeral Directors Association conducted on state prearranged funeral agreement laws. The NFDA reviewed such laws looking at such things as trusting requirements, portability of preneed contracts and consumer preneed contract disclosures. The results of the study rated Kansas prearranged funeral agreement laws as poor because Kansas law does not mandate that disclosures, such as those provided in this bill, be included in prearranged funeral agreements. If such disclosures were in Kansas law, our laws would have received a "good" rating according to NFDA General Counsel Scott Gilligan.

The disclosures required by this bill should already be in most prearranged funeral agreements written in this state. They protect the consumer as well as the funeral home to make sure there is no doubt as to the terms of the agreements and what goods and merchandise are provided. The disclosure requirements are as simple as:

- 1) the names and addresses of the seller and the purchaser;
- 2) a statement of the funeral goods and services being purchased;
- 3) whether the contract is guaranteed or not guaranteed and if it is guaranteed; the goods and services included in the guarantee;
- 4) whether the contract is revocable or irrevocable;
- 5) what happens to excess funds remaining after the funeral goods and services have been paid for;
- 6) a statement that the seller may substitute goods of equal quality, value and workmanship if those specified in the funeral agreement are not available at time of need;
- 7) the name of the bank, credit union, or savings and loan, or the trustee of the funeral trust the funds are deposited in;
- 8) a notice that reasonable fees and expenses may be deducted from the trust; and
- 9) a requirement that the financial institution in which the funds are placed provide written notification to the purchaser that funds for the prearranged funeral agreement have been deposited.

The prearranged funeral agreement disclosures set forth in this legislation are designed to insure that consumers who purchase funeral goods and services in advance make informed decisions when purchasing a prearranged funeral agreement.

CONTINUATION SHEET

Minutes of the House Health and Human Services Committee at 1:30 p.m. on February 15, 2010, in Room 784 of the Docking State Office Building.

Chairperson Landwehr next recognized Kathleen Taylor Olsen with the Kansas Bankers Association as being neutral with an amendment for **HB 2589**. She provided a letter (Attachment 2) explaining the parties to a prearranged funeral agreement are the purchaser of the funeral goods and services - who typically is also the beneficiary of these goods and services - and a funeral home. As between these two parties, this bill deals with the disclosures that must be made regarding the goods and services purchased. A bank's role in this arrangement is solely as the custodian of the funds set aside for these goods and services. The bank is not a party to the agreement, but simply is a keeper of the funds that will eventually be used to pay for the goods and services. While there definitely are rules governing the bank's actions in this role, they do not believe the bank should be saddled with additional responsibilities and potential liability with regard to the agreement made between the purchaser and the funeral home.

Section 2, subsection (b), contains a requirement that the bank give written notice to the purchaser that a deposit has been made within 60 days of the date the funeral agreement was executed. Since the bank is not a party to the agreement, the bank will not know when the agreement was executed, and they believe that there is ample opportunity for the purchaser to learn or to know whether a deposit was made to his or her account.

Most prearranged funeral agreement accounts are held either as a certificate of deposit (CD) or in a savings account at the bank. The name on the account is that of the purchaser, and so the purchaser will receive, at the least, an annual statement of interest earned (IRS Form 1099) with regard to that account. In addition, the purchaser may request information on his or her account from the bank at any time.

Their concern is that requiring this written notice to be sent puts the bank in the position of policing the terms of the agreement - a role that could potentially bring new liability to the bank with regard to holding these types of accounts. They believe the purchaser is in a better position to police his or her own account, and in addition, will receive a statement at the end of each year, that would confirm the existence of the account and how much interest was earned.

For these reasons, they requested the committee to consider striking the provisions found in Section 2, subsection (b) from **HB 2589**.

Chairperson Landwehr recognized written testimony submitted by Matthew S. Goddard, Vice President, Heartland Community Bankers Association (Attachment 3) expressing a concern with the additional disclosure imposed on the financial institution by the bill. This testimony was neutral with an amendment requesting to strike subsection (b) of Section 2.

A question was asked of Pam Scott, concerning on the first page of the bill in line 19, it references a social security number of the purchaser would need to be required and why that was needed. Pam Scott replied it's necessary because 1099's are sent out to the consumer and this is required by the IRS.

There was no testimony submitted opposing **HB 2589** and Chairperson Landwehr closed the hearing.

HB 2588 - Prepaid funeral plans; increase in amount of irrevocable funds.

Chairperson Landwehr opened the hearing on **HB 2588** and recognized Pam Scott, Executive Director of the Kansas Funeral Directors Association.

Pam Scott provided the committee with a memo explaining why the Kansas Funeral Directors Association (KFDA) supports **HB 2588** (Attachment 4). The bill would amend **K.S.A. 16-303** to increase the dollar amount of funds that can be placed in an irrevocable funeral agreement, contract or plan from \$5,000 to \$7,000 plus the retail price of the casket, urn and outside burial container. The dollar amount has not been increased for over 5 years.

The KFDA is requesting this increase because \$5,000 is not sufficient when considering today's funeral costs. Statistics released by the Federal Funeral Directors of America for 2008 show the average selling price of a "Regular Adult Funeral" nationwide as \$6,199.01. This amount does not include the outside burial container, cemetery expenses, additional travel expenses or cash advance items. Cash advance items include items such

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Minutes of the House Health and Human Services Committee at 1:30 p.m. on February 15, 2010, in Room 784 of the Docking State Office Building.

as flowers, the cost of death certificates, hair dressers, and clergy honorarium. The average Gross sale reported was \$8,338.87.

The KFDA does not believe the increase contained in the 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. Such agreements are exempt as a countable asset. The placing of funds in a prearranged funeral account has the effect of reducing the number of individuals that request funds under the funeral assistance program. Additionally, any funds remaining in a prearranged funeral account, after the payment of funeral expenses, are paid to the Estate Recovery Unit of the Kansas Department of Social and Rehabilitative Services to the extent of medical assistance that has been expended on the deceased.

There was no other testimony for **HB 2588** and Chairperson Landwehr closed the hearing.

SB 62 - Department of health and environment; tuberculosis evaluation requirements and prevention and control plan for postsecondary educational institutions; rules and regulations.

The committee proceeded to work **SB 62**. Chairperson Landwehr commented there was a request for an amendment from KDHE that would have been on page 2, striking lines 32 through 38, and inserting all costs associated with the evaluation requirements of the prevention and control plan shall be the responsibility of the student.

Representative Morrison made a motion to adopt the amendment for **SB 62**. Representative Crum seconded the motion. The motion carried.

Representative Neighbor made a motion to pass **SB 62** as amended out favorably. Representative Morrison seconded the motion. The motion carried.

Representative Furtado asked whether with respect to the amended bill if the expense for the student would be covered through their insurance plan. Chairperson Landwehr responded the payment is the responsibility of the student. It could be paid for by an insurance plan or the student could pay for it directly. Representative Furtado asked if all students are required to have the health insurance at the university and Chairperson Landwehr responded they are not.

Representative Slattery asked if anyone could provide the average cost of a tuberculosis vaccination. A member of the audience from KDHE was able to respond that the cost is \$21 to the students.

Representative Flaharty pointed out each university has their own policy as to which students are required to obtain the vaccination.

Being no further discussion, Chairperson Landwehr asked for those in favor of passing out SB 62 favorably as amended. The motion carried.

HB 2584 - Optometrists dispensing medication and lenses.

The committee proceeded to work **HB 2584**.

Representative Neighbor provided a motion to pass out HB 2584 favorably for passage. Representative Slattery seconded the motion. The motion carried.

Representative Neighbor commented she thinks this will open doors for further research and complimented Johnson and Johnson for being forward thinking in getting this out to us as it arrives in the market.

Chairperson Landwehr noted to the committee that **SB 262** had been scheduled to be worked on February 16 but due to some changes requested by EMS, a request has been made to hold off working it and it is not subject to the deadline because it is a Senate bill.

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Minutes of the House Health and Human Services Committee at 1:30 p.m. on February 15, 2010, in Room 784 of the Docking State Office Building.

HB 2577 - Addictions counselor licensure act.

The committee proceeded to work **HB 2577**.

Chairperson Landwehr recognized conferee Janace Maynard, who was not able to complete her testimony at the hearing for **HB 2577** on February 8 due to time constraints. Janace replied she understood things were being worked out and she did not feel the need to testify.

Norm Furse, Office of the Revisor of Statutes, explained the committee had a couple proposals suggested. He reviewed with the committee the first of two proposed amendments which he had worked with Terry Humphrey on (documents identified as Humphrey #1 and Humphrey #2) and a third proposed amendment from Norm Furse concerning the date that the criminal penalty kicks in. (All three documents are included in Attachment 5.)

Representative Crum made a motion to amend the bill to include the changes proposed in new Section 2 and new Section 4 (b) (2) and Section 4 (b) (4). The motion was seconded by Representative Morrison.

Representative Mah asked if this takes care of the issue of someone with less than a bachelors degree training doing diagnosis and treatment.

Representative Crum replied that yes, that was his understanding and there's no precedence in the law to allow a baccalaureate counselor to diagnose and treat. He then referred to the section related to that question.

The motion then carried to approve the Crum amendment.

Representative Otto commented he agreed the amendment made the bill better but he would be more comfortable with the process if amendments such as this could be done earlier.

In response to Representative Otto's concern, Chairperson Landwehr said one of the issues we're dealing with is the lateness of the bills coming to the committee and the fact that our deadlines were pushed up. It has been her policy as Chairperson that when a scope of practice issue comes up, that she encourages the parties involved to meet and have the discussions to resolve the issue, because they are the experts in it. She indicated she feels much more comfortable making the decisions when the parties bring back the language to the committee for approval.

Norm Furse, Office of the Revisor of Statutes, then reviewed the Humphry #2 amendment.

Representative Landwehr explained to committee members that back in 1999, the board was expanded and it was a contentious issue. She recently had the opportunity to meet with Terry Humphrey and discuss the changes to the board. She indicated that Terry has also had conversations with the director of the board, Phyllis Gilmore, and at this time they would withdraw their amendment to expand the board. The board has agreed to take it up at their retreat this summer and have that discussion. We would add the addiction counselor because it makes it very difficult to be licensed under a board at which you have no representation on. So, she believes all parties have come to an agreement and there would not be a need for this amendment if the committee is fine with this.

There was no additional discussion.

Norm Furse, Office of the Revisor of Statutes, then reviewed the final amendment which is not technical but a transition provision because this act, if it's passed by the legislature and signed by the governor, becomes effective on July 1, 2011. So, all of the streams of people will flow in at that time to be licensed and the board can do everything up to the effective date of the act with regard to rules and regulations except actually adopt them. They cannot adopt their rules and regulations until July 1, 2011 so it's recommended to postpone for a month at least the criminal penalty section to give the board a chance to get the licenses out so the people are operating legally.

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Representative Crum made a motion to amend new Section 3 (a) and (b) to include the date of August 1, 2011 for the institution of the licensure provisions of this law. The motion was seconded by Representative Furtado. There was no further discussion and the motion carried.

Representative Flaharty then moved the committee pass out favorably **HB 2577** as amended. The motion was seconded by Representative Crum. The motion carried.

Chairperson Landwehr asked if there would be any objections from the committee for proceeding with working **HB 2588** or **HB 2589**. There were no objections.

HB 2588 - Prepaid funeral plans; increase in amount of irrevocable funds.

Representative Neighbor made a motion to pass out **HB 2588** favorably. The motion was seconded by Representative Gordon. There was no discussion. The motion carried.

HB 2589 - Prepaid funeral arrangements; required disclosures.

Representative Crum proposed an amendment to **HB 2589**. The amendment would delete lines 25 through 28 in Section 2 (b). The motion was seconded by Representative Flaharty. There was no discussion. The motion for the amendment carried.

Representative Flaharty moved to pass **HB 2589** favorably as amended. The motion was seconded by Representative Finney. The motion carried.

The next meeting is scheduled for February 16, 2010.

The meeting was adjourned at 2:12 p.m.

HOUSE HEALTH & HUMAN SERVICES COMMITTEE

DATE: 2-15-10

NAME	REPRESENTING
Leslie Allen & Marsha Schenck	BSRB
Mekem Nipote	KNASW
Jack Lowin	Clean Air (KANSAS)
Phil Goff	KDHE
Michelle Butler	Capital Strategies
Michelle Butler	PPAP
Liz Spurlin	KAAB
Mitt Fowler	KAAB
Jam Scott	KS Funeral Directors Assn
Patricia Oker	KS Bankers Assn.
Mack Smith	KS St Bd of Mortuary Arts
Mary Flin	KDHE
Matthew Goddard	Hearland Community Bankers Assoc.
Nancy Zagleman	Polsinelli
Rob Mealy	KEARNEY & Assoc.
Peter Brodie	Emporia State University
Susan Zolenski	J & J
Conie Huerfano	J & J
Claudia Larkin	KAAP

Please use black ink

HOUSE HEALTH & HUMAN SERVICES COMMITTEE

DATE: 2-15-10

NAME	REPRESENTING
Julie Hein	Health Law Firm
Natalie Bright	KAHP

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February 11, 2010

To: House Health and Human Services Committee

From: Pam Scott, Executive Director
Kansas Funeral Directors Association

Re: House Bill No. 2589

Madam Chair and members of the committee, I am Pam Scott, Executive Director of the Kansas Funeral Directors Association (KFDA). The KFDA represents over 300 funeral homes across the Kansas. I appear before you today in support of House Bill No. 2589 which was introduced at the request of our association.

The KFDA is requesting this bill in reaction to the results of a study the National Funeral Directors Association conducted on state prearranged funeral agreement laws. The NFDA reviewed such laws looking at such things as trusting requirements, portability of preneed contracts and consumer preneed contract disclosures. The results of the study rated Kansas prearranged funeral agreement laws as poor because Kansas law does not mandate that disclosures, such as those provided in this bill, be included in prearranged funeral agreements. If such disclosures were in Kansas law, our laws would have received a "good" rating according to NFDA General Counsel Scott Gilligan. The KFDA has always believed Kansas has strong consumer oriented prearranged funeral agreement laws especially with the 100% trusting requirements we have in this state. We want to assure they are even stronger to protect the public.

The disclosures required by this bill should already be in most prearranged funeral agreements written in this state. They protect the consumer as well as the funeral home to make sure there is no doubt as to the terms of the agreements and what goods and merchandise are provided. The disclosures required are as simple as:

1. the names and addresses of the seller and the purchaser;
2. a statement of the funeral goods and services being purchased;
3. whether the contract is guaranteed or not guaranteed and if it is guaranteed; the goods and services included in the guarantee;
4. whether the contract is revocable or irrevocable;
5. what happens to excess funds remaining after the funeral goods and services have been paid for;

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ATTACHMENT:

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6. a statement that the seller may substitute goods of equal quality, value and workmanship if those specified in the funeral agreement are not available at time of need;
7. the name of the bank, credit union, or savings and loan, or the trustee of the funeral trust the funds are deposited in;
8. a notice that reasonable fees and expenses may be deducted from the trust; and
9. a requirement that the financial institution in which the funds are placed provide written notification to the purchaser that funds for the prearranged funeral agreement have been deposited.

The prearranged funeral agreement disclosures set forth in this legislation are designed to insure that consumers who purchase funeral goods and services in advance make informed decisions when purchasing a prearranged funeral agreement.

I appreciate the opportunity to appear before you today and ask for your support of this legislation. I would be happy to answer any questions you may have. Thank you.

KANSAS BANKERS ASSOCIATION
610 SW CORPORATE VIEW
TOPEKA, KANSAS 66615

February 8, 2010

To: Committee on Health and Human Services

From: Kathleen Taylor Olsen, Kansas Bankers Association

Re: HB 2589: Prearranged Funeral Agreements.

Madam Chair and Members of the Committee:

Thank you for the opportunity to appear before you today on **HB 2589**, regarding certain disclosures for prearranged funeral agreements. I appear before you today with a request for an amendment to this bill.

As you are aware, the parties to a prearranged funeral agreement are the purchaser of the funeral goods and services – who typically is also the beneficiary of these goods and services – and a funeral home. As between these two parties, this bill deals with the disclosures that must be made regarding the good and services purchased.

A bank's role in this arrangement is solely as the custodian of the funds set aside for these goods and services. In other words, a bank is not a party to the agreement, but simply is a keeper of the funds that will eventually be used to pay for the goods and services. While there definitely are rules governing the bank's actions in this role, we do not believe the bank should be saddled with additional responsibilities and potential liability with regard to the agreement made between the purchaser and the funeral home.

Section 2, subsection (b), contains a requirement that the bank give written notice to the purchaser that a deposit has been made within 60 days of the date the funeral agreement was executed. Since the bank is not a party to the agreement, the bank will not know when the agreement was executed, and we believe that there is ample opportunity for the purchaser to learn or to know whether a deposit was made to his or her account.

Most prearranged funeral agreements accounts are held either as a certificate of deposit (CD) or in a savings account at the bank. The name on the account is that of the purchaser, and so the purchaser will receive, at the least, an annual statement of interest earned (IRS Form 1099) with regard to that account. In addition, the purchaser may request information on his or her account from the bank at any time.

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DATE: 2-15-10
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Committee on Health and Human Services

HB 2589

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Our concern is that requiring this written notice to be sent puts the bank in the position of policing the terms of the agreement – a role that could potentially bring new liability to the bank with regard to holding these types of accounts. We believe that the purchaser is in a better position to police his or her own account, and in addition, will receive a statement at the end of each year, that would confirm the existence of the account and how much interest was earned.

For these reasons, Madam Chair, we respectfully request that the Committee consider striking the provisions found in Section 2, subsection (b) from the **HB 2589**. Thank you for your consideration of this request.



Matthew S. Goddard, Vice President

700 S. Kansas Ave., Suite 512
Topeka, Kansas 66603
Office (785) 232-8215 • Fax (785) 232-9320
mgoddard@hcbankers.com

To: House Health and Human Services Committee

From: Matthew Goddard
Heartland Community Bankers Association

Date: February 8, 2010

Re: House Bill 2589

The Heartland Community Bankers Association appreciates the opportunity to appear before the House Health and Human Services Committee to share our concern with House Bill 2589.

The bill adds to statute a number of disclosures that must be made by the seller to the purchaser anytime a prearranged funeral agreement is bought with a payment of money or the purchase or assignment of an insurance policy. Subsection (b) of Section 2 of the bill, however, goes beyond the seller-purchaser relationship. It mandates that a financial institution which accepts a deposit of prearranged funeral agreement account funds must provide the purchaser notice within 60 days from the date the prearranged funeral agreement is executed that the funds have been deposited.

There are already other safeguards in place to protect Kansas consumers who purchase a prearranged funeral agreement. For example, K.S.A. 16-302(a) requires that all funds paid pursuant to a prearranged funeral agreement must be deposited into a bank, savings and loan or credit union in the names of both the seller and the purchaser. Subsection (b) of K.S.A. 16-302 then requires that the payment be a check, money order or cashier's check payable only to the bank, savings and loan or credit union. These measures help ensure that the money is deposited with the proper financial institution and that the account properly names the seller and purchaser.

Most HCBA members have at least a few prearranged funeral agreement accounts. These accounts are generally treated by the financial institution like all other accounts. At a minimum, the purchaser receives an IRS Form 1099 from the financial institution each year showing the account's interest earnings. If the money is deposited into a savings account instead of a certificate of deposit, the purchaser would also receive a year end statement each year.

It is for this reason that HCBA is concerned with the additional disclosure imposed on the financial institution by the bill. Nothing prevents the purchaser of a prearranged funeral agreement from calling the financial institution to inquire about their account balance or ask other questions. We believe the liability that HB 2589 would seemingly place on the bank, savings and loan or credit union is unnecessary when the purchaser already has access to information about their deposit.

We would encourage you to strike Subsection (b) of Section 2. The Heartland Community Bankers Association appreciates your consideration of our concern with HB 2589.

February 11, 2010

To: House Health and Human Services Committee

From: Pam Scott, Executive Director
Kansas Funeral Directors Association

Re: House Bill No. 2588

Madam Chair and members of the Committee, I appear before you today on behalf of the Kansas Funeral Directors Association (KFDA) in support of House Bill No. 2588. The KFDA represents over 300 funeral homes across the state of Kansas.

House Bill No. 2588 was introduced at the request of the KFDA. The bill would amend K.S.A. 16-303 to increase the dollar amount of funds that can be placed in an irrevocable funeral agreement, contract or plan from \$5000 to \$7000 plus the retail price of a casket, urn and outside burial container. This dollar amount has not increased for over 5 years.

The KFDA is requesting this increase because \$5000 is not sufficient when considering today's funeral costs. The \$5000 has not been increased since 2004. Statistics released by Federated Funeral Directors of America for 2008 show the average selling price of a "Regular Adult Funeral" nationwide as \$6199.01. This amount does not include the outside burial container, cemetery expenses, additional travel expenses or cash advance items. Cash advance items include items such as flowers, the cost of death certificates, hair dressers, and clergy honorarium. The average Gross sale reported was \$8338.87. A National Funeral Directors Association 2007 General Price Survey found the average cost of an adult funeral in 2006 was \$6,195.

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. Such agreements are exempt as countable assets. The placing of funds in a prearranged funeral account has the effect of reducing the number of individuals that request funds under the funeral assistance program. Additionally, any funds remaining in a prearranged funeral account, after the payment of funeral 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.

The KFDA would appreciate your support of House Bill No. 2588. I would be happy to respond to any questions you may have. Thank you.

HEALTH AND HUMAN SERVICES

DATE: 2-15-10

ATTACHMENT: 4-1

Debbie Bartuccio

From: Norman Furse
Sent: Monday, February 15, 2010 10:37 AM
To: Debbie Bartuccio
Subject: HB 2577
Attachments: HB 2577 Humphrey#1.wpd; HB 2577 Humphrey#2.wpd; HB 2577 Penalty Section Delay.wpd

Debbie, Attached are three proposed amendments to HB 2577 (the additions counselor licensure act). The first two were the recommendation of Terry Humphrey to the committee and the third is a suggestion from me. Please forward these documents to the committee and staff. Thanks.

Norm

PROPOSED AMENDMENT

Terry Humphrey #1

[deleted material is in brackets with strike type, new material is in boldface in larger print]

New Sec. 2. As used in the addictions counselor licensure act:

(a) "Board" means the behavioral sciences regulatory board created under K.S.A. 74-7501 and amendments thereto.

(b) "Addiction counseling" means the ~~[assessment, diagnosis and treatment of substance use disorders as authorized under the addictions counselor licensure act.]~~ **utilization of special skills to assist persons with addictions, and to assist such persons' families and friends to achieve resolution of addiction through the exploration of the disease and its ramifications, the examination of attitudes and feelings, the consideration of alternative solutions and decision making, as these relate specifically to addiction. Evaluation and assessment, treatment including treatment plan development, case management, crisis intervention, referral, record keeping and clinical consultation specifically related to addiction are within the scope of addiction counseling. At the clinical level addiction counseling includes independent practice limited to the diagnosis and treatment of substance use disorders.**

(c) "Licensed addiction counselor" means a person who engages in the practice of addiction counseling limited to ~~[the diagnosis and treatment of]~~ substance use disorders and who is licensed under this act, except that on and after July 1, 2011, such person shall engage in the practice of addiction counseling only in a state-licensed or certified alcohol and other drug treatment program ~~[under the direction of a person licensed by the behavioral sciences regulatory board at the clinical level or a person licensed to practice medicine and surgery].~~

(d) "Licensed clinical addiction counselor" means a person who engages in the independent practice of addiction counseling which practice is limited to diagnosis and treatment of substance use disorders specified in the edition of the American psychiatric association's diagnostic and statistical manual of mental disorders (DSM) designated by the board by rules and regulations and is licensed under this act.

New Sec. 4. (b) (2)

(2) A person who was registered by the behavioral sciences regulatory board as an alcohol and other drug counselor or credentialed by the department of social and rehabilitation services as an alcohol and drug credentialed counselor or credentialed by the Kansas association of addiction professionals as an alcohol and other drug abuse counselor in Kansas at any time prior to the effective date of this act, who has been actively engaged in the practice of addiction counseling in

Kansas as a registered alcohol and other drug counselor, a alcohol and drug credentialed counselor or a credentialed alcohol and other drug abuse counselor within three years prior to the effective date of this act and whose last registration or credential in Kansas prior to the effective date of this act was not suspended or revoked, upon application to the board, payment of fees and completion of applicable continuing education requirements, shall be licensed as a licensed addiction counselor by providing demonstration acceptable to the board of competence to ~~[diagnose and treat substance use disorders through being a registered alcohol and other drug abuse counselor or by meeting the following areas acceptable to the board:~~

~~—— (A) Either documented work experience in the substance abuse field acceptable to the board or passing a national clinical examination; and~~

~~—— (B) completion of continuing education in diagnosis of substance use disorders]~~ **perform the duties of an addiction counselor.**

New Sec. 4. (b) (4)

(4) On and after July 1, 2011, a licensed addiction counselor may ~~[diagnose and treat substance use disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations]~~ **engage in the practice of addiction counseling only** within a state licensed or certified alcohol and other drug treatment program ~~[- under the direction of a person licensed by the behavioral sciences regulatory board at the clinical level or a person licensed to practice medicine and surgery. When a client has symptoms of a substance use disorder, a licensed addiction counselor shall consult with the client's primary care physician or psychiatrist to determine if there may be a medical condition or medication that may be causing or contributing to the client's symptoms of a substance use disorder. A client may request in writing that such consultation be waived and such request shall be made a part of the client's record. A licensed addiction counselor may continue to evaluate and treat the client until such time that the medical consultation is obtained or waived.]~~

PROPOSED AMENDMENT TO HB 2577

[deletions shown in brackets with strike type and new material shown in boldface in larger print]

Sec. 16. K.S.A. 74-7501 is hereby amended to read as follows: 74-7501. (a) There is hereby created a behavioral sciences regulatory board consisting of ~~++ [12]~~ **11** members appointed by the governor. The membership of the board shall be as follows: Two members of the board shall be licensed psychologists; two members of the board shall be licensed to engage in the practice of social work; one member of the board shall be a professional counselor; one member of the board shall be a marriage and family therapist and one member of the board shall be a ~~registered masters level~~ **psychologist who on January 1, 1997, will become a licensed masters level** ~~psychologist; [one member of the board shall be a licensed addiction counselor or a licensed clinical addiction counselor;]~~ **and until July 1, 2012, four members of the board shall be from and represent the general public. On July 1, 2012, upon the expiration of the term of two members of the board who represent the general public on June 30, 2012, those positions are hereby abolished and in lieu thereof the governor shall appoint one member of the board who is a licensed specialist clinical social worker and one member of the board who is a licensed addiction counselor or a licensed clinical addiction counselor. Thereafter, two members of the board shall be from and represent the general public.** Each member of the board shall be a citizen of the United States and a resident of this state.

(b) The term of office of each member of the board shall be four years, ~~except that the term of office of the new members appointed pursuant to this act, one member shall be appointed for a term of two years, one member shall be appointed for a term of three years and two members shall be appointed for terms of four years. The governor shall designate the term of office for each member appointed to the board pursuant to this act.~~ No member of the board shall be appointed for more than two successive terms. Upon the expiration of a member's term of office, the governor shall appoint a qualified successor. Each member shall serve until a successor is appointed and qualified. Whenever a vacancy occurs in the membership of the board prior to the expiration of a term of office, the governor shall appoint a qualified successor to fill the unexpired term. The governor may remove any member of the board for misconduct, incompetency or neglect of duty.

(c) The board shall organize annually at its first meeting subsequent to June 30 and shall select from its members a chairperson and a vice-chairperson. Other meetings shall be held as the board designates. A majority of members appointed to the board shall constitute a quorum for the transaction of business.

(d) The board may appoint an executive director who shall be in the unclassified service of the Kansas civil service act and shall receive an annual salary fixed by the board, subject to approval by the governor. The board may employ clerical personnel and other assistants, all of whom shall be in the classified service under the Kansas civil service act. The board may make and enter into contracts of employment with such professional personnel as necessary, in the board's judgment, for the performance of its duties and functions and the execution of its powers.

(e) Members of the behavioral sciences regulatory board attending meetings of the board, or attending a subcommittee meeting thereof authorized by the board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

PROPOSED AMENDMENT TO HB 2577

[deleted material is within brackets in strike type, new material is in bold face in larger type]

New Sec. 3. (a) **On and after August 1, 2011**, no person shall engage in the practice of addiction counseling or represent that such person is a licensed addiction counselor or is an addiction counselor or a substance abuse counselor or an alcohol and drug counselor without having first obtained a license as an addiction counselor under the addictions counselor licensure act.

(b) On and after [~~the effective date of this act~~] **August 1, 2011**, no person shall engage in the practice of addiction counseling as a clinical addiction counselor or represent that such person is a licensed clinical addiction counselor or is a clinical addiction counselor or a clinical substance abuse counselor or a clinical alcohol and drug counselor without having first obtained a license as a clinical addiction counselor under the addiction counselor licensure act.

(c) Violation of this section is a class B misdemeanor.