

SESSION OF 2004

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2657

As Amended by Senate Committee on
Public Health and Welfare

Brief*

As amended, HB 2657 creates a new state law that limits where a dead body may be taken when it is removed from the location of death. Except as otherwise provided by state law and in accordance with any applicable legal requirements, a dead body may be removed only to a licensed funeral establishment, a licensed branch funeral establishment that has an embalming preparation room or holding facility, a licensed crematory if such crematory has a holding facility, a hospital, cemetery, coroner or medical examiner facility, the University of Kansas Medical Center, or other location of final disposition.

The bill also creates a new law that gives the State Board of Mortuary Arts authorization to issue subpoenas in connection with any investigation of a complaint or other reasonably reliable information that concerns a matter under investigation or a disciplinary action against a licensee.

In addition to creating two new general statutes, HB 2657 amends three other statutes that pertain to the licensing and regulation of embalmers, disciplinary actions against licensed embalmers or funeral directors, and the powers and authority of the Board.

The amendments:

- Allow the State Board of Mortuary Arts, by rule and regulation, to prescribe the examination required to qualify for a license to practice embalming as well as the score necessary for successful completion of the examination;
- Expand the Board's disciplinary authority to include conditioning and limiting a license to practice embalming or

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

funeral directing and to impose a fine of not more than \$1,000 per violation as set out in the law;

- Allow the Board to take disciplinary action against a licensee or refuse to issue a license if the individual has been convicted of a felony and is unable to demonstrate to the satisfaction of the Board that he or she has been sufficiently rehabilitated to warrant the public trust or has been convicted of an offense involving moral turpitude, or has been convicted of criminal desecration;
- Allow the Board to take disciplinary action against a licensee on the grounds of inability to practice embalming or funeral directing by reason of illness, alcohol, chemicals, or other substances, or physical or mental condition after receiving the results of an evaluation by a person licensed to practice medicine and surgery or a person licensed to diagnose and treat mental illness;
- Require an attested rather than certified copy of the record of a disciplinary action taken by another jurisdiction which may be used as presumptive evidence in a disciplinary action in Kansas;
- Add additional grounds for disciplinary action: having been found guilty of negligence, incompetence, fraud, misrepresentation, or deceit in connection with services rendered, or having provided misleading information in filing a death certificate; and
- Add a crematory license to the definition of license for the purposes of KSA 65-1751.

HB 2657 deletes language relating to subpoenas from an existing statute that concerns the general powers and duties of the Board.

The Senate Committee amendments are both technical and policy in nature.

Background

HB 2657 was requested by the Board of Mortuary Arts, whose representative explained that the bill adds needed provisions for transport of dead human bodies, simplifies the process the Board must use to address examination issues, and allows the Board a wider range of actions regarding the disciplining of licensees.

The fiscal note provided by the Division of the Budget indicates the section of the bill relating to the use of subpoenas could require additional expenditures which could be absorbed within authorized budget levels.