

Approved: April 7, 1994
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MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chairperson Joann Flower at 1:30 p.m. on March 21, 1994 in Room 423-S of the Capitol.

All members were present except: Representative Swall, Representative E. Wells, both excused.

Committee staff present: Emalene Correll, Legislative Research Department

Norman Furse, Revisor of Statutes
Sue Hill, Committee Secretary

Conferees appearing before the committee:
Pam Scott, Executive Director of Kansas Funeral Directors and Embalmers Association, Inc.

Others attending: See attached list

Chairperson Flower called meeting to order welcoming all those present. She drew attention to Committee minutes for March 15th. If there are corrections, please notify the secretary by 5:00 p.m. tomorrow, March 22, otherwise these minutes will be considered approved as presented.

Chair drew attention to **SB 310** and requested a staff briefing. Ms. Correll noted **SB 310** was amended by the Senate Committee of the Whole to require that a person who has died, and has been diagnosed with a contagious/infectious disease, the physician, family member, or the person who is making arrangement for the disposition of the body, shall complete a form that the deceased had such an infectious/contagious disease, then this form shall accompany the body when transported. Under current law, the attending physician shall complete the form, but if no physician present, then a family member shall complete the form. **SB 310** would add the responsibility for the director of nursing or designee at either a medical care facility or an adult care home, wherein the person died, to complete the form that accompanies the body.

HEARINGS BEGAN ON **SB 310**.

Pam Scott, Executive Director of Kansas Funeral Director and Embalmers Association, spoke in support of **SB 310**. (See Attachment No.1). She introduced Mr. Chris Johnson, a licensed embalmer who along with Ms. Scott would be available to answer questions. Ms. Scott then noted, funeral directors and embalmers had requested this legislation because they find that notification is not being given in cases where there is a known infectious/contagious disease. Often the attending physician is not present at death. In many cases hospital or nursing home personnel arrange for the deceased to be picked up by a funeral establishment without the attending physician being present. The staff, in many cases, does not notify the funeral director or embalmer when they know the deceased had a contagious or infectious disease. Several hospitals have advised members of the Kansas Funeral Directors and Embalmers Association, they have no obligation to provide notice under current law. Some hospital attorneys have advised them not to give notice because of potential liability for breach of confidentiality. If K.S.A. 65-2438 is made applicable to hospitals and nursing homes, the confidentiality and immunity provisions addresses the concerns of hospitals. She drew attention to regulations provided in her hand-out. She urged support for **SB 310**, noting it is necessary to enable the funeral directors and embalmers to comply with regulations. She stated, a surgeon would not be expected to perform surgery without being fully informed concerning a patient's health history or illness. An embalmer should not be asked to either. It is necessary to enable the funeral directors and embalmers to comply with regulations of the Kansas Board of Mortuary Arts, and to protect themselves from such diseases to the greatest extent possible. She answered questions, i.e., the Hospital Association didn't object to the bill itself, but did express concern as to the necessity of the legislation at all. When asked, she noted the liability issue on "person" "director", or "designee", relates to an employee of a facility, because a "facility" cannot be held liable, according to Kansas statute.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 423-S
Statehouse, at 1:30 p.m. on March 21, 1994.

SB 310 continued:

Staff members indicated that Kansas statutes do not cover institutions, it covers "people". The language in the amendment simply follows common language in current statutes. There was discussion regarding who then is liable if notification is not given and should be, i.e., the employer, or the employee. Staff noted, generally under criminal code, a Corporation would be responsible for acts committed by their agent acting under the scope of their authority, K.S.A. 21-3206. This particular bill, it was noted, does provide for a criminal sanction, Page 2, (e), i.e., civil action could be taken if you could prove negligence in such a case as this. Staff further indicated, when asked, if the requirement in the statute, but not in rules and regulations is not met, (such non-compliance related to the issue under discussion), is there any bearing on the license for the facility for such non-compliance? Mr. Furse indicated there could be, but it would depend on the wording of their licensure. There are no specific references to this particular reference. It was also noted the immunity section in the bill is relate to the reporting, not the failure to report.

Chair drew attention to (Attachment No.2), written testimony provided by Mack Smith, Kansas Board of Mortuary Arts. Mr. Smith is out of town and unable to present testimony in person.

CHAIR CLOSED HEARINGS ON **SB 310**.

Chair drew attention to **SB 683**, and requested Rep. Freeborn, Chair of Sub-Committee, give the Sub-Committee report .

SB 683.

Rep. Freeborn elected to have Mr. Furse detail the language proposed by the Sub-Committee, Mr. Furse indicated the language proposed is on the recommendation of the Sub-Committee, Rep. Freeborn, Rep.Scott, Rep. VanFleet. The Sub-Committee's thrust was to authorize and grant the Board of Healing Arts power to adopt rules and regulations rather than to spell out all the details in statute. He detailed the bill section by section, i.e., that rules and regulations may be adopted by the Board, a standardized summary in layman's language of the risks association with breast implantation, known to the board at the time of the adoption of the rules and regulations and such summary to be reviewed at least annually. That the patient sign a statement provided, acknowledging receipt of the standardized written summary; the provider should inform the patient fully of the procedure, the patient given informed consent; the licensed provider not to impede the patient's right to select a method of treatment. (See Attachment No. 3).

Rep. Freeborn noted all members of the Sub-Committee were unanimous in their recommendation to adopt this proposal. Rep. Freeborn moved to adopt the recommended changes in Attachment No. 3) as outlined by Mr. Furse, seconded by Rep. Scott.

Discussion began, i.e., concerns expressed regarding the language should be perhaps broader so that it would cover all implants, not just breast implants. It was noted by the Sub-Committee Chair, there was discussion related to all implants, but it was the decision of the Committee to deal with just the breast implant issue specifically in **SB 683**. Further questions, i.e., there is flexibility to allow a choice for breast implant surgery; no time restriction set for rules and regulations to be written; there was concern perhaps the language, "conclusively presumed" is too restrictive, and whether or not it appear in other current law.

Mr. Furse, when asked, indicated this would be a policy decision for the Committee as to whether it is appropriate or not. The language "conclusively presumed" was in **SB 683** as it came over from the Senate. Discussion continued on the issue of liability.

Question called, by Rep. Neufeld. Chair asked if there was any opposition to the call for question. There was none.

Vote taken. Motion carried.

Rep. Goodwin is recorded as a NO vote.

At this point Rep. Wagle moved to amend **SB 683** conceptually by adding language regarding informed consent be included for abortions. She offered rationale. Motion seconded by Rep. Mayans.

Discussion began. It was the thought of some members to lump two such important issues together in **SB 683** is irresponsible. Some members agreed that **SB 683** regarding informed consent" was the very place to add such an amendment. It was the concern of some, that if one procedure requires, "informed consent", then every other procedure will require the same. There will numerous people interested in implants who may wish to appear before the legislature also wanting the same kind of protection regarding "informed consent".

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 423-S
Statehouse, at 1:30 p.m. on March 21, 1994.

SB 683 continued:

There were questions regarding whether or not the abortion issue is germane to the breast implant issue in **SB 683**. A lengthy discussion ensued. Differences between the Kansas Constitution and the germaneness of a bill were noted by staff. Mr. Furse, when asked, explained germaneness of legislation, noting it is handled on a case by case basis; it is the determination of the Chair and Committee.

SB 683.

Staff was requested to explain what the current state of the law is, relative to information being given related to a patient prior to an abortion; what kind of form does a patient have to sign off on before such a procedure can be performed. Ms. Correll then read from the statutes, K.S.A. 65-6706, (Volume 5, page 582).

Rep. Wagle stated, the current form that a doctor is using prior to an abortion has been faxed to her and none of that information is being complied with. The paper work isn't completed, and she offered to bring that information to Committee. There are abortions being done, she said, without the patient being duly and adequately informed of the risks. Some of the risks, similar to what goes on with breast implants.

Discussion continued, i.e., concerns expressed regarding members not comfortable being asked to vote on subject matter that had had no public hearing held; it was the view of some, this is an issue that merits public hearings. Alternative language was proposed, i.e., "surgical procedures related to conception"; suggestion made for specific legislation that would cover informed consent definitions and procedures for all medical procedures, including abortions. It appeared to some members, current statutes are in place regarding informed consent related to abortions, with that current law being even more strict than that proposed in the amendment on the table. It was noted the statute read by Ms. Correll, were not set out by the Board of Healing Arts.

At this point, Rep. Nichols respectfully requested the Chair rule specifically on whether or not the language related to abortion proposed as an amendment is germane. The Chair ruled it is germane.

Rep. Nichols then challenged the ruling by the Chair. It was pointed out this challenge to the ruling by the Chair is proper procedure.

Discussion ensued, i.e., concerns expressed regarding such an important issue being rushed, an important issue that cannot be taken lightly; concern that the breast implant issue will be delayed; alternative language was offered to answer concerns regarding the issue of germaneness; some stated they would not/could not vote on an abortion issue without seeing language in writing, and holding a public hearing. It was noted, germaneness is not determined by merely changing the title.

At this time, Chairperson Flower asked for a vote on the challenge of the Chair's ruling. Vote taken, Chair in doubt, show of hands indicated 7 in favor, 9 opposed, Chair is over-ruled. The conceptual motion made by Rep. Wagle is not germane.

Discussion continued. Alternative language again was offered.

Rep. Mayans moved to amend **SB 683** by adding "surgical procedures related to conception". At this point, Chairperson Flower ruled that a motion of this kind, after the lengthy discussion just held was out of order.

Rep. Rutledge moved that **SB 683** be passed favorably as amended, seconded by Rep. Freeborn. No further discussion. Vote taken. Motion carried.

Rep. Morrison recorded as NO vote.

Rep. VanFleet agreed to carry **SB 683** for debate in the House.

Chair drew attention to **SB 575**, and requested a staff briefing. Mr. Furse gave a detailed explanation.

Discussion began. It was noted there was a technical amendment indicated on page 2, line 11, "parents or guardians". Concerns were expressed regarding parental freedom to refuse inoculations due to "personal reasons".

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 423-S
Statehouse, at 1:30 p.m. on March 21, 1994.

SB 575 continued:

At this point, Rep. O'Connor moved to amend SB 575 on page 2, line 29, to reinstate "personal exemption. Motion seconded by Rep. Rutledge.

Discussion began, i.e., concerns expressed regarding some parents would cite personal reasons because they did not have a car; isn't convenient; doesn't fit into the family schedule. Alternative language was discussed to more strictly define "personal reasons". It was stated by some members, some parents do view vaccinations as a real threat to their children. There are instances wherein it is difficult to obtain a physician's statement regarding exemptions. It was noted the Department of Health/Environment has been asked, as well as others, and there seems not to be a large problem regarding exemptions.

A view was expressed by a member, this Committee should not try to fix something that "ain't broke".

Lengthy discussion continued regarding "personal exemption". Some members regarding current language as too broad, some too strict. Staff stated, when asked, school officials could challenge a frivolous decision of a parent, however, it was indicated, there was a question on the legality of this challenge, and how it might stand up if questioned. A view was expressed that it is the parents who hold the responsibility for their children, not the government.

Chair called for a vote on the motion made by Rep. O'Connor. Vote taken, Chair in doubt. A show of hands indicated 8 in favor, 8 against, motion failed.

Staff was asked regarding "personal reason" statement, i.e., is there a manner in which this data is compiled/tracked. Staff noted, this would be a policy issue for the Committee to determine since current law does not require that "personal grounds" be stated in writing, nor does it require an annual written statement from the physician as stated in the proposed language. Ms. Correll stated, she was unclear as to this meaning.

At this point, Rep., Morrison moved to pass SB 575 out of Committee favorably. Motion seconded by Rep. Samuelson. Discussion began regarding the deletion in Section 4 by the Senate, regarding a school having the authority to exclude a student who is not properly immunized.

Rep. Sader made a substitute motion to reinstate the language removed by the Senate in Section 4, page 3, of SB 575. Motion seconded by Rep. Henry. Discussion began. Staff answered questions of those raised regarding concerns, i.e., if "shall" is used rather than "may", would the school board's discretion would be removed, and the compulsory requirement be reinstated. Discussion began again.

Vote taken, motion failed.

Rep. Scott moved to amend SB 575 on page 2, line 11, after "notify:", to add, "parents or guardians". Motion seconded by Rep. Samuelson. Vote taken, motion carried.

Rep. Rutledge made a motion to report SB 575 adversely. He offered rationale. Motion seconded by Rep. Neufeld.

Rep. Nichols made a substitute motion to report SB 575 out of Committee favorably as amended, seconded by Rep. Samuelson. Vote taken, Chair in doubt. A show of hands clearly indicated the motion carried.

Rep. Rutledge recorded as a NO vote.

Chair adjourned the meeting at 3:30 p.m.

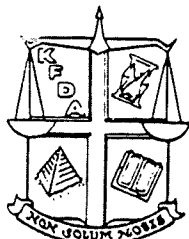
The next meeting is scheduled for March 22, 1994.

VISITOR REGISTER

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

DATE March 21, 1994

NAME	ORGANIZATION	ADDRESS
Helene Hunt Dordon	SRS	Topeka
Pam Swatl	KFDA	Topeka
Chris Johnson	Davidson Funeral Home KFDA	Topeka
Bill Sneed	KFDA	TOPEKA
Sue Cellohan	Kammco	Topeka
ALAN COBB	WICHITA HOSPITALS	WICHITA
Nancy Zogleman	Pfizer	KC
Millie Walter	EDS	Topeka
Danielle Noe	HIAA	Topeka
Lynna McGill	PETE MCGILL'S ASSOC.	"
Karen Linnery	Ks Hsbn. School Boards	Topeka
Michelle Peterson	Ks Gov Consulting	Topeka
Joe Furjanic	KCA	Topeka
KETH R LANDIS	CHRISTIAN SCIENCE COMM- ON PUBLICATION FOR KS	TOPEKA
Kathy Reardon	Holism. for the medically underserved	Topeka
Wendi Anderson	girl scouts / Sante Fe trail	K.C.K
Alison Johnson	girl scouts / Sante Fe trail	K.C.K
Dawn Foster	girl scouts / Sante Fe trail	K.C.K
Corey L. Palmer	GS / Flint Hills	Emporia
Jennifer Davis	GS / Flint Hills	Emporia
Glenn Kopp	GS / Flint Hills	Emporia
David E. Tell	Zeneca Pharmaceuticals	Dallas, TX
Tom Rickman	none	KC, Mo.
Margaret Jenderson	Berkungen Truckers	Columbia, Mo



AFFILIATED WITH N.F.D.A.

THE KANSAS FUNERAL DIRECTORS AND EMBALMERS ASSOCIATION, INC.

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TESTIMONY PRESENTED TO

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

BY THE

KANSAS FUNERAL DIRECTORS AND EMBALMERS ASSOCIATION

Madam Chairman and members of the committee, my name is Pam Scott, executive director of the Kansas Funeral Directors and Embalmers Association (KFDA). I am here to speak in support of Senate Bill No. 310.

Senate Bill No. 310 amends K.S.A. 65-2438 to require the hospital or adult care home at which a person dies to provide notice to a funeral director or embalmer when a deceased person has been diagnosed as having an infectious or contagious disease. Currently the law requires the attending physician, or in his absence, the family member or person making arrangements for the disposition of the body to provide the notice.

Funeral directors and embalmers have requested this bill because they are finding that notification is not being given in cases where there is a known infectious or contagious disease. Often an attending physician is not present at death. In such cases, hospital or nursing home personnel arrange for the deceased to be picked up by a funeral establishment without the attending physician being present. The staff, in many cases, does not notify the funeral director or embalmer when they know the deceased had a contagious or infectious disease. It is arguable that the law as written already places the notification requirement on staff of hospitals because they are the persons making arrangements for the disposition of the dead body. If this is the case, this amendment will clarify the law. The Senate amended the original bill to designate the director of nursing or the director's designee as the person responsible for providing the notice.

Several hospitals have advised our members that they believe they have no obligation to provide notice under current

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Kansas law. Their attorneys have advised them not to give notice because of potential liability for breach of confidentiality. We believe that if the notice requirements of K.S.A. 65-2438 are made applicable to hospitals and nursing homes, the confidentiality and immunity provisions in the statute address the hospitals concerns. The amendments in the bill would extend those protections to hospitals and to nursing homes providing the notice. Furthermore, a funeral director is responsible for completing and filing the death certificate, which requires the cause of death to be stated. Therefore, he or she will eventually have the information anyway.

Funeral directors have a need and a right to know when a person has an infectious or contagious disease. They need to know because regulations adopted by the State Board of Mortuary Arts, specifically K.A.R. 63-3-10 and 63-3-11, place requirements on how a body is to be handled and prepared by the funeral director and embalmer when death occurs from an infectious or contagious disease. K.A.R. 63-3-10 states that if an infectious or contagious disease was present or was reasonably suspected to be present, the body may not be transported or buried until it is embalmed and placed in a casket or suitable combustible container. K.A.R. 63-3-11 places similar requirements on the preparation and transporting of infected bodies. Attached is a copy of these regulations.

Funeral directors have a right to know when there is a known infectious or contagious disease present, to know there is a very real danger of communicable diseases being present so that he or she can better protect themselves beyond using universal precautions required by law. This does not mean the funeral director is going to be lulled into a feeling of false security where there is no known infectious or contagious disease present. They know they need to be cautious in all cases.

One might question whether this legislation is necessary because universal precautions should be taken in all cases, and if taken funeral home personnel would be protected. Such a philosophy does not address the varying degrees of risk and the different types of protective measures that can be taken based upon whether the disease is transmitted through blood or is airborne, nor does it consider the virulence, strength and persistency of different diseases. An embalmer will use different embalming techniques and various strengths of embalming fluids based upon the type of disease diagnosed. You would not expect or ask a surgeon, in non-emergency situations, to perform surgery without being fully informed concerning a patient's health history or illness. Why should you ask an embalmer to do anything less.

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Funeral directors do use universal precautions. They are required to by law. The KFDA holds many seminars each year educating its members on how to comply with OSHA rules. Funeral home employees must go through annual training in this area. Funeral service professionals have the right to know if known infectious and contagious diseases are present so that they can go beyond the universal precautions required by law if they deem necessary. It's a matter of health, safety, human life and common sense.

In conclusion, we ask for your support of Senate Bill No. 310. It is necessary to enable the funeral director and embalmer to comply with regulations of the Kansas Board of Mortuary Arts and to protect themselves from such diseases to the greatest extent possible.

Thank you for giving me this opportunity to speak to you today.

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metal-lined hermetically sealed container immediately after death, the body may be considered an embalmed body, for the purpose of transportation.

(f) If a casket has not been used in the preparation and transportation of a body that is to be cremated, the body shall be placed in a suitable combustible container which shall be permanently closed before being released to a receiving crematory.

(g) This regulation shall not apply to bodies donated to the university of Kansas school of medicine. (Authorized by and implementing K.S.A. 65-1712, K.S.A. 74-1702, K.S.A. 65-1723; effective Jan. 1, 1960; amended, E-72-6, Dec. 17, 1971; amended Jan. 1, 1973; amended May 1, 1976; amended May 1, 1978; modified, L. 1979, ch. 353, May 1, 1979; amended Jan. 6, 1992; amended June 7, 1993.)

63-3-12. BODIES MANGLED, BURNED, ETC. Bodies badly mangled, burned, decomposed or partially decomposed that cannot be prepared pursuant to K.A.R. 63-3-11, shall not be removed from the city where the death occurred, or from the immediate vicinity if the death occurred in a rural area, by private conveyance or by any common carrier unless first being thoroughly disinfected by an approved disinfecting compound or preservative and placed in a suitable container which shall be permanently closed. (Authorized by K.S.A. 74-1704; effective Jan. 1, 1969; modified, L. 1976, ch. 331, § 1, May 1, 1976; amended May 1, 1978.)

63-3-13. DISINTERRED. The transportation of disinterred remains by common carrier or by private conveyance is subject to the same rules as for any dead human body. (Authorized by K.S.A. 74-1704; effective Jan. 1, 1969; amended May 1, 1978; amended, T-88-43, Oct. 27, 1987; amended May 1, 1988.)

63-3-14. RETRANSPORTING OF BODIES. Bodies not in good condition shall not be reshipped or further transported until said body has been prepared according to the rules governing the preparation and transportation of dead human bodies in the state of Kansas.

Shipping box or outer case may be dispensed with, if body is conveyed in hearse or private

conveyance used for moving the dead. (Authorized by K.S.A. 74-1704; effective Jan. 1, 1969.)

63-3-15. DEAD BODIES IN TRANSIT. All dead human bodies coming into the state of Kansas via any common carrier or private conveyance, shall be accompanied by a duly completed removal permit, in accordance with the embalming and transportation rules of the state from where said body was shipped.

Any person, agent or owner of any common carrier or private conveyance, having in charge and transit any dead human body that has not been properly prepared or embalmed and has become offensive or dangerous to public health, shall refuse to continue transportation until said body has been properly prepared, so that public health is not endangered. (Authorized by K.S.A. 74-1704; effective Jan. 1, 1969.)

63-3-16. BURIAL IN MAUSOLEUM. All dead human bodies shall be embalmed in accordance with the foregoing rules before same may be placed in a mausoleum. (Authorized by K.S.A. 74-1704; effective Jan. 1, 1969; amended May 1, 1978.)

63-3-17. SERVICES AND MERCHANDISE PRICING.

(a) Each funeral service casket in the casket selection room shall have a card or brochure which sets forth the price of the service using that casket and listing the services and any other merchandise included in the price. Where there are separate prices for the casket, services, or the use of facilities and equipment, the card shall indicate the price of the casket and of each item separately priced.

(b) If a funeral service establishment uses the facilities of a manufacturer, jobber, or other place where caskets are displayed for selection, the funeral service licensee conducting the service shall place the cards or brochures required by subsection (a) in the caskets before any selection is made by those arranging a funeral.

(c) Each funeral service licensee shall give to the person or persons making funeral arrangements a written price statement duly signed by the licensee or a representative of the funeral establishment or

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ARTICLE 3 — PREPARATION AND TRANSPORTATION
OF BODIES; BURIAL IN MAUSOLEUMS;
AND FUNERAL ESTABLISHMENTS

63-3-1 to 63-3-8. (Authorized by K.S.A. 74-1704; effective Jan. 1, 1966; revoked, Jan. 1, 1969.)

63-3-9. EMBALMING FLUIDS AND COMPOUNDS. The use of any fluid or compound which contains arsenic, lead, mercury, zinc, silver, antimony, chloral or any poisonous alkaloid in the embalming of a dead human body is prohibited. (Authorized by K.S.A. 74-1704; effective Jan. 1, 1969; amended May 1, 1978.)

63-3-10. DEATH FROM INFECTIOUS OR CONTAGIOUS DISEASES. (a) Each embalmer and funeral director shall at all times, undertake and be responsible for appropriate precautionary measures to prevent the spread of infectious or contagious diseases from deceased human bodies to employees of mortuary establishments, persons contracted to provide services involved in the preparation and handling of dead human bodies, and to the general public.

(b) When death has occurred from any infectious or contagious disease, the body shall be handled and prepared by a licensed Kansas embalmer. If any infectious or contagious disease occurred, or was reasonably suspected to be present, the body shall be embalmed and placed in a casket or suitable combustible container prior to transporting and burial. Any body dead from infectious or contagious disease may be cremated or buried without embalming if final disposition takes place within 24 hours of death as long as no health hazard will result. Each unembalmed body to be buried within 24 hours following death shall be placed in a metal-lined, hermetically sealed container prior to burial. Each unembalmed body to be cremated within 24 hours following death shall be placed in a suitable combustible container. (Authorized by and implementing K.S.A. 65-1712, K.S.A. 74-1704; effective Jan. 1, 1969; amended May 1, 1978; modified, L. 1979, ch. 353, May 1, 1979; amended May 1, 1988; amended June 7, 1993.)

63-3-11. PREPARATION AND TRANSPORTATION OF HUMAN BODIES. A dead human body shall be transported by private conveyance or common carrier until the following conditions are met. (a) Any unembalmed body released by the family or proper authority, other than a dead with an infectious or contagious disease, may be transported by private conveyance within the state of Kansas if: (1) A certificate of death has been filed according to laws and regulations set forth by the Kansas state department of health and environment; and (2) After the body has been released to a funeral director, any transportation is supervised personally by the funeral director.

(b) In addition to meeting the requirements of subsection (a), each body dead with an infectious or contagious disease shall be handled pursuant to K.A.R. 63-3-10 prior to being transported by private conveyance or common carrier.

(c) A body dead from any cause may be transported by a common carrier if: (1) The body has been prepared and properly disinfected by arterial and cavity injection with an approved disinfecting fluid having a minimum phenol coefficient equal to that of a five percent formaldehyde solution. The amount of the fluid injected shall not be less than 1/10 of the body weight; (2) all body orifices have been disinfected and plugged with dry cotton; (3) the body has been washed with five percent formaldehyde or other disinfectant of equivalent coefficient; and (4) the body is encased in a shipping case which is acceptable under the rules of the common carrier.

(d) A body dead from any cause may be interred or cremated without embalming if interment or cremation is within 24 hours of death. A reasonable period of time beyond 24 hours may be permitted if: (1) religious beliefs, laws or customs do not permit transportation or interments on Sabbath or holy days; and (2) no health hazard or nuisance will result from such a delay. Each body dead with an infectious or contagious disease shall be handled pursuant to K.A.R. 63-3-10.

(e) A body dead from any cause other than infectious or contagious disease may be interred or cremated without embalming if embalming would violate personal or religious beliefs and a health hazard or nuisance will not result. An unembalmed body may be retained in storage at a constant temperature of less than 40 degrees Fahrenheit. When that body is removed from storage and transported, the body shall reach its final destination within 24 hours following the removal from storage. If the body is placed in a metal or

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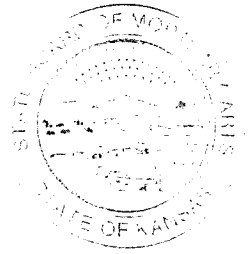
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The Kansas

State Board of Mortuary Arts

CREATED AUG. 1, 1907

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TOPEKA, KANSAS 66603-3758
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Representative JoAnn Flower, Chairperson
House Committee on Public Health and Welfare
State Capital, Room 426-South
Topeka, Kansas 66612

S.B. 310

The Kansas State Board of Mortuary Arts supports S.B. 310. The bill appears to better define the parties responsible for notification when an infectious or contagious disease is involved with a death.

While universal precautions should be used by funeral homes in all cases, there is no reason that notification in cases where an infectious or contagious disease is known to be present should not occur.

Death certificates that list the cause of death also list the name of the embalmer and funeral home--as well as the signature of the funeral service licensee (funeral director). Because funeral homes are generally the responsible parties for the filing of these forms, the area of privacy doesn't appear to be an issue.

There are regulations addressing infectious and contagious disease deaths in situations when burial or cremation does not take place within 24 hours--another reason for notification in known cases of infectious and contagious diseases.

I ask for the committee's support of S.B. 310.

Mack Smith, Executive Secretary
Kansas State Board of Mortuary Arts

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Altman #2*

Senate Bill No. 683 (As Amended by Senate Committee)
House Public Health and Welfare Subcommittee Report

Subcommittee Recommends that New Section 1 of the Current Version of the Bill be Deleted and that the Following be Inserted in lieu Thereof:

New Section 1. (a) Before a person licensed to practice medicine and surgery operates on a patient to insert a breast implant, the person licensed to practice medicine and surgery shall inform the patient of the risks associated with breast implantation, as specified in the standardized summary supplied by the board of healing arts under this section.

(b) The board shall adopt rules and regulations to carry out the provisions of this section. The board shall develop and shall adopt by rules and regulations a standardized summary in layman's language of the risks associated with breast implantation known to the board at the time of adoption of the rules and regulations. The board shall review, at least annually, the standardized summary developed and adopted by the board under this section and shall update the rules and regulations relating thereto as appropriate.

(c) The board shall adopt rules and regulations to establish the procedure to be followed by persons licensed to practice medicine the surgery in order to comply with the provisions of this section. The procedures to be established under this subsection shall include: (1) Providing to the breast implantation patient, or other appropriate person as specified by rules and regulations of the board, the standardized written summary at least five days prior to operating to insert a breast implant; (2) requiring that the patient, or other appropriate person as specified by rules and regulations or the board, signs a statement provided by the board acknowledging the patient's receipt of the standardized written summary; (3) any other requirements or limitations the board deems appropriate.

(d) For the purposes of this section, in the event of any claim by a breast implantation patient, or any person on such patient's behalf, against a person licensed to practice medicine and surgery resulting from such breast implantation, it shall be conclusively presumed that any patient who received the standardized written summary provided for under this section in accordance with the provisions of this section and the procedure established by rules and regulations of the board shall have

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been fully informed regarding the breast implantation procedure and given an informed consent to the same.

(e) Nothing in this section shall be construed to empower or authorize the board to restrict in any manner the right of a person licensed to practice medicine and surgery to recommend a method of treatment or to restrict in any manner the right of a person licensed to practice medicine and surgery to recommend a method of treatment or to restrict in any manner a patient's right to select a method of treatment.

(f) The provisions of this section shall not be effective until: (1) The standardized written summary provided for in this section is adopted by rules and regulations of the board which have become effective and is distributed by the board to persons licensed to practice medicine and surgery; and (2) the procedure required to be established by the board under this section is adopted by rules and regulations of the board which have become effective.

(g) This section shall be part of and supplemental to the Kansas healing arts act.

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