

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Chairman Jim Barnett at 1:33 p.m. on February 11, 2010, in Room 546-S of the Capitol.

All members were present.

Committee staff present:

Nobuko Folmsbee, Office of the Revisor of Statutes
Renae Jefferies, Office of the Revisor of Statutes
Iraida Orr, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Amanda Nguyen, Intern, Kansas Legislative Research Department
Jan Lunn, Committee Assistant

Conferees appearing before the Committee:

Representative Bob Bethell
Marla Rhoden, Director, Health Occupations Credentialing, Kansas Department of Health and Environment (KDHE)
Debra Zehr, President, Kansas Association of Homes and Services for the Aging
Pam Scott, Executive Director, Kansas Funeral Directors Association
Ashley Cozine, Immediate past President Kansas Funeral Directors Association
Terry L. Roberts, President, Midwest Cremation Society, Inc.
Timili Gartner

Others attending:

See attached list.

HB 2323 - Adult care homes, home health agencies; employees; criminal history information

Terri Weber, Legislative Research Department, briefed committee members on **HB 2323 - Adult care homes, home health agencies; employees; criminal history information** which amends current law for providers of care. The proposed legislation would cover adult care facilities and home health agencies and would add a felony conviction of theft to the list of crimes that impacts the hiring of employees. **HB 2323** also would expand the definition (currently in statute) of hiring requirements to include any criminal history information for registered, licensed, or volunteer personnel. The legislation exempts currently employed individuals in a home or agency from the "crimes against property" employment requirement if five or more years have elapsed since the terms of the sentence were satisfied, as long as the individual has been continuously employed by the same home or agency.

Representative Bethell provided a brief history concerning **HB 2323** which contained the original intent to restrict those convicted of "person felonies" from being employed in positions where they would be one-on-one with those in nursing facilities. The bill has evolved with **HB 2323** amending current law to include the crime of "theft" to the list of prohibited crimes (Attachment 1).

Many questions were raised concerning procedures and/or processes related to **HB 2323**. Senator Haley inquired whether the statute would apply to nursing homes owned by the same facility; Senator Kelsey asked whether the bill applied to adult care homes only or whether the bill would impact juvenile, adolescent, or child facilities; Senator Brungardt asked how the background checks were conducted and what information was provided, and to whom information was provided. In addition, Senator Kelsey questioned why reports he had received in his previous role never revealed the crime. Representative Bethell clarified the bill applies to all adult-care nursing homes and home health agencies. Representative Bethell reported the process involves submitting a criminal record check request for potential employees through the Kansas Department of Health and Environment (KDHE) to the Kansas Bureau of Investigation. An unredacted criminal record check is then returned to the requesting facility by the KDHE. The passage of this bill would provide the potential employer with information to make informed hiring decisions. In addition **HB 2323** allows the employer to submit criminal records check request for licensed staff and volunteers.

Marla Rhoden, Health Occupations Credentialing, KDHE, reported adding the crime of theft to the

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list of prohibiting conditions was a recommendation (2007) from the Governor's Council on Abuse, Neglect and Exploitation (Attachment 2). She added that passage of **HB 2323** would result in approximately 150 additional notices of prohibition for individuals seeking employment in adult-care homes or home health agencies.

Considerable discussion ensued concerning the possibility of furnishing a redacted report to the agency rather than an unredacted report. Ms. Rhoden explained that a redacted report would result in substantial slowing of the process and increase workload for KDHE staff.

Debra Zehr, President, Kansas Association of Homes and Services for the Aging, encouraged favorable passage of **HB 2323**. She indicated that criminal record checks, in conjunction with careful interviewing and appropriate supervision, help reduce risk to adult care home residents and home health clients (Attachment 3).

Written testimony was provided by:

Joann E. Corpstein, Chief Counsel, and Barb Conant, Director of Public Affairs, from the Kansas Department on Aging (Attachment 4) who supported the legislation.

Ernest Kutzley, AARP, who encouraged passage of **HB 2323** (Attachment 5).

Senator Barnett closed the hearing on **HB 2323**, and announced he would return to possible final action at a later date.

SB 475 - Board of mortuary arts; funeral directors

Renae Jefferies, Office of the Revisor of Statutes Office, provided information concerning **SB 475**. She indicated the bill contains technical amendments to the definition of "funeral director" and provides a definition for "funeral services." She further indicated the legislation becomes effective upon publication in the statute book.

Pam Scott, Executive Director, Kansas Funeral Directors Association, spoke in support of **SB 475**. She elaborated that the legislation is sought in order to change the definition of a funeral director to ensure that all persons offering cremation services are accountable to a regulatory agency and required to be knowledgeable of the laws relating to funeral service and cremation (Attachment 6). She emphasized that current law allows a person to offer cremation services without holding a Kansas funeral directors license.

Ashley Cozine, Immediate Past President, Kansas Funeral Directors Association, clarified that proposed law is a matter of consumer protection and public safety. He reported that most other states require individuals who provide cremation services to be licensed. In Kansas, an individual with no prior experience or formal training could start a cremation business with no regulatory oversight (Attachment 7).

Terry Roberts, President, Midwest Cremation Society, Inc. Presented testimony opposing **SB 475**. She indicated that she has been in business since 2003 (Attachment 8). She reported on the activities and research she performed prior to opening her business. Ms. Roberts explained the services she offers to families in Topeka and surrounding communities (over 800 families served since 2005). Ms. Roberts indicated that, according to her knowledge, her company is the only one in Kansas providing this type of service.

In response to a procedural question from Senator Kelsey, Ms. Roberts explained that once she is contacted by a family, she obtains necessary information and contacts the licensed crematory. The licensed facility transfers the body to their facility for final disposition. Following cremation, Ms. Roberts returns the urn containing remains to the family.

Senator Schmidt inquired about Ms. Roberts educational background. Ms. Roberts responded that she has over 120 college credit hours, 20 hours of education required to hold a funeral directors license, and has participated in apprenticeships in Texas, Mississippi, California, and Utah. Senator Schmidt asked Mack Smith (in the audience), State of Kansas Board of Mortuary Arts, whether

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apprenticeship reciprocity is allowed in Kansas. Mr. Smith responded reciprocity is allowed for licensure, not for apprenticeships. Senator Schmidt asked Ms. Roberts by whom she is regulated. Ms. Roberts answered that her business is unregulated by any agency.

Timili Gartner spoke in opposition to **SB 475** and shared her experience with Midwest Cremation Society, Inc., indicating Ms. Roberts' services had been used recently with the death of family members. She indicated Ms. Roberts provided professional services (Attachment 9).

For the sake of time, Doug Carney, indicated his opposition to **SB 475**, and referred to his testimony which mirrored Ms. Gartner's (Attachment 10).

Senator Barnett indicated written testimony in opposition to **SB 475** was furnished by:

Amy Campbell, on behalf of Terry L. Roberts (Attachment 11)

Melissa A. Wangemann (Attachment 12)

Jim and Patty Scott (Attachment 13)

Roy Coon (Attachment 14)

Sally Sudja (Attachment 15)

Tammi Hendrix (Attachment 16)

Linda Navarrette (Attachment 17)

Denise Thompson (Attachment 18)

Becky Purvis (Attachment 19)

Daryl Hendrix (Attachment 20)

Ruth Alderson (Attachment 21)

Senator Barnett closed the hearing on **SB 475** and adjourned the meeting at 2:34 p.m.

PUBLIC HEALTH AND WELFARE
GUEST LIST
February 11, 2010

NAME	AFFILIATION
Barb Coxart	KDOA
Jeanne Grogan	KDOA
Michelle Peterson	Capitol Strategies
Jermile Brown	Federico Consulting
Maia Rhoden	KDHE
Shirley Berglund, Spots of	KDHE
Mack Smith, Exec. Vec.	KS ST Board of Mortuary Arts
Linda Kersey	KDHE
Donna Calabrese	KDHE
Jashal Shah	KWU
Angie Campbell	Midwest Cremation Society
Sherry L. Roberts	Midwest Cremation Society
Jamie Hartner	Individual
Bob Bethell	House
Ashley Cozime	BEADWAM MORTUARY - WICHITA
Pam Scott	Kansas Funeral Directors Assn
JED DUNNICHAY	PENWELL-GABEL FUNERAL HOMES & CREMATORIES
Michael Breneman	Penwell-Gabel
BEN NEWCOMER	Penwell-Gabel
Jake Huyett	Jones Huyett Partners
Cindi Domsch	Colby Community College - Nursing
Myca Soeken	Colby COMM. COLLEGE - Nursing
Anna Spess	American Cancer Society
D. Meyer	KHRA

STATE OF KANSAS



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TOPEKA

Senate Public Health and Welfare
Room 546 State Capitol
HB 2323

Chairman Barnett and members of the Public Health and Welfare Committee, I am Bob Bethell and I am here today in support of HB 2323.

At the beginning of my Legislative career I was involved with the basic topic of the discussion was the underlying law included in HB 2323. At that time we were concerned with the opportunity to do harm to those vulnerable individuals living in nursing facilities in Kansas. The determination at that time was to restrict those convicted of "Person felonies" of being employed in positions where they would be one on one with those in the nursing facilities.

Today I appear before you because it has become important in our attempt to protect those frail and vulnerable persons from those who would steal from them. HB 2323 simply adds "theft" to the list of prohibited crimes.

I respectfully request that you favorably pass HB 2323.

Mr. Chairman I would stand for questions.

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Date:
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Mark Parkinson, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

www.kdheks.gov

**Testimony on House Bill 2323
Adult Care Homes and Home Health Agencies
Criminal Record Check Program**

**Presented to the
Senate Public Health and Welfare Committee**

**By
Marla Rhoden, Director, Health Occupations Credentialing
Kansas Department of Health and Environment**

February 11, 2010

Chairman Barnett and members of the committee, I am Marla Rhoden, Director of Health Occupations Credentialing for the Kansas Department of Health and Environment. Thank you for the opportunity to appear before the committee in support of House Bill 2323, which would add felony theft as one of the criminal convictions which prohibits an individual from being employed by an adult care home or home health agency. Felony theft is added to the list of convictions in which the prohibition does not apply if five or more years have elapsed since the applicant satisfied the sentence imposed.

Adding theft to the list of prohibiting convictions is a recommendation of the Governor's Council on Abuse, Neglect and Exploitation, which issued its final report in 2007. The Kansas Department on Aging was the agency identified to implement this recommendation. The Kansas Department of Health and Environment administers the criminal record check program.

Passage of this bill would result in approximately 150 additional notices of prohibition for individuals seeking employment in adult care homes or home health agencies.

Additionally, at the request of the Department of Health and Environment, language was added to the bill which would allow adult care homes and home health agencies to submit criminal record check requests for licensed staff as well as volunteers, while retaining the current exemption from requiring them to do so. There are occasions when facilities include the names of licensed staff when submitting criminal record check requests, and staff must sort them out and contact the facility. This slows the process and is an inefficient use of staff time. Also, the option to submit requests on-line is now available, with names forwarded automatically to the Kansas Bureau of Investigation for the criminal history check. KDHE staff does not have an

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Senate Public Health and Welfare

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opportunity to review the names of those submitted for record checks using the on-line system in order to pull the names of licensed staff out of the batch. To include a step in the process to do so would substantially slow the on-line process. Allowing facilities to submit the names of licensed staff and volunteers along with other staff would make the process more efficient and timely for all involved.

The Department of Health and Environment respectfully requests the committee act favorably on House Bill 2323.

Thank you again for the opportunity to provide this information to the committee. I will now stand for questions.



To: Chairman Jim Barnett, and Members,
Senate Public Health and Welfare Committee
From: Debra Zehr, President
Date: Thursday, February 11, 2010

TESTIMONY IN SUPPORT OF HOUSE BILL 2323

Thank you, Chairman Barnett and Members of the Committee. I am Debra Zehr, President of the Kansas Association of Homes and Services for the Aging (KAHSA). We represent 160 not-for-profit nursing homes, retirement communities, hospital long-term care units, assisted living residences, low income housing and community-based service programs that serve more than 20,000 older Kansans every day.

KAHSA stands in support of House Bill 2323, which constitutes an important improvement in the existing adult care home and home health criminal records check statute. The bill would add conviction of felony theft to the list of convictions that prohibit individuals from employment by adult care homes and home health agencies. According to the Kansas Department of Health and Environment, theft is one of the most prevalent convictions of prospective adult care home and home health employees. We believe that prohibiting felony theft will strengthen the ability of employers to reduce the risk of employing persons who may mean their residents or clients harm.

The bill would also allow, but not require, adult care homes and home health agencies to submit criminal records check requests for licensed staff and volunteers through the Kansas Department of Health and Environment to the Kansas Bureau of Investigation. This will provide an additional screening tool for employers to use to reduce the risk that persons who routinely come into close contact with residents or clients have not been convicted of crimes against persons or felony theft.

Criminal records checks are not foolproof. However, done in conjunction with careful interviewing and appropriate supervision, criminal records checks help reduce risk to adult care home residents and home health clients.

Thank you for your favorable consideration of House Bill 2323. I would be glad to answer questions.

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House Bill 2323

Before the Senate Public Health and Welfare Committee
By Joann E. Corpstein, Chief Counsel
Kansas Department on Aging
February 11, 2010

Chairman Barnett and members of the Committee, I am Joann Corpstein, Chief Counsel for the Kansas Department on Aging. The KDOA thanks you for this opportunity to comment on HB 2323. HB 2323 proposes to amend the adult care home and home health agency background check statutes by adding felony theft to the list of crimes that have a five-year ban. This means if a non-licensed person applies for a position with an adult care home or home health agency and has a felony theft conviction; a minimum of five years must have passed since the imposed sentence has been completed. Currently, the list of prohibitive and 5-year ban crimes consists of crimes against persons.

Theft is the most prevalent finding on background checks of applicants seeking to work in adult care homes and home health agencies. As part of our regulatory responsibilities, KDOA is responsible for prosecuting abuse, neglect and exploitation of adult care home residents by non-licensed staff. Unfortunately, we do see theft of residents' possessions by non-licensed staff. Adding felony theft to the five-year ban would reduce the number on individuals who have such a conviction from working in an adult care home or home health agency for a minimum of five years since completion of their sentence.

The Governor's Council on Abuse, Neglect and Exploitation also recommended adding theft to the list of prohibitive crimes.

We also support the amendments that would allow adult care homes and home health agency operators the discretion to request background checks on licensed and registered staff and volunteers. Under the current statutes, only non-licensed staff is required to have background checks. This option will allow adult care home and home health agency management additional information when making hiring decisions.

The Kansas Department on Aging respectfully requests the committee act favorably on HB 2323.

I'll be happy to answer any questions the committee may have.



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February 11, 2010

The Honorable Jim Barnett, Chairman
Senate Public Health and Welfare Committee

Re: HB 2323 – Adult Care Homes-Criminal Background Checks

Good afternoon Chairman Barnett and members of the Senate Public Health and Welfare Committee. My name is Ernest Kutzley, AARP Kansas Advocacy Director. AARP represents the views of more than 359,000 members across the state of Kansas. Thank you for allowing us to provide written comments in support of HB 2323.

Workforce problems – from shortages of specific types of personnel to inadequate training or lack of staffing – affect the quality of long-term services and supports (LTSS) provided in nursing homes and in home- and community-based settings. Workers in these positions who have committed abuse or have criminal backgrounds are yet another serious problem.

The health and safety of consumers receiving long-term care services (LTSS) and supports is a high priority for AARP. We believe that it is the responsibility of federal and state governments to ensure delivery of quality LTSS and to protect the health and safety of consumers. Kansas should explore additional steps to protect its most vulnerable residents from abuse and ensuring the quality of LTSS, including:

- Requiring providers to clear potential employees through the state's registry before hiring them.
- Ensuring that background checks are affordable, conducted in a timely manner, and include a fingerprint check.
- Prohibiting employment of individuals who have been convicted of violent crimes, or crimes involving abuse or neglect of vulnerable individuals, in LTSS settings.

Over

- Requiring providers to notify appropriate state licensing or registration boards of all registered individuals convicted of a felony, resident abuse, or having knowledge of, but failing to report, abuse.
- Considering suspension or revocation of a registered individual's license, registration, or certification after due process and upon conviction.

Finally, states should ensure that ombudsmen have access to the registry and develop a process for sharing information among themselves.

Therefore we respectfully request your support of HB 2323.

Thank you.



KANSAS FUNERAL DIRECTORS ASSOCIATION

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February 11, 2010

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EXECUTIVE DIRECTOR

PAM SCOTT
Topeka

To: Senate Public Health and Welfare Committee

From: Pam Scott, Executive Director

Re: Senate Bill No. 475

Chairman Barnett and members of the Committee, I am Pam Scott, Executive Director of the Kansas Funeral Directors Association. I appear before you today on behalf of the Kansas Funeral Directors Association (KFDA) in support of Senate Bill No. 475. The KFDA represents over 300 funeral homes across Kansas.

Senate Bill No. 475 proposes to amend the definition of "funeral director" in K.S.A. 65-1713 to clarify that it includes the offering of cremation services to the public. We ask for this legislation simply as a matter of consumer protection.

K.S.A. 65-1713(a) currently defines a "funeral director" as "a person engaged in or conducting, or holding oneself out as engaged in or conducting the business of: (1) Preparing dead human bodies, other than by embalming, for disposition; or (2) Meeting with families for the purpose of making at-need funeral arrangements; or (3) *Directing and supervising the disposition of dead human bodies*; or (4) Providing or maintaining a funeral establishment, branch funeral establishment or crematory". (Emphasis added). Cremation is a form of disposition.

We seek to change the definition of a funeral director to assure that all persons offering cremation services to the public are accountable to a regulatory agency and required to be knowledgeable of the laws relating to funeral service and cremations. This request is consistent with the fact that all funeral directors, assistant funeral directors, embalmers and crematory operators are required to have and maintain a license for accountability to the public.

To accomplish this, we are proposing that the definition of a funeral director in K.S.A. 65-1713(a) (3) be amended to include "Arranging for, conducting or supervising funeral services. We have also included a definition of 'funeral services' as "any services which may be used to: 1) care for and prepare deceased human bodies for burial, cremation or other disposition; or 2) arrange, supervise or conduct the funeral ceremony or the final disposition of deceased human bodies." The bill should read "or" rather than "and" on line 31 of the bill between subsections (1) and

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(2). We are also suggesting that “the business of” funeral directing be replaced with “the practice of” funeral directing.

This legislation is necessary because the Kansas State Board of Mortuary Arts (KSBMA), upon the advice of their legal counsel, has decided that Kansas law, as currently written, allows a person to offer cremation services to the public without holding a Kansas funeral directors license. Due to the KSBMA’s interpretation, an unlicensed person, through a company that is not a licensed funeral establishment or crematory, can advertise, arrange, direct and sell cremations directly to the public. The Attorney General’s office provided an informal opinion that such actions do not constitute acting as a funeral director because a person would be “directing” but not “supervising” the disposition of dead bodies if the person did not actually cremate the body. They said the law requires both. We disagree and are asking the legislature to bring clarity to the issue by passing this legislation.

Ashley Cozine, the immediate past president of the KFDA and a member of our Legislative Committee will testify on behalf of the KFDA and explain why our members believe this legislation is important.

I will be happy to stand for questions now or with Mr. Cozine at the conclusion of his testimony.



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February 11, 2010

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PAM SCOTT
Topeka

To: Senate Public Health and Welfare Committee

From: Ashley Cozine, Immediate Past President
Kansas Funeral Directors Association

Re: Senate Bill No. 475

Chairman Barnett and members of the Committee, thank you for the opportunity to testify today. I am Ashley Cozine, a funeral director and President of Broadway Mortuary in Wichita, Kansas. I am Immediate Past President of the Kansas Funeral Directors Association (KFDA).

The Kansas Funeral Directors Association's Executive Director Pam Scott has explained to you the circumstances that bring us here today to ask for this legislation. I will explain to you why you should support the amendments we are requesting.

The KFDA has always believed that Kansas law required that any person offering cremation services to the public must hold a Kansas funeral directors license because of the definition of a funeral director in K.S.A. 65-1713(a). Since the Kansas State Board of Mortuary Arts (KSBMA) has interpreted Kansas law otherwise, we are seeking this legislative change. Most other states including Missouri, Nebraska and Oklahoma interpret their laws to require individuals providing such cremation services to be licensed.

If this bill is not enacted and the definition of a funeral director is not changed, a person with no formal business office and only a phone number for contact purposes could offer their services to the public for a fee with no accountability or regulation. Upon receiving a phone call from a family, they could go into a family's home for the purpose of making cremation arrangements. For a fee, that person could obtain a cremation authorization form, collect information for a death certificate, arrange for the body to be delivered to the crematory, pay the crematory a fee to cremate, and then pick up and deliver the cremated remains to the family.

The KFDA believes such actions constitute funeral directing because such person is directing and supervising disposition from beginning to end. The only thing such a person does not do is actually cremate the body.

Funeral directors are experts in assisting a family in all aspects of death care and helping them through one of the most difficult times of their lives. They work 24

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hours a day, 7 days a week to help the families they serve. They are prepared for this role through licensure requiring 60 hours of college education, an apprenticeship under the guidance of a licensed funeral director, a written examination which covers Kansas mortuary law, business law, the sociology of funeral service, psychology, and Kansas funeral directing and preneed laws. Once licensed they are subject to on-going continuing education.

We would like to emphasize that Kansas law does not prohibit a family from burying or arranging for the cremation of their loved one on their own, without using a licensed director or funeral home. They can work with the crematory directly if the crematory operator in charge of the crematory is a licensed funeral director or embalmer as Kansas cremation statutes require. However, when a family hires a complete stranger to arrange, direct and supervise a cremation on their behalf, it is important such services should only be provided by a person who has received proper education and training and who is knowledgeable of Kansas laws regulating cremation. That person is a licensed funeral director. Accountability to the KSBMA and the consumer are paramount.

The public deserves to be protected especially in light of the several scandals that have occurred across the country involving crematories and cemeteries. Kansas was ahead of the game by passing crematory regulations before problems occurred with the Tri-State Crematory in Georgia. If a scandal involving missing money or wrongful cremation due to lack of proper authorization would hit Kansas, the public will cry out for such legislation.

Without regulatory oversight, anyone could start a cremation business. There would be no one to assure a person walking into a consumer's home does not have a criminal record. If a problem arose concerning missing money or wrongful cremation due to lack of proper authorization, the public would ask why such legislation was not already in place. The most frequent question we get in the KFSA office is who has the right to control disposition or give authorization in complex family situations. The answer requires knowledge of Kansas law.

There are many professions in Kansas that require a license where perhaps an unlicensed individual could perform certain tasks in a safe and competent manner. Licensing laws, however, are in place to protect the consumer against instances where the person providing services and taking consumers hard earned dollars are unprofessional, incompetent, and untrustworthy. Licensing laws provide minimum educational requirements, standards of conduct and most importantly accountability.

Some may argue that by allowing an unlicensed individual to offer cremation services to the public, there will be a cost savings to the consumer. That may or may not be the case. Prices vary from one funeral home to another. Consumers should always shop around for the prices and services that meet their needs. Cost is not the issue here. Consumer protection and accountability is.

I appreciate the opportunity to appear before you today and hope that you will support this consumer friendly legislation. Kansas has a reputation of being "out front" in protecting the consumer in funeral service. We are proud to serve with high ideals and good laws that help police the profession and safeguard consumers. I would be happy to answer any questions you may have. Thank you.

MIDWEST CREMATION SOCIETY, INC.

P.O. BOX 4762
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January 11, 2010

To: House Health and Human Services

From: Terry L. Roberts, President
Midwest Cremation Society, Inc.

Re: Senate Bill 475

Chairperson and members of the committee, my name is Terry L. Roberts, President and owner of Midwest Cremation Society, Inc. I represent Midwest Cremation Society, Inc. and the 800 families I have served throughout the communities of Kansas since 2005. I appear before you today in opposition to Senate Bill 475.

It has been recently stated by the KFDA, "It has come to our attention that there is a company offering cremation services to Kansas consumers." My company has existed and offered direct cremation services to Kansas consumers since September 2003 and incorporated in January of 2005. Before beginning this business, I studied laws, spoke with licensed establishments and consulted with the Kansas State Board of Mortuary Arts. It was very important to me to ensure my new business was absolutely legal. A description of my business plan was submitted to the Attorney General's Office by the Kansas State Board of Mortuary Arts. After consideration I was given permission to proceed. Recently the KFDA requested a formal opinion from the Attorney General. The opinion is attached to my testimony. Let me explain what my services offer to the community.

When a death occurs and that family opts to use Midwest Cremation Society to assist them with their cremation needs they notify me by phone that assistance is needed. Information is obtained from the family for removal of their loved one from where death occurred. Midwest Cremation Society contacts the personnel at the licensed establishment/crematory and pertinent information is relayed to their personnel to ensure a dignified removal and transition to the custody and care of the licensed facility.

The following day, or when appropriate, I contact the next of kin and schedule a time to meet with them in the comfort of their home to explain my services. I have found going to their home is very comforting for a family. They are in familiar surroundings with other family members and friends. Also, the elderly do not have to get out during bad weather days in Kansas. After explanation of my services I obtain information for all necessary paperwork and signatures for cremation authorization from the proper authority as required and defined in K.S.A. 65-1734. The required information is submitted to the crematory and the paperwork required for the death certificate, permits and cremation is completed by the licensed establishment.

After the cremation has been completed I pick up the urn from the licensed establishment which the family (authorizing agent) has given me authorization to do for them and deliver the urn where the family (authorizing agent) has designated in writing. As defined under 65-1760 (b) "Authorizing agent" means a person legally entitled to authorize the cremation and final disposition of specific dead human bodies as defined in K.S.A. Supp. 65-1734, referenced above.

I do not make at need funeral arrangements. I only deal with one aspect of final disposition, i.e. cremation. I am more akin to a cemetery as it relates to the final disposition of a deceased person. A family has the right to bury its own dead without using a licensed funeral director. A family may bury or make final disposition of their own dead so long as they are able to file the appropriate paperwork and comply with all state and federal and local health laws. Quite simply, I act as an agent by sharing 20 years of knowledge in this industry by assisting the authorizing agent to arrange for the final disposition of cremation for their loved one and offer a more economic resource for the community.

I have earned the 20 hours of education required by Kansas to hold a funeral director's license. However, I do not at this time wish to be a licensed funeral director. I do hope to continue to offer a valuable service to my community by serving families at a very sensitive time of need. If the State of Kansas would ask my business to submit to additional oversight, I would be happy to discuss those options.

Thank you for your time and consideration in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Terry L. Roberts". The signature is fluid and includes a long horizontal flourish at the end.

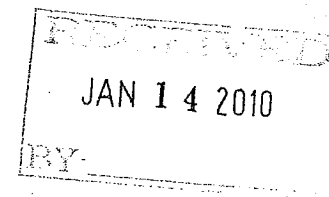
Terry L. Roberts



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

STEVE SIX
ATTORNEY GENERAL

January 12, 2010



120 SW 10TH AVE., 2ND FLOOR
TOPEKA, KS 66612-1597
(785) 296-2215 • FAX (785) 296-6296
WWW.KSAG.ORG

Fred G. Holroyd, President
Kansas State Board of Mortuary Arts
700 SW Jackson Street, Suite 904
Topeka, Kansas 66603

Re: Public Health--Regulation of Embalmers and Funeral Directors; Funeral Establishments--Funeral Director's License; Direct Cremation Providers

Dear Mr. Holroyd:

You inquire whether a person who acts as an agent for families in securing cremation services (direct cremation provider) is practicing the business of funeral directing without a license in violation of K.S.A. 65-1714.

K.S.A. 65-1714 provides, in part:

It shall be unlawful for any person to engage in, or attempt to engage in, the business of a funeral director . . . without a funeral director's license. . . .

While "business of a funeral director" is not defined in the statutes governing the mortuary arts, the term "funeral director" is defined as follows:

A 'funeral director' is a person engaged in or conducting, or holding oneself out as engaged in or conducting the business of:

- (1) Preparing dead human bodies, other than by embalming, for disposition; or
- (2) Meeting with families for the purpose of making at-need funeral arrangements; or
- (3) Directing and supervising the disposition of dead human bodies; or
- (4) Providing or maintaining a funeral establishment,¹ branch funeral establishment or crematory.²

¹A "funeral establishment" is a business premises where a funeral service, visitation, or lying-in-state of a dead human body is arranged and conducted, or dead human bodies are embalmed or otherwise prepared for a funeral service, visitation . . . burial, cremation or transportation. K.S.A. 65-1713a

²K.S.A. 2008 Supp. 65-1713. Emphasis added.

Information provided to this office by the Kansas Funeral Directors Association³ and the attorney⁴ for the direct cremation provider (DCP) at issue here describe the services provided by the DCP:

1. Meets with families to arrange for cremation. Acts as family's agent in arranging transportation of the body to a licensed crematory and cremation of the body.
2. Secures cremation authorization from the appropriate family member.
3. Contacts a licensed crematory to arrange for the cremation.
4. Arranges for transportation of the body directly to the crematory.
5. Licensed crematory cremates the body and delivers cremated remains to DCP
6. DCP provides cremated remains to family.

Based upon this information, the question is whether the DCP is engaged in the business of a funeral director by virtue of the activities described in the italicized sections of the statute referenced above.

I. "Meeting with families for the purpose of making at-need funeral arrangements"

The DCP meets with families. The issue is whether the DCP does so for the purpose of making "funeral arrangements." "Funeral arrangements" is not defined in the mortuary arts statutes or regulations. However, "funeral" is defined in the regulations governing funeral directors as "a religious service or other rite or ceremony with a dead human body present."⁵ Thus, absent evidence that a DCP is arranging a religious service, rite, or ceremony, a DCP is not engaged in the business of meeting with families for the purpose of making at-need funeral arrangements. Should the Kansas Board of Mortuary Arts (Board), through its regulatory power⁶ or the legislature determine that "funeral arrangements" should include the type of service offered by direct cremation providers, either the Board or the legislature can enact an appropriate regulation or statute.

³Letter dated October 8, 2009 from Pam Scott, Executive Director/Kansas Funeral Directors Association.

⁴Letter dated October 31, 2009 from Nancy Freund of Murphy & Freund.

⁵K.A.R. 63-1-1(h).

⁶K.S.A. 65-1723.

II. "Directing and supervising the disposition of dead human bodies"

"Disposition" includes cremation.⁷ Thus, the issue is whether the services provided by a DCP constitute "directing and supervising the cremation of dead human bodies."

"Direct" means "to . . . guide; order; command; instruct."⁸ Using this broad definition, "direct" could include a number of individuals involved in the cremation process including: (1) the person legally entitled to authorize the cremation⁹ (e.g. a family member),¹⁰ (2) the crematory operator,¹¹ and (3) a funeral director or assistant funeral director.¹²

"Direct" could also include a DCP because the latter acts as the agent of the individual legally entitled to authorize the cremation.¹³ In that sense a DCP "directs" cremation.

"Supervising" means "to have general oversight over, to superintend or to inspect."¹⁴ In order to determine whether a DCP "supervises" the cremation of dead bodies, it is helpful to understand the statutes and regulations governing cremation.

It is unlawful to operate a crematory unless the person is "an operator in charge of a crematory" and is licensed by the Board.¹⁵ A "crematory operator in charge" is "the crematory operator who is responsible to ensure that . . . the licensed crematory is in compliance with the laws and regulations of the state."¹⁶ A crematory operator in charge can cremate only if certain requirements are met.¹⁷

The crematory operator in charge "shall supervise" the licensed crematory and is responsible for performing duties "relating to the supervision of a crematory as prescribed by the board by rules and regulations."¹⁸

In addition to crematory operators in charge, funeral directors and assistant funeral directors are authorized "to arrange" the cremation of a body upon receipt of a

⁷K.A.R. 63-1-1(c).

⁸Black's Law Dictionary 546 (Revised, 4th ed. 1968).

⁹K.S.A. 65-1734 (persons authorized, in order of priority, to order final disposition of decedent's remains: spouse, surviving adult children, surviving parents etc.)

¹⁰K.S.A. 65-1760(b); K.S.A. 2008 Supp. 65-1762(b)(1); K.S.A. 65-1734; K.S.A. 65-1764.

¹¹K.S.A. 2008 Supp. 65-1762(a).

¹²K.S.A. 65-1764(b).

¹³"I/We understand and acknowledge that [the DCP] . . . is *acting as our agent* to arrange for the transportation to the Crematory for the Cremation Process and any and all other duties as they pertain to the necessity to complete all services contracted by me/us." Emphasis added.

¹⁴Black's Law Dictionary 1607 (Revised, 4th ed. 1968).

¹⁵K.S.A. 65-1768(a)(f).

¹⁶K.S.A. 65-1750(h).

¹⁷K.S.A. 2008 Supp. 65-1762(b).

¹⁸K.S.A. 2008 Supp. 65-1762(a); K.A.R. 63-7-2; K.A.R. 63-7-4.

cremation authorizing form.¹⁹ Assuming that "arrange" includes supervision, the individuals responsible for supervising a cremation are crematory operators in charge and, possibly, funeral directors and assistant funeral directors – not direct cremation providers.

Based upon the information provided, a DCP, as agent for the individual authorizing the cremation, "directs" but does not "supervise" the cremation. Both directing *and* supervising a cremation are necessary before one must be licensed as a funeral director.²⁰

We also note that Kansas law does not prohibit the services provided by a direct cremation provider. Crematory operators can cremate provided they have a cremation authorization form and a coroner's permit to cremate.²¹ The cremation authorization form includes "the name of the funeral director or assistant funeral director . . . or the authorizing agent, that obtained the cremation authorization."²² An "authorizing agent" is the person "legally entitled to authorize the cremation and final disposition of specific dead bodies, as defined in K.S.A. 65-1734."²³ K.S.A. 65-1734 identifies those individuals as agents possessing a power of attorney for health care decisions, family members, guardians, and personal representatives – not funeral directors and assistant funeral directors.

Moreover, while state law requires dead human bodies to be transported from the location of death to funeral establishments, crematories, and other facilities, the law is silent regarding *who* can transport dead bodies.²⁴ A crematory operator in charge is responsible only for noting "the name of the *person*, funeral establishment, or branch establishment delivering the body for cremation."²⁵

¹⁹K.S.A. 65-1764(b).

²⁰*State v. Manbeck*, 277 Kan. 224, 228-229 (2004) ("and" is a conjunctive).

²¹K.S.A. 2008 Supp. 65-1762.

²²*Id.* at § (b)(1)(B). Emphasis added.

²³K.S.A. 65-1760(b).

²⁴K.S.A. 2008 Supp. 65-1753.

²⁵K.A.R. 63-7-2(c)(1). Emphasis added.

Fred G. Holroyd
Page 5

Therefore, as state law does not condition cremation on the participation of a funeral director or assistant funeral director, a crematory operator may cremate bodies at the request of a direct cremation provider.²⁶

Sincerely,

OFFICE OF THE ATTORNEY GENERAL
STEVE SIX



Mary Feighny
Deputy Attorney General



Camille Nohe
Assistant Attorney General

MF:CN:jm

²⁶See Tex. Atty. Gen. Op. GA-0218 (2004) (person authorized to dispose of remains of decedent may contract directly for cremation services).

February 10, 2010

To: House Health and Human Services Committee
From: Timili McCormick Gartner
Re: Senate Bill No. 475

I appear before you today in opposition to Senate Bill No. 475.

On December 8th, 2009, my sisters and I prepared ourselves for one of the most difficult and painful events in our lives, the loss of our mother. Her doctors had explored and tried every method of treatment but her illness advanced and her aged body was worn and tired. Our mother, Shirley McCormick, passed away December 10, 2009. In our sadness we were unsure of how to proceed. Our mother did not discuss her death with us and I think it was related, in part, to the beliefs practiced by her mother's religion that she learned as a child. Their religious practices did not dwell on age, was void of ceremonies and celebrations of life's events-baptisms, marriage ceremonies as well as funerals. My mother joined my father's church (First Presbyterian Church) upon their marriage but my grandmother's presence and beliefs were a big part of our family through the years.

When we were told in the hospital ICU that our mother was dying we began to discuss the options for her service. We considered and discussed a traditional burial, cremation, embalming, the effects of embalming chemicals and caskets and vaults on the environment and the expenses involved given our country's current economic crisis.

I was acquainted with Terry Roberts although I did not know her well. I knew she operated a business dealing with end of life supports but I wasn't familiar with the scope or type of business she operated. One of my sisters and I spent the last hours of our mother's life with my mother in the hospital and began the sorrowful task of choosing final plans for the end of her life. Our father had passed away fourteen years early and we did participate in the arrangements made for his burial and a traditional funeral and church service. It was a beautiful service but time had passed and life brings changes.

After discussing matters with two other sisters it was decided that I would call Terry Roberts and inquire if her business included arrangements for a traditional burial with a casket, etc. I made the call and explained my mother was in her final hours and asked about her business. She said she did not provide services related to a traditional burial. Because we were acquainted she offered to help us make the arrangements with a funeral home, even go with us to assist with our mother's final plans. She was very kind and compassionate but at the same time professional – providing information and knowledge of her 20 years experience of working in the funeral home industry.

I then asked her about cremation and she explained how it worked and the supports she could provide. She said she would function as our agent. If we chose cremation, she would call a licensed crematory and they would provide transportation for our mother from the hospital. She would then meet with us at our home and help us complete necessary paperwork that must be submitted to Social Security and the State upon a person's death. Upon completion of the cremation she would deliver the cremains back to us in a container that is legally marked.

I took all of this information back to my sisters. Again we considered the options of a traditional burial with a funeral home, the expense, affects on the environment, and of course, what our mother wishes may have been. I recalled conversations with my mother when my father passed away and her belief that his life and spirit were no longer a part of his human body and that life continues forever and is everlasting. The human body, after death, is not everlasting. Whether the body is buried or cremated is inconsequential so what was important in making our decision was really the love and spirit of our mother.

We decided on cremation so I called Terry Roberts. The crematory sent a very kind, respectful young man to transport our mother. We accompanied her to the door of the hospital and said our final farewells. Terry came to our home to help us with the paperwork. In the following days, my sisters and I ordered flowers and met with the pastor at our church to plan the memorial service. A luncheon was planned following the service at the church, which included cold cuts and pickles from Porubsky's and a large pasta salad that I had made. I wrote my mother's obituary as well as a speech to share personal remembrances with the people attending the memorial service. One of my sister's was able to arrange for

Kelly Hunt to sing and play the piano, a Kansas recording artist with a wonderful, beautiful rich voice. The memorial service was lovely. Although we were terribly saddened and heartbroken at the loss of our mother -- to be involved so personally each step of the way seemed almost therapeutic.

The arrangements for our mother's services were very personal choices including our choice to use Terry Robert's service, Midwest Cremation Society. She was caring and compassionate as well as professional. She shared her knowledge with us and we were able to make informed choices. Certainly most people find it hard to function and think clearly and make choices when making final plans for a loved one. However, Terry's information and support was clear cut, understandable and provided us with the opportunity to participate personally in the final plans for our mother.

On January 2, 2010, my sister, Mary McCormick, suffered a massive brain aneurysm and passed away three days later. She was fifty-five years old. Mary was ill and hospitalized most of her adult life. So soon following our mother's death, this was a shock and a very sad time for my sisters and I. We were her only family and after discussing it between us, we decided to call Terry Roberts to assist us in Mary's final plans. Again, Terry was professional, clear in explaining what will happen with the supports she provides. Our sister's final plans were made with dignity and respect for her life and we were fortunate to be able to participate personally in the choices surrounding her death.

Thank you for the opportunity to share my experience with Terry Roberts and Midwest Cremation Society.

Timili McCormick Gartner

Timili McCormick Gartner
306 SW Elmwood Ave.
Topeka, KS 66606

January 11, 2010

To: House Health and Human Services
Chairperson and members of the Committee

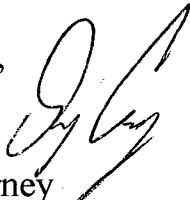
From: Doug Carney, Consumer

Re: Senate Bill 475

I appear before you today with testimony of my personal experience with Midwest Cremation Society and why I am in opposition of Senate Bill 475.

My Father passed away on February 2nd, 2009. During this extremely difficult time, my family and I contacted Terry Roberts with Midwest Cremation Society. She did an excellent job and provided superior service and consultation to me and my family. She came to us in the comfort of our home and explained to us step by step the handling of our loved one. She took care of every detail and answered all of our questions and explained the actual cremation would be performed by a licensed establishment, which turned out to be someone who I knew personally. My family and I could not have hoped for a better professional experience during this very painful time and would highly recommend Terry and Midwest Cremation Society to anyone needing help with making their final arrangements for a loved one.

Sincerely,


Doug Carney
Topeka, Kansas

Senate Public Health and Welfare

Date:

02/11/10

Attachment:

10

Testimony to the Senate Public Health and Welfare Committee

Presented by Amy A. Campbell

February 11, 2010

Re: SB 475

Thank you for the opportunity to appear before the committee to testify in opposition to SB 475.

It appears that SB 475 is being promoted by the Kansas Funeral Directors Association in order to expand the activities that must be performed by a licensed funeral director, and thus, to eliminate competition from a small business in Topeka.

Midwest Cremation Society is a small business that acts as an agent for families in securing cremation services – a direct cremation provider.

On January 12, 2010, the Office of the Attorney General issued an opinion as a result of a question submitted by the Kansas State Board of Mortuary Arts. According to that opinion, the direct cremation provider (DCP):

- Meets with families to arrange for cremation. Acts as family's agent in arranging transportation of the body to a licensed crematory and cremation of the body.
- Secures cremation authorization from the appropriate family member.
- Contacts a licensed crematory to arrange for the cremation.
- Arranges for transportation of the body directly to the crematory.
- Licensed crematory cremates the body and delivers cremated remains to the DCP.
- The DCP provides cremated remains to the family.

The opinion addressed two issues:

I. "Meeting with families for the purpose of making at-need funeral arrangements"

'The DCP meets with families. The issue is whether the DCP does so for the purpose of making "funeral arrangements." "Funeral arrangements" is not defined in the mortuary arts statutes or regulations. However, "funeral" is defined in the regulations governing funeral directors as "a religious service or other rite or ceremony with a dead human body present." Thus, absent evidence that a DCP is arranging a religious service, rite or ceremony, a DCP is not engaged in the business of meeting with families for the purpose of make at-need funeral arrangements.' Should the Kansas Board of Mortuary Arts (Board), through its regulatory power or the legislature determine that "funeral arrangements" should include the type of service offered by direct cremation providers, either the Board or the legislature can enact an appropriate regulation or statute.'

II. "Directing and supervising the disposition of dead human bodies"

'Based upon the information provided, a DCP, as agent for the individual authorizing the cremation, "directs" but does not "supervise" the cremation. Both directing and supervising a cremation are necessary before one must be licensed as a funeral director.'

'We also note that Kansas law does not prohibit the services provided by a direct cremation provider....

...Moreover, while state law requires dead human bodies to be transported from the location of death to funeral establishments, crematories, and other facilities, the law is silent regarding who can transport dead bodies.'

The last item is noteworthy, because Midwest Cremation Society does not transport bodies, but certainly, according to this opinion, could do so legally.

Senate Public Health and Welfare

Date:

02/11/10

Attachment:

11

In fact, the service provided by Terry Roberts and her local business is to assist families with access to licensed cremation providers. Any effort to amend Kansas statutes to restrict the services that she can provide has a direct effect on families and limiting what they can do on their own behalf in arranging for their family member's final disposition.

I am not an expert as it relates to the regulation of funeral homes and funeral directors. However, it appears that the language in proposed SB 475 will significantly expand the role of funeral directors. It appears that this language could require a licensed funeral director to work at the Coroner's office and at every cemetery.

See below:

(c) "Funeral services" are any services which may be used to: (1) Care for and prepare deceased human bodies for burial, cremation or other final disposition; and (2) arrange, supervise or conduct the funeral ceremony or the final disposition of deceased human bodies.

Terry Roberts sought the approval of the Kansas State Board of Mortuary Arts before opening her business in 2003. She has maintained regular communication with the Board and has responded cooperatively to any concerns brought to her attention. There have been no consumer complaints against her business.

Midwest Cremation Society provides a significant community service by serving families who have limited income and are receiving state assistance. In 2009, the business served approximately 60 families in this situation. The State of Kansas pays \$550 toward the burial and/or cremation of Medicaid recipients. In a recent circumstance, Terry had the opportunity to actually return money to the State while serving one of these families. The deceased person had a pre-arranged funeral insurance agreement, which was transferred to Midwest Cremation Society to cover the family's expenses.

After serving the family, the difference in the pre-purchased insurance and the actual costs of Terry's services was remitted back to the State - in the amount of \$8611.70. This is a unique example, but surely indicates the significant cost difference between purchasing direct cremation services vs. utilizing the full services of a funeral director and funeral home. One is not necessarily better than another.

Without a doubt, funeral directors and funeral homes provide a very important service in our society. Most families could not imagine foregoing a traditional embalming, casket, funeral service and burial. This legislation is not necessary to protect their primary role in our traditions.

- Families should have options.
- Legally provided, direct cremation services pose no potential public harm.
- Direct cremation services are significantly less expensive than traditional funeral services.
- Cremation is provided by a licensed and regulated establishment – the crematory.

It is my understanding that this legislation was requested by the Kansas Funeral Directors Association and not by the Kansas State Board of Mortuary Arts. Surely, if there was a regulatory problem, the Board would initiate action.

As is shown by the number of individuals who chose to submit supportive letters today and the increasing number of families who are choosing to use direct cremation services, it is not right to further limit the options available to Kansans.

Please oppose SB 475.

*Written
testimony*

Testimony to the Senate Public Health Committee
on SB 475

Chairman Barnett and Members of the Committee:

I appreciate the opportunity to take off my lobbyist hat and offer written testimony as a consumer in opposition to SB 475. I want to clarify from the outset that this testimony is offered in my individual capacity.

I am Melissa Wangemann and I am a resident of Topeka, Kansas. I was appointed as a consumer member of the Kansas State Board of Mortuary Arts by Governor Bill Graves in 1997. I was reappointed by Governor Graves in 2000. I was reappointed by Kathleen Sebelius for two terms, with my last term ending in 2009. Governor Parkinson's appointment secretary asked me to stay on the board, but I opted to retire my board position. I served 12 years on the Board representing Kansas consumers and guarding against abuses within the funeral industry.

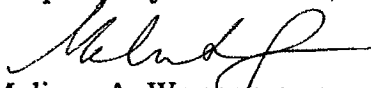
SB 475 is legislation aimed to protect the funeral industry from competition and will cause harm to consumers. The bill alters the definition of "funeral services" in order to outlaw one person's business within the Shawnee County area. This business offers pick-up and delivery arrangements for families who opt to cremate their loved one. This service creates a cheaper option for families who are making final arrangements.

Funeral services average \$7,500 for a burial service. Cremation offers a lower-priced option. If a consumer must employ a funeral director to effect the cremation process, that adds costs to the consumer.

This bill may be touted as a bill to protect the public welfare from unlicensed individuals. If there were concerns about unlicensed activity, a bill to address the concerns would come from the regulatory board itself, not an industry association. The Executive Director of the Kansas State Board of Mortuary Arts can tell you that there have been no consumer complaints received by the board on this activity. I would note that crematories are licensed, and therefore the cremation process itself is regulated.

I appreciate the committee's consideration of my comments.

Respectfully Submitted,


Melissa A. Wangemann
Topeka, Kansas

Senate Public Health and Welfare

Date:

02/11/10

Attachment:

12

TO: Senate Public Health and Welfare
FROM: Jim & Patty Scott
RE: Senate Bill 475

Chairperson and members of the committee;

This letter is in opposition to Senate Bill 475. We have been served and blessed by Terry Roberts 3 times in the past 18 months. First, to lose 3 of our loved ones in that short of time is more painful than I pray any of you will ever know. We lost a set of parents and then a son. As much sadness and feeling of utter loss and aloneness there was at that time, we also felt fear of making decisions for our loved ones remains. We knew our families desire to be cremated but we had moved them from out of state to be with us and did not want to incur the expense of a "funeral" with no one else in our community knowing them. We found an advocate on our side when we were put in touch with Terry Roberts. Terry did everything to keep with the laws of Kansas and help us make decisions without guilt and regrets. Upon losing our son, she helped us again and we then realized that everyone should have the option to make decisions for their loved ones without being under financial pressure. Terry assisted us with the "paper work" that is so hard to fill out when you are trying to remember everything else that has to be accomplished at that time. We feel the need to oppose this bill and allow Midwest Cremation Society, Inc. to continue to serve other families with professional and compassionate service, as she did ours.

Sincerely,

Jim & Patty Scott

February 9,2010

To whom it may concern;

My name is Roy Coon and I am writing this letter to you in regards to Terry Roberts, and what the local funeral homes are trying to do to her as far as her business and the service she provides to our community. I have recently had the pleasure of using her service when my Father John W. Coon passed away due to cancer in May 2008 And then again in Nov. 2008 when my Mother Gail A. Griffin passed away of cancer. Terry took care of all the paperwork and any other things that went along with cremation's and delivered both to us in a timely manner, a great quality of service and an affordable service . She made our loss as painless as possible. I truly believe that the people in our community would suffer a great loss if she were deprived of her ability to provide service to this community. So please consider everything before making a final decision on Terry and what she can offer to the families here in Topeka and the surrounding areas.

Sincerely.

Roy Coon

Senate Public Health and Welfare

Date:

02/11/10

Attachment:

14

Midwest Cremation Society, Inc.
2018 SW Collins Ave.
Topeka, Kansas 66604

December 14, 2009

Attn: Terri Roberts

RE: Robert L. Martin

Dear Terri,

I can't tell you how much we appreciate all the help you have given us at a very difficult time. When we didn't know what we needed to do, let alone how to go about doing it, you didn't hesitate to point us in the right direction. You gave us names and phone numbers of people we needed to call, and the comfort and care you showed us were such huge blessings – you can't even imagine. To top everything off, you made it a point to deliver my brother to us, even though you don't usually do that. Words cannot express the gratitude we have for your thoughtfulness and deeds. You are indeed a special woman, and you can bet whenever the opportunity arises, we will recommend you to others who lose loved ones.

Terri, I am enclosing the check we received from the Kansas State Bank for the balance of his savings. It is made out to both you and Dad, and Dad has signed the back of the check already. If you would now apply it toward the bill we paid, deposit it, and then send us a reimbursement, I would surely appreciate it.

Thanks again for your help.
Best wishes,
Sally Sudja
113 E. 1900 Rd.
Baldwin City, Kansas 66006

785-594-7496
785-766-6015



Senate Public Health and Welfare

Date:

02/11/10

Attachment:

15

February 9, 2010

Midwest Cremation Society
PO Box 4762
Topeka, KS 66604

Dear Ms. Roberts,

Thank you so very much for being there to assist me with the time of loss of my mom, and best friend. This was my first and most difficult experience. It helped so much to have you go through all the details with your professionalism and utmost kindness.

My sincerest appreciation for all you did from the first call, and all you continue to do.

Respectfully,

Tammie Hendrix

February 9, 2010

To Whom It May Concern:

My name is Linda J. Navarrette and I have just learned of the terrible situation that Terry Roberts is in and what the local funeral homes are trying to do to her and the wonderful service she provides to this community.

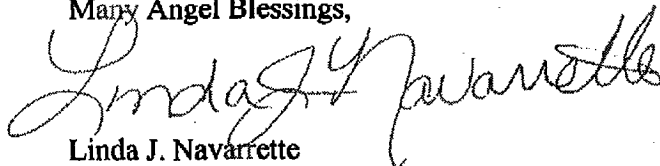
My finance, William R. Coon, lost his father and his mother within 6 months of each other and I did not have to deal with Terry directly, but what I saw her do for the family and how she treated the family just amazed me. When she was handling all the paperwork and details was far more than what I, and I believe the family, ever expected. She provides a wonderful service and most important, in these hard economic times, and affordable one.

Losing Terry's service would just be so unfair to her, she obviously does a well job because she cares and you don't feel like just another family burying a loved one. It would just be terrible for all the families out there in the community to not have the option as to who to go to, and to not have that option of an affordable price.

The Coon family went with Terry not just once, but went back to her a second time because of what she provides. Please consider very carefully to what you are truly doing, not only to Terry Roberts, but to all the families in Topeka and the surrounding communities.

I personally will be using her service again and I too will refer my family and friends to her. I feel that she will be there for me and my loved ones with the kindness and respect that is needed at that time of need.

Many Angel Blessings,



Linda J. Navarrette

February 9, 2010

To whom it may concern:

My name is Denise Thompson and I am writing this letter to you in regards to Terry Roberts, and what the local funeral homes are trying to do to her as far as her business and the service she provides to our community. I have recently had the pleasure of using her service when my brother-in-law Jayson passed away unexpectedly. Her knowledge and compassion, when she handled Jayson's affairs was far more than I would have ever expected. She took care of all the paperwork in a timely fashion and was always there if we needed her for anything. She provides an affordable service to all and makes the transition very painless to the families involved.

Losing Terry's service would be a great injustice to her, and to the families that she could serve here in our community. I truly believe that the people would take a huge economical lose, because with Terry, we have a choice of where we want our loved ones taken to, and cared for at a price everyone can afford. So please consider everything before making a final decision on Terry and what she can offer to the families here in Topeka, and the surrounding areas, because we need her and everything she has to offer us in our time of loss with our loved ones. I will be using her service again and will refer all my friends and family to her. She will handle our loved one with great respect and dignity as if it the loved one was her own family. God Bless Terry, and what she did for my family in our time of need.

Sincerely,

A handwritten signature in cursive script that reads "Denise Thompson". The signature is written in black ink and is positioned above the printed name.

Denise Thompson

Senate Public Health and Welfare

Date:

02/11/10

Attachment:

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(No Subject)

From: **grandma4x2@cox.net**

Sent: Tue 2/09/10 11:37 PM

To: tlhroberts@hotmail.com

Dear Terri ! Thank you for helping myself and my family with my brothers cremation. You are such a pleasant person to talk to and very caring and understanding of our personal loss. Midwest Cremation Society is the best thing for people like myself (that have family members that did not have life insurance.) My brother wanted to be cremated because he knew the cost of having a Funeral at a Funeral Home. This way we did not have the expense of the Funeral Home. I had a get together at my house with close family and friends and it was nice. My sister and I fixed up a picture board for everyone to look at and to recall good times. I will take one day at a time to learn to live without my Dear brother Robert he will greatly missed. Again Thank you from the bottom of my heart for all your help. God will bless you. Becky Purvis and Family of Robert Purvis

Senate Public Health and Welfare

Date:

02/11/10

Attachment:

19

February 9, 2010

To: House Health and Human Services

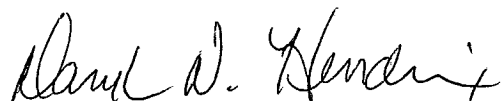
From: Daryl D. Hendrix

Re: Senate Bill 475

Chairperson and members of the committee, I Daryl D. Hendrix write this letter to you in opposition of Senate Bill 475 which was introduced by the Kansas Funeral Directors Association for the following reasons:

1. Terry Roberts, AKA Midwest Cremation Society acted as our agent in the final disposition of my aunt, Nita Hendrix. Her professionalism and caring nature helped our family cope with our loss. It is obvious she takes pride in her work and we didn't have to deal with the inflated prices of a funeral home. This ridiculous bill eliminates the consumer's choice in today's tough economic times.
2. Terry Roberts has not only served our family professionally but is a close friend as well. I would not and have not hesitated to recommend her to numerous friends for her many fine contributions to the industry. It is an absolute shame that the "Big Dogs" are trying to edge her out. I plead with you to NOT take away her livelihood and place a bigger financial burden on the public.

Respectfully,



Daryl D. Hendrix

February 10, 2010

Dear Chairman Barnett and Members of the Senate Committee on
Public Health and Welfare:

My name is Ruth Alderson and I am writing in opposition to Senate Bill No. 475. It is my understanding that passage of this bill would make it impossible for persons like Terry Roberts to continue serving Kansas consumers in the manner they now do.

Early in 2007, my father at the age of 91 suffered a heart attack and was diagnosed as having congestive heart disease. His prognosis was not good. A friend suggested contacting Terry Roberts. So, early that spring, in anticipation of my father's death, I contacted Ms. Roberts. She came to our house and my husband and I related to her that my father wanted to be cremated and that we had no plans for a funeral service. Ms. Roberts explained to us the process that she would follow in the event of my father's death. We gave Terry the information she needed and she gave me the telephone number to contact her at the time of my father's death.

On June 1, 2007, my father passed away. I contacted Terry and explained to her that there would not be a service and, in fact, because some of the immediate family members were in Europe, it would a while before the family could get together for a private service. Terry proceeded as she said she would. She completed the paper work for me and told me that, when I was ready, to contact her and she would bring the remains to me.

Our experience with Terry was excellent. We could not be more pleased with her services. There was no pressure or any decision-making at the time of my father's death. One telephone call was all that was required. All of the paper work was done in a timely matter and the cost was very reasonable, far less than would have been required by a funeral home for comparable services. My father would have been very proud of me on that decision.

Thank you for your attention to my remarks. I would urge you not to pass SB 475.