

# INTERIM JOINT COMMITTEE ON LICENSING, OCCUPATIONS, AND ADMINISTRATIVE REGULATIONS

## Minutes of the 1st Meeting of the 2021 Interim

June 17, 2021

### Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Thursday, June 17, 2021, at 11:00 AM, in Room 131 of the Capitol Annex. Senator John Schickel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Adam Koenig, Co-Chair; Senators Julie Raque Adams, Tom Buford, Jimmy Higdon, Paul Hornback, Jason Howell, Gerald A. Neal, Michael J. Nemes, Damon Thayer, and Reginald Thomas; Representatives Kim Banta, Kevin D. Bratcher, Tom Burch, Patrick Flannery, Al Gentry, Thomas Huff, Matthew Koch, C. Ed Massey, Chad McCoy, Michael Meredith, Kimberly Poore Moser, Phillip Pratt, Sal Santoro, Killian Timoney, and Susan Westrom.

Guests: Charles O'Neal, Kentucky Board of Emergency Medical Services; Tony Noll; John Mark Hutchenson, M.S.N.

LRC Staff: Tom Hewlett, Bryce Amburgey, Jasmine Williams, Melissa McQueen, and Lisa W. Moore

Chairman Schickel introduced and welcomed new members of the committee. He apologized that the Capitol Annex building was not open to the public and anticipates it being open on July 1, 2021.

### **21RS SB 195 – AN ACT relating to emergency medical personnel.**

Senator Karen Berg, sponsor of SB 195, 2021 Regular Session, presented the bill to the committee. She said the bill allows inmates who were trained and received a limited certification as an Emergency Medical Technician (EMT) while incarcerated to apply to the Emergency Medical Services (EMS) Board to continue to be certified once released from prison.

Senator Berg said the global pandemic highlighted the demand for skilled healthcare workers, particularly in hospitals and correctional facilities where a significant spike in Covid-19 cases arose. She thinks this type of program would greatly benefit Kentucky communities and local healthcare organizations.

John Mark Hutchenson, M.S.N., Norton's Hospital, initially brought the issue to Senator Berg's attention. Mr. Hutchenson testified any ambulance run from the Kentucky State Reformatory System would be staffed by the limited EMT inmates, prior to the global Covid-19 pandemic. He received reports from different EMT's in these scenarios and most provided extremely professional services and were exceptional in their role. As with any other profession, there can always be a few bad apples. He wondered if Norton's hospital could provide a bridge program to help the incarcerated EMT's who were doing a great job to stay certified once released from prison. It was then he discovered that the inmates had a limited EMT license that was revoked on the inmates release from jail when they need a job and income the most. It shocked him that the license was revoked after witnessing the professional character and work ethic of most of the incarcerated inmates serving as EMT's. Felons who have completed their sentence and paid their debt to society should have a pathway for a valid EMT license and an opportunity for a job doing what they are trained in.

Chuck O'Neal, Deputy Director, Kentucky Board of EMS, said a bill to put incarcerated felons to work upon release is noble and more bills should be dedicated to work-related program for incarcerated individuals. However, he testified in opposition to SB 195. He believes in rehabilitation and an inmate's ability to contribute in a positive way to society upon release from prison. However, emergency medical services, healthcare, law enforcement, and work in schools are not the appropriate technical program for former felons. The Kentucky Board of Medical Services, as well as colleagues at the College Board of Medical Licensure, and the Kentucky Board of Nursing, are charged with ensuring the safety of the citizens of the Commonwealth of Kentucky. As a regulatory body, it is their responsibility to vet applicants for certification or licensure and provide adequate background checks of applicants to ensure patients, their families, and their property is safe during an emergency.

Emergency Medical Services is a multi-disciplinary profession that is part public safety and part healthcare. Law enforcement does not allow convicted felons to become peace officers, and colleagues in healthcare do not allow physicians, physician assistants, nurse practitioners, and nurses to be felons either. This ensures public trust in the state entities that vet applicants. It also ensures felons convicted of manufacturing, distributing, or abusing controlled substances will not be at risk for controlled substance diversion, as every advanced life support ambulance and Kentucky hospital have these substances readily available. It also reduces the risk to Kentucky citizens being sexually assaulted in their homes or having prescriptions or personal items stolen from their homes in case of an emergency visit.

Responding to comments from Chairman Schickel, Mr. Hutchenson said he did not mean for his tone to imply that felons' rights were being intentionally discriminated against

or oppressed. Senator Schickel said it can be fashionable to take that tone but he strongly disagrees with it.

Responding to questions from Representative McCoy, Mr. O'Neal said the provisions for training are not the same for an incarcerated EMT and a regular EMT. The felons are certified with a Department of Corrections EMT certification that is authorized under KRS 311A.200. EMT's and paramedics take a national standardized examination called the National Register Examination. Felons are not eligible for testing through the national registry of EMT's. The facility has the ability to train the individuals that are incarcerated and they do take a similar assessment examination, but it is not the National Registry Exam.

Senator Berg said the National Registry of Emergency Technicians has the ability to deny a paroled felon permanent licensure. This bill will allow specifically designated parolees the option to apply for licensure, but they will have to be selected. It gives them the chance to be trained and keep providing their talents as EMT's once released from jail. It does not guarantee the right for them to keep the temporary license once released.

Responding to a question from Representative Koenig regarding flexibility for individuals who were previously certified as EMT's prior to incarceration, Senator Berg said most medical boards have a way for incarcerated EMT's to appeal to their board and go under supervision depending on the nature of the crime and keep their license, however certain crimes would not meet this criteria and the license would be removed. This bill provides flexibility and an option for hand-selected individuals who have been proven to be successful EMT's while incarcerated, and who are seen as highly probable as being successful when released to obtain a license.

Chairman Schickel thanked Senator Berg for her testimony, said he will work with her to find common ground, and believes there is room for flexibility and individual attention. He noted that EMT's in an institutional setting that provide care to other inmates saves taxpayer money, but should not automatically mean the license should transfer to certification outside the jail. He does believe having more people working outside incarceration is a great thing, but Kentucky must protect its most vulnerable citizens.

Senator Berg said she is unaware of any other certification individuals earn while incarcerated that they are not allowed to keep upon release.

#### **21RS HB 224 – AN ACT relating to CPA Licensure.**

Representative Kim Banta, sponsor, said this bill passed 85-1 in 2021 in the House of Representatives, and then due to the short session, did not make it through the Senate before Sine Die of the General Assembly. This bill does three things: 1) it allows the State Board to grant scholarships using its own money so it is no cost to the state; 2) the Board would like to be allowed immunity from lawsuits for state board members as long as they

acting in good faith in performance of normal duties, and 3) eliminates the requirement that out-of-state CPA's seeking a Kentucky license via reciprocity must have obtained the one year of accounting or test experience within five years of successfully passing the CPA exam in their home state. The current system puts an unintended burden on CPAs attempting to locate in Kentucky, where there is a shortage.

Senator Schickel said he looks forward to ushering HB 224 through the Senate in the upcoming legislative session. He said it is a good piece of legislation and it just needs to be passed earlier in the session.

**21RS HB 346 – AN ACT relating to cremation.**

Representative Buddy Wheatley said the concept of alkaline hydrolysis is a sophisticated cremation technique that has become more available. Members received a handout of a map that shows different states that have adopted alkaline hydrolysis as a form of cremation, including 20 states and several provinces in Canada.

Anthony Noll said financial and environmental costs of flame cremation and traditional burial prompted his research into alkaline hydrolysis while planning his end-of-life wishes. Kentucky had no statutes that defined the practice. After consulting with regulators and local funeral home operators, he contacted Representative Wheatley to pursue statutory changes that would make the technology legal in Kentucky. His goal is to capitalize and operate facilities that will supply this growing option in an industry that one day will serve the citizens of Kentucky. He plans to combine financial resources by allowing local funeral homes to be co-owners of a facility they can patronize, such as a cooperative. Kentucky operators could also provide these services to bordering areas that have not taken a proactive stance to legislate this opportunity.

Samantha Sieber, Vice President of Research, Bio-Response Solutions, Inc., testified via Zoom in support of the bill. She is a biologist in the field for over 16 years, and has helped over 40 states (along with many other jurisdictions worldwide) draft legislation to make this option available to families. She reviewed in detail the proposed language revision for Kentucky's statute to accommodate alkaline hydrolysis, and said it is well-written.

States that have already approved alkaline hydrolysis have not had issues with licensing or financial burden. Licensing and inspections have been nearly identical to crematories so there has been no additional burden placed upon regulatory boards. This gives families end-of-life choices and data analysis has shown that 80 percent of families desiring cremation select this option over flame cremation. Right now, Kentucky families are having to arrange transport to neighboring states for this option which adds further hardship (emotionally and financially) to the family during an already devastating time.

There are numerous points of regulation that will apply in order for an alkaline hydrolysis system to be used: 1) the law must allow it; 2) the business must be licensed by the Board; 3) the equipment must be compliant with state health and environmental regulations; 4) the locale must approve the location of the equipment (municipal planning and zoning); and 5) the release of the process water must be done with permission (written approval from the wastewater authority).

There are no emissions from alkaline hydrolysis into the environment. Family options for services and memorialization are unchanged. Most families still hold a viewing and service to honor their loved one. The body may still be embalmed for transport home from another state or country. In fact, the family still receives ash remains, approximately 20 – 30 percent more. The ashes are completely sterile and safe to handle.

Responding to a question from Senator Buford regarding the average cost to process a body and funeral home charges, Ms. Sieber said the cost to consumers is very similar to regular flame cremation. It may be \$300 - \$400 more to families, but not a significant hardship cost. Mr. Noll agreed and added that \$795 is the cost of the basic service that can expand to \$3,500 for embalming and viewing, as estimated by an experienced provider in Illinois.

Responding to a question from Representative Burch regarding who is opposed to this legislation, Representative Wheatley responded said he has been in continuous contact with the Kentucky State Board of Embalmers and Funeral Directors and the Funeral Directors Association of Kentucky. Mr. Noll has also contacted these two organizations and said the issue has been scheduled for an upcoming board meeting.

Responding to Representative Koch regarding New Hampshire legalizing alkaline hydrolysis and then overturning the decision, Ms. Sieber said that New Hampshire has legalized alkaline hydrolysis as a form of cremation again. New Hampshire was one of the earlier states to approve this, and while there were disagreements, there was nothing found wrong with the technology.

Chairman Schickel has been contacted by several funeral homes and discussed the importance of interim hearings and vetting issues. He encouraged funeral home directors to contact committee members with concerns.

**21RS HB 279 – AN ACT relating to school facilities.**

Representative Josh Branscum, sponsor, said the bill passed the House of Representatives 97-0 during the last General Assembly Legislative Session and then ran out of time to get through the Senate. Chairman Schickel said it is his intent to get this passed in the next legislative session. He is pleased that it targets high growth districts and apologized the bill was not properly vetted last session.

Chuck Truesdell, Director of Government Relations, Kentucky Department of Education (KDE), testified in support of the bill. Most of the complaints from local school districts involve school facilities. KDE is looking at internal improvements it can make to streamline the school facilities process and remove bureaucratic red tape. The committee substitute incorporates these changes and makes necessary statutory changes.

With no further business before the committee, the meeting adjourned at 12:00 p.m.