

SENATE BILL NO. 398

INTRODUCED BY S. BROWN, HIMSL

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

IN THE SENATE

February 7, 1981	Introduced and referred to Committee on Public Health, Welfare, and Safety.
February 19, 1981	Committee recommend bill do pass as amended. Report adopted. Statement of intent attached.
February 20, 1981	Bill printed and placed on members' desks.
February 21, 1981	Second reading, do pass.
February 23, 1981	Correctly engrossed.
February 24, 1981	Third reading, passed. Ayes, 49; Noes, 0. Transmitted to House.

IN THE HOUSE

March 3, 1981	Introduced and referred to Committee on Human Services.
March 20, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 26, 1981	Second reading, concurred in.
March 28, 1981	Third reading, concurred in as amended. Ayes, 81; Noes, 11.

IN THE SENATE

March 30, 1981

Returned from House with amendments.

April 3, 1981

Second reading, amendments concurred in.

April 6, 1981

Third reading, amendments concurred in. Ayes, 36; Noes, 13. Sent to enrolling.

Reported correctly enrolled.

1 *Smith* BILL NO. *398*
2 INTRODUCED BY *STEVE BROWN*

3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE
6 BOARD OF MORTICIANS; REDUCING THE BOARD MEMBERSHIP TO FIVE;
7 REMOVING RESTRICTIONS ON PUBLIC BOARD MEMBER PARTICIPATION;
8 REQUIRING WRITTEN DISCLOSURE OF FUNERAL COSTS AND EMBALMING
9 REQUIREMENTS; DELETING COLLEGE STUDY REQUIREMENT FOR
10 LICENSURE; DELETING FELONY CONVICTION AS GROUNDS FOR DENIAL
11 OR REVOCATION OF A LICENSE; AMENDING SECTIONS 2-8-103,
12 2-15-1619, 37-19-302, AND 37-19-311, MCA; AND PROVIDING AN
13 EFFECTIVE DATE."

14
15 WHEREAS, the sunset law, sections 2-8-103 and 2-8-112,
16 MCA, terminates the Board of Morticians and requires a
17 performance evaluation of the board by the Legislative Audit
18 Committee; and

19 WHEREAS, as a result of the performance evaluation, the
20 Legislative Audit Committee recommends that the Board of
21 Morticians be reestablished under existing statutory
22 authority.

23
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

25 NEW SECTION. Section 1. Reestablishment. The board of

1 morticians is reestablished for 6 years pursuant to 2-8-122
2 with its existing statutory authority and rules.

3 Section 2. Section 2-8-103, MCA, is amended to read:
4 "2-8-103. Agencies to terminate. (1) The following
5 agencies shall terminate on July 1, 1979:

6 (a) board of abstractors, department of professional
7 and occupational licensing, created by 2-15-1643;

8 (b) board of real estate, department of professional
9 and occupational licensing, created by 2-15-1642;

10 (c) state board of warm air heating, ventilation, and
11 air conditioning, department of professional and
12 occupational licensing, created by 2-15-1656;

13 (d) board of institutions, department of institutions,
14 created by 2-15-2303.

15 (2) The following agencies shall terminate on July 1,
16 1981:

17 (a) commission for human rights, department of labor
18 and industry, created by 2-15-1706;

19 (b) board of athletics, department of professional and
20 occupational licensing, created by 2-15-1661;

21 (c) board of barbers, department of professional and
22 occupational licensing, created by 2-15-1625;

23 (d) board of chiropractors, department of professional
24 and occupational licensing, created by 2-15-1613;

25 (e) board of cosmetologists, department of

INTRODUCED BILL
-2- SB 398

1 professional and occupational licensing, created by
2 2-15-1626;

3 (f) board of dentists, department of professional and
4 occupational licensing, created by 2-15-1606;

5 (g) board of hearing aid dispensers, department of
6 professional and occupational licensing, created by
7 2-15-1616;

8 (h) board of massage therapists, department of
9 professional and occupational licensing, created by
10 2-15-1627;

11 (i) Montana state board of medical examiners,
12 department of professional and occupational licensing,
13 created by 2-15-1605;

14 ~~(j) board of morticians, department of professional
15 and occupational licensing, created by 2-15-1619;~~

16 (k)(j) board of nursing, department of professional
17 and occupational licensing, created by 2-15-1610;

18 (k)(k) board of nursing home administrators,
19 department of professional and occupational licensing,
20 created by 2-15-1611;

21 (m)(l) board of optometrists, department of
22 professional and occupational licensing, created by
23 2-15-1612;

24 (n)(m) board of osteopathic physicians, department of
25 professional and occupational licensing, created by

1 2-15-1607;

2 (o)(n) board of pharmacists, department of
3 professional and occupational licensing, created by
4 2-15-1609;

5 (p)(o) board of podiatry examiners, department of
6 professional and occupational licensing, created by
7 2-15-1608;

8 (q)(p) board of psychologists, department of
9 professional and occupational licensing, created by
10 2-15-1617;

11 (r)(q) board of radiologic technologists, department
12 of professional and occupational licensing, created by
13 2-15-1614;

14 (s)(r) board of speech pathologists and audiologists,
15 department of professional and occupational licensing,
16 created by 2-15-1615;

17 (t)(s) board of veterinarians, department of
18 professional and occupational licensing, created by
19 2-15-1618;

20 (u)(t) board of veterans' affairs, department of
21 social and rehabilitation services, created by 2-15-2202;

22 (v)(u) board of sanitarians, department of
23 professional and occupational licensing, created by
24 2-15-1631.

25 (3) The following units of state government shall

1 terminate on July 1, 1983:

2 (a) board of aeronautics, department of community
3 affairs, created by 2-15-1103;

4 (b) state board of hail insurance, department of
5 agriculture, created by 2-15-3003;

6 (c) board of horse racing, department of professional
7 and occupational licensing, created by 2-15-1662;

8 (d) board of livestock, department of livestock,
9 created by 2-15-3102;

10 (e) board of milk control, department of business
11 regulation, created by 2-15-1802;

12 (f) board of oil and gas conservation, department of
13 natural resources and conservation, created by 2-15-3303;

14 (g) Montana outfitters council, department of fish,
15 wildlife, and parks, created by 2-15-3403;

16 (h) public service commission, department of public
17 service regulation, created by 69-1-102;

18 (i) board of water and wastewater operators,
19 department of health and environmental sciences, created by
20 2-15-2105;

21 (j) board of water well contractors, department of
22 professional and occupational licensing, created by
23 2-15-1632.

24 (4) The following agencies terminate on July 1, 1985:

25 (a) the board of public accountants, created by

1 2-15-1641;

2 (b) the board of architects, created by 2-15-1651;

3 (c) state banking board, department of business
4 regulation, created by 2-15-1803;

5 (d) the state electrical board, created by 2-15-1654;

6 (e) the board of professional engineers and land
7 surveyors, created by 2-15-1653;

8 (f) office of commissioner of insurance and the
9 insurance department, state auditor's office, created by
10 2-15-1902 and 2-15-1903;

11 (g) office of the securities commissioner, state
12 auditor's office, created by 2-15-1901;

13 (h) the board of landscape architects, created by
14 2-15-1652;

15 (i) the board of county printing, created by
16 2-15-1102;

17 (j) the board of plumbers, created by 2-15-1655;

18 (k) board of physical therapy examiners, created by
19 2-15-1628.

20 (5) The following agency terminates on July 1, 1987:
21 the board of morticians, department of professional and
22 occupational licensing, created by 2-15-1619."

23 Section 3. Section 2-15-1619, MCA, is amended to read:
24 "2-15-1619. Board of morticians. (1) There is a board
25 of morticians.

1 (2) The board consists of ~~six~~ five members appointed
2 by the governor with the consent of the senate. ~~Five~~ Four
3 members shall be licensed morticians. One member shall be a
4 representative of the public who is not engaged in the
5 practice of mortuary science or funeral directing.

6 (3) ~~Each member~~ board members shall serve ~~for a term~~
7 ~~of 5 years~~ staggered 5-year terms.

8 ~~(4) The public member may not participate in~~
9 ~~administering license examinations and mortuary inspections.~~

10 ~~(5)(4)~~ The board is allocated to the department for
11 administrative purposes only as prescribed in 2-15-121."

12 Section 4. Section 37-19-302, MCA, is amended to read:

13 "37-19-302. License required for practice of mortuary
14 science -- qualifications of applicants. The practice of
15 embalming or mortuary science by anyone who does not hold a
16 mortician's license issued by the department is prohibited.
17 To qualify for a mortician's license, a person must:

- 18 (1) be of good moral character;
19 (2) have graduated from an accredited college of
20 mortuary science ~~and have satisfactorily completed a~~
21 ~~academic years at an accredited college or university;~~
22 (3) pass an examination prescribed by the board;
23 (4) serve a 1-year internship under the supervision of
24 a mortician in a licensed mortuary in Montana."

25 Section 5. Section 37-19-311, MCA, is amended to read:

1 "37-19-311. Refusal, suspension, or revocation of
2 mortician's or funeral director's license. The board may
3 refuse to grant, may suspend, or may revoke a mortician's or
4 funeral director's license for any of the following reasons:

5 (1) if the applicant or licensee obtained the license
6 by fraud or misrepresentation, either in the application for
7 the license or in passing the examination;

8 ~~(2) if the applicant or licensee has been convicted of~~
9 ~~a felony;~~

10 ~~(3)(2)~~ if the applicant or licensee has violated any
11 section of this chapter or any rule of the state, district,
12 or local board of health governing the disposition of dead
13 human bodies or any rule of the board regulating the
14 professions of mortuary science or funeral directing or the
15 operation of a mortuary;

16 ~~(4)(3)~~ if the licensee has participated in any scheme
17 in the nature of a burial association or burial certificate
18 plan:

19 (a) which does not properly protect the rights of the
20 public;

21 (b) where there is any element of fraud; or

22 (c) where there is contained any agreement or
23 provision that deprives heirs, next of kin, or any other
24 authorized person freedom of choice as to the services or
25 merchandise used in connection with a funeral or the freedom

1 of choice as to which funeral directors or morticians shall
2 be employed."

3 NEW SECTION. Section 6. Funeral costs -- rules on
4 disclosure. The board shall adopt rules requiring mortuaries
5 to disclose in writing to all customers a complete itemized
6 list of all funeral costs and complete information regarding
7 the need for embalming.

8 Section 7. Codification instruction. Section 6 is
9 intended to be codified as an integral part of Title 37,
10 chapter 19, and the provisions of Title 37, chapter 19,
11 apply to section 6.

12 Section 8. Effective date. This act is effective on
13 passage and approval.

-End-

1 STATEMENT OF INTENT

2 SENATE BILL 398

3 Senate Public Health Committee

4
5 A Statement of Intent is required for this bill because
6 it delegates rulemaking authority to the Board of Morticians
7 in Section 6.

8 It is the intent of this bill that the board adopt
9 rules requiring mortuaries to disclose in writing to all
10 customers a complete itemized list of all funeral costs and
11 complete information regarding the need for embalming.
12 Members of the public seeking the services of mortuaries are
13 usually under a great deal of personal stress, and the rules
14 adopted are intended to provide complete disclosure of costs
15 and attendant legal requirements to protect the economic
16 interest of members of the public.

17 First adopted by the Senate Public Health Committee on
18 the 18th day of February, 1981.

Approved by the committee on
Public Health, Welfare & Safety

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3 by the governor with the consent of the senate. ~~Five~~ Four
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5 representative of the public who is not engaged in the
6 practice of mortuary science or funeral directing.

7 (3) Each ~~member~~ Board members shall serve for ~~a~~ term
8 ~~of 5 years~~ staggered 5-year terms.

9 ~~{4}--The--public--member--may--not--participate--in~~
10 ~~administering--license--examinations--and--mortuary--inspections.~~

11 ~~{5}~~{4} The board is allocated to the department for
12 administrative purposes only as prescribed in 2-15-121."

13 Section 4. Section 37-19-302, MCA, is amended to read:

14 "37-19-302. License required for practice of mortuary
15 science -- qualifications of applicants. The practice of
16 embalming or mortuary science by anyone who does not hold a
17 mortician's license issued by the department is prohibited.
18 To qualify for a mortician's license, a person must:

19 (1) be of good moral character;

20 (2) have graduated from an accredited college of
21 mortuary science ~~and--have--satisfactorily--completed--2~~
22 ~~academic--years--at--an--accredited--college--or--university~~ AND
23 HAVE SATISFACTORILY COMPLETED 2 ACADEMIC YEARS AT A
24 BOARD-APPROVED COLLEGE OR UNIVERSITY WITH THE MAJOR AREA OF
25 STUDY BEING ONE THAT WOULD TEND TO PREPARE HIM FOR THE

1 PRACTICE OF MORTUARY SCIENCE, OR HAVE EXPERIENCE CONSIDERED
2 EQUIVALENT BY THE BOARD;

3 (3) pass an examination prescribed by the board;

4 (4) serve a 1-year internship under the supervision of
5 a mortician in a licensed mortuary in Montana."

6 SECTION 5. SECTION 37-19-305, MCA, IS AMENDED TO READ:

7 "37-19-305. Reciprocity. If a person holding a license
8 entitling him to practice mortuary science in another state
9 applies for a Montana mortician's license, the board may
10 waive the examination and internship requirements if it
11 finds that the standards and requirements of the state in
12 which the applicant is licensed are equal to or exceed those
13 of Montana and if ~~such--state~~ a reciprocal agreement is
14 required by the other state, it has a reciprocal agreement
15 with Montana."

16 Section 6. Section 37-19-311, MCA, is amended to read:

17 "37-19-311. Refusal, suspension, or revocation of
18 mortician's or funeral director's license. The board may
19 refuse to grant, may suspend, or may revoke a mortician's or
20 funeral director's license for any of the following reasons:

21 (1) if the applicant or licensee obtained the license
22 by fraud or misrepresentation, either in the application for
23 the license or in passing the examination;

24 ~~{2}--if--the--applicant--or--licensee--has--been--convicted--of~~
25 ~~a--felony~~

1 ~~f3)~~(2) if the applicant or licensee has violated any
 2 section of this chapter or any rule of the state, district,
 3 or local board of health governing the disposition of dead
 4 human bodies or any rule of the board regulating the
 5 professions of mortuary science or funeral directing or the
 6 operation of a mortuary;

7 ~~f4)~~(3) if the licensee has participated in any scheme
 8 in the nature of a burial association or burial certificate
 9 plan:

10 (a) which does not properly protect the rights of the
 11 public;

12 (b) where there is any element of fraud; or

13 (c) where there is contained any agreement or
 14 provision that deprives heirs, next of kin, or any other
 15 authorized person freedom of choice as to the services or
 16 merchandise used in connection with a funeral or the freedom
 17 of choice as to which funeral directors or morticians shall
 18 be employed."

19 NEW SECTION. Section 7. Funeral costs -- rules on
 20 disclosure. The board shall adopt rules requiring mortuaries
 21 to disclose in writing to all customers a complete itemized
 22 list of all funeral costs and complete information regarding
 23 the need for embalming.

24 Section 8. Codification instruction. Section 6 7 is
 25 intended to be codified as an integral part of Title 37,

1 chapter 19, and the provisions of Title 37, chapter 19,
 2 apply to section 6 7.

3 Section 9. Effective date. This act is effective on
 4 passage and approval.

-End-

1 STATEMENT OF INTENT

2 SENATE BILL 398

3 Senate Public Health Committee

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6 it delegates rulemaking authority to the Board of Morticians
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17 First adopted by the Senate Public Health Committee on
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21 created by 2-15-1611;

22 (m)(l) board of optometrists, department of
23 professional and occupational licensing, created by
24 2-15-1612;

25 (n)(m) board of osteopathic physicians, department of

1 professional and occupational licensing, created by
2 2-15-1607;

3 (o)(n) board of pharmacists, department of
4 professional and occupational licensing, created by
5 2-15-1609;

6 (p)(o) board of podiatry examiners, department of
7 professional and occupational licensing, created by
8 2-15-1608;

9 (q)(p) board of psychologists, department of
10 professional and occupational licensing, created by
11 2-15-1617;

12 (r)(q) board of radiologic technologists, department
13 of professional and occupational licensing, created by
14 2-15-1614;

15 (s)(r) board of speech pathologists and audiologists,
16 department of professional and occupational licensing,
17 created by 2-15-1615;

18 (t)(s) board of veterinarians, department of
19 professional and occupational licensing, created by
20 2-15-1618;

21 (u)(t) board of veterans' affairs, department of
22 social and rehabilitation services, created by 2-15-2202;

23 (v)(u) board of sanitarians, department of
24 professional and occupational licensing, created by
25 2-15-1631.

1 (3) The following units of state government shall
2 terminate on July 1, 1983:

3 (a) board of aeronautics, department of community
4 affairs, created by 2-15-1103;

5 (b) state board of hail insurance, department of
6 agriculture, created by 2-15-3003;

7 (c) board of horse racing, department of professional
8 and occupational licensing, created by 2-15-1662;

9 (d) board of livestock, department of livestock,
10 created by 2-15-3102;

11 (e) board of milk control, department of business
12 regulation, created by 2-15-1802;

13 (f) board of oil and gas conservation, department of
14 natural resources and conservation, created by 2-15-3303;

15 (g) Montana outfitters council, department of fish,
16 wildlife, and parks, created by 2-15-3403;

17 (h) public service commission, department of public
18 service regulation, created by 69-1-102;

19 (i) board of water and wastewater operators,
20 department of health and environmental sciences, created by
21 2-15-2105;

22 (j) board of water well contractors, department of
23 professional and occupational licensing, created by
24 2-15-1632.

25 (4) The following agencies terminate on July 1, 1985:

1 (a) the board of public accountants, created by
2 2-15-1641;

3 (b) the board of architects, created by 2-15-1651;

4 (c) state banking board, department of business
5 regulation, created by 2-15-1803;

6 (d) the state electrical board, created by 2-15-1654;

7 (e) the board of professional engineers and land
8 surveyors, created by 2-15-1653;

9 (f) office of commissioner of insurance and the
10 insurance department, state auditor's office, created by
11 2-15-1902 and 2-15-1903;

12 (g) office of the securities commissioner, state
13 auditor's office, created by 2-15-1901;

14 (h) the board of landscape architects, created by
15 2-15-1652;

16 (i) the board of county printing, created by
17 2-15-1102;

18 (j) the board of plumbers, created by 2-15-1655;

19 (k) board of physical therapy examiners, created by
20 2-15-1628.

21 (5) The following agency terminates on July 1, 1987:
22 the board of morticians, department of professional and
23 occupational licensing, created by 2-15-1619."

24 Section 3. Section 2-15-1619, MCA, is amended to read:
25 "2-15-1619. Board of morticians. (1) There is a board

1 of morticians.

2 (2) The board consists of ~~six~~ five members appointed
3 by the governor with the consent of the senate. ~~Five~~ Four
4 members shall be licensed morticians. One member shall be a
5 representative of the public who is not engaged in the
6 practice of mortuary science or funeral directing.

7 (3) Each member Board members shall serve for ~~one~~ term
8 of ~~5 years~~ staggered 5-year terms.

9 ~~(4) The public member may not participate in~~
10 ~~administering license examinations and mortuary inspections.~~

11 ~~(5)~~ (4) The board is allocated to the department for
12 administrative purposes only as prescribed in 2-15-121."

13 Section 4. Section 37-19-302, MCA, is amended to read:

14 "37-19-302. License required for practice of mortuary
15 science -- qualifications of applicants. The practice of
16 embalming or mortuary science by anyone who does not hold a
17 mortician's license issued by the department is prohibited.
18 To qualify for a mortician's license, a person must:

19 (1) be of good moral character;

20 (2) have graduated from an accredited college of
21 mortuary science ~~and have satisfactorily completed 2~~
22 ~~academic years at an accredited college or university AND~~
23 HAVE SATISFACTORILY COMPLETED 2 ACADEMIC YEARS AT A
24 BOARD-APPROVED COLLEGE OR UNIVERSITY WITH THE MAJOR AREA OF
25 STUDY BEING ONE THAT WOULD TEND TO PREPARE HIM FOR THE

1 PRACTICE OF MORTUARY SCIENCE, OR HAVE EXPERIENCE CONSIDERED
2 EQUIVALENT BY THE BOARD:

3 (3) pass an examination prescribed by the board;

4 (4) serve a 1-year internship under the supervision of
5 a mortician in a licensed mortuary in Montana."

6 SECTION 5. SECTION 37-19-305, MCA, IS AMENDED TO READ:

7 "37-19-305. Reciprocity. If a person holding a license
8 entitling him to practice mortuary science in another state
9 applies for a Montana mortician's license, the board may
10 waive the examination and internship requirements if it
11 finds that the standards and requirements of the state in
12 which the applicant is licensed are equal to or exceed those
13 of Montana and if ~~such state~~ a reciprocal agreement is
14 required by the other state, it has a reciprocal agreement
15 with Montana."

16 Section 6. Section 37-19-311, MCA, is amended to read:

17 "37-19-311. Refusal, suspension, or revocation of
18 mortician's or funeral director's license. The board may
19 refuse to grant, may suspend, or may revoke a mortician's or
20 funeral director's license for any of the following reasons:

21 (1) if the applicant or licensee obtained the license
22 by fraud or misrepresentation, either in the application for
23 the license or in passing the examination;

24 ~~(2) if the applicant or licensee has been convicted of~~
25 ~~a felony~~

1 ~~(3)(2)~~ if the applicant or licensee has violated any
 2 section of this chapter or any rule of the state, district,
 3 or local board of health governing the disposition of dead
 4 human bodies or any rule of the board regulating the
 5 professions of mortuary science or funeral directing or the
 6 operation of a mortuary;

7 ~~(4)(3)~~ if the licensee has participated in any scheme
 8 in the nature of a burial association or burial certificate
 9 plan:

10 (a) which does not properly protect the rights of the
 11 public;

12 (b) where there is any element of fraud; or

13 (c) where there is contained any agreement or
 14 provision that deprives heirs, next of kin, or any other
 15 authorized person freedom of choice as to the services or
 16 merchandise used in connection with a funeral or the freedom
 17 of choice as to which funeral directors or morticians shall
 18 be employed."

19 NEW SECTION. Section 7. Funeral costs -- rules on
 20 disclosure. The board shall adopt rules requiring mortuaries
 21 to disclose in writing to all customers a complete itemized
 22 list of all funeral costs and complete information regarding
 23 the need for embalming.

24 Section 8. Codification instruction. Section 6 I is
 25 intended to be codified as an integral part of Title 37,

1 chapter 19, and the provisions of Title 37, chapter 19,
 2 apply to section 6 I.
 3 Section 9. Effective date. This act is effective on
 4 passage and approval.

-End-

1 STATEMENT OF INTENT

2 SENATE BILL 398

3 Senate Public Health Committee
4

5 A Statement of Intent is required for this bill because
6 it delegates rulemaking authority to the Board of Morticians
7 in ~~Section 6~~ SECTIONS 7 AND 8.

8 It is the intent of this bill that the board adopt
9 rules requiring mortuaries to disclose in writing to all
10 customers a complete itemized list of all funeral costs and
11 complete information regarding the need for embalming.
12 Members of the public seeking the services of mortuaries are
13 usually under a great deal of personal stress, and the rules
14 adopted are intended to provide complete disclosure of costs
15 and attendant legal requirements to protect the economic
16 interest of members of the public.

17 THIS BILL GRANTS THE BOARD THE AUTHORITY TO ESTABLISH
18 CONTINUING EDUCATION PROGRAMS AND REQUIREMENTS TO INSURE
19 MAINTENANCE OF PROFESSIONAL KNOWLEDGE AND COMPETENCY OF
20 LICENSEES. IT IS THE INTENT OF THE LEGISLATURE THAT THE
21 CONTINUING EDUCATION PROGRAMS HAVE AS THEIR PRIMARY
22 OBJECTIVE THE PROTECTION OF THE HEALTH, SAFETY, AND WELFARE
23 OF THE PUBLIC, AND THAT THE PROGRAMS NOT SERVE PRIMARILY TO
24 LIMIT ENTRY INTO THE PROFESSION OR OCCUPATION OR TO PROMOTE
25 THE PERSONAL INTERESTS OF THE LICENSEES.

1 First adopted by the Senate Public Health Committee on
2 the 18th day of February, 1981.

1 SENATE BILL NO. 398

2 INTRODUCED BY S. BROWN, HIMSL

3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE
6 BOARD OF MORTICIANS; REDUCING THE BOARD MEMBERSHIP TO FIVE;
7 REMOVING RESTRICTIONS ON PUBLIC BOARD MEMBER PARTICIPATION;
8 REQUIRING WRITTEN DISCLOSURE OF FUNERAL COSTS AND EMBALMING
9 REQUIREMENTS; ~~DELETING~~ MODIFYING COLLEGE STUDY REQUIREMENT
10 FOR LICENSURE; CLARIFYING THE RECIPROCIITY PROVISIONS FOR
11 MORTICIANS LICENSED IN ANOTHER STATE; PROVIDING AUTHORITY
12 FOR RULES ON CONTINUING EDUCATION; DELETING FELONY
13 CONVICTION AS GROUNDS FOR DENIAL OR REVOCATION OF A LICENSE;
14 AMENDING SECTIONS 2-8-103, 2-15-1619, 37-19-302, 37-19-305,
15 AND 37-19-311, MCA; AND PROVIDING AN EFFECTIVE DATE."

16
17 WHEREAS, the sunset law, sections 2-8-103 and 2-8-112,
18 MCA, terminates the Board of Morticians and requires a
19 performance evaluation of the board by the Legislative Audit
20 Committee; and

21 WHEREAS, as a result of the performance evaluation, the
22 Legislative Audit Committee recommends that the Board of
23 Morticians be reestablished under existing statutory
24 authority.

1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

2 NEW SECTION. Section 1. Reestablishment. The board of
3 morticians is reestablished for 6 years pursuant to 2-8-122
4 with its existing statutory authority and rules.

5 Section 2. Section 2-8-103, MCA, is amended to read:

6 "2-8-103. Agencies to terminate. (1) The following
7 agencies shall terminate on July 1, 1979:

8 (a) board of abstracters, department of professional
9 and occupational licensing, created by 2-15-1643;

10 (b) board of real estate, department of professional
11 and occupational licensing, created by 2-15-1642;

12 (c) state board of warm air heating, ventilation, and
13 air conditioning, department of professional and
14 occupational licensing, created by 2-15-1656;

15 (d) board of institutions, department of institutions,
16 created by 2-15-2303.

17 (2) The following agencies shall terminate on July 1,
18 1981:

19 (a) commission for human rights, department of labor
20 and industry, created by 2-15-1706;

21 (b) board of athletics, department of professional and
22 occupational licensing, created by 2-15-1661;

23 (c) board of barbers, department of professional and
24 occupational licensing, created by 2-15-1625;

25 (d) board of chiropractors, department of professional

1 and occupational licensing, created by 2-15-1613;

2 (e) board of cosmetologists, department of
3 professional and occupational licensing, created by
4 2-15-1626;

5 (f) board of dentists, department of professional and
6 occupational licensing, created by 2-15-1606;

7 (g) board of hearing aid dispensers, department of
8 professional and occupational licensing, created by
9 2-15-1616;

10 (h) board of massage therapists, department of
11 professional and occupational licensing, created by
12 2-15-1627;

13 (i) Montana state board of medical examiners,
14 department of professional and occupational licensing,
15 created by 2-15-1605;

16 ~~(j) board of morticians, department of professional
17 and occupational licensing, created by 2-15-1619;~~

18 (k)(j) board of nursing, department of professional
19 and occupational licensing, created by 2-15-1610;

20 (l)(k) board of nursing home administrators,
21 department of professional and occupational licensing,
22 created by 2-15-1611;

23 (m)(l) board of optometrists, department of
24 professional and occupational licensing, created by
25 2-15-1612;

1 (n)(m) board of osteopathic physicians, department of
2 professional and occupational licensing, created by
3 2-15-1607;

4 (o)(n) board of pharmacists, department of
5 professional and occupational licensing, created by
6 2-15-1609;

7 (p)(o) board of podiatry examiners, department of
8 professional and occupational licensing, created by
9 2-15-1608;

10 (q)(p) board of psychologists, department of
11 professional and occupational licensing, created by
12 2-15-1617;

13 (r)(q) board of radiologic technologists, department
14 of professional and occupational licensing, created by
15 2-15-1614;

16 (s)(r) board of speech pathologists and audiologists,
17 department of professional and occupational licensing,
18 created by 2-15-1615;

19 (t)(s) board of veterinarians, department of
20 professional and occupational licensing, created by
21 2-15-1613;

22 (u)(t) board of veterans' affairs, department of
23 social and rehabilitation services, created by 2-15-2202;

24 (v)(u) board of sanitarians, department of
25 professional and occupational licensing, created by

1 2-15-1631.

2 (3) The following units of state government shall

3 terminate on July 1, 1983:

4 (a) board of aeronautics, department of community

5 affairs, created by 2-15-1103;

6 (b) state board of hail insurance, department of

7 agriculture, created by 2-15-3003;

8 (c) board of horse racing, department of professional

9 and occupational licensing, created by 2-15-1662;

10 (d) board of livestock, department of livestock,

11 created by 2-15-3102;

12 (e) board of milk control, department of business

13 regulation, created by 2-15-1802;

14 (f) board of oil and gas conservation, department of

15 natural resources and conservation, created by 2-15-3303;

16 (g) Montana outfitters council, department of fish,

17 wildlife, and parks, created by 2-15-3403;

18 (h) public service commission, department of public

19 service regulation, created by 69-1-102;

20 (i) board of water and wastewater operators,

21 department of health and environmental sciences, created by

22 2-15-2105;

23 (j) board of water well contractors, department of

24 professional and occupational licensing, created by

25 2-15-1632.

1 (4) The following agencies terminate on July 1, 1985:

2 (a) the board of public accountants, created by

3 2-15-1641;

4 (b) the board of architects, created by 2-15-1651;

5 (c) state banking board, department of business

6 regulation, created by 2-15-1803;

7 (d) the state electrical board, created by 2-15-1654;

8 (e) the board of professional engineers and land

9 surveyors, created by 2-15-1653;

10 (f) office of commissioner of insurance and the

11 insurance department, state auditor's office, created by

12 2-15-1902 and 2-15-1903;

13 (g) office of the securities commissioner, state

14 auditor's office, created by 2-15-1901;

15 (h) the board of landscape architects, created by

16 2-15-1652;

17 (i) the board of county printing, created by

18 2-15-1102;

19 (j) the board of plumbers, created by 2-15-1655;

20 (k) board of physical therapy examiners, created by

21 2-15-1628.

22 (5) The following agency terminates on July 1, 1987:

23 the board of morticians, department of professional and

24 occupational licensing, created by 2-15-1619."

25 Section 3. Section 2-15-1619, MCA, is amended to read:

1 "2-15-1619. Board of morticians. (1) There is a board
2 of morticians.

3 (2) The board consists of ~~six~~ five members appointed
4 by the governor with the consent of the senate. ~~Five~~ Four
5 members shall be licensed morticians. One member shall be a
6 representative of the public who is not engaged in the
7 practice of mortuary science or funeral directing.

8 (3) ~~Each member~~ Board members shall serve for ~~a term~~
9 of 5 years staggered 5-year terms.

10 ~~{4}--The--public--member---may---not---participate---in~~
11 ~~administering--license-examinations-and-mortuary-inspections.~~

12 ~~{5}{4}~~ The board is allocated to the department for
13 administrative purposes only as prescribed in 2-15-121."

14 Section 4. Section 37-19-302, MCA, is amended to read:

15 "37-19-302. License required for practice of mortuary
16 science -- qualifications of applicants. The practice of
17 embalming or mortuary science by anyone who does not hold a
18 mortician's license issued by the department is prohibited.
19 To qualify for a mortician's license, a person must:

- 20 (1) be of good moral character;
- 21 (2) have graduated from an accredited college of
- 22 mortuary science ~~and--have--satisfactorily--completed--2~~
- 23 ~~academic-years-at-an-accredited-college--or--university~~ AND
- 24 HAVE SATISFACTORILY COMPLETED 2 ACADEMIC YEARS AT AN
- 25 ACCREDITED COLLEGE OR UNIVERSITY AND--HAVE--SATISFACTORILY

1 ~~COMPLETED--2--ACADEMIC--YEARS--AT--A--BOARD--APPROVED--COLLEGE--OR~~
2 ~~UNIVERSITY--WITH--THE--MAJOR--AREA--OF--STUDY--BEING--ONE--THAT--WOULD~~
3 ~~TEND--TO--PREPARE--HIM--FOR--THE--PRACTICE--OF--MORTUARY--SCIENCE, OR~~
4 ~~HAVE EXPERIENCE CONSIDERED EQUIVALENT BY THE BOARD;~~

- 5 (3) pass an examination prescribed by the board;
- 6 (4) serve a 1-year internship under the supervision of
- 7 a mortician in a licensed mortuary in Montana."

8 SECTION 5. SECTION 37-19-305, MCA, IS AMENDED TO READ:

9 "37-19-305. Reciprocity. If a person holding a license
10 entitling him to practice mortuary science in another state
11 applies for a Montana mortician's license, the board may
12 waive the examination and internship requirements if it
13 finds that the standards and requirements of the state in
14 which the applicant is licensed are equal to or exceed those
15 of Montana and if ~~such--state~~ a reciprocal agreement is
16 required by the other state, it has a reciprocal agreement
17 with Montana."

18 Section 6. Section 37-19-311, MCA, is amended to read:

19 "37-19-311. Refusal, suspension, or revocation of
20 mortician's or funeral director's license. The board may
21 refuse to grant, may suspend, or may revoke a mortician's or
22 funeral director's license for any of the following reasons:

- 23 (1) if the applicant or licensee obtained the license
- 24 by fraud or misrepresentation, either in the application for
- 25 the license or in passing the examination;

~~(2) if the applicant or licensee has been convicted of a felony~~

~~(3)(2)~~ if the applicant or licensee has violated any section of this chapter or any rule of the state, district, or local board of health governing the disposition of dead human bodies or any rule of the board regulating the professions of mortuary science or funeral directing or the operation of a mortuary;

~~(4)(3)~~ if the licensee has participated in any scheme in the nature of a burial association or burial certificate plan:

(a) which does not properly protect the rights of the public;

(b) where there is any element of fraud; or

(c) where there is contained any agreement or provision that deprives heirs, next of kin, or any other authorized person freedom of choice as to the services or merchandise used in connection with a funeral or the freedom of choice as to which funeral directors or morticians shall be employed."

NEW SECTION. Section 7. Funeral costs -- rules on disclosure. The board shall adopt rules requiring mortuaries to disclose in writing to all customers a complete itemized list of all funeral costs and complete information regarding the need for embalming.

NEW SECTION. SECTION 8. CONTINUING EDUCATION REQUIREMENTS. THE BOARD MAY ESTABLISH BY RULE CONTINUING EDUCATION PROGRAMS AND CONTINUING EDUCATION REQUIREMENTS. COMPLIANCE WITH CONTINUING EDUCATION REQUIREMENTS MAY BE USED AS A CONDITION OF CONTINUED LICENSURE. IN ADOPTING RULES AND INDIVIDUAL ORDERS REGARDING CONTINUING EDUCATION THE BOARD IN ITS DISCRETION:

(1) MAY USE OR RELY UPON GUIDELINES AND PRONOUNCEMENTS OF RECOGNIZED EDUCATIONAL AND PROFESSIONAL ASSOCIATIONS;

(2) MAY PRESCRIBE THE CONTEXT, DURATION, AND ORGANIZATION OF COURSES;

(3) SHALL TAKE INTO ACCOUNT THE ACCESSIBILITY TO APPLICANTS OF SUCH CONTINUING EDUCATION AS IT MAY REQUIRE; AND

(4) SHALL AVOID ANY IMPEDIMENTS TO INTERSTATE PRACTICE THAT MAY RESULT FROM DIFFERENCES IN CONTINUING EDUCATION REQUIREMENTS IN OTHER STATES.

Section 9. Codification instruction. Section SECTIONS 6 7 AND 8 ARE intended to be codified as an integral part of Title 37, chapter 19, and the provisions of Title 37, chapter 19, apply to section SECTIONS 6 7 AND 8.

Section 10. Effective date. This act is effective on passage and approval.

-End-

HUMAN SERVICES COMMITTEE OF THE HOUSE
AMENDMENTS TO THIRD READING OF SB 398
March 19, 1981

1. Statement of Intent, line 7.

Following: "in"

Strike: "Section 6"

Insert: "Sections 7 and 8"

2. Statement of Intent.

Following: line 16

Insert: "This bill grants the board the authority to establish continuing education programs and requirements to insure maintenance of professional knowledge and competency of licensees. It is the intent of the Legislature that the continuing education programs have as their primary objective the protection of the health, safety, and welfare of the public, and, that the programs not serve primarily to limit entry into the profession or occupation or to promote the personal interests of the licensees."

3. Title, line 9.

Following: "REQUIREMENTS;"

Strike: "DELETING"

Insert: "MODIFYING"

4. Title, line 11.

Following: "STATE;"

Insert: "PROVIDING AUTHORITY FOR RULES ON CONTINUING EDUCATION;"

5. Page 7, lines 21 and 22.

Reinsert: all stricken language on lines 21 and 22

6. Page 7, line 22.

Strike: "AND"

7. Page 7, lines 23 through 25.

Strike: all added language

8. Page 8, line 1.

Strike: "PRACTICE OF MORTUARY SCIENCE,"

9. Page 9.

Following: line 23

Insert: "NEW SECTION. Section 8. Continuing education requirements:

The board may establish by rule continuing education programs and continuing education requirements. Compliance with continuing education requirements may be used as a condition of continued licensure. In adopting rules and individual orders regarding continuing education the board in its discretion:

(1) may use or rely upon guidelines and pronouncements of recognized educational and professional associations;

(2) may prescribe the content, duration, and organization of courses;

(3) shall take into account the accessibility to applicants of such continuing education as it may require; and

(4) shall avoid any impediments to interstate practice that may result from differences in continuing education requirements in other states."

Renumber: subsequent sections

10. Page 9, line 24.

Following: "instruction."

Strike: "Section"

Insert: "Sections"

Following: "7"

Strike: "is"

Insert: "and 8 are"

11. Page 10, line 2.

Following: "to"

Strike: "section"

Insert: "sections"

Following: "7"

Insert: "and 8"