

HOUSE AMENDMENTS TO HOUSE BILL 2471

By COMMITTEE ON BUSINESS AND LABOR

April 21

1 On page 1 of the printed bill, line 3, after “ORS” insert “97.931,” and delete “and” and insert
2 “, 692.148, 692.160, 692.170, 692.180, 692.190, 692.230, 692.320 and 692.350”.

3 In line 4, delete “692.190”.

4 Delete lines 17 and 18 and insert:

5 “(c) The individual must complete training as a funeral service practitioner trainee under ORS
6 692.190.”.

7 On page 2, line 17, delete “12” and insert “20”.

8 Delete lines 28 and 29 and insert:

9 “(a) The individual must complete training as an embalmer trainee under ORS 692.190.”.

10 On page 3, line 1, delete “apprenticeship qualification” and insert “training required under ORS
11 692.190”.

12 In line 22, delete “12” and insert “20”.

13 In line 30, delete “an apprentice to” and insert “a trainee of”.

14 In line 35, delete “ap-”.

15 In line 36, delete “prentice to” and insert “trainee of”.

16 Delete lines 43 through 45.

17 On page 4, delete lines 1 through 6 and insert:

18 “(A) Currently is, or previously was, authorized to practice in another state or profession that
19 is substantially equivalent, as determined by the board, to a funeral service practitioner, embalmer
20 or trainee of a funeral service practitioner or embalmer; and

21 “(B) Is in good standing in that state to practice the profession, or was in good standing in that
22 state at the time that the applicant ceased practicing the profession.”.

23 In line 10, delete “12” and insert “20”.

24 Delete lines 11 through 45.

25 On page 5, delete lines 1 through 30 and insert:

“TRAINEES OF FUNERAL SERVICE PRACTITIONERS AND EMBALMERS

30 “**SECTION 9.** ORS 692.190 is amended to read:

31 “692.190. (1) An individual who wishes to [*engage as an apprentice*] **train to be a funeral ser-**
32 **vice practitioner or embalmer** shall apply to the State Mortuary and Cemetery Board for regis-
33 tration as a funeral service practitioner [*apprentice*] **trainee** or an embalmer [*apprentice*] **trainee**
34 upon a form provided by the board. The individual must consent to a background check, including
35 **any** information [*solicited from*] **required by** the Department of State Police. The application must

1 be accompanied by the fee established under ORS 692.160.

2 “(2) [One] **A funeral service practitioner** [*apprentice at a time is authorized to operate under or*
3 *in connection with each licensed*] **trainee must be supervised by a funeral service practitioner**
4 **practicing in this state** [*for the purpose of learning the functions of a funeral service practitioner*] **who**
5 **is licensed by and in good standing with the board.**

6 “(3) [*One embalmer apprentice at a time is authorized to engage in the study of the art of*
7 *embalming under the instruction and supervision of each licensed*] **An embalmer trainee must be**
8 **under the direct supervision of an embalmer practicing in this state who is licensed by and in**
9 **good standing with the board.**

10 “[*(4) The duration of an apprenticeship required for licensure is:*]

11 “[*(a) Twelve months for a funeral service practitioner apprentice.*]

12 “[*(b) Twelve months for an embalmer apprentice.*]

13 “[*(5) An individual may serve as a funeral service practitioner apprentice for an aggregate total*
14 *of not more than 48 months. In computing time under this subsection, the board shall exclude time lost*
15 *by interruptions caused by active duty of the apprentice in the military service of the United States or*
16 *its allies during war or national emergency and by interruptions that the board finds are excusable*
17 *under rules of the board.*]

18 “[*(6) An embalmer apprentice may serve the apprenticeship concurrently with the funeral service*
19 *practitioner apprenticeship.*]

20 “[*(7) An individual may serve as an embalmer apprentice for an aggregate total of not more than*
21 *48 months. In computing time under this subsection, the board shall exclude time lost by interruptions*
22 *caused by active duty of the apprentice in the military service of the United States or its allies during*
23 *war or national emergency and by interruptions that the board finds are excusable under rules of the*
24 *board.*]

25 “(4) **A trainee registered under this section may not perform activities regulated under**
26 **this chapter unless:**

27 “(a) **The activities are performed under the supervision of a licensee; and**

28 “(b) **The activities fall within the scope of the training for which the trainee is registered.**

29 “(5) **To complete training required to be a funeral service practitioner or an embalmer,**
30 **an individual must:**

31 “(a) **Complete and document the requisite number of cases as determined by the board**
32 **by rule;**

33 “(b) **Demonstrate the requisite competencies as determined by the board by rule; and**

34 “(c) **Meet any other requirement established by the board by rule.**

35 “[*(8)(a)*] **(6)(a)** [*Notwithstanding subsections (2) and (3) of this section,*] **A licensed funeral service**
36 **practitioner who is in good standing with the board** or a licensed embalmer **who is in good**
37 **standing with the board** may serve as a preceptor for [*not more than three students serving a fu-*
38 *neral service internship in accordance with guidelines established by an*] **interns enrolled in an ac-**
39 **credited funeral service education program that is registered with the board.**

40 “[*(b) A student serving an internship in a program that covers both funeral service and embalming*
41 *must be supervised by a practitioner who has a combination funeral service practitioner and embalmer*
42 *license.*]

43 “(b) **A licensed funeral service practitioner or licensed embalmer must notify the board**
44 **in a manner and form prescribed by the board by rule when beginning or ceasing service as**
45 **a preceptor under this subsection.**

1 “(c) A preceptor must directly supervise the activities of interns. An intern may not
2 perform activities regulated under this chapter unless:

3 “(A) The activities are performed under the supervision of a preceptor; and

4 “(B) The activities are performed for or as part of the funeral service education program.

5 “[9] (7) The board shall adopt rules under which the board may confer credit for [apprentice-
6 ship service or its equivalency] training performed by:

7 “(a) An applicant [in another state] under ORS 692.140; or

8 “(b) An applicant whose [license or certificate of apprenticeship] registration under this section
9 has lapsed.

10 “SECTION 10. The amendments to ORS 692.190 by section 9 of this 2015 Act apply to ap-
11 plicants whose applications to train to be a funeral service practitioner or embalmer are
12 received by the State Mortuary and Cemetery Board on or after the operative date specified
13 in section 20 of this 2015 Act.”.

14 Delete lines 44 and 45 and delete page 6 and insert:

15
16 “CONFORMING AMENDMENTS

17
18 “SECTION 12. ORS 97.931 is amended to read:

19 “97.931. (1) A salesperson may not engage in prearrangement sales made by endowment care
20 cemeteries under ORS 97.929 or in preconstruction sales or prearrangement sales unless the
21 salesperson is registered with the State Mortuary and Cemetery Board or holds a current funeral
22 service practitioner license, embalmer license, funeral service practitioner [apprentice] trainee reg-
23 istration or embalmer [apprentice] trainee registration. The board by rule shall:

24 “(a) Establish procedures for issuing salesperson registrations under this subsection;

25 “(b) Establish standards for determining whether a salesperson registration should be issued;

26 “(c) Set renewal and salesperson registration fees; and

27 “(d) Require biennial renewal of salesperson registrations.

28 “(2) The board may conduct a background check of any salesperson applying for registration
29 under subsection (1) of this section. The background check may include information solicited from
30 the Department of State Police. After consideration of information obtained from any background
31 check and any other information in its possession, the board shall determine whether to register the
32 salesperson.

33 “(3)(a) The board may impose a civil penalty of up to \$1,000 per violation or suspend, revoke
34 or refuse to issue or renew the registration of a salesperson described in subsection (1) of this sec-
35 tion upon a determination that the applicant or holder has not complied with the provisions of ORS
36 97.923 to 97.949 or ORS chapter 692, or any rules adopted thereunder. When the board proposes to
37 take such action, the person affected by the action shall be accorded notice and an opportunity for
38 hearing as provided by ORS chapter 183. The board shall notify the Director of the Department of
39 Consumer and Business Services of its intent to take action against a salesperson or person acting
40 as a salesperson.

41 “(b) The board shall suspend, revoke or refuse to issue or renew the registration of a
42 salesperson if the director requests the board to take such action.

43 “(4) Fees and other moneys received by the board under this section shall be deposited into the
44 State Mortuary and Cemetery Board Account established in ORS 692.375.

45 “SECTION 13. ORS 692.148 is amended to read:

1 “692.148. (1) If the principals of a licensed funeral establishment or immediate disposition com-
2 pany change, the establishment or company shall apply to the State Mortuary and Cemetery Board
3 for a new license.

4 “(2) A person holding a license or certificate of authority or who is registered under this chap-
5 ter shall apply to the board for reissuance of the license, certificate or registration if any of the
6 following occur:

7 “(a) The name of the person changes;

8 “(b) The location of the funeral establishment, immediate disposition company or crematorium
9 changes;

10 “(c) [An *apprentice*] **A trainee** registered under ORS 692.190 transfers from one licensed funeral
11 service practitioner or licensed embalmer to another;

12 “(d) The original license, registration or certificate is lost or destroyed; or

13 “(e) When a person holding a license or certificate of authority issued under this chapter obtains
14 another license or certificate of authority issued under this chapter.

15 “(3) The application for reissuance of the license, registration or certificate shall include pay-
16 ment of the fee established under ORS 692.160. The board shall reissue the license, certificate or
17 registration when the board receives the application and the fee.

18 “**SECTION 14.** ORS 692.160 is amended to read:

19 “692.160. (1) The fees that may be charged under this chapter are:

20 “(a) A fee covering requests for applications for a funeral service practitioner license, an
21 embalmer license, a death care consultant license, a funeral establishment license, an immediate
22 disposition company license, a certificate of authority for a cemetery, a certificate of authority for
23 a crematorium, a certificate of authority for any other facility for final disposition of human re-
24 mains, registration as a funeral service practitioner [*apprentice*] **trainee**, registration as an
25 embalmer [*apprentice*] **trainee**, a certificate of removal registration, a license as a reciprocal funeral
26 service practitioner or a license as a reciprocal embalmer. The application fee shall be accompanied
27 by an additional fee for each principal of a funeral establishment, immediate disposition company,
28 cemetery, crematorium or other facility for final disposition of human remains.

29 “(b) A fee covering the renewal of a license for a funeral establishment, a license for an imme-
30 diate disposition company, a certificate of authority for a crematorium or a certificate of authority
31 for any other facility for final disposition of human remains.

32 “(c) A fee covering the renewal of a funeral service practitioner license, an embalmer license
33 or a death care consultant license.

34 “(d) A fee for renewal of a combination funeral service practitioner and embalmer license.

35 “(e) A fee for renewal of the registration of a funeral service practitioner [*apprentice*] **trainee**
36 or an embalmer [*apprentice*] **trainee**.

37 “(f) An examination fee for a funeral service practitioner license, an embalmer license or a death
38 care consultant license.

39 “(g) A fee covering the renewal of a certificate of authority for a cemetery.

40 “(h) A fee covering the reinstatement of a lapsed license, [*or*] certificate of authority **or regis-**
41 **tration.**

42 “(i) A fee for reissuing a license, registration or certificate of authority as provided in ORS
43 692.148.

44 “(j) Fees for copying any public record maintained by the State Mortuary and Cemetery Board,
45 for documents distributed by the board and postage for mailing any copies or documents.

1 “(2) All licenses granted under this chapter to funeral service practitioners, embalmers and
2 death care consultants expire on January 1 in even-numbered years or on such date as may be
3 specified by rule of the State Mortuary and Cemetery Board. All licenses or certificates of authority
4 granted under this chapter to operators of funeral establishments, to operators of immediate dispo-
5 sition companies, to operators of cemeteries, to operators of crematoriums or to operators of other
6 facilities for final disposition of human remains expire on January 1 in odd-numbered years or on
7 such date as may be specified by board rule.

8 “(3) The board shall mail to each licensed funeral service practitioner, to each licensed
9 embalmer, to each licensed death care consultant, to each licensed operator of a funeral establish-
10 ment or immediate disposition company and to each cemetery, crematorium and other facility for
11 final disposition of human remains holding a certificate of authority under ORS 692.275, addressed
12 to the licensee or certificate holder at the licensee’s or certificate holder’s last-known address, a
13 notice that the renewal fee is due and payable and that if the fee is not paid by the renewal date
14 the license or certificate of authority shall lapse. The board shall mail the notice at least 60 days
15 before the license or certificate of authority expires. The board may impose continuing education
16 requirements as a prerequisite for relicensure.

17 “(4) Subject to prior approval of the Oregon Department of Administrative Services and a report
18 to the Emergency Board prior to adopting the fees and charges, the fees and charges established
19 under this section shall not exceed the cost of administering the regulatory program of the State
20 Mortuary and Cemetery Board pertaining to the purpose for which the fee or charge is established,
21 as authorized by the Legislative Assembly within the board’s budget, as the budget may be modified
22 by the Emergency Board.

23 “**SECTION 15.** ORS 692.170 is amended to read:

24 “692.170. (1) When a licensee or [*an apprentice*] **a trainee registered under ORS 692.190** has
25 allowed a license or a [*certificate of apprenticeship*] **registration** to lapse, the State Mortuary and
26 Cemetery Board may reinstate the license or [*certificate*] **reregister the trainee** if the licensee or
27 [*apprentice*] **trainee**:

28 “(a) Applies for reinstatement **or reregistration** not later than the 90th day after the lapse; and

29 “(b) Pays all fees owing to the date of reinstatement **or reregistration** as well as a rein-
30 statement **or reregistration** fee established under ORS 692.160.

31 “(2) Upon the lapse of a license or [*certificate*] **registration**, the board shall send the notice of
32 lapse to the licensee or [*apprentice*] **trainee** by registered or certified mail at the last-known address
33 of the licensee or [*apprentice*] **trainee**.

34 “**SECTION 16.** ORS 692.180 is amended to read:

35 “692.180. (1) Upon complaint or upon its own motion, the State Mortuary and Cemetery Board
36 may investigate a complaint made by any person or by the board. If the board finds any of the
37 causes described in this section in regard to any person, licensee or applicant or the holder of a
38 certificate of authority, the board may impose a civil penalty of not more than \$1,000 for each vio-
39 lation, suspend or revoke a license to practice or to operate under this chapter or refuse to grant
40 or renew a license. The causes are as follows:

41 “(a) Misrepresentation in the conduct of business or in obtaining a license.

42 “(b) Fraudulent or dishonest conduct, when the conduct bears a demonstrable relationship to
43 funeral service practice, embalming practice or the operation of cemeteries, crematoriums or other
44 facilities for final disposition of human remains.

45 “(c) Except as provided in this paragraph, solicitation of human remains by the licensee or any

1 agent, assistant or employee of the licensee, either before or after death. This paragraph does not
2 apply to:

3 “(A) Activities permissible under ORS 97.923 to 97.949; or

4 “(B) The sale, in accordance with provisions of the Insurance Code, of prearranged funeral or
5 cemetery merchandise or services, or any combination thereof, to be funded by the contemporaneous
6 or subsequent assignment of a life insurance policy or an annuity contract.

7 “(d) Offensive treatment of dead human bodies or evidence that a body in the person’s custody
8 has been disposed of in violation of ORS chapter 432 or rules adopted pursuant thereto.

9 “(e) Aiding or abetting a person who is not a licensee or [*an apprentice*] **a trainee** in any act
10 involving the disposition of dead human bodies before the bodies undergo final disposition or before
11 the bodies are transported out of the State of Oregon.

12 “(f) Sale or reuse of any casket or body container that has been previously utilized for the
13 placement of a deceased human body. This does not include use of a rental cover as defined in ORS
14 692.010.

15 “(g) Violation of any of the provisions of this chapter or any rules adopted under this chapter.

16 “(h) Violation of any provision of ORS 97.929 or 97.937 or regulations adopted by the Federal
17 Trade Commission regulating funeral industry practices.

18 “(i) Conviction of a crime, when the crime bears a demonstrable relationship to funeral service
19 practice, embalming practice, death care consultant practice or the operation of cemeteries,
20 crematoriums or other facilities for final disposition of human remains. A certified copy of the con-
21 viction is conclusive evidence of the conviction.

22 “(j) Violation of ORS chapter 97 as it relates to disposition of human bodies and to cemeteries.

23 “(k) Refusing to surrender promptly the custody of a dead human body, upon the express order
24 of the person lawfully entitled to the custody of the body.

25 “(L) Acting as the legal representative of any deceased person for whom the licensee has ren-
26 dered services governed by this chapter. This subsection does not prohibit a licensee from acting
27 as the legal representative of a deceased relative or a deceased licensee if the deceased licensee
28 was a partner, employee or employer in the licensee’s practice.

29 “(m) Failure to pay any civil penalty imposed by the board within 10 days after the order is
30 entered or, if appealed, within 10 days after the order is sustained on appeal.

31 “(n) Impairment as defined in ORS 676.303.

32 “(2) All amounts recovered under this section shall be deposited in the State Mortuary and
33 Cemetery Board Account established under ORS 692.375.

34 “(3) Civil penalties under this section shall be imposed as provided in ORS 183.745.

35 “(4) Upon receipt of a complaint, the board shall conduct an investigation as described under
36 ORS 676.165.

37 “(5) Information that the board obtains as part of an investigation into licensee or applicant
38 conduct or as part of a contested case proceeding, consent order or stipulated agreement involving
39 licensee or applicant conduct is confidential as provided under ORS 676.175.

40 “**SECTION 17.** ORS 692.230 is amended to read:

41 “692.230. (1) The State Mortuary and Cemetery Board may suspend or revoke [*a certificate of*
42 *apprenticeship*] **the registration of a trainee**, after notice and upon hearing, if the board finds any
43 of the causes specified in ORS 692.180 in regard to the [*apprentice*] **trainee**.

44 “(2) [*An apprentice who has had a certificate of apprenticeship*] **A trainee whose registration**
45 **has been** suspended or revoked may apply for reregistration within one year after the suspension

1 or revocation, but the board shall not allow more than two reregistrations. When the circumstances
2 warrant, the board may allow [*an apprentice*] a **trainee** credit under a reregistration for time actu-
3 ally served under a previous registration. However, if the previous registration has been suspended
4 or revoked under subsection (1) of this section, the board shall not [*credit on the registration*] **pro-**
5 **vide credit for** more than 75 percent of the time previously served.

6 “(3) Upon receipt of a complaint, the board shall conduct an investigation as described under
7 ORS 676.165.

8 “(4) Information that the board obtains as part of an investigation into [*licensee or applicant*]
9 **trainee** conduct or as part of a contested case proceeding, consent order or stipulated agreement
10 involving [*licensee or applicant*] **trainee** conduct is confidential as provided under ORS 676.175.

11 “**SECTION 18.** ORS 692.320 is amended to read:

12 “692.320. (1) The State Mortuary and Cemetery Board may adopt and enforce rules for the pro-
13 tection of the public health, safety and welfare relating to the following:

14 “(a) The licensing of or issuance of certificates of authority for funeral service practitioners,
15 embalmers, death care consultants, funeral establishments, crematoriums, cemeteries and other fa-
16 cilities for final disposition of human remains.

17 “(b) The registration of [*apprentices*] **trainees**.

18 “(c) The practice of funeral service practitioners, embalmers and death care consultants, and the
19 operation of funeral establishments, immediate disposition companies, crematoriums, cemeteries and
20 other facilities for final disposition of human remains.

21 “(d) Sanitary conditions of funeral establishments, crematoriums, cemeteries, other facilities for
22 final disposition of human remains and any location in which human remains are stored or processed
23 prior to final disposition.

24 “(e) Matters necessary to carry out the provisions of this chapter.

25 “(2) Other than areas used as living quarters, the board shall inspect not less than once
26 biennially the facilities and records of funeral establishments, cemeteries, crematoriums and imme-
27 diate disposition companies, other facilities for final disposition of human remains and any location
28 in which human remains may be stored, temporarily held or processed prior to final disposition. The
29 inspection of the records of such locations is limited to those records required to comply with this
30 chapter or ORS chapter 432 or rules adopted pursuant thereto. The board may make random in-
31 spections at other times. The board shall employ one or more persons to perform such inspections
32 and aid in the enforcement of this chapter and rules adopted thereunder. A person employed under
33 this subsection may not be a member of the board or actively engaged in a practice regulated by
34 this chapter.

35 “(3) The board may hold hearings, conduct investigations, subpoena witnesses, administer oaths
36 and take testimony in order to carry out the provisions of this chapter.

37 “(4) The board shall have a common seal and, subject to any applicable provision of the State
38 Personnel Relations Law, may employ staff, fix the compensation for them and incur other necessary
39 expenses.

40 “**SECTION 19.** ORS 692.350 is amended to read:

41 “692.350. Except as provided in this section, after each change in the provisions of this chapter
42 or in the rules adopted under this chapter, the State Mortuary and Cemetery Board shall publish
43 for distribution to funeral service practitioners, embalmers and [*apprentices*] **trainees of funeral**
44 **service practitioners and embalmers**, and to other interested persons, the provisions of this
45 chapter together with all rules adopted under this chapter. If a change or changes in the rules are

1 not extensive in scope, the board may publish the changes in supplementary form.

2
3 **“OPERATIVE DATE**

4
5 **“SECTION 20. (1) The amendments to statutes by sections 1, 2, 4, 5, 7, 9 and 11 to 19 of**
6 **this 2015 Act become operative on January 1, 2016.**

7 **“(2) The State Mortuary and Cemetery Board may take any action before the operative**
8 **date specified in subsection (1) of this section that is necessary to enable the board to exer-**
9 **cise, on and after the operative date specified in subsection (1) of this section, all the duties,**
10 **functions and powers conferred on the board by the amendments to statutes by sections 1,**
11 **2, 4, 5, 7, 9 and 11 to 19 of this 2015 Act.**

12
13 **“UNIT CAPTIONS**

14
15 **“SECTION 21. The unit captions used in this 2015 Act are provided only for the conven-**
16 **ience of the reader and do not become part of the statutory law of this state or express any**
17 **legislative intent in the enactment of this 2015 Act.**

18
19 **“EMERGENCY CLAUSE**

20
21 **“SECTION 22. This 2015 Act being necessary for the immediate preservation of the public**
22 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
23 **on its passage.”.**

24 _____