

**PROPOSED AMENDMENTS TO
HOUSE BILL 2471**

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

4 In line 4, delete “692.190”.

5 Delete lines 17 and 18 and insert:

6 “(c) The individual must complete training as a funeral service practi-
7 tioner trainee under ORS 692.190.”.

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

9 Delete lines 28 and 29 and insert:

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

12 On page 3, line 1, delete “apprenticeship qualification” and insert “train-
13 ing required under ORS 692.190”.

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

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

16 In line 35, delete “ap-”.

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

18 Delete lines 43 through 45.

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

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

1 service practitioner or embalmer; and

2 “(B) Is in good standing in that state to practice the profession, or was
3 in good standing in that state at the time that the applicant ceased practic-
4 ing the profession.”

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

6 Delete lines 11 through 45 and insert:

7

8 **“TRAINEES OF FUNERAL SERVICE**
9 **PRACTITIONERS AND EMBALMERS**

10

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

12 “692.190. (1) An individual who wishes to [*engage as an apprentice*] **train**
13 **to be a funeral service practitioner or embalmer** shall apply to the State
14 Mortuary and Cemetery Board for registration as a funeral service practi-
15 tioner [*apprentice*] **trainee** or an embalmer [*apprentice*] **trainee** upon a form
16 provided by the board. The individual must consent to a background check,
17 including **any** information [*solicited from*] **required by** the Department of
18 State Police. The application must be accompanied by the fee established
19 under ORS 692.160.

20 “(2) [*One*] **A** funeral service practitioner [*apprentice at a time is author-*
21 *ized to operate under or in connection with each licensed*] **trainee must be**
22 **supervised by a** funeral service practitioner practicing in this state [*for the*
23 *purpose of learning the functions of a funeral service practitioner*] **who is li-**
24 **censed by and in good standing with the board.**

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

30 “[*4*] *The duration of an apprenticeship required for licensure is:*”

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

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

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

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

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

17 **“(4) A trainee registered under this section may not perform activ-**
18 **ities regulated under this chapter unless:**

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

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

23 **“(5) To complete training required to be a funeral service practi-**
24 **tioner or an embalmer, an individual must:**

25 **“(a) Complete and document the requisite number of cases as de-**
26 **termined by the board by rule;**

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

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

30 “[(8)(a)] **(6)(a)** *[Notwithstanding subsections (2) and (3) of this section,] A*

1 licensed funeral service practitioner **who is in good standing with the**
2 **board** or a licensed embalmer **who is in good standing with the board**
3 may serve as a preceptor for [*not more than three students serving a funeral*
4 *service internship in accordance with guidelines established by an*] **interns**
5 **enrolled in an** accredited funeral service education program **that is regis-**
6 **tered with the board.**

7 “[*(b) A student serving an internship in a program that covers both funeral*
8 *service and embalming must be supervised by a practitioner who has a com-*
9 *bination funeral service practitioner and embalmer license.*]

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

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

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

19 **“(B) The activities are performed for or as part of the funeral ser-**
20 **vice education program.**

21 “[~~(9)~~ (7) The board shall adopt rules under which the board may confer
22 credit for [*apprenticeship service or its equivalency*] **training** performed by:

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

24 **“(b) An applicant whose [*license or certificate of apprenticeship*] **regis-****

25 **tration under this section** has lapsed.
26 **“SECTION 10. The amendments to ORS 692.190 by section 9 of this**
27 **2015 Act apply to applicants whose applications to train to be a funeral**
28 **service practitioner or embalmer are received by the State Mortuary**
29 **and Cemetery Board on or after the operative date specified in section**
30 **20 of this 2015 Act.”.**

1 On page 5, delete lines 1 through 30.

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

3
4 **“CONFORMING AMENDMENTS**

5
6 **“SECTION 12.** ORS 97.931 is amended to read:

7 “97.931. (1) A salesperson may not engage in prearrangement sales made
8 by endowment care cemeteries under ORS 97.929 or in preconstruction sales
9 or prearrangement sales unless the salesperson is registered with the State
10 Mortuary and Cemetery Board or holds a current funeral service practitioner
11 license, embalmer license, funeral service practitioner [*apprentice*] **trainee**
12 registration or embalmer [*apprentice*] **trainee** registration. The board by rule
13 shall:

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

16 “(b) Establish standards for determining whether a salesperson registra-
17 tion should be issued;

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

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

20 “(2) The board may conduct a background check of any salesperson ap-
21 plying for registration under subsection (1) of this section. The background
22 check may include information solicited from the Department of State Police.
23 After consideration of information obtained from any background check and
24 any other information in its possession, the board shall determine whether
25 to register the salesperson.

26 “(3)(a) The board may impose a civil penalty of up to \$1,000 per violation
27 or suspend, revoke or refuse to issue or renew the registration of a
28 salesperson described in subsection (1) of this section upon a determination
29 that the applicant or holder has not complied with the provisions of ORS
30 97.923 to 97.949 or ORS chapter 692, or any rules adopted thereunder. When

1 the board proposes to take such action, the person affected by the action
2 shall be accorded notice and an opportunity for hearing as provided by ORS
3 chapter 183. The board shall notify the Director of the Department of Con-
4 sumer and Business Services of its intent to take action against a
5 salesperson or person acting as a salesperson.

6 “(b) The board shall suspend, revoke or refuse to issue or renew the reg-
7 istration of a salesperson if the director requests the board to take such
8 action.

9 “(4) Fees and other moneys received by the board under this section shall
10 be deposited into the State Mortuary and Cemetery Board Account estab-
11 lished in ORS 692.375.

12 **“SECTION 13.** ORS 692.148 is amended to read:

13 “692.148. (1) If the principals of a licensed funeral establishment or im-
14 mediate disposition company change, the establishment or company shall
15 apply to the State Mortuary and Cemetery Board for a new license.

16 “(2) A person holding a license or certificate of authority or who is reg-
17 istered under this chapter shall apply to the board for reissuance of the li-
18 cense, certificate or registration if any of the following occur:

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

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

22 “(c) [*An apprentice*] **A trainee** registered under ORS 692.190 transfers
23 from one licensed funeral service practitioner or licensed embalmer to an-
24 other;

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

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

30 “(3) The application for reissuance of the license, registration or certif-

1 icate shall include payment of the fee established under ORS 692.160. The
2 board shall reissue the license, certificate or registration when the board
3 receives the application and the fee.

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

5 “692.160. (1) The fees that may be charged under this chapter are:

6 “(a) A fee covering requests for applications for a funeral service practi-
7 tioner license, an embalmer license, a death care consultant license, a fu-
8 neral establishment license, an immediate disposition company license, a
9 certificate of authority for a cemetery, a certificate of authority for a
10 crematorium, a certificate of authority for any other facility for final dispo-
11 sition of human remains, registration as a funeral service practitioner [*ap-*
12 *prentice*] **trainee**, registration as an embalmer [*apprentice*] **trainee**, a
13 certificate of removal registration, a license as a reciprocal funeral service
14 practitioner or a license as a reciprocal embalmer. The application fee shall
15 be accompanied by an additional fee for each principal of a funeral estab-
16 lishment, immediate disposition company, cemetery, crematorium or other
17 facility for final disposition of human remains.

18 “(b) A fee covering the renewal of a license for a funeral establishment,
19 a license for an immediate disposition company, a certificate of authority for
20 a crematorium or a certificate of authority for any other facility for final
21 disposition of human remains.

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

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

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

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

30 “(g) A fee covering the renewal of a certificate of authority for a ceme-

1 tery.

2 “(h) A fee covering the reinstatement of a lapsed license, [or] certificate
3 of authority **or registration.**

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

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

9 “(2) All licenses granted under this chapter to funeral service practition-
10 ers, embalmers and death care consultants expire on January 1 in even-
11 numbered years or on such date as may be specified by rule of the State
12 Mortuary and Cemetery Board. All licenses or certificates of authority
13 granted under this chapter to operators of funeral establishments, to opera-
14 tors of immediate disposition companies, to operators of cemeteries, to oper-
15 ators of crematoriums or to operators of other facilities for final disposition
16 of human remains expire on January 1 in odd-numbered years or on such date
17 as may be specified by board rule.

18 “(3) The board shall mail to each licensed funeral service practitioner, to
19 each licensed embalmer, to each licensed death care consultant, to each li-
20 censed operator of a funeral establishment or immediate disposition company
21 and to each cemetery, crematorium and other facility for final disposition
22 of human remains holding a certificate of authority under ORS 692.275, ad-
23 dressed to the licensee or certificate holder at the licensee’s or certificate
24 holder’s last-known address, a notice that the renewal fee is due and payable
25 and that if the fee is not paid by the renewal date the license or certificate
26 of authority shall lapse. The board shall mail the notice at least 60 days
27 before the license or certificate of authority expires. The board may impose
28 continuing education requirements as a prerequisite for relicensure.

29 “(4) Subject to prior approval of the Oregon Department of Administrative
30 Services and a report to the Emergency Board prior to adopting the fees and

1 charges, the fees and charges established under this section shall not exceed
2 the cost of administering the regulatory program of the State Mortuary and
3 Cemetery Board pertaining to the purpose for which the fee or charge is es-
4 tablished, as authorized by the Legislative Assembly within the board's
5 budget, as the budget may be modified by the Emergency Board.

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

7 “692.170. (1) When a licensee or [*an apprentice*] **a trainee registered**
8 **under ORS 692.190** has allowed a license or a [*certificate of apprenticeship*]
9 **registration** to lapse, the State Mortuary and Cemetery Board may reinstate
10 the license or [*certificate*] **reregister the trainee** if the licensee or [*appren-*
11 *tice*] **trainee**:

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

14 “(b) Pays all fees owing to the date of reinstatement **or reregistration**
15 as well as a reinstatement **or reregistration** fee established under ORS
16 692.160.

17 “(2) Upon the lapse of a license or [*certificate*] **registration**, the board
18 shall send the notice of lapse to the licensee or [*apprentice*] **trainee** by reg-
19 istered or certified mail at the last-known address of the licensee or [*ap-*
20 *prentice*] **trainee**.

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

22 “692.180. (1) Upon complaint or upon its own motion, the State Mortuary
23 and Cemetery Board may investigate a complaint made by any person or by
24 the board. If the board finds any of the causes described in this section in
25 regard to any person, licensee or applicant or the holder of a certificate of
26 authority, the board may impose a civil penalty of not more than \$1,000 for
27 each violation, suspend or revoke a license to practice or to operate under
28 this chapter or refuse to grant or renew a license. The causes are as follows:

29 “(a) Misrepresentation in the conduct of business or in obtaining a li-
30 cense.

1 “(b) Fraudulent or dishonest conduct, when the conduct bears a demon-
2 strable relationship to funeral service practice, embalming practice or the
3 operation of cemeteries, crematoriums or other facilities for final disposition
4 of human remains.

5 “(c) Except as provided in this paragraph, solicitation of human remains
6 by the licensee or any agent, assistant or employee of the licensee, either
7 before or after death. This paragraph does not apply to:

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

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

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

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

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

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

25 “(h) Violation of any provision of ORS 97.929 or 97.937 or regulations
26 adopted by the Federal Trade Commission regulating funeral industry prac-
27 tices.

28 “(i) Conviction of a crime, when the crime bears a demonstrable re-
29 lationship to funeral service practice, embalming practice, death care con-
30 sultant practice or the operation of cemeteries, crematoriums or other

1 facilities for final disposition of human remains. A certified copy of the
2 conviction is conclusive evidence of the conviction.

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

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

8 “(L) Acting as the legal representative of any deceased person for whom
9 the licensee has rendered services governed by this chapter. This subsection
10 does not prohibit a licensee from acting as the legal representative of a de-
11 ceased relative or a deceased licensee if the deceased licensee was a partner,
12 employee or employer in the licensee’s practice.

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

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

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

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

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

23 “(5) Information that the board obtains as part of an investigation into
24 licensee or applicant conduct or as part of a contested case proceeding,
25 consent order or stipulated agreement involving licensee or applicant con-
26 duct is confidential as provided under ORS 676.175.

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

28 “692.230. (1) The State Mortuary and Cemetery Board may suspend or
29 revoke [*a certificate of apprenticeship*] **the registration of a trainee**, after
30 notice and upon hearing, if the board finds any of the causes specified in

1 ORS 692.180 in regard to the [*apprentice*] **trainee**.

2 “(2) [*An apprentice who has had a certificate of apprenticeship*] **A trainee**
3 **whose registration has been** suspended or revoked may apply for reregis-
4 tration within one year after the suspension or revocation, but the board
5 shall not allow more than two reregistrations. When the circumstances
6 warrant, the board may allow [*an apprentice*] **a trainee** credit under a re-
7 registration for time actually served under a previous registration. However,
8 if the previous registration has been suspended or revoked under subsection
9 (1) of this section, the board shall not [*credit on the registration*] **provide**
10 **credit for** more than 75 percent of the time previously served.

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

13 “(4) Information that the board obtains as part of an investigation into
14 [*licensee or applicant*] **trainee** conduct or as part of a contested case pro-
15 ceeding, consent order or stipulated agreement involving [*licensee or appli-*
16 *cant*] **trainee** conduct is confidential as provided under ORS 676.175.

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

18 “692.320. (1) The State Mortuary and Cemetery Board may adopt and en-
19 force rules for the protection of the public health, safety and welfare relating
20 to the following:

21 “(a) The licensing of or issuance of certificates of authority for funeral
22 service practitioners, embalmers, death care consultants, funeral establish-
23 ments, crematoriums, cemeteries and other facilities for final disposition of
24 human remains.

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

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

30 “(d) Sanitary conditions of funeral establishments, crematoriums, ceme-

1 teries, other facilities for final disposition of human remains and any lo-
2 cation in which human remains are stored or processed prior to final
3 disposition.

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

5 “(2) Other than areas used as living quarters, the board shall inspect not
6 less than once biennially the facilities and records of funeral establishments,
7 cemeteries, crematoriums and immediate disposition companies, other facili-
8 ties for final disposition of human remains and any location in which human
9 remains may be stored, temporarily held or processed prior to final disposi-
10 tion. The inspection of the records of such locations is limited to those re-
11 cords required to comply with this chapter or ORS chapter 432 or rules
12 adopted pursuant thereto. The board may make random inspections at other
13 times. The board shall employ one or more persons to perform such in-
14 spections and aid in the enforcement of this chapter and rules adopted
15 thereunder. A person employed under this subsection may not be a member
16 of the board or actively engaged in a practice regulated by this chapter.

17 “(3) The board may hold hearings, conduct investigations, subpoena wit-
18 nesses, administer oaths and take testimony in order to carry out the pro-
19 visions of this chapter.

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

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

24 “692.350. Except as provided in this section, after each change in the
25 provisions of this chapter or in the rules adopted under this chapter, the
26 State Mortuary and Cemetery Board shall publish for distribution to funeral
27 service practitioners, embalmers and [*apprentices*] **trainees of funeral ser-**
28 **vice practitioners and embalmers**, and to other interested persons, the
29 provisions of this chapter together with all rules adopted under this chapter.
30 If a change or changes in the rules are not extensive in scope, the board may

1 publish the changes in supplementary form.

2

3

“OPERATIVE DATE

4

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

7

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

13

14

“UNIT CAPTIONS

15

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

20

21

“EMERGENCY CLAUSE

22

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

26
