

HOUSE RESEARCH

Bill Summary

FILE NUMBER: S.F. 802

DATE: May 17, 2007

Version: Conference Committee Report

Authors: Liebling and others

Subject: Mortuary Science

Analyst: Emily Cleveland, 651-296-5808

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

Overview

This bill provides changes to the mortuary science chapter. It provides for a student participating in a mortuary science program practicum or clinical to perform certain duties of a mortician, provided the student is properly supervised. It states that changes of 50 percent or more in ownership of funeral establishments terminate the license. It provides several additional requirements for disclosing pricing information. This bill provides a list of the types of death that must be reported to a coroner or medical examiner. Also, the bill updates the requirements for crematories.

Section

- 1** **Scope.** Amends § 149.01, subd. 2. Removes the licensure requirement for transporting a dead body and for arranging or supervising a memorial service.
- 2** **Exceptions to licensure.** Amends § 149A.01, subd. 3. (a) States that this mortuary science chapter does not interfere with the duties of anatomical bequest programs at accredited schools of medicine.
 - (b) States that this chapter does not interfere with recognized religious or cultural ceremonial practices regarding the dead.
 - (c) Removes language that allowed an unlicensed, uncompensated person acting pursuant to a lawful directive of a decedent to perform certain activities relating to final disposition of the body.

Section

(d) Allows unlicensed student interns, who participate in a mortuary science program, and are registered with the commissioner, to perform certain activities, so long as a licensed person supervises the students.

- 3 **Alternative container.** Amends § 149A.02, subd. 2. Updates the definition of alternative container.
- 4 **Clinical student.** Amends § 149A.02, by adding subd. 5a. Defines clinical student as a person who is officially registered for a clinical through an accredited mortuary science program.
- 5 **Cremated remains container.** Amends § 149A.02, subd. 8. States that this term is interchangeable with "urn."
- 6 **Cremation container.** Amends § 149A.02, subd. 11. Defines this term as a rigid, combustible, closed container that encases a body.
- 7 **Crematory.** Amends § 149A.02, subd. 12. Removes a person that performs cremations from the definition.
- 8 **Direct cremation.** Amends § 149A.02, subd. 13. Updates the language in the definition.
- 9 **Direct supervision.** Amends § 149A.02, by adding subd. 13a. Defines "direct supervision" as overseeing the performance of an individual, in the context of a clinical, practicum or internship. States that the supervising mortician is accountable for the acts of the student.
- 10 **Final disposition.** Amends § 149A.02, subdivision 16. Includes the acts leading to the entombment, burial or cremation.
- 11 **Practicum student.** Amends § 149A.02, subd. 33. Requires such students to be registered for practicum through an accredited mortuary science program.
- 12 **Preparation of the body.** Amends § 149A.02, subd. 34. Removes "care of hair" from the definition.
- 13 **Refrigeration.** Amends § 149A.02, by adding subd. 37b. Provides that refrigeration is preservation by keeping cool at 40 degrees Fahrenheit or less.
- 14 **Duties of commissioner.** Amends § 149A.03. Includes enforcement of laws and rules relating to professional conduct of practicum and clinical students as a duty of the commissioner.
- 15 **Licensure required.** Amends § 149A.20, subd. 1. Allows a nonlicensed individual to arrange, direct or supervise a memorial service, so long as that person does not take charge of the dead body.
- 16 **Educational requirements.** Amends § 149A.20, subd. 4. Removes obsolete language.
- 17 **Internship.** Amends § 149A.20, subd. 6. Allows the commissioner to waive the length of internship requirement if the student completes a clinical in mortuary science through the University of Minnesota, or similar program.
- 18 **Continuing education.** Amends § 149A.40, subd. 11. Allows the commissioner to require continuing education hours. Removes the condition that the Minnesota Funeral Directors Association develop a program.
- 19 **Fees.** Amends § 149A.45 by adding subd. 6. States that renewal fees shall be paid to the commissioner of finance and shall go to the state government special revenue fund.
- 20 **Reinstatement.** Amends § 149A.45 by adding subd. 7. States that a person who registers under the emeritus registration may reapply for licensure.
- 21 **Requirements for funeral establishment.** Amends § 149A.50, subd. 2. Requires a licensed funeral establishment to comply with local and state building codes, zoning laws and ordinances.
- 22 **Nontransferability of license.** Amends § 149A.50, subd. 4. States that a change in

Section

ownership that is 50 percent or more terminates a license to operate a funeral establishment. (Current law does not specify a percentage.)

- 23 **Nontransferability of license.** Amends § 149A.52, subd. 4. States that a change in ownership that is 50 percent or more terminates a license to operate a crematory. (Current law does not specify a percentage.)
- 24 **Initial licensure and inspection fees.** Amends § 149A.52 by adding subd. 5a. Requires licensure and inspection fees to be paid to the commissioner of finance and the money to go to the state government special revenue fund.
- 25 **Renewal and re-inspection fees.** Amends § 149A.53 by adding subd. 9. Requires renewal and re-inspection fees to be paid to the commissioner of finance and the money to go to the state government special revenue fund.
- 26 **Professional cooperation.** Amends § 149A.63. Adds clinical students and practicum students to the list of persons who are required to cooperate with the commissioner's investigation.
- 27 **Use of titles.** Amends § 149A.70, subd. 1. Adds funeral services to the list of titles that are included in mortuary science.
- 28 **Advertising.** Amends § 149A.70, subd. 3. Adds clinical and practicum students to the list of persons that are governed by the advertising provision. Adds to the list of what constitutes false or misleading advertising, by adding claiming local ownership, unless the person has 25 percent or more ownership in the business and that percentage is disclosed.
- 29 **Reimbursement prohibited.** Amends § 149A.70, subd. 5. Prohibits any offer, solicitation or acceptance of any reimbursement for recommending a body be disposed of by a specific donation program, or funeral establishment (in addition to crematory, mausoleum or cemetery, which are currently in statute).
- 30 **Solicitation prohibited in certain situations.** Amends § 149A.70, subd. 5a. States that whole body donation programs are subject to the provisions on prohibited solicitation. (Currently, only funeral providers are subject to this provision.)
- 31 **Use of unlicensed personnel; interns; and practicum students.** Amends § 149A.70, subd. 6. Prohibits a funeral establishment from employing unlicensed persons to perform the duties of the funeral director or mortician, unless otherwise allowed in this chapter. Removes current qualifying language relating to employment of unlicensed persons.
- 32 **Unprofessional conduct.** Amends § 149A.70, subd. 7. Removes using profane or obscene language from the list of what constitutes unprofessional conduct.
- 33 **Disclosure of ownership.** Amends § 149A.70, subd. 8. Requires funeral establishments to disclose ownership on all price lists, stationary and websites, in addition to documents already listed in statute. States that that this disclosure requirement does not apply to envelopes, business cards and certain advertisement media.
- 34 **Disclosure of change of ownership.** Amends § 149A.70, subd. 9. States that change of ownership means the transfer of 50 percent or more of the controlling interest. (Current law refers to "all or substantially all" assets.)
- 35 **Preventive requirements.** Amends § 149A.71, subdivision 2.
- Adds a requirement that funeral providers use ten-point font or larger for price lists to prevent deceptive practices.
 - Removes the provision that allowed formats other than a written price list to

Section

display price information.

- Adds to the information that must be provided on a price list, including:
 - (1) a price range for the cremated remains containers or the prices of individual containers; and
 - (2) any package priced funeral offered and the funeral goods and services included, the prices for those goods and services and the discounted package savings.

36 Casket, alternate container, and cremation container sales; records; required disclosures. Amends § 149A.71, subd. 4. Adds cremated remains container to the items for which funeral providers must maintain a sales record. Removes the requirement that these records be reported to the commissioner.

37 Casket for cremation provision; preventive measures. Amends § 149A.72, subd. 4. Requires that funeral providers include in the disclosure for cremations that "Minnesota law does not require you to purchase a casket for cremation." Updates the definition of a cremation container.

38 Services provided without prior approval; deceptive acts or practices. Amends § 149A.74, subd. 1. Removes the provision that allowed a funeral provider to embalm a body if that provider was not able to contact the individual legally authorized to approve the embalming.

39 Advance directives and will of decedent. Amends § 149A.80, subd. 1. Requires that arrangements made in advance of need be in writing and dated, signed and notarized.

40 Determination of right to control and duty of disposition. Amends § 149A.80, subd. 2. Includes language that provides for the adult child or the majority of adult children to be included in the list of persons with the right to control final disposition. (Currently, the statute does not refer to "adult" children or the majority of adult children.)

41 Death record. Amends § 149A.90, subd. 1. Clarifies the language by referring to the "final" disposition of the body.

42 Referrals to coroner or medical examiner. Amends § 149A.90, subd. 3.

- Removes all the current statutory requirements for notifying the coroner or medical examiner before removing the body from the place of death.
- Provides a list of 24 types of deaths that are reportable to the coroner or medical examiner, including, but not limited to the following:
 - (1) unnatural deaths, including violent deaths
 - (2) deaths due to fire
 - (3) unexplained or unexpected perinatal or postpartum maternal deaths
 - (4) suspicious deaths

Section

(5) deaths of inmates or persons in custody of law enforcement officers

(6) deaths due to culpable neglect

(7) unexpected deaths of children

(8) unidentified bodies

- 43** **Certificate of removal.** Amends § 149A.90, subd. 4. Updates the language to refer to a certificate of removal, rather than a removal certification.
- 44** **Retention of certificate of removal.** Amends § 149A.90, subd. 5. Updates the references to a certificate of removal.
- 45** **Removal procedure.** Amends § 149A.90, subd. 6. Clarifies the language to allow the body to be wrapped in a pouch or sheet (currently, only a sheet) when the body is being removed from the place of death.
- 46** **Conveyances permitted for removal.** Amends § 149A.90, subd. 7. Adds to the standards for vehicles permitted to transport a dead body to include vehicles designed for the driver and body to be in the same cab.
- 47** **Proper holding facility required.** Amends § 149A.90, subd. 8. Removes references to a crematory.
- 48** **Preparation procedures; access to preparation room.** Amends § 149A.91, subd. 2. Removes the provision that allowed funeral directors and their agents to be present while the body was being prepared for final disposition.
- 49** **Embalming required.** Amends § 149A.91, subd. 3. Provides definition of publicly viewed for the purposes of this subdivision. Allows a registered intern, practicum student or clinical student to embalm in certain circumstances. Allows refrigeration to be used instead of embalming in some circumstances, so long as the body is not kept in refrigeration for more than six calendar days from the release of the body from the place of death.
- 50** **Authorization to embalm; required form.** Amends § 149A.91, subd. 5. Requires the name, in addition to the signature, which is all that is currently required, of the person requesting authorization to embalm.
- 51** **Mortician required.** Amends § 149A.91, subd. 6. Provides for a student registered in a clinical or practicum to embalm a body. (Current statute only provides for students in a practicum to embalm.)
- 52** **Required records.** Amends § 149A.91, subd. 10. Updates the statute to require the embalming records to include the name of the clinical student that participates in the embalming, if applicable.
- 53** **Minimum requirements; general.** Amends § 149A.92, subd. 2. Requires embalming rooms to have an approved flush bowl and hand sink with water connections.
- 54** **Minimum requirements; equipment and supplies.** Amends § 149A.92, subd. 6. Requires embalming rooms to have an eye wash and quick drench shower and a preparation and embalming table.
- 55** **Permits required.** Amends § 149A.93, subd. 1. Requires a certificate of removal if the body is moved from the location where the body is held while awaiting final disposition. (Currently, statute requires a transit permit by a licensed mortician.)
- 56** **Certificate of removal.** Amends § 149A.93, subd. 2. Updates the language to refer to a certificate of removal instead of a transit permit.
- 57** **Retention of certificate of removal.** Amends § 149A.93, by adding subd. 2a. Requires the

Section

funeral establishment, or the entity releasing custody of the body, to retain a copy of the certificate of removal for three years. Allows the copies to be reduced to microfilm or put into storage after the three-year period and stored for ten years. Allows the records may be destroyed after the ten-year period.

- 58 **Disposition permit.** Amends § 149A.93, subd. 3. Requires a fact of death record be filed with the local or state office of vital statistics before the disposition permit is issued.
- 59 **Possession of permit.** Amends § 149A.93, subd. 4. States that physical custody of the body passes with the filing of the disposition permit. (Current law provides only that legal custody passes in this way.)
- 60 **Conveyances permitted for transportation.** Amends § 149A.93, subd. 6. Adds to the standards that must be met for a body to be transported in a private vehicle or aircraft, including that the driver and body are in the same cab.
- 61 **Who may transport.** Amends § 149A.93, subd. 8. Updates a statutory reference. Makes the mortician or funeral director who directs the transport of a body by an unlicensed person strictly accountable for compliance with this chapter.
- 62 **Generally.** Amends § 149A.94, subd. 1. Allows a body that will not be finally disposed for more than 72 hours after death to be embalmed or refrigerated. (Current statute allows only for embalming.) States that a body may not be kept in refrigeration for more than six days from the time of death.
- 63 **Permit required.** Amends § 149A.94, subd. 3. Updates a statutory reference to refer to certificate of removal.
- 64 **General requirements.** Amends § 149A.95, subd. 2. Requires a crematory to have a human cremation system approved by the commissioner.
- 65 **Authorization to cremate required.** Amends § 149A.95, subd. 4. Prohibits a crematory from cremating an identifiable body part without written authorization from the person(s) who have the legal right.
- 66 **Acceptance of delivery of body.** Amends § 149A.95, subd. 6. Allows for a body to be wrapped in an impermeable sheet or pouch for cremation, or a cremation container, which is permitted in statute, currently.
- 67 **Bodies awaiting cremation.** Amends § 149A.95, by adding subd. 6a. Requires that a body be cremated within 24 hours of the crematory accepting custody of the body.
- 68 **Handling of cremation containers for dead human bodies.** Amends § 149A.95, subd. 7. Clarifies the language to refer to handling cremation containers, rather than handling dead human bodies.
- 69 **Cremation chamber for human remains.** Amends § 149A.95, subd. 9. Removes reference to a casket.
- 70 **Cremation procedures; commingling of cremated remains prohibited.** Amends § 149A.95, subd. 13. Clarifies the language by referring to "final disposition," rather than disposition.
- 71 **Cremation procedures; processing cremated remains.** Amends § 149A.95, subd. 14. Adds permanent label to the methods for identifying the cremated remains container.
- 72 **Cremation procedures; container of insufficient capacity.** Amends § 149A.95, subd. 15. Adds permanent label to the methods for identifying the secondary container.
- 73 **Required records.** Amends § 149A.95, subd. 20. Adds to the list of information that must be included in the cremation record, to include type of cremation container.
- 74 **Written authorization.** Amends § 149A.96, subd. 1. States that the commissioner, not the state registrar (as is currently in statute) may issue a disinterment-reinterment permit.

Section

75 **Repealer.** Repeals section 149A.93, subdivision 9, which requires embalming for bodies that would not be buried, cremated or entombed within 72 hours. Repeals section 149A.94, subdivision 2, which provides for cremation exceptions to the 72-hour final disposition requirement.