

Date of Hearing: April 18, 2017

**ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS**

Rudy Salas, Chair

AB 1381 (Obernolte) – As Introduced February 17, 2017

**SUBJECT:** Funeral establishments: apprenticeship training.

**SUMMARY:** Authorizes a funeral establishment to employ a trade embalmer for purposes of supervising apprentice embalmers, as specified.

**EXISTING LAW:**

- 1) Establishes the Cemetery and Funeral Bureau (Bureau) under the Department of Consumer Affairs (DCA) for the licensure and regulation of cemeteries, funeral establishments, crematories, cemetery salespersons, brokers, managers, cremated remains disposers, and endowment care, as specified. (Business and Professions Code (BPC) Section 7600 et seq.)
- 2) Defines an "embalmer" as one who is duly qualified to disinfect or preserve human remains by the injection or external application of antiseptics, disinfectants, or preservative fluids; to prepare human bodies for transportation which are dead of contagious or infectious diseases; and to use derma surgery or plastic art for restoring mutilated features; and who is duly licensed as an embalmer under the laws of this state. (BPC Section 7640)
- 3) Prohibits a person from embalming a body, or hold himself or herself out as engaged in practice as an embalmer, unless he or she is licensed by the Bureau; and, specifies that this does not apply to students and instructors of embalming in Bureau approved mortuary programs. (BPC Section 7641)
- 4) Defines a "funeral director" as a person who is engaged in or conducting, or holding himself or herself out as engaged in any of the following: (BPC Section 7615)
  - a) Preparing for the transportation or burial or disposal, or directing and supervising for transportation or burial or disposal of human remains;
  - b) Maintaining an establishment for the preparation for the transportation or disposition of human remains; and,
  - c) Using, in connection with his or her name, the words "funeral director," or "undertaker," or "mortician," or any other title implying that he or she is engaged as a funeral director.
- 5) Defines an "apprentice embalmer" as a person engaged in the study of embalming under the instruction and supervision of a licensed embalmer who has had at least two years' practical experience as a California licensed embalmer. (BPC Section 7660)

- 6) Requires an application for registration as an embalmer's apprentice to be on a Bureau-approved form, verified by the applicant, and accompanied by a fee. (BPC Section 7661)
- 7) Specifies that the certificates of apprenticeship issued by the Bureau expire when the holder is issued a license as an embalmer or six years from the date of registration, whichever occurs first. (BPC Section 7664)
- 8) Requires all registered apprentice embalmers to comply with the following during their period of apprenticeship: (BPC Section 7665(a))
  - a) File a report of apprenticeship as follows:
    - i) On or before January 15<sup>th</sup> of each year covering the period of apprenticeship ending as of December 31<sup>st</sup> preceding;
    - ii) Upon change of supervising embalmer or employer or both;
    - iii) Upon completion of apprenticeship;
    - iv) Upon application for leave of absence for a period in excess of 15 days; and,
    - v) Upon application for reregistration after suspension or revocation if a complete report of previous registration has not been file.
- 9) Specifies that the term of apprenticeship is two years unless he or she fails his apprenticeship examination required for an embalmer's license, he or she may continue for one additional term of apprenticeship, as specified. (BPC Section 7666)
- 10) Requires apprenticeship training to be served in a licensed funeral establishment that has been previously approved for apprenticeship training by the Bureau, as specified, and in order to qualify for approval from the Bureau, a funeral director must submit an application to the bureau that contains the following: (BPC Section 7670)
  - a) That not less than 50 human remains per apprentice employed have been embalmed in the establishment during the 12 months preceding the date of the application;
  - b) That the applicant has, and will continue to have, in full-time employment, for each two apprentices employed in his or her establishment, a California embalmer who has had not less than two-years' practical experience as a California licensed embalmer immediately preceding the date of the application; and,

The licensed funeral establishment of that applicant meets the requirements of law as to equipment, cleanliness, and sanitation as determined by an inspection report filed with the Bureau.

**THIS BILL:**

- 1) Allows a funeral establishment to hire a trade embalmer on a case by case basis who has had not less than two years practical experience as a California licensed embalmer immediately preceding the date of the application to supervise apprentice embalmers, as specified.
- 2) Provides that the provisions of this bill do not prohibit a trade embalmer from acting as a supervising embalmer of an apprentice, as specified.
- 3) Makes other minor and technical changes.

**FISCAL EFFECT:** Unknown. This bill is keyed fiscal by the Legislative Counsel.

**COMMENTS:**

**Purpose.** This bill is sponsored by the **California Funeral Directors Association**. According to the author, "the funeral industry is ever-changing yet the law governing apprentice embalmers has not changed over the last 50 years. In fact, during that same time period, cremation rates have increased dramatically from 15% to over 62% today. While some people choose to have their loved ones embalmed, the simple fact is that the majority of Californians are choosing to be cremated. Current law requires a licensed funeral establishment with an approved apprenticeship program to have a full-time licensed embalmer on staff for the purpose of training an apprentice embalmer, whereas, this bill would allow funeral homes to utilize a trade embalmer instead to train the apprentice. This bill is important to bring state law up to date, in order to reflect the changes to the industry."

**Background. Cemetery and Funeral Bureau.** The Bureau licenses, regulates, and investigates complaints against California funeral establishments, funeral directors, embalmers, apprentice embalmers, cemetery brokers, cemetery salespersons, cremated remains disposers, crematories, crematory managers, cemetery managers, and the nearly 200 licensed cemeteries in the state. The Bureau does not have authority over cemeteries operated by religious organizations, cities, counties, cemetery districts, the military, or Native American tribal organizations. Currently, the Bureau licenses and regulates approximately 1,600 embalmers and registers approximately 280 apprentice embalmers.

*Embalmers.* According to the Bureau, embalmers are licensed in California to 1) disinfect or preserve dead human bodies by the injection or external application of antiseptics, disinfectants, or preservative fluids; 2) prepare human bodies for transportation in cases where death was caused by contagious or infectious diseases; and, 3) use derma-surgery or plastic art for restoring mutilated features. Part of the embalmer's responsibility is to prepare a deceased body for a burial service by preserving the body for the funeral or burial process.

In order to become a licensed embalmer in California, an individual must: 1) complete a mortuary science program approved by the Bureau and be accredited by the American Board of Funeral Service Education; 2) have completed at least two years of apprenticeship under an embalmer licensed and engaged in practice as an embalmer in this state in a funeral establishment which has been approved for apprentices by the Bureau; and, 3) take and pass the sciences section of the national examination administered by the International Conference of

Funeral Service Examining Boards and take and pass an examination administered by the Bureau on the state's laws and the rules and regulations of the Bureau, including those sections of the Health and Safety Code, which pertain to the funeral industry.

Embalmers are employed by a funeral establishment to provide embalming services. As the industry shifts, the need for establishments to hire full time embalmers has diminished. Cremation as a form of final disposition of human remains has significantly increased over the years; thereby reducing the need for embalmers. According to the Cremation Association of North America in 2015 the cremation rate was 48.6% nationally and projected to be at 54.3% nationally in 2020. Current law, which requires a full-time employed embalmer, was created more 50 years ago when traditional burials were more prevalent and funeral establishments typically employed a full-time embalmer to meet demand. However, as shifting burial trends have grown, the employment arrangement for embalmers has adjusted. This bill attempts to balance the requirements to have employed and qualified embalmers train apprentice embalmers by allowing a funeral establishment the option to hire a full time embalmer or a trade embalmer for purposes of apprenticeship training.

This bill revises the requirement for a funeral establishment to employ a full-time embalmer to supervise apprentice embalmers and instead allows a funeral establishment to hire a trade embalmer to supervise apprentice embalmers in order to meet the changing employment landscape of funeral establishments.

**ARGUMENTS IN SUPPORT:**

The California Funeral Directors Association writes in support, "...More and more decedents are being cremated each year. Consequently, fewer are being embalmed. As a result of the substantively reduced need for embalming, many funeral establishments are not in a position to hire full-time embalmers in order to train apprentice embalmers. The two mortuary colleges in the state (American River and Cypress) graduate an average of 50 students each year that need to receive training in order to get their embalmer's license."

**ARGUMENTS IN OPPOSITION:**

None on file.

**POLICY ISSUE(S) FOR CONSIDERATION:**

This bill will allow a "trade embalmer" to supervise an apprentice embalmer as opposed to current law which requires a full-time embalmer to be on staff to supervise. While it is presumed that a trade embalmer is an individual who is not employed at any one establishment, the author may wish to amend the bill to define the term in statute.

**AMENDMENT:**

Trade Embalmer for purposes of this section is defined as a person who is an independent California licensed embalmer who embalms dead human bodies on a contractual basis for one or more California Licensed Funeral Establishments.

**REGISTERED SUPPORT:**

California Funeral Directors Association

**REGISTERED OPPOSITION:**

None on file.

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