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Summary of Senate Bill No. 323 (First Reprint)

(Submitted by Sharon Shaffer)

SB323 revises various provisions relating to funeral directors, embalmers and operators of cemeteries and crematories. The changes include amendments to the provisions of chapter 642 of NRS relating to Funeral Directors, Embalmers and Operators of Cemeteries and Crematories, chapter 451 of NRS relating to Dead Bodies and 452 of NRS relating to Cemeteries.

Sections 1, 8, 54 and 55 amend NRS to accommodate the name change of the State Board of Funeral Directors, Embalmers and Operators of Cemeteries and Crematories to the new name of Nevada State Funeral Board ("Board" for the purposes of this summary).

Section 2 is directory language which provides that sections 3 to 6.7, inclusive, are to be added to chapter 642 of NRS.

Section 3 sets forth a definition for "International Conference of Funeral Service Examining Boards," which means that organization or any successor to that organization.

Section 4 provides that all actions and remedies pursuant to chapter 642 of NRS are cumulative and not exclusive.

Section 5 authorizes the Board to enter an order requiring a person to desist or refrain from engaging in a violation if the Board believes any person is violating or threatens or intends to violate a provision of chapters 451, 452 or 642 of NRS. Notice required pursuant to NRS 241.034 is not applicable to this section.

Section 6 authorizes the Board to, upon 5 days' notice and a preliminary hearing, enter an order immediately suspending a license, certificate or permit for not more than 60 days pending a hearing. Notice for this section is sufficient if personally served or posted at the address of the holder at least 5 days before the preliminary hearing; notice required pursuant to NRS 241.034 is not applicable to this section.

Section 6.3 sets forth the fees that the Board is required to charge and collect, including fees for application, examination, renewal, late renewal, transfer or duplication of a license, certificate or permit; inactivation, reactivation and reinstatement of a license; and provision of an administrative service.

Section 6.7 allows the Board to temporarily authorize a license, certificate or permit for certain applicants, which would allow the applicant to carry out the duties authorized by that license, certificate or permit during the time the Board is considering whether to issue license, certificate or permit. Such authorization would be effective upon issuance by the Board and would end when the Board takes action on the license, certificate or permit.

Section 7 amends NRS 642.005 to indicate the placement of section 3 as a definition that applies to all of chapter 642 of NRS.

Section 9 amends NRS 642.019 to clarify that a holder of a permit must comply with the applicable federal regulations.

Section 10 amends NRS 642.020 to accommodate the name change of the Board and to remove the provision limiting the number of consecutive terms of the members of the Board.

Sections 11, 14, 15, 17, 18, 43 and 52 amend NRS by including a reference to chapters 451 and 452 of NRS to clarify that the Board has jurisdiction over those provisions.

Sections 12 and 13 are "Deleted by Amendment."

Section 16 amends NRS 642.069 to require that the amount of the annual fee charged by the Board pursuant to that section be set by regulation. The fee is charged to holders of licenses and certificates issued pursuant to chapters 451 and 452 of NRS to defray the expenses of the Board under chapters 451 and 452 of NRS.

Section 19 amends NRS 642.080 to clarify that the provisions of this section, concerning the qualifications to practice the profession of embalming, do not apply to a person applying for reciprocity pursuant to NRS 642.100 (section 21). This section is further amended to accommodate the new definition in section 3.

Section 20 amends NRS 642.090 to clarify that a registered apprentice must meet the requirements of NRS 642.310 and 642.330 (sections 36 and 38, respectively) before taking the examination; if the person is not a registered apprentice, he must pay the examination fee set forth in section 6.3.

Section 21 amends NRS 642.100 to allow a person applying for reciprocity to be a graduate of an embalming college, and to provide that an embalming college or school of mortuary science must be approved by the Board.

Sections 22, 26, 29, 34, 40, 42, 43.5, 44, 45, 46, 47, 55, 59 and 60 amend NRS to make various changes regarding the payment of fees and penalties, including:

- (1) Removing specific fee amounts and referring to the fees set forth in section 6.3;
- (2) Payment of any other fees related to the application for, or renewal or reactivation of, a license;
- (3) If renewal fees are not paid by February 1, a late renewal fee will be assessed;
- (4) Licensees are not required to pay any fees or penalties relating to the renewal of a license for any year that a license was inactive; and
- (5) Applicants must fulfill the requirements of chapter 642 of NRS.

Section 23 amends NRS 642.120 to provide that a licensee must comply with this section to obtain renewal of his license. This section is further amended to remove the requirement that the Board mail notice to the licensee that his renewal fee and other information necessary for renewal is due to the Board and that a penalty will be charged if not submitted or paid.

Section 24 amends NRS 642.130 to clarify that violation of any order of the Board is a ground for disciplinary action.

Sections 25, 27, 28, 29, 30, 31, 33, 34 and 37 amend NRS to make changes to clarify various provisions concerning apprentice embalmers, including, for example, changing:

“apprentice” to “registered apprentice”

“person registering as an apprentice” to “applicant for a certificate of registration as a registered apprentice”

“person registered as an apprentice” to “registered apprentice”

Section 35 amends NRS 642.300 to clarify that a certificate of registration expires unless renewed in accordance with the regulations of the Board, and that the examination is for a license to practice the profession of embalming.

Section 36 amends NRS 642.310 to provide that, not later than 30 days before the date of an examination, a registered apprentice must file his application with the Secretary of the Board and pay the examination fee provided for in section 6.3 in order to take the examination.

Section 38 amends NRS 642.330 to clarify that a registered apprentice may be a graduate of a school of mortuary science and to clarify that the examination is for a license to practice the profession of embalming.

Section 39 amends NRS 642.360 to remove language concerning a permit to operate a funeral home. This section is further amended to clarify that an applicant for a funeral director's license must pay the application fee and the examination fee provided for in section 6.3, and an applicant for a license to conduct direct crematories or immediate burials must pay the application fee provided for in section 6.3.

Sections 41, 42 and 46 amend NRS to change the term “good character” to “good moral character.”

Section 48 amends NRS 642.472 to provide that the provisions in section 6 (authorizing immediate suspension of a license or permit) are an exception to the provisions of this section.

Section 49 amends NRS 642.480 to include that violation of an order of the Board is deemed unprofessional conduct.

Section 50 amends NRS 642.530 to allow a person to seek judicial review of any decision of the Board (rather than petition for a trial de novo); such review is to be conducted pursuant to chapter 233B related to contested cases. But, a person cannot seek judicial review of the immediate suspension of a license, permit or certificate as is authorized in section 6.

Section 51 amends NRS 642.540 to clarify that this section applies to the holder of a license, permit or certificate and that the provisions relate to judicial review rather than appeal.

Section 53 amends NRS 642.575 to provide that the Board may bring legal proceedings against a person who violates any order of the Board.

Section 56 amends NRS 451.640 to accommodate the name change of the Board, and to clarify that the Board may bring legal proceedings against a person who violates any order of the Board.

Section 57 amends NRS 451.715 to clarify that it is unlawful for any person to violate any regulation or order of the Board.

Section 61 amends NRS 452.610 to clarify that any person who violates an administrative order entered pursuant to NRS 452.001 to 452.610, governing cemeteries, is guilty of a misdemeanor.

Section 62 is transitory language which sets forth that: (1) Any administrative regulations will remain in force until amended by the officer or agency to which the responsibility for adopting those regulations has been transferred; (2) Any contract or agreements or actions entered into or taken by an officer or agency whose responsibilities have been transferred, are binding and remain in effect.

Section 63 requires the Legislative Counsel to amend NRS, NAC and any bill or resolution passed by the 72nd Legislature to correct any reference to the Board or any officers or agencies whose responsibilities have been transferred to reflect the changes as made in this bill.

Section 64 provides for the repeal of NRS 642.065, which authorizes the Board to adopt regulations relating to funeral directing and establishments.

Section 65 provides that the bill is effective on July 1, 2003.