ENROLLED HOUSE
JOINT
RESOLUTION NO. 1015

By: Hilliard of the House

and

Shurden of the Senate

A Joint Resolution relating to a permanent rule of the Oklahoma State Board of Embalmers and Funeral Directors; disapproving, in part, permanent rule OAC 235:10-3-5 regarding supervision of an apprentice by a licensed embalmer or funeral director; directing distribution; and declaring an emergency.

WHEREAS, pursuant to Sections 250.2 and 308 of Title 75 of the Oklahoma Statutes, the Legislature reserves the right to designate the method for rule promulgation, establish policy, determine that a rule is not consistent with legislative intent and disapprove any rule or any portion thereof at any time; and

WHEREAS, pursuant to Sections 396.10 and 396.11 of Title 59 of the Oklahoma Statutes, the Oklahoma State Board of Embalmers and Funeral Directors shall be responsible for the promulgation of rules necessary to qualify apprentices as embalming or funeral directors, including rules requiring an apprentice to engage in the learning of the practice of embalming or the practice of funeral directing under the instruction and personal supervision of a duly licensed embalmer or a duly licensed funeral director in the State of Oklahoma, pursuant to the provisions of the Funeral Services Licensing Act, Section 395.1 et seq. of Title 59 of the Oklahoma Statutes; and

WHEREAS, paragraphs (A) and (B) of subsection (c)(6) of permanent rule OAC 235:10-3-5 provides that the assistance of an apprentice shall be as follows:

"(A) First six months. During the apprentice embalmer's first six (6) months of apprenticeship a licensed embalmer shall be physically present during the entire embalming procedure. Thereafter, the licensed embalmer shall be physically present at the beginning of the operation and available for consultation during the procedure within a period of not more than one hour after request by the embalmer apprentice.

(B) Presence of licensed funeral director. During the apprentice funeral director's first six (6) months of apprenticeship, a licensed funeral director shall be physically present during the entire arrangement conference. Thereafter, the licensed funeral director shall be physically present at the beginning of the arrangement conference and available for consultation during the arrangement conference upon request by the funeral director apprentice."; and

WHEREAS, the Legislature recognizes that paragraphs (A) and (B) of subsection (c)(6) of OAC 235:10-3-5 are not consistent with legislative intent, exceed the statutory authority of the Oklahoma State Board of Embalmers and Funeral Directors, violate state statute and violate the public policy of this state.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE 1ST SESSION OF THE 49TH OKLAHOMA LEGISLATURE:

SECTION 1. The Legislature hereby disapproves paragraphs (A) and (B) of subsection (c)(6) of permanent rule OAC 235:10-3-5 as it states:

"(A) First six months. During the apprentice embalmer's first six (6) months of apprenticeship a licensed embalmer shall be physically present during the entire embalming procedure. Thereafter, the licensed embalmer shall be physically present at the beginning of the operation and available for consultation during the procedure within a period of not more than one hour after request by the embalmer apprentice.

(B) Presence of licensed funeral director. During the apprentice funeral director's first six (6) months of apprenticeship, a licensed funeral director shall be physically present during the entire arrangement conference. Thereafter, the licensed funeral director shall be physically present at the beginning of the arrangement conference and available for consultation during the arrangement conference upon request by the funeral director apprentice."

SECTION 2. The Secretary of State is hereby directed to distribute copies of this resolution to the Governor, the executive secretary-treasurer of the Oklahoma State Board of Embalmers and Funeral Directors and the Editor of "The Oklahoma Register".

Section 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this resolution shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 26th day of February, 2003.

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Presiding Officer of the House of Representatives

Passed the Senate the 7th day of April, 2003.

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Presiding Officer of the Senate