

EHJR 1015

1 THE STATE SENATE  
2 Wednesday, March 26, 2003

3 ENGROSSED

4 House Joint

5 Resolution No. 1015

6 ENGROSSED HOUSE JOINT RESOLUTION NO. 1015 - By: HILLIARD of the  
7 House and SHURDEN of the Senate.

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

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

19 WHEREAS, pursuant to Sections 396.10 and 396.11 of Title 59 of  
20 the Oklahoma Statutes, the Oklahoma State Board of Embalmers and  
21 Funeral Directors shall be responsible for the promulgation of rules  
22 necessary to qualify apprentices as embalming or funeral directors,  
23 including rules requiring an apprentice to engage in the learning of  
24 the practice of embalming or the practice of funeral directing under  
25 the instruction and personal supervision of a duly licensed embalmer  
26 or a duly licensed funeral director in the State of Oklahoma,

1 pursuant to the provisions of the Funeral Services Licensing Act,  
2 Section 395.1 et seq. of Title 59 of the Oklahoma Statutes; and

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

6 "(A) First six months. During the apprentice embalmer's first  
7 six (6) months of apprenticeship a licensed embalmer shall be  
8 physically present during the entire embalming procedure.

9 Thereafter, the licensed embalmer shall be physically present at the  
10 beginning of the operation and available for consultation during the  
11 procedure within a period of not more than one hour after request by  
12 the embalmer apprentice.

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

21 WHEREAS, the Legislature recognizes that paragraphs (A) and (B)  
22 of subsection (c) (6) of OAC 235:10-3-5 are not consistent with  
23 legislative intent, exceed the statutory authority of the Oklahoma

1 State Board of Embalmers and Funeral Directors, violate state  
2 statute and violate the public policy of this state.

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

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

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

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

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

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

9 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS & LABOR, dated 3-24-03 -  
10 DO PASS.