

Testimony of ND Board of Funeral Service

Administrative Rules Committee

December 8, 2014

Good morning, I am Dale G. Niewoehner, member of and executive secretary for the Board of Funeral Service.

In summary, the purpose of these amendments is to update licensing requirements for funeral practitioners, funeral establishments, and crematoriums, and bring rules up to date with current national standards.

These rules did not result from statutory changes made by the Legislative Assembly.

The proposed drench shower requirements for preparation rooms in 25-02-1-03 and funeral establishments in 25-03-01-02 are federal OSHA regulation requirements.

The rulemaking notice and comment process followed is outlined below in chronological order:

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| Feb. 13, 2014 | Notice of intent to amend administrative rules and notice of hearing April 16, 2014 at 1:30 P.M. Room 212, North Dakota Department of Health. |
| Feb. 24-28, March 1-14 | Publication of hearing notices in newspapers across state. |
| March 19 | Affidavit of Publication from ND Newspaper Association. |
| April 16 | Hearing on proposed rule amendments attended by 1 licensed funeral director, 1 NDBFS board member, and counsel. Comments were received and discussed. The hearing lasted 24 minutes. |
| April 30 | Records held open until this date for comments. No additional comments were received. |
| May 13 & June 25 | The ND Board of Funeral Service met. Board reviewed, discussed, and addressed comments received. |

In response to a comment concerning supervising authority for cremation certification, the Board further refined the language and adopted a broader interpretation of 25-05-01-01.

In response to a comment concerning the requirement of an embalming report in 25-02-01-03, the Board agreed to delete the requirement, citing it was too regulatory in nature.

All other comments were reviewed and discussed as reflected in the minutes of the May 13, 2014 and June 25, 2014 meetings of the Board of Funeral Service.

August 11, 2014 Letter from Board of Funeral Service to the Attorney General with the proposed rules as approved by the board.

October 21, 2014 Letter from AG approving the rules as to their legality.

The approximate cost of giving public notice and holding any hearing on the rules and the approximate cost of developing and adopting the rules was \$5,000. This cost includes publication costs and attorney fees from the AG's office.

No regulatory analysis was required by North Dakota Century Code (NDCC) Section 28-32-08.

No regulatory analysis or economic impact statement of impact on small entities was required by NDCC Section 28-32-08.1.

The proposed rule changes will have no fiscal effect on state revenues or expenditures.

A constitutional takings assessment was not required or prepared.

These rules were not adopted as emergency rules.

Here is a walk-through of the changes in the rules, by page number:

Page 79 – Removes the definition of “Branch Facility” because it was unnecessary to have two classifications for a funeral building with or without a preparation room. The term branch was not necessary. Two classifications would be all that is needed to license a building with preparation room and one that does not have a preparation room.

Page 79 – Updates preparation room equipment requirements and provides an exception for a funeral chapel because of updating requirements by the industry and the Federal government in addition to correction of words and phrases, such as a completely fireproof building.

Page 80 – Adds pre-mortuary students and medical or law enforcement personnel to list of those individuals who may be present during the preparation of bodies.

Page 81 – Clarifies the completion requirements from one year to two years.

Page 82 – Updates examination requirements.

Pages 83-84 – Repeals and updates the licensure renewal requirements.

Page 84 – Updates licensure by reciprocity requirements.

Page 85 – Clarifies intern embalmer requirement of two years of accredited college or university studies.

Page 87 – Adds an exception for a funeral chapel for establishment licensure.

Page 89 – Requires certification of crematory operators.

Page 90 – Updates common carrier shipping requirements for cremated remains.

Page 92 – Creates an exception for referral services for individuals who have an ownership interest.