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Senate Bill 239 (as passed by the Senate)
Sponsor: Senator Stephanie Chang
Committee: Regulatory Reform

Date Completed: 5-9-19

RATIONALE

Article 18 (Mortuary Science) of the Occupational Code specifies that, except for a resident trainee working under the supervision of a licensee, the placing of a chemical on or in a dead human body by a person who is not a holder of a license for the practice of mortuary science is a violation of Article 18 of the Code. The Department of Licensing and Regulatory Affairs (LARA) must issue a license to engage in the practice of mortuary science to an individual who: 1) serves as a resident trainee for one year under the personal supervision and instruction of a mortuary science licensee, 2) graduates from a three-year course in mortuary science in an accredited school, college, or university, 3) satisfactorily passes an examination, and 4) is of good moral character.

Administrative Rule 339.18921(1)(b) states that LARA adopts by reference the accreditation standards contained in the American Board of Funeral Service Education (ABFSE) Accreditation and Policy Manual. The ABFSE Manual requires a mortuary science student to actively participate in at least 10 embalmings as a part of his or her curriculum. Some have raised the concern that Michigan law currently prohibits a student from performing those embalmings, as students are not licensed nor are they considered resident trainees. Therefore, it has been suggested that an exemption be created for mortuary science students to place a chemical on or in a dead human body so that they may fulfill their program's requirements.

CONTENT

The bill would amend Article 18 (Mortuary Science) of the Occupational Code to specify that Article 18 would not apply to a student working under the supervision of a holder of a license for the practice of mortuary science, if he or she were enrolled in a higher education program in mortuary science at a school, college, or university that was accredited as described under the bill.

Article 18 does not apply to a resident trainee working under the supervision of a holder of a license for the practice of mortuary science. The bill also would include in this provision a student who was enrolled in a higher education program in mortuary science at a school, college, or university that was accredited by an accrediting agency that was recognized by the United States Secretary of Education as a specialized accrediting agency in funeral service or mortuary science.

A person who is engaged or professes to be engaged in the practice of embalming, or who represents that he or she is an embalmer must be the holder of a license for the practice of mortuary science. The bill, instead, would prohibit an individual from engaging or professing to be engaged in the practice of embalming or from representing that he or she was an embalmer if he or she were not the holder of such a license.

(Under the Code, a person, school, or institution that violates the Code or a rule or order promulgated or issued under it must be assessed one or more of the following penalties:

- Placement of a limitation on a license or certificate of registration for an occupation regulated under Articles 8 through 25.
- Suspension of a license or certificate of registration.
- Denial of a license, certificate of registration, or renewal of a license or certificate of registration.
- Revocation of a license or certificate of registration.
- In the case of a person licensed or registered under the Code and except as otherwise provided, an administrative fine to be paid to the Department of Licensing and Regulatory Affairs of not more than \$10,000.
- Censure.
- Probation.
- A requirement that restitution be made, based on proofs submitted to and findings made by the hearing examiner after a contested case.)

The bill would take effect 90 days after its enactment.

MCL 339.1803

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Wayne State University has the only mortuary science program in Michigan. Students enrolled in the program are required to complete embalming cases according to the referenced ABFSE accreditation and academic standards. While Wayne State University's instructors and students have never been cited for violating Michigan statute, the current conflict between the Occupational Code and the adopted ABFSE standards could be interpreted in a way that opens those individuals up to administrative enforcement. If individuals involved with the mortuary science program were cited for violations, students would have to attend programs outside of Michigan to avoid receiving a violation until this issue was resolved. Licensees operating funeral homes and serving as clinical preceptors for Wayne State University's program also could face enforcement for allowing students to engage in the unlicensed practice of mortuary science. The bill would ensure that mortuary science students could complete their embalming requirements without violating the Code.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Elizabeth Raczkowski

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.