



INSTITUTE FOR JUSTICE

April 2, 2024

Colorado Senate Finance Committee  
Colorado General Assembly  
200 East Colfax Avenue  
Denver, Colorado 80203

Re: Letter in opposition to licensing mortuary science occupations

Dear Chair Mullica, Vice Chair Kolker and Members of the Committee:

Thank you for the opportunity to submit this letter in opposition to SB24-173. My name is Alasdair Whitney, and I am Legislative Counsel at the Institute for Justice (IJ). IJ is a nonprofit law firm that works to protect civil liberties, including economic liberty. For more than 30 years, IJ has researched occupational licensing laws and helped remove unnecessary legal barriers that prevent people from working in their chosen field.

IJ encourages the committee to oppose SB24-173. Licensure is the most burdensome way to regulate work and should only be used if no other form of regulation sufficiently protects consumers.<sup>1</sup> Licensing often creates barriers to entering the workforce that can be difficult for some workers to overcome, and it disproportionately affects certain populations, including lower-income workers, people of color, immigrants, veterans and military spouses, and people changing careers.<sup>2</sup> This is particularly true where, as here, the bill would make it more difficult for both entry level entrepreneurs and experienced professionals to work. For example, under the proposed licensing regime an experienced funeral director might have to return to school to meet the bill's minimum education requirement, which would come at a great expense to the professional, their business, and the community they serve. And the heightened barriers proposed by this bill would discourage aspiring entrepreneurs from entering the professions. With a critical shortage of mortuary science practitioners looming,<sup>3</sup> the general assembly should ensure that it provides workable pathways for both aspiring and existing professionals to enter and remain in the industry.

In addition, the inevitable reduction in consumer choice that would follow in the wake of this bill would be particularly harmful to individuals in the state's rural and mountain communities. By increasing the cost of entry into the mortuary science industry, the bill could spur higher prices for funeral arrangements, cremations, and other essential services, which would disproportionately affect low-income individuals and families during times of

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<sup>1</sup> Ross, J., *The Inverted Pyramid: 10 Less Restrictive Alternatives to Occupational Licensing*, Institute for Justice (Nov. 2017), <https://ij.org/report/the-inverted-pyramid/>.

<sup>2</sup> Kleiner, M. & Vorotnikov, E., *At What Cost? State and National Estimates of the Economic Costs of Occupational Licensing*, Institute for Justice (Nov. 2018), [https://ij.org/wp-content/uploads/2018/11/Licensure\\_Report\\_WEB.pdf](https://ij.org/wp-content/uploads/2018/11/Licensure_Report_WEB.pdf).

<sup>3</sup> LaClaire, H., *Death becomes her: The future of funeral home work is female*, Portland Press Herald (Dec. 2, 2023), <https://www.pressherald.com/2023/12/02/death-becomes-her-the-future-of-funeral-home-work-is-female/>.

bereavement.<sup>4</sup> It might also force individuals to travel greater distances to lay loved ones to rest, raising the stakes that accidents may occur during funeral processions.<sup>5</sup>

Finally, the language of this bill is so broad that it might envelop practices not intended to be regulated. SB24-173 lacks specificity and fails to account for the diverse array of funeral practices and traditions observed by different religious and cultural communities across Colorado. As a result, there is a risk that the licensing requirements outlined in the bill could inadvertently infringe upon individuals' rights to conduct burial ceremonies in accordance with their deeply held beliefs and cultural customs. For example, the bill might require the licensure of death doulas, practitioners who help guide individuals and families through the end-of-life process. Further, the bill could disproportionately impact Native American communities, whose burial rites are often intertwined with centuries-old traditions and spiritual practices. The imposition of licensing requirements without adequate consideration of these cultural sensitivities could undermine the sovereignty and autonomy of Native American communities and infringe upon their constitutionally protected rights.

While IJ understands the desire to ensure that the preparation and final disposition of human remains is conducted with dignity and in alignment with practices that ensure public health and safety, the broad and burdensome regulation of mortuary science professions proposed by this bill may not achieve those goals. Rather than rushing to regulate these professions, IJ encourages the committee to solicit more public and expert input and study the impacts of licensure on cultural, religious, and traditional burial rites.

Thank you for your time and thoughtful consideration of this issue.

Sincerely,

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<sup>4</sup> See *Steep Consumer and Economic Costs With Limited Benefits*, Institute for Justice (Nov. 2022), <https://ij.org/report/license-to-work-3/report/licensings-negative-effects/steep-consumer-and-economic-costs-with-limited-benefits/>.

<sup>5</sup> See *Motorcycle Escort Involved In Crash During Funeral Procession*, CBS News Colorado (Mar. 16, 2018), <https://www.cbsnews.com/colorado/news/motorcycle-escort-crash-funeral-procession/>.