



---

Protecting a consumer's right to choose meaningful, dignified, and affordable funerals since 1963

March 5, 2009

To: Colorado House Committee on Business Affairs, House Committee on Appropriations

### HB 1202 — OPPOSITION

*The bill improperly restricts the rights of families to conduct private funeral and memorial services without interference from the state and erects irrational, unnecessary barriers to entry in funeral service. Costs for grieving families will likely rise.*

Dear Representatives:

We write to you from Funeral Consumers Alliance, the nation's oldest and largest nonprofit protecting funeral consumer rights, and from the Funeral Consumer Society of Colorado, your state's local, volunteer chapter. While we applaud Colorado's effort to better regulate the funeral industry, we're alarmed at some of the provisions in HB 1202. Far from protecting vulnerable grieving families, the bill could open the door for the Department of Regulatory Agencies to sanction families who choose to conduct funerals for the dead themselves without hiring a commercial funeral home. In addition, the stringent requirements for gaining commercial registration and for practicing are far beyond any we've seen in other states, and seem designed to protect the established funeral industry from meaningful competition. This, of course, will raise funeral costs — the last thing families in today's economy can bear.

As consumer advocates, we believe in effective regulation. But this bill appears to have been written from the playbook of the Colorado Funeral Directors Association, not exactly a disinterested party. According to their Web site,

*HB09-1202 was passed with amendments in the House Business Affairs and Labor Committee by a unanimous vote of 9-0. Many thanks to Chuck Bowman, George Malesich and Eric Wolverton for testifying on behalf of CFDA at this hearing.*

HB 1202 appears to be a thinly veiled attempt by the CFDA to use the Colorado legislature to protect their turf, prestige, and profits. We are disturbed that once again, legitimate consumer advocates (with no financial stake in the matter) were passed over in favor of input exclusively from the industry the bill purports to regulate. FCA and the FCSC have noted similar deficiencies in bills introduced in the past few years, yet we cannot seem to get an invitation for input from any lawmaker. We respectfully urge you to consider the problems with this bill that we cite below, and to amend it so that family and consumer rights are not stripped to satisfy industry profit motives. We ask again that you please give us a seat at the table; we can be wonderful resource for legislators, and we believe you need our input to balanced the special-interest perspective brought by the CFDA.

Here is a brief list of concerns. We will forward a more detailed analysis with suggested amendments.

HB 1202:

Removes the “for compensation” provision in the definition of commercial funeral practice, thereby subjecting private families, churches, and other communities to inappropriate regulation in order to perform funerals for their own dead. This is squarely un-Constitutional, **and in direct conflict with other provisions in HB 1202 that appear to protect those rights.** Since the bill prohibits anyone but a registered funeral establishment from “practic[ing] as, or offer[ing] the



# Funeral Consumers

---

ALLIANCE

---

## Protecting a consumer's right to choose meaningful, dignified, and affordable funerals since 1963

services of a mortuary science practitioner, funeral director, or embalmer” without registration and extensive “qualifications,” everyone from private families to home funeral educators could run afoul of the law.

- **Denies Colorado families the right to be present in the preparation room** of a funeral home. Suddenly, the state has decided that a mother cannot supervise the preparation of her son, or help dress him, in a funeral home. Why?
- **One section bars families and kin from witnessing the cremation** by denying them entry to the crematory during the process, while another section implies they may do so. Families have a right to witness the cremation of their dead, as surely as they have the right to witness a cemetery burial. Why would Colorado want to take away this right and deny cremation families the peace of mind witnessing can bring?
- Appears to require all manner of businesses selling vaguely defined “funeral goods” to register with the state. Does this mean local woodworkers who make pine coffins have to register? What about seamstresses who sell burial shrouds?
- Requires a “mortuary science practitioner” to spend nearly a year apprenticing — after having completed a mortuary science degree — before doing business in Colorado. What consumer protection purpose does this lengthy apprenticeship accomplish? Is this a form of cheap, indentured labor for established funeral homes?
- Requires a funeral director to apprentice on 50 funerals before doing business. Again, why such a lengthy period?
- Requires an embalmer to have spent an astonishing 4,000 hours embalming bodies before doing business in Colorado. That’s 100 weeks, or nearly **two years of embalming bodies eight hours a day, five days a week**. We have never seen such an absurdly long period in any state law. By contrast, Colorado does not appear to require any apprenticeship for restaurant cooks, whose occupation has a much greater effects on living consumers (e.g., the potential for food poisoning). Yet those who tend to **the already dead** have to practice for two years before doing business with the public?
- Requires cremation practitioners to cremate at least 100 bodies before doing business in Colorado. Some training and practicing is essential, of course. But with all due respect, cremation is just not that complicated.
- Requires the Director of the Department of Regulatory Agencies to seek input from members of the industry to be regulated before drawing up any rules, **but does not require the director to seek input from disinterested consumer advocates**. Why does the legislature believe the regulated industry should have such influence over the rules by which it operates?

We hope you will contact us to discuss amending these troubling provisions at your earliest convenience. Consumer advocates, industry members, and the legislature can work together to protect Colorado citizens without infringing on the rights of grieving families or restricting their choices to high-cost, entrenched mortuaries.

Sincerely,

Jan Eccher, President  
Funeral Consumer Society of Colorado  
303-659-7731

Executive Director  
Funeral Consumers Alliance National  
Co-author of the forthcoming *Caring for the Dead: Your Consumer Rights*