

MFDA

MICHIGAN FUNERAL DIRECTORS ASSOCIATION

Generations of Caring

*The nation's oldest Funeral
Directors Association –
serving our members
and the public for
138 years*

Testimony on HB 4124

Chairman Lower and Members of the Local Government and Municipal Finance Committee:

This testimony is being submitted on behalf of the over 1,000 funeral directors serving in approximately 500 funeral homes (two-thirds of all licensed funeral homes) across the state who are members of the Michigan Funeral Directors Association (MFDA).

House Bill 4124 would create an exception to a provision in Michigan's law governing County Medical Examiners that prohibits funeral home personnel from being appointed medical examiner investigators. The proposed exception would repeal this provision for those counties with a population of 50,000 or less. MFDA opposes the legislation on the grounds that serving as a medical examiner investigator poses a direct conflict of interest with funeral service—a conflict that is not mitigated by the population threshold contained in the legislation.

Serving as Both a Medical Examiner Investigator and as a Funeral Service Professional is a Conflict of Interest

County medical examiners are vested with the authority to appoint medical examiner investigators, "..., to take charge of the body, make pertinent inquiry, note the circumstances surrounding the death, and if considered necessary, cause the body to be transported to the morgue for the county medical examiner." A list of appointed medical examiner investigators is filed with local law enforcement agencies. Recognizing a conflict, Michigan law since 1972 has stated that a medical examiner investigator may not be an agent or employee of a funeral establishment, nor directly or indirectly receive remuneration in connection with the disposition of the body.

The duties of a medical examiner investigator to make pertinent inquiry and note the circumstances surrounding the death oftentimes involve interacting with family members and survivors of the decedent—the very same individuals who are empowered to make funeral arrangement and final disposition decisions. To have funeral service professionals' initial contact with family members and survivors be cloaked with the official sanction of county government and law enforcement places them in a

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position of authority which can be utilized to wield undue influence over the selection of which funeral home to use or the kinds of services to select. This badge of authority is not easily shed. The prohibition recognizes the inherent conflict of interest between serving as a medical examiner investigator and funeral service provider.

Public Policy Has Historically Separated Funeral Service From Serving Other Roles

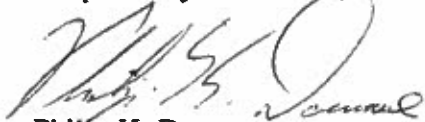
In addition to the prohibition on serving as a medical examiner investigator, concern over the potential use of undue influence created by a funeral professionals taking on dual roles is enshrined throughout Michigan law. For example, funeral homes are prohibited from being named the beneficiary on life insurance policies. Similarly, funeral home personnel may not be named as a funeral representative to make funeral arrangement and final disposition decisions after someone's death—unless he or she is a bona fide relative. Indeed, the policy underlying the current prohibition on serving as medical examiner investigators reportedly stems from the conflicts that existed when funeral professionals doubled as county coroners. Michigan's public policy has traditionally disfavored funeral professionals having a position of authority with respect to a decedent, family members, survivors and heirs. Removing the prohibition on serving as medical examiner investigator retreats from this policy.

Repealing the Prohibition for Less-Populous Counties Doesn't Mitigate the Conflict

This conflict of interest is present regardless of county population. While a county with a smaller population may reduce the potential conflict with respect to influence over the selection of the funeral home because there may be only one or two funeral homes in that county, it does not alleviate the conflict with respect to the selection of funeral services and merchandise. The cloak of official authority extends to the arrangements conference where selections are made, and the same undue influence can be exerted. Limiting the repeal to counties with less population would allow this conflict to exist.

For the foregoing reasons, MFDA opposes HB 4124, and requests that committee members take these concerns into account when the measure comes before them for a vote.

Respectfully Submitted,



Philip K. Douma
Executive Director