

## CHAPTER 98-298

### Committee Substitute for House Bill No. 885

An act relating to funeral directing, embalming, and direct disposition; amending s. 470.002, F.S.; expanding the definition of the term “legally authorized person”; amending s. 470.006, F.S.; revising a provision relating to licensure as an embalmer by examination, to clarify applicability of the internship requirement; amending s. 470.0085, F.S., relating to the embalmer apprentice program; authorizing an extension of apprenticeship for certain students working in funeral establishments; amending s. 470.009, F.S.; reorganizing provisions relating to licensure as a funeral director by examination, to clarify applicability of the internship requirement; amending ss. 470.015 and 470.018, F.S.; providing for inclusion of a required course on human immunodeficiency virus and acquired immune deficiency syndrome in the board-approved course on communicable diseases for renewal of funeral director and embalmer licenses and renewal of registration of direct disposers; amending s. 470.024, F.S.; authorizing operation of visitation chapels and establishing criteria therefor; providing licensing limitations with respect to collocated facilities; requiring the relicensure of funeral establishments whose ownership has changed; amending s. 470.029, F.S.; providing a filing date for monthly reports on final dispositions; amending s. 470.0301, F.S.; providing requirements for registration of centralized embalming facilities, including biennial renewal and applicable fees; providing for an annual inspection fee; creating s. 470.0315, F.S.; providing for the storage, preservation, and transportation of human remains; creating s. 470.0355, F.S.; providing for the identification of human remains; amending s. 470.036, F.S.; extending disciplinary actions to certain registrants and licensees; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (18) of section 470.002, Florida Statutes, is amended to read:

470.002 Definitions.—As used in this chapter:

(18) “Legally authorized person” means, in the priority listed, the decedent, when written inter vivos authorizations and directions are provided by the decedent, the surviving spouse, son or daughter who is 18 years of age or older, parent, brother or sister 18 years of age or over, grandchild who is 18 years of age or older, or grandparent; or any person in the next degree of kinship. In addition, the term may include, if no family exists or is available, the following: the guardian of the dead person at the time of death; the personal representative of the deceased; the attorney-in-fact of the dead person at the time of death; the health surrogate of the dead person at the time of death; a public health officer; the medical examiner, county commission or administrator acting under chapter 245, or other public administra-

tor; a representative of a nursing home or other health care institution in charge of final disposition; or a friend or other person not listed in this subsection who is willing to assume the responsibility as authorized person.

Section 2. Subsection (3) of section 470.006, Florida Statutes, is amended to read:

470.006 Licensure as an embalmer by examination; provisional license.—

(3) Any applicant who ~~has completed the required 1-year internship and~~ has been approved for examination as an embalmer may qualify for a provisional license to work in a licensed funeral establishment, under the direct supervision of a licensed embalmer for a limited period of 6 months as provided by rule of the board. The fee for provisional licensure shall be set by the board, but may not exceed \$125, and shall be nonrefundable and in addition to the fee required in subsection (1). This provisional license may be renewed no more than one time. ~~An applicant may not be granted a license until she or he has completed a 1-year internship as prescribed by rule of the board.~~

Section 3. Section 470.0085, Florida Statutes, is amended to read:

470.0085 Establishment of embalmer apprentice program.—The board may adopt rules establishing an embalmer apprentice program. An embalmer apprentice may perform only those tasks, functions, and duties relating to embalming which are performed under the direct supervision of a licensed embalmer. An embalmer apprentice shall be eligible to serve in an apprentice capacity for a period not to exceed 1 year as may be determined by board rule or for a period not to exceed 3 years if the apprentice is enrolled in and attending a course in mortuary science or funeral service education at any mortuary college or funeral service education college or school. An embalmer apprentice shall be registered with the board upon payment of a registration fee not to exceed \$50.

Section 4. Section 470.009, Florida Statutes, is amended to read:

470.009 Licensure as a funeral director by examination; provisional license.—

(1) Any person desiring to be licensed as a funeral director shall apply to the department to take the licensure examination. The department shall examine each applicant who has remitted an examination fee set by the board not to exceed \$200 plus the actual per applicant cost to the department for portions of the examination and who the board certifies has:

(a) Completed the application form and remitted a nonrefundable application fee set by the board not to exceed \$50.

(b) Submitted proof satisfactory to the board that the applicant is at least 18 years of age and is a recipient of a high school degree or equivalent.

(c) Had no conviction or finding of guilt, regardless of adjudication, for a crime which directly relates to the ability to practice funeral directing or the practice of funeral directing.

(d)1. Received an associate in arts degree, associate in science degree, or an associate in applied science degree in mortuary science approved by the board; or

2. Holds an associate degree or higher from a college or university accredited by a regional association of colleges and schools recognized by the United States Department of Education and is a graduate of at least a 1-year course in mortuary science approved by the board.

(e) Submitted proof of completion of a board-approved course on communicable diseases.

~~(f) Has completed a 1-year internship under a licensed funeral director.~~

(2) The department shall license the applicant as a funeral director if he or she:

(a) Passes an examination on the subjects of the theory and practice of funeral directing, public health and sanitation, and local, state, and federal laws and rules relating to the disposition of dead human bodies; however, the board by rule may adopt the use of a national examination, such as the funeral service arts examination prepared by the Conference of Funeral Service Examining Boards, in lieu of part of this examination requirement.

(b) Completes a 1-year internship under a licensed funeral director.

(3) Any applicant who ~~has completed the required 1-year internship and~~ has been approved for examination as a funeral director may qualify for a provisional license to work in a licensed funeral establishment, under the direct supervision of a licensed funeral director for a limited period of 6 months as provided by rule of the board. The fee for provisional licensure shall be set by the board but may not exceed \$125. The fee required in this subsection shall be nonrefundable and in addition to the fee required by subsection (1). This provisional license may be renewed no more than one time. ~~An applicant may not be granted a license until that applicant has completed a 1-year internship as prescribed by rule of the board.~~

Section 5. Subsection (1) of section 470.015, Florida Statutes, is amended to read:

470.015 Renewal of funeral director and embalmer licenses.—

(1) The department shall renew a funeral director or embalmer license upon receipt of the renewal application and fee set by the board not to exceed \$250. The board may prescribe by rule continuing education requirements of up to 12 classroom hours, in addition to a board-approved course on communicable diseases that includes the course on human immunodeficiency virus and acquired immune deficiency syndrome required by s. 455.2226, for the renewal of a funeral director or embalmer license. The board may provide for the waiver of continuing education requirements in circumstances that would justify the waiver, such as hardship, disability, or illness. The continuing education requirement is not required after July 1, 1996, for a licensee who is over the age of 75 years if the licensee does not qualify as the sole person in charge of an establishment or facility.

Section 6. Subsection (2) of section 470.018, Florida Statutes, is amended to read:

470.018 Renewal of registration of direct disposer.—

(2) The department shall adopt rules establishing a procedure for the biennial renewal of registrations. The board shall prescribe by rule continuing education requirements of up to 3 classroom hours, in addition to a board-approved course on communicable diseases that includes the course on human immunodeficiency virus and acquired immune deficiency syndrome required by s. 455.2226, for the renewal of a registration.

Section 7. Section 470.024, Florida Statutes, is amended to read:

470.024 Funeral establishment; licensure.—

(1) A funeral establishment shall be a place at a specific street address or location consisting of at least 1,250 contiguous interior square feet and must maintain or make arrangements for either suitable capacity for the refrigeration and storage of dead human bodies handled and stored by the establishment or a preparation room equipped with necessary ventilation and drainage and containing necessary instruments for embalming dead human bodies.

(2) Each licensed funeral establishment may operate a visitation chapel at a separate location within the county in which the funeral establishment is located. A visitation chapel must be a facility of not less than 500 square feet and not more than 700 square feet and may be operated only when a licensed funeral director is present at the facility. A visitation chapel may be used only for visitation of a deceased human body and may not be used for any other activity permitted by this chapter.

~~(3)~~(2) No person may conduct, maintain, manage, or operate a funeral establishment unless an establishment operating license has been issued by the department for that funeral establishment.

~~(4)~~(3) Application for a funeral establishment license shall be made on forms furnished by the department, shall be accompanied by a nonrefundable fee not to exceed \$300 as set by board rule, and shall include the name of the licensed funeral director who is in charge of that establishment.

~~(5)~~(4) A funeral establishment license shall be renewable biennially pursuant to procedures, and upon payment of a nonrefundable fee not to exceed \$300, as set by board rule. The board may also establish by rule a delinquency fee not to exceed \$50.

~~(6)~~(5) The practice of embalming done at a funeral establishment shall only be practiced by an embalmer licensed under this chapter.

~~(7)~~(6) Each licensed funeral establishment shall have one full-time funeral director in charge and shall have a licensed funeral director reasonably available to the public during normal business hours for that establishment. The full-time funeral director in charge must have an active license

and may not be the full-time funeral director in charge of any other funeral establishment or of any other direct disposal establishment.

~~(8)~~<sup>(7)</sup> The issuance of a license to operate a funeral establishment to a person or entity who is not individually licensed as a funeral director does not entitle the person to practice funeral directing.

~~(9)~~<sup>(8)</sup> Each funeral establishment located at a specific address shall be deemed to be a separate entity and shall require separate licensing and compliance with the requirements of this chapter. A No funeral establishment may not shall be operated at the same location as any other funeral establishment or direct disposal establishment unless such establishments were licensed as colocated establishments on October January 1, 1993.

~~(10)~~<sup>(9)</sup> Every funeral establishment licensed under this chapter shall at all times be subject to the inspection of all its buildings, grounds, and vehicles used in the conduct of its business, by the department or any of its designated representatives or agents, or local or Department of Health and ~~Rehabilitative Services~~ inspectors. The board shall by rule establish requirements for inspection of funeral establishments.

~~(11)~~<sup>(10)</sup> The board shall set by rule an annual inspection fee not to exceed \$100, payable upon application for licensure and upon each renewal of such license.

~~(12)~~<sup>(11)</sup> A change in ownership of a funeral establishment shall be promptly reported to the department and shall may require the relicensure of the funeral establishment, including reinspection and payment of applicable fees.

~~(13)~~<sup>(12)</sup> Each application for a funeral establishment license shall identify every person with the ability to direct the management or policies of the establishment and must identify every person having more than a 10-percent ownership interest in the establishment or the business or corporation which owns the establishment. The board may deny, suspend, or revoke the license if any person identified in the application has ever been disciplined by a regulatory agency in any jurisdiction for any offense that would constitute a violation of this chapter. The board may deny, suspend, or revoke the license if any person identified in the application has ever been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction that directly relates to the ability to operate a funeral establishment.

~~(14)~~<sup>(13)</sup> Each funeral establishment must display at the public entrance the name of the establishment and the name of the full-time funeral director in charge. A funeral establishment must transact its business under the name by which it is licensed.

Section 8. Subsection (1) of section 470.029, Florida Statutes, is amended to read:

470.029 Reports of cases embalmed and bodies handled.—

(1) Each funeral establishment, direct disposal establishment, cinerator facility, and centralized embalming facility shall report on a form prescribed and furnished by the department the name of the deceased and such other information as may be required with respect to each dead human body embalmed or otherwise handled by the establishment or facility. Such forms shall be signed by the embalmer who performs the embalming, if the body is embalmed, and the funeral director in charge of the establishment or facility or by the direct disposer who disposes of the body. The board shall prescribe by rule the procedures in submitting such documentation. Reports required by this subsection shall be filed by the 10th day of each month for final dispositions handled the preceding month.

Section 9. Paragraphs (f) and (g) are added to subsection (2) of section 470.0301, Florida Statutes, to read:

470.0301 Removal services; refrigeration facilities; centralized embalming facilities.—In order to ensure that the removal, refrigeration, and embalming of all dead human bodies is conducted in a manner that properly protects the public's health and safety, the board shall adopt rules to provide for the registration of removal services, refrigeration facilities, and centralized embalming facilities operated independently of funeral establishments, direct disposal establishments, and cinerator facilities.

(2) CENTRALIZED EMBALMING FACILITIES.—In order to ensure that all funeral establishments have access to embalming facilities that comply with all applicable health and safety requirements, the board shall adopt rules to provide for the registration of centralized embalming facilities and shall require, at a minimum, the following:

(f) Application for registration of a centralized embalming facility shall be made on forms furnished by the department and shall be accompanied by a nonrefundable fee not to exceed \$300 as set by board rule, and registration shall be renewed biennially pursuant to procedures and upon payment of a nonrefundable fee not to exceed \$300 as set by board rule. The board may also establish by rule a late fee not to exceed \$50. Any registration not renewed within 30 days after the renewal date shall expire without further action by the department.

(g) The board shall set by rule an annual inspection fee not to exceed \$100, payable upon application for registration and upon renewal of such registration.

Section 10. Section 470.0315, Florida Statutes, is created to read:

470.0315 Storage, preservation, and transportation of human remains.—

(1) A person may not store or maintain human remains at any establishment or facility except an establishment or facility licensed or registered under this chapter or a health care facility, medical examiner's facility, morgue, or cemetery holding facility.

(2) A dead human body may not be held in any place or in transit over 24 hours after death or pending final disposition unless the body is main-

tained under refrigeration at a temperature of 40 degrees Fahrenheit or below or is embalmed or otherwise preserved in a manner approved by the board in accordance with the provisions of this chapter.

(3) A dead human body transported by common carrier or any agency or individual authorized to carry dead human bodies must be placed in a carrying container adequate to prevent the seepage of fluids and escape of offensive odors. A dead human body may be transported only when accompanied by a properly completed burial-transit permit issued in accordance with the provisions of chapter 382.

(4) The board shall establish by rule the minimal standards of acceptable and prevailing practices for the handling and storing of dead human bodies, provided that all human remains transported or stored must be completely covered and at all times treated with dignity and respect.

(5) A person who violates any provision of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 11. Section 470.0355, Florida Statutes, is created to read:

470.0355 Identification of human remains.—

(1) The licensee or registrant in charge of the final disposition of dead human remains shall, prior to final disposition of such dead human remains, affix on the ankle or wrist of the deceased, or in the casket or alternative container or cremation container, proper identification of the dead human remains. The identification or tag shall be encased in or consist of durable and long-lasting material containing the name, date of birth, date of death, and social security number of the deceased, if available. If the dead human remains are cremated, proper identification shall be placed in the container or urn containing the remains.

(2) Any licensee or registrant responsible for removal of dead human remains to any establishment, facility, or location shall ensure that the remains are identified by a tag or other means of identification that is affixed to the ankle or wrist of the deceased at the time the remains are removed from the place of death or other location.

(3) Any licensee or registrant may rely on the representation of a legally authorized person to establish the identity of dead human remains.

Section 12. Paragraphs (c), (d), (e), (g), (m), and (q) of subsection (1) and subsection (2) of section 470.036, Florida Statutes, are amended to read:

470.036 Disciplinary proceedings.—

(1) The following acts constitute grounds for which the disciplinary actions in subsection (2) may be taken:

(c) ~~Having a license or registration to practice any of the activities regulated under this chapter funeral directing or embalming, or to operate a cinerator facility, funeral establishment, removal service, or refrigeration~~

service, revoked, suspended, or otherwise acted against, including the denial of licensure or registration, by the licensing or registering authority of another jurisdiction.

(d) ~~Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of, or the ability to practice, any of the activities regulated under this chapter embalming or funeral directing, or operation of a cinerator facility, funeral establishment, removal service, or refrigeration service, or the ability to practice embalming or funeral directing, or operate a cinerator facility, funeral establishment, removal service, or refrigeration service.~~

(e) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state, local, or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records shall include only those which are signed in the capacity of a licensee or registrant under this chapter ~~licensed funeral director, embalmer, or cinerator facility operator.~~

(g) Committing fraud, deceit, negligence, incompetency, or misconduct, in the practice of any of the activities regulated under this chapter ~~funeral directing or embalming, funeral establishment operation, cinerator facility operation, removal service operation, or refrigeration service operation.~~

(m) Making any false or misleading statement, oral or written, directly or indirectly, regarding the sale of services or merchandise in connection with any of the activities regulated under this chapter ~~funeral directing, embalming, funeral establishment operation, cinerator facility operation, removal service operation, or refrigeration operation on a preneed or at-need basis.~~

(q) Paying to or receiving from any organization, agency, or person, either directly or indirectly, any commission, bonus, kickback, or rebate in any form whatsoever for any of the activities regulated under this chapter ~~funeral directing services, embalming services, funeral establishment services, cinerator facility services, removal services, or refrigeration services,~~ by the licensee or registrant, or her or his agent, assistant, or employee; however, this provision shall not prohibit the payment of commissions by a funeral director, funeral establishment, or cinerator facility to its preneed agents registered pursuant to chapter 497 or to licensees under this chapter hereunder.

(2) When the board finds any licensee or registrant ~~licensed embalmer, embalmer intern, funeral director, funeral director intern, funeral establishment, cinerator facility, or cinerator facility operator~~ guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Denial of an application for licensure or registration.



- (b) Permanent revocation or suspension of a license or registration.
- (c) Imposition of an administrative fine not to exceed \$5,000 for each count or separate offense.
- (d) Issuance of a reprimand.
- (e) Placement of the licensee or registrant on probation for a period of time and subject to such conditions as the board may specify, including requiring the licensee or registrant to attend continuing education courses or to work under the supervision of another licensee.
- (f) Restriction of the authorized scope of practice.
- (g) Assessment of costs associated with investigation and prosecution.

Section 13. This act shall take effect July 1 of the year in which enacted.

Became a law without the Governor's approval May 29, 1998.

Filed in Office Secretary of State May 28, 1998.