

Stricken language would be deleted from and underlined language would be added to present law.
Act 1095 of the Regular Session

State of Arkansas *As Engrossed: H3/17/15 H3/20/15 H3/25/15*
90th General Assembly
Regular Session, 2015

A Bill

HOUSE BILL 1711

By: Representative Talley

By: Senator Teague

For An Act To Be Entitled

AN ACT TO REGULATE EMBALMING, CREMATING, FUNERAL DIRECTING, TRANSPORTING HUMAN REMAINS, THE OPERATION OF FUNERAL ESTABLISHMENTS, CREMATORIUMS, TRANSPORT SERVICES, AND THE STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS; AND FOR OTHER PURPOSES.

Subtitle

TO REGULATE EMBALMING, CREMATING, FUNERAL DIRECTING, TRANSPORTING HUMAN REMAINS, THE OPERATION OF FUNERAL ESTABLISHMENTS, CREMATORIUMS, TRANSPORT SERVICES, AND THE STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. The catchline for Arkansas Code § 17-29-201 is amended to read as follows:

17-29-201. Creation – Members – Duties.

SECTION 2. Arkansas Code § 17-29-201, concerning the members and duties of the State Board of Embalmers and Funeral Directors, is amended to add an additional subsection to read as follows:

(g) The board shall:

(1) Administer this subchapter and § 17-29-301 et seq.; and

(2) Make the examinations required by § 17-29-301 et seq.



available to applicants at least two (2) times annually at suitable locations during normal business hours.

SECTION 3. Arkansas Code § 17-29-202(b), concerning examinations of the State Board of Embalmers and Funeral Directors, is repealed.

~~(b) The board shall hold at least two (2) examinations each year at convenient times and places.~~

SECTION 4. Arkansas Code § 17-29-203 is amended to read as follows:
17-29-203. Selection of officers.

(a) The State Board of Embalmers and Funeral Directors ~~appointed under the provisions of this chapter, and each successor thereto, is authorized to~~ shall select from its own membership a president, vice president, and except as provided in subsection (b) of this section, a secretary-treasurer who shall serve for one-year terms or until their successors are elected and qualified.

~~(b)(1) In the event no member~~ If all members of the board ~~is able for any reason decline~~ to serve as secretary-treasurer, then by a majority vote of the board, ~~the board~~ may employ a person who is not a member of the board to serve as secretary-treasurer, ~~and.~~

~~(2) that~~ A person employed by the board as secretary-treasurer under subdivision (b)(1) of this section is not required to be a licensed embalmer or funeral director.

SECTION 5. Arkansas Code § 17-29-204(5), concerning the duties of the secretary-treasurer of the State Board of Embalmers and Funeral Directors, is amended to read as follows:

(5) ~~Keep~~ Maintain a record ~~in which shall be registered~~ of the licensee and business name and ~~business~~ address of every person ~~to whom licenses have been granted in accordance with~~ licensed under § 17-29-301 et seq., including the license number, and date of the license, and the renewal date ~~of renewal~~ of the license;

SECTION 6. Arkansas Code § 17-29-204(6), concerning the duties of the secretary-treasurer of the State Board of Embalmers and Funeral Directors, is amended to read as follows:

(6) Supply on request a list of every person and funeral establishment licensed under § 17-29-301 et seq., to ~~any~~ a person licensed as an embalmer or funeral director, to a common carriers carrier in this state, to hospitals a hospital licensed in this state, or to any other persons reasonably entitled to a list of all persons and funeral establishments holding licenses under § 17-29-301 et seq. ~~The publication giving the information shall include all laws, rules, and regulations regarding the practice of embalming or funeral directing person authorized by law to receive the list;~~

SECTION 7. Arkansas Code § 17-29-204(8) through (10), concerning the duties of the secretary-treasurer of the State Board of Embalmers and Funeral Directors, are amended to read as follows:

~~(8) Give bond to the State of Arkansas in such sum as the board may direct. Any premiums payable for the bond shall be paid from the funds of the board. The bond shall be deposited with the Auditor of State;~~

~~(9) Receive and be paid an annual salary not to exceed the amount authorized by law; and~~

~~(10)(9) Be authorized to receive reimbursement for expenses incurred in performance of duties;~~

(10) Charge and collect a criminal background check processing fee in an amount necessary to recover the charge imposed by the Department of Arkansas State Police to conduct a criminal background check for a person applying for an initial license under § 17-29-301 et seq.; and

(11) Recommend to the board the establishment of standards of practice and a code of ethics for a person licensed under § 17-29-301 et seq.

SECTION 8. Arkansas Code § 17-29-205(c), concerning the inspector appointed by the State Board of Embalmers and Funeral Directors, is amended to read as follows:

~~(c)(1) The inspector, with proper identification, is authorized to may enter the any office, premises, establishment, or place of business of any business in this state where the practice of embalming, or funeral directing, cremation, or transportation of human remains is carried on, or where the practice is advertised as being carried on, for the purpose of inspecting to:~~

(A) Inspect the office, premises, crematory, or

~~establishment;~~

~~(B) inspecting~~ Inspect the license and registration of ~~any~~
a licensee;

~~(C) inspecting~~ Inspect the manner and scope of training
given to ~~any~~ an apprentice ~~therein;~~ and

~~(D) to ensure~~ Ensure compliance with all state laws, ~~and~~
rules, and regulations pertaining to funeral service.

~~(2) Acceptance of~~ By accepting a license under § 17-29-301 et
seq., ~~shall be the licensee grants permission for the inspector or other~~
board designee to enter ~~his or her~~ the licensee's business premises without
~~legal process prior notice.~~

SECTION 9. Arkansas Code § 17-29-207(a), concerning the rules of the
State Board of Embalmers and Funeral Directors, is amended to read as
follows:

(a) The State Board of Embalmers and Funeral Directors may promulgate
appropriate rules for the transaction of its business ~~and,~~ for the betterment
and promotion of the standards of service and practice to be followed, ~~in the~~
~~practice of~~ and the qualifications to:

(1) Practice embalming, and funeral directing, or cremation;

(2) Transport human remains; or

(3) Operate a funeral establishment, mortuary service,
crematorium, retort, or transport service firm to transport human remains in
~~the State of Arkansas as it deems expedient and consistent with the laws of~~
~~this state and for the public good.~~

SECTION 10. Arkansas Code § 17-29-207(c), concerning the rules of the
State Board of Embalmers and Funeral Directors, is amended to read as
follows:

~~(c)(1) The board may determine the qualifications necessary to~~
~~practice the science of embalming or the business of funeral directing, or~~
~~both, and shall adopt bylaws and rules in connection with the care and~~
~~disposition of dead human bodies~~ remains in this state.

(2) The board shall enforce compliance with ~~the laws and rules~~
~~by those engaged in the science of embalming and business of funeral~~
~~directing in this state~~ this subchapter and § 17-29-301 et seq. and may

transact any other business necessary for carrying out ~~the provisions of this~~ subchapter and § 17-29-301 et seq.

SECTION 11. Arkansas Code § 17-29-207, concerning the rules of the State Board of Embalmers and Funeral Directors, is amended to add an additional subsection to read as follows:

(f) The board shall establish the standards of practice and a code of ethics for a person or business licensed under § 17-29-301 et seq.

SECTION 12. Arkansas Code § 17-29-209(a), concerning the continuing education for licensed funeral directors and embalmers, is amended to read as follows:

(a) The State Board of Embalmers and Funeral Directors may develop, and establish by regulation rule, and administer a program for mandatory or voluntary continuing education program and its requirements for all funeral directors and embalmers a person licensed under § 17-29-301 et seq.

SECTION 13. Arkansas Code § 17-29-211 is amended to read as follows:

17-29-211. ~~Administrative activities~~ Executive Secretary – Employees – Office.

(a)(1)(A) The Executive Secretary of the Burial Association Board shall serve at the discretion of the State Board of Embalmers and Funeral Directors until such time the board may appoint an Executive Secretary of the State Board of Embalmers and Funeral Directors who shall serve at the pleasure of the board.

(2) The Executive Secretary of the State Board of Embalmers and Funeral Directors shall also be responsible for the administrative activities of the State Board of Embalmers and Funeral Directors be in charge of the board's office and devote the necessary time to the performance of the duties of the executive secretary as may be required.

(3) The duties of the executive secretary of the board shall include:

(A) Collection of fees and charges under this chapter;

(B) Keeping record of the proceedings of the board;

(C) Keeping an accurate account of all moneys received and disbursed by the board;

(D) Assisting or performing the duties of the Secretary-Treasurer of the State Board of Embalmers and Funeral Directors; and

(E) Any other duties defined and designated by the board.

(b) The board may employ any necessary clerical and professional staff and incur any reasonable expenses necessary for the proper discharge of the duties of the board under this subchapter.

(c) The board shall maintain its main office location in Little Rock and transact the board's business at the main office.

SECTION 14. Arkansas Code § 17-29-301(a)(6), concerning the qualifications to practice the science of embalming, is amended to read as follows:

~~(6)(A) Take and pass both parts of the National Board Examination and both parts of the Arkansas laws, rules, and regulations exam and present himself or herself to the State Board of Embalmers and Funeral Directors for a licensing interview.~~

(B) To be eligible to take the Arkansas laws, rules, and regulations exam, an applicant shall be an active apprentice who is currently registered with the board.

SECTION 15. Arkansas Code § 17-29-301(b)(3), concerning the qualifications to practice the science of embalming, is amended to read as follows:

~~(3)(A) This An apprenticeship under subsection (b) of this section may be served before, during, or after attending a begin not more than twelve (12) months before enrollment in an accredited college of mortuary science except when the applicant is receiving financial assistance from the state to attend mortuary school, in which instance the apprenticeship shall be served prior to attending mortuary school or by submitting proof of graduation from an accredited college of mortuary science.~~

~~(B) This subdivision (b)(3) applies to persons who were enrolled in mortuary school on January 1, 2000, and those who enroll after that date If an apprentice fails to enroll in an accredited college of mortuary science as required under subdivision (b)(3)(A) of this section, the apprenticeship shall be terminated for a period to be determined by rule of~~

the State Board of Embalmers and Funeral Directors.

SECTION 16. Arkansas Code § 17-29-302(a)(5), concerning the qualifications required to engage in the business of funeral directing, is amended to read as follows:

~~(5)(A) Present himself or herself before the board at a time and place fixed by the board and make a passing grade on both the written and oral examinations~~ Take and pass all examinations required by the board.

(B) To be eligible to take the Arkansas laws, rules, and regulations exam, an applicant shall be an active apprentice who is currently registered with the board.

SECTION 17. Arkansas Code § 17-29-302(b), concerning the qualifications to engage in the business of funeral directing, is amended to read as follows:

~~(b)(1)(A) Any~~ Except as provided in subdivision (b)(1)(C) of this section, a person desiring to engage in the business of funeral directing in the State of Arkansas this state shall serve an apprenticeship in this state ~~of for two (2) years in the State of Arkansas.~~

(B) An apprentice shall:

(i) under Register with the board on forms provided by the board and by attaching the fee as prescribed in § 17-29-208;

(ii) Be supervised by a funeral director licensed by the board; and

~~(iii) that person shall actively~~ Actively assist in conducting arranging fifty (50) funerals services as determined by rule of the board.

(C) A person who is a graduate of an accredited mortuary program and has passed the National Board Examination may be licensed to engage in the business of funeral directing after serving an apprenticeship in this state for one (1) year.

~~(2) Notice~~ A licensed funeral director who is supervising an apprenticeship shall record a notice of the apprenticeship shall be recorded with the Secretary-treasurer of the State Board of Embalmers and Funeral Directors and by the licensed funeral director supervising the apprenticeship ~~not or the Executive Director of the State Board of Embalmers and Funeral~~

Directors no later than thirty (30) days after the commencement start of the apprenticeship.

~~(2) If any person is a graduate of an accredited mortuary program and has passed the National Board Examination, that person shall be required to serve one (1) year as an apprentice funeral director.~~

(3) The board shall have the power to may suspend or revoke a ~~certificate of an applicant's~~ apprenticeship for a violation of ~~any provision of this subchapter or § 17-29-201 et seq.~~

(4) Within a reasonable amount of time after the effective date of this subchapter, a person who is currently in an apprenticeship under this section shall be subject to the provisions in this section concerning an apprenticeship as determined by rules of the board.

SECTION 18. Arkansas Code § 17-29-303(a), concerning examinations and certificates for embalmers and funeral directors, is amended to read as follows:

(a) ~~Within a reasonable time and in a place reasonably accessible to the applicant, after completion and filing of an application to practice the science of embalming or to engage in the business of funeral directing is filed with the State Board of Embalmers and Funeral Directors, the board shall subject each give the applicant to a written and oral examination as to his or her test the applicant's competency to act as an embalmer or a funeral director, or both.~~

SECTION 19. Arkansas Code § 17-29-303(b), concerning examinations and certificates for embalmers and funeral directors, is amended to read as follows:

(b) ~~If on examination the board finds that the an applicant possesses a knowledge of funeral directing or the science of embalming, sanitation, and disinfection, or funeral directing, or both, and meets the qualifications prescribed herein in this subchapter, the board shall issue the applicant a certificate authorizing him or her to practice the science of embalming or to engage in the business of funeral directing, engage in the business of funeral directing or to practice the science of embalming, or both, if the applicant has submitted a complete application under subsection (a) of this section and attached the fee as prescribed in § 17-29-208. The board shall~~

~~then register the applicant as a duly certified embalmer or funeral director, or both.~~

SECTION 20. Arkansas Code § 17-29-304(a), concerning the requirements to conduct a funeral establishment, is amended to read as follows:

(a)(1) ~~No~~ A person shall not conduct, maintain, manage, or operate a funeral establishment in this state unless a license for each establishment has been issued by the State Board of Embalmers and Funeral Directors has issued a license for the funeral establishment and the license is displayed in the funeral establishment.

(2) A price list, statement of funeral goods and services, publication, advertisement, or other document of a funeral establishment shall accurately:

(A) Reflect the name and location of the funeral establishment on file with the board;

(B) Describe each location to which the price list, statement, publication, advertisement, or document applies; and

(C) Any additional annual requirements as determined by rule of the board.

SECTION 21. Arkansas Code § 17-29-304(b), concerning the requirements to conduct a funeral establishment, is amended to read as follows:

(b)(1)(A) ~~No license shall be issued to operate a full-service funeral establishment by~~ Except as provided in subdivision (b)(2) of this section, the board shall not issue a license to operate a full-service funeral establishment unless the establishment has employed a full-time person manager who:

(i) Is a licensed as a funeral director;

(ii) Actively supervises the staff of the establishment; and

(iii) Is not employed by a nonaffiliated funeral establishment.

(B) A funeral establishment shall:

(i) Be open for business and available for inspection by the board during normal business hours; and

(ii) Post conspicuously its hours of operation on

the premises of the funeral establishment.

(2) ~~If the~~ A funeral establishment that is a part of a multiunit enterprise within this state, may employ only one (1) establishment within the multiunit enterprise must have a full-time person manager who is licensed as a funeral director, provided the for a branch of the funeral establishment if the full-time licensed person manager:

(A) is Is reasonably accessible to the branch of the funeral establishment; and

(B) Resides within fifty (50) miles of the branch of the funeral establishment.

SECTION 22. Arkansas Code § 17-29-304(e), concerning the requirements to conduct a funeral establishment, is amended to read as follows:

(e)(1) An A funeral establishment in which embalming is conducted that conducts embalming shall have a preparation room with a for embalming that has:

(A) sanitary floor Sanitary floors, walls, and ceiling ceilings that are constructed from a washable surface;

(B) adequate Adequate sanitary drainage and disposal facilities, including hot and cold running water, and;

(C) An exhaust fans system that provides proper ventilation according to the standards and regulations of the Occupational Safety and Health Administration for the prevention of the spread of contagious, infectious, or communicable diseases; and

(D) A heating and cooling system that is separate from the rest of the funeral establishment.

(2) Such an The funeral establishment shall comply with the regulations rules of the Department of Health and standards and regulations of the Occupational Safety and Health Administration for the prevention of the spread of contagious, infectious, or communicable diseases.

SECTION 23. Arkansas Code § 17-29-304(g), concerning the requirements to conduct a funeral establishment, is amended to read as follows:

(g) A funeral establishment shall:

(1) contain a casket selection room with a reasonable number of easkets therein, Contain a separate conference room that is used to make

funeral arrangements; and

~~(2) The Display on site a reasonable number of caskets shall be as determined by the board. However, if an establishment is a part of a multiunit enterprise, only one (1) establishment in the enterprise need have a selection room if it is within a reasonable distance of other establishments within the multiunit enterprise.~~

SECTION 24. Arkansas Code § 17-29-304, concerning the requirements to conduct a funeral establishment, is amended to add additional subsections to read as follows:

(i)(1) A funeral establishment shall provide proof of general liability insurance.

(2) The board shall develop and promulgate rules requiring sufficient and appropriate minimum levels of general liability insurance coverage for licensed funeral establishments.

(j) Upon renewal of its license, a funeral establishment that is currently operating under this section shall be subject to the provisions in this section as determined by rules of the board.

SECTION 25. Arkansas Code § 17-29-305(a)(4), concerning examinations and licenses for funeral establishments, is amended to read as follows:

~~(4) No A person who has filed an application for a license shall not be prosecuted for a violation of this section subchapter unless it is shown that this the applicant is properly notified that the application was duly denied by the board before the violation occurred and that he or she was duly notified of the denial.~~

SECTION 26. Arkansas Code § 17-29-305(b)(1), concerning a change in ownership of a funeral establishment, is amended to read as follows:

~~(b)(1)(A) When an establishment changes ownership, the An owner of a funeral establishment shall:~~

~~(i) Notify the board shall be notified in writing within at least thirty (30) days before a change of ownership of the funeral establishment occurs; and~~

~~(ii) Supply information requested by the board concerning the change of ownership.~~

(B) The board shall develop and promulgate rules to provide a transfer of ownership of a funeral establishment including the transferability of a license issued under this subchapter.

SECTION 27. Arkansas Code § 17-29-306(a), concerning the procedure to renew a license, is amended to read as follows:

(a)(1) Every license holder under this subchapter who wishes to continue the practice of the science of embalming or the business of funeral directing, or both, shall pay a renewal fee to the Secretary-treasurer of the State Board of Embalmers and Funeral Directors ~~on or before~~ annually by December 31 ~~of each year.~~

(2) A license not renewed by December 31 of any year ~~shall be considered~~ is delinquent.

~~(3) Any person in arrears more than three (3) years shall appear before the~~ The board at a regular meeting and pay a may renew a license after December 31 if during the first twelve (12) months of delinquency a licensee submits a renewal form, renewal fee, and any delinquency fee fees as determined by rule of the board to be eligible for renewal of a license.

(4) A person whose license is delinquent under subdivision (a)(2) of this section for at least thirteen (13) months may apply to the board for reinstatement of the delinquent license by submitting a reinstatement application and attaching any applicable fees as determined by rule of the board.

SECTION 28. Arkansas Code § 17-29-307 is amended to read as follows:
17-29-307. Revocation.

(a) The State Board of Embalmers and Funeral Directors may refuse to renew, or may suspend or revoke, a license issued under this subchapter if it finds, after a hearing, that a person or a ~~the~~ funeral establishment licensed under this subchapter does not meet any ~~one (1) or all of the requirements set forth in~~ requirement under this subchapter or § 17-29-201 et seq.

(b) ~~No~~ A new license shall not be issued to an individual or the an owner of a funeral establishment or to a corporation controlled by that owner for at least one (1) year after the revocation of the license.

~~(c)(1) Before any action can be taken under this section, the procedure for notice and hearing prescribed by the Arkansas Administrative~~

~~Procedure Act, § 25-15-201 et seq., shall be followed~~ The board may temporarily suspend a license without a hearing if the board determines that the public health, safety, or welfare requires immediate action.

(2) If the board temporarily suspends a license under subdivision (c)(1) of this section, the board shall notify the licensee immediately by certified mail of the temporary suspension and the date, time, and location of the hearing to be held under subdivision (c)(3) of this section.

(3) If a license is temporarily suspended under subdivision (c)(1) of this section, a hearing on the suspension of the license shall be held within ten (10) days of the temporary suspension of the license.

(d)(1) Based on the information contained in the complaint submitted against a licensee, the board may suspend the license issued under this subchapter without a hearing five (5) days after sending written notice by certified mail, nonrestricted delivery, to the licensee if the licensee:

(A) Does not have the required proof of general liability insurance on file with the board; or

(B) Refuses to submit to an audit or inspection by the board under this chapter.

(2) A suspension of a license under subdivision (c)(1) of this section shall not exceed sixty (60) days without a hearing.

(e) A hearing under this section and an appeal of the board's decision to suspend a license under this section is governed by the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

SECTION 29. Arkansas Code § 17-29-309 is amended to read as follows:

17-29-309. ~~Retired~~ Lifetime embalmers or funeral directors.

The State Board of Embalmers and Funeral Directors ~~shall have the power to~~ may adopt appropriate rules ~~and regulations~~ regarding the issuance ~~and renewal~~ of a lifetime license to ~~individuals who shall have retired from the active practice of embalming or funeral directing~~ an individual based upon ~~the age of the individuals or~~ number of years of licensure.

SECTION 30. Arkansas Code § 17-29-310 is amended to read as follows:

17-29-310. License requirements for out-of-state licenses.

(a) Any A person holding a valid, ~~unrevoked, and unexpired~~ license as

an embalmer or funeral director in another state, United States territory, or provincial authority for an appropriate time as determined by the State Board of Embalmers and Funeral Directors may apply for a license to practice in this state as an embalmer or a funeral director, or both.

~~(b)(1) Application~~ An application shall be made by filing with the Secretary-treasurer of the State Board of Embalmers and Funeral Directors or the Executive Director of the State Board of Embalmers and Funeral Directors a certified statement from the secretary of the examining board of the state, United States territory, or provincial authority in which the applicant holds his or her license, showing the basis upon which the license was issued.

~~(2) Upon receipt of the application and fee, the Secretary-treasurer~~ secretary-treasurer of the board or the executive director of the board may issue a temporary working ~~numbers, which are~~ number that is valid for one (1) year from the date of issuance.

~~(c)(1) To obtain a license, the applicant shall pass an exam to prove his or her proficiency, including at least, but not limited to, a knowledge of the laws, and rules, and regulations of this state pertaining to funeral service.~~

~~(2) The~~ After the application is submitted, the exam may be ~~taken at one (1) of the regularly scheduled exam sessions set by the~~ scheduled with an exam provider by mail or electronic means as determined by ~~the~~ board.

~~(3) If the board is satisfied with the proficiency of the applicant, upon receipt of the prescribed fees in § 17-29-208, a license may be granted.~~

~~(4) Failure to meet testing requirements shall result in revocation of the temporary working numbers~~ number, and the applicant ~~must~~ shall reapply and pay the appropriate fee to be licensed under this subchapter.

SECTION 31. Arkansas Code § 17-29-311, the catchline for Arkansas Code § 17-29-311 is amended to read as follows:

17-29-311. ~~Violations — Prohibitions~~ Prohibited conduct — Sanctions.

SECTION 32. Arkansas Code § 17-29-311(a)(7), concerning causes for sanctions against embalmers and funeral directors, is amended to read as

follows:

(7) ~~Allowing personnel unlicensed pursuant to a person who is not licensed under this subchapter to execute a contracts contract for funeral ~~service~~ arrangements;~~

SECTION 33. Arkansas Code § 17-29-311(b), concerning causes for sanctions against embalmers and funeral directors, is amended to read as follows:

(b) ~~No A routine sale of a prearranged or a prefinanced funeral or of funeral merchandise in the ordinary course of business is not a violation of subdivisions (a)(4)-(a)(7) (a)(4)-(7) of this section shall be deemed to have occurred when in the ordinary course of business a routine sale of a prearranged or a prefinanced funeral or of funeral merchandise shall have been made.~~

SECTION 34. Arkansas Code § 17-29-311(f), concerning causes for sanctions against embalmers and funeral directors, is amended to read as follows:

(f) ~~All A dead human bodies body that is not buried or otherwise disposed of within twenty-four (24) hours after death an allotted time to be determined by rule of the board shall be embalmed as prescribed in this subchapter or § 17-29-201 et seq. or stored under refrigeration as determined by the State Board of Department of Health.~~

SECTION 35. Arkansas Code § 17-29-311(h), concerning causes for sanctions against embalmers and funeral directors, is amended to read as follows:

(h) ~~It shall be unlawful and is a violation of this chapter for any a person to engage in the practice of embalming or funeral directing or to hold himself or herself out to the public as a licensed practicing embalmer or funeral director within the State of Arkansas in this state without being the holder of a license.~~

SECTION 36. Arkansas Code § 17-29-311, concerning causes for sanctions against an embalmer or funeral director, is amended to add an additional subsection to read as follows:

(i) A person or entity shall not be issued a license to practice the science of embalming or to engage in the business of funeral directing for one (1) year after the license of the person or entity is revoked.

SECTION 37. Arkansas Code § 17-29-313 is amended to read as follows:

17-29-313. Permit required ~~for crematorium~~ – Crematorium construction – Operation of crematorium.

(a)(1) ~~No crematoriums~~ A crematorium shall not be constructed in this state without a permit issued by the State Board of Embalmers and Funeral Directors.

(2) In order to receive a permit to construct a crematorium, a person shall:

(A)(i) Publish a notice in a newspaper of general circulation in the county where the crematorium is proposed to be constructed stating that the applicant intends to construct a crematorium at a designated location.

(ii) The notice shall:

(a) Be published on the Sunday and Wednesday no more than fifteen (15) days nor less than seven (7) days before submitting an application to the board; and

(b) Invite members of the public to submit written protest to the construction of the proposed crematorium to the board at the address designated by the board; and

(B)(i) Submit an application to the board for a permit to construct a crematorium.

(ii) The application for a permit to construct a crematorium shall include:

(a) Proof of publication of the notice required under subdivision (a)(2)(A) of this section;

(b) A copy of the permit issued by the Arkansas Department of Environmental Quality under § 8-4-203 to construct the crematorium; and

(c) The fee as prescribed in § 17-29-208.

(b)(1) Upon receiving ~~an~~ a written protest to an application for the construction of a crematorium, the board shall:

(A) Schedule a public hearing on the application; and

~~(B)(i) cause Direct the applicant to be published~~ ~~publish~~ in a newspaper having general circulation within the county ~~wherein~~ where the crematorium is proposed to be constructed a notice of the date and time of a public hearing on the application.

~~(2)(ii) The notice ~~must~~ shall be published on the Sunday and Wednesday no more than two ~~(2) weeks~~ fifteen (15) days nor less than ~~one (1) week prior to~~ seven (7) days before the public hearing.~~

~~(3) The owners of property located within two hundred fifty feet (250') of the proposed site of the crematorium shall be notified by the board by registered mail.~~

~~(4)(2) The public hearing shall be held in the city or county ~~wherein~~ in which the proposed crematorium is to be located.~~

(c)(1) A crematorium shall not be operated in this state without a license issued by the board.

(2) A person that desires to operate a crematorium in this state shall:

(A) Make application to the board on forms furnished by the board;

(B) Provide the necessary information as determined by the board;

(C) Attach the fee as prescribed in § 17-29-208; and

(D) Satisfy the requirements of the board for the safe and sanitary operation of a crematorium as determined by the board.

(3) The board shall grant the application if the board finds that the proposed crematorium:

(A) Complies with all state and federal laws concerning environmental and public health; and

(B) Will serve the public interest.

SECTION 38. Arkansas Code Title 17, Chapter 29, Subchapter 3, is amended to add additional sections to read as follows:

17-29-314. Crematory retort operator – Qualifications.

(a) A person who desires to have a license as a crematory retort operator in this state shall:

(1) Be at least eighteen (18) years of age;

(2) Have received a high school diploma or a General Educational

Development Test certificate;

(3) Make written application to the State Board of Embalmers and Funeral Directors and attach the fee prescribed by § 17-29-208;

(4) Take and pass the appropriate exams as determined by the board; and

(5) Provide the information required by the board.

(b) Application for a crematory retort operator license shall be made on forms furnished by the board.

(c) Each crematory retort operator shall be required to submit initial Occupational Safety and Health Administration blood borne pathogen training.

(d)(1) The board shall grant the application if the board finds that the applicant:

(A) Possesses a knowledge of the operation of a crematorium retort; and

(B) Meets the qualifications under this section.

(e)(1) The board may require an applicant for licensure as a crematory retort operator to successfully complete up to twenty (20) hours of classroom instruction in crematory operation practices and ethics, and laws and rules affecting cremations and operating a crematory retort.

(2) The board shall approve all courses that satisfy this requirement.

(f) Within a reasonable amount of time after the effective date of this subchapter, a crematory retort operator who is operating a crematory retort in this state shall be licensed as determined by rules of the board.

17-29-315. Transporting human remains – Operating a transport service – Qualifications.

(a) A person who desires to transport human remains or operate a transport service to transport human remains in this state shall:

(1) Be at least eighteen (18) years of age;

(2) Possess a valid Arkansas driver's license appropriate for the operation of the motor vehicle as determined by the State Board of Embalmers and Funeral Directors;

(3) Make written application to the board for each transport service firm to register as a driver on forms provided by the board and attaching the fee as prescribed in § 17-29-208 for the transport service;

(4) Own an appropriate and acceptable motor vehicle determined

by the board to transport human remains;

(5) Each driver shall be required to submit initial Occupational Safety and Health Administration blood borne pathogen training for an initial registration; and

(6) Provide the information required by the board.

(b) Application for a transport service license shall be made on forms furnished by the board.

(c) The board shall grant the application if the board finds that the applicant:

(1) Has an acceptable driving record; and

(2) Meets the qualifications under this section.

(d) Within a reasonable amount of time after the effective date of this subchapter, an individual who is currently transporting human remains in this state shall be licensed as determined by rules of the board.

SECTION 39. Arkansas Code § 17-29-401 is amended to read as follows:
17-29-401. Criminal penalties.

~~Any A person who, after February 28, 1985, practices the science of embalming, engages in the business of funeral directing, or conducts, maintains, manages, or operates a funeral establishment, operates a crematorium, conducts cremations, transports human remains, or operates a transport service without a license issued under any provision of § 17-29-201 et seq. and § 17-29-301 et seq., shall be is guilty of a Class A misdemeanor~~
Class D felony and subject to the punishment prescribed for ~~Class A misdemeanors~~ Class D felonies in the Arkansas Criminal Code.

SECTION 40. Arkansas Code § 17-29-402 is amended to read as follows:
17-29-402. Injunctions.

Without posting bond, the State Board of Embalmers and Funeral Directors may petition the circuit court of the county where the violation occurred to enjoin violations of § 17-29-201 et seq., ~~and~~ § 17-29-301 et seq., or any rules promulgated by the board ~~regulations promulgated thereunder.~~

SECTION 41. Arkansas Code § 17-29-403(a), concerning a civil penalty for certain violations, is amended to read as follows:

(a) Whenever the State Board of Embalmers and Funeral Directors, after a hearing conducted in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., determines that a person has violated any provision of § 17-29-201 et seq., and § 17-29-301 et seq., or ~~any regulations~~ the rules promulgated by the board pursuant thereto, the board may impose a civil penalty on ~~such a~~ that person not to exceed ten thousand dollars (\$10,000) per violation.

SECTION 42. Arkansas Code § 17-29-404 is amended to read as follows:
17-29-404. Civil appeals.

~~Any~~ A person aggrieved by the action of the State Board of Embalmers and Funeral Directors' imposing civil penalties or any adverse action, including the denial of a permit or license, may appeal such a decision in the manner ~~and under the procedure~~ prescribed in the Arkansas Administrative Procedure Act, § 25-15-201 et seq., for appeals from administrative decisions.

SECTION 43. Arkansas Code § 17-29-501 is amended to read as follows:
17-29-501. Definition.

As used in this subchapter, "funeral home" means ~~and embraces all functions pertaining to or connected with~~ an establishment that satisfies the requirements of § 17-29-503 that is suitable for:

- ~~(1) the~~ The preparation of human bodies for interment; and
- ~~(2) together with all the~~ The rights, services, and ceremonies usually attendant customarily associated with such an interment.

SECTION 44. Arkansas Code § 17-29-502 is amended to read as follows:
17-29-502. Status of funeral homes.

A funeral home is declared to be:

- (1) A service institution ~~and, when conducted upon and in the manner hereinafter set forth, shall be so rated and considered in connection with~~ for the purpose of:

- (A) Zoning;
- (B) The occupation and enjoyment of property; and
- (C) ~~The engaging in the~~ conduct and management thereof of the funeral home; and

(2) *A An establishment for practicing a skilled profession.*

SECTION 45. Arkansas Code Title 17, Chapter 29, Subchapter 6, is repealed.

~~17-29-601.— Purpose.~~

~~The purpose of this subchapter is to establish a permanent program to provide financial assistance to qualified Arkansas citizens attending accredited colleges of funeral service education outside of Arkansas.~~

~~17-29-602.— Definition.~~

~~As used in this subchapter, an “accredited college of funeral service education” means a college accredited by the American Board of Funeral Service Education.~~

~~17-29-603.— Program establishment— Authority of Department of Health.~~

~~(a) There is established within the Department of Health a program to provide financial assistance to residents of Arkansas attending accredited colleges of funeral service education outside of Arkansas.~~

~~(b) The department is authorized and designated as the state agency to administer the program established in this subchapter and to accept applications therefor and make grants to applicants to assist in defraying the cost of attending accredited colleges of funeral service education outside of Arkansas.~~

~~17-29-604.— Application— Certification— Priorities.~~

~~(a) Any resident of the State of Arkansas desiring to obtain an assistance grant under the provisions of this subchapter may make application to the Department of Health containing such information as the department shall deem necessary to determine the eligibility of the applicant to participate in the program.~~

~~(b) In order to qualify for an assistance grant, the applicant shall have served a one year apprenticeship in the State of Arkansas under the supervision of an Arkansas licensed funeral director and licensed embalmer prior to enrollment in an accredited college of funeral service education.~~

~~(c) If the applicant is found to be a bona fide resident of Arkansas and has served the apprenticeship, the department shall certify the student~~

~~as qualified to participate under the program established in this subchapter to the extent that funds are available.~~

~~(d) The names of all qualified applicants shall be kept on a register in the order in which their application was received by the board of trustees. Applicants who have been accepted for admission by accredited colleges of funeral service education outside the state shall be given priority in receiving benefits under the provisions of this subchapter, to the extent that funds are available therefor, in the order in which the applications appear on the register maintained by the department.~~

~~17-29-605. Limitation on assistance.~~

~~In no case shall an assistance grant made to an applicant under this program exceed the normal student tuition charge made by the accredited colleges of funeral service education in which the applicant is or will be enrolled or one thousand two hundred dollars (\$1,200) per individual, whichever is less.~~

~~17-29-606. Program administration.~~

~~The Department of Health shall be the administering and disbursing agency for the State of Arkansas for making assistance grants to mortician students under the provisions of this subchapter. As disbursing agent, the department may expend sums that are specifically appropriated for the operation and administration of the program, but such expenditures shall be limited to the amount specifically appropriated for the program, and the award of any particular grant shall not obligate the State of Arkansas to maintain the program provided for in this subchapter except to the extent that specific appropriation is made for the program.~~

/s/Talley

APPROVED: 04/06/2015