

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 3115 Session of
1994

INTRODUCED BY D. R. WRIGHT, STABACK AND THOMAS, OCTOBER 5, 1994

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, OCTOBER 5, 1994

AN ACT

1 Amending the act of January 14, 1952 (1951 P.L.1898, No.522),
2 entitled, as amended, "An act to provide for the better
3 protection of life and health of the citizens of this
4 Commonwealth by requiring and regulating the examination,
5 licensure and registration of persons and registration of
6 corporations engaging in the care, preparation and
7 disposition of the bodies of deceased persons, and providing
8 penalties; providing for a State Board of Funeral Directors
9 in the Department of State, and repealing other laws,"
10 changing the title; further providing for a short title;
11 providing for a declaration of policy; further providing for
12 definitions, for licensure application and qualifications,
13 for registration of trainees, for examinations, for license
14 issuance, for restrictions and preparation rooms, for conduct
15 of business, for licensure under prior law, for license
16 expiration and for disciplinary actions; providing for
17 inspection; further providing for unauthorized practice, for
18 prohibitions, for duties of the administering agency, for
19 penalties and for fees; reorganizing the administering
20 agency; and further providing for reports to the General
21 Assembly.

22 The General Assembly of the Commonwealth of Pennsylvania
23 hereby enacts as follows:

24 Section 1. The title of the act of January 14, 1952 (1951
25 P.L.1898, No.522), known as the Funeral Director Law, amended
26 July 31, 1968 (P.L.1008, No.295), is amended to read:

AN ACT

To provide for the better protection of [life and health of] the citizens of this Commonwealth by requiring and regulating the examination, licensure and registration of persons and registration of corporations engaging in the care, preparation and disposition of the bodies of deceased persons, and providing penalties; providing for a [State] Funeral Industry Oversight Board [of Funeral Directors] in the Department of State, and repealing other laws.

Section 2. Section 1 of the act is amended to read:

Section 1. Short Title.--This act shall be known and may be cited as the "Funeral [Director] Services Law."

Section 3. The act is amended by adding a section to read:

Section 1.1. Declaration of Policy.--The purpose of this act is to regulate the funeral industry to protect consumers of this Commonwealth.

Section 4. Section 2 of the act, amended July 31, 1968 (P.L.1008, No.295) and October 5, 1978 (P.L.1074, No.250), is amended to read:

Section 2. Definitions.--The following terms as used in this act shall, unless the context indicates otherwise, have the following meanings:

(1) The term "funeral director" shall include any person engaged in the profession of a funeral director or in the care and disposition of the human dead, or in the practice of disinfecting and preparing by embalming the human dead for the funeral service, burial or cremation, or the supervising of the burial, transportation or disposal of deceased human bodies, or in the practice of funeral directing or embalming as presently

1 known, whether under these titles or designation or otherwise.
2 The term "funeral director" shall also mean a person who makes
3 arrangements for funeral service and who sells funeral
4 merchandise to the public incidental to such service or who
5 makes financial arrangements for the rendering of such services
6 and the sale of such merchandise.

7 (2) The word "board" shall mean [State] the Funeral Industry
8 Oversight Board [of Funeral Directors] in the Department of
9 State.

10 (3) The word "department" shall mean the Department of State
11 of this Commonwealth.

12 (4) The term "resident interne" shall mean any person
13 operating under or with a funeral director for the purpose of
14 learning the profession, to the end that he may become a
15 licensed funeral director. The term shall also include a student
16 apprentice serving as such on the effective date of this act
17 [under any law repealed hereby].

18 (5) The term "student trainee" shall mean any person] under
19 any law repealed hereby. The term shall also include any person
20 accepted for matriculation at a mortuary college or university
21 specializing in mortuary subjects which have been approved by
22 the American Board of Funeral Service Education, Inc.

23 (6) The term "funeral establishment" shall mean every place
24 or premise approved by the [State Board of Funeral Directors]
25 board wherein a licensed funeral director conducts the
26 professional practice of funeral [directing] services including
27 the preparation, care and funeral services for the human dead.

28 (7) The word "preceptor" shall mean a licensed funeral
29 director under or with whom a resident interne is registered and
30 operates.

1 (8) The term "school of embalming" shall mean a mortuary
2 college, institute or university offering a course of actual
3 class work in didactic and laboratory studies in a manner
4 accredited by the American Board of Funeral Service Education,
5 Inc.

6 (9) The term "profession" as used in this act shall mean the
7 aggregate of all funeral service licensees and their duties and
8 responsibilities in connection with the funeral as funeral
9 directors licensed under this act.

10 (10) The term "advertisement" shall mean the publication,
11 dissemination, circulation or placing before the public, or
12 causing directly or indirectly to be made, published,
13 disseminated or placed before the public any announcement or
14 statement in a newspaper, magazine or other publication, or in
15 the form of a book, notice, stationery, circular, pamphlet,
16 letter, handbill, poster, bill, calendar, sign, placard, cards,
17 labels or tags or over any radio or television station whenever
18 applicable to any rules and regulations approved by the board.

19 (11) The term "full-time supervisor" shall mean a licensed
20 funeral director who is a registered supervisor of no more than
21 one funeral establishment and who is accessible to serve the
22 public at the funeral establishment which he is supervising and
23 is not engaged in any activity, business or profession,
24 including assisting other funeral directors, which substantially
25 interferes with or prevents the supervision of the practice
26 carried on by the funeral establishment which he supervises.

27 (12) The term "funeral services" shall mean the activities,
28 provided only on an at-need basis, related to care, preparation
29 and disposition of dead human bodies and to memorial services
30 for decedents. The term shall also include the wholesale and

1 retail sale of goods and services utilized for such activities.

2 (13) The term "funeral service providers" shall include
3 funeral directors, cemetery operators, crematory operators and
4 third-party sellers of funeral services.

5 (14) The term "inspector" shall mean an employe of the board
6 authorized to determine compliance with this act.

7 (15) The term "central embalming facility" shall mean a
8 facility for the purpose of preparing, by embalming, the human
9 dead that is shared by more than one funeral establishment.

10 Section 5. Section 3 of the act, amended July 31, 1968
11 (P.L.1008, No.295) and December 22, 1983 (P.L.354, No.88), is
12 amended to read:

13 Section 3. Application for License; Qualifications of
14 Applicants.--(a) Any person [not holding a license to practice
15 the profession of a] who desires to provide funeral [director
16 and desiring to practice such profession] services in this
17 Commonwealth shall make application for examination and
18 licensure to the board, upon a form furnished by it, and shall
19 accompany the application by such fee as may be fixed by the
20 department.

21 (b) Each applicant shall be [a citizen of the United
22 States,] at least twenty-one (21) years of age, and a graduate
23 of an approved high school [of this Commonwealth] or have an
24 education equivalent thereto under the rules and regulations of
25 the board.

26 (c) (1) In addition thereto, each applicant shall have
27 successfully completed a course of actual class work in didactic
28 and laboratory studies in a school of embalming for a period to
29 be fixed by the board at not less than nine hundred (900) hours
30 nor more than twenty-four hundred (2400) hours, and shall have

1 completed two years as a resident trainee.

2 (2) Each applicant shall have successfully completed [two
3 years of academic work] a minimum of sixty (60) credit hours at
4 [a] an accredited college or university [accredited by the
5 Department of Education,] and a one year course at a mortuary
6 college or university accredited by the American Board of
7 Funeral Service Education, Inc. and shall have completed one
8 year as a resident interne.

9 [(3) No more than an average of one hundred (100) hours of
10 embalming or mortuary school training shall be given or required
11 in any calendar month of any one year.]

12 (4) Each applicant shall have passed the examination of the
13 National Board of Examiners for the funeral industry within the
14 last five years.

15 (d) Integration and coordination of all educational
16 requirements and examination procedures, including any academic
17 work at a college or university or actual class work in didactic
18 and laboratory studies in a mortuary college or university,
19 shall be permitted and shall be encouraged under any rules or
20 regulations that the board shall make. Upon approval of the
21 board, an applicant may complete undergraduate studies
22 simultaneously with mortuary studies.

23 (e) Except in the case of a resident interne who has
24 registered with the board and has begun his training period
25 before the effective date of this act, the required period as a
26 resident interne shall, in each case, be served after the
27 applicant has fulfilled his educational requirements.

28 (f) The requirements of a resident interne, as to maximum
29 and minimum hours, the number of cases to be handled, and the
30 training and duties included and excluded, shall be fixed by

1 rules and regulations of the board. They shall in all cases
2 include a requirement that each resident interne shall
3 completely embalm at least twenty-five (25) bodies. Each
4 applicant shall complete an internship under the supervision of
5 a licensed preceptor.

6 Section 6. Section 4 of the act, amended December 22, 1983
7 (P.L.354, No.88), is amended to read:

8 Section 4. Registration of [Student Trainees] Resident
9 Internes.--(a) Every applicant, upon entering the school of
10 embalming, shall register with the board annually, in such
11 manner as may be provided by the board, and shall pay such
12 registration fee as shall be fixed by regulation. The board
13 shall keep a separate register of applicants in training,
14 containing their names, ages, residences, where they attended
15 school, the licensed funeral directors with whom they are
16 associated or the embalming school they are attending, number of
17 hours to be completed as an interne, tasks the interne is
18 expected to perform and such other information as the board may
19 direct and as provided for by this act.

20 (b) Any applicant, registered as [a student] a resident
21 interne of any licensed funeral director or embalming school,
22 who changes his preceptor or school, shall immediately re-
23 register and pay such additional fee as may be fixed by the
24 department. Every funeral director with whom a resident interne
25 is registered shall immediately notify the board of the
26 termination of such relation.

27 (c) The preceptor to the resident interne must comply with
28 the qualifications and duties as set forth by the rules and
29 regulations of the board, which is given the authority to
30 closely monitor, set standards and limit the number of [student

1 trainees] resident internes with each preceptor.

2 Section 7. Sections 5 and 6 of the act, amended July 31,
3 1968 (P.L.1008, No.295), are amended to read:

4 [Section 5. Examinations.--The Board shall fix the time and
5 places of examinations and shall give notice thereof to each
6 applicant entitled to take the examination. The board may, at
7 its discretion, give the examination in two parts: (1) at the
8 time of completion of a course in mortuary science covering
9 knowledge gained from didactic and laboratory studies, and (2)
10 at the completion of the resident internship covering knowledge
11 and skill obtained from practical experience during this period.
12 Each applicant for a license to practice as a funeral director
13 shall be examined orally, clinically, and in writing on the
14 following subjects:

15 (1) Basic and health sciences including anatomy, chemistry,
16 bacteriology, pathology, hygiene and public health.

17 (2) Funeral Service Arts and Sciences including embalming
18 and restorative art.

19 (3) Funeral service administration including accounting,
20 funeral law, psychology, funeral principles, directing and
21 management.

22 If the board shall find, upon examination, that the applicant
23 is of good moral character and is possessed of the skill and
24 knowledge herein set forth and has sufficient knowledge,
25 experience and training properly to conduct such profession in
26 all its phases, the board shall issue to him, upon payment of
27 such fee as may be fixed by the department, a license to perform
28 as a funeral director, and shall register the applicant as a
29 duly licensed funeral director.]

30 Section 6. Issuance of Licenses.--(a) Licenses shall be

1 issued by and bear the seal of the [State Board of Funeral
2 Directors] board and shall be signed by the Commissioner of
3 Professional and Occupational Affairs. Every licensee shall
4 register the fact of the issuance of the license with the Bureau
5 of Vital Statistics and registrar of the municipality or
6 township in which the licensee desires to operate, and shall
7 display his license conspicuously in his funeral establishment
8 approved by the board. Licenses and registration cards or
9 certified copies of either shall be prima facie evidence of all
10 matters covered by them.

11 (b) In accordance with subsection (a), every funeral service
12 provider who provides funeral services and every funeral
13 establishment must be licensed by the board. The board shall, by
14 the first day of November of each odd numbered year, mail to
15 every licensed funeral service provider a blank application for
16 renewal of license. Renewal may be effected at any time during
17 the month of January of every even numbered year by the filing
18 of the application with the board and the payment of a renewal
19 fee fixed by the department, with the approval of the board. The
20 board may, at its discretion but after considering all
21 circumstances, renew the license of any funeral director who has
22 failed to make application for renewal before the first day of
23 February of any even numbered year.

24 (c) No license shall be renewed without evidence that the
25 funeral service provider has complied with all of the board's
26 requirements for continuing professional education in accordance
27 with section 19(i)(12). The board shall not issue a license to a
28 funeral service provider who fails to report multiple licensure
29 and any disciplinary actions against a license in another state.

30 (d) All licensed funeral service providers must

1 conspicuously post their license at their place of business.

2 (e) No person not licensed under this act shall have any
3 interest in the provision of funeral services except that any
4 person may own a funeral establishment as long as the funeral
5 establishment is supervised by a licensed funeral director.

6 Section 8. Section 7 of the act, amended March 3, 1976
7 (P.L.32, No.16), is amended to read:

8 Section 7. Restrictions; Preparation Room.--(a) Original
9 licenses under this act (1) shall be granted only to
10 individuals, partnerships or corporations, (2) shall specify by
11 name the person, partnership or corporation to whom they are
12 issued, and (3) shall designate the particular place approved by
13 the board at which [the profession of] funeral [directing shall
14 be carried on] services are provided. A license shall authorize
15 the conduct of the profession at the particular place of
16 practice designated therein and no other, and only by the
17 particular person, partnership or corporation designated. This
18 provision shall not prevent a person licensed for the practice
19 of providing funeral [directing] services from assisting another
20 duly licensed person, partnership or corporation in the conduct
21 of the profession in an approved funeral establishment nor shall
22 it prevent a person licensed for the practice of the profession
23 from conducting a funeral at a church, a private residence of
24 the deceased, or an approved funeral establishment provided such
25 person maintains a fixed place or establishment of his own
26 approved by the board.

27 (b) A licensed funeral director, partnership or corporation
28 may move to a new place of practice, which shall be registered
29 and approved by the board if the new place of practice meets all
30 the requirements as set forth in the [State Board's Rules and

1 Regulations] regulations of the board.

2 [After the thirty-first day of August, one thousand nine
3 hundred fifty-two, every establishment in which the profession
4 of funeral directing is carried on shall include a preparation
5 room, containing instruments and supplies necessary for the
6 preparation and embalming of dead human bodies and be
7 constructed in accordance with sanitary standards prescribed by
8 the board, for the protection of the public health.

9 All areas within an approved establishment must be maintained
10 in a proper and sanitary manner, as determined by the board or
11 State and local ordinances wherever they apply, for the
12 protection of the public.]

13 (c) No food or intoxicating beverages shall be served in any
14 funeral establishment in which [the profession of] funeral
15 [directing is carried on] services are conducted. Beverages, if
16 served, must be restricted to a separate room not used for the
17 preparation [and] or conduct of a funeral service. Any facility
18 beyond the confines of such funeral establishment, but directly
19 or indirectly operated by a funeral director for the service of
20 refreshments or food shall be maintained in accordance with
21 State and local health laws and regulations pertaining to public
22 eating places for the protection of the public.

23 (d) There shall be established centralized embalming
24 facilities in accordance with regulations promulgated by the
25 board. A central embalming facility shall contain instruments
26 and supplies necessary for the preparation and embalming of dead
27 human bodies and be constructed in accordance with sanitary
28 standards prescribed by the board for the protection of the
29 public health. All areas within a central embalming facility
30 must be maintained in a proper and sanitary manner, as

1 determined by the board and Federal, State and local ordinances.
2 This central embalming facility shall not be used for any
3 purpose other than preparation or embalming of dead human
4 bodies. The central embalming facility shall be owned by a
5 licensed funeral service provider and shall be operated by a
6 licensed funeral director. The central embalming facility shall
7 be inspected by an inspector on an annual basis. Inspections of
8 a facility shall be performed in accordance with the regulations
9 promulgated by the board. A central embalming facility must be
10 approved by the board. Approval shall be requested by the owner
11 of the central embalming facility. A licensed funeral director
12 or resident interne may not embalm or scientifically prepare
13 human remains in a room other than a central embalming facility
14 approved by the board. The board shall promulgate regulations
15 for facilities specifying standards for sanitation, first aid,
16 embalming equipment, floors, ceilings and doors, and protective
17 apparel.

18 Section 9. Section 8 of the act, amended October 5, 1978
19 (P.L.1074, No.250) and December 19, 1980 (P.L.1329, No.242), is
20 amended to read:

21 Section 8. Conduct of Business.--[(a) Individuals and
22 Partnerships. Except as provided for in subsection (e) hereof,
23 only one license shall be granted to or held by an individual,
24 but two or more licensed funeral directors may operate a joint
25 or partnership business at one place only. No funeral practice,
26 whether conducted by an individual or a partnership, may be
27 conducted under any other name than the name or last name of the
28 individual or, if a partnership, the names or last names of all
29 partners: Provided, however, That an individual or partnership
30 may be conducted under the name of a predecessor funeral

1 establishment if the name or names of the owner or partners
2 appear as operator or operators on all signs, forms and
3 advertising. No person not licensed under this act shall have
4 any interest in the practice carried on by a licensed funeral
5 director except as otherwise herein provided. Upon the death of
6 a licensee, the board shall issue a license and renewal thereof
7 to his estate, only for a period not exceeding three (3) years,
8 or widows or widowers of deceased licensees without time
9 limitations, as long as they remain unmarried, providing the
10 widow, or widower, the executor or administrator of the estate
11 of the deceased licensee's heir or heirs, informs the board, of
12 the intent to continue practice, within ten (10) days and
13 applies within thirty (30) days for a certificate of licensure.
14 Such notice shall be in writing. The practice carried on by a
15 licensee's estate, widow or widower shall be under the
16 supervision of a licensed funeral director employed on a full
17 time basis. A licensee's estate, widow or widower shall not be
18 denied a license because the deceased licensee operated a
19 business in partnership with one or more other licensed funeral
20 directors nor shall a widow or widower be denied the right to
21 enter into a partnership with one or more of the licensed
22 funeral directors with whom the deceased licensee was in
23 partnership.

24 (b) Restricted Corporate License. A corporate license may be
25 issued to a Pennsylvania corporation which is incorporated
26 pursuant to the provisions of the act of May 5, 1933 (P.L.364,
27 No.106), known as the "Business Corporation Law," by one or more
28 licensed funeral directors specifically for the purpose of
29 conducting a funeral directing practice. The name of such
30 corporation shall contain the name or the last name of one or

1 more of the licensed shareholders or the name of a predecessor
2 funeral establishment. No licensed funeral director shall be
3 eligible to apply for more than one restricted corporate license
4 or own shares in more than one restricted corporation. Nor shall
5 any licensed funeral director who obtains a restricted corporate
6 license or holds shares in a restricted corporation have any
7 stock or proprietary interest in any other funeral
8 establishment, except a branch place of practice as authorized
9 by subsection (e). Such license shall be valid only if the
10 following conditions exist at the time of issuance of the
11 license and continue in effect for the license period:

12 (1) The corporation engages in no other business activity
13 other than that of funeral directing and its certificate of
14 incorporation should so specify.

15 (2) It holds no shares of stock or any property interest in
16 any other funeral establishment.

17 (3) One or more of its principal corporate officers is a
18 person licensed as a funeral director who shall also be a member
19 of the board of directors of the corporation and shall not
20 conduct any other funeral business.

21 (4) All of its shareholders are licensed funeral directors
22 or the members of the immediate family of a licensed funeral
23 director or a deceased licensed funeral director who was a
24 shareholder in the corporation at death. For the purposes of
25 this paragraph "members of the immediate family" shall mean (i)
26 spouse, (ii) children, (iii) grandchildren, (iv) a trustee or
27 custodian who holds shares for the benefit of such spouse,
28 children or grandchildren.

29 (5) The corporation shall have filed a registry statement
30 with the Secretary of the Commonwealth and thereafter have duly

1 filed its Pennsylvania corporate tax returns and paid all taxes
2 which have been assessed and as to which there is no contest.

3 (6) The corporation has, for each place of business operated
4 by it, registered with the board the name of a licensed funeral
5 director who will serve as a full-time supervisor of such place
6 of business.

7 (c) Notice of Corporate Noncompliance. Any corporation
8 holding a restricted corporate license which shall fail to
9 comply with all of the provisions set forth in subsection (b)(1)
10 through (5) shall immediately give notice to the board of such
11 failure and set forth in such notice the nature of the failure
12 to comply and such corporation shall have a period of sixty (60)
13 days from the date of the event which results in failure to
14 comply in which to cure the failure and at the end of such sixty
15 (60) day period shall either supply documentary evidence in
16 affidavit form of the basis upon which such failure has been
17 corrected or shall surrender its license to the board and shall
18 forthwith desist from the conduct of the business of funeral
19 directing.

20 (d) Professional Corporation License. A corporate license
21 may be issued to a Pennsylvania corporation which is
22 incorporated pursuant to the provisions of the act of July 9,
23 1970 (P.L.461, No.160), known as the "Professional Corporation
24 Law," by one or more licensed funeral directors specifically for
25 the purpose of conducting a funeral directing practice. No
26 professional corporation may render funeral services unless it
27 holds a professional corporation license issued pursuant to this
28 subsection. The name of such professional corporation shall
29 contain the name or the last name of one or more of the
30 shareholders or the name of a predecessor funeral establishment.

1 No professional corporation shall own shares of stock or any
2 property interest in any other funeral establishment. Each
3 professional corporation shall, for each place of business
4 operated by it, register with the board the name of a licensed
5 funeral director who will serve as full-time supervisor of such
6 place of business. Nor shall any licensed funeral director who
7 obtains a professional corporation license or holds shares in a
8 professional corporation have any stock or proprietary interest
9 in any other funeral establishment, except a branch place of
10 practice as authorized by subsection (e): Provided, however,
11 That any licensed funeral director who owned shares of more than
12 one professional corporation prior to February 1, 1977, may
13 maintain ownership of such shares and such corporations may be
14 licensed.

15 (e) Branch Place of Practice. Licensees authorized to
16 conduct a funeral directing practice whether as an individual,
17 partnership, professional corporation or restricted business
18 corporation may practice at one principal place and no more than
19 one branch place of business provided that a licensed funeral
20 director is assigned as a full-time supervisor to such branch
21 location, and provided that the facilities furnished at such
22 branch location fully comply with all the provisions of this act
23 and the rules and regulations promulgated by the board as
24 amended from time to time. The board shall issue a separate
25 license and require payment of a separate license fee for such
26 branch location.] Funeral service providers must disclose the
27 name, address and telephone number of the board in all at-need
28 and preneed funeral arrangement contracts.

29 Section 10. Section 9 of the act, amended October 5, 1978
30 (P.L.1074, No.250), is amended to read:

1 Section 9. Licensees under Prior Laws and from Other
2 States.--[(a) All undertakers' licenses issued under any prior
3 law and being in effect on the effective date of this act shall
4 continue, subject to the provisions of this act as to renewal,
5 suspension and revocation and to the rules and regulations of
6 the board. Existing licenses to corporations and partnerships
7 and to conduct a practice under a fictitious name shall continue
8 and may be renewed, but such corporate licenses shall not be
9 permitted, after the effective date of this act, to operate
10 under any name other than the name as licensed as of the date of
11 this act, except that such corporate licenses may operate under
12 the name or names of individual licensed funeral directors who
13 are stockholders of said corporations. Such corporate licenses
14 shall only be valid if the corporation has, for each place of
15 business operated by it, registered with the board the name of a
16 licensed funeral director who will serve as a full-time
17 supervisor of such place of business. No original license shall
18 be issued under this act to conduct a practice under a
19 fictitious name.]

20 (b) The board may grant licenses to individuals from other
21 states if the applicants' (1) standards and qualifications for
22 licensing are at least as high as those provided hereby, (2)
23 similar privileges are accorded persons licensed in this
24 Commonwealth, (3) the applicants hold valid licenses from their
25 state of residence, and (4) the terms and conditions prescribed
26 by the board are complied with.

27 (c) Existing funeral establishments which meet the
28 requirements of this act as of the effective date of this
29 subsection shall be considered to be licensed under this act.

30 Section 11. Section 10 of the act, amended June 13, 1961

1 (P.L.291, No.172), is amended to read:

2 [Section 10. Expiration of Licenses; Renewal.--All valid
3 funeral directors' licenses granted or renewed under this or any
4 prior act shall expire on the first day of February of 1962, and
5 biennially thereafter. It shall be the duty of the board, on or
6 before the first day of November of each odd numbered year, to
7 mail to every licensed funeral director a blank application for
8 renewal of license. Renewal may be effected at any time during
9 the month of January of every even numbered year by the filing
10 of such application with the board together with such renewal
11 fee as may be fixed by the department, with the approval of the
12 board. The board may, at its discretion, renew the license of
13 any funeral director who has failed to make application for
14 renewal before the first day of February of any even numbered
15 year.]

16 Section 12. Section 11 of the act, amended December 22, 1983
17 (P.L.354, No.88), is amended to read:

18 Section 11. Refusal; Suspension; Revocation.--(a) The
19 board, by a majority vote thereof, may refuse to grant, [refuse
20 to renew] deny, suspend or revoke a license of any applicant or
21 licensee, whether originally granted under this act or under any
22 prior act, for the following reasons:

23 (1) The practice of any fraud or deceit in obtaining or
24 attempting to obtain a license.

25 (2) Violation of the health laws of this Commonwealth.

26 (3) The conviction of a crime involving moral turpitude, in
27 this or any other State or Federal court or pleading guilty or
28 nolo contendere to any such offense.

29 (4) The use of misleading advertising.

30 (5) Gross incompetency, negligence or misconduct in the

1 carrying on of the profession.

2 (6) Violation of or non-compliance with the provisions of
3 this act or the rules and regulations of the board.

4 (7) Loaning, borrowing or using a license of another, or of
5 knowingly aiding or abetting in any way the granting of improper
6 licenses.

7 (8) Soliciting patronage other than by legitimate
8 advertisement, or paying a commission or agreeing to pay a
9 commission to any person or persons for soliciting or for
10 business secured, or paying any gratuity to any person with
11 intent to have such person aid in securing business, or other
12 similar unprofessional conduct.

13 (9) Gross immorality.

14 (10) Conviction of the violation of any statute, rule or
15 regulation of any state concerning the conduct of the profession
16 beyond the boundaries of this Commonwealth.

17 (11) Solicitation or acceptance by a licensee of any
18 commission or bonus or rebate in consideration of recommending
19 or causing a dead human body to be disposed of in any particular
20 crematory, mausoleum or cemetery.

21 (12) Failure by a corporation to comply with the provisions
22 of section 8(b) or (c).

23 (b) Unless ordered to do so by a court, the board shall not
24 reinstate the license of any person whose license has been
25 revoked under this act. Any person whose license has been
26 revoked may reapply for a license at the end of a five-year
27 period but must meet all of the licensing qualifications of this
28 act for the license applied for, to include the examination
29 requirement.

30 Section 13. The act is amended by adding a section to read:

1 Section 11.1. Inspection.--(a) The board shall establish an
2 inspection program for all funeral establishments and central
3 embalming facilities. The board shall promulgate regulations
4 outlining the formal plan for inspection of funeral
5 establishments and central embalming facilities.

6 (b) The board shall appoint inspectors whose title shall be
7 "Inspector, Funeral Industry Oversight Board, Commonwealth of
8 Pennsylvania." Inspectors shall hold office at the pleasure of
9 the board and shall receive such compensation as shall be fixed
10 by the board.

11 (c) The inspectors shall be empowered to serve all processes
12 and papers of the board and shall have the right of entry into
13 any place where the provision of funeral services is carried on
14 or advertised as being carried on for the purpose of inspection
15 and for the investigation of complaints coming before the board
16 and for such other matters as the board may direct.

17 (d) An inspector shall be required by the board to conduct a
18 biennial onsite inspection of each funeral establishment and an
19 annual onsite inspection of each central embalming facility. Any
20 inspector of the board may enter and inspect the building,
21 equipment and supplies of any funeral establishment or central
22 embalming facility licensed or requiring a license under this
23 act and shall have access to the records of the facility or
24 establishment and to the employes and their records, including
25 access to a sample of at-need and preneed funeral contracts,
26 licensee business records, the funeral service provider's
27 license, price lists and statements of goods and services. Any
28 inspector of the board shall also examine the establishment or
29 central embalming facility to determine whether there is
30 compliance with all applicable Federal, State and local

1 regulations. Upon entering a funeral establishment or central
2 embalming facility, inspectors shall properly identify
3 themselves to the individual on the premises then in charge of
4 the establishment or central embalming facility.

5 (e) Whenever the board shall upon inspection, investigation
6 or complaint, find a violation of this act or regulations
7 adopted by the board pursuant to this act or pursuant to Federal
8 law, it shall give written notice specifying the violation to
9 the funeral service provider who owns the funeral establishment
10 or the central embalming facility. Such notice shall require the
11 funeral service provider to take action or to submit a plan of
12 correction which shall bring the funeral establishment or
13 central embalming facility into compliance with applicable law
14 or regulation within a specified time. The plan of correction
15 must be submitted within thirty (30) days of receipt of the
16 written notice.

17 Section 14. Section 13 of the act, amended July 25, 1953
18 (P.L.592, No.163) and July 31, 1968 (P.L.1008, No.295), is
19 amended to read:

20 Section 13. Practice Without License; Exceptions.--(a) No
21 person shall [practice as a] provide funeral [director, as
22 defined herein,] services or operate a funeral establishment in
23 this Commonwealth [unless he holds] without a valid license so
24 to do as provided in this act.

25 The provisions of this subsection shall not apply to the
26 following persons when acting under the direction and
27 supervision of a licensed funeral director:

28 (1) Employees of any cemetery or crematory whose duties or
29 business extend no further.

30 (2) Persons acting under the orders of commissioned medical

1 officers of any branch of the armed forces of the United States.

2 (3) Persons disposing of the bodies of deceased persons
3 lawfully placed at the disposition of legally organized medical,
4 surgical or other institutions for the benefit of science.

5 (4) Persons disposing of the bodies of deceased persons
6 under the authority and direction of the Department of Health of
7 this Commonwealth in times of actual epidemic or public
8 calamity.

9 (b) No person other than a licensed funeral director or a
10 resident interne shall prepare or embalm the body of any
11 deceased person.

12 (c) [No person other than a licensed funeral director shall,
13 directly or indirectly, or through an agent, offer to or enter
14 into a contract with a living person to render funeral services
15 to such person when needed. If any such licensed funeral
16 director shall accept any money for such contracts, he shall,
17 forthwith, either deposit the same in an escrow account in, or
18 transfer the same in trust to, a banking institution in this
19 Commonwealth, conditioned upon its withdrawal or disbursement
20 only for the purposes for which such money was accepted. This
21 subsection does not apply to a] A licensed funeral service
22 provider may contract [by] with a bona fide institution [that it
23 will] to provide professional funeral services for persons who
24 may die while inmates of the institution, if such contract is
25 made as a part of its contract for housing, maintaining and
26 caring for its inmates.

27 (d) Tentative funeral arrangements after a death has
28 occurred can be made by an unlicensed member of the funeral home
29 staff in the event the licensed funeral [director] service
30 provider is temporarily absent.

Section 15. Section 14 of the act, amended March 3, 1976 (P.L.32, No.16), is amended to read:

Section 14. Penal Provisions.--[(a) No person shall as an officer of a corporation allow it to practice as a funeral director unless such corporation is duly licensed and qualified so to do under the provisions of this act or any prior law and under the rules and regulations of the board.]

(b) No person shall lend, sell, buy, give or obtain a license as a funeral [director] service provider or a registration card issued by the board in any other manner than is provided for in this act, nor offer or attempt so to do.

(c) No person shall attempt to practice under guise of a license or registration card not issued by the board, or under cover of a license or registration card obtained illegally or fraudulently, or which has been revoked or suspended.

Section 16. Sections 16, 17, 18.1, 19 and 19.1, amended or added December 22, 1983 (P.L.354, No.88), are amended to read:

[Section 16. Duties of Board.--(a) The board shall be charged with the enforcement of this act. It shall be empowered to formulate necessary rules and regulations not inconsistent with this act for the proper conduct of the business or profession of funeral directing and as may be deemed necessary or proper to safeguard the interests of the public and the standards of the profession.

(b) The board shall appoint an inspector or inspectors whose title shall be "Inspector, State Board of Funeral Directors, Commonwealth of Pennsylvania." Such inspectors shall be licensed funeral directors who have been actively engaged in the practice of such profession for at least ten years. Inspectors shall hold office at the pleasure of the board, and shall receive such

1 compensation as shall be fixed by the board with the approval of
2 the department. Inspectors shall be empowered to serve all
3 processes and papers of the board, and shall have the right of
4 entry into any place, where the business or profession of
5 funeral directing is carried on or advertised as being carried
6 on, for the purpose of inspection and for the investigation of
7 complaints coming before the board and for such other matters as
8 the board may direct.

9 (c) The board shall keep a record of its proceedings and
10 shall maintain a register of the names and addresses of all
11 persons applying for and those receiving licenses and
12 registration cards under this or any prior act. Such register
13 shall be open to public inspection.

14 (d) The board shall submit annually to the department and to
15 the House and Senate Appropriations Committees, fifteen days
16 after the Governor has submitted his budget to the General
17 Assembly, a copy of the budget request for the upcoming fiscal
18 year which the board previously submitted to the department.]

19 Section 17. Penalties.--(a) Any person violating any of the
20 provisions of this act or any rule or regulation of the board
21 promulgated pursuant thereto shall be guilty of a misdemeanor,
22 and, upon conviction thereof, shall be sentenced to pay a fine
23 of not less than one hundred dollars (\$100) nor more than one
24 thousand dollars (\$1000), or undergo imprisonment not exceeding
25 one (1) year, or both.

26 (b) In addition to any other civil remedy or criminal
27 penalty provided for in this act, the board, by a vote of the
28 majority of the maximum number of the authorized membership of
29 the board as provided by law, or by a vote of the majority of
30 the duly qualified and confirmed membership or a minimum of four

1 members, whichever is greater, may levy a civil penalty of up to
2 one thousand dollars (\$1,000) on any current licensee who
3 violates any provision of this act or on any person who
4 practices as a funeral [director] service provider without being
5 properly licensed to do so under this act. The board shall levy
6 this penalty only after affording the accused party the
7 opportunity for a hearing, as provided in Title 2 of the
8 Pennsylvania Consolidated Statutes (relating to administrative
9 law and procedure).

10 Section 18.1. Fees Imposed.--(a) All fees required under
11 the provisions of this act shall be fixed by the board by
12 regulation and shall be subject to review in accordance with the
13 act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory
14 Review Act." If the revenues generated by fees, fines and civil
15 penalties imposed in accordance with the provisions of this act
16 are not sufficient to match expenditures over a two-year period,
17 the board shall increase those fees by regulation, subject to
18 review in accordance with the "Regulatory Review Act," such that
19 projected revenues will meet or exceed projected expenditures.

20 (b) If the [Bureau of Professional and Occupational Affairs]
21 Department of State determines that the fees established by the
22 board are inadequate to meet the minimum enforcement efforts
23 required, then the bureau, after consultation with the board,
24 shall increase the fees by regulation, subject to review in
25 accordance with the "Regulatory Review Act," such that adequate
26 revenues are raised to meet the required enforcement effort.

27 (c) All fines and civil penalties imposed in accordance with
28 this act shall be paid into the Professional Licensure
29 Augmentation Account.

30 Section 19. [State Board of] Funeral [Directors] Industry

1 Oversight Board.--(a) There shall be a [State Board of] Funeral
2 [Directors] Industry Oversight Board as a departmental
3 administrative board in the Department of State. The [board
4 shall consist of the] Commissioner of Professional and
5 Occupational Affairs[,] and the Director of the Bureau of
6 Consumer Protection in the Office of Attorney General, or his
7 designee[, two members appointed by the Governor, who shall be
8 persons representing the public at large, and five members
9 appointed by the Governor who shall be licensed funeral
10 directors of good moral character and who shall also have been
11 actively engaged in the practice of funeral directing for at
12 least ten years immediately preceding their appointment.] shall
13 serve as ex officio members of the board. The Governor shall
14 appoint to the board one licensed funeral director, one cemetery
15 owner and operator, one crematory owner and operator and one
16 third-party seller of funeral services or merchandise, all of
17 whom must have been actively engaged in the care, preparation
18 and disposition of dead human bodies for at least five (5) years
19 immediately preceding their appointment and must not have an
20 ownership interest of five percent (5%) or more in an enterprise
21 engaged in funeral services. The Governor shall appoint to the
22 board one member, fifty-five (55) years of age or older, to
23 represent the public at large. The President pro tempore of the
24 Senate and the Speaker of the House of Representatives shall
25 each appoint to the board a member representing the public at
26 large.

27 (b) Professional and public members shall be appointed by
28 the Governor with the advice and consent of the Senate for terms
29 of [five] four years, with a limit of two consecutive terms. The
30 member appointed by the President pro tempore of the Senate

1 shall serve for a term of four years, with a limit of two
2 consecutive terms. The member appointed by the Speaker of the
3 House of Representatives shall serve for a term of two years,
4 with a limit of two consecutive terms. A member may continue to
5 serve for a period not to exceed six months beyond the
6 expiration of his term, if a successor has yet to be duly
7 appointed and qualified according to law. If a member dies or
8 resigns during his term of office, a successor shall be
9 appointed as provided in this section and shall serve for the
10 remainder of his predecessor's unexpired term.

11 (c) Five members of the board shall constitute a quorum.

12 (d) The board shall select a chairman from among its members
13 and [may] shall elect a secretary from among its members.

14 (e) The members of the board, other than the Commissioner of
15 Professional and Occupational Affairs and the Director of the
16 Bureau of Consumer Protection in the Office of Attorney General,
17 or his designee, shall receive sixty dollars (\$60) per diem when
18 actually engaged in the transaction of official business and
19 shall also receive the amount of reasonable traveling, hotel and
20 other necessary expenses incurred in the performance of their
21 duties.

22 [(f) The board is subject to evaluation, review and
23 termination within the time and in the manner provided in the
24 act of December 22, 1981 (P.L.508, No.142), known as the "Sunset
25 Act."]

26 (g) A member of the board who fails to attend three
27 consecutive meetings shall forfeit his seat unless the
28 Commissioner of Professional and Occupational Affairs, upon
29 written request from the member, finds that the member should be
30 excused from a meeting because of illness or the death of an

1 immediate family member.

2 (h) The board shall meet at least every sixty (60) days at
3 locations which provide accessibility for public input.

4 (i) The board shall have the following powers and duties:

5 (1) Promulgate regulations to enforce this act and to
6 safeguard the interests of the public and the professional
7 conduct of all persons engaged in providing funeral services.

8 (2) Publish consumer information materials annually which
9 describe the board and its functions and funeral services and
10 merchandise. The board may determine the content of the consumer
11 information material but shall include the board's complaint
12 procedures, legal requirements pertinent to funerals, consumer
13 rights in making funeral arrangements and the basic components
14 of traditional and alternative funeral services.

15 (3) Adopt forms including a standard price sheet for all
16 funeral services.

17 (4) Require that all funeral establishments be inspected in
18 accordance with the provisions of this act.

19 (5) Keep a record of its proceedings and shall maintain a
20 register of the names and addresses of all persons applying for
21 and those receiving licenses under this act or any prior act.
22 Such register shall be open to public inspection.

23 (6) Receive and investigate complaints against its
24 licensees.

25 (7) Grant, deny, revoke or suspend any license provided to a
26 funeral service provider, a funeral establishment or a central
27 embalming facility.

28 (8) Issue subpoenas for the purpose of investigating alleged
29 violations of the disciplinary provisions administered by the
30 board.

1 (9) Submit annually to the department an estimate of the
2 financial requirements of the board for its administrative,
3 investigative, legal and miscellaneous expenses.

4 (10) Maintain files on each funeral service provider
5 licensed under this act and any disciplinary action taken
6 against a licensed provider.

7 (11) Submit annually a report to the Consumer Protection and
8 Professional Licensure Committee of the Senate and the
9 Professional Licensure Committee of the House of Representatives
10 a description of the types of complaints received, status of
11 cases, board action taken and the length of time from the
12 initial complaint to final board resolution.

13 (12) Provide for continuing education requirements for
14 licensees.

15 [Section 19.1. Report to Committees.--The board shall submit
16 annually a report to the Professional Licensure Committee of the
17 House of Representatives and to the Consumer Protection and
18 Professional Licensure Committee of the Senate a description of
19 the types of complaints received, status of cases, board action
20 which has been taken and the length of time from the initial
21 complaint to final board resolution.]

22 Section 17. The amendment of section 19 of the act shall
23 apply as follows:

24 (1) A member of the State Board of Funeral Directors on
25 the effective date of this act shall complete the member's
26 current term as a member of the Funeral Industry Oversight
27 Board.

28 (2) Gubernatorial appointments shall be made in the
29 following priority:

30 (i) A funeral director.

1 (ii) A cemetery owner and operator.

2 (iii) An individual, 55 years of age or older,
3 representing the public at large.

4 (3) Appointments by the President pro tempore of the
5 Senate and the Speaker of the House of Representatives shall
6 be made immediately.

7 Section 18. This act shall take effect in 180 days.