

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Regulatory Sunset Act is amended by changing Sections 4.33 and 4.38 as follows:

(5 ILCS 80/4.33)

Sec. 4.33. Acts repealed on January 1, 2023. The following Acts are repealed on January 1, 2023:

The Dietitian Nutritionist Practice Act.

The Elevator Safety and Regulation Act.

The Fire Equipment Distributor and Employee Regulation Act of 2011.

~~The Funeral Directors and Embalmers Licensing Code.~~

The Naprapathic Practice Act.

The Pharmacy Practice Act.

The Professional Counselor and Clinical Professional Counselor Licensing and Practice Act.

The Wholesale Drug Distribution Licensing Act.

(Source: P.A. 101-621, eff. 12-20-19.)

(5 ILCS 80/4.38)

Sec. 4.38. Acts repealed on January 1, 2028. The following Acts are repealed on January 1, 2028:

The Acupuncture Practice Act.

The Clinical Social Work and Social Work Practice Act.

The Funeral Directors and Embalmers Licensing Code.

The Home Medical Equipment and Services Provider License Act.

The Illinois Petroleum Education and Marketing Act.

The Illinois Speech-Language Pathology and Audiology Practice Act.

The Interpreter for the Deaf Licensure Act of 2007.

The Nurse Practice Act.

The Nursing Home Administrators Licensing and Disciplinary Act.

The Physician Assistant Practice Act of 1987.

The Podiatric Medical Practice Act of 1987.

(Source: P.A. 100-220, eff. 8-18-17; 100-375, eff. 8-25-17; 100-398, eff. 8-25-17; 100-414, eff. 8-25-17; 100-453, eff. 8-25-17; 100-513, eff. 9-20-17; 100-525, eff. 9-22-17; 100-530, eff. 9-22-17; 100-560, eff. 12-8-17.)

Section 10. The Funeral Directors and Embalmers Licensing Code is amended by changing Sections 1-10, 1-15, 1-30, 5-7, 5-10, 5-15, 5-18, 5-20, 10-7, 10-20, 10-30, 10-43, 15-10, 15-15, 15-18, 15-20, 15-21, 15-22, 15-30, 15-40, 15-41, 15-65, 15-75, 15-80, and 15-91 as follows:

(225 ILCS 41/1-10)

(Section scheduled to be repealed on January 1, 2023)

Sec. 1-10. Definitions. As used in this Code:

"Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file. ~~It is the duty of the applicant or licensee to inform the Department of any changes of address and those changes must be made either through the Department's website or by contacting the Department.~~

"Applicant" means any person making application for a license. Any applicants or people who hold themselves out as applicants are considered licensees for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act.

"Board" means the Funeral Directors and Embalmers Licensing and Disciplinary Board.

"Certificate of Death" means a certificate of death as referenced in the Illinois Vital Records Act.

"Department" means the Department of Financial and Professional Regulation.

"Email address of record" means the designated email address recorded by the Department in the applicant's application file or the licensee's license file as maintained by the Department's licensure maintenance unit.

"Funeral director and embalmer" means a person who is licensed and qualified to practice funeral directing and to prepare, disinfect and preserve dead human bodies by the

injection or external application of antiseptics, disinfectants or preservative fluids and materials and to use derma surgery or plastic art for the restoring of mutilated features. It further means a person who restores the remains of a person for the purpose of funeralization whose organs or bone or tissue has been donated for anatomical purposes.

"Funeral director and embalmer intern" means a person licensed by the Department who is qualified to render assistance to a funeral director and embalmer in carrying out the practice of funeral directing and embalming under the supervision of the funeral director and embalmer.

"Embalming" means the process of sanitizing and chemically treating a deceased human body in order to reduce the presence and growth of microorganisms, to retard organic decomposition, to render the remains safe to handle while retaining naturalness of tissue, and to restore an acceptable physical appearance for funeral viewing purposes.

"Funeral director" means a person, known by the title of "funeral director" or other similar words or titles, licensed by the Department who practices funeral directing.

"Funeral establishment", "funeral chapel", "funeral home", or "mortuary" means a building or separate portion of a building having a specific street address or location and devoted to activities relating to the shelter, care, custody and preparation of a deceased human body and which may contain facilities for funeral or wake services.

"Licensee" means a person licensed under this Code as a funeral director, funeral director and embalmer, or funeral director and embalmer intern. Anyone who holds himself or herself out as a licensee or who is accused of unlicensed practice is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act.

"Owner" means the individual, partnership, corporation, limited liability company, association, trust, estate, or agent thereof, or other person or combination of persons who owns a funeral establishment or funeral business.

"Person" means any individual, partnership, association, firm, corporation, limited liability company, trust or estate, or other entity. "Person" includes both natural persons and legal entities.

"Secretary" means the Secretary of Financial and Professional Regulation.

(Source: P.A. 96-863, eff. 3-1-10; 96-1463, eff. 1-1-11; 97-1130, eff. 8-28-12.)

(225 ILCS 41/1-15)

(Section scheduled to be repealed on January 1, 2023)

Sec. 1-15. Funeral directing; definition. Conducting or engaging in or representing or holding out oneself as conducting or engaging ~~engaged~~ in any one or any combination of the following practices constitutes the practice of funeral

directing:

(a) The practice of preparing, otherwise than by embalming, for the burial, cremation, or disposition and directing and supervising the burial or disposition of deceased human remains or performing any act or service in connection with the preparing of dead human bodies. Preparation, direction, and supervision shall not be construed to mean those functions normally performed by cemetery and crematory personnel.

(b) The practice of operating a place for preparing for the disposition of deceased human bodies or for caring for deceased human bodies before their disposition. Nothing in this Code shall prohibit the ownership and management of such a place by an unlicensed owner if the place is operated in accordance with this Code and the unlicensed owner does not engage in any form of funeral directing. An unlicensed owner may interact with consumers while a licensed funeral director is present in accordance with this Section.

(c) The removal of a deceased human body from its place of death, institution, or other location. A licensed funeral director and embalmer intern may remove a deceased human body from its place of death, institution, or other location without another licensee being present. The licensed funeral director may engage others who are not licensed funeral directors, licensed funeral director and

embalmers, or licensed funeral director and embalmer interns to assist in the removal if the funeral director directs and instructs them in handling and precautionary procedures and accompanies them on all calls. The transportation of deceased human remains to a cemetery, crematory or other place of final disposition shall be under the immediate direct supervision of a licensee unless otherwise permitted by this Section. The transportation of deceased human remains that are embalmed or otherwise prepared and enclosed in an appropriate container to some other place that is not the place of final disposition, such as another funeral home or common carrier, or to a facility that shares common ownership with the transporting funeral home may be performed under the general supervision of a licensee, but the supervision need not be immediate or direct.

(d) The administering and conducting of, or assuming responsibility for administering and conducting of, at need funeral arrangements.

(e) The assuming custody of, transportation, providing shelter, protection and care and disposition of deceased human remains and the furnishing of necessary funeral services, facilities and equipment.

(f) Using in connection with a name or practice the word "funeral director", "undertaker", "mortician", "funeral home", "funeral parlor", "funeral chapel", or any

other title implying that the person is engaged in the practice of funeral directing.

Within the existing scope of the practice of funeral directing or funeral directing and embalming, only a licensed funeral director, a licensed funeral director and embalmer, or a licensed funeral director and embalmer intern under the restrictions provided for in this Code, and not any other person employed or contracted by the licensee, may engage in the following activities at-need: (1) have direct contact with consumers and explain funeral or burial merchandise or services or (2) negotiate, develop, or finalize contracts with consumers. This paragraph shall not be construed or enforced in such a manner as to limit the functions of persons regulated under the Illinois Funeral or Burial Funds Act, the Illinois Pre-Need Cemetery Sales Act, the Cemetery Oversight Act, the Cemetery Care Act, the Cemetery Association Act, the Illinois Insurance Code, or any other related professional regulatory Act.

The practice of funeral directing shall not include the phoning in of obituary notices, ordering of flowers for the funeral, or reporting of prices on the firm's general price list as required by the Federal Trade Commission Funeral Rule by nonlicensed persons, or like clerical tasks incidental to the act of making funeral arrangements.

The making of funeral arrangements, at need, shall be done only by licensed funeral directors or licensed funeral

directors and embalmers. Licensed funeral director and embalmer interns may, however, assist or participate in the arrangements under the direct supervision of a licensed funeral director or licensed funeral director and embalmer.

(Source: P.A. 97-1130, eff. 8-28-12; 98-432, eff. 1-1-14.)

(225 ILCS 41/1-30)

(Section scheduled to be repealed on January 1, 2023)

Sec. 1-30. Powers of the Department. Subject to the provisions of this Code, the Department may exercise the following powers:

(1) To authorize examinations to ascertain the qualifications and fitness of applicants for licensing as a licensed funeral director and embalmer and pass upon the qualifications of applicants for licensure.

(2) To examine the records of a licensed funeral director or licensed funeral director and embalmer from any year or any other aspect of funeral directing and embalming as the Department deems appropriate.

(3) To investigate any and all funeral directing and embalming activity.

(4) To conduct hearings on proceedings to refuse to issue or renew licenses or to revoke, suspend, place on probation, reprimand, or otherwise discipline a license under this Code or take other non-disciplinary action.

(5) To adopt all necessary and reasonable rules and

regulations for the effective administration of this Code.

(6) To prescribe forms to be issued for the administration and enforcement of this Code.

(7) (Blank). ~~To maintain rosters of the names and addresses of all licensees and all persons whose licenses have been suspended, revoked, denied renewal, or otherwise disciplined within the previous calendar year. These rosters shall be available upon written request and payment of the required fee as established by rule.~~

(8) To contract with third parties for services necessary for the proper administration of this Code including, without limitation, investigators with the proper knowledge, training, and skills to properly inspect funeral homes and investigate complaints under this Code.

(Source: P.A. 96-1463, eff. 1-1-11; 97-1130, eff. 8-28-12.)

(225 ILCS 41/5-7)

(Section scheduled to be repealed on January 1, 2023)

Sec. 5-7. Address of record; email address of record. All applicants and licensees shall:

(1) provide a valid address and email address to the Department, which shall serve as the address of record and email address of record, respectively, at the time of application for licensure or renewal or restoration of a license; and

(2) It is the duty of the applicant or licensee to

inform the Department of any change of address within 14 days after the change of address of record or email address of record, either through the Department's website or by contacting the Department's licensure maintenance unit.

(Source: P.A. 96-1463, eff. 1-1-11.)

(225 ILCS 41/5-10)

(Section scheduled to be repealed on January 1, 2023)

Sec. 5-10. Funeral director license; display. Every holder of a license as a funeral director shall display it, or a copy, in a conspicuous place in the licensee's place of practice or in the place of practice in which the licensee is employed or contracted. If the licensee is engaged in funeral directing at more than one place of practice, then in the licensee's principal place of practice or the principal place of practice of the licensee's employer and a copy of the license shall be displayed in a conspicuous place at all other places of practice. Every displayed license shall have the license number visible.

(Source: P.A. 96-1463, eff. 1-1-11; 97-1130, eff. 8-28-12.)

(225 ILCS 41/5-15)

(Section scheduled to be repealed on January 1, 2023)

Sec. 5-15. Renewal; reinstatement; restoration. The expiration date and renewal period for each license issued

under this Article shall be set by rule. The holder of a license as a licensed funeral director may renew the license during the month preceding the expiration date of the license by paying the required fee. A licensed funeral director whose license has expired may have the license reinstated within 5 years from the date of expiration upon payment of the required reinstatement fee. The reinstatement shall be effective as of the date of reissuance of the license.

Any licensed funeral director whose license has been expired for more than 5 years may have the license restored only by fulfilling the requirements of the Department's rules and by paying the required restoration fee. However, any licensed funeral director whose license has expired while he or she has been engaged (1) in federal service on active duty with the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, or the State Militia called into the service or training of the United States of America or (2) in training or education under the supervision of the United States preliminary to induction into the military service may have his or her license restored without paying any lapsed renewal fees or restoration fee or without passing any examination if, within 2 years after termination of the service, training or education other than by dishonorable discharge, he or she furnishes the Department with an affidavit to the effect that he or she has been so engaged and that his or her service, training or education has been so terminated.

In addition to any other requirement for renewal of a license or reinstatement or restoration of an expired license, as a condition for the renewal, reinstatement, or restoration of a license as a licensed funeral director, each licensee shall provide evidence to the Department of completion of at least 12 hours of continuing education during the 24 months preceding the expiration date of the license, or in the case of reinstatement or restoration, during the 24 months preceding application for reinstatement or restoration. The continuing education sponsors shall be approved by the Board. In addition, any qualified continuing education course for funeral directors offered by a college, university, the Illinois Funeral Directors Association, Funeral Directors Services Association of Greater Chicago, Cook County Association of Funeral Home Owners, Inc., Illinois Selected Morticians Association, Inc., Illinois Cemetery and Funeral Home Association, National Funeral Directors Association, Selected Independent Funeral Homes, National Funeral Directors and Morticians Association, Inc., International Order of the Golden Rule, or an Illinois school of mortuary science shall be accepted toward satisfaction of the continuing education requirements.

The Department shall establish by rule a means for verification of completion of the continuing education required by this Section. This verification may be accomplished through audits of records maintained by

licensees, by requiring the filing of continued education certificates with the Department or a qualified organization selected by the Department to maintain these records, or by other means established by the Department.

Except as otherwise provided in this paragraph, a person who is licensed as a funeral director under this Code and who has engaged in the practice of funeral directing for at least 40 years shall be exempt from the continuing education requirements of this Section. ~~Licensees who have not engaged in the practice of funeral directing for at least 40 years by January 1, 2016 shall not receive this exemption after that date.~~ In addition, the Department shall establish by rule an exemption or exception, for a limited period of time, for funeral directors who, by reason of advanced age, health or other extreme condition should reasonably be excused from the continuing education requirement upon the approval of the Secretary. Those persons, identified above, who cannot attend on-site classes, shall have the opportunity to comply by completing home study courses designed for them by sponsors. (Source: P.A. 96-1463, eff. 1-1-11; 97-1130, eff. 8-28-12.)

(225 ILCS 41/5-18)

(Section scheduled to be repealed on January 1, 2023)

Sec. 5-18. Inactive status.

(a) Any funeral director who notifies the Department in writing on forms prescribed by the Department may elect to

place his or her license on an inactive status and shall, subject to rules of the Department, be excused from payment of renewal fees and completion of continuing education requirements until he or she notifies the Department in writing of an intent to restore or reinstate the license to active status.

(b) Any licensee who has permitted his or her license to expire or who has had his or her license on inactive status may have the license restored by making application to the Department, by filing proof acceptable to the Department of his or her fitness to have the license restored, and by paying the required fees. Proof of fitness may include sworn evidence certifying to active lawful practice in another jurisdiction. If the licensee has not maintained an active practice in another jurisdiction satisfactory to the Department, then the Department shall determine the licensee's fitness to resume active status and may require successful completion of a practical examination or any other method it deems appropriate, including, but not limited to, those established by rule ~~by an evaluation program, established by rule, his or her fitness for restoration of the license and shall establish procedures and requirements for restoration.~~ Any licensee whose license is on inactive status shall not practice in the State.

(c) Any licensee whose license is on inactive status or in a non-renewed status shall not engage in the practice of

funeral directing in the State or use the title or advertise that he or she performs the services of a licensed funeral director. Any person violating this Section shall be considered to be practicing without a license and shall be subject to the disciplinary provisions of this Code.

(Source: P.A. 97-1130, eff. 8-28-12.)

(225 ILCS 41/5-20)

(Section scheduled to be repealed on January 1, 2023)

Sec. 5-20. Disposition of unclaimed cremated remains. The holder of a license is authorized at his or her discretion to effect a final disposition of the unclaimed cremated remains of any cremated human body if no person lawfully entitled to the custody of the remains ~~ashes~~ makes or has made a proper request for them within 60 days ~~one year~~ of the date of death of the person whose body was cremated.

(Source: P.A. 97-1130, eff. 8-28-12.)

(225 ILCS 41/10-7)

(Section scheduled to be repealed on January 1, 2023)

Sec. 10-7. Address of record; email address of record. All applicants and licensees shall:

(1) provide a valid address and email address to the Department, which shall serve as the address of record and email address of record, respectively, at the time of application for licensure or renewal or restoration of a

license; and

(2) ~~It is the duty of the applicant or licensee to~~ inform the Department of any change of address within 14 days after the change of address of record or email address of record, either through the Department's website or by contacting the Department's licensure maintenance unit.

(Source: P.A. 96-1463, eff. 1-1-11.)

(225 ILCS 41/10-20)

(Section scheduled to be repealed on January 1, 2023)

Sec. 10-20. Application. Every person who desires to obtain a license under this Code shall apply to the Department in writing on forms or electronically as prescribed ~~prepared and furnished~~ by the Department. The application shall contain proof of the particular qualifications required of the applicant, shall be certified by the applicant, and shall be accompanied by the required fee that shall not be refundable. Applicants have 3 years after the date of application to complete the application process. If the process has not been completed in 3 years, then the application shall be denied, the fee shall be forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

(Source: P.A. 97-1130, eff. 8-28-12.)

(225 ILCS 41/10-30)

(Section scheduled to be repealed on January 1, 2023)

Sec. 10-30. Issuance, display of license. Whenever an applicant has met the requirements of this Code, the Department may ~~shall~~ issue to the applicant a license as a licensed funeral director and embalmer or licensed funeral director and embalmer intern, as the case may be.

Every holder of a license shall display it in a conspicuous place in the licensee's place of practice or in the place of practice in which the licensee is employed or contracted. If the licensee is engaged in funeral directing and embalming at more than one place of practice, then the license shall be displayed in the licensee's principal place of practice or the principal place of practice of the licensee's employer and a copy of the license shall be displayed in a conspicuous place at all other places of practice. Every displayed license shall have the license number visible.

(Source: P.A. 96-1463, eff. 1-1-11; 97-1130, eff. 8-28-12.)

(225 ILCS 41/10-43)

(Section scheduled to be repealed on January 1, 2023)

Sec. 10-43. Endorsement. The Department may issue a funeral director and embalmer license, without the required examination, to an applicant licensed by another state, territory, possession of the United States, or the District of Columbia, if (i) the licensing requirements of that licensing

authority are, on the date of licensure, substantially equivalent ~~equal~~ to the requirements set forth under this Code and (ii) the applicant provides the Department with evidence of good standing from the licensing authority of that jurisdiction. An applicant under this Section shall pay all of the required fees.

(Source: P.A. 97-1130, eff. 8-28-12.)

(225 ILCS 41/15-10)

(Section scheduled to be repealed on January 1, 2023)

Sec. 15-10. Administrative Procedure Act. The Illinois Administrative Procedure Act is hereby expressly adopted and incorporated into this Code as if all of the provisions of that Act were included in this Code, except that the provision of subsection (d) of Section 10-65 of the Illinois Administrative Procedure Act that provides that at hearings the licensee has the right to show compliance with all lawful requirements for retention, continuation or renewal of the license is specifically excluded. For the purposes of this Code the notice required under Section 10-25 of the Illinois Administrative Procedure Act is deemed sufficient when mailed to the address of record or when emailed to the email address of record.

(Source: P.A. 96-1463, eff. 1-1-11.)

(225 ILCS 41/15-15)

(Section scheduled to be repealed on January 1, 2023)

Sec. 15-15. Complaints; investigations; hearings. The Department may investigate the actions of any applicant or of any person or persons rendering or offering to render services or any person holding or claiming to hold a license under this Code.

The Department shall, before refusing to issue or renew a license or seeking to discipline a licensee under Section 15-75 ~~75~~, at least 30 days before the date set for the hearing, (i) notify the accused in writing of the charges made and the time and place for the hearing on the charges, (ii) direct him or her to file a written answer to the charges under oath within 20 days after service, and (iii) inform the applicant or licensee that failure to answer shall result in a default being entered against the applicant or licensee.

At the time and place fixed in the notice, the Board or the hearing officer appointed by the Secretary shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present any pertinent statements, testimony, evidence, and arguments. The Board or hearing officer may continue the hearing from time to time. In case the person, after receiving the notice, fails to file an answer, his or her license may, in the discretion of the Secretary, ~~having first received the recommendation of the Board,~~ be suspended, revoked, or placed on probationary status, or be subject to whatever disciplinary action the

Secretary considers proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for that action under this Code. The written notice and any notice in the subsequent proceeding may be served by regular ~~or certified~~ mail or email to the licensee's address of record.

(Source: P.A. 96-48, eff. 7-17-09; 96-1463, eff. 1-1-11; 97-1130, eff. 8-28-12.)

(225 ILCS 41/15-18)

(Section scheduled to be repealed on January 1, 2023)

Sec. 15-18. Temporary suspension. The Secretary may temporarily suspend the license of a licensee without a hearing, simultaneously with the institution of proceedings for a hearing provided in Section 15-15 of this Code, if the Secretary finds that the public interest, safety, or welfare requires such emergency action. In the event that the Secretary temporarily suspends a license without a hearing before the Board or a duly appointed hearing officer, a hearing shall be held within 30 days after the suspension has occurred. The suspended licensee may seek a continuance of the hearing, during which time the suspension shall remain in effect. The proceeding shall be concluded without appreciable delay. If the Department does not hold a hearing within 30 days after the date of the suspension, unless continued at the

request of the suspended licensee, then the licensee's license shall be automatically reinstated.

(Source: P.A. 97-1130, eff. 8-28-12.)

(225 ILCS 41/15-20)

(Section scheduled to be repealed on January 1, 2023)

Sec. 15-20. Transcript; record of proceedings.

(a) The Department, at its expense, shall provide a certified shorthand reporter to take down the testimony and preserve a record of all proceedings at the hearing of any case in which a licensee may be revoked, suspended, placed on probationary status, reprimanded, fined, or subjected to other disciplinary action with reference to the license when a disciplinary action is authorized under this Act and rules. The notice of hearing, complaint, and all other documents in the nature of pleadings and written portions filed in the proceedings, the transcript of the testimony, the report of the hearing officer, and the orders of the Department shall be the records of the proceedings. The record may be made available to any person interested in the hearing upon payment of the fee required by Section 2105-115 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois ~~preserve a record of all proceedings at the formal hearing of any case. The notice of hearing, complaint and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the~~

~~report of the Board or hearing officer, and the orders of the Department shall be the record of the proceedings.~~

(b) The Department may contract for court reporting services, and, if it does so, the Department shall provide the name and contact information for the certified shorthand reporter who transcribed the testimony at a hearing to any person interested, who may obtain a copy of the transcript of any proceedings at a hearing upon payment of the fee specified by the certified shorthand reporter.

(Source: P.A. 96-1463, eff. 1-1-11; 97-1130, eff. 8-28-12.)

(225 ILCS 41/15-21)

(Section scheduled to be repealed on January 1, 2023)

Sec. 15-21. Findings and recommendations. At the conclusion of the hearing, the Board or hearing officer shall present to the Secretary a written report of its findings of fact, conclusions of law, and recommendations. The report shall contain a finding of whether or not the accused person violated this Code or its rules or failed to comply with the conditions required in this Code or its rules. The Board shall specify the nature of any violations or failure to comply and shall make its recommendations to the Secretary. In making recommendations for any disciplinary action, the Board may take into consideration all facts and circumstances including, but not limited to: the seriousness of the offenses; the presence of multiple offenses; prior disciplinary history or

the lack thereof, including actions taken by other agencies in this State, by other states or jurisdictions, hospitals, health care facilities, residency programs, employers, or professional liability insurance companies or any of the armed forces of the United States or any state; the impact of the offenses on any injured party; the vulnerability of any injured party, including, but not limited to, consideration of the injured party's age, disability, or mental illness; motive for the offense; contrition or lack thereof for the offense; financial gain as a result of committing the offenses; cooperation or lack thereof with the Department or other investigative authorities; restitution to injured parties; whether the conduct was self-reported; and any voluntary remedial actions taken ~~bearing upon the reasonableness of the conduct of the accused and the potential for future harm to the public, including, but not limited to, previous discipline of the accused by the Department, intent, degree of harm to the public and likelihood of harm in the future, any restitution made by the accused, and whether the incident or incidents contained in the complaint appear to be isolated or represent a continuing pattern of conduct.~~ In making its recommendations for discipline, the Board shall endeavor to ensure that the severity of the discipline recommended is reasonably related to the severity of the violation.

The report of findings of fact, conclusions of law, and recommendation of the Board or hearing officer shall be the

basis for the Secretary's order refusing to issue, restore, or renew a license, or otherwise disciplining a licensee. If the Secretary disagrees with the recommendations of the Board or hearing officer, the Secretary may issue an order in contravention of the Board or hearing officer's recommendations. The finding is not admissible in evidence against the person in a criminal prosecution brought for a violation of this Code, but the hearing and finding are not a bar to a criminal prosecution brought for a violation of this Code.

(Source: P.A. 96-1463, eff. 1-1-11; 97-1130, eff. 8-28-12.)

(225 ILCS 41/15-22)

(Section scheduled to be repealed on January 1, 2023)

Sec. 15-22. Rehearing. At the conclusion of the hearing, a copy of the Board or hearing officer's report shall be served upon the applicant or licensee by the Department, either personally or as provided in this Code for the service of a notice of hearing. Within 20 ~~calendar~~ days after service, the applicant or licensee may present to the Department a motion in writing for a rehearing, which shall specify the particular grounds for rehearing. ~~The Department may respond to the motion for rehearing within 20 calendar days after its service on the Department.~~ If no motion for rehearing is filed, then upon the expiration of the time specified for filing such a motion, or if a motion for rehearing is denied, then upon

denial, the Secretary may enter an order in accordance with the recommendations of the Board or hearing officer. If the applicant or licensee orders from the reporting service and pays for a transcript of the record within the time for filing a motion for rehearing, the 20-day period within which a motion may be filed shall commence upon the delivery of the transcript to the applicant or licensee.

If the Secretary believes that substantial justice has not been done in the revocation, suspension, or refusal to issue, restore, or renew a license, or other discipline of an applicant or licensee, he or she may order a rehearing by the same or other hearing officers.

(Source: P.A. 96-1463, eff. 1-1-11; 97-1130, eff. 8-28-12.)

(225 ILCS 41/15-30)

(Section scheduled to be repealed on January 1, 2023)

Sec. 15-30. Unlicensed practice; violations; civil penalty
~~Mental incompetence; suspension.~~

(a) Any person who practices, offers to practice, attempts to practice, or holds one's self out as a funeral director or a funeral director and embalmer or a funeral director and embalmer intern as provided in this Code without being licensed or exempt under this Code shall, in addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed \$10,000 for each offense, as determined by the Department. The civil penalty

shall be assessed by the Department after a hearing is held in accordance with Section 15-75.

(b) The Department may investigate any actual, alleged, or suspected unlicensed activity.

(c) The civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.

(d) A person or entity not licensed under this Code who has violated any provision of this Code or its rules is guilty of a Class A misdemeanor for the first offense and a Class 4 felony for a second and subsequent offenses.

~~The entry of a judgment by any court of competent jurisdiction establishing the mental incompetence of any person holding a license under this Code operates as a suspension of that person's license. The person may resume his or her practice only upon a finding by a court of competent jurisdiction that the person has recovered mental capacity.~~

(Source: P.A. 96-1463, eff. 1-1-11.)

(225 ILCS 41/15-40)

(Section scheduled to be repealed on January 1, 2023)

Sec. 15-40. Certification of record; receipt. The Department shall not be required to certify any record to the court, to file an answer in court, or otherwise to appear in

any court in a judicial review proceeding unless and until the Department has received from the plaintiff payment of the costs of furnishing and certifying the record, which costs shall be determined by the Department. ~~Exhibits shall be certified without cost.~~ Failure on the part of the Plaintiff to file a receipt in court is grounds for dismissal of the action.

(Source: P.A. 96-1463, eff. 1-1-11; 97-1130, eff. 8-28-12.)

(225 ILCS 41/15-41)

(Section scheduled to be repealed on January 1, 2023)

Sec. 15-41. Order or certified copy; prima facie proof. An order or certified copy thereof, over the seal of the Department and purporting to be signed by the Secretary, is prima facie proof that:

(1) the signature is the genuine signature of the Secretary; ~~and~~

(2) the Secretary is duly appointed and qualified; and ~~and~~

(3) the Board and the members of the Board are qualified to act.

(Source: P.A. 96-1463, eff. 1-1-11; 97-1130, eff. 8-28-12.)

(225 ILCS 41/15-65)

(Section scheduled to be repealed on January 1, 2023)

Sec. 15-65. Fees. The Department shall provide by rule for

a schedule of fees for the administration and enforcement of this Code, including but not limited to, original licensure, renewal, and restoration. The fees shall be nonrefundable.

All fees, fines, and penalties collected under this Code shall be deposited into the General Professions Dedicated Fund and shall be appropriated to the Department for the ordinary and contingent expenses of the Department ~~in the administration of this Code.~~

(Source: P.A. 96-1463, eff. 1-1-11; 97-1130, eff. 8-28-12.)

(225 ILCS 41/15-75)

(Section scheduled to be repealed on January 1, 2023)

Sec. 15-75. Grounds ~~Violations; grounds~~ for discipline; penalties.

(a) (Blank). ~~Each of the following acts is a Class A misdemeanor for the first offense, and a Class 4 felony for each subsequent offense. These penalties shall also apply to unlicensed owners of funeral homes.~~

~~(1) Practicing the profession of funeral directing and embalming or funeral directing, or attempting to practice the profession of funeral directing and embalming or funeral directing without a license as a funeral director and embalmer or funeral director.~~

~~(2) Serving or attempting to serve as an intern under a licensed funeral director and embalmer without a license as a licensed funeral director and embalmer intern.~~

~~(3) Obtaining or attempting to obtain a license, practice or business, or any other thing of value, by fraud or misrepresentation.~~

~~(4) Permitting any person in one's employ, under one's control or in or under one's service to serve as a funeral director and embalmer, funeral director, or funeral director and embalmer intern when the person does not have the appropriate license.~~

~~(5) Failing to display a license as required by this Code.~~

~~(6) Giving false information or making a false oath or affidavit required by this Code.~~

(b) The Department may refuse to issue or renew, revoke, suspend, place on probation or administrative supervision, reprimand, or take other disciplinary or non-disciplinary action as the Department may deem appropriate, including ~~imposing~~ fines not to exceed \$10,000 for each violation, with regard to any license under the Code for any one or combination of the following:

(1) Fraud or any misrepresentation in applying for or procuring a license under this Code or in connection with applying for renewal of a license under this Code.

(2) For licenses, conviction by plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or by sentencing of any crime, including, but not limited to, convictions, preceding sentences of

supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States: (i) that is a felony or (ii) that is a misdemeanor, an essential element of which is dishonesty, or that is directly related to the practice of the profession and, for initial applicants, convictions set forth in Section 15-72 of this Act.

(3) Violation of the laws of this State relating to the funeral, burial or disposition of deceased human bodies or of the rules and regulations of the Department, or the Department of Public Health.

(4) Directly or indirectly paying or causing to be paid any sum of money or other valuable consideration for the securing of business or for obtaining authority to dispose of any deceased human body.

(5) Professional incompetence, gross negligence, malpractice, or untrustworthiness in the practice of funeral directing and embalming or funeral directing.

(6) (Blank).

(7) Engaging in, promoting, selling, or issuing burial contracts, burial certificates, or burial insurance policies in connection with the profession as a funeral director and embalmer, funeral director, or funeral director and embalmer intern in violation of any laws of the State of Illinois.

(8) Refusing, without cause, to surrender the custody

of a deceased human body upon the proper request of the person or persons lawfully entitled to the custody of the body.

(9) Taking undue advantage of a client or clients as to amount to the perpetration of fraud.

(10) Engaging in funeral directing and embalming or funeral directing without a license.

(11) Encouraging, requesting, or suggesting by a licensee or some person working on his behalf and with his consent for compensation that a person utilize the services of a certain funeral director and embalmer, funeral director, or funeral establishment unless that information has been expressly requested by the person. This does not prohibit general advertising or pre-need solicitation.

(12) Making or causing to be made any false or misleading statements about the laws concerning the disposition of human remains, including, but not limited to, the need to embalm, the need for a casket for cremation or the need for an outer burial container.

(13) (Blank).

(14) Embalming or attempting to embalm a deceased human body without express prior authorization of the person responsible for making the funeral arrangements for the body. This does not apply to cases where embalming is directed by local authorities who have jurisdiction or

when embalming is required by State or local law. A licensee may embalm without express prior authorization if a good faith effort has been made to contact family members and has been unsuccessful and the licensee has no reason to believe the family opposes embalming.

(15) Making a false statement on a Certificate of Death where the person making the statement knew or should have known that the statement was false.

(16) Soliciting human bodies after death or while death is imminent.

(17) Performing any act or practice that is a violation of this Code, the rules for the administration of this Code, or any federal, State or local laws, rules, or regulations governing the practice of funeral directing or embalming.

(18) Performing any act or practice that is a violation of Section 2 of the Consumer Fraud and Deceptive Business Practices Act.

(19) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud or harm the public.

(20) Taking possession of a dead human body without having first obtained express permission from the person holding the right to control the disposition in accordance with Section 5 of the Disposition of Remains Act or a public agency legally authorized to direct, control or

permit the removal of deceased human bodies.

(21) Advertising in a false or misleading manner or advertising using the name of an unlicensed person in connection with any service being rendered in the practice of funeral directing or funeral directing and embalming. The use of any name of an unlicensed or unregistered person in an advertisement so as to imply that the person will perform services is considered misleading advertising. Nothing in this paragraph shall prevent including the name of any owner, officer or corporate director of a funeral home, who is not a licensee, in any advertisement used by a funeral home with which the individual is affiliated, if the advertisement specifies the individual's affiliation with the funeral home.

(22) Charging for professional services not rendered, including filing false statements for the collection of fees for which services are not rendered.

(23) Failing to account for or remit any monies, documents, or personal property that belongs to others that comes into a licensee's possession.

(24) Treating any person differently to his detriment because of race, color, creed, gender, religion, or national origin.

(25) Knowingly making any false statements, oral or otherwise, of a character likely to influence, persuade or induce others in the course of performing professional

services or activities.

(26) Willfully making or filing false records or reports in the practice of funeral directing and embalming, including, but not limited to, false records filed with State agencies or departments.

(27) Failing to acquire continuing education required under this Code.

(28) (Blank).

(29) Aiding or assisting another person in violating any provision of this Code or rules adopted pursuant to this Code.

(30) Failing within 10 days, to provide information in response to a written request made by the Department.

(31) Discipline by another state, District of Columbia, territory, foreign nation, or governmental agency, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Section.

(32) (Blank).

(33) Mental illness or disability which results in the inability to practice the profession with reasonable judgment, skill, or safety.

(34) Gross, willful, or continued overcharging for professional services, including filing false statements for collection of fees for which services are not rendered.

(35) Physical illness, including, but not limited to, deterioration through the aging process or loss of motor skill which results in a licensee's inability to practice under this Code with reasonable judgment, skill, or safety.

(36) Failing to comply with any of the following required activities:

(A) When reasonably possible, a funeral director licensee or funeral director and embalmer licensee or anyone acting on his or her behalf shall obtain the express authorization of the person or persons responsible for making the funeral arrangements for a deceased human body prior to removing a body from the place of death or any place it may be or embalming or attempting to embalm a deceased human body, unless required by State or local law. This requirement is waived whenever removal or embalming is directed by local authorities who have jurisdiction. If the responsibility for the handling of the remains lawfully falls under the jurisdiction of a public agency, then the regulations of the public agency shall prevail.

(B) A licensee shall clearly mark the price of any casket offered for sale or the price of any service using the casket on or in the casket if the casket is displayed at the funeral establishment. If the casket

is displayed at any other location, regardless of whether the licensee is in control of that location, the casket shall be clearly marked and the registrant shall use books, catalogues, brochures, or other printed display aids to show the price of each casket or service.

(C) At the time funeral arrangements are made and prior to rendering the funeral services, a licensee shall furnish a written statement of services to be retained by the person or persons making the funeral arrangements, signed by both parties, that shall contain: (i) the name, address and telephone number of the funeral establishment and the date on which the arrangements were made; (ii) the price of the service selected and the services and merchandise included for that price; (iii) a clear disclosure that the person or persons making the arrangement may decline and receive credit for any service or merchandise not desired and not required by law or the funeral director or the funeral director and embalmer; (iv) the supplemental items of service and merchandise requested and the price of each item; (v) the terms or method of payment agreed upon; and (vi) a statement as to any monetary advances made by the registrant on behalf of the family. The licensee shall maintain a copy of the written statement of services in its

permanent records. All written statements of services are subject to inspection by the Department.

(D) In all instances where the place of final disposition of a deceased human body or the cremated remains of a deceased human body is a cemetery, the licensed funeral director and embalmer, or licensed funeral director, who has been engaged to provide funeral or embalming services shall remain at the cemetery and personally witness the placement of the human remains in their designated grave or the sealing of the above ground depository, crypt, or urn. The licensed funeral director or licensed funeral director and embalmer may designate a licensed funeral director and embalmer intern or representative of the funeral home to be his or her witness to the placement of the remains. If the cemetery authority, cemetery manager, or any other agent of the cemetery takes any action that prevents compliance with this paragraph (D), then the funeral director and embalmer or funeral director shall provide written notice to the Department within 5 business days after failing to comply. If the Department receives this notice, then the Department shall not take any disciplinary action against the funeral director and embalmer or funeral director for a violation of this paragraph (D) unless the Department finds that the cemetery authority, manager,

or any other agent of the cemetery did not prevent the funeral director and embalmer or funeral director from complying with this paragraph (D) as claimed in the written notice.

(E) A funeral director or funeral director and embalmer shall fully complete the portion of the Certificate of Death under the responsibility of the funeral director or funeral director and embalmer and provide all required information. In the event that any reported information subsequently changes or proves incorrect, a funeral director or funeral director and embalmer shall immediately upon learning the correct information correct the Certificate of Death.

(37) A finding by the Department that the licensee, after having his or her license placed on probationary status or subjected to conditions or restrictions, violated the terms of the probation or failed to comply with such terms or conditions.

(38) (Blank).

(39) Being named as a perpetrator in an indicated report by the Department of Children and Family Services pursuant to the Abused and Neglected Child Reporting Act and, upon proof by clear and convincing evidence, being found to have caused a child to be an abused child or neglected child as defined in the Abused and Neglected

Child Reporting Act.

(40) Habitual or excessive use or abuse of drugs defined in law as controlled substances, alcohol, or any other substance which results in the inability to practice with reasonable judgment, skill, or safety.

(41) Practicing under a false or, except as provided by law, an assumed name.

(42) Cheating on or attempting to subvert the licensing examination administered under this Code.

(c) The Department may refuse to issue or renew or may suspend without a hearing, as provided for in the Department of Professional Regulation Law of the Civil Administrative Code of Illinois, the license of any person who fails to file a return, to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest as required by any tax Act administered by the Illinois Department of Revenue, until the time as the requirements of the tax Act are satisfied in accordance with subsection (g) of Section 2105-15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

(d) No action may be taken under this Code against a person licensed under this Code unless the action is commenced within 5 years after the occurrence of the alleged violations. A continuing violation shall be deemed to have occurred on the date when the circumstances last existed that give rise to the

alleged violation.

(e) Nothing in this Section shall be construed or enforced to give a funeral director and embalmer, or his or her designees, authority over the operation of a cemetery or over cemetery employees. Nothing in this Section shall be construed or enforced to impose duties or penalties on cemeteries with respect to the timing of the placement of human remains in their designated grave or the sealing of the above ground depository, crypt, or urn due to patron safety, the allocation of cemetery staffing, liability insurance, a collective bargaining agreement, or other such reasons.

(f) All fines imposed under this Section shall be paid 60 days after the effective date of the order imposing the fine.

(g) (Blank).

(h) In cases where the Department of Healthcare and Family Services has previously determined a licensee or a potential licensee is more than 30 days delinquent in the payment of child support and has subsequently certified the delinquency to the Department, the Department may refuse to issue or renew or may revoke or suspend that person's license or may take other disciplinary action against that person based solely upon the certification of delinquency made by the Department of Healthcare and Family Services in accordance with item (5) of subsection (a) of Section 2105-15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

(i) A person not licensed under this Code who is an owner of a funeral establishment or funeral business shall not aid, abet, assist, procure, advise, employ, or contract with any unlicensed person to offer funeral services or aid, abet, assist, or direct any licensed person contrary to or in violation of any rules or provisions of this Code. A person violating this subsection shall be treated as a licensee for the purposes of disciplinary action under this Section and shall be subject to cease and desist orders as provided in this Code, the imposition of a fine up to \$10,000 for each violation and any other penalty provided by law.

(j) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code, as amended, operates as an automatic suspension. The suspension may end only upon a finding by a court that the licensee is no longer subject to the involuntary admission or judicial admission and issues an order so finding and discharging the licensee, and upon the recommendation of the Board to the Secretary that the licensee be allowed to resume his or her practice.

(k) In enforcing this Code, the Department, upon a showing of a possible violation, may compel an individual licensed to practice under this Code, or who has applied for licensure under this Code, to submit to a mental or physical examination, or both, as required by and at the expense of the

Department. The Department may order the examining physician to present testimony concerning the mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physician shall be specifically designated by the Department. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. The examination shall be performed by a physician licensed to practice medicine in all its branches. Failure of an individual to submit to a mental or physical examination, when directed, shall result in an automatic suspension without hearing.

A person holding a license under this Code or who has applied for a license under this Code who, because of a physical or mental illness or disability, including, but not limited to, deterioration through the aging process or loss of motor skill, is unable to practice the profession with reasonable judgment, skill, or safety, may be required by the Department to submit to care, counseling, or treatment by physicians approved or designated by the Department as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice. Submission to care, counseling, or treatment as required by the Department shall not be considered discipline of a license. If the licensee refuses to

enter into a care, counseling, or treatment agreement or fails to abide by the terms of the agreement, the Department may file a complaint to revoke, suspend, or otherwise discipline the license of the individual. The Secretary may order the license suspended immediately, pending a hearing by the Department. Fines shall not be assessed in disciplinary actions involving physical or mental illness or impairment.

In instances in which the Secretary immediately suspends a person's license under this Section, a hearing on that person's license must be convened by the Department within 15 days after the suspension and completed without appreciable delay. The Department shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

An individual licensed under this Code and affected under this Section shall be afforded an opportunity to demonstrate to the Department that he or she can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her license.

(Source: P.A. 99-876, eff. 1-1-17; 100-201, eff. 8-18-17; 100-872, eff. 8-14-18.)

(225 ILCS 41/15-80)

(Section scheduled to be repealed on January 1, 2023)

Sec. 15-80. Statement of place of practice, ~~roster~~. Each applicant for a funeral director and embalmer's license shall with his or her application submit a statement of the place of practice, ownership, names and license numbers of all funeral directors and embalmers and funeral directors associated with the applicant.

~~The Department shall maintain a roster of names and addresses of all persons who hold valid licenses and all persons whose licenses have been suspended or revoked within the previous year. This roster shall be available upon request and payment of the required fee.~~

(Source: P.A. 97-1130, eff. 8-28-12.)

(225 ILCS 41/15-91)

(Section scheduled to be repealed on January 1, 2023)

Sec. 15-91. Denial of license. If the Department determines that an application for licensure should be denied pursuant to Section 15-75, then the applicant shall be sent a notice of intent to deny license and the applicant shall be given the opportunity to request, within 20 days of the notice, a hearing on the denial. ~~If the applicant requests a hearing, then the Secretary shall schedule a hearing within 30 days after the request for a hearing, unless otherwise agreed to by the parties.~~ The Secretary shall have the authority to appoint an attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer. The hearing

officer shall have full authority to conduct the hearing. The hearing shall be held at the time and place designated by the Secretary. The Secretary shall have the authority to prescribe rules for the administration of this Section.

(Source: P.A. 96-1463, eff. 1-1-11; 97-1130, eff. 8-28-12.)

(225 ILCS 41/10-22 rep.)

(225 ILCS 41/15-17 rep.)

(225 ILCS 41/15-100 rep.)

Section 15. The Funeral Directors and Embalmers Licensing Code is amended by repealing Sections 10-22, 15-17, and 15-100.

Section 99. Effective date. This Section and Section 5 take effect upon becoming law.

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Statutes amended in order of appearance

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