



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5159

Introduced 1/29/2010, by Rep. Dan Reitz

SYNOPSIS AS INTRODUCED:

See Index

Amends the Funeral Directors and Embalmers Licensing Code. Provides that the Secretary may remove any member of the Board for reasons prescribed by law for removal of State officials, or for misconduct, incompetence, neglect of duty, or failing to attend 2 consecutive Board meetings. Provides that 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 funeral director, who has been engaged to provide funeral and embalming services shall remain at the cemetery and personally witness the burial of the deceased human body or the cremated remains of the deceased human body and the sealing of the above ground depository, crypt, or urn. Provides additional grounds for discipline. Removes exemption from the continuing education requirement for licensees who have practiced for at least 40 years, but provides that the Department shall establish by rule an exemption or exception, for a limited period of time, for licensees who for certain specified reasons should reasonably be excused from the continuing education requirement. Sets out provisions concerning the powers of the Department, address of record, denial of license, exemptions, appointment of hearing officers, consent orders, findings and recommendations of the Board, taking of oaths, rehearings, orders or certified copies, injunctive relief, cease and desist orders, method of payment of receipt, conflicts of interest, the Civil Administrative Code, and rules. Defines "address of record", "Certificate of Death", and "licensee". Makes changes to the definition of "applicant" and "person". Makes other changes. Effective immediately.

LRB096 16426 ASK 31693 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

A BILL FOR

1 AN ACT concerning professional regulation.

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

4 Section 5. The Funeral Directors and Embalmers Licensing
5 Code is amended by changing Sections 1-10, 5-10, 5-15, 10-25,
6 10-30, 10-35, 15-5, 15-10, 15-15, 15-20, 15-30, 15-35, 15-40,
7 15-45, 15-50, 15-55, 15-65, 15-70, 15-71, 15-75, 15-85, 20-15,
8 and 30-1 and by adding Sections 1-25, 5-7, 10-27, 10-50, 15-16,
9 15-17, 15-21, 15-22, 15-41, 15-46, 15-76, 15-100, 15-105, and
10 15-110 as follows:

11 (225 ILCS 41/1-10)

12 (Section scheduled to be repealed on January 1, 2013)

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

14 "Address of record" means the designated address recorded
15 by the Department in the applicant's or licensee's application
16 file or license file.

17 "Applicant" means a person applying for licensure under
18 this Code as a funeral director and embalmer or a funeral
19 director and embalmer intern. Any applicant or any person who
20 holds himself or herself out as an applicant is considered a
21 licensee for purposes of enforcement, investigation, hearings,
22 and the Illinois Administrative Procedure Act ~~means any person~~
23 ~~making application for a license or certificate of~~

1 ~~registration.~~

2 "Board" means the Funeral Directors and Embalmers
3 Licensing and Disciplinary ~~disciplinary~~ Board.

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

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

8 ~~"Director" means the Director of Professional Regulation.~~

9 "Funeral director and embalmer" means a person who is
10 licensed and qualified to practice funeral directing and to
11 prepare, disinfect and preserve dead human bodies by the
12 injection or external application of antiseptics,
13 disinfectants or preservative fluids and materials and to use
14 derma surgery or plastic art for the restoring of mutilated
15 features. It further means a person who restores the remains of
16 a person for the purpose of funeralization whose organs or bone
17 or tissue has been donated for anatomical purposes.

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

23 "Embalming" means the process of sanitizing and chemically
24 treating a deceased human body in order to reduce the presence
25 and growth of microorganisms, to retard organic decomposition,
26 to render the remains safe to handle while retaining

1 naturalness of tissue, and to restore an acceptable physical
2 appearance for funeral viewing purposes.

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

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

12 "Owner" means the individual, partnership, corporation,
13 association, trust, estate, or agent thereof, or other person
14 or combination of persons who owns a funeral establishment or
15 funeral business.

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

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

1 "Secretary" means the Secretary of the Department of
2 Financial and Professional Regulation.

3 (Source: P.A. 93-268, eff. 1-1-04.)

4 (225 ILCS 41/1-25 new)

5 (Section scheduled to be repealed on January 1, 2013)

6 Sec. 1-25. Powers of the Department. Subject to the
7 provisions of this Code, the Department may exercise the
8 following powers:

9 (1) Authorize examinations to ascertain the qualifications
10 and fitness of applicants for licensing as a licensed funeral
11 director or licensed funeral director and embalmer and pass
12 upon the qualifications of applicants for licensure.

13 (2) Examine a licensed funeral director or licensed funeral
14 director and embalmer's records from any year or any other
15 aspect of funeral directing and embalming as the Department
16 deems appropriate.

17 (3) Investigate any and all funeral directing and embalming
18 activity.

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

23 (5) Adopt rules required for the administration of this
24 Code.

25 (6) Prescribe forms to be issued for the administration and

1 enforcement of this Code.

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

8 (225 ILCS 41/5-7 new)

9 Sec. 5-7. Address of record. It is the duty of the
10 applicant or licensee to inform the Department of any change of
11 address within 14 days either through the Department's website
12 or by contacting the Department's licensure maintenance unit.

13 (225 ILCS 41/5-10)

14 (Section scheduled to be repealed on January 1, 2013)

15 Sec. 5-10. Funeral director license; display. Every holder
16 of a license as a funeral director shall display it in a
17 conspicuous place in the licensee's place of practice or in the
18 place of practice in which the licensee is employed or, in case
19 the licensee is engaged in funeral directing at more than one
20 place of practice, then in the licensee's principal place of
21 practice or the principal place of practice of the licensee's
22 employer and a copy of the license shall be displayed in a
23 conspicuous place at all other places of practice.

24 (Source: P.A. 93-268, eff. 1-1-04.)

1 (225 ILCS 41/5-15)

2 (Section scheduled to be repealed on January 1, 2013)

3 Sec. 5-15. Expiration and renewal; inactive status;
4 continuing education. The expiration date and renewal period
5 for each license issued under this Article shall be set by
6 rule. The holder of a license as a licensed funeral director
7 may renew the license during the month preceding the expiration
8 date of the license by paying the required fee. A licensed
9 funeral director whose license has expired may have the license
10 reinstated within 5 years from the date of expiration upon
11 payment of the required reinstatement fee. The reinstatement
12 shall be effective as of the date of reissuance of the license.

13 Any licensed funeral director whose license has been
14 expired for more than 5 years may have the license restored
15 only by fulfilling the requirements of the Department's rules
16 and by paying the required restoration fee. However, any
17 licensed funeral director whose license has expired while he or
18 she has been engaged (1) in federal service on active duty with
19 the Army of the United States, the United States Navy, the
20 Marine Corps, the Air Force, the Coast Guard, or the State
21 Militia called into the service or training of the United
22 States of America or (2) in training or education under the
23 supervision of the United States preliminary to induction into
24 the military service may have his or her license restored
25 without paying any lapsed renewal fees or restoration fee or

1 without passing any examination if, within 2 years after
2 termination of the service, training or education other than by
3 dishonorable discharge, he or she furnishes the Department with
4 an affidavit to the effect that he or she has been so engaged
5 and that his or her service, training or education has been so
6 terminated.

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

1 requirements.

2 The Department shall establish by rule a means for
3 verification of completion of the continuing education
4 required by this Section. This verification may be accomplished
5 through audits of records maintained by licensees, by requiring
6 the filing of continued education certificates with the
7 Department or a qualified organization selected by the
8 Department to maintain these records, or by other means
9 established by the Department.

10 ~~The A person who is licensed as a funeral director under~~
11 ~~this Act and who has engaged in the practice of funeral~~
12 ~~directing for at least 40 years shall be exempt from the~~
13 ~~continuing education requirements of this Section. In~~
14 ~~addition, the~~ Department shall establish by rule an exemption
15 or exception, for a limited period of time, for funeral
16 directors who, by reason of advanced age, health, or other
17 extreme condition should reasonably be excused from the
18 continuing education requirement upon explanation to the
19 Board, the approval of the Secretary ~~Director~~, or both. Those
20 persons, identified above, who cannot attend on-site classes,
21 shall have the opportunity to comply by completing home study
22 courses designed for them by sponsors.

23 Any funeral director who notifies the Department in writing
24 on forms prescribed by the Department may elect to place his or
25 her license on an inactive status and shall, subject to rules
26 of the Department, be excused from payment of renewal fees and

1 completion of continuing education requirements until he or she
2 notifies the Department in writing of an intent to restore the
3 license to active status. Any licensee requesting restoration
4 from inactive status shall notify the Department as provided by
5 rule of the Department and pay the fee required by the
6 Department for restoration of the license. Any licensee whose
7 license is on inactive status shall not practice in the State
8 of Illinois.

9 Practice on a license that has lapsed or been placed in
10 inactive status is practicing without a license and a violation
11 of this Code.

12 (Source: P.A. 92-641, eff. 7-11-02; 93-268, eff. 1-1-04.)

13 (225 ILCS 41/10-25)

14 (Section scheduled to be repealed on January 1, 2013)

15 Sec. 10-25. Examinations. The Department shall authorize
16 and hold examinations of applicants for licenses as licensed
17 funeral directors and embalmers. The examination may include
18 both practical demonstrations and written and oral tests and
19 shall embrace the subjects of anatomy, sanitary science, health
20 regulations in relation to the handling of deceased human
21 bodies, measures used by funeral directors and embalmers for
22 the prevention of the spread of diseases, the care,
23 preservation, embalming, transportation, and burial of dead
24 human bodies, and other subjects relating to the care and
25 handling of deceased human bodies as set forth in this Article

1 and as the Department by rule may prescribe.

2 Whenever the Secretary ~~Director~~ is not satisfied that
3 substantial justice has been done in an examination, the
4 Secretary ~~Director~~ may order a reexamination.

5 If an applicant neglects, fails without an approved excuse
6 or refuses to take the next available examination offered for
7 licensure under this Code, the fee paid by the applicant shall
8 be forfeited to the Department and the application denied. If
9 an applicant fails to pass an examination for licensure under
10 this Code within 3 years after filing an application, the
11 application shall be denied. However, the applicant may
12 thereafter make a new application for examination which shall
13 be accompanied by the required fee.

14 (Source: P.A. 87-966.)

15 (225 ILCS 41/10-27 new)

16 (Section scheduled to be repealed on January 1, 2013)

17 Sec. 10-27. Address of record. It is the duty of the
18 applicant or licensee to inform the Department of any change of
19 address within 14 days either through the Department's website
20 or by contacting the Department's licensure maintenance unit.

21 (225 ILCS 41/10-30)

22 (Section scheduled to be repealed on January 1, 2013)

23 Sec. 10-30. Issuance, display of license. Whenever an
24 applicant has met the requirements of this Code, the Department

1 shall issue to the applicant a license as a licensed funeral
2 director and embalmer or licensed funeral director and embalmer
3 intern, as the case may be.

4 Every holder of a license shall display it in a conspicuous
5 place in the licensee's place of practice or in the place of
6 practice in which the licensee is employed. In case the
7 licensee is engaged in funeral directing and embalming at more
8 than one place of practice, then the license shall be displayed
9 in the licensee's principal place of practice or the principal
10 place of practice of the licensee's employer and a copy of the
11 license shall be displayed in a conspicuous place at all other
12 places of practice.

13 (Source: P.A. 93-268, eff. 1-1-04.)

14 (225 ILCS 41/10-35)

15 (Section scheduled to be repealed on January 1, 2013)

16 Sec. 10-35. Renewal; reinstatement; restoration;
17 continuing education. The expiration date and renewal period
18 for each license issued under this Article shall be set by
19 rule. The holder of a license as a licensed funeral director
20 and embalmer or funeral director and embalmer intern may renew
21 the license during the month preceding the expiration date of
22 the license by paying the required fee. A licensed funeral
23 director and embalmer or licensed funeral director and embalmer
24 trainee whose license has expired may have the license
25 reinstated within 5 years from the date of expiration upon

1 payment of the required reinstatement fee and fulfilling the
2 requirements of the Department's rules. The reinstatement of
3 the license is effective as of the date of the reissuance of
4 the license.

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

25 No license of a funeral director and embalmer intern shall
26 be renewed more than twice.

1 In addition to any other requirement for renewal of a
2 license or reinstatement of an expired license, as a condition
3 for the renewal or reinstatement of a license as a licensed
4 funeral director and embalmer, each licensee shall provide
5 evidence to the Department of completion of at least 24 hours
6 of continuing education during the 24 months preceding the
7 expiration date of the license, or in the case of
8 reinstatement, within the 24 months preceding the application
9 for reinstatement. The continuing education sponsors shall be
10 approved by the Board. In addition, any qualified continuing
11 education course for funeral directors and embalmers offered by
12 a college, university, the Illinois Funeral Directors
13 Association, Funeral Directors Services Association of Greater
14 Chicago, Cook County Association of Funeral Home Owners, Inc.,
15 Illinois Selected Morticians Associations, Inc., Illinois
16 Cemetery and Funeral Home Association, National Funeral
17 Directors Association, Selected Independent Funeral Homes,
18 National Funeral Directors and Morticians Association, Inc.,
19 International Order of the Golden Rule, or an Illinois school
20 of mortuary science shall be accepted toward satisfaction of
21 the continuing education requirements.

22 The Department shall establish by rule a means for
23 verification of completion of the continuing education
24 required by this Section. This verification may be accomplished
25 through audits of records maintained by licensees, by requiring
26 the filing of continued education certificates with the

1 Department or a qualified organization selected by the
2 Department to maintain the records, or by other means
3 established by the Department.

4 ~~The A person who is licensed as a funeral director and~~
5 ~~embalmer under this Act and who has engaged in the practice of~~
6 ~~funeral directing and embalming for at least 40 years shall be~~
7 ~~exempt from the continuing education requirements of this~~
8 ~~Section. In addition, the~~ Department shall establish by rule an
9 exemption or exception, for a limited period of time, for
10 funeral directors and embalmers who, by reason of advanced age,
11 health, or other extreme condition, should reasonably be
12 excused from the continuing education requirement upon
13 explanation to the Board, the approval of the Secretary
14 ~~Director~~, or both. Those persons, identified above, who cannot
15 attend on-site classes, shall have the opportunity to comply by
16 completing home study courses designed for them by sponsors.

17 Any funeral director and embalmer who notifies the
18 Department in writing on forms prescribed by the Department,
19 may elect to place his or her license on an inactive status and
20 shall be excused from completion of continuing education
21 requirements until he or she notifies the Department in writing
22 of an intent to restore the license to active status. While on
23 inactive status, the licensee shall only be required to pay a
24 single fee, established by the Department, to have the license
25 placed on inactive status. Any licensee requesting restoration
26 from inactive status shall notify the Department as provided by

1 rule of the Department and pay the fee required by the
2 Department for restoration of the license. Any licensee whose
3 license is on inactive status shall not practice in the State
4 of Illinois.

5 Practice on a license that has lapsed or been placed in
6 inactive status is practicing without a license and a violation
7 of this Code.

8 (Source: P.A. 93-268, eff. 1-1-04.)

9 (225 ILCS 41/10-50 new)

10 (Section scheduled to be repealed on January 1, 2013)

11 Sec. 10-50. Denial of license; exemption from licensure. If
12 the Department determines that an application for licensure
13 should be denied pursuant to Section 15-75, then the applicant
14 shall be sent a notice of intent to deny license or exemption
15 from licensure and the applicant shall be given the opportunity
16 to request, within 20 days after receiving the notice, a
17 hearing on the denial. If the applicant requests a hearing,
18 then the Secretary shall schedule a hearing within 30 days
19 after the request for a hearing, unless otherwise agreed to by
20 the parties. The Secretary shall have the authority to appoint
21 an attorney duly licensed to practice law in the State of
22 Illinois to serve as the hearing officer. The hearing officer
23 shall have full authority to conduct the hearing. The hearing
24 shall be held at the time and place designated by the
25 Secretary. The Secretary shall have the authority to prescribe

1 rules for the administration of this Section.

2 (225 ILCS 41/15-5) (from Ch. 111, par. 2825)

3 (Section scheduled to be repealed on January 1, 2013)

4 Sec. 15-5. Funeral Directors and Embalmers Licensing and
5 Disciplinary Board. A Funeral Directors and Embalmers
6 Licensing and Disciplinary Board is created and shall consist
7 of 7 persons, 6 of whom are licensed to practice funeral
8 directing and embalming in this State, and one who is a
9 knowledgeable public member. Each member shall be appointed by
10 the Secretary ~~Director~~ of the Department. The persons so
11 appointed shall hold their offices for 4 years and until a
12 qualified successor is appointed. All vacancies occurring
13 shall be filled by the Secretary ~~Director~~ for the unexpired
14 portion of the term rendered vacant. No member shall be
15 eligible to serve for more than 2 full consecutive terms. Any
16 appointee may be removed by the Secretary ~~Director~~ when in his
17 or her discretion he or she finds removal to be in the public
18 interest. The cause for removal must be set forth in writing.
19 The Board shall annually select a chairman from its membership.
20 The members of the Board shall be reimbursed for all legitimate
21 and necessary expenses incurred in attending meetings of the
22 Board. The Board may meet as often as necessary to perform its
23 duties under this Code, and shall meet at least once a year in
24 Springfield, Illinois.

25 A quorum shall be a majority of the members then appointed

1 to the Board. A quorum is required for Board decisions.

2 The Secretary may remove any member of the Board for
3 reasons prescribed by law for removal of State officials, or
4 for misconduct, incompetence, neglect of duty, or failing to
5 attend 2 consecutive Board meetings.

6 The Department shall consider the recommendations of the
7 Board in the development of proposed rules under this Code.
8 Notice of any proposed rulemaking under this Code shall be
9 transmitted to the Board and the Department shall review the
10 response of the Board and any recommendations relating to that
11 rulemaking. The Department may seek the advice and
12 recommendations of the Board on any matter relating to the
13 administration and enforcement of this Code.

14 The Department shall seek the advice and recommendations of
15 the Board in connection with any rulemaking or disciplinary
16 actions, including applications for restoration of revoked
17 licenses. The Board shall have 60 days to respond to a
18 Department request for advice and recommendations. If the
19 Department fails to adopt, in whole or in part, a Board
20 recommendation in connection with any rulemaking or
21 disciplinary action, it shall provide a written explanation of
22 its specific reasons for not adopting the Board recommendation.
23 The written explanations shall be made available for public
24 inspection.

25 The Department shall adopt all necessary and reasonable
26 rules and regulations for the effective administration of this

1 Code, and without limiting the foregoing, the Department shall
2 adopt rules and regulations:

3 (1) prescribing a method of examination of candidates;

4 (2) defining what shall constitute a school, college,
5 university, department of a university or other
6 institution to determine the reputability and good
7 standing of these institutions by reference to a compliance
8 with the rules and regulations; however, no school,
9 college, university, department of a university or other
10 institution that refuses admittance to applicants, solely
11 on account of race, color, creed, sex or national origin
12 shall be considered reputable and in good standing;

13 (3) establishing expiration dates and renewal periods
14 for all licenses;

15 (4) prescribing a method of handling complaints and
16 conducting hearings on proceedings to take disciplinary
17 action under this Code; and

18 (5) providing for licensure by reciprocity.

19 (Source: P.A. 93-268, eff. 1-1-04.)

20 (225 ILCS 41/15-10)

21 (Section scheduled to be repealed on January 1, 2013)

22 Sec. 15-10. Administrative Procedure Act. The Illinois
23 Administrative Procedure Act is hereby expressly adopted and
24 incorporated into this Code as if all of the provisions of that
25 Act were included in this Code, except that the provision of

1 subsection (d) of Section 10-65 of the Illinois Administrative
2 Procedure Act that provides that at hearings the licensee has
3 the right to show compliance with all lawful requirements for
4 retention, continuation or renewal of the license is
5 specifically excluded. For the purposes of this Code the notice
6 required under Section 10-25 of the Illinois Administrative
7 Procedure Act is deemed sufficient when mailed to the ~~last~~
8 ~~known~~ address of record ~~a party~~.

9 (Source: P.A. 87-966; 88-45.)

10 (225 ILCS 41/15-15)

11 (Section scheduled to be repealed on January 1, 2013)

12 Sec. 15-15. Complaints; investigations; hearings; summary
13 suspension of license. The Department may investigate the
14 actions of any applicant or of any person or persons rendering
15 or offering to render services or any person holding or
16 claiming to hold a license under this Code. The Department
17 shall, before revoking, suspending, placing on probation,
18 reprimanding, or taking any other disciplinary action, at least
19 30 days before the date set for the hearing, (i) notify the
20 accused in writing of the charges made and the time and place
21 for the hearing on the charges, (ii) direct him or her to file
22 a written answer to the charges with the Board under oath
23 within 20 days after the service on him or her of the notice,
24 and (iii) inform the accused that, if he or she fails to
25 answer, default will be taken against him or her or that his or

1 her license may be suspended, revoked, placed on probationary
2 status, or other disciplinary action taken with regard to the
3 license, including limiting the scope, nature, or extent of his
4 or her practice, as the Department may consider proper. At the
5 time and place fixed in the notice, the Board shall proceed to
6 hear the charges and the parties or their counsel shall be
7 accorded ample opportunity to present any pertinent
8 statements, testimony, evidence, and arguments. The Board may
9 continue the hearing from time to time. In case the person,
10 after receiving the notice, fails to file an answer, his or her
11 license may, in the discretion of the Department, be suspended,
12 revoked, or placed on probationary status, or the Department
13 may take whatever disciplinary action it considers proper,
14 including limiting the scope, nature, or extent of the person's
15 practice or the imposition of a fine, without a hearing, if the
16 act or acts charged constitute sufficient grounds for that
17 action under this Code. The written notice may be served by
18 personal delivery or by certified mail to the address specified
19 by the accused in his or her last notification to the
20 Department or to the address of record. ~~The Department shall~~
21 ~~conduct regular inspections of all funeral establishments to~~
22 ~~determine compliance with the provisions of this Code. The~~
23 ~~Department may upon its own motion and shall upon the verified~~
24 ~~complaint in writing of any person setting forth facts that if~~
25 ~~proved would constitute grounds for refusal, suspension,~~
26 ~~revocation, or other disciplinary action investigate the~~

1 ~~action of any person holding or claiming to hold a license~~
2 ~~under this Code. The Department shall report to the Board, on~~
3 ~~at least a quarterly basis, the status or disposition of all~~
4 ~~complaints against, and investigations of, license holders.~~
5 ~~The Department shall, before refusing to issue or renew,~~
6 ~~suspending, revoking, or taking any other disciplinary action~~
7 ~~with respect to any license and at least 30 days before the~~
8 ~~date set for the hearing, notify in writing the licensee of any~~
9 ~~charges made and shall direct that person to file a written~~
10 ~~answer to the Board under oath within 20 days after the service~~
11 ~~of the notice and inform that person that failure to file an~~
12 ~~answer may result in default being taken and the person's~~
13 ~~license or certificate may be suspended, revoked, placed on~~
14 ~~probationary status, or other disciplinary action may be taken,~~
15 ~~including limiting the scope, nature or extent of practice, as~~
16 ~~the Secretary may deem proper. The Department shall afford the~~
17 ~~licensee an opportunity to be heard in person or by counsel in~~
18 ~~reference to the charges. Written notice may be served by~~
19 ~~personal delivery to the licensee or by mailing it by~~
20 ~~registered mail to the last known business address of licensee.~~
21 ~~In case the person fails to file an answer after receiving~~
22 ~~notice, his or her license or certificate may, in the~~
23 ~~discretion of the Department, be suspended, revoked, or placed~~
24 ~~on probationary status, or the Department may take whatever~~
25 ~~disciplinary action deemed proper, including limiting the~~
26 ~~scope, nature, or extent of the person's practice or the~~

1 ~~imposition of a fine, without a hearing, if the act or acts~~
2 ~~charged constitute sufficient grounds for such action under~~
3 ~~this Act. The hearing on the charges shall be at a time and~~
4 ~~place as the Department shall prescribe. The Department may~~
5 ~~appoint a hearing officer to conduct the hearing. The~~
6 ~~Department shall notify the Board of the time and place of the~~
7 ~~hearing and Board members shall be allowed to sit at the~~
8 ~~hearing.~~

9 The Department has the power to subpoena and bring before
10 it any person in this State, or take testimony of any person by
11 deposition, with the same fees and mileage, in the same manner
12 as prescribed by law in judicial proceedings in circuit courts
13 of this State in civil cases. The Secretary, the designated
14 hearing officer, and every member of the Board has the power to
15 administer oaths to witnesses at any hearing that the
16 Department is authorized to conduct, and any other oaths
17 authorized in any Act or Code administered by the Department.

18 If the Department determines that any licensee is guilty of a
19 violation of any of the provisions of this Code, disciplinary
20 action shall be taken against the licensee. The Department may
21 take disciplinary action without a formal hearing subject to
22 Section 10-70 of the Illinois Administrative Procedure Act.

23 The Secretary may summarily suspend the license of any
24 person licensed under this Code ~~Act~~ without a hearing,
25 simultaneously with the institution of proceedings for a
26 hearing provided for in this Section, if the Secretary finds

1 that evidence in the possession of the Secretary indicates that
2 the continuation of practice by the licensee would constitute
3 an imminent danger to the public. In the event that the
4 Secretary summarily suspends the license of an individual
5 without a hearing, a hearing must be held within 30 days after
6 the suspension has occurred and concluded as expeditiously as
7 practical.

8 (Source: P.A. 96-48, eff. 7-17-09.)

9 (225 ILCS 41/15-16 new)

10 (Section scheduled to be repealed on January 1, 2013)

11 Sec. 15-16. Appointment of a hearing officer. The Secretary
12 has the authority to appoint any attorney licensed to practice
13 law in the State of Illinois to serve as the hearing officer in
14 any action for refusal to issue, restore, or renew a license or
15 to discipline a licensee. The hearing officer has full
16 authority to conduct the hearing. A board member or members may
17 attend hearings. The hearing officer shall report his or her
18 findings of fact, conclusions of law, and recommendations to
19 the Board. The Board shall review the report of the hearing
20 officer and present its findings of fact, conclusions of law,
21 and recommendations to the Secretary and to all parties to the
22 proceeding.

23 If the Secretary disagrees with the recommendation of the
24 Board or of the hearing officer, then the Secretary may issue
25 an order in contravention of the recommendation.

1 (225 ILCS 41/15-17 new)

2 (Section scheduled to be repealed on January 1, 2013)

3 Sec. 15-17. Consent order. At any point in any
4 investigation or disciplinary proceeding provided for in this
5 Code, both parties may agree to a negotiated consent order. The
6 consent order shall be final upon signature of the Secretary.

7 (225 ILCS 41/15-20)

8 (Section scheduled to be repealed on January 1, 2013)

9 Sec. 15-20. Transcript; record of proceedings; ~~rehearing.~~
10 The Department, at its expense, shall ~~provide a stenographer to~~
11 ~~take down the testimony and~~ preserve a record of all
12 proceedings at the formal hearing of any case ~~where a license~~
13 ~~is revoked, suspended or subjected to any other disciplinary~~
14 ~~action.~~ The notice of hearing, complaint and all other
15 documents in the nature of pleadings and written motions filed
16 in the proceedings, the transcript of testimony, the report of
17 the Board and the orders of the Department shall be the record
18 of the proceedings. The Department shall furnish a transcript
19 of the record to any person interested in the hearing upon
20 payment of the actual cost of making the transcript.

21 ~~The record of all proceedings at the hearing shall be~~
22 ~~submitted for review to the Board, which shall present to the~~
23 ~~Director a written report of its findings and recommendations~~
24 ~~based solely upon the record. The report of findings and~~

1 ~~recommendations of the Board shall be the basis for the~~
2 ~~Department's order unless the Director determines that the~~
3 ~~Board findings and recommendations are contrary to the manifest~~
4 ~~weight of the evidence. A copy of that report and the~~
5 ~~Department's order shall be served upon the accused person,~~
6 ~~either personally, or by registered or certified mail to the~~
7 ~~address specified by the licensee in his last notification to~~
8 ~~the Director. Within 20 days after service, the accused person~~
9 ~~may present to the Department his or her motion in writing for~~
10 ~~a rehearing, which shall specify the particular grounds for~~
11 ~~rehearing. If the accused person orders and pays for a~~
12 ~~transcript of the record as provided in this Act, the time~~
13 ~~elapsing thereafter and before the transcript is ready for~~
14 ~~delivery shall not be counted as part of the 20 days.~~

15 ~~Whenever the Director is not satisfied that substantial~~
16 ~~justice has been done, he or she may order a rehearing by the~~
17 ~~same or another hearing officer. At the expiration of the time~~
18 ~~specified for filing a motion for a rehearing the Director~~
19 ~~shall have the right to take the action contained in the order.~~
20 ~~Upon the suspension or revocation of a license, the licensee~~
21 ~~shall be required to surrender the license to the Department,~~
22 ~~and upon failure or refusal to do so, the Department has the~~
23 ~~right to seize the license.~~

24 ~~At any time after the suspension or revocation of any~~
25 ~~license, the Department may restore it to the accused person~~
26 ~~without examination.~~

1 (Source: P.A. 87-966.)

2 (225 ILCS 41/15-21 new)

3 (Section scheduled to be repealed on January 1, 2013)

4 Sec. 15-21. Findings and recommendations. At the
5 conclusion of the hearing, the Board shall present to the
6 Secretary a written report of its findings of fact, conclusions
7 of law, and recommendations. The report shall contain a finding
8 whether or not the accused person violated this Code or its
9 rules or failed to comply with the conditions required in this
10 Code or its rules. The Board shall specify the nature of any
11 violations or failure to comply and shall make its
12 recommendations to the Secretary. In making recommendations
13 for any disciplinary actions, the Board may take into
14 consideration all facts and circumstances bearing upon the
15 reasonableness of the conduct of the accused and the potential
16 for future harm to the public, including, but not limited to,
17 previous discipline of the accused by the Department, intent,
18 degree of harm to the public and likelihood of harm in the
19 future, any restitution made by the accused, and whether the
20 incident or incidents contained in the complaint appear to be
21 isolated or represent a continuing pattern of conduct. In
22 making its recommendations for discipline, the Board shall
23 endeavor to ensure that the severity of the discipline
24 recommended is reasonably related to the severity of the
25 violation.

1 The report of findings of fact, conclusions of law, and
2 recommendation of the Board shall be the basis for the
3 Department's order refusing to issue, restore, or renew a
4 license, or otherwise discipline a licensee. If the Secretary
5 disagrees with the recommendations of the Board, then the
6 Secretary may issue an order in contravention of the Board
7 recommendations. The finding is not admissible in evidence
8 against the person in a criminal prosecution brought for a
9 violation of this Code, but the hearing and finding are not a
10 bar to a criminal prosecution brought for a violation of this
11 Code.

12 (225 ILCS 41/15-22 new)

13 (Section scheduled to be repealed on January 1, 2013)

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

1 Secretary may enter an order in accordance with recommendations
2 of the Board except as provided in Section 120 of this Code. If
3 the applicant or licensee orders from the reporting service and
4 pays for a transcript of the record within the time for filing
5 a motion for rehearing, the 20-day period within which a motion
6 may be filed shall commence upon the delivery of the transcript
7 to the applicant or licensee.

8 If the Secretary believes that substantial justice has not
9 been done in the revocation, suspension, or refusal to issue,
10 restore, or renew a license, or other discipline of an
11 applicant or licensee, then the Secretary may order a rehearing
12 by the same or other examiners.

13 (225 ILCS 41/15-30)

14 (Section scheduled to be repealed on January 1, 2013)

15 Sec. 15-30. Mental incompetence; suspension. The entry of a
16 judgment by any court of competent jurisdiction establishing
17 the mental incompetence of any person holding a license under
18 this Code ~~Act~~ operates as a suspension of that person's
19 license. The person may resume his or her practice only upon a
20 finding by a court of competent jurisdiction that the person
21 has recovered mental capacity.

22 (Source: P.A. 87-966.)

23 (225 ILCS 41/15-35)

24 (Section scheduled to be repealed on January 1, 2013)

1 Sec. 15-35. Administrative Review Law.

2 (a) All final administrative decisions of the Department
3 shall be subject to judicial review under the Administrative
4 Review Law and its rules. The term "administrative decision" is
5 defined as in Section 3-101 of the Code of Civil Procedure.

6 (b) Proceedings for judicial review shall be commenced in
7 the circuit court of the county in which the party applying for
8 review resides, but if the party is not a resident of Illinois,
9 then the venue shall be in Sangamon County.

10 (Source: P.A. 87-966.)

11 (225 ILCS 41/15-40)

12 (Section scheduled to be repealed on January 1, 2013)

13 Sec. 15-40. Certification of record; receipt. The
14 Department shall not be required to certify any record to the
15 court, to file an answer in court, ~~or file any answer in court~~
16 or to otherwise appear in any court in a judicial review
17 proceeding unless and until the Department has received from
18 the plaintiff payment of the costs of furnishing and certifying
19 the record, which costs shall be determined by the Department
20 ~~there is filed in the Court with the complaint a receipt from~~
21 ~~the Department acknowledging payment of the costs of furnishing~~
22 ~~and certifying the record.~~ Exhibits shall be certified without
23 cost. Failure on the part of the Plaintiff to file a receipt in
24 court shall be grounds for dismissal of the action.

25 (Source: P.A. 87-966.)

1 (225 ILCS 41/15-41 new)

2 (Section scheduled to be repealed on January 1, 2013)

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

7 (1) the signature is the genuine signature of the
8 Secretary;

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

10 (3) the hearing officer is qualified to act.

11 (225 ILCS 41/15-45)

12 (Section scheduled to be repealed on January 1, 2013)

13 Sec. 15-45. Practice without license; injunction; ~~cease~~
14 ~~and desist order~~; civil penalties.

15 (a) The practice of funeral directing and embalming or
16 funeral directing by any person who has not been issued a
17 license by the Department, whose license has been suspended or
18 revoked, or whose license has not been renewed is hereby
19 declared to be inimical to the public welfare and to constitute
20 a public nuisance. The Secretary ~~Director~~ of Financial and
21 Professional Regulation may, in the name of the People of the
22 State of Illinois through the Attorney General of the State of
23 Illinois, or the State's Attorney of any county in the State of
24 Illinois, apply for an injunction in the circuit court to

1 enjoin any person who has not been issued a license or whose
2 license has been suspended or revoked, or whose license has not
3 been renewed, from practicing funeral directing and embalming
4 or funeral directing. Upon the filing of a verified complaint
5 in court, the court, if satisfied by affidavit or otherwise
6 that the person is or has been practicing funeral directing and
7 embalming or funeral directing without having been issued a
8 license or after his or her license has been suspended,
9 revoked, or not renewed, may issue a temporary restraining
10 order or preliminary injunction, without notice or bond,
11 enjoining the defendant from further practicing funeral
12 directing and embalming or funeral directing. A copy of the
13 verified complaint shall be served upon the defendant and the
14 proceedings shall thereafter be conducted as in other civil
15 cases. If it is established that the defendant has been or is
16 practicing funeral directing and embalming or funeral
17 directing without having been issued a license or has been or
18 is practicing funeral directing and embalming or funeral
19 directing after his or her license has been suspended, revoked,
20 or not renewed, the court may enter a judgment perpetually
21 enjoining the defendant from further practicing funeral
22 directing and embalming or funeral directing. In case of
23 violation of any injunction entered under this Section, the
24 court may summarily try and punish the offender for contempt of
25 court. Any injunction proceeding shall be in addition to, and
26 not in lieu of, all penalties and other remedies in this Code.

1 (b) In addition to the other penalties and remedies
2 provided in this Code, the Department may bring a civil action
3 in the county in which the funeral establishment is located
4 against a licensee or any other person to enjoin any violation
5 or threatened violation of this Code. ~~Whenever, in the opinion~~
6 ~~of the Department, any person or other entity violates any~~
7 ~~provision of this Act, the Department may issue a notice to~~
8 ~~show cause why an order to cease and desist should not be~~
9 ~~entered against that person or other entity. The rule shall~~
10 ~~clearly set forth the grounds relied upon by the Department and~~
11 ~~shall provide a period of 7 days from the date of the rule to~~
12 ~~file an answer to the satisfaction of the Department. Failure~~
13 ~~to answer to the satisfaction of the Department shall cause an~~
14 ~~order to cease and desist to be issued immediately.~~

15 (c) ~~(1)~~ In addition to any other penalty provided by law,
16 any person, sole proprietorship, professional service
17 corporation, limited liability company, partnership, or other
18 entity that violates Section 1-15 or 1-20 of this Code Act
19 shall forfeit and pay to the General Professions Dedicated Fund
20 a civil penalty in an amount determined by the Department not
21 to exceed ~~of not more than~~ \$10,000 for each violation ~~offense~~.
22 The penalty shall be assessed in proceedings as provided in
23 Sections 15-10 through 15-40 of this Code Act.

24 (d) ~~(2)~~ Unless the amount of the penalty is paid within 60
25 days after the order becomes final, the order shall constitute
26 a judgment ~~judgement~~ and shall be filed and execution issued

1 thereon in the same manner as the judgment ~~judgement~~ of a court
2 of record.

3 (Source: P.A. 93-268, eff. 1-1-04.)

4 (225 ILCS 41/15-46 new)

5 (Section scheduled to be repealed on January 1, 2013)

6 Sec. 15-46. Cease and desist order.

7 (a) The Secretary may issue an order to cease and desist to
8 any licensee or other person doing business without the
9 required license when, in the opinion of the Secretary, the
10 licensee or other person is violating or is about to violate
11 any provision of this Code or any rule or requirement imposed
12 in writing by the Department.

13 (b) The Secretary may issue an order to cease and desist
14 prior to a hearing and such order shall be in full force and
15 effect until a final administrative order is entered.

16 (c) The Secretary shall serve notice of his or her action,
17 designated as an order to cease and desist made pursuant to
18 this Section, including a statement of the reasons for the
19 action, either personally or by certified mail, return receipt
20 requested. Service by certified mail shall be deemed completed
21 when the notice is deposited in the United States mail and sent
22 to the address of record or, in the case of unlicensed
23 activity, the address known to the Department.

24 (d) Within 15 days after service of the order to cease and
25 desist, the licensee or other person may request, in writing, a

1 hearing.

2 (e) The Secretary shall schedule a hearing within 30 days
3 after the request for a hearing unless otherwise agreed to by
4 the parties.

5 (f) The Secretary shall have the authority to prescribe
6 rules for the administration of this Section.

7 (g) If, after hearing, it is determined that the Secretary
8 has the authority to issue the order to cease and desist, he or
9 she may issue such orders as may be reasonably necessary to
10 correct, eliminate, or remedy such conduct.

11 (h) The powers vested in the Secretary by this Section are
12 in addition to any and all other powers and remedies vested in
13 the Secretary by law, and nothing in this Section shall be
14 construed as requiring that the Secretary employ the power
15 conferred in this Section instead of or as a condition
16 precedent to the exercise of any other power or remedy vested
17 in the Secretary.

18 (i) The cost for the administrative hearing shall be set by
19 rule.

20 (225 ILCS 41/15-50)

21 (Section scheduled to be repealed on January 1, 2013)

22 Sec. 15-50. Practice by corporation, partnership, or
23 association. No corporation, partnership or association of
24 individuals, as such, shall be issued a license as a licensed
25 funeral director and embalmer or licensed funeral director, nor

1 shall any corporation, partnership, firm or association of
2 individuals, or any individual connected therewith, publicly
3 advertise any corporation, partnership or association of
4 individuals as being licensed funeral directors and embalmers
5 or licensed funeral directors. Nevertheless, nothing in this
6 Code Act shall restrict licensees from forming professional
7 service corporations under the Professional Service
8 Corporation Act or from having these corporations registered
9 for the practice of funeral directing.

10 No licensee, and no partnership or association of
11 licensees, formed since July 1, 1935, shall engage in the
12 practice of funeral directing and embalming or funeral
13 directing under a trade name or partnership or firm name unless
14 in the use and advertising of the trade name, partnership or
15 firm name there is published in connection with the advertising
16 the name of the owner or owners as the owner or owners.

17 (Source: P.A. 87-966.)

18 (225 ILCS 41/15-55)

19 (Section scheduled to be repealed on January 1, 2013)

20 Sec. 15-55. Preparation room. The Department shall require
21 that each fixed place of practice or establishment devoted to
22 the care and preparation for burial or for transportation of
23 deceased human bodies maintain a preparation room properly
24 equipped with necessary drainage and ventilation facilities
25 and containing instruments and supplies necessary for the

1 preparation and embalming of deceased human bodies for burial
2 or transportation. Branch operations of main funeral
3 businesses having a preparation room and located in the State
4 of Illinois are exempt from the requirements of this Section.
5 The Department may adopt rules for all preparation room
6 equipment and facility requirements.

7 (Source: P.A. 93-268, eff. 1-1-04.)

8 (225 ILCS 41/15-65)

9 (Section scheduled to be repealed on January 1, 2013)

10 Sec. 15-65. Fees. The Department shall provide by rule for
11 a schedule of fees for the administration and enforcement of
12 this Code Act, including but not limited to original licensure,
13 renewal, and restoration. The fees shall be nonrefundable.

14 All fees collected under this Code Act shall be deposited
15 into the General Professions Dedicated Fund and shall be
16 appropriated to the Department for the ordinary and contingent
17 expenses of the Department in the administration of this Code
18 Act.

19 (Source: P.A. 91-454, eff. 1-1-00.)

20 (225 ILCS 41/15-70)

21 (Section scheduled to be repealed on January 1, 2013)

22 Sec. 15-70. Returned checks; fines. Any person who delivers
23 a check or other payment to the Department that is returned to
24 the Department unpaid by the financial institution upon which

1 it is drawn shall pay to the Department, in addition to the
2 amount already owed to the Department, a fine of \$50. The fines
3 imposed by this Section are in addition to any other discipline
4 provided under this Code Act for unlicensed practice or
5 practice on a nonrenewed license. The Department shall notify
6 the person that payment of fees and fines shall be paid to the
7 Department by certified check or money order within 30 calendar
8 days of the notification. If, after the expiration of 30 days
9 from the date of the notification, the person has failed to
10 submit the necessary remittance, the Department shall
11 automatically terminate the license or certificate or deny the
12 application, without hearing. If, after termination or denial,
13 the person seeks a license or certificate, he or she shall
14 apply to the Department for restoration or issuance of the
15 license or certificate and pay all fees and fines due to the
16 Department. The Department may establish a fee for the
17 processing of an application for restoration of a license or
18 certificate to pay all expenses of processing this application.
19 The Secretary Director may waive the fines due under this
20 Section in individual cases where the Secretary Director finds
21 that the fines would be unreasonable or unnecessarily
22 burdensome.

23 (Source: P.A. 92-146, eff. 1-1-02.)

24 (225 ILCS 41/15-71)

25 (Section scheduled to be repealed on January 1, 2013)

1 Sec. 15-71. Deposit of fees and fines. Beginning July 1,
2 1995, all of the fees and fines collected under this Code Act
3 shall be deposited into the General Professions Dedicated Fund.
4 (Source: P.A. 88-683, eff. 1-24-95.)

5 (225 ILCS 41/15-75)

6 (Section scheduled to be repealed on January 1, 2013)

7 Sec. 15-75. Violations; grounds for discipline; penalties.

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

12 (1) Practicing the profession of funeral directing and
13 embalming or funeral directing, or attempting to practice
14 the profession of funeral directing and embalming or
15 funeral directing without a license as a licensed funeral
16 director and embalmer or funeral director.

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

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

24 (4) Permitting any person in one's employ, under one's
25 control or in or under one's service to serve as a funeral

1 director and embalmer, funeral director, or funeral
2 director and embalmer intern when the person does not have
3 the appropriate license.

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

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

8 (b) The Department may refuse to issue or renew a license
9 or may revoke, suspend, place on probation, reprimand, or take
10 other disciplinary action as the Department may deem
11 appropriate, including imposing fines not to exceed \$10,000 for
12 each violation, with regard to any license under the Code for
13 any one or combination of the following: ~~Each of the following~~
14 ~~acts or actions is a violation of this Code for which the~~
15 ~~Department may refuse to issue or renew, or may suspend or~~
16 ~~revoke any license or may take any disciplinary action as the~~
17 ~~Department may deem proper including fines not to exceed \$1,000~~
18 ~~for each violation.~~

19 (1) Obtaining or attempting to obtain a license by
20 fraud or misrepresentation.

21 (2) Conviction in this State or another state of any
22 crime that is a felony or misdemeanor under the laws of
23 this State or conviction of a felony or misdemeanor in a
24 federal court.

25 (3) Violation of the laws of this State relating to the
26 funeral, burial or disposal of deceased human bodies or of

1 the rules and regulations of the Department, or the
2 Department of Public Health.

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

7 (5) Professional incompetence, gross malpractice,
8 ~~Incompetence~~ or untrustworthiness in the practice of
9 funeral directing and embalming or funeral directing.

10 (6) False or misleading advertising as a funeral
11 director and embalmer or funeral director, or advertising
12 or using the name of a person other than the holder of a
13 license in connection with any service being rendered in
14 the practice of funeral directing and embalming or funeral
15 directing. Nothing in this paragraph shall prevent
16 including the name of any owner, officer or corporate
17 director of a funeral business who is not a licensee in any
18 advertisement used by a funeral home with which the
19 individual is affiliated if the advertisement specifies
20 the individual's affiliation with the funeral home.

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

1 (8) Refusing, without cause, to surrender the custody
2 of a deceased human body upon the proper request of the
3 person or persons lawfully entitled to the custody of the
4 body.

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

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

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

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

21 (13) Continued practice by a person having an
22 infectious or contagious disease.

23 (14) Embalming or attempting to embalm a deceased human
24 body without express prior authorization of the person
25 responsible for making the funeral arrangements for the
26 body. This does not apply to cases where embalming is

1 directed by local authorities who have jurisdiction or when
2 embalming is required by State or local law.

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

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

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

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

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

19 (20) Taking possession of a dead human body without
20 having first obtained express permission from next of kin
21 or a public agency legally authorized to direct, control or
22 permit the removal of deceased human bodies.

23 (21) Advertising in a false or misleading manner or
24 advertising using the name of an unlicensed person in
25 connection with any service being rendered in the practice
26 of funeral directing or funeral directing and embalming.

1 The use of any name of an unlicensed or unregistered person
2 in an advertisement so as to imply that the person will
3 perform services is considered misleading advertising.
4 Nothing in this paragraph shall prevent including the name
5 of any owner, officer or corporate director of a funeral
6 home, who is not a licensee, in any advertisement used by a
7 funeral home with which the individual is affiliated, if
8 the advertisement specifies the individual's affiliation
9 with the funeral home.

10 (22) Directly or indirectly receiving compensation for
11 any professional services not actually performed.

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

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

18 (25) Knowingly making any false statements, oral or
19 otherwise, of a character likely to influence, persuade or
20 induce others in the course of performing professional
21 services or activities.

22 (26) Knowingly making or filing false records or
23 reports in the practice of funeral directing and embalming.

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

26 (28) Violations of this Code or of the rules adopted

1 pursuant to this Code.

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

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

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

11 (32) Directly or indirectly giving to or receiving from
12 any person, firm, corporation, partnership, or association
13 any fee, commission, rebate, or other form of compensation
14 for professional services not actually or personally
15 rendered.

16 (33) A finding by the Department that the licensee,
17 after having his or her license placed on probationary
18 status, has violated the terms of probation.

19 (34) Inability to practice the profession with
20 reasonable judgment, skill, or safety.

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

24 (36) A pattern of practice or other behavior that
25 demonstrates incapacity or incompetence to practice under
26 this Code.

1 (37) ~~(28)~~ Failing to comply with any of the following
2 required activities:

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

16 (B) A licensee shall clearly mark the price of any
17 casket offered for sale or the price of any service
18 using the casket on or in the casket if the casket is
19 displayed at the funeral establishment. If the casket
20 is displayed at any other location, regardless of
21 whether the licensee is in control of that location,
22 the casket shall be clearly marked and the registrant
23 shall use books, catalogues, brochures, or other
24 printed display aids to show the price of each casket
25 or service.

26 (C) At the time funeral arrangements are made and

1 prior to rendering the funeral services, a licensee
2 shall furnish a written statement of services to be
3 retained by the person or persons making the funeral
4 arrangements, signed by both parties, that shall
5 contain: (i) the name, address and telephone number of
6 the funeral establishment and the date on which the
7 arrangements were made; (ii) the price of the service
8 selected and the services and merchandise included for
9 that price; (iii) a clear disclosure that the person or
10 persons making the arrangement may decline and receive
11 credit for any service or merchandise not desired and
12 not required by law or the funeral director or the
13 funeral director and embalmer; (iv) the supplemental
14 items of service and merchandise requested and the
15 price of each item; (v) the terms or method of payment
16 agreed upon; and (vi) a statement as to any monetary
17 advances made by the registrant on behalf of the
18 family. The licensee shall maintain a copy of the
19 written statement of services in its permanent
20 records. All written statements of services are
21 subject to inspection by the Department.

22 (D) In all instances where the place of final
23 disposition of a deceased human body or the cremated
24 remains of a deceased human body is a cemetery, the
25 licensed funeral director and embalmer, or licensed
26 funeral director, who has been engaged to provide

1 funeral or embalming services shall remain at the
2 cemetery and personally witness the burial of the
3 deceased human body or the cremated remains of the
4 deceased human body or the sealing of the above ground
5 depository, crypt, or urn. If the cemetery authority,
6 cemetery manager, or any other agent of the cemetery
7 takes any action that prevents compliance with this
8 paragraph (D), then the funeral director and embalmer
9 or funeral director shall provide written notice to the
10 Department within 5 business days after failing to
11 comply. If the Department receives this notice, then
12 the Department shall not take any disciplinary action
13 against the funeral director and embalmer or funeral
14 director for a violation of this paragraph (D) unless
15 the Department finds that the cemetery authority,
16 manager, or any other agent of the cemetery did not
17 prevent the funeral director and embalmer or funeral
18 director from complying with this paragraph (D) as
19 claimed in the written notice.

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

1 information correct the Certificate of Death.

2 (38) ~~(29)~~ A finding by the Department that the license,
3 after having his or her license placed on probationary
4 status or subjected to conditions or restrictions,
5 violated the terms of the probation or failed to comply
6 with such terms or conditions.

7 (39) ~~(30)~~ Violation of any final administrative action
8 of the Secretary ~~Director~~.

9 (40) ~~(31)~~ Being named as a perpetrator in an indicated
10 report by the Department of Children and Family Services
11 pursuant to the Abused and Neglected Child Reporting Act
12 and, upon proof by clear and convincing evidence, being
13 found to have caused a child to be an abused child or
14 neglected child as defined in the Abused and Neglected
15 Child Reporting Act.

16 (c) The Department may refuse to issue or renew, or may
17 suspend, the license of any person who fails to file a return,
18 to pay the tax, penalty or interest shown in a filed return, or
19 to pay any final assessment of tax, penalty or interest as
20 required by any tax Act administered by the Illinois Department
21 of Revenue, until the time as the requirements of the tax Act
22 are satisfied.

23 (d) No action may be taken under this Code against a person
24 licensed under this Code unless the action is commenced within
25 5 years after the occurrence of the alleged violations. A
26 continuing violation shall be deemed to have occurred on the

1 date when the circumstances last existed that give rise to the
2 alleged violation.

3 (Source: P.A. 93-268, eff. 1-1-04.)

4 (225 ILCS 41/15-76 new)

5 (Section scheduled to be repealed on January 1, 2013)

6 Sec. 15-76. Method of payment, receipt. No licensee shall
7 require payment for any goods or services by cash only. Each
8 licensee subject to this Section shall permit payment by at
9 least one other option, including, but not limited to, personal
10 check, cashier's check, money order, or credit or debit card.
11 In addition to the statement of services for the sale of
12 funeral goods and services, the licensee shall provide a
13 receipt to the consumer upon payment in part or in full,
14 whatever the case may be.

15 (225 ILCS 41/15-85)

16 (Section scheduled to be repealed on January 1, 2013)

17 Sec. 15-85. Duties of public institution; regulation by
18 local government. No provision of this Code shall apply to, or
19 in any way interfere with, the duties of any officer of any
20 public institution; nor with the duties of any officer of a
21 medical college, county medical society, anatomical
22 association, college of embalming, or any other recognized
23 person carrying out the laws of the State of Illinois
24 prescribing the conditions under which indigent dead human

1 bodies are held subject for scientific or anatomical study; nor
2 with the customs or rites of any religious sect in the burial
3 of their dead.

4 ~~Nothing in this Code shall have the effect of limiting the~~
5 ~~power of cities and villages to tax, license and regulate~~
6 ~~funeral directors, undertakers and undertaking establishments~~
7 ~~as may be authorized from time to time by general law.~~

8 (Source: P.A. 87-966.)

9 (225 ILCS 41/15-100 new)

10 (Section scheduled to be repealed on January 1, 2013)

11 Sec. 15-100. Conflict of interest. No investigator may hold
12 an active license issued pursuant to this Code, nor may an
13 investigator have a financial interest in a business licensed
14 under this Code. Any individual licensed under this Code who is
15 employed by the Department shall surrender his or her license
16 to the Department for the duration of that employment. The
17 licensee shall be exempt from all renewal fees while employed
18 by the Department.

19 (225 ILCS 41/15-105 new)

20 (Section scheduled to be repealed on January 1, 2013)

21 Sec. 15-105. Civil Administrative Code. The Department
22 shall exercise the powers and duties prescribed by the Civil
23 Administrative Code of Illinois and shall exercise all other
24 powers and duties set forth in this Code.

1 (225 ILCS 41/15-110 new)

2 (Section scheduled to be repealed on January 1, 2013)

3 Sec. 15-110. Rules. The Department may adopt rules for the
4 administration and enforcement of this Code. The rules shall
5 include standards for licensure, professional conduct, and
6 discipline.

7 (225 ILCS 41/20-15)

8 (Section scheduled to be repealed on January 1, 2013)

9 Sec. 20-15. Home rule; ~~mandates.~~ The regulation and
10 licensing provided for in this Code are exclusive powers and
11 functions of the State. A home rule unit may not regulate or
12 license cemetery authorities, cemetery managers, customer
13 service employees, registered cemetery employees, or any
14 activities relating to the operation of a cemetery. This
15 Section is a denial and limitation of home rule powers and
16 functions under subsection (h) of Section 6 of Article VII of
17 the Illinois Constitution. ~~Nothing in this Code as initially~~
18 ~~enacted (i) is a denial or limitation on home rule powers where~~
19 ~~no denial or limitation existed under prior law or (ii) creates~~
20 ~~a State mandate under the State Mandates Act where no mandate~~
21 ~~existed under prior law.~~

22 (Source: P.A. 87-966.)

23 (225 ILCS 41/30-1)

1 (Section scheduled to be repealed on January 1, 2013)

2 Sec. 30-1. This Code Act takes effect January 1, 1993.

3 (Source: P.A. 87-966.)

4 Section 99. Effective date. This Act takes effect upon

5 becoming law.

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