



Rep. Dan Reitz

Filed: 3/23/2010

09600HB6420ham001

LRB096 21048 ASK 39552 a

1 AMENDMENT TO HOUSE BILL 6420

2 AMENDMENT NO. _____. Amend House Bill 6420 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Funeral Directors and Embalmers Licensing
5 Code is amended by changing Sections 1-10, 1-15, 1-20, 5-10,
6 5-15, 10-25, 10-30, 10-35, 15-5, 15-10, 15-15, 15-20, 15-30,
7 15-35, 15-40, 15-45, 15-55, 15-65, 15-70, 15-75, 15-85, and
8 20-15 and by adding Sections 1-30, 5-7, 10-7, 15-16, 15-17,
9 15-21, 15-22, 15-41, 15-46, 15-77, 15-91, 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12 (Section scheduled to be repealed on January 1, 2013)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.

1 "Applicant" means any person making application for a
2 license or certificate of registration. Any applicant or any
3 person who holds himself out as an applicant is considered a
4 licensee for purposes of enforcement, investigation, hearings,
5 and the Illinois Administrative Procedure Act.

6 "Board" means the Funeral Directors and Embalmers
7 Licensing and Disciplinary ~~disciplinary~~ Board.

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

10 ~~"Customer service employee" means a funeral establishment,~~
11 ~~funeral chapel, funeral home, or mortuary employee who has~~
12 ~~direct contact with consumers and explains funeral or burial~~
13 ~~merchandise or services or negotiates, develops, or finalizes~~
14 ~~contracts with consumers. This definition includes, without~~
15 ~~limitation, an individual that is an independent contractor or~~
16 ~~an individual employed or contracted by an independent~~
17 ~~contractor who has direct contact with consumers and explains~~
18 ~~funeral or burial merchandise or services or negotiates,~~
19 ~~develops, or finalizes contracts with consumers. This~~
20 ~~definition does not include a funeral establishment, funeral~~
21 ~~chapel, funeral home, or mortuary employee, an individual who~~
22 ~~is an independent contractor, or an individual employed or~~
23 ~~contracted by an independent contractor who merely provides a~~
24 ~~printed price list to a consumer, processes payment from a~~
25 ~~consumer, or performs sales functions related solely to~~
26 ~~incidental merchandise like flowers, keepsakes, memorial~~

1 ~~tributes, or other similar items.~~

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

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

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

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

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

25 "Funeral director" means a person, known by the title of
26 "funeral director" or other similar words or titles, licensed

1 by the State who practices funeral directing.

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

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

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

19 "Person" means any individual, partnership, association,
20 firm, corporation, trust or estate, or other entity. "Person"
21 includes both natural persons and legal entities.

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

24 (Source: P.A. 96-863, eff. 3-1-10.)

25 (225 ILCS 41/1-15)

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

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

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

15 (b) The practice of operating a place for preparing for
16 the disposition of deceased human bodies or for caring for
17 deceased human bodies before their disposition. Nothing in
18 this Code shall prohibit the ownership and management of
19 such a place by an unlicensed owner if the place is
20 operated in accordance with this Code and the unlicensed
21 owner does not engage in any form of funeral directing.

22 (c) The removal of a deceased human body from its place
23 of death, institution, or other location. A licensed
24 funeral director and embalmer intern may remove a deceased
25 human body from its place of death, institution, or other
26 location without another licensee being present. The

1 licensed funeral director may engage others who are not
2 licensed funeral directors, licensed funeral director and
3 embalmers, or licensed funeral director and embalmer
4 interns to assist in the removal if the funeral director
5 directs and instructs them in handling and precautionary
6 procedures and accompanies them on all calls. The
7 transportation of deceased human remains to a cemetery,
8 crematory or other place of final disposition shall be
9 under the immediate direct supervision of a licensee unless
10 otherwise permitted by this Section. The transportation of
11 deceased human remains that are embalmed or otherwise
12 prepared and enclosed in an appropriate container to some
13 other place that is not the place of final disposition,
14 such as another funeral home or common carrier, or to a
15 facility that shares common ownership with the
16 transporting funeral home may be performed under the
17 general supervision of a licensee, but the supervision need
18 not be immediate or direct.

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

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

26 (f) Using in connection with a name or practice the

1 word "funeral director" τ ⊥ "undertaker" τ ⊥ "mortician" τ ⊥
2 "funeral home" τ ⊥ "funeral parlor" τ ⊥ "funeral chapel" τ ⊥ or
3 any other title implying that the person is engaged in the
4 practice of funeral directing.

5 (g) Having direct contact with consumers and
6 explaining funeral or burial merchandise or services.

7 (h) Negotiating, developing, or finalizing contracts
8 with consumers.

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

15 The making of funeral arrangements, at need, shall be done
16 only by licensed funeral directors or licensed funeral
17 directors and embalmers. Licensed funeral director and
18 embalmer interns may, however, assist or participate in the
19 arrangements under the direct supervision of a licensed funeral
20 director or licensed funeral director and embalmer.

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

22 (225 ILCS 41/1-20)

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

24 Sec. 1-20. Funeral directing and embalming; definition.

25 "The practice of funeral directing and embalming" means:

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

9 (b) The practice of operating a place for preparing for
10 the disposition of deceased human bodies or for caring for
11 deceased human bodies before their disposition. Nothing in
12 this Code shall prohibit the ownership and management of
13 such a place by an unlicensed owner if the place is
14 operated in accordance with this Code and the unlicensed
15 owner does not engage in any form of funeral directing and
16 embalming.

17 (c) The removal of a deceased human body from its place
18 of death, institution or other location. A licensed funeral
19 director and embalmer intern may remove a deceased human
20 body from its place of death, institution, or other
21 location without another licensee being present. The
22 licensed funeral director and embalmer may engage others
23 who are not licensed funeral directors and embalmers, l
24 icensed funeral directors, or icensed funeral director
25 and embalmer interns to assist in the removal if the
26 funeral director and embalmer directs and instructs them in

1 handling and precautionary procedures and accompanies them
2 on all calls. The transportation of deceased human remains
3 to a cemetery, crematory or other place of final
4 disposition shall be under the immediate, direct
5 supervision of a licensee unless otherwise permitted by
6 this Section. The transportation of deceased human remains
7 that are embalmed or otherwise prepared and enclosed in an
8 appropriate container to some other place that is not the
9 place of final disposition, such as another funeral home or
10 common carrier, or to a facility that shares common
11 ownership with the transporting funeral home may be
12 performed under the general supervision of a licensee, but
13 the supervision need not be immediate or direct.

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

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

21 (f) Using in connection with a name or practice the
22 word "funeral director and embalmer", "embalmer", "funeral
23 director", "undertaker", "mortician", "funeral home",
24 "funeral parlor", "funeral chapel", or any other title
25 implying that the person is engaged in the practice of
26 funeral directing and embalming.

1 (g) The embalming or representing or holding out
2 oneself as engaged in the practice of embalming of deceased
3 human bodies or the transportation of human bodies deceased
4 of a contagious or infectious disease.

5 (h) Having direct contact with consumers and
6 explaining funeral or burial merchandise or services.

7 (i) Negotiating, developing, or finalizing contracts
8 with consumers.

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

15 The making of funeral arrangements, at need, shall be done
16 only by licensed funeral directors or licensed funeral
17 directors and embalmers. Licensed funeral director and
18 embalmer interns may, however, assist or participate in the
19 arrangements under the direct supervision of a licensed funeral
20 director or licensed funeral director and embalmer.

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

22 (225 ILCS 41/1-30 new)

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

24 Sec. 1-30. Powers of the Department. Subject to the
25 provisions of this Code, the Department may exercise the

1 following powers:

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

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

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

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

16 (5) To adopt rules required for the administration of this
17 Code.

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

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

26 (8) To contract with third parties for services necessary

1 for the proper administration of this Code including, without
2 limitation, investigators with the proper knowledge, training,
3 and skills to properly inspect funeral homes and investigate
4 complaints under this Code.

5 (225 ILCS 41/5-7 new)

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

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

12 (225 ILCS 41/5-10)

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

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

23 (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 United States Army, ~~of the United States, the United States~~
20 Navy, ~~the~~ Marine Corps, ~~the~~ Air Force, or ~~the~~ Coast Guard, or
21 the State Militia called into the service or training of the
22 United States of America or (2) in training or education under
23 the supervision of the United States preliminary to induction
24 into the military service may have his or her license restored
25 without paying any lapsed renewal fees or restoration fee or
26 without passing any examination if, within 2 years after

1 termination of the service, training or education other than by
2 dishonorable discharge, he or she furnishes the Department with
3 an affidavit to the effect that he or she has been so engaged
4 and that his or her service, training or education has been so
5 terminated.

6 In addition to any other requirement for renewal of a
7 license or reinstatement or restoration of an expired license,
8 as a condition for the renewal, ~~or~~ reinstatement, or
9 restoration of a license as a licensed funeral director, each
10 licensee shall provide evidence to the Department of completion
11 of at least 12 hours of continuing education during the 24
12 months preceding the expiration date of the license, or in the
13 case of reinstatement or restoration, during the 24 months
14 preceding application for reinstatement or restoration. The
15 continuing education sponsors shall be approved by the Board.
16 In addition, any qualified continuing education course for
17 funeral directors offered by a college, university, the
18 Illinois Funeral Directors Association, Funeral Directors
19 Services Association of Greater Chicago, Cook County
20 Association of Funeral Home Owners, Inc., Illinois Selected
21 Morticians Association, Inc., Illinois Cemetery and Funeral
22 Home Association, National Funeral Directors Association,
23 Selected Independent Funeral Homes, National Funeral Directors
24 and 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 A person who is licensed as a funeral director under this
11 Code 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 or
3 reinstate the license to active status. Any licensee requesting
4 restoration or reinstatement from inactive status shall notify
5 the Department as provided by rule of the Department and pay
6 the fee required by the Department for restoration or
7 reinstatement of the license. Any licensee whose license is on
8 inactive status shall not practice in the State 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 41/10-7 new)

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

15 Sec. 10-7. Address of record. It is the duty of the
16 applicant or licensee to inform the Department of any change of
17 address within 14 days after the change of address, either
18 through the Department's website or by contacting the
19 Department's licensure maintenance unit.

20 (225 ILCS 41/10-25)

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

22 Sec. 10-25. Examinations. The Department shall authorize
23 and hold examinations of applicants for licenses as licensed
24 funeral directors and embalmers. The examination may include

1 both practical demonstrations and written and oral tests and
2 shall embrace the subjects of anatomy, sanitary science, health
3 regulations in relation to the handling of deceased human
4 bodies, measures used by funeral directors and embalmers for
5 the prevention of the spread of diseases, the care,
6 preservation, embalming, transportation, and burial of dead
7 human bodies, and other subjects relating to the care and
8 handling of deceased human bodies as set forth in this Article
9 and as the Department by rule may prescribe.

10 Whenever the Secretary ~~Director~~ is not satisfied that
11 substantial justice has been done in an examination, the
12 Secretary ~~Director~~ may order a reexamination.

13 If an applicant neglects, fails without an approved excuse
14 or refuses to take the next available examination offered for
15 licensure under this Code, the fee paid by the applicant shall
16 be forfeited to the Department and the application denied. If
17 an applicant fails to pass an examination for licensure under
18 this Code within 3 years after filing an application, the
19 application shall be denied. However, the applicant may
20 thereafter make a new application for examination which shall
21 be accompanied by the required fee.

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

23 (225 ILCS 41/10-30)

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

25 Sec. 10-30. Issuance, display of license. Whenever an

1 applicant has met the requirements of this Code, the Department
2 shall issue to the applicant a license as a licensed funeral
3 director and embalmer or licensed funeral director and embalmer
4 intern, as the case may be.

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

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

15 (225 ILCS 41/10-35)

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

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

1 reinstated within 5 years from the date of expiration upon
2 payment of the required reinstatement fee and fulfilling the
3 requirements of the Department's rules. The reinstatement of
4 the license is effective as of the date of the reissuance of
5 the license.

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

26 No license of a funeral director and embalmer intern shall

1 be renewed more than twice.

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

25 The Department shall establish by rule a means for
26 verification of completion of the continuing education

1 required by this Section. This verification may be accomplished
2 through audits of records maintained by licensees, by requiring
3 the filing of continued education certificates with the
4 Department or a qualified organization selected by the
5 Department to maintain the records, or by other means
6 established by the Department.

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

20 Any funeral director and embalmer who notifies the
21 Department in writing on forms prescribed by the Department,
22 may elect to place his or her license on an inactive status and
23 shall, subject to rules of the Department, be excused from
24 payment of renewal fees and completion of continuing education
25 requirements until he or she notifies the Department in writing
26 of an intent to restore or reinstate the license to active

1 status. While on inactive status, the licensee shall only be
2 required to pay a single fee, established by the Department, to
3 have the license placed on inactive status. Any licensee
4 requesting restoration or reinstatement from inactive status
5 shall notify the Department as provided by rule of the
6 Department and pay the fee required by the Department for
7 restoration or reinstatement of the license. Any licensee whose
8 license is on inactive status shall not practice in the State
9 of Illinois.

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

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

14 (225 ILCS 41/15-5) (from Ch. 111, par. 2825)

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

16 Sec. 15-5. Funeral Directors and Embalmers Licensing and
17 Disciplinary Board. A Funeral Directors and Embalmers
18 Licensing and Disciplinary Board is created and shall consist
19 of 7 persons, 6 of whom are licensed to practice funeral
20 directing and embalming in this State, and one who is a
21 knowledgeable public member. Each member shall be appointed by
22 the Secretary Director of the Department. The persons so
23 appointed shall hold their offices for 4 years and until a
24 qualified successors are ~~successor is~~ appointed. All vacancies
25 occurring shall be filled by the Secretary Director for the

1 unexpired portion of the term rendered vacant. No member shall
2 be eligible to serve for more than 2 full consecutive terms.
3 The Secretary may remove any member of the Board for reasons
4 prescribed by law for removal of State officials or for
5 misconduct, incompetence, neglect of duty, or failing to attend
6 2 consecutive Board meetings. ~~Any appointee may be removed by~~
7 ~~the Director when in his or her discretion he or she finds~~
8 ~~removal to be in the public interest.~~ The cause for removal
9 must be set forth in writing. The Board shall annually select a
10 chairman from its membership. The members of the Board shall be
11 reimbursed for all legitimate and necessary expenses incurred
12 in attending meetings of the Board. The Board may meet as often
13 as necessary to perform its duties under this Code, and shall
14 meet at least once a year in Springfield, Illinois.

15 Four members of the Board shall constitute a quorum. A
16 quorum is required for Board decisions.

17 The Department shall consider the recommendation of the
18 Board in the development of proposed rules under this Code.
19 Notice of any proposed rulemaking under this Code shall be
20 transmitted to the Board and the Department shall review the
21 response of the Board and any recommendations relating to that
22 rulemaking.

23 ~~The Department may seek the advice and recommendations of~~
24 ~~the Board on any matter relating to the administration and~~
25 ~~enforcement of this Code.~~

26 The Department shall seek the advice and recommendations of

1 the Board in connection with any rulemaking or disciplinary
2 actions relating to funeral director and embalmers and funeral
3 director and embalmer interns, including applications for
4 restoration of revoked licenses. The Board shall have 60 days
5 to respond to a Department request for advice and
6 recommendations. ~~If the Department fails to adopt, in whole or~~
7 ~~in part, a Board recommendation in connection with any~~
8 ~~rulemaking or disciplinary action, it shall provide a written~~
9 ~~explanation of its specific reasons for not adopting the Board~~
10 ~~recommendation. The written explanations shall be made~~
11 ~~available for public inspection.~~

12 The Department shall adopt all necessary and reasonable
13 rules and regulations for the effective administration of this
14 Code, and without limiting the foregoing, the Department shall
15 adopt rules and regulations:

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

17 (2) defining what shall constitute a school, college,
18 university, department of a university or other
19 institution to determine the reputability and good
20 standing of these institutions by reference to a compliance
21 with the rules and regulations; however, no school,
22 college, university, department of a university or other
23 institution that refuses admittance to applicants, solely
24 on account of race, color, creed, sex or national origin
25 shall be considered reputable and in good standing;

26 (3) establishing expiration dates and renewal periods

1 for all licenses;

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

5 (5) providing for licensure by reciprocity.

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

7 (225 ILCS 41/15-10)

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

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

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

22 (225 ILCS 41/15-15)

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

24 Sec. 15-15. Complaints; investigations; hearings; summary

1 suspension of license. The Department may investigate the
2 actions of any applicant or of any person or persons rendering
3 or offering to render services or any person holding or
4 claiming to hold a license under this Code.

5 The Department shall, before revoking, suspending, placing
6 on probation, reprimanding, or taking any other disciplinary
7 action, at least 30 days before the date set for the hearing,
8 (i) notify the accused in writing of the charges made and the
9 time and place for the hearing on the charges, (ii) direct him
10 or her to file a written answer to the charges under oath
11 within 20 days after the service on him or her of the notice,
12 and (iii) inform the accused that, if he or she fails to
13 answer, default will be taken against him or her or that his or
14 her license may be suspended, revoked, or placed on
15 probationary status, or other disciplinary action taken with
16 regard to the license, including limiting the scope, nature, or
17 extent of his or her practice, as the Department may consider
18 proper.

19 At the time and place fixed in the notice, the Department
20 shall proceed to hear the charges and the parties or their
21 counsel shall be accorded ample opportunity to present any
22 pertinent statements, testimony, evidence, and arguments. The
23 Department may continue the hearing from time to time. In case
24 the person, after receiving the notice, fails to file an
25 answer, his or her license may, in the discretion of the
26 Department, be suspended, revoked, or placed on probationary

1 status, or the Department may take whatever disciplinary action
2 it considers proper, including limiting the scope, nature, or
3 extent of the person's practice or the imposition of a fine,
4 without a hearing, if the act or acts charged constitute
5 sufficient grounds for that action under this Code. The written
6 notice may be served by personal delivery or by certified mail
7 to the address specified by the accused in his or her last
8 notification with the Department.

9 ~~The Department shall conduct regular inspections of all funeral~~
10 ~~establishments to determine compliance with the provisions of~~
11 ~~this Code. The Department may upon its own motion and shall~~
12 ~~upon the verified complaint in writing of any person setting~~
13 ~~forth facts that if proved would constitute grounds for~~
14 ~~refusal, suspension, revocation, or other disciplinary action~~
15 ~~investigate the action of any person holding or claiming to~~
16 ~~hold a license under this Code. The Department shall report to~~
17 ~~the Board, on at least a quarterly basis, the status or~~
18 ~~disposition of all complaints against, and investigations of,~~
19 ~~license holders. The Department shall, before refusing to issue~~
20 ~~or renew, suspending, revoking, or taking any other~~
21 ~~disciplinary action with respect to any license and at least 30~~
22 ~~days before the date set for the hearing, notify in writing the~~
23 ~~licensee of any charges made and shall direct that person to~~
24 ~~file a written answer to the Board under oath within 20 days~~
25 ~~after the service of the notice and inform that person that~~
26 ~~failure to file an answer may result in default being taken and~~

1 ~~the person's license or certificate may be suspended, revoked,~~
2 ~~placed on probationary status, or other disciplinary action may~~
3 ~~be taken, including limiting the scope, nature or extent of~~
4 ~~practice, as the Secretary may deem proper. The Department~~
5 ~~shall afford the licensee an opportunity to be heard in person~~
6 ~~or by counsel in reference to the charges. Written notice may~~
7 ~~be served by personal delivery to the licensee or by mailing it~~
8 ~~by registered mail to the last known business address of~~
9 ~~licensee. In case the person fails to file an answer after~~
10 ~~receiving notice, his or her license or certificate may, in the~~
11 ~~discretion of the Department, be suspended, revoked, or placed~~
12 ~~on probationary status, or the Department may take whatever~~
13 ~~disciplinary action deemed proper, including limiting the~~
14 ~~scope, nature, or extent of the person's practice or the~~
15 ~~imposition of a fine, without a hearing, if the act or acts~~
16 ~~charged constitute sufficient grounds for such action under~~
17 ~~this Act. The hearing on the charges shall be at a time and~~
18 ~~place as the Department shall prescribe. The Department may~~
19 ~~appoint a hearing officer to conduct the hearing. The~~
20 ~~Department shall notify the Board of the time and place of the~~
21 ~~hearing and Board members shall be allowed to sit at the~~
22 ~~hearing.~~

23 The Department has the power to subpoena and bring before
24 it any person to take oral or written testimony and to compel
25 the production of any books, papers, records, or other
26 documents that the Secretary or his or her designee deems

1 relevant or material to any investigation or hearing conducted
2 by the Department, with the same fees and in the same manner as
3 prescribed in civil cases. The Secretary, the designated
4 hearing officer, and every member of the Board has the power to
5 administer oaths to witnesses at any hearing that the
6 Department is authorized to conduct, and any other oaths
7 authorized in any Act or Code administered by the Department in
8 ~~this State, or take testimony of any person by deposition, with~~
9 ~~the same fees and mileage, in the same manner as prescribed by~~
10 ~~law in judicial proceedings in circuit courts of this State in~~
11 ~~civil cases.~~

12 If the Department determines that any licensee is guilty of
13 a violation of any of the provisions of this Code, disciplinary
14 action shall be taken against the licensee. The Department may
15 take disciplinary action without a formal hearing subject to
16 Section 10-70 of the Illinois Administrative Procedure Act.

17 The Secretary may summarily suspend the license of any
18 person licensed under this Code ~~Act~~ without a hearing,
19 simultaneously with the institution of proceedings for a
20 hearing provided for in this Section, if the Secretary finds
21 that evidence in the possession of the Secretary indicates that
22 the continuation of practice by the licensee would constitute
23 an imminent danger to the public. In the event that the
24 Secretary summarily suspends the license of an individual
25 without a hearing, a hearing must be held within 30 days after
26 the suspension has occurred and concluded as expeditiously as

1 practical.

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

3 (225 ILCS 41/15-16 new)

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

5 Sec. 15-16. Appointment of a hearing officer. The Secretary
6 has the authority to appoint any attorney licensed to practice
7 law in the State of Illinois to serve as the hearing officer in
8 any action for refusal to issue, restore, or renew a license or
9 to discipline a licensee. The hearing officer has full
10 authority to conduct the hearing. Any Board member may attend
11 hearings.

12 (225 ILCS 41/15-17 new)

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

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

18 (225 ILCS 41/15-20)

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

20 Sec. 15-20. Transcript; record of proceedings; rehearing.
21 The Department, at its expense, shall ~~provide a stenographer to~~
22 ~~take down the testimony and~~ preserve a record of all
23 proceedings at the formal hearing of any case ~~where a license~~

1 ~~is revoked, suspended or subjected to any other disciplinary~~
2 ~~action.~~ The notice of hearing, complaint and all other
3 documents in the nature of pleadings and written motions filed
4 in the proceedings, the transcript of testimony, the report of
5 the Board or hearing officer, and the orders of the Department
6 shall be the record of the proceedings. The Department shall
7 furnish a transcript of the record to any person interested in
8 the hearing upon payment of the actual cost of making the
9 transcript.

10 ~~The record of all proceedings at the hearing shall be~~
11 ~~submitted for review to the Board, which shall present to the~~
12 ~~Director a written report of its findings and recommendations~~
13 ~~based solely upon the record. The report of findings and~~
14 ~~recommendations of the Board shall be the basis for the~~
15 ~~Department's order unless the Director determines that the~~
16 ~~Board findings and recommendations are contrary to the manifest~~
17 ~~weight of the evidence. A copy of that report and the~~
18 ~~Department's order shall be served upon the accused person,~~
19 ~~either personally, or by registered or certified mail to the~~
20 ~~address specified by the licensee in his last notification to~~
21 ~~the Director. Within 20 days after service, the accused person~~
22 ~~may present to the Department his or her motion in writing for~~
23 ~~a rehearing, which shall specify the particular grounds for~~
24 ~~rehearing. If the accused person orders and pays for a~~
25 ~~transcript of the record as provided in this Act, the time~~
26 ~~elapsing thereafter and before the transcript is ready for~~

1 ~~delivery shall not be counted as part of the 20 days.~~

2 ~~Whenever the Director is not satisfied that substantial~~
3 ~~justice has been done, he or she may order a rehearing by the~~
4 ~~same or another hearing officer. At the expiration of the time~~
5 ~~specified for filing a motion for a rehearing the Director~~
6 ~~shall have the right to take the action contained in the order.~~
7 ~~Upon the suspension or revocation of a license, the licensee~~
8 ~~shall be required to surrender the license to the Department,~~
9 ~~and upon failure or refusal to do so, the Department has the~~
10 ~~right to seize the license.~~

11 ~~At any time after the suspension or revocation of any~~
12 ~~license, the Department may restore it to the accused person~~
13 ~~without examination.~~

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

15 (225 ILCS 41/15-21 new)

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

17 Sec. 15-21. Findings and recommendations. At the
18 conclusion of the hearing, the Board shall present to the
19 Secretary a written report of its findings of fact, conclusions
20 of law, and recommendations. The report shall contain a finding
21 of whether or not the accused person violated this Code or its
22 rules or failed to comply with the conditions required in this
23 Code or its rules. The Board shall specify the nature of any
24 violations or failure to comply and shall make its
25 recommendations to the Secretary. In making recommendations

1 for any disciplinary action, the Board may take into
2 consideration all facts and circumstances bearing upon the
3 reasonableness of the conduct of the accused and the potential
4 for future harm to the public, including, but not limited to,
5 previous discipline of the accused by the Department, intent,
6 degree of harm to the public and likelihood of harm in the
7 future, any restitution made by the accused, and whether the
8 incident or incidents contained in the complaint appear to be
9 isolated or represent a continuing pattern of conduct. In
10 making its recommendations for discipline, the Board shall
11 endeavor to ensure that the severity of the discipline
12 recommended is reasonably related to the severity of the
13 violation.

14 The report of findings of fact, conclusions of law, and
15 recommendation of the Board or hearing officer shall be the
16 basis for the Department's order refusing to issue, restore, or
17 renew a license, or otherwise disciplining a licensee. If the
18 Secretary disagrees with the recommendations of the Board or
19 hearing officer, the Secretary may issue an order in
20 contravention of the Board or hearing officer's
21 recommendations. The finding is not admissible in evidence
22 against the person in a criminal prosecution brought for a
23 violation of this Code, but the hearing and finding are not a
24 bar to a criminal prosecution brought for a violation of this
25 Code.

1 (225 ILCS 41/15-22 new)

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

3 Sec. 15-22. Rehearing. At the conclusion of the hearing, a
4 copy of the Board or hearing officer's report shall be served
5 upon the applicant or licensee by the Department, either
6 personally or as provided in this Code for the service of a
7 notice of hearing. Within 20 days after service, the applicant
8 or licensee may present to the Department a motion in writing
9 for a rehearing, which shall specify the particular grounds for
10 rehearing. The Department may respond to the motion for
11 rehearing within 20 days after its service on the Department.
12 If no motion for rehearing is filed, then upon the expiration
13 of the time specified for filing such a motion, or if a motion
14 for rehearing is denied, then upon denial, the Secretary may
15 enter an order in accordance with the recommendations of the
16 Board or hearing officer. If the applicant or licensee orders
17 from the reporting service and pays for a transcript of the
18 record within the time for filing a motion for rehearing, the
19 20-day period within which a motion may be filed shall commence
20 upon the delivery of the transcript to the applicant or
21 licensee.

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

1 (225 ILCS 41/15-30)

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

3 Sec. 15-30. Mental incompetence; suspension. The entry of a
4 judgment by any court of competent jurisdiction establishing
5 the mental incompetence of any person holding a license under
6 this Code Act operates as a suspension of that person's
7 license. The person may resume his or her practice only upon a
8 finding by a court of competent jurisdiction that the person
9 has recovered mental capacity.

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

11 (225 ILCS 41/15-35)

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

13 Sec. 15-35. Administrative Review Law.

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

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

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

23 (225 ILCS 41/15-40)

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

2 Sec. 15-40. Certification of record; receipt. The
3 Department shall not be required to certify any record to the
4 court, to file an answer in court, ~~or file any answer in court~~
5 or otherwise to appear in any court in a judicial review
6 proceeding unless and until the Department has received from
7 the plaintiff payment of the costs of furnishing and certifying
8 the record, which costs shall be determined by the Department
9 ~~there is filed in the Court with the complaint a receipt from~~
10 ~~the Department acknowledging payment of the costs of furnishing~~
11 ~~and certifying the record.~~ Exhibits shall be certified without
12 cost. Failure on the part of the Plaintiff to file a receipt in
13 court shall be grounds for dismissal of the action.

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

15 (225 ILCS 41/15-41 new)

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

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

21 (1) the signature is the genuine signature of the

22 Secretary;

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

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

1 (225 ILCS 41/15-45)

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

3 Sec. 15-45. Practice without license; injunction; cease
4 and desist order; civil penalties.

5 (a) The practice of funeral directing and embalming or
6 funeral directing by any person who has not been issued a
7 license by the Department, whose license has been suspended or
8 revoked, or whose license has not been renewed is hereby
9 declared to be inimical to the public welfare and to constitute
10 a public nuisance. The Secretary ~~Director of Professional~~
11 ~~Regulation~~ may, in the name of the People of the State of
12 Illinois through the Attorney General of the State of Illinois,
13 or the State's Attorney of any county in the State of Illinois,
14 apply for an injunction in the circuit court to enjoin any
15 person who has not been issued a license or whose license has
16 been suspended or revoked, or whose license has not been
17 renewed, from practicing funeral directing and embalming or
18 funeral directing. Upon the filing of a verified complaint in
19 court, the court, if satisfied by affidavit or otherwise that
20 the person is or has been practicing funeral directing and
21 embalming or funeral directing without having been issued a
22 license or after his or her license has been suspended,
23 revoked, or not renewed, may issue a temporary restraining
24 order or preliminary injunction, without notice or bond,
25 enjoining the defendant from further practicing funeral
26 directing and embalming or funeral directing. A copy of the

1 verified complaint shall be served upon the defendant and the
2 proceedings shall thereafter be conducted as in other civil
3 cases. If it is established that the defendant has been or is
4 practicing funeral directing and embalming or funeral
5 directing without having been issued a license or has been or
6 is practicing funeral directing and embalming or funeral
7 directing after his or her license has been suspended, revoked,
8 or not renewed, the court may enter a judgment perpetually
9 enjoining the defendant from further practicing funeral
10 directing and embalming or funeral directing. In case of
11 violation of any injunction entered under this Section, the
12 court may summarily try and punish the offender for contempt of
13 court. Any injunction proceeding shall be in addition to, and
14 not in lieu of, all penalties and other remedies in this Code.

15 (b) Whenever, in the opinion of the Department, any person
16 or other entity violates any provision of this Code Act, the
17 Department may issue a notice to show cause why an order to
18 cease and desist should not be entered against that person or
19 other entity. The rule shall clearly set forth the grounds
20 relied upon by the Department and shall provide a period of 7
21 days from the date of the rule to file an answer to the
22 satisfaction of the Department. Failure to answer to the
23 satisfaction of the Department shall cause an order to cease
24 and desist to be issued immediately.

25 (c) (1) (Blank). ~~In addition to any other penalty provided~~
26 ~~by law, any person, sole proprietorship, professional service~~

1 ~~corporation, limited liability company, partnership, or other~~
2 ~~entity that violates Section 1-15 or 1-20 of this Act shall~~
3 ~~forfeit and pay to the General Professions Dedicated Fund a~~
4 ~~civil penalty in an amount determined by the Department of not~~
5 ~~more than \$10,000 for each offense. The penalty shall be~~
6 ~~assessed in proceedings as provided in Sections 15-10 through~~
7 ~~15-40 of this Act.~~

8 (2) (Blank). ~~Unless the amount of the penalty is paid~~
9 ~~within 60 days after the order becomes final, the order shall~~
10 ~~constitute a judgement and shall be filed and execution issued~~
11 ~~thereon in the same manner as the judgement of a court of~~
12 ~~record.~~

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

14 (225 ILCS 41/15-46 new)

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

16 Sec. 15-46. Civil penalties; civil action.

17 (a) In addition to any other penalty provided by law, any
18 person, sole proprietorship, professional service corporation,
19 limited liability company, partnership, or other entity that
20 violates Section 1-15 or 1-20 of this Code shall forfeit and
21 pay to the General Professions Dedicated Fund a civil penalty
22 in an amount determined by the Department not to exceed \$10,000
23 for each violation. The penalty shall be assessed in
24 proceedings as provided in Sections 15-10 through 15-41 of this
25 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.

6 (c) Unless the amount of the penalty is paid within 60 days
7 after the order becomes final, the order shall constitute a
8 judgement and shall be filed and execution issued thereon in
9 the same manner as the judgement of a court of record.

10 (225 ILCS 41/15-55)

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

12 Sec. 15-55. Preparation room. The Department shall require
13 that each fixed place of practice or establishment devoted to
14 the care and preparation for burial or for transportation of
15 deceased human bodies maintain a preparation room properly
16 equipped with necessary drainage and ventilation facilities
17 and containing instruments and supplies necessary for the
18 preparation and embalming of deceased human bodies for burial
19 or transportation. Branch operations of main funeral
20 businesses having a preparation room and located in the State
21 of Illinois are exempt from the requirements of this Section.
22 The Department may adopt rules for all preparation room
23 equipment and facility requirements.

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

1 (225 ILCS 41/15-65)

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

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

7 All fees collected under this Code Act shall be deposited
8 into the General Professions Dedicated Fund and shall be
9 appropriated to the Department for the ordinary and contingent
10 expenses of the Department in the administration of this Code
11 Act.

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

13 (225 ILCS 41/15-70)

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

15 Sec. 15-70. Returned checks; fines. Any person who delivers
16 a check or other payment to the Department that is returned to
17 the Department unpaid by the financial institution upon which
18 it is drawn shall pay to the Department, in addition to the
19 amount already owed to the Department, a fine of \$50. The fines
20 imposed by this Section are in addition to any other discipline
21 provided under this Code Act for unlicensed practice or
22 practice on a nonrenewed license. The Department shall notify
23 the person that payment of fees and fines shall be paid to the
24 Department by certified check or money order within 30 calendar
25 days of the notification. If, after the expiration of 30 days

1 from the date of the notification, the person has failed to
2 submit the necessary remittance, the Department shall
3 automatically terminate the license or certificate or deny the
4 application, without hearing. If, after termination or denial,
5 the person seeks a license or certificate, he or she shall
6 apply to the Department for restoration or issuance of the
7 license or certificate and pay all fees and fines due to the
8 Department. The Department may establish a fee for the
9 processing of an application for restoration of a license or
10 certificate to pay all expenses of processing this application.
11 The Secretary ~~Director~~ may waive the fines due under this
12 Section in individual cases where the Secretary ~~Director~~ finds
13 that the fines would be unreasonable or unnecessarily
14 burdensome.

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

16 (225 ILCS 41/15-75)

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

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

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

23 (1) Practicing the profession of funeral directing and
24 embalming or funeral directing, or attempting to practice
25 the profession of funeral directing and embalming or

1 funeral directing without a license as a ~~licensed~~ funeral
2 director and embalmer or funeral director ~~or acting as a~~
3 ~~customer service employee without a license as a customer~~
4 ~~service employee issued by the Department.~~

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

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

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

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

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

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

1 ~~acts or actions is a violation of this Code for which the~~
2 ~~Department may refuse to issue or renew, or may suspend or~~
3 ~~revoke any license or may take any disciplinary action as the~~
4 ~~Department may deem proper including fines not to exceed \$1,000~~
5 ~~for each violation.~~

6 (1) Obtaining or attempting to obtain a license by
7 fraud or misrepresentation.

8 (2) Conviction in this State or another state of any
9 crime that is a felony or misdemeanor under the laws of
10 this State or conviction of a felony or misdemeanor in a
11 federal court.

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

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

20 (5) Professional incompetence, gross malpractice,
21 ~~Incompetence~~ or untrustworthiness in the practice of
22 funeral directing and embalming or funeral directing.

23 (6) False or misleading advertising as a funeral
24 director and embalmer or funeral director, or advertising
25 or using the name of a person other than the holder of a
26 license in connection with any service being rendered in

1 the practice of funeral directing and embalming or funeral
2 directing. Nothing in this paragraph shall prevent
3 including the name of any owner, officer or corporate
4 director of a funeral business who is not a licensee in any
5 advertisement used by a funeral home with which the
6 individual is affiliated if the advertisement specifies
7 the individual's affiliation with the funeral home.

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

14 (8) Refusing, without cause, to surrender the custody
15 of a deceased human body upon the proper request of the
16 person or persons lawfully entitled to the custody of the
17 body.

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

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

22 (11) Encouraging, requesting, or suggesting by a
23 licensee or some person working on his behalf and with his
24 consent for compensation that a person utilize the services
25 of a certain funeral director and embalmer, funeral
26 director, or funeral establishment unless that information

1 has been expressly requested by the person. This does not
2 prohibit general advertising or pre-need solicitation.

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

8 (13) (Blank). ~~Continued practice by a person having an~~
9 ~~infectious or contagious disease.~~

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

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

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

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

26 (18) Performing any act or practice that is a violation

1 of Section 2 of the Consumer Fraud and Deceptive Business
2 Practices Act.

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

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

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

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

25 (23) Failing to account for or remit any monies,
26 documents, or personal property that belongs to others that

1 comes into a licensee's possession.

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

5 (25) Knowingly making any false statements, oral or
6 otherwise, of a character likely to influence, persuade or
7 induce others in the course of performing professional
8 services or activities.

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

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

13 (28) Violations of this Code or of the rules adopted
14 pursuant to this Code.

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

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

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

24 (32) Directly or indirectly giving to or receiving from
25 any person, firm, corporation, partnership, or association
26 any fee, commission, rebate, or other form of compensation

1 for professional services not actually or personally
2 rendered.

3 (33) Inability to practice the profession with
4 reasonable judgment, skill, or safety.

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

8 (35) A pattern of practice or other behavior that
9 demonstrates incapacity or incompetence to practice under
10 this Code.

11 (36) ~~(28)~~ Failing to comply with any of the following
12 required activities:

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

1 prevail.

2 (B) A licensee shall clearly mark the price of any
3 casket offered for sale or the price of any service
4 using the casket on or in the casket if the casket is
5 displayed at the funeral establishment. If the casket
6 is displayed at any other location, regardless of
7 whether the licensee is in control of that location,
8 the casket shall be clearly marked and the registrant
9 shall use books, catalogues, brochures, or other
10 printed display aids to show the price of each casket
11 or service.

12 (C) At the time funeral arrangements are made and
13 prior to rendering the funeral services, a licensee
14 shall furnish a written statement of services to be
15 retained by the person or persons making the funeral
16 arrangements, signed by both parties, that shall
17 contain: (i) the name, address and telephone number of
18 the funeral establishment and the date on which the
19 arrangements were made; (ii) the price of the service
20 selected and the services and merchandise included for
21 that price; (iii) a clear disclosure that the person or
22 persons making the arrangement may decline and receive
23 credit for any service or merchandise not desired and
24 not required by law or the funeral director or the
25 funeral director and embalmer; (iv) the supplemental
26 items of service and merchandise requested and the

1 price of each item; (v) the terms or method of payment
2 agreed upon; and (vi) a statement as to any monetary
3 advances made by the registrant on behalf of the
4 family. The licensee shall maintain a copy of the
5 written statement of services in its permanent
6 records. All written statements of services are
7 subject to inspection by the Department.

8 (D) In all instances where the place of final
9 disposition of a deceased human body or the cremated
10 remains of a deceased human body is a cemetery, the
11 licensed funeral director and embalmer, or licensed
12 funeral director, who has been engaged to provide
13 funeral or embalming services shall remain at the
14 cemetery and personally witness the placement of the
15 human remains in their designated grave or the sealing
16 of the above ground depository, crypt, or urn. The
17 licensed funeral director or licensed funeral director
18 and embalmer may designate a licensed funeral director
19 and embalmer intern or representative of the funeral
20 home to be his or her witness to the placement of the
21 remains. If the cemetery authority, cemetery manager,
22 or any other agent of the cemetery takes any action
23 that prevents compliance with this paragraph (D), then
24 the funeral director and embalmer or funeral director
25 shall provide written notice to the Department within 5
26 business days after failing to comply. If the

1 Department receives this notice, then the Department
2 shall not take any disciplinary action against the
3 funeral director and embalmer or funeral director for a
4 violation of this paragraph (D) unless the Department
5 finds that the cemetery authority, manager, or any
6 other agent of the cemetery did not prevent the funeral
7 director and embalmer or funeral director from
8 complying with this paragraph (D) as claimed in the
9 written notice.

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

19 (37) ~~(29)~~ A finding by the Department that the license,
20 after having his or her license placed on probationary
21 status or subjected to conditions or restrictions,
22 violated the terms of the probation or failed to comply
23 with such terms or conditions.

24 (38) ~~(30)~~ Violation of any final administrative action
25 of the Secretary ~~Director~~.

26 (39) ~~(31)~~ Being named as a perpetrator in an indicated

1 report by the Department of Children and Family Services
2 pursuant to the Abused and Neglected Child Reporting Act
3 and, upon proof by clear and convincing evidence, being
4 found to have caused a child to be an abused child or
5 neglected child as defined in the Abused and Neglected
6 Child Reporting Act.

7 (c) The Department may refuse to issue or renew, or may
8 suspend, the license of any person who fails to file a return,
9 to pay the tax, penalty or interest shown in a filed return, or
10 to pay any final assessment of tax, penalty or interest as
11 required by any tax Act administered by the Illinois Department
12 of Revenue, until the time as the requirements of the tax Act
13 are satisfied.

14 (d) No action may be taken under this Code against a person
15 licensed under this Code unless the action is commenced within
16 5 years after the occurrence of the alleged violations. A
17 continuing violation shall be deemed to have occurred on the
18 date when the circumstances last existed that give rise to the
19 alleged violation.

20 (Source: P.A. 96-863, eff. 3-1-10.)

21 (225 ILCS 41/15-77 new)

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

23 Sec. 15-77. Method of payment, receipt. No licensee shall
24 require payment for any goods or services by cash only. Each
25 licensee subject to this Section shall permit payment by at

1 least one other option, including, but not limited to, personal
2 check, cashier's check, money order, or credit or debit card.
3 In addition to the statement of services, the licensee shall
4 provide a receipt to the consumer upon payment in part or in
5 full, whatever the case may be.

6 (225 ILCS 41/15-85)

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

8 Sec. 15-85. Duties of public institution; regulation by
9 local government. No provision of this Code shall apply to, or
10 in any way interfere with, the duties of any officer of any
11 public institution; nor with the duties of any officer of a
12 medical college, county medical society, anatomical
13 association, college of embalming, or any other recognized
14 person carrying out the laws of the State of Illinois
15 prescribing the conditions under which indigent dead human
16 bodies are held subject for scientific or anatomical study; nor
17 with the customs or rites of any religious sect in the burial
18 of their dead.

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

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

24 (225 ILCS 41/15-91 new)

1 Sec. 15-91. Denial of license. If the Department determines
2 that an application for licensure should be denied pursuant to
3 Section 15-75, then the applicant shall be sent a notice of
4 intent to deny license or exemption from licensure and the
5 applicant shall be given the opportunity to request, within 20
6 days of the notice, a hearing on the denial. If the applicant
7 requests a hearing, then the Secretary shall schedule a hearing
8 within 30 days after the request for a hearing, unless
9 otherwise agreed to by the parties. The Secretary shall have
10 the authority to appoint an attorney duly licensed to practice
11 law in the State of Illinois to serve as the hearing officer.
12 The hearing officer shall have full authority to conduct the
13 hearing. The hearing shall be held at the time and place
14 designated by the Secretary. The Secretary shall have the
15 authority to prescribe rules for the administration of this
16 Section.

17 (225 ILCS 41/15-100 new)

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

19 Sec. 15-100. Conflict of interest. No investigator may hold
20 an active license issued pursuant to this Code, nor may an
21 investigator have a financial interest in a business licensed
22 under this Code. Any individual licensed under this Code who is
23 employed by the Department shall surrender his or her license
24 to the Department for the duration of that employment. The
25 licensee shall be exempt from all renewal fees while employed

1 by the Department.

2 (225 ILCS 41/15-105 new)

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

4 Sec. 15-105. Civil Administrative Code. The Department
5 shall exercise the powers and duties prescribed by the Civil
6 Administrative Code of Illinois and shall exercise all other
7 powers and duties set forth in this Code.

8 (225 ILCS 41/15-110 new)

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

10 Sec. 15-110. Rules. The Department may adopt rules for the
11 administration and enforcement of this Code. The rules shall
12 include standards for licensure, professional conduct, and
13 discipline.

14 (225 ILCS 41/20-15)

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

16 Sec. 20-15. Home rule; ~~mandates.~~ The regulation and
17 licensing provided for in this Code are exclusive powers and
18 functions of the State. A home rule unit may not regulate or
19 license funeral directors, funeral director and embalmers,
20 customer service employees, or any activities relating to the
21 services of funeral directing and embalming. This Section is a
22 denial and limitation of home rule powers and functions under
23 subsection (h) of Section 6 of Article VII of the Illinois

1 Constitution. ~~Nothing in this Code as initially enacted (i) is~~
2 ~~a denial or limitation on home rule powers where no denial or~~
3 ~~limitation existed under prior law or (ii) creates a State~~
4 ~~mandate under the State Mandates Act where no mandate existed~~
5 ~~under prior law.~~

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

7 (225 ILCS 41/Art. 12 rep.)

8 Section 10. The Funeral Directors and Embalmers Licensing
9 Code is amended by repealing Article 12."