

1 AN ACT concerning 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, 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12 (Section scheduled to be repealed on January 1, 2013)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.

17 "Applicant" means any person making application for a  
18 license or certificate of registration. Any applicant or any  
19 person who holds himself out as an applicant is considered a  
20 licensee for purposes of enforcement, investigation, hearings,  
21 and the Illinois Administrative Procedure Act.

22 "Board" means the Funeral Directors and Embalmers  
23 Licensing and Disciplinary ~~disciplinary~~ Board.

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

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

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

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

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

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

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

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

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

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

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

8       "Owner" means the individual, partnership, corporation,  
9       association, trust, estate, or agent thereof, or other person  
10       or combination of persons who owns a funeral establishment or  
11       funeral business.

12       "Person" means any individual, partnership, association,  
13       firm, corporation, trust or estate, or other entity. "Person"  
14       includes both natural persons and legal entities.

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

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

18       (225 ILCS 41/1-15)

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

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

25             (a) The practice of preparing, otherwise than by

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

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

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

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

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

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

19 (f) Using in connection with a name or practice the  
20 word "funeral director" ┐ "undertaker" ┐ "mortician" ┐  
21 "funeral home" ┐ "funeral parlor" ┐ "funeral chapel" ┐ or  
22 any other title implying that the person is engaged in the  
23 practice of funeral directing.

24 Within the existing scope of the practice of funeral  
25 directing or funeral directing and embalming, only a licensed  
26 funeral director, a licensed funeral director and embalmer, or

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

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

20 The making of funeral arrangements, at need, shall be done  
21 only by licensed funeral directors or licensed funeral  
22 directors and embalmers. Licensed funeral director and  
23 embalmer interns may, however, assist or participate in the  
24 arrangements under the direct supervision of a licensed funeral  
25 director or licensed funeral director and embalmer.

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

1 (225 ILCS 41/1-20)

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

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

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

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

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

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



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

6 (g) The embalming or representing or holding out  
7 oneself as engaged in the practice of embalming of deceased  
8 human bodies or the transportation of human bodies deceased  
9 of a contagious or infectious disease.

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

26 The practice of funeral directing and embalming shall not

1 include the phoning in of obituary notices, ordering of flowers  
2 for the funeral, or reporting of prices on the firm's general  
3 price list as required by the Federal Trade Commission Funeral  
4 Rule by nonlicensed persons, or like clerical tasks incidental  
5 to the act of making funeral arrangements.

6 The making of funeral arrangements, at need, shall be done  
7 only by licensed funeral directors or licensed funeral  
8 directors and embalmers. Licensed funeral director and  
9 embalmer interns may, however, assist or participate in the  
10 arrangements under the direct supervision of a licensed funeral  
11 director or licensed funeral director and embalmer.

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

13 (225 ILCS 41/1-30 new)

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

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

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

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

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

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

7       (5) To adopt rules required for the administration of this  
8 Code.

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

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

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

22       (225 ILCS 41/5-7 new)

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

24       Sec. 5-7. Address of record. It is the duty of the  
25 applicant or licensee to inform the Department of any change of

1 address within 14 days after the change of address, either  
2 through the Department's website or by contacting the  
3 Department's licensure maintenance unit.

4 (225 ILCS 41/5-10)

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

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

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

16 (225 ILCS 41/5-15)

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

18 Sec. 5-15. Expiration and renewal; inactive status;  
19 continuing education. The expiration date and renewal period  
20 for each license issued under this Article shall be set by  
21 rule. The holder of a license as a licensed funeral director  
22 may renew the license during the month preceding the expiration  
23 date of the license by paying the required fee. A licensed  
24 funeral director 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. The reinstatement  
3 shall be effective as of the date of reissuance of the license.

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

23 In addition to any other requirement for renewal of a  
24 license or reinstatement or restoration of an expired license,  
25 as a condition for the renewal, ~~or~~ reinstatement, or  
26 restoration of a license as a licensed funeral director, each

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

19 The Department shall establish by rule a means for  
20 verification of completion of the continuing education  
21 required by this Section. This verification may be accomplished  
22 through audits of records maintained by licensees, by requiring  
23 the filing of continued education certificates with the  
24 Department or a qualified organization selected by the  
25 Department to maintain these records, or by other means  
26 established by the Department.

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

14           Any funeral director who notifies the Department in writing  
15 on forms prescribed by the Department may elect to place his or  
16 her license on an inactive status and shall, subject to rules  
17 of the Department, be excused from payment of renewal fees and  
18 completion of continuing education requirements until he or she  
19 notifies the Department in writing of an intent to restore or  
20 reinstate the license to active status. Any licensee requesting  
21 restoration or reinstatement from inactive status shall notify  
22 the Department as provided by rule of the Department and pay  
23 the fee required by the Department for restoration or  
24 reinstatement of the license. Any licensee whose license is on  
25 inactive status shall not practice in the State of Illinois.

26           Practice on a license that has lapsed or been placed in



1 inactive status is practicing without a license and a violation  
2 of this Code.

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

4 (225 ILCS 41/10-7 new)

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

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

11 (225 ILCS 41/10-25)

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

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

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

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

13          (Source: P.A. 87-966.)

14                 (225 ILCS 41/10-30)

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

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

21                 Every holder of a license shall display it in a conspicuous  
22          place in the licensee's place of practice or in the place of  
23          practice in which the licensee is employed. In case the  
24          licensee is engaged in funeral directing and embalming at more  
25          than one place of practice, then the license shall be displayed

1 in the licensee's principal place of practice or the principal  
2 place of practice of the licensee's employer and a copy of the  
3 license shall be displayed in a conspicuous place at all other  
4 places of practice.

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

6 (225 ILCS 41/10-35)

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

8 Sec. 10-35. Renewal; reinstatement; restoration;  
9 continuing education. The expiration date and renewal period  
10 for each license issued under this Article shall be set by  
11 rule. The holder of a license as a licensed funeral director  
12 and embalmer or funeral director and embalmer intern may renew  
13 the license during the month preceding the expiration date of  
14 the license by paying the required fee. A licensed funeral  
15 director and embalmer or licensed funeral director and embalmer  
16 trainee whose license has expired may have the license  
17 reinstated within 5 years from the date of expiration upon  
18 payment of the required reinstatement fee and fulfilling the  
19 requirements of the Department's rules. The reinstatement of  
20 the license is effective as of the date of the reissuance of  
21 the license.

22 Any licensed funeral director and embalmer whose license  
23 has been expired for more than 5 years may have the license  
24 restored only by fulfilling the requirements set forth in the  
25 Department's rules and by paying the required restoration fee.

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

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

19 In addition to any other requirement for renewal of a  
20 license or reinstatement or restoration of an expired license,  
21 as a condition for the renewal, ~~or~~ reinstatement, or  
22 restoration of a license as a licensed funeral director and  
23 embalmer, each licensee shall provide evidence to the  
24 Department of completion of at least 24 hours of continuing  
25 education during the 24 months preceding the expiration date of  
26 the license, or in the case of reinstatement or restoration,

1 within the 24 months preceding the application for  
2 reinstatement or restoration. The continuing education  
3 sponsors shall be approved by the Board. In addition, any  
4 qualified continuing education course for funeral directors  
5 and embalmers offered by a college, university, the Illinois  
6 Funeral Directors Association, Funeral Directors Services  
7 Association of Greater Chicago, Cook County Association of  
8 Funeral Home Owners, Inc., Illinois Selected Morticians  
9 Associations, Inc., Illinois Cemetery and Funeral Home  
10 Association, National Funeral Directors Association, Selected  
11 Independent Funeral Homes, National Funeral Directors and  
12 Morticians Association, Inc., International Order of the  
13 Golden Rule, or an Illinois school of mortuary science shall be  
14 accepted toward satisfaction of the continuing education  
15 requirements.

16 The Department shall establish by rule a means for  
17 verification of completion of the continuing education  
18 required by this Section. This verification may be accomplished  
19 through audits of records maintained by licensees, by requiring  
20 the filing of continued education certificates with the  
21 Department or a qualified organization selected by the  
22 Department to maintain the records, or by other means  
23 established by the Department.

24 A person who is licensed as a funeral director and embalmer  
25 under this Code Act and who has engaged in the practice of  
26 funeral directing and embalming for at least 40 years shall be

1 exempt from the continuing education requirements of this  
2 Section. In addition, the Department shall establish by rule an  
3 exemption or exception, for a limited period of time, for  
4 funeral directors and embalmers who, by reason of advanced age,  
5 health or other extreme condition, should reasonably be excused  
6 from the continuing education requirement upon ~~explanation to~~  
7 ~~the Board,~~ the approval of the Secretary ~~Director,~~ ~~or both.~~  
8 Those persons, identified above, who cannot attend on-site  
9 classes, shall have the opportunity to comply by completing  
10 home study courses designed for them by sponsors.

11 Any funeral director and embalmer who notifies the  
12 Department in writing on forms prescribed by the Department,  
13 may elect to place his or her license on an inactive status and  
14 shall, subject to rules of the Department, be excused from  
15 payment of renewal fees and completion of continuing education  
16 requirements until he or she notifies the Department in writing  
17 of an intent to restore or reinstate the license to active  
18 status. While on inactive status, the licensee shall only be  
19 required to pay a single fee, established by the Department, to  
20 have the license placed on inactive status. Any licensee  
21 requesting restoration or reinstatement from inactive status  
22 shall notify the Department as provided by rule of the  
23 Department and pay the fee required by the Department for  
24 restoration or reinstatement of the license. Any licensee whose  
25 license is on inactive status shall not practice in the State  
26 of Illinois.

1 Practice on a license that has lapsed or been placed in  
2 inactive status is practicing without a license and a violation  
3 of this Code.

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

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

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

7 Sec. 15-5. Funeral Directors and Embalmers Licensing and  
8 Disciplinary Board. A Funeral Directors and Embalmers  
9 Licensing and Disciplinary Board is created and shall consist  
10 of 7 persons, 6 of whom are licensed to practice funeral  
11 directing and embalming in this State, and one who is a  
12 knowledgeable public member. Each member shall be appointed by  
13 the Secretary Director of the Department. The persons so  
14 appointed shall hold their offices for 4 years and until a  
15 qualified successors are ~~successor is~~ appointed. All vacancies  
16 occurring shall be filled by the Secretary Director for the  
17 unexpired portion of the term rendered vacant. No member shall  
18 be eligible to serve for more than 2 full consecutive terms.  
19 The Secretary may remove any member of the Board for reasons  
20 prescribed by law for removal of State officials or for  
21 misconduct, incompetence, neglect of duty, or failing to attend  
22 2 consecutive Board meetings. ~~Any appointee may be removed by~~  
23 ~~the Director when in his or her discretion he or she finds~~  
24 ~~removal to be in the public interest.~~ The cause for removal  
25 must be set forth in writing. The Board shall annually select a

1 chairman from its membership. The members of the Board shall be  
2 reimbursed for all legitimate and necessary expenses incurred  
3 in attending meetings of the Board. The Board may meet as often  
4 as necessary to perform its duties under this Code, and shall  
5 meet at least once a year in Springfield, Illinois.

6 Four members of the Board shall constitute a quorum. A  
7 quorum is required for Board decisions.

8 The Department shall consider the recommendation of the  
9 Board in the development of proposed rules under this Code.  
10 Notice of any proposed rulemaking under this Code shall be  
11 transmitted to the Board and the Department shall review the  
12 response of the Board and any recommendations relating to that  
13 rulemaking.

14 ~~The Department may seek the advice and recommendations of~~  
15 ~~the Board on any matter relating to the administration and~~  
16 ~~enforcement of this Code.~~

17 The Department shall seek the advice and recommendations of  
18 the Board in connection with any rulemaking or disciplinary  
19 actions relating to funeral director and embalmers and funeral  
20 director and embalmer interns, including applications for  
21 restoration of revoked licenses. The Board shall have 60 days  
22 to respond to a Department request for advice and  
23 recommendations. ~~If the Department fails to adopt, in whole or~~  
24 ~~in part, a Board recommendation in connection with any~~  
25 ~~rulemaking or disciplinary action, it shall provide a written~~  
26 ~~explanation of its specific reasons for not adopting the Board~~



1 ~~recommendation. The written explanations shall be made~~  
2 ~~available for public inspection.~~

3 The Department shall adopt all necessary and reasonable  
4 rules and regulations for the effective administration of this  
5 Code, and without limiting the foregoing, the Department shall  
6 adopt rules and regulations:

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

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

17 (3) establishing expiration dates and renewal periods  
18 for all licenses;

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

22 (5) providing for licensure by reciprocity.

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

24 (225 ILCS 41/15-10)

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

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

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

14           (225 ILCS 41/15-15)

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

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

21           The Department shall, before revoking, suspending, placing  
22 on probation, reprimanding, or taking any other disciplinary  
23 action, at least 30 days before the date set for the hearing,  
24 (i) notify the accused in writing of the charges made and the  
25 time and place for the hearing on the charges, (ii) direct him

1 or her to file a written answer to the charges under oath  
2 within 20 days after the service on him or her of the notice,  
3 and (iii) inform the accused that, if he or she fails to  
4 answer, default will be taken against him or her or that his or  
5 her license may be suspended, revoked, or placed on  
6 probationary status, or other disciplinary action taken with  
7 regard to the license, including limiting the scope, nature, or  
8 extent of his or her practice, as the Department may consider  
9 proper.

10 At the time and place fixed in the notice, the Department  
11 shall proceed to hear the charges and the parties or their  
12 counsel shall be accorded ample opportunity to present any  
13 pertinent statements, testimony, evidence, and arguments. The  
14 Department may continue the hearing from time to time. In case  
15 the person, after receiving the notice, fails to file an  
16 answer, his or her license may, in the discretion of the  
17 Department, be suspended, revoked, or placed on probationary  
18 status, or the Department may take whatever disciplinary action  
19 it considers proper, including limiting the scope, nature, or  
20 extent of the person's practice or the imposition of a fine,  
21 without a hearing, if the act or acts charged constitute  
22 sufficient grounds for that action under this Code. The written  
23 notice may be served by personal delivery or by certified mail  
24 to the address specified by the accused in his or her last  
25 notification with the Department.

26 ~~The Department shall conduct regular inspections of all funeral~~

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

1 ~~receiving notice, his or her license or certificate may, in the~~  
2 ~~discretion of the Department, be suspended, revoked, or placed~~  
3 ~~on probationary status, or the Department may take whatever~~  
4 ~~disciplinary action deemed proper, including limiting the~~  
5 ~~scope, nature, or extent of the person's practice or the~~  
6 ~~imposition of a fine, without a hearing, if the act or acts~~  
7 ~~charged constitute sufficient grounds for such action under~~  
8 ~~this Act. The hearing on the charges shall be at a time and~~  
9 ~~place as the Department shall prescribe. The Department may~~  
10 ~~appoint a hearing officer to conduct the hearing. The~~  
11 ~~Department shall notify the Board of the time and place of the~~  
12 ~~hearing and Board members shall be allowed to sit at the~~  
13 ~~hearing.~~

14       The Department has the power to subpoena and bring before  
15 it any person to take oral or written testimony and to compel  
16 the production of any books, papers, records, or other  
17 documents that the Secretary or his or her designee deems  
18 relevant or material to any investigation or hearing conducted  
19 by the Department, with the same fees and in the same manner as  
20 prescribed in civil cases. The Secretary, the designated  
21 hearing officer, and every member of the Board has the power to  
22 administer oaths to witnesses at any hearing that the  
23 Department is authorized to conduct, and any other oaths  
24 authorized in any Act or Code administered by the Department in  
25 ~~this State, or take testimony of any person by deposition, with~~  
26 ~~the same fees and mileage, in the same manner as prescribed by~~

1 ~~law in judicial proceedings in circuit courts of this State in~~  
2 ~~civil cases.~~

3 If the Department determines that any licensee is guilty of  
4 a violation of any of the provisions of this Code, disciplinary  
5 action shall be taken against the licensee. The Department may  
6 take disciplinary action without a formal hearing subject to  
7 Section 10-70 of the Illinois Administrative Procedure Act.

8 The Secretary may summarily suspend the license of any  
9 person licensed under this Code ~~Act~~ without a hearing,  
10 simultaneously with the institution of proceedings for a  
11 hearing provided for in this Section, if the Secretary finds  
12 that evidence in the possession of the Secretary indicates that  
13 the continuation of practice by the licensee would constitute  
14 an imminent danger to the public. In the event that the  
15 Secretary summarily suspends the license of an individual  
16 without a hearing, a hearing must be held within 30 days after  
17 the suspension has occurred and concluded as expeditiously as  
18 practical.

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

20 (225 ILCS 41/15-16 new)

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

22 Sec. 15-16. Appointment of a hearing officer. The Secretary  
23 has the authority to appoint any attorney licensed to practice  
24 law in the State of Illinois to serve as the hearing officer in  
25 any action for refusal to issue, restore, or renew a license or

1 to discipline a licensee. The hearing officer has full  
2 authority to conduct the hearing. Any Board member may attend  
3 hearings.

4 (225 ILCS 41/15-17 new)

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

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

10 (225 ILCS 41/15-20)

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

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

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

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



1 ~~right to seize the license.~~

2 ~~At any time after the suspension or revocation of any~~  
3 ~~license, the Department may restore it to the accused person~~  
4 ~~without examination.~~

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

6 (225 ILCS 41/15-21 new)

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

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

1 making its recommendations for discipline, the Board shall  
2 endeavor to ensure that the severity of the discipline  
3 recommended is reasonably related to the severity of the  
4 violation.

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

17 (225 ILCS 41/15-22 new)

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

19 Sec. 15-22. Rehearing. At the conclusion of the hearing, a  
20 copy of the Board or hearing officer's report shall be served  
21 upon the applicant or licensee by the Department, either  
22 personally or as provided in this Code for the service of a  
23 notice of hearing. Within 20 days after service, the applicant  
24 or licensee may present to the Department a motion in writing  
25 for a rehearing, which shall specify the particular grounds for

1 rehearing. The Department may respond to the motion for  
2 rehearing within 20 days after its service on the Department.  
3 If no motion for rehearing is filed, then upon the expiration  
4 of the time specified for filing such a motion, or if a motion  
5 for rehearing is denied, then upon denial, the Secretary may  
6 enter an order in accordance with the recommendations of the  
7 Board or hearing officer. If the applicant or licensee orders  
8 from the reporting service and pays for a transcript of the  
9 record within the time for filing a motion for rehearing, the  
10 20-day period within which a motion may be filed shall commence  
11 upon the delivery of the transcript to the applicant or  
12 licensee.

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

18 (225 ILCS 41/15-30)

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

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

1 has recovered mental capacity.

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

3 (225 ILCS 41/15-35)

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

5 Sec. 15-35. Administrative Review Law.

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

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

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

15 (225 ILCS 41/15-40)

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

17 Sec. 15-40. Certification of record; receipt. The  
18 Department shall not be required to certify any record to the  
19 court, to file an answer in court, ~~or file any answer in court~~  
20 or otherwise to appear in any court in a judicial review  
21 proceeding unless and until the Department has received from  
22 the plaintiff payment of the costs of furnishing and certifying  
23 the record, which costs shall be determined by the Department  
24 ~~there is filed in the Court with the complaint a receipt from~~

1 ~~the Department acknowledging payment of the costs of furnishing~~  
2 ~~and certifying the record.~~ Exhibits shall be certified without  
3 cost. Failure on the part of the Plaintiff to file a receipt in  
4 court shall be grounds for dismissal of the action.

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

6 (225 ILCS 41/15-41 new)

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

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

12 (1) the signature is the genuine signature of the  
13 Secretary;

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

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

16 (225 ILCS 41/15-45)

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

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

20 (a) The practice of funeral directing and embalming or  
21 funeral directing by any person who has not been issued a  
22 license by the Department, whose license has been suspended or  
23 revoked, or whose license has not been renewed is hereby  
24 declared to be inimical to the public welfare and to constitute

1 a public nuisance. The Secretary ~~Director of Professional~~  
2 ~~Regulation~~ may, in the name of the People of the State of  
3 Illinois through the Attorney General of the State of Illinois,  
4 or the State's Attorney of any county in the State of Illinois,  
5 apply for an injunction in the circuit court to enjoin any  
6 person who has not been issued a license or whose license has  
7 been suspended or revoked, or whose license has not been  
8 renewed, from practicing funeral directing and embalming or  
9 funeral directing. Upon the filing of a verified complaint in  
10 court, the court, if satisfied by affidavit or otherwise that  
11 the person is or has been practicing funeral directing and  
12 embalming or funeral directing without having been issued a  
13 license or after his or her license has been suspended,  
14 revoked, or not renewed, may issue a temporary restraining  
15 order or preliminary injunction, without notice or bond,  
16 enjoining the defendant from further practicing funeral  
17 directing and embalming or funeral directing. A copy of the  
18 verified complaint shall be served upon the defendant and the  
19 proceedings shall thereafter be conducted as in other civil  
20 cases. If it is established that the defendant has been or is  
21 practicing funeral directing and embalming or funeral  
22 directing without having been issued a license or has been or  
23 is practicing funeral directing and embalming or funeral  
24 directing after his or her license has been suspended, revoked,  
25 or not renewed, the court may enter a judgment perpetually  
26 enjoining the defendant from further practicing funeral

1 directing and embalming or funeral directing. In case of  
2 violation of any injunction entered under this Section, the  
3 court may summarily try and punish the offender for contempt of  
4 court. Any injunction proceeding shall be in addition to, and  
5 not in lieu of, all penalties and other remedies in this Code.

6 (b) Whenever, in the opinion of the Department, any person  
7 or other entity violates any provision of this Code Act, the  
8 Department may issue a notice to show cause why an order to  
9 cease and desist should not be entered against that person or  
10 other entity. The rule shall clearly set forth the grounds  
11 relied upon by the Department and shall provide a period of 7  
12 days from the date of the rule to file an answer to the  
13 satisfaction of the Department. Failure to answer to the  
14 satisfaction of the Department shall cause an order to cease  
15 and desist to be issued immediately.

16 (c) (1) (Blank). ~~In addition to any other penalty provided~~  
17 ~~by law, any person, sole proprietorship, professional service~~  
18 ~~corporation, limited liability company, partnership, or other~~  
19 ~~entity that violates Section 1-15 or 1-20 of this Act shall~~  
20 ~~forfeit and pay to the General Professions Dedicated Fund a~~  
21 ~~civil penalty in an amount determined by the Department of not~~  
22 ~~more than \$10,000 for each offense. The penalty shall be~~  
23 ~~assessed in proceedings as provided in Sections 15-10 through~~  
24 ~~15-40 of this Act.~~

25 (2) (Blank). ~~Unless the amount of the penalty is paid~~  
26 ~~within 60 days after the order becomes final, the order shall~~

1 ~~constitute a judgement and shall be filed and execution issued~~  
2 ~~thereon in the same manner as the judgement of a court of~~  
3 ~~record.~~

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

5 (225 ILCS 41/15-46 new)

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

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

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

17 (b) In addition to the other penalties and remedies  
18 provided in this Code, the Department may bring a civil action  
19 in the county in which the funeral establishment is located  
20 against a licensee or any other person to enjoin any violation  
21 or threatened violation of this Code.

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



1 (225 ILCS 41/15-55)

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

3 Sec. 15-55. Preparation room. The Department shall require  
4 that each fixed place of practice or establishment devoted to  
5 the care and preparation for burial or for transportation of  
6 deceased human bodies maintain a preparation room properly  
7 equipped with necessary drainage and ventilation facilities  
8 and containing instruments and supplies necessary for the  
9 preparation and embalming of deceased human bodies for burial  
10 or transportation. Branch operations of main funeral  
11 businesses having a preparation room and located in the State  
12 of Illinois are exempt from the requirements of this Section.  
13 The Department may adopt rules for all preparation room  
14 equipment and facility requirements with the consultation of  
15 the Board.

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

17 (225 ILCS 41/15-65)

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

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

23 All fees collected under this Code Act shall be deposited  
24 into the General Professions Dedicated Fund and shall be

1 appropriated to the Department for the ordinary and contingent  
2 expenses of the Department in the administration of this Code  
3 ~~Act~~.

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

5 (225 ILCS 41/15-70)

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

7 Sec. 15-70. Returned checks; fines. Any person who delivers  
8 a check or other payment to the Department that is returned to  
9 the Department unpaid by the financial institution upon which  
10 it is drawn shall pay to the Department, in addition to the  
11 amount already owed to the Department, a fine of \$50. The fines  
12 imposed by this Section are in addition to any other discipline  
13 provided under this Code ~~Act~~ for unlicensed practice or  
14 practice on a nonrenewed license. The Department shall notify  
15 the person that payment of fees and fines shall be paid to the  
16 Department by certified check or money order within 30 calendar  
17 days of the notification. If, after the expiration of 30 days  
18 from the date of the notification, the person has failed to  
19 submit the necessary remittance, the Department shall  
20 automatically terminate the license or certificate or deny the  
21 application, without hearing. If, after termination or denial,  
22 the person seeks a license or certificate, he or she shall  
23 apply to the Department for restoration or issuance of the  
24 license or certificate and pay all fees and fines due to the  
25 Department. The Department may establish a fee for the

1 processing of an application for restoration of a license or  
2 certificate to pay all expenses of processing this application.  
3 The Secretary ~~Director~~ may waive the fines due under this  
4 Section in individual cases where the Secretary ~~Director~~ finds  
5 that the fines would be unreasonable or unnecessarily  
6 burdensome.

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

8 (225 ILCS 41/15-75)

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

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

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

15 (1) Practicing the profession of funeral directing and  
16 embalming or funeral directing, or attempting to practice  
17 the profession of funeral directing and embalming or  
18 funeral directing without a license as a ~~licensed~~ funeral  
19 director and embalmer or funeral director ~~or acting as a~~  
20 ~~customer service employee without a license as a customer~~  
21 ~~service employee issued by the Department.~~

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

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

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

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

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

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

24          (1) Obtaining or attempting to obtain a license by  
25          fraud or misrepresentation.

26          (2) Conviction in this State or another state of any

1 crime that is a felony or misdemeanor under the laws of  
2 this State or conviction of a felony or misdemeanor in a  
3 federal court.

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

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

12 (5) Professional incompetence, gross malpractice,  
13 ~~Incompetence~~ or untrustworthiness in the practice of  
14 funeral directing and embalming or funeral directing.

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

26 (7) Engaging in, promoting, selling, or issuing burial

1 contracts, burial certificates, or burial insurance  
2 policies in connection with the profession as a funeral  
3 director and embalmer, funeral director, or funeral  
4 director and embalmer intern in violation of any laws of  
5 the State of Illinois.

6 (8) Refusing, without cause, to surrender the custody  
7 of a deceased human body upon the proper request of the  
8 person or persons lawfully entitled to the custody of the  
9 body.

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

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

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

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

26 (13) (Blank). ~~Continued practice by a person having an~~

1 ~~infectious or contagious disease.~~

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

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

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

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

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

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

24 (20) Taking possession of a dead human body without  
25 having first obtained express permission from next of kin  
26 or a public agency legally authorized to direct, control or

1 permit the removal of deceased human bodies.

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

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

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

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

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



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

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

5           (28) Violations of this Code or of the rules adopted  
6 pursuant to this Code.

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

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

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

16          (32) Directly or indirectly giving to or receiving from  
17 any person, firm, corporation, partnership, or association  
18 any fee, commission, rebate, or other form of compensation  
19 for professional services not actually or personally  
20 rendered.

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

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

26          (35) A pattern of practice or other behavior that

1       demonstrates incapacity or incompetence to practice under  
2       this Code.

3       (36) ~~(28)~~ Failing to comply with any of the following  
4       required activities:

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

20              (B) A licensee shall clearly mark the price of any  
21              casket offered for sale or the price of any service  
22              using the casket on or in the casket if the casket is  
23              displayed at the funeral establishment. If the casket  
24              is displayed at any other location, regardless of  
25              whether the licensee is in control of that location,  
26              the casket shall be clearly marked and the registrant

1 shall use books, catalogues, brochures, or other  
2 printed display aids to show the price of each casket  
3 or service.

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

26 (D) In all instances where the place of final

1 disposition of a deceased human body or the cremated  
2 remains of a deceased human body is a cemetery, the  
3 licensed funeral director and embalmer, or licensed  
4 funeral director, who has been engaged to provide  
5 funeral or embalming services shall remain at the  
6 cemetery and personally witness the placement of the  
7 human remains in their designated grave or the sealing  
8 of the above ground depository, crypt, or urn. The  
9 licensed funeral director or licensed funeral director  
10 and embalmer may designate a licensed funeral director  
11 and embalmer intern or representative of the funeral  
12 home to be his or her witness to the placement of the  
13 remains. If the cemetery authority, cemetery manager,  
14 or any other agent of the cemetery takes any action  
15 that prevents compliance with this paragraph (D), then  
16 the funeral director and embalmer or funeral director  
17 shall provide written notice to the Department within 5  
18 business days after failing to comply. If the  
19 Department receives this notice, then the Department  
20 shall not take any disciplinary action against the  
21 funeral director and embalmer or funeral director for a  
22 violation of this paragraph (D) unless the Department  
23 finds that the cemetery authority, manager, or any  
24 other agent of the cemetery did not prevent the funeral  
25 director and embalmer or funeral director from  
26 complying with this paragraph (D) as claimed in the

1           written notice.

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

11           (37) ~~(29)~~ A finding by the Department that the license,  
12           after having his or her license placed on probationary  
13           status or subjected to conditions or restrictions,  
14           violated the terms of the probation or failed to comply  
15           with such terms or conditions.

16           (38) ~~(30)~~ Violation of any final administrative action  
17           of the Secretary ~~Director~~.

18           (39) ~~(31)~~ Being named as a perpetrator in an indicated  
19           report by the Department of Children and Family Services  
20           pursuant to the Abused and Neglected Child Reporting Act  
21           and, upon proof by clear and convincing evidence, being  
22           found to have caused a child to be an abused child or  
23           neglected child as defined in the Abused and Neglected  
24           Child Reporting Act.

25           (c) The Department may refuse to issue or renew, or may  
26           suspend, the license of any person who fails to file a return,

1 to pay the tax, penalty or interest shown in a filed return, or  
2 to pay any final assessment of tax, penalty or interest as  
3 required by any tax Act administered by the Illinois Department  
4 of Revenue, until the time as the requirements of the tax Act  
5 are satisfied.

6 (d) No action may be taken under this Code against a person  
7 licensed under this Code unless the action is commenced within  
8 5 years after the occurrence of the alleged violations. A  
9 continuing violation shall be deemed to have occurred on the  
10 date when the circumstances last existed that give rise to the  
11 alleged violation.

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

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

23 (225 ILCS 41/15-77 new)

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

25 Sec. 15-77. Method of payment, receipt. No licensee shall

1 require payment for any goods or services by cash only. Each  
2 licensee subject to this Section shall permit payment by at  
3 least one other option, including, but not limited to, personal  
4 check, cashier's check, money order, or credit or debit card.  
5 In addition to the statement of services, the licensee shall  
6 provide a receipt to the consumer upon payment in part or in  
7 full, whatever the case may be.

8 (225 ILCS 41/15-85)

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

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

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

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

1 (225 ILCS 41/15-91 new)

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

18 (225 ILCS 41/15-100 new)

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

20 Sec. 15-100. Conflict of interest. No investigator may hold  
21 an active license issued pursuant to this Code, nor may an  
22 investigator have a financial interest in a business licensed  
23 under this Code. Any individual licensed under this Code who is  
24 employed by the Department shall surrender his or her license



1 to the Department for the duration of that employment. The  
2 licensee shall be exempt from all renewal fees while employed  
3 by the Department.

4 (225 ILCS 41/15-105 new)

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

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

10 (225 ILCS 41/15-110 new)

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

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

16 (225 ILCS 41/20-15)

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

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

1 denial and limitation of home rule powers and functions under  
2 subsection (h) of Section 6 of Article VII of the Illinois  
3 Constitution. ~~Nothing in this Code as initially enacted (i) is~~  
4 ~~a denial or limitation on home rule powers where no denial or~~  
5 ~~limitation existed under prior law or (ii) creates a State~~  
6 ~~mandate under the State Mandates Act where no mandate existed~~  
7 ~~under prior law.~~

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

9 (225 ILCS 41/Art. 12 rep.)

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