

CHAPTER 21

FUNERAL DIRECTORS AND EMBALMERS

SUBCHAPTER 1

GENERAL PROVISIONS

§1400. Definitions

When used in this chapter, unless the context otherwise requires, the following words shall have the following meanings: [PL 1967, c. 253, §1 (NEW).]

1. Advertisement. "Advertisement" means the publication, dissemination, circulation or placing before the public, or causing directly or indirectly to be made, published, disseminated or placed before the public any announcement or statement in a newspaper, magazine or other publication, or in the form of a book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label or tag, or over any radio or television station.

[PL 1967, c. 253, §1 (NEW).]

1-A. Board. "Board" means the State Board of Funeral Service.
[PL 1983, c. 468, §3 (NEW).]

2. Burial. "Burial" includes interment in any form or cremation and the transportation of the human remains necessary therefor.

[PL 1967, c. 253, §1 (NEW); PL 1997, c. 210, §40 (AMD).]

2-A. Commissioner. "Commissioner" means the Commissioner of Professional and Financial Regulation.

[PL 1989, c. 450, §12 (AMD).]

3. Funeral establishment. "Funeral establishment" means every place or premises devoted to or used in the care and preparation for the funeral and burial of human remains or maintained for the convenience of the bereaved for viewing or other services in connection with the human remains or as the office or place for carrying on the profession of funeral service.

[PL 2001, c. 169, §1 (AMD).]

4. Funeral service profession. "Funeral service profession" means the aggregate of all funeral service licensees and their duties and responsibilities in connection with the funeral as an organized, purposeful, time limited, flexible, group centered response to death.

[PL 1967, c. 253, §1 (NEW).]

5. Practice of funeral service. "Practice of funeral service" means the engagement of a person in the care or disposition of the human remains or in the practice of disinfecting and preparing by embalming or otherwise the human remains for the funeral service, transportation of human remains to the place of burial or cremation, or the practice of helping to meet the emotions and disposition of the bereaved or the practice of funeral directing or embalming as presently known, whether under these titles or designations or otherwise. "Practice of funeral service" also means making arrangements for funeral services or making financial arrangements for the rendering of such services. "Practice of funeral service" does not mean the ownership or operation of a cemetery, crematorium, mausoleum or columbarium or any other facility used for burial of human remains. "Practice of funeral service" does not include the transportation of human remains by an authorized person. "Practice of funeral service" does not include the manufacturing or selling of caskets or alternative containers.

A license for the practice of funeral service as used in this chapter is the license given to a person who is engaged in the practice of funeral service as above defined.

[PL 2021, c. 183, §1 (AMD).]

6. Practitioner trainee. "Practitioner trainee" means a person who is engaged in preparing to become licensed for the practice of funeral service under the personal supervision and instruction of a person duly licensed for the practice of funeral service, and who is duly registered as such and approved by the board.

[PL 1983, c. 468, §4 (AMD).]

SECTION HISTORY

PL 1967, c. 253, §1 (NEW). PL 1971, c. 326, §1 (AMD). PL 1981, c. 703, §A44 (AMD). PL 1983, c. 468, §§3,4 (AMD). PL 1989, c. 450, §12 (AMD). PL 1997, c. 210, §40 (AMD). PL 2001, c. 169, §§1,2 (AMD). PL 2021, c. 183, §1 (AMD).

§1401. Prearranged funerals or burial plans

1. Plan requirements. Except as provided in subsection 1-A, any prearranged funeral or burial plan contracted or undertaken within this State must comply with the following.

A. All money paid during a person's lifetime to any individual, firm, association, partnership or corporation, by that person or by someone on behalf of that person, under an agreement that services will be performed or personal property will be delivered in connection with the disposition of that person's body after death must be deposited by the payee within 10 days after receipt of the money in a separate account in a financial institution or credit union authorized to do business in this State, as defined in Title 9-B, section 131, subsections 12-A and 17-A, in the name of the payee as mortuary trustee for the person for whose benefit the payment was made and must be held in that account together with interest if any. If money is paid by check, share draft or money order, the payee shall instruct the payor to make the instrument payable to the financial institution or credit union into which it is to be deposited and to include on the instrument the name of the mortuary trustee and the person for whose benefit the payment was made. [PL 1999, c. 590, §1 (AMD).]

B. The payee shall deposit the money in either a federally insured deposit or share account or a trust account; the type of account must be disclosed to the payor or the payor's representative and a deposit in a trust account may be invested in or used to purchase only the following:

- (1) Federally insured deposit or share accounts;
- (2) Securities issued, insured or guaranteed by the United States or by any agency or corporate or other instrumentality of the United States;
- (3) Municipal securities that are exempt from registration under Title 32, section 16201, subsection 1; and
- (4) Permanent life insurance, other than variable life insurance and annuities, from an insurer authorized to transact insurance in this State, subject to the provisions of Title 24-A, chapter 27. A payee or mortuary trustee may not receive any commission, fee or other consideration from an insurer in connection with the procurement or purchase of insurance permitted by this subparagraph.

Except for fees allowed by this section, all investments made with trust assets remain trust assets. [PL 2005, c. 65, Pt. C, §16 (AMD).]

C. Within 30 days after the deposit of funds by the payee, the financial institution or credit union shall provide a written confirmation of the deposit, including the amount deposited, to the payor or the payor's legal representative. Nothing in this section may be construed to prevent the direct transfer of these funds to another financial institution or credit union by payee transfer, by financial institution or credit union merger or consolidation or by operation of law, provided that within 30

days after the direct transfer of the funds, the recipient financial institution or credit union shall provide a written confirmation of the deposit, including the amount deposited, to the payor or the payor's legal representative. [PL 1999, c. 590, §1 (AMD).]

D. The agreement must be in writing and a copy must be furnished to the payor or the payor's legal representative by the payee when the agreement is executed. The agreement may be revocable or irrevocable; however, if irrevocable, there must be a provision to allow for the transfer of the account by the appointment of successor trustees. The agreement must clearly state the name of the initial financial institution or credit union into which the money will be deposited and must direct the payor to send a copy of the agreement to the named financial institution or credit union. The agreement must clearly state terms providing for disposition of excess funds after funeral goods and services have been provided. The agreement must clearly state any fees that may be charged against the account; fees must be reasonable, as defined by the board, and may be charged only:

- (1) Upon transfer of the account by the appointment of a successor trustee;
- (2) Upon revocation of the agreement if the agreement is revocable; and
- (3) For the actual financial and tax administration of the account.

The payee shall maintain a complete record of the deposit of all funds, including principal and interest. The record must be available for inspection by the payor, the payor's legal representative, the commissioner's designee or an inspector for the board and must contain the name and address of the financial institution or credit union currently in possession of the funds and the dates and amounts of deposits. [PL 2007, c. 402, Pt. J, §1 (AMD).]

E. The funds may be directed by the payee to another financial institution or credit union or directed back to the payor or the payor's legal representative, if otherwise lawful and permitted by contract, on written instructions of the payor or the payor's legal representative. The funds may only be withdrawn by the payee on presentation of a certified copy of the death certificate of the person for whose benefit the funds were paid, in which event they must be used in accordance with the agreement. [PL 1999, c. 590, §1 (AMD).]

[PL 2007, c. 402, Pt. J, §1 (AMD).]

1-A. Plan funded with proceeds of life insurance policy. A prearranged funeral or burial plan agreement may be funded with proceeds of a life insurance policy in accordance with this subsection.

A. During a person's lifetime, a person or that person's legal representative may enter into an agreement that services will be performed or personal property will be delivered in connection with the disposition of that person's body after death by:

- (1) Assigning the mortuary trustee as owner and beneficiary of a life insurance policy payable to the mortuary trustee upon that person's death; or
- (2) Designating the mortuary trustee as a beneficiary of a life insurance policy payable to the mortuary trustee upon that person's death. [PL 2003, c. 109, §3 (NEW).]

B. An agreement under paragraph A must be in writing and a copy must be furnished to the person or the person's legal representative by the mortuary trustee when the agreement is executed. The agreement may be revocable or irrevocable; however, if the agreement is irrevocable, there must be a provision to allow for the transfer of the trust account by the appointment of successor trustees. The agreement must clearly state terms providing for disposition of excess funds after funeral goods and services have been provided. The agreement must clearly state any fees that may be charged against the trust account. Fees must be reasonable, as defined by the board, and may be charged only:

- (1) Upon transfer of a trust account by the appointment of a successor trustee;
- (2) Upon revocation of the agreement if the agreement is revocable; and

(3) For the actual financial and tax administration of the trust account. [PL 2003, c. 109, §3 (NEW).]

C. The mortuary trustee shall maintain a complete record of a trust account established under this subsection. The record must be available for inspection by the person, the person's legal representative, the commissioner's designee or an inspector for the board. [PL 2003, c. 109, §3 (NEW).]

This subsection may not be construed to alter the terms of a life insurance policy or supersede any law governing the regulation of life insurance policies.

[PL 2003, c. 109, §3 (NEW).]

2. Rulemaking. The board shall adopt rules regarding prearranged funeral agreements, including, but not limited to:

A. The form, format and content of trust agreements; [PL 1999, c. 258, §2 (NEW); PL 1999, c. 258, §3 (AFF).]

B. Standards regarding when service contracts are required in conjunction with trust agreements and the form, format and content of the service contracts; [PL 1999, c. 258, §2 (NEW); PL 1999, c. 258, §3 (AFF).]

C. The establishment of reasonable fees that may be charged only pursuant to subsection 1, paragraph D; and [PL 1999, c. 258, §2 (NEW); PL 1999, c. 258, §3 (AFF).]

D. Inspection of trust agreements, account information and any related documentation. [PL 1999, c. 258, §2 (NEW); PL 1999, c. 258, §3 (AFF).]

Rules adopted pursuant to this section are routine technical rules under the Maine Revised Statutes, Title 5, chapter 375, subchapter II-A.

[PL 1999, c. 258, §2 (NEW); PL 1999, c. 258, §3 (AFF).]

3. Financial institution or credit union liability. The financial institution or credit union is discharged from liability for direct payment of the funds in an account under subsection 1 to another financial institution or credit union or to the payor, upon presentation of a written consent to withdrawal signed by the payor or the payor's legal representative and by the payee or upon withdrawal of the funds by the payee upon presentation of a certified copy of the death certificate of the person for whose benefit the funds were paid.

[PL 1999, c. 590, §2 (AMD).]

4. Applicability. This section does not apply to the sale of cemetery lots, crypts, niches, cemetery burial privileges, cemetery space or perpetual care.

[PL 1999, c. 258, §2 (NEW); PL 1999, c. 258, §3 (AFF).]

5. Cotrustees. This section may not be construed as prohibiting any person, including a payor, from serving as a mortuary cotrustee with the payee.

[PL 1999, c. 258, §2 (NEW); PL 1999, c. 258, §3 (AFF).]

6. Penalties. Any person who violates this section is guilty of a Class E crime. This section does not preclude prosecution or conviction under other applicable laws, including, but not limited to, disciplinary actions under this chapter.

[PL 1999, c. 258, §2 (NEW); PL 1999, c. 258, §3 (AFF).]

SECTION HISTORY

PL 1983, c. 413, §§53,54 (AMD). PL 1983, c. 816, §C1 (AMD). PL 1985, c. 240 (AMD). PL 1989, c. 450, §13 (AMD). PL 1989, c. 674 (AMD). PL 1999, c. 258, §2 (RPR). PL 1999, c. 258, §3 (AFF). PL 1999, c. 590, §§1,2 (AMD). PL 2003, c. 109, §§2,3 (AMD). PL 2005, c. 65, §C16 (AMD). PL 2007, c. 402, Pt. J, §1 (AMD).

§1402. Solicitation of prearranged funerals and funeral business prohibited

No funeral home, funeral establishment or person holding a license under this chapter shall as, or through, an agent or principal solicit a prearranged funeral service or plan for any person or persons. "Prearranged funeral service or plan" shall mean any funeral service or plan which is arranged, planned or determined prior to the demise of a person or persons for whom the funeral service is to be performed. Funeral homes, funeral establishments and licensees under this chapter may enter into contracts or agreements for prearranged funeral services or plans provided that they do not in any manner either as, or through, principals or agents solicit such contract or agreement.

No funeral home, funeral establishment or person licensed under this chapter shall pay or cause to be paid, directly or indirectly, any money or other thing of value to a person not responsible for payment for the funeral as a commission or gratuity for the securing of business for such funeral home, establishment or licensee.

Any person who violates this section is guilty of a Class E crime. [PL 1983, c. 413, §55 (RPR).]

SECTION HISTORY

PL 1983, c. 413, §55 (AMD).

§1403. Employment of funeral directors, embalmers or practitioners of funeral services by cemeteries prohibited

No funeral home, funeral establishment or person holding a license under this chapter may be employed as a funeral home, funeral establishment, or as an embalmer or funeral director or practitioner of funeral services by a cemetery, cemetery association or cemetery corporation, nor shall such person be so employed by a funeral home, funeral establishment or mortuary establishment which owns or controls or is owned or controlled by a cemetery, cemetery association or cemetery corporation. Control shall not be considered to exist because the owners, officers or employees of a funeral home, funeral establishment or mortuary establishment serve without pay or for a fee not exceeding \$500 per year per person as officers or as the minority of the directors or trustees of a cemetery association or cemetery corporation in which they have no financial investment. This section does not prevent employment of persons licensed under this chapter by cemeteries, cemetery associations or cemetery corporations in other capacities than that of funeral director or embalmer or practitioner of funeral services. This section does not apply to disinterments or transfers of disinterred bodies. [PL 1989, c. 450, §14 (AMD).]

Any person who violates this section is guilty of a Class E crime. [PL 1983, c. 413, §56 (RPR).]

SECTION HISTORY

PL 1983, c. 413, §56 (AMD). PL 1989, c. 450, §14 (AMD).

§1404. Medical examiner case; no embalming until release

When a person has died under circumstances which constitute a medical examiner case as defined in Title 22, section 3025, no person may inject into any cavity or artery of the body any fluid or substance, or submerge the body in or place, pour or spray on the body any preservative, deodorant, insecticide, cosmetic or other chemical until a legal certificate as to the cause of death has been obtained from the medical examiner, or until permission to do so has been given by the medical examiner. [PL 1985, c. 611, §10 (AMD).]

SECTION HISTORY

PL 1979, c. 538, §11 (AMD). PL 1985, c. 611, §10 (AMD).

§1404-A. No embalming when autopsy authorized

The next of kin or legal representative of a person who has died may authorize an autopsy. If an autopsy is authorized, no person shall inject into or remove from any artery, vein, or cavity of the body

of the person who has died any fluid, gas or other substance except by or with the permission of a pathologist, medical examiner or licensed physician in attendance. [PL 1975, c. 677 (NEW).]

On completion of the autopsy, the body shall be released for normal handling. [PL 1975, c. 677 (NEW).]

The provisions of this section do not apply to deaths within the jurisdiction of medical examiners or autopsies as authorized in Title 22, chapter 711. [PL 1975, c. 677 (NEW).]

A violation of this section is a Class E crime. [PL 1975, c. 677 (NEW).]

SECTION HISTORY

PL 1975, c. 677 (NEW).

§1405. Cremation

A person, firm or corporation within the State, after obtaining a license from and paying a license fee to the Department of Health and Human Services may establish and maintain suitable buildings and appliances for the cremation of bodies of the dead and, subject to the rules of the department, may cremate such bodies and dispose of the ashes of the same. The department shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A. [PL 2007, c. 225, §1 (AMD).]

The body of a deceased person may not be cremated within 48 hours after death unless the person died of a contagious or infectious disease, and in no event may the body of a deceased person be cremated, buried at sea, used by medical science or removed from the State until the person, firm or corporation in charge of the disposition has received a certificate from a duly appointed medical examiner or medicolegal death investigator appointed pursuant to Title 22, section 3023-A that the medical examiner or medicolegal death investigator has made personal inquiry into the cause and manner of death and is satisfied that further examination or judicial inquiry concerning the cause and manner of death is not necessary. This certificate, a certified copy of the death certificate and a burial transit permit when presented by the authorized person as defined in Title 22, section 2846 is sufficient authority for cremation, burial at sea, use by medical science or removal from the State, and the person, firm or corporation in charge of the disposition may not refuse to cremate or otherwise dispose of the body solely because these documents are presented by such an authorized person. The certificate must be retained by the person, firm or corporation in charge of the cremation or disposition for a period of 15 years. For the certificate, the medical examiner must receive a fee of \$25 payable by the person requesting the certificate. This fee may be waived at the discretion of the Chief Medical Examiner. [PL 2019, c. 87, §3 (AMD).]

Human remains may not be removed, transported or shipped to a crematory unless encased in a casket or other suitable container. Following cremation, the crematory shall label the container containing the cremated remains with the name of the person who was cremated. [PL 2017, c. 101, §4 (AMD).]

SECTION HISTORY

PL 1971, c. 56 (AMD). PL 1975, c. 293, §4 (AMD). PL 1977, c. 232, §5 (AMD). PL 1979, c. 538, §§12,13 (AMD). PL 1985, c. 611, §§11,12 (AMD). PL 1997, c. 210, §40 (AMD). PL 2003, c. 689, §B6 (REV). PL 2007, c. 225, §1 (AMD). PL 2017, c. 101, §4 (AMD). PL 2017, c. 284, Pt. GGG, §1 (AMD). PL 2019, c. 87, §3 (AMD).

§1405-A. Disposition of cremated remains

A funeral director or a practitioner of funeral services who receives cremated remains or has received cremated remains prior to the effective date of this section may dispose of those cremated remains in accordance with Title 13, section 1032, providing the following conditions have been met: [PL 2009, c. 39, §1 (AMD).]

1. Cremated remains not claimed for one year. The cremated remains have not been claimed after a time period of at least one year from the time of cremation; and
[PL 2009, c. 39, §1 (AMD).]

2. Notice. The funeral director or practitioner of funeral services has sent notice by certified mail, return receipt requested, to the last known address of the person who authorized the cremation at least 60 days prior to disposal.
[PL 2001, c. 611, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 611, §1 (NEW). PL 2009, c. 39, §1 (AMD).

§1406. Grave markers

Any funeral establishment or person licensed under this chapter, when selling a grave marker to a consumer before the completion of the funeral of the person whose grave is to be marked, shall adhere to the sale requirements for funeral goods and services set forth in the Federal Trade Commission's Funeral Industry Practices Rule, 16 Code of Federal Regulations, Part 453. Violation of this section is an unfair trade practice in violation of Title 5, section 207. [PL 1989, c. 391 (NEW).]

SECTION HISTORY

PL 1989, c. 391 (NEW).

§1407. Disclosure of funeral establishment ownership; rental caskets

1. Ownership information. A funeral establishment shall disclose the name and address of each person holding an ownership interest in the funeral establishment on each contract or agreement for provision of funeral services or supplies and on any document required by federal law.
[PL 1999, c. 282, §1 (NEW).]

2. Rental caskets. A funeral establishment shall disclose on its general price list and casket price list either that the funeral establishment offers rental caskets and the cost of rental or that the funeral establishment does not offer rental caskets.
[PL 1999, c. 282, §1 (NEW).]

3. Federal Trade Commission regulations. The disclosures required under this section supplement the disclosures required by the Federal Trade Commission pursuant to its regulations governing the funeral industry.
[PL 1999, c. 282, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 282, §1 (NEW).

SUBCHAPTER 2

BOARD OF FUNERAL SERVICES

§1451. Board; powers and duties

The State Board of Funeral Service, as established by Title 5, section 12004-A, subsection 18, consists of 7 members, 5 of whom must be persons licensed for the practice of funeral service for 10 consecutive years or who have had 10 consecutive years' experience as a practitioner of funeral service in this State immediately preceding their appointment and 2 of whom must be public members as defined in Title 5, section 12004-A. Members are appointed by the Governor for a term of 4 years. A national organization of retired persons may submit a list of applicants to the Governor for use in the selection process of one of the public members. Appointments of members must comply with Title 10,

section 8009. A board member may be removed by the Governor for cause. [PL 2013, c. 217, Pt. D, §1 (AMD).]

The board may adopt rules consistent with law governing the practice of funeral service, including but not limited to licensing of practitioner trainees, practitioners of funeral service, funeral directors, embalmers, funeral attendants, funeral home establishments and branches. These rules do not become effective unless adopted in conformity with Title 5, chapter 375, subchapter 2. [PL 2007, c. 402, Pt. J, §2 (AMD).]

The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. [PL 2013, c. 246, Pt. B, §7 (AMD).]

The board shall issue all notices and licenses and may cause inspections to be made of all establishments or places of business of any person engaged in the profession of funeral service in the State, which may include the investigation of complaints or suspected violation of this chapter and the rules adopted by the board. The inspection may also be for the purpose of determining that these establishments and places are maintained in a clean and sanitary manner and that suitable equipment for their proper conduct is maintained and that the laws and the rules of the board relating to the conduct of these establishments are observed. The inspection may include a review of the financial records to determine compliance with the laws and rules of the board governing prearranged funeral services or plans. The inspection may be made by members of the board upon authorization by the board or by professional technical staff. [PL 2007, c. 402, Pt. J, §2 (AMD).]

The board may enter into reciprocal agreements with corresponding boards of other states for the purpose of allowing the practitioners of funeral services to perform their licensed functions in this or other states under such terms and conditions as the boards may prescribe. [PL 1983, c. 413, §57 (NEW).]

SECTION HISTORY

PL 1967, c. 253, §2 (RPR). PL 1971, c. 326, §2 (AMD). PL 1975, c. 293, §4 (AMD). PL 1975, c. 575, §20 (AMD). PL 1975, c. 771, §343 (AMD). PL 1977, c. 694, §566 (AMD). PL 1981, c. 703, §A45 (AMD). PL 1983, c. 413, §57 (RPR). PL 1983, c. 553, §30 (AMD). PL 1983, c. 812, §206 (AMD). PL 1989, c. 450, §§15,16 (AMD). PL 1989, c. 503, §B127 (AMD). PL 1989, c. 878, §B27 (AMD). PL 1993, c. 600, §A105 (AMD). PL 1995, c. 397, §§31,32 (AMD). PL 1999, c. 91, §1 (AMD). PL 1999, c. 91, §2 (AFF). PL 2001, c. 169, §3 (AMD). PL 2001, c. 505, §1 (AMD). PL 2007, c. 402, Pt. J, §2 (AMD). PL 2013, c. 217, Pt. D, §1 (AMD). PL 2013, c. 246, Pt. B, §7 (AMD).

§1451-A. Hearings

(REPEALED)

SECTION HISTORY

PL 1983, c. 413, §58 (NEW). PL 2007, c. 402, Pt. J, §3 (RP).

§1452. Records and reports

(REPEALED)

SECTION HISTORY

PL 1981, c. 703, §A46 (AMD). PL 1983, c. 553, §31 (AMD). PL 2007, c. 402, Pt. J, §4 (RP).

§1452-A. Liaison; limitations

(REPEALED)

SECTION HISTORY

PL 1977, c. 604, §16 (NEW). PL 2007, c. 402, Pt. J, §5 (RP).

§1452-B. Budget

(REPEALED)

SECTION HISTORY

PL 1977, c. 604, §16 (NEW). PL 1981, c. 703, §A47 (AMD). PL 1995, c. 397, §33 (RP).

§1453. Application of moneys collected

(REPEALED)

SECTION HISTORY

PL 1967, c. 253, §3 (AMD). PL 1995, c. 397, §34 (RP).

§1454. Lists for transportation companies

(REPEALED)

SECTION HISTORY

PL 1967, c. 253, §4 (AMD). PL 1983, c. 553, §32 (AMD). PL 1989, c. 450, §17 (RP).

§1455. Investigations; refusal of license or renewal

(REPEALED)

SECTION HISTORY

PL 1967, c. 253, §5 (AMD). PL 1969, c. 285, §1 (AMD). PL 1973, c. 303, §3 (AMD). PL 1977, c. 694, §567 (AMD). PL 1983, c. 413, §59 (RP).

§1455-A. Investigations; refusal of license or renewal

(REPEALED)

SECTION HISTORY

PL 1983, c. 413, §60 (NEW). PL 1989, c. 450, §§18-21 (AMD). PL 1997, c. 210, §40 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2007, c. 402, Pt. J, §6 (RP).

§1455-B. Denial or refusal to renew license; disciplinary action

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for: [PL 2007, c. 402, Pt. J, §7 (NEW).]

1. False advertising. False or misleading advertising as a practitioner of funeral service, funeral director or embalmer; advertising or using the name of a person in connection with that of any funeral establishment who is not licensed as a practitioner of funeral service, funeral director or embalmer; [PL 2007, c. 402, Pt. J, §7 (NEW).]

2. Unauthorized solicitation of human remains. Solicitation of human remains by the licensee, or the licensee's agents, assistants or employees, whether that solicitation occurs after death or while death is impending. Nothing in this subsection may be construed to prohibit general advertising. [PL 2007, c. 402, Pt. J, §7 (NEW).]

3. Unauthorized employment. Employment by the licensee of persons known as "cappers," "steerers," "solicitors" or other such persons to obtain the services of a licensee or one engaged in the practice of funeral service; [PL 2007, c. 402, Pt. J, §7 (NEW).]

4. Unauthorized solicitation of human remains. Employment, directly or indirectly, of a practitioner trainee, agent, assistant, embalmer, employee or other person, on part or full time, or on commission, for the purpose of calling upon individuals or institutions by whose influence human remains may be turned over to a particular funeral establishment; [PL 2007, c. 402, Pt. J, §7 (NEW).]

5. Unauthorized commission to secure business. The direct or indirect payment or offer of payment of a commission by the licensee or the licensee's agents, assistants or employees for the purpose of securing business; [PL 2007, c. 402, Pt. J, §7 (NEW).]

6. Unauthorized commission; crematory, mausoleum or cemetery. Solicitation or acceptance by a licensee of any commission, bonus or rebate in consideration of recommending or causing human remains to be disposed of in any crematory, mausoleum or cemetery; [PL 2007, c. 402, Pt. J, §7 (NEW).]

7. Refusal to surrender human remains. Refusing to promptly surrender the custody of human remains, upon the express order of the person lawfully entitled to the custody thereof; [PL 2007, c. 402, Pt. J, §7 (NEW).]

8. Negligent filings. Negligent, careless or willful noncompliance with the laws relating to filing death certificates and obtaining burial permits; or [PL 2007, c. 402, Pt. J, §7 (NEW).]

9. Abusive or disrespectful handling of human remains. Abuse or disrespect in the handling of human remains, or violation of any law or ordinance affecting the handling, custody, care or transportation of human remains. [PL 2007, c. 402, Pt. J, §7 (NEW).]

Whoever violates any provision of this chapter or any rule prescribed by the board for the preparation, embalming, transportation or burial of any human remains commits a Class E crime. [PL 2007, c. 402, Pt. J, §7 (NEW).]

SECTION HISTORY

PL 2007, c. 402, Pt. J, §7 (NEW).

SUBCHAPTER 3

LICENSES

§1501. Licenses; qualifications; requirements

The State Board of Funeral Service may determine the qualifications necessary to enable any person to lawfully engage in the funeral service profession and operate a funeral establishment. The board shall examine all applicants for licenses for the practice of funeral service and shall issue a license to all persons who successfully pass that examination and pay the fee as set under section 1504. To be licensed for the practice of funeral service under this chapter, a person must be at least 18 years of age, must have successfully completed a prescribed course at a school or schools approved by the State Board of Funeral Service and must have served as a practitioner trainee for not less than 12 months under the personal supervision of a person licensed for the practice of funeral service and approved by the board. Each applicant shall demonstrate trustworthiness and competency to engage in the profession of funeral service in such a manner as to safeguard the interests of the public. [PL 2017, c. 210, Pt. C, §1 (AMD).]

Each applicant for licensure as a practitioner of funeral service, funeral director or embalmer must be examined on the courses as outlined in the board's rules. [PL 2007, c. 402, Pt. J, §9 (AMD).]

All funeral establishments and branches must be operated by a person or persons holding a funeral director's license, which was initially issued before January 1, 1989, or a practitioner of funeral service license. That license must be displayed at or in any such establishment or branch. [PL 1989, c. 450, §22 (NEW).]

A funeral establishment, in which the preparation of dead bodies takes place, must contain a preparation room equipped with tile, cement or composition floor, necessary drainage or proper disposal of waste satisfactory to the local health officer, ventilation and necessary instruments and supplies for the preparation and embalming of dead human bodies for burial, transportation or other disposition. [PL 1989, c. 450, §22 (AMD).]

The board may adopt such rules and classifications as may be reasonable, sufficient and proper to define what shall be deemed the proper drainage and ventilation and what instruments are necessary and suitable in a funeral establishment. [PL 1989, c. 450, §22 (AMD).]

The board shall adopt rules governing the safety of drivers of vehicles owned, leased or otherwise used by a practitioner of funeral service or a funeral establishment for the transport of human remains. Rules adopted under this paragraph are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2021, c. 268, §1 (NEW).]

The board may adopt rules governing its own procedure. It may adopt rules consistent with the law governing the time, place, method and grading of examinations. Written examinations shall be retained for a period of 5 years, but need not be retained for a longer period. The board may waive all or part of the licensing requirements and qualifications of this chapter if in its judgment these requirements and qualifications are in conflict with the religious faith of an applicant. [PL 1989, c. 450, §22 (AMD).]

SECTION HISTORY

PL 1967, c. 253, §6 (RPR). PL 1969, c. 285, §2 (AMD). PL 1969, c. 433, §80 (AMD). PL 1971, c. 326, §3 (AMD). PL 1971, c. 598, §70 (AMD). PL 1977, c. 239 (AMD). PL 1983, c. 413, §61 (AMD). PL 1983, c. 468, §§5,6 (AMD). PL 1983, c. 816, §A32 (AMD). PL 1989, c. 450, §22 (AMD). PL 2007, c. 402, Pt. J, §§8, 9 (AMD). PL 2017, c. 210, Pt. C, §1 (AMD). PL 2021, c. 268, §1 (AMD).

§1501-A. Prior licensees

(REPEALED)

SECTION HISTORY

PL 1969, c. 285, §3 (NEW). PL 1983, c. 413, §62 (RP).

§1501-B. Temporary license

(REPEALED)

SECTION HISTORY

PL 2015, c. 246, §1 (NEW). PL 2019, c. 101, §1 (RP).

§1501-C. Licensing of out-of-state licensees

1. Issuance of licenses. The board may issue a license to an applicant who holds an active and unrestricted license to practice funeral service in another state, the license requirements of which are substantially similar to the license requirements under this chapter and board rules, as long as the licensee has not been subjected to disciplinary action under that license.

[PL 2019, c. 101, §2 (NEW).]

2. Rulemaking. The board shall adopt rules to implement and administer the provisions of this section, including rules that define substantially similar license requirements. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2019, c. 101, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 101, §2 (NEW).

§1501-D. Licensure by endorsement

Notwithstanding any provision of this chapter to the contrary, the board, in accordance with Title 10, section 8003-H and any applicable rules adopted pursuant to that section, shall establish a process to issue a license by endorsement for each license authorized under this chapter that the board determines is appropriate for licensure by endorsement. An applicant may submit an application under the process established under this section or any other licensure process authorized in this chapter. [PL 2021, c. 642, §11 (NEW).]

SECTION HISTORY

PL 2021, c. 642, §11 (NEW).

§1502. Examinations; revocation of licenses

(REPEALED)

SECTION HISTORY

PL 1965, c. 360, §1 (AMD). PL 1967, c. 253, §7 (RP).

§1503. Blanks and forms of procedure; lists of licensees and examinations

(REPEALED)

SECTION HISTORY

PL 1965, c. 360, §2 (AMD). PL 1967, c. 253, §8 (AMD). PL 1975, c. 293, §4 (AMD). PL 1981, c. 703, §A48 (AMD). PL 1983, c. 553, §33 (AMD). PL 2007, c. 402, Pt. J, §10 (RP).

§1503-A. Practitioner trainee

The board may issue a practitioner trainee license to an individual seeking to obtain the necessary experience to be licensed as a practitioner of funeral service. An individual who receives a practitioner trainee license shall register with the Maine Apprenticeship Program established under Title 26, section 3202 and complete 2,000 hours of training with a funeral establishment approved by the board under the instruction and supervision of a licensed funeral practitioner who is actively engaged in that practice. [PL 2017, c. 210, Pt. C, §2 (NEW).]

Upon terminating employment, the practitioner trainee shall notify the board immediately, giving the date of termination. The practitioner trainee must repeat this procedure with all subsequent employers, accurately showing the dates of beginning and of terminating employment. Before a funeral service license may be issued, the practitioner trainee must file with the board a certification of the trainee time served, signed by the practitioner trainee's employer or employers, before a notary public. Practitioner trainee requirements are satisfied in the case of an applicant who presents proof of present licensure as a practitioner of funeral service in another state at the time application is made for licensure as a practitioner of funeral service in this State. [PL 2017, c. 210, Pt. C, §2 (AMD).]

SECTION HISTORY

PL 1967, c. 253, §9 (NEW). PL 1969, c. 285, §4 (AMD). PL 1983, c. 468, §7 (AMD). PL 1989, c. 450, §23 (AMD). PL 2007, c. 402, Pt. J, §11 (AMD). PL 2017, c. 210, Pt. C, §2 (AMD).

§1504. Fees; expiration and renewal of licenses

The Director of the Office of Professional and Occupational Regulation within the Department of Professional and Financial Regulation may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$300 annually. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [PL 2007, c. 402, Pt. J, §12 (AMD); PL 2011, c. 286, Pt. B, §5 (REV).]

1. License renewal. All licenses issued by the board expire February 1st annually or such other time as the Commissioner of Professional and Financial Regulation may designate. Any person holding a license under this law may have the license renewed by making and filing an application with the board and upon payment of the renewal fee as set under this section.

A. [PL 1999, c. 685, §1 (RP).]

B. [PL 1999, c. 685, §1 (RP).]

C. [PL 1999, c. 685, §1 (RP).]

D. [PL 1999, c. 685, §1 (RP).]

E. [PL 1999, c. 685, §1 (RP).]

F. [PL 1999, c. 685, §1 (RP).]
[PL 2007, c. 402, Pt. J, §12 (AMD).]

2. Late renewal. A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license expiration date is subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if the renewal application is received, together with the late fee and renewal fee as set under this section, within 2 years from the date of the expiration. [PL 2007, c. 402, Pt. J, §12 (AMD).]

SECTION HISTORY

PL 1965, c. 360, §3 (RPR). PL 1967, c. 253, §10 (RPR). PL 1969, c. 285, §5 (AMD). PL 1981, c. 328, §§1-4 (AMD). PL 1983, c. 413, §63 (RPR). PL 1983, c. 553, §34 (AMD). PL 1983, c. 816, §A33 (AMD). PL 1989, c. 450, §24 (RPR). PL 1999, c. 685, §1 (AMD). PL 2007, c. 402, Pt. J, §12 (AMD). PL 2011, c. 286, Pt. B, §5 (REV).

§1505. Notice to holders of expiring licenses

(REPEALED)

SECTION HISTORY

PL 1983, c. 553, §35 (AMD). PL 2007, c. 402, Pt. J, §13 (RP).

§1506. Educational requirements

1. Applicability. This section applies to all persons licensed for the practice of funeral service in accordance with section 1501.

[PL 1991, c. 117, §1 (NEW).]

2. Requirements. A licensee shall complete 12 hours of continuing education within 2 years prior to the date of renewal. The board may, for good cause shown, grant an extension of time to any person to allow that person to comply with this subchapter. No more than 6 of the 12 hours may be completed through online or distance learning programs.

[PL 2019, c. 101, §3 (AMD).]

3. Program approval. The board may establish by rule criteria for the review and approval of courses and for the determination of the number of continuing education hours to be credited for completion of each course or program.

[PL 2019, c. 101, §3 (AMD).]

4. Penalties. The license for the practice of funeral service of any person who fails to comply with this section may not be renewed and terminates upon the next expiration date.

[PL 1991, c. 117, §1 (NEW).]

5. Rulemaking authority. The board may establish by rule reasonable procedures and standards to fulfill the purposes of this section.

[PL 1991, c. 117, §1 (NEW).]

SECTION HISTORY

PL 1991, c. 117, §1 (NEW). PL 2019, c. 101, §3 (AMD).

§1507. Inactive status license

A licensee who is no longer actively practicing funeral service may apply for an inactive status license pursuant to Title 10, section 8003, subsection 5-A, paragraph D, subparagraph (5). The holder of an inactive status license may not practice funeral service in the State. The fee for inactive status licensure is set under section 1504. The holder of an inactive status license must renew the license annually and pay the renewal fee as set under section 1504, but is not required to meet the continuing education requirement of this chapter and the rules adopted under it. [RR 2007, c. 1, §17 (COR).]

A holder of an inactive status license who wishes to reinstate that holder's active license must comply with the continuing education requirement and fees provided in this chapter and the rules adopted under it. [PL 2007, c. 402, Pt. J, §14 (AMD).]

SECTION HISTORY

PL 1993, c. 404, §A1 (NEW). PL 1997, c. 210, §6 (AMD). PL 2007, c. 402, Pt. J, §14 (AMD). RR 2007, c. 1, §17 (COR).

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