

Alabama Funeral Services Statutes and Regulations
Code of Alabama 1975, Title 34 Chapter 13 & Administrative Code 395

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Article 1
GENERAL PROVISIONS

Section 34-13-1

Definitions.

(a) For purposes of this chapter, the following terms shall have the following meanings:

(1) ACCREDITED SCHOOL or COLLEGE OF MORTUARY SCIENCE. A school or college approved by the Alabama Board of Funeral Service and which maintains a course of instruction of not less than 48 calendar weeks or four academic quarters or college terms and which gives a course of instruction in the fundamental subjects including, but not limited to, the following:

- a. Mortuary management and administration.
- b. Legal medicine and toxicology as it pertains to funeral directing.
- c. Public health, hygiene, and sanitary science.
- d. Mortuary science, to include embalming technique, in all its aspects; chemistry of embalming, color harmony; discoloration, its causes, effects, and treatment; treatment of special cases; restorative art; funeral management; and professional ethics.
- e. Anatomy and physiology.
- f. Chemistry, organic and inorganic.
- g. Pathology.
- h. Bacteriology.
- i. Sanitation and hygiene.
- j. Public health regulations.
- k. Other courses of instruction in fundamental subjects as may be prescribed by the Alabama Board of Funeral Service.

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(2) **ALKALINE HYDROLYSIS.** The technical process that reduces human remains to bone fragments using heat, water, and chemical agents.

(3) **AMERICAN BOARD OF FUNERAL SERVICE EDUCATION.** That funeral service educational organization which is an agency granted official recognition by the United States Secretary of Education and which is composed of members representing the American Association of College of Mortuary Science, the Conference of Funeral Service Examining Board of the United States, Inc., the National Association of Colleges of Mortuary Science, and the University Mortuary Science Education Association and which has as its object the furtherance of education in the field of funeral service and in fields necessary to, or allied with, the field of funeral service, and further to formulate standards of funeral service education and to grant accreditation to qualified schools and colleges of mortuary science and to do all things incidental to the foregoing.

(4) **APPRENTICE EMBALMER or EMBALMER'S APPRENTICE.** Any person engaged in the study of the art of embalming under the instructions and supervision of a licensed embalmer practicing in this state.

(5) **APPRENTICE FUNERAL DIRECTOR or FUNERAL DIRECTOR'S APPRENTICE.** Any person operating under or in association with a funeral director for the purpose of learning the business or profession of funeral director, to the end that he or she may become licensed under this chapter.

(6) **AUTHORIZING AGENT.** A person at least 18 years of age, except in the case of a surviving spouse or parent, who is legally entitled to order the cremation or final disposition of particular human remains.

(7) **BOARD.** The Alabama Board of Funeral Service.

(8) **CASH ADVANCE ITEMS.** Any item of service or merchandise described to a purchaser using the term cash advance, accommodation, cash disbursement, or similar term. A cash advance item is also any item obtained from a third party and paid for by a funeral provider on behalf of a purchaser. Cash advance items include, but are not limited to, all of the following:

- a. Cemetery or crematory services.
- b. Pallbearers.
- c. Public, or other, transportation.
- d. Clergy honoraria.
- e. Flowers.

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- f. Musicians or singers.
- g. Nurses.
- h. Obituary notices.
- i. Funeral programs.
- j. Gratuities.
- k. Death certificates.
- l. Outer burial containers.
- m. Cemetery plots.
- n. Escorts.

(9) CASKET. A rigid container designed for the encasement of human remains.

(10) CEMETERY. A place dedicated to and used or intended to be used for the permanent interment of human remains. It may be either land or earth interment; a mausoleum for vault or crypt entombment; a structure or place used or intended to be used for the interment of cremated remains; cryogenic storage; or any combination of one or more thereof.

(11) CEMETERY AUTHORITY. Any individual, person, firm, profit or nonprofit corporation, trustee, partnership, society, religious society, church, association or denomination, municipality, or other group or entity, however organized, insofar as they or any of them may now or hereafter establish, own, operate, lease, control, or manage one or more cemeteries, burial parks, mausoleums, columbariums, or any combination or variation thereof, or hold lands or structures for burial grounds or burial purposes in this state and engage in the operation of a cemetery, including any one or more of the following: The care and maintenance of a cemetery; the interment, entombment, and memorialization of the human dead in a cemetery; the sale, installation, care, maintenance, or any combination thereof, with respect of monuments, markers, foundations, memorials, burial vaults, urns, crypts, mausoleums, columbariums, flower vases, floral arrangements, and other cemetery accessories, for installation or use within a cemetery; and the supervision and conduct of funeral and burial services within the bounds of the cemetery.

(12) CONVICTION. The entry of a plea of guilty or a guilty verdict rendered by any court of competent jurisdiction, excluding traffic violations.

(13) CREMATED REMAINS. Human remains recovered after the completion of the cremation process, including pulverization, which leaves only bone fragments reduced to unidentifiable dimensions.

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(14) CREMATION. The technical process, using heat, flames, or chemical agents, that reduces human remains to bone fragments. The reduction takes place through heat and evaporation. Cremation shall include the processing, and may include the pulverization, of the bone fragments.

(15) CREMATIONIST. A person licensed by the board to perform the procedure of cremation.

(16) CREMATION CHAMBER. The retort or vessel used to reduce human remains to bone fragments.

(17) CREMATION CONTAINER. The container in which human remains are transported to a crematory, in which human remains are placed in upon arrival at a crematory, or for storage and placement in a cremation chamber for cremation.

(18) CREMATORY. A building or portion of a building that houses a cremation chamber and that may house a holding facility for purposes of cremation and as part of a funeral establishment.

(19) EMBALMER. Any person engaged or holding himself or herself out as engaged in the business, practice, science, or profession of embalming, whether on his or her own behalf or in the employ of a registered and licensed funeral director.

(20) EMBALMING. The practice, science, or profession, as commonly practiced, of preserving, disinfecting, and preparing by application of chemicals or other effectual methods, human dead for burial, cremation, or transportation.

(21) FUNERAL. A ceremony for celebrating, sanctifying, or remembering the life of a person who has died. A funeral may be divided into the following two parts:

a. The funeral service, which may take place at a funeral home, church, or other place.

b. The committal service or disposition, which may take place by the grave, tomb, mausoleum, or crematory where the body of the decedent is to be buried or cremated.

(22) FUNERAL ARRANGEMENTS. The completing of funeral service arrangements, cremation arrangements, and the financial details of a funeral at the time of death. The term includes the collection of vital statistic information, death certificate information, obituary and funeral notice completion, the completion of a statement of funeral goods and services selected, organizing of funeral and memorial services for families, and the ordering of cash advance items.

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(23) FUNERAL DIRECTING. The practice of directing or supervising funerals, the practice of preparing dead human bodies for burial by means other than embalming, or the preparation for the disposition of dead human bodies; the making of funeral arrangements or providing for funeral services or the making of financial arrangements for the rendering of these services; the provision or maintenance of a place for the preparation for disposition of dead human bodies; or the use of the terms funeral director, undertaker, mortician, funeral parlor, or any other term from which can be implied the practice of funeral directing; or the holding out to the public that one is a funeral director or engaged in a practice described in this subdivision.

(24) FUNERAL DIRECTOR. A person required to be licensed to practice the profession of funeral directing under the laws of this state, who consults with the public, who plans details of funeral services with members of the family and minister or any other person responsible for such planning, or who directs, is in charge, or apparent charge of, and supervises funeral service in a funeral home, church, or other place; who enters into the making, negotiation, or completion of financial arrangements for funeral services, or who uses in connection with the profession of funeral directing the terms funeral director, undertaker, funeral counselor, mortician, or any other term or picture or combination thereof when considered in context in which used, from which can be implied the practicing of the profession of funeral directing or that the person using such term or picture can be implied to be holding himself or herself out to the public as being engaged in the profession of funeral directing; and for all purposes under Alabama law, a funeral director is considered a professional. For the purposes of this chapter, the term does not include any cemetery authority.

(25) FUNERAL ESTABLISHMENTS. The term includes any funeral home or mortuary service located at a specific street address where the profession of funeral directing, embalming, or cremation is practiced in the care, planning, and preparation for burial, cremation, or transportation of human dead. A funeral establishment shall consist of and maintain all of the following facilities:

- a. A preparation room equipped with sanitary nonporous floor and walls, necessary drainage and ventilation, and containing operating embalming equipment, necessary approved tables, instruments, hot and cold running water, containers or receptacles for soiled linen or clothing, and supplies for the preparation and embalming of dead human bodies for burial, cremation, and transportation.
- b. A display room containing a stock of adult caskets and funeral supplies displayed in full size, cuts, photographs, or electronic images. At no time shall less than eight different adult size caskets be on the premises.
- c. At least one operating funeral coach or hearse properly licensed and equipped for transporting human remains in a casket or urn.

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d. If engaged in the practice of cremation, the establishment shall satisfy all crematory requirements provided in this chapter and have on site an adequate supply of urns for display and sale.

e. A room suitable for public viewing or other funeral services that is able to accommodate a minimum of 100 people.

f. An office for holding arrangement conferences with relatives or authorizing agents.

(26) FUNERAL SUPPLIES or FUNERAL MERCHANDISE. Caskets made of any material for use in the burial or transportation of human dead; outer receptacles, when sold by a funeral director, including burial vaults and urns, for cremated human remains; clothing used to dress human dead when sold by a funeral director; and all equipment and accouterments normally required for the preparation for burial or funeral and other disposition of human dead.

(27) GROSS IMMORALITY. Willful, flagrant, or shameful immorality or showing a moral indifference to the opinions of the good and respectable members of the community and to the just obligations of the position held by the offender.

(28) HOLDING ROOM. Either of the following:

a. A room within a funeral establishment that satisfies the requirements of a branch location as provided in this chapter or board rule, for the retention of human remains before disposition.

b. A room within a crematory facility, designated for the retention of human remains before and after cremation, that is not accessible to the public.

(29) MANAGING CREMATIONIST. A licensed funeral director and cremationist who has full charge, control, and supervision of all activities involving cremation at a funeral establishment or crematory.

(30) MANAGING EMBALMER. A licensed embalmer who has full charge, control, and supervision of all activities involving the preparation room and embalming.

(31) MANAGING FUNERAL DIRECTOR. A licensed funeral director who has full charge, control, and supervision of all activities involving funeral directing for a funeral establishment.

(32) MORAL TURPITUDE. Any unlawful sexual or violent act, or any act involving theft, theft of services, extortion, receiving stolen property, identity theft, forgery, fraud, tampering with records, bribery, perjury, or any similar act in any jurisdiction.

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(33) **MORTUARY SCIENCE.** The scientific, professional, and practical aspects, with due consideration given to accepted practices, covering the care, preparation for burial, or transportation of dead human bodies, which shall include the preservation and sanitation of the bodies and restorative art and those aspects related to public health, jurisprudence, and good business administration.

(34) **MORTUARY SERVICE.** A location with a specific street address where embalming or cremation, or both, is practiced for a licensed funeral establishment and where no services or merchandise are sold directly or at retail to the public. A mortuary service shall consist of and maintain all of the following facilities:

a. A preparation room equipped with sanitary nonporous floor and walls, operating embalming equipment, and necessary drainage and ventilation and containing necessary approved tables, instruments, hot and cold running water, containers or receptacles for soiled linen or clothing, and supplies for the preparation and embalming of dead human bodies for burial, cremation, and transportation.

b. At least one operating motor vehicle properly licensed and equipped for transporting human remains in a casket or urn.

c. If engaged in the practice of cremation, the establishment shall satisfy all requirements for a crematory provided in this chapter.

(35) **OPERATOR.** A person, corporation, firm, legal representative, or other organization owning or operating a funeral establishment.

(36) **PRACTICAL EMBALMER.** Any person who has been actively and continuously engaged or employed in the practice of embalming under the supervision of a licensed embalmer for four consecutive years immediately preceding May 1, 1975, and has been issued a license as a practical embalmer under the grandfather provisions of this chapter.

(37) **PROCESSING or PULVERIZATION.** The reduction of identifiable bone fragments after the completion of the cremation process to unidentifiable bone fragments or granulated particles by manual or mechanical means.

(38) **TEMPORARY CONTAINER.** A receptacle for cremated remains, usually composed of cardboard, plastic, or similar material, that can be closed in a manner that prevents the leakage or spillage of the cremated remains or the entrance of foreign material, and is a single container of sufficient size to hold the cremated remains until an urn is acquired or the cremated remains are scattered or buried.

(39) **URN.** A receptacle designed to encase cremated remains.

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(b) Nothing in this chapter shall require a funeral director or funeral establishment to have or provide a chapel or to restrict the conduct of funeral services from a church or chapel.

(Acts 1975, No. 214, p. 705, §2; Acts 1983, No. 83-746, p. 1235, §1; Act 2002-239, p. 498, §1; Act 2011-623, p. 1439, §1; Act 2014-125, p. 206, §1; Act 2017-433, §1.)

Section 34-13-2

Purpose of chapter.

It is declared and established that the procedures for making final disposition of human dead, including embalming and funeral directing, are so affected with the public interest as to require regulation and control of such included occupations and that, additionally, such regulation and control are necessary for the prevention of the spread of infectious and contagious diseases, for the protection of the health and welfare of the people of the state and that all of the provisions of this chapter and regulations authorized to be made are necessary to effectuate its purpose; and all of the provisions of this chapter shall be construed liberally and in a manner to carry out its obvious intents and purposes.

(Acts 1975, No. 214, p. 705, §1.)

Section 34-13-3

Applicability of chapter.

Nothing in this chapter shall be construed to give any cemetery or cemetery authority or any other person or entity the right to enter into or engage in any funeral home operation or the practice of embalming or funeral directing or any related funeral home or funeral directing activities. Nor shall this chapter include any temporary or occasional or extra help to assist in the conduct of a funeral employed on such basis by a funeral director, provided such funeral is under the direct supervision of a licensed funeral director. Nor shall this chapter require an out-of-state student to obtain an Alabama apprenticeship for the purposes of attending mortuary school in the state, as long as the student has an existing active apprenticeship or internship in his or her state of residence.

(Acts 1975, No. 214, p. 705, §11; Act 2017-433, §1; Act 2018-450, §1.)

Section 34-13-4

Publication of statutes and regulations.

Upon request, the board shall distribute to funeral directors, embalmers, and apprentices and such other persons as may be interested therein, in hard copy form, and shall maintain in electronic format on the website of the board, the provisions of this chapter together with all rules and regulations prescribed, adopted, or promulgated pursuant to this chapter, together with a complete and current list of all persons and establishments licensed under this chapter.

(Acts 1975, No. 214, p. 705, §35; Acts 1981, No. 81-200, p. 234, §4; Acts 1983, No. 83-746, p. 1235, §1; Act 2014-125, p. 206, §1.)

Section 34-13-5

Courts having jurisdiction; initiation of proceedings.

District courts shall have jurisdiction in all criminal prosecutions arising under this chapter. The district attorney is authorized to institute criminal prosecutions for violations of this chapter by information, or prosecutions may be instituted by indictment or by complaint verified before any magistrate.

(Acts 1975, No. 214, p. 705, §38; Act 2018-450, §1.)

Section 34-13-6

Recourse by a licensee against unreasonable orders or wrongful interpretations by the board.

In the event a licensee under this chapter should have cause to believe that the board, or a member or members thereof, has used the powers of the board to promulgate orders or rulings or requirements not intended by this chapter and that such orders or rulings or requirements are used to subject the licensee to unreasonable and wrongful interpretations of this chapter by the board or that the board or a member or members thereof have imposed the powers of the board or the wrongful interpretations of this chapter upon the licensee to such extent that it constitutes harassment of the licensee, then the licensee may take an appeal for relief to the Circuit Court of Montgomery County as prescribed in Section 34-13-31.

(Acts 1975, No. 214, p. 705, §47; Act 2014-125, p. 206, §1; Act 2018-450, §1.)

Section 34-13-7

Embezzlement, abstracting, or willfully misapplying moneys collected; bribery.

Any person who embezzles, abstracts, or willfully misapplies any of the moneys, funds, security, or credit of the board or who misuses any of the funds or fees so collected, by virtue of this chapter, and any person who, with like intent, aids or abets any person in violation of this chapter shall be guilty of a felony and, upon conviction, shall be punished by a fine of not less than five hundred dollars (\$500) nor exceeding five thousand dollars (\$5,000) and imprisonment in the penitentiary for a period of not less than one year and not more than five years, and the principal offenders and those aiding and abetting same may be charged in the same count, and separate offenses may be charged, in separate counts, in the same indictment and tried together. Any person found guilty of offering or of accepting a bribe whereupon any person is illegally licensed to practice embalming, to practice funeral directing, or to operate a funeral establishment in this state shall be punished by a fine of not less than five hundred dollars (\$500) nor exceeding ten thousand dollars (\$10,000) and may be imprisoned in the penitentiary for a period of one to three years, and the principal offenders and those aiding and abetting same may be charged in the same count and separate offenses may be charged in separate counts in the same indictment and tried together.

(Acts 1975, No. 214, p. 705, §48; Act 2011-623, p. 1439, §1.)

Section 34-13-8

Certified copy of official documents.

On application of any person and payment of the cost thereof, the executive director of the board shall furnish, under the seal of the board and signed by the executive director, a certified copy of any license, rule, regulation, or order. In any court or proceeding such copy shall be prima facie evidence of the fact of the issuance of such license, regulation, rule, or order and that such is effective as of the date of such certificate.

(Acts 1975, No. 214, p. 705, §51; Act 2017-433, §1.)

Section 34-13-9

Pricing requirements.

Funeral service, cemetery service, and funeral merchandise pricing shall conform to rules established by the Federal Trade Commission and each funeral establishment shall have a card or brochure in each full-size and cut casket, and a clear statement on each photograph and electronic image of a casket, stating the unit price of that casket.

(Acts 1975, No. 214, p. 705, §52; Act 2011-623, p. 1439, §1; Act 2014-125, p. 206, §1.)

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Section 34-13-10

Violations.

Unless otherwise provided herein, violation of any part of this chapter shall be a Class A misdemeanor which may be prosecuted and shall be punishable as such under the laws of Alabama.

(Acts 1975, No. 214, p. 705, §53; Acts 1981, No. 81-200, p. 234, §4; Act 2017-433, §1.)

Section 34-13-11

Authorizing agent.

(a) A person, who is at least 18 years of age and of sound mind, may enter into a contract to act as authorizing agent and direct the location, manner, and conditions of disposition of remains and arrange for funeral goods and services to be provided upon death. Except as otherwise provided in subsection (b), the right to control the disposition of the remains of a deceased person as an authorizing agent, including the location, manner, and conditions of disposition and arrangements for funeral goods and services to be provided, shall vest in the following persons in the priority listed and the order named, provided the person is at least 18 years of age and of sound mind:

(1) The person designated by the decedent as authorized to direct disposition pursuant to Public Law No. 109-163, Section 564, as listed on the decedent's United States Department of Defense Record of Emergency Data, DD Form 93, or its successor form, if the decedent died while serving on active duty in any branch of the United States Armed Forces, United States Reserve Forces, or National Guard.

(2)a. The person designated by the decedent in an affidavit executed in accordance with paragraph b.

b. Any person, at least 18 years of age and of sound mind, may authorize another person to control the disposition of his or her remains pursuant to an affidavit executed before a notary public in substantially the following form:

State of Alabama

County of _____

I, _____ designate _____ to control the disposition of my remains upon my death. I ___ have ___ have not attached specific directions concerning the disposition of my remains. If specific

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directions are attached, the designee shall substantially comply with those directions, provided the directions are lawful and there are sufficient resources in my estate to carry out those directions.

Subscribed and sworn to before me this ____ day of the month of _____ of the year _____.

_____ (signature of notary public)

(3) The surviving spouse.

(4) The sole surviving child of the decedent or, if there is more than one surviving child, a majority of the surviving children. Less than a majority of the surviving children may be vested with the rights of this section if reasonable efforts have been made to notify all surviving children of the instructions and a majority of the surviving children are not aware of any opposition to the instructions.

(5) The sole surviving grandchild of the decedent or, if there is more than one surviving grandchild, a majority of the surviving grandchildren. Less than a majority of the surviving grandchildren may be vested with the rights of this section if reasonable efforts have been made to notify all surviving grandchildren of the instructions and a majority of the surviving grandchildren are not aware of any opposition to the instructions.

(6) The surviving parent or parents of the decedent. If one surviving parent is absent, the remaining parent shall be vested with the rights and duties of this section after reasonable efforts in locating the absent surviving parent have been unsuccessful.

(7) The surviving sibling of the decedent or, if there is more than one surviving sibling, a majority of the surviving siblings. Less than a majority of the surviving siblings may be vested with the rights and duties of this section if reasonable efforts have been made to notify all surviving siblings of the instructions and a majority of the surviving siblings are not aware of any opposition to the instructions.

(8) The surviving grandparent of the decedent or, if there is more than one surviving grandparent, a majority of the surviving grandparents. Less than a majority of the surviving grandparents may be vested with the rights and duties of this section if reasonable efforts have been made to notify all surviving grandparents of the instructions and a majority of the surviving grandparents are not aware of any opposition to the instructions.

(9) The guardian of the decedent at the time of the death of the decedent, if a guardian had been appointed.

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(10) The personal representative of the estate of the decedent.

(11) The person in the classes of the next degree of kinship, in descending order, under the laws of descent and distribution to inherit the estate of the decedent. If there is more than one person of the same degree, any person of that degree may exercise the right of disposition.

(12) The public officer, administrator, or employee responsible for arranging the final disposition of the remains of the decedent if the disposition of the remains is the responsibility of the state or a political subdivision of the state.

(13) Any other person willing to assume the responsibility of acting on and arranging the final disposition of the remains of the decedent, including the funeral director that has custody of the body, in the absence of any person specified in subdivisions (1) to (12), inclusive. The person shall attest in writing that good faith efforts to contact the persons specified in subdivisions (1) to (12), inclusive, have been unsuccessful.

(b) The right of disposition shall be forfeited and passed to the next qualifying person listed in subsection (a), in any of the following circumstances:

(1) The person is charged with first or second degree murder or voluntary manslaughter in connection with the death of the decedent and the charges are known by the mortician. If the charges against the person are dismissed or the person is acquitted of the charges, the right of disposition shall be reinstated.

(2) The person does not exercise his or her right of disposition within two days after notification of the death of the decedent or within three days after the death of the decedent, whichever is earlier.

(3) If the person is the spouse of the decedent and a petition to dissolve the marriage was pending at the time of death of the decedent.

(4) If the judge of probate court determines, pursuant to subsection (c), that the person entitled to the right of disposition and the decedent were estranged at the time of death. For the purposes of this subdivision, estranged means a physical and emotional separation that has existed for such a period of time that an absence of affection, trust, and regard for the decedent is clearly demonstrated.

(c) Notwithstanding subsections (a) and (b), the judge of probate of the county of residence of the decedent may award the right of disposition to the person the judge of probate determines to be the most fit and appropriate to manage the right of disposition, and may make decisions regarding the remains of the decedent if the persons possessing the right of disposition do not agree. If two or more persons who possess an equal right of disposition are not able by majority vote to agree upon the disposition of the remains of the decedent,

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any of those persons or the funeral establishment with custody of the remains may file a petition asking the judge of probate to make a determination in the matter. In making such a determination, the judge of probate shall consider all of the following:

- (1) The reasonableness and practicality of the proposed funeral and disposition arrangements.
- (2) The degree of the personal relationship between the decedent and each person possessing a right of disposition.
- (3) The financial ability and willingness of each person possessing a right of disposition to pay the cost of the funeral and disposition arrangements.
- (4) The convenience and needs of other family members and friends who wish to pay their respects and the degree to which the funeral arrangements would allow maximum participation by all who wish to pay their respects.
- (5) The desires of the decedent.

(d) Absent negligence, wantonness, recklessness, or deliberate misconduct in the event of a dispute regarding the right of disposition, a funeral establishment may not be held liable for refusing to accept remains, for interring, or for otherwise disposing of the remains of a decedent or for completing arrangements for the final disposition of remains unless and until the funeral establishment receives an order from the judge of probate, or other written agreement signed by all persons possessing a right of disposition, regarding the final disposition of the remains. If a funeral establishment retains remains for final disposition during a disagreement, the funeral establishment may embalm or refrigerate and shelter the body, or both, to preserve the body pending the final decision of the judge of probate. The funeral establishment may add the cost of embalming or refrigeration and sheltering, or both, to the final disposition cost. If a funeral establishment files a petition pursuant to subsection (c), the funeral establishment may add any associated legal fees and court costs to the cost of final disposition. This section may not be construed to require or impose a duty upon a funeral establishment to bring an action pursuant to this section. A funeral establishment and its employees may not be held criminally or civilly liable for not bringing an action pursuant to this section.

(e) Except to the degree that it may be considered by the judge of probate pursuant to subdivision (3) of subsection (c), the fact that a person has paid or has agreed to pay for all or a part of funeral and final disposition arrangements does not give that person a greater voice in right of disposition decisions than he or she would have had otherwise. The personal representative of the estate of a decedent, by virtue of being the personal representative, does not have a greater voice in right of disposition decisions than he or she would have had otherwise.

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(Act 2002-239, p. 498, §3; Act 2010-701, p. 1699, §1; Act 2011-623, p. 1439, §1; Act 2017-433, §1.)

Section 34-13-12

Truthfulness of documentary information; rights and obligations of funeral establishment; liability.

(a) Any person signing a funeral service agreement, cremation authorization form, or any other authorization for disposition by his or her signature shall attest to the truthfulness of any facts set forth in the document including, but not limited to, the identity of the decedent whose remains are to be buried, cremated, or otherwise disposed of and the authority of the person to order the disposition. A funeral establishment may rely on a funeral service agreement, contract, or authorization in carrying out the instructions of the person the funeral establishment reasonably believes to hold the right of disposition. A funeral establishment is not responsible for contacting or independently investigating the existence of any next-of-kin or relative of a decedent. If there is more than one person in a class with equal priority and the funeral establishment has no knowledge of any objection by any other member of that class, the funeral establishment may rely upon and act according to the instructions of the first person in the class to make funeral and disposition arrangements.

(b) Absent negligence, wantonness, recklessness, or deliberate misconduct, no funeral establishment or funeral director who relies in good faith upon the instructions of a person who claims a right of disposition shall be subject to criminal or civil liability, or be subject to disciplinary action, for carrying out the disposition of the remains in accordance with those instructions.

(Act 2002-239, p. 498, §3; Act 2011-623, p. 1439, §1.)

Article 2
BOARD OF FUNERAL SERVICE

Section 34-13-20

Creation; composition; qualifications of members; appointment; terms of office.

(a) There is established the Alabama Board of Funeral Service, consisting of nine members, each of whom shall be citizens of the United States and residents of the State of Alabama.

(b) The appointing authorities shall coordinate their appointments to assure board membership is inclusive and reflects the racial, gender, geographic, urban/rural, and economic diversity of the state.

(c) Commencing on January 1, 2019, as the terms of the members serving on the board on August 1, 2017 expire, the membership of the board shall be reconstituted to consist of seven professional members and two consumer members.

(1) Each professional member of the board shall be a citizen of the United States, a resident of Alabama, and licensed and in good standing with the board as an embalmer or funeral director at the time of appointment and during the entire term of office. Professional members of the board shall be appointed by the Governor pursuant to subsection (e).

a. Four of the professional members of the board shall hold a current license from the board to practice embalming in the state, shall have been actively practicing embalming in the state for the last 10 consecutive years immediately preceding appointment, and shall be engaged in the practice of embalming at the time of appointment to the board.

b. Three of the professional members of the board shall hold a current license from the board to practice funeral directing in the state, shall have been actively engaged in funeral directing in the state for the last 10 consecutive years immediately preceding appointment, and shall be the operator of a funeral establishment in this state at the time of appointment to the board.

(2) Each consumer member of the board shall represent the public in general and shall have been a citizen of the United States and a resident of Alabama for the last 10 consecutive years immediately preceding appointment and during the entire term of office. A consumer member of the board may not have held, nor currently hold, a license or certification issued by the board, be employed at any time by, or professionally or financially associated with, the holder of a license or certificate

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issued by the board, or be related within the third degree of consanguinity or affinity to the holder of a license or certificate issued by the board. One consumer member of the board shall be appointed by the Lieutenant Governor and one consumer member shall be appointed by the Speaker of the House of Representatives pursuant to a procedure adopted by rule of the board.

(d) Commencing in October of 2018, and each October thereafter of a year where at least one professional member term on the board has expired, or is vacant for any reason, all licensed funeral directors and licensed embalmers shall meet in Montgomery, at a time and place fixed by the board, for the purpose of nominating and submitting the names of three licensed persons for each position on the board to the Governor. The Governor shall promptly appoint one of the three persons so nominated to serve as a professional member of the board.

(e)(1) Professional and consumer members of the board shall serve staggered terms of four years each to provide continuity of service on the board. If an appointment is not made before the expiration of a term, the board member then serving may continue to serve until a successor has been appointed. A board member may not serve more than two full consecutive terms on the board.

(2) A board member who is appointed to fill a vacancy which occurs before the expiration of the term of the vacating member shall serve the remaining portion of the term to which the former member was appointed. If a member is appointed to fill an unexpired term of less than two years, the time may not be counted toward the maximum eight years of service.

(3) Not more than one professional member of the board may reside in the same district as created by Section 34-13-21.

(4) At each meeting where nominations are made for the professional members of the board, only one licensed funeral director or licensed embalmer employed by the same funeral establishment may vote.

(f)(1) In accordance with applicable law, in addition to a board member resigning from the board in writing, a board member may be removed from the board for any of the following grounds:

a. The refusal or inability to perform board duties in an efficient, responsible, or professional manner.

b. The misuse of his or her position on the board to obtain financial gain or seek personal advantage for himself, herself, or another person.

c. A final adjudication or determination of guilt by any lawful authority of the board member or sanction of the board member for the violation of any

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law the board determines is substantially related to any practice governed by this chapter.

d. The revocation or suspension of the license of a professional member of the board.

(2) Any board member who fails to qualify after appointment shall automatically become ineligible to serve as a member of the board and a new member, properly qualified, shall be appointed in the same manner as the original appointment and shall serve the remainder of the term of the vacating board member.

(3) If a consumer board member fails to attend two or more meetings within a year, without a valid excuse as determined by the board, he or she shall be removed from the board. A new consumer board member shall be appointed in the same manner as the original appointment and shall serve the remainder of the term.

(Acts 1975, No. 214, p. 705, §3; Acts 1983, No. 83-746, p. 1235, §1; Act 2009-12, p. 22, §3; Act 2011-623, p. 1439, §1; Act 2014-125, p. 206, §1; Act 2017-433, §1; Act 2018-451, §1.)

Section 34-13-21

Membership districts.

There are created, for the purpose of this chapter, seven geographical districts which shall be identical with the seven congressional districts as fixed and established by Section 17-14-70, as may be amended. It is the purpose and intention of this section to provide that one professional member of the board shall be selected from each district and that three nominees to the Governor for appointment to the board shall be made from each district. The two consumer members of the board may not reside in the same congressional district.

(Acts 1975, No. 214, p. 705, §4; Act 2017-433, §1.)

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Section 34-13-22

Meetings; quorum.

The Alabama Board of Funeral Service shall hold not less than one meeting quarterly, such meeting to be held at such time and place as the board may determine after notice of such meeting has been given in the manner prescribed herein at least 15 days prior to such meeting. The board may hold such other meetings as it may deem necessary. A majority of the appointed members shall constitute a quorum authorized to transact business in the name of the board. The board shall not meet on the premises of any embalming school or college of mortuary science; and, if any such meeting is held, all the proceedings of such meeting shall be void.

(Acts 1975, No. 214, p. 705, § 5; Acts 1983, No. 83-746, p. 1235, § 1; Act 2011-623, p. 1439, § 1; Act 2014-125, § 1; Act 2018-450, §1.)

Section 34-13-23

Officers; procedural rules and regulations; compensation; executive director; disposition of funds.

(a)(1) The board appointed under this chapter and each successor thereto is authorized to select from its own membership a chair and to adopt and promulgate such rules and regulations for the transaction of its business and for the betterment and promotion of the standards of service and practice to be followed in the funeral service profession in the State of Alabama as the board may deem expedient and consistent with the laws of this state and for the public good.

(2) The chair shall preside at all meetings of the board unless otherwise ordered, and he or she shall exercise and perform all duties and functions incident to the office of chair.

(3) The board may select also from its own membership a vice chair, a secretary, and a treasurer. No two offices shall be held by the same person.

(b) The treasurer shall give bond to the State of Alabama in the sum of ten thousand dollars (\$10,000), and any premium payable for the bond shall be paid from the funds of the board. The bond shall be deposited with the Treasurer of the State of Alabama.

(c) Board members shall be reimbursed for their necessary traveling expenses and the necessary expenses incident to their attendance upon the business of the board, and, in addition thereto, they shall receive the sum of fifty dollars (\$50) per diem for every day not to exceed 20 days per year actually spent by the member upon the business of the board.

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The board may employ an executive director and associate executive director who shall each receive and be paid an annual salary to be fixed by the board, but not to exceed the salary level established and paid to cabinet officers in the state government. The salary shall be paid on a semimonthly basis. In addition, the executive director and associate executive director shall receive his or her necessary traveling and other incidental expenses as are incurred in the performance of duties, and all expenses, per diem, and compensation shall be paid out of the receipts of the board. At no time shall the operation of the board be an expense to the state, and at no time shall expenses of the board exceed the receipts of the board.

(d) The executive director of the board shall have complete supervision and be held responsible for the direction of the office of the board, shall have supervision over field inspection and enforcement of this chapter, and shall be responsible and answerable to the board. The associate executive director shall assist the executive director and perform such other duties as may be assigned to him or her by the board.

(e) The executive director shall keep a record in which shall be registered the name and business address of every person to whom licenses have been granted in accordance with this chapter, the number and date of the license and the date of each renewal. Upon request to do so, the executive director shall supply each person licensed for the practice of embalming and funeral directing with a list of all persons and establishments holding a license under this chapter, then in force, giving the names of the persons, their business addresses, and the numbers of their licenses.

(f) It shall be the duty of the executive director to prepare under the direction of the board and cause to be printed all forms required by this chapter to be prescribed by the board. All notices required to be mailed by this chapter shall be directed to the last known post office address of the party to whom the notice is sent.

(g) The executive director shall serve at the pleasure of the board and shall perform duties as may be necessary for the proper functioning of the board as the board may determine or as may be prescribed in this chapter. During the employment of the executive director he or she may not be employed by any funeral establishment.

(h) All fees and fines received under this chapter shall be paid into a special fund in the State Treasury to be known as the Alabama State Funeral Directors and Embalmers Fund, which is hereby created, for the necessary and proper expenses of the board, and for a reasonable reserve for future use by the board. All moneys in the fund are hereby appropriated, as a continuing appropriation, to the board to be used for carrying out this chapter.

(i) Each member of the board, the executive director, the associate executive director, designated employees, and independent contractors of the board appropriately identified are authorized at any given time on complaint or for inspection purposes to enter the office, premises, establishment, or place of business of any funeral service licensee in the State of

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Alabama or any office, premises, establishment, or place where the practice of funeral service is carried on, or where the practice is advertised as being carried on, for the purpose of inspecting the office, premises, records, or establishment and for the purpose of inspecting the license and registration of any funeral service licensee and apprentice trainee operating therein.

(j) All members of the board or designated employees of the board may serve and execute any process issued by any court under this chapter and to serve and execute any papers or process issued by the board or any officer or member thereof under this chapter.

(k) The board may employ clerical assistants and employees or other help as necessary to carry out this chapter, and the terms and conditions of employment shall be determined by the board. The board may establish and equip an office from which this chapter may be carried out.

(Acts 1975, No. 214, p. 705, §6; Acts 1981, No. 81-200, p. 234, §4; Acts 1995, No. 95-517, p. 1047, §1; Act 2011-623, p. 1439, §1; Act 2014-125, p. 206, §1; Act 2017-433, §1; Act 2018-451, §1.)

Section 34-13-24

Oath of members.

Every member of the board, after appointment and before entering upon his or her duties, shall make oath before some officer competent to administer oaths, that he or she is legally qualified to become a member of the board under the provisions of this chapter and that he or she will faithfully perform the duties of such office, a copy of which shall be filed in the office of the Secretary of State.

(Acts 1975, No. 214, p. 705, §7.)

Section 34-13-25

Hearings to be public; record of proceedings.

All hearings provided for by this chapter shall be conducted pursuant to the Alabama Administrative Procedure Act.

(Acts 1975, No. 214, p. 705, §31; Act 2017-433, §1.)

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Section 34-13-26

Rules and regulations; hearings; restraining of violations; complaints; temporary suspension.

(a) The board shall adopt and enforce for the protection of the public health, safety, and welfare reasonable rules pursuant to the Alabama Administrative Procedure Act.

(b) The board may hold hearings, conduct investigations, subpoena witnesses, subpoena documents, administer oaths, and take testimony in order to carry out this chapter.

(Acts 1975, No. 214, p. 705, §34; Act 2011-623, p. 1439, §1; Act 2014-125, p. 206, §1; Act 2017-433, §1.)

Section 34-13-27

Seal; scope of rules and regulations.

The board shall adopt a common seal, which may be altered as often as the board may desire, and may adopt and enforce, for the protection of the public health, safety, and welfare, reasonable rules and regulations relating to:

- (1) The practice of the profession of embalming, including, but not limited to, solicitation of business;
- (2) The practice of the profession of funeral directing, including, but not limited to, solicitation of business;
- (3) The sanitary condition and physical facilities of funeral homes, mortuaries, and funeral establishments where the profession of embalming and funeral directing is carried on, with particular regard to plumbing, sewage, disinfecting, ventilation, and equipment;
- (4) Carrying out generally the various provisions of this chapter for the protection of the peace, health, safety, and welfare of the public; and
- (5) Carrying out a program for training of apprentice embalmers and apprentice funeral directors.

(Acts 1975, No. 214, p. 705, §§8, 34.)

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Section 34-13-29

Audit and payment of expenses.

All necessary expenses incurred in giving examinations to applicants and incidental to the renewal of licenses and all necessary expenses incurred in education and enforcing this chapter shall be audited by the Department of Examiners of Public Accounts and paid from the funds provided for in this chapter in the same manner as other claims against the state are paid after due approval thereof by the chair and executive director of the board.

(Acts 1975, No. 214, p. 705, §37; Act 2017-433, §1.)

Section 34-13-31

Appeal from decision of board.

(a) Whenever, by decision, final order, or other final determination upon any public hearing provided for by this chapter, a party to such hearing shall feel aggrieved, an appeal may be taken to the Circuit Court of Montgomery County, Alabama.

(b) On taking and perfecting an appeal to the Circuit Court of Montgomery County, Alabama, the court shall proceed as in other cases.

(c) All appeals shall be taken within 30 days from the date of the order entered of the board which is the basis of the appeal and shall be granted as a matter of right and be deemed perfected by filing with the board a bond for security of costs of the appeal. Upon filing of a verified petition and hearing thereon, the court, in its discretion, may stay the order appealed from pending final judicial review. No new or additional evidence may be introduced in the circuit court except as to fraud or misconduct of some person engaged in the administration of this chapter and affecting the order, rule, or ruling appealed from. The court shall otherwise hear the case upon the record as certified to the court by the executive director of the board and shall set aside the order, rule, or action appealed from if the court finds that the board erred to the prejudice of the appellant's substantial rights in its application of the law; or, the order, decision, or award was procured by fraud or was based upon a finding of facts contrary to the substantial weight of the evidence, or that the order was arbitrary, capricious, or inconsistent with respect to any of the material issues involved; or that the board failed in its order to find sufficient facts as to each material issue involved to enable the court to determine the basis for the conclusion of the board. The court, instead of setting aside the order, shall remand the case to the board for further proceedings in conformity with the direction of the court. The court, in advance of judgment and upon a sufficient showing, may remand the cause to the board for the purpose of taking additional testimony or other proceedings.

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(d) An appeal may be taken from the judgment decree or any appealable order of the circuit court to the Supreme Court of this state. Appeals to the Supreme Court shall be taken, perfected, heard, and determined in the manner prescribed by law and the Alabama Rules of Appellate Procedure for taking, perfecting, hearing, and determining appeals to the Supreme Court.

(Acts 1975, No. 214, p. 705, §32; Act 2014-125, p. 206, §1; Act 2017-433, §1.)

Article 3
LICENSES, EXAMINATIONS, REGISTRATION

Division 1
General Provisions

Section 34-13-50

Board recognition of schools and colleges.

The Alabama Board of Funeral Service shall recognize and approve and accept applicants for examination from only those established embalming schools or colleges which are recognized by the board. The board shall recognize and approve any embalming school or college approved by the American Board of Funeral Service Education, and any additional embalming schools or colleges which offer courses of study which generally include the subjects set out in Section 34-13-94. The Alabama Board of Funeral Service shall not examine or issue an embalmer's license to any person who does not hold a certificate of graduation from an embalming school or college meeting the criteria or standards as defined in this section. The board may not examine or issue a funeral director's license to any person who has not completed a course of instruction in funeral arts at an accredited mortuary or funeral service school or college meeting the criteria or standards defined in this section.

Acts 1975, No. 214, p. 705, §20; Act 2011-623, p. 1439, §1; Act 2012-423, p. 1142, §1.)

Section 34-13-51

Reciprocity of licenses.

(a) The board may recognize and issue, without examination and upon payment of a fee not in excess of five hundred dollars (\$500) for each license, a reciprocal license for the practice of funeral directing or embalming to any person licensed as a funeral director or embalmer by any state, if the board makes an individual determination that the qualifications of the applicant meet or exceed the minimum qualifications required for funeral directors or embalmers in this state and that a written examination of such applicant would be superfluous.

(b) Applications shall be made on forms prescribed and furnished by the board. An applicant holding a funeral director or embalmer license from another state, and applying

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for a funeral director or embalmer license in Alabama shall be considered for licensing by reciprocity.

(c) Commencing on October 1, 2017, in addition to the requirements of subsections (a) and (b), an applicant for a funeral director or embalmer license shall submit to the board a form, sworn to by the applicant, that contains the name, date of birth, and Social Security number of the applicant, and two complete sets of fingerprints, for completion of a criminal history background check. The board shall submit the fingerprints to the Alabama State Law Enforcement Agency for a state criminal history record check. The fingerprints shall be forwarded by the agency to the Federal Bureau of Investigation for a national criminal history record check. Costs associated with conducting a criminal history background check shall be paid by the applicant. The board shall keep information received pursuant to this subsection confidential, except that information received and relied upon in denying the issuance of a funeral director or embalmer license may be disclosed if necessary to support the denial.

(d) The board, at the time of the application, shall make a reasonable determination that the applicant is a legal resident of the United States or legally present in this state. The board reserves the right to require applicants for reciprocity to submit to a personal interview or a written examination relating to the law as it pertains to the regulation of the funeral service profession in Alabama.

(e) The board shall issue a special work permit to a qualified funeral director or embalmer when the board determines that the applicant satisfies all requirements for reciprocity and a fee, not exceeding one hundred dollars (\$100), is received by the board. A special work permit shall expire on the date of the next regular board meeting occurring after issuance.

(Acts 1975, No. 214, p. 705, §19; Acts 1981, No. 81-200, p. 234, §4; Acts 1981, No. 81-709, p. 1190, §1; Act 2006-598, p. 1635, §1; Act 2008-91, p. 118, §3; Act 2011-623, p. 1439, §1; Act 2017-433, §1.)

Section 34-13-52

Execution and display of licenses.

(a) Licenses under this chapter shall be granted to individuals upon the qualification and successful examination of the individual applicant and shall specify the name to whom it is issued. A license, registration, or certificate granted under this chapter shall be on public display.

(b) A funeral establishment license issued under this chapter shall include the name of the funeral establishment, the name of the managing funeral director, the name of the managing

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embalmer, and the certificate of authority license number, if applicable. The license shall be on public display.

(c) Every license issued under this chapter shall be signed by the chair and executive director and shall be displayed in the place of business or employment of the licensee.

(d) Any person engaged in the business, profession, or practice of funeral directing shall do each of the following:

(1) Possess on his or her person, or be able to promptly produce, a legible and current Alabama funeral director's wallet license when performing the duties of a funeral director.

(2) Upon the request of a board member, the executive director, the associate executive director, or a designated and appropriately identified employee of the board, promptly produce his or her legible and current Alabama funeral director wallet license certificate.

(e) Any person engaged in the business, profession, or practice of embalming shall do each of the following:

(1) Possess on his or her person, or be able to promptly produce, a legible and current Alabama embalmer's wallet license when performing the duties of an embalmer.

(2) Upon the request of a board member, the executive director, the associate executive director, or a designated and appropriately identified employee of the board, promptly produce his or her legible and current Alabama embalmer wallet license certificate.

(f) Any person engaged in the business, profession, or practice of cremation shall do each of the following:

(1) Possess on his or her person, or be able to promptly produce, a legible and current Alabama cremationist's wallet license when performing the duties of a cremationist.

(2) Upon the request of a board member, the executive director, the associate executive director, or a designated and appropriately identified employee of the board, promptly produce his or her legible and current Alabama cremationist wallet license certificate.

(Acts 1975, No. 214, p. 705, §21; Act 2011-623, p. 1439, §1; Act 2017-433, §1.)

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Section 34-13-53

Renewal of licenses; authorization; attestation of identity; records.

(a)(1) Before October 1, 2018, every licensed funeral director, licensed embalmer, and licensed operator shall pay annually a fee for renewal of his or her license. The renewal fees shall be set by the board at a rate not to exceed one hundred fifty dollars (\$150) for licensed embalmers and funeral directors and five hundred dollars (\$500) for licensed operators.

(2) Commencing on October 1, 2018, every license or registration issued by the board under this chapter shall be renewed biennially upon submission by the licensee or registrant of a renewal application and a renewal fee established by board rule, not exceeding five hundred dollars (\$500), for each licensed cremationist, embalmer, funeral director, and funeral establishment.

(b) All licenses granted under this chapter shall expire on October 1, following their issuance or renewal, and shall become invalid unless renewed as provided in this section and other requirements of the board are met. In addition to payment of a renewal fee, each licensee shall satisfy continuing education requirements prescribed by rule of the board pursuant to subsection

(c). There shall be no proration of licenses.

(c)(1) Commencing in 2014, and for each licensing period thereafter, the board may require persons seeking renewal of a cremationist, embalmer, or funeral director license under this chapter to complete board approved continuing education of not less than eight hours biennially. The board may approve continuing education providers and courses offered by institutions of higher learning, specialty societies, associations, or professional organizations or by other organizations the board deems appropriate.

(2) Any person who holds an inactive license or who is over the age of 65, with at least 10 years of experience in the funeral service industry, is exempt from the continuing education requirement.

(3) An embalmer who is also a licensed funeral director and who completes the continuing education requirements for funeral directors is not required to complete additional continuing education requirements.

(4) Continuing education providers shall pay a biennial administrative fee established by board rule, not exceeding two hundred fifty dollars (\$250).

(5) The board may promulgate rules to implement and ensure compliance with this section.

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(d) The board shall publish on or before August 1 of the expiration year, in printed form, electronic image, in an online publication, or on the website of the board that is accessible to each licensed funeral director, licensed embalmer, licensed cremationist, and licensed establishment, notice that his or her renewal fee is due and payable and that, if such fee is not paid by September 30 of that year, the license shall expire. Information regarding license renewal dates and fees shall be available in electronic format on the website of the board.

(e) At the time, or before, a licensee changes place of employment, residence address, or makes any other change in status which is of record at the board office, the licensee shall report such change of status, by a method prescribed by the board, to the executive director.

(Acts 1975, No. 214, p. 705, §22; Acts 1981, No. 81-200, p. 234, §4; Acts 1981, No. 81-709, p. 1190, §1; Acts 1983, No. 83-746, p. 1235, §1; Act 2002-239, p. 498, §2; Act 2011-623, p. 1439, §1; Act 2014-125, p. 206, §1; Act 2014-302, p. 1095, §1; Act 2017-433, §1.)

Section 34-13-54

Transferability.

No license to a cremationist, an embalmer, a funeral director, or a funeral establishment granted under or regulated by this chapter shall be transferable or assignable.

(Acts 1975, No. 214, p. 705, §10; Act 2017-433, §1.)

Section 34-13-55

Reinstatement of lapsed licenses.

(a) When a licensee, for any reason, has allowed a license to expire, the board may reinstate the license if application for reinstatement is made within a period of 30 days from the date of expiration and is accompanied by payment of all penalties and fees, from the time of expiration to date of reinstatement. The penalties to be paid to the board shall not exceed one hundred dollars (\$100) to reinstate licenses which have expired.

(b) After the 30-day period has elapsed, a license may be reinstated only by complying with the provisions of this chapter relating to the issuance of an original license in addition to payment of all fees and penalties.

(Acts 1975, No. 214, p. 705, §24; Acts 1981, No. 81-200, p. 234, §4; Acts 1981, No. 81-709, p. 1190, §1; Act 2011-623, p. 1439, §1; Act 2017-433, §1.)

Section 34-13-56

Grounds for revocation, suspension, or refusal to issue or renew licenses; fines.

(a) The board may refuse to license any person or establishment for violation of this chapter. If the board refuses to issue, grant, or renew a license based on a violation of this chapter, including, but not limited to, violations listed in subsection (c), the licensee or prospective licensee may request a public hearing before the board to appeal the action of the board. The request for a public hearing shall be submitted to the board in writing within 14 calendar days after the date of the refusal. Upon request, the board shall provide the licensee or prospective licensee with 20 days' notice of the public hearing by United States certified mail. The public hearing shall be conducted pursuant to Section 34-13-26.

(b) A public hearing conducted pursuant to Section 34-13-26 shall be provided by the board to any licensee for whom the board is considering the probation, suspension, or revocation of a license.

(c) The board may suspend, revoke, or place on probation a license if the licensee is found guilty of any of the following:

(1) Conviction of a crime involving moral turpitude including, but not limited to, any crime where the individual has to register as a sex offender in any jurisdiction.

(2) Unprofessional conduct, which is defined to include any of the following:

a. Misrepresentation or fraud in the conduct of the business or the profession of a funeral director or embalmer.

b. False or misleading advertising as a funeral director or embalmer or knowingly engaging in any advertising which is misleading or inaccurate in any material particular.

c. Solicitation of dead human bodies by the licensee, his or her agents, assistants, or employees, from medical professionals or clergy, whether the solicitation occurs after death or while death is impending.

d. Solicitation of dead human bodies by the licensee, his or her agents, assistants, or employees whether the solicitation occurs after death or while death is impending.

e. Employment by the licensee of a person or persons to be used for the purpose of obtaining or soliciting funeral directing or embalming business.

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- f. Employment directly or indirectly of any apprentice, agent, assistant, embalmer, employee, or other person, on part or full time or on commission, for the purpose of calling upon individuals or institutions where a death has occurred or is imminent by whose influence dead human bodies may be turned over to a particular funeral director or embalmer or funeral establishment, or both.
- g. The buying of business by the licensee, his or her agents, assistants, or employees.
- h. Gross immorality.
- i. Aiding or abetting an unlicensed person, establishment, or entity in the practice of funeral directing, embalming, cremation, or conducting business as a funeral establishment or crematory.
- j. Using profane, indecent, or obscene language in the presence of a dead human body, or within the immediate hearing of the family or relative of a deceased whose body has not yet been interred or otherwise disposed of.
- k. Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in any mausoleum or cemetery.
- l. Any violation of this chapter or order or rule of the board.
- m. Any violation of state law or municipal or county ordinance or regulation affecting the handling, custody, care, or transportation of dead human bodies.
- n. Fraud or misrepresentation in obtaining a license.
- o. Refusing to promptly surrender the custody of a dead human body, upon the express order and payment for services rendered of the person lawfully entitled to the custody thereof.
- p. Performing services in a professional capacity as a funeral director or embalmer, or both, for any unlicensed funeral establishment operating in violation of this chapter.
- q. Being intoxicated or under the influence of illegal drugs while on duty at a funeral establishment or while performing any duty or responsibility for the funeral establishment.
- r. Willfully retaining or willfully failing to account for any property of a decedent.

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- s. Knowingly and willfully signing any documentation as having embalmed or prepared a body for burial when, in fact, the services were not performed by the licensee.
- t. Failure to give full cooperation to the board or its designees, agents, or other representatives in the performance of official duties of the board.
- u. Not furnishing any relevant papers or documents requested by or for the board.
- v. Not furnishing, in writing, an adequate explanation relating to a matter contained in a complaint filed with the board against the licensee.
- w. Not responding to a subpoena issued by the board, without good cause shown, whether or not the licensee is the party charged in any proceeding before the board.
- x. Not providing reasonable access to the board or an authorized agent or representative of the board for the performance of reviews or inspections at facilities or places utilized by the licensee in the practice of funeral service or funeral directing or in performing any other activity regulated by the board.
- y. Failing to provide information within a specific time as required by the board or an authorized agent or representative of the board.
- z. Failing to cooperate with the board or an authorized agent or representative of the board in the investigation of any alleged misconduct or interfering with a board investigation through the willful misrepresentation of facts.
- aa. Deceiving or attempting to deceive the board regarding any matter under investigation, including the altering or destroying of any records.
- bb. Failure, without good cause, to cooperate with any request from the board to appear before the board.
- cc. Violating any statute, ordinance, or rule of the state or any board, agency, or political subdivision of the state affecting the registration of deaths, the handling, custody, care, or transportation of dead human bodies, or the sale of funeral services or funeral merchandise.

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dd. Demonstrating bad faith, incompetence, or untrustworthiness or dishonest, fraudulent, or improper dealing or any other violation of this chapter or any rule promulgated by the board or promulgated by the Federal Trade Commission relative to the practice of funeral service or funeral directing.

ee. Any other reason as determined by the board that would render an individual unsuitable for licensure or certification by the board.

ff. A funeral home or funeral director accepting funds for a preneed funeral contract or other prepayment of funeral expenses without a certificate of authority to sell preneed funeral contracts or, if registered to sell preneed funeral contracts, failing to deposit the funds with a qualified trustee or to timely remit premium payments from the consumer to the insurer.

gg. Using any funeral merchandise previously sold without prior written permission of the person selecting or paying for the use of the merchandise. A previously used casket shell may be used for the viewing of remains if a new interior or interior insert is installed before each usage of the casket shell.

(d) In addition to the disciplinary actions authorized in subsection (c), the board may levy and collect administrative fines for violations of this chapter or the rules or regulations of the board in an amount not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) for each violation, unless otherwise provided for in this chapter or by rule of the board.

(Acts 1975, No. 214, p. 705, §25; Acts 1995, No. 95-517, p. 1047, §2; Act 2011-623, p. 1439, §1; Act 2014-125, p. 206, §1; Act 2017-433, §1.)

Section 34-13-56.1

Unlawful practice without a license.

(a) It is unlawful for any person or entity, for hire or profit, to engage in, or hold himself, herself, or itself out as qualified to engage in any of the following without a valid license, certification, or registration issued by the board:

- (1) The practice of funeral directing.
- (2) The practice of embalming.
- (3) Practicing as an apprentice.
- (4) Operating a crematory.

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(5) Practicing as a cremationist.

(b) Any person or entity who has been found to have engaged in the unlawful unlicensed practice of funeral directing, embalming, apprenticing, operating a crematory, or cremating shall be subject to a fine of not more than two thousand five hundred dollars (\$2,500) for each violation and other sanctions authorized by this chapter.

(Act 2017-433, §2.)

Section 34-13-57

Executive director to provide notice of examination.

Fifteen days before an examination, the executive director shall provide to all applicants and all funeral establishments in the state, in electronic format and on the website of the board, a notice listing the names of all persons admitted by the board to take the examination and setting out the time and place of the examination.

(Acts 1975, No. 214, p. 705, §39; Act 2014-125, p. 206, §1; Act 2017-433, §1.)

Division 2.
FUNERAL DIRECTORS

Section 34-13-70

License required; filing of application; fee.

(a) No person shall engage in, or attempt to engage in, the practice or profession or business of a funeral director unless licensed to do so by the board. The board may issue licenses to funeral directors.

(b) Any person desiring to engage in the business, profession, or practice of funeral director shall make application to the board and shall accompany his or her application by a fee to be established by the board, not to exceed five hundred dollars (\$500).

(c) Commencing on October 1, 2017, in addition to the requirements of subsection (b), an applicant for a funeral director license shall submit to the board a form, sworn to by the applicant, that contains the name, date of birth, and Social Security number of the applicant, and two complete sets of fingerprints, for completion of a criminal history background check. The board shall submit the fingerprints to the Alabama State Law Enforcement Agency for a state criminal history record check. The fingerprints shall be forwarded by the agency to the Federal Bureau of Investigation for a national criminal history record check. Costs associated with conducting a criminal history background check shall be paid by the applicant. The board shall keep information received pursuant to this subsection confidential, except that information received and relied upon in denying the issuance of a funeral director license may be disclosed if necessary to support the denial.

(Acts 1975, No. 214, p. 705, §§9, 40; Acts 1981, No. 81-200, p. 234, §4; Acts 1981, No. 81-709, p. 1190, §1; Acts 1991, No. 91-196, p. 360, §3; Act 2011-623, p. 1439, §1; Act 2014-125, p. 206, §1; Act 2017-433, §1.)

Section 34-13-71

Form and contents of application; interview.

An application for a license as a funeral director shall be in writing and verified on a form provided by and addressed to the board and filed with the executive director. The application shall specify the address of the applicant and shall be accompanied by the affidavits of at least two licensed embalmers or funeral directors to the effect that the applicant is of good character and has qualified himself or herself to become licensed as prescribed by this chapter. The board may require an applicant for license as a funeral director to submit to a personal interview.

(Acts 1975, No. 214, p. 705, §12; Act 2014-125, p. 206, §1; Act 2017-433, §1.)

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Section 34-13-72

Qualifications of applicants; examination requirements; fee.

(a) An applicant for a funeral director's license is entitled to an examination if he or she satisfies all of the following:

- (1) Is a citizen of the United States or legally present in this state.
- (2) Is at least 18 years of age.
- (3) Has had practical experience as an apprentice for not less than two years within a period of three consecutive years, excluding time lost by interruptions caused by the active duty of the applicant in the military service of the United States or its allies during war or national emergency, and excluding time lost by interruptions which the board deems excusable as caused by circumstances beyond the control of the applicant.
- (4) Has completed apprenticeship not more than two years prior to taking the examination, excluding time lost under the circumstances mentioned in subdivision (3).
- (5) Has completed a course of instruction in an accredited mortuary or funeral service school or college which has been approved by the board pursuant to Section 34-13-50, or has completed a bachelor's degree program from an accredited school.

(b) The board may certify an applicant to take an examination for a funeral director's license after verifying that the applicant has completed a course of instruction in funeral arts at an accredited mortuary or funeral service school or college meeting the criteria or standards defined in this chapter. The board may not issue a funeral director's license to any applicant who has not completed a two-year apprenticeship.

(c) An applicant has two years from the expiration date of his or her last active apprentice certification to successfully complete the examination for a funeral director's license pursuant to this chapter. Any applicant who fails to successfully pass the examination is required to serve a new apprenticeship in accordance with this chapter.

(d) The board shall establish and charge a reasonable examination fee, based on actual costs, for each applicant who sits for an examination. In no event shall the fee exceed fifty dollars (\$50) above the actual cost of preparing and administering the examination.

(Acts 1975, No. 214, p. 705, §13; Acts 1983, No. 83-746, p. 1235, §1; Act 2008-91, p. 118, §3; Act 2011-623, p. 1439, §1; Act 2014-125, p. 206, §1.)

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Section 34-13-73

Scope of examination.

(a) The applicant for a funeral director's license, before the application is granted, shall successfully pass an examination upon, but not limited to, the following subjects: Funeral directing, the manners in which death may be determined, the laws governing the preparation and disposal of human dead bodies and the shipment of bodies dying from infectious or contagious diseases, and local health and sanitary ordinances in relation to funeral directing. The examination shall be prepared and graded as prescribed by rule of the board. The board may review and adopt, in whole or in part, examination questions, forms, examinations, and passing criteria proposed by the American Board of Funeral Service Education, or a successor organization, and may use the uniform nationwide conditions of the International Conference of Funeral Service Examining Boards, or other organization approved by the board.

(b) The board shall examine applicants for a funeral director's license in all of the following subjects:

- (1) Mortuary management and administration.
- (2) Mortuary law.
- (3) Basic accounting principles.
- (4) Funeral directing.
- (5) Other courses of instruction in fundamental subjects as may be prescribed by the board.

(c) All examination papers shall be kept on file by the board for at least three years.

(d) To constitute a passing grade, an applicant shall earn an average score of at least 75 percent.

(e) If the board is satisfied that an applicant has the requisite qualifications to practice the occupation of funeral directing, a license shall be issued authorizing the applicant to practice such occupation until October 1 of that year, at which time the license may be renewed as prescribed in this chapter.

(f) The board may delegate the responsibility of conducting or administering a license examination to any qualified person or entity who is not a member of the board.

(g) An applicant may take the required license examination during the time that his or her application for license is pending.

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(Acts 1975, No. 214, p. 705, §14; Act 2009-12, p. 22, §3; Act 2011-623, p. 1439, §1; Act 2014-125, p. 206, §1.)

Section 34-13-74

Application by surviving spouse upon death of funeral director; operation under special permit by operator.

(a) When a licensed funeral director dies leaving a licensed funeral business with no licensed funeral director, the surviving spouse, or a surviving child of legal age, may make application for examination as a funeral director. The application shall be in writing, on a form prescribed by the board, and shall state the facts pertaining to the case. The board may certify the applicant for the examination prescribed for funeral directors, in which event the requirements with respect to prior experience and apprenticeship shall be waived.

(b) When a licensed funeral director dies leaving a licensed funeral business with no licensed funeral director, the board may issue a special operating permit to the operator of the licensed funeral business for a period of up to 12 months, with the board having the right to extend the permit an additional reasonable time to afford the operator the opportunity of obtaining a licensed funeral director for the business. The operator shall pay a fee for the issuance of the special operating permit in an amount not exceeding one hundred dollars (\$100).

(c) All human remains embalmed for a funeral establishment operating under a special operating permit and all funeral directing operations carried on under the permit shall be in conformance with all the requirements of this chapter which are not in conflict with this section.

(Acts 1975, No. 214, p. 705, §45; Act 2011-623, p. 1439, §1; Act 2017-433, §1.)

Division 3.

EMBALMERS.

Section 34-13-90

License required; fees.

(a) No person shall follow, engage in, or hold himself or herself out as engaged in the practice as an embalmer unless licensed to do so by the Alabama Board of Funeral Service. The board is granted authority to issue licenses to embalmers.

(b) All persons shall qualify for examination in accordance with this chapter and shall be licensed as an embalmer only after due examination by the board and the payment of an examination and license fee to be established by the board, not to exceed five hundred dollars (\$500).

(c) In addition, the board shall establish and charge a reasonable examination fee, based on actual costs, for each applicant who sits for an examination. In no event shall the fee exceed fifty dollars (\$50) above the actual cost of preparing and administering such exam.

(Acts 1975, No. 214, p. 705, §10; Acts 1981, No. 81-200, p. 234, §4; Acts 1981, No. 81-709, p. 1190, §1; Acts 1991, No. 91-196, §3; Act 2011-623, p. 1439, §1.)

Section 34-13-91

Application for examination; interview; criminal history background check.

(a) The applicant for an embalmer's license shall make application to the board. The application shall be in writing and verified on a form provided by and addressed to the board and shall be accompanied by the prescribed fee and by affidavits of at least two licensed embalmers to the effect that the applicant is of good moral character and has met all qualifications required for examination for license as prescribed by this chapter. The board may require an applicant for an embalmer's license to submit to a personal interview.

(b) Commencing on October 1, 2017, in addition to the requirements of subsection (a), an applicant for an embalmer license shall submit to the board a form, sworn to by the applicant, that contains the name, date of birth, and Social Security number of the applicant, and two complete sets of fingerprints, for completion of a criminal history background check. The board shall submit the fingerprints to the Alabama State Law Enforcement Agency for a state criminal history record check. The fingerprints shall be forwarded by the agency to the Federal Bureau of Investigation for a national criminal history record check. Costs associated with conducting a criminal history background check shall be paid

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by the applicant. The board shall keep information received pursuant to this subsection confidential, except that information received and relied upon in denying the issuance of an embalmer license may be disclosed if necessary to support the denial.

(Acts 1975, No. 214, p. 705, §16; Act 2014-125, p. 206, §1; Act 2017-433, §1.)

Section 34-13-92

Qualifications of applicants; examination requirements; fee.

(a) In order to qualify for a license as an embalmer, the applicant shall satisfy all of the following:

- (1) Be a citizen of the United States or legally present in this state.
- (2) Be over 18 years of age.
- (3) Be of good character.
- (4) Have completed a two-year course of apprenticeship under an embalmer or embalmers licensed and engaged in practice as an embalmer in this state, and shall have completed the required course of apprenticeship within a period of three consecutive years, excluding time lost by interruption caused by the active duty of the applicant in the military service of the United States or its allies during war or national emergency, and excluding time lost by interruptions which the board deems excusable as caused by circumstances beyond the control of the applicant.
- (5) Have completed a course of instruction in an embalming school or college which has been approved by the board as defined in Section 34-13-50.
- (6) Have completed the course of apprenticeship not more than two years before the date of examination, excluding time lost under the circumstances mentioned in subdivision (4).

(b) The board may certify an applicant to take an examination for an embalmer's license after verifying that the applicant has graduated from an accredited mortuary or funeral service school or college meeting the criteria or standards defined in this chapter. The board may not issue an embalmer's license to any applicant who has not completed a two-year apprenticeship.

(c) The board shall establish and charge a reasonable examination fee, based on actual costs, for each applicant who sits for an examination. In no event shall the fee exceed fifty dollars (\$50) above the actual cost of preparing and administering the examination.

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(Acts 1975, No. 214, p. 705, §17; Acts 1983, No. 83-746, p. 1235, §1; Act 2008-91, p. 118, §3; Act 2014-125, p. 206, §1.)

Section 34-13-93

Examination of applicant for license.

The board may hold a public examination at least once each quarter for the purpose of examining applicants for an embalmer's license, at such time and place as the board may determine. Notice of the time and place of the meeting shall be provided electronically to the various applicants and shall be available on the website of the board at least 15 days before the meeting or examination.

(Acts 1975, No. 214, p. 705, §15; Act 2014-125, p. 206, §1.)

Section 34-13-94

Scope and conduct of examination.

(a) The board shall examine applicants for an embalmer's license in all of the following subjects:

- (1) Mortuary management and administration.
- (2) Legal medicine and toxicology.
- (3) Public health, hygiene, and sanitary science.
- (4) Mortuary science, to include embalming technique, in all aspects; chemistry of embalming, color harmony; discoloration, its causes, effect, and treatment; treatment of special cases; restorative art; funeral management; and professional ethics.
- (5) Anatomy and physiology.
- (6) Chemistry, organic and inorganic.
- (7) Pathology.
- (8) Bacteriology.
- (9) Sanitation and hygiene.
- (10) Public health regulations.

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- (11) Other courses of instruction in fundamental subjects as may be prescribed by the board.
- (b) All examination papers shall be kept on file by the board for at least three years.
- (c) To constitute a passing grade, an applicant shall earn an average score of at least 75 percent.
- (d) The board may issue an embalmer's license to an applicant who receives a passing grade on a recognized national embalmer's examination approved by the board.
- (e) If the board is satisfied that the applicant has the requisite qualifications to practice the occupation of embalming, a license shall be issued to him or her authorizing him or her to practice such occupation until October 1 of that year, at which time the license may be renewed as prescribed in this chapter.
- (f) The board may delegate the responsibility of conducting or administering a license examination to any qualified person or entity who is not a member of the board.
- (g) An applicant may take the required license examination during the time that his or her application for license is pending.

(Acts 1975, No. 214, p. 705, §18; Act 2009-12, p. 22, §3; Act 2011-623, p. 1439, §1; Act 2014-125, p. 206, §1.)

Division 4.

FUNERAL ESTABLISHMENTS.

Section 34-13-110

Operation through licensed director or embalmer; name requirements; advertising cremation or cremation services.

(a) Any person, corporation, partnership, society or group owning or operating a funeral establishment coming within this chapter may do so only through the services of a licensed funeral director or embalmer. No person not licensed as a funeral director or embalmer shall be permitted to perform the functions of a funeral director or embalmer as herein defined or hold himself or herself out to the public as such by reason of his or her ownership in a funeral establishment or by reason of his or her ownership of stock owned in or office held in a corporation to own or operate a funeral establishment. After September 10, 1975, no firm or corporation authorized to own and operate a funeral establishment may change or amend its name or charter so as to include in its firm or corporate name the name of any person who is not individually licensed as a funeral director in this state; provided, that this sentence shall not be applicable to the name of any firm or corporation owning or operating a funeral establishment on September 10, 1975, so long as such firm or corporation remains under the same ownership.

(b) If the business card of a funeral establishment contains the name of an individual, the individual shall be licensed by the board in accordance with this chapter, unless otherwise provided by this chapter or board rule.

(c)(1) Any funeral establishment advertising cremation or cremation services that does not own a crematory shall include the following disclaimer in a clear and conspicuous manner on all advertisements and printed material: "This establishment does not own a crematory."

(2) For the purposes of this subsection, an advertisement shall include, but is not limited to, a notice or announcement in a public medium, including the Internet, promoting the funeral establishment and any printed material containing the name of the funeral establishment.

(Acts 1975, No. 214, p. 705, §40; Act 2017-433, §1.)

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Section 34-13-111

License required; inspections; transfer of license; change of ownership.

(a) No funeral establishment or branch thereof for the preparation, disposition, and care of dead human bodies shall be opened or maintained unless licensed by the board. No funeral establishment or branch shall be moved without obtaining a new funeral establishment license from the board.

(b) Every funeral service, memorial service, or committal service, or part thereof, that is conducted in Alabama, for hire or for profit, shall be in the actual charge and shall be under the direct supervision of a funeral director who is licensed by the board, unless otherwise provided for in this chapter or by rule of the board.

(c) The board shall set a fee, not exceeding one hundred fifty dollars (\$150), that shall be in addition to the license fee for the first inspection of any funeral establishment seeking a license under Section 34-13-72 made for the purpose of determining whether the funeral establishment has fulfilled the requirements for licensure pursuant to this chapter. The board shall set a fee, not exceeding one hundred fifty dollars (\$150), for each reinspection necessitated by failure of any funeral establishment to pass the first inspection. The board, or a representative of the board, shall annually conduct at least one unannounced inspection of each funeral establishment and branch, with an inspection fee of not more than one hundred dollars (\$100). The inspection fee shall be submitted to the board within 45 days after the inspection. Any funeral establishment that does not submit the inspection fee within 45 days shall be charged a late penalty fee, as established by the board. A funeral establishment, or branch thereof, that is used for the preparation, disposition, and care of dead human bodies shall meet and conform to this chapter and to such other lawful standards and requirements as may be determined by rule of the board in furtherance of this chapter; and, for failure to do so, the board may revoke the funeral establishment license in accordance with the procedure set forth in this chapter.

(d) Applications for transfer of a license to another location in the same county shall be made upon a form furnished by the board and shall be accompanied by a fee of not more than seventy-five dollars (\$75).

(e) Any change in ownership of a funeral establishment shall be immediately reported to the board on a form provided by the board. The new owner of the establishment shall comply with Section 34-13-112 and Section 34-13-113 and shall provide to the board a signed copy of the asset purchase agreement with dollar amounts redacted. The fee for a change of ownership application is two hundred fifty dollars (\$250).

(Acts 1975, No. 214, p. 705, §44; Acts 1981, No. 81-200, p. 234, §4; Acts 1981, No. 81-709, p. 1190, §1; Acts 1983, No. 83-746, p. 1235, §1; Act 2011-623, p. 1439, §1; Act 2014-125, p. 206, §1; Act 2017-433, §1.)

Section 34-13-112

Employment of embalmer or director by other establishments; supervision and control; licensing of establishment not to license embalmer or director.

(a) All applications for a license to operate a funeral establishment shall show that a managing funeral director and managing embalmer are employed by the establishment. All applications for a license to operate a crematory shall show that a managing cremationist is employed by the establishment. This section shall not be construed to require a full-time licensed embalmer at each funeral establishment. No funeral establishment shall be licensed except upon the basis of employing a managing funeral director who lives within 75 miles of the funeral establishment. All embalming shall be performed under a licensed embalmer. A licensed embalmer is not restricted from working for more than one funeral establishment.

(b) No managing funeral director, based upon whose license or licenses a funeral establishment license has been issued, may serve as the regularly employed managing funeral director at another funeral establishment owned by a different person, firm, or corporation at the same time for the purpose of qualifying the other establishment under this chapter.

(c) It is declared to be the legislative intent of this chapter that every funeral establishment in this state shall be operated under the full charge, control, and supervision of a managing funeral director and a managing embalmer. This section shall not preclude an unlicensed person from being in charge of the bookkeeping or records of such an establishment. The name of the licensed person to be in charge of each funeral establishment shall be stated on the application for all licenses or renewal of the licenses.

(d) The issuance of a license to operate a funeral establishment to a person who is not individually licensed as a funeral director or embalmer does not entitle the person to practice embalming or funeral directing, as defined by this chapter, it being the intent of this chapter that such practice may be performed only through individually licensed funeral directors and embalmers; and, in addition to all other grounds for suspension of a funeral establishment license as enumerated in this chapter, a funeral establishment license shall be revoked by the board upon hearing thereon if any person, whether owner, officer, stockholder, or otherwise, who is connected with the funeral home shall perform any of the functions of a funeral director or embalmer as defined herein or shall hold himself or herself out as a funeral director.

(Acts 1975, No. 214, p. 705, §43; Act 2017-433, §1.)

Section 34-13-113

Application for license; inspection of establishment; issuance of license.

(a) Application for a license to operate a funeral establishment shall be made in writing on a form provided by the board. The application shall be verified by the applicant or, if the applicant is a corporation, firm, or other organization, by an officer or member thereof, and shall be accompanied by an application fee established by the board not to exceed five hundred dollars (\$500). The application shall disclose all of the following:

- (1) The name and address of the establishment.
- (2) That the establishment is operated by a managing funeral director and a managing embalmer or a person licensed both as a funeral director and embalmer.
- (3) A description and photographs of the buildings, equipment, and facilities of the establishment.
- (4) That the establishment has a sanitary, properly equipped embalming room, a room suitable for public viewing or other funeral services that is able to accommodate a minimum of 100 people, an office for arrangement conferences with relatives or authorized representatives, and a display room containing a stock of adult caskets and funeral supplies displayed in full size, cuts, photographs, or electronic images. At no time shall less than eight different adult full size caskets and at least one operating and properly licensed funeral coach or hearse equipped for transporting human remains in a casket or urn be on the premises. A funeral establishment, that has more than one location under the same ownership wherein the profession of funeral directing is practiced, is not required to maintain more than one preparation room upon satisfying requirements prescribed by the board.
- (5) Such other information as may be required by the board.

(b) Upon receipt of the application, the board shall make inspection of the funeral establishment. If the board determines that the establishment meets the qualifications prescribed by law, it shall issue a license to operate a funeral establishment.

(c) Application for a license to operate a mortuary service shall be made in writing on a form provided by the board. The application shall be verified by the applicant or, if the applicant is a corporation, firm, or other organization, by an officer or member thereof, and shall be accompanied by an application fee established by the board not to exceed five hundred dollars (\$500). The application shall disclose all of the following:

- (1) The name and address of the proposed mortuary service.

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(2) That the mortuary service applicant is operated by a licensed embalmer or a person licensed both as a funeral director and embalmer.

(3) A description and photographs of the buildings, equipment, and facilities of the mortuary service applicant.

(4) That the mortuary service applicant has a sanitary, properly equipped embalming room.

(5) Such other information as may be required by the board.

(d) Upon receipt of the application, the board shall make inspection of the premises of the mortuary service applicant. If the board determines that the mortuary service applicant meets the qualifications prescribed by law, the board shall issue a license to operate a mortuary service.

(Acts 1975, No. 214, p. 705, §41; Acts 1981, No. 81-200, p. 234, §4; Acts 1981, No. 81-709, p. 1190, §1; Act 2011-623, p. 1439, §1; Act 2014-125, p. 206, §1; Act 2017-433, §1.)

Section 34-13-114

Reissuing license upon change of name.

(a) An operator of a funeral establishment licensed under subsections (a) and (b) of Section 34-13-113 who desires to change the name of the establishment may have his or her license reissued, in the changed name, upon application to the board and payment of a fee not exceeding seventy-five dollars (\$75).

(b) An operator of a mortuary service licensed under subsections (c) and (d) of Section 34-13-113 who desires to change the name of the mortuary service may have his or her license reissued, in the changed name, upon application to the board and payment of a fee set by the board.

(Acts 1975, No. 214, p. 705, §23; Act 2011-623, p. 1439, §1.)

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Section 34-13-115

Revocation, suspension, or refusal to renew license.

(a) The board may revoke, suspend, place on probation, or refuse to renew a license issued to an operator of a funeral establishment or mortuary service as provided in this chapter.

(b) If, upon a complaint made to the board or otherwise, the board has reason to believe that the operator of a funeral establishment or mortuary service has failed to comply with this chapter or the rules of the board, the board shall conduct an investigation. If it appears to the board that there is reasonable ground to believe that the operator has failed so to comply, the board shall conduct a hearing on the matter. Notice of the time and place of the hearing, setting forth the respects in which failure to comply is charged, shall be sent to the operator no later than 15 days prior to the date set for the hearing. The operator may have the assistance of counsel at the hearing.

(c) If the board finds that the operator has failed to comply with this chapter or the rule of the board, the board may revoke, suspend, or refuse to renew the license.

(Acts 1975, No. 214, p. 705, §33; Act 2011-623, p. 1439, §1; Act 2017-433, §1.)

Section 34-13-116

Penalty for failure to register.

Any person, firm, partnership, society, group, or corporation who has control of a funeral home, mortuary, chapel, funeral establishment, crematory, or mortuary service and fails to register same according to this chapter, upon conviction, may be fined not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) for each violation, and each day that the funeral home, mortuary, chapel, funeral establishment, crematory, or mortuary service is operated shall be deemed to be a separate and distinct violation of this chapter.

(Acts 1975, No. 214, p. 705, §42; Act 2011-623, p. 1439, §1; Act 2017-433, §1.)

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Section 34-13-117

Disposition of remains.

Disposition of human remains shall occur within 48 hours after the time of death or the time the body is released by the coroner or a medical examiner, unless the body has been embalmed by a licensed embalmer in this state, with permission from the authorizing agent, or the body is kept under refrigeration. No public viewing of un-embalmed bodies shall be permitted 24 hours after death has occurred. Nothing in this section shall prevent a licensed establishment from requiring identification before disposition.

(Act 2017-433, §2.)

Division 4A.

CREMATION SERVICES

Section 34-13-120

License required; crematory requirements; application and inspection; records; violations; rulemaking authority.

(a) No person, firm, corporation, association, entity, or funeral establishment, or branch thereof, may operate a crematory for the purpose of cremating dead human bodies, unless licensed by the board as a funeral establishment and the crematory being registered with the board and inspected by the board before any cremations of human remains are performed.

(b) A crematory shall satisfy all of the following requirements and have the following minimum equipment, facilities, and personnel:

- (1) Registered with the board.
- (2) Inspected by the board before performing any cremations.
- (3) Fixed on the premises of a funeral establishment. For the purposes of this subdivision, fixed means permanently attached to the real property where the establishment is situated.
- (4) Owned by the same individual, partnership, or corporation as the funeral establishment.
- (5) Under the full charge and supervision of a managing cremationist who is licensed by the board as both a funeral director and cremationist and listed on the application as the managing cremationist. No managing cremationist may serve as the regularly employed managing cremationist at another crematory which is owned by a different person, firm, or corporation at the same time for the purpose of qualifying the other crematory under this chapter.
- (6) Subject to all local, state, and federal health and environmental protection requirements and shall obtain all necessary licenses and permits from the board, the Alabama Department of Public Health, the Environmental Protection Agency, the Alabama Department of Environmental Management, and other appropriate local, state, or federal agencies.
- (7) Have a holding room within the crematory facility designated for the retention of human remains before and after cremation.

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(8) Have at least one of each of the following:

- a. An operable refrigeration unit for the storage of human remains.
- b. An operable cremation chamber for the cremation of human remains.
- c. An operable processor for reducing identifiable bone fragments.
- d. An operable ventilation unit in conjunction with the processor.
- e. A hand washing sink with hot and cold running water.

(9) Have all other necessary equipment and supplies, in working condition, needed to complete the cremation process.

(10) Have nonporous floors in the holding room, refrigeration unit, and around the cremation chamber.

(11) Maintained in a clean, orderly, and sanitary manner.

(c) The application to operate a crematory shall be made in writing on a form prescribed by the board. The application shall be verified by the applicant or, if the applicant is a corporation, firm, or other organization, by an officer or member thereof, and shall be accompanied by an initial application fee established by the board not to exceed five hundred dollars (\$500)

(d) Upon receipt of the application, the board shall make inspection of the crematory. No crematory shall operate unless the crematory facility and funeral establishment have been inspected and approved as meeting all requirements of this chapter and rules of the board.

(e) Each funeral establishment and crematory which performs cremations shall maintain the following records:

(1) A cremation log containing any information required by the board.

(2) A copy of the cremation authorization form and the state identification form.

(3) A copy of the affidavit attesting to each cremation performed and, if the cremation is performed for another funeral establishment or entity, the identity of that funeral establishment or entity.

(f) The board shall inspect the records and premises of any funeral establishment operating a crematory. In making inspections, the board shall have access to all records, the crematory building, the cremation chambers, and the holding room for human remains before and after cremation. No prior notification of the inspection is required to be given

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to the funeral establishment. If any funeral establishment performing cremation services fails to allow an inspection or any part thereof, it shall be grounds for the suspension or revocation of a license or other disciplinary action against the licensee, as the board may deem reasonable and necessary to the extent of the law. The board shall conduct annually at least one unannounced inspection of each licensed funeral establishment performing cremation services.

(g) Each funeral establishment performing cremation services shall keep records as required by the board to assure compliance with all laws relating to the disposition of human remains, and shall file annually with the board on October 1 a cremation report in the form prescribed by the board, describing the operations of the licensee, including the number of cremations, the disposition thereof, and any other information the board may require. Records required by the board shall be kept for four years by the funeral establishment.

(h) Each funeral establishment performing cremations shall maintain and submit a copy of the service, maintenance, or inspection reports of work completed or performed on the cremation chamber to the board within 30 days after completion.

(i) A funeral establishment or branch thereof, that has a crematory for cremating dead human remains shall at all times comply with this chapter and any board rule adopted pursuant to this chapter. Failure to comply, as determined by the board, may result in the revocation of the license of the funeral establishment, or branch thereof, pursuant to this chapter.

(j) The board shall adopt and enforce rules as reasonable and necessary for the operation of crematories in the state and to protect the health, welfare, and safety of the people of this state.

(k) A crematory facility licensed by the board may be used only for the cremation of human remains.

(l) A funeral establishment or crematory operating in the state before October 1, 2017, shall file with the board all new forms as required by this section, and shall be exempt from any new crematory facility requirements of this chapter that become effective on August 1, 2017. If major structural renovations are made to the crematory facility, the cremation chamber is relocated, or the funeral establishment is closed and reopened, the affected crematory facility shall satisfy all requirements relating to crematory facilities as provided in this chapter. Each cremationist licensed by the board on August 1, 2017, shall have until October 1, 2018, to satisfy the requirements of Section 34-13-120.01.

(Act 2002-239, p. 498, §3; Act 2011-623, p. 1439, §1; Act 2017-433, §1.)

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Section 34-13-120.1

License requirements; certification.

No person may conduct, maintain, manage, or operate a cremation facility unless licensed to do so by the board. The board may issue a license to practice as a cremationist after the applicant has satisfied all of the following requirements:

- (1) Is at least 21 years of age.
- (2) Is a citizen of the United States or legally present in this state.
- (3) Is a high school graduate or the equivalent.
- (4) Has successfully completed a crematory operator training course approved by the board.
- (5) Has completed a course in universal precaution and blood-borne pathogens approved by the board.
- (6) Has submitted a completed application and supporting documents, as required by the board, and a fee established by the board that does not exceed three hundred dollars (\$300).
- (7) Has successfully completed an examination on Alabama funeral service laws and rules.
- (8) Has submitted to the board a form, sworn to by the applicant, that contains the name, date of birth, and Social Security number of the applicant, and two complete sets of fingerprints, for completion of a criminal history background check. The board shall submit the fingerprints to the Alabama State Law Enforcement Agency for a state criminal history record check. The fingerprints shall be forwarded by the agency to the Federal Bureau of Investigation for a national criminal history record check. Costs associated with conducting a criminal history background check shall be paid by the applicant. The board shall keep information received pursuant to this subsection confidential, except that information received and relied upon in denying the issuance of a cremationist license may be disclosed if necessary to support the denial.

(b) Each new employee of a crematory required to be licensed under this section shall be certified within one year after his or her employment. A copy of all certified cremationist certificates shall be posted in the crematory and available for inspection at any time.

(c) Each funeral establishment performing cremation shall certify by affidavit to the board that each cremationist conducting cremations at the funeral establishment has satisfied all

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requirements of this chapter to be licensed as a cremationist and received adequate and appropriate training or experience in the practice of cremation.

(Act 2017-433, §2.)

Section 34-13-121

Cremation procedures; authorization; identification of remains; records.

(a) Human remains shall not be cremated under either of the following circumstances:

(1) Within 24 hours after the time of death, unless death was a result of an infectious, contagious, or communicable disease and unless the disease is verified and the time requirement waived by a medical examiner, county health director, county coroner, or attending physician where the death occurred.

(2) Without a completed cremation authorization form approved by the board and signed by the authorizing agent and a completed state identification form. A copy of the cremation authorization shall be presented with the body to the crematory before any cremation process may be initiated.

(b) All cremations of human remains performed in this state shall be arranged through a funeral establishment licensed by the board pursuant to this chapter.

(c) Whenever a crematory is unable or unauthorized to cremate human remains immediately upon taking custody of the remains, the human remains shall be placed and kept in refrigeration in accordance with this chapter.

(d) A crematory may not accept human remains from another funeral establishment without all of the following:

(1) The remains shall be accompanied by a completed cremation authorization form signed by an authorizing agent.

(2) A state identification form with the signature of the releasing party.

(3) An undetachable ankle bracelet identifying the remains.

(4) The remains shall be delivered or immediately placed in a combustible cremation container marked with identifying information of the human remains contained within. Human remains may not be removed from the cremation container and the cremation container shall be cremated with the human remains,

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unless the cremation container is metal and the authorizing agent has been informed in writing that the crematory does not cremate metal containers.

- (e) A cremation container shall be all of the following:
- a. Composed of readily combustible materials suitable for cremation.
 - b. Able to be closed in order to provide a complete covering for the human remains.
 - c. Resistant to leakage or spillage.
 - d. Rigid enough for handling with ease.
 - e. Able to provide protection for the health, safety, and personal integrity of crematory personnel.
 - f. Equipped with a covering that clearly identifies the name and date of death of the decedent.
- (f) It shall be disclosed to the family member serving as the authorizing agent that he or she, or his or her designee, may witness the transportation of the human remains to be cremated to the crematory. Every funeral establishment performing cremation services that prohibits relatives or the responsible party from viewing the cremation process shall disclose this fact in writing to the person or persons entitled to custody of the remains prior to the signing of any contract.
- (g) An authorizing agent has the duty to inform the funeral director of the presence of a pacemaker or other potentially hazardous implant, including any toxic or explosive-type sealed implants in the human remains. The funeral director shall be responsible for ensuring that all necessary steps have been taken to remove the pacemaker before delivering the human remains to the crematory. Should the cremationist discover the presence of a pacemaker or other hazardous implants in the human remains, the cremationist shall arrange for the removal of the pacemaker or other hazardous implant.
- (h) The simultaneous cremation of the human remains of more than one person within the same cremation chamber, without the prior written consent of the authorizing agent, is prohibited. Any funeral establishment performing cremations in accordance with this chapter may cremate only dead human remains.
- (i) Upon the completion of each cremation, and insofar as is practicable, all of the recoverable residue of the cremation process shall be removed from the cremation chamber and placed in a separate container and may not be commingled with cremated remains of another person nor shall cremated remains of a dead human be divided or separated without the prior written consent of the authorizing agent.

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(j) Each funeral establishment and crematory which offers or performs cremations shall complete a state identification form. The form shall accompany the human remains in all phases of transportation, cremation, and return of cremated remains. All human remains to be cremated shall have the state identification form and a undetachable ankle bracelet identifying the remains.

(k) Upon completion of the cremation process, the cremationist shall attest to the identity of the cremated remains and the date, time, and place the cremation process occurred on a form prescribed by the board.

(l) Each crematory shall maintain the internal identification system prescribed by the board to ensure the ability to identify the human remains in the possession of the crematory throughout all phases of the cremation process. Upon completion of the cremation process, a copy of the state identification form shall be issued to the family certifying the identity of the cremated remains being issued to the family or funeral establishment.

(Act 2002-239, p. 498, §3; Act 2017-433, §1.)

Section 34-13-122

Disposition of cremated remains.

(a) The authorizing agent shall provide to the funeral establishment which the cremation arrangements are made a signed statement specifying the ultimate disposition of the cremated remains, if known. A copy of this statement shall be retained by the funeral establishment offering or conducting the cremation.

(b) Cremated remains shall be shipped only by a method that has an internal tracing system available and that provides a receipt signed by the person accepting delivery.

(c) The authorizing agent is responsible for the disposition of the cremated remains. If, after 60 days from the date of cremation, the authorizing agent or his or her representative has not specified the ultimate disposition or claimed the cremated remains, the funeral establishment or entity in possession of the cremated remains may dispose of the cremated remains in a dignified and humane manner and in accordance with any state, county, or municipal laws or provisions regarding the disposal of cremated remains. A record of this disposition shall be made and kept by the entity making the disposition. Upon disposing of cremated remains in accordance with this section, the funeral establishment or entity in possession of the cremated remains shall be discharged from any legal obligation or liability concerning the cremated remains.

(Act 2002-239, p. 498, §3.)

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Section 34-13-123

Violations.

The board may refuse to grant, refuse to renew, suspend, or revoke the license of, or fine a cremationist or crematory, after proper hearing and notice is provided to the licensee, upon the board finding the licensee is guilty of any of the following:

- (1) Any violation of this chapter or order or rule of the board.
- (2) The performance of a cremation service by a person who is not licensed as a cremationist and who has not completed a training program as required by this chapter.
- (3) Operating a building or structure within this state as a crematory without being licensed under this chapter.
- (4) Violating any cremation procedure required by this chapter or rule of the board.
- (5) Performing a cremation without receipt of a cremation authorization form signed by the authorizing agent.
- (6) Signing a cremation authorization form with the actual knowledge that the form contains false or incorrect information.
- (7) Accepting human remains from another funeral establishment without a completed cremation authorization form signed by the authorizing agent, a state identification form with the signature of the releasing party, and an undetachable ankle bracelet identifying the remains.
- (8) Failure to maintain the internal identification system as required by the board.
- (9) Failure to maintain identifying paperwork with the appropriate signatures.
- (10) Failure to file an annual cremation report in the form required by the board.
- (11) Failure to maintain a current cremation log.

(Act 2017-433, §2.)

Division 5.

APPRENTICES

Section 34-13-130

Apprenticeship requirements; application; term of apprenticeship.

(a) Every person desiring to engage as an apprentice shall satisfy all of the following:

(1) Make application as a funeral director's apprentice or an embalmer's apprentice to the board upon a form provided by the board. The applicant shall submit to the board a form, sworn to by the applicant, that contains the name, date of birth, and Social Security number of the applicant, and two complete sets of fingerprints, for completion of a criminal history background check. The board shall submit the fingerprints to the Alabama State Law Enforcement Agency for a state criminal history record check. The fingerprints shall be forwarded by the agency to the Federal Bureau of Investigation for a national criminal history record check. Costs associated with conducting a criminal history background check shall be paid by the applicant. The board shall keep information received pursuant to this subsection confidential, except that information received and relied upon in denying the issuance of an apprentice certification may be disclosed if necessary to support the denial.

(2) Be over the age of 18.

(3) Hold a high school certificate or the equivalent.

(4) Be of good moral character.

(b) The application shall be verified by the oath of the applicant and be accompanied by a fee to be established by the board, not to exceed twenty dollars (\$20).

(c) The executive director, whenever it appears to him or her that no reason exists for the denial of an application and that the application is regular upon its face, may issue to the applicant a certificate of apprenticeship, without submitting the application to the board. If, however, any doubt exists as to the qualifications of the applicant, the application shall be submitted to the board and may be accepted or rejected by a majority of the board.

(d) The period of apprenticeship of a funeral director's apprentice or an embalmer's apprentice shall be performed in Alabama under the supervision of a funeral director or embalmer, respectively, licensed by the board.

(e) A licensed funeral director or a licensed embalmer may supervise no more than three apprentices at any given time, unless otherwise provided for by the board.

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(f) Only a licensed funeral director or licensed embalmer, whose license is in good standing, may supervise an apprentice.

(g) The regular course of apprenticeship shall be two years, but the apprentice is entitled to two weeks time off each year, without leave of absence from the board.

(h) An apprentice shall be enrolled in the funeral service program at an accredited mortuary school within one year after the original start date of his or her apprenticeship. If an apprentice is not enrolled in mortuary school within that time period, then the apprenticeship may not be renewed and the apprenticeship may not be reactivated until the apprentice provides proof of enrollment.

(Acts 1975, No. 214, p. 705, §26; Acts 1981, No. 81-200, p. 234, §4; Acts 1981, No. 81-709, p. 1190, §1; Act 2011-623, p. 1439, §1; Act 2017-433, §1.)

Section 34-13-131

Annual renewal of certificate.

A certificate of apprenticeship issued as provided for in this chapter shall be signed by the apprentice and shall be renewable annually upon the payment by the holder by October 1 of each year of an annual renewal fee to be established by the board, not to exceed twenty dollars (\$20). Failure to pay the renewal fee by the prescribed date of any year shall cause the certificate to become delinquent, in which case it shall be renewed only for good cause shown. No person may be granted a certificate of apprenticeship as funeral director's apprentice or embalmer's apprentice, respectively, for more than three consecutive years, excepting as provided. The board shall send, on or before August 1 of each year, to each registered apprentice at his or her last known address, a notice that his or her renewal fee is due and payable and that, if not paid by October 1, his or her license shall lapse.

(Acts 1975, No. 214, p. 705, §27; Acts 1981, No. 81-200, p. 234, §4; Acts 1981, No. 81-709, p. 1190, §1; Act 2017-433, §1.)

Section 34-13-132

Annual report of apprentices.

All apprentices registered as provided in this chapter shall be under the supervision and control of the board and shall be required to report to the board annually on October 1, upon forms provided by the board, showing the work which such apprentices have performed during the annual period preceding the first of the month on which the report is made, including the number of hours served and the number of bodies the apprentice has assisted in embalming or otherwise prepared for disposition during such period. The information contained in the report shall be certified to as correct by the funeral director or embalmer by whom the apprentice has been employed during his or her apprenticeship period.

(Acts 1975, No. 214, p. 705, §28; Act 2014-125, p. 206, §1; Act 2017-433, §1.)

Section 34-13-133

Leave of absence.

The board has power to grant leaves of absence and to grant extensions thereof to apprentices registered under the provisions of this chapter. However, no credit shall be given to an apprentice upon his or her apprenticeship for the period during which he or she is absent from duty on leave, and no more than an aggregate of 12 months' leave of absence shall be granted to any apprentice during the term of his or her apprenticeship. Application for leave of absence and for extension thereof shall be made by the apprentice upon a form provided by and addressed to the board. Upon the termination of a leave of absence or any extension thereof, the apprentice shall report to the board the fact that he or she has resumed his or her duties as an apprentice and certified to by the funeral director under whom he or she has resumed his or her duties or by the embalmer under whom he or she is apprenticed, confirming this fact. Failure to so report within 30 days after the expiration date of any leave of absence or extension thereof shall automatically cancel the registration of the apprentice.

(Acts 1975, No. 214, p. 705, §29.)

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Section 34-13-134

Grounds for suspension, revocation, etc., of certificates; reactivation.

(a) The board has power to suspend, revoke, or place on probation a certificate of apprenticeship where the apprentice is guilty of any of the following acts or omissions:

- (1) Failure to devote not less than an average of 30 hours per week to the duties of his or her apprenticeship.
- (2) Failure to make an annual report to the board as required by this chapter.
- (3) Absence from duty except on vacation for an aggregate of more than 10 days in any six months or 20 days in any year, without leave of absence granted by the board.
- (4) Gross immorality.
- (5) Being on duty as an apprentice while under the influence of liquor or illegal drugs.
- (6) Disobedience of proper orders or instructions of his or her superiors.
- (7) Violation of this chapter or any rule of the board adopted pursuant to this chapter.
- (8) Soliciting business for a funeral director or for any embalmer.
- (9) Fraud or misrepresentation in obtaining a certificate as an apprentice.

(b) An apprentice who has failed to renew his or her certificate, or who has had his or her certificate of apprenticeship suspended or revoked , within one year after such expiration, suspension, or revocation, may make application for reactivation. Not more than two reactivations shall be allowed by the board. The board , when the circumstances warrant, may allow an apprentice credit under a reactivation for time actually served under a previous certificate; except, that if the previous certificate has been suspended or revoked upon any of the grounds set forth in subsection (a) , not more than 75 percent of the time previously served shall be credited on the reactivation.

(Acts 1975, No. 214, p. 705, §30; Act 2014-125, p. 206, §1; Act 2017-433, §1.)
