

## **ARKANSAS CODE ANNOATED, CHAPTER 29**

### **EMBALMERS, FUNERAL DIRECTORS, AND FUNERAL ESTABLISHMENTS**

#### **17-29-201. Creation -- Members.**

- (a) There is created the State Board of Embalmers and Funeral Directors.
- (b) (1) The board shall consist of seven (7) members, appointed by the Governor with the advice and consent of the Senate for a term of three (3) years.
- (2) Four (4) members, at least one (1) of whom shall be from each of the four (4) congressional districts, and one (1) at large representative shall be appointed as follows:
- (A) (i) Five (5) members of the board shall be embalmers or funeral directors, or both, licensed under § 17-29-301 et seq. who shall have had at least five (5) consecutive years of active experience as embalmers or funeral directors in Arkansas immediately preceding appointment.
- (ii) The Governor shall appoint members to the board from three (3) nominees submitted by the licensed embalmers and funeral directors. In the event that no nominations are submitted to the Governor by July 1 of any year in which an appointment is to be made, the Governor may make the appointment provided that the appointee meets the other requirements for board membership; and
- (B) One (1) member of the board shall be designated as a consumer representative. He or she shall be appointed from the state at large, subject to confirmation by the Senate, but he or she shall not be required to be appointed from a list submitted by the licensed embalmers and funeral directors. He or she shall be a full voting member.
- (3) (A) One (1) member of the board shall not be actively engaged in or retired from the profession of embalming and funeral directing, shall be sixty (60) years of age or older, and shall represent the elderly. He or she shall be appointed from the state at large, subject to confirmation by the Senate, but he or she shall not be required to be appointed from a list submitted by the licensed embalmers and funeral directors. He or she shall be a full voting member.
- (B) The position may not be held by the person holding the consumer representative position.
- (c) No member shall serve more than three (3) consecutive three-year terms on the board.
- (d) (1) The Governor may remove any member of the board for incompetence or improper conduct.
- (2) Vacancies caused by death, resignation, or removal before the expiration of the term shall be filled by the Governor for the remainder of the term.
- (e) The Governor shall furnish each member appointed to the board a certificate of appointment stating the date of the appointment and the date of the expiration of the appointment. Before entering upon his or her duties, each member appointed to the board shall qualify by taking the oath of office before an officer authorized by law to administer oaths in this state. This shall be noted on the certificate of appointment.

(f) Members of the board may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

**HISTORY:** Acts 1983, No. 131, §§ 1-3, 5; 1983, No. 135, §§ 1-3, 5; 1983, No. 325, §§ 1, 3; A.S.A. 1947, §§ 6-623 -- 6-626, 71-901, 71-903; Acts 1995, No. 646, § 3; 1997, No. 250, § 136; 1997, No. 839, § 1.

**17-29-202. Meetings.**

(a) The State Board of Embalmers and Funeral Directors shall hold not less than one (1) meeting annually for the purpose of selecting nominees for the appointment of one (1) to a term on the board. The meeting shall be held at such time and place as the board may determine, after notice of the meeting has been given to the general public in a manner to be determined by the board, at least thirty (30) days prior to the meeting.

(b) The board shall hold at least two (2) examinations each year at convenient times and places.

(c) The board may hold such other meetings as it may deem necessary.

(d) Four (4) or more members shall comprise a quorum.

**HISTORY:** Acts 1983, No. 325, § 2; A.S.A. 1947, § 71-902; Acts 1999, No. 1138, § 1.

**17-29-203. Selection of officers.**

(a) The State Board of Embalmers and Funeral Directors appointed under the provisions of this chapter, and each successor thereto, is authorized to select from its own membership a president, vice president, and secretary-treasurer who shall serve for one-year terms or until their successors are elected and qualified.

(b) In the event no member of the board is able for any reason to serve as secretary-treasurer, then by a majority vote of the board, it may employ a person to serve as secretary-treasurer, and that person is not required to be a licensed embalmer or funeral director.

**HISTORY:** Acts 1983, No. 325, § 3; A.S.A. 1947, § 71-903; Acts 1989, No. 106, § 1.

**17-29-204. Duties of secretary-treasurer.**

The Secretary-treasurer of the State Board of Embalmers and Funeral Directors shall:

(1) Have general supervision and be held responsible for the direction of the office of the board;

(2) Have general supervision over field inspection and enforcement of the provisions of this subchapter and § 17-29-301 et seq.;

(3) Be responsible to the board. Such responsibility shall include timely dissemination of information;

(4) Be responsible for making public the procedures for making inquiries into the practice of funeral directors or embalmers and for making complaints concerning the practices;

(5) 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 § 17-29-301 et seq., the number and date of the license, and the date of renewal of the license;

(6) Supply on request to any person licensed as an embalmer or funeral director, to common carriers in this state, to hospitals licensed in this state, or to other persons reasonably entitled to a list of all persons and funeral establishments holding licenses under § 17-29-301 et seq. The publication giving the information shall include all laws, rules, and regulations regarding the practice of embalming or funeral directing;

(7) Hold all moneys received by the board to pay the necessary and allowable expenses for the operation of the board in carrying out the provisions of this subchapter and § 17-29-301 et seq.

(8) Give bond to the State of Arkansas in such sum as the board may direct. Any premiums payable for the bond shall be paid from the funds of the board. The bond shall be deposited with the Auditor of State;

(9) Receive and be paid an annual salary not to exceed the amount authorized by law; and

(10) Be authorized to receive reimbursement for expenses incurred in performance of duties.

**HISTORY:** Acts 1983, No. 325, § 3; A.S.A. 1947, § 71-903; Acts 1997, No. 250, § 137.

**17-29-205. Inspector.**

(a) There may be appointed by the State Board of Embalmers and Funeral Directors an agent or agents whose title shall be Inspector of the Board of Embalmers and Funeral Directors of the State of Arkansas. No person shall be eligible for appointment to the office unless he or she has not fewer than five (5) consecutive years of active experience as an embalmer and funeral director licensed in this state. The board may appoint an investigator who need not be a licensed embalmer or funeral director.

(b) The inspector shall hold office at the pleasure of the board who shall determine his or her duties.

(c) The inspector, with proper identification, is authorized to enter the office, premises, establishment, or place of business of any business in this state where the practice of embalming or funeral directing is carried on, or where the practice is advertised as being carried on, for the purpose of inspecting the premises or establishment, inspecting the license and registration of any licensee, inspecting the manner and scope of training given to any apprentice therein, and to ensure compliance with all state laws, rules, and regulations pertaining to funeral service. Acceptance of a license under § 17-29-301 et seq. shall be the licensee's permission for the inspector to enter his or her business premises without legal process.

(d) The inspector is further authorized to serve and execute any process issued by any court under the provisions of this chapter, to serve and execute any papers or process issued by the board under the authority of this subchapter and § 17-29-301 et seq., and to perform such other duties as prescribed or

ordered by the board.

**(e)** The inspector shall not accept any employment, salary, fees, or other remuneration from a funeral establishment or wholesale firm dealing in funeral supplies and equipment.

**(f)** The inspector shall receive such compensation as the board may determine within the maximum authorized by law.

**HISTORY:** Acts 1983, No. 325, § 3; A.S.A. 1947, § 71-903; Acts 1989, No. 106, § 2; 1997, No. 839, § 2.

**17-29-206. Employees.**

The State Board of Embalmers and Funeral Directors may employ clerical assistants or other employees as authorized by law and as necessary to carry out the provisions of this subchapter and § 17-29-301 et seq. The terms and conditions of the employment shall be determined by the board.

**17-29-207. Rules.**

**(a)** The State Board of Embalmers and Funeral Directors may promulgate appropriate rules for the transaction of its business and for the betterment and promotion of the standards of service and practice to be followed in the practice of embalming and funeral directing in the State of Arkansas as it deems expedient and consistent with the laws of this state and for the public good.

**(b)** The board may promulgate rules reasonably necessary to reflect any changes in the law as adopted by the United States Congress or any appropriate agency of the United States Government as it affects funeral establishments, funeral directors, or embalmers and for the purpose of keeping this law consistent with, and compatible to, the laws of the United States.

**(c) (1)** The board may determine the qualifications necessary to practice the science of embalming or the business of funeral directing, or both, and shall adopt bylaws and rules in connection with the care and disposition of dead human bodies in this state.

**(2)** The board shall enforce compliance with the laws and rules by those engaged in the science of embalming and business of funeral directing in this state and may transact any other business necessary for carrying out the provisions of this subchapter and § 17-29-301 et seq.

**(d) (1)** The board may promulgate reasonable rules for the licensing of crematoriums.

**(2) (A)** Beginning January 1, 1990, a crematorium may not be operated in this state unless licensed by the board, and a person shall not be cremated in this state except at a licensed crematorium.

**(B)** Violations of this subsection are Class A misdemeanors.

**(e) (1)** In the interest of public health and to ensure the safe, secure, and timely transportation of dead human bodies in and through Arkansas, the board may license, inspect, and promulgate reasonable rules for any person, partnership, corporation, association, society, or other legal

entity engaged in the business of transporting dead human bodies over the public streets and highways of this state.

(2) Violations of rules promulgated under this subsection are Class A misdemeanors.

**HISTORY:** Acts 1983, No. 325, §§ 4, 10; A.S.A. 1947, §§ 71-904, 71-910; Acts 1989, No. 106, § 6; 2011, No. 874, § 1.

**17-29-208. Fees.**

The State Board of Embalmers and Funeral Directors shall establish and collect reasonable fees.

**HISTORY:** Acts 1983, No. 325, § 8; A.S.A. 1947, § 71-908; Acts 1989, No. 106, § 3.

**17-29-209. Continuing education.**

(a) The State Board of Embalmers and Funeral Directors may develop and establish by regulation a program for continuing education and its requirements for all funeral directors and embalmers licensed under § 17-29-301 et seq.

(b) The board shall have the authority to excuse licensees, as a group or as individuals, from a continuing education program, in the event any unusual circumstances, emergency, or hardship prevents participation in the program.

**17-29-210. Legal counsel.**

(a) The State Board of Embalmers and Funeral Directors, when it shall deem necessary, shall be represented by the Attorney General.

(b) It may also employ special counsel when necessary, whose services shall be paid for from funds of the board. Special counsel shall be retained only with the prior approval of the Attorney General.

**HISTORY:** Acts 1983, No. 325, § 3; A.S.A. 1947, § 71-903.

**17-29-211. Administrative activities.**

The Executive Secretary of the Burial Association Board shall also be responsible for the administrative activities of the State Board of Embalmers and Funeral Directors.

**HISTORY:** Acts 1997, No. 39, § 3.

**17-29-301. Embalmers -- Qualifications.**

(a) Every person who desires to practice the science of embalming in this state shall:

(1) Be at least eighteen (18) years of age;

- (2) Be a graduate of an accredited high school or the equivalent thereof;
- (3) Be a graduate of a school of embalming, which is accredited by the American Board of Funeral Service Education or accredited by the State Board of Embalmers and Funeral Directors;
- (4) Make a written application to the State Board of Embalmers and Funeral Directors attaching the fee as prescribed in § 17-29-208;
- (5) Have served as a registered apprentice embalmer for not less than twelve (12) months in the State of Arkansas under the direct personal supervision of an Arkansas-licensed embalmer and submit at least fifty (50) case reports to the State Board of Embalmers and Funeral Directors; and
- (6) Take and pass both parts of the National Board Examination and both parts of the Arkansas laws, rules, and regulations exam and present himself or herself to the State Board of Embalmers and Funeral Directors for a licensing interview.

(b) (1) Any person desiring to engage in the science of embalming in this state, in addition to graduating from an approved college of mortuary science recognized by the State Board of Embalmers and Funeral Directors, shall serve an apprenticeship of one (1) year in the State of Arkansas under an embalmer licensed by the State Board of Embalmers and Funeral Directors and shall assist in the preparation of at least fifty (50) bodies.

(2) (A) This apprenticeship shall be registered with the State Board of Embalmers and Funeral Directors on applications provided by the State Board of Embalmers and Funeral Directors.

(B) Individual case reports shall be signed by both the apprentice and the licensed embalmer under whose supervision the work was done and filed with the State Board of Embalmers and Funeral Directors by the tenth day of the following month.

(3) (A) This apprenticeship may be served before, during, or after attending a college of mortuary science except when the applicant is receiving financial assistance from the state to attend mortuary school, in which instance the apprenticeship shall be served prior to attending mortuary school.

(B) This subdivision (b)(3) applies to persons who were enrolled in mortuary school on January 1, 2000, and those who enroll after that date.

**HISTORY:** Acts 1983, No. 325, §§ 4, 5; A.S.A. 1947, §§ 71-904, 71-905; Acts 1997, No. 839, § 3; 1999, No. 1138, § 2; 2001, No. 792, § 1; 2003, No. 367, § 1.

**17-29-302. Funeral directors -- Qualifications.**

(a) Every person who desires to engage in the business of funeral directing in this state shall:

- (1) Be at least eighteen (18) years of age;

(2) Be a graduate of an accredited high school or the equivalent thereof;

(3) (A) Have served as an apprentice funeral director for not less than twenty-four (24) months in the State of Arkansas under the direct personal supervision of an Arkansas-licensed funeral director.

(B) Completion of the requirement to be a graduate of a school of embalmers as set forth in § 17-29-301(a)(3) may be substituted for twelve (12) of the twenty-four (24) months' apprenticeship established in this section;

(4) Make application to the State Board of Embalmers and Funeral Directors and attach the fee as prescribed in § 17-29-208; and

(5) Present himself or herself before the board at a time and place fixed by the board and make a passing grade on both the written and oral examinations.

(b) (1) Any person desiring to engage in the business of funeral directing in the State of Arkansas shall serve an apprenticeship of two (2) years in the State of Arkansas under a funeral director licensed by the board, and that person shall actively assist in conducting fifty (50) funerals. Notice of the apprenticeship shall be recorded with the Secretary-treasurer of the State Board of Embalmers and Funeral Directors and by the licensed funeral director supervising the apprenticeship not later than thirty (30) days after the commencement of the apprenticeship.

(2) If any person is a graduate of an accredited mortuary program and has passed the National Board Examination, that person shall be required to serve one (1) year as an apprentice funeral director.

(3) The board shall have the power to suspend or revoke a certificate of apprenticeship for violation of any provision of this subchapter or § 17-29-201 et seq.

(c) The board may require applicants for licensure as funeral directors to successfully complete up to twenty (20) hours of classroom instruction in funeral service practices and ethics, and laws, rules, and regulations affecting funeral service. Only courses of instruction approved by the board shall satisfy this requirement.

**HISTORY:** Acts 1983, No. 325, §§ 4, 5; A.S.A. 1947, §§ 71-904, 71-905; Acts 1989, No. 106, § 4; 1999, No. 1138, § 3; 2003, No. 367, § 2.

**17-29-303. Embalmers, funeral directors -- Examination -- Certificates.**

(a) Within a reasonable time and in a place reasonably accessible to the applicant, after completion and filing of an application with the State Board of Embalmers and Funeral Directors, the board shall subject each applicant to a written and oral examination as to his or her competency to act as an embalmer or funeral director, or both.

(b) If on examination the board finds that the applicant possesses a knowledge of the science of

embalming, sanitation, and disinfection, or funeral directing, or both, and meets the qualifications prescribed herein, the board shall issue the applicant a certificate authorizing him or her to practice the science of embalming or to engage in the business of funeral directing, or both. The board shall then register the applicant as a duly certified embalmer or funeral director, or both.

**(c)** The certificate shall be signed by the President and Secretary-treasurer of the State Board of Embalmers and Funeral Directors and shall have the official seal affixed.

**(d)** Every license holder shall maintain his or her license in a convenient place in his or her office or place of business.

**HISTORY:** Acts 1983, No. 325, § 4; A.S.A. 1947, § 71-904.

**17-29-304. Funeral establishment -- Requirements.**

**(a)** No person shall conduct, maintain, manage, or operate a funeral establishment unless a license for each establishment has been issued by the State Board of Embalmers and Funeral Directors and is displayed in the funeral establishment.

**(b) (1)** No license shall be issued to operate a full-service funeral establishment by the board unless the establishment has employed a full-time person licensed as a funeral director.

**(2)** If the establishment is a part of a multiunit enterprise within this state, only one (1) establishment within the multiunit enterprise must have a full-time person licensed as funeral director, provided the full-time licensed person is reasonably accessible to the branch establishment.

**(c)** Application for the funeral establishment licenses shall be made on forms furnished by the board.

**(d)** All embalming therein shall be performed by or under the direct supervision of an Arkansas-licensed embalmer.

**(e)** An establishment in which embalming is conducted shall have a preparation room with a sanitary floor, walls, and ceiling, adequate sanitary drainage and disposal facilities, including running water, and exhaust fans. Such an establishment shall comply with the regulations of the Department of Health for the prevention of the spread of contagious, infectious, or communicable diseases.

**(f)** Each funeral establishment using an available embalmer shall file with the board a notarized statement signed by the embalmer, stating that his or her services are available to the establishment at all times, and within a reasonable time after death occurs, not to exceed six (6) hours.

**(g)** A funeral establishment shall contain a casket selection room with a reasonable number of caskets therein. The reasonable number shall be determined by the board. However, if an establishment is a part of a multiunit enterprise, only one (1) establishment in the enterprise need have a selection room if it is within a reasonable distance of other establishments within the multiunit enterprise.

**(h)** Mobile homes or mobile units are prohibited for use as a funeral establishment or branch thereof. No mobile home or mobile units shall be used for the performance of any function or service of a funeral establishment except in case of emergency as prescribed by the board. Mobile homes, modular

units, manufactured homes, and similar mobile units may be granted a replacement license on a case-by-case basis.

**HISTORY:** Acts 1983, No. 325, § 4; A.S.A. 1947, § 71-904; Acts 1999, No. 1138, § 4; 2003, No. 367, § 3; 2011, No. 874, § 2.

**17-29-305. Funeral establishments -- Examinations -- Licenses.**

**(a) (1)** Funeral establishment licenses shall be issued, upon application to the State Board of Embalmers and Funeral Directors, only after examination of the establishment to be licensed reveals that the requirements of the board for an establishment license have been met. The fee shall accompany the application for a funeral establishment license.

**(2)** All funeral establishment licenses expire on December 31 of each year.

**(3)** The board shall grant or deny each application for a license under this section after it is filed.

**(4)** No person who has filed an application for a license shall be prosecuted for violation of this section unless it is shown that this application was duly denied by the board and that he or she was duly notified of the denial.

**(b) (1)** When an establishment changes ownership, the board shall be notified in writing within thirty (30) days.

**(2)** If there is a change in the name of the establishment, a new license shall be issued in the new name if the requirements for licenses as established in this section are met.

**HISTORY:** Acts 1983, No. 325, § 4; A.S.A. 1947, § 71-904; Acts 1997, No. 839, § 4; 1999, No. 1138, § 5; 2011, No. 874, § 3.

**17-29-306. Renewal.**

**(a) (1)** Every license holder under this subchapter who wishes to continue the practice of the science of embalming or the business of funeral directing, or both, shall pay a renewal fee to the Secretary-treasurer of the State Board of Embalmers and Funeral Directors on or before December 31 of each year.

**(2)** A license not renewed by December 31 of any year shall be considered delinquent.

**(3)** Any person in arrears more than three (3) years shall appear before the board at a regular meeting and pay a delinquency fee determined by rule of the board to be eligible for renewal of a license.

**(b) (1)** Renewal of a funeral establishment license shall be made on or before December 31 of each year and shall be accompanied by the annual renewal fee prescribed in § 17-29-208.

**(2)** A license not renewed by December 31 of any year shall be considered delinquent and

constitute grounds for disciplinary action by the board.

(c) Failure to receive the renewal notice shall not relieve the licensee or establishment of the duty to pay the renewal fee as prescribed.

**HISTORY:** Acts 1983, No. 325, §§ 4, 7; A.S.A. 1947, §§ 71-904, 71-907; Acts 1997, No. 839, § 5; 2011, No. 874, § 4.

**17-29-307. Revocation.**

(a) The State Board of Embalmers and Funeral Directors may refuse to renew, or may suspend or revoke, a license issued under this subchapter if it finds, after hearing, that the funeral establishment does not meet any one (1) or all of the requirements set forth in this subchapter or § 17-29-201 et seq.

(b) No new license shall be issued to the owner of a funeral establishment or to a corporation controlled by that owner for one (1) year after the revocation of the license.

(c) Before any action can be taken under this section, the procedure for notice and hearing prescribed by the Arkansas Administrative Procedure Act, § 25-15-201 et seq., shall be followed.

**HISTORY:** Acts 1983, No. 325, § 4; A.S.A. 1947, § 71-904.

**17-29-308. Grandfather clause.**

Any person currently holding an embalmer's license or a funeral director's license or any funeral establishment holding a license on March 3, 1983, shall not be required to make application for, or submit to, an examination, but shall be entitled to a renewal of such a license, upon the same terms and conditions as are herein provided for the renewal of licenses of those who may be licensed after March 3, 1983, and such rules and regulations as the State Board of Embalmers and Funeral Directors may adopt in pursuance of this subchapter and § 17-29-201 et seq.

**HISTORY:** Acts 1983, No. 325, § 9; A.S.A. 1947, § 71-909.

**17-29-309. Retired embalmers or funeral directors.**

The State Board of Embalmers and Funeral Directors shall have the power to adopt appropriate rules and regulations regarding the issuance and renewal of license to individuals who shall have retired from the active practice of embalming or funeral directing based upon the age of the individuals or years of licensure.

**HISTORY:** Acts 1983, No. 325, § 9; A.S.A. 1947, § 71-909.

**17-29-310. License requirements for out-of-state licenses.**

Any person holding a valid, unrevoked, and unexpired license as an embalmer or funeral

director in another state, territory, or provincial authority may apply for a license to practice in this state as an embalmer or funeral director, or both. Application shall be made by filing with the Secretary-treasurer of the State Board of Embalmers and Funeral Directors a certified statement from the secretary of the examining board of the state, United States territory, or provincial authority in which the applicant holds his or her license showing the basis upon which the license was issued. Upon receipt of the application, the Secretary-treasurer of the board may issue temporary working numbers, which are valid for one (1) year from the date of issuance. To obtain a license, the applicant shall pass an exam to prove his or her proficiency, including at least, but not limited to, a knowledge of the laws, rules, and regulations of this state pertaining to funeral service. The exam may be taken at one (1) of the regularly scheduled exam sessions set by the board. If the board is satisfied with the proficiency of the applicant, upon receipt of the prescribed fees in § 17-29-208, a license may be granted. Failure to meet testing requirements shall result in revocation of the temporary working numbers, and the applicant must reapply and pay the appropriate fee.

**HISTORY:** Acts 1983, No. 325, § 6; A.S.A. 1947, § 71-906; Acts 1997, No. 839, § 6; 1999, No. 1138, § 6.

#### **17-29-311. Violations -- Prohibitions.**

(a) The State Board of Embalmers and Funeral Directors may issue letters of reprimand or caution, refuse to issue or renew a license, suspend or revoke any license for the practice of embalming or funeral directing, or may place the holder thereof on a term of probation after proper hearing upon finding the holder of the license to be guilty of acts of commission or omission, including the following:

- (1) Conviction of a felony;
- (2) Misrepresentations made or fraud committed as a holder of a license;
- (3) False or misleading advertising;
- (4) 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, provided that this prohibition shall not be deemed to prohibit general advertising;
- (5) Employment directly or indirectly of an apprentice, agent, assistant, employee, or other person on a part-time or full-time basis or on a commission for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral establishment;
- (6) The direct or indirect payment or offer of payment of a commission by the licensee, his or her agents, assistants, or employees for the purpose of securing business;
- (7) Allowing personnel unlicensed pursuant to this subchapter to execute contracts for funeral service;

- (8)** Aiding or abetting an unlicensed person to practice embalming or funeral directing;
  - (9)** Violation of any provision of this subchapter and § 17-29-201 et seq.;
  - (10)** Violation of any state law or municipal or county ordinance or regulation affecting the handling, custody, care, transportation, or final disposition of dead human bodies;
  - (11)** Fraud or misrepresentation in obtaining or renewing a license;
  - (12)** Refusing to properly release a dead human body to the custody of the person or entity having the legal right to effect such a release if all other applicable laws and rules have been followed by the holder of the license;
  - (13)** Willful failure to secure a permit for the removal or burial or other disposition of a dead human body;
  - (14)** Knowingly making a false statement on a certificate of death;
  - (15)** Violations of applicable law or regulation with regard to prearranged or prepaid funeral services or funeral merchandise. However, the proper regulatory agency for prearranged or prepaid funeral services or funeral merchandise shall have determined that such a violation has occurred;
  - (16)** Discriminating in services because of race, creed, color, or national origin;
  - (17)** Failure to meet continuing education requirements; or
  - (18)** Failure to answer a complaint within the fifteen-day time period.
- (b)** No violation of subdivision (a)(4), (a)(5), (a)(6), or (a)(7) of this section shall be deemed to have occurred when in the ordinary course of business a routine sale of a prearranged or a prefinanced funeral or of funeral merchandise shall have been made.
- (c)** No person licensed pursuant to this subchapter shall remove or embalm a dead human body when he or she has information indicating crime or violence of any sort in connection with the cause of death until permission of the coroner or medical examiner, or some other fully qualified person acting in such a capacity if there is no coroner or medical examiner, has first been obtained.
- (d)** A public officer or employee, the official of any public institution, any physician or surgeon, or any other person having a professional relationship with a decedent shall not send or cause to be sent to a funeral establishment or to a person licensed under this subchapter the remains of any deceased person without having first made due inquiry as to the desires of the authorizing agent or agents.

(e) It shall be unlawful for any person, partnership, corporation, or association who has not been licensed or registered as specified in this subchapter to transact, practice, or hold himself or herself or itself out as transacting or practicing embalming or funeral directing or operating or maintaining a funeral establishment within this state.

(f) All dead human bodies not buried or otherwise disposed of within twenty-four (24) hours after death shall be embalmed as prescribed in this subchapter or § 17-29-201 et seq. or stored under refrigeration as determined by the State Board of Health.

(g) It shall be unlawful and a violation of this subchapter and § 17-29-201 et seq. to transport or otherwise transfer by common carrier any dead human body out of the State of Arkansas unless the body has been prepared and embalmed by a licensed embalmer of this state and a transit-burial permit has been issued by the local registrar of the county where death occurred. Any licensee of this state permitting this to be done shall be subject to the punishment spelled out in this subchapter and § 17-29-201 et seq.

(h) It shall be unlawful and a violation of this chapter for any person to engage in the practice of embalming or funeral directing or to hold himself or herself out to the public as a practicing embalmer or funeral director within the State of Arkansas without being the holder of a license.

**HISTORY:** Acts 1983, No. 325, § 11; A.S.A. 1947, § 71-911; Acts 1997, No. 839, § 7; 2003, No. 367, § 4; 2011, No. 874, §§ 5, 6.

**17-29-312. Suspension or revocation -- Procedure.**

(a) Whenever the State Board of Embalmers and Funeral Directors has reason to believe that any person to whom a license has been issued has become unfit to practice as an embalmer or funeral director or has violated any of the provisions of this subchapter and § 17-29-201 et seq., or any rules or regulations prescribed, or whenever written complaint charging the holder of a license with the violation of any provision of this subchapter or § 17-29-201 et seq. is filed with the board, it shall be the duty of the board to start an investigation within thirty (30) days of the receipt of the complaint.

(b) If from such an investigation it shall appear to the board that there is reasonable ground for belief that the accused may have been guilty of the violations charged, a time and place shall be set by the board for a hearing to determine whether or not the license of the accused shall be suspended or revoked. Any member of the board shall have the right to administer oaths to witnesses. The hearing and appeals therefrom shall be pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(c) No action to suspend, revoke, or cancel any license shall be taken by the board until the accused has been furnished with a statement of the charges against him or her and by whom he or she is charged and a notice of the time and place of hearing.

**HISTORY:** Acts 1983, No. 325, § 11; A.S.A. 1947, § 71-911.

**17-29-313. Permit required for crematorium construction.**

(a) No crematoriums shall be constructed in this state without a permit issued by the State Board of Embalmers and Funeral Directors.

(b) (1) Upon receiving an application for the construction of a crematorium, the board shall cause to be published in a newspaper having general circulation within the county wherein the crematorium is proposed to be constructed a notice of the date and time of a public hearing on the application.

(2) The notice must be published no more than two (2) weeks nor less than one (1) week prior to the public hearing.

(3) The owners of property located within two hundred fifty feet (250') of the proposed site of the crematorium shall be notified by the board by registered mail.

(4) The public hearing shall be held in the city or county wherein the proposed crematorium is to be located.

**HISTORY:** Acts 1993, No. 365, § 1.

#### **17-29-401. Criminal penalties.**

Any person who, after February 28, 1985, practices the science of embalming, engages in the business of funeral directing, or conducts, maintains, manages, or operates a funeral establishment without a license issued under any provision of § 17-29-201 et seq. and § 17-29-301 et seq. shall be guilty of a Class A misdemeanor and subject to the punishment prescribed for Class A misdemeanors in the Arkansas Criminal Code.

**HISTORY:** Acts 1985, No. 217, § 5; A.S.A. 1947, § 71-930.

#### **17-29-402. Injunctions.**

Without posting bond, the State Board of Embalmers and Funeral Directors may petition the circuit court of the county where the violation occurred to enjoin violations of § 17-29-201 et seq. and § 17-29-301 et seq. or board regulations promulgated thereunder.

**HISTORY:** Acts 1985, No. 217, § 6; A.S.A. 1947, § 71-931.

#### **17-29-403. Civil penalties -- Attorney's fees -- Code of conduct.**

(a) Whenever the State Board of Embalmers and Funeral Directors, after a hearing conducted in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., determines that a person has violated any provision of § 17-29-201 et seq. and § 17-29-301 et seq., or any regulations promulgated by the board pursuant thereto, the board may impose a civil penalty on such a person not to exceed ten thousand dollars (\$10,000).

(b) If a person against whom a civil penalty has been imposed by the board fails to pay the penalty, the board may file an action in the Pulaski County Circuit Court to collect the civil

penalty.

(c) If the board prevails in the action, the defendant shall be directed to pay, in addition to the civil penalty, reasonable attorney's fees and costs incurred by the board in prosecuting the action.

(d) Upon determination by the board that a licensee has committed malpractice, the board may suspend or revoke the license or impose the civil penalty provided in subsection (a) of this section or impose the civil penalty in addition to the suspension or revocation. Furthermore, the board may promulgate a code of conduct for its licensees, the violation of which may result in the imposition of the penalties prescribed in this subsection.

**HISTORY:** Acts 1985, No. 217, § 2; A.S.A. 1947, § 71-927; Acts 1989, No. 106, § 5; 1997, No. 839, § 8.

#### **17-29-404. Civil appeals.**

Any person aggrieved by the action of the State Board of Embalmers and Funeral Directors imposing civil penalties may appeal such a decision in the manner and under the procedure prescribed in the Arkansas Administrative Procedure Act, § 25-15-201 et seq., for appeals from administrative decisions.

**HISTORY:** Acts 1985, No. 217, § 3; A.S.A. 1947, § 71-928.

#### **17-29-405. Deposit and distribution of funds.**

All funds derived from civil penalties imposed by the State Board of Embalmers and Funeral Directors shall be deposited into one (1) or more depositories qualifying for the deposit of public funds. These funds shall be used by the board for administering the provisions of § 17-29-201 et seq. and § 17-29-301 et seq.

**HISTORY:** Acts 1985, No. 217, § 4; A.S.A. 1947, § 71-929.

#### **17-29-501. Definition.**

As used in this subchapter, "funeral home" means and embraces all functions pertaining to or connected with the preparation of human bodies for interment together with all the rights, services, and ceremonies usually attendant with such interment.

#### **17-29-502. Status of funeral homes.**

A funeral home is declared to be:

(1) A service institution and, when conducted upon and in the manner hereinafter set forth, shall be so rated and considered in connection with:

(A) Zoning;

(B) The occupation and enjoyment of property; and

(C) The engaging in the conduct and management thereof; and

(2) A skilled profession.

**HISTORY:** Acts 1957, No. 241, § 1; A.S.A. 1947, § 71-917.

### **17-29-503. Prerequisites to statutory benefits.**

Any funeral home desiring to avail itself of the provisions of this subchapter shall conform to the following requirements:

(1) Be operated and managed by persons who are duly licensed as required by law;

(2) Be constructed of materials and in an architectural design in conformity with other structures in the immediate vicinity thereof;

(3) Be set apart from surrounding or adjacent property by a wall, hedge, or other type of protective screening;

(4) Have and maintain clean and adequate parking facilities for off-street parking for all persons availing themselves of the services of the funeral home or transacting business therewith; and

(5) Conform to and comply with all sanitary requirements and police regulations of the municipality in which the funeral home is located.

**HISTORY:** Acts 1957, No. 241, § 3; A.S.A. 1947, § 71-919.

### **17-29-601. Purpose.**

The purpose of this subchapter is to establish a permanent program to provide financial assistance to qualified Arkansas citizens attending accredited colleges of funeral service education outside of Arkansas.

**HISTORY:** Acts 1975, No. 180, § 4; A.S.A. 1947, § 71-925.

### **17-29-602. Definition.**

As used in this subchapter, an "accredited college of funeral service education" means a college accredited by the American Board of Funeral Service Education.

**HISTORY:** Acts 1975, No. 180, § 2; A.S.A. 1947, § 71-923.

**17-29-603. Program establishment -- Authority of Department of Health.**

(a) There is established within the Department of Health a program to provide financial assistance to residents of Arkansas attending accredited colleges of funeral service education outside of Arkansas.

(b) The department is authorized and designated as the state agency to administer the program established in this subchapter and to accept applications therefor and make grants to applicants to assist in defraying the cost of attending accredited colleges of funeral service education outside of Arkansas.

**HISTORY:** Acts 1975, No. 180, § 1; A.S.A. 1947, § 71-922.

**17-29-604. Application -- Certification -- Priorities.**

(a) Any resident of the State of Arkansas desiring to obtain an assistance grant under the provisions of this subchapter may make application to the Department of Health containing such information as the department shall deem necessary to determine the eligibility of the applicant to participate in the program.

(b) In order to qualify for an assistance grant, the applicant shall have served a one-year apprenticeship in the State of Arkansas under the supervision of an Arkansas-licensed funeral director and licensed embalmer prior to enrollment in an accredited college of funeral service education.

(c) If the applicant is found to be a bona fide resident of Arkansas and has served the apprenticeship, the department shall certify the student as qualified to participate under the program established in this subchapter to the extent that funds are available.

(d) The names of all qualified applicants shall be kept on a register in the order in which their application was received by the board of trustees. Applicants who have been accepted for admission by accredited colleges of funeral service education outside the state shall be given priority in receiving benefits under the provisions of this subchapter, to the extent that funds are available therefor, in the order in which the applications appear on the register maintained by the department.

**HISTORY:** Acts 1975, No. 180, § 2; A.S.A. 1947, § 71-923.

**17-29-605. Limitation on assistance.**

In no case shall an assistance grant made to an applicant under this program exceed the normal student tuition charge made by the accredited colleges of funeral service education in which the applicant is or will be enrolled or one thousand two hundred dollars (\$1,200) per individual, whichever is less.

**HISTORY:** Acts 1975, No. 180, § 1; A.S.A. 1947, § 71-922.

**17-29-606. Program administration.**

The Department of Health shall be the administering and disbursing agency for the State of Arkansas for making assistance grants to mortician students under the provisions of this subchapter. As disbursing agent, the department may expend sums that are specifically appropriated for the operation and administration of the program, but such expenditures shall be limited to the amount specifically appropriated for the program, and the award of any particular grant shall not obligate the State of Arkansas to maintain the program provided for in this subchapter except to the extent that specific appropriation is made for the program.

**HISTORY:** Acts 1975, No. 180, § 3; A.S.A. 1947, § 71-924.

**17-29-701. Authority.**

A funeral director or embalmer licensed pursuant to § 17-29-301 et seq. who has completed a course in eye enucleation and has received a certificate of competence from the Department of Ophthalmology of the University of Arkansas for Medical Sciences' College of Medicine may enucleate the eyes of a deceased person pursuant to a disposition or gift thereof by the decedent or another person in the manner prescribed in the Revised Arkansas Anatomical Gift Act, § 20-17-1201 et seq., after proper certification of death by a physician.

**HISTORY:** Acts 1973, No. 425, § 1; A.S.A. 1947, § 71-920; Acts 2007, No. 839, § 2.

**7-29-702. Exemption from liability.**

A properly certified funeral director or embalmer acting in accordance with the terms of this subchapter shall not be criminally or civilly liable for eye enucleation.

**HISTORY:** Acts 1973, No. 425, § 2; A.S.A. 1947, § 71-921.