

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 1467

H. P. 989

House of Representatives, March 8, 1967

Referred to Committee on Health and Institutional Services. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Wight of Presque Isle.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SEVEN

**AN ACT Relating to Practitioners of Funeral Service, Funeral Directors and
Embalmers.**

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 32, § 1400, additional. Title 32 of the Revised Statutes is amended by adding a new section 1400, to read as follows:

§ 1400. Definitions

When used in this chapter, unless the context otherwise requires, the following words shall have the following meanings:

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

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

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

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

5. Practice of funeral service. "Practice of funeral service" shall mean a person engaged in the care or disposition of the human dead or in the practice of disinfecting and preparing by embalming or otherwise the human dead for the funeral service, transportation, burial or cremation, or the practice of helping to meet the emotions and disposition of the bereaved, or in the practice of funeral directing or embalming as presently known, whether under these titles or designations or otherwise. It shall mean a person who makes arrangements for funeral services or who sells funeral supplies to the public or who makes financial arrangements for the rendering of such services or the sale of such supplies.

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

6. Resident trainee. "Resident trainee" means a person who is engaged in preparing to become licensed for the practice of funeral service under the personal supervision and instruction of a person duly licensed for the practice of funeral service of this State under this chapter, and who is duly registered as such.

Sec. 2. R. S., T. 32, § 1451, repealed and replaced. Section 1451 of Title 32 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 1451. Board; powers and duties

There is created a State Board of Funeral Service, and in this chapter called the "board", which shall consist of 7 members, one of whom shall be the Director of Health, who shall be secretary of the board, and each of the other members shall be a person licensed for the practice of funeral service for 10 consecutive years or who has had 10 consecutive years' experience as an embalmer or funeral director in this State immediately preceding his appointment. Members, other than the Director of Health, shall be appointed by the Governor, with the advice and consent of the Council, for a term of 4 years. In the case of vacancy by any reason, the vacancy shall be filled by appointment for the unexpired term, as is provided in original appointments. The present members of the Board of Examiners of Funeral Directors and Embalmers shall serve as members of the State Board of Funeral Service until their terms expire.

The board may adopt rules and regulations consistent with law governing the care, preparation, transportation, cremation, burial or disposition of dead human bodies, and governing funeral service, including licensing and registration of resident trainees. Such rules and regulations shall not become effective until adopted and filed as provided in Title 5, chapter 301.

The members of the board shall each receive \$15 a day and expenses while engaged in the business of said board. The secretary shall receive actual expenses while engaged in the business of the board.

The secretary of the board shall be the treasurer thereof and shall receive all fees, charges and assessments payable to the board, and account for and pay over the same according to law.

The secretary of said board shall keep a record of all proceedings, issue all notices, certificates of registration and licenses, attest all such papers and orders as said board shall direct, cause inspections to be made at least once every 3 years of all establishments or places of business of any person engaged in the profession of funeral service in the State and perform such other duties as shall be designated by the board. Such inspection shall be for the purpose of determining that such establishments and places are maintained in a clean and sanitary manner and that suitable equipment for their proper conduct is maintained therein and that the laws and the regulations of the board and of the Department of Health and Welfare relating to the conduct of such establishments are observed. The board may employ one or more inspectors to carry out the duties of inspection imposed by this section, and such inspection may be made by members of the board upon authorization by the board.

The board may enter into reciprocal agreements with corresponding boards of other states for the purpose of allowing the practitioners of funeral services to perform their licensed functions in this or other states under such terms and conditions as the boards may prescribe.

Sec. 3. R. S., T. 32, § 1453, amended. Section 1453 of Title 32 of the Revised Statutes is amended to read as follows:

§ 1453. Application of moneys collected.

The money received under this chapter shall constitute a permanent fund for carrying on the work of the board and the compensation of its members, and for such expenses as may be necessarily incurred from time to time by said board on account of investigations which said board may be required to make by reason of this chapter; and for such educational purposes as said board may deem for the best interests and advantage to the ~~funeral directors and embalmers~~ practitioners of funeral services of this State. None of the expenses designated shall reduce the fund under the sum of \$1,000.

Sec. 4. R. S., T. 32, § 1454, amended. Section 1454 of Title 32 of the Revised Statutes is amended to read as follows:

§ 1454. Lists for transportation companies

In the month of January of each year, the secretary of the board shall supply each ~~licensed embalmer and funeral director licensee~~, and the various transportation companies within the State, with a list of all ~~registered funeral directors and all funeral directors and embalmers~~ holding licenses, then in force, giving the names of such persons, their business addresses and the numbers of their licenses.

Sec. 5. R. S., T. 32, § 1455, amended. Section 1455 of Title 32 of the Revised Statutes is amended to read as follows:

§ 1455. Investigations; refusal of license or renewal

Whenever the board shall have reason to believe that any person to whom a license has been issued has become unfitted to ~~practice engage in the practice of funeral service, funeral directing or embalming and disinfecting,~~ as the case may be, or has violated any of the provisions of this chapter, or any rule or regulation prescribed, or whenever written complaint, charging the holder of a ~~funeral director's or an embalmer's~~ license with the violation of any provision of this chapter is filed with the board, it shall be the duty of said board to conduct an investigation, and if from such investigation it shall appear to the board that there is reasonable ground for belief that the accused may have been guilty of the violation or violations charged, the board shall file a statement or complaint with the Administrative Hearing Commissioner designated in Title 5, chapters 301 to 307.

Any person who has been refused a license or a renewal of his license may file a statement or complaint with said Administrative Hearing Commissioner.

The board may refuse to issue or to renew any license, when it believes the applicant for or the holder of such license to be guilty of any of the following acts or omissions:

1. **Involving moral turpitude.** Conviction of a crime involving moral turpitude.
2. **Felony.** Conviction of a felony.
3. **Unprofessional conduct.** Unprofessional conduct which is defined to include:
 - A. Misrepresentation or fraud in obtaining a license or in the conduct of the ~~business or the profession of a funeral director or embalmer~~ **funeral service profession;**
 - B. False or misleading advertising as a ~~funeral director or embalmer~~ **licensee**; advertising or using the name of an unlicensed person in connection with that of any funeral establishment;
 - C. Solicitation of dead human bodies by the licensee, his agents, assistants or employees, whether such solicitation occurs after death or while death is impending. This shall not be deemed to prohibit general advertising;
 - D. Employment by the licensee of persons known as "cappers," "steerers" or "solicitors," or other such persons to obtain ~~funeral directing or embalming~~ **the services of a licensee or one engaged in the practice of funeral service;**
 - E. Employment, directly or indirectly, of ~~an apprentice~~ **a resident trainee,** agent, assistant, embalmer, employee or other person, on part or full time, or on commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral ~~director or embalmer~~ **establishment;**
 - F. The direct or indirect payment or offer of payment of a commission by the licensee, his agents, assistants or employees for the purpose of securing business;

G. Gross immorality ;

H. Aiding or abetting an unlicensed person to practice ~~funeral directing or embalming~~ **within the funeral service profession ;**

I. 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 crematory, mausoleum or cemetery ;

J. Refusing to promptly surrender the custody of a dead human body, upon the express order of the person lawfully entitled to the custody thereof ;

K. Negligent, careless or willful noncompliance with the laws relating to filing death certificates and obtaining burial permits ;

L. Gross incompetency, negligence or misconduct in carrying on the business or profession of ~~embalming or funeral directing service~~ ;

M. Abuse or disrespect in the handling of a dead human body, violation of any law or ordinance affecting the handling, custody, care or transportation of dead human bodies.

In addition, whoever violates any provision of this chapter, or any rule or regulation prescribed by said board for the preparation, embalming, transportation or burial of any dead human body may be punished by a fine of not more than \$100 or by imprisonment for not more than 60 days, or by both, and the county attorney of the county in which such violation occurs shall prosecute all such persons. The District Court shall have original and concurrent jurisdiction with the Superior Court in all prosecutions under this chapter.

Sec. 6. R. S., T. 32, § 1501, repealed and replaced. Section 1501 of Title 32 of the Revised Statutes is repealed and the following enacted in place thereof :

§ 1501. Licenses; qualifications; requirements

The Board of Funeral Service is authorized and empowered to determine the qualifications necessary to enable any person to lawfully engage in the funeral service profession and to operate a funeral establishment. The board shall examine all applicants for licenses for the practice of funeral service and shall issue a license to all persons who successfully pass such examination. To be licensed for the practice of funeral service under this section, a person must be at least 21 years of age, a resident of this State and a citizen of the United States, of good moral character, have successfully completed a prescribed course at a school of funeral service accredited by the American Board of Funeral Service Education, and must have served as a resident trainee for not less than 12 months under the personal supervision in this State of a person licensed for the practice of funeral service or a prior equivalent license.

Each such applicant for the license for the practice of funeral service shall be examined on the following subjects: Basic and health sciences including anatomy, chemistry, bacteriology, pathology, hygiene, public health, funeral service arts and sciences including embalming and restorative art, funeral service administration including accounting, funeral law, psychology, funeral principles, directing and management.

All funeral establishments must be operated by a person or persons holding a funeral director's license, or a person who holds a license for the profession of funeral service, and said license shall be conspicuously displayed at or in such establishments.

All branch establishments must be operated by a person or persons holding a funeral director's license or a license for the profession of funeral service, and the license must be displayed in all such branch establishments.

A funeral establishment must contain a preparation room equipped with tile, cement or composition floor, necessary drainage or proper disposal of waste satisfactory to the local health officer, and ventilation, and containing necessary instruments and supplies for the preparation and embalming of dead human bodies for burial, transportation or other disposition.

The board may adopt such rules, regulations and classifications as may be reasonable, sufficient and proper to define what shall be deemed the proper drainage and ventilation and what instruments are necessary and suitable in a funeral establishment.

The board may adopt rules and regulations governing its own procedure. It may adopt rules and regulations consistent with the law governing the time, place, method and grading of examinations. Written examinations shall be retained for a period of 5 years, but need not be retained for a longer period.

Sec. 7. R. S., T. 32, § 1502, repealed. Section 1502 of Title 32 of the Revised Statutes, as amended by section 1 of chapter 360 of the public laws of 1965, is repealed.

Sec. 8. R. S., T. 32, § 1503, amended. Section 1503 of Title 32 of the Revised Statutes, as amended by section 2 of chapter 360 of the public laws of 1965, is further amended to read as follows :

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

The Department of Health and Welfare may adopt such blanks and forms of procedure as it may deem necessary to carry out ~~sections 1502 to 1505~~ this chapter and shall keep on file a list of all ~~registered and licensed embalmers, funeral directors, and funeral homes~~ persons licensed in the practice of funeral service and a record of examinations, together with the examination papers, all of which shall be open to public inspection.

Sec. 9. R. S., T. 32, § 1503-A, additional. Title 32 of the Revised Statutes is amended by adding a new section 1503-A to read as follows :

§ 1503-A. Resident trainee

In order for any person to receive credit for time served as a resident trainee, he shall serve in full-time employment under the instruction and supervision of the person licensed for the practice of funeral service and actively engaged in the practice thereof. He must register as a resident trainee with the board on a form supplied by the board. Upon his terminating his employment, he shall notify the board immediately, giving the date of such termination. The resident trainee must repeat this procedure with all subsequent employers accurately

showing the dates of beginning and of terminating apprenticeship employment. Before a funeral service license will be issued, the resident trainee must file with the board a certification of his trainee time served, signed by his employer or employers, before a notary public. Resident trainee requirements shall be satisfied in the case of an applicant who presents proof that he or she is presently licensed in another state at the time he or she makes application for such license in this State.

Sec. 10. R. S., T. 32, § 1504, repealed and replaced. Section 1504 of Title 32 of the Revised Statutes, as repealed and replaced by section 3 of chapter 360 of the public laws of 1965, is repealed and the following enacted in place thereof:

§ 1504. Fees; expiration and renewal of licenses

The fee for examination under section 1501 shall not exceed \$20. All licenses and certificates of registration which have been issued by the board shall expire on the 31st day of December, annually. Any person holding a license or registration under this law may have the same renewed by making and filing with the secretary of said board an application therefor within 30 days preceding the expiration of his or her license or certificate of registration, upon blanks prescribed by said board and upon payment of the established renewal fee. The board shall establish the initial and renewal fees, which shall not exceed \$20 for an embalmer's license, funeral director's license and funeral home registration. The license for the practitioner of funeral services shall not exceed \$25 and the fees for a resident trainee and mortuary assistant shall not exceed \$5. Any person neglecting or failing to have his or her license or registration renewed may have the same renewed by making application therefor within 30 days after the date of such expiration and upon the payment of the regular renewal fee plus a revival fee of \$2. Any person who held a license under this chapter, but who failed to renew said license, is not now entitled to engage in the profession, shall be allowed to take an examination for a license to engage in said profession, and upon successfully passing such examination and paying the required fees shall be granted a license, and the board is authorized and directed to give such examination and grant such license to any applicant complying with the above provisions.

Sec. 11. R. S., T. 5, § 151, amended. The first sentence of section 151 of Title 5 of the Revised Statutes is amended to read as follows:

All money received by the Treasurer of State from the Board of Registration in Medicine, the Board of Examiners in Physical Therapy, the Board of Examiners of Psychologists, the State Board of Nursing, the Board of Examiners of Applicants for Admission to the Bar, the Board of Accountancy, the Board of Veterinary Examiners, the Board of Osteopathic Examination and Registration, the ~~Board of Examiners of Funeral Directors and Embalmers~~ **State Board of Funeral Service**, the State Board of Registration and Examination in Optometry, the Board of Dental Examiners, the State Board of Registration for Professional Engineers, the State Board of Architects, the Electricians' Examining Board, the Oil Burner Men's Licensing Board, the State Board of Barbers, State Board of Hairdressers, the Examiners of Podiatrists, the Board of Chiropractic Exami-

nation and Registration and the Board of Commissioners of the Profession of Pharmacy shall constitute a fund, which shall be a continuous carrying account for the payment of the compensation and expenses of the members, the expenses of the board and for executing the law relating to each board respectively, and so much thereof as may be required is appropriated for said purposes.