

MAINE STATE LEGISLATURE

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EIGHTY - EIGHTH LEGISLATURE

Legislative Document

No. 182

H. P. 620 House of Representatives, February 2, 1937.
Referred to Committee on Legal Affairs. Sent up for concurrence and
1000 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Allan of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-SEVEN

AN ACT For the Registration and Regulation of Funeral Directors and Embalmers.

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

Sec. 1. Appointment of board of registration of embalmers and funeral directors. There is hereby created a board of registration of embalmers and funeral directors of 5 members, one of whom shall be the director of health, who shall be secretary of the board, and 4 of whom shall be licensed embalmers and practicing funeral directors, who shall be appointed by the governor, with the advice and consent of the council. The term of office of each member shall be for 4 years; provided, however, that the terms of office of the first appointees shall be for 1, 2, 3, and 4 years respectively. At the expiration of the term of any member, an appointment shall be made for the term of 4 years. Any vacancy in the board shall be filled by the appointment of a person, qualified as aforesaid, to hold office during the unexpired term of the member whose place he fills. Any member of the board may be removed from office for cause by the governor, with the advice and consent of the council.

Sec. 2. Meetings; officers; seal; examinations. The board shall meet within 30 days after the effective date of this act and after appointment of

the members thereof at such time and place as the director of health shall call said meeting. Thereafter the board shall hold regular meetings in May and November of each year, and such additional meetings at such times and places as the board may determine. The board shall elect a chairman to serve during the pleasure of the board; may adopt rules and regulations for the conduct of its business as may not be inconsistent with law; and shall cause a seal of the board to be engraved and shall keep correct records of its proceedings. A quorum of the board shall consist of 3 members.

The board may appoint agents to examine and report upon all places where funeral directing is conducted and embalming is practiced, and may appoint and employ such clerical assistance, counsel and other agents as it may deem proper. The board shall at its meetings in May and November of each year conduct examinations to applicants for certificates of registration in embalming and funeral directing as hereinafter provided, and shall give reasonable notice of the time and place of such examinations by notice thereof in 3 newspapers, one of which shall be printed or published in Augusta, another in Portland, and another in Bangor.

Sec. 3. Definitions. For the purposes of this chapter, the following terms shall be construed in the following manner:

(a) "Embalming" shall mean the preservation and disinfection, or attempted preservation and disinfection, of the dead human body by application of chemicals externally, or internally, or both.

(b) "Funeral directing" shall mean the business or profession of directing or supervising funerals for profit, or the business or profession of preparing dead human bodies for burial by means other than embalming, or the disposition of dead human bodies; or the provision or maintenance of a place for the preparation for disposition or for the care or disposition of dead human bodies, or the use in connection with a business of the word or term "Funeral director," "undertaker," "mortician," or any other word or term from which can be implied the business of funeral directing; or the holding out to the public that one is a funeral director.

(c) "Embalmer" shall mean any person engaged in, or holding himself out to be engaged in the practice of embalming, whether on his own behalf or in the employ of another, and shall include any person who shall use, in connection with his name, the term 'embalmer,' or use any word, term, or title intending to imply or designate him as an embalmer or as one engaged in embalming.

(d) "Funeral director" shall mean any person engaged, or holding himself out as engaged in the business of funeral directing as hereinbefore defined, and/or shall use in connection with his name or business the words

or terms 'funeral director,' 'undertaker,' 'mortician,' or any other word or title to imply or designate him as a funeral director, undertaker, or mortician.

(e) "Apprentice" shall mean any person engaged in the learning of the practice of embalming or in the practice of funeral directing under the instruction and personal supervision of a duly licensed and registered embalmer, or a duly licensed and registered funeral director, under the provisions of this chapter, and actively engaged in this state if, in the discretion of the board such practice has been adequately pursued.

Sec. 4. Registration and licensing of embalmers. No person shall engage in or hold himself out as engaging in the business of embalming, or preserving in any manner, dead human bodies in this state, whether for himself or in the employ of another, unless he holds an embalmer's certificate of registration issued to him by the board.

No person shall be entitled to an embalmer's certificate of registration unless he shall be an individual of over 21 years of age, a citizen of the United States, be of good moral character, shall hold a certificate or diploma showing the completion of a high school course, or its equivalent, shall have first completed a 2 year course of apprenticeship, under supervision of a registered embalmer actively engaged in the business of embalming in this state, under which apprenticeship he shall have taken an active part in the operation of embalming not less than 25 human bodies, and shall possess a certificate or diploma of graduation from a school of embalming which requires as a prerequisite to graduation the completion of a course of study of not less than 9 months duration, and that said school of embalming is duly approved by the board, and shall pass such examinations as the board shall deem necessary to ascertain his qualifications and ability to engage in the practice of embalming.

Sec. 5. Registration and licensing of funeral directors. No person shall engage in, or hold himself out as engaging in, the business or profession of funeral directing, or of preparing other than by embalming, or disposing of dead human bodies by any means whatever, in this state, unless he holds a funeral director's certificate of registration issued to him by the board. No person shall be entitled to a funeral director's certificate of registration unless he shall be an individual of over 21 years of age, a citizen of the United States, of good moral character and found by the board, upon examination, to be qualified to prepare such death certificates and other documents as are required in the ordinary course of his business, and to be familiar with the precautions to be taken by a funeral director to prevent the spread of communicable diseases and to be conversant with

the laws of the United States and of this state relative to the custody of dead human bodies, and the preparation of such bodies for burial, cremation and shipment; provided, further, that he furnishes satisfactory proof to the board that he (or a partnership of which he is a member or a corporation of which he is an officer) shall maintain within the state an undertaking establishment so located, constructed and equipped as to permit the sanitary handling of dead human bodies and maintains in such establishment suitable equipment for such handling.

Sec. 6. General provisions of examinations. Each applicant for certificate of registration as an embalmer or funeral director shall submit his application in writing in accordance with the rules and regulations of the board together with an examination fee of \$10 for each certificate applied for. Certificates of registration shall be issued under the seal of the board, signed by its chairman and secretary which shall state the facts and must be publicly displayed at the person's principal place of business. Any person refused registration may be reexamined at any regular examination period of the board within 2 years of the time of such refusal without additional fee, and thereafter may be examined as often as he may desire upon submission of application and payment of the prescribed fee.

Sec. 7. Provision for persons now engaged in embalming and funeral directing, and for assistants. Any person actively engaged as a funeral director within the state since January 1, 1935, and prior to the effective date of this act shall be entitled to a funeral director's certificate of registration upon filing with the board an affidavit setting forth his name, address, and place or places where he has conducted said business, no fee being required.

Any person in the possession of an embalmer's certificate or embalmer's license issued in this state shall be entitled to a certificate of registration as an embalmer upon the filing with the board an affidavit setting forth his name, address, and number of his original license or certificate, no fee being required.

Assistants of designated registered funeral director shall, from and after January 1, 1938, be licensed by the board upon payment of a license fee of \$1 for each applicant. The board shall require from each applicant for such assistant's license satisfactory proof that the applicant is competent to act as such, and said board may revoke such license or refuse to renew any such license for cause.

Sec. 8. Certificates of registration and licenses; termination; renewal. Every certificate of registration or license of an embalmer, funeral director, and assistant funeral director shall expire on the 31st day of December

in each year unless previously suspended or revoked for cause. On the 15th day of November in each year the board shall send to each holder of a certificate or license a notice of the expiration thereof and an application for the renewal thereof. Such certificates and licenses may be renewed by filing with the board an application therefor accompanied with a renewal fee on or before the 31st day of December. Said renewal fee shall be \$2 for an embalmer's certificate, \$10 for a funeral director's certificate and \$1 for a license as an assistant funeral director.

Thereafter, application for renewal of such certificates and licenses accompanied by the prescribed fee, together with an additional fee of \$5, shall be received by the board until, but not after, the 31st day of January following the expiration of such certificate or license.

Upon filing of the application and payment of the prescribed fees within the prescribed time, the certificate of registration or license shall be renewed by the board.

Sec. 9. Certificates and licenses revocable for cause; procedure. The board may refuse to renew, or may suspend, or may revoke any license, or certificate of registration issued by it for any one or combination of the following causes:

(a) The obtaining of, or an attempt to obtain a certificate of registration, or practice in the profession, or money, or any other thing of value by fraudulent misrepresentation;

(b) Conviction of a felony as shown by a certified copy of the record of a court of conviction;

(c) Violation of any law of this state relating to burial, or disposal of dead human bodies, or of rules and regulations of this board or the state bureau of health;

(d) Continued practice by a person knowingly having an infectious or contagious disease;

(e) For incompetency or untrustworthiness in the practice of embalming, or the practice of funeral directing; or

(f) Upon satisfactory proof that the embalmer or a funeral director has employed some one not legally registered or licensed in any position or for any work for which a certificate of registration or license is herein required.

No certificate or license shall be suspended or revoked except after public hearing by the board. At least 10 days' notice of such hearing and of the act or acts complained of shall be given to the party complained against, in writing, mailed to the last address of such party on the records of the board.

Sec. 10. Prohibited acts. No funeral director, who is not a registered embalmer, shall employ a registered embalmer to embalm a majority of the adult human bodies cared for by said funeral director, unless the said registered embalmer's name shall appear on a display sign on the front of the establishment or place of business of the funeral director, in comparatively conspicuous lettering; or unless the registered embalmer shall be under the continuous employ of the said funeral director alone, at a salary considered by the board to be in keeping with the amount of business done by said funeral director.

No embalmer shall embalm a dead human body when he has information reasonably indicating crime in connection with the cause of death, until permission from the proper legal authorities has been first obtained.

No registered embalmer shall sign a certificate stating that he embalmed or prepared a dead human body, when in fact, some other person embalmed or prepared said dead human body.

No registered funeral director or registered embalmer, shall directly or indirectly, pay or cause to be paid any sum of money or other valuable consideration for the securing of business or of obtaining authority to dispose of a dead human body.

No registered funeral director or registered embalmer shall take undue advantage of his patrons or commit any fraudulent act in the conduct of his business, or any other act, which in the judgment of the board, is not in accord with proper business practice as applied to the business or profession of funeral directing or embalming.

It shall be unlawful for any apprentice, embalmer, or funeral director to engage in, promote, or participate in, directly or indirectly, any scheme, plan, or proposition in the nature of a burial association or a burial certificate plan wherein the rights of the public to purchase in the open market are controlled or interfered with.

Sec. 11. Provision for embalmers and funeral directors registered in other states. The board may issue without examination certificates of registration to embalmers and funeral director residing in other states including territories and the District of Columbia who hold licenses or certificates of registration issued by competent authority in the place of residence of such person; provided the qualifications for such registration or license are substantially equivalent to the qualifications required of applicants for examination and registration by the board. The fees provided for like certificates in section 6 and 8 shall be paid by applicants for such registration at the time of application therefor or for renewal thereof.

Sec. 12. Apprentices. The board may, by its rules and regulations

provide for the manner in which an apprenticeship shall be served and the length of time thereof, which shall not be less than 2 years.

Sec. 13. Record of licensed embalmers and funeral directors to be kept; report of board. The board shall keep a record containing the names and residences of all persons licensed hereunder, and a record of all moneys received and disbursed by said board, and said records, or duplicates thereof, shall always be open to inspection in the office of the director of health during regular office hours. The board shall report to the department, on or before the 1st day of May in each year, a full and complete account of all of its official acts during the year, together with a statement of its receipts and disbursements and such comment as may be deemed proper.

Sec. 14. Application of moneys collected. The money received by the board 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 the provisions of this act; and for such educational purposes as said board may deem for the best interests and advantage to the funeral directors and embalmers of the state of Maine; provided always, that none of the expenses designated hereunder shall reduce the fund hereby created under the sum of \$1,000.

Sec. 15. List of licensed funeral directors and embalmers to be supplied to transportation companies. In the month of February of each year, the secretary of the board shall supply each registered funeral director and registered embalmer and the various transportation companies within the state, with a list of all registered funeral directors and embalmers 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. 16. Exceptions from statute. No provision of this chapter shall apply to, or in any way interfere with the duties of any officer of any public institution, nor with the duties of any officer of a medical college, county medical society, anatomical association, accredited college of embalming, or any other recognized person carrying out the provision of the sections of the statutes prescribing the conditions under which indigent dead human bodies are held subject for anatomical study; nor with the customs or rites of any religious sect in the burial of their dead.

Sec. 17. Penalties; jurisdiction of offenses. Whoever violates any pro-

vision of this act, or any rule or regulation prescribed by the said board pursuant thereto, or any rule or regulation prescribed by the state bureau of health for the preparation, embalming, shipping or burial of any dead human body shall be punished by a fine of not less than \$10, nor more than \$50, or by imprisonment for not less than 10 days, nor more than 60 days, and the county attorney of the county in which such violation occurs shall prosecute all such persons. Municipal courts and trial justices shall have original jurisdiction, concurrent with the superior court, of any and all prosecutions for violation hereof.

Sec. 18. Blanks and forms of procedure; list of licenses and examinations to be kept. The bureau of health may adopt such blanks and forms of procedure as it may deem necessary to carry out the provisions of this act, and shall keep on file a list of all registered funeral directors and embalmers and assistant funeral directors, and a record of examinations, together with the examination papers, all of which shall be open to public inspection.

Sec. 19. Funds and records of present board. The balance of the permanent fund of the present board of examiners of undertakers and embalmers shall be transferred to and become a part of the permanent fund of the board of registration of funeral directors and embalmers and the records of said present board shall be transferred to and kept by the said board of registration.

Sec. 20. Temporary licenses. An embalmer or funeral director who resides in and is established in his business or profession outside of the state, and who is qualified to the satisfaction of the board, may, in the discretion of the board, be licensed to act as an embalmer or funeral director within the state for such period as the board may deem proper. Each such license shall be revocable at the pleasure of the board, shall expire in any event on the 31st day of December in the year in which issued and shall be issued only after payment by the applicant therefor of a fee of \$2 in the case of an embalmer and of \$10 in the case of a funeral director.

Sec. 21. Repeal and amendment of present statutes. Sections 21 to 31 inclusive of chapter 1 of the public laws of 1933 are hereby repealed.

Section 52 of chapter 125 of the revised statutes is amended by striking out the words in the second line thereof "board of examiners of undertakers and embalmers" and inserting in place thereof "board of registration of funeral directors and embalmers."

Sec. 22. Constitutionality. If any section or part thereof of this act, shall be declared unconstitutional, it shall not affect the constitutionality of the remaining parts of this act.