

# MAINE STATE LEGISLATURE

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# NINETY-FOURTH LEGISLATURE

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Legislative Document

No. 24

H. P. 65

House of Representatives, January 13, 1949.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Dorsey of Fort Fairfield.

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## STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FORTY-NINE

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### AN ACT Relating to Funeral Directors and Embalmers.

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

**Sec. 1. R. S., c. 22, § 187, amended.** Section 187 of chapter 22 of the revised statutes is hereby amended to read as follows:

**'Sec. 187. Business of funeral director and practice of embalming regulated; qualifications.** Any person wishing to become an embalmer of dead human bodies for burial shall be at least 21 years of age, with not less than a high school education or its equivalent, **be a citizen of the United States and a resident of this state**, shall have practiced embalming, caring for and preparing for burial, dead human bodies, for at least 2 years, **and shall have embalmed a minimum of 25 human bodies** under the direction and supervision of a licensed embalmer and shall have taken and completed at least a ~~9~~ **12** months' course of study of some school or college of embalming, the requirements and standards of which ~~said~~ school or college shall ~~meet or equal the requirements and standards established by the Conference of Embalmers' Examining Boards of the United States, Incorporated, and shall have had~~ the approval of the **state** board of examiners of funeral directors and embalmers. Such person shall also present to said board a certificate or diploma certifying that he has taken and successfully passed the required examination of said school or college of embalming, and shall have

an intelligent comprehension of such rudiments of anatomy, pathology, bacteriology, hygiene, and of the characteristics of, and the dangers from, contagious and infectious diseases, and of the actions and uses of disinfectant agencies as the bureau of health may prescribe as necessary for the protection of the living, and shall pass an examination before a board of examiners appointed under the following section before he is permitted to practice said profession within the state, provided, however, that the provisions of sections 187 to 197, inclusive, shall apply only to persons who hold themselves out to embalm dead human bodies for burial or to prepare the same for transportation or cremation. Embalmer's assistants, partners or members of firms who have not received a license as provided in the following sections shall not engage in the practice of embalming dead human bodies for burial, transportation or cremation, except under the personal supervision of a licensed ~~or registered~~ embalmer.

Any person wishing to become a funeral director and to engage in the business or profession of funeral directing, and of preparing, other than by embalming, or disposing of dead human bodies by any means whatever in this state shall be at least 21 years of age, a citizen of the United States and **a resident** of this state, be of good moral character, with not less than a high school education or its equivalent, shall have practiced funeral directing for at least 2 years under the direction and supervision of a licensed funeral director, **and graduated from a 12 months' course in an approved school**, and shall have an intelligent comprehension of the dangers from contagious and infectious diseases and of the actions and uses of disinfectant agencies as the bureau of health may prescribe as necessary for the protection of the living, and shall pass an examination before a board of examiners as appointed under the provisions of the following section.'

**Sec. 2. R. S., c. 22, § 188, amended.** Section 188 of chapter 22 of the revised statutes is hereby amended to read as follows:

**'Sec. 188. State board of examiners of funeral directors and embalmers; compensation; expenses.** The board of examiners of funeral directors and embalmers, as heretofore established, shall consist of 5 members, one of whom shall be the director of health, who shall be secretary of said board, and the other members shall be licensed funeral directors and embalmers, who shall be appointed by the governor, with the advice and consent of the council, and they shall hold office for the term of 4 years. In case of a vacancy due to death, resignation or other cause, the vacancy shall be filled by an appointment for the unexpired term, as is provided for original appointments.

The members of the board shall each receive ~~\$5~~ \$10 a day and expenses ~~during each session of the~~ while engaged in the business of said board. The secretary shall receive the same compensation as the other members of the board and \$5 additional per day while actually employed in the performance of his duties.

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.

It shall be the duty of the state board of examiners of funeral directors and embalmers to serve as inspectors of establishments. Such inspectors are hereby authorized to enter the office, premises, establishment or place of business of any funeral director or embalmer in the state or any office, premises, establishment or place of business where funeral directing or embalming is carried on, or where funeral directing or embalming is advertised as being carried on, for the purpose of inspecting said office, premises, establishment or place of business, and for the purpose of inspecting the licenses and registrations of funeral directors, embalmers and apprentices operating therein.

Such inspectors are further hereby authorized to serve and execute any process issued by any court under the provisions of sections 187 to 197, inclusive, and to serve and execute any papers or process issued by the board or any officer or member thereof, under the authority of sections 187 to 197, inclusive, and also to perform any other duty or duties prescribed or ordered by said board.

The board of examiners of funeral directors and embalmers is hereby authorized and empowered to determine the qualifications necessary to enable any person to lawfully embalm dead human bodies and to conduct a funeral establishment.'

Sec. 3. R. S., c. 22, § 189, amended. Section 189 of chapter 22 of the revised statutes is hereby amended by adding at the end thereof the following paragraphs:

'All funeral establishments must be operated by a person or persons holding a funeral director's license 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 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.'

Sec. 4. R. S., c. 22, § 197, repealed and replaced. Section 197 of chapter 22 of the revised statutes is hereby repealed and the following enacted in place thereof:

'Sec. 197. Suspension and revocation of licenses; appeals; penalties. Whenever the board shall have reason to believe that any person to whom a license has been issued has become unfitted to practice funeral directing, embalming and disinfecting, as the case may be, or has violated any of the provisions of sections 187 to 197, inclusive, 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 or the preceding 10 sections 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, 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 revoked. Any member of said board shall have the right to administer oaths to witnesses.

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 charges against him and a notice of the time and place of hearing thereof, such notices shall be given to the accused at least 15 days prior to the hearing. The accused may be present at such hearing in person or by counsel or both to disprove the charges made against him. If upon such hearing the board finds the charges are true it may revoke or suspend the license of the accused. A stenographic report of each proceeding to revoke or suspend a license shall be made at the expense of the board, and a transcript thereof kept in its files.

Any person who has been refused a license or whose license has been revoked or suspended, may, within 30 days after the decision of the board, file with the secretary of said board a written notice setting forth that he

feels himself aggrieved by such decision and appeals therefrom to the superior court of the county within which such person resides and said court shall hear and determine as to whether the action of the board was in accord or consistent with the provisions of sections 187 to 197, inclusive, or the constitution of this state or that said decision of the board was arbitrary, unwarranted or in abuse of discretion. Upon the filing of such notice the secretary of the board shall transmit forthwith to the clerk of said superior court a copy of the records and findings of such proceedings. An appeal from said superior court may be reviewed by the supreme judicial court the same as appeals from chancery decrees.

The board may also refuse to issue or may refuse to renew, or may suspend or may revoke any license, or may place the holder thereof on a term of probation after proper hearing upon finding the holder of such license to be guilty of any of the following acts or omissions:

- I. Conviction of a crime involving moral turpitude.
- II. Conviction of a felony.
- III. Unprofessional conduct which is hereby 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;
  - B. False or misleading advertising as a funeral director or embalmer; 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; provided that 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;
  - E. Employment directly or indirectly of an 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 by whose influence dead human bodies may be turned over to a particular funeral director or embalmer;
  - 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;**

**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.**

In addition to the foregoing provisions of this section, it is hereby further provided that whoever violates any provision of this and the 10 preceding sections, 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 such fine and imprisonment, and the county attorney of the county in which such violation occurs shall prosecute all such persons. Trial justices and municipal courts within their counties shall have original and concurrent jurisdiction with the superior court in all prosecutions under the provisions of sections 187 to 197, inclusive.'