

CHAPTER 149

EMBALMERS

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149.02 EXAMINATION; LICENSING.

The state commissioner of health is hereby authorized and empowered to examine, upon submission of an application therefor and fee as prescribed by the commissioner pursuant to section 144.122, all applicants for license to practice mortuary science or funeral directing and to determine whether or not the applicants possess the necessary qualifications to practice mortuary science or funeral directing. If upon examination the commissioner shall determine that an applicant is properly qualified to practice mortuary science or funeral directing, the commissioner shall grant a license to the person to practice mortuary science or funeral directing. Licenses shall expire and be renewed as prescribed by the commissioner pursuant to section 144.122.

On or after the thirty-first day of December, 1955, separate licenses as embalmer or funeral director shall not be issued, except that a license as funeral director shall be issued to those apprentices who have been registered under rules of the commissioner as apprentice funeral directors on the first day of July, 1955, qualify by examination for licensure under such rules as funeral directors before the first day of August, 1957. Such applicants shall file an application for license as a funeral director in the manner as is required in section 149.03 for a license in mortuary science. It shall be accompanied by a fee in an amount prescribed by the commissioner pursuant to section 144.122. However, a single license as a funeral director shall be issued to those persons whose custom, rites, or religious beliefs forbid the practice of embalming. An applicant for a single license as a funeral director under this exception shall submit to the commissioner of health two affidavits substantiating the beliefs and convictions of the applicant and shall meet any other standards for licensure as are required by law or by rule of the commissioner. Such a funeral director shall only direct funerals for persons of the same customs, rites or religious beliefs as those of the funeral director. In the case of a funeral conducted for persons of such customs, rites or religious beliefs where embalming and funeral directing is necessary according to law, such embalming and funeral directing shall be performed only by a person licensed to do so in this state.

All licensees who on the thirty-first day of December, 1955, hold licenses as embalmers only shall be granted licenses to practice mortuary science and may renew their licenses at the times and in the manner specified by the commissioner pursuant to section 144.122.

All licensees who on the thirty-first day of December, 1955, hold licenses as funeral director only may continue to renew their licenses at the times and in the manner specified by the commissioner pursuant to section 144.122. If a licensee fails to renew, as in this chapter required, that person's license as a funeral director shall not thereafter be reinstated.

To assist in the holding of the examination and enforcement of the provisions of this chapter, the commissioner shall establish a mortuary sciences advisory council and shall appoint five members to it. Two members shall be licensed in mortuary science and shall have had at least five years experience immediately preceding their appointment in the preparation and disposition of dead human bodies and in the practice of mortuary science. Two members must be public members as defined by section 214.02, and the fifth member shall be a full-time academic staff member of the course in mortuary science of the University of Minnesota. The terms, compensation and removal of members and expiration of the council shall be as provided in section 15.059.

History: 1989 c 282 art 2 s 44

149.06 VIOLATIONS, PENALTIES.

Any person who shall embalm a dead human body, or who shall hold out as a mortician, embalmer, funeral director, or trainee, without being licensed or registered, shall be guilty of a misdemeanor and punished accordingly. This chapter shall not apply to or in any way interfere with the duties of any officer of any public institution, or with the duties of any officer of a medical college, county medical society, anatomical association, accredited college of mortuary science, or to any person engaged in the performance of duties prescribed by law relating to the conditions under which the indigent dead human bodies are held subject to anatomical study, or to the custom or rites of any religious sect in the burial of their dead.

Nothing in this chapter shall in any way affect the operation of corporations or burial associations, providing all work of embalming or funeral directing is done by licensed morticians or funeral directors, as provided by this chapter. It shall be unlawful for any such corporation or burial association to:

(1) Violate any of the laws of this state relative to the burial or disposal of dead human bodies, or any of the rules of the state commissioner of health in relation to the care, custody, or disposition of dead human bodies, or the disinfecting of premises where contagion exists;

(2) Publish or disseminate misleading advertising;

(3) Directly or indirectly pay or cause to be paid any sum of money or other valuable consideration for the securing of business, other than by advertising, or for obtaining authority to dispose of any dead human bodies;

(4) Permit unlicensed persons to render or perform any of the services required to be performed by persons licensed under the provisions of this chapter.

Any corporation or burial association violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor.

Nothing in this chapter shall be construed as repealing any of the laws of this state in regard to the organizing or incorporating of cooperative associations.

History: 1989 c 282 art 2 s 45

149.11 PREARRANGED FUNERAL PLANS; CONTRACTS; TRUST FUNDS.

(a) When prior to the death of any person, that person or another enters into any transaction, makes a contract, or any series or combination of transactions or contracts with another person, partnership, association, or corporation, other than an insurance company licensed to do business in the state of Minnesota, by the terms of which, certain personal property related to the funeral services or the burial, cremation, or other disposition of human remains will be used upon the death of the person for whom the property is to be used, or when the professional services of a funeral director or embalmer will then be furnished, or both, then the total of all money paid by the terms of the transaction, contract, or series or combination of transactions or contracts shall be held in trust for the purpose for which it has been paid until the death of the person for whose benefit the money was paid, or refunded to the person who made the payment or payments, upon demand. A prearranged funeral or burial contract buyer may, at the buyer's option, declare the funeral or burial trust to be irrevocable up to an amount equivalent to the current allowable supplemental security income asset exclusion used for determining eligibility for public assistance. The contract buyer may, at the buyer's option, also declare the interest to be irrevocable to the extent permitted by federal laws and rules governing public assistance. The buyer of either a revocable or an irrevocable prearranged funeral or burial contract retains the right to designate as trustee a different funeral establishment at any time before the death of the person for whose benefit the money was paid. Upon the death of that person, the next of kin or other legal representative of that person's estate retains the right to designate as trustee a different funeral establishment. Accruals of interest or dividends declared upon the sum of money held in trust are subject to the same trust. The person, partnership, association, or corporation holding the money in trust shall inform the person on whose behalf the

money is held that all money paid plus all accrued earnings will be held in trust until the death of that person or until a request for a refund is made if made prior to death, except for a prearranged funeral or burial trust declared irrevocable by the buyer under this section. The location of the trust account including the name and address of the institution in which the money is being held and any identifying account numbers, and any subsequent changes in that information must be disclosed in writing to the person on whose behalf the money is being held, at the time the funds are deposited into the trust account and at the time of any subsequent changes in the information. The personal property shall include but not be limited to a casket, burial vault not interred in a grave, combination casket-vault, or other receptacle not described in paragraph (b) for the interment, entombment, cremation, or other disposition of human remains.

(b) Nothing in this section shall prevent the sale and delivery of cemetery lots, graves, burial vaults preinterred in a grave, cremation urns, crypt spaces, niches, or grave or lot markers or monuments before their use is required. Nothing in this section prevents the preconstruction sale of crypt spaces to be permanently installed except that any seller of mausoleum space or columbarium space, selling burial space in a mausoleum or columbarium that is not completely constructed and usable, must comply with section 306.90.

(c) It is the intent of the legislature that the provisions of this section shall be construed as a limitation upon the manner in which a person or legal entity is permitted to accept funds in prepayment of funeral services to be performed in the future or in prepayment of funeral or burial goods to be used in connection with the funeral or final disposition of human remains. It is further intended to allow members of the public to arrange and pay for funerals, final dispositions, funeral services, and funeral and burial goods for themselves and their families in advance of need while at the same time providing all possible safeguards so that the prepaid funds cannot be dissipated, whether intentionally or not, so as to be available for the payment of the services and goods selected.

History: 1989 c 330 s 35