

CHAPTER 149

EMBALMERS

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149.01 LICENSE; EMBALMING AND FUNERAL DIRECTING; APPRENTICES. No person shall embalm any dead human body or practice embalming, or direct or supervise funerals, in the state of Minnesota, without being licensed by the state board of health, except as hereinafter provided.

For the purposes of this chapter, the following definitions shall be adopted and understood to be included within the meaning of this chapter:

(1) Any person who shall embalm dead human bodies, or who shall take charge of the remains of those dead of any communicable disease, or prepare dead human bodies for shipment, or hold himself out to do any of the above acts by advertising or any other means, shall be defined as and construed to be practicing embalming;

(2) Any person who engages for compensation in the following practices: directing or supervising funerals, or the business or practice 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 such 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, shall be defined as and construed to be practicing funeral directing; provided, however, that the word "person," as used herein, shall apply only to a natural person;

(3) An "embalmer" is any person who has secured a license to engage in the practices hereinbefore set forth;

(4) A "funeral director" is any person who has secured a license to engage in the practices hereinbefore set forth;

(5) An "apprentice funeral director" is any person engaged in the learning of the practice of funeral directing under the instruction and personal supervision of a duly licensed and registered funeral director under the provisions of this chapter; provided, that no person shall serve or attempt to serve as such apprentice funeral director under any such funeral director until he has filed a registration thereof with the board;

(6) An "apprentice embalmer" is any person engaged in the learning of the practice of embalming under the instruction and personal supervision of a duly licensed and registered embalmer under the provisions of this chapter; provided, that no person shall serve or attempt to serve as such apprentice embalmer under any such embalmer until he has filed a registration thereof with the board;

(7) An apprentice funeral director or embalmer may serve his apprenticeship concurrently under the direction and instruction of any person duly licensed and registered as an embalmer or funeral director under the provisions of this chapter; provided, that such concurrent apprenticeship shall not be served unless such apprentice has filed a registration thereof with the board.

[1905 c. 101 s. 1; 1927 c. 305; 1937 c. 417 s. 1] (5817)

149.02 STATE BOARD OF HEALTH TO EXAMINE APPLICANTS. The state board of health is hereby authorized and empowered to examine all applicants for license to practice embalming or funeral directing and to determine whether or not such applicants possess the necessary qualifications to practice embalming or

funeral directing; and, if upon such examination the board shall determine that such applicant is properly qualified to practice embalming or funeral directing, it shall grant a license or licenses to such person to practice embalming or funeral directing for a period ending the thirty-first day of December following; provided, that licenses as embalmers and licenses as funeral directors shall be issued separately.

To assist in the holding of such examination and enforcement of the provisions of this chapter, such board shall appoint three examiners, of whom two shall be licensed as embalmers and funeral directors, who 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 embalming, and the third, a representative of the board, to be known and designated as a committee of examiners, to serve for one, two, and three years, respectively, and thereafter each for a term of three years and until their successors qualify. Vacancies in such committee shall be filled by like appointments for unexpired terms and members thereof may be removed by the board for cause. Each member shall receive such sum per diem, and be reimbursed his necessary expenses for each day of actual service rendered, as the board may determine by its order.

[1905 c. 101 s. 2; 1927 c. 305; 1937 c. 417 s. 2] (5818)

149.03 APPLICANTS; QUALIFICATIONS; AFFIDAVITS; APPRENTICES; ASSISTANTS. The applicant for an examination for license as an embalmer or funeral director shall make application therefor in writing verified on a form prescribed as to details and furnished by the state board of health. Such application shall be accompanied by affidavits from at least two reputable residents of the county in which the applicant resides or proposes to carry on the practice of embalming or funeral directing certifying that the applicant is of good moral character, and a fee of \$10. No person shall be granted any such license unless he shall be at least 21 years of age and of good moral character and temperate habits; and has had at least one year of apprenticeship experience in embalming for an embalmer's license, and at least two years' apprenticeship experience in funeral directing for a funeral director's license; and such sufficient knowledge, experience, and training as the board may determine to properly qualify as an embalmer or funeral director. Any holder of a license issued by state authority in any other state maintaining a system and standard of examination for license to engage in the business or practice of embalming or funeral directing, which, in the judgment of the board, shall be substantially the equivalent to that required in this state for the issuance of a license therefor, may obtain a license from the board without examination in the discretion of the board upon payment of an application fee of \$25 and upon proof of good moral character, temperate habits, and practical experience, which license shall be valid only until the following thirty-first day of December.

Every apprentice shall register with the board annually in such manner as may be provided by the board and pay a registration fee of \$1.00. The secretary of the board shall keep a separate register for apprentices, stating their names, ages, residences, where they attended school, the licensed embalmers or funeral directors with whom they were associated, and such other information as the board may require.

The board may license as assistant funeral directors, with or without examination, one or more assistants of funeral directors who are licensed under the provisions of this chapter, upon payment of an assistant funeral director's license fee of \$1.00. Before issuing a license to an assistant funeral director, the board shall require satisfactory proof that the applicant is capable and trustworthy to act as an assistant funeral director. Such assistant funeral directors shall be licensed and registered as assistants of designated licensed funeral directors.

All persons who have been engaged in the business or practice of a funeral director in this state at a fixed place or establishment three months or more prior to the passage of this chapter, and have not been heretofore licensed, shall within 90 days after the passage of this chapter make application in writing to the board for a license as a funeral director in the manner and form provided in this chapter. Upon satisfactory proof that such applicant is of good moral character and temperate habits and has sufficient knowledge, training, and experience to properly conduct the business or practice of funeral directing in all its phases, evidenced

by the affidavits of two or more reputable citizens who reside in the community in which the applicant practices or has practiced, the board shall issue without further examination to such applicant a license as a funeral director upon the payment of a fee of \$4.00.

[1905 c. 101 s. 3; 1927 c. 305; 1937 c. 417 s. 3] (5819)

149.04 RENEWAL FEE. Any license may be renewed from time to time and shall be in force after such renewal for a period of one year from the thirty-first day of the preceding December upon the payment of a renewal fee of \$4.00 for a funeral director's license, and \$1.00 for an embalmer's license.

All fees received under this chapter shall be paid by the state board of health to the state treasurer and an amount of money equal to the amount so paid over by the board to the state treasurer is hereby appropriated out of any money in the state treasury not otherwise appropriated to the board for the purpose of carrying out the provisions of this chapter. The salaries of the necessary employees of the board, the per diem of the inspectors and examiners, their expenses, and all incidental expenses of the board in carrying out the provisions of this chapter shall be paid on order of the board from such appropriation, but no expense or claim shall be incurred or paid in excess of the amount received from the fees herein provided.

[1905 c. 101 s. 4; 1927 c. 305; 1937 c. 417 s. 4] (5820)

149.05 LICENSE; GROUNDS FOR DENIAL, SUSPENSION, REVOCATION; CERTIORARI; RULES AND REGULATIONS. The state board of health may refuse to grant, refuse to renew, or may suspend or revoke, a license of any applicant or licensee, for the following causes or acts:

- (1) The obtaining of, or attempt to obtain, a license by fraudulent representation;
- (2) Conviction of a crime involving moral turpitude;
- (3) Violation of the laws of this state relative to the burial or disposal of dead human bodies, or of the rules and regulations of the board in relation to the care, custody, or disposition of dead human bodies, or the disinfecting of premises where contagion exists;
- (4) For incompetency or untrustworthiness in the practice of embalming or funeral directing;
- (5) The use of misleading advertising;
- (6) Upon satisfactory proof that the embalmer or funeral director directly or indirectly has paid or caused to be paid any sum of money or other valuable consideration for the securing of business or for obtaining authority to dispose of any dead human body;
- (7) Upon satisfactory proof that an embalmer or funeral director has employed any person not registered or licensed under the provisions of this chapter to perform the duties of an embalmer or funeral director.

Any action of the board in refusing to grant or renew a license or in suspending or revoking a license may be subject to review by a writ of certiorari issued by the district court of any county.

The board shall make and enforce reasonable regulations not inconsistent with the provisions of this chapter for the examination and licensing of embalmers or funeral directors, and the registration and regulation of apprentices, and the investigation and hearing for the refusal to renew, suspension or revocation of licenses, and in relation to the sanitary construction, equipment, operation and maintenance of mortuaries, funeral directing establishments, and other places used for the care or the preparation for the burial or disposal of dead human bodies, and for inspection thereof.

[1905 c. 101 s. 5; 1937 c. 417 s. 5; 1943 c. 482 s. 1] (5821)

149.06 VIOLATIONS; PENALTIES; EXCEPTIONS. Any person who shall embalm a dead human body, or who shall hold himself out as an embalmer or funeral director, apprentice, or assistant funeral director, 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 embalming, 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 embalmers 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 and regulations of the state board 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.

[1905 c. 101 s. 6; 1937 c. 417 s. 6] (5822)

149.07 INFORMATION TO VETERANS; FILING. The embalmer, funeral director, or other person who directs or supervises the funeral, burial, interment, or preparation of the body of any deceased veteran, shall furnish to the commissioner of veterans affairs the following information, if known: the name of the deceased veteran; the military rank or grade and military organization; the name and post office address of the next of kin, or of the person who authorized burial; the date and place of death; the date and place of burial, including the name of the cemetery and location of the grave. Such information shall be furnished upon forms to be provided by the commissioner of veterans affairs. The person required to furnish said information shall execute the form in duplicate, and on or before the tenth of the month following the interment shall mail one copy to the commissioner of veterans affairs.

[1947 c 302 s 1]

149.11 PRE-ARRANGED FUNERAL PLANS; CONTRACTS, TRUST FUNDS. Where prior to the death of a person, he or someone in his behalf makes a contract with another person for the final disposition of his body, by the terms of which, certain personal property will be delivered upon his death, pursuant to a pre-arranged funeral plan, or the professional services of a funeral director or embalmer will then be furnished or both, then the total of all money so paid by the terms of such contract shall be held in trust for the purpose for which it has been paid until the obligation of the contract is fulfilled according to its terms, or refunded to the person who made the payment or payments upon his demand. Accruals of interest upon the sum of money so held in trust are subject to the same trust.

[1953 c 481 s 1]

149.12 DEPOSIT OF TRUST FUNDS. Within 30 days after its receipt, any person holding money in trust under section 149.11 shall deposit all of said money in a banking institution, or place the money in an account in a savings, building and loan association, organized under the laws of this state or of the United States of America, the deposits or accounts of which banking institution or association are insured by an instrumentality of the federal government. The money shall be carried in a separate account in the name of the depositor as trustee for the person who will receive the benefit of the property and services upon his death. Minnesota Statutes 1949, Sections 48.521 to 48.528 shall not apply to money de-

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posited or received and held in trust pursuant to sections 149.11 to 149.14. All such money not used for the purpose intended upon the death of the cestui que trust shall revert to and become a part of his estate.

[1953 c 481 s 2].

149.13 REPORTS. Where a banking institution or a savings, building and loan association has received money in trust, under section 149.12, it shall report the amount received and held in trust to the probate court of the county wherein the cestui que trust resides, within 30 days thereafter. This report shall show the name and address of each trustee and cestui que trust, the principal amount remaining, and the current interest rate applicable to such account.

[1953 c 481 s 3]

149.14 VIOLATIONS. Any person wilfully violating the provisions of section 149.12 shall be guilty of a gross misdemeanor and upon conviction therefor shall be punished as provided in section 610.19.

[1953 c 481 s 4]