

Section 34-13-1

Definitions.

(a) For purposes of this chapter, the following terms shall have the following meanings:

(1) ACCREDITED SCHOOL or COLLEGE OF MORTUARY SCIENCE. A school or college approved by the Alabama Board of Funeral Service and which maintains a course of instruction of not less than 48 calendar weeks or four academic quarters or college terms and which gives a course of instruction in the fundamental subjects including, but not limited to, the following:

- a. Mortuary management and administration.
- b. Legal medicine and toxicology as it pertains to funeral directing.
- c. Public health, hygiene, and sanitary science.
- d. Mortuary science, to include embalming technique, in all its aspects; chemistry of embalming, color harmony; discoloration, its causes, effects, and treatment; treatment of special cases; restorative art; funeral management; and professional ethics.
- e. Anatomy and physiology.
- f. Chemistry, organic and inorganic.
- g. Pathology.
- h. Bacteriology.
- i. Sanitation and hygiene.
- j. Public health regulations.
- k. Other courses of instruction in fundamental subjects as may be prescribed by the Alabama Board of Funeral Service.

(2) AMERICAN BOARD OF FUNERAL SERVICE EDUCATION. That funeral service educational organization which is an agency granted official recognition by the United States Secretary of Education and which is composed of members representing the American Association of College of Mortuary Science, the Conference of Funeral Service Examining Board of the United States, Inc., the

National Association of Colleges of Mortuary Science, and the University Mortuary Science Education Association and which has as its object the furtherance of education in the field of funeral service and in fields necessary to, or allied with, the field of funeral service, and further to formulate standards of funeral service education and to grant accreditation to qualified schools and colleges of mortuary science and to do all things incidental to the foregoing.

(3) APPRENTICE EMBALMER or EMBALMER'S APPRENTICE. Any person engaged in the study of the art of embalming under the instructions and supervision of a licensed embalmer practicing in this state.

(4) APPRENTICE FUNERAL DIRECTOR or FUNERAL DIRECTOR'S APPRENTICE. Any person operating under or in association with a funeral director for the purpose of learning the business or profession of funeral director, to the end that he or she may become licensed under this chapter.

(5) AUTHORIZING AGENT. A person at least 18 years of age, except in the case of a surviving spouse or parent, who is legally entitled to order the cremation or final disposition of particular human remains.

(6) BOARD. The Alabama Board of Funeral Service.

(7) CEMETERY. A place dedicated to and used or intended to be used for the permanent interment of human remains. It may be either land or earth interment; a mausoleum for vault or crypt entombment; a structure or place used or intended to be used for the interment of cremated remains; cryogenic storage; or any combination of one or more thereof.

(8) CEMETERY AUTHORITY. Any individual, person, firm, profit or nonprofit corporation, trustee, partnership, society, religious society, church, association or denomination, municipality, or other group or entity, however organized, insofar as they or any of them may now or hereafter establish, own, operate, lease, control, or manage one or more cemeteries, burial parks, mausoleums, columbariums, or any combination or variation thereof, or hold lands or structures for burial grounds or burial purposes in this state and engage in the operation of a cemetery, including any one or more of the following: The care and maintenance of a cemetery; the interment, entombment, and memorialization of the human dead in a cemetery; the sale, installation, care, maintenance, or any combination thereof,

with respect of monuments, markers, foundations, memorials, burial vaults, urns, crypts, mausoleums, columbariums, flower vases, floral arrangements, and other cemetery accessories, for installation or use within a cemetery; and the supervision and conduct of funeral and burial services within the bounds of the cemetery. It is the legislative intent of this chapter that a cemetery authority, to the extent that it engages in any of the activities described in this subdivision, shall not be affected by this chapter and shall not be deemed to have entered into or engaged in the practice of funeral directing, embalming, or funeral establishment operation.

(9) CONVICTION. The entry of a plea of guilty or a guilty verdict rendered by any court of competent jurisdiction.

(10) CREMATION. The technical process, using heat and flame, that reduces human remains to bone fragments. The reduction takes place through heat and evaporation. Cremation shall include the processing, and may include the pulverization, of the bone fragments.

(~~10~~11) CREMATIONIST. A person who performs the procedure of cremation.

(~~11~~12) CREMATORY. A building or portion of a building that houses a retort and that may house a holding facility for purposes of cremation and as part of a funeral establishment.

(~~12~~13) EMBALMER. Any person engaged or holding himself or herself out as engaged in the business, practice, science, or profession of embalming, whether on his or her own behalf or in the employ of a registered and licensed funeral director.

(~~13~~14) EMBALMING. The practice, science, or profession, as commonly practiced, of preserving, disinfecting, and preparing by application of chemicals or other effectual methods, human dead for burial, cremation, or transportation.

(~~14~~15) FUNERAL. A ceremony for celebrating, sanctifying, or remembering the life of a person who has died. A funeral may be divided into the following two parts:

a. The funeral service, which may take place at a funeral home, church, or other place.

b. The disposition, which may take place by the grave, tomb, mausoleum, or crematory where the body of the decedent is to be buried or cremated.

(~~15~~16) FUNERAL DIRECTING. The practice of directing or supervising funerals, the practice of preparing dead human bodies for burial by means other than embalming, or the preparation for the disposition of dead human bodies; the making of arrangements or providing for funeral services or the making of financial arrangements for the rendering of these services or the sale of this merchandise or supplies; the provision or maintenance of a place for the preparation for disposition of dead human bodies; or the use of the terms funeral director, undertaker, mortician, funeral parlor, or any other term from which can be implied the practice of funeral directing; or the holding out to the public that one is a funeral director or engaged in a practice described in this subdivision.

(~~16~~17) FUNERAL DIRECTOR. A person required to be licensed to practice the profession of funeral directing under the laws of this state, who meets the public, who plans details of funeral services with members of the family and minister or any other person responsible for such planning, or who directs, is in charge, or apparent charge of, and supervises funeral service in a funeral home, church, or other place; who enters into the making, negotiation, or completion of financial arrangements for funerals, including, but not limited to, the sale and selection of funeral supplies, or who uses in connection with the profession of funeral directing the terms funeral director, undertaker, funeral counselor, mortician, or any other term or picture or combination thereof when considered in context in which used, from which can be implied the practicing of the profession of funeral directing or that the person using such term or picture can be implied to be holding himself or herself out to the public as being engaged in the profession of funeral directing; and for all purposes under Alabama law, a funeral director is considered a professional. For the purposes of this chapter, the term does not include any cemetery authority.

(~~17~~18) FUNERAL ESTABLISHMENTS. The term includes any funeral home or mortuary service located at a specific street address where the profession of funeral directing, embalming, or cremation is practiced in the care, planning, and preparation for burial or cremation or transportation of human dead. The term does not include any cemetery or land or structure owned, operated, leased, controlled, or managed by any cemetery

authority as a cemetery. A funeral establishment shall consist of and maintain all of the following facilities:

a. A preparation room equipped with sanitary nonporous floor and walls, necessary drainage and ventilation, and containing operating embalming equipment, necessary approved tables, instruments, hot and cold running water, containers or receptacles for soiled linen or clothing, and supplies for the preparation and embalming of dead human bodies for burial, cremation, and transportation. A funeral establishment under the same ownership having more than one location which practice the profession of funeral directing under the laws of this state shall not be required to maintain more than one preparation room upon meeting requirements prescribed by the board.

b. A display room containing a stock of adult caskets and funeral supplies displayed in full size, cuts, photographs, or electronic images. At no time shall less than eight different adult size caskets be on the premises.

c. At least one operating funeral coach or hearse properly licensed and equipped for transporting human remains in a casket or urn.

d. If engaged in the practice of cremation, at least one operable retort for cremation and an adequate supply of urns for display and sale.

e. A room suitable for public viewing or other funeral services that is able to accommodate a minimum of 100 people.

f. An office for holding arrangement conferences with relatives or authorizing agents.

(~~1820~~) FUNERAL SUPPLIES or FUNERAL MERCHANDISE. Caskets made of any material for use in the burial or transportation of human dead; outer receptacles, when sold by a funeral director, including burial vaults and urns, for cremated human remains; clothing used to dress human dead when sold by a funeral director; and all equipment and accouterments normally required for the preparation for burial or funeral and other disposition of human dead.

(~~1921~~) GROSS IMMORALITY. For the purposes of this Act, this term shall mean willful, flagrant, or shameful immorality. Furthermore, it is showing a moral indifference to the opinions of the good and respectable members of the community and to the

just obligations of the position held by the delinquent. It is behavior that is so corrupt that it constitutes a criminal act, so unprincipled that it is reprehensible to a high degree, or so scandalous or revolting that it shocks the community's sense of decency.

(22) MANAGING EMBALMER. A licensed embalmer who has full charge, control, and supervision of all activities involving the preparation room and embalming.

(~~20~~23) MANAGING FUNERAL DIRECTOR. A licensed funeral director who has full charge, control, and supervision of all activities involving funeral directing at a funeral establishment.

(~~21~~24) MORAL TURPITUDE. For the purposes of the Act, this term shall mean any unlawful sexual act, or any act involving theft, theft of services, extortion, receiving stolen property, identity theft, forgery, fraud, tampering with records, bribery, perjury, or any similar act in any jurisdiction.

(25) MORTUARY SCIENCE. The scientific, professional, and practical aspects, with due consideration given to accepted practices, covering the care, preparation for burial, or transportation of dead human bodies, which shall include the preservation and sanitation of the bodies and restorative art and those aspects related to public health, jurisprudence, and good business administration.

(~~22~~26) MORTUARY SERVICE. A location with a specific street address where embalming or cremation, or both, is practiced for a licensed funeral establishment and where no services or merchandise are sold directly or at retail to the public. A mortuary service shall consist of and maintain all of the following facilities:

a. A preparation room equipped with sanitary nonporous floor and walls, operating embalming equipment, and necessary drainage and ventilation and containing necessary approved tables, instruments, hot and cold running water, containers or receptacles for soiled linen or clothing, and supplies for the preparation and embalming of dead human bodies for burial, cremation, and transportation.

b. At least one operating motor vehicle properly licensed and equipped for transporting human remains in a casket or urn.

c. If engaged in the practice of cremation, at least one operable retort for cremation.

(~~23~~27) OPERATOR. A person, corporation, firm, legal representative, or other organization owning or operating a funeral establishment.

(~~24~~28) PRACTICAL EMBALMERS. Any person who has been actively and continuously engaged or employed in the practice of embalming under the supervision of a licensed embalmer for four consecutive years immediately preceding May 1, 1975, and has been issued a license as a practical embalmer under the grandfather provisions of this chapter.

(~~25~~29) PROCESSING or PULVERIZATION. The reduction of identifiable bone fragments after the completion of the cremation process to unidentifiable bone fragments or granulated particles by manual or mechanical means.

(~~26~~30) RETORT. An enclosed space within which the cremation process takes place.

(~~27~~31) TEMPORARY CONTAINER. A receptacle for cremated remains, usually composed of cardboard, plastic, or similar material, that can be closed in a manner that prevents the leakage or spillage of the cremated remains or the entrance of foreign material, and is a single container of sufficient size to hold the cremated remains until an urn is acquired or the cremated remains are scattered or buried.

(~~28~~32) URN. A receptacle designed to encase cremated remains.

(b) Nothing in this chapter shall require a funeral director or funeral establishment to have or provide a chapel or to restrict the conduct of funeral services from a church or chapel.

(c) Nothing contained in the definition of funeral directing, or in any other provision of this chapter, shall be applicable to or regulate or restrict cemetery authorities in the conduct of activities of a cemetery authority; or be applicable to or regulate or restrict the carrying on by any cemetery authority of any activities, functions, practices, and services which may now or hereafter (1) constitute any part of the operation or management of a cemetery or of the property of a cemetery or (2) otherwise consist of the interment or entombment of the human dead or memorialization of the human dead in any manner within a cemetery property.

Section 34-13-4

Publication of statutes and regulations.

Upon request, the board shall distribute to funeral directors, embalmers, and apprentices and such other persons as may be interested therein, in ~~pamphlet~~ printed form, electronic image, online publication, or on the board's website the provisions of this chapter together with all rules and regulations prescribed, adopted, or promulgated pursuant to this chapter, together with a complete and current list of all persons and establishments licensed under this chapter.

Section 34-13-6

Recourse by a licensee against unreasonable orders or wrongful interpretations by the board.

In the event a licensee under this chapter should have cause to believe that the board, or a member or members thereof, has used the powers of the board to promulgate orders or rulings or requirements not intended by this chapter and that such orders or rulings or requirements are used to subject the licensee to unreasonable and wrongful interpretations of this chapter by the board or that the board or a member or members thereof have imposed the powers of the board or the wrongful interpretations of this chapter upon the licensee to such extent that it constitutes ~~harrasment~~ harassment of the licensee, then the licensee may take an appeal for relief to the circuit court of the county in which the licensee practices embalming, funeral directing, or operates a funeral establishment as prescribed in Section 34-13-31.

Section 34-13-9

Pricing requirements.

Funeral service, cemetery service, and funeral merchandise pricing shall conform to rules established by the Federal Trade Commission and each funeral establishment shall have a card or brochure in each full-size and cut casket and a clear statement on each photograph and electronic image of a casket stating the unit price of that casket.

Section 34-13-22

Meetings; quorum.

The Alabama Board of Funeral Service shall hold not less than one meeting quarterly ~~for the purpose of examining applicants for licenses~~, such meeting to be held at such time and place as the board may determine after notice of such meeting has been given in the manner prescribed herein at least 15 days prior to such meeting. ~~The board shall not have power to delegate to any person who is not a member of the board the authority to conduct or administer an examination for a license.~~ The board may hold such other meetings as it may deem necessary. Five or more members shall comprise a quorum. The board shall not meet on the premises of any embalming school or college of mortuary science; and, if any such meeting is held, all the proceedings of such meeting shall be void. ~~If any application for license under this chapter is pending, the applicant or applicants shall be afforded the right to take the examination required hereunder at the date and place of such quarterly meeting.~~

Section 34-13-26

Rules and regulations; hearings; restraining of violations; complaints; temporary suspension.

(a) The board has the power to adopt and enforce for the protection of the public health, safety, and welfare reasonable rules and regulations.

(b) The rules and regulations of the board shall not become effective until they have been published and discussed at a public hearing and have been filed in the office of the Secretary of State; and, when so filed, such rules and regulations shall be in full force and have the effect of law. The board shall mail notice of such hearing to each licensee under this chapter 15 days before the date of such hearing.

(c) All rules and regulations adopted by the board shall be referenced to the section or sections of this chapter which set forth the legislative standard which it interprets or to which it applies. Every rule and regulation shall be in writing, promulgated by an order, state its effective date, be indexed in a permanent book which shall be a permanent record, and a true copy shall be filed in the office of the Secretary of State of Alabama. A copy of every order promulgating a rule, regulation, or other order containing a requirement of general application shall be mailed ~~published for~~ to each licensee by ~~first class mail~~ printed form, electronic image, online publication, or on

the board's website. The failure of a licensee to receive a copy of the rule, regulation, or order shall not exempt or excuse him or her from the duty of compliance with the valid rules, regulations, or orders lawfully issued.

(d) The board shall have power to hold hearings, conduct investigations, subpoena witnesses, administer oaths, and take testimony in order to carry out this chapter.

(e) A court of competent jurisdiction, upon application of the board, may restrain violations or refusals to comply with this chapter or the regulations of the board.

(f) Any person, including a member of the board, may initiate a complaint against a licensee of the board by filing with the board a written complaint on a form prescribed by the board.

(1) Upon receipt of a properly verified complaint, the board shall send a copy of the complaint to the affected licensee by certified mail to the address of such licensee appearing on record with the board. The licensee shall answer the complaint in writing within 20 days after receipt of the complaint. The licensee shall mail a copy of his or her response to the board and the complainant. Upon receipt of the response of the licensee or lapse of 20 days, the board may investigate a complaint that appears to show the existence of any of the causes or grounds for disciplinary action pursuant to this chapter. Upon finding reasonable cause to believe that the charges are not frivolous, unfounded, or filed in bad faith, the board may cause a hearing to be held, at a time and place fixed by the board, regarding the charges. If a hearing is held, the board shall order the licensee to appear and show cause why he or she should not be disciplined for a violation of this chapter.

(2) The board shall give the complainant and the affected licensee 20 days' notice of any hearing upon a complaint. Such notice shall be by United States certified mail.

(3) Any party appearing before the board may be accompanied by counsel.

(4) Before commencing a hearing, the chair or a designee of the board shall determine if all parties are present and ready to proceed. If the complainant does not attend a hearing and does not show good cause for his or her absence, the complaint shall be summarily dismissed and all fees and expenses relating to the

convening of the hearing shall be charged to the complainant. If an affected licensee does not appear for a hearing and does not show good cause for his or her absence, the licensee shall be presumed to have waived his or her right to appear before the board and be heard.

(5) Upon a determination by the chair or designee that all parties are ready to proceed, the hearing shall be called to order. The complainant and the licensee may offer opening statements and the board may order the sequestration of nonparty witnesses.

(6) After opening statements, the complainant shall present his or her case and the licensee, any counsel, and any member or designee of the board may ask questions of complainant witnesses.

(7) After the complainant has completed presenting his or her case, the licensee shall present his or her case and the complainant, any counsel, and any member or designee of the board may ask questions of licensee witnesses.

(8) After both sides have completed their presentations, closing statements may be given by the complainant and the licensee.

(9) At the conclusion of the hearing, the board may render an immediate decision or take the case under advisement for further deliberation. A decision of the board shall be rendered within 90 days after the hearing and a copy of that decision shall be mailed to the last known business or residence address of the complainant and the licensee.

(g) The board may file a formal complaint against a licensee and may temporarily suspend a license simultaneously with the institution of proceedings under this section, without a hearing, if the board finds that the evidence supporting the determination is clear, competent, and unequivocal and that the continuation of the licensee to practice would constitute a danger to public health or safety.

Section 34-13-31

Appeal from decision of board.

(a) Whenever, by decision, final order, or other final determination upon any public hearing provided for by this chapter, a party to such hearing shall feel aggrieved, an appeal

may be taken to the circuit court for the county within which such party resides or, if he or she is not a resident of Alabama, then to the circuit court for the county within which the hearing was held. However, if there is more than one appellant, the circuit court having jurisdiction to hear the appeal of the first appellant filing a notice of appeal shall have jurisdiction to hear all appeals arising from the same hearing, irrespective of the place of residence of the appellants.

(b) On taking and perfecting an appeal to the circuit court having jurisdiction thereof, the court shall proceed as in other cases.

(c) All appeals shall be taken within thirty (30) days from the signed date of the action or order of the Board which made the basis of the appeal and shall be granted as a matter of right and be deemed perfected by filing with the board a bond for security of costs of the appeal. Upon filing of a verified petition and hearing thereon, the court may, in its discretion, stay the order appealed from pending final judicial review. No new or additional evidence may be introduced in the circuit court except as to fraud or misconduct of some person engaged in the administration of this chapter and affecting the order, rule, or ruling appealed from. The court shall otherwise hear the case upon the record as certified to the court by the executive secretary of the board and shall set aside the order, rule, or action appealed from if the court finds that the board erred to the prejudice of the appellant's substantial rights in its application of the law; or, the order, decision, or award was procured by fraud or was based upon a finding of facts contrary to the substantial weight of the evidence, or that the order was arbitrary, capricious, or inconsistent with respect to any of the material issues involved; or that the board failed in its order to find sufficient facts as to each material issue involved to enable the court to determine the basis for the conclusion of the board. The court ~~may~~ must, instead of setting aside the order, remand the case to the board for further proceedings in conformity with the direction of the court. The court may, in advance of judgment and upon a sufficient showing, remand the cause to the board for the purpose of taking additional testimony or other proceedings.

(d) An appeal may be taken from the judgment decree or any appealable order of the circuit court to the Supreme Court of this state. Appeals to the Supreme Court shall be taken, perfected, heard, and determined in the manner prescribed by law

and the Alabama Rules of Appellate Procedure for taking, perfecting, hearing, and determining appeals to the Supreme Court.

Section 34-13-53

Renewal of licenses; authorization; attestation of identity; records.

(a) Every licensed funeral director, every licensed embalmer, and every licensed operator shall pay annually a fee for renewal of his or her license. The renewal fees shall be set by the board at a rate not to exceed one hundred fifty dollars (\$150) for licensed embalmers and funeral directors and five hundred dollars (\$500) for licensed operators.

(b) All licenses granted under this chapter shall expire on October 1, following their issuance or renewal, and shall become invalid unless renewed as provided in this section and other requirements prescribed by the board are met. There shall be no prororation of licenses.

(c) The board shall ~~mail~~ publish on or before August 1 of each year by printed form, electronic image, online publication, or on the board's website to each licensed funeral director, ~~to each licensed embalmer,~~ and ~~to each licensed operator,~~ addressed to him or her at his or her last address, a notice that his or her renewal fee is due and payable and that, if such fee is not paid by October 1, the said license shall lapse.

(d) At the time, or before, a licensee changes place of employment, residence address, or makes any other change in status which is of record at the board office, the licensee shall report such change of status, ~~on a form provided by the board~~ by a method prescribed by the board, to the executive secretary.

Section 34-13-56

Grounds for revocation, suspension, or refusal to issue or renew licenses; fines.

(a) The board may refuse to grant, refuse to renew, or suspend or revoke a license after proper hearing and notice to the licensee, upon the licensee's being found guilty of any of the following:

(1) Conviction of a crime involving moral turpitude~~-~~, including but not limited to, any crime where the individual has to register as a sex offender in any jurisdiction.

(2) Unprofessional conduct, which is defined to include any of the following:

a. Misrepresentation or fraud 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 or knowingly engaging in any advertising which is misleading or inaccurate in any material particular.

c. Solicitation of dead human bodies by the licensee, his or her agents, assistants, ~~or~~ employees, ~~from~~ medical professionals, or clergy, whether the solicitation occurs after death or while death is impending.

d. Employment by the licensee of a person or persons to be used for the purpose of obtaining or soliciting funeral directing or embalming business.

e. Employment directly or indirectly of any 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 where a death has occurred or is imminent by whose influence dead human bodies may be turned over to a particular funeral director or embalmer or funeral establishment, or both.

f. The buying of business by the licensee, his or her agents, assistants, or employees.

g. Gross immorality.

h. Aiding or abetting an unlicensed person to practice funeral directing or embalming.

i. Using profane, indecent, or obscene language in the presence of a dead human body, or within the immediate hearing of the family or relative of a deceased whose body has not yet been interred or otherwise disposed of.

j. 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 mausoleum or cemetery.

k. Any violation of this chapter.

l. Any violation of any statute, ordinance, or rule of any board, agency, or political subdivision of the state. ~~of state law or municipal or county ordinance or regulation affecting the handling, custody, care, or transportation of dead human bodies.~~

m. Fraud or misrepresentation in obtaining a license.

n. Refusing to promptly surrender the custody of a dead human body, upon the express order and payment for services rendered of the person lawfully entitled to the custody thereof.

o. Performing services in a professional capacity as a funeral director or embalmer, or both, for any unlicensed funeral establishment operating in violation of this chapter.

p. Being intoxicated or under the influence of illegal drugs while on duty at a funeral establishment. or while performing duties and responsibilities for the funeral establishment.

q. Willfully retaining or willfully failing to account for any property of a decedent.

r. Knowingly and willfully signing a certificate or documentation as having embalmed or prepared a body for burial when, in fact, the services were not performed by the licensee.

s. Failure to give full cooperation to the board or its designees, agents, or other representatives in the performance of official duties of the board. ~~Failure to give full cooperation includes, but is not limited to, any of the following:~~

(~~i~~ t.) Not furnishing any relevant papers or documents requested by or for the board.

(~~ii~~ u.) Not furnishing, in writing, an adequate explanation relating to a matter contained in a complaint filed with the board against the licensee.

(~~iii~~ v.) Not responding to a subpoena issued by the board, without good cause shown, whether or not the licensee is the party charged in any proceeding before the board.

(~~iv~~ w.) Not providing reasonable access to the board or an authorized agent or representative of the board for the

performance of reviews or inspections at facilities or places utilized by the licensee in the practice of funeral service or funeral directing or in performing any other activity regulated by the board.

(~~v~~ x.) Failing to provide information within a specific time as required by the board or an authorized agent or representative of the board.

(~~vi~~ y.) Failing to cooperate with the board or an authorized agent or representative of the board in the investigation of any alleged misconduct or interfering with a board investigation through the willful misrepresentation of facts.

(~~vii~~ z.) Deceiving or attempting to deceive the board regarding any matter under investigation, including the altering or destroying of any records.

(~~viii~~ aa.) Failure, without good cause, to cooperate with any request from the board to appear before the board.

(ix bb.) Violating any statute, ordinance, or rule of the state or any board, agency, or political subdivision of the state affecting the registration of deaths or the handling, custody, care, or transportation of dead human bodies.

~~(x) Violating any statute, ordinance, or rule of the state or any board, agency, or political subdivision of the state affecting the registration of deaths or the handling, custody, care, or transportation of dead human bodies.~~

(~~xi~~ cc.) Demonstrating bad faith, incompetence, or untrustworthiness or dishonest, fraudulent, or improper dealing or any other violation of this chapter or any rule promulgated by the board or promulgated by the Federal Trade Commission relative to the practice of funeral service or funeral directing.

(dd) Any other reason as determined by the Board that an individual is unsuitable for licensure or certification by the Board.

(b) In addition to the disciplinary actions authorized in subsection (a), the board may levy and collect administrative fines for violations of this chapter or the rules or regulations of the board in an amount not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500)

for each violation, unless otherwise provided for in this chapter or by a board's regulation.

Section 34-13-57

Secretary to mail notices of examination.

The executive secretary of the board shall publish notices to all applicants and all established funeral firms in the state by printed form, electronic image, online publication, or on the board's website 15 days before an examination, listing the names of all persons admitted by the board to take the examination and setting out the time and place of the examination.

Section 34-13-70

License required; filing of application; fee; ~~time and place for examination~~

(a) No person shall engage in, or attempt to engage in, the practice or profession or business of a funeral director unless licensed to do so by the Alabama Board of Funeral Service. The board hereby is granted authority to issue license to funeral directors.

(b) Any person desiring to engage in the business, profession, or practice of funeral director shall make application to the board and shall accompany his or her application by a fee to be established by the board, not to exceed one hundred fifty dollars (\$150). ~~, whereupon the board shall fix the time and place for the examination of the applicant and shall notify the applicant thereof.~~

~~(c) In addition, the board shall establish and charge a reasonable examination fee, based on actual costs, for each applicant who sits for an examination. In no event shall the fee exceed fifty dollars (\$50) above the actual cost of preparing and administering such exam.~~

Section 34-13-71

Form and contents of the funeral director application.

An application for a license as a funeral director shall be in writing and verified on a form provided by and addressed to the board and filed with the secretary of the board. The application must specify the address of the applicant and must be accompanied by the affidavits of at least two licensed embalmers or funeral directors to the effect that the applicant is of good

character and has qualified himself or herself to become licensed as prescribed by this chapter. The board reserves the right to require applicants for funeral director's license to submit to a personal interview.

Section 34-13-72

Qualifications of funeral director applicants for examination.

(a) An applicant for a funeral director's license is entitled to an examination if he or she satisfies all of the following:

(1) Is a citizen of the United States or legally present in this state.

(2) Is at least 18 years of age.

(3) Has had practical experience as an apprentice for not less than two years within a period of three consecutive years, excluding time lost by interruptions caused by the active duty of the applicant in the military service of the United States or its allies during war or national emergency, and excluding time lost by interruptions which the board deems excusable as caused by circumstances beyond the control of the applicant.

(4) Has completed apprenticeship not more than two years prior to taking the examination, excluding time lost under the circumstances mentioned in subdivision (3).

(5) Has completed a course of instruction in an accredited mortuary or funeral service school or college which has been approved by the board pursuant to Section 34-13-50, or has completed a bachelor's degree program from an accredited school.

(b) The board may certify an applicant to take an exam for a funeral director's license after verifying that the applicant has completed a course of instruction in funeral arts at an accredited mortuary or funeral service school or college meeting the criteria or standards defined in this chapter, but shall not issue a funeral director's license until the applicant has completed a two year apprenticeship.

(c) An applicant has two years from the expiration date of the applicants last active apprentice certification to successfully pass the examination for a funeral director's license pursuant to this chapter. Any applicant who fails to successfully pass

the examination, must serve a new apprenticeship in accordance with this chapter.

(d) In addition, the board shall establish and charge a reasonable examination fee, based on actual costs, for each applicant who sits for an examination. In no event shall the fee exceed fifty dollars (\$50) above the actual cost of preparing and administering such exam.

Section 34-13-73

Scope of funeral director examination.

(a) The applicant for a funeral director's license, before the application is granted, shall successfully pass an examination upon, but not limited to, the following subjects: Funeral directing, the manners in which death may be determined, the laws governing the preparation and disposal of human dead bodies and the shipment of bodies dying from infectious or contagious diseases, and local health and sanitary ordinances in relation to funeral directing. The examination shall be prepared and graded as prescribed by rule of the board. The board may review and adopt, in whole or in part, examination questions, forms, examinations, and passing criteria proposed by the American Board of Funeral Service Education, or a successor organization, and may use the uniform nationwide conditions of the International Conference of Funeral Service Examining Boards, or other organization approved by the board.

(b) The board shall examine applicants for a funeral director's license in all of the following subjects:

(1) Mortuary management and administration.

(2) Mortuary law.

(3) Basic accounting principles.

(4) Funeral directing.

(5) Other courses of instruction in fundamental subjects as may be prescribed by the board.

(c) All examination papers shall be kept on file by the board for at least three years.

(d) To constitute a passing grade, an applicant shall earn an average score of at least 75 percent.

(e) If the board is satisfied that an applicant has the requisite qualifications to practice the occupation of funeral directing, a license shall be issued authorizing the applicant to practice such occupation until October 1 of that year, at which time the license may be renewed as prescribed in this chapter.

(f) The board shall have the power to delegate to any person or entity who is not a member of the board the authority to conduct or administer an examination for a license

(g) If any application for license under this chapter is pending, the applicant or applicants shall be afforded the right to take the examination required.

Section 34-13-90

Embalmer license requirements; fees.

(a) No person shall follow, engage in, or hold himself or herself out as engaged in the practice as an embalmer unless licensed to do so by the Alabama Board of Funeral Service. The board is granted authority to issue licenses to embalmers.

(b) All persons shall qualify for examination in accordance with this chapter and shall be licensed as an embalmer only after due examination by the board and the payment of an examination and license fee to be established by the board, not to exceed five hundred dollars (\$500).

(c) In addition, the board shall establish and charge a reasonable examination fee, based on actual costs, for each applicant who sits for an examination. In no event shall the fee exceed fifty dollars (\$50) above the actual cost of preparing and administering such exam.

Section 34-13-91

Application for embalmer examination.

The applicant for an embalmer's license shall make application to the board, ~~and shall present himself or herself at the next meeting of the board for the examination of applicants.~~ The application must be in writing and verified on a form provided

by and addressed to the board and must be accompanied by the prescribed fee and by affidavits of at least two licensed embalmers to the effect that the applicant is of good moral character and has met all qualifications required for examination for license as prescribed by this chapter. The board reserves the right to require applicants for embalmer's license to submit to a personal interview.

Section 34-13-92

Qualifications of applicants for an embalmer's license.

In order to qualify for a license as an embalmer, the applicant shall satisfy all of the following:

- (1) Be a citizen of the United States or legally present in this state.
- (2) Be over 18 years of age.
- (3) Be of good character.
- (4) Have completed a two-year course of apprenticeship under an embalmer or embalmers licensed and engaged in practice as an embalmer in this state, and shall have completed the required course of apprenticeship within a period of three consecutive years, excluding time lost by interruption caused by the active duty of the applicant in the military service of the United States or its allies during war or national emergency, and excluding time lost by interruptions which the board deems excusable as caused by circumstances beyond the control of the applicant.
- (5) Have completed a course of instruction in an embalming school or college which has been approved by the board as defined in Section 34-13-50.
- (6) Have completed the course of apprenticeship not more than two years before the date of examination, excluding time lost under the circumstances mentioned in subdivision (4).
- (7) The board may certify an applicant to take an exam for a embalmer's license after verifying that the applicant has graduated from an accredited mortuary or funeral service school or college meeting the criteria or standards defined in this chapter, but shall not issue a embalmer's license until the applicant has completed a two year apprenticeship.

(8) In addition, the board shall establish and charge a reasonable examination fee, based on actual costs, for each applicant who sits for an examination. In no event shall the fee exceed fifty dollars (\$50) above the actual cost of preparing and administering such exam.

Section 34-13-93

Examination of applicant for an embalmer's license.

The board ~~shall~~ may hold a public examination at least once each quarter for the purpose of examining applicants for embalmer's license, ~~as prescribed in Section 34-13-22,~~ at such time and place as the board may determine. Notice of the time and place of the meeting shall be ~~sent~~ made available to the various applicants ~~by mail in printed form,~~ or electronic image, or online publication, or the board's website at least 15 days before the meeting or examination.

Section 34-13-94

Scope and conduct of the embalmer's examination.

(a) The board shall examine applicants for an embalmer's license in all of the following subjects:

- (1) Mortuary management and administration.
- (2) Legal medicine and toxicology.
- (3) Public health, hygiene, and sanitary science.
- (4) Mortuary science, to include embalming technique, in all aspects; chemistry of embalming, color harmony; discoloration, its causes, effect, and treatment; treatment of special cases; restorative art; funeral management; and professional ethics.
- (5) Anatomy and physiology.
- (6) Chemistry, organic and inorganic.
- (7) Pathology.
- (8) Bacteriology.
- (9) Sanitation and hygiene.

(10) Public health regulations.

(11) Other courses of instruction in fundamental subjects as may be prescribed by the board.

(b) All examination papers shall be kept on file by the board for at least three years.

(c) To constitute a passing grade, an applicant shall earn an average score of at least 75 percent.

(d) The board may issue an embalmer's license to an applicant who receives a passing grade on a recognized national embalmer's examination approved by the board.

(e) If the board is satisfied that the applicant has the requisite qualifications to practice the occupation of embalming, a license shall be issued to him or her authorizing him or her to practice such occupation until October 1 of that year, at which time the license may be renewed as prescribed in this chapter.

(f) The board shall have the power to delegate to any person or entity who is not a member of the board the authority to conduct or administer an examination for a license

(g) If any application for license under this chapter is pending, the applicant or applicants shall be afforded the right to take the examination required.

Section 34-13-110

Operation through licensed funeral director or embalmer; change of name.

Any person, corporation, partnership, society or group owning or operating a funeral establishment coming within the provisions of this chapter may do so only through the services of a licensed funeral director or embalmer. No person not licensed as a funeral director or embalmer shall be permitted to perform the functions of a funeral director or embalmer as herein defined or hold himself or herself out to the public as such by reason of his or her ownership in a funeral establishment or by reason of his or her ownership of stock owned in or office held in a corporation to own or operate a funeral establishment. After September 10, 1975, no firm or corporation authorized to own and operate a funeral establishment may change or amend its name or

charter so as to include in its firm or corporate name the name of any person who is not individually licensed as a funeral director in this state; provided, that the provisions of this sentence shall not be applicable to the name of any firm or corporation owning or operating a funeral establishment on September 10, 1975, so long as such firm or corporation remains under the same ownership.

Section 34-13-111

License required; inspections; transfer of license; change in ownership.

(a) No funeral establishment or branch thereof for the preparation, disposition, and care of dead human bodies shall be opened or maintained unless duly licensed by the board. No funeral establishment or branch shall be moved without obtaining a new funeral establishment license from the board.

(b) The board shall set a fee, not exceeding one hundred fifty dollars (\$150), that shall be in addition to the license fee for the first inspection of any funeral establishment seeking a license under Section 34-13-72 made for the purpose of determining whether such funeral establishment has fulfilled the requirements for licensure pursuant to this chapter. The board shall set a fee, not exceeding one hundred fifty dollars (\$150), for each reinspection necessitated by failure of any funeral establishment to pass such first inspection. The board, or a representative of the board, shall annually conduct a minimum of one unannounced inspection of funeral establishments and branches, with an inspection fee of not more than one hundred dollars (\$100). The inspection fee shall be submitted to the board within 45 days after the inspection. Any funeral establishment that does not submit the inspection fee within 45 days shall be charged a late penalty fee, as established by the board. A funeral establishment, or branch thereof, that is used for the preparation, disposition, and care of dead human bodies shall meet and conform to this chapter and to such other lawful standards and requirements as may be determined by rule of the board in furtherance of this chapter; and, for failure to do so, the board may revoke such license in accordance with the procedure set forth in this chapter.

(c) Applications for transfer of a license to another location in the same county shall be made upon ~~blanks~~ a form furnished by the board and shall be accompanied by a fee of not more than

seventy-five dollars (\$75). ~~The fee for a new branch or location for a funeral establishment shall be \$250. Any change in ownership shall be immediately reported to the board.~~

(d) Any change in ownership shall be immediately reported to the board. The new owner of the establishment shall comply with Section 34-13-112 and 34-13-113 and shall provide the board a signed copy of the Asset Purchase Agreement with dollar amounts redacted. The fee for change of ownership application shall be \$250.

Section 34-13-113

Application for license; inspection of establishment; issuance of license.

(a) Application for a license to operate a funeral establishment shall be made in writing on a form provided by the board. The application shall be verified by the applicant or, if the applicant is a corporation, firm, or other organization, by an officer or member thereof, and shall be accompanied by an application fee established by the board not to exceed five hundred dollars (\$500). The application shall disclose all of the following:

(1) The name and address of the establishment.

(2) That the establishment is operated by a licensed funeral director and a licensed embalmer or a person licensed both as a funeral director and embalmer.

(3) A description and photographs of the buildings, equipment, and facilities of the establishment.

(4) That the establishment has a sanitary, properly equipped embalming room, a room suitable for public viewing or other funeral services that is able to accommodate a minimum of 100 people, an office for arrangement conferences with relatives or authorized representatives, and a display room containing a stock of adult caskets and funeral supplies displayed in full size, cuts, photographs, or electronic images. At no time shall less than eight different adult full size caskets and at least one operating and properly licensed funeral coach or hearse equipped for transporting human remains in a casket or urn be on the premises. A funeral establishment under the same ownership having more than one location which practice the profession of funeral directing under the laws of this state shall not be required to

maintain more than one preparation room upon meeting requirements prescribed by the board.

(5) Such other information as may be required by the board.

(b) Upon receipt of the application, the board shall make inspection of the funeral establishment. If the board determines that the establishment meets the qualifications prescribed by law, it shall issue a license to operate a funeral establishment.

(c) Application for a license to operate a mortuary service shall be made in writing on a form provided by the board. The application shall be verified by the applicant or, if the applicant is a corporation, firm, or other organization, by an officer or member thereof, and shall be accompanied by an application fee established by the board not to exceed five hundred dollars (\$500). The application shall disclose all of the following:

(1) The name and address of the proposed mortuary service.

(2) That the mortuary service applicant is operated by a licensed embalmer or a person licensed both as a funeral director and embalmer.

(3) A description and photographs of the buildings, equipment, and facilities of the mortuary service applicant.

(4) That the mortuary service applicant has a sanitary, properly equipped embalming room.

(5) Such other information as may be required by the board.

(d) Upon receipt of the application, the board shall make inspection of the premises of the mortuary service applicant. If the board determines that the mortuary service applicant meets the qualifications prescribed by law, it shall issue a license to operate a mortuary service.

Section 34-13-112

Employment of embalmer or funeral director by other establishments; supervision and control; licensing of establishment not to license embalmer or director.

No application for a license of a funeral establishment shall be considered which does not show on the application that a licensed funeral director and licensed embalmer are employed by the establishment. This section shall not be construed to require a full-time licensed embalmer at each funeral establishment. No funeral establishment shall be licensed except upon the basis of a licensed funeral director. All embalming must be performed under a licensed embalmer, but such licensed embalmer shall not be restricted from working for more than one funeral establishment.

No licensed funeral director, based upon whose license or licenses a funeral establishment license has been issued, may serve as the regularly employed licensed funeral director at another funeral establishment which is owned by a different person, firm, or corporation at the same time for the purpose of qualifying such other establishment under this chapter.

It is hereby declared to be the legislative intent of this chapter that every funeral establishment in this state shall be operated under the full charge, control, and supervision of an individually licensed funeral director or a person licensed both as a funeral director and as an embalmer; provided, that this section shall not preclude an unlicensed person from being in charge of the bookkeeping or records of such an establishment. The name of the licensed person to be in charge of each funeral establishment shall be stated on the application for all licenses or renewal of such licenses.

The issuance of a license to operate a funeral establishment to a person who is not individually licensed as a funeral director or embalmer does not entitle the person to practice embalming or funeral directing, as defined by this chapter, it being the intent of this chapter that such practice may be performed only through individually licensed funeral directors and embalmers; and, in addition to all other grounds for suspension of a funeral establishment license as enumerated in this chapter, a funeral establishment license shall be revoked by the board upon hearing thereon if any person, whether owner, officer, stockholder, or otherwise, who is connected with the funeral home shall perform any of the functions of a funeral director or embalmer as defined herein or shall hold himself or herself out as a funeral director.

Section 34-13-132

Annual report of apprentices.

All apprentices registered as provided in this chapter shall be under the supervision and control of the board and shall be required to report to the board annually on January 1, upon forms provided by the board, showing the work which such apprentices have performed during the annual period preceding the first of the month on which the report is made, including the number of hours served and the number of bodies the apprentice has assisted in embalming or otherwise prepared for disposition during such period. The information contained in the report shall be certified to as correct by the funeral director or embalmer by whom the apprentice has been employed during such period.

Section 34-13-134

Grounds for suspension and revocation of certificates; reregistration when certificate has lapsed or is revoked.

(a) The board has power to suspend or revoke a certificate of apprenticeship, after notice and upon hearing, where the apprentice is guilty of any of the following acts or omissions:

(1) Failure to devote not less than an average of 30 hours per week to the duties of his or her apprenticeship;

(2) Failure to make an annual report to the board as required by this chapter;

(3) Absence from duty except on vacation for an aggregate of more than 10 days in any six months or 20 days in any year, without leave of absence granted by the board;

(4) Gross immorality;

(5) Being on duty as an apprentice while under the influence of liquor or illegal drugs;

(6) Disobedience of proper orders or instructions of his or her superiors;

(7) Violation of any provision of this chapter or any rule or regulation of the board made under this chapter;

(8) Soliciting business for a funeral director or for any embalmer; or

(9) Fraud or misrepresentation in obtaining a certificate of registration as an apprentice.

(b) An apprentice who has ~~allowed his or her certificate of apprenticeship to lapse~~ failed to renew his or her registration, or who has had his or her certificate of apprenticeship suspended or revoked may, within one year after such expiration, suspension, or revocation, make application for registration but not more than two such registrations shall be allowed by the board. The board may, when the circumstances warrant, allow an apprentice credit under a reregistration for time actually served under a previous registration; except, that if the previous registration has been suspended or revoked upon any of the grounds set forth in subsection (a) of this section, not more than 75 percent of the time previously served shall be credited on the reregistration.