



Rep. Robert Rita

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LRB097 15304 CEL 68379 a

1 AMENDMENT TO HOUSE BILL 4313

2 AMENDMENT NO. _____. Amend House Bill 4313 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. The Regulatory Sunset Act is amended by
5 changing Section 4.23 and by adding Section 4.33 as follows:

6 (5 ILCS 80/4.23)

7 Sec. 4.23. Acts and Sections repealed on January 1, 2013.
8 The following Acts and Sections of Acts are repealed on January
9 1, 2013:

10 The Dietetic and Nutrition Services Practice Act.

11 The Elevator Safety and Regulation Act.

12 The Fire Equipment Distributor and Employee Regulation Act
13 of 2011.

14 ~~The Funeral Directors and Embalmers Licensing Code.~~

15 The Naprapathic Practice Act.

16 The Professional Counselor and Clinical Professional

1 Counselor Licensing Act.

2 The Wholesale Drug Distribution Licensing Act.

3 Section 2.5 of the Illinois Plumbing License Law.

4 (Source: P.A. 95-331, eff. 8-21-07; 96-1499, eff. 1-18-11.)

5 (5 ILCS 80/4.33 new)

6 Sec. 4.33. Act repealed on January 1, 2023. The following
7 Act is repealed on January 1, 2023:

8 The Funeral Directors and Embalmers Licensing Code.

9 Section 5. The Funeral Directors and Embalmers Licensing
10 Code is amended by changing Sections 1-5, 1-10, 1-15, 1-20,
11 1-30, 5-5, 5-10, 5-15, 5-20, 10-5, 10-20, 10-30, 10-35, 15-5,
12 15-15, 15-16, 15-20, 15-21, 15-22, 15-25, 15-40, 15-41, 15-45,
13 15-46, 15-50, 15-65, 15-70, 15-75, 15-76, 15-77, 15-80, 15-85,
14 15-91, and 20-15 and by adding Sections 5-18, 10-38, 10-43,
15 15-18, 15-19, and 15-115 as follows:

16 (225 ILCS 41/1-5)

17 (Section scheduled to be repealed on January 1, 2013)

18 Sec. 1-5. Legislative intent. The practice of funeral
19 directing and embalming in the State of Illinois is declared to
20 be a practice affecting the public health, safety and welfare
21 and subject to regulation and control in the public interest.
22 It is further declared to be a matter of public interest and
23 concern that the preparation, care and final disposition

1 ~~disposal~~ of a deceased human body be attended with appropriate
2 observance and understanding, having due regard and respect for
3 the reverent care of the human body and for those bereaved and
4 the overall spiritual dignity of every person ~~man~~. It is
5 further a matter of public interest that the practice of
6 funeral directing and embalming as defined in this Code merit
7 and receive the confidence of the public and that only
8 qualified persons be authorized to practice funeral directing
9 and embalming in the State of Illinois. This Code shall be
10 liberally construed to best carry out these subjects and
11 purposes.

12 (Source: P.A. 87-966.)

13 (225 ILCS 41/1-10)

14 (Section scheduled to be repealed on January 1, 2013)

15 Sec. 1-10. Definitions. As used in this Code:

16 "Address of record" means the designated address recorded
17 by the Department in the applicant's or licensee's application
18 file or license file. It is the duty of the applicant or
19 licensee to inform the Department of any changes of address and
20 those changes must be made either through the Department's
21 website or by contacting the Department.

22 "Applicant" means any person making application for a
23 license ~~or certificate of registration~~. Any applicants
24 ~~applicant~~ or people ~~any person~~ who hold ~~holds~~ themselves
25 ~~himself~~ out as applicants ~~an applicant is~~ considered

1 licensees ~~a licensee~~ for purposes of enforcement,
2 investigation, hearings, and the Illinois Administrative
3 Procedure Act.

4 "Board" means the Funeral Directors and Embalmers
5 Licensing and Disciplinary Board.

6 "Certificate of Death" means a certificate of death as
7 referenced in the Illinois Vital Records Act.

8 "Department" means the Department of Financial and
9 Professional Regulation.

10 "Funeral director and embalmer" means a person who is
11 licensed and qualified to practice funeral directing and to
12 prepare, disinfect and preserve dead human bodies by the
13 injection or external application of antiseptics,
14 disinfectants or preservative fluids and materials and to use
15 derma surgery or plastic art for the restoring of mutilated
16 features. It further means a person who restores the remains of
17 a person for the purpose of funeralization whose organs or bone
18 or tissue has been donated for anatomical purposes.

19 "Funeral director and embalmer intern" means a person
20 licensed by the Department ~~State~~ who is qualified to render
21 assistance to a funeral director and embalmer in carrying out
22 the practice of funeral directing and embalming under the
23 supervision of the funeral director and embalmer.

24 "Embalming" means the process of sanitizing and chemically
25 treating a deceased human body in order to reduce the presence
26 and growth of microorganisms, to retard organic decomposition,

1 to render the remains safe to handle while retaining
2 naturalness of tissue, and to restore an acceptable physical
3 appearance for funeral viewing purposes.

4 "Funeral director" means a person, known by the title of
5 "funeral director" or other similar words or titles, licensed
6 by the Department ~~State~~ who practices funeral directing.

7 "Funeral establishment", "funeral chapel", "funeral home",
8 or "mortuary" means a building or separate portion of a
9 building having a specific street address or location and
10 devoted to activities relating to the shelter, care, custody
11 and preparation of a deceased human body and which may contain
12 facilities for funeral or wake services.

13 "Licensee" means a person licensed under this Code as a
14 funeral director, funeral director and embalmer, or funeral
15 director and embalmer intern. Anyone who holds himself or
16 herself out as a licensee or who is accused of unlicensed
17 practice is considered a licensee for purposes of enforcement,
18 investigation, hearings, and the Illinois Administrative
19 Procedure Act.

20 "Owner" means the individual, partnership, corporation,
21 limited liability company, association, trust, estate, or
22 agent thereof, or other person or combination of persons who
23 owns a funeral establishment or funeral business.

24 "Person" means any individual, partnership, association,
25 firm, corporation, limited liability company, trust or estate,
26 or other entity. "Person" includes both natural persons and

1 legal entities.

2 "Secretary" means the Secretary of Financial and
3 Professional Regulation.

4 (Source: P.A. 96-863, eff. 3-1-10; 96-1463, eff. 1-1-11.)

5 (225 ILCS 41/1-15)

6 (Section scheduled to be repealed on January 1, 2013)

7 Sec. 1-15. Funeral directing; definition. Conducting or
8 engaging in or representing or holding out oneself as
9 conducting or engaged in any one or any combination of the
10 following practices constitutes the practice of funeral
11 directing:

12 (a) The practice of preparing, otherwise than by
13 embalming, for the burial, cremation, or disposition
14 ~~disposal~~ and directing and supervising the burial or
15 disposition ~~disposal~~ of deceased human remains or
16 performing any act or service in connection with the
17 preparing of dead human bodies. Preparation, direction,
18 and supervision shall not be construed to mean those
19 functions normally performed by cemetery and crematory
20 personnel.

21 (b) The practice of operating a place for preparing for
22 the disposition of deceased human bodies or for caring for
23 deceased human bodies before their disposition. Nothing in
24 this Code shall prohibit the ownership and management of
25 such a place by an unlicensed owner if the place is

1 operated in accordance with this Code and the unlicensed
2 owner does not engage in any form of funeral directing.

3 (c) The removal of a deceased human body from its place
4 of death, institution, or other location. A licensed
5 funeral director and embalmer intern may remove a deceased
6 human body from its place of death, institution, or other
7 location without another licensee being present. The
8 licensed funeral director may engage others who are not
9 licensed funeral directors, licensed funeral director and
10 embalmers, or licensed funeral director and embalmer
11 interns to assist in the removal if the funeral director
12 provides general supervision. General supervision involves
13 the licensee directing and instructing the unlicensed
14 person ~~directs and instructs them~~ in handling and
15 precautionary procedures ~~and accompanies them on all~~
16 ~~calls~~. The transportation of deceased human remains to a
17 cemetery, crematory or other place of final disposition
18 shall be under the immediate direct supervision of a
19 licensee unless otherwise permitted by this Section.
20 Immediate, direct supervision involves the licensee being
21 physically present during the transportation of the
22 deceased human remains. The transportation of deceased
23 human remains that are embalmed or otherwise prepared and
24 enclosed in an appropriate container to some other place
25 that is not the place of final disposition, such as another
26 funeral home or common carrier, or to a facility that

1 shares common ownership with the transporting funeral home
2 may be performed under the general supervision of a
3 licensee, but the supervision need not be immediate or
4 direct.

5 (d) The administering and conducting of, or assuming
6 responsibility for administering and conducting of, at
7 need funeral arrangements.

8 (e) The assuming custody of, transportation, providing
9 shelter, protection and care and disposition of deceased
10 human remains and the furnishing of necessary funeral
11 services, facilities and equipment.

12 (f) Using in connection with a name or practice the
13 word "funeral director", "undertaker", "mortician",
14 "funeral home", "funeral parlor", "funeral chapel", or any
15 other title implying that the person is engaged in the
16 practice of funeral directing.

17 Within the existing scope of the practice of funeral
18 directing or funeral directing and embalming, only a licensed
19 funeral director, a licensed funeral director and embalmer, or
20 a licensed funeral director and embalmer intern under the
21 restrictions provided for in this Code, and not any other
22 person employed or contracted by the licensee, may engage in
23 the following activities at-need: (1) have direct contact with
24 consumers and explain funeral or burial merchandise or services
25 or (2) negotiate, develop, or finalize contracts with
26 consumers. This paragraph shall not be construed or enforced in

1 such a manner as to limit the functions of persons regulated
2 under the Illinois Funeral or Burial Funds Act, the Illinois
3 Pre-Need Cemetery Sales Act, the Cemetery Oversight Act, the
4 Cemetery Care Act, the Cemetery Association Act, the Illinois
5 Insurance Code, or any other related professional regulatory
6 Act.

7 The practice of funeral directing shall not include the
8 phoning in of obituary notices, ordering of flowers for the
9 funeral, or reporting of prices on the firm's general price
10 list as required by the Federal Trade Commission Funeral Rule
11 by nonlicensed persons, or like clerical tasks incidental to
12 the act of making funeral arrangements.

13 The making of funeral arrangements, at need, shall be done
14 only by licensed funeral directors or licensed funeral
15 directors and embalmers. Licensed funeral director and
16 embalmer interns may, however, assist or participate in the
17 arrangements under the direct supervision of a licensed funeral
18 director or licensed funeral director and embalmer.

19 (Source: P.A. 96-1463, eff. 1-1-11.)

20 (225 ILCS 41/1-20)

21 (Section scheduled to be repealed on January 1, 2013)

22 Sec. 1-20. Funeral directing and embalming; definition.

23 "The practice of funeral directing and embalming" means:

24 (a) The practice of preparing, otherwise than by
25 embalming, for the burial, cremation, or disposition

1 ~~disposal~~ and directing and supervising the burial or
2 disposition ~~disposal~~ of deceased human remains or
3 performing any act or service in connection with the
4 preparing of dead human bodies. Preparation may include the
5 removal of medical devices. Preparation, direction, and
6 supervision shall not be construed to mean those functions
7 normally performed by cemetery and crematory personnel.

8 (b) The practice of operating a place for preparing for
9 the disposition of deceased human bodies or for caring for
10 deceased human bodies before their disposition. Nothing in
11 this Code shall prohibit the ownership and management of
12 such a place by an unlicensed owner if the place is
13 operated in accordance with this Code and the unlicensed
14 owner does not engage in any form of funeral directing and
15 embalming.

16 (c) The removal of a deceased human body from its place
17 of death, institution or other location. A licensed funeral
18 director and embalmer intern may remove a deceased human
19 body from its place of death, institution, or other
20 location without another licensee being present. The
21 licensed funeral director and embalmer may engage others
22 who are not licensed funeral directors and embalmers,
23 licensed funeral directors, or licensed funeral director
24 and embalmer interns to assist in the removal if the
25 funeral director and embalmer provides general
26 supervision. General supervision involves the licensee

1 directing and instructing the unlicensed person ~~directs~~
2 ~~and instructs them~~ in handling and precautionary
3 procedures ~~and accompanies them on all calls~~. The
4 transportation of deceased human remains to a cemetery,
5 crematory or other place of final disposition shall be
6 under the immediate, direct supervision of a licensee
7 unless otherwise permitted by this Section. Immediate,
8 direct supervision involves the licensee being physically
9 present during the transportation of the deceased human
10 remains. The transportation of deceased human remains that
11 are embalmed or otherwise prepared and enclosed in an
12 appropriate container to some other place that is not the
13 place of final disposition, such as another funeral home or
14 common carrier, or to a facility that shares common
15 ownership with the transporting funeral home may be
16 performed under the general supervision of a licensee, but
17 the supervision need not be immediate or direct.

18 (d) The administering and conducting of, or assuming
19 responsibility for administering and conducting of, at
20 need funeral arrangements.

21 (e) The assuming custody of, transportation, providing
22 shelter, protection and care and disposition of deceased
23 human remains and the furnishing of necessary funeral
24 services, facilities and equipment.

25 (f) Using in connection with a name or practice the
26 word "funeral director and embalmer", "embalmer", "funeral

1 director", "undertaker", "mortician", "funeral home",
2 "funeral parlor", "funeral chapel", or any other title
3 implying that the person is engaged in the practice of
4 funeral directing and embalming.

5 (g) The practice of embalming or representing or
6 holding out oneself as engaged in the practice of embalming
7 of deceased human bodies or the transportation of human
8 bodies deceased of a contagious or infectious disease.

9 Within the existing scope of the practice of funeral
10 directing or funeral directing and embalming, only a licensed
11 funeral director, a licensed funeral director and embalmer, or
12 a licensed funeral director and embalmer intern under the
13 restrictions provided for in this Code, and not any other
14 person employed or contracted by the licensee, may engage in
15 the following activities at-need: (1) have direct contact with
16 consumers and explain funeral or burial merchandise or services
17 or (2) negotiate, develop, or finalize contracts with
18 consumers. This paragraph shall not be construed or enforced in
19 such a manner as to limit the functions of persons regulated
20 under the Illinois Funeral or Burial Funds Act, the Illinois
21 Pre-Need Cemetery Sales Act, the Cemetery Oversight Act, the
22 Cemetery Care Act, the Cemetery Association Act, the Illinois
23 Insurance Code, or any other related professional regulatory
24 Act.

25 The practice of funeral directing and embalming shall not
26 include the phoning in of obituary notices, ordering of flowers

1 for the funeral, or reporting of prices on the firm's general
2 price list as required by the Federal Trade Commission Funeral
3 Rule by nonlicensed persons, or like clerical tasks incidental
4 to the act of making funeral arrangements.

5 The making of funeral arrangements, at need, shall be done
6 only by licensed funeral directors or licensed funeral
7 directors and embalmers. Licensed funeral director and
8 embalmer interns may, however, assist or participate in the
9 arrangements under the direct supervision of a licensed funeral
10 director or licensed funeral director and embalmer.

11 (Source: P.A. 96-1463, eff. 1-1-11.)

12 (225 ILCS 41/1-30)

13 (Section scheduled to be repealed on January 1, 2013)

14 Sec. 1-30. Powers of the Department. Subject to the
15 provisions of this Code, the Department may exercise the
16 following powers:

17 (1) To authorize examinations to ascertain the
18 qualifications and fitness of applicants for licensing as a
19 licensed funeral director and embalmer and pass upon the
20 qualifications of applicants for licensure.

21 (2) To examine the records of a licensed funeral director
22 or licensed funeral director and embalmer from any year or any
23 other aspect of funeral directing and embalming as the
24 Department deems appropriate.

25 (3) To investigate any and all funeral directing and

1 embalming activity.

2 (4) To conduct hearings on proceedings to refuse to issue
3 or renew licenses or to revoke, suspend, place on probation,
4 reprimand, or otherwise discipline a license under this Code or
5 take other non-disciplinary action.

6 (5) To adopt all necessary and reasonable rules and
7 regulations for the effective ~~required for the~~ administration
8 of this Code.

9 (6) To prescribe forms to be issued for the administration
10 and enforcement of this Code.

11 (7) To maintain rosters of the names and addresses of all
12 licensees and all persons whose licenses have been suspended,
13 revoked, denied renewal, or otherwise disciplined within the
14 previous calendar year. These rosters shall be available upon
15 written request and payment of the required fee as established
16 by rule.

17 (8) To contract with third parties for services necessary
18 for the proper administration of this Code including, without
19 limitation, investigators with the proper knowledge, training,
20 and skills to properly inspect funeral homes and investigate
21 complaints under this Code.

22 (Source: P.A. 96-1463, eff. 1-1-11.)

23 (225 ILCS 41/5-5)

24 (Section scheduled to be repealed on January 1, 2013)

25 Sec. 5-5. License requirement. It is unlawful for any

1 person to practice, or to attempt to practice, funeral
2 directing without a license as a funeral director issued by the
3 Department.

4 No person shall practice funeral directing unless they are
5 employed by or contracted with a fixed place of practice or
6 establishment devoted to the care and preparation for burial or
7 for the transportation of deceased human bodies. ~~who does not~~
8 ~~have a fixed place of practice or establishment devoted to the~~
9 ~~care and preparation for burial or for transportation of~~
10 ~~deceased human bodies, or who is not regularly employed in a~~
11 ~~fixed place of practice or establishment.~~

12 No person shall practice funeral directing independently
13 at the fixed place of practice or establishment of another
14 licensee unless that person's name is published and displayed
15 at all times in connection therewith.

16 (Source: P.A. 87-966.)

17 (225 ILCS 41/5-10)

18 (Section scheduled to be repealed on January 1, 2013)

19 Sec. 5-10. Funeral director license; display. Every holder
20 of a license as a funeral director shall display it in a
21 conspicuous place in the licensee's place of practice or in the
22 place of practice in which the licensee is employed or
23 contracted. ~~If, in case~~ the licensee is engaged in funeral
24 directing at more than one place of practice, then in the
25 licensee's principal place of practice or the principal place

1 of practice of the licensee's employer and a copy of the
2 license shall be displayed in a conspicuous place at all other
3 places of practice.

4 (Source: P.A. 96-1463, eff. 1-1-11.)

5 (225 ILCS 41/5-15)

6 (Section scheduled to be repealed on January 1, 2013)

7 Sec. 5-15. Renewal; reinstatement; restoration ~~Expiration~~
8 ~~and renewal; inactive status; continuing education~~. The
9 expiration date and renewal period for each license issued
10 under this Article shall be set by rule. The holder of a
11 license as a licensed funeral director may renew the license
12 during the month preceding the expiration date of the license
13 by paying the required fee. A licensed funeral director whose
14 license has expired may have the license reinstated within 5
15 years from the date of expiration upon payment of the required
16 reinstatement fee. The reinstatement shall be effective as of
17 the date of reissuance of the license.

18 Any licensed funeral director whose license has been
19 expired for more than 5 years may have the license restored
20 only by fulfilling the requirements of the Department's rules
21 and by paying the required restoration fee. However, any
22 licensed funeral director whose license has expired while he or
23 she has been engaged (1) in federal service on active duty with
24 the United States Army, Navy, Marine Corps, Air Force, or Coast
25 Guard, or the State Militia called into the service or training

1 of the United States of America or (2) in training or education
2 under the supervision of the United States preliminary to
3 induction into the military service may have his or her license
4 restored without paying any lapsed renewal fees or restoration
5 fee or without passing any examination if, within 2 years after
6 termination of the service, training or education other than by
7 dishonorable discharge, he or she furnishes the Department with
8 an affidavit to the effect that he or she has been so engaged
9 and that his or her service, training or education has been so
10 terminated.

11 In addition to any other requirement for renewal of a
12 license or reinstatement or restoration of an expired license,
13 as a condition for the renewal, reinstatement, or restoration
14 of a license as a licensed funeral director, each licensee
15 shall provide evidence to the Department of completion of at
16 least 12 hours of continuing education during the 24 months
17 preceding the expiration date of the license, or in the case of
18 reinstatement or restoration, during the 24 months preceding
19 application for reinstatement or restoration. The continuing
20 education sponsors shall be approved by the Board. In addition,
21 any qualified continuing education course for funeral
22 directors offered by a college, university, the Illinois
23 Funeral Directors Association, Funeral Directors Services
24 Association of Greater Chicago, Cook County Association of
25 Funeral Home Owners, Inc., Illinois Selected Morticians
26 Association, Inc., Illinois Cemetery and Funeral Home

1 Association, National Funeral Directors Association, Selected
2 Independent Funeral Homes, National Funeral Directors and
3 Morticians Association, Inc., International Order of the
4 Golden Rule, or an Illinois school of mortuary science shall be
5 accepted toward satisfaction of the continuing education
6 requirements.

7 The Department shall establish by rule a means for
8 verification of completion of the continuing education
9 required by this Section. This verification may be accomplished
10 through audits of records maintained by licensees, by requiring
11 the filing of continued education certificates with the
12 Department or a qualified organization selected by the
13 Department to maintain these records, or by other means
14 established by the Department.

15 Except as otherwise provided in this paragraph, a ~~A~~ person
16 who is licensed as a funeral director under this Code and who
17 has engaged in the practice of funeral directing for at least
18 40 years shall be exempt from the continuing education
19 requirements of this Section. Licensees who have not engaged in
20 the practice of funeral directing for at least 40 years by
21 January 1, 2016 shall not receive this exemption after that
22 date. In addition, the Department shall establish by rule an
23 exemption or exception, for a limited period of time, for
24 funeral directors who, by reason of advanced age, health or
25 other extreme condition should reasonably be excused from the
26 continuing education requirement upon the approval of the

1 Secretary. Those persons, identified above, who cannot attend
2 on-site classes, shall have the opportunity to comply by
3 completing home study courses designed for them by sponsors.

4 ~~Any funeral director who notifies the Department in writing~~
5 ~~on forms prescribed by the Department may elect to place his or~~
6 ~~her license on an inactive status and shall, subject to rules~~
7 ~~of the Department, be excused from payment of renewal fees and~~
8 ~~completion of continuing education requirements until he or she~~
9 ~~notifies the Department in writing of an intent to restore or~~
10 ~~reinstate the license to active status. Any licensee requesting~~
11 ~~restoration or reinstatement from inactive status shall notify~~
12 ~~the Department as provided by rule of the Department and pay~~
13 ~~the fee required by the Department for restoration or~~
14 ~~reinstatement of the license. Any licensee whose license is on~~
15 ~~inactive status shall not practice in the State of Illinois.~~

16 ~~Practice on a license that has lapsed or been placed in~~
17 ~~inactive status is practicing without a license and a violation~~
18 ~~of this Code.~~

19 (Source: P.A. 96-1463, eff. 1-1-11.)

20 (225 ILCS 41/5-18 new)

21 Sec. 5-18. Inactive status.

22 (a) Any funeral director who notifies the Department in
23 writing on forms prescribed by the Department may elect to
24 place his or her license on an inactive status and shall,
25 subject to rules of the Department, be excused from payment of

1 renewal fees and completion of continuing education
2 requirements until he or she notifies the Department in writing
3 of an intent to restore or reinstate the license to active
4 status.

5 (b) Any licensee who has permitted his or her license to
6 expire or who has had his or her license on inactive status may
7 have the license restored by making application to the
8 Department, by filing proof acceptable to the Department of his
9 or her fitness to have the license restored, and by paying the
10 required fees. Proof of fitness may include sworn evidence
11 certifying to active lawful practice in another jurisdiction.
12 If the licensee has not maintained an active practice in
13 another jurisdiction satisfactory to the Department, then the
14 Department shall determine by an evaluation program,
15 established by rule, his or her fitness for restoration of the
16 license and shall establish procedures and requirements for
17 restoration. Any licensee whose license is on inactive status
18 shall not practice in the State.

19 (c) Any licensee whose license is on inactive status or in
20 a non-renewed status shall not engage in the practice of
21 funeral directing in the State or use the title or advertise
22 that he or she performs the services of a licensed funeral
23 director. Any person violating this Section shall be considered
24 to be practicing without a license and shall be subject to the
25 disciplinary provisions of this Code.

1 (225 ILCS 41/5-20)

2 (Section scheduled to be repealed on January 1, 2013)

3 Sec. 5-20. Disposition of unclaimed cremated remains
4 ~~residual ashes~~. The holder of a license is authorized at his or
5 her discretion to effect a final disposition of the unclaimed
6 cremated remains ~~residual ashes~~ of any cremated human body if
7 no person lawfully entitled to the custody of the ashes makes
8 or has made a proper request for them within one year of the
9 date of death of the person whose body was cremated.

10 (Source: P.A. 87-966.)

11 (225 ILCS 41/10-5)

12 (Section scheduled to be repealed on January 1, 2013)

13 Sec. 10-5. License requirement. It is unlawful for any
14 person to practice or attempt to practice funeral directing and
15 embalming without being licensed by the Department.

16 No person shall practice funeral directing and embalming
17 unless they are employed by or contracted with a fixed place of
18 practice or establishment devoted to the care and preparation
19 for burial or for the transportation of deceased human bodies.
20 ~~who does not have a fixed place of practice or establishment in~~
21 ~~Illinois devoted to the care and preparation for burial or for~~
22 ~~transportation of deceased human bodies, or who is not~~
23 ~~regularly employed in a fixed place of practice or~~
24 ~~establishment.~~

25 No person shall practice funeral directing and embalming

1 independently at the fixed place of practice or establishment
2 of another licensee unless his or her name shall be published
3 and displayed at all times in connection therewith.

4 No licensed intern shall independently practice funeral
5 directing and embalming; however, a licensed funeral director
6 and embalmer intern may under the immediate personal
7 supervision of a licensed funeral director and embalmer assist
8 a licensed funeral director and embalmer in the practice of
9 funeral directing and embalming.

10 No person shall practice as a funeral director and embalmer
11 intern unless he or she possesses a valid license in good
12 standing to do so in the State of Illinois.

13 (Source: P.A. 93-268, eff. 1-1-04.)

14 (225 ILCS 41/10-20)

15 (Section scheduled to be repealed on January 1, 2013)

16 Sec. 10-20. Application. Every person who desires to obtain
17 a license under this Code shall apply to the Department in
18 writing on forms prepared and furnished by the Department. The
19 application shall contain proof of the particular
20 qualifications required of the applicant, shall be certified by
21 the applicant, and shall be accompanied by the required fee.
22 Applicants have 3 years after the date of application to
23 complete the application process. If the process has not been
24 completed in 3 years, then the application shall be denied, the
25 fee shall be forfeited, and the applicant must reapply and meet

1 the requirements in effect at the time of reapplication.

2 (Source: P.A. 87-966.)

3 (225 ILCS 41/10-30)

4 (Section scheduled to be repealed on January 1, 2013)

5 Sec. 10-30. Issuance, display of license. Whenever an
6 applicant has met the requirements of this Code, the Department
7 shall issue to the applicant a license as a licensed funeral
8 director and embalmer or licensed funeral director and embalmer
9 intern, as the case may be.

10 Every holder of a license shall display it in a conspicuous
11 place in the licensee's place of practice or in the place of
12 practice in which the licensee is employed or contracted. If ~~in~~
13 ~~case~~ the licensee is engaged in funeral directing and embalming
14 at more than one place of practice, then the license shall be
15 displayed in the licensee's principal place of practice or the
16 principal place of practice of the licensee's employer and a
17 copy of the license shall be displayed in a conspicuous place
18 at all other places of practice.

19 (Source: P.A. 96-1463, eff. 1-1-11.)

20 (225 ILCS 41/10-35)

21 (Section scheduled to be repealed on January 1, 2013)

22 Sec. 10-35. Renewal; reinstatement; restoration~~+~~
23 ~~continuing education~~. The expiration date and renewal period
24 for each license issued under this Article shall be set by

1 rule. The holder of a license as a licensed funeral director
2 and embalmer or funeral director and embalmer intern may renew
3 the license during the month preceding the expiration date of
4 the license by paying the required fee. A licensed funeral
5 director and embalmer or licensed funeral director and embalmer
6 trainee whose license has expired may have the license
7 reinstated within 5 years from the date of expiration upon
8 payment of the required reinstatement fee and fulfilling the
9 requirements of the Department's rules. The reinstatement of
10 the license is effective as of the date of the reissuance of
11 the license.

12 Any licensed funeral director and embalmer whose license
13 has been expired for more than 5 years may have the license
14 restored only by fulfilling the requirements set forth in the
15 Department's rules and by paying the required restoration fee.
16 However, any licensed funeral director and embalmer or licensed
17 funeral director and embalmer intern whose license has expired
18 while he or she has been engaged (1) in federal service on
19 active duty with the United States Army, Navy, Marine Corps,
20 Air Force, or Coast Guard, or the State Militia called into the
21 service or training of the United States of America or (2) in
22 training or education under the supervision of the United
23 States preliminary to induction into the military service, may
24 have his or her license restored without paying any lapsed
25 renewal fees or restoration fee or without passing any
26 examination if, within 2 years after termination of the

1 service, training or education other than by dishonorable
2 discharge, he or she furnishes the Department with an affidavit
3 to the effect that he or she has been so engaged and that his or
4 her service, training or education has been so terminated.

5 No license of a funeral director and embalmer intern shall
6 be renewed more than twice.

7 In addition to any other requirement for renewal of a
8 license or reinstatement or restoration of an expired license,
9 as a condition for the renewal, reinstatement, or restoration
10 of a license as a licensed funeral director and embalmer, each
11 licensee shall provide evidence to the Department of completion
12 of at least 24 hours of continuing education during the 24
13 months preceding the expiration date of the license, or in the
14 case of reinstatement or restoration, within the 24 months
15 preceding the application for reinstatement or restoration.
16 The continuing education sponsors shall be approved by the
17 Board. In addition, any qualified continuing education course
18 for funeral directors and embalmers offered by a college,
19 university, the Illinois Funeral Directors Association,
20 Funeral Directors Services Association of Greater Chicago,
21 Cook County Association of Funeral Home Owners, Inc., Illinois
22 Selected Morticians Associations, Inc., Illinois Cemetery and
23 Funeral Home Association, National Funeral Directors
24 Association, Selected Independent Funeral Homes, National
25 Funeral Directors and Morticians Association, Inc.,
26 International Order of the Golden Rule, or an Illinois school

1 of mortuary science shall be accepted toward satisfaction of
2 the continuing education requirements.

3 The Department shall establish by rule a means for
4 verification of completion of the continuing education
5 required by this Section. This verification may be accomplished
6 through audits of records maintained by licensees, by requiring
7 the filing of continued education certificates with the
8 Department or a qualified organization selected by the
9 Department to maintain the records, or by other means
10 established by the Department.

11 Except as otherwise provided in this paragraph, a person
12 who is licensed as a funeral director and embalmer under this
13 Code and who has engaged in the practice of funeral directing
14 and embalming for at least 40 years shall be exempt from the
15 continuing education requirements of this Section. Licensees
16 who have not engaged in the practice of funeral directing and
17 embalming for at least 40 years by January 1, 2016 shall not
18 receive this exemption after that date. In addition, the
19 Department shall establish by rule an exemption or exception,
20 for a limited period of time, for funeral directors and
21 embalmers who, by reason of advanced age, health or other
22 extreme condition, should reasonably be excused from the
23 continuing education requirement upon the approval of the
24 Secretary. Those persons, identified above, who cannot attend
25 on-site classes, shall have the opportunity to comply by
26 completing home study courses designed for them by sponsors.

1 ~~Any funeral director and embalmer who notifies the~~
2 ~~Department in writing on forms prescribed by the Department,~~
3 ~~may elect to place his or her license on an inactive status and~~
4 ~~shall, subject to rules of the Department, be excused from~~
5 ~~payment of renewal fees and completion of continuing education~~
6 ~~requirements until he or she notifies the Department in writing~~
7 ~~of an intent to restore or reinstate the license to active~~
8 ~~status. While on inactive status, the licensee shall only be~~
9 ~~required to pay a single fee, established by the Department, to~~
10 ~~have the license placed on inactive status. Any licensee~~
11 ~~requesting restoration or reinstatement from inactive status~~
12 ~~shall notify the Department as provided by rule of the~~
13 ~~Department and pay the fee required by the Department for~~
14 ~~restoration or reinstatement of the license. Any licensee whose~~
15 ~~license is on inactive status shall not practice in the State~~
16 ~~of Illinois.~~

17 ~~Practice on a license that has lapsed or been placed in~~
18 ~~inactive status is practicing without a license and a violation~~
19 ~~of this Code.~~

20 (Source: P.A. 96-1463, eff. 1-1-11.)

21 (225 ILCS 41/10-38 new)

22 Sec. 10-38. Inactive status.

23 (a) Any funeral director and embalmer who notifies the
24 Department in writing on forms prescribed by the Department,
25 may elect to place his or her license on an inactive status and

1 shall, subject to rules of the Department, be excused from
2 payment of renewal fees and completion of continuing education
3 requirements until he or she notifies the Department in writing
4 of an intent to restore or reinstate the license to active
5 status.

6 (b) While on inactive status, the licensee shall only be
7 required to pay a single fee, established by the Department, to
8 have the license placed on inactive status. Any licensee who
9 has permitted his or her license to expire or who has had his
10 or her license on inactive status may have the license restored
11 by making application to the Department, by filing proof
12 acceptable to the Department of his or her fitness to have the
13 license restored, and by paying the required fees. Proof of
14 fitness may include sworn evidence certifying to active lawful
15 practice in another jurisdiction. If the licensee has not
16 maintained an active practice in another jurisdiction
17 satisfactory to the Department, then the Department shall
18 determine by an evaluation program, established by rule, his or
19 her fitness for restoration of the license and shall establish
20 procedures and requirements for restoration.

21 (c) Any licensee whose license is on inactive status or in
22 a non-renewed status shall not engage in the practice of
23 funeral directing and embalming in the State or use the title
24 or advertise that he or she performs the services of a licensed
25 funeral director and embalmer. Any person violating this
26 Section shall be considered to be practicing without a license

1 and shall be subject to the disciplinary provisions of this
2 Code.

3 (225 ILCS 41/10-43 new)

4 Sec. 10-43. Endorsement. The Department may issue a
5 funeral director and embalmer license, without the required
6 examination, to an applicant licensed by another state,
7 territory, possession of the United States, or the District of
8 Columbia, if (i) the licensing requirements of that licensing
9 authority are, on the date of licensure, substantially equal to
10 the requirements set forth under this Code and (ii) the
11 applicant provides the Department with evidence of good
12 standing from the licensing authority of that jurisdiction. An
13 applicant under this Section shall pay all of the required
14 fees.

15 (225 ILCS 41/15-5) (from Ch. 111, par. 2825)

16 (Section scheduled to be repealed on January 1, 2013)

17 Sec. 15-5. Funeral Directors and Embalmers Licensing and
18 Disciplinary Board. A Funeral Directors and Embalmers
19 Licensing and Disciplinary Board is created and shall consist
20 of 7 persons, 6 of whom are licensed to practice funeral
21 directing and embalming in this State, and one who is a
22 knowledgeable public member. Each member shall be appointed by
23 the Secretary ~~of the Department~~. The persons so appointed shall
24 hold their offices for 4 years and until qualified successors

1 are appointed. All vacancies occurring shall be filled by the
2 Secretary for the unexpired portion of the term rendered
3 vacant. No member shall be eligible to serve for more than 2
4 full consecutive terms. The Secretary may remove or suspend any
5 member of the Board for cause at any time before the expiration
6 of his or her term. The Secretary shall be the sole arbiter of
7 cause ~~reasons prescribed by law for removal of State officials~~
8 ~~or for misconduct, incompetence, neglect of duty, or failing to~~
9 ~~attend 2 consecutive Board meetings. The cause for removal must~~
10 ~~be set forth in writing.~~ The Board shall annually select a
11 chairman from its membership. The members of the Board shall be
12 reimbursed for all legitimate and necessary expenses incurred
13 in attending meetings of the Board. The Board may meet as often
14 as necessary to perform its duties under this Code, and shall
15 meet at least once a year in Springfield, Illinois.

16 Four members of the Board shall constitute a quorum. A
17 quorum is required for all Board decisions.

18 The Department shall consider the recommendation of the
19 Board in the development of proposed rules under this Code.
20 Notice of any proposed rulemaking under this Code shall be
21 transmitted to the Board and the Department shall review the
22 response of the Board and any recommendations relating to that
23 rulemaking.

24 The Department shall seek the advice and recommendations of
25 the Board in connection with any rulemaking or disciplinary
26 actions relating to funeral director and embalmers and funeral

1 director and embalmer interns, including applications for
2 restoration of revoked licenses. Members of the Board shall be
3 immune from suit in any action based upon any disciplinary
4 proceedings or other activities performed in good faith as
5 members of the Board. ~~The Board shall have 60 days to respond~~
6 ~~to a Department request for advice and recommendations.~~

7 ~~The Department shall adopt all necessary and reasonable~~
8 ~~rules and regulations for the effective administration of this~~
9 ~~Code, and without limiting the foregoing, the Department shall~~
10 ~~adopt rules and regulations:~~

11 ~~(1) prescribing a method of examination of candidates;~~

12 ~~(2) defining what shall constitute a school, college,~~
13 ~~university, department of a university or other~~
14 ~~institution to determine the reputability and good~~
15 ~~standing of these institutions by reference to a compliance~~
16 ~~with the rules and regulations; however, no school,~~
17 ~~college, university, department of a university or other~~
18 ~~institution that refuses admittance to applicants, solely~~
19 ~~on account of race, color, creed, sex or national origin~~
20 ~~shall be considered reputable and in good standing;~~

21 ~~(3) establishing expiration dates and renewal periods~~
22 ~~for all licenses;~~

23 ~~(4) prescribing a method of handling complaints and~~
24 ~~conducting hearings on proceedings to take disciplinary~~
25 ~~action under this Code; and~~

26 ~~(5) providing for licensure by reciprocity.~~

1 (Source: P.A. 96-1463, eff. 1-1-11.)

2 (225 ILCS 41/15-15)

3 (Section scheduled to be repealed on January 1, 2013)

4 Sec. 15-15. Complaints; investigations; hearings; ~~summary~~
5 ~~suspension of license~~. The Department may investigate the
6 actions of any applicant or of any person or persons rendering
7 or offering to render services or any person holding or
8 claiming to hold a license under this Code.

9 The Department shall, before refusing to issue or renew a
10 license or seeking to discipline a licensee under Section 75
11 ~~revoking, suspending, placing on probation, reprimanding, or~~
12 ~~taking any other disciplinary action~~, at least 30 days before
13 the date set for the hearing, (i) notify the accused in writing
14 of the charges made and the time and place for the hearing on
15 the charges, (ii) direct him or her to file a written answer to
16 the charges under oath within 20 days after ~~the service on him~~
17 ~~or her of the notice~~, and (iii) inform the applicant or
18 licensee accused that, failure if he or she fails to answer,
19 shall result in a default being entered ~~will be taken~~ against
20 the applicant or licensee ~~him or her or that his or her license~~
21 ~~may be suspended, revoked, or placed on probationary status, or~~
22 ~~other disciplinary action taken with regard to the license,~~
23 ~~including limiting the scope, nature, or extent of his or her~~
24 ~~practice, as the Department may consider proper.~~

25 At the time and place fixed in the notice, the Board or the

1 hearing officer appointed by the Secretary ~~Department~~ shall
2 proceed to hear the charges and the parties or their counsel
3 shall be accorded ample opportunity to present any pertinent
4 statements, testimony, evidence, and arguments. The Board or
5 hearing officer ~~Department~~ may continue the hearing from time
6 to time. In case the person, after receiving the notice, fails
7 to file an answer, his or her license may, in the discretion of
8 the Secretary, having first received the recommendation of the
9 Board ~~Department~~, be suspended, revoked, or placed on
10 probationary status, or be subject to ~~the Department may take~~
11 whatever disciplinary action the Secretary ~~it~~ considers
12 proper, including limiting the scope, nature, or extent of the
13 person's practice or the imposition of a fine, without a
14 hearing, if the act or acts charged constitute sufficient
15 grounds for that action under this Code. The written notice and
16 any notice in the subsequent proceeding may be served by
17 regular ~~personal delivery~~ or by certified mail to the
18 licensee's address of record ~~specified by the accused in his or~~
19 ~~her last notification with the Department.~~

20 ~~The Department has the power to subpoena and bring before~~
21 ~~it any person to take oral or written testimony and to compel~~
22 ~~the production of any books, papers, records, or other~~
23 ~~documents that the Secretary or his or her designee deems~~
24 ~~relevant or material to any investigation or hearing conducted~~
25 ~~by the Department, with the same fees and in the same manner as~~
26 ~~prescribed in civil cases. The Secretary, the designated~~

1 ~~hearing officer, and every member of the Board has the power to~~
2 ~~administer oaths to witnesses at any hearing that the~~
3 ~~Department is authorized to conduct, and any other oaths~~
4 ~~authorized in any Act or Code administered by the Department.~~

5 ~~If the Department determines that any licensee is guilty of~~
6 ~~a violation of any of the provisions of this Code, disciplinary~~
7 ~~action shall be taken against the licensee. The Department may~~
8 ~~take disciplinary action without a formal hearing subject to~~
9 ~~Section 10-70 of the Illinois Administrative Procedure Act.~~

10 ~~The Secretary may summarily suspend the license of any~~
11 ~~person licensed under this Code without a hearing,~~
12 ~~simultaneously with the institution of proceedings for a~~
13 ~~hearing provided for in this Section, if the Secretary finds~~
14 ~~that evidence in the possession of the Secretary indicates that~~
15 ~~the continuation of practice by the licensee would constitute~~
16 ~~an imminent danger to the public. In the event that the~~
17 ~~Secretary summarily suspends the license of an individual~~
18 ~~without a hearing, a hearing must be held within 30 days after~~
19 ~~the suspension has occurred and concluded as expeditiously as~~
20 ~~practical.~~

21 (Source: P.A. 96-48, eff. 7-17-09; 96-1463, eff. 1-1-11.)

22 (225 ILCS 41/15-16)

23 (Section scheduled to be repealed on January 1, 2013)

24 Sec. 15-16. Appointment of a hearing officer. The Secretary
25 has the authority to appoint any attorney licensed to practice

1 law in the State of Illinois to serve as the hearing officer in
2 any action for refusal to issue, restore, or renew a license or
3 to discipline a licensee. The hearing officer has full
4 authority to conduct the hearing. ~~Any Board member may attend~~
5 ~~hearings.~~

6 (Source: P.A. 96-1463, eff. 1-1-11.)

7 (225 ILCS 41/15-18 new)

8 Sec. 15-18. Temporary suspension. The Secretary may
9 temporarily suspend the license of a licensee without a
10 hearing, simultaneously with the institution of proceedings
11 for a hearing provided in Section 15-15 of this Code, if the
12 Secretary finds that the public interest, safety, or welfare
13 requires such emergency action. In the event that the Secretary
14 temporarily suspends a license without a hearing before the
15 Board or a duly appointed hearing officer, a hearing shall be
16 held within 30 days after the suspension has occurred. The
17 suspended licensee may seek a continuance of the hearing,
18 during which time the suspension shall remain in effect. The
19 proceeding shall be concluded without appreciable delay. If the
20 Department does not hold a hearing within 30 days after the
21 date of the suspension, then the licensee's license shall be
22 automatically reinstated.

23 (225 ILCS 41/15-19 new)

24 Sec. 15-19. Consent to Administrative Supervision order.

1 In appropriate cases, the Department may resolve a complaint
2 against a licensee through the issuance of a Consent to
3 Administrative Supervision order. A licensee subject to a
4 Consent to Administrative Supervision order shall be
5 considered by the Department as an active licensee in good
6 standing. This order shall not be reported or considered by the
7 Department to be a discipline of the licensee. The records
8 regarding an investigation and a Consent to Administrative
9 Supervision order shall be considered confidential and shall
10 not be released by the Department except as mandated by law. A
11 complainant shall be notified if his or her complaint has been
12 resolved by a Consent to Administrative Supervision order.

13 (225 ILCS 41/15-20)

14 (Section scheduled to be repealed on January 1, 2013)

15 Sec. 15-20. Transcript; record of proceedings. The
16 Department, at its expense, shall preserve a record of all
17 proceedings at the formal hearing of any case. The notice of
18 hearing, complaint and all other documents in the nature of
19 pleadings and written motions filed in the proceedings, the
20 transcript of testimony, the report of the Board or hearing
21 officer, and the orders of the Department shall be the record
22 of the proceedings. ~~The Department shall furnish a transcript~~
23 ~~of the record to any person interested in the hearing upon~~
24 ~~payment of the actual cost of making the transcript.~~

25 (Source: P.A. 96-1463, eff. 1-1-11.)

1 (225 ILCS 41/15-21)

2 (Section scheduled to be repealed on January 1, 2013)

3 Sec. 15-21. Findings and recommendations. At the
4 conclusion of the hearing, the Board or hearing officer shall
5 present to the Secretary a written report of its findings of
6 fact, conclusions of law, and recommendations. The report shall
7 contain a finding of whether or not the accused person violated
8 this Code or its rules or failed to comply with the conditions
9 required in this Code or its rules. The Board shall specify the
10 nature of any violations or failure to comply and shall make
11 its recommendations to the Secretary. In making
12 recommendations for any disciplinary action, the Board may take
13 into consideration all facts and circumstances bearing upon the
14 reasonableness of the conduct of the accused and the potential
15 for future harm to the public, including, but not limited to,
16 previous discipline of the accused by the Department, intent,
17 degree of harm to the public and likelihood of harm in the
18 future, any restitution made by the accused, and whether the
19 incident or incidents contained in the complaint appear to be
20 isolated or represent a continuing pattern of conduct. In
21 making its recommendations for discipline, the Board shall
22 endeavor to ensure that the severity of the discipline
23 recommended is reasonably related to the severity of the
24 violation.

25 The report of findings of fact, conclusions of law, and

1 recommendation of the Board or hearing officer shall be the
2 basis for the Secretary's ~~Department's~~ order refusing to issue,
3 restore, or renew a license, or otherwise disciplining a
4 licensee. If the Secretary disagrees with the recommendations
5 of the Board or hearing officer, the Secretary may issue an
6 order in contravention of the Board or hearing officer's
7 recommendations. The finding is not admissible in evidence
8 against the person in a criminal prosecution brought for a
9 violation of this Code, but the hearing and finding are not a
10 bar to a criminal prosecution brought for a violation of this
11 Code.

12 (Source: P.A. 96-1463, eff. 1-1-11.)

13 (225 ILCS 41/15-22)

14 (Section scheduled to be repealed on January 1, 2013)

15 Sec. 15-22. Rehearing. At the conclusion of the hearing, a
16 copy of the Board or hearing officer's report shall be served
17 upon the applicant or licensee by the Department, either
18 personally or as provided in this Code for the service of a
19 notice of hearing. Within 20 calendar days after service, the
20 applicant or licensee may present to the Department a motion in
21 writing for a rehearing, which shall specify the particular
22 grounds for rehearing. The Department may respond to the motion
23 for rehearing within 20 calendar days after its service on the
24 Department. If no motion for rehearing is filed, then upon the
25 expiration of the time specified for filing such a motion, or

1 if a motion for rehearing is denied, then upon denial, the
2 Secretary may enter an order in accordance with the
3 recommendations of the Board or hearing officer. If the
4 applicant or licensee orders from the reporting service and
5 pays for a transcript of the record within the time for filing
6 a motion for rehearing, the 20-day period within which a motion
7 may be filed shall commence upon the delivery of the transcript
8 to the applicant or licensee.

9 If the Secretary believes that substantial justice has not
10 been done in the revocation, suspension, or refusal to issue,
11 restore, or renew a license, or other discipline of an
12 applicant or licensee, he or she may order a rehearing by the
13 same or other hearing officers ~~examiners~~.

14 (Source: P.A. 96-1463, eff. 1-1-11.)

15 (225 ILCS 41/15-25)

16 (Section scheduled to be repealed on January 1, 2013)

17 Sec. 15-25. Subpoenas; oaths; attendance of witnesses
18 ~~Court order; contempt.~~

19 (a) The Department may subpoena and bring before it any
20 person to take the oral or written testimony or compel the
21 production of any books, papers, records, or any other
22 documents that the Secretary or his or her designee deems
23 relevant or material to any investigation or hearing conducted
24 by the Department with the same fees and mileage and in the
25 same manner as prescribed in civil cases in the courts of this

1 State.

2 (b) The Secretary, the hearing officer, any member of the
3 Board, or a certified shorthand court reporter may administer
4 oaths at any hearing that the Department conducts.
5 Notwithstanding any other statute or Department rule to the
6 contrary, all requests for testimony, production of documents,
7 or records shall be in accordance with this Code.

8 (c) Any circuit court, upon application of the applicant,
9 licensee or the Department, may, by order duly entered, require
10 the attendance and testimony of witnesses and the production of
11 relevant documents, files, books, records, and papers in
12 connection with any hearing or investigation. The before the
13 Department in any hearing relating to the refusal, suspension
14 or revocation of a license. Upon refusal or neglect to obey the
15 order of the court, the court may compel compliance with its
16 order by proceedings for contempt of court.

17 (Source: P.A. 87-966.)

18 (225 ILCS 41/15-40)

19 (Section scheduled to be repealed on January 1, 2013)

20 Sec. 15-40. Certification of record; receipt. The
21 Department shall not be required to certify any record to the
22 court, to file an answer in court, or otherwise to appear in
23 any court in a judicial review proceeding unless and until the
24 Department has received from the plaintiff payment of the costs
25 of furnishing and certifying the record, which costs shall be

1 determined by the Department. Exhibits shall be certified
2 without cost. Failure on the part of the Plaintiff to file a
3 receipt in court is ~~shall be~~ grounds for dismissal of the
4 action.

5 (Source: P.A. 96-1463, eff. 1-1-11.)

6 (225 ILCS 41/15-41)

7 (Section scheduled to be repealed on January 1, 2013)

8 Sec. 15-41. Order or certified copy; prima facie proof. An
9 order or certified copy thereof, over the seal of the
10 Department and purporting to be signed by the Secretary, is
11 prima facie proof that:

12 (1) the signature is the genuine signature of the
13 Secretary; and

14 (2) the Secretary is duly appointed and qualified. ~~and~~

15 ~~(3) the hearing officer is qualified to act.~~

16 (Source: P.A. 96-1463, eff. 1-1-11.)

17 (225 ILCS 41/15-45)

18 (Section scheduled to be repealed on January 1, 2013)

19 Sec. 15-45. Practice without license; injunction; cease
20 and desist order; civil penalties.

21 (a) The practice of funeral directing and embalming or
22 funeral directing by any person who has not been issued a
23 license by the Department, whose license has been suspended or
24 revoked, or whose license has not been renewed is hereby

1 declared to be inimical to the public welfare and to constitute
2 a public nuisance. The Secretary may, in the name of the People
3 of the State of Illinois through the Attorney General of the
4 State of Illinois, or the State's Attorney of any county in
5 which the violation is alleged to have occurred in the State of
6 Illinois, apply for an injunction in the circuit court to
7 enjoin any person who has not been issued a license or whose
8 license has been suspended or revoked, or whose license has not
9 been renewed, from practicing funeral directing and embalming
10 or funeral directing. Upon the filing of a verified complaint
11 in court, the court, if satisfied by affidavit or otherwise
12 that the person is or has been practicing funeral directing and
13 embalming or funeral directing without having been issued a
14 license or after his or her license has been suspended,
15 revoked, or not renewed, may issue a temporary restraining
16 order or preliminary injunction, without notice or bond,
17 enjoining the defendant from further practicing funeral
18 directing and embalming or funeral directing. A copy of the
19 verified complaint shall be served upon the defendant and the
20 proceedings shall thereafter be conducted as in other civil
21 cases. If it is established that the defendant has been or is
22 practicing funeral directing and embalming or funeral
23 directing without having been issued a license or has been or
24 is practicing funeral directing and embalming or funeral
25 directing after his or her license has been suspended, revoked,
26 or not renewed, the court may enter a judgment perpetually

1 enjoining the defendant from further practicing funeral
2 directing and embalming or funeral directing. In case of
3 violation of any injunction entered under this Section, the
4 court may summarily try and punish the offender for contempt of
5 court. Any injunction proceeding shall be in addition to, and
6 not in lieu of, all penalties and other remedies in this Code.

7 (b) Whenever, in the opinion of the Department, any person
8 or other entity violates any provision of this Code, the
9 Department may issue a notice to show cause why an order to
10 cease and desist should not be entered against that person or
11 other entity. The rule shall clearly set forth the grounds
12 relied upon by the Department and shall provide a period of 7
13 days from the date of the rule to file an answer to the
14 satisfaction of the Department. Failure to answer to the
15 satisfaction of the Department shall cause an order to cease
16 and desist to be issued immediately.

17 (c) (Blank).

18 (Source: P.A. 96-1463, eff. 1-1-11; 97-333, eff. 8-12-11.)

19 (225 ILCS 41/15-46)

20 (Section scheduled to be repealed on January 1, 2013)

21 Sec. 15-46. Civil penalties; civil action.

22 (a) In addition to any other penalty provided by law, any
23 person, sole proprietorship, professional service corporation,
24 limited liability company, partnership, or other entity that
25 violates Section 1-15 or 1-20 of this Code shall forfeit and

1 pay to the General Professions Dedicated Fund a civil penalty
2 in an amount determined by the Department not to exceed \$10,000
3 for each violation. The penalty shall be assessed in
4 proceedings as provided in Sections 15-10 through 15-41 of this
5 Code.

6 (b) In addition to the other penalties and remedies
7 provided in this Code, the Department may bring a civil action
8 in the county in which the funeral establishment is located
9 against a licensee or any other person to enjoin any violation
10 or threatened violation of this Code.

11 (c) Unless the amount of the penalty is paid within 60 days
12 after the order becomes final, the order shall constitute a
13 judgment ~~judgement~~ and shall be filed and execution issued
14 thereon in the same manner as the judgment ~~judgement~~ of a court
15 of record.

16 (Source: P.A. 96-1463, eff. 1-1-11.)

17 (225 ILCS 41/15-50)

18 (Section scheduled to be repealed on January 1, 2013)

19 Sec. 15-50. Practice by corporation, limited liability
20 company, partnership, or association. No corporation, limited
21 liability company, partnership or association of individuals,
22 as such, shall be issued a license as a licensed funeral
23 director and embalmer or licensed funeral director, nor shall
24 any corporation, limited liability company, partnership, firm
25 or association of individuals, or any individual connected

1 therewith, publicly advertise any corporation, partnership, or
2 association of individuals as being licensed funeral directors
3 and embalmers or licensed funeral directors. Nevertheless,
4 nothing in this Act shall restrict funeral director licensees
5 or funeral director and embalmer licensees from forming
6 professional service corporations under the Professional
7 Service Corporation Act or from having these corporations
8 registered for the practice of funeral directing.

9 No funeral director licensee or funeral director and
10 embalmer licensee, and no partnership or association of those
11 licensees, formed since July 1, 1935, shall engage in the
12 practice of funeral directing and embalming or funeral
13 directing under a trade name or partnership or firm name unless
14 in the use and advertising of the trade name, partnership or
15 firm name there is published in connection with the advertising
16 the name of the owner or owners as the owner or owners.

17 (Source: P.A. 96-863, eff. 3-1-10.)

18 (225 ILCS 41/15-65)

19 (Section scheduled to be repealed on January 1, 2013)

20 Sec. 15-65. Fees. The Department shall provide by rule for
21 a schedule of fees for the administration and enforcement of
22 this Code, including but not limited to, original licensure,
23 renewal, and restoration. The fees shall be nonrefundable.

24 All fees, fines, and penalties collected under this Code
25 shall be deposited into the General Professions Dedicated Fund

1 and shall be appropriated to the Department for the ordinary
2 and contingent expenses of the Department in the administration
3 of this Code.

4 (Source: P.A. 96-1463, eff. 1-1-11.)

5 (225 ILCS 41/15-70)

6 (Section scheduled to be repealed on January 1, 2013)

7 Sec. 15-70. Returned checks; fines. Any person who delivers
8 a check or other payment to the Department that is returned to
9 the Department unpaid by the financial institution upon which
10 it is drawn shall pay to the Department, in addition to the
11 amount already owed to the Department, a fine of \$50. The fines
12 imposed by this Section are in addition to any other discipline
13 provided under this Code for unlicensed practice or practice on
14 a nonrenewed license. The Department shall notify the person
15 that payment of fees and fines shall be paid to the Department
16 by certified check or money order within 30 calendar days of
17 the notification. If, after the expiration of 30 days from the
18 date of the notification, the person has failed to submit the
19 necessary remittance, the Department shall automatically
20 terminate the license ~~or certificate~~ or deny the application,
21 without hearing. If, after termination or denial, the person
22 seeks a license ~~or certificate~~, he or she shall apply to the
23 Department for restoration or issuance of the license ~~or~~
24 ~~certificate~~ and pay all fees and fines due to the Department.
25 The Department may establish a fee for the processing of an

1 application for restoration of a license ~~or certificate~~ to pay
2 all expenses of processing this application. The Secretary may
3 waive the fines due under this Section in individual cases
4 where the Secretary finds that the fines would be unreasonable
5 or unnecessarily burdensome.

6 (Source: P.A. 96-1463, eff. 1-1-11.)

7 (225 ILCS 41/15-75)

8 (Section scheduled to be repealed on January 1, 2013)

9 Sec. 15-75. Violations; grounds for discipline; penalties.

10 (a) Each of the following acts is a Class A misdemeanor for
11 the first offense, and a Class 4 felony for each subsequent
12 offense. These penalties shall also apply to unlicensed owners
13 of funeral homes.

14 (1) Practicing the profession of funeral directing and
15 embalming or funeral directing, or attempting to practice
16 the profession of funeral directing and embalming or
17 funeral directing without a license as a funeral director
18 and embalmer or funeral director.

19 (2) Serving or attempting to serve as an intern under a
20 licensed funeral director and embalmer ~~or attempting to~~
21 ~~serve as an intern under a licensed funeral director and~~
22 ~~embalmer~~ without a license as a licensed funeral director
23 and embalmer intern.

24 (3) Obtaining or attempting to obtain a license,
25 practice or business, or any other thing of value, by fraud

1 or misrepresentation.

2 (4) Permitting any person in one's employ, under one's
3 control or in or under one's service to serve as a funeral
4 director and embalmer, funeral director, or funeral
5 director and embalmer intern when the person does not have
6 the appropriate license.

7 (5) Failing to display a license as required by this
8 Code.

9 (6) Giving false information or making a false oath or
10 affidavit required by this Code.

11 (b) The Department may refuse to issue or renew, ~~a license~~
12 ~~or may~~ revoke, suspend, place on probation or administrative
13 supervision, reprimand, or take other disciplinary or
14 non-disciplinary action as the Department may deem
15 appropriate, including imposing fines not to exceed \$10,000 for
16 each violation, with regard to any license under the Code for
17 any one or combination of the following:

18 (1) Fraud or any misrepresentation in applying for or
19 procuring a license under this Code or in connection with
20 applying for renewal of a license under this Code ~~Obtaining~~
21 ~~or attempting to obtain a license by fraud or~~
22 ~~misrepresentation.~~

23 (2) Conviction by plea of guilty or nolo contendere,
24 finding of guilt, jury verdict, or entry of judgment or by
25 sentencing of any crime, including, but not limited to,
26 convictions, preceding sentences of supervision,

1 conditional discharge, or first offender probation, under
2 the laws of any jurisdiction of the United States: (i) that
3 is a felony or (ii) that is a misdemeanor, an essential
4 element of which is dishonesty, or that is directly related
5 to the practice of the profession ~~Conviction in this State~~
6 ~~or another state of any crime that is a felony or~~
7 ~~misdemeanor under the laws of this State or conviction of a~~
8 ~~felony or misdemeanor in a federal court.~~

9 (3) Violation of the laws of this State relating to the
10 funeral, burial or disposition ~~disposal~~ of deceased human
11 bodies or of the rules and regulations of the Department,
12 or the Department of Public Health.

13 (4) Directly or indirectly paying or causing to be paid
14 any sum of money or other valuable consideration for the
15 securing of business or for obtaining authority to dispose
16 of any deceased human body.

17 (5) Professional incompetence, gross negligence,
18 malpractice, or untrustworthiness in the practice of
19 funeral directing and embalming or funeral directing.

20 (6) (Blank). ~~False or misleading advertising as a~~
21 ~~funeral director and embalmer or funeral director, or~~
22 ~~advertising or using the name of a person other than the~~
23 ~~holder of a license in connection with any service being~~
24 ~~rendered in the practice of funeral directing and embalming~~
25 ~~or funeral directing. Nothing in this paragraph shall~~
26 ~~prevent including the name of any owner, officer or~~

1 ~~corporate director of a funeral business who is not a~~
2 ~~licensee in any advertisement used by a funeral home with~~
3 ~~which the individual is affiliated if the advertisement~~
4 ~~specifies the individual's affiliation with the funeral~~
5 ~~home.~~

6 (7) Engaging in, promoting, selling, or issuing burial
7 contracts, burial certificates, or burial insurance
8 policies in connection with the profession as a funeral
9 director and embalmer, funeral director, or funeral
10 director and embalmer intern in violation of any laws of
11 the State of Illinois.

12 (8) Refusing, without cause, to surrender the custody
13 of a deceased human body upon the proper request of the
14 person or persons lawfully entitled to the custody of the
15 body.

16 (9) Taking undue advantage of a client or clients as to
17 amount to the perpetration of fraud.

18 (10) Engaging in funeral directing and embalming or
19 funeral directing without a license.

20 (11) Encouraging, requesting, or suggesting by a
21 licensee or some person working on his behalf and with his
22 consent for compensation that a person utilize the services
23 of a certain funeral director and embalmer, funeral
24 director, or funeral establishment unless that information
25 has been expressly requested by the person. This does not
26 prohibit general advertising or pre-need solicitation.

1 (12) Making or causing to be made any false or
2 misleading statements about the laws concerning the
3 disposition ~~disposal~~ of human remains, including, but not
4 limited to, the need to embalm, the need for a casket for
5 cremation or the need for an outer burial container.

6 (13) (Blank).

7 (14) Embalming or attempting to embalm a deceased human
8 body without express prior authorization of the person
9 responsible for making the funeral arrangements for the
10 body. This does not apply to cases where embalming is
11 directed by local authorities who have jurisdiction or when
12 embalming is required by State or local law. A licensee may
13 embalm without express prior authorization if a good faith
14 effort has been made to contact family members and has been
15 unsuccessful and the licensee has no reason to believe the
16 family opposes embalming.

17 (15) Making a false statement on a Certificate of Death
18 where the person making the statement knew or should have
19 known that the statement was false.

20 (16) Soliciting human bodies after death or while death
21 is imminent.

22 (17) Performing any act or practice that is a violation
23 of this Code, the rules for the administration of this
24 Code, or any federal, State or local laws, rules, or
25 regulations governing the practice of funeral directing or
26 embalming.

1 (18) Performing any act or practice that is a violation
2 of Section 2 of the Consumer Fraud and Deceptive Business
3 Practices Act.

4 (19) Engaging in dishonorable, unethical, or
5 unprofessional conduct of a character likely to deceive,
6 defraud or harm the public.

7 (20) Taking possession of a dead human body without
8 having first obtained express permission from the person
9 holding the right to control the disposition in accordance
10 with Section 5 of the Disposition of Remains Act ~~next of~~
11 ~~kin~~ or a public agency legally authorized to direct,
12 control or permit the removal of deceased human bodies.

13 (21) Advertising in a false or misleading manner or
14 advertising using the name of an unlicensed person in
15 connection with any service being rendered in the practice
16 of funeral directing or funeral directing and embalming.
17 The use of any name of an unlicensed or unregistered person
18 in an advertisement so as to imply that the person will
19 perform services is considered misleading advertising.
20 Nothing in this paragraph shall prevent including the name
21 of any owner, officer or corporate director of a funeral
22 home, who is not a licensee, in any advertisement used by a
23 funeral home with which the individual is affiliated, if
24 the advertisement specifies the individual's affiliation
25 with the funeral home.

26 (22) Charging for professional services not rendered,

1 including filing false statements for the collection of
2 fees for which services are not rendered ~~Directly or~~
3 ~~indirectly receiving compensation for any professional~~
4 ~~services not actually performed.~~

5 (23) Failing to account for or remit any monies,
6 documents, or personal property that belongs to others that
7 comes into a licensee's possession.

8 (24) Treating any person differently to his detriment
9 because of race, color, creed, gender, religion, or
10 national origin.

11 (25) Knowingly making any false statements, oral or
12 otherwise, of a character likely to influence, persuade or
13 induce others in the course of performing professional
14 services or activities.

15 (26) Willfully ~~Knowingly~~ making or filing false
16 records or reports in the practice of funeral directing and
17 embalming, including, but not limited to, false records
18 filed with State agencies or departments.

19 (27) Failing to acquire continuing education required
20 under this Code.

21 (28) (Blank). ~~Violations of this Code or of the rules~~
22 ~~adopted pursuant to this Code.~~

23 (29) Aiding or assisting another person in violating
24 any provision of this Code or rules adopted pursuant to
25 this Code.

26 (30) Failing within 10 days, to provide information in

1 response to a written request made by the Department.

2 (31) Discipline by another state, District of
3 Columbia, territory, ~~or~~ foreign nation, or governmental
4 agency, if at least one of the grounds for the discipline
5 is the same or substantially equivalent to those set forth
6 in this Section.

7 (32) (Blank). ~~Directly or indirectly giving to or~~
8 ~~receiving from any person, firm, corporation, partnership,~~
9 ~~or association any fee, commission, rebate, or other form~~
10 ~~of compensation for professional services not actually or~~
11 ~~personally rendered.~~

12 (33) Mental illness or disability which results in the
13 inability ~~Inability~~ to practice the profession with
14 reasonable judgment, skill, or safety.

15 (34) Gross, willful, or continued overcharging for
16 professional services, including filing false statements
17 for collection of fees for which services are not rendered.

18 (35) Physical illness, including, but not limited to,
19 deterioration through the aging process or loss of motor
20 skill which results in a licensee's inability to practice
21 under this Code with reasonable judgment, skill, or safety
22 ~~A pattern of practice or other behavior that demonstrates~~
23 ~~incapacity or incompetence to practice under this Code.~~

24 (36) Failing to comply with any of the following
25 required activities:

26 (A) When reasonably possible, a funeral director

1 licensee or funeral director and embalmer licensee or
2 anyone acting on his or her behalf shall obtain the
3 express authorization of the person or persons
4 responsible for making the funeral arrangements for a
5 deceased human body prior to removing a body from the
6 place of death or any place it may be or embalming or
7 attempting to embalm a deceased human body, unless
8 required by State or local law. This requirement is
9 waived whenever removal or embalming is directed by
10 local authorities who have jurisdiction. If the
11 responsibility for the handling of the remains
12 lawfully falls under the jurisdiction of a public
13 agency, then the regulations of the public agency shall
14 prevail.

15 (B) A licensee shall clearly mark the price of any
16 casket offered for sale or the price of any service
17 using the casket on or in the casket if the casket is
18 displayed at the funeral establishment. If the casket
19 is displayed at any other location, regardless of
20 whether the licensee is in control of that location,
21 the casket shall be clearly marked and the registrant
22 shall use books, catalogues, brochures, or other
23 printed display aids to show the price of each casket
24 or service.

25 (C) At the time funeral arrangements are made and
26 prior to rendering the funeral services, a licensee

1 shall furnish a written statement of services to be
2 retained by the person or persons making the funeral
3 arrangements, signed by both parties, that shall
4 contain: (i) the name, address and telephone number of
5 the funeral establishment and the date on which the
6 arrangements were made; (ii) the price of the service
7 selected and the services and merchandise included for
8 that price; (iii) a clear disclosure that the person or
9 persons making the arrangement may decline and receive
10 credit for any service or merchandise not desired and
11 not required by law or the funeral director or the
12 funeral director and embalmer; (iv) the supplemental
13 items of service and merchandise requested and the
14 price of each item; (v) the terms or method of payment
15 agreed upon; and (vi) a statement as to any monetary
16 advances made by the registrant on behalf of the
17 family. The licensee shall maintain a copy of the
18 written statement of services in its permanent
19 records. All written statements of services are
20 subject to inspection by the Department.

21 (D) In all instances where the place of final
22 disposition of a deceased human body or the cremated
23 remains of a deceased human body is a cemetery, the
24 licensed funeral director and embalmer, or licensed
25 funeral director, who has been engaged to provide
26 funeral or embalming services shall remain at the

1 cemetery and personally witness the placement of the
2 human remains in their designated grave or the sealing
3 of the above ground depository, crypt, or urn. The
4 licensed funeral director or licensed funeral director
5 and embalmer may designate a licensed funeral director
6 and embalmer intern or representative of the funeral
7 home to be his or her witness to the placement of the
8 remains. If the cemetery authority, cemetery manager,
9 or any other agent of the cemetery takes any action
10 that prevents compliance with this paragraph (D), then
11 the funeral director and embalmer or funeral director
12 shall provide written notice to the Department within 5
13 business days after failing to comply. If the
14 Department receives this notice, then the Department
15 shall not take any disciplinary action against the
16 funeral director and embalmer or funeral director for a
17 violation of this paragraph (D) unless the Department
18 finds that the cemetery authority, manager, or any
19 other agent of the cemetery did not prevent the funeral
20 director and embalmer or funeral director from
21 complying with this paragraph (D) as claimed in the
22 written notice.

23 (E) A funeral director or funeral director and
24 embalmer shall fully complete the portion of the
25 Certificate of Death under the responsibility of the
26 funeral director or funeral director and embalmer and

1 provide all required information. In the event that any
2 reported information subsequently changes or proves
3 incorrect, a funeral director or funeral director and
4 embalmer shall immediately upon learning the correct
5 information correct the Certificate of Death.

6 (37) A finding by the Department that the license,
7 after having his or her license placed on probationary
8 status or subjected to conditions or restrictions,
9 violated the terms of the probation or failed to comply
10 with such terms or conditions.

11 (38) (Blank). ~~Violation of any final administrative~~
12 ~~action of the Secretary.~~

13 (39) Being named as a perpetrator in an indicated
14 report by the Department of Children and Family Services
15 pursuant to the Abused and Neglected Child Reporting Act
16 and, upon proof by clear and convincing evidence, being
17 found to have caused a child to be an abused child or
18 neglected child as defined in the Abused and Neglected
19 Child Reporting Act.

20 (40) Habitual or excessive use or abuse of drugs
21 defined in law as controlled substances, alcohol, or any
22 other substance which results in the inability to practice
23 with reasonable judgment, skill, or safety.

24 (41) Practicing under a false or, except as provided by
25 law, an assumed name.

26 (42) Cheating on or attempting to subvert the licensing

1 examination administered under this Code.

2 (c) The Department may refuse to issue or renew, or may
3 suspend without a hearing, as provided for in the Department of
4 Professional Regulation Law of the Civil Administrative Code of
5 Illinois, the license of any person who fails to file a return,
6 to pay the tax, penalty or interest shown in a filed return, or
7 to pay any final assessment of tax, penalty or interest as
8 required by any tax Act administered by the Illinois Department
9 of Revenue, until the time as the requirements of the tax Act
10 are satisfied in accordance with subsection (g) of Section
11 2105-15 of the Department of Professional Regulation Law of the
12 Civil Administrative Code of Illinois.

13 (d) No action may be taken under this Code against a person
14 licensed under this Code unless the action is commenced within
15 5 years after the occurrence of the alleged violations. A
16 continuing violation shall be deemed to have occurred on the
17 date when the circumstances last existed that give rise to the
18 alleged violation.

19 (e) Nothing in this Section shall be construed or enforced
20 to give a funeral director and embalmer, or his or her
21 designees, authority over the operation of a cemetery or over
22 cemetery employees. Nothing in this Section shall be construed
23 or enforced to impose duties or penalties on cemeteries with
24 respect to the timing of the placement of human remains in
25 their designated grave or the sealing of the above ground
26 depository, crypt, or urn due to patron safety, the allocation

1 of cemetery staffing, liability insurance, a collective
2 bargaining agreement, or other such reasons.

3 (f) All fines imposed under this Section shall be paid 60
4 days after the effective date of the order imposing the fine.

5 (g) The Department shall deny a license or renewal
6 authorized by this Code to a person who has defaulted on an
7 educational loan or scholarship provided or guaranteed by the
8 Illinois Student Assistance Commission or any governmental
9 agency of this State in accordance with item (5) of subsection
10 (g) of Section 2105-15 of the Department of Professional
11 Regulation Law of the Civil Administrative Code of Illinois.

12 (h) In cases where the Department of Healthcare and Family
13 Services has previously determined a licensee or a potential
14 licensee is more than 30 days delinquent in the payment of
15 child support and has subsequently certified the delinquency to
16 the Department, the Department may refuse to issue or renew or
17 may revoke or suspend that person's license or may take other
18 disciplinary action against that person based solely upon the
19 certification of delinquency made by the Department of
20 Healthcare and Family Services in accordance with item (5) of
21 subsection (g) of Section 1205-15 of the Department of
22 Professional Regulation Law of the Civil Administrative Code of
23 Illinois.

24 (i) A person not licensed under this Code who is an owner
25 of a funeral establishment or funeral business shall not aid,
26 abet, assist, procure, advise, employ, or contract with any

1 unlicensed person to offer funeral services or aid, abet,
2 assist, or direct any licensed person contrary to or in
3 violation of any rules or provisions of this Code. A person
4 violating this subsection shall be treated as a licensee for
5 the purposes of disciplinary action under this Section and
6 shall be subject to cease and desist orders as provided in this
7 Code, the imposition of a fine up to \$10,000 for each violation
8 and any other penalty provided by law.

9 (j) The determination by a circuit court that a licensee is
10 subject to involuntary admission or judicial admission as
11 provided in the Mental Health and Developmental Disabilities
12 Code, as amended, operates as an automatic suspension. The
13 suspension may end only upon a finding by a court that the
14 licensee is no longer subject to the involuntary admission or
15 judicial admission and issues an order so finding and
16 discharging the licensee, and upon the recommendation of the
17 Board to the Secretary that the licensee be allowed to resume
18 his or her practice.

19 (k) In enforcing this Code, the Department, upon a showing
20 of a possible violation, may compel an individual licensed to
21 practice under this Code, or who has applied for licensure
22 under this Code, to submit to a mental or physical examination,
23 or both, as required by and at the expense of the Department.
24 The Department may order the examining physician to present
25 testimony concerning the mental or physical examination of the
26 licensee or applicant. No information shall be excluded by

1 reason of any common law or statutory privilege relating to
2 communications between the licensee or applicant and the
3 examining physician. The examining physicians shall be
4 specifically designated by the Department. The individual to be
5 examined may have, at his or her own expense, another physician
6 of his or her choice present during all aspects of this
7 examination. The examination shall be performed by a physician
8 licensed to practice medicine in all its branches. Failure of
9 an individual to submit to a mental or physical examination,
10 when directed, shall result in an automatic suspension without
11 hearing.

12 A person holding a license under this Code or who has
13 applied for a license under this Code who, because of a
14 physical or mental illness or disability, including, but not
15 limited to, deterioration through the aging process or loss of
16 motor skill, is unable to practice the profession with
17 reasonable judgment, skill, or safety, may be required by the
18 Department to submit to care, counseling, or treatment by
19 physicians approved or designated by the Department as a
20 condition, term, or restriction for continued, reinstated, or
21 renewed licensure to practice. Submission to care, counseling,
22 or treatment as required by the Department shall not be
23 considered discipline of a license. If the licensee refuses to
24 enter into a care, counseling, or treatment agreement or fails
25 to abide by the terms of the agreement, the Department may file
26 a complaint to revoke, suspend, or otherwise discipline the

1 license of the individual. The Secretary may order the license
2 suspended immediately, pending a hearing by the Department.
3 Fines shall not be assessed in disciplinary actions involving
4 physical or mental illness or impairment.

5 In instances in which the Secretary immediately suspends a
6 person's license under this Section, a hearing on that person's
7 license must be convened by the Department within 15 days after
8 the suspension and completed without appreciable delay. The
9 Department shall have the authority to review the subject
10 individual's record of treatment and counseling regarding the
11 impairment to the extent permitted by applicable federal
12 statutes and regulations safeguarding the confidentiality of
13 medical records.

14 An individual licensed under this Code and affected under
15 this Section shall be afforded an opportunity to demonstrate to
16 the Department that he or she can resume practice in compliance
17 with acceptable and prevailing standards under the provisions
18 of his or her license.

19 (Source: P.A. 96-863, eff. 3-1-10; 96-1463, eff. 1-1-11.)

20 (225 ILCS 41/15-76)

21 (Section scheduled to be repealed on January 1, 2013)

22 Sec. 15-76. Vehicle traffic control. A funeral director
23 licensee or funeral director and embalmer licensee planning an
24 a interment, inurnment, or entombment at a cemetery shall use
25 his or her ~~its~~ reasonable best efforts to ensure that funeral

1 processions entering and exiting the cemetery grounds do not
2 obstruct traffic on any street for a period in excess of 10
3 minutes, except where such funeral procession is continuously
4 moving or cannot be moved by reason of circumstances over which
5 the licensee ~~cemetery authority~~ has no reasonable control. The
6 ~~funeral director licensee or funeral director and embalmer~~
7 licensee arranging funeral processions to the cemetery shall
8 use his or her ~~its~~ reasonable best efforts to ~~help~~ prevent
9 multiple funeral processions from arriving at the cemetery
10 simultaneously. Notwithstanding any provision of this Code Act
11 to the contrary, any ~~funeral director licensee or funeral~~
12 ~~director and embalmer~~ licensee who violates the provisions of
13 this Section shall be guilty of a business offense and receive
14 ~~punishable by~~ a fine of not more than \$500 for each offense.

15 (Source: P.A. 96-863, eff. 3-1-10.)

16 (225 ILCS 41/15-77)

17 (Section scheduled to be repealed on January 1, 2013)

18 Sec. 15-77. Method of payment, receipt. No licensee shall
19 require payment for any goods or services by cash only.
20 Licensees ~~Each licensee subject to this Section~~ shall permit
21 payment by at least one other option, including, but not
22 limited to, personal check, cashier's check, money order, or
23 credit or debit card. In addition to the statement of services,
24 the licensee shall provide a receipt to the consumer upon
25 payment in part or in full, ~~whatever the case may be.~~

1 (Source: P.A. 96-1463, eff. 1-1-11.)

2 (225 ILCS 41/15-80)

3 (Section scheduled to be repealed on January 1, 2013)

4 Sec. 15-80. Statement of place of practice; roster. Each
5 applicant for a funeral director and embalmer's license shall
6 with his or her application submit a statement of the place of
7 practice, ownership, names and license numbers of all funeral
8 directors and embalmers and funeral directors associated with
9 the applicant.

10 The Department shall maintain a roster of names and
11 addresses of all persons who hold valid licenses and all
12 persons whose licenses have been suspended or revoked within
13 the previous year. This roster shall be available upon request
14 and payment of the required fee. ~~The Department shall keep a~~
15 ~~record, which shall be open to public inspection at all~~
16 ~~reasonable times, of its proceedings relating to the issuance,~~
17 ~~refusal, renewal, suspension and revocation of licenses. This~~
18 ~~record shall also contain the name, known place of practice and~~
19 ~~residence, and the date and number of the license of every~~
20 ~~licensed funeral director and embalmer, licensed funeral~~
21 ~~director, and licensed funeral director and embalmer intern in~~
22 ~~this State.~~

23 ~~The Department shall publish an annual list of the names~~
24 ~~and addresses of all licensees registered by it under the~~
25 ~~provisions of this Code, and of all persons whose licenses have~~

1 ~~been suspended or revoked within the past year, together with~~
2 ~~other information relative to the enforcement of the provisions~~
3 ~~of this Code as it may deem of interest to the public. One list~~
4 ~~shall be mailed to each local registrar of vital statistics~~
5 ~~upon request by the registrar. Lists shall also be mailed by~~
6 ~~the Department to any person in the State upon request.~~

7 (Source: P.A. 93-268, eff. 1-1-04.)

8 (225 ILCS 41/15-85)

9 (Section scheduled to be repealed on January 1, 2013)

10 Sec. 15-85. Duties of public institution; regulation by
11 local government. No provision of this Code shall apply to, or
12 in any way interfere with, the duties of any officer of any
13 public institution; nor with the duties of any officer of a
14 medical college, county medical society, anatomical
15 association, college of embalming, or any other recognized
16 person carrying out the laws of the State of Illinois
17 prescribing the conditions under which indigent dead human
18 bodies are held subject for scientific or anatomical study; nor
19 with the customs or rites of any religious sect in the funeral
20 and burial of their dead.

21 (Source: P.A. 96-1463, eff. 1-1-11.)

22 (225 ILCS 41/15-91)

23 (Section scheduled to be repealed on January 1, 2013)

24 Sec. 15-91. Denial of license. If the Department determines

1 that an application for licensure should be denied pursuant to
2 Section 15-75, then the applicant shall be sent a notice of
3 intent to deny license ~~or exemption from licensure~~ and the
4 applicant shall be given the opportunity to request, within 20
5 days of the notice, a hearing on the denial. If the applicant
6 requests a hearing, then the Secretary shall schedule a hearing
7 within 30 days after the request for a hearing, unless
8 otherwise agreed to by the parties. The Secretary shall have
9 the authority to appoint an attorney duly licensed to practice
10 law in the State of Illinois to serve as the hearing officer.
11 The hearing officer shall have full authority to conduct the
12 hearing. The hearing shall be held at the time and place
13 designated by the Secretary. The Secretary shall have the
14 authority to prescribe rules for the administration of this
15 Section.

16 (Source: P.A. 96-1463, eff. 1-1-11.)

17 (225 ILCS 41/15-115 new)

18 Sec. 15-115. Confidentiality. All information collected
19 by the Department in the course of an examination or
20 investigation of a licensee or applicant, including, but not
21 limited to, any complaint against a licensee filed with the
22 Department and information collected to investigate any such
23 complaint, shall be maintained for the confidential use of the
24 Department and shall not be disclosed. The Department shall not
25 disclose the information to anyone other than law enforcement

1 officials, regulatory agencies that have an appropriate
2 regulatory interest as determined by the Secretary, or a party
3 presenting a lawful subpoena to the Department. Information and
4 documents disclosed to a federal, State, county, or local law
5 enforcement agency shall not be disclosed by the agency for any
6 purpose to any other agency or person. A formal complaint filed
7 against a licensee by the Department or any order issued by the
8 Department against a licensee or applicant shall be a public
9 record, except as otherwise prohibited by law.

10 (225 ILCS 41/20-15)

11 (Section scheduled to be repealed on January 1, 2013)

12 Sec. 20-15. Home rule. The regulation and licensing
13 provided for in this Code are exclusive powers and functions of
14 the State. A home rule unit may not regulate or license funeral
15 directors, funeral director and embalmers, ~~customer service~~
16 ~~employees,~~ or any activities relating to the services of
17 funeral directing and embalming. This Section is a denial and
18 limitation of home rule powers and functions under subsection
19 (h) of Section 6 of Article VII of the Illinois Constitution.

20 (Source: P.A. 96-1463, eff. 1-1-11.)

21 (225 ILCS 41/10-40 rep.)

22 (225 ILCS 41/15-71 rep.)

23 (225 ILCS 41/15-110 rep.)

24 Section 10. The Funeral Directors and Embalmers Licensing

1 Code is amended by repealing Sections 10-40, 15-71, and 15-110.

2 Section 15. The Cemetery Oversight Act is amended by
3 changing Section 25-75 as follows:

4 (225 ILCS 411/25-75)

5 (Section scheduled to be repealed on January 1, 2021)

6 Sec. 25-75. Cemetery Relief Fund.

7 (a) A special income-earning fund is hereby created in the
8 State treasury, known as the Cemetery Relief Fund.

9 (b) Beginning on July 1, 2011, and occurring on an annual
10 basis every year thereafter, three percent of the moneys in the
11 Cemetery Oversight Licensing and Disciplinary Fund shall be
12 transferred ~~deposited~~ into the Cemetery Relief Fund.

13 (c) All monies transferred ~~deposited~~ into the fund together
14 with all accumulated undistributed income thereon shall be held
15 as a special fund in the State treasury. The fund shall be used
16 solely for the purpose of providing grants to units of local
17 government and not-for-profit organizations, including, but
18 not limited to, not-for-profit cemetery authorities, to clean
19 up cemeteries that have been abandoned, neglected, or are
20 otherwise in need of additional care.

21 (d) The grant program shall be administered by the
22 Department.

23 (e) In the event there is a structural surplus in the
24 Cemetery Oversight Licensing and Disciplinary Fund, the

1 Department may expend moneys out of the Cemetery Oversight
2 Licensing and Disciplinary Fund for the purposes described in
3 subsection (c) of this Section.

4 (Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law."