



Rep. Robert Rita

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LRB097 02674 CEL 69337 a

1 AMENDMENT TO SENATE BILL 38

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 38 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 Acts and Sections repealed on January 1, 2013.  
8 The following Acts and Sections of Acts are repealed on January  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 Act repealed on January 1, 2023.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7 Act is repealed on January 1, 2023: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17 (Section scheduled to be repealed on January 1, 2013)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 directs and instructs them in handling and precautionary  
13 procedures and accompanies them on all calls. The  
14 transportation of deceased human remains to a cemetery,  
15 crematory or other place of final disposition shall be  
16 under the immediate direct supervision of a licensee unless  
17 otherwise permitted by this Section. The transportation of  
18 deceased human remains that are embalmed or otherwise  
19 prepared and enclosed in an appropriate container to some  
20 other place that is not the place of final disposition,  
21 such as another funeral home or common carrier, or to a  
22 facility that shares common ownership with the  
23 transporting funeral home may be performed under the  
24 general supervision of a licensee, but the supervision need  
25 not be immediate or direct.

26 (d) The administering and conducting of, or assuming

1 responsibility for administering and conducting of, at  
2 need funeral arrangements.

3 (e) The assuming custody of, transportation, providing  
4 shelter, protection and care and disposition of deceased  
5 human remains and the furnishing of necessary funeral  
6 services, facilities and equipment.

7 (f) Using in connection with a name or practice the  
8 word "funeral director", "undertaker", "mortician",  
9 "funeral home", "funeral parlor", "funeral chapel", or any  
10 other title implying that the person is engaged in the  
11 practice of funeral directing.

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



1 Act.

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

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

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

15 (225 ILCS 41/1-20)

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

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

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

19 (a) The practice of preparing, otherwise than by  
20 embalming, for the burial, cremation, or disposition  
21 ~~disposal~~ and directing and supervising the burial or  
22 disposition ~~disposal~~ of deceased human remains or  
23 performing any act or service in connection with the  
24 preparing of dead human bodies. Preparation, direction,  
25 and supervision shall not be construed to mean those

1 functions normally performed by cemetery and crematory  
2 personnel.

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

11 (c) The removal of a deceased human body from its place  
12 of death, institution or other location. A licensed funeral  
13 director and embalmer intern may remove a deceased human  
14 body from its place of death, institution, or other  
15 location without another licensee being present. The  
16 licensed funeral director and embalmer may engage others  
17 who are not licensed funeral directors and embalmers,  
18 licensed funeral directors, or licensed funeral director  
19 and embalmer interns to assist in the removal if the  
20 funeral director and embalmer directs and instructs them in  
21 handling and precautionary procedures and accompanies them  
22 on all calls. The transportation of deceased human remains  
23 to a cemetery, crematory or other place of final  
24 disposition shall be under the immediate, direct  
25 supervision of a licensee unless otherwise permitted by  
26 this Section. The transportation of deceased human remains

1 that are embalmed or otherwise prepared and enclosed in an  
2 appropriate container to some other place that is not the  
3 place of final disposition, such as another funeral home or  
4 common carrier, or to a facility that shares common  
5 ownership with the transporting funeral home may be  
6 performed under the general supervision of a licensee, but  
7 the supervision need not be immediate or direct.

8 (d) The administering and conducting of, or assuming  
9 responsibility for administering and conducting of, at  
10 need funeral arrangements.

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

15 (f) Using in connection with a name or practice the  
16 word "funeral director and embalmer", "embalmer", "funeral  
17 director", "undertaker", "mortician", "funeral home",  
18 "funeral parlor", "funeral chapel", or any other title  
19 implying that the person is engaged in the practice of  
20 funeral directing and embalming.

21 (g) The practice of embalming or representing or  
22 holding out oneself as engaged in the practice of embalming  
23 of deceased human bodies or the transportation of human  
24 bodies deceased of a contagious or infectious disease.

25 Within the existing scope of the practice of funeral  
26 directing or funeral directing and embalming, only a licensed

1 funeral director, a licensed funeral director and embalmer, or  
2 a licensed funeral director and embalmer intern under the  
3 restrictions provided for in this Code, and not any other  
4 person employed or contracted by the licensee, may engage in  
5 the following activities at-need: (1) have direct contact with  
6 consumers and explain funeral or burial merchandise or services  
7 or (2) negotiate, develop, or finalize contracts with  
8 consumers. This paragraph shall not be construed or enforced in  
9 such a manner as to limit the functions of persons regulated  
10 under the Illinois Funeral or Burial Funds Act, the Illinois  
11 Pre-Need Cemetery Sales Act, the Cemetery Oversight Act, the  
12 Cemetery Care Act, the Cemetery Association Act, the Illinois  
13 Insurance Code, or any other related professional regulatory  
14 Act.

15 The practice of funeral directing and embalming shall not  
16 include the phoning in of obituary notices, ordering of flowers  
17 for the funeral, or reporting of prices on the firm's general  
18 price list as required by the Federal Trade Commission Funeral  
19 Rule by nonlicensed persons, or like clerical tasks incidental  
20 to the act of making funeral arrangements.

21 The making of funeral arrangements, at need, shall be done  
22 only by licensed funeral directors or licensed funeral  
23 directors and embalmers. Licensed funeral director and  
24 embalmer interns may, however, assist or participate in the  
25 arrangements under the direct supervision of a licensed funeral  
26 director or licensed funeral director and embalmer.

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

2 (225 ILCS 41/1-30)

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

4 Sec. 1-30. Powers of the Department. Subject to the  
5 provisions of this Code, the Department may exercise the  
6 following powers:

7 (1) To authorize examinations to ascertain the  
8 qualifications and fitness of applicants for licensing as a  
9 licensed funeral director and embalmer and pass upon the  
10 qualifications of applicants for licensure.

11 (2) To examine the records of a licensed funeral director  
12 or licensed funeral director and embalmer from any year or any  
13 other aspect of funeral directing and embalming as the  
14 Department deems appropriate.

15 (3) To investigate any and all funeral directing and  
16 embalming activity.

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

21 (5) To adopt all necessary and reasonable rules and  
22 regulations for the effective ~~required for the~~ administration  
23 of this Code.

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

1           (7) To maintain rosters of the names and addresses of all  
2 licensees and all persons whose licenses have been suspended,  
3 revoked, denied renewal, or otherwise disciplined within the  
4 previous calendar year. These rosters shall be available upon  
5 written request and payment of the required fee as established  
6 by rule.

7           (8) To contract with third parties for services necessary  
8 for the proper administration of this Code including, without  
9 limitation, investigators with the proper knowledge, training,  
10 and skills to properly inspect funeral homes and investigate  
11 complaints under this Code.

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

13           (225 ILCS 41/5-5)

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

15           Sec. 5-5. License requirement. It is unlawful for any  
16 person to practice, or to attempt to practice, funeral  
17 directing without a license as a funeral director issued by the  
18 Department.

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

1 ~~fixed place of practice or establishment.~~

2 No person shall practice funeral directing independently  
3 at the fixed place of practice or establishment of another  
4 licensee unless that person's name is published and displayed  
5 at all times in connection therewith.

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

7 (225 ILCS 41/5-10)

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

9 Sec. 5-10. Funeral director license; display. Every holder  
10 of a license as a funeral director shall display it in a  
11 conspicuous place in the licensee's place of practice or in the  
12 place of practice in which the licensee is employed or  
13 contracted. ~~If, in case~~ the licensee is engaged in funeral  
14 directing at more than one place of practice, then in the  
15 licensee's principal place of practice or the principal place  
16 of practice of the licensee's employer and a copy of the  
17 license shall be displayed in a conspicuous place at all other  
18 places of practice.

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

20 (225 ILCS 41/5-15)

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

22 Sec. 5-15. Renewal; reinstatement; restoration ~~Expiration~~  
23 ~~and renewal; inactive status; continuing education.~~ The  
24 expiration date and renewal period for each license issued

1 under this Article shall be set by rule. The holder of a  
2 license as a licensed funeral director may renew the license  
3 during the month preceding the expiration date of the license  
4 by paying the required fee. A licensed funeral director whose  
5 license has expired may have the license reinstated within 5  
6 years from the date of expiration upon payment of the required  
7 reinstatement fee. The reinstatement shall be effective as of  
8 the date of reissuance of the license.

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



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

23           The Department shall establish by rule a means for  
24 verification of completion of the continuing education  
25 required by this Section. This verification may be accomplished  
26 through audits of records maintained by licensees, by requiring

1 the filing of continued education certificates with the  
2 Department or a qualified organization selected by the  
3 Department to maintain these records, or by other means  
4 established by the Department.

5 Except as otherwise provided in this paragraph, a person  
6 who is licensed as a funeral director under this Code and who  
7 has engaged in the practice of funeral directing for at least  
8 40 years shall be exempt from the continuing education  
9 requirements of this Section. Licensees who have not engaged in  
10 the practice of funeral directing for at least 40 years by  
11 January 1, 2016 shall not receive this exemption after that  
12 date. In addition, the Department shall establish by rule an  
13 exemption or exception, for a limited period of time, for  
14 funeral directors who, by reason of advanced age, health or  
15 other extreme condition should reasonably be excused from the  
16 continuing education requirement upon the approval of the  
17 Secretary. Those persons, identified above, who cannot attend  
18 on-site classes, shall have the opportunity to comply by  
19 completing home study courses designed for them by sponsors.

20 ~~Any funeral director who notifies the Department in writing~~  
21 ~~on forms prescribed by the Department may elect to place his or~~  
22 ~~her license on an inactive status and shall, subject to rules~~  
23 ~~of the Department, be excused from payment of renewal fees and~~  
24 ~~completion of continuing education requirements until he or she~~  
25 ~~notifies the Department in writing of an intent to restore or~~  
26 ~~reinstate the license to active status. Any licensee requesting~~

1 ~~restoration or reinstatement from inactive status shall notify~~  
2 ~~the Department as provided by rule of the Department and pay~~  
3 ~~the fee required by the Department for restoration or~~  
4 ~~reinstatement of the license. Any licensee whose license is on~~  
5 ~~inactive status shall not practice in the State of Illinois.~~

6 ~~Practice on a license that has lapsed or been placed in~~  
7 ~~inactive status is practicing without a license and a violation~~  
8 ~~of this Code.~~

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

10 (225 ILCS 41/5-18 new)

11 Sec. 5-18. Inactive status.

12 (a) Any funeral director who notifies the Department in  
13 writing on forms prescribed by the Department may elect to  
14 place his or her license on an inactive status and shall,  
15 subject to rules of the Department, be excused from payment of  
16 renewal fees and completion of continuing education  
17 requirements until he or she notifies the Department in writing  
18 of an intent to restore or reinstate the license to active  
19 status.

20 (b) Any licensee who has permitted his or her license to  
21 expire or who has had his or her license on inactive status may  
22 have the license restored by making application to the  
23 Department, by filing proof acceptable to the Department of his  
24 or her fitness to have the license restored, and by paying the  
25 required fees. Proof of fitness may include sworn evidence

1 certifying to active lawful practice in another jurisdiction.  
2 If the licensee has not maintained an active practice in  
3 another jurisdiction satisfactory to the Department, then the  
4 Department shall determine by an evaluation program,  
5 established by rule, his or her fitness for restoration of the  
6 license and shall establish procedures and requirements for  
7 restoration. Any licensee whose license is on inactive status  
8 shall not practice in the State.

9 (c) Any licensee whose license is on inactive status or in  
10 a non-renewed status shall not engage in the practice of  
11 funeral directing in the State or use the title or advertise  
12 that he or she performs the services of a licensed funeral  
13 director. Any person violating this Section shall be considered  
14 to be practicing without a license and shall be subject to the  
15 disciplinary provisions of this Code.

16 (225 ILCS 41/5-20)

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

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

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

1 (225 ILCS 41/10-5)

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

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

6 No person shall practice funeral directing and embalming  
7 unless they are employed by or contracted with a fixed place of  
8 practice or establishment devoted to the care and preparation  
9 for burial or for the transportation of deceased human bodies.

10 ~~who does not have a fixed place of practice or establishment in~~  
11 ~~Illinois devoted to the care and preparation for burial or for~~  
12 ~~transportation of deceased human bodies, or who is not~~  
13 ~~regularly employed in a fixed place of practice or~~  
14 ~~establishment.~~

15 No person shall practice funeral directing and embalming  
16 independently at the fixed place of practice or establishment  
17 of another licensee unless his or her name shall be published  
18 and displayed at all times in connection therewith.

19 No licensed intern shall independently practice funeral  
20 directing and embalming; however, a licensed funeral director  
21 and embalmer intern may under the immediate personal  
22 supervision of a licensed funeral director and embalmer assist  
23 a licensed funeral director and embalmer in the practice of  
24 funeral directing and embalming.

25 No person shall practice as a funeral director and embalmer

1 intern unless he or she possesses a valid license in good  
2 standing to do so in the State of Illinois.

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

4 (225 ILCS 41/10-20)

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

6 Sec. 10-20. Application. Every person who desires to obtain  
7 a license under this Code shall apply to the Department in  
8 writing on forms prepared and furnished by the Department. The  
9 application shall contain proof of the particular  
10 qualifications required of the applicant, shall be certified by  
11 the applicant, and shall be accompanied by the required fee.  
12 Applicants have 3 years after the date of application to  
13 complete the application process. If the process has not been  
14 completed in 3 years, then the application shall be denied, the  
15 fee shall be forfeited, and the applicant must reapply and meet  
16 the requirements in effect at the time of reapplication.

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

18 (225 ILCS 41/10-30)

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

20 Sec. 10-30. Issuance, display of license. Whenever an  
21 applicant has met the requirements of this Code, the Department  
22 shall issue to the applicant a license as a licensed funeral  
23 director and embalmer or licensed funeral director and embalmer  
24 intern, as the case may be.

1           Every holder of a license shall display it in a conspicuous  
2 place in the licensee's place of practice or in the place of  
3 practice in which the licensee is employed or contracted. ~~If In~~  
4 ~~case~~ the licensee is engaged in funeral directing and embalming  
5 at more than one place of practice, then the license shall be  
6 displayed in the licensee's principal place of practice or the  
7 principal place of practice of the licensee's employer and a  
8 copy of the license shall be displayed in a conspicuous place  
9 at all other places of practice.

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

11           (225 ILCS 41/10-35)

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

13           Sec. 10-35. Renewal; reinstatement; restoration; ~~+~~  
14 ~~continuing education~~. The expiration date and renewal period  
15 for each license issued under this Article shall be set by  
16 rule. The holder of a license as a licensed funeral director  
17 and embalmer or funeral director and embalmer intern may renew  
18 the license during the month preceding the expiration date of  
19 the license by paying the required fee. A licensed funeral  
20 director and embalmer or licensed funeral director and embalmer  
21 trainee whose license has expired may have the license  
22 reinstated within 5 years from the date of expiration upon  
23 payment of the required reinstatement fee and fulfilling the  
24 requirements of the Department's rules. The reinstatement of  
25 the license is effective as of the date of the reissuance of

1 the license.

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

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

23 In addition to any other requirement for renewal of a  
24 license or reinstatement or restoration of an expired license,  
25 as a condition for the renewal, reinstatement, or restoration  
26 of a license as a licensed funeral director and embalmer, each



1 licensee shall provide evidence to the Department of completion  
2 of at least 24 hours of continuing education during the 24  
3 months preceding the expiration date of the license, or in the  
4 case of reinstatement or restoration, within the 24 months  
5 preceding the application for reinstatement or restoration.  
6 The continuing education sponsors shall be approved by the  
7 Board. In addition, any qualified continuing education course  
8 for funeral directors and embalmers offered by a college,  
9 university, the Illinois Funeral Directors Association,  
10 Funeral Directors Services Association of Greater Chicago,  
11 Cook County Association of Funeral Home Owners, Inc., Illinois  
12 Selected Morticians Associations, Inc., Illinois Cemetery and  
13 Funeral Home Association, National Funeral Directors  
14 Association, Selected Independent Funeral Homes, National  
15 Funeral Directors and Morticians Association, Inc.,  
16 International Order of the Golden Rule, or an Illinois school  
17 of mortuary science shall be accepted toward satisfaction of  
18 the continuing education requirements.

19 The Department shall establish by rule a means for  
20 verification of completion of the continuing education  
21 required by this Section. This verification may be accomplished  
22 through audits of records maintained by licensees, by requiring  
23 the filing of continued education certificates with the  
24 Department or a qualified organization selected by the  
25 Department to maintain the records, or by other means  
26 established by the Department.

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

17        ~~Any funeral director and embalmer who notifies the~~  
18 ~~Department in writing on forms prescribed by the Department,~~  
19 ~~may elect to place his or her license on an inactive status and~~  
20 ~~shall, subject to rules of the Department, be excused from~~  
21 ~~payment of renewal fees and completion of continuing education~~  
22 ~~requirements until he or she notifies the Department in writing~~  
23 ~~of an intent to restore or reinstate the license to active~~  
24 ~~status. While on inactive status, the licensee shall only be~~  
25 ~~required to pay a single fee, established by the Department, to~~  
26 ~~have the license placed on inactive status. Any licensee~~

1 ~~requesting restoration or reinstatement from inactive status~~  
2 ~~shall notify the Department as provided by rule of the~~  
3 ~~Department and pay the fee required by the Department for~~  
4 ~~restoration or reinstatement of the license. Any licensee whose~~  
5 ~~license is on inactive status shall not practice in the State~~  
6 ~~of Illinois.~~

7 ~~Practice on a license that has lapsed or been placed in~~  
8 ~~inactive status is practicing without a license and a violation~~  
9 ~~of this Code.~~

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

11 (225 ILCS 41/10-38 new)

12 Sec. 10-38. Inactive status.

13 (a) Any funeral director and embalmer who notifies the  
14 Department in writing on forms prescribed by the Department,  
15 may elect to place his or her license on an inactive status and  
16 shall, subject to rules of the Department, be excused from  
17 payment of renewal fees and completion of continuing education  
18 requirements until he or she notifies the Department in writing  
19 of an intent to restore or reinstate the license to active  
20 status.

21 (b) While on inactive status, the licensee shall only be  
22 required to pay a single fee, established by the Department, to  
23 have the license placed on inactive status. Any licensee who  
24 has permitted his or her license to expire or who has had his  
25 or her license on inactive status may have the license restored

1 by making application to the Department, by filing proof  
2 acceptable to the Department of his or her fitness to have the  
3 license restored, and by paying the required fees. Proof of  
4 fitness may include sworn evidence certifying to active lawful  
5 practice in another jurisdiction. If the licensee has not  
6 maintained an active practice in another jurisdiction  
7 satisfactory to the Department, then the Department shall  
8 determine by an evaluation program, established by rule, his or  
9 her fitness for restoration of the license and shall establish  
10 procedures and requirements for restoration.

11 (c) Any licensee whose license is on inactive status or in  
12 a non-renewed status shall not engage in the practice of  
13 funeral directing and embalming in the State or use the title  
14 or advertise that he or she performs the services of a licensed  
15 funeral director and embalmer. Any person violating this  
16 Section shall be considered to be practicing without a license  
17 and shall be subject to the disciplinary provisions of this  
18 Code.

19 (225 ILCS 41/10-43 new)

20 Sec. 10-43. Endorsement. The Department may issue a  
21 funeral director and embalmer license, without the required  
22 examination, to an applicant licensed by another state,  
23 territory, possession of the United States, or the District of  
24 Columbia, if (i) the licensing requirements of that licensing  
25 authority are, on the date of licensure, substantially equal to

1 the requirements set forth under this Code and (ii) the  
2 applicant provides the Department with evidence of good  
3 standing from the licensing authority of that jurisdiction. An  
4 applicant under this Section shall pay all of the required  
5 fees.

6 (225 ILCS 41/15-5) (from Ch. 111, par. 2825)

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

8 Sec. 15-5. Funeral Directors and Embalmers Licensing and  
9 Disciplinary Board. A Funeral Directors and Embalmers  
10 Licensing and Disciplinary Board is created and shall consist  
11 of 7 persons, 6 of whom are licensed to practice funeral  
12 directing and embalming in this State, and one who is a  
13 knowledgeable public member. Each member shall be appointed by  
14 the Secretary ~~of the Department~~. The persons so appointed shall  
15 hold their offices for 4 years and until qualified successors  
16 are appointed. All vacancies occurring shall be filled by the  
17 Secretary for the unexpired portion of the term rendered  
18 vacant. No member shall be eligible to serve for more than 2  
19 full consecutive terms. The Secretary may remove or suspend any  
20 member of the Board for cause at any time before the expiration  
21 of his or her term. The Secretary shall be the sole arbiter of  
22 cause ~~reasons prescribed by law for removal of State officials~~  
23 ~~or for misconduct, incompetence, neglect of duty, or failing to~~  
24 ~~attend 2 consecutive Board meetings. The cause for removal must~~  
25 ~~be set forth in writing.~~ The Board shall annually select a

1 chairman from its membership. The members of the Board shall be  
2 reimbursed for all legitimate and necessary expenses incurred  
3 in attending meetings of the Board. The Board may meet as often  
4 as necessary to perform its duties under this Code, and shall  
5 meet at least once a year in Springfield, Illinois.

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

8 The Department shall consider the recommendation of the  
9 Board in the development of proposed rules under this Code.  
10 Notice of any proposed rulemaking under this Code shall be  
11 transmitted to the Board and the Department shall review the  
12 response of the Board and any recommendations relating to that  
13 rulemaking.

14 The Department shall seek the advice and recommendations of  
15 the Board in connection with any rulemaking or disciplinary  
16 actions relating to funeral director and embalmers and funeral  
17 director and embalmer interns, including applications for  
18 restoration of revoked licenses. Members of the Board shall be  
19 immune from suit in any action based upon any disciplinary  
20 proceedings or other activities performed in good faith as  
21 members of the Board. ~~The Board shall have 60 days to respond~~  
22 ~~to a Department request for advice and recommendations.~~

23 ~~The Department shall adopt all necessary and reasonable~~  
24 ~~rules and regulations for the effective administration of this~~  
25 ~~Code, and without limiting the foregoing, the Department shall~~  
26 ~~adopt rules and regulations.~~

- 1           ~~(1) prescribing a method of examination of candidates;~~  
2           ~~(2) defining what shall constitute a school, college,~~  
3           ~~university, department of a university or other~~  
4           ~~institution to determine the reputability and good~~  
5           ~~standing of these institutions by reference to a compliance~~  
6           ~~with the rules and regulations; however, no school,~~  
7           ~~college, university, department of a university or other~~  
8           ~~institution that refuses admittance to applicants, solely~~  
9           ~~on account of race, color, creed, sex or national origin~~  
10           ~~shall be considered reputable and in good standing;~~  
11           ~~(3) establishing expiration dates and renewal periods~~  
12           ~~for all licenses;~~  
13           ~~(4) prescribing a method of handling complaints and~~  
14           ~~conducting hearings on proceedings to take disciplinary~~  
15           ~~action under this Code; and~~  
16           ~~(5) providing for licensure by reciprocity.~~

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

18           (225 ILCS 41/15-15)

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

20           Sec. 15-15. Complaints; investigations; hearings; ~~summary~~  
21           ~~suspension of license~~. The Department may investigate the  
22           actions of any applicant or of any person or persons rendering  
23           or offering to render services or any person holding or  
24           claiming to hold a license under this Code.

25           The Department shall, before refusing to issue or renew a

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

16 At the time and place fixed in the notice, the Board or the  
17 hearing officer appointed by the Secretary ~~Department~~ shall  
18 proceed to hear the charges and the parties or their counsel  
19 shall be accorded ample opportunity to present any pertinent  
20 statements, testimony, evidence, and arguments. The Board or  
21 hearing officer ~~Department~~ may continue the hearing from time  
22 to time. In case the person, after receiving the notice, fails  
23 to file an answer, his or her license may, in the discretion of  
24 the Secretary, having first received the recommendation of the  
25 Board ~~Department,~~ be suspended, revoked, or placed on  
26 probationary status, or be subject to ~~the Department may take~~



1 whatever disciplinary action the Secretary ~~it~~ considers  
2 proper, including limiting the scope, nature, or extent of the  
3 person's practice or the imposition of a fine, without a  
4 hearing, if the act or acts charged constitute sufficient  
5 grounds for that action under this Code. The written notice and  
6 any notice in the subsequent proceeding may be served by  
7 regular ~~personal delivery~~ or by certified mail to the  
8 licensee's address of record ~~specified by the accused in his or~~  
9 ~~her last notification with the Department.~~

10 ~~The Department has the power to subpoena and bring before~~  
11 ~~it any person to take oral or written testimony and to compel~~  
12 ~~the production of any books, papers, records, or other~~  
13 ~~documents that the Secretary or his or her designee deems~~  
14 ~~relevant or material to any investigation or hearing conducted~~  
15 ~~by the Department, with the same fees and in the same manner as~~  
16 ~~prescribed in civil cases. The Secretary, the designated~~  
17 ~~hearing officer, and every member of the Board has the power to~~  
18 ~~administer oaths to witnesses at any hearing that the~~  
19 ~~Department is authorized to conduct, and any other oaths~~  
20 ~~authorized in any Act or Code administered by the Department.~~

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

26 ~~The Secretary may summarily suspend the license of any~~

1 ~~person licensed under this Code without a hearing,~~  
2 ~~simultaneously with the institution of proceedings for a~~  
3 ~~hearing provided for in this Section, if the Secretary finds~~  
4 ~~that evidence in the possession of the Secretary indicates that~~  
5 ~~the continuation of practice by the licensee would constitute~~  
6 ~~an imminent danger to the public. In the event that the~~  
7 ~~Secretary summarily suspends the license of an individual~~  
8 ~~without a hearing, a hearing must be held within 30 days after~~  
9 ~~the suspension has occurred and concluded as expeditiously as~~  
10 ~~practical.~~

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

12 (225 ILCS 41/15-16)

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

14 Sec. 15-16. Appointment of a hearing officer. The Secretary  
15 has the authority to appoint any attorney licensed to practice  
16 law in the State of Illinois to serve as the hearing officer in  
17 any action for refusal to issue, restore, or renew a license or  
18 to discipline a licensee. The hearing officer has full  
19 authority to conduct the hearing. ~~Any Board member may attend~~  
20 ~~hearings.~~

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

22 (225 ILCS 41/15-18 new)

23 Sec. 15-18. Temporary suspension. The Secretary may  
24 temporarily suspend the license of a licensee without a

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

14 (225 ILCS 41/15-19 new)

15 Sec. 15-19. Consent to Administrative Supervision order.  
16 In appropriate cases, the Department may resolve a complaint  
17 against a licensee through the issuance of a Consent to  
18 Administrative Supervision order. A licensee subject to a  
19 Consent to Administrative Supervision order shall be  
20 considered by the Department as an active licensee in good  
21 standing. This order shall not be reported or considered by the  
22 Department to be a discipline of the licensee. The records  
23 regarding an investigation and a Consent to Administrative  
24 Supervision order shall be considered confidential and shall  
25 not be released by the Department except as mandated by law. A

1 complainant shall be notified if his or her complaint has been  
2 resolved by a Consent to Administrative Supervision order.

3 (225 ILCS 41/15-20)

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

5 Sec. 15-20. Transcript; record of proceedings. The  
6 Department, at its expense, shall preserve a record of all  
7 proceedings at the formal hearing of any case. The notice of  
8 hearing, complaint and all other documents in the nature of  
9 pleadings and written motions filed in the proceedings, the  
10 transcript of testimony, the report of the Board or hearing  
11 officer, and the orders of the Department shall be the record  
12 of the proceedings. ~~The Department shall furnish a transcript~~  
13 ~~of the record to any person interested in the hearing upon~~  
14 ~~payment of the actual cost of making the transcript.~~

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

16 (225 ILCS 41/15-21)

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

18 Sec. 15-21. Findings and recommendations. At the  
19 conclusion of the hearing, the Board or hearing officer shall  
20 present to the Secretary a written report of its findings of  
21 fact, conclusions of law, and recommendations. The report shall  
22 contain a finding of whether or not the accused person violated  
23 this Code or its rules or failed to comply with the conditions  
24 required in this Code or its rules. The Board shall specify the

1 nature of any violations or failure to comply and shall make  
2 its recommendations to the Secretary. In making  
3 recommendations for any disciplinary action, the Board may take  
4 into consideration all facts and circumstances bearing upon the  
5 reasonableness of the conduct of the accused and the potential  
6 for future harm to the public, including, but not limited to,  
7 previous discipline of the accused by the Department, intent,  
8 degree of harm to the public and likelihood of harm in the  
9 future, any restitution made by the accused, and whether the  
10 incident or incidents contained in the complaint appear to be  
11 isolated or represent a continuing pattern of conduct. In  
12 making its recommendations for discipline, the Board shall  
13 endeavor to ensure that the severity of the discipline  
14 recommended is reasonably related to the severity of the  
15 violation.

16 The report of findings of fact, conclusions of law, and  
17 recommendation of the Board or hearing officer shall be the  
18 basis for the Secretary's ~~Department's~~ order refusing to issue,  
19 restore, or renew a license, or otherwise disciplining a  
20 licensee. If the Secretary disagrees with the recommendations  
21 of the Board or hearing officer, the Secretary may issue an  
22 order in contravention of the Board or hearing officer's  
23 recommendations. The finding is not admissible in evidence  
24 against the person in a criminal prosecution brought for a  
25 violation of this Code, but the hearing and finding are not a  
26 bar to a criminal prosecution brought for a violation of this

1 Code.

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

3 (225 ILCS 41/15-22)

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

5 Sec. 15-22. Rehearing. At the conclusion of the hearing, a  
6 copy of the Board or hearing officer's report shall be served  
7 upon the applicant or licensee by the Department, either  
8 personally or as provided in this Code for the service of a  
9 notice of hearing. Within 20 calendar days after service, the  
10 applicant or licensee may present to the Department a motion in  
11 writing for a rehearing, which shall specify the particular  
12 grounds for rehearing. The Department may respond to the motion  
13 for rehearing within 20 calendar days after its service on the  
14 Department. If no motion for rehearing is filed, then upon the  
15 expiration of the time specified for filing such a motion, or  
16 if a motion for rehearing is denied, then upon denial, the  
17 Secretary may enter an order in accordance with the  
18 recommendations of the Board or hearing officer. If the  
19 applicant or licensee orders from the reporting service and  
20 pays for a transcript of the record within the time for filing  
21 a motion for rehearing, the 20-day period within which a motion  
22 may be filed shall commence upon the delivery of the transcript  
23 to the applicant or licensee.

24 If the Secretary believes that substantial justice has not  
25 been done in the revocation, suspension, or refusal to issue,

1 restore, or renew a license, or other discipline of an  
2 applicant or licensee, he or she may order a rehearing by the  
3 same or other hearing officers ~~examiners~~.

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

5 (225 ILCS 41/15-25)

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

7 Sec. 15-25. Subpoenas; oaths; attendance of witnesses  
8 ~~Court order; contempt.~~

9 (a) The Department may subpoena and bring before it any  
10 person to take the oral or written testimony or compel the  
11 production of any books, papers, records, or any other  
12 documents that the Secretary or his or her designee deems  
13 relevant or material to any investigation or hearing conducted  
14 by the Department with the same fees and mileage and in the  
15 same manner as prescribed in civil cases in the courts of this  
16 State.

17 (b) The Secretary, the hearing officer, any member of the  
18 Board, or a certified shorthand court reporter may administer  
19 oaths at any hearing that the Department conducts.  
20 Notwithstanding any other statute or Department rule to the  
21 contrary, all requests for testimony, production of documents,  
22 or records shall be in accordance with this Code.

23 (c) Any circuit court, upon application of the applicant,  
24 licensee or the Department, may, by order ~~duly entered, require~~  
25 the attendance and testimony of witnesses and the production of

1 relevant documents, files, books, records, and papers in  
2 connection with any hearing or investigation. ~~The before the~~  
3 ~~Department in any hearing relating to the refusal, suspension~~  
4 ~~or revocation of a license. Upon refusal or neglect to obey the~~  
5 ~~order of the court, the~~ court may compel compliance with its  
6 order by proceedings for contempt of court.

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

8 (225 ILCS 41/15-40)

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

10 Sec. 15-40. Certification of record; receipt. The  
11 Department shall not be required to certify any record to the  
12 court, to file an answer in court, or otherwise to appear in  
13 any court in a judicial review proceeding unless and until the  
14 Department has received from the plaintiff payment of the costs  
15 of furnishing and certifying the record, which costs shall be  
16 determined by the Department. Exhibits shall be certified  
17 without cost. Failure on the part of the Plaintiff to file a  
18 receipt in court is ~~shall be~~ grounds for dismissal of the  
19 action.

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

21 (225 ILCS 41/15-41)

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

23 Sec. 15-41. Order or certified copy; prima facie proof. An  
24 order or certified copy thereof, over the seal of the



1 Department and purporting to be signed by the Secretary, is  
2 prima facie proof that:

3 (1) the signature is the genuine signature of the  
4 Secretary; and

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

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

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

8 (225 ILCS 41/15-45)

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

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

12 (a) The practice of funeral directing and embalming or  
13 funeral directing by any person who has not been issued a  
14 license by the Department, whose license has been suspended or  
15 revoked, or whose license has not been renewed is hereby  
16 declared to be inimical to the public welfare and to constitute  
17 a public nuisance. The Secretary may, in the name of the People  
18 of the State of Illinois through the Attorney General of the  
19 State of Illinois, or the State's Attorney of any county in  
20 which the violation is alleged to have occurred in the State of  
21 Illinois, apply for an injunction in the circuit court to  
22 enjoin any person who has not been issued a license or whose  
23 license has been suspended or revoked, or whose license has not  
24 been renewed, from practicing funeral directing and embalming  
25 or funeral directing. Upon the filing of a verified complaint

1 in court, the court, if satisfied by affidavit or otherwise  
2 that the person is or has been practicing funeral directing and  
3 embalming or funeral directing without having been issued a  
4 license or after his or her license has been suspended,  
5 revoked, or not renewed, may issue a temporary restraining  
6 order or preliminary injunction, without notice or bond,  
7 enjoining the defendant from further practicing funeral  
8 directing and embalming or funeral directing. A copy of the  
9 verified complaint shall be served upon the defendant and the  
10 proceedings shall thereafter be conducted as in other civil  
11 cases. If it is established that the defendant has been or is  
12 practicing funeral directing and embalming or funeral  
13 directing without having been issued a license or has been or  
14 is practicing funeral directing and embalming or funeral  
15 directing after his or her license has been suspended, revoked,  
16 or not renewed, the court may enter a judgment perpetually  
17 enjoining the defendant from further practicing funeral  
18 directing and embalming or funeral directing. In case of  
19 violation of any injunction entered under this Section, the  
20 court may summarily try and punish the offender for contempt of  
21 court. Any injunction proceeding shall be in addition to, and  
22 not in lieu of, all penalties and other remedies in this Code.

23 (b) Whenever, in the opinion of the Department, any person  
24 or other entity violates any provision of this Code, the  
25 Department may issue a notice to show cause why an order to  
26 cease and desist should not be entered against that person or

1 other entity. The rule shall clearly set forth the grounds  
2 relied upon by the Department and shall provide a period of 7  
3 days from the date of the rule to file an answer to the  
4 satisfaction of the Department. Failure to answer to the  
5 satisfaction of the Department shall cause an order to cease  
6 and desist to be issued immediately.

7 (c) (Blank).

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

9 (225 ILCS 41/15-46)

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

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

12 (a) In addition to any other penalty provided by law, any  
13 person, sole proprietorship, professional service corporation,  
14 limited liability company, partnership, or other entity that  
15 violates Section 1-15 or 1-20 of this Code shall forfeit and  
16 pay to the General Professions Dedicated Fund a civil penalty  
17 in an amount determined by the Department not to exceed \$10,000  
18 for each violation. The penalty shall be assessed in  
19 proceedings as provided in Sections 15-10 through 15-41 of this  
20 Code.

21 (b) In addition to the other penalties and remedies  
22 provided in this Code, the Department may bring a civil action  
23 in the county in which the funeral establishment is located  
24 against a licensee or any other person to enjoin any violation  
25 or threatened violation of this Code.

1 (c) Unless the amount of the penalty is paid within 60 days  
2 after the order becomes final, the order shall constitute a  
3 judgment ~~judgement~~ and shall be filed and execution issued  
4 thereon in the same manner as the judgment ~~judgement~~ of a court  
5 of record.

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

7 (225 ILCS 41/15-50)

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

9 Sec. 15-50. Practice by corporation, limited liability  
10 company, partnership, or association. No corporation, limited  
11 liability company, partnership or association of individuals,  
12 as such, shall be issued a license as a licensed funeral  
13 director and embalmer or licensed funeral director, nor shall  
14 any corporation, limited liability company, partnership, firm  
15 or association of individuals, or any individual connected  
16 therewith, publicly advertise any corporation, partnership, or  
17 association of individuals as being licensed funeral directors  
18 and embalmers or licensed funeral directors. Nevertheless,  
19 nothing in this Act shall restrict funeral director licensees  
20 or funeral director and embalmer licensees from forming  
21 professional service corporations under the Professional  
22 Service Corporation Act or from having these corporations  
23 registered for the practice of funeral directing.

24 No funeral director licensee or funeral director and  
25 embalmer licensee, and no partnership or association of those

1 licensees, formed since July 1, 1935, shall engage in the  
2 practice of funeral directing and embalming or funeral  
3 directing under a trade name or partnership or firm name unless  
4 in the use and advertising of the trade name, partnership or  
5 firm name there is published in connection with the advertising  
6 the name of the owner or owners as the owner or owners.

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

8 (225 ILCS 41/15-65)

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

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

14 All fees, finances, and penalties collected under this Code  
15 shall be deposited into the General Professions Dedicated Fund  
16 and shall be appropriated to the Department for the ordinary  
17 and contingent expenses of the Department in the administration  
18 of this Code.

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

20 (225 ILCS 41/15-70)

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

22 Sec. 15-70. Returned checks; fines. Any person who delivers  
23 a check or other payment to the Department that is returned to  
24 the Department unpaid by the financial institution upon which

1 it is drawn shall pay to the Department, in addition to the  
2 amount already owed to the Department, a fine of \$50. The fines  
3 imposed by this Section are in addition to any other discipline  
4 provided under this Code for unlicensed practice or practice on  
5 a nonrenewed license. The Department shall notify the person  
6 that payment of fees and fines shall be paid to the Department  
7 by certified check or money order within 30 calendar days of  
8 the notification. If, after the expiration of 30 days from the  
9 date of the notification, the person has failed to submit the  
10 necessary remittance, the Department shall automatically  
11 terminate the license ~~or certificate~~ or deny the application,  
12 without hearing. If, after termination or denial, the person  
13 seeks a license ~~or certificate~~, he or she shall apply to the  
14 Department for restoration or issuance of the license ~~or~~  
15 ~~certificate~~ and pay all fees and fines due to the Department.  
16 The Department may establish a fee for the processing of an  
17 application for restoration of a license ~~or certificate~~ to pay  
18 all expenses of processing this application. The Secretary may  
19 waive the fines due under this Section in individual cases  
20 where the Secretary finds that the fines would be unreasonable  
21 or unnecessarily burdensome.

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

23 (225 ILCS 41/15-75)

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

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

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

5 (1) Practicing the profession of funeral directing and  
6 embalming or funeral directing, or attempting to practice  
7 the profession of funeral directing and embalming or  
8 funeral directing without a license as a funeral director  
9 and embalmer or funeral director.

10 (2) Serving or attempting to serve as an intern under a  
11 licensed funeral director and embalmer ~~or attempting to~~  
12 ~~serve as an intern under a licensed funeral director and~~  
13 ~~embalmer~~ without a license as a licensed funeral director  
14 and embalmer intern.

15 (3) Obtaining or attempting to obtain a license,  
16 practice or business, or any other thing of value, by fraud  
17 or misrepresentation.

18 (4) Permitting any person in one's employ, under one's  
19 control or in or under one's service to serve as a funeral  
20 director and embalmer, funeral director, or funeral  
21 director and embalmer intern when the person does not have  
22 the appropriate license.

23 (5) Failing to display a license as required by this  
24 Code.

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

1 (b) The Department may refuse to issue or renew, ~~a license~~  
2 ~~or may~~ revoke, suspend, place on probation or administrative  
3 supervision, reprimand, or take other disciplinary or  
4 non-disciplinary action as the Department may deem  
5 appropriate, including imposing fines not to exceed \$10,000 for  
6 each violation, with regard to any license under the Code for  
7 any one or combination of the following:

8 (1) Fraud or any misrepresentation in applying for or  
9 procuring a license under this Code or in connection with  
10 applying for renewal of a license under this Code ~~Obtaining~~  
11 ~~or attempting to obtain a license by fraud or~~  
12 ~~misrepresentation.~~

13 (2) Conviction by plea of guilty or nolo contendere,  
14 finding of guilt, jury verdict, or entry of judgment or by  
15 sentencing of any crime, including, but not limited to,  
16 convictions, preceding sentences of supervision,  
17 conditional discharge, or first offender probation, under  
18 the laws of any jurisdiction of the United States: (i) that  
19 is a felony or (ii) that is a misdemeanor, an essential  
20 element of which is dishonesty, or that is directly related  
21 to the practice of the profession ~~Conviction in this State~~  
22 ~~or another state of any crime that is a felony or~~  
23 ~~misdemeanor under the laws of this State or conviction of a~~  
24 ~~felony or misdemeanor in a federal court.~~

25 (3) Violation of the laws of this State relating to the  
26 funeral, burial or disposition ~~disposal~~ of deceased human



1 bodies or of the rules and regulations of the Department,  
2 or the Department of Public Health.

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

7 (5) Professional incompetence, gross negligence,  
8 malpractice, or untrustworthiness in the practice of  
9 funeral directing and embalming or funeral directing.

10 (6) (Blank). ~~False or misleading advertising as a~~  
11 ~~funeral director and embalmer or funeral director, or~~  
12 ~~advertising or using the name of a person other than the~~  
13 ~~holder of a license in connection with any service being~~  
14 ~~rendered in the practice of funeral directing and embalming~~  
15 ~~or funeral directing. Nothing in this paragraph shall~~  
16 ~~prevent including the name of any owner, officer or~~  
17 ~~corporate director of a funeral business who is not a~~  
18 ~~licensee in any advertisement used by a funeral home with~~  
19 ~~which the individual is affiliated if the advertisement~~  
20 ~~specifies the individual's affiliation with the funeral~~  
21 ~~home.~~

22 (7) Engaging in, promoting, selling, or issuing burial  
23 contracts, burial certificates, or burial insurance  
24 policies in connection with the profession as a funeral  
25 director and embalmer, funeral director, or funeral  
26 director and embalmer intern in violation of any laws of

1 the State of Illinois.

2 (8) Refusing, without cause, to surrender the custody  
3 of a deceased human body upon the proper request of the  
4 person or persons lawfully entitled to the custody of the  
5 body.

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

8 (10) Engaging in funeral directing and embalming or  
9 funeral directing without a license.

10 (11) Encouraging, requesting, or suggesting by a  
11 licensee or some person working on his behalf and with his  
12 consent for compensation that a person utilize the services  
13 of a certain funeral director and embalmer, funeral  
14 director, or funeral establishment unless that information  
15 has been expressly requested by the person. This does not  
16 prohibit general advertising or pre-need solicitation.

17 (12) Making or causing to be made any false or  
18 misleading statements about the laws concerning the  
19 disposition ~~disposal~~ of human remains, including, but not  
20 limited to, the need to embalm, the need for a casket for  
21 cremation or the need for an outer burial container.

22 (13) (Blank).

23 (14) Embalming or attempting to embalm a deceased human  
24 body without express prior authorization of the person  
25 responsible for making the funeral arrangements for the  
26 body. This does not apply to cases where embalming is

1 directed by local authorities who have jurisdiction or when  
2 embalming is required by State or local law. A licensee may  
3 embalm without express prior authorization if a good faith  
4 effort has been made to contact family members and has been  
5 unsuccessful and the licensee has no reason to believe the  
6 family opposes embalming.

7 (15) Making a false statement on a Certificate of Death  
8 where the person making the statement knew or should have  
9 known that the statement was false.

10 (16) Soliciting human bodies after death or while death  
11 is imminent.

12 (17) Performing any act or practice that is a violation  
13 of this Code, the rules for the administration of this  
14 Code, or any federal, State or local laws, rules, or  
15 regulations governing the practice of funeral directing or  
16 embalming.

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

20 (19) Engaging in dishonorable, unethical, or  
21 unprofessional conduct of a character likely to deceive,  
22 defraud or harm the public.

23 (20) Taking possession of a dead human body without  
24 having first obtained express permission from the person  
25 holding the right to control the disposition in accordance  
26 with Section 5 of the Disposition of Remains Act ~~next of~~

1       ~~kin~~ or a public agency legally authorized to direct,  
2       control or permit the removal of deceased human bodies.

3           (21) Advertising in a false or misleading manner or  
4       advertising using the name of an unlicensed person in  
5       connection with any service being rendered in the practice  
6       of funeral directing or funeral directing and embalming.  
7       The use of any name of an unlicensed or unregistered person  
8       in an advertisement so as to imply that the person will  
9       perform services is considered misleading advertising.  
10       Nothing in this paragraph shall prevent including the name  
11       of any owner, officer or corporate director of a funeral  
12       home, who is not a licensee, in any advertisement used by a  
13       funeral home with which the individual is affiliated, if  
14       the advertisement specifies the individual's affiliation  
15       with the funeral home.

16           (22) Charging for professional services not rendered,  
17       including filing false statements for the collection of  
18       fees for which services are not rendered ~~Directly or~~  
19       ~~indirectly receiving compensation for any professional~~  
20       ~~services not actually performed.~~

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

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

1 (25) Knowingly making any false statements, oral or  
2 otherwise, of a character likely to influence, persuade or  
3 induce others in the course of performing professional  
4 services or activities.

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

9 (27) Failing to acquire continuing education required  
10 under this Code.

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

13 (29) Aiding or assisting another person in violating  
14 any provision of this Code or rules adopted pursuant to  
15 this Code.

16 (30) Failing within 10 days, to provide information in  
17 response to a written request made by the Department.

18 (31) Discipline by another state, District of  
19 Columbia, territory, ~~or~~ foreign nation, or governmental  
20 agency, if at least one of the grounds for the discipline  
21 is the same or substantially equivalent to those set forth  
22 in this Section.

23 (32) (Blank). ~~Directly or indirectly giving to or~~  
24 ~~receiving from any person, firm, corporation, partnership,~~  
25 ~~or association any fee, commission, rebate, or other form~~  
26 ~~of compensation for professional services not actually or~~

1 ~~personally rendered.~~

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

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

8 (35) Physical illness, including, but not limited to,  
9 deterioration through the aging process or loss of motor  
10 skill which results in a licensee's inability to practice  
11 under this Code with reasonable judgment, skill, or safety  
12 ~~A pattern of practice or other behavior that demonstrates~~  
13 ~~incapacity or incompetence to practice under this Code.~~

14 (36) Failing to comply with any of the following  
15 required activities:

16 (A) When reasonably possible, a funeral director  
17 licensee or funeral director and embalmer licensee or  
18 anyone acting on his or her behalf shall obtain the  
19 express authorization of the person or persons  
20 responsible for making the funeral arrangements for a  
21 deceased human body prior to removing a body from the  
22 place of death or any place it may be or embalming or  
23 attempting to embalm a deceased human body, unless  
24 required by State or local law. This requirement is  
25 waived whenever removal or embalming is directed by  
26 local authorities who have jurisdiction. If the

1 responsibility for the handling of the remains  
2 lawfully falls under the jurisdiction of a public  
3 agency, then the regulations of the public agency shall  
4 prevail.

5 (B) A licensee shall clearly mark the price of any  
6 casket offered for sale or the price of any service  
7 using the casket on or in the casket if the casket is  
8 displayed at the funeral establishment. If the casket  
9 is displayed at any other location, regardless of  
10 whether the licensee is in control of that location,  
11 the casket shall be clearly marked and the registrant  
12 shall use books, catalogues, brochures, or other  
13 printed display aids to show the price of each casket  
14 or service.

15 (C) At the time funeral arrangements are made and  
16 prior to rendering the funeral services, a licensee  
17 shall furnish a written statement of services to be  
18 retained by the person or persons making the funeral  
19 arrangements, signed by both parties, that shall  
20 contain: (i) the name, address and telephone number of  
21 the funeral establishment and the date on which the  
22 arrangements were made; (ii) the price of the service  
23 selected and the services and merchandise included for  
24 that price; (iii) a clear disclosure that the person or  
25 persons making the arrangement may decline and receive  
26 credit for any service or merchandise not desired and

1 not required by law or the funeral director or the  
2 funeral director and embalmer; (iv) the supplemental  
3 items of service and merchandise requested and the  
4 price of each item; (v) the terms or method of payment  
5 agreed upon; and (vi) a statement as to any monetary  
6 advances made by the registrant on behalf of the  
7 family. The licensee shall maintain a copy of the  
8 written statement of services in its permanent  
9 records. All written statements of services are  
10 subject to inspection by the Department.

11 (D) In all instances where the place of final  
12 disposition of a deceased human body or the cremated  
13 remains of a deceased human body is a cemetery, the  
14 licensed funeral director and embalmer, or licensed  
15 funeral director, who has been engaged to provide  
16 funeral or embalming services shall remain at the  
17 cemetery and personally witness the placement of the  
18 human remains in their designated grave or the sealing  
19 of the above ground depository, crypt, or urn. The  
20 licensed funeral director or licensed funeral director  
21 and embalmer may designate a licensed funeral director  
22 and embalmer intern or representative of the funeral  
23 home to be his or her witness to the placement of the  
24 remains. If the cemetery authority, cemetery manager,  
25 or any other agent of the cemetery takes any action  
26 that prevents compliance with this paragraph (D), then



1           the funeral director and embalmer or funeral director  
2           shall provide written notice to the Department within 5  
3           business days after failing to comply. If the  
4           Department receives this notice, then the Department  
5           shall not take any disciplinary action against the  
6           funeral director and embalmer or funeral director for a  
7           violation of this paragraph (D) unless the Department  
8           finds that the cemetery authority, manager, or any  
9           other agent of the cemetery did not prevent the funeral  
10          director and embalmer or funeral director from  
11          complying with this paragraph (D) as claimed in the  
12          written notice.

13           (E) A funeral director or funeral director and  
14          embalmer shall fully complete the portion of the  
15          Certificate of Death under the responsibility of the  
16          funeral director or funeral director and embalmer and  
17          provide all required information. In the event that any  
18          reported information subsequently changes or proves  
19          incorrect, a funeral director or funeral director and  
20          embalmer shall immediately upon learning the correct  
21          information correct the Certificate of Death.

22          (37) A finding by the Department that the license,  
23          after having his or her license placed on probationary  
24          status or subjected to conditions or restrictions,  
25          violated the terms of the probation or failed to comply  
26          with such terms or conditions.

1           (38) (Blank). ~~Violation of any final administrative~~  
2 ~~action of the Secretary.~~

3           (39) Being named as a perpetrator in an indicated  
4 report by the Department of Children and Family Services  
5 pursuant to the Abused and Neglected Child Reporting Act  
6 and, upon proof by clear and convincing evidence, being  
7 found to have caused a child to be an abused child or  
8 neglected child as defined in the Abused and Neglected  
9 Child Reporting Act.

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

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

16           (42) Cheating on or attempting to subvert the licensing  
17 examination administered under this Code.

18           (c) The Department may refuse to issue or renew<sup>7</sup> or may  
19 suspend without a hearing, as provided for in the Department of  
20 Professional Regulation Law of the Civil Administrative Code of  
21 Illinois, the license of any person who fails to file a return,  
22 to pay the tax, penalty or interest shown in a filed return, or  
23 to pay any final assessment of tax, penalty or interest as  
24 required by any tax Act administered by the Illinois Department  
25 of Revenue, until the time as the requirements of the tax Act  
26 are satisfied in accordance with subsection (g) of Section

1 2105-15 of the Department of Professional Regulation Law of the  
2 Civil Administrative Code of Illinois.

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

9 (e) Nothing in this Section shall be construed or enforced  
10 to give a funeral director and embalmer, or his or her  
11 designees, authority over the operation of a cemetery or over  
12 cemetery employees. Nothing in this Section shall be construed  
13 or enforced to impose duties or penalties on cemeteries with  
14 respect to the timing of the placement of human remains in  
15 their designated grave or the sealing of the above ground  
16 depository, crypt, or urn due to patron safety, the allocation  
17 of cemetery staffing, liability insurance, a collective  
18 bargaining agreement, or other such reasons.

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

21 (g) The Department shall deny a license or renewal  
22 authorized by this Code to a person who has defaulted on an  
23 educational loan or scholarship provided or guaranteed by the  
24 Illinois Student Assistance Commission or any governmental  
25 agency of this State in accordance with item (5) of subsection  
26 (g) of Section 2105-15 of the Department of Professional

1 Regulation Law of the Civil Administrative Code of Illinois.

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

14 (i) A person not licensed under this Code who is an owner  
15 of a funeral establishment or funeral business shall not aid,  
16 abet, assist, procure, advise, employ, or contract with any  
17 unlicensed person to offer funeral services or aid, abet,  
18 assist, or direct any licensed person contrary to or in  
19 violation of any rules or provisions of this Code. A person  
20 violating this subsection shall be treated as a licensee for  
21 the purposes of disciplinary action under this Section and  
22 shall be subject to cease and desist orders as provided in this  
23 Code, the imposition of a fine up to \$10,000 for each violation  
24 and any other penalty provided by law.

25 (j) The determination by a circuit court that a licensee is  
26 subject to involuntary admission or judicial admission as

1 provided in the Mental Health and Developmental Disabilities  
2 Code, as amended, operates as an automatic suspension. The  
3 suspension may end only upon a finding by a court that the  
4 licensee is no longer subject to the involuntary admission or  
5 judicial admission and issues an order so finding and  
6 discharging the licensee, and upon the recommendation of the  
7 Board to the Secretary that the licensee be allowed to resume  
8 his or her practice.

9 (k) In enforcing this Code, the Department, upon a showing  
10 of a possible violation, may compel an individual licensed to  
11 practice under this Code, or who has applied for licensure  
12 under this Code, to submit to a mental or physical examination,  
13 or both, as required by and at the expense of the Department.  
14 The Department may order the examining physician to present  
15 testimony concerning the mental or physical examination of the  
16 licensee or applicant. No information shall be excluded by  
17 reason of any common law or statutory privilege relating to  
18 communications between the licensee or applicant and the  
19 examining physician. The examining physicians shall be  
20 specifically designated by the Department. The individual to be  
21 examined may have, at his or her own expense, another physician  
22 of his or her choice present during all aspects of this  
23 examination. The examination shall be performed by a physician  
24 licensed to practice medicine in all its branches. Failure of  
25 an individual to submit to a mental or physical examination,  
26 when directed, shall result in an automatic suspension without

1 hearing.

2 A person holding a license under this Code or who has  
3 applied for a license under this Code who, because of a  
4 physical or mental illness or disability, including, but not  
5 limited to, deterioration through the aging process or loss of  
6 motor skill, is unable to practice the profession with  
7 reasonable judgment, skill, or safety, may be required by the  
8 Department to submit to care, counseling, or treatment by  
9 physicians approved or designated by the Department as a  
10 condition, term, or restriction for continued, reinstated, or  
11 renewed licensure to practice. Submission to care, counseling,  
12 or treatment as required by the Department shall not be  
13 considered discipline of a license. If the licensee refuses to  
14 enter into a care, counseling, or treatment agreement or fails  
15 to abide by the terms of the agreement, the Department may file  
16 a complaint to revoke, suspend, or otherwise discipline the  
17 license of the individual. The Secretary may order the license  
18 suspended immediately, pending a hearing by the Department.  
19 Fines shall not be assessed in disciplinary actions involving  
20 physical or mental illness or impairment.

21 In instances in which the Secretary immediately suspends a  
22 person's license under this Section, a hearing on that person's  
23 license must be convened by the Department within 15 days after  
24 the suspension and completed without appreciable delay. The  
25 Department shall have the authority to review the subject  
26 individual's record of treatment and counseling regarding the

1 impairment to the extent permitted by applicable federal  
2 statutes and regulations safeguarding the confidentiality of  
3 medical records.

4 An individual licensed under this Code and affected under  
5 this Section shall be afforded an opportunity to demonstrate to  
6 the Department that he or she can resume practice in compliance  
7 with acceptable and prevailing standards under the provisions  
8 of his or her license.

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

10 (225 ILCS 41/15-76)

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

12 Sec. 15-76. Vehicle traffic control. A funeral director  
13 licensee or funeral director and embalmer licensee planning an  
14 ~~a~~ interment, inurnment, or entombment at a cemetery shall use  
15 his or her ~~its~~ reasonable best efforts to ensure that funeral  
16 processions entering and exiting the cemetery grounds do not  
17 obstruct traffic on any street for a period in excess of 10  
18 minutes, except where such funeral procession is continuously  
19 moving or cannot be moved by reason of circumstances over which  
20 the licensee ~~cemetery authority~~ has no reasonable control. The  
21 ~~funeral director licensee or funeral director and embalmer~~  
22 licensee arranging funeral processions to the cemetery shall  
23 use his or her ~~its~~ reasonable best efforts to ~~help~~ prevent  
24 multiple funeral processions from arriving at the cemetery  
25 simultaneously. Notwithstanding any provision of this Code ~~Act~~

1 to the contrary, any ~~funeral director licensee or funeral~~  
2 ~~director and embalmer~~ licensee who violates the provisions of  
3 this Section shall be guilty of a business offense and receive  
4 ~~punishable by~~ a fine of not more than \$500 for each offense.

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

6 (225 ILCS 41/15-77)

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

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

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

17 (225 ILCS 41/15-80)

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

19 Sec. 15-80. Statement of place of practice; roster. Each  
20 applicant for a funeral director and embalmer's license shall  
21 with his or her application submit a statement of the place of  
22 practice, ownership, names and license numbers of all funeral  
23 directors and embalmers and funeral directors associated with  
24 the applicant.



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

14        ~~The Department shall publish an annual list of the names~~  
15 ~~and addresses of all licensees registered by it under the~~  
16 ~~provisions of this Code, and of all persons whose licenses have~~  
17 ~~been suspended or revoked within the past year, together with~~  
18 ~~other information relative to the enforcement of the provisions~~  
19 ~~of this Code as it may deem of interest to the public. One list~~  
20 ~~shall be mailed to each local registrar of vital statistics~~  
21 ~~upon request by the registrar. Lists shall also be mailed by~~  
22 ~~the Department to any person in the State upon request.~~

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

24        (225 ILCS 41/15-85)

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

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

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

13           (225 ILCS 41/15-91)

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

15           Sec. 15-91. Denial of license. If the Department determines  
16 that an application for licensure should be denied pursuant to  
17 Section 15-75, then the applicant shall be sent a notice of  
18 intent to deny license ~~or exemption from licensure~~ and the  
19 applicant shall be given the opportunity to request, within 20  
20 days of the notice, a hearing on the denial. If the applicant  
21 requests a hearing, then the Secretary shall schedule a hearing  
22 within 30 days after the request for a hearing, unless  
23 otherwise agreed to by the parties. The Secretary shall have  
24 the authority to appoint an attorney duly licensed to practice  
25 law in the State of Illinois to serve as the hearing officer.

1 The hearing officer shall have full authority to conduct the  
2 hearing. The hearing shall be held at the time and place  
3 designated by the Secretary. The Secretary shall have the  
4 authority to prescribe rules for the administration of this  
5 Section.

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

7 (225 ILCS 41/15-115 new)

8 Sec. 15-115. Confidentiality. All information collected  
9 by the Department in the course of an examination or  
10 investigation of a licensee or applicant, including, but not  
11 limited to, any complaint against a licensee filed with the  
12 Department and information collected to investigate any such  
13 complaint, shall be maintained for the confidential use of the  
14 Department and shall not be disclosed. The Department shall not  
15 disclose the information to anyone other than law enforcement  
16 officials, regulatory agencies that have an appropriate  
17 regulatory interest as determined by the Secretary, or a party  
18 presenting a lawful subpoena to the Department. Information and  
19 documents disclosed to a federal, State, county, or local law  
20 enforcement agency shall not be disclosed by the agency for any  
21 purpose to any other agency or person. A formal complaint filed  
22 against a licensee by the Department or any order issued by the  
23 Department against a licensee or applicant shall be a public  
24 record, except as otherwise prohibited by law.

1 (225 ILCS 41/20-15)

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

3 Sec. 20-15. Home rule. The regulation and licensing  
4 provided for in this Code are exclusive powers and functions of  
5 the State. A home rule unit may not regulate or license funeral  
6 directors, funeral director and embalmers, ~~customer service~~  
7 ~~employees,~~ or any activities relating to the services of  
8 funeral directing and embalming. This Section is a denial and  
9 limitation of home rule powers and functions under subsection  
10 (h) of Section 6 of Article VII of the Illinois Constitution.  
11 (Source: P.A. 96-1463, eff. 1-1-11.)

12 (225 ILCS 41/10-40 rep.)

13 (225 ILCS 41/15-71 rep.)

14 (225 ILCS 41/15-110 rep.)

15 Section 10. The Funeral Directors and Embalmers Licensing  
16 Code is amended by repealing Sections 10-40, 15-71, and 15-110.

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

19 (225 ILCS 411/25-75)

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

21 Sec. 25-75. Cemetery Relief Fund.

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

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

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

13           (d) The grant program shall be administered by the  
14 Department.

15           (e) In the event there is a structural surplus in the  
16 Cemetery Oversight Licensing and Disciplinary Fund, the  
17 Department may expend moneys out of the Cemetery Oversight  
18 Licensing and Disciplinary Fund for the purposes described in  
19 subsection (c) of this Section.

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

21           Section 99. Effective date. This Act takes effect upon  
22 becoming law."