



Rep. Dan Brady

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LRB099 04234 MLM 32592 a

1 AMENDMENT TO HOUSE BILL 305

2 AMENDMENT NO. _____. Amend House Bill 305 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Funeral Directors and Embalmers Licensing
5 Code is amended by adding Section 15-57 and changing Section
6 15-75 as follows:

7 (225 ILCS 41/15-57 new)

8 Sec. 15-57. Refrigeration or embalming after 72 hours.

9 (a) The licensee, or anyone else lawfully permitted to do
10 so under this Code, may either refrigerate or embalm a deceased
11 human body that is removed from the place of death by an
12 authorized licensee and transported to the funeral
13 establishment where it is to be prepared for final disposition
14 after 72 hours have passed since the body's arrival at the
15 funeral establishment. A funeral establishment may only
16 refrigerate or embalm a body under this Section if it does not

1 receive instruction from the person making the funeral
2 arrangements regarding how the body is to be disposed of within
3 this 72-hour time period and no religious ritual or protocol is
4 known to be in conflict with either refrigeration or embalming
5 of the remains.

6 (b) In addition to the disclosures required under
7 subparagraph (C) of paragraph (36) of subsection (b) of Section
8 15-75 of this Code, a licensee shall clearly disclose on the
9 written statement of services furnished to the person making
10 the funeral arrangements that the licensee may refrigerate or
11 embalm a deceased human body after 72 hours under this Section.
12 The disclosure shall be made in writing and must appear
13 directly next to the prices charged by the funeral
14 establishment for refrigeration and embalming. The funeral
15 establishment may not charge the person making the arrangements
16 for the costs associated with refrigeration or embalming
17 performed pursuant to this Section if this disclosure is not
18 made.

19 (225 ILCS 41/15-75)

20 (Section scheduled to be repealed on January 1, 2023)

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

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

1 (1) Practicing the profession of funeral directing and
2 embalming or funeral directing, or attempting to practice
3 the profession of funeral directing and embalming or
4 funeral directing without a license as a funeral director
5 and embalmer or funeral director.

6 (2) Serving or attempting to serve as an intern under a
7 licensed funeral director and embalmer without a license as
8 a licensed funeral director and embalmer intern.

9 (3) Obtaining or attempting to obtain a license,
10 practice or business, or any other thing of value, by fraud
11 or misrepresentation.

12 (4) Permitting any person in one's employ, under one's
13 control or in or under one's service to serve as a funeral
14 director and embalmer, funeral director, or funeral
15 director and embalmer intern when the person does not have
16 the appropriate license.

17 (5) Failing to display a license as required by this
18 Code.

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

21 (b) The Department may refuse to issue or renew, revoke,
22 suspend, place on probation or administrative supervision,
23 reprimand, or take other disciplinary or non-disciplinary
24 action as the Department may deem appropriate, including
25 imposing fines not to exceed \$10,000 for each violation, with
26 regard to any license under the Code for any one or combination

1 of the following:

2 (1) Fraud or any misrepresentation in applying for or
3 procuring a license under this Code or in connection with
4 applying for renewal of a license under this Code.

5 (2) Conviction by plea of guilty or nolo contendere,
6 finding of guilt, jury verdict, or entry of judgment or by
7 sentencing of any crime, including, but not limited to,
8 convictions, preceding sentences of supervision,
9 conditional discharge, or first offender probation, under
10 the laws of any jurisdiction of the United States: (i) that
11 is a felony or (ii) that is a misdemeanor, an essential
12 element of which is dishonesty, or that is directly related
13 to the practice of the profession.

14 (3) Violation of the laws of this State relating to the
15 funeral, burial or disposition of deceased human bodies or
16 of the rules and regulations of the Department, or the
17 Department of Public Health.

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

22 (5) Professional incompetence, gross negligence,
23 malpractice, or untrustworthiness in the practice of
24 funeral directing and embalming or funeral directing.

25 (6) (Blank).

26 (7) Engaging in, promoting, selling, or issuing burial

1 contracts, burial certificates, or burial insurance
2 policies in connection with the profession as a funeral
3 director and embalmer, funeral director, or funeral
4 director and embalmer intern in violation of any laws of
5 the State of Illinois.

6 (8) Refusing, without cause, to surrender the custody
7 of a deceased human body upon the proper request of the
8 person or persons lawfully entitled to the custody of the
9 body.

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

12 (10) Engaging in funeral directing and embalming or
13 funeral directing without a license.

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

21 (12) Making or causing to be made any false or
22 misleading statements about the laws concerning the
23 disposition of human remains, including, but not limited
24 to, the need to embalm, the need for a casket for cremation
25 or the need for an outer burial container.

26 (13) (Blank).

1 (14) Embalming or attempting to embalm a deceased human
2 body without express prior authorization of the person
3 responsible for making the funeral arrangements for the
4 body. This does not apply to cases where embalming is
5 directed by local authorities who have jurisdiction or when
6 embalming is required by Section 15-57 of this Code or any
7 other applicable State or local law. A licensee may embalm
8 without express prior authorization if a good faith effort
9 has been made to contact family members and has been
10 unsuccessful and the licensee has no reason to believe the
11 family opposes embalming.

12 (15) Making a false statement on a Certificate of Death
13 where the person making the statement knew or should have
14 known that the statement was false.

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

17 (17) Performing any act or practice that is a violation
18 of this Code, the rules for the administration of this
19 Code, or any federal, State or local laws, rules, or
20 regulations governing the practice of funeral directing or
21 embalming.

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

25 (19) Engaging in dishonorable, unethical, or
26 unprofessional conduct of a character likely to deceive,

1 defraud or harm the public.

2 (20) Taking possession of a dead human body without
3 having first obtained express permission from the person
4 holding the right to control the disposition in accordance
5 with Section 5 of the Disposition of Remains Act or a
6 public agency legally authorized to direct, control or
7 permit the removal of deceased human bodies.

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

21 (22) Charging for professional services not rendered,
22 including filing false statements for the collection of
23 fees for which services are not rendered.

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

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

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

8 (26) Willfully making or filing false records or
9 reports in the practice of funeral directing and embalming,
10 including, but not limited to, false records filed with
11 State agencies or departments.

12 (27) Failing to acquire continuing education required
13 under this Code.

14 (28) (Blank).

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

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

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

25 (32) (Blank).

26 (33) Mental illness or disability which results in the

1 inability to practice the profession with reasonable
2 judgment, skill, or safety.

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

6 (35) Physical illness, including, but not limited to,
7 deterioration through the aging process or loss of motor
8 skill which results in a licensee's inability to practice
9 under this Code with reasonable judgment, skill, or safety.

10 (36) Failing to comply with any of the following
11 required activities:

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

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

11 (C) At the time funeral arrangements are made and
12 prior to rendering the funeral services, a licensee
13 shall furnish a written statement of services to be
14 retained by the person or persons making the funeral
15 arrangements, signed by both parties, that shall
16 contain: (i) the name, address and telephone number of
17 the funeral establishment and the date on which the
18 arrangements were made; (ii) the price of the service
19 selected and the services and merchandise included for
20 that price; (iii) a clear disclosure that, with the
21 exception of refrigeration or embalming performed
22 pursuant to Section 15-57 of this Code, the person or
23 persons making the arrangement may decline and receive
24 credit for any service or merchandise not desired and
25 not required by law or the funeral director or the
26 funeral director and embalmer; (iv) the supplemental

1 items of service and merchandise requested and the
2 price of each item; (v) the terms or method of payment
3 agreed upon; and (vi) a statement as to any monetary
4 advances made by the registrant on behalf of the
5 family. The licensee shall maintain a copy of the
6 written statement of services in its permanent
7 records. All written statements of services are
8 subject to inspection by the Department.

9 (D) In all instances where the place of final
10 disposition of a deceased human body or the cremated
11 remains of a deceased human body is a cemetery, the
12 licensed funeral director and embalmer, or licensed
13 funeral director, who has been engaged to provide
14 funeral or embalming services shall remain at the
15 cemetery and personally witness the placement of the
16 human remains in their designated grave or the sealing
17 of the above ground depository, crypt, or urn. The
18 licensed funeral director or licensed funeral director
19 and embalmer may designate a licensed funeral director
20 and embalmer intern or representative of the funeral
21 home to be his or her witness to the placement of the
22 remains. If the cemetery authority, cemetery manager,
23 or any other agent of the cemetery takes any action
24 that prevents compliance with this paragraph (D), then
25 the funeral director and embalmer or funeral director
26 shall provide written notice to the Department within 5

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

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

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

25 (38) (Blank).

26 (39) Being named as a perpetrator in an indicated

1 report by the Department of Children and Family Services
2 pursuant to the Abused and Neglected Child Reporting Act
3 and, upon proof by clear and convincing evidence, being
4 found to have caused a child to be an abused child or
5 neglected child as defined in the Abused and Neglected
6 Child Reporting Act.

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

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

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

15 (c) The Department may refuse to issue or renew or may
16 suspend without a hearing, as provided for in the Department of
17 Professional Regulation Law of the Civil Administrative Code of
18 Illinois, the license of any person who fails to file a return,
19 to pay the tax, penalty or interest shown in a filed return, or
20 to pay any final assessment of tax, penalty or interest as
21 required by any tax Act administered by the Illinois Department
22 of Revenue, until the time as the requirements of the tax Act
23 are satisfied in accordance with subsection (g) of Section
24 2105-15 of the Department of Professional Regulation Law of the
25 Civil Administrative Code of Illinois.

26 (d) No action may be taken under this Code against a person

1 licensed under this Code unless the action is commenced within
2 5 years after the occurrence of the alleged violations. A
3 continuing violation shall be deemed to have occurred on the
4 date when the circumstances last existed that give rise to the
5 alleged violation.

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

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

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

25 (h) In cases where the Department of Healthcare and Family
26 Services has previously determined a licensee or a potential

1 licensee is more than 30 days delinquent in the payment of
2 child support and has subsequently certified the delinquency to
3 the Department, the Department may refuse to issue or renew or
4 may revoke or suspend that person's license or may take other
5 disciplinary action against that person based solely upon the
6 certification of delinquency made by the Department of
7 Healthcare and Family Services in accordance with item (5) of
8 subsection (a) of Section 2105-15 of the Department of
9 Professional Regulation Law of the Civil Administrative Code of
10 Illinois.

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

22 (j) The determination by a circuit court that a licensee is
23 subject to involuntary admission or judicial admission as
24 provided in the Mental Health and Developmental Disabilities
25 Code, as amended, operates as an automatic suspension. The
26 suspension may end only upon a finding by a court that the

1 licensee is no longer subject to the involuntary admission or
2 judicial admission and issues an order so finding and
3 discharging the licensee, and upon the recommendation of the
4 Board to the Secretary that the licensee be allowed to resume
5 his or her practice.

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

25 A person holding a license under this Code or who has
26 applied for a license under this Code who, because of a

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

18 In instances in which the Secretary immediately suspends a
19 person's license under this Section, a hearing on that person's
20 license must be convened by the Department within 15 days after
21 the suspension and completed without appreciable delay. The
22 Department shall have the authority to review the subject
23 individual's record of treatment and counseling regarding the
24 impairment to the extent permitted by applicable federal
25 statutes and regulations safeguarding the confidentiality of
26 medical records.

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

6 (Source: P.A. 97-1130, eff. 8-28-12; 98-756, eff. 7-16-14.)".