

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Funeral Directors and Embalmers Licensing Code is amended by changing Sections 1-10, 1-15, 1-20, 5-10, 5-15, 10-25, 10-30, 10-35, 15-5, 15-10, 15-15, 15-20, 15-30, 15-35, 15-40, 15-45, 15-55, 15-65, 15-70, 15-75, 15-85, and 20-15 and by adding Sections 1-30, 5-7, 10-7, 15-16, 15-17, 15-21, 15-22, 15-41, 15-46, 15-77, 15-91, 15-100, 15-105, and 15-110 as follows:

(225 ILCS 41/1-10)

(Section scheduled to be repealed on January 1, 2013)

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

"Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file.

"Applicant" means any person making application for a license or certificate of registration. Any applicant or any person who holds himself out as an applicant is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act.

"Board" means the Funeral Directors and Embalmers Licensing and Disciplinary ~~disciplinary~~ Board.

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

~~"Customer service employee" means a funeral establishment, funeral chapel, funeral home, or mortuary employee who has direct contact with consumers and explains funeral or burial merchandise or services or negotiates, develops, or finalizes contracts with consumers. This definition includes, without limitation, an individual that is an independent contractor or an individual employed or contracted by an independent contractor who has direct contact with consumers and explains funeral or burial merchandise or services or negotiates, develops, or finalizes contracts with consumers. This definition does not include a funeral establishment, funeral chapel, funeral home, or mortuary employee, an individual who is an independent contractor, or an individual employed or contracted by an independent contractor who merely provides a printed price list to a consumer, processes payment from a consumer, or performs sales functions related solely to incidental merchandise like flowers, keepsakes, memorial tributes, or other similar items.~~

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

~~"Director" means the Director of Professional Regulation.~~

"Funeral director and embalmer" means a person who is licensed and qualified to practice funeral directing and to prepare, disinfect and preserve dead human bodies by the

injection or external application of antiseptics, disinfectants or preservative fluids and materials and to use derma surgery or plastic art for the restoring of mutilated features. It further means a person who restores the remains of a person for the purpose of funeralization whose organs or bone or tissue has been donated for anatomical purposes.

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

"Embalming" means the process of sanitizing and chemically treating a deceased human body in order to reduce the presence and growth of microorganisms, to retard organic decomposition, to render the remains safe to handle while retaining naturalness of tissue, and to restore an acceptable physical appearance for funeral viewing purposes.

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

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

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

"Owner" means the individual, partnership, corporation, association, trust, estate, or agent thereof, or other person or combination of persons who owns a funeral establishment or funeral business.

"Person" means any individual, partnership, association, firm, corporation, trust or estate, or other entity. "Person" includes both natural persons and legal entities.

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

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

(225 ILCS 41/1-15)

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

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

(a) The practice of preparing, otherwise than by

embalming, for the burial, cremation, or disposal and directing and supervising the burial or disposal of deceased human remains or performing any act or service in connection with the preparing of dead human bodies. Preparation, direction, and supervision shall not be construed to mean those functions normally performed by cemetery and crematory personnel.

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

(c) The removal of a deceased human body from its place of death, institution, or other location. A licensed funeral director and embalmer intern may remove a deceased human body from its place of death, institution, or other location without another licensee being present. The licensed funeral director may engage others who are not licensed funeral directors, licensed funeral director and embalmers, or licensed funeral director and embalmer interns to assist in the removal if the funeral director directs and instructs them in handling and precautionary procedures and accompanies them on all calls. The transportation of deceased human remains to a cemetery,

crematory or other place of final disposition shall be under the immediate direct supervision of a licensee unless otherwise permitted by this Section. The transportation of deceased human remains that are embalmed or otherwise prepared and enclosed in an appropriate container to some other place that is not the place of final disposition, such as another funeral home or common carrier, or to a facility that shares common ownership with the transporting funeral home may be performed under the general supervision of a licensee, but the supervision need not be immediate or direct.

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

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

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

Within the existing scope of the practice of funeral directing or funeral directing and embalming, only a licensed funeral director, a licensed funeral director and embalmer, or

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

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

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

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

(225 ILCS 41/1-20)

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

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

"The practice of funeral directing and embalming" means:

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

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

(c) The removal of a deceased human body from its place of death, institution or other location. A licensed funeral director and embalmer intern may remove a deceased human body from its place of death, institution, or other location without another licensee being present. The

licensed funeral director and embalmer may engage others who are not licensed funeral directors and embalmers, licensed funeral directors, or licensed funeral director and embalmer interns to assist in the removal if the funeral director and embalmer directs and instructs them in handling and precautionary procedures and accompanies them on all calls. The transportation of deceased human remains to a cemetery, crematory or other place of final disposition shall be under the immediate, direct supervision of a licensee unless otherwise permitted by this Section. The transportation of deceased human remains that are embalmed or otherwise prepared and enclosed in an appropriate container to some other place that is not the place of final disposition, such as another funeral home or common carrier, or to a facility that shares common ownership with the transporting funeral home may be performed under the general supervision of a licensee, but the supervision need not be immediate or direct.

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

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

(f) Using in connection with a name or practice the

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

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

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

The practice of funeral directing and embalming shall not

include the phoning in of obituary notices, ordering of flowers for the funeral, or reporting of prices on the firm's general price list as required by the Federal Trade Commission Funeral Rule by nonlicensed persons, or like clerical tasks incidental to the act of making funeral arrangements.

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

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

(225 ILCS 41/1-30 new)

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

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

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

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

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

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

(5) To adopt rules required for the administration of this Code.

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

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

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

(225 ILCS 41/5-7 new)

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

Sec. 5-7. Address of record. It is the duty of the applicant or licensee to inform the Department of any change of

address within 14 days after the change of address, either through the Department's website or by contacting the Department's licensure maintenance unit.

(225 ILCS 41/5-10)

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

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

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

(225 ILCS 41/5-15)

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

Sec. 5-15. Expiration and renewal; inactive status; continuing education. The expiration date and renewal period for each license issued under this Article shall be set by rule. The holder of a license as a licensed funeral director may renew the license during the month preceding the expiration date of the license by paying the required fee. A licensed funeral director whose license has expired may have the license

reinstated within 5 years from the date of expiration upon payment of the required reinstatement fee. The reinstatement shall be effective as of the date of reissuance of the license.

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

In addition to any other requirement for renewal of a license or reinstatement or restoration of an expired license, as a condition for the renewal, ~~or~~ reinstatement, or restoration of a license as a licensed funeral director, each

licensee shall provide evidence to the Department of completion of at least 12 hours of continuing education during the 24 months preceding the expiration date of the license, or in the case of reinstatement or restoration, during the 24 months preceding application for reinstatement or restoration. The continuing education sponsors shall be approved by the Board. In addition, any qualified continuing education course for funeral directors offered by a college, university, the Illinois Funeral Directors Association, Funeral Directors Services Association of Greater Chicago, Cook County Association of Funeral Home Owners, Inc., Illinois Selected Morticians Association, Inc., Illinois Cemetery and Funeral Home Association, National Funeral Directors Association, Selected Independent Funeral Homes, National Funeral Directors and Morticians Association, Inc., International Order of the Golden Rule, or an Illinois school of mortuary science shall be accepted toward satisfaction of the continuing education requirements.

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

A person who is licensed as a funeral director under this Code Act and who has engaged in the practice of funeral directing for at least 40 years shall be exempt from the continuing education requirements of this Section. In addition, the Department shall establish by rule an exemption or exception, for a limited period of time, for funeral directors who, by reason of advanced age, health or other extreme condition should reasonably be excused from the continuing education requirement upon ~~explanation to the Board,~~ the approval of the Secretary Director, or both. Those persons, identified above, who cannot attend on-site classes, shall have the opportunity to comply by completing home study courses designed for them by sponsors.

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

Practice on a license that has lapsed or been placed in

inactive status is practicing without a license and a violation of this Code.

(Source: P.A. 92-641, eff. 7-11-02; 93-268, eff. 1-1-04.)

(225 ILCS 41/10-7 new)

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

Sec. 10-7. Address of record. It is the duty of the applicant or licensee to inform the Department of any change of address within 14 days after the change of address, either through the Department's website or by contacting the Department's licensure maintenance unit.

(225 ILCS 41/10-25)

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

Sec. 10-25. Examinations. The Department shall authorize and hold examinations of applicants for licenses as licensed funeral directors and embalmers. The examination may include both practical demonstrations and written and oral tests and shall embrace the subjects of anatomy, sanitary science, health regulations in relation to the handling of deceased human bodies, measures used by funeral directors and embalmers for the prevention of the spread of diseases, the care, preservation, embalming, transportation, and burial of dead human bodies, and other subjects relating to the care and handling of deceased human bodies as set forth in this Article and as the Department by rule may prescribe.

Whenever the Secretary ~~Director~~ is not satisfied that substantial justice has been done in an examination, the Secretary ~~Director~~ may order a reexamination.

If an applicant neglects, fails without an approved excuse or refuses to take the next available examination offered for licensure under this Code, the fee paid by the applicant shall be forfeited to the Department and the application denied. If an applicant fails to pass an examination for licensure under this Code within 3 years after filing an application, the application shall be denied. However, the applicant may thereafter make a new application for examination which shall be accompanied by the required fee.

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

(225 ILCS 41/10-30)

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

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

Every holder of a license shall display it in a conspicuous place in the licensee's place of practice or in the place of practice in which the licensee is employed. In case the licensee is engaged in funeral directing and embalming at more than one place of practice, then the license shall be displayed

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

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

(225 ILCS 41/10-35)

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

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

Any licensed funeral director and embalmer whose license has been expired for more than 5 years may have the license restored only by fulfilling the requirements set forth in the Department's rules and by paying the required restoration fee.

However, any licensed funeral director and embalmer or licensed funeral director and embalmer intern whose license has expired while he or she has been engaged (1) in federal service on active duty with the United States Army, ~~of the United States,~~ ~~the United States Navy,~~ ~~the Marine Corps,~~ ~~the Air Force,~~ or the Coast Guard, or the State Militia called into the service or training of the United States of America or (2) in training or education under the supervision of the United States preliminary to induction into the military service, may have his or her license restored without paying any lapsed renewal fees or restoration fee or without passing any examination if, within 2 years after termination of the service, training or education other than by dishonorable discharge, he or she furnishes the Department with an affidavit to the effect that he or she has been so engaged and that his or her service, training or education has been so terminated.

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

In addition to any other requirement for renewal of a license or reinstatement or restoration of an expired license, as a condition for the renewal, ~~or~~ reinstatement, or restoration of a license as a licensed funeral director and embalmer, each licensee shall provide evidence to the Department of completion of at least 24 hours of continuing education during the 24 months preceding the expiration date of the license, or in the case of reinstatement or restoration,

within the 24 months preceding the application for reinstatement or restoration. The continuing education sponsors shall be approved by the Board. In addition, any qualified continuing education course for funeral directors and embalmers offered by a college, university, the Illinois Funeral Directors Association, Funeral Directors Services Association of Greater Chicago, Cook County Association of Funeral Home Owners, Inc., Illinois Selected Morticians Associations, Inc., Illinois Cemetery and Funeral Home Association, National Funeral Directors Association, Selected Independent Funeral Homes, National Funeral Directors and Morticians Association, Inc., International Order of the Golden Rule, or an Illinois school of mortuary science shall be accepted toward satisfaction of the continuing education requirements.

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

A person who is licensed as a funeral director and embalmer under this Code Act and who has engaged in the practice of funeral directing and embalming for at least 40 years shall be

exempt from the continuing education requirements of this Section. In addition, the Department shall establish by rule an exemption or exception, for a limited period of time, for funeral directors and embalmers who, by reason of advanced age, health or other extreme condition, should reasonably be excused from the continuing education requirement upon ~~explanation to the Board,~~ the approval of the Secretary ~~Director,~~ or both. Those persons, identified above, who cannot attend on-site classes, shall have the opportunity to comply by completing home study courses designed for them by sponsors.

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

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

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

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

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

Sec. 15-5. Funeral Directors and Embalmers Licensing and Disciplinary Board. A Funeral Directors and Embalmers Licensing and Disciplinary Board is created and shall consist of 7 persons, 6 of whom are licensed to practice funeral directing and embalming in this State, and one who is a knowledgeable public member. Each member shall be appointed by the Secretary ~~Director~~ of the Department. The persons so appointed shall hold their offices for 4 years and until a qualified successors are ~~successor is~~ appointed. All vacancies occurring shall be filled by the Secretary ~~Director~~ for the unexpired portion of the term rendered vacant. No member shall be eligible to serve for more than 2 full consecutive terms. The Secretary may remove any member of the Board for reasons prescribed by law for removal of State officials or for misconduct, incompetence, neglect of duty, or failing to attend 2 consecutive Board meetings. ~~Any appointee may be removed by the Director when in his or her discretion he or she finds removal to be in the public interest.~~ The cause for removal must be set forth in writing. The Board shall annually select a

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

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

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

~~The Department may seek the advice and recommendations of the Board on any matter relating to the administration and enforcement of this Code.~~

The Department shall seek the advice and recommendations of the Board in connection with any rulemaking or disciplinary actions relating to funeral director and embalmers and funeral director and embalmer interns, including applications for restoration of revoked licenses. The Board shall have 60 days to respond to a Department request for advice and recommendations. ~~If the Department fails to adopt, in whole or in part, a Board recommendation in connection with any rulemaking or disciplinary action, it shall provide a written explanation of its specific reasons for not adopting the Board~~

~~recommendation. The written explanations shall be made available for public inspection.~~

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

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

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

(225 ILCS 41/15-10)

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

Sec. 15-10. Administrative Procedure Act. The Illinois Administrative Procedure Act is hereby expressly adopted and incorporated into this Code as if all of the provisions of that Act were included in this Code, except that the provision of subsection (d) of Section 10-65 of the Illinois Administrative Procedure Act that provides that at hearings the licensee has the right to show compliance with all lawful requirements for retention, continuation or renewal of the license is specifically excluded. For the purposes of this Code the notice required under Section 10-25 of the Illinois Administrative Procedure Act is deemed sufficient when mailed to the ~~last known~~ address of record ~~a party~~.

(Source: P.A. 87-966; 88-45.)

(225 ILCS 41/15-15)

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

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

The Department shall, before revoking, suspending, placing on probation, reprimanding, or taking any other disciplinary action, at least 30 days before the date set for the hearing, (i) notify the accused in writing of the charges made and the time and place for the hearing on the charges, (ii) direct him

or her to file a written answer to the charges under oath within 20 days after the service on him or her of the notice, and (iii) inform the accused that, if he or she fails to answer, default will be taken against him or her or that his or her license may be suspended, revoked, or placed on probationary status, or other disciplinary action taken with regard to the license, including limiting the scope, nature, or extent of his or her practice, as the Department may consider proper.

At the time and place fixed in the notice, the Department shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present any pertinent statements, testimony, evidence, and arguments. The Department may continue the hearing from time to time. In case the person, after receiving the notice, fails to file an answer, his or her license may, in the discretion of the Department, be suspended, revoked, or placed on probationary status, or the Department may take whatever disciplinary action it considers proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for that action under this Code. The written notice may be served by personal delivery or by certified mail to the address specified by the accused in his or her last notification with the Department.

~~The Department shall conduct regular inspections of all funeral~~

~~establishments to determine compliance with the provisions of this Code. The Department may upon its own motion and shall upon the verified complaint in writing of any person setting forth facts that if proved would constitute grounds for refusal, suspension, revocation, or other disciplinary action investigate the action of any person holding or claiming to hold a license under this Code. The Department shall report to the Board, on at least a quarterly basis, the status or disposition of all complaints against, and investigations of, license holders. The Department shall, before refusing to issue or renew, suspending, revoking, or taking any other disciplinary action with respect to any license and at least 30 days before the date set for the hearing, notify in writing the licensee of any charges made and shall direct that person to file a written answer to the Board under oath within 20 days after the service of the notice and inform that person that failure to file an answer may result in default being taken and the person's license or certificate may be suspended, revoked, placed on probationary status, or other disciplinary action may be taken, including limiting the scope, nature or extent of practice, as the Secretary may deem proper. The Department shall afford the licensee an opportunity to be heard in person or by counsel in reference to the charges. Written notice may be served by personal delivery to the licensee or by mailing it by registered mail to the last known business address of licensee. In case the person fails to file an answer after~~

~~receiving notice, his or her license or certificate may, in the discretion of the Department, be suspended, revoked, or placed on probationary status, or the Department may take whatever disciplinary action deemed proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for such action under this Act. The hearing on the charges shall be at a time and place as the Department shall prescribe. The Department may appoint a hearing officer to conduct the hearing. The Department shall notify the Board of the time and place of the hearing and Board members shall be allowed to sit at the hearing.~~

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

~~law in judicial proceedings in circuit courts of this State in civil cases.~~

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

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

(Source: P.A. 96-48, eff. 7-17-09.)

(225 ILCS 41/15-16 new)

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

Sec. 15-16. Appointment of a hearing officer. The Secretary has the authority to appoint any attorney licensed to practice law in the State of Illinois to serve as the hearing officer in any action for refusal to issue, restore, or renew a license or

to discipline a licensee. The hearing officer has full authority to conduct the hearing. Any Board member may attend hearings.

(225 ILCS 41/15-17 new)

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

Sec. 15-17. Consent order. At any point in any investigation or disciplinary proceeding provided for in this Code, both parties may agree to a negotiated consent order. The consent order shall be final upon signature of the Secretary.

(225 ILCS 41/15-20)

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

Sec. 15-20. Transcript; record of proceedings; ~~rehearing~~. The Department, at its expense, shall ~~provide a stenographer to take down the testimony and~~ preserve a record of all proceedings at the formal hearing of any case ~~where a license is revoked, suspended or subjected to any other disciplinary action~~. The notice of hearing, complaint and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report of the Board or hearing officer, and the orders of the Department shall be the record of the proceedings. The Department shall furnish a transcript of the record to any person interested in the hearing upon payment of the actual cost of making the transcript.

~~The record of all proceedings at the hearing shall be submitted for review to the Board, which shall present to the Director a written report of its findings and recommendations based solely upon the record. The report of findings and recommendations of the Board shall be the basis for the Department's order unless the Director determines that the Board findings and recommendations are contrary to the manifest weight of the evidence. A copy of that report and the Department's order shall be served upon the accused person, either personally, or by registered or certified mail to the address specified by the licensee in his last notification to the Director. Within 20 days after service, the accused person may present to the Department his or her motion in writing for a rehearing, which shall specify the particular grounds for rehearing. If the accused person orders and pays for a transcript of the record as provided in this Act, the time elapsing thereafter and before the transcript is ready for delivery shall not be counted as part of the 20 days.~~

~~Whenever the Director is not satisfied that substantial justice has been done, he or she may order a rehearing by the same or another hearing officer. At the expiration of the time specified for filing a motion for a rehearing the Director shall have the right to take the action contained in the order. Upon the suspension or revocation of a license, the licensee shall be required to surrender the license to the Department, and upon failure or refusal to do so, the Department has the~~

~~right to seize the license.~~

~~At any time after the suspension or revocation of any license, the Department may restore it to the accused person without examination.~~

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

(225 ILCS 41/15-21 new)

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

Sec. 15-21. Findings and recommendations. At the conclusion of the hearing, the Board shall present to the Secretary a written report of its findings of fact, conclusions of law, and recommendations. The report shall contain a finding of whether or not the accused person violated this Code or its rules or failed to comply with the conditions required in this Code or its rules. The Board shall specify the nature of any violations or failure to comply and shall make its recommendations to the Secretary. In making recommendations for any disciplinary action, the Board may take into consideration all facts and circumstances bearing upon the reasonableness of the conduct of the accused and the potential for future harm to the public, including, but not limited to, previous discipline of the accused by the Department, intent, degree of harm to the public and likelihood of harm in the future, any restitution made by the accused, and whether the incident or incidents contained in the complaint appear to be isolated or represent a continuing pattern of conduct. In

making its recommendations for discipline, the Board shall endeavor to ensure that the severity of the discipline recommended is reasonably related to the severity of the violation.

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

(225 ILCS 41/15-22 new)

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

Sec. 15-22. Rehearing. At the conclusion of the hearing, a copy of the Board or hearing officer's report shall be served upon the applicant or licensee by the Department, either personally or as provided in this Code for the service of a notice of hearing. Within 20 days after service, the applicant or licensee may present to the Department a motion in writing for a rehearing, which shall specify the particular grounds for

rehearing. The Department may respond to the motion for rehearing within 20 days after its service on the Department. If no motion for rehearing is filed, then upon the expiration of the time specified for filing such a motion, or if a motion for rehearing is denied, then upon denial, the Secretary may enter an order in accordance with the recommendations of the Board or hearing officer. If the applicant or licensee orders from the reporting service and pays for a transcript of the record within the time for filing a motion for rehearing, the 20-day period within which a motion may be filed shall commence upon the delivery of the transcript to the applicant or licensee.

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

(225 ILCS 41/15-30)

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

Sec. 15-30. Mental incompetence; suspension. The entry of a judgment by any court of competent jurisdiction establishing the mental incompetence of any person holding a license under this Code ~~Act~~ operates as a suspension of that person's license. The person may resume his or her practice only upon a finding by a court of competent jurisdiction that the person

has recovered mental capacity.

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

(225 ILCS 41/15-35)

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

Sec. 15-35. Administrative Review Law.

(a) All final administrative decisions of the Department shall be subject to judicial review under the Administrative Review Law and its rules. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

(b) Proceedings for judicial review shall be commenced in the circuit court of the county in which the party applying for review resides, but if the party is not a resident of Illinois, then the venue shall be in Sangamon County.

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

(225 ILCS 41/15-40)

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

Sec. 15-40. Certification of record; receipt. The Department shall not be required to certify any record to the court, to file an answer in court, or file any answer in court or otherwise to appear in any court in a judicial review proceeding unless and until the Department has received from the plaintiff payment of the costs of furnishing and certifying the record, which costs shall be determined by the Department ~~there is filed in the Court with the complaint a receipt from~~

~~the Department acknowledging payment of the costs of furnishing and certifying the record.~~ Exhibits shall be certified without cost. Failure on the part of the Plaintiff to file a receipt in court shall be grounds for dismissal of the action.

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

(225 ILCS 41/15-41 new)

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

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

(1) the signature is the genuine signature of the Secretary;

(2) the Secretary is duly appointed and qualified; and

(3) the hearing officer is qualified to act.

(225 ILCS 41/15-45)

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

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

(a) The practice of funeral directing and embalming or funeral directing by any person who has not been issued a license by the Department, whose license has been suspended or revoked, or whose license has not been renewed is hereby declared to be inimical to the public welfare and to constitute

a public nuisance. The Secretary ~~Director of Professional Regulation~~ may, in the name of the People of the State of Illinois through the Attorney General of the State of Illinois, or the State's Attorney of any county in the State of Illinois, apply for an injunction in the circuit court to enjoin any person who has not been issued a license or whose license has been suspended or revoked, or whose license has not been renewed, from practicing funeral directing and embalming or funeral directing. Upon the filing of a verified complaint in court, the court, if satisfied by affidavit or otherwise that the person is or has been practicing funeral directing and embalming or funeral directing without having been issued a license or after his or her license has been suspended, revoked, or not renewed, may issue a temporary restraining order or preliminary injunction, without notice or bond, enjoining the defendant from further practicing funeral directing and embalming or funeral directing. A copy of the verified complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as in other civil cases. If it is established that the defendant has been or is practicing funeral directing and embalming or funeral directing without having been issued a license or has been or is practicing funeral directing and embalming or funeral directing after his or her license has been suspended, revoked, or not renewed, the court may enter a judgment perpetually enjoining the defendant from further practicing funeral

directing and embalming or funeral directing. In case of violation of any injunction entered under this Section, the court may summarily try and punish the offender for contempt of court. Any injunction proceeding shall be in addition to, and not in lieu of, all penalties and other remedies in this Code.

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

(c) (1) (Blank). ~~In addition to any other penalty provided by law, any person, sole proprietorship, professional service corporation, limited liability company, partnership, or other entity that violates Section 1-15 or 1-20 of this Act shall forfeit and pay to the General Professions Dedicated Fund a civil penalty in an amount determined by the Department of not more than \$10,000 for each offense. The penalty shall be assessed in proceedings as provided in Sections 15-10 through 15-40 of this Act.~~

(2) (Blank). ~~Unless the amount of the penalty is paid within 60 days after the order becomes final, the order shall~~

~~constitute a judgement and shall be filed and execution issued thereon in the same manner as the judgement of a court of record.~~

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

(225 ILCS 41/15-46 new)

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

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

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

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

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

(225 ILCS 41/15-55)

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

Sec. 15-55. Preparation room. The Department shall require that each fixed place of practice or establishment devoted to the care and preparation for burial or for transportation of deceased human bodies maintain a preparation room properly equipped with necessary drainage and ventilation facilities and containing instruments and supplies necessary for the preparation and embalming of deceased human bodies for burial or transportation. Branch operations of main funeral businesses having a preparation room and located in the State of Illinois are exempt from the requirements of this Section. The Department may adopt rules for all preparation room equipment and facility requirements with the consultation of the Board.

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

(225 ILCS 41/15-65)

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

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

All fees collected under this Code Act shall be deposited into the General Professions Dedicated Fund and shall be

appropriated to the Department for the ordinary and contingent expenses of the Department in the administration of this Code Act.

(Source: P.A. 91-454, eff. 1-1-00.)

(225 ILCS 41/15-70)

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

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

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

(Source: P.A. 92-146, eff. 1-1-02.)

(225 ILCS 41/15-75)

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

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

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

(1) Practicing the profession of funeral directing and embalming or funeral directing, or attempting to practice the profession of funeral directing and embalming or funeral directing without a license as a ~~licensed~~ funeral director and embalmer or funeral director ~~or acting as a customer service employee without a license as a customer service employee issued by the Department.~~

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

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

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

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

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

(b) The Department may refuse to issue or renew a license or may revoke, suspend, place on probation, reprimand, or take other disciplinary action as the Department may deem appropriate, including imposing fines not to exceed \$10,000 for each violation, with regard to any license under the Code for any one or combination of the following: ~~Each of the following acts or actions is a violation of this Code for which the Department may refuse to issue or renew, or may suspend or revoke any license or may take any disciplinary action as the Department may deem proper including fines not to exceed \$1,000 for each violation.~~

(1) Obtaining or attempting to obtain a license by fraud or misrepresentation.

(2) Conviction in this State or another state of any

crime that is a felony or misdemeanor under the laws of this State or conviction of a felony or misdemeanor in a federal court.

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

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

(5) Professional incompetence, gross malpractice, ~~Incompetence~~ or untrustworthiness in the practice of funeral directing and embalming or funeral directing.

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

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

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

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

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

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

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

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

(13) (Blank). ~~Continued practice by a person having an~~

~~infectious or contagious disease.~~

(14) Embalming or attempting to embalm a deceased human body without express prior authorization of the person responsible for making the funeral arrangements for the body. This does not apply to cases where embalming is directed by local authorities who have jurisdiction or when embalming is required by State or local law.

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

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

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

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

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

(20) Taking possession of a dead human body without having first obtained express permission from next of kin or a public agency legally authorized to direct, control or

permit the removal of deceased human bodies.

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

(22) Directly or indirectly receiving compensation for any professional services not actually performed.

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

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

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

(26) Knowingly making or filing false records or reports in the practice of funeral directing and embalming.

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

(28) Violations of this Code or of the rules adopted pursuant to this Code.

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

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

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

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

(33) Inability to practice the profession with reasonable judgment, skill, or safety.

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

(35) A pattern of practice or other behavior that

demonstrates incapacity or incompetence to practice under this Code.

(36) ~~(28)~~ Failing to comply with any of the following required activities:

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

(B) A licensee shall clearly mark the price of any casket offered for sale or the price of any service using the casket on or in the casket if the casket is displayed at the funeral establishment. If the casket is displayed at any other location, regardless of whether the licensee is in control of that location, the casket shall be clearly marked and the registrant

shall use books, catalogues, brochures, or other printed display aids to show the price of each casket or service.

(C) At the time funeral arrangements are made and prior to rendering the funeral services, a licensee shall furnish a written statement of services to be retained by the person or persons making the funeral arrangements, signed by both parties, that shall contain: (i) the name, address and telephone number of the funeral establishment and the date on which the arrangements were made; (ii) the price of the service selected and the services and merchandise included for that price; (iii) a clear disclosure that the person or persons making the arrangement may decline and receive credit for any service or merchandise not desired and not required by law or the funeral director or the funeral director and embalmer; (iv) the supplemental items of service and merchandise requested and the price of each item; (v) the terms or method of payment agreed upon; and (vi) a statement as to any monetary advances made by the registrant on behalf of the family. The licensee shall maintain a copy of the written statement of services in its permanent records. All written statements of services are subject to inspection by the Department.

(D) In all instances where the place of final

disposition of a deceased human body or the cremated remains of a deceased human body is a cemetery, the licensed funeral director and embalmer, or licensed funeral director, who has been engaged to provide funeral or embalming services shall remain at the cemetery and personally witness the placement of the human remains in their designated grave or the sealing of the above ground depository, crypt, or urn. The licensed funeral director or licensed funeral director and embalmer may designate a licensed funeral director and embalmer intern or representative of the funeral home to be his or her witness to the placement of the remains. If the cemetery authority, cemetery manager, or any other agent of the cemetery takes any action that prevents compliance with this paragraph (D), then the funeral director and embalmer or funeral director shall provide written notice to the Department within 5 business days after failing to comply. If the Department receives this notice, then the Department shall not take any disciplinary action against the funeral director and embalmer or funeral director for a violation of this paragraph (D) unless the Department finds that the cemetery authority, manager, or any other agent of the cemetery did not prevent the funeral director and embalmer or funeral director from complying with this paragraph (D) as claimed in the

written notice.

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

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

(38) ~~(30)~~ Violation of any final administrative action of the Secretary ~~Director~~.

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

(c) The Department may refuse to issue or renew, or may suspend, the license of any person who fails to file a return,

to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest as required by any tax Act administered by the Illinois Department of Revenue, until the time as the requirements of the tax Act are satisfied.

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

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

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

(225 ILCS 41/15-77 new)

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

Sec. 15-77. Method of payment, receipt. No licensee shall

require payment for any goods or services by cash only. Each licensee subject to this Section shall permit payment by at least one other option, including, but not limited to, personal check, cashier's check, money order, or credit or debit card. In addition to the statement of services, the licensee shall provide a receipt to the consumer upon payment in part or in full, whatever the case may be.

(225 ILCS 41/15-85)

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

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

~~Nothing in this Code shall have the effect of limiting the power of cities and villages to tax, license and regulate funeral directors, undertakers and undertaking establishments as may be authorized from time to time by general law.~~

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

(225 ILCS 41/15-91 new)

Sec. 15-91. Denial of license. If the Department determines that an application for licensure should be denied pursuant to Section 15-75, then the applicant shall be sent a notice of intent to deny license or exemption from licensure and the applicant shall be given the opportunity to request, within 20 days of the notice, a hearing on the denial. If the applicant requests a hearing, then the Secretary shall schedule a hearing within 30 days after the request for a hearing, unless otherwise agreed to by the parties. The Secretary shall have the authority to appoint an attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer. The hearing officer shall have full authority to conduct the hearing. The hearing shall be held at the time and place designated by the Secretary. The Secretary shall have the authority to prescribe rules for the administration of this Section.

(225 ILCS 41/15-100 new)

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

Sec. 15-100. Conflict of interest. No investigator may hold an active license issued pursuant to this Code, nor may an investigator have a financial interest in a business licensed under this Code. Any individual licensed under this Code who is employed by the Department shall surrender his or her license

to the Department for the duration of that employment. The licensee shall be exempt from all renewal fees while employed by the Department.

(225 ILCS 41/15-105 new)

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

Sec. 15-105. Civil Administrative Code. The Department shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois and shall exercise all other powers and duties set forth in this Code.

(225 ILCS 41/15-110 new)

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

Sec. 15-110. Rules. The Department may adopt rules for the administration and enforcement of this Code. The rules shall include standards for licensure, professional conduct, and discipline.

(225 ILCS 41/20-15)

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

Sec. 20-15. Home rule; ~~mandates~~. The regulation and licensing provided for in this Code are exclusive powers and functions of the State. A home rule unit may not regulate or license funeral directors, funeral director and embalmers, customer service employees, or any activities relating to the services of funeral directing and embalming. This Section is a

denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution. ~~Nothing in this Code as initially enacted (i) is a denial or limitation on home rule powers where no denial or limitation existed under prior law or (ii) creates a State mandate under the State Mandates Act where no mandate existed under prior law.~~

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

(225 ILCS 41/Art. 12 rep.)

Section 10. The Funeral Directors and Embalmers Licensing Code is amended by repealing Article 12.