

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

As Engrossed: H3/5/97

A Bill

HOUSE BILL 1863

4
5 By: Representatives Judy Smith, Goodwin, Brown, and Dawson
6 By: Senator Ross

For An Act To Be Entitled

9 "AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS CODE
10 PERTAINING TO THE STATE BOARDS OF EMBALMERS AND FUNERAL
11 DIRECTORS; AND FOR OTHER PURPOSES."

Subtitle

13 "AN ACT PERTAINING TO THE STATE BOARDS
14 OF EMBALMERS AND FUNERAL DIRECTORS."

16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18
19 SECTION 1. Arkansas Code 17-29-201(b) and (c) are amended to read as
20 follows:

21 "(b) The board shall consist of seven (7) members, appointed by the
22 Governor, with the advice and consent of the Senate, for a term of three (3)
23 years.

24 ~~_____ (1) Six (6) members, at least one (1) of whom shall be from each~~
25 ~~of the four (4) congressional districts as defined on January 1, 1983, shall~~
26 ~~be appointed as follows:~~

27 (1) Four (4) members, at least one (1) of whom shall be from each
28 of the four (4) congressional districts and one (1) at large representative,
29 shall be appointed as follows:

30 (A) Five (5) members of the board shall be embalmers and/or
31 funeral directors licensed under subchapter 3 of this chapter who shall have
32 had at least five (5) consecutive years of active experience as embalmers or
33 funeral directors in Arkansas immediately preceding appointment. The Governor
34 shall appoint members to the board from three (3) nominees submitted by the
35 licensed embalmers and funeral directors. In the event no nominations are
36 submitted to the Governor by July 1 of any year in which an appointment is to

1 be made, the Governor may make the appointment, provided that the appointee
2 meets the other requirements for board membership;

3 (B) One (1) member of the board shall be designated as a
4 consumer representative. He or she shall be appointed from the state at large,
5 subject to confirmation by the Senate, but shall not be required to be
6 appointed from a list submitted by the licensed embalmers and funeral
7 directors. He or she shall be a full voting member.

8 (2) One (1) member of the board shall not be actively engaged in
9 or retired from the profession of embalming and funeral directing, shall be
10 sixty (60) years of age or older, and shall represent the elderly. He or she
11 shall be appointed from the state at large, subject to confirmation by the
12 Senate, but shall not be required to be appointed from a list submitted by the
13 licensed embalmers and funeral directors. The position may not be held by the
14 person holding the consumer representative position. He or she shall be a full
15 voting member ~~but shall not participate in the grading of examinations.~~

16 (c) No member shall serve more than ~~two (2)~~ three (3) consecutive
17 three-year terms on the board."
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19 SECTION 2. Arkansas Code 17-29-205(c) is amended to read as follows:

20 "~~(c) The inspector is authorized to enter the office, premises,~~
21 ~~establishment, or place of business of any place in this state where the~~
22 ~~practice of embalming or funeral directing is carried on, or where the~~
23 ~~practice is advertised as being carried on, for the purpose of inspecting the~~
24 ~~premises or establishment, and inspecting the license and registration of any~~
25 ~~licensee, and the manner and scope of training given to any apprentice~~
26 ~~therein. The inspector, with proper identification, is authorized to enter~~
27 the office, premises, establishment, or place of business of any business in
28 this state where the practice of embalming or funeral directing is carried on,
29 or where the practice is advertised as being carried on, for the purpose of
30 inspecting the premises or establishment, inspecting the license and
31 registration of any licensee, inspecting the manner and scope of training
32 given to any apprentice therein, and to insure compliance with all state laws,
33 rules and regulations pertaining to funeral service. Acceptance of a license
34 under subchapter 3 of this chapter shall be the licensee's permission for the
35 inspector to enter his business premises without legal process."
36

1 SECTION 3. Arkansas Code 17-29-301(a) is amended to read as follows:

2 "(a) Every person who desires to practice the science of embalming in
3 this state shall:

4 (1) Be of good moral character and at least eighteen (18) years of age;

5 (2) Be a graduate of an accredited high school or the equivalent thereof;

6 (3) Be a graduate of a school of embalming, which is accredited by the
7 ~~Conference of Funeral Service Examining Boards~~ American Board of Funeral
8 Service Education or accredited by the State Board of Embalmers and Funeral
9 Directors;

10 (4) Make a written application to the board attaching the fee as
11 prescribed in § 17-29-208;

12 (5) Have served as a registered apprentice embalmer for not less than
13 twelve (12) months in the State of Arkansas under the direct supervision of an
14 Arkansas licensed embalmer and submit at least fifty (50) case reports to the
15 board; and

16 (6) Present himself before the board at a time and place fixed by the
17 board and make a passing grade on both the written and oral examinations."
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19 SECTION 4. Arkansas Code 17-29-305(a)(3) is amended to read as follows:

20 "(a)(3) The board shall grant or deny each application for a license
21 under this section ~~within thirty (30) days~~ after it is filed."
22

23 SECTION 5. Arkansas Code 17-29-306 is amended by inserting an
24 additional subsection (c) at the end thereof to read as follows:

25 "(c) Failure to receive the renewal notice shall not relieve the
26 licensee or establishment of the duty to pay the renewal fee as prescribed."
27

28 SECTION 6. Arkansas Code 17-29-310 is amended to read as follows:

29 "§ 17-29-310. ~~Reciprocity.~~ License Requirements for Out of State
30 Licenses.

31 ~~—(a)~~ Any person holding a valid, unrevoked, and unexpired license as an
32 embalmer or funeral director in another state, ~~or territory having~~
33 ~~substantially similar requirements to those existing in this state, provided~~
34 ~~those states or territories recognize licenses issued by the board~~ Territory,
35 or Provincial Authority, may apply for license to practice in this state as an
36 embalmer or funeral director, or both. *Application shall be made by filing*

1 with the secretary-treasurer of the board a certified statement from the
2 secretary of the examining board of the state ~~or territory~~, U.S. Territory or
3 Provincial Authority in which the applicant holds his or her license showing
4 the basis upon which the license was ~~granted~~ issued. ~~The secretary-treasurer~~
5 ~~shall make a recommendation regarding the applicant's qualifications. If this~~
6 ~~board then finds that the applicant has now fulfilled substantially similar~~
7 ~~requirements, the board may grant the license upon receipt of the fee~~
8 ~~prescribed by § 17-29-208. Upon receipt of the application, the secretary of~~
9 ~~the board may issue temporary working numbers, which are valid for one year~~
10 ~~from the date of issuance. To obtain a license, the applicant shall pass an~~
11 ~~exam to prove his or her proficiency, including at least, but not limited to,~~
12 ~~a knowledge of the laws, rules and regulations of this state pertaining to~~
13 ~~funeral service. The exam may be taken at one of the regularly scheduled exam~~
14 ~~sessions set by the board. If the board is satisfied with the proficiency of~~
15 ~~the applicant, upon receipt of the prescribed fees in § 17-29-208, a license~~
16 ~~may be granted.~~

17 ~~— (b) A person holding a valid, unrevoked, and unexpired license in another~~
18 ~~state or territory with requirements less than those of this state, after two~~
19 ~~(2) consecutive years of active experience as a licensee in that state, may~~
20 ~~apply for a license to practice as an embalmer or funeral director, or both,~~
21 ~~in this state after passing a test to prove his or her proficiency, including,~~
22 ~~but not limited to, a knowledge of the laws and regulations of this state~~
23 ~~pertaining to funeral service. If the board is satisfied with the proficiency~~
24 ~~of the applicant, upon receipt of the fee prescribed in § 17-29-208, a license~~
25 ~~may be granted. The acceptance of the application and the sworn statements as~~
26 ~~a basis for granting of a reciprocal license is entirely at the discretion of~~
27 ~~the board. Reciprocal licenses shall be issued only to applicants holding~~
28 ~~original licenses, and not reciprocal licenses issued by another state.~~

29 ~~— (c) Any nonresident of Arkansas holding a valid, unrevoked, and unexpired~~
30 ~~license as a funeral director in the state of his residence may be granted a~~
31 ~~license to practice funeral directing in this state, on application to the~~
32 ~~board and on providing the board with such evidence as to his qualifications~~
33 ~~as are required by the board. Licenses shall only be granted to a nonresident~~
34 ~~applicant who resides in a state contiguous and adjacent to the State of~~
35 ~~Arkansas and who is regularly engaged in the practice of funeral directing~~
36 ~~within the state of residence and if the law of the state in which the~~

1 ~~applicant has residence authorizes the granting of reciprocal licenses to~~
2 ~~practice funeral directing in that state to persons licensed as funeral~~
3 ~~directors under the law of the State of Arkansas."~~

4

5 SECTION 7. Arkansas Code 17-29-311(a) is amended to read as follows:

6 "(a) The board may refuse to issue or renew or may suspend or revoke
7 any license for the practice of embalming or funeral directing or may place
8 the holder thereof on a term of probation after proper hearing upon finding
9 the holder of the license to be guilty of acts of commission or omission,
10 including the following:

11 (1) Conviction of a felony;

12 (2) Misrepresentations made or fraud committed as a holder of a
13 license;

14 (3) False or misleading advertising;

15 (4) Solicitation of dead human bodies by the licensee, his
16 agents, assistants, or employees, whether such solicitation occurs after death
17 or while death is impending, providing that this prohibition shall not be
18 deemed to prohibit general advertising;

19 (5) Employment directly or indirectly of an apprentice, agent,
20 assistant, employee, or other person, on a part-time or full-time basis or on
21 a commission for the purpose of calling upon individuals or institutions by
22 whose influence dead human bodies may be turned over to a particular funeral
23 establishment;

24 (6) The direct or indirect payment or offer of payment of a
25 commission by the licensee, his agents, assistants, or employees for the
26 purpose of securing business;

27 (7) Allowing personnel unlicensed pursuant to this subchapter to
28 execute contracts for funeral service;

29 (8) Aiding or abetting an unlicensed person to practice embalming
30 or funeral directing;

31 (9) Violation of any provision of this subchapter and subchapter
32 2 of this chapter;

33 (10) Violation of any state law or municipal or county ordinance
34 or regulation affecting the handling, custody, care, transportation, or final
35 disposition of dead human bodies;

36 (11) Fraud or misrepresentation in obtaining or renewing a

1 license;

2 (12) Refusing to properly release a dead human body to the
3 custody of the person or entity having the legal right to effect such release;

4 (13) Willful failure to secure a permit for the removal or burial
5 or other disposition of a dead human body;

6 (14) Knowingly making a false statement on a certificate of
7 death;

8 (15) Violations of applicable law or regulation with regard to
9 prearranged or prepaid funeral services or funeral merchandise. However, the
10 proper regulatory agency for prearranged or prepaid funeral services or
11 funeral merchandise shall have determined that such a violation has occurred;

12 ~~or~~

13 (16) Discriminating in services because of race, creed, color, or
14 national origin-;

15 (17) Failure to meet continuing education requirements; or

16 (18) Failure to answer a complaint with the fifteen (15) day time
17 period."

18

19 SECTION 8. Arkansas Code 17-29-403(a) is amended to read as follows:

20 "(a) Whenever the State Board of Embalmers and Funeral Directors, after
21 a hearing conducted in accordance with the Arkansas Administrative Procedure
22 Act, as amended, § 25-15-201 et seq., determines that a person has violated
23 any provision of subchapters 2 and 3 of this chapter, or any regulations
24 promulgated by the board pursuant thereto, the board may impose a civil
25 penalty on such person not to exceed ~~one thousand dollars (\$1,000)~~ ten
26 thousand dollars (\$10,000)."

27

28 SECTION 9. All provisions of this act of a general and permanent
29 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
30 Code Revision Commission shall incorporate the same in the Code.

31

32 SECTION 10. If any provision of this act or the application thereof to
33 any person or circumstance is held invalid, such invalidity shall not affect
34 other provisions or applications of the act which can be given effect without
35 the invalid provision or application, and to this end the provisions of this
36 act are declared to be severable.

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SECTION 11. All laws and parts of laws in conflict with this act are hereby repealed.

/s/Rep. Judy Smith et al