

1 State of Arkansas *As Engrossed: S3/13/17 H3/20/17*

2 91st General Assembly

A Bill

3 Regular Session, 2017

SENATE BILL 624

4

5 By: Senator E. Williams

6 By: Representatives Wardlaw, Ballinger

7

8

For An Act To Be Entitled

9 AN ACT TO CREATE THE STATE BOARD OF EMBALMERS,
10 FUNERAL DIRECTORS, CEMETERIES, AND BURIAL SERVICES
11 WITHIN THE STATE INSURANCE DEPARTMENT; TO ABOLISH THE
12 STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS, THE
13 BURIAL ASSOCIATION BOARD, AND THE ARKANSAS CEMETERY
14 BOARD; AND FOR OTHER PURPOSES.

15

16

17

Subtitle

18 TO CREATE THE STATE BOARD OF EMBALMERS,
19 FUNERAL DIRECTORS, CEMETERIES, AND BURIAL
20 SERVICES; AND TO ABOLISH THE STATE BOARD
21 OF EMBALMERS AND FUNERAL DIRECTORS, THE
22 BURIAL ASSOCIATION BOARD, AND THE
23 ARKANSAS CEMETERY BOARD.

24

25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

27

28 SECTION 1. DO NOT CODIFY. Abolition of the Arkansas Cemetery Board,
29 the State Board of Embalmers and Funeral Directors, and the Burial
30 Association Board.

31 (a) The Arkansas Cemetery Board, State Board of Embalmers and Funeral
32 Directors, and Burial Association Board are abolished, and their powers,
33 duties, functions, records, personnel, property, unexpended balances of
34 appropriations, allocations, or other funds are transferred to the State
35 Insurance Department by a type 3 transfer under § 25-2-106.

36 (b)(1) For the purposes of this act, the State Insurance Department



1 shall be considered a principal department established by Acts 1971, No. 38.

2 (2) All rules promulgated by the Arkansas Cemetery Board, the
3 State Board of Embalmers and Funeral Directors, and the Burial Association
4 Board in effect before the effective date of this act, are transferred as a
5 matter of law to the State Insurance Department on the effective date of this
6 act and shall be considered an officially promulgated rule of the State Board
7 of Embalmers, Funeral Directors, Cemeteries, and Burial Services of the State
8 Insurance Department.

9
10 SECTION 2. DO NOT CODIFY. Effective date.

11 This act shall become effective on July 1, 2018.

12
13 SECTION 3. Arkansas Code Title 23, Chapter 61, is amended to add an
14 additional subchapter to read as follows:

15 Subchapter 11 –

16 State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services

17
18 23-61-1101. Definitions.

19 As used in this subchapter:

20 (1) "Burial association" means:

21 (A) A person, firm, association, copartnership,
22 corporation, company, or other organization that, from and after February 18,
23 1953:

24 (i) Undertakes for consideration paid by or on
25 behalf of its members to defray all or a part of the funeral expenses of the
26 members;

27 (ii) Furnishes or undertakes to furnish merchandise,
28 supplies, and services or any other character of burial benefits to the
29 members; or

30 (iii) Issues a certificate that provides for the
31 payment of funeral benefits to the members in services, merchandise, or
32 supplies, including the services of funeral directors and embalmers; and

33 (B) Every person, firm, association, copartnership,
34 corporation, or company that, before February 18, 1953, has:

35 (i) Undertaken for a consideration to pay money to
36 its contributors for the purpose of defraying all or part of the funeral

1 expenses of a deceased person;

2 (ii) Furnished or has undertaken to furnish supplies
3 and services or any other character of burial benefits to the contributing
4 person or to his or her beneficiaries or members of his or her family; or

5 (iii) Issued any form of contract or certificate
6 that, under its terms, provides for the payment of funeral benefits in money,
7 services, or supplies, including the services of undertakers or embalmers;

8 (2) "Care and maintenance" means the continual maintenance of
9 the cemetery grounds and graves in keeping with a properly maintained
10 cemetery;

11 (3)(A) "Cemetery" means any land or structure in this state
12 dedicated to and used or intended to be used for interment of human remains.

13 (B) "Cemetery" includes a:

14 (i) Burial park for earth interments;

15 (ii) Mausoleum for vault or crypt interments; or

16 (iii) Combination of one (1) or more burial parks
17 for earth interments and mausoleums for vault or crypt interments;

18 (4) "Cemetery company" means an individual, partnership,
19 corporation, limited liability company, or association owning or controlling
20 cemetery lands or property and conducting the business of a cemetery or
21 making an application with the State Board of Embalmers, Funeral Directors,
22 Cemeteries, and Burial Services

23 to own or control the lands or conduct the business;

24 (5) "Permit holder" means a cemetery company that holds a permit
25 issued by the board to own or operate a perpetual care cemetery; and

26 (6) "Perpetual care cemetery" means a cemetery for the benefit
27 of which a permanent maintenance fund has been established in accordance with
28 this subchapter.

29
30 23-61-1102. Creation – Members.

31 (a) There is created within the State Insurance Department the State
32 Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.

33 (b) The members of the board shall be:

34 (1) Residents of this state;

35 (2) At least twenty-one (21) year of age; and

36 (3) Of good moral character.

1 (c) The board shall be composed of nine (9) members as follows:

2 (1)(A) The Insurance Commissioner or his or her designated
3 deputy.

4 (B) The Insurance Commissioner or his or her designated
5 deputy shall be a voting member of the board; and

6 (2)(A) Eight (8) members appointed by the Governor and subject
7 to confirmation by the Senate who shall serve terms of five (5) years.

8 (B) Six (6) members of the members of the board under
9 subdivision (c)(2)(A) of this section shall include:

10 (i)(a) Two (2) licensed embalmers or funeral
11 director, each of whom has had at least five (5) consecutive years of
12 experience as an embalmer or funeral director in this state immediately
13 preceding his or her appointment to the board.

14 (b) The Governor shall consult licensed
15 embalmers and funeral directors before making an appointment under
16 subdivision (c)(2)(B)(i) of this section.

17 (c) The Arkansas Funeral Directors Association
18 or its successor shall submit to the Governor a list containing the names of
19 at least four (4) professionals under subdivision (c)(2)(B)(i) of this
20 section;

21 (ii) Two (2) owners or operators of a licensed
22 perpetual care cemetery in this state; and

23 (iii) Two (2) professionals engaged in the operation
24 of a burial association for at least five (5) consecutive years preceding his
25 or her appointment to the board.

26 (C)(i) The remaining two (2) members of the board shall
27 be:

28 (a) One (1) person from this state, appointed
29 at large, to represent the consumer community; and

30 (b) One (1) person from this state who is at
31 least sixty (60) years of age, appointed at large, to represent the elderly
32 community.

33 (ii) The members of the board under subdivision
34 (c)(2)(C)(i) of this section shall not be actively engaged in or retired from
35 the profession of embalming or funeral directing, the business of operating a
36 burial association, or any other profession or occupation that is regulated

1 by the board.

2 (iii) The members of the board under subdivision
3 (c)(2)(C)(i) shall be full voting members of the board.

4 (d) The members of the board shall hold the first meeting within five
5 (5) days after membership appointment and select one (1) member under
6 subdivision (c)(2)(B) of this section as Chair of the State Board of
7 Embalmers, Funeral Directors, Cemeteries, and Burial Services who shall serve
8 a one-year term or until his or her successor is selected and qualified.

9 (e) Each congressional district as of shall be represented by
10 membership on the board.

11 (f)(1) The length of the term for an initial member of the board under
12 this section shall be staggered and set by the Governor.

13 (2) After the terms of the initial members of the board under
14 subdivision (f)(1) of this section, a member of the board shall serve for a
15 term of five (5) years, and shall serve on the board until a successor is
16 appointed and qualified.

17 (3) A member of the board shall not be appointed to more than
18 two (2) consecutive full terms.

19 (g) A vacancy on the board due to the death, resignation, or other
20 cause of an appointed member of the board shall be filled by appointment by
21 the Governor for the unexpired portion of the term in the same manner as
22 required for an initial appointment.

23 (h) The presence of five (5) or more members of the board shall
24 constitute a quorum.

25 (i) A member of the board who has a financial interest in a matter
26 before the board shall be disqualified from:

27 (1) Participating in discussion pertaining to the matter; and

28 (2) Voting on the matter.

29 (j) A board member is eligible to receive expense reimbursement and
30 stipends under § 25-16-901.

31 (k) The Governor may remove any member of the board for incompetence,
32 improper conduct, gross neglect, or malfeasance.

33 (l)(1) Before entering upon duties of the board, members of the board
34 shall take and subscribe to the oath prescribed by the Arkansas Constitution
35 for state officers and shall file the subscribed oath in the office of the
36 Secretary of State.

1 (2) The Secretary of State shall issue a certificate of
2 appointment for the new member of the board.

3 (m) The board may make reimbursement of the necessary and reasonable
4 travel, board, and lodging expenses of the board's employees, Executive
5 Secretary of the State Board of Embalmers, Funeral Directors, Cemeteries, and
6 Burial Services, and auditors incurred in the performance of their official
7 duties.

8
9 23-61-1103. Powers and duties.

10 (a) The State Board of Embalmers, Funeral Directors, Cemeteries, and
11 Burial Services may:

12 (1)(A) Hold a meeting no less than one (1) time each calendar
13 quarter.

14 (B) The meeting shall be held at a time and place as the
15 board or Insurance Commissioner may determine, after notice of such meeting
16 has been given to the general public at least thirty (30) days before the
17 meeting.

18 (C) The board shall meet upon written demand of any two
19 (2) members of the board or upon the call of the Insurance Commissioner;

20 (2) Make examinations required by § 17-29-301 et. seq. available
21 to applicants at least two (2) times annually at suitable locations during
22 normal business hours.

23 (3) Promulgate appropriate rules:

24 (A) For the transaction of business of the board;

25 (B) For the betterment and promotion of the standards of
26 service and practice;

27 (C) To establish the standards of practice and a code of
28 ethics for persons licensed or authorized under this subchapter, § 17-29-301
29 et. seq.; the Cemetery Act for Perpetually Maintained Cemeteries, § 20-17-
30 1001 et seq.; or § 23-78-101 et seq.; and

31 (D) To establish qualifications necessary to:

32 (i) Practice the science of embalming;

33 (ii) Engage in the business of funeral directing;

34 (iii) Practice cremation;

35 (iv) Transport human remains; and

36 (v) Operate a funeral establishment, mortuary

1 service, crematorium, retort, or transport service firm to transport human
2 remains;

3 (4)(A) Develop, establish by rule, and administer a mandatory or
4 voluntary continuing education program and its requirements for persons
5 licensed or authorized by the board.

6 (B) The board may excuse licensees, as a group or as
7 individuals, from a continuing education program, if any unusual
8 circumstances, emergency, or hardship prevents participation in the program;

9 (5) Promulgate rules and publish forms to enforce and administer
10 laws governing:

11 (A) Embalmers, funeral directors, and funeral
12 establishments, under § 17-29-301 et seq.; § 17-29-401 et seq.; and § 17-29-
13 501 et seq.;

14 (B) Burial associations under § 23-78-101 et seq.; and

15 (C) Cemetery companies under the Cemetery Act for
16 Perpetually Maintained Cemeteries, § 20-17-1001 et seq.; and the Insolvent
17 Cemetery Grand Fund Act § 20-17-1301 et seq.;

18 (6) Suspend or revoke permits or licenses when a licensee fails
19 to comply with any of the laws governing the licensee or when a licensee
20 fails to comply with a rule or order of the board;

21 (7) Upon application, grant permits, licenses, or certificates
22 of authority to applicants and licensees;

23 (8) When appropriate, amend permits, licenses, or certificates
24 of authority;

25 (9)(A) Apply to Pulaski County Circuit Court to enjoin any act
26 or practice and to enforce compliance with relevant laws and the rules and
27 orders of the board when it appears that any person has engaged in or will
28 engage in an act or practice that constitutes a violation of any provision of
29 this subchapter or rule or order of the board.

30 (B) The court shall not require the board or commissioner
31 to post a bond;

32 (10) Apply to Pulaski County Circuit Court or the circuit court
33 in the county in which the licensee is located for the appointment of a
34 receiver or conservator of the cemetery corporation or its permanent
35 maintenance fund when it appears to the board or Insurance Commissioner that
36 a cemetery corporation is insolvent or that the cemetery corporation, its

1 officers, directors, agents, or the trustees of its permanent maintenance
2 fund, have violated this subchapter, relevant laws, or the rules or orders of
3 the board;

4 (11)(A) Conduct hearings, subpoena witnesses, books, and records
5 in connection with alleged violations of this subchapter, relevant laws, and
6 the rules or orders of the board.

7 (B)(i) In case of contumacy or refusal to obey a subpoena
8 issued to a person, the Pulaski County Circuit Court, upon application by the
9 board, may issue to the person an order requiring him or her to appear before
10 the board or the person designated by the board.

11 (ii) Failure to obey the order of the court may be
12 punished by the court as a contempt of court.

13 (C) An order by the board under this subchapter shall be
14 subject to review by the Pulaski County Circuit Court or by the circuit court
15 of the county in which any part of the cemetery lies if an application for
16 review of an order by the board is made within thirty (30) days of the date
17 of the order; and

18 (12) Establish and collect reasonable fees.

19 (b) The board shall adopt bylaws and rules in connection with the care
20 and disposition of human remains in this state.

21 (c)(1) The Insurance Commissioner may appoint assistants, deputies,
22 and examiners, inspectors, attorneys, clerks, stenographers, and other
23 personnel as may be necessary to assist him or her in the discharge of the
24 duties imposed upon him or her in overseeing the board.

25 (2) Personnel under subdivision (c)(1) of this section shall
26 devote their entire business time to carrying out official duties concerning
27 the board, or if appropriate, the State Insurance Department.

28 (d) The powers and authority under subsection (a) of this section
29 shall not be in diminution or limitation of the powers and authority vested
30 in the board by the various sections of this subchapter, but the board shall
31 possess all powers and authority, whether set forth in this section or not,
32 to enable it to carry out the intent and purpose of this subchapter.

33 (e)(1) The board, when it shall deem necessary, shall be represented
34 by the department.

35 (2)(A) If deemed necessary by the board, the board may employ
36 special counsel whose services shall be paid for from funds of the board.

1 (B) Special counsel shall be retained only with the prior
2 approval of the Insurance Commissioner.

3
4 23-61-1104. Executive Secretary of the State Board of Embalmers,
5 Funeral Directors, Cemeteries, and Burial Service.

6 (a)(1)(A) The Insurance Commissioner may appoint and employ a person
7 as the Executive Secretary of State Board of Embalmers, Funeral Directors,
8 Cemeteries, and Burial Service who shall serve at the pleasure of the
9 commissioner.

10 (2) The executive secretary shall devote the necessary time to
11 the performance of his or her duties under this section.

12 (3) The duties of the executive secretary shall include:

13 (A) Collection of fees and charges under this subchapter;
14 § 17-29-301 et seq.; the Cemetery Act for Perpetually Maintained Cemeteries,
15 § 20-17-1001 et seq.; and the Insolvent Cemetery Grand Fund Act § 20-17-1301
16 et seq.; and § 23-78-101 et seq.;

17 (B) Keeping record of the proceedings of the board;

18 (C) Keeping an accurate account of all moneys received and
19 disbursed by the Insurance Commissioner; and

20 (D) Any other duties defined and designated by the board.

21 (b) The board shall maintain its main office location in Little Rock
22 and transact the business of the board at the main office.

23
24 23-61-1105. Embalmers and Funeral Directors.

25 (a) The Insurance Commissioner or a person appointed or employed by
26 the commissioner shall:

27 (1) Have general supervision over field inspection and
28 enforcement of this subchapter and § 17-29-301 et seq.;

29 (2) Make public the procedures for making inquiries into the
30 practice of funeral directors or embalmers and for making complaints
31 concerning the practices;

32 (3) Maintain a record of the licensee and business name and
33 address of every person licensed under § 17-29-301 et seq., including the
34 license number, date of the license, and the renewal date of the license;

35 (4) On request, supply a list of every person and funeral
36 establishment licensed under § 17-29-301 et seq., to a person licensed as an

1 embalmer or funeral director, to a common carrier in this state, to a
2 hospital licensed in this state, or to any other person authorized by law to
3 receive the list;

4 (5) Hold all moneys received by the board to pay the necessary
5 and allowable expenses for the operation of the board in carrying out the
6 provisions of this subchapter, § 17-29-301 et seq.; the Cemetery Act for
7 Perpetually Maintained Cemeteries, § 20-17-1001 et seq.; and the Insolvent
8 Cemetery Grand Fund Act § 20-17-1301 et seq.; and § 23-78-101 et seq.;

9 (6) If applicable, receive and be paid an annual salary not to
10 exceed the amount authorized by law; and

11 (7) Charge and collect a criminal background check processing
12 fee in an amount necessary to recover the charge imposed by the Department of
13 Arkansas State Police to conduct a criminal background check for a person
14 applying for an initial license under § 17-29-301 et seq.

15 (b) The board may promulgate rules reasonably necessary to reflect any
16 changes in the law as adopted by the United States Congress or any
17 appropriate agency of the United States Government as it affects funeral
18 establishments, funeral directors, or embalmers and for the purpose of
19 keeping this law consistent with, and compatible to, the laws of the United
20 States.

21
22 23-61-1106. Inspector of the State Board of Embalmers, Funeral
23 Directors, Cemeteries, and Burial Services – Funeral directing – Embalming,
24 cremating, or transporting human remains

25 (a)(1) The Insurance Commissioner may appoint an agent or agents as
26 Inspector of the State Board of Embalmers, Funeral Directors, Cemeteries,
27 and Burial Services.

28 (2) A person is not eligible for appointment as inspector under
29 subdivision (a)(1) of this section unless he or she has not fewer than five
30 (5) consecutive years of active experience as an embalmer and funeral
31 director licensed in this state.

32 (b) The inspector shall hold office at the pleasure of the
33 commissioner, who shall determine his or her duties.

34 (c)(1) The inspector, with proper identification, may enter any
35 office, premises, establishment, or place of business in this state where the
36 practice of embalming, funeral directing, cremation, or transportation of

1 human remains is carried on, or where the practice is advertised as being
2 carried on, to:

3 (A) Inspect the office, premises, crematory, or
4 establishment;

5 (B) Inspect the license and registration of a licensee;

6 (C) Inspect the manner and scope of training given to an
7 apprentice; and

8 (D) Ensure compliance with all state laws and rules
9 pertaining to funeral service.

10 (2) By accepting a license under § 17-29-301 et seq., the
11 licensee grants permission for the inspector or other board designee to enter
12 the licensee's business premises without prior notice.

13 (d) The inspector may serve and execute any process issued by a court
14 under this subchapter, to serve and execute any papers or process issued by
15 the board under the authority of this subchapter and § 17-29-301 et seq., and
16 to perform such other duties as prescribed or ordered by the board.

17 (e) The inspector shall not accept any employment, salary, fees, or
18 other remuneration from a funeral establishment or wholesale firm dealing in
19 funeral supplies and equipment.

20 (f) The inspector shall receive such compensation as the board may
21 determine within the maximum authorized by law.

22
23 23-61-1107. Crematoriums.

24 (a) The State Board of Embalmers, Funeral Directors, Cemeteries, and
25 Burial Services may promulgate reasonable rules for the licensing of
26 crematoriums.

27 (b) A crematorium shall not be operated in this state unless licensed
28 by the board, and a dead human body shall not be cremated in this state
29 except at a licensed crematorium.

30 (c) A violation of this section is a Class A misdemeanor.

31
32 23-61-1108. Transportation of dead human bodies.

33 (a) In the interest of public health and to ensure the safe, secure,
34 and timely transportation of dead human bodies in and through Arkansas, the
35 State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services
36 may license, inspect, and promulgate reasonable rules for any person,

1 partnership, corporation, association, society, or other legal entity engaged
2 in the business of transporting dead human bodies over public streets and
3 highways of this state.

4 (b) A violation of this section is a Class A misdemeanor.

5
6 23-61-1109. Cemeteries and cemetery companies.

7 (a) The State Board of Embalmers, Funeral Directors, Cemeteries, and
8 Burial Services may:

9 (1)(A) Conduct periodic, special, or other examination of a
10 cemetery or cemetery company, including without limitation an examination of
11 the physical condition or appearance of the cemetery, the financial condition
12 of the cemetery company and any trust funds maintained by the cemetery
13 company, and other examinations that the board or Insurance Commissioner
14 deems necessary or appropriate in the public interest.

15 (B) An examination under subdivision (a)(1)(A) of this
16 section shall be carried out by:

17 (i) A member or representative of the board;

18 (ii) A certified public accountant or registered
19 public accountant as authorized under § 20-17-1007; or

20 (iii) The State Insurance Department;

21 (2) Issue or amend permits to operate a cemetery under this
22 subchapter;

23 (3) Suspend or revoke permits to operate a cemetery when a
24 cemetery fails to comply with this subchapter, rules promulgated under this
25 subchapter, or any order of the board;

26 (4) Make rules and forms to enforce this subchapter;

27 (5) Require cemetery companies to observe minimum accounting
28 principles and practices and make and keep the books and records for a period
29 of time as the board may prescribe by rule;

30 (6) Require additional contributions to the permanent
31 maintenance fund of the cemetery under this subchapter, including without
32 limitation contributions not to exceed three thousand dollars (\$3,000)
33 whenever a cemetery company fails to properly care for and maintain or
34 preserve the cemetery;

35 (7) Apply to Pulaski County Circuit Court or the circuit court
36 of the county in which the cemetery is located for appointment of a receiver

1 or conservator of the cemetery company or its permanent maintenance fund when
2 it appears to the board that a cemetery company is insolvent or that the
3 cemetery company, its officers, directors, agents, or the trustees of its
4 permanent maintenance fund, have violated this subchapter and the rules
5 promulgated under this subchapter or have failed to comply with any board
6 order;

7 (8) Increase, by rule, the amount of a deposit required under §
8 20-17-1016 if the board determines that a greater sum is necessary to assure
9 that the permanent maintenance fund will earn sufficient income to provide
10 for the care and maintenance of the cemetery; and

11 (9)(A) Purchase insolvent, licensed perpetual care cemeteries
12 that have been in court-ordered receivership or conservatorship for at least
13 five (5) years.

14 (B) If the taking of legal possession of the cemetery
15 under subdivision (a)(9)(A) of this section requires the payment of
16 consideration, any payment made by the board shall not exceed one thousand
17 dollars (\$1,000).

18 (b) A violation of this section is a Class A misdemeanor.

19
20 23-61-1110. Burial associations.

21 (a) The State Board of Embalmers, Funeral Directors, Cemeteries, and
22 Burial Services may:

23 (1) Grant certificates of authority to burial associations;

24 (2) Revoke certificates of authority, charters, or other
25 authority granted to burial associations in this state;

26 (3) Fix the minimum assessments or minimum membership dues for
27 which burial associations may issue certificates for benefits in specified
28 amounts;

29 (4) Supervise the affairs of all burial associations organized
30 or operating in this state;

31 (5) Conduct hearings as provided in this subchapter and collect,
32 receive, hold, and expend annual license fees under this subchapter and § 23-
33 78-101 et seq.;

34 (6) Adopt and enforce such rules as the board deems necessary
35 and expedient for the proper operation of the burial association and the
36 carrying out of the objects and purposes of this subchapter;

1 (7) Establish actuarial rates and reserve requirements necessary
2 to ensure the financial integrity of all burial associations;

3 (8) Approve requests from burial associations that have excess
4 financial resources, as determined by the board, to adopt a plan to pay death
5 benefits in excess of the face value of a certificate of benefits issued by
6 the burial association to members of the burial association; and

7 (9) Approve or disapprove an application for the dissolution,
8 merger, or reorganization of a burial association organized and operating in
9 this state, merger, or reorganization of a burial association organized and
10 operating in this state.

11 (b) The board may determine issues between different burial
12 associations and between burial associations and their respective members,
13 and render binding decisions, subject to appeal.

14
15 23-61-1111. Duties of the State Insurance Department.

16 (a) The State Insurance Department shall assist the State Board of
17 Embalmers, Funeral Directors, Cemeteries, and Burial Services in the
18 performance of the duties of the board.

19 (b) Assistance under subsection (a) of this section shall include
20 without limitation:

21 (1) Receiving and disseminating filings, questions, and requests
22 on behalf of the board to the members of the board in advance of each
23 meeting;

24 (2) Reviewing all filings, questions, and requests on behalf of
25 the board and offering its opinion on the resolution of the matter;

26 (3) Issuing written responses regarding complaints received by
27 the board;

28 (4) Scheduling all meetings in conjunction with the Chair of the
29 State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services;

30 (5) Providing appropriate legal notices for all scheduled
31 meetings;

32 (6) Establishing a site where meetings of the board may be held;

33 (7) When necessary, scheduling the services of a court reporter
34 for all meetings of the board;

35 (8) Providing legal representation and assistance through the
36 legal staff of the department to the board in matters pertaining to this

1 subchapter;

2 (9) Acting as a liaison between the board and any court involved
3 in the administration of any perpetual care cemetery placed in receivership;

4 (10) Performing inspections at *burial associations, cemeteries,*
5 funeral homes, funeral establishments and crematoriums for which complaints
6 have been received by the board;

7 (11) Performing special audits and examinations as necessary;

8 (12) Scheduling, performing, and assisting in performing regular
9 audits and examinations of cemeteries, funeral homes, funeral establishments,
10 and crematoriums;

11 (13) Administering or assisting in administering the annual
12 reporting for all perpetual care cemeteries; and

13 (14) Assisting in the formulation of legislation on behalf of
14 the board.

15

16 SECTION 4. Arkansas Code § 14-2-102(c)(1)(D)(i), concerning records of
17 military discharges, is amended to read as follows:

18 (i) Is licensed and regulated by the ~~State Board of~~
19 ~~Embalmers and Funeral Directors under § 17-29-201 et seq.~~ State Board of
20 Embalmers, Funeral Directors, Cemeteries, and Burial Services under § 23-61-
21 1101 et seq. ;

22

23 SECTION 5. Arkansas Code Title 17, Chapter 29, Subchapter 2, is
24 repealed.

25

~~Subchapter 2~~

26

~~—Embalmers and Funeral Directors Law— State Board of Embalmers and Funeral~~
27 ~~Directors~~

28

29 ~~17-29-201. Creation—Members—Duties.~~

30

~~(a) There is created the State Board of Embalmers and Funeral~~
31 ~~Directors.~~

32

~~(b)(1) The board shall consist of seven (7) members, appointed by the~~
33 ~~Governor with the advice and consent of the Senate for a term of three (3)~~
34 ~~years.~~

35

~~(2) Four (4) members, at least one (1) of whom shall be from~~
36 ~~each of the four (4) congressional districts, and one (1) at large~~

1 ~~representative shall be appointed as follows:~~

2 ~~(A)(i) Five (5) members of the board shall be embalmers or~~
3 ~~funeral directors, or both, licensed under § 17-29-301 et seq. who shall have~~
4 ~~had at least five (5) consecutive years of active experience as embalmers or~~
5 ~~funeral directors in Arkansas immediately preceding appointment.~~

6 ~~(ii) The Governor shall consult licensed embalmers~~
7 ~~and funeral directors before making an appointment under this subdivision~~
8 ~~(b)(2)(A); and~~

9 ~~(B) One (1) member of the board shall be designated as a~~
10 ~~consumer representative. He or she shall be appointed from the state at~~
11 ~~large, subject to confirmation by the Senate. He or she shall be a full~~
12 ~~voting member.~~

13 ~~(3)(A) One (1) member of the board shall not be actively engaged~~
14 ~~in or retired from the profession of embalming and funeral directing, shall~~
15 ~~be sixty (60) years of age or older, and shall represent the elderly. He or~~
16 ~~she shall be appointed from the state at large, subject to confirmation by~~
17 ~~the Senate. He or she shall be a full voting member.~~

18 ~~(B) The position may not be held by the person holding the~~
19 ~~consumer representative position.~~

20 ~~(c) No member shall serve more than three (3) consecutive three-year~~
21 ~~terms on the board.~~

22 ~~(d)(1) The Governor may remove any member of the board for~~
23 ~~incompetence or improper conduct.~~

24 ~~(2) Vacancies caused by death, resignation, or removal before~~
25 ~~the expiration of the term shall be filled by the Governor for the remainder~~
26 ~~of the term.~~

27 ~~(e) The Governor shall furnish each member appointed to the board a~~
28 ~~certificate of appointment stating the date of the appointment and the date~~
29 ~~of the expiration of the appointment. Before entering upon his or her duties,~~
30 ~~each member appointed to the board shall qualify by taking the oath of office~~
31 ~~before an officer authorized by law to administer oaths in this state. This~~
32 ~~shall be noted on the certificate of appointment.~~

33 ~~(f) Members of the board may receive expense reimbursement and~~
34 ~~stipends in accordance with § 25-16-901 et seq.~~

35 ~~(g) The board shall:~~

36 ~~(1) Administer this subchapter and § 17-29-301 et seq.; and~~

1 ~~(2) Make the examinations required by § 17-29-301 et seq.~~
2 ~~available to applicants at least two (2) times annually at suitable locations~~
3 ~~during normal business hours.~~

4
5 ~~17-29-202. Meetings.~~

6 ~~(a) The State Board of Embalmers and Funeral Directors shall hold not~~
7 ~~less than one (1) meeting annually for the purpose of selecting nominees for~~
8 ~~the appointment of one (1) to a term on the board. The meeting shall be held~~
9 ~~at such time and place as the board may determine, after notice of the~~
10 ~~meeting has been given to the general public in a manner to be determined by~~
11 ~~the board, at least thirty (30) days prior to the meeting.~~

12 ~~(b) [Repealed.]~~

13 ~~(c) The board may hold such other meetings as it may deem necessary.~~

14 ~~(d) Four (4) or more members shall comprise a quorum.~~

15
16 ~~17-29-203. Selection of officers.~~

17 ~~(a) The State Board of Embalmers and Funeral Directors shall select~~
18 ~~from its own membership a president, vice president, and except as provided~~
19 ~~in subsection (b) of this section, a secretary-treasurer who shall serve for~~
20 ~~one-year terms or until their successors are elected and qualified.~~

21 ~~(b)(1) If all members of the board decline to serve as secretary-~~
22 ~~treasurer, then by a majority vote of the board, the board may employ a~~
23 ~~person who is not a member of the board to serve as secretary-treasurer.~~

24 ~~(2) A person employed by the board as secretary-treasurer under~~
25 ~~subdivision (b)(1) of this section is not required to be a licensed embalmer~~
26 ~~or funeral director.~~

27
28 ~~17-29-204. Duties of secretary-treasurer.~~

29 ~~The Secretary-treasurer of the State Board of Embalmers and Funeral~~
30 ~~Directors shall:~~

31 ~~(1) Have general supervision and be held responsible for the~~
32 ~~direction of the office of the board;~~

33 ~~(2) Have general supervision over field inspection and~~
34 ~~enforcement of the provisions of this subchapter and § 17-29-301 et seq.;~~

35 ~~(3) Be responsible to the board. Such responsibility shall~~
36 ~~include timely dissemination of information;~~

1 ~~(4) Be responsible for making public the procedures for making~~
2 ~~inquiries into the practice of funeral directors or embalmers and for making~~
3 ~~complaints concerning the practices;~~

4 ~~(5) Maintain a record of the licensee and business name and~~
5 ~~address of every person licensed under § 17-29-301 et seq., including the~~
6 ~~license number, date of the license, and the renewal date of the license;~~

7 ~~(6) Supply on request a list of every person and funeral~~
8 ~~establishment licensed under § 17-29-301 et seq., to a person licensed as an~~
9 ~~embalmer or funeral director, to a common carrier in this state, to a~~
10 ~~hospital licensed in this state, or to any other person authorized by law to~~
11 ~~receive the list;~~

12 ~~(7) Hold all moneys received by the board to pay the necessary~~
13 ~~and allowable expenses for the operation of the board in carrying out the~~
14 ~~provisions of this subchapter and § 17-29-301 et seq.;~~

15 ~~(8) Receive and be paid an annual salary not to exceed the~~
16 ~~amount authorized by law;~~

17 ~~(9) Be authorized to receive reimbursement for expenses incurred~~
18 ~~in performance of duties;~~

19 ~~(10) Charge and collect a criminal background check processing~~
20 ~~fee in an amount necessary to recover the charge imposed by the Department of~~
21 ~~Arkansas State Police to conduct a criminal background check for a person~~
22 ~~applying for an initial license under § 17-29-301 et seq.; and~~

23 ~~(11) Recommend to the board the establishment of standards of~~
24 ~~practice and a code of ethics for a person licensed under § 17-29-301 et seq.~~

25
26 ~~17-29-205. Inspector.~~

27 ~~(a) There may be appointed by the State Board of Embalmers and Funeral~~
28 ~~Directors an agent or agents whose title shall be Inspector of the Board of~~
29 ~~Embalmers and Funeral Directors of the State of Arkansas. No person shall be~~
30 ~~eligible for appointment to the office unless he or she has not fewer than~~
31 ~~five (5) consecutive years of active experience as an embalmer and funeral~~
32 ~~director licensed in this state. The board may appoint an investigator who~~
33 ~~need not be a licensed embalmer or funeral director.~~

34 ~~(b) The inspector shall hold office at the pleasure of the board who~~
35 ~~shall determine his or her duties.~~

36 ~~(c)(1) The inspector, with proper identification, may enter any~~

1 office, premises, establishment, or place of business in this state where the
2 practice of embalming, funeral directing, cremation, or transportation of
3 human remains is carried on, or where the practice is advertised as being
4 carried on, to:

5 (A) ~~Inspect the office, premises, crematory, or~~
6 ~~establishment;~~

7 (B) ~~Inspect the license and registration of a licensee;~~

8 (C) ~~Inspect the manner and scope of training given to an~~
9 ~~apprentice; and~~

10 (D) ~~Ensure compliance with all state laws, rules, and~~
11 ~~regulations pertaining to funeral service.~~

12 (2) ~~By accepting a license under § 17-29-301 et seq., the~~
13 ~~licensee grants permission for the inspector or other board designee to enter~~
14 ~~the licensee's business premises without prior notice.~~

15 (d) ~~The inspector is further authorized to serve and execute any~~
16 ~~process issued by any court under the provisions of this chapter, to serve~~
17 ~~and execute any papers or process issued by the board under the authority of~~
18 ~~this subchapter and § 17-29-301 et seq., and to perform such other duties as~~
19 ~~prescribed or ordered by the board.~~

20 (e) ~~The inspector shall not accept any employment, salary, fees, or~~
21 ~~other remuneration from a funeral establishment or wholesale firm dealing in~~
22 ~~funeral supplies and equipment.~~

23 (f) ~~The inspector shall receive such compensation as the board may~~
24 ~~determine within the maximum authorized by law.~~

25
26 ~~17-29-206. Employees.~~

27 ~~The State Board of Embalmers and Funeral Directors may employ clerical~~
28 ~~assistants or other employees as authorized by law and as necessary to carry~~
29 ~~out the provisions of this subchapter and § 17-29-301 et seq. The terms and~~
30 ~~conditions of the employment shall be determined by the board.~~

31
32 ~~17-29-207. Rules.~~

33 (a) ~~The State Board of Embalmers and Funeral Directors may promulgate~~
34 ~~appropriate rules for the transaction of its business, for the betterment and~~
35 ~~promotion of the standards of service and practice to be followed, and the~~
36 ~~qualifications to:~~

1 ~~(1) Practice embalming, funeral directing, or cremation;~~

2 ~~(2) Transport human remains; or~~

3 ~~(3) Operate a funeral establishment, mortuary service,~~
4 ~~crematorium, retort, or transport service firm to transport human remains.~~

5 ~~(b) The board may promulgate rules reasonably necessary to reflect any~~
6 ~~changes in the law as adopted by the United States Congress or any~~
7 ~~appropriate agency of the United States Government as it affects funeral~~
8 ~~establishments, funeral directors, or embalmers and for the purpose of~~
9 ~~keeping this law consistent with, and compatible to, the laws of the United~~
10 ~~States.~~

11 ~~(c)(1) The board shall adopt bylaws and rules in connection with the~~
12 ~~care and disposition of human remains in this state.~~

13 ~~(2) The board shall enforce compliance with this subchapter and~~
14 ~~§ 17-29-301 et seq., and may transact any other business necessary for~~
15 ~~carrying out this subchapter and § 17-29-301 et seq.~~

16 ~~(d)(1) The board may promulgate reasonable rules for the licensing of~~
17 ~~crematoriums.~~

18 ~~(2)(A) Beginning January 1, 1990, a crematorium may not be~~
19 ~~operated in this state unless licensed by the board, and a person shall not~~
20 ~~be cremated in this state except at a licensed crematorium.~~

21 ~~(B) Violations of this subsection are Class A~~
22 ~~misdemeanors.~~

23 ~~(e)(1) In the interest of public health and to ensure the safe,~~
24 ~~secure, and timely transportation of dead human bodies in and through~~
25 ~~Arkansas, the board may license, inspect, and promulgate reasonable rules for~~
26 ~~any person, partnership, corporation, association, society, or other legal~~
27 ~~entity engaged in the business of transporting dead human bodies over the~~
28 ~~public streets and highways of this state.~~

29 ~~(2) Violations of rules promulgated under this subsection are~~
30 ~~Class A misdemeanors.~~

31 ~~(f) The board shall establish the standards of practice and a code of~~
32 ~~ethics for a person or business licensed under § 17-29-301 et seq.~~

33
34 ~~17-29-208. Fees.~~

35 ~~The State Board of Embalmers and Funeral Directors shall establish and~~
36 ~~collect reasonable fees.~~

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~~17-29-209. Continuing education.~~

~~(a) The State Board of Embalmers and Funeral Directors may develop, establish by rule, and administer a mandatory or voluntary continuing education program and its requirements for a person licensed under § 17-29-301 et seq.~~

~~(b) The board shall have the authority to excuse licensees, as a group or as individuals, from a continuing education program, in the event any unusual circumstances, emergency, or hardship prevents participation in the program.~~

~~17-29-210. Legal counsel.~~

~~(a) The State Board of Embalmers and Funeral Directors, when it shall deem necessary, shall be represented by the Attorney General.~~

~~(b) It may also employ special counsel when necessary, whose services shall be paid for from funds of the board. Special counsel shall be retained only with the prior approval of the Attorney General.~~

~~17-29-211. Executive Secretary — Employees — Office.~~

~~(a)(1)(A) The Executive Secretary of the Burial Association Board shall serve at the discretion of the State Board of Embalmers and Funeral Directors until such time as the State Board of Embalmers and Funeral Directors may appoint an Executive Secretary of the State Board of Embalmers and Funeral Directors who shall serve at the pleasure of the State Board.~~

~~(2) The Executive Secretary of the State Board of Embalmers and Funeral Directors shall be in charge of the State Board of Embalmers and Funeral Directors' office and devote the necessary time to the performance of the duties of the executive secretary as may be required.~~

~~(3) The duties of the executive secretary of the State Board of Embalmers and Funeral Directors shall include:~~

~~(A) Collection of fees and charges under this chapter;~~

~~(B) Keeping record of the proceedings of the State Board of Embalmers and Funeral Directors;~~

~~(C) Keeping an accurate account of all moneys received and disbursed by the State Board of Embalmers and Funeral Directors;~~

~~(D) Assisting or performing the duties of the Secretary—~~

1 ~~treasurer of the State Board of Embalmers and Funeral Directors; and~~

2 ~~(E) Any other duties defined and designated by the State~~
 3 ~~Board of Embalmers and Funeral Directors.~~

4 ~~(b) The State Board of Embalmers and Funeral Directors may employ any~~
 5 ~~necessary clerical and professional staff and incur any reasonable expenses~~
 6 ~~necessary for the proper discharge of the duties of the State Board of~~
 7 ~~Embalmers and Funeral Directors under this subchapter.~~

8 ~~(c) The State Board of Embalmers and Funeral Directors shall maintain~~
 9 ~~its main office location in Little Rock and transact the State Board of~~
 10 ~~Embalmers and Funeral Directors business at the main office.~~

11
 12 SECTION 6. Arkansas Code § 17-29-301 is amended to read as follows:

13 17-29-301. Embalmers – Qualifications.

14 (a) ~~Every~~ A person who desires to practice the science of embalming in
 15 this state shall:

16 (1) Be at least eighteen (18) years of age;

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

19 (3) Be a graduate of a school of ~~embalming~~ mortuary science,
 20 ~~which that~~ is accredited by the American Board of Funeral Service Education
 21 ~~or accredited~~ approved by the State Board of Embalmers and Funeral Directors
 22 State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services;

23 (4) Make a written application to the ~~State Board of Embalmers~~
 24 ~~and Funeral Directors~~ State Board of Embalmers, Funeral Directors,
 25 Cemeteries, and Burial Services attaching the fee as prescribed ~~in § 17-29-~~
 26 ~~208 by the~~ State Board of Embalmers, Funeral Directors, Cemeteries, and
 27 Burial Services;

28 (5) Have served as a registered apprentice embalmer for not less
 29 than twelve (12) months in the State of Arkansas under the direct personal
 30 supervision of an Arkansas-licensed embalmer and submit at least fifty (50)
 31 case reports to the ~~State Board of Embalmers and Funeral Directors~~ State
 32 Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services; and

33 ~~(6)(A) Take and pass both parts of the National Board~~
 34 ~~Examination, if required by the State Board of Embalmers, Funeral Directors,~~
 35 ~~Cemeteries, and Burial Services and the Arkansas laws, rules, and regulations~~
 36 ~~exam-;~~ (7)(A) Take and pass an examination approved by the State

1 Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services that
2 covers:

3 (i) Arkansas law; and

4 (ii) Rules deemed necessary by the State Board of
5 Embalmers, Funeral Directors, Cemeteries, and Burial Services.

6 (B) To be eligible to take the ~~Arkansas laws, rules, and~~
7 ~~regulations exam~~ examination under subdivision (a)(7)(A) of this section, an
8 applicant shall be an active apprentice who is currently registered with the
9 ~~board~~ State Board of Embalmers, Funeral Directors, Cemeteries, and Burial
10 Services; and

11 (8)(A) Undergo and pass a criminal background check conducted by
12 the Department of Arkansas State Police.

13 (B) The State Board of Embalmers, Funeral Directors,
14 Cemeteries, and Burial Services may charge and collect a processing fee in an
15 amount necessary to recover the cost imposed by the Department of Arkansas
16 State Police for the criminal background check under subdivision (a)(8)(A) of
17 this section.

18 (b)(1) ~~Any~~ A person desiring to engage in the science of embalming in
19 this state, in addition to graduating from an approved college of mortuary
20 science recognized by the ~~State Board of Embalmers and Funeral Directors~~
21 State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services,
22 shall serve an apprenticeship of one (1) year in the State of Arkansas under
23 an embalmer licensed by the ~~State Board of Embalmers and Funeral Directors~~
24 State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services
25 and shall assist in the preparation of at least fifty (50) bodies under the
26 direct supervision of an Arkansas-licensed embalmer.

27 (2)(A) This apprenticeship shall be registered with the ~~State~~
28 ~~Board of Embalmers and Funeral Directors~~ State Board of Embalmers, Funeral
29 Directors, Cemeteries, and Burial Services on applications provided by the
30 ~~State Board of Embalmers and Funeral Directors~~ State Board of Embalmers,
31 Funeral Directors, Cemeteries, and Burial Services.

32 (B) Individual case reports shall be signed by both the
33 apprentice and the licensed embalmer under whose supervision the work was
34 done and filed with the ~~State Board of Embalmers and Funeral Directors~~ State
35 Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services by the
36 tenth day of the following month.

1 (3)(A) An apprenticeship under this subsection may begin not
2 more than twelve (12) months before enrollment in an accredited college of
3 mortuary science or by submitting proof of graduation from an accredited
4 college of mortuary science.

5 (B) If an apprentice fails to enroll in an accredited
6 college of mortuary science as required under subdivision (b)(3)(A) of this
7 section, the apprenticeship shall be terminated for a period to be determined
8 by rule of the ~~State Board of Embalmers and Funeral Directors~~ State Board of
9 Embalmers, Funeral Directors, Cemeteries, and Burial Services.

10 (c) The State Board of Embalmers, Funeral Directors, Cemeteries, and
11 Burial Services may suspend or revoke the apprenticeship of an applicant who
12 violates a provision under this subchapter.

13
14 SECTION 7. Arkansas Code § 17-29-302 is amended to read as follows:

15 17-29-302. Funeral directors – Qualifications.

16 (a) ~~Every~~ A person who desires to engage in the business of funeral
17 directing in this state shall:

18 (1) Be at least eighteen (18) years of age;

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

21 (3)(A) Have served as an apprentice funeral director for not
22 less than ~~twenty-four (24)~~ eighteen (18) months in the State of Arkansas
23 under the direct personal supervision of an Arkansas-licensed funeral
24 director.

25 (B) Completion of the requirement to be a graduate of a
26 school of embalmers as set forth in § 17-29-301(a)(3) may be substituted for
27 ~~twelve (12)~~ six (6) of the ~~twenty-four (24)~~ eighteen (18) months'
28 apprenticeship established in this section;

29 (4) Make application to the ~~State Board of Embalmers and Funeral~~
30 ~~Directors~~ State Board of Embalmers, Funeral Directors, Cemeteries, and Burial
31 Services and attach the fee ~~as prescribed in § 17-29-208; and~~

32 (5)(A) Take and pass all examinations approved and required by
33 the board.

34 (B) To be eligible to take the ~~Arkansas laws, rules, and~~
35 ~~regulations exam~~ examination under (a)(5)(A) of this section, an applicant
36 shall be an active apprentice who is currently registered with the board.;

1 and

2 (6)(A) Undergo and pass a criminal background check conducted by
3 the Department of Arkansas State Police.

4 (B) The State Board of Embalmers, Funeral Directors,
5 Cemeteries, and Burial Services may charge and collect a processing fee in an
6 amount necessary to recover the cost imposed by the Department of Arkansas
7 State Police for the criminal background check under subdivision (a)(8)(A) of
8 this section.

9 ~~(b)(1)(A) Except as provided in subdivision (b)(1)(C) of this section,~~
10 a ~~A~~ person desiring to engage in the business of funeral directing in this
11 state shall serve an apprenticeship in this state for ~~two (2) years~~ at least
12 eighteen (18) months.

13 (B) An apprentice shall:

14 (i) Register with the board on forms provided by the
15 board and by attaching the fee as prescribed ~~in § 17-29-208~~ by the board;

16 (ii) ~~Be~~ Upon registration with the board, be
17 supervised by a funeral director licensed by the board; ~~and~~

18 (iii) Actively assist in arranging fifty (50)
19 services as determined by rule of the board; and

20 (iv)(a) By the tenth day of the following month,
21 file with the board individual case reports of services arranged by the
22 apprentice.

23 (b) A case report under subdivision
24 (b)(1)(B)(iv) of this section shall be signed by the apprentice and the
25 licensed funeral director under whose supervision the work was performed.

26 ~~(C) A person who is a graduate of an accredited mortuary~~
27 ~~program and has passed the National Board Examination may be licensed to~~
28 ~~engage in the business of funeral directing after serving an apprenticeship~~
29 ~~in this state for one (1) year.~~

30 (2) Before an apprenticeship under this section begins, A ~~a~~
31 licensed funeral director who is supervising an apprenticeship shall record a
32 notice of the apprenticeship with the ~~Secretary-treasurer of the State Board~~
33 ~~of Embalmers and Funeral Directors or the Executive Secretary of the State~~
34 ~~Board of Embalmers and Funeral Directors no later than thirty (30) days after~~
35 ~~the start of the apprenticeship~~ board.

36 (3) The board may suspend or revoke an ~~applicant's~~

1 apprenticeship under this section for a violation of this subchapter or ~~§ 17-~~
2 ~~29-201 et seq § 23-61-1101 et seq.~~

3 (4) ~~Within a reasonable amount of time after the effective date~~
4 ~~of this subchapter, a~~ A person who is currently in an apprenticeship under
5 this section shall be subject to the provisions in this section concerning an
6 apprenticeship as determined by rules of the board.

7 (c)(1) The board ~~may~~ shall require applicants for licensure as funeral
8 directors to successfully complete up to twenty (20) hours of classroom
9 instruction in funeral service practices and ethics, ~~and laws, and rules, and~~
10 ~~regulations~~ affecting funeral service.

11 (2) Only courses of instruction approved by the board shall
12 satisfy ~~this~~ the requirement under subdivision (c)(1) of this section.

13
14 SECTION 8. Arkansas Code § 17-29-303(a) is amended to read as follows:

15 17-29-303. Embalmers, funeral directors – Examination – Certificates.

16 (a) Within a reasonable time after an application to practice the
17 science of embalming or to engage in the business of funeral directing is
18 filed with the ~~State Board of Embalmers and Funeral Directors~~ State Board of
19 Embalmers, Funeral Directors, Cemeteries, and Burial Services, the board
20 shall give the applicant a written examination to test the applicant's
21 competency to act as an embalmer or a funeral director, or both.

22 (b) If on examination the board finds that an applicant possesses a
23 knowledge of funeral directing or the science of embalming, sanitation, and
24 disinfection, or both, and meets the qualifications prescribed in this
25 subchapter, the board shall issue the applicant a certificate authorizing him
26 or her to engage in the business of funeral directing or to practice the
27 science of embalming, or both, if the applicant has submitted a complete
28 application under subsection (a) of this section and attached the fee as
29 prescribed ~~in § 17-29-208~~ by the board.

30 (c) The certificate shall be signed by ~~the President and Secretary-~~
31 ~~treasurer of the State Board of Embalmers and Funeral Directors~~ a member of
32 the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial
33 Services and shall have the official seal affixed.

34 (d) ~~Every~~ A license holder ~~shall maintain his or her license in a~~
35 ~~convenient place in his or her office~~ or certificate issued by the board
36 under this section shall be displayed at each place of business of the

1 licensee.

2

3 SECTION 9. Arkansas Code § 17-29-304(a), concerning the requirements
4 for a funeral establishment, is amended to read as follows:

5 (a)(1) A person shall not conduct, maintain, manage, or operate a
6 funeral establishment in this state unless the ~~State Board of Embalmers and~~
7 ~~Funeral Directors~~ State Board of Embalmers, Funeral Directors, Cemeteries,
8 and Burial Services has issued a license for the funeral establishment and
9 the license is displayed in the funeral establishment.

10 (2) A price list, statement of funeral goods and services,
11 publication, advertisement, or other document of a funeral establishment
12 shall ~~accurately~~:

13 (A) ~~Reflect~~ Accurately reflect the name and location of
14 the funeral establishment on file with the board;

15 (B) ~~Describe~~ Accurately describe each location to which
16 the price list, statement, publication, advertisement, or document applies;
17 and

18 (C) ~~Any~~ Include additional annual requirements as
19 determined by rule of the board.

20 (3) A funeral establishment shall:

21 (A) Establish a permanent place of business;

22 (B) Maintain a working telephone number for the funeral
23 establishment;

24 (C) Maintain working public utilities, including without
25 limitation running water, electricity, and a functioning heating and cooling
26 system; and

27 (D) Ensure that the interior of the funeral establishment
28 is protected from exposure to outside elements.

29 (4) A funeral establishment may display a sign at each location
30 of the funeral establishment that indicates the registered name of the
31 funeral establishment that is on file with the board.

32

33 SECTION 10. Arkansas Code § 17-29-304(e)(1), concerning the
34 requirements for a funeral establishment, is amended to read as follows:

35 (e)(1) A funeral establishment that conducts embalming shall have a
36 preparation room for embalming that has:

1 (A) Sanitary floors, walls, and ceilings that are
2 constructed from a washable surface;

3 (B) Adequate sanitary drainage and disposal facilities,
4 including hot and cold running water;

5 (C) An exhaust system that provides proper ventilation
6 according to the standards and regulations of the United States Occupational
7 Safety and Health Administration for the prevention of the spread of
8 contagious, infectious, or communicable diseases; ~~and~~

9 (D) A heating and cooling system that is separate from the
10 rest of the funeral establishment; ~~;~~

11 (E) Privacy coverings on doorways and windows that prevent
12 viewing of the preparation room and the contents of the preparation room;

13 (F) A functional lock that prevents unauthorized entrance
14 to the preparation room;

15 (G) A biohazard waste disposal system that complies with §
16 20-32-101 et seq. and rules established by the Department of Health
17 concerning the segregation, packaging, storage, transportation, treatment,
18 and disposal of commercial medical waste from healthcare-related facilities;
19 and

20 (H) Other requirements established by rule of the board.
21

22 SECTION 11. Arkansas Code § 17-29-304(g), concerning the requirements
23 for a funeral establishment, is amended to read as follows:

24 (g) A funeral establishment shall:

25 (1) Contain a separate conference room that is used to make
26 funeral arrangements; ~~and~~

27 (2) Display on site a reasonable number of caskets as determined
28 by the board; ~~;~~

29 (3) Maintain proper care and maintenance of the interior and
30 exterior of the funeral establishment;

31 (4) Maintain the interior and exterior of the funeral
32 establishment in a manner that does not present a potential or actual hazard
33 to the health, safety, or welfare of the public; and

34 (5)(A) Maintain at least one (1) refrigeration unit or have
35 access to a refrigeration unit within a reasonable time after death as
36 determined by rule of the board.

1 (B) Accessibility to a refrigeration unit by a funeral
2 establishment shall be reported as determined by rule of the board.

3 (C) A multi-unit funeral establishment enterprise is
4 required to maintain at least one (1) refrigeration unit within the state.

5
6 SECTION 12. Arkansas Code § 17-29-304, concerning requirements for a
7 funeral establishment, is amended to add an additional subsection to read as
8 follows:

9 (k) Multiple funeral establishments are not permitted to share the
10 same physical location without the prior approval of the board.

11
12 SECTION 13. Arkansas Code § 17-29-305(a)(1), concerning a license for
13 a funeral establishment, is amended to read as follows:

14 (a)(1) Funeral establishment licenses shall be issued, upon
15 application to the ~~State Board of Embalmers and Funeral Directors~~ State
16 Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services, only
17 after examination of the establishment to be licensed reveals that the
18 requirements of the board for an establishment license have been met. The fee
19 shall accompany the application for a funeral establishment license.

20
21 SECTION 14. Arkansas Code § 17-29-306(a)(1), concerning the renewal of
22 a license under the Embalmers and Funeral Directors Law, is amended to read
23 as follows:

24 (a)(1) ~~Every~~ A license holder under this subchapter who wishes to
25 continue the practice of the science of embalming or the business of funeral
26 directing, or both, shall pay a renewal fee to the ~~Secretary-treasurer of the~~
27 ~~State Board of Embalmers and Funeral Directors~~ State Board of Embalmers,
28 Funeral Directors, Cemeteries, and Burial Services annually by December 31.

29
30 SECTION 15. Arkansas Code § 17-29-307(a), concerning revocation of a
31 license under the Embalmers and Funeral Directors Law, is amended to read as
32 follows:

33 (a) The ~~State Board of Embalmers and Funeral Directors~~ State Board of
34 Embalmers, Funeral Directors, Cemeteries, and Burial Services may refuse to
35 renew, or may suspend or revoke, a license issued under this subchapter if it
36 finds, after a hearing, that a person or a funeral establishment licensed

1 under this subchapter does not meet any requirement under this subchapter or
2 ~~§ 17-29-201 et seq~~ § 23-61-1101 et seq.

3
4 SECTION 16. Arkansas Code § 17-29-308 is amended to read as follows:
5 17-29-308. Grandfather clause.

6 ~~Any~~ A person currently holding an embalmer's license or a funeral
7 director's license or any funeral establishment holding a license on March 3,
8 1983, shall not be required to make application for, or submit to, an
9 examination, but shall be entitled to a renewal of such a license, upon the
10 same terms and conditions as are herein provided for the renewal of licenses
11 of those who may be licensed after March 3, 1983, and such rules ~~and~~
12 ~~regulations as the State Board of Embalmers and Funeral Directors~~ State Board
13 of Embalmers, Funeral Directors, Cemeteries, and Burial Services may adopt ~~in~~
14 pursuance under of this subchapter and ~~§ 17-29-201 et seq~~ § 23-61-1101 et
15 seq..

16
17 SECTION 17. Arkansas Code § 17-29-309 is amended to read as follows:
18 17-29-309. Lifetime embalmers or funeral directors.

19 ~~The State Board of Embalmers and Funeral Directors~~ State Board of
20 Embalmers, Funeral Directors, Cemeteries, and Burial Services may adopt
21 appropriate rules regarding the issuance of a lifetime license to an
22 individual based upon the number of years of licensure.

23
24 SECTION 18. Arkansas Code § 17-29-310 is amended to read as follows:
25 17-29-310. License requirements for out-of-state licenses.

26 (a) A person holding a valid license as an embalmer or funeral
27 director in another state, United States territory, or provincial authority
28 for an appropriate time as determined by the ~~State Board of Embalmers and~~
29 ~~Funeral Directors~~ State Board of Embalmers, Funeral Directors, Cemeteries,
30 and Burial Services may apply for a license to practice in this state as an
31 embalmer or a funeral director, or both.

32 (b)(1) An application shall be made by filing with the ~~Secretary-~~
33 ~~treasurer of the State Board of Embalmers and Funeral Directors or the~~
34 ~~Executive Secretary of the State Board of Embalmers and Funeral Directors~~
35 State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services
36 a certified statement from the secretary of the examining board of the state,

1 United States territory, or provincial authority in which the applicant holds
2 his or her license, showing the basis upon which the license was issued.

3 (2) Upon receipt of the application and fee, the ~~secretary-~~
4 ~~treasurer of the board or the executive director of the board~~ State Board of
5 Embalmers, Funeral Directors, Cemeteries, and Burial Services may issue a
6 temporary working number that is valid for one (1) year from the date of
7 issuance.

8 (c)(1) To obtain a license, the applicant shall pass an exam to prove
9 his or her proficiency, including without limitation knowledge of the laws
10 and rules of this state pertaining to funeral service.

11 (2) ~~After the application is submitted, the exam may be~~
12 ~~scheduled with an exam provider by mail or electronic means~~ An applicant may
13 take the examination at one (1) of the regularly scheduled examination
14 sessions as determined by the ~~board~~ State Board of Embalmers, Funeral
15 Directors, Cemeteries, and Burial Services.

16 (3) If the board is satisfied with the proficiency of the
17 applicant, upon receipt of the ~~prescribed fees in § 17-29-208~~ prescribed by
18 the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial
19 Services, a license may be granted.

20 (4) Failure to meet testing requirements shall result in
21 revocation of the temporary working number, and the applicant shall reapply
22 and pay the ~~appropriate~~ reapplication fee prescribed by the State Board of
23 Embalmers, Funeral Directors, Cemeteries, and Burial Services to be licensed
24 under this subchapter.

25
26 SECTION 19. The introductory language of Arkansas Code § 17-29-311(a),
27 concerning prohibited conduct under the Embalmers and Funeral Directors Law,
28 is amended to read as follows:

29 (a) ~~The State Board of Embalmers and Funeral Directors~~ State Board of
30 Embalmers, Funeral Directors, Cemeteries, and Burial Services may issue
31 letters of reprimand or caution, refuse to issue or renew a license, suspend
32 or revoke any license for the practice of embalming or funeral directing, or
33 may place the holder thereof on a term of probation after proper hearing upon
34 finding the holder of the license to be guilty of acts of commission or
35 omission, including the following:

36

1 SECTION 20. Arkansas Code § 17-29-311(f) and (g), concerning
2 prohibited conduct under the Embalmers and Funeral Directors Law, are amended
3 to read as follows:

4 (f)(1) A dead human body that is not buried or otherwise disposed of
5 within an allotted time ~~to be~~ as determined by rule of the board shall be
6 embalmed ~~as prescribed in this subchapter or § 17-29-201 et seq.~~ or stored
7 under refrigeration as determined by the Department of Health or its
8 successor or successors concerning the preservation of bodies.

9 (2)(A) When taking custody of the dead human body under this
10 subchapter or § 23-61-1101 et seq. or when the dead human body is stored
11 under refrigeration as determined by the department, a funeral establishment
12 or crematory shall maintain the dead human body in a manner that provides for
13 complete coverage of the dead human body and prevents leakage or spillage by
14 properly storing the dead human body in a refrigeration or preparation room
15 at all times except during:

16 (i) Identification, embalming, or preparation of an
17 unembalmed dead human body for final disposition;

18 (ii) Restoration and dressing of a dead human body
19 in preparation for final disposition; or

20 (iii) Viewing during a visitation or funeral
21 service.

22 (B) The funeral establishment or crematory shall treat the
23 dead human body with dignity and respect as determined by rule of the board.

24 (3)(A) If a funeral establishment or crematory is unable to
25 secure or store a dead human body as required under subdivision (f)(1) of
26 this section due to an unforeseen circumstance, the funeral establishment or
27 crematory shall transfer the dead human body and notify the board and the
28 person or entity having the legal right to arrange for the final disposition
29 of the dead human body.

30 (B) The notice required under subdivision (f)(3)(A) of
31 this section shall:

32 (i) Be provided within twenty-four (24) hours after
33 the occurrence of the unforeseen circumstance; and

34 (ii) Include the:

35 (a) Name and location of the facility where a
36 dead human body is being transferred;

1 (b) Reason for the transfer; and

2 (c) Method of storage.

3 (4) A dead human body shall not be embalmed or artificially
4 preserved without:

5 (A) The express permission of a person or entity with the
6 legal right to arrange for the final disposition of the dead human body under
7 the Arkansas Final Disposition Rights Act of 2009, § 20-17-102; or

8 (B) A court order.

9 (5) A funeral establishment or crematory shall not store a dead
10 human body until final disposition at a funeral establishment or crematory
11 without a license under this subchapter or § 23-61-1101 et seq.

12 (6) A funeral establishment, crematory, or transport service of
13 human remains licensed under this subchapter shall not transport or store a
14 dead human body together with animal remains in the same confined space.

15 (g) It shall be unlawful and a violation of this subchapter and ~~§ 17-~~
16 ~~29-201 et seq.~~ § 23-61-1101 et seq. to transport or otherwise transfer by
17 common carrier ~~any~~ a dead human body out of the State of Arkansas unless the
18 body has been prepared and embalmed by a licensed embalmer of this state and
19 a transit-burial permit has been issued by the local registrar of the county
20 where death occurred. ~~Any~~ A licensee of this state permitting this to be done
21 shall be subject to the punishment ~~spelled out in~~ under this subchapter and ~~§~~
22 ~~17-29-201 et seq.~~ § 23-61-1101 et seq.

23
24 SECTION 21. Arkansas Code § 17-29-312(a), concerning the procedure for
25 the suspension or revocation of a license under the Embalmers and Funeral
26 Directors Law, is amended to read as follows:

27 (a) ~~Whenever~~ If the ~~State Board of Embalmers and Funeral Directors~~
28 State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services
29 has reason to believe that ~~any~~ a person to whom a license has been issued has
30 become unfit to practice as an embalmer or funeral director or has violated
31 any of the provisions of this subchapter and ~~§ 17-29-201 et seq.~~ § 23-61-1101
32 et seq., or any rules ~~or regulations~~ prescribed, or whenever written
33 complaint charging the holder of a license with the violation of any
34 provision of this subchapter or ~~§ 17-29-201 et seq.~~ § 23-61-1101 et seq. is
35 filed with the board, ~~it shall be the duty of the board to~~ shall start an
36 investigation within thirty (30) days of the receipt of the complaint.

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SECTION 22. Arkansas Code § 17-29-313(a)(1), concerning requirements for crematoriums under the Embalmers and Funeral Directors Law, is amended to read as follows:

(a)(1) A crematorium shall not be constructed in this state without a permit issued by the ~~State Board of Embalmers and Funeral Directors~~ State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.

SECTION 23. Arkansas Code § 17-29-313(c)(2), concerning requirements for crematoriums under the Embalmers and Funeral Directors Law, is amended to read as follows:

(2) A person ~~that~~ who desires to operate a crematorium in this state shall:

- (A) Make application to the board on forms furnished by the board;
- (B) Provide the necessary information as determined by the board;
- (C) Attach the fee as prescribed ~~in § 17-29-208~~ by the board; and
- (D) Satisfy the requirements of the board for the safe and sanitary operation of a crematorium as determined by the board; and
- (E)(i) Provide to the board proof of liability insurance.
 - (ii) The board shall develop and promulgate rules to establish minimum levels of general liability insurance coverage for licensed crematoriums.

SECTION 24. Arkansas Code § 17-29-314(a)(3), concerning the qualifications of a crematory retort operator, is amended to read as follows:

(3) Make written application to the ~~State Board of Embalmers and Funeral Directors~~ State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services and attach the fee prescribed by ~~§ 17-29-208~~ the board;

SECTION 25. Arkansas Code § 17-29-315(a)(2), concerning the transportation of human remains, is amended to read as follows:

(2) Possess a valid Arkansas driver's license appropriate for the operation of the motor vehicle as determined by the ~~State Board of~~

1 ~~Embalmers and Funeral Directors~~ State Board of Embalmers, Funeral Directors,
2 Cemeteries, and Burial Services;

3
4 SECTION 26. Arkansas Code § 17-29-401 is amended to read as follows:
5 17-29-401. Criminal penalties.

6 A person who practices the science of embalming, engages in the
7 business of funeral directing, operates a funeral establishment, operates a
8 crematorium, conducts cremations, transports human remains, or operates a
9 transport service without a license under ~~§ 17-29-201 et seq.,~~ § 23-61-1101 et
10 seq. and § 17-29-301 et seq. is guilty of a Class D felony and subject to the
11 punishment prescribed for Class D felonies in the Arkansas Criminal Code.

12
13 SECTION 27. Arkansas Code § 17-29-402 is amended to read as follows:
14 17-29-402. Injunctions.

15 Without posting bond, the ~~State Board of Embalmers and Funeral~~
16 ~~Directors~~ State Board of Embalmers, Funeral Directors, Cemeteries, and Burial
17 Services may *petition the Pulaski County Circuit Court or* the circuit court
18 of the county where the violation occurred to enjoin violations of ~~§ 17-29-~~
19 ~~201 et seq.,~~ § 17-29-301 et seq., § 23-61-1101 et seq., or any rules
20 promulgated by the board.

21
22 SECTION 28. Arkansas Code § 17-29-403(a), concerning civil penalties,
23 attorney's fees, and code of conduct under the Embalmers and Funeral
24 Directors Law, is amended to read as follows:

25 (a) Whenever the ~~State Board of Embalmers and Funeral Directors~~ State
26 Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services, after
27 a hearing conducted in accordance with the Arkansas Administrative Procedure
28 Act, § 25-15-201 et seq., determines that a person has violated any provision
29 of ~~§ 17-29-201 et seq.,~~ § 17-29-301 et seq., § 23-61-1101 et seq., or the
30 rules promulgated by the board, the board may impose a civil penalty on that
31 person not to exceed ten thousand dollars (\$10,000) per violation.

32
33 SECTION 29. Arkansas Code § 17-29-404 is repealed.

34 ~~17-29-404. Civil appeals.~~

35 ~~A person aggrieved by the an action of the State Board of Embalmers and~~
36 ~~Funeral Directors' imposing civil penalties or any adverse action, including~~

1 ~~the denial of a permit or license, may appeal such a decision in the manner~~
2 ~~prescribed in the Arkansas Administrative Procedure Act, § 25-15-201 et seq.,~~
3 ~~for appeals from administrative decisions.~~

4
5 SECTION 30. Arkansas Code § 17-29-405 is amended to read as follows:

6 17-29-405. Deposit and distribution of funds.

7 (a) All funds derived from civil penalties imposed by the ~~State Board~~
8 ~~of Embalmers and Funeral Directors~~ State Board of Embalmers, Funeral
9 Directors, Cemeteries, and Burial Services shall be deposited into one (1) or
10 more ~~depositories qualifying for the deposit of public funds~~ cash fund
11 deposited to the State Treasury.

12 (b) ~~These funds~~ The funds under this section shall be used by
13 the board for administering the provisions of ~~§ 17-29-201 et seq. and § 17-~~
14 ~~29-301 et seq. and § 23-61-1101 et seq.~~

15
16 SECTION 31. Arkansas Code § 20-17-1002(3), concerning definitions
17 under the Cemetery Act for Perpetually Maintained Cemeteries, is amended to
18 read as follows:

19 (3) "Cemetery company" means an individual, partnership,
20 corporation, limited liability company, or association, now or hereafter
21 organized, owning or controlling cemetery lands or property and conducting
22 the business of a cemetery or making an application with the ~~Arkansas~~
23 ~~Cemetery Board~~ State Board of Embalmers, Funeral Directors, Cemeteries, and
24 Burial Services to own or control the lands or conduct the business;

25
26 SECTION 32. Arkansas Code § 20-17-1004 is repealed.

27 ~~20-17-1004. Arkansas Cemetery Board — Creation — Members.~~

28 ~~(a) The Arkansas Cemetery Board is to consist of seven (7) members~~
29 ~~selected as follows:~~

30 ~~(1) The Securities Commissioner or his or her designated deputy~~
31 ~~shall be a voting member of the board;~~

32 ~~(2) Six (6) members shall be appointed by the Governor for terms~~
33 ~~of four (4) years, as follows:~~

34 ~~(A) Four (4) of the six (6) members appointed by the~~
35 ~~Governor shall be owners or operators of a licensed perpetual care cemetery~~
36 ~~in this state;~~

1 ~~(B) One (1) member shall be appointed by the Governor and~~
2 ~~shall be a citizen of the State of Arkansas, of good character, and a~~
3 ~~qualified elector, but this person shall not have any interest in a cemetery~~
4 ~~or funeral home either within or without the State of Arkansas; and~~

5 ~~(C) One (1) member shall be sixty (60) years of age or~~
6 ~~older, appointed from the state at large, subject to the confirmation of the~~
7 ~~Senate, and shall represent the elderly. This member shall not be actively~~
8 ~~engaged in or retired from any profession or occupation which is regulated by~~
9 ~~the board.~~

10 ~~(b)(1) The Governor shall appoint one (1) alternate member for the~~
11 ~~same term and having the same qualifications as a regular member. This member~~
12 ~~shall substitute for any regular member when a conflict of interest~~
13 ~~disqualifies a regular member.~~

14 ~~(2) If a matter comes before the board involving a cemetery in~~
15 ~~which a member has a financial interest, then the member is disqualified from~~
16 ~~participating in the discussion or vote on the matter, and the alternate~~
17 ~~member shall substitute for the disqualified member.~~

18 ~~(3) The alternate member shall substitute for an absent member~~
19 ~~if necessary to constitute a quorum under § 20-17-1005(c).~~

20 ~~(c) Vacancies on the board due to death, resignation, or other cause~~
21 ~~of any appointed member shall be filled by appointment of the Governor for~~
22 ~~the unexpired portion of the term in the same manner as was required for the~~
23 ~~initial appointment.~~

24 ~~(d) Members shall serve without pay or other compensation for their~~
25 ~~services except that members may receive expense reimbursement and stipends~~
26 ~~in accordance with § 25-16-901 et seq.~~

27
28 SECTION 33. Arkansas Code § 20-17-1005 is repealed.

29 ~~20-17-1005. Arkansas Cemetery Board—Proceedings.~~

30 ~~(a) Any action taken by the Arkansas Cemetery Board shall be by the~~
31 ~~majority vote of the board members who are present at the meeting when the~~
32 ~~action is taken.~~

33 ~~(b) The cemeterian member of the board with the greatest seniority on~~
34 ~~the board shall be chair of the board, but if the person declines the~~
35 ~~chairship, then the cemeterian with the next highest seniority on the board~~
36 ~~shall be chair.~~

1 ~~(c) Four (4) members of the board shall constitute a quorum.~~

2 ~~(d) The board shall meet subject to call of the chair or upon written~~
3 ~~demand of any two (2) members.~~

4 ~~(e) Any order by the board under this subchapter shall be subject to~~
5 ~~review by the Pulaski County Circuit Court or by the circuit court of the~~
6 ~~county in which any part of the cemetery lies, provided that an application~~
7 ~~for review of the order is made within thirty (30) days of the date of the~~
8 ~~order.~~

9
10 SECTION 34. Arkansas Code § 20-17-1006 is repealed.

11 ~~20-17-1006. Arkansas Cemetery Board — Powers and duties.~~

12 ~~The Arkansas Cemetery Board shall have the authority to:~~

13 ~~(1)(A) Conduct periodic, special, or other examination of a~~
14 ~~cemetery or cemetery company, including without limitation an examination of~~
15 ~~the physical condition or appearance of the cemetery, the financial condition~~
16 ~~of the company and any trust funds maintained by the company, and other~~
17 ~~examinations as the board or Securities Commissioner deems necessary or~~
18 ~~appropriate in the public interest.~~

19 ~~(B) The examination shall be carried out by:~~

20 ~~(i) Members or representatives of the board;~~

21 ~~(ii) A certified public accountant or registered~~
22 ~~public accountant as authorized in § 20-17-1007; or~~

23 ~~(iii) The State Securities Department;~~

24 ~~(2) Issue or amend permits to operate a cemetery in accordance~~
25 ~~with this subchapter;~~

26 ~~(3) Suspend or revoke permits to operate a cemetery when any~~
27 ~~cemetery fails to comply with this subchapter, rules promulgated pursuant to~~
28 ~~this subchapter, or any order of the board;~~

29 ~~(4) Make rules, regulations, and forms to enforce this~~
30 ~~subchapter;~~

31 ~~(5) Require every cemetery company to observe minimum accounting~~
32 ~~principles and practices and make and keep such books and records in~~
33 ~~accordance therewith for such period of time as the board may by rule~~
34 ~~prescribe;~~

35 ~~(6)(A) Subpoena witnesses, books, and records in connection with~~
36 ~~alleged violations of this subchapter or rules or orders of the board. With~~

1 ~~the approval of the chair of the board or two (2) board members, the~~
2 ~~Securities Commissioner may issue subpoenas.~~

3 ~~(B) In case of contumacy or refusal to obey a subpoena~~
4 ~~issued to any person, the Pulaski County Circuit Court, upon application by~~
5 ~~the board, may issue to the person an order requiring him or her to appear~~
6 ~~before the board or the person designated by the board. Failure to obey the~~
7 ~~order of the court may be punished by the court as a contempt of court;~~

8 ~~(7) Require additional contributions to the permanent~~
9 ~~maintenance fund of the cemetery where provided for in this subchapter,~~
10 ~~including, but not limited to, contributions not to exceed three thousand~~
11 ~~dollars (\$3,000) whenever any cemetery company fails to properly care for and~~
12 ~~maintain or preserve the cemetery;~~

13 ~~(8)(A) Apply to the Pulaski County Circuit Court to enjoin any~~
14 ~~act or practice and to enforce compliance with this subchapter or any rule,~~
15 ~~regulation, or order pursuant to this subchapter whenever it appears to the~~
16 ~~board, upon sufficient grounds or evidence satisfactory to the board, that~~
17 ~~any person has engaged in or is about to engage in any act or practice~~
18 ~~constituting a violation of any provision of this subchapter or any rule or~~
19 ~~regulation pursuant to this subchapter.~~

20 ~~(B) The court may not require the board to post a bond;~~

21 ~~(9) Apply to the circuit court of the county in which the~~
22 ~~cemetery is located for appointment of a receiver or conservator of the~~
23 ~~cemetery corporation or its permanent maintenance fund when it appears to the~~
24 ~~board that a cemetery corporation is insolvent or that the cemetery~~
25 ~~corporation, its officers, directors, agents, or the trustees of its~~
26 ~~permanent maintenance fund have violated this subchapter and the rules~~
27 ~~promulgated under this subchapter or have failed to comply with any board~~
28 ~~order;~~

29 ~~(10) By rule increase the amount of a deposit required by § 20-~~
30 ~~17-1016 if the board determines that a greater sum is necessary to assure~~
31 ~~that the permanent maintenance fund will earn sufficient income to provide~~
32 ~~for the care and maintenance of the cemetery; and~~

33 ~~(11)(A) Purchase insolvent, licensed perpetual care cemeteries~~
34 ~~that have been in court-ordered receivership or conservatorship for at least~~
35 ~~five (5) years.~~

36 ~~(B) If the taking of legal possession of the cemetery~~

1 ~~requires the payment of consideration, any payment made by the board shall~~
2 ~~not exceed one thousand dollars (\$1,000).~~

3
4 SECTION 35. Arkansas Code § 20-17-1007 is amended to read as follows:

5 20-17-1007. Examination of cemetery.

6 (a)(1)~~(A)~~ A An examined cemetery company ~~examined in accordance with §~~
7 ~~20-17-1006~~ shall pay the ~~Arkansas Cemetery Board~~ State Board of Embalmers,
8 Funeral Directors, Cemeteries, and Burial Services for the examination:

9 ~~(i)(A)~~ Sixty dollars (\$60) One hundred dollars
10 (\$100) per day for each examiner who conducts the examination; and

11 ~~(ii)(B)~~ The amount necessary to reimburse the
12 travel, meal, and lodging expenses of each examiner.

13 ~~(B)~~ ~~In addition, the cemetery company shall pay to the~~
14 ~~board the amount of expenses and stipends paid by the board to any board~~
15 ~~member examining the physical condition or appearance of a cemetery when the~~
16 ~~examination is ordered by the board on its own motion or on request of an~~
17 ~~interested individual.~~

18 (2) An examination shall be conducted by ~~at least one~~ (1) an
19 employee of the State ~~Securities~~ Insurance Department or board member.

20 (b)~~(1)~~ In lieu of any financial examination ~~which~~ that the board shall
21 be authorized to make, the board may accept the audit of an independent
22 certified public accountant, provided that the ~~Securities~~ Insurance
23 Commissioner has notified the cemetery company that the audit would be
24 accepted and that the cemetery company has notified the commissioner in
25 writing that an audit would be prepared.

26 ~~(2)~~ ~~The costs of the audit shall be borne by the cemetery~~
27 ~~company, and the scope of the audit shall be at least equal to the scope of~~
28 ~~the examination required by the board.~~

29
30 SECTION 36. Arkansas Code § 20-17-1008(a)(1), concerning the
31 application for a permit to establish and operate a cemetery, is amended to
32 read as follows:

33 (a)(1) ~~Prior to~~ Before making application to the ~~Arkansas Cemetery~~
34 ~~Board~~ State Board of Embalmers, Funeral Directors, Cemeteries, and Burial
35 Services for a permit to establish and operate a new cemetery or for the
36 extension of the boundaries of an existing cemetery, the person proposing to

1 make application shall ~~cause to be published~~ publish weekly for three (3)
2 weeks in a newspaper of general circulation in the county in which the
3 proposed cemetery is located a notice that an application will be filed with
4 the board to establish or extend the boundaries of a cemetery in the county.
5

6 SECTION 37. Arkansas Code § 20-17-1008(c), concerning the application
7 for a permit to establish and operate a cemetery, is amended to read as
8 follows:

9 (c) All applications shall be made under oath and filed with the
10 ~~Securities Insurance~~ Commissioner not less than twenty (20) days ~~prior to~~
11 before the board meeting at which the application is to be considered.
12

13 SECTION 38. Arkansas Code § 20-17-1009(a), concerning the
14 investigation of a cemetery by the Department of Health, is amended to read
15 as follows:

16 (a) Upon submission of an application to the ~~Arkansas Cemetery Board~~
17 State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services
18 for the issuance of a permit for a new cemetery or for an extension of the
19 boundaries of an existing cemetery, the applicant shall request that the
20 Department of Health investigate the proposed cemetery location or extension
21 to determine if the proposed new or expanded location will be sanitary.
22

23 SECTION 39. Arkansas Code § 20-17-1010 is amended to read as follows:

24 20-17-1010. Permit – Investigation and issuance by the ~~Arkansas~~
25 ~~Cemetery Board~~ State Board of Embalmers, Funeral Directors, Cemeteries, and
26 Burial Services.

27 (a) If the cemetery company has fully complied with this subchapter
28 and if the Department of Health approves the location of the new cemetery or
29 the extension of the boundaries of an existing cemetery, then the application
30 shall be submitted to the ~~Arkansas Cemetery Board~~ State Board of Embalmers,
31 Funeral Directors, Cemeteries, and Burial Services for investigation and for
32 approval or disapproval.

33 (b) Immediately upon the submission of each application, the board
34 shall ~~make such investigation as shall enable it~~ investigate to determine the
35 fitness of the cemetery company, the need for the cemetery, and all other
36 questions bearing directly or indirectly upon the need or desirability from

1 the public standpoint of the proposed cemetery or extension.

2 (c)(1)(A) If the application for a new cemetery is approved, the board
3 shall issue a permit to the applicant only after the applicant has filed
4 proof with the board that an initial principal deposit of at least five
5 thousand dollars (\$5,000) has been made to the permanent maintenance fund.

6 (B) ~~This~~ The initial five thousand dollars (\$5,000) under
7 subdivision (c)(1)(A) of this section can be used to meet the liability due
8 the permanent maintenance fund for the first paid-in-full burial space sales
9 sold by the permit holder.

10 (2) The permit shall be filed in the court of the county in
11 which the cemetery is located and with the department.

12

13 SECTION 40. Arkansas Code § 20-17-1011(b)(4)(H)(i), concerning permit
14 amendments under the Cemetery Act for Perpetually Maintained Cemeteries, is
15 amended to read as follows:

16 (i) An executed escrow agreement approved by the
17 ~~Arkansas Cemetery Board~~ State Board of Embalmers, Funeral Directors,
18 Cemeteries, and Burial Services with a federally insured financial
19 institution or other financial institution approved by the board which
20 provides among other things that one hundred percent (100%) of the sales
21 proceeds collected ~~prior to~~ before the completion and payment in full of the
22 structure will be placed into escrow; or

23

24 SECTION 41. Arkansas Code § 20-17-1011(c), concerning permit
25 amendments under the Cemetery Act for Perpetually Maintained Cemeteries, is
26 amended to read as follows:

27 (c) ~~Eight (8)~~ Nine (9) complete copies of the application for the
28 amendment of the permit shall be filed with the ~~Securities~~ Insurance
29 Commissioner at least twenty (20) calendar days prior to the meeting at which
30 the board will consider the application.

31

32 SECTION 42. Arkansas Code § 20-17-1012(b)(1)(A), concerning transfer
33 of ownership under the Cemetery Act for Perpetually Maintained Cemeteries, is
34 amended to read as follows:

35 (b)(1)(A) If a change is proposed in the controlling interest of a
36 perpetual care cemetery or a cemetery company or an organization that,

1 directly or indirectly owns a controlling interest in the perpetual care
2 cemetery or cemetery company, the cemetery company that holds the current
3 permit and the individual or organization proposing to gain the controlling
4 interest shall file an application for the issuance of a new permit with the
5 ~~Arkansas Cemetery Board~~ State Board of Embalmers, Funeral Directors,
6 Cemeteries, and Burial Services.

7
8 SECTION 43. Arkansas Code § 20-17-1012(b)(2)(N), concerning transfer
9 of ownership under the Cemetery Act for Perpetually Maintained Cemeteries, is
10 amended to read as follows:

11 (N) Any additional information required by the board or
12 the ~~Securities~~ Insurance Commissioner.

13
14 SECTION 44. Arkansas Code § 20-17-1013(d)(1), concerning the permanent
15 maintenance fund under the Cemetery Act for Perpetually Maintained
16 Cemeteries, is amended to read as follows:

17 (d)(1) The trust fund shall be established by executing a written
18 trust agreement approved by the ~~Arkansas Cemetery Board~~ State Board of
19 Embalmers, Funeral Directors, Cemeteries, and Burial Services.

20
21 SECTION 45. Arkansas Code § 20-17-1014(b)(2)(A), concerning the
22 permanent maintenance fund trustees under the Cemetery Act for Perpetually
23 Maintained Cemeteries, is amended to read as follows:

24 (A) All trustees that make disbursements from the trust
25 fund deposit with the ~~Arkansas Cemetery Board~~ State Board of Embalmers,
26 Funeral Directors, Cemeteries, and Burial Services a fidelity bond with
27 corporate surety payable to the trust fund in a penal sum not less than one
28 hundred percent (100%) of the value of the trust fund principal at the
29 beginning of each calendar year; and

30
31 SECTION 46. Arkansas Code § 20-17-1014(b)(3)(B), concerning the
32 permanent maintenance fund trustees under the Cemetery Act for Perpetually
33 Maintained Cemeteries, is amended to read as follows:

34 (B) The funds are restricted to prevent the principal
35 amount of the funds from being withdrawn without the written approval of and
36 on a form approved by the ~~Securities~~ Insurance Commissioner; and

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SECTION 47. Arkansas Code § 20-17-1015(a)(1), concerning the annual report pertaining to the permanent maintenance fund under the Cemetery Act for Perpetually Maintained Cemeteries, is amended to read as follows:

(a)(1) Within seventy-five (75) days after the end of each calendar year, the ~~Arkansas Cemetery Board~~ State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services shall require the trustee of the permanent maintenance fund to file under oath a detailed annual report of the condition of the fund.

SECTION 48. The introductory language of Arkansas Code § 20-17-1016(a), concerning required deposits pertaining to the permanent maintenance fund under the Cemetery Act for Perpetually Maintained Cemeteries, is amended to read as follows:

(a) Unless a greater amount is established by rule of the ~~Arkansas Cemetery Board under § 20-17-1006(10)~~ State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services, a cemetery company shall deposit into its permanent maintenance fund a sum not less than:

SECTION 49. Arkansas Code § 20-17-1016(b)(2)(B)(vi), concerning required deposits pertaining to the permanent maintenance fund under the Cemetery Act for Perpetually Maintained Cemeteries, is amended to read as follows:

(vi) If the cemetery corporation enters into an agreement with the bank or other financial institution, which in the ~~Securities Insurance~~ Commissioner's determination adequately provides for the safeguards set forth in subdivision (b)(2)(A) of this section, then ~~that~~ subdivision ~~shall~~ (b)(2)(A) of this section is not be applicable to the cemetery corporation.

SECTION 50. Arkansas Code § 20-17-1018(a)(1), concerning violations, criminal penalties, and remedies, is amended to read as follows:

(1) Advertise or operate all or part of a cemetery as a perpetual care cemetery or permanent maintenance cemetery without holding a valid permit issued by the ~~Arkansas Cemetery Board~~ State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services; or

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SECTION 51. Arkansas Code § 20-17-1018(c)(2)(B), concerning violations, criminal penalties, and remedies, is amended to read as follows:

(B) The board shall schedule a hearing to be held within a reasonable amount of time after the ~~Securities~~ Insurance Commissioner receives a timely written request for hearing.

SECTION 52. Arkansas Code § 20-17-1019(a)(2), concerning conveyance of lots under the Cemetery Act for Perpetually Maintained Cemeteries, is amended to read as follows:

(2) The cemetery company shall not use an instrument to convey a burial lot or burial plot unless the form of the instrument has been provided to the ~~Arkansas Cemetery Board~~ State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.

SECTION 53. Arkansas Code § 20-17-1021(b), concerning disposition of contributions and fees under the Cemetery Act for Perpetually Maintained Cemeteries, is amended to read as follows:

(b) All fees imposed under this subchapter shall be paid to the ~~Arkansas Cemetery Board~~ State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.

SECTION 54. Arkansas Code § 20-17-1022(b), concerning records required from cemetery companies, is amended to read as follows:

(b) Unless otherwise approved by the ~~Arkansas Cemetery Board~~ State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services, all sales contracts and deeds issued by the cemetery company shall be numbered prior to when they are executed by the cemetery company and shall contain those items that the board by rule or order prescribes.

SECTION 55. Arkansas Code § 20-17-1023(a)(1), concerning the annual report of the condition of a cemetery company, is amended to read as follows:

(a)(1) Within seventy-five (75) days after the end of the calendar year, a cemetery company shall file with the ~~Arkansas Cemetery Board~~ State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services a report under oath of its condition.

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SECTION 56. Arkansas Code § 20-17-1025(a), concerning the protection of cemeteries under the Cemetery Act for Perpetually Maintained Cemeteries, is amended to read as follows:

(a) On August 1, 2001, the ~~Arkansas Cemetery Board~~ State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services shall segregate one hundred eighty thousand dollars (\$180,000) within its general operating fund to be known as the insolvent cemetery loan fund administered by the ~~Securities~~ Insurance Commissioner and only used to lend a court-appointed receiver or conservator the funds necessary to assure that a cemetery will be properly maintained and will continue to be a going concern, including the funds necessary to pay a reasonable surety bond premium that is required to be posted by the court.

SECTION 57. Arkansas Code § 20-17-1026(a), concerning the annual permit fee under the Cemetery Act for Perpetually Maintained Cemeteries, is amended to read as follows:

(a) By March 1 of each year, each permit holder shall pay to the ~~Arkansas Cemetery Board~~ State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services a permit renewal fee in the amount of one hundred dollars (\$100).

SECTION 58. Arkansas Code § 20-17-1027 is repealed.

~~20-17-1027. Duties of State Securities Department.~~

~~(a) The State Securities Department shall assist the Arkansas Cemetery Board in the performance of its duties.~~

~~(b) Assistance under subsection (a) of this section shall include, but is not limited to:~~

~~(1) Receiving and disseminating filings, questions, and requests on behalf of the board to the members of the board in advance of each meeting;~~

~~(2) Reviewing all filings, questions, and requests on behalf of the board and offering its opinion on the resolution of the matter;~~

~~(3) Issuing written responses regarding complaints received by the board;~~

~~(4) Scheduling all meetings in conjunction with the Chair of the~~

1 ~~Arkansas Cemetery Board;~~

2 ~~(5) Providing appropriate legal notices for all scheduled~~
3 ~~meetings;~~

4 ~~(6) Establishing a site where meetings of the board may be held;~~

5 ~~(7) Scheduling the services of a court reporter for all meetings~~
6 ~~of the board;~~

7 ~~(8) Providing legal representation and assistance through the~~
8 ~~legal staff of the department to the board in matters pertaining to this~~
9 ~~subchapter;~~

10 ~~(9) Acting as a liaison between the board and any court involved~~
11 ~~in the administration of any perpetual care cemetery placed in receivership;~~

12 ~~(10) Performing inspections at cemeteries for which complaints~~
13 ~~have been received by the board;~~

14 ~~(11) Performing special audits as necessary;~~

15 ~~(12) Scheduling regular audits of perpetual care cemeteries;~~

16 ~~(13) Administering the annual perpetual care reporting for all~~
17 ~~perpetual care cemeteries;~~

18 ~~(14) Assisting in the formulation of legislation on behalf of the~~
19 ~~board; and~~

20 ~~(15) Performing regular audits or examinations of perpetual care~~
21 ~~cemeteries.~~

22
23 SECTION 59. Arkansas Code § 20-17-1028(a)(1), concerning contracts
24 with a municipality or county where a cemetery is located, is amended to read
25 as follows:

26 (a)(1) The ~~Arkansas Cemetery Board~~ State Board of Embalmers, Funeral
27 Directors, Cemeteries, and Burial Services may contract with the municipality
28 or county where a cemetery is located for the care and maintenance and the
29 operation of the cemetery.

30
31 SECTION 60. Arkansas Code § 20-17-1029(c)(4)(A), concerning cemetery
32 advisory boards, is amended to read as follows:

33 (4)(A) Advise the ~~Arkansas Cemetery Board~~ State Board of
34 Embalmers, Funeral Directors, Cemeteries, and Burial Services and the
35 municipality or county where the cemetery is located concerning long-term
36 goals and plans for efficient cemetery operation and beautification.

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2 SECTION 61. Arkansas Code § 20-17-1030(a)(1), concerning infant
3 interment gardens, is amended to read as follows:

4 (1) The cemetery company provides the ~~Arkansas Cemetery Board~~
5 State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services
6 a letter of intent to establish an infant interment garden and a map of the
7 location for the infant interment garden;

8
9 SECTION 62. Arkansas Code § 20-17-1303 is amended to read as follows:
10 20-17-1303. Insolvent cemetery grant fund.

11 An insolvent cemetery grant fund is established within the general
12 operating fund of the ~~Arkansas Cemetery Board~~ State Board of Embalmers,
13 Funeral Directors, Cemeteries, and Burial Services for the care and
14 improvement of a perpetual care cemetery that is insolvent or in financial
15 distress as determined by the ~~Arkansas Cemetery Board~~ board.

16
17 SECTION 63. Arkansas Code § 20-17-1304 is amended to read as follows:

18 20-17-1304. Powers and duties of ~~Arkansas Cemetery Board~~ State Board of
19 Embalmers, Funeral Directors, Cemeteries, and Burial Services.

20 The ~~Arkansas Cemetery Board~~ State Board of Embalmers, Funeral
21 Directors, Cemeteries, and Burial Services shall:

22 (1) Review and grant or deny all or part of a grant application
23 submitted under this subchapter; and

24 (2) Establish by rule:

25 (A) Criteria for grant applications and awards;

26 (B) Oversight of all grant expenditures;

27 (C) Criteria for reporting and maintaining all grant
28 moneys and expenditures; and

29 (D) Criteria for the review of grant awards and
30 expenditures to prevent misuse or abuse of grant money.

31
32 SECTION 64. Arkansas Code § 20-17-1305(a)(1), concerning the
33 eligibility for grants under the Insolvent Cemetery Grant Fund Act, is
34 amended to read as follows:

35 (a)(1) As used in this section, "eligible organization" means an
36 organization that agrees to provide for the care and improvement of a

1 perpetual care cemetery that is insolvent or in financial distress as
2 determined by the ~~Arkansas Cemetery Board~~ State Board of Embalmers, Funeral
3 Directors, Cemeteries, and Burial Service.

4
5 SECTION 65. Arkansas Code § 20-17-1306 is amended to read as follows:
6 20-17-1306. Application.

7 An eligible organization shall apply for grant payments under this
8 subchapter according to the rules established by the ~~Arkansas Cemetery Board~~
9 State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Service.

10
11 SECTION 66. Arkansas Code § 20-17-1307 is amended to read as follows:
12 20-17-1307. Grant payments – Amount.

13 (a) The ~~Securities Insurance~~ Commissioner shall make grant payments
14 under this subchapter from:

15 (1) Funds appropriated by the General Assembly for that purpose;

16 or

17 (2) Excess funds transferred under § 20-17-1025(~~f~~) to the
18 insolvent cemetery grant fund from the insolvent cemetery loan fund.

19 (b) The ~~Arkansas Cemetery Board~~ State Board of Embalmers, Funeral
20 Directors, Cemeteries, and Burial Service shall not grant more than thirty-
21 five thousand dollars (\$35,000) in a fiscal year to an eligible organization
22 for the care and improvement of a perpetual care cemetery that is insolvent
23 or in financial distress under this subchapter.

24
25 SECTION 67. Arkansas Code § 23-78-101(2), concerning definitions
26 pertaining to burial associations, is repealed.

27 (~~2~~) ~~“Board” means Burial Association Board.~~

28
29 SECTION 68. Arkansas Code § 23-78-102(a), concerning applicability of
30 the law pertaining to burial associations, is amended to read as follows:

31 (a)(1) All burial associations organized or operating in the State of
32 Arkansas as of February 18, 1953, shall be deemed in all respects to be
33 organized or operating exclusively under the provisions of this chapter, and
34 to have authority from the ~~Burial Association Board~~ State Board of Embalmers,
35 Funeral Directors, Cemeteries, and Burial Services to engage in their
36 business.

1 (2) They A burial association under subdivision (a)(1) of this
2 section shall be subject to the supervision, authority, and control of the
3 board and subject to all the provisions of this chapter.

4
5 SECTION 69. Arkansas Code § 23-78-104(a), concerning penalties
6 pertaining to burial associations, is amended to read as follows:

7 (a) ~~It shall be unlawful for any~~ A person, firm, association,
8 copartnership, corporation, company, or other organization ~~to~~ shall not
9 organize, operate, or in any way solicit members for a burial association, or
10 for participation in any plan, scheme, or device similar to burial
11 associations, except in the manner provided by this chapter and the rules ~~and~~
12 ~~regulations~~ promulgated by the ~~Burial Association Board~~ State Board of
13 Embalmers, Funeral Directors, Cemeteries, and Burial Services.

14
15 SECTION 70. Arkansas Code § 23-78-105 is repealed.

16 ~~23-78-105. Burial Association Board—Creation—Members.~~

17 ~~(a) There is created a Burial Association Board consisting of the~~
18 ~~following members who shall be appointed by the Governor subject to~~
19 ~~confirmation by the Senate:~~

20 ~~(1) One (1) member from each congressional district;~~

21 ~~(2) Three (3) at-large members;~~

22 ~~(3) One (1) consumer representative appointed from the state at~~
23 ~~large;~~

24 ~~(4) One (1) representative of the elderly appointed from the~~
25 ~~state at large; and~~

26 ~~(5) Any other members who, from time to time, may be added by~~
27 ~~statute.~~

28 ~~(b)(1)(A) The members of the board shall be:~~

29 ~~(i) Residents of the State of Arkansas;~~

30 ~~(ii) At least twenty-one (21) years of age; and~~

31 ~~(iii) Of good moral character.~~

32 ~~(B) The representative of the elderly shall be sixty (60)~~
33 ~~years of age or older.~~

34 ~~(2)(A) Members other than the consumer representative and the~~
35 ~~representative of the elderly shall be engaged in or connected with the~~
36 ~~operation of a burial association for at least five (5) years.~~

1 ~~(B) The consumer representative and the representative of~~
2 ~~the elderly shall not be actively engaged in or retired from the business of~~
3 ~~operating a burial association.~~

4 ~~(3) The consumer representative position and the representative~~
5 ~~of the elderly position cannot be filled by the same person.~~

6 ~~(c)(1) Members other than the consumer representative and the~~
7 ~~representative of the elderly shall be appointed as follows:~~

8 ~~(A) During December of each year, the Arkansas Club of~~
9 ~~Burial Associations or its successor shall submit to the Governor a list~~
10 ~~containing the names of not fewer than two (2) qualified persons from each~~
11 ~~congressional district from which the current members' terms expire. However,~~
12 ~~at-large members may be from any congressional district, and no more than one~~
13 ~~(1) at-large member may be appointed from any one (1) congressional district;~~

14 ~~(B) The Arkansas Club of Burial Associations shall also~~
15 ~~establish a system of rotating the at-large members to ensure equitable~~
16 ~~representation of congressional districts by the at-large members; and~~

17 ~~(C) After receipt of the list by the Governor, the~~
18 ~~Governor shall appoint to the board one (1) member from each congressional~~
19 ~~district from which the current member's term expires, plus members from the~~
20 ~~state at large, provided the at-large member's term also expires.~~

21 ~~(2) The requirement of appointment from a list submitted by the~~
22 ~~Arkansas Club of Burial Associations shall not be applicable to the consumer~~
23 ~~representative and the representative of the elderly.~~

24 ~~(d)(1) The term of office shall be for three (3) years, and no member~~
25 ~~shall be appointed to more than two (2) consecutive terms upon the board.~~

26 ~~(2) Each member shall hold office until a successor is appointed~~
27 ~~and qualified.~~

28 ~~(e)(1) Vacancies on the board shall be filled for the unexpired term~~
29 ~~thereof by appointment by the Governor.~~

30 ~~(2) Vacancies in positions other than those of the consumer~~
31 ~~representative and the representative of the elderly shall be filled from new~~
32 ~~lists submitted for the filling of the vacancies in the same manner provided~~
33 ~~for the appointment of those members to the board.~~

34 ~~(f) The Governor shall have the right to remove any member of the~~
35 ~~board for gross neglect or malfeasance after notice and hearing.~~

36 ~~(g) Before entering upon the duties of the office, the members of the~~

1 ~~board shall take the oath prescribed by the Arkansas Constitution for state~~
2 ~~officers and shall file it in the office of the Secretary of State. The~~
3 ~~Secretary of State shall thereupon issue to the person so appointed a~~
4 ~~certificate of the appointment.~~

5 ~~(h) The members of the board may receive expense reimbursement and~~
6 ~~stipends in accordance with § 25-16-901 et seq.~~

7
8 SECTION 71. Arkansas Code § 23-78-106 is repealed.

9 ~~23-78-106. Burial Association Board—Proceedings.~~

10 ~~(a)(1) The members of the Burial Association Board shall first meet~~
11 ~~within five (5) days subsequent to their appointment and elect one (1) of~~
12 ~~their members as chair.~~

13 ~~(2) The board shall meet thereafter at such times and at such~~
14 ~~places as may be prescribed by rules and regulations adopted by the board.~~

15 ~~(b)(1) A simple majority of members of the board shall constitute a~~
16 ~~quorum, and the concurring votes of not less than a majority of the members~~
17 ~~present at any meeting shall be necessary to the decision of any question or~~
18 ~~issue or the authorization of any action.~~

19 ~~(2) The consumer representative and the representative of the~~
20 ~~elderly shall be full voting members.~~

21
22 SECTION 72. Arkansas Code § 23-78-107 is repealed.

23 ~~23-78-107. Burial Association Board—Office and employees.~~

24 ~~(a)(1) The Burial Association Board shall rent or otherwise acquire~~
25 ~~suitable quarters for an office and employ and fix the duties and the~~
26 ~~salaries of an executive secretary, two (2) auditors, and such other clerical~~
27 ~~assistance as may be necessary to carry out this chapter.~~

28 ~~(2) The board may, if it deems advisable, require other~~
29 ~~employees to make a good and sufficient corporate bond to the board at the~~
30 ~~expense of the board in such amount as the board shall determine for the~~
31 ~~faithful performance of their duties.~~

32 ~~(b) Legal counsel shall be furnished by the office of the Attorney~~
33 ~~General.~~

34 ~~(c) There is established for the board the maximum number of employees~~
35 ~~necessary for the maintenance and operation of the board and the maximum~~
36 ~~rates of salaries for the employees. The board is authorized to make payment~~

1 ~~for salaries, services, and other purposes from the funds received by the~~
2 ~~board.~~

3 ~~(d) The board is authorized to make reimbursement of the necessary and~~
4 ~~reasonable travel, board, and lodging expenses of the executive secretary and~~
5 ~~auditors incurred in the performance of their duties.~~

6
7 SECTION 73. Arkansas Code § 23-78-108 is repealed.

8 ~~23-78-108. Burial Association Board—Powers and duties.~~

9 ~~(a) The Burial Association Board appointed pursuant to this chapter~~
10 ~~shall have full and complete authority to:~~

11 ~~(1) Grant certificates of authority to burial associations;~~

12 ~~(2) Revoke certificates of authority, charters, or other~~
13 ~~authority granted to burial associations in this state;~~

14 ~~(3) Fix the minimum assessments or minimum membership dues for~~
15 ~~which burial associations may issue certificates for benefits in specified~~
16 ~~amounts;~~

17 ~~(4) Supervise the affairs of all burial associations organized~~
18 ~~or operating in this state;~~

19 ~~(5) Conduct hearings as provided in this chapter and collect,~~
20 ~~receive, hold, and expend annual license fees as provided in this chapter;~~

21 ~~(6) Adopt and enforce such rules and regulations as it may deem~~
22 ~~necessary and expedient for the proper operation of the board and the~~
23 ~~carrying out of the objects and purposes of this chapter;~~

24 ~~(7) Establish actuarial rates and reserve requirements necessary~~
25 ~~to ensure the financial integrity of all burial associations; and~~

26 ~~(8) Approve requests from burial associations that have excess~~
27 ~~financial resources, as determined by the board, to adopt a plan to pay death~~
28 ~~benefits in excess of the face value of a certificate of benefits issued by~~
29 ~~the burial association to members of the burial association.~~

30 ~~(b) The powers and authority set out in subsection (a) of this section~~
31 ~~shall not be in diminution or limitation of the powers and authority vested~~
32 ~~in the board by the various sections of this chapter, but the board shall~~
33 ~~possess all powers and authority, whether set forth in this section or not,~~
34 ~~to enable it to carry out the intent and purpose of this chapter.~~

35 ~~(c) The board shall have power to conduct hearings, subpoena witnesses~~
36 ~~and records, determine issues between different burial associations and~~

1 ~~between burial associations and their respective members, and render binding~~
2 ~~decisions, subject to appeal as provided in this chapter.~~

3
4 SECTION 74. Arkansas Code § 23-78-109 is amended to read as follows:

5 23-78-109. Burial associations under authority, supervision, and
6 control of board.

7 All burial associations organized or operating in the State of Arkansas
8 ~~shall be~~ are under the authority, supervision, and control of the ~~Burial~~
9 ~~Association Board~~ State Board of Embalmers, Funeral Directors, Cemeteries,
10 and Burial Services.

11
12 SECTION 75. Arkansas Code § 23-78-110(a), concerning applications for
13 a certificate of authority, is amended to read as follows:

14 (a) Applications for a certificate of authority shall be on forms
15 furnished by the ~~Burial Association Board~~ State Board of Embalmers, Funeral
16 Directors, Cemeteries, and Burial Services, and ~~no~~ a burial association shall
17 not begin operation until the application ~~shall have~~ has been approved and
18 the certificate of authority ~~shall have~~ has been granted by the board.

19
20 SECTION 76. Arkansas Code § 23-78-111(a)(1), concerning fees
21 pertaining to burial associations, is amended to read as follows:

22 (a)(1) In order to meet the expense of supervision and of carrying out
23 the other provisions of this chapter, the ~~Burial Association Board~~ State
24 Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services may
25 set license fees for burial associations subject to its jurisdiction as set
26 forth in § 23-78-109.

27
28 SECTION 77. Arkansas Code § 23-78-113(a), concerning a license
29 required for an agent, is amended to read as follows:

30 (a) Before ~~any~~ an agent or representative ~~shall or may represent any~~
31 represents a burial association in this state, ~~he or she~~ the agent or
32 representative shall first apply to the ~~Burial Association Board~~ State Board
33 of Embalmers, Funeral Directors, Cemeteries, and Burial Services for a
34 license.

35
36 SECTION 78. Arkansas Code § 23-78-115 is amended to read as follows:

1 23-78-115. Rules and bylaws.

2 All burial associations shall have and maintain rules and bylaws in
3 such form and with such contents as ~~shall be~~ prescribed by the ~~Burial~~
4 ~~Association Board~~ State Board of Embalmers, Funeral Directors, Cemeteries,
5 and Burial Services.

6
7 SECTION 79. Arkansas Code § 23-78-116(a), concerning membership dues
8 and assessments pertaining to burial associations, is amended to read as
9 follows:

10 (a) From and after February 18, 1953, ~~no~~ a burial association
11 organized or operating in this state shall not issue ~~any~~ a certificate
12 providing benefits for a member for an assessment or membership dues less
13 than the minimum assessment or minimum dues prescribed for the benefits by
14 the ~~Burial Association Board~~ State Board of Embalmers, Funeral Directors,
15 Cemeteries, and Burial Services.

16
17 SECTION 80. Arkansas Code § 23-78-117(a), concerning books, records,
18 accounts, and documents pertaining to burial associations, is amended to read
19 as follows:

20 (a) The books, records, accounts, and documents of all burial
21 associations organized or operating in this state shall at all times be open
22 for inspection, examination, and audit by the ~~Burial Association Board~~ State
23 Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services, its
24 agents and employees.

25
26 SECTION 81. Arkansas Code § 23-78-118 is amended to read as follows:

27 23-78-118. Books – False entries prohibited.

28 ~~Any~~ A person or burial association official who knowingly makes or
29 allows to be made ~~any~~ a false entry on the books of the association with
30 intent to deceive or defraud ~~any~~ a member of the association or with intent
31 to conceal the true condition of the association from the ~~Burial Association~~
32 ~~Board~~ State Board of Embalmers, Funeral Directors, Cemeteries, and Burial
33 Services or its agents or employees or any auditor authorized to examine the
34 books of the association under the supervision of the board ~~shall be~~ is
35 guilty of a Class A misdemeanor.

36

1 SECTION 82. Arkansas Code § 23-78-119(a), concerning the failure to
2 maintain records, is amended to read as follows:

3 (a) ~~Any~~ A burial association secretary or secretary-treasurer who
4 fails to maintain records to the minimum standards required by the ~~Burial~~
5 ~~Association Board~~ State Board of Embalmers, Funeral Directors, Cemeteries,
6 and Burial Services shall be removed by the board from office and another
7 elected by the association in his or her stead.

8
9 SECTION 83. Arkansas Code § 23-78-120(a)(1), concerning semiannual
10 reports from burial associations, is amended to read as follows:

11 (a)(1) Using forms provided by the ~~Burial Association Board~~ State
12 Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services, each
13 burial association or society licensed in this state shall file a semiannual
14 report showing the actual financial condition of the burial association or
15 society as of June 30 and December 31 of each year.

16
17 SECTION 84. Arkansas Code § 23-78-121 is amended to read as follows:
18 23-78-121. Rules ~~and regulations~~.

19 (a) The ~~Burial Association Board~~ State Board of Embalmers, Funeral
20 Directors, Cemeteries, and Burial Services shall make and promulgate
21 reasonable rules ~~and regulations~~ for the administration of ~~the provisions of~~
22 this chapter and for the purpose of carrying out the intent ~~hereof~~ of this
23 chapter.

24 (b) The rules ~~and regulations~~ promulgated under subsection (a) of this
25 section ~~shall~~ have the full force and effect of statute.

26
27 SECTION 85. The introductory language of Arkansas Code § 23-78-
28 122(a)(2), concerning the disposition of collections from burial
29 associations, is amended to read as follows:

30 (2) However, subject to the reserve requirements established by
31 the ~~Burial Association Board~~ State Board of Embalmers, Funeral Directors,
32 Cemeteries, and Burial Services, the association or society may invest any
33 portion of the seventy-five percent (75%) of the collections not needed for
34 the immediate payment of benefits or not needed for the reasonably
35 anticipated payment of benefits in:

36

1 SECTION 86. Arkansas Code § 23-78-122(a)(2)(D)(ii)(a), concerning
2 disposition of collections, is amended to read as follows:

3 (ii)(a) However, if the certificates of deposit
4 issued by the bank ~~shall~~ exceed the amount of the certificates of deposit
5 insured by the Federal Deposit Insurance Corporation, the bank shall furnish
6 to the association or secretary and the board or the ~~Executive Secretary of~~
7 ~~the Burial Association Board~~ Insurance Commissioner evidence of the
8 assignment of bonds or other securities issued by the State of Arkansas or
9 the United States to secure the payment of the certificates.

10
11 SECTION 87. Arkansas Code § 23-78-122(a)(2)(E)(ii)(b), concerning
12 disposition of collections, is amended to read as follows:

13 (b) The savings and loan association in which
14 the accounts exist shall make the assignment in a form and manner approved by
15 the board or the ~~executive secretary~~ Insurance Commissioner;

16
17 SECTION 88. Arkansas Code § 23-78-123(a), concerning the disposition
18 of fees and charges pertaining to burial associations, is amended to read as
19 follows:

20 (a)(1) All fees and charges collected by the ~~Burial Association Board~~
21 State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services
22 under ~~the provisions of~~ this chapter shall be deposited ~~in insured banks~~ into
23 a ~~fund to be known as the "Burial Association Board Fund"~~ cash fund deposited
24 to State Treasury.

25 (2) The board is empowered to expend the funds for the
26 requirements, purposes, and expenses of the board under the provisions of
27 this chapter, upon a voucher approved by the board and signed by the
28 ~~Executive Secretary of the Burial Association Board~~ Insurance Commissioner or
29 his or her designee, provided that the total expense for every purpose
30 incurred shall not exceed the total fees and charges collected by the board
31 under the provisions of this chapter.

32
33 SECTION 89. Arkansas Code § 23-78-124(a), concerning the hearing
34 pertaining to the revocation of a certificate, license, charter, etc., is
35 amended to read as follows:

36 (a) Before revoking ~~any~~ a certificate of authority or license granted

1 under ~~the provisions of~~ this chapter or any charter or other authority
2 granted to a burial association under any law effective ~~prior to~~ before
3 February 18, 1953, the ~~Burial Association Board~~ State Board of Embalmers,
4 Funeral Directors, Cemeteries, and Burial Services shall set the matter down
5 for a hearing.

6
7 SECTION 90. Arkansas Code § 23-78-125(a), concerning an appeal
8 pertaining to the revocation of certificate, license, charter, etc., is
9 amended to read as follows:

10 (a) Upon the revocation of ~~any a~~ a certificate of authority, charter, or
11 other authority by the ~~Burial Association Board~~ State Board of Embalmers,
12 Funeral Directors, Cemeteries, and Burial Services under any of the
13 provisions of this chapter, the association or person whose certificate of
14 authority, charter, license, or other authority has been revoked ~~shall have~~
15 ~~the right of~~ may appeal from the action of the board revoking the certificate
16 of authority, charter, or other authority to the circuit court of the county
17 in which the burial association may be located.

18
19 SECTION 91. Arkansas Code § 23-78-126(a), concerning required approval
20 of a plan for excess financial resources of a burial association, is amended
21 to read as follows:

22 (a) A burial association that has excess financial resources, as
23 determined by the ~~Burial Association Board~~ State Board of Embalmers, Funeral
24 Directors, Cemeteries, and Burial Services, *may request that the board*
25 approve a plan to pay death benefits in excess of the face value of
26 certificates of benefits issued by the burial association to members of the
27 burial association.

28
29 SECTION 92. Arkansas Code § 25-15-104(a)(1)(E), concerning subpoena
30 powers of boards and commissions, is amended to read as follows:

31 (E) ~~State Board of Embalmers and Funeral Directors, § 17-~~
32 ~~29-201 et seq.~~ State Board of Embalmers, Funeral Directors, Cemeteries, and
33 Burial Services § 23-61-1101 et seq.;

34
35 SECTION 93. Arkansas Code § 25-16-904(6), concerning stipend
36 authorization for certain state boards, is amended to read as follows:

1 (6) ~~State Board of Embalmers and Funeral Directors~~ State Board
2 of Embalmers, Funeral Directors, Cemeteries, and Burial Services;

3
4 */s/E. Williams*
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