



LAWS OF ALASKA

1976

Source

HCSSB 716

Chapter No.

197

AN ACT

Relating to funerals and the practice of mortuary science; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 08 is amended by adding a new chapter to read:

CHAPTER 42. MORTICIANS.

Sec. 08.42.010. AUTHORITY OF DEPARTMENT. The department has jurisdiction over the practice of mortuary science under this chapter. The department may adopt and enforce regulations and set fees relating to the practice of mortuary science.

Sec. 08.42.020. LICENSE REQUIRED FOR THE PRACTICE OF MORTUARY SCIENCE. (a) No person may engage in the practice of mortuary science or hold himself out as engaging in the practice unless licensed as an embalmer or funeral director by the department. A person holding a license as a funeral director may not embalm or restore a dead human body, take charge of the remains of a person dead of a communicable disease, or prepare for transportation by common carrier a human body dead of a communicable disease.

(b) A person who has actively practiced embalming in the state for at least one year and holds a valid embalmer's license issued in this state before the effective date of this chapter shall be granted a license to practice embalming and may renew the license biennially. A person who has actively practiced in the state as a funeral director for a period of at least one year shall be granted a license to practice as a funeral director and may renew his license biennially.

(c) In the event the dead body is to be disposed of in a manner not requiring embalming, the department may issue a permit to an unlicensed person, on an annual basis, for the care and disposition of dead human bodies for compensation. This permit otherwise in no way licenses the holder to practice mortuary science.

Sec. 08.42.030. EXAMINATION OF APPLICANTS FOR LICENSE TO PRACTICE MORTUARY SCIENCE. The department is granted authority to examine all applicants for a license to practice mortuary science and to determine whether an applicant possesses the necessary qualifications. The department shall hold an examination at least once each year at the place and time the department may determine.

Sec. 08.42.040. APPLICATION FOR LICENSE TO PRACTICE MORTUARY SCIENCE. The applicant for an examination for a license to practice as an embalmer or as a funeral director shall make application to the department in writing on a form provided by the department.

Sec. 08.42.050. QUALIFICATIONS FOR LICENSE TO PRACTICE MORTUARY SCIENCE. (a) In order to qualify for a license to practice embalming, the applicant shall

- (1) be at least 18 years of age;
- (2) have graduated from an accredited school or college of mortuary science;
- (3) have taken and passed the examination for a license to practice embalming conducted by the department;
- (4) have completed at least one year of apprenticeship as a resident trainee under a licensed embalmer.

(b) In order to qualify for a license to practice funeral directing the applicant shall

- (1) be at least 18 years of age;
- (2) have satisfactorily completed at least one year (30 semester credit hours) at an accredited college or university;
- (3) have taken and passed the examination for a license to practice funeral directing conducted by the department;
- (4) have completed at least one year of apprenticeship as a trainee under a person licensed to practice funeral directing in this state.

Sec. 08.42.060. SCOPE AND CONDUCT OF EXAMINATION FOR A LICENSE TO PRACTICE MORTUARY SCIENCE. (a) The department shall examine applicants for an embalmer's license; the examination may include any or all of the following subjects: (1) theory and practice of embalming, (2) anatomy, (3) pathology, (4) bacteriology, (5) hygiene (including sanitation and public health), (6) chemistry (including toxicology), (7) restorative arts (including plastic surgery and demi-surgery), (8) funeral service arts and sciences,

and funeral service administration (including accounting, funeral law, psychology, funeral principles, directing and management), (9) Alaska vital statistics law, (10) the provisions of this chapter, and the regulations promulgated by the department under this chapter. The department shall examine applicants for a funeral director's license; the examination may include any or all of the subjects included in (8), (9) and (10) of this subsection. The department may use the examination provided by the Conference of Funeral Service Examining Boards of the United States, Inc. where it is applicable to the subjects in this section.

(b) A passing grade in the examination is an average grade of at least 75 per cent with no individual subject grade of less than 70 per cent.

(c) If an applicant receives an average grade of at least 75 per cent, but receives a grade of less than 70 per cent in three or fewer individual subjects, he may be reexamined only in those subjects. He is entitled to reexamination on individual subjects only once. A grade of at least 70 per cent in each of the subjects in which the applicant is reexamined is sufficient to constitute a passing grade.

(d) Except as provided in (b) of this section, an applicant shall be reexamined in all subjects if he reappears for examination.

Sec. 08.42.070. RECIPROCITY. (a) The department may recognize the license issued to an embalmer or funeral director from another state if the applicant for recognition of his license

(1) furnishes proof satisfactory to the department that he has complied, in the state in which he is licensed, with requirements substantially equal to the requirements of this chapter; or furnishes proof satisfactory to the department that he meets the applicable requirements for the license for which he is applying except for the apprenticeship and examination provisions and that he is licensed in another state and has practiced mortuary science for at least one year in a state where he is licensed; and

(2) takes and passes the examination provided for in (b) of this section.

(b) The department shall examine each applicant under this section on the following subjects: Alaska vital statistics law, the provisions of this chapter, and the regulations promulgated by the department under this chapter.

Sec. 08.42.080. LICENSE. A license issued under the provisions of this chapter expires biennially on a date set by the department and may be renewed for successive two-year periods.

Sec. 08.42.090. GROUNDS FOR REFUSAL TO ISSUE OR RENEW LICENSES AND SUSPENSION OR REVOCATION OF LICENSES. When the department has reason to believe that an applicant or licensee has been guilty of any of the following acts or

omissions, it may conduct an investigation, and the department may, after proper hearing and notice in accordance with the Administrative Procedure Act (AS 44.62), refuse to issue, refuse to renew, or may suspend or revoke, a license upon a finding by the department of any of the following acts or omissions:

- (1) fraud or misrepresentation in obtaining a license;
- (2) misrepresentation or fraud in the practice of mortuary science;
- (3) false or misleading advertising;
- (4) aiding or abetting an unlicensed person to practice mortuary science;
- (5) using a casket or part of a casket which has previously been used as a receptacle for the burial or other final disposition of another dead human body;
- (6) refusing to promptly surrender the custody of a dead human body upon the order of the person lawfully entitled to custody;
- (7) solicitation of a dead human body by the licensee, his agents, servants or employees, if solicitation occurs after death, or while death is impending but this does not prohibit advertising or sales made on a pre-need basis;
- (8) employment by the licensee of any person for the purpose of calling upon individuals or institutions to influence them to turn over a dead human body to a particular licensee immediately before an impending death or after death;
- (9) the direct or indirect payment or offer of payment for the purpose of obtaining a dead body by the licensee, his agents, servants or employees immediately before an impending death or after death;
- (10) immediately before impending death or after death, solicitation or acceptance by a licensee of any payment for recommending or causing a dead human body to be disposed of in a specific crematory, mausoleum or cemetery; however, nothing in this section prevents the recommendation or solicitation for sales of space and merchandise in a specific crematory, mausoleum or cemetery, if the licensee has an ownership interest in the specific crematory, mausoleum or cemetery and the ownership interest is disclosed at the time of the solicitation, recommendation or sale;
- (11) violation of a state law or regulation or municipal ordinance or regulation or federal law or regulation affecting the disposition of a dead human body, or contracts relating to the disposition of a dead human body;
- (12) violation of any of the provisions of this chapter;

(13) conviction of a felony involving moral turpitude.

Sec. 08.42.100. FUNERAL ESTABLISHMENT PERMIT. After the effective date of this chapter, no person may conduct, maintain, manage, or operate a funeral establishment unless a permit for each establishment has been issued by the department and is conspicuously displayed in the funeral establishment. Each permit shall be valid only for one specific location, and separate permits shall be required of two or more firms operating from the same funeral establishment. A permit to operate a funeral establishment shall be issued by the department upon application for the permit on a form provided by the department. All permits shall expire on December 31 of each year and may be renewed for successive one-year terms. Violation of a provision of sec. 90 of this chapter by a person operating a funeral establishment or with his knowledge or consent by an employee shall be considered sufficient cause for suspension or revocation of the funeral establishment permit.

Sec. 08.42.110. DEFINITIONS. In this chapter

(1) "department" means the Department of Commerce and Economic Development;

(2) "funeral establishment" means every place devoted to or used in the care and preparation for disposition of dead human bodies, or as the office or place for carrying on the profession of mortuary science, or for any combination of these;

(3) "mortuary science" means embalming of dead human bodies, taking charge of the remains of those dead of a communicable disease, or preparing dead human bodies for shipment, directing or supervising funerals;

(4) "resident trainee" means a person who has met the qualifications set out in sec. 50(a)(1) - (5) of this chapter and is engaged in learning the practice of embalming under the direction and control of a person properly licensed to practice embalming, or a person who has met the qualifications set out in sec. 50(b)(1) - (4) of this chapter and is engaged in learning the practice of funeral directing under the direction and control of a person properly licensed to practice funeral directing.

Sec. 08.42.120. VIOLATIONS; PENALTIES. A person who violates or aids a person in a violation of this chapter is guilty of a misdemeanor and upon conviction is punishable by imprisonment for not more than one year or by a fine of not more than \$5,000.

Sec. 08.42.130. ENFORCEMENT BY ATTORNEY GENERAL. The attorney general may bring an action in the superior court to enjoin a person from violating the provisions of this chapter.

* Sec. 2. AS 45.45 is amended by adding a new section to read:

ARTICLE 4. FUNERALS.

Sec. 45.45.120. DISCLOSURE OF COSTS. Every person performing or arranging for services or providing merchandise relating to the disposition of a dead human body shall give to the person arranging for the disposition at the time the arrangements are completed and before the time of rendering the service or providing the merchandise a written statement showing, to the extent then reasonably ascertainable,

- (1) the price and what is included with specific prices for at least each of the following:
 - (A) transfer of remains to funeral home;
 - (B) embalming;
 - (C) use of facilities for viewing;
 - (D) use of facilities for funeral service;
 - (E) caskets (with a notation that a separate casket price list will be provided before any sales presentation for caskets is made);
 - (F) hearse;
 - (G) limousine;
 - (H) services of funeral director and staff;
 - (I) outer interment receptacles (if outer interment receptacles are sold, a notation that a separate outer interment receptacle price list will be provided before any sales presentation for such items is made);
- (2) the price of each supplemental item of service or merchandise;
- (3) the amount involved for each of the items for which money will be advanced; an item for which money is advanced shall be charged in the same amount as the cost to the person making the advance;
- (4) the method of payment;
- (5) the fee for counseling, consulting, or arranging for future services relating to the disposition of a dead human body.

* Sec. 3. AS 45.50.471(b) is amended by adding a new paragraph to read:

(23) counseling, consulting or arranging for future services relating to the disposition of a body upon death whereby certain personal property, not including cemetery lots and markers, will be furnished or the professional services of a funeral director or embalmer will be furnished, unless the person receiving money or property deposits the money or property, and money or property is received, within five days of its receipt, in a trust in a financial institution whose deposits are insured by an

instrumentality of the federal government designating the institution as the trustee as a separate trust in the name only of the person on whose behalf the arrangements are made with a provision that the money or property may only be applied to the purchase of designated merchandise or services and should the money or property deposited and any accrued interest not be used for the purposes intended on the death of the person on whose behalf the arrangements are made, all money or property in the trust shall become part of his estate; upon demand by the person on whose behalf the arrangements are made, all money or property in the trust including accrued interest, shall be paid to him; this paragraph does not prohibit the charging of a separate fee for consultation, counseling or arrangement services if the fee is disclosed to the person making the arrangement; any arrangement under this paragraph which would constitute a contract of insurance under AS 21 is subject to the provisions of AS 21.

- * Sec. 4. AS 08.44.010 is repealed.
- * Sec. 5. This Act takes effect January 1, 1977.