

By Senator Holzendorf

2-695A-98

See CS/HB 885

1 A bill to be entitled
2 An act relating to funeral directing,
3 embalming, and direct disposition; amending s.
4 470.002, F.S.; expanding the definition of the
5 term "legally authorized person"; amending s.
6 470.006, F.S.; revising a provision relating to
7 licensure as an embalmer by examination, to
8 clarify applicability of the internship
9 requirement; amending s. 470.0085, F.S.,
10 relating to the embalmer apprentice program;
11 authorizing an extension of apprenticeship for
12 certain students working in funeral
13 establishments; amending s. 470.009, F.S.;
14 reorganizing provisions relating to licensure
15 as a funeral director by examination, to
16 clarify applicability of the internship
17 requirement; amending ss. 470.015 and 470.018,
18 F.S.; providing for inclusion of a required
19 course on human immunodeficiency virus and
20 acquired immune deficiency syndrome in the
21 board-approved course on communicable diseases
22 for renewal of funeral director and embalmer
23 licenses and renewal of registration of direct
24 disposers; amending s. 470.024, F.S.;
25 authorizing operation of visitation chapels and
26 establishing criteria therefor; providing
27 licensing limitations with respect to colocated
28 facilities; requiring the relicensure of
29 funeral establishments whose ownership has
30 changed; amending s. 470.029, F.S.; providing a
31 filing date for monthly reports on final

1 dispositions; amending s. 470.0301, F.S.;
2 providing requirements for registration of
3 centralized embalming facilities, including
4 biennial renewal and applicable fees; providing
5 for an annual inspection fee; creating s.
6 470.0315, F.S.; providing for the storage,
7 preservation, and transportation of human
8 remains; creating s. 470.0355, F.S.; providing
9 for the identification of human remains;
10 amending s. 470.036, F.S.; extending
11 disciplinary actions to certain registrants and
12 licensees; providing an effective date.

13

14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Subsection (18) of section 470.002, Florida
17 Statutes, is amended to read:

18 470.002 Definitions.--As used in this chapter:

19 (18) "Legally authorized person" means, in the
20 priority listed, the decedent, when written inter vivos
21 authorizations and directions are provided by the decedent,
22 the surviving spouse, son or daughter who is 18 years of age
23 or older, parent, brother or sister 18 years of age or over,
24 grandchild who is 18 years of age or older, or grandparent; or
25 any person in the next degree of kinship. In addition, the
26 term may include, if no family exists or is available, the
27 following: the guardian of the dead person at the time of
28 death; the personal representative of the deceased; the
29 attorney-in-fact of the dead person at the time of death; the
30 health surrogate of the dead person at the time of death; a
31 public health officer; the medical examiner, county commission

1 or administrator acting under chapter 245, or other public
2 administrator; a representative of a nursing home or other
3 health care institution in charge of final disposition; or a
4 friend or other person not listed in this subsection who is
5 willing to assume the responsibility as authorized person.

6 Section 2. Subsection (3) of section 470.006, Florida
7 Statutes, is amended to read:

8 470.006 Licensure as an embalmer by examination;
9 provisional license.--

10 (3) Any applicant who has completed the required
11 1-year internship and has been approved for examination as an
12 embalmer may qualify for a provisional license to work in a
13 licensed funeral establishment, under the direct supervision
14 of a licensed embalmer for a limited period of 6 months as
15 provided by rule of the board. The fee for provisional
16 licensure shall be set by the board, but may not exceed \$125,
17 and shall be nonrefundable and in addition to the fee required
18 in subsection (1). This provisional license may be renewed no
19 more than one time. ~~An applicant may not be granted a license~~
20 ~~until she or he has completed a 1-year internship as~~
21 ~~prescribed by rule of the board.~~

22 Section 3. Section 470.0085, Florida Statutes, is
23 amended to read:

24 470.0085 Establishment of embalmer apprentice
25 program.--The board may adopt rules establishing an embalmer
26 apprentice program. An embalmer apprentice may perform only
27 those tasks, functions, and duties relating to embalming which
28 are performed under the direct supervision of a licensed
29 embalmer. An embalmer apprentice shall be eligible to serve
30 in an apprentice capacity for a period not to exceed 1 year as
31 may be determined by board rule or for a period not to exceed

1 3 years if the apprentice is enrolled in and attending a
2 course in mortuary science or funeral service education at any
3 mortuary college or funeral service education college or
4 school. An embalmer apprentice shall be registered with the
5 board upon payment of a registration fee not to exceed \$50.

6 Section 4. Section 470.009, Florida Statutes, is
7 amended to read:

8 470.009 Licensure as a funeral director by
9 examination; provisional license.--

10 (1) Any person desiring to be licensed as a funeral
11 director shall apply to the department to take the licensure
12 examination. The department shall examine each applicant who
13 has remitted an examination fee set by the board not to exceed
14 \$200 plus the actual per applicant cost to the department for
15 portions of the examination and who the board certifies has:

16 (a) Completed the application form and remitted a
17 nonrefundable application fee set by the board not to exceed
18 \$50.

19 (b) Submitted proof satisfactory to the board that the
20 applicant is at least 18 years of age and is a recipient of a
21 high school degree or equivalent.

22 (c) Had no conviction or finding of guilt, regardless
23 of adjudication, for a crime which directly relates to the
24 ability to practice funeral directing or the practice of
25 funeral directing.

26 (d)1. Received an associate in arts degree, associate
27 in science degree, or an associate in applied science degree
28 in mortuary science approved by the board; or

29 2. Holds an associate degree or higher from a college
30 or university accredited by a regional association of colleges
31 and schools recognized by the United States Department of

1 Education and is a graduate of at least a 1-year course in
2 mortuary science approved by the board.

3 (e) Submitted proof of completion of a board-approved
4 course on communicable diseases.

5 ~~(f) Has completed a 1-year internship under a licensed~~
6 ~~funeral director.~~

7 (2) The department shall license the applicant as a
8 funeral director if he or she:

9 (a) Passes an examination on the subjects of the
10 theory and practice of funeral directing, public health and
11 sanitation, and local, state, and federal laws and rules
12 relating to the disposition of dead human bodies; however, the
13 board by rule may adopt the use of a national examination,
14 such as the funeral service arts examination prepared by the
15 Conference of Funeral Service Examining Boards, in lieu of
16 part of this examination requirement.

17 (b) Completes a 1-year internship under a licensed
18 funeral director.

19 (3) Any applicant who has completed the required
20 1-year internship and has been approved for examination as a
21 funeral director may qualify for a provisional license to work
22 in a licensed funeral establishment, under the direct
23 supervision of a licensed funeral director for a limited
24 period of 6 months as provided by rule of the board. The fee
25 for provisional licensure shall be set by the board but may
26 not exceed \$125. The fee required in this subsection shall be
27 nonrefundable and in addition to the fee required by
28 subsection (1). This provisional license may be renewed no
29 more than one time. ~~An applicant may not be granted a license~~
30 ~~until that applicant has completed a 1-year internship as~~
31 ~~prescribed by rule of the board.~~

1 Section 5. Subsection (1) of section 470.015, Florida
2 Statutes, is amended to read:

3 470.015 Renewal of funeral director and embalmer
4 licenses.--

5 (1) The department shall renew a funeral director or
6 embalmer license upon receipt of the renewal application and
7 fee set by the board not to exceed \$250. The board may
8 prescribe by rule continuing education requirements of up to
9 12 classroom hours, in addition to a board-approved course on
10 communicable diseases that includes the course on human
11 immunodeficiency virus and acquired immune deficiency syndrome
12 required by s. 455.2226, for the renewal of a funeral director
13 or embalmer license. The board may provide for the waiver of
14 continuing education requirements in circumstances that would
15 justify the waiver, such as hardship, disability, or illness.
16 The continuing education requirement is not required after
17 July 1, 1996, for a licensee who is over the age of 75 years
18 if the licensee does not qualify as the sole person in charge
19 of an establishment or facility.

20 Section 6. Subsection (2) of section 470.018, Florida
21 Statutes, is amended to read:

22 470.018 Renewal of registration of direct disposer.--

23 (2) The department shall adopt rules establishing a
24 procedure for the biennial renewal of registrations. The
25 board shall prescribe by rule continuing education
26 requirements of up to 3 classroom hours, in addition to a
27 board-approved course on communicable diseases that includes
28 the course on human immunodeficiency virus and acquired immune
29 deficiency syndrome required by s. 455.2226, for the renewal
30 of a registration.

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1 Section 7. Section 470.024, Florida Statutes, is
2 amended to read:

3 470.024 Funeral establishment; licensure.--

4 (1) A funeral establishment shall be a place at a
5 specific street address or location consisting of at least
6 1,250 contiguous interior square feet and must maintain or
7 make arrangements for either suitable capacity for the
8 refrigeration and storage of dead human bodies handled and
9 stored by the establishment or a preparation room equipped
10 with necessary ventilation and drainage and containing
11 necessary instruments for embalming dead human bodies.

12 (2) Each licensed funeral establishment may operate a
13 visitation chapel at a separate location within the county in
14 which the funeral establishment is located. A visitation
15 chapel must be a facility of not less than 500 square feet and
16 not more than 700 square feet and may be operated only when a
17 licensed funeral director is present at the facility. A
18 visitation chapel may be used only for visitation of a
19 deceased human body and may not be used for any other activity
20 permitted by this chapter.

21 ~~(3)(2)~~ No person may conduct, maintain, manage, or
22 operate a funeral establishment unless an establishment
23 operating license has been issued by the department for that
24 funeral establishment.

25 ~~(4)(3)~~ Application for a funeral establishment license
26 shall be made on forms furnished by the department, shall be
27 accompanied by a nonrefundable fee not to exceed \$300 as set
28 by board rule, and shall include the name of the licensed
29 funeral director who is in charge of that establishment.

30 ~~(5)(4)~~ A funeral establishment license shall be
31 renewable biennially pursuant to procedures, and upon payment

1 of a nonrefundable fee not to exceed \$300, as set by board
2 rule. The board may also establish by rule a delinquency fee
3 not to exceed \$50.

4 (6)~~(5)~~ The practice of embalming done at a funeral
5 establishment shall only be practiced by an embalmer licensed
6 under this chapter.

7 (7)~~(6)~~ Each licensed funeral establishment shall have
8 one full-time funeral director in charge and shall have a
9 licensed funeral director reasonably available to the public
10 during normal business hours for that establishment. The
11 full-time funeral director in charge must have an active
12 license and may not be the full-time funeral director in
13 charge of any other funeral establishment or of any other
14 direct disposal establishment.

15 (8)~~(7)~~ The issuance of a license to operate a funeral
16 establishment to a person or entity who is not individually
17 licensed as a funeral director does not entitle the person to
18 practice funeral directing.

19 (9)~~(8)~~ Each funeral establishment located at a
20 specific address shall be deemed to be a separate entity and
21 shall require separate licensing and compliance with the
22 requirements of this chapter. A ~~No~~ funeral establishment may
23 not ~~shall~~ be operated at the same location as any other
24 funeral establishment or direct disposal establishment unless
25 such establishments were licensed as colocated establishments
26 on October ~~January~~ 1, 1993.

27 (10)~~(9)~~ Every funeral establishment licensed under
28 this chapter shall at all times be subject to the inspection
29 of all its buildings, grounds, and vehicles used in the
30 conduct of its business, by the department or any of its
31 designated representatives or agents, or local or Department

1 of Health ~~and Rehabilitative Services~~ inspectors. The board
2 shall by rule establish requirements for inspection of funeral
3 establishments.

4 (11)~~(10)~~ The board shall set by rule an annual
5 inspection fee not to exceed \$100, payable upon application
6 for licensure and upon each renewal of such license.

7 (12)~~(11)~~ A change in ownership of a funeral
8 establishment shall be promptly reported to the department and
9 shall ~~may~~ require the relicensure of the funeral
10 establishment, including reinspection and payment of
11 applicable fees.

12 (13)~~(12)~~ Each application for a funeral establishment
13 license shall identify every person with the ability to direct
14 the management or policies of the establishment and must
15 identify every person having more than a 10-percent ownership
16 interest in the establishment or the business or corporation
17 which owns the establishment. The board may deny, suspend, or
18 revoke the license if any person identified in the application
19 has ever been disciplined by a regulatory agency in any
20 jurisdiction for any offense that would constitute a violation
21 of this chapter. The board may deny, suspend, or revoke the
22 license if any person identified in the application has ever
23 been convicted or found guilty of, or entered a plea of nolo
24 contendere to, regardless of adjudication, a crime in any
25 jurisdiction that directly relates to the ability to operate a
26 funeral establishment.

27 (14)~~(13)~~ Each funeral establishment must display at
28 the public entrance the name of the establishment and the name
29 of the full-time funeral director in charge. A funeral
30 establishment must transact its business under the name by
31 which it is licensed.

1 Section 8. Subsection (1) of section 470.029, Florida
2 Statutes, is amended to read:

3 470.029 Reports of cases embalmed and bodies
4 handled.--

5 (1) Each funeral establishment, direct disposal
6 establishment, cinerator facility, and centralized embalming
7 facility shall report on a form prescribed and furnished by
8 the department the name of the deceased and such other
9 information as may be required with respect to each dead human
10 body embalmed or otherwise handled by the establishment or
11 facility. Such forms shall be signed by the embalmer who
12 performs the embalming, if the body is embalmed, and the
13 funeral director in charge of the establishment or facility or
14 by the direct disposer who disposes of the body. The board
15 shall prescribe by rule the procedures in submitting such
16 documentation. Reports required by this subsection shall be
17 filed by the 10th day of each month for final dispositions
18 handled the preceding month.

19 Section 9. Paragraphs (f) and (g) are added to
20 subsection (2) of section 470.0301, Florida Statutes, to read:

21 470.0301 Removal services; refrigeration facilities;
22 centralized embalming facilities.--In order to ensure that the
23 removal, refrigeration, and embalming of all dead human bodies
24 is conducted in a manner that properly protects the public's
25 health and safety, the board shall adopt rules to provide for
26 the registration of removal services, refrigeration
27 facilities, and centralized embalming facilities operated
28 independently of funeral establishments, direct disposal
29 establishments, and cinerator facilities.

30 (2) ~~CENTRALIZED EMBALMING FACILITIES~~--In order to
31 ensure that all funeral establishments have access to

1 embalming facilities that comply with all applicable health
2 and safety requirements, the board shall adopt rules to
3 provide for the registration of centralized embalming
4 facilities and shall require, at a minimum, the following:
5 (f) Application for registration of a centralized
6 embalming facility shall be made on forms furnished by the
7 department and shall be accompanied by a nonrefundable fee not
8 to exceed \$300 as set by board rule, and registration shall be
9 renewed biennially pursuant to procedures and upon payment of
10 a nonrefundable fee not to exceed \$300 as set by board rule.
11 The board may also establish by rule a late fee not to exceed
12 \$50. Any registration not renewed within 30 days after the
13 renewal date shall expire without further action by the
14 department.

15 (g) The board shall set by rule an annual inspection
16 fee not to exceed \$100, payable upon application for
17 registration and upon renewal of such registration.

18 Section 10. Section 470.0315, Florida Statutes, is
19 created to read:

20 470.0315 Storage, preservation, and transportation of
21 human remains.--

22 (1) A person may not store or maintain human remains
23 at any establishment or facility except an establishment or
24 facility licensed or registered under this chapter or a health
25 care facility, medical examiner's facility, morgue, or
26 cemetery holding facility.

27 (2) A dead human body may not be held in any place or
28 in transit over 24 hours after death or pending final
29 disposition unless the body is maintained under refrigeration
30 at a temperature of 40 degrees Fahrenheit or below or is
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1 embalmed or otherwise preserved in a manner approved by the
2 board in accordance with the provisions of this chapter.

3 (3) A dead human body transported by common carrier or
4 any agency or individual authorized to carry dead human bodies
5 must be placed in a carrying container adequate to prevent the
6 seepage of fluids and escape of offensive odors. A dead human
7 body may be transported only when accompanied by a properly
8 completed burial-transit permit issued in accordance with the
9 provisions of chapter 382.

10 (4) The board shall establish by rule the minimal
11 standards of acceptable and prevailing practices for the
12 handling and storing of dead human bodies, provided that all
13 human remains transported or stored must be completely covered
14 and at all times treated with dignity and respect.

15 (5) A person who violates any provision of this
16 section commits a misdemeanor of the first degree, punishable
17 as provided in s. 775.082 or s. 775.083.

18 Section 11. Section 470.0355, Florida Statutes, is
19 created to read:

20 470.0355 Identification of human remains.--

21 (1) The licensee or registrant in charge of the final
22 disposition of dead human remains shall, prior to final
23 disposition of such dead human remains, affix on the ankle or
24 wrist of the deceased, or in the casket or alternative
25 container or cremation container, proper identification of the
26 dead human remains. The identification or tag shall be encased
27 in or consist of durable and long-lasting material containing
28 the name, date of birth, date of death, and social security
29 number of the deceased, if available. If the dead human
30 remains are cremated, proper identification shall be placed in
31 the container or urn containing the remains.

1 (2) Any licensee or registrant responsible for removal
2 of dead human remains to any establishment, facility, or
3 location shall ensure that the remains are identified by a tag
4 or other means of identification that is affixed to the ankle
5 or wrist of the deceased at the time the remains are removed
6 from the place of death or other location.

7 (3) Any licensee or registrant may rely on the
8 representation of a legally authorized person to establish the
9 identity of dead human remains.

10 Section 12. Paragraphs (c), (d), (e), (g), (m), and
11 (q) of subsection (1) and subsection (2) of section 470.036,
12 Florida Statutes, are amended to read:

13 470.036 Disciplinary proceedings.--

14 (1) The following acts constitute grounds for which
15 the disciplinary actions in subsection (2) may be taken:

16 (c) Having a license or registration to practice any
17 of the activities regulated under this chapter ~~funeral~~
18 ~~directing or embalming, or to operate a cinerator facility,~~
19 ~~funeral establishment, removal service, or refrigeration~~
20 ~~service, revoked, suspended, or otherwise acted against,~~
21 including the denial of licensure or registration, by the
22 licensing or registering authority of another jurisdiction.

23 (d) Being convicted or found guilty of, or entering a
24 plea of nolo contendere to, regardless of adjudication, a
25 crime in any jurisdiction which directly relates to the
26 practice of, or the ability to practice, any of the activities
27 regulated under this chapter ~~embalming or funeral directing,~~
28 ~~or operation of a cinerator facility, funeral establishment,~~
29 ~~removal service, or refrigeration service, or the ability to~~
30 ~~practice embalming or funeral directing, or operate a~~

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1 ~~cinerator facility, funeral establishment, removal service, or~~
2 ~~refrigeration service.~~

3 (e) Making or filing a report or record which the
4 licensee knows to be false, intentionally or negligently
5 failing to file a report or record required by state, local,
6 or federal law, willfully impeding or obstructing such filing,
7 or inducing another person to impede or obstruct such filing.
8 Such reports or records shall include only those which are
9 signed in the capacity of a licensee or registrant under this
10 chapter licensed funeral director, embalmer, or cinerator
11 facility operator.

12 (g) Committing fraud, deceit, negligence,
13 incompetency, or misconduct, in the practice of any of the
14 activities regulated under this chapter funeral directing or
15 embalming, funeral establishment operation, cinerator facility
16 operation, removal service operation, or refrigeration service
17 operation.

18 (m) Making any false or misleading statement, oral or
19 written, directly or indirectly, regarding the sale of
20 services or merchandise in connection with any of the
21 activities regulated under this chapter funeral directing,
22 embalming, funeral establishment operation, cinerator facility
23 operation, removal service operation, or refrigeration
24 operation on a preneed or at-need basis.

25 (q) Paying to or receiving from any organization,
26 agency, or person, either directly or indirectly, any
27 commission, bonus, kickback, or rebate in any form whatsoever
28 for any of the activities regulated under this chapter funeral
29 directing services, embalming services, funeral establishment
30 services, cinerator facility services, removal services, or
31 refrigeration services, by the licensee or registrant, or her

1 or his agent, assistant, or employee; however, this provision
2 shall not prohibit the payment of commissions by a funeral
3 director, funeral establishment, or cinerator facility to its
4 preneed agents registered pursuant to chapter 497 or to
5 licensees under this chapter hereunder.

6 (2) When the board finds any licensee or registrant
7 ~~licensed embalmer, embalmer intern, funeral director, funeral~~
8 ~~director intern, funeral establishment, cinerator facility, or~~
9 ~~cinerator facility operator~~ guilty of any of the grounds set
10 forth in subsection (1), it may enter an order imposing one or
11 more of the following penalties:

12 (a) Denial of an application for licensure or
13 registration.

14 (b) Permanent revocation or suspension of a license or
15 registration.

16 (c) Imposition of an administrative fine not to exceed
17 \$5,000 for each count or separate offense.

18 (d) Issuance of a reprimand.

19 (e) Placement of the licensee or registrant on
20 probation for a period of time and subject to such conditions
21 as the board may specify, including requiring the licensee or
22 registrant to attend continuing education courses or to work
23 under the supervision of another licensee.

24 (f) Restriction of the authorized scope of practice.

25 (g) Assessment of costs associated with investigation
26 and prosecution.

27 Section 13. This act shall take effect July 1 of the
28 year in which enacted.

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SENATE SUMMARY

Revises provisions of law governing funeral directing, embalming, and direct disposition to:

1. Redefine the term "legally authorized person."
2. Provide that a student enrolled in and attending a course in mortuary science or funeral service education at any mortuary college or funeral service education college or school may work in a funeral establishment during such enrollment not to exceed 3 years and must be registered with the Board of Funeral Directors and Embalmers. Provide that an applicant for a funeral director's license may be licensed upon passing the exam and completing a 1-year internship.
3. Provide that funeral directors, embalmers, and direct disposers must include in the board approved course in communicable diseases education in human immunodeficiency virus and acquired immune deficiency syndrome for license renewal.
4. Provide that a funeral establishment may not be operated at the same location as any other funeral establishment or direct disposal establishment and grandfathers in establishments that were so operating on October 1, 1993. Also to provide that a funeral establishment may, under certain conditions, operate a visitation chapel at a separate location within the county in which the funeral establishment is located.
5. Require described reports of cases embalmed and bodies handled to be filed by the 10th day of each month for final dispositions handled in the preceding month.
6. Provide an application process for registration of a centralized embalming facility and for registration fees and an annual inspection fee.
7. Provide for the storage, preservation, and transportation of human remains.
8. Provide for the identification of human remains.
9. Specify grounds for disciplinary proceedings.