

By Representative Crady

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.; redefining the term "legally  
5           authorized person"; amending s. 470.0085, F.S.;  
6           requiring certain students to be registered  
7           with the Board of Funeral Directors and  
8           Embalmers; amending s. 470.009, F.S., relating  
9           to licensure as a funeral director; amending  
10          ss. 470.015 and 470.018, F.S.; including the  
11          study of human immunodeficiency virus and  
12          acquired immune deficiency syndrome in the  
13          board approved course on communicable diseases  
14          for renewal of funeral director and embalmer  
15          licenses and renewal of registration of direct  
16          disposers; amending s. 470.024, F.S.;  
17          prohibiting a funeral establishment from being  
18          operated at the same location as any other  
19          funeral establishment or direct disposal  
20          establishment; grandfathering in certain  
21          establishments; amending s. 470.029, F.S.;  
22          providing a time requirement on the filing of  
23          certain information concerning dead human  
24          bodies embalmed or otherwise handled; amending  
25          s. 470.0294, F.S.; authorizing persons licensed  
26          pursuant to ch. 470, F.S., to rely on the  
27          representation of any person who is defined as  
28          a "legally authorized person"; limiting  
29          liability; amending s. 470.0301, F.S.;  
30          providing criteria for application for  
31          registration as a centralized embalming

1 facility; providing for an annual inspection  
2 fee; creating s. 470.0315, F.S.; providing for  
3 the storage, preservation, and transportation  
4 of human remains; creating s. 470.0325, F.S.;  
5 requiring that human remains be covered during  
6 transport; creating s. 470.0355, F.S.;  
7 providing for the identification of human  
8 remains; providing an effective date.

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

11  
12 Section 1. Subsection (18) of section 470.002, Florida  
13 Statutes, 1996 Supplement, is amended to read:

14 470.002 Definitions.--As used in this chapter:

15 (18) "Legally authorized person" means, in the  
16 priority listed, the decedent, when written inter vivos  
17 authorizations and directions are provided by the decedent,  
18 the surviving spouse, son or daughter who is 18 years of age  
19 or older, parent, brother or sister 18 years of age or over,  
20 grandchild who is 18 years of age or older, or grandparent; or  
21 any person in the next degree of kinship. In addition, the  
22 term may include, if no family exists or is available, the  
23 following: the guardian of the dead person at the time of  
24 death; the personal representative of the deceased; the  
25 attorney in fact of the dead person at the time of death; the  
26 health surrogate of the dead person at the time of death;a  
27 public health officer; the medical examiner, county commission  
28 or administrator acting under chapter 245, or other public  
29 administrator; a representative of a nursing home or other  
30 health care institution in charge of final disposition; or a

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1 friend or other person not listed in this subsection who is  
2 willing to assume the responsibility as authorized person.

3 Section 2. Section 470.0085, Florida Statutes, is  
4 amended to read:

5 470.0085 Establishment of embalmer apprentice  
6 program.--

7 (1) The board may adopt rules establishing an embalmer  
8 apprentice program. An embalmer apprentice may perform only  
9 those tasks, functions, and duties relating to embalming which  
10 are performed under the direct supervision of a licensed  
11 embalmer. An embalmer apprentice shall be eligible to serve  
12 in an apprentice capacity for a period not to exceed 1 year as  
13 may be determined by board rule. An embalmer apprentice shall  
14 be registered with the board upon payment of a registration  
15 fee not to exceed \$50.

16 (2) Notwithstanding the provisions of subsection (1),  
17 a student attending or enrolled in a course in mortuary  
18 science or funeral service education at any mortuary college  
19 or funeral service education college or school, who works in a  
20 funeral establishment in this state during such enrollment  
21 must be registered with the board.

22 Section 3. Section 470.009, Florida Statutes, is  
23 amended to read:

24 470.009 Licensure as a funeral director by  
25 examination; provisional license.--

26 (1) Any person desiring to be licensed as a funeral  
27 director shall apply to the department to take the licensure  
28 examination. The department shall examine each applicant who  
29 has remitted an examination fee set by the board not to exceed  
30 \$200 plus the actual per applicant cost to the department for  
31 portions of the examination and who the board certifies has:

1 (a) Completed the application form and remitted a  
2 nonrefundable application fee set by the board not to exceed  
3 \$50.

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

7 (c) Had no conviction or finding of guilt, regardless  
8 of adjudication, for a crime which directly relates to the  
9 ability to practice funeral directing or the practice of  
10 funeral directing.

11 (d)1. Received an associate in arts degree, associate  
12 in science degree, or an associate in applied science degree  
13 in mortuary science approved by the board; or

14 2. Holds an associate degree or higher from a college  
15 or university accredited by a regional association of colleges  
16 and schools recognized by the United States Department of  
17 Education and is a graduate of at least a 1-year course in  
18 mortuary science approved by the board.

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

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

23 (2) The department shall license the applicant as a  
24 funeral director if the applicant:~~he~~

25 (a) Passes an examination on the subjects of the  
26 theory and practice of funeral directing, public health and  
27 sanitation, and local, state, and federal laws and rules  
28 relating to the disposition of dead human bodies; however, the  
29 board by rule may adopt the use of a national examination,  
30 such as the funeral service arts examination prepared by the  
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1 Conference of Funeral Service Examining Boards, in lieu of  
2 part of this examination requirement.

3 (b) Completes a 1-year internship under a licensed  
4 funeral director.

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

18 Section 4. Subsection (1) of section 470.015, Florida  
19 Statutes, 1996 Supplement, is amended to read:

20 470.015 Renewal of funeral director and embalmer  
21 licenses.--

22 (1) The department shall renew a funeral director or  
23 embalmer license upon receipt of the renewal application and  
24 fee set by the board not to exceed \$250. The board may  
25 prescribe by rule continuing education requirements of up to  
26 12 classroom hours, in addition to a board-approved course on  
27 communicable diseases, including human immunodeficiency virus  
28 and acquired immune deficiency syndrome, for the renewal of a  
29 funeral director or embalmer license. The board may provide  
30 for the waiver of continuing education requirements in  
31 circumstances that would justify the waiver, such as hardship,

1 disability, or illness. The continuing education requirement  
2 is not required after July 1, 1996, for a licensee who is over  
3 the age of 75 years if the licensee does not qualify as the  
4 sole person in charge of an establishment or facility.

5 Section 5. Subsection (2) of section 470.018, Florida  
6 Statutes, is amended to read:

7 470.018 Renewal of registration of direct disposer.--

8 (2) The department shall adopt rules establishing a  
9 procedure for the biennial renewal of registrations. The  
10 board shall prescribe by rule continuing education  
11 requirements of up to 3 classroom hours, in addition to a  
12 board-approved course on communicable diseases, including  
13 human immunodeficiency virus and acquired immune deficiency  
14 syndrome, for the renewal of a registration.

15 Section 6. Subsections (8) and (11) of section  
16 470.024, Florida Statutes, 1996 Supplement, are amended to  
17 read:

18 470.024 Funeral establishment; licensure.--

19 (8) Each funeral establishment located at a specific  
20 address shall be deemed to be a separate entity and shall  
21 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 establishments colocated  
26 on the effective date of this act January 1, 1993. Each  
27 establishment that was licensed as a colocated establishment  
28 on the effective date of this act may continue to renew its  
29 license in the same manner as other licenses are renewed, but  
30 such license renewal is restricted to the facilities of the  
31 establishment as they existed on the effective date of this

1 act. No other licensing of colocated establishments is  
2 permitted.

3 (11) A change in ownership of a funeral establishment  
4 shall be promptly reported to the department and shall ~~may~~  
5 require the relicensure of the funeral establishment,  
6 including reinspection and payment of applicable fees.

7 Section 7. Subsection (1) of section 470.029, Florida  
8 Statutes, is amended to read:

9 470.029 Reports of cases embalmed and bodies  
10 handled.--

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

25 Section 8. Subsection (3) is added to section  
26 470.0294, Florida Statutes, 1996 Supplement, to read:

27 470.0294 Additional rights of legally authorized  
28 persons.--

29 (3) A person licensed pursuant to this chapter shall  
30 be entitled to rely on the representation of any person  
31 designated as a legally authorized person in s. 470.002(18),

1 provided that there is no person known to the legally  
2 authorized person to be in a priority class superior to such  
3 person's class. The licensee shall not be required to  
4 investigate into the truth or falsity of the representation  
5 made by a potentially legally authorized person. In the event  
6 that there is more than one authorized person in a priority  
7 class as set forth in s. 470.002(18), a person licensed under  
8 this chapter may rely on the instructions of one-half of such  
9 class of persons known to the licensee. A licensee shall not  
10 be required to investigate into the number or identity of  
11 persons comprising a class. A person licensed pursuant to this  
12 chapter shall not be liable for damages as a result of  
13 following the instructions of any legally authorized person or  
14 persons.

15 Section 9. Paragraphs (f) and (g) are added to  
16 subsection (2) of section 470.0301, Florida Statutes, 1996  
17 Supplement, to read:

18 470.0301 Removal services; refrigeration facilities;  
19 centralized embalming facilities.--In order to ensure that the  
20 removal, refrigeration, and embalming of all dead human bodies  
21 is conducted in a manner that properly protects the public's  
22 health and safety, the board shall adopt rules to provide for  
23 the registration of removal services, refrigeration  
24 facilities, and centralized embalming facilities operated  
25 independently of funeral establishments, direct disposal  
26 establishments, and cinerator facilities.

27 (2) CENTRALIZED EMBALMING FACILITIES.--In order to  
28 ensure that all funeral establishments have access to  
29 embalming facilities that comply with all applicable health  
30 and safety requirements, the board shall adopt rules to

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1 provide for the registration of centralized embalming  
2 facilities and shall require, at a minimum, the following:  
3 (f) Application for registration of a centralized  
4 embalming facility shall be made on forms furnished by the  
5 department and shall be accompanied by a nonrefundable fee not  
6 to exceed \$300 as set by rule of the board. The board may also  
7 establish by rule a late fee not to exceed \$50. Any  
8 registration not renewed within 30 days after the renewal date  
9 shall expire without further action of the department.

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

13 Section 10. Section 470.0315, Florida Statutes, is  
14 created to read:

15 470.0315 Storage, preservation, and transportation of  
16 human remains.--

17 (1) No person may store or maintain human remains at  
18 any establishment or facility, except an establishment or  
19 facility licensed or registered under this chapter or a health  
20 care facility, medical examiner's facility, morgue, or  
21 cemetery holding facility.

22 (2) No dead human body may be held in any place or in  
23 transit over 24 hours after death or pending final disposition  
24 unless the body is maintained under refrigeration at a  
25 temperature of 40 degrees Fahrenheit or below or is embalmed  
26 or otherwise preserved in a manner approved by the board in  
27 accordance with the provisions of this chapter.

28 (3) A dead human body transported by common carrier or  
29 individual authorized to carry human bodies must be placed in  
30 a carrying container adequate to prevent the seepage of fluids  
31 and escape of offensive odors. A dead human body shall be

1 transported only when accompanied by a properly completed  
2 burial-transit permit issued in accordance with the provisions  
3 of chapter 382.

4 (4) The board shall establish, by rule, the minimal  
5 standards of acceptable and prevailing practices for the  
6 handling of dead human bodies.

7 (5) A person who violates the provisions of this  
8 section commits a misdemeanor of the first degree, punishable  
9 as provided for in s. 775.082 or s. 775.083.

10 Section 11. Section 470.0325, Florida Statutes, is  
11 created to read:

12 470.0325 Transportation or storage of human remains;  
13 treatment.--Human remains may be transported or stored for  
14 purposes authorized under this chapter, provided they are  
15 completely covered and at all times treated with dignity and  
16 respect.

17 Section 12. Section 470.0355, Florida Statutes, is  
18 created to read:

19 470.0355 Identification of human remains.--

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

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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 13. This act shall take effect October 1,  
11 1997.

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14                           HOUSE SUMMARY

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

17           1. Redefine the term "legally authorized person."

18           2. Provide that a student attending or enrolled in  
19 a course in mortuary science or funeral service education  
20 at any mortuary college or funeral service education  
21 college or school, who works in a funeral establishment  
22 during such enrollment must be registered with the Board  
23 of Funeral Directors and Embalmers.

24           3. Provide that funeral directors, embalmers, and  
25 direct disposers must include in the board approved  
26 course in communicable diseases education in human  
27 immunodeficiency virus and acquired immune deficiency  
28 syndrome for license renewal.

29           4. Provide that a funeral establishment may not be  
30 operated at the same location as any other funeral  
31 establishment or direct disposal establishment and  
grandfather in establishments which are so operating on  
the effective date of the act.

          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 that persons licensed pursuant to  
chapter 470, F.S., may rely upon the representation of a  
"legally authorized person" and shall not be liable for  
damages as a result of following the instructions of such  
persons.

          7. Provide an application process for registration  
of a centralized embalming facility and for an annual  
inspection fee.

          8. Provide for the storage, preservation, and  
transportation of human remains.

          9. Provide for the identification of human remains.