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SENATE BILL NO. 295

Senate Amendments in [] — January 28, 2000

A BILL to amend and reenact §§ 54.1-2802, 54.1-2803, 54.1-2805, 54.1-2810, and 54.1-2814 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-2814.1, relating to the Virginia Board of Funeral Directors and Embalmers.

Patrons—Houck, Lambert, Lucas, Maxwell and Quayle; Delegates: Cantor, DeBoer, Hamilton and Reid

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2802, 54.1-2803, 54.1-2805, 54.1-2810, and 54.1-2814 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 54.1-2814.1 as follows:

§ 54.1-2802. Board; appointment; terms; vacancies; meetings; quorum.

The Board of Funeral Directors and Embalmers shall consist of nine members as follows: seven funeral service licensees of the Board with at least five consecutive years of funeral service practice in this Commonwealth immediately prior to appointment and two citizen members. The terms of office shall be for four years from July 1. Appointments shall be made annually on or before June 30 as the terms of the members respectively expire. Appointments to the Board should generally represent the geographical areas of the Commonwealth. The Board shall annually elect a president, a vice-president and a secretary-treasurer.

The Board shall hold at least two meetings each year ~~at which examinations shall be given.~~ In addition, the Board may meet as often as its duties require. Five members shall constitute a quorum. *No less than quarterly, the Board shall offer examinations for licensure. Such examinations for licensure are not required to be held in conjunction with meetings of the Board.*

§ 54.1-2803. Specific powers and duties of Board.

In addition to the general powers and duties conferred in this subtitle, the Board shall have the following specific powers and duties:

1. To establish standards of service and practice for the funeral service profession in this Commonwealth.

2. To regulate and inspect funeral service establishments, their operation and licenses.

3. To require licensees and resident trainees to submit all information relevant to their practice or business.

4. To enforce the relevant regulations of the Board of Health.

5. To enforce local ordinances relating to funeral service establishments.

6. ~~To determine the qualifications~~ *advise the Department of Health Professions of any training appropriate for inspectors serving as its the Board's agents.*

7. To establish, supervise, regulate and control, in accordance with the law, programs for resident trainees.

8. To establish standards for and approve schools of mortuary science or funeral service.

~~9. To adopt a common seal.~~

~~10. To regulate preneed funeral contracts and preneed funeral trust accounts as prescribed by this chapter, including, but not limited to, the authority to prescribe preneed contract forms, disclosure requirements and disclosure forms and to require reasonable bonds to insure performance of preneed contracts.~~

§ 54.1-2805. Engaging in the *practice of* funeral services ~~profession~~ or the business of preneed funeral planning or acting as a funeral director or embalmer without a license.

It shall be unlawful for any person to engage in or hold himself out as engaging in the *practice of* funeral services ~~profession~~ or the business of preneed funeral planning, to operate a funeral service establishment, or to act as a funeral director or embalmer or hold himself out as such unless he is licensed by the Board. *Engaging in the practice of funeral services, preneed funeral planning, operating a funeral service establishment, or acting as a funeral director or embalmer shall be recognized as that of a health [care] profession.*

§ 54.1-2810. Licensure of funeral establishments.

No person shall conduct, maintain, manage or operate a funeral establishment unless a license for each such establishment has been issued by the Board. No license to operate a funeral establishment shall be issued by the Board unless each such funeral establishment has in charge, full time, a person licensed for the practice of funeral service or a licensed funeral director. Applications for funeral

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establishment licenses shall be made on forms furnished by the Board and filed by the owner or the registered agent of the corporation with the Board.

Each funeral establishment license shall expire annually at a time prescribed by Board regulation. A license may be renewed within thirty days of its expiration. Upon expiration of the license, the Board shall notify each licensee of the provisions of this section. Renewal of a license after the expiration of the thirty-day period shall be in the discretion of the Board.

Violations of any provisions of this chapter or any Board regulations by any person, or an officer, agent or employee with the knowledge or consent of any person operating a funeral establishment shall be considered sufficient cause for suspension or revocation of the funeral establishment license.

An operator of a funeral establishment shall not allow any person licensed for the practice of funeral service to operate out of his funeral establishment unless the licensee is the operator or an employee of the operator of a licensed funeral establishment.

If the manager of the funeral service establishment is unable, for any reason, to exercise adequate supervision, direction, management, and control of the funeral establishment, the owner shall designate any funeral service licensee to serve as a temporary manager and notify the Board in writing within fourteen days. If such inability of the manager exceeds ninety days or is expected to exceed ninety days, a new manager shall be designated and registered with the Board. At the conclusion of the ninety-day period for designation of a new manager, a funeral service establishment which has failed to designate a new manager shall not operate as a funeral service establishment.

When licensing funeral establishments, the Board may grant a hardship waiver from the requirement for a full-time manager licensed for the practice of funeral service or licensed as a funeral director, allowing the operation of two funeral establishments having in charge one full-time person licensed for the practice of funeral service or one licensed funeral director who divides his time between the two funeral establishments. Prior to granting a hardship waiver, the Board shall find that (i) the two establishments have been in operation for at least three years; (ii) the combined average number of funeral calls at the two establishments, as submitted in monthly reports to the Division of Vital Records and Health Statistics of the Virginia Department of Health, over the previous three years is no more than eighty-five per year; and (iii) the distance between the two establishments is thirty five miles or less.

Prior to granting a renewal of a license granted under a hardship waiver, the Board shall determine whether the requirements for license renewal under such waiver continue to exist.

§ 54.1-2814. Examination.

Each applicant for license for the practice of funeral service shall be examined ~~orally or~~ in writing on:

1. Basic and health sciences including anatomy, chemistry, bacteriology, pathology, hygiene and public health;

2. Funeral service arts and sciences including embalming and restorative art;

3. Funeral service administration including accounting, funeral law, psychology, and funeral principles, directing and management.

The Board may recognize other examinations that it considers equivalent to its examination.

§ 54.1-2814.1 Registration as a cremator.

A. No crematorium, cemeterian, memorial society, or other establishment, organization, or person shall cremate a dead human body without having registered with the Board as a cremator.

B. The Board shall prescribe the procedure for registration under this section.

C. The Board may deny any application, or refuse to issue or renew, suspend, or revoke any crematory registration it finds violates any provision of this chapter or the Board's regulations.

2. That the Board shall adopt final regulations to implement the registration of cremators within 280 days of the enactment of this act.