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HOUSE BILL NO. 278**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee on Health, Welfare and Institutions)

(Patron Prior to Substitute—Delegate Albo)

House Amendments in [] - February 4, 2010

A BILL to amend and reenact §§ 54.1-2806 and 54.1-2825 of the Code of Virginia, relating to funerals and the disposition of human remains.

Be it enacted by the General Assembly of Virginia:**1. That §§ 54.1-2806 and 54.1-2825 of the Code of Virginia are amended and reenacted as follows:**

§ 54.1-2806. Refusal, suspension or revocation of license.

The Board may refuse to admit a candidate to any examination, refuse to issue a license to any applicant and may suspend a license for a stated period or indefinitely, or revoke any license or censure or reprimand any licensee or place him on probation for such time as it may designate for any of the following causes:

1. Conviction of any felony or any crime involving moral turpitude;
2. Unprofessional conduct which is likely to defraud or to deceive the public or clients;
3. Misrepresentation or fraud in the conduct of the funeral service profession, or in obtaining or renewing a license;
4. False or misleading advertising or solicitation;
5. Solicitation at-need or any preneed solicitation using in-person communication by the licensee, his agents, assistants or employees; however, general advertising and preneed solicitation, other than in-person communication, shall be allowed;
6. Employment by the licensee of persons known as "cappers" or "steerers," or "solicitors," or other such persons to obtain the services of a holder of a license for the practice of funeral service;
7. Employment directly or indirectly of any agent, employee or other person, on part or full time, or on a commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral establishment;
8. Direct or indirect payment or offer of payment of a commission to others by the licensee, his agents, or employees for the purpose of securing business;
9. Use of alcohol or drugs to the extent that such use renders him unsafe to practice his licensed activity;
10. Aiding or abetting an unlicensed person to practice within the funeral service profession;
11. Using profane, indecent or obscene language within the immediate hearing of the family or relatives of a deceased, whose body has not yet been interred or otherwise disposed of;
12. Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in any crematory, mausoleum or cemetery;
13. Violation of any statute, ordinance or regulation affecting the handling, custody, care or transportation of dead human bodies;
14. Refusing to surrender promptly the custody of a dead human body upon the express order of the person lawfully entitled to custody;
15. Knowingly making any false statement on a certificate of death;
16. Violation of any provisions of Chapter 7 (§ 32.1-249 et seq.) of Title 32.1;
17. Failure to comply with § 54.1-2812, and to keep on file an itemized statement of funeral expenses in accordance with Board regulations;
18. Knowingly disposing of parts of human remains, including viscera, that are received with the body by the funeral establishment, in a manner different from that used for final disposition of the body, unless the persons authorizing the method of final disposition give written permission that the body parts may be disposed of in a manner different from that used to dispose of the body;
19. Violating or failing to comply with Federal Trade Commission rules regulating funeral industry practices;
20. Violating or cooperating with others to violate any provision of this chapter or the regulations of the Board of Funeral Directors and Embalmers or the Board of Health;
21. Failure to comply with the reporting requirements as set forth in § 54.1-2817 for registered funeral service interns;
22. Failure to provide proper and adequate supervision and training instruction to registered funeral service interns as required by regulations of the Board;
23. Violating any statute or regulation of the Board regarding the confidentiality of information pertaining to the deceased or the family of the deceased or permitting access to the body in a manner

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HB278EH1

60 that is contrary to the lawful instructions of the next-of-kin of the deceased;

61 24. Failure to include, as part of the general price list for funeral services, a disclosure statement
62 notifying the next of kin that certain funeral services may be provided off-premises by other funeral
63 service providers; ~~and~~

64 25. Disciplinary action against a license, certificate or registration issued by another state, the District
65 of Columbia or territory or possession of the United States; ~~and~~

66 26. *Failure to ensure that a dead human body is maintained in refrigeration at 40 degrees*
67 *Fahrenheit or embalmed if it is to be stored for more than 48 hours prior to disposition. A body shall*
68 *not be embalmed and shall instead be maintained in refrigeration if the family or guardian of the body*
69 *objects to embalming on the grounds that embalming conflicts with his religious tenets or practices.*

70 § 54.1-2825. Person to make arrangements for funeral and disposition of remains.

71 A. Any person may designate in a signed and notarized writing, which has been accepted in writing
72 by the person so designated, an individual who shall make arrangements ~~and be otherwise responsible~~
73 ~~for his burial or funeral~~ and the disposition of his remains, including cremation, interment, entombment,
74 or memorialization, or some combination thereof, upon his death. Such designee shall have priority over
75 all persons otherwise entitled to make such arrangements, provided that a copy of the signed and
76 notarized writing is provided to the funeral service establishment and to the cemetery, if any, no later
77 than 48 hours after the funeral service establishment has received the remains. Nothing in this section
78 shall preclude any next of kin from paying any costs associated with any funeral or disposition of any
79 remains, provided that such payment is made with the concurrence of any person designated to make
80 arrangements [~~and be financially and otherwise responsible for the disposition of the remains pursuant~~
81 ~~to this subsection~~] .

82 B. In cases in which a person has designated in a U.S. Department of Defense Record of Emergency
83 Data (DD Form 93) or any successor form an individual to make arrangements for his funeral and
84 disposition of his remains, and such person dies while serving in any branch of the United States Armed
85 Forces as defined in 10 U.S.C. § 1481, such designee shall be responsible for making such
86 arrangements.