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SENATE BILL NO. 895

Offered January 14, 2015

Prefiled January 7, 2015

A BILL to amend and reenact §§ 54.1-2800, 54.1-2802, 54.1-2806, 54.1-2815, and 54.1-2819 of the Code of Virginia, relating to the Board of Funeral Directors and Embalmers.

Patron—Alexander

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2800, 54.1-2802, 54.1-2806, 54.1-2815, and 54.1-2819 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2800. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Advertisement" means any information disseminated or placed before the public.

"At-need" means at the time of death or while death is imminent.

"Board" means the Board of Funeral Directors and Embalmers.

"Cremate" means to reduce a dead human body to ashes and bone fragments by the action of fire.

"Cremator" means a person or establishment that owns or operates a crematory or crematorium or cremates dead human bodies.

"Crematory" or "crematorium" means a facility containing a furnace for cremation of dead human bodies.

"Embalmer" means any person engaged in the practice of embalming.

"Embalming" means the ~~preservation and disinfection of the human dead by external or internal application of chemicals~~ process of chemically treating the dead human body by arterial injection and cavity treatment or, when necessary, hypodermic tissue injection to reduce the presence and growth of microorganisms to temporarily retard organic decomposition.

"Funeral directing" means the for-profit profession of directing or supervising funerals, preparing human dead for burial by means other than embalming, or making arrangements for funeral services or the financing of funeral services.

"Funeral director" means any person engaged in the practice of funeral directing.

"Funeral service establishment" means any main establishment, branch, or chapel ~~which~~ that is permanently affixed to the real estate and for which a certificate of occupancy has been issued by the local building official where any part of the profession of funeral directing, the practice of funeral services, or the act of embalming is performed.

"Funeral service intern" means a person who is preparing to be licensed for the practice of funeral services under the direct supervision of a practitioner licensed by the Board.

"Funeral service licensee" means a person who is licensed in the practice of funeral services.

"In-person communication" means face-to-face communication and telephonic communication.

"Next of kin" means any of the following persons, regardless of the relationship to the decedent: any person designated to make arrangements for the disposition of the decedent's remains upon his death pursuant to § 54.1-2825, the legal spouse, child over 18 years of age, custodial parent, noncustodial parent, siblings over 18 years of age, guardian of minor child, guardian of minor siblings, maternal grandparents, paternal grandparents, maternal siblings over 18 years of age and paternal siblings over 18 years of age, or any other relative in the descending order of blood relationship.

"Practice of funeral services" means engaging in the care and disposition of the human dead, the preparation of the human dead for the funeral service, burial or cremation, the making of arrangements for the funeral service or for the financing of the funeral service and the selling or making of financial arrangements for the sale of funeral supplies to the public.

"Preneed" means at any time other than at-need.

"Preneed funeral contract" means any agreement where payment is made by the consumer prior to the receipt of services or supplies contracted for, which evidences arrangements prior to death for: (i) the providing of funeral services or (ii) the sale of funeral supplies.

"Preneed funeral planning" means the making of arrangements prior to death for: (i) the providing of funeral services or (ii) the sale of funeral supplies.

"Solicitation" means initiating contact with consumers with the intent of influencing their selection of a funeral plan or funeral service provider.

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

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

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

70 **§ 54.1-2806. Refusal, suspension, or revocation of license.**

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

- 75 1. Conviction of any felony or any crime involving moral turpitude;
- 76 2. Unprofessional conduct ~~which~~ *that* is likely to defraud or to deceive the public or clients;
- 77 3. Misrepresentation or fraud in the conduct of the funeral service profession, or in obtaining or
78 renewing a license;
- 79 4. False or misleading advertising or solicitation;
- 80 5. Solicitation at-need or any preneed solicitation using in-person communication by the licensee, his
81 agents, assistants or employees; however, general advertising and preneed solicitation, other than
82 in-person communication, shall be allowed;
- 83 6. Employment by the licensee of persons known as "cappers" or "steerers," or "solicitors," or other
84 such persons to obtain the services of a holder of a license for the practice of funeral service;
- 85 7. Employment directly or indirectly of any agent, employee or other person, on part or full time, or
86 on a commission, for the purpose of calling upon individuals or institutions by whose influence dead
87 human bodies may be turned over to a particular funeral establishment;
- 88 8. Direct or indirect payment or offer of payment of a commission to others by the licensee, his
89 agents, or employees for the purpose of securing business;
- 90 9. Use of alcohol or drugs to the extent that such use renders him unsafe to practice his licensed
91 activity;
- 92 10. Aiding or abetting an unlicensed person to practice within the funeral service profession;
- 93 11. Using profane, indecent, or obscene language within the immediate hearing of the family or
94 relatives of a deceased, whose body has not yet been interred or otherwise disposed of;
- 95 12. Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of
96 recommending or causing a dead human body to be disposed of in any crematory, mausoleum, or
97 cemetery;
- 98 13. Violation of any statute, ordinance, or regulation affecting the handling, custody, care, or
99 transportation of dead human bodies;
- 100 14. Refusing to surrender promptly the custody of a dead human body upon the express order of the
101 person lawfully entitled to custody;
- 102 15. Knowingly making any false statement on a certificate of death;
- 103 16. Violation of any provisions of Chapter 7 (§ 32.1-249 et seq.) of Title 32.1;
- 104 17. Failure to comply with § 54.1-2812, and to keep on file an itemized statement of funeral
105 expenses in accordance with Board regulations;
- 106 18. Knowingly disposing of parts of human remains, including viscera, that are received with the
107 body by the funeral establishment, in a manner different from that used for final disposition of the body,
108 unless the persons authorizing the method of final disposition give written permission that the body parts
109 may be disposed of in a manner different from that used to dispose of the body;
- 110 19. Violating or failing to comply with Federal Trade Commission rules regulating funeral industry
111 practices;
- 112 20. Violating or cooperating with others to violate any provision of *Chapter 1* (§ 54.1-100 et seq.),
113 *Chapter 24* (§ 54.1-2400 et seq.), this chapter, or the regulations of the Board of Funeral Directors and
114 Embalmers or the Board of Health;
- 115 21. Failure to comply with the reporting requirements as set forth in § 54.1-2817 for registered
116 funeral service interns;
- 117 22. Failure to provide proper and adequate supervision and training instruction to registered funeral
118 service interns as required by regulations of the Board;
- 119 23. Violating any statute or regulation of the Board regarding the confidentiality of information
120 pertaining to the deceased or the family of the deceased or permitting access to the body in a manner

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

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

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

26. Failure to ensure that a dead human body is maintained in refrigeration at no more than approximately 40 degrees Fahrenheit or embalmed if it is to be stored for more than 48 hours prior to disposition. A dead human body shall be maintained in refrigeration and shall not be embalmed in the absence of express permission by a next of kin of the deceased or a court order; *and*

27. *Mental or physical incapacity to practice his profession with safety to the public.*

§ 54.1-2815. Application for license; how license signed; duration.

All applications for examination for a license for the practice of funeral service shall be upon forms furnished by the Board.

~~All licenses shall be signed by the president and secretary of the Board and stamped with the seal of the Board.~~

All licenses shall be issued or renewed for a period prescribed by the Board, not exceeding two years.

§ 54.1-2819. Registration of surface transportation and removal services.

Any person or private business, except a common carrier engaged in interstate commerce, the Commonwealth and its agencies, or an emergency medical services agency holding a permit issued by the Commissioner of Health pursuant to § 32.1-111.6, shall apply for and receive a registration as a transportation and removal service in order to be authorized to engage in the business of surface transportation or removal of dead human bodies in ~~this~~ *the* Commonwealth.

Surface transportation and removal services shall not arrange or conduct funerals, provide for the care or preparation, including embalming, of dead human bodies, or sell or provide funeral-related goods and services without the issuance of a funeral service establishment license.

The Board of Funeral Directors and Embalmers shall promulgate regulations for such registration including proper procedures in the handling of all dead human bodies being transported, application process for registration, and establishment of registration fees. These regulations shall not require the use of a casket for transportation. No licensed funeral service establishment shall be required to receive such registration in addition to its funeral service establishment license. However, such establishment shall be subject to the regulations pertaining to transportation and removal services.

All registrations as a surface transportation and removal service shall be renewed annually and no person, *or* private business ~~or funeral service establishment~~ shall engage in the business as a surface transportation and removal service without holding a valid registration.

Any surface transportation or removal service ~~which~~ *that* is not registered or persons who knowingly engage in transportation or removal services without registration shall be subject to the disciplinary actions provided in this chapter.

This section shall not be construed to prohibit private individuals from transporting or removing the remains of deceased family members and relatives either by preference or in observation of religious beliefs and customs.