

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 54.1-2800, 54.1-2802, 54.1-2806, 54.1-2815, and 54.1-2819 of the*
 3 *Code of Virginia, relating to the Board of Funeral Directors and Embalmers.*

4 [S 895]
 5 Approved

6 **Be it enacted by the General Assembly of Virginia:**
 7 **1. That §§ 54.1-2800, 54.1-2802, 54.1-2806, 54.1-2815, and 54.1-2819 of the Code of Virginia are**
 8 **amended and reenacted as follows:**

- 9 **§ 54.1-2800. Definitions.**
 10 As used in this chapter, unless the context requires a different meaning:
 11 "Advertisement" means any information disseminated or placed before the public.
 12 "At-need" means at the time of death or while death is imminent.
 13 "Board" means the Board of Funeral Directors and Embalmers.
 14 "Cremate" means to reduce a dead human body to ashes and bone fragments by the action of fire.
 15 "Cremator" means a person or establishment that owns or operates a crematory or crematorium or
 16 cremates dead human bodies.
 17 "Crematory" or "crematorium" means a facility containing a furnace for cremation of dead human
 18 bodies.
 19 "Embalmer" means any person engaged in the practice of embalming.
 20 "Embalming" means the ~~preservation and disinfection of the human dead by external or internal~~
 21 ~~application of chemicals~~ *process of chemically treating the dead human body by arterial injection and*
 22 *cavity treatment or, when necessary, hypodermic tissue injection to reduce the presence and growth of*
 23 *microorganisms to temporarily retard organic decomposition.*
 24 "Funeral directing" means the for-profit profession of directing or supervising funerals, preparing
 25 human dead for burial by means other than embalming, or making arrangements for funeral services or
 26 the financing of funeral services.
 27 "Funeral director" means any person engaged in the practice of funeral directing.
 28 "Funeral service establishment" means any main establishment, branch, or chapel ~~which~~ *that* is
 29 permanently affixed to the real estate and for which a certificate of occupancy has been issued by the
 30 local building official where any part of the profession of funeral directing, the practice of funeral
 31 services, or the act of embalming is performed.
 32 "Funeral service intern" means a person who is preparing to be licensed for the practice of funeral
 33 services under the direct supervision of a practitioner licensed by the Board.
 34 "Funeral service licensee" means a person who is licensed in the practice of funeral services.
 35 "In-person communication" means face-to-face communication and telephonic communication.
 36 "Next of kin" means any of the following persons, regardless of the relationship to the decedent: any
 37 person designated to make arrangements for the disposition of the decedent's remains upon his death
 38 pursuant to § 54.1-2825, the legal spouse, child over 18 years of age, custodial parent, noncustodial
 39 parent, siblings over 18 years of age, guardian of minor child, guardian of minor siblings, maternal
 40 grandparents, paternal grandparents, maternal siblings over 18 years of age and paternal siblings over 18
 41 years of age, or any other relative in the descending order of blood relationship.
 42 "Practice of funeral services" means engaging in the care and disposition of the human dead, the
 43 preparation of the human dead for the funeral service, burial or cremation, the making of arrangements
 44 for the funeral service or for the financing of the funeral service and the selling or making of financial
 45 arrangements for the sale of funeral supplies to the public.
 46 "Preneed" means at any time other than at-need.
 47 "Preneed funeral contract" means any agreement where payment is made by the consumer prior to
 48 the receipt of services or supplies contracted for, which evidences arrangements prior to death for: (i)
 49 the providing of funeral services or (ii) the sale of funeral supplies.
 50 "Preneed funeral planning" means the making of arrangements prior to death for: (i) the providing of
 51 funeral services or (ii) the sale of funeral supplies.
 52 "Solicitation" means initiating contact with consumers with the intent of influencing their selection of
 53 a funeral plan or funeral service provider.
 54 **§ 54.1-2802. Board; appointment; terms; vacancies; meetings; quorum.**
 55 The Board of Funeral Directors and Embalmers shall consist of nine members as follows: seven
 56 funeral service licensees of the Board with at least five consecutive years of funeral service practice in

57 ~~this~~ *the* Commonwealth immediately prior to appointment and two *nonlegislative* citizen members. The
 58 terms of office shall be for four years from July 1. Appointments shall be made annually on or before
 59 June 30 as the terms of the members respectively expire. Appointments to the Board should generally
 60 represent the geographical areas of the Commonwealth. The Board shall annually elect a president, a
 61 vice-president, and a secretary-treasurer.

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

66 **§ 54.1-2806. Refusal, suspension, or revocation of license.**

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

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

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

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

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

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

128 **§ 54.1-2815. Application for license; how license signed; duration.**

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

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

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

135 **§ 54.1-2819. Registration of surface transportation and removal services.**

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

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

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

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

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

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