

VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

CHAPTER 505

An Act to amend and reenact §§ 54.1-2800, 54.1-2803, 54.1-2806, 54.1-2814.1, and 54.1-2818.3 of the Code of Virginia, relating to Board of Funeral Directors and Embalmers; inspection of crematories.

[H 2125]

Approved March 16, 2003

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2800, 54.1-2803, 54.1-2806, 54.1-2814.1, and 54.1-2818.3 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.

"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 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 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 ~~eighteen~~ 18 years of age, custodial parent, noncustodial parent, siblings over ~~eighteen~~ 18 years of age, guardian of minor child, guardian of minor siblings, maternal grandparents, paternal grandparents, maternal siblings over ~~eighteen~~ 18 years of age and paternal siblings over ~~eighteen~~ 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.

"Resident trainee" 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.

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

§ 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 *to*:

1. ~~¶~~ Establish standards of service and practice for the funeral service profession in ~~this~~ *the* Commonwealth.
2. ~~¶~~ Regulate and inspect funeral service establishments, their operation and licenses.

3. ~~Te~~ Require licensees and resident trainees to submit all information relevant to their practice or business.
4. ~~Te~~ Enforce the relevant regulations of the Board of Health.
5. ~~Te~~ Enforce local ordinances relating to funeral service establishments.
6. ~~Te~~ Advise the Department of Health Professions of any training appropriate for inspectors serving as the Board's agents.
7. ~~Te~~ Establish, supervise, regulate and control, in accordance with the law, programs for resident trainees.
8. ~~Te~~ Establish standards for and approve schools of mortuary science or funeral service.
9. ~~Te~~ 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.

10. Inspect crematories and their operations.

§ 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 trainees;
22. Failure to provide proper and adequate supervision and training instruction to registered funeral trainees 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

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

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; and

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.*

§ 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~~ *procedures* for registration under this section. *Such procedures shall include a requirement that any crematory registered with the Board that engages in the practice of funeral services operate in compliance with the provisions § 54.1-2810. However, nothing in this subsection shall require a crematory registered with the Board to obtain a license as a funeral service establishment as long as the crematory provides cremation services directly to or for a licensed funeral service establishment only and not to the general public.*

C. The Board may suspend or revoke any crematory registration or deny any application for such registration, or refuse to issue or renew any such registration, if the Board finds that the applicant or registrant has violated any provision of this chapter or, the Board's regulations, *or if the Board finds the crematory has operated or is operating in a manner that endangers the health, safety or welfare of the public.*

§ 54.1-2818.3. Applications for registration required.

Any crematory shall apply for and receive a registration from the Board as a registered crematory. *However, this section shall not supersede or restrict the provisions of § 54.1-2814.1.*