

AN ACT

To provide for the better protection of life and health of the citizens of this Commonwealth by requiring and regulating the examination, licensure and registration of persons and registration of corporations engaging in the care, preparation and disposition of the bodies of deceased persons, and providing penalties; providing for a State Board of Funeral Directors in the Department of State, and repealing other laws. (Title amended July 31, 1968, P.L.1008, No.295)

Compiler's Note: Section 14(b)(6) of Act 160 of 1970 provided that Act 522 is repealed insofar as it prohibits the rendering by a professional corporation of the professional service or services for which it was incorporated.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short Title.—This act shall be known and may be cited as the "Funeral Director Law."

Section 2. Definitions.—The following terms as used in this act shall, unless the context indicates otherwise, have the following meanings:

(1) The term "funeral director" shall include any person engaged in the profession of a funeral director or in the care and disposition of the human dead, or in the practice of disinfecting and preparing by embalming the human dead for the funeral service, burial or cremation, or the supervising of the burial, transportation or disposal of deceased human bodies, or in the practice of funeral directing or embalming as presently known, whether under these titles or designation or otherwise. The term "funeral director" shall also mean a person who makes arrangements for funeral service and who sells funeral merchandise to the public incidental to such service or who makes financial arrangements for the rendering of such services and the sale of such merchandise.

(2) The word "board" shall mean State Board of Funeral Directors in the Department of State.

(3) The word "department" shall mean the Department of State of this Commonwealth.

(4) The term "resident interne" shall mean any person operating under or with a funeral director for the purpose of learning the profession, to the end that he may become a licensed funeral director. The term shall also include a student apprentice serving as such on the effective date of this act under any law repealed hereby.

(5) The term "student trainee" shall mean any person accepted for matriculation at a mortuary college or university specializing in mortuary subjects which have been approved by the American Board of Funeral Service Education, Inc.

(6) The term "funeral establishment" shall mean every place or premise approved by the State Board of Funeral Directors wherein a licensed funeral director conducts the professional practice of funeral directing including the preparation, care and funeral services for the human dead.

(7) The word "preceptor" shall mean a licensed funeral director under or with whom a resident interne is registered and operates.

(8) The term "school of embalming" shall mean a mortuary college, institute or university offering a course of actual class work in didactic and laboratory studies in a manner accredited by the American Board of Funeral Service Education, Inc.

(9) The term "profession" as used in this act shall mean the aggregate of all funeral service licensees and their duties and responsibilities in connection with the funeral as funeral directors licensed under this act.

(10) The term "advertisement" shall mean the publication, dissemination, circulation or placing before the public, or causing directly or indirectly to be made, published, disseminated or placed before the public any announcement or statement in a newspaper, magazine or other publication, or in the form of a book, notice, stationery, circular,

pamphlet, letter, handbill, poster, bill, calendar, sign, placard, cards, labels or tags or over any radio or television station whenever applicable to any rules and regulations approved by the board.

(11) The term "full-time supervisor" shall mean a licensed funeral director who is a registered supervisor of no more than one funeral establishment and who is accessible to serve the public at the funeral establishment which he is supervising and is not engaged in any activity, business or profession, including assisting other funeral directors, which substantially interferes with or prevents the supervision of the practice carried on by the funeral establishment which he supervises. ((11) added Oct. 5, 1978, P.L. 1074, No. 250)

(2 amended July 31, 1968, P.L. 1008, No. 295)

Section 3. Application for License; Qualifications of Applicants.—(a) Any person not holding a license to practice the profession of a funeral director and desiring to practice such profession in this Commonwealth shall make application for examination and licensure to the board, upon a form furnished by it, and shall accompany the application by such fee as may be fixed by the department.

(b) Each applicant shall be a citizen of the United States, at least twenty-one (21) years of age, and a graduate of an approved high school of this Commonwealth or have an education equivalent thereto under the rules and regulations of the board.

(c) (1) In addition thereto, each applicant shall have successfully completed a course of actual class work in didactic and laboratory studies in a school of embalming for a period to be fixed by the board at not less than nine hundred (900) hours nor more than twenty-four hundred (2400) hours, and shall have completed two years as a resident trainee.

(2) Each applicant shall have successfully completed two years of academic work at a college or university accredited by the Department of Education, and a one year course at a mortuary college or university accredited by the American Board of Funeral Service Education, Inc. and shall have completed one year as a resident interne.

(3) No more than an average of one hundred (100) hours of embalming or mortuary school training shall be given or required in any calendar month of any one year.

((c) amended Dec. 22, 1983, P.L. 354, No. 88)

(d) Integration and coordination of all educational requirements and examination procedures, including any academic work at a college or university or actual class work in didactic and laboratory studies in a mortuary college or university, shall be permitted and shall be encouraged under any rules or regulations that the board shall make. ((d) amended July 31, 1968, P.L. 1008, No. 295)

(e) Except in the case of a resident interne who has registered with the board and has begun his training period before the effective date of this act, the required period as a resident interne shall, in each case, be served after the applicant has fulfilled his educational requirements. ((e) amended July 31, 1968, P.L. 1008, No. 295)

(f) The requirements of a resident interne, as to maximum and minimum hours, the number of cases to be handled, and the training and duties included and excluded, shall be fixed by rules and regulations of the board. They shall in all cases include a requirement that each resident interne shall completely embalm at least twenty-five (25) bodies. ((f) amended July 31, 1968, P.L. 1008, No. 295)

(g) ((g) deleted by amendment Dec. 22, 1983, P.L. 354, No. 88)

(h) ((h) deleted by amendment Dec. 22, 1983, P.L. 354, No. 88)

Section 4. Registration of Student Trainees.—(a) Every applicant, upon entering the school of embalming, shall register with the board annually, in such manner as may be provided by the board, and shall pay such registration fee as shall be fixed by regulation. The board shall keep a separate register of applicants in training, containing their names, ages, residences, where they attended school, the licensed funeral directors with whom they are associated or the embalming school they are attending, and such other information as the board may direct and as provided for by this act.

(b) Any applicant, registered as a student of any licensed funeral director or embalming school, who changes his preceptor or school, shall immediately re-register and pay

such additional fee as may be fixed by the department. Every funeral director with whom a resident interne is registered shall immediately notify the board of the termination of such relation.

(c) The preceptor to the resident interne must comply with the qualifications and duties as set forth by the rules and regulations of the board, which is given the authority to set standards and limit the number of student trainees with each preceptor.

(4 amended Dec. 22, 1983, P.L. 354, No. 88)

Section 5. Examinations.—The Board shall fix the time and places of examinations and shall give notice thereof to each applicant entitled to take the examination. The board may, at its discretion, give the examination in two parts: (1) at the time of completion of a course in mortuary science covering knowledge gained from didactic and laboratory studies, and (2) at the completion of the resident internship covering knowledge and skill obtained from practical experience during this period. Each applicant for a license to practice as a funeral director shall be examined orally, clinically, and in writing on the following subjects:

(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, funeral principles, directing and management.

If the board shall find, upon examination, that the applicant is of good moral character and is possessed of the skill and knowledge herein set forth and has sufficient knowledge, experience and training properly to conduct such profession in all its phases, the board shall issue to him, upon payment of such fee as may be fixed by the department, a license to perform as a funeral director, and shall register the applicant as a duly licensed funeral director.

(5 amended July 31, 1968, P.L. 1008, No. 295)

Section 6. Issuance of Licenses.—Licenses shall be issued by and bear the seal of the State Board of Funeral Directors and shall be signed by the Commissioner of Professional and Occupational Affairs. Every licensee shall register the fact of the issuance of the license with the Bureau of Vital Statistics and registrar of the municipality or township in which the licensee desires to operate, and shall display his license conspicuously in his funeral establishment approved by the board. Licenses and registration cards or certified copies of either shall be prima facie evidence of all matters covered by them.

(6 amended July 31, 1968, P.L. 1008, No. 295)

Section 7. Restrictions; Preparation Room.—Original licenses under this act (1) shall be granted only to individuals, partnerships or corporations, (2) shall specify by name the person, partnership or corporation to whom they are issued, and (3) shall designate the particular place approved by the board at which the profession of funeral directing shall be carried on. A license shall authorize the conduct of the profession at the particular place of practice designated therein and no other, and only by the particular person, partnership or corporation designated. This provision shall not prevent a person licensed for the practice of funeral directing from assisting another duly licensed person, partnership or corporation in the conduct of the profession in an approved funeral establishment nor shall it prevent a person licensed for the practice of the profession from conducting a funeral at a church, a private residence of the deceased, or an approved funeral establishment provided such person maintains a fixed place or establishment of his own approved by the board.

A licensed funeral director, partnership or corporation may move to a new place of practice, which shall be registered and approved by the board if the new place of practice meets all the requirements as set forth in the State Board's Rules and Regulations.

After the thirty-first day of August, one thousand nine hundred fifty-two, every establishment in which the profession of funeral directing is carried on shall include a preparation room, containing instruments and supplies necessary for the preparation and embalming of dead human bodies and be constructed in accordance with sanitary standards

prescribed by the board, for the protection of the public health.

All areas within an approved establishment must be maintained in a proper and sanitary manner, as determined by the board or State and local ordinances wherever they apply, for the protection of the public.

No food or intoxicating beverages shall be served in any funeral establishment in which the profession of funeral directing is carried on. Beverages, if served, must be restricted to a separate room not used for the preparation and conduct of a funeral service. Any facility beyond the confines of such funeral establishment, but directly or indirectly operated by a funeral director for the service of refreshments or food shall be maintained in accordance with State and local health laws and regulations pertaining to public eating places for the protection of the public.

(7 amended Mar. 3, 1976, P.L. 32, No. 16)

Section 8. Conduct of Business.—(a) Individuals and Partnerships. Except as provided for in subsection (e) hereof, only one license shall be granted to or held by an individual, but two or more licensed funeral directors may operate a joint or partnership business at one place only. No funeral practice, whether conducted by an individual or a partnership, may be conducted under any other name than the name or last name of the individual or, if a partnership, the names or last names of all partners: Provided, however, That an individual or partnership may be conducted under the name of a predecessor funeral establishment if the name or names of the owner or partners appear as operator or operators on all signs, forms and advertising. No person not licensed under this act shall have any interest in the practice carried on by a licensed funeral director except as otherwise herein provided. Upon the death of a licensee, the board shall issue a license and renewal thereof to his estate, only for a period not exceeding three (3) years, or widows or widowers of deceased licensees without time limitations, as long as they remain unmarried, providing the widow, or widower, the executor or administrator of the estate of the deceased licensee's heir or heirs, informs the board, of the intent to continue practice, within ten (10) days and applies within thirty (30) days for a certificate of licensure. Such notice shall be in writing. The practice carried on by a licensee's estate, widow or widower shall be under the supervision of a licensed funeral director employed on a full time basis. A licensee's estate, widow or widower shall not be denied a license because the deceased licensee operated a business in partnership with one or more other licensed funeral directors nor shall a widow or widower be denied the right to enter into a partnership with one or more of the licensed funeral directors with whom the deceased licensee was in partnership. ((a) amended Dec. 19, 1980, P.L. 1329, No. 242)

(b) Restricted Corporate License. A corporate license may be issued to a Pennsylvania corporation which is incorporated pursuant to the provisions of the act of May 5, 1933 (P.L. 364, No. 106), known as the "Business Corporation Law," by one or more licensed funeral directors specifically for the purpose of conducting a funeral directing practice. The name of such corporation shall contain the name or the last name of one or more of the licensed shareholders or the name of a predecessor funeral establishment. No licensed funeral director shall be eligible to apply for more than one restricted corporate license or own shares in more than one restricted corporation. Nor shall any licensed funeral director who obtains a restricted corporate license or holds shares in a restricted corporation have any stock or proprietary interest in any other funeral establishment, except a branch place of practice as authorized by subsection (e). Such license shall be valid only if the following conditions exist at the time of issuance of the license and continue in effect for the license period:

(1) The corporation engages in no other business activity other than that of funeral directing and its certificate of incorporation should so specify.

(2) It holds no shares of stock or any property interest in any other funeral establishment.

(3) One or more of its principal corporate officers is a person licensed as a funeral director who shall also be a member of the board of directors of the corporation and shall

not conduct any other funeral business.

(4) All of its shareholders are licensed funeral directors or the members of the immediate family of a licensed funeral director or a deceased licensed funeral director who was a shareholder in the corporation at death. For the purposes of this paragraph "members of the immediate family" shall mean (i) spouse, (ii) children, (iii) grandchildren, (iv) a trustee or custodian who holds shares for the benefit of such spouse, children or grandchildren.

(5) The corporation shall have filed a registry statement with the Secretary of the Commonwealth and thereafter have duly filed its Pennsylvania corporate tax returns and paid all taxes which have been assessed and as to which there is no contest.

(6) The corporation has, for each place of business operated by it, registered with the board the name of a licensed funeral director who will serve as a full-time supervisor of such place of business.

(c) Notice of Corporate Noncompliance. Any corporation holding a restricted corporate license which shall fail to comply with all of the provisions set forth in subsection (b)(1) through (5) shall immediately give notice to the board of such failure and set forth in such notice the nature of the failure to comply and such corporation shall have a period of sixty (60) days from the date of the event which results in failure to comply in which to cure the failure and at the end of such sixty (60) day period shall either supply documentary evidence in affidavit form of the basis upon which such failure has been corrected or shall surrender its license to the board and shall forthwith desist from the conduct of the business of funeral directing.

(d) Professional Corporation License. A corporate license may be issued to a Pennsylvania corporation which is incorporated pursuant to the provisions of the act of July 9, 1970 (P.L. 461, No. 160), known as the "Professional Corporation Law," by one or more licensed funeral directors specifically for the purpose of conducting a funeral directing practice. No professional corporation may render funeral services unless it holds a professional corporation license issued pursuant to this subsection. The name of such professional corporation shall contain the name or the last name of one or more of the shareholders or the name of a predecessor funeral establishment. No professional corporation shall own shares of stock or any property interest in any other funeral establishment. Each professional corporation shall, for each place of business operated by it, register with the board the name of a licensed funeral director who will serve as full-time supervisor of such place of business. Nor shall any licensed funeral director who obtains a professional corporation license or holds shares in a professional corporation have any stock or proprietary interest in any other funeral establishment, except a branch place of practice as authorized by subsection (e): Provided, however, That any licensed funeral director who owned shares of more than one professional corporation prior to February 1, 1977, may maintain ownership of such shares and such corporations may be licensed.

(e) Branch Place of Practice. Licensees authorized to conduct a funeral directing practice whether as an individual, partnership, professional corporation or restricted business corporation may practice at one principal place and no more than one branch place of business provided that a licensed funeral director is assigned as a full-time supervisor to such branch location, and provided that the facilities furnished at such branch location fully comply with all the provisions of this act and the rules and regulations promulgated by the board as amended from time to time. The board shall issue a separate license and require payment of a separate license fee for such branch location.

(8 amended Oct. 5, 1978, P.L. 1074, No. 250)

Section 9. Licensees under Prior Laws and from Other States.—(a) All undertakers' licenses issued under any prior law and being in effect on the effective date of this act shall continue, subject to the provisions of this act as to renewal, suspension and revocation and to the rules and regulations of the board. Existing licenses to corporations and partnerships and to conduct a practice under a fictitious name shall continue and may be renewed, but such corporate licenses shall not be permitted, after the effective date of

this act, to operate under any name other than the name as licensed as of the date of this act, except that such corporate licenses may operate under the name or names of individual licensed funeral directors who are stockholders of said corporations. Such corporate licenses shall only be valid if the corporation has, for each place of business operated by it, registered with the board the name of a licensed funeral director who will serve as a full-time supervisor of such place of business. No original license shall be issued under this act to conduct a practice under a fictitious name.

(b) The board may grant licenses to individuals from other states if: (1) the applicants' standards and qualifications for licensing are at least as high as those provided hereby, (2) similar privileges are accorded persons licensed in this Commonwealth, (3) the applicants hold valid licenses from their state of residence, and (4) the terms and conditions prescribed by the board are complied with. ((b) amended June 22, 2000, P.L. 376, No. 48)

(c) The board may, in its discretion, enter into an agreement with the corresponding licensing authority of any other state to issue limited licenses which would permit persons duly licensed as funeral directors in either state to enter into the other state for the purpose of removing, transporting and burying dead human bodies and directing funerals, or any combination thereof, in the same manner as if licensed under the laws of such other state, except that such persons shall not maintain an establishment, advertise or hold themselves out, directly or through any agent or agency or otherwise, as funeral directors other than in the state in which they are licensed. Any such agreement between the board and the corresponding licensing authority of another state shall include a provision that the licensing authority issuing the limited license shall have the power to take disciplinary action against the holder of a limited license for any unprofessional conduct which may occur within the issuing licensing authority's jurisdiction and that any disciplinary action shall be reported to the corresponding licensing authority. The board shall have the power to promulgate regulations to implement the provisions of this section, including the establishment of necessary fees. ((c) added June 22, 2000, P.L. 376, No. 48)

(9 amended Oct. 5, 1978, P.L. 1074, No. 250)

Section 10. Expiration of Licenses; Renewal; Continuing Education.—(a) All valid funeral directors' licenses granted or renewed under this or any prior act shall expire on the first day of February of 1962, and biennially thereafter. It shall be the duty of the board, on or before the first day of November of each odd numbered year, to mail to every licensed funeral director a blank application for renewal of license. Renewal may be effected at any time during the month of January of every even numbered year by the filing of such application with the board together with such renewal fee as may be fixed by the department, with the approval of the board. The board may, at its discretion, renew the license of any funeral director who has failed to make application for renewal before the first day of February of any even numbered year.

(b) (1) The board shall adopt, promulgate and enforce rules and regulations consistent with the provisions of this act establishing requirements of continuing education to be met by individuals licensed under this act as a condition for renewal of their licenses, except widows, widowers, executors or administrators licensed under section 8. Such regulations shall include any fees necessary for the board to carry out its responsibilities under this section.

(2) Beginning with the license period designated by regulation, such licensees shall be required to attend six (6) hours of mandatory continuing education during each two-year license period.

(3) An individual applying for licensure in this Commonwealth for the first time shall be exempted from the continuing education requirement for the biennial renewal period following initial licensure.

(4) The board may waive all or a portion of the continuing education requirement for biennial renewal to a licensee who shows to the satisfaction of the board that he or she was unable to complete the requirements due to serious illness, military service or other

demonstrated hardship. The request shall be made in writing, with appropriate documentation, and shall include a description of circumstances sufficient to show why compliance is impossible. A waiver request shall be evaluated by the board on a case-by-case basis. The board shall send written notification of its approval or denial of a waiver request.

(5) A licensee seeking to reinstate an inactive or lapsed license shall show proof of compliance with the continuing education requirement for the preceding biennium.

(6) All courses, locations, instructors and providers shall be approved by the board. No credit shall be given for any course in office management.

(7) The board shall initiate the promulgation of regulations to carry out the provisions of this section within one (1) year of the effective date of this section.

(10 amended June 22, 2000, P.L. 376, No. 48)

Section 11. Refusal; Suspension; Revocation.—(a) The board, by a majority vote thereof, may refuse to grant, refuse to renew, suspend or revoke a license of any applicant or licensee, whether originally granted under this act or under any prior act, for the following reasons:

(1) The practice of any fraud or deceit in obtaining or attempting to obtain a license.

(2) Violation of the health laws of this Commonwealth.

(3) The conviction of a crime involving moral turpitude, in this or any other State or Federal court or pleading guilty or nolo contendere to any such offense.

(4) The use of misleading advertising.

(5) Gross incompetency, negligence or misconduct in the carrying on of the profession.

(6) Violation of or non-compliance with the provisions of this act or the rules and regulations of the board.

(7) Loaning, borrowing or using a license of another, or of knowingly aiding or abetting in any way the granting of improper licenses.

(8) Soliciting patronage other than by legitimate advertisement, or paying a commission or agreeing to pay a commission to any person or persons for soliciting or for business secured, or paying any gratuity to any person with intent to have such person aid in securing business, or other similar unprofessional conduct.

(9) Gross immorality.

(10) Conviction of the violation of any statute, rule or regulation of any state concerning the conduct of the profession beyond the boundaries of this Commonwealth.

(11) 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 particular crematory, mausoleum or cemetery.

(12) Failure by a corporation to comply with the provisions of section 8(b) or (c).

(b) Unless ordered to do so by a court, the board shall not reinstate the license of any person whose license has been revoked under this act. Any person whose license has been revoked may reapply for a license at the end of a five-year period but must meet all of the licensing qualifications of this act for the license applied for, to include the examination requirement.

(11 amended Dec. 22, 1983, P.L. 354, No. 88)

Section 12. Procedure.—(a) All actions of the board shall be taken, subject to the right of notice, hearing and adjudication and the right of appeal therefrom, in accordance with the provisions of the Administrative Agency Law.

(b) Any association of funeral directors or any party in interest shall be entitled to be heard by the board in any proceeding under the Administrative Agency Law. Any association of funeral directors or any person having an interest may, by an action in equity, obtain an injunction to prevent the illegal operation of a person, firm, corporation or establishment in violation of law or the regulations of the board.

(c) The board, upon the advice of the Attorney General, may maintain an action in the name of the Commonwealth for an injunction or other process against any person to restrain or prevent his practicing the profession of a funeral director in a public or private capacity. ((c) repealed in part June 3, 1971, P.L. 118, No. 6) (12 repealed in part Apr. 28,

1978, P.L. 202, No. 53)

Compiler's Note: Section 504 of Act 164 of 1980 provided that subsec. (c) is repealed insofar as it is inconsistent with Act 164.

Section 13. Practice Without License; Exceptions.—(a) No person shall practice as a funeral director, as defined herein, in this Commonwealth unless he holds a valid license so to do as provided in this act.

The provisions of this subsection shall not apply to the following persons when acting under the direction and supervision of a licensed funeral director:

- (1) Employees of any cemetery or crematory whose duties or business extend no further.
- (2) Persons acting under the orders of commissioned medical officers of any branch of the armed forces of the United States.
- (3) Persons disposing of the bodies of deceased persons lawfully placed at the disposition of legally organized medical, surgical or other institutions for the benefit of science.
- (4) Persons disposing of the bodies of deceased persons under the authority and direction of the Department of Health of this Commonwealth in times of actual epidemic or public calamity.

(b) No person other than a licensed funeral director or a resident interne shall prepare or embalm the body of any deceased person. ((b) amended July 31, 1968, P.L. 1008, No. 295)

(c) No person other than a licensed funeral director shall, directly or indirectly, or through an agent, offer to or enter into a contract with a living person to render funeral services to such person when needed. If any such licensed funeral director shall accept any money for such contracts, he shall, forthwith, either deposit the same in an escrow account in, or transfer the same in trust to, a banking institution in this Commonwealth, conditioned upon its withdrawal or disbursement only for the purposes for which such money was accepted. This subsection does not apply to a contract by a bona fide institution that it will provide professional funeral services for persons who may die while inmates of the institution, if such contract is made as a part of its contract for housing, maintaining and caring for its inmates. ((c) added July 25, 1953, P.L. 592, No. 163)

(d) Tentative funeral arrangements after a death has occurred can be made by an unlicensed member of the funeral home staff in the event the licensed funeral director is temporarily absent. ((d) added July 31, 1968, P.L. 1008, No. 295)

Section 14. Penal Provisions.—(a) No person shall as an officer of a corporation allow it to practice as a funeral director unless such corporation is duly licensed and qualified so to do under the provisions of this act or any prior law and under the rules and regulations of the board. ((a) amended Mar. 3, 1976, P.L. 32, No. 16)

(b) No person shall lend, sell, buy, give or obtain a license as a funeral director or a registration card issued by the board in any other manner than is provided for in this act, nor offer or attempt so to do.

(c) No person shall attempt to practice under guise of a license or registration card not issued by the board, or under cover of a license or registration card obtained illegally or fraudulently, or which has been revoked or suspended.

Section 15. What Constitutes Practice.—A person, either individually or as a member of a partnership or of a corporation, shall be deemed to be practicing as a funeral director within the meaning and intent of this act who:

(1) holds himself out to the public in any manner as one who is skilled in the knowledge, science and practice of funeral directing, embalming or undertaking, or who advertises himself as an undertaker, mortician or funeral director.

(2) permits, either as lessee, employe, associate, or in any capacity whatsoever, the illegal operation of an establishment or enterprise of any character or description whereby the public is led to believe that therein is offered or available funeral directing or undertaking services or facilities.

Section 16. Duties of Board.—(a) The board shall be charged with the enforcement of this act. It shall be empowered to formulate necessary rules and regulations not inconsistent with this act for the proper conduct of the business or profession of funeral directing and as may be deemed necessary or proper to safeguard the interests of the public and the standards of the profession.

(b) The board shall appoint an inspector or inspectors whose title shall be "Inspector, State Board of Funeral Directors, Commonwealth of Pennsylvania." Such inspectors shall be licensed funeral directors who have been actively engaged in the practice of such profession for at least ten years. Inspectors shall hold office at the pleasure of the board, and shall receive such compensation as shall be fixed by the board with the approval of the department. Inspectors shall be empowered to serve all processes and papers of the board, and shall have the right of entry into any place, where the business or profession of funeral directing is carried on or advertised as being carried on, for the purpose of inspection and for the investigation of complaints coming before the board and for such other matters as the board may direct.

(c) The board shall keep a record of its proceedings and shall maintain a register of the names and addresses of all persons applying for and those receiving licenses and registration cards under this or any prior act. Such register shall be open to public inspection.

(d) The board shall submit annually to the department and to the House and Senate Appropriations Committees, fifteen days after the Governor has submitted his budget to the General Assembly, a copy of the budget request for the upcoming fiscal year which the board previously submitted to the department. ((d) added Dec. 22, 1983, P.L. 354, No. 88)

Section 17. Penalties.—(a) Any person violating any of the provisions of this act or any rule or regulation of the board promulgated pursuant thereto shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1000), or undergo imprisonment not exceeding one (1) year, or both.

(b) In addition to any other civil remedy or criminal penalty provided for in this act, the board, by a vote of the majority of the maximum number of the authorized membership of the board as provided by law, or by a vote of the majority of the duly qualified and confirmed membership or a minimum of four members, whichever is greater, may levy a civil penalty of up to one thousand dollars (\$1,000) on any current licensee who violates any provision of this act or on any person who practices as a funeral director without being properly licensed to do so under this act. The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

(17 amended Dec. 22, 1983, P.L. 354, No. 88)

Section 18. Disposition of Fees.—All fees, fines and penalties specified and imposed under this act or any rule or regulation of the board promulgated pursuant thereto shall be paid into the Professional Licensure Augmentation Account.

(18 amended Dec. 22, 1983, P.L. 354, No. 88)

Section 18.1. Fees Imposed.—(a) All fees required under the provisions of this act shall be fixed by the board by regulation and shall be subject to review in accordance with the act of June 25, 1982 (P.L. 633, No. 181), known as the "Regulatory Review Act." If the revenues generated by fees, fines and civil penalties imposed in accordance with the provisions of this act are not sufficient to match expenditures over a two-year period, the board shall increase those fees by regulation, subject to review in accordance with the "Regulatory Review Act," such that projected revenues will meet or exceed projected expenditures.

(b) If the Bureau of Professional and Occupational Affairs determines that the fees established by the board are inadequate to meet the minimum enforcement efforts required, then the bureau, after consultation with the board, shall increase the fees by regulation, subject to review in accordance with the "Regulatory Review Act," such that adequate

revenues are raised to meet the required enforcement effort.

(c) All fines and civil penalties imposed in accordance with this act shall be paid into the Professional Licensure Augmentation Account.

(18.1 added Dec. 22, 1983, P.L. 354, No. 88)

Section 19. State Board of Funeral Directors.—(a) There shall be a State Board of Funeral Directors as a departmental administrative board in the Department of State. The board shall consist of the Commissioner of Professional and Occupational Affairs, the Director of the Bureau of Consumer Protection in the Office of Attorney General, or his designee, two members appointed by the Governor, who shall be persons representing the public at large, and five members appointed by the Governor who shall be licensed funeral directors of good moral character and who shall also have been actively engaged in the practice of funeral directing for at least ten years immediately preceding their appointment.

(b) Professional and public members shall be appointed by the Governor with the advice and consent of the Senate for terms of five years. A member may continue to serve for a period not to exceed six months beyond the expiration of his term, if a successor has yet to be duly appointed and qualified according to law. If a member dies or resigns during his term of office, a successor shall be appointed as provided in this section and shall serve for the remainder of his predecessor's unexpired term.

(c) Five members of the board shall constitute a quorum.

(d) The board shall select a chairman from among its members and may elect a secretary from among its members.

(e) The members of the board, other than the Commissioner of Professional and Occupational Affairs and the Director of the Bureau of Consumer Protection in the Office of Attorney General, or his designee, shall receive sixty dollars (\$60) per diem when actually engaged in the transaction of official business and shall also receive the amount of reasonable traveling, hotel and other necessary expenses incurred in the performance of their duties.

(f) The board is subject to evaluation, review and termination within the time and in the manner provided in the act of December 22, 1981 (P.L. 508, No. 142), known as the "Sunset Act."

(g) A member of the board who fails to attend three consecutive meetings shall forfeit his seat unless the Commissioner of Professional and Occupational Affairs, upon written request from the member, finds that the member should be excused from a meeting because of illness or the death of an immediate family member.

(19 amended Dec. 22, 1983, P.L. 354, No. 88)

Section 19.1. Report to Committees.—The board shall submit annually a report to the Professional Licensure Committee of the House of Representatives and to the Consumer Protection and Professional Licensure Committee of the Senate a description of the types of complaints received, status of cases, board action which has been taken and the length of time from the initial complaint to final board resolution.

(19.1 added Dec. 22, 1983, P.L. 354, No. 88)

Section 20. The provisions of this act are severable, and if any section, subsection, sentence, clause, phrase or requirement of this act shall be held to be unconstitutional, such decisions of the court shall not affect or impair the validity of the remaining portions thereof. The Legislature hereby declares that it would have passed this act, each section, subsection, sentence, clause, phrase and requirement thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or requirements be declared unconstitutional.

Section 21. The act, approved the tenth day of June, one thousand nine hundred thirty-one (Pamphlet Laws 485), entitled "An act to provide for the better protection of life and health of the citizens of this Commonwealth by requiring and regulating the examination, licensure, and registration of persons, and registration of corporations, engaging in the care, preparation, and disposition of the bodies of deceased persons; and providing

penalties, and its amendments, are hereby repealed.

All other acts and parts of acts are hereby repealed in so far as they are inconsistent herewith.

Section 22. The provisions of this act shall become effective immediately upon final enactment.

APPENDIX

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Supplementary Provisions of Amendatory Statutes
— — — — —

1983, DECEMBER 22, P.L. 354, NO. 88

Section 10. This act reestablishes the State Board of Funeral Directors in accordance with the procedures set forth in section 7(a) of the act of December 22, 1981 (P.L. 508, No. 142), known as the Sunset Act.

Compiler's Note: Act 88 added or amended sections 3, 4, 11, 16, 17, 18, 18.1 and 19 of Act 522.

Section 11. The presently confirmed members of the existing State Board of Funeral Directors, as of December 31, 1983, shall continue to serve as board members until their present terms of office expire.

Section 12. Each rule and regulation of the board in effect on December 31, 1983, shall remain in effect after such date until repealed or amended by the board.