

CHAPTER 156.

FUNERAL DIRECTORS AND EMBALMERS.

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156.01 Definitions. As used in this chapter:

- (1) "Board" without other designation shall mean the state board of health.
- (2) "Committee" shall mean an employe of the board designated by the board as their representative and 3 examiners appointed by the board of health pursuant to section 156.02.
- (3) A "funeral director" is a person engaged in or conducting, or holding himself out, in whole or in part, as being engaged in:
 - (a) Preparing, other than by embalming, for the burial or disposal, or directing and supervising the burial or disposal of dead human bodies;
 - (c) Who shall, in connection with his name or funeral establishment, use the words, "funeral director", "mortician" or any other title implying that he is engaged as a funeral director as defined in this subsection.
- (4) An "embalmer" is a person engaged in, or holding himself out as engaged in, the practice of disinfecting or preserving dead human bodies, entire or in part, by the use of chemical substances, fluids or gases in the body, or by the introduction of same into the body by vascular or hypodermic injection, or by direct application into the organs or cavities for the purpose of preservation or disinfection.
- (5) A "funeral establishment" is any building or part of a building used and held out to the public as being used in the care and preparation for burial or transportation of dead human bodies or for holding or conducting of funeral services. A funeral establishment must contain a preparation room equipped with tile, cement or composition floor, necessary drainage and ventilation and contain necessary instruments and supplies for the preparation and embalming of dead human bodies for burial, transportation or other disposition.
- (6) An "apprentice funeral director" is any person engaged in the learning of the practice of funeral directing under the instruction and personal supervision of a duly licensed and registered funeral director under the provisions of sections 156.01 to 156.16, whose funeral establishment is located in this state; provided, that no person shall serve or attempt to serve as such apprentice funeral director under any such funeral director until he has filed registration thereof with the board.
- (7) An "apprentice embalmer" is any person engaged in the learning of the practice of embalming under the instruction and personal supervision of a duly licensed and registered embalmer under the provisions of sections 156.01 to 156.16, whose funeral establishment is located in this state; provided, that no person shall serve or attempt to serve as such apprentice embalmer under any such embalmer until he has filed a registration thereof with the board.
- (8) A "field educator" is a person employed by the board for the purpose of supervising the apprentice funeral directors and embalmers of the state, inspecting funeral establishments and performing such other duties as may be assigned. The field educator shall be a licensed embalmer in good standing, and have had at least 5 years of practical experience in embalming dead human bodies. The position of field educator shall be subject to chapter 16. The state board of health upon recommendation of the committee of examiners may, if deemed necessary, appoint more than one field educator.
- (9) "Operator of funeral establishment" means any person who conducts, maintains, manages or operates a funeral establishment.
- (10) "Person" includes firm, corporation, partnership, co-operative and association of individuals.

156.02 Committee of examiners. (1) The state board of health shall appoint 3 examiners, who, together with an employe of the board designated by the board as their representative, shall constitute the committee of examiners. The appointive members of this committee shall be appointed by the board for terms of 3 years. Each appointive member shall have had at least 5 years' experience, immediately preceding appointment, in the preparation and disposition of dead human bodies and in the practice of embalming. Members may be removed by the board for cause and any vacancy may be filled by appointment by the board for the remainder of the term. Each member shall receive a per diem of \$10 and be reimbursed his necessary expenses for each day of actual service rendered.

(2) The committee shall annually elect a chairman from its own membership, and the employe designated by the board as their representative shall act as secretary to the committee. Meetings of the committee shall be held upon a written request of at least 3 members of the committee or upon request of the state health officer. The secretary shall notify each member of the time and place of such meeting.

History: 1951 c. 398.

Officials and employes are entitled to per diem for days spent in traveling to and from official meetings and for days when actually and necessarily engaged in official duties whether in official meetings or otherwise. 41 Atty. Gen. 190.

156.03 Powers of board and committee. (1) The committee may recommend and the board shall have the power and it shall be its duty:

(a) To enforce the provisions of this chapter. In discharge of this duty the members of the board, the field educator, and other duly authorized employes shall have authority to enter at all reasonable hours for the purpose of inspecting the premises in which the business of a funeral director is conducted or where embalming is practiced.

(b) To make and enforce reasonable rules and regulations not inconsistent with this chapter covering the control of communicable diseases and covering sanitary and health regulations in the preparation, transportation and disposition of dead human bodies.

(2) The board in co-operation with the committee may:

(a) Make and enforce rules and regulations not inconsistent with this chapter establishing professional and business ethics for the profession of funeral directors and embalmers and for the general conduct of the business of funeral directing and embalming, and for the examination and licensing of funeral directors and embalmers and the registration of apprentices.

(b) Issue licenses to funeral directors and embalmers, certificates of registration to apprentices, and permits to operators of funeral establishments.

(c) Conduct a school of instruction to apprise funeral directors and embalmers of the most recent scientific knowledge and developments affecting their profession. Qualified lecturers and demonstrators shall be employed for this purpose, who may be selected without regard to the civil service law.

History: 1951 c. 398.

156.04 Funeral directors; licenses. (1) The business of a funeral director must be conducted in a funeral establishment equipped for the care and preparation for burial or transportation of dead human bodies. What shall be deemed "necessary equipment" shall be defined in the rules and regulations.

(2) No person shall engage in the business of a funeral director, or hold himself out as engaged in such business, in whole or in part, unless first licensed as a funeral director by the board. Application for such license (other than a renewal) shall be in writing and verified on a form to be furnished by the board. The application must specify the address at which the applicant proposes to conduct the business of a funeral director and shall contain such other information as the board or committee may require to determine compliance with the requirements of ss. 156.01 to 156.16. Accompanying the application shall be an examination fee of \$15, together with affidavits from at least 2 reputable freeholders of the county in which the applicant resides or proposes to conduct the business of a funeral director, to the effect that the applicant is of good moral character, of temperate habits, and a citizen of the United States. The fee for the license, if granted, is \$5.

(4) Written and oral examinations for funeral director's license shall be held at least once a year at a time and place to be designated by the board and the committee, and conducted by the committee of examiners. The examination shall include the subjects of funeral directing, burial or other disposition of dead human bodies, sanitary science, public health, transportation, business ethics, together with the laws of the state of Wisconsin and rules and regulations of the board relating to communicable diseases, quarantine and causes of death.

History: 1951 c. 398, 599; 1953 c. 222.

156.045 Eligibility requirements. (1) To be eligible to take the examination for a funeral director's or embalmer's license a person must:

(a) Be at least 21 years of age, of good moral character, of temperate habits, a citizen of the United States and either be a high school graduate or have equivalent education as defined by the board.

(b) After August 3, 1951, have completed one academic year of instruction in a recognized college or university in a course of study approved by the board or have equivalent education and have satisfactorily completed 9 months' or more instruction in a prescribed course in mortuary science approved by the board and have completed one year's apprenticeship as prescribed in section 156.095.

(2) The course in mortuary science and the apprenticeship requirements may be served in any order after completion of the one-year college or equivalent education requirement.

(3) The eligibility requirements set forth in subsection (1) shall not apply to:

(a) Any student to whom a certificate of apprenticeship was issued before August 3, 1951, and who satisfies the legal requirements in effect at the time of his registration;

(b) Any person who actively served in the armed forces of the United States between July 1, 1940 and August 3, 1951, who was discharged under conditions other than dishonorable, registered with the board within 6 months of the date of discharge, and who satisfies the legal requirements in effect at the time he entered the armed forces.

History: 1951 c. 599.

156.05 Embalmers; licenses. (1) No person shall engage in, or hold himself out as engaged in, the practice of an embalmer unless licensed by the board.

(3) Applications for the examination for an embalmer's license shall be in writing and verified on a blank to be prescribed and furnished by the board, and be accompanied by such proof of compliance with the requirements of ss. 156.01 to 156.16 and with such other information as the board and committee may require and shall be accompanied by a fee of \$15. The fee for the license, if granted, is \$5.

(4) Written and oral examinations for embalmer's license shall be held at least once a year at a time and place to be designated by the board and the committee and conducted by the committee of examiners. The examinations shall include the subjects of anatomy, bacteriology, autopsy, chemistry, practical embalming, sanitation, public health, business ethics, and the laws of this state and rules and regulations of the state board of health relating to communicable diseases, quarantine and causes of death.

History: 1951 c. 398, 599; 1953 c. 222.

156.06 Renewal of licenses. The board shall issue separate renewal licenses to funeral directors and to embalmers. All licenses shall expire at the close of the calendar year. A renewal license for the ensuing year shall be issued to any licensed funeral director or licensed embalmer on payment of a renewal fee of \$5, providing the application is made prior to the close of the license year, and in case the application is made after the close of the license year, the renewal fee shall be \$10; provided that before any renewal license shall be delivered to any licensed funeral director, proof must be furnished by the applicant, to the satisfaction of the board and committee, that he is doing business at a recognized funeral establishment and provided further that if such applicant is not doing business at a recognized funeral establishment, at the time he applies for his license, he shall be given a certificate, without additional cost, to the effect that he is in good standing as such funeral director, and shall be entitled to such renewal license at any time during that license year, when he is located at a recognized funeral establishment, without payment of any additional renewal fee.

History: 1953 c. 222.

156.07 Restoration of licenses. A licensed funeral director or embalmer who fails to renew his license may on application filed within 3 years after the expiration of his last license secure a renewal license without examination by payment of a fee of \$10 for each year he was not licensed; or by examination and payment of the fees as provided in ss. 156.04 and 156.05; provided, that any licensed funeral director or embalmer whose license has lapsed 3 years or more may obtain a new license by examination and payment of the fees as provided in s. 156.04 or 156.05. The time limitations prescribed herein shall not include the service period of a funeral director or embalmer as an active member of the military or naval forces of the United States.

History: 1953 c. 222.

156.08 Reciprocity in issuance of licenses. (1) Any person holding a valid license as a funeral director or embalmer in another state having requirements substantially equal to those in this state may, if such state recognizes licenses issued by the Wisconsin board, apply for a license to practice in this state by filing with the board a certified statement from the secretary of the examining board of the state in which the applicant holds a license, showing the qualifications upon which said license was granted, together with his

recommendation. Thereupon the board may upon the recommendation of the committee of examiners and payment of the required fee issue such license.

(3) The board and committee shall have power to make and determine reciprocal agreements with other states.

History: 1951 c. 599.

156.09 Display of licenses. Funeral director's and embalmer's licenses and certificates of apprenticeship shall be displayed conspicuously in the place of business conducted by the licensee or where the licensee or apprentice is employed.

156.095 Apprenticeship, funeral directors and embalmers. (1) (a) A person desiring to become an apprentice as a funeral director or embalmer shall make application on a form provided for the purpose and must appear before a member of the board, or a member of the committee, or any duly appointed representative of said board and committee; if however, any doubt exists as to the qualifications of the applicant, said application shall be submitted to the entire board and committee, or a subcommittee thereof duly appointed by the board and may be accepted or rejected by a majority vote of the board and committee or said subcommittee. The application shall state that the applicant is over 18 years of age, of temperate habits, of good moral character, a citizen of the United States, and holds a high school diploma or possesses equivalent education as defined by the board and has completed one academic year of instruction in a recognized college or university in a course of study approved by the board or has equivalent education. Such application must be substantiated by the oath of the applicant and be accompanied by a fee of \$5. When the board is satisfied as to the qualification of an applicant for apprenticeship, they shall instruct the secretary to issue a certificate of apprenticeship. When the apprentice enters the employment of a licensed embalmer or funeral director, he shall immediately notify the secretary of the board, giving the name and place of business of the embalmer or funeral director whose service he has entered. If, at any time thereafter, such apprentice leaves the employ of the licensed embalmer or funeral director whose service he has entered, it shall be the duty of such licensed embalmer or funeral director to give such an apprentice an affidavit showing the length of time he has served as an apprentice with him, and the work he has done in detail, which affidavit shall be filed with the secretary of the board and made a matter of record in that office. If such apprentice shall thereafter enter the employ of another licensed embalmer or funeral director in this state, he shall forthwith report such employment to the secretary.

(b) All apprentices under sections 156.01 to 156.16 shall be paid a minimum wage of at least \$25 per week.

(c) A certificate of apprenticeship issued as provided in this section shall be signed by the apprentice and shall be renewable annually upon the payment on January 1 of each year of a renewal fee of \$5. The board shall mail during the month of December of each year, to each registered apprentice at his last known address, a notice that his renewal fee is due, and that, if not paid by February 1 following, the penalty for the lapse in renewal will be \$1 in addition to such renewal fee.

(d) All apprentices registered as provided in this section shall be required to make report to said board monthly, and semiannually on May 15 and November 15, upon forms provided by the board. The monthly report shall contain such information as the board and committee may require. Failure to submit the required reports shall constitute justification for termination of the apprenticeship.

(e) The semiannual report must show the number of hours served by the apprentice and the number of bodies he has assisted in embalming, or otherwise prepared for burial or disposition during such period, the number of funeral services at which he has assisted, and give such other information as may be required by the board and committee. The data contained in said report shall be certified to as correct by the licensed embalmer or licensed funeral director under whom he has served during such period.

(2) (a) Every registered apprentice, before being eligible to take the examination for a funeral director's or embalmer's license shall make report to the state board and committee, on blanks furnished for that purpose, showing, if an apprentice funeral director, that he has assisted a licensed funeral director in conducting at least 25 funerals and has assisted a licensed funeral director, under whom he is serving, in preparing, for burial or disposition other than by embalming, at least 25 dead human bodies or, if an apprentice embalmer, that he has assisted a licensed embalmer, under whom he is serving, in the embalming of at least 25 bodies; and shall furnish such other information as the board or committee may require. Such reports must give the name of the deceased in each instance and the date and place where the funeral was held or other service performed and shall be certified as otherwise provided in ss. 156.01 to 156.16.

(b) The term of a registered apprentice shall be recognized only when given employment in a funeral establishment under the personal supervision of a licensed funeral

director, if an apprentice funeral director, or of a licensed embalmer, if an apprentice embalmer.

(c) Only one funeral director or embalmer apprenticeship shall be recognized by the board and committee of examiners at any one establishment in a current year that has had, in case of a funeral director apprenticeship, less than 150 funeral services or prepared less than 150 bodies for burial or shipment during the preceding year, other than by embalming, or, in case of an embalmer apprenticeship, less than 150 embalming operations during the preceding year.

(d) The board and the committee may recognize a second funeral director or embalmer apprenticeship at a funeral establishment during the current year that has had, in case of a funeral director apprenticeship, 150 funerals or more and has prepared 150 bodies or more for burial or shipment during the preceding year (other than embalming), provided that full-time employment is given to at least 2 licensed funeral directors at such funeral establishment, or that has had, in case of an embalmer apprenticeship, in excess of 150 embalming operations during the preceding year, provided that full-time employment is given to at least 2 licensed embalmers at such funeral establishment.

(4) Before such apprentice shall be eligible to receive a license to practice embalming or funeral directing, he shall present, in connection with the other evidence required by sections 156.01 to 156.16, affidavits from the several licensed embalmers or licensed funeral directors under whom he shall have worked, showing that he has assisted in embalming for burial or shipment, at least 25 bodies, if an embalmer's apprentice; or that he has assisted a licensed funeral director in preparing 25 dead human bodies for burial or transportation (other than by embalming) and assisted in at least 25 funeral services, during his apprenticeship, if a funeral director's apprentice. This work must all have been done within 4 years from the date of registering as an apprentice. Provided, however, that such time may be extended by the board and committee for good cause shown, not to exceed one additional year. The provisions of this section shall be suspended for such period as a registered apprentice may be an active member of the military or naval forces of the United States.

History: 1951 c. 398, 599; 1953 c. 61.

156.10 Term of apprenticeship. (1) The term of an apprenticeship for either funeral director or embalmer shall begin on the date of registration and terminate after a period of not more than 4 years from the time of first registration (unless the time is extended as provided in sections 156.01 to 156.16). A registered apprentice must make application for license and must appear before the committee of examiners for examination within 4 years from the date of registration (unless the time is extended as provided in sections 156.01 to 156.16). Noncompliance with the provisions of this subsection terminates the right to serve as an apprentice.

(2) In all applications of apprentices for licenses as funeral directors or embalmers under sections 156.01 to 156.16, the eligibility of the applicant to take the examination shall be determined by the records filed with the board.

(5) The term for apprenticeship in embalming and the term for apprenticeship in funeral directing may be served concurrently.

(6) The board shall have power to suspend or revoke a certificate of apprenticeship for violation of any provision of sections 156.01 to 156.16.

(7) An apprentice who has allowed his certificate of apprenticeship to lapse or who has had his apprenticeship suspended or revoked, may within one year after such lapse or suspension or revocation make application for reregistration, but not more than 2 such reregistrations shall be allowed by the board. The board may, at its discretion, allow an apprentice credit under a registration for the time actually served under a previous registration; provided, that if the previous registration has been suspended or revoked for cause, not more than 75 per cent of the time previously served shall be credited on the reregistration.

History: 1951 c. 398.

156.105 Funeral establishment permits. (1) No person shall conduct, maintain, manage or operate a funeral establishment unless a permit for each such establishment has been issued by the state board of health and is conspicuously displayed in such funeral establishment. In case of funeral services held in any private residence, church, or lodge hall, no permit shall be required.

(2) No permit to operate a funeral establishment shall be issued by the state board of health unless each such funeral establishment has in charge, full time therein, a licensed funeral director.

(3) Applications for such funeral establishment permits shall be made on blanks furnished by the board and filed with the board on or before July 1 of each year and shall be accompanied by a fee of \$10. All such permits shall expire on June 30 of each year.

(4) Violations of any provisions of sections 156.01 to 156.16 or any rules or regulations of the board committed by any person, or an officer, agent or employe with the knowledge or consent of any person operating such funeral establishments shall be considered sufficient cause for suspension or revocation of such funeral establishment permit.

(5) No operator of a funeral establishment shall allow any licensed funeral director to operate out of such funeral establishment unless such licensed funeral director is the operator of or an employe of the operator of a funeral establishment which has been granted a permit by the state board of health.

History: 1951 c. 398; 1953 c. 222.

156.11 Register; change of address. (1) The board shall keep register of the names and business address of all persons to whom licenses or certificate of registration are issued under this chapter, the number and date of each license or certificate, and date of renewal. Biennially the board shall supply all licensed funeral directors and embalmers and all transportation companies in the state with a list of all licensed funeral directors and embalmers, with business address and license numbers.

(2) Any licensed funeral director, licensed embalmer or registered apprentice who changed his address, shall within 20 days notify the board of such change except the same shall not be required of any such person while he is an active member of the military or naval forces of the United States.

156.12 Prohibited practices. (1) No embalmer shall embalm a dead human body when he has information reasonably indicating crime in connection with the cause of death, until permission of the coroner has first been obtained.

(2) No licensed embalmer shall sign a certificate stating that he has embalmed or prepared a dead human body, when in fact, some other person embalmed or prepared said dead human body; provided, that this subsection shall not be construed as preventing a registered apprentice embalmer assisting the licensed embalmer from so certifying.

(3) No licensed funeral director, licensed embalmer or operator of a funeral establishment shall, directly or indirectly, solicit a funeral service or the right to prepare a dead human body for burial or transportation either before or after death has occurred, or pay or cause to be paid any sum of money or other valuable consideration for the securing of the right to do such work; but nothing herein shall interfere with the right of any person not a licensed funeral director or licensed embalmer to solicit memberships or sell stock or memberships in any association organized under chapter 185.

(4) No licensed funeral director, licensed embalmer or operator of a funeral establishment shall publish, or cause to be published, any false, misleading or fraudulent advertisement, or take undue advantage of his patrons or commit any fraudulent act in the conduct of his business, or do any other act not in accord with the rules and regulations established by the board and not in accord with proper business practice as applied to the business or profession of funeral directing and embalming.

(5) Any licensed embalmer or licensed funeral director who knowingly permits any person not licensed as an embalmer to embalm or prepare for burial any body under his jurisdiction, or who permits any person not licensed as a funeral director to hold or conduct any funeral service for which he is responsible, or who permits any person not licensed as an embalmer or funeral director to remove any dead human body from any home, hospital or institution for preparation, or who permits any person under his supervision or associated with him to violate the provisions of this chapter, shall be guilty of violating the provisions of this chapter and subject to the penalties provided therein. The foregoing provisions shall not be construed as to restrict the activities of a duly registered apprentice operating under the supervision of a licensed embalmer or licensed funeral director.

(6) No licensed funeral director, licensed embalmer, or operator of a funeral establishment shall operate a mortuary or funeral establishment located within the confines of, or connected with, any cemetery. No licensed funeral director or licensed embalmer or his or her employe shall, directly or indirectly, receive or accept any commission, fee, remuneration or benefit of any kind from any cemetery, mausoleum or crematory or from any proprietor or agent thereof in connection with the sale or transfer of any cemetery lot, entombment vault, burial privilege or cremation, nor act, directly or indirectly, as a broker or jobber of any cemetery property or interest therein.

(7) No licensed funeral director, licensed embalmer or operator of a funeral establishment shall sell or cause to be sold any shares of stocks, certificates of membership or any other form of certificate which provides for any burial benefit or any rebate at the time of death to the holders thereof.

156.125 Burial agreements. (1) Whenever any agreement is made with a funeral director, cemetery or any other person, firm, association or corporation, herein referred to

as beneficiary, for the final disposition of a dead human body wherein the delivery of personal property to be used under a prearranged funeral plan or the furnishing of services of a funeral director or embalmer in connection therewith is not immediately required, all payments made under the agreement shall be and remain trust funds, including interest if any, until occurrence of the death of the person for whose benefit the funds were paid, unless the funds are sooner released to such person after written notice to the designated beneficiary.

(2) All such trust funds shall be deposited with a bank, trust company or savings and loan association within the state carrying federal deposit insurance and shall be held in a separate account in the name of the person for whose benefit such funds were paid, in trust for the designated beneficiary until the trust fund is released under either of the conditions provided in sub. (1). The depositor shall furnish to the person for whose benefit such funds were deposited the trust fund deposit receipt for the funds deposited. Upon receipt of a certified copy of the certificate of death of the person for whose benefit the funds were paid, together with the written statement of the beneficiary that the agreement was complied with, the bank, trust company or savings and loan association shall release such trust funds to the beneficiary.

History: 1953 c. 291.

156.13 Investigations; hearing; revocation of licenses. (1) The board may make investigations, subpoena witnesses, conduct hearings, suspend or revoke licenses of funeral directors and embalmers, certificates of registration of apprentices, and permits of operators of funeral establishments for commission of any crime involving moral turpitude, any violation of this chapter or of any rule or regulation of the board, or unprofessional conduct, including misrepresentation or fraud in obtaining the license, permit, or certificate of registration.

(2) No order revoking a license, certificate of registration, or permit shall be made until after a public hearing conducted by the board.

(3) At least 10 days prior to the date of hearing, the board shall send written notice of the time and place of such hearing to the complainant, and to the party complained against and to their respective attorneys or agents of record, by mailing the same to the last known address of such persons.

(4) The testimony presented and proceedings had at such hearings shall be taken in shorthand, transcribed and preserved as records of the board. The board shall as soon thereafter as possible make its findings in determination thereof, and send a copy to each interested party.

(5) The committee shall make recommendations to the board whether to revoke or suspend any license, permit or certificate of registration, after the public hearing.

History: 1951 c. 398.

156.14 Funeral directors; embalmers; who to employ. No public officer, employe or officer of any public institution, physician or surgeon shall send, or cause to be sent, to any funeral director, mortician or embalmer, the corpse of any deceased person, without having first made due inquiry as to the desires of the next of kin, or any persons who may be chargeable with the funeral expenses of such deceased person, and if any such kin or person be found, his authority or direction shall be received as to the disposal of such corpse.

History: 1951 c. 398.

156.15 Penalties. (1) Any person violating any provision of this chapter or any rule or regulation of the board relating to its subject matter, shall be fined not less than \$50 nor more than \$200, or imprisoned not less than 30 days nor more than 3 months.

(2) A funeral director who fails to file a death certificate and obtain burial permit before interring, depositing in vault or tomb, cremating or otherwise disposing of a dead human body, upon being convicted and fined for a second offense, shall have his license at once revoked, and he shall not be relicensed for at least one year and only after a regular examination.

History: 1951 c. 398.

156.16 Exceptions. No provision of this chapter shall apply to, or in any way interfere with the duties of any officer of any public institution, nor with the duties of any officer of a medical college, county medical society, anatomical association, accredited college of embalming or any other recognized person carrying out the provisions of the sections of the statutes prescribing the conditions under which indigent dead human bodies are held subject for anatomical study; nor with the customs or rites of any religious sect in the burial of their dead.