

1 HB88
2 127583-2
3 By Representative Hill
4 RFD: Insurance
5 First Read: 01-MAR-11

1 ENGROSSED

2
3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 Relating to the Alabama Board of Funeral Service; to
9 amend Sections 34-13-1, 34-13-7, 34-13-9, 34-13-11, 34-13-12,
10 34-13-20, 34-13-22, 34-13-23, 34-13-26, 34-13-50, 34-13-51,
11 34-13-52, 34-13-53, 34-13-55, 34-13-56, 34-13-70, 34-13-72,
12 34-13-73, 34-13-74, 34-13-90, 34-13-94, 34-13-111, 34-13-113,
13 34-13-114, 34-13-115, 34-13-116, 34-13-120, and 34-13-130,
14 Code of Alabama 1975, to define mortuary service and provide
15 further for the contents and square footage of a funeral
16 establishment and mortuary service; to increase the maximum
17 fine for funeral directing or operating a funeral
18 establishment without a license; to require all funeral
19 service, cemetery service, and funeral merchandise pricing to
20 conform to Federal Trade Commission rules; to specify who may
21 enter into a preneed contract; to revise the law relating
22 authorizing an agent for the purpose of directing the
23 disposition of remains and arranging for funeral services; to
24 further limit the liability of a funeral director who relies
25 upon an authorized agent; to provide further for diversity in
26 the membership of the board; to authorize the board to
27 delegate administration of license examinations; to increase

1 the number of days per year board members may receive per diem
2 from 10 to 20; to provide for the filing of a complaint
3 against a licensee and provide procedures for conducting
4 hearings; to require an applicant for licensure as a funeral
5 director to have graduated from an approved embalming school
6 or college; to increase the reciprocal license fees; to
7 provide for a temporary special work permit; to require the
8 public display of certificates of licensure; to increase
9 annual license renewal fees and reinstatement fees for funeral
10 directors, embalmers, and operators; to include failure to
11 cooperate with the board as a ground for punishment of a
12 licensee and to increase fines for violations; to increase the
13 application fee and examination fees for funeral directors; to
14 specify subjects and passing grade for the funeral directors
15 examination; to increase the fee for a special operating
16 permit; to increase the application fee and examination fee
17 for licensure as an embalmer; to specify the passing grade for
18 the embalmer's license examination; to increase the funeral
19 establishment license inspection fee, reinspection fee, annual
20 inspection fee, location transfer fee, and new branch or
21 location fee; to increase the application fee for a license to
22 operate a funeral establishment and provide further for the
23 contents of a funeral establishment; to require the submission
24 of an application, payment of an application fee, and an
25 inspection prior to operating a mortuary service; to increase
26 the fee and charge a fee for changing the name of a funeral
27 establishment or mortuary service; to authorize the board to

1 revoke, suspend, or refuse to renew the license of a mortuary
2 service; to increase the fine imposed upon any person, firm,
3 partnership, society, group, or corporation failing to
4 register a funeral home, mortuary, chapel, funeral
5 establishment, or mortuary service; to prohibit any crematory
6 facility from cremating deceased animals; to delete certain
7 antiquated language pertaining to an apprentice certificate or
8 license; to repeal Section 34-13-28, Code of Alabama 1975,
9 providing for the reporting of receipts and disbursements of
10 the board to the Governor and the Legislature; and to repeal
11 Article 4, consisting of Sections 34-13-150, 34-13-151, and
12 34-13-152, of Chapter 13, Title 34, Code of Alabama 1975,
13 relating to donor eye enucleation licenses; and to specify an
14 effective date.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Sections 34-13-1, 34-13-7, 34-13-9,
17 34-13-11, 34-13-12, 34-13-20, 34-13-22, 34-13-23, 34-13-26,
18 34-13-50, 34-13-51, 34-13-52, 34-13-53, 34-13-55, 34-13-56,
19 34-13-70, 34-13-72, 34-13-73, 34-13-74, 34-13-90, 34-13-94,
20 34-13-111, 34-13-113, 34-13-114, 34-13-115, 34-13-116,
21 34-13-120, and 34-13-130 of the Code of Alabama 1975, are
22 amended to read as follows:

23 "§34-13-1.

24 "(a) For purposes of this chapter, the following
25 terms shall have the following meanings:

26 "(1) ACCREDITED SCHOOL or COLLEGE OF MORTUARY
27 SCIENCE. A school or college approved by the Alabama Board of

1 Funeral Service and which maintains a course of instruction of
2 not less than 48 calendar weeks or four academic quarters or
3 college terms and which gives a course of instruction in the
4 fundamental subjects ~~as set forth~~ including, but not limited
5 to, the following:

6 "a. Mortuary management and administration.

7 "b. Legal medicine and toxicology as it pertains to
8 funeral directing.

9 "c. Public health, hygiene, and sanitary science.

10 "d. Mortuary science, to include embalming
11 technique, in all its aspects; chemistry of embalming, color
12 harmony; discoloration, its causes, effects, and treatment;
13 treatment of special cases; restorative art; funeral
14 management; and professional ethics.

15 "e. Anatomy and physiology.

16 "f. Chemistry, organic and inorganic.

17 "g. Pathology.

18 "h. Bacteriology.

19 "i. Sanitation and hygiene.

20 "j. Public health regulations.

21 "k. Other courses of instruction in fundamental
22 subjects as may be prescribed by the Alabama Board of Funeral
23 Service.

24 "(2) AMERICAN BOARD OF FUNERAL SERVICE EDUCATION.

25 That funeral service educational organization which is an
26 agency granted official recognition by the United States
27 Secretary of Education and which is composed of members

1 representing the American Association of College of Mortuary
2 Science, the Conference of Funeral Service Examining Board of
3 the United States, Inc., the National Association of Colleges
4 of Mortuary Science, and the University Mortuary Science
5 Education Association and which has as its object the
6 furtherance of education in the field of funeral service and
7 in fields necessary to, or allied with, the field of funeral
8 service, and further to formulate standards of funeral service
9 education and to grant accreditation to qualified schools and
10 colleges of mortuary science and to do all things incidental
11 to the foregoing.

12 "(3) APPRENTICE EMBALMER or EMBALMER'S APPRENTICE.
13 Any person engaged in the study of the art of embalming under
14 the instructions and supervision of a licensed embalmer
15 practicing in this state.

16 "(4) APPRENTICE FUNERAL DIRECTOR or FUNERAL
17 DIRECTOR'S APPRENTICE. Any person operating under or in
18 association with a funeral director for the purpose of
19 learning the business or profession of funeral director, to
20 the end that he or she may become licensed under ~~the~~
21 ~~provisions of~~ this chapter.

22 "(5) AUTHORIZING AGENT. A person at least 18 years
23 of age, except in the case of a surviving spouse or parent,
24 who is legally entitled to order the cremation or final
25 disposition of particular human remains.

26 "(6) BOARD. The Alabama Board of Funeral Service.

1 "(7) CEMETERY. A place dedicated to and used or
2 intended to be used for the permanent interment of human
3 remains. It may be either land or earth interment; a mausoleum
4 for vault or crypt entombment; a structure or place used or
5 intended to be used for the interment of cremated remains;
6 cryogenic storage; or any combination of one or more thereof.

7 "(8) CEMETERY AUTHORITY. Any individual, person,
8 firm, profit or nonprofit corporation, trustee, partnership,
9 society, religious society, church, association or
10 denomination, municipality, or other group or entity, however
11 organized, insofar as they or any of them may now or hereafter
12 establish, own, operate, lease, control, or manage one or more
13 cemeteries, burial parks, mausoleums, columbariums, or any
14 combination or variation thereof, or hold lands or structures
15 for burial grounds or burial purposes in this state and engage
16 in the operation of a cemetery, including any one or more of
17 the following: The care and maintenance of a cemetery; the
18 interment, entombment, and memorialization of the human dead
19 in a cemetery; the sale, installation, care, maintenance, or
20 any combination thereof, with respect of monuments, markers,
21 foundations, memorials, burial vaults, urns, crypts,
22 mausoleums, columbariums, flower vases, floral arrangements,
23 and other cemetery accessories, for installation or use within
24 a cemetery; and the supervision and conduct of funeral and
25 burial services within the bounds of the cemetery. It is the
26 legislative intent of this chapter that a cemetery authority,
27 to the extent that it engages in any of the activities

1 described in this subdivision, shall not be affected by this
2 chapter and shall not be deemed to have entered into or
3 engaged in the practice of funeral directing, embalming, or
4 funeral establishment operation.

5 "(9) CREMATION. The technical process, using heat
6 and flame, that reduces human remains to bone fragments. The
7 reduction takes place through heat and evaporation. Cremation
8 shall include the processing, and may include the
9 pulverization, of the bone fragments.

10 "(10) CREMATIONIST. A person who performs the
11 procedure of cremation.

12 "(11) CREMATORY. A building or portion of a building
13 that houses a retort and that may house a holding facility for
14 purposes of cremation and as part of a funeral establishment.

15 "(12) EMBALMER. Any person engaged or holding
16 himself or herself out as engaged in the business, practice,
17 science, or profession of embalming, whether on his or her own
18 behalf or in the employ of a registered and licensed funeral
19 director.

20 "(13) EMBALMING. The practice, science, or
21 profession, as commonly practiced, of preserving,
22 disinfecting, and preparing by application of chemicals or
23 other effectual methods, human dead for burial, cremation, or
24 transportation.

25 "(14) FUNERAL. A ceremony for celebrating,
26 sanctifying, or remembering the life of a person who has died.
27 A funeral may be divided into the following two parts:

1 "a. The funeral service, which may take place at a
2 funeral home, church, or other place.

3 "b. The disposition, which may take place by the
4 grave, tomb, mausoleum, or crematory where the body of the
5 decedent is to be buried or cremated.

6 "(15) (14) FUNERAL DIRECTING. The practice of
7 directing or supervising funerals, the practice of preparing
8 dead human bodies for burial by means other than embalming, or
9 the preparation for the disposition of dead human bodies; the
10 making of arrangements or providing for funeral services or
11 the making of financial arrangements for the rendering of
12 these services or the sale of this merchandise or supplies;
13 the provision or maintenance of a place for the preparation
14 for disposition of dead human bodies; or the use of the ~~words~~
15 ~~or term~~ terms funeral director," "undertaker," "mortician,"
16 "funeral parlor," or any other ~~word or term~~ from which can be
17 implied the practice of funeral directing; or the holding out
18 to the public that one is a funeral director or engaged in a
19 practice described in this subdivision.

20 "(16) (15) FUNERAL DIRECTOR. A person required to be
21 licensed to practice the profession of funeral directing under
22 the laws of this state, who meets the public, who plans
23 details of funeral services with members of the family and
24 minister or any other person responsible for such planning, or
25 who directs, is in charge, or apparent charge of, and
26 supervises funeral service in a funeral home, church, or other
27 place; who enters into the making, negotiation, or completion

1 of financial arrangements for funerals, including, but not
2 limited to, the sale and selection of funeral supplies, or who
3 uses in connection with the profession of funeral directing
4 the ~~words or terms~~ "funeral director," "undertaker," "funeral
5 counselor," "mortician," or any other ~~word, term, or picture~~
6 or combination thereof when considered in context in which
7 used, from which can be implied the practicing of the
8 profession of funeral directing or that the person using such
9 ~~word, term, or picture~~ can be implied to be holding himself or
10 herself out to the public as being engaged in the profession
11 of funeral directing; and for all purposes under Alabama law,
12 a funeral director is considered a professional; ~~provided,~~
13 ~~for.~~ For the purposes of this chapter, the term ~~or terms shall~~
14 does not include any cemetery authority ~~as defined in this~~
15 ~~section.~~

16 " (17) ~~(16)~~ FUNERAL ESTABLISHMENTS. The term "~~funeral~~
17 ~~home,~~" "~~mortuary,~~" or "~~funeral establishment~~" shall be
18 ~~construed to be a place~~ includes any funeral home or mortuary
19 service located at a specific street address ~~or location~~ where
20 the profession of funeral directing, embalming, or cremation,
21 ~~as defined in this chapter,~~ is practiced in the care,
22 planning, and preparation for burial or cremation or
23 transportation of human dead, ~~but shall.~~ The term does not
24 include any cemetery or land or structure owned, operated,
25 leased, controlled, or managed by any cemetery authority as a
26 cemetery. ~~All of such places~~ A funeral establishment shall
27 consist of and ~~shall~~ maintain all of the following facilities:

1 "a. A preparation room equipped with a sanitary
2 nonporous floor and walls, necessary drainage and ventilation,
3 and containing operating embalming equipment, necessary
4 approved tables, instruments, hot and cold running water,
5 containers or receptacles for soiled linen or clothing, and
6 supplies for the preparation and embalming of dead human
7 bodies for burial, cremation, and transportation.

8 "b. A display room containing a stock of adult
9 caskets and funeral supplies displayed in full size, cuts,
10 photographs, or electronic images. At no time shall less than
11 eight different adult size caskets be on the premises.

12 "c. At least one ~~motor vehicle~~ operating funeral
13 coach or hearse properly licensed and equipped for
14 transporting human remains in a casket or urn.

15 "d. If engaged in the practice of cremation, at
16 least one operable retort for cremation and an adequate supply
17 of urns for display and sale.

18 "e. A room suitable for public viewing or other
19 funeral services that is able to accommodate a minimum of 100
20 people.

21 "f. An office for holding arrangement conferences
22 with relatives or authorizing agents.

23 "(18) ~~(17)~~ FUNERAL SUPPLIES or FUNERAL MERCHANDISE.
24 Caskets made of any material for use in the burial or
25 transportation of human dead; outer receptacles, when sold by
26 a funeral director, including burial vaults and urns, for
27 cremated human remains; clothing used to dress human dead when

1 sold by a funeral director; and all equipment and
2 accouterments normally required for the preparation for burial
3 or funeral and other disposition of human dead.

4 "(19) MANAGING EMBALMER. A licensed embalmer who has
5 full charge, control, and supervision of all activities
6 involving the preparation room and embalming.

7 "(20) MANAGING FUNERAL DIRECTOR. A licensed funeral
8 director who has full charge, control, and supervision of all
9 activities involving funeral directing at a funeral
10 establishment.

11 "(21) ~~(18)~~ MORTUARY SCIENCE. The scientific,
12 professional, and practical aspects, with due consideration
13 given to accepted practices, covering the care, preparation
14 for burial, or transportation of dead human bodies, which
15 shall include the preservation and sanitation of the bodies
16 and restorative art and those aspects related to public
17 health, jurisprudence, and good business administration.

18 "(22) MORTUARY SERVICE. A location with a specific
19 street address where embalming or cremation, or both, is
20 practiced for a licensed funeral establishment and where no
21 services or merchandise are sold directly or at retail to the
22 public. A mortuary service shall consist of and maintain all
23 of the following facilities:

24 "a. A preparation room equipped with sanitary
25 nonporous floor and walls, operating embalming equipment, and
26 necessary drainage and ventilation and containing necessary
27 approved tables, instruments, hot and cold running water,

1 containers or receptacles for soiled linen or clothing, and
2 supplies for the preparation and embalming of dead human
3 bodies for burial, cremation, and transportation.

4 "b. At least one operating motor vehicle properly
5 licensed and equipped for transporting human remains in a
6 casket or urn.

7 "c. If engaged in the practice of cremation, at
8 least one operable retort for cremation.

9 "(23) ~~(19)~~ OPERATOR. A person, corporation, firm,
10 legal representative, or other organization owning or
11 operating a funeral establishment.

12 "(24) ~~(20)~~ PRACTICAL EMBALMERS. Any person who has
13 been actively and continuously engaged or employed in the
14 practice of embalming under the supervision of a licensed
15 embalmer for four consecutive years immediately preceding May
16 1, 1975, and has been issued a license as a practical embalmer
17 under the grandfather provisions of this chapter.

18 "(25) ~~(21)~~ PROCESSING or PULVERIZATION. The
19 reduction of identifiable bone fragments after the completion
20 of the cremation process to unidentifiable bone fragments or
21 granulated particles by manual or mechanical means.

22 "(26) ~~(22)~~ RETORT. An enclosed space within which
23 the cremation process takes place.

24 "(27) ~~(23)~~ TEMPORARY CONTAINER. A receptacle for
25 cremated remains, usually composed of cardboard, plastic, or
26 similar material, that can be closed in a manner that prevents
27 the leakage or spillage of the cremated remains or the

1 entrance of foreign material, and is a single container of
2 sufficient size to hold the cremated remains until an urn is
3 acquired or the cremated remains are scattered or buried.

4 "(28) ~~(24)~~ URN. A receptacle designed to encase
5 cremated remains.

6 "(b) Nothing in this chapter shall require a funeral
7 director or funeral establishment to have or provide a chapel
8 or to restrict, ~~in any manner,~~ the conduct of funeral services
9 from a church or chapel.

10 "(c) Nothing contained in the definition of funeral
11 directing, or in any other provision of this chapter, shall ~~be~~
12 ~~deemed or construed to~~ be applicable to, or ~~to~~ regulate or
13 restrict, ~~in any manner,~~ cemetery authorities in the conduct
14 of activities of a cemetery authority ~~as defined in this~~
15 ~~chapter;~~ or ~~to~~ be applicable to, or ~~to~~ regulate or restrict,
16 ~~in any manner,~~ the carrying on by any cemetery authority of
17 any ~~and all~~ activities, functions, practices, and services
18 which may now or hereafter ~~(i)~~ (1) constitute any part of the
19 operation or management of a cemetery or of the property of a
20 cemetery ~~as defined in this chapter~~ or ~~(ii)~~ (2) otherwise
21 consist of the interment or entombment of the human dead or
22 memorialization of the human dead in any manner within a
23 cemetery property.

24 "§34-13-7.

25 "~~Each and every~~ Any person who embezzles, abstracts,
26 or willfully misapplies any of the moneys, funds, security, or
27 credit of the ~~Alabama Board of Funeral Service~~ board or who

1 misuses any of the funds or fees so collected, by virtue of
2 this chapter, and any person who, with like intent, aids or
3 abets any person in violation of this chapter, ~~or any portion~~
4 ~~thereof,~~ shall be ~~deemed~~ guilty of a felony and, upon
5 conviction ~~thereof,~~ shall be punished by a fine of not less
6 than ~~\$500~~ five hundred dollars (\$500) nor exceeding ~~\$5,000~~
7 five thousand dollars (\$5,000) and imprisonment in the
8 penitentiary for a period of not less than one year and not
9 more than five years, and the principal offenders and those
10 aiding and abetting same may be charged in the same count, and
11 separate offenses may be charged, in separate counts, in the
12 same indictment and tried together. Any person found guilty
13 of offering or of accepting a bribe whereupon any person is
14 illegally licensed to practice embalming, to practice funeral
15 directing, or to operate a funeral establishment in this state
16 shall be punished by a fine of not less than ~~\$500~~ five hundred
17 dollars (\$500) nor exceeding ten thousand dollars (\$10,000)
18 and may be imprisoned in the penitentiary for a period of one
19 to three years, and the principal offenders and those aiding
20 and abetting same may be charged in the same count and
21 separate offenses may be charged in separate counts in the
22 same indictment and tried together.

23 "§34-13-9.

24 ~~"Each funeral home shall have a card or brochure in~~
25 ~~each casket stating the price of the funeral service using the~~
26 ~~casket and listing the services and other merchandise included~~
27 ~~in the price. Where there are separate prices for the casket,~~

1 the professional services, the use of facilities, and the use
2 of equipment, such card shall indicate the price of each such
3 item, except in those instances such as unknown transportation
4 costs and similar items, which services must be stated with
5 the price to be fixed upon billing. When the arrangers decide
6 on the type of service desired, the firm must provide or cause
7 to be provided to the person or persons making the
8 arrangements, at the time such arrangements are completed and
9 prior to the time of rendering the service or providing the
10 merchandise, a written statement showing (1) the price of the
11 service that the person or persons have selected and what is
12 included therein; (2) the price of each of the supplemental
13 items of service and merchandise requested; (3) the amount
14 involved for each of the items for which the funeral service
15 home will advance money as an accommodation to the family; and
16 (4) the method of payment. No additional charges shall be made
17 without approval of the arrangers except as stated in this
18 section Funeral service, cemetery service, and funeral
19 merchandise pricing shall conform to rules established by the
20 Federal Trade Commission.

21 "§34-13-11.

22 "The following persons, in the priority listed
23 herein, may serve as an authorizing agent:

24 "(1) The person designated by the decedent as
25 authorized to direct disposition pursuant to Public Law No.
26 109-163, Section 564, as listed on the decedent's United
27 States Department of Defense Record of Emergency Data, DD Form

1 ~~93, or its successor form, if the decedent died while serving~~
2 ~~on active duty in any branch of the United States Armed~~
3 ~~Forces, United States Reserve Forces, or National Guard.~~

4 ~~"(2) The decedent's spouse at the time of the~~
5 ~~decedent's death.~~

6 ~~"(3) The decedent's surviving children. If there is~~
7 ~~more than one child who qualifies as an authorizing agent, any~~
8 ~~such child may serve as the authorizing agent except, in the~~
9 ~~case of a cremation, such child must submit by affidavit the~~
10 ~~consent of all other surviving children to serve as~~
11 ~~authorizing agent. If any surviving child is unable to be~~
12 ~~notified of a pending cremation, the remaining children may~~
13 ~~select the authorizing agent by submission of legal~~
14 ~~documentation of the inability to notify the absent child or~~
15 ~~children. If the funeral director receives written objection~~
16 ~~to such cremation from any child before cremation, no~~
17 ~~cremation shall be performed except upon the written~~
18 ~~withdrawal of the objection or upon the order of a court of~~
19 ~~competent jurisdiction.~~

20 ~~"(4) The decedent's surviving parents. If the~~
21 ~~decedent is survived by two parents, either parent may serve~~
22 ~~as the authorizing agent except, in the case of a cremation,~~
23 ~~such parent must submit by affidavit the consent of the other~~
24 ~~surviving parent to serve as authorizing agent. If the other~~
25 ~~surviving parent is unable to be notified of a pending~~
26 ~~cremation, a parent may serve as the authorizing agent by~~
27 ~~submission of legal documentation of the inability to notify~~

1 the absent parent. If the funeral director receives written
2 objection to such cremation from either parent before
3 cremation, no cremation shall be performed except upon the
4 written withdrawal of the objection or upon the order of a
5 court of competent jurisdiction.

6 "(5) The decedent's surviving siblings. If there is
7 more than one sibling who qualifies as an authorizing agent,
8 any sibling may serve as the authorizing agent except, in the
9 case of a cremation, such sibling must submit by affidavit the
10 consent of all other surviving siblings to serve as
11 authorizing agent. If any surviving sibling is unable to be
12 notified of a pending cremation, the remaining siblings may
13 select the authorizing agent by submission of legal
14 documentation of the inability to notify the absent sibling or
15 siblings. If the funeral director receives written objection
16 to such cremation from any sibling before cremation, no
17 cremation shall be performed except upon the written
18 withdrawal of the objection or upon the order of a court of
19 competent jurisdiction.

20 "(6) Any person acting on the decedent's signed
21 written instructions regarding final disposition contained in
22 a preneed funeral contract and, in the case of cremation, a
23 cremation authorization form signed by the decedent.

24 "(7) Any person serving as executor or legal
25 representative of a decedent's estate and acting on the
26 decedent's signed, written instructions contained in a will or

1 other writing, regardless of whether the will has been
2 probated.

3 ~~"(8) The person in the next degree of kinship under
4 the laws of descent and distribution to inherit the decedent's
5 estate. If there is more than one person of the same degree,
6 any such person may serve as the authorizing agent.~~

7 ~~"(9) In the case of indigents or any other
8 individuals whose final disposition is the responsibility of
9 the state or any of its subdivisions or agencies, a public
10 administrator, medical examiner, coroner, or any other public
11 official charged with arranging the final disposition shall
12 serve as the authorizing agent in the absence or refusal of
13 any person described in subdivisions (2) to (8), inclusive.~~

14 ~~"(10) In the absence or refusal of any person
15 described in subdivisions (2) to (8), inclusive, any person
16 willing to assume the responsibility as authorizing agent.~~

17 "(a) A person, who is at least 18 years of age and
18 of sound mind, may enter into a contract to act as authorizing
19 agent and direct the location, manner, and conditions of
20 disposition of remains and arrange for funeral goods and
21 services to be provided upon death. Except as otherwise
22 provided in subsection (b), the right to control the
23 disposition of the remains of a deceased person as an
24 authorizing agent, including the location, manner, and
25 conditions of disposition and arrangements for funeral goods
26 and services to be provided, shall vest in the following

1 persons in the priority listed and the order named, provided
2 the person is at least 18 years of age and of sound mind:

3 "(1) The person designated by the decedent as
4 authorized to direct disposition pursuant to Public Law No.
5 109-163, Section 564, as listed on the decedent's United
6 States Department of Defense Record of Emergency Data, DD Form
7 93, or its successor form, if the decedent died while serving
8 on active duty in any branch of the United States Armed
9 Forces, United States Reserve Forces, or National Guard.

10 "(2)a. The person designated by the decedent in an
11 affidavit executed in accordance with paragraph b.

12 "b. Any person, at least 18 years of age and of
13 sound mind, may authorize another person to control the
14 disposition of his or her remains pursuant to an affidavit
15 executed before a notary public in substantially the following
16 form:

17 "State of Alabama

18 County of _____

19 "I, _____ designate _____ to
20 control the disposition of my remains upon my death. I ___ have
21 ___ have not attached specific directions concerning the
22 disposition of my remains. If specific directions are
23 attached, the designee shall substantially comply with those
24 directions, provided the directions are lawful and there are
25 sufficient resources in my estate to carry out those
26 directions.

1 "Subscribed and sworn to before me this ____ day of
2 the month of _____ of the year _____.

3 "_____ (signature of notary public)"

4 "(3) The surviving spouse.

5 "(4) The sole surviving child of the decedent or, if
6 there is more than one surviving child, a majority of the
7 surviving children. Less than a majority of the surviving
8 children may be vested with the rights of this section if
9 reasonable efforts have been made to notify all surviving
10 children of the instructions and a majority of the surviving
11 children are not aware of any opposition to the instructions.

12 "(5) The surviving parent or parents of the
13 decedent. If one surviving parent is absent, the remaining
14 parent shall be vested with the rights and duties of this
15 section after reasonable efforts in locating the absent
16 surviving parent have been unsuccessful.

17 "(6) The surviving sibling of the decedent or, if
18 there is more than one surviving sibling, a majority of the
19 surviving siblings. Less than a majority of the surviving
20 siblings may be vested with the rights and duties of this
21 section if reasonable efforts have been made to notify all
22 surviving siblings of the instructions and a majority of the
23 surviving siblings are not aware of any opposition to the
24 instructions.

25 "(7) The surviving grandparent of the decedent or,
26 if there is more than one surviving grandparent, a majority of
27 the surviving grandparents. Less than a majority of the

1 surviving grandparents may be vested with the rights and
2 duties of this section if reasonable efforts have been made to
3 notify all surviving grandparents of the instructions and a
4 majority of the surviving grandparents are not aware of any
5 opposition to the instructions.

6 "(8) The guardian of the decedent at the time of the
7 death of the decedent, if a guardian had been appointed.

8 "(9) The personal representative of the estate of
9 the decedent.

10 "(10) The person in the classes of the next degree
11 of kinship, in descending order, under the laws of descent and
12 distribution to inherit the estate of the decedent. If there
13 is more than one person of the same degree, any person of that
14 degree may exercise the right of disposition.

15 "(11) The public officer, administrator, or employee
16 responsible for arranging the final disposition of the remains
17 of the decedent if the disposition of the remains is the
18 responsibility of the state or a political subdivision of the
19 state.

20 "(12) Any other person willing to assume the
21 responsibility of acting on and arranging the final
22 disposition of the remains of the decedent, including the
23 funeral director that has custody of the body, in the absence
24 of any person specified in subdivisions (1) to (11),
25 inclusive. The person shall attest in writing that good faith
26 efforts to contact the persons specified in subdivisions (1)
27 to (11), inclusive, have been unsuccessful.

1 "(b) The right of disposition shall be forfeited and
2 passed to the next qualifying person listed in subsection (a),
3 in any of the following circumstances:

4 "(1) The person is charged with first or second
5 degree murder or voluntary manslaughter in connection with the
6 death of the decedent and the charges are known by the
7 mortician. If the charges against the person are dismissed or
8 the person is acquitted of the charges, the right of
9 disposition shall be reinstated.

10 "(2) The person does not exercise his or her right
11 of disposition within two days after notification of the death
12 of the decedent or within three days after the death of the
13 decedent, whichever is earlier.

14 "(3) If the person is the spouse of the decedent and
15 a petition to dissolve the marriage was pending at the time of
16 death of the decedent.

17 "(4) If the judge of probate court determines,
18 pursuant to subsection (c), that the person entitled to the
19 right of disposition and the decedent were estranged at the
20 time of death. For the purposes of this subdivision, estranged
21 means a physical and emotional separation that has existed for
22 such a period of time that an absence of affection, trust, and
23 regard for the decedent is clearly demonstrated.

24 "(c) Notwithstanding subsections (a) and (b), the
25 judge of probate of the county of residence of the decedent
26 may award the right of disposition to the person the judge of
27 probate determines to be the most fit and appropriate to

1 manage the right of disposition, and may make decisions
2 regarding the remains of the decedent if the persons
3 possessing the right of disposition do not agree. If two or
4 more persons who possess an equal right of disposition are not
5 able by majority vote to agree upon the disposition of the
6 remains of the decedent, any of those persons or the funeral
7 establishment with custody of the remains may file a petition
8 asking the judge of probate to make a determination in the
9 matter. In making such a determination, the judge of probate
10 shall consider all of the following:

11 "(1) The reasonableness and practicality of the
12 proposed funeral and disposition arrangements.

13 "(2) The degree of the personal relationship between
14 the decedent and each person possessing a right of
15 disposition.

16 "(3) The financial ability and willingness of each
17 person possessing a right of disposition to pay the cost of
18 the funeral and disposition arrangements.

19 "(4) The convenience and needs of other family
20 members and friends who wish to pay their respects and the
21 degree to which the funeral arrangements would allow maximum
22 participation by all who wish to pay their respects.

23 "(5) The desires of the decedent.

24 "(d) Absent negligence, wantonness, recklessness, or
25 deliberate misconduct in the event of a dispute regarding the
26 right of disposition, a funeral establishment may not be held
27 liable for refusing to accept remains, for interring, or for

1 otherwise disposing of the remains of a decedent or for
2 completing arrangements for the final disposition of remains
3 unless and until the funeral establishment receives an order
4 from the judge of probate, or other written agreement signed
5 by all persons possessing a right of disposition, regarding
6 the final disposition of the remains. If a funeral
7 establishment retains remains for final disposition during a
8 disagreement, the funeral establishment may embalm or
9 refrigerate and shelter the body, or both, to preserve the
10 body pending the final decision of the judge of probate. The
11 funeral establishment may add the cost of embalming or
12 refrigeration and sheltering, or both, to the final
13 disposition cost. If a funeral establishment files a petition
14 pursuant to subsection (c), the funeral establishment may add
15 any associated legal fees and court costs to the cost of final
16 disposition. This section may not be construed to require or
17 impose a duty upon a funeral establishment to bring an action
18 pursuant to this section. A funeral establishment and its
19 employees may not be held criminally or civilly liable for not
20 bringing an action pursuant to this section.

21 "(e) Except to the degree that it may be considered
22 by the judge of probate pursuant to subdivision (3) of
23 subsection (c), the fact that a person has paid or has agreed
24 to pay for all or a part of funeral and final disposition
25 arrangements does not give that person a greater voice in
26 right of disposition decisions than he or she would have had
27 otherwise. The personal representative of the estate of a

1 decedent, by virtue of being the personal representative, does
2 not have a greater voice in right of disposition decisions
3 than he or she would have had otherwise.

4 "§34-13-12.

5 "~~(a) A funeral director or funeral establishment~~
6 ~~that has received expressed written authorization for final~~
7 ~~disposition or cremation from the authorizing agent shall not~~
8 ~~be liable for the final disposition or cremation of the human~~
9 ~~remains designated by the authorization if the disposition or~~
10 ~~cremation is performed in accordance with this chapter, nor~~
11 ~~shall a funeral director or funeral establishment be liable~~
12 ~~for following, in a reasonable fashion, the instructions of~~
13 ~~any person who falsely represents being the proper authorizing~~
14 ~~agent.~~

15 "~~(b) Absent the receipt of a court order or other~~
16 ~~suitable confirmation of resolution, a funeral director or~~
17 ~~funeral establishment may not be liable for refusing to accept~~
18 ~~human remains for final disposition or for refusing to perform~~
19 ~~a cremation, if the funeral director or other agent of the~~
20 ~~funeral establishment: (1) Is aware of any dispute concerning~~
21 ~~the final disposition or cremation of the human remains; or~~
22 ~~(2) has a reasonable basis for questioning any of the~~
23 ~~representations made by the authorizing agent. A funeral~~
24 ~~director or other agent of the funeral establishment may not~~
25 ~~be liable for refusing to accept human remains for any lawful~~
26 ~~reason.~~

1 "(a) Any person signing a funeral service agreement,
2 cremation authorization form, or any other authorization for
3 disposition by his or her signature shall attest to the
4 truthfulness of any facts set forth in the document including,
5 but not limited to, the identity of the decedent whose remains
6 are to be buried, cremated, or otherwise disposed of and the
7 authority of the person to order the disposition. A funeral
8 establishment may rely on a funeral service agreement,
9 contract, or authorization in carrying out the instructions of
10 the person the funeral establishment reasonably believes to
11 hold the right of disposition. A funeral establishment is not
12 responsible for contacting or independently investigating the
13 existence of any next-of-kin or relative of a decedent. If
14 there is more than one person in a class with equal priority
15 and the funeral establishment has no knowledge of any
16 objection by any other member of that class, the funeral
17 establishment may rely upon and act according to the
18 instructions of the first person in the class to make funeral
19 and disposition arrangements.

20 "(b) Absent negligence, wantonness, recklessness, or
21 deliberate misconduct, no funeral establishment or funeral
22 director who relies in good faith upon the instructions of a
23 person who claims a right of disposition shall be subject to
24 criminal or civil liability, or be subject to disciplinary
25 action, for carrying out the disposition of the remains in
26 accordance with those instructions.

27 "§34-13-20.

1 "(a) There is established the Alabama Board of
2 Funeral Service, consisting of seven members, each of whom
3 shall be citizens of the United States and of the State of
4 Alabama. All members of the former Alabama Embalming Board who
5 are holding office on September 10, 1975, by virtue of that
6 office, shall become members of the Alabama Board of Funeral
7 Service for the term ending December 31, 1976. Not more than
8 one member of the Alabama Board of Funeral Service may reside
9 in the same district as created under Section 34-13-21, and if
10 more than one member of the State Embalming Board resides in
11 one district at the time of the organization of the board, the
12 Governor shall select one member of the Embalming Board to be
13 a member of the original Alabama Board of Funeral Service from
14 the district, and the other member of the Embalming Board
15 shall not be eligible for membership on the board.

16 "(b) At a special meeting called for such purpose,
17 to be held in Montgomery, within 45 days from September 10,
18 1975, the Alabama Funeral Directors Association, Incorporated,
19 and the Alabama Funeral Directors and Morticians Association,
20 Incorporated, in joint meeting, shall nominate three qualified
21 persons for each of the positions as members of the original
22 board of the Alabama Board of Funeral Service which are not
23 filled by members of the State Embalming Board. The names of
24 such persons so nominated shall be promptly certified by the
25 secretary of the Alabama Funeral Directors Association,
26 Incorporated, and the Alabama Funeral Directors and Morticians
27 Association, Incorporated, to the Governor who shall appoint

1 the members of the board from among the persons so nominated.
2 Not more than four members of the board at any time may be
3 members of the same race and the membership of the board shall
4 be inclusive and reflect the racial, gender, geographic,
5 urban/rural, and economic diversity of the state. The board
6 shall annually report to the Legislature by the second
7 legislative day of each regular session the extent to which
8 the board has complied with the diversity provisions provided
9 for in this subsection. The board shall annually report to the
10 Legislature by the second legislative day of each regular
11 session the extent to which the board has complied with the
12 diversity provisions provided for in this subsection. Four
13 members shall be appointed for a term ending December 31,
14 1977, and the board shall be constituted so that the terms of
15 three members of the board shall end December 31, 1976, and
16 the terms of four members shall end December 31, 1977. The
17 terms of the members of the State Embalming Board, who become
18 members of the Alabama Board of Funeral Service under this
19 chapter, shall expire December 31, 1976, unless there are more
20 than three such members, in which event, the Governor shall
21 designate which of the three members of the State Embalming
22 Board shall serve for terms ending December 31, 1976, and
23 which shall serve for terms ending December 31, 1977.

24 "(c) After selection of the original members of the
25 Alabama Board of Funeral Service and during October of each
26 year, all embalmers and all funeral directors licensed under
27 this chapter shall meet in Montgomery, at a time and date in

1 October and at a place fixed by the board, for the purpose of
2 nominating three persons to the Governor for each vacancy on
3 the board, ~~and the~~. Not more than two nominees shall be
4 members of the same race. The Governor shall promptly appoint
5 one of the three persons so nominated.

6 "(d) The successors to the original members of the
7 board shall be selected for terms of two years. After the
8 terms of the original members of the board, four of the
9 members serving on the board shall be practicing and licensed
10 embalmers in Alabama for the last 10 consecutive years
11 immediately preceding their appointment and shall be licensed
12 embalmers and funeral directors in this state under this
13 chapter. Three of the members shall have been actively engaged
14 in funeral directing in Alabama for the last 10 consecutive
15 years preceding their appointment and shall be licensed
16 funeral directors of this state, under this chapter, and
17 ~~shall~~, at the time of their appointment to the board, shall be
18 operators of funeral establishments in this state. If the
19 license of a member of the board as a funeral director or
20 embalmer should be revoked or suspended, such member shall
21 automatically, by reason of such revocation or suspension,
22 become ineligible to serve as a member of the board, and a new
23 member, properly qualified, shall be selected in the same
24 manner provided for appointment to the board. Should a member
25 fail to qualify after appointment, then he or she shall
26 automatically become ineligible to serve as a member of the
27 board, and a new member, properly qualified, shall be

1 appointed and shall serve the remainder of the term of the
2 member so terminated. Each member of the board shall remain an
3 active practicing funeral director or embalmer and funeral
4 establishment operator during his or her tenure of service on
5 the board. Each member may ~~be reappointed for one additional~~
6 ~~two-year term, or new members may be appointed under this~~
7 ~~chapter. No person shall serve more than a total of four years~~
8 ~~as a member of the board~~ serve not more than four consecutive
9 two-year terms. In no event shall more than one member of the
10 board reside in one district. At each meeting where
11 nominations are made for members of the board, only one
12 licensed funeral director or licensed embalmer of each
13 establishment shall have the right to vote for nominees.

14 "(e) Any board member who is elected to the ~~national~~
15 ~~board shall~~ International Conference of Funeral Service
16 Examining Board, upon his or her election, shall begin to
17 serve the state board in an ex officio capacity only, for the
18 duration of his or her ~~national~~ international conference board
19 term. A member, properly qualified, shall be selected in the
20 same manner provided for appointment to the state board and
21 shall serve the remainder of the term of the member elected to
22 the ~~national~~ international conference board.

23 "§34-13-22.

24 "The Alabama Board of Funeral Service shall hold not
25 less than one meeting quarterly for the purpose of examining
26 applicants for licenses, such meeting to be held at such time
27 and place as the board may determine after notice of such

1 meeting has been given in the manner prescribed herein at
2 least 15 days prior to such meeting. The board shall not have
3 power to delegate to any person who is not a member of the
4 board the authority to conduct or administer an examination
5 for a license, ~~it being the intent of this chapter that only~~
6 ~~members of the board may conduct or administer examinations~~
7 ~~for licenses~~. The board may hold such other meetings as it may
8 deem necessary. Five or more members shall comprise a quorum.
9 The board shall not meet on the premises of any embalming
10 school or college of mortuary science; and, if any such
11 meeting is held, all the proceedings of such meeting shall be
12 void. If any application for license under this chapter ~~are~~ is
13 pending, the applicant or applicants shall be afforded the
14 right to take the examination required hereunder at the date
15 and place of such quarterly meeting.

16 "§34-13-23.

17 "(a) (1) The board appointed under ~~the provisions of~~
18 this chapter and each successor thereto is authorized to
19 select from its own membership a ~~chairman~~ chair and to adopt
20 and promulgate such rules and regulations for the transaction
21 of its business and for the betterment and promotion of the
22 standards of service and practice to be followed in the
23 funeral service profession in the State of Alabama as it may
24 deem expedient and consistent with the laws of this state and
25 for the public good.

26 "(2) ~~The chairman of the board~~ chair shall preside
27 at all meetings of the board unless otherwise ordered, and he

1 shall exercise and perform all duties and functions incident
2 to the office of ~~chairman of the board~~ chair.

3 "(3) The board may select also from its own
4 membership a ~~vice-chairman~~ vice chair, a secretary, and a
5 treasurer. No two offices shall be held by the same person.
6 The ~~chairman~~ chair and ~~vice-chairman~~ shall vice chair may not
7 be of the same race.

8 "(b) The treasurer shall give bond to the State of
9 Alabama in the sum of ~~\$10,000~~ ten thousand dollars (\$10,000),
10 and any premium payable for the bond shall be paid from the
11 funds of the board. The bond shall be deposited with the
12 Treasurer of the State of Alabama.

13 "(c) Board members shall be reimbursed for their
14 necessary traveling expenses and the necessary expenses
15 incident to their attendance upon the business of the board,
16 and, in addition thereto, they shall receive the sum of ~~\$50~~
17 fifty dollars (\$50) per diem for every day not to exceed ~~10~~ 20
18 days per year actually spent by the member upon the business
19 of the board. The board may employ an executive secretary and
20 associate executive secretary who shall each receive and be
21 paid an annual salary to be fixed by the board, but not to
22 exceed the salary level established and paid to cabinet
23 officers in the state government. The salary shall be paid on
24 a monthly basis. In addition, the executive secretary and
25 associate executive secretary shall receive his or her
26 necessary traveling and other incidental expenses as are
27 incurred in the performance of duties, and all expenses, per

1 diem, and compensation shall be paid out of the receipts of
2 the board. At no time shall the operation of the board be an
3 expense to the state, and at no time shall expenses of the
4 board exceed the receipts ~~hereof~~ of the board.

5 "(d) The executive secretary of the board shall have
6 complete supervision and be held responsible for the direction
7 of the office of the board ~~and~~, shall have supervision over
8 field inspection and enforcement of ~~the provisions of~~ this
9 chapter, and shall be responsible and answerable to the board.
10 The associate executive secretary shall assist the executive
11 secretary and perform such other duties as may be assigned to
12 him or her by the board. The executive secretary and associate
13 executive secretary shall not be of the same race.

14 "(e) The executive secretary ~~of the board~~ shall keep
15 a record in which shall be registered the name and business
16 address of every person to whom licenses have been granted in
17 accordance with this chapter, the number and date of the
18 license and the date of each renewal. Upon request to do so,
19 the executive secretary ~~of the board~~ shall supply each person
20 licensed for the practice of embalming and funeral directing
21 with a list of all persons and establishments holding a
22 license under this chapter, then in force, giving the names of
23 the persons, their business addresses, and the numbers of
24 their licenses.

25 "(f) It shall be the duty of the executive secretary
26 ~~of the board~~ to prepare under the direction of the board and
27 cause to be printed all forms required by this chapter to be

1 prescribed by the board. All notices required to be mailed by
2 ~~any provision of~~ this chapter shall be directed to the last
3 known post office address of the party to whom the notice is
4 sent.

5 "(g) The executive secretary shall serve at the
6 pleasure of the board and shall perform duties as may be
7 necessary for the proper functioning of the board as the board
8 may determine or as may be prescribed in this chapter. During
9 ~~and for three years after his or her~~ the employment, ~~neither~~
10 ~~of the executive secretary nor any member of his or her family~~
11 ~~within the third degree shall~~ he or she may not be employed by
12 any funeral establishment.

13 "(h) All fees and fines received under ~~the~~
14 ~~provisions of~~ this chapter shall be paid into a special fund
15 in the State Treasury to be known as the Alabama State Funeral
16 Directors and Embalmers Fund, which is hereby created, for the
17 necessary and proper expenses of the board, and for a
18 reasonable reserve for future use by the board. All moneys in
19 the fund are hereby appropriated, as a continuing
20 appropriation, to the Alabama Board of Funeral Service to be
21 used for carrying out ~~any of the provisions of~~ this chapter.

22 "(i) Each member of the board, the executive
23 secretary, the associate executive secretary, and designated
24 employees of the board appropriately identified are authorized
25 at any given time on complaint or for inspection purposes to
26 enter the office, premises, establishment, or place of
27 business of any funeral service licensee in the State of

1 Alabama or any office, premises, establishment, or place where
2 the practice of funeral service is carried on, or where the
3 practice is advertised as being carried on, for the purpose of
4 inspecting the office, premises, or establishment and for the
5 purpose of inspecting the license and registration of any
6 funeral service licensee and apprentice trainee operating
7 therein.

8 "(j) All members of the board or designated
9 employees of the board are hereby authorized to serve and
10 execute any process issued by any court under ~~the provisions~~
11 ~~of~~ this chapter and to serve and execute any papers or process
12 issued by the board or any officer or member thereof under
13 authority of this chapter.

14 "~~(j)~~ (k) The board may employ clerical assistants
15 and employees or other help as may be necessary to carry out
16 ~~the provisions of~~ this chapter, and the terms and conditions
17 of employment shall be determined by the board. The board may
18 establish and equip an office from which ~~the provisions of~~
19 this chapter may be carried out.

20 "§34-13-26.

21 "(a) The board has the power to adopt and enforce
22 for the protection of the public health, safety, and welfare
23 reasonable rules and regulations.

24 "(b) The rules and regulations of the board shall
25 not become effective until they have been published and
26 discussed at a public hearing and have been filed in the
27 office of the Secretary of State; and, when so filed, such

1 rules and regulations shall be in full force and have the
2 effect of law. The board shall mail notice of such hearing to
3 each licensee under this chapter 15 days before the date of
4 such hearing.

5 "(c) All rules and regulations adopted by the board
6 shall be referenced to the section or sections of this chapter
7 which set forth the legislative standard which it interprets
8 or to which it applies. Every rule and regulation shall be in
9 writing, promulgated by an order, state its effective date, be
10 indexed in a permanent book which shall be a permanent record,
11 and a true copy shall be filed in the office of the Secretary
12 of State of Alabama. A copy of every order promulgating a
13 rule, regulation, or other order containing a requirement of
14 general application shall be mailed to each licensee by first
15 class mail. The failure of a licensee to receive a copy of the
16 rule, regulation, or order shall not exempt or excuse him or
17 her from the duty of compliance with the valid rules,
18 regulations, or orders lawfully issued.

19 "(d) The board shall have power to hold hearings,
20 conduct investigations, subpoena witnesses, administer oaths,
21 and take testimony in order to carry out ~~the provisions of~~
22 this chapter.

23 "(e) A court of competent jurisdiction ~~may~~, upon
24 application of the board, may restrain violations or refusals
25 to comply with ~~the provisions of~~ this chapter or the
26 regulations of the board.

1 "(f) Any person, including a member of the board,
2 may initiate a complaint against a licensee of the board by
3 filing with the board a written complaint on a form prescribed
4 by the board.

5 "(1) Upon receipt of a properly verified complaint,
6 the board shall send a copy of the complaint to the affected
7 licensee by certified mail to the address of such licensee
8 appearing on record with the board. The licensee shall answer
9 the complaint in writing within 20 days after receipt of the
10 complaint. The licensee shall mail a copy of his or her
11 response to the board and the complainant. Upon receipt of the
12 response of the licensee or lapse of 20 days, the board may
13 investigate a complaint that appears to show the existence of
14 any of the causes or grounds for disciplinary action pursuant
15 to this chapter. Upon finding reasonable cause to believe that
16 the charges are not frivolous, unfounded, or filed in bad
17 faith, the board may cause a hearing to be held, at a time and
18 place fixed by the board, regarding the charges. If a hearing
19 is held, the board shall order the licensee to appear and show
20 cause why he or she should not be disciplined for a violation
21 of this chapter.

22 "(2) The board shall give the complainant and the
23 affected licensee 20 days' notice of any hearing upon a
24 complaint. Such notice shall be by United States certified
25 mail.

26 "(3) Any party appearing before the board may be
27 accompanied by counsel.

1 "(4) Before commencing a hearing, the chair or a
2 designee of the board shall determine if all parties are
3 present and ready to proceed. If the complainant does not
4 attend a hearing and does not show good cause for his or her
5 absence, the complaint shall be summarily dismissed and all
6 fees and expenses relating to the convening of the hearing
7 shall be charged to the complainant. If an affected licensee
8 does not appear for a hearing and does not show good cause for
9 his or her absence, the licensee shall be presumed to have
10 waived his or her right to appear before the board and be
11 heard.

12 "(5) Upon a determination by the chair or designee
13 that all parties are ready to proceed, the hearing shall be
14 called to order. The complainant and the licensee may offer
15 opening statements and the board may order the sequestration
16 of nonparty witnesses.

17 "(6) After opening statements, the complainant shall
18 present his or her case and the licensee, any counsel, and any
19 member or designee of the board may ask questions of
20 complainant witnesses.

21 "(7) After the complainant has completed presenting
22 his or her case, the licensee shall present his or her case
23 and the complainant, any counsel, and any member or designee
24 of the board may ask questions of licensee witnesses.

25 "(8) After both sides have completed their
26 presentations, closing statements may be given by the
27 complainant and the licensee.

1 "(9) At the conclusion of the hearing, the board may
2 render an immediate decision or take the case under advisement
3 for further deliberation. A decision of the board shall be
4 rendered within 90 days after the hearing and a copy of that
5 decision shall be mailed to the last known business or
6 residence address of the complainant and the licensee.

7 "(g) The board may file a formal complaint against a
8 licensee and may temporarily suspend a license simultaneously
9 with the institution of proceedings under this section,
10 without a hearing, if the board finds that the evidence
11 supporting the determination is clear, competent, and
12 unequivocal and that the continuation of the licensee to
13 practice would constitute a danger to public health or safety.

14 "§34-13-50.

15 "The Alabama Board of Funeral Service shall
16 recognize and approve and accept applicants for examination
17 from only those established embalming schools or colleges
18 which are recognized by the board. The board shall recognize
19 and approve any embalming school or college approved by the
20 American Board of Funeral Service Education, and any
21 additional embalming schools or colleges which, ~~in the~~
22 ~~judgment of the board,~~ offer courses of study which generally
23 include the subjects set out in Section 34-13-94. The Alabama
24 Board of Funeral Service shall not examine or issue an
25 embalmer's license to any person who does not hold a
26 certificate of graduation from an embalming school or college
27 meeting the criteria or standards as defined in this section.

1 The board may not examine or issue a funeral director's
2 license to any person who does not hold a certificate of
3 graduation from an embalming school or college meeting the
4 criteria or standards defined in this section.

5 "§34-13-51.

6 "(a) The board may, but shall not be required to,
7 recognize and issue, without examination, and upon payment of
8 a fee of ~~one hundred dollars (\$100)~~ not in excess of five
9 hundred dollars (\$500) for each license, a reciprocal license
10 for the practice of funeral directing or embalming to any
11 person licensed as a funeral director or embalmer by any
12 state, if the board makes an individual determination that the
13 ~~applicant's~~ qualifications of the applicant meet or exceed the
14 minimum qualifications required for funeral directors or
15 embalmers in this state and that a written examination of such
16 applicant would be superfluous.

17 "(b) Applications shall be made on forms prescribed
18 and furnished by ~~this~~ the board. An applicant holding a
19 funeral director or embalmer license from another state, and
20 applying for a funeral director or embalmer license in Alabama
21 shall be considered for licensing by reciprocity.

22 "(c) The board ~~shall,~~ at the time of the
23 application, shall make a reasonable determination that the
24 applicant is a legal resident of the United States or legally
25 present in this state. The board reserves the right to require
26 applicants for reciprocity to submit to a personal interview

1 or a written examination relating to the law as it pertains to
2 the regulation of the funeral service profession in Alabama.

3 "(d) The board shall issue a special work permit to
4 a qualified funeral director or embalmer when the board
5 determines that the applicant satisfies all requirements for
6 reciprocity and a fee, not exceeding one hundred dollars
7 (\$100), is received by the board. A special work permit shall
8 expire on the date of the next regular board meeting occurring
9 after issuance.

10 "\$34-13-52.

11 "(a) Licenses under this chapter shall be granted to
12 individuals upon the qualification and successful examination
13 of the individual applicant and shall specify the name to whom
14 it is issued. A license granted under this chapter shall be on
15 public display.

16 "(b) A funeral establishment license issued under
17 this chapter shall include the name of the funeral
18 establishment, the name of the managing funeral director, the
19 name of the managing embalmer, and the certificate of
20 authority license number, if applicable. The license shall be
21 on public display.

22 "(c) Every license issued under this chapter shall
23 be signed by the ~~chairman~~ chair and executive secretary ~~of the~~
24 ~~board~~ and shall be displayed in the place of business or
25 employment of the licensee.

1 "(d) Any person engaged in the business, profession,
2 or practice of funeral directing shall do each of the
3 following:

4 "(1) Posses on his or her person, or be able to
5 promptly produce, a legible and current Alabama funeral
6 director's wallet license certificate when performing the
7 duties of a funeral director.

8 "(2) Upon the request of a board member, the
9 executive secretary, the associate executive secretary, or a
10 designated and appropriately identified employee of the board,
11 promptly produce his or her legible and current Alabama
12 funeral director wallet license certificate.

13 "(e) Any person engaged in the business, profession,
14 or practice of embalming shall do each of the following:

15 "(1) Posses on his or her person, or be able to
16 promptly produce, a legible and current Alabama embalmer's
17 wallet license certificate when performing the duties of an
18 embalmer.

19 "(2) Upon the request of a board member, the
20 executive secretary, the associate executive secretary, or a
21 designated and appropriately identified employee of the board,
22 promptly produce his or her legible and current Alabama
23 embalmer wallet license certificate.

24 "§34-13-53.

25 "(a) Every licensed funeral director, every licensed
26 embalmer, and every licensed operator shall pay annually a fee
27 for renewal of his or her license. The renewal fees shall be

1 set by the board at a rate not to exceed ~~fifty dollars (\$50)~~
2 one hundred fifty dollars (\$150) for licensed embalmers and
3 funeral directors and ~~shall not exceed one hundred dollars~~
4 ~~(\$100)~~ five hundred dollars (\$500) for licensed operators.

5 "(b) All licenses granted under this chapter shall
6 expire on October 1, following their issuance or renewal, and
7 shall become invalid unless renewed as provided in this
8 section. There shall be no proration of licenses.

9 "(c) The board shall mail on or before August 1 of
10 each year to each licensed funeral director, to each licensed
11 embalmer, and to each licensed operator, addressed to him or
12 her at his or her last address, a notice that his or her
13 renewal fee is due and payable and that, if such fee is not
14 paid by October 1, the license shall lapse.

15 "(d) At the time, or before, a licensee changes
16 place of employment, residence address, or makes any other
17 change in status which is of record at the board office, the
18 licensee shall report such change of status, on a form
19 provided by the board, to the executive secretary.

20 "§34-13-55.

21 "(a) When a licensee, for any reason, has allowed
22 his or her license to lapse, the board ~~hereby is given power~~
23 ~~of reinstatement, in its discretion,~~ may reinstate the license
24 if application ~~therefor~~ for reinstatement is made within a
25 period of six months from the lapse and is accompanied by
26 payment of all penalties and lapsed fees, from the time of the
27 lapse to date of reinstatement. The penalties to be paid to

1 the board shall ~~be \$25~~ not exceed one hundred dollars (\$100)
2 to reinstate licenses which have lapsed.

3 "(b) After the six-month period has elapsed, such
4 license may be reinstated only by complying with the
5 provisions ~~hereinabove~~ relating to the issuance of an original
6 license in addition to payment of all lapsed fees and
7 penalties.

8 "§34-13-56.

9 "(a) The board may refuse to grant, refuse to renew,
10 or suspend or revoke a license after proper hearing and notice
11 to the licensee, upon the licensee's being found guilty of any
12 of the following:

13 "(1) Conviction of a crime involving moral
14 turpitude.

15 "(2) Unprofessional conduct, which is defined to
16 include any of the following:

17 "a. Misrepresentation or fraud in the conduct of the
18 business or the profession of a funeral director or embalmer.

19 "b. False or misleading advertising as a funeral
20 director or embalmer or knowingly engaging in any advertising
21 which is misleading or inaccurate in any material particular.

22 "c. Solicitation of dead human bodies by the
23 licensee, his or her agents, assistants, or employees, from
24 medical professionals or clergy, whether the solicitation
25 occurs after death or while death is impending.

1 "d. Employment by the licensee of a person or
2 persons to be used for the purpose of obtaining or soliciting
3 funeral directing or embalming business.

4 "e. Employment directly or indirectly of any
5 apprentice, agent, assistant, embalmer, employee, or other
6 person, on part or full time or on commission, for the purpose
7 of calling upon individuals or institutions where a death has
8 occurred or is imminent by whose influence dead human bodies
9 may be turned over to a particular funeral director or
10 embalmer or funeral establishment, or both.

11 "f. The buying of business by the licensee, his or
12 her agents, assistants, or employees.

13 "g. Gross immorality.

14 "h. Aiding or abetting an unlicensed person to
15 practice funeral directing or embalming.

16 "i. Using profane, indecent, or obscene language in
17 the presence of a dead human body, or within the immediate
18 hearing of the family or relative of a deceased whose body has
19 not yet been interred or otherwise disposed of.

20 "j. Solicitation or acceptance by a licensee of any
21 commission or bonus or rebate in consideration of recommending
22 or causing a dead human body to be disposed of in any
23 mausoleum or cemetery.

24 "k. Any violation of this chapter.

25 "l. Any violation of state law or municipal or
26 county ordinance or regulation affecting the handling,
27 custody, care, or transportation of dead human bodies.

1 "m. Fraud or misrepresentation in obtaining a
2 license.

3 "n. Refusing to promptly surrender the custody of a
4 dead human body, upon the express order and payment for
5 services rendered of the person lawfully entitled to the
6 custody thereof.

7 "o. Performing services in a professional capacity
8 as a funeral director or embalmer, or both, for any unlicensed
9 funeral establishment operating in violation of this chapter.

10 "p. Being intoxicated or under the influence of
11 illegal drugs while on duty at a funeral establishment.

12 "q. Willfully retaining or willfully failing to
13 account for any property of a decedent.

14 "r. Knowingly and willfully signing a certificate as
15 having embalmed or prepared a body for burial when, in fact
16 the services were not performed by the licensee.

17 "s. Failure to give full cooperation to the board or
18 its designees, agents, or other representatives in the
19 performance of official duties of the board. Failure to give
20 full cooperation includes, but is not limited to, any of the
21 following:

22 "(i) Not furnishing any relevant papers or documents
23 requested by or for the board.

24 "(ii) Not furnishing, in writing, an adequate
25 explanation relating to a matter contained in a complaint
26 filed with the board against the licensee.

1 "(iii) Not responding to a subpoena issued by the
2 board, without good cause shown, whether or not the licensee
3 is the party charged in any preceding before the board.

4 "(iv) Not providing reasonable access to the board
5 or an authorized agent or representative of the board for the
6 performance of reviews or inspections at facilities or places
7 utilized by the licensee in the practice of funeral service or
8 funeral directing or in performing any other activity
9 regulated by the board.

10 "(v) Failing to provide information within a
11 specific time as required by the board or an authorized agent
12 or representative of the board.

13 "(vi) Failing to cooperate with the board or an
14 authorized agent or representative of the board in the
15 investigation of any alleged misconduct or interfering with a
16 board investigation through the willful misrepresentation of
17 facts.

18 "(vii) Deceiving or attempting to deceive the board
19 regarding any matter under investigation, including the
20 altering or destroying of any records.

21 "(viii) Failure, without good cause, to cooperate
22 with any request from the board to appear before the board.

23 "(ix) Violating any statute, ordinance, or rule of
24 the state or any board, agency, or political subdivision of
25 the state affecting the registration of deaths or the
26 handling, custody, care, or transportation of dead human
27 bodies.

1 "(x) Violating any statute, ordinance, or rule of
2 the state or any board, agency, or political subdivision of
3 the state affecting the registration of deaths or the
4 handling, custody, care, or transportation of dead human
5 bodies.

6 "(xi) Demonstrating bad faith, incompetence, or
7 untrustworthiness or dishonest, fraudulent, or improper
8 dealing or any other violation of this chapter or any rule
9 promulgated by the board or promulgated by the Federal Trade
10 Commission relative to the practice of funeral service or
11 funeral directing.

12 "(b) In addition to the disciplinary actions
13 authorized in subsection (a), the board may levy and collect
14 administrative fines for violations of this chapter or the
15 rules or regulations of the board in an amount not ~~to exceed~~
16 less than five hundred dollars (\$500) nor more than two
17 thousand five hundred dollars (\$2,500) for each violation.

18 "§34-13-70.

19 "(a) No person shall engage in, or attempt to engage
20 in, the practice or profession or business of a funeral
21 director unless licensed to do so by the Alabama Board of
22 Funeral Service. The board hereby is granted authority to
23 issue license to funeral directors.

24 "(b) Any person desiring to engage in the business,
25 profession, or practice of funeral director shall make
26 application to the board and shall accompany his or her
27 application by a fee to be established by the board, not to

1 exceed ~~\$100~~ one hundred fifty dollars (\$150), whereupon the
2 board shall fix the time and place for the examination of the
3 applicant and shall notify the applicant thereof.

4 "(c) In addition, the board shall establish and
5 charge a reasonable examination fee, based on actual costs,
6 for each applicant who sits for an examination, ~~however, in.~~
7 In no event shall the fee exceed ~~\$25~~ fifty dollars (\$50) above
8 the actual cost of preparing and administering such exam.

9 "§34-13-72.

10 "An applicant for a funeral director's license is
11 entitled to an examination if he or she satisfies all of the
12 following:

13 "(1) Is a citizen of the United States or legally
14 present in this state.

15 "(2) Is at least 18 years of age.

16 "(3) Has had practical experience as an apprentice
17 for not less than two years within a period of three
18 consecutive years, excluding time lost by interruptions caused
19 by the active duty of the applicant in the military service of
20 the United States or its allies during war or national
21 emergency, and excluding time lost by interruptions which the
22 board deems excusable as caused by circumstances beyond the
23 control of the applicant.

24 "(4) Has completed apprenticeship not more than two
25 years prior to taking the examination, excluding time lost
26 under the circumstances mentioned in subdivision (3).

1 "(5) Has completed a course of instruction in an
2 accredited mortuary or funeral service school or college which
3 has been approved by the board pursuant to Section 34-13-50,
4 or has completed a bachelor's degree program from an
5 accredited school.

6 "§34-13-73.

7 "(a) The applicant for a funeral director's license,
8 before the application is granted, shall successfully pass an
9 examination upon, but not limited to, the following subjects:
10 Funeral directing, the manners in which death may be
11 determined, the laws governing the preparation and disposal of
12 human dead bodies and the shipment of bodies dying from
13 infectious or contagious diseases, and local health and
14 sanitary ordinances in relation to funeral directing. The
15 examination shall be prepared and graded as prescribed by rule
16 of the board. The board may review and adopt, in whole or in
17 part, examination questions, forms, examinations, and passing
18 criteria proposed by the American Board of Funeral Service
19 Education, or a successor organization, and may use the
20 uniform nationwide conditions of the International Conference
21 of Funeral Service Examining Boards, or other organization
22 approved by the board.

23 "(b) The board shall examine applicants for a
24 funeral director's license in all of the following subjects:

25 "(1) Mortuary management and administration.

26 "(2) Mortuary law.

27 "(3) Basic accounting principles.

1 "(4) Funeral directing.

2 "(5) Other courses of instruction in fundamental
3 subjects as may be prescribed by the board.

4 "(c) All examination papers shall be kept on file by
5 the board for at least three years.

6 "(d) To constitute a passing grade, an applicant
7 shall earn an average score of at least 75 percent.

8 "(e) If the board is satisfied that an applicant has
9 the requisite qualifications to practice the occupation of
10 funeral directing, a license shall be issued authorizing the
11 applicant to practice such occupation until October 1 of that
12 year, at which time the license may be renewed as prescribed
13 in this chapter.

14 "§34-13-74.

15 "(a) When a licensed funeral director dies leaving a
16 licensed funeral business with no licensed funeral director,
17 the surviving spouse, or a surviving child of legal age, shall
18 have the right to make application for examination as a
19 funeral director. The application shall be in writing, on a
20 form prescribed by the board, and shall state the facts
21 pertaining to the case. The board may, ~~in its discretion,~~
22 certify the applicant for the examination prescribed for
23 funeral directors, in which event the requirements with
24 respect to prior experience and apprenticeship shall be
25 waived.

26 "(b) When a licensed funeral director dies leaving a
27 licensed funeral business with no licensed funeral director,

1 the board may issue a special operating permit to the operator
2 of such licensed funeral business for a period of 12 months,
3 with the board having the right to extend the permit an
4 additional reasonable time to afford such operator the
5 opportunity of obtaining a licensed funeral director for such
6 business. The operator shall be required to pay a fee for the
7 issuance of the special operating permit in ~~the~~ an amount of
8 ~~\$25~~ not exceeding one hundred dollars (\$100).

9 "(c) All human ~~dead~~ remains embalmed for a funeral
10 establishment operating under a special operating permit and
11 all funeral directing operations carried on under the permit
12 shall be in conformance with all the requirements of this
13 chapter which are not in conflict with this section.

14 "§34-13-90.

15 "(a) No person shall follow, engage in, or hold
16 himself or herself out as engaged in the practice as an
17 embalmer unless licensed to do so by the Alabama Board of
18 Funeral Service. The board ~~hereby~~ is granted authority to
19 issue licenses to embalmers.

20 "(b) All persons shall qualify for examination in
21 accordance with ~~the provisions of~~ this chapter and shall be
22 licensed as an embalmer only after due examination by the
23 board and the payment of an examination and license fee to be
24 established by the board, not to exceed ~~\$100~~ five hundred
25 dollars (\$500).

26 "(c) In addition, the board shall establish and
27 charge a reasonable examination fee, based on actual costs,

1 for each applicant who sits for an examination, ~~however, in.~~
2 In no event shall the fee exceed \$25 fifty dollars (\$50) above
3 the actual cost of preparing and administering such exam.

4 "§34-13-94.

5 "(a) The board shall examine applicants for an
6 embalmer's license in all of the following subjects:

7 "(1) Mortuary management and administration.

8 "(2) Legal medicine and toxicology.

9 "(3) Public health, hygiene, and sanitary science.

10 "(4) Mortuary science, to include embalming
11 technique, in all aspects; chemistry of embalming, color
12 harmony; discoloration, its causes, effect, and treatment;
13 treatment of special cases; restorative art; funeral
14 management; and professional ethics.

15 "(5) Anatomy and physiology.

16 "(6) Chemistry, organic and inorganic.

17 "(7) Pathology.

18 "(8) Bacteriology.

19 "(9) Sanitation and hygiene.

20 "(10) Public health regulations.

21 "(11) Other courses of instruction in fundamental
22 subjects as may be prescribed by the board.

23 "(b) All examination papers shall be kept on file by
24 the board for at least three years.

25 "(c) To constitute a passing grade, an applicant
26 shall ~~receive~~ earn an average ~~mark~~ score of ~~not less than 70~~
27 ~~percent on all subjects. Where the applicant has received a~~

1 ~~mark of less than 70 percent in one or more subjects, such~~
2 ~~applicant shall not be passed, notwithstanding that his or her~~
3 ~~average mark may be higher than 70 percent at least 75~~
4 ~~percent.~~

5 "(d) ~~(c)~~ The board may issue an embalmer's license
6 to an applicant who receives a passing grade on a recognized
7 national embalmer's examination approved by the board.

8 "(e) ~~(d)~~ If the board is satisfied that the
9 applicant has the requisite qualifications to practice the
10 occupation of embalming, a license shall be issued to him or
11 her authorizing him or her to practice such occupation until
12 October 1 of that year, at which time the license may be
13 renewed as prescribed in this chapter.

14 "§34-13-111.

15 "(a) No funeral establishment or branch thereof for
16 the preparation, disposition, and care of dead human bodies
17 shall be opened or maintained unless duly licensed by the
18 board. No funeral establishment or branch shall be moved
19 without obtaining a new funeral establishment license from the
20 board.

21 "(b) The board shall ~~charge~~ set a fee ~~of \$35, not~~
22 ~~exceeding one hundred fifty dollars (\$150), that shall be in~~
23 addition to the license fee for the first inspection of any
24 funeral establishment seeking a license under Section 34-13-72
25 made for the purpose of determining whether such funeral
26 establishment has fulfilled the requirements for licensure
27 ~~hereunder~~ pursuant to this chapter. The board shall ~~charge~~ set

1 a fee of ~~\$75~~, not exceeding one hundred fifty dollars (\$150),
2 for each reinspection necessitated by failure of any funeral
3 establishment to pass such first inspection. ~~All~~ The board, or
4 a representative of the board, shall annually conduct a
5 minimum of one unannounced inspection of funeral
6 establishments and branches shall be inspected by the board,
7 or its representatives, at least once annually, with an
8 inspection fee of \$35, and not more than one hundred dollars
9 (\$100). The inspection fee shall be submitted to the board
10 within 45 days after the inspection. Any funeral establishment
11 that does not submit the inspection fee within 45 days shall
12 be charged a late penalty fee, as established by the board. A
13 funeral establishment, or branch thereof, that is used for the
14 preparation, disposition, and care of dead human bodies shall
15 meet and conform to the provisions of this chapter and to such
16 other lawful standards and requirements as may be determined
17 by rule of the board in furtherance of the provisions of this
18 chapter; and, for failure to do so, the board may revoke such
19 license in accordance with the procedure set forth in this
20 chapter.

21 "(c) Applications for transfer of a license to
22 another location in the same county shall be made upon blanks
23 furnished by the board and shall be accompanied by a fee of
24 \$25 not more than seventy-five dollars (\$75). The fee for a
25 new branch or location for a funeral establishment shall be
26 \$250. Any change in ownership ~~must~~ shall be immediately
27 reported to the board.

1 "§34-13-113.

2 "(a) Application for a license to operate a funeral
3 establishment shall be made in writing on a form provided by
4 the board. The application shall be verified by the applicant
5 or, if the applicant is a corporation, firm, or other
6 organization, by an officer or member thereof, and shall be
7 accompanied by an application fee ~~to be~~ established by the
8 board, ~~not to exceed \$300~~ five hundred dollars (\$500). The
9 application shall disclose all of the following:

10 "(1) The name and address of the establishment, ~~.~~

11 "(2) That the establishment is operated by a
12 licensed funeral director and a licensed embalmer or a person
13 licensed both as a funeral director and embalmer, ~~.~~

14 "(3) A description and photographs of the
15 ~~establishment's~~ buildings, equipment, and facilities of the
16 establishment. ~~.~~

17 "(4) That the establishment has a sanitary, properly
18 equipped embalming room, ~~a place for the conduct of funerals,~~
19 ~~and a casket selection room stocked with an average selection~~
20 ~~of caskets; and~~ a room suitable for public viewing or other
21 funeral services that is able to accommodate a minimum of 100
22 people, an office for arrangement conferences with relatives
23 or authorized representatives, and a display room containing a
24 stock of adult caskets and funeral supplies displayed in full
25 size, cuts, photographs, or electronic images. At no time
26 shall less than eight different adult full size caskets and at
27 least one operating and properly licensed funeral coach or

1 hearse equipped for transporting human remains in a casket or
2 urn be on the premises.

3 "(5) Such other information as may be required by
4 the board.

5 "(b) Upon receipt of the application, the board
6 shall make inspection of the funeral establishment. If the
7 board determines that the establishment meets the
8 qualifications prescribed by law, it shall issue ~~the~~ a license
9 to operate a funeral establishment.

10 "(c) Application for a license to operate a mortuary
11 service shall be made in writing on a form provided by the
12 board. The application shall be verified by the applicant or,
13 if the applicant is a corporation, firm, or other
14 organization, by an officer or member thereof, and shall be
15 accompanied by an application fee established by the board not
16 to exceed five hundred dollars (\$500). The application shall
17 disclose all of the following:

18 "(1) The name and address of the proposed mortuary
19 service.

20 "(2) That the mortuary service applicant is operated
21 by a licensed embalmer or a person licensed both as a funeral
22 director and embalmer.

23 "(3) A description and photographs of the buildings,
24 equipment, and facilities of the mortuary service applicant.

25 "(4) That the mortuary service applicant has a
26 sanitary, properly equipped embalming room.

1 "(5) Such other information as may be required by
2 the board.

3 "(d) Upon receipt of the application, the board
4 shall make inspection of the premises of the mortuary service
5 applicant. If the board determines that the mortuary service
6 applicant meets the qualifications prescribed by law, it shall
7 issue a license to operate a mortuary service.

8 "§34-13-114.

9 "(a) An operator of a funeral establishment licensed
10 under ~~the provision~~ subsections (a) and (b) of Section
11 34-13-113 and who desires to change the name of the
12 establishment may have his or her license reissued ~~to him or~~
13 her, in the changed name, upon application to the board and
14 payment of a fee ~~of \$25~~ not exceeding seventy-five dollars
15 (\$75).

16 "(b) An operator of a mortuary service licensed
17 under subsections (c) and (d) of Section 34-13-113 who desires
18 to change the name of the mortuary service may have his or her
19 license reissued, in the changed name, upon application to the
20 board and payment of a fee set by the board.

21 "§34-13-115.

22 "(a) The board may revoke, suspend, or refuse to
23 renew a license issued to an operator of a funeral
24 establishment or mortuary service as provided in this chapter.

25 "(b) If, upon a complaint made to it or otherwise,
26 the board has reason to believe that the operator of a funeral
27 establishment or mortuary service has failed to comply with

1 ~~the provisions of~~ this chapter or the regulations of the
2 board, it shall conduct an investigation. If it appears to the
3 board that there is reasonable ground to believe that the
4 operator has failed so to comply, it shall conduct a hearing
5 on the matter. Notice of the time and place of the hearing,
6 setting forth the respects in which failure to comply is
7 charged, shall be sent to the operator no later than 15 days
8 prior to the date set for the hearing. The operator may have
9 the assistance of counsel at the hearing.

10 "(c) If, upon the hearing, the board finds that the
11 operator has failed to comply with ~~the provisions of~~ this
12 chapter or the regulations of the board, it may revoke,
13 suspend, or refuse to renew the license.

14 "§34-13-116.

15 "Any person, firm, partnership, society, group, or
16 corporation who has control of a funeral home, mortuary,
17 chapel, ~~or~~ funeral establishment, ~~as defined in this law, or~~
18 mortuary service and fails to register same according to ~~the~~
19 ~~provisions of~~ this chapter, upon conviction, may be fined not
20 less than ~~\$300~~ five hundred dollars (\$500) nor more than ~~\$500~~
21 two thousand five hundred dollars (\$2,500) for each violation,
22 and each day that the funeral home, mortuary, chapel, ~~or~~ l
23 funeral establishment, or mortuary service is operated shall
24 be deemed to be a separate and distinct violation of this
25 chapter.

26 "§34-13-120.

1 "(a) It shall be unlawful for any person, firm,
2 corporation, association, or entity to operate a crematory or
3 practice cremation without the crematory being licensed as a
4 funeral establishment in accordance with this chapter.

5 "(b) Any funeral establishment performing cremation
6 services shall certify by affidavit to the board that any
7 cremationist conducting cremations has received adequate and
8 appropriate training or experience in the practice of
9 cremation.

10 "(c) The board shall adopt and enforce rules and
11 regulations as may be reasonable and necessary for the
12 operation of crematories to protect the health, welfare, and
13 safety of the people of this state.

14 "(d) The board shall inspect the records and
15 premises of any funeral establishment operating a crematory.
16 In making inspections, the board shall have access to all
17 records, the crematory building, the cremation chambers or
18 furnaces, and the storage areas for human remains before and
19 after cremation, during regular office hours or the hours the
20 crematory is in operation. No prior notification of the
21 inspection is required to be given to the funeral
22 establishment. If any funeral establishment performing
23 cremation services fails to allow an inspection or any part
24 thereof, it shall be grounds for the suspension or revocation
25 of a license or other disciplinary action against the
26 licensee, as the board may deem reasonable and necessary to
27 the extent of the law. The board shall conduct annually a

1 minimum of one unannounced inspection of each licensed funeral
2 establishment performing cremation services.

3 "(e) Each funeral establishment performing cremation
4 services shall keep records as required by the board to assure
5 compliance with all laws relating to the disposition of human
6 remains and shall file annually with the board a report in the
7 form prescribed by the board, describing the operations of the
8 licensee, including the number of cremations made, the
9 disposition thereof, and any other information as the board
10 may, from time to time, require.

11 "(f) Each funeral establishment performing cremation
12 services shall report to the board any maintenance or
13 inspections performed ~~by the manufacturer~~ within 30 days of
14 the maintenance or inspection.

15 "(g) A funeral establishment performing cremation
16 services shall be subject to all local, state, and federal
17 health and environmental protection requirements and shall
18 obtain all necessary licenses and permits from the Alabama
19 Board of Funeral Service, the federal and state Departments of
20 Health and Human Services, and the state and federal
21 Environmental Protection Agencies, or other appropriate local,
22 state, or federal agencies.

23 "(h) No crematory facility licensed by the board may
24 be used for the cremation of deceased animals.

25 "§34-13-130.

26 "(a) Every person desiring to engage as an
27 apprentice shall make application as a funeral director's

1 apprentice or an embalmer's apprentice to the board upon a
2 form provided by the board. The application shall state that
3 the applicant is over the age of 16, holds a high school
4 certificate or the equivalent, or is currently enrolled and
5 actively working toward graduation from an accredited high
6 school and is of good moral character. The application ~~must~~
7 shall be verified by the oath of applicant and be accompanied
8 by a fee to be established by the board, not to exceed ~~\$20~~
9 twenty dollars (\$20). The executive secretary ~~of the board~~
10 ~~shall~~, whenever it appears to him or her that no reason exists
11 for the denial of an application and that the application is
12 regular upon its face, ~~have the power to~~ may issue to the
13 applicant a certificate of apprenticeship, without submitting
14 the application to the board. If, however, any doubt exists as
15 to the qualifications of the applicant, the application shall
16 be submitted to the board and may be accepted or rejected by a
17 majority of the board. The period of apprenticeship of a
18 funeral director's apprentice or an embalmer's apprentice must
19 be performed in Alabama under the supervision of a funeral
20 director or embalmer, respectively, licensed by the ~~Alabama~~
21 ~~Board of Funeral Service~~ board.

22 " (b) The regular course of apprenticeship shall be
23 two years, but the apprentice is entitled to two weeks time
24 off each year, without leave of absence from the board. ~~Any~~
25 ~~applicant for an apprentice certificate or license shall be~~
26 ~~credited with all time served as such as an apprentice~~
27 ~~embalmer or funeral director prior to September 10, 1975, upon~~

1 ~~filing of two affidavits confirming such service by a licensed~~
2 ~~embalmer or funeral director under whom such service was~~
3 ~~performed."~~

4 Section 2. All laws or parts of laws which conflict
5 with this act are repealed and specifically Section 34-13-28,
6 Code of Alabama 1975, providing for the reporting of receipts
7 and disbursements of the board to the Governor and the
8 Legislature, and Article 4, consisting of Sections 34-13-150,
9 34-13-151, and 34-13-152, of Chapter 13, Title 34, Code of
10 Alabama 1975, relating to donor eye enucleation licenses, are
11 repealed.

12 Section 3. The provisions of this act are severable.
13 If any part of this act is declared invalid or
14 unconstitutional, that declaration shall not affect the part
15 which remains.

16 Section 4. This act shall become effective October
17 1, 2011, following its passage and approval by the Governor,
18 or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Insurance 01-MAR-11

Read for the second time and placed
on the calendar with 1 substitute
and..... 24-MAR-11

Read for the third time and passed
as amended..... 05-MAY-11

Yeas 89, Nays 3, Abstains 1

Greg Pappas
Clerk