

Statutes and Regulations **Mortuary Science**

December 2008

(Centralized Statutes and Regulations not included)



DEPARTMENT OF COMMERCE, COMMUNITY,
AND ECONOMIC DEVELOPMENT

***DIVISION OF CORPORATIONS, BUSINESS
AND PROFESSIONAL LICENSING***

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**CHAPTER 42.
MORTICIANS.**

Section

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Sec. 08.42.010. Authority of department. The department has jurisdiction over the practice of mortuary science under this chapter. The department may adopt and enforce regulations and set fees relating to the practice of mortuary science.

Sec. 08.42.020. License required for the practice of mortuary science. (a) A person may not engage in the practice of mortuary science or hold out as being engaged in the practice unless licensed as an embalmer or funeral director by the department. A person holding a license as a funeral director may not embalm or restore a dead human body, take charge of the remains of a person dead of a communicable disease, or prepare for transportation by common carrier a human body dead of a communicable disease.

(b) *[Repealed 1991.]*

(c) In the event the dead body is to be disposed of in a manner not requiring embalming, the department may issue a permit to an unlicensed person for the care and disposition of dead human bodies for compensation. This permit otherwise in no way licenses the holder to practice mortuary science.

Sec. 08.42.030. Examination of applicants for license to practice mortuary science. The department is granted authority to examine all applicants for a license to practice mortuary science and to determine whether an applicant possesses the necessary qualifications. The department shall hold an examination at least once each year at the place and time the department may determine.

Sec. 08.42.040. Application for license to practice mortuary science. The applicant for an examination for a license to practice as an embalmer or as a funeral director shall make application to the department in writing on a form provided by the department.

Sec. 08.42.050. Qualifications for license to practice mortuary science. (a) In order to qualify for a license to practice embalming, the applicant shall

- (1) be at least 18 years of age;
- (2) have graduated from an accredited school or college of mortuary science;
- (3) have taken and passed the examination for a license to practice embalming conducted by the department;
- (4) have completed at least one year of apprenticeship as a trainee under a licensed embalmer.

(b) In order to qualify for a license to practice funeral directing the applicant shall

- (1) be at least 18 years of age;
- (2) have satisfactorily completed at least one year (30 semester credit hours) at an accredited college or university;
- (3) have taken and passed the examination for a license to practice funeral directing conducted by the department;
- (4) have completed at least one year of apprenticeship as a trainee under a person licensed to practice funeral directing in this state.

Sec. 08.42.060. Scope and conduct of examination for a license to practice mortuary science. (a) The department shall examine applicants for an embalmer's license; the examination may include any or all of the following subjects: (1) theory and practice of embalming, (2) anatomy, (3) pathology, (4) bacteriology, (5) hygiene, including sanitation and public health, (6) chemistry, including toxicology, (7) restorative arts, including plastic surgery and demi-surgery, (8) funeral service arts and sciences, and funeral service administration, including accounting, funeral law, psychology, funeral principles, directing and management, (9) Alaska vital statistics law, and (10) the provisions of this chapter and the regulations adopted by the department under this chapter. The department shall examine applicants for a funeral director's license; the examination may include any or all of the

subjects included in (8), (9) and (10) of this subsection. The department may use the examination provided by the Conference of Funeral Service Examining Boards of the United States, Inc. where it is applicable to the subjects in this section.

(b) A passing grade in the examination is an average grade of at least 75 percent with no individual subject grade of less than 70 percent.

(c) If an applicant receives an average grade of at least 75 percent, but receives a grade of less than 70 percent in three or fewer individual subjects, the applicant may be reexamined only in those subjects. The applicant is entitled to reexamination on individual subjects only once. A grade of at least 70 percent in each of the subjects in which the applicant is reexamined is sufficient to constitute a passing grade.

(d) Except as provided in (c) of this section, an applicant shall be reexamined in all subjects if the applicant reapplies for examination.

Sec. 08.42.070. Reciprocity. (a) The department may recognize the license issued to an embalmer or funeral director from another state if the applicant

(1) furnishes proof satisfactory to the department that the applicant has complied, in the state in which the applicant is licensed, with requirements substantially equal to the requirements of this chapter; or furnishes proof satisfactory to the department that the applicant meets the applicable requirements for the license for which the applicant is applying except for the apprenticeship and examination provisions and that the applicant is licensed in another state and has practiced mortuary science for at least one year in a state where the applicant is licensed; and

(2) takes and passes the examination provided for in (b) of this section.

(b) The department shall examine each applicant under this section on the following subjects: Alaska vital statistics law, the provisions of this chapter, and the regulations adopted by the department under this chapter.

Sec. 08.42.085. Qualifications for trainees. (a) A person may apprentice as an embalmer trainee if the person

(1) is at least 18 years of age;

(2) applies on a form provided by the department; and

(3) furnishes evidence satisfactory to the department that an embalmer licensed in this state will supervise the training and that the training will take place in a funeral establishment that meets the requirements of AS 08.42.100.

(b) A person may apprentice as a funeral director trainee if the person

(1) is at least 18 years of age;

(2) applies on a form provided by the department; and

(3) furnishes evidence satisfactory to the department that a funeral director licensed in this state will supervise the training and that the training will take place in a funeral establishment that meets the requirements of AS 08.42.100.

(c) The department shall issue a permit valid for one year to an applicant who meets the requirements of this section. The department shall renew a permit for one year if the trainee applies for renewal on a form provided by the department and shows that the training activity continues to satisfy the requirements of this section. The department will charge a fee for processing applications and renewals under this section which will be sufficient to cover administrative costs.

(d) A person may apprentice as a funeral director trainee or as an embalmer trainee for no more than two years.

Sec. 08.42.090. Grounds for refusal to issue or renew licenses and suspension or revocation of licenses.

When the department has reason to believe that an applicant or licensee has been guilty of any of the following acts or omissions, it may conduct an investigation, and the department may, after proper hearing and notice in accordance with the Administrative Procedure Act (AS 44.62), refuse to issue, refuse to renew, or may suspend or revoke, a license upon a finding by the department of any of the following acts or omissions:

(1) fraud or misrepresentation in obtaining a license;

(2) misrepresentation or fraud in the practice of mortuary science;

(3) false or misleading advertising;

(4) aiding or abetting an unlicensed person to practice mortuary science;

(5) using a casket or part of a casket which has previously been used as a receptacle for the burial or other final disposition of another dead human body;

(6) refusing to promptly surrender the custody of a dead human body upon the order of the person lawfully entitled to custody;

(7) solicitation of a dead human body by the licensee, the licensee's agents, servants or employees, if solicitation occurs after death, or while death is impending but this does not prohibit advertising or sales made on a pre-need basis;

(8) employment by a licensee of any person for the purpose of calling upon individuals or institutions to influence them to turn over a dead human body to a particular licensee immediately before an impending death or after death;

(9) the direct or indirect payment of offer of payment for the purpose of obtaining a dead body by the licensee, the licensee's agents, servants or employees immediately before an impending death or after death;

(10) immediately before impending death or after death, solicitation or acceptance by a licensee of any payment for recommending or causing a dead human body to be disposed of in a specific crematory, mausoleum or

cemetery; however, this section does not prevent the recommendation or solicitation for sales of space and merchandise in a specific crematory, mausoleum or cemetery, if the licensee has an ownership interest in the specific crematory, mausoleum or cemetery and the ownership interest is disclosed at the time of the solicitation, recommendation or sale;

(11) violation of a state law or regulation or municipal ordinance or regulation or federal law or regulation affecting the disposition of a dead human body, or contracts relating to the disposition of a dead human body;

(12) violation of any of the provisions of this chapter;

(13) conviction of a felony involving moral turpitude.

Sec. 08.42.100. Funeral establishment permit. After January 1, 1977, a person may not conduct, maintain, manage, or operate a funeral establishment unless a permit for each establishment has been issued by the department and is conspicuously displayed in the funeral establishment. Each permit is valid only for one specific location, and each firm operating from the same funeral establishment shall obtain a separate permit. The department shall issue a permit to operate a funeral establishment upon application for the permit on a form provided by the department. All permits expire at the time established under AS 08.01.100 and may be renewed for successive terms. Violation of a provision of AS 08.42.090 by a person operating a funeral establishment or, with that person's knowledge or consent, by an employee is considered sufficient cause for suspension or revocation of the funeral establishment permit.

Sec. 08.42.120. Violations; penalties. A person who violates or aids a person in violation of this chapter is guilty of a misdemeanor and upon conviction is punishable by imprisonment for not more than one year or by a fine of not more than \$5,000.

Sec. 08.42.130. Enforcement by attorney general. The attorney general may bring an action in the superior court to enjoin a person from violating the provisions of this chapter.

Sec. 08.42.200. Definitions. In this chapter

(1) "department" means the Department of Commerce, Community, and Economic Development;

(2) "funeral establishment" means every place devoted to or used in the care and preparation for disposition of dead human bodies, or as the office or place for carrying on the profession of mortuary science, or for any combination of these;

(3) "mortuary science" means embalming of dead human bodies, taking charge of the remains of those dead of a communicable disease, or preparing dead human bodies for shipment, directing or supervising funerals;

(4) "trainee" means a person who has met the qualifications set out in AS 08.42.085(a) and is engaged in learning the practice of embalming under the direction and control of a person properly licensed to practice embalming, or a person who has met the qualifications set out in AS 08.42.085(b) and is engaged in learning the practice of funeral directing under the direction and control of a person properly licensed to practice funeral directing.

TITLE 45. TRADE AND COMMERCE.

CHAPTER 45. TRADE PRACTICES.

ARTICLE 4. FUNERALS.

Sec. 45.45.120. Disclosure of costs. Every person performing or arranging for services or providing merchandise relating to the disposition of a dead human body shall give to the person arranging for the disposition at the time the arrangements are completed and before the time of rendering the service or providing the merchandise a written statement showing, to the extent then reasonably ascertainable,

(1) the price and what is included with specific prices for at least each of the following:

(A) transfer of remains to funeral home;

(B) embalming;

(C) use of facilities for viewing;

(D) use of facilities for funeral service;

(E) caskets (with a notation that a separate casket price list will be provided before any sales presentation for caskets is made);

(F) hearse;

(G) limousine;

- (H) services of funeral director and staff;
- (I) outer interment receptacles (if outer interment receptacles are sold, a notation that a separate outer interment receptacle price list will be provided before any sales presentation for such items is made);
- (2) the price of each supplemental item of service or merchandise;
- (3) the amount involved for each of the items for which money will be advanced; and item for which money is advanced shall be charged in the same amount as the cost to the person making the advance;
- (4) the method of payment;
- (5) the fee for counseling, consulting, or arranging for future services relating to the disposition of a dead human body.

**CHAPTER 50.
COMPETITIVE PRACTICES, REGULATION OF
COMPETITION, CONSUMER PROTECTION.**

**ARTICLE 3.
UNFAIR TRADE PRACTICES AND
CONSUMER PROTECTION.**

Sec. 45.50.471(b)(24). Unlawful acts and practices. (b) The terms “unfair methods of competition” and “unfair or deceptive acts or practices” include, but are not limited to, the following acts:

(24) counseling, consulting or arranging for future services relating to the disposition of a body upon death whereby certain personal property, not including cemetery lots and markers, will be furnished or the professional services of a funeral director or embalmer will be furnished, unless the person receiving money or property deposits the money or property, and money or property is received, within five days of its receipt, in a trust in a financial institution whose deposits are insured by an instrumentality of the federal government designating the institution as the trustee as a separate trust in the name only of the person on whose behalf the arrangements are made with a provision that the money or property may only be applied to the purchase of designated merchandise or services and should the money or property deposited and any accrued interest not be used for the purposes intended on the death of the person on whose behalf the arrangements are made, all money or property in the trust shall become part of that person’s estate; upon demand by the person on whose behalf the arrangements are made, all money or property in the trust including accrued interest, shall be paid to that person; this paragraph does not prohibit the charging of a separate fee for consultation, counseling or arrangement services if the fee is disclosed to the person making the arrangement; any arrangement under this paragraph which would constitute a contract of insurance under AS 21 is subject to the provisions of AS 21.

**CHAPTER 50.
MORTUARY SCIENCE.**

Section.

100. Qualifications for sponsors for apprenticeship trainees

200. Apprenticeship training

300. Permit for disposal

400. Supervision of trainees

12 AAC 50.100. QUALIFICATIONS FOR SPONSORS FOR APPRENTICESHIP TRAINEES. (a) The department will approve an embalmer or funeral director, who is licensed in this state, to be a sponsor to provide direct supervision to an apprenticeship trainee for the purposes of meeting AS 08.42.085, if the embalmer or funeral director submits on forms provided by the department:

(1) verification of an active license to practice in this state in the field for which the trainee is seeking licensure;

(2) a statement that the supervision will occur under the direct supervision of the sponsor in the same funeral establishment that the sponsor is working in; to be eligible under this paragraph, the funeral establishment must have a current permit under AS 08.42.100;

(3) evidence of being able to provide a work environment that will provide the trainee with the skills and proficiency required to be licensed as an embalmer or a funeral director.

(b) A sponsor who is licensed in this state as an embalmer and a funeral director may sponsor a trainee for either profession; however, a sponsor may not supervise more than one trainee at a time.

(c) A trainee may serve the apprenticeship training under more than one licensed funeral director or embalmer; however, each supervisory relationship must be approved under this section by the department before training begins under the new sponsor.

Authority: AS 08.42.010 AS 08.42.050 AS 08.42.085

12 AAC 50.200. APPRENTICESHIP TRAINING. (a) Apprenticeship training must be provided by a sponsor approved under 12 AAC 50.100.

(b) A funeral director trainee shall document at least one year of apprenticeship training that was supervised by a sponsor that meets the requirements of 12 AAC 50.100 and includes experience in the following areas:

(1) assisting or participating in the preparation of at least 24 funerals, including all necessary documentation required by law;

(2) assisting in the arrangement of a selection room, including buying, pricing, and providing a description of each casket.

(c) An embalmer trainee shall document at least one year of apprenticeship training that was supervised by a sponsor that meets the requirements of 12 AAC 50.100 and includes experience in the following areas:

(1) assisting in the preparation and embalming of at least 24 deceased human bodies, including cosmetic application, dressing, and casket preparation;

(2) making removals of human bodies.

(d) Each embalmer and funeral director trainee shall submit case reports on forms provided by the department, for each of the 24 funerals or embalming required in (b) or (c) of this section. Unless the department finds good cause to grant an extension under this subsection, six case reports shall be submitted every three months and shall be signed by the trainee and the sponsor. If a trainee is unable to complete six case reports in a three month period, the trainee shall submit the case reports that were completed and a written request for an extension explaining why the trainee was unable to complete all six cases within the time period specified under this section. The department will grant the request for an extension if it finds good cause outside of the control of the trainee.

(e) An apprenticeship must consist of training of a minimum of 30 hours per week, excluding up to 30 days of leave time per year for the trainee.

(f) Apprenticeship training as a funeral director or embalmer may be earned concurrently. If the training is not completed within one year, the trainee may apply for renewal of the permit for one year under AS 08.42.085(c).

(g) Upon completion of the apprenticeship training, the sponsor shall complete an affidavit on a form provided by the department, stating that the trainee has satisfactorily completed the apprenticeship requirements of AS 08.42 and this chapter under the sponsor's direct supervision. If the apprenticeship training is terminated before completion of the apprenticeship, the sponsor shall complete an affidavit on a form provided by the department, stating what requirements of AS 08.42 and this chapter that the trainee completed under the sponsor's direct supervision.

Authority: AS 08.42.010 AS 08.42.085

12 AAC 50.300. PERMIT FOR DISPOSAL. The department will issue or renew a permit for the disposal of human remains for compensation by a person not licensed under AS 08.42 if the remains have been cremated and the applicant submits

- (1) a complete, notarized application for a permit on a form provided by the department;
- (2) the biennial permit fee under 12 AAC 02.260; and
- (3) a statement detailing the location and method of disposal, and that the disposal will comply with AS 08.42 and this chapter.

Authority: AS 08.42.010 AS 08.42.020

12 AAC 50.400. SUPERVISION OF TRAINEES. (a) During an embalmer trainee's first six months of apprenticeship training, the sponsor for the trainee shall be present and providing direct supervision during the entire embalming process. For the remainder of the apprenticeship training, the sponsor shall be present for the beginning of each embalming and available for consultation during or after the procedure.

(b) During a funeral director trainee's first six months of apprenticeship training, the sponsor shall be present and providing direct supervision during each entire arrangement conference and funeral. For the remainder of the apprenticeship training, the sponsor shall be present for the beginning of each arrangement conference and funeral and available for consultation during or after the event.

Authority: AS 08.42.010 AS 08.42.050 AS 08.42.085