TITLE 43. PROFESSIONS AND BUSINESSES
CHAPTER 18. FUNERAL DIRECTORS AND ESTABLISHMENTS, EMBALMERS, AND CREMATORIES

§ 43-18-1. Definitions

As used in this article, the term:

(1) "Alternative container" means any receptacle or enclosure which is of sufficient strength to be used to hold and to transport a dead human body.

(2) "Apprentice" means a person who practices embalming, funeral directing, or both, under the direct supervision of a funeral director, embalmer, or both, in this state.

(3) "Board" means the State Board of Funeral Service.

(4) "Casket" means a container which is designed for the encasement and viewing of a dead human body.

(5) "Cremation" means the reduction of the dead human body to residue by intense heat.

(6) "Crematory" means any place where cremation is performed, other than a hospital, clinic, laboratory, or other facility authorized by the Department of Human Resources for such purposes.

(7) "Direct supervision" means that the embalmer, funeral director, or both, are present overseeing the activities of the apprentice.

(8) "Embalmer" means a person who practices embalming or uses in connection with that person's name the words "embalmer," "licensed embalmer," "undertaker," or "mortician" or offers or holds himself or herself out as offering such services.

(9) "Final disposition" means the final disposal of a dead human body whether it is by, but not limited to, earth interment, above-ground interment, cremation, burial at sea, or delivery to a medical institution for lawful dissection if the medical institution assumes responsibility for disposal.

(10) "Funeral" or "funeral services" means the observances, services, or ceremonies held for dead human bodies.

(11) "Funeral director" means a person who practices funeral directing or uses in connection with that person's name or with a picture of that person the words "funeral director," "licensed funeral director," "undertaker," or "mortician" or offers or holds himself or herself out as offering such services.

(12) "Funeral director in full and continuous charge" means a funeral director who is

approved by the board to assume full responsibility for the operations of a particular funeral establishment and who shall ensure that said establishment complies with this article and with all rules promulgated pursuant thereto.

(13) "Funeral establishment" means a place where embalming or funeral directing is practiced and which is open to the public and transacting business relating to funeral services.

(14) "Funeral merchandise" means the goods that may only be sold or offered for sale by a funeral director working in a funeral establishment and includes, but is not limited to, a casket or alternative container, but does not include an outer burial container or cemetery marker.

(15) "Funeral service contract" means a written or oral agreement between a funeral director or funeral establishment and a legally authorized person for the embalming, funeral, or final disposition of a dead human body.

(16) "Legally authorized person" means the deceased's surviving spouse, a son or daughter who is 18 years of age or older; the deceased's parent, a brother or sister who is 18 years of age or older; any other person who is 18 years of age or older and who is in the next degree of kinship to the deceased; the deceased's guardian or personal representative; or a public health officer.

(17) "Outer burial container" means an enclosure into which a casket is placed, including, but not limited to, a vault made of concrete, steel, fiberglass, or copper, a sectional concrete enclosure, a crypt, or a wooden enclosure.

(18) "Practice of embalming" means disinfecting or preserving or attempting to disinfect or preserve dead human bodies by replacing certain body fluids with preserving and disinfecting chemicals.

(19) "Practice of funeral directing" means making or directing, at need or preneed, arrangements for the preparation and transportation of dead human bodies for final disposition and the supervision and direction of all funeral services.

(20) "Retort" means a furnace where dead human bodies are cremated.

(21) "Soliciting" means the making of any uninvited contact with another person by a funeral director or by a funeral director's agent, assistant, employer, or employee for the purpose of the sale of funeral services or merchandise but shall not mean any advertising which is directed to the public in general.

HISTORY: Code 1981, § 43-18-1, enacted by Ga. L. 1990, p. 1372, § 1; Ga. L. 1992, p. 2762, § 1; Ga. L. 2002, p. 641, § 3.

§ 43-18-2. Declaration of policy

It is declared that this article shall be deemed an exercise of the health powers of the state for the prevention of the spread of infectious, communicable, and contagious

diseases and for the protection of the sanitation, health, and welfare of the people of this state; and that all of this article and the regulations authorized to be made pursuant to it are necessary to effectuate its purpose.

HISTORY: Code 1981, § 43-18-2, enacted by Ga. L. 1990, p. 1372, § 1.

§ 43-18-3. Practicing without complying with article

(a) It shall be unlawful for any person to engage in the practice of embalming or to represent to the public that such person is an embalmer, mortician, or undertaker without first complying with this article.

(b) It shall be unlawful for any person to engage in the business or profession of funeral directing or to represent to the public that such person is a funeral director, undertaker, or mortician without first complying with this article.

(c) Any person who actively engages or participates in any way in the business or profession of funeral directing shall be considered to be practicing as a funeral director and must be a licensed funeral director under the terms of this article.

HISTORY: Code 1981, § 43-18-3, enacted by Ga. L. 1990, p. 1372, § 1.

§ 43-18-4. Unlicensed practice as constituting public nuisance; injunctions

The practice of embalming or funeral directing, as defined in this article, is declared to be a business or profession affecting the public interest and involving the health and safety of the public. Such practice by a person who is not licensed to practice in this state is declared to be a public nuisance; and any citizen of this state, the board, or the appropriate prosecuting attorney where such practice is carried on by such unlicensed person may, on behalf of the public, bring an action in the superior court of the county where such nuisance exists or is carried on to restrain and abate the same. On satisfactory proof to the judge of the superior court that such illegal practice or business of funeral directing or embalming is being carried on, the judge shall issue a temporary injunction against the party or parties operating such practice or business until they have qualified and been licensed under the terms of this article.

HISTORY: Code 1981, § 43-18-4, enacted by Ga. L. 1990, p. 1372, § 1.

§ 43-18-5. Unlawful acts; exemption

(a) It shall be unlawful for any person, firm, or corporation or any officer, agent, or employee of such person, firm, or corporation to practice or hold out to the public that such person, firm, or corporation as practicing embalming or funeral directing, or to act as an embalmer or funeral director, or to assist in so doing as an apprentice, without having complied with this article, or to practice embalming or funeral directing without having paid the fee for license renewal prior to the expiration of that license as provided for in this article.

(b) Any person, firm, or corporation who has control of a funeral establishment or

crematory and fails to obtain licensure as required by this article, upon conviction thereof, may be fined not less than $100.00 nor more than $500.00 for each violation. Each day that the funeral establishment or crematory is operated in violation of this article shall be deemed to be a separate and distinct offense.

(c) Any persons representing themselves as an embalmer or funeral director without having first complied with this article shall be deemed and considered guilty of practicing without a license and the use of these terms shall be prima-facie evidence of guilt.

(d) It shall be unlawful for any person, firm, or corporation or any officer, agent, or employee of such person, firm, or corporation engaged in the funeral or crematory business to give, or contract to give, either directly or indirectly, any reward, commission, compensation, or anything of value to any person, firm, or corporation for the purpose of, or as an inducement to, such person, firm, or corporation to persuade or induce any person to use or employ such funeral director or embalmer in or about the preparation for burial or conducting the burial of any deceased person.

(e) It shall be unlawful for any funeral director, embalmer, firm, or corporation, or any officer, agent, or employee of such person, firm, or corporation engaged in the funeral business for compensation or otherwise to influence, or attempt to influence, by persuasion, argument, or suggestion, the family or friends of any deceased person as to where the body should or should not be buried.

(f) It shall be unlawful for any funeral establishment, funeral director, or embalmer to refuse to release a dead human body to a legally authorized person upon request of that person, but the release of such body shall not constitute a release of any indebtedness or other claim owed for any services performed on that body by the person or entity releasing that body.

(g) Accredited colleges of funeral service and those otherwise approved by the board are authorized to perform on-campus embalming operations subject to satisfying inspection standards as established by the board. Nothing in this article shall require any person who is currently enrolled full time or part time in a program at an accredited college of funeral service or such other college as provided by rule to be licensed or registered as provided in this article when obtaining practical training in embalming or funeral directing under the supervision of a licensed embalmer, funeral director, or both, at such college or at a funeral establishment; provided, however, that any licensed embalmer, funeral director, or both, who supervise such student shall be responsible for the acts of such student.

HISTORY: Code 1981, § 43-18-5, enacted by Ga. L. 1990, p. 1372, § 1.

§ 43-18-6. Penalty

Any person, firm, or corporation or any officer, agent, or employee of such person, firm, or corporation who violates this article shall be guilty of a misdemeanor.

HISTORY: Code 1981, § 43-18-6, enacted by Ga. L. 1990, p. 1372, § 1.

§ 43-18-7. Termination

Repealed by Ga. L. 1992, p. 3137, § 15, effective July 1, 1992.

§ 43-18-8. Identification of body or remains of deceased; affidavit required for cremated remains

(a)(1) The funeral director or person in charge of final disposition of a dead body shall, prior to the interment or cremation of such dead body, affix on the ankle or wrist of the deceased a tag of durable, noncorroding material permanently marked with the name of the deceased, the date of death, the social security number of the deceased, the county and state of death, and the serial number of any prosthesis removed from the dead body by the funeral establishment or crematory.

(2) No funeral director in charge of a crematory shall permit any dead body to be on the premises of the crematory without the dead body being identified as provided by this subsection, except when the body is placed in the retort; and the tag shall be removed from the body and kept in a regular location near the retort during cremation and thereafter placed atop the cremated remains on the inside of the vessel and any liner therein. The vessel containing cremated remains shall be plainly labeled on the outside so as to identify the deceased with the same information, excluding social security number, as is required to be on the tag inside the vessel and so as to identify the name of the person or firm to which such remains are to be delivered or released.

(3) Tags and labels used for purposes of this subsection shall be in such standard forms as prescribed by the board. If the religious faith of the deceased prohibits such means of identification, alternative means of identification of the body may be used.

(b) A crematory may deliver or release cremated remains to a funeral establishment or a legally authorized person. The funeral director in charge of a crematory shall provide to the funeral establishment or legally authorized person to whom cremated remains are delivered or released, at the time of such delivery or release, a written statement, on such standard form as prescribed by the board, signed and verified by such funeral director before a person authorized to administer oaths and attesting that the vessel contains substantially the remains of the deceased identified in accordance with subsection (a) of this Code section.

(c) No funeral establishment shall accept or take delivery of any cremated remains from any crematory unless the vessel containing such remains is labeled as required by paragraph (2) of subsection (a) of this Code section and is accompanied by the affidavit required by subsection (b) of this Code section, which vessel and affidavit shall be provided by the funeral establishment to a legally authorized person upon delivery or release of the cremated remains.

HISTORY: Code 1981, § 43-18-8, enacted by Ga. L. 1995, p. 839, § 1; Ga. L. 2002, p. 641, § 4.

O.C.G.A. § 43-18-8

§ 43-18-20. Continuation of board

The State Board of Funeral Service existing immediately prior to April 11, 1990, is continued in existence and shall be constituted as provided in this article with the powers, duties, and authority vested in such board by this article.

HISTORY: Code 1981, § 43-18-20, enacted by Ga. L. 1990, p. 1372, § 1.

§ 43-18-21. Composition of board; qualifications of members; vacancies; removal of members

(a) The board shall consist of six members who shall be licensed and practicing funeral directors and embalmers with a minimum of five years as such in this state immediately preceding their appointment and one member who shall have no connection whatsoever with the funeral service industry but who shall have a recognized interest in consumer affairs and in consumer protection concerns.

(b) The members of the board shall be appointed by the Governor for terms of office of six years and all vacancies occurring on the board shall be filled by the Governor. When an appointment is made to fill a vacancy caused by death or resignation of a member, such appointment shall be for the remainder of the unexpired term of the member whose death or resignation caused the vacancy so filled.

(c) A majority of the members of the board may remove any member who misses three or more consecutive regular meetings of the board without a medical reason and may declare that position on the board to be vacant. A member so removed shall not be eligible for reappointment until the expiration of the term of office for which such person was serving. The Governor shall have the power to remove from office any member of the board for willful neglect of duty or for conviction of a crime involving moral turpitude.

(d) Those persons serving as members of the board immediately prior to April 11, 1990, shall continue to serve out the respective terms of office for which they were appointed and until their respective successors are appointed and qualified.

HISTORY: Code 1981, § 43-18-21, enacted by Ga. L. 1990, p. 1372, § 1.

§ 43-18-22. Election of president; meetings; reimbursement of members; conflict of interest

(a) The board shall each year elect from its members a president whose term shall be one year and who shall serve during the period for which elected and until a successor shall be elected.

(b) The board shall meet at least once in each year and more often as the proper and efficient discharge of its duties may require.

(c) Each member of the board shall be reimbursed as provided for in subsection (f) of Code Section 43-1-2.

(d) No board inspector shall own, operate, or be employed by any funeral establishment or crematory, or perform any services on behalf thereof without prior approval by the board and the division director. However, this shall not prohibit any board member from acting as an inspector as authorized in this article.

HISTORY: Code 1981, § 43-18-22, enacted by Ga. L. 1990, p. 1372, § 1; Ga. L. 2000, p. 1706, § 19.

§ 43-18-23. Powers and duties; rules and regulations; seal

For the purpose of better protection of life and health, preventing the spread of contagious, communicable, and infectious diseases, and regulating the practice of embalming and funeral directing and the care and disposition of dead human bodies, the board is authorized:

(1) To prescribe a standard of proficiency as to the qualifications and fitness of those engaged in and who may engage in the practice of embalming or funeral directing and the care and disposition of dead human bodies;

(2) To revoke the license of any embalmer or funeral director for incompetency, conviction of a crime involving moral turpitude, violation of this article, failure to observe the standards of proficiency or rules and regulations promulgated by the board, or any other cause as provided in this article;

(3) To fix and prescribe rules and regulations governing the business or profession of funeral directing and the business or profession of embalming;

(4) To fix and prescribe standards of sanitation to be observed in the embalming of dead human bodies or cremation of dead human bodies;

(5) To regulate and control the business or profession of funeral directing or embalming;

(6) To fix and prescribe minimum standards of general appearance of funeral establishments or crematories;

(7) To adopt a common seal; and

(8) To make and promulgate rules and regulations not inconsistent with the laws of this state for the regulation of such board and for the practice of embalming and funeral directing within this state. All rules and regulations of the board existing immediately prior to April 11, 1990, which are not inconsistent with this article shall continue in effect until repealed, amended, or otherwise changed by the board.

HISTORY: Code 1981, § 43-18-23, enacted by Ga. L. 1990, p. 1372, § 1.

§ 43-18-40. Application for license; examination

Any person desiring to engage in the practice of embalming or in the business or practice of funeral directing and who has not been licensed to do so shall make written application to the board through the division director for such license. Such application shall be upon such form and shall be submitted in such manner as shall be prescribed by the board and the applicant shall pay such fee as may be fixed by the board. Before being issued a license to practice funeral directing or embalming in this state, all applicants shall pass an examination approved by the board which tests their qualifications and skill in either funeral directing or embalming, or both, as the case may be; and such examination shall be made in the manner provided for in this article and by the board through rules and regulations.

HISTORY: Code 1981, § 43-18-40, enacted by Ga. L. 1990, p. 1372, § 1; Ga. L. 2000, p. 1706, § 19.

§ 43-18-41. Qualifications of embalmer or funeral director applicants

(a) Each applicant for a license as either an embalmer or a funeral director shall:

(1) Be at least 18 years of age;

(2) Be of good moral character; and

(3) Have graduated from a high school or have earned a general education development certificate.

(b) In addition to the qualifications set out in subsection (a) of this Code section, an applicant for an embalmer's license shall:

(1) Have graduated from a program at an accredited college of funeral service or such other college as provided by board rule; and

(2) Have completed a minimum of 3,120 hours, pursuant to rules and regulations of the board, of service as an apprentice as provided in Code Sections 43-18-50 through 43-18-54.

(c) In addition to the qualifications set out in subsection (a) of this Code section, an applicant for a funeral director's license shall have, prior to the issuance of said license, a valid embalmer's license; shall furnish an affidavit which lists the names of the 50 funerals at which the apprentice assisted as provided in Code Section 43-18-50; and, effective January 1, 1991, must pass a written examination approved by the board which tests knowledge of the law of this state relating to funeral directors.

(d) An individual who has met the educational requirement specified in paragraph (1) of subsection (b) of this Code section shall be eligible to take the section of the examination for embalmer relating directly to scholastic training without waiting until such individual meets the additional requirements for licensure specified in paragraph (2) of said subsection; provided, however, that such individual must submit a proper application and pay the required fees as determined by the board. An applicant for licensure as an

embalmer who shall have successfully completed the section of the examination for embalmer relating directly to scholastic training shall have no status as an embalmer until such applicant meets all other requirements for licensure as outlined in this article and has received a license as an embalmer from the board.

HISTORY: Code 1981, § 43-18-41, enacted by Ga. L. 1990, p. 1372, § 1; Ga. L. 1991, p. 94, § 43; Ga. L. 1992, p. 2762, § 2; Ga. L. 1998, p. 1322, § 1.

§ 43-18-42. Reciprocity; examination upon meeting qualifications

(a) The board may, in its discretion and in accordance with regulations adopted by the board, grant to any person licensed in another state, territory, country, or District of Columbia full privileges to engage in equivalent practice authorized by this article without taking a national examination if:

(1) (A) On or after January 1, 1991, such person successfully passes a written examination approved by the board which tests knowledge of the law of this state relating to funeral directors; and

(B) Such person satisfied in another state, territory, country, or District of Columbia the requirements for licensure which are:

(i) In effect in Georgia on the date of application; or

(ii) Substantially equal to the requirements for a similar license in Georgia; or

(2) Such person seeking a license pursuant to this Code section has engaged in the active practice of funeral service as a licensed funeral director and embalmer for three years immediately preceding his or her application for a license in Georgia.

(b) Nothing in this Code section shall be construed to prevent an applicant denied pursuant to this Code section from taking the examination for licensure pursuant to this article if that applicant otherwise meets the qualifications set out in Code Section 43-18-41.

HISTORY: Code 1981, § 43-18-42, enacted by Ga. L. 1990, p. 1372, § 1; Ga. L. 2007, p. 552, § 1/HB 90.

§ 43-18-43. Biennial renewal of licenses

(a) Each license issued by the board shall expire biennially.

(b) If the licensee desires a renewal of such license, the board shall grant and issue the same without further examination upon application therefor and upon the payment of a renewal fee to be fixed by the board.

HISTORY: Code 1981, § 43-18-43, enacted by Ga. L. 1990, p. 1372, § 1.

§ 43-18-44. Display of renewal license, wall certificate, or apprentice registration in office or place of business

Each person or establishment who receives a renewal license, wall certificate, or apprentice registration under this article shall display such renewal license, wall certificate, or apprentice registration in a conspicuous place in that person's or establishment's principal office or place of business.

HISTORY: Code 1981, § 43-18-44, enacted by Ga. L. 1990, p. 1372, § 1.

All funeral director and embalmer licenses and apprentice registrations issued under this article shall apply only to the person receiving same and shall not be transferred or assigned.

HISTORY: Code 1981, § 43-18-45, enacted by Ga. L. 1990, p. 1372, § 1.

§ 43-18-46. Grounds for denial or revocation of license or registration; other discipline

In addition to the authority provided in Code Section 43-1-19, the board may refuse to grant a license to operate a funeral establishment or to practice embalming or funeral directing, may refuse to grant a registration to serve as an apprentice, or may revoke, suspend, fine, or otherwise discipline a licensee or registrant upon any of the following grounds:

(1) The employment of fraud or deception in applying for a license or registration or in passing the examination provided for in this article;

(2) Issuance of a license or registration through error;

(3) Conviction of a crime involving moral turpitude;

(4) The practice of embalming or funeral directing under a false name or the impersonation of another embalmer, funeral director, or apprentice of a like or different name;

(5) The making of a false statement or representation regarding the qualifications, training, or experience of any applicant;

(6) The making of a misrepresentation of any kind regarding any funeral merchandise;

(7) Directly or indirectly, by gifts or otherwise, committing the offense of buying business or paying a commission or making gifts, directly or indirectly, for the purpose of securing business to any physician or hospital, or to any institution where death occurs, or to any hospital superintendent, nurse, intern, or employee of any hospital, nursing home, or other institution where death occurs; or to any coroner or other government official;

(8) Gross or willful malpractice or gross neglect in the practice of embalming, funeral directing, or cremating;

(9) Signing a death certificate as having embalmed or prepared a body for burial or preservation when in fact someone else performed such embalming or preparation;

(10) Interfering, either directly or indirectly, with a licensed embalmer or funeral director having legal charge of a dead human body;

(11) Using any statements that mislead or deceive the public including, but not limited to, false or misleading statements regarding a legal or cemetery requirement, funeral merchandise, funeral services, or in the operation of a funeral establishment;

(12) Failing to fulfill the terms of a funeral service contract;

(13) Disregarding a decedent's dignity, right to privacy, or right to confidentiality unless compelled by law to do otherwise;

(14) Using profane, indecent, or obscene language in the presence of a dead human body, or within the immediate hearing of the family or relatives of a deceased, whose body has not yet been interred or otherwise disposed;

(15) Failing to turn assigned benefits in excess of charges incurred over to the assignee of the deceased within ten working days of receipt of the assigned funds;

(16) Refusing to surrender promptly the custody of a dead human body upon the express order of the person lawfully entitled to the custody;

(17) Failing to have the charges rendered to be in compliance with those listed in the funeral establishment general price list, the casket price list, the outer burial container list, or the funeral service contract price list;

(18) Aiding or abetting an unlicensed person to practice under this article;

(19) Promoting or participating in a burial society, burial association, burial certificate plan, or burial membership plan;

(20) Soliciting, as defined in paragraph (21) of Code Section 43-18-1;

(21) Presenting a false certification of work done by an apprentice or as an apprentice;

(22) Willfully violating any state law or regulation; Federal Trade Commission law or regulation; Occupational Safety and Health Administration law or regulation; Department of Human Resources law or regulation; Environmental Protection Agency law or regulation; or municipal or county ordinance or regulation that affects the handling, custody, care, or transportation of dead human bodies, including, but not limited to, the disposal of equipment, residual fluids, or medical wastes;

(23) Knowingly making any misleading, deceptive, untrue, or fraudulent representation in the practice of funeral directing or embalming or in any document connected

therewith;

(24) Discriminating in the provision of services because of race, creed, color, religion, gender, or national origin;

(25) Failing to safeguard all personal properties that were obtained from dead human remains and failing to dispose of same as directed by a legally authorized person;

(26) Failing to refund moneys due as a result of overpayment by an insurance company or other third party;

(27) Engaging in any unprofessional, immoral, unethical, deceptive, or deleterious conduct or practice harmful to the public, which conduct or practice materially affects the fitness of the licensee or registrant to practice in the funeral business, or is of a nature likely to jeopardize the interest of the general public, which conduct or practice need not have resulted in actual injury to any person or be directly related to the practice of funeral directing or embalming but shows that the person has committed any act or omission which is indicative of bad moral character or untrustworthiness; unprofessional conduct shall also include any departure from or failure to conform to the minimal reasonable standards of acceptable and prevailing practice of funeral services;

(28) Engaging in any practice whereby a person who is both a funeral director and a coroner or who is both a funeral director and a minister presents that person as a funeral director to a legally authorized person when death is imminent or after death occurs prior to when the legally authorized person selects a funeral director or funeral establishment which will handle the dead human body;

(29) Practicing embalming or funeral directing or operating a funeral establishment or crematory prior to the board's having approved an application for licensure; or

(30) Failing to satisfy the funeral director in full and continuous charge requirements as set out in Code Section 43-18-71 or funeral establishment requirements as set out in Code Section 43-18-70.

HISTORY: Code 1981, § 43-18-46, enacted by Ga. L. 1990, p. 1372, § 1; Ga. L. 1991, p. 94, § 43.

§ 43-18-47. Revocation hearing; service on licensee or applicant; revocation or restriction of license or registration

(a) Upon the presentation before the board of any of the grounds enumerated in Code Section 43-18-46 or elsewhere in this article for revoking a license or registration, it shall be the duty of the board to cause written notice of the time and place of hearing upon the charge preferred, together with a copy of the charge, to be served upon the licensee or applicant for license, as the case may be, 20 days before the hearing.

(b) The board shall conduct such hearing in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

(c) The board may, upon satisfactory proof that a licensee or registrant has been guilty of

any of the offenses enumerated in Code Section 43-18-46 or elsewhere in this article revoke a license or registration or may limit or restrict a license or registration upon a majority vote of the board after a hearing thereon.

HISTORY: Code 1981, § 43-18-47, enacted by Ga. L. 1990, p. 1372, § 1.

§ 43-18-48. Refusal to grant license or registration

The board may refuse to grant a license or registration. Refusal to grant a license or registration shall not be deemed to be a contested case under Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

HISTORY: Code 1981, § 43-18-48, enacted by Ga. L. 1990, p. 1372, § 1.

§ 43-18-49. Reinstatement of revoked license

At any time after the final termination of the proceeding revoking a license, the board may, by a majority vote, issue a new license to a person affected restoring and conferring all the rights and privileges of and pertaining to the practice of embalming or funeral directing, as defined and regulated by this article. Any person desiring a new license shall be held to the same requirements as are persons who have not previously been licensed as such in this state.

HISTORY: Code 1981, § 43-18-49, enacted by Ga. L. 1990, p. 1372, § 1.

§ 43-18-50. Application for funeral service apprenticeship; period of apprenticeship

(a) Every person desiring to serve as an apprentice shall make application as a funeral service apprentice to the board upon a form provided by the board. The applicant must be at least 18 years of age and have either graduated from high school or have a general educational development certificate. The apprenticeship shall be served at an approved establishment and under the direct supervision of a funeral director, embalmer, or both. The application must be verified by oath of applicant and be accompanied by a fee to be established by the board. The application shall be submitted to the board and may be accepted or rejected by a majority of the board.

(b) An apprenticeship shall be approved for a specific establishment and under a specific supervising funeral director, embalmer, or both. Any change in establishment or supervising funeral director, embalmer, or both shall terminate that apprenticeship and shall require submission of a new application.

(c) The total period of apprenticeship shall be 3,120 hours and must be served in a minimum of 18 months, but the minimum period shall be in addition to the time required to graduate from a college of funeral service or other college pursuant to paragraph (1) of subsection (b) of Code Section 43-18-41.

HISTORY: Code 1981, § 43-18-50, enacted by Ga. L. 1990, p. 1372, § 1; Ga. L. 1994, p. 97, § 43; Ga. L.

1998, p. 1322, § 2.

§ 43-18-51. Renewal of registration of apprenticeship

A registration of apprenticeship shall be renewable biennially upon payment of the renewal fee as provided by the board but shall not be renewed more than two times. Failure to renew a registration shall be the same as a revocation and such apprentice may be reregistered as provided in Code Section 43-18-54. The hours served after a registration has been revoked will not be carried forth into any subsequent apprenticeship period.

HISTORY: Code 1981, § 43-18-51, enacted by Ga. L. 1990, p. 1372, § 1; Ga. L. 1991, p. 94, § 43; Ga. L. 1992, p. 2762, § 3; Ga. L. 1998, p. 1322, § 3.

§ 43-18-52. Supervision and control of apprentices; reporting hours served

All apprentices shall be under the supervision and control of the board and shall upon application for licensure submit to the board proof of having served the required number of hours on forms provided by the board. After completing the 3,120 hours for apprenticeship within the specified period, they shall send the last report to the board regardless of the date. The information contained in the report shall be certified as correct by the funeral director in full and continuous charge and by the supervising funeral director and embalmer.

HISTORY: Code 1981, § 43-18-52, enacted by Ga. L. 1990, p. 1372, § 1; Ga. L. 1998, p. 1322, § 3.

§ 43-18-53. Leaves of absence during apprenticeship

(a) The board may grant leaves of absence for good cause, and grant extensions thereof to apprentices registered under the provisions of this article. However, no credit shall be given for the period during which the apprentice is on such leave, and no more than an aggregate of four years of such leave shall be granted to any person. Application for leave of absence and for extension thereof shall be made by the apprentice upon a form provided by the board.

(b) Upon the termination of a leave of absence or of any extension thereof, if the apprentice resumes the apprenticeship at the same establishment and under the same funeral director in full and continuous charge and under the same funeral director, embalmer, or both, the apprentice shall report to the board the fact of having so resumed the duties as an apprentice. Such notice must be certified to by each of the aforementioned funeral directors and embalmers. An apprentice who fails to provide such notice within 30 days after the end of the leave of absence may not enter those hours on the apprenticeship report form.

(c) Upon the termination of a leave of absence or of any extension thereof, if the apprentice seeks to serve at a different facility or under different personnel, a new application and fee must be submitted.

HISTORY: Code 1981, § 43-18-53, enacted by Ga. L. 1990, p. 1372, § 1.

§ 43-18-54. Refusal to grant apprenticeship registration; grounds for suspension, revocation, limitation of, or refusal to renew registration; reregistration

(a) Refusal to grant an apprenticeship registration shall not be deemed to be a contested case under Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

(b) The board shall be authorized to suspend, revoke, limit, or refuse to renew a registration of apprenticeship, after notice and hearing pursuant to Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," upon a finding by a majority of the board of any of the following:

(1) Engaging in any unprofessional, immoral, unethical, deceptive, or deleterious conduct or practice harmful to the public, which conduct or practice materially affects the fitness of the apprentice to practice in the funeral business, or is of a nature likely to jeopardize the interest of the public, which conduct or practice need not have resulted in actual injury to any person or be directly related to the practice of funeral directing or embalming but shows that the apprentice has committed any act or omission which is indicative of bad moral character or untrustworthiness; unprofessional conduct shall also include any departure from, or failure to conform to, the minimal reasonable standards of acceptable and prevailing practice of funeral services;

(2) Being on duty as an apprentice while under the influence of alcohol or illegal drugs;

(3) Being unable to practice with reasonable skill and safety to the public by reason of a physical or mental condition;

(4) Being convicted of a felony or of any crime involving moral turpitude in the courts of this state or any other state, territory, or country, or in the courts of the United States, regardless of whether first offender treatment without an adjudication of guilt was given or whether an adjudication of guilty or sentence was otherwise withheld or not entered on the charge. As used in this paragraph, the term "conviction" shall include a finding or verdict of guilt or plea of guilty or probation relating to first time offenders; and "felony" shall include any offense which, if committed in this state, would be deemed a felony;

(5) Disobeying proper orders or instructions of that apprentice's supervising embalmer, funeral director, or both;

(6) Violating any provision of this article or rule or regulation of the board made pursuant to this article; or

(7) Practicing fraud or misrepresentation in obtaining a certificate of registration as an apprentice or knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of funeral service or on any document connected therewith while registered as an apprentice.

(c) An apprentice who has failed to renew that person's registration or who has had that person's registration suspended or revoked may, within one year after such expiration,

suspension, or revocation, make application for registration but no more than two such applications may be approved by the board. An applicant for reregistration whose previous apprenticeship was revoked for failure to renew may be granted full credit for the time previously served prior to expiration. An applicant for reregistration whose previous apprenticeship was suspended or revoked upon any of the grounds set forth in subsection (b) of this Code section, however, may be granted credit for no more than 75 percent of the time previously served prior to the disciplinary action. In all other cases regarding applicants for reregistration, the board may, when the circumstances warrant, allow an apprentice credit under a reregistration for time actually served under a previous registration.

HISTORY: Code 1981, § 43-18-54, enacted by Ga. L. 1990, p. 1372, § 1; Ga. L. 1992, p. 2762, § 4.

§ 43-18-55. Continuing education requirements for embalmers

(a) The board shall be authorized to require persons seeking renewal of an embalmer's license under this chapter to complete board approved continuing education of not less than ten hours biennially. The board shall be authorized to approve courses offered by institutions of higher learning, specialty societies, or professional organizations or by others the board deems appropriate.

(b) The board shall be authorized to waive the continuing education requirement in cases of hardship, disability, illness, or under other such circumstances as the board deems appropriate.

(c) The continuing education requirement pursuant to this Code section shall be waived for persons who hold an inactive license or for licensed individuals over the age of 65.

(d) An embalmer who is also a licensed funeral director and who completes the continuing education requirements for funeral directors pursuant to Code Section 43-18-56 shall not be required to complete additional continuing education requirements pursuant to this Code section.

(e) The board shall be authorized to promulgate rules and regulations to implement and ensure compliance with the requirements of this Code section.

(f) This Code section shall apply to each licensing renewal cycle which begins after the 1996 renewal.

HISTORY: Code 1981, § 43-18-55, enacted by Ga. L. 1995, p. 853, § 1; Ga. L. 1996, p. 6, § 43.

§ 43-18-56. Continuing education requirements for funeral directors

(a) The board shall be authorized to require persons seeking renewal of a funeral director's license under this chapter to complete board approved continuing education of not less than ten hours biennially. The board shall be authorized to approve courses offered by institutions of higher learning, specialty societies, or professional organizations or by others the board deems appropriate.

(b) The board shall be authorized to waive the continuing education requirement in cases of hardship, disability, illness, or under other such circumstances as the board deems appropriate.

(c) The continuing education requirement pursuant to this Code section shall be waived for persons who hold an inactive license or for licensed individuals over the age of 65.

(d) A funeral director who is also a licensed embalmer and who completes the continuing education requirements established for embalmers pursuant to Code Section 43-18-55 shall not be required to complete additional continuing education requirements pursuant to this Code section.

(e) The board shall be authorized to promulgate rules and regulations to implement and ensure compliance with the requirements of this Code section.

(f) This Code section shall apply to each licensing renewal cycle which begins after the 1996 renewal.

HISTORY: Code 1981, § 43-18-56, enacted by Ga. L. 1995, p. 853, § 1; Ga. L. 1996, p. 6, § 43.

§ 43-18-70. Practice at licensed funeral establishment or crematory; facilities; living quarters

(a) No embalmer or funeral director shall engage in the practice of embalming or funeral directing at a funeral establishment or crematory which is not licensed by the board.

(b) A funeral establishment must be at a specified street address or location and must have the following minimum facilities and equipment:

(1) A room with adequate seating for a minimum of 30 people in which funeral services may be conducted;

(2) A preparation room equipped with a nonporous, sanitary floor and walls, and necessary drainage and ventilation and containing necessary instruments and supplies for the preparation and embalming of dead human bodies;

(3) A display room containing actual caskets or models, mock-ups, or sections of caskets or similar items if all such caskets are available and in stock for purchase at the establishment or can be delivered within 24 hours. Each funeral establishment shall maintain on the premises at each of its locations an adequate stock of funeral caskets which shall not be less than eight and which shall meet such other criteria as necessary to protect the public;

(4) At least one operable motor hearse which is either owned or leased by the establishment and which has a current Georgia registration; and

(5) At least one church truck.

(c) The board may adopt and enforce such rules as may be reasonable and proper to define such necessary drainage, ventilation, and sanitary flooring and walls and necessary and suitable instruments, supplies, and merchandise in a funeral establishment.

(d) If the funeral director resides in the funeral establishment to be accessible to the community for purposes of satisfying the requirements of funeral director in full and continuous charge, the living quarters in the funeral establishment must include at a minimum furnished sleeping quarters, cooking, refrigerating, and bathing facilities.

HISTORY: Code 1981, § 43-18-70, enacted by Ga. L. 1990, p. 1372, § 1; Ga. L. 2007, p. 552, § 2/HB 90.

§ 43-18-71. Funeral establishments and crematories to be licensed and to employ licensed funeral director; display of name and license of funeral director

(a) It shall be unlawful for any person, firm, corporation, or association to operate a funeral establishment or crematory engaged in the business of funeral directing or embalming or cremating without first obtaining a license from the board in accordance with this article. The board shall not issue a license to any funeral establishment or crematory unless such funeral establishment or crematory shall employ the service of a funeral director licensed in accordance with this article, who shall be in full and continuous charge of the establishment and who is a resident of this state. There shall be conspicuously displayed in each funeral establishment and crematory the name and license of the funeral director in full and continuous charge. A funeral director who is in full and continuous charge shall:

(1) Assume full responsibility for the supervision and operation of the funeral establishment for which that person has been designated as funeral director;

(2) Act as funeral director for only one funeral establishment; and

(3) Spend a minimum of 40 hours per week in the employ and operation of the establishment and be accessible and available to the community.

(b) When there is a change in the funeral director in full and continuous charge, such change shall be reported to the board in writing within five days of the effective date of such change. The board may request the new funeral director in full and continuous charge and owner to appear before the board to determine if the requirements for a funeral director in full and continuous charge have been met.

HISTORY: Code 1981, § 43-18-71, enacted by Ga. L. 1990, p. 1372, § 1; Ga. L. 1992, p. 2762, § 5.

§ 43-18-72. Crematories to be licensed; equipment, facilities, and personnel; application; reports; limitation of single body in retort

(a) (1) It shall be unlawful for any person, firm, corporation, or association to operate a crematory without first obtaining a separate license for such purpose from the board in accordance with this article. The crematory must be at a specific address or location and must meet the following requirements and have the following minimum equipment, facilities, and personnel:

(A) A room with seating for a minimum of 30 people in which funeral services may be conducted;

(B) A display room containing an adequate supply of urns;

(C) Rolling stock consisting of at least one operable motor hearse either owned or leased by said firm with current Georgia registration;

(D) At least one operable retort for cremation;

(E) At least one operable processing station for grinding of cremated remains;

(F) At least one church truck; and

(G) Not be located within 1,000 feet of a residential subdivision platted and recorded in the office of the clerk of the superior court of a county in which such residential subdivision is located.

(2) (A) The provisions of subparagraphs (A), (B), and (F) of paragraph (1) of this subsection shall not apply to crematories which provide cremation services only to other funeral establishments.

(B) The provision of paragraph (G) of paragraph (1) of this subsection shall only apply to the issuance or renewal of any license on or after July 1, 2009, for any stand-alone crematory that was not in operation as of July 1, 2009. For purposes of this subparagraph, the term "stand-alone crematory" shall mean a crematory that is not located on or adjacent to a tract or parcel of land which contains a funeral establishment.

(b) The board may adopt and enforce such rules as may be reasonable and necessary to provide for the sanitary disposal of dead human bodies and prevent the spread of disease and to protect the health, safety, and welfare of the people of this state.

(c) Application for licensure of a crematory shall be made upon a form approved by the board and shall be accompanied by an application fee. No license shall be issued unless the facility meets all the requirements set forth by the board.

(d) The board shall adopt rules requiring each crematory to submit periodic reports to the board in a standard form which include the names of persons cremated and the types of containers used.

(e) No more than one dead human body shall be placed in a retort at one time unless written permission has been received from the person possessing legal responsibility for the disposition of the dead human body.

(f) Nothing in this article shall require a funeral establishment for which a valid license to operate is in effect on May 9, 2002, to have a separate license for a crematory until on and after the renewal date of such license to operate a funeral establishment which first

occurs after May 9, 2002, but such establishment must comply with all the minimum equipment and facilities requirements and all other statutes, rules, and regulations relating to crematories.

HISTORY: Code 1981, § 43-18-72, enacted by Ga. L. 1990, p. 1372, § 1; Ga. L. 1992, p. 2762, § 5A; Ga. L. 1998, p. 1322, § 4; Ga. L. 2002, p. 641, § 5; Ga. L. 2009, p. 292, § 2/HB 68.

§ 43-18-73. Renewal of licenses for the operation of funeral establishments and crematories; changes in ownership

(a) Licenses for the operation of funeral establishments and of crematories shall expire biennially unless the owner or proprietor of a licensed funeral establishment or crematory applies to the board to renew the license prior to its expiration. The application shall show the name of the funeral establishment or crematory; the names and addresses of all owners or, if the owner is a corporation, the names and addresses of all officers and directors of the corporation; and the names of all licensed embalmers and funeral directors who own or are employed by such funeral establishment or crematory or are otherwise connected therewith, together with the date of issue and the number of the license of each registered embalmer and funeral director as required. If the renewal fee prescribed by the board has been paid and the funeral establishment or crematory meets the other requirements of this article, the board shall issue a license; otherwise it shall be unlawful for any funeral establishment or crematory to operate in this state. Nothing in this Code section shall be construed to require a crematory to employ an embalmer in order to be licensed.

(b) Whenever there is a change in ownership of a funeral establishment or crematory, the board shall be notified within 15 days prior to the proposed change upon a form provided by the board.

HISTORY: Code 1981, § 43-18-73, enacted by Ga. L. 1990, p. 1372, § 1.

§ 43-18-74. Transferability of licenses

Licenses for funeral establishments or crematories shall be issued to such enterprises at their location at the time of issuance. Such license shall not be transferable to another location.

HISTORY: Code 1981, § 43-18-74, enacted by Ga. L. 1990, p. 1372, § 1.

§ 43-18-75. Inspections; suspension or revocation of license; other disciplinary actions

(a) The board shall provide for inspections from time to time, but not less frequently than annually, of the premises of funeral establishments and crematories for purposes of ensuring compliance with the provisions of this article and any rules or regulations issued pursuant thereto, and every such firm shall submit to such inspections. The board is authorized to contract with any one or more county boards of health, and each county board of health is authorized to contract with the board, for the provision of inspection

services on behalf of the board for purposes of this subsection.

(b) The license of any funeral establishment or crematory may be suspended, revoked, or put on probation, or fines may be imposed by the board if the evidence produced before it indicates that the establishment or crematory has violated any of the provisions of this article or any rules or regulations issued pursuant thereto. The board shall comply with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," in relation to such hearing; and the licensee shall have the right to appeal any decision of the board in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

HISTORY: Code 1981, § 43-18-75, enacted by Ga. L. 1990, p. 1372, § 1; Ga. L. 2002, p. 641, § 6.

§ 43-18-76. Fine schedule for violation of minimum standards

The board may establish a fine schedule for violation of minimum standards which the board determines to be a threat to the health, safety, or welfare of the public. A determination of such a violation shall not be deemed to be a contested case under Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

HISTORY: Code 1981, § 43-18-76, enacted by Ga. L. 1990, p. 1372, § 1.

§ 43-18-77. Funeral establishment or crematory temporarily without services of funeral director

In the event that a funeral establishment or crematory is temporarily without the services of a funeral director in full and continuous charge, upon notice by the funeral establishment or crematory to the board within five days following the last day of service by such funeral director, the board shall grant the funeral establishment or crematory a 90 day grace period in which to have a funeral director in full and continuous charge approved by the board before any action may be taken by the board to revoke or terminate the establishment's or crematory's license. The board may, in its discretion, upon application by the funeral establishment or crematory, grant one additional 90 day grace period upon showing of good cause. Grace periods totaling not more than 180 days may be granted during any two-year period beginning the first day on which the grace period was granted. Failure to have a funeral director in full and continuous charge shall be grounds for the revocation or suspension of any license, after notice and hearing.

HISTORY: Code 1981, § 43-18-77, enacted by Ga. L. 1990, p. 1372, § 1; Ga. L. 2002, p. 415, § 43.

§ 43-18-78. Temporary destruction of licensed funeral establishment or crematory; use of temporary location during grace period

In the event any funeral establishment or crematory is temporarily destroyed by fire, flood, or other natural catastrophe, upon notice by the funeral establishment or crematory to the board within five days following the destruction, the board may grant the funeral establishment or crematory a 90 day grace period to use a board approved temporary location while reconstructing the previous location, provided the funeral establishment or crematory complies with all other provisions of this article and the rules of the board. The

board may, in its discretion, upon application by the funeral establishment or crematory, grant additional 90 day grace periods upon showing of good cause.

HISTORY: Code 1981, § 43-18-78, enacted by Ga. L. 1990, p. 1372, § 1.

43-18-79. Death of license holder

No funeral establishment license shall terminate upon the death of the holder thereof but shall pass to the legal representative of the deceased or, if there is no legal representative, to the widow of the deceased who may continue to operate the establishment for the unexpired time of the license.

HISTORY: Code 1981, § 43-18-79, enacted by Ga. L. 1992, p. 2762, § 6.

§ 43-18-80. Authorizing agent; statement specifying disposition of cremated remains; shipment of remains

(a) For the purposes of this Code section, "authorizing agent" means a person legally entitled to authorize the cremation of human remains.

(b) The authorizing agent shall provide to the funeral establishment in which the cremation arrangements are made a signed statement specifying the ultimate disposition of the cremated remains, if known. A copy of this statement shall be retained by the funeral establishment offering or conducting the cremation.

(c) Cremated remains shall be shipped only by a method that has an internal tracking system available and that provides a receipt signed by the person accepting delivery.

(d) The authorizing agent shall be responsible for the disposition of the cremated remains. If, after 60 days from the date of cremation, the authorizing agent or his or her representative has not specified the ultimate disposition or claimed the cremated remains, the funeral establishment or entity in possession of the cremated remains shall send a notification to the authorizing agent notifying him or her that, pursuant to this subsection, failure to respond to such notification and specify the final disposition of the cremains within 30 days of the transmission of such notice shall authorize the funeral establishment to make arrangements for the disposition of the cremains. If, after 30 days, the funeral establishment or entity in possession of the cremated remains has not received instructions from the authorizing agent describing a specific method of disposing of the cremains, the funeral establishment or entity in possession of the cremains shall be authorized to dispose of the cremated remains in a dignified and humane manner by entombing such cremains in a crypt or underground in accordance with local and state law or by storage in the funeral establishment. The final resting place of the cremains shall be clearly marked and recorded by the funeral establishment entombing the cremains. Any costs or fees incurred to entomb, inter, or disinter the cremains shall be the responsibility of the authorizing agent; provided, however, that such cost shall not exceed $100.00.

HISTORY: Code 1981, § 43-18-80, enacted by Ga. L. 2009, p. 292, § 3/HB 68.

§§ 43-18-90 through 43-18-108.

Reserved. Repealed by Ga. L. 2000, p. 882, § 4, effective July 1, 2000.

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