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83 WisACT 485

1983 Assembly Bill 543

Date of enactment: May 10, 1984

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1983 Wisconsin Act 485

AN ACT to repeal 445.01 (7), 445.05, 445.08 (2) and 445.10 (5); to amend chapter 445 (title), 15.401 (17), 15.405 (16), 38.51 (6) (b) 3, 59.375, 155.01 (1), 155.06 (7m), 346.71 (2), 350.155 (2), 445.01 (2) to (4), 445.03 (2) (a) to (c), 445.04 (3), 445.045 (1) (intro.) and (g), 445.06, 445.07, 445.08 (1), 445.08 (4) (a), 445.09, 445.095 (title), (1) (a) and (e), (2) and (4), 445.10 (1) and (2), 445.11 (2), 445.12, 445.125 (1) (a), 445.13 (1), 445.14, 445.16, 457.01 (14) (e) and 458.01 (11) (a); and to create 445.03 (1) (b) of the statutes, relating to the duties and changing the name of the funeral directors and embalmers examining board, and the licensing of funeral directors and embalmers.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 15.401 (17) of the statutes is amended to read:

15.401 (17) (title) FUNERAL DIRECTORS EXAMINING BOARD. The funeral directors ~~and embalmers~~ examining board shall have the program responsibilities specified for the examining board under s. 155.01 (1) and ch. 445.

SECTION 2. 15.405 (16) of the statutes is amended to read:

15.405 (16) (title) FUNERAL DIRECTORS EXAMINING BOARD. There is created a funeral directors ~~and embalmers~~ examining board in the department of regulation and licensing. The funeral directors ~~and embalmers~~ examining board shall consist of 5 members appointed for staggered 3-year terms. Four members shall ~~have had at least 5 years' experience immediately preceding appointment in the preparation and disposition of dead human bodies and in the practice of embalming~~ be licensed funeral directors under ch. 445. One member shall be a public member.

SECTION 3. 38.51 (6) (b) 3 of the statutes is amended to read:

38.51 (6) (b) 3. ~~Embalmers and funeral~~ Funeral directors apprentices, the funeral directors ~~and embalmers~~ examining board.

SECTION 4. 59.375 of the statutes is amended to read:

59.375 Coroner or medical examiner as funeral director, limitation. No coroner, deputy coroner, medical examiner or assistant medical examiner who is a licensed funeral director ~~or embalmer~~, an owner or operator of a funeral establishment as defined in s. 445.01, or an employe of a funeral establishment, and no funeral establishment with which such coroner, deputy coroner, medical examiner or assistant medical examiner is associated, shall perform any of the services of a funeral director ~~or embalmer~~ upon the body of any person whose death is required by law to be investigated by such coroner, his ~~or her~~ deputy, medical examiner or assistant medical examiner. Any person who violates this section shall be fined not more than \$50.

SECTION 5. 155.01 (1) of the statutes is amended to read:

155.01 (1) The department of health and social services shall make, and delegate to the funeral directors ~~and embalmers~~ examining board the enforcement of, rules not inconsistent with ch. 445 covering the control of communicable diseases and sanitary and health regulations in the preparation, transportation and disposition of dead human bodies.

SECTION 6. 155.06 (7m) of the statutes is amended to read:

155.06 (7m) (title) REMOVAL OF EYES BY FUNERAL DIRECTORS AND PERSONS ACTING UNDER DIRECTION OF PHYSICIAN. In addition to any physician licensed to practice medicine and surgery under ch. 448, any person acting under the direction of a physician or any ~~embalmer~~ funeral director licensed under ch. 445, who has completed a course in eye enucleation and holds a valid certificate of competence from a medical college approved by the medical examining board under s. 448.05 (2), may enucleate the eyes of a deceased donor under this section. A certificate of competence shall be valid for 3 years. No licensed ~~embalmer~~ funeral director so certified and no funeral establishment with which such ~~an embalmer~~ a funeral director is affiliated shall be liable for damages resulting from such enucleation.

SECTION 7. 346.71 (2) of the statutes is amended to read:

346.71 (2) In cases of death involving a motor vehicle in which the decedent was the operator of a motor vehicle or a pedestrian 16 years of age or older and who died within 6 hours of the time of the accident, the coroner or medical examiner shall require that a blood specimen of at least 10 cc. be withdrawn from the body of the decedent within 12 hours after his or her death, by the coroner or medical examiner or by a physician so designated by the coroner or medical examiner or by a qualified person at the direction of such physician. All ~~morticians~~ funeral directors shall obtain a release from the coroner or medical examiner prior to proceeding with embalming any body coming under the scope of this section. The blood so drawn shall be forwarded to a laboratory approved by the department of health and social services for analysis of the alcoholic content of such blood specimen. The coroner or medical examiner causing the blood to be withdrawn shall be notified of the results of each analysis made and shall forward the results of each such analysis to the department of health and social services. The department shall keep a record of all such examinations to be used for statistical purposes only. The cumulative results of the examinations, without identifying the individuals involved, shall be disseminated and made public by the department.

SECTION 8. 350.155 (2) of the statutes is amended to read:

350.155 (2) In cases of death involving a snowmobile in which the decedent died within 6 hours of the time of the accident, a blood specimen of at least 10 cc. shall be withdrawn from the body of the decedent within 12 hours after death, by the coroner or medical examiner or by a physician so designated by the coroner or medical examiner or by a qualified person at the direction of such physician. All ~~morticians~~ funeral directors shall obtain a release from the coroner or medical examiner prior to proceeding with embalming any body coming under the scope of this section. The blood so drawn shall be forwarded to a laboratory approved by the department of health and social services for analysis of the alcoholic content of such blood specimen. The coroner or medical examiner causing the blood to be withdrawn shall be notified of the results of each analysis made and shall forward the results of each such analysis to the department of health and social services. The department of health and social services shall keep a record of all such examinations to be used for statistical purposes only. The cumulative results of the examinations, without identifying the individuals involved, shall be disseminated and made public by the department of health and social services. The department shall reimburse coroners and medical examiners for the costs incurred in submitting reports and taking blood specimens and laboratories for the costs incurred in analyzing blood specimens under this section.

SECTION 9. Chapter 445 (title) of the statutes is amended to read:

CHAPTER 445

FUNERAL DIRECTORS AND EMBALMERS

SECTION 10. 445.01 (2) to (4) of the statutes are amended to read:

445.01 (2) "Examining board" means the funeral directors ~~and embalmers~~ examining board.

(3) A "funeral director" ~~is a person engaged~~ means any of the following:

(a) ~~A person engaged~~ in or conducting, or holding himself or herself out, in whole or in part, as being engaged in: ~~(a) Preparing, other than by embalming, or otherwise preparing~~ for the burial or disposal, or directing and supervising the burial or disposal, of dead human bodies;

(c) ~~Who shall~~ A person who, in connection with his or her name or funeral establishment, ~~use~~ uses the words, "funeral director", "mortician" or any other title implying that he or she is engaged as a funeral director as defined in this subsection.

(4) ~~An "embalmer" is a person engaged in, or holding himself out as engaged in, the practice of "Embalming"~~ means disinfecting or preserving dead human bodies, entire or in part, by the use of chemical substances, fluids or gases in the body, or by the introduction of same into the body by vascular or hypodermic injection, or by direct application into the organs or cavities for the purpose of preservation or disinfection.

SECTION 11. 445.01 (7) of the statutes is repealed.

SECTION 12. 445.03 (1) (b) of the statutes is created to read:

445.03 (1) (b) Make and enforce rules necessary for the administration of ch. 155.

SECTION 13. 445.03 (2) (a) to (c) of the statutes are amended to read:

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

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

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

SECTION 14. 445.04 (3) of the statutes is amended to read:

445.04 (3) (a) ~~Written or oral~~ Written examinations for a funeral director's license shall be held at least once a year, ~~to~~ and shall be conducted by the examining board at a time and place to be designated by the examining board ~~under the supervision of the examining board.~~

(b) The examination shall include the subjects of ~~funeral~~:

1. Funeral directing, and burial or other disposition of dead human bodies, ~~sanitary~~;

2. Anatomy, bacteriology, autopsy, chemistry and practical embalming; and

3. Sanitary science, public health, transportation, business ethics and the laws of this state and rules of the department of health and social services relating to communicable diseases, quarantine and causes of death.

SECTION 15. 445.045 (1) (intro.) and (g) of the statutes are amended to read:

445.045 (1) (intro.) To be eligible for an original funeral director's ~~or embalmer's~~ license, ~~after October 1, 1959~~, a person must meet all of the following requirements:

(g) Have successfully passed a comprehensive examination conducted by the examining board as required by ~~ss. s. 445.04 and 445.05~~, but such examination may be taken at any time after completion of the college and mortuary school instruction and regardless of the age of the applicant.

SECTION 16. 445.05 of the statutes is repealed.

SECTION 17. 445.06 of the statutes is amended to read:

445.06 Renewal of licenses. The examining board shall issue ~~separate~~ renewal licenses to funeral directors ~~and to embalmers~~. The renewal fee shall be that specified in s. 440.05 (3). Before any renewal license is delivered to any licensed funeral director, proof must be furnished by the applicant, to the satisfaction of the examining board, that the applicant is doing business at a recognized funeral establishment, except that if such applicant is not doing business at a recognized funeral establishment at the time of application for a license, the applicant shall be given a certificate, without additional cost, to the effect that the applicant is in good standing as a funeral director, and shall be entitled to a renewal license at any time during that license period, when located at a recognized funeral establishment, without payment of any additional renewal fee. The applicant must also furnish proof of completion of at least 20 hours of continuing education during the previous 2-year licensure period, except that new licensees are exempt from this requirement during the time between initial licensure and commencement of a full 2-year licensure period. The license shall expire on December 31 of odd-numbered years.

SECTION 18. 445.07 of the statutes is amended to read:

445.07 Restoration of licenses. A licensed funeral director ~~or embalmer~~ who fails to renew a license may on application filed within 4 years after the expiration of the person's last license secure a renewal license without examination by payment of a renewal fee for each biennium not licensed or by examination and payment of the fee under s. 440.05 (1). Any licensed funeral director ~~or embalmer~~ whose license has lapsed 4 years or more may obtain a new license by examination and payment of the fee under s. 440.05 (1). The time limitations prescribed in this section shall not include the service period of a funeral director ~~or embalmer~~ as an active member of the U.S. armed forces.

SECTION 19. 445.08 (1) of the statutes is amended to read:

445.08 (1) Any person holding a valid license as a funeral director or embalmer in another state having requirements substantially equal to those in this state for a funeral director's license may, ~~if such state recognizes licenses issued by the examining board,~~ apply for a license to practice in this state by filing with the examining board a certified statement from ~~the secretary of the examining board~~ an authorized official of the state in which the applicant holds a license, showing the qualifications upon which said license was granted, ~~together with his or her recommendation.~~ Thereupon the examining board may, upon the payment of the required fee, issue ~~such~~ a funeral director's license.

SECTION 20. 445.08 (2) of the statutes is repealed.

SECTION 21. 445.08 (4) (a) of the statutes is amended to read:

445.08 (4) (a) Applications for the examination at a time and place to be arranged and conducted by the examining board for a reciprocal funeral director's ~~or embalmer's~~ license shall be in writing and verified on a blank to be prescribed and furnished by the examining board, and be accompanied by such proof of compliance with the requirements for a reciprocal funeral director's ~~or embalmer's~~ license and with such other information as the examining board requires and shall be accompanied by the examination fee for each application.

SECTION 22. 445.09 of the statutes is amended to read:

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

SECTION 23. 445.095 (title), (1) (a) and (e), (2) and (4) of the statutes are amended to read:

445.095 (title) Apprenticeship, funeral directors. (1) (a) A person desiring to become an apprentice as a funeral director ~~or embalmer~~ shall apply on a form provided for the purpose and appear before the examining board, or any duly appointed representative of the examining board. The application shall state that the applicant is 18 years of age or

older, holds a high school diploma or possesses equivalent education as defined by the examining board, does not have an arrest or conviction record, subject to ss. 111.321, 111.322 and 111.335, and has completed one academic year of instruction in a recognized college or university in a course of study approved by the examining board or has equivalent education. The application must be substantiated by the oath of the applicant and be accompanied by the fee specified in s. 440.05 (6). When the examining board is satisfied as to the qualification of an applicant for apprenticeship, it shall issue a certificate of apprenticeship. When the apprentice enters the employment of a licensed ~~embalmer~~ or funeral director, the apprentice shall immediately notify the examining board, giving the name and place of business of the ~~embalmer~~ or funeral director whose service the apprentice has entered. If, at any time thereafter, the apprentice leaves the employ of the licensed ~~embalmer~~ or funeral director whose service the apprentice has entered, the licensed ~~embalmer~~ or funeral director shall give the apprentice an affidavit showing the length of time served as an apprentice with that employer, and the work done in detail, which affidavit shall be filed with the examining board and made a matter of record in that office. If the apprentice thereafter enters the employ of another licensed ~~embalmer~~ or funeral director in this state, the applicant shall forthwith report such employment to the examining board.

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

(2) (b) The term of a registered apprentice shall be recognized only when given employment in a funeral establishment under the personal supervision of a licensed funeral director, ~~if an apprentice funeral director, or of a licensed embalmer, if an apprentice embalmer.~~

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

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

(4) Before such apprentice shall be eligible to receive a license to practice ~~embalming~~ or funeral directing, the apprentice shall present, in connection with the other evidence required by this chapter, affidavits from the several licensed ~~embalmers~~ or licensed funeral directors under whom the apprentice has worked, showing that the apprentice has assisted in embalming for burial or shipment, at least 25 bodies, ~~if an embalmer's apprentice, or that the apprentice has assisted a licensed funeral director in preparing 25 dead human bodies for burial or transportation (other than by embalming), and has assisted in at least 25 funeral services, during the apprenticeship, if a funeral director's apprentice.~~ This work must all have been done within 4 years from the date of registering as an apprentice. ~~Provided, however, that, but~~ such time may be extended by the examining

board for good cause shown, not to exceed one additional year. The provisions of this section shall be suspended for such period as a registered apprentice may be an active member of the military or naval forces of the United States.

SECTION 24. 445.10 (1) and (2) of the statutes are amended to read:

445.10 (1) The term of an apprenticeship for ~~either a funeral director or embalmer~~ shall begin on the date of registration and terminate after a period of not more than 4 years from the time of first registration unless the time is extended under this chapter. A registered apprentice must make application for license and must appear before the examining board for examination within 4 years from the date of registration unless the time is extended under this chapter. Noncompliance with this subsection terminates the right to serve as an apprentice.

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

SECTION 25. 445.10 (5) of the statutes is repealed.

SECTION 26. 445.11 (2) of the statutes is amended to read:

445.11 (2) Any licensed funeral director, ~~licensed embalmer~~ or registered apprentice shall, within 20 days, notify the examining board of a change of address. A notice is not required of any such person while an active member of the military or naval forces of the United States.

SECTION 27. 445.12 of the statutes is amended to read:

445.12 Prohibited practices. (1) No ~~embalmer shall~~ funeral director may embalm a dead human body when he or she has information reasonably indicating crime in connection with the cause of death, until permission of the coroner or medical examiner has first been obtained.

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

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

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

(5) Any licensed ~~embalmer or licensed~~ funeral director who knowingly permits any person not licensed as ~~an embalmer~~ a funeral director to embalm or prepare for burial any body under his or her jurisdiction, or who permits any person not licensed as a funeral director to hold or conduct any funeral service for which he or she is responsible, or who permits any person not licensed as ~~an embalmer or a~~ funeral director to remove any dead human body from any home, hospital or institution for preparation, or who permits any person under his or her supervision or associated with him or her to violate

the provisions of this chapter, shall be guilty of violating the provisions of this chapter and subject to the penalties provided therein. The foregoing provisions shall not be construed as to restrict the activities of a duly registered apprentice operating under the supervision of a licensed ~~embalmer or licensed~~ funeral director.

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

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

SECTION 28. 445.125 (1) (a) of the statutes is amended to read:

445.125 (1) (a) Whenever any person, referred to in this section as the depositor, makes an agreement with a funeral director, cemetery organization or any other person referred to in this section as the beneficiary, for the final disposition of the body of a person referred to in this section as the potential decedent, wherein the use of personal property under a prearranged funeral plan or the furnishing of services of a funeral director ~~or embalmer~~ in connection therewith is not immediately required, all payments made under the agreement shall be and remain trust funds, including interest and dividends if any, until occurrence of the death of the potential decedent, unless the funds are sooner released upon demand to the depositor, after written notice to the beneficiary.

SECTION 29. 445.13 (1) of the statutes is amended to read:

445.13 (1) Subject to the rules promulgated under s. 440.03 (1), the examining board may make investigations, subpoena witnesses, conduct hearings, limit, suspend or revoke licenses of funeral directors ~~and embalmers~~, certificates of registration of apprentices and permits of operators of funeral establishments and reprimand funeral directors ~~and embalmers~~, apprentices and funeral establishments for ~~commission of any crime involving moral turpitude~~, any violation of this chapter or of any rule of the department of health and social services or the examining board or unprofessional conduct, including misrepresentation or fraud in obtaining the license, permit or certificate of registration.

SECTION 30. 445.14 of the statutes is amended to read:

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

SECTION 31. 445.16 of the statutes is amended to read:

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

SECTION 32. 457.01 (14) (e) of the statutes is amended to read:

457.01 (14) (e) ~~Embalmers~~ Funeral directors;

SECTION 33. 458.01 (11) (a) of the statutes is amended to read:

458.01 (11) (a) Persons authorized under the laws of this state to practice medicine and surgery and the branches thereof, podiatrists, masseurs, hospital attendants, ~~embalmers~~ funeral directors, nurses and student nurses.

SECTION 34. **Nonstatutory provisions; transition.** (1) (a) The funeral directors examining board shall issue a “funeral director limited to embalming” license to any person licensed only as an embalmer by the funeral directors and embalmers examining board prior to the effective date of this act. The license issued under this paragraph entitles the licensee to practice only within the areas described under section 445.01 (4), 1981 stats.

(b) The funeral directors examining board shall issue a “funeral director excluding embalming” license to any person licensed only as a funeral director by the funeral directors and embalmers examining board prior to the effective date of this act. The license issued under this paragraph entitles the licensee to practice only within the areas described under section 445.01 (3), 1981 stats.

(c) The funeral directors examining board shall issue a funeral director’s license to any person licensed either as a funeral director or as an embalmer by the funeral directors and embalmers examining board prior to the effective date of this act who completes the examination subjects under section 445.04 (3) (b) 2 of the statutes, as affected by this act, if the person was a licensed funeral director prior to the effective date of this act, or under section 445.04 (3) (b) 1 of the statutes, as affected by this act, if the person was a licensed embalmer prior to the effective date of this act.

(2) The funeral directors examining board shall issue a funeral director’s license to any person licensed both as a funeral director and as an embalmer by the funeral directors and embalmers examining board prior to the effective date of this act.

SECTION 35. **Effective date.** This act takes effect on the first day of the 12th month following publication of this act.
