

1 HB212
2 181344-3
3 By Representative Brown
4 RFD: Boards, Agencies and Commissions
5 First Read: 14-FEB-17

1 ENGROSSED

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

8 To amend Section 34-13-1, as amended by Act
9 2016-265, 2016 Regular Session, and Sections 34-13-3, 34-13-8,
10 34-13-10, 34-13-11, 34-13-20, 34-13-21, 34-13-23, 34-13-25,
11 34-13-26, 34-13-29, 34-13-31, 34-13-51, 34-13-52, 34-13-53,
12 34-13-54, 34-13-55, 34-13-56, 34-13-57, 34-13-70, 34-13-71,
13 34-13-74, 34-13-91, 34-13-110, 34-13-111, 34-13-112,
14 34-13-113, 34-13-115, 34-13-116, 34-13-120, 34-13-121,
15 34-13-130, 34-13-131, 34-13-132, and 34-13-134, Code of
16 Alabama 1975, and to add Sections 34-13-56.1, 34-13-117,
17 34-13-120.1, and 34-13-123 to the Code of Alabama 1975,
18 relating to the Alabama Board of Funeral Service and the
19 Funeral Service Practice Act; to provide further for
20 definitions; to provide further for the membership of the
21 board; to change the name of the executive secretary of the
22 board to the executive director of the board; to include the
23 grandchildren of the decedent in the priority list of those
24 persons eligible to act as authorizing agent for the decedent;
25 to require all appeals of public hearing determinations to be
26 taken to the Circuit Court of Montgomery County; to require
27 criminal history background checks of all prospective

1 licensees of the board; to require a managing funeral director
2 to live within 75 miles of the funeral establishment; to
3 require the biennial renewal of all licenses; to impose a
4 biennial administrative fee on all continuing education
5 providers; to shorten the time frame in which an expired
6 license may be reinstated from six months to 30 days; to
7 provide further for the public hearing process; to provide
8 further for the advertising of the presence of a crematory; to
9 require a managing funeral director or managing embalmer to be
10 employed at each funeral establishment; to provide for the
11 licensing and regulation of crematories and the licensure of
12 cremationists; to provide further for apprenticeships; to make
13 technical corrections; and in connection therewith would have
14 as its purpose or effect the requirement of a new or increased
15 expenditure of local funds within the meaning of Amendment 621
16 of the Constitution of Alabama of 1901.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Sections 34-13-1, as amended by Act
19 2016-265, 2016 Regular Session, 34-13-3, 34-13-8, 34-13-10,
20 34-13-11, 34-13-20, 34-13-21, 34-13-23, 34-13-25, 34-13-26,
21 34-13-29, 34-13-31, 34-13-51, 34-13-52, 34-13-53, 34-13-54,
22 34-13-55, 34-13-56, 34-13-57, 34-13-70, 34-13-71, 34-13-74,
23 34-13-91, 34-13-110, 34-13-111, 34-13-112, 34-13-113,
24 34-13-115, 34-13-116, 34-13-120, 34-13-121, 34-13-130,
25 34-13-131, 34-13-132, and 34-13-134 of the Code of Alabama
26 1975, are amended to read as follows:

27 "§34-13-1.

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

3 "(1) ACCREDITED SCHOOL or COLLEGE OF MORTUARY
4 SCIENCE. A school or college approved by the Alabama Board of
5 Funeral Service and which maintains a course of instruction of
6 not less than 48 calendar weeks or four academic quarters or
7 college terms and which gives a course of instruction in the
8 fundamental subjects including, but not limited to, the
9 following:

10 "a. Mortuary management and administration.

11 "b. Legal medicine and toxicology as it pertains to
12 funeral directing.

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

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

19 "e. Anatomy and physiology.

20 "f. Chemistry, organic and inorganic.

21 "g. Pathology.

22 "h. Bacteriology.

23 "i. Sanitation and hygiene.

24 "j. Public health regulations.

25 "k. Other courses of instruction in fundamental
26 subjects as may be prescribed by the Alabama Board of Funeral
27 Service.

1 "(2) ALKALINE HYDROLYSIS. The technical process that
2 reduces human remains to bone fragments using heat, water, and
3 chemical agents.

4 "(3)~~(2)~~ AMERICAN BOARD OF FUNERAL SERVICE EDUCATION.
5 That funeral service educational organization which is an
6 agency granted official recognition by the United States
7 Secretary of Education and which is composed of members
8 representing the American Association of College of Mortuary
9 Science, the Conference of Funeral Service Examining Board of
10 the United States, Inc., the National Association of Colleges
11 of Mortuary Science, and the University Mortuary Science
12 Education Association and which has as its object the
13 furtherance of education in the field of funeral service and
14 in fields necessary to, or allied with, the field of funeral
15 service, and further to formulate standards of funeral service
16 education and to grant accreditation to qualified schools and
17 colleges of mortuary science and to do all things incidental
18 to the foregoing.

19 "(4)~~(3)~~ APPRENTICE EMBALMER or EMBALMER'S
20 APPRENTICE. Any person engaged in the study of the art of
21 embalming under the instructions and supervision of a licensed
22 embalmer practicing in this state.

23 "(5)~~(4)~~ APPRENTICE FUNERAL DIRECTOR or FUNERAL
24 DIRECTOR'S APPRENTICE. Any person operating under or in
25 association with a funeral director for the purpose of
26 learning the business or profession of funeral director, to
27 the end that he or she may become licensed under this chapter.

1 "(6)~~(5)~~ AUTHORIZING AGENT. A person at least 18
2 years of age, except in the case of a surviving spouse or
3 parent, who is legally entitled to order the cremation or
4 final disposition of particular human remains.

5 "(7)~~(6)~~ BOARD. The Alabama Board of Funeral Service.

6 "(8) CASH ADVANCE ITEMS. Any item of service or
7 merchandise described to a purchaser using the term cash
8 advance, accommodation, cash disbursement, or similar term. A
9 cash advance item is also any item obtained from a third party
10 and paid for by a funeral provider on behalf of a purchaser.
11 Cash advance items include, but are not limited to, all of the
12 following:

13 "a. Cemetery or crematory services.

14 "b. Pallbearers.

15 "c. Public, or other, transportation.

16 "d. Clergy honoraria.

17 "e. Flowers.

18 "f. Musicians or singers.

19 "g. Nurses.

20 "h. Obituary notices.

21 "i. Funeral programs.

22 "j. Gratuities.

23 "k. Death certificates.

24 "l. Outer burial containers.

25 "m. Cemetery plots.

26 "n. Escorts.

1 "(9) CASKET. A rigid container designed for the
2 encasement of human remains.

3 "(10)~~(7)~~ CEMETERY. A place dedicated to and used or
4 intended to be used for the permanent interment of human
5 remains. It may be either land or earth interment; a mausoleum
6 for vault or crypt entombment; a structure or place used or
7 intended to be used for the interment of cremated remains;
8 cryogenic storage; or any combination of one or more thereof.

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

1 ~~legislative intent of this chapter that a cemetery authority,~~
2 ~~to the extent that it engages in any of the activities~~
3 ~~described in this subdivision, shall not be affected by this~~
4 ~~chapter and shall not be deemed to have entered into or~~
5 ~~engaged in the practice of funeral directing, embalming, or~~
6 ~~funeral establishment operation.~~

7 "(12)(9) CONVICTION. The entry of a plea of guilty
8 or a guilty verdict rendered by any court of competent
9 jurisdiction, excluding traffic violations.

10 "(13) CREMATED REMAINS. Human remains recovered
11 after the completion of the cremation process, including
12 pulverization, which leaves only bone fragments reduced to
13 unidentifiable dimensions.

14 "(14)(10) CREMATION. The technical process, using
15 heat and flame, flames, or chemical agents, that reduces human
16 remains to bone fragments. The reduction takes place through
17 heat and evaporation. Cremation shall include the processing,
18 and may include the pulverization, of the bone fragments.

19 "(15)(11) CREMATIONIST. A person ~~who performs~~
20 licensed by the board to perform the procedure of cremation.

21 "(16) CREMATION CHAMBER. The retort or vessel used
22 to reduce human remains to bone fragments.

23 "(17) CREMATION CONTAINER. The container in which
24 human remains are transported to a crematory, in which human
25 remains are placed in upon arrival at a crematory, or for
26 storage and placement in a cremation chamber for cremation.

1 "(18)~~(12)~~ CREMATORY. A building or portion of a
2 building that houses a ~~retort~~ cremation chamber and that may
3 house a holding facility for purposes of cremation and as part
4 of a funeral establishment.

5 "(19)~~(13)~~ EMBALMER. Any person engaged or holding
6 himself or herself out as engaged in the business, practice,
7 science, or profession of embalming, whether on his or her own
8 behalf or in the employ of a registered and licensed funeral
9 director.

10 "(20)~~(14)~~ EMBALMING. The practice, science, or
11 profession, as commonly practiced, of preserving,
12 disinfecting, and preparing by application of chemicals or
13 other effectual methods, human dead for burial, cremation, or
14 transportation.

15 "(21)~~(15)~~ FUNERAL. A ceremony for celebrating,
16 sanctifying, or remembering the life of a person who has died.
17 A funeral may be divided into the following two parts:

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

20 "b. The committal service or disposition, which may
21 take place by the grave, tomb, mausoleum, or crematory where
22 the body of the decedent is to be buried or cremated.

23 "(22) FUNERAL ARRANGEMENTS. The completing of
24 funeral service arrangements, cremation arrangements, and the
25 financial details of a funeral at the time of death. The term
26 includes the collection of vital statistic information, death
27 certificate information, obituary and funeral notice

1 completion, the completion of a statement of funeral goods and
2 services selected, organizing of funeral and memorial services
3 for families, and the ordering of cash advance items.

4 "~~(23)~~(16) FUNERAL DIRECTING. The practice of
5 directing or supervising funerals, the practice of preparing
6 dead human bodies for burial by means other than embalming, or
7 the preparation for the disposition of dead human bodies; the
8 making of funeral arrangements or providing for funeral
9 services or the making of financial arrangements for the
10 rendering of these services; the provision or maintenance of a
11 place for the preparation for disposition of dead human
12 bodies; or the use of the terms funeral director, undertaker,
13 mortician, funeral parlor, or any other term from which can be
14 implied the practice of funeral directing; or the holding out
15 to the public that one is a funeral director or engaged in a
16 practice described in this subdivision.

17 "~~(24)~~(17) FUNERAL DIRECTOR. A person required to be
18 licensed to practice the profession of funeral directing under
19 the laws of this state, who ~~meets~~ consults with the public,
20 who plans details of funeral services with members of the
21 family and minister or any other person responsible for such
22 planning, or who directs, is in charge, or apparent charge of,
23 and supervises funeral service in a funeral home, church, or
24 other place; who enters into the making, negotiation, or
25 completion of financial arrangements for funeral services, or
26 who uses in connection with the profession of funeral
27 directing the terms funeral director, undertaker, funeral

1 counselor, mortician, or any other term or picture or
2 combination thereof when considered in context in which used,
3 from which can be implied the practicing of the profession of
4 funeral directing or that the person using such term or
5 picture can be implied to be holding himself or herself out to
6 the public as being engaged in the profession of funeral
7 directing; and for all purposes under Alabama law, a funeral
8 director is considered a professional. For the purposes of
9 this chapter, the term does not include any cemetery
10 authority.

11 "(25)~~(18)~~ FUNERAL ESTABLISHMENTS. The term includes
12 any funeral home or mortuary service located at a specific
13 street address where the profession of funeral directing,
14 embalming, or cremation is practiced in the care, planning,
15 and preparation for burial, or cremation, or transportation of
16 human dead. ~~The term does not include any cemetery or land or~~
17 ~~structure owned, operated, leased, controlled, or managed by~~
18 ~~any cemetery authority as a cemetery.~~ A funeral establishment
19 shall consist of and maintain all of the following facilities:

20 "a. A preparation room equipped with sanitary
21 nonporous floor and walls, necessary drainage and ventilation,
22 and containing operating embalming equipment, necessary
23 approved tables, instruments, hot and cold running water,
24 containers or receptacles for soiled linen or clothing, and
25 supplies for the preparation and embalming of dead human
26 bodies for burial, cremation, and transportation.

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

5 "c. At least one operating funeral coach or hearse
6 properly licensed and equipped for transporting human remains
7 in a casket or urn.

8 "d. If engaged in the practice of cremation, ~~at~~
9 ~~least one operable retort for cremation~~ the establishment
10 shall satisfy all crematory requirements provided in this
11 chapter and have on site an adequate supply of urns for
12 display and sale.

13 "e. A room suitable for public viewing or other
14 funeral services that is able to accommodate a minimum of 100
15 people.

16 "f. An office for holding arrangement conferences
17 with relatives or authorizing agents.

18 "~~(26) (19)~~ FUNERAL SUPPLIES or FUNERAL MERCHANDISE.
19 Caskets made of any material for use in the burial or
20 transportation of human dead; outer receptacles, when sold by
21 a funeral director, including burial vaults and urns, for
22 cremated human remains; clothing used to dress human dead when
23 sold by a funeral director; and all equipment and
24 accouterments normally required for the preparation for burial
25 or funeral and other disposition of human dead.

26 "~~(27) (20)~~ GROSS IMMORALITY. Willful, flagrant, or
27 shameful immorality or showing a moral indifference to the

1 opinions of the good and respectable members of the community
2 and to the just obligations of the position held by the
3 offender.

4 "(28) HOLDING ROOM. Either of the following:

5 "a. A room within a funeral establishment that
6 satisfies the requirements of a branch location as provided in
7 this chapter or board rule, for the retention of human remains
8 before disposition.

9 "b. A room within a crematory facility, designated
10 for the retention of human remains before and after cremation,
11 that is not accessible to the public.

12 "(29) MANAGING CREMATIONIST. A licensed funeral
13 director and cremationist who has full charge, control, and
14 supervision of all activities involving cremation at a funeral
15 establishment or crematory.

16 "(30) ~~(21)~~ MANAGING EMBALMER. A licensed embalmer who
17 has full charge, control, and supervision of all activities
18 involving the preparation room and embalming.

19 "(31) ~~(22)~~ MANAGING FUNERAL DIRECTOR. A licensed
20 funeral director who has full charge, control, and supervision
21 of all activities involving funeral directing ~~at~~ for a funeral
22 establishment.

23 "(32) ~~(23)~~ MORAL TURPITUDE. Any unlawful sexual or
24 violent act, or any act involving theft, theft of services,
25 extortion, receiving stolen property, identity theft, forgery,
26 fraud, tampering with records, bribery, perjury, or any
27 similar act in any jurisdiction.

1 "(33)~~(24)~~ MORTUARY SCIENCE. The scientific,
2 professional, and practical aspects, with due consideration
3 given to accepted practices, covering the care, preparation
4 for burial, or transportation of dead human bodies, which
5 shall include the preservation and sanitation of the bodies
6 and restorative art and those aspects related to public
7 health, jurisprudence, and good business administration.

8 "(34)~~(25)~~ MORTUARY SERVICE. A location with a
9 specific street address where embalming or cremation, or both,
10 is practiced for a licensed funeral establishment and where no
11 services or merchandise are sold directly or at retail to the
12 public. A mortuary service shall consist of and maintain all
13 of the following facilities:

14 "a. A preparation room equipped with sanitary
15 nonporous floor and walls, operating embalming equipment, and
16 necessary drainage and ventilation and containing necessary
17 approved tables, instruments, hot and cold running water,
18 containers or receptacles for soiled linen or clothing, and
19 supplies for the preparation and embalming of dead human
20 bodies for burial, cremation, and transportation.

21 "b. At least one operating motor vehicle properly
22 licensed and equipped for transporting human remains in a
23 casket or urn.

24 "c. If engaged in the practice of cremation, ~~at~~
25 ~~least one operable retort for cremation~~ the establishment
26 shall satisfy all requirements for a crematory provided in
27 this chapter.

1 "(35)~~(26)~~ OPERATOR. A person, corporation, firm,
2 legal representative, or other organization owning or
3 operating a funeral establishment.

4 "(36)~~(27)~~ PRACTICAL ~~EMBALMERS~~ EMBALMER. Any person
5 who has been actively and continuously engaged or employed in
6 the practice of embalming under the supervision of a licensed
7 embalmer for four consecutive years immediately preceding May
8 1, 1975, and has been issued a license as a practical embalmer
9 under the grandfather provisions of this chapter.

10 "(37)~~(28)~~ PROCESSING or PULVERIZATION. The reduction
11 of identifiable bone fragments after the completion of the
12 cremation process to unidentifiable bone fragments or
13 granulated particles by manual or mechanical means.

14 "~~(29)~~ RETORT. ~~An enclosed space within which the~~
15 ~~cremation process takes place.~~

16 "(38)~~(30)~~ TEMPORARY CONTAINER. A receptacle for
17 cremated remains, usually composed of cardboard, plastic, or
18 similar material, that can be closed in a manner that prevents
19 the leakage or spillage of the cremated remains or the
20 entrance of foreign material, and is a single container of
21 sufficient size to hold the cremated remains until an urn is
22 acquired or the cremated remains are scattered or buried.

23 "(39)~~(31)~~ URN. A receptacle designed to encase
24 cremated remains.

25 "(b) Nothing in this chapter shall require a funeral
26 director or funeral establishment to have or provide a chapel

1 or to restrict the conduct of funeral services from a church
2 or chapel.

3 ~~"(c) Nothing contained in the definition of funeral~~
4 ~~directing, or in any other provision of this chapter, shall be~~
5 ~~applicable to or regulate or restrict cemetery authorities in~~
6 ~~the conduct of activities of a cemetery authority; or be~~
7 ~~applicable to or regulate or restrict the carrying on by any~~
8 ~~cemetery authority of any activities, functions, practices,~~
9 ~~and services which may now or hereafter (1) constitute any~~
10 ~~part of the operation or management of a cemetery or of the~~
11 ~~property of a cemetery or (2) otherwise consist of the~~
12 ~~interment or entombment of the human dead or memorialization~~
13 ~~of the human dead in any manner within a cemetery property.~~

14 "§34-13-3.

15 ~~"This chapter does not apply to any cemetery or~~
16 ~~cemetery authority or to any public institution, medical~~
17 ~~college, county medical society, anatomical association,~~
18 ~~college of embalming, or any officer thereof, or to any other~~
19 ~~recognized person carrying out the provision of the statutes~~
20 ~~of the State of Alabama prescribing the conditions under which~~
21 ~~indigent human dead bodies are held subject for scientific or~~
22 ~~anatomical study; provided, that nothing Nothing in this~~
23 ~~section chapter shall be construed to give any cemetery or~~
24 ~~cemetery authority or any other person or entity the right to~~
25 ~~enter into or engage in any funeral home operation or the~~
26 ~~practice of embalming or funeral directing or any related~~
27 ~~funeral home or funeral directing activities. Nor shall this~~

1 chapter include any temporary or occasional or extra help to
2 assist in the conduct of a funeral employed on such basis by
3 a funeral director, provided such funeral is under the ~~general~~
4 direct supervision of a licensed funeral director.

5 "§34-13-8.

6 "On application of any person and payment of the
7 cost thereof, the executive ~~secretary~~ director of the board
8 shall furnish, under the seal of the board and signed by the
9 executive ~~secretary~~ director, a certified copy of any license,
10 rule, regulation, or order. In any court or proceeding such
11 copy shall be prima facie evidence of the fact of the issuance
12 of such license, regulation, rule, or order and that such is
13 effective as of the date of such certificate.

14 "§34-13-10.

15 "Unless otherwise provided herein, violation of any
16 part of this chapter shall be a Class A misdemeanor which may
17 be prosecuted and shall be punishable as such under the laws
18 of Alabama. ~~It is further provided that those actions~~
19 ~~specifically enumerated in subdivisions (2)a. through (2)f.,~~
20 ~~(2)h., (2)j., (2)m., and (2)n. of Section 34-13-56 shall be~~
21 ~~punishable as a misdemeanor and may be prosecuted accordingly.~~

22 "§34-13-11.

23 "(a) A person, who is at least 18 years of age and
24 of sound mind, may enter into a contract to act as authorizing
25 agent and direct the location, manner, and conditions of
26 disposition of remains and arrange for funeral goods and
27 services to be provided upon death. Except as otherwise

1 provided in subsection (b), the right to control the
2 disposition of the remains of a deceased person as an
3 authorizing agent, including the location, manner, and
4 conditions of disposition and arrangements for funeral goods
5 and services to be provided, shall vest in the following
6 persons in the priority listed and the order named, provided
7 the person is at least 18 years of age and of sound mind:

8 "(1) The person designated by the decedent as
9 authorized to direct disposition pursuant to Public Law No.
10 109-163, Section 564, as listed on the decedent's United
11 States Department of Defense Record of Emergency Data, DD Form
12 93, or its successor form, if the decedent died while serving
13 on active duty in any branch of the United States Armed
14 Forces, United States Reserve Forces, or National Guard.

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

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

22 ""State of Alabama

23 "County of _____

24 "I, _____ designate _____ to
25 control the disposition of my remains upon my death. I ___ have
26 ___ have not attached specific directions concerning the
27 disposition of my remains. If specific directions are

1 attached, the designee shall substantially comply with those
2 directions, provided the directions are lawful and there are
3 sufficient resources in my estate to carry out those
4 directions.

5 "Subscribed and sworn to before me this ___ day of
6 the month of _____ of the year _____.

7 " _____ (signature of notary public)"

8 "(3) The surviving spouse.

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

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

24 "(6) ~~(5)~~ The surviving parent or parents of the
25 decedent. If one surviving parent is absent, the remaining
26 parent shall be vested with the rights and duties of this

1 section after reasonable efforts in locating the absent
2 surviving parent have been unsuccessful.

3 "(7)~~(6)~~ The surviving sibling of the decedent or, if
4 there is more than one surviving sibling, a majority of the
5 surviving siblings. Less than a majority of the surviving
6 siblings may be vested with the rights and duties of this
7 section if reasonable efforts have been made to notify all
8 surviving siblings of the instructions and a majority of the
9 surviving siblings are not aware of any opposition to the
10 instructions.

11 "(8)~~(7)~~ The surviving grandparent of the decedent
12 or, if there is more than one surviving grandparent, a
13 majority of the surviving grandparents. Less than a majority
14 of the surviving grandparents may be vested with the rights
15 and duties of this section if reasonable efforts have been
16 made to notify all surviving grandparents of the instructions
17 and a majority of the surviving grandparents are not aware of
18 any opposition to the instructions.

19 "(9)~~(8)~~ The guardian of the decedent at the time of
20 the death of the decedent, if a guardian had been appointed.

21 "(10)~~(9)~~ The personal representative of the estate
22 of the decedent.

23 "(11)~~(10)~~ The person in the classes of the next
24 degree of kinship, in descending order, under the laws of
25 descent and distribution to inherit the estate of the
26 decedent. If there is more than one person of the same degree,

1 any person of that degree may exercise the right of
2 disposition.

3 "(12)~~(11)~~ The public officer, administrator, or
4 employee responsible for arranging the final disposition of
5 the remains of the decedent if the disposition of the remains
6 is the responsibility of the state or a political subdivision
7 of the state.

8 "(13)~~(12)~~ Any other person willing to assume the
9 responsibility of acting on and arranging the final
10 disposition of the remains of the decedent, including the
11 funeral director that has custody of the body, in the absence
12 of any person specified in subdivisions (1) to ~~(11)~~ (12),
13 inclusive. The person shall attest in writing that good faith
14 efforts to contact the persons specified in subdivisions (1)
15 to ~~(11)~~ (12), inclusive, have been unsuccessful.

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

19 "(1) The person is charged with first or second
20 degree murder or voluntary manslaughter in connection with the
21 death of the decedent and the charges are known by the
22 mortician. If the charges against the person are dismissed or
23 the person is acquitted of the charges, the right of
24 disposition shall be reinstated.

25 "(2) The person does not exercise his or her right
26 of disposition within two days after notification of the death

1 of the decedent or within three days after the death of the
2 decedent, whichever is earlier.

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

6 "(4) If the judge of probate court determines,
7 pursuant to subsection (c), that the person entitled to the
8 right of disposition and the decedent were estranged at the
9 time of death. For the purposes of this subdivision, estranged
10 means a physical and emotional separation that has existed for
11 such a period of time that an absence of affection, trust, and
12 regard for the decedent is clearly demonstrated.

13 "(c) Notwithstanding subsections (a) and (b), the
14 judge of probate of the county of residence of the decedent
15 may award the right of disposition to the person the judge of
16 probate determines to be the most fit and appropriate to
17 manage the right of disposition, and may make decisions
18 regarding the remains of the decedent if the persons
19 possessing the right of disposition do not agree. If two or
20 more persons who possess an equal right of disposition are not
21 able by majority vote to agree upon the disposition of the
22 remains of the decedent, any of those persons or the funeral
23 establishment with custody of the remains may file a petition
24 asking the judge of probate to make a determination in the
25 matter. In making such a determination, the judge of probate
26 shall consider all of the following:

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

3 "(2) The degree of the personal relationship between
4 the decedent and each person possessing a right of
5 disposition.

6 "(3) The financial ability and willingness of each
7 person possessing a right of disposition to pay the cost of
8 the funeral and disposition arrangements.

9 "(4) The convenience and needs of other family
10 members and friends who wish to pay their respects and the
11 degree to which the funeral arrangements would allow maximum
12 participation by all who wish to pay their respects.

13 "(5) The desires of the decedent.

14 "(d) Absent negligence, wantonness, recklessness, or
15 deliberate misconduct in the event of a dispute regarding the
16 right of disposition, a funeral establishment may not be held
17 liable for refusing to accept remains, for interring, or for
18 otherwise disposing of the remains of a decedent or for
19 completing arrangements for the final disposition of remains
20 unless and until the funeral establishment receives an order
21 from the judge of probate, or other written agreement signed
22 by all persons possessing a right of disposition, regarding
23 the final disposition of the remains. If a funeral
24 establishment retains remains for final disposition during a
25 disagreement, the funeral establishment may embalm or
26 refrigerate and shelter the body, or both, to preserve the
27 body pending the final decision of the judge of probate. The

1 funeral establishment may add the cost of embalming or
2 refrigeration and sheltering, or both, to the final
3 disposition cost. If a funeral establishment files a petition
4 pursuant to subsection (c), the funeral establishment may add
5 any associated legal fees and court costs to the cost of final
6 disposition. This section may not be construed to require or
7 impose a duty upon a funeral establishment to bring an action
8 pursuant to this section. A funeral establishment and its
9 employees may not be held criminally or civilly liable for not
10 bringing an action pursuant to this section.

11 "(e) Except to the degree that it may be considered
12 by the judge of probate pursuant to subdivision (3) of
13 subsection (c), the fact that a person has paid or has agreed
14 to pay for all or a part of funeral and final disposition
15 arrangements does not give that person a greater voice in
16 right of disposition decisions than he or she would have had
17 otherwise. The personal representative of the estate of a
18 decedent, by virtue of being the personal representative, does
19 not have a greater voice in right of disposition decisions
20 than he or she would have had otherwise.

21 "§34-13-20.

22 "(a) There is established the Alabama Board of
23 Funeral Service, consisting of ~~seven~~ nine members, each of
24 whom shall be citizens of the United States and residents of
25 the State of Alabama. ~~All members of the former Alabama~~
26 ~~Embalming Board who are holding office on September 10, 1975,~~
27 ~~by virtue of that office, shall become members of the Alabama~~

1 Board of Funeral Service for the term ending December 31,
2 1976. Not more than one member of the Alabama Board of Funeral
3 Service may reside in the same district as created under
4 Section 34-13-21, and if more than one member of the State
5 Embalming Board resides in one district at the time of the
6 organization of the board, the Governor shall select one
7 member of the Embalming Board to be a member of the original
8 Alabama Board of Funeral Service from the district, and the
9 other member of the Embalming Board shall not be eligible for
10 membership on the board.

11 " (b) At a special meeting called for such purpose,
12 to be held in Montgomery, within 45 days from September 10,
13 1975, the Alabama Funeral Directors Association, Incorporated,
14 and the Alabama Funeral Directors and Morticians Association,
15 Incorporated, in joint meeting, shall nominate three qualified
16 persons for each of the positions as members of the original
17 board of the Alabama Board of Funeral Service which are not
18 filled by members of the State Embalming Board. The names of
19 such persons so nominated shall be promptly certified by the
20 secretary of the Alabama Funeral Directors Association,
21 Incorporated, and the Alabama Funeral Directors and Morticians
22 Association, Incorporated, to the Governor who shall appoint
23 the members of the board from among the persons so nominated.
24 Not more than four members of the board at any time may be
25 members of the same race and the membership of the board shall
26 be inclusive and reflect The appointing authorities shall
27 coordinate their appointments to assure board membership is

1 inclusive and reflects the racial, gender, geographic,
2 urban/rural, and economic diversity of the state. At no time
3 may more than five members of the entire membership of the
4 board be of the same race or both consumer members be of the
5 same race. ~~The board shall annually report to the Legislature~~
6 ~~by the second legislative day of each regular session the~~
7 ~~extent to which the board has complied with the diversity~~
8 ~~provisions provided for in this subsection. Four members shall~~
9 ~~be appointed for a term ending December 31, 1977, and the~~
10 ~~board shall be constituted so that the terms of three members~~
11 ~~of the board shall end December 31, 1976, and the terms of~~
12 ~~four members shall end December 31, 1977. The terms of the~~
13 ~~members of the State Embalming Board, who become members of~~
14 ~~the Alabama Board of Funeral Service under this chapter, shall~~
15 ~~expire December 31, 1976, unless there are more than three~~
16 ~~such members, in which event, the Governor shall designate~~
17 ~~which of the three members of the State Embalming Board shall~~
18 ~~serve for terms ending December 31, 1976, and which shall~~
19 ~~serve for terms ending December 31, 1977.~~

20 "(c) ~~After selection of the original members of the~~
21 ~~Alabama Board of Funeral Service and during October of each~~
22 ~~year, all embalmers and all funeral directors licensed under~~
23 ~~this chapter shall meet in Montgomery, at a time and date in~~
24 ~~October and at a place fixed by the board, for the purpose of~~
25 ~~nominating three persons to the Governor for each vacancy on~~
26 ~~the board. Not more than two nominees shall be members of the~~
27 ~~same race. The Governor shall promptly appoint one of the~~

1 ~~three persons so nominated. If an appointment is not made~~
2 ~~before the expiration of the term of a board member, then the~~
3 ~~board member may continue to serve until a successor has been~~
4 ~~appointed.~~

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

1 ~~member of the board shall remain an active practicing funeral~~
2 ~~director or embalmer and funeral establishment operator during~~
3 ~~his or her tenure of service on the board. Each member may~~
4 ~~serve not more than four consecutive two-year terms. In no~~
5 ~~event shall more than one member of the board reside in one~~
6 ~~district. At each meeting where nominations are made for~~
7 ~~members of the board, only one licensed funeral director or~~
8 ~~licensed embalmer of each establishment shall have the right~~
9 ~~to vote for nominees.~~

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

19 ~~"(c) Commencing on January 1, 2019, as the terms of~~
20 ~~the members serving on the board on the effective date of the~~
21 ~~act adding this subsection expire, the membership of the board~~
22 ~~shall be reconstituted to consist of seven professional~~
23 ~~members and two consumer members.~~

24 ~~"(1) Each professional member of the board shall be~~
25 ~~a citizen of the United States, a resident of Alabama, and~~
26 ~~licensed and in good standing with the board as an embalmer or~~
27 ~~funeral director at the time of appointment and during the~~

1 entire term of office. Professional members of the board shall
2 be appointed by the Governor pursuant to subsection (e).

3 "a. Four of the professional members of the board
4 shall hold a current license from the board to practice
5 embalming in the state, shall have been actively practicing
6 embalming in the state for the last 10 consecutive years
7 immediately preceding appointment, and shall be engaged in the
8 practice of embalming at the time of appointment to the board.

9 "b. Three of the professional members of the board
10 shall hold a current license from the board to practice
11 funeral directing in the state, shall have been actively
12 engaged in funeral directing in the state for the last 10
13 consecutive years immediately preceding appointment, and shall
14 be the operator of a funeral establishment in this state at
15 the time of appointment to the board.

16 "(2) Each consumer member of the board shall
17 represent the public in general and shall have been a citizen
18 of the United States and a resident of Alabama for the last 10
19 consecutive years immediately preceding appointment and during
20 the entire term of office. A consumer member of the board may
21 not have held, nor currently hold, a license or certification
22 issued by the board, be employed at any time by, or
23 professionally or financially associated with, the holder of a
24 license or certificate issued by the board, or be related
25 within the third degree of consanguinity or affinity to the
26 holder of a license or certificate issued by the board. One
27 consumer member of the board shall be appointed by the

1 Lieutenant Governor and one consumer member shall be appointed
2 by the Speaker of the House of Representatives pursuant to a
3 procedure adopted by rule of the board.

4 "(d) Commencing in October of 2018, and each October
5 thereafter of a year where at least one professional member
6 term on the board has expired, or is vacant for any reason,
7 all licensed funeral directors and licensed embalmers shall
8 meet in Montgomery, at a time and place fixed by the board,
9 for the purpose of nominating and submitting the names of
10 three licensed persons for each position on the board to the
11 Governor. Not more than two nominees shall be members of the
12 same race. The Governor shall promptly appoint one of the
13 three persons so nominated to serve as a professional member
14 of the board.

15 "(e) (1) Professional and consumer members of the
16 board shall serve staggered terms of four years each to
17 provide continuity of service on the board. If an appointment
18 is not made before the expiration of a term, the board member
19 then serving may continue to serve until a successor has been
20 appointed. A board member may not serve more than two full
21 consecutive terms on the board.

22 "(2) A board member who is appointed to fill a
23 vacancy which occurs before the expiration of the term of the
24 vacating member shall serve the remaining portion of the term
25 to which the former member was appointed. If a member is
26 appointed to fill an unexpired term of less than two years,

1 the time may not be counted toward the maximum eight years of
2 service.

3 "(3) Not more than one professional member of the
4 board may reside in the same district as created by Section
5 34-13-21.

6 "(4) At each meeting where nominations are made for
7 the professional members of the board, only one licensed
8 funeral director or licensed embalmer employed by the same
9 funeral establishment may vote.

10 "(f) (1) In accordance with applicable law, in
11 addition to a board member resigning from the board in
12 writing, a board member may be removed from the board for any
13 of the following grounds:

14 "a. The refusal or inability to perform board duties
15 in an efficient, responsible, or professional manner.

16 "b. The misuse of his or her position on the board
17 to obtain financial gain or seek personal advantage for
18 himself, herself, or another person.

19 "c. A final adjudication or determination of guilt
20 by any lawful authority of the board member or sanction of the
21 board member for the violation of any law the board determines
22 is substantially related to any practice governed by this
23 chapter.

24 "d. The revocation or suspension of the license of a
25 professional member of the board.

26 "(2) Any board member who fails to qualify after
27 appointment shall automatically become ineligible to serve as

1 a member of the board and a new member, properly qualified,
2 shall be appointed in the same manner as the original
3 appointment and shall serve the remainder of the term of the
4 vacating board member.

5 "(3) If a consumer board member fails to attend two
6 or more meetings within a year, without a valid excuse as
7 determined by the board, he or she shall be removed from the
8 board. A new consumer board member shall be appointed in the
9 same manner as the original appointment and shall serve the
10 remainder of the term.

11 "§34-13-21.

12 "There are hereby created, for the purpose of this
13 chapter, seven geographical districts which shall be identical
14 with the seven congressional districts as fixed and
15 established by Section ~~17-20-1~~ 17-14-70, as may be amended. It
16 is the purpose and intention of this section to provide that
17 one professional member of the ~~Alabama Board of Funeral~~
18 ~~Service~~ board shall be selected from each district, ~~which~~
19 ~~shall be geographically identical with the congressional~~
20 ~~districts,~~ and that three nominees to the Governor for
21 appointment to the board shall be made from each district. The
22 two consumer members of the board may not reside in the same
23 congressional district.

24 "§34-13-23.

25 "(a) (1) The board appointed under this chapter and
26 each successor thereto is authorized to select from its own
27 membership a chair and to adopt and promulgate such rules and

1 regulations for the transaction of its business and for the
2 betterment and promotion of the standards of service and
3 practice to be followed in the funeral service profession in
4 the State of Alabama as ~~it~~ the board may deem expedient and
5 consistent with the laws of this state and for the public
6 good.

7 "(2) The chair shall preside at all meetings of the
8 board unless otherwise ordered, and he or she shall exercise
9 and perform all duties and functions incident to the office of
10 chair.

11 "(3) The board may select also from its own
12 membership a vice chair, a secretary, and a treasurer. No two
13 offices shall be held by the same person. The chair and vice
14 chair may not be of the same race.

15 "(b) The treasurer shall give bond to the State of
16 Alabama in the sum of ten thousand dollars (\$10,000), and any
17 premium payable for the bond shall be paid from the funds of
18 the board. The bond shall be deposited with the Treasurer of
19 the State of Alabama.

20 "(c) Board members shall be reimbursed for their
21 necessary traveling expenses and the necessary expenses
22 incident to their attendance upon the business of the board,
23 and, in addition thereto, they shall receive the sum of fifty
24 dollars (\$50) per diem for every day not to exceed 20 days per
25 year actually spent by the member upon the business of the
26 board. The board may employ an executive ~~secretary~~ director
27 and associate executive ~~secretary~~ director who shall each

1 receive and be paid an annual salary to be fixed by the board,
2 but not to exceed the salary level established and paid to
3 cabinet officers in the state government. The salary shall be
4 paid on a ~~monthly~~ semimonthly basis. In addition, the
5 executive ~~secretary~~ director and associate executive ~~secretary~~
6 director shall receive his or her necessary traveling and
7 other incidental expenses as are incurred in the performance
8 of duties, and all expenses, per diem, and compensation shall
9 be paid out of the receipts of the board. At no time shall the
10 operation of the board be an expense to the state, and at no
11 time shall expenses of the board exceed the receipts of the
12 board.

13 "(d) The executive ~~secretary~~ director of the board
14 shall have complete supervision and be held responsible for
15 the direction of the office of the board, shall have
16 supervision over field inspection and enforcement of this
17 chapter, and shall be responsible and answerable to the board.
18 The associate executive ~~secretary~~ director shall assist the
19 executive ~~secretary~~ director and perform such other duties as
20 may be assigned to him or her by the board. The executive
21 ~~secretary~~ director and associate executive ~~secretary~~ director
22 shall not be of the same race.

23 "(e) The executive ~~secretary~~ director shall keep a
24 record in which shall be registered the name and business
25 address of every person to whom licenses have been granted in
26 accordance with this chapter, the number and date of the
27 license and the date of each renewal. Upon request to do so,

1 the executive ~~secretary~~ director shall supply each person
2 licensed for the practice of embalming and funeral directing
3 with a list of all persons and establishments holding a
4 license under this chapter, then in force, giving the names of
5 the persons, their business addresses, and the numbers of
6 their licenses.

7 "(f) It shall be the duty of the executive ~~secretary~~
8 director to prepare under the direction of the board and cause
9 to be printed all forms required by this chapter to be
10 prescribed by the board. All notices required to be mailed by
11 this chapter shall be directed to the last known post office
12 address of the party to whom the notice is sent.

13 "(g) The executive ~~secretary~~ director shall serve at
14 the pleasure of the board and shall perform duties as may be
15 necessary for the proper functioning of the board as the board
16 may determine or as may be prescribed in this chapter. During
17 the employment of the executive ~~secretary~~ director he or she
18 may not be employed by any funeral establishment.

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

1 "(i) Each member of the board, the executive
2 ~~secretary~~ director, the associate executive ~~secretary~~
3 director, designated employees, and independent contractors of
4 the board appropriately identified are authorized at any given
5 time on complaint or for inspection purposes to enter the
6 office, premises, establishment, or place of business of any
7 funeral service licensee in the State of Alabama or any
8 office, premises, establishment, or place where the practice
9 of funeral service is carried on, or where the practice is
10 advertised as being carried on, for the purpose of inspecting
11 the office, premises, records, or establishment and for the
12 purpose of inspecting the license and registration of any
13 funeral service licensee and apprentice trainee operating
14 therein.

15 "(j) All members of the board or designated
16 employees of the board ~~are hereby authorized to~~ may serve and
17 execute any process issued by any court under this chapter and
18 to serve and execute any papers or process issued by the board
19 or any officer or member thereof under ~~authority of~~ this
20 chapter.

21 "(k) The board may employ clerical assistants and
22 employees or other help as ~~may be~~ necessary to carry out this
23 chapter, and the terms and conditions of employment shall be
24 determined by the board. The board may establish and equip an
25 office from which this chapter may be carried out.

26 "§34-13-25.

1 ~~"All hearings provided for by this chapter shall be~~
2 ~~open to the public, and a report and record of proceedings of~~
3 ~~each hearing shall be made at the expense of the board. A copy~~
4 ~~of such report and record shall be furnished to any interested~~
5 ~~party, upon request and tender to the executive secretary of~~
6 ~~the board of the reasonable cost of preparation thereof~~
7 ~~conducted pursuant to the Alabama Administrative Procedure~~
8 ~~Act.~~

9 "§34-13-26.

10 ~~"(a) The board has the power to shall adopt and~~
11 ~~enforce for the protection of the public health, safety, and~~
12 ~~welfare reasonable rules and regulations pursuant to the~~
13 ~~Alabama Administrative Procedure Act.~~

14 ~~"(b) The rules and regulations of the board shall~~
15 ~~not become effective until they have been published and~~
16 ~~discussed at a public hearing and have been filed in the~~
17 ~~office of the Secretary of State; and, when so filed, such~~
18 ~~rules and regulations shall be in full force and have the~~
19 ~~effect of law. The board shall mail notice of such hearing to~~
20 ~~each licensee under this chapter 15 days before the date of~~
21 ~~such hearing.~~

22 ~~"(c) All rules and regulations adopted by the board~~
23 ~~shall be referenced to the section or sections of this chapter~~
24 ~~which set forth the legislative standard which it interprets~~
25 ~~or to which it applies. Every rule and regulation shall be in~~
26 ~~writing, promulgated by an order, state its effective date, be~~
27 ~~indexed in a permanent book which shall be a permanent record,~~

1 and a true copy shall be filed in the office of the Secretary
2 of State of Alabama. A copy of every order promulgating a
3 rule, regulation, or other order containing a requirement of
4 general application shall be provided to each licensee in
5 electronic format and available on the website of the board.
6 The failure of a licensee to receive a copy of the rule,
7 regulation, or order shall not exempt or excuse him or her
8 from the duty of compliance with the valid rules, regulations,
9 or orders lawfully issued.

10 "(d) (b) The board shall have power to may hold
11 hearings, conduct investigations, subpoena witnesses, subpoena
12 documents, administer oaths, and take testimony in order to
13 carry out this chapter.

14 "(e) A court of competent jurisdiction, upon
15 application of the board, may restrain violations or refusals
16 to comply with this chapter or the regulations of the board.

17 "(f) Any person, including a member of the board,
18 may initiate a complaint against a licensee of the board by
19 filing with the board a written complaint on a form prescribed
20 by the board.

21 "(1) Upon receipt of a properly verified complaint,
22 the board shall send a copy of the complaint to the affected
23 licensee by certified mail to the address of such licensee
24 appearing on record with the board. The licensee shall answer
25 the complaint in writing within 20 days after receipt of the
26 complaint. The licensee shall mail a copy of his or her
27 response to the board and the complainant. Upon receipt of the

1 ~~response of the licensee or lapse of 20 days, the board may~~
2 ~~investigate a complaint that appears to show the existence of~~
3 ~~any of the causes or grounds for disciplinary action pursuant~~
4 ~~to this chapter. Upon finding reasonable cause to believe that~~
5 ~~the charges are not frivolous, unfounded, or filed in bad~~
6 ~~faith, the board may cause a hearing to be held, at a time and~~
7 ~~place fixed by the board, regarding the charges. If a hearing~~
8 ~~is held, the board shall order the licensee to appear and show~~
9 ~~cause why he or she should not be disciplined for a violation~~
10 ~~of this chapter.~~

11 ~~"(2) The board shall give the complainant and the~~
12 ~~affected licensee 20 days' notice of any hearing upon a~~
13 ~~complaint. Such notice shall be by United States certified~~
14 ~~mail.~~

15 ~~"(3) Any party appearing before the board may be~~
16 ~~accompanied by counsel.~~

17 ~~"(4) Before commencing a hearing, the chair or a~~
18 ~~designee of the board shall determine if all parties are~~
19 ~~present and ready to proceed. If the complainant does not~~
20 ~~attend a hearing and does not show good cause for his or her~~
21 ~~absence, the complaint shall be summarily dismissed and all~~
22 ~~fees and expenses relating to the convening of the hearing~~
23 ~~shall be charged to the complainant. If an affected licensee~~
24 ~~does not appear for a hearing and does not show good cause for~~
25 ~~his or her absence, the licensee shall be presumed to have~~
26 ~~waived his or her right to appear before the board and be~~
27 ~~heard.~~

1 ~~"(5) Upon a determination by the chair or designee~~
2 ~~that all parties are ready to proceed, the hearing shall be~~
3 ~~called to order. The complainant and the licensee may offer~~
4 ~~opening statements and the board may order the sequestration~~
5 ~~of nonparty witnesses.~~

6 ~~"(6) After opening statements, the complainant shall~~
7 ~~present his or her case and the licensee, any counsel, and any~~
8 ~~member or designee of the board may ask questions of~~
9 ~~complainant witnesses.~~

10 ~~"(7) After the complainant has completed presenting~~
11 ~~his or her case, the licensee shall present his or her case~~
12 ~~and the complainant, any counsel, and any member or designee~~
13 ~~of the board may ask questions of licensee witnesses.~~

14 ~~"(8) After both sides have completed their~~
15 ~~presentations, closing statements may be given by the~~
16 ~~complainant and the licensee.~~

17 ~~"(9) At the conclusion of the hearing, the board may~~
18 ~~render an immediate decision or take the case under advisement~~
19 ~~for further deliberation. A decision of the board shall be~~
20 ~~rendered within 90 days after the hearing and a copy of that~~
21 ~~decision shall be mailed to the last known business or~~
22 ~~residence address of the complainant and the licensee.~~

23 ~~"(g) The board may file a formal complaint against a~~
24 ~~licensee and may temporarily suspend a license simultaneously~~
25 ~~with the institution of proceedings under this section,~~
26 ~~without a hearing, if the board finds that the evidence~~
27 ~~supporting the determination is clear, competent, and~~

1 ~~unequivocal and that the continuation of the licensee to~~
2 ~~practice would constitute a danger to public health or safety.~~

3 "§34-13-29.

4 "All necessary expenses incurred in giving
5 examinations to applicants and incidental to the renewal of
6 licenses and all necessary expenses incurred in education and
7 enforcing ~~the provisions of~~ this chapter shall be audited by
8 the ~~Examiner~~ the Department of Examiners of Public Accounts
9 and paid from the funds provided for in this chapter in the
10 same manner as other claims against the state are paid after
11 due approval thereof by the ~~chairman~~ chair and executive
12 ~~secretary~~ director of the board.

13 "§34-13-31.

14 "(a) Whenever, by decision, final order, l or other
15 final determination upon any public hearing provided for by
16 this chapter, a party to such hearing shall feel aggrieved, an
17 appeal may be taken to the ~~circuit court for the county within~~
18 ~~which such party resides or, if he or she is not a resident of~~
19 ~~Alabama, then to the circuit court for the county within which~~
20 ~~the hearing was held~~ Circuit Court of Montgomery County,
21 Alabama. However, if there is more than one appellant, the
22 ~~circuit court having jurisdiction to hear the appeal of the~~
23 ~~first appellant filing a notice of appeal shall have~~
24 ~~jurisdiction to hear all appeals arising from the same~~
25 ~~hearing, irrespective of the place of residence of the~~
26 ~~appellants.~~

1 "(b) On taking and perfecting an appeal to the
2 ~~circuit court having jurisdiction thereof~~ Circuit Court of
3 Montgomery County, Alabama, the court shall proceed as in
4 other cases.

5 "(c) All appeals shall be taken within 30 days from
6 the date of the order entered of the board which is the basis
7 of the appeal and shall be granted as a matter of right and be
8 deemed perfected by filing with the board a bond for security
9 of costs of the appeal. Upon filing of a verified petition and
10 hearing thereon, the court ~~may~~, in its discretion, may stay
11 the order appealed from pending final judicial review. No new
12 or additional evidence may be introduced in the circuit court
13 except as to fraud or misconduct of some person engaged in the
14 administration of this chapter and affecting the order, rule,
15 or ruling appealed from. The court shall otherwise hear the
16 case upon the record as certified to the court by the
17 executive ~~secretary~~ director of the board and shall set aside
18 the order, rule, or action appealed from if the court finds
19 that the board erred to the prejudice of the appellant's
20 substantial rights in its application of the law; or, the
21 order, decision, or award was procured by fraud or was based
22 upon a finding of facts contrary to the substantial weight of
23 the evidence, or that the order was arbitrary, capricious, or
24 inconsistent with respect to any of the material issues
25 involved; or that the board failed in its order to find
26 sufficient facts as to each material issue involved to enable
27 the court to determine the basis for the conclusion of the

1 board. The court, instead of setting aside the order, shall
2 remand the case to the board for further proceedings in
3 conformity with the direction of the court. The court ~~may~~, in
4 advance of judgment and upon a sufficient showing, may remand
5 the cause to the board for the purpose of taking additional
6 testimony or other proceedings.

7 "(d) An appeal may be taken from the judgment decree
8 or any appealable order of the circuit court to the Supreme
9 Court of this state. Appeals to the Supreme Court shall be
10 taken, perfected, heard, and determined in the manner
11 prescribed by law and the Alabama Rules of Appellate Procedure
12 for taking, perfecting, hearing, and determining appeals to
13 the Supreme Court.

14 "§34-13-51.

15 "(a) The board ~~may, but shall not be required to,~~
16 recognize and issue, without examination and upon payment of a
17 fee not in excess of five hundred dollars (\$500) for each
18 license, a reciprocal license for the practice of funeral
19 directing or embalming to any person licensed as a funeral
20 director or embalmer by any state, if the board makes an
21 individual determination that the qualifications of the
22 applicant meet or exceed the minimum qualifications required
23 for funeral directors or embalmers in this state and that a
24 written examination of such applicant would be superfluous.

25 "(b) Applications shall be made on forms prescribed
26 and furnished by the board. An applicant holding a funeral
27 director or embalmer license from another state, and applying

1 for a funeral director or embalmer license in Alabama shall be
2 considered for licensing by reciprocity.

3 "(c) Commencing on October 1, 2017, in addition to
4 the requirements of subsections (a) and (b), an applicant for
5 a funeral director or embalmer license shall submit to the
6 board a form, sworn to by the applicant, that contains the
7 name, date of birth, and Social Security number of the
8 applicant, and two complete sets of fingerprints, for
9 completion of a criminal history background check. The board
10 shall submit the fingerprints to the Alabama State Law
11 Enforcement Agency for a state criminal history record check.
12 The fingerprints shall be forwarded by the agency to the
13 Federal Bureau of Investigation for a national criminal
14 history record check. Costs associated with conducting a
15 criminal history background check shall be paid by the
16 applicant. The board shall keep information received pursuant
17 to this subsection confidential, except that information
18 received and relied upon in denying the issuance of a funeral
19 director or embalmer license may be disclosed if necessary to
20 support the denial.

21 "(d) ~~(e)~~ The board, at the time of the application,
22 shall make a reasonable determination that the applicant is a
23 legal resident of the United States or legally present in this
24 state. The board reserves the right to require applicants for
25 reciprocity to submit to a personal interview or a written
26 examination relating to the law as it pertains to the
27 regulation of the funeral service profession in Alabama.

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

8 "§34-13-52.

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

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

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

24 "(d) Any person engaged in the business, profession,
25 or practice of funeral directing shall do each of the
26 following:

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

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

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

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

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

23 "(f) Any person engaged in the business, profession,
24 or practice of cremation shall do each of the following:

25 "(1) Possess on his or her person, or be able to
26 promptly produce, a legible and current Alabama cremationist's
27 wallet license when performing the duties of a cremationist.

1 "(2) Upon the request of a board member, the
2 executive director, the associate executive director, or a
3 designated and appropriately identified employee of the board,
4 promptly produce his or her legible and current Alabama
5 cremationist wallet license certificate.

6 "§34-13-53.

7 "(a) (1) Before October 1, 2018, every ~~Every~~ licensed
8 funeral director, ~~every~~ licensed embalmer, and ~~every~~ licensed
9 operator shall pay annually a fee for renewal of his or her
10 license. The renewal fees shall be set by the board at a rate
11 not to exceed one hundred fifty dollars (\$150) for licensed
12 embalmers and funeral directors and five hundred dollars
13 (\$500) for licensed operators.

14 "(2) Commencing on October 1, 2018, every license or
15 registration issued by the board under this chapter shall be
16 renewed biennially upon submission by the licensee or
17 registrant of a renewal application and a renewal fee
18 established by board rule, not exceeding five hundred dollars
19 (\$500), for each licensed cremationist, embalmer, funeral
20 director, and funeral establishment.

21 "(b) All licenses granted under this chapter shall
22 expire on October 1, following their issuance or renewal, and
23 shall become invalid unless renewed as provided in this
24 section and other requirements of the board are met. In
25 addition to payment of a renewal fee, each licensee shall
26 satisfy continuing education requirements prescribed by rule

1 of the board pursuant to subsection (c). There shall be no
2 proration of licenses.

3 "(c) (1) Commencing in 2014, and for each licensing
4 period thereafter, the board may require persons seeking
5 renewal of ~~an~~ a cremationist, embalmer, or funeral director
6 license under this chapter to complete board approved
7 continuing education of not less than eight hours biennially.
8 The board may approve continuing education providers and
9 courses offered by institutions of higher learning, specialty
10 societies, associations, or professional organizations or by
11 other organizations the board deems appropriate.

12 "(2) Any person who holds an inactive license or who
13 is over the age of 65, with at least 10 years of experience in
14 the funeral service industry, is exempt from the continuing
15 education requirement.

16 "(3) An embalmer who is also a licensed funeral
17 director and who completes the continuing education
18 requirements for funeral directors is not required to complete
19 additional continuing education requirements.

20 "(4) Continuing education providers shall pay a
21 biennial administrative fee established by board rule, not
22 exceeding two hundred fifty dollars (\$250).

23 "(5) (4) The board may promulgate rules to implement
24 and ensure compliance with this section.

25 "(d) The board shall publish on or before August 1
26 of ~~each~~ the expiration year, in printed form, electronic
27 image, in an online publication, or on the website of the

1 board that is accessible to each licensed funeral director,
2 licensed embalmer, licensed cremationist, and licensed
3 ~~operator establishment~~, notice that his or her renewal fee is
4 due and payable and that, if such fee is not paid by ~~October 1~~
5 September 30 of that year, the license shall ~~lapse~~ expire.
6 Information regarding license renewal dates and fees shall be
7 available in electronic format on the website of the board.

8 "(e) At the time, or before, a licensee changes
9 place of employment, residence address, or makes any other
10 change in status which is of record at the board office, the
11 licensee shall report such change of status, by a method
12 prescribed by the board, to the executive ~~secretary~~ director.

13 "§34-13-54.

14 "No license to a cremationist, an embalmer, a
15 funeral director, or a funeral establishment granted under or
16 regulated by this chapter shall be transferable or assignable.

17 "§34-13-55.

18 "(a) When a licensee, for any reason, has allowed
19 ~~his or her~~ a license to lapse expire, the board may reinstate
20 the license if application for reinstatement is made within a
21 period of ~~six months~~ 30 days from the ~~lapse~~ date of expiration
22 and is accompanied by payment of all penalties and ~~lapsed~~
23 fees, from the time of ~~the lapse~~ expiration to date of
24 reinstatement. The penalties to be paid to the board shall not
25 exceed one hundred dollars (\$100) to reinstate licenses which
26 have ~~lapsed~~ expired.

1 "(b) After the ~~six-month~~ 30-day period has elapsed,
2 ~~such a~~ license may be reinstated only by complying with the
3 provisions of this chapter relating to the issuance of an
4 original license in addition to payment of all ~~lapsed~~ fees and
5 penalties.

6 "§34-13-56.

7 "(a) The board may refuse to license any person or
8 establishment for violation of this chapter. If the board
9 refuses to issue, grant, or renew a license based on a
10 violation of this chapter, including, but not limited to,
11 violations listed in subsection (c), the licensee or
12 prospective licensee may request a public hearing before the
13 board to appeal the action of the board. The request for a
14 public hearing shall be submitted to the board in writing
15 within 14 calendar days after the date of the refusal. Upon
16 request, the board shall provide the licensee or prospective
17 licensee with 20 days' notice of the public hearing by United
18 States certified mail. The public hearing shall be conducted
19 pursuant to Section 34-13-26.

20 "(b) A public hearing conducted pursuant to Section
21 34-13-26 shall be provided by the board to any licensee for
22 whom the board is considering the probation, suspension, or
23 revocation of a license, excluding a temporary suspension
24 issued by the board pursuant to subsection (g) of Section
25 34-13-26.

26 "(c) (a) The board may ~~refuse to grant, refuse to~~
27 ~~renew, or suspend,~~ or revoke, or place on probation a license

1 ~~after proper hearing and notice to~~ if the licensee, ~~upon the~~
2 ~~licensee's being~~ is found guilty of any of the following:

3 "(1) Conviction of a crime involving moral turpitude
4 including, but not limited to, any crime where the individual
5 has to register as a sex offender in any jurisdiction.

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

8 "a. Misrepresentation or fraud in the conduct of the
9 business or the profession of a funeral director or embalmer.

10 "b. False or misleading advertising as a funeral
11 director or embalmer or knowingly engaging in any advertising
12 which is misleading or inaccurate in any material particular.

13 "c. Solicitation of dead human bodies by the
14 licensee, his or her agents, assistants, or employees, from
15 medical professionals or clergy, whether the solicitation
16 occurs after death or while death is impending.

17 "d. Solicitation of dead human bodies by the
18 licensee, his or her agents, assistants, or employees whether
19 the solicitation occurs after death or while death is
20 impending.

21 "e. Employment by the licensee of a person or
22 persons to be used for the purpose of obtaining or soliciting
23 funeral directing or embalming business.

24 "f. Employment directly or indirectly of any
25 apprentice, agent, assistant, embalmer, employee, or other
26 person, on part or full time or on commission, for the purpose
27 of calling upon individuals or institutions where a death has

1 occurred or is imminent by whose influence dead human bodies
2 may be turned over to a particular funeral director or
3 embalmer or funeral establishment, or both.

4 "g. The buying of business by the licensee, his or
5 her agents, assistants, or employees.

6 "h. Gross immorality.

7 "i. Aiding or abetting an unlicensed person,
8 establishment, or entity in the to practice of funeral
9 directing or, embalming, cremation, or conducting business as
10 a funeral establishment or crematory.

11 "j. Using profane, indecent, or obscene language in
12 the presence of a dead human body, or within the immediate
13 hearing of the family or relative of a deceased whose body has
14 not yet been interred or otherwise disposed of.

15 "k. Solicitation or acceptance by a licensee of any
16 commission or bonus or rebate in consideration of recommending
17 or causing a dead human body to be disposed of in any
18 mausoleum or cemetery.

19 "l. Any violation of this chapter or order or rule
20 of the board.

21 "m. Any violation of state law or municipal or
22 county ordinance or regulation affecting the handling,
23 custody, care, or transportation of dead human bodies.

24 "n. Fraud or misrepresentation in obtaining a
25 license.

26 "o. Refusing to promptly surrender the custody of a
27 dead human body, upon the express order and payment for

1 services rendered of the person lawfully entitled to the
2 custody thereof.

3 "p. Performing services in a professional capacity
4 as a funeral director or embalmer, or both, for any unlicensed
5 funeral establishment operating in violation of this chapter.

6 "q. Being intoxicated or under the influence of
7 illegal drugs while on duty at a funeral establishment or
8 while performing any duty or responsibility for the funeral
9 establishment.

10 "r. Willfully retaining or willfully failing to
11 account for any property of a decedent.

12 "s. Knowingly and willfully signing ~~a certificate or~~
13 ~~other~~ any documentation as having embalmed or prepared a body
14 for burial when, in fact, the services were not performed by
15 the licensee.

16 "t. Failure to give full cooperation to the board or
17 its designees, agents, or other representatives in the
18 performance of official duties of the board.

19 "u. Not furnishing any relevant papers or documents
20 requested by or for the board.

21 "v. Not furnishing, in writing, an adequate
22 explanation relating to a matter contained in a complaint
23 filed with the board against the licensee.

24 "w. Not responding to a subpoena issued by the
25 board, without good cause shown, whether or not the licensee
26 is the party charged in any proceeding before the board.

1 "x. Not providing reasonable access to the board or
2 an authorized agent or representative of the board for the
3 performance of reviews or inspections at facilities or places
4 utilized by the licensee in the practice of funeral service or
5 funeral directing or in performing any other activity
6 regulated by the board.

7 "y. Failing to provide information within a specific
8 time as required by the board or an authorized agent or
9 representative of the board.

10 "z. Failing to cooperate with the board or an
11 authorized agent or representative of the board in the
12 investigation of any alleged misconduct or interfering with a
13 board investigation through the willful misrepresentation of
14 facts.

15 "aa. Deceiving or attempting to deceive the board
16 regarding any matter under investigation, including the
17 altering or destroying of any records.

18 "bb. Failure, without good cause, to cooperate with
19 any request from the board to appear before the board.

20 "cc. Violating any statute, ordinance, or rule of
21 the state or any board, agency, or political subdivision of
22 the state affecting the registration of deaths, the handling,
23 custody, care, or transportation of dead human bodies, or the
24 sale of funeral services or funeral merchandise.

25 "dd. Demonstrating bad faith, incompetence, or
26 untrustworthiness or dishonest, fraudulent, or improper
27 dealing or any other violation of this chapter or any rule

1 promulgated by the board or promulgated by the Federal Trade
2 Commission relative to the practice of funeral service or
3 funeral directing.

4 "ee. Any other reason as determined by the board
5 that would render an individual unsuitable for licensure or
6 certification by the board.

7 "ff. A funeral home or funeral director accepting
8 funds for a preneed funeral contract or other prepayment of
9 funeral expenses without a certificate of authority to sell
10 preneed funeral contracts or, if registered to sell preneed
11 funeral contracts, failing to deposit the funds with a
12 qualified trustee or to timely remit premium payments from the
13 consumer to the insurer.

14 "gg. Using any funeral merchandise previously sold
15 without prior written permission of the person selecting or
16 paying for the use of the merchandise. A previously used
17 casket shell may be used for the viewing of remains if a new
18 interior or interior insert is installed before each usage of
19 the casket shell.

20 "(d) ~~(b)~~ In addition to the disciplinary actions
21 authorized in subsection ~~(a)~~ (c), the board may levy and
22 collect administrative fines for violations of this chapter or
23 the rules or regulations of the board in an amount not less
24 than five hundred dollars (\$500) nor more than two thousand
25 five hundred dollars (\$2,500) for each violation, unless
26 otherwise provided for in this chapter or by rule of the
27 board.

1 "§34-13-57.

2 "Fifteen days before an examination, the executive
3 ~~secretary of the board~~ director shall provide to all
4 applicants and all funeral establishments in the state, in
5 electronic format and on the website of the board, a notice
6 listing the names of all persons admitted by the board to take
7 the examination and setting out the time and place of the
8 examination.

9 "§34-13-70.

10 "(a) No person shall engage in, or attempt to engage
11 in, the practice or profession or business of a funeral
12 director unless licensed to do so by the ~~Alabama Board of~~
13 ~~Funeral Service~~ board. The board ~~hereby is granted authority~~
14 ~~to~~ may issue license licenses to funeral directors.

15 "(b) Any person desiring to engage in the business,
16 profession, or practice of funeral director shall make
17 application to the board and shall accompany his or her
18 application by a fee to be established by the board, not to
19 exceed ~~one~~ five hundred ~~fifty~~ dollars ~~(\$150)~~ (\$500).

20 "(c) Commencing on October 1, 2017, in addition to
21 the requirements of subsection (b), an applicant for a funeral
22 director license shall submit to the board a form, sworn to by
23 the applicant, that contains the name, date of birth, and
24 Social Security number of the applicant, and two complete sets
25 of fingerprints, for completion of a criminal history
26 background check. The board shall submit the fingerprints to
27 the Alabama State Law Enforcement Agency for a state criminal

1 history record check. The fingerprints shall be forwarded by
2 the agency to the Federal Bureau of Investigation for a
3 national criminal history record check. Costs associated with
4 conducting a criminal history background check shall be paid
5 by the applicant. The board shall keep information received
6 pursuant to this subsection confidential, except that
7 information received and relied upon in denying the issuance
8 of a funeral director license may be disclosed if necessary to
9 support the denial.

10 "§34-13-71.

11 "An application for a license as a funeral director
12 shall be in writing and verified on a form provided by and
13 addressed to the board and filed with the ~~secretary of the~~
14 ~~board~~ executive director. The application ~~must~~ shall specify
15 the address of the applicant and ~~must~~ shall be accompanied by
16 the affidavits of at least two licensed embalmers or funeral
17 directors to the effect that the applicant is of good
18 character and has qualified himself or herself to become
19 licensed as prescribed by this chapter. The board may require
20 an applicant for license as a funeral director to submit to a
21 personal interview.

22 "§34-13-74.

23 "(a) When a licensed funeral director dies leaving a
24 licensed funeral business with no licensed funeral director,
25 the surviving spouse, or a surviving child of legal age, ~~shall~~
26 ~~have the right to~~ may make application for examination as a
27 funeral director. The application shall be in writing, on a

1 form prescribed by the board, and shall state the facts
2 pertaining to the case. The board may certify the applicant
3 for the examination prescribed for funeral directors, in which
4 event the requirements with respect to prior experience and
5 apprenticeship shall be waived.

6 "(b) When a licensed funeral director dies leaving a
7 licensed funeral business with no licensed funeral director,
8 the board may issue a special operating permit to the operator
9 of ~~such~~ the licensed funeral business for a period of up to 12
10 months, with the board having the right to extend the permit
11 an additional reasonable time to afford ~~such~~ the operator the
12 opportunity of obtaining a licensed funeral director for ~~such~~
13 the business. The operator shall ~~be required to~~ pay a fee for
14 the issuance of the special operating permit in an amount not
15 exceeding one hundred dollars (\$100).

16 "(c) All human remains embalmed for a funeral
17 establishment operating under a special operating permit and
18 all funeral directing operations carried on under the permit
19 shall be in conformance with all the requirements of this
20 chapter which are not in conflict with this section.

21 "§34-13-91.

22 "(a) The applicant for an embalmer's license shall
23 make application to the board. The application ~~must~~ shall be
24 in writing and verified on a form provided by and addressed to
25 the board and ~~must~~ shall be accompanied by the prescribed fee
26 and by affidavits of at least two licensed embalmers to the
27 effect that the applicant is of good moral character and has

1 met all qualifications required for examination for license as
2 prescribed by this chapter. The board may require an applicant
3 for an embalmer's license to submit to a personal interview.

4 "(b) Commencing on October 1, 2017, in addition to
5 the requirements of subsection (a), an applicant for an
6 embalmer license shall submit to the board a form, sworn to by
7 the applicant, that contains the name, date of birth, and
8 Social Security number of the applicant, and two complete sets
9 of fingerprints, for completion of a criminal history
10 background check. The board shall submit the fingerprints to
11 the Alabama State Law Enforcement Agency for a state criminal
12 history record check. The fingerprints shall be forwarded by
13 the agency to the Federal Bureau of Investigation for a
14 national criminal history record check. Costs associated with
15 conducting a criminal history background check shall be paid
16 by the applicant. The board shall keep information received
17 pursuant to this subsection confidential, except that
18 information received and relied upon in denying the issuance
19 of an embalmer license may be disclosed if necessary to
20 support the denial.

21 "§34-13-110.

22 "(a) Any person, corporation, partnership, society
23 or group owning or operating a funeral establishment coming
24 within ~~the provisions of~~ this chapter may do so only through
25 the services of a licensed funeral director or embalmer. No
26 person not licensed as a funeral director or embalmer shall be
27 permitted to perform the functions of a funeral director or

1 embalmer as herein defined or hold himself or herself out to
2 the public as such by reason of his or her ownership in a
3 funeral establishment or by reason of his or her ownership of
4 stock owned in or office held in a corporation to own or
5 operate a funeral establishment. After September 10, 1975, no
6 firm or corporation authorized to own and operate a funeral
7 establishment may change or amend its name or charter so as to
8 include in its firm or corporate name the name of any person
9 who is not individually licensed as a funeral director in this
10 state; provided, that ~~the provisions of~~ this sentence shall
11 not be applicable to the name of any firm or corporation
12 owning or operating a funeral establishment on September 10,
13 1975, so long as such firm or corporation remains under the
14 same ownership.

15 "(b) If the business card of a funeral establishment
16 contains the name of an individual, the individual shall be
17 licensed by the board in accordance with this chapter, unless
18 otherwise provided by this chapter or board rule.

19 "(c) (1) Any funeral establishment advertising
20 cremation or cremation services that does not own a crematory
21 shall include the following disclaimer in a clear and
22 conspicuous manner on all advertisements and printed material:
23 "This establishment does not own a crematory."

24 "(2) For the purposes of this subsection, an
25 advertisement shall include, but is not limited to, a notice
26 or announcement in a public medium, including the Internet,

1 promoting the funeral establishment and any printed material
2 containing the name of the funeral establishment.

3 "§34-13-111.

4 "(a) No funeral establishment or branch thereof for
5 the preparation, disposition, and care of dead human bodies
6 shall be opened or maintained unless ~~duly~~ licensed by the
7 board. No funeral establishment or branch shall be moved
8 without obtaining a new funeral establishment license from the
9 board.

10 "(b) Every funeral service, memorial service, or
11 ~~interment~~ committal service, or part thereof, that is
12 conducted in Alabama, for hire or for profit, shall be in the
13 actual charge and shall be under the direct supervision of a
14 funeral director who is licensed by the board, unless
15 otherwise provided for in this chapter or by rule of the
16 board.

17 "(c) The board shall set a fee, not exceeding one
18 hundred fifty dollars (\$150), that shall be in addition to the
19 license fee for the first inspection of any funeral
20 establishment seeking a license under Section 34-13-72 made
21 for the purpose of determining whether ~~such~~ the funeral
22 establishment has fulfilled the requirements for licensure
23 pursuant to this chapter. The board shall set a fee, not
24 exceeding one hundred fifty dollars (\$150), for each
25 reinspection necessitated by failure of any funeral
26 establishment to pass ~~such~~ the first inspection. The board, or
27 a representative of the board, shall annually conduct a

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

16 "(d) Applications for transfer of a license to
17 another location in the same county shall be made upon a form
18 furnished by the board and shall be accompanied by a fee of
19 not more than seventy-five dollars (\$75).

20 "(e) Any change in ownership of a funeral
21 establishment shall be immediately reported to the board on a
22 form provided by the board. The new owner of the establishment
23 shall comply with Section 34-13-112 and Section 34-13-113 and
24 shall provide to the board a signed copy of the asset purchase
25 agreement with dollar amounts redacted. The fee for a change
26 of ownership application is two hundred fifty dollars (\$250).

27 "§34-13-112.

1 "(a) All applications for a license to operate a
2 funeral establishment shall show that a managing funeral
3 director and managing embalmer are employed by the
4 establishment. All applications for a license to operate a
5 crematory shall show that a managing cremationist is employed
6 by the establishment. ~~No application for a license of a~~
7 ~~funeral establishment shall be considered which does not show~~
8 ~~on the application that a licensed funeral director and~~
9 ~~licensed embalmer are employed by the establishment.~~ This
10 section shall not be construed to require a full-time licensed
11 embalmer at each funeral establishment. No funeral
12 establishment shall be licensed except upon the basis of a
13 ~~licensed~~ employing a managing funeral director who lives
14 within 75 miles of the funeral establishment. All embalming
15 ~~must shall~~ be performed under a licensed embalmer, ~~but such.~~ A
16 licensed embalmer ~~shall is~~ not be restricted from working for
17 more than one funeral establishment.

18 "(b) No licensed managing funeral director, based
19 upon whose license or licenses a funeral establishment license
20 has been issued, may serve as the regularly employed licensed
21 managing funeral director at another funeral establishment
22 ~~which is~~ owned by a different person, firm, or corporation at
23 the same time for the purpose of qualifying ~~such~~ the other
24 establishment under this chapter.

25 "(c) It is hereby declared to be the legislative
26 intent of this chapter that every funeral establishment in
27 this state shall be operated under the full charge, control,

1 and supervision of ~~an individually licensed~~ a managing funeral
2 director ~~or a person licensed both as a funeral director and~~
3 ~~as an~~ and a managing embalmer; ~~provided, that this.~~ This
4 section shall not preclude an unlicensed person from being in
5 charge of the bookkeeping or records of such an establishment.
6 The name of the licensed person to be in charge of each
7 funeral establishment shall be stated on the application for
8 all licenses or renewal of ~~such~~ the licenses.

9 "(d) The issuance of a license to operate a funeral
10 establishment to a person who is not individually licensed as
11 a funeral director or embalmer does not entitle the person to
12 practice embalming or funeral directing, as defined by this
13 chapter, it being the intent of this chapter that such
14 practice may be performed only through individually licensed
15 funeral directors and embalmers; and, in addition to all other
16 grounds for suspension of a funeral establishment license as
17 enumerated in this chapter, a funeral establishment license
18 shall be revoked by the board upon hearing thereon if any
19 person, whether owner, officer, stockholder, or otherwise, who
20 is connected with the funeral home shall perform any of the
21 functions of a funeral director or embalmer as defined herein
22 or shall hold himself or herself out as a funeral director.

23 "§34-13-113.

24 "(a) Application for a license to operate a funeral
25 establishment shall be made in writing on a form provided by
26 the board. The application shall be verified by the applicant
27 or, if the applicant is a corporation, firm, or other

1 organization, by an officer or member thereof, and shall be
2 accompanied by an application fee established by the board not
3 to exceed five hundred dollars (\$500). The application shall
4 disclose all of the following:

5 "(1) The name and address of the establishment.

6 "(2) That the establishment is operated by a
7 ~~licensed managing~~ funeral director and a ~~licensed managing~~
8 embalmer or a person licensed both as a funeral director and
9 embalmer.

10 "(3) A description and photographs of the buildings,
11 equipment, and facilities of the establishment.

12 "(4) That the establishment has a sanitary, properly
13 equipped embalming room, a room suitable for public viewing or
14 other funeral services that is able to accommodate a minimum
15 of 100 people, an office for arrangement conferences with
16 relatives or authorized representatives, and a display room
17 containing a stock of adult caskets and funeral supplies
18 displayed in full size, cuts, photographs, or electronic
19 images. At no time shall less than eight different adult full
20 size caskets and at least one operating and properly licensed
21 funeral coach or hearse equipped for transporting human
22 remains in a casket or urn be on the premises. A funeral
23 establishment, that has more than one location under the same
24 ownership wherein the profession of funeral directing is
25 practiced, is not required to maintain more than one
26 preparation room upon satisfying requirements prescribed by
27 the board.

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

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

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

16 "(1) The name and address of the proposed mortuary
17 service.

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

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

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

25 "(5) Such other information as may be required by
26 the board.

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

6 "§34-13-115.

7 "(a) The board may revoke, suspend, place on
8 probation, or refuse to renew a license issued to an operator
9 of a funeral establishment or mortuary service as provided in
10 this chapter.

11 "(b) If, upon a complaint made to ~~it~~ the board or
12 otherwise, the board has reason to believe that the operator
13 of a funeral establishment or mortuary service has failed to
14 comply with this chapter or the ~~regulations~~ rules of the
15 board, ~~it~~ the board shall conduct an investigation. If it
16 appears to the board that there is reasonable ground to
17 believe that the operator has failed so to comply, ~~it~~ the
18 board shall conduct a hearing on the matter. Notice of the
19 time and place of the hearing, setting forth the respects in
20 which failure to comply is charged, shall be sent to the
21 operator no later than 15 days prior to the date set for the
22 hearing. The operator may have the assistance of counsel at
23 the hearing.

24 "(c) If, ~~upon the hearing,~~ the board finds that the
25 operator has failed to comply with this chapter or the
26 ~~regulations~~ rule of the board, ~~it~~ the board may revoke,
27 suspend, or refuse to renew the license.

1 "§34-13-116.

2 "Any person, firm, partnership, society, group, or
3 corporation who has control of a funeral home, mortuary,
4 chapel, funeral establishment, crematory, or mortuary service
5 and fails to register same according to this chapter, upon
6 conviction, may be fined not less than five hundred dollars
7 (\$500) nor more than two thousand five hundred dollars
8 (\$2,500) for each violation, and each day that the funeral
9 home, mortuary, chapel, funeral establishment, crematory, or
10 mortuary service is operated shall be deemed to be a separate
11 and distinct violation of this chapter.

12 "§.

13 "~~It shall be unlawful for any~~ No person, firm,
14 corporation, association, ~~or~~ entity, or funeral establishment,
15 or branch thereof, may to operate a crematory ~~or practice~~
16 ~~cremation without~~ for the purpose of cremating dead human
17 bodies, unless licensed by the board as a funeral
18 establishment and the crematory being licensed as a funeral
19 ~~establishment in accordance with this chapter~~ registered with
20 the board and inspected by the board before any cremations of
21 human remains are performed.

22 "~~Any funeral establishment performing cremation~~
23 ~~services shall certify by affidavit to the board that any~~
24 ~~cremationist conducting cremations has received adequate and~~
25 ~~appropriate training or experience in the practice of~~
26 ~~cremation.~~ A crematory shall satisfy all of the following

1 requirements and have the following minimum equipment,
2 facilities, and personnel:

3 "(1) Registered with the board.

4 "(2) Inspected by the board before performing any
5 cremations.

6 "(3) Fixed on the premises of a funeral
7 establishment. For the purposes of this subdivision, fixed
8 means permanently attached to the real property where the
9 establishment is situated.

10 "(4) Owned by the same individual, partnership, or
11 corporation as the funeral establishment.

12 "(5) Under the full charge and supervision of a
13 managing cremationist who is licensed by the board as both a
14 funeral director and cremationist and listed on the
15 application as the managing cremationist. No managing
16 cremationist may serve as the regularly employed managing
17 cremationist at another crematory which is owned by a
18 different person, firm, or corporation at the same time for
19 the purpose of qualifying the other crematory under this
20 chapter.

21 "(6) Subject to all local, state, and federal health
22 and environmental protection requirements and shall obtain all
23 necessary licenses and permits from the board, the Alabama
24 Department of Public Health, the Environmental Protection
25 Agency, the Alabama Department of Environmental Management,
26 and other appropriate local, state, or federal agencies.

1 "(7) Have a holding room within the crematory
2 facility designated for the retention of human remains before
3 and after cremation.

4 "(8) Have at least one of each of the following:

5 "a. An operable refrigeration unit for the storage
6 of human remains.

7 "b. An operable cremation chamber for the cremation
8 of human remains.

9 "c. An operable processor for reducing identifiable
10 bone fragments.

11 "d. An operable ventilation unit in conjunction with
12 the processor.

13 "e. A hand washing sink with hot and cold running
14 water.

15 "(9) Have all other necessary equipment and
16 supplies, in working condition, needed to complete the
17 cremation process.

18 "(10) Have nonporous floors in the holding room,
19 refrigeration unit, and around the cremation chamber.

20 "(11) Maintained in a clean, orderly, and sanitary
21 manner.

22 ~~"(c) The board shall adopt and enforce rules and~~
23 ~~regulations as may be reasonable and necessary for the~~
24 ~~operation of crematories to protect the health, welfare, and~~
25 ~~safety of the people of this state. The application to operate~~
26 ~~a crematory shall be made in writing on a form prescribed by~~
27 ~~the board. The application shall be verified by the applicant~~

1 or, if the applicant is a corporation, firm, or other
2 organization, by an officer or member thereof, and shall be
3 accompanied by an initial application fee established by the
4 board not to exceed five hundred dollars (\$500).

5 "(d) Upon receipt of the application, the board
6 shall make inspection of the crematory. No crematory shall
7 operate unless the crematory facility and funeral
8 establishment have been inspected and approved as meeting all
9 requirements of this chapter and rules of the board.

10 "(e) Each funeral establishment and crematory which
11 performs cremations shall maintain the following records:

12 "(1) A cremation log containing any information
13 required by the board.

14 "(2) A copy of the cremation authorization form and
15 the state identification form.

16 "(3) A copy of the affidavit attesting to each
17 cremation performed and, if the cremation is performed for
18 another funeral establishment or entity, the identity of that
19 funeral establishment or entity.

20 "(e) ~~(d)~~ The board shall inspect the records and
21 premises of any funeral establishment operating a crematory.
22 In making inspections, the board shall have access to all
23 records, the crematory building, the cremation chambers ~~or~~
24 furnaces, and the ~~storage areas~~ holding room for human remains
25 before and after cremation, ~~during regular office hours or the~~
26 ~~hours the crematory is in operation.~~ No prior notification of
27 the inspection is required to be given to the funeral

1 establishment. If any funeral establishment performing
2 cremation services fails to allow an inspection or any part
3 thereof, it shall be grounds for the suspension or revocation
4 of a license or other disciplinary action against the
5 licensee, as the board may deem reasonable and necessary to
6 the extent of the law. The board shall conduct annually ~~a~~
7 ~~minimum of~~ at least one unannounced inspection of each
8 licensed funeral establishment performing cremation services.

9 "~~(f)(e)~~ Each funeral establishment performing
10 cremation services shall keep records as required by the board
11 to assure compliance with all laws relating to the disposition
12 of human remains, and shall file annually with the board on
13 October 1 a cremation report in the form prescribed by the
14 board, describing the operations of the licensee, including
15 the number of cremations made, the disposition thereof, and
16 any other information as the board may, from time to time,
17 require. Records required by the board shall be kept for four
18 years by the funeral establishment.

19 "~~(g)(f)~~ Each funeral establishment performing
20 ~~cremation services~~ cremations shall ~~report~~ maintain and submit
21 a copy of the service, maintenance, or inspection reports of
22 work completed or performed on the cremation chamber to the
23 board any maintenance or inspections performed within 30 days
24 of the maintenance or inspection after completion.

25 "~~(h)(g)~~ A funeral establishment ~~performing cremation~~
26 ~~services shall be subject to all local, state, and federal~~
27 ~~health and environmental protection requirements and shall~~

1 ~~obtain all necessary licenses and permits from the Alabama~~
2 ~~Board of Funeral Service, the federal and state Departments of~~
3 ~~Health and Human Services, and the state and federal~~
4 ~~Environmental Protection Agencies, or other appropriate local,~~
5 ~~state, or federal agencies, or branch thereof, that has a~~
6 crematory for cremating dead human remains shall at all times
7 comply with this chapter and any board rule adopted pursuant
8 to this chapter. Failure to comply, as determined by the
9 board, may result in the revocation of the license of the
10 funeral establishment, or branch thereof, pursuant to this
11 chapter.

12 "(i) The board shall adopt and enforce rules as
13 reasonable and necessary for the operation of crematories in
14 the state and to protect the health, welfare, and safety of
15 the people of this state.

16 "(j) A ~~(h) No~~ crematory facility licensed by the
17 board may be used only for the cremation of ~~deceased animals~~
18 human remains.

19 "(k) A funeral establishment or crematory operating
20 in the state before October 1, 2017, shall file with the board
21 all new forms as required by this section, and shall be exempt
22 from any new crematory facility requirements of this chapter
23 that become effective on the effective date of the act adding
24 this subsection. If major structural renovations are made to
25 the crematory facility, the cremation chamber is relocated, or
26 the funeral establishment is closed and reopened, the affected
27 crematory facility shall satisfy all requirements relating to

1 crematory facilities as provided in this chapter. Each
2 cremationist licensed by the board on the effective date of
3 the act adding this subsection shall have until October 1,
4 2018, to satisfy the requirements of Section 34-13-120.01.

5 "§34-13-121.

6 "(a) Human remains shall not be cremated under
7 either of the following circumstances:

8 "(1) Within ~~within~~ 24 hours after the time of death,
9 unless death was a result of an infectious, contagious, or
10 communicable disease and unless the disease is verified and
11 the time requirement waived by a medical examiner, county
12 health director, county coroner, or attending physician where
13 the death occurred.

14 "(2) Without a completed ~~(b) A~~ cremation
15 authorization form ~~prescribed~~ approved by the board ~~shall be~~
16 and signed by the authorizing agent and ~~must accompany any~~
17 ~~request for cremation~~ a completed state identification form. A
18 copy of the cremation authorization shall be presented with
19 the body to the crematory before any cremation process may be
20 initiated.

21 "(b) All cremations of human remains performed in
22 this state shall be arranged through a funeral establishment
23 licensed by the board pursuant to this chapter.

24 "(c) Whenever a crematory is unable or unauthorized
25 to cremate human remains immediately upon taking custody of
26 the remains, the human remains shall be placed and kept in
27 refrigeration in accordance with this chapter.

1 "(d) A crematory may not accept human remains from
2 another funeral establishment without all of the following:

3 "(1) The remains shall be accompanied by a completed
4 cremation authorization form signed by an authorizing agent.

5 "(2) A state identification form with the signature
6 of the releasing party.

7 "(3) An undetachable ankle bracelet identifying the
8 remains.

9 "(4) The remains shall be delivered or immediately
10 placed in a combustible cremation container marked with
11 identifying information of the human remains contained within.
12 Human remains may not be removed from the cremation container
13 and the cremation container shall be cremated with the human
14 remains, unless the cremation container is metal and the
15 authorizing agent has been informed in writing that the
16 crematory does not cremate metal containers.

17 "(e) A cremation container shall be all of the
18 following:

19 "a. Composed of readily combustible materials
20 suitable for cremation.

21 "b. Able to be closed in order to provide a complete
22 covering for the human remains.

23 "c. Resistant to leakage or spillage.

24 "d. Rigid enough for handling with ease.

25 "e. Able to provide protection for the health,
26 safety, and personal integrity of crematory personnel.

1 "f. Equipped with a covering that clearly identifies
2 the name and date of death of the decedent.

3 "(f) ~~(e)~~ It shall be disclosed to the family member
4 serving as the authorizing agent that he or she, or his or her
5 designee, may witness the transportation of the human remains
6 to be cremated to the crematory. Every funeral establishment
7 performing cremation services that prohibits relatives or the
8 responsible party from viewing the cremation process shall
9 disclose this fact in writing to the person or persons
10 entitled to custody of the remains prior to the signing of any
11 contract.

12 "(g) ~~(d)~~ An authorizing agent has the duty to inform
13 the funeral director of the presence of a pacemaker or other
14 potentially hazardous implant, including any toxic or
15 explosive-type sealed implants in the human remains. The
16 funeral director shall be responsible for ensuring that all
17 necessary steps have been taken to remove the pacemaker before
18 delivering the human remains to the crematory. Should the
19 cremationist discover the presence of a pacemaker or other
20 hazardous implants in the human remains, the cremationist
21 shall arrange for the removal of the pacemaker or other
22 hazardous implant.

23 "(h) ~~(e)~~ The simultaneous cremation of the human
24 remains of more than one person within the same ~~retort~~
25 cremation chamber, without the prior written consent of the
26 authorizing agent, is prohibited. ~~It is hereby the declared~~
27 ~~intent of this subsection that establishments~~ Any funeral

1 establishment performing cremations in accordance with this
2 chapter may cremate only dead human remains.

3 "~~(i)(f)~~ Upon the completion of each cremation, and
4 insofar as is practicable, all of the recoverable residue of
5 the cremation process shall be removed from the ~~retort~~
6 cremation chamber and placed in a separate container and may
7 not be commingled with cremated remains of another person nor
8 shall cremated remains of a dead human be divided or separated
9 without the prior written consent of the authorizing agent.

10 "~~(j)(g)~~ Each funeral establishment and crematory
11 which offers or performs cremations shall ~~maintain an~~ complete
12 a state identification ~~system that ensures its ability to~~
13 ~~identify the human remains in its possession throughout all~~
14 ~~phases of the cremation process. Upon completion of the~~
15 ~~process, the cremationist must attest to the identity of the~~
16 ~~cremated remains, and the date, time, and place the cremation~~
17 ~~process occurred on a form issued by the board~~ form. The form
18 shall accompany the human remains in all phases of
19 transportation, cremation, and return of cremated remains. All
20 human remains to be cremated shall have the state
21 identification form and a undetachable ankle bracelet
22 identifying the remains.

23 "~~(h)~~ Each funeral establishment ~~and cremationist~~
24 which offers or performs cremations shall ~~maintain a record of~~
25 ~~all cremations performed, which shall include the name of the~~
26 ~~decedent, the date of death, the date and time of the~~
27 ~~cremation, the signature of the cremationist performing the~~

1 ~~cremation, a copy of the authorization for cremation, a copy~~
2 ~~of the affidavit attesting to the cremation, and, if the~~
3 ~~cremation is performed for any other funeral establishment or~~
4 ~~entity, the identity of this establishment or entity.~~

5 ~~"(i) Human remains must be delivered to a crematory~~
6 ~~in a combustible cremation container. Human remains shall not~~
7 ~~be removed from the cremation container and the cremation~~
8 ~~container shall be cremated with the human remains, unless the~~
9 ~~authorizing agent has been informed in writing that the~~
10 ~~crematory does not cremate metal containers.~~

11 "(k) Upon completion of the cremation process, the
12 cremationist shall attest to the identity of the cremated
13 remains and the date, time, and place the cremation process
14 occurred on a form prescribed by the board.

15 "(l) Each crematory shall maintain the internal
16 identification system prescribed by the board to ensure the
17 ability to identify the human remains in the possession of the
18 crematory throughout all phases of the cremation process. Upon
19 completion of the cremation process, a copy of the state
20 identification form shall be issued to the family certifying
21 the identity of the cremated remains being issued to the
22 family or funeral establishment.

23 "§34-13-130.

24 "(a) Every person desiring to engage as an
25 apprentice shall satisfy all of the following:

26 "(1) Make ~~make~~ application as a funeral director's
27 apprentice or an embalmer's apprentice to the board upon a

1 form provided by the board. The applicant shall submit to the
2 board a form, sworn to by the applicant, that contains the
3 name, date of birth, and Social Security number of the
4 applicant, and two complete sets of fingerprints, for
5 completion of a criminal history background check. The board
6 shall submit the fingerprints to the Alabama State Law
7 Enforcement Agency for a state criminal history record check.
8 The fingerprints shall be forwarded by the agency to the
9 Federal Bureau of Investigation for a national criminal
10 history record check. Costs associated with conducting a
11 criminal history background check shall be paid by the
12 applicant. The board shall keep information received pursuant
13 to this subsection confidential, except that information
14 received and relied upon in denying the issuance of an
15 apprentice certification may be disclosed if necessary to
16 support the denial.

17 "(2) Be ~~The application shall state that the~~
18 ~~applicant is~~ over the age of ~~16,~~ 18.

19 "(3) Hold ~~holds~~ a high school certificate or the
20 equivalent, ~~or is currently enrolled and actively working~~
21 ~~toward graduation from an accredited high school and is.~~

22 "(4) Be of good moral character.

23 "(b) The application shall be verified by the oath
24 of the applicant and be accompanied by a fee to be established
25 by the board, not to exceed twenty dollars (\$20).

26 "(c) The executive ~~secretary~~ director, whenever it
27 appears to him or her that no reason exists for the denial of

1 an application and that the application is regular upon its
2 face, may issue to the applicant a certificate of
3 apprenticeship, without submitting the application to the
4 board. If, however, any doubt exists as to the qualifications
5 of the applicant, the application shall be submitted to the
6 board and may be accepted or rejected by a majority of the
7 board.

8 "(d) The period of apprenticeship of a funeral
9 director's apprentice or an embalmer's apprentice ~~must~~ shall
10 be performed in Alabama under the supervision of a funeral
11 director or embalmer, respectively, licensed by the board.

12 "(e) A licensed funeral director or a licensed
13 embalmer may supervise no more than three apprentices at any
14 given time, unless otherwise provided for by the board.

15 "(f) Only a licensed funeral director or licensed
16 embalmer, whose license is in good standing, may supervise an
17 apprentice.

18 "(g) ~~(b)~~ The regular course of apprenticeship shall
19 be two years, but the apprentice is entitled to two weeks time
20 off each year, without leave of absence from the board.

21 "(h) An apprentice shall be enrolled in the funeral
22 service program at an accredited mortuary school within one
23 year after the original start date of his or her
24 apprenticeship. If an apprentice is not enrolled in mortuary
25 school within that time period, then the apprenticeship may
26 not be renewed and the apprenticeship may not be reactivated
27 until the apprentice provides proof of enrollment.

1 "§34-13-131.

2 "A certificate of apprenticeship issued as provided
3 for ~~herein~~ in this chapter shall be signed by the apprentice
4 and shall be renewable annually upon the payment by the holder
5 by October 1 of each year of an annual renewal fee to be
6 established by the board, not to exceed ~~\$20~~ twenty dollars
7 (\$20). Failure to pay the renewal fee by the prescribed date
8 of any year shall cause the certificate to become delinquent,
9 in which case it shall be renewed only for good cause shown.
10 No person may be granted a certificate of apprenticeship as
11 funeral director's apprentice or embalmer's apprentice,
12 respectively, for more than three consecutive years, excepting
13 as provided. The board shall ~~mail~~ send, on or before August 1
14 of each year, to each registered apprentice at his or her last
15 known address, a notice that his or her renewal fee is due and
16 payable and that, if not paid by October 1, his or her license
17 ~~will~~ shall lapse.

18 "§34-13-132.

19 "All apprentices registered as provided in this
20 chapter shall be under the supervision and control of the
21 board and shall be required to report to the board annually on
22 ~~January~~ October 1, upon forms provided by the board, showing
23 the work which such apprentices have performed during the
24 annual period preceding the first of the month on which the
25 report is made, including the number of hours served and the
26 number of bodies the apprentice has assisted in embalming or
27 otherwise prepared for disposition during such period. The

1 information contained in the report shall be certified to as
2 correct by the funeral director or embalmer by whom the
3 apprentice has been employed during ~~such~~ his or her
4 apprenticeship period.

5 "§34-13-134.

6 "(a) The board has power to suspend ~~or,~~ revoke, or
7 place on probation a certificate of apprenticeship, ~~after~~
8 ~~notice and upon hearing,~~ where the apprentice is guilty of any
9 of the following acts or omissions:

10 "(1) Failure to devote not less than an average of
11 30 hours per week to the duties of his or her apprenticeship.

12 "(2) Failure to make an annual report to the board
13 as required by this chapter.

14 "(3) Absence from duty except on vacation for an
15 aggregate of more than 10 days in any six months or 20 days in
16 any year, without leave of absence granted by the board.

17 "(4) Gross immorality.

18 "(5) Being on duty as an apprentice while under the
19 influence of liquor or illegal drugs.

20 "(6) Disobedience of proper orders or instructions
21 of his or her superiors.

22 "(7) Violation of ~~any provision of~~ this chapter or
23 any rule ~~or regulation~~ of the board ~~made under~~ adopted
24 pursuant to this chapter.

25 "(8) Soliciting business for a funeral director or
26 for any embalmer.

1 "(9) Fraud or misrepresentation in obtaining a
2 certificate ~~of registration~~ as an apprentice.

3 "(b) An apprentice who has failed to renew his or
4 her ~~registration~~ certificate, or who has had his or her
5 certificate of apprenticeship suspended or revoked ~~may~~, within
6 one year after such expiration, suspension, or revocation, may
7 make application for ~~registration~~ but not reactivation. Not
8 more than two ~~such registrations~~ reactivations shall be
9 allowed by the board. The board ~~may~~, when the circumstances
10 warrant, may allow an apprentice credit under a ~~reregistration~~
11 reactivation for time actually served under a previous
12 ~~registration~~ certificate; except, that if the previous
13 ~~registration~~ certificate has been suspended or revoked upon
14 any of the grounds set forth in subsection (a) ~~of this~~
15 ~~section~~, not more than 75 percent of the time previously
16 served shall be credited on the ~~reregistration~~ reactivation."

17 Section 2. Sections 34-13-56.1, 34-13-117,
18 34-13-120.1, and 34-13-123 are added to the Code of Alabama
19 1975, to read as follows:

20 §34-13-56.1.

21 (a) It is unlawful for any person or entity, for
22 hire or profit, to engage in, or hold himself, herself, or
23 itself out as qualified to engage in any of the following
24 without a valid license, certification, or registration issued
25 by the board:

26 (1) The practice of funeral directing.

27 (2) The practice of embalming.

1 (3) Practicing as an apprentice.

2 (4) Operating a crematory.

3 (5) Practicing as a cremationist.

4 (b) Any person or entity who has been found to have
5 engaged in the unlawful unlicensed practice of funeral
6 directing, embalming, apprenticing, operating a crematory, or
7 cremating shall be subject to a fine of not more than two
8 thousand five hundred dollars (\$2,500) for each violation and
9 other sanctions authorized by this chapter.

10 §34-13-117.

11 Disposition of human remains shall occur within 48
12 hours after the time of death or the time the body is released
13 by the coroner or a medical examiner, unless the body has been
14 embalmed by a licensed embalmer in this state, with permission
15 from the authorizing agent, or the body is kept under
16 refrigeration. No public viewing of unembalmed bodies shall be
17 permitted 24 hours after death has occurred. Nothing in this
18 section shall prevent a licensed establishment from requiring
19 identification before disposition.

20 §34-13-120.1.

21 No person may conduct, maintain, manage, or operate
22 a cremation facility unless licensed to do so by the board.
23 The board may issue a license to practice as a cremationist
24 after the applicant has satisfied all of the following
25 requirements:

26 (1) Is at least 21 years of age.

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

3 (3) Is a high school graduate or the equivalent.

4 (4) Has successfully completed a crematory operator
5 training course approved by the board.

6 (5) Has completed a course in universal precaution
7 and blood-borne pathogens approved by the board.

8 (6) Has submitted a completed application and
9 supporting documents, as required by the board, and a fee
10 established by the board that does not exceed three hundred
11 dollars (\$300).

12 (7) Has successfully completed an examination on
13 Alabama funeral service laws and rules.

14 (8) Has submitted to the board a form, sworn to by
15 the applicant, that contains the name, date of birth, and
16 Social Security number of the applicant, and two complete sets
17 of fingerprints, for completion of a criminal history
18 background check. The board shall submit the fingerprints to
19 the Alabama State Law Enforcement Agency for a state criminal
20 history record check. The fingerprints shall be forwarded by
21 the agency to the Federal Bureau of Investigation for a
22 national criminal history record check. Costs associated with
23 conducting a criminal history background check shall be paid
24 by the applicant. The board shall keep information received
25 pursuant to this subsection confidential, except that
26 information received and relied upon in denying the issuance

1 of a cremationist license may be disclosed if necessary to
2 support the denial.

3 (b) Each new employee of a crematory required to be
4 licensed under this section shall be certified within one year
5 after his or her employment. A copy of all certified
6 cremationist certificates shall be posted in the crematory and
7 available for inspection at any time.

8 (c) Each funeral establishment performing cremation
9 shall certify by affidavit to the board that each cremationist
10 conducting cremations at the funeral establishment has
11 satisfied all requirements of this chapter to be licensed as a
12 cremationist and received adequate and appropriate training or
13 experience in the practice of cremation.

14 §34-13-123.

15 (a) The board may refuse to grant, refuse to renew,
16 suspend, or revoke the license of, or fine a cremationist or
17 crematory, after proper hearing and notice is provided to the
18 licensee, upon the board finding the licensee is guilty of any
19 of the following:

20 (1) Any violation of this chapter or order or rule
21 of the board.

22 (2) The performance of a cremation service by a
23 person who is not licensed as a cremationist and who has not
24 completed a training program as required by this chapter.

25 (3) Operating a building or structure within this
26 state as a crematory without being licensed under this
27 chapter.

1 (4) Violating any cremation procedure required by
2 this chapter or rule of the board.

3 (5) Performing a cremation without receipt of a
4 cremation authorization form signed by the authorizing agent.

5 (6) Signing a cremation authorization form with the
6 actual knowledge that the form contains false or incorrect
7 information.

8 (7) Accepting human remains from another funeral
9 establishment without a completed cremation authorization form
10 signed by the authorizing agent, a state identification form
11 with the signature of the releasing party, and an undetachable
12 ankle bracelet identifying the remains.

13 (8) Failure to maintain the internal identification
14 system as required by the board.

15 (9) Failure to maintain identifying paperwork with
16 the appropriate signatures.

17 (10) Failure to file an annual cremation report in
18 the form required by the board.

19 (11) Failure to maintain a current cremation log.

20 Section 3. Although this bill would have as its
21 purpose or effect the requirement of a new or increased
22 expenditure of local funds, the bill is excluded from further
23 requirements and application under Amendment 621, now
24 appearing as Section 111.05 of the Official Recompilation of
25 the Constitution of Alabama of 1901, as amended, because the
26 bill defines a new crime or amends the definition of an
27 existing crime.

1 Section 4. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Boards, Agencies
and Commissions..... 14-FEB-17

Read for the second time and placed
on the calendar 1 amendment 23-FEB-17

Read for the third time and passed
as amended..... 06-APR-17

Yeas 87, Nays 3, Abstains 4

Jeff Woodard
Clerk