TO: Insurance

MISSISSIPPI LEGISLATURE                        REGULAR SESSION 2001
By: Representative Banks

HOUSE BILL NO. 1470

AN ACT TO AMEND SECTION 73-11-51, MISSISSIPPI CODE OF 1972, TO REQUIRE THE REGISTRATION OF SELLERS OF PRENEED FUNERAL SERVICES; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 73-11-51, Mississippi Code of 1972, is amended as follows:

73-11-51. (1) No person shall engage in the business or practice of funeral service, including embalming, and/or funeral directing or hold himself out as transacting or practicing or being entitled to transact or practice funeral service, including embalming, and/or funeral directing in this state unless duly licensed pursuant to the provisions of this chapter.

(2) The board is authorized and empowered to examine applicants for licenses for the practice of funeral service and funeral directing and shall issue the proper license to those persons who successfully pass the applicable examination and otherwise comply with the provisions of this chapter.

(3) To be licensed for the practice of funeral directing under this chapter, a person must (a) be at least eighteen (18) years of age; (b) have a high school diploma or the equivalent thereof; (c) have served as a resident trainee for not less than twenty-four (24) months under the supervision of a person licensed for the practice of funeral service or funeral directing in this state; (d) have successfully passed a written and/or oral examination as prepared or approved by the board; (e) be of good moral character; and (f) have completed at least three (3) hours of continuing education units in areas related to the federal...
Occupational Safety and Health Act (OSHA) standards. An individual who has reached the age of sixty (60) and has been licensed for at least fifteen (15) years may be exempted from this requirement.

(4) To be licensed for the practice of funeral service under this chapter, a person must (a) be at least eighteen (18) years of age; (b) have a high school diploma or the equivalent thereof; (c) have satisfactorily completed twelve (12) months or more of academic and professional instruction from an institution accredited by the American Board of Funeral Service Education or any other successor recognized by the United States Department of Education for funeral service education; (d) have served as a resident trainee for not less than twelve (12) months, either prior to or after graduation from an accredited institution mentioned above, under the supervision of a person licensed for the practice of funeral service in this state or having the prior equivalent license of this state; (e) have successfully passed a written and/or oral examination as prepared or approved by the board; (f) be of good moral character; and (g) have completed at least three (3) hours of continuing education units in areas related to the federal Occupational Safety and Health Act (OSHA) standards. An individual who has reached the age of sixty (60) and has been licensed for at least fifteen (15) years may be exempted from this requirement.

(5) All applications for examination and license for the practice of funeral service or funeral directing shall be upon forms furnished by the board and shall be accompanied by an examination fee, a licensing fee and a nonrefundable application fee in amounts fixed by the board in accordance with Section 73-11-56. The fee for an initial license, however, may be prorated in proportion to the period of time from the date of issuance to the date of biennial license renewal prescribed in subsection (8) of this section. All applications for examination
shall be filed with the board office at least sixty (60) days prior to date of examination. A candidate shall be deemed to have abandoned the application for examination if he does not appear on the scheduled date of examination unless such failure to appear has been approved by the board.

(6) The practice of funeral service or funeral directing must be engaged in at a licensed funeral establishment, at least one (1) of which is listed as the licensee’s place of business; and no person, partnership, corporation, association or other organization shall open or maintain a funeral establishment at which to engage in or conduct or hold himself or itself out as engaging in the practice of funeral service or funeral directing until such establishment has complied with the licensing requirements of this chapter. A license for the practice of funeral service or funeral directing shall be used only at licensed funeral establishments; however, this provision shall not prevent a person licensed for the practice of funeral service or funeral directing from conducting a funeral service at a church, a residence, public hall, lodge room or cemetery chapel, if such person maintains a fixed licensed funeral establishment of his own or is in the employ of or an agent of a licensed funeral establishment.

(7) Any person holding a valid, unrevoked and unexpired license in another state or territory having requirements substantially similar to those of this state may apply for a license to practice in this state by filing with the board a certified statement from the secretary of the licensing board of the state or territory in which the applicant holds his license certifying to his qualifications and good standing with that board by having successfully passed a written and/or oral examination on the Mississippi Funeral Service licensing law and rules and regulations as prepared or approved by the board, and by paying a nonrefundable application fee set by the board pursuant to Section
73-11-56. If the board finds that the applicant has fulfilled substantially similar requirements, the board shall grant such license upon receipt of a fee in an amount equal to the renewal fee set by the board for a license for the practice of funeral service or funeral directing, as the case may be, in this state. The board may issue a temporary funeral service or funeral directing work permit before a license is granted, prior to the next regular meeting of the board, if the applicant for a reciprocal license has complied with all requirements, rules and regulations of the board. The temporary permit will expire at the next regular meeting of the board.

(8) (a) Any person holding a license for the practice of funeral service or funeral directing may have the same renewed for a period of two (2) years by making and filing with the board an application therefor within thirty (30) days preceding the expiration of his license on forms provided by the board and upon payment of a renewal fee in an amount set by the board in accordance with Section 73-11-56. The board shall mail a notice of the due date for payment of the renewal fee to the last known address of each licensee at least thirty (30) days prior to such date.

(b) If the renewal fee is not paid on or before the date that it is due, a late fee, as prescribed by Section 73-11-56, in addition to the regular renewal fee, shall be required. A period of thirty (30) days shall be allowed after the expiration of a license, during which time the license may be renewed on the payment of the renewal fee plus the applicable late fee. If a person fails to renew his license during the aforesaid thirty-day period, the license of such person shall by operation of law automatically expire and become void without further action of the board. The board may reinstate such license if application for licensure is made within a period of five (5) years, upon payment of the renewal fee for the current year, all fees in
arrears, late fees and a reinstatement fee as set by the board. After such five-year period, the license may be reinstated only by payment of the renewal fee for the current year, all renewal fees in arrears, late fees plus a reinstatement fee and by the licensee successfully passing a written and/or oral examination as prepared or approved by the board.

(c) The expiration date of each license issued or renewed shall be established by rules and regulations of the board. Subject to the provisions of this subsection, each license shall be renewable on a biennial basis upon filing of a renewal application and upon payment of the renewal fee established pursuant to Section 73-11-56. To provide for a system of biennial renewal of licenses, the board may provide by rules and regulations that licenses issued or renewed for the first time after July 1, 1994, may expire less than two (2) years from the date of issuance or renewal. In each case in which a license is issued or renewed for a period of time less than two (2) years, the board shall prorate to the nearest whole month the license or renewal fee established pursuant to Section 73-11-56. The provisions of this paragraph (c) shall not apply to the resident trainee certificate or period of resident traineeship under Section 73-11-53.

(9) Any person holding on July 1, 1984, a license to practice embalming shall be entitled to a license for either of the named licenses upon meeting the same terms and conditions as are herein provided for the renewal of licenses of those who may be licensed after July 1, 1984. Any person in this state engaged in the practice of funeral directing on July 1, 1984, either as an owner of a funeral establishment or an employee thereof, who has had experience as a funeral director for at least two (2) years within the five (5) years immediately preceding July 1, 1984, shall be entitled to a license for funeral directing upon meeting the same terms and conditions as are herein provided for the
renewal of licenses for the practice of funeral directing. However, from and after July 1, 1991, the board shall issue licenses only as provided for under the provisions of subsections (3) and (4) of this section.

(10) The board may, in its discretion, in the event of a major disaster or emergency where human death is likely to occur, temporarily authorize the practice of funeral directing and funeral service by persons licensed to practice in another state but not licensed to practice in this state, provided that such services are only rendered by members of disaster mortuary teams authorized by federal or appropriate local authorities to provide such services. Only persons licensed in this state, however, may sign death certificates.

(11) On an individual basis, a person who is licensed for the practice of funeral service by another state is authorized to make a removal of a deceased person, embalm a deceased person or conduct a funeral or burial service in this state, and a funeral director who is licensed by another state is authorized to conduct a funeral or burial service in this state, in the same manner and to the same extent as provided by the laws of that state to persons licensed by the State of Mississippi for the practice of funeral service or for the practice of funeral directing.

(12) Any funeral service technology or mortuary science program accredited by the American Board of Funeral Service Education in the State of Mississippi, as well as students enrolled in such a program, shall be exempt from licensing under this chapter when embalming or otherwise preparing a deceased human body for disposition as part of a student practicum experience, when the student is directly supervised by an instructor or preceptor who holds a current funeral service license. This exemption shall apply to practicum experiences performed at an accredited institution of funeral service technology or mortuary science program or at a duly licensed
funeral establishment or commercial mortuary service. Nothing in this subsection shall be construed to allow any funeral service technology or mortuary science program, or those students enrolled in such a program, to engage in practicum experiences for remuneration.

(13) Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64.

(14) All sellers of preneed funeral services shall register with the board and pay a registration fee of Twenty-five Dollars ($25.00) every two (2) years to be eligible to conduct business in the State of Mississippi. Any person, firm, corporation or other entity who does not register and pay the registration fee shall be guilty of a misdemeanor and, upon conviction, shall be fined One Thousand Dollars ($1,000.00). All registered sellers of preneed funeral services must have a contract with a licensed funeral establishment at a specified price in order to provide such services and copies of such contracts shall be provided to the board. For the purposes of this subsection, "preneed funeral services" means a contract or agreement for the arrangement for the disposition of dead human bodies, including, but not limited to, the sale of caskets, vaults, clothing, urns and any necessary services related thereto.

SECTION 2. This act shall take effect and be in force from and after July 1, 2001.