

By: Representative Holland

To: Public Health and
Welfare

HOUSE BILL NO. 957

1 AN ACT TO AMEND SECTION 73-11-33, MISSISSIPPI CODE OF 1972,
2 TO EXTEND THE DATE OF THE REPEALER ON THE PROVISIONS OF LAW THAT
3 CREATE THE STATE BOARD OF FUNERAL SERVICE AND PRESCRIBE ITS DUTIES
4 AND POWERS; TO REENACT SECTIONS 73-11-41 THROUGH 73-11-63,
5 MISSISSIPPI CODE OF 1972, WHICH CREATE THE STATE BOARD OF FUNERAL
6 SERVICE AND PRESCRIBE ITS DUTIES AND POWERS; TO AMEND REENACTED
7 SECTION 73-11-41, MISSISSIPPI CODE OF 1972, TO DEFINE "BRANCH
8 ESTABLISHMENT," "FUNERAL ESTABLISHMENT" AND "NEXT OF KIN"; TO
9 AMEND REENACTED SECTION 73-11-49, MISSISSIPPI CODE OF 1972, TO
10 PROVIDE THAT THE BOARD SHALL NOT PASS ANY REGULATION PERTAINING TO
11 THE TRANSPORTATION OF DEAD BODIES OR REQUIRING THEM TO BE EMBALMED
12 EXCEPT AS REQUIRED BY RULE OF THE STATE DEPARTMENT OF HEALTH; TO
13 AMEND REENACTED SECTION 73-11-51, MISSISSIPPI CODE OF 1972, TO
14 REVISE CERTAIN REQUIREMENTS FOR LICENSES FOR THE PRACTICE OF
15 FUNERAL DIRECTING AND LICENSES FOR THE PRACTICE OF FUNERAL
16 SERVICE; TO REVISE CERTAIN PROVISIONS RELATING TO THE RENEWAL OF
17 THOSE LICENSES; TO PROVIDE THAT IF THE LICENSE RENEWAL FEE IS NOT
18 PAID IN TIME, THE LICENSE WILL AUTOMATICALLY EXPIRE; TO PROVIDE
19 THAT LICENSES ARE NOT ASSIGNABLE OR VALID FOR ANY PERSON OTHER
20 THAN THE ORIGINAL LICENSEE; TO AUTHORIZE THE BOARD TO ISSUE A
21 LICENSE FOR THE PRACTICE OF FUNERAL DIRECTING TO CERTAIN PERSONS
22 WHO MAKE APPLICATION WITHIN A THIRTY-DAY PERIOD; TO AMEND
23 REENACTED SECTION 73-11-53, MISSISSIPPI CODE OF 1972, TO REQUIRE A
24 RESIDENT TRAINEE FOR A LICENSE TO SERVE THE APPRENTICESHIP IN A
25 FUNERAL ESTABLISHMENT LICENSED IN MISSISSIPPI; TO AMEND REENACTED
26 SECTION 73-11-55, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE
27 REGULAR INSPECTION OF FUNERAL ESTABLISHMENTS; TO PROVIDE THE
28 MINIMUM PHYSICAL REQUIREMENTS FOR BRANCH ESTABLISHMENTS; TO REVISE
29 CERTAIN PROVISIONS RELATING TO THE RENEWAL OF FUNERAL
30 ESTABLISHMENT LICENSES; TO PROVIDE THAT IF THE LICENSE RENEWAL FEE
31 IS NOT PAID IN TIME, THE LICENSE WILL AUTOMATICALLY EXPIRE; TO
32 PROVIDE THAT FUNERAL ESTABLISHMENT LICENSES ARE NOT ASSIGNABLE OR
33 VALID FOR ANY ESTABLISHMENT OTHER THAN THE ORIGINAL LICENSEE; TO
34 AMEND REENACTED SECTION 73-11-56, MISSISSIPPI CODE OF 1972, TO
35 INCREASE LICENSE REINSTATEMENT FEES TO BE EQUAL TO THE AMOUNT OF
36 THE LICENSE FEES; TO DELETE LATE FEES; TO PROVIDE THAT ALL
37 LICENSES WILL HAVE A REINSTATEMENT FEE ADDED TO THE RENEWAL FEE IF
38 THE PAYMENT IS NOT RECEIVED IN TIME; TO AMEND REENACTED SECTION
39 73-11-57, MISSISSIPPI CODE OF 1972, TO SPECIFY ADDITIONAL GROUNDS
40 FOR THE SUSPENSION OR REVOCATION OF LICENSES; TO PROVIDE THAT
41 APPEALS OF ORDERS OF THE BOARD DO NOT ACT AS SUPERSEDEAS; TO AMEND
42 REENACTED SECTION 73-11-61, MISSISSIPPI CODE OF 1972, TO REQUIRE
43 LICENSEES TO PROVIDE A PRICE LIST AND A STATEMENT OF GOODS AND
44 SERVICES TO THE PERSONS WHO AUTHORIZE THE SERVICES; TO AMEND
45 REENACTED SECTION 73-11-63, MISSISSIPPI CODE OF 1972, TO PROVIDE
46 THAT THIS CHAPTER DOES NOT PREVENT OR INTERFERE WITH RELIGIOUS
47 CEREMONIES OR CUSTOMS; TO CODIFY NEW SECTION 73-11-65, MISSISSIPPI
48 CODE OF 1972, TO PROVIDE THAT EVERY FUNERAL SERVICE INTERMENT
49 CONDUCTED IN THE STATE MUST BE UNDER THE SUPERVISION OF A LICENSED
50 FUNERAL DIRECTOR OR FUNERAL SERVICE LICENSEE; AND FOR RELATED
51 PURPOSES.



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

53 **SECTION 1.** Section 73-11-33, Mississippi Code of 1972, is
54 amended as follows:

55 73-11-33. Sections 73-11-41 through 73-11-65, which create
56 the State Board of Funeral Service and prescribe its duties and
57 powers, shall stand repealed as of July 1, 2006.

58 **SECTION 2.** Section 73-11-41, Mississippi Code of 1972, is
59 reenacted and amended as follows:

60 73-11-41. The following terms shall have the meanings
61 ascribed herein unless the context shall otherwise require:

62 (a) "Board" * * * means the State Board of Funeral
63 Service of the State of Mississippi as created by Section
64 73-11-43, or any successor thereof.

65 (b) "Branch establishment" means an auxiliary facility
66 or division of a main funeral establishment licensed under this
67 chapter that is within seventy-five (75) miles of the main
68 facility.

69 (c) "Embalming" * * * means the disinfection of the
70 dead human body by replacing certain body fluids with preserving
71 and disinfecting chemicals.

72 (d) "Funeral establishment" means a fixed place or
73 premise duly licensed by the board that is devoted to or used in
74 the immediate post death activities of custody, shelter, care,
75 preparation and/or embalming for final disposition of the body; or
76 used for religious services or other rites or ceremonies
77 associated with the final disposition of human dead; or maintained
78 or held out to the public by advertising or otherwise as such, for
79 the convenience and comfort of the bereaved and the community for
80 viewing or other services in connection with the human dead, and
81 as the office or place for carrying on the profession of funeral
82 service and/or funeral directing.

83 (e) "License for funeral establishment" * * * means a
84 license issued to a place or premise devoted to or used in the



85 immediate post-death activities of custody, shelter, care,
86 preparation and/or embalming for final disposition of the body; or
87 used for religious services or other rites or ceremonies
88 associated with the final disposition of human dead; or maintained
89 for the convenience and comfort of the bereaved and the community
90 for viewing or other services in connection with the human dead,
91 and as the office or place for carrying on the profession of
92 funeral service and/or funeral directing.

93 (f) "License for the practice of funeral
94 directing" * * * means the license given to a person engaging in
95 the "practice of funeral service" who is not engaged in the
96 practice of embalming.

97 (g) "License for the practice of funeral service" * * *
98 means the license given to a person engaging in the "practice of
99 funeral service," including the practice of embalming.

100 (h) "Next of kin" means, in descending order of
101 priority: (i) the agent for health care decisions established by
102 a durable power of attorney for health care decision according to
103 Mississippi law, if the power of attorney conveys to the agent the
104 authority to make decisions concerning disposition of the
105 decedents remains; (ii) the spouse of the decedent; (iii) the
106 decedent's surviving adult children. If there is more than one
107 (1) adult child, any adult child who confirms in writing the
108 notification of all other adult children, may direct the manner of
109 disposition unless the funeral establishment (or crematory)
110 authority receives a written objection to the manner of
111 disposition from another adult child; (iv) the decedent's
112 surviving parents; (v) the persons in the next degree of kinship
113 under the laws of descent and distribution to inherit the estate
114 of the decedent. If there is more than one (1) person of same
115 degree, any person of that degree may direct the manner of
116 disposition; (vi) a guardian of the person of the decedent at the
117 time of the person's death; (vii) the personal representative of



118 the decedent, or (viii) in the case of indigents or any other
119 individuals whose final disposition is the responsibility of the
120 state or county, the public official charged with arranging the
121 final disposition according to Mississippi law.

122 (i) "Practice of funeral service" * * * means (i)
123 providing shelter, care and custody of the human dead; (ii)
124 conducting immediate post-death activities; (iii) preparing of the
125 human dead by embalming or other methods for burial or other
126 disposition; (iv) being responsible for the transportation of the
127 human dead, bereaved relatives and friends; (v) making
128 arrangements, financial or otherwise, for the providing of such
129 services; (vi) the sale of funeral merchandise; or (vii) the
130 practice or performance of any function of funeral directing
131 and/or embalming as presently known, including those stipulated
132 herein. This definition shall not include persons or corporations
133 engaging only in the pre-need sale of funeral merchandise or
134 service.

135 (j) "Resident trainee" * * * means a person who is
136 preparing to become licensed for the practice of funeral service
137 or funeral directing and who is serving under the supervision and
138 instruction of a person duly licensed for the practice of funeral
139 service or funeral directing in this state.

140 (k) "Solicitation" means the act or practice of
141 approaching someone with a request or plea, or urging someone
142 toward a particular cause, as it may pertain to the care, custody
143 or disposition of a dead human body.

144 **SECTION 3.** Section 73-11-43, Mississippi Code of 1972, is
145 reenacted as follows:

146 73-11-43. There is hereby created the State Board of Funeral
147 Service which shall consist of seven (7) members, one (1) funeral
148 service licensee and one (1) funeral director licensee to be
149 appointed from each Mississippi Supreme Court district. Three (3)
150 members shall have been licensed for the practice of funeral



151 service under this chapter for five (5) consecutive years and/or
152 have had at least five (5) consecutive years' experience as a
153 funeral director and embalmer in this state immediately preceding
154 his appointment. Three (3) members shall have been licensed for
155 the practice of funeral directing under this chapter for five (5)
156 consecutive years and/or have had at least five (5) consecutive
157 years' experience as a funeral director immediately preceding his
158 appointment. One (1) member shall be a public member and be
159 appointed from the public at large. The members of the board
160 shall be appointed by the Governor with the advice and consent of
161 the Senate. All appointments shall be for terms of four (4) years
162 from the expiration date of the previous term. No board member
163 shall serve more than two (2) consecutive full terms. Vacancies
164 in office shall be filled by appointment by the Governor in the
165 same manner as the appointment to the position which becomes
166 vacant, subject to the advice and consent of the Senate at the
167 next regular session of the Legislature. Appointments for
168 vacancies in office, except those from the public at large, may be
169 made from a joint list of four (4) qualified persons, two (2) each
170 submitted by the Mississippi Funeral Directors Association and the
171 Mississippi Funeral Directors and Morticians Association. Nothing
172 in this chapter or any other statute shall preclude the members of
173 the State Embalming Board from serving as members of the State
174 Board of Funeral Service.

175 **SECTION 4.** Section 73-11-45, Mississippi Code of 1972, is
176 reenacted as follows:

177 73-11-45. The members of the board, before entering upon
178 their duties, shall take and subscribe to the oath of office
179 prescribed for other state officers, which oath shall be
180 administered by properly qualified authority and shall be filed in
181 the Office of the Secretary of State.

182 **SECTION 5.** Section 73-11-47, Mississippi Code of 1972, is
183 reenacted as follows:



184 73-11-47. The board shall hold not less than two (2)
185 meetings annually for the purpose of conducting the business of
186 the board and for examining applications for licenses. Four (4)
187 or more members shall comprise a quorum. Any member who shall not
188 attend two (2) consecutive meetings of the board shall be subject
189 to removal by the Governor. The chairman of the board shall
190 notify the Governor in writing when any such member has failed to
191 attend two (2) consecutive regular meetings.

192 **SECTION 6.** Section 73-11-49, Mississippi Code of 1972, is
193 reenacted and amended as follows:

194 73-11-49. (1) The board is authorized to select from its
195 own membership a chairman, vice chairman and secretary-treasurer.
196 Election of officers shall be held at the first regularly
197 scheduled meeting of the fiscal year.

198 (2) All members of the board shall be reimbursed for their
199 necessary traveling expenses and mileage incident to their
200 attendance upon the business of the board, as provided in Section
201 25-3-41, and shall receive a per diem as provided in Section
202 25-3-69 for every day actually spent upon the business of the
203 board, not to exceed twenty (20) days per year unless authorized
204 by a majority vote of the board.

205 (3) All monies received by the board shall be paid into a
206 special fund in the State Treasury to the credit of the board and
207 shall be used by the board for paying the traveling and necessary
208 expenses and per diem of the members of the board while on board
209 business, and for paying other expenses necessary for the
210 operation of the board in carrying out and involving the
211 provisions of this chapter.

212 (4) The board shall employ an administrator of the board,
213 who shall have complete supervision and be held responsible for
214 the direction of the office of the board, shall have supervision
215 over field inspections and enforcement of the provisions of this
216 chapter, shall have such other duties as may be assigned by the



217 board, shall be responsible and answerable to the board. The
218 board may employ such other clerical assistants and employees as
219 may be necessary to carry out the provisions of this chapter, and
220 the terms and conditions of such employment shall be determined by
221 the board in accordance with applicable state law and rules and
222 regulations of the State Personnel Board.

223 (5) The board, when it shall deem necessary, shall be
224 represented by an assistant Attorney General duly appointed by the
225 Attorney General of this state, and may also request and receive
226 the assistance of other state agencies and county and district
227 attorneys, all of whom are authorized to provide the assistance
228 requested.

229 (6) The board shall have subpoena power in enforcing the
230 provisions of this chapter.

231 (7) The board shall adopt and promulgate rules and
232 regulations for the transaction of its business in accordance with
233 the provisions of the Mississippi Administrative Procedures Law
234 (Section 25-43-1 et seq.). No rule or regulation promulgated by
235 the board affecting any person or agency outside the board shall
236 be adopted, amended or repealed without a public hearing on the
237 proposed action. The board shall give written notice at least
238 thirty (30) days in advance of any meeting with respect to any
239 proposed adoption, amendment or repeal of a rule or regulation of
240 the board, in accordance with the Administrative Procedures Act,
241 as well as notifying the duly elected presidents and secretaries
242 of the Mississippi Funeral Directors Association and the
243 Mississippi Funeral Directors and Morticians Association, or their
244 successors.

245 (8) The board may designate the administrator to perform
246 inspections under this chapter, may employ an individual to
247 perform such inspections or may contract with any other individual
248 or entity to perform such inspections. Any individual or entity
249 that performs such inspections shall have the right of entry into



250 any place in which the business or practice of funeral service
251 and/or funeral directing is carried on or advertised as being
252 carried on, for the purpose of inspection, for the investigation
253 of complaints coming before the board and for such other matters
254 as the board may direct.

255 (9) The board shall not pass any rule or regulation
256 pertaining to the transportation of dead bodies * * * or requiring
257 them to be embalmed except as required by the State Department of
258 Health's Rule 43 or any subsequent rule adopted by the department.

259 **SECTION 7.** Section 73-11-51, Mississippi Code of 1972, is
260 reenacted and amended as follows:

261 73-11-51. (1) No person shall engage in the business or
262 practice of funeral service, including embalming, and/or funeral
263 directing or hold himself out as transacting or practicing or
264 being entitled to transact or practice funeral service, including
265 embalming, and/or funeral directing in this state unless duly
266 licensed pursuant to the provisions of this chapter.

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

272 (3) To be licensed for the practice of funeral directing
273 under this chapter, a person must (a) be at least eighteen (18)
274 years of age; (b) have a high school diploma or the equivalent
275 thereof; (c) have served as a resident trainee for not less than
276 twenty-four (24) months under the supervision of a person licensed
277 for the practice of funeral service or funeral directing in this
278 state; (d) have successfully passed a written and/or oral
279 examination as prepared or approved by the board; and (e) be of
280 good moral character * * *. An individual who has reached the age
281 of sixty (60) and has been licensed for at least fifteen (15)
282 years may be exempted from this requirement.



283 (4) To be licensed for the practice of funeral service under
284 this chapter, a person must (a) be at least eighteen (18) years of
285 age; (b) have a high school diploma or the equivalent thereof; (c)
286 have successfully completed twelve (12) months or more of academic
287 and professional instruction from an institution accredited by
288 the * * * United States Department of Education for funeral
289 service education and have a certificate of completion from an
290 institution accredited by the American Board of Funeral Service
291 Education or any other successor recognized by the United States
292 Department of Education for funeral service education; (d) have
293 served as a resident trainee for not less than twelve (12) months,
294 either prior to or after graduation from an accredited institution
295 mentioned above, under the supervision of a person licensed for
296 the practice of funeral service in this state and in an
297 establishment licensed in this state; (e) have successfully passed
298 a written and/or oral examination as prepared or approved by the
299 board; and (f) be of good moral character * * *. An individual
300 who has reached the age of sixty (60) and has been licensed for at
301 least fifteen (15) years may be exempted from this requirement.

302 (5) All applications for examination and license for the
303 practice of funeral service or funeral directing shall be upon
304 forms furnished by the board and shall be accompanied by an
305 examination fee, a licensing fee and a nonrefundable application
306 fee in amounts fixed by the board in accordance with Section
307 73-11-56. The fee for an initial license, however, may be
308 prorated in proportion to the period of time from the date of
309 issuance to the date of biennial license renewal prescribed in
310 subsection (8) of this section. All applications for examination
311 shall be filed with the board office at least sixty (60) days
312 prior to date of examination. A candidate shall be deemed to have
313 abandoned the application for examination if he does not appear on
314 the scheduled date of examination unless such failure to appear
315 has been approved by the board.



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

333 (7) Any person holding a valid, unrevoked and unexpired
334 license in another state or territory having requirements
335 substantially similar to those of this state may apply for a
336 license to practice in this state by filing with the board a
337 certified statement from the secretary of the licensing board of
338 the state or territory in which the applicant holds his license
339 certifying to his qualifications and good standing with that board
340 by having successfully passed a written and/or oral examination on
341 the Mississippi Funeral Service licensing law and rules and
342 regulations as prepared or approved by the board, and by paying a
343 nonrefundable application fee set by the board pursuant to Section
344 73-11-56. If the board finds that the applicant has fulfilled
345 substantially similar requirements, the board shall grant such
346 license upon receipt of a fee in an amount equal to the renewal
347 fee set by the board for a license for the practice of funeral
348 service or funeral directing, as the case may be, in this state.



349 The board may issue a temporary funeral service or funeral
350 directing work permit before a license is granted, prior to the
351 next regular meeting of the board, if the applicant for a
352 reciprocal license has complied with all requirements, rules and
353 regulations of the board. The temporary permit will expire at the
354 next regular meeting of the board.

355 (8) (a) Any person holding a license for the practice of
356 funeral service or funeral directing may have the same renewed for
357 a period of two (2) years by making and filing with the board an
358 application on or before the due date. Payment of the renewal fee
359 shall be in an amount set by the board in accordance with Section
360 73-11-56. The board shall mail the notice of renewal and the due
361 date for the payment of the renewal fee to the last known address
362 of each licensee at least thirty (30) days before that date. It
363 is the responsibility of the licensee to notify the board in
364 writing of any change of address. An application will be
365 considered late if the application and proper fees are not in the
366 board's office or postmarked by the due date.

367 (b) If the renewal fee is not paid on or postmarked by
368 the due date, the license of such person shall by operation of law
369 automatically expire and become void without further action of the
370 board. The board may reinstate such license if application for
371 licensure is made within a period of five (5) years, upon payment
372 of the renewal fee for the current year, all renewal fees in
373 arrears, * * * and a reinstatement fee * * *. After a period of
374 five (5) years, the licensee must make application, pay the
375 current renewal fee, all * * * fees in arrears, and pass a
376 written and/or oral examination as prepared or approved by the
377 board.

378 * * *

379 (9) * * * No license shall be assignable or valid for any
380 person other than the original licensee.



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

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

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



413 in such a program, to engage in practicum experiences for
414 remuneration.

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

418 (14) Notwithstanding any provision of this chapter, the
419 board may issue a license for the practice of funeral directing to
420 any person who (a) is at least sixty (60) years of age, (b) has
421 not less than five (5) years' experience as an employee at a
422 licensed funeral establishment in Mississippi, (c) is presently
423 employed at a licensed funeral establishment in Mississippi, and
424 (d) makes application to the board for the license during the
425 period from July 1, 2002, through July 31, 2002. The board shall
426 furnish persons seeking licensure under this subsection an
427 application form upon request. The applicant's previous
428 experience and current employment at a licensed funeral
429 establishment in Mississippi must be documented in writing by the
430 owner or management of the funeral establishment and included with
431 the application to the board. In addition, the application must
432 be signed by a funeral service licensee who works at the licensed
433 funeral establishment where the applicant is employed.

434 **SECTION 8.** Section 73-11-53, Mississippi Code of 1972, is
435 reenacted and amended as follows:

436 73-11-53. (1) A person desiring to become a resident
437 trainee for the practice of funeral service or funeral directing
438 shall make application to the board. Such application shall be
439 sustained by the licensee under whom the applicant is serving, and
440 shall be accompanied by a nonrefundable application fee in an
441 amount set by the board in accordance with Section 73-11-56. When
442 the board is satisfied as to the qualifications of an applicant,
443 it shall issue a certificate of resident traineeship. No credit
444 toward the resident traineeship will be allowed prior to the



445 receipt of a properly completed application and applicable fee at
446 the board office.

447 (2) The board shall have the power to suspend or revoke a
448 certificate of a resident traineeship for violation of any
449 provision of this chapter.

450 (3) A resident trainee who has allowed a certificate of
451 resident traineeship to lapse or who has had a resident
452 traineeship suspended or revoked, may, within one (1) year after
453 such lapse, suspension or revocation, make application for
454 reregistration, but no more than two (2) such consecutive
455 registrations shall be allowed by the board.

456 (4) A resident trainee must serve the apprenticeship in a
457 funeral establishment that is licensed by the State of Mississippi
458 and the preceptor must be a Mississippi licensee.

459 (5) A resident traineeship certificate shall be renewable
460 upon payment of a renewal fee as set by the board. The
461 certificate will expire on December 31 of each year. The fee and
462 application will be considered late if the fee and application are
463 not in the office or show a postmark of December 31. Applications
464 received late may be reinstated by the payment of a renewal fee
465 and a reinstatement fee.

466 **SECTION 9.** Section 73-11-55, Mississippi Code of 1972, is
467 reenacted and amended as follows:

468 73-11-55. (1) No person or party shall conduct, maintain,
469 manage or operate a funeral establishment or branch thereof unless
470 a license for each such establishment has been issued by the board
471 and is conspicuously displayed in such funeral establishment. In
472 case of funeral services held in any private residence, church,
473 cemetery, cemetery chapel, cemetery facility, or lodge hall, no
474 license shall be required.

475 (2) To be licensed as a funeral establishment, a place or
476 premise must be at a fixed and specified address or location and
477 must be used for immediate post-death activities, whether used for



478 the custody, shelter, care, preparation and/or embalming of the
479 human dead. Every funeral establishment shall be under the charge
480 and personal supervision of a Mississippi funeral director
481 licensee or a Mississippi funeral service licensee. The licensee
482 in charge and the licensee with personal supervisory
483 responsibilities need not be the same licensee. Each licensed
484 funeral establishment shall be inspected at least once during each
485 licensing period. Such inspections may be unannounced.

486 (3) * * * (a) A funeral establishment must contain a
487 preparation and/or embalming room, adequate casket/vault selection
488 room, and holding facilities or proper room or rooms in which
489 rites and ceremonies may be held. A funeral establishment shall
490 be subject to an inspection at least once during a two-year
491 license period. Each new establishment must be inspected prior to
492 the opening. All portions of each facility licensed under this
493 section shall be kept in a clean and sanitary condition.

494 (b) A branch * * * establishment must contain an
495 office, an arrangement room, a room for viewing, and a chapel or
496 proper place for ceremonies. A branch establishment need not meet
497 all requirements specified in paragraph (a) of this subsection and
498 need not be under the personal supervision of a Mississippi
499 funeral director licensee or a Mississippi funeral service
500 licensee * * *.

501 If the branch meets all requirements of a funeral
502 establishment as specified in paragraph (a) of this subsection,
503 such establishment must be under the charge and personal
504 supervision of a Mississippi funeral director licensee or a
505 Mississippi funeral service licensee.

506 (c) A commercial mortuary service is a funeral
507 establishment that embalms and transports for licensed funeral
508 establishments and does not sell any services or merchandise
509 directly or at retail to the public.



510 (4) Applications for funeral establishment licenses, branch
511 establishment licenses or commercial mortuary service licenses
512 shall be made on blanks furnished by the board and shall be
513 accompanied by a fee in an amount fixed by the board pursuant to
514 Section 73-11-56. All establishment licenses shall be issued for
515 a period of two (2) years, except initial licenses may be prorated
516 from the date of issuance to the next renewal date.

517 Renewal funeral establishment and branch establishment
518 license applications and license fees shall be due and payable to
519 the board on or before the expiration date of the license. The
520 board shall mail the notice of renewal and the due date for
521 payment of the renewal fee at least thirty (30) days before that
522 date.

523 (5) If the renewal fee is not paid on or postmarked by the
524 due date, the license shall by operation of law automatically
525 expire and become void without further action of the board. All
526 establishments whose licenses have expired under this section may
527 be reinstated by filing with the board an application for
528 reinstatement, submitting to an inspection during which time the
529 licensee in charge of such establishment shall be interviewed by
530 the board or its designee and by paying all renewal fees in
531 arrears and a reinstatement fee * * *.

532 (6) No license shall be assignable or transferable or valid
533 for any establishment other than the original licensee. License
534 fees and application fees are nonrefundable.

535 (7) A license for each new establishment, change of
536 location, change of ownership, or reinstatement of an
537 establishment shall not be issued until an inspection has been
538 made, license and inspection fees have been paid, and the licensee
539 in charge of such establishment has been interviewed by the board
540 or its designee.

541 (8) No operator of a funeral establishment shall allow any
542 person licensed for the practice of funeral service or funeral



543 directing, as the case may be, to operate out of such funeral
544 establishment unless such licensee is the operator of or an
545 employee of the operator of a funeral establishment which has been
546 issued a license by the board.

547 (9) The board is authorized to establish rules and
548 regulations for the issuance of a special funeral establishment
549 work permit.

550 **SECTION 10.** Section 73-11-56, Mississippi Code of 1972, is
551 reenacted and amended as follows:

552 73-11-56. On or before October 1 of each year, the board
553 shall determine the amount of funds that will be required during
554 the next ensuing two (2) years to properly administer the laws
555 which the board is directed to enforce and administer and by rule
556 and regulation shall fix fees in such reasonable sums as may be
557 necessary for such purposes within the following limitations:

558 Funeral establishment:

559	Application fee, not more than.....	\$150.00
560	Inspection fee, not more than.....	\$ 75.00
561	Funeral establishment license fee, not more than....	\$150.00
562	Branch establishment license fee, not more than.....	\$150.00
563	Commercial mortuary service license fee, not	
564	more than.....	\$150.00
565	Renewal application and license fee, not more than...	\$300.00
566	Special work permit.....	\$150.00

567 Funeral service:

568	Application fee, not more than.....	\$ 50.00
569	Reciprocal application fee, not more than.....	\$100.00
570	License fee, not more than.....	\$ 75.00
571	Renewal license fee, not more than.....	\$ 75.00
572	Work permit, not more than.....	\$ 50.00
573	Examination fee.....	Cost of the examination

574 Funeral director:

575	Application fee, not more than.....	\$ 50.00
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576 Reciprocal application fee, not more than..... \$100.00
577 License fee, not more than..... \$ 50.00
578 Renewal license fee, not more than..... \$ 50.00
579 Work permit, not more than..... \$ 50.00
580 Examination fee..... Cost of the examination
581 Resident trainee certificate:
582 Funeral service application fee, not more than..... \$ 50.00
583 Funeral director application fee, not more than..... \$ 50.00
584 Funeral service renewal application fee,
585 not more than..... \$ 50.00
586 Funeral director renewal application fee,
587 not more than..... \$50.00
588 Other fees:
589 Duplicate license fee, not more than..... \$ 25.00
590 Reinstatement of lapsed license fee, equal to the
591 amount of the applicable license fee.
592 * * *
593 All licenses will have a reinstatement fee added to the
594 renewal fee if the payment is not in the board's office or
595 postmarked by the due date.
596 At least thirty (30) days prior to the expiration date of any
597 license issued by the board, the board shall notify the licensee
598 of the applicable renewal fee therefor.
599 * * *
600 **SECTION 11.** Section 73-11-57, Mississippi Code of 1972, is
601 reenacted and amended as follows:
602 73-11-57. (1) The board may refuse to examine or to issue
603 or renew, or may suspend or revoke, any license, or may reprimand
604 or place the holder thereof on a term of probation, after proper
605 hearing, upon finding the holder of such license to be guilty of
606 acts of commission or omission including the following:



- 607 (a) The employment of fraud or deception in applying
608 for a license or in passing the examination provided for in this
609 chapter;
- 610 (b) The erroneous issuance of a license to any person;
- 611 (c) The conviction of a felony by any court in this
612 state or any federal court or by the court of any other state or
613 territory of the United States;
- 614 (d) The practice of embalming under a false name or
615 without a license for the practice of funeral service;
- 616 (e) The impersonation of another funeral service or
617 funeral directing licensee;
- 618 (f) The permitting of a person other than a funeral
619 service or funeral directing licensee to make arrangements for a
620 funeral and/or form of disposition;
- 621 (g) Violation of any provision of this chapter or any
622 rule or regulation of the board;
- 623 (h) Having had a license for the practice of funeral
624 service or funeral directing suspended or revoked in any
625 jurisdiction, having voluntarily surrendered his license in any
626 jurisdiction, having been placed on probation in any jurisdiction,
627 having been placed under disciplinary order(s) or other
628 restriction in any manner for funeral directing and/or funeral
629 service, or operating a funeral establishment (a certified copy of
630 the order of suspension, revocation, probation or disciplinary
631 action shall be prima facie evidence of such action);
- 632 (i) Solicitation of dead human bodies by the licensee,
633 his agents, assistants or employees, whether such solicitation
634 occurs after death or when death is imminent; if the person
635 solicited has made known a desire not to receive the
636 communication, or if the solicitation involves coercion, duress or
637 harassment, or if the solicitation takes place at the residence of
638 the client or prospective client, is uninvited by the client or
639 prospective client and has not been previously agreed to by the



640 client or prospective client; however, this shall not be deemed to
641 prohibit general advertising;

642 (j) Employment directly or indirectly of any
643 apprentice, agent, assistant, employee, or other person, on a
644 part-time or full-time basis or on commission, for the purpose of
645 calling upon individuals or institutions by whose influence dead
646 human bodies may be turned over to a particular funeral
647 establishment;

648 (k) Refusal to surrender a dead human body upon the
649 request of the next of kin, or legal representative, or other
650 person entitled to the custody and control of the body if there is
651 no next of kin;

652 (l) Failure to make responses to communications or
653 requests of the board within thirty (30) days;

654 (m) Failure to comply with an order of the board within
655 thirty (30) days;

656 (n) Knowingly performing any act that in any way
657 assists an unlicensed person to practice funeral service or
658 funeral directing;

659 (o) Making a false statement on death certificates; or

660 (p) Unprofessional conduct which includes but is not
661 limited to:

662 (i) Retaining a dead human body for the payment of
663 a fee for the performance of services not authorized in writing;

664 (ii) Knowingly performing any act which in any way
665 assists an unlicensed person to practice funeral service or
666 funeral directing;

667 (iii) Being guilty of any dishonorable conduct
668 likely to deceive, defraud or harm the public;

669 (iv) Any act or omission in the practice of
670 funeral service or directing which constitutes dishonesty, fraud
671 or misrepresentation with the intent to benefit the licensee,
672 another person or funeral establishment, or with the intent to



673 substantially injure another person, licensee or funeral
674 establishment; or

675 (v) Any act or conduct, whether the same or of a
676 different character than specified above, which constitutes or
677 demonstrates bad faith, incompetency or untrustworthiness; or
678 dishonest, fraudulent or improper dealing; or any other violation
679 of the provisions of this chapter, the rules and regulations
680 established by the board or any rule or regulation promulgated by
681 the Federal Trade Commission relative to the practice of funeral
682 service or funeral directing.

683 (2) The board may, upon satisfactory proof that the
684 applicant or licensee has been guilty of any of the offenses above
685 enumerated, refuse to examine or issue a license to the applicant,
686 or may refuse to renew or revoke or suspend the license of the
687 licensee, or place on probation or reprimand him, upon a majority
688 vote of the board members, after a hearing thereon. The board is
689 hereby vested with full power and authority to hold and conduct
690 such hearings, compel the attendance of witnesses and the
691 production of books, records and documents, issue subpoenas
692 therefor, administer oaths, examine witnesses, and do all things
693 necessary to properly conduct such hearings. The board may waive
694 the necessity of a hearing if the person accused of a violation
695 admits that he has been guilty of such offense. Any person who
696 has been refused a license or whose license has been revoked or
697 suspended may, within thirty (30) days after the decision of the
698 board, file with the board a written notice stating that he feels
699 himself aggrieved by such decision and appeals therefrom to the
700 circuit court. Upon the filing of such notice, the secretary of
701 the board shall transmit to the clerk of the circuit court the
702 records and findings of such proceedings. The circuit court shall
703 hear and determine as to whether the action of the board was in
704 accord or consistent with law, or was arbitrary, unwarranted or in
705 abuse of discretion. An appeal from the circuit court judgment or



706 decree may be reviewed by the Supreme Court as is provided by law
707 for other appeals. An appeal of a decision or order of the board
708 does not act as a supersedeas.

709 (3) In a proceeding conducted under this section by the
710 board for the revocation or suspension of a license, the board
711 shall have the power and authority for the grounds stated for such
712 revocation or suspension, and in addition thereto or in lieu of
713 such revocation or suspension may assess and levy upon any person
714 licensed under this chapter, a monetary penalty, as follows:

715 (a) For the first violation of any of the subparagraphs
716 of subsection (1) of this section, a monetary penalty of not less
717 than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars
718 (\$500.00).

719 (b) For the second violation of any of the
720 subparagraphs of subsection (1) of this section, a monetary
721 penalty of not less than One Hundred Dollars (\$100.00) nor more
722 than One Thousand Dollars (\$1,000.00).

723 (c) For the third and any subsequent violation of any
724 of the subparagraphs of subsection (1) of this section, a monetary
725 penalty of not less than Five Hundred Dollars (\$500.00) and not
726 more than Five Thousand Dollars (\$5,000.00).

727 (d) For any violation of any of the subparagraphs of
728 subsection (1) of this section, those reasonable costs that are
729 expended by the board in the investigation and conduct of a
730 proceeding for licensure revocation or suspension, including but
731 not limited to the cost of process service, court reporters,
732 expert witnesses and investigators.

733 (4) The power and authority of the board to assess and levy
734 such monetary penalties hereunder shall not be affected or
735 diminished by any other proceeding, civil or criminal, concerning
736 the same violation or violations except as provided in this
737 section.



738 (5) A licensee shall have the right of appeal from the
739 assessment and levy of a monetary penalty as provided in this
740 section under the same conditions as a right of appeal is provided
741 elsewhere for appeals from an adverse ruling, order or decision of
742 the board.

743 (6) Any monetary penalty assessed and levied under this
744 section shall not take effect until after the time for appeal
745 shall have expired. * * *

746 (7) A monetary penalty assessed and levied under this
747 section shall be paid to the board by the licensee upon the
748 expiration of the period allowed for appeal of such penalties
749 under this section or may be paid sooner if the licensee elects.
750 With the exception of subsection (3)(d) of this section, monetary
751 penalties collected by the board under this section shall be
752 deposited to the credit of the General Fund of the State Treasury.
753 Any monies collected by the board under subsection (3)(d) of this
754 section shall be deposited into the special fund operating account
755 of the board.

756 (8) When payment of a monetary penalty assessed and levied
757 by the board against a licensee in accordance with this section is
758 not paid by the licensee when due under this section, the board
759 shall have power to institute and maintain proceedings in its name
760 for enforcement of payment in the chancery court of the county and
761 judicial district of residence of the licensee, and if the
762 licensee be a nonresident of the State of Mississippi, such
763 proceedings shall be in the Chancery Court of the First Judicial
764 District of Hinds County, Mississippi.

765 (9) In addition to the reasons specified in subsection (1)
766 of this section, the board shall be authorized to suspend the
767 license of any licensee for being out of compliance with an order
768 for support, as defined in Section 93-11-153. The procedure for
769 suspension of a license for being out of compliance with an order
770 for support, and the procedure for the reissuance or reinstatement



771 of a license suspended for that purpose, and the payment of any
772 fees for the reissuance or reinstatement of a license suspended
773 for that purpose, shall be governed by Section 93-11-157 or
774 93-11-163, as the case may be. Actions taken by the board in
775 suspending a license when required by Section 93-11-157 or
776 93-11-163 are not actions from which an appeal may be taken under
777 this section. Any appeal of a license suspension that is required
778 by Section 93-11-157 or 93-11-163 shall be taken in accordance
779 with the appeal procedure specified in Section 93-11-157 or
780 93-11-163, as the case may be, rather than the procedure specified
781 in this section. If there is any conflict between any provision
782 of Section 93-11-157 or 93-11-163 and any provision of this
783 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
784 case may be, shall control.

785 **SECTION 12.** Section 73-11-59, Mississippi Code of 1972, is
786 reenacted as follows:

787 73-11-59. Any person, partnership, corporation, association
788 or his or her or its agents or representatives who shall violate
789 any of the provisions of this chapter shall be deemed guilty of a
790 misdemeanor and, upon conviction thereof, shall be punished by a
791 fine of not less than Five Hundred Dollars (\$500.00) nor more than
792 One Thousand Dollars (\$1,000.00), or by imprisonment for not more
793 than six (6) months in the county jail, or by both such fine and
794 imprisonment.

795 **SECTION 13.** Section 73-11-61, Mississippi Code of 1972, is
796 reenacted and amended as follows:

797 73-11-61. Every funeral director or funeral service licensee
798 shall provide, before the rendering of services, the funeral
799 establishment's current general price list, casket price list,
800 outer container price list, and a statement of goods and services
801 to the person or persons who authorize the services and is
802 responsible for payment of the expenses therefor, in a manner and
803 format as prescribed by the Federal Trade Commission's Funeral



804 Rule of 1984 and any future changes with regard to required
805 disclosures. The general price list must be made available to any
806 person upon request.

807 **SECTION 14.** Section 73-11-63, Mississippi Code of 1972, is
808 reenacted and amended as follows:

809 73-11-63. Nothing in this chapter shall be construed to
810 authorize the regulation or licensing of cemeteries, cemetery
811 chapels or cemetery crematories by the board, except the
812 regulation or licensing of any funeral establishment operated by a
813 cemetery. In addition, nothing in this chapter shall be construed
814 to prevent or interfere with the ceremonies, customs, religious
815 rites or religion of any people, denomination, or sect, or to
816 prevent or interfere with any religious denomination, sect or
817 anybody composed of persons of a denomination, or to prevent or
818 interfere with any church or synagogue from having its committee
819 or committees prepare human bodies for burial or the families,
820 friends or neighbors of deceased persons who prepare and bury
821 their dead without charge.

822 **SECTION 15.** The following shall be codified as Section
823 73-11-65, Mississippi Code of 1972:

824 73-11-65. Every funeral service or interment, or part
825 thereof, that is conducted in Mississippi must be in the actual
826 charge and under the supervision of a funeral director or funeral
827 service licensee who is licensed under this chapter. However,
828 this section shall not prevent a family from burying its own dead
829 without charge.

830 **SECTION 16.** This act shall take effect and be in force from
831 and after July 1, 2002.

