

By: Representative Holland

To: Public Health and
WelfareHOUSE BILL NO. 957
(As Sent to Governor)

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" AND "FUNERAL ESTABLISHMENT"; TO AMEND REENACTED
9 SECTION 73-11-49, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE
10 BOARD SHALL NOT PASS ANY REGULATION PERTAINING TO THE
11 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 DIRECT THE BOARD TO ISSUE A LICENSE
21 FOR THE PRACTICE OF FUNERAL DIRECTING TO CERTAIN PERSONS WHO MAKE
22 APPLICATION WITHIN A THIRTY-DAY PERIOD; TO AMEND REENACTED SECTION
23 73-11-53, MISSISSIPPI CODE OF 1972, TO REQUIRE A RESIDENT TRAINEE
24 FOR A LICENSE TO SERVE THE APPRENTICESHIP IN A FUNERAL
25 ESTABLISHMENT LICENSED IN MISSISSIPPI; TO AMEND REENACTED SECTION
26 73-11-55, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE REGULAR
27 INSPECTION OF FUNERAL ESTABLISHMENTS; TO PROVIDE THE MINIMUM
28 PHYSICAL REQUIREMENTS FOR BRANCH ESTABLISHMENTS; TO REVISE CERTAIN
29 PROVISIONS RELATING TO THE RENEWAL OF FUNERAL ESTABLISHMENT
30 LICENSES; TO PROVIDE THAT IF THE LICENSE RENEWAL FEE IS NOT PAID
31 IN TIME, THE LICENSE WILL AUTOMATICALLY EXPIRE; TO PROVIDE THAT
32 FUNERAL ESTABLISHMENT LICENSES ARE NOT ASSIGNABLE OR VALID FOR ANY
33 ESTABLISHMENT OTHER THAN THE ORIGINAL LICENSEE; TO AMEND REENACTED
34 SECTION 73-11-56, MISSISSIPPI CODE OF 1972, TO INCREASE LICENSE
35 REINSTATEMENT FEES TO BE EQUAL TO THE AMOUNT OF THE LICENSE FEES;
36 TO DELETE LATE FEES; TO PROVIDE THAT ALL LICENSES WILL HAVE A
37 REINSTATEMENT FEE ADDED TO THE RENEWAL FEE IF THE PAYMENT IS NOT
38 RECEIVED IN TIME; TO AMEND REENACTED SECTION 73-11-57, MISSISSIPPI
39 CODE OF 1972, TO SPECIFY ADDITIONAL GROUNDS FOR THE SUSPENSION OR
40 REVOCATION OF LICENSES; TO PROVIDE THAT APPEALS OF ORDERS OF THE
41 BOARD DO NOT ACT AS SUPERSEDEAS; TO AMEND REENACTED SECTION
42 73-11-61, MISSISSIPPI CODE OF 1972, TO REQUIRE LICENSEES TO
43 PROVIDE A PRICE LIST AND A STATEMENT OF GOODS AND SERVICES TO THE
44 PERSONS WHO AUTHORIZE THE SERVICES; TO AMEND REENACTED SECTION
45 73-11-63, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THIS CHAPTER
46 DOES NOT PREVENT OR INTERFERE WITH RELIGIOUS CEREMONIES OR
47 CUSTOMS; TO CODIFY NEW SECTION 73-11-65, MISSISSIPPI CODE OF 1972,
48 TO PROVIDE THAT EVERY FUNERAL SERVICE INTERMENT CONDUCTED IN THE
49 STATE MUST BE UNDER THE SUPERVISION OF A LICENSED FUNERAL DIRECTOR
50 OR FUNERAL SERVICE LICENSEE; TO CODIFY NEW SECTION 73-11-67,
51 MISSISSIPPI CODE OF 1972, TO REQUIRE EVERY PERSON THAT SELLS
52 CASKETS AT RETAIL TO REGISTER ANNUALLY WITH THE BOARD; TO PROVIDE



53 THAT THOSE PERSONS ARE NOT SUBJECT TO REGULATION OR SUPERVISION BY
54 THE BOARD; TO CODIFY NEW SECTION 73-11-69, MISSISSIPPI CODE OF
55 1972, TO PROVIDE FOR THE LICENSURE AND REGULATION OF CREMATORY
56 FACILITIES IN THIS STATE BY THE BOARD; AND FOR RELATED PURPOSES.

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

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

60 73-11-33. Sections 73-11-41 through 73-11-69, which create
61 the State Board of Funeral Service and prescribe its duties and
62 powers, shall stand repealed as of July 1, 2006.

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

65 73-11-41. The following terms shall have the meanings
66 ascribed herein unless the context shall otherwise require:

67 (a) "Board" * * * means the State Board of Funeral
68 Service of the State of Mississippi as created by Section
69 73-11-43, or any successor thereof.

70 (b) "Branch establishment" means an auxiliary facility
71 or division of a main funeral establishment licensed under this
72 chapter that is within seventy-five (75) miles of the main
73 facility.

74 (c) "Embalming" * * * means the disinfection of the
75 dead human body by replacing certain body fluids with preserving
76 and disinfecting chemicals.

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



88 (e) "License for funeral establishment" * * * means a
89 license issued to a place or premise devoted to or used in the
90 immediate post-death activities of custody, shelter, care,
91 preparation and/or embalming for final disposition of the body; or
92 used for religious services or other rites or ceremonies
93 associated with the final disposition of human dead; or maintained
94 for the convenience and comfort of the bereaved and the community
95 for viewing or other services in connection with the human dead,
96 and as the office or place for carrying on the profession of
97 funeral service and/or funeral directing.

98 (f) "License for the practice of funeral
99 directing" * * * means the license given to a person engaging in
100 the "practice of funeral service" who is not engaged in the
101 practice of embalming.

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

105 (h) "Practice of funeral service" * * * means:

106 (i) Providing shelter, care and custody of the
107 human dead;

108 (ii) Conducting immediate post-death activities;

109 (iii) Preparing of the human dead by embalming or
110 other methods for burial or other disposition;

111 (iv) Being responsible for the transportation of
112 the human dead, bereaved relatives and friends;

113 (v) Making arrangements, financial or otherwise,
114 for the providing of such services;

115 (vi) The sale of funeral merchandise; or

116 (vii) The practice or performance of any function
117 of funeral directing and/or embalming as presently known,
118 including those stipulated herein.



119 This definition shall not include persons or corporations
120 engaging only in the preneed sale of funeral merchandise or
121 service.

122 (i) "Resident trainee" * * * means a person who is
123 preparing to become licensed for the practice of funeral service
124 or funeral directing and who is serving under the supervision and
125 instruction of a person duly licensed for the practice of funeral
126 service or funeral directing in this state.

127 (j) "Solicitation" means the act or practice of
128 approaching someone with a request or plea, or urging someone
129 toward a particular cause, as it may pertain to the care, custody
130 or disposition of a dead human body.

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

133 73-11-43. There is hereby created the State Board of Funeral
134 Service which shall consist of seven (7) members, one (1) funeral
135 service licensee and one (1) funeral director licensee to be
136 appointed from each Mississippi Supreme Court district. Three (3)
137 members shall have been licensed for the practice of funeral
138 service under this chapter for five (5) consecutive years and/or
139 have had at least five (5) consecutive years' experience as a
140 funeral director and embalmer in this state immediately preceding
141 his appointment. Three (3) members shall have been licensed for
142 the practice of funeral directing under this chapter for five (5)
143 consecutive years and/or have had at least five (5) consecutive
144 years' experience as a funeral director immediately preceding his
145 appointment. One (1) member shall be a public member and be
146 appointed from the public at large. The members of the board
147 shall be appointed by the Governor with the advice and consent of
148 the Senate. All appointments shall be for terms of four (4) years
149 from the expiration date of the previous term. No board member
150 shall serve more than two (2) consecutive full terms. Vacancies
151 in office shall be filled by appointment by the Governor in the



152 same manner as the appointment to the position which becomes
153 vacant, subject to the advice and consent of the Senate at the
154 next regular session of the Legislature. Appointments for
155 vacancies in office, except those from the public at large, may be
156 made from a joint list of four (4) qualified persons, two (2) each
157 submitted by the Mississippi Funeral Directors Association and the
158 Mississippi Funeral Directors and Morticians Association. Nothing
159 in this chapter or any other statute shall preclude the members of
160 the State Embalming Board from serving as members of the State
161 Board of Funeral Service.

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

164 73-11-45. The members of the board, before entering upon
165 their duties, shall take and subscribe to the oath of office
166 prescribed for other state officers, which oath shall be
167 administered by properly qualified authority and shall be filed in
168 the Office of the Secretary of State.

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

171 73-11-47. The board shall hold not less than two (2)
172 meetings annually for the purpose of conducting the business of
173 the board and for examining applications for licenses. Four (4)
174 or more members shall comprise a quorum. Any member who shall not
175 attend two (2) consecutive meetings of the board shall be subject
176 to removal by the Governor. The chairman of the board shall
177 notify the Governor in writing when any such member has failed to
178 attend two (2) consecutive regular meetings.

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

181 73-11-49. (1) The board is authorized to select from its
182 own membership a chairman, vice chairman and secretary-treasurer.
183 Election of officers shall be held at the first regularly
184 scheduled meeting of the fiscal year.



185 (2) All members of the board shall be reimbursed for their
186 necessary traveling expenses and mileage incident to their
187 attendance upon the business of the board, as provided in Section
188 25-3-41, and shall receive a per diem as provided in Section
189 25-3-69 for every day actually spent upon the business of the
190 board, not to exceed twenty (20) days per year unless authorized
191 by a majority vote of the board.

192 (3) All monies received by the board shall be paid into a
193 special fund in the State Treasury to the credit of the board and
194 shall be used by the board for paying the traveling and necessary
195 expenses and per diem of the members of the board while on board
196 business, and for paying other expenses necessary for the
197 operation of the board in carrying out and involving the
198 provisions of this chapter.

199 (4) The board shall employ an administrator of the board,
200 who shall have complete supervision and be held responsible for
201 the direction of the office of the board, shall have supervision
202 over field inspections and enforcement of the provisions of this
203 chapter, shall have such other duties as may be assigned by the
204 board, shall be responsible and answerable to the board. The
205 board may employ such other clerical assistants and employees as
206 may be necessary to carry out the provisions of this chapter, and
207 the terms and conditions of such employment shall be determined by
208 the board in accordance with applicable state law and rules and
209 regulations of the State Personnel Board.

210 (5) The board, when it shall deem necessary, shall be
211 represented by an assistant Attorney General duly appointed by the
212 Attorney General of this state, and may also request and receive
213 the assistance of other state agencies and county and district
214 attorneys, all of whom are authorized to provide the assistance
215 requested.

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



218 (7) The board shall adopt and promulgate rules and
219 regulations for the transaction of its business in accordance with
220 the provisions of the Mississippi Administrative Procedures Law
221 (Section 25-43-1 et seq.). No rule or regulation promulgated by
222 the board affecting any person or agency outside the board shall
223 be adopted, amended or repealed without a public hearing on the
224 proposed action. The board shall give written notice at least
225 thirty (30) days in advance of any meeting with respect to any
226 proposed adoption, amendment or repeal of a rule or regulation of
227 the board, in accordance with the Administrative Procedures Act,
228 as well as notifying the duly elected presidents and secretaries
229 of the Mississippi Funeral Directors Association and the
230 Mississippi Funeral Directors and Morticians Association, or their
231 successors.

232 (8) The board may designate the administrator to perform
233 inspections under this chapter, may employ an individual to
234 perform such inspections or may contract with any other individual
235 or entity to perform such inspections. Any individual or entity
236 that performs such inspections shall have the right of entry into
237 any place in which the business or practice of funeral service
238 and/or funeral directing is carried on or advertised as being
239 carried on, for the purpose of inspection, for the investigation
240 of complaints coming before the board and for such other matters
241 as the board may direct.

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

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

248 73-11-51. (1) No person shall engage in the business or
249 practice of funeral service, including embalming, and/or funeral
250 directing or hold himself out as transacting or practicing or



251 being entitled to transact or practice funeral service, including
252 embalming, and/or funeral directing in this state unless duly
253 licensed pursuant to the provisions of this chapter.

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

259 (3) To be licensed for the practice of funeral directing
260 under this chapter, a person must:

261 (a) Be at least eighteen (18) years of age;

262 (b) Have a high school diploma or the equivalent
263 thereof;

264 (c) Have served as a resident trainee for not less than
265 twenty-four (24) months under the supervision of a person licensed
266 for the practice of funeral service or funeral directing in this
267 state;

268 (d) Have successfully passed a written and/or oral
269 examination as prepared or approved by the board; and

270 (e) Be of good moral character * * *.

271 (4) To be licensed for the practice of funeral service under
272 this chapter, a person must:

273 (a) Be at least eighteen (18) years of age;

274 (b) Have a high school diploma or the equivalent
275 thereof;

276 (c) Have successfully completed twelve (12) months or
277 more of academic and professional instruction from an institution
278 accredited by the * * * United States Department of Education for
279 funeral service education and have a certificate of completion
280 from an institution accredited by the American Board of Funeral
281 Service Education or any other successor recognized by the United
282 States Department of Education for funeral service education;



283 (d) Have served as a resident trainee for not less than
284 twelve (12) months, either prior to or after graduation from an
285 accredited institution mentioned above, under the supervision of a
286 person licensed for the practice of funeral service in this state
287 and in an establishment licensed in this state;

288 (e) Have successfully passed a written and/or oral
289 examination as prepared or approved by the board; and

290 (f) Be of good moral character * * *.

291 (5) All applications for examination and license for the
292 practice of funeral service or funeral directing shall be upon
293 forms furnished by the board and shall be accompanied by an
294 examination fee, a licensing fee and a nonrefundable application
295 fee in amounts fixed by the board in accordance with Section
296 73-11-56. The fee for an initial license, however, may be
297 prorated in proportion to the period of time from the date of
298 issuance to the date of biennial license renewal prescribed in
299 subsection (8) of this section. All applications for examination
300 shall be filed with the board office at least sixty (60) days
301 prior to date of examination. A candidate shall be deemed to have
302 abandoned the application for examination if he does not appear on
303 the scheduled date of examination unless such failure to appear
304 has been approved by the board.

305 (6) The practice of funeral service or funeral directing
306 must be engaged in at a licensed funeral establishment, at least
307 one (1) of which is listed as the licensee's place of business;
308 and no person, partnership, corporation, association or other
309 organization shall open or maintain a funeral establishment at
310 which to engage in or conduct or hold himself or itself out as
311 engaging in the practice of funeral service or funeral directing
312 until such establishment has complied with the licensing
313 requirements of this chapter. A license for the practice of
314 funeral service or funeral directing shall be used only at
315 licensed funeral establishments; however, this provision shall not



316 prevent a person licensed for the practice of funeral service or
317 funeral directing from conducting a funeral service at a church, a
318 residence, public hall, lodge room or cemetery chapel, if such
319 person maintains a fixed licensed funeral establishment of his own
320 or is in the employ of or an agent of a licensed funeral
321 establishment.

322 (7) Any person holding a valid, unrevoked and unexpired
323 license in another state or territory having requirements
324 substantially similar to those of this state may apply for a
325 license to practice in this state by filing with the board a
326 certified statement from the secretary of the licensing board of
327 the state or territory in which the applicant holds his license
328 certifying to his qualifications and good standing with that board
329 by having successfully passed a written and/or oral examination on
330 the Mississippi Funeral Service licensing law and rules and
331 regulations as prepared or approved by the board, and by paying a
332 nonrefundable application fee set by the board pursuant to Section
333 73-11-56. If the board finds that the applicant has fulfilled
334 substantially similar requirements, the board shall grant such
335 license upon receipt of a fee in an amount equal to the renewal
336 fee set by the board for a license for the practice of funeral
337 service or funeral directing, as the case may be, in this state.
338 The board may issue a temporary funeral service or funeral
339 directing work permit before a license is granted, prior to the
340 next regular meeting of the board, if the applicant for a
341 reciprocal license has complied with all requirements, rules and
342 regulations of the board. The temporary permit will expire at the
343 next regular meeting of the board.

344 (8) (a) Any person holding a license for the practice of
345 funeral service or funeral directing may have the same renewed for
346 a period of two (2) years by making and filing with the board an
347 application on or before the due date. Payment of the renewal fee
348 shall be in an amount set by the board in accordance with Section



349 73-11-56. The board shall mail the notice of renewal and the due
350 date for the payment of the renewal fee to the last known address
351 of each licensee at least thirty (30) days before that date. It
352 is the responsibility of the licensee to notify the board in
353 writing of any change of address. An application will be
354 considered late if the application and proper fees are not in the
355 board's office or postmarked by the due date.

356 (b) If the renewal fee is not paid on or postmarked by
357 the due date, the license of such person shall by operation of law
358 automatically expire and become void without further action of the
359 board. The board may reinstate such license if application for
360 licensure is made within a period of five (5) years, upon payment
361 of the renewal fee for the current year, all renewal fees in
362 arrears, * * * and a reinstatement fee * * *. After a period of
363 five (5) years, the licensee must make application, pay the
364 current renewal fee, all * * * fees in arrears, and pass a
365 written and/or oral examination as prepared or approved by the
366 board.

367 * * *

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

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

379 (11) On an individual basis, a person who is licensed for
380 the practice of funeral service by another state is authorized to
381 make a removal of a deceased person, embalm a deceased person or



382 conduct a funeral or burial service in this state, and a funeral
383 director who is licensed by another state is authorized to conduct
384 a funeral or burial service in this state, in the same manner and
385 to the same extent as provided by the laws of that state to
386 persons licensed by the State of Mississippi for the practice of
387 funeral service or for the practice of funeral directing.

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

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

407 (14) Notwithstanding any provision of this chapter, the
408 board shall issue a license for the practice of funeral directing
409 to any person who (a) is at least sixty (60) years of age, (b) has
410 not less than five (5) years' experience as an employee at a
411 licensed funeral establishment in Mississippi, (c) is presently
412 employed at a licensed funeral establishment in Mississippi, and
413 (d) makes application to the board for the license during the
414 period from July 1, 2002, through July 31, 2002. The board shall



415 furnish persons seeking licensure under this subsection an
416 application form upon request. The applicant's previous
417 experience and current employment at a licensed funeral
418 establishment in Mississippi must be documented in writing by the
419 owner, management or licensee in charge of the funeral
420 establishment and included with the application to the board.

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

423 73-11-53. (1) A person desiring to become a resident
424 trainee for the practice of funeral service or funeral directing
425 shall make application to the board. Such application shall be
426 sustained by the licensee under whom the applicant is serving, and
427 shall be accompanied by a nonrefundable application fee in an
428 amount set by the board in accordance with Section 73-11-56. When
429 the board is satisfied as to the qualifications of an applicant,
430 it shall issue a certificate of resident traineeship. No credit
431 toward the resident traineeship will be allowed prior to the
432 receipt of a properly completed application and applicable fee at
433 the board office.

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

437 (3) A resident trainee who has allowed a certificate of
438 resident traineeship to lapse or who has had a resident
439 traineeship suspended or revoked, may, within one (1) year after
440 such lapse, suspension or revocation, make application for
441 reregistration, but no more than two (2) such consecutive
442 registrations shall be allowed by the board.

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

446 (5) A resident traineeship certificate shall be renewable
447 upon payment of a renewal fee as set by the board. The



448 certificate will expire on December 31 of each year. The fee and
449 application will be considered late if the fee and application are
450 not in the office or show a postmark of December 31. Applications
451 received late may be reinstated by the payment of a renewal fee
452 and a reinstatement fee.

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

455 73-11-55. (1) No person or party shall conduct, maintain,
456 manage or operate a funeral establishment or branch thereof unless
457 a license for each such establishment has been issued by the board
458 and is conspicuously displayed in such funeral establishment. In
459 case of funeral services held in any private residence, church,
460 cemetery, cemetery chapel, cemetery facility, or lodge hall, no
461 license shall be required.

462 (2) To be licensed as a funeral establishment, a place or
463 premise must be at a fixed and specified address or location and
464 must be used for immediate post-death activities, whether used for
465 the custody, shelter, care, preparation and/or embalming of the
466 human dead. Every funeral establishment shall be under the charge
467 and personal supervision of a Mississippi funeral director
468 licensee or a Mississippi funeral service licensee. The licensee
469 in charge and the licensee with personal supervisory
470 responsibilities need not be the same licensee. Each licensed
471 funeral establishment shall be inspected at least once during each
472 licensing period. Such inspections may be unannounced.

473 (3) * * * (a) A funeral establishment must contain a
474 preparation and/or embalming room, adequate casket and/or vault
475 selection room, and holding facilities or proper room or rooms in
476 which rites and ceremonies may be held. A funeral establishment
477 shall be subject to an inspection at least once during a two-year
478 license period. Each new establishment must be inspected before
479 the opening. All portions of each facility licensed under this
480 section shall be kept in a clean and sanitary condition.



481 (b) A branch * * * establishment must contain an office
482 and/or an arrangement room, and a room for viewing and/or a chapel
483 or proper place for ceremonies. A branch establishment need not
484 meet all requirements specified in paragraph (a) of this
485 subsection and need not be under the personal supervision of a
486 Mississippi funeral director licensee or a Mississippi funeral
487 service licensee * * *.

488 If the branch meets all requirements of a funeral
489 establishment as specified in paragraph (a) of this subsection,
490 such establishment must be under the charge and personal
491 supervision of a Mississippi funeral director licensee or a
492 Mississippi funeral service licensee.

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

497 (4) Applications for funeral establishment licenses, branch
498 establishment licenses or commercial mortuary service licenses
499 shall be made on blanks furnished by the board and shall be
500 accompanied by a fee in an amount fixed by the board pursuant to
501 Section 73-11-56. All establishment licenses shall be issued for
502 a period of two (2) years, except initial licenses may be prorated
503 from the date of issuance to the next renewal date.

504 Renewal funeral establishment and branch establishment
505 license applications and license fees shall be due and payable to
506 the board on or before the expiration date of the license. The
507 board shall mail the notice of renewal and the due date for
508 payment of the renewal fee at least thirty (30) days before that
509 date.

510 (5) If the renewal fee is not paid on or postmarked by the
511 due date, the license shall by operation of law automatically
512 expire and become void without further action of the board. All
513 establishments whose licenses have expired under this section may



514 be reinstated by filing with the board an application for
515 reinstatement, submitting to an inspection during which time the
516 licensee in charge of such establishment shall be interviewed by
517 the board or its designee and by paying all renewal fees in
518 arrears and a reinstatement fee * * *.

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

522 (7) A license for each new establishment, change of
523 location, change of ownership, or reinstatement of an
524 establishment shall not be issued until an inspection has been
525 made, license and inspection fees have been paid, and the licensee
526 in charge of such establishment has been interviewed by the board
527 or its designee.

528 (8) No operator of a funeral establishment shall allow any
529 person licensed for the practice of funeral service or funeral
530 directing, as the case may be, to operate out of such funeral
531 establishment unless such licensee is the operator of or an
532 employee of the operator of a funeral establishment which has been
533 issued a license by the board.

534 (9) The board is authorized to establish rules and
535 regulations for the issuance of a special funeral establishment
536 work permit.

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

539 73-11-56. On or before October 1 of each year, the board
540 shall determine the amount of funds that will be required during
541 the next ensuing two (2) years to properly administer the laws
542 which the board is directed to enforce and administer and by rule
543 and regulation shall fix fees in such reasonable sums as may be
544 necessary for such purposes within the following limitations:

545 Funeral establishment:

546 Application fee, not more than..... \$150.00



547 Inspection fee, not more than..... \$ 75.00

548 Funeral establishment license fee, not more than.... \$150.00

549 Branch establishment license fee, not more than..... \$150.00

550 Commercial mortuary service license fee, not

551 more than..... \$150.00

552 Renewal application and license fee, not more than... \$300.00

553 Special work permit..... \$150.00

554 Funeral service:

555 Application fee, not more than..... \$ 50.00

556 Reciprocal application fee, not more than..... \$100.00

557 License fee, not more than..... \$ 75.00

558 Renewal license fee, not more than..... \$ 75.00

559 Work permit, not more than..... \$ 50.00

560 Examination fee..... Cost of the examination

561 Funeral director:

562 Application fee, not more than..... \$ 50.00

563 Reciprocal application fee, not more than..... \$100.00

564 License fee, not more than..... \$ 50.00

565 Renewal license fee, not more than..... \$ 50.00

566 Work permit, not more than..... \$ 50.00

567 Examination fee..... Cost of the examination

568 Resident trainee certificate:

569 Funeral service application fee, not more than..... \$ 50.00

570 Funeral director application fee, not more than..... \$ 50.00

571 Funeral service renewal application fee,

572 not more than..... \$ 50.00

573 Funeral director renewal application fee,

574 not more than..... \$50.00

575 Other fees:

576 Duplicate license fee, not more than..... \$ 25.00

577 Reinstatement of lapsed license fee, equal to the

578 amount of the applicable license fee.

579 * * *



580 All licenses will have a reinstatement fee added to the
581 renewal fee if the payment is not in the board's office or
582 postmarked by the due date.

583 At least thirty (30) days prior to the expiration date of any
584 license issued by the board, the board shall notify the licensee
585 of the applicable renewal fee therefor.

586 * * *

587 **SECTION 11.** Section 73-11-57, Mississippi Code of 1972, is
588 reenacted and amended as follows:

589 73-11-57. (1) The board may refuse to examine or to issue
590 or renew, or may suspend or revoke, any license, or may reprimand
591 or place the holder thereof on a term of probation, after proper
592 hearing, upon finding the holder of such license to be guilty of
593 acts of commission or omission including the following:

594 (a) The employment of fraud or deception in applying
595 for a license or in passing the examination provided for in this
596 chapter;

597 (b) The erroneous issuance of a license to any person;

598 (c) The conviction of a felony by any court in this
599 state or any federal court or by the court of any other state or
600 territory of the United States;

601 (d) The practice of embalming under a false name or
602 without a license for the practice of funeral service;

603 (e) The impersonation of another funeral service or
604 funeral directing licensee;

605 (f) The permitting of a person other than a funeral
606 service or funeral directing licensee to make arrangements for a
607 funeral and/or form of disposition;

608 (g) Violation of any provision of this chapter or any
609 rule or regulation of the board;

610 (h) Having had a license for the practice of funeral
611 service or funeral directing suspended or revoked in any
612 jurisdiction, having voluntarily surrendered his license in any



613 jurisdiction, having been placed on probation in any jurisdiction,
614 having been placed under disciplinary order(s) or other
615 restriction in any manner for funeral directing and/or funeral
616 service, or operating a funeral establishment (a certified copy of
617 the order of suspension, revocation, probation or disciplinary
618 action shall be prima facie evidence of such action);

619 (i) Solicitation of dead human bodies by the licensee,
620 his agents, assistants or employees, whether such solicitation
621 occurs after death or when death is imminent; if the person
622 solicited has made known a desire not to receive the
623 communication, or if the solicitation involves coercion, duress or
624 harassment, or if the solicitation takes place at the residence of
625 the client or prospective client, is uninvited by the client or
626 prospective client and has not been previously agreed to by the
627 client or prospective client; however, this shall not be deemed to
628 prohibit general advertising;

629 (j) Employment directly or indirectly of any
630 apprentice, agent, assistant, employee, or other person, on a
631 part-time or full-time basis or on commission, for the purpose of
632 calling upon individuals or institutions by whose influence dead
633 human bodies may be turned over to a particular funeral
634 establishment;

635 (k) Failure to make responses to communications or
636 requests of the board within thirty (30) days;

637 (l) Failure to comply with an order of the board within
638 thirty (30) days;

639 (m) Knowingly performing any act that in any way
640 assists an unlicensed person to practice funeral service or
641 funeral directing;

642 (n) Making a false statement on death certificates; or

643 (o) Unprofessional conduct which includes but is not
644 limited to:



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

647 (ii) Knowingly performing any act which in any way
648 assists an unlicensed person to practice funeral service or
649 funeral directing;

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

652 (iv) Any act or omission in the practice of
653 funeral service or directing which constitutes dishonesty, fraud
654 or misrepresentation with the intent to benefit the licensee,
655 another person or funeral establishment, or with the intent to
656 substantially injure another person, licensee or funeral
657 establishment; or

658 (v) Any act or conduct, whether the same or of a
659 different character than specified above, which constitutes or
660 demonstrates bad faith, incompetency or untrustworthiness; or
661 dishonest, fraudulent or improper dealing; or any other violation
662 of the provisions of this chapter, the rules and regulations
663 established by the board or any rule or regulation promulgated by
664 the Federal Trade Commission relative to the practice of funeral
665 service or funeral directing.

666 (2) The board may, upon satisfactory proof that the
667 applicant or licensee has been guilty of any of the offenses above
668 enumerated, refuse to examine or issue a license to the applicant,
669 or may refuse to renew or revoke or suspend the license of the
670 licensee, or place on probation or reprimand him, upon a majority
671 vote of the board members, after a hearing thereon. The board is
672 hereby vested with full power and authority to hold and conduct
673 such hearings, compel the attendance of witnesses and the
674 production of books, records and documents, issue subpoenas
675 therefor, administer oaths, examine witnesses, and do all things
676 necessary to properly conduct such hearings. The board may waive
677 the necessity of a hearing if the person accused of a violation



678 admits that he has been guilty of such offense. Any person who
679 has been refused a license or whose license has been revoked or
680 suspended may, within thirty (30) days after the decision of the
681 board, file with the board a written notice stating that he feels
682 himself aggrieved by such decision and appeals therefrom to the
683 circuit court. Upon the filing of such notice, the secretary of
684 the board shall transmit to the clerk of the circuit court the
685 records and findings of such proceedings. The circuit court shall
686 hear and determine as to whether the action of the board was in
687 accord or consistent with law, or was arbitrary, unwarranted or in
688 abuse of discretion. An appeal from the circuit court judgment or
689 decree may be reviewed by the Supreme Court as is provided by law
690 for other appeals. An appeal of a decision or order of the board
691 does not act as a supersedeas.

692 (3) In a proceeding conducted under this section by the
693 board for the revocation or suspension of a license, the board
694 shall have the power and authority for the grounds stated for such
695 revocation or suspension, and in addition thereto or in lieu of
696 such revocation or suspension may assess and levy upon any person
697 licensed under this chapter, a monetary penalty, as follows:

698 (a) For the first violation of any of the subparagraphs
699 of subsection (1) of this section, a monetary penalty of not less
700 than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars
701 (\$500.00).

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

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



710 (d) For any violation of any of the subparagraphs of
711 subsection (1) of this section, those reasonable costs that are
712 expended by the board in the investigation and conduct of a
713 proceeding for licensure revocation or suspension, including but
714 not limited to the cost of process service, court reporters,
715 expert witnesses and investigators.

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

721 (5) A licensee shall have the right of appeal from the
722 assessment and levy of a monetary penalty as provided in this
723 section under the same conditions as a right of appeal is provided
724 elsewhere for appeals from an adverse ruling, order or decision of
725 the board.

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

729 (7) A monetary penalty assessed and levied under this
730 section shall be paid to the board by the licensee upon the
731 expiration of the period allowed for appeal of such penalties
732 under this section or may be paid sooner if the licensee elects.
733 With the exception of subsection (3)(d) of this section, monetary
734 penalties collected by the board under this section shall be
735 deposited to the credit of the General Fund of the State Treasury.
736 Any monies collected by the board under subsection (3)(d) of this
737 section shall be deposited into the special fund operating account
738 of the board.

739 (8) When payment of a monetary penalty assessed and levied
740 by the board against a licensee in accordance with this section is
741 not paid by the licensee when due under this section, the board
742 shall have power to institute and maintain proceedings in its name



743 for enforcement of payment in the chancery court of the county and
744 judicial district of residence of the licensee, and if the
745 licensee be a nonresident of the State of Mississippi, such
746 proceedings shall be in the Chancery Court of the First Judicial
747 District of Hinds County, Mississippi.

748 (9) In addition to the reasons specified in subsection (1)
749 of this section, the board shall be authorized to suspend the
750 license of any licensee for being out of compliance with an order
751 for support, as defined in Section 93-11-153. The procedure for
752 suspension of a license for being out of compliance with an order
753 for support, and the procedure for the reissuance or reinstatement
754 of a license suspended for that purpose, and the payment of any
755 fees for the reissuance or reinstatement of a license suspended
756 for that purpose, shall be governed by Section 93-11-157 or
757 93-11-163, as the case may be. Actions taken by the board in
758 suspending a license when required by Section 93-11-157 or
759 93-11-163 are not actions from which an appeal may be taken under
760 this section. Any appeal of a license suspension that is required
761 by Section 93-11-157 or 93-11-163 shall be taken in accordance
762 with the appeal procedure specified in Section 93-11-157 or
763 93-11-163, as the case may be, rather than the procedure specified
764 in this section. If there is any conflict between any provision
765 of Section 93-11-157 or 93-11-163 and any provision of this
766 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
767 case may be, shall control.

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

770 73-11-59. Any person, partnership, corporation, association
771 or his or her or its agents or representatives who shall violate
772 any of the provisions of this chapter shall be deemed guilty of a
773 misdemeanor and, upon conviction thereof, shall be punished by a
774 fine of not less than Five Hundred Dollars (\$500.00) nor more than
775 One Thousand Dollars (\$1,000.00), or by imprisonment for not more



776 than six (6) months in the county jail, or by both such fine and
777 imprisonment.

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

780 73-11-61. Every funeral director or funeral service licensee
781 shall provide, before the rendering of services, the funeral
782 establishment's current general price list, casket price list,
783 outer container price list, and a statement of goods and services
784 to the person or persons who authorize the services and is
785 responsible for payment of the expenses therefor, in a manner and
786 format as prescribed by the Federal Trade Commission's Funeral
787 Rule of 1984 and any future changes with regard to required
788 disclosures. The general price list must be made available to any
789 person upon request.

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

792 73-11-63. Nothing in this chapter shall be construed to
793 authorize the regulation or licensing of cemeteries, cemetery
794 chapels or cemetery crematories by the board, except the
795 regulation or licensing of any funeral establishment operated by a
796 cemetery. In addition, nothing in this chapter shall be construed
797 to prevent or interfere with the ceremonies, customs, religious
798 rites or religion of any people, denomination, or sect, or to
799 prevent or interfere with any religious denomination, sect or
800 anybody composed of persons of a denomination, or to prevent or
801 interfere with any church or synagogue from having its committee
802 or committees prepare human bodies for burial or the families,
803 friends or neighbors of deceased persons who prepare and bury
804 their dead without charge.

805 **SECTION 15.** The following shall be codified as Section
806 73-11-65, Mississippi Code of 1972:

807 73-11-65. Every funeral service or interment, or part
808 thereof, that is conducted in Mississippi must be in the actual



809 charge and under the supervision of a funeral director or funeral
810 service licensee who is licensed under this chapter. However,
811 this section shall not prevent a family from burying its own dead
812 without charge.

813 **SECTION 16.** The following shall be codified as Section
814 73-11-67, Mississippi Code of 1972:

815 73-11-67. Every person, establishment or company not
816 licensed under this chapter that sells caskets at retail shall
817 register annually with the board. However, those persons,
818 establishments and companies are not subject to the other
819 provisions of this chapter and are not subject to regulation or
820 supervision by the board. The names of registrants under this
821 section shall be made available to any person upon request during
822 the regular business hours of the board.

823 **SECTION 17.** The following shall be codified as Section
824 73-11-69, Mississippi Code of 1972:

825 73-11-69. (1) No person shall operate a crematory facility
826 in this state unless the person is licensed by the State Board of
827 Funeral Service. An application for a crematory facility license
828 shall be accompanied by a fee in an amount not to exceed the fee
829 fixed by the board for a funeral establishment license.

830 (2) The operator of a crematory facility shall issue a
831 certificate of cremation to the family of each person cremated in
832 the facility. In addition, the operator of the crematory facility
833 shall maintain a log of all cremations performed in the facility,
834 and this log shall match the certificates of cremation that have
835 been issued by the facility.

836 (3) No operator of a crematory facility shall knowingly
837 represent that an urn or temporary container contains the
838 recovered cremated remains of specific decedent or of body parts
839 removed from a specific decedent when it does not. This
840 subsection does not prohibit the making of such a representation
841 because of the presence in the recovered cremated remains of de



842 minimis amounts of the cremated remains of another decedent or of
843 body parts.

844 (4) The board shall inspect each licensed crematory facility
845 on an annual basis, and at such other times as necessary, to
846 verify that the crematory facility is in compliance with the
847 requirements of this section. Any person who operates a crematory
848 facility in this state without a license, or any person who
849 otherwise violates any provision of this section, is guilty of a
850 felony. Upon conviction for a violation of this section, in
851 addition to any penalty that may be imposed by the court, the
852 board may revoke the person's crematory facility license.

853 (5) The board may promulgate such rules and regulations as
854 deemed necessary for the proper licensure and regulation of
855 crematory facilities in this state.

856 (6) Any crematory may dispose of any remains unclaimed by
857 the family after six (6) months after cremation by scattering or
858 burial upon a final notification to the next of kin by certified
859 mail.

860 **SECTION 18.** This act shall take effect and be in force from
861 and after July 1, 2002.

