HOUSE BILL NO. 1265

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

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

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

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

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

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

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

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

(c) Have served as a resident trainee for not less than twenty-four (24) months under the supervision of a person licensed for the practice of funeral service or funeral directing in this state;
(d) Have successfully passed a written and/or oral examination as prepared or approved by the board; and
(e) Be of good moral character.

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

(a) Be at least eighteen (18) years of age;
(b) Have a high school diploma or the equivalent thereof;
(c) Have successfully completed twelve (12) months or more of academic and professional instruction from an institution accredited by the United States Department of Education for funeral service education and have a certificate of completion from an institution accredited by the American Board of Funeral Service Education or any other successor recognized by the United States Department of Education for funeral service education;
(d) Have served as a resident trainee for not less than twelve (12) months, either prior to or after graduation from an accredited institution mentioned above, under the supervision of a person licensed for the practice of funeral service in this state and in an establishment licensed in this state;
(e) Have successfully passed a written and/or oral examination as prepared or approved by the board; and
(f) Be of good moral character.

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

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

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

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

(b) If the renewal fee is not paid on or postmarked by
the due date, the license of such person shall by operation of law
automatically expire and become void without further action of the
board. The board may reinstate such license if application for
licensure is made within a period of five (5) years, upon payment
of the renewal fee for the current year, all renewal fees in
arrears, and a reinstatement fee. After a period of five (5)
years, the licensee must make application, pay the current renewal
fee, all fees in arrears, and pass a written and/or oral
examination as prepared or approved by the board.
(9) No license shall be assignable or valid for any person other than the original licensee.

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

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

(12) Any funeral service technology or mortuary science program accredited by the American Board of Funeral Service Education in the State of Mississippi, as well as students enrolled in such a program, shall be exempt from licensing under this chapter when embalming or otherwise preparing a deceased human body for disposition as part of a student practicum experience, when the student is directly supervised by an instructor or preceptor who holds a current funeral service license. This exemption shall apply to practicum experiences performed at an accredited institution of funeral service technology or mortuary science program or at a duly licensed funeral establishment or commercial mortuary service. Nothing in this subsection shall be construed to allow any funeral service
(13) Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64.

(14) Notwithstanding any provision of this chapter, the board shall issue a license for the practice of funeral directing to any person who (a) is at least sixty (60) years of age, (b) has not less than five (5) years' experience as an employee at a licensed funeral establishment in Mississippi, (c) is presently employed at a licensed funeral establishment in Mississippi, and (d) makes application to the board for the license during the period from July 1, 2002, through July 31, 2002. The board shall furnish persons seeking licensure under this subsection an application form upon request. The applicant's previous experience and current employment at a licensed funeral establishment in Mississippi must be documented in writing by the owner, management or licensee in charge of the funeral establishment and included with the application to the board.

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

SECTION 2. This act shall take effect and be in force from and after July 1, 2003.