

By: Representative Holland

To: Public Health and Human
Services

HOUSE BILL NO. 1198

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 73-11-69,
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 CERTAIN
8 TERMS; TO AMEND REENACTED SECTION 73-11-49, MISSISSIPPI CODE OF
9 1972, TO ALLOW THE BOARD TO ADOPT RULES OR REGULATIONS PERTAINING
10 TO THE TRANSPORTATION OF DEAD BODIES UNDER CERTAIN CIRCUMSTANCES;
11 TO AMEND REENACTED SECTION 73-11-51, MISSISSIPPI CODE OF 1972, TO
12 SPECIFY THE EXAMINATION THAT AN APPLICANT MUST PASS TO BE LICENSED
13 FOR THE PRACTICE OF FUNERAL SERVICE; TO PROVIDE THAT THE BOARD MAY
14 ISSUE LICENSES BY RECIPROCITY TO PERSONS HOLDING A NONRECIPROCAL
15 LICENSE IN ANOTHER STATE HAVING REQUIREMENTS GREATER THAN OR EQUAL
16 TO THOSE OF THIS STATE; TO AUTHORIZE THE BOARD TO ENTER INTO
17 WRITTEN AGREEMENTS WITH OTHER STATES DETAILING THE MANNER AND
18 EXTENT TO WHICH PERSONS LICENSED BY THE STATE OF MISSISSIPPI MAY
19 PRACTICE FUNERAL SERVICE OR DIRECTING IN THOSE STATES; TO AMEND
20 REENACTED SECTION 73-11-53, MISSISSIPPI CODE OF 1972, TO PROVIDE
21 THAT RESIDENT TRAINEES MUST SERVE THEIR APPRENTICESHIP IN A
22 FUNERAL ESTABLISHMENT LICENSED BY THE STATE OF MISSISSIPPI AND
23 THEIR PRECEPTOR MUST BE A MISSISSIPPI LICENSEE WHO IS EMPLOYED BY
24 A MISSISSIPPI LICENSED FUNERAL ESTABLISHMENT; TO AMEND REENACTED
25 SECTION 73-11-55, MISSISSIPPI CODE OF 1972, TO DELETE THE
26 REQUIREMENT FOR INSPECTION AND INTERVIEW BEFORE A CHANGE OF
27 LOCATION, CHANGE OF OWNERSHIP, OR REINSTATEMENT OF AN
28 ESTABLISHMENT IS AUTHORIZED; TO DELETE THE PROHIBITION ON
29 OPERATORS OF A FUNERAL ESTABLISHMENT FROM ALLOWING PERSONS
30 LICENSED FOR THE PRACTICE OF FUNERAL SERVICE OR FUNERAL DIRECTING
31 TO OPERATE OUT OF THE FUNERAL ESTABLISHMENT UNLESS THE LICENSEE IS
32 THE OPERATOR OF OR AN EMPLOYEE OF THE OPERATOR OF A FUNERAL
33 ESTABLISHMENT THAT HAS BEEN ISSUED A LICENSE BY THE BOARD; TO
34 AMEND REENACTED SECTION 73-11-56, MISSISSIPPI CODE OF 1972, TO
35 REVISE CERTAIN FEES THAT THE BOARD MAY CHARGE; TO AMEND REENACTED
36 SECTION 73-11-57, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE
37 BOARD MAY DISCIPLINE A LICENSEE FOR FAILURE TO MAKE RESPONSES TO
38 COMMUNICATIONS OR REQUESTS OF THE BOARD WITHIN FIFTEEN DAYS; TO
39 PROVIDE THAT APPEALS OF DISCIPLINARY ACTIONS OF THE BOARD SHALL BE
40 MADE TO THE CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT OF HINDS
41 COUNTY; TO PROVIDE THAT THE AMOUNT OF THE MONETARY PENALTIES THAT
42 THE BOARD MAY IMPOSE SHALL BE A STATED AMOUNT RATHER THAN HAVING A
43 MINIMUM AND MAXIMUM AMOUNT; TO PROVIDE THAT MONETARY PENALTIES
44 COLLECTED BY THE BOARD SHALL BE DEPOSITED IN THE STATE TREASURY TO
45 THE CREDIT OF THE STATE BOARD OF FUNERAL SERVICE INSTEAD OF THE
46 STATE GENERAL FUND; TO PROVIDE THAT PROCEEDINGS FOR ENFORCEMENT OF
47 PAYMENT OF MONETARY PENALTIES SHALL BE IN THE CHANCERY COURT OF
48 THE FIRST JUDICIAL DISTRICT OF HINDS COUNTY; TO CREATE NEW SECTION
49 73-11-58, MISSISSIPPI CODE OF 1972, TO SPECIFY A LIST OF PERSONS
50 THAT MAY AUTHORIZE THE TYPE, METHOD, PLACE, CREMATION AND OR OTHER
51 DISPOSITION OF A DECEDENT'S BODY IF THE DECEDENT HAS LEFT NO
52 WRITTEN AUTHORIZATION FOR THE CREMATION AND OR DISPOSITION OF HIS

53 BODY; TO AMEND REENACTED SECTION 73-11-59, MISSISSIPPI CODE OF
54 1972, TO PROVIDE THAT THE AMOUNT OF THE CRIMINAL PENALTIES FOR
55 VIOLATIONS OF THE FUNERAL SERVICE LICENSURE LAW SHALL BE A STATED
56 AMOUNT RATHER THAN HAVING A MINIMUM AND MAXIMUM AMOUNT; TO AMEND
57 REENACTED SECTION 73-11-63, MISSISSIPPI CODE OF 1972, TO REMOVE
58 THE PROHIBITION ON THE BOARD REGULATION OF CEMETERY CREMATORIES;
59 TO AMEND REENACTED SECTION 73-11-67, MISSISSIPPI CODE OF 1972, TO
60 DELETE THE PROVISION THAT RETAIL SELLERS OF CASKETS ARE NOT
61 SUBJECT TO REGULATION OR SUPERVISION BY THE BOARD; TO AMEND
62 REENACTED SECTION 73-11-69, MISSISSIPPI CODE OF 1972, TO PROVIDE
63 THAT THE BOARD SHALL INSPECT EACH LICENSED CREMATORY FACILITY
64 DURING EACH LICENSURE PERIOD; AND FOR RELATED PURPOSES.

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

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

68 73-11-33. Sections 73-11-41 through 73-11-69, which create
69 the State Board of Funeral Service and prescribe its duties and
70 powers, shall stand repealed as of July 1, 2010.

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

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

75 (a) "Board" means the State Board of Funeral Service of
76 the State of Mississippi as created by Section 73-11-43, or any
77 successor thereof.

78 (b) "Branch establishment" means an auxiliary facility
79 or division of a main funeral establishment licensed under this
80 chapter that is within seventy-five (75) miles of the main
81 facility.

82 (c) "Embalming" means the disinfection of the dead
83 human body by replacing certain body fluids with preserving and
84 disinfecting chemicals.

85 (d) "Funeral establishment" means a fixed place or
86 premise duly licensed by the board that is devoted to or used in
87 the immediate post death activities of custody, shelter, care,
88 preparation and/or embalming for final disposition of the body; or
89 used for religious services or other rites or ceremonies
90 associated with the final disposition of human dead; or maintained
91 or held out to the public by advertising or otherwise as such, for

92 the convenience and comfort of the bereaved and the community for
93 viewing or other services in connection with the human dead, and
94 as the office or place for carrying on the profession of funeral
95 service and/or funeral directing.

96 (e) "License for funeral establishment" means a license
97 issued to a place or premise devoted to or used in the immediate
98 post-death activities of custody, shelter, care, preparation
99 and/or embalming for final disposition of the body; or used for
100 religious services or other rites or ceremonies associated with
101 the final disposition of human dead; or maintained for the
102 convenience and comfort of the bereaved and the community for
103 viewing or other services in connection with the human dead, and
104 as the office or place for carrying on the profession of funeral
105 service and/or funeral directing.

106 (f) "License for the practice of funeral directing"
107 means the license given to a person engaging in the "practice of
108 funeral service" who is not engaged in the practice of embalming.

109 (g) "License for the practice of funeral service" means
110 the license given to a person engaging in the "practice of funeral
111 service," including the practice of embalming.

112 (h) "Practice of funeral service" means:

113 (i) Providing shelter, care and custody of the
114 human dead;

115 (ii) Conducting immediate post-death activities;

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

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

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

122 (vi) The sale of funeral merchandise; or

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

126 This definition shall not include persons or corporations
127 engaging only in the preneed sale of funeral merchandise or
128 service.

129 (i) "Resident trainee" means a person who is preparing
130 to become licensed for the practice of funeral service or funeral
131 directing and who is serving under the supervision and instruction
132 of a person duly licensed for the practice of funeral service or
133 funeral directing in this state.

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

138 (k) "Casket" is defined as a rigid container that is
139 designed for the encasement of human remains and that is usually
140 constructed of wood, metal, fiberglass, plastic or like material
141 and ornamented and lined with fabric.

142 (l) "Cremation" is the technical process, using heat,
143 that reduces human remains to bone fragments.

144 (m) "Crematory" is defined as any person, partnership
145 or corporation that performs cremation. A crematory must comply
146 with any applicable public health laws and rules and must contain
147 the equipment and meet all of the standards established by the
148 rules and regulations adopted by the Board.

149 (n) "Direct cremation" means a disposition of human
150 remains by cremation without formal viewing, visitation or
151 ceremony with the body present.

152 (o) "Crematory operator" means the legal entity that
153 operates a crematory and performs cremations.

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

156 73-11-43. There is hereby created the State Board of Funeral
157 Service which shall consist of seven (7) members, one (1) funeral
158 service licensee and one (1) funeral director licensee to be
159 appointed from each Mississippi Supreme Court district. Three (3)
160 members shall have been licensed for the practice of funeral
161 service under this chapter for five (5) consecutive years and/or
162 have had at least five (5) consecutive years' experience as a
163 funeral director and embalmer in this state immediately preceding
164 his appointment. Three (3) members shall have been licensed for
165 the practice of funeral directing under this chapter for five (5)
166 consecutive years and/or have had at least five (5) consecutive
167 years' experience as a funeral director immediately preceding his
168 appointment. One (1) member shall be a public member and be
169 appointed from the public at large. The members of the board
170 shall be appointed by the Governor with the advice and consent of
171 the Senate. All appointments shall be for terms of four (4) years
172 from the expiration date of the previous term. No board member
173 shall serve more than two (2) consecutive full terms. Vacancies
174 in office shall be filled by appointment by the Governor in the
175 same manner as the appointment to the position which becomes
176 vacant, subject to the advice and consent of the Senate at the
177 next regular session of the Legislature. Appointments for
178 vacancies in office, except those from the public at large, may be
179 made from a joint list of four (4) qualified persons, two (2) each
180 submitted by the Mississippi Funeral Directors Association and the
181 Mississippi Funeral Directors and Morticians Association. Nothing
182 in this chapter or any other statute shall preclude the members of
183 the State Embalming Board from serving as members of the State
184 Board of Funeral Service.

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

187 73-11-45. The members of the board, before entering upon
188 their duties, shall take and subscribe to the oath of office

189 prescribed for other state officers, which oath shall be
190 administered by properly qualified authority and shall be filed in
191 the Office of the Secretary of State.

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

194 73-11-47. The board shall hold not less than two (2)
195 meetings annually for the purpose of conducting the business of
196 the board and for examining applications for licenses. Four (4)
197 or more members shall comprise a quorum. Any member who shall not
198 attend two (2) consecutive meetings of the board shall be subject
199 to removal by the Governor. The chairman of the board shall
200 notify the Governor in writing when any such member has failed to
201 attend two (2) consecutive regular meetings.

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

204 73-11-49. (1) The board is authorized to select from its
205 own membership a chairman, vice chairman and secretary-treasurer.
206 Election of officers shall be held at the first regularly
207 scheduled meeting of the fiscal year.

208 (2) All members of the board shall be reimbursed for their
209 necessary traveling expenses and mileage incident to their
210 attendance upon the business of the board, as provided in Section
211 25-3-41, and shall receive a per diem as provided in Section
212 25-3-69 for every day actually spent upon the business of the
213 board, not to exceed twenty (20) days per year unless authorized
214 by a majority vote of the board.

215 (3) All monies received by the board shall be paid into a
216 special fund in the State Treasury to the credit of the board and
217 shall be used by the board for paying the traveling and necessary
218 expenses and per diem of the members of the board while on board
219 business, and for paying other expenses necessary for the
220 operation of the board in carrying out and involving the
221 provisions of this chapter.

222 (4) The board shall employ an administrator of the board,
223 who shall have complete supervision and be held responsible for
224 the direction of the office of the board, shall have supervision
225 over field inspections and enforcement of the provisions of this
226 chapter, shall have such other duties as may be assigned by the
227 board, shall be responsible and answerable to the board. The
228 board may employ such other clerical assistants and employees as
229 may be necessary to carry out the provisions of this chapter, and
230 the terms and conditions of such employment shall be determined by
231 the board in accordance with applicable state law and rules and
232 regulations of the State Personnel Board.

233 (5) The board, when it shall deem necessary, shall be
234 represented by an assistant Attorney General duly appointed by the
235 Attorney General of this state, and may also request and receive
236 the assistance of other state agencies and county and district
237 attorneys, all of whom are authorized to provide the assistance
238 requested.

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

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

255 (8) The board may designate the administrator to perform
256 inspections under this chapter, may employ an individual to
257 perform such inspections or may contract with any other individual
258 or entity to perform such inspections. Any individual or entity
259 that performs such inspections shall have the right of entry into
260 any place in which the business or practice of funeral service
261 and/or funeral directing is carried on or advertised as being
262 carried on, for the purpose of inspection, for the investigation
263 of complaints coming before the board and for such other matters
264 as the board may direct.

265 (9) The board shall not adopt any rule or regulation
266 pertaining to the transportation of dead bodies unless the
267 transportation of the human remains are done for the purpose or in
268 the performance of the practice of funeral service or directing by
269 a licensed funeral establishment. The board shall not adopt any
270 rule or regulation requiring dead bodies to be embalmed except as
271 required by the State Department of Health's Rule 43 or any
272 subsequent rule adopted by the department.

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

275 73-11-51. (1) No person shall engage in the business or
276 practice of funeral service, including embalming, and/or funeral
277 directing or hold himself out as transacting or practicing or
278 being entitled to transact or practice funeral service, including
279 embalming, and/or funeral directing in this state unless duly
280 licensed pursuant to the provisions of this chapter.

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

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

- 288 (a) Be at least eighteen (18) years of age;
- 289 (b) Have a high school diploma or the equivalent
290 thereof;
- 291 (c) Have served as a resident trainee for not less than
292 twenty-four (24) months under the supervision of a person licensed
293 for the practice of funeral service or funeral directing in this
294 state;
- 295 (d) Have successfully passed a written and/or oral
296 examination as prepared or approved by the board; and
- 297 (e) Be of good moral character.

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

- 300 (a) Be at least eighteen (18) years of age;
- 301 (b) Have a high school diploma or the equivalent
302 thereof;
- 303 (c) Have successfully completed twelve (12) months or
304 more of academic and professional instruction from an institution
305 accredited by the United States Department of Education for
306 funeral service education and have a certificate of completion
307 from an institution accredited by the American Board of Funeral
308 Service Education or any other successor recognized by the United
309 States Department of Education for funeral service education;
- 310 (d) Have served as a resident trainee for not less than
311 twelve (12) months, either prior to or after graduation from an
312 accredited institution mentioned above, under the supervision of a
313 person licensed for the practice of funeral service in this state
314 and in an establishment licensed in this state;
- 315 (e) Have successfully passed the National Conference of
316 Funeral Examiners examination as approved by the board; and
- 317 (f) Be of good moral character.

318 (5) All applications for examination and license for the
319 practice of funeral service or funeral directing shall be upon
320 forms furnished by the board and shall be accompanied by an

321 examination fee, a licensing fee and a nonrefundable application
322 fee in amounts fixed by the board in accordance with Section
323 73-11-56. The fee for an initial license, however, may be
324 prorated in proportion to the period of time from the date of
325 issuance to the date of biennial license renewal prescribed in
326 subsection (8) of this section. All applications for examination
327 shall be filed with the board office at least sixty (60) days
328 prior to date of examination. A candidate shall be deemed to have
329 abandoned the application for examination if he does not appear on
330 the scheduled date of examination unless such failure to appear
331 has been approved by the board.

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

349 (7) Any person holding a valid, unrevoked and unexpired
350 nonreciprocal license in another state or territory having
351 requirements greater than or equal to those of this state as
352 determined by the board may apply for a license to practice in
353 this state by filing with the board a certified statement from the

354 secretary of the licensing board of the state or territory in
355 which the applicant holds his license certifying to his
356 qualifications and good standing with that board by having
357 successfully passed a written and/or oral examination on the
358 Mississippi Funeral Service licensing law and rules and
359 regulations as prepared or approved by the board, and by paying a
360 nonrefundable application fee set by the board pursuant to Section
361 73-11-56. If the board finds that the applicant has fulfilled
362 substantially similar requirements, the board shall grant such
363 license upon receipt of a fee in an amount equal to the renewal
364 fee set by the board for a license for the practice of funeral
365 service or funeral directing, as the case may be, in this state.
366 The board may issue a temporary funeral service or funeral
367 directing work permit before a license is granted, prior to the
368 next regular meeting of the board, if the applicant for a
369 reciprocal license has complied with all requirements, rules and
370 regulations of the board. The temporary permit will expire at the
371 next regular meeting of the board.

372 (8) (a) Any person holding a license for the practice of
373 funeral service or funeral directing may have the same renewed for
374 a period of two (2) years by making and filing with the board an
375 application on or before the due date. Payment of the renewal fee
376 shall be in an amount set by the board in accordance with Section
377 73-11-56. The board shall mail the notice of renewal and the due
378 date for the payment of the renewal fee to the last known address
379 of each licensee at least thirty (30) days before that date. It
380 is the responsibility of the licensee to notify the board in
381 writing of any change of address. An application will be
382 considered late if the application and proper fees are not in the
383 board's office or postmarked by the due date.

384 (b) If the renewal fee is not paid on or postmarked by
385 the due date, the license of such person shall by operation of law
386 automatically expire and become void without further action of the

387 board. The board may reinstate such license if application for
388 licensure is made within a period of five (5) years, upon payment
389 of the renewal fee for the current year, all renewal fees in
390 arrears, and a reinstatement fee. After a period of five (5)
391 years, the licensee must make application, pay the current renewal
392 fee, all fees in arrears, and pass a written and/or oral
393 examination as prepared or approved by the board.

394 (9) No license shall be assignable or valid for any person
395 other than the original licensee.

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

405 (11) * * * A person who is licensed for the practice of
406 funeral service by another state is authorized to make a removal
407 of a deceased person, embalm a deceased person or conduct a
408 funeral or burial service in this state, and a funeral director
409 who is licensed by another state is authorized to conduct a
410 funeral or burial service in this state, in the same manner and to
411 the same extent as provided by the laws of that state to persons
412 licensed by the State of Mississippi for the practice of funeral
413 service or for the practice of funeral directing. The board is
414 authorized to enter into written agreements with those states
415 detailing the manner and extent to which persons licensed by the
416 State of Mississippi may practice funeral service or directing in
417 that state.

418 (12) Any funeral service technology or mortuary science
419 program accredited by the American Board of Funeral Service

420 Education in the State of Mississippi, as well as students
421 enrolled in such a program, shall be exempt from licensing under
422 this chapter when embalming or otherwise preparing a deceased
423 human body for disposition as part of a student practicum
424 experience, when the student is directly supervised by an
425 instructor or preceptor who holds a current funeral service
426 license. This exemption shall apply to practicum experiences
427 performed at an accredited institution of funeral service
428 technology or mortuary science program or at a duly licensed
429 funeral establishment or commercial mortuary service. Nothing in
430 this subsection shall be construed to allow any funeral service
431 technology or mortuary science program, or those students enrolled
432 in such a program, to engage in practicum experiences for
433 remuneration.

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

437 * * *

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

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

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

454 * * *

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

459 (4) 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 preparation
487 and/or embalming room, adequate casket and/or 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 before
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 office
495 and/or an arrangement room, and a room for viewing and/or a chapel
496 or proper place for ceremonies. A branch establishment need not
497 meet all requirements specified in paragraph (a) of this
498 subsection and need not be under the personal supervision of a
499 Mississippi funeral director licensee or a Mississippi funeral
500 service 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 * * * shall not be
536 issued until an inspection has been made, license and inspection
537 fees have been paid, and the licensee in charge and/or owners of
538 such establishment has been interviewed by the board or its
539 designee.

540 * * *

541 (8) The board is authorized to establish rules and
542 regulations for the issuance of a special funeral establishment
543 work permit.

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

546 73-11-56. On or before October 1 of each year, the board
547 shall determine the amount of funds that will be required during
548 the next ensuing two (2) years to properly administer the laws
549 which the board is directed to enforce and administer and by rule

550 and regulation shall fix fees in such reasonable sums as may be
551 necessary for such purposes within the following limitations:

552 Funeral establishment:

553	<u>Initial</u> application fee, not more than.....	\$ <u>500.00</u>
554	<u>Initial</u> inspection fee, not more than.....	\$ <u>250.00</u>
555	Funeral establishment license fee, not more than.....	\$150.00
556	Branch establishment license fee, not more than.....	\$150.00
557	Commercial mortuary service license fee, not 558 more than.....	\$150.00
559	<u>Establishment</u> renewal * * * license fee * * *.....	\$300.00
560	<u>Branch</u> renewal license fee.....	\$300.00
561	<u>Commercial mortuary</u> renewal license fee.....	\$300.00
562	<u>Crematory</u> renewal license fee.....	\$300.00
563	Special work permit.....	\$150.00

564 Funeral service:

565	Application fee, not more than.....	\$ <u>100.00</u>
566	Reciprocal application fee, not more than.....	\$ <u>250.00</u>
567	License fee, not more than.....	\$ 75.00
568	Renewal license fee * * *.....	\$ <u>125.00</u>
569	Work permit, not more than.....	\$ <u>100.00</u>
570	Examination fee.....	Cost of the examination

571 Funeral director:

572	Application fee, not more than.....	\$ <u>100.00</u>
573	Reciprocal application fee, not more than.....	\$ <u>250.00</u>
574	License fee, not more than.....	\$ 50.00
575	Renewal license fee, not more than.....	\$ <u>100.00</u>
576	Work permit, not more than.....	\$ <u>100.00</u>
577	Examination fee.....	Cost of the examination

578 Resident trainee certificate:

579	Funeral service application fee, not more than.....	\$ <u>100.00</u>
580	Funeral director application fee, not more than.....	\$ <u>100.00</u>
581	Funeral service renewal application fee, 582 not more than.....	\$ 50.00

583 Funeral director renewal application fee,
584 not more than..... \$ 50.00

585 Other fees:

586 Duplicate license fee, not more than..... \$ 50.00

587 Public records of the board.....\$1.00 per page

588 Reinstatement of lapsed license fee, equal to the
589 amount of the applicable license fee.

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

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

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

598 73-11-57. (1) The board may refuse to examine or to issue
599 or renew, or may suspend or revoke, any license, or may reprimand
600 or place the holder thereof on a term of probation, after proper
601 hearing, upon finding the holder of such license to be guilty of
602 acts of commission or omission including the following:

603 (a) The employment of fraud or deception in applying
604 for a license or in passing the examination provided for in this
605 chapter;

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

607 (c) The conviction of a felony by any court in this
608 state or any federal court or by the court of any other state or
609 territory of the United States;

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

612 (e) The impersonation of another funeral service or
613 funeral directing licensee;

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

617 (g) Violation of any provision of this chapter or any
618 rule or regulation of the board;

619 (h) Having had a license for the practice of funeral
620 service or funeral directing suspended or revoked in any
621 jurisdiction, having voluntarily surrendered his license in any
622 jurisdiction, having been placed on probation in any jurisdiction,
623 having been placed under disciplinary order(s) or other
624 restriction in any manner for funeral directing and/or funeral
625 service, or operating a funeral establishment (a certified copy of
626 the order of suspension, revocation, probation or disciplinary
627 action shall be prima facie evidence of such action);

628 (i) Solicitation of dead human bodies by the licensee,
629 his agents, assistants or employees, whether such solicitation
630 occurs after death or when death is imminent; if the person
631 solicited has made known a desire not to receive the
632 communication, or if the solicitation involves coercion, duress or
633 harassment, or if the solicitation takes place at the residence of
634 the client or prospective client, is uninvited by the client or
635 prospective client and has not been previously agreed to by the
636 client or prospective client; however, this shall not be deemed to
637 prohibit general advertising;

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

644 (k) Failure to make responses to communications or
645 requests of the board within fifteen (15) days;

646 * * *

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

650 (m) Making a false statement on death certificates; or

651 (n) Unprofessional conduct which includes, but is not
652 limited to:

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

655 (ii) Knowingly performing any act which in any way
656 assists an unlicensed person to practice funeral service or
657 funeral directing;

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

660 (iv) Any act or omission in the practice of
661 funeral service or directing which constitutes dishonesty, fraud
662 or misrepresentation with the intent to benefit the licensee,
663 another person or funeral establishment, or with the intent to
664 substantially injure another person, licensee or funeral
665 establishment; or

666 (v) Any act or conduct, whether the same or of a
667 different character than specified above, which constitutes or
668 demonstrates bad faith, incompetency or untrustworthiness; or
669 dishonest, fraudulent or improper dealing; or any other violation
670 of the provisions of this chapter, the rules and regulations
671 established by the board or any rule or regulation promulgated by
672 the Federal Trade Commission relative to the practice of funeral
673 service or funeral directing.

674 (2) The board may, upon satisfactory proof that the
675 applicant or licensee has been guilty of any of the offenses above
676 enumerated, refuse to examine or issue a license to the applicant,
677 or may refuse to renew or revoke or suspend the license of the
678 licensee, or place on probation or reprimand him, upon a majority
679 vote of the board members, after a hearing thereon. The board is

680 hereby vested with full power and authority to hold and conduct
681 such hearings, compel the attendance of witnesses and the
682 production of books, records and documents, issue subpoenas
683 therefor, administer oaths, examine witnesses, and do all things
684 necessary to properly conduct such hearings. The board may waive
685 the necessity of a hearing if the person accused of a violation
686 admits that he has been guilty of such offense. Any person who
687 has been refused a license or whose license has been revoked or
688 suspended may, within thirty (30) days after the decision of the
689 board, file with the board a written notice stating that he feels
690 himself aggrieved by such decision and may appeal therefrom to the
691 Circuit Court of the First Judicial District of Hinds County.
692 Upon the filing of such notice, the secretary of the board shall
693 transmit to the clerk of the circuit court the records and
694 findings of such proceedings. The circuit court shall hear and
695 determine as to whether the action of the board was in accord or
696 consistent with law, or was arbitrary, unwarranted or in abuse of
697 discretion. An appeal from the circuit court judgment or decree
698 may be reviewed by the Supreme Court as is provided by law for
699 other appeals. An appeal of a decision or order of the board does
700 not act as a supersedeas.

701 (3) In a proceeding conducted under this section by the
702 board for the revocation or suspension of a license, the board
703 shall have the power and authority for the grounds stated for such
704 revocation or suspension, and in addition thereto or in lieu of
705 such revocation or suspension may assess and levy upon any person
706 licensed under this chapter, a monetary penalty, as follows:

707 (a) For the first violation of any of the subparagraphs
708 of subsection (1) of this section, a monetary penalty of * * *
709 Five Hundred Dollars (\$500.00).

710 (b) For the second violation of any of the
711 subparagraphs of subsection (1) of this section, a monetary
712 penalty of * * * One Thousand Dollars (\$1,000.00).

713 (c) For the third and any subsequent violation of any
714 of the subparagraphs of subsection (1) of this section, a monetary
715 penalty of * * * Five Thousand Dollars (\$5,000.00).

716 (d) For any violation of any of the subparagraphs of
717 subsection (1) of this section, those reasonable costs that are
718 expended by the board in the investigation and conduct of a
719 proceeding for licensure revocation or suspension, including, but
720 not limited to, the cost of process service, court reporters,
721 expert witnesses and investigators.

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

727 (5) A licensee shall have the right of appeal from the
728 assessment and levy of a monetary penalty as provided in this
729 section under the same conditions as a right of appeal is provided
730 elsewhere for appeals from an adverse ruling, order or decision of
731 the board.

732 (6) Any monetary penalty assessed and levied under this
733 section shall not take effect until after the time for appeal
734 shall have expired.

735 (7) A monetary penalty assessed and levied under this
736 section shall be paid to the board by the licensee upon the
737 expiration of the period allowed for appeal of such penalties
738 under this section or may be paid sooner if the licensee elects.
739 With the exception of subsection (3)(d) of this section, monetary
740 penalties collected by the board under this section shall be
741 deposited in the State Treasury to the credit of the State Board
742 of Funeral Service. Any monies collected by the board under
743 subsection (3)(d) of this section shall be deposited into the
744 special fund operating account of the board.

745 (8) When payment of a monetary penalty assessed and levied
746 by the board against a licensee in accordance with this section is
747 not paid by the licensee when due under this section, the board
748 shall have power to institute and maintain proceedings in its name
749 for enforcement of payment in the * * * Chancery Court of the
750 First Judicial District of Hinds County, Mississippi.

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

771 **SECTION 12.** The following shall be codified as Section
772 73-11-58, Mississippi Code of 1972:

773 73-11-58. (1) If a decedent has left no written
774 authorization for the cremation and or disposition of the
775 decedent's body as permitted by law, the following competent
776 persons, in the order of priority listed below, may authorize the

777 type, method, place, cremation and or other disposition of the
778 decedent's body:

779 (a) The surviving spouse.

780 (b) The surviving children who are at least eighteen
781 (18) years of age and can be located after reasonable efforts.

782 (c) The surviving parents.

783 (d) The surviving siblings who are at least eighteen
784 (18) years of age and can be located after reasonable efforts.

785 (e) A person in the class of the next degree of
786 kinship, in descending order, who, under state law, would inherit
787 the decedent's estate if the decedent died intestate who are at
788 least eighteen (18) years of age and can be located with
789 reasonable effort.

790 (f) A person who has exhibited special care and concern
791 for the decedent and is willing and able to make decisions about
792 the cremation and disposition.

793 (g) In the case of indigents or any other individuals
794 whose final disposition is the responsibility of the state or any
795 of its instrumentalities, a public administrator, medical
796 examiner, coroner, state-appointed guardian, or any other public
797 official charged with arranging the final disposition of the
798 decedent may serve as the authorizing agent.

799 (h) In the case of individuals who have donated their
800 bodies to science or whose death occurred in a nursing home or
801 private institution and in which the institution is charged with
802 making arrangements for the final disposition of the decedent, a
803 representative of the institution may serve as the authorizing
804 agent in the absence of any of the above.

805 (i) In the absence of any of the above, any person
806 willing to assume responsibility for the cremation and disposition
807 of the decedent.

808 (2) No funeral establishment shall accept a dead human body
809 from any public officer or employee or from the official of any

810 institution, hospital or nursing home, or from a physician or any
811 person having a professional relationship with a decedent, without
812 having first made due inquiry as to the desires of the persons who
813 have the legal authority to direct the disposition of the
814 decedent's body. If any persons are found, their authority and
815 directions shall govern the disposal of the remains of the
816 decedent. Any funeral establishment receiving the remains in
817 violation of this subsection shall make no charge for any service
818 in connection with the remains prior to delivery of the remains as
819 stipulated by the persons having legal authority to direct the
820 disposition of the body. This section shall not prevent any
821 funeral establishment from charging and being reimbursed for
822 services rendered in connection with the removal of the remains of
823 any deceased person in case of accidental or violent death and
824 rendering necessary professional services required until the
825 persons having legal authority to direct the disposition of the
826 body have been notified,

827 **SECTION 13.** Section 73-11-59, Mississippi Code of 1972, is
828 reenacted and amended as follows:

829 73-11-59. Any person, partnership, corporation, association
830 or his or her or its agents or representatives who shall violate
831 any of the provisions of this chapter shall be deemed guilty of a
832 misdemeanor and, upon conviction thereof, shall be punished by a
833 fine of Five Thousand Dollars (\$5,000.00), or by imprisonment for
834 not more than six (6) months in the county jail, or by both such
835 fine and imprisonment.

836 **SECTION 14.** Section 73-11-61, Mississippi Code of 1972, is
837 reenacted as follows:

838 73-11-61. Every funeral director or funeral service licensee
839 shall provide, before the rendering of services, the funeral
840 establishment's current general price list, casket price list,
841 outer container price list, and a statement of goods and services
842 to the person or persons who authorize the services and is

843 responsible for payment of the expenses therefor, in a manner and
844 format as prescribed by the Federal Trade Commission's Funeral
845 Rule of 1984 and any future changes with regard to required
846 disclosures. The general price list must be made available to any
847 person upon request.

848 **SECTION 15.** Section 73-11-63, Mississippi Code of 1972, is
849 reenacted and amended as follows:

850 73-11-63. Nothing in this chapter shall be construed to
851 authorize the regulation or licensing of cemeteries or cemetery
852 chapels * * * by the board, except the regulation or licensing of
853 any funeral establishment operated by a cemetery. In addition,
854 nothing in this chapter shall be construed to prevent or interfere
855 with the ceremonies, customs, religious rites or religion of any
856 people, denomination, or sect, or to prevent or interfere with any
857 religious denomination, sect or anybody composed of persons of a
858 denomination, or to prevent or interfere with any church or
859 synagogue from having its committee or committees prepare human
860 bodies for burial or the families, friends or neighbors of
861 deceased persons who prepare and bury their dead without charge.

862 **SECTION 16.** Section 73-11-65, Mississippi Code of 1972, is
863 reenacted as follows:

864 73-11-65. Every funeral service or interment, or part
865 thereof, that is conducted in Mississippi must be in the actual
866 charge and under the supervision of a funeral director or funeral
867 service licensee who is licensed under this chapter. However,
868 this section shall not prevent a family from burying its own dead
869 without charge.

870 **SECTION 17.** Section 73-11-67, Mississippi Code of 1972, is
871 reenacted and amended as follows:

872 73-11-67. Every person, establishment or company not
873 licensed under this chapter that sells caskets at retail shall
874 register annually with the board. * * * The names of registrants
875 under this section shall be made available to any person upon

876 request during the regular business hours of the board. The
877 procedure for conducting a disciplinary proceeding against any
878 casket retailer accused of failing to register with the board, as
879 well as the penal sanctions available to the board, shall be the
880 same as those set forth in Section 73-11-57.

881 **SECTION 18.** Section 73-11-69, Mississippi Code of 1972, is
882 reenacted and amended as follows:

883 73-11-69. (1) No person shall operate a crematory facility
884 in this state unless the person is licensed by the State Board of
885 Funeral Service. An application for a crematory facility license
886 shall be accompanied by a fee in an amount not to exceed the fee
887 fixed by the board for a funeral establishment license.

888 (2) The operator of a crematory facility shall issue a
889 certificate of cremation to the family of each person cremated in
890 the facility. In addition, the operator of the crematory facility
891 shall maintain a log of all cremations performed in the facility,
892 and this log shall match the certificates of cremation that have
893 been issued by the facility.

894 (3) No operator of a crematory facility shall knowingly
895 represent that an urn or temporary container contains the
896 recovered cremated remains of specific decedent or of body parts
897 removed from a specific decedent when it does not. This
898 subsection does not prohibit the making of such a representation
899 because of the presence in the recovered cremated remains of de
900 minimis amounts of the cremated remains of another decedent or of
901 body parts.

902 (4) The board shall inspect each licensed crematory facility
903 during each licensure period, and at such other times as
904 necessary, to verify that the crematory facility is in compliance
905 with the requirements of this section. Any person who operates a
906 crematory facility in this state without a license, or any person
907 who otherwise violates any provision of this section, is guilty of
908 a felony. Upon conviction for a violation of this section, in

909 addition to any penalty that may be imposed by the court, the
910 board may revoke the person's crematory facility license.

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

914 (6) Any crematory may dispose of any remains unclaimed by
915 the family after six (6) months after cremation by scattering or
916 burial upon a final notification to the next of kin by certified
917 mail.

918 **SECTION 19.** This act shall take effect and be in force from
919 and after July 1, 2005.