

COUNCIL OF THE DISTRICT OF COLUMBIA

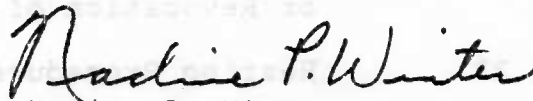
NOTICE

D.C. LAW 5-84

"District of Columbia Funeral Services
Regulatory Act of 1984".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 5-7 on first and second readings, February 28, 1984 and March 13, 1984, respectively. Following the signature of the Mayor on March 29, 1984, this legislation was assigned Act No. 5-120, published in the April 20, 1984 edition of the D.C. Register, (Vol. 31 page 1815) and transmitted to Congress April 2, 1984 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 5-84, effective May 22, 1984.



Nadine P. Winter
Chairman Pro Tempore

Dates Counted During the 30-day Congressional Review Period:

April 2,3,4,5,6,9,10,11,12,13,24,25,26,27,30

May 1,2,3,4,7,8,9,10,11,14,15,16,17,18,21

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAR 29 1984

To regulate the funeral industry in the District of Columbia; and for other purposes.

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BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,
 That this act may be cited as the "District of Columbia
 Funeral Services Regulatory Act of 1984".

CODIFICATION,
 new chapter 28
 of title 2,
 "Funeral
 Directors"

Sec. 2. Purposes. The purposes of this act are to
 provide for the licensure and regulation of funeral
 directors, apprentice funeral directors, and funeral
 services establishments in the District of Columbia, and to
 protect the public from fraudulent, unfair, and deceptive
 practices by persons licensed to provide funeral directing
 services.

New
 D.C. Code, sec.
 2-2801
 (1985 supp.)

Sec. 3. Definitions. As used in this act, the term:

(1) "Adult" means a person who is 18 years of age
 or older.

New
 D.C. Code, sec.
 2-2802
 (1985 supp.)

(2) "Apprentice funeral director" means any
 person licensed by the District to engage in learning the
 practice, or to engage in the practice, of funeral directing
 by performing funeral directing under the direct or
 immediate supervision of a full-time funeral director
 licensed by the District.

(3) "Board" means the Board of Funeral Directors
 for the District of Columbia.

(4) "Consumer" means a person who makes arrangements with a funeral services establishment for the care and disposition of human remains, including arrangements made prior to the death of a person.

(5) "Council" means the Council of the District of Columbia.

(6) "Direct supervision" means that in those instances when an apprentice funeral director is handling, preparing, or embalming human remains which have become infected by a contagious disease, the apprentice funeral director must always be supervised by a licensed funeral director who is present and assisting.

(7) "District" means the District of Columbia.

(8) "Full-time employee" means a person whose primary occupation or employment is with a funeral services establishment as a funeral director.

(9) "Funeral director" means any person licensed by the District to perform the practice of funeral directing. As used in this act, the term "funeral director" includes the terms "mortician", "undertaker", and "embalmer" as these terms relate to licensure in those jurisdictions where these categories are licensed separately, or under these terms.

(10) "Funeral provider" means any person, partnership, or corporation that sells or offers to sell funeral goods and funeral services to the public.

(11) "Funeral services establishment" means any place or premises in the District devoted to, or wherein is

engaged, the business of the care or preparation of human remains for funeral, burial, cremation, or transportation, consisting of a chapel (or a room in which funeral services, including visiting hours prior to disposition, may be conducted) or a preparation room, and where arrangements can be made for funeral services or purchasing funeral supplies including accouterments by the public, and where payment for the rendering of funeral services and supplies can be arranged. The term "funeral services establishment" includes the term "funeral home".

(12) "Human remains" means the remains of a deceased human being or fetus or any part thereof.

(13) "Immediate supervision" means that a funeral director currently licensed to practice funeral directing in the District is available on the premises and within vocal communication of the supervisee.

(14) "License" means an authority from the District which entitles the holder to practice in the District either as a funeral director or apprentice funeral director, or an authority from the District which entitles the holder to own and operate a funeral services establishment.

(15) "Mayor" means the Mayor of the District of Columbia.

(16) "Nationally approved examination" means the examination approved by the Conference of Funeral Service Examining Boards.

(17) "Person" means any natural person.

(18) "Practice of funeral directing" means engaging in the care and disposal of human remains or the preserving by embalming or otherwise of human remains for transportation, funeral services, burial, or cremation.

(19) "Solicitation" means any annoying or unseemly conduct by a licensee, his employees, or agents, such as (A) loitering in or about a hospital, sanitarium, personal care home, or other place for the purpose of soliciting the employment of the licensee's services; (B) offering, giving, or promising any gratuity or payment, either in money or property, to any person for information concerning human remains; (C) requesting or recommending that a consumer change from another funeral services establishment to the soliciting party's funeral services establishment; (D) engaging in a dispute with another licensee for the possession of human remains; or (E) initiating contact with the next of kin, relations, friends, or associates of the deceased in order to provide funeral services or disposition of the deceased without being contacted by the next of kin or his or her representative. The term "solicitation" shall not include general advertising, the sale of burial insurance, or responses to requests for information from consumers.

Sec. 4. Board of Funeral Directors; Powers of the Mayor.

(a) There is hereby established a Board of Funeral Directors for the District of Columbia.

(b) The Board shall consist of 5 members appointed by

New,
D.C. Code, sec.
2-2803
Note, D.C.
Code, secs.
1-612.8,
1-1462 &
2-2809
(1985 supp.)

the Mayor with the advice and consent of the Council. Three of the members shall be funeral directors licensed to practice in the District; 1 shall be the Director of the Department of Human Services or his or her designee; and 1 shall be a consumer.

(c) The funeral director members of the Board, at the time of their appointment and throughout their terms, shall:

(1) Be licensed in the District and be in good standing to engage in the practice of funeral directing in the District;

(2) Have had at least 3 years experience in funeral directing in the District; and

(3) Be residents of the District.

(d)(1) The consumer member of the Board shall:

(A) Be a resident of the District;

(B) Be at least 18 years of age;

(C) Not be engaged, either directly or indirectly, in the business of the care or preparation of human remains for funeral, burial, cremation, or transportation; and

(D) Not receive, directly or indirectly, more than 10% of his or her gross annual income from any one or a combination of the following:

(i) Fees or other compensation for research into or instruction in mortuary science;

(ii) Entities engaged in the provision of care or preparation of human remains for funeral, burial, cremation, or transportation; or

(iii) Producing or supplying chemicals or other articles for individuals or entities to use in the preparation of, or research into or instruction in the care or preparation of, human remains for funeral, burial, cremation, or transportation.

(2) The consumer member shall have all the powers that other Board members have, except for those relating to the practical examination for licensure.

(e)(1) Except as provided in paragraph (2), the members of the Board shall be appointed by the Mayor for a term of 3 years.

(2) Members of the Board who are appointed to fill vacancies which occur prior to the expiration of a former member's full term shall serve only the unexpired portion of the former member's term.

(f) Of the members first appointed under this act, 3 shall serve a term of 3 years, 1 of whom shall be the consumer member; and 1 member shall serve a term of 2 years. This subsection shall not apply to the representative of the Department of Human Services.

(g) The Mayor shall designate a chairperson from the members of the Board. The chairperson of the Board shall preside at all meetings of the Board and shall be responsible for the performance of all the duties and functions of the Board.

(h) The Mayor shall delegate to the Board those responsibilities which the Mayor deems appropriate.

(i) The Mayor shall issue within 30 days of the

effective date of this act, and may amend from time to time, rules and regulations necessary to carry out the provisions of this act.

(j) The Mayor shall make any studies and investigations the Mayor deems necessary to assist in preparing or prescribing rules, regulations, and orders under this act, and to assist the administration and enforcement of this act.

(k) The Mayor shall conduct hearings pursuant to section 10, upon written charges, that may result in discipline, revocation, suspension, or denial of a license.

(l) The Board shall advise the Mayor with respect to the professional and technical aspects of the examining, licensing, registration, and regulation of funeral services establishments in the District.

(m) Members of the Board shall be compensated pursuant to section 1108 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-612.8).

Sec. 5. Fees.

New,
D.C. Code, sec.
2-2804
(1985 supp.)

(a) The Mayor shall establish, increase, or decrease the fees necessary to cover the costs of administering this act. The Mayor shall not revise the fees except after a 30-day notice.

(b) The Mayor is authorized after a 30-day notice to establish and to change the expiration date of licenses provided for in this act. Upon the change of an expiration date, the renewal fee for licenses shall be prorated on the

basis of the time covered.

Sec. 6. Qualifications, Applications, and Examinations for Licensure.

New,
D.C. Code, se
2-2805
Note, D.C.
Code, secs.
2-1606 & -280
20-741,
47-2842
(1985 supp.)

(a) Funeral Director's License. Except as provided in subsections (b) and (c), an applicant for licensure as a funeral director shall furnish satisfactory proof to the Mayor that he or she:

- (1) Is at least 18 years of age;
- (2) Is a graduate of a high school or possesses the equivalent education as approved by the Mayor;
- (3) Is a graduate of an accredited school or college of mortuary science whose course of instruction is not less than 12 months in duration or is composed of not less than 840 hours of study; or has successfully completed a 2-year course of study leading to an associate degree in mortuary science;
- (4) Has had at least 2 years of practical experience as an apprentice funeral director if he or she is a graduate of a school or college of mortuary science, or at least 1 year of practical experience if he or she possesses an associate degree in mortuary science; has actually embalmed at least 25 human remains; and has actually conducted or directed at least 25 funerals. This experience shall be verified by the sworn affidavit of each funeral director under whose immediate supervision the apprentice funeral director's duties were performed, indicating the number of human remains embalmed by the applicant and the number of funerals conducted or directed during the period

of apprenticeship served under the supervision of the funeral director;

(5) Is fully acquainted with District and federal laws relating to the practice of funeral directing, in a manner to be determined by the Mayor;

(6) Has paid all required fees;

(7) Has passed a nationally approved examination;

and

(8) Has met all additional requirements set by the Mayor.

(b) Special Licensing.

(1) Notwithstanding the requirements set forth in section 6(a), any funeral director licensed by the District as an undertaker on the effective date of this act shall be qualified for licensure under this act upon meeting the qualifications in section 6(a)(1), (5), and (6).

(2) Any apprentice funeral director licensed by the District on the effective date of this act and actively engaged in discharging the duties of a funeral director from January 1, 1973, through January 1, 1983, shall be qualified for licensure as a funeral director upon:

(A) Meeting the qualifications in section 6(a)(1), (5) and (6);

(B) Passing the nationally approved oral and practical examination; and

(C) Furnishing proof to the Mayor that he or she was discharging the duties of a funeral director during the specified period.

(3) Every person who on August 1, 1947, would have qualified for licensure under paragraph 44A(c) of section 7 of An Act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1903, and for other purposes, approved August 1, 1947 (61 Stat. 711; D.C. Code, sec. 47-2843(c)), and who has discharged the duties of a funeral director from January 1, 1973, through January 1, 1983, and continues to discharge those duties shall be qualified for licensure as a funeral director upon:

(A) Meeting the qualifications in section 6(a)(1), (5), and (6);

(B) Passing any oral and practical examination the Mayor may require to determine that the person is fully acquainted with District and federal laws relating to the practice of funeral directing; and

(C) Furnishing proof to the Mayor that he or she was discharging the duties of a funeral director during the specified period.

(4) Applicants to be licensed by section 6(b)(2) and (3) must comply with the requirements of this act within 2 years of the effective date of this act.

(5) The Mayor shall conduct at least 2 examinations for each special licensure category as provided by section 6(b)(2) and (3) within 2 years of the effective date of this act.

(c) Reciprocity. An applicant for a license by reciprocity to practice as a funeral director in the

District must furnish proof to the Mayor that he or she:

(1) Is currently licensed in good standing as a funeral director in a state or territory of the United States wherein the requirements for licensure are substantially equal to or exceed those in effect in the District, and which state or territory admits funeral directors licensed by the District in a like manner; and

(2) Meets the qualifications specified in section 6(a)(1), (2), (5), and (6).

(d) Apprentice Funeral Director's License. An applicant for licensure as an apprentice funeral director must furnish proof satisfactory to the Mayor that he or she:

(1) Is at least 18 years of age;

(2) Is a graduate of a recognized high school or possesses the equivalent education as approved by the Mayor;

(3) Is fully acquainted with District and federal laws relating to the practice of funeral directing and embalming, in a manner to be determined by the Mayor;

(4) Has paid all required fees; and

(5) Has successfully completed or is enrolled in an accredited school or college of mortuary science, or has successfully completed or is enrolled in a 2-year course of study leading to an associate degree in mortuary science as required by section 6(a)(3).

(e) Funeral Services Establishment License.

(1) No funeral services establishment shall be operated in the District unless licensed as a funeral services establishment under this act.

(2) No individual may be licensed to operate a funeral services establishment unless that individual is also licensed as a funeral director under this act.

(3) No corporation, partnership, or other business entity may be licensed to operate a funeral services establishment unless (A) one of the owners of the funeral services establishment business is licensed as a funeral director under this act, and (B) the business entity designates a principal funeral director, licensed under this act, who will be responsible for the daily operation of the funeral services establishment. The Mayor shall issue rules and regulations pursuant to section 4(i) to ensure that the corporation, partnership, or other business entity comes into prompt compliance with this paragraph when death or termination of the business relationship removes the owner who is a licensed funeral director or the licensed funeral director responsible for the daily operation of the funeral services establishment.

(4) All funeral services establishments operated in the District shall be built, equipped, arranged, occupied, and maintained in compliance with all applicable District and federal laws.

(f) Surviving Spouse License.

(1) Upon the death of the funeral director licensd to operate the funeral services establishment, the Mayor may issue a funeral services establishment license to the funeral director's surviving spouse or estate when the following conditions have been met:

(A) The surviving spouse or estate must notify the Mayor within 10 days of the death of the funeral director of the intent to continue operating the funeral services establishment, and must apply for a funeral services establishment license within 30 days of the death of the funeral director; and

(B) The surviving spouse or estate must identify a funeral director licensed by the District who will be responsible for the day-to-day operation of the funeral services establishment as required by this act.

(2) A surviving spouse shall qualify for a license pursuant to this subsection only as long as he or she remains unmarried, except that any surviving spouse presently operating a funeral services establishment on the effective date of this act is grandfathered.

(3) An estate shall qualify for a license pursuant to this subsection for a period not to exceed 3 years from the date of the funeral director's death.

(g) Application Procedures for Licenses.

(1) Each applicant for a license shall file with the Mayor a complete and true application on a form approved by the Mayor.

(2) Each application for a funeral director's and apprentice funeral director's license shall be accompanied by a recent photograph of the applicant's face, measuring approximately 1" x 1-1/2".

(3) Each application for a license pursuant to section 6(g)(1) shall be sworn to before a notary public.

(4) The Mayor shall review and take action on all applications within a reasonable time after filing. An applicant for any license has the burden of proving compliance with the qualifications and requirements for obtaining the license desired. The Mayor may not presume qualifications and requirements not shown on the application. The Mayor may refuse to act on the application and may require the applicant to submit additional information if the application contains incomplete or evasive information.

(5) The Mayor may deny, after notice and opportunity for hearing, any application if (A) the applicant has knowingly made or allowed to be made on his behalf any false or misleading statements in connection with his or her application, or (B) the applicant or an agent of the applicant has attempted to improperly influence any member of the Board or officer or employee of the District in the discharge of duties relating to the application.

(6) Each applicant for a funeral director's license for which an examination is required shall make application to take the examination not later than 60 calendar days prior to the date of the examination.

(7) Procedures governing applications for a funeral director's license, an apprentice funeral director's license, a surviving spouse license, and a license to operate a funeral services establishment shall be prescribed in rules and regulations issued by the Mayor pursuant to section 4(i).

(h) Examination.

(1) The Mayor shall conduct each year in the District at least 1 nationally approved examination for licensure as a funeral director. The Mayor may schedule additional examinations he or she determines to be necessary. The Mayor shall fix the time and place for each examination.

(2) The funeral director's license examination shall consist of the following 3 parts: (A) written examination, (B) oral examination, and (C) practical demonstration.

(3) The Mayor may waive the written portion of the examination if an applicant for a funeral director's license has previously passed the written portion of the nationally approved examination as defined by section 3(16).

(4)(A) The written portion of the funeral director's license examination shall consist of questions relating to embalming, anatomy, pathology, bacteriology, chemistry, restorative art, and mortuary administration.

(B) Except as provided in section 4(d), the practical demonstration portion of the funeral director's license examination shall consist of a demonstration by the applicant, in the presence of 2 or more members of the Board, of his or her knowledge and skill in the care, preparation, and preservation of human remains.

(C) The oral portion of the funeral director's license examination shall consist of questions on District and federal laws and regulations governing the

practice of funeral directing, including, but not limited to, the following subjects:

(i) The Anatomical Board, human tissue banks, and anatomical gifts;

(ii) Vital statistics and containers for cremated human remains;

(iii) Trafficking in dead bodies;

(iv) Cemeteries and crematories;

(v) Licensing of funeral directors;

and

(vi) Penalty provisions.

(5) The oral portion of the funeral director's license examination shall be administered to an applicant in the presence of 2 or more members of the Board, at least 2 of whom shall be licensed funeral directors.

(6) The written portion of the examination for a funeral director's license shall be administered to applicants in the presence of 1 or more members of the Board, or an employee of the District government designated by the Mayor.

(7) The examination shall be administered to applicants for a funeral director's license in accordance with examination procedures established by the Mayor. Each applicant shall be fully advised of the examination procedures prior to the examination and a copy of the procedures shall be included in the notice of authorization to take the examination.

(8) The Mayor shall monitor the implementation of

the nationally approved examination for a funeral director's license to ensure that there are no anticompetitive or discriminatory effects. If the Mayor reasonably determines by rulemaking that the examination is producing anticompetitive or discriminatory effects, the Mayor shall develop a local examination and, after proper notice and publication, shall substitute it for the nationally approved examination.

Sec. 7. Issuance and Renewal of Licenses.

(a) A license to practice in the District as either a funeral director or apprentice funeral director, or to operate a funeral services establishment shall be issued to each applicant who meets all of the requirements for licensure.

New,
D.C. Code, sec.
2-2806
Note, D.C.
Code, sec.
2-2803
(1985 supp.)

(b) Every license in good standing issued in accordance with this act shall expire on a date set by the Mayor and shall be renewed as determined by the Mayor in rules and regulations to be issued pursuant to section 4(i). On or before the 30th day preceding expiration, the Mayor shall mail an application for renewal to the last known address of each person holding a license in good standing. Failure to receive this application shall not be a proper defense of any person failing to renew any required license.

(c) Each person holding a license in good standing issued pursuant to this act, and who wishes to continue practice in the District, shall, on or before the last day of each term, file an application for renewal of the license accompanied by the proper fee.

(d) Except as otherwise provided by this act, upon receipt of a renewal application and the proper fee, the Mayor shall issue a renewal for the new license year.

(e) Any person holding a license issued under the provisions of this act who fails to file an application for renewal and pay the required fee on or before the last day of any license term, and who, after the first day of the new term, performs in the District the duties of a licensee, shall be found in violation of this act. Any license that is not renewed within 30 days of the expiration of its term, shall be terminated.

(f) Any person whose license has expired and who subsequently files an application for renewal shall comply with any terms and conditions prescribed by the Mayor not inconsistent with this act. The terms and conditions for restoration of a lapsed license may, in the discretion of the Mayor, include the passing of an examination or payment of a penalty fee, or both.

Sec. 8. Terms and Conditions of Apprenticeship.

(a) In order to qualify for a funeral director's license, an apprentice funeral director ("apprentice") must serve an apprenticeship under the supervision of a funeral director licensed by the District.

(b) Notwithstanding the requirement of section 8(a), an apprentice who is required to serve a 2-year minimum apprenticeship may serve up to 1 year of the apprenticeship outside of the District, if the period of apprenticeship served outside of the District is served under the

New, D.C. Code,
sec. 2-2807
Note, D.C. Code
sec. 2-2803
(1985 supp.)

supervision of a funeral director who has passed a nationally approved examination, and is the owner or full-time employee of the funeral services establishment where the apprentice is employed. The Mayor shall issue rules and regulations to implement this subsection pursuant to section 4(i).

(c) An apprentice funeral director may obtain license renewals allowing him to extend his apprenticeship, but the total period of apprenticeship shall not exceed 4 years.

(d) Every apprentice employed in that capacity within the District shall, within 5 days after terminating his or her employment, notify the Mayor of the termination, indicating the date on which the employment ceased.

(e) Every apprentice whose employment under the supervision of a funeral director is terminated shall, immediately upon being employed to work under the supervision of another funeral director, notify the Mayor of the change of employment, indicating the name, address, and license number of the funeral director under whose supervision the apprentice is continuing his or her apprenticeship.

(f) A funeral director shall, upon employing an apprentice or terminating the employment of an apprentice, notify the Mayor in writing accordingly. The notification shall contain the name, address, and license number of the apprentice, as well as the date on which the apprentice was employed or terminated.

Sec. 9. Grounds for Suspension or Revocation of

New, D.C. Code,
sec. 2-2808
Note, D.C. Code,
secs. 2-2803 &
-2809
(1985 supp.)

License.

(a) The Mayor may refuse to approve or issue a renewal of a license, or may order restrictions, impose a fine, impose conditions on the practice of funeral directing, or suspend or revoke the license of any applicant or licensee if the Mayor finds that the applicant or licensee has:

(1) Engaged in any fraud, deceit, or misrepresentation of any material fact in procuring or attempting to procure any license authorized by this act;

(2) Engaged in any unfair, deceptive, or misleading act or practice, or unfair method of competition in the funeral profession, including the illegal fixing or maintaining of prices or the illegal restraint of trade;

(3) Violated any provision of this act, or District or federal laws, rules, or regulations pertaining to the practice of funeral directing;

(4) Acted in a manner inconsistent with the health, welfare, or safety of the public as prescribed in rules and regulations to be issued by the Mayor pursuant to section 4(i);

(5) Performed funeral directing services while under the influence of intoxicating liquors or drugs;

(6) Conspired with, or aided or abetted any person in the violation or circumvention of any provision of this act;

(7) Solicited human remains;

(8) Engaged in misrepresentation or fraud in the conduct of the business of a funeral services establishment

as a funeral director or as an apprentice funeral director;

(9) Performed embalming services without specific written authorization by the next of kin, except in the case of a demonstrated emergency where the public health, welfare, or safety would demand otherwise;

(10) Charged in excess of actual out-of-pocket expenditures paid by the funeral services establishment for cash advances and other expenditures. A reasonable charge not exceeding the District's legal interest rate per annum on the unpaid balance may be added to any cash advances or expenditures not repaid by the consumer within 30 days; or

(11) Committed gross negligence in the performance of funeral directing services. Acts constituting gross negligence shall be prescribed by the Mayor in rules and regulations issued pursuant to section 4(i).

(b) Any denial, suspension, or revocation under this section shall be made only upon specific charges in writing and after proper notice and a hearing pursuant to section 10.

Sec. 10. Hearing Procedures.

When a written complaint alleging a violation under this act has been filed with the Mayor, the Mayor shall initiate an investigation and, if warranted, fix a time and place for a hearing pursuant to section 109 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1208; D.C. Code, sec. 1-1509). The Mayor shall cause a certified copy of the charges to be served on

New,
D.C. Code, sec.
2-2809
Note, D.C.
Code, sec.
1-1509
(1985 supp.)

the respondent within a reasonable time prior to the hearing. The attendance of witnesses and the production of books, papers, and documents at the hearing may be compelled by subpoena. The Mayor shall be bound by the rules of procedure and evidence in the conduct of hearings pursuant to section 109 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1208; D.C. Code, sec. 1-1509), and decisions shall be based upon substantial evidence. If the respondent is found in violation of this act, the Mayor may refuse to issue the respondent a license, may refuse to renew the license of the respondent, or may revoke or suspend the license of the respondent.

Sec. 11. Appeal Procedures.

Any person aggrieved by any final decision or order of the Mayor denying, suspending, or revoking any license or renewal of a license issued or applied for under this act may obtain a review of the decision pursuant to section 110 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1209; D.C. Code, sec. 1-1510).

Sec. 12. Prohibitions.

(a) No person shall engage in the practice of funeral directing in the District of Columbia without being licensed in accordance with this act.

(b) No funeral services establishment licensee shall engage in, or permit any employee or agent to engage in, the practice of funeral directing unless the person performing

New,
D.C. Code, sec.
2-2810
Note, D.C. Code
sec. 1-1510
(1985 supp.)

New,
D.C. Code, sec.
2-2811
Note, D.C. Code
sec. 2-2802
(1985 supp.)

these duties is a funeral director licensed pursuant to this act or an apprentice funeral director licensed pursuant to this act and under the direct or immediate supervision of a licensed funeral director as required by this act. The direct or immediate supervision requirement shall not extend to employees whose duties are limited to the business management activities of the establishment.

(c) No person shall operate a funeral services establishment in the District unless the person is licensed in accordance with this act. A separate funeral services establishment license shall be required for each location in the District.

(d) No person shall be eligible to engage in the practice of funeral directing if the person is employed on a part-time or full-time basis by a nursing home, hospital, morgue, or ambulance service. A funeral services establishment may operate a licensed emergency medical transport service if the technicians and drivers of the service work exclusively for the medical transport service.

(e) No person licensed as a funeral director or apprentice funeral director, or licensed to operate a funeral services establishment shall allow any other person to use or practice under his or her license.

(f) No person shall perform funeral directing services at any funeral services establishment in the District unless he or she has on display at the establishment a valid current license to practice at that location. Any license issued pursuant to this act shall be good only for the

location designated thereon.

(g) No person employed by a nursing home, hospital, morgue, or ambulance service shall inform any funeral services establishment, funeral director, or representative or employee of a funeral services establishment of a death or impending death at the institution where the person is employed for the purpose of facilitating solicitation, as defined in section 3(19), by the funeral services establishment, funeral director, representative, or employee.

Sec. 13. Settlement of Disputed Claims.

New, D.C. Code,
sec. 2-2812
(1985 supp.)

The funeral services establishment retained by the person standing highest in order of priority of next of kin shall be entitled to take possession of human remains. In the event that 2 or more establishments differ as to their legal right to take possession of human remains, they shall refer the matter to the Mayor or his or her designee for a decision.

Sec. 14. Order of Priority of Next of Kin

New, D.C. Code,
sec. 2-2813
(1985 supp.)

The oldest adult member of each class shall have prior claim of the human remains over the others in the same class, as follows: spouse, adult child, father, mother, adult brother, adult sister, adult grandchild, adult nephew or niece, paternal grandparent, maternal grandparent, paternal uncle or aunt, maternal uncle or aunt, adult child of paternal uncle or aunt or adult child of maternal uncle or aunt, paternal great-grandparent, maternal great-grandparent, brother or sister of paternal

grandparent, brother or sister of maternal grandparent, kindred of the spouse of the deceased in accordance with the preceding order of priority, or any adult friend or volunteer.

Sec. 15. Services Requiring Direct Supervision by a Funeral Director.

New, D.C. Code,
sec. 2-2814
(1985 supp.)

The handling, preparation, or embalming of human remains which carried infectious or contagious diseases must at all times be done by a licensed funeral director, or in the case of an apprentice funeral director, under the direct supervision of a licensed funeral director.

Sec. 16. Courtesy Cards.

New, D.C. Code,
sec. 2-2815
(1985 supp.)

The Mayor shall issue rules and regulations pursuant to section 4(i) which shall prescribe the terms and conditions under which the District may grant courtesy cards to funeral directors duly licensed in the State of Maryland or the Commonwealth of Virginia. Courtesy cards shall be limited to authorizing a funeral director licensed in either state to enter the District for the purposes of filing the death certificate of a deceased person or transporting human remains to the state where the funeral director is licensed in order to perform funeral services. Courtesy cards shall not permit a funeral director licensed in Maryland or Virginia but not licensed in the District to maintain an office or agent in the District or to advertise in any manner in the District as practicing funeral directing in the District.

Sec. 17. Change of Address.

New, D.C. Code,
sec. 2-2816
(1985 supp.)

(a) Any person holding a funeral director's license or an apprentice funeral director's license shall, within 5 days after any change of business or residence address, notify the Mayor in writing of the change.

(b) Any person holding a funeral services establishment license shall, within 5 days after any change of ownership or percentage of ownership, or location of establishment, notify the Mayor in writing of the change.

Sec. 18. Penalties.

Any person who violates any provision of this act, or rules or regulations issued pursuant to this act shall, upon conviction thereof, be subject to a fine of not less than \$300 or more than \$1,000, or imprisonment for not more than 90 days, or both. Each act of unlawful practice shall constitute a distinct and separate offense.

New,
D.C. Code, sec.
2-2817
(1985 supp.)

Sec. 19. Prosecutions.

(a) Prosecution for violation of any provision of this act shall be conducted in the name of the District of Columbia in the Superior Court of the District of Columbia by the Corporation Counsel or his or her assistant.

(b) In order to constitute a violation under this act, it shall be necessary to prove in any prosecution or hearing only a single act prohibited by law without proving a general course of conduct.

New,
D.C. Code, sec.
2-2818
Note, D.C. Code,
sec. 23-101
(1985 supp.)

Sec. 20. Injunctions.

Whenever the Mayor finds that any person has engaged in, or is about to engage in, the unlawful practice of funeral directing or apprentice funeral directing, the

New,
D.C. Code, sec.
2-2819
(1985 supp.)

unlawful operation of a funeral services establishment, or any act which constitutes or will constitute a violation of any provision of this act or rules and regulations issued pursuant thereto, the Mayor may make application to the Superior Court of the District of Columbia for an order enjoining unlawful practice or act. Upon a showing by the Mayor that person has engaged in, or is about to engage in, any unlawful practice or act, an injunction, restraining orders, or other orders as may be appropriate may be granted by the Court without bond.

Sec. 21. Severability.

Note, D.C. Code, secs. 2-2801 to 2-2819 (1985 supp.)

If any provision of this act or the application thereof to any person or circumstance is held to be unconstitutional or beyond the statutory authority of the Council of the District of Columbia, or otherwise invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 22. Repealers.

D.C. Code, sec. 47-2843 repealed (1981 ed.)

(a) Paragraph 44A of section 7 of An Act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1903, and for other purposes, approved August 1, 1947 (61 Stat. 711; D.C. Code, sec. 47-2843), is repealed.

(b) Rules and Regulations Governing the Licensing of Undertakers and Apprentice Undertakers within the District of Columbia ("Undertakers Regulations"), promulgated March

23, 1954 (to take effect May 1, 1954)(C.O. 54-644; 17 DCMR chapter 23), are repealed.

(c) The Board of Funeral Directors and Embalmers, established pursuant to paragraph 44A(d)(2) of section 7 of An Act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1903, and for other purposes, approved August 1, 1947 (61 Stat. 712; D.C. Code, sec. 47-2843(d)(2)), is abolished on the date that the final member of the Board of Funeral Directors established under section 4 takes office.

Sec. 23. Effective Date.

This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act approved

December 24, 1973 (87 Stat. 813; D.C. Code, sec.

1-233(c)(1)).

Carroll A. Burke
 Chairman
 Council of the District of Columbia

M. Anthony
 Mayor
 District of Columbia
 APPROVED: March 29, 1984



COUNCIL OF THE DISTRICT OF COLUMBIA
Council Period Five — Second Session

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: Bill 5-7

Item on Consent Calendar

ACTION & DATE: Adopted First Reading, February 28, 1984

VOICE VOTE: Unanimous

Recorded vote on request

Absent: All Present

ROLL CALL VOTE: — RESULT _____ (/ /)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MOORE, JR.					SPAULDING				
CRAWFORD					RAY					WILSON				
JARVIS					ROLARK					WINTER				
KANE					SHACKLETON									
MASON					SMITH, JR.									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Russell Smith
 Secretary to the Council

3/16/84
 Date

Item on Consent Calendar

ACTION & DATE: Adopted Final Reading, March 13, 1984

VOICE VOTE: Unanimous

Recorded vote on request

Absent: Jarvis

ROLL CALL VOTE: — RESULT _____ (/ /)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MOORE, JR.					SPAULDING				
CRAWFORD					RAY					WILSON				
JARVIS					ROLARK					WINTER				
KANE					SHACKLETON									
MASON					SMITH, JR.									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Russell Smith
 Secretary to the Council

3/16/84
 Date

Item on Consent Calendar

ACTION & DATE: _____

VOICE VOTE: _____

Recorded vote on request

Absent: _____

ROLL CALL VOTE: — RESULT _____ (/ /)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MOORE, JR.					SPAULDING				
CRAWFORD					RAY					WILSON				
JARVIS					ROLARK					WINTER				
KANE					SHACKLETON									
MASON					SMITH, JR.									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Secretary to the Council

Date