

CHAPTER 38

SENATE BILL No. 72

AN ACT concerning mortuary arts; relating to funeral directors and licenses; amending K.S.A. 65-1713 and K.S.A. 2006 Supp. 65-1751 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 65-1713 is hereby amended to read as follows: 65-1713. (a) A “funeral director” is a person engaged in or conducting, or holding ~~himself~~ *oneself* out as engaged in or conducting, the business of —:

~~(a)~~ (1) Preparing dead human bodies, other than by embalming, for ~~burial or disposal~~ *disposition*; or

~~(b)~~ (2) *Meeting with families for the purpose of making at-need funeral arrangements; or*

(3) Directing and supervising the ~~burial or disposal~~ *disposition* of dead human bodies; or

~~(c)~~ (4) Providing or maintaining a ~~place for the preparation or the disposition or the care of dead human bodies, or funeral establishment, branch funeral establishment or crematory.~~

~~(d)~~ (b) ~~Who~~ A funeral director shall, in connection with ~~his~~ *such person's* name or business, use the words “funeral director,” “undertaker,” “mortician,” or any other title implying that ~~he~~ *such person* is engaged in the business herein described.

Sec. 2. K.S.A. 2006 Supp. 65-1751 is hereby amended to read as follows: 65-1751. (a) The state board of mortuary arts may refuse to issue or renew a license, may condition, limit, revoke or suspend a license or may publicly or privately censure a licensee, or may impose a fine not to exceed \$1,000 per violation upon a finding that a licensee or an applicant for a license:

(1) Has made any misleading, deceptive, untrue or fraudulent statements in applying for or securing an original or renewal license;

(2) has committed an act of unprofessional or dishonorable conduct or professional incompetency;

(3) has been convicted of a felony, and the licensee or applicant for a license is unable to demonstrate to the board's satisfaction that such person has been sufficiently rehabilitated to warrant the public trust, ~~or~~, has been convicted of any offense involving moral turpitude or has been convicted of criminal desecration *or any other crime which reflects on the licensee's fitness to practice*;

(4) has violated any law, ordinance or rule and regulation affecting the handling, custody, care or transportation of dead human bodies;

(5) is rendered unfit or unable to practice embalming or funeral directing by reason of illness, alcohol, chemicals or other types of substances, or as a result of any mental or physical condition as determined by the board after receiving the results of an evaluation by a person licensed to practice medicine and surgery or a person licensed to diagnose and treat mental illness, or both, as directed by the board;

(6) has failed or refused to properly protect or guard against contagious, communicable or infectious disease, or the spreading thereof;

(7) has refused to surrender a dead human body upon the request of the next of kin, or legal representative, if there is no next of kin, or person entitled to the custody and control of the body if there is no next of kin available and no legal representative qualified to act;

(8) or the agent, employee or representative thereof, has advertised, solicited or sold merchandise or services in a manner which is fraudulent, deceptive or misleading in form or content;

(9) or the agent, employee or representative thereof, has engaged in the uninvited, in-person solicitation of an actual or potential customer, who, because of the customer's particular circumstances, was vulnerable to undue influence, intimidation, coercion or overreaching or has violated a provision of K.S.A. 65-1752 and amendments thereto;

(10) or the agent, employee or representative thereof, has knowingly engaged in at-need solicitation;

(11) has used or employed, directly or indirectly, any agent, representative or person, for the purpose of contacting public officials or agents of institutions by whose influence dead human bodies may be turned over to a particular licensee or funeral establishment;

(12) has aided or abetted an unlicensed person to practice any activity for which a license is required under article 17 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto;

(13) has had a license to practice embalming or funeral directing revoked or suspended, has been censured or has had other disciplinary action taken against oneself or has had an application for a license denied by the proper licensing authority of another state, territory, District of Columbia or other country, an attested copy of the record of the action of the other jurisdiction being presumptive evidence thereof;

(14) has cheated on or attempted to subvert the validity of the examination for a license;

(15) has been found to be mentally ill, mentally disabled, not guilty by reason of insanity, not guilty because the licensee suffers from a mental disease or defect or incompetent to stand trial by a court of competent jurisdiction;

(16) has failed to furnish the board, or its investigators or representatives, any information legally requested by the board;

(17) has failed to report to the board any adverse action taken against the licensee by another state or licensing jurisdiction, a professional association or society, a governmental agency, by a law enforcement agency or a court for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(18) has an adverse judgment, award or settlement against the licensee resulting from the practice of funeral directing or embalming which related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section or has failed to report such matter to the board;

(19) has knowingly submitted any misleading, deceptive, untrue or fraudulent representation on a claim form, bill or statement;

(20) has violated any lawful rules and regulations promulgated by the board or any state or federal law *including the federal trade commission's funeral rule* related to the practice of funeral directing, embalming, cremation or funeral establishments;

(21) has failed to pay any fee required under this act;

(22) has been found *liable for or* guilty of negligence, incompetence, fraud, misrepresentation or deceit in connection with services rendered as a licensee *by a court of competent jurisdiction*;

(23) has provided misleading, fraudulent or deceptive statements to the board, its investigators or its representatives, when information is legally requested; or

(24) has provided misleading, fraudulent or deceptive information when filing a death certificate.

(b) The board may adopt rules and regulations defining, construing and interpreting the above grounds for licensure action. All administrative proceedings taken by the board pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(c) As used in this section:

(1) "License" means an embalmer's license, funeral director's license, assistant funeral director's license, funeral establishment license, crematory license or branch establishment license.

(2) "At-need solicitation" means any uninvited contact for the purpose of the sale, or attempted sale, of funeral services or merchandise to the family or next of kin of a person after the person's death, or where death is imminent.

Sec. 3. K.S.A. 65-1713 and K.S.A. 2006 Supp. 65-1751 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Approved March 28, 2007.

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