SB94

127666-3

By Senators Keahey and Ward

RFD: Judiciary

First Read: 01-MAR-11
ENROLLED, An Act,

Relating to the Alabama Board of Funeral Service; to amend Sections 34-13-1, 34-13-7, 34-13-9, 34-13-11, 34-13-12, 34-13-20, 34-13-22, 34-13-23, 34-13-26, 34-13-50, 34-13-51, 34-13-52, 34-13-53, 34-13-55, 34-13-56, 34-13-70, 34-13-72, 34-13-73, 34-13-74, 34-13-90, 34-13-94, 34-13-111, 34-13-113, 34-13-114, 34-13-115, 34-13-116, 34-13-120, and 34-13-130, Code of Alabama 1975, to define mortuary service and provide further for the contents and square footage of a funeral establishment and mortuary service; to increase the maximum fine for funeral directing or operating a funeral establishment without a license; to require all funeral service, cemetery service, and funeral merchandise pricing to conform to Federal Trade Commission rules; to specify who may enter into a preneed contract; to revise the law relating authorizing an agent for the purpose of directing the disposition of remains and arranging for funeral services; to further limit the liability of a funeral director who relies upon an authorized agent; to provide further for diversity in the membership of the board; to authorize the board to delegate administration of license examinations; to increase the number of days per year board members may receive per diem
from 10 to 20; to provide for the filing of a complaint against a licensee and provide procedures for conducting hearings; to require an applicant for licensure as a funeral director to have graduated from an approved embalming school or college; to increase the reciprocal license fees; to provide for a temporary special work permit; to require the public display of certificates of licensure; to increase annual license renewal fees and reinstatement fees for funeral directors, embalmers, and operators; to include failure to cooperate with the board as a ground for punishment of a licensee and to increase fines for violations; to increase the application fee and examination fees for funeral directors; to specify subjects and passing grade for the funeral directors examination; to increase the fee for a special operating permit; to increase the application fee and examination fee for licensure as an embalmer; to specify the passing grade for the embalmer's license examination; to increase the funeral establishment license inspection fee, reinspection fee, annual inspection fee, location transfer fee, and new branch or location fee; to increase the application fee for a license to operate a funeral establishment and provide further for the contents of a funeral establishment; to require the submission of an application, payment of an application fee, and an inspection prior to operating a mortuary service; to increase the fee and charge a fee for changing the name of a funeral
establishment or mortuary service; to authorize the board to
revoke, suspend, or refuse to renew the license of a mortuary
service; to increase the fine imposed upon any person, firm,
partnership, society, group, or corporation failing to
register a funeral home, mortuary, chapel, funeral
establishment, or mortuary service; to prohibit any crematory
facility from cremating deceased animals; to delete certain
antiquated language pertaining to an apprentice certificate or
license; to repeal Section 34-13-28, Code of Alabama 1975,
providing for the reporting of receipts and disbursements of
the board to the Governor and the Legislature; and to repeal
Article 4, consisting of Sections 34-13-150, 34-13-151, and
34-13-152, of Chapter 13, Title 34, Code of Alabama 1975,
relating to donor eye enucleation licenses; and to specify an
effective date.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 34-13-1, 34-13-7, 34-13-9,
34-13-120, and 34-13-130 of the Code of Alabama 1975, are
amended to read as follows:

"§34-13-1.
"(a) For purposes of this chapter, the following terms shall have the following meanings:

"(1) ACCREDITED SCHOOL or COLLEGE OF MORTUARY SCIENCE. A school or college approved by the Alabama Board of Funeral Service and which maintains a course of instruction of not less than 48 calendar weeks or four academic quarters or college terms and which gives a course of instruction in the fundamental subjects including, but not limited to, the following:

"a. Mortuary management and administration.

"b. Legal medicine and toxicology as it pertains to funeral directing.

"c. Public health, hygiene, and sanitary science.

"d. Mortuary science, to include embalming technique, in all its aspects; chemistry of embalming, color harmony; discoloration, its causes, effects, and treatment; treatment of special cases; restorative art; funeral management; and professional ethics.

"e. Anatomy and physiology.

"f. Chemistry, organic and inorganic.

"g. Pathology.

"h. Bacteriology.

"i. Sanitation and hygiene.

"j. Public health regulations.
"k. Other courses of instruction in fundamental subjects as may be prescribed by the Alabama Board of Funeral Service.

"(2) AMERICAN BOARD OF FUNERAL SERVICE EDUCATION. That funeral service educational organization which is an agency granted official recognition by the United States Secretary of Education and which is composed of members representing the American Association of College of Mortuary Science, the Conference of Funeral Service Examining Board of the United States, Inc., the National Association of Colleges of Mortuary Science, and the University Mortuary Science Education Association and which has as its object the furtherance of education in the field of funeral service and in fields necessary to, or allied with, the field of funeral service, and further to formulate standards of funeral service education and to grant accreditation to qualified schools and colleges of mortuary science and to do all things incidental to the foregoing.

"(3) APPRENTICE EMBALMER or EMBALMER'S APPRENTICE. Any person engaged in the study of the art of embalming under the instructions and supervision of a licensed embalmer practicing in this state.

"(4) APPRENTICE FUNERAL DIRECTOR or FUNERAL DIRECTOR'S APPRENTICE. Any person operating under or in association with a funeral director for the purpose of
learning the business or profession of funeral director, to
the end that he or she may become licensed under this chapter.

"(5) AUTHORIZING AGENT. A person at least 18 years
of age, except in the case of a surviving spouse or parent,
who is legally entitled to order the cremation or final
disposition of particular human remains.

"(6) BOARD. The Alabama Board of Funeral Service.

"(7) CEMETERY. A place dedicated to and used or
intended to be used for the permanent interment of human
remains. It may be either land or earth interment; a mausoleum
for vault or crypt entombment; a structure or place used or
intended to be used for the interment of cremated remains;
cryogenic storage; or any combination of one or more thereof.

"(8) CEMETERY AUTHORITY. Any individual, person,
firm, profit or nonprofit corporation, trustee, partnership,
society, religious society, church, association or
denomination, municipality, or other group or entity, however
organized, insofar as they or any of them may now or hereafter
establish, own, operate, lease, control, or manage one or more
cemeteries, burial parks, mausoleums, columbariums, or any
combination or variation thereof, or hold lands or structures
for burial grounds or burial purposes in this state and engage
in the operation of a cemetery, including any one or more of
the following: The care and maintenance of a cemetery; the
interment, entombment, and memorialization of the human dead
in a cemetery; the sale, installation, care, maintenance, or any combination thereof, with respect of monuments, markers, foundations, memorials, burial vaults, urns, crypts, mausoleums, columbariums, flower vases, floral arrangements, and other cemetery accessories, for installation or use within a cemetery; and the supervision and conduct of funeral and burial services within the bounds of the cemetery. It is the legislative intent of this chapter that a cemetery authority, to the extent that it engages in any of the activities described in this subdivision, shall not be affected by this chapter and shall not be deemed to have entered into or engaged in the practice of funeral directing, embalming, or funeral establishment operation.

"(9) CREMATION. The technical process, using heat and flame, that reduces human remains to bone fragments. The reduction takes place through heat and evaporation. Cremation shall include the processing, and may include the pulverization, of the bone fragments.

"(10) CREMATIONIST. A person who performs the procedure of cremation.

"(11) CREMATORIAL. A building or portion of a building that houses a retort and that may house a holding facility for purposes of cremation and as part of a funeral establishment.

"(12) EMBALMER. Any person engaged or holding himself or herself out as engaged in the business, practice,
science, or profession of embalming, whether on his or her own behalf or in the employ of a registered and licensed funeral director.

"(13) EMBALMING. The practice, science, or profession, as commonly practiced, of preserving, disinfecting, and preparing by application of chemicals or other effectual methods, human dead for burial, cremation, or transportation.

"(14) FUNERAL. A ceremony for celebrating, sanctifying, or remembering the life of a person who has died. A funeral may be divided into the following two parts:

"a. The funeral service, which may take place at a funeral home, church, or other place.

"b. The disposition, which may take place by the grave, tomb, mausoleum, or crematory where the body of the decedent is to be buried or cremated.

"(15) FUNERAL DIRECTING. The practice of directing or supervising funerals, the practice of preparing dead human bodies for burial by means other than embalming, or the preparation for the disposition of dead human bodies; the making of arrangements or providing for funeral services or the making of financial arrangements for the rendering of these services or the sale of this merchandise or supplies; the provision or maintenance of a place for the preparation for disposition of dead human bodies; or the use of the terms
funeral director, undertaker, mortician, funeral parlor, or any other term from which can be implied the practice of funeral directing; or the holding out to the public that one is a funeral director or engaged in a practice described in this subdivision.

"(16) FUNERAL DIRECTOR. A person required to be licensed to practice the profession of funeral directing under the laws of this state, who meets the public, who plans details of funeral services with members of the family and minister or any other person responsible for such planning, or who directs, is in charge, or apparent charge of, and supervises funeral service in a funeral home, church, or other place; who enters into the making, negotiation, or completion of financial arrangements for funerals, including, but not limited to, the sale and selection of funeral supplies, or who uses in connection with the profession of funeral directing the terms funeral director, undertaker, funeral counselor, mortician, or any other term or picture or combination thereof when considered in context in which used, from which can be implied the practicing of the profession of funeral directing or that the person using such term or picture can be implied to be holding himself or herself out to the public as being engaged in the profession of funeral directing; and for all purposes under Alabama law, a funeral director is considered a
professional. For the purposes of this chapter, the term does
not include any cemetery authority.

"(17) FUNERAL ESTABLISHMENTS. The term includes any
funeral home or mortuary service located at a specific street
address where the profession of funeral directing, embalming,
or cremation is practiced in the care, planning, and
preparation for burial or cremation or transportation of human
dead. The term does not include any cemetery or land or
structure owned, operated, leased, controlled, or managed by
any cemetery authority as a cemetery. A funeral establishment
shall consist of and maintain all of the following facilities:

"a. A preparation room equipped with sanitary
nonporous floor and walls, necessary drainage and ventilation,
and containing operating embalming equipment, necessary
approved tables, instruments, hot and cold running water,
containers or receptacles for soiled linen or clothing, and
supplies for the preparation and embalming of dead human
bodies for burial, cremation, and transportation.

"b. A display room containing a stock of adult
caskets and funeral supplies displayed in full size, cuts,
photographs, or electronic images. At no time shall less than
eight different adult size caskets be on the premises.

"c. At least one operating funeral coach or hearse
properly licensed and equipped for transporting human remains
in a casket or urn.
"d. If engaged in the practice of cremation, at least one operable retort for cremation and an adequate supply of urns for display and sale.

e. A room suitable for public viewing or other funeral services that is able to accommodate a minimum of 100 people.

f. An office for holding arrangement conferences with relatives or authorizing agents.

"(18) FUNERAL SUPPLIES or FUNERAL MERCHANDISE. Caskets made of any material for use in the burial or transportation of human dead; outer receptacles, when sold by a funeral director, including burial vaults and urns, for cremated human remains; clothing used to dress human dead when sold by a funeral director; and all equipment and accouterments normally required for the preparation for burial or funeral and other disposition of human dead.

"(19) MANAGING EMBALMER. A licensed embalmer who has full charge, control, and supervision of all activities involving the preparation room and embalming.

"(20) MANAGING FUNERAL DIRECTOR. A licensed funeral director who has full charge, control, and supervision of all activities involving funeral directing at a funeral establishment.

"(21) MORTUARY SCIENCE. The scientific, professional, and practical aspects, with due consideration
given to accepted practices, covering the care, preparation for burial, or transportation of dead human bodies, which shall include the preservation and sanitation of the bodies and restorative art and those aspects related to public health, jurisprudence, and good business administration.

"(22) MORTUARY SERVICE. A location with a specific street address where embalming or cremation, or both, is practiced for a licensed funeral establishment and where no services or merchandise are sold directly or at retail to the public. A mortuary service shall consist of and maintain all of the following facilities:

"a. A preparation room equipped with sanitary nonporous floor and walls, operating embalming equipment, and necessary drainage and ventilation and containing necessary approved tables, instruments, hot and cold running water, containers or receptacles for soiled linen or clothing, and supplies for the preparation and embalming of dead human bodies for burial, cremation, and transportation.

"b. At least one operating motor vehicle properly licensed and equipped for transporting human remains in a casket or urn.

"c. If engaged in the practice of cremation, at least one operable retort for cremation.
"(23) OPERATOR. A person, corporation, firm, legal representative, or other organization owning or operating a funeral establishment.

"(24) PRACTICAL EMBALMERS. Any person who has been actively and continuously engaged or employed in the practice of embalming under the supervision of a licensed embalmer for four consecutive years immediately preceding May 1, 1975, and has been issued a license as a practical embalmer under the grandfather provisions of this chapter.

"(25) PROCESSING or PULVERIZATION. The reduction of identifiable bone fragments after the completion of the cremation process to unidentifiable bone fragments or granulated particles by manual or mechanical means.

"(26) RETORT. An enclosed space within which the cremation process takes place.

"(27) TEMPORARY CONTAINER. A receptacle for cremated remains, usually composed of cardboard, plastic, or similar material, that can be closed in a manner that prevents the leakage or spillage of the cremated remains or the entrance of foreign material, and is a single container of sufficient size to hold the cremated remains until an urn is acquired or the cremated remains are scattered or buried.

"(28) URN. A receptacle designed to encase cremated remains.
"(b) Nothing in this chapter shall require a funeral director or funeral establishment to have or provide a chapel or to restrict the conduct of funeral services from a church or chapel.

"(c) Nothing contained in the definition of funeral directing, or in any other provision of this chapter, shall be applicable to or regulate or restrict cemetery authorities in the conduct of activities of a cemetery authority; or be applicable to or regulate or restrict the carrying on by any cemetery authority of any activities, functions, practices, and services which may now or hereafter (1) constitute any part of the operation or management of a cemetery or of the property of a cemetery or (2) otherwise consist of the interment or entombment of the human dead or memorialization of the human dead in any manner within a cemetery property.

"§34-13-7.

"Any person who embezzles, abstracts, or willfully misapplies any of the moneys, funds, security, or credit of the board or who misuses any of the funds or fees so collected, by virtue of this chapter, and any person who, with like intent, aids or abets any person in violation of this chapter shall be guilty of a felony and, upon conviction, shall be punished by a fine of not less than five hundred dollars ($500) nor exceeding five thousand dollars ($5,000) and imprisonment in the penitentiary for a period of not less
than one year and not more than five years, and the principal offenders and those aiding and abetting same may be charged in the same count, and separate offenses may be charged, in separate counts, in the same indictment and tried together.

Any person found guilty of offering or of accepting a bribe whereupon any person is illegally licensed to practice embalming, to practice funeral directing, or to operate a funeral establishment in this state shall be punished by a fine of not less than five hundred dollars ($500) nor exceeding ten thousand dollars ($10,000) and may be imprisoned in the penitentiary for a period of one to three years, and the principal offenders and those aiding and abetting same may be charged in the same count and separate offenses may be charged in separate counts in the same indictment and tried together.

"§34-13-9.

"Funeral service, cemetery service, and funeral merchandise pricing shall conform to rules established by the Federal Trade Commission.

"§34-13-11.

"(a) A person, who is at least 18 years of age and of sound mind, may enter into a contract to act as authorizing agent and direct the location, manner, and conditions of disposition of remains and arrange for funeral goods and services to be provided upon death. Except as otherwise
provided in subsection (b), the right to control the
disposition of the remains of a deceased person as an
authorizing agent, including the location, manner, and
conditions of disposition and arrangements for funeral goods
and services to be provided, shall vest in the following
persons in the priority listed and the order named, provided
the person is at least 18 years of age and of sound mind:

"(1) The person designated by the decedent as
authorized to direct disposition pursuant to Public Law No.
109-163, Section 564, as listed on the decedent's United
States Department of Defense Record of Emergency Data, DD Form
93, or its successor form, if the decedent died while serving
on active duty in any branch of the United States Armed
Forces, United States Reserve Forces, or National Guard.

"(2)a. The person designated by the decedent in an
affidavit executed in accordance with paragraph b.

"b. Any person, at least 18 years of age and of
sound mind, may authorize another person to control the
disposition of his or her remains pursuant to an affidavit
executed before a notary public in substantially the following
form:

""State of Alabama

"County of ______

"I, ________________ designate ________________ to
control the disposition of my remains upon my death. I __ have
have not attached specific directions concerning the
disposition of my remains. If specific directions are
attached, the designee shall substantially comply with those
directions, provided the directions are lawful and there are
sufficient resources in my estate to carry out those
directions.

"Subscribed and sworn to before me this ___ day of
the month of ____ of the year ____.

__________________(signature of notary public)"

"(3) The surviving spouse.

"(4) The sole surviving child of the decedent or, if
there is more than one surviving child, a majority of the
surviving children. Less than a majority of the surviving
children may be vested with the rights of this section if
reasonable efforts have been made to notify all surviving
children of the instructions and a majority of the surviving
children are not aware of any opposition to the instructions.

"(5) The surviving parent or parents of the
decedent. If one surviving parent is absent, the remaining
parent shall be vested with the rights and duties of this
section after reasonable efforts in locating the absent
surviving parent have been unsuccessful.

"(6) The surviving sibling of the decedent or, if
there is more than one surviving sibling, a majority of the
surviving siblings. Less than a majority of the surviving
siblings may be vested with the rights and duties of this section if reasonable efforts have been made to notify all surviving siblings of the instructions and a majority of the surviving siblings are not aware of any opposition to the instructions.

"(7) The surviving grandparent of the decedent or, if there is more than one surviving grandparent, a majority of the surviving grandparents. Less than a majority of the surviving grandparents may be vested with the rights and duties of this section if reasonable efforts have been made to notify all surviving grandparents of the instructions and a majority of the surviving grandparents are not aware of any opposition to the instructions.

"(8) The guardian of the decedent at the time of the death of the decedent, if a guardian had been appointed.

"(9) The personal representative of the estate of the decedent.

"(10) The person in the classes of the next degree of kinship, in descending order, under the laws of descent and distribution to inherit the estate of the decedent. If there is more than one person of the same degree, any person of that degree may exercise the right of disposition.

"(11) The public officer, administrator, or employee responsible for arranging the final disposition of the remains of the decedent if the disposition of the remains is the
responsibility of the state or a political subdivision of the state.

"(12) Any other person willing to assume the responsibility of acting on and arranging the final disposition of the remains of the decedent, including the funeral director that has custody of the body, in the absence of any person specified in subdivisions (1) to (11), inclusive. The person shall attest in writing that good faith efforts to contact the persons specified in subdivisions (1) to (11), inclusive, have been unsuccessful.

"(b) The right of disposition shall be forfeited and passed to the next qualifying person listed in subsection (a), in any of the following circumstances:

"(1) The person is charged with first or second degree murder or voluntary manslaughter in connection with the death of the decedent and the charges are known by the mortician. If the charges against the person are dismissed or the person is acquitted of the charges, the right of disposition shall be reinstated.

"(2) The person does not exercise his or her right of disposition within two days after notification of the death of the decedent or within three days after the death of the decedent, whichever is earlier.
"(3) If the person is the spouse of the decedent and a petition to dissolve the marriage was pending at the time of death of the decedent.

"(4) If the judge of probate court determines, pursuant to subsection (c), that the person entitled to the right of disposition and the decedent were estranged at the time of death. For the purposes of this subdivision, estranged means a physical and emotional separation that has existed for such a period of time that an absence of affection, trust, and regard for the decedent is clearly demonstrated.

"(c) Notwithstanding subsections (a) and (b), the judge of probate of the county of residence of the decedent may award the right of disposition to the person the judge of probate determines to be the most fit and appropriate to manage the right of disposition, and may make decisions regarding the remains of the decedent if the persons possessing the right of disposition do not agree. If two or more persons who possess an equal right of disposition are not able by majority vote to agree upon the disposition of the remains of the decedent, any of those persons or the funeral establishment with custody of the remains may file a petition asking the judge of probate to make a determination in the matter. In making such a determination, the judge of probate shall consider all of the following:
"(1) The reasonableness and practicality of the proposed funeral and disposition arrangements.

"(2) The degree of the personal relationship between the decedent and each person possessing a right of disposition.

"(3) The financial ability and willingness of each person possessing a right of disposition to pay the cost of the funeral and disposition arrangements.

"(4) The convenience and needs of other family members and friends who wish to pay their respects and the degree to which the funeral arrangements would allow maximum participation by all who wish to pay their respects.

"(5) The desires of the decedent.

"(d) Absent negligence, wantonness, recklessness, or deliberate misconduct in the event of a dispute regarding the right of disposition, a funeral establishment may not be held liable for refusing to accept remains, for interring, or for otherwise disposing of the remains of a decedent or for completing arrangements for the final disposition of remains unless and until the funeral establishment receives an order from the judge of probate, or other written agreement signed by all persons possessing a right of disposition, regarding the final disposition of the remains. If a funeral establishment retains remains for final disposition during a disagreement, the funeral establishment may embalm or
refrigerate and shelter the body, or both, to preserve the
body pending the final decision of the judge of probate. The
funeral establishment may add the cost of embalming or
refrigeration and sheltering, or both, to the final
disposition cost. If a funeral establishment files a petition
pursuant to subsection (c), the funeral establishment may add
any associated legal fees and court costs to the cost of final
disposition. This section may not be construed to require or
impose a duty upon a funeral establishment to bring an action
pursuant to this section. A funeral establishment and its
employees may not be held criminally or civilly liable for not
bringing an action pursuant to this section.

"(e) Except to the degree that it may be considered
by the judge of probate pursuant to subdivision (3) of
subsection (c), the fact that a person has paid or has agreed
to pay for all or a part of funeral and final disposition
arrangements does not give that person a greater voice in
right of disposition decisions than he or she would have had
otherwise. The personal representative of the estate of a
decedent, by virtue of being the personal representative, does
not have a greater voice in right of disposition decisions
than he or she would have had otherwise.

"§34-13-12.

"(a) Any person signing a funeral service agreement,
cremation authorization form, or any other authorization for
disposition by his or her signature shall attest to the truthfulness of any facts set forth in the document including, but not limited to, the identity of the decedent whose remains are to be buried, cremated, or otherwise disposed of and the authority of the person to order the disposition. A funeral establishment may rely on a funeral service agreement, contract, or authorization in carrying out the instructions of the person the funeral establishment reasonably believes to hold the right of disposition. A funeral establishment is not responsible for contacting or independently investigating the existence of any next-of-kin or relative of a decedent. If there is more than one person in a class with equal priority and the funeral establishment has no knowledge of any objection by any other member of that class, the funeral establishment may rely upon and act according to the instructions of the first person in the class to make funeral and disposition arrangements.

"(b) Absent negligence, wantonness, recklessness, or deliberate misconduct, no funeral establishment or funeral director who relies in good faith upon the instructions of a person who claims a right of disposition shall be subject to criminal or civil liability, or be subject to disciplinary action, for carrying out the disposition of the remains in accordance with those instructions.

"§34-13-20."
"(a) There is established the Alabama Board of Funeral Service, consisting of seven members, each of whom shall be citizens of the United States and of the State of Alabama. All members of the former Alabama Embalming Board who are holding office on September 10, 1975, by virtue of that office, shall become members of the Alabama Board of Funeral Service for the term ending December 31, 1976. Not more than one member of the Alabama Board of Funeral Service may reside in the same district as created under Section 34-13-21, and if more than one member of the State Embalming Board resides in one district at the time of the organization of the board, the Governor shall select one member of the Embalming Board to be a member of the original Alabama Board of Funeral Service from the district, and the other member of the Embalming Board shall not be eligible for membership on the board.

"(b) At a special meeting called for such purpose, to be held in Montgomery, within 45 days from September 10, 1975, the Alabama Funeral Directors Association, Incorporated, and the Alabama Funeral Directors and Morticians Association, Incorporated, in joint meeting, shall nominate three qualified persons for each of the positions as members of the original board of the Alabama Board of Funeral Service which are not filled by members of the State Embalming Board. The names of such persons so nominated shall be promptly certified by the secretary of the Alabama Funeral Directors Association,
Incorporated, and the Alabama Funeral Directors and Morticians Association, Incorporated, to the Governor who shall appoint the members of the board from among the persons so nominated. Not more than four members of the board at any time may be members of the same race and the membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state. The board shall annually report to the Legislature by the second legislative day of each regular session the extent to which the board has complied with the diversity provisions provided for in this subsection. The board shall annually report to the Legislature by the second legislative day of each regular session the extent to which the board has complied with the diversity provisions provided for in this subsection. Four members shall be appointed for a term ending December 31, 1977, and the board shall be constituted so that the terms of three members of the board shall end December 31, 1976, and the terms of four members shall end December 31, 1977. The terms of the members of the State Embalming Board, who become members of the Alabama Board of Funeral Service under this chapter, shall expire December 31, 1976, unless there are more than three such members, in which event, the Governor shall designate which of the three members of the State Embalming Board shall serve for terms ending December 31, 1976, and which shall serve for terms ending December 31, 1977.
"(c) After selection of the original members of the Alabama Board of Funeral Service and during October of each year, all embalmers and all funeral directors licensed under this chapter shall meet in Montgomery, at a time and date in October and at a place fixed by the board, for the purpose of nominating three persons to the Governor for each vacancy on the board. Not more than two nominees shall be members of the same race. The Governor shall promptly appoint one of the three persons so nominated.

"(d) The successors to the original members of the board shall be selected for terms of two years. After the terms of the original members of the board, four of the members serving on the board shall be practicing and licensed embalmers in Alabama for the last 10 consecutive years immediately preceding their appointment and shall be licensed embalmers and funeral directors in this state under this chapter. Three of the members shall have been actively engaged in funeral directing in Alabama for the last 10 consecutive years preceding their appointment and shall be licensed funeral directors of this state, under this chapter, and, at the time of their appointment to the board, shall be operators of funeral establishments in this state. If the license of a member of the board as a funeral director or embalmer should be revoked or suspended, such member shall automatically, by reason of such revocation or suspension, become ineligible to
serve as a member of the board, and a new member, properly qualified, shall be selected in the same manner provided for appointment to the board. Should a member fail to qualify after appointment, then he or she shall automatically become ineligible to serve as a member of the board, and a new member, properly qualified, shall be appointed and shall serve the remainder of the term of the member so terminated. Each member of the board shall remain an active practicing funeral director or embalmer and funeral establishment operator during his or her tenure of service on the board. Each member may serve not more than four consecutive two-year terms. In no event shall more than one member of the board reside in one district. At each meeting where nominations are made for members of the board, only one licensed funeral director or licensed embalmer of each establishment shall have the right to vote for nominees.

"(e) Any board member who is elected to the International Conference of Funeral Service Examining Board, upon his or her election, shall begin to serve the state board in an ex officio capacity only, for the duration of his or her international conference board term. A member, properly qualified, shall be selected in the same manner provided for appointment to the state board and shall serve the remainder of the term of the member elected to the international conference board.
"§34-13-22.

"The Alabama Board of Funeral Service shall hold not less than one meeting quarterly for the purpose of examining applicants for licenses, such meeting to be held at such time and place as the board may determine after notice of such meeting has been given in the manner prescribed herein at least 15 days prior to such meeting. The board shall not have power to delegate to any person who is not a member of the board the authority to conduct or administer an examination for a license. The board may hold such other meetings as it may deem necessary. Five or more members shall comprise a quorum. The board shall not meet on the premises of any embalming school or college of mortuary science; and, if any such meeting is held, all the proceedings of such meeting shall be void. If any application for license under this chapter is pending, the applicant or applicants shall be afforded the right to take the examination required hereunder at the date and place of such quarterly meeting.

"§34-13-23.

"(a)(1) The board appointed under this chapter and each successor thereto is authorized to select from its own membership a chair and to adopt and promulgate such rules and regulations for the transaction of its business and for the betterment and promotion of the standards of service and practice to be followed in the funeral service profession in
the State of Alabama as it may deem expedient and consistent
with the laws of this state and for the public good.

"(2) The chair shall preside at all meetings of the
board unless otherwise ordered, and he shall exercise and
perform all duties and functions incident to the office of
chair.

"(3) The board may select also from its own
membership a vice chair, a secretary, and a treasurer. No two
offices shall be held by the same person. The chair and vice
chair may not be of the same race.

"(b) The treasurer shall give bond to the State of
Alabama in the sum of ten thousand dollars ($10,000), and any
premium payable for the bond shall be paid from the funds of
the board. The bond shall be deposited with the Treasurer of
the State of Alabama.

"(c) Board members shall be reimbursed for their
necessary traveling expenses and the necessary expenses
incident to their attendance upon the business of the board,
and, in addition thereto, they shall receive the sum of fifty
dollars ($50) per diem for every day not to exceed 20 days per
year actually spent by the member upon the business of the
board. The board may employ an executive secretary and
associate executive secretary who shall each receive and be
paid an annual salary to be fixed by the board, but not to
exceed the salary level established and paid to cabinet
officers in the state government. The salary shall be paid on a monthly basis. In addition, the executive secretary and associate executive secretary shall receive his or her necessary traveling and other incidental expenses as are incurred in the performance of duties, and all expenses, per diem, and compensation shall be paid out of the receipts of the board. At no time shall the operation of the board be an expense to the state, and at no time shall expenses of the board exceed the receipts of the board.

"(d) The executive secretary of the board shall have complete supervision and be held responsible for the direction of the office of the board, shall have supervision over field inspection and enforcement of this chapter, and shall be responsible and answerable to the board. The associate executive secretary shall assist the executive secretary and perform such other duties as may be assigned to him or her by the board. The executive secretary and associate executive secretary shall not be of the same race.

"(e) The executive secretary shall keep a record in which shall be registered the name and business address of every person to whom licenses have been granted in accordance with this chapter, the number and date of the license and the date of each renewal. Upon request to do so, the executive secretary shall supply each person licensed for the practice of embalming and funeral directing with a list of all persons
and establishments holding a license under this chapter, then
in force, giving the names of the persons, their business
addresses, and the numbers of their licenses.

"(f) It shall be the duty of the executive secretary
to prepare under the direction of the board and cause to be
printed all forms required by this chapter to be prescribed by
the board. All notices required to be mailed by this chapter
shall be directed to the last known post office address of the
party to whom the notice is sent.

"(g) The executive secretary shall serve at the
pleasure of the board and shall perform duties as may be
necessary for the proper functioning of the board as the board
may determine or as may be prescribed in this chapter. During
the employment of the executive secretary he or she may not be
employed by any funeral establishment.

"(h) All fees and fines received under this chapter
shall be paid into a special fund in the State Treasury to be
known as the Alabama State Funeral Directors and Embalmers
Fund, which is hereby created, for the necessary and proper
expenses of the board, and for a reasonable reserve for future
use by the board. All moneys in the fund are hereby
appropriated, as a continuing appropriation, to the Alabama
Board of Funeral Service to be used for carrying out this
chapter.
(i) Each member of the board, the executive secretary, the associate executive secretary, and designated employees of the board appropriately identified are authorized at any given time on complaint or for inspection purposes to enter the office, premises, establishment, or place of business of any funeral service licensee in the State of Alabama or any office, premises, establishment, or place where the practice of funeral service is carried on, or where the practice is advertised as being carried on, for the purpose of inspecting the office, premises, or establishment and for the purpose of inspecting the license and registration of any funeral service licensee and apprentice trainee operating therein.

(j) All members of the board or designated employees of the board are hereby authorized to serve and execute any process issued by any court under this chapter and to serve and execute any papers or process issued by the board or any officer or member thereof under authority of this chapter.

(k) The board may employ clerical assistants and employees or other help as may be necessary to carry out this chapter, and the terms and conditions of employment shall be determined by the board. The board may establish and equip an office from which this chapter may be carried out.

"(a) The board has the power to adopt and enforce for the protection of the public health, safety, and welfare reasonable rules and regulations.

"(b) The rules and regulations of the board shall not become effective until they have been published and discussed at a public hearing and have been filed in the office of the Secretary of State; and, when so filed, such rules and regulations shall be in full force and have the effect of law. The board shall mail notice of such hearing to each licensee under this chapter 15 days before the date of such hearing.

"(c) All rules and regulations adopted by the board shall be referenced to the section or sections of this chapter which set forth the legislative standard which it interprets or to which it applies. Every rule and regulation shall be in writing, promulgated by an order, state its effective date, be indexed in a permanent book which shall be a permanent record, and a true copy shall be filed in the office of the Secretary of State of Alabama. A copy of every order promulgating a rule, regulation, or other order containing a requirement of general application shall be mailed to each licensee by first class mail. The failure of a licensee to receive a copy of the rule, regulation, or order shall not exempt or excuse him or her from the duty of compliance with the valid rules, regulations, or orders lawfully issued.
"(d) The board shall have power to hold hearings, conduct investigations, subpoena witnesses, administer oaths, and take testimony in order to carry out this chapter.

"(e) A court of competent jurisdiction, upon application of the board, may restrain violations or refusals to comply with this chapter or the regulations of the board.

"(f) Any person, including a member of the board, may initiate a complaint against a licensee of the board by filing with the board a written complaint on a form prescribed by the board.

"(1) Upon receipt of a properly verified complaint, the board shall send a copy of the complaint to the affected licensee by certified mail to the address of such licensee appearing on record with the board. The licensee shall answer the complaint in writing within 20 days after receipt of the complaint. The licensee shall mail a copy of his or her response to the board and the complainant. Upon receipt of the response of the licensee or lapse of 20 days, the board may investigate a complaint that appears to show the existence of any of the causes or grounds for disciplinary action pursuant to this chapter. Upon finding reasonable cause to believe that the charges are not frivolous, unfounded, or filed in bad faith, the board may cause a hearing to be held, at a time and place fixed by the board, regarding the charges. If a hearing is held, the board shall order the licensee to appear and show
cause why he or she should not be disciplined for a violation of this chapter.

"(2) The board shall give the complainant and the affected licensee 20 days' notice of any hearing upon a complaint. Such notice shall be by United States certified mail.

"(3) Any party appearing before the board may be accompanied by counsel.

"(4) Before commencing a hearing, the chair or a designee of the board shall determine if all parties are present and ready to proceed. If the complainant does not attend a hearing and does not show good cause for his or her absence, the complaint shall be summarily dismissed and all fees and expenses relating to the convening of the hearing shall be charged to the complainant. If an affected licensee does not appear for a hearing and does not show good cause for his or her absence, the licensee shall be presumed to have waived his or her right to appear before the board and be heard.

"(5) Upon a determination by the chair or designee that all parties are ready to proceed, the hearing shall be called to order. The complainant and the licensee may offer opening statements and the board may order the sequestration of nonparty witnesses.
"(6) After opening statements, the complainant shall present his or her case and the licensee, any counsel, and any member or designee of the board may ask questions of complainant witnesses.

"(7) After the complainant has completed presenting his or her case, the licensee shall present his or her case and the complainant, any counsel, and any member or designee of the board may ask questions of licensee witnesses.

"(8) After both sides have completed their presentations, closing statements may be given by the complainant and the licensee.

"(9) At the conclusion of the hearing, the board may render an immediate decision or take the case under advisement for further deliberation. A decision of the board shall be rendered within 90 days after the hearing and a copy of that decision shall be mailed to the last known business or residence address of the complainant and the licensee.

"(g) The board may file a formal complaint against a licensee and may temporarily suspend a license simultaneously with the institution of proceedings under this section, without a hearing, if the board finds that the evidence supporting the determination is clear, competent, and unequivocal and that the continuation of the licensee to practice would constitute a danger to public health or safety.

"§34-13-50."
"The Alabama Board of Funeral Service shall recognize and approve and accept applicants for examination from only those established embalming schools or colleges which are recognized by the board. The board shall recognize and approve any embalming school or college approved by the American Board of Funeral Service Education, and any additional embalming schools or colleges which offer courses of study which generally include the subjects set out in Section 34-13-94. The Alabama Board of Funeral Service shall not examine or issue an embalmer's license to any person who does not hold a certificate of graduation from an embalming school or college meeting the criteria or standards as defined in this section. The board may not examine or issue a funeral director's license to any person who does not hold a certificate of graduation from an embalming school or college meeting the criteria or standards defined in this section.

"§34-13-51.

"(a) The board may, but shall not be required to, recognize and issue, without examination and upon payment of a fee not in excess of five hundred dollars ($500) for each license, a reciprocal license for the practice of funeral directing or embalming to any person licensed as a funeral director or embalmer by any state, if the board makes an individual determination that the qualifications of the applicant meet or exceed the minimum qualifications required
for funeral directors or embalmers in this state and that a written examination of such applicant would be superfluous.

"(b) Applications shall be made on forms prescribed and furnished by the board. An applicant holding a funeral director or embalmer license from another state, and applying for a funeral director or embalmer license in Alabama shall be considered for licensing by reciprocity.

"(c) The board, at the time of the application, shall make a reasonable determination that the applicant is a legal resident of the United States or legally present in this state. The board reserves the right to require applicants for reciprocity to submit to a personal interview or a written examination relating to the law as it pertains to the regulation of the funeral service profession in Alabama.

"(d) The board shall issue a special work permit to a qualified funeral director or embalmer when the board determines that the applicant satisfies all requirements for reciprocity and a fee, not exceeding one hundred dollars ($100), is received by the board. A special work permit shall expire on the date of the next regular board meeting occurring after issuance.

"§34-13-52.

"(a) Licenses under this chapter shall be granted to individuals upon the qualification and successful examination of the individual applicant and shall specify the name to whom
it is issued. A license granted under this chapter shall be on public display.

"(b) A funeral establishment license issued under this chapter shall include the name of the funeral establishment, the name of the managing funeral director, the name of the managing embalmer, and the certificate of authority license number, if applicable. The license shall be on public display.

"(c) Every license issued under this chapter shall be signed by the chair and executive secretary and shall be displayed in the place of business or employment of the licensee.

"(d) Any person engaged in the business, profession, or practice of funeral directing shall do each of the following:

"(1) Posses on his or her person, or be able to promptly produce, a legible and current Alabama funeral director's wallet license certificate when performing the duties of a funeral director.

"(2) Upon the request of a board member, the executive secretary, the associate executive secretary, or a designated and appropriately identified employee of the board, promptly produce his or her legible and current Alabama funeral director wallet license certificate.
(e) Any person engaged in the business, profession, or practice of embalming shall do each of the following:

(1) Posses on his or her person, or be able to promptly produce, a legible and current Alabama embalmer's wallet license certificate when performing the duties of an embalmer.

(2) Upon the request of a board member, the executive secretary, the associate executive secretary, or a designated and appropriately identified employee of the board, promptly produce his or her legible and current Alabama embalmer wallet license certificate.

§34-13-53.

(a) Every licensed funeral director, every licensed embalmer, and every licensed operator shall pay annually a fee for renewal of his or her license. The renewal fees shall be set by the board at a rate not to exceed one hundred fifty dollars ($150) for licensed embalmers and funeral directors and five hundred dollars ($500) for licensed operators.

(b) All licenses granted under this chapter shall expire on October 1, following their issuance or renewal, and shall become invalid unless renewed as provided in this section. There shall be no proration of licenses.

(c) The board shall mail on or before August 1 of each year to each licensed funeral director, to each licensed embalmer, and to each licensed operator, addressed to him or
her at his or her last address, a notice that his or her
renewal fee is due and payable and that, if such fee is not
paid by October 1, the license shall lapse.

"(d) At the time, or before, a licensee changes
place of employment, residence address, or makes any other
change in status which is of record at the board office, the
licensee shall report such change of status, on a form
provided by the board, to the executive secretary.

"§34-13-55.

"(a) When a licensee, for any reason, has allowed
his or her license to lapse, the board may reinstate the
license if application for reinstatement is made within a
period of six months from the lapse and is accompanied by
payment of all penalties and lapsed fees, from the time of the
lapse to date of reinstatement. The penalties to be paid to
the board shall not exceed one hundred dollars ($100) to
reinstate licenses which have lapsed.

"(b) After the six-month period has elapsed, such
license may be reinstated only by complying with the
provisions relating to the issuance of an original license in
addition to payment of all lapsed fees and penalties.

"§34-13-56.

"(a) The board may refuse to grant, refuse to renew,
or suspend or revoke a license after proper hearing and notice
to the licensee, upon the licensee's being found guilty of any of the following:

"(1) Conviction of a crime involving moral turpitude.

"(2) Unprofessional conduct, which is defined to include any of the following:

"a. Misrepresentation or fraud in the conduct of the business or the profession of a funeral director or embalmer.

"b. False or misleading advertising as a funeral director or embalmer or knowingly engaging in any advertising which is misleading or inaccurate in any material particular.

"c. Solicitation of dead human bodies by the licensee, his or her agents, assistants, or employees, from medical professionals or clergy, whether the solicitation occurs after death or while death is impending.

"d. Employment by the licensee of a person or persons to be used for the purpose of obtaining or soliciting funeral directing or embalming business.

"e. Employment directly or indirectly of any apprentice, agent, assistant, embalmer, employee, or other person, on part or full time or on commission, for the purpose of calling upon individuals or institutions where a death has occurred or is imminent by whose influence dead human bodies may be turned over to a particular funeral director or embalmer or funeral establishment, or both.
"f. The buying of business by the licensee, his or her agents, assistants, or employees.

"g. Gross immorality.

"h. Aiding or abetting an unlicensed person to practice funeral directing or embalming.

"i. Using profane, indecent, or obscene language in the presence of a dead human body, or within the immediate hearing of the family or relative of a deceased whose body has not yet been interred or otherwise disposed of.

"j. Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in any mausoleum or cemetery.

"k. Any violation of this chapter.

"l. Any violation of state law or municipal or county ordinance or regulation affecting the handling, custody, care, or transportation of dead human bodies.

"m. Fraud or misrepresentation in obtaining a license.

"n. Refusing to promptly surrender the custody of a dead human body, upon the express order and payment for services rendered of the person lawfully entitled to the custody thereof.
"o. Performing services in a professional capacity as a funeral director or embalmer, or both, for any unlicensed funeral establishment operating in violation of this chapter.

"p. Being intoxicated or under the influence of illegal drugs while on duty at a funeral establishment.

"q. Willfully retaining or willfully failing to account for any property of a decedent.

"r. Knowingly and willfully signing a certificate as having embalmed or prepared a body for burial when, in fact the services were not performed by the licensee.

"s. Failure to give full cooperation to the board or its designees, agents, or other representatives in the performance of official duties of the board. Failure to give full cooperation includes, but is not limited to, any of the following:

"(i) Not furnishing any relevant papers or documents requested by or for the board.

"(ii) Not furnishing, in writing, an adequate explanation relating to a matter contained in a complaint filed with the board against the licensee.

"(iii) Not responding to a subpoena issued by the board, without good cause shown, whether or not the licensee is the party charged in any preceding before the board.

"(iv) Not providing reasonable access to the board or an authorized agent or representative of the board for the
performance of reviews or inspections at facilities or places
utilized by the licensee in the practice of funeral service or
funeral directing or in performing any other activity
regulated by the board.

"(v) Failing to provide information within a
specific time as required by the board or an authorized agent
or representative of the board.

"(vi) Failing to cooperate with the board or an
authorized agent or representative of the board in the
investigation of any alleged misconduct or interfering with a
board investigation through the willful misrepresentation of
facts.

"(vii) Deceiving or attempting to deceive the board
regarding any matter under investigation, including the
altering or destroying of any records.

"(viii) Failure, without good cause, to cooperate
with any request from the board to appear before the board.

"(ix) Violating any statute, ordinance, or rule of
the state or any board, agency, or political subdivision of
the state affecting the registration of deaths or the
handling, custody, care, or transportation of dead human
bodies.

"(x) Violating any statute, ordinance, or rule of
the state or any board, agency, or political subdivision of
the state affecting the registration of deaths or the
handling, custody, care, or transportation of dead human bodies.

"(xi) Demonstrating bad faith, incompetence, or untrustworthiness or dishonest, fraudulent, or improper dealing or any other violation of this chapter or any rule promulgated by the board or promulgated by the Federal Trade Commission relative to the practice of funeral service or funeral directing.

"(b) In addition to the disciplinary actions authorized in subsection (a), the board may levy and collect administrative fines for violations of this chapter or the rules or regulations of the board in an amount not less than five hundred dollars ($500) nor more than two thousand five hundred dollars ($2,500) for each violation.

"§34-13-70.

"(a) No person shall engage in, or attempt to engage in, the practice or profession or business of a funeral director unless licensed to do so by the Alabama Board of Funeral Service. The board hereby is granted authority to issue license to funeral directors.

"(b) Any person desiring to engage in the business, profession, or practice of funeral director shall make application to the board and shall accompany his or her application by a fee to be established by the board, not to exceed one hundred fifty dollars ($150), whereupon the board
shall fix the time and place for the examination of the applicant and shall notify the applicant thereof.

"(c) In addition, the board shall establish and charge a reasonable examination fee, based on actual costs, for each applicant who sits for an examination. In no event shall the fee exceed fifty dollars ($50) above the actual cost of preparing and administering such exam.

"§34-13-72.

"An applicant for a funeral director's license is entitled to an examination if he or she satisfies all of the following:

"(1) Is a citizen of the United States or legally present in this state.

"(2) Is at least 18 years of age.

"(3) Has had practical experience as an apprentice for not less than two years within a period of three consecutive years, excluding time lost by interruptions caused by the active duty of the applicant in the military service of the United States or its allies during war or national emergency, and excluding time lost by interruptions which the board deems excusable as caused by circumstances beyond the control of the applicant.

"(4) Has completed apprenticeship not more than two years prior to taking the examination, excluding time lost under the circumstances mentioned in subdivision (3).
"(5) Has completed a course of instruction in an accredited mortuary or funeral service school or college which has been approved by the board pursuant to Section 34-13-50, or has completed a bachelor's degree program from an accredited school.

"§34-13-73.

"(a) The applicant for a funeral director's license, before the application is granted, shall successfully pass an examination upon, but not limited to, the following subjects: Funeral directing, the manners in which death may be determined, the laws governing the preparation and disposal of human dead bodies and the shipment of bodies dying from infectious or contagious diseases, and local health and sanitary ordinances in relation to funeral directing. The examination shall be prepared and graded as prescribed by rule of the board. The board may review and adopt, in whole or in part, examination questions, forms, examinations, and passing criteria proposed by the American Board of Funeral Service Education, or a successor organization, and may use the uniform nationwide conditions of the International Conference of Funeral Service Examining Boards, or other organization approved by the board.

"(b) The board shall examine applicants for a funeral director's license in all of the following subjects:

"(1) Mortuary management and administration.
(2) Mortuary law.
(3) Basic accounting principles.
(4) Funeral directing.
(5) Other courses of instruction in fundamental subjects as may be prescribed by the board.

(c) All examination papers shall be kept on file by the board for at least three years.

(d) To constitute a passing grade, an applicant shall earn an average score of at least 75 percent.

(e) If the board is satisfied that an applicant has the requisite qualifications to practice the occupation of funeral directing, a license shall be issued authorizing the applicant to practice such occupation until October 1 of that year, at which time the license may be renewed as prescribed in this chapter.

§34-13-74.

(a) When a licensed funeral director dies leaving a licensed funeral business with no licensed funeral director, the surviving spouse, or a surviving child of legal age, shall have the right to make application for examination as a funeral director. The application shall be in writing, on a form prescribed by the board, and shall state the facts pertaining to the case. The board may certify the applicant for the examination prescribed for funeral directors, in which
event the requirements with respect to prior experience and
apprenticeship shall be waived.

"(b) When a licensed funeral director dies leaving a
licensed funeral business with no licensed funeral director,
the board may issue a special operating permit to the operator
of such licensed funeral business for a period of 12 months,
with the board having the right to extend the permit an
additional reasonable time to afford such operator the
opportunity of obtaining a licensed funeral director for such
business. The operator shall be required to pay a fee for the
issuance of the special operating permit in an amount not
exceeding one hundred dollars ($100).

"(c) All human remains embalmed for a funeral
establishment operating under a special operating permit and
all funeral directing operations carried on under the permit
shall be in conformance with all the requirements of this
chapter which are not in conflict with this section.

"§34-13-90.

"(a) No person shall follow, engage in, or hold
himself or herself out as engaged in the practice as an
embalmer unless licensed to do so by the Alabama Board of
Funeral Service. The board is granted authority to issue
licenses to embalmers.

"(b) All persons shall qualify for examination in
accordance with this chapter and shall be licensed as an
embalmer only after due examination by the board and the
payment of an examination and license fee to be established by
the board, not to exceed five hundred dollars ($500).

"(c) In addition, the board shall establish and
charge a reasonable examination fee, based on actual costs,
for each applicant who sits for an examination. In no event
shall the fee exceed fifty dollars ($50) above the actual cost
of preparing and administering such exam.

"§34-13-94.

"(a) The board shall examine applicants for an
embalmer's license in all of the following subjects:

"(1) Mortuary management and administration.

"(2) Legal medicine and toxicology.

"(3) Public health, hygiene, and sanitary science.

"(4) Mortuary science, to include embalming
technique, in all aspects; chemistry of embalming, color
harmony; discoloration, its causes, effect, and treatment;
treatment of special cases; restorative art; funeral
management; and professional ethics.

"(5) Anatomy and physiology.

"(6) Chemistry, organic and inorganic.

"(7) Pathology.

"(8) Bacteriology.

"(9) Sanitation and hygiene.

"(10) Public health regulations.
(11) Other courses of instruction in fundamental subjects as may be prescribed by the board.

(b) All examination papers shall be kept on file by the board for at least three years.

(c) To constitute a passing grade, an applicant shall earn an average score of at least 75 percent.

(d) The board may issue an embalmer's license to an applicant who receives a passing grade on a recognized national embalmer's examination approved by the board.

(e) If the board is satisfied that the applicant has the requisite qualifications to practice the occupation of embalming, a license shall be issued to him or her authorizing him or her to practice such occupation until October 1 of that year, at which time the license may be renewed as prescribed in this chapter.

§34-13-111.

(a) No funeral establishment or branch thereof for the preparation, disposition, and care of dead human bodies shall be opened or maintained unless duly licensed by the board. No funeral establishment or branch shall be moved without obtaining a new funeral establishment license from the board.

(b) The board shall set a fee, not exceeding one hundred fifty dollars ($150), that shall be in addition to the license fee for the first inspection of any funeral
establishment seeking a license under Section 34-13-72 made
for the purpose of determining whether such funeral
establishment has fulfilled the requirements for licensure
pursuant to this chapter. The board shall set a fee, not
exceeding one hundred fifty dollars ($150), for each
reinspection necessitated by failure of any funeral
establishment to pass such first inspection. The board, or a
representative of the board, shall annually conduct a minimum
of one unannounced inspection of funeral establishments and
branches, with an inspection fee of not more than one hundred
dollars ($100). The inspection fee shall be submitted to the
board within 45 days after the inspection. Any funeral
establishment that does not submit the inspection fee within
45 days shall be charged a late penalty fee, as established by
the board. A funeral establishment, or branch thereof, that is
used for the preparation, disposition, and care of dead human
bodies shall meet and conform to this chapter and to such
other lawful standards and requirements as may be determined
by rule of the board in furtherance of this chapter; and, for
failure to do so, the board may revoke such license in
accordance with the procedure set forth in this chapter.

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(c) Applications for transfer of a license to
another location in the same county shall be made upon blanks
furnished by the board and shall be accompanied by a fee of
not more than seventy-five dollars ($75). The fee for a new
branch or location for a funeral establishment shall be $250. Any change in ownership shall be immediately reported to the board.

"§34-13-113."

"(a) Application for a license to operate a funeral establishment shall be made in writing on a form provided by the board. The application shall be verified by the applicant or, if the applicant is a corporation, firm, or other organization, by an officer or member thereof, and shall be accompanied by an application fee established by the board not to exceed five hundred dollars ($500). The application shall disclose all of the following:

"(1) The name and address of the establishment.

"(2) That the establishment is operated by a licensed funeral director and a licensed embalmer or a person licensed both as a funeral director and embalmer.

"(3) A description and photographs of the buildings, equipment, and facilities of the establishment.

"(4) That the establishment has a sanitary, properly equipped embalming room, a room suitable for public viewing or other funeral services that is able to accommodate a minimum of 100 people, an office for arrangement conferences with relatives or authorized representatives, and a display room containing a stock of adult caskets and funeral supplies displayed in full size, cuts, photographs, or electronic
images. At no time shall less than eight different adult full
size caskets and at least one operating and properly licensed
funeral coach or hearse equipped for transporting human
remains in a casket or urn be on the premises.

"(5) Such other information as may be required by
the board.

"(b) Upon receipt of the application, the board
shall make inspection of the funeral establishment. If the
board determines that the establishment meets the
qualifications prescribed by law, it shall issue a license to
operate a funeral establishment.

"(c) Application for a license to operate a mortuary
service shall be made in writing on a form provided by the
board. The application shall be verified by the applicant or,
if the applicant is a corporation, firm, or other
organization, by an officer or member thereof, and shall be
accompanied by an application fee established by the board not
to exceed five hundred dollars ($500). The application shall
disclose all of the following:

"(1) The name and address of the proposed mortuary
service.

"(2) That the mortuary service applicant is operated
by a licensed embalmer or a person licensed both as a funeral
director and embalmer.
"(3) A description and photographs of the buildings, equipment, and facilities of the mortuary service applicant.

"(4) That the mortuary service applicant has a sanitary, properly equipped embalming room.

"(5) Such other information as may be required by the board.

"(d) Upon receipt of the application, the board shall make inspection of the premises of the mortuary service applicant. If the board determines that the mortuary service applicant meets the qualifications prescribed by law, it shall issue a license to operate a mortuary service.

"§34-13-114.

"(a) An operator of a funeral establishment licensed under subsections (a) and (b) of Section 34-13-113 who desires to change the name of the establishment may have his or her license reissued, in the changed name, upon application to the board and payment of a fee not exceeding seventy-five dollars ($75).

"(b) An operator of a mortuary service licensed under subsections (c) and (d) of Section 34-13-113 who desires to change the name of the mortuary service may have his or her license reissued, in the changed name, upon application to the board and payment of a fee set by the board.

"§34-13-115.
(a) The board may revoke, suspend, or refuse to renew a license issued to an operator of a funeral establishment or mortuary service as provided in this chapter.

(b) If, upon a complaint made to it or otherwise, the board has reason to believe that the operator of a funeral establishment or mortuary service has failed to comply with this chapter or the regulations of the board, it shall conduct an investigation. If it appears to the board that there is reasonable ground to believe that the operator has failed so to comply, it shall conduct a hearing on the matter. Notice of the time and place of the hearing, setting forth the respects in which failure to comply is charged, shall be sent to the operator no later than 15 days prior to the date set for the hearing. The operator may have the assistance of counsel at the hearing.

(c) If, upon the hearing, the board finds that the operator has failed to comply with this chapter or the regulations of the board, it may revoke, suspend, or refuse to renew the license.

§34-13-116.

Any person, firm, partnership, society, group, or corporation who has control of a funeral home, mortuary, chapel, funeral establishment, or mortuary service and fails to register same according to this chapter, upon conviction, may be fined not less than five hundred dollars ($500) nor
more than two thousand five hundred dollars ($2,500) for each violation, and each day that the funeral home, mortuary, chapel, funeral establishment, or mortuary service is operated shall be deemed to be a separate and distinct violation of this chapter.

"§34-13-120.

"(a) It shall be unlawful for any person, firm, corporation, association, or entity to operate a crematory or practice cremation without the crematory being licensed as a funeral establishment in accordance with this chapter.

"(b) Any funeral establishment performing cremation services shall certify by affidavit to the board that any cremationist conducting cremations has received adequate and appropriate training or experience in the practice of cremation.

"(c) The board shall adopt and enforce rules and regulations as may be reasonable and necessary for the operation of crematories to protect the health, welfare, and safety of the people of this state.

"(d) The board shall inspect the records and premises of any funeral establishment operating a crematory. In making inspections, the board shall have access to all records, the crematory building, the cremation chambers or furnaces, and the storage areas for human remains before and after cremation, during regular office hours or the hours the
crematory is in operation. No prior notification of the
inspection is required to be given to the funeral
establishment. If any funeral establishment performing
cremation services fails to allow an inspection or any part
thereof, it shall be grounds for the suspension or revocation
of a license or other disciplinary action against the
licensee, as the board may deem reasonable and necessary to
the extent of the law. The board shall conduct annually a
minimum of one unannounced inspection of each licensed funeral
establishment performing cremation services.

"(e) Each funeral establishment performing cremation
services shall keep records as required by the board to assure
compliance with all laws relating to the disposition of human
remains and shall file annually with the board a report in the
form prescribed by the board, describing the operations of the
licensee, including the number of cremations made, the
disposition thereof, and any other information as the board
may, from time to time, require.

"(f) Each funeral establishment performing cremation
services shall report to the board any maintenance or
inspections performed within 30 days of the maintenance or
inspection.

"(g) A funeral establishment performing cremation
services shall be subject to all local, state, and federal
health and environmental protection requirements and shall
obtain all necessary licenses and permits from the Alabama Board of Funeral Service, the federal and state Departments of Health and Human Services, and the state and federal Environmental Protection Agencies, or other appropriate local, state, or federal agencies.

"(h) No crematory facility licensed by the board may be used for the cremation of deceased animals.

" §34-13-130.

"(a) Every person desiring to engage as an apprentice shall make application as a funeral director's apprentice or an embalmer's apprentice to the board upon a form provided by the board. The application shall state that the applicant is over the age of 16, holds a high school certificate or the equivalent, or is currently enrolled and actively working toward graduation from an accredited high school and is of good moral character. The application shall be verified by the oath of applicant and be accompanied by a fee to be established by the board, not to exceed twenty dollars ($20). The executive secretary, whenever it appears to him or her that no reason exists for the denial of an application and that the application is regular upon its face, may issue to the applicant a certificate of apprenticeship, without submitting the application to the board. If, however, any doubt exists as to the qualifications of the applicant, the application shall be submitted to the board and may be
accepted or rejected by a majority of the board. The period of
apprenticeship of a funeral director's apprentice or an
embalmer's apprentice must be performed in Alabama under the
supervision of a funeral director or embalmer, respectively,
licensed by the board.

"(b) The regular course of apprenticeship shall be
two years, but the apprentice is entitled to two weeks time
off each year, without leave of absence from the board."

Section 2. All laws or parts of laws which conflict
with this act are repealed and specifically Section 34-13-28,
Code of Alabama 1975, providing for the reporting of receipts
and disbursements of the board to the Governor and the
Legislature, and Article 4, consisting of Sections 34-13-150,
34-13-151, and 34-13-152, of Chapter 13, Title 34, Code of
Alabama 1975, relating to donor eye enucleation licenses, are
repealed.

Section 3. The provisions of this act are severable.
If any part of this act is declared invalid or
unconstitutional, that declaration shall not affect the part
which remains.

Section 4. This act shall become effective October
1, 2011, following its passage and approval by the Governor,
or its otherwise becoming law.
President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB94
Senate 27-APR-11
I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris
Secretary

House of Representatives
Passed: 02-JUN-11

By: Senator Keahey