

West Virginia Board of Embalmers and Funeral Directors



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NOTICE OF FINAL FILING-LEGISLATIVE RULE

LEGISLATIVE RULE: Rules of the WV Board of Embalmers and Funeral Directors, Series I

The attached legislative rule is hereby final filed with the Secretary of State by the West Virginia Board of Embalmers and Funeral Directors as authorized by Senate Bill 399 Section 64-2-30(6)(3)

  
For

Vincent F. Mancinelli

FILED  
1985 JUN 13 PM 12:48  
Office of the Secretary of State  
SECRETARY OF STATE

PROPOSED AMENDMENT

SECTION 2A - Apprenticeship.

- 2A.01 - The apprenticeship for an embalmers license and for a funeral directors license shall be served simultaneously.
- 2A.02 - The apprenticeship shall consist of one-year full-time service. If an apprentice needs additional time to complete the apprenticeship, such additional time shall not exceed a total of five (5) years in an apprenticeship status. The Board may allow one (1) additional year of apprenticeship status upon written application for good cause. Individuals who are apprentices on the effective date of this rule may continue as apprentices by annual renewal of their registration regardless of the five (5) year limit.
- 2A.03 - During the course of apprenticeship an apprentice shall meet the following requirements:
1. Under the direct supervision of a licensed embalmer shall assist in the operation of embalming not less than twenty-five (25) dead human bodies.
- and
2. Under the direct supervision of a licensed funeral director shall assist in the conduct of not less than thirty-five (35) funeral services.

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H. B. 1599

(By Delegate Casey)

(Introduced March 6, 1985; referred to the

Committee on Health and Welfare with the direction)

that it later be referred to the Committee on the

Judiciary.)

10 A BILL to amend article two, chapter sixty-four of the code  
11 of West Virginia, one thousand nine hundred thirty-one,  
12 as amended, by adding thereto a new section, designated  
13 section thirty (six)(three), relating to authorizing the  
14 board of embalmers and funeral directors to promulgate  
15 legislative rules relating to apprenticeship.

16 Be it enacted by the Legislature of West Virginia:

17 That article two, chapter sixty-four of the code of West  
18 Virginia, one thousand nine hundred thirty-one, as amended,  
19 be amended by adding thereto a new section, designated  
20 section thirty (six)(three), to read as follows:

21 ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE  
22 LEGISLATIVE RULES.

23 §64-2-30(6)(3). Board of embalmers and funeral directors.

24 The legislative rules filed in the state register on the  
25 twenty-seventh day of July, one thousand nine hundred  
26 eighty-four, modified by the board of embalmers and funeral

1 directors to meet the objections of the legislative  
2 rule-making review committee and refiled in the state  
3 register on the ninth day of January, one thousand nine  
4 hundred eighty-five, relating to the board of embalmers and  
5 funeral directors (apprenticeship), are authorized.

6

7 NOTE: The purpose of this bill is to authorize the board  
8 of embalmers and funeral directors to promulgate legislative  
9 rules relating to apprenticeship.

10 This section is new; therefore, strike-throughs and  
11 underscoring have been omitted.

SENATE BILL NO. 417(By Mr. R. Williams  
\_\_\_\_\_ )[Introduced March 6, 1985;  
referred to the Committee on Health and Human Resources; then  
to the Committee on the Judiciary]

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11 of West Virginia, one thousand nine hundred thirty-one,  
12 as amended, by adding thereto a new section, designated  
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14 board of embalmers and funeral directors to promulgate  
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Title 6

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~~WEST VIRGINIA~~ LEGISLATIVE RULES

BOARD OF EMBALMERS AND FUNERAL DIRECTORS

~~CHAPTER 30~~

SERIES ~~2~~ 1

TITLE: Rules of the WV Board of Embalmers and Funeral Directors

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Section 1. General

1.1 Scope-These rules relate to the licensing and conduct of embalmers and funeral directors.

1.2 Authority- WV Code 30-6-1, et seq

1.3 Filing Date- June 13, 1985

1.4 Effective Date- June 13, 1985

Section 2. Licensing and Examination

2.01. No person shall be entitled to sit for either a funeral director's or embalmer's examination until he supplies the Board with the following documentation:

(a) A certified copy of a birth certificate establishing the applicant's age at 18 or over;

(b) An affidavit of United States citizenship (See Form A);

(c) Two letters from persons who have known the applicant for at least five years preceding application, who are not related to the applicant, and can attest to the applicant's moral character and temperate habits (See Form B);

(d) A copy of the applicant's high school diploma or its equivalent;

obsolete  
valid June 13, 1985 to  
June 11, 1987

WEST VIRGINIA LEGISLATIVE RULE  
WEST VIRGINIA BOARD OF EMBALMERS AND FUNERAL DIRECTORS  
CHAPTER 30-6  
SERIES I

Title: Rules of the WV Board of Embalmers and Funeral Directors

- Section 1. General
- Section 2. Licensing and Examinations
- Section 2A. Apprenticeship
- Section 3. Control of Dead Bodies
- Section 4. Health Requirements
- Section 5. Evidence of a Crime
- Section 6. Reserved
- Section 7. Advertising
- Section 8. Confidence
- Section 9. Supervision Required of License
- Section 10. Penalties

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(e) A certificate of college-level training to be completed by a dean of academic affairs or an equivalent officer of an accredited college or university which offers a baccalaureate degree (See Form C);

(f) A copy of a diploma of graduation from an approved school of embalming;

(g) A certificate of completion of one-year full-time apprenticeship (See Form D);

(h) The payment of any statutory fees proscribed for examination.

2.02. Examination--Examinations prepared by the National Conferences shall be utilized by the Board. Passing grades are established as follows: Embalmers Section--70 percent

Funeral Directors Section--75 percent

2.03. Grading--Examination grading shall be performed by an independent professional. No employee or member of the Board shall take part in the grading of examinations.

2.04. Monitoring of Examinations--Employees or members of the Board may monitor examinations provided they have no relatives or employees sitting for the examination.

2.05. Exemption from Embalming Sections of Examination--Individuals who have successfully passed the National Conference Board exam shall be excused from and credited with passing the embalming sections of the West Virginia State Licensing Examination.

2.06. Inspection of Examinations--Any individual who fails either section of an examination shall be afforded an opportunity to inspect said section or sections.

2.07. Response to Inquiries--To avoid inconsistency, all inquiries relating to any facet of licensing requirements shall be directed to the full Board through its executive secretary. If any employee or member of the Board shall be asked to provide such information or interpretation, he shall refrain from responding, but he shall reduce the inquiry to written form and direct it to the full Board through its executive secretary.

Section 2A Apprenticeship

2A.01 The apprenticeship for an embalmers license and for a funeral directors license shall be served simultaneously.

2A.02 The apprenticeship shall consist of one-year full-time service. If an apprentice needs additional time to complete the apprenticeship, such additional time shall not exceed a total of five (5) years in an apprenticeship status. The Board may allow one (1) additional year of apprenticeship status upon written application for good cause. Individuals who are apprentices on the effective date of this rule may continue as apprentices by annual renewal of their registration regardless of the five (5) year limit.

2A.03 During the course of apprenticeship an apprentice shall meet the following requirements:

1. Under the direct supervision of a licensed embalmer shall assist in the operation of embalming not less than twenty-five (25) dead human bodies.
2. And, under the direct supervision of a licensed funeral director shall assist in the conduct of not less than thirty-five (35) funeral services.

Section 3. Control of Dead Bodies

3.01. Authority to Assume Control--No licensee, his or its agents, assistants or employees shall assume control of any dead body without first gaining permission from the next of kin or their representatives, or a coroner, health officer, or other public official lawfully entitled to give such permission.

3.02. Responsibility to Honor Instructions--A licensee, his or its agents, assistants or employees who has assumed control of a dead body shall honor all instructions, from persons who have given such control, as to matters relating to the handling of such body, including all steps in preparation; autopsy; embalming; viewing; photographing; clothing; casket; box or vault; cremation; time, place, and type of ceremonies; and burial or other customary disposal, insofar as considerations of public health, legal requirement, and customary respectful handling of the dead will permit.

3.03. Authority to Embalm--No licensee, his or its agents, assistants or employees shall authorize the embalming of, or embalm any body without first gaining permission from the person or persons entitled to give such permission, or in the event services are being rendered by virtue of reference from another funeral establishment, from a representative of such funeral establishment.

3.04. Exception--Hazard to Public Health--If a question exists as to whether the condition of a body may pose a hazard to public health which would be eliminated by embalming, written certification of such condition along with a request that the body be embalmed must be obtained from a public health officer prior to embalming.

3.05. Responsibility For Fees--Failure to Gain Authority For Embalming--No person or persons entitled to give permission to embalm a body pursuant to sections 3.03 and 3.04 herein shall be responsible for the payment of any fee in connection with an unauthorized embalming.

#### Section 4. Health Requirements

4.01. Statutes, Rules and Regulations--A licensee, his or its agents, assistants or employees shall comply with all statutes and rules and regulations related to health.

4.02. Bodies of Individuals Affected With Infections or Contagious Diseases--A licensee shall give his closest personal supervision to bodies affected by infections or contagious diseases. Such bodies shall be encased in airtight burial pouches, transfer cases or sealed caskets when transported within the State. Transportation of such bodies outside the State shall require, in addition to the foregoing requirement, embalming, treatment and disinfection of the body cavities and orifices.

#### Section 5. Evidence of Crime

5.01 Embalming, Removal or Cremation--No licensee, his or its agents, assistants or employees shall embalm, remove or cremate a body when he has information of or suspects a crime or intentional violence in connection with the cause of death, until permission is obtained from a coroner or other qualified official.

5.02. Information of Crime--A licensee, his or its agents, assistants or employees who have obtained information of a possible crime shall forthwith communicate such information to a proper law-enforcement officer.

5.03. Concealment of Crime--No licensee, his or its agents, assistants or employees shall knowingly do any act that would conceal evidence of a crime.

5.04 Use of Certain Materials in Embalming--No licensee, his or its agents, assistants or employees shall use any fluid or compound which contains arsenic, lead, mercury, copper, zinc, silver, antimony or chloral or any poisonous alkaloid in the embalming of a body.

Section 6. Fraudulent or Deceptive Practices

[Reserved]

Section 7. Advertising

7.01. All advertising shall comply with the requirements set forth in Chapter 30, Article 6, Section 3, of the West Virginia Code of 1931, as amended.

7.02. No license, apprentice or any other person, persons or business organization associated or in any way connected with a funeral establishment shall use or sponsor the use of any false, misleading, untrue or deceptive advertising in any manner whatsoever.

7.03. All advertising is hereby declared to be unethical, except only as hereinafter approved, and such persons referred to above are prohibited from the use of any advertising except only as hereinafter approved.

(a) If the words "free," "without charge," or other similar connotations have the effect of misleading the public, then their use will be considered false and misleading by the Board.

(b) No licensee or apprentice or any other person or persons or business organization, associated or in any way connected with a funeral establishment shall solicit business or shall offer any inducement, pecuniary or otherwise for employing solicitors, agents, canvassers or other for the purpose of securing or attempting to secure business; such person shall not issue any gift certificates or discount certificates to a sick or dying person and shall not use donations, gift bonuses or acts of service designed to place the recipient in a position of obligation or indebtedness and shall not transfer or offer to transfer any property or service as payment of, or in token for, business secured, influenced or otherwise provided or in promise thereof. Such persons shall not call upon, telephone, write or cause, directly or indirectly, such advertising literature to be sent to the sick or dying person as would tend to be deemed non-general, selective or soliciting advertisements. No prohibition on discounts, bribes or kickbacks directly or indirectly are permitted.

(c) All advertising copy, such as newspaper, radio, television, billboards, church bulletins, school publications, trade journals and other similar periodic publications have no limit to size providing the sponsor of such advertising is not in any way false, misleading, untrue or deceptive. The contents of such advertising must include the name of the funeral establishment, its address and telephone number and the name of the licensed funeral director in charge. It may also include a description of the service facilities of the advertiser as well as general information pertaining to his business. It may also include the total cost of the minimum adult services. In all advertisements relating to the minimum cost of the adult services, the following rules must be observed and conformed to, in their entirety:

1. No picture or pictures of any casket or vault will be permitted in any manner whatsoever.

2. Any advertised casket price will be so construed to mean the cost of such casket and all necessary items as to unit pricing for a completed funeral service. Any firm itemizing must include the casket and each and every item necessary to constitute a complete burial.

3. The West Virginia Board of Embalmers and Funeral Directors do not consider the cemetery costs, opening grave costs, vault costs or excess mileage in addition to the above stated as necessary to constituting a complete burial.

4. Any funeral director so advertising any merchandise used in connection with his business shall carry in his stock all merchandise so advertised for at least 120 days after advertisement publication, and must carry sufficient merchandise stock to so service any and all demands for such items, with no increase in price, for such stated period of 120 days.

5. The terms advertise and advertising as used in this rule shall include the use of radio, television, billboards, calendars, and novelty advertising, or any other advertising method or medium.

Section 8. Confidence

8.01. Preserving Confidence--No licensee, his or its agents, assistants or employees shall divulge any confidence, privacy, or secrets of the domestic life in any home wherein he may be called upon to serve. This prohibition shall include any information as to illness, cause of death, financial affairs or transactions and any other information customarily considered confidential, obtained while providing funeral services. This prohibition, however, shall not prevent divulging information to any person lawfully entitled or properly authorized to receive the same.

Section 9. Supervision Required of Licensee

9.01. Responsibility for Acts of Subordinates--A licensee who assumes the responsibility of managing a funeral establishment shall maintain complete and continual supervision of all activities performed within the scope of the jurisdiction of such funeral establishment.

9.02. Absence in Excess of Thirty Days--A licensed funeral establishment shall not go without the supervision of a licensed funeral director for a continuous period in excess of 30 (thirty) days.

Section 10. Penalties

Any violation of these rules shall constitute grounds for the refusal to renew a license or shall constitute grounds for the suspension or revocation of any license or certificate issued under the provisions of Chapter 30, Article 6, Section 1 et seq., of the West Virginia Code of 1931, as amended.