AN ACT to amend and reenact sections one, three, five, six, seven, eight and eleven, article six, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the creation, appointment, organization, meetings, duties, salary and expenses, and authority of the board of embalmers and funeral directors, and the examination, licensing, registration and business operations of funeral directors and embalmers.

Be it enacted by the Legislature of West Virginia:

That sections one, three, five, six, seven, eight and eleven, article six, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1. Board of Embalmers and Funeral Direct-
ors.—There is hereby created a state board to be known
and designated as the "West Virginia Board of Embalmers
and Funeral Directors", which shall consist of seven
members, who shall be appointed by the governor by and
with the advice and consent of the senate, six of whom
must be licensed embalmers and practicing funeral di-
rectors with a minimum of five consecutive years experi-
ence in West Virginia immediately preceding their ap-
pointment; the seventh member shall be the state health
director of the State of West Virginia, who shall by virtue
of his office as such state health director become auto-
matically a member of this board for the period during
which he holds the office of state health director.

Sec. 3. Oath; Officers of Board; Salary and Expenses;
Bond of Treasurer; Meetings of Board; Power, Duties of
Board; Notice; Rules and Regulations; School of Instruc-
tion; Inspection.—Members of said board, before enter-
ing upon their duties, shall take and subscribe to the oath
of office prescribed by the secretary of state.

Said board shall select from its own members a presi-
dent, a secretary, and a treasurer. Each member shall
be reimbursed for his traveling expenses, incident to his
attendance upon the business of the board, and in ad-
dition thereto, the sum of fifteen dollars per day for each
day actually spent by such member upon the business of
the board; except that the state health director shall re-
ceive only such compensation as he is entitled to receive
for his services as state health director, together with
actual and necessary traveling expenses while engaged
upon the business or in attendance of the board, with such
compensation and expenses to be payable from the funds
of the state health department. The secretary shall re-
ceive an annual salary of not to exceed one thousand
dollars, the amount and payment of which shall be fixed
by said board, and in addition thereto shall receive
traveling and other incidental expenses incurred in the
performance of his duties.

All such expenses, per diem and compensation shall be
paid out of the receipts of the board, except such ex-
penses and compensation as may be payable to the state
health director, but such allowances shall at no time
exceed the receipts of the board.
The treasurer of the board shall give bond to the State of West Virginia in such sum as the board shall direct with two or more sureties or a reliable surety company approved by the board, and such bond shall be conditioned for the faithful discharge of the duties of such officer. Such bond, with approval of the board endorsed thereon, shall be deposited with the treasurer of the State of West Virginia.

The board shall hold not less than two meetings during each calendar year, one during the month of April and one during the month of November for the purpose of examining applicants for licenses, such meeting or meetings to be held at such time and place as the board shall determine. The time and place of such meeting shall be announced by publication in three daily newspapers of general circulation in different locations of the state, and publication to be once a week for two consecutive weeks immediately preceding each such meeting.

The board may hold such other meetings as it may deem necessary and may transact any business at any such meeting. Three or more members shall comprise
a quorum authorizing the board to transact such business as is prescribed under this article.

The board shall have power and it shall be its duty to make and enforce all necessary rules and regulations, not inconsistent with this article, for the examination and licensing of funeral directors, and the general practice of funeral directing; the examination and licensing of embalmers and the general practice of embalming and the registration and regulation of apprentices.

The board shall publish in its rules and regulations the subjects to be covered in the said examinations and the standards to be attained thereon. Changes in the rules and regulations shall be published and shall be given due publicity at least ninety days before becoming effective.

The board shall conduct annually a school of instruction to apprise funeral directors and embalmers of the most recent scientific knowledge and developments affecting their profession. Qualified lecturers and demonstrators may be employed by the board for this purpose. The board shall give notice of the time and place
of funeral directors and embalmers, and it shall be the duty of every licensed funeral director and embalmer to attend at least one such school in every three years.

The board or any of its members or any duly authorized employee of the board shall have the authority to enter at all reasonable hours for the purpose of inspecting the premises in which the business or profession of funeral directing is conducted or practiced or where embalming is practiced.

Section 5. Embalmers and Funeral Directors to be Licensed; Qualifications and Requirements for License; Advertising; Renewal of License; Registration as Apprentice; Courtesy Cards.—After July first, one thousand nine hundred fifty-one; no person shall engage in or hold himself out as engaging in, or discharge any of the duties of the business or profession of embalming, or preserving in any manner dead human bodies in this state, whether for himself or in the employ of another, unless he holds an embalmer's license issued to him by the board, and shall at the date of its issuance have complied with the provisions of this article.
13 After July first, one thousand nine hundred fifty-one,
14 no person shall engage in, or hold himself out as en-
15 gaging in, or discharge any of the duties of the business
16 or profession of funeral directing in this state, unless he
17 holds a funeral director's license issued to him by the
18 board, and shall at the date of its issuance have complied
19 with the provisions of this article, or conduct a funeral
20 unless he be a licensed funeral director or a duly regis-
21 tered apprentice.
22 No person shall be entitled to an embalmer's license
23 unless he
24 (1) Is twenty-one years of age or over;
25 (2) A citizen of the United States;
26 (3) Of good moral character and temperate habits;
27 (4) Holds a diploma showing the completion of a
28 four-year high school course;
29 (5) Has had not less than sixty hours credit of resi-
30 dent educational training in an accredited university or
31 college, such credit shall be in such subjects only as are
32 recognized in the university or college where taken, as
33 credit toward a baccalaureate degree;
(6) Has completed a one year course of apprenticeship under the supervision of a licensed embalmer actively and lawfully engaged in the practice of embalming in this state, such apprenticeship to consist of diligent attention to the work in the course of regular and steady employment and not as a side issue to another employment, and under which said apprenticeship he shall have taken an active part in the operation of embalming not less than twenty-five dead human bodies, under the supervision of a licensed embalmer;

(7) Possesses a diploma of graduation from a school of embalming which requires as a prerequisite to graduation the completion of a course of study of not less than twelve months duration, and which said school of embalming must be one duly approved by the board;

(8) Passes such examination as the board shall deem necessary to ascertain his qualification and ability to engage in the practice of embalming: Provided, however, That any apprentice embalmer duly registered as such with the board on or before July first, one thousand nine hundred fifty-one, may be eligible to take the required
examination for an embalmer's license without having
had the sixty hours resident educational training in a
university or college heretofore mentioned, upon com-
pliance with all the other requirements, prerequisite to
the same, including the two years apprenticeship.

The board shall issue licenses separately to embalmers
and to funeral directors.

An applicant for a funeral director's license must
furnish satisfactory proof to the board that his business
or profession of funeral directing is to be conducted in
a fixed place or establishment equipped for the care and
preparation for burial or disposition of dead human
bodies. What shall be deemed "necessary equipment"
shall be defined in the rules and regulations of the board,
the same to be in compliance with the public health
laws of the state or the rules of the state board of health
of West Virginia. This shall not be so construed as to
deny an applicant for a funeral director's license such a
license because he is not the owner, or part owner, of an
establishment or proposed funeral business.

Licenses issued under the provisions of this chapter
shall not be transferable or assignable.
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77 No person shall be eligible to receive a license as a
78 funeral director unless he
79 (1) Holds an embalmer's license issued by this board;
80 (2) Has been duly registered with the board as an
81 apprentice;
82 (3) Has served not less than a one-year apprenticeship under the personal supervision of a licensed funeral
director actively and lawfully engaged in the business or
profession of funeral directing in this state, such apprentice to consist of diligent attention to the work
in the course of regular and steady employment and
not as a side issue to another employment: Provided,
however, That any apprentice funeral director twenty-
one years of age, or older, who is duly registered with
the board as such apprentice on or before July first, one
thousand nine hundred fifty-one, and who has served
his two years apprenticeship may be eligible to take
the required examination for a funeral director's license,
without having first obtained an embalmer's license,
upon compliance with all other requirements as to eligi-
bility for such examination.
All funeral homes or establishments or any other places pertaining to funeral directing or the conducting of funerals, shall display in all advertising the name of the licensed funeral director who is actually in charge of the establishment. All branch establishments must display the name of the funeral director who is actually in charge. At least one licensed funeral director shall supervise each main establishment and at least one licensed funeral director shall directly supervise each branch establishment.

No licensed funeral director or licensed embalmer shall be permitted to register or have registered more than five apprentices under his said license at the same time.

Any person now holding a license as an embalmer, funeral director, or assistant funeral director, shall not be required to make a new application, or submit to an examination, but shall, upon the payment of the fee therefor, be entitled to a renewal of his license upon the terms and conditions herein provided for the renewal of licenses of those who may be licensed after the passage
of this article, but all such persons shall be subject to every provision of this article, and such rules and regulations as the board may adopt in pursuance of this article.

On and after July first, one thousand nine hundred fifty-one, no person shall be registered as an apprentice funeral director or apprentice embalmer unless he is eighteen years of age, or over, a citizen of the United States, a resident of West Virginia one year prior to registration, of good moral character and temperate habits, and the holder of a diploma showing the completion of a four year high school course, and shall have completed not less than sixty hours credit of resident educational training in an accredited university or college.

The board may issue annual non-renewable courtesy cards to licensed funeral directors and licensed embalmers of the states bordering on West Virginia, upon application for same made on form prescribed by the board. The annual fee for such courtesy cards shall be ten dollars and said fee shall be paid at the time application is
made therefor. Applications for said courtesy cards shall be approved by the board before the same may be issued, and said courtesy cards shall be issued under the following conditions: Holders of courtesy cards shall not be permitted to open or operate a place of business for the purpose of conducting funerals or embalming bodies in the State of West Virginia, nor shall they be permitted to maintain an office or agency in this state. A violation of this section shall be sufficient cause for the board to revoke or cancel the courtesy card of the violator.

Sec. 6. Examination, Registration and Renewal Fees; Disposition of Fees; Report to Governor.—The examination fee for a funeral director's license shall be fifty dollars and shall be remitted at the time the application for a funeral director's license is submitted to the board. The examination fee for an embalmer's license shall be fifty dollars and shall be remitted at the time the application for an embalmer's license is submitted to the board.

All the licenses and certificates of registration shall
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11 expire on the thirtieth day of June of each calendar year
12 and the renewal date for all licenses and certificates shall
13 be the first day of July of each calendar year.
14 The annual renewal fee for embalmer's license, funeral
15 director's license, assistant funeral director's license, or
16 apprentice registration shall be five dollars and shall be
17 paid on or before the first day of July of each calendar
18 year.
19 Any person who has been duly licensed as a funeral
20 director or as an embalmer under the laws of this state
21 but who fails to renew his license within ninety days
22 after the expiration date for renewals, may file an appli-
23 cation for a renewal of his license, without examination,
24 upon payment of a penalty of ten dollars and the required
25 renewal fee.
26 Any person who has been duly licensed as a funeral
27 director or as an embalmer under the laws of this state
28 but who fails to renew his license within one year after
29 the expiration date for renewals, may file an application
30 for a renewal of his license, without examination, upon
31 payment of a penalty of twenty-five dollars and the re-
32 quired renewal fee.
A funeral director or an embalmer whose license has lapsed one year or more shall make application to the board for a new license in compliance with the provisions of this article relating to unlicensed persons.

Any person who has been duly licensed as an assistant funeral director and fails to renew his license within ninety days after the expiration date for renewal may file an application for renewal of his license upon payment of a penalty of ten dollars and the required renewal fee. Otherwise, after the said period of ninety days, his license will automatically be canceled.

Any person who has been duly registered as an apprentice embalmer or apprentice funeral director and fails to renew his registration within ninety days after the expiration date for renewals may file an application for such renewal upon payment of a penalty of two dollars and the required renewal fee. Otherwise, after the said period of ninety days, his registration will automatically be canceled.

All fees collected under the provisions of this article shall be paid to the treasurer of the board and by him
deposited monthly with the state treasurer. Such fees shall be used for the purpose of defraying the necessary expenses and per diem of said board in the administration of this article. It shall be the duty of said board on or before the first Monday in July of each year to make a report in writing to the governor containing a detailed statement of the nature and amount of its receipts and the amount and manner of its expenditures; any balance of money remaining at the end of the year after the payment of the necessary expenses, including the salary of the secretary, and per diem, traveling expenses, and other expenses incident to the proper discharge of their duties by the members and employees of said board, shall remain in the treasury of the state in the general fund.

Sec. 7. Refusal to Grant or Renew; Suspension or Revocation of License or Certificate of Registration.—The board may either refuse to issue, or may refuse to renew, or may suspend, or may revoke any license, or certificate of registration issued by it for any one or combination of the following causes:
(a) The practice of fraud or deceit in obtaining or attempting to obtain a license or a certificate of registration;

(b) Conviction of a felony as shown by a certified copy of the record of the court of conviction;

(c) Violation of any of the provisions of this article or the public health laws of this state.

(d) The use of false, misleading or unethical advertising by any licensee or applicant for a license or certificate of registration.

(e) Upon satisfactory proof that a licensed embalmer or a licensed funeral director has taken undue advantage of his patrons or has committed a fraudulent act in the conduct of his business;

(g) Solicitation of business by the licensee, his agents, assistants or employees, whether such solicitation occurs after death or while death is impending: Provided, That this shall not be deemed to prohibit proper advertising.

(h) If the applicant therefor or holder thereof knowingly permits an unlicensed person to engage in the profession or business of embalming or funeral directing
under his supervision; or if any holder of an embalmer's
license or funeral director's license issued hereunder
knowingly permits any unlicensed person to use his li-
cense number or numbers for the purpose of practicing,
or discharging any of the duties of, the professions of
embalming or funeral directing;
(i) Employment by the licensees of persons known as
"cappers", "steerers" or "solicitors", or other such persons
to obtain funeral directing business;
(j) Employment directly or indirectly of any appren-
tice, agent, assistant, embalmer, employee, or other per-
son, on part or full time, or on commission, for the purpose
of calling upon individuals or institutions by whose in-
fluence dead human bodies may be turned over to a
particular funeral director;
(k) The buying of business by the licensee, his agents,
assistants, or employees or the direct or indirect payment
or offer of payment of a commission by the licensee, his
agent, assistants, or employees, for the purpose of securing
business;
(l) Gross immorality;
(m) If the applicant therefor or holder thereof has been guilty of habitual drunkenness or is addicted to the use of morphine, cocaine or other habit forming drugs.

Sec. 8. Duty of Public Officers, Physicians, etc., as to Disposition of Body of Deceased Person; Penalty for Violation of Section; Hearings on Refusing, Suspending, or Revoking Licenses; Appeals from Decision of Board; Penalty for Engaging in Business Without License; Purpose of Article.—No public officer, employees, physicians, or surgeon, or any other person having a professional relationship with the deceased, shall send, or cause to be sent, to any funeral director, undertaker, mortician or embalmer, the body of any deceased person without having first made due inquiry as to the desires of the next of kin, or any persons who may be chargeable with the funeral expenses of such deceased person; and if any such kin or person can be found, his authority and direction shall be received as to the disposal of said corpse.

Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction, shall be fined not less than fifty dollars, nor
more than three hundred dollars, or imprisoned not less than ten days nor more than ninety days, or both. The board may make investigations, subpoena witnesses, administer oaths, and conduct hearings.

No order refusing, suspending, or revoking a license shall be made until after a public hearing conducted by the board.

At least twenty days prior to the date of hearing, the board shall send a written notice of the time and place of such hearing to the applicant, together with a statement of the charges against him, by mailing the same to the last known address of such person.

The testimony presented and the proceedings had at such hearings shall be taken in shorthand, at the expense of the board, and preserved as records of the board. The board shall as soon thereafter as possible make its findings in determination thereof, and send a copy to each interested party.

Any person who has been refused a license for any cause or whose license has been revoked or suspended, may file with the secretary of the board, within thirty
days after the decision of the board, a written notice of appeal therefrom to the circuit court of the county within which such person whose license had been refused, revoked or suspended resides. Upon the filing of such notice, the secretary of the board shall transmit to the clerk of said court, the record of such proceedings. Such court shall thereupon hear and determine such case as in other cases of appeal. The judgment of the circuit court may be reviewed upon proceedings in error in the supreme court of appeals.

No person shall engage in the profession or business of embalming or funeral directing as defined in this article unless he is duly licensed as an embalmer and/or as a funeral director within the meaning of this article, and any person who shall engage in either business or profession, or both, without having first complied with the provisions of this article, or who shall violate any other provisions of this article, shall be deemed guilty of a misdemeanor, and, upon conviction, thereof in any court of competent jurisdiction, shall be fined not less than two hundred dollars or more than four hundred
61 dollars for the first offense. Upon conviction of a second
62 or subsequent offense, the violator shall be fined not less
63 than five hundred dollars, nor more than one thousand
64 dollars.
65 The sanitary preparation of dead human bodies for
66 burial and the burial thereof is a public necessity, and it
67 has direct relation to the health, welfare and convenience
68 to the public, and the legislature of this state hereby
69 finds, determines and declares that this article is neces-
70 sary for the immediate preservation of the public peace,
71 welfare, health and safety.

Sec. 11. Apprenticeship.—The board may, by its rules
2 and regulations, provide for the manner in which an
3 apprenticeship shall be served and the length of time
4 thereof, which shall not be more than one year.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Robert C. Byrd
Chairman Senate Committee

James C. Scott
Chairman House Committee

Originated in the Senate.

Takes effect [signature]
passage.

Howard Baker
Clerk of the Senate

J.R. cliff
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within [signature] this the 16th
day of March, 1951.

[Signature]
Governor.

In the Office of the Secretary of State of West Virginia
Mar 16, 1951
D. Pitt O'Brien,
Secretary of State