

## LEGISLATIVE BILL 187

Approved by the Governor April 22, 1993

Introduced by Robinson, 16; Byars, 30; Crosby, 29; Dierks, 40;  
Schellpeper, 18

AN ACT relating to funeral directors and embalmers; to amend sections 59-1617, 71-110, 71-112, 71-118, 71-194 to 71-196, 71-198 to 71-1,100, 71-605, 71-606, 71-609, 71-635, 71-1329, 71-1333, 71-1336, 71-1340, 71-1345 to 71-1347, 71-1349, 71-1352, 71-4807, and 71-4810, Reissue Revised Statutes of Nebraska, 1943, and sections 33-150, 71-101, 71-162, 71-611, 71-1326, 71-1327, 71-1331, and 71-1332, Revised Statutes Supplement, 1992; to define and redefine terms; to change and eliminate provisions relating to licensure; to provide for apprentices; to provide for branch establishments; to change provisions relating to inspections; to provide for disciplinary actions relating to licenses for funeral establishments and branch establishments; to change provisions relating to reciprocity; to harmonize provisions; to eliminate definitions and obsolete provisions; to provide an operative date; and to repeal the original sections, and also sections 71-1,101, 71-1328, 71-1330, and 71-1348, Reissue Revised Statutes of Nebraska, 1943, and section 71-1325, Revised Statutes Supplement, 1992.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 33-150, Revised Statutes Supplement, 1992, be amended to read as follows:

33-150. The State Treasurer shall credit to the General Fund fifteen percent of all fees remitted to the state treasury by the state boards of examiners in medicine and surgery, chiropractic, respiratory care, dentistry, including fees from dental hygienists, dietetics and nutrition, social work, athletic training, massage therapy, professional counseling, optometry, pharmacy, ~~embalming and funeral directing and embalming~~, including fees received from funeral establishments and branch establishments, as defined in section 13 of this act, as well as ~~embalmers and funeral directors and embalmers~~, podiatry, and veterinary medicine, the Board of Occupational Therapy Practice, the Board of Cosmetology Examiners, the Board of Barber Examiners, the Board of Nursing, the State Real Estate Commission, the Board of Examiners for Professional Engineers and Architects, the State Athletic Commissioner, the Nebraska Oil and Gas Conservation Commission pursuant to sections 57-906 and 57-911, and any other state board, bureau, division, fund, or commission not mentioned above, if and when fifteen percent of all such fees remitted into the treasury is appropriated or

reappropriated to the General Fund of the state by the Legislature for the uses and purposes of the General Fund during any biennium. Nothing in this section shall be construed to apply to the fees inuring to the Nebraska Brand Inspection and Theft Prevention Fund and the Licensee Assistance Cash Fund and funds of the State Racing Commission.

Sec. 2. That section 59-1617, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

59-1617. (1) Except as provided in subsection (2) of this section, the Consumer Protection Act shall not apply to actions or transactions otherwise permitted, prohibited, or regulated under laws administered by the Director of Insurance, the Public Service Commission, the Federal Energy Regulatory Commission, or any other regulatory body or officer acting under statutory authority of this state or the United States. The Consumer Protection Act and federal antitrust laws shall not extend to or apply to (a) any actions or transactions on the part of any municipality or group of municipalities while engaged in regulating natural gas rates pursuant to the Municipal Natural Gas Regulation Act or section 16-679 or 17-528.02 or as otherwise permitted by law or (b) any actions or transactions on the part of any public power and irrigation district, public power district, electric membership association, or joint authority created pursuant to the Joint Public Power Authority Act or of any agency created pursuant to the Municipal Cooperative Financing Act, cooperative, or municipality engaged in furnishing electrical service to customers at retail or wholesale if such actions or transactions are otherwise permitted by law.

(2) Actions and transactions prohibited or regulated under the laws administered by the Director of Insurance shall be subject to section 59-1602 and all statutes which provide for the implementation and enforcement of section 59-1602. Actions and transactions prohibited or regulated under the laws administered by the Board of Examiners in ~~Embalming and~~ Funeral Directing and Embalming or administered by the Department of Agriculture and actions and transactions relating to loan brokers which are prohibited or regulated pursuant to sections 45-189 to 45-193 and administered by the Department of Banking and Finance shall be subject to the Consumer Protection Act.

No penalty or remedy shall result from a violation of the Consumer Protection Act except as expressly provided in such ~~sections~~ act.

Sec. 3. That section 71-101, Revised Statutes Supplement, 1992, be amended to read as follows:

71-101. Sections 71-101 to 71-1,107.30, 71-1,133 to 71-1,294, ~~71-1325~~ 71-1326 to 71-1354, and 71-2801 to 71-2822 and sections 13 to 18, 21, and 26 to 28 of this act shall be known and may be cited as the Uniform Licensing Law.

For purposes of the Uniform Licensing Law, unless the context otherwise requires:

(1) Board of examiners or board shall mean one of the boards appointed by the State Board of Health;

(2) Licensed, when applied to any licensee in any of the professions named in section 71-102, shall mean a person licensed under the Uniform Licensing Law;

(3) Profession or health profession shall mean and refer to any of the several groups named in section 71-102;

(4) Department shall mean the Department of Health;

(5) Whenever the masculine gender is used, it shall be construed to include the feminine, and the singular number shall include the plural when consistent with the intent of the Uniform Licensing Law;

(6) License, licensing, or licensure shall mean permission to engage in a health profession which would otherwise be unlawful in this state in the absence of such permission and which is granted to individuals who meet prerequisite qualifications and allows them to perform prescribed health professional tasks and use a particular title;

(7) Certificate, certify, or certification, with respect to professions, shall mean a voluntary process by which a statutory, regulatory entity grants recognition to an individual who has met certain prerequisite qualifications specified by such regulatory entity and who may assume or use the word certified in the title or designation to perform prescribed health professional tasks. When appropriate, certificate shall also mean a document issued by the department which designates particular credentials for an individual; and

(8) Lapse shall mean the termination of the right or privilege to represent oneself as a licensed, certified, or registered person and to practice the profession when a license, certificate, or registration is required to do so.

Sec. 4. That section 71-110, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-110. (1) The different licenses or certificates to practice a profession shall be renewed biennially, except as provided in sections 71-1,228, 71-1,263, 71-1,275, and 71-1,294, upon request of the licensee or certificate holder without examination. The biennial license or certificate renewals provided for in this section shall be accomplished in such manner as the department, with the approval of the board, shall establish by rule and regulation. The biennial expiration date in the different professions shall be as follows: January, pharmacy and psychology; February, ~~embalming and~~ funeral directing and embalming; March, dentistry and dental hygiene; April, podiatry and veterinary medicine and surgery; May, athletic training; June, respiratory care; August, chiropractic and optometry; September, dietetics and nutrition, osteopathic medicine, and professional counseling; October, medicine and surgery and social work; November, massage therapy and physical therapy; and December, audiology and speech-language pathology. The request for renewal need not be in any particular form and shall be accompanied by the legal fee. Such fee shall be paid not later than the date of the expiration of such license or certificate, except that while actively engaged in the military service of the United States, as defined in the Soldiers' and Sailors' Civil Relief Act of 1940 as amended, persons licensed or certified to practice the

professions listed in this subsection shall not be required to pay the renewal license or certificate fee.

(2) When an individual licensed or certified pursuant to the Uniform Licensing Law desires to have his or her license or certificate lapse upon expiration, he or she shall notify the department of such desire in writing. The department shall notify the licensee or certificate holder in writing of the acceptance or denial of the request to allow the license or certificate to lapse. When the lapsed status becomes effective, the right to represent himself or herself as a licensee or certificate holder and to practice the profession in which such license is required shall terminate. To restore the license or certificate, such individual shall be required to meet the requirements for licensure or certification which are in effect at the time that he or she wishes to restore the license or certificate.

(3) When an individual licensed or certified pursuant to the Uniform Licensing Law desires to have his or her license or certificate placed on inactive status upon its expiration, he or she shall notify the department of such desire in writing and pay a fee of thirty-five dollars. The department shall notify the licensee or certificate holder in writing of the acceptance or denial of the request to allow the license or certificate to be placed on inactive status. When the license or certificate is placed on inactive status, the licensee or certificate holder shall not engage in the practice of such profession. A license or certificate may remain on inactive status for an indefinite period of time. In order to move a license or certificate from inactive to active status, an individual shall complete the continuing education requirements in effect at the time he or she wishes to regain active status and pay the renewal fee then due.

(4) At least thirty days before the expiration of a license or certificate, the department shall notify each licensee or certificate holder by a letter addressed to him or her at his or her last place of residence as noted upon its records. Any licensee or certificate holder who fails to notify the department of his or her desire to let his or her license or certificate lapse or be placed on inactive status upon its expiration or who fails to pay the renewal fee on or before the date of expiration of his or her license or certificate shall be given a second notice in the same manner as the first notice advising him or her (a) of the failure to pay, (b) that the license or certificate has expired, (c) that the department will suspend action for thirty days following the date of expiration, (d) that upon the receipt of the renewal fee, together with an additional fee of twenty-five dollars, within that time, no order of revocation will be entered, and (e) that upon the failure to receive the amount then due and twenty-five dollars in addition to the regular renewal fee, the license or certificate will be revoked in the manner prescribed in section 71-149.

(5) Any licensee or certificate holder who fails to renew his or her license or certificate may be reinstated upon the recommendation of the board of examiners for his or her profession and the payment of the renewal fee if an application for reinstatement is made within one year of revocation.

(6) Any licensee or certificate holder who applies for

reinstatement more than one year after revocation shall pay the renewal fees for the intervening time period between revocation and reinstatement and petition the board of examiners to recommend reinstatement as prescribed in section 71-161.05.

Sec. 5. That section 71-112, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-112. The boards of examiners provided in section 71-111 shall be designated as follows: For medicine and surgery and osteopathic medicine and surgery, Examiners in Medicine and Surgery; for athletic training, Examiners in Athletic Training; for respiratory care, Examiners in Respiratory Care Practice; for chiropractic, Examiners in Chiropractic; for dentistry and dental hygiene, Examiners in Dentistry; for optometry, Examiners in Optometry; for massage therapy, Examiners in Massage Therapy; for physical therapy, Examiners in Physical Therapy; for pharmacy, Examiners in Pharmacy; for audiology and speech-language pathology, Examiners in Audiology and Speech-Language Pathology; for dietetic and nutrition services, Examiners in Dietetics and Nutrition; for social work, Examiners in Social Work; for professional counseling, Examiners in Professional Counseling; for ~~embalming and funeral directing and embalming~~, Examiners in ~~Embalming and Funeral Directing and Embalming~~; for podiatry, Examiners in Podiatry; for psychology, Examiners of Psychologists; and for veterinary medicine and surgery, Examiners in Veterinary Medicine.

Sec. 6. That section 71-118, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-118. The State Board of Health shall have power to remove from office at any time any member of a board of examiners, after a public hearing pursuant to the provisions of the Administrative Procedure Act, for physical or mental incapacity to carry out the duties of a board member, for continued neglect of duty, for incompetency, for acting beyond the individual member's scope of authority, for malfeasance in office, for any cause for which a professional license or certificate in the profession involved may be suspended or revoked under ~~the provisions of section 71-147; or 71-148, or 71-1,101,~~ or for a lack of licensure or certification in the profession involved.

Sec. 7. That section 71-162, Revised Statutes Supplement, 1992, be amended to read as follows:

71-162. (1) The following fees shall be collected by the department and remitted to the State Treasurer as is now provided by law:

(a) Not less than fifty dollars and not more than three hundred dollars for a license issued on the basis of an examination given by the department or organization specified by the department or for a license issued on the basis of a license granted by another state or territory to practice audiology, athletic training, chiropractic, dental hygiene, dentistry, ~~embalming~~, funeral directing ~~and embalming~~, massage therapy, optometry, pharmacy, physical therapy, podiatry, respiratory care, speech-language pathology, or veterinary medicine;

(b) Not less than one hundred dollars and not more than

six hundred dollars for a license issued on the basis of examination or on the basis of a license granted by another state or territory to practice psychology;

(c) Not less than three hundred dollars and not more than seven hundred seventy-five dollars for a license issued on the basis of examination given by the department or organization specified by the department to practice medicine and surgery or osteopathic medicine, and not less than two hundred dollars and not more than five hundred dollars for a license issued on the basis of a license granted by another state or territory to practice medicine and surgery or osteopathic medicine;

(d) For a certificate as a certified professional counselor, not less than one hundred twenty-five dollars and not more than three hundred dollars. The fee for renewal of a certificate as a certified professional counselor shall be not less than one hundred dollars and not more than four hundred dollars. The fee for certification by reciprocity shall be not less than one hundred twenty-five dollars and not more than three hundred dollars;

(e) For a certificate as a certified master social worker, not less than one hundred dollars and not more than three hundred dollars. The fee for a certificate as a certified social worker shall be not less than one hundred dollars and not more than three hundred dollars. The fee for renewal of a certificate as a certified master social worker shall be not less than one hundred dollars and not more than four hundred dollars. The fee for renewal of a certificate as a certified social worker shall be not less than seventy-five dollars and not more than four hundred dollars. The fee for certification by reciprocity shall be not less than one hundred dollars and not more than three hundred dollars;

(f)(i) For a license to operate a massage therapy school, not less than one hundred dollars and not more than three hundred dollars, and for renewal of a license, not less than one hundred dollars and not more than four hundred dollars, and (ii) for a license to operate a massage therapy establishment, not less than one hundred dollars and not more than three hundred dollars, and for renewal of a license, not less than one hundred dollars and not more than four hundred dollars;

(g) For a certificate as a certified nutritionist, not less than fifty dollars and not more than three hundred dollars. The fee for renewal of a certificate as a certified nutritionist shall be not less than twenty dollars and not more than four hundred dollars. The fee for certification by reciprocity shall be not less than fifty dollars and not more than three hundred dollars;

(h) For the biennial renewal of a license to practice medicine and surgery, osteopathic medicine, psychology, or any of the professions enumerated in subdivision (a) of this subsection, not less than twenty dollars and not more than four hundred dollars;

(i) For a certified statement that a licensee or certificate holder is licensed or certified in this state, twenty-five dollars, and for verification that a licensee or certificate holder is licensed or certified in this state, five dollars; and

(j) For a duplicate original or reissued license or certificate, ten dollars.

All money paid as licensure, certification, and renewal fees shall be kept in a separate fund to be used for the benefit of the profession so paying such fees.

(2) The department, upon the recommendation of the appropriate board of examiners, shall adopt and promulgate rules and regulations to specify the fee to be charged for the cost of the licensure or certification examination, for licensure or certification, and for licensure or certification renewal in each profession enumerated in subsection (1) of this section. The fee for the licensure or certification examination shall not exceed the cost of such examination.

Sec. 8. That section 71-605, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-605. (1) The funeral director and embalmer in charge of the funeral of any person dying in the State of Nebraska shall cause a certificate of death to be filled out with all the particulars contained in the standard form adopted and promulgated by the Department of Health. Such standard form shall include a space for certificate of veteran status and the period of service in the armed forces of the United States as defined in section 80-401.01 and a statement of the cause of death made by a person holding a valid license as a physician who last attended the deceased. Death and fetal death certificates shall be completed by the funeral directors and embalmers and physicians only for the purpose of filing with the Bureau of Vital Statistics.

(2) The physician shall have the responsibility and duty to complete and sign in his or her own handwriting, within twenty-four hours from the time of death, that part of the certificate of death entitled medical certificate of death. In the case of a death when no person licensed as a physician was in attendance, the funeral director and embalmer shall refer the case to the county attorney for a death certificate.

No cause of death shall be certified in the case of the sudden and unexpected death of a child between the ages of one week and three years unless an autopsy is performed at county expense by a qualified pathologist, unless the parents or guardian signs a written waiver of the right to autopsy. The parents or guardian shall be notified of the results of the autopsy by their physician, community health official, or county coroner within forty-eight hours. The term sudden infant death syndrome shall be entered on the death certificate as the principal cause of death when the term is appropriately descriptive of the pathology findings and circumstances surrounding the death of a child.

If the circumstances show it possible that death was caused by neglect, violence, or any unlawful means, the case shall be referred to the county attorney for investigation and certification. The county attorney shall, within twenty-four hours after taking charge of the case, state the cause of death as ascertained, giving as far as possible the means or instrument which produced the death. All death certificates shall show clearly the cause, disease, or sequence of causes ending in death. If the

cause of death cannot be determined within the period of time stated above, the death certificate shall be filed to establish the fact of death. As soon as possible thereafter, and not more than six weeks later, supplemental information as to the cause, disease, or sequence of causes ending in death shall be filed with the department to complete the record. For all certificates stated in terms that are indefinite, insufficient, or unsatisfactory for classification, inquiry shall be made to the person completing the certificate to secure the necessary information to correct or complete the record.

(3) A completed death certificate shall be filed with the Bureau of Vital Statistics within five business days after the date of death. If it is impossible to complete the certificate of death within five business days, the funeral director and embalmer shall notify the bureau of the reason for the delay and file the certificate as soon as possible.

(4) Before any dead human body may be cremated, a cremation permit shall first be signed by the county attorney, or by his or her authorized representative as designated by the county attorney in writing, of the county in which the death occurred on a form prescribed and furnished by the Bureau of Vital Statistics.

(5) A permit for disinterment shall be required prior to disinterment of a dead human body. The permit shall be issued by the Bureau of Vital Statistics to a licensed funeral director and embalmer upon proper application. The request for disinterment shall be made by the next of kin of the deceased, as listed in section 71-1339, or a county attorney on a form furnished by the bureau. The application shall be signed by the funeral director and embalmer who will be directly supervising the disinterment. When the disinterment occurs, the funeral director and embalmer shall sign the permit giving the date of disinterment and file the permit with the Bureau of Vital Statistics within ten days of the disinterment.

(6) When a request is made under subsection (5) of this section for the disinterment of more than one dead human body, an order from a court of competent jurisdiction shall be submitted to the Bureau of Vital Statistics prior to the issuance of a permit for disinterment. The order shall include, but not be limited to, the number of bodies to be disinterred if that number can be ascertained, the method and details of transportation of the disinterred bodies, the place of reinterment, and the reason for disinterment. No sexton or other person in charge of a cemetery shall allow the disinterment of a body without first receiving from the Bureau of Vital Statistics a disinterment permit properly completed.

(7) No dead human body shall be removed from the state for final disposition without a transit permit issued by the funeral director and embalmer having charge of the body in Nebraska, except that when the death is subject to investigation, the transit permit shall not be issued by the funeral director and embalmer without authorization of the county attorney of the county in which the death occurred. No agent of any transportation company shall allow the shipment of any body without the



properly completed transit permit prepared in duplicate.

(8) The interment, disinterment, or reinterment of a dead human body shall be performed under the direct supervision of a licensed funeral director and embalmer, except that hospital disposition may be made of the dead human body of a stillborn infant with due respect for the same stillborn infant and in accordance with existing law when requested by the parents or legal guardian.

(9) All transit permits issued in accordance with the law of the place where the death occurred in a state other than Nebraska shall be signed by the funeral director and embalmer in charge of burial and forwarded to the Bureau of Vital Statistics within five business days after the interment takes place.

Sec. 9. That section 71-606, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-606. A child born dead shall be registered as a fetal death on a certificate form furnished by the Department of Health. Such certificate shall not be required for a child which has not advanced to the twentieth week of gestation. The certificate shall be filed with the Bureau of Vital Statistics by the funeral director and embalmer in charge of the funeral and shall include a statement of the cause of death made by a person holding a valid license as a physician who was in attendance. In the event of hospital disposition, as provided in section 71-605, the entire certificate shall be completed by the attending physician and subscribed to also by the hospital administrator or his or her designated representative. If the attendant is not a physician, the death shall be referred to the county attorney for certification. The same time limit for completion shall apply as for a regular death certificate.

Sec. 10. That section 71-609, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-609. Every retail dealer in caskets shall keep a record of sales, which record shall include the name and post office address of the purchaser; and the name; and ~~the~~ date and place of death of the deceased. A report of sales or no sales shall be forwarded to the Department of Health on the first day of each month. This requirement shall not, ~~however, apply to sellers of~~ apply to persons selling caskets only to dealers or funeral directors and embalmers, only. Every seller of a casket at retail; who does not have charge of the disposition of the body; shall enclose within the casket a notice calling attention to the requirements of the law; and a blank certificate of death.

Sec. 11. That section 71-611, Revised Statutes Supplement, 1992, be amended to read as follows:

71-611. The Department of Health shall supply all necessary blanks, forms, and instructions pertaining to the recording of births and deaths to physicians, hospitals, and funeral directors and embalmers. Upon written request, the department may authorize a funeral director and embalmer licensed in Nebraska to use computer-generated death certificate forms on paper supplied by the department which is of the same quality and identical in form established

in department regulations for death certificates which are not computer-generated.

Sec. 12. That section 71-635, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-635. (1) To amend a birth certificate, application may be made by one of the parents, the guardian, the registrant if of legal age, or the individual responsible for filing the certificate.

(2) To amend a death or fetal death certificate, except the medical certification, application may be made by the next of kin or the funeral director and embalmer or person acting as such. Amendments to the medical certification of cause of death section of the certificate shall be requested by the attending physician or person certifying such section.

Sec. 13. That section 71-194, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~71-194. Any person who prepares~~ For purposes of sections 71-1326 to 71-1354 and sections 13 to 18, 21, and 26 to 28 of this act, unless the context otherwise requires:

(1) Accredited school of mortuary science shall mean a school of the same type as those rated Class A by the Conference of Funeral Service Examining Boards of the United States, Inc., approved by the department upon recommendation of the board;

(2) Apprentice shall mean a person registered with the department as an apprentice who is completing a twelve-month apprenticeship under the supervision of a licensed funeral director and embalmer practicing in the State of Nebraska. The licensed funeral director and embalmer shall be responsible for all funeral assists and embalmings completed by the apprentice;

(3) Board shall mean the Board of Examiners in Funeral Directing and Embalming;

(4) Branch establishment shall mean a place of business situated at a specific street address or location which is a subsidiary of a licensed funeral establishment, which contains a casket display room, a viewing area, or an area for conducting funeral services, or all of them, and where any portion of the funeral service or arrangements for the disposition of a dead human body is conducted;

(5) Casket shall mean a receptacle for a dead human body and shall not include vaults, lawn crypts, mausoleums, or other outside receptacles for caskets;

(6) Department shall mean the Department of Health;

(7) Embalming shall mean the practice of preparing a dead human body for burial or other final disposal by a licensed funeral director and embalmer or an apprentice, ~~or requests and obtains~~ requesting and obtaining burial or removal permit, ~~or assumes permits, or assuming~~ any of the other duties incident to the practice of embalming. Any person ~~or~~ who publicly professes to be ~~an~~ a funeral director and embalmer; ~~or an apprentice~~ shall be deemed to be practicing embalming. The performance of the following acts shall also be deemed the practice of embalming: (†) (a) The disinfection and preservation of

dead human beings, entire or in part; (2) and (b) the attempted disinfection and preservation thereof by the use or application of chemical substances, fluids, or gases ordinarily used, prepared, or intended for such purposes, either by outward application of such chemical substances, fluids, or gases on the body; or by introducing them into the body, by vascular or hypodermic injection, or by direct introduction into the organs or cavities;

(8) Funeral directing shall mean (a) counseling families or next of kin in regard to the conduct of a funeral service for a dead human body for burial, disposition, or cremation or directing or supervising burial, disposition, or cremation of dead human bodies. Cremation shall be considered as a final disposition of a dead human body the same as interment, (b) providing for or maintaining a funeral establishment, or (c) the act of representing oneself as or using in connection with one's name the title of funeral director, mortician, or any other title implying that he or she is engaged in the business of funeral directing;

(9) Funeral establishment shall mean a place of business situated at a specific street address or location devoted to the care and preparation of dead human bodies for burial, disposition, or cremation or to conducting or arranging funeral services for dead human bodies;

(10) Licensee shall mean a person licensed by the department as a funeral director and embalmer on or after January 1, 1994, or a person licensed as a funeral director or embalmer prior to January 1, 1994;

(11) Licensure examination shall mean a national standardized examination, the state jurisprudence examination, and the vital statistic forms examination; and

(12) Supervision shall mean the direct oversight or the easy availability of the supervising funeral director and embalmer. The first twenty-five funeral assists and embalmings shall be completed under direct onsite supervision of the supervising funeral director and embalmer.

Sec. 14. That section 71-195, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-195. (1) On and after January 1, 1994, the department shall issue a single license to practice funeral directing and embalming to applicants who meet the requirements of this section. An applicant for a license as ~~an~~ a funeral director and embalmer shall file with the department an application; upon a form prepared by the department; ~~presenting and shall:~~

(a) Present satisfactory proof that the applicant has earned the equivalent of sixty semester hours of college credit in addition to a full course of instruction in ~~a~~ an accredited school of mortuary science, ~~Such~~ college. ~~These sixty semester~~ hours shall include the equivalent of ~~(a)~~ (i) six semester hours of English, ~~(b)~~ (ii) six semester hours of accounting, ~~(c)~~ (iii) eight semester hours of chemistry, ~~(d)~~ (iv) twelve semester hours of a biological science relating to the human body, and ~~(e)~~ (v) six semester hours of psychology or counseling; ~~and~~

(b) ~~(2) The applicant for a license as an embalmer shall~~

~~also present~~ Present proof to the department that he or she has completed the following training: ~~in embalming:~~

~~(i) (a) A full course of instruction in a~~ an accredited school of mortuary science; college of the type referred to in section 71-196 and approved by the board;

~~(ii) (b) Twelve months of service as a student embalmer~~ A twelve-month apprenticeship under the instruction and supervision of a regularly licensed funeral director and embalmer practicing in the State of Nebraska, which apprenticeship shall consist of arterially embalming twenty-five bodies and assisting with twenty-five funerals; and

~~(iii) (c) Has embalmed arterially twenty-five bodies under the direction of such licensed embalmer. Supervision shall require direct oversight or the easy availability of the supervising embalmer~~ Successful completion of the licensure examination approved by the board.

(2) Any person holding a valid license as an embalmer on the operative date of this act may continue to provide services as an embalmer after such date. Upon expiration of such valid license, the licensee may apply for renewal thereof, and the department on the recommendation of the board shall renew such license to practice embalming. The recommendation of the board, the application, and the renewal fee shall be based on the requirements for renewal of such license in existence immediately prior to the operative date of this act.

(3) Any person holding a valid license as a funeral director on the operative date of this act may continue to provide services as a funeral director after such date. Upon expiration of such valid license, the licensee may apply for renewal thereof, and the department on the recommendation of the board shall renew such license to practice funeral directing. The recommendation of the board, the application, and the renewal fee shall be based on the requirements for renewal of such license in existence immediately prior to the operative date of this act.

(4) The department on the recommendation of the board shall issue a single license to practice funeral directing and embalming to a person holding a valid license as an embalmer and a valid license as a funeral director on the operative date of this act when such valid licenses expire. A licensee desiring to obtain a license under this subsection shall apply on forms prescribed by the department and pay a fee equal to the renewal fee for such license established by the department.

~~(3) When the applicant has satisfied the department that he or she either has the qualifications mentioned in subdivision (2)(a) of this section or has completed all but the final semester of a full course of instruction in a mortuary science college of the type referred to in section 71-196 which is approved by the board, the applicant shall be eligible to take an examination prescribed by the board. The board may adopt a national standardized examination to constitute all or part of such examination. The applicant shall pass such examination before beginning his or her twelve-month or final six-month service as a student embalmer under the instruction and supervision of an embalmer licensed and practicing in Nebraska. When the applicant has satisfied the department~~

~~that he or she has the qualifications mentioned in subsection (2) of this section and also the qualifications set out in the Uniform Licensing Law relating to applicants for examination in general, the applicant may present himself or herself before the board of examiners for a written jurisprudence and vital statistics examination and for examination upon such other subjects as may be recommended by the board and approved by the department.~~

Sec. 15. That section 71-196, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-196. When the applicant has satisfied the department that he or she either has completed a full course of instruction in an accredited school of mortuary science or has completed all but the final semester of such course, the applicant shall be eligible to take the national standardized examination. The applicant shall pass such examination before beginning his or her twelve-month apprenticeship or the final six months thereof. When the applicant has satisfied the department that he or she has the qualifications specified in section 16 of this act, he or she shall be eligible to take the state jurisprudence and vital statistics forms examination. A grade of seventy-five or above on each part of the licensure examination shall be a passing grade. An accredited school of embalming shall be of the same type as those rated Class A by the Conference of Funeral Service Examining Boards of the United States, Inc., approved by the Department of Health upon recommendation of the board of examiners.

Sec. 16. That section 71-198, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-198. (1) Before beginning his or her twelve month or each six month service as a student embalmer an apprenticeship, an applicant shall register with the department on a form provided by the department for that purpose. The fee for registration with the department as a student embalmer an apprentice shall be set by the department at not less than twenty dollars nor more than one hundred dollars, based on administrative costs. The applicant shall have show that he or she has completed thirty-nine of the required sixty hours required in subsection subdivision (1)(a) of section 71-195 14 of this act. The applicant may complete the twelve-month apprenticeship in either a split apprenticeship or a full apprenticeship as provided in this section.

(2) A split apprenticeship shall be completed in the following manner: (a) Registration with the department to complete a six-month apprenticeship prior to attending an accredited school of mortuary science, which registration shall be valid for six months from the date of issuance and shall not be extended by the board. The apprenticeship shall be completed over a continuous six-month period; (b) successful completion of a full course of study in an accredited school of mortuary science; (c) successful passage of the national standardized examination; and (d) registration with the department to complete the final six-month apprenticeship, which registration shall be valid for six months from the date of issuance and shall not be extended by the board. The

apprenticeship shall be completed over a continuous six-month period.

(3) A full apprenticeship shall be completed in the following manner: (a) Successful completion of a full course of study in an accredited school of mortuary science; (b) successful passage of the national standardized examination; and (c) registration with the department to complete a twelve-month apprenticeship. This registration shall be valid for twelve months from the date of issuance and shall not be extended by the board. The apprenticeship shall be completed over a continuous twelve-month period. service as a student embalmer in the following manner:

~~(1) By registering with the department and serving six months of his or her service as a student embalmer, then attending mortuary science college as required in section 71-195, and after successfully completing the written examination of embalming required by such section, by completing the final six months of the required service as a student embalmer. Both six month service periods as a student embalmer shall be under the instruction and supervision of an embalmer licensed and practicing in the State of Nebraska; or~~

~~(2) By completing mortuary science college and successfully passing the written examination on the subject of embalming as required in section 71-195, then registering with the department as a student embalmer and serving twelve months of service as a student embalmer under the instruction and supervision of an embalmer licensed and practicing in the State of Nebraska.~~

~~The applicant shall present himself or herself to the board of examiners for a written examination in the subjects of jurisprudence, vital statistics forms completion, and such other subjects as may be recommended by the board and approved by the department and shall receive a grade of seventy five or above on each examination within thirty six months of the date of registration as a student embalmer if the applicant elects to complete his or her twelve month service as prescribed in subdivision (1) of this section and twenty four months if the applicant elects to complete his or her twelve month service as prescribed in subdivision (2) of this section.~~

~~(4) The department may, on the recommendation of the board, adopt and promulgate rules and regulations to provide additional guidelines for student embalmers in for apprentices in funeral directing and embalming, and to further regulate the registration and training of such students.~~

Sec. 17. That section 71-199, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-199: The board of examiners shall have the privileges extended to them for the use of bodies for dissection, demonstrating, and teaching; under the requirements of the State Anatomical Board for the distribution and delivery of dead human bodies.

Sec. 18. That section 71-1,100, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,100: The finding of chemical substances, fluids, or

gases ordinarily used in embalming; or any trace thereof; in a dead human body, the use of which is prohibited except by a licensed funeral director and embalmer, or the placing thereof upon a dead human body by other than a licensed funeral director and embalmer shall constitute prima facie evidence of the violation of sections ~~71-194 to 71-1,101~~ 13 to 18 of this act.

Sec. 19. That section 71-1326, Revised Statutes Supplement, 1992, be amended to read as follows:

71-1326. The ~~Department of Health~~ department, upon recommendation of the ~~Board of Examiners in Embalming and Funeral Directing~~ board, may adopt and promulgate such rules and regulations as may be reasonable and proper for the purpose of carrying into effect ~~the provisions of sections 71-1325 to 71-1336~~ 71-1326 to 71-1354 and sections 13 to 18, 21, and 26 to 28 of this act.

Sec. 20. That section 71-1327, Revised Statutes Supplement, 1992, be amended to read as follows:

71-1327. (1) The application for an initial funeral establishment license shall be accompanied by a fee established in rules and regulations of the department, which fee shall be not less than thirty dollars and not more than three hundred dollars. An application for such license shall be in writing and verified on a form provided by the department. ~~The applicant~~ In order for a funeral establishment ~~license shall be to be licensed, it shall employ as its manager~~ a licensed funeral director. ~~He or she shall be named on the license as manager of the funeral establishment and shall be~~ and embalmer who shall be responsible for all transactions conducted in the funeral establishment, except that any person holding a valid license as a funeral director on December 31, 1993, may serve as a manager of a funeral establishment. The licensee manager shall maintain and operate the funeral establishment in accordance with all laws, rules, and regulations relating thereto.

(2) A license to operate a funeral establishment may be granted by the department upon the recommendation of the board. ~~Should~~ If the applicant for a funeral establishment license ~~propose~~ proposes to operate more than one establishment, a separate application and fee shall be ~~presented~~ required for each ~~separate~~ location.

(3) A funeral establishment desiring to ~~transfer location of operation~~ relocate shall make application therefor on a form provided by the department at least thirty days prior to the designated date of such change in location. The application for ~~transfer~~ relocation shall be accompanied by a fee of not less than fifteen dollars and not more than one hundred fifty dollars.

(4) A funeral establishment desiring to change its manager shall make application on a form provided by the department at least fifteen days prior to the designated date of such change, except that in the case of death of a manager, the application shall be made immediately following such death. The application shall be accompanied by a fee of not less than fifteen dollars and not more than one hundred fifty dollars.

No license shall be issued under this subsection by the department until the original license has been surrendered.

(5) A funeral establishment desiring to change its name shall request such change on a form provided by the department at least thirty days prior to the designated change in name. The form shall be accompanied by a fee in the amount of ten dollars.

Sec. 21. (1) The application for an initial branch establishment license shall be accompanied by a fee established in rules and regulations of the department, which fee shall be not less than thirty dollars and not more than three hundred dollars. An application for such license shall be in writing on a form provided by the department.

(2) A license to operate a branch establishment may be granted by the department upon the recommendation of the board. If the applicant for a branch establishment license proposes to operate more than one branch establishment, a separate application and fee shall be required for each location.

(3) A branch establishment desiring to relocate shall make application therefor on a form provided by the department at least thirty days prior to the designated date of such change in location. The application for relocation shall be accompanied by a fee of not less than fifteen dollars and not more than one hundred dollars.

(4) A branch establishment desiring to change its manager shall make application on a form provided by the department at least fifteen days prior to the designated date of such change, except that in the case of death of the manager, the establishment shall make application immediately after such death. The application shall be accompanied by a fee of not less than fifteen dollars and not more than one hundred dollars. No license shall be issued by the department under this subsection until the original license has been surrendered.

(5) A branch establishment desiring to change its name shall request such change on a form provided by the department at least thirty days prior to the designated change in name. The form shall be accompanied by a fee in the amount of ten dollars.

Sec. 22. That section 71-1329, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1329. The department shall make or cause to be made such inspections of funeral establishments and branch establishments as it may prescribe pursuant to rules and regulations with the approval of the Board of Examiners in Embalming and Funeral Directing board. Inspections shall be a condition of initial licensure and of license renewal. ~~shall be made upon receipt of an application for a funeral establishment license. The department may subpoena witnesses, administer oaths, and take testimony. Upon proper notice and hearings by the department, the board shall report its findings to the Director of Health, with its recommendation that such application for license shall be granted or refused as the case may be. In no instance shall the recommendation of the board be delayed for more than ninety days following receipt of the application for license or more than thirty days following the closing of a~~



~~hearing on such application.~~

Sec. 23. That section 71-1331, Revised Statutes Supplement, 1992, be amended to read as follows:

71-1331. (1) Every licensed funeral establishment and branch establishment shall pay biennially a fee for the renewal of its license. The renewal fee payable by a licensed funeral establishment or branch establishment shall be established in rules and regulations of the department and shall be not less than ten dollars and not more than four hundred dollars. All renewal fees shall become due and payable on February 1 of each even-numbered year. Renewals shall be processed in accordance with section 71-110.

(2) Any person, partnership, firm, corporation, association, or other organization which (a) without having complied with sections ~~71-1325 to 71-1336~~ 71-1326 to 71-1354 and sections 13 to 18, 21, and 26 to 28 of this act and without having first obtained a license (i) engages directly or indirectly in the business of funeral directing and embalming, (ii) holds himself, herself, or itself out to the public as a funeral director and embalmer, or (iii) performs or attempts to perform any of the services of a funeral establishment or branch establishment or of a funeral director and embalmer relating to the disposition of dead human bodies or (b) continues to perform such services after the license has expired or has been revoked or suspended shall be guilty of a Class III misdemeanor and shall be dealt with in the same manner as outlined in section 71-167. Each day so engaged in such business shall constitute and be deemed a separate offense.

Sec. 24. That section 71-1332, Revised Statutes Supplement, 1992, be amended to read as follows:

71-1332. When the license of a funeral establishment or branch establishment has ~~lapsed for any reason~~ been revoked for nonpayment of renewal fees, the ~~Department of Health~~ department shall have authority to reinstate such ~~lapsed~~ license as provided in section 71-110. ~~A funeral establishment may assign its license upon a proper showing made to the department as required by its duly adopted and promulgated rules and regulations that the proposed assignee is a qualified and licensed funeral director. A fee established in rules and regulations of the department of not less than fifteen dollars and not more than one hundred fifty dollars shall accompany each application for assignment of the license of a funeral establishment. Under no condition or circumstances may a funeral director's license be assigned.~~

Sec. 25. That section 71-1333, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1333. (1) The department may deny, refuse renewal of, revoke, limit, suspend, or take other disciplinary measures against a license or an application for a license ~~or a currently existing license to practice funeral directing and embalming~~ pursuant to section 71-155 if the applicant or licensee is found guilty of any of the acts or offenses specified in sections 71-147 and 71-148 or the following acts or offenses: ~~(†)~~ (a) Solicitation of dead human bodies by the licensee or his or her agents,

assistants, or employees, either prior to or following death; (2) (b) the purchasing of funeral or embalming engagements or the payment of a commission either directly or indirectly or offer of payment of such commission to any agent, assistant, or employee for the purpose of securing business; (3) (c) using indecent, profane, or obscene language in the presence of a dead human body or within the immediate presence or hearing of the family, relatives, or friends of the deceased prior to the burial of the deceased; (4) (d) soliciting or accepting any remuneration, commission, bonus, or rebate in consideration of the recommending or causing a dead human body to be placed in any crematory, mausoleum, or cemetery; (5) (e) using any casket or part thereof which has previously been used as a receptacle for, or in connection with, the shipment, burial, or other disposition of a dead human body without first identifying such item as used; (6) (f) violations of any state law, municipal ordinance, or ~~any~~ rule or regulation of the department or other body having regulatory powers, relating to the handling, custody, care, or transportation of dead human bodies; (7) (g) refusal to surrender promptly the custody of a dead human body upon request of a person or persons lawfully entitled to the custody thereof; or (8) (h) taking undue advantage of a patron or patrons, or being found guilty of fraud, or misrepresentation in the selling of merchandise or service to patrons.

(2) An applicant or a licensee shall be subject to the penalty provisions of this section if found guilty of any of the following: (a) Paying, directly or indirectly, any money or other thing of value as a commission or gratuity for the securing of business; (b) the buying of a business of any person, firm, or corporation, or the paying of a commission to any person, firm, or corporation or to any hospital or any institution where death occurs or to any hospital superintendent, nurse, intern, or other employee, whether directly or indirectly; or (c) willful malpractice. Any funeral director and embalmer who commits any of the acts or things prohibited by this section or otherwise violates any of the provisions thereof shall be guilty of a Class II misdemeanor.

(3) Nothing in this section shall be construed to prohibit a licensed funeral director and embalmer from engaging in sales of funeral goods or services under the Burial Pre-Need Sale Act.

Sec. 26. (1) The department shall deny an application for a license as a funeral establishment or branch establishment, revoke or suspend a license, or refuse renewal of such a license on any of the following grounds:

(a) Conviction of any crime involving moral turpitude;  
 (b) Obtaining a license as a funeral establishment or a branch establishment by false representation or fraud;  
 (c) Operating a funeral establishment or branch establishment without a manager responsible for the operations of the establishment;

(d) A conviction of a violation of any of the provisions of sections 71-147, 71-148, and 71-1326 to 71-1354 and sections 13 to 18, 21,

and 26 to 28 of this act;

(e) Unprofessional conduct, which is hereby defined to include (i) misrepresentation or fraud in the conduct of a funeral establishment or branch establishment or (ii) aiding or abetting an unlicensed person to practice funeral directing and embalming; or

(f) Violation of the rules and regulations governing the practice of funeral directing and embalming.

(2) If the department determines to deny the application for a license as or to revoke, suspend, or refuse renewal of the license of a funeral establishment or branch establishment, it shall send to the applicant or licensee, by certified mail, a notice setting forth the particular reasons for the determination. The denial, revocation, suspension, or refusal of renewal shall become final thirty days after the mailing of the notice unless the applicant or licensee, within such thirty-day period, requests a hearing in writing. The applicant or licensee shall be given a fair hearing before the department and may present such evidence as may be proper. On the basis of such evidence, the determination involved shall be affirmed or set aside and a copy of such decision setting forth the finding of facts and the particular reasons upon which it is based shall be sent by certified mail to the applicant or licensee. The decision shall become final thirty days after a copy of such decision is mailed unless the applicant or licensee within such thirty-day period appeals the decision pursuant to section 28 of this act. The procedure governing hearings authorized by this section shall be in accordance with rules and regulations adopted and promulgated by the department. A full and complete record shall be kept of all proceedings. Witnesses may be subpoenaed by either party and shall be allowed a fee at a rate prescribed by the rules and regulations of the department.

(3) The proceeding shall be summary in its nature and triable as an equity action. Affidavits may be received in evidence in the discretion of the Director of Health. The department shall have the power to administer oaths, to subpoena witnesses and compel their attendance, and to issue subpoenas duces tecum and require the production of books, accounts, and documents in the same manner and to the same extent as the district courts of the state. Depositions may be used by either party. Upon the completion of any hearing, the director may, through entry of an order, exercise in his or her discretion any or all of the following powers:

(a) Issue a censure or reprimand against the manager;

(b) Suspend judgment;

(c) Place the manager on probation;

(d) Place a limitation or limitations on the license and upon the right of the manager to operate a funeral establishment or branch establishment to the extent, scope, or type of operation, for such time, and under such conditions as the director finds necessary and proper. The director shall consult with the board in all instances prior to issuing an order of limitation;

(e) Impose a civil penalty not to exceed ten thousand

dollars;

- (f) Enter an order of suspension of the license;
- (g) Enter an order of revocation of the license; or
- (h) Dismiss the action.

(4) The manager of a funeral establishment or branch establishment shall not operate such establishment after its license is revoked or during the time for which it is suspended. If a funeral establishment or branch establishment license is suspended, the suspension shall be for a definite period of time to be fixed by the director. Such license shall be automatically reinstated upon the expiration of such period if the current renewal fees have been paid. If such license is revoked, such revocation shall be permanent, except that at any time after the expiration of two years application may be made for reinstatement of any manager whose funeral establishment or branch establishment license has been revoked. Such application shall be addressed to the director but may not be received or filed by him or her unless accompanied by a written recommendation of reinstatement by the board.

(5) The amount of any civil penalty assessed under this section shall be based on the severity of the violation. If any violation is a repeated or continuing violation, each violation or each day a violation continues shall constitute a separate violation for the purpose of computing the applicable civil penalty, if any. The department may adopt and promulgate the necessary rules and regulations concerning notice and hearing of such application. Any civil penalty assessed and unpaid under this section shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the district court of the county in which the violator resides or owns property. The department shall within thirty days from receipt remit any collected civil penalty to the State Treasurer for credit to the permanent school fund.

Sec. 27. (1) A petition for the revocation or suspension of the license of a funeral establishment or branch establishment may be filed by the Attorney General or by the county attorney in the county in which the manager resides or is operating such establishment. The petition shall be filed with the board and shall be entitled In the Matter of the Revocation (or Suspension) of the License of the Funeral Establishment or Branch Establishment (Name and establishment). The petition shall state the charges against the manager with reasonable definiteness. Upon approval of such petition by the board, it shall be forwarded to the department which shall make an order fixing a time and place for hearing thereon which shall not be less than ten days or more than thirty days after receipt. Notice of the filing of such petition and of the time and place of hearing shall be served upon the manager at least ten days before such hearing.

(2) The notice of charges referred to in subsection (1) of this section may be served by any sheriff or constable or by any person especially appointed by the department. The order of revocation or suspension of the license of a funeral establishment or branch

establishment shall be entered on record, and the manager may not engage in the operation of a funeral establishment or branch establishment after revocation of the license or during the time for which it is suspended.

Sec. 28. Any manager shall have the right of appeal from an order of the department denying, revoking, suspending, or refusing renewal of a funeral establishment license or branch establishment license. The appeal shall be in accordance with the Administrative Procedure Act.

Sec. 29. That section 71-1336, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1336. The ~~Department of Health~~ department shall, on or before the tenth day of each month, ~~pay into the state treasury~~ remit to the State Treasurer all fees and money collected in connection, directly or indirectly, with the administration of all laws, rules, and regulations pertaining to funeral establishments and branch establishments. Such fees and money shall be used in the same manner as funds received pursuant to section 71-162.

Sec. 30. That section 71-1340, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1340. A decedent, prior to his or her death, may direct the preparation for type; or place of interment of his or her remains, either by oral or written instructions. If such instructions are in a will or other written instrument, he or she may direct that the whole or any part of his such remains be given to a teaching institution, university, college, or legally licensed hospital, ~~or~~ to the Director of Health, or to or for the use of any nonprofit blood bank, artery bank, eye bank, or other therapeutic service operated by any agency approved by the Director of Health under rules and regulations established by the director. The person or persons otherwise entitled to control the disposition of the remains under ~~the provisions of~~ this section shall faithfully carry out the directions of the decedent.

If such instructions are contained in a will or other written instrument, they shall be immediately carried out, regardless of the validity of the will in other respects or of the fact that the will may not be offered for or admitted to probate until a later date.

This section shall be administered and construed to the end that such expressed instructions of any person shall be faithfully and promptly performed.

A funeral director and embalmer, physician, or cemetery authority shall not be liable to any person or persons for carrying out such instructions of the decedent, ~~nor shall~~ and any teaching institution, university, college, or legally licensed hospital or the Director of Health shall not be liable to any person or persons for accepting the remains of any deceased person under a will or other written instrument as above set forth.

Sec. 31. That section 71-1345, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1345. The department, upon the recommendation of the ~~Board of Examiners in Embalming and Funeral Directing~~ board,

may issue a license to any person who has been duly licensed for at least one year to practice embalming or funeral directing in some other state providing the license from the other state was issued upon requirements which are comparable to those of Nebraska for obtaining a license to practice ~~embalming or~~ funeral directing and embalming. The applicant shall also provide evidence of meeting the requirements prescribed in section 71-139. The applicant shall take and pass the state jurisprudence and vital statistic forms examination with a grade of seventy-five on each examination.

Sec. 32. That section 71-1346, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1346. A written statement, signed by the funeral director and embalmer or legal representative, of all principal services and furnishings to be supplied by the funeral director and embalmer for the preparation and burial or cremation of the deceased, together with the actual cost of the services including the total actual costs, shall be given to the next of kin or other person responsible for the making of the funeral arrangements prior to the burial or disposition of the deceased. For purposes of this section principal services shall include, but not be limited to, the casket, outer receptacle, facilities and equipment, professional services, nonlocal transportation, clothing, an itemization of all cash advances, and sales tax. A copy of such statement, signed by the person to whom it was tendered, shall be retained in the records of the funeral director and embalmer for a period of at least two years.

Sec. 33. That section 71-1347, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1347. The purpose of sections 71-1347 to 71-1354 is to establish requirements for continuing education of ~~embalmers and funeral directors who are licensed~~ licensees in order to maintain and improve the quality of their services to the public.

Sec. 34. That section 71-1349, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1349. Each licensee shall submit with his or her application for license renewal, evidence that he or she has satisfactorily completed sixteen hours of approved continuing education courses within the two-year period preceding the license renewal date. Persons renewing their licenses annually shall submit such evidence of satisfactorily completed continuing education courses in even-numbered years only. ~~Persons renewing their license on or before February 1, 1986, shall be given credit for any approved activity they participate in between August 26, 1983, and February 1, 1986.~~

Sec. 35. That section 71-1352, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1352. (1) The department, on the recommendation of the board, may waive continuing education requirements, in part or in total, for any two-year licensing period when a licensee submits documentation that circumstances beyond his or her control prevented completion of such requirements. Such circumstances shall include

situations in which:

(a) The licensee holds a Nebraska license but is not practicing his or her profession or occupation in Nebraska;

(b) The licensee has served in the regular armed forces of the United States during part of the twenty-four months immediately preceding the license renewal date;

(c) The licensee has submitted proof that he or she was suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the twenty-four months immediately preceding the license renewal date; or

(d) The licensee was first licensed within the twenty-four months immediately preceding the license renewal date.

~~(2) Persons renewing their license on or before February 1, 1986, shall be given credit for any approved activity they attend between August 26, 1983, and February 1, 1986.~~

(3) Any person seeking to reinstate a license which has lapsed for less than one year shall comply with the continuing education requirements for regular renewal of the license. Any person seeking to reinstate a license which has lapsed for one year or longer shall present satisfactory evidence of having completed at least eight hours of approved continuing education courses within one year prior to his or her reinstatement.

(4) (3) Each licensee shall provide a sworn affidavit listing continuing education activities participated in or attended, the amount of credit received for each activity, and the date, location, and name of the approved provider which sponsored the activity on a separate form or portion of the license renewal application as may be designed by the department. Each licensee shall be responsible for maintaining in his or her personal files such certificates or records of credit from continuing education activities received from approved providers.

The ~~appropriate examining~~ board may biennially select, in a random manner, a sample of the license renewal applications for audit of continuing education credits. Each licensee selected for audit shall be required to produce documentation of his or her attendance at the continuing education seminars listed on his or her renewal application.

Sec. 36. That section 71-4807, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4807. (1) The donee may accept or reject the gift. If the donee accepts a gift of the entire body, he or she may, subject to the terms of the gift, authorize embalming and the use of the body in funeral services. If the gift is of a part of the body, the donee, upon the death of the donor and prior to embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next of kin, or other persons under obligation to dispose of the body.

(2) The time of death shall be determined by a physician who attends the donor at his or her death or, if none, the physician who

certifies the death. This physician shall not participate in the procedures for removing or transplanting a part, except the enucleation of eyes. An appropriately qualified designee of a physician with training in ophthalmologic techniques or a ~~licensed funeral director or mortician; as defined in section 71-1325;~~ and embalmer licensed pursuant to section 14 of this act upon (a) successfully completing a course in eye enucleation and (b) receiving a certificate of competence from the Department of Ophthalmology, College of Medicine of the University of Nebraska, may enucleate the eyes of the donor.

(3) A person who acts in good faith in accord with the terms of the Uniform Anatomical Gift Act or under the anatomical gift laws of another state shall not be liable for damages in any civil action or subject to prosecution in any criminal proceeding for his or her act.

(4) The Uniform Anatomical Gift Act shall be subject to the laws of this state prescribing powers and duties with respect to autopsies.

Sec. 37. That section 71-4810, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4810. No physician, surgeon, hospital, blood bank, tissue bank, ~~licensed funeral director or mortician~~ and embalmer licensed under section 14 of this act, or other person or entity who donates, obtains, prepares, transplants, injects, transfuses, or otherwise transfers, or who assists or participates in obtaining, preparing, transplanting, injecting, transfusing, or transferring any tissue, organ, blood, or component thereof from one or more human beings, living or dead, to another human being, shall be liable in damages as a result of any such activity, save and except that each such person or entity shall remain liable in damages for his, her, or its own negligence or willful misconduct.

Sec. 38. This act shall become operative on January 1, 1994.

Sec. 39. That original sections 59-1617, 71-110, 71-112, 71-118, 71-194 to 71-196, 71-198 to 71-1,100, 71-605, 71-606, 71-609, 71-635, 71-1329, 71-1333, 71-1336, 71-1340, 71-1345 to 71-1347, 71-1349, 71-1352, 71-4807, and 71-4810, Reissue Revised Statutes of Nebraska, 1943, and sections 33-150, 71-101, 71-162, 71-611, 71-1326, 71-1327, 71-1331, and 71-1332, Revised Statutes Supplement, 1992, and also sections 71-1,101, 71-1328, 71-1330, and 71-1348, Reissue Revised Statutes of Nebraska, 1943, and section 71-1325, Revised Statutes Supplement, 1992, are repealed.