

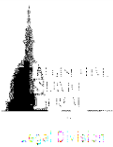
HOUSE BILL NO. 4437

April 09, 2019, Introduced by Reps. Wakeman, Tate and Marino and referred to the Committee on Regulatory Reform.

A bill to amend 1980 PA 299, entitled "Occupational code," by amending sections 1801, 1803, 1804, 1806, and 1809 (MCL 339.1801, 339.1803, 339.1804, 339.1806, and 339.1809), section 1801 as amended by 2006 PA 300 and section 1806 as amended by 2013 PA 80, and by adding section 1806b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1801. As used in this article:



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1 **(a) "Business entity" means a person described in section**
2 **105(5) (b) or (c), except a sole proprietorship or general**
3 **partnership.**

4 **(b) ~~(a)~~**"Funeral establishment" means a place of business used
5 in the care and preparation for burial or transportation of a dead
6 human body or a place where a person represents that ~~the person~~ **he**
7 **or she** is engaged in the profession of undertaking or the practice
8 of mortuary science.

9 **(c) ~~(b)~~**"Holder of a license for the practice of mortuary
10 science" means ~~a person~~ **an individual** who satisfactorily completes
11 a course in mortuary science, ~~who~~ passes an examination prescribed
12 in this article, serves the required resident training, and is
13 issued a license for the practice of mortuary science.

14 **(d) ~~(c)~~**"Practice of embalming" means the disinfecting or
15 preserving of a dead human body, entirely or in part, by the use of
16 a chemical substance, fluid, or gas in the body or by the
17 introduction of the chemical substance, fluid, or gas into the body
18 by a vascular or hypodermic injection, or by direct application
19 into an organ or cavity.

20 **(e) ~~(d)~~**"Practice of funeral directing" means engaging in or
21 representing oneself as engaging in the supervising of the burial
22 and disposal of a dead human body; maintaining a funeral
23 establishment for the preparation, disposition, and care of a dead
24 human body; or using, in connection with the user's name or funeral
25 establishment, the word "funeral director", "funeral service
26 professional", "undertaker", or "mortician", or any other title
27 embodying the words "mortuary science" or otherwise implying that
28 ~~one~~ **a person** is engaged as a funeral director.

29 **(f) ~~(e)~~**"Practice of mortuary science" means the practice of



1 embalming or the practice of funeral directing, or both.

2 (g) ~~(f)~~ "Resident trainee" means ~~a person~~ **an individual** who is
3 engaged in learning the practice of embalming or funeral directing
4 or the practice of mortuary science under the instruction and
5 personal supervision of a holder of a license for the practice of
6 mortuary science in this state.

7 Sec. 1803. (1) The placing of a chemical on or in a dead human
8 body by ~~a person~~ **an individual** who is not the holder of a license
9 for the practice of mortuary science is a violation of this
10 article.

11 (2) This article ~~shall~~ **does** not apply to ~~a resident trainee~~
12 **any of the following individuals if he or she is** working under the
13 supervision of a holder of a license for the practice of mortuary
14 science: ~~A person who is engaged~~

15 (a) **A resident trainee.**

16 (b) **A student who is enrolled in a higher education program in**
17 **mortuary science at a school, college, or university that is**
18 **accredited by an accrediting agency that is recognized by the**
19 **United States Secretary of Education as a specialized accrediting**
20 **agency in funeral service or mortuary science.**

21 (3) **An individual shall not engage** in the practice of
22 embalming, ~~or who professes~~ **profess** to be engaged in ~~that practice,~~
23 ~~or who represents that the person~~ **the practice of embalming, or**
24 **represent that he or she** is an embalmer ~~shall be~~ **if he or she is**
25 **not** the holder of a license for the practice of mortuary science
26 **under this article.**

27 Sec. 1804. (1) An individual whose name appears in ~~connection~~
28 ~~with that~~ **the name** of a funeral establishment ~~shall be~~ **is**
29 considered as actively engaged in the practice of funeral directing



1 or the practice of mortuary science and shall be the holder of a
 2 license for the practice of mortuary science. ~~If a funeral~~
 3 ~~establishment is a corporation or partnership, each active member~~
 4 ~~of the corporation or partnership, together with each individual~~
 5 ~~whose name appears or is used in connection with the name of the~~
 6 ~~corporation or partnership, shall be the holder of a license for~~
 7 ~~the practice of mortuary science.~~

8 ~~(2) This article shall not prevent a funeral establishment~~
 9 ~~from using or continuing to use an otherwise lawful corporate or~~
 10 ~~partnership name after the death or retirement of a member if each~~
 11 ~~active member or employee is properly licensed under this article.~~

12 **(2) A lawfully formed business entity that is licensed as a**
 13 **funeral establishment may use or continue to use the licensed**
 14 **establishment name after the death or retirement of a member,**
 15 **officer, or director if the death or retirement is reported to the**
 16 **department within 30 days and if the licensed establishment name**
 17 **has been formerly used.**

18 Sec. 1806. (1) The department shall issue a license to engage
 19 in the practice of mortuary science to an individual who meets all
 20 of the following:

21 (a) Subject to subsection (2), served as a resident trainee
 22 ~~for 1 year~~ under the personal supervision and instruction of the
 23 holder of a license for the practice of mortuary science ~~for 1 of~~
 24 **the following time periods:**

25 **(i) If the individual files his or her initial license**
 26 **application before January 1, 2023, 1 year.**

27 **(ii) If the individual files his or her initial license**
 28 **application on or after January 1, 2023, 180 days.**

29 **(b) Completed a mortuary science program that is accredited by**



1 an agency recognized by the United States Secretary of Education as
 2 a specialized accrediting agency in funeral service or mortuary
 3 science and meets 1 of the following:

4 (i) ~~(b) Graduated from~~ If the individual files his or her
 5 initial license application before January 1, 2023, graduated from
 6 a 3-year ~~course in mortuary science in an accredited higher~~
 7 education program in mortuary science at a school, college, or
 8 university that is accredited by an accrediting agency that is
 9 recognized by the United States Secretary of Education as a
 10 specialized accrediting agency in funeral service or mortuary
 11 science.

12 (ii) If the individual files his or her initial license
 13 application on or after January 1, 2023, graduated with a
 14 baccalaureate degree or higher degree from an educational
 15 institution that is accredited by an agency recognized by the
 16 United States Secretary of Education as a regional accrediting
 17 agency for postsecondary education or whose baccalaureate degree
 18 program is accredited by a specialized accrediting agency in
 19 funeral service or mortuary science.

20 (c) ~~Subject to subsection (2), satisfactorily~~ Satisfactorily
 21 passes an ~~examination~~ all of the required parts of an examination
 22 administered and developed by a national or international
 23 association of funeral service licensing boards and approved by the
 24 department and the board.

25 (d) Satisfactorily passes a Michigan examination developed and
 26 administered by or under the authority of the department.

27 (e) ~~(d)~~ Is of good moral character.

28 (2) ~~An applicant may take the examination described in~~
 29 subsection (1) (c) in 2 parts, 1 part after the completion of the



1 ~~prescribed education and 1 part after the completion of the~~
2 ~~prescribed education and the service of resident training.~~ The
3 department may waive a portion of the requirement under subsection
4 (1) (a) of 1 year of resident training if the applicant has a
5 baccalaureate degree from an accredited school, college, or
6 university, and the department determines that the degree is a
7 satisfactory substitute for the resident training. **This subsection**
8 **does not apply after December 31, 2022.**

9 (3) A person may only engage in the practice of mortuary
10 science at a fixed location. A person shall not open or maintain a
11 place for practice, or hold itself out as engaging in the practice
12 of mortuary science, without an establishment license issued by the
13 department. An establishment license under this subsection is
14 issued for a specific location only. The holder of a license for
15 the practice of mortuary science may conduct a funeral in another
16 licensed funeral establishment; at a church, home, public hall,
17 lodge room, or other fixed place; or at another establishment that
18 is owned by the person and that meets the requirements of section
19 1809.

20 (4) The department shall not issue or renew an establishment
21 license under subsection (3) unless the applicant certifies that 1
22 of the following is met at the time of application:

23 (a) The applicant, or a person that has a controlling interest
24 in, or that is under common ownership with, the applicant, is
25 registered with the department under section 6 of the prepaid
26 funeral and cemetery sales act, 1986 PA 255, MCL 328.216.

27 (b) The applicant has a contract with a registrant under which
28 the registrant sells, provides, or agrees to sell or provide
29 merchandise, funeral services, or cemetery services under a prepaid



1 contract on behalf of the funeral establishment. As used in this
2 subdivision and subsection (5), "cemetery services", "funeral
3 services", "merchandise", "prepaid contract", "provider", and
4 "registrant" mean those terms as defined in the prepaid funeral and
5 cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235.

6 (5) If an establishment license is canceled under subsection
7 (7) because of a change of ownership of the funeral establishment,
8 the department shall not grant a new license for that establishment
9 unless the applicant assumes the obligations of any unperformed
10 prepaid contracts in which the former establishment was designated
11 as the provider under section 11(1) of the prepaid funeral and
12 cemetery sales act, 1986 PA 255, MCL 328.221, or certifies that the
13 unperformed prepaid contracts have been assigned to another funeral
14 establishment or to a person that has a contract with a funeral
15 establishment that has agreed to act as the provider.

16 (6) The department may inspect a funeral establishment or a
17 branch of a funeral establishment, and the funeral establishment or
18 branch must meet the requirements of section 1809 and any other
19 standards and requirements established by rule of the department
20 under this act. The department may revoke a license for a failure
21 to meet any of these requirements under the procedure set forth in
22 this article.

23 (7) A change in ~~the~~ ownership or **change in** location of the
24 funeral establishment, **or a change in business entity or change in**
25 **ownership of a business entity that owns a funeral establishment,**
26 automatically cancels its license. A licensee shall ~~immediately~~
27 report a change in ownership or location to the department **within**
28 **30 days of the change. As used in this subsection, "change in**
29 **ownership" means a change of the owners of a majority of shares of**



1 stock or a majority of a business entity's members, officers, or
 2 directors or a change in a sole proprietorship's or general
 3 partnership's owners.

4 (8) ~~The Subject to subsection (9), the~~ department shall issue
 5 a mortuary science license to an individual who holds ~~a valid~~
 6 ~~license in another state that has substantially equal requirements~~
 7 ~~to the requirements under this article or~~ **previously held a valid**
 8 **mortuary science license, or dual licenses as a funeral director**
 9 **and embalmer, in another state** if he or she meets all of the
 10 following:

11 (a) Applies for a license to practice in this state.

12 (b) **Held the license or licenses in the other state for a**
 13 **period of at least 5 years.**

14 (c) **Completed a mortuary science program that is accredited by**
 15 **an agency recognized by the United States Secretary of Education as**
 16 **a specialized accrediting agency in funeral service or mortuary**
 17 **science.**

18 (d) **Satisfactorily passed all of the required parts of an**
 19 **examination administered and developed by a national or**
 20 **international association of funeral service licensing board and**
 21 **approved by the department and the board.**

22 (e) ~~(b)~~ Files with the department a certified statement from
 23 the examining board of the state in which the applicant holds a
 24 license that shows the basis on which the license was granted, and
 25 whether that board has suspended, revoked, or limited that license.

26 (f) ~~(e)~~ Passes an examination approved by the department and
 27 the board that tests the individual's knowledge of law relating to
 28 the practice of mortuary science in ~~Michigan~~ **this state.**

29 (9) **The department may refuse to issue a mortuary science**



1 license to an individual described in subsection (8) based on
2 evidence that his or her license in the other state was suspended,
3 revoked, or limited at any time.

4 Sec. 1806b. (1) Beginning the first complete license cycle
5 after October 31, 2023, the holder of a license for the practice of
6 mortuary science must successfully complete at least 4 hours of
7 eligible continuing education courses in each year of a license
8 cycle.

9 (2) All of the following apply to the continuing education
10 requirement described in subsection (1):

11 (a) The continuing education requirement does not apply to an
12 individual who is the holder of a license for the practice of
13 mortuary science and has continuously held a valid license for the
14 practice of mortuary science for at least 40 consecutive years.

15 (b) At least 2 of the 4 hours of eligible continuing education
16 courses required in each year of a license cycle must involve 1 or
17 more of the following subjects:

18 (i) Technical skills required for embalming and restorative
19 art.

20 (ii) Funeral ethics and funeral service best practices.

21 (iii) Grief counseling.

22 (iv) Occupational health and safety for funeral home workers.

23 (v) Communicable diseases including transmission and
24 sterilization techniques.

25 (vi) Statutes and rules of this state relating to the practice
26 of funeral directing.

27 (vii) Prepaid funeral sales.

28 (viii) Consumer protection, Federal Trade Commission funeral
29 rule, and fair labor standards requirements.



1 (c) The department shall determine whether a continuing
2 education course is an eligible continuing education course.

3 (d) If an individual receives his or her initial license to
4 engage in the practice of mortuary science after the beginning of
5 the current license cycle for that license, the department may
6 prorate the number of hours of eligible continuing education that
7 licensee is required to complete under subsection (1) for the year
8 of the license cycle in which the license is issued.

9 (e) Compliance with the continuing education requirement is a
10 condition to further renewal of a license for the practice of
11 mortuary science.

12 Sec. 1809. (1) All of the following apply to the ownership and
13 management of a funeral establishment:

14 (a) A funeral establishment ~~shall be operated by a person who~~
15 ~~is the holder of~~ **must appoint a manager to manage the funeral**
16 **establishment. A manager must hold** a license for the practice of
17 mortuary science. ~~The establishment shall have conspicuously~~
18 ~~displayed at its entrance the name of the person licensed to~~
19 ~~conduct the establishment. The name of the person owning the~~
20 ~~funeral establishment shall be registered with the department.~~
21 ~~Failure to make full and complete disclosure of the owners shall be~~
22 ~~grounds for the revocation of the establishment license.~~

23 (b) A funeral establishment shall notify the department in
24 writing of the name of the individual appointed as the manager of
25 the funeral establishment and shall conspicuously display at its
26 entrance the name of the manager.

27 (c) The department may promulgate rules under section 205, and
28 the board may promulgate rules under section 308, to establish
29 requirements for the licensing, operation, and management of a



1 funeral establishment, including, but not limited to, a limit on
 2 the number of establishments for which a licensee may be appointed
 3 as the manager.

4 (2) ~~A person~~ **An individual** whose license has been revoked
 5 under this article shall not ~~operate~~ **own or manage**, either directly
 6 or indirectly, or hold an interest in a funeral establishment. ~~This~~
 7 ~~subsection shall not prohibit a person whose license has been~~
 8 ~~revoked from leasing property owned by the person for use as a~~
 9 ~~funeral establishment if the person does not participate in the~~
 10 ~~control or profit of the funeral establishment otherwise than as a~~
 11 ~~lessor of the premises for a fixed rental not dependent upon~~
 12 ~~earnings.~~

13 ~~(3) A branch establishment shall be operated by a person who~~
 14 ~~is the holder of a license for the practice of mortuary science.~~

15 (3) ~~(4)~~ The department and the board may inspect ~~the a~~
 16 premises in which funeral directing is conducted, ~~or~~ where
 17 embalming is practiced, or where an applicant proposes to practice.

18 (4) ~~(5)~~ A funeral establishment shall contain a preparation
 19 room equipped with tile, cement, or composition floor and necessary
 20 drainage and ventilation, and contain each necessary instrument or
 21 supply for the preparation and embalming of a dead human body for
 22 burial, transportation, or other disposition.

23 (5) ~~(6)~~ A branch establishment shall comply with each
 24 requirement or rule relating to a funeral establishment.

25 (6) **An applicant for a funeral establishment license shall**
 26 **submit an application for a license, on a form developed by the**
 27 **department, that meets all of the following, as applicable:**

28 (a) **The application must indicate whether the applicant is an**
 29 **individual, sole proprietorship, partnership, corporation, or**



1 limited liability company or another type of business entity.

2 (b) If an applicant is a sole proprietorship or a general
3 partnership, the application must confirm that the applicant is
4 registered at the county level, and the applicant must provide a
5 copy of its certificate of conducting business under an assumed
6 name or certificate of copartnership to the department.

7 (c) If an applicant is a business entity, the application must
8 confirm that the applicant is a business entity organized under the
9 laws of this state and is in good standing, or is a foreign entity
10 that has a certificate of authority and is authorized to do
11 business in this state, and the applicant must provide to the
12 department its full legal name, a copy of its articles of
13 incorporation, articles of organization, or certificate of
14 authority, and its federal employer identification number.

15 Enacting section 1. This amendatory act takes effect 90 days
16 after the date it is enacted into law.

