

Act No. 265  
Public Acts of 2020  
Approved by the Governor  
December 29, 2020  
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**STATE OF MICHIGAN  
100TH LEGISLATURE  
REGULAR SESSION OF 2020**

Introduced by Reps. Wakeman, Tate and Marino

# ENROLLED HOUSE BILL No. 4437

AN ACT to amend 1980 PA 299, entitled “An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations and to regulate certain persons and activities relative to those occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to provide immunity from certain civil liability for certain entities and certain related occupations under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,” by amending sections 1801, 1804, 1805, 1806, 1807, 1809, 1809a, and 1810 (MCL 339.1801, 339.1804, 339.1805, 339.1806, 339.1807, 339.1809, 339.1809a, and 339.1810), sections 1801 and 1809 as amended by 2020 PA 138, section 1806 as amended by 2013 PA 80, section 1809a as added by 2009 PA 149, and section 1810 as amended by 2006 PA 300, and by adding section 1806b.

*The People of the State of Michigan enact:*

Sec. 1801. As used in this article:

(a) “Business entity” means a person described in section 105(5)(b) or (c), except a sole proprietorship or general partnership.

(b) “Funeral establishment” means a place of business used in the care and preparation for burial or transportation of a dead human body or a place where an individual represents that he or she is engaged in the profession of undertaking or the practice of mortuary science.

(c) “Holder of a license for the practice of mortuary science” means an individual who satisfactorily completes a course in mortuary science, passes an examination required under this article, serves the required resident training, and is issued a license for the practice of mortuary science.

(d) “Practice of embalming” means the disinfecting or preserving of a dead human body, entirely or in part, by the use of a chemical substance, fluid, or gas in the body or by the introduction of a chemical substance, fluid, or gas into the body by a vascular or hypodermic injection, or by direct application into an organ or cavity.

(e) “Practice of funeral directing” means engaging in or representing oneself as engaging in the supervising of the burial and disposal of a dead human body, managing a funeral establishment for the preparation, disposition, and care of a dead human body, or using, in connection with the user’s name or funeral establishment, the word “funeral director”, “funeral service professional”, “undertaker”, or “mortician”, or any other title embodying the words “mortuary science” or otherwise implying that the individual is engaged as a funeral director.

(f) “Practice of mortuary science” means the practice of embalming or the practice of funeral directing, or both.

(g) “Resident trainee” means an individual who is engaged in learning the practice of embalming or funeral directing or the practice of mortuary science under the instruction and personal supervision of a holder of a license for the practice of mortuary science in this state.

Sec. 1804. (1) An individual whose name appears in the name of a funeral establishment is considered to be actively engaged in the practice of funeral directing or the practice of mortuary science and must be a holder of a license for the practice of mortuary science.

(2) A business entity that is licensed as a funeral establishment under section 1806(3) may use or continue to use the name of the licensed funeral establishment after the death or retirement of a member, officer, or director if the death or retirement is reported to the department not more than 30 days after the death or retirement and if the name of the licensed funeral establishment was used prior to the death or retirement of the member, officer, or director.

Sec. 1805. An individual licensed to engage in the practice of mortuary science under this article may disinfect or preserve a dead human body, entirely or in part, by the use of a chemical substance, fluid, or gas in the body or by the introduction of a chemical, substance, fluid, or gas into the body by a vascular or hypodermic injection, or by direct application into an organ or cavity in preparation for burial or disposal. The individual licensed to engage in the practice of mortuary science may direct the burial or disposal of a dead human body and may maintain a funeral establishment for the preparation and disposition, or for the care of a dead human body and may, in connection with the individual's name or the name of the funeral establishment use the words "funeral director", "undertaker", "mortician", "mortuary science", or a word of similar meaning as approved by the department.

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

(a) Subject to subsection (2), served as a resident trainee for 1 year under the personal supervision and instruction of the holder of a license for the practice of mortuary science.

(b) Graduated from a 3-year course in mortuary science at a school, college, or university that is accredited by an accrediting agency recognized by the United States Secretary of Education as a specialized accrediting agency in funeral service or mortuary science.

(c) Satisfactorily passes all of the required parts of an examination administered and developed by a national or international association of funeral service licensing boards and approved by the department and the board.

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

(e) Is of good moral character.

(2) The department may waive a portion of the requirement under subsection (1)(a) of 1 year of resident training if the applicant has a baccalaureate degree from an accredited school, college, or university, and the department determines that the degree is a satisfactory substitute for the resident training.

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

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

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

(b) The applicant has a contract with a registrant under which the registrant sells, provides, or agrees to sell or provide merchandise, funeral services, or cemetery services under a prepaid contract on behalf of the funeral establishment. As used in this subdivision and subsection (6), "cemetery services", "funeral services", "merchandise", "prepaid contract", "provider", and "registrant" mean those terms as defined in the prepaid funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235.

(5) An applicant for an establishment license issued under subsection (3) shall disclose the ownership interests in the funeral establishment as follows:

(a) If the owner is a trust, the applicant shall disclose the names and addresses of the beneficiaries.

(b) If the owner is a privately held corporation, the applicant shall disclose the names and addresses of all shareholders, officers, and directors.

(c) If the owner is a publicly held corporation, the applicant shall disclose the names and addresses of the officers and directors and all shareholders holding a direct or indirect interest of greater than 5%.

(d) If the owner is a partnership or limited liability partnership, the applicant shall disclose the names and addresses of all partners.

(e) If the owner is a limited partnership or limited liability limited partnership, the applicant shall disclose the names and addresses of all partners, both general and limited.

(f) If the owner is a limited liability company, the applicant shall disclose the names and addresses of all members and managers.

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

(7) The department may inspect a funeral establishment or a branch of a funeral establishment, and the funeral establishment or branch must meet the requirements of section 1809 and any other standards and requirements established by rule of the department under this act. The department may revoke a license for a failure to meet any of the standards and requirements described in this subsection under the procedure set forth in this article.

(8) A change in ownership or change in location of a funeral establishment, or a change in business entity or change in ownership of a business entity that owns a funeral establishment, automatically cancels its license. A licensee shall report a change in ownership or location to the department not more than 30 days after the change. As used in this subsection, "change in ownership" means a change of the owners of a majority of shares of stock, a change of a majority of a business entity's members, officers, or directors, or a change in a sole proprietorship's or general partnership's owners.

(9) Subject to subsection (10), the department shall issue a license for the practice of mortuary science to an individual who holds or previously held a valid mortuary science license, or dual licenses as a funeral director and embalmer, in another state if he or she meets all of the following:

(a) Applies for a license to engage in the practice of mortuary science in this state.

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

(c) Satisfactorily passed all of the required parts of an examination administered and developed by a national or international association of funeral service licensing boards and approved by the department and the board.

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

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

(10) The department may refuse to issue a mortuary science license to an individual described in subsection (9) based on evidence that his or her license in the other state was suspended, revoked, or limited at any time.

Sec. 1806b. (1) Beginning the first complete license cycle after October 31, 2025, the holder of a license for the practice of mortuary science shall successfully complete not less than 4 hours of eligible continuing education courses in each year of a license cycle.

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

(a) Not less than 2 of the 4 hours of the courses required in each year of a license cycle shall involve 1 or more of the following subjects:

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

(ii) Funeral ethics and funeral service best practices.

(iii) Grief counseling.

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

(v) Communicable diseases including transmission and sterilization techniques.

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

(vii) Prepaid funeral sales.

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

(b) The department shall determine whether a continuing education course is an eligible continuing education course.

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

(d) Compliance with the continuing education requirement described in this section is a condition to further renewal of a license for the practice of mortuary science.

Sec. 1807. (1) The holder of a license for the practice of mortuary science shall supervise and be responsible for the transportation and storage of a dead human body. The holder of a license for the practice of mortuary science may designate an employee or other person to transport or store a dead human body.

(2) The holder of a license for the practice of mortuary science shall register with the office of the registrar of each city or village in which the holder intends to practice. A transportation permit shall not be issued by the local registrar to a person who has not filed a registration card. A local registrar may grant a transportation permit to the holder of a license for the practice of mortuary science coming from beyond the jurisdiction of the registrar, upon the exhibition of a copy of the holder's license to the registrar.

(3) A railway agent, express agent, baggage master, or conductor shall not receive a dead human body for shipment or transportation by railway or other public conveyance, to or from a point in this state or to a point outside of this state, unless the body is accompanied by a removal or shipping permit.

(4) This section does not apply to any of the following:

(a) The transportation or storage of a dead human body that is the subject of an anatomical gift under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123.

(b) The transportation of a dead human body by a county medical examiner.

(c) The removal of a dead human body from the place of death by police, fire, or other emergency personnel.

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

(a) A funeral establishment shall be managed by an individual who is the holder of a license for the practice of mortuary science. The manager shall ensure that the funeral establishment complies with all applicable laws.

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

(c) A manager of a funeral establishment shall not reside more than 75 miles from that funeral establishment.

(d) Except as provided in subsection (2), an individual shall not manage more than 1 funeral establishment.

(e) If a new manager is appointed for a funeral establishment, the funeral establishment shall notify the department in writing of the name of the new manager not more than 30 days after the date of his or her appointment.

(2) The director shall receive and approve or deny requests for waivers to allow an individual to act as the manager of 2 funeral establishments under this subsection. All of the following apply to a request for a waiver under this subsection:

(a) The prospective manager shall request the waiver. The request must include the following:

(i) The prospective manager's name and mortuary science license number.

(ii) The name and license number of each funeral establishment affected.

(iii) Documentation supporting the existence of the factors listed in subdivision (b).

(b) The director shall not grant a waiver under this subsection unless all of the following factors are met:

(i) The funeral establishments are located in the same county or contiguous counties.

(ii) The population density of the county in which each of the funeral establishments is located is less than the population density for this state, based on data from the most recent decennial census.

(iii) The funeral establishments are located within 90 miles of each other.

(c) If the waiver is denied, the director shall send a written notice of the denial and the reasons for denial to the individual who requested the waiver. The individual may appeal the denial to the board in the manner provided for in section 515.

(3) An individual whose license is revoked under this article shall not own or manage, either directly or indirectly, or hold an interest in, a funeral establishment. This subsection does not prohibit an individual whose license is revoked from leasing property owned by the individual for use as a funeral establishment if the individual does not participate in the control or profit of the funeral establishment, other than as a lessor of the premises for a fixed rental that is not dependent on earnings.

(4) A branch establishment shall be managed by an individual who is the holder of a license for the practice of mortuary science. The manager shall ensure that the branch establishment complies with all applicable laws.

(5) The department and the board may inspect the premises of any location where funeral directing is conducted, embalming is practiced, or an applicant intends to engage in the practice of mortuary science.

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

(7) A branch establishment is subject to all of the requirements or rules relating to a funeral establishment.

Sec. 1809a. (1) An individual who is licensed to engage in the practice of mortuary science is immune from civil liability for the proper disposition of unclaimed cremated remains if the funeral establishment maintains and safeguards the unclaimed cremated remains until proper disposition of the remains and any of the following are met:

(a) The disposition of the unclaimed cremated remains is made 6 months or longer after the date of cremation and, if notice is required under subsection (2), at least 30 days after the date the notice is sent.

(b) The disposition is authorized by a special fiduciary or special personal representative under section 3206(8) of the estates and protected individuals code, 1998 PA 386, MCL 700.3206.

(c) The disposition is authorized by a medical examiner under section 3206(9)(a) of the estates and protected individuals code, 1998 PA 386, MCL 700.3206.

(2) Except as provided in subsection (3), a funeral director claiming immunity under subsection (1) shall make reasonable efforts to provide written notice of intent to make proper disposition of the unclaimed cremated remains to the individuals who have the right to make decisions relating to the disposition of a decedent's body under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206. Reasonable efforts include, but are not limited to, mailing the notice to the last known addresses of those individuals.

(3) Written notice under subsection (2) is not required for any of the following:

(a) A proper disposition of unclaimed cremated remains by transfer of the remains to any relative of the decedent that is made more than 1 year after the date of cremation.

(b) Any proper disposition of unclaimed cremated remains that is made more than 2 years after the date of cremation.

(4) If unclaimed cremated remains are removed from or transferred to a cemetery, the mortuary science licensee shall present a written statement to the cemetery certifying compliance with the requirements of subsection (1), and subsection (2) if applicable, at the time the unclaimed cremated remains are removed or presented for proper disposition.

(5) If unclaimed cremated remains are determined to belong to a veteran, a cemetery that relies on a written statement presented by an individual who is licensed in the practice of mortuary science under subsection (4) is immune from civil liability against a claim for damages by the individuals who have the right to make decisions related to the disposition of a decedent's body under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206, for having interred, entombed, or inurned cremated remains without their authorization.

(6) This section does not supersede the provisions of section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206, involving the priority of individuals who have the right to make decisions relating to the disposition of a decedent's body under that section except that if those individuals who have the right to make decisions related to the disposition of a decedent's body claim the cremated remains after proper disposition under subsection (4), then any costs associated with disinterring or removing the cremated remains from the place of interment, entombment, or inurnment, and other costs associated with their further placement are the responsibility of those individuals, unless otherwise agreed.

(7) As used in this section:

(a) "Armed forces" means that term as defined in section 103 of the skilled trades regulation act, 2016 PA 407, MCL 339.5103.

(b) "Proper disposition" means either of the following:

(i) Interment, entombment, or inurnment of unclaimed cremated remains in a cemetery in this state. In the case of the unclaimed cremated remains of a veteran of the armed forces, proper disposition includes the interment, entombment, or inurnment in a cemetery designated solely for veterans by the United States Department of Veterans Affairs or by the department of military and veterans affairs.

(ii) A transfer of unclaimed cremated remains to any relative of the decedent that occurs more than 6 months after the date of cremation.

(c) "Unclaimed cremated remains" means the cremated remains of a dead human body that has not been picked up by or delivered to an individual who has the right to make decisions relating to the disposition of a decedent's body under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206.

Sec. 1810. (1) A person shall be subject to the penalties of article 6 if the person commits 1 of the following:

(a) Solicitation of a dead human body by a licensed person or an agent, assistant, representative, employee, or person acting on behalf and with the knowledge and consent, express or implied, of the licensed person, whether the solicitation occurs after death or while death is impending, or the procuring or allowing directly or indirectly of a person to call upon an institution or individual by whose influence a dead human body may be turned over to the licensed person or funeral establishment.

(b) Procuring a person known as capper, steerer, or solicitor to obtain funeral directing or embalming, or allowing or permitting a capper, steerer, or solicitor to obtain funeral directing or embalming for a licensed person or funeral establishment.

(c) The direct or indirect payment or offer of payment of a commission by a licensed person or an agent, representative, assistant, or employee of the licensed person for the purpose of securing business.

(d) Aiding or abetting an unlicensed person to engage in the practice of funeral directing or embalming.

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

(f) Solicitation or acceptance by a licensed person of a commission or bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in a crematory, mausoleum, or cemetery.

(g) Using a casket or part of a casket that has been previously used as a receptacle for, or in connection with, the burial or other disposition of a dead human body. This subdivision does not apply to a casket or part of a casket that was designed and manufactured for more than 1 use.

(h) A violation of any of the following:

(i) Section 2652, 2653, 2659, 2663, 2836, 2842, 2843, 2848, 2850, 2851, 2853, or 2854 of the public health code, 1978 PA 368, MCL 333.2652, 333.2653, 333.2659, 333.2663, 333.2836, 333.2842, 333.2843, 333.2848, 333.2850, 333.2851, 333.2853, and 333.2854, or the rules promulgated under those sections.

(ii) Sections 3206 to 3209 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206 to 700.3209.

(iii) A municipal or county ordinance or regulation affecting the handling, custody, care, or transportation of a dead human body.

(i) Refusing to promptly surrender the custody of a dead human body, upon the express order of the person lawfully entitled to the custody.

(j) Failure to secure a permit for removal or burial of a dead human body before interment or disposal.

(k) Obtaining possession of or embalming a dead human body without first being expressly directed or authorized to do so by a relative of the decedent or a person entitled to custody. This subdivision does not apply to the embalming of a dead human body if in accordance with sections 3206 to 3209 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206 to 700.3209, reasonable efforts to obtain the authorization described in this subdivision have been made but were not successful and more than 48 hours have elapsed since the decedent's death.

(l) Knowingly making a false statement on a certificate of death.

(m) Removing or embalming a dead human body if there is information indicating the commission of a crime or an act of violence in connection with the cause of death, unless permission of the county medical examiner has first been obtained.

(n) If a public officer or employee, an official of a public institution, convalescent home, private nursing home, maternity home, public or private hospital, physician or surgeon, or any other person having a professional relationship with a decedent, or a county medical examiner or other public official having temporary custody of the decedent, sending or causing to be sent to a person or establishment licensed under this article the remains of a deceased person without having first made inquiry as to the desires of the person with authority over the disposal of the remains of the decedent under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206, and of the person that may be chargeable with the funeral expenses of the decedent. If a person with authority over the disposal of the remains of the decedent under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206, is found, the person's authority and directions shall govern the disposal of the remains of the decedent.

(o) If a licensee, receiving remains in violation of the requirements of subdivision (n) and making a charge for a service in connection with the remains before the delivery of the remains as stipulated by the person with authority over the disposal of the remains of the decedent under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206. This subdivision shall not prevent a person or establishment licensed under this article from charging and being reimbursed for services rendered in connection with the removal of the remains of a deceased person in case of accidental or violent death, and rendering necessary services required until the person with authority over the disposal of the remains of the decedent under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206, or the person that is chargeable with the funeral expenses is notified.

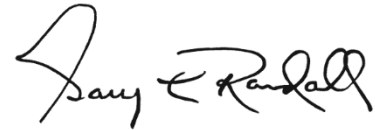
(p) If a funeral establishment or a licensee, entering upon an agreement, directly or indirectly, in which the practice of embalming or funeral directing is to be rendered in consideration for the funeral establishment, licensed person, or an agent, assistant, or representative of the establishment or licensed person, being designated as beneficiary in an insurance policy or certificate. This subdivision does not govern or limit the authority of a personal representative, trustee, or other person that has a fiduciary relationship with the deceased.

(q) Failure to comply with part 138 of the public health code, 1978 PA 368, MCL 333.13801 to 333.13832.

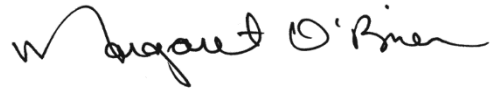
(r) Failure to comply with the prepaid funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235.

(2) The department, in consultation with the director of public health, shall promulgate rules to prescribe training standards for licensees and nonlicensees that handle medical waste in a funeral establishment.

(3) A licensee that owns or operates a funeral establishment shall train its employees in accordance with the rules promulgated under subsection (2).



\_\_\_\_\_  
Clerk of the House of Representatives



\_\_\_\_\_  
Secretary of the Senate

Approved \_\_\_\_\_

\_\_\_\_\_  
Governor