

Act No. 300
Public Acts of 2006
Approved by the Governor
July 18, 2006
Filed with the Secretary of State
July 20, 2006
EFFECTIVE DATE: July 20, 2006

**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2006**

Introduced by Reps. David Law, Caswell, Taub, Nofs, Jones, Kahn and Pearce

ENROLLED HOUSE BILL No. 4891

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; 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 repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 1801 and 1810 (MCL 339.1801 and 339.1810), section 1810 as amended by 1990 PA 15.

The People of the State of Michigan enact:

Sec. 1801. As used in this article:

(a) "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 a person represents that the person is engaged in the profession of undertaking or the practice of mortuary science.

(b) "Holder of a license for the practice of mortuary science" means a person who satisfactorily completes a course in mortuary science, who passes an examination prescribed in this article, serves the required resident training, and is issued a license for the practice of mortuary science.

(c) "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 the chemical substance, fluid, or gas into the body by a vascular or hypodermic injection, or by direct application into an organ or cavity.

(d) "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; maintaining 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 one is engaged as a funeral director.

(e) "Practice of mortuary science" means the practice of embalming or the practice of funeral directing, or both.

(f) "Resident trainee" means a person 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. 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 which has been previously used as a receptacle for, or in connection with, the burial or other disposition of a dead human body.

(h) A violation of a state law or 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 or embalming a dead human body without first being expressly directed or authorized to do so by a relative of the deceased person or a person entitled to custody.

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

(m) Removing or embalming a dead human body if there is information indicating crime or 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 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 who 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 who 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 who 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 333.13831.

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

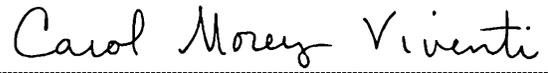
(3) A licensee who owns or operates a funeral establishment shall train his or her employees pursuant to the rules promulgated under subsection (2).

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4870 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor