

No. 16

AN ACT

SB 600

Amending the act of January 14, 1952 (P.L.1898, No.522), entitled, as amended, "An act to provide for the better protection of life and health of the citizens of this Commonwealth by requiring and regulating the examination, licensure and registration of persons and registration of corporations engaging in the care, preparation and disposition of the bodies of deceased persons, and providing penalties; providing for a State Board of Funeral Directors in the Department of State, and repealing other laws," providing for corporate licenses and providing penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 7, act of January 14, 1952 (P.L.1898, No.522), known as the "Funeral Director Law," amended July 31, 1968 (P.L.1008, No.295), is amended to read:

Section 7. Restrictions; Preparation Room.—Original licenses under this act (1) shall be granted only to individuals, *partnerships or corporations*, (2) shall specify by name the person, *partnership or corporation* to whom [it is] *they are* issued, and (3) shall designate the particular place approved by the board at which the profession of funeral directing shall be carried on. A license shall authorize the conduct of the profession at the particular place of practice [so] designated *therein* and no other, and only by the particular person, *partnership or corporation* designated. This provision shall not prevent a person licensed for the practice of funeral directing from assisting another duly licensed [funeral director] *person, partnership or corporation* in the conduct of the profession [from his] *in an* approved funeral establishment nor shall it prevent a person licensed for the practice of the profession from conducting a funeral at a church, a private residence of the deceased, or an approved funeral establishment provided such person maintains a fixed place or establishment of his own approved by the board.

A licensed funeral director, *partnership or corporation* may move to a new place of practice, which shall be registered and approved by the board *if the new place of practice meets all the requirements as set forth in the State Board's Rules and Regulations.*

After the thirty-first day of August, one thousand nine hundred fifty-two, every establishment in which the profession of funeral directing is carried on shall include a preparation room, containing instruments and supplies necessary for the preparation and embalming of dead human bodies and be constructed in accordance with sanitary standards prescribed by the board, for the protection of the public health.

All areas within an approved establishment must be maintained in a proper and sanitary manner, as determined by the board or State and local ordinances wherever they apply, for the protection of the public.

No food or intoxicating beverages shall be served in any funeral establishment in which the profession of funeral directing is carried on. Beverages, if served, must be restricted to a separate room not used for the preparation and conduct of a funeral service. Any facility beyond the confines of such funeral establishment, but directly or indirectly operated by a funeral director for the service of refreshments or food shall be maintained in accordance with State and local health laws and regulations pertaining to public eating places for the protection of the public.

Section 2. Section 8 of the act, amended October 10, 1974 (P.L.715, No.239) is amended to read:

Section 8. Conduct of Business.—**[Only] (a) *Individuals and Partnerships. Except as provided for in subsection (d) hereof, only one license shall be granted to or held by an individual, but two or more licensed funeral directors may operate a joint or partnership business at one place only if the business is conducted under the names of all such licensed funeral directors. No funeral director granted [an original] a license under this act shall conduct practice under any other name than the name appearing on his license. No person not licensed under this act shall have any interest in the practice carried on by a licensed funeral director except as otherwise herein provided. Upon the death of a licensee, the board, in its discretion, may issue a license and renewal thereof to his estate, only for a period not exceeding three (3) years, or widows or widowers of deceased licensees as long as they remain unmarried, providing the widow, the executor or administrator of the estate of the deceased licensee's heir or heirs, informs the board, of the intent to continue practice, within ten (10) days and applies within thirty (30) days for a certificate of licensure. Such notice shall be in writing.*** The practice carried on by a licensee's estate, widow or widower shall be under the supervision of a licensed funeral director employed on a full time basis, who shall not conduct any other funeral business in his own name nor be directly or indirectly connected with any other funeral establishment.

(b) *Restricted Corporate License. A corporate license may be issued to a Pennsylvania corporation which is organized by one or more funeral directors specifically for the purpose of conducting a funeral directing practice and the name or names of such licensed funeral directors is or are contained in the corporate name. No licensed funeral director shall be eligible to apply for more than one restricted corporate license or own shares in more than one restricted corporation. Nor shall any licensed funeral director who obtains a restricted corporate license or holds shares in a restricted corporation have any stock or proprietary interest in any other funeral establishment. Such license shall be valid only if the following conditions exist at the time of issuance of the license and continue in effect for the license period:*

(1) The corporation engages in no other business activity other than that of funeral directing and its certificate of incorporation should so specify.

(2) It holds no shares of stock or any property interest in any other corporation or partnership.

(3) One or more of its principal corporate officers is a person licensed as a funeral director who shall also be a member of the board of directors of the corporation and shall not conduct any other funeral business.

(4) All of its shareholders are licensed funeral directors or the ~~members~~ members of the immediate family of a licensed funeral director or a deceased licensed funeral director who was a shareholder in the corporation at death. For the purposes of this paragraph "members of the immediate family" shall mean (i) spouse, (ii) children, (iii) grandchildren, (iv) a trustee or custodian who holds shares for the benefit of such spouse, children or grandchildren.

(5) The corporation shall have filed a registry statement with the Secretary of the Commonwealth and thereafter have duly filed its Pennsylvania corporate tax returns and paid all taxes which have been assessed and as to which there is no contest.

(c) Notice of Corporate Noncompliance. Any corporation holding a restricted corporate license which shall fail to comply with all of the provisions set forth in subsection (b)(1) through (5) shall immediately give notice to the board of such failure and set forth in such notice the nature of the failure to comply and such corporation shall have a period of sixty (60) days from the date of the event which results in failure to comply in which to cure the failure and at the end of such sixty (60) day period shall either supply documentary evidence in affidavit form of the basis upon which such failure has been corrected or shall surrender its license to the board and shall forthwith desist from the conduct of the business of funeral directing.

(d) Branch Place of Practice. Licensees authorized to conduct a funeral directing practice whether as an individual, partnership or restricted corporation may conduct business at one, and no more than one, branch place of practice provided that a licensed funeral director is permanently assigned as supervisor to such branch location, and provided that the facilities furnished at such branch location fully comply with all the provisions of this act and the rules and regulations promulgated by the board as amended from time to time. The board shall issue a separate license and require payment of a separate license fee for such branch location.

Section 3. Section 9 of the act, subsection (a) amended December 1, 1965 (P.L.1006, No.372), is amended to read:

Section 9. Licensees under Prior Laws and from Other States.—(a) All undertakers' licenses issued under any prior law and being in effect on the effective date of this act shall continue, subject to the provisions of this act as to renewal, suspension and revocation and to the rules and regulations of the board. Existing licenses to corporations and partnerships and to

conduct a practice under a fictitious name shall continue and may be renewed, but such corporate licenses shall not be permitted, after the effective date of this act, to operate under any name other than the name as licensed as of the date of this act, except that such corporate licenses may operate under the name or names of individual licensed funeral directors who are stockholders of said corporations. No original license shall be issued under this act to **[any corporation or partnership, nor to]** conduct a practice under a fictitious name. **[and no branch licenses shall hereafter be granted.]**

(b) The board may grant licenses to individuals from other states if *the applicants'* (1) **[the]** standards *and qualifications* for licensing are at least as high as those provided hereby, (2) similar privileges are accorded persons licensed in this Commonwealth, (3) the applicants hold valid licenses from their state of residence, and (4) the terms and conditions prescribed by the board are complied with.

Section 4. Section 11 of the act is amended by adding a clause to read:

Section 11. Refusal; Suspension; Revocation.—The board, by a majority vote thereof, may refuse to grant, refuse to renew, suspend or revoke a license of any applicant or licensee, whether originally granted under this act or under any prior act, for the following reasons:

* * *

(12) Failure by a corporation to comply with the provisions of section 8(b) or (c).

Section 5. Subsection (a) of section 14 and section 17 of the act are amended to read:

Section 14. Penal Provisions.—(a) No person shall as an officer of a corporation allow it to practice as a funeral director unless such corporation is duly licensed and qualified so to do under *the provisions of this act or any prior law [repealed hereby]* and under the rules and regulations of the board.

* * *

Section 17. Penalties.—Any person violating any of the provisions of this act or any rule or regulation of the board promulgated pursuant thereto shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than **[fifty dollars (\$50)] one hundred dollars (\$100)** nor more than **[five hundred dollars (\$500)] one thousand dollars (\$1000)**, or undergo imprisonment not exceeding one (1) year, or both.

Section 6. This act shall take effect immediately.

APPROVED—The 3rd day of March, A. D. 1976.

MILTON J. SHAPP