

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2924

By: Frix of the House

and

Pemberton of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to professions and occupations;
12 amending 59 O.S. 2011, Sections 396, as amended by
13 Section 1, Chapter 61, O.S.L. 2014 and Section
14 396.2a, as amended by Section 1, Chapter 204, O.S.L.
15 2017 (59 O.S. Supp. 2017, Sections 396 and 396.2a),
16 which relate to the Funeral Services Licensing Act;
17 modifying Oklahoma Funeral Board membership;
18 authorizing the Board to receive consumer complaints
19 against certain cemeteries; and providing an
20 effective date.

21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 1. AMENDATORY 59 O.S. 2011, Section 396, as
23 amended by Section 1, Chapter 61, O.S.L. 2014 (59 O.S. Supp. 2017,
24 Section 396), is amended to read as follows:

 Section 396. A. There is hereby re-created, to continue until
 July 1, 2020, in accordance with the provisions of the Oklahoma

1 Sunset Law, the Oklahoma Funeral Board. Any reference in the
2 statutes to the Oklahoma State Board of Embalmers and Funeral
3 Directors shall be a reference to the Oklahoma Funeral Board. The
4 Board shall consist of ~~seven (7)~~ nine (9) persons, who shall be
5 appointed by the Governor as follows:

6 1. Three of the members shall have been actively engaged in
7 the practice of embalming and funeral directing in this state for
8 not less than five (5) consecutive years immediately prior to the
9 appointment of the person, shall have an active license as provided
10 by the Funeral Services Licensing Act, shall keep the license
11 effective and remain a resident of this state during the entire time
12 the person serves on the Board. Upon request of the Governor,
13 appointments of a licensed embalmer and funeral director as members
14 of the Board shall be made from a list of five qualified persons
15 submitted by the Oklahoma Funeral Directors Association;

16 2. Three of the members shall have been actively engaged in
17 cemetery operations in this state for not less than five (5)
18 consecutive years immediately prior to the appointment of the person
19 and remain a resident of this state during the entire time the
20 person serves on the Board; and

21 3. Three of the members shall be consumer members chosen from
22 the general public, one of whom shall, if possible, be a person
23 licensed and actively engaged in the health care field and shall not
24 be a licensed funeral director or embalmer or have any interest,

1 directly or indirectly, in any funeral establishment or any business
2 dealing in funeral services, supplies or equipment.

3 B. The term of membership of each member of the Board shall be
4 five (5) years from the expiration of the term of the member
5 succeeded. Any member having served as a member of the Board shall
6 be eligible for reappointment. Provided that, a member of the Board
7 shall serve no more than two consecutive terms and any unexpired
8 term that a member is appointed to shall not apply to this limit.

9 C. The Governor shall appoint the necessary members to the
10 Board upon vacancies and immediately prior to the expiration of the
11 various terms.

12 ~~Upon request of the Governor, appointments of a licensed~~
13 ~~embalmer and funeral director member of the Board shall be made from~~
14 ~~a list of five qualified persons submitted by the Oklahoma Funeral~~
15 ~~Directors Association.~~

16 D. An appointment to fill a vacancy shall be for the unexpired
17 term. A member of the Board shall serve until a successor is
18 appointed and qualified. No person shall be a member of the Board,
19 unless, at the time of appointment, the person is of good moral
20 character and a resident of this state. ~~Five of the members shall~~
21 ~~have been actively engaged in the practice of embalming and funeral~~
22 ~~directing in this state for not less than seven (7) consecutive~~
23 ~~years immediately prior to the appointment of the person, shall have~~
24 ~~an active license as provided by the Funeral Services Licensing Act,~~

1 ~~shall keep the license effective, and remain a resident of this~~
2 ~~state during the entire time the person serves on the Board. Two of~~
3 ~~the members of the Board shall be chosen from the general public,~~
4 ~~one of whom shall, if possible, be a person licensed and actively~~
5 ~~engaged in the health care field, and shall not be licensed funeral~~
6 ~~directors or embalmers or have any interest, directly or indirectly,~~
7 ~~in any funeral establishment or any business dealing in funeral~~
8 ~~services, supplies or equipment. These two members shall be~~
9 ~~appointed to serve for five year terms.~~

10 SECTION 2. AMENDATORY 59 O.S. 2011, Section 396.2a, as
11 amended by Section 1, Chapter 204, O.S.L. 2017 (59 O.S. Supp. 2017,
12 Section 396.2a), is amended to read as follows:

13 Section 396.2a In addition to any other powers and duties
14 imposed by law, the Oklahoma Funeral Board shall have the power and
15 duty to:

16 1. Prescribe and promulgate rules necessary to effectuate the
17 provisions of the Funeral Services Licensing Act, and to make orders
18 as it may deem necessary or expedient in the performance of its
19 duties;

20 2. Prepare, conduct and grade examinations, written or oral, of
21 persons who apply for the issuance of licenses to them;

22 3. Determine the satisfactory passing score on such
23 examinations and issue licenses to persons who pass the examinations
24 or are otherwise entitled to licensure;

- 1 4. Determine eligibility for licenses and certificates of
2 apprenticeship;
- 3 5. Issue licenses for funeral directors, embalmers, funeral
4 establishments, commercial embalming establishments, and
5 crematories;
- 6 6. Issue certificates of apprenticeship;
- 7 7. Upon good cause shown, as hereinafter provided, deny the
8 issuance of a license or certificate of apprenticeship or suspend,
9 revoke or refuse to renew licenses or certificates of
10 apprenticeship, and upon proper showing, to reinstate them;
- 11 8. Review, affirm, reverse, vacate or modify its order with
12 respect to any such denial, suspension, revocation or refusal to
13 renew;
- 14 9. Establish and levy administrative penalties against any
15 person or entity who violates any of the provisions of the Funeral
16 Services Licensing Act or any rule promulgated pursuant thereto;
- 17 10. Obtain an office, secure facilities and employ, direct,
18 discharge and define the duties and set the salaries of office
19 personnel as deemed necessary by the Board;
- 20 11. Initiate disciplinary, prosecution and injunctive
21 proceedings against any person or entity who violates any of the
22 provisions of the Funeral Services Licensing Act or any rule
23 promulgated pursuant thereto;
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1 12. Investigate alleged violations of the Funeral Services
2 Licensing Act or of the rules, orders or final orders of the Board;

3 13. Promulgate rules of conduct governing the practice of
4 licensed funeral directors, embalmers, funeral establishments, and
5 commercial embalming establishments and sale of funeral service
6 merchandise;

7 14. Keep accurate and complete records of its proceedings and
8 certify the same as may be appropriate;

9 15. Request prosecution by the district attorney or the
10 Attorney General of this state of any person or any violation of the
11 Funeral Services Licensing Act;

12 16. When it deems appropriate, confer with the Attorney General
13 of this state or the assistants of the Attorney General in
14 connection with all legal matters and questions;

15 17. Take such other action as may be reasonably necessary or
16 appropriate to effectuate the Funeral Services Licensing Act;

17 18. Promulgate rules, issue licenses, and regulate crematories
18 pursuant to the Funeral Services Licensing Act;

19 19. Issue temporary licenses to a funeral establishment when
20 its facilities are destroyed or damaged in order that the funeral
21 establishment can continue to operate. During the effective period
22 of the temporary license, the Board may waive certain licensing
23 requirements if the funeral establishment is making a good faith
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1 effort to rebuild or restore its operations in order to meet all
2 licensing requirements;

3 20. Promulgate rules for continuing education for licensees
4 pursuant to Section 396.5b of this title; ~~and~~

5 21. Approve course providers and course curriculum for
6 licensure of a funeral director; and

7 22. a. Promulgate rules to establish methods by which
8 consumers may file complaints against a cemetery to
9 the Board; except as otherwise provided in
10 subparagraph c of this paragraph. The rules adopted
11 under this paragraph shall:

12 (1) establish procedures regarding the receipt,
13 investigation and disposition of complaints,

14 (2) allow for an informal hearing process,

15 (3) establish a formal hearing process,

16 (4) ensure that the person who filed the complaint
17 has an opportunity to explain the allegation made
18 in the complaint,

19 (5) ensure that the cemetery that is the subject of
20 the complaint has the opportunity to be heard
21 regarding the complaint,

22 (6) establish procedures by which employees or
23 personnel of the Board may dismiss a complaint,
24 subject to approval by the executive director of

1 the Board or the executive director's designee,
2 if the consumer fails to follow the filing
3 procedures established under this paragraph or
4 rules adopted pursuant to this paragraph, and
5 (7) ensure that a complaint must be filed within two
6 (2) years of the event giving rise to the
7 complaint, and anything filed after the two (2)
8 years will not be accepted by the Board.

9 b. The Board shall maintain records on each written
10 complaint filed with the Board. The records must
11 include:

- 12 (1) the subject matter of the complaint,
13 (2) the date the complaint is received by the Board,
14 (3) the name of the person who filed the complaint,
15 (4) the name of each person contacted in relation to
16 the complaint,
17 (5) a summary of the results of the review or
18 investigation of the complaint, and
19 (6) an explanation of the final outcome of the
20 complaint and reason the file was closed.

21 c. The provisions of this paragraph shall not apply to
22 municipal- or county-owned cemeteries or any
23 activities regulated by the Perpetual Care Fund Act as
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1 provided in Sections 7101 through 7112 of Title 36 of
2 the Oklahoma Statutes.

3 SECTION 3. This act shall become effective November 1, 2018.

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5 COMMITTEE REPORT BY: COMMITTEE ON BANKING AND BUSINESS, dated
6 02/28/2018 - DO PASS, As Amended and Coauthored.
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