



2023 South Dakota Legislature  
**House Bill 1015**  
**ENROLLED**

AN ACT

**ENTITLED An Act to update provisions related to the licensure of funeral directors and the provision of funeral services.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

**Section 1. That § 36-19-1 be AMENDED:**

**36-19-1.** Terms used in this chapter mean:

- (1) "Board," the State Board of Funeral Service;
- (2) "Branch chapel," a separate facility with a visitation room or chapel, in which no embalming is permitted, and which is owned by, a subsidiary of, or otherwise financially connected to or controlled by a licensed funeral establishment;
- (3) "Funeral director," any person engaged in or holding out as being engaged in:
  - (a) Conducting funeral services and burials of casketed remains;
  - (b) Disinfecting and preserving dead human bodies; or
  - (c) Cremating human remains;
- (4) "Funeral establishment," a business, at a physical location, devoted to caring for and preparing dead human bodies for burial or transportation;
- (5) "Trainee," any person who has registered with the board and is engaged in training to provide funeral services.

**Section 2. That § 36-19-2 be AMENDED:**

**36-19-2.** The State Board of Funeral Service consists of five members appointed by the Governor.

Four members must be persons who have been licensed to practice funeral service for at least five years and are currently licensed in accordance with this chapter. One member must be a representative of the public who is not associated with or financially interested in the provision of funeral services and is not a member of a related profession or a practitioner of a related occupation.

The term of office is three years. In the event of a vacancy, the Governor shall appoint a new member to fill the unexpired term.

A board member may not serve more than three consecutive full terms. An appointment to fill an unexpired term is not considered to be a full term.

Each term of office begins on October thirty-first.

The secretary of health or the secretary's designee shall serve as an ex officio, nonvoting member of the board.

**Section 3. That § 36-19-6 be AMENDED:**

**36-19-6.** The board shall meet at least twice each year, at a time and place established by the board, and may hold additional meetings at the call of the president or at the request of a majority of the board.

**Section 4. That § 36-19-6.1 be AMENDED:**

**36-19-6.1.** The board shall continue within the Department of Health, and shall retain all its prescribed functions, including administrative functions. The board shall submit such records, information, and reports in the form and at such times as required by the secretary of health.

**Section 5. That § 36-19-7 be AMENDED:**

**36-19-7.** Each member of the board shall receive per diem compensation in accordance with § 4-7-10.4 and reimbursement for expenses incurred while engaged in official business, as provided by law.

**Section 6. That § 36-19-9 be AMENDED:**

**36-19-9.** The board shall annually elect, from among its own members, a president, a vice-president, and a secretary.

**Section 7. That § 36-19-12 be AMENDED:**

**36-19-12.** The board may:

- (1) Issue and renew licenses, as provided in this chapter;
- (2) Issue subpoenas, examine witnesses, administer oaths, conduct hearings and, at its discretion, investigate allegations of violations of this chapter, and impose penalties for such violations;

- (3) Enter into contracts and employ necessary personnel to carry out its responsibilities under this chapter;
- (4) Communicate disciplinary actions to state and federal authorities and to other state funeral director licensing authorities; and
- (5) Perform other duties as necessary to administer this chapter.

**Section 8. That chapter 36-19 be amended with a NEW SECTION:**

The board shall promulgate rules, in accordance with chapter 1-26, to:

- (1) Administer, coordinate, and enforce this chapter;
- (2) Establish requirements for license application and renewal;
- (3) Establish standards of professional conduct;
- (4) Establish standards for the operation of a funeral establishment; and
- (5) Establish fees for licensure application and licensure renewal, as provided for in §§ 36-19-25 and 36-19-27.

**Section 9. That § 36-19-14 be AMENDED:**

**36-19-14.** A person may not, without being licensed as a funeral director by the board:

- (1) Embalm any dead human body;
- (2) Practice embalming;
- (3) Conduct or supervise funeral services and burials of casketed remains; or
- (4) Maintain a funeral establishment in this state.

**Section 10. That § 36-19-18 be AMENDED:**

**36-19-18.** The board shall provide for the registration of each trainee pursuing licensure to practice funeral service. The board shall, by rule promulgated in accordance with chapter 1-26, provide for a registration fee, which may not exceed twenty-five dollars.

**Section 11. That § 36-19-21 be AMENDED:**

**36-19-21.** The board may issue a license to practice funeral service to any person who:

- (1) Is at least eighteen years of age;
- (2) Submits an application on a form prescribed by the board;

- (3) Pays the application fee established by the board, in accordance with section 8 of this Act;
- (4) Has completed at least ninety credit hours offered by an accredited institution of higher education and obtained a degree or a certificate from a mortuary science or funeral service program that is accredited by the American Board of Funeral Service Education;
- (5) Has completed one year as a trainee under a person licensed pursuant to this chapter;
- (6) Has passed the national board examination, administered by the International Conference of Funeral Service Examining Board; and
- (7) Has not committed any act that constitutes a ground for denying, suspending, or revoking a license under this chapter.

**Section 12. That § 36-19-25 be AMENDED:**

**36-19-25.** A license to practice funeral service must be renewed annually. The board shall, by rule promulgated in accordance with chapter 1-26, establish the renewal fee, which may not exceed one hundred twenty-five dollars.

**Section 13. That § 36-19-27 be AMENDED:**

**36-19-27.** An application for a license to operate a funeral establishment is required for each location. The application must be on a form provided by the board and accompanied by an application fee.

The board shall, by rule promulgated in accordance with chapter 1-26, establish the application fee, which may not exceed two hundred fifty dollars.

The board may inspect the funeral establishment to verify compliance with state law and rules of the board.

The application for a license to operate a funeral establishment must include the name of the individual who is licensed under this chapter and responsible for managing all transactions conducted and services performed.

**Section 14. That § 36-19-30 be AMENDED:**

**36-19-30.** Each funeral establishment must be managed by a person licensed under this chapter.

**Section 15. That § 36-19-31 be AMENDED:**

**36-19-31.** The board shall inspect each funeral establishment at least once every three years.

**Section 16. That § 36-19-32 be AMENDED:**

**36-19-32.** The holder of any funeral establishment license who transfers the location of the establishment, ceases to operate the establishment, or transfers the license to another, shall, within five days thereafter, notify the board. If the location is transferred, the transferee shall provide to the board the name of the individual who is licensed, in accordance with this chapter, and is responsible for all transactions conducted and services performed.

The board may inspect the new location to verify compliance with state law and rules of the board.

**Section 17. That § 36-19-36 be AMENDED:**

**36-19-36.** Each license issued under this chapter, other than the funeral establishment license, is not transferable and must be displayed by the licensee in a conspicuous place in the licensee's office or place of business.

**Section 18. That § 36-19-37 be AMENDED:**

**36-19-37.** Each license issued under this chapter expires on the following December thirty-first.

Each application for renewal must be submitted to the board during the month of December and must be accompanied by a renewal fee. The board shall promulgate rules, in accordance with chapter 1-26, to establish the amount of the fee, which may not exceed two hundred fifty dollars.

**Section 19. That § 36-19-38 be AMENDED:**

**36-19-38.** The board may refuse to renew, and may suspend or revoke, any license if the license holder:

- (1) Obtained the license by fraud or misrepresentation either in applying for the license or in passing the examination for the license;
- (2) Alters a license;
- (3) Uses intoxicants or drugs to such a degree as to render the person unfit to practice funeral service;

- (4) Has been convicted of:
  - (a) A felony; or
  - (b) Any crime involving dishonesty, any conduct intended to deceive or defraud the public, or any other unprofessional conduct;
- (5) Is guilty of malpractice in the business of funeral service;
- (6) Is guilty of willfully violating this chapter, any rule of the board, or any ordinance or federal regulation governing the disposition, shipment, or transportation of dead human bodies;
- (7) Signs a certificate stating that the person embalmed or prepared a dead human body for shipment or burial, if in fact another person, other than a trainee for whom supervision was provided, embalmed or prepared the dead human body for shipment or burial;
- (8) Directly or indirectly:
  - (a) Pays or causes to be paid, a commission for the securing of business; or
  - (b) Solicits business, provided that the soliciting of members or the selling of stock in any cooperative burial association is not a violation of this subdivision;
- (9) Engages in any practice or conduct that constitutes a danger to the health, safety, or welfare of the public;
- (10) Engages in any conduct that is unbecoming of a licensee or applicant;
- (11) Has been disciplined by the board of another state or territory for any act or omission that would be a violation of this chapter or rules adopted by the board;
- (11) Fails to report to the board:
  - (a) Any discipline imposed by the board of another state or territory;
  - (b) Any felony conviction; or
  - (c) Any conviction for an offense arising out of the practice of funeral service;
- (12) Has employed, enabled, or assisted the unlicensed practice or provision of any service, other than that authorized by this chapter or rules adopted by the board;
- (13) Fails to maintain adequate safety and sanitary conditions or other requirements of funeral establishments, as set forth in this chapter or rules adopted by the board pursuant to chapter 1-26; or
- (14) Engages in any unfair or deceptive act or practice.

If the license as funeral director is held by a firm, corporation, association, or organization, the provisions of this section apply to the members of the board of directors, officers, and employees, as well as to the firm, corporation, association, or organization.

**Section 20. That § 36-19-3 be REPEALED.**

**Section 21. That § 36-19-4 be REPEALED.**

**Section 22. That § 36-19-5 be REPEALED.**

**Section 23. That § 36-19-10 be REPEALED.**

**Section 24. That § 36-19-13 be REPEALED.**

**Section 25. That § 36-19-17 be REPEALED.**

**Section 26. That § 36-19-20 be REPEALED.**

**Section 27. That § 36-19-22 be REPEALED.**

**Section 28. That § 36-19-23 be REPEALED.**

**Section 29. That § 36-19-24 be REPEALED.**

**Section 30. That § 36-19-25.1 be REPEALED.**

**Section 31. That § 36-19-28 be REPEALED.**

**Section 32. That § 36-19-33 be REPEALED.**

**Section 33. That § 36-19-34 be REPEALED.**

**Section 34. That § 36-19-35 be REPEALED.**

**Section 35. That § 36-19-40 be REPEALED.**

**Section 36. That § 36-19-42 be REPEALED.**

**Section 37. That § 36-19-43 be REPEALED.**

An Act to update provisions related to the licensure of funeral directors and the provision of funeral services.

\_\_\_\_\_  
I certify that the attached Act originated in  
the:  
House as Bill No. 1015

\_\_\_\_\_  
Received at this Executive Office  
this \_\_\_\_ day of \_\_\_\_\_,  
2023 at \_\_\_\_\_ M.

\_\_\_\_\_  
Chief Clerk

By \_\_\_\_\_  
for the Governor

\_\_\_\_\_  
Speaker of the House

The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 2023

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
Governor

**STATE OF SOUTH DAKOTA,**

ss.

Office of the Secretary of State

\_\_\_\_\_  
President of the Senate

Attest:

Filed \_\_\_\_\_, 2023  
at \_\_\_\_\_ o'clock \_\_ M.

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

\_\_\_\_\_  
Secretary of State

House Bill No. 1015  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

By \_\_\_\_\_  
Asst. Secretary of State