CHAPTER 156

FUNERAL DIRECTING, MORTUARY SCIENCE, AND CREMATION

Referred to in §48A.30, 135.11, 144C.3, 144C.11, 147.76, 331.608, 523A.502, 523A.813, 714H.4

Enforcement, §147.87, 147.92
Penalty, §147.86
See chapter 523A for sales of cemetery and funeral merchandise and funeral services

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156.1 Definitions.

As used in this chapter unless the context otherwise requires:

1. *"Board"* means the board of mortuary science.

2. *"Cremation"* means the technical process, using heat and flame, that reduces human remains to bone fragments. The reduction takes place through heat and evaporation. Cremation shall include the processing, and may include the pulverization, of the bone fragments.

3. *"Cremation establishment"* means a place of business as defined by the board which provides any aspect of cremation services.

4. *"Funeral director"* means a person licensed by the board to practice mortuary science.

5. *"Funeral establishment"* means a place of business as defined by the board devoted to providing any aspect of mortuary science.

6. *"Intern"* means a person registered by the board to practice mortuary science under the direct supervision of a preceptor certified by the board.

7. *"Mortuary science"* means the engaging in any of the following:

a. Preparing, for burial or disposal, or directing and supervising burial or disposal of dead human bodies except supervising cremations.

b. Making funeral arrangements or furnishing any funeral services in connection with disposition of dead human bodies or sale of any casket, vault, urn, or other burial receptacle.

c. Using the words "funeral director", "mortician", or any other title implying that the person is engaged as a funeral director as defined in this section.

d. Embalming dead human bodies, entire or in part, by the use of chemical substances, fluids, or gases in the body, or by the introduction of the same into the body by vascular injections, hypodermic injections, or by surface application into the organs or cavities for the purpose of preservation or disinfection.

[S13, §2575-a36; C24, 27, §2584; C31, 35, §2585-c1; C39, §**2585.01;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §156.1]

96 Acts, ch 1148, §3; 2007 Acts, ch 10, §156; 2007 Acts, ch 159, §5, 6
Referred to in §156.2, 523A.302, 523A.601

156.1A Provision of services.

Nothing contained in this chapter shall be construed as prohibiting the operation of any funeral home, funeral establishment, or cremation establishment by any person, heir, fiduciary, firm, cooperative burial association, or corporation. However, each such person,

firm, cooperative burial association, or corporation shall ensure that all mortuary science services are provided by a funeral director, and shall keep the Iowa department of public health advised of the name of the funeral director.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §156.1(unn. 2)]

CS2007, §156.1A

156.2 Persons excluded.

The terms defined in section 156.1 shall not be construed to include the following classes of persons:

1. Manufacturers, wholesalers, distributors, and retailers of caskets, vaults, urns, or other burial receptacles not engaged in the other functions of furnishing of funeral services or embalming as above defined.

2. Those who use bodies for scientific purposes as defined in sections 142.1, 142.2, and 142.5; or those who make scientific examinations of dead bodies; or those who perform autopsies.

3. Physicians or institutions who preserve parts of human bodies either for scientific purposes or for use as evidence in prospective legal cases.

4. Persons who, without compensation, bury their own dead under a burial transit permit secured pursuant to section 144.32.

[C31, 35, §2585-c2; C39, §**2585.02;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §156.2]

96 Acts, ch 1148, §4; 2019 Acts, ch 59, §54

Unnumbered paragraph 1 amended

156.3 Eligibility requirements.

To be eligible to take the examination for a funeral director's license, a person must have completed two academic years of instruction in a recognized college or university in a course of study approved by the board or have equivalent education as defined by the board and have satisfactorily completed a course of instruction in mortuary science in an accredited school approved by the board.

[S13, §2575-a37, -a38; C24, 27, §2585; C31, 35, §2585-c3, -c4, -c9; C39, §**2585.03, 2585.04, 2585.09;** C46, 50, §156.3, 156.4, 156.9; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §156.3]

90 Acts, ch 1253, §3

156.4 Funeral directors.

1. The practice of a funeral director must be conducted from a funeral establishment licensed by the board. The board may specify criteria for exceptions to the requirement of this subsection in rules.

2. A person shall not engage in the practice of mortuary science unless licensed.

3. Applications for the examination for a funeral director's license shall be verified on a form furnished by the board.

4. Applicants shall pass an examination prescribed by the board, which shall include the subjects of funeral directing, burial or other disposition of dead human bodies, sanitary science, embalming, restorative art, anatomy, public health, transportation, business ethics, and such other subjects as the board may designate.

5. After the applicant has completed satisfactorily the course of instruction in mortuary science in an accredited school approved by the board, the applicant must pass the examination prescribed by the board as provided in section 147.34. The applicant may then receive an internship certificate and shall then complete a minimum one-year internship as determined by the board.

[C24, 27, §2585; C31, 35, §2585-c3, -c4; C39, §**2585.03, 2585.04;** C46, 50, §156.3, 156.4; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §156.4]

96 Acts, ch 1148, §5; 2000 Acts, ch 1140, §41; 2005 Acts, ch 89, §19; 2007 Acts, ch 159, §7

156.5 through 156.7 Reserved.

156.8 Internships.

The board shall, by rule, provide for internships in mortuary science, and shall regulate the registration, training, and fee for internships.

[C31, 35, §2585-c4; C39, §**2585.04;** C46, 50, §156.4; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §156.8]

96 Acts, ch 1148, §6

156.8A Student practicum.

The board, by rule, shall provide for practicums in mortuary science for students available through any school accredited by the American board of funeral service education.

2000 Acts, ch 1140, §42; 2007 Acts, ch 159, §8

156.9 Revocation of license to practice mortuary science.

1. Notwithstanding section 147.87, the board may restrict, suspend, or revoke a license to practice mortuary science or place a licensee on probation. The board shall adopt rules of procedure pursuant to chapter 17A by which to restrict, suspend, or revoke a license. The board may also adopt rules pursuant to chapter 17A relating to conditions of license reinstatement.

2. In addition to the grounds stated in sections 147.55 and 272C.10, the board may revoke or suspend the license of, or otherwise discipline, a funeral director for any one of the following acts:

a. Knowingly misrepresenting any material matter to a prospective purchaser of funeral merchandise, furnishings, or services.

b. A violation of chapter 144 related to the practice of mortuary science.

c. Knowingly aiding, assisting, procuring, advising, or allowing a person to unlawfully practice mortuary science.

d. Willful or repeated violations of this chapter, or the rules adopted pursuant to this chapter.

e. Conviction of any crime related to the practice of mortuary science or implicating the licensee's competence to safely perform mortuary science services, including but not limited to a crime involving moral character, dishonesty, fraud, theft, embezzlement, extortion, or controlled substances, in a court of competent jurisdiction in this state, or in another state, territory, or district of the United States, or in a foreign jurisdiction. For purposes of this paragraph, "*conviction*" includes a guilty plea, deferred judgment, or other finding of guilt. A certified copy of the judgment is prima facie evidence of the conviction.

[C31, 35, §2585-c5; C39, §**2585.05;** C46, 50, §156.5; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §156.9]

87 Acts, ch 30, §1; 96 Acts, ch 1148, §7; 2007 Acts, ch 159, §9; 2008 Acts, ch 1088, §110

156.10 Inspection.

1. The director of public health may inspect all places where dead human bodies are prepared or held for burial, entombment, or cremation, and may adopt and enforce such rules and regulations in connection with the inspection as may be necessary for the preservation of the public health.

2. The Iowa department of public health may assess an inspection fee for an inspection of a place where dead human bodies are prepared for burial or cremation. The fee may be determined by the department by rule.

[C31, 35, §2585-c7; C39, §**2585.06;** C46, 50, §156.6; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §156.10]

96 Acts, ch 1148, §8; 2007 Acts, ch 159, §10; 2014 Acts, ch 1106, §18

156.11 Reserved.

156.12 Funeral directors — solicitation of business — exceptions — penalty.

Every funeral director, or person acting on behalf of a funeral director, who pays or causes to be paid any money or other thing of value as a commission or gratuity for the securing

of business for the funeral director, and every person who accepts or offers to accept any money or other thing of value as a commission or gratuity from a funeral director in order to secure business for the funeral director commits a simple misdemeanor. This section does not prohibit any person, firm, cooperative burial association, or corporation, subject to the provisions of this chapter, from using legitimate and honest advertising. This section does not apply to sales made in accordance with chapter 523A.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §156.12]

87 Acts, ch 30, §2

156.13 Certificate of national board in lieu of examination. Repealed by 2007 Acts, ch 159, §12.

156.14 Funeral establishment and cremation establishment license.

1. A person shall not establish, conduct, or maintain a funeral establishment or a cremation establishment in this state without a license. The license shall be identified as an establishment license.

a. An establishment license issued by the board under this chapter shall be issued for a site and in the name of the individual in charge and is not transferable or assignable.

b. A license is required for each place of practice.

c. The license of the establishment shall be displayed.

2. The board shall specify by rule the licensing procedures to be followed, including specifications of forms for use in applying for an establishment license and fees for filing an application. The board shall specify by rule minimum standards for professional responsibility in the conduct of a funeral establishment or a cremation establishment.

3. To qualify for a funeral establishment or a cremation establishment license, the applicant shall submit to the board a license fee as determined by the board and a completed application on a form prescribed by the board that shall include the following information and be given under oath:

a. Ownership of the establishment.

b. Location of the establishment.

c. The license number of each funeral director employed by the establishment at the time of the application.

d. The trade or corporate name of the establishment.

e. The name of the individual in charge, who has the authority and responsibility for the establishment's compliance with laws and rules pertaining to the operation of the establishment.

4. A person who falsely makes the affidavit prescribed in subsection 3 is subject to all penalties prescribed for making a false affidavit.

96 Acts, ch 1148, §9

Referred to in §156.15

156.15 Funeral establishments and cremation establishments — license required — discipline, violations, and penalties.

1. A funeral establishment or cremation establishment shall not be operated until a license or renewal certificate has been issued to the establishment by the board.

2. The board shall refuse to issue an establishment license when an applicant fails to meet the requirements of section 156.14. The board may refuse to issue or renew a license or may impose a penalty, not to exceed ten thousand dollars, issue a reprimand, or revoke, restrict, cancel, or suspend a license, and may place a licensee on probation, if the board finds that the applicant or licensee has done any of the following:

a. Been convicted of a felony or any crime related to the practice of mortuary science or implicating the establishment's ability to safely perform mortuary science services, or if the applicant is an association, joint stock company, partnership, or corporation, that a managing officer or owner has been convicted of such a crime, under the laws of this state, another state, or the United States.

b. Violated this chapter or any rule adopted under this chapter or that any owner or

employee of the establishment has violated this chapter or any rule adopted under this chapter.

c. Knowingly aided, assisted, procured, advised, or allowed a person to unlawfully practice mortuary science.

d. Failed to engage in or ceased to engage in the business described in the application for a license.

3. Failed to keep and maintain records as required by this chapter or rules adopted under this chapter.

96 Acts, ch 1148, §10; 2007 Acts, ch 159, §11

156.16 Unlicensed practice — injunctions, civil penalties, consent agreements.

1. If the board has reasonable grounds to believe that a person or establishment which is not licensed under this chapter has engaged, or is about to engage, in an act or practice which requires licensure under this chapter, or otherwise violates a provision of this chapter, the board may issue an order to require the unlicensed person or establishment to comply with the provisions of this chapter, and may impose a civil penalty not to exceed one thousand dollars for each violation of this chapter by an unlicensed person or establishment. Each day of a continued violation constitutes a separate offense.

2. The board may conduct an investigation as needed to determine whether probable cause exists to initiate the proceedings described in this section. To aid in such an investigation or in connection with any other proceeding under this section, the board may issue subpoenas to compel witnesses to testify or persons to produce evidence consistent with the provisions of section 272C.6, subsection 3.

3. The board, in determining the amount of a civil penalty to be imposed, may consider any of the following:

a. Whether the amount imposed will be a substantial economic deterrent to the violation.

b. The circumstances leading to the violation.

c. The severity of the violation and the risk of harm to the public.

d. The economic benefits gained by the violator as a result of noncompliance.

e. The interest of the public.

4. The board, before issuing an order under this section, shall provide the person or establishment written notice and the opportunity to request a hearing. The hearing must be requested within thirty days after receipt of the notice and shall be conducted in the same manner as provided for disciplinary proceedings involving a licensee under this chapter.

5. The board may request the attorney general to bring an action to enforce the subpoena.

6. A person or establishment aggrieved by the issuance of an order or the imposition of a civil penalty under this section may seek judicial review pursuant to section 17A.19.

7. If a person or establishment fails to pay a civil penalty within thirty days after entry of an order imposing the civil penalty, or, if the order is stayed pending an appeal, within ten days after the court enters a final judgment in favor of the board, the board shall notify the attorney general. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs.

8. An action to enforce an order under this section may be joined with an action for an injunction pursuant to section 147.83.

9. The board, in its discretion and in lieu of issuing or enforcing an order or imposing a civil penalty for an initial violation under this section, may enter into a consent agreement with a violator, or with a person who aided or abetted a violator, which acknowledges the violation and the violator's agreement to refrain from any further violation.

2004 Acts, ch 1168, §11