

2020 Regular Session

SENATE BILL NO. 146

BY SENATOR JOHNS

EMBALMERS/FUNERAL DIRECT. Provides for funeral director assistants.
(2/3 - CA7s2.1(A)) (8/1/20)

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AN ACT

To amend and reenact R.S. 37:831(44) through (80), 842(C), the introductory paragraph of (D), the introductory paragraph of (E), the introductory paragraph of (F), the introductory paragraph of (G), and (H), 845(3), 848(D), (E), and (F), and 855(A) and to enact R.S. 37:831(81), 842(I), 842.1, 845(10), and 848(G), relative to funeral homes; to provide for the licensure and regulation of funeral director assistants; to provide for qualifications; to provide for examinations; to provide for fees; to provide for license renewals; to provide relative to unlawful actions; to provide for terms, conditions, and procedures; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:831(44) through (80), 842(C), the introductory paragraph of (D), the introductory paragraph of (E), the introductory paragraph of (F), the introductory paragraph of (G), and (H), 845(3), 848(D), (E), and (F), and 855(A) are hereby amended and reenacted and R.S. 37:831(81), 842(I), 842.1, 845(10), and 848(G) are hereby enacted to read as follows:

§831. Definitions

For purposes of this Chapter and implementation thereof, the following terms

1 have the meaning as defined herein, unless the context clearly indicates otherwise:

2 * * *

3 **(44) "Funeral director assistant" means a person to whom a valid license**
4 **has been issued by the board to assist a funeral director in one or more of the**
5 **functions of funeral directing and actively engage in such work.**

6 **(45)** "Funeral establishment" means any place or premises duly licensed by
7 the board and devoted to or used in the care and preparation for disposition of the
8 body of a deceased person or maintained or held out to the public by advertising or
9 otherwise as the office or place for the practice of funeral directing.

10 ~~(45)~~**(46)** "Funeral goods and services" means any one or more of the
11 following goods or services:

12 (a) Goods which are sold or offered for sale directly to the public for use in
13 connection with funeral services.

14 (b) Any services which may be used to care for or prepare deceased human
15 remains for burial, cremation, or other final disposition.

16 (c) The arranging, supervising, or conducting of the funeral ceremony or the
17 final disposition of deceased human bodies.

18 (d) Funeral merchandise.

19 ~~(46)~~**(47)** "Funeral merchandise" means :caskets, rental caskets, rental casket
20 inserts, alternative containers, combo/shipping caskets, and other receptacles,
21 excluding urns, where human remains are directly placed for disposition.

22 ~~(47)~~**(48)** "Funeral recipient" means the individual for whom funeral goods
23 and services are to be provided under the terms of a preneed funeral contract.

24 ~~(48)~~**(49)** "Funeral trust account" means an account established pursuant to
25 R.S. 37:865(B)(1).

26 ~~(49)~~**(50)** "Gratuity" means an inducement given voluntarily or beyond
27 obligation to gain business.

28 ~~(50)~~**(51)** "Guaranteed funeral goods and services" means funeral goods and
29 services which a funeral establishment agrees to provide for a named funeral

1 recipient upon death which are a specifically identified set of funeral goods and
2 services designated as guaranteed and for which a funeral trust account has been
3 established or a preneed insurance policy or annuity has been purchased or assigned
4 to pay for those funeral goods and services, provided the buyer has fully funded a
5 funeral trust account, or has fully paid for a preneed funeral policy or annuity, within
6 a specified period of time after the preneed funeral contract is made and the funeral
7 establishment has agreed to accept the funds available in the funeral trust account or
8 preneed insurance policy or annuity during the term of the guarantee as payment in
9 full for those funeral goods and services so that there will be no additional cost to the
10 funeral recipient's family or his or her estate for those funeral goods and services.

11 ~~(51)~~**(52)** "Holding facility" means an area within or adjacent to the crematory
12 designated for the short-term retention of human remains prior to cremation that
13 shall fulfill all of the following requirements:

- 14 (a) Comply with any applicable public health laws.
- 15 (b) Preserve the dignity of the human remains.
- 16 (c) Recognize the integrity, health, safety, and welfare of the crematory
17 authority personnel operating the crematory.
- 18 (d) Be secure from access by anyone other than authorized personnel.

19 ~~(52)~~**(53)** "Hour of continuing education" means a unit of measurement
20 equivalent to an organized learning experience of fifty consecutive minutes.

21 ~~(53)~~**(54)** "Human remains" means the body of a deceased person, or part of
22 a body or limb in any stage of decomposition that has been removed from a living
23 or dead person.

24 ~~(54)~~**(55)** "Inactive licensee" means an individual that holds a funeral director
25 or embalmer and funeral director license issued by the board not practicing in any
26 capacity in this state and who has not met the requirements of R.S. 37:854.

27 ~~(55)~~**(56)** "Incompetency" means the lack of skills or qualities necessary to
28 perform the duties of funeral director, or embalmer, or both.

29 ~~(56)~~**(57)** "Infectious disease" means a sickness or malady which is easily

1 diffused, or spread, or communicated.

2 ~~(57)~~**(58)** "Informal meeting" means a fact gathering session of the board as
3 provided for in R.S. 37:847.

4 ~~(58)~~**(59)** "Interment" means the act or ceremony of burying a dead human
5 body.

6 ~~(59)~~**(60)** "Interment receptacle" means an enclosure in which a casket is
7 placed.

8 ~~(60)~~**(61)** "Intern" means a person who is duly registered as such with the
9 board while in the employ of a funeral establishment and who is engaged in learning
10 the practice of funeral directing, or the practice of embalming, or both as the case
11 may be, under the supervision of a funeral director or funeral director and embalmer
12 duly licensed by the board and available on the same premises for consultation.

13 ~~(61)~~**(62)** "Joint venture" means a speculative business enterprise involving
14 the united activity of two or more persons.

15 ~~(62)~~**(63)** "Legal custody" means the immediate care, charge, and control
16 exercised by a person or an authority according to or within the law.

17 ~~(63)~~**(64)** "Malpractice" as used in this Chapter, means a negligence from
18 professional duty or a failure to exercise an acceptable degree of skill or learning as
19 a funeral director, or embalmer, or both that results in injury, loss, or damage.

20 ~~(64)~~**(65)** "Mandatory disclosure" means to divulge necessary, required
21 information relating to services and merchandise offered by the funeral home
22 establishment and pertaining to any other conditions known at the time funeral
23 arrangements are made.

24 ~~(65)~~**(66)** "Mislead" means to lead into a mistaken action or belief often by
25 deliberate deceit.

26 ~~(66)~~**(67)** "Misrepresentation" means the act of giving a false, or misleading
27 representation with an intent to deceive.

28 ~~(67)~~**(68)** "Next of kin" means one or more living persons in the nearest degree
29 of relationship to another person.

1 ~~(68)~~**(69)** "Partnership" means a legal relationship existing between two or
2 more persons contractually associated as joint principals in a business.

3 ~~(69)~~**(70)** "Prearrangement" means the non-binding gathering and exchange
4 of information before the death of an individual that provides guidance for a funeral
5 or final disposition of that individual and does not result in a preneed funeral
6 contract.

7 ~~(70)~~**(71)** "Preneed funeral contract" means any written agreement between
8 a buyer and a funeral establishment in which a funeral establishment agrees, prior
9 to the death of a named funeral recipient, to furnish funeral goods and services for
10 the funeral recipient upon death, and the buyer, pursuant to that agreement, transfers
11 or tenders funds, or assigns an insurance policy or annuity to the funeral
12 establishment for the purpose of paying all or part of the cost of those funeral goods
13 and services at the time they are actually provided. The contract may be designated
14 as revocable or irrevocable and may be guaranteed or non-guaranteed as to some or
15 all of the funeral goods and services included therein.

16 ~~(71)~~**(72)** "Preneed insurance policy or annuity" means any policy or contract
17 of insurance issued by an insurance company in accordance with Title 22 of the
18 Louisiana Revised Statutes of 1950, and used to fund a preneed funeral contract.

19 ~~(72)~~**(73)** "Preparation" means the actions or processes necessary to make a
20 dead body ready for disposition.

21 ~~(73)~~**(74)** "Processing" means the reduction of identifiable bone fragments
22 after the completion of the cremation process to unidentifiable bone fragments by
23 manual or mechanical means.

24 ~~(74)~~**(75)** "Program instructor" means an organization or person who conducts
25 or presents continuing education to licensees.

26 ~~(75)~~**(76)** "Pulverization" means the reduction of identifiable bone fragments
27 after the completion of the cremation and processing of granulated particles by
28 manual or mechanical means.

29 ~~(76)~~**(77)** "Reburial" means to transfer or transport a body from one place to

1 another for reinterment.

2 ~~(77)~~(78) "Refund designee" means the person designated in a preneed funeral
3 contract by the buyer to receive any surplus of funds as provided in R.S. 37:865(G)
4 and (I).

5 ~~(78)~~(79) "Removal" means to transfer or transport a body from one place to
6 another for preparation for burial or reburial.

7 ~~(79)~~(80) "Sole proprietorship" means one who has the legal right or exclusive
8 title to something.

9 ~~(80)~~(81) "Solicitation" means the act or practice of any licensee, or any agent,
10 employee, or person acting on his behalf, approaching a person or a group of persons
11 to make a request or plea, or to urge someone toward a particular cause as it may
12 pertain to the care, custody, or disposition of a dead human body.

13 * * *

14 §842. Minimum qualifications for license

15 * * *

16 **C. Qualifications for a funeral director assistant. Any applicant is**
17 **qualified for a license as a funeral director assistant if he meets all of the**
18 **following requirements:**

19 **(1) Is at least eighteen years of age.**

20 **(2) Has obtained a high school diploma or its equivalent.**

21 **(3) Is found by the board to be of good moral character and temperate**
22 **habits.**

23 **(4) Has served an internship in this state for a period of not less than**
24 **three months and not more than twelve months and has actively assisted in at**
25 **least twenty funerals.**

26 **(5) Has paid the application fee required by R.S. 37:845.**

27 **(6) Has passed satisfactorily an examination conducted by the board**
28 **relative to Louisiana rules and regulations.**

29 **D.** Licensure by endorsement. Any applicant is qualified for license as an

1 embalmer and funeral director or funeral director by endorsement in this state if he
2 meets all of the following requirements:

3 * * *

4 ~~D.~~E. Qualifications for an embalmer and funeral director temporary license.
5 Any applicant is qualified for an embalmer and funeral director temporary license
6 by endorsement in this state if he meets the requirements of Paragraphs (A)(1), (2),
7 (3), and (6) of this Section and furnishes the board with all of the following:

8 * * *

9 ~~E.~~F. Qualifications for a funeral director temporary license. Any applicant
10 is qualified for a funeral director temporary license by endorsement in this state if
11 he meets the requirements of Paragraphs (A)(1), (2), (3), and (6) of this Section and
12 furnishes the board with all of the following:

13 * * *

14 ~~F.~~G. Any establishment where the business of funeral directing or embalming
15 as defined in R.S. 37:831 is conducted within this state shall be duly licensed. An
16 establishment shall be qualified to be licensed to operate as such if it meets all of the
17 following requirements:

18 * * *

19 ~~G.~~H. Licenses issued pursuant to Subsection ~~FG~~ of this Section shall be for
20 a specific name and location, and amended from time to time to show any change of
21 name or location upon the payment of a charge equaling a license renewal fee.

22 ~~H.~~I. Every license issued hereunder shall be signed by the president and
23 secretary of the board, and bear the imprint of the board's seal. The board shall
24 register each license holder as being duly licensed for the purpose covered by such
25 license.

26 **§842.1. Funeral director assistant; administrative rules**

27 **A. A funeral director assistant shall be an employee of an establishment**
28 **and work under the supervision of a funeral director and shall be a person to**
29 **whom the funeral director delegates the responsibility of funeral directing. A**

1 funeral director assistant shall not engage in any practice prohibited by R.S.
2 37:848.

3 B. The board may adopt rules in accordance with the Administrative
4 Procedure Act to implement the provisions of this Section and provide relative
5 to the qualifications and licensure of a funeral director assistant.

6 * * *

7 §845. Fees

8 The board shall require payment of fees hereunder, as follows:

9 * * *

10 (3) A fee to be determined by the board of not more than eighty dollars for
11 the annual renewal of each of the licenses listed in Paragraphs (1), ~~and (2),~~ **and (10)**
12 of this Section.

13 * * *

14 (10) A fee to be determined by the board of not more than one hundred
15 fifty dollars from each person applying for a funeral director assistant's license.

16 * * *

17 §848. Unlawful practice

18 * * *

19 D. It shall be unlawful for a funeral director assistant to manage a
20 funeral home, sign a death certificate, sign a cremation coroner form, or sign
21 a cremation authorization form.

22 E.(1) Only a licensed embalmer may embalm a dead human body.

23 (2) If the body is to be held by the funeral establishment longer than thirty
24 hours after the time of death, it shall be embalmed or the body may be refrigerated
25 continuously at a temperature not to exceed forty-five degrees Fahrenheit.

26 (3) If the body is not embalmed or refrigerated, it shall be buried, cremated,
27 or otherwise disposed of within thirty hours after death or as soon as possible after
28 its release by the proper authorities.

29 (4) If the condition of the body does not permit embalming by the

1 introduction of chemical substances, fluids, or gas into the body by vascular or
2 hypodermic injection or by direct application into the organs or cavities, it shall be
3 embalmed by an outward application of such substances.

4 (5) Every dead human body shall be disposed of and prepared through a
5 funeral establishment and under the supervision of a licensed funeral home or
6 embalmer.

7 (6) Notwithstanding any provision of this Part to the contrary, a licensed
8 hospital or medical school may hold a body for more than thirty hours without
9 having the body embalmed and a licensed hospital, medical school, or the Bureau of
10 Anatomical Services may dispose of any tissues or organs according to accepted
11 procedures.

12 (7) Nothing in this Subsection shall be construed to require embalming if
13 specific practices and beliefs of religious groups prohibit it.

14 **E.F.** The provisions of Paragraphs ~~(D)~~**(E)**(1) through (5) of this Section shall
15 not apply to the Anatomical Board (R.S. 17:2271-2280).

16 **F.G.** The provisions of Paragraphs ~~(D)~~**(E)**(1) through (5) of this Section shall
17 not apply to accredited schools of mortuary science or funeral service.

18 * * *

19 §855. Right to arrange funeral goods and services

20 A. The persons in the priority listed in R.S. 8:655 have the right to arrange
21 with a funeral director or funeral establishment for funeral goods and services, as
22 defined in R.S. 37:831~~(45)~~**(46)**, in preparation for the disposition of the remains of
23 a decedent.

24 * * *

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Michelle Ridge.

SB 146 Original DIGEST 2020 Regular Session Johns

Present law provides for the regulation and licensure of embalmers and funeral directors by the Louisiana State Board of Embalmers and Funeral Directors (board).

Proposed law creates a new license for a funeral director assistant. "Funeral director assistant" means a person to whom a valid license has been issued by the board to assist a funeral director in one or more of the functions of funeral directing and actively engage in such work.

Proposed law provides that the qualifications of a funeral director assistant are as follows:

- (1) Is at least 18 years of age.
- (2) Has obtained a high school diploma or its equivalent.
- (3) Is found by the board to be of good moral character and temperate habits.
- (4) Has served an internship in the state for a period of not less than three months and not more than 12 months and has actively assisted in at least 20 funerals.
- (5) Has paid the application fee.
- (6) Has passed satisfactorily an examination conducted by the board relative to La. rules and regulations.

Proposed law requires payment of an application fee of not more than \$150 and subjects the licensee to a renewal fee of not more than \$80.

Proposed law provides that a funeral director assistant shall be an employee of a funeral home and work under the supervision of a funeral director. Provides the funeral director assistant shall be a person to whom the funeral director delegates the responsibility of funeral directing.

Proposed law makes it unlawful for a funeral director assistant to manage a funeral home, sign a death certificate, sign a cremation coroner form, and sign a cremation authorization form.

Proposed law allows the board to adopt administrative rules relative to funeral director assistants.

Effective August 1, 2020.

(Amends R.S. 37:831(44) through (80), 842(C), (D)(intro para), (E)(intro para), (F)(intro para), (G)(intro para), and (H), 845(3), 848(D), (E), and (F) and 855(A); adds R.S. 37:831(81), 842(I), 842.1, 845(10), and 848(G))