

## RS 37:846

§846. Refusal to grant or renew licenses; revocation or suspension; grounds; hearings

A. The board may refuse to grant, refuse to renew, suspend, or revoke any license, or impose a sanction or fine in keeping with the penalty provision of this Part for any licensee or registrant when he is found guilty of any of the following acts or omissions:

(1) Fraud or misrepresentation in obtaining or attempting to obtain any license by this board.

(2) Paying, giving or offering, directly or indirectly, orally or in writing, any money, credit, discount, gratuity or other thing of value to a third party as an inducement for the business of a prospective customer, provided that this prohibition shall not be construed to prohibit any of the following:

(a) The execution or servicing by the parties thereto of any funeral service contract or preneed funeral contract recognized by any provisions of Titles 22 and 37 of the Louisiana Revised Statutes of 1950.

(b) A licensee's providing promotional pricing that is disclosed on its general price list, including the dollar amount or method of determining the dollar amount of any discount, directly to a consumer.

(c) A licensee's providing discounted or free funeral goods and services for infants or a member of an indigent family.

(3)(a) Solicitation which is intimidating, overreaching, fraudulent, or misleading, that uses undue influence, or that takes advantage of a person's lack of knowledge or emotional vulnerability, or engaging in any of the following:

(i) At-need solicitation of sales of funeral goods and services or funeral or disposition arrangements.

(ii) Soliciting, accepting, or paying consideration for recommending a provider of funeral goods and services or disposition arrangements or using the services of cappers, steerers, or runners.

(iii) Contacting persons receiving care in hospitals, rest homes, nursing homes, hospices, or similar institutions for the purpose of soliciting preneed funeral contracts or the sale of funeral goods and services or making funeral or disposition arrangements without first having been specifically requested by that person.

(iv) Contacting a person suffering ill health or the relatives, caregivers, acquaintances, health care providers, or persons having the right to control the disposition of the remains of an individual whose death is impending or whose death has recently occurred for the purposes of soliciting preneed funeral contracts or the sale of funeral goods and services or making funeral or disposition arrangements for that individual without first having been specifically requested by that person seeking information about funeral goods or services.

(b) This Paragraph shall not apply to communications between persons related by blood, adoption, or marriage.

(c) Nothing in this Section shall be construed to restrict the rights of a person to advertise or use direct mail or other communications in a manner directed to members of groups, associations, organizations, or the general public, or to contact persons responding to such communications or who initiate discussion of the funeral goods and services being offered.

(4) Malpractice.

(5) Unprofessional, unethical or dishonest conduct.

(6) Incompetency or untrustworthiness in the practice of embalming, funeral directing, or cremation.

(7) Failure or refusal to properly provide or guard against contagious or infectious or

communicable diseases, or the spreading thereof.

(8) Immorality or addiction to the liquor or drug habit to such a degree as to render him unfit to practice embalming and/or funeral directing.

(9) Conviction of any felony or of any offense involving moral turpitude.

(10) Use, in advertising or in the sale of merchandise or services, untruthful, deceptive, unethical, misleading or improbable statements, or any practice, offer or inducement prohibited by any provisions of this Section.

(11)(a) Knowingly employing any unlicensed person or inactive licensee to perform the work of actual embalming or funeral directing, except that a registered intern may perform the work of actual embalming or funeral directing, as long as he is under the supervision of a licensed embalmer or funeral director who is available on the same premises for consultation.

(b) Knowingly employing any unlicensed person to engage in the practice of cremation or to operate a cremation retort.

(12) Recommending to the board an applicant for a license who has not, to his personal knowledge, complied with the requirements of this Chapter or with the rules and regulations of said board.

(13) Refusing to surrender a dead human body or cremated human remains upon the request of the person entitled to the custody and control of the body or cremated human remains.

(14) Violation of any law of this state relating to the embalming, burial, cremation, or disposal of dead human bodies or cremated human remains, or any of the provisions of this Chapter, or of the rules and regulations of the Louisiana State Board of Embalmers and Funeral Directors or the applicable rules and regulations of the Department of Health and Hospitals, the Department of Environmental Quality, or any other federal, state, or local governmental entity; or promoting, participating in, operating or servicing, directly or indirectly, any burial insurance association or society, or issuing, giving, selling, or distributing any contract, certificate, or coupon, granting or promising to the holder, his representatives or assigns, any burial benefits, or credit thereon, unless such association, society, contract, certificate, or coupon is authorized and approved by Louisiana law.

(15) Embalming bodies or practicing funeral directing for anyone in the State of Louisiana not licensed as a funeral establishment under the laws of this state.

~~(16) Cremating human remains by any person or entity in the state of Louisiana not licensed as a crematory authority, or practicing cremation in any facility not licensed as a crematory, in accordance with the provisions of this Chapter.~~

(17) If informed by the authorizing agent on a cremation authorization form of the presence of a pacemaker in human remains, failing to take all necessary steps to remove the pacemaker before delivering the human remains to the crematory.

(18) Performing the cremation of human remains without having received proper authorization to cremate in accordance with the provisions of R.S. 37:877.

(19) Violating any cremation procedures as set forth in R.S. 37:879 or the provisions of R.S. 37:880(C) and (D), relative to the disposition of cremated human remains.

(20) Knowingly and falsely certifying training or attempting through subterfuge to bypass the requirements for continuing education.

B. Petition, in affidavit form only, for revocation or suspension of a license or registration certificate may be filed by any person with the board. It shall state the charges with reasonable definiteness. Notice of not less than fifteen days will be given licensee and a hearing set. Complainant and licensee may have benefit of counsel, and shall have the right to offer evidence and cross-examine witnesses. Strict rules of evidence need not be complied with, but no evidence shall be received unless given by witnesses present. Upon due hearing, board may enter its findings of record. Appeal from any board decision or order shall be filed in a court of competent

jurisdiction within fifteen days from board's decision, otherwise board's findings will be final.

Amended by Acts 1963, No. 12, §1; Acts 1966, No. 19, §1, eff. June 15, 1966, at 10:30 A.M.; Acts 1974, No. 3, §3; Acts 1977, No. 684, §4; Acts 2003, No. 1243, §2; Acts 2010, No. 373, §1; Acts 2012, No. 176, §1, eff. Jan. 1, 2013; Acts 2014, No. 264, §1.