

IC 25-15-8

Chapter 8. Grounds for Discipline; Sanctions by Board; Violations

IC 25-15-8-1

Grounds for discipline of licensees

Sec. 1. A licensee that:

- (1) promotes or participates in a scheme or plan in the nature of a burial association, burial certificate plan, or burial membership plan;
- (2) after an individual has died, personally or through an agent solicits, makes, or offers to make a direct or an indirect payment of a commission for the purpose of securing the individual's human remains;
- (3) fails to promptly surrender possession of human remains after receiving a demand from the person legally entitled to custody of the human remains;
- (4) transports or disposes of human remains without a permit required by law;
- (5) takes possession of human remains without authorization from the person legally entitled to custody of the human remains;
- (6) makes a misleading claim concerning the protective qualities of a casket, an alternative container, or an outer burial container; or
- (7) shows a casket, an alternative container, or an outer burial container to a consumer if the casket, alternative container, or outer burial container does not have a conspicuously displayed card or brochure that lists the price of the casket, alternative container, or outer burial container and briefly describes the casket, alternative container, or outer burial container;

may be disciplined under IC 25-1-11.

As added by P.L.246-1985, SEC.7. Amended by P.L.207-1993, SEC.6; P.L.214-1993, SEC.46.

IC 25-15-8-1.5

Discipline of licensee for display of revoked or expired credentials

Sec. 1.5. The board may discipline a licensee under IC 25-1-11 if that licensee displays to the public credentials issued by the board that:

- (1) have been revoked by the board; or
- (2) have expired.

As added by P.L.240-1985, SEC.9. Amended by P.L.207-1993, SEC.7; P.L.214-1993, SEC.47.

IC 25-15-8-2

Funeral home licenses; grounds for discipline

Sec. 2. A funeral home licensee who itself or through an officer, an agent, an employee, or an independent contractor:

- (1) operates a funeral home or a branch location in the same

- location as another funeral home licensee;
- (2) operates a funeral home at any location or branch location without a separate funeral home license or branch location license for that location;
- (3) operates a funeral home or a branch location without a manager who:
- (A) has a funeral director license; and
 - (B) has filed an affidavit with the board acknowledging that the individual is the manager of the funeral home or the branch location;
- (4) operates a funeral home or branch location without having a funeral director either perform or directly supervise each act of funeral service performed for the funeral home or a branch location;
- (5) fails to conspicuously display the certificate of licensure issued to the funeral home licensee and the certificate of licensure or a duplicate original of the certificate of licensure issued to the funeral director managing the funeral home or the branch location in a public area of the funeral home or the branch location;
- (6) fails to annually report to the board:
- (A) if the licensee is a sole proprietor, the name of the funeral home or the branch location and principal address of residence of the funeral home licensee;
 - (B) the location of the funeral home or the branch location;
 - (C) if the licensee is not a sole proprietor, the names and principal addresses of residences of the directors or other executive officers of the funeral home licensee;
 - (D) the name of the manager in charge of the funeral home or the branch location;
 - (E) the name and principal address of residence of each practitioner that has engaged in the practice of funeral services for the funeral home or the branch location in the preceding twelve (12) months and the period of time during which the practitioner worked for the funeral home or the branch location; and
 - (F) any other information required by the board;
- (7) knowingly violates any rule of construction, equipping, or operation for funeral homes or branch locations adopted by the board under IC 25-15-9-8;
- (8) engages in the practice of funeral service or provides funeral services to the public under an inactive license (as described in IC 25-15-4-6);
- (9) permits a person other than a funeral director to engage in the practice of funeral service or the provision of funeral services to the public or otherwise violates any provision of this chapter; or
- (10) misrepresents the quality or character of:
- (A) any service or merchandise sold by a competitor; or
 - (B) any professional practice of a competitor;

may be disciplined under IC 25-1-11.

As added by P.L.246-1985, SEC.7. Amended by P.L.48-1991, SEC.29; P.L.207-1993, SEC.8; P.L.214-1993, SEC.48; P.L.1-1994, SEC.125; P.L.237-1995, SEC.15.

IC 25-15-8-3

Repealed

(Repealed by P.L.214-1993, SEC.91.)

IC 25-15-8-4

Selling funeral goods or services; grounds for discipline

Sec. 4. A practitioner who, when selling or offering to sell funeral goods or funeral services to a consumer, fails to:

- (1) act compassionately;
- (2) disclose prices related to arranging a funeral;
- (3) answer questions, including telephone inquiries, accurately and to the reasonable satisfaction of the inquiring person;
- (4) disclose that embalming human remains is not always required by law but may be desirable if viewing or visitation precedes disposition;
- (5) explain which outer burial containers meet cemetery requirements, if any;
- (6) explain requirements, including cremation requirements, for caskets and other alternative containers; or
- (7) disclose whether the cash advance price of each:
 - (A) funeral goods or funeral service described by the practitioner as "cash advance", "accommodation", or "cash disbursement", or a similar term; and
 - (B) goods or service obtained from a third party and paid on behalf of the consumer by the funeral home licensee for which the practitioner is an agent;

is equal to the cost of the item to the funeral home selling it;

may be disciplined under IC 25-1-11.

As added by P.L.246-1985, SEC.7. Amended by P.L.207-1993, SEC.10; P.L.214-1993, SEC.49.

IC 25-15-8-5

Statements of price and terms; grounds for discipline

Sec. 5. (a) This section does not apply to a practitioner acting as an exempted person.

(b) A practitioner who, when selling funeral goods or services to a consumer, fails to give the consumer a written statement signed on behalf of a funeral home licensee by a funeral director that includes:

- (1) an itemized description of each funeral goods and funeral service for which the consumer has contracted and either the price of each item or the package price for all of the items;
- (2) an itemized description of any supplemental goods and services that the consumer has the option to purchase from the funeral home licensee and the price for each item;
- (3) an indication of the contract items on which the funeral

home licensee is advancing credit and the amount of the credit being advanced;

(4) the total cost to the consumer of the contract items; and

(5) a description of the method of payment agreed upon;

may be disciplined under IC 25-1-11.

As added by P.L.246-1985, SEC.7. Amended by P.L.207-1993, SEC.11; P.L.214-1993, SEC.50.

IC 25-15-8-6

Practitioners of funeral services; grounds for discipline

Sec. 6. (a) This section does not apply to a practitioner who is acting as an exempted person or an embalmer.

(b) A practitioner who engages in the practice of funeral service may be disciplined under IC 25-1-11 if the practitioner:

- (1) does not act as the agent of one (1) or more funeral home licensees;
- (2) fails to register with the board in which funeral homes the practitioner is performing services and for which funeral home licensees the practitioner is an agent; or
- (3) fails to notify the board to cancel a registration described in subdivision (2), if the practitioner ceases to perform services in a funeral home or for a funeral home licensee.

As added by P.L.246-1985, SEC.7. Amended by P.L.207-1993, SEC.12; P.L.214-1993, SEC.51.

IC 25-15-8-7

Notice of change in practitioner's name or address

Sec. 7. A practitioner who fails to notify the board of a change in the practitioner's name or principal address of residence within thirty (30) days after the change may be disciplined under IC 25-1-11.

As added by P.L.246-1985, SEC.7. Amended by P.L.207-1993, SEC.13; P.L.214-1993, SEC.52.

IC 25-15-8-8

Funeral director interns

Sec. 8. (a) This section does not apply to a funeral director intern who is acting as an exempted person.

(b) Except as provided in subsection (c), a funeral director intern may engage in the practice of funeral service or provide funeral services to the public if the funeral director intern is acting under the direct supervision of a person holding a funeral director's license. Direct supervision means that:

- (1) a licensed funeral director supervising an intern who is performing duties not requiring counseling is physically present in the facility where the intern is performing the duties; or
- (2) a funeral director supervising an intern who is counseling is physically present in the same room with the intern and counselee.

(c) A funeral director intern who engages in the practice of funeral service or provides funeral services to the public without the direct

supervision of a funeral director may be disciplined under IC 25-1-11.

As added by P.L.246-1985, SEC.7. Amended by P.L.207-1993, SEC.14; P.L.214-1993, SEC.53; P.L.237-1995, SEC.16.

IC 25-15-8-9

Embalmers

Sec. 9. (a) This section does not apply to an embalmer who is acting as an exempted person.

(b) An embalmer who performs any funeral service other than embalming may be disciplined under IC 25-1-11.

As added by P.L.246-1985, SEC.7. Amended by P.L.207-1993, SEC.15; P.L.214-1993, SEC.54.

IC 25-15-8-10

Funeral directors engaging in embalming

Sec. 10. (a) This section does not apply to a funeral director who is acting as an exempted person.

(b) A funeral director who:

(1) is qualified to engage in the practice of funeral service only under IC 25-15-4-3(d) and not under IC 25-15-4-3(b) or IC 25-15-4-3(c); and

(2) engages in embalming;

may be disciplined under IC 25-1-11.

As added by P.L.246-1985, SEC.7. Amended by P.L.207-1993, SEC.16; P.L.214-1993, SEC.55.

IC 25-15-8-11

Funeral directors; management of funeral home; failure to file affidavits

Sec. 11. A funeral director who:

(1) manages a funeral home without filing an affidavit with the board acknowledging that the funeral director is the manager of the funeral home; or

(2) fails to file an affidavit with the board indicating that the funeral director is no longer the manager of a funeral home when the funeral director ceases to manage the funeral home;

may be disciplined under IC 25-1-11.

As added by P.L.246-1985, SEC.7. Amended by P.L.207-1993, SEC.17; P.L.214-1993, SEC.56.

IC 25-15-8-12

Funeral directors; management of funeral home; violations as grounds for discipline

Sec. 12. A funeral director who has an affidavit on file with the board indicating that the individual is the manager of a funeral home and no affidavit on file with the board indicating that the individual has ceased to be its manager may be disciplined under IC 25-1-11 if:

(1) the funeral home that the funeral director is registered to manage commits a violation under section 1 or 2 of this chapter,

other than section 2(3) of this chapter; or
(2) a practitioner acting as an agent of the funeral home that the funeral director is registered to manage commits a violation under sections 4 through 11 of this chapter.

As added by P.L.246-1985, SEC.7. Amended by P.L.207-1993, SEC.18; P.L.214-1993, SEC.57.

IC 25-15-8-13

Repealed

(Repealed by P.L.214-1993, SEC.91.)

IC 25-15-8-14

Repealed

(Repealed by P.L.207-1993, SEC.35 and P.L.214-1993, SEC.91.)

IC 25-15-8-15

Repealed

(Repealed by P.L.214-1993, SEC.91.)

IC 25-15-8-16

Repealed

(Repealed by P.L.214-1993, SEC.91.)

IC 25-15-8-17

Repealed

(Repealed by P.L.214-1993, SEC.91.)

IC 25-15-8-18

Repealed

(Repealed by P.L.214-1993, SEC.91.)

IC 25-15-8-19

Injunctions; applications for orders

Sec. 19. If a violation of any of sections 21 through 26 of this chapter is being committed:

- (1) the board in its own name;
- (2) the board in the name of the state;
- (3) the attorney general in the name of the state, at the request of the board; or
- (4) the prosecuting attorney of the county in which the violation occurs, at the request of the board, and in the name of the state;

may apply for an order enjoining the violation from the circuit court of the county in which the violation occurs.

As added by P.L.246-1985, SEC.7.

IC 25-15-8-20

Injunctions or orders; bonds

Sec. 20. Upon a showing that a person has violated any of sections 21 through 26 of this chapter, the court may grant without bond an injunction, restraining order, or other appropriate order.

As added by P.L.246-1985, SEC.7.

IC 25-15-8-21

Use of certain titles without funeral home license; infraction

Sec. 21. A person that uses the title "funeral home", "undertaking parlor", "mortuary", "memorial chapel", or a variant of these titles without a funeral home license issued under this article commits a Class B infraction.

As added by P.L.246-1985, SEC.7.

IC 25-15-8-22

Use of certain titles without funeral director or funeral director intern license; infraction

Sec. 22. A person that uses the title "funeral director", "mortician", "undertaker", "funeral service licensee", "funeral director intern", "embalmer", "funeral home manager", or a variant of any of these titles without a funeral director license or a funeral director intern license issued under this article commits a Class B infraction.

As added by P.L.246-1985, SEC.7.

IC 25-15-8-23

Use of certain words to describe funeral services by person without license; infraction

Sec. 23. A person that renders or offers to render services to the public, if the words "funeral service", "funeral directing", "undertaking", "funeral", "funeral arrangement", "embalming", or a variant of these words is used to describe the services, without a license issued under this article commits a Class B infraction.

As added by P.L.246-1985, SEC.7.

IC 25-15-8-24

Practice of funeral service or operation of funeral home without license; infraction

Sec. 24. (a) This section does not apply to a person acting as an exempted person.

(b) A person that engages in the practice of funeral service without a license issued under this article commits a Class B infraction.

(c) A person that operates a funeral home without a funeral home license issued under this article commits a Class B infraction.

As added by P.L.246-1985, SEC.7.

IC 25-15-8-25

Issuance of permit under IC 16-37-3-10

Sec. 25. A local health officer may issue a permit under IC 16-37-3-10 only to a funeral director acting as an agent or a funeral home licensee or another individual acting under the direct supervision of a funeral director who is an agent of a funeral home licensee.

As added by P.L.246-1985, SEC.7. Amended by P.L.2-1993, SEC.138.

IC 25-15-8-26

Other licensing requirements void

Sec. 26. Any licensing requirement that is adopted by a state agency, other than the board, or a political subdivision for the purpose of regulating the operation of a funeral home or branch location or the practice of funeral service is void.

As added by P.L.246-1985, SEC.7. Amended by P.L.237-1995, SEC.11.