



Board of Funeral Service

Mailing Address:
810 North Main Street, Suite 298
Spearfish, SD 57783

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Home Page: funeralboard.sd.gov

DRAFT TELECONFERENCE **BOARD MEETING AGENDA**

TO: Board Members

FROM: Carol Tellinghuisen, Executive Secretary

DATE: August 15, 2022

MEETING DATE: August 25, 2022

MEETING TIME: 4:00 p.m. CDT / 3:00 p.m. MDT

MEETING LOCATION: Teleconference

Persons interested in joining the meeting may do so by calling the teleconference number at 1-866-705-2554. Key in the Guest Passcode: 263756.

Agenda Item Number:

1. Call to Order/Welcome and Introductions-Brennick
2. Roll Call-Brennick
3. Corrections or additions to the agenda
4. Approval of the agenda
5. Public Testimony/Public Comment Period at 1:05 p.m. CDT-5 minutes for the public to address the Board
6. Approval of the minutes from May 4, 2022
7. FY Financial Update
8. Vote on Revised SDCL36-19
9. Update on Annual Inspections
10. Schedule next meeting
11. Executive Session-Pursuant to SDCL 1-25-2
 - a. Complaints/Investigations
 - i. #167
 - ii. #169
 - b. Executive Secretary Contract Renewal / RFP
 - c. Board Member Training
12. Any other business coming in between date of mailing and date of meeting
13. Adjourn



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DRAFT BOARD MINUTES FOR May 4, 2022
BOARD MEETING
Best Western PLUS Ramkota Hotel
3200 West Maple St.
Sioux Falls, SD 57107

Members Present: Randy Brennick, President
James Jones, Vice-President
Chad Osthus, Secretary/Treasurer
Bart Fredericksen, Member
Michael Carlsen, Member
Mariah Pokorny, Dept. of Health (Non-voting member) (joined via teleconference)
Sharel Delzer, Lay Member (joined via teleconference)

Members Absent: None.

Others Present: Carol Tellinghuisen, Executive Secretary
Brooke Tellinghuisen Geddes, Executive Assistant
Abby Rehorst, Executive Assistant
Megan Borchert, Attorney General's Office
Jacob Dempsy, Attorney General's Office
Ali Tornow, DOH Legal Counsel
Karl Koball, Miller Funeral Home
Tim Wingen, Miller Funeral Home
Mitch Steinhoff, Eidsness Funeral Home
Kelly Hyke, Hyke Funeral Home
Josh Fiedler, Dakota Embalming & Transport Service
Tim Bachman, Miller Funeral Home
Jasper Diegel, SDFDA
Katie Sieverding, SDFDA

Call to Order/Welcome and Introductions: President Brennick called the meeting to order at 1:00 PM CDT.

Roll Call: Brennick asked Tellinghuisen Geddes to call the roll. Brennick, yes; Jones, yes; Osthus, yes; Fredericksen, yes; Carlsen, yes; Delzer, yes; Pokorny, yes. A quorum was present.

Corrections or additions to the agenda: None

Approval of the agenda: Osthus moved to approve the agenda. Fredericksen seconded the motion. **MOTION PASSED.**

Public Comment: Brennick called for any comments from the public. Association members present expressed gratitude for coming together with the Board to foster a positive relationship moving forward.

Approval of the minutes from December 9, 2021: Fredericksen made a motion to approve the minutes from December 9, 2021. Osthus seconded the motion. **MOTION PASSED.**

FY Financial Update: Tellinghuisen Geddes reported figures as of March 31, 2022: YTD revenue of \$69,587.59; YTD expenditures of \$58,152.86 and YTD cash balance of \$136,841.76.

ICFSEB Annual Conference Update: Brenneck reported on the ICFSEB conference he attended in April. Licensure topics included Board member duties, legislative intent of statutes, and workforce issues. He encouraged other Board members and association members to attend this meeting in the future if available.

Report on Survey Results: Tellinghuisen Geddes reported on the survey that were distributed to SD licensees. It was reported that the responses were split evenly on the topic of removing the extra 60 hours of education requirement, most were not in favor of getting rid of the state specific exam, most were in favor or neutral about reducing the size of the Board, and most were in favor of removing the residency/citizenship requirement of applicants.

Election of Officers: Osthus made a motion to keep the current slate of officers the same. Fredericksen seconded the motion. **MOTION PASSED.**

Discussion on SDCL 36-19-28: Discussion was held on the topic of the statute requiring a stock of caskets and shipping containers. The committee working on the statute revisions agreed to look at this statute when they meet and discuss ways to better clarify the statute.

Update on Annual Inspections: The list of establishments for inspection was distributed to the three Board members conducting inspections. They will begin inspections this summer.

SD Funeral Directors Contract: The Board discussed and agreed to contribute money to help fund a technical speaker for the SDFDA annual convention. Jones made a motion to approve the contract at \$1500. Osthus seconded the motion. **MOTION PASSED.**

Legislative Update: The Board discussed the recently passed House Bill 1152, an act to establish rights regarding the disposition of a person's remains.

Upcoming Statute Revisions: The Board agreed to form a committee with 3 Board members, association members, Board staff and legal counsel to discuss and revise Chapter 36-19. The committee hopes to have a final draft for review in August.

Next Meeting Reminder: The next meeting is to be held on July 7, 2022 at 3 p.m. MDT/ 4 p.m. CDT via teleconference. The Board also scheduled a meeting for August 25, 2022 at 3 p.m. MDT/ 4 p.m. CDT via teleconference.

Jones made the motion to enter executive session. Fredericksen seconded the motion. **MOTION PASSED** by unanimous voice vote.

The Board entered Executive Session at 2:06 p.m. to discuss complaint #168 and the executive secretary contract. The Board exited Executive Session at 2:28 p.m.

Jones made a motion to dismiss complaint #168 due to lack of substantive evidence. Osthus seconded the motion. **MOTION PASSED** by voice vote: Brennick, yes; Jones, yes; Osthus, yes; Carlsen, abstain; Frederickson, yes; Delzer, yes.

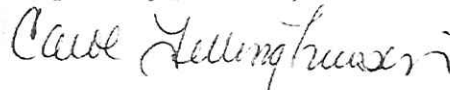
Executive Secretary Contract: The Board will be extending the current executive secretary contract that ends May 31, 2022 until the RFP is complete.

Future Complaint Dismissals: Carlsen made the motion to allow the investigative committee to dismiss future complaints and report those to the Board. Fredericksen seconded the motion. **MOTION PASSED.**

Any other business coming in between date of mailing and date of meeting: There was no other business.

Osthus made a motion to adjourn at 2:36 p.m. CDT. Carlsen seconded the motion. **MOTION PASSED.**

Respectfully submitted,



Carol Tellinghuisen
Executive Secretary

1-27-1.17. Draft minutes of public meeting to be available--Exceptions--Violation as misdemeanor. The unapproved, draft minutes of any public meeting held pursuant to § 1-25-1 that are required to be kept by law shall be available for inspection by any person within ten business days after the meeting. However, this section does not apply if an audio or video recording of the meeting is available to the public on the governing body's website within five business days after the meeting. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to draft minutes of contested case proceedings held in accordance with the provisions of chapter 1-26.

STATE OF SOUTH DAKOTA
MONTHLY OBJECT/SUB-OBJECT REPORT BY BUDGET UNIT
FOR PERIOD ENDING: 06/30/2022

AGENCY BUDGET UNIT CENTER	09 09204 09204	HEALTH BOARD OF FUNERAL SERVICE - INFO					
COMPANY NO	6503	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE		
COMPANY NAME	PROFESSIONAL & LICENSING BOARDS						
092040061812	6503	510103000000000000	BOARD & COMM MBRS FEES	.00	1,200.00		
ACCT: 5101		EMPLOYEE SALARIES		.00	1,200.00	*	
092040061812	6503	510201000000000000	OAST-EMPLOYER'S SHARE	.00	105.88		
ACCT: 5102		EMPLOYEE BENEFITS		.00	105.88	*	
ACCT: 51		PERSONAL SERVICES		.00	1,305.88	**	
092040061812	6503	520303000000000000	AUTO-PRIV (IN-ST.) H/RTE	87.36	1,774.72		
092040061812	6503	520310000000000000	LODGING/IN-STATE	82.50	82.50		
092040061812	6503	520313000000000000	NON-EMPLOY. TRAVEL-IN ST.	.00	2,449.13		
092040061812	6503	520314000000000000	TAXABLE MEALS/IN-STATE	.00	184.00		
092040061812	6503	520315000000000000	NON-TAXABLE MEALS/IN-ST	40.00	94.00		
ACCT: 5203		TRAVEL		209.86	4,584.35	*	
092040061812	6503	520405000000000000	COMPUTER CONSULTANT	.00	1,400.00		
092040061812	6503	520408000000000000	LEGAL CONSULTANT	1,403.90	4,316.30		
092040061812	6503	520409000000000000	MANAGEMENT CONSULTANT	133.29	56,793.95		
092040061812	6503	520416000000000000	WORKSHOP REGISTRATION FEE	.00	200.00		
092040061812	6503	520418000000000000	COMPUTER SERVICES-STATE	260.00	2,546.25		
092040061812	6503	520418100000000000	BIT DEVELOPMENT COSTS	.00	143.20		
092040061812	6503	520420000000000000	CENTRAL SERVICES	.00	1,039.62		
092040061812	6503	520420400000000000	RECORDS MGMT SERVICES	.00	236.15		
092040061812	6503	520420700000000000	HUMAN RESOURCES SERVICES	148.60	620.00		
092040061812	6503	520453000000000000	TELECOMMUNICATIONS SVCS	.00	21.98		
092040061812	6503	520459000000000000	INS PREMIUMS & SURETY BDS	.00	1,320.00		
ACCT: 5204		CONTRACTUAL SERVICES		1,945.79	68,637.45	*	
092040061812	6503	520502000000000000	OFFICE SUPPLIES	.00	88.40		
092040061812	6503	520502000000000000	OFFICE SUPPLIES	.00	28.28		
092040061812	6503	520531000000000000	PRINTING-STATE	.00	323.69		
092040061812	6503	520532000000000000	PRINTING-COMMERCIAL	.00	203.14		
092040061812	6503	520535000000000000	POSTAGE	.00	6.91		
ACCT: 5205		SUPPLIES & MATERIALS		2,155.65	650.42	*	
ACCT: 52		OPERATING EXPENSES		2,155.65	73,872.22	**	
COMP: 6503		PROFESSIONAL & LICENSING BOARDS		2,155.65	75,178.10	***	
CENTER: 092040061812				2,155.65	75,178.10	****	
B UNIT: 09204				2,155.65	75,178.10	*****	

STATE OF SOUTH DAKOTA
 REVENUE SUMMARY BY BUDGET UNIT
 FOR PERIOD ENDING: 06/30/2022

AGENCY BUDGET UNIT	09 09204	HEALTH BOARD OF FUNERAL SERVICE - INFO				
COMPANY NO	6503	PROFESSIONAL & LICENSING BOARDS				
COMPANY NAME	6503	PROFESSIONAL & LICENSING BOARDS				
GENER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE	
092040061812	6503	4293955	FUNERAL LICENSE FEE	525.00	69,095.00	
ACCT:	4293		BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)	525.00	69,095.00	*
ACCT:	42		LICENSES, PERMITS & FEES	525.00	69,095.00	**
092040061812	6503	4920045	NONOPERATING REVENUES	.00	1,935.70	
ACCT:	4920		NONOPERATING REVENUE	.00	1,935.70	*
092040061812	6503	4950000000000000	REFUND OF PRIOR YEARS EXP	.00	201.18	
ACCT:	4950		REFUND OF PRIOR YEARS EXPENDITURES	.00	201.18	*
ACCT:	49		OTHER REVENUE	.00	2,136.88	**
CNTR:	092040061812			525.00	71,231.88	***
CNTR:	092040061			525.00	71,231.88	****
CNTR:	0920400			525.00	71,231.88	*****
COMP:	6503			525.00	71,231.88	*****
B UNIT:	09204			525.00	71,231.88	*****

AGENCY: 09 HEALTH
BUDGET UNIT: 09204 BOARD OF FUNERAL SERVICE - INFO

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	092000061812	1140000	121,118.26	DR	BOARD OF FUNERAL SERVICES
COMPANY/SOURCE TOTAL		6503 618	121,118.26	DR *	
COMP/BUDG UNIT TOTAL		6503 09204	121,118.26	DR **	
BUDGET UNIT TOTAL		09204	121,118.26	DR ***	

CHAPTER 36-19
FUNERAL DIRECTORS, EMBALMERS AND FUNERAL ESTABLISHMENTS

36-19-1. Definition of terms.

Terms used in this chapter mean:

- (1) "Board," the Board of Funeral Service;
- ~~(1A)~~(2) "Branch chapel," a separate facility with a visitation room or chapel where no embalming is permitted that is owned by, a subsidiary of, or otherwise financially connected to or controlled by a licensed funeral establishment;
- ~~(2)~~(3) "~~Embalmer~~ Funeral director/embalmer," any person engaged in or conducting, or holding the person out as engaged in or conducting, ~~the business of services and burials of casketed remains~~ and disinfecting, preserving, or both, or attempting to disinfect or preserve, or both, or cremate, dead human bodies, in whole or in part by use of chemicals externally, internally or by other methods, ~~as approved by the department of health;~~
- ~~(3)~~ "Funeral director," ~~any person, partnership, limited liability company, corporation, association, or organization engaged in or conducting or holding that person out as engaged in or conducting, at a funeral establishment, the business of preparing, other than embalming, for burial or disposal, and supervising the burial or disposal of dead human bodies, or who shall, in connection with the person's name or business, use the title, funeral director, undertaker, mortician, or any other title implying that the person is engaged in the business herein described;~~
- (4) "Funeral establishment," any place of business conducted at a specific street address or location devoted to the care and preparation for burial or transportation of dead human bodies;
- (5) "Funeral service," those ~~service~~ services provided or rendered by an ~~embalmer or funeral director, or both, as set forth in subdivisions (2) or (3) of this section~~ individual licensed pursuant to this chapter;
- (6) "Trainee ~~in funeral service,~~" any person who is engaged in the training of funeral service. However, no person may serve or attempt to serve as such trainee until that person has filed a registration with the board of funeral service as set forth in this chapter.

36-19-2. State Board of Funeral Service – Terms and qualifications of members – Vacancies.

~~The State Board of Funeral Service shall include the five professional members who shall be licensed to practice funeral service. The Governor shall appoint the professional members of the board. However, no person may be appointed as a professional member of the board who has not been licensed in this state, as an embalmer and funeral director, or a five-member Board of Funeral Services. Four of the members shall be licensed pursuant to this chapter to practice funeral service, for at least five years prior to appointment. One member of the board shall be a representative of the public who is not associated with or financially interested in the practice or business of funeral services or who is not a member of a related profession or occupation. No member of the board may concurrently serve in an elected, appointed, or employed position in any state professional association or government regulatory agency which presents a conflict of interest. The term of office of appointed members is three years. The Governor shall, by appointment, fill any vacancy.~~

~~The board shall also include two lay members who are users of the services regulated by the board. The term, lay member who is a user, refers to a person who is not licensed by the board but, where practical, uses the service licensed. The term shall be liberally construed to implement the purpose of this section. The Governor shall appoint the lay members. The lay members shall have the same term of office as other members of the board.~~

~~No board member may serve more than three consecutive full terms. However, appointment to fill an unexpired term is not considered a complete term for this purpose. The Governor may stagger the terms to enable the board to have different terms expire each year. In the event of a vacancy on the board, the~~

Governor shall appoint a new member to serve out the unexpired term. The Governor may remove a member of the board for dishonorable conduct, incompetence, or neglect of duties. The appointment to an unexpired term is not considered a full term.

The terms of members begin on October thirty-first of the calendar year in which the Governor appoints the member, unless otherwise designated by the Governor. The appointee's term expires on October thirtieth in the third year of appointment.

~~Any member's term ending June 30, 2013, or thereafter is extended to October thirtieth in the year the term is to expire.~~

The board shall also include the secretary of health or the secretary's designee as a nonvoting member.

36-19-3. Districts represented by board members.

~~For the purpose of this chapter this state is hereby divided into five districts, and one professional member of the State Board of Funeral Service shall be appointed as provided in § 36-19-2 from each of the said districts. The first district shall consist of the following counties: Moody, Lake, the portion of McCook east of state highway 81, Minnehaha, Silver Lake, Grandview, Valley and Molan townships in Hutchinson, Turner, Lincoln, Union, Clay, Yankton. The second district shall consist of the following counties: Sanborn, Miner, Hanson, Jerauld, Buffalo, Aurora, Brule, Davison, the portion of McCook west of state highway 81, the remainder of Hutchinson, Douglas, Charles Mix, Bon Homme. The third district shall consist of the following counties: Roberts, Day, Grant, Codington, Clark, Hamlin, Deuel, Brookings, Kingsbury. The fourth district shall consist of the following counties: Marshall, Brown, McPherson, Campbell, Walworth, Edmunds, Spink, Faulk, Potter, Sully, Hughes, Hyde, Hand, Beadle. The fifth district shall consist of the following counties: Bennett, Butte, Corson, Custer, Dewey, Fall River, Gregory, Haakon, Harding, Jackson, Jones, Lawrence, Lyman, Meade, Mellette, Oglala Lakota, Pennington, Perkins, Stanley, Todd, Tripp, Ziebach.~~

36-19-4. Oath of office of appointive members.

~~The appointive members of the State Board of Funeral Service, before entering upon their duties shall respectively take and subscribe the oath required by other state officers, which shall be filed in the Office of the Secretary of State.~~

36-19-5. Removal of appointive members from board – Filling of vacancies.

~~The Governor may remove an appointive member of the State Board of Funeral Service for cause, and a member appointed to fill such vacancy caused by death, resignation, or removal shall serve during the unexpired term of his predecessor.~~

36-19-6. Meetings of board – Quorum.

The ~~State Board of Funeral Service~~ board shall ~~meet at least once a year and~~ hold at least two meetings annually at a time and place to be set by the board. The board may also hold ~~special~~ other meetings ~~as frequently as the proper and efficient discharge of its duties requires~~ at a time and place set by the president or a majority of the board.

~~Four members~~ A majority of the board constitute a quorum ~~for the transaction of business~~. Except as provided in § 36-19-40, a majority vote of the members present constitutes a decision of the board.

36-19-6.1. Board continued within Department of Health – Records and reports.

The ~~State Board of Funeral Service~~ 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, except that the board shall report at least annually.

36-19-7. Compensation and expenses of board members, secretary and employees.

~~The State Board of Funeral Service may, pursuant to chapter 3-6D, determine the compensation of the secretary and other assistants as may be necessary to carry out the provisions of this chapter and any rules promulgated under this chapter. The board may incur other expenses as may be necessary. The compensation of the members and the other expenses of the board shall be paid out of the fees received from applicants and licensees~~ Members of the board shall receive a per diem established pursuant to § 4-7-10.4 and expenses at the same rate as other state employees while engaged in official duties.

36-19-9. Officers of board – Scope of rules – Bond required of treasurer.

~~The State Board of Funeral Service may elect, out of its own number, the board shall annually elect from its members a president, a vice-president, and secretary-treasurer, and, pursuant to chapter 1-26, promulgate the rules as may be reasonable and proper to:~~

- ~~(1) — Establish the minimum physical standards of licensees' funeral establishments;~~
- ~~(2) — Regulate the inspection of each funeral establishment;~~
- ~~(3) — Establish the educational, training, reciprocity and renewal requirements for licensure; and~~
- ~~(4) — However, the board may not regulate the method and manner of providing funeral service.~~

~~The treasurer of the board shall give bond in the sum of five thousand dollars with sufficient sureties to be approved by the board, conditioned for the honest and faithful discharge of the treasurer's duties~~ secretary.

36-19-10. Seal of board.

~~The State Board of Funeral Service shall be authorized to adopt and use a common seal.~~

36-19-11. Fees paid to treasurer – Use of fees.

All fees collected under the provisions of this chapter shall be paid to the treasurer of the State Board of Funeral Service, to be used for the purpose of defraying its necessary salaries and expenses.

36-19-12. General duties of board with respect to licenses.

~~It shall be the duty of the State Board of Funeral Service to examine applicants for licenses as provided by this chapter; to keep all necessary records; receive registrations of trainees in funeral service; to control and issue reciprocal licenses and renewals of all other licenses as provided in this chapter; to revoke or suspend upon proper cause, and to provide hearings in such matters and to investigate any and all complaints originating from the violation of any section or sections of this chapter~~ The board has the following powers and duties:

- (1) Administer, coordinate, and enforce the provisions of this chapter;
- (2) Establish the education and training requirements for applicants, evaluate the qualifications of applicants and issue and renew licenses;
- (3) Issue subpoenas, examine witnesses, administer oaths, conduct hearings, and, at its discretion, investigate allegations of violations of this chapter and impose penalties for any violations;
- (4) Promulgate rules, pursuant to chapter 1-26, to:
 - (a) Delineate qualifications for licensure;
 - (b) Specify requirements for the renewal of licensure;
 - (c) Establish standards of professional conduct;
 - (d) Establish a schedule of disciplinary actions for violations of professional conduct;
 - (e) Permit inactive licenses;
 - (f) Establish procedures for collection and management of fees and payments;
 - (g) Establish application, renewal, inactive, and late fees;
 - (h) Adopt a code of ethics; and
 - (i) Establish the standards of operating a funeral establishment;
 - (j) The delegation of tasks to unlicensed personnel under the supervision of a licensed funeral director/embalmer

- (5) Have available the names and addresses of persons currently licensed pursuant to the provisions of this chapter;
- (6) Employ personnel in accordance with its needs and budget;
- (7) Enter into such contracts as necessary to carry out its responsibilities under this chapter;
- (8) Establish a budget;
- (9) Submit reports of its operations and finances as required by § 4-7-7. 2;
- (10) Adopt an official seal by which it shall authenticate its proceedings, copies, records, acts of the board, and licenses;
- (11) Develop procedures for:
 - (a) Monitoring a license holder's compliance with the requirements of this chapter;
 - (b) Monitoring a license holder who is ordered by the board to perform certain acts;
 - (c) Identifying a license holder who presents a risk to the public; and
 - (d) Initiating appropriate actions regarding a license holder who presents a risk to the public;
- (12) Develop a system for monitoring complaints filed with the board, procedures to provide assistance to a person who wishes to file a complaint, and a schedule for disposing of complaints in a timely manner;
- (13) Communicate disciplinary actions to relevant state and federal authorities and to other state funeral director licensing authorities; and
- (14) Perform any other duties directly related to the administration of the provisions of this chapter.

No member of the board is liable for civil action for any act performed in good faith in the performance of the member's duties as prescribed by law.

36-19-13. Qualifications of inspector employed by board.

~~No person shall be employed as an inspector by the State Board of Funeral Service unless such person has been licensed in this state as an embalmer and funeral director, and has practiced funeral service, for at least five years prior to his appointment.~~

36-19-14. License required to embalm, practice funeral service or maintain establishment.

No person shall embalm any dead human body or practice embalming, or direct or supervise funerals, practice funeral service, or maintain a funeral establishment in the State of South Dakota, without being licensed by the ~~State Board of Funeral Service~~ board.

36-19-17. License issued to previously licensed funeral director.

~~Every funeral director who, on July 1, 1963, held a license which had been duly issued under the laws of this state, is entitled to have his license renewed annually upon payment of renewal fees of not to exceed fifty dollars set by the State Board of Funeral Service, by rule promulgated pursuant to chapter 1-26.~~

36-19-18. Licenses issued to funeral service trainees.

The ~~State Board of Funeral Service~~ board shall ~~provide for registration of~~ register trainees for license to practice funeral service. Trainees shall at all times remain registered with the board and shall pay an initial registration fee not to exceed twenty-five dollars set by the ~~State Board of Funeral Service~~ board, by rule promulgated pursuant to chapter 1-26.

36-19-20. Application for license to practice funeral service – Examination.

~~Any person desiring to obtain a license to practice funeral service under this chapter shall make application to the State Board of Funeral Service. The application shall contain such information as the board may require and be upon a form prepared by the board. Upon receipt of the application, the board shall fix a date and place for the examination of the applicant of which notice shall be given to the applicant by mail. At such time and place, a designee of the board, a board member, or a board staff~~

~~member selected by a majority of the board shall proceed to examine the applicant under such rules the board may promulgate pursuant to chapter 1-26.~~

36-19-21. Requirements for funeral service license – Scope of examination.

~~In order to obtain a license in the practice of funeral service, the applicant shall submit evidence that the applicant is a citizen of the United States or a resident of South Dakota; is at least eighteen years of age; is of good moral character; has sixty semester hours credit from a college or university in a course approved by the State Board of Funeral Service; has completed one year's course at a school of embalming, accredited by the board; has completed one year's work as a trainee embalmer-funeral director in this state; and has passed an examination on the following subjects: embalming and care, disposition and preservation of the bodies of deceased persons, sanitation for the prevention of the spread of infectious or contagious diseases, and local health and sanitation ordinances and regulations relating to mortuary science~~

For applications received after July 1, 2023, the board may issue a license to an applicant who

- (1) Submits an application upon a form prescribed by the board;
- (2) Pays the application fee;
- (3) Is eighteen years of age or older;
- (4) Possess at least 90 semester hours credit from an accredited college or university including a degree or certificate from a program in mortuary science or funeral service accredited by the American Board of Funeral Service Education, Inc.;
- (5) Has completed one year's work as a trainee under an individual licensed pursuant to this chapter;
- (6) Has passed the National Board Examination as administered by the Conference of Funeral Service Examining Board; and
- (7) Has not have committed any act for which disciplinary action may be justified.

36-19-22. Time and place of examination – Minimum grade – Preservation of papers.

~~The examination required by § 36-19-21 shall be held at such times and places as the examining board shall deem most convenient for the applicants for examination, and, in accordance with the rules and regulations of the State Board of Funeral Service. Examination shall be in writing and the applicant must attain a grade of seventy-five per cent on each subject.~~

~~All examination papers of all applicants shall be kept on file by such board for a period of three years.~~

36-19-23. National board certificate accepted in lieu of examination.

~~If an applicant for a license to practice funeral service has satisfactorily passed the national board examination given by the Conference of Funeral Service Examining Board of the United States, Incorporated, and is so certified to the State Board of Funeral Service by said Conference of Funeral Service Examining Board of the United States, Incorporated, said board may in its discretion accept the results of said national board examination in lieu of the written portion of the board's examination.~~

36-19-24. Licensing of licensee from another state.

~~Any holder of a license issued by the state authority in any other state maintaining a system and standard of examination for license to engage in the practice of funeral service, which in the judgment of the State Board of Funeral Service, is substantially the equivalent to that required in this state, may be issued such a license after passing a written examination on questions concerning the laws and rules of the State of South Dakota upon the payment of the applicable fee pursuant to § 36-19-25~~ applicant holding a current license in good standing to practice funeral services in another state, who otherwise meets the qualifications of § 36-19-21, is exempt from the traineeship requirement in § 36-19-21(5) upon furnishing proof of a current, valid license, passage of the board approved national examination, and having practices as a funeral director/embalmer for at least one year prior to application for licensure in South Dakota.

36-19-25. Fees for issuance and renewal of funeral service license.

A license to practice funeral service shall be issued and is renewable annually upon payment of a fee not to exceed one hundred twenty-five dollars set by the ~~State Board of Funeral Service~~ board, by rule promulgated pursuant to chapter 1-26.

36-19-25.1. Validation of receipt of prior initial license fees – vested rights.

~~The receipt of fees for initial licenses issued by the Board of Funeral Service is validated and is of the same force and effect as if the board had authority to set and collect such fees.~~

~~If a person has a vested right in any property because of the lack of authority referred to in this section, and if no action or proceeding to enforce such right was commenced prior to July 1, 1984, such right is forever barred, and no such action or proceeding may be brought or be of any force or effect, or be maintainable in any court of this state.~~

36-19-27. Application for funeral establishment license – Fee – Licensee in charge.

An application for a license to operate a funeral establishment shall be submitted for each location and shall be in writing on a form provided by the ~~State Board of Funeral Service~~ board and shall be accompanied by a fee not to exceed two hundred fifty dollars set by the ~~State Board of Funeral Service~~ board, by rule promulgated pursuant to chapter 1-26. The board may inspect a funeral establishment to verify compliance with state law or rule. A license to operate a funeral establishment may be granted upon approval and recommendation by the ~~state~~ board.

The application shall state the name of the individual who is ~~duly~~ licensed ~~as either a funeral director or in funeral service and~~ in good standing pursuant to this chapter who shall be ~~in charge and~~ responsible for all transactions conducted and services performed.

36-19-28. Sanitation, ventilation, and equipment required for funeral establishment.

~~No establishment shall be classified as a funeral establishment unless it has a preparation room equipped with a sanitary floor of tile or linoleum, a table with sanitary top, suitable drainage and ventilation, and containing necessary instruments and supplies for the preparation and embalming of dead human bodies for burial or transportation, and a display room containing a reasonably adequate stock of funeral caskets and shipping cases.~~

36-19-30. Funeral establishment managed by licensed individual.

Every funeral establishment shall be managed and conducted by a person licensed ~~to practice funeral service, or who is a licensed funeral director~~ in good standing pursuant to this chapter.

36-19-31. Annual inspection of funeral establishment.

Each funeral establishment shall be inspected ~~annually~~ every three years by ~~a member of the State Board of Funeral Service, or by an inspector employed by said~~ board.

36-19-32. Change of location or transfer of funeral establishment.

The holder of any funeral establishment license who transfers the location of such establishment, or ceases to operate the same, or transfers such license to another, shall, within five days thereafter, notify the ~~State Board of Funeral Service thereof~~ board. In case of transfer of such license, the transferee shall promptly furnish the board the name of the individual who is ~~duly~~ licensed ~~as either a funeral director or in funeral service, and who will, and shall, be in charge and~~ in good standing pursuant to this section who will be responsible for all transactions conducted and services performed ~~therein~~. The board may inspect the new location of the funeral establishment to verify compliance with state law or rule.

36-19-33. License to legal representative of deceased funeral establishment manager.

~~In case of the death of a designated manager of a funeral establishment, who leaves such funeral establishment as part or all of his estate, the State Board of Funeral Service shall issue to the legal~~

~~representative of such deceased person, a funeral establishment license. The fee for the application and renewal of such license, and the time of payment thereof, shall be the same as required in § 36-19-37 for such licenses.~~

36-19-34. Association membership not required for license.

~~Membership in the South Dakota Embalmers and Funeral Directors Association shall never be a condition to obtaining or holding any license under this chapter.~~

36-19-35. Signature and seal of licenses.

~~All licenses issued under this chapter shall be signed by a majority of the State Board of Funeral Service and attested by its seal and shall specify by name the person to whom issued.~~

36-19-36. Licenses not transferable – Display in place of business.

Every license issued under this chapter except the funeral establishment license, shall be nontransferable and shall be displayed by such licensee in a conspicuous place in ~~his or her~~ the licensee's office or place of business.

36-19-37. Expiration and annual renewal of licenses – Fee.

All licenses issued under the provisions of this chapter are valid only until the following thirty-first day of December and shall be renewed annually.

~~If a licensee desires a renewal of such license, the State Board of Funeral Service shall grant it, except for cause in compliance with chapter 1-26.~~ All applications for renewal shall be made within thirty days prior to the expiration of the license and shall be accompanied by a renewal fee not to exceed two hundred fifty dollars, set by the board, by rule promulgated pursuant to chapter 1-26.

36-19-38. Grounds for refusal, suspension or revocation of license.

The ~~State Board of Funeral Service, acting in compliance with chapter 1-26,~~ board may refuse to grant, may suspend, condition, or revoke any license if the license holder or the license applicant:

- (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 or funeral directing with reasonable skill or safety;
- (4) Continues to practice after sustaining any physical or mental disability which renders the further practice of the licensee's profession potentially harmful or dangerous;
- ~~(3)~~(5) ~~Has been convicted of a felony or crime involving moral turpitude. However, upon the conviction of a holder of a valid license, of a felony or crime involving moral turpitude, the conviction shall immediately and automatically revoke the license~~ dishonesty, any conduct of character likely to deceive or defraud the public, or related unprofessional conduct;
- ~~(4)~~ Is not a person of good moral character;
- ~~(5)~~(6) Is guilty of malpractice in the business of funeral service or funeral directing;
- ~~(6)~~(7) Is guilty of willful violation of any section of this chapter, or any state, local, or federal rule of the board, or any rule of the state or any municipal board or department of health governing the disposition, shipment, or transportation of dead human bodies; or willfully fails to make any report required by law or by the rules of the board;
- ~~(7)~~(8) Signs a certificate stating that the person embalmed or prepared a dead human body for shipment or burial, whereas in fact, someone, other than the person signing the certificate, embalmed or prepared the dead human body for shipment or burial;
- ~~(8)~~(9) Pays or causes to be paid, directly or indirectly, a commission for the securing of business; or, directly or indirectly solicits such business. However the soliciting of members or the selling of stock in any cooperative burial association is not a violation of this subdivision;

- (10) Any practice or conduct which constitutes a danger to the health, safety, or welfare of the public or engaging in conduct which is unbecoming of a licensee or applicant of the board;
- (11) Discipline in another state or territory licensing board if the violation is also a violation of this chapter or any rules promulgated thereunder;
- (12) Not reporting to the board discipline by another state or territory or a conviction of any felony criminal offense or any conviction of a criminal offense arising out of the practice regulated by this chapter;
- (13) Has employed, enabled, or assisted the unlicensed practice or provision of any service other than those authorized by this chapter or any rule promulgated thereunder;
- (14) Fails to maintain adequate safety and sanitary conditions, or meet requirements of funeral establishments set forth in this chapter or any rule promulgated thereunder; and
- (15) Engages in unfair or deceptive act or practice.

If the license as funeral ~~director~~ establishment 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.

36-19-40. Appeal from revocation, suspension or refusal of license.

~~An appeal from the decision of the State Board of Funeral Service may be taken as provided by chapter 1-26~~ The board may take disciplinary action or suspend, revoke, or reissue a license only after a hearing conducted by a hearing examiner appointed by the board or by a majority of the members of the board.

Any disciplinary proceeding or proceeding relative to the revocation or suspension of a license or certification shall otherwise conform to the procedure set forth in chapter 1-26 and Chapter 36-1C.

Any decision of the board to discipline, suspend, revoke, or reissue a license requires a majority vote of the board membership.

Any party feeling aggrieved by any acts, rulings, or decisions of the board, has the right to appeal under the provisions of chapter 1-26 and Chapter 36-1C.

36-19-41. Violation of chapter as misdemeanor.

Any person, firm or corporation conducting business or doing any act which is in violation of the provisions of this chapter is guilty of a Class 2 misdemeanor.

36-19-41.1. Injunction to prevent violations – Election of remedies.

The State Board of Funeral Service is empowered to commence actions for injunction for violation of this chapter or regulations hereunder as an alternate to criminal proceedings. The commencement of one proceeding by the board constitutes an election.

36-19-42. Severability of provisions.

~~If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.~~

36-19-43. Federal trade commission rules – Board's option to comply with.

~~The Board of Funeral Services may comply with or exempt themselves from the federal trade commission rules on funeral industry practices pursuant to §§ 453.1 to 453.10, inclusive, volume 16 of the Code of Federal Regulations as amended and in effect on January 1, 1984.~~