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2024 Changes to the Laws Governing the Practice of Funeral Service, Cremation, and Preneed Funeral Contracts in South Carolina

House Bill 4116 was signed into law on July 3, 2024. With that action, several areas of the law with respect to the death care industry in South Carolina have been changed. More specifically, changes have been made to the laws governing the practice of funeral service, found in Section 40-19-5 *et seq.* (“Funeral Practice Act”); the laws governing cremation, as found in Section 32-8-300 *et seq.* (“Safe Cremation Act”); and the laws governing preneed funeral contracts, found in Section 32-7-10 *et seq.*

References

A copy of House Bill 4116 with the additions and deletions underlined and stricken through, making the changes easier to identify, can be found [here](#).

A “clean” copy of House Bill 4116 can be found [here](#).

Summary of Updates

The following are some, but not all of the changes and updates made to the aforementioned areas of the law, separated by area for ease of reference:

- [Funeral Practice Act](#)
 - o [Updated definitions](#)
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Disclaimer: This update is not intended as legal advice. LLR is providing this legislative update to notify licensees of recently enacted legislation that may impact his or her practice area or license. This update provides only a high-level overview of enacted legislation. Licensees are urged to review the entire enacted legislation, available in the hyperlinks above.

Funeral Practice Act

Updated definitions

- Existing terms were updated, including “funeral director,” “funeral home/funeral establishment/mortuary,” “owner,” “cremation,” and crematory” (Section 40-19-20)

Alkaline hydrolysis authorized

- The definition of “cremation” was updated in the Funeral Practice Act to include alkaline hydrolysis, as follows:
 - o "Cremation" means the technical process using either alkaline hydrolysis or heat and flame that reduces human remains to components of either liquid and bone, or bone fragments, and which may include the pulverization of the bone fragments. (Section 40-19-20(7))
- NOTE: the definition of “cremation” in the Safe Cremation Act was also updated to include alkaline hydrolysis

On-site caskets no longer required

- The definition of “funeral home” (also known as “funeral establishment” or “mortuary”) was updated. With the update, funeral homes are no longer required to have a room containing a displayed stock of at least six adult caskets. Instead of being required to have these on-site caskets, funeral homes must now have means of showing photographs or other representations of available caskets and other necessary funeral supplies. (Section 40-19-20(12)(c))

Revoked and suspended licensee names prohibited from funeral home name

- Section 40-19-30(B) was updated, with the underlined language added, as follows:
 - o No permit to operate a funeral home may be issued to a corporation, partnership, or individual when the name of either an unlicensed person or a person whose license has been revoked or is suspended appears in the name of the corporation, partnership, or individually owned business. This prohibition does not apply to established funeral homes existing prior to July 1, 1969.

Prohibitions on funeral business participation

- Section 40-19-295 was added and prohibits suspended and revoked licensees, as well as applicants whose applications have been denied, from participating in a business licensed by the Board, as follows:
 - o No licensee whose license has been suspended or revoked, or who has applied for a license but whose application has been denied, may participate in any manner in a business licensed by the board until that person has obtained a license or the person's license has been restored. No business licensed by the board may permit or allow a person whose license has been suspended or revoked, or any person who has applied for a license but whose application has been denied, to participate in any manner in the business licensed by the board.

Release of dead human bodies

- Section 40-19-110(9) was updated, with the underlined wording added:
 - o The board may refuse to issue or renew or may suspend or revoke the license of a funeral director or embalmer or may place the licensee on probation after notice and a hearing for unprofessional conduct which includes:
...

(9) refusing to properly release a dead human body to the custody of the person or entity that has the legal right to affect a release. The release must include payment for the actual services provided by the initial funeral home as transferor of the dead human body over to the receiving transferee. The receiving transferee funeral home is responsible for the payment to the transferring funeral home at the time of the transfer of the dead human body.

Increased penalties for unlicensed practice; aiding and abetting

- Penalties for those that engage in the practice of funeral service without a license have been increased (Section 40-19-200)
- A person who aids and abets any unlicensed person or entity to engage in the practice of funeral service is also subject to the same increased unlicensed practice penalties (Section 40-19-200)

Criminal convictions for embalmers and funeral directors

- The laws governing the embalmer and funeral director qualifications were updated and now provide that in order for an individual to be licensed as a funeral director or embalmer, the funeral director or embalmer must not have been convicted of or pled guilty to a crime that directly relates to the duties, responsibilities, or fitness of the occupation or profession (Section 40-19-230(A)(2) and (B)(2))

Continuing education increased; exemption

- Section 40-19-250 regarding continuing education was significantly updated.
 - o Licensees are now required to attend 4 hours annually (increase from 3 hours), with one credit hour required to be an ethics in funeral service course.
 - o Three of the four required hours must be available through distance education.
 - o Finally, licensees must attend two of the four hours in-person.
 - o Additionally, non-manager licensees that have been licensed for 30 or more years AND are 60 years or older are not required to complete continuing education.
- These updates to the continuing education requirements and the continuing education exemption are effective beginning with the 2024–2026 renewal cycle (July 1, 2024, to June 30, 2026).
- Licensees are reminded that renewals are every two years, so licensees must ensure they complete the required continuing education for each of the two years in order to renew their licenses.

Increased maximum distance from manager's residence to establishment

- Managers of funeral homes, branch funeral homes, and crematories must now live within a 75-mile radius of the establishment or crematory, an increase from the previous 25-mile radius (Section 40-19-265(A)(4), (B)(4), and (D)(4))

Treatment of payments received for funeral merchandise and funeral service

- Section 40-19-290(E) was updated to distinguish how payments for at-need and pre-need funeral merchandise and funeral services must be treated, with the underlined language added, as follows:
 - o Other than payments received for at-need funeral merchandise and funeral services, all payments received by any establishment licensed under this chapter for funeral merchandise being purchased must be placed in a trust account in a federally insured institution until the merchandise is delivered for its intended funeral services use as provided in the contract and in accordance with the sales agreement.

Safe Cremation Act

Mandatory registration of crematory operators

IMPORTANT: A process overview for the crematory operator registration, as well as the online and paper applications for registration, can be found on the Applications and Forms webpage under the Licensure section on the Funeral Board's website at <https://llr.sc.gov/fs/pub.aspx>.

- Section 32-8-385 of the Safe Cremation Act was updated and now requires crematory operators to register with the Board. Pursuant to the new law, all cremations must be performed by a crematory operator that has registered with the Board.
- In order to register as a crematory operator with the Board, the individual must:
 - o complete an application in the format prescribed by the Board;
 - o successfully complete a crematory operator training course approved by the Board of not less than eight hours instructional time;
 - o have not been convicted of or pled guilty to a crime that directly relates to the duties, responsibilities, or fitness of the occupation or profession; and
 - o pay a fee as established in regulation not to exceed fifty dollars.
- Crematory operators must renew their registrations every two years by submitting a renewal application and paying the renewal fee.
- Registered crematory operators are subject to applicable provisions of Sections 40-1-110, Chapter 19 of Title 40, Chapter 8 of Title 32, and Board regulations.

Alkaline hydrolysis authorized

- The definition of "cremation" was updated in the Safe Cremation Act and now allows for alkaline hydrolysis, in addition to heat and flame cremation (Section 32-8-305(9))
- **NOTE:** the definition of "cremation" in the Funeral Practice Act was also updated to include alkaline hydrolysis

Maximum fine increased; mandatory reporting of violations

- The maximum fine for violating the Safe Cremation Act was increased from \$5,000 to \$25,000; licensed funeral directors or embalmers who violate the Safe Cremation Act must be reported to the Board (Section 32-8-360(B))

Preneed Funeral Contracts

IMPORTANT: Questions related to the changes made to the preneed funeral contract laws should be directed to the South Carolina Department of Consumer Affairs, the state agency that regulates preneed funeral contracts.

Increased penalties

- Penalties for those who willfully violate the laws governing preneed funeral contracts have increased (Section 32-7-100(A))

Written complaints

- Complaints regarding preneed funeral contracts must now be made in writing in order for the South Carolina Department of Consumer Affairs to investigate (Section 32-7-110(B))